

DANIEL P. MCCOY
COUNTY EXECUTIVE

STEPHEN W. HERRICK
PUBLIC DEFENDER

COUNTY OF ALBANY
PUBLIC DEFENDER
112 STATE STREET, 2ND FLOOR
ALBANY, NEW YORK 12207
PHONE: (518) 447-7150 FAX: (518) 447-5533
www.albanycounty.com

October 15, 2024

Hon. Wanda F. Willingham, Chair
Audit and Finance Committee
Albany County Legislature
Harold L. Joyce Albany County Office Building
112 State Street, Room 710
Albany, New York 12207

Re: Responses to Information Request
Proposed 2025 Budget

Dear Chairperson Willingham:

In response to your inquiry dated October 2, 2024, the Office of the Albany County Public Defender submits the following:

- 1. Identify department representative appearing before the Audit & Finance Committee for your agency budget presentation.*

The department representatives appearing before the Audit and Finance Committee for this Budget Hearing are Stephen W. Herrick, Albany County Public Defender, Matthew Alpern, Chief Assistant Public Defender, and Keith G. Bulatao, Director of Accounts.

- 2. Identify by line item all vacant positions in your department.*

The following are currently vacant positions in the Office of the Albany County Public Defender (by funding source) as of 10/15/24. All vacant APD I – VI positions are currently posted for hiring.

- A. Albany County funded:
 - I. Assistant Public Defenders (APD)
 - a. APD I: 150119
 - b. APD II: 150108, 150194F
 - c. APD III: 150123
 - d. APD IV: 150125
 - II. Family Court Supervisor: 150205

B. NYS Office of Indigent Legal Services (NYS ILS) funded:

- I. Assistant Public Defenders (APD)
 - a. APD I: 150071, 150098
 - b. APD II: 150114
 - c. APD III: 150160
 - d. APD IV: 150164, 150165
 - e. APD VI: 150129
- II. Support Staff
 - a. Clerk II: 150152
 - b. Legal Secretary: 150100
 - c. Paralegal: 150046

3. *Identify by line item any new position(s), how the position(s) will be funded and the reimbursement rate(s), if applicable.*

The following are new proposed positions in the Office of the Albany County Public Defender.

- A. 100% Albany County funded:
 - I. Family Court Caseworker: 150208 (defunded 150032 Criminal Investigator to offset)
 - II. Paralegal: 150210 (defunded 150090 Legal Secretary to offset)
- B. 100% NYS Office of Indigent Legal Services funded:
 - I. Mitigation Specialist: 150211 (defunded 150151 Clerk II to offset)
 - II. Senior Litigation Counsel: 150209 (defunded 150173 Assistant Public Defender VI to offset)
- C. 100% NYS Division of Criminal Justice Services funded:
 - I. Forensic Attorney: 150206
 - II. IT Discovery Tech: 150207

4. *Identify by line item any proposed salary increase(s) beyond union contract commitments. Include justification for those raise(s).*

We have no positions with proposed salary increases beyond union contract commitments.

5. *Identify by line item any position proposed to be eliminated or salary decreased.*

The following positions are proposed to be eliminated in the Office of the Albany County Public Defender.

- A. Assistant Public Defenders (APD)
 - I. APD VI: 150173
 - II. Floating Attorney – FC: 150156 (eliminated by Resolution 24-370 to fund 159997 Temporary Help)
- B. Clerk II: 150152
- C. Criminal Investigator: 150032
- D. Legal Secretary: 150090

6. *Identify by line item all positions that are funded by grant money, the percentage of funding provided by the grant and indicate whether there is a commitment that the grant has been renewed for 2025.*

The following positions are funded by grants. The percentage funded is 100% from NYS ILS unless otherwise indicated. I have no indications that any of the several existing State grants, and especially the Second Hurrell-Harring Statewide Expansion grant (which is currently being finalized with a term of 4/1/24 through 3/31/27), will be cancelled or reduced. The funds necessary for the Statewide Expansion grant have been “set aside” in a special State fund.

