

# OFFICE OF THE DUTCHESS COUNTY COMPTROLLER



## AUDIT REPORT

---

# DUTCHESS COUNTY PUBLIC DEFENDER

January 1, 2012 through December 31, 2018

**ROBIN L. LOIS  
COMPTROLLER**

**NOVEMBER 2019**





# Office of the Comptroller

## Dutchess County

22 MARKET STREET

POUGHKEEPSIE, N. Y. 12601

(845) 486-2050

Fax (845) 486-2055

E-MAIL: [comptroller@co.dutchess.ny.us](mailto:comptroller@co.dutchess.ny.us)

**Robin L. Lois**

Comptroller

**Karl G. Schlegel**

Deputy Comptroller

Dear County Officials & Taxpayers,

The Dutchess County Comptroller's Office has completed an audit report of the Dutchess County Public Defender's Office for the period January 1, 2012 through December 31, 2018. This audit was prompted by constituent concerns regarding the department's increased expense budget and decreased indigent client eligibility requirements.

The Public Defender's constitutional function and local mission is to represent indigent criminal defendants in Criminal Court, adult litigants in Family Court, and individuals facing parole matters. Over the audit period the department has grown by fourteen employees and an increased expense budget of over \$2 million. Ten of the additional employees are to support the newly added representation in Family Court; three positions are to staff Counsel At First Arraignment defense (CAFA), also a new initiative, and one position is for a conflict attorney SWAP program with Ulster County. In the approved 2019 and 2020 requested budgets an additional eleven new employees and an increased budget of \$2.07 million was requested. These new employees are supported by a New York State grant primarily aimed at reducing attorney caseload and improving the quality of representation.

According to prior County budgets, increased appropriations to fund the Family Court division would decrease the high costs of Assigned Counsel, also known as 18b attorney. These attorneys are private counsel appointed by the court and paid a flat hourly rate by the County. Although not a focus of this audit, it is noted costs of 18b attorneys have remained relatively consistent over the audit period in fact these costs have increased from 2017 to 2018, while total cases decreased. The overall cost to taxpayers to have the combined effort of the Public Defender's office and 18b attorney's increased by \$226,325 for Family Court in salary and benefits alone, not including overhead costs, during that same period. It is our recommendation that an in-depth cost analysis be conducted analyzing 18b attorneys versus in-house Public Defender attorneys, understanding that quality representation of clients is paramount.

In 2016, in response to the Hurrell-Harring court settlement, the New York State Office of Indigent Legal Services (ILS) implemented Criteria and Procedures for Determining Assigned Counsel Eligibility. Our report details the criteria which ultimately allows clients a presumption of eligibility that may only be overcome by compelling evidence. This initiative was implemented due to inconsistency throughout the state of eligibility determinations, and protections of the client's constitutional right to representation. Statewide ineligibility has decreased as a result of these criteria. In Dutchess County the number of ineligible clients decreased from 59 in 2015 to 8 in 2018, which results in more individuals provided county-funded representation. Our audit found that client records were insufficient in demonstrating the required criteria for determining eligibility had been satisfied. We recommend strengthened processes to adhere to the guidelines recommend by the ILS. While it may be argued that the time and resource investment in reviewing client eligibility inefficient for such a small rejected percentage, it is in the best interest of the taxpayers that an adequate review be done to help ensure the system is not taken advantage of, and that public defenders do not become overextended at the detriment of quality legal representation for those truly most in need.

The County does not have a New York State required Assigned Counsel Plan and therefore has been out of compliance for decades. Not having an approved plan results in inconsistent case management. The Public Defender cannot develop this plan alone and needs the court system and the County administration to work together to put a written plan in place that ultimately receives approval from the local Bar Association and the New York State Office of Indigent Legal Services. This Plan will put an Administrator in place who will be responsible for ensuring requirements and standards are consistently adhered to and enforced. Ultimately this plan will help to protect the clients and the taxpayers and therefore, should be a priority for completion.

The Public Defender has been diligent and proactive in securing New York State grant funds and being in the forefront of state-wide initiatives by, among other things, implementing evidenced-based programs such as Counsel at First Arraignment (CAFA). The department has also secured the third-largest contract in the state for the Hurrell-Harring settlement at \$13.8 million dollars. My concern in this area is that the County maintain a responsible and sustainable growth for this department. If, or when, these state funding initiatives come to an end, the Dutchess County taxpayers could be left with the responsibility to either maintain the extensive department and services or cut the budget, the services, and the employees. For this reason, I believe it is imperative that the Public Defender put in place internal control procedures, including attorney performance metrics and client success measures, in order to allow for accurate measurement and evaluation of the effectiveness and operating efficiencies of the program over time. It is important that our resources be managed closely, and that added staff are meeting the intended goal of lowering caseloads and increasing client quality representations. Without these metrics, impact of this investment cannot be known.

Opportunities exist for the Public Defender's Office to improve fiscal operations. Our audit details these accounting concerns and makes recommendations for corrections in regard to consistent expense documentation, mis-posting of revenues, incomplete reconciliations, and oversight of the various accounting processes. The Public Defender's Office has implemented fiscal improvements during our audit.

In addition to all of this recent change and growth in the Public Defender's office, we still do not know the effects that the recent New York Bail Reform Law that goes into effect in January 2020 will have on the Public Defender's Office or the County's criminal justice system as a whole. We, as a County, will need to be diligent and proactive in our monitoring and response to the imminent changes to come.

The work of the Public Defender's Office is of great importance to the residents of Dutchess County and to ensuring the constitutional rights of those in the criminal justice system. I appreciate all the hard work of the office and am particularly grateful for the time and cooperation given to my staff as we worked to put this audit report together.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Robin L. Lois". The signature is fluid and cursive, with a large initial "R" and "L".

Robin L. Lois  
Dutchess County Comptroller

## Table of Contents

Background / Organization .....	4
Audit Scope, Objective, and Methodology .....	4
Organization and Oversight .....	5
Summary of Growth .....	5
Summary Observations .....	6
Summary Findings .....	8
Summary Recommendations .....	8
Establishment of Indigent Status .....	9
Revenue & Expense Summary - All Public Defender Accounts.....	11
<b>Revenue &amp; Expenses by Department / Sub-Department Account</b>	
<i>Public Defender - Department 1170</i> .....	12
<i>Family Court - Department 1170.04</i> .....	14
<i>SWAP Conflict Defense - Department 1170.72</i> .....	18
<i>Arraignment Defense - Department 1170.73</i> .....	19
<i>Hurrell-Harring Defense - Department 1170.77</i> .....	21
Capital Account Expenditures and Related Costs for 45 Market Street .....	24
Assigned Counsel Costs and the System of Processing 18-b Payments.....	24
EXHIBIT I - Positions by Department .....	26
EXHIBIT II - Detailed Expenses by Department: 1170 - Public Defender .....	27
EXHIBIT III - Detailed Expenses by Department: 1170.04 - Family Court .....	28
EXHIBIT IV - Detailed Expenses by Department: 1170.72 - Conflict Defender SWAP.....	29
EXHIBIT V - Detailed Expenses by Department: 1170.73 - Arraignment Defense.....	30
Department Response .....	31
Comptroller’s Office Response .....	34

## BACKGROUND / ORGANIZATION

The Dutchess County Public Defender's Office is charged to represent 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 State 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.<sup>1</sup> 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. Its stated mission is "to provide legal representation to indigent criminal defendants in Criminal Court, adult litigants in Family Court, and individuals facing parole matters."

The Public Defender's Office services all Town and Village Justice Courts, City Courts, and County Courts within Dutchess County. Around the clock arraignment services are currently provided in all criminal courts. In 2012 the County Executive proposed, and the Office commenced, the provision of legal representation to indigent adults in Family Court.

The Public Defender's Office represents Ulster County clients when conflict occurs in Ulster County courts; the services are reciprocated for Dutchess County clients as a "SWAP" program.

Continuous challenges of the County have been to control the costs of 18B – Assigned Counsel Attorneys, reduce jail costs and provide proper legal representation. In 2016 New York State's Office of Indigent Legal Services published Criteria and Procedures for Determining Assigned Counsel Eligibility<sup>2</sup> which allows clients a presumption of eligibility that shall only be overcome by compelling evidence. These new standards have increased the number of eligible clients and put the burden of proof of non-eligibility on the County.

A future challenge to the Public Defender's Office is the unknown effect of the New York State Bail Reform Law that will take effect on January 1<sup>st</sup>, 2020 will have.

The Public Defender's Budget for 2019 is projected at \$7 million, and \$7.66 million has been requested for 2020.

## AUDIT SCOPE, OBJECTIVE, AND METHODOLOGY

The objective and scope of this audit includes reviewing and reporting on the growth of the department, as well as examining departmental policies and procedures, and the accounting of revenue and expenses for the period January 1, 2012 through December 31, 2018. In addition, 2019 activities regarding the newly formed sub department – 77 Hurrell-Harring grant were reviewed as a major source of future revenue.

Our examination included the review of:

- Grants, contracts, expense reimbursement and accounting related to grant receipts
- Operating procedures for establishing indigent client eligibility
- Assigned counsel costs
- Hurrell-Harring settlement and grant overview
- Capital account expenditures and related costs for the Public Defender's new office site

1 <https://www.oyez.org/cases/1962/155>

2 <https://www.ils.ny.gov/content/eligibility-standards>

## ORGANIZATION AND OVERSIGHT

The Chief Public Defender manages the budget and accounting for the Department. In addition, the Public Defender's Office has an accountant who assists with the budget and oversees the day to day accounting including the preparation of claims, approval of expenditures, and the monitoring of revenues. Ultimately, the County Administration provides oversight of the department budget and functions. Additional oversight and monitoring of the state funding is provided by the New York State Office of Indigent Legal Services (ILS).

## SUMMARY OF GROWTH

During the audited time period, the Public Defender's Office experienced growth which is seen in the development of the Public Defender's four sub departments, Family Court (04), Conflict Defender SWAP Program (72), Arraignment Defense (73), and the 2019 addition of the Hurrell-Harring Grant (77) .

The Family Court, SWAP, and Hurrell-Harring sub-departments, in part, were developed to address concerns with Assigned Counsel costs and representation.

The Family Court funding was appropriated in 2012 with the intent of reducing Assigned Counsel costs and improving services at a savings to taxpayers, according to the 2012 Dutchess County Tentative Budget Report. This initiative was partially funded by the State and was implemented to lessen assigned counsel costs, which had ranged, at the time, from approximately \$1.5 million to \$1.7 million annually.<sup>3</sup> The Public Defender's Family Court representation has also targeted 'civil inmates' who were incarcerated primarily for nonpayment of child support.

