



Monroe County Legislature
Office of the President

SABRINA LAMAR
PRESIDENT

September 13, 2022

OFFICIAL FILE COPY	
No. <u>220316</u>	
Not to be removed from the Office of the Legislature Of Monroe County	
Committee Assignment	
URGENT	-L

To the Honorable
Monroe County Legislature
407 County Office Building
Rochester, NY 14617

Subject: **Appointment of Monroe County Public Defender**

I, Sabrina LaMar, recommend that This Honorable Body confirm the appointment of Robert R. Fogg, Esq., L.L.M., as Public Defender pursuant to Section C7-5 of the Monroe County Charter.

Mr. Fogg is an extremely qualified and experienced attorney of law, having served in various legal capacities throughout his career. Mr. Fogg has received high recommendations from clients, judges, and fellow attorneys. Mr. Fogg has also received the unanimous endorsement of the 'Community Public Defender Selection Panel,' comprised of key stakeholders from across our community.

Mr. Fogg will bring a fresh mindset, energy, enthusiasm, and diversity to the position, and his commitment to indigent legal defense is unquestioned. A copy of his resume and supporting information is attached for your review. This appointment is effective immediately.

The specific legislative action required is to appoint Mr. Robert R. Fogg as Public Defender, effective immediately.

The legislative action requested in this referral is not an "Action" as that term is defined in 6 NYRCRR 617.5(b), and is not subject to review under the State Environmental Quality Review Act.

This resolution will have no impact on the revenue or expenditures of the current Monroe County Budget.

Sincerely,

Sabrina LaMar
Monroe County Legislature
President

By Legislators ___ and ___

Intro. No.

RESOLUTION NO. ___ OF 2022

APPOINTMENT OF ROBERT R. FOGG AS PUBLIC DEFENDER

BE IT RESOLVED BY THE LEGISLATURE OF THE COUNTY OF MONROE, as follows:

Section 1. In accordance with the provisions of Article 18-A of the County Law of the State of the New York and pursuant to Section C7-5 of the Monroe County Charter, Mr. Robert R. Fogg, is hereby appointed Public Defender, for a term expiring December 31, 2023.

Section 2. This resolution shall take effect in accordance with Section C2-7 of the Monroe County Charter.

Matter of Urgency
File No. 22-___

ADOPTION: Date: _____

Vote: _____



Niagara County
Conflicts Office
& Assigned Counsel
175 Hawley Street
Lockport, NY 14094

Phone: (716) 439-7310
Fax: (716) 439-7320

August 8, 2022

President Sabrina LaMar
Monroe County Legislature
By Email: legislatorlamar@gmail.com

Dear President LaMar:

I am writing this letter in support of the applicant Robert Ross Fogg, Esq. for Monroe County Public Defender. Mr. Fogg has been a Conflict Defender in Niagara County for the past year. I hired him for his many years of experience and knowledge in criminal defense. He is an excellent attorney and has been an exceptional addition to our office. Mr. Fogg handles most of our difficult cases and defends individuals with major felony charges.

Mr. Fogg is a hard worker who is dedicated to the profession and to representing his clients. Over the past year, I directly observed Mr. Fogg working on cases; reviewed his motions; and demeanor when working with others. He effectively communicates with those around him which includes my staff, other attorneys and his clients. In addition to working on his own matters, he is always willing to assist other attorneys with their matters.

I would describe Attorney Robert Ross Fogg as a true professional. He is respectful and polite to all those around him. I would rather he stay and continue to work in my office. However, I believe Mr. Fogg would make an excellent Public Defender. Please feel free to contact me if you need anything further.

Sincerely,


Kathleen A. Kugler, Esq.
Niagara County Conflict Defender
& Assigned Counsel Administrator



Erie County Court

**25 Delaware Avenue
Buffalo, New York 14202
716-845-9369 FAX 716-845-7509**

Hon. Sheila A. DiTullio
Erie County Court Judge
Acting Supreme Court Justice

August 5, 2022

Evelyn A. Gawronski
Principal Law Clerk to Judge

Personal and Unofficial

The Hon. Sabrina LaMar
Monroe County Legislature President
legislatorlamar@gmail.com

Re: Robert Ross Fogg, Esq., LL.M.
Monroe Public Defender Position
Letter of Reference

Dear Ms. Lamar:

I am aware that attorney Robert Ross Fogg is applying for the Public Defender position in Monroe County.

I am an Erie County Court Judge and have handled a criminal caseload in this position for approximately 28 years.

Please know that I have known Mr. Fogg for over 20 years and he has handled many criminal cases in my court. Robert is an exceptional criminal defense attorney, zealous and extremely knowledgeable and consistently obtains excellent dispositions for his clients through patience and skilled negotiations and/or trial.

