



# **TIOGA COUNTY LAW DEPARTMENT**

## **2021 ANNUAL REPORT**

**Tioga County Attorney**

## **THE YEAR IN REVIEW**

2021 was, again, a challenging year for the Tioga County Law Department as it was for everyone due to the ongoing COVID-19 pandemic.

Most, if not all, Court cases were held virtually and this format continued to work well. Throughout the year the Law department assisted the Public Health Department with issues arising from quarantine, protocols, vaccination requirements, and new masking mandates.

## **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, one part-time attorney, two confidential secretaries, two paralegals and a part-time Safety Officer.

## **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.

In 2021, the Law Department assisted outside counsel in the defense of three (3) pending claims. The County Attorney, monitors claims presented to our carrier NYMIR. In 2021, twenty (20) incident claims and three (3) 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 as to form County and department contracts. In 2021, the Department reviewed over one hundred thirty one (131) contracts in addition to numerous grants and contract addendums which is comparable to prior years and was unaffected by the COVID pandemic. The majority of the contracts are for independent contractors with the Health and Human Services Departments.

### **PERSONNEL**

The Law Department works with labor counsel Roemer, Wallens Gold & Mineaux and the Personnel Department in matters relating to the administration of the civil service, personnel related challenges, benefits administration issues and the administration of labor contracts and grievances.

## **DSS, PUBLIC HEALTH & MENTAL HYGIENE**

The Tioga County Law Department provides daily professional, experienced legal counsel and services to all of the health and human service agencies, i.e. the Departments of Social Services (DSS), Public Health and Mental Hygiene. The Law Department has improved communications and accountability between it and these agencies.

The County Attorney attends the following monthly meetings: Youth Assessment Team, Child Advocacy Center, Executive Policy, Public Health, Leaders, Redistricting, Legislative Workshops, and quarterly administrative meetings with the Department of Social Services. The Assistant Attorneys continue to attend regular meetings with the Commissioner of Social Services, the Deputy Commissioner, managers and case workers to discuss individual cases, case management, general protocols, etc. to ensure good communication and avoid potential issues before problems arise.

Overall, 2021 was extremely busy with a high volume of child protective matters. Petition filings have become much more complicated, and the degree of neglect and abuse cases more severe. The total amount of Child Support Court appearances in 2021 was five hundred thirty two (532), Neglect / Abuse, Expungement, Juvenile Delinquency and PINS, and Fair Hearing, Article 81, and pistol permit court appearances were four hundred twelve (412) in total.

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

- Child Protective Services/PINS/JD – thirty (30) new petitions were filed, one (1) of which were abuse petitions, and three (3) emergency Order of Protection were filed.

- Department of Social Services – three hundred fifty nine (359) 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 thirty two (532) appearances before the Tioga County Support Magistrate, and referrals to the Family Court Judge.
- Miscellaneous – Two (2), Article 81/17A Guardianship appearances, and forty six (46) Expungement conferences and hearing appearances.
- Pistol Permits – Five (5) pistol permit petitions were filed.

The Assistant County Attorney's Office had four hundred twelve (412) court appearances relating to modification petitions, violation petitions, Order to Show Cause proceedings, extensions of supervision, interveners, and permanency hearings, compared to two hundred eighty eight (288) in 2020; five hundred thirty two (532) child support court appearances, compared to three hundred seventy two (372) in 2020; and forty six (46) expungement conferences and hearings, compared to twenty six (26) in 2020.

Despite dealing with an increased workload of thirty eight percent (38%) there were still triumphs. The following is a true story of perseverance and the impact the Assistant Attorneys and foster parents have on the children of this county. This is a story about a 15 year old boy who has been in and out of foster care for several years. The Tioga County Department of Social Services has been involved with this family since December 2014.

The Department offered extensive child protective and preventive services to the family. However, the parent failed to make significant

progress on their court ordered services to have their children returned to their care. The home was in extreme chaos and disarray including physical confrontations between the children and the parents. The children's medical needs were not being met and the children required multiple CPEP hospitalizations due to the instability and lack of appropriate parenting and supervision in the home, thereby, placing the children at risk of immediate danger and harm.

On July 20, 2017, the child was removed from the mother's care and placed in Foster Care due to the mother's inability to care for him. On August 8, 2019, the mother surrendered her parental rights and the child was freed for adoption. On March 19, 2021, the child's father surrendered his parental rights.

On June 17, 2021, the foster parents signed the Adoptive Placement Agreement, formalizing their intent to pursue adoption. The Department has completed the necessary paperwork and is ready to file the adoption.

The child is doing very well in the foster home and is very eager to be adopted by them. He is well adjusted and sees his foster family as his family and is very bonded to both parents. He refers to the foster parents as "mom and dad" and the foster parents' biological children as "brothers and sisters." The child is able to have interaction with his biological family, as his nephew is also placed in this foster home. As a further bond to the foster family the child is requesting that his name be changed at the time of the adoption so that he may honor the foster mother's father, who has since passed away. The foster parents meet his medical, optical, and dental needs. He is doing very well in school and his grades are commendable. He is in age appropriate activities, including but not limited to track and field at school. The child

participates in family birthday parties and family gatherings. The family likes to go camping and the child is allowed to bring a friend on trips. On January 7, 2022, the child was adopted and is now residing in his forever home.

### **ARTICLE 11 TAX FORECLOSURES**

The majority of legal work for the Article 11 Tax foreclosures is performed by the County Attorney's paralegal. The Law Department reviews all documents prior to filing, however due to the pandemic and the Governor's executive order, tax foreclosure proceedings were stayed and are currently still pending.

### **FREEDOM OF INFORMATION**

The Law Department continues to assist the Freedom of Information Officers with review and handling of these requests. There were seventy nine (79) FOIL requests filed in 2021. This number does not include FOIL requests filed with the Sheriff's Department. There were two (2) appeal hearings for denial of records in 2021.

### **SAFETY**

The Safety Officer part-time position was filled in February after remaining vacant for several months. The Safety Officer has a master's degree in Occupational Safety and Health and over eight (8) years' experience in the safety field. The Safety Officer investigates all workplace violence claims and county incidents making recommendations accordingly. The Safety Officer has weekly meeting with the Department of Public Works to ensure PESH and OSHA compliance and can frequently be found on job sites ensuring safe work practices are utilized. The Safety Officer also maintains and ensures all county employees have completed

driver training and oversees medical, hearing and drug testing. Due to the large amount of work this position entails the Safety Officer position will become full time in 2022.

### **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 [CAASNY], Broome 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 County and Assistant Attorneys have also attended extensive trainings and meetings for the Family First Prevention Act. This Act reforms federal financing to prioritize family based foster homes over residential care with a goal of reducing the lengths of stay and to prevent reoccurrence of placement. In order to be eligible for reimbursement of IV-E funds strict timelines need to be followed if a child is placed in a Qualified Residential Treatment Program.

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 2021, twenty-five (25) applications were processed which is a thirty-one percent (31%) increase from the previous year.

### **REDISTRICTING**

The County Attorney worked closely with the Board of Elections, Economic Development and Planning, and Information Technology and Communication Services GSI staff to develop and implement a redistricting plan for the County. This plan required significant of hours planning and the coordination of data provided by the Census Bureau, this fall, resulting in two (2) plans that were presented to the Legislature for a final vote for implementation in 2022.

### **GOALS & OBJECTIVES FOR 2022**

- The goals and objectives for the Department in 2022 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