The Public Defender provided Counsel at First Arraignment (CAFA) in 2012 with the intent of improving the quality of representation at the first appearance before a judge and reducing incarceration. This initiative started in select courts in Dutchess County; it was expanded to all town, city and village courts and provides 24/7 coverage. In 2014 the Arraignment Defense sub department was created from a grant that provided funding specifically for after-hours first appearances in city courts and higher-volume justice courts.

In 2014 the conflict SWAP program was implemented with Ulster County, whereby each county represents the other when a conflict exists within their county for criminal court proceedings.

In 2019 funding was appropriated via resolution to fund twelve new positions as part of the Hurrell-Harring Settlement. As a result of the legal decision, Hurrell-Harring requires an increase in the quality of representation and a decrease in the attorney's caseload of criminal court cases. An additional sub department (77) was added to include the funding and to track the expenses and revenues. Additional details regarding Hurrell-Harring follow in this report.

---

3 2012 Tentative Dutchess County Budget

## Summary Observations

- Through the development of various funded initiatives, the total Authorized Employee Positions increased from 30 in 2011 to 47 in 2018. Five new positions were added in 2019 and six more are proposed for 2020, resulting in a projected 58 employees by the end of 2020.

Department Number / Name	Department Growth							
	2011	2012	2013	2014	2015	2016	2017	2018
A.1170 - Public Defender	30	30	31	30	32	32	33	33
A.1170.04 - Family Court	0	3	6	6	7	10	10	10
A.1170.72 - Conflict Defender SWAP Program	0	0	0	1	1	1	1	1
A.1170.73 - Arraignment Defense	0	0	0	2	2	2	3	3
Total All Departments	30	33	37	39	42	45	47	47

Detailed positions by department can be found in **Exhibit 1**

Revenue and Expenses summarized for all departments follow:

	All Departments						
	2012	2013	2014	2015	2016	2017	2018
Total Revenue	\$306,786	\$737,131	\$1,230,404	\$1,437,141	\$1,500,708	\$1,583,002	\$1,480,734
Total Expenses	\$3,586,503	\$4,090,727	\$4,633,130	\$4,825,986	\$5,121,562	\$5,454,804	\$5,592,569
Net (Deficit) Surplus	\$(3,279,717)	\$(3,353,596)	\$(3,402,726)	\$(3,388,845)	\$(3,620,854)	\$(3,871,802)	\$(4,111,835)

- Total expenses for all departments increased from **\$3,586,503** in 2012 to **\$5,592,569** in 2018 resulting in an increase in net cost to the county from \$3,279,717 to \$4,111,835. 2019's expense budget is **\$7,015,512**, with a net County share of **\$4,597,356**.
- The revenues grew from **\$306,786** in 2012 to **\$1,480,734** in 2018. Funding growth was attributed to state grants which provided support for new positions, fringe benefits, and other operational costs. The structure of the department developed from the Public Defender's Office to the addition of three sub-departments: Family Court, SWAP, and Arraignment Defense. An additional sub dept was added in 2019 to capture Hurrell-Harring Grant activity.

Structure of Department		
Department	Number	Description
Public Defender	1170	Operation of Public Defender's Office and representation of Criminal Cases
Family Court	1170.04	Phased in during 2011. Improve legal representation in Family Court and reduce Assigned Counsel costs at savings to taxpayers
Conflict Defender Swap Program	1170.72	Implemented in 2014 with Ulster County. Each County represents the other when conflict exists within the County
Arraignment Defense	1170.73	Implemented in 2014. Designated for Arraignment Attorneys that cover after-hours representation for an individual's first appearance in court with the intent of reducing incarceration
Hurrell-Harring Grant	1170.77	Implemented in 2019 in response to a plan to extend the benefits of the Hurrell-Harring settlement reforms

- With a goal of reducing Assigned Counsel costs and improved representation, the Public Defender's Office utilized funding from Indigent Legal Services distributions to cover costs associated with the staffing increases.
- During the audited time period, the Public Defender's Office was located at 22 Market Street in Poughkeepsie.
- In May 2019, the Public Defender's Office moved to a newly renovated building located at 45 Market Street in Poughkeepsie. As of October 24, 2019, a total of \$6,689,822 of the budgeted \$6,988,000 has been expended for the purchase and renovation. *Details of the 45 Market Street renovation can be found in a separate audit report which will be issued by our office in the near future.*
- New York State ILS Rules on determining client indigent status changed in 2017, with the anticipated effect that more clients would be eligible. Chart of ineligible client's over the last seven years:

	2012	2013	2014	2015	2016	2017	2018
Number of Clients Ineligible	55	64	58	59	37	28	8

- The Public Defender's Office does not use the Project Accounting Module, an important function available in the County's Financial Management System, which could streamline the recording of each grant and its respective revenues if implemented correctly.
- Dutchess County does not have an Assigned Counsel plan, as required by New York State Office of Indigent Services. A full time Bureau Chief was hired in June 2019 at an annual salary of \$102,000, to work on creating and implementing an Assigned Counsel plan for the County. This Bureau Chief has additional responsibilities for standardizing 18-b attorney voucher processing and administering a Continuing Legal Education (CLE) program for attorneys. The Bureau Chief's salary is being paid by the Hurrell-Harring Grant funds.
- Commencing in October 2015, a Public Defender position was dedicated to handle legal defense for parole violators who have been incarcerated on technical violations. Prior to this time all cases were handled by outside counsel. Statistics from the Dutchess County Jail show a reduction in average days for 'Parole' violators. The Public Defender indicated this is due to representation provided to individuals with technical violations. County funding has been provided to cover the Public Defender position.

Inmates with 'Parole' time	2015	2016	2017	2018
Average Number of 'Parole-Only' Days	45.6	48.2	45.1	42.2

- The Public Defender commenced Family Court representation targeting 'civil inmates' who were incarcerated primarily for nonpayment of child support. Statistics from the Dutchess County Jail show a reduction in civil inmates and the average days served show significant reductions which results in a lower jail population and costs. State funding is provided towards Family Court representation.

	2012	2013	2014	2015	2016	2017	2018
Number of Civil Inmates	91	91	77	55	48	45	43
Average Days	37	24	22	26	25	25	14

Statistics provided in a special report conducted by the University at Albany in February of 2017 showed positive outcomes for Dutchess County in respects to a reduction in initial incarceration and shorter periods of time in jail due to release at arraignment, bail being set and made at court. The study revealed that when defendants are represented by counsel at first appearance, they are more likely to be released on recognizance, are less likely to have high bail set, and they are consequently less likely to be jailed pending disposition.

- 18-b Assigned Counsel costs to Dutchess County – specifically within Family Court – have fluctuated during the audit period and have not systematically decreased, despite an expansion of the Public Defender’s Office. In fact, on three occasions during the audit period the County’s Budget required mid-year amendments for additional funds for Assigned Counsel costs.

### Summary Findings

- Public Defender Client records were insufficient in demonstrating that the required criteria and procedures for determining Assigned Counsel eligibility was met. New York State Office of Indigent Legal Services dictates the minimum criteria is the assessment of net income being at or below 250% of the Federal Poverty Guidelines.
- Revenue was not always recorded in the correct department/sub department which resulted in an inaccurate accounting of net gain/loss for the respective departments/sub departments. It was found when funds were accrued and received for Sub department 04 – Family Court revenues were overstated due to revenues not properly allocated to the department/sub department where expenses were incurred. Since the records for all prior years are closed, no entries or modifications can be made. Discussions with Public Defender ensued to ensure this would be carefully monitored in the future. Specifically, for 2019 claims and receipts.
- Grants and contracts were not consistently in place in a timely manner. Delays in most cases were due to the untimely review and acceptance by New York State.
- Some expense documentation for items claimed by the Public Defender’s Office for grants were not consistent. Detailed examples are provided in the body of this report.
- Revenue and expenses related to the Hurrell-Harring grant are not consistently being tracked in the sub department 77 as intended.
- Internal performance metrics of employee’s production of quality client representation was not presented when requested. Our office could therefore not confirm that the Public Defender has the necessary internal control measures and indicators in place to understand if the added staff are truly increasing quality representation.
- Dutchess County has been out of compliance for decades with New York State requirements by not having an approved Assigned Counsel plan. The County has tried in the past to complete a plan but has not been successful in adopting one to date.
- Costs for Assigned Counsel representation in Family Court fluctuated over the period of our review. The costs have not decreased as projected in recent budget proposals by adding Public Defender representation resulting in an unaffected net cost to taxpayers. Costs for 18b attorneys and net costs to taxpayers have actually increased from 2017 to 2018 when total caseloads have decreased. (*see chart in Family Court section 1170.04 on page 15*)

### Summary Recommendations

- The policies and procedures for establishing a client’s indigent status should be reviewed periodically for adherence with the guidelines recommended by the Office of Indigent Legal Services.
- While improvements have been noted in the accounting, opportunities exist for the Public Defender’s Office to improve fiscal operations regarding accurate and organized record keeping, consistent budgetary oversight and reconciling expense claims. This can be done through the periodic review of expenses and revenues and departmental budgets by management in the Public Defender’s Office, the Department of Finance, and the Budget Office.
- Continued efforts should be implemented to formalize processes and procedures for revenue claims

to ensure prompt and accurate processing and submission. We recommend setting up the Project Accounting Module in the County's financial management software to streamline and automate the process.

- Revenue should be accrued and recorded in the appropriate department and sub-department budget to ensure revenue and expenses are properly matched and accounted for.
- Efforts should be made to expedite contracts and agreements wherever possible.
- Hurrell-Harring funding should be monitored to ensure expenses and revenues are fully accounted for in the appropriate sub department budget and set up in the Project Accounting Module.
- Internal control procedures regarding attorney performance metrics should be put in place for the department and the administration to understand the effect the added staff are having on the intended result of lowering caseloads and increasing client quality representation.
- Dutchess County Administration must follow through on the process begun of completing an Assigned Counsel plan. This plan is vital to ensuring consistency in requirements and standards to be adhered to and enforced.
- The Public Defender and the Administration should closely monitor, and study Assigned Counsel costs relative to caseloads and its own in-house attorney costs for Family Court to understand the financial impact to the taxpayers and the quality representation to the clients. This analysis will require accurate data collection and close oversight by management.

