

NASSAU COUNTY BAR ASSOCIATION
ASSIGNED COUNSEL DEFENDER PLAN, INC.

ANNUAL REPORT 2005

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 41st year of providing legal representation to indigent defendants charged with crime 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 270 private attorneys who comprise the various assigned counsel panels. The following are the events that occurred and accomplishments that were realized during 2005.

FINANCES

Prior to 2005, the Nassau County Bar Association contracted with the County of Nassau. Pursuant to this contract, the Assigned Counsel Defender Plan received money to operate. In 2005, it was determined by the President of the Nassau County Bar Association and the Administrator of the Assigned Counsel Defender Plan that the contracting party should be the Nassau County Bar Association Assigned Counsel Defender Plan, Inc. This matter was discussed with personnel from the Nassau County Attorney's office and they agreed to the change. Thus, for the first time, in December of 2005, the Nassau County Assigned Counsel Defender Plan, Inc. was the contracting party with the County of Nassau.

As a separate matter, involving the actual receipt of funding, prior to 2001 delay in this office's receipt of the initial January payment from the County led to 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 contracts have been finalized well in advance of January and the January checks have been received in time for this office to function without the necessity of borrowing funds and incurring interest costs.

In 2005, in late October, the 18B Administrator communicated with the Nassau County Attorney's Office in an effort to negotiate all aspects of the 2006 contract well in advance of January 2006. 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 December 13, 2005. The 2006 Contract did not have to go before the Rules Committee of the Nassau County Legislature because the Contract is required by State law and is thus exempt from Rules Committee approval pursuant to Nassau County Local Law 37-2000, section 1 8 cx. As of the writing of this report, the initial January, 2006 payment from the County had already been received by this office. Thus no borrowing will be necessary in 2006.

COMPUTERIZATION

On January 20, 2005 this office's Website (Nassau18B.org) was officially launched. The site contains applications, qualifications, rules and regulations, vouchers, expert lists, motions, forms, administrative letters, articles on legal issues and links to other important and helpful sites.

In December 2005 a bulletin board was added. This will permit panelists to pose questions and interact with one another on line, in order to improve their performance as attorneys. It is anticipated that the bulletin board will be fully operative by January, 2006.

INDIGENCY SCREENING

With the demise of the Defense Counsel Screening Bureau in 2002, all screening for indigency is now handled by the judges. Although 2002 produced no significant change in the number of cases handled by this office, 2003, 2004 and 2005 did. Instead of handling approximately 4300 vouchers per year, we handled between 5500 and 5900 for years 2003, 2004 and 2005. The Administrator concluded that the major reason for the dramatic increase in caseload was the change in screening procedure.

With this in mind, in 2005, the Administrator met with groups of Judges from the District Court and County Court, and with the Supervising Judge of Family Court, provided them all with eligibility tables based upon current Health and Human Services Poverty Guidelines, and urged them all to be vigilant with respect to the finding of indigency. It is hoped that this will lead to the assignment of counsel in cases of true indigency and the avoidance of such assignments where it is unwarranted.

COUNTY CLAIM VOUCHERS

A County claim voucher (the NIFS 560 form) must be submitted in duplicate every time an 18B attorney seeks to be paid. In years past, we at times ran short of such forms and were dependent on the County to supply us with more. In June of 2004, the 18B Administrator gained permission from the County to duplicate this form on the office's upcoming website so that it could be downloaded by individual Panelists. In 2005, this form became available to all Panelists via the website.

CONTINUING LEGAL EDUCATION REQUIREMENTS AND PROGRAMS

Pursuant to a direction of the Advisory Committee of the Assigned Counsel Defender Plan, each 18B Panelist must accrue at least 6 hours of CLE credits in an area

related to criminal law, family law, trial or appellate practice during each 12 month period from September 1st through the following August 31st.

To ensure that all Panelists were in compliance with 18B CLE rules, letters were sent in 2005 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 2 complied with the requirements. Those 2 were removed from the panel.

INTEGRATED DOMESTIC VIOLENCE COURT

In September, 2004, the Office of Court Administration announced that Nassau County had been chosen as a site for an Integrated Domestic Violence (IDV) Court. This Court is designed to handle both criminal and Family Court matters involving a single individual and put those cases before a single judge.

In order to represent indigent persons both as to the criminal matter and Family Court matter, 18B Panelists must be familiar with both criminal practice and Family Court practice. From September through December 2004, the 18B Administrator, in conjunction with personnel from the Nassau County District Attorney's office and the Nassau County Legal Aid Society, set up a criminal court training program for those 18B Family Court Panelists who wished to learn criminal practice. Concurrently, Office of Court Administration personnel prepared a Family Court training component for those 18B criminal court Panelists who wished to learn Family Court practice.

Preparation for both the criminal component and Family Court component were finalized in late 2004. The actual training sessions were held on January 27, February 2, February 3, February 9, February 10 and February 14, 2005. Approximately 130 panelists attended some or all of these sessions and at the close of 2005 there were 82 panelists approved to act as 18B counsel in the IDV Court.

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 26, 2006