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# AUDIT REPORT

## DUTCHESS COUNTY

### PUBLIC DEFENDER 2019-2023

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*DECEMBER 2024*

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OFFICE OF THE  
DUTCHESS COUNTY COMPTROLLER

*A. GREGG PULVER, COMPTROLLER*



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Dear County Officials and Taxpayers,

The Dutchess County Comptroller's Office has completed its follow-up audit of the Dutchess County Public Defender's Office for the period January 1, 2019-December 31, 2023. The previous audit was released by the Comptroller's Office in November 2019 and reported on a significantly large scope of the Public Defender's Office operations for the period January 1, 2012 through December 31, 2018. Given the receipt of additional grant funding, the primary objective of this audit was to review the claims made to NYS during the 2019-2023 period to ensure funding had been maximized. An update regarding Dutchess County's Assigned Counsel Plan and changes to the rates for 18-B attorneys is also included.


The Dutchess County Public Defender's Office represents individuals from disadvantaged socio-economic backgrounds in Criminal Court, adult litigants in Family Court and Surrogates' Court, and individuals facing inmate and parole matters. This includes providing representation and arraignment services at all Town and Village Justice Courts, City Courts, and County Courts within Dutchess County. The Public Defender's Office also represents Ulster County defendants when a conflict of interest occurs in Ulster County courts as part of the SWAP program. The previous Public Defender retired at the end of 2023 and a new Public Defender was confirmed in 2024.

Upon completing an examination of records provided by the Public Defender's Office, the Comptroller's Office was able to conclude that certain grant revenue accruals were not consistently recorded in the correct year for the 2018-2021 period, nor were they reconciled timely. The Comptroller's Office recommends that accruals be recognized in the correct year and reconciliations are completed in a timely manner.

While the County's Assigned Counsel Plan has still not received approval from the local Bar Association, it has been implemented and the Public Defender's Office continues to receive funding from NYS Indigent Legal Services for its continued operation. Since the Comptroller's review in November 2019, the Public Defender has improved and maintained their fiscal stewardship of the large amounts of state and federal funding they receive to provide constitutionally mandated functions to County residents.

The Comptroller's Office is appreciative to the staff in the Public Defender's Office for their diligence, patience, and assistance over the course of this audit.

Respectfully submitted,



A. Gregg Pulver  
Dutchess County Comptroller

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## Background

The Dutchess County Public Defender's Office is charged with representing individuals at every stage of legal proceedings when the person cannot afford to retain private legal counsel. The United States Constitution, specifically through the Sixth Amendment, grants the right to legal counsel to all persons accused of a criminal offense; the United States Supreme Court interpreted under *Gideon v. Wainwright*, 372 U.S. 335, that this right requires states to appoint attorneys for criminal defendants who cannot afford their own counsel. Additionally, the New York State Constitution and New York State Law mandate the right to legal counsel for the accused in criminal proceedings. The duties of the Dutchess County Public Defender are directed and authorized under Article 18-A of County Law. Article 18-B further defines representation of indigent defendants, use of conflict defenders, and assigned counsel.

The Dutchess County Public Defender's Office represents indigent criminal defendants in Criminal Court, adult litigants in Family Court and Surrogate's Court, and individuals facing inmate and parole matters. This includes providing representation and arraignment services at all Town and Village Justice Courts, City Courts, and County Courts within Dutchess County. The Public Defender's Office also represents Ulster County defendants when a conflict occurs in Ulster County courts as part of the SWAP Program.

The previous Public Defender retired at the end of 2023 and a new Public Defender was confirmed in 2024.

## Objective, Scope, and Methodology

The Public Defender's Office receives significant funding from NYS. The objective of this audit was to review the claims to NYS to ensure all funding had been maximized for each Sub-Department within the Public Defender's Office for the period January 1, 2019-December 31, 2023. An update regarding Dutchess County's Assigned Counsel Plan and changes to the rates for 18-B attorneys will also be included. In addition, client eligibility records and determinations were reviewed.

Our examination of the Public Defender's records included:

- Grant Claims, Salary Allocations, Expense Receipts
- Budget Performance and Project Reports from the County's Financial Management System
- Funding Award Letters
- Workload Measures and Statistics

## Summary of Findings & Recommendations

### Findings:

- Selected grant revenue accruals were not always recorded in the correct year for the time period 2018-2021 (see Revenue & Expenses by Sub-Department for details).
- Revenue accounts were not always reconciled timely during the period 2018-2021.

### Recommendations:

- Grant revenue accruals should be recorded in the year the expenses were incurred.
- Reconciliations of revenue accounts should be completed timely to ensure revenues are recognized in the correct year.

## Summary of Revenue and Expenses

Total revenues increased from **\$1,788,586** in 2019 to **\$5,191,666** in 2023, the majority of which was attributed to the Statewide Expansion of the Hurrell-Harring Grant awarding **\$13,767,331** for the time period 2018-2023, as well as a new Hurrell-Harring Grant award for 2023-2026 in the amount of **\$14,667,331**. Claimed revenues from Hurrell-Harring increased a total of **\$2,948,301** between 2019 and 2023. Hurrell-Harring was the result of a legal settlement with the State of New York that required an improvement of the delivery of public defense services. Total expenses increased from **\$6,037,288** in 2019 to **\$9,053,343** in 2023.

