

# **INDIGENT LEGAL SERVICES BOARD**

## **AGENDA**

**September 27, 2013  
Association of the Bar of the City of New York**

- I. Opening Remarks by the Chief Judge**
- II. Approval of Minutes from March 5, 2013 and June 7, 2013 Board Meetings**
- III. Update on Board Appointments/Reappointments**
- IV. JCOPE Requirements and Training**
- V. Status Reports (See ILS Fact Sheet and Funding Chart, attached)**
  - Quality Enhancement (non-competitive) Distributions
  - Competitive Grants: Counsel at First Appearance, Upstate Quality Improvement and Caseload Reduction, Regional Immigration Support Centers
  - Development of Standards for Appellate and Family Court Representation
  - National Developments
- VI. Allocation of FY 2013-2014 Aid to Localities Appropriation (Memorandum attached)**
- VII. Budget Request for FY 2014-2015 (Memorandum attached)**
- VIII. Schedule of Remaining 2013 Board Meetings**
  - Friday, November 22
- IX. Concluding Remarks**

## **Minutes for ILS Board Meeting**

**March 5, 2013**

**11:00 A.M.**

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

**Board Members Present:** Chief Judge Lippman, Sheila DiTullio, John Dunne, Joe Mareane, Lenny Noisette and Gail Gray

**ILS Office Attendee(s):** Bill Leahy, Joseph Wierschem, Matt Alpern, Angela Burton, Andrew Davies, Tammeka Freeman, Risa Gerson, Karen Jackuback and Joanne Macri

### **I. Opening Remarks by the Chief Judge**

The Chief Judge welcomed and thanked everyone for attending, especially the ILS staff. He also indicated that he recently met with Bill to get an update on the work that is being done by the Office. The Chief also discussed the 50<sup>th</sup> Anniversary of Gideon and that both he and Bill will participate in a program at the Justice Department. Finally, he remarked that despite a few "natural" bumps in the road, the office and board are doing okay.

### **II. Approval of Minutes from September 28, 2012 Board Meeting**

The Chief Judge inquired whether the board members present had received a copy of the minutes from the prior meeting. The board members acknowledged that they had in fact received the minutes. Bill noted a correction in Section III. Karen Jackuback was appointed in July 2012. After noting the correction, the Chief asked the Board to vote to approve the minutes.

**Joe Mareane moved to approve the minutes; his motion was seconded by Sheila DiTullio and unanimously approved.**

### **III. Director's Report on FY 2013-2014 Budget Status**

Bill began by introducing his staff to the board. The only staff member not in attendance due to a prior work-related commitment was Peter Avery, Manager of Information Systems.

Bill explained that the ILS budget proposal includes an additional \$10 million in Local Aid funding, an increase from \$81 to \$91 million. That includes \$4 million to supplement upstate caseload reduction grants; \$3 million to supplement counsel at arraignment grants; and \$3 million to assist counties in moving toward compliance with newly established ILS standards. In addition, the ILS proposed budget includes \$3

million in funding for the ILS Office.

Bill explained the response in the Executive budget was somewhat disappointing in that it cut the \$91 million request to \$77 million and left the office with a \$1.5 million budget despite the fact that the office now has a staff of 10.

Bill has been reaching out to legislative officials and OCA to garner support for the Office's proposal. He also noted an oddity in the Executive budget proposal wherein \$3 million was included to support counsel at first appearance but NOT in the ILS budget. Rather, the funds would be administered by OCA and a 3-member board with a representative from ILS, OCA and the Governor's office.

The Chief Judge noted that he didn't think the proposal was a negative reflection on ILS. He did note that the Executive may just need to look more carefully at the work of the Office and see the commonality of purpose.

Bill then summed up the prospects regarding his budget proposal as being generally good but there are potential issues.

Joe Mareane inquired if there is a possibility of removing money already in county budgets. Bill responded "no" but noted that if the Executive proposal stands, the RFP for upstate caseload relief could only be one year and would stop the office in its tracks as far as making progress.

Bill also expressed some concern about the ILS Fund and the discussion about using it for "other" things.

#### **IV. Status of Non-Competitive Distributions and Competitive Grants**

Bill noted that 25 counties responded to the RFP for counsel at first arraignment. There are 4 reviewers looking at their requests.

Bill said that local people can move the ball forward in an intelligent way if there is adequate state funding to support them.

Sheila DiTullio noted that some of the town courts in her district have counsel at arraignment and others that do not are beginning to ask why.

Bill explained that the caseload relief notion is about quality so it applies to assigned counsel (e.g., Tompkins). The RFP will be tailored to all 57 non-NYC counties.

Bill noted that 52 proposals for Distribution #2 - the non-competitive distribution - were approved. He also stated that while there has been some back and forth with contracts, the office has always provided positive support to the counties in getting them done.

Joe Mareane agreed that Bill and his staff have really used TLC with the counties and that the NYSAC counties really appreciate it.

John Dunne inquired about centralized arraignments and who will make the decision about having them. OCA? Who has the authority?

Bill responded that in Ontario, for example, there is a local informal agreement.

#### **V. Statements by Members of ILS Office Staff**

Bill took much pride in introducing his staff members individually and expressed how lucky he is to have such a talented group. He noted that the board is already familiar with Joe Wierschem, Counsel to ILS, since he has been present at most of the meetings since his appointment. Bill then gave each of his other staff members an opportunity to introduce him/herself to the board and highlight the work they have been doing since their respective appointments.

Angela Burton, Director of Quality Enhancement for Parent Representation  
Matthew Alpern, Director of Quality Enhancement for Criminal Defense Trials  
Joanne Macri, Director of Regional Initiatives  
Tammeka Freeman, Executive Assistant  
Karen Jackuback, Grants Manager  
Andrew Davies, Director of Research  
Risa Gerson, Director of Quality Enhancement, Appellate and Post-Conviction Litigation  
Peter Avery (not present), Manager of Information Systems

Joe Mareane expressed how helpful it is to hear from the members of the staff. He also noted how important quality is and stressed the work of Andy Davies.

The Chief Judge agreed and noted that empirical markers tell us a lot.

Bill added that Andy is part of a national effort.

The Chief stated that New York should be a model for the country.

#### **VI. Status of Board Reappointments**

Bill announced that Lenny Noisette had been officially reappointed as a board member. He is a NYSBA nominee and was confirmed by the Governor. Joe Mareane was re-nominated by NYSAC, but has not yet been confirmed. And, Sue Sovie, the prior Governor's appointee has sought reappointment, but as yet there has been no action by the current administration.

The remainder of the board members, with the exception of the Chief Judge are up for reappointment on July 31, 2013.

Bill spoke briefly at this juncture about his remarks at the Attorney General Holder's Gideon event. He discussed reform at the federal level and his hope that the AG will support a national office of criminal indigent legal services. Regarding state-level reform, he noted that 28 states have 100% financing and 28 states have complete state oversight. Finally, he mentioned overcriminalization and punitization.

#### **VIII. Schedule of Remaining 2013 Board Meetings**

- Friday, June 7
- Friday, September 27
- Friday, November 22

#### **IX. Concluding Remarks**

The Chief Judge once again thanked the ILS staff for joining the board meeting and explaining their work to the members. He closed by saying that while there is some concern surrounding budget issues, there is a concerted effort to make sure the office gets what it needs to operate and be effective.

The meeting adjourned at 12:45 P.M.

## **Minutes for ILS Board Meeting**

**June 7, 2013**

**11:00 A.M.**

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

**Board Members Present:** Chief Judge Lippman, Sheila DiTullio, John Dunne, and Joe Mareane

**ILS Office Attendee(s):** Bill Leahy and Joseph Wierschem

### **I. Opening Remarks by the Chief Judge**

The Chief Judge welcomed and thanked all for attending. He indicated that 50 years after Gideon, there are still a lot of disappointing happenings around the country. But, he noted that the Office and Board are "doing well in what [they are] doing." The Chief recounted that at a recent Gideon event he attended, he was the only positive voice on the panel. The structure provided by the legislature and the governor have enabled NY to address some of the problems that others around the country have not been able to do. The Chief Judge expressed his positive feelings regarding NY's proactive approach.

John Dunne inquired about the prospect of the National ILS Commission. The Chief Judge believes it's a possibility but not necessarily an immediate priority in Washington. Bill noted that a letter was sent to AG Holder in April with multiple supporters from almost every state.

### **II. Approval of Minutes from March 5, 2013 Board Meeting**

The Chief Judge inquired whether the board members present had received a copy of the minutes from the prior meeting. The board members acknowledged that they had in fact received the minutes. A vote to approve was held for the next meeting inasmuch as a quorum was not present.

### **III. Board Member Reappointments (Breslin, DiTullio, Dunne, Gray, John)**

Bill noted that there has been no further gubernatorial activity so Lenny Noisette remains the only reappointed board member. Joe Mareane and Sue Sovie are currently holdovers and on July 31, 2013, all other members, except the Chief Judge, have terms expiring.

#### **IV. Status Report on Distributions and Grants**

Bill provided a one-page fact sheet prepared by Joe Wierschem. He then briefly explained that the non-competitive distributions to provide level funding for the counties have been received well and the vast majority of Distribution #1 funding will be spent by the end of the current year.

Regarding the competitive grants, Bill said his office is "getting there." They are currently negotiating budgets with the counties for the "counsel at first appearance grants" as part of the award process. The "upstate quality improvement grant" RFP is currently under review by OSC with an expected release date of late June or early July. And finally, the RFP for the "immigration regional resource centers" grant is currently being drafted and has an expected release date in late summer or early fall. Joanne and Andy from the ILS Office are gathering data. They are thinking about 6 regions and encouraging NYC to provide dedicated resources.

Bill stressed the importance of bringing defender leadership into the conversation with the counties. He noted that most leaders do not have experience with the money discussions so the Office is providing encouragement in that regard and he is very optimistic.

Bill noted that regarding the counsel at first appearance grant, the requests were in excess of the available funds (11%). Rather than decreasing every request by that percentage across-the-board, the Office decided to take a hard look at all of the submissions and scrutinize the proposals that are most committed to providing counsel at arraignment.

Joe Mareane said it was a wise choice not to simply make across-the-board cuts. He also said that at a recent meeting, he noted some apprehension in rural counties about the counsel at first appearance push. Joe tried to assure that it was a good thing but encourages ILS to publish results showing that it works and include county experience - because they listen to colleagues rather than boards.

Sheila DiTullio mentioned Bob Lonski's idea about a regional program for rural areas. Joe M. also said a central place for arraignment is an idea worth pursuing. Bill noted that Ontario County uses a centralized approach because the sheriff agreed to the concept.

Joe Mareane said there is a general apprehension among the counties as the non-competitive distribution nears zero. Bill expressed a need for an infusion of more money into the Fund.

**V. Status Report on Chief Defender Advisory Group and Proposal for a White House Commission on the Fair Administration of Justice for the Indigent Accused**

Bill said the May 16 meeting of the Chief Defender Advisory Group was a terrific meeting. He noted that everyone seems to be in agreement regarding the need for regional support centers. Both NYC and upstate folks were engaged. He also noted that their first action plan will be to address OCA rates for investigative and expert services.

Regarding parent representation and appellate representation, Risa and Angela will be putting together advisory groups to develop standards. Joanne is brainstorming regional initiatives and Matt is working on advanced criminal trial training.

**VI. Advance Discussion of Potential FY 2014-2015 Budget Proposals**

Bill requests that the board consider hopes and dreams and communicate to him in advance of the next meeting.

**VII. Schedule of Remaining 2013 Board Meetings**

- Friday, September 27
- Friday, November 22

**VIII. Concluding Remarks**

John Dunne commended Bill for his Gideon anniversary publication and said that it was a great piece of work.

The Chief Judge concluded by stating how proud he was about the unique structure of the Office and the Board, in particular the ability to distribute money from the Executive Branch. He noted the collaboration among Peter Kiernan, Steve Acquario and the Judiciary in creating the structure.

The meeting adjourned at 12:45 P.M.





**Andrew M. Cuomo**  
Governor

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**William J. Leahy**  
Director

**Joseph F. Wierschem**  
Counsel

Improving the Quality of Mandated Representation Throughout the State of New York

To: Members, Indigent Legal Services Board

From: William J. Leahy, Director

Re: Allocation of State Fiscal Year 2013-2014 Appropriation

Date: September 23, 2013

At our September, 2012 meeting, the Board allocated the FY 2012-2013 Aid to Localities appropriation, in the amount of \$81 million, for five purposes. By this allocation, the Board enabled this Office to describe to providers, county and state officials the precise purposes for which the appropriated funds would be spent.

In similar fashion and for the identical reason, I propose that this year's appropriation of \$81 million be allocated for the following five purposes:

- 1) The statutory distribution of \$47,361,341 (25% of 2010 distribution for all counties outside New York City, including \$40 million for the City) as mandated by sections 98-b (3) (b) and (c) of the state Finance Law;
- 2) Quality enhancement distributions totaling \$22,849,554 under Executive Law article 30, section 832 (3) (f) and section 833 (7) (c), under which all counties and New York City will be enabled to receive no less state funding (a total of \$70,210,924) than they received in 2010. Of the \$22,849,554 total, \$8,126,902 represents the third year of the three-year distribution authorized by the Board at its September, 2011 meeting ("Distribution #2") and \$7,361,326 represents the second year of the three-year distribution authorized by the Board at its September, 2012 meeting ("Distribution #3"). The remainder, \$7,361,326, represents the first year of a new three year allocation of funds that the Board is requested to authorize, with a total amount over the three year period of \$22,083,978 ("Distribution #4"). As was the case with prior distributions, each locality is required to consult with its indigent defense leaders in formulating a plan for the new distribution to improve the quality of representation, and to present that plan to this Office for approval.
- 3) Grants in the amount of \$4,000,000 that will finance the third year of the three-year programs to provide counsel at a defendant's first court appearance in

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Director of Quality  
Enhancement,  
Criminal Trials

**Peter W. Avery**  
Manager of  
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**Angela Burton**  
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Representation

**Andrew Davies**  
Director of Research

**Tammeka Freeman**  
Executive Assistant

**Risa Gerson**  
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Appellate and Post-  
Conviction Litigation

**Karen Jackuback**  
Grants Manager

**Joanne Macri**  
Director of Regional  
Initiatives

counties which do not lie within the city of New York. Counties receiving an award for this grant were notified of the amount of their award on August 6, 2013. We are now in the process of approving budgets and work plans, and entering into contracts with each county.

- 4) Grants in the amount of \$4,000,000 to finance the second year of the programs for upstate quality enhancement and to alleviate caseloads in excess of maximum national norms in counties outside New York City. The RFP for the Upstate Quality Enhancement and Caseload Reduction grant was issued on August 22, and has a proposal due date of October 18.
- 5) Grants in the amount of \$2,789,076 to finance the third year of the three-year programs to create regional Immigration Resource Centers in strategic locations within New York State. The RFP for this grant is currently being drafted. We expect to submit it for OSC approval in October.

Together, these five priorities, all of which have been previously authorized by the Board, will expend every dollar of the state fiscal year 2013-2014 appropriation.



**Andrew M. Cuomo**  
Governor

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**Improving the Quality of Mandated Representation Throughout the State of New York**

**To: Members, Indigent Legal Services Board**

**From: William J. Leahy, Director**

**Re: Budget Request for FY 2014-2015**

**Date: September 23, 2013**

While we have not yet received this year's "call letter" from the Director of the Budget, we do anticipate that agency appropriation requests for the state fiscal year 2014-2015 will be due in mid- October. As was the case last year, we anticipate that the letter will advise agency heads, with the notable exception of those whose responsibilities include School Aid or Medicaid, to assume "zero growth" over current spending authorization.

With this likelihood in mind, but also mindful of numerous and well-chronicled deficiencies in the provision of legally mandated representation in New York, and also the mandate imposed upon both this Office and Board by Executive Law sections 832 (1) and 833 (1) to "improve the quality of services provided pursuant to article eighteen-B of the county law [ ]", I propose for your consideration an appropriation request in the total amount of \$99.5 million dollars (\$99,500,000), to be allocated as follows:

- I. **State Operations (Office and Staff): \$3,500,000**

This Office was envisioned from the outset as a three million dollar entity that would undertake the enormous task of studying and assessing the quality and efficiency of mandated legal representation delivered by some 145 providers in the 57 counties and New York City that comprise this diverse and sprawling state; and providing solutions to the obvious, well-documented and longstanding deficiencies therein. However, in March, 2011, budget negotiators cut in half Governor Cuomo's recommendation of \$3 million for the Office; and in March, 2012 that inadequate \$1.5 million appropriation was maintained for FY 2012-2013. Last year, we were able to increase our appropriation by \$300,000, to a total of \$1.8 million, to provide sufficient support for our present ten person office.

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**Joanne Macri**  
Director of Regional  
Initiatives

We require a State Operations appropriation of \$3.5 million for FY 2014-2015, an increase of \$1.7 million over our current appropriation, in order to maintain office functionality and to accomplish two specific and important goals. First, given the plethora of contracts that are outstanding and the increasing number of quarterly invoices we are receiving, we need an additional staff person to work with our Grants Manager to assure that reimbursements are made promptly and accurately. Salary increases for our extremely accomplished and underpaid staff are more than warranted by their performance, and they are essential for the retention of the highly skilled and productive employees whom we have had the good fortune to hire. Second, we need additional State Operations funding to begin building and staffing our Regional Support Centers (\$1 million, Attachment A) and our New York State Appellate Resource Center (\$500,000, Attachment B).

