

INDIGENT LEGAL SERVICES BOARD

AGENDA

November 9, 2011

Association of the Bar of the City of New York

- I. Opening Remarks by the Chief Judge**
- II. Approval of Minutes from September 27, 2011 Board Meeting**
- III. Briefing on ILS Outreach and Meetings**
- IV. Appropriation Request for Fiscal Year 2012-2013**
 - \$83 million Appropriation for ILSF Monies to Counties for Improving Quality of Services Statewide
 - \$3 million to Annualize ILS Staffing
 - Total Appropriation Request of \$86 million
- V. Other Activities of the Office**
 - Staffing Update
 - Status of Distributions to Counties
 - Update on Future Distributions and Grants
- VI. Proposed Schedule for 2012 Board Meetings**
 - Wednesday, March 14
 - Wednesday, June 6
 - Wednesday, September 26
 - Wednesday, November 7
- VII. Concluding Remarks**

Minutes for ILS Board Meeting

September 27, 2011

11:30 A.M.

Association of the Bar of the City of New York

Board Members Present: Chief Judge Lippman, Michael Breslin, John Dunne, Sheila DiTullio, Joe Mareane, Lenny Noisette, and Sue Sovie

Absent: Gail Gray and Susan John

ILS Office Attendees: Bill Leahy and Joe Wierschem

I. Opening Remarks by the Chief Judge

The Chief Judge welcomed and thanked everyone for attending and invited Bill Leahy to brief the attendees on the outreach of the Office.

II. Briefing on ILS Outreach and Meetings

Bill reported on his meeting with leaders in St Lawrence County, the largest geographical county in the state; he met with the District Attorney who reported on the challenges in the county, including the caseload issues as illustrated by her own full case load.

Bill then went on to discuss his visits in Jamestown and Cattaraugus (8th JD) with Sheila DiTullio; in particular, recounted were the impressive efforts and early success in Cattaraugus to address the counsel at first appearance.

Bill reported on his late July meeting with NYSAC and their concerns generally; NYSAC reiterated the 18B issue in Albany in which judges are assigning 18B attorneys even though public and conflict defenders are available; Mike Breslin noted that, as county exec, he has added a full-time PD and CD attorneys and the assignment issue is still occurring.

Bill reported on a good meeting with Jim Yates and Susan John in August. The Assembly supports the Office interpretation of the statute regarding competitive and non-competitive distributions.

Bill also reported on his meetings in Watertown, organized by Sue Sovie and Tompkins County, organized by Joe Mareane.

The upcoming meetings/appearances already or to be scheduled by the Office are: meetings with Governor's Counsel, Mylan Denerstein and Jim Yates; John Dunne and Senators Saland and Bonacic; a meeting with Peter Kehoe, president of the Sheriff's Association; Bill's keynote address in Dutchess County in October; and his participation on a panel with Jonathan

Gradess and Norm Effman in Warren County.

III. Other Activities of the Office

A general discussion of ILS Office staffing and personnel issues required the Board to go into Executive Session. After discussion, no action was taken.

With respect to the distribution of funds to the counties for quality improvement, Bill addressed the concerns that he has been hearing around the state from all parties (counties, defenders, etc.) that general funding does not stop as the statutory distribution decreases. Bill noted the importance of continuing the non-competitive distributions; Lenny asked about the "process" for these distributions and Bill noted that the Office will have more formality and measurement ability with these distributions in the coming fiscal year and beyond.

There was a brief discussion of the City Court Survey (completed with the assistance of OCA) that noted the absence of counsel at first appearance was not limited to Town & Village Courts but also was a problem in OCA's City Courts. The Chief Judge noted that OCA will cooperate with the Office and make efforts to improve this problem. He suggested that Bill work with Deputy Chief Administrative Judge Mike Coccoma and his staff and local administrators around the state.

Judge DiTullio note that beginning in October, an attorney would be present at arraignment in Cheektowaga because of ILS funding.

Finally, Lenny suggested that a summary of projects from the all county 2011-12 budget be distributed to all board members. Bill advised that his counsel, Joe Wierschem was working on such a list already and would circulate it as soon as it was completed.

IV. Allocation of Funds Appropriated for Fiscal Year 2011-2012

Bill referred all Board members to his detailed September 22, 2011 memo regarding the allocation of FY 2011-12 appropriation. He walked the board through the detailed dollar amounts for the statutory distribution, the non-competitive distribution and the grant appropriation for the previously approved initiatives (counsel at first appearance and regional immigration centers). He then asked the Board to vote on the allocation as set forth therein.