	2019	2020	2021	2022	2023
Total Revenue	\$1,788,586	\$2,811,100	\$3,785,327	\$4,288,478	\$5,191,666
Total Expenses	\$6,037,288	\$6,700,412	\$7,194,151	\$8,031,168	\$9,053,343
<b>Net Cost to County</b>	<b>(\$4,248,703)</b>	<b>(\$3,889,312)</b>	<b>(\$3,408,825)</b>	<b>(\$3,742,690)</b>	<b>(\$3,861,677)</b>

Detailed Revenue and Expenses for each year as well as Workload Measures can be found in **Exhibit I** and **Exhibit II** respectively.

Grant descriptions can be found in the **Addendum**.

## Revenue & Expenses by Sub-Department

A brief description of each Public Defender Sub-Department and detailed revenue and expenses for the audit period are below.

### PUBLIC DEFENDER - DEPARTMENT 1170

The Public Defender's Office is governed under County Law, Article 18-A, §716 and §717. The Public Defender is charged with competently representing those who qualify for its services at every stage of the legal proceedings. Representation is either requested by a defendant or ordered by the court with the consent of the defendant. Originally, this Office was funded to defend indigent clients who were charged with a felony crime and was expanded to include any criminal defense. It now includes services for legal representation in Family Court.

REVENUE - 1170	2019	2020	2021	2022	2023
Federal Aid	\$-	\$6,835	\$683	\$-	\$-
<b>FEDERAL AID TOTALS</b>	<b>\$-</b>	<b>\$6,835</b>	<b>\$683</b>	<b>\$-</b>	<b>\$-</b>
NY State Grant: Aid to Defense	\$16,635	\$15,937	\$16,170	\$16,170	\$16,170
NY State Grant: Upstate Quality Improvement	\$104,060	\$36,782	\$146,131	\$103,782	\$102,473
NY State Grant: Distributions	\$211,533	\$159,393	\$-	\$-	\$24,916
NY State Grant: Parolee Legal Fees	\$17,415	\$-	\$73,144	\$84,411	\$51,644
NY State Grant: DOC Inmate Representation	\$860	\$1,979	\$-	\$3,265	\$41,125
<b>NY STATE GRANT TOTALS</b>	<b>\$350,503</b>	<b>\$214,092</b>	<b>\$235,445</b>	<b>\$207,627</b>	<b>\$236,327</b>
Local & Other	\$6,572	\$47,776	\$44,267	\$9,133	\$5,497
<b>LOCAL &amp; OTHER TOTALS</b>	<b>\$6,752</b>	<b>\$47,776</b>	<b>\$44,267</b>	<b>\$9,133</b>	<b>\$5,497</b>
<b>TOTAL REVENUES</b>	<b>\$357,075</b>	<b>\$268,703</b>	<b>\$280,394</b>	<b>\$216,760</b>	<b>\$241,824</b>
<b>EXPENSES - 1170</b>					
Positions	\$2,452,119	\$2,438,196	\$2,248,257	\$2,369,325	\$2,475,170
Fringe Benefits	\$1,081,750	\$1,053,473	\$985,848	\$962,188	\$1,029,860
Consultants/Witness/Investigations	\$27,422	\$4,838	\$25,886	\$11,978	\$15,942
Training & Seminars	\$3,931	\$1,098	\$3,262	\$805	\$2,444
Assigned Counsel	\$209,800	\$20,948	\$-	\$-	\$-
Operating Expenses	\$202,440	\$188,675	\$182,425	\$192,394	\$218,863
<b>Total Expenses</b>	<b>\$3,977,462</b>	<b>\$3,707,228</b>	<b>\$3,445,679</b>	<b>\$3,536,690</b>	<b>\$3,742,279</b>
<b>Net Cost to County</b>	<b>(\$3,620,387)</b>	<b>(\$3,438,525)</b>	<b>(\$3,165,285)</b>	<b>(\$3,319,930)</b>	<b>(\$3,500,455)</b>
<b>Total Revenue to ADD</b>		<b>\$37,354</b>			
<b>Total Revenue to DEDUCT</b>			<b>(\$37,354)</b>		
<b>Adjusted Net Cost to County</b>	<b>(\$3,620,387)</b>	<b>(\$3,401,171)</b>	<b>(\$3,202,639)</b>	<b>(\$3,319,930)</b>	<b>(\$3,500,455)</b>



## Revenue & Expenses by Sub-Department, Cont.

### PUBLIC DEFENDER - DEPARTMENT 1170, CONT.

#### Observation:

- Upstate Quality grant revenue for 2023, Q1 and Q2 was designated under an incorrect project. As of the writing of this report, the Public Defender is correcting the project designations for this grant revenue.

#### Finding:

- Upstate Quality Grant revenue for Year 1 (2020-2021) was wholly recognized in 2021 even though part of the claim included Q3 and Q4 of 2020. **\$37,354.07** should have been accrued for 2020.
  - According to the Public Defender's Office, this 3-year contract (7/1/2020-6/30/2022) was not fully executed until 4/26/21; therefore, claims could not be submitted until the contract was fully executed.

#### Recommendation:

- When possible, the department should recognize revenue received in the year the services were rendered.

### FAMILY COURT - DEPARTMENT 1170.04

The Family Court Sub-Department 1170.04 was created in 2012 to obtain grant funding for improved services and quality representation in Family Court and to reduce payments to private attorneys under 18-B. (See page 10 for a description of 18-B). This unit provides legal representation to adults in Family Court and other matters involving family offense, neglect, abuse, custody, and child support matters.

