



OFFICE OF THE PUBLIC DEFENDER

ANNUAL REPORT

2013

INTRODUCTION

In 2013 the Monroe County Public Defender's Office continued to provide excellent representation to indigent clients in the criminal, family, and appellate courts in Monroe County. Although caseloads in all bureaus of the Office remained higher than historical norms, and the severe financial pressures faced by Monroe County prohibited the dedication of additional local resources, the staff of the Office persevered. Indeed, 2013 was a year of Office recognition and individual accomplishment, as the Office received a statewide award, and individual attorneys were recognized in various ways by the legal community.

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

But the hard work expended by staff led to excellent results for our clients. For instance, in 2013 the attorneys in the Office prevailed in 66% of the felony trials conducted by the office (a complete acquittal, top count acquittal, or trial order of dismissal granted). Furthermore, the Appeals Bureau had 11 cases heard by the Court of Appeals (the highest court in New York), which is approximately 10% of all criminal cases decided by that court each year. In recognition of their excellent work, the staff of the Appeals Bureau received an award in 2013 from the New York State Bar Association.

In 2013 the Office continued its efforts in examining how to improve the representation we provide our clients. We also completed several initiatives began in 2012, and began several new initiatives, all designed to improve the quality of services we provide, and assist the criminal defense

bar in providing quality representation to criminal defendants in the greater Rochester area.

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

PART I: OFFICE INITIATIVES

A. Introduction

The strength of this Office is in the enormously talented and committed people who work here. They are truly an asset to our community. It is through their efforts that the following improvements and initiatives were undertaken and accomplished in 2013.

B. Hiring Committee

Ensuring that each new hire exemplifies the qualities that make an excellent public defender is the responsibility of the hiring committee. Chaired by Special Assistant Public Defender John Bradley, the committee members in 2013 (Special Assistant Public Defender Drew DuBrin, Special Assistant Public Defender Julie Cianca, Second Assistant Public Defender Jill Paperno, and Assistant Public Defender Amanda Conner) screen all applicants for open attorney positions, conduct all initial interviews with prospective applicants, and recommend to the Public Defender the top three applicants for each open position.

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

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

In order to effectively represent our clients, our attorneys must be provided frequent and regular trainings on changes in the law, and how to improve their trial skills. Additionally, given the enormous amount of legal talent in this Office, staff attorneys routinely conduct CLE programs for the outside defense and family law communities. To accomplish the necessary training for staff, the Office conducts numerous continuing legal education programs and training programs. Additionally, in 2013 the Office created the new position of Training Director. Special Assistant Public Defender Andre Vitale was appointed to the new position where he oversees the development and implementation of training programs.

The Monroe County Public Defender's Office is an accredited CLE provider. The Office strives to provide staff attorneys and attorneys in the legal community high-quality CLE programs at no cost. It is the responsibility of the CLE Committee to organize continuing legal education programs for staff attorneys and the legal community. In 2013 it was chaired by First Assistant Public Defender Roger Brazill.

In 2013 the Office sponsored the following CLE programs for the attorneys in the Office, and the private defense bar:

1/13/2013	Multiple DWI Offenses: Relicensing and Collateral Consequences at the New York State Department of Motor Vehicles
2/1/2013	Challenges to the Legal Sufficiency of Local Court Accusatory Instruments
2/27/2013	Recent Developments in Criminal Law: October 2012-February 2013
3/1/2013	Psychiatric Defenses: NGRI/EED: Best Defense or Fool's Gold
3/8/2013	Highlights of 2013 Gun Law Amendments (a.k.a. New York State "SAFE ACT")
3/15/2013	Persuasive Legal Writing
3/27/2013	March "Law and Lunch" Program: Review and Critique of Waivers of Appeal
4/5/2013	Hunting, Not Fishing-Subpoena Practice in Criminal Cases
4/19/2013	The Law of Lesser Included Offenses
4/30/2013	Foster Care as the Last Resort: Legal Practices and Courtroom Procedures to Encourage Family Resource Placements
5/3/2013	Keeping it Out: Fertile Ground for Obtaining Preclusion and Suppression of Identification Evidence

5/15/2013	May 2013 "Law and Lunch" Program: Demonstrative Evidence-Enhance Your Theory of Defense
6/7/2013	Standing for Suppression Motions
6/19/2013	June "Law and Lunch" Program: The Fonts: Typography and Presentation Skills for Lawyers
7/7/2013	July "Law and Lunch" Program: People v. Rudolph and its Impact upon Youthful Offender Cases
9/6/2013	Prior Bad Act Evidence: A Practical Guide At Trial
9/18/2013	September "Law and Lunch" Program: A <i>DeBour</i> Refresher- What do the Police Know, When do they know it, and Why it Matters
10/16/2013	<i>People v. Brumfield</i> and Grand Jury Waivers
10/18/2013	Misdemeanor Overview
11/1/2013	Initial Client Interview/Allocation of Decision-Making
11/15/2013	Defective Misdemeanor Accusatory Instruments
12/20/2013	Basics of Felony Practice

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

Attorneys in the Office are often asked to present at various CLE programs throughout New York State. In 2013 Office attorneys presented at CLEs sponsored by the Monroe County Bar Association, the New York State Defenders Association, the New York State Association of Criminal Defense Lawyers, and the County Attorney's Association of the State of New York.

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

As Training Director, Andre Vitale created (with significant assistance from other staff persons) a new training program for new attorney staff. The three-day program addressed topics relevant to town court practice, and issues faced by young attorneys in the practice of law. Additionally, a week long training program is being developed for new staff attorneys that will supplement the three-day program. Also, in 2014 Mr. Vitale will be implementing a regional advanced trial skills program for the felony staff of defender offices in western New York.

D. Internship Committee and Program

In 2013 the Office continued our internship program. In addition to placing college students as interns, the Office continued to place law students, and in select cases, high school students. In 2013 the Office hosted over 30 student interns (from law schools, local colleges, and high schools) throughout the year. All of the student interns obtained valuable experience working in a large law office, and gained additional insight into the criminal justice system.

In 2013 the Office continued its "externship program" with the participating law schools. Student externs receive course credit towards their degree requirements, while also learning valuable knowledge about our criminal justice system. Additionally, the student externs assist attorneys in the Office by conducting legal research, drafting motions, and other forms of legal assistance.

