

NASSAU COUNTY BAR ASSOCIATION

ASSIGNED COUNSEL DEFENDER PLAN, INC.

ANNUAL REPORT 2007

INTRODUCTION

The Assigned Counsel Defender Plan was established on January 24, 1966 by Resolution of the Nassau County Board of Supervisors. On May 22, 1992, the entity was incorporated as the "Nassau County Bar Association Assigned Counsel Defender Plan, Inc.", dba Assigned Counsel Defender Plan. The Assigned Counsel Defender Plan is now in its 43rd year of providing legal representation to certain indigent defendants in Nassau County. The Office consists of the Administrator, 2 full time personnel and 1 part time clerk, and is responsible for the administration of all aspects of the work of the approximately 285 private attorneys who comprise the various assigned counsel panels. The following are events that occurred and accomplishments that were realized during 2007.

FINANCES

Prior to 2001, delay in this office's receipt of its initial January payment from Nassau County, paid pursuant to the annual contract between this office and the County, required the borrowing of funds to permit the office to function. The borrowed funds were repaid upon receipt of the first County check, but the interest on the loan was an expense paid by the Bar Association. Since 2001, the 18B Administrator has finalized this contract well in advance of January and the January payments have been received in time for this office to function without the necessity of borrowing funds and incurring interest costs for the Bar Association.

In this regard, in 2007 the 18B Administrator communicated with the Nassau County Attorney's Office in late October in an effort to negotiate all aspects of the 2008 contract well in advance of January 2008. The proposed contract was signed by the Nassau County Bar Association President on behalf of the Nassau County Bar Association Assigned Counsel Defender Plan, Inc. and returned to the County on November 9, 2007. Despite minor problems that arose thereafter, as of the writing of this report, the initial January 2008 payment from the County has been received by this office. Thus, no borrowing will be necessary in 2008 and no interest costs will be incurred by the Nassau County Bar Association.

CONTINUING LEGAL EDUCATION REQUIREMENTS

Pursuant to this office's Rules and Regulations, each 18B Panelist must accrue at least 6 hours of CLE credits in an area related to criminal law, family law, trial practice, appellate practice or ethics during each 12 month period from September 1st through the following August 31st.

To ensure that all Panelists were in compliance, letters were sent in 2007 to a number of attorneys who had not yet fulfilled the 6-hour requirement. Follow up letters

and faxes were also sent and/or telephone calls made to each of the delinquent panelists. All but one complied with the requirements. That one was removed from the panel.

CONTINUING LEGAL EDUCATION PROGRAMS

Each year, the office provides CLE programs free for all panel members in good standing. These programs are presented by the Nassau Academy of Law and this office pays the Nassau Academy of Law a fee, depending upon the number of 18B panelists in attendance. In 2007, four major programs were presented: two for our criminal court panelists and two for our Family Court panelists.

The first program for the criminal court panelists was held on March 28, 2007 and was entitled: "Collateral Consequences of Criminal Convictions". The second program, held on October 12, 2007, was the highly acclaimed "Annual Criminal Law and Procedure Update".

The first program for the Family Court panelists was held on April 12, 2007 and was entitled "How to Try a Permanent Neglect Trial". The second program was held on October 23, 2007 and was entitled "The How-Tos of Motions, Discovery and Trial Practice in Family Court."

Each of these programs was worth 3 Continuing Legal Education credits. Each was well attended and received excellent reviews from those in attendance.

BUDGET SHORTFALL

The 2007 budget for 18B attorneys and experts was \$4,350,000. This was based upon the expectation (from past experience) that this office would process approximately 5000 vouchers in 2007.

As the months elapsed in 2007, it became clear that the number of vouchers we were receiving would be in excess of 5000 and that the \$4,350,000 would thus be insufficient to get through the year. The 18B Administrator kept the Nassau County Budget Office apprised of these developments throughout the first half of 2007 and it was determined by all parties that a Supplemental Budget Appropriation of \$1,650,000 was needed.

The Nassau County Attorney's office placed this measure on the Government Services and Operations Committee calendar and on July 30, 2007, the 18B Administrator appeared before that committee to explain the need for the additional funds. Based thereon, the supplemental appropriation was granted, and the office was able to process all vouchers received in 2007. As appears later in this report, the total number of vouchers processed in 2007 was 5,541.

MEETINGS CONCERNING DEFENSE COUNSEL SCREENING BUREAU

At the July 30, 2007 meeting of the Nassau County Government Services and Operations Committee (see "Budget Shortfall", supra), the 18B Administrator advised the committee members that the number of vouchers being processed each year by this office has risen from an average of 3500 before 2003 to an average of 5000 since 2003. The suggested reason for the increase was the dissolution, in 2002, of the Nassau County Defense Counsel Screening Bureau. The Screening Bureau consisted of a number of county employees who screened defendants for indigency. Persons who claimed to be indigent were required to produce documentation to support their claims. After the dissolution of the Screening Bureau, the task of screening defendants fell to the individual Judges before whom these defendants appeared. The Judges, for the most part, question defendants from the bench and have them sign affidavits of indigency but do not require any other proof of indigency.

The 18B Administrator explained to the committee members that in his opinion this change in procedure was leading to hundreds of defendants being declared indigent who may not in fact be indigent. This in turn was costing the 18B Program, and thus the County, hundreds of thousands if not millions of dollars each year.

On September 11, 2007, based upon the foregoing, the Board of Directors of the Nassau County Bar Association voted to recommend to the Nassau County Executive that the Defense Counsel Screening Bureau be reinstated. Letters to that effect were sent to the County Executive and, as a result, a series of meetings were held in the fall of 2007 that included the 18B Administrator, the Attorney in Chief of the Nassau County Legal Aid Society, the President-Elect of the Nassau County Bar Association, and members of the Nassau County Attorney's office.

The County's position was that it would not add any new personnel to the County payroll to screen defendants. The suggestion that the Legal Aid Society do the screening was rejected and the suggestion that the Nassau County Probation Department do the screening was rejected because it is a branch of law enforcement. It was then suggested that the screening form, presently used by some of the Judges when they screen defendants, be made uniform and be made more complete. It was agreed that if such a form were used by all Judges and if the language therein made it clear to defendants that falsification would carry serious adverse consequences, the number of defendants who casually claimed to be indigent would decrease. These suggestions were conveyed to the Administrative Judge of Nassau County and a meeting with him and other judicial personnel is presently scheduled for March 3, 2008. The problem is thus not presently solved but is a work in progress.

STATISTICS

For the calendar year 2007, this office processed 5541 vouchers: 4597 for attorneys and 944 for experts. The specific breakdown, by court, was as follows:

District	1950
County	752
Family	1297
Appeals	78
Surrogates' Court	1
Supreme	29
Glen Cove	135
Long Beach	229
Parole	90
Village Courts	36
Experts	509
Court Reporters	435

STAFF

The support staff in the Office of the Administrator continues to be highly knowledgeable, and the efficiency with which the day-to-day functions of the office are handled is in large measure due to them.

Respectfully submitted,

Patrick L. McCloskey

Mineola, New York
January 31, 2008