REVENUE - 04 - Family Court	2019	2020	2021	2022	2023
Federal Aid	\$-	\$-	\$229	\$-	\$-
<b>FEDERAL AID TOTALS</b>	<b>\$-</b>	<b>\$-</b>	<b>\$229</b>	<b>\$-</b>	<b>\$-</b>
NY State Grant: Distributions	\$769,215	\$901,484	\$1,112,479	\$995,337	\$1,132,712
NY State Grant: 2nd Upstate Family Defense	\$-	\$-	\$-	\$-	\$181,774
<b>NY STATE GRANT TOTALS</b>	<b>\$769,215</b>	<b>\$901,484</b>	<b>\$1,112,479</b>	<b>\$995,337</b>	<b>\$1,314,486</b>
Local & Other	\$-	\$-	\$340	\$-	\$-
<b>LOCAL &amp; OTHER TOTALS</b>	<b>\$-</b>	<b>\$-</b>	<b>\$340</b>	<b>\$-</b>	<b>\$-</b>
<b>TOTAL REVENUES</b>	<b>\$769,215</b>	<b>\$901,484</b>	<b>\$1,113,048</b>	<b>\$995,337</b>	<b>\$1,314,486</b>
<b>EXPENSES - 04 - Family Court</b>					
Positions	\$756,089	\$762,233	\$785,703	\$814,441	\$1,010,105
Fringe Benefits	\$269,897	\$290,157	\$303,643	\$296,236	\$412,193
Consultants/Witness/Investigations	\$4,581	\$1,945	\$1,973	\$2,737	\$4,744
Training & Seminars	\$215	\$915	\$1,214	\$300	\$1,338
Assigned Counsel	\$-	\$-	\$-	\$-	\$-
Operating Expenses	\$31,348	\$21,786	\$25,946	\$28,757	\$36,872
<b>Total Expenses</b>	<b>\$1,062,130</b>	<b>\$1,077,036</b>	<b>\$1,118,479</b>	<b>\$1,142,472</b>	<b>\$1,465,251</b>
<b>Net Cost to County</b>	<b>(\$292,915)</b>	<b>(\$175,552)</b>	<b>(\$5,431)</b>	<b>(\$147,135)</b>	<b>(\$150,765)</b>
<b>Total Revenue to ADD/DEDUCT</b>	<b>\$-</b>	<b>\$-</b>	<b>\$-</b>	<b>\$-</b>	<b>\$-</b>
<b>Adjusted Net Cost to County</b>	<b>(\$292,915)</b>	<b>(\$175,552)</b>	<b>(\$5,431)</b>	<b>(\$147,135)</b>	<b>(\$150,765)</b>

## Revenue & Expenses by Sub-Department, Cont.

### FAMILY COURT - DEPARTMENT 1170.04, CONT.

**Finding:**

Revenue from 2nd Upstate Family Defense (Child Welfare) Q1 and Caseload Reduction Grant for 2023 was recognized under GL account 30890.01 which is the same account that Distribution revenues are recognized. (Distribution revenues are utilized under Department 1170 and 1170.04.)

**Recommendation:**

In order to be consistent with all revenue tracking in this department, a specific GL account should be utilized for this grant.

### CONFLICT DEFENDER SWAP PROGRAM - DEPARTMENT 1170.72

Piloted in 2013 and expanded in 2014, the Conflict Defender SWAP Program Sub-Department was created to reduce Assigned Counsel costs by sharing services with the Ulster County Public Defender's Office. The Public Defender provides representation in Ulster County to criminal defendants when the Ulster County Public Defender is unable due to conflict of interest. The Ulster County Public Defender's Office also provides representation in Dutchess in instances of conflict. These attorneys are referred to as Conflict Public Defenders. In 2019, this service was expanded to include Family Court. In 2019, funding from the Hurrell-Harring (HH) grant began to support a portion of this program.

REVENUE - 72 - Conflict Defender SWAP Program	2019	2020	2021	2022	2023
Federal Aid	\$-	\$-	\$78	\$-	\$-
<b>FEDERAL AID TOTALS</b>	<b>\$-</b>	<b>\$-</b>	<b>\$78</b>	<b>\$-</b>	<b>\$-</b>
NY State Grant: Hurrell-Harring	\$7,015	\$14,407	\$13,102	\$11,108	\$7,697
<b>NY STATE GRANT TOTALS</b>	<b>\$7,015</b>	<b>\$14,407</b>	<b>\$13,102</b>	<b>\$11,108</b>	<b>\$7,697</b>
Local & Other	\$-	\$140	\$-	\$-	\$-
<b>LOCAL &amp; OTHER TOTALS</b>	<b>\$-</b>	<b>\$140</b>	<b>\$-</b>	<b>\$-</b>	<b>\$-</b>
<b>TOTAL REVENUES</b>	<b>\$7,015</b>	<b>\$14,547</b>	<b>\$13,179</b>	<b>\$11,108</b>	<b>\$7,697</b>
<b>EXPENSES - 72 - Conflict Defender SWAP Program</b>					
Positions	\$184,177	\$205,780	\$210,110	\$205,466	\$112,622
Fringe Benefits	\$42,582	\$69,091	\$80,107	\$76,737	\$53,978
Consultants/Witness/Investigations	\$700	\$-	\$1,294	\$1,155	\$5,358
Training & Seminars	\$732	\$75	\$258	\$49	\$50
Assigned Counsel	\$-	\$-	\$-	\$-	\$-
Operating Expenses	\$8,950	\$8,605	\$9,161	\$10,228	\$10,512
<b>Total Expenses</b>	<b>\$237,140</b>	<b>\$283,551</b>	<b>\$300,929</b>	<b>\$293,636</b>	<b>\$182,519</b>
<b>Net Cost to County</b>	<b>(\$230,125)</b>	<b>(\$269,004)</b>	<b>(\$287,750)</b>	<b>(\$282,528)</b>	<b>(\$174,822)</b>
<b>Total Revenue to ADD</b>	<b>\$120</b>	<b>\$-</b>	<b>\$3,156</b>	<b>\$-</b>	<b>\$-</b>
<b>Total Revenue to DEDUCT</b>	<b>\$-</b>	<b>\$-</b>	<b>(\$1,281)</b>	<b>\$-</b>	<b>\$-</b>
<b>Adjusted Net Cost to County</b>	<b>(\$230,005)</b>	<b>(\$269,004)</b>	<b>(\$285,875)</b>	<b>(\$282,528)</b>	<b>(\$174,822)</b>