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

In addition to the internship programs offered to local college students throughout the year, in 2013 the Office continued the program to include select high school students. Kelly Sands, our internship coordinator, works very hard to provide our interns a challenging, positive experience as they work in the criminal justice community. Ms. Sands works with Assistant Public Defender Karine Haselbauer and Assistant Public Defender Amanda Conner to place interns with our paralegal bureau, our investigators sections, or individual staff attorneys.

College and high school interns are offered the opportunity to observe the criminal justice system from a unique perspective, and they gain valuable experience. Working with their attorney-

supervisors, interns review client files, assist staff during court proceedings, and observe a variety of court proceedings. Our interns also assist the Office, as we ask each intern to volunteer a few hours per week performing office work, such as filing and copying. We receive very positive reviews from the students who intern in the Office, and have successfully placed students from SUNY Brockport, SUNY Geneseo, the University of Rochester, Nazareth College, the Rochester City School District, and the BOCES 2 "New Visions Justice Professions" Program.

Finally, the Office continued its collaboration with the Strong Hospital Legal Nurse Consultant Program. Students in the program are registered nurses who are seeking to become legal nurse consultants. As part of their instruction, students from the program interned in the Office and assisted staff with reviewing and interpreting medical records, and researching medical issues. (Attached is an article from the Daily Record about two recent graduates of the program who interned in the Public Defender's Office.)

PART II: OFFICE ORGANIZATION

A. Creation of Office and its Jurisdiction

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

By law, the Public Defender is required to "represent, without charge, at the request of the

defendant, or by order of the court with the consent of the defendant, each indigent defendant who is charged with a crime...in the county...in which such public defender serves."

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

The office handles cases in:

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

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

Our goal is to provide to the poor who are accused of a crime, or who are entitled to representation in family court, truly competent legal representation which exceeds that which they would expect to obtain from privately retained counsel. An individual's constitutional rights must be protected regardless of his or her financial circumstances.

B. Staff

During 2013, our staff included 62 attorneys, 1 confidential assistant, 5 investigators, 6 investigative assistants, 9 full-time secretaries and 2 receptionists, both of whom are bilingual. The attorneys are precluded from engaging in private practice.

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

The Office staff takes great pride in the quality of the work they provide to our clients. Their work results in high-quality representation that advances justice in our community. **As an example, in 2013 the Office conducted 125 trials to completion. Of those, we obtained favorable dispositions (Complete Acquittals, Top Count Acquittals and Trial Orders of Dismissal) in 89 cases (or 71% of the time).**

C. City Court Bureau

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

The responsibilities of the Assistant Public Defender assigned to City Court include gathering information to assist the court in determining a defendant's eligibility for representation, appearing at arraignment, making bail applications, participating in pre-trial conferences, investigating and preparing a defense to the charges, preparation and argument of various types of motions, pre-trial hearings, preliminary hearings, trials, social service agency referrals, and sentencing. The City Court Section also has the added responsibility of representing individuals who were charged with

violations of their parole, and individuals whose cases have been transferred to Rochester Drug Treatment Court, Monroe County Mental Health Court, the Integrated Domestic Violence Court, or Monroe County Veterans Court.

In 2013, all of these responsibilities were carried out by a total of fourteen Assistant Public Defenders and one Special Assistant Public Defender, who is in charge of the City Court Section. The attorneys share the enumerated responsibilities on a rotating basis.

In 2013, this Office was called upon to represent clients in approximately 12,100 cases in the City Court of Rochester. In addition, the attorneys in this section were assigned to represent more than 917 parolees who were charged with violating the conditions of their parole release. That means, on average, each Assistant Public Defender would have been assigned to approximately 929 cases during the course of the year. That number of case assignments is more than double the recommended maximum caseload as established by the National Legal Aid and Defender's Association.

D. Town Court Bureau

The office is required to represent persons accused of crimes in the various town and villages throughout the County. In 2013 the Office increased the staffing in this Bureau to account for the increased number of cases in the towns and villages of Monroe County. There are eight assistant public defenders (overseen by two Special Assistant Public Defenders) assigned to cover the Town and Village Justice Courts within the 21 towns and villages of Monroe County.¹

The newly hired Assistant Public Defenders are traditionally assigned to the Town Courts. The Town Courts have heavy case loads, erratic court hours and varying local court procedures. The assignment of a Special Assistant Public Defender to the section enables us to provide our new

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

attorneys with the appropriate training and orientation to the local justice court process and essential supervision so as to ensure quality representation for our clients.

In 2013, approximately 4500 clients were assigned to our Justice Court Staff of eight full-time attorneys. Therefore, each of the newly hired attorneys in the section was assigned to an average of approximately 562 cases. This number of 140% of the recommended caseload guideline of 400 misdemeanor level cases per year.

E. Superior Court Bureau

In 2013, the Superior Court Bureau (divided into the non-violent felony section and the violent felony section) was staffed with 20 attorneys, including the First Assistant Public Defender, the Second Assistant Public Defender, and four Special Assistant Public Defenders.

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

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

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

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

In 2013, we were assigned to approximately 4,025 felony cases. The felony caseload per attorney ratio is approximately 200 new cases per attorney. That represents a current felony assignment rate which is far above national standards for caseload maximums.

F. Family Court Bureau

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

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

In 2013, this office was assigned to represent 2284 new clients. To put this caseload into a historical perspective, in 1987, there were five attorneys in our Family Court section who were assigned to represent 865 clients. That 1987 caseload was within 10% of management guidelines which suggest that a maximum caseload of approximately 150 cases be assigned to each attorney per year. Currently our nine Family Court attorneys are each required to provide representation to significantly greater number of clients each year. Last year, each family court attorney was asked to

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

represent over 253 clients per year.

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

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

G. Appeals Bureau

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

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

In 2013, our authorized appeal staff consisted of the Special Assistant Public Defender in-charge of the section and six Assistant Public Defenders.

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

appeals.

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

In 2013, the six attorneys in our Appeals Bureau closed approximately 158 cases. Included in this number were eleven cases perfected at the Court of Appeals (New York's highest appellate court). As the Court of Appeals typically considers approximately 100 criminal cases per year for the entire State of New York, this is a very impressive number and a testament to the quality of the work performed by the attorneys in the Bureau. The Appeals Bureau is truly one of the best appellate offices in New York State.