In addition, Mr. Fogg has exceptional people skills, is well-liked and respected by his colleagues and has the ability to work with others in an amicable, efficient and productive manner. Robert interacts with the courts and their staff on a daily basis and is held in high regard by all.

Mr. Fogg has managed a private practice for over 16 years, and has held many significant and high level legal positions requiring superior legal and administrative skills.

Re: Robert Ross Fogg

August 5, 2022

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Finally, Mr. Fogg has the ethics, integrity and strong character required for the position of Public Defender. I thought that this letter may be helpful in giving you the full picture of Attorney Fogg's experience and how it relates to the Public Defender position.

Please do not hesitate to call me at (716) 845-9369 if you have any questions or if I may be of any assistance.

Thank you for your time and interest.

Very truly yours,

A handwritten signature in blue ink that reads "Sheila A. DiTullio". The signature is written in a cursive style with a large initial 'S' and a stylized 'D'.

SHEILA A. DiTULLIO
Erie County Court Judge

SAD/lda

Aircraft Intermediate



Maintenance Dept.

The Aircraft Intermediate Maintenance Department Officer
Takes Great Pleasure in Presenting to

AVIATION FIRE CONTROL TECHNICIAN SECOND CLASS
ROBERT FOGG
UNITED STATES NAVY

A Letter of Commendation

"For superlative performance while serving as a computer test station technician for Aircraft Intermediate Maintenance Department from 9 September 1988 to 7 October 1988. When serious problems degraded the performance of the computer test station, seriously jeopardizing aircraft mission capability, Petty Officer Fogg immediately set about making the repairs necessary to improve bench availability. Displaying an uncommonly strong inner drive and desire to complete repairs, he conducted exhaustive personal research on several difficult problems involving complex electronic circuitry. The successful repair of the computer test station was a direct result of Petty Officer Fogg's expert troubleshooting and unfailing persistence. His intense involvement, sophisticated technical skills and tireless devotion to duty upheld the highest traditions of the United States Naval Service. Well done."

Handwritten signature of M. W. Reagan in blue ink.

M. W. REAGAN
Commander, U. S. Navy

Commander Battle Force Sixth Fleet



LETTER OF COMMENDATION

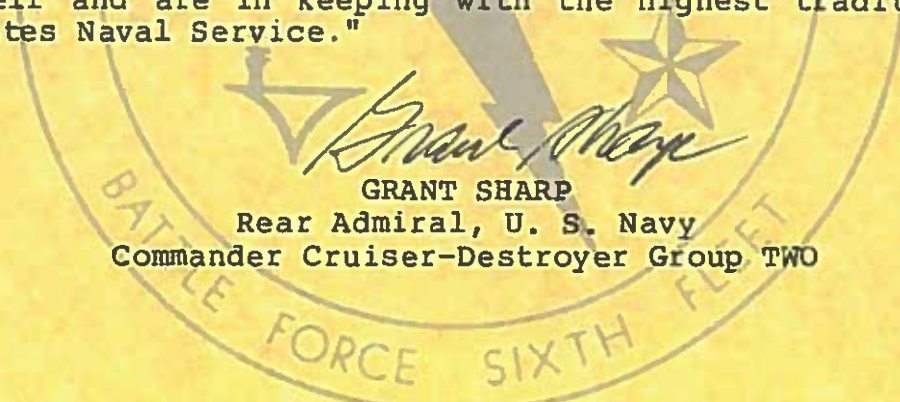
ROBERT ROSS FOGG
AVIATION FIRE CONTROL TECHICIAN THIRD CLASS
UNITED STATES NAVY

for service as set forth in the following
CITATION:

"For professional achievement and superior performance of duty while serving as Versatile Avionics Shop Test (VAST) F-14 operator in USS JOHN F. KENNEDY (CV67) while deployed to the Mediterranean from 18 August 1986 to 2 March 1987. Petty Officer FOGG consistently performed his demanding duties in an exemplary and highly professional manner. His superior ability, initiative and untiring efforts were instrumental in ensuring the overall operational effectiveness of his work center throughout a variety of demanding fleet operations. In particular, his thorough knowledge of all aspects of F-14 VAST components and his willingness to work extra hours significantly contributed to the 92.5 percent ready for issue rate and 93 percent production efficiency rate maintained by his work center. Additionally, his exceptional performance and proficient troubleshooting of Test Program Sets resulted in minimized station down time and elimination of the need for outside assistance. Petty Officer FOGG's professional ability, loyal devotion to duty and exceptional performance reflect great credit upon himself and are in keeping with the highest traditions of the United States Naval Service."