John Dunne made a motion to approve the appropriation as per the memo; it was seconded by Sheila DiTullio and unanimously approved by all board members.

V. Appropriation Request for Fiscal Year 2012-2013

Bill then led a discussion about the Office's budget request for next year. He noted that

the Governor's call letter for the FY 2012-13 budget requests was expected shortly. He referred to his budget request memo to the board dated September 22, 2011. Bill explained that he was mindful of the state's fiscal issues and would propose an operating budget of \$1.8 million (basically an annualization) and office budget of \$83 million. This led to a discussion initiated by Joe Mareane about the source of the revenue for ILS. Bill explained the ILSF Fund that was created in 2004/5 was to support the Office. Last year, approximately \$30 million was swept into the General Fund.

Joe M noted that we need to assert the Office's right to the entire Fund as per the statute. Mike Breslin then added that we need justification for all funds but since ILS is a start-up office, Bill should note in his request that we won't seek it all now, but in the next 2-3 years, we'll need the entire Fund.

After this discussion, Bill asked the Board to vote to approve his budget request as per his memo with the added understanding of the points made by Joe and Mike.

Sue Sovie made the motion to approve Bill's proposed \$84.8 million FY 2012-2013 budget request; it was seconded by Joe Mareane and unanimously approved by all board members.

VI. Remaining Board Meeting for 2011

The remaining board meeting for this year will be on November 9 and at that meeting we will set the schedule for the 2012 meetings. Dates will be circulated in advance so all board members can check their schedules prior to the meeting.

VII. Concluding Remarks

The Chief Judge thanked Bill and his Office for all of their good work and important outreach efforts.

To: Indigent Legal Services Board Members

From: William J. Leahy

Re: Staff and Operations Funding Request for FY 2012-2013

Date: November 4, 2011

Three days following our September 27 meeting, we had an opportunity to meet with Governor Cuomo's legal counsel, Mylan Denerstein, and Speaker Silver's chief of staff, Jim Yates. As a result of that meeting and subsequent conversations, I believe it would be wise for the Board to authorize a request for the same \$3 million appropriation for staff and operations that Governor Cuomo proposed in January for this year's appropriation. That figure, you will recall, was cut in half during late-stage budget negotiations. However, there is reason to believe that support for our effective operation may be building. Therefore, we should give the Governor the opportunity to propose funding at the same level he advocated for last year, and the Legislature a second chance to approve that amount.

I therefore ask the Board to authorize a request for three million dollars in funding for ILS staffing and operations in the FY 2012-13 budget. When combined with the \$83 million in ILSF disbursement funding which the Board approved on September 27, this would bring our total appropriation request for FY 2012-13 to eighty-six million dollars (\$86 million).

We do need to bear in mind that the Department of Budget (DOB) "call letter" dated October 31, 2011 states that the forthcoming state budget will require agencies to reduce their spending by 2.5% relative to the current fiscal year. However, we have reason to believe that this requirement may not apply to a recently created agency such as ours, which is just beginning to assemble a staff. I will know more about this by the time we meet on Wednesday, and will bring you fully up to date at that time.