### Establishment of Indigent Status

The New York State Office of Indigent Legal Services (ILS) has created criteria and procedures to guide the counties in the state in making eligibility determinations in criminal cases. "The purpose of the criteria and procedures is to ensure equitable, efficient, and fair implementation of the statutory and constitutionally guaranteed right to counsel across New York State and to make the rights articulated in Gideon and Witek a reality in New York."<sup>4</sup> ILS intends to develop eligibility criteria and procedures for Family Court which currently has no statewide adopted policy. These new rules resulted in more individuals being eligible for service.

There are certain individuals that are automatically deemed eligible; such as by Court Order or individuals that are incarcerated, on Public Assistance, in Mental Institutions, on Medicaid, on Supplemental Security Income (SSI), financially eligible in another jurisdiction.

#### **Some of the criteria for establishing eligibility per the 2017 guidelines are:**

- Net Income – at or below 250% of the current Federal Poverty Guide lines.
- Liquid cash available to pay an attorney.
- Liquid cash to pay the costs of going to trial.
- Liquid cash to pay the costs of expert witnesses, private investigators and other necessary costs.
- Spousal income is not considered.
- Parental income is not considered for children.

---

4 <https://www.ils.ny.gov/files/Hurrell-Harring/Eligibility/Final%20Eligibility%20Standards/Black%20Letter%20With%20Commentary.pdf>

Below are statistics of Client Eligibility provided by the Public Defender's Office:

	2012	2013	2014	2015	2016	2017	2018
Number of Clients Ineligible	55	64	58	59	37	28	8
Number of Applicants in Criminal Cases	7,406	7,109	5,485	6,695	6,900	7,340	6,603
Number of Applicants in Family Court & Ulster Cases	N/A	8,277	8,926	9,315	9,387	9,837	9,040
Number Of Applicants assigned a Private Attorney	539	586	533	469	540	498	433

### Observations:

- The intake form does not have a section for the intake worker to record the decision that the applicant's income level is at or below 250% of the Federal Poverty Guidelines (FPG). As a result, we were unable to verify the income eligibility was determined.
- The intake form does not have a section for the intake worker to record the decision that the applicant is presumptively eligible for assigned counsel due to automatic circumstances as noted above i.e. incarcerated.
- We did not find a letter to the client advising them of their eligibility for Assigned Counsel. We were advised the presence of an open file and an invocation letter from the Client to the District Attorney on Public Defender letterhead served as eligibility for Assigned Counsel. A file marked rejected would indicate the client was not eligible.

### Findings:

- Of the sample client files we audited, only 12% contained information regarding the minimum criteria and procedures of testing net income was at or below 250% of the Federal Poverty Guidelines (FPG) as dictated by the Office of Indigent Legal Services criteria and procedures for determining eligibility.
- Invocation letters that are prepared on Public Defender's letterhead are currently only signed by the client.

### Recommendations:

- The policies and procedures for establishing a client's indigent status should be reviewed periodically for adherence with the guidelines recommended by the Office of Indigent Legal Services.
- Correspondence on Public Defender's letterhead should always have the signature of someone from the Public Defender's Office; it should not be used without such.

## REVENUE & EXPENSE SUMMARY – ALL PUBLIC DEFENDER ACCOUNTS

We reviewed all grants received and reported by the Public Defender’s Office to ensure compliance with the funding agreements. We concentrated on salaries claimed as this expense represented the largest amount claimed. We noted several anomalies attributed to errors in the claiming and receipting of funds. Most errors were found in the recording of revenue in the correct revenue department/sub department. In addition, we identified duplicate amounts claimed.

The Public Defender’s Office indicated it has increased the Department’s staff based on the need to increase quality representation and decrease workload. Addressing assigned counsel concerns has been a part of this evolution.

Public Defender - All Departments							
	2012	2013	2014	2015	2016	2017	2018
Revenue							
New York State Grants	\$290,177	\$619,042	\$1,222,890	\$1,389,065	\$1,463,660	\$1,578,633	\$1,476,734
Local & Other	16,609	118,089	7,514	48,077	37,048	4,368	4,000
<b>Total Revenue</b>	<b>\$306,786</b>	<b>\$737,131</b>	<b>\$1,230,404</b>	<b>\$1,437,142</b>	<b>\$1,500,708</b>	<b>\$1,583,001</b>	<b>\$1,480,734</b>
Expenses							
Positions	\$2,043,863	\$2,376,012	\$2,787,676	\$2,952,800	\$3,249,176	\$3,503,563	\$3,634,409
Fringe	995,682	1,126,089	1,288,727	1,307,105	1,395,978	1,580,161	1,518,955
Operation Costs	124,773	291,826	278,622	285,317	267,256	156,973	207,534
Assigned Counsel	397,468	293,698	273,640	273,550	203,320	205,323	214,973
Consultants/Witness, etc	20,972	-	426	659	1,077	3,529	6,658
Training	3,745	3103	4039	6555	4755	5255	10040
<b>Total Expenses</b>	<b>\$3,586,503</b>	<b>\$4,090,728</b>	<b>\$4,633,130</b>	<b>\$4,825,986</b>	<b>\$5,121,562</b>	<b>\$5,454,804</b>	<b>\$5,592,569</b>
<b>Net Cost to County</b>	<b>\$3,279,717</b>	<b>\$3,353,597</b>	<b>\$3,402,726</b>	<b>\$3,388,844</b>	<b>\$3,620,854</b>	<b>\$3,871,803</b>	<b>\$4,111,835</b>

## Revenue & Expenses By Department / Sub-Department Account

### Public Defender – Department 1170

The Public Defender's Office is established based on Article 18-A, §716 County law. §717. Public Defender; duties include representation, without charge, at the request of the defendant, or by order of the court with the consent of the defendant, for each indigent defendant who is charged with a crime. The Public Defender shall counsel and represent at every stage of the proceedings, following arrest. (Historically, the Department 1170 has been funded to only defend indigent clients who have been charged with a criminal offense) Since 2012, additional sub departments were created to account for costs for other types of representation.

#### Revenue and Expenses for Department 1170:

<b>Public Defender - Department 1170</b>							
	2012	2013	2014	2015	2016	2017	2018
<b>Revenue</b>							
New York State Grants	\$256,886	\$161,833	\$116,579	\$200,183	\$332,893	\$342,458	\$400,617
Local & Other	16,609	240,800	108,237	145,953	109,869	4,368	4,000
<b>Total Revenue</b>	<b>\$273,495</b>	<b>\$402,634</b>	<b>\$224,816</b>	<b>\$346,136</b>	<b>\$442,763</b>	<b>\$346,826</b>	<b>\$404,617</b>
<b>Expenses</b>							
Positions	\$1,995,687	\$2,144,425	\$2,193,961	\$2,247,819	\$2,356,279	\$2,530,403	\$2,575,538
Fringe Benefits	972,212	1,060,443	1,075,176	1,041,165	1,053,488	1,240,644	1,158,122
Consultants/Witness/ Investigations	428,328	478,395	430,003	423,989	313,253	219,978	252,514
Training & Seminars	3,745	2,658	2,479	4,076	2,755	4,480	7,400
Operating Expenses	100,035	89,565	94,125	104,209	110,233	118,270	132,626
<b>Total Expenses</b>	<b>\$3,500,007</b>	<b>\$3,775,486</b>	<b>\$3,795,744</b>	<b>\$3,821,258</b>	<b>\$3,836,008</b>	<b>\$4,113,775</b>	<b>\$4,126,200</b>
<b>Net Cost to County</b>	<b>(\$3,226,511)</b>	<b>(\$3,372,852)</b>	<b>(\$3,570,928)</b>	<b>(\$3,475,122)</b>	<b>(\$3,393,245)</b>	<b>(\$3,766,949)</b>	<b>(\$3,721,583)</b>
Total Revenue to ADD	31,494	61,709	111,343	177,967	102,055	14,951	1,116
Total Revenue to DEDUCT	10,034	51,713	-	-	52,344	-	-
<b>Adjusted Net Cost to County</b>	<b>(\$3,205,051)</b>	<b>(\$3,362,856)</b>	<b>(\$3,459,585)</b>	<b>(\$3,297,155)</b>	<b>(\$3,343,534)</b>	<b>(\$3,751,998)</b>	<b>(\$3,720,467)</b>

#### Revenue Explanations and Observations:

New York State grants for Department 1170 - Public Defender were received from the Office of Indigent Legal Services (ILS), Division of Criminal Justice Services (DCJS) for an Indigent Parolee Program (IPP), Aid to Defense (ATD), Re-Entry Program and a Department Of Corrections Program (DOC). A brief review of each funding source follows:

#### Indigent Legal Services (ILS)

Quality Enhancement Distributions for Indigent Legal Services were reported in this department from 2012 to 2014. Some distributions were erroneously reported in Family Court. NOTE: As previously noted in our summary findings, some revenues should have been recorded in Department 1170 - Public Defender as some expenditures were claimed from this department.

#### Indigent Parolee Program (IPP)

Funds for the Indigent Parolee Program (IPP) are received from New York State Division of Criminal Justice Services (DCJS). The program came into existence in 2016 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. Public Defender vouchers funds for its attorneys, and the Department of Finance vouchers funds for attorneys it pays pursuant to court orders; when a reimbursement is received the amount is pro-rated between the two departments. In 2017 a total of \$6,675 was received and in 2018 \$2,451 was received.

### Aid to Defense (ATD)

Public Defender had contracts with the New York State Division of Criminal Justice Services (DCJS) from 2012 to 2018 to deliver Aid to Defense services. The annual amount available of \$17,100 has remained the same from 2012 to 2018. Funds are claimed against an attorney's salary for felony cases. The entire amount was claimed each year.

### Re-Entry Program

The Re-Entry Program was funded with \$400,000 from 10/1/2012 to 9/30/2016. This is a performance-based contract to assist the formerly incarcerated in successfully returning to the community in Dutchess County. Public Defender entered into a contract with EXODUS Transitional Community (EXODUS), a not for profit corporation, to deliver the program from 1/2/2013 to 9/30/16 for an amount of \$310,000. EXODUS provided the program and billed the County for its services. The County paid EXODUS and made claims to the State. The State now contracts directly with EXODUS.

### Department Of Corrections - Inmate Representation

Public Defender defends prisoners for crimes committed in the prison. Attorneys and Investigators document the work load, the State is billed, and Public Defender is reimbursed 100% from the Department of Corrections Services (DOCS). The three State prisons in Dutchess County are Green Haven Correction Facility, Downstate Correction Facility and Fishkill Correction Facility.

