

INDIGENT LEGAL SERVICES BOARD

AGENDA

June 7, 2011

Association of the Bar of the City of New York

I. Opening Remarks by the Chief Judge

II. Briefing on ILS Outreach and Meetings

- Report on County/District Visits
- Report on Meeting with Statewide Chief Defenders

III. Activities of the ILS Office

- Director's Appointment Authority & Staffing Update (see attachment A)
- Status Report on Distribution of Funds to the Counties

IV. Discussion and Development of Requests for Proposals (RFPs)

- Providing Counsel at First Appearance
- Addressing Padilla v Kentucky

V. Vote

- Authorization for the Office to Develop RFPs (see attachment B)
- Ratification of the Director's Acceptance of March 18 County Proposals (see attachments C and D)

VI. Remaining Board Meetings for 2011

- September 27
- November 9

VII. Concluding Remarks

Office of Indigent Legal Services
State Capitol Room 254
Albany, NY 12224
518-486-5747

William J. Leahy
Director

May 24, 2011

Steven M. Cohen, Esq.
Secretary to the Governor
State Capitol Room 207
Albany, NY 12224

Dear Steve,

I write to thank you for finalizing my appointment of Joe Wierschem as Counsel to the Office of Indigent Legal Services, and to request your further assistance in facilitating my appointment of several additional employees for the ILS office, as authorized by Executive Law Article 30, section 832 (2) (d). Joe's wealth of experience in many New York State government offices, his analytical skill and especially his judgment have already served this office well. Thanks for stepping in to get Joe across the finish line.

I also want to thank you for stopping by during my meeting with Judge Leach last month to express your support and the Governor's for the work of this office and the Indigent Legal Services Board. We cannot succeed without your support, and we are very grateful to have it. It is enormously significant to us that you and Counsel Mylan Denerstein have been so accessible and so helpful to us as we begin our mission.

As you know, the ILS Office and Board have been vested with the challenging task of improving the quality of indigent defense services statewide. We must hire staff to implement the myriad of responsibilities defined in section 832 (3) (a) through (m). These daunting tasks cannot be accomplished by a staff of two people. In order for the Office to function as the statute envisions, it is imperative that my appointments of employees be implemented as soon as possible after I have made them.

At the moment, I am awaiting approval by the Civil Service Commission of three additional key employee appointments. As the time approaches when I am ready to make my appointments, I will reach out to you to seek your assistance to ensure that those appointments become effective as quickly as possible.

Yours truly,

William J. Leahy

To: Members, Indigent Legal Services Board
From: William J. Leahy, Director
Office of Indigent Legal Services
Re: Authorization to proceed with development of RFPs
Date: June 2, 2011

The silver lining to our unwanted immersion in the OSC grant approval process in our first distribution of ILSF monies to the counties is that we are learning a lot about important procedures that will appropriately be required for future grant initiatives. ILS counsel Joe Wierschem has done a very effective job of identifying and complying with OSC rules and procedures.

Today I seek your authorization to proceed with our second and third sets of initiatives. The second would be a Request for Proposals to the counties, in consultation with their defender leaders, to propose a legally appropriate and cost-effective plan to provide counsel to every eligible person at his or her first court appearance. This is the grand initiative announced by Chief Judge Lippman in his May 2, 2011 Law Day address, which received kind words from Governor Cuomo and has attracted favorable national attention. Preliminary exploration by this office and by chief defenders in several counties demonstrates that best solutions to the problem of no counsel at first appearance may well differ from county to county, and may also require institutional changes in the housing of arrested persons and/or the responsibilities of judges. Our role is to encourage each county that does not uniformly provide counsel at first appearance to submit a proposal that furnishes counsel for each person, and does so in a creative and cost-effective manner. To encourage participation by the counties and to attain continuity of the initiative, I would propose that these grants run for a period of three years.

The third initiative would be a Request for Proposals by counties, particularly "collaborative efforts serving multiple counties" in the words of Executive Law Article 30, section 832 (3) (g), for the purpose of training and advising attorneys who provide representation under county law 18-B so they might comply with the United States Supreme Court decision in *Padilla v. Kentucky*, 130 S. Ct. 1473 (2010). This is another very important, Constitution-compliant and client-centered initiative. It concerns an issue to which New York City is already providing a very significant level of resources and funding, while many upstate areas lack the resources to even begin to address it. We have in hand already a very promising proposal submitted by the Public Defender offices in Monroe, Genesee and Wyoming counties for a Western New York Criminal Immigration Advisory Center, which would provide assistance and training to indigent defense counsel in 22 counties within the 5th, 7th and 8th Judicial Districts, which is impressive in itself and could serve as a model for consideration by other counties. This too would be a three year grant cycle, for the reasons cited above.

Given the Board's authorization, we will proceed to develop RFPs in both of these areas; but we will not issue any such Request until we have first submitted our draft for review by the members of the Board.