

## **The First Annual Report of the Indigent Legal Services Board**

**Covering the period from February 22, 2011 through March 31, 2012**

**“Where, after all, do universal human rights begin? In small places, close to home. Such are the places where every man, woman and child seeks equal justice, equal opportunity, equal dignity.”**

Eleanor Roosevelt’s eloquent words, inscribed on the monument to her legacy at Riverside Drive and West 72<sup>nd</sup> Street in Manhattan, have particular pertinence to the 2010 creation of the Office of Indigent Legal Services and the Indigent Legal Services Board, whose mission is to improve the quality of representation provided to persons who are entitled by law to the assistance of counsel, yet who cannot afford to retain an attorney, in the entire array of courts throughout this vast and variably populated State, including almost 1,300 Town and Village Courts. Roosevelt’s message reminds us that at the center of every case, in every court, there is a person, a human being who is entitled to “equal justice”. That fundamental right is best preserved and can often be obtained only by a lawyer’s capable and zealous representation. Further, her words remind us that *dignity* is inseparable from justice; that every poor client must be treated with the same respect

and consideration as the affluent. Forty-nine years after the landmark decision in *Gideon v. Wainwright*, and forty-seven years following the enactment of County Law article 18-B, these goals have yet to be uniformly achieved in New York State. It is the mission of the ILS Office and Board to achieve them.

Chronologically, this report begins with the hiring of the first Director of the Office in February, 2011, and concludes thirteen months later with the enactment of the State's Fiscal Year 2012-2013 appropriation for the Office and Board. At the outset, however, it is important to state the context in which the Office and Board began their operations.

The 2010 legislation (Laws of 2010, Chapter 56, Part E) was enacted in partial response to the 2006 Report of the Commission on the Future of Indigent Defense Services. That Report, widely known as the Kaye Commission Report, did not mince words in faulting New York's enforcement of the right to counsel in cases where representation is mandated by law or constitutional provision:

**New York's current fragmented system of county-operated and largely county-financed indigent defense services fails to satisfy the state's constitutional and statutory obligations to protect the rights of the indigent accused.\***

Final Report to the Chief Judge of the State of New York (June 18, 2006) at 15.

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\*New York's enforcement of the right to counsel has also been subjected to severe criticism in recent national reports. "Michigan and New York are two of the most dysfunctional indigent defense systems in the country." Securing Reasonable Caseloads: Ethics and Law in Public Defense, Norman Lefstein (American Bar Association Standing Committee on Legal Aid and Indigent Defendants, 2011) at 183. See also, Justice Denied: America's Continuing Neglect of Our Constitutional Right to Counsel, (National Right to Counsel Committee, 2009) at 58-59, 80-81, 90-92, 116, 176-177; and Gideon's Broken Promise: America's Continuing Quest for Equal Justice, (ABA SCLAID, 2004) at 9-11, 14, 21-22, 32-33 and related footnotes.

Pointedly noting that “[t]he Sixth Amendment and Article I, section 6, of the New York Constitution impose the obligation to provide effective assistance of counsel for all indigents accused of crime on the State of New York, not on counties or the legal profession[,]” at 21, and further, that “New York is one of only six states that have no statewide responsibility or oversight mechanism for indigent criminal defense[,] at 27, the Kaye Commission Report recommended the establishment of an independent, adequately funded, statewide Indigent Defense Commission, situated in the judicial branch for budgetary purposes only. “In all other respects, it must be independent of all governmental influence.” Id. at 28-30, 29.

In June, 2010, Chapter 56 was enacted. Unlike the Kaye Commission Report’s recommendation for the establishment of a statewide system, the new legislation retained New York’s county-based system of providing mandated representation and created a new state entity, the Office of Indigent Legal Services, governed by an Indigent Legal Services Board to oversee the delivery of indigent representation in New York. A salutary feature of this legislation is that legally mandated representation of parents was included within our responsibilities. This inclusion was responsive to the Kaye Commission’s expressed concern that its charge had not included such parent representation (Final Report at 20, n.33).

By October, 2010, the nine original members of the Board had been nominated as provided by the statute and appointed by Governor Paterson. They are: Chief Judge Jonathan Lippman, Chair and Hon. Michael Breslin, Hon. Sheila DiTullio, John R. Dunne, Gail Gray, Susan V. John, Joseph Mareane, Leonard Noisette, and Susan Sovie.

