

# **INDIGENT LEGAL SERVICES BOARD**

## **AGENDA**

**March 10, 2011**

**Association of the Bar of the City of New York**

- I. Opening Remarks by the Chief Judge**
- II. Activities of the ILS Office by Director Bill Leahy**
  - Location of the Office
  - Staffing the Office
  - Outreach Efforts
- III. Briefing on the ILS Office Meetings with the Division of Budget**
  - Available Funds from SFY 2010-11 Appropriation
  - Status of SFY2011-12 Budget process
- IV. Distribution of Funds to Counties**
  - Statutory mandate (minus 1.1% FMAP) by March 15, 2011
  - Additional Funds in Advance of Competitive Grant Process (see attached memo)
- V. Discussion**
- VI. Vote**
- VII. Schedule of Board Meetings for 2011**
  - May
  - September
  - November
- VIII. Concluding Remarks**

To: Indigent Legal Services Board

From: William J. Leahy, Director, Office of Indigent Legal Services

Re: Distribution of Funds to Improve the Quality of Representation

Date: March 8, 2011

On or about March 15, 2011, the Office of State Comptroller (OSC) will distribute a total of just under \$65.8 million from the Indigent Legal Services Fund (ILSF) to the counties and New York City. This figure is \$4.3 million less than the amount awarded in March, 2010: (1) because the June, 2010 law which created this Office and Board also amended the State Finance Law to provide for 90% of last year's payment, except for a flat \$40 million payment to New York City (as opposed to \$40.8 million last year), and (2) because there was a further reduction of 1.1% to cover the costs of Medicaid reimbursements.

When the statute was enacted, it was anticipated that a Board, an Office and a Director would be in place in time for counties to apply for grants from the balance of the \$77 million ILSF authorization in the state fiscal year budget for 2010-2011, which ends on March 31. That did not happen. This leaves the counties and the city with less state money for representation of the poor than they had last year, without any chance to apply during the current fiscal year for additional funding as they had expected.

According to Department of Budget representatives who have briefed me, there remains just over \$11.2 million in unexpended FY2010-2011 funds in the ILSF. It will take a minimum of several months for us to hire the necessary staff and to produce performance measures and prepare detailed grant applications. Meanwhile, indigent defense providers who thought they could supplement their 90 percent (now further reduced) share of last year's funding by successfully applying for supplemental grants have *less* money than they did last year.

This Office and this Board have a shared, fundamental statutory responsibility to "make efforts to improve the quality of services provided pursuant to article eighteen-B of the county law." Executive Law Article 30, sections 832 (1) (Office) and 833 (1) (Board). We would shirk this responsibility if we were to force the providers to wait additional months with *fewer* resources as a result of the new statute. I therefore believe that the Board should authorize an additional total of \$4,320,052 to be distributed to the counties and New York City, for the purpose of improving the quality of the services provided to people who are entitled under law to the Assistance of Counsel, but are unable to afford an attorney. These amounts are detailed in the attachment, "Indigent Legal Services Fund March 2010 and March 2011 Distributions". The third column shows the amount which would be provided to each jurisdiction.

These distributions would be made only to jurisdictions whose providers identify one or more specific aspects of their existing representation which are in need of improvement, with reference to the New York State Bar Association Standards, the New York State Defenders Association Standards, or both. Furthermore, each distribution would trigger a reporting requirement within 60 days of receipt of the funding, in which the recipient informs the Office how the additional funding was used to remedy or to mitigate the deficiency or deficiencies which were identified at the outset.

It is intended that these distributions will not only give the counties and providers the means and the incentive to self-analyze and initiate improvements in the quality of the representation now being provided, but that they will also give the Office and Board invaluable information for the future, when we are engaged in the assessment of applications for discretionary funding.

