

Attendance Sheets

District	Last Name	Present	Absent	Present/Late
District 13 - Towns of LaGrange, Union Vale, and Wappinger	Bolner	✓		
District 3 - Town of LaGrange	Borchert	✓		
District 19 - Towns of North East, Stanford, Pine Plains, Milan	Cooper	✓		
District 1 - Town of Poughkeepsie	Doxsey	✓		
District 6 - Town of Poughkeepsie	Flesland	✓		
District 18 - City of Beacon	Forman	✓		
District 14 - Town of Wappinger	Goldberg	✓		
District 2 - Towns of Pleasant Valley and Poughkeepsie	Horn	✓		
District 21 - Town of East Fishkill	Horton	✓		
District 22 - Town of Beekman	Hutchings	✓		
District 15 - Towns of Poughkeepsie and Wappinger	Incoronato	✓		
District 10 - City of Poughkeepsie	Jeter-Jackson	✓		
District 25 - Amenia, Stanford, Washington, Pleasant Valley	Kelsey	✓		
District 7 - Town of Hyde Park	Kuffner	✓		
District 16 - Towns of Fishkill, East Fishkill and City of Beacon	MacAvery	✓		
District 17 - Town and Village of Fishkill	Miccio	✓		
District 8 - City and Town of Poughkeepsie	Rolison	✓		
District 5 - Town of Poughkeepsie	Roman	✓		
District 4 - Town of Hyde Park	Sadowski, Jr.	✓		
District 24 - Towns of Dover and Union Vale	Surman	✓		
District 23 - Town/Village of Pawling, Beekman and East Fishkill	Thomes	✓		
District 20 - Town of Red Hook	Traudt	✓		
District 11 - Towns of Rhinebeck and Clinton	Tyner	✓		
District 12 - Town of East Fishkill	Weiss	✓		
District 9 - City of Poughkeepsie	White	✓		
Present: _____	Total:	25	0	
Absent: _____				
Vacant: _____				

Date: 12/1/11

**Special Board Meeting
Dutchess County Legislature
Public Hearing
on the
Tentative 2012 Budget
Bardavon 1869 Opera House, 35 Market Street, Poughkeepsie, New York**

Thursday, December 1, 2011

Chairman calls the meeting to order at 7:00 pm

Clerk calls the roll:

PRESENT: 25 Bolner, Borchert, Cooper, Doxsey, Flesland, Forman, Goldberg, Horn, Horton, Hutchings, Incoronato, Jeter-Jackson, Kelsey, Kuffner, MacAvery, Miccio, Rolison, Roman, Sadowski, Jr., Surman, Thomes, Traudt, Tyner, Weiss, White.

ABSENT: 0

QUORUM PRESENT.

Pledge of Allegiance to the Flag.

Clerk read notice of public hearing.

Chris Silva, Director, Bardavon 1869 Opera House thanked the Legislature for their continued support and funding the Arts.

Leah Feldman, Project Coordinator of Universal Response of Domestic Violence at the District Attorney's Office and Chairwoman, Citizens Advisory Committee on Domestic Violence spoke regarding the need for funding for domestic violence programs and requested that it continue.

The following individuals spoke in support of restoring funding to the Dutchess County's Family Court Assigned Counsel Plan - 18B:

Paul Weinberger

Rebecca Valk

Honorable Joan Posner, Family Court and Acting Supreme Court Judge (Report of the 18B Committee Concerning the Advisability of Creating a Public Defender System in Dutchess County Family Court – Attached and made a part of these minutes.)

Stella Isaza

Honorable Valentino Sammarco, Family Court Judge.

Lisa Rubenstein, Family Court Attorney, member Citizens Advisory Committee on Domestic Violence

Laura Bachensey president Mid Hudson Bar Association and member of Grace Smith House

Heather Kitchen urged the Legislature to support the 18B Plan in Family Court.

Amy Brenner, resident Wingdale, New York requested a moratorium on foreclosures. She further stated that she would like the County to stop doing business with Bank of America and JP Morgan Chase.

James Tremblay, resident of Poughkeepsie requested the County remove its money from Bank of America and JP Morgan Chase and do business with smaller banks located in Dutchess County. He further spoke against the Mental Hygiene layoffs. He further added that he would also urge everyone's support of Occupy Poughkeepsie.

Eli Kassimer, Stormville, New York and Occupy Poughkeepsie requested a moratorium on foreclosures. He further requested that the Legislature encourage Governor Cuomo to institute the millionaire's tax.

Renee Fillette, Director, Grace Smith House thanked the Legislature for funding and support.

Linda Marston-Reid, Director, Dutchess County Arts Council thanked the Legislature for not reducing funding to the Arts.

Kathy Sheehan member Coalition on Elder Abuse of Dutchess County spoke on the importance of protecting elders from abuse, neglect and exploitation and to preserve the quality of their lives.

Jody Miller, Director, Mediation Center stated that even with the loss of funding last year and being reduced by 20 % , which means that our office is closed on Fridays, we are still working through mediation to reduce court appearances and we hope that the Legislature sees the value of our program.

Mary Rich, Program Coordinator Mental Health of Dutchess County thanked the Legislature for the continued funding of CASA.

Peter Berasi long-time East Fishkill resident and volunteer to Cooperative Extension's Environment and Energy Program asked for the \$25,000 to be restored to the energy program from \$85,000 back to \$110,000.

Shaun Chesley, resident Town of Poughkeepsie and employee of the Department of Mental Hygiene spoke on how over the last thirty days he had been trying to convince the Legislature to stop the layoffs of 22 members of the Department of Mental Hygiene.