II. Aid to Localities: \$96,000,000

As you know, our Aid to Localities appropriation for the current fiscal year is \$81 million. This appropriation is sufficient to maintain state aid at the 2010 level for all 57 counties and New York City (\$70.2 million), as well as funding to provide counsel at arraignment (\$4 million), create regional Immigration Resource Centers (\$2.8 million), and reduce excessive caseloads upstate (\$4 million).

The true cost of bringing New York State into compliance with professionally appropriate performance measures and with its obligations under the state and federal constitutions is far in excess of the \$15 million increase that I propose today. To bring caseloads and workloads in every locality into compliance with national standards; to ensure that counsel is provided at every client's first court appearance; to upgrade and make uniform the quality of representation in parent representation cases; to provide sufficient support staff, investigative and forensic resources to deliver effective representation; to furnish comprehensive training suited to every practice area in every locality; to ensure that only qualified attorneys are authorized to represent clients; to supervise their representation and evaluate their performance – to achieve compliance with these and other hallmarks of effective representation will require enormously greater resources than can reasonably be achieved in a single annual budget process. In fact, our soon to be released study *An Estimate of the Cost of Compliance with Maximum National Caseload Limits in Upstate New York* has concluded that the cost of meeting just the first of these priorities is in excess of ninety million dollars. But we have begun to make a bit of progress, and I propose that we request the resources that are minimally necessary to continue and to accelerate our progress. To that end, I propose that we request an additional \$15 million above the current year appropriation,

**to more comprehensively address the deficiencies of excessive caseloads and absence of support for institutional and assigned counsel providers of mandated representation (\$8 million) and the absence of counsel at first court appearance in criminal cases (\$4 million), deficiencies for which some funding has been provided and RFP processes have begun; and also that we request dedicated funding to improve the quality of mandated Family Court representation and provide for the timely appointment of counsel for parent respondents in child protective proceedings. (\$3 million, Attachment C).**

## **Attachment A**

### **Proposal for Regional Support Centers**

After two and one-half years of observing, inquiring, reading, listening, consulting, funding and assessing the quality of the representation provided under New York's delivery of legally mandated representation to people who cannot afford to retain counsel, we have determined that the creation of Regional Support Centers throughout the state is an extremely important initiative that should be implemented now to improve both the quality and the uniformity of representation throughout the State of New York.

The First Annual Report of the Indigent Legal Services Board advocated for the establishment of state-funded Regional Resource Centers to help all localities improve the quality of indigent defense and parent representation, and to provide mandate relief to the counties:

The current county-based system cannot long survive if it is not supplemented by Regional Resource Centers, operating as integral parts of the Office, to assist counties in each region. These resources can include not only the already-planned Immigration Consequences Resource Centers, but also such areas as investigation, social services, litigation training, forensic assistance, appellate representation, certification of counsel, and others: many of which have been identified in the 2012 *Report on Sharing Resources* of the New York State Bar Association Committee to Ensure the Quality of Mandated Representation.

**ILSB First Annual Report at 13-14 (November, 2012).**

The failure of New York's primarily county-funded system to provide uniformly competent representation has been repeatedly documented both in state reports ("The current indigent defense 'system' is a haphazard, patchwork composite of multiple plans that provides inequitable services across the state to persons who are unable to afford counsel." *Status of Indigent Defense in New York* [Final Report, The Spangenberg Group, (2006) at 155]); ("The current method of providing indigent

defense services in New York imposes a large unfunded mandate by the state upon its counties [and] results in a very uneven distribution of services[.]” Commission on the Future of Indigent Defense Services, *Final Report to the Chief Judge of the State of New York*, [2006] at 20-21); and in every recent national assessment, including *Gideon’s Broken Promise* (ABA, 2004), *Justice Denied* (The Constitution Project, 2009) and *Securing Reasonable Caseloads* (ABA, 2011).

Every locality is in need of access to state-funded and locally accessible expertise, training, consultation and support. Once established, these Centers will help to assure that the quality of justice one obtains in New York does not fluctuate and often fail, depending solely on the happenstance of where one’s case arises, or which provider assumes responsibility for one’s representation. The State of New York cannot and must not tolerate the continuation of such inequity in the provision of counsel; a right that is “fundamental and essential to fair trials[.]” *Gideon v. Wainwright*, 372 U.S. 335, 344 (1963).

We therefore propose the creation of state-funded Regional Support Centers that will assist local providers of indigent defense and parent representation by providing them with assistance in the following areas: 1) criminal defense and mandated family court representation expertise, 2) legal research and advice, 3) appellate and post-conviction advice and assistance, 4) locally-based litigation and supervisory training; and 5) development of and access to investigative, forensic and other litigation support services.

We envision a total of nine Centers: one in each of the upstate Judicial Districts 3 through 9, one on Long Island (JD 10), and one in New York City. Each Center would be staffed by a training director, a criminal defense attorney, a family court representation attorney, an appellate and post-conviction attorney, an investigative and forensic support resource person, and an office manager/paralegal. Ultimately, we estimate the annual cost of operating each of these Centers to be in the vicinity of \$800,000 – one million dollars annually, or a total annual expenditure of approximately \$8 million. Given the pace at which it is feasible to inhabit space and employ Executive Branch employees, however, we believe it is realistic to request a limited appropriation of one million dollars in the startup year FY 2014-2015.

## Attachment B

### New York State Appellate Resource Center: A Proposal

Mandated appellate representation is fragmented in New York State. In New York City, institutional defenders represent most indigent defendants, while in upstate New York, there are three institutional providers that represent only a small fraction of the criminal defendants in the remaining 57 counties. This proposal, to create a state-wide appellate resource center in Albany, the State capital, would save the State and counties money by diverting the complex cases to an institutional defender office, staffed by highly-qualified experienced attorneys, and assisted by support staff including a paralegal, investigator, and a social worker, who would provide reentry assistance and mitigation support. Because of economies of scale, this state-funded office would be more cost-effective than individual panel attorneys who are assigned to these cases now. And, because of the office's ability to engage in collateral litigation at the earliest opportunity, wrongful convictions may be overturned years earlier than is the case now, where an attorney is obligated to litigate the issues in the Appellate Division before going back to the trial court on a motion to vacate the conviction.

In New York City, The Legal Aid Society Criminal Appeals Bureau represents clients in all five counties in the city of New York (Kings, Queens, New York, Bronx, and Richmond). There are three additional institutional providers: two in the First Department (comprising the Bronx and Manhattan); and one in the Second Department, which includes Kings (Brooklyn), Queens, and Richmond (Staten Island). The Office of the Appellate Defender and the Center for Appellate Litigation represent clients in the First Department. Appellate Advocates represents clients in the three New York City counties encompassed in the Second Department. All of the institutional defenders in New York City have experienced attorney staffs, social work programs, and the flexibility to engage in collateral litigation prior to filing the direct appeal if the attorney deems it in the best interest of his or her client.

In addition to the three New York City counties, the Second Department comprises seven additional counties: Nassau, Suffolk, Westchester, Orange, Dutchess, Putnam, and Rockland. The suburban counties, Nassau, Suffolk, and Westchester, all have legal aid societies with appeals units; two of the remaining counties, Dutchess and Rockland, have public defenders offices in which a single appellate attorney handles appeals. Neither Putnam County nor Orange County Legal Aid Societies handle appeals.

The Third and Fourth Departments comprise the remaining 50 counties in the state. The Third Department is comprised of 28 counties; the Fourth Department is comprised of 22 counties. In the Third Department, while a handful of the public defender offices have a single appellate attorney,<sup>1</sup> there is no public defender office or legal aid society with an appeals unit. The Fourth Department has three

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<sup>1</sup> The Albany County Public Defender office has one attorney who handles appeals full time, and a second attorney who devote half of his time to trial work and the other half to appeals. Columbia and Ulster counties each have a single appellate attorney.



institutional defender offices with appeals units: the Legal Aid Bureau of Buffalo, the Appeals Unit of the Monroe County Public Defender, and the Hiscock Legal Aid Society Appeals Unit (Syracuse, Onondaga County), and seven other offices that handle appeals. The following chart shows the breakdown of the number of appeals handled by institutional defenders and by assigned counsel in the Third and Fourth Departments:

**Third Department Assignments, 2012**

<b>Assigned Counsel, 18-B</b>	<b>Assigned Public Defender*</b>
441	70

**\*Public Defender Assignments By County; TOTAL: 70**

<b>Albany</b>	<b>Broome</b>	<b>Chenango</b>	<b>Columbia</b>	<b>Essex</b>	<b>Madison</b>	<b>Rensselaer</b>	<b>Ulster</b>	<b>Warren</b>
27	6	8	4	2	2	15	3	3

**4<sup>th</sup> Department Assignments, 2012**

<b>Legal Aid Buffalo</b>	<b>Monroe County Public Defender</b>	<b>Hiscock Legal Aid Society</b>	<b>Conflict/Other PD*</b>	<b>Assigned counsel</b>
141	119	76	104	221

**\*Conflict/Other PD: Breakdown of the 104 appeals:**

<b>Monroe Conflict</b>	<b>Niagara PD</b>	<b>Niagara Conflict</b>	<b>Oneida PD</b>	<b>Ontario PD</b>	<b>Wayne PD</b>	<b>Wyoming PD</b>
36	9	7	19	19	6	8

The total number of criminal appellate assignments in 2013 in the Third Department was 511; the total number of criminal appellate assignments in the Fourth Department in 2013 was 680; the total for the 50 upstate counties was 1191. The state-wide appellate center would accept approximately ten percent of the assignments in these 50 counties, plus an additional 15-20 cases from the Second Department, totaling approximately 135 cases each year.

The State of New York would be well-served by creating an appellate resource center to handle complex criminal appeals. The staff attorneys at the resource center would be available to litigate the most serious cases, such as those where the defendant has been sentenced to life without parole, or a life sentence, or cases that raise particularly complex facts and legal issues, as well as litigate appeals of civil commitment pursuant to Article 10. Currently—outside of New York City—the task of filing appeals in these cases primarily falls upon individual solo practitioners on the assigned counsel plan. The hours

needed to litigate these complex cases often result in costs that exceed the statutory cap of \$4,400.<sup>2</sup> Staffing the office with at least one attorney with expertise in Article 10 commitment proceedings is critical, because very few criminal appellate attorneys have experience and expertise in Article 10 appeals.

If the most complex and serious cases were diverted to a state-funded appellate office, staff attorneys with experience in litigating complex criminal appeals would save the counties money by being able to collaborate, share their research and expertise,<sup>3</sup> and create statewide resources including a brief bank that would collect briefs by subject matter that could be made available to any attorney representing an indigent defendant on appeal. The creation of such an office would not obviate the need for panel attorneys, as those attorneys would be necessary to be assigned to conflict cases of codefendants, and to handle the majority of appeals that would not be diverted to the resource center.<sup>4</sup> Nor would the creation of an appellate resource center diminish the need for the existing institutional upstate defenders: Monroe County Public Defender's Appeals Unit, The Hiscock Legal Aid Society in Syracuse, or the Buffalo Legal Aid Bureau, all of which handle a substantial number of appeals in a competent and professional manner. The attorneys at the resource center would, however, be available to any public defender, legal aid society attorney, or panel member, who needed research assistance, including access to the appellate resource center's brief bank, motion support practice, and mitigation reports by a certified social worker.

The staff attorneys at the appellate resource center would also be available to engage in collateral motions that challenge the validity of the conviction based on evidence outside the appellate record in the 57 counties. The most common such challenges are ineffective assistance of counsel claims and Brady claims (claims that exculpatory evidence has been withheld by the prosecution). In addition to collateral litigation, the staff attorneys at the resource center would be available to consult with trial attorneys at legal aid societies and public defender offices that do not have appeals attorneys on staff by providing pre-trial and trial litigation support (e.g., legal research and motion writing for issues that arise prior to and during trial). Further, through this litigation, challenges to wrongfully convicted defendants

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<sup>2</sup> In a meeting with Justice Peters and the staff at the New York State Supreme Court, Appellate Division, Third Department on February 26, 2013, Angela Burton and I were told that in 2012, of 520 payment orders, 65 exceeded the statutory cap.

<sup>3</sup> At a meeting on May 13, 2013, with the Frances Cafarelli, Esq., Clerk of the Appellate Division, Fourth Department, Ms. Cafarelli noted that the more-experienced attorneys on the panel were more efficient, and that they submitted vouchers for less money than less experienced attorneys on comparable cases. She believes that is because more experienced attorneys are more efficient at reading the record, spotting issues, researching issues, and writing, than those with less experience.

<sup>4</sup> The creation of an appellate resource center as proposed would handle less than 10% of the appeals state-wide. While some states that have created a state-wide appellate defender office handle virtually all of the indigent criminal appeals, e.g., Illinois, other states that have created state-wide appellate offices typically handle only a small percentage of the appeals throughout the state. For example, the State Appellate Defender Office in Michigan represented only 17% of indigent criminal defendants pursuing an appeal in 2011; the remaining 83% were represented by private assigned counsel.

would be filed at the earliest possible moment, thereby saving the State money in continued incarceration and in lessening the amount of civil damage awards. According to the National Registry of Exonerations, a joint project of University of Michigan Law School and Northwestern Law School, there have been 115 exonerations in the state of New York from 1983 through May 13, 2013.<sup>5</sup>

The first line of defense against wrongful convictions is a post-conviction litigation by appellate attorneys. In New York, each of the institutional appellate providers in the City of New York has a unit that litigates wrongful convictions.<sup>6</sup> Yet none of the upstate institutional providers have such a unit, and some institutional providers are barred from engaging in post-conviction litigation outside of the direct appeal. Thus, for example, when Nathaniel Johnson was convicted of a robbery in the City of Buffalo, his case was assigned to the Appeals Unit of the Legal Aid Bureau of Buffalo. In his appeal, his attorney asserted, among other issues, that the verdict was against the weight of the evidence and that exculpatory evidence was withheld until after the trial had commenced (i.e. that there was a Brady violation). The Appellate Division rejected the weight of the evidence claim and rejected the Brady claim on the basis that it concerned matters outside the record and could be raised only by filing a motion pursuant to N.Y. Crim. Proc. Law §440.10. See *People v. Johnson*, 88 A.D.3d 1293, 1294 (4<sup>th</sup> Dep't 2011). Although the appellate attorney continued to investigate the case, a motion to vacate the conviction pursuant to N.Y. CPL §440.10 could not be filed until an attorney was assigned through the Erie County Assigned Counsel Plan on the trial attorney panel. This did not occur until two years after the original appellate attorney was assigned. See "Freed From Prison After Wrongful Conviction, Man Now 'Just Enjoying Life'" *The Buffalo News*, May 11, 2013, by Jay Tokasz, available at:

<http://www.buffalonews.com/apps/pbcs.dll/article?AID=/20130511/CITYANDREGION/130519804/1109>

Had there been an appellate resource center, the motion to vacate the conviction could have been filed prior to the direct appeal, and Mr. Johnson could have been released from incarceration two years earlier. In the past few years, there have been significant judgments and settlements by the State, counties and New York City, to wrongfully convicted people. Those wrongfully convicted in New York State may sue for redress under the Unjust Conviction and Imprisonment Act, Court of Claims Act §8-b (McKinney), in addition to pursuing other litigation remedies such as federal claims for violation of civil rights.

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<sup>5</sup> The registry is available at: <http://www.law.umich.edu/special/exoneration/Pages/about.aspx>

<sup>6</sup> In the First Department, the Center for Appellate Litigation, the Office of the Appellate Defender have dedicated staff that pursue litigation for their wrongfully convicted clients, as does Appellate Advocates in the Second Department. The Legal Aid Society, which handles indigent criminal appeals in both the First and Second Departments does not have a formal wrongful conviction review unit, but does pursue direct appeals as well as collateral litigation for wrongfully convicted clients.

Since 2011, the State of New York, or the counties have settled, or been ordered to pay, more than twenty million dollars on wrongful conviction claims:

L. DeJac <sup>7</sup>	J. Deskovich <sup>8</sup>	S. Fappiano <sup>9</sup>	M. Clancy <sup>10</sup>	D. Gristwood <sup>11</sup>	A. Baba-Ali <sup>12</sup>
Federal civil rights lawsuit	Federal civil rights lawsuit	Court of Claims Wrongful Conviction	Court of Claims Wrongful Conviction	Court of Claims Wrongful Conviction	Court of Claims Wrongful Conviction
2.7 million settlement against NY State, 11/2012	6.5 million against Westchester County 4/2011	2 million settlement against NY State 5/2013	2 million settlement against NY State 9/2012	5.5 million verdict 5/2013 against NY State	1.350 million (verdict that was modified downward on appeal - 6/2012)
murder	Rape/murder	Sexual assault	murder	att. murder	Child sexual assault
Erie County	Westchester County	Kings County	Bronx County	Onondaga County	Queens County

Finally, creation of a state-wide appellate office would serve the interests of justice by creating parity between the defense and the prosecution. As it stands now, a prosecution office that does not have the resources or ability to represent the People on appeal can refer its appeals to the New York Prosecutors Training Institute (NYPTI), and a staff attorney there handles the appeal on behalf of the People of the State of New York. NYPTI also has the resources to send its attorneys to any prosecutor's office in the state to assist prosecutors at trial. Although the New York State Defenders Association is available as a resource center for defense counsel, NYSDA is limited to providing training and research assistance to attorneys representing indigent clients; it does not engage in direct representation, nor does it have the resources to send attorneys to consult during trial.

