



OFFICE OF THE PUBLIC DEFENDER

ANNUAL REPORT

2014

INTRODUCTION

In 2014 the Monroe County Public Defender's Office continued to provide excellent representation to indigent clients in the criminal, family, and appellate courts in Monroe County. Although caseloads in all bureaus of the Office remained higher than historical norms, and the severe financial pressures faced by Monroe County prohibited the dedication of additional local resources, the staff of the Office persevered and enhanced the services provided to clients. Indeed, in 2014 the Office began a new initiative, discussed in detail below, to expand the services provided to clients by providing counsel at first appearance in the town and village courts.

Despite the challenges we faced, due to the extraordinary dedication of the attorneys and support staff, we were able to continue to provide excellent representation for our clients. The attorneys in the Office continued to work significant, unpaid overtime to ensure that we continue to provide excellent representation to our clients. The support staff also expended considerable effort in assisting the attorneys in dealing with the heavy caseload.

But the hard work expended by staff led to excellent results for our clients. For example, in 2014 the attorneys in the Office prevailed in 60% of the felony trials conducted by staff (a complete acquittal, top count acquittal, or trial order of dismissal granted).

In 2014 the Office continued its efforts in examining how to improve the representation we provide our clients. We also completed several initiatives began in 2013, and began several new initiatives, all designed to improve the quality of services we provide, and assist the criminal defense bar in providing quality representation to

criminal defendants in the greater Rochester area.

In Part I of this Report, the Office's efforts to improve client representation, increase contact with the community that we serve, and continue our efforts to recruit highly qualified attorneys to be assistant public defenders is discussed. In Part II of this Report, the Office, its staffing, and caseloads will be outlined. Part III of this Report will discuss Office recognition, community involvement and support; and Part IV will discuss future plans for the Office.

PART I: OFFICE INITIATIVES

A. Introduction

The strength of this Office is in the enormously talented and committed people who work here. They are truly an asset to our community. It is through their efforts that the following improvements and initiatives were undertaken and accomplished in 2014.

B. Counsel at First Appearance Program

In 2008 the United States Supreme Court held that the right to counsel attaches at the first appearance before a magistrate where the defendant is advised of the charges and pre-trial detention conditions are determined. (*Rothgery v. Gillespie County, Texas*, 554 US 191 [2008].) In 2010 the New York Court of Appeals, citing *Rothgery*, held that the arraignment in a “local court”, such as the town and village courts of Monroe County, was a proceeding requiring the presence of counsel if desired by the defendant. (*Hurrell-Harring et al v State of New York*, 15 NY3d 8 [2010].) Historically, counsel has not been provided to indigent defendants who were arraigned in the town and village justice courts in New York State.

In 2011 Chief Judge Jonathan Lippman called upon New York State indigent defense providers to resolve the problem of lack of counsel at a defendant's first appearance in a local court. In August of 2013, to assist indigent defense providers in providing this service, the Office of Indigent Legal Services awarded 25 counties three-year grants (in varying amounts). The Monroe County Public Defender's Office was awarded a three-year grant totaling \$724,218 to begin providing indigent defendants with an attorney at arraignments in the town and village courts.

In February of 2014 the Office implemented the first phase of the Counsel at First Appearance Program (CAFA). Under the Program, two staff attorneys are on-call to attend local court arraignments, seven days per week from 8:00 a.m. to 8:00 p.m. Additionally, staff attorneys are now attending each town and village court's arraignment dockets (there are 46 individual town and village justices in Monroe County, each with a separate court docket).

In 2014 the Monroe County Public Defender's Office attended over 5,560 arraignments in the town and village courts. This required a significant commitment of staff time in order to provide this service. Indeed, staff attorneys provided over 8,400 hours of "on-call" arraignment coverage in order to provide this service.

In 2015 the Office will expand the program to include arraignments that occur between the hours of 8:00 p.m. and 8:00 a.m., seven days per week. As a result, the Monroe County Public Defender's Office will become a "24 hour operation" requiring one or more staff persons to be available "on-call" 24 hours per day, seven days per week. Once this is implemented, the Office will be providing almost 15,000 hours of "on-call" arraignment coverage in the town and village courts of Monroe County.

This will make Monroe County the first large county outside of New York City to provide counsel at first appearance for all indigent defendants who are arraigned in a local court.

C. Criminal Appeals *Pro Bono* Program, and the Appellate *Pro Bono* Program

In 2014 the Office created the Criminal Appeals *Pro Bono* Program. The program allowed less experienced attorneys to provide *pro bono* services to indigent criminal defendants while being mentored by experienced appellate practitioners in the Appeals Bureau. Participants in the program learned about appellate practice through a series of continuing legal education classes taught by local appellate practitioners, appellate judges, and staff of the Appellate Division, Fourth Department. Each participant completed a criminal appeal, and will argue the appeal at the Appellate Division, Fourth Department in the first half of 2015.

In addition to direct supervision provided by their mentors, participants in the *pro bono* program were required to attend a series of continuing legal education programs designed to educate them about appellate practice. The courses were taught by experienced criminal appellate practitioners, as well as appellate division judges and court staff. Each participant attended approximately six continuing legal education programs which discussed the basics of appellate practice, “issue spotting”, the rules and procedures of appellate practice, effective legal writing, effective oral advocacy and a “view from the bench”, ethics of appellate practice, and leave applications (and motions) to the Court of Appeals. The programs were exclusively for the participants in the *pro bono* program.

The following attorneys participated in the program: Patrick Sheldon, Spencer

Durland, Richard Tucker, and Ryan Lema from Phillips Lytle LLP; Christina Petrella, Kelly Foss, Allison Bosworth, and Kara Stoddart from Harris Beach PLLC; Brian Jacek from Nixon Peabody LLP; and Anant Kishore from Harter Secrest & Emery LLP. The attorneys (and firms) who participated are to be commended for their commitment to *pro bono* service.

Additionally, the Appeals Bureau developed the Appellate *Pro Bono* Program by establishing *pro bono* relationships with the firm of Sullivan & Cromwell, LLP and the Rural Law Center of New York. Attorneys from Sullivan & Cromwell (Meghan Gilligan, Angela Ellis, and Amanda Houle) agreed to perfect a number of criminal appeals *pro bono*. Similarly, attorneys from the Rural Law Center of New York (Courtney Raddick and Andrew Goldberg) agreed to perfect a number of family court appeals. These attorneys and firms are also to be commended for their commitment to *pro bono* service.

D. Hiring Committee

Ensuring that each new hire exemplifies the qualities that make an excellent public defender is the responsibility of the hiring committee. Chaired by Special Assistant Public Defender John Bradley, the committee members in 2014 (Special Assistant Public Defender Drew DuBrin, Special Assistant Public Defender Julie Cianca, Second Assistant Public Defender Jill Paperno, Assistant Public Defender Emily Rosmus, and Assistant Public Defender Richard Murajda) screened all applicants for open attorney positions, conducted all initial interviews with prospective applicants, and recommended to the Public Defender the top three applicants for each open position.

Based upon their excellent work this past year, the Office hired eight attorneys who were well-qualified for the position of assistant public defender and who exhibited a commitment to public defense. All of the new hires possessed excellent academic credentials and a dedication to public interest law. Importantly, the new hires further expanded the diversity of our staff.

E. Continuing Legal Education (CLE) Committee and Office Training

In order to effectively represent our clients, our attorneys must be provided frequent and regular trainings on changes in the law, and how to improve their trial skills. To accomplish the necessary training for staff, the Office conducts numerous continuing legal education (CLE) programs and training programs. It is the responsibility of the CLE Committee to organize continuing legal education programs for staff attorneys and the legal community. In 2014 it was chaired by First Assistant Public Defender Roger Brazill. Additionally, in 2013 the Office created the new position of Training Director. Special Assistant Public Defender Andre Vitale was appointed to the new position where he oversees the development and implementation of training programs.