Linda Keech, Executive Director, Dutchess County Cooperative Extension. (Comments attached and made a part of these minutes.)

Jim Dewitt resident Dutchess County requested that all 22 Mental Hygiene positions be restored.

Almerin O'Hara resident of Dutchess County spoke on restoring the layoffs to the Department of Mental Hygiene.

John Campbell urged restoration of the Mental Hygiene positions.

Liz Piriano President Dutchess County Unit of CSEA urged restoration of 22 jobs being deleted in the 2012 budget in the Department of Mental Hygiene.

Carol Madrid spoke against the budget cut to Hudson River Housing.

Joan Crawford Deputy Family Director for Family Services thanked Legislature for its continued support.

Constantine Kazolias, 47 Noxon Street, Poughkeepsie, New York spoke against hydro-fracking. (Comments attached and made a part of these minutes.)

Kelly Bilyou, employee, Dutchess County Mental Hygiene Department, urged the Legislature to restore the 22 jobs in the Department of Mental Hygiene.

Edward Tucker resident Town of Wappinger spoke to restore the 22 jobs in the Department of Mental Hygiene.

There being no one else wishing to speak the Chairman declared the public hearing closed.

Meeting adjourned at 9:00 pm.

PUBLIC HEARING SIGN-IN SPEAKERS LIST

December 1, 2011

PRINT NAME	ADDRESS AND EMAIL ADDRESS
✓ Chris Silva	
✓ Leah Feldman	Domestic Violence
✓ Paul Weinberger	POB 527 POK NY 12602 paulweinberger@nsbrc.co-
✓ Rebecca Valk	Rebeccavalk@hotmail.com
✓ DAN POSNER	DPOSNER@courts.state.ny.us
✓ Stella Isaza	Stellaisaza2@aol.com.
✓ Valentino Sammarco	6 Margaret Dr. Hyde Park, NY. 12538
✓ Lisa Rubenstein	lrubenstein@courts.state.ny.us
✓ Amy Breaner	Wingdale, NY amy@amybreanerpottery.com
✓ James Tremblay	JTremblay007@yahoo.com
✓ Eli Kassirer	Rt. 216 - Stormville - NY
✓ Renée Fillette	1 Brakeside Ave., Poughkeepsie, NY Grace Smith House
✓ Linda MARSDEN-REID	9 Vassar St Poughkeepsie NY LMR@artsmidhudson.org
✓ Rocky Sheehan	Union St. ..
✓ Juli Miller	" " "
✓ MARY RICH	253 Mansion St, Se 201, POK, NY. 12601 mrich@madec.com.
✓ PETER BERASI	9 ACPINE DR, HOPEWELL SCT, NY 12533 BERASI@FRONTIER.NET
✓ Shaun Chesley	32 Kohlman Dr. Poughkeepsie 12601 Co-op Schesley@hotmail.com -MH-
✓ Pamela Koch	CCEDC, Millbrook Pk 8@cornell.edu
ALMERIA O'HARA	340 Willow Glenn Rd. Red Hook N.Y. 12571 al.o'hara@IEEE.ORG 1100 BEEKMAN RD H. Jct. 12533

PUBLIC HEARING SIGN-IN SPEAKERS LIST

December 1, 2011

PRINT NAME	ADDRESS AND EMAIL ADDRESS
✓ Laura Vincenzi	P.O. Box 186, Hughsonville, NY Levincenzi@gmail.com
✓ Joan Campbell	13 Merrywood Rd Wappingers Soup@VNET13M.COM
✓ Liz Piraino	207 Beechwood Ave, POK, NY
✓ Heather Kitchen	55 Market St POK NY 12601
✓ Carol Madrid	40 Manitow Ave. Pough., 12603
✓ JOAN CRAWFORD	29 D. Hamilton St Poughkeepsie
✓ Gus RAZOLIAS	47 NOXON ST.

PUBLIC HEARING SIGN-IN SPEAKERS LIST

December 1, 2011

PRINT NAME	ADDRESS AND EMAIL ADDRESS
✓ Kelly Bilyou	

PUBLIC HEARING SIGN-IN SPEAKERS LIST

December 1, 2011

PRINT NAME	ADDRESS AND EMAIL ADDRESS
✓ EDWARD TUCKER	30 SHAM ROCK HILLS DR; WAPP. FLA
	E TUCKER SENIOR @ MSN.COM

REPORT OF THE 18B COMMITTEE CONCERNING
THE ADVISABILITY OF CREATING A PUBLIC DEFENDER SYSTEM IN
DUTCHESS COUNTY FAMILY COURT

BRIEF HISTORY OF THE ISSUE PRESENTED

For many years indigent litigants appearing in Dutchess County Family Court have been represented, as required by law [see attached Appendix for relevant law], by private attorneys, assigned by the judges under Article 18-B of the County Law. The attorneys have been paid from County funds with some supplementation from the State.

During the 2011 budget discussions a proposal was advanced by the Dutchess County Public Defender [hereafter Public Defender] to utilize the services of his office to handle 60% of the caseload in the Dutchess County Family Court. His proposal would replace at least a portion of the private attorneys who had been assigned to represent indigent adults in matters pending in that court. The Public Defender proposed that such a plan would decrease the overall cost to the County for providing indigent legal services by approximately \$500,000 per year. Largely because the plan advanced by the Public Defender had not been adequately discussed with and reviewed by the stakeholders involved and because it was unanimously opposed by the Family Court Judges, that plan was ultimately rejected.