Indeed, in 2013 the Appeals Bureau of the Monroe County Public Defender's Office was awarded the 2013 New York State Bar Association's Denison Ray Criminal Defender Award in recognition of the excellent work done by the staff. (Attached is a Daily Record article about the award.)

H. Investigation Bureau

During 2013, the Monroe County Public Defender's Office employed five full-time investigators, one of whom is the Chief Investigator in charge of the section.

The statistics for 2013 are as follows:

<u>Criminal</u> <u>Trial Parts</u>	<u>Family Court/</u> <u>Appeals Court</u>	<u>Total</u>
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Investigations/ Interviews	4641	469	5110
Subpoenas	476	253	729
Other Misc. Matters	738	145	883

In 2013 more than 6,700 criminal and family court investigation requests were handled by our investigative staff. The work performed by our investigative staff is reflected in our ability to successfully resolve cases for our clients either by disposition or trial.

PART III: OFFICE RECOGNITION, COMMUNITY INVOLVEMENT AND SUPPORT

A. The Jeffrey A. Jacobs Award

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

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

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

The Jacobs Award recognizes a criminal defense attorney from the greater Monroe County area who exemplifies the above qualities, and who has performed truly outstanding trial work in the

preceding year. The award winner is chosen according to the following criteria: (a) the complexity of the cases tried, which may include the effective use of experts, and/or litigating complex forensic or scientific issues; and/or (b) fearless advocacy exhibited on behalf of the client; and/or (c) creativity demonstrated in the presentation of the defense.

In 2013 the Office continued its recognition of a local attorney who exemplified Jeff's commitment to excellent defense of the indigent with the awarding of the 2013 Jeffrey A. Jacobs Award to Monroe County Assistant Public Defenders Liz Riley and Emily Rosmus. (An article from the Daily Record about the 2013 award is attached.)

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

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

The attorneys who represent indigent adults in family court work tirelessly to preserve one of the most important human relationships – that between parent and child. Their dedication deserves to be recognized by the legal community. To address this, the Monroe County Public Defender's Office created in 2013 an award to recognize excellence in indigent adult representation in Monroe County family court.

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

indigent appellants or respondents in New York State appellate courts and who, in the previous two years displayed exceptional dedication to his or her clients, excellent advocacy skills, and superior knowledge of the law in an appeal from a custody/visitation, child support, abuse or neglect, or termination of parental rights case.

In 2013 the inaugural recipient of the award was Jon M. Stern. (A Daily Record article about the creation of the award and the Defense Community Dinner is attached.)

C. Defense Community Dinner

On November 9, 2013 the Office hosted the 4th Annual Defense Community Dinner at the Rochester Institute of Technology's University Gallery. Over 90 attorneys, judges, and family members attended and celebrated the excellent work done in our local community by our criminal defense and family law practitioners. The highlight of the evening was the awarding of the 2013 Jeffrey A. Jacobs Award and the 2013 Award for Excellent in Indigent Adult Representation in Family Court. (Attached is an article from The Daily Record describing the event.)

D. Individual Recognition

In 2013 two attorneys received local recognition from the legal community. Kim Duguay, an attorney in the Appeals Bureau of the Office, finished her term as the President of the Greater Rochester Association for Women Attorneys (GRAWA). Kim's term as president of GRAWA was a great success and is a testament to her skills, hard work, and reputation as an excellent attorney.

Also, in 2013 Second Assistant Public Defender Jill Paperno published a book entitled *Representing the Accused: A Practical Guide to Criminal Defense*. The book received excellent reviews, and is being used in various training programs throughout the country. (Attached is an article from the Daily Record reviewing the book.)

PART IV: THE FUTURE OF THE OFFICE

2014 will be a challenging year for the Office. It is anticipated that caseloads will remain at their very high levels, and that there will be increasing pressure on the Office to provide excellent representation to our clients, while maintaining costs. As such, the Office will continue its efforts at improving efficiencies in each Bureau, ever mindful that our number one priority is our clients. We are confident that given the enormously talented and committed staff at this Office we will meet those challenges.

As we look ahead to 2014, the Office plans to continue its efforts to improve our representation to our clients, continue our discourse with the community we serve, and improve the diversity of our staff. The initiatives outlined above will continue as well. We will continue looking at how technology may improve Office operations.

In addition, with the help of grant funding from the New York State Office of Indigent Legal Services, the Office hopes to begin three new initiatives in 2014: the creation and staffing of the Western New York Criminal Immigration Advisory Clinic, a regional advanced trial skills program, and providing counsel to indigent defendants who are arraigned in the town and village courts.

PART V: CONCLUSION

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

It is important to note that the success this Office has achieved is due in part to the support given to us by the Monroe County Legislature and the County Administration. Both the Legislature and the Administration take seriously the obligation of government to ensure justice for all. We

would like to take this opportunity to express our thanks for that support, and we look forward to their support in the future.

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

Respectfully submitted for
The Public Defender's Office

TIMOTHY P. DONAHER
Monroe County Public Defender

COURT ACTIVITY SUMMARY 2013

NEW CLIENTS.....27,875

FELONY..... 2,348

FELONY (Drug A and B).. 398

FELONY (VFO)..... 1,230

HOMICIDE49

MISDEMEANOR.....11,953

VIOLATION..... 3,864
(City and Justice)

PROBATION VIOLATION.... 468
(Superior)

PROBATION VIOLATION.... 789
(City and Towns)

APPEALS..... 175

FAMILY COURT..... 5,560

PAROLE..... 917

FUGITIVES..... 65

SORA..... 59

PLEAS AS CHARGED.....2,202

FELONY..... 369

MISDEMEANOR..... 1,468

VIOLATION..... 365

PLEAS TO LESSER

FELONIES.....1,162

To Lesser Felony..... 182

To Misdemeanor..... 980

PLEAS TO LESSER (Con't)

MISDEMEANORS.....2,802

To Lesser Misd..... 337

To Violation..... 2,465

CLOSED CASES: [OTHER]:

A.C.D..... 3,277

PRIVATE ATTY..... 759

ASSIGNED COUNSEL..... 5,316

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

TRIALS.....134

FELONY..... 51

MISDEMEANOR.....52

VIOLATION..... 31

FINDING AFTER TRIAL

GUILTY AS CHARGED
(or to part of indict.
when highest court)..... 34

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

NOT GUILTY..... 50

TRIAL ORDER OF DISMISSAL..... 12

MISTRIAL.....2

PUBLIC DEFENDER STAFF
(as of 1/28/13)

Administration

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

Superior Court

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

Appeals

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

City Court

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

Justice Court

Cianca, J.	Special Assistant
Stubbe, J.	Special Assistant
Lamb, P.	Secretary
Vargas, J.	Invest. Asst.
Claiborne, K.	Invest. Asst.
Grippe, J.	Asst. Pub. Def.
Murante, A.	Asst. Pub. Def.
Ponder, D.	Asst. Pub. Def.
Poray, S.	Asst. Pub. Def.
Roth, C.	Asst. Pub. Def.
Schnader, J.	Asst. Pub. Def.
Seppeler, C.	Asst. Pub. Def.
Syme, H.	Asst. Pub. Def.