<sup>7</sup> See <http://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=3169>; <http://bigstory.ap.org/article/nv-woman-get-27m-wrongful-conviction>

<sup>8</sup> See <http://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=3171>

<sup>9</sup> See <http://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=3211>

<sup>10</sup> See <http://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=3106>

<sup>11</sup> See <http://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=3266>

<sup>12</sup> See <http://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=3171>; Baba-Ali v. State, 19 N.Y.3d 627 (2012)

## Attachment C

**To:** Bill Leahy, Director, Office of Indigent Legal Services  
**From:** Angela Olivia Burton, Director, Quality Enhancement for Mandated Family Court Representation  
**Re:** 2014 Budget Request Proposal – Mandated Family Court Representation) -*Timely Appointment of Counsel for Parent/Adult Respondents in Child Protective Proceedings and Family Court Practice Quality Enhancement Grant*  
**Date:** September 23, 2013

The New York State Office of Indigent Legal Services (Office) seeks to obtain State funding for two important purposes: (1) to support counties' efforts to improve the overall quality of representation to all adult clients in mandated family law matters and (2) to help counties and their indigent legal services providers ensure that eligible parent respondents in child protective cases have effective, meaningful legal representation at the earliest possible stage of the proceeding.

### **I. Quality Improvement for Mandated Family Court Representation**

Like criminal defense lawyers, providers of mandated family representation across the state face severe challenges to their ability to provide quality representation to clients. In its 2006 report, *Status of Indigent Defense in New York: A Study for Chief Judge Kaye's Commission on the Future of Indigent Defense Services*, The Spangenberg Group ("TSG") noted that "[l]ike the provision of indigent defense representation in criminal cases, the provision of representation in family court is a severely fractured and under-funded system, and one that is quite disparate from the Law Guardian Program that provides for the representation of children in family court."<sup>1</sup>

Although family court matters were not part of the Kaye Commission's charge, TSG devoted an entire section of its report to a brief overview of family court practice in New York's public defense system. Noting the importance of family and surrogate's court matters in assessing the needs of the system, TSG report highlighted the "inextricable link in county systems between adult representation in criminal and family court matters."<sup>2</sup> The report stated that family court adult representation "is not only a necessary and integral part of the state's indigent defense system, but also accounts for a significant portion of the caseloads of the counties' indigent defense providers. They are a part of the providers' and counties' costs and compete with criminal cases for a portion of the counties' limited resources."<sup>3</sup>

Just as is the case with criminal defense providers, mandated family court providers are plagued by high caseloads, inadequate or non-existent support services, minimal client contact, and, in some instances, outright denial of the lawful right to counsel. To begin to address these deficiencies in indigent criminal defense practice, on August 22, 2013 the Office released the Upstate Caseload Relief and Quality Enhancement Request for Proposals. While that RFP is not expressly limited to criminal practice, much of the discussion regarding the crisis in New York's public defense system has focused primarily, though not exclusively, on criminal practice. However, it has become clear in our discussion with providers around the state that, although

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<sup>1</sup> The Spangenberg Group, *Status of Indigent Defense in New York: A Study for Chief Judge Kaye's Commission on the Future of Indigent Defense Services – Final Report*, pp. iii-iv (June 16, 2006).

<sup>2</sup> *Id.* at p. 99.

<sup>3</sup> *Id.* at p. 101.

family court matters make up a significant portion of the indigent defense caseload, family court practice has been even more severely neglected than criminal practice. As the TSG report noted, although a family court caseload may be lower than a criminal one, "family court matters frequently require more court appearances and take longer to resolve than criminal cases which can escalate costs."<sup>4</sup> Moreover, "[t]he greater the needs in family law cases, the fewer staff and resources available for criminal cases."<sup>5</sup>

While family court caseloads across the state have risen dramatically,<sup>6</sup> resources have not. In addition to excessive caseloads, insufficient supportive services, and other problems similar to those identified in criminal defense practice, providers point to a severe lack of access to training and continuing legal education opportunities specifically tailored to providers of adult representation in family court. Additionally, in many counties mandated family court representation is provided only by individual assigned counsel, and there is little institutional oversight, supervision or support for these attorneys.

The long-standing inattention to the problems in family court representation has led to a severe crisis in mandated family court representation which this Office now seeks to address with funding specifically earmarked for improvements in family court practice. As counties around the state have started to become more sensitized to the special needs of their mandated family court providers, the Office has received inquiries about targeted funding to address these specialized needs. The Office notes that counties and providers around the state are investigating and experimenting with greater specialization and institutionalization of family court representation, and the Office supports these innovations.<sup>7</sup> Some examples include the establishment of specialized panels of assigned counsel with family law-specific qualification, training, supervision, and continuing legal education requirements, establishment of family court units within existing public defender offices, contracts with institutional providers to do family law cases, and the addition of social workers and/or family court caseworkers in both public defender offices and assigned counsel programs.

Targeted funding for innovative practices such as these is essential to begin to address the long-standing neglect of family court practice, and to help counties and providers institute programs designed to improve the quality of representation for poor families in New York.

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<sup>4</sup> *Id.* at p. 101.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> See, e.g., *Spangenburg Report*, at pp. 53-54, 58. The Report noted that many jurisdictions were seeking ways to address the growing family court caseloads, and gave as examples the following:

- Albany County created a new office to handle conflict cases in criminal, family and surrogate's court.
- One of the three full-time attorneys in a newly-created conflict defender office primarily handled family law cases.
- Monroe County created a conflict defender to handle misdemeanor, family court, and some appellate cases.
- A year after creating a conflict defender office, Schenectady County added another attorney to the office to handle family law cases.
- Tioga County contracted with a single attorney to handle family court matters and criminal conflicts.
- Clinton County contracted with a few lawyers to provide representation in family court.

## II. Timely Appointment of Counsel in Child Protective Proceedings

Parents and other adult litigants in child protective proceedings need legal representation as early as possible. Important constitutional liberty interests are at stake, the practice is governed by a complex web of federal, state, and local laws, and serious, life-altering decisions are made at every step of these proceedings. It is therefore critical that indigent parents and other eligible adult litigants in child protective proceedings are appointed counsel well in advance of the first court appearance. Early appointment provides the attorney the opportunity to actively and effectively assist the parent both before and after an emergency removal or filing of a petition alleging neglect or abuse. As have a growing number of courts across the country that are appointing attorneys for parents as soon as the court learns that a child has been removed from the home,<sup>8</sup> the Office recognizes the need to provide access to legal representation for parents as early as possible in child protective proceedings.

### A. Background: Parents' Right to Counsel in Child Protective Proceedings

A parent's right to the care, custody and management of his or her children is a fundamental liberty interest protected by the Due Process Clause of the Fourteenth Amendment to the United States Constitution.<sup>9</sup> Although in *Gideon v. Wainwright*, 372 US 335 (1963) the Supreme Court of the United States held that poor people in criminal cases facing possible incarceration are entitled to assigned counsel, the Court declined to extend that protection to indigent parents facing the loss of their parental rights. Instead, in *Lassiter v. Dep't of Social Services*, 452 U.S. 18 (1981), the Court said that the Constitution does not require the appointment of counsel in every parental termination proceeding. Notwithstanding the constitutional significance of the parental liberty interest and its acknowledgment that termination of parental rights works a "unique kind of deprivation", the Court held that States could allow the trial judge to decide whether to appoint counsel for an indigent parent on a case-by-case basis.<sup>10</sup>

In dissent, Justice Blackmun rejected the majority's "insensitive presumption that incarceration is the only loss of liberty sufficiently onerous to justify a right to appointed counsel."<sup>11</sup> Declaring that there could "surely . . . be few losses more grievous than the abrogation of parental rights," he explained that:

Faced with a formal accusatory adjudication, with an adversary – the State – that commands great investigative and prosecutorial resources, with standards that involve ill-defined notions of fault and adequate parenting, and with the inevitable tendency of a court to apply subjective values or to defer to the State's "expertise," the defendant parent

<sup>8</sup> Mark Hardin & Susan Koenig, "Early Appointment of Counsel for Parents," in *Court Performance Measures in Child Abuse and Neglect Cases: Technical Guide*, fn. 5, pp 108-109, U.S. Department of Justice, Office of Justice Programs (2<sup>nd</sup> Printing, 2009) (hereafter *Court Performance Measures*);

<sup>9</sup> E.g., *Meyer v. Nebraska*, 262 U.S. 390 (1923); *Pierce v. Soc'y of Sisters*, 268 U.S. 510 (1925); *Stanley v. Illinois*, 405 U.S. 645 (1972) (noting the Court's frequent emphasis on "the importance of the family" and observing that the "integrity of the family unit has found protection" in the Due Process Clause of the Fourteenth Amendment, the Equal Protection Clause of the Fourteenth Amendment, and the Ninth Amendment); *Troxel v. Granville*, 530 U.S. 57, 65 (2000) ("[T]he interest of parents in the care, custody and control of their children—is perhaps the oldest of the fundamental liberty interests recognized by this Court.");

<sup>10</sup> 452 U.S. 18, 31-32.

<sup>11</sup> *Id.* at 42.

plainly is outstripped if he or she is without the assistance of 'the guiding hand of counsel.'<sup>12</sup>

In contrast, New York has long recognized the necessity and value of providing court-appointed lawyers to poor parents in child protective proceedings. Almost a decade prior to Justice Blackmun's cogent dissent in *Lassiter*, the New York State Court of Appeals relied on similar reasoning in acknowledging a constitutional right to assigned counsel for parents defending their parental rights. In the seminal case of *In re Ella B.*, 30 N.Y.2d 352 (1972), the Court held, on both due process and equal protection grounds, that "[a] parent's concern for the liberty of the child, as well as for his care and control, involves too fundamental an interest and right to be relinquished to the State without the opportunity for a hearing, with assigned counsel if the parent lacks the means to retain a lawyer."<sup>13</sup> Presaging Judge Blackmun's *Lassiter* dissent, the *Ella B.* court highlighted the "gross inherent imbalance of experience and expertise" between the state and the parent, concluding that it is "fundamentally unfair, and a denial of due process of law for the state to seek removal of the child from an indigent parent without according that parent the right to the assistance of court-appointed and compensated counsel."<sup>14</sup>

In 1975 the New York State Legislature codified the *Ella B.* decision in the Family Court Act. Emphasizing that "[p]ersons involved in certain family court proceedings may face infringements of fundamental interests and rights, including the loss of a child's society and the possibility of criminal charges", the Legislature found counsel to be essential in protecting the due process rights of litigants and in assisting the court to make "reasoned determinations of fact and proper orders of disposition." *N.Y. Fam. Ct. Act §261*. Section 262 of the Family Court Act provides that when a respondent in a child protective proceeding "first appears in court, the judge shall advise such person before proceeding that he or she has the right to be represented by counsel of his or her own choosing, of the right to have an adjournment to confer with counsel, and of the right to have counsel assigned by the court in any case where he or she is financially unable to obtain the same."<sup>15</sup> The New York courts have affirmed that the right to counsel in child protective proceedings assumes meaningful representation and effective assistance of counsel comparable to that to which criminal defendants are entitled. *E.g., Matter of Jaikob O.*, 88 A.D.3d 1075, (3rd Dep't 2011); *Matter of Eileen R.*, 79 A.D.3d 1482 (3rd Dep't 2010); *Matter of James K.*, 238 A.D.2d 962 (4th Dept. 1997).

**B. The Necessity for Early Appointment of Counsel in Child Protective Proceedings**  
Experience and emerging data show that meaningful and effective representation of parents in child protective proceedings significantly improves outcomes for children and families,<sup>16</sup> and is critical in ensuring a well-functioning child welfare system.<sup>17</sup> Given the significant

<sup>12</sup> *Id.* at 46.

<sup>13</sup> 30 N.Y.2d at 356.

<sup>14</sup> 30 N.Y.2d at 356-357.

<sup>15</sup> *N.Y. Fam. Ct. Act §262*.

<sup>16</sup> See, e.g., Elizabeth Thornton & Betsy Gwin, *High-Quality Legal Representation for Parents in Child Welfare Cases Results in Improved Outcomes for Families and Potential Cost Savings*, *Family Law Quarterly*, Vol. 46, No. (Spring 2012).

<sup>17</sup> See, e.g., Vivek Sankaran, *A Hidden Crisis: The Need to Strengthen Representation of Parents in Child Protective Proceedings*, *Michigan Bar Journal*, October 2010, available at <http://www.michbar.org/journal/pdf/pdf4article1749.pdf>; Mark Hardin & Susan Koenig, "Early Appointment of



governmental intrusion into the parent-child relationship at all phases of a child protective case, and the potential for permanent, legal termination of that relationship, counsel must be appointed well in advance of the first court hearing if the lawyer is to have any chance of truly providing meaningful and effective assistance of counsel for the parent.<sup>18</sup> In accordance with that principle, New York children are guaranteed legal representation at the earliest occurrence of: (1) the court receiving notice that CPS has removed a child without a court order; (2) the filing of an application by CPS for an order for removal of the child prior to the filing of a petition, or (3) the filing by CPS of a petition alleging abuse or neglect.<sup>19</sup> On the other hand, the parent is advised of his or her right to assigned counsel only “[w]hen such person first appears in court.”<sup>20</sup>

Thus, while children are guaranteed legal assistance even *before* petition is filed when CPS has removed or *is about to* remove the child from his home,<sup>21</sup> parents rarely receive assistance of counsel in the early stages of a child protective case. In fact, providers around the state have informed this Office that parents often appear at the initial hearing without representation, and this is borne out in the reported cases. For example, in one case, the Appellate Division, Third Department reversed a finding of neglect upon finding that the mother’s fundamental rights were violated where the Family Court judge did not advise her of her right to counsel, and did not assign the Public Defender’s office until after the removal hearing was over. Although the Public Defender’s office represented her in all subsequent proceedings, the Third Department held that “[w]here, as here, “the dictates of Family Court Act §262 have not been followed, no prejudice analysis is necessary [;] ... reversal is mandated because a fundamental right has been denied respondent.”<sup>22</sup>

Because it can affect the ultimate outcome of the case, “the emergency removal hearing is a critical stage of child abuse and neglect litigation.”<sup>23</sup> At this hearing the court decides whether to prolong the separation between parent and child following an emergency removal.<sup>24</sup> In making

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Counsel for Parents” in Court Performance Measures in Child Abuse and Neglect Cases: A Technical Guide, pp. 101-109 (U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, 2009), available at <https://www.ncjrs.gov/pdffiles1/ojdp/223570.pdf> (hereafter *Court Performance Measures*).

<sup>18</sup> See e.g., Judge Leonard Edwards (ret.), *Representation of Parents and Children in Abuse and Neglect Cases: The Importance of Early Appointment*, *Juvenile and Family Court Journal* 63, no. 2 (Spring 2012) (hereafter *Importance of Early Appointment*) (“Unless the court appoints the [attorney] well before the initial hearing and the client receives representation from the beginning of the case, the representation will likely be ineffective.”).

<sup>19</sup> In New York, a child can be removed from parental custody in four ways. Pursuant to Article 10, Part 2 of the Family Court Act a child may be removed from the home: (1) temporarily with the parent’s consent (Fam. Ct. Act §1021); (2) by court order *after* the filing of a petition alleging abuse or neglect (Fam. Ct. Act §1027); (3) by court order *before* a petition alleging abuse or neglect is filed (“*ex parte* removal by court order”) (Fam. Ct. Act §1022); and (4) without a court order (“emergency removal”) and the filing of a petition alleging abuse or neglect soon after the removal (Family Ct. Act §1024). The Court of Appeals has remarked that these provisions create a “continuum of consent and urgency and mandate a hierarchy of required review” before a child is removed from home. See *Nicholson v. Scoppetta*, *supra* n. 8, at 375-381 (explaining consent removal, post-petition removal, *ex parte* removal by court order and emergency removal without court order).

<sup>20</sup> *N.Y. Fam. Ct. Act* §262.

<sup>21</sup> Prof. Merrill Sobie, *Practice Commentaries*, N.Y. Family Court Act §1016 (McKinney’s 2013).

<sup>22</sup> *In re Hannah YY*, 50 A.D.3d 1201 (3rd Dept. 2008).

<sup>23</sup> *Court Performance Measures*, *supra* n. 3 at 101.

<sup>24</sup> *Id.* The authors further remark that “[t]he separation of parent and child between the emergency removal hearing and adjudication may protect the child from serious, long-term harm. On the other hand, this separation may

this determination, federal law requires the judge to make two critical findings: one, whether it would be “contrary to the best interest of the child” to remain in the home,<sup>25</sup> and, two, whether the agency has made “reasonable efforts to prevent removal of the child.”<sup>26</sup> Early appointment of counsel helps ensure that parents’ due process rights are protected and that judges have the most accurate and useful information upon which to make critical, life-altering decisions about the parent-child relationship. For these reasons, and others, relevant standards strongly recommend that counsel for the parent (and the child) be appointed sufficiently *in advance* of the initial hearing to allow attorneys the opportunity to consult with the client and quickly investigate the facts of the case, discuss the case with the caseworker and the attorneys and advocates for other parties in the litigation, and to prepare for the hearing as thoroughly as time allows.