The Public Defender has again advanced a similar plan for the 2012 budget year. In order to permit an informed decision by the Legislature and to obtain as much input and discussion as possible regarding efficacy and impact of utilizing such a program in Dutchess County, Chairman of the Legislature, Robert Rolison, appointed a diverse committee to examine all aspects of the proposal. Chairman Rolison requested that I, as a retired Judge of the New York Court of Appeals, chair the committee and submit a report of its findings for use during the 2012 Budget Hearings. The other committee members, listed in alphabetical order are:

Damian J. Amodeo, Retired Dutchess County Family Court Judge
Thomas N. Angell, Public Defender
Jim Coughlan, Comptroller
Susan Flynn, Principal Court Attorney to Judge Posner
Meryl H. Guzman, Court Attorney Referee
Cynthia Kasnia, 18B Counsel
Ronald McGaw, Attorney and former Poughkeepsie City Court Judge
Kelly Myers, Principal Court Attorney to Judge Sammarco
Peter A. Palladino, Chief Clerk, Dutchess County Family Court
Joan S. Posner, Dutchess County Family Court Judge
Valentino T. Sammarco, Dutchess County Family Court Judge
Jonah Triebwasser, President, Magistrates Association, Town Justice
Dennis R. Vetrano, Jr., 18B Counsel and Attorney for Children
Janna Whearty, Executive Director, Dutchess County Bar Association
Rebecca Valk, Board President of the Dutchess County Bar Association
Wayne R. Witherwax, Principal Law Clerk to Judge Stephen L. Greller

Present, but non-voting members were John Forman, County Legislature liaison, James M. Fedorchak, County Attorney, and Michael Ellison, Assistant to Mr. Rolison.

The full committee met in formal session on June 2, August 2, August 24, and September 30, 2011. Additional sub-committee meetings were held at various times and places.

CONCLUSION, IN SUMMARY

After considerable research and discussion, it is the consensus of the committee, by an overwhelming majority (15 out of 16 voting members) that the Public Defender's proposal will not save the County money and cannot be implemented, as proposed, without significantly sacrificing the quality of services now provided to indigent litigants in Family Court under the existing 18B system. Considering all the factors presented, the Committee concludes that in all likelihood the proposal would, in the long term, actually cost the County more money than the current 18B system.

The Public Defender also offered a hybrid proposal which would utilize, on an experimental basis, a more limited number of Deputy Public Defenders in Family Court. The Committee is also opposed to any experimental program because that would not provide a fair and accurate assessment of the efficacy of implementing the original, more expansive plan, and would unfairly handicap one or more of the Family Court Judges in the operation of the court.

Here, in summary, are the reasons for the Committee's conclusions:

- A. *The Public Defender's plan is not feasible.*
- B. *Critical details of the Public Defender's plan— such as construction and expansion costs - have not been presented.*
- C. *The Public Defender's plan is premised on figures, information, and assumptions that are neither accurate nor reliable.*
- D. *The Public Defender's office has little or no experience as to the operation and the requirements of Family Court.*
- E. *Implementation of the proposed plan may indeed result in increased cost to the County.*
- F. *Cost saving measures recently implemented in Family Court have significantly reduced 18B expenses.*
- G. *The County Comptroller opposes the proposal, concluding that it would not save the County any money.*

DISCUSSION

What follows is a summary of the Public Defender's proposal and the comments advanced by the various committee members and others present during the sessions held by the committee.

THE PUBLIC DEFENDER'S PROPOSAL

The Public Defender proposal will once again come before the County Legislature for consideration for the 2012 budget year. It would create a separate Public Defender Family Court unit, consisting of three Senior Deputy Public Defenders and three entry level Public Defenders, with a support staff of three additional administrative assistants. These six attorneys would, under the proposal, be able to handle sixty percent (60 %) of the Family Court caseload presently being represented by 18B counsel. The Public Defender contends that his proposal would provide the same or even greater quality of service to indigent litigants appearing in Family Court, and would save the County \$500,000. The proposal is based on his examination of local Family Court operations and the operation of Family Courts in other counties with similar caseloads, which have implemented similar plans [see Exhibit "A" for details]. The Public Defender's proposal was submitted on September 28, 2011 in response to a September 15, 2011 memorandum of committee member Ronald McGaw, Esq. [See Exhibit "B-2"], which asserted that the Public Defender's general proposal would not save the County any money.

DUTCHESS COUNTY FAMILY COURT ITS JURISDICTION AND COMPOSITION

In order to better understand the impact and effect of the Public Defender's proposal, it would be helpful to understand the types of cases handled in Family Court and, more specifically, how those cases are handled in the Dutchess County Family Court.

- A) Jurisdiction and Types of Proceedings: [see attached Appendix for statutory and constitutional authority]

- B) Composition: At present, the Dutchess County Family Court has three judges: Peter M. Forman, Valentino T. Sammarco and Joan S. Posner. In addition, there are two Support Magistrates, Elaine Greenblatt and Steven Kaufman, each of whom handles support and paternity proceedings and a Court Attorney Referee, Meryl H. Guzman, who handles permanency hearings regarding children in foster care as well as the initial requests for Order of Protection in domestic violence cases. The Chief Clerk of the Court is Peter Palladino.

Currently there are six full-time parts operating simultaneously in the Family Court. In addition to these six parts, matters are also scheduled in the Integrated Domestic Violence Court, the Family and Juvenile Treatment courts and for conferences with the three Court Attorneys for the Judges. The Court Attorneys each have their own

independent "Conference Calendars" which require the presence of the attorneys. These conference calendars are an essential part of the Family Court and help to resolve cases, reducing costs and trial time.