## Revenue & Expenses by Sub-Department, Cont.

### CONFLICT DEFENDER SWAP PROGRAM - DEPARTMENT 1170.72, CONT.

#### Findings:

- HH Grant revenue for Year 1 (2018-2019) was accrued in 2018 even though **\$119.98** of the claim should have been revenue for 2019 Q1.
- HH Grant revenue Year 4 (2021Q3) claim for the Conflict Defender SWAP Program should have been credited **\$3,155.65** and Arraignment Defense should have been credited **\$1,281.16**. Instead, the Conflict Defender SWAP Program was credited **\$1,281.16** and A.1170.73 was credited **\$3,155.65**.

#### Recommendations:

- Revenue should be recognized in the year the expenses were incurred.
- The department should periodically reconcile accounts to ensure revenue is allocated to the correct Sub-Department.

### ARRAIGNMENT DEFENSE - DEPARTMENT 1170.73

Implemented in 2014, the Arraignment Defense Sub-Department provides around the clock arraignment services in all criminal courts in Dutchess County. This department was initially funded by NYS ILS (Indigent Legal Services) through the Counsel at First Appearance (CAFA) Grant to make demonstrable and measurable improvements in the delivery of indigent defense services to eligible persons at a defendant's first appearance before a judge. While most of the funding is still provided by the CAFA Grant, this program has also received funding from the Hurrell-Harring Grant since 2020.

REVENUE - 73 - Arraignment Defense	2019	2020	2021	2022	2023
Federal Aid	\$-	\$-	\$77	\$-	\$-
<b>FEDERAL AID TOTALS</b>	<b>\$-</b>	<b>\$-</b>	<b>\$77</b>	<b>\$-</b>	<b>\$-</b>
NY State Grant: Counsel at First Appearance	\$233,729	\$271,982	\$272,174	\$227,826	\$258,488
NY State Grant: Hurrell-Harring		\$47,904	\$36,375	\$118,784	\$104,734
<b>NY STATE GRANT TOTALS</b>	<b>\$233,729</b>	<b>\$319,886</b>	<b>\$308,549</b>	<b>\$346,610</b>	<b>\$363,222</b>
Local & Other	\$-	\$-	\$-	\$-	\$-
<b>LOCAL &amp; OTHER TOTALS</b>	<b>\$-</b>	<b>\$-</b>	<b>\$-</b>	<b>\$-</b>	<b>\$-</b>
<b>TOTAL REVENUES</b>	<b>\$233,729</b>	<b>\$319,886</b>	<b>\$308,625</b>	<b>\$346,610</b>	<b>\$363,222</b>
<b>EXPENSES - 73 - Arraignment Defense</b>					
Positions	\$226,505	\$228,059	\$227,053	\$231,750	\$255,536
Fringe Benefits	\$87,064	\$82,604	\$101,818	\$89,530	\$110,269
Consultants/Witness/Investigations	\$-	\$-	\$-	\$-	\$-
Training & Seminars	\$552	\$73	\$555	\$313	\$585
Assigned Counsel	\$-	\$-	\$-	\$-	\$-
Operating Expenses	\$11,526	\$7,824	\$10,890	\$12,994	\$10,184
<b>Total Expenses</b>	<b>\$325,648</b>	<b>\$318,560</b>	<b>\$340,315</b>	<b>\$334,587</b>	<b>\$376,574</b>
<b>Net Cost to County</b>	<b>(\$91,919)</b>	<b>\$1,327</b>	<b>(\$31,690)</b>	<b>\$12,023</b>	<b>(\$13,353)</b>
<b>Total Revenue to ADD</b>	<b>\$-</b>	<b>\$-</b>	<b>\$1,281</b>	<b>\$-</b>	<b>\$-</b>
<b>Total Revenue to DEDUCT</b>	<b>\$-</b>	<b>(\$21,982)</b>	<b>(\$3,156)</b>	<b>\$-</b>	<b>\$-</b>
<b>Adjusted Net Cost to County</b>	<b>(\$91,919)</b>	<b>(\$20,655)</b>	<b>(\$33,565)</b>	<b>\$12,023</b>	<b>(\$13,353)</b>

## Revenue & Expenses by Sub-Department, Cont.

### ARRAIGNMENT DEFENSE - DEPARTMENT 1170.73, CONT.

#### Findings:

- Revenue for year one CAFA1 (2018) in the amount of **\$21,982.27** was not recorded in the correct year. A journal entry to correct the year was not processed until 2/21/20.
  - *Per the Public Defender's Office, the first CAFA Grant contract for 2017-2019 was not fully executed until 4/13/19. A budget modification was approved by ILS on 9/13/19 and was delayed due to additional claim questions from ILS.*
- HH Grant revenue Year 4 (2021Q3) claim for the Conflict Defender SWAP Program (1170.72) should have been credited **\$3,155.65** and the Arraignment Defense Department (1170.73) should have been credited **\$1,281.16**. Instead, the Conflict Defender SWAP Program was credited **\$1,281.16**, and the Arraignment Defense department was credited **\$3,155.65**.