### Upstate Quality Improvement /Caseload

Public Defender had two contracts for the term 1/1/2014 – 12/31/2016 and 7/1/2017 – 6/30/2020 which funded a Licensed Social Worker and Other than Personal Service expenses. The goal was to improve the quality of mandated indigent legal representation and/or reduce excessive caseloads in ILS programs. The main task of the Licensed Social Worker was to facilitate treatment alternative programs for incarcerated clients and assist parents in Family Court to reunite with their children in foster/institutional care. The second contract extended the task to include assistance to attorneys in both Criminal and Family Courts; develop and arrange for treatment alternatives to be presented to the court and prosecution in lieu of further incarceration with the intent of reducing the overpopulation in the Dutchess County Jail.

Statistics provided in the *Dutchess County Executive Budget for the Public Defender's Office Workload Measures* follow:

Public Defender - To Provide Legal Representation							
	2012	2013	2014	2015	2016	2017	2018
Acquired Caseload	7,408	6,539	7,013	6,961	7,093	7,588	6,603
Dispositions	7,189	6,505	6,894	6,755	6,919	7,124	6,621
Hearings	55	673	637	614	652	805	898
Trials	36	62	92	100	57	62	68
Rejected/Non-Indigent Applications	52	63	58	66	38	28	8

### Observation:

- The Project Accounting Module available in the County's Financial Management System has not been used by the Public Defender's Office to track revenue and expenses. This module would track revenue and expenses by claim which would help ensure expenses and revenue are matched; such matching is currently not occurring consistently.
- Upstate Quality Improvement did not have a contract to cover the term 1/1/17 to 6/30/17. Per the Public Defender staff, the State moved the contract year to begin in July, so the department had to cover the costs for this period. However, funds were available from the original contract, but the budget was modified to use these funds for renovation costs.

### Findings:

- A contract associated with Department 1170 revenue, Upstate Quality Improvement for 7/1/17 - 6/30/20, was not executed in a timely manner. The contract was approved February 5, 2019; claims could not be submitted before this date. A total of \$153,722 was accrued and received.
- Revenue recorded for expenditures claimed in Department 1170 were erroneously recorded in the Family Court unit, Department 1170.04, which resulted in Department 1170's net cost to the County being overstated in each year. (See *Family Court* section of this report for individual findings)
- Revenue totaling \$53,430 was erroneously recorded in the Arraignment Defense unit in 2015 which overstated Arraignment Defense, Department 1170.33, and understated Public Defender, Department 1170.

### Recommendations:

- Contracts should be executed in a timely manner.
- The Public Defender's Office should utilize the Project Accounting Module to track revenue and expenses.
- Revenues should be recorded in the proper department.

## Family Court – Department 1170.04

Funding for the Family Court sub department commenced in the 2012 budget and has increased annually with the addition of positions. The initial funding in 2012 funded a Senior Assistant Public Defender, Assistant Public Defender and a Legal Secretary. The Dutchess County Executive Budget in 2012 justified the addition of the Family Court Unit with the following:

*“Since Assigned Counsel rates were raised a few years ago, more and more counties have been moving from individual court appointed private attorneys to less costly and more effective solutions. Bringing this function in-house will allow us to improve services and provide quality representation at a significant savings to County taxpayers. The new unit will handle approximately 33% of the Family Court cases with the remaining cases provided for by the current method of using court appointed private outside counsel. In cases where conflicts occur the courts have a duty to assign private counsel.”*

As noted, the purpose was to reduce the Assigned Counsel costs for Family Court cases. Up until this time (2012), **all** Family Court cases for indigent clients were referred to outside counsel by the judges in the Family Courts and the costs were paid by Dutchess County through the Unified Court Budget, Department A.1162.04. These charges are not reviewed and overseen by the Public Defender's Office. The cases are submitted by the outside counsel to the Family Court for payment approval by the judge who assigned the case to the legal counsel. Invoices are approved by the Family Court and submitted for payment by the Comptroller's Office. The Comptroller's Office audits, reviews, and enters invoices for payment.

Revenue for 1170.04 sub-department has been offset by New York State grants. However, the revenue reported below is incorrect. **As we have indicated in our findings**, monies were not properly allocated to this sub department.

Family Court - Department 1170.04							
	2012	2013	2014	2015	2016	2017	2018
Revenue							
New York State Grants	\$33,291	\$331,818	\$821,314	\$858,789	\$888,241	\$973,070	\$813,637
Local & Other	-	2,679	116	1,503	150	-	-
<b>Total Revenue</b>	<b>\$33,291</b>	<b>\$334,497</b>	<b>\$821,430</b>	<b>\$860,292</b>	<b>\$888,391</b>	<b>\$973,070</b>	<b>\$813,637</b>
Expenses							
Positions	\$48,175	\$227,784	\$395,897	\$494,103	\$627,818	\$687,557	\$720,923
Fringe Benefits	23,470	64,263	166,346	210,541	244,723	234,822	242,909
Consultants/Witness/ Investigations	-	-	426	659	1,077	3,529	4,604
Training & Seminars	-	445	800	2,194	2,000	605	1,810
Operating Expenses	14,851	15,806	18,862	21,072	13,004	16,280	19,000
<b>Total Expenses</b>	<b>\$86,496</b>	<b>\$308,298</b>	<b>\$582,330</b>	<b>\$728,569</b>	<b>\$888,621</b>	<b>\$942,793</b>	<b>\$989,246</b>
<b>Net Cost to County</b>	<b>(\$53,205)</b>	<b>\$26,199</b>	<b>\$239,100</b>	<b>\$131,722</b>	<b>(\$230)</b>	<b>\$30,277</b>	<b>(\$175,609)</b>
Total Revenue to ADD	20,874	131,814	-	-	52,344	-	-
Total Revenue to DEDUCT	31,494	82,583	216,268	125,677	107,081	-	62,058
<b>Adjusted Net Cost to County</b>	<b>(\$63,825)</b>	<b>\$75,430</b>	<b>\$22,831</b>	<b>\$6,045</b>	<b>(\$54,968)</b>	<b>\$30,277</b>	<b>(\$237,667)</b>

Cases are typically referred to the Public Defender's Family Court Unit; however, it must be noted if a conflict exists or a judge does not refer a case for another reason, the cases were not handled by the Public Defender's Family Court Unit.

Costs for Assigned Counsel in Family Court fluctuate throughout the years but notably increased from 2017 to 2018. The below chart demonstrates although total cases have decreased from 2012 to 2018, the costs for Assigned Counsel and Public Defender attorneys increased the net cost to taxpayers.

	2012	2013	2014	2015	2016	2017	2018
Family Court Cases Filed:							
Total New Family Unit Cases*	6488	6427	6236	5927	5853	5432	5174
Supplemental/Modified Cases*	7808	7700	7238	7200	6965	6033	6530
Totals*	14296	14127	13474	13127	12818	11465	11704
Assignments:							
Total Assigned Counsel (18B) in dockets*	5537	5053	4132	4178	3982	4439	3993
Total Public Defender in dockets*	176	1292	2667	3247	2950	2979	2625
Total Assignments	5713	6345	6799	7425	6932	7418	6618
Percentage of PD assignments of total	3.1%	20.4%	39.2%	43.7%	42.6%	40.2%	39.7%
Public Defender Acquired Case Load**	151	961	1903	2365	2265	2248	2014

	2012	2013	2014	2015	2016	2017	2018
Assigned Counsel Costs (18-B)							
Unified Court - Family Court (1162.04)	\$1,544,156	\$1,706,733	\$1,357,331	\$1,419,164	\$1,377,855	\$1,206,699	\$1,374,375
<i>(Plus Salary &amp; Benefits Costs)</i>							
Public Defender - Family Court (1170.04)	\$71,645	\$292,047	\$562,243	\$704,644	\$872,541	\$922,379	\$963,832
<i>(Less State Aid Revenue)</i>							
Public Defender - Family Court (1170.04)	\$(79,489)	\$(381,581)	\$(557,049)	\$(755,352)	\$(807,519)	\$(831,206)	\$(814,595)
<b>Net Cost to County</b>	<b>\$1,536,312</b>	<b>\$1,617,199</b>	<b>\$1,362,525</b>	<b>\$1,368,456</b>	<b>\$1,442,877</b>	<b>\$1,297,872</b>	<b>\$1,523,612</b>

\*per Dutchess County Family Court Clerk

\*\*per Dutchess County Executive Budget Workload Measures

**Statistics Provided in the *Dutchess County Executive Budget for the Public Defender’s Office Workload Measures* follow:**

Family Court Legal Representation							
	2012	2013	2014	2015	2016	2017	2018
Acquired Caseload	151	961	1,903	2,365	2,265	2,248	2,014
Dispositions	42	671	1,625	2,183	2,307	2,058	2,006
Hearings	14	276	329	400	539	731	568
Trials	0	46	164	307	625	592	678
Rejected/Non-Indigent Applications	2	-	-	-	-	-	-

Observations:

- The Project Accounting Module available in the County’s Financial Management System has not been used by the Public Defender’s Office to track revenue and expenses.
- There are obvious errors in the tracking of revenue each year which should have been noticed if proper oversight was exercised. As shown in the annual budget performance reports, there were surpluses. Our Office has undertaken extensive review of the claims and receipt of revenues to identify the errors and misstatements.
- Although errors were made in qualifying expenses claimed, grant claims were always maximized and additional expenses were possibly available to be claimed in replacement.

Findings:

*Note: Distributions are claims for payment of grant money.*

- Distribution #1 could not be reviewed and audited since the department could not locate the source documents. The Public Defender verbally supplied us with the name of the employee claimed which agreed with the expenses claimed. Revenues were not accrued for December 2011.
- A total of \$137,232.91 in Distribution #2 for an employee paid from Department 1170 (Public Defender) was claimed in Department 1170.04 (Family Court). A total of \$68,514.26 was recognized in Department 1170, leaving \$68,718.65 overstated in Family Court’s revenues for Distribution #2.
- Revenue for salaries totaling \$73,465.80 on Distribution #2-Year 1 for the time period December 2012 – February 2013 was recognized in 2013. The December 2012 portion for salary and fringe in the amount of \$52,367.97 should have been accrued and recognized in 2012.
- On Distribution #2-Year 2, salary and fringe expenses totaling \$17,596.62 for December 2013 were claimed twice and the revenues received. Other costs not previously claimed may be available to cover this claim.
- Revenue totaling \$80,101.33 reported for Distribution #3 for the time period 6/1-12/31/13 was recorded in 2014.
- A total of \$310,437.15 in revenue for Distribution #4 was erroneously reported in Department 1170.04 (Family Court) instead of Department 1170 (Public Defender). Expenses claimed were *for the Senior Accountant position* which was paid from Department 1170 for the three years. Additional errors noted in Distribution #4-Year 1: the Senior Accountant’s salary earned in another County Department was

erroneously claimed resulting in an over-claim of \$5,486.54 in salary and fringe. Additionally, a Senior Assistant Public Defender salary totaling \$1,740.47 was over-claimed due to a duplicate claim. Other costs not previously claimed may be available to cover this claim.