Given the important constitutional rights implicated when CPS removes children from their parents even *before* a court order of removal is obtained or before a petition alleging abuse or neglect is filed, access to legal representation for the parent as early as possible becomes all the more imperative. Numerous published standards therefore recommend that parents have legal representation at the earliest possible stage of a child protective proceeding, including the pre-petition stages of the case.<sup>27</sup> Moreover, increasing numbers of courts across the country are appointing attorneys for parents as soon as the court learns that a child has been removed from home,<sup>28</sup> and several projects have been established specifically to provide pre-petition representation for parents.<sup>29</sup> Pre-petition appointment for parents would more effectively

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traumatize the child and ultimately make it more difficult for the parent to correct the problems that led to State intervention.” *Id.*

<sup>25</sup> Section 472(a)(2)(A)(ii) of the Social Security Act and 45 C.F.R. 1356.21(c).

<sup>26</sup> Section 472(a)(2)(A)(ii) of the Social Security Act and 45 C.F.R. 1356.21(b)(1).

<sup>27</sup> See, e.g., *Court Performance Measures in Child Abuse and Neglect Cases: Technical Guide*, pp. 101-107, U.S. Department of Justice, Office of Justice Programs (2009) (observing that parents’ attorneys “are important not only before and during the emergency removal hearing but throughout all stages of the litigation”, and that “[i]f the parents’ attorneys are not involved prior to the emergency removal hearing, the court is more likely to place children away from the parents.”); *2013 Revised Standards for Providing Mandated Representation*, New York State Bar Association, Committee to Ensure Quality of Mandated Representation (recommending that counsel be available “for any court appearance,” and “when a person reasonably believes that a process will commence that could result in a proceeding where representation is mandated;” also that “systematic procedures” be put in place “to ensure that prompt mandated representation is available to all eligible persons, particularly those held in detention facilities, and where a child has been removed by a governmental agency from the person’s home.”); *Standards of Practice for Attorneys Representing Parents in Abuse and Neglect Cases*, Standard 4, American Bar Association (2006) (encouraging appointment of counsel for parents before the child welfare agency files a petition with the court “so that parents will have the benefit of counsel throughout the life of the case.”); *Standards and Criteria for the Provision of Mandated Representation in Cases Involving a Conflict of Interest*, New York State Office of Indigent Legal Services, Standard 5 (2012) (requiring counties to ensure that mandated legal services providers “[p]rovide representation for every eligible person at the earliest possible time and begin advocating for every client without delay, including while client eligibility is being determined or verified.”)

<sup>28</sup> See *Status Report 2005: A Snapshot of the Child Victims Model Court Project* (Reno, NV: NCJFCJ, 2005), cited in *Court Performance Measures* at n. 5, pp. 108-109.

<sup>29</sup> For a discussion of three such programs, see Trine Bech et. al, *The Importance of Early Attorney Involvement in Child Welfare Cases: Representation of parents in Pre-Petition Proceedings*, prepared for the American Bar Association’s Second National Parents’ Attorney Conference, Washington, D.C., July 13-14, 2011, available at [http://www.americanbar.org/groups/child\\_law/what\\_we\\_do/projects/parentrepresentation/conference\\_materials.html](http://www.americanbar.org/groups/child_law/what_we_do/projects/parentrepresentation/conference_materials.html)

advance New York's emphasis on maintaining family integrity,<sup>30</sup> giving parents' attorneys the opportunity to work with the agency to avoid the removal of a child, to work with the parent and help the parent understand the issues, and to encourage the agency to make reasonable efforts to work with the family by identifying and facilitating access to appropriate preventive services, rather than filing a petition or for an order of removal.

Similar to criminal defendants who appear without counsel at arraignment, it is commonplace for parents to appear without legal representation at emergency removal hearings where judges make critical decisions about whether to remove a child from the parent(s) or whether to continue to keep a parent and child separated following an emergency removal. Moreover, some providers report that even after they are appointed they may not actually meet the client until weeks, and sometimes months after the emergency removal hearing due to various factors such as excessive caseloads, lack of resources, delays in eligibility determination and logistical challenges. Additionally, while pre-petition appointment of counsel is required for children in some cases, parents are not afforded the same protection. The Office of Indigent Legal Services recognizes that poor parents, no less than their children, and no less than criminal defendants are entitled to meaningful representation and effective assistance of counsel. As one retired family court judge has noted:

Removing a child from parental care is perhaps the most significant governmental form of intrusion into a family. Most parents do not understand what happens in child abuse and neglect proceedings. They require assistance when facing the state with all of its resources and power. They need someone who understands the issues before the court, what the agency and court expect as the case proceeds, and how best to advise them to achieve their goals. They also need someone who understands how to reinforce messages from the court and agency that are designed to assist them, and to speak up and challenge the positions taken by the child protection agency and its attorney when those positions are not supported by the law or evidence.<sup>31</sup>

## CONCLUSION

These proposals are intended to address long-standing problems and challenges faced by counties and providers with respect to mandated family court representation. While they are just a beginning, the Office believes that they will have a deep and positive impact on the quality of representation provided to poor parents and other family court litigants who have for so long been underserved by New York's public defense system.

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<sup>30</sup> *Nicholson v. Scopetta*, 3 N.Y.3d 357 (2004) (acknowledging the Legislature's expressed goal of "placing increased emphasis on preventive services designed to maintain family relationships rather than responding to children and families in trouble only by removing the child from the family" and remarking that "New York has long embraced a policy of keeping "biological families together.")

<sup>31</sup> *Edwards, Importance of Early Appointment*, *supra* n. 6 at 26-27.



## ILS FACT SHEET

- **Level Funding for Counties.** To date, the ILS Board has authorized the development of three quality enhancement *non-competitive* distributions – in amounts sufficient to restore every county and New York City to the level of funding they received in 2010.
  - \$4.4 million distribution in 2011 (“Distribution #1”) (in addition, 90% statutory payment less 1.1 % FMAP/March, 2011)
  - \$8.1 million in 2012 (“Distribution #2”) (\$24.4 million over three years) (in addition, 75% statutory payment/March, 2012)
  - \$7.3 million in 2013 (“Distribution #3”) (\$22.1 million over three years) (in addition, 50% statutory payment/March, 2013)
  
- **Competitive Grants.** The ILS Board has authorized a total of just under \$10.8 million per year (\$32.4 million over three years) in *competitive* grants in furtherance of three specific goals:
  - \$ 4.0 million for counsel at a criminal defendant’s first court appearance (\$12 million over three years) (RFP released November 30, 2012; awards granted to all 25 counties submitting proposals; currently writing contracts with award counties).
  - \$4.0 million for upstate quality improvement and caseload reduction (\$12 million over three years) (RFP released August 22, 2013; proposals due October 18, 2013).
  - \$2.8 million for immigration regional resource centers (\$8.4 million over three years) (RFP in process of being drafted; expectation that RFP will be submitted to OSC for approval in October).
  
- **Status of Quality Enhancement Non-Competitive Distributions**
  - **Distribution #1:** initial contract extensions ended March 31, 2013; 21 counties have requested additional extensions of 6 months or less; 3 counties requesting extension of one year. To date, a total of 17 extensions have been approved.
    - As of September 1, 2013, claims in the amount of \$3,604,524 have been submitted by counties to ILS; \$3,177,057 of that amount has been processed and paid by OSC.
  - **Distribution #2:** total of 52 contracts assembled and sent to counties (total value: \$22,872,876); 49 of these contracts have been executed by counties, with 48 contracts having been finalized (approved by the AG and OSC, if over \$50,000) and 1 contract in the process of being approved.
    - As of September 1, 2013, claims in the total amount of \$1,764,571 have been submitted by the counties to ILS; \$1,689,212 of that amount has been processed and paid by OSC.
  - **Distribution #3:** request for proposals sent to counties (and providers) on May 17, 2013; to date, 35 proposals have been received.

**ILS: All Funding (by County/NYC)**

(Distributions #1 & #2 – unless otherwise noted, finalized contracts with budget revisions)

(Counsel at First Appearance RFP – describes plan for amount awarded; contracts not finalized, budget items subject to change)

**Albany County**

<p><b>Distribution #1</b>  \$115,282</p>	<p>(1) Provide 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 (\$55,000); (2) provide funding for expert services (\$10,000); (3) upgrade technology in Public Defender and Alternate Public Defender offices, including purchasing laptop computers, scanners and cell phones (\$25,000); and (4) provide CLE and other training opportunities for Public Defender and Alternate Public Defender attorneys (\$25,282).</p>
<p><b>Distribution #2</b>  \$786,729 \$262,243/yr. (contract not finalized)</p>	<p>(1) Provide funding for extraordinary 18-B assigned counsel expenses due to AG investigation resulting in 52 person indictment for conspiracy to distribute controlled substances (\$150,000/\$25,000/\$25,000); (2) add two full-time Assistant Public Defenders (\$112,243/\$169,565/\$169,565); (3) create Assigned Counsel Administrator position (\$0/\$35,000/\$35,000); and (4) provide funding for expert and investigative services (\$0/\$32,678/\$32,678).</p>
<p><b>Counsel at First Appearance RFP</b>  \$656,400 (contract not finalized)</p>	<p>(1) Create up to 8 three-member attorney teams (Public Defender office) to serve seven day rotations to (a) cover after-business hour and weekday non-regular session arraignments in town, city and village courts (24 hours/day) and (b) Saturday, Sunday and holiday arraignments in Albany City Court (\$124,800/\$124,800/\$124,800 plus fringe) (Counsel present in court within two hours of notification); (2) provide funding for Supervising Attorney to administer and participate in rotating attorney teams (\$5,200/\$5,200/\$5,200) ; and (3) hire one part-time Alternate Public Defender to provide counsel at arraignment in Albany City Court on daily basis (\$30,000/\$30,000/\$30,000 plus fringe). Fringe for three member teams and part-time APD hire (\$58,800/\$58,800/\$58,000). On-call duty is in addition to regular responsibilities as PD or APD. Coverage: entire county. Note: Individual budget lines subject to change during contract process.</p>

**Allegany County**

<p><b>Distribution #1</b>  \$15,481</p>	<p>Partially fund upgrade of Assistant Public Defender position from part-time to full-time (\$15,481).</p>
<p><b>Distribution #2</b>  \$105,651</p>	<p>Continued (and increased) partial funding of assistant public defender position (\$35,217/\$35,217/\$35,217)</p>

\$35,217/yr.	
Counsel at First Appearance RFP	Allegany County did not submit a proposal.

**Broome County**

Distribution #1 \$95,652	(1) Create new support staff position in Public Defender office (\$42,051 w/fringe); (2) provide funding for basic and advanced trial skills training (\$21,000); (3) purchase equipment to expand client access to attorney services, including upgrade of video conferencing (\$22,601); (4) increase number of Westlaw licenses for legal research and (5) expand library of internet and hard copy publications (items #4 and #5 total \$10,000).
Distribution #2 \$652,767 \$217,589/yr.	(1) Add Assistant Public Defender (\$65,289/\$65,289/\$65,289); (2) continued funding of keyboard specialist (25,000/\$25,000/\$25,000) (fringe for #1 and #2 \$54,173, \$54,173/\$54,173); (3) amend contract with Legal Aid Society of Mid-New York to add experienced Family Court attorney position (\$71,500/\$71,500/\$71,500) – this figure includes training; and (4) provide funds for CLE training and related travel for Public Defender's staff (\$1,626/\$1,626/\$1,627).
Counsel at First Appearance RFP \$659,140 (contract not finalized)	Add two Assistant Public Defenders to handle arraignments in three courts (Binghamton City Court, Town of Union Court and Village of Johnson City Court) (\$213,458/\$222,841/\$222,841 includes fringe and 2.5% annual increase). Coverage: three courts (Binghamton City Court, Town of Union Court and Village of Johnson City Court). Note: Individual budget lines subject to change during contract process.

**Cattaraugus County**

Distribution #1 \$35,490	(1) Provide CLE training opportunities for members of Assigned Counsel panel, Legal Aid Society and Public Defender office (\$2,000); (2) upgrade office equipment, including furniture and computer services (\$31,490); and (3) fund study to assess feasibility of contracting with Legal Aid Society to handle conflict cases in criminal court (\$2,000).
Distribution #2 \$242,199 \$80,733/yr.	(1) Provide funding for Regional Appellate Program (housed in Erie County Legal Aid Society) to handle criminal appeals (serves Genesee, Wyoming, and Cattaraugus; 24 clients/yr. arising out of Cattaraugus County Court) ("regional appeals bureau") (\$22,500/\$22,500/\$22,500); (2) provide funding for automation/case management improvements within assigned counsel Administrator's office and technology upgrades for Southern Tier Legal Services (\$10,432/\$3,160/\$3,160); (3) provide funding for CLE training (includes travel) for Public Defender's office (\$10,000/\$10,000/\$10,000); and (4) provide funding for pay parity for Assistant Public Defenders and Administrator of Assigned Counsel program (\$37,801/\$45,073/\$45,073).
Counsel at First Appearance RFP \$595,573 (contract not finalized)	(1) Add full-time APD (\$73,625/\$79,186/\$81,027 with fringe and 3% annual increase); (2) add investigator (\$66,667/\$74,531/\$76,808 with fringe and 3% annual increase); (3) add part-time keyboard specialist (\$23,084/\$25,902/\$26,401 with fringe and 3% annual increase); (4) provide funding for law books and Westlaw (\$400/\$400/\$400); (5) provide funding for technology and office upgrades, including computer/laptop, office equipment/iPhone and iPad (\$7,300/\$0/\$0); (6) provide funding for training and supplies (\$10,577/\$9,850/\$9,380); and (7) provide funding to (a) access OCA criminal history reports and (b) purchase Clear Investigation Subscription (\$10,000/10,000/\$10,000). Coverage: Olean City Court, Salamanca City Court and Cattaraugus County Court and 18 Justice courts where greatest number of individuals jailed without representation (90% of total arraignments). Note: Individual budget lines subject to change during contract process.

**Cayuga County**

<b>Distribution #1</b>  \$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) (\$5,550); (2) provide funding for investigative, interpreting and expert services in criminal cases (\$7,500); (3) upgrade computer capabilities, including purchasing printer (\$3,000); and (4) provide funding for additional attorney representation in specialty courts (e.g., domestic violence, drug court, family treatment court and mental health court) (\$3,203).
<b>Distribution #2</b>  \$131,049 \$43,683/yr.	(1) Provide attorney representation in Auburn Behavioral Health Court and Auburn Drug and Alcohol Treatment Court (meets one day/wk.: on average, 40 participants) (\$23,880/\$23,880/\$23,880); (2) funding for investigative services, expert witnesses, interpreters, psychiatrists, psychologists, and costs of transcripts (\$7,403/\$7,503/\$7,503); (3) provide CLE training opportunities (\$1,200/\$1,100/\$1,100); and (4) provide funding for extraordinary costs for complex cases – e.g., expert services in murder case. (\$11,200/\$11,200/\$11,200)
<b>Counsel at First Appearance RFP</b>  \$179,400 (contract not finalized)	Provide counsel at arraignment in Auburn City Court from 8am-10am M-F; Assigned Counsel Plan would rotate one attorney from pool of four attorneys (\$75/hr. for 2 hrs./day; 5 days week; if arraignment period exceeds two hours, attorneys wages capped at \$200 for arraignment period) (\$52,000/\$52,000/\$52,000) plus administrative costs (\$7,800/\$7,800/\$7,800). ACP will rotate one attorney from a pool of approximately four attorneys to provide representation at arraignment. Coverage: all arraignments in Auburn City Court. Note: Individual budget lines subject to change during contract process.

**Chautauqua County**

<b>Distribution #1</b>  \$39,552	(1) Add part-time, temporary attorney position to reduce caseloads in Public Defender office (\$16,284); (2) provide CLE and other training opportunities to Public Defender attorneys and members of Assigned Counsel panel (\$4,121); (3) provide funding for investigative services and trial experts in felony cases (\$10,000); and (4) upgrade technology in Public Defender's Office, including upgrading fax machine and purchasing digital camera (\$9,147).
<b>Distribution #2</b>  \$269,919 \$89,973/yr.	(1) Continue providing counsel at arraignment on a per diem basis (rotate three attorneys) for pilot project at Jamestown City Court (5 days a week) (\$24,500/\$29,400/\$29,400); (2) continue funding an eligibility examiner, to interview individuals prior to arraignment (per appearance ticket or in custody) (\$46,214/\$46,676/\$47,143); and (3) provide funding for costs associated with pilot program, including renting office space (\$2,400/\$2,400/\$2,400), attorney training (\$0/\$1,000/\$1,000), office furniture (\$1,000/\$0/\$0); computer technology upgrades (\$14,800/\$9,000/\$9,000), and office supplies (\$1,059/\$1,497/\$1,030).
<b>Counsel at First Appearance RFP</b>	Chautauqua County did not submit a proposal.

**Chemung County**

<b>Distribution #1</b>  \$38,875	Chemung County has not submitted a budget and work plan.
<b>Distribution #2</b>  \$265,296 \$88,432/yr.	Chemung County has not submitted a proposal.