Family Court

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

Investigations

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

Legal nurse consultants a valuable resource

Daily Record, March 26, 2013

Legal nurse consultants a valuable resource

by Mike Murphy

Published: March 26th, 2013



Nurses Ann Geyer, left, and Kelly Layland are working toward becoming legal nurse consultants. Mike Murphy

The elderly man was accused of raping someone in his family, and Kelly A. Layland, a sexual assault nurse examiner by trade, was asked to look over his case and provide some direction for the attorney representing him.

Layland, who is studying to be a legal nurse consultant, reviewed the evidence and provided an analysis of the case for the man's defense. She studied the results of a rape kit and looked into the damage supposedly done to the victim.

She said she not only spent nearly a week interpreting medical terminology for the lawyers, but also helped come up with a plausible strategy to

bolster his defense.

After 30 hours of research, the medical evidence was clear that the man could not have committed the crime. The attorney may have come to the same conclusion, but the help Layland provided streamlined the case.

"It's a lot for a lawyer to research all the medical aspects of a case but also the legal aspects," Layland said. "A nurse can help analyze that."

The outcome is one of several reasons of why many law firms have not only used legal nurse consultants but also have hired them on staff. It's another to show why their use is gaining in areas around the country, although it's fairly common locally.

Making use of their services is becoming more of a common practice around the country for many reasons, said Alexa Schneider, who has taught legal nurse consultant courses at the University of Rochester for more than 10 years.

"Attorneys are becoming aware of legal nurse consultants and they help with their caseloads," said Schneider, who has not only worked as a nurse consultant but also has served as an expert witness. "I think it's a slow grow, but a lot of firms and attorneys are having to do business differently."

As many businesses — law firms included — look to tighten belts, legal nurse consultants can save money in addition to providing a valuable service, Schneider said.

"It's cheaper to have a nurse come in and work on some cases," said Ann Geyer, another legal nurse consultant student who has worked 18 years in cardiac nursing. "On some cases, the nurses will have the same information."

Besides analyzing injuries and interpreting medical lingo, nurse consultants can be asked to help determine the merit of a case, establish medically plausible timelines and serve as expert

witnesses, for the plaintiff or defense.

"We really help both sides," Schneider said.

Layland and Geyer recently worked as interns in the Monroe County Public Defender's office.

Monroe County Public Defender Tim Donaher said nurse consultants fill a need, and their work is generally outstanding, particularly in understanding the medical lingo and determining the nature of injuries, he said.

"We find them invaluable," Donaher said. "They can point us in the right direction medically."

The work can pay off for them as well.

Some of the graduates are hired by law firms; others do the work on a contract basis. Given the nature of what they are asked to do, the market for their services is consistent.

"We never went without work," Layland said. "We all had cases. I think it helped the cases."

Complete URL: <http://nydailyrecord.com/blog/2013/03/26/legal-nurse-consultants-a-valuable-resource/>

Public Defender's bureau scores wins

DAILY RECORD, June 2, 2013

NY Daily Record

<http://nydailyrecord.com>

Public defender's bureau scores wins

by Mike Murphy

Published: June 2nd, 2013



From left, Kimberly Duguay, Dave Juergens, Janet Somes, Drew Dubrin, Tim Davis and James Eckert are members of the award-winning Appeals Bureau of the Monroe County Public Defender's Office. Courtesy Monroe County Public Defender's Office

Monroe County Public Defender Timothy P. Donaher calls the *People v. Handy* case an "amazing win" and one that already is beginning to play a significant role in jury instructions.

The case, argued by Assistant Public Defender Janet C. Somes, resulted in a new rule for juries regarding the use of destroyed evidence — in this case a Monroe County jail surveillance video — and could prompt law enforcement agencies to better preserve surveillance and other videos.

But that is only one of many successes his office's appeals bureau had before the Court of Appeals. In fact, since early 2010, attorneys in the office have prevailed 18 times in 22 cases before the court — with six more cases are pending — for a winning percentage of 82 percent.

In that time, 1 of every 11 cases decided by the Court of Appeals have been handled by the six attorneys in the bureau, Donaher said.

"I think they're the best appeals office in upstate New York," Donaher said. "They do incredible work."

Donaher is not alone in his legal opinion.

The Appeals Bureau recently received a Denison Ray Criminal Defender Award for its work. The New York State Bar Association award recognizes staff attorneys employed by a public defender, conflict defender or nonprofit corporation for their quality representation.

Norman Effman, chairman of the state bar's Committee to Ensure Quality of Mandated Representation, cited the Appeals Bureau's "extraordinary success" before the intermediate appellate courts and Court of Appeals as well as their work in advancing the development of criminal law.

The Appeals Bureau is headed up by Drew Dubrin and includes Timothy Davis, Kimberly Duguay, James Eckert, David Juergens and Janet Somes.

"All in all, it's so very much deserved for a group of attorneys who are not in the limelight and do excellent work under the radar," Donaher said.

Their cases are diverse, but what the attorneys have in common, besides a willingness to defend needy individuals, is a team spirit and ability to work well together.

Most of the attorneys have worked together for more than 20 years and collaborate on every case, Dubrin said.

"Working so well together only enhances our chances of winning," Dubrin said. "I'm very proud of my staff. We haven't had this kind of success before."