The Board immediately instituted a search, national in scope, for an experienced and accomplished public defender leader and administrator. In December, 2010, the Board nominated William J. Leahy, the former Chief Counsel of the Massachusetts Committee for Public Counsel Services, as the first Director of the ILS Office. Following review by Governor Paterson and Governor Cuomo, Leahy commenced his term as Director on February 22, 2011.

**Significant First Year Activities:**

At its first meeting following the hiring of a Director for the Office, on March 10, 2011, the Board made a very important decision to approve the distribution of \$4.4 million in funds to the counties and New York City for the purpose of improving the quality of representation. The motivation for this non-competitive distribution of funds was to assure every county that the amount of its state funding would not decrease at a time when the counties were being asked to improve the quality of their representation. In order to receive the funds, however, county officials were required to consult with their article 18-B providers, and to demonstrate that the funds would be used to improve the quality of representation for clients.

These funds have been dedicated to a broad array of quality improvements. Please see the attached chart entitled *May, 2011 ILSF Distribution* (current as of November 1, 2012) for a list of the uses to which these funds have been directed ("Attachment A").

Together with the statutory distributions made by the Comptroller pursuant to statute on March 15, 2011, these funds provided the counties and New York City access to a total of \$70.2 million in state support from the fiscal year 2010-2011 appropriation. This amount provided a funding floor for every locality equivalent to its March, 2010 level of state funding; and it thereby gave assurance that no county would be required to do more with less.

In contrast, the budget for the Office was slashed by one-half in the final FY2011-2012 appropriation, from the \$3,000,000 proposed by Governor Cuomo in his Executive Budget to \$1,500,000. The appropriation for Aid to Localities was preserved at the level of \$77,000,000.

At its next meeting on June 7, 2011, the Board authorized the preparation of two Requests for Proposals to address specific structural deficiencies in the provision of counsel: the failure to provide counsel at a criminal defendant's initial court appearance, and a failure to comply with the requirement of *Padilla v. Kentucky*, 130 S. Ct. 1473 (2010) that counsel provide his or her client with accurate advice concerning the immigration consequences of a conviction. Issuance of these RFPs did not take place during fiscal year 2011-2012 due to staffing delays, and hurdles imposed by

the Division of the Budget (DOB) and the Office of the State Comptroller (OSC) with respect to the two general fund distributions authorized by the Board, as explained below.

On September 27, 2011, the Board allocated the \$77 million appropriation for FY 2011-2012 as follows: (1) \$62,084,022 to be distributed by OSC on March 15, 2012, as mandated by sections 98-b (3) (b) and (c) of the state Finance Law; (2) \$8,126,902 in a non-competitive distribution of funds to maintain the level of state funding that was provided in 2010, with the twin requirements that each county consult with its indigent legal services providers, and that the funding be used to improve the quality of representation; (3) \$4,000,000 in grants to provide counsel at the first court appearance; and (4) \$2,789,076 in grants to establish regional Immigration Resource Centers throughout the state. The Board authorized a three-year allocation of these funds for the non-competitive distribution and two grants, in order to provide counties an assurance of stable funding with which to prepare their annual budgets. Meanwhile, at its meetings of September 27 and November 9, 2011, the Board approved a funding request for FY 2012-2013 that would include \$83 million for Aid to Localities, with the additional \$6 million to be dedicated to alleviating excessive workloads in upstate defender offices, and the development of quality control measures in assigned counsel programs. The Board also voted to seek funding for the ILS Office at the \$3 million level which Governor Cuomo had requested for the previous fiscal year and had been originally intended when the Office was created in 2010.

At its final meeting during the period covered by this report, on March 14, 2012, the Board considered how best to advocate for the additional funding it had requested for the office, as neither the additional workload relief funding nor any additional funding for the Office had been included in the Executive Budget proposal. When the final FY2012-2013 appropriation was approved at the end of the month, the total appropriation for Aid to Localities was increased by \$4 million, to a total of \$81 million. However, funding for the Office was not increased from the \$1.5 million level to which it had been reduced in the previous appropriation.