- A. Assistant Public Defender (APD) I-VI:
 - I. 150069 (32%), 150070 (32%), 150071, 150098 (92%), 150119 (9% New York State Division of Criminal Justice Services (NYS DCJS))
 - II. 150024, 150025, 150033, 150042, 150114 (94%), 150116, 150117 (18% NYS DCJS), 150145
 - III. 150131 (73%), 150132 (85%), 150133 (26% NYS DCJS), 150141, 150147, 150149, 150160, 150161, 150162
 - IV. 150126, 150150, 150163, 150164, 150165, 150168 (85%), 150169 (7% NYS DCJS). 150198
 - V. 150127 (98%), 150128, 150158, 150159, 150172, 150199, 150200
 - VI. 150129 (83%), 150190, 150201, 150204
- B. Chief Assistant Public Defender: 150003 (9%)
- C. Clerk II: 150152
- D. Confidential Secretary: 150048 (23%)
- E. Court Supervisor: 150138, 150170
- F. Criminal Defense Caseworker: 150185, 150186
- G. Criminal Investigator: 150031 (8%), 150034 (8%), 150181 (7% NYS DCJS)
- H. Data Entry Machine Operator: 150038 (13%)
- I. Deputy Public Defender: 150085 (12%)
- J. Director of Accounts: 150196
- K. Director of Operations: 150192
- L. Director of Training: 150143
- M. Felony Supervisor: 150144
- N. Forensic Attorney: 150206 (100% NYS DCJS)
- O. IT Discovery Tech: 150175, 150207 (100% NYS DCJS)
- P. Legal Secretary: 150040, 150088 (17% NYS ILS and NYS DCJS), 150100, 150153, 150154
- Q. Mitigation Specialist: 150197, 150211
- R. Paralegal: 150046
- S. Paralegal/Data Specialist: 150037
- T. Senior Litigation Counsel: 150209
- U. Social Services Coordinator: 150140
- V. Strategic Litigation Counsel: 150203

7. *Identify by line item all job titles proposed to be changed or moved to another line item (e.g., reclassifications).*

None.

8. *Provide an itemized breakdown of specific expenditures regarding fees for services lines and miscellaneous contractual expense lines and indicate 2024 budgeted expenditures compared to 2025 proposed expenditures (include a column for each expenditure year).*

Expense Description	2024 Revised Budget	2024 Year To Date Expended	2025 Proposed Budget
Office Supplies	\$ 24,125	\$ 15,141	\$ 27,298
Client Services	\$ 3,500	\$ 840	\$ 6,000
Postage	\$ 3,500	\$ 1,655	\$ 3,500
Telephone	\$ 22,500	\$ 15,893	\$ 25,113
Insurance	\$ 11,093	\$ 11,993	\$ 12,594
Travel Mileage Freight	\$ 26,000	\$ 14,705	\$ 26,000
Conferences/Training/Tuition	\$ 124,000	\$ 69,436	\$ 134,491
Computer Fees	\$ 5,000	\$ -	\$ -
Printing And Advertising	\$ 18,700	\$ 7,491	\$ 12,200
Fees For Services	\$ 148,969	\$ 51,714	\$ 228,395
Photocopier Lease	\$ 8,000	\$ 3,497	\$ 8,000
Equipment Repair And Rental	\$ 950	\$ -	\$ -
Discovery/Storage/PDCMS	\$ 145,772	\$ 68,813	\$ 219,108
Specialized Services	\$ 171,237	\$ 76,746	\$ 115,790
Legal Reference	\$ 70,000	\$ 33,025	\$ 75,576
Association Dues	\$ 15,000	\$ 12,346	\$ 28,000

9. *Identify any new initiatives and/or eliminated programs, and reimbursements associated with those programs.*

The “new initiatives” in the Public Defender’s Office are two-fold; first, the training program outlined in detail in the response to question #15 and the new discovery system through Axon Justice outlined in our response to question #14.

10. *Identify all County vehicles used by your department. Include the title of any employee(s) assigned each vehicle and the reason for the assignment of a County vehicle to that employee.*

Albany County has assigned two (2) vehicles to the Public Defender's Office: Vehicle 1, a 2020 Chevrolet Blazer (car #102) and Vehicle 2, a 2019 Ford Fusion (car #037). Both vehicles are used for the work of the Office in investigating matters for criminal defense.

11. *Provide a specific breakdown of the use for the proposed funding for all Conferences/Training/Tuition line items in your department budget.*

Our request for \$134,491 for "Conferences/Training/Tuition" is an increase over the Office's 2024 request, with the increase funded by NYS ILS Distribution funds. We feel this a reasonable request for 2025. In 2025, we anticipate that there will be an abundance of highly relevant in-person legal education and conferences available for our attorneys.