GRANT SHARP
Rear Admiral, U. S. Navy
Commander Cruiser-Destroyer Group TWO



AVIATION FIRE CONTROL TECHNICIAN SECOND CLASS
ROBERT FOGG
UNITED STATES NAVY

A LETTER OF COMMENDATION

"FOR SUPERLATIVE PERFORMANCE WHILE SERVING AS COMPUTER TEST STATION TECHNICIAN FOR AIRCRAFT INTERMEDIATE MAINTENANCE DEPARTMENT FORM 9 SEPTEMBER 1988 TO 7 OCTOBER 1988. WHEN FACED WITH SERIOUS PROBLEMS DEGRADING THE PERFORMANCE OF THE COMPUTER TEST STATION OPERATION THEREBY JEPORDIZING AIRCRAFT MISSION CAPABILITY, PETTY OFFICER FOGG IMMEDIATELY SET ABOUT MAKING THE NECESSARY REPAIRS TO IMPROVE TESTING CAPABILITY. INVOLVED IN LENGTHY TROUBLESHOOTING AND REPAIR PROCEDURES, PETTY OFFICER FOGG VOLUNTARILY WORKED NO LESS THAN EIGHT THIRTY-PLUS HOUR DAYS IN EFFORTS TO BRING THE STATION BACK ON LINE AS QUICKLY AS POSSIBLE. THE SUCCESSFUL REPAIR OF THE COMPUTER TEST STATION WAS A DIRECT RESULT OF HIS EXPERT TROUBLESHOOTING AND DOGBED PERSISTANCE. PETTY OFFICER FOGG'S TIRELESS DEVOTION TO DUTY UPHELD THE HIGHEST TRADITIONS OF THE UNITED STATES NAVAL SERVICE. WELL DONE."

Report to the President of the Monroe County Legislature regarding the search for the next Monroe County Public Defender

After the resignation of the Public Defender Timothy Donaher this search Committee was convened at the request of Sabrina LaMar, President of the Monroe County Legislature, to find a replacement. The Committee was tasked with the selection of the next Monroe County Public Defender.

The Members of the Committee are as follows:

Nathan Van Loon, Esq. (Chair)

Langston McFadden, Esq. (Vice-Chair)

Shani Curry, Esq.

Michael Pattison, Esq.

Hon. Joan Kohout (Retired)

Bishop Jeffrey L. Melvin

Ms. Shermond Johnson-Reid

Prior to the Committee's involvement, the position and job description of the Public Defender was published on the Monroe County website. The characteristics for the ideal candidate were as follows:

1. The Public Defender shall be an attorney duly licensed to practice law in the State of New York and admitted to practice in all courts within the scope of the plan.
2. The Public Defender must have thorough knowledge of the law relating to criminal defense including the New York State Penal Law, New York State Criminal Procedure Law, and the New York Case Law.

3. The Public Defender must have an ability to work with the judges, criminal lawyers, court administrators, other persons within the criminal justice system, and court officials.
4. The Public Defender must have extensive legal and supervisory experience. The ability to effectively, manage staff attorneys and other employees of the office.

The Committee deemed it was important to expand the search as to achieve as broad and diverse a candidate possible. Initially the deadline was February 11, 2022, but was first extended to March 15, 2022 and lastly till March 31, 2022. The last two week extension was the result of several paid advertisements that the County had paid for that ran for a month, beginning March 1, 2022. The notices and/or advertisements went out to the following entities:

New York State Defender's Association

New York State Bar Association

National Bar Association

Erie County Bar Association

Onondaga Bar Association

Monroe County Bar Association

Rochester Black Bar Association

Greater Rochester Association for Woman's Attorneys

Franklin Williams Judicial Commission

Minority Bar Association of Western New York

Oneida County Bar Association

William Herbert Bar Association of Central New York

Metropolitan Black Bar Association

Capital District Bar Association

Asian-American Bar Association

National Bar Association for Public Defense

Indeed.com

From these postings the Committee received eight applicants who filled out the Monroe County application, submitted resumes, writing samples and references. The writing samples were primarily reviewed by Vice-Chair Langston McFadden and Retired Hon. Joan Kohout. The references were contacted by Chair Nathan Van Loon and Shani Curry.

The position was held open until March 31, 2022, to obtain a larger applicant pool by advertising the position widely throughout the State of New York.