— michael.murphy@nydailyrecord.com

Complete URL: <http://nydailyrecord.com/blog/2013/06/02/public-defenders-bureau-scores-wins/>

NY Daily Record

<http://nydailyrecord.com>

Monroe County public defenders recognized

by Daily Record Staff

Published: May 24th, 2013

The Appeals Bureau of the Monroe County Public Defender's Office will receive a New York State Bar Association award in June in recognition of its "extraordinary commitment to provide zealous and skilled representation to indigent defendants."

Public defender Timothy P. Donaher received notice of the award today from Norman Effman, chair of the Committee to Ensure Quality of Mandated Representation.

The biennial Denison Ray Criminal Defender Award, named in memory of a career legal activist who led legal services programs in New York and other states, recognizes staff attorneys employed by a public defender, conflict defender or nonprofit corporation based on the overall quality of their legal representation.

"The extraordinary success of the Appeals Bureau in obtaining favorable results for its clients in the intermediate appellate courts and the Court of Appeals and in advancing the development of criminal law more than justifies its receipt of this award," Effman wrote to Donaher.

The award will be conferred during a luncheon ceremony June 14 in conjunction with a free CLE program at the New York State Bar Center in Albany.

Complete URL: <http://nydailyrecord.com/blog/2013/05/24/monroe-county-public-defenders-recognized/>

Two defenders honored for high-profile case

DAILY RECORD, November 7, 2013

Two defenders honored for high-profile case

by Denise M. Champagne

Published: November 7th, 2013



Elizabeth A. Riley and Emily L. Rosmus, Monroe County assistant public defenders, are the winners of the 2013 Jeffrey A. Jacobs Awards, which will be presented to them Saturday night at the annual Defense Community Dinner at the University of Rochester. Vasily Baziuk

Elizabeth A. Riley had heard about the Penfield accident that claimed the life of a popular Fairport High School science teacher in the summer of 2012.

She also knew there were arrests involved so she was not surprised when she was approached about representing one of the defendants.

An assistant public defender in the Monroe County Public Defender's Office since 2004, she admits she thought about telling her boss she already had a homicide case she was working on, but accepted the case.

Thus began a lengthy intense journey to represent Mark E.

Scerbo II, 22, who had been charged with aggravated vehicular homicide and was facing up to 25 years in state prison in connection with the death of Heather P. Boyum, 40, of Fairport, who had been struck by a car and motorcycle while riding her bicycle on July 29, 2012, on Route 250 in the town of Penfield.

Scerbo had been riding the motorcycle. He had also been charged with manslaughter, aggravated driving while intoxicated, DWI, driving while ability impaired by drugs and alcohol and aggravated unlicensed operation of a motor vehicle. He had been released from state prison earlier that month after serving several months for a previous felony DWI charge.

Riley knew the task before her was enormous and teamed up with a colleague, Emily Rosmus. After much discovery and hard work, which included a four-week highly public trial, they succeeded in getting Scerbo acquitted of the top count.

For their zealous advocacy, they will be honored Saturday at the Defense Community Dinner as the 2013 winners of the Jeffrey A. Jacobs Award. This is the first year two people will receive the award honoring the memory of a former special assistant public defender known for his fierce advocacy for his clients.

"This was a particularly difficult case," said First Assistant Public Defender Roger Brazil, referring to the Scerbo case. Brazil chairs the award selection committee.

He said the case involved a tremendous amount of media attention; negative publicity about their client; forensic science evidence, something Jacobs was also noted for excelling at; accident reconstruction; and the novel issue of bath salts, which Brazil said are a relatively new substance on which there was not a lot of case law.

"They nevertheless pursued it in a zealous fashion," he said, referring to Riley and Rosmus. "It is because of the zealous advocacy, the forensics and scientific evidence and just the overall job that they did in the face of the overall strong tide toward conviction. The public really wanted to see this guy convicted. They were chastised by some of the arguments and ultimately, those

were the arguments on which they prevailed. We're very proud of the work that was done in this case."

One of the key factors in the successful argument of the case came down to the various elements of the top charge. They were able to convince the jury that Scerbo's actions, doing wheelies and weaving back and forth in the road, were reckless, but not related to intoxication, a necessary element; that he would not have been able to make the moves he was making if he was affected by his intoxication. Without being able to connect intoxication to his reckless actions, the jury found one element missing and voted to acquit on that charge.

"There was so much to be done and so many angles to be looked at," Riley said, remembering when she first got the case. "It became apparent from the beginning this case was going to require a lot of discovery and expert witnesses. We did not leave any stone unturned."

Riley and Rosmus brainstormed with each other, their colleagues and even family members. Riley's husband Charles, an avid motorcyclist, helped her understand the mechanics of maneuvering a motorcycle the way Scerbo had.

Rosmus' father is a doctor so she delved into the toxicology issues, becoming quite knowledgeable in that field.

Scerbo, now 24, was convicted of second-degree manslaughter, aggravated DWI and common law DWI. He was sentenced by Monroe County Court Judge Douglas A. Randall to seven and a half to 15 years in prison.

After Scerbo struck Boyum, she was hit by a car driven by Scerbo's girlfriend, Megan Merkel, who was convicted of DWI, but not vehicular manslaughter. She was represented by Rochester attorney James S. Hinman.

Scerbo and Merkel were tried together, but had separate juries, which presented additional challenges for Riley and Rosmus, as well as Hinman; prosecutor Raymond G. Benitez, chief of the Monroe County District Attorney's Office's DWI Bureau; and the court.

Riley and Rosmus came under public and media criticism throughout the trial and immediately afterward, but weathered the storm.

They realize that not everyone understands the criminal justice system and the necessary role public defenders play in that system. They also kept in mind the loss to the Boyum family and tried to respect that throughout.

"We have a very unique role," Riley said. "My role is to protect the person charged with the crime. In a very basic level, we're making sure their rights are protected and the system is working the way the system is supposed to."

Riley and Rosmus were also surprised at how the jury was treated for doing its civic duty, some people saying they were confused. Riley said it was just the opposite; jurors had set aside their emotions and carefully considered all of the evidence.

"That was very frustrating to see the jurors get attacked for doing exactly what society charges them with doing," Rosmus said.

Riley, a Rochester native, is a 1998 graduate of Albany Law School. She worked in New York City for about five years before returning home to join the Monroe County Public Defender's Office. She knew before she even went to law school that she wanted to be a public defender.

"I fell in love with it," she said of her job. "We are sort of the last line to helping people who don't have someone looking out for them. I feel like it's important and when you're able to do it and make a difference for somebody, it's very gratifying."