- For Distribution #5 \$52,343.66 was received in Department 1170 (Public Defender) and should have been received in Department 1170.04 (Family Court).
- On Distribution #5-Year 2, for the time period 1/1-3/31/16 a total of \$5,026.19 was claimed to Department 1170.04 (Family Court); however, this employee worked in Department 1170.73 (Arraignment Defense).
- Distribution #6 included an overstatement of \$2,883.18 for salaries due to a duplicate claim. Also, in Distribution #6, Department 117-0.73 (Arraignment Defense) expenses totaling \$480 and Department 1170 (Public Defender) expenses totaling \$819.10 were erroneously reported as revenue in Department 1170.04 (Family Court).
- Expenses for renovations totaling \$57,037.95 for 45 Market Street were claimed on Distribution #6-Year 3. The revenues were recognized in A.1170.04 (Family Court) instead of H0499 (45 Market Street Capital Project). This overstated revenue by this amount.
- Revenue received in Distribution #7 for Department 1170.04 (Family Court) included \$652 for Department 1170.73 (Arraignment Defense).
- Revenues received in Distribution #7 for Department 1170 (Public Defender) expenses were overstated by \$14,950.58. This revenue should have been received in Department 1170.04 (Family Court).
- For Distribution #8, a total of \$907.50 was claimed in Department 1170.04 (Family Court) and should have been claimed in Department 1170.73 (Arraignment Defense).

Recommendations:

- Revenue lines should be reconciled throughout the year to insure revenue is reported in the correct year and in the correct accounts. Increased oversight should be exercised over the accounting function to identify and correct all anomalies and errors as soon as possible. This would assist in properly accounting for expenses and funding in the Financial Statements.
- Specifically, expenses should be matched to the revenue claimed for the department. If an error is noted, a journal entry should be processed promptly to correct allocations and errors. Associated revenue and expenses must be reported in the same department.
- The Project Accounting Module should be used to track each grant's revenue and expenses to expedite and streamline the accounting of the funding claimed and received.

SWAP Conflict Defense – Department 1170.72

Sub-department 1170.72 - SWAP Conflict Defense was implemented in 2014 with Ulster County to assist in reducing the number of criminal cases assigned to outside counsel for criminal matters and to reduce the costs incurred for Assigned Counsel. Dutchess County has a reciprocal agreement with Ulster County whereby Dutchess County provides representation to Ulster County residents that have a conflict.

Assigned Counsel costs for misdemeanor criminal cases are processed by the Public Defender’s Office. The Department of Finance processes costs associated with felony criminal cases from County Court. The Judges in all courts sign off on all claims prior to payment by the respective department.

<b>SWAP Conflict Defender - Department 1170.72</b>							
	2012	2013	2014	2015	2016	2017	2018
Revenue							
New York State Grants	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Local & Other	-	-	-	395	-	-	-
<b>Total Revenue</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$395</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
Expenses							
Positions	\$ -	\$ -	\$73,918	\$78,112	\$77,174	\$84,349	\$109,476
Fringe	-	35	7,651	22,335	31,239	32,525	33,840
Operation Costs	-	-	354	230	2,280	3,717	3,923
Consultants/Witness, etc	-	-	-	-	-	-	2,054
Training	-	-	260	150	-	-	500
<b>Total Expenses</b>	<b>\$ -</b>	<b>\$35</b>	<b>\$82,183</b>	<b>\$100,828</b>	<b>\$110,693</b>	<b>\$120,591</b>	<b>\$149,792</b>
<b>Net Cost to County</b>	<b>\$ -</b>	<b>\$35</b>	<b>\$82,183</b>	<b>\$100,433</b>	<b>\$110,693</b>	<b>\$120,591</b>	<b>\$149,792</b>

**Reported statistics in the Dutchess County Executive budget for the Public Defender’s Office:**

<b>Family Court SWAP - Ulster County Handling Dutchess County Cases (2018)</b>	
Acquired Caseload - Family Court	24
Dispositions	24
Hearings	9
Trials	4

<b>Conflict Defender SWAP - Dutchess County Handling Ulster County Cases (2018)</b>	
Acquired Caseload - Criminal Court	168
Dispositions	102
Hearings	15
Trials	20

Observations:

- In 2019 conflict defense was expanded into the Family Court.
- Public Defender indicated that some revenue will be available through the Hurrell-Harring funding to offset some SWAP expenses.

## Arraignment Defense – 1170.73

In 2013, the Public Defender entered into a three year contract with New York State ILS to receive \$615,102 in grant funds for Counsel at First Appearance (CAFA). The goal of this grant was “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.”

Department 1170.73 - Arraignment Defense is dedicated to the CAFA program. In 2014, the Public Defender commenced providing around the clock arraignment services in the following jurisdictions: County Court, City of Poughkeepsie, City of Beacon, Town of Hyde Park, Town of Poughkeepsie, Town of Pleasant Valley, Town of LaGrange, Town of Wappinger, Village of Wappingers Falls, Town of Fishkill and Town of East Fishkill. The next award was for the time period January 1, 2017 through December 31, 2019 in the amount of \$750,000.

<b>Arraignment Defense – Department 1170.73</b>							
	2012	2013	2014	2015	2016	2017	2018
<b>Revenue</b>							
New York State Grants	\$ -	\$ -	\$184,158	\$230,093	\$169,554	\$263,106	\$262,481
Local & Other	-	-	-	226	-	-	-
<b>Total Revenue</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$184,158</b>	<b>\$230,319</b>	<b>\$169,554</b>	<b>\$263,106</b>	<b>\$262,481</b>
<b>Expenses</b>							
Positions	\$ -	\$3,802	\$123,900	\$132,766	\$187,905	\$201,254	\$228,471
Fringe Benefits	-	1,347	39,554	33,063	66,528	72,170	84,085
Consultants/Witness/ Investigations	-	-	-	-	-	-	-
Training & Seminars	-	-	-	-	-	-	-
Operating Expenses	-	1,758	9,418	9,501	31,806	4,221	14,775
<b>Total Expenses</b>	<b>-</b>	<b>6,908</b>	<b>172,872</b>	<b>175,330</b>	<b>286,239</b>	<b>277,645</b>	<b>327,331</b>
<b>Net Cost to County</b>	<b>\$ -</b>	<b>(\$6,908)</b>	<b>\$11,286</b>	<b>\$54,989</b>	<b>(\$116,685)</b>	<b>(\$14,540)</b>	<b>(\$64,850)</b>
Total Revenue to ADD	-	6,908	-	-	5,026	-	2,088
Total Revenue to DEDUCT	-	-	6,908	53,430	-	-	-
<b>Adjusted Net Cost to County</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$4,378</b>	<b>\$1,559</b>	<b>(\$111,659)</b>	<b>(\$14,540)</b>	<b>(\$62,763)</b>

Statistics reported in the Dutchess County Executive Budget Workload measures:

<b>Arraignment Defense</b>				
<i>Provide legal council at 95% of arraignments at DC Jail for criminal charges</i>				
	2015	2016	2017	2018
Arraignments Handled	5,628	6,288	6,611	6,599

### Observations:

- The contract term began in January 2017, and the previous contract ended May 31, 2016, resulting in the period of 6/1/16 – 12/31/16 unfunded. The original contract was amended to extend the term to May 2017, the budget was modified to transfer available funds for the purchase of a new vehicle, and the salary and fringe benefits of just one attorney compared to the support of two attorneys as in the previous contract.

- The program continued in 2017 and 2018 and continues in 2019; however, a contract was not executed until May 2019. The department accrued revenue in the amounts of \$231,808.58 and \$264,130.76 for 2017 and 2018 respectively.
- From 2013 to 2018 CAFA records a loss of \$136,707; this does not include the accrued revenue for 2017 and 2018 which if not collected would increase the deficit.

Findings:

- Expenses claimed for 2017 and 2018 have not been received: This may be due to the fact that the contract was not executed until 2019.
- Some of the balance in the original contract was transferred to purchase a new vehicle leaving the salary of one attorney unfunded for the period 6/1/16 – 12/31/16. According to the Public Defender’s Office the vehicle was purchased after the grant ended and therefore the expense was not offset by revenue.
- Revenue was not accrued in 2013 for 2013 expenses claimed in the amount of \$6,908. Revenue was included in 2014 which overstated the revenue by this amount.
- The Project Accounting Module available in the County’s Financial Management System has not been used by the Public Defender’s Office to track revenue and expenses.
- There were 2018 salary expenses for Department 1170.73 (Arraignment Defense) attorneys which were included in a claim made for Department 1170.04 (Family Court) funding reimbursement. These monies should have been realized in the Arraignment Defense Revenue.

Recommendations:

- Contracts should be processed in a timely manner to insure timely receipt of funds.
- Funds could have been transferred to salaries, a continuing expense, and funding for the new vehicle could have been postponed since it was purchased in December 2016 a month away from the new grant term that began in January 2017.
- At year end revenue should be reviewed and accrued.
- The Project Accounting Module should be used to track each grant’s revenue and expenses to expedite and streamline the accounting of the funding received.
- All Arraignment Defense expenses and revenues should be properly reconciled to insure claims are properly accounted for.

## Hurrell-Harring Defense – 1170.77

Department 1170.77 - Hurrell-Harring Defense was set up in April 2019 to capture the spending of a five-year, \$13.7 million grant with New York State Office of Indigent Legal Services (ILS), named after a settlement case of the same name. Hurrell-Harring funding is to be used in support of innovative and cost-effective solutions to enhance the quality of criminal indigent legal services. The specific objectives dictated in the contract with Dutchess County and ILS are:

*OBJECTIVE 1:* To ensure all eligible criminal defendants are represented by counsel at arraignment, provided that timely arraignment with counsel is not delayed pending a determination of a defendant's eligibility.

*OBJECTIVE 2:* Full compliance with the caseload standards issued by the Office of ILS.

*OBJECTIVE 3:* Implement initiatives to improve the quality of indigent defense including continued training and experienced attorneys.