<b>Counsel at First Appearance RFP</b>  <b>\$393,195</b> <b>(contract not finalized)</b>	Would create an "Arraignment Bureau" within the Public Advocate's Office, staffed with (1) a full-time attorney ("Arraignment Attorney") who is "on-call" 24 hours/day, 365 days/year (present in court within 30 minutes of receiving notice of arraignment) (\$83,720/\$87,068/\$90,551 includes 61% fringe plus 4% annual increase); and (2) a clerical person (maintain records, set up files and provide paperwork to attorney; the clerical person would also perform investigative functions) (\$30,720/\$31,948/\$33,226 includes 61% fringe plus 4% annual increase); along with (3) "other costs" (computers/work stations/cell phone/office supplies (\$12,100/\$1,500/\$1,500). Coverage: entire county. Note: Individual budget lines subject to change during contract process.
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**Chenango County**

<b>Distribution #1</b>  <b>\$13,064</b>	(1) Create part-time student-aid position in Public Defender's Office (\$7,813 w/fringe); (2) upgrade computer system (\$1,263); (3) provide funding for office supplies (\$2,570); and (4) provide funding for expert services in Family Court (\$1,418).
<b>Distribution #2</b>  <b>\$89,154</b> <b>\$29,718/yr.</b>	(1) Continue and enhance funding of part-time student-aid (clerk) position (basic filing, data entry, copying, message taking) (\$14,800/\$14,800/\$14,800 w/ fringe); (2) provide funding for training (attend NYSDA's Basic Trial Skills/CLE) (\$2,208/\$2,000/\$2,000); (3) technology upgrades (CMS software, Wi-Fi, printer) (\$1,610/\$1,818/\$1,818); (4) provide funding for expert and investigative services (\$7,000/\$7,000/\$7,000); and (6) provide funding for office expenses (printing brochures, communications, calendaring upgrades) (\$4,100/\$4,100/\$4,100).
<b>Counsel at First Appearance RFP</b>	Chenango County did not submit a proposal.

**Clinton County**

<b>Distribution #1</b>  <b>\$33,460</b>	(1) Partially fund community service (\$6,046 w/fringe) and pre-trial release monitoring (\$7,299 w/fringe); (2) provide funding for subject matter experts in criminal matters (\$12,500); (3) provide funding to upgrade computers (\$6,800); and (4) purchase office supplies (\$815).
<b>Distribution #2</b>  <b>\$228,345</b> <b>\$76,115/yr.</b>	(1) Continue partially funding Community Service Program Monitoring position (10%) (\$6,760/\$7,000/\$7,250 w/fringe) and Pre-trial Release Program Monitor position (15%) (\$6,630/\$6,800/\$7,000); (2) fund part-time assigned counsel Administrator position (\$28,000/\$28,000/\$28,000); (3) provide funding to reduce county audit costs related to reducing duplication and waste of resources (\$19,721/\$19,000/\$19,000); (4) provide funding to upgrade technology for auditing, tracking and processing of 18-B vouchers and payments (\$4,000/\$4,000/\$4,000); (5) provide funding for online legal research for Assigned Counsel program and update law books in Government Center (available to 18-B practitioners) (\$1,800/\$1,800/\$1,800); (6) provide funding for supplies related to improved storage of records associated with 18-B program (\$1,204/\$1,515/\$1,365); (7) provide funding for part-time support staff (\$8,000/\$8,000/\$8,000); (8) provide funding for expert services/training (\$0/\$0/\$2,500).
<b>Counsel at First Appearance RFP</b>	Clinton County did not submit a proposal

**Columbia County**

<b>Distribution #1</b>	(1) Provide funding for Case Manager position (\$9,000); (2) provide funding for expert and investigative services (\$9,000); and (3) provide
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\$22,236	funding for CLE, legal reference materials, office technology and upgrades (\$4,236).
<b>Distribution #2</b> \$151,743 \$50,581/yr.	(1) Create a Case Manager position to coordinate services in Family and IDV courts (\$30,581/\$30,581/\$30,581) and (2) provide funding for investigative and/or expert mental health services to assist in analysis and defense of felony cases (\$20,000/\$20,000/\$20,000).
<b>Counsel at First Appearance RFP</b>	Columbia County did not submit a proposal.

#### Cortland County

<b>Distribution #1</b> \$22,056	(1) Provide CLE and other training to attorneys in Public Defender office (\$1,800); (2) partially fund enhanced case management system (\$15,250); (3) upgrade computer system so that it is compatible with case management system (\$3,600); and (4) update the law library in Public Defender office (\$1,406).
<b>Distribution #2</b> \$150,522 \$50,174/yr.	(1) Upgrade part-time Assistant Public Defender position to full-time (\$30,000/\$30,000/\$30,000); (2) provide funding for expert services (\$8,500/\$8,500/\$8,500); (3) provide funding for CLE and training for Public Defender's office (\$8,674/\$8,674/\$8,674); and (4) upgrade legal reference materials/subscriptions (\$3,000/\$3,000/\$3,000).
<b>Counsel at First Appearance RFP</b>	Cortland County did not submit a proposal.

#### Delaware County

<b>Distribution #1</b> \$15,367	(1) Provide funding for series of CLE training programs to members of Assigned Counsel panel (i.e., three programs - fall, 2011; spring, 2012; and summer, 2012) (\$9,000); and (2) provide funding for investigative and expert witnesses in felony cases (\$6,367)
<b>Distribution #2</b> \$104,871 \$34,957/yr.	(1) Provide funding for series of four CLE training programs to members of Assigned Counsel panel (speaker's fee \$10,000/\$10,000/\$10,000; travel expenses \$2,000/\$2,000/\$2,000; administrative expenses \$2,000/\$2,000/\$2,000) (total: \$14,000/\$14,000/\$14,000); (2) provide funding for investigative and expert services for felony (\$3,000/\$3,000/\$3,000) and family court cases (\$3,000/\$3,000/\$3,000) (total: \$6,000/\$6,000/\$6,000); and (3) hire a resource coordinator and case manager to supervise training and recruitment of 18-B attorneys (\$14,957/\$14,957/\$14,957).
<b>Counsel at First Appearance RFP</b>	Delaware County did not submit a proposal.

#### Dutchess County

<b>Distribution #1</b> \$120,410	(1) Add entry level Assistant Public Defender position to address rising caseloads (\$95,091 w/fringe); (2) provide funding for legal and investigative research materials, both print media and online subscriptions (\$7,500); (3) provide funding for expert witnesses in criminal cases (\$8,000); and (4) upgrade office equipment (e.g., purchase filing cabinets, camera, and laptop computer) (\$9,819).
<b>Distribution #2</b> \$821,721	(1) Create new Family Court Unit in Public Defender's office with three new positions: (a) Senior Assistant Public Defender (\$60,000/\$104,411/\$104,411 w/fringe); (b) Assistant Public Defender (\$54,000/\$86,863/\$86,863 w/fringe); and (c) Legal Secretary (\$32,500/\$58,397/\$58,397 w/fringe); (2) provide funding for software development to automate voucher system for assigned counsel in Family

<b>\$273,907/yr.</b>	Court (\$17,035/\$0/\$0); (3) provide funding for steno & expert witness fees in Family Court (\$6,000/\$6,000/\$6,000); (4) provide funding for language interpretation services (\$800/\$800/\$800); (5) provide funding for legal research subscriptions (\$24,763/\$4,500/\$4,500); (6) provide funding for CLE training for Family Court Unit (\$2,936/\$4,500/\$4,500); (7) purchase case management software for Family Court Unit (\$0/\$8,436/\$8,436); (8) add a Senior Assistant Public Defender position (\$70,973/\$0/\$0); (9) provide funding for interdepartmental expenses (\$900/\$0/\$0); and (10) provide funding for office supplies and expenses (\$4,000/\$0/\$0).
<b>Counsel at First Appearance RFP</b>  <b>\$615,102</b> <b>(contract not finalized)</b>	Would provide counsel at after-hours first appearances (24 hours/7 days a week) in the two city courts and the higher volume justice courts (Town Courts of Hyde Park, Pleasant Valley, LaGrange, Poughkeepsie, East Fishkill, Fishkill, Wappingers Falls and Village Courts of Fishkill and Wappingers Falls) by (1) adding two Assistant Public Defenders (\$186,610/\$192,960/\$196,622 w/fringe and 5% annual increase); (2) renting vehicle for use in providing counsel at arraignment; including repairs and gas (\$9,520/\$9,520/\$9,520); (3) providing funding for training (\$750/\$750/\$750); and (4) upgrading technology (\$4,000/\$2,000/\$2,000). Coverage: arraignments in the two city courts (Poughkeepsie and Beacon) and the busiest lower courts in the County. Note: Individual budget lines subject to change during contract process.

**Eric County**

<b>Distribution #1</b>  <b>\$213,225</b>	(1) Provide funding (Assigned Counsel Program) to provide counsel at arraignment in Cheektowaga Town Court (\$40,000); (2) provide funding (Assigned Counsel Program) to provide co-counsel in limited number of complex felony cases (expected to go to trial) (\$12,000); (3) add staff attorney position at Legal Aid Bureau to reduce caseloads (\$46,917 plus fringe); (4) provide funding for investigative services in felony cases (\$22,000); (5) provide funding for social worker and expert services in criminal and Family Court cases (\$23,109 plus fringe)(\$4,000 contractual); (6) provide funding for hands-on training of attorneys with limited trial experience (\$6,000); (7) provide funding for expert services (\$22,500); and (8) provide funding for office supplies and administration, and legal materials (\$20,146) (fringe benefits for items #3 and #5 total \$16,552).
<b>Distribution #2</b>  <b>\$1,455,129</b> <b>\$485,043/yr.</b>	Would provide one-half of total funding each for Assigned Counsel Program and Legal Aid Bureau of Buffalo. For Assigned Counsel Program would (1) provide funding for experienced, highly skilled defense and family court attorneys in selected felony and family court matters (\$8,000/\$10,000/\$10,000); (2) continuation of funding from Distribution #1 for program of counsel at arraignment in Cheektowaga Town and to extend program to cities of Lackawanna and Tonawanda for a period of 7 months) (funding from counsel at arraignment competitive grant "anticipated" for the "remaining 5 months" (\$93,600/\$93,600/\$93,600); (3) continuation of funding (and expansion) to provide co-counsel in limited number of complex felony cases (\$17,600/\$20,000/\$22,000); (4) provide funding for investigative services in criminal and Family court matters (\$20,000/\$26,825/\$26,826); (5) provide enhanced funding for use of social workers (not as experts, but to assist attorneys in linking clients to services) (\$3,000/\$4,500/\$4,500); (6) provide funding for retention of experts to assess cases and in preparation for and testimony at trials (\$10,000/\$17,000/\$17,000); (7) provide funding for enhanced training (hands-on, small groups training of attorneys with limited trial experience (\$7,000/\$8,000/\$7,500); (8) provide funding for transcripts of hearings, trials and other proceedings (increases in litigation, costs of transcripts, retrials following mistrials, hung juries and appellate reversals (\$8,000/\$8,000/\$8,000); (9) provide funding for administrative assistance staff (assist in extra workload from counsel at arraignment project) (\$24,944/\$24,944/\$24,944); (10) provide funding for furniture and equipment (\$2,500/\$0/\$0); (11) provide funding for upgrade of technology, including computer hardware and software, copier/scanner (\$26,254/\$5,101/\$3,600); and (12) provide funding for an administrative allocation (supervision, management and general office overhead (\$11,623/\$14,551/\$14,551). For Legal Aid Bureau, would (13) provide funding for the continuation of Buffalo City Court Attorney position (\$55,738/\$60,500/\$64,647) and full-time Senior paralegal treatment court position (Drug, Mental Health, and Veteran's Court) position (\$25,250/\$41,085/\$43,786); (14) add new full-time staff attorney position in the Appeals Unit (will reduce by two months the time it takes to complete appeals) \$70,487/\$71,479/\$56,921); and (15) add part-time receptionist in the City Court office (currently no receptionist) (\$15,533/\$16,525/\$17,501) (total fringe benefits for #13-#15: (\$31,542/\$33,531/\$33,505); (16) provide funding for technology upgrade, including

	computer hardware and software (\$17,390/\$0/\$0); (17) provide funding for furniture and equipment (\$2,500/\$0/\$5,000); (18) provide funding for miscellaneous office supplies, equipment, rental space, books and insurance (\$4,680/\$0/\$1,760); and (19) provide funding for an administrative allocation (supervision, management and general office overhead) (\$19,402/\$0/\$0).
<b>Counsel at First Appearance RFP</b>  <b>\$592,541</b> <b>(contract not finalized)</b>	For "scheduled attorneys," (1) in first year of grant, provide second attorney ("back-up") at Cheektowaga (1 hr. day/5 days week at \$60/hr.) and expand counsel at arraignment to Town of Amherst (2 hrs. day/5 days week at \$60/hr.) (\$44,820/\$44,820/\$44,820) and (2) in second year of grant, expand providing counsel at arraignment to next three largest town courts in county (Tonawanda, West Seneca and Hamburg; 1 hr. day/5 days week/ at \$60 hour) (\$0/\$44,820/\$44,820). For "on-call" attorneys (off-hours in larger courts and for all arraignments in smaller, less busy courts) (divide county into 6 regions; one or two attorneys "on-call" depending on caseload; each attorney on call for full week every four weeks; 36 attorneys) (3 year phase-in) (\$58,250/\$101,900/\$131,070); (4) yearly stipend of \$3,000 plus \$500 travel costs and \$640 to supplement high volume attorneys; (5) provide funding for equipment (\$2,276/\$1,707/\$1,138); and (6) provide funding for attorneys for mileage, phone and tablets) (\$12,872/\$22,616/\$28,152. Coverage: by end of three year phase-in, "every criminal court in Erie County" will be covered on a 24/7 basis. Note: Individual budget lines subject to change during contract process.

#### Essex County

<b>Distribution #1</b>  <b>\$14,030</b>	Partially fund new full-time Assistant Public Defender position (\$14,030 w/fringe)
<b>Distribution #2</b>  <b>\$95,748</b> <b>\$31,916</b>	Continue funding Assistant Public Defender position (\$31,916/\$31,916/\$31,916 w/fringe)
<b>Counsel at First Appearance RFP</b>	Essex County did not submit a proposal.

#### Franklin County

<b>Distribution #1</b>  <b>\$16,556</b>	(1) Provide funding for investigative services for Public Defender (\$7,171.50) and Conflict Defender (\$2,084.50); (2) upgrade capabilities of computer systems, including printing and copying (Public Defender and Conflict Defender offices) (\$5,800); (3) obtain crime scene re-creation software (\$500); and (4) install large filing cabinets (\$1,000).
<b>Distribution #2</b>  <b>\$112,983</b> <b>\$37,661/yr.</b>	(1) Add a part-time assistant Public Defender (15/hrs. week) - 6 hours covering arraignments in Malone Town Justice Court and other courts ("pilot arraignment court") (\$11,544/\$11,544/\$11,544) and 9 hours handling overflow cases in Public Defender's office (\$17,316/\$17,316/\$17,316) (total: \$35,992/\$37,271/\$37,271 w/fringe); (2) provide funding for laptop computer (\$1,279/\$0/\$0); and (3) provide funding for paper for forms (\$390/\$390/\$390).
<b>Counsel at First Appearance RFP</b>	Franklin County did not submit a proposal.

#### Fulton County

<b>Distribution #1</b>	Fulton County has not submitted an executed contract.
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\$16,137	
<b>Distribution #2</b>	Add a part-time Public Defender (\$36,708/\$36,708/\$36,708 w/fringe).
\$110,124 \$36,708/yr.	
<b>Counsel at First Appearance RFP</b>	Fulton County did not submit a proposal.

**Genesee County**

<b>Distribution #1</b>	(1) Partially fund upgrade of Assistant Public Defender position from part-time to full-time (\$21,385 w/fringe); 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 (\$3,101). [budget revision].
\$24,486	
<b>Distribution #2</b>	Provide funding for (1) continuation of 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 (\$1,500/\$1,500/\$1,500); (2) continuation of partially funded upgrade of Assistant Public Defender position from part-time to full-time (\$0/\$12,904.95/\$12,904.95); (3) technology upgrades (iPads to access calendaring, e-mail, case management client database and jail database (\$3,340/\$0/\$0); and (4) Regional Appellate Program (serves Genesee, Wyoming and Cattaraugus counties) supervised by Appellate program of Legal Aid of Buffalo (\$48,090/\$38,526/\$38,526)
\$167,100 \$55,700/yr.	
<b>Counsel at First Appearance RFP</b>	Genesee County did not submit a proposal.

**Greene County**

<b>Distribution #1</b>	(1) Increase salaries of Public Defender (\$3,000) and Assistant Public Defender (\$2,000) (total: \$5,000); and (2) upgrade computer system in Public Defender's Office (i.e., purchase five desk top computers, five large screen monitors, five laser printers and three laptop computers) (\$11,907).
\$16,907	
<b>Distribution #2</b>	(1) Add part-time Assistant Public Defender position to reduce caseloads (\$33,127/\$33,127/\$33,127 w/fringe) and (2) add part-time clerk or confidential secretary to reduce current office workloads (\$5,333/\$5,333/\$5,333).
\$115,380 \$38,460/yr.	
<b>Counsel at First Appearance RFP</b>	Greene County did not submit a proposal.

**Hamilton County**

<b>Distribution #1</b>	Hamilton County did not submit a proposal.
\$1,897	
<b>Distribution #2</b>	Create part-time Coordinator of Public Defense attorney position to manage assigned counsel program (\$4,316/\$4,316/\$4,316).

\$12,948 \$4,316/yr.	
Counsel at First Appearance RFP	Hamilton County did not submit a proposal.