**Assessment of FY 2011-2012 Progress:**

The ILS Office and Board can count among their accomplishments in their first fiscal year of operation the stabilizing of state funding to the counties by offering every county the maintenance of 2010 level state funding, on condition that the funding be used to improve the quality of representation, pursuant to a proposal in which county-based providers of article 18-B representation must have been consulted. In doing so, the Office promoted an unprecedented amount of collaboration between city and county governments and their indigent legal service providers.

We also can point to the authorization for the use of additional appropriated funds to begin addressing two systemic deficiencies; the widespread failure to provide counsel at a criminal defendant's first court appearance, and the failure in much of the state to



provide counsel with the training and support necessary to fulfill his or her professional obligations with respect to immigration consequences under the *Padilla* decision. Further, we are pleased that at the end of the fiscal year covered by this report, we succeeded in securing an additional appropriation of \$4 million in the FY 2012-2013 budget to begin alleviating upstate institutional defender caseloads that far exceed maximum national norms and support quality-enhancing measures in assigned counsel programs. We are grateful to Senator John DeFrancisco, Chairman of the Senate Finance Committee and Assemblyman Joe Lentol, Chairman of the Assembly Codes Committee for their leadership on this critical issue. Finally, the limited ILS staff was very active in the accumulation of data and on-site information, in furtherance of the Office's statutory responsibilities "to examine, evaluate and monitor services provided in each county" under Executive Law section 832 (3) (a), and "to collect and receive information and data regarding the provision of services pursuant to article 18-B of the county law" under section 832 (3) (b). Please see Attachment B, Research and Data Gathering for a recitation of our activities in these regards.

This progress was accomplished in the face of significant obstacles, and was aided by critical help. The first of these obstacles was the 50% reduction of the Governor's \$3 million appropriation request for the Office in the final stages of the FY2011-2012 budget negotiation process, which sent a damaging signal that the work of the Office and Board would be constrained, and that New York's commitment to the improvement of its deficient indigent legal services provision was half-hearted. A second major obstacle was pervasive

uncertainty and prolonged delay in the processing by the executive branch of the Director's appointment of employees pursuant to Executive Law section 832 (2) (d). These lengthy delays in the Governor's Appointments Office hampered the development of an adequately staffed office, and caused significant delay in the pace of our progress. As late as the beginning of November, 2011, the Office staff consisted of the Director and Counsel – a total of two employees. By the end of the fiscal year, that number had grown to five (as of the date of this report, the staff numbers eight).

A third obstacle was the opposition by the Office of the State Comptroller and the Public Protection unit of the Division of the Budget (DOB) to the Board's decision to distribute funds directly to counties for the purpose of improving the quality of representation therein, notwithstanding the Board's accurate interpretation that the statute authorizes both the general, non-competitive distribution of funds and the use of competitive grants as alternative and complementary methods for improving the quality of legal services. We are grateful to Assembly Speaker Sheldon Silver and Counsel James Yates for filing an amendment in support of our efforts to provide a general distribution to the counties of \$24.3 million for quality improvements over the three year period from 2012-2015.

Finally, the integrity of the Indigent Legal Services Fund (ILSF), created in 2003 to assist localities in meeting the duty to provide legal representation to persons unable to afford counsel, has been diluted by transfers, known as "sweeps", of millions of dollars. In FY 2010-11 alone, a total of \$28 million was "swept" from ILSF to the

General Fund, and as part of the FY 2012-13 Budget another \$4 million was diverted. If these sweeps were to continue, ILSF funding would become unavailable to the counties to improve the quality of their indigent legal services, in violation of clear statutory intent.

These obstacles must be removed if the Office and Board are to achieve the quality improvements that the 2010 legislation intended, and if the continued dysfunctional status of the right to counsel in New York is to be remedied.

The support and positive contributions to the work of the Office and Board made by the Governor's Legal Counsel Mylan Denerstein must be noted here. Counsel Denerstein was instrumental in reducing the aforementioned delays in the staffing of the Office during the fiscal year covered by this report. Without her assistance, a troublesome situation could have become disabling. By August, 2012, staff appointments for the Office were removed from the Appointments Office and undertaken by Counsel's office, a change that has eliminated unnecessary delay and has enabled the Office to add staff in a predictable manner.

