

Agenda for December 9, 2016 Indigent Legal Services Board meeting

- I. Approval of minutes of September 23, 2016 meeting
- II. Governor signs the Off-Hours Arraignment Parts Bill (Chapter 492) and the Streamlined Procedure for Poor Person Status on Appeal Bill (Chapter 459) on November 28; and, on September 29, the amendment of County Law section 722-f(2) to require counties and New York City to file annual financial reports with ILS rather than the State Comptroller (Chapter 337)
- III. Implementation of the *Hurrell-Harring* Settlement Agreement
 - a) Implementing the Counsel at Arraignment Obligations in the Hurrell-Harring v. The State of New York Settlement, 2016 Update (November 10, 2016)
 - b) Implementing the Quality Improvement Objectives in the Hurrell-Harring v. The State of New York Settlement, 2016 Update (November 10, 2016)
 - c) Determining appropriate caseload standards for providers of mandated (criminal) representation in the five lawsuit counties (due December 8, 2016)
- IV. Report on Regional Immigration Assistance Centers (RIAC) meeting on December 1, 2016; and appearance by Jorge Montalvo, Director of the Office for New Americans
- V. Timetable for approval and publication of the ILSB Fifth Annual Report
- VI. Schedule of meetings for calendar 2017

Minutes for the Indigent Legal Services Board Meeting
September 23, 2016
11:00 A.M.
New York City Bar Association

Board Members Present: Mike Breslin, Chief Judge Janet DiFiore, Judge Sheila DiTullio, Vince Doyle, John Dunne, Joe Mareane, Lenny Noisette

ILS Office Attendees: Bill Leahy, Joseph Wierschem, Angela Burton

Invited Guest: Suzette Melendez (by phone)

I. Opening Remarks by the Chief Judge

The Chief Judge noted that Judge Carmen Ciparick was unable to be present but has delegated her proxy vote to the Chief Judge, if necessary.

II. Approval of June 17, 2016 Meeting Minutes

A motion to approve the minutes was made and seconded and approved.

III. Presentation by Angela Burton, Director of Quality Enhancement for Parental Representation

Angela Burton gave a detailed presentation on the plans to establish a Model Parental Representation Office outside of New York City through a competitive grant process, which the Board has approved in a previous meeting. The Model Office will promote standards and best practices in the mandated representation of parents. The Model Office will implement a multi-disciplinary team approach. The Model Office is based on the models currently in place in New York City, run by such organizations as the Center for Family Representation and the Bronx Defenders.

Board members received a copy of the draft Request for Proposal. The timeline for issuing and responding to the RFP has not yet been set, but the project should be launched soon. One major point of departure from the way things currently work is that legal representation would be made available at an earlier stage of the process. The RFP emphasizes how important it is for counsel to be present before the first appearance in court. Ms. Burton stated that the model works when national agencies, state agencies, courts, and organizations work together. This cooperation can help ensure that attorneys are informed about impending removals. Parents may also walk in and go to a legal services organization themselves, if they have a contact from the Department of Social Services.

The RFP does ask applicants to explain exactly how parents will have access to counsel from the earliest stages of a state intervention case. That is something that the county and providers will have to determine when they are responding to the RFP.

The grant is for \$2.6 million, or \$870,000 each year for three years. The ILS Office does not intend to favor a certain size county.

Ms. Burton noted that in October, ILS will host the second annual statewide training conference for attorneys who represent parents in Family Court, in conjunction with the Child Welfare Court Improvement Project and NYSDA. The Chief Judge will be giving a videotaped welcome.

IV. Allocation of FY 2016-2017 Aid to Localities Appropriation

Bill Leahy noted that every item in the requested Local Aid allocation for FY 2016-17 has been previously approved by the Board except quality enhancement distribution #7. The distribution is intended to improve the quality of representation in the 57 counties outside of New York City. There has been significant progress in a reduction of the average weighted caseload for defense attorneys outside of NYC – from over 700 in 2012 to 561 in 2015.

A motion to approve the distribution was made and seconded. The Board voted to adopt the requested Local Aid allocation for FY 2016-17, including the development of quality enhancement distribution #7.

A query was made on issuing the Assigned Counsel RFP in the future. Bill explained that it was included in the ILS budget proposal.

V. Budget Request for FY 2017-2018

Bill Leahy explained the different reasons for the increases in the budget request, with an increase of \$34 million to Aid to Localities and an increase of \$3.2 million in State Operations. The ILS office now manages almost 400 contracts and has a 19-member staff. They are requesting additional staff positions to support the contract and claims processes, to manage the expanded ILS Office, and to provide further assistance to Joe Wierschem. They are also requesting a modest salary increase to retain the services of highly valued long-term staff. The Office has lost long-time staff due to salary reasons.

The remainder of the requested increase in State Operations is funding for regional support centers. Bill explained that it would be wise for the State to invest in state-funded, state-staffed regional support centers, if it planned on pouring State dollars into county-based representation. The Appellate Resource Center has an equal justice element to it. Since counties have resources for prosecutors working on appeals, defense attorneys should have the same resources available. One office would be made available to defenders across the entire state.

The increase of \$34 million in Aid to Localities is largely comprised of upstate caseload relief. The ILS office has reduced its request from \$20 million in last year's FY 2015-16 budget to \$19 million in this year's request. They are also asking for \$8 million to supplement for Counsel at First Appearance funding levels. It was noted that the enactment of OCA's off-hours arraignment bill would reduce the cost of counsel at first appearance.