**Herkimer County**

Distribution #1 \$9,780	(1) Provide funding for additional support staff hours for Assigned Counsel Administrator (\$5,200); (2) provide CLE training and legal subscription materials to members of Assigned Counsel Panel (\$3,330); and (3) upgrade Assigned Counsel Administrator's office (e.g., printer and filing system) (\$1,250).
Distribution #2 \$66,741 \$22,247/yr.	Herkimer County has not submitted a proposal.
Counsel at First Appearance RFP \$330,000 (contract not finalized)	Provide funding for (1) 18-B assigned counsel panel to provide counsel at first appearance at regular court sessions of five or six City, Town and Village courts ("Counsel at First Appearance Plan") (\$48,000/\$60,000/\$60,000); (2) Assigned Counsel Administrator and support staff to implement Counsel at First Appearance Plan, collect data and devise new forms (\$30,000/\$30,000/\$30,000); (3) training (CLE) (minimum 6 credits annually) (\$10,000/\$10,000/\$10,000); (4) purchase of equipment (work station, office equipment, computers, copier, printer upgrade, etc.) (\$14,000/\$3,000/\$3,000); and (5) additional Office space (\$8,000/\$7,000/\$7,000). Coverage: regular sessions of five or six City, Town and Village Courts. Note: Individual budget lines subject to change during contract process.

**Jefferson County**

Distribution #1 \$28,480	(1) Provide funding for investigative and expert services in criminal cases (\$18,480); and (2) provide funding for CLE and other training for Assigned Counsel attorneys (\$10,000).
Distribution #2 \$194,358 \$64,786/yr.	Jefferson County has not submitted a proposal.
Counsel at First Appearance RFP	Jefferson County did not submit a proposal.

**Lewis County**

Distribution #1 \$8,347	Lewis County has not submitted a signed contract.
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<b>Distribution #2</b> \$56,964 \$18,988/yr.	Provide funding for (1) expert and/or investigative services for criminal and Family Court matters (\$269 /\$4,000/\$4,000); (2) increased number of hours and pay rate for secretarial/administrative staff (\$808 /\$3,994/\$3,994); (3) increased number of hours for two Associate Attorney positions (\$2,925/\$7,994/\$7,994); (4) technology upgrade, including computers system and printer (\$14,506/\$3,000/\$3,000); and (5) research materials (\$480/\$0/\$0).
<b>Counsel at First Appearance RFP</b>	Lewis County did not submit a proposal.

**Livingston County**

<b>Distribution #1</b> \$14,888	Provide funding to purchase case management software (\$14,888).
<b>Distribution #2</b> \$101,601 \$33,867/yr.	(1) Upgrade half-time Assistant Public Defender position to three-quarter time position (\$23,930/\$23,930/\$23,930 w/fringe); (2) provide funding for technology upgrade, including software (\$1,327/\$0/\$0); (3) provide funding for office furniture and equipment (\$754/\$827/\$806); and (4) provide funding for expert services (\$7,855/\$9,110/\$9,131).
<b>Counsel at First Appearance RFP</b>	Livingston County did not submit a proposal.

**Madison County**

<b>Distribution #1</b> \$16,681	(1) Provide funding for investigative (\$2,000) and expert services (\$6,000) in felony cases (total: \$8,000); (2) provide funding for costs of transcripts for appeals (\$6,757); and (3) provide funding for part-time Assistant Public Defender position (\$1,923). [budget revision].
<b>Distribution #2</b> \$113,838 \$37,946/yr.	Provide funding for (1) payment of transcript fees (\$1,000/\$1,000/\$1,000); (2) investigative (\$2,500/\$2,500/\$2,500) and expert services (\$3,000/\$3,000/\$3,000) (total: \$5,500/\$5,500/\$5,500); (3) training for assigned counsel panel (\$500/\$500/\$500); (4) technology upgrade (7 new computers, printer, installation and networking/new telephones and shredder) (\$10,000/\$3,000/\$0); (5) on-line subscription (Westlaw or Lexis) (\$3,000/\$3,000/\$3,000); and (6) part-time Assistant Public Defender position (\$17,946/\$24,946/\$27,946).
<b>Counsel at First Appearance RFP</b>	Madison County did not submit a proposal.

**Monroe County**

<b>Distribution #1</b> \$233,337	(1) Add new Assistant Conflict Defender position for Family Court (\$79,500 w/fringe); (2) partially fund two new Assistant Public Defender positions to reduce caseloads (\$24,997 w/fringe each); (3) provide funding for Appeals Backlog Reduction Program to reduce existing backlog in perfection of appeals in Public Defender and Conflict Defender offices (\$101,844); and (4) provide funding for furniture and office upgrades (\$2,002).
<b>Distribution #2</b>	For Public Defender's office (70% of total funding) would (1) fully fund two assistant public defender positions that were partially funded under

<p><b>\$1,592,379</b> <b>\$530,793/yr.</b></p>	<p>Distribution #1 and add two new additional staff attorneys (\$279,888/\$279,888/\$279,888 w/fringe); (2) provide funding for investigative services (\$46,666/\$46,666/\$46,666); (3) add part-time paralegal (\$15,590/\$15,590/\$15,590); (4) add part-time legal secretary (\$12,158/\$12,158/\$12,158); and (5) upgrade part-time paralegal to fulltime (\$17,026/\$17,026/\$17,026). For Conflict Defender's office (30% of funding) would (1) fully fund assistant conflict defender position that was partially funded under Distribution #1 and add an additional staff attorney position (\$147,368/\$147,368/\$147,368 w/fringe); and (2) provide funds to reduce appellate backlog in Conflict Defender office (\$12,097/\$12,097/\$12,097).</p>
<p><b>Counsel at First Appearance RFP</b></p> <p><b>\$724,218</b> <b>(contract not finalized)</b></p>	<p>Would (1) add three Assistant Public Defender positions (\$209,916/\$209,916/\$209,916 w/fringe), (2) upgrade an Assistant Public Defender position to Special Assistant Public Defender (\$7,200/\$7,200/\$7,200); (3) add a part-time paralegal (\$15,590/\$15,590/\$15,590); (4) provide funding to purchase cellphones, new computer workstations and office furniture for new attorneys (\$4,200/\$1,200/\$1,200); and (5) provide funding for mileage (\$6,500/\$6,500/\$6,500), so counsel can be provided at first appearance ("Monday through Friday Daytime Arraignment Plan") at (a) all regularly scheduled town and village court arraignment dockets (46 separate town and village arraignment calendars) and (b) individual arraignments from 8am – 8pm (M-F) in any town and village courts for defendants charged with felony, misdemeanor or violation. Two APDs would provide "on-call" representation for 12-hour period (M-F, 8 am – 8 pm), and a third APD would provide "back-up" when multiple arraignments conducted at the same time in different town or village courts (so primary, secondary and tertiary "on-call attorneys available to conduct on-call arraignments). The Special Assistant PD would assist with supervision and training of the town court attorneys, and in implementation of this proposal. The paralegal would assist attorneys in interviewing clients where number of persons prohibits attorney from interviewing each client. Coverage: all regularly scheduled town and village court arraignment dockets (46 separate town and village arraignment calendars) and individual arraignments from 8am – 8pm (M-F) in any town and village court. Counsel at arraignment currently provided in Rochester City Court. Anticipated that counsel will appear at over 4,500 arraignments with this plan. Note: Individual budget lines subject to change during contract process.</p>

**Montgomery County**

<p><b>Distribution #1</b></p> <p><b>\$16,321</b></p>	<p align="center">Montgomery County has not submitted a signed contract.</p>
<p><b>Distribution #2</b></p> <p><b>\$111,384</b> <b>\$37,128/yr.</b></p>	<p>Add an Assistant Public Defender position for Family Court (\$37,000/\$37,000/\$37,000).</p>
<p><b>Counsel at First Appearance RFP</b></p>	<p align="center">Montgomery County did not submit a proposal.</p>

**Nassau County**

<p><b>Distribution #1</b></p> <p><b>\$236,386</b></p>	<p>(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) (\$25,000); and (4) provide funds for investigative and expert services in criminal defense cases (Legal</p>
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	<b>Aid Society and Assigned Counsel Defender Plan</b> (\$36,386) (items #1 and #2 total \$175,000).
<b>Distribution #2</b>  <b>\$1,613,193</b> <b>\$537,731/yr.</b>	(1) Add three attorneys (Legal Aid Society) dedicated to certain specialty courts ("Problem Solving Courts"), with one attorney each dedicated to (a) Adolescent Diversion Part/Mental Health Court; (b) Veterans Court/Treatment Court/Community Court; and (c) Integrated Domestic Violence/Domestic Violence – Misdemeanor Court (total: \$201,000/\$201,000/\$201,000 w/fringe); (2) (a) add clerk typist (to assist in processing increased number of assigned counsel vouchers) (\$47,000/\$47,000/\$47,000 w/fringe) and provide funding for (b) workstation (\$3,000/\$0/\$0) and (c) additional space at Bar Association (rent) (\$6,000/\$6,000/\$6,000) for assigned counsel program; (3) provide funding for two 18b Family Court panel members to be available daily ("Attorneys-of-the-Day") for representation in Family Court, as needed (\$221,400/\$221,400/\$221,400); and (4) provide funding for a "limited" screening/verification demonstration project in Family Court (to determine if screening indigent defendants results in a reduction or slowing in size of caseloads and/or cost savings; existing screening research limited to evaluating existing systems, does not show a reduction in caseloads or cost savings) (\$59,331/\$62,331/\$62,331).
<b>Counsel at First Appearance RFP</b>  <b>\$659,955</b> <b>(contract not finalized)</b>	The "Nassau First Appearance Plan" will (1) add a Legal Aid Society attorney in Arraignment "A" (District Court) (second attorney staffing arraignments in Arraignment "A") with Spanish translation skills (\$64,000/\$64,000/\$64,000 w/fringe); (2) add a paralegal in Arraignment "A" (District Court) with Spanish translation skills (\$57,000/\$57,000/\$57,000); and (3) place 18-B "attorneys of the day" in Arraignment "A" to handle conflicts cases 3 hours/day (year 1) and 4 hours/day (years 2 & 3) 365 days year; assignments done rotationally (\$81,150/\$108,200/\$108,200). Coverage: District Court, Arraignment "A." Note: Individual budget lines subject to change during contract process.

#### New York City

<b>Distribution #1</b>  <b>\$1,205,562</b>	(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 (total: \$992,952); (2) create new Immigration Attorney Coordinator position (\$87,600 w/fringe) to monitor performance of new Immigration Attorneys, and provide additional funding for an Immigration Contracts Analyst (\$12,400) (total: \$100,000); (3) provide training to newly hired Immigration Attorneys to represent indigent clients in need of representation in immigration matters (\$5,000); (4) provide necessary legal reference materials related to immigration matters (\$9,000); (5) provide funding for technology upgrade (\$20,000); (5) providing funding for court/agency proceeding transcripts related to immigration matters (\$15,000); (6) provide funding for language interpreter/translation (\$47,500); (7) provide funding for travel-related costs (\$5,000); and (8) other costs (administrative support, conference fees, utilities and rent) (\$11,111).
<b>Distribution #2</b>  <b>\$2,296,686</b> <b>\$765,562/yr.</b>	(1) Continue funding nine 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 (ACPs) in need of representation in immigration matters (total: \$665,559/\$665,559/\$665,559); (2) continue funding Immigration Attorney Coordinator position (\$73,000/\$73,000/\$73,000 w/fringe) to monitor performance of new Immigration Attorneys, and (3) provide funding for other costs attendant to immigration program (training, travel, technology, administrative costs) (\$27,003/\$27,003/\$27,003).
<b>Counsel at First Appearance RFP</b>	New York City was not eligible to submit a proposal.

#### Niagara County

<b>Distribution #1</b>  <b>\$48,252</b>	(1) Provide funding for investigative (\$20,000) and expert services (\$20,000) (total: \$40,000); (2) provide funding for CLE and other training (\$4,000) and (3) purchase legal reference materials (\$4,252).
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<b>Distribution #2</b>	Niagara County has not submitted a proposal.
\$329,289 \$109,763/yr.	
<b>Counsel at First Appearance RFP</b>	Would (1) add full-time assistant public defender assigned to Niagara Falls City Court to primarily handle arraignments (20 arraignments/day in Niagara Falls City Court; may assist other attorneys post-arraignment) (\$118,442/\$118,442/\$118,442 with fringe); (2) add part-time clerical position to assist processing new cases (set up file, get charging documents and financial application from attorney, record bail and scheduling matters, and input information into office database) (\$24,003/\$24,003/\$24,003 with fringe); and (3) increase funds available for contractual investigative services (may obtain information relevant to client's bail status) (\$20,000/\$20,000/\$20,000). Coverage: Niagara Falls City Court. Note: Individual budget lines subject to change during contract process.
\$488,688 (contract not finalized)	

#### Oneida County

<b>Distribution #1</b>	(1) Purchase and implement an online voucher system for Assigned Counsel panel members (\$25,000); (2) add college student summer intern position in the Public Defender office (\$14,500 w/fringe); (3) upgrade 35 computers in Public Defender office capable of doing Skype or similar functions (\$36,356); (4) provide CLE training to members of the Assigned Counsel panel (\$2,000); and (5) purchase legal reference materials (\$1,000). [budget revision].
\$78,856	
<b>Distribution #2</b>	(1) Add full-time Assistant Public Defender position (criminal) (\$46,572/\$54,472/\$57,651 plus fringe); (2) add a full-time paralegal position in Public Defender's office (\$31,410/\$32,694/\$33,866 plus fringe); (3) upgrade a part-time assistant Public Defender position (Family Court) to full-time (\$33,247/\$34,253/\$35,347 plus fringe); (4) add Senior Office Specialist position for Public Defender's office (Family Court) (\$47,367/\$37,277/\$31,722 plus fringe) (total fringe for #1, #2, #3 and #4: \$47,367/\$37,277/\$31,722) (total amount for personnel #1, #2, #3, and #4: \$178,382/\$178,382/\$178,382); and (5) provide funding for office supplies/equipment for new employees (e.g., desks, computers, furniture, supplies, etc.) (\$1,000/\$1,000/\$1,000).
\$538,146 \$179,382/yr.	
<b>Counsel at First Appearance RFP</b>	Create special Counsel at First Appearance Section (CAFAS) in PD's office (Criminal Division) to provide counsel at arraignment after normal court hours and on weekends, primarily in Utica City Court and secondarily to targeted courts. Would (1) add one full-time and one part-time Assistant Public Defender position and one confidential investigator position (\$159,740/\$175,710/\$192,231 w/fringe of 49.74% to 54.84% and 5% annual inflationary factor); (2) provide funding for interpreter services (\$10,000/\$10,500/\$11,025); (3) purchase equipment (\$3,090/\$0/\$3,862); (4) provide funding for maintenance (\$3,150/\$3,308/\$3,473) and (5) provide miscellaneous funding (education; training; supplies) (\$7,000/\$7,100/\$7,455). Note: Individual budget lines subject to change during contract process.
\$557,574 (contract not finalized)	

#### Onondaga County

<b>Distribution #1</b>	(1) Add Staff Attorney position (Hiscock Legal Aid Society) to provide additional representation in Family Court (\$44,797 w/fringe); (2) provide 3% salary increase for 14 Family Court, Appeals and Parole attorneys (Hiscock Legal Aid Society) (\$25,143); (3) implement Volunteer Initiative Program (CNY Services) to coordinate volunteer services for court diversion in all Town, Village and City Courts (\$66,757); (4) provide funds for CLE and other training (\$2,400); (5) upgrade computers and printers (\$675); and (6) purchase office supplies (filing cabinets) (\$985). [budget revision].
\$140,757	
<b>Distribution #2</b>	For Assigned Counsel Program (ACP), (1) continue funding for Volunteer Initiative Program (CNY Services) to coordinate volunteer services for court diversion in all Town, Village and City Courts (\$96,000/\$96,000/\$96,000) and (2) provide representation for non-custodial defendants at arraignment in Syracuse City Court (City Court arraignment program currently provides representation for in-custody defendants only)
\$960,582	

<b>\$320,194/yr.</b>	(\$60,000/\$60,000/\$60,000). For Hiscock Legal Aid Society (HLAS), (3) continue funding for additional Family court staff attorney (\$41,909/\$44,004/\$46,205); (4) continue and expand cost-of-living salary adjustments in mandated representation programs (\$38,649/\$43,000/\$50,000); (5) add an additional Family Court support staff position (\$30,625/\$32,156/\$33,765). Also, (6) provide funding for miscellaneous items (training, computer, phone, rent, insurance) (\$7,710/\$5,700/\$0) and (7) provide funding for benefits/fringe for funded positions and salary adjustments (\$36,134/\$39,334/\$34,224).
<b>Counsel at First Appearance RFP</b>  <b>\$588,000</b> <b>(contract not finalized)</b>	Would primarily provide representation in the 14 largest justice courts (assign one or two arraignment attorneys depending on caseloads: either one felony and one misdemeanor attorney or one felony attorney). <ul style="list-style-type: none"> <li>- 20 Felony attorneys per week, \$90 (1.2 hrs.) for 50 weeks (\$90,000/\$90,000/\$90,000);</li> <li>- 17 Felony attorneys per week, \$72 (1.2 hrs.) for 50 weeks (\$61,500/\$61,500/\$61,500)</li> <li>- ACP contractor (data and record keeping; 5 hours/wk.) (\$10,500/\$10,500/\$10,500)</li> <li>- NSA, Inc. subcontractor for contract computer services (50 hours 1st year; 16 hours years 2 &amp; 3) (\$6,000/\$2,000/\$2,000)</li> <li>- ACP contractor (for tracking of time spent in jail and bail posted; to obtain data from Justice Center) (\$29,667/\$30,967/\$32,267).</li> </ul> <p>Coverage: provide representation at arraignments in the 14 largest justice courts (before 33 judges); would account for 90% of defendants arraigned in town and village courts. Note: Individual budget lines subject to change during contract process.</p>