#### **Future Goals:**

Since the conclusion of the fiscal year covered by this Report, the Office has added two attorneys to serve as Directors of Quality Enhancement for Criminal Trial Representation and for Parent Representation. Furthermore, the Director has appointed a Director of Quality Enhancement for Appellate Representation and a Director

of Regional Initiatives, each of whom will commence her employment with the office in January, 2013. Working together and in close communication with approximately 150 leaders of article 18-B representation and the 57 counties and New York City in which they provide legally mandated representation, the Office and Board are laying the foundation to make a significant and permanent positive impact upon the quality of the representation that poor people receive in New York. The continuing accumulation and careful assessment of data and the firsthand assessment of performance, described above and in Attachment B, are two critical components of our approach to quality improvement. Furthermore, we see the development of regional initiatives and the provision of regional support as essential to the enhancement of quality; particularly in the more rural areas of the state. This is the reason why we have dedicated one of our ten staff positions to promoting creative approaches to assist counties and county-based providers via the development of accessible resources in particular regions of the state.

**Necessary Reforms:** Four major reforms are needed if we are to fulfill our statutory mission to improve the quality of legally mandated representation in the State of New York. They may be described under the categories of Funding, Independence and Effectiveness, Regional Resources, and Enforcement Authority.

**Funding:** Two funding components are absolutely essential to our success. First, the annual Aid to Localities state appropriation must be increased by a significant factor; for the counties cannot continue

to contribute 80% of all funding for what is the State's obligation to provide counsel. That is simply unsustainable. There must be a significant increase in state funding if the serious defects which the Court of Appeals identified in the 2010 *Hurrell-Harring* decision are to be remediated. Second, the Office budget and staffing must be expanded to at least the size envisioned by former Governor Paterson in 2010, and proposed by Governor Cuomo in 2011. Third, the Regional Resource Centers described below must be adequately staffed and funded. Finally, there must be an assurance that transfers ("sweeps") of ILSF funds to the General Fund will end, to ensure that ILSF funding will be available to increase annual Aid to Localities appropriations and Office and Regional Resource Center resources.

**Independence and Effectiveness:** The authority of the Director to implement appointments must be respected; and there must be no interference with the Board's authority to disburse funds for the purpose of improving quality by means of non-competitive quality-enhancing distributions as well as competitive grants.

**Regional Resources:** 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.

**Enforcement Authority:** The Office and Board must be given the enforcement authority that is needed to assure uniformly high quality representation throughout the State. Specifically, the Office must have the authority to approve assigned counsel plans and conflict defender office plans, and to enforce the performance measurements, standards and criteria established by the Office and the Board.

Respectfully submitted on this <sup>21<sup>st</sup></sup> day of November, 2012.

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**ATTACHMENT A**

**May, 2011 ILSF Distribution #1 (includes Budget Revisions)**

Updated 11.2.12

County/Amount	Budget/Work Plan
<b>Albany</b> <b>\$115,282</b>	(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).
<b>Allegany</b> <b>\$15,481</b>	Partially fund upgrade of Assistant Public Defender position from part-time to full-time (\$15,481).
<b>Broome</b> <b>\$95,652</b>	(1) Create new support staff position in Public Defender office (\$56,755 w/fringe); (2) provide funding for basic and advanced trial skills training (\$16,000); (3) purchase equipment to expand client access to attorney services, including upgrade of video conferencing (\$12,897); (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) .
<b>Cattaraugus</b> <b>\$35,490</b>	(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).
<b>Cayuga</b> <b>\$19,203</b>	(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) (\$4,107); (2) provide funding for investigative, interpreting and expert services in criminal cases (\$10,475); and (3) provide funding for additional attorney representation in specialty courts (e.g., domestic violence, drug court, family treatment court and mental health court) (\$4,621).
<b>Chautauqua</b> <b>\$39,552</b>	(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>Chenango</b> <b>\$13,064</b>	(1) Create part-time Student Intern position in Public Defender's Office (\$8,000 w/fringe); (2) provide CLE training opportunities to Assistant Public Defenders and Assigned Counsel attorneys (\$1,000); and (3) upgrade computer system and furniture (\$4,064).
<b>Clinton</b>	(1) Partially fund community service and pre-trial release monitoring positions (\$13,345); (2) provide funding for expert services (\$12,500); (3) upgrade technology, including computers (\$6,800) and (4) purchase supplies (\$815).