In 2024, as part of our plans to improve attorney recruitment, retention, and training, we continued our partnership with Gideon's Promise, which includes Gideon's Promise providing fellows to public defender offices through their Law School Partnership Program. In 2025, funds will be used to place attorneys in Gideon's Promise's Core 101, Trainer Development, and Leadership Development trainings. This partnership is developing into a recruitment pipeline, improving attorney retention rates, and providing valuable skills to all levels of attorneys in our office.

12. *Provide a specific breakdown of overtime line items in your department budget including the actual overtime expenditures for the previous two years.*

Our "Overtime" costs are for office support staff to assist our attorneys on "off hours" court assignments in two of our busier local criminal courts. The two staff members that receive overtime provide clerk related services opening and updating files during busy court sessions. In the last two budget years, 2023 and 2024 (as of 10/11/24), there were/are expenditures of \$6,887.86 and \$8,153, respectively. We anticipate higher usage of this line in 2025 as the courts continue to become busier.

13. *Identify by line item any positions that were established/changed during the 2024 fiscal year.*

No new positions were established or changed during the 2024 fiscal year.

14. *Please describe the biggest risk your department faces and the actions you have taken (or will take in 2025) to better understand that risk and mitigate it.*

The biggest risk our department faces is the challenge of keeping pace with a rapidly growing surge of electronic discovery, which entails receiving, cataloging, indexing, publishing, and safely archiving large disclosures of case-critical evidence and associated files. To that end, we have recently signed a ten-year contract with Axon Enterprise, Inc.

for a multi-license subscription to its secure, cloud-based Digital Evidence Management System (DEMS). This system, known as Axon Justice, will greatly reduce the time and effort required to reliably receive, catalog, and index electronic discovery; will offer our attorneys, investigators, and caseworkers an intuitive yet powerful mobile interface for working with that discovery; and, will immediately solve the problem of archiving discovery for years after case closure without any additional effort or software systems.

Also, while the NYS ILS has provided our Office with the majority of its funding for the past several years, and continues to do so, we have some concern about the future. NYS ILS currently has the resources to maintain at least the current level of funding well beyond 2025. Our concern, however, is the State's ability to maintain Statewide funding for indigent legal services into the future.

Specifically, those New York State programs providing indigent legal representation need to monitor and lobby strongly against any effort by the State to access those now protected fund sources for broader use in the State's General Fund. We need to develop a plan to continue service at our current level in the event of a decrease in financial aid.

15. Please list performance indicators and metrics used by your department and current statistics for those metrics.

This is somewhat difficult to respond to because we do not measure performance in terms of wins and losses. We reference NYS ILS caseload standards to ensure reasonable "active" caseloads for our attorneys and evaluate performance based on some objective standards, such as time, attendance and initiative. However, much of our oversight and review is subjective. We evaluate based on our own professional experience, and it helps to have an open mind. There is no single or "correct" way to be a criminal defense attorney, and it often takes many years of experience to find what works best.

New in September 2024, is our training program for our incoming class of six recent law school graduates who await the results of this summer's NYS Bar Exam. The course began just after Labor Day and is scheduled to continue into early December. The curriculum has been developed "in-house" and is designed after other programs nationally that have a long-standing reputation for success. Our program is designed to focus on NYS law and procedure, along with the unique peculiarities of practice in Albany County.

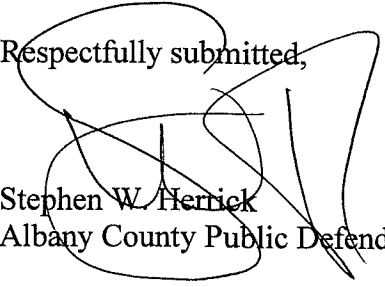
We train and prepare on an ongoing basis to ensure our clients receive superior representation. We do not maintain statistics other than the maintaining of caseload disposition results; I am not sure there are any statistics that confirm what the legal community knows – the Albany County Public Defender provides excellent, innovative and effective legal representation to our clients.

16. Note specifically all potential new unfunded mandates, regulations, risks to grant revenues, risks to reimbursement revenues, from any source.

None is known to exist for budget year 2025.

If you require any supplemental information or have additional questions, please feel free to contact me.

Respectfully submitted,



Stephen W. Herrick
Albany County Public Defender