The following is the five-year proposed allocation to the Dutchess County Public Defender's Office:

Hurrell-Harring 5-year Contract Summary		
	Term	Amount
Year 1	4/1/18-3/31/19	\$917,822.09
Year 2	4/1/19-3/31/20	\$1,835,644.17
Year 3	4/1/20-3/31/21	\$2,753,466.26
Year 4	4/1/21-3/31/22	\$3,671,288.34
Year 5	4/1/22-3/31/23	\$4,589,110.43
Total Contract		\$13,767,331.29

In accordance with ILS requirements, Dutchess County provided a proposal for the first year of funding for the five-year allocation. The plan was submitted for approval to New York State Office of Indigent Legal Services for Year 1 funding which was approved in May 2019 and the Year 2 plan has been submitted and is awaiting approval.

Year 1 (4/1/18 - 3/31/19) Funding per Grant Contract	
<b>Public Defenders Office</b>	
Caseload Relief: Personnel	\$306,495.12
Caseload Relief: OTPS-Renovation costs/furniture/computer equipment/internet*	350,390.00
Quality Improvement: Consultants	24,754.80
Quality Improvement: OTPS	46,854.80
CAFA: Personnel	101,072.12
	\$829,566.84
<b>Assigned Counsel Plan</b>	
Caseload Relief: Personnel	\$55,232.25
Quality Improvement: OTPS	33,023.00
	\$88,255.25
<b>Year 1 Total</b>	<b>\$917,822.09</b>

*OTPS = Other Than Personal Services*

*\* Funding for 45 Market Street Capital Project*

In anticipation of this approval, the Dutchess County Public Defender's Office submitted the plan requesting the Dutchess County Legislature to appropriate funds in 2019 for partial funds for Year 1 & Year 2. The resolution established appropriations for five positions, and associated operating expenses as listed below.

Resolution 2019130 Hurrell-Harring Grant Funding - April 2019			
	Year 1	Year 2	Total
Positions & Temp Positions	\$193,643	\$309,520	\$503,163
Office Supplies	1,000	-	1,000
Grant Project Costs	100,000	-	100,000
Janitorial Services	-	9,375	9,375
Maintenance Service Contracts	5,000	5,000	10,000
Interdepartment Expense (phone, postage, copier)	4,993	-	4,993
Training Seminars & Conferences	32,364	-	32,364
Subscriptions	8,088	-	8,088
Fringe Benefits	102,747	164,231	266,978
<b>Total Funding Request from Legislature</b>	<b>\$447,835</b>	<b>\$488,126</b>	<b>\$935,961</b>

Observations:

- We noted the amount requested and eventually appropriated was not consistent with the plan proposal in the contract. The County's Administration explained the delay in approval by the State and the contract year not coinciding with the budget year required adjustment to the appropriations that they felt were more realistic as a actual 2019 expense. As of the date of this report, the County is awaiting approval from the State for year 2 expenses at which time appropriations will be adjusted and expenditures will continue to be incurred and claimed. Any excess budgeted appropriations would be re-appropriated in 2020.
- The purpose of the Department 1170.77 (Hurrell-Harring) is to track costs and revenues associated with the grant; however, some expenses are captured in other sub departments. For this reason, using the Project Accounting Module would be a better structure to capture the revenues and expenses of Hurrell-Harring.

Findings:

- Funding for renovation costs of the 45 Market Street, Poughkeepsie office building were included in the Public Defender's Plan submitted to ILS but not included in the funding request in Resolution 2019130. This revenue should not have been recognized and budgeted in the capital project until authorized by the County Legislature through formal resolution.
- The Project Accounting Module was not used to track each grants revenue and expenses to expedite and streamline the accounting of the funding claimed and received.

Recommendations:

- A resolution should have been submitted to the County Legislature to properly recognize a new and previously unrecognized source of revenue for the H0499 - 45 Market Street Capital Project Account.
- The Project Accounting Module should be used to account for the Hurrell-Harring Grant funds.

Contract Budget vs. Resolution Budget Expenses by Positions:

Positions	Start date	Annual Salary	Year 1 Contract Budget	Year 1 Resolution Budget	Year 2 Resolution Budget
<b>Public Defenders Office</b>					
Bureau Chief	4/15/2018	\$102,113	\$10,066		\$77,611
Bureau Chief	7/8/2019	\$115,413	\$10,056		\$50,664
Director of Training	8/5/2019	\$100,352	\$91,981	\$46,911	
Program Assistant	7/15/2019	\$52,801	\$45,639	\$23,333	
Legal Secretary	7/8/2019	\$43,446	\$42,490	\$21,723	
Chief Assistant					\$57,460
Chief Assistant					\$57,404
Contract Specialist, Grade 13					\$25,656
Supervising ATI Worker					\$40,726
		<b>\$414,125</b>	<b>\$200,232</b>	<b>\$91,967</b>	<b>\$309,521</b>
Fringe Costs @ 53.07%		\$219,776	\$106,263	\$102,747	\$164,231
<b>Total PD Office</b>		<b>\$633,901</b>	<b>\$306,495</b>	<b>\$194,714</b>	<b>\$473,752</b>
<b>Counsel at First Appearance</b>					
Assistant PD	Open		\$66,030	\$33,676	
Fringe Costs @ 53.07%			\$35,042		
<b>Total CAFA</b>			<b>\$101,072</b>	<b>\$33,676</b>	<b>\$-</b>
<b>Assigned Counsel Plan - Caseload Relief</b>					
Bureau Chief	6/3/2019	\$102,000	\$25,500	\$68,000	
PT Legal Secretary	Open	\$21,166	\$10,583		
Fringe Costs @ 53.07%			\$19,149		
<b>Total Assigned Counsel</b>			<b>\$55,232</b>	<b>\$68,000</b>	<b>\$-</b>
Total Positions & Fringe			\$462,799	\$296,390	\$473,752
				Year 1 & Year 2-->	\$770,142
			\$455,022.60	<--Other Costs-->	\$165,820
			\$917,822	Total	\$935,962

## CAPITAL ACCOUNT EXPENDITURES AND RELATED COSTS FOR 45 MARKET STREET

### H0499 - 2016 Acquisition/Renovation 45 Market Street

During our review, the Public Defender's Office moved to a newly purchased and renovated building to accommodate the expanded services and staff. As of October 24, 2019, the Budget Performance Report for H0499 indicates a total of \$6,689,822 of the budgeted \$6,988,000 was expended. Additional costs attributed to the project included \$136,488.09 which were paid for by Risk Management for replacement of the boiler.

Most of the office furniture and equipment was paid from the above bond; However, a total of \$15,259.94 for 45 Market Street's waiting room furniture was paid from the Public Defender's 2019 operating budget.

Details of the 45 Market Street renovation can be found in a separate audit report which will be issued by our Office. We noted that \$57,038 in revenue was erroneously recorded in Department 1170.04 (Family Court), but should have been posted to the H0499 - 45 Market Street Capital Project Account. This amount will be adjusted to correct this capital account.

### **ASSIGNED COUNSEL COSTS AND THE SYSTEM OF PROCESSING 18-B PAYMENTS**

§718 of Article 18-A County Law provides appointment of other counsel. Appointment is made by the court on its own motion. The attorney is appointed with compensation which is provided at the rates established by the State Legislature. The judge that assigned the counsel must sign off on the billings from the assigned counsel and the County must issue payment based on this documentation. The current Family Court rate for assigned counsel is \$75 an hour for in-court and out of court work performed.

§718 of Article 18-b County Law provides direction on the plan for representation including compensation and reimbursement for representation.

Below is a chart of Assigned Counsel Costs paid by Dutchess County:

	Assigned Counsel							
	Account	2012	2013	2014	2015	2016	2017	2018
County Court	1162.02	464,074	497,777	423,425	361,403	483,264	349,851	306,206
Supreme Court (appeals-parole revocations)	1162.03	16,634	-	-	-	2,500	-	4,905
Family Court	1162.04	1,544,156	1,706,733	1,357,331	1,419,164	1,377,855	1,206,699	1,374,375
Municipal Courts (typically misdemeanors)	1170	397,468	293,698	273,640	273,550	203,320	205,323	214,973

County Court budget costs are typically for attorney fees for felony criminal charges in County Court. These costs are submitted with a signed order affixing compensation to the Department of Finance, which processes the payment in the County's Financial Management System. Supreme Court costs are typically submitted for appeals of parole revocations; these charges are also submitted along with an Order Affixing Compensation to the Department of Finance for processing.

Costs for 18-b representation in Municipal Courts within Dutchess County are processed by the Public Defender's Office on behalf of the court. The rate is \$60 an hour for in court and out of court work performed in misdemeanor cases.

Costs for 18-b representation in Dutchess County Family Court are processed by the Comptroller's Office on behalf of the court. Cases are assigned at the sole discretion of the Family Court Judge, who reviews and signs off on vouchers for payment submitted by assigned attorneys.

### Findings and Observations:

- Currently, three different departments process the 18b Attorney Invoices, depending on the court of original jurisdiction; this means there are three separate manners of processing these invoices within the County's Financial Management System.
- The Comptroller's Office currently enters all invoices for payment for the Family Court.
- Billings are submitted by the attorneys at irregular intervals. During the period of our review, it was not uncommon for billings to cover the span of several years, or to be submitted several years after a case had been adjudicated. This led to several inconsistencies and issues in properly accounting for the charges and payments.
- There are no written policy and procedures for 18b attorney invoicing procedures.

### Recommendations:

- A single department within the County should be responsible for processing all 18-b invoices in the County's Financial System to ensure consistency.
- The Comptroller's Office should not be the point of original entry for Family Court Invoices; this removes a critical review step which is used for all other invoices paid by the County.
- Invoices should be submitted on an annual basis by attorneys for work performed within that calendar year. Final billing should be submitted within 90 days of final disposition.
- A policy and procedure manual should be written and enforced for the invoicing of 18b attorneys. This may also be a part of the Assigned Counsel Plan that also should be adopted and enforced.