C) Caseload: In 2010, there were a total of 15,210 petitions filed, including the number of permanency planning hearings conducted by the Court Attorney Referee. It is predicted that there will be no appreciable difference in the number of filings between 2010 and 2012 for typical attorney assignment case-types.

D) The Assigned Counsel Process: There are presently 61 lawyers who now take assignments from Family Court Judges. These attorneys perform a variety of legal services for clients and appear before the Judges, Support Magistrates, the Court Attorney Referee, and at conferences with the Court Attorneys for the Judges. These same attorneys also represent clients in an Integrated Domestic Violence part in which Judge Posner hears criminal cases transferred from criminal courts as well as matrimonial actions along with the Family Court petitions. Judge Forman also manages a Family Treatment part in which assigned lawyers appear.

The assigned lawyers are compensated at the rate of \$75.00 an hour for both in-court and out-of-court services provided. Significantly, these attorneys are otherwise responsible for all of their own overhead, medical and malpractice insurance and other office and administrative expenses.

E) Eligibility and Criteria for Assigned Counsel: When applying for assigned counsel, an individual completes a financial affidavit, which is reviewed by the Judge handling the case and financial eligibility is then determined by the Judge .

With the approval and consent of the prospective client, the Judges have also been issuing orders for a contingent assignment of counsel, requiring that the client reimburse the County for the cost of representation where the Judge determines that the client is not indigent but cannot afford the costs associated with retaining private counsel or does not have sufficient assets to pay a retainer fee and the like. If the individual does not consent, counsel is not assigned. The Court reviews the litigant's financial circumstances throughout the proceedings so as to be able to make ongoing adjustments. It has been the responsibility of the County to collect these fees when the case ends. However, it does not appear that the County has ever followed through with the reimbursement process.

COMMITTEE CONCLUSIONS AS TO THE PUBLIC DEFENDER'S PROPOSAL

A. The Public Defender's Plan is Not Feasible

The three experienced, currently sitting Family Court Judges, and Judge Damian Amodeo, a former Family Court Judge with twenty years experience on the Family Court bench and

nearly 20 additional years of experience as law secretary [now court attorney] to four other Family Court Judges, as well as the Family Court lawyers on the Committee and representatives of the Dutchess County Bar Association, have all stated categorically that such a proposal will fail. The Family Court Judges have stated in Exhibit "B(1)" that thirty percent (30%) is the portion of the total caseload which the Public Defender could more realistically handle under his proposal [Exhibits "B(1)" (the Family Court Judges' response, and "B(2)" (the McGaw memorandum) are both attached].

Most Family Court cases have at least two parties. Accordingly, the Public Defender could only represent one party without creating a conflict of interest. The other party, if eligible, would still have to be represented by 18B counsel. The deputy public defender would be expected to perform the same services as 18B counsel, which include not only appearing in court but also conferring with the client, opposing counsel, court personnel, prospective witnesses, performing legal research, preparation of documents, trial preparation and attending Court-mandated case conferences.

The Public Defender has not submitted a coherent and comprehensive written study or plan to demonstrate how six attorneys and support staff could possibly represent sixty percent (60%) of the caseload, while still maintaining the current high quality of service. As noted above, there are six Family Court parts in regular and simultaneous operation at any given time. In addition, when court is in session many of the attorneys, who are not actually in the courtroom, are conferencing cases with their clients, other attorneys, or with each judge's court attorney. A single deputy public defender assigned to each Judge's part - as is being proposed by the Public Defender - simply would not be able to handle this process without bogging down and causing serious and costly delays for the entire Family Court operation.

One of the crucial questions that has gone unanswered is how the attorneys in the proposed new unit will ever be able to see their clients and properly confer with them outside of court. A perusal of the 18B vouchers submitted to the County show there is an average of twice as many hours devoted to legal work outside of court compared to in court time. If the deputy public defender assigned to any given part is in the courtroom all or most of any given day, there would be no time to meet with the clients and also do all the other tasks regularly expected of any attorney to properly handle a case.

After considerable research and obtaining statistical information from many county indigent service providers, Janna Whearty, Executive Director of the Dutchess County Bar Association, submitted a report indicating that the operation of Dutchess County Family Court is unique compared to other counties by insuring that the best representation is provided to every indigent litigant. Her report concludes that it would take a minimum of ten (10) public defenders to cover sixty percent (60%) of the caseload based upon the minimum number of hours required, as compared to attorneys in private practice who often work into the night and on weekends.

The report also found that sixty percent (60%) of the hours billed by assigned counsel in 2010 amounted to 15,820 hours and that six attorneys working 40 hours per week for 52

weeks amounts to 12,480 hours. That would leave a deficit of 3,340 hours of work which could not be performed during normal working hours. This would obviously compromise quality, at no cost savings. The report of the Dutchess County Bar Association is attached as Exhibit "D".

B. Critical Details of the Public Defender's Plan
– such as construction and expansion costs –
Have Not Been Presented

The Public Defender has not provided committee members with information regarding the *location and configuration* of the proposed new Family Court unit. These are very critical elements of any plan.

It is crucial to know where the waiting, child care, and conference areas will be located, as well as the type of security proposed, to ensure the safety of the litigants and children, among other considerations.

In addition, the quarters utilized by the Public Defender's Office are already over-crowded. The question of where six additional deputy public defenders, three additional support staffers, as well as new meeting and waiting areas necessary to accommodate the privacy, security, and other needs will be located is unaddressed.

The layout of any new office will be expensive. It must ensure that civil litigants are kept separate and apart from criminal defendants who are charged with, or have been convicted of crimes including robbery, assault, other domestic violence crimes and child abuse. Domestic violence and other victims must be reassured that they will be safe at the Public Defender's office.