<b>\$33,460</b>	
<b>Columbia</b> <b>\$22,236</b>	(1) Provide funding for part-time investigator in Public Defender office (\$19,500); and (2) provide investigative services for Conflict Attorney and assigned counsel (\$2,736).
<b>Cortland</b> <b>\$22,056</b>	(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>Delaware</b> <b>\$15,367</b>	(1) Provide 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>Dutchess</b> <b>\$120,410</b>	(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>Erie</b> <b>\$213,225</b>	(1) Provide funding for Assigned Counsel Program to provide attorney representation at arraignment in Cheektowaga Town Court (\$40,000); (2) provide funding for 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>Essex</b> <b>\$14,030</b>	Partially fund new full-time Assistant Public Defender position (\$14,030 w/fringe)
<b>Franklin</b> <b>\$16,556</b>	(1) Provide funding for investigative services (Public Defender and Conflict Defender office) (\$11,756); (2) upgrade capabilities of computer systems, including printing and copying (Public Defender and Conflict Defender offices) (\$3,300); (3) obtain crime scene re-creation software (\$500); and (4) install large filing cabinets (\$1,000).
<b>Fulton*</b> <b>\$16,137</b>	*Contract not executed. Provide funding for investigative services (\$16,137).
<b>Genesee</b>	(1) Partially fund upgrade of Assistant Public Defender position from part-time to full-time (\$12,971 w/fringe); and (2)

<b>\$24,486</b>	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 (\$11,515).
<b>Greene</b> <b>\$16,907</b>	(1) Increase salaries of Public Defender and Assistant Public Defender (\$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).
<b>Hamilton*</b> <b>\$1,897</b>	*No proposal submitted. Declined to respond due to low amount of available funding.
<b>Herkimer</b> <b>\$9,780</b>	(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).
<b>Jefferson</b> <b>\$28,480</b>	(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).
<b>Lewis*</b> <b>\$8,347</b>	Contract not executed. (1) Provide funding for Assigned Counsel program (\$2,347); (2) provide funding for investigative and expert services (\$2,000); and (3) provide funding for mental health evaluations (\$4,000).
<b>Livingston</b> <b>\$14,888</b>	Provide funding to purchase case management software (\$14,888).
<b>Madison</b> <b>\$16,681</b>	(1) Provide funding for investigative and expert services in felony cases (\$8,000); and (2) provide funding for costs of transcripts for appeals (\$8,681).
<b>Monroe</b> <b>\$233,337</b>	(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); and (3) provide funding for Appeals Backlog Reduction Program to reduce existing backlog in perfection of appeals in Public Defender (\$71,007) and Conflict Defender (\$32,835) offices.
<b>Montgomery</b> <b>\$16,321</b>	(1) Provide funding for Assigned Counsel program (\$11,500); (2) purchase legal reference materials (\$250); (3) provide funding for CLE and other training (\$1,500); (4) provide reimbursement for mileage (\$2,250); and (5) purchase office supplies/equipment (\$821).
<b>Nassau</b>	(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

<b>\$236,386</b>	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 Aid Society and Assigned Counsel Defender Plan) (\$36,386) (items #1 and #2 total \$175,000).
<b>Niagara</b> <b>\$48,252</b>	(1) Provide funding for investigative services (\$20,000); (2) provide funding for expert services (\$20,000); (3) provide funding for CLE and other training (\$4,000); and (4) purchase legal reference materials (\$3,252).
<b>Oneida</b> <b>\$78,856</b>	(1) Purchase and implement an online voucher system for Assigned Counsel panel members (\$25,000); (2) provide funding for college student summer intern program (\$14,500 w/fringe); (3) replace computers in Public Defender office with new computers 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).
<b>Onondaga</b> <b>\$140,757</b>	(1) Add attorney position (Hiscock Legal Aid Society) to provide additional representation in Family Court (\$44,797 plus/fringe); (2) 3% retroactive salary increase for 14 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); (4) upgrade computers and printers (\$675); and (5) purchase office supplies (filing cabinets) (\$985).
<b>Ontario</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 (\$1,400); (3) upgrade computer equipment; (4) upgrade technical equipment (e.g., audio-visual, recording devices and cameras); and (5) provide Spanish language training and tutoring (\$1,100) (items #3 and #4 total \$1,500).
<b>Orange</b> <b>\$97,060</b>	(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>Orleans</b> <b>\$11,462</b>	(1) Provide additional investigative and expert services (\$7,962); (2) partially fund new case management system (\$2,000); and (3) upgrade computer and system and printer (\$1,500).
<b>Oswego</b> <b>\$40,218</b>	Provide additional funding for Assigned Counsel program for criminal and family court cases (\$40,218).
<b>Otsego</b> <b>\$24,479</b>	(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>Putnam</b>	(1) Provide funding for CLE training and research tools (\$2,112); (2) provide funding for costs attendant to forming Task Force to make recommendations to improve standards for providing mandated representation (\$1,000); and (3) provide