**Ontario County**

<b>Distribution #1</b>  <b>\$39,844</b>	(1) Retain mitigation specialist to facilitate mental health and drug/alcohol treatment referrals and work with incarcerated high school students (\$35,844); (2) provide low-cost CLE training to members of Assigned Counsel panel and Public Defender office (\$2,000); (3) upgrade computer equipment; (4) upgrade technical equipment (e.g., audio-visual, recording devices and cameras); and (5) provide Spanish language training (\$500) (items #3 and #4 total \$1,500).
<b>Distribution #2</b>  <b>\$271,911</b> <b>\$90,637/yr.</b>	(1) Establish Public Defender satellite office in Geneva City (improve client access to attorney in highest volume criminal court) (\$17,600/\$17,600/\$17,600); (2) provide funding for training and CLE (offer free CLE courses in defense-specific issues, host 7 <sup>th</sup> Judicial Chief Defender meetings, provide language instruction, fund summer internships, provide grant writing training and provide trial technique trainings) (\$17,453/\$17,453/\$17,453); (3) provide funding for technology upgrade (iPad, NYSDA CMS "app") to enhance access outside visiting hours to clients in jail, improve court efficiency, perform on the spot conflict checks, possibility of sharing information with other defense offices using CMS (\$5,000/\$5,000/\$5,000); (4) enhance provision of representation at arraignment by obtaining cell phone (off-hour arrangements) and mileage reimbursement (weekend arraignments) (\$2,000/\$2,000/\$2,000); (5) provide funding for experts in "new scientific areas" (eyewitness testimony, voluntariness of confessions and other "cutting edge" fields) (\$10,000/\$10,000/\$10,000); and (6) provide funding for Defense-Based Advocate (formerly known as treatment and mitigation specialists) and addiction, mental illness/custody evaluations and referrals (e.g., Finger Lakes Counseling and Referral Agency perform drug and alcohol evaluations on in-custody parolees charged with violating parole, and, in conjunction with Office of County Mental Health, refer clients to mental health agencies) (available to Public Defender office and Assigned Counsel Program) (\$38,583/\$38,583/\$38,583)
<b>Counsel at First Appearance RFP</b>  <b>\$750,000</b> <b>(contract not finalized)</b>	Would (1) add 2 full-time Assistant Public Defender positions (per position: \$99,825/\$102,900/\$105,900 w/fringe and salary "step"); (2) add a part-time Office Specialist I position (data input; case-related work for 2 new attorneys; assigned to Public Defender's satellite office in Geneva) (\$14,810/\$17,800/\$19,700 w/fringe and COLA); (3) purchase additional supplies for new hires (computer equipment, work stations, printer, telephones, furniture) (\$9,300/\$1,800/\$1,800); and (4) provide monetary supplements (overtime & mileage) to Assistant Public Defenders (\$26,240/\$24,600/\$16,700). Would (a) provide representation at "non-DA night" calendars; (b) provide "on-call" schedule so that attorneys are

finalized)	available for off-hour arraignments; and (c) ask attorneys to arrive earlier for current PD pilot program. Coverage: entire county. Note: Individual budget lines subject to change during contract process.
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**Orange County**

<b>Distribution #1</b> \$97,060	(1) Purchase and install a web-based electronic voucher system for Assigned Counsel attorneys (\$78,000); (2) provide CLE training for Assigned Counsel and Legal Aid Society attorneys (\$10,000); 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 (\$9,060).
<b>Distribution #2</b> \$662,376 \$220,792/yr.	(1) Add two new Legal Aid attorney positions (\$181,850/\$189,942/\$198,520 w/fringe); (2) partially fund one secretary position (\$24,942/\$24,850/\$16,272); and (3) purchase technology (computers) and office equipment to support the three new positions (\$14,000/\$6,000/\$6,000).
<b>Counsel at First Appearance RFP</b>	Orange County did not submit a proposal.

**Orleans County**

<b>Distribution #1</b> \$11,462	(1) Provide additional investigative and expert services (\$7,962); and (2) partially fund new case management system, including upgrading computer system (\$3,500).
<b>Distribution #2</b> \$78,219 \$26,073/yr.	(1) Provide continued and enhanced funding for investigative, interpreter and expert services (\$7,500/\$7,500/\$7,500); and (2) create an assigned counsel administrator position (investigate eligibility, develop eligibility standards and investigate applicants and assigned counsel vouchers (\$18,573/\$18,573/\$18,573).
<b>Counsel at First Appearance RFP</b>	Orleans County did not submit a proposal.

**Oswego County**

<b>Distribution #1</b> \$40,218	Provide additional funding for Assigned Counsel program for criminal and family court cases (\$40,218).
<b>Distribution #2</b> \$274,461 \$91,487/yr.	(1) Provide funding for Assigned Counsel Administrator (\$0/\$20,000/\$20,000) and Secretary(\$0/\$22,000/\$22,000) (total: \$42,000/\$42,000/\$42,000); (2) provide funding for expert and investigative services (\$8,000/\$8,000/\$8,000); (3) provide additional funding for assigned counsel program (\$83,487/\$39,487/\$39,487); and (4) provide funding for training and CLE (\$0/\$2,000/\$2,000).
<b>Counsel at First Appearance RFP</b> \$150,000 (contract not	Would provide counsel at first appearance for defendants in Oswego City Court on "arraignment day." Counsel required to arrive early to Court. (\$50,000/\$50,000/\$50,000). Coverage: Oswego City Court "arraignment day." Note: Individual budget lines subject to change during contract process.

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**Otsego County**

<b>Distribution #1</b> \$24,479.	(1) Provide funding to have case records integrated in one central location (includes purchasing filing cabinets) (\$5,000); and (2) provide CLE training to members of Assigned Counsel panel and Public Defender office (\$19,479).
<b>Distribution #2</b> \$167,055 \$55,685/yr	Provide funding to contract with Legal Aid Society of Mid-New York for conflict representation in Family Court (\$55,685/\$55,686/\$55,685)
<b>Counsel at First Appearance RFP</b>	Otsego County did not submit a proposal

**Putnam County**

<b>Distribution #1</b> \$20,785	(1) Provide funding for forensic experts (\$18,125) and witnesses (\$120) (total: \$18,245); (2) provide funding for interpreter fees (\$1,935); and (3) provide funding for education and training (\$605). [budget revision].
<b>Distribution #2</b> \$141,846 \$47,282/yr.	(1) Upgrade status of two part-time Legal Aid Society attorneys from 50% to 75% (\$28,000/\$28,000/\$28,000) and (2) provide continued and enhanced funding for forensic experts (\$15,000/\$15,000/\$15,000), forensic witnesses (\$2,000/\$2,000/\$2,000) and interpreter fees (\$2,282/\$2,282/\$2,282) (total: \$19,282/\$19,282/\$19,282).
<b>Counsel at First Appearance RFP</b>	Putnam County did not submit a proposal.

**Rensselaer County**

<b>Distribution #1</b> \$39,868	(1) Upgrade capabilities of computer system for Public Defender office, Conflict Defender office and Assigned Counsel panel by purchasing computers, printers, and copy machines (\$29,584); and (2) purchase office supplies, including filing cabinets (\$10,284). [budget revision].
<b>Distribution #2</b> \$272,073 \$90,691/yr.	For Public Defender's Office: (1) add 10 hrs./week for Family Court Secretary (\$12,354/\$12,354/\$12,354); (2) upgrade Family Court staff attorney position from part-time to full-time (\$19,005/\$19,005/\$19,005); (3) create part-time (15 hrs./week) Family Court attorney position (\$21,840/\$21,840/\$21,840); (4) provide funding for technology (laptop, air card, monitor, webcam) (\$2,968/\$3,189/\$3,061); (5) provide funding for expert witness services (\$2,500/\$2,500/\$2,500); and (6) provide funding for CLE training (\$2,500/\$2,500/\$2,500). For Conflict Defender's Office: (7) add part-time assistant staff attorney (15 hours/week) (\$21,840/\$21,840/\$21,840); (8) provide funding to update existing computer and add scanner capabilities (\$1,225/\$0/\$0); and (9) purchase NYSDA CMS, including annual fees, training and licensing fees (\$2,875/\$1,505/\$555). For Assigned Counsel program: (10) provide funding for technology upgrade, office furniture, computers (\$4,809/\$5,458/\$336); and (11) provide funding for CLE training and expansion of law library (\$0/\$500/\$6,700).
<b>Distribution #3</b>	Proposal:

<p>\$272,073 \$90,691/yr.</p>	
<p><b>Counsel at First Appearance RFP</b></p> <p>\$554,159 (contract not finalized)</p>	<p>Would (1) add part-time APD (15 hours/week at \$28/hr.) to provide counsel at first appearance in Troy City Court (M-F mornings), Rensselaer City Court (Wed. mornings) and travel to East Greenbush and Brunswick, if possible (\$23,510/\$23,510/\$23,510 with fringe); (2) provide (a) salary enhancements to PD staff (rotating attorneys "on call; 5 weeks/year; available 24 hours/day in 5 highest volume city and justice courts in Rensselaer County and Rensselaer County Court) ("pilot project courts") (200 hours at \$32/hour or \$6,400) and (b) salary enhancement to chief attorney (200 hours at \$55/hour, or \$11,000) to supervise and participate in "on-call" rotation; (3) add part-time assistant in Conflict Defender's office (15 hours/wk. at \$28/hour) (\$23,510/\$23,510/\$23,510 w/fringe); (4) (a) salary enhancements to Conflict Defender staff (rotating "on-call" attorney position; 5 weeks every year; 24 hrs./day in pilot project courts)(200 hrs. at \$32/hr. or \$6,400); (b) salary enhancement to chief attorney ("on-call rotation; supervise) (200 hrs. at \$35.00 or \$7,000); (5) funding for 18-B attorneys for cases where PD and Conflict Defender conflicted out (30 arraignments at 2 hr. arraignment at \$75/hr. (assume felony) (\$4,500); (6) subcontract investigative services to Probst Investigation (400 billable hours); (\$13,333/\$13,333/\$13,333); (7) [provide funding for expert services (evaluative and forensic experts, as well as MSW services) (\$5,000/\$5,000/\$5,000); (8) provide funding for interpreter services (\$3,000/\$3,000/\$3,000); (9) provide funding for equipment (cell phones/laptop) (\$3,000/\$3,000/\$3,000); and (10) provide funding for travel (\$1,000/\$1,000/\$1,000). Coverage: five highest volume city and justice courts in Rensselaer County as well as Rensselaer County Court (82.2% of case volume in all criminal courts in County) (provide primary, conflict and 18-B back-up). Note: Individual budget lines subject to change during contract process.</p>

**Rockland County**

<p><b>Distribution #1</b></p> <p>\$91,196</p>	<p>(1) Purchase vehicle for investigators in Public Defender office (\$21,051), plus fuel costs (\$2,797) (total: \$23,848); (2) provide advanced CLE training to members of Assigned Counsel panel and Public Defender office (\$25,000); (3) update McKinney's and purchase specialty reference books (e.g., DNA, DWI, sex crimes, immigration, and search and seizure) (\$13,691); (4) purchase laptop computer(s) (\$1,057); (5) purchase computer software and Rosetta Stone – Spanish (\$4,000); (6) upgrade on-line computer services (Westlaw Next) (\$21,000); and (7) purchase office supplies (\$2,600).</p>
<p><b>Distribution #2</b></p> <p>\$622,356 \$207,452/yr.</p>	<p>(1) Add Spanish-speaking caseworker (referrals, connect clients to community agencies, transportation matters, access medical records, etc.) (\$76,261/\$76,261/\$76,261 w/fringe) and receptionist (\$48,692/\$48,692/\$48,692 w/fringe) in Public Defender's office; (2) upgrade technology by purchasing digital camera and case (photo crime scenes (\$380/\$0/\$0); (3) provide funding for CLE courses for public defenders and 18B attorneys (\$16,000/\$14,500/\$15,700); (4) provide funding for investigative and expert services for public defender and 18B attorneys (\$10,000/\$13,699/\$15,000); (5) provide funding for upgrade of public defender office, including carpet (\$16,328/\$0/\$0), refurbishing kitchen (\$1,800) and office supplies/furniture upgrade (\$0/\$8,500/\$7,000); (6) purchase high volume scanner \$0/\$2,500/\$0); (7) hire part-time intern to scan files into computer system (\$0/\$10,000/\$10,000); (8) provide funding for a storage system for present files; (9) add three licenses to access case management system (for additional staff to access system) (\$1,500/\$1,500/\$1,500); (10) purchase shredder; (\$300/\$0/\$0); (11) obtain portable phones with speakers; (\$125/\$0/\$0); (12) update printer and on-line services for research (\$0/\$0/\$10,000); (13) purchase subscription for NYLJ (\$800/\$800/\$800); and (14) provide funding for transcripts (\$0/\$0/\$7,500).</p>
<p><b>Counsel at First Appearance</b></p> <p>\$416,760</p>	<p>Would (1) hire two part-time attorneys with primary function to provide representation at arraignment (on-call) (daily, evenings and weekends) for 21 Justice courts in Rockland County (\$130,000/\$130,000/\$130,000); (2) provide funding for the 15 present attorneys of PD office to serve as "back-up" for arraignments on "as-needed" basis (\$5,000/\$5,000/\$5,000); (3) obtain blackberry phones for attorneys (\$1,920/\$1,920/\$1,920); and provide miscellaneous funding (\$2,000/\$2,000/\$2,000). Note: Individual budget lines subject to change during contract process.</p>

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**St. Lawrence County**

<b>Distribution #1</b>  \$37,462	Purchase new case management system (\$37,462).
<b>Distribution #2</b>  \$255,654 \$85,218/yr.	(1) Add Legal Secretary (to work under direct supervision of assigned counsel administrator) (\$71,450/\$71,450/\$71,450 w/fringe); provide funding for incidental costs for new secretary (notary, professional development) (\$675/\$500/\$560); (3) provide continued funding for CMS costs (a) technical support (\$6,687/\$6,687/\$6,687); (b) maintenance (\$500/\$500/\$500); and (c) training (4 days/year) (\$1,500/\$1,500/\$1,500) (total: 8,237/\$8,237/\$8,237); and (4) provide funding for assigned counsel program (\$4,506/\$4,581/\$4,521).
<b>Counsel at First Appearance RFP</b>  \$586,744 (contract not finalized)	(1) Add full-time legal secretary (PD office) (\$73,071/\$69,996/\$69,996 w/fringe); (2) add full-time keyboard specialist (Conflict Office) (\$55,925/\$52,850/\$52,850 w/fringe); (3) provide CLE opportunities for Assigned Counsel Program attorneys (9 training days; available to Magistrates; attorneys and Judges) (\$4,761/\$4,761/\$4,761); (4) provide funding for investigative services for ACP (\$20,000/\$20,000/\$20,000); and (5) provide increased funding for assigned counsel (\$37,500/\$50,000/\$50,000). Coverage: entire county envisioned. Note: Individual budget lines subject to change during contract process.

**Saratoga County**

<b>Distribution #1</b>  \$31,007	(1) Provide funds to reconfigure/expand Public Defender office to accommodate transition to an all full-time Public Defender staff (\$4,872); (2) upgrade technological support in Public Defender office (i.e., lease photo copier and purchase personal computers, scanner, printer and upgraded software) (\$25,314); (3) provide funding for CLE and other training (\$365); and (4) upgrade Westlaw service (\$456).
<b>Distribution #2</b>	Saratoga County has not submitted a proposal.
<b>Counsel at First Appearance</b>	Saratoga County did not submit a proposal.

**Schenectady County**

<b>Distribution #1</b>  \$67,884	(1) Provide funding for Assigned Counsel program to address increase in number of appeals (\$32,488); (2) upgrade computer and video conferencing capabilities of Conflict Defender and Public Defender offices, including usage with clients housed in county jail (\$2,900); (3) provide funding to increase presence of Conflict Defender attorneys in Schenectady Police Court (\$7,497 w/fringe); and (4) add Alternatives Coordinator to provide screenings for mental illness and chemical addiction (\$24,999).
<b>Distribution #2</b>  \$463,266	(1) Provide funding for Assigned Counsel program to address increase in conflict cases (\$42,068/\$42,068/\$42,068). For Conflict Defender's office: (2) enhance part-time Conflict Defender position to full-time (\$33,723/\$33,723/\$33,723 plus fringe); (3) increase availability of conflict defender services at Schenectady Police Court (\$5,073/\$5,073/\$5,073 plus fringe) (total fringe for #2 and #3: \$19,212/\$19,212/\$19,212). For

\$154,422/yr.	Public Defender's office: (4) enhance part-time legal clerk position to full-time (\$18,073/\$18,073/\$18,073 plus fringe); and (5) provide funding for mental health and chemically addicted screenings alternative coordinator (\$17,440/\$17,440/\$17,440 plus fringe) (total fringe for #4 and #5: \$18,833/\$18,833/\$18,833).
Counsel at First Appearance RFP	Schenectady County did not submit a proposal.