#### Recommendations:

- Efforts should be made to process contracts and claims timely.
- The department should periodically reconcile accounts to ensure revenue is recorded correctly.

### HURRELL-HARRING DEFENSE - DEPARTMENT 1170.77

The Hurrell-Harring Sub-Department was created in 2019 to support enhancements in the quality of indigent legal services through an initial five-year grant from NYS ILS and has continued for another three years. The objective of the Hurrell-Harring Grant is to ensure the efficiency and quality of representation provided to defendants. This includes that all criminal defendants are represented by counsel at arraignment, including those pending eligibility determination. Funding provides continued training, supervision, memberships, software, and legal resources which ensures full compliance with the ILS caseload standards. In addition, this money is used to implement an approved assigned counsel plan.

REVENUE - 77 - Hurrell-Harring Grant	2019	2020	2021	2022	2023
Federal Aid	\$-	\$-	\$1,249	\$-	\$-
<b>FEDERAL AID TOTALS</b>	<b>\$-</b>	<b>\$-</b>	<b>\$1,249</b>	<b>\$-</b>	<b>\$-</b>
NY State Grant: Hurrell-Harring	\$421,553	\$1,306,401	\$2,068,495	\$2,718,629	\$3,264,437
<b>NY STATE GRANT TOTALS</b>	<b>\$421,553</b>	<b>\$1,306,401</b>	<b>\$2,068,495</b>	<b>\$2,718,629</b>	<b>\$3,264,437</b>
Local & Other	\$-	\$80	\$336	\$34	\$-
<b>LOCAL &amp; OTHER TOTALS</b>	<b>\$-</b>	<b>\$80</b>	<b>\$336</b>	<b>\$34</b>	<b>\$-</b>
<b>TOTAL REVENUES</b>	<b>\$421,553</b>	<b>\$1,306,481</b>	<b>\$2,070,080</b>	<b>\$2,718,663</b>	<b>\$3,264,437</b>
<b>EXPENSES - 77- Hurrell-Harring Grant</b>					
Positions	\$303,119	\$858,896	\$1,226,077	\$1,724,969	\$2,093,917
Fringe Benefits	\$104,733	\$331,449	\$506,309	\$620,069	\$782,581
Consultants/Witness/Investigations	\$6,141	\$31,203	\$55,256	\$61,024	\$37,480
Training & Seminars	\$7,486	\$9,531	\$13,061	\$20,804	\$22,998
Assigned Counsel	\$-	\$-	\$-	\$-	\$-
Operating Expenses	\$13,428	\$82,959	\$188,046	\$296,917	\$349,744
<b>Total Expenses</b>	<b>\$434,908</b>	<b>\$1,314,038</b>	<b>\$1,988,749</b>	<b>\$2,723,783</b>	<b>\$3,286,719</b>
<b>Net Cost to County</b>	<b>(\$13,355)</b>	<b>(\$7,557)</b>	<b>\$81,331</b>	<b>(\$5,120)</b>	<b>(\$22,282)</b>
<b>Total Revenue to ADD</b>	<b>\$15,540</b>	<b>\$-</b>	<b>\$-</b>	<b>\$-</b>	<b>\$-</b>
<b>Total Revenue to DEDUCT</b>	<b>\$-</b>	<b>\$-</b>	<b>\$-</b>	<b>\$-</b>	<b>\$-</b>
<b>Adjusted Net Cost to County</b>	<b>\$2,185</b>	<b>(\$7,557)</b>	<b>\$81,331</b>	<b>(\$5,120)</b>	<b>(\$22,282)</b>

## Revenue & Expenses by Sub-Department, Cont.

### HURRELL-HARRING DEFENSE - DEPARTMENT 1170.77, CONT.

#### **Finding:**

- HH Grant revenue for Year 1 (2018-2019) was accrued in 2018 even though part of the claim included 2019 Q1. In total **\$101,229.82** should have been accrued and recognized in 2019 with **\$119.98** in the SWAP Conflict Defense Department, **\$15,539.84** in Hurrell-Harring Defense Department, and **\$85,570.00** in H0499 Capital account.
  - *Note: H0499 - Acquisition/Renovation - 45 Market Street was a Capital Project covered in the prior audit released in 2019.<sup>1</sup>*

#### **Recommendation:**

- The department should recognize revenue received in the year the expenses were incurred periodically reconcile revenues to verify revenue was recorded in the correct year.

### ASSIGNED COUNSEL ADMINISTRATION (ACP) - DEPARTMENT 1162.01

Starting in 2021, three positions, Bureau Chief, Principal Accounting Clerk, and Accounting Clerk were assigned to this department, which is overseen by the Finance Department. This change was in response to NYS requiring a distinct department for the administration of the Assigned Counsel Program. The Assigned Counsel Administrator and staff provide overall support, training, and oversight for a panel of 18-B attorneys and handle/process all related invoices and expense payments. 18-B attorneys are private attorneys who are required to be provided when there is a conflict of interest with the Public Defender or SWAP program. The rate for 18-B Attorneys was increased April 1, 2023, from **\$75.00** to **\$158.00** an hour. This unit is also responsible for finalizing an assigned counsel plan for the County and getting approval from the Bar Association and the New York State Office for Indigent Legal Services. This unit is fully funded by the Office of Indigent Legal Services (ILS) through Hurrell-Harring funding.