## EXHIBIT I

### POSITIONS BY DEPARTMENT

	2011	2012	2013	2014	2015	2016	2017	2018
<b>Department 1170 - Public Defender</b>								
Alternative to Incarceration Worker	1	1	1	1	2	2	2	2
Assistant Public Defender	0	0	0	0	0	2	4	3
Bureau Chief	0	0	0	0	0	1	1	1
Chief Assistant Public Defender	1	1	1	1	1	1	1	1
Chief Investigator Public Defender	1	1	1	1	1	1	1	1
Criminal Justice Intake Specialist	1	1	1	1	1	1	1	1
Criminal Justice Intake Specialist Spn	1	1	1	1	1	1	1	1
Investigator Public Defender	2	2	2	2	2	2	2	2
Legal Administrative Assistant	1	1	1	1	1	1	1	1
Legal Secretary	5	5	5	5	5	5	5	5
Office Assistant	1	1	1	1	1	1	1	1
Program Assistant	1	1	1	1	1	1	1	1
Public Defender	1	1	1	1	1	1	1	1
Receptionist	1	1	1	1	1	1	1	1
Senior Accountant	0	0	0	0	1	1	1	1
Senior Assistant Public Defender	13	13	14	13	13	10	9	10
<b>Total A.1170</b>	<b>30</b>	<b>30</b>	<b>31</b>	<b>30</b>	<b>32</b>	<b>32</b>	<b>33</b>	<b>33</b>
<b>Department 1170.04 - Family Court</b>								
Assistant Public Defender	0	1	2	2	2	3	2	2
Bureau Chief	0	0	0	0	0	1	1	1
Legal Secretary	0	1	2	2	2	2	2	2
Program Assistant	0	0	0	0	0	1	1	1
Senior Assistant Public Defender	0	1	2	2	3	3	4	4
<b>Total A.1170.04</b>	<b>0</b>	<b>3</b>	<b>6</b>	<b>6</b>	<b>7</b>	<b>10</b>	<b>10</b>	<b>10</b>
<b>Department 1170.72 - Conflict Defender SWAP Program</b>								
Senior Assistant Public Defender	0	0	0	1	1	1	1	1
<b>Total A.1170.72</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>1</b>
<b>Department 1170.73 - Arraignment Defense</b>								
Arraignment Attorney	0	0	0	2	2	2	2	2
Assistant Public Defender	0	0	0	0	0	0	1	1
<b>Total A.1170.73</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>2</b>	<b>2</b>	<b>3</b>	<b>3</b>
<b>Grand Total All Departments</b>	<b>30</b>	<b>33</b>	<b>37</b>	<b>39</b>	<b>42</b>	<b>45</b>	<b>47</b>	<b>47</b>

## EXHIBIT II

### Detailed Expenses by Department: 1170 - Public Defender

Expense Code and Description		2012	2013	2014	2015	2016	2017	2018
1010	Positions	\$1,995,687	\$2,144,425	\$2,193,961	\$2,247,819	\$2,356,279	\$2,530,403	\$2,575,538
1010.1030	Positions Temporary Help	-	-	-	-	-	-	-
4125	Food & Kitchen Supplies	-	-	-	-	297	-	-
4160	Office Supplies	12,603	7,237	6,177	7,011	7,872	8,651	8,491
4160.115	Office Supplies Software Products & Licenses	-	-	222	-	-	-	152
4401.105	Professional Services Consultants	-	125,000	110,534	100,000	72,971	-	-
4401.106	Professional Services Program	9,000	4,123	3,626	5,837	5,842	5,863	1,800
4412	Grant Project Costs	-	-	-	-	-	-	-
4431	Educational Programs	-	-	-	-	25	-	-
4434	Steno Fees & Transcripts	8,887	6,800	9,136	11,477	13,761	9,279	4,784
4436	Medical & Social Svcs - Evaluatn	1,000	127	241	84	425	2,347	485
4437	Expert Witness	9,441	54,272	40,848	43,155	30,806	8,554	35,440
4438	Investigations	2,532	1,301	1,356	1,447	-	-	-
4439	Summons & Witness Fees	-	-	-	-	315	239	301
4444	Attys/Assgnd Counsel	397,468	293,698	273,640	273,550	203,320	205,323	214,973
4460	Comm Printing	963	401	376	-	-	-	-
4570.62	Rntl/Lse - Equip Short T	228	152	6	-	-	-	-
4570.63	Rntl/Lse - Equip Long T	684	760	914	923	915	912	912
4607	Prof License & Permit Fee	140	220	120	120	320	219	200
4609	Maint -Service Contracts	15,000	15,000	15,000	15,000	15,000	15,000	15,000
4612	Repairs/Alt To Equip	1,604	-	-	-	307	-	-
4619	Employee Mileage Non-Taxable	10,932	9,203	10,833	11,962	10,991	9,094	7,765
4620.72	Employee Travel & Exp Travel	250	326	236	509	1,402	269	537
4620.73	Employee Travel & Exp Reimb	722	1,094	1,188	1,601	1,348	1,005	1,061
4626.75	Employee Allowance Meals Taxable	1,126	1,035	1,035	1,125	932	637	-
4628.51	Interdept Exp Land Lines	7,474	5,247	5,784	5,784	5,784	5,784	6,534
4628.52	Interdept Exp Cell Phones	268	572	555	579	489	1,134	6,337
4628.77	Interdept Exp Postage	3,893	3,999	4,036	3,687	3,696	4,180	4,838
4628.78	Interdept Exp Copier Program	4,142	4,029	5,543	6,160	7,374	12,444	13,999
4628.79	Interdept Exp Printing	260	562	460	585	619	481	648
4628.80	Interdept Exp Auto Center	-	-	-	887	-	-	17,110
4631	Training Seminars/Conf	3,745	2,658	2,479	4,076	2,755	4,480	7,400
4650	External Postage	1,713	2,800	1,264	823	1,468	1,105	1,158
4670.95	Subscriptions Subscr	34,999	30,000	31,000	35,893	37,210	45,730	42,584
4670.96	Subscriptions Dues	-	-	-	-	-	-	30
4750	Other Equipment-ND	3,032	-	-	-	-	-	-
8100	Pymts to Retire System	363,023	414,871	387,882	374,964	341,384	485,439	408,824
8200	Pymts to Soc Sec	149,594	160,488	164,145	167,265	173,379	185,280	182,473
8355	Long-Term Disability	9,085	9,705	9,382	9,523	7,255	3,822	4,040
8400	Hospital,Med&Surg Ins	399,355	434,283	469,268	440,200	475,265	511,705	510,707
8450	Optical Insurance	6,281	6,404	6,679	6,716	7,162	6,900	6,708
8500	Dental Insurance	39,028	28,577	31,994	36,574	43,721	46,324	43,692
8710	Paid Family Leave Insurance	-	-	-	-	-	-	506
8800	Life Ins	5,359	5,606	5,341	5,430	4,881	978	977
8850	ACC Death & Dismemb	487	510	486	494	442	196	195
<b>Total Expenses - Department 1170</b>		<b>\$3,500,007</b>	<b>\$3,775,487</b>	<b>\$3,795,745</b>	<b>\$3,821,259</b>	<b>\$3,836,009</b>	<b>\$4,113,776</b>	<b>\$4,126,200</b>
Total Revenue - Department 1170		\$273,495	\$402,634	\$224,816	\$346,136	\$442,763	\$346,826	\$404,617
<b>Net (Deficit) Surplus - Department 1170</b>		<b>\$(3,226,511)</b>	<b>\$(3,372,853)</b>	<b>\$(3,570,929)</b>	<b>\$(3,475,123)</b>	<b>\$(3,393,246)</b>	<b>\$(3,766,949)</b>	<b>\$(3,721,584)</b>

## EXHIBIT III

### Detailed Expenses by Department: 1170.04 - Family Court

Expense Code and Description		2012	2013	2014	2015	2016	2017	2018
1010	Positions	\$48,175	\$227,784	\$395,897	\$494,103	\$627,818	\$687,557	\$720,923
4160	Office Supplies	2,345	5,742	6,435	8,725	3,591	3,054	2,324
4401.106	Professional Services Program	-	-	154	-	-	1,376	573
4434	Steno Fees & Transcripts	-	73	191	788	-	1,171	1,607
4436	Medical & Social Svcs - Evaluatn	-	-	-	-	-	-	22
4437	Expert Witness	-	-	234	242	-	250	500
4439	Summons & Witness Fees	-	-	38	417	1,077	1,903	3,531
4609	Maint -Service Contracts	4,700	230	-	-	-	-	-
4610	Advertising	-	-	143	285	-	-	-
4619	Employee Mileage Non-Taxable	-	92	119	-	190	-	65
4620.72	Employee Travel & Exp Travel	-	-	-	494	-	-	750
4620.73	Employee Travel & Exp Reimb	167	-	35	15	106	18	263
4628.51	Interdept Exp Land Lines	-	85	1,500	1,500	1,500	1,500	1,500
4628.52	Interdept Exp Cell Phones	-	-	-	-	-	-	1,357
4628.77	Interdept Exp Postage	120	1,398	3,080	3,214	2,502	2,204	2,126
4628.78	Interdept Exp Copier Program	-	1,980	1,669	1,669	1,669	1,975	2,076
4628.79	Interdept Exp Printing	-	100	-	-	-	-	194
4628.82	Interdept Exp Computer Process	3,019	1,560	-	-	-	-	-
4631	Training Seminars/Conf	-	445	800	2,194	2,000	605	1,810
4650	External Postage	-	46	190	471	98	640	401
4670.95	Subscriptions Subscr	4,500	4,500	5,500	3,912	3,348	5,718	6,315
8100	Pymts to Retire System	16,702	4,176	45,738	51,754	56,430	62,053	62,752
8200	Pymts to Soc Sec	3,687	17,436	30,283	37,745	47,397	51,299	51,798
8355	Long-Term Disability	151	1,044	2,016	2,480	2,177	705	806
8400	Hospital,Med&Surg Ins	2,288	36,829	78,788	106,266	122,518	103,706	111,354
8450	Optical Insurance	81	750	1,414	1,601	2,037	2,180	2,111
8500	Dental Insurance	464	3,353	6,774	9,056	12,433	14,639	13,752
8710	Paid Family Leave Insurance	-	-	-	-	-	-	84
8800	Life Ins	88	619	1,222	1,502	1,585	200	210
8850	ACC Death & Dismemb	8	56	111	137	146	40	42
<b>Total Expenses - Department 1170.04</b>		<b>\$86,496</b>	<b>\$308,298</b>	<b>\$582,330</b>	<b>\$728,569</b>	<b>\$888,621</b>	<b>\$942,793</b>	<b>\$989,246</b>
Total Revenue - Department 1170.04		\$33,291	\$334,497	\$821,430	\$860,292	\$888,391	\$973,070	\$813,637
<b>Net (Deficit) Surplus - Department 1170.04</b>		<b>\$(53,205)</b>	<b>\$26,199</b>	<b>\$239,100</b>	<b>\$131,722</b>	<b>\$(230)</b>	<b>\$30,277</b>	<b>\$(175,609)</b>