May, 2011 ILSF Distribution

11.9.11

| County/Amount | Budget/Work Plan |
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| Albany \$115,282 | (1) Provided funding for new Alternatives to Incarceration (ATI) Coordinator to coordinate ATI programs for clients with developmental disabilities or issues involving alcohol/substance abuse, mental health, or domestic violence; (2) provide funding for expert services; (3) upgrade technology in Public Defender and Alternate Public Defender offices, including purchasing laptop computers, scanners and cell phones; and (4) provide CLE and other training opportunities for Public Defender and Alternate Public Defender attorneys. |
| Allegany \$15,481 | Partially fund upgrade of Assistant Public Defender position from part-time to full-time. |
| Broome \$95,652 | (1) Create new support staff position in Public Defender office; (2) provide funding for basic and advanced trial skills training; (3) purchase equipment to expand client access to attorney services, including upgrade of video conferencing; (4) increase number of Westlaw licenses for legal research; and (5) expand library of internet and hard copy publications. |
| Cattaraugus \$35,490 | (1) Provide CLE training opportunities for members of Assigned Counsel panel, Legal Aid Society and Public Defender office; (2) upgrade office equipment, including furniture and computer services; and (3) fund study to assess feasibility of contracting with Legal Aid Society to handle conflict cases in criminal court. |
| Cayuga \$19,203 | (1) Provide CLE training opportunities to members of Assigned Counsel panel (e.g., DWI, immigration, trial tactics, appellate practice, Leandra's Law, evidence, computer technology and sentencing issues); (2) provide funding for investigative, interpreting and expert services in criminal cases; (3) upgrade computer capabilities, including purchasing printer; and (4) provide funding for additional attorney representation in specialty courts (e.g., domestic violence, drug court, family treatment court and mental health court). |
| Chautauqua \$39,552 | (1) Add part-time, temporary attorney position to reduce caseloads in Public Defender office; (2) provide CLE and other training opportunities to Public Defender attorneys and members of Assigned Counsel panel; (3) provide funding for investigative services and trial experts in felony cases; and (4) upgrade technology in Public Defender's Office, including upgrading fax machine and purchasing digital camera. |
| Chenango \$13,064 | (1) Create part-time Student Intern position in Public Defender's Office; (2) provide CLE training opportunities to Assistant Public Defenders and Assigned Counsel attorneys; and (3) upgrade computer system and furniture. |
| Clinton | (1) Partially fund community service and pre-trial release monitoring positions; (2) provide funding for investigative services in criminal matters; (3) provide funding to cover expenses for production of court and state records in criminal matters; (4) |

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| \$33,460 | provide basic skills training to Assigned Counsel panel members; and (5) upgrade computers. |
| Columbia \$22,236 | Provide funding for part-time investigator in Public Defender office and provide investigative services for Conflict Attorney and assigned counsel.. |
| Cortland \$22,056 | (1) Provide CLE and other training to attorneys in Public Defender office; (2) partially fund enhanced case management system; (3) upgrade computer system so that it is compatible with case management system; and (4) update the law library in Public Defender office. |
| Delaware \$15,367 | (1) Provide series of CLE training programs to members of Assigned Counsel panel (i.e., three programs - fall, 2011; spring, 2012; and summer, 2012); and (2) provide funding for investigative and expert witnesses in felony cases. |
| Dutchess \$120,410 | (1) Add entry level Assistant Public Defender position to address rising caseloads; (2) provide funding for legal and investigative research materials, both print media and online subscriptions; (3) provide funding for expert witnesses in criminal cases; and (4) upgrade office equipment (e.g., purchase filing cabinets, camera, and laptop computer). |
| Erie \$213,225 | (1) Provide funding for Assigned Counsel Program to provide attorney representation at arraignment in Cheektowaga Town Court; (2) provide funding for Assigned Counsel Program to provide co-counsel in limited number of complex felony cases (expected to go to trial); (3) add staff attorney position at Legal Aid Bureau to reduce caseloads; (4) provide funding for investigative services in felony cases; (4) provide funding for social worker and expert services in criminal and Family Court cases; and (5) provide funding for hands-on training of attorneys with limited trial experience. |
| Essex \$14,030 | Partially fund new full-time Assistant Public Defender position. |
| Franklin \$16,556 | (1) Provide funding for investigative services (Public Defender and Conflict Defender office); (2) upgrade capabilities of computer systems, including printing and copying (Public Defender and Conflict Defender offices); (3) obtain crime scene recreation software; and (4) install large filing cabinets. |
| Fulton \$16,137 | Provide funding for investigative services. |
| Genesee \$24,486 | (1) Partially fund upgrade of Assistant Public Defender position from part-time to full-time; and (2) contract with Genesee County Mental Services to provide transportation for clients of Public Defender and Assigned Counsel attorneys to and from in patient and congregate care residential treatment facilities. |
| Greene | (1) Increase salaries of Public Defender and Assistant Public Defender; and (2) upgrade computer system in Public |