#### **Observation:**

This department has implemented an application and vetting process for Dutchess County's 18-B attorney panel. Attorneys are required to complete a minimum of nine CLE credits a year in their area of practice. The ACP appoints attorneys in criminal courts. Family Court assigns attorneys from the provided 18-B panel that ACP provides. Voucher claims from attorneys are submitted and processed more efficiently through this department. Although an official Assigned Counsel Plan has not been adopted, processes and procedures of the drafted plan are in place.

## Client Eligibility Standards

Per the Public Defender's Office, 18,592 criminal cases were assigned in Dutchess County between 2019-2022. Intake staff use PDCMS - Public Defender Case Management System to record different factors of eligibility as set by ILS under their Standards for Determining Financial Eligibility for Assigned Counsel.<sup>2</sup>

For the audit period 2019-2022, sixteen applicants were found to be ineligible. Appropriate documentation was included in each file including the signed or initialed notice of ineligibility sent to the applicant on department letterhead.

The Public Defender's Office has stated in conversations during interviews and site visits that the current standards have made most people eligible for services. The standard was developed in order to take multiple factors of eligibility into consideration. As an example, eligibility is not denied simply because an individual owns a house or vehicle, as ownership of such does not necessarily mean that legal counsel can be similarly afforded.

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<sup>1</sup> <https://www.dutchessny.gov/Departments/Comptroller/Docs/Audit-Report-Dutchess-County-Public-Defender-2012-2018.pdf>

<sup>2</sup> <https://www.ils.ny.gov/files/Eligibility%20Standards%20Final%20021621.pdf>

## Exhibit I: Detailed Revenue and Expenses

REVENUE	2019	2020	2021	2022	2023
Federal Aid	\$-	\$6,835	\$2,315	\$-	\$-
<b>FEDERAL AID TOTALS</b>	<b>\$-</b>	<b>\$6,835</b>	<b>\$2,315</b>	<b>\$-</b>	<b>\$-</b>
NY State Grant: Aid to Defense	\$16,635	\$15,937	\$16,170	\$16,170	\$16,170
NY State Grant: Upstate Quality Improvement	\$104,060	\$36,782	\$146,131	\$103,782	\$102,473
NY State Grant: Counsel at First Appearance	\$233,729	\$271,982	\$272,174	\$227,826	\$258,488
NY State Grant: Hurrell-Harring	\$428,568	\$1,368,712	\$2,117,972	\$2,848,521	\$3,376,868
NY State Grant: Distributions	\$980,748	\$1,060,877	\$1,112,479	\$995,337	\$1,157,627
NY State Grant: 2nd Upstate Fam.Def.	\$-	\$-	\$-	\$-	\$181,774
NY State Grant: Parolee Legal Fees	\$17,415	\$-	\$73,144	\$84,411	\$51,644
NY State Grant: DOC Inmate Rep.	\$860	\$1,979	\$-	\$3,265	\$41,125
<b>NY STATE GRANT TOTALS</b>	<b>\$1,782,014</b>	<b>\$2,756,270</b>	<b>\$3,738,069</b>	<b>\$4,279,311</b>	<b>\$5,186,169</b>
Local & Other	\$6,572	\$47,996	\$44,943	\$9,167	\$5,497
<b>LOCAL &amp; OTHER TOTALS</b>	<b>\$6,572</b>	<b>\$47,996</b>	<b>\$44,943</b>	<b>\$9,167</b>	<b>\$5,497</b>
<b>TOTAL REVENUES</b>	<b>\$1,788,586</b>	<b>\$2,811,100</b>	<b>\$3,785,327</b>	<b>\$4,288,478</b>	<b>\$5,191,666</b>
<b>EXPENSES</b>					
Positions	\$3,922,010	\$4,493,163	\$4,697,200	\$5,345,952	\$5,947,350
Fringe Benefits	\$1,586,025	\$1,826,774	\$1,977,726	\$2,044,761	\$2,388,880
Consultants/Witness/Investigations	\$38,844	\$37,985	\$84,409	\$76,894	\$63,524
Training & Seminars	\$12,916	\$11,691	\$18,350	\$22,271	\$27,414
Assigned Counsel	\$209,800	\$20,948	\$-	\$-	\$-
Operating Expenses	\$267,693	\$309,850	\$416,467	\$541,291	\$626,175
<b>Total Expenses</b>	<b>\$6,037,288</b>	<b>\$6,700,412</b>	<b>\$7,194,151</b>	<b>\$8,031,168</b>	<b>\$9,053,343</b>
<b>Net Cost to County</b>	<b>(\$4,248,703)</b>	<b>(\$3,889,312)</b>	<b>(\$3,408,825)</b>	<b>(\$3,742,690)</b>	<b>(\$3,861,677)</b>
<b>Total Revenue to ADD</b>	<b>\$15,660</b>	<b>\$37,354</b>	<b>\$4,437</b>	<b>\$-</b>	<b>\$-</b>
<b>Total Revenue to DEDUCT</b>	<b>\$-</b>	<b>(\$21,982)</b>	<b>(\$41,791)</b>	<b>\$-</b>	<b>\$-</b>
<b>Adjusted Net Cost to County</b>	<b>(\$4,233,043)</b>	<b>(\$3,873,940)</b>	<b>(\$3,446,179)</b>	<b>(\$3,742,690)</b>	<b>(\$3,861,677)</b>