<b>\$20,785</b>	funding for forensic experts (\$15,000), forensic witnesses (\$803), and interpreters (\$1,870) to assist in defense of and communications with clients.
<b>Rensselaer</b> <b>\$39,868</b>	(1) Upgrade capabilities of computer system for Public Defender office, Conflict Defender office and Assigned Counsel Unit by purchasing computers, servers, copy machine and printers (\$29,584); and (2) purchase office supplies, including filing cabinets (\$10,284).
<b>Rockland</b> <b>\$91,196</b>	(1) Purchase vehicle for investigators in Public Defender office (\$21,051); (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 (\$3,900); (6) upgrade internet research capabilities (Westlaw Next) (\$21,000); and (7) purchase office supplies (\$2,600).
<b>St. Lawrence</b> <b>\$37,462</b>	Purchase new case management system, including technical support and training (\$37,462).
<b>Saratoga</b> <b>\$31,007</b>	(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, and provide funding for additional licenses for use of case management system) (\$25,314); (3) provide funding for CLE and other training (\$365); and (4) upgrade Westlaw service (\$456).
<b>Schenectady</b> <b>\$67,884</b>	(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>Schoharie</b> <b>\$10,036</b>	(1) Provide funds for CLE training of members of the assigned counsel panel (\$9,636); and (2) purchase office supplies (\$400).
<b>Schuyler</b> <b>\$8,173</b>	(1) Provide additional investigative and expert services for both criminal and family court matters (\$6,500); and (2) provide funds for CLE training of staff attorneys in Public Defender's Office (\$1,673).
<b>Seneca</b> <b>\$10,158</b>	Provide additional investigative and expert services (\$10,158).
<b>Steuben</b> <b>\$30,904</b>	(1) Provide funds for investigative services in felony cases (\$15,452); and (2) upgrade computer research capabilities of Public Defender office (\$15,452).

<b>Suffolk</b> <b>\$308,637</b>	(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 (\$246,001 w/fringe); (2) partially fund a new case management system (i.e., installation, database licenses, data conversion, customization, training and annual support fees) for Legal Aid Society (\$58,636); and (3) upgrade Legal Aid Society's computer system (\$4,000).
<b>Sullivan</b> <b>\$35,607</b>	(1) Provide funds for investigative and expert services in felony cases (\$22,076); and (2) add part-time Conflict Defender attorney position (\$13,531).
<b>Tioga</b> <b>\$9,070</b>	(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>Tompkins</b> <b>\$39,489</b>	Provide funding to offset extraordinary expenses of expert services in complex murder case (\$39,489).
<b>Ulster</b> <b>\$64,554</b>	(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).
<b>Warren</b> <b>\$23,477</b>	(1) Provide funds to augment salaries of attorneys in Public Defender office in order to undertake additional felony appeals (\$17,030 w/fringe); and (2) purchase collating copier and brief binding machine to prepare appellate briefs (\$6,447).
<b>Washington</b> <b>\$12,968</b>	(1) Provide funding for CLE training of members of Assigned Counsel plan (\$2,500); and (2) fund investigative and expert services in felony cases (\$10,468).
<b>Wayne</b> <b>\$36,298</b>	Partially fund new Assistant Public Defender position (\$36,298 w/fringe).
<b>Westchester</b> <b>\$409,340</b>	(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 plus fringe each); (2) add three Legal Aid Society entry level attorney positions to reduce caseloads (\$57,000 plus fringe each); (3) provide funding for members of Assigned Counsel panel to access to 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).
<b>Wyoming</b>	Upgrade database capabilities by partially funding a new case management system (\$7,482).