## EXHIBIT IV

### Detailed Expenses by Department: 1170.72 - Conflict Defender SWAP

Expense Code and Description		2012	2013	2014	2015	2016	2017	2018
1010	Positions	\$ -	\$ -	\$73,918	\$78,112	\$77,174	\$84,349	\$109,476
4160	Office Supplies	-	-	15	15	6	12	963
4434	Steno Fees & Transcripts	-	-	340	180	1,945	2,589	414
4437	Expert Witness	-	-	-	-	-	-	1,964
4439	Summons & Witness Fees	-	-	-	-	-	-	90
4607	Prof License & Permit Fee	-	-	-	-	-	-	40
4619	Employee Mileage Non-Taxable	-	-	-	36	314	1,035	43
4620.73	Employee Travel & Exp Reimb	-	-	-	-	15	41	-
4626.75	Employee Allowance Meals Taxable	-	-	-	-	-	40	-
4628.77	Interdept Exp Postage	-	-	-	-	-	-	21
4628.80	Interdept Exp Auto Center	-	-	-	-	-	-	2,409
4631	Training Seminars/Conf	-	-	260	150	-	-	500
4650	External Postage	-	-	-	-	-	-	34
8100	Pymts to Retire System	-	-	-	10,289	13,812	14,876	13,120
8200	Pymts to Soc Sec	-	35	5,630	5,982	5,845	6,313	8,014
8355	Long-Term Disability	-	-	451	484	320	-	26
8400	Hospital,Med&Surg Ins	-	-	-	3,703	9,424	9,633	10,350
8450	Optical Insurance	-	-	217	198	221	221	308
8500	Dental Insurance	-	-	1,040	1,341	1,348	1,482	2,007
8710	Paid Family Leave Insurance	-	-	-	-	-	-	14
8800	Life Ins	-	-	288	310	247	-	-
8850	ACC Death & Dismemb	-	-	26	28	22	-	-
<b>Total Expenses - Department 1170.72</b>		<b>\$ -</b>	<b>\$35</b>	<b>\$82,183</b>	<b>\$100,828</b>	<b>\$110,693</b>	<b>\$120,591</b>	<b>\$149,792</b>
Total Revenue - Department 1170.72		\$ -	\$ -	\$ -	\$395	\$ -	\$ -	\$ -
Net (Deficit) Surplus - Department 1170.02		\$ -	\$(35)	\$(82,183)	\$(100,433)	\$(110,693)	\$(120,591)	\$(149,792)

## EXHIBIT V

### Detailed Expenses by Department: 1170.73 - Arraignment Defense

Expense Code and Description		2012	2013	2014	2015	2016	2017	2018
1010	Positions	\$ -	\$3,802	\$123,900	\$132,766	\$187,905	\$201,254	\$228,471
2300.03	Motor Vehicles 3 Year	-	-	-	-	23,123	-	-
4160	Office Supplies	-	1,758	374	75	93	20	-
4570.63	Rntl/Lse - Equip Long T	-	-	4,428	4,620	4,620	1,459	-
4619	Employee Mileage Non-Taxable	-	-	-	-	-	1,284	956
4620.73	Employee Travel & Exp Reimb	-	-	55	16	-	21	9
4626.75	Employee Allowance Meals Taxable	-	-	-	-	-	12	-
4628.52	Interdept Exp Cell Phones	-	-	1,108	1,161	1,156	1,156	1,512
4628.80	Interdept Exp Auto Center	-	-	2,954	3,494	2,815	-	11,868
4631	Training Seminars/Conf	-	-	500	135	-	170	330
4670.95	Subscriptions Subscr	-	-	-	-	-	100	100
8100	Pymts to Retire System	-	-	4,410	7,354	8,248	15,675	14,116
8200	Pymts to Soc Sec	-	291	9,610	10,150	13,696	14,875	25,197
8355	Long-Term Disability	-	-	1,060	1,085	901	-	-
8400	Hospital,Med&Surg Ins	-	1,056	21,726	11,754	39,237	37,059	39,643
8450	Optical Insurance	-	-	347	295	521	607	874
8500	Dental Insurance	-	-	1,663	1,670	3,180	3,953	4,254
8800	Life Ins	-	-	677	693	684	-	-
8850	ACC Death & Dismemb	-	-	62	63	62	-	-
<b>Total Expenses - Department 1170.73</b>		<b>\$ -</b>	<b>\$6,908</b>	<b>\$172,872</b>	<b>\$175,330</b>	<b>\$286,239</b>	<b>\$277,645</b>	<b>\$327,331</b>
Total Revenue - Department 1170.73		\$ -	\$-	\$184,158	\$230,319	\$169,554	\$263,106	\$262,481
<b>Net (Deficit) Surplus - Department 1170.73</b>		<b>\$ -</b>	<b>\$(6,908)</b>	<b>\$11,286</b>	<b>\$54,989</b>	<b>\$(116,685)</b>	<b>\$(14,539)</b>	<b>\$(64,850)</b>

## DEPARTMENT RESPONSE

MARCUS J. MOLINARO  
COUNTY EXECUTIVE



THOMAS N. N. ANGELL  
PUBLIC DEFENDER

### COUNTY OF DUTCHESS OFFICE OF THE PUBLIC DEFENDER

November 19, 2019

Robin L. Lois  
Dutchess County Comptroller  
22 Market Street  
Poughkeepsie, NY 12601

#### Re: Audit 2012 to 2018

Dear Ms. Lois:

Thank you for your thorough review of the finances of the Dutchess County Public Defender's Office. I also appreciate your willingness to consider our comments regarding both your observations and findings. As you correctly observe, the last several years has seen an unprecedented increase in both the breath of services provided by this office and a commensurate increase in the resources available to this office. The Dutchess County Public Defender's office is at the forefront of a statewide movement to transform the provision of indigent legal services in order to provide client centered legal representation in a wholistic manner. During this period of expansion, we have worked hard to access available state funding to support the important work of providing quality public defense in Dutchess County.

I will address each of your findings, as follows:

- I acknowledge that revenue was not always properly recorded in the appropriate sub-department. I have discussed this issue with our current accountant who commenced employment in March 2019. She assures me that she will be working with Budget and Finance to develop a multi-step check system which should alleviate this problem in the future.
- I share your concern about the delay in the contract and the claim process with New York State. I have advocated both privately and publicly with the New York State Office of Indigent Legal Services (ILS) regarding this specific issue. I am told that ILS has recently allotted enough staff to process contracts and claims in a timely manner so that this problem should be alleviated shortly. In the interim, our office will continue to submit contracts as they become available and submit claims on a regular and consistent basis.

- I acknowledge that through accounting oversights some claims to the State were incorrect. Fortunately, given the number and size of our grants these errors were relatively minor and as you point out could have been claimed with other County expenditures.
- I believe our office complies with ILS criteria and procedures for determining eligibility for our services. Given that the 2017 ILS rules tremendously expanded eligibility for Public Defender services, save for the very wealthy, most Dutchess County residents are eligible for the services of the Public Defender. However, going forth I have instructed intake staff to note in the case management system the stated amount of income for each client. And in the cases where the client income is \$0 to input "\$0". However, it should also be noted that even if a person does not meet the eligibility criteria, a judge can still appoint public defense through our office or assigned counsel.
- We have corrected the invocation letter that you identified as being sent on Public Defender letterhead without my signature to now include my signature.
- While we agree that not all Hurrell-Harring (HH) revenue and expenses have been tracked in the new sub-department 77, this will be corrected before year-end. We are following the directions of the County Budget Office for 2020 and since some of the funding provided by HH crosses sub departments, expenses have been recorded in the sub department where the expenditures have taken place and the corresponding revenue will be recorded in the same department to offset the expense. This accounting will not affect in any way the County's ability to obtain reimbursement from ILS.
- As I expressed to you during the audit process, I do not believe that internal performance metrics and quality issues are within the scope of your Department's review. I can assure you that both County administration and ILS monitors our performance and requires us to provide periodic progress reports on the funding that we receive.
- I concur with you regarding the need to bring Dutchess County into compliance with Article 18-B of the County Law. As you observe, I and other County officials attempted to do this previously approximately 5 years ago and were not successful in reaching an agreement with the Dutchess County Bar Association. Further, as you acknowledge, the County is making another attempt at present to resolve this problem and has hired an Assigned Counsel Administrator to do so.
- I also strongly agree with your comment about the Family Court assigned counsel expenses. There is no oversight in the County of these expenses. I have repeatedly offered to follow the same intake process for Family Court as we do for Criminal Court. This would centralize the eligibility and conflict determination for Family Court clients. My offer to date has not been accepted by the Family Court Judges. As a result, this office has documented multiple cases in Family Court during the audit period which this office

could have provided counsel but where assigned counsel was appointed instead. The County has expanded in 2018/2019 the conflict swap program into Family Court in an effort to control costs. Finally, the County is seeking to provide financial oversight through the recently hired Assigned Counsel Administrator.

- Our office, together with the Department of Finance and OCIS, will evaluate whether or not project accounting is best for tracking the different grants and funding streams which span multiple years.
- For clarification, please note that one of your findings states that the Upstate Quality Improvement grant revenue for 7/1/17-6/30/20 was not received for expenses incurred from July 2017 through December 2018. This is not correct. The total \$153,772 has been received and recorded.
- Finally, it is my understanding Legislative approval is not required to receive or recognize revenue and in fact, the County often realizes and maximizes revenues that were not budgeted or approved by the Legislature. Your finding that revenue claimed for capital costs incurred on the reconstruction of our office at 45 Market Street should not have been recognized until authorized by the County Legislature, is incorrect.

See Note 1  
on Page 34

See Note 2  
on Page 34

I would like to thank you for the courtesies extended to this Department by you and your staff during this lengthy audit. We will do our best to implement the changes that you recommended as I have outlined above.

Sincerely,



Thomas N. N. Angell  
Public Defender

## COMPTROLLER'S OFFICE RESPONSE TO DEPARTMENT COMMENT

**Note 1:** We acknowledge that funds were received and booked as revenue following our initial review of the records for this account. We have amended the report accordingly.

**Note 2:** While your assertion may be correct for revenues recognized within the General Fund, the nature of Capital Accounts necessitates additional oversight by the Legislature - particularly building construction projects which cost taxpayers millions of dollars.

An entirely new source of revenue was added to the Capital Project's budget without authorization or oversight from any other branch of county government. We disagree that the administration can act in such a unilateral manner to amend funding of a Capital Project.

We stand by our recommendation that a more transparent, measured, and appropriate action would have been for the County to formally and officially recognize the grant funds as a revenue source in the Capital Project Account; the mechanism for this would be via legislative resolution.





**DUTCHESS COUNTY COMPTROLLER**  
*ROBIN L. LOIS, COMPTROLLER*

**22 MARKET STREET  
POUGHKEEPSIE, NEW YORK 12601**