

TIOGA COUNTY LAW DEPARTMENT 2023 ANNUAL REPORT

THE LAW DEPARTMENT & THE LEGISLATURE AN OVERVIEW

New York State's County Law Section 500 provides that the County Attorney and its assistants are the legal advisors to the Legislature and to every county officer whose compensation is paid from county funds in all matters involving an official act of a civil nature. The Law Department also provides all of the legal work for the Department of Social Services, including support, abuse and neglect cases, adult protective cases, Medicaid Recovery, and prosecutes all Juvenile Delinquency Petitions.

The Law Department operates out of two offices staffed by three full-time attorneys, two part-time attorneys, two confidential secretaries, two paralegals and a full-time Safety Officer. The Law Department welcomed a new Safety Officer, part-time attorney, confidential secretary, and paralegal this year and bid a fond farewell to the Secretary to the First Assistant County Attorney and the Assistant County Attorney's Office Paralegal.

LITIGATION & CLAIMS

The majority of civil litigation are third party claims against the County. These claims are primarily referred to our liability insurance carrier, New York Municipal Insurance Reciprocal (NYMIR), which retains outside counsel to handle the County's defense. However, the Law Department remains involved throughout the claim to supervise and act as the local contact. Any settlement or payment to the claimant is first discussed and agreed to by the Law Department with input from the Chair and any affected departments. There are several matters not covered by NYMIR for which the Law Department directly defends the matter or retains and supervises outside defense counsel to do so.

The County Attorney monitors claims presented to our carrier NYMIR and assists in the defense of pending claims. In 2023, ten (10) incident claims and six (6) Notices of Claim were referred to NYMIR.

The County Attorney heads the Loss Control Committee, whose membership includes the Personnel Officer, Benefits Manager, Safety Officer, Commissioner of Public Works and the Sheriff's Captain. The

purpose of the committee is to review claims and the handling thereof, as well as pattern analyzation for ways to mitigate or deter future claims.

CONTRACT/BIDDING ADMINISTRATION

The Law Department reviews and approves County and department contracts. In 2023, the Department reviewed four hundred and forty-six (446) contracts including numerous grants and contract addendums which has increased significantly when compared to prior years.

DSS, PUBLIC HEALTH & MENTAL HYGIENE

The Tioga County Law Department provides daily professional, experienced legal counsel, and services to all health and human service agencies, i.e. the Departments of Social Services (DSS), Public Health and Mental Hygiene and their employees.

The County Attorney's Office attends the following monthly meetings: Youth Assessment Team, Child Advocacy Center, Executive Policy, MDT Leadership, Public Health, Leaders, Legislative Workshops, and quarterly administrative meetings with the Department of Social Services.

The Assistant Attorneys continue to attend regular meetings and provide trainings to the Commissioner of Social Services, the Deputy Commissioner, supervisors, and case workers to discuss individual cases, case management, general protocols, etc. to ensure good communication and avoid potential issues before problems arise.

ASSISTANT COUNTY ATTORNEY'S OFFICE

The Assistant County Attorney's Office continued to be extremely busy with a high volume of child protective matters. Petition filings have become more complicated, and the degree of neglect and abuse cases more severe. The total number of Child Support Court appearances in 2023 was five hundred ninety-one (591), Neglect / Abuse, Expungement, Juvenile Delinquency and PINS, and Fair Hearing, Article 81, and pistol permit court appearances was two hundred sixty-four (264).

A brief synopsis of activity by the Assistant County Attorney's Office is as follows:

- Child Protective Services/PINS/JD – twenty-one (21) new petitions were filed.
- Department of Social Services – one hundred sixty-seven (167) Court appearances relating to modification petitions, violation petitions, Order to Show Cause proceedings, extensions of supervision, interveners, and permanency hearings.

- Child Support Collection – five hundred ninety-one (591) appearances before the Tioga County Support Magistrate, and referrals to the Family Court Judge.
- Expungement conferences and hearing appearances- Twenty-six (26) appearances.
- Pistol Permits – Twelve (12) pistol permit petitions were filed.

Due to pistol permit legislation beginning in July 2018, the Assistant County Attorney's Office now prepares and files the following to be served to the Court:

- RJI Form
- Index Number Form
- Order to Show Cause
- Petition, Affidavit and supporting documents
- Attended all court proceedings related to pistol permits

Despite the horrific nature of many of the cases the Assistant County Attorneys work on there are successes such as the story below. It is these successes that make this job manageable.