Rosmus is from Castleton, Vt. She graduated in 2006 from Syracuse University College of Law and began her career at a civil litigation firm in Syracuse that no longer exists, joining the public defender's office in 2007. Rosmus realized she wanted to do public defender work while taking a law clinic course.

"I love being able to give a voice to people who I think have not had people stand up for them before," she said. "It really is incredibly gratifying."

Riley said Rosmus was a full partner in the defense and she never considered her a second chair.

"She was a trooper," Riley said. "She was amazing. We worked hand in hand."

Rosmus said she is thrilled to share the award with Riley.

"Liz is an amazing and very inspiring attorney to me," Rosmus said. Rosmus and her husband, Jeremy Grethel, have two children, ages 21 months and five months. In fact, Rosmus was nearing the end of the second pregnancy as the trial came to a close. The Rileys also have two children.

Scerbo, who is appealing his conviction, likely based on pre-trial motions, is housed at the Auburn Correctional Facility in Cayuga County.

Also being honored at the Defense Community Dinner Saturday is Rochester attorney Jon Stern who will receive the inaugural Award for Excellence in Indigent Adult Representation in Family Court. The dinner is at the University of Rochester.

Complete URL: <http://nydailyrecord.com/blog/2013/11/07/two-defenders-honored-for-high-profile-case/>

*Stern wins first Family Court defender
award*

DAILY RECORD, November 13, 2013

NY Daily Record

<http://nydailyrecord.com>

Stern wins first Family Court defender award

by Denise M. Champagne

Published: November 13th, 2013



Jon Stern accepts his Award for Excellence in Indigent Adult Representation in Family Court during the 4th annual Defense Community Dinner held at Rochester Institute of Technology on Saturday. Vasily Baziuk

Jon M. Stern knows he is relentless in his pursuit of justice for his indigent Family Court clients.

He just did not realize how many other people noticed.

Stern is the first recipient of the Award for Excellence in Indigent Adult Representation in Family Court. The new award, established by the Monroe County Public Defender's Office, is to recognize an attorney who practices in Monroe County Family Court and displays exceptional dedication to indigent adult clients.

"I think what I do is I consistently represent people as hard as I can and I pour all of my being into it in that I'm not going to let anybody get over on my clients without a fight," Stern said, noting he has been referred to as a bulldog.

The award was presented Saturday at the annual Defense Community Dinner at Rochester Institute of Technology.

"I feel honored by it and humbled by it," Stern said. "It's wonderful to be singled out, but it's more humbling because I know there are folks just as worthy as me to receive this."

Public Defender Timothy P. Donaher said the award came about as a way to recognize the important work being done in Family Court, dealing with complicated and often emotionally charged issues that profoundly affect families such as child custody, visitation and parental rights.

He said Family Court is not always recognized for the quality of justice it provides to litigants, so he, First Assistant Public Defender Roger A. Brazil and others reached out to some Family Court judges who agreed establishing the award was a good idea. Also on the award committee were Family Court Judges John Gallagher Jr. and Dandrea Ruhlmann, as well as Shannon O'Keefe, Tammy Guglin and Pam Bayer.



"I've known Jon in his professional capacity for maybe 10 years and I've always known him to be an excellent advocate for his clients," Judge Gallagher said. "He's a hard worker and he knows the law."

Stern, who was nominated by



Public defender Elizabeth Riley, left, accepts her Jeffrey A. Jacobs Award from Jill Paperno.

Family Court Judge Joan S. Kohout, previously worked for the Monroe County Public Defender's Office.

"I think the committee made an excellent choice," Donaher said. "Jon has been providing high quality indigent representation for years. He's continued to do

excellent work."

Stern said he is motivated and honored by the trust his clients place in him, having his clients remember him years later, seeing a smile on their faces and thinking he made a difference in their lives.

"I also enjoy the intellectual challenge and the art of the trial," he said. "I enjoy fighting against (the Department of Social Services) and trying to ensure that justice is administered across the board to the extent I can.

"It's really an extraordinary challenge sometimes and I like the challenge," Stern said. "If you give it your all and you know that you've done the best you can for people, it's a lot easier to deal with the results. If I didn't give all I could, I don't know if I could live with myself. My performance could be the difference in whether my client gets 10 years or not."

Stern, a Long Island native, worked in Georgia for about five years before coming to Rochester in 2001, first working as a legal aid guardian with the Legal Aid Society of Rochester. In 2003, he joined the Monroe County Public Defender's Family Court section where he worked in the Family Court section until going into private Family Court practice in 2005.

Stern is also on the law guardian panel and represents a lot of parents in child protective proceedings under Family Court Article 10. He believes indigent clients deserve the same quality of representation that more fortunate people receive.

"It seems to me that the application of Article 10 cases and neglect cases are skewed against indigent folks," Stern said. "To me, to gain the trust of your clients, who are often skeptical about the system, that's very rewarding. It's really a unique opportunity to make a positive difference in people's lives, especially people that are not used to having people fight for them."

Stern earned his law degree at Emory University School of Law in Atlanta where he and Lisa Meyer, who is also from Long Island, were married in 1997. She is an associate professor of sociology at State University at Geneseo. Stern said they both went to Skidmore College and have been together for 20 years. The couple has two daughters: Ava, 10, and Ella, 7.

Stern said he is blessed to have such a family; that he enjoys sitting around watching movies with, going bowling or just hanging out. He also likes to play guitar and golf and ski when he finds time.



While in law school, Stern said he had no interest in business or arguing about money; that he was turned off a little about how corporate the profession could be.

Then, he participated in a mock trial program and got a job working with the Juvenile Court in Gwinnett County, Ga.

"I derived a lot of pleasure from helping those who didn't have the resources and needed help," Stern said, noting that is where



Sonya Zighlin and Emily Rosmus. Vasily Baziuk

small towns in Georgia,

The dinner also celebrated the relentless representation provided to indigent criminal clients by Elizabeth A. Riley and Emily L. Rosmus, assistant public defenders who received the Jeffrey A. Jacobs Award which honors the memory of a former special assistant public defender known for his fierce advocacy of clients. A story about them was featured in The Daily Record Nov. 7.