Not fully disclosed are the detailed costs the County will incur as a result of establishing a new and significantly different unit and management of the Public Defender's office. We do not know the actual cost for capital expansion and improvements, rent, maintenance, security, operating costs including utilities, books, computers, expert witnesses, transcripts, appeals, social workers, mental health workers and legal malpractice insurance. It will be high and will substantially offset any possible gain. For example, under the proposal there would be three senior level attorneys added, plus three entry level attorneys, presumably at a much lower pay scale. The real costs will undoubtedly escalate when those entry level attorneys advance on the pay scale— as they inevitably will, unless we anticipated that they will be replaced with entry level, inexperienced attorneys to keep the costs down. The Public Defender has already stated that the pension share paid by the County for each employee has increased over last year. *The cost of the new County employees can only increase each year while the fee for assigned counsel will remain at \$75.00 per hour for the foreseeable future.*

The Public Defender states that administrative, investigative, and social work functions would be in kind expenses provided by currently employed staff. Additionally, when questioned about coverage for vacation and leave time, the Public Defender stated that the criminal

lawyer staff of fifteen can be "cross-trained" to handle Family Court matters when the Family Court lawyers are sick or on vacation. The two offices cannot and should not be mixed. This latter proposal creates a myriad of potential problems with conflicts and victim safety and emotional well-being, all of which have neither been fully explored nor adequately addressed.

Unless the present Public Defender Office is overstaffed – and there is no such contention -- it is implausible that other attorneys on his staff could pick up any shortages in the Family Court. In addition, if cross-coverage were to be considered, then *the cost of the employees who would work in Family Court would have to be added to the expense of the Family Court unit and subtracted from the criminal side.* Requests for further staff expansion would inevitably follow.

There are simply too many unknowns in the Public Defender's proposal, for which the County would be allocating as much as one million dollars (\$1,000,000) for the new program. No money should be allocated for this purpose without a written, comprehensive plan showing the feasibility and reliability of the proposal, as well as all the County costs attributed to same.

C. The Public Defender's Plan Is Premised On Figures, Information, and Assumptions About Family Court That Are Neither Accurate Nor Reliable

In a memo received on September 28th 2011 (Exhibit "A"), the Public Defender relied on vouchers submitted by 18B attorneys in determining the per case cost for legal counsel. However, while well intentioned, these figures, using Family Unit numbers, cannot be used as an accurate basis for the per case costs used in the calculations presented by the Public Defender. The Family Unit Number is a file number, not a case number. To accurately determine how many actual cases a single voucher submitted represents, it would be necessary to examine each Docket Number, one of which is assigned to the individual and multiple petitions filed in a particular case. As Judge Amodeo pointed out, many years ago, the then Comptroller requested that vouchers be submitted using only the Family Unit Number to simplify and expedite processing and payments. *Accordingly, in 2010 the true cost of each 18B case was \$307.00 and is projected to be \$251.00 in 2011, and not the \$816.00 stated by the Public Defender.*

In 2010, the Public Defender advised the legislature that Albany County was similar to Dutchess County in population and in the number of cases handled in Family Court by its three Judges. The Public Defender's reliance on using Albany County as the example for Dutchess to follow was misplaced. Interestingly, in his latest submission the Public Defender did not include Albany County in his statistics but used other counties. As we later learned, the Albany County figures were unreliable because that county had not filled several positions in its Public Defender's Office, due among other things, to a hiring freeze. Meanwhile, the 18B attorneys continue, at an increasing rate, to be used in Albany County to represent indigent litigants in Family Court.

D. The Public Defender's Office Has Little Or No Experience
As To The Operation And Requirements of Family Court.

As noted in this report, the counties which the Public Defender has studied and advances as close to or similar to Dutchess County are operated in a manner significantly different from the manner of operation utilized in Dutchess County Family Court. This fact has been confirmed by other attorney members of the Committee who have regularly practiced in some or all of the Family Courts in the counties mentioned by the Public Defender in support of his proposal. Accordingly, many of the premises upon which the Public Defender bases his proposal are not a reliable measure of how the proposed plan would work in Dutchess County.

Family Court matters are emotionally charged, constantly evolving and involve numerous issues, many of which change on a daily basis. The need for experienced and knowledgeable attorneys is essential for the prompt and efficient resolution of these very personal matters.

The Family Court Judges strongly feel that the Public Defender's proposal is not based on adequate consultation with domestic violence victims and their advocates, concerning their views on being represented by an office that typically represents criminal case defendants in homicides, child abuse, assault, and sexual abuse cases.

E. Implementation of The Public Defender's Plan
Would Likely Result in Increased Cost to the County

At present, the assigned lawyers work out of their private offices and handle all of the assigned counsel cases. Because the six deputy public defenders can not realistically handle sixty percent (60%) of the caseload, then 18B lawyers will continue to be needed to provide adequate, legally required indigent representation in Family Court. When all the actual costs are considered in order to open and operate the new County office, including salaries, benefits and the like, coupled with the cost of ongoing 18B assigned counsel, the County may very well pay out an extra \$500,000 to \$1,000,000 over the present 18B budget.

The Public Defender's plan can only be more costly in the first year, considering the major transition that must occur. The proposal does not acknowledge the first year's transition costs as 18B attorneys will continue working on cases while the new attorneys are hired, trained, and located into new offices. Since attorneys cannot be changed during the pendency of a matter absent extreme circumstances, in most instances the 18B attorneys will remain on all the pending matters and the new attorneys would be assigned to new matters not involving the same parties being represented by 18B lawyers.