The Monroe County Public Defender's Office is an accredited CLE provider. The Office strives to provide staff attorneys and attorneys in the legal community high-quality CLE programs at no cost. In 2014 the Office sponsored the following CLE programs for the attorneys in the Office, and the private defense bar:

January 10, 2014	Motion Practice
January 24, 2014	DWI Basics
January 25, 2014	Introduction to Criminal Appeals
February 7, 2014	Sentencing Basics
February 14-15, 2014	Two-Day Attorney Training

February 20, 2014	Appellate Court Rules and Procedures
February 28, 2014	SORA Trainer
March 13, 2014	Persuasive Legal Writing
March 21, 2014	Misdemeanor Complaints and Defective Accusatories
April 4, 2014	Plea Negotiations in the Client-Centered World
April 9, 2014	Ethical Dimensions of Assigned Appellate Advocacy
April 18, 2014	710.30 Notices
May 6, 2014	Pro Bono Appeals Program- "A View From the Bench"
May 8-9, 2014	Two-Day Attorney Training and Development Program
May 16, 2014	Parole 101
May 30, 2014	Basic Felony Practice
July 18, 2014	Intermediate Trainer
August 8, 2014	Town Court Transitional Intermediate Trainer
August 29, 2014	Town Court Transitional CLE Program
September 30- October 4, 2014	5-Day Trial Skills Program
October 10, 2014	Digging Deep: Subpoenas and Investigations
October 10, 2014	Enhancing Efficiency Through Technology
October 16, 2014	The Impaired Physician: Clinical and Legal Issues
November 14, 2014	Voir Dire Training
November 21, 2014	New Attorney Intermediate Trainer
November 21, 2014	The Defense of Justification
December 5, 2014	Defective Accusatory Instruments/Representing the Parole Violator/Office Procedures & Policies
December 12, 2014	New Attorney Intermediate Trainer

Hundreds of attorneys from upstate New York attended the above CLE programs. All of the above programs were **provided at no cost to the attendees.**

Attorneys in the Office are often asked to present at various CLE programs throughout New York State. In 2014 Office attorneys presented at CLEs sponsored by the Monroe County Bar Association, the New York State Defenders Association, and the New York State Association of Criminal Defense Lawyers.

Because of the work of this committee, and the attorneys in this Office who donated their time and effort speaking at CLEs, the legal community received valuable

instruction in criminal and family law.

In addition to continuing legal education programs, in 2014 the Office developed several new programs designed to provide legal skills and trial training to both new and experienced attorneys within the Office. We developed a training regimen geared towards providing legal instruction, skills training, and education on client-centered representation to new lawyers starting their careers as assistant public defenders. This first of its kind New Attorney Training Program, centers on a three phase regimen. The first is the New Attorney Orientation lasting several days. It is given to attorneys when they start their careers with the Office and provides basic instruction in courtroom skills, legal knowledge, and the importance of client-centered representation. After several months, these attorneys go through a Three Day Intermediate program, with a focus on more advanced legal and skills training. The New Attorney program culminates after they have been with the Office for approximately one year, when they go through a Five Day Trial Trainer, which allows new lawyers to develop a Theory of Defense for a simulated case problem, as well as receive both instruction on and the opportunity to practice new skills in each phase of a criminal trial. 2014 marked the first Five Day Trial Program and saw the first group of new town court attorneys complete the New Attorney Training Program through all three phases. In the months between each phase, the attorneys receive legal instruction and skills training in shorter programs every several weeks.

All the training programs the Office conducted included experienced presenters both from the Monroe County and Federal Public Defender's Offices, as well as private lawyers from Rochester, Syracuse, and Buffalo. Attendees were exposed to a wide

array of talent from a number of different areas. Every training program also followed a new format. Instead of only offering attendees straight lectures, attendees were provided both legal instruction as well as the opportunity to break into small groups so each lawyer in attendance could practice the new skills they learned in a mock trial setting. In addition, the Office introduced joint trainers in which forensic experts presented alongside experienced lawyers, so that attendees not only received instruction in the particular forensic discipline but also into how to apply that knowledge in the defense of their clients. The Office had great success this year in the development of new, effective, and inspiring training programs. Programs which will not only benefit the Office in terms of the development and enhancement legal skills of its own lawyers but also in raising the level of indigent defense around the area.

F. Western New York Advanced Trial Skills Program

The Office also developed the Western New York Advanced Trial Skills Program (WNYATSP) which was offered to lawyers with more experience (senior City Court and NVFO attorneys) as well as indigent defense lawyers from the 7th and 8th Judicial Districts (western New York). The WNYATSP included a series of three-day programs. The first focused on developing a “Theme and Theory of Defense”. The program provided attorneys in attendance, advanced training on the importance of and skills involved in developing a strong theory of defense as well as how to start to work the defense theory through all phases of a trial. The second and third programs were more focused on the skills and forensic training needed to properly defend particular types of cases (drug charges, sex offenses, violent felony offenses, and murder). Twenty attorneys from indigent defense programs in western New York participated in the

program and provided very positive reviews.

G. Internship Committee and Program

In 2014 the Office continued our internship program. In addition to placing college students as interns, the Office continued to place law students, and in select cases, high school students. In 2014 the Office hosted over 30 student interns (from law schools, local colleges, and high schools) throughout the year. All of the student interns obtained valuable experience working in a large law office, and gained additional insight into the criminal justice system.

In 2014 the Office continued its "externship program" with the participating law schools. Student externs receive course credit towards their degree requirements, while also learning valuable knowledge about our criminal justice system. Additionally, the student externs assist attorneys in the Office by conducting legal research, drafting motions, and other forms of legal assistance.

Assistant Public Defender Amanda Conner continued her efforts to place law students as interns/ externs in the Public Defender's Office. Law students who are interested in criminal defense volunteer their time learning about the criminal justice system, and gain valuable experience in criminal law, and trial practice. Additionally, they assist staff attorneys in the preparation of motions, briefs, memorandums of law, and research.

In addition to the internship programs offered to local college students throughout the year, in 2014 the Office continued the program to include select high school students. Kelly Sands, our internship coordinator, works very hard to provide our interns a challenging, positive experience as they work in the criminal justice

community. Ms. Sands works with Assistant Public Defender Amanda Conner to place interns with our paralegal bureau, our investigators sections, or individual staff attorneys.

College and high school interns are offered the opportunity to observe the criminal justice system from a unique perspective, and they gain valuable experience. Working with their attorney-supervisors, interns review client files, assist staff during court proceedings, and observe a variety of court proceedings. Our interns also assist the Office, as we ask each intern to volunteer a few hours per week performing office work, such as filing and copying. We receive very positive reviews from the students who intern in the Office, and have successfully placed students from SUNY Brockport, SUNY Geneseo, the University of Rochester, Nazareth College, the Rochester City School District, and the BOCES 2 “New Visions Justice Professions” Program.

PART II: OFFICE ORGANIZATION

A. Creation of Office and its Jurisdiction

In a 1963 landmark decision, the Supreme Court of the United States ruled that all indigent defendants had the right to be represented by counsel in criminal proceedings. In order to comply with the Supreme Court ruling, Article 18-B of the County Law of the State of New York was adopted by the State Legislature in 1965. This law required the various counties throughout the State to adopt a plan for the representation of indigent defendants. In compliance with the state mandate, on May 23, 1968, by virtue of Resolution No. 250 of 1968, the Monroe County Legislature adopted Local Law No. 5 of 1968, thus creating the Office of the MONROE COUNTY PUBLIC DEFENDER.

By law, the Public Defender is required to "represent, without charge, at the request of the defendant, or by order of the court with the consent of the defendant, each indigent defendant who is charged with a crime...in the county...in which such public defender serves."

The Monroe County Public Defender's Office represents individuals in the courts within Monroe County, including the City of Rochester and the towns and villages within the geographical boundaries of the County. This area has a population of approximately 750,000 people.

The office handles cases in:

- A. Town and Village Justice Courts
- B. Rochester City Court (including Rochester Drug Treatment Court)
- C. County Court (including Mental Health Court, Veterans Court, and Judicial Diversion Program Court)
- D. Supreme Court
- E. Family Court
- F. Appellate Division, Fourth Department
- G. Court of Appeals
- H. United States Supreme Court (when required)

The Public Defender represents the indigent accused at every stage of the criminal proceeding from the arraignment through final disposition, including, when appropriate, appeals from adverse judgments and decisions.

Our goal is to provide to the poor who are accused of a crime, or who are entitled

to representation in family court, truly competent legal representation which exceeds that which they would expect to obtain from privately retained counsel. An individual's constitutional rights must be protected regardless of his or her financial circumstances.

B. Staff

During 2014, our staff included 66 attorneys, 1 confidential assistant, 5 investigators, 8 investigative assistants, 9 full-time secretaries and 2 receptionists, both of whom are bilingual. The attorneys are precluded from engaging in private practice.

Assistant public defenders are assigned to work in the Town Court Bureau, the City Court Bureau, the Superior Court Bureau (Non-Violent Felony Section and the Violent Felony Section), the Family Court Bureau, or the Appeals Bureau.

The Office staff takes great pride in the quality of the work they provide to our clients. Their work results in high-quality representation that advances justice in our community. **As an example, in 2014 the Office conducted 117 trials to completion. Of those, we obtained favorable dispositions (Complete Acquittals, Top Count Acquittals and Trial Orders of Dismissal) in 89 cases (or 76% of the time).**

C. City Court Bureau

The Rochester City Court has a heavier caseload than any other Criminal Court in Monroe County. All felonies, misdemeanors and violations of the law committed within the geographical boundaries of the City of Rochester are handled by City Court. A City Court judge has preliminary jurisdiction over all felonies and complete jurisdiction over misdemeanors and violations.