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| \$16,907 | Defender's Office (i.e., purchase five desk top computers, five large screen monitors, five laser printers and three laptop computers). |
| Hamilton | No proposal submitted. Declined to respond due to low amount of available funding. |
| \$1,897 | |
| Hertimer | (1) Provide funding for additional support staff hours for Assigned Counsel Administrator; (2) provide CLE training and legal subscription materials to members of Assigned Counsel Panel; (3) upgrade Assigned Counsel Administrator's office (e.g., printer and filing system). |
| \$9,780 | |
| Jefferson | (1) Provide funding for investigative and expert services in criminal cases; and (2) provide funding for CLE and other training for Assigned Counsel attorneys. |
| \$28,480 | |
| Livingston | Provide funding to purchase case management software. |
| \$14,888 | |
| Madison | (1) Provide funding for investigative and expert services in felony cases; and (2) provide funding for costs of transcripts for appeals. |
| \$16,681 | |
| Monroe | (1) Add new Assistant Conflict Defender position for Family Court; (2) add two new Assistant Public Defender positions to reduce caseloads; (3) provide funding for Appeals Backlog Reduction Program to reduce existing backlog in perfection of appeals in Public Defender and Conflict Defender offices. |
| \$233,337 | |
| Montgomery | (1) Provide additional funding for Assigned Counsel program; (2) purchase legal reference materials; (3) provide funding for CLE and other training; and (4) purchase office supplies/equipment. |
| \$16,321 | |
| Nassau | (1) Provide funding to enable Assigned Counsel Defender Plan to provide representation of individuals at weekend arraignments in Nassau District Court; (2) provide funding to enable Assigned Counsel Defender Plan to provide legal assistance to indigent, and primarily incarcerated individuals, so that an attorney can review and, if appropriate, challenge prior convictions as a result of problems arising from the operation, and closure, of the Nassau County Police Department Crime Lab; (3) upgrade computer capabilities of the Assigned Counsel Defender Plan (e.g., new, larger servers and new workstations); and (4) provide funds for investigative and expert services in criminal defense cases (Legal Aid Society and Assigned Counsel Defender Plan). |
| \$236,386 | |
| Niagara | (1) Provide funding for investigative and expert services; (2) provide funding for CLE and other training; (3) purchase legal reference materials; and (4) provide funding for custody evaluations in Family Court. |

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| \$48,252 | |
| Oneida | (1) Purchase and implement an online voucher system for Assigned Counsel panel members; (2) add part-time Clerk position in the Public Defender office; (3) replace all computers in Public Defender office with new computers capable of doing Skype or similar functions; and (4) provide CLE training to members of the Assigned Counsel panel. |
| \$78,856 | |
| Onondaga | (1) Add Senior Attorney position (Hiscock Legal Aid Society) to provide additional representation in Family Court; (2) implement Volunteer Initiative Program (CNY Services) to coordinate volunteer services for court diversion in all Town, Village and City Courts; (3) provide funds for CLE and other training; and (4) upgrade computers and printers. |
| \$140,757 | |
| Ontario | (1) Retain mitigation specialist to facilitate mental health and drug/alcohol treatment referrals and work with incarcerated high school students; (2) provide low-cost CLE training to members of Assigned Counsel panel and Public Defender office; (3) upgrade computer equipment; (4) upgrade technical equipment (e.g., audio-visual, recording devices and cameras); and (5) provide Spanish language training. |
| \$39,844 | |
| Orange | (1) Purchase and install a web-based electronic voucher system for Assigned Counsel attorneys; (2) provide CLE training for Assigned Counsel and Legal Aid Society attorneys; and (3) develop summer internship program at Legal Aid Society for college and law students with career interest in providing indigent legal services in areas of family or criminal law. |
| \$97,060 | |
| Orleans | (1) Provide additional investigative and expert services and (2) partially fund new case management system, including upgrading computer system. |
| \$11,462 | |
| Oswego | Provide additional funding for Assigned Counsel program for criminal and family court cases. |
| \$40,218 | |
| Otsego | (1) Provide funding to have case records integrated in one central location (includes purchasing filing cabinets) and (2) provide CLE training to members of Assigned Counsel panel and Public Defender office. |
| \$24,479 | |
| Rensselaer | (1) Upgrade capabilities of computer system for Public Defender office, Conflict Defender office and Assigned Counsel panel by purchasing computers, printers, and copy machines; and (2) purchase office supplies, including filing cabinets. |
| \$39,868 | |
| Rockland | (1) Purchase vehicle for investigators in Public Defender office (includes maintenance and fuel costs); (2) provide advanced CLE training to members of Assigned Counsel panel and Public Defender office; (3) update McKinney's and purchase specialty reference books (e.g., DNA, DWI, sex crimes, immigration, and search and seizure); (4) purchase laptop computer(s); and (5) provide greater access to Westlaw computer services. |
| \$91,196 | |
| St. Lawrence | Purchase new case management system. |
| \$37,462 | |