## Exhibit II: Workload Measures

	2019	2020	2021	2022	2023
<b>Public Defender - To provide legal representation.</b>					
Acquired Caseload	6,624	4,205	3,995	3,878	4,303
Dispositions	7,072	3,467	4,055	3,779	4,218
Arraignments	6,762	3,219	3,575	3,266	4,320
Hearings	741	259	317	292	349
Trials	44	6	12	11	13
Rejected / Non-Indigent Applications	11	-	2	-	2
<b>Alternatives To Incarceration (ATI) - Public Defender - Increase client involvement in ATI Programs.</b>					
Judicial Diversion	63	56	65	58	33
Drug Court	11	10	13	4	4
<b>Family Court Legal Representation</b>					
Acquired Caseload	2,161	2,308	2,471	2,430	2,460
Dispositions	2,037	1,683	2,475	2,685	2,129
Hearings	672	341	590	510	577
Trials	777	198	409	283	261
<b>Public Defender - Family Court - To prevent and reduce the number of clients jailed for failure to pay child support.</b>					
Number of Clients Assisted with Child Support Proceedings	348	224	226	316	394
<b>Conflict Defender SWAP - Ulster County Public Defender handling Dutchess County cases.</b>					
Acquired Caseload - Criminal Court	165	150	137	172	178
Dispositions	175	150	135	156	169
Trials	-	-	-	-	-

## Exhibit II: Workload Measures

Conflict Defender SWAP - Dutchess County Public Defender handling Ulster County cases.	2019	2020	2021	2022	2023
Acquired Caseload - Criminal Court	163	171	139	163	121
Dispositions	195	79	194	104	134
Trials	-	-	-	1	-
Family Court SWAP - Ulster County Public Defender handling Dutchess County cases.					
Acquired Caseload - Family Court	116	85	97	172	178
Dispositions	116	80	81	156	169
Hearings	6	6	13	-	-
Trials	5	5	9	-	-
Family Court SWAP - Dutchess County Public Defender handling Ulster County cases.					
Acquired Caseload - Family Court	511	174	185	172	121
Dispositions	463	150	178	156	134
Hearings	8	-	7	-	-
Trials	7	-	1	-	-
Assigned Counsel Program (ACP)					
Conflict Cases	348	116	164	192	192
Dispositions	-	-	-	-	146
Trials	-	-	-	-	3

*Source: Dutchess County Adopted Budgets 2021-2024*



## Addendum: Grants

### AID TO DEFENSE (ATD)

Aid to Defense (ATD) is funded by the NYS Division of Criminal Justice Services. The goal of the ATD Grant is to provide and promote quality legal representation to indigent adults and youth facing felony crime charges. The budget for this grant goes towards attorney salaries. Revenues from this grant are recognized under GL account 30890.06.

NYS Comptroller's #	County Contract #	Project Name	Term	Amount
T445092	18-0392	Aid to Defense	10/1/18-9/30/19	\$17,100.00
T445173	19-0643	Aid to Defense	10/1/19-3/31/21	\$23,789.00
T445296	21-0244	Aid to Defense	4/1/21-3/31/22	\$16,170.00

### COUNSEL AT FIRST APPEARANCE (CAFA)

Counsel at First Appearance (CAFA) is funded by the NYS Office of Indigent Legal Services (ILS). The goal of the CAFA Grant is to make demonstrable and measurable improvements, including an increase in quality, efficiency, and timeliness in the delivery of indigent defense services to eligible persons at a defendant's first appearance before a judge through to the final resolution. This grant provides funding for the salary and fringe benefits of Arraignment Attorney positions. It has also funded some operating expenses including a vehicle, trainings, and travel costs. Revenues from this grant are recognized under GL account 30890.17.

ILS Contract #	County Contract #	Project Name	Term	Amount
CAFA213	17-0686	2nd Counsel at First Appearance (CAFA2)	1/1/17-12/31/19	\$750,000.00
CAFA313	20-0497	3rd Counsel at First Appearance (CAFA3)	1/1/20-12/31/22	\$750,000.00

### DISTRIBUTIONS

Distributions are funded by the NYS Office of Indigent Legal Services (ILS) in overlapping 3-year spans. The goal of the Distribution Grant is to improve and increase the quality of services provided under Article 18-B of the County Law while reducing caseloads. This grant has provided funding for the salary and partial fringe benefits for different positions and in 2019 funded some professional services and operating expenses. Revenues from this grant are recognized under GL account 30890.01.

ILS Contract #	County Contract #	Project Name	Term	Amount
C700013	17-0670	Distribution #7	1/1/17-12/31/19	\$821,721.00
C800013	18-0724	Distribution #8	1/1/18-12/13/20	\$1,643,439.00
C900013	19-0448	Distribution #9	1/1/19-12/31/21	\$821,721.00
C100013	20-0143	Distribution #10	1/1/20-12/31/22	\$821,721.00
C110013	21-0275	Distribution #11	1/1/21-12/31/23	\$1,643,439.00
C120013	22-0210	Distribution #12	1/1/22-12/31/24	\$821,721.00
C130013	23-0024	Distribution #13	1/1/23-12/31/25	\$821,721.00

## Addendum: Grants

### INDIGENT PAROLEE PROGRAM (IPP)

Funds for the Indigent Parolee Program (IPP) are received from New York State Division of Criminal Justice Services (DCJS) and supports attorneys who work with parolees. Annually DCJS informs counties to make claims against an amount budgeted by the State for the IPP; counties are paid a pro-rated share of available funds. Claim vouchers are submitted for applicable funds. When the reimbursement is received, the amount is pro-rated between the Public Defender' Office and the Assigned Counsel Program. Revenues from this grant are recognized under GL account 30890.05.