Undeniably, the cost of any new County employee can only increase each year, particularly with increasing costs of medical and malpractice insurance as well as pension costs, not to mention the growth of office personnel. On the other hand, the fee for assigned counsel will remain at \$75.00 per hour for the foreseeable future.

Moreover, the County pays out substantial sums for children in foster care, including the cost of housing, medical, dental, and other services. Every extra day a child is in foster care the expense grows. The importance of having skilled and experienced lawyers representing the parties who have their children removed and placed in foster care, cannot be overemphasized. The more quickly these types of matters are resolved and a child is returned to a parent, the sooner the County will realize a reduction in its overall foster care obligations. An additional consideration is the fact that federal law, with minimal exceptions, requires that DSS file a petition to terminate a parent's rights if the child remains in foster care for 15 out of the most recent 22 months regardless of whether the underlying neglect matter has been resolved. If the County does not adhere to these requirements, it is at risk of losing Federal funding for foster care expenses. Thus, time is of the essence in resolving cases involving children in foster care.

F. Cost Saving Measures Already Implemented in Family Court Have Significantly Reduced 18-B Expenses

The Family Court Judges submitted a memo, Exhibit "E(1)", which shows all the cost-saving measures that have been taken to reduce cost of 18B representation. So far this year the cost of 18B representation is under budget. Among the cost-saving measures being utilized are enhanced use of mediation and the utilization of mediation at an earlier stage of the proceedings, in an effort to shorten the length of time a proceeding is pending. Case conferences among the attorneys are being mandated between Court appearances to help resolve cases. In addition, among other things, greater scrutiny is being given to the eligibility of prospective 18-B clients and stricter guidelines have been implemented for the amounts which will be allowed for various types of legal services provided by 18-B attorney.

G. The County Comptroller Opposes the Public Defender's Proposal

As someone highly sensitive to costs and savings, Dutchess County Comptroller, Jim Coughlan, a member of this Committee does not support the Public Defender's plan because it has not been demonstrated that the proposal will save the County money, and because the plan may not meet the requirements of representing Family Court litigants. The Comptroller also recognizes that the Family Court administration has recently put into place new, cost saving measures that have already resulted in a significant reduction in 18B expenses for the County.

We ask that the legislators review all of the attached exhibits for specific details.

CONCLUSION:

The Committee reviewed all documents submitted and heard comments from the members as well as non-members who were invited to speak. The Committee consists of 16 members. Only the Public Defender supports the proposal. While he no doubt does so in good faith, every other Committee member disagrees and concludes that the present system works well;

that the proposal will not produce any savings; that the County will in all likelihood incur more expenses than the present 18B budget; and, the quality of legal services will be significantly diminished.

Respectfully submitted,

Albert M. Rosenblatt
Chair

APPENDIX

Family Court Act (FCA) §262:

For those unable to pay, FCA §262 requires such assignment for a:

- person answering a charge of child abuse or neglect under FCA Art. 10;
- parent in a permanency hearing for child placed outside the home;
- person bringing a petition involving violation of a minor in foster care;
- person bringing or answering a petition in a family offense proceeding;
- person answering a petition in any proceeding involving guardianship under a Permanent Termination of Parental Rights, Adoption, Guardianship and Custody;
- person having physical or legal custody of a child in a (a) Child protective proceeding; (b) Permanency Hearing for a child placed outside the home (c) a proceeding under §358(a) (Foster care children) or §384(b) (Guardianship and custody of destitute or dependent children) or a §384(Guardianship and custody of children not in foster care); and (d) non-custodial parent or grandparent served with notice under Social Services Law §384(a)(2) (Transfer of care and custody of children);
- parent in a custody dispute;
- person facing certain types of contempt charges;
- person opposing an adoption;
- person resisting paternity;
- There is also a catch-all provision authorizing the assignment of counsel when required by a Federal or State constitutional provision [FCA §262(b)].

Any order of the assignment of counsel is a County charge pursuant to County Law §18-B of the County Law §722-e.

Family Court Jurisdiction:

The Family Court exists by virtue of Article 6, Section 13 of the New York Constitution, by which the court was created, in 1961. Judges are elected for ten-year terms. By constitutional provision, the court has original jurisdiction over:

- juveniles (neglected, delinquent, dependent)
- custody
- adoption
- support
- establishing paternity
- spousal conciliation
- offenses between family and household members, as well as intimate partners

More particularly, under the Family Court Act, the Court has jurisdiction over:

- Disabled or handicapped children (FCA §231, 232)
- Juvenile delinquency (Article 3)
- Support proceedings (Article 4)
- Paternity (Article 5)
- Custody and Visitation (Article 6)
- Termination, Guardianship, Adoptions (Article 6)
- Persons in Need of Supervision (Article 7)
- Family Offenses (Article 8)
- Conciliation (Article 9)
- Abuse and neglect proceedings (Article 10)

Orders of Protection:

The family Court may issue Orders of Protection (FCA §154-b) in most of these proceedings.

Attorney for the Child:

Recognizing the multitude of instances in which legal representation is necessary, the Court is authorized to appoint attorneys "for the child" (FCA §242) with compensation determined pursuant to FCA §245).

Auxiliary service include:

- medical and psychological examination capacities (FCA §251)
- probation services (FCA §252)

Support Magistrates:

The Family Court also functions by means of Support Magistrates who hear, determine and grant relief in support and paternity cases (FCA §439), and with Support Collection Units (FCA §221, with whom banks and employers must cooperate (FCA §228, 229).