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| Saratoga \$31,007 | (1) Provide funds to reconfigure/expand Public Defender office to accommodate transition to an all full-time Public Defender staff; (2) upgrade technological support in Public Defender office (i.e., lease photo copier and purchase personal computers, scanner, printer and upgraded software); (3) provide funding for CLE and other training; (4) upgrade Westlaw service; and (5) provided additional licenses for use of case management system. . |
| Schenectady \$67,884 | (1) Provide funding for Assigned Counsel program to address increase in number of appeals; (2) upgrade computer and video conferencing capabilities of Conflict Defender and Public Defender offices, including usage with clients housed in county jail; (3) provide funding to increase presence of Conflict Defender attorneys in Schenectady Police Court; and (4) add Alternatives Coordinator to provide screenings for mental illness and chemical addiction. |
| Schoharie \$10,036 | Provide funds for CLE training of members of the assigned counsel panel. |
| Schuyler \$8,173 | (1) Provide additional investigative and expert services for both criminal and family court matters and (2) provide funds for CLE training of staff attorneys in Public Defender's Office. |
| Seneca \$10,158 | Provide additional investigative and expert services. |
| Steuben \$30,904 | (1) Provide funds for investigative services in felony cases and (2) upgrade computer research capabilities of Public Defender office. |
| Suffolk \$308,637 | (1) Add two Legal Aid Society staff attorney positions and one investigator position to handle cases in Family Court parts dedicated to custody and visitation matters; (2) partially fund a new case management system (i.e., installation, database licenses, data conversion, customization, training and annual support fees); and (3) upgrade computer system. |
| Sullivan \$35,607 | (1) Provide funds for investigative and expert services in felony cases and (2) add a part-time Conflict Defender position. |
| Tioga \$9,070 | (1) Provide access to internet legal research for Public Defender office; (2) provide funding for investigative services in felony cases; (3) obtain transcripts of felony and suppression hearings for use at trial; and (4) provide additional funding for Assigned Counsel program. |
| Tompkins \$39,489 | Provide funding to offset extraordinary expenses of expert services in complex murder case. |
| Ulster \$64,554 | (1) Create an Assigned Counsel Plan Administrator position; (2) create an Administrative Assistant position to assist Assigned Counsel Plan Administrator; (3) provide funding for CLE and other training for members of Assigned Counsel panel; (4) provide funding for investigative and expert services; (5) upgrade computer capabilities; and (6) provide funding for legal reference materials. |

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| Warren \$23,477 | (1) Provide funds to augment salaries of attorneys in Public Defender office in order to undertake additional felony appeals; and (2) purchase collating copier and brief binding machine to prepare appellate briefs. |
| Washington \$12,968 | (1) Provide funding for CLE training of members of Assigned Counsel plan and (2) fund investigative and expert services in felony cases. |
| Wayne \$36,298 | Partially fund new Assistant Public Defender position. |
| Westchester \$409,340 | (1) Add two Legal Aid Society staff attorney positions to service Special Problem Courts (i.e., Domestic Violence Court; Mental Health Court; Drug Diversion Court; Sex Offender Court; and SCI Court); (2) add three Legal Aid Society entry level attorney positions to reduce caseloads; (3) provide funding for members of Assigned Counsel panel to access to internet legal research; (4) create internet Assigned Counsel voucher program; (5) upgrade audio-visual equipment; and (6) purchase CD/DVD duplicator and printer. |
| Wyoming \$7,482 | Upgrade database capabilities by partially funding a new case management system. |
| Yates \$7,134 | (1) Provide funding to outfit an office for Assigned Counsel Administrator, including purchasing copier/fax/scanner, printer and file cabinets and upgrading computer system and (2) provide Public Defender office with copier, fax, and scanner capability. |
| New York City \$1,205,562 | (1) Create ten new Immigration Attorney positions to represent clients of the City's institutional indigent criminal court and family court defender organizations and of the City's Assigned Counsel Plans in need of representation in immigration matters; (2) create new Immigration Attorney Coordinator position to monitor performance of new Immigration Attorneys; (3) provide training to newly hired Immigration Attorneys to represent indigent clients in need of representation in immigration matters; and (4) provide necessary legal reference materials related to immigration matters. |