### DEPARTMENT OF CORRECTIONS (DOC) - INMATE REPRESENTATION

This revenue is based on NYS Correction Law Section 606 which requires the Public Defender to defend prisoners for crimes committed in the prison. Attorneys and Investigators document the workload, the State is billed, and Public Defender is reimbursed from the Department of Corrections Services (DOCS). The two State prisons in Dutchess County are Green Haven Correctional Facility and Fishkill Correctional Facility. Downstate Correctional Facility was open until mid-2022. Revenues from this grant are recognized under GL account 30890.12.

### STATEWIDE EXPANSION OF HURRELL-HARRING (HH)

The Statewide Expansion of Hurrell-Harring (HH) Grant is funded by the NYS Office of Indigent Legal Services (ILS). This grant implements provisions from Chapter 59 of the Laws of 2017, Part VVV, sections 11-13<sup>3</sup>, which provides for the Office of ILS (Indigent Legal Services) to implement a plan to extend statewide the benefits of the Hurrell-Harring Settlement reforms. All eligible criminal defendants are represented by counsel at arraignment and improves the quality of defense with effective supervision, training, and resources. NYS ILS initially awarded this grant with a five-year term and an additional three years was awarded in 2023. Revenues from this grant are recognized under GL account 30890.25.

ILS Contract #	County Contract #	Project Name	Term	Amount
CSTWIDEHH13	18-0750	Statewide Expansion of Hurrell-Harring	4/1/18-3/31/23	\$13,767,331.29
CSTWIDEHH213	23-0647	2nd Statewide Expansion of Hurrell-Harring	4/1/23-3/31/26	\$14,667,331.29

### UPSTATE FAMILY DEFENSE (CHILD WELFARE) QUALITY IMPROVEMENT & CASELOAD REDUCTION

This new grant started January 2023 with funding from the NYS Office of Indigent Legal Services (ILS). The goal of this grant is to reduce the number of caseloads for attorneys representing clients in Family Court child welfare proceedings and to implement an early intervention, interdisciplinary model of representation for clients in child welfare proceedings, thereby improving the quality of representation. The budget for this grant provides funding to two Assistant Public Defender positions, including retention stipends, operating expenses, and training. Revenues from this grant are recognized under GL account 30890.01.

ILS Contract #	County Contract #	Project Name	Term	Amount
C2NDUFD13	23-0169	2nd Upstate Family Defense (Child Welfare) Quality Improvement & Caseload Reduction	1/1/23-12/31/25	\$750,000.00

<sup>3</sup> <https://www.ils.ny.gov/files/2017-18%20Legislation.pdf>

## Addendum: Grants

### UPSTATE QUALITY IMPROVEMENT AND CASELOAD REDUCTION

The Upstate Quality Improvement and Caseload Reduction Grant is funded by the NYS Office of Indigent Legal Services (ILS). It provides funding for positions and expenses to assist attorneys in criminal and family courts by developing, arranging, and presenting treatment alternatives in lieu of incarceration. The goal of this grant is to improve the quality of services provided under Article 18-B of the County Law by increasing quality representation, utilization of treatment alternatives, and reducing jail population. This grant provides partial funding for a Licensed Social Worker/ATI (Alternative To Incarceration) Worker and Supervising ATI Worker. In 2019 and 2020, funding was also provided for training, program supplies, and office space. Revenues from this grant are recognized under GL account 30890.16.

ILS Contract #	County Contract #	Project Name	Term	Amount
C2ND613	17-0683	2nd Upstate Quality Improvement and Caseload Reduction	7/1/17-6/30/20	\$300,000.00
C3RD613	20-0502	3rd Upstate Quality Improvement and Caseload Reduction	7/1/20-6/30/23	\$300,000.00
C4TH613	23-0646	4th Upstate Quality Improvement and Caseload Reduction	7/1/23-6/30/26	\$300,000.00

# Department Response

**SUE SERINO**  
COUNTY EXECUTIVE



**MARGARET M. WALKER**  
PUBLIC DEFENDER

## DUTCHESS COUNTY GOVERNMENT OFFICE OF THE PUBLIC DEFENDER

December 13, 2024

A. Gregg Pulver  
Dutchess County Comptroller  
22 Market Street  
Poughkeepsie, NY 12601

***RE: Audit 2019 -2023***

Dear Mr. Pulver:

Thank you for your comprehensive review of the finances of the Dutchess County Public Defender's Office. As the newly appointed Public Defender, I will work with staff to ensure that the audit recommendations are implemented by this department, primarily that the revenue accounts are reconciled in a timely manner and recorded in the proper year.

The Dutchess County Public Defender's office continues to work diligently to provide client centered legal representation. We have worked hard to access available state funding to support this important work of providing quality public defense, in both the Family Court Unit and Criminal Courts, in Dutchess County.

I would like to thank you and your staff for the courtesies extended to this Department during this audit process.

Sincerely,

A handwritten signature in cursive script that reads "M. Walker".

Margaret M. Walker  
Public Defender

Criminal Court Unit  
45 Market Street, Poughkeepsie, New York 12601 | (845) 486-2280 | Fax: (845) 486-2266  
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**OFFICE OF THE DUTCHESS COUNTY COMPTROLLER**  
*A. GREGG PULVER, COMPTROLLER*



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