The responsibilities of the Assistant Public Defender assigned to City Court include gathering information to assist the court in determining a defendant's eligibility for representation, appearing at arraignment, making bail applications, participating in pre-trial conferences, investigating and preparing a defense to the charges, preparation and argument of various types of motions, pre-trial hearings, preliminary hearings, trials, social service agency referrals, and sentencing. The City Court Section also has the added responsibility of representing individuals who were charged with violations of their parole, and individuals whose cases have been transferred to Rochester Drug Treatment Court, Monroe County Mental Health Court, the Integrated Domestic Violence Court, or Monroe County Veterans Court.

In 2014, all of these responsibilities were carried out by a total of fifteen Assistant Public Defenders and two Special Assistant Public Defenders who supervised the City Court Section (while handling a violent felony caseload as well). The attorneys share the enumerated responsibilities on a rotating basis.

In 2014, this Office was called upon to represent clients in approximately 11,500 cases in the City Court of Rochester. In addition, the attorneys in this section were assigned to represent more than 806 parolees who were charged with violating the conditions of their parole release. That means, on average, each Assistant Public Defender would have been assigned to approximately 820 cases during the course of the year. That number of case assignments is more than double the recommended maximum caseload as established by the National Legal Aid and Defender's Association.

D. Town Court Bureau

The office is required to represent persons accused of crimes in the various town and villages throughout the County. In 2014 the Office increased the staffing in this Bureau to assist in the implementation of the Counsel at First Appearance Program (discussed above). There are ten assistant public defenders (overseen by two Special Assistant Public Defenders) assigned to cover the Town and Village Justice Courts within the 21 towns and villages of Monroe County.¹

The newly hired Assistant Public Defenders are traditionally assigned to the Town Courts. The Town Courts have heavy case loads, erratic court hours and varying local court procedures. The assignment of two Special Assistant Public Defenders (who also carry a violent felony caseload as well) to supervise the section enables us to provide our new attorneys with the appropriate training and orientation to the local justice court process and essential supervision so as to ensure quality representation for our clients.

In 2014, approximately 4500 clients were assigned to our justice court staff of ten full-time attorneys. Therefore, each of the newly hired attorneys in the section was assigned to an average of approximately 450 cases. Additionally, each staff attorney in the Town Court Bureau is required to staff one 12 hour arraignment shift (8:00 a.m. to 8:00 p.m.) each week under the CAFA Program.

E. Superior Court Bureau

In 2014, the Superior Court Bureau (divided into the non-violent felony section

¹ Although there are 21 Town and Villages in Monroe County with a justice court, almost all of those courts have at least two judges. The attorneys in the Town Court section must handle 46 separate courts in the 21 Towns and Villages in Monroe County.

and the violent felony section) was staffed with the full time equivalent of 19 attorneys, including the First Assistant Public Defender, the Second Assistant Public Defender, and three Special Assistant Public Defenders (some senior staff have reduced caseloads due to supervisory responsibilities).

The attorneys in the Bureau handled felony cases, the most serious charges against the indigent accused. The attorneys appeared in all courts, including: Supreme Court, County Court, City Court and Town/Justice Courts. The Bureau handled violent and nonviolent felony offenses.

The attorneys in this Bureau handled most aspects of the criminal process, including local court preliminary hearings, local court pleas and sentencing; superior court pleas and sentencing, hearings, motions, and trials. In addition, these attorneys handle probation violation proceedings, parole cases (preliminary hearings, final hearings, and administrative appeals), habeas corpus proceedings, and mental health proceedings under the Criminal Procedure Law.

While our present staffing level does not permit us to provide vertical representation in all felony cases, we do provide this type of representation in violent felony offender and repeat offender cases. Vertical representation was also provided in all homicide cases and to select clients charged with other serious felonies, such as class A and B drug offenses.

This Office remains committed to providing vertical representation whenever possible since it provides the indigent accused the most effective representation possible. Our goal is to provide vertical representation to all those accused of a felony offense.

In 2014, we were assigned to approximately 3,795 felony cases. The felony caseload per attorney ratio is approximately 200 new cases per attorney. That represents a current felony assignment rate which is above national standards for caseload maximums.

F. Family Court Bureau

The role of the Public Defender's Office in Family Court has continually grown. The State Legislature has consistently expanded the right to counsel for indigent persons involved in the Family Court process to include more cases where counsel is required.² The State has also passed legislation requiring more court appearances in certain types of family court actions which requires our family court attorneys to devote a significant amount of time to appearing in court.

Our Family Court staff is comprised of one Special Assistant Public Defender and eight Assistant Public Defenders. Each attorney is assigned to the "intake part" on a rotating basis and is responsible for handling the cases assigned to our office through completion.

In 2014, this office was assigned to represent approximately 2500 new clients. To put this caseload into a historical perspective, in 1987, there were five attorneys in our Family Court section who were assigned to represent 865 clients. That 1987 caseload was within 10% of management guidelines which suggest that a maximum caseload of approximately 150 cases be assigned to each attorney per year. Currently our nine Family Court attorneys are each required to provide representation to

² The Public Defender's jurisdiction in Family Court is specifically set forth in § 262 of the Family Court Act which includes representing indigent respondents in child abuse, child neglect, permanent termination of parental rights, family offense, custody, paternity/support and support violation cases.

significantly greater number of clients each year. Last year, each family court attorney was asked to represent over 270 clients per year.

This number is far above the recommended caseload for family court attorneys.

The goal of our office is to try and maintain the family unit whenever possible and to assist clients to negotiate the network of court-ordered services and providers thereby holding the state to its statutorily mandated obligation "to help the family with services [in order] to prevent its breakup."

G. Appeals Bureau

A person who is aggrieved by the final determination of a court has the constitutional right to at least one appeal. The Public Defender's Office is assigned by the Appellate Division or the appropriate appellate court to handle such proceedings. The Public Defender is assigned to appeal not only cases of our clients, but also for those defendants who want to appeal, but have exhausted their funds and who, after it is determined by the Court, cannot afford to retain private attorneys for purpose of an appeal.

The preparation and argument of appeals are specialties within the field of criminal law. Proper appellate practice requires not only a strong background in law, but also strong writing skills and the ability to orally argue the law before an appellate court. The appellate attorney must first familiarize himself with what went on in the court below and then must research the law pertaining to the issues which have been discovered. The appeals attorneys argue cases before the Monroe County Court, Appellate Division (Fourth Department), Court of Appeals and the United States Supreme Court (when required).

In 2014, our authorized appeal staff consisted of the Special Assistant Public Defender in-charge of the section and seven Assistant Public Defenders.

The attorneys in the Appeals Bureau of the Monroe County Public Defender are primarily responsible for representing persons appealing felony convictions, and perfecting family court appeals.

Finally, the Bureau has continued to assist in the research, analysis and presentation of trial court cases. This work is instrumental in ensuring that our attorneys are able to provide the best possible representation for our clients. This work occurs on a variety of levels. Pretrial motions and written requests for jury charge in felony cases are regularly reviewed and edited by attorneys from this Bureau. Additionally, Bureau attorneys research numerous evidentiary issues, -- sometimes preparing memoranda or motions. Bureau attorneys have also assisted trial attorneys on collateral issues which sometimes arise.

In 2014, the eight attorneys in our Appeals Bureau closed approximately 182 cases. Included in this number were six cases perfected at the Court of Appeals (New York's highest appellate court).

H. Investigation Bureau

During 2014, the Monroe County Public Defender's Office employed five full-time investigators, one of whom is the Chief Investigator in charge of the section.

The statistics for 2014 are as follows:

Criminal Family Court/

	<u>Trial Parts</u>	<u>Appeals Court</u>	<u>Total</u>
Investigations/ Interviews	3,790	603	4,393
Subpoenas	633	325	958
Locate/Notify	122	34	156
Other Misc. Matters	779	210	989

In 2014 more than 6,496 criminal and family court investigation requests were handled by our investigative staff. The work performed by our investigative staff is reflected in our ability to successfully resolve cases for our clients either by disposition or trial.

PART III: OFFICE RECOGNITION, COMMUNITY INVOLVEMENT AND SUPPORT

A. The Jeffrey A. Jacobs Award

In 2010 the Office established an annual award in the memory of former Special Assistant Public Defender Jeffrey A. Jacobs. Jeff Jacobs was a truly outstanding attorney and person. His commitment to justice for the indigent was unparalleled in our community. Jeff was a fierce advocate, and was justifiably proud of his trying over 100 felony cases. Many of those cases were difficult, complex cases requiring Jeff to become familiar with novel scientific theories, and develop effective trial strategies.

Jeff was also a role model for younger assistant public defenders. He generously gave his time to assist younger attorneys on their cases and provide encouragement as they handled difficult cases. His dedication to his clients, perseverance despite the circumstances, and commitment to a fair justice system were a source of inspiration for defense attorneys throughout our community.

Jeff tragically passed away in November of 2006 after an eight month courageous battle with brain cancer.