"It's special to me to be recognized on Jeff Jacobs night," Stern said. "Jeff was a really good friend of mine. Jeff was, I think, a professional mentor to a lot of people. Jeff would never let anybody get over on him or get over on his clients. The award is special to me because it gives me that validation that my approach is appreciated and effective."

he started building the skills he relies on today. He said being a Jewish guy from Long Island, he learned a lot about negotiating with cops and courts going to



The Hon. Stephen Lindley delivers the key note address at the 4th annual Defense Community Dinner. Vasily Baziuk

Complete URL: <http://nydailyrecord.com/blog/2013/11/13/stern-wins-first-family-court-defender-award/>



Justin Jacobs, Danna Jacobs, Lisa Meyer, Jon Stern and Jarrett Jacobs. Vasily Baziuk





Monroe County Public Defender Tim Donaher, Elizabeth Riley and dad Eugene Welch, Emily Rosmus, and Jill Paperno. Vasiliy Baziuk



Kim Szapranski, Rhian Jones, Don Thompson, Michaela Leyshon and Cheryl Thompson. Vasiliy Baziuk



Stephanie Poray, Christine Seppeler, Stephanie Stare and Rich Murajda. Vasiliy Baziuk





Public defender Elizabeth Riley and her father, Eugene Welch.
Vasiliy Baziuk



Michaela Leyshon, Rhian Jones and Jill Paperno. Vasiliy Baziuk



Franz Wright, Michael Doran, Michael Lopez and John Bradley.
Vasiliy Baziuk





Jon Griffin, Amanda Conner and Tim Donaher. Vasiliy Baziuk



Jennifer Morgan, Darcie Bahr and Robert Bahr, Jean Caputo and Katie Higgins. Vasiliy Baziuk



Joni and Jim Hinman. Vasiliy Baziuk



Nancy Welch, Christianne Smith and Reg Harnish. Vasiliy

Baziuk



William Easton, Brian Shiffrin, Paul MacAuley, Ann Easton and Shirley Gorman. Vasily Baziuk

*GRAWA President's Message: A look back
at GRAWA's year of accomplishments*

DAILY RECORD, May 8, 2013

GRAWA President's Message: A look back at GRAWA's year of accomplishments

by Kimberly Duguay

Published: May 8th, 2013



Kimberly Duguay

It is hard to believe that my year as GRAWA's 30th president is coming to a close. The camaraderie and support that GRAWA members provide each other is truly exceptional. This commitment to GRAWA enabled us to complete so many events that it is difficult to choose which ones to highlight.

Of course GRAWA continued its traditional programs. Our New Members Reception began the fall season with a wonderful opportunity to welcome and get to know our new members while celebrating our longstanding members who reached 25 years as admitted attorneys.

Our Judicial Candidates Luncheon was hosted and moderated by the Hon. Robert J. Lunn, former associate justice of the New York State Appellate Division, Fourth Department, and the Hon. Richard D. Rosenbloom, retired New York State Supreme Court judge. This affordable event was open to the public, and provided each of the five judicial candidates the opportunity to share their platform and answer questions from the audience. We also continued the tradition of chamber chats with the Hon. Craig J. Doran, who generously shared both his knowledge and sense of humor over lunch at the Hall of Justice.

GRAWA's annual holiday party continued its tradition of giving. This year GRAWA joined forces with the Central and Western New York women's bar associations to raise money for the American Red Cross to support our sister chapters in the New York City area who were devastated by Hurricane Sandy.

GRAWA has also been infused with an impressive amount of new energy that produced a number of innovative and fun programs. For example, the Newly Admitted Women Attorneys Committee organized an amazing race-type event called "GRA-walk." Creative and humorous clues led teams through some of Rochester's many attractions, providing an entertaining way to familiarize newer attorneys with our area. NAWA also organized a "Bowling with the Board" event for new and newly admitted members to connect with GRAWA's Board of Directors. Further, GRAWA celebrated the men who support its mission at a "Guys for GRAWA" event.

Community service continues to be an integral part of GRAWA's programming. This year we celebrated the Dr. Seuss National Day of Reading by reading to elementary students at Rochester's School 29. GRAWA's Diversity Committee organized opportunities for members and their families to participate in the Martin Luther King National Day of Service. Members collected food, volunteered at Foodlink, helped repair a Volunteers of America daycare room, and answered calls at a hotline for the Volunteer Legal Services Program. GRAWA also partnered with the American Heart Association to hold a wine and chocolate tasting event to raise awareness of heart disease.

In addition to GRAWA's regular social and networking events, other opportunities were provided to assist members in various stages of their careers. A panel event called "Is Retirement on Your Horizon?" was offered for people considering leaving the practice of law and embarking on a new phase in life. The Women's Connections and Family and Careers committees partnered to present programs for women seeking to transition or enhance their careers, including one program on transition trends and tips, and another on nonprofit board participation for career enhancement.

GRAWA also continues to enjoy a mutually supportive relationship with the Monroe County Bar

Association and the Rochester Black Bar Association with whom we shared the NYSBA Bar Leaders Award for the Diversity Clerkship Program.

We are showing no signs of slowing down. In fact, GRAWA is partnering with the Western New York Women's Bar Association to provide a CLE on advanced appellate practice followed by a dinner reception on June 11, at the Red Osier in Stafford, N.Y. This CLE will feature Appellate Justices the Hon. Nancy E. Smith and the Hon. Erin M. Peradotto along with the Hon. Frances E. Cafarelli, clerk of the Appellate Division, Fourth Judicial Department.

None of GRAWA's accomplishments would have been possible without the continued support and dedication of its members. The cooperative efforts of our diverse and dynamic membership allowed us to maintain our traditions while incorporating new ideas. Our board, committees and events are filled with both newer attorneys and our more "seasoned" members, including many past presidents who bring a wealth of institutional knowledge. It has been nothing short of a privilege for me to be a part of this organization, and I am looking forward to GRAWA's future.

GRAWA will soon be celebrating the installation of its new board of directors, including Melanie Wolk, who will be GRAWA's 31st president. GRAWA's installation dinner is being held on May 15 at Gatherings at the Daisy Flour Mill. There is still time to join us! Also, if you join or renew your membership on or before the installation dinner, your name will be entered into a drawing to win a day at the Del Monte Spa, including a one night stay and two 50-minute spa treatments!

While I will always relish my time as GRAWA president, I am thrilled to hand over the reins to Melanie Wolk, who has been a constant source of support. GRAWA is certainly in good hands as we embark on another exciting year!