There were eight candidates for the position listed here in order that they were interviewed:

Jill Paperno, Esq. on March 23, 2022

Julie Cianca, Esq. on March 23, 2022

Tiffany Spangler, Esq. on April 9, 2022

Joshua Stubbe, Esq. on April 9, 2022

Robert Ross Fogg, Esq. on April 9, 2022

Sarah Valencia, Esq. on April 9, 2022

Andre Vitale, Esq. on April 9, 2022

John Bradley, Esq. on April 9, 2022

Questions from the Committee were uniform in nature covering a variety of topic areas regarding the role of the Public Defender in terms of relationship in the community, the management of the office and direction each candidate wished to take the office. Each candidate was given an opportunity to provide an opening and closing statement as well as approximately one hour to one hour and fifteen minutes to answer as many questions as time allowed. The questions compiled by the search Committee were as follows:

1. Describe your client?

2. What do you see as the present challenges for the office? And how will you address them?
3. What is your leadership philosophy?
4. What do you believe the mission of the Public Defender's Office should be?
5. What experience do you have that uniquely qualifies you for the position of the Monroe County Public Defender?
6. If you were appointed to the position of Public Defender, what would your top priority be for the office and how would you address it?
7. Do you see any other roles of the Public Defender's Office beyond the function of zealous representation of indigent defendants?
8. What is the most difficult situation you have encountered in an employment leadership role and how did you address it at the time?
9. If there are personnel openings, how would you recruit applicants and select the most qualified applicants?
10. How would you promote diversity in attorney and office personnel?
11. How would you promote community engagement and education?
12. What plans do you have to assure training and supervision of new and more experienced office staff and attorneys?
13. The Public Defender is both an inward facing job, as you are the leader of the office, but also outward facing job as you represent the office to the legislature and the public, how will you balance these roles?
14. What do you see as the most difficult coming challenges for the Public Defender's Office in the next five/ten years and how would you meet those challenges?

15. Why are Public Defenders paid less than District Attorneys and County Attorneys and what do you propose to do about it?
16. Why is it that the Conflict Defender's Office is taking over duties in city courts and Public Defender's keep the town and village courts?
17. The Public Defender's Office is or soon will be the largest law office in Monroe County, what steps will you take as a Public Defender to make sure that taxpayers monies are well spent by the office?
18. Given the competition regarding recruitment of attorneys in government and private bar, how do you propose to fill your ranks of attorneys?
19. Given the current controversy over the issue of bail reform, do you have a position, and should the Public Defender have a position?
20. Are there any organizational changes to the office that you anticipate? If so, what are they?
21. A large portion of the Public Defender's Office practice is in family court. Please relate your experiences in this aspect of the practice if any?

One candidate declared that "I didn't really want the job," began to advocate for another candidate, and subsequently that candidate's interview was cut short.

The candidates brought up their experience, qualifications, and vision for the Office of the Public Defender, sharing with the Committee their various points of view.

On April 9, 2022, after the last of the interviews the Committee voted by anonymous ballot to advance four candidates to the next round. Each Committee member was permitted to vote for four candidates. The results were as follows:

Robert Ross Fogg, Esq. 7 votes
Julie Cianca, Esq. 7 votes
Andre Vitale, Esq. 6 votes
Sara Valencia, Esq. 4 votes
Jill Paperno, Esq. 3 votes
Joshua Stubbe, Esq. 1 vote
Tiffany Spangler, Esq. 0 votes
John Bradley, Esq. 0 votes

There were two forums that were held at the Powerhouse Church of God in Christ on April 11th and 12th of 2022 for the community stakeholders and the faith-based community to ask questions of the candidates. All four candidates, Robert Ross Fogg, Esq., Julie Cianca, Esq., Andre Vitale, Esq. and Sara Valencia, Esq. attended. The evaluation by the Committee continued as most of the Committee members were in attendance over these two successive nights. The sessions went on for approximately three hours each night and involved a ten-minute opening statement, a question and answer period where the candidates had 2 ½ minutes each to respond and a closing statement.

Then there was an open community forum held on April 18, 2022, at the Central Church of Christ from 6pm to 10pm for the four candidates as well. Most of the Committee members were in attendance.

On April 21, 2022, the Committee met by Zoom to make its recommendation for two candidates to the Monroe County Legislature. After discussion the full Committee voted, and each Committee member was entitled to two votes. The results of the vote were as follows:

Robert Ross Fogg, Esq. 7 votes
Julie Cianca, Esq. 4 votes
Andre Vitale, Esq. 3 votes

Sarah Valencia, Esq. 0 votes

Respectfully the search Committee for the next Public Defender proposes for the consideration to be the next Monroe County Public Defender:

Robert Ross Fogg, Esq.

Julie Cianca, Esq.

Respectfully Submitted,

Nathan Van Loon, Esq.