<b>\$7,482</b>	
<b>Yates</b> <b>\$7,134</b>	(1) Provide funding to outfit an office for Assigned Counsel Administrator, including purchasing copier/fax/scanner, printer, office equipment and file cabinets and upgrading computer system (\$3,889); and (2) purchasing copier/fax/scanner and software tracking system for Public Defender office (\$3,245).
<b>New York City</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 (\$100,000 w/fringe each); (2) create new Immigration Attorney Coordinator position to monitor performance of new Immigration Attorneys (\$100,000 w/fringe); (3) provide training to newly hired Immigration Attorneys to represent indigent clients in need of representation in immigration matters; and (4) provide necessary legal reference materials related to immigration matters (items #3 and #4 total \$105,562)).

## **Attachment B: Research and Data Gathering**

Research and data gathering represent a critical and challenging component of the ILS mandate. Prior to the Office's establishment, little was known about the tapestry of indigent legal service providers in existence across the state and the work that they did. ILS staff has begun to fill this gap through a program of data gathering that encompasses the collation of data from state agencies, research into available data from county sources, and direct contacts with indigent legal services providers themselves.

ILS strives to become a repository for all known and available information on indigent legal service providers around the state. The Office has established close and productive relationships with researchers and information managers in a variety of other state agencies including the Division of Criminal Justice Services, the Office of Court Administration and the Office of the State Comptroller, many of whom have graciously provided the Office with access to data on indigent legal services, and explanation and elucidation where necessary. ILS has focused its own efforts on determining what can be learned from these data, and what remains to be discovered. The Office is in continuing discussions with other agencies on how data collection can be refined and improved in order to assure that the information gathered is as accurate and reliable as possible.

The Office has also created a fully-searchable electronic library in which to store both documents and statistical data on indigent legal service provision at the county level. The library, created with the indispensable assistance of the Office Manager of Information Systems, Peter Avery, has been loaded with large amounts of data ranging from news clippings to annual reports to the findings of major research studies. This resource represents a rich archive of information on indigent legal service provision across the state and is accessible to all staff within the office and is updated continuously. Should the reader know of any documentary or statistical information which might be of value to the Office, kindly forward it to the Director of Research, Andy Davies, for archiving in the ILS library.

As staff at the Office have discovered, no amount of data can substitute for direct contacts with providers of indigent legal services in New York's cities and counties. In acknowledgment of this fact, a systematic program of direct and ongoing contacts with providers of indigent legal services has been instituted. These personal contacts have enabled ILS staff both to gather directly information on procedures of case assignment, eligibility determination and other matters not amenable to statistical expression, and also to understand far more clearly the difficult challenges faced by indigent legal service providers across the state, and the myriad ways in which they tackle those challenges at a local level. The Office continues to rely on the receptiveness of attorneys and administrators in explaining the nuances of their local practices.

The Office has undertaken several efforts to expand its research capacity and expertise through mutually beneficial collaborations with other individuals and organizations. The Office benefitted tremendously from the assiduous work and clear-headed thinking of its first research intern, Elly Kalfus, who was resident with us for a total of seven weeks in the summer of 2012. Ms. Kalfus expertly executed a research project wherein she interviewed 22 indigent legal service providers across the state on the challenges they faced in the process of applying for and expending monies from the Indigent Legal Services Fund, recommending a series of actionable steps the Office can take to make the process run more smoothly. The Office also began a collaborative research partnership with Dr. Alissa Worden of the School of Criminal Justice at SUNY Albany to undertake a study of the causes and consequences of failing to provide counsel at arraignment in upstate New York counties. An advisory group was formed for the project and assurances of co-operation from several providers of indigent legal services across the state obtained. Finally, our Research Director, Andy Davies, was made a member of the Research and Data Analysis Committee of the National Legal Aid and Defender Association (NLADA). Meeting semi-annually, the RDA committee is presently overseeing a project intended to show the value of improved data collection in indigent legal service provider offices nationwide.