**Schoharie County**

Distribution #1 \$10,036	(1) Provide funds for CLE training of members of the assigned counsel panel (\$9,636); and (2) purchase office supplies (\$400).
Distribution #2 \$68,490 \$22,830/yr.	(1) Provide CLE training for members of assigned counsel panel (\$5,000/\$5,000/\$5,000); (2) provide funding for panel of assigned counsel to provide representation at arraignment (24 hour basis) (\$17,430/\$17,430/\$17,430); and (3) provide funding for office supplies/equipment (\$400/\$400/\$400).
Counsel at First Appearance RFP	Schoharie County did not submit a proposal.

**Schuyler County**

Distribution #1 \$8,173	(1) Provide additional investigative and expert services for both criminal and family court matters (\$6,702); and (2) provide funds for CLE training of staff attorneys in Public Defender's Office (\$1,471).
Distribution #2 \$55,776 \$18,592/yr.	(1) Provide continued and enhanced investigative and expert services (continue relationship with private investigator funded under Distribution #1) (\$10,000/\$10,000/\$10,000); (2) provide funding for CLE and NYSDA training (Public Defender office and conflicts attorney) (\$2,000/\$2,000/\$2,000); (3) provide funding for miscellaneous trial equipment (display equipment, photos, court apparel) (\$500/\$500/\$500); and (4) provide partial funding to convert part-time Assistant Public Defender position to full-time (\$6,092/\$6,092/\$6,092).
Distribution #3 \$55,776 \$18,592/yr	Proposal:
Counsel at First Appearance RFP \$93,849 (contract not finalized)	(1) Provide funding to upgrade part-time assistant public defender (currently 30/hrs. week at \$40,800 plus \$11,602 fringe ) to full-time (\$60,000 plus \$16,425 fringe) (\$24,023/\$27,080/\$30,259 with fringe and 4% raise); and (2) provide funding to upgrade current legal secretary position (to address increase in workload; prepare files, maintain data collection, phone coverage) (\$4,000/\$4,160/\$4,326). Note: Individual budget lines subject to change during contract process.



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**Seneca County**

<b>Distribution #1</b>  \$10,158	Provide funding for additional investigative and expert services (\$10,158).
<b>Distribution #2</b>  \$69,321 \$23,107/yr. (contract not finalized)	Provide funding for (1) an appeals attorney (\$11,372/\$11,305/\$11,101); (2) expert witness and investigative services (\$5,000/\$5,000/\$5,000); and (3) legal research subscriptions and upgrade of technology (\$6,734/\$6,734/\$6,734).
<b>Counsel at First Appearance RFP</b>	Seneca County did not submit a proposal.

**Steuben County**

<b>Distribution #1</b>  \$30,904	(1) Provide funds for investigative services in felony cases (\$15,452); and (2) upgrade computer research capabilities of Public Defender office (\$15,452).
<b>Distribution #2</b>  \$210,897 \$70,299/yr.	(1) Purchase and install NYSDA case management system with annual support fee (to replace "homemade" software program/ no "real time" reports) (\$13,316/\$2,656/\$2,656); (2) upgrade technology (install Digital Work station to permit scanning, storage and retrieval of files – remote access) (\$7,000/\$10,000/\$3,000); (3) increase funding for CLE and training (\$4,937/\$8,000/\$8,000); (4) develop a program in consultation with DA's office, probation and courts to identify and expand pre-trial release options (to increase "no strings" pre-trial release of "border line" cases) (\$0/\$2,791/\$9,791); (5) increase funding for investigative services (\$7,379/ \$5,000/\$5,000); (6) add full-time Senior Assistant Public Defender position (primarily A and B felonies) (\$37,666/ \$41,852/\$41,852).
<b>Counsel at First Appearance RFP</b>	Steuben County did not submit a proposal.

**Suffolk County**

<b>Distribution #1</b>  \$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 (\$188,233 w/fringe); (2) partially fund a new case management system (i.e., installation, database licenses, data conversion, customization, training and annual support fees) (\$3,510); (3) add additional Legal Aid Society staff attorney position (\$59,127); and (4) add additional Legal Aid Society investigator position (\$57,767).
<b>Distribution #2</b>  \$2,106,258 \$702,086/yr.	(1) Continue funding of (a) two Legal Aid staff attorneys (\$119,270/\$122,848/\$126,533 plus fringe); (b) one Senior Attorney (65%) (\$48,664/\$50,124/\$51,358 plus fringe); and (c) one investigative position (\$48,410/\$49,862/\$51,358 plus fringe) in Family Court dedicated to handling custody and visitation matter (total salary and fringe: \$264,131/\$267,231/\$271,813) (total salary: \$216,344/\$222,834/\$229,519) (total fringe: \$73,557/\$75,764/\$78,036); (2) provide funding for (a) equipment (\$13,899/\$5,202/\$0), (b) training (\$2,200/\$2,200/\$0) and (c) travel

	(\$2,000/\$2,000/\$445) for continued positions (see #1); (3) add (a) four new Spanish speaking Legal Aid attorneys (to improve quality of services to Spanish speaking clients) (\$220,000/\$226,600/\$233,400 plus fringe); (b) one Spanish speaking secretary (40%) (\$15,600/\$16,068/\$16,550 plus fringe); and (c) one Spanish speaking Client Advocate (\$40,000/\$41,200/\$42,436 plus fringe) (total: \$275,600/\$283,868/\$292,386 plus fringe) (total fringe: \$93,704/\$96,515/\$99,411); and (4) provide funding for (a) furniture and office equipment (\$15,000/\$4,000/\$0); (b) training (\$3,000/\$3,000/\$1,000) and (c) travel (\$6,782/\$6,703/\$1,289) for new Spanish speaking positions.
<b>Counsel at First Appearance RFP</b>  \$747,000 (contract not finalized)	(1) Add 2 full-time Legal Aid Society staff attorneys ("Arrestment Team") (one of two attorneys bilingual) to physically staff 2 high volume town courts (Southold and East Hampton; M-F) in eastern Suffolk County (\$147,400/ \$151,822/\$156,377 w/fringe) (plus furniture and equipment (\$5,000/\$2,000/\$0); travel (\$10,6000/\$10,000/\$7,623); training (\$2,000/\$1,500/\$1,000) and (2) increase Assigned Counsel Defender Plan representation ("Arrestment Attorney") (bilingual) at Suffolk County District Court arrestment parts to cover arrestments whenever court is in session (7 days/wk.; one attorney present M-F and on Sat and Sun) (\$84,000/\$84,000/\$84,000). Coverage: District Court (includes 5 eastern counties); and 2 high volume town courts (of 5 western town courts), whenever in session. Note: Individual budget lines subject to change during contract process.

**Sullivan County**

<b>Distribution #1</b>  \$35,607	(1) Provide funds for investigative and expert services in felony cases (\$22,076); and (2) add a part-time Conflict Defender position (\$13,531).
<b>Distribution #2</b>  \$242,997 \$80,999/yr.	(1) Add an additional part-time attorney to handle cases in Justice Courts and Parole Violation Hearings (to reduce Legal Aid staff attorney caseloads) (\$49,814/\$49,814/\$49,814) and (2) provide funding for Resource Coordinator to serve as liaison between courts and community mental health and substance abuse evaluation and treatment to increase number of diversions (\$31,185/\$31,185/\$31,185).
<b>Counsel at First Appearance RFP</b>	Sullivan County did not submit a proposal.

**Tioga County**

<b>Distribution #1</b>  \$9,070	(1) Provide access to internet legal research for Public Defender office (\$1,956); (2) provide funding for investigative services in felony cases (\$1,700); (3) obtain transcripts of felony and suppression hearings for use at trial (\$300); and (4) provide additional funding for Assigned Counsel program (\$5,114).
<b>Distribution #2</b>  \$61,902 \$20,634/yr.	(1) Create part-time assigned counsel Administrator position (initially contact for consulting attorney services to develop assigned counsel plan to advise Legislature on best method of providing Family Court and conflict representation) (\$16,979/\$16,979/\$16,979 w/fringe); (2) continue funding of West Law internet research for Public Defender's office (\$1,955/\$1,955/\$1,955); (3) provide funding for investigative services in felony cases (\$1,200/\$1,200/\$1,200); and (4) provide funding for transcription services for Public Defender in felony cases (\$500/\$500/\$500).
<b>Counsel at First Appearance RFP</b>	Tioga County did not submit a proposal.

**Tompkins County**

<p><b>Distribution #1</b>  \$39,489</p>	<p>(1) Provide funding to offset extraordinary expenses of expert services in complex murder case (\$37,489) and (2) provide funding for technology upgrade (\$2,000).</p>
<p><b>Distribution #2</b>  \$269,487 \$89,829/yr.</p>	<p>(1) Provide funding for counsel at arraignment (off-hours in Dryden Town Court) (\$1,000/\$1,000/\$1,000); (2) development of a brief bank for assigned counsel on 18-B panel (digitized) (\$10,000/\$10,000/\$10,000); (3) provide funding for "developing a formal complaint procedure" (assigned counsel program; supervising attorney point-of-contact for complaints) (\$8,990/\$8,990/\$8,990); and (4) provide funding for "establishing a dedicated fund for the provision of specialized services." (psychological evaluations, private investigators, stenographers and expert witnesses) (\$69,839/\$69,839/\$69,839).</p>
<p><b>Counsel at First Appearance RFP</b>  \$117,000 (contract not finalized)</p>	<p>Would provide assigned counsel at night arraignments in Tompkins County's 12 justice courts; 5 to 10 night arraignments/week (\$39,000/\$39,000/\$39,000). No additional administrative costs would be incurred (administrative matters handled during regular business hours). Coverage: entire county (night arraignments; all 12 justice courts). Note: Individual budget lines subject to change during contract process.</p>

**Ulster County**

<p><b>Distribution #1</b>  \$64,554</p>	<p>(1) Create part-time Assigned Counsel Plan Administrator position (\$17,500 plus fringe); (2) create Administrative Assistant position to assist Assigned Counsel Plan Administrator (\$13,489 plus fringe); (3) provide funding for CLE and other training for members of Assigned Counsel panel (\$5,000); (4) provide funding for investigative and expert services (\$5,000); (5) upgrade computer capabilities (\$5,000); (6) provide funding for legal reference materials, including Westlaw (\$3,719); (7) purchase office supplies (\$2,500); and (8) provide funding for location/space expenses (\$5,000) (fringe benefits for items #1 and #2 total \$7,346).</p>
<p><b>Distribution #2</b>  \$440,544 \$146,848/yr.</p>	<p align="center">Ulster County has not submitted a budget and work plan.</p>
<p><b>Counsel at First Appearance RFP</b>  \$604,776 (contract not finalized)</p>	<p align="center">Ulster County is in the process of making adjustments to their plan.</p>

**Warren County**

<b>Distribution #1</b> \$23,477	(1) Provide funds to augment salaries of five Assistant Public Defenders and a Confidential Secretary in order to undertake additional felony appeals (\$17,030 w/fringe); and (2) upgrade office equipment and furniture (filing cabinets, furniture, supplies) (\$6,447). [budget revision].
<b>Distribution #2</b> \$160,218 \$53,406/yr.	(1) Replace and upgrade the entire communications and computer system in Public Defender's Office and Assigned Counsel office (\$21,444/\$0/\$0); (2) replace furniture and furnishings in Public Defender's Office and Assigned Counsel office (\$31,962/\$0/\$0); (3) provide funding for CLE training (\$0/\$3,581/\$3,581); (4) continue funding appeals stipend for five Assistant Public Defenders and Confidential Secretary (per attorney: \$0/\$2,350/\$2,350 plus fringe; Secretary: \$0/\$183/\$730 plus fringe); (5) provide salary increases to Assistant Public Defenders, Secretary and Assigned Counsel Administrator (increases range from \$183 - \$332/yr. with fringe); (6) provide funding for projected increases health insurance and retirement for Assistant Public Defenders, Secretary and Assigned Counsel Administrator (in total - health: \$0/\$3,631/\$9,731; retirement \$0/\$4,827/\$13,221); and (7) provide funding for assigned counsel reimbursement fees (\$0/\$21,494/\$0)
<b>Counsel at First Appearance RFP</b>	Warren County did not submit a proposal.

**Washington County**

<b>Distribution #1</b> \$12,968	(1) Provide funding for CLE training of members of Assigned Counsel plan (\$1,370); (2) fund investigative and expert services in felony cases (\$5,826); and (3) provide funding for technology upgrade (\$5,772).
<b>Distribution #2</b> \$88,503 \$29,501/yr.	(1) Upgrade current part-time Assistant Public Defenders (15/hrs. a week) to 30/hrs. a week and increase salary of Public Defender position (\$26,168/\$26,168/\$26,168); and (2) upgrade office equipment and technology (\$3,333/\$3,333/\$3,333).
<b>Counsel at First Appearance RFP</b>	Washington County did not submit a proposal.

**Wayne County**

<b>Distribution #1</b> \$36,298	Partially fund new Assistant Public Defender position (\$36,298 w/fringe).
<b>Distribution #2</b> \$247,713 \$82,571/yr.	(1) Continue partial funding of Assistant Public Defender position that was upgraded from part-time to full-time (\$39,844/\$39,844/\$39,844 w/fringe); and (2) provide partial funding of contract with Legal Assistance of Western New York to provide Family Court representation (\$42,727/\$42,727/\$42,727).
<b>Counsel at First Appearance RFP</b>	Wayne County did not submit a proposal.

**Westchester County**

<p><b>Distribution #1</b>  <b>\$409,340</b></p>	<p>(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) (\$90,000 each plus fringe); (2) add three Legal Aid Society entry level attorney positions to reduce caseloads (\$57,000 each plus fringe); (3) provide funding for members of Assigned Counsel panel to access internet legal research (\$25,000); (4) create internet Assigned Counsel voucher program (\$15,000); (5) upgrade audio-visual equipment (\$5,500); and (6) purchase CD/DVD duplicator and printer (\$3,840) (fringe benefits for items #1 and #2 total \$9,000).</p>
<p><b>Distribution #2</b>  <b>\$2,793,498</b> <b>\$931,166/yr.</b></p>	<p>(1) Continue funding five Legal Aid attorneys (three entry level positions and two staff level positions) (Senior Attorney position: \$100,000/\$100,000/\$100,000 plus fringe) (Senior Attorney position: \$90,000/\$90,000/\$90,000 plus fringe) (three Associate Attorney positions: (\$57,000/\$57,000/\$57,000 each plus fringe); (2) add social work position (Legal Aid Society) for problem solving courts (\$51,000/\$51,000/\$51,000); (3) add social work position for 18-B criminal lawyers (\$51,000/\$51,000/\$51,000); (4) create case manager position to assist Legal Aid Society and 18-B clients access public and private resources (\$50,000/\$50,000/\$50,000); (5) create an investigative position for 18-B Family Court attorneys (e.g., access DMV database to locate parties responsible for support) (\$50,000/\$50,000/\$50,000); (6) create bi-lingual investigative position to conduct investigations in Spanish speaking communities (\$50,000/\$50,000/\$50,000); (7) add data entry position to correctly enter case intake and results (\$40,000/\$40,000/\$40,000) (total fringe benefits #1 - #7: \$137,130/\$137,130/\$137,130); (8) continue Internet access program for 50 18-B criminal attorneys (\$25,000/\$25,000/\$25,000) and expand program to include 25 Family Court 18-B attorneys (\$12,500/\$12,500/\$12,500); (9) provide additional compensation for counsel to staff initial, Saturday arraignments in Mt. Vernon City Court and Yonkers City Court and to provide counsel at first appearance in five local courts (\$20,000/\$20,000/\$20,000); (10) increase compensation of long-serving senior attorney personnel (\$71,536/\$60,046/\$60,046); and (11) provide funding to upgrade technology, including computers and cell phones (\$12,000/\$3,900/\$3,900).</p>
<p><b>Counsel at First Appearance RFP</b>  <b>\$621,230</b> <b>(contract not finalized)</b></p>	<p>Would implement counsel at arraignment in four phases: Phase I: provide counsel at Saturday felony arraignments in Mount Vernon City Court and City of Yonkers Court (per ILS Distribution #2 funding); Phase II: provide weekend arraignment coverage in three other large city courts (New Rochelle, White Plains and Peekskill) by assigning LAS attorney to each court (minimum of 3 hours at \$75.00/hr. for each court with contingency fund if more than 3 hours (\$46,800/\$46,800/\$46,800); Phase III-A: divide Westchester County into three areas of coverage with attorney assigned to each area to provide weekend and evening coverage for moderate and small courts (weekend: minimum of 3 hours at \$75.00/hr. with contingency fund \$46,800/\$46,800/\$46,800); Part III-B provides for night coverage of arraignments in justice courts (1 hr./5 nights week with contingency \$78,000/\$78,000/\$78,000). Provide funding for modification of 18-B services (\$10,000/\$0/\$0); equipment/technology (\$5,200/\$3,600/\$3,600) and miscellaneous (includes some administrative costs) (\$29,110/\$27,430/\$26,430). Coverage: Provide counsel at all arraignments in four phase process.</p>

**Wyoming County**

<p><b>Distribution #1</b></p>	<p>Upgrade database capabilities by partially funding a new case management system (\$7,482).</p>
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