ATTACHED EXHIBITS

- Exhibit "A" Proposal of Public Defender received on September 28, 2011, submitted in response to Attorney Ronald McGaw's Memorandum.
- Exhibit "B(1)" Family Court Judges
- Exhibit "B(2)" Ronald McGaw Memorandum
- Exhibit "C1, 2, 3" Composites of practices of other counties
"C(1)" - Orange County
"C(2)" - Ulster County
"C(3)" - Albany/Dutchess County Assigned Counsel Comparison
- Exhibit "D" Dutchess County Bar Association's Revised Report on the Proposed Changes to Dutchess County Family Court's Assigned Counsel Plan dated September 2011
- Exhibit "E(1)" Money Saving Recommendations for 18B Representation in Family Court.
- Exhibit "E(2)" Money Saving Ideas Concerning the 18B System submitted by Ronald McGaw, Esq.
- Exhibit "F" Response by Family Court Judges and Staff to Memo of Tom Angel, Esq., Acting Dutchess County Public Defender, Received on September 28, 2011.

EXHIBIT "A"

PUBLIC DEFENDER PROPOSAL

[Response to Ron McGaw's Memorandum of September 15, 2011]

The Dutchess County Public Defender's proposal to be the primary provider of legal services to qualified indigent litigants in Family Court will save Dutchess County money, increase the quality of the legal services provided, and is similar in scope to the provisions made by neighboring counties.

The key to measuring cost savings is to determine the average cost per case. Year to Date in 2011, Dutchess County has expended \$1,124,004 on approximately 1377 cases in Family Court which is an average cost of \$816 per case. The 2011 budget proposal advanced by the Public Defender's Office for Family Court representation projected annual expenditures of \$770,571 to handle approximately 1,400 cases per year, for an average cost of \$550 per case. This equates to \$266 per case savings to Dutchess County. Based on a projected 2333 cases per year, the 2011 plan would have saved \$372,200.

The projections of the Budget Office are in line with a similar study recently conducted by the Comptroller of Ulster County showing assigned counsel cost per case to be over twice as expensive as the cost per case handled by the Ulster County Public Defender. The Ulster County Public Defender's office is assigned to Family Court. Similarly, in Orange County, which shares common demographics with Dutchess County, the Family Court unit of their institutional defender, Orange County Legal Aid Society, in 2010 handled approximately 1,500 cases at the cost of \$416 per case.

EXHIBIT A

The staffing level of six attorneys suggested in the 2011 Public Defender budget proposal for the Family Court unit is generous when compared with that of other counties. Orange County has four Family Court Judges with four Legal Aid attorneys assigned to these Courts handling 1,500 cases a year. Our proposal has six public Defenders assigned to three Family Court Judges handling 1,400 cases per year. Similarly, Putnam County Legal Aid Society has two part time attorneys handling 338 cases with the equivalent of one Family Court Judge (they have three Judges who share the Family Court responsibilities). Columbia County Public Defender has four part time attorneys who handle 740 cases a year with the equivalent of one full time Family Court Judge. The Ulster County Public Defender has two full time attorneys and two three quarter time attorneys handling the equivalent of 2 ½ Family Court Judges.

Dutchess County Family Court personnel continue to insist that six full time attorneys are insufficient to cover all the responsibilities in their Courts. The experience of all our neighboring counties would speak otherwise. No evidence of the unsatisfactory nature of the legal representation provided by institutional defenders in our neighboring counties has been presented to the committee.

The 2011 Public Defender, Family Court Unit budget proposal did include the cost of benefits, clerical staff, and other ancillary costs of running a competent law office including training, research tools, interpreters, steno & witness fees, etc. It also included \$25,000 in start up expense for computers, furniture and other necessary office equipment. Since the plan was to house the new staff in existing County space,

no rental costs were included. In addition, the administrative, investigative, and social work functions would all be in kind expenses provided by currently employed staff.

Questions regarding vacation and sick time are equally inapposite. The Public Defender's office currently has a staff of fifteen attorneys. Some attorneys currently on staff can be cross trained so as to handle Family Court cases if the need arises.

The proposal has the additional advantage of streamlining existing Family Court procedures and saving Judges time. Currently the Family Court Judges make all eligibility determinations. Under the proposal the Court would retain ultimate authority to determine eligibility; however, all applicants for services would be screened by the Public Defender's intake staff using uniform financial eligibility guideline, rather than the ad hoc process currently in use. Further, in the Integrated Domestic Violence Part of the Family Court the County is paying for two attorneys to represent the same party. This proposal would eliminate the need for a second attorney since the assigned public defender would handle both the Family Court and the criminal case. This would generate additional cost savings.

There has been a lot of discussion regarding the quality of services that a Public Defender Family Court Unit would provide. Those proposing a continuation of the current system have not provided the committee with any objective measurement of the quality of the assigned counsel plan over an institutional defender plan.

However, the New York State Bar Association has established standards for the provision of Mandated Representation. A comparison of the current assigned counsel plan to the proposed Public Defender plan shows the assigned counsel plan failing to meet established standards and the proposed Public Defender plan meeting all the standards. The comparison is as follows:

- The very first standard requires that the selection of the attorney to represent any given client be done independently. Specifically, Standard A-3 states, “The selection of the individual attorney as part of an assigned counsel plan shall be made by someone outside the court system in order to ensure the independence of counsel.” The current system does not meet this standard since the Family Court Judges directly chose and assign counsel to every litigant. A Family Court Public Defender Unit would provide this independence, since the Public Defender would make the assignment decisions.
- A Family Court Public Defender Unit would meet standard B-1 (a) provision of social work services to litigants in Family Court proceedings. The Public Defender’s office has a social worker on staff. The assigned counsel plan does not.
- Standard E-2 requires written minimum qualifications for all attorneys providing mandated representations. The Public Defender’s office has written job description including minimum qualifications for all of its

attorneys. To the best of my knowledge, the Family Court assigned counsel plan does not.

