

From: Angell, Thomas
Sent: Thursday, October 4, 2018 9:50 AM
To: Morris, Carolyn <cmorris@dutchessny.gov>
Subject: Answers to Legislator Munn's questions

Carolyn,

I will do my best to attend the Committee meetings tonight. However, I have scheduled Court appearances in the Village of Rhinebeck at 4:00 PM and the Town of Rhinebeck at 5:00 PM. I may be delayed.

What follows is my response to Legislator Munn's questions:

How do you get cases - in other words how do you get your clients? Walk-ins? Referrals from the court?

In Dutchess County Criminal Courts our first contact with our clients is at their arraignment. This can happen either at a regular calendar call or during the off-hours arraignment proceedings. If after the arraignment the client remains free and wishes the services of the Public Defender, the client is required to come to 22 Market Street to be screened for financial eligibility and for conflicts. If after the arraignment the client is incarcerated, the client is screened for eligibility and conflicts the next business day at the Dutchess County Jail. All incarcerated individuals are presumptively eligible for the services of the Public Defender.

For Dutchess County Family Court, Ulster County Criminal Courts and Ulster County Family Court, the Courts screen for financial eligibility and assigns our office to cases.

Approximately what percentage of your funding comes from grants vs state funding vs county money?

Approximately 75 % local and 25 % State in the proposed 2019 budget. This number will change considerably in the next several years as the State increases the funding for our County—we project an increase of over \$4.5 million a year in State funding by 2022.

Most of us here are familiar with the Miranda warning - "if you cannot afford an attorney, one will be provided to you". How and by whom is it determined that the client "cannot afford an attorney"?

As stated before the answer depends upon which Court the case is pending in. We do provide pre-arrest legal services to Dutchess County residents who have been contacted by the police. In such instance, we require the individual to come in to our office to qualify for our services. If we are contacted by a family member on behalf of an individual who is in police custody and has not yet been arrested, we will do a telephone screening for eligibility (this scenario happens extremely rarely.) The eligibility standards for indigent criminal defense determinations are set by the New York State Office of Indigent Legal Services and can be found on their web site.

When all your staff attorneys are full/busy and a new client comes in and needs representation, how is that handled? Is that referred outside and who decides that? Are there any types of criminal defendants that always get referred to outside counsel?

Our office has never refused representation of a qualified individual because of excessive caseload.

As required by Article 18-B of the County Law, each county in NY is required to have a plan for indigent representation. The plan Dutchess County created in or about 1966 was to establish a Public Defender to be the primary provider of indigent legal services in the Dutchess County Criminal Courts. That plan has been amended by budget decisions of the County Legislature and an intermunicipal agreement with Ulster County to add responsibility to the Public Defender to provide services in Dutchess County Family Court, parole matters and conflict services in Ulster County.

How much of your work is handled in-house vs outsourced? How are those outsourcing firms or attorneys selected?

I cannot provide you with all the statistics that you are requesting as our office does not maintain information on Family Court conflicts. However in 2017 in Dutchess County Criminal Courts we provided representation in 7,588 cases. We had to conflict off 494 cases. Of those 494 cases many were handled by the Ulster County Public Defender. Our office only maintains records on private attorneys who were paid because of conflicts in the lower criminal courts in Dutchess County. In 2017, our office spent approximately \$205,000.00 hiring private attorneys in lower criminal courts where our office had a conflict.

When the Ulster County Public Defender does not handle the conflict case, the Judge in whose Court the case is pending selects the attorney to be assigned. I have no role in the selection of counsel.

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