The Jacobs Award recognizes a criminal defense attorney from the greater Monroe County area who exemplifies the above qualities, and who has performed truly outstanding trial work in the preceding year. The award winner is chosen according to the following criteria: (a) the complexity of the cases tried, which may include the effective use of experts, and/or litigating complex forensic or scientific issues; and/or (b) fearless advocacy exhibited on behalf of the client; and/ or (c) creativity demonstrated in the presentation of the defense.

In 2014 the Office continued its recognition of a local attorney who exemplified Jeff's commitment to excellent defense of the indigent with the awarding of the 2014 Jeffrey A. Jacobs Award to Lawrence L. Kasperek. (An article from the Daily Record about the 2014 award is attached.)

B. Award for Excellence in Indigent Adult Representation in Family Court

The important work of family court is too often overlooked by the legal profession. Despite dealing with complicated and often emotionally charged issues that profoundly affect families, from custody and visitation cases to termination of parental rights cases, family court is not always recognized for the quality of justice it strives to provide to its litigants.

The attorneys who represent indigent adults in family court work tirelessly to preserve one of the most important human relationships – that between parent and child. Their dedication deserves to be recognized by the legal community. To address this, the Monroe County Public Defender's Office created in 2014 an award to recognize

excellence in indigent adult representation in Monroe County family court.

The award recognizes an attorney who practices in Monroe County family court and who, in the previous two years, displayed exceptional dedication to his or her indigent, adult clients, excellent advocacy skills, and superior knowledge of the law. The attorney must have represented one or more indigent adult clients in a custody/visitation, child support, abuse or neglect, or termination of parental rights case. The award is also open to appellate attorneys who represent adult, indigent appellants or respondents in New York State appellate courts and who, in the previous two years displayed exceptional dedication to his or her clients, excellent advocacy skills, and superior knowledge of the law in an appeal from a custody/visitation, child support, abuse or neglect, or termination of parental rights case.

In 2014 the recipient of the award was Special Assistant Public Defender Adele Fine. (A Daily Record article on the award and the Defense Community Dinner is attached.)

C. Service of Justice Award

A fair criminal justice system requires the dedication of individuals and organizations beyond attorneys, judges, and police agencies. There are countless organizations and professionals who work hard to promote justice in our community. These individuals and organizations are often not recognized for the important work that they do.

In 2014 the Monroe County Public Defender's Office created the Service of Justice Award in order to recognize those individuals, or organizations, that promote justice in our community. The inaugural recipient of the award was the Monroe County

Pre-Trial Service Corporation.

Pre-Trial Services Corporation (PTSC) has its roots in the Bail Reform movement of the 1960's. The agency was introduced to the criminal justice system by the Monroe County Bar Association in 1970 as a Release on Recognizance program. The growth of PTSC affirms the principles that defendants can receive the quickest and least restrictive form of release and that at times, their needs and society's can be met without involving the full judicial process. PTSC has since established itself as an integral component of the criminal justice system and actively contributes to the smooth administration of justice.

PTSC is noted nationally as a pioneer in programming for the pretrial population and is actively involved in both the New York State Association of Pretrial Services Agencies and the National Association of Pretrial Service Agencies. Locally, Pre-Trial Diversion continues to advocate for a broader spectrum of services to address the changing treatment needs of clients. Pre-Trial Release and the Graduated Restriction Programs continue to address the ever-pressing problem of jail overcrowding through innovative programming. (A Daily Record article about the award and the Defense Community Dinner is attached.)

D. Defense Community Dinner

On September 20th, 2014 the Office hosted the 5th Annual Defense Community Dinner at the Rochester Institute of Technology's University Gallery. Over 80 attorneys, judges, and family members attended and celebrated the excellent work done in our local community by our criminal defense and family law practitioners.

The Office was honored to have as the keynote speaker Professor Abbe Smith.

Abbe Smith is Professor of Law, Director of the Criminal Defense & Prisoner Advocacy Clinic, and Co-Director of the E. Barrett Prettyman Fellowship Program at Georgetown Law School, where she has taught since 1996. Prior to coming to Georgetown, Professor Smith was Deputy Director of the Criminal Justice Institute, Clinical Instructor, and Lecturer on Law at Harvard Law School. Professor Smith teaches and writes in the areas of criminal defense, legal ethics, juvenile justice, and clinical legal education. Professor Smith is the co-editor with Monroe Freedman of *How Can You Represent Those People?* (Palgrave MacMillan, 2013), author of *Case of a Lifetime: A Criminal Defense Lawyer's Story* (Palgrave MacMillan, 2008), co-author with Monroe Freedman of *Understanding Lawyers' Ethics* (4th ed., Lexis-Nexis, 2010), and co-author with Charles Olgetree, et al. of *Beyond the Rodney King Story: An Investigation of Police Conduct in Minority Communities* (Northeastern University Press, 1995).

Professor Smith is on the board of directors of The Bronx Defenders, the ALI Advisory Committee on the Model Penal Code: Sexual Assault and Related Offenses, the Advisory Board of Rutgers University Criminal Law and Criminal Justice Books. In 2010, she was elected to the American Board of Criminal Lawyers.

In addition to Professor Smith's keynote address, the highlight of the evening was the awarding of the 2014 Jeffrey A. Jacobs Award, the 2014 Award for Excellence in Indigent Adult Representation in Family Court, and the 2014 Service of Justice Award.

D. Individual Recognition

In 2014 three attorneys received local recognition from the legal community. Senior Assistant Public Defender Janet Somes was honored with the It Could Happen to You Public Servant of Justice Award for outstanding work as an appellate practitioner representing the accused. Special Assistant Public Defender Michael Lopez was recognized as a “Leader in Law” during The Daily Record’s 2014 Attorneys of the Year celebration. Assistant Public Defender Maritza Buitrago was awarded the Unsung Legal Heroes Award during The Daily Record’s 2014 Excellence in Law Awards. (Daily Record articles about all three awards are attached.)

Second Assistant Public Defender Jill Paperno was elected President-elect of the Greater Rochester Association for Women Attorneys (GRAWA).

Additionally, Public Defender Tim Donaher was elected President of the Chief Defenders Association of New York (CDANY). CDANY is an association of fifty-eight (58) chief defenders who lead indigent defense programs in New York that in 2104 represented over 400,000 people in the criminal, family, and appellate courts of New York.

PART IV: THE FUTURE OF THE OFFICE

2015 will be a challenging year for the Office. It is anticipated that caseloads will remain at their very high levels, and that there will be increasing pressure on the Office to provide excellent representation to our clients, while maintaining costs. As such, the Office will continue its efforts at improving efficiencies in each Bureau, ever mindful that our number one priority is our clients. We are confident that given the enormously talented and committed staff at this Office we will meet those challenges.

As we look ahead to 2015, the Office plans to continue its efforts to improve our

representation to our clients, continue our discourse with the community we serve, and improve the diversity of our staff. The initiatives outlined above will continue as well. We will continue looking at how technology may improve Office operations.

PART V: CONCLUSION

Each and every member of the Public Defender's Office is proud of the amount of work done in the past year, but each individual takes a great deal more pride in the quality of the services we provide. We continue to stress respect for the judicial process and absolute integrity in the handling of all cases assigned to this Office.

It is important to note that the success this Office has achieved is due in part to the support given to us by the Monroe County Legislature and the County Administration. Both the Legislature and the Administration take seriously the obligation of government to ensure justice for all. We would like to take this opportunity to express our thanks for that support, and we look forward to their support in the future.

In conclusion, I would like to note that this Office's excellent reputation is the result of the dedication, commitment, and talent of the attorneys and the support staff of this Office. I am enormously proud of their efforts and the results they achieve for our clients.

Respectfully submitted for
The Public Defender's Office



TIMOTHY P. DONAHER
Monroe County Public Defender

COURT ACTIVITY SUMMARY 2014

NEW CLIENTS.....27,622

FELONY..... 2,334

FELONY (Drug A and B).. 315

FELONY (VFO)..... 1,104

HOMICIDE42

MISDEMEANOR.....12,043

VIOLATION..... 3,492
(City and Justice)

PROBATION VIOLATION.... 413
(Superior)

PROBATION VIOLATION.... 765
(City and Towns)

APPEALS..... 192

FAMILY COURT..... 5,976

PAROLE..... 806

FUGITIVES..... 68

SORA..... 72

PLEAS AS CHARGED.....1,957

FELONY..... 412

MISDEMEANOR..... 1,309

VIOLATION..... 236

PLEAS TO LESSER

FELONIES.....1,050

To Lesser Felony..... 172

To Misdemeanor..... 878

PLEAS TO LESSER (Con't)

MISDEMEANORS.....2,659

To Lesser Misd..... 338

To Violation..... 2,321

CLOSED CASES: [OTHER]:

A.C.D..... 3,005

PRIVATE ATTY..... 822

ASSIGNED COUNSEL..... 4,923

W/D D.A, DIS'D ON MOTION..... 4,414

TRIALS.....130

FELONY..... 55

MISDEMEANOR.....44

VIOLATION..... 31

FINDING AFTER TRIAL*

GUILTY AS CHARGED
(or to part of indict.
when highest court)..... 29

GUILTY TO LESSER
(or to part of indict.
when lesser court)..... 27

NOT GUILTY..... 40

TRIAL ORDER OF DISMISSAL..... 22

MISTRIAL.....1

* does not include pleas taken during trial or cases where PD relieved before sentencing

PUBLIC DEFENDER STAFF
(as of 1/12/15)

Administration

Donaher, T. Public Defender
Brazill, R. 1st Asst. Pub. Def.
Tronolone, T. Conf. Asst. to the Public Defender
Duerr, C. Exec. Secretary to the Public Defender
(Vacant) Receptionist-Bilingual
Rivera, N. Receptionist-Bilingual

Superior Court

Paperno, J. 2nd Asst. Pub. Def.
Vitale, A. Special Assistant
Teifke, E. Special Assistant
Lopez, M. Special Assistant
Cook, K. Secretary
Abdallah, W. Asst. Pub. Def.
Brach, K. Asst. Pub. Def.
Caputo, J. Asst. Pub. Def.
Clark, M. Sr. Asst. Pub. Def.
Conner, A. Asst. Pub. Def.
Griffin, J. Sr. Asst. Pub. Def.
Haselbauer, K. Asst. Pub. Def.
Riley, E. Sr. Asst. Pub. Def.
Rosmus, E. Asst. Pub. Def.
Scalia, D. Sr. Asst. Pub. Def.
Stare, S. Asst. Pub. Def.
Van Hooft, B. Asst. Pub. Def.
Winward, T. Sr. Asst. Pub. Def.
Zoghlin, S. Sr. Asst. Pub. Def.

Appeals

DuBrin, D. Special Assistant
Amiger, S. Secretary
DeMonte, J.C. Secretary
Duguay, K. Asst. Pub. Def.
Eckert, J. Sr. Asst. Pub. Def.
Hobbs, J. Asst. Pub. Def.
Juergens, D. Asst. Pub. Def.
Pixley, W. Asst. Pub. Def.
Somes, J. Sr. Asst. Pub. Def.
Yoon, J. Asst. Pub. Def.

City Court

Bradley, J. Special Assistant
Doran, M. Special Assistant
Morley, L. Secretary
Fish-Krasz, J. Secretary
Graim, M. Secretary
Sands, K. Invest. Asst.
Behrndt, D. Invest. Asst.
Bahr, R. Asst. Pub. Def.
Conner, M. Asst. Pub. Def.
Daniele, A. Asst. Pub. Def.
Fiedler, M. Asst. Pub. Def.
Grippe, J. Asst. Pub. Def.
Gunther, N. Asst. Pub. Def.
Hagen, M. Asst. Pub. Def.
Higgins, K. Asst. Pub. Def.
Morgan, J. Asst. Pub. Def.
Murajda, R. Asst. Pub. Def.
Myers, G. Asst. Pub. Def.
Naclerio, J. Asst. Pub. Def.
Ponder, D. Asst. Pub. Def.
Santacroce, F. Asst. Pub. Def.
Schnader, J. Asst. Pub. Def.
Syme, H. Asst. Pub. Def.
(Vacant) Asst. Pub. Def.

Justice Court

Cianca, J. Special Assistant
Stubbe, J. Special Assistant
Lamb, P. Secretary
Vargas, J. Invest. Asst.
Claiborne, K. Invest. Asst.
Faraco, A. Asst. Pub. Def.
Harris, N. Asst. Pub. Def.
Hiatt, T. Asst. Pub. Def.
Murante, A. Asst. Pub. Def.
Poray, S. Asst. Pub. Def.
Roth, C. Asst. Pub. Def.
Salmon, G. Asst. Pub. Def.
Seppeler, C. Asst. Pub. Def.
Sanger, E. Asst. Pub. Def.
Taha, Y. Asst. Pub. Def.

Family Court

Fine, A. Special Assistant
Adams, S. Secretary
Ciaccia, C. Paralegal
Enright, C. Paralegal (Job
Share)
Hutton, A. Paralegal (Job
Share)
Scrivens, M. Paralegal
Altman, J. Asst. Pub. Def.
Buitrago, M. Asst. Pub. Def.
Davis, T. Asst. Pub. Def.
Lugbill, R. Asst. Pub. Def.
Oren, A. Asst. Pub. Def.
Ponticello, C. Asst. Pub. Def.
Sartori, S. Asst. Pub. Def.
Wirley, B. Asst. Pub. Def.

Investigations

DuMont T. Chief Investigator
Camacho, M. Spec. Urban Inv.
Johnson, J. Spec. Urban Inv.
Pagan, G. Spec. Urban Inv.
Morse, L. Spec. Urban Inv.

Defense Community Honors Kasperek, Others
The Daily Record, September 23, 2014

THE DAILY RECORD

Defense community honors Kasperek, others

By: Denise M. Champagne September 23, 2014 0

Sometimes due diligence can use an assist from luck.

That is what Rochester attorney Lawrence L. Kasperek encountered with a case he initially lost.

Kasperek's indigent client, Raheen M. Gayden, was convicted of second-degree murder, largely based on the testimony of a prosecution witness who said she heard Gayden admit to killing 18-year-old Andre Knox in mid-September 2006.



Kasperek later learned — by fluke — the witness was a paid informant, which can raise a question of credibility. A name jumped out at him on a prosecution witness list because he had not seen her identified in any other case documents. He said he had no prior notice or written record of her being involved in the investigation.

When he asked for such statements, Kasperek was told there were none. Gayden was sentenced to 25 years to life in prison.

While an appeal was pending on a number of discovery issues, Kasperek was working on an unrelated case in federal court when the same witness' name popped up as a paid informant. Researching the matter, he discovered the same witness had been paid for expenses by the Monroe County District Attorney's Office during the Gayden trial in 2008, although the trial prosecutor was not aware of the witness' status.

Kasperek, who had asked to continue to be assigned to the Gayden case after the trial, amended his appeal to include allegations of a violation under *Brady v. Maryland*, 373 U.S. 83, which requires prosecutors to turn over information that may be favorable to a defendant.

The case eventually reached the Appellate Division, Fourth Department, which, in its Nov. 15 decision, found the individual prosecutor had a duty to learn of any favorable evidence known to others acting on the government's behalf and granted Gayden a new trial.

Kasperek's efforts were recognized by his colleagues Saturday when he was awarded the Jeffrey A. Jacobs Memorial Award at the 2014 Defense Community Dinner at Rochester Institute of Technology.

"Larry did not give up on it," said Roger Brazill who chairs the Jacobs Award Committee. "He worked a long time, over six whole years and put in a lot of hours. He saved his client a substantial amount of time and really did it all by himself. It was really a case he could not let go of and toiled over it for six years."

Gayden later pleaded guilty to first-degree manslaughter and was sentenced to 10 years in prison, telling Kasperek he did not trust the government enough to be tried a second time.

"He told me 'You wouldn't give up on me and you haven't,'" Kasperek said. "I trusted you with my life, but I don't trust them. I'm going to take the plea and go home to my family.' You can't ask for a better payment from a client than that."

The award, created by the Monroe County Public Defender's Office in 2010, recognizes a criminal defense attorney who exemplifies fierce advocacy and dedication to clients, perseverance despite circumstances and a commitment to a fair justice system, all among the many qualities attributed to Jacobs, a public defender who died in 2006.

"I've known Larry for 25 years," Brazill said. "I admire him greatly. He used to work in the public defender's office many years ago, but has always been one of those people who hasn't made the headlines as much, but is very much respected by his fellow practitioners. I think the primary thing was just his zealous advocacy on behalf of his client and his willingness to accept and to handle the more notorious or unpopular cases and clients."

Kasperek was quick to point out he did not become a defender to receive awards. Quoting Groucho Marx, he joked that "I don't want to be a member of a group that would have me as a member." In all seriousness, he said he is very flattered to receive an honor in Jacobs' name.

"Jeff was a superior attorney," Kasperek said. "He was a friend of mine and a terrific colleague when I was at the

public defender's office. I always considered him one of the amazing mentors that I had in the office."

He said Jacobs took on the most serious cases and was the most zealous advocate for his clients. He said he saw how Jacobs treated his clients honorably and with respect and demanded the same respect from the courts and prosecution.

"I'm just a blue collar guy," Kasperek said. "I just try to do the best I can on behalf of my clients."

He is part of the 60s generation that grew up with great orators like John F. Kennedy and Martin Luther King Jr.

"I remember 'Ask not what your country can do for you' and 'I have a dream,' that kind of oratory, that kind of commitment was kind of woven into my DNA," he said, noting he went to law school because he thought it was the best way he could help society.

Kasperek said it was the '60s and people were arguing for civil rights, particularly blacks, women, the disabled and other minorities. He admired William O. Douglass, an associate Supreme Court justice who died in 1980, or anybody on the Warren Court.