**Indigent Legal Services Fund March 2010 & March 2011 Distributions**

| <b>County</b>        | <b>ILSF Distribution<br/>March 2010</b> | <b>ILSF Distribution<br/>March 2011 (Adjusted<br/>for 1.1% FMAP)</b> | <b>Difference Btwn March<br/>2010 &amp; March 2011</b> |
|----------------------|---|--|--|
| Albany               | \$ 1,048,973                            | \$ 933,691   | \$ 115,282   |
| Allegany             | \$ 140,868                              | \$ 125,387   | \$ 15,481  |
| Broome               | \$ 870,355                              | \$ 774,703   | \$ 95,652  |
| Cattaraugus          | \$ 322,932                              | \$ 287,442   | \$ 35,490  |
| Cayuga               | \$ 174,733                              | \$ 155,530   | \$ 19,203  |
| Chautauqua           | \$ 359,894                              | \$ 320,342   | \$ 39,552  |
| Chemung              | \$ 353,727                              | \$ 314,852   | \$ 38,875  |
| Chenango             | \$ 118,871                              | \$ 105,807   | \$ 13,064  |
| Clinton              | \$ 304,460                              | \$ 271,000   | \$ 33,460  |
| Columbia             | \$ 202,325                              | \$ 180,089   | \$ 22,236  |
| Cortland             | \$ 200,696                              | \$ 178,640   | \$ 22,056  |
| Delaware             | \$ 139,829                              | \$ 124,462   | \$ 15,367  |
| Dutchess             | \$ 1,095,628                            | \$ 975,218   | \$ 120,410   |
| Erie                 | \$ 1,940,171                            | \$ 1,726,946   | \$ 213,225   |
| Essex                | \$ 127,665                              | \$ 113,635   | \$ 14,030  |
| Franklin             | \$ 150,644                              | \$ 134,088   | \$ 16,556  |
| Fulton               | \$ 146,833                              | \$ 130,696   | \$ 16,137  |
| Genesee              | \$ 222,800                              | \$ 198,314   | \$ 24,486  |
| Greene               | \$ 153,839                              | \$ 136,932   | \$ 16,907  |
| Hamilton*            | \$ 17,262                               | \$ 15,365  | \$ 1,897   |
| Herkimer             | \$ 88,987                               | \$ 79,207  | \$ 9,780   |
| Jefferson            | \$ 259,144                              | \$ 230,664   | \$ 28,480  |
| Lewis                | \$ 75,952                               | \$ 67,605  | \$ 8,347   |
| Livingston           | \$ 135,467                              | \$ 120,579   | \$ 14,888  |
| Madison              | \$ 151,786                              | \$ 135,105   | \$ 16,681  |
| Monroe               | \$ 2,123,173                            | \$ 1,889,836   | \$ 233,337   |
| Montgomery           | \$ 148,510                              | \$ 132,189   | \$ 16,321  |
| Nassau               | \$ 2,150,923                            | \$ 1,914,537   | \$ 236,386   |
| Niagara              | \$ 439,054                              | \$ 390,802   | \$ 48,252  |
| Oneida               | \$ 717,527                              | \$ 638,671   | \$ 78,856  |
| Onondaga             | \$ 1,280,777                            | \$ 1,140,020   | \$ 140,757   |
| Ontario              | \$ 362,548                              | \$ 322,704   | \$ 39,844  |
| Orange               | \$ 883,169                              | \$ 786,109   | \$ 97,060  |
| Orleans*             | \$ 104,293                              | \$ 92,831  | \$ 11,462  |
| Oswego               | \$ 365,947                              | \$ 325,729   | \$ 40,218  |
| Otsego               | \$ 222,740                              | \$ 198,261   | \$ 24,479  |
| Putnam               | \$ 189,129                              | \$ 168,344   | \$ 20,785  |
| Rensselaer           | \$ 362,764                              | \$ 322,896   | \$ 39,868  |
| Rockland             | \$ 829,807                              | \$ 738,611   | \$ 91,196  |
| St. Lawrence         | \$ 340,872                              | \$ 303,410   | \$ 37,462  |
| Saratoga             | \$ 282,136                              | \$ 251,129   | \$ 31,007  |
| Schenectady          | \$ 617,689                              | \$ 549,805   | \$ 67,884  |
| Schoharie            | \$ 91,321                               | \$ 81,285  | \$ 10,036  |
| Schuyler             | \$ 74,369                               | \$ 66,196  | \$ 8,173   |
| Seneca               | \$ 92,426                               | \$ 82,268  | \$ 10,158  |
| Steuben              | \$ 281,198                              | \$ 250,294   | \$ 30,904  |
| Suffolk              | \$ 2,808,344                            | \$ 2,499,707   | \$ 308,637   |
| Sullivan             | \$ 323,998                              | \$ 288,391   | \$ 35,607  |
| Tioga                | \$ 82,534                               | \$ 73,464  | \$ 9,070   |
| Tompkins             | \$ 359,315                              | \$ 319,826   | \$ 39,489  |
| Ulster               | \$ 587,391                              | \$ 522,837   | \$ 64,554  |
| Warren               | \$ 213,623                              | \$ 190,146   | \$ 23,477  |
| Washington           | \$ 118,002                              | \$ 105,034   | \$ 12,968  |
| Wayne                | \$ 330,286                              | \$ 293,988   | \$ 36,298  |
| Westchester          | \$ 3,724,663                            | \$ 3,315,323   | \$ 409,340   |
| Wyoming              | \$ 68,081                               | \$ 60,599  | \$ 7,482   |
| Yates                | \$ 64,912                               | \$ 57,778  | \$ 7,134   |
| New York City        | \$ 40,765,562                           | \$ 39,560,000  | \$ 1,205,562   |
| <b>Total</b>         | <b>\$ 70,089,369</b>                    | <b>\$ 65,769,317</b>   | <b>\$ 4,320,052</b>                                    |
| <b>Non-NYC Total</b> | <b>\$ 29,323,807</b>                    | <b>\$ 26,209,317</b>   | <b>\$ 3,114,490</b>                                    |

\*Hamilton and Orleans counties did not receive a 2010 ILSF Distribution. The NYS OSC estimated that Hamilton would have received \$17,262 and Orleans would have received \$104,293 in March 2010 for the purposes of calculating their March 2011 ILSF distributions. These estimated amounts are not included in the March 2010 Total ILSF Distribution. Consequently, the Total for column 3 does not include the difference between what these counties would have received in 2010 and what they are scheduled to receive in 2011. Instead, the Total represents the difference between the actual 2010 ILSF Distribution and the minimum 2011 ILSF Distribution.