In June of 2022, a nearly 4-year-old child was removed from their primary parent's care as a result of domestic violence in the home and the primary parent's inability to maintain sobriety as the sole caretaker for the child. The primary parent's dependence on alcohol was so strong that they later admitted they had been drinking while participating in a telephone appointment with a substance abuse screener and became so intoxicated that they passed out while the child was in their care.

The other parent was unavailable to be the child's caregiver due to their physical abuse of the primary parent which resulted in an order of protection precluding any contact between them, the primary parent and the child, requiring them to move out of the family residence.

The child was placed in a foster home and the primary parent immediately took action to remedy the situation by engaging in substance abuse treatment. While the child continued in foster care the primary parent was able to achieve sobriety and participate in parenting classes. The foster parents also provided opportunities for modeling parenting skills in action so that parent and child could learn and grow together. The child, who has some developmental and behavioral challenges, was able to be enrolled in a preschool program.

Because the primary parent took responsibility for their actions, the neglect case was resolved with admissions without requiring a fact-finding hearing.

In April of 2023, the child was able to be returned to primary parent's care on a trial discharge, with a final discharge a few months later. Since

that time the primary parent has continued to maintain their connections with the foster parents who continue to support the primary parent in parenting their spirited child. The primary parent has also continued to participate in available programs on a voluntary basis including additional parenting classes and support from the domestic violence advocacy program.

ARTICLE 11 TAX FORECLOSURES

The majority of work for the Article 11 Tax foreclosures is performed by the County Attorney's paralegal with the County Attorney reviewing all documents prior to filing. The US Supreme Court's decision in Tyler v. Hennepin County, Minnesota earlier in the year signaled potential changes in how the proceeds from tax sales are handled. On June fifth of this year the New York State Legislature passed a temporary in rem foreclosure moratorium to prohibit tax districts from foreclosing on real property for delinquent taxes and creating significant uncertainty about how the foreclosure process would look going forward. The County advances all Towns, Villages and School Districts the full amount of their unpaid taxes and then bears all of the risk of recovering those funds through foreclosure process. The potential that the County will need to account for each property individually creates a substantial risk that the County will be unable to recover all the funds which it had advanced.

FREEDOM OF INFORMATION

The Law Department continues to assist the Freedom of Information Officers with review and handling of these requests. There were one hundred and ten (110) FOIL requests filed and four (4) appeal hearings for denial of records in 2023. This number does not include FOIL requests filed with the Sheriff's Department.

CONTINUING EDUCATION/ASSOCIATIONS

The Law Department considers continuing education to be a priority in providing expert legal service to the County. The County Attorney belongs to the New York State Bar Association, County Attorneys Association of the State of New York [CAASNY], Broome County Bar Association, the Tioga County Bar Association, and reviews regular updates from those associations. In addition, the County Attorney frequently attends Continuing Legal Education Programs sponsored by the Broome County Bar Association and the Western County Attorney meetings.

The Assistant Attorneys regularly attend conferences related to their specific issues, including attendance at CAASNY and New York State Public Welfare Association conferences, seminars on pre-trial and trial skills, sex abuse, support collection, Medicaid eligibility, Medicaid recovery, family court matters and Article 81 Guardianships.

POOR PERSON APPLICATIONS

The County Attorney's Office reviews and provides the Supreme Court with recommendations for the Applications for Poor Persons for a waiver of filing fees in civil proceedings. This office is required to calculate the income of the applicant in relation to the poverty levels. If the income exceeds one hundred twenty five percent (125%) of the federal poverty level, an objection is made to the granting of the application. In 2023, thirty-two (32) applications were processed which is a substantial increase from the previous year.

GOALS & OBJECTIVES FOR 2024

- The goals and objectives for the Department in 2023 are as follows:
- To continue to provide professional, quality legal work and advice to the legislature, department heads, employees and agencies within the county government.
 - To achieve continued open communication between the Law Department and the other departments and agencies within the county government.
 - To remain current in our areas of law by attending continuing education seminars and by playing an active role with the NYS County Attorneys Association.

Respectfully submitted,
Peter J. DeWind
Tioga County Attorney