The ILS Office has also requested \$3 million to assist counties and localities meet the ILS eligibility criteria and procedures. The criteria and procedures for determining assigned counsel eligibility came out on April 4. There was a delay in implementation of the requirements. The chief defender associations are concerned as a group that they will not have the funding needed to achieve full compliance. Judges have also reported that there may not be compliance. The money is going to compensate the counties for hiring more assigned counsel. The current budget request is only for \$3 million, but the impact is more likely to be \$6 million to the counties.

A board member asked that \$3 million be added to the budget request to specifically aid counties in complying with the assigned counsel eligibility standards.

The motion to add \$3 million to the proposed budget was approved.

A motion to approve the proposed budget as amended was made and seconded and approved.

VI. JCOPE Training Schedule

The original board members with the addition of Vince Doyle are all required to do an ethics refresher course before December 31, 2016. One way to satisfy the requirement is to attend a live presentation by JCOPE in Albany, or a viewing session at a designated location in New York City or Buffalo.

If the board members would rather not attend in person, Joe Wierschem can conduct a webinar presentation that the members can view from their computer screens. Peter Avery from the ILS Office will be in contact regarding the technical requirements.

The board members were asked to relay to Mindy Jeng how they wish to fulfill the requirement.

VII. Director's Summary of Recent Office Activities

Bill Leahy provided an overview of the ILS Office's work. Joanne Macri reported that their six regional Padilla Centers were now fully staffed. Joe Wierschem and Bill Leahy will soon be presenting at the State Magistrate's annual meeting on a panel concerning the arraignment parts bill. The Rand Institute case study is well underway, and the report will be issued on November 15.

There will be a meeting with the Governor's staff and *Hurrell-Harring* plaintiffs on November 22 to discuss the results of the RAND study and the cost of bringing the five lawsuit counties to compliance. There will be lots to report by the December 9 ILS Board meeting. Judge Coccoma and his staff have also provided excellent support in the ILS Office's efforts to conduct trainings of judges in the five lawsuit counties.

The ILS Office is facing a November 11 deadline for completing compliance with the settlement terms for counsel at arraignment. There are some outstanding issues in Suffolk and Onondaga Counties but the deadline should be met. Onondaga County issued a new RFP during the spring of this year, but it wound up selecting the same program. The ILS Office will have an important meeting with the County Attorney to discuss the status of the program, leadership, and what must be done to comply with the settlement agreement.

The current status of the Fahy-DeFrancisco bill is that it has been passed unanimously by the Assembly and Senate and has not yet been sent to the Governor for approval.

Bill Leahy had a productive meeting with Liz Glazer in the New York City Mayor's Office. ILS would also have a role in disbursing the state money for the City if the Fahy-DeFrancisco bill is enacted. ILS will gain some additional responsibilities if that occurs.

VIII. Next Board Meeting – December 9, 2016

The Board was alerted that the last meeting of the year will be December 9, 2016.

The meeting was adjourned. (12:25 pm)

REGIONAL IMMIGRATION ASSISTANCE CENTERS

GRANTEES MEETING

DATE: Thursday, December 1, 2016 @ 11:00 a.m. – 2:30 p.m. (Lunch will be provided)

LOCATION: **IN PERSON**

Alfred E. Smith Building
80 S. Swan St., 11th Floor
ILS Conference Room B
Albany, New York

TELEPHONIC/WEB-EX ATTENDANCE

*Link with both Telephonic and/or Video
Participation forwarded via email invitation

MEETING AGENDA

- **Opening Remarks and Introductions**
- **Introduction of NYS Deputy Secretary of State, Jorge Montalvo and discussion of the Office of New Americans**
- **Updates from each of the RIAC Centers**
- **Debriefing of the RIAC staff tour of the DHS Buffalo Federal Detention Facility (BFDF), DHS CLE Program on Immigration Detention/Bond and DHS Roundtable Discussion**
- **Updates on Program Implementation & Regional Outreach**
 - Addressing Defender Representation Needs
 - Regular Defender Updates
 - Cross-Sectional CLE Training Programs
 - Responding to PCR needs and other requests for assistance (i.e., HT victims, etc.)
 - Extending outreach efforts beyond the Defender community (i.e., developing collaborations)
 - Updates on Program Implementation (i.e., case management updates, documenting inquiries, checking conflicts, etc.)
 - ILS Data Reporting
- **Preparing the Defender Community for a Changing Environment**
 - Brief discussion regarding potential changes to immigration enforcement (i.e., reviewing past immigration enforcement practices that may influence future defender representation)
 - Best Practices and Protocol Training
 - Distinguishing Outreach from Advocacy
- **Other Agenda Items**
- **Scheduling a Next Meeting (Spring of 2017)**
- **Closing Comments**

*For those participating by telephone and/or video, please contact either **Joanne Macri** at Joanne.Macri@ils.ny.gov or at **518.408.2728 (office)** if you have not received an invitation by email or if you have difficulties logging onto the video connection, please contact Peter Avery, ILS IT Director, at Peter.Avery@ils.ny.gov or at **(518) 486-6681 (office)** or you can text **Joanne Macri** at **518.729.9113 (mobile)** during the meeting if you are experiencing any technical difficulties with call-in or video conferencing.