Kimberly Duguay is the 30th president of the Greater Rochester Association for Women Attorneys and an appellate attorney at the Monroe County Public Defender Office, where she practices in the areas of criminal and family law.

Complete URL: <http://nydailyrecord.com/blog/2013/05/08/grawa-presidents-message-a-look-back-at-grawas-year-of-accomplishments/>

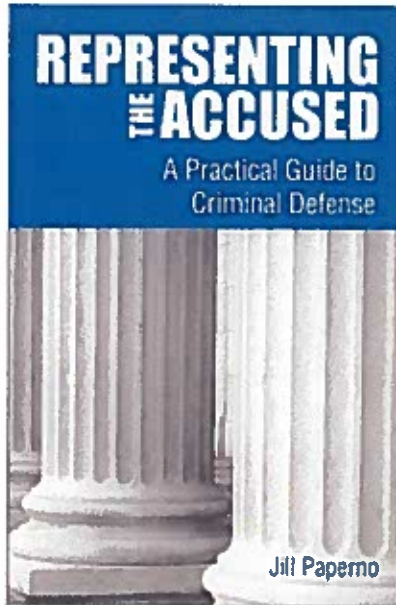
*Book Review: Paperno's 'Representing the
Accused' a step-by-step guide for public
defenders*

DAILY RECORD, May 13, 2013

Book Review: Paperno's 'Representing the Accused' a step-by-step guide for public defenders

by Nicole Black

Published: May 13th, 2013



Cover courtesy Jill Paperno

In 1996, I stepped into a courtroom as an assistant public defender for the very first time. I had no idea what I was doing. I had only recently been hired by the Monroe County Public Defender's Office after interning there for a few months. I had some training from the attorney whose caseload I was taking over and I even had a mentor assigned to me. Her name was Jill Paperno and she was an extremely experienced felony attorney. She had a wealth of information to offer me, but truth be told, at the time, it was incredibly overwhelming.

So, like most public defenders, I learned on my feet. And, I became a very good criminal defense attorney over time — with a lot of help from my more experienced colleagues at the office. Whenever I ran into an issue or had a question, I would pop my head into someone's office and got the answer I was seeking in no time.

But I've always thought that there had to be a better way. If only I could have harnessed all the information and collective experience of my colleagues and my mentor in one place. If only I'd had a manual that walked me through the process of representing someone accused of a crime, from the initial

intake process through every stage of representation. If only someone with decades of criminal defense experience would take the time to sit down and write a step-by-step guide for new and less experienced attorneys with an interest in criminal defense. Wouldn't that be nice?

Well sure enough, just 16 years after I first set foot in a courtroom, my wish came true: the "how-to" guide that I had envisioned for young criminal defense attorneys was finally published. It's called "Representing the Accused: A Practical Guide to Criminal Defense" and coincidentally enough, was written by my former Public Defender mentor, Jill Paperno.

This book is everything I had imagined — and more. It provides young lawyers with advice on just about every aspect of every stage of representing a criminal defendant. From file organization and effective client communication to subpoenaing information and trying a case, this book covers all the bases.

Paperno starts with practice management basics — things you don't even realize are important when you first start practicing law, in large part because most law schools completely fail to teach lawyers about the ins and outs of managing a case from start to finish. But as you quickly learn when your first criminal defense file grows from a single sheet of paper to hundreds, a large part of effective case management revolves around effective organization of your files.

Paperno tackles this incredibly important, albeit not exactly enthralling topic, at the beginning of the book explaining: "Although a career in criminal defense may be one of the most exciting ones you can select, there are certain kinds of excitement you want to avoid — the excitement of being unable to find an important document or a particular file, for example. Thus, one of the keys to a successful practice is developing the less exciting skill of organization." Then over the next 18 pages, she provides detailed tips for organizing files gleaned over her 25-year career in criminal defense, ranging from document organization and management to file management and storage, both paper and digital.

From there, she carefully and concisely walks young attorneys through every aspect of a criminal case. In Chapter 3, she offers an assortment of general practice tips, including her warning that as a criminal defense attorney, you should develop a thick skin and prepare to be disliked by just about anyone you encounter in a case, including opposing counsel, judges and witnesses.

Another important tip —sometimes strange things are true. Paperno explains, "Sometimes a client will tell you something that seems completely ridiculous. But before you discount it, if it supports the defense, investigate whether it might be true. Repeatedly over the years, I have been told things I thought were absurd, but learned that there was truth to the claim and eventually used the information to support a defense."

She then provides a broad overview of the life of a criminal case in Chapter 4 and in subsequent chapters addresses each and every stage of a criminal case, starting with the initial interview of your client in Chapter 5. From there, each chapter focuses on a specific stage of the case, starting with your client's arrest and arraignment, moving on to pre-trial procedures, including choosing a defense theory, investigating the case, drafting motions, conducting hearings, and finally, at the end of the book, she devotes one chapter to trying cases and another to sentencing.

From discovery and subpoenas to cross-examination techniques and sentencing considerations, Paperno provides invaluable tips and advice from the trenches throughout the book, including this gem in Chapter 9 — a sound piece of advice that clearly comes straight from the mouth of a lifelong criminal defense attorney: "The prosecutor will be an important source of information in your case. But should you rely exclusively on information provided by the prosecutor? The short answer: a definite and resounding NO."

If I had to come up with one criticism of this book, it would be that it glosses over the importance of, and the effects of, technology as it relates to both the physical management of files and in the investigation of a criminal case. Although these issues aren't ignored, they are given no more than a passing nod, something I suspect has more to do with the fact that this book was a long time in the making and technology has advanced incredibly rapidly over the last few years.

It is difficult to keep pace with rapidly changing technologies, whether it's mining social media for evidence or storing and managing client files in the cloud. So the lack of focus on the effects of technology in this book is understandable, but hopefully will be addressed more thoroughly in the second edition of this book. Another minor critique — an index in a subsequent edition would also be a nice addition.

These two small points aside, I highly recommend this book. It provides much-needed information for young lawyers and should, in my opinion, be a part of every law school curriculum. Paperno's book is an incredible resource and one that I wish had been available to be when I started practicing criminal law back in 1996. The bottom line: this book is a must-have for all newly graduated and aspiring criminal defense attorneys.

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