"The law is supposed to be the great equalizer," Kasperek said. "Everybody is presumed innocent. The government can't take away your liberty unless it proves guilt beyond a reasonable doubt. The idea was that you would be of service to the people who were disadvantaged, who didn't have the resources to defend themselves."

Kasperek, a 1977 graduate of State University at Fredonia, previously worked for the Erie County Equal Employment Opportunity office in Buffalo, where he first advocated for disadvantaged people.

After graduating from California Western School of Law in the early 1980s, he returned east. He was admitted to the New York State bar in 1985, the same year he went to work for the Monroe County Public Defender's Office, where he stayed for 14 and a half years before going into private practice.

"I left in 1999 because Don Thompson enticed me into believing that I could leave the public defender's office and not only continue my commitment to criminal law, but I could support my family," Kasperek said. "We have been partners ever since."

They originally shared space on Exchange Street with Gary Muldoon. Kasperek said Muldoon was one of the first people he met in Rochester and the one who encouraged him to apply to the public defender's office where he met Janet C. Somes, who has been with the office since 1985, currently in the Appeals Bureau.

Kasperek said he and Somes are happily married and have four sons: Tyler Kasperek-Somes, 21, who works for the Service Employees International Union in New York City; Jackson, 21, a student at the University of San Diego; Clayton, a freshman at Susquehanna University; and Spencer who is in high school. Kasperek said the two older sons are considering a legal career.

Kasperek and Thompson moved to The Powers Building in 2003 and were later joined by William T. Easton and Brian Shiffrin to form Easton Thompson Kasperek Shiffrin LLP.

"These are the brightest minds and most dedicated people in the profession I've ever come across," Kasperek said of his partners. "The four horsemen have been together five or six years."

When they are not working, Kasperek and Somes enjoy spending time at their Thousand Islands cottage with their children.

—denise.champagne@nydailyrecord.com

Please click below for more photos:



Lawrence L. Kasperek accepts the Jeffrey A. Jacobs Memorial Award at the 2014 Defense Community Dinner. Vasily Baziuk



Adele Fine accepts the Award for Excellence in Indigent Adult Representation in Family Court at the 2014 Defense Community Dinner. Vasily Baziuk



Craig McNair accepts the Service of Justice Award on behalf of Monroe County Pre-Trial Services. Vasily Baziuk



Abe Murante, Tracie Hiatt, Erin Sanger, Stephanie Poray, Grazina Myers and Anthony Faraco. Vasily Baziuk



Luke Harned, Jen Morgan, Faye Santacroce and Neil Gunther. Vasily Baziuk



Amanda Oren, Roger Brazill and Amanda Conner. Vasily Baziuk



Celeste Ciaccia, Craig McNair and Seana Sartori. Vasily Baziuk



John Ferlicca, Maxine Ferlicca and Jill Paperno. Vasily Baziuk



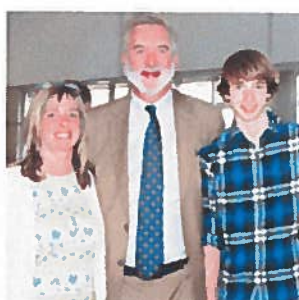
Chuck Noce, Katie Murante, Dianne Russell and David Murante. Vasily Baziuk



Maritza Buitrago, Dennis Wood and Patricia Fine. Vasily Baziuk



David MonteVerde, the Hon Patricia Gallaher and Tamara Guglin. Vasily Baziuk



Janet Somes, Lawrence L. Kasperek and Spencer Kasperek-Somes. Vasily Baziuk



Mark Hosken and Paul MacAulay.
Vasiliy Baziuk



Michael Lopez, Mike Doran and Don
Scalia at the 2014 Defense
Community Dinner. Vasiliy Baziuk

Tagged with: DEFENSE COMMUNITY DINNER

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Family Court Attorney Being Recognized
The Daily Record, September 18, 2014

THE DAILY RECORD

Family Court attorney being recognized

By: Denise M. Champagne September 18, 2014 0

Adele Fine has been looking out for the underdog since she was still a mere a pup herself.

Long before she represented indigent adults in Monroe County Family Court, she was volunteering to help children with special needs.

Fine grew up during the 1960s and 70s, periods of social upheaval in the United States and around the world. She said the assassinations of Robert F. Kennedy and the Rev. Martin Luther King Jr. had an impact on her.

From the time she was about 10 or 11, she said she wanted to advocate for people who were marginalized, not viewed as important — the underdogs.

"I was an idealist," Fine said. "I believed in justice."

She has spent more than 25 years doing just that, including the last 14 advocating for indigent adults in a variety of emotional Family Court matters. Her latter efforts will be recognized by her colleagues Saturday when Fine is honored with the Award for Excellence in Indigent Adult Representation in Family Court. The award will be presented at the 2014 Defense Community Dinner at Rochester Institute of Technology.

Fine was nominated by her colleagues in the Greater Rochester Association for Women Attorneys.

"I'm quite pleased," said Monroe County Public Defender Timothy P. Donaher. "I think she's a remarkable Family Court attorney. She has done an excellent job in supervising the Family Court Bureau in the public defender's office. She's just an outstanding attorney, a great supervisor and I'm just very very pleased she was selected as GRAWA's nominee for the award."

The award, first given out last year, recognizes an attorney who practices in Monroe County Family Court, displaying exceptional dedication to his or her indigent adult client, excellent advocacy skills and superior knowledge of the law.

Fine represents indigent parents accused of abusing or neglecting their children and may be at risk of losing their children or going to jail for nonpayment of child support — very serious issues with potentially severe consequences, especially if they have no one to represent them.

"I feel like I am one of many attorneys who do an awesome job in Family Court and if by winning this award, I help to shed a little light on what we do, then I'm very happy about it," she said.

Fine said she knows it sounds crazy, but she very much enjoys representing parents in abuse and neglect cases. She feels like it is her calling.

She enjoys helping people who have done a phenomenal job after overcoming what seemed like insurmountable odds, such as mothers with substance abuse issues who get their lives back together for the sake of their children and themselves.

"They come from tough circumstances and had to live with demons and came out on top," Fine said. "I'm often awestruck. I wonder if I would have that kind of strength if I was in their situation."

Fine loves the law, particularly on a structural and intellectual level. She loves the legal arguments. Even as a child, she said she was good at arguing and liked reading and writing.

On a broader level, Fine said she likes feeling enmeshed in and being part of trying to address some of the major societal issues going on around her. In her own small way, she likes being able to address poverty, something she considers one of the biggest public health issues.



Adele Fine will be recognized by colleagues Saturday when she is honored with the Award for Excellence in Indigent Adult Representation in Family Court, which will be presented at the 2014 Defense Community Dinner at Rochester Institute of Technology.
Photo: Denise M. Champagne

"I have a general belief that our judicial system is only as just as the justice given to the most marginalized citizens," she said. "With respect to Family Court, I think I enjoy the people that I represent and the problem-solving aspect of my job, the emotional aspect of my job. I think that all becomes addictive over time."

Fine, who is originally from the Southern New Jersey-Philadelphia area, is a 1987 graduate of the University of Montana School of Law. She has always focused on public interest law and began her career as managing attorney of an office of Montana Legal Services Association, where she had interned while still in law school.

Fine returned east a couple of years later to rekindle a relationship with Dennis Wood, who was living in Rochester. They later married and still live in the city. They have one daughter, Olivia Wood, a sophomore at State University, Purchase College. Fine also has a stepdaughter, Kaye Nagle-Wood, an entrepreneur in Miami.

Unable to find public interest law work in Rochester, Fine took a job as an associate in the law office of A. Vincent Buzard, now appellate counsel for Harris Beach PLLC. She worked with him until 1995 and then went back into indigent representation, working with private not-for-profit agencies until 2000 when she joined the public defender's office, where she also supervises its Family Court section.

Fine also enjoys the aspect of organizing continuing legal education seminars for attorneys doing the same kind of work.

Donaher said she is very active on the state level, as well, weighing in on legislation and its potential impact on the Family Court system.

Fine is part of a working group of lawyers and social workers from around the state who are developing standards for attorneys who represent adults in child protective proceedings.

"Adele has been an integral and very valued member of that working group for not only her dedication to clients, but the passion she has for providing quality representation to adults who have been accused of abuse and neglect," said Angela Burton, director of quality enhancement for parent representation at the state Office of Indigent Legal Services.

She said Fine was one of the first people she called upon about a year ago when she was assembling the working group.

Burton said attorneys who represent adult Family Court clients and their cases work under meager conditions without a lot of resources or support, so it was very important to have someone like Fine to help provide the services needed in this area of law.

"I felt that she had the breadth and the depth to bring really great value to the endeavor we're working on," Burton said, noting she is also very honored and pleased to be introducing Fine at the Defense Community Dinner. "I think that she's an excellent choice for this award," she added.

The Defense Community Dinner will feature Abbe Smith, professor of law, director of the Criminal Defense and Prisoner Advocacy Clinic and co-director of the E. Barrett Prettyman Fellowship Program at Georgetown Law School, where she has taught since 1996.

Smith teaches and writes in the areas of criminal defense, legal ethics, juvenile justice and clinical legal education. She has also written numerous law journal articles and co-authored a number of books on different aspects of the legal profession.

Other highlights will include the presentation of the Jeffrey A. Jacobs Memorial Award to Rochester attorney Lawrence L. Kasperek (Easton Thompson Kasperek Shiffrin LLP) and the first Monroe County Public Defender's Office's Service of Justice Award to the Monroe County Pre-Trial Services Corp. Both will be featured in *The Daily Record* next week, along with a gallery of event photos.

—denise.champagne@nydailyrecord.com

Tagged with: [FAMILY COURT](#)

Defenders Debut New Service Award
The Daily Record, September 23, 2014

THE DAILY RECORD

Defenders debut new service award

By: Denise M. Champagne September 23, 2014 0

A teenager killed a neighbor in front of her preschooler.

A woman was accused of killing her four children when they were babies and a third person killed a young woman during a fight in a drug deal gone wrong.

These were among prisoners attorney Abbe Smith agreed to represent, years after their convictions.

She told a packed hall Saturday at the 2014 Defense Community Dinner that most people accused and convicted of a crime are poor. A disproportionate number are nonwhite. She said the stunning news is that more people are now under the control of the criminal justice system than were enslaved in 1850.

Smith is a professor of law, director of the Criminal Defense & Prisoner Advocacy Clinic and co-director of the E. Barrett Prettyman Fellowship Program at Georgetown University. She notes in an essay, which her speech was based upon, that she became a criminal lawyer after reading the book "To Kill a Mockingbird" and seeing the movie.

Smith said she likes representing guilty people, those who have committed crimes for a variety of reasons, but are not evil. She recognizes they are flawed human beings and believes in their humanity and said she can find the person behind the crime.

Smith also said prosecutors have too much power and can be smug and punishments harsh. She said the United States locks up more people than any other nation on Earth and for longer periods of time.

She is often asked how she can represent "those" people and responds asking how can she not? Smith said more criminal defense lawyers are needed and, as Barbara Babcock notes in a criminal justice article, "Defending the Guilty," the criminal justice system and legal profession would be better off if more lawyers did criminal work.



Public Defender Timothy P. Donaher addresses the guests and award winners at the 2014 Defense Community. Vasily Baziuk



Monroe County Public defender Timothy P. Donaher with award winners Lawrence L. Kasperek, Adele Fine and Craig McNair on Saturday at the 2014 Defense Community Dinner at Rochester Institute of Technology. Vasily Baziuk

Babcock is Judge John Crown professor of law, emerita, at Stanford Law School.

The event included the presentation of awards including the Jeffrey A. Jacobs Memorial Award to attorney Lawrence L. Kasperek (Easton Thompson Kasperek Shiffrin LLP) and the Award for Excellence in Indigent Adult Representation in Family Court to Assistant Public Defender Adele Fine, who was featured in a story in *The Daily Record* on Friday.

A new award this year, the Monroe County Public Defender's Office's Service of Justice Award was given to the Monroe County Pre-Trial Services Corp., a not-for-profit organization supported by the county, state Division of Probation and Correctional Alternatives, STOP-DWI and the state Division of Parole.

"We created the award because there are numerous groups of individuals in the criminal justice system who aren't necessarily attorneys who are vital to the criminal justice system in making sure that our system is just and fair," said Monroe County Public Defender Timothy P. Donaher. "We see that these agencies often

go unrecognized and we thought it would be appropriate to create an award."

Donaher said he cannot overstate the importance of pre-trial services to the criminal justice system, noting they

interview clients and make release recommendations to the judge so clients who should not be incarcerated are not.

Pre-Trial Services Corp. Executive Director Craig McNair said he was humbled and very appreciative of the honor.

"We provide a spectrum of services I think impact the county in a lot of ways," he said. "We work with defendants. We're trying to help provide equal justice in our community. I think we provide good services for defendants who often don't have a voice. Our agency strives very hard to provide appropriate interventions and supervision to help ensure public safety. The staff works really hard and it's nice to be recognized for their efforts."

Donaher said the agency probably saves the county millions of dollars and saves thousands of people the trauma of being incarcerated unnecessarily while waiting for trial, allowing them to maintain employment, stable family relationships and stay in school.

He said there is direct correlation between defendants who are able to obtain release while their case is pending and the greater likelihood they will be able to assist in their own defense, which leads to better outcomes.

In addition, the county realizes savings through less jail overcrowding and fewer people on welfare rolls or needing public benefits.

— denise.champagne@nydailyrecord.com



Keynote Speaker Abbe Smith, a law professor at Georgetown University, talks about "How Can You Not Defend Those People?" at the 2014 Defense Community Dinner held at RIT on Saturday. Vasily Baziuk

Tagged with: DEFENSE COMMUNITY DINNER

Somes Recognized For Delivering Justice
The Daily Record, May 23, 2014

THE DAILY RECORD

Somes recognized for delivering justice

By: Denise M. Champagne May 23, 2014 0



Janet Somes

Reversals in two Monroe County criminal cases are being touted by a Webster-based organization in its quest to right or prevent injustice.

Both were handled by Janet C. Somes, an assistant Monroe County public defender, who has been selected by It Could Happen To You to receive its Public Servant of Justice Award.

"She first came to our attention in what's known as *People v. Handy*," said Bill Bastuk, chair of It Could Happen To You Inc. "That was a case in which there was a mysterious disappearance of the video and that kind of caught our eyes."

He said one of the important things in a pending bill the organization is advocating for calls for the videotaping of all confessions.

The Court of Appeals' decision in *Handy* (2013 NY Slip Op 02103) created a new rule in which juries must be told they can infer evidence destroyed by the state may have been favorable to a defendant.

Dayshawn P. Handy was an inmate at the Monroe County Jail in January 2007 when he fought with guards who placed the blame on Handy, but he said the guards started the fight. A videotape that could have shown exactly what happened was inadvertently destroyed by the sheriff's department, prompting the Court of Appeals to reverse Handy's assault conviction and grant him a new trial.

Somes points first to the decision in *People v. Fisher* (2012 NY Slip Op 02416) in which the Court of Appeals found a prosecutor's conduct "egregiously improper" and made it clear prosecutors may not try to bolster the credibility of witnesses with facts that are not in evidence or make irrelevant highly prejudicial claims.

Somes said the case is also significant because the court found a defense attorney provided ineffective assistance by not objecting to the prosecutor's summation comments that "improperly encouraged inferences of guilt based on facts not in evidence."

"The decision in that case was pretty significant," she said. "The court really looked at the misconduct here and called it misconduct. I think that will have an overall impact on prosecutions throughout the state. The court made it pretty clear where the line is."

Somes, who has been with the Monroe County Public Defender's Office since 1985, said one of the root causes of wrongful convictions is prosecutorial misconduct

"Jan Somes is one of the finest appellate attorneys in New York," said Public Defender Timothy P. Donaher. "The award recognizes her long career in representing the accused in our appellate courts and her impressive list of victories in the appellate courts. Those appellate victories have resulted in significant, positive changes to the criminal justice system decreasing the chances of a person being wrongfully convicted. We are all very proud of her and the results she achieves for our clients."

Bastuk, whose organization will use the cases to support its arguments to change laws, was also impressed with a string of eight consecutive victories Somes had in appellate cases.

"It's her tenacity and aggressiveness," he said. "She obviously does her homework. We need very tenacious public defenders who are not just going to walk in and plea bargain or accept a plea bargain."

Somes will be honored Oct. 14 at an awards dinner in Brooklyn and Oct. 16 in Syracuse, along with state Sen. John A. DeFrancisco, R-Syracuse; and Assemblyman Nick Perry, D-Brooklyn. The lawmakers will be recognized for their efforts to reform the criminal justice system, including work to establish a Commission on Prosecutorial Conduct which would set up an independent review process, similar to the state Commission on Judicial Conduct, to prevent wrongful convictions, indictments and injustice.

Alice Green, founder and president of the Albany Law and Justice Center, will receive the 2014 Private Sector Servant of Justice Award.

Bastuk, a former Monroe County legislator, founded It Could Happen To You in 2011 following a lengthy legal ordeal

in which he was falsely accused of sexually assaulting a 16-year-old girl in 2008. He was acquitted at trial nearly a year later.

This is the second year his organization is recognizing people as public servants of justice for their commitment to furthering the principals of equal justice for all and the presumption of being innocent until proven guilty.

"I'm very thankful to Bill Bastuk and the organization for recognizing the work that I do," Somes said. "As an appellate practitioner, our successes are probably more few and far between maybe than a tried case. My colleagues and I have worked very hard and we're very good at what we do and it's nice to be recognized."

She finds Bastuk's efforts to create a Commission on Prosecutorial Conduct an intriguing idea, noting it would put a layer of oversight on prosecutors that is missing.

"We now know there are wrongful convictions and I think the Court of Appeals is looking at that and thinking what are some of the rules that may contribute to wrongful convictions," Somes said. "So, I think in some segments, we're seeing an evaluation of some of the rules and interpretations of the law. I think that being part of that at this point in time is the most rewarding aspect."

Somes said at times it is frustrating to work on appeals cases when she reads a trial record and realizes she cannot help the defendant even though she agrees he or she was treated unfairly. She said maybe the issue was not preserved, the law is not there or the Court of Appeals disagrees.

"I think what I love about it is in theory, its goal is a level playing field and fairness," she said. "I guess I'm always rooting for the person who's been underprivileged, who's been treated unfairly or maybe doesn't have a support system. I think sometimes it's too easy for someone who's had every advantage — and I have had every advantage — to think about or be concerned about those who have not."

Somes and several of her colleagues were also honored last year by the New York State Bar Association with its Denison Ray Criminal Defender Award, which recognized them for their efforts in winning 82 percent of their cases, including 18 of 22 dating back to early 2010.

She praised the office for its sense of community and said it warms her heart to see people who could be making a lot of money in the private sector choosing to do public defender work.

Somes did not start out to be a prosecutor. A native of the small Onondaga County village of Jordan, she went to The College at Brockport thinking about becoming a social worker. It was during an internship with the Monroe County Public Defender's Office that she changed her mind.

She said she walked into court on the first day of that internship and decided to go to law school. She graduated in 1984 from Syracuse University College of Law where a professor had told her the Monroe County Public Defender's Office was top notch.

"When I got here, I totally knew what he was talking about," she said.

She started in the Appeals Bureau, working under Brian Shiffrin, now of Easton Thompson Kasperek & Shiffrin LLP, where her husband, Lawrence Kasperek, is an attorney who has been defending clients in state and federal courts since 1985.

They have four sons: Tyler Kasperek Somes, 24, who works for a labor organization in New York City and is considering law school to specialize in labor relations; Jackson, 21, a junior at the University of San Diego; and Clayton, 18, and Spencer, 15, both students in the Honeoye Falls-Lima Central School District.

Somes worked in most of the public defender's office's other bureaus, but found herself drawn back to appeals.

"I like the ability to research and really hone in on an argument," she said. "I've worked in an office and I've worked with phenomenal attorneys who are so dedicated to the principles of justice and fairness. It's just how incredibly fortunate I was to work in this office and be surrounded by incredible people. It's not an easy job. You're on nobody's favorite list, so the people you work with really make the difference."

Somes has also served on the Honeoye Falls-Lima Board of Education for nine years and is seeking re-election. She is also a trustee and co-founder of the Honeoye Falls-Lima Education Fund and a member of the Greater Rochester Association for Women Attorneys.

When not working, Somes enjoys quilting, cooking, cross-country skiing and spending time with her family.

Tagged with: [JANET C. SOMES](#) [PUBLIC DEFENDER](#) [PUBLIC SERVANT OF JUSTICE AWARD](#)

Attorneys Of The Year 2014
The Daily Record, November 13, 2014

THE DAILY RECORD

Attorneys of the Year 2014

By: Daily Record Staff November 13, 2014 0



The Daily Record presented the class of 2014 Top Counsel and Leaders in Law Award recipients. From left are Langston McFadden, Yolanda Asamoah-Wade, Melissa Barrett, Raul Martinez, Terria Jenkins, Tiffany Lee, Tynise Edwards, Michael Carlos Lopez, Ann McCormick, Dale Skivington, Paul Sylvestri, Robert Kessler, Paul Barden, Sheldon Smith and David Schraver. The Attorneys of the Year even was held Nov. 6 at the Hyatt Regency Rochester.
Vasily Baziuk

Fifteen members of the legal community were recognized Nov. 6 during *The Daily Record's* 2014 Attorneys of the Year celebration at the Hyatt Regency Rochester.

Nearly 200 people turned out to honor their colleagues, friends and family members as awards were presented to 12 Leaders in Law and three Top Counsel attorneys.

Leaders in Law Awards honor members of the legal community who have shown tremendous dedication to the legal profession and selfless tireless commitment to the community.

Each year, one Leader in Law is selected to receive the Nathaniel Award, named in honor of *The Daily Record* founder Nathaniel B. Raymond and presented to a member of the legal community who regularly goes above and beyond the call of duty in the name of justice.

The 2014 Nathaniel Award winner, announced at the dinner, is David M. Schraver, of counsel, Nixon Peabody LLP, and immediate past president of the New York State Bar Association.

Awards were presented by publisher Liz Irwin and Edward P. Hourihan Jr., managing member of the Rochester office of Bond Schoeneck & King PLLC. Emcee for the evening was Jennifer Johnson, anchor and reporter for 13WHAM ABC Rochester.

Also recognized as **Leaders in Law** were:

- Yolanda A. Asamoah-Wade, attorney at law, Le Monde Link
- Paul G. Barden, partner, McConville Considine Cooman and Morin PC
- Melissa L. Barrett, associate court attorney, Rochester City Court
- Terria P. Jenkins, principal, Law Office of Terria P. Jenkins
- Robert W. Kessler, partner, Woods Oviatt Gilman LLP
- Tiffany H. Lee, chief, General Crimes Section, U.S. Attorney's Office for the Western District of New York
- Michael Carlos Lopez, special assistant public defender, Monroe County Public Defender's Office
- Raul E. Martinez, associate, Faraci Lange LLP
- Langston D. McFadden, partner, The Law Offices of Pullano & Farrow PLLC
- Sheldon K. Smith, partner, Nixon Peabody LLP

- Paul D. Sylvestri, partner, Harter Secrest & Emery LLP

Top Counsel

- Tynise Y. Edwards, municipal attorney, city of Rochester
- Ann M. McCormick, executive vice president, general counsel and secretary, Home Properties Inc.
- Dale E. Skivington, executive director of Global Compliance and chief policy officer, Dell Inc.

Photos by Vasiliy Baziuk

On The Town: The Daily Record Presents Excellence In Law Awards
The Daily Record, November 13, 2014

THE DAILY RECORD

On the Town: 'The Daily Record' presents Excellence in Law Awards

By: Daily Record Staff July 1, 2014 0



Up & Coming Attorneys awards went to, from left, Heather Neu, Sean Eldridge, Danielle E. Mettler, David P. Shaffer, Brian M. Feldman, Luis Ormaechea, Destini Bowman, Odette Belton, A. Darren Miller, Svetlana K. Ivy, Joseph A. Carello and Aaron Frazier.

Attorneys for Children programs.

The Top Women in Law Award recognizes outstanding accomplishments of women attorneys making notable contributions to the legal profession while inspiring a positive change in the community. Winners are Karen Bailey Turner, June M. Castellano, Amy Habib Ritting, Kate Karl, Hadley Matarazzo, Jean H. McCreary, Kelley Ross Brown, Karen Schaefer, Erika N. D. Stanat, Connie Walker, Melanie S. Wolk and Jennifer L. Wright.

Up & Coming Attorneys are those who demonstrate a strong commitment to the legal profession early in their careers. Winners are Odette Belton, Destini Bowman, Joseph A. Carello, Sean Eldridge, Brian M. Feldman, Aaron Frazier, Svetlana K. Ivy, Danielle E. Mettler, A. Darren Miller, Heather Neu, Luis Ormaechea and David P. Shaffer.

The luncheon ceremony, attended by more than 200 people, was hosted by *The Daily Record* at the Hyatt Regency Rochester.

— Photos by Vasilij Baziuk



Top Women in Law awards went to, from left, Jean H. McCreary, Karen Bailey Turner, Erika N. D. Stanat, Jennifer L. Wright, Karen Schaefer, Connie Walker, Amy Habib Ritting, Kelley Ross Brown, Kate Karl, Melanie S. Wolk and Hadley Matarazzo. June Castellano was not able to make the event.

Twenty-eight local attorneys were honored June 26 as *The Daily Record* presented its 2014 Excellence in Law Awards.

The awards are broken into three categories: Unsung Legal Heroes, Top Women in Law and Up & Coming Attorneys; the former two were first given out in 2013.

The Unsung Legal Heroes Award honors individuals from, or working with, area civil legal services providers who have consistently helped those in need, often behind the scenes. Winners are Maritza Buitrago, an attorney with the Monroe County Public Defender's Office; Sheila Gaddis, executive director, Volunteer Legal Services Project of Monroe County Inc.; Angela F. Hale, an Empire Justice Center attorney; and Robert P. Turner, a private practitioner involved in the Assigned Counsel and



Winners of the Unsung Legal Heroes awards are, from left, Sheila Gaddis, Robert P. Turner, Maritza Buitrago and Angela F. Hale.

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EXCELLENCE IN LAW AWARDS ON THE TOWN THE DAILY RECORD