- Standard F requires that all attorneys have continuing legal education within the area they are providing mandated services. Continuing legal education attendance is monitored by the Public Defender's office. To the best of my knowledge, the Family Court assigned counsel plan does not.
- The Public Defender's office monitors the caseloads of its attorneys and makes adjustments when necessary. The Family Court assigned counsel plan does not monitor the total caseloads of attorneys.

(Standard G)

- The Public Defender has support services on staff (Investigators, social workers) and a budget to hire experts and translators. Most attorneys in the Family Court assigned counsel plan do not have in house access to these resources. (Standard H)
- The Public Defender's office has annual written performance appraisals for each of its attorneys, has internal policies requiring positive communication with clients, has an internal complaint process, and has discipline procedures when attorney and staff are not performing as expected. I am not aware of any similar procedures in the Family Court assigned counsel plan. (Standards I, and J)

The only objective criteria available show the public defender proposal to be the quality plan.

Comments have been made regarding the potential that the assistant public defenders hired would not have sufficient experience to provide meaningful representation in Family Court. The recent hiring experience of the Public Defender's office indicates otherwise. Every assistant public defender hired in the last several years at the entry level has had extensive legal experience prior to being employed by Dutchess County. We plan to hire experienced attorneys for the Public Defender Family Court Unit.

In conclusion, the 2011 budget Public Defender Family Court Unit plan would save money, increase the quality of services provided and is similar to, if not more generous, than the services provided by all of our adjoining counties.

EXHIBIT “B(1)”

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**RESPONSE BY FAMILY COURT JUDGES AND STAFF TO MEMO
OF TOM ANGELL, ESO. ACTING DUTCHESS COUNTY PUBLIC
DEFENDER, RECEIVED ON SEPTEMBER 28, 2011**

We concur with Mr. McGaw's submission of September 15, 2011 and take strong issue with Mr. Angell's unsubstantiated and conclusory statement that the Public Defender proposal will save Dutchess County money, increase the quality of legal services provided, and is similar in scope to the provisions made by neighboring counties.

Firstly, Mr. Angell fails to define a "case" in family court. There were 6,435 dockets assigned in 2010. Without a proper definition of a "case" it is impossible to determine if the number, 1377 cases, cited by Mr. Angell is at all accurate. Additionally, Mr. Angell does not explain on what information he bases his projection of 2333 cases per year. This number seems to appear out of thin air. Similar to criminal cases, each docket (or petition) which is equivalent to an information/complaint/accusatory instrument in criminal law is a case. For instance, every time a petition alleging a family offense or violation of an existing order of protection is filed in family court alleging an offense defined in the penal law, a new docket number is generated. The offense will likely be on a different date and time than any other. A full investigation will have to be made including attorneys interviewing clients and getting the facts. This is no different than the public defender representing one individual on three separate charges occurring on different dates and heard in the same or different courts(ex. city court, town justice, county court). A full investigation must be made, clients interviewed, witnesses interviewed, discovery had, settlement conferences held, and if not settled, trials are conducted.

In family court, unlike criminal court, there are often a multitude of petitions filed by many parties: family offenses, violation of orders of protection, custody, visitation, violations of existing orders, guardianship, and child neglect and abuse involving the original and other parties in which Department of Social Services and the County Attorney's Office are involved. In one instance recently over 70 petitions were filed involving four parents, fourteen children, and numerous proposed guardians. These people had to be represented by several lawyers. If these were all criminal complaints involving different facts, parties, consequences including jail for contempt, witnesses; would there be any question that they are separate cases requiring an attorney's time for each one? Would the public defender report these all statistically as one case or separate ones? Is the County reimbursed for one case or several?

Therefore, Mr. Angell grossly underestimates the number of "cases" in family court and has grossly erred in arriving at an average cost of \$816.00 per "case." The Chief Clerk of Family Court can address this issue more specifically, and show that the number of "cases" handled by the 18B attorneys far exceed 1377 per year, and therefore the cost of each "case" is far less than \$816.00.

Mr. Angell's proposal to represent sixty percent of the family court caseload with an annual expenditure of \$770,571 to handle 1,400 "cases" for an average cost of \$550.00 per "case" is pure speculation based on assumptions made without credible evidence fostered by the proponent as if factual.

EXHIBIT B(1)

Since making his original proposition in the 2010 county budget process, Mr. Angell has yet to submit a comprehensive written plan. No detailed explanation has ever been presented on how six attorneys (three senior and three entry level) can possibly handle sixty percent of the caseload, appearing in court in six different parts; Judge Sammarco, Judge Posner, Judge Forman, Court Attorney Referee Guzman (handling permanency hearings, conferences, and some trials), and Support Magistrates Kaufman and Greenblatt when handling contempt hearings where a respondent faces a possible jail sentence. The attorneys would also have to appear before Acting Supreme Court Justice Posner when she presides over integrated domestic violence court, and Judge Forman in Family Treatment Court. Additionally, counsel are frequently sent out to the hallway or sent for an impromptu meeting with the Principal Court Attorney to work out the details of a settlement while another matter is called into the courtroom. All of these court requirements must be met, while also finding time to attend settlement and discovery conferences with the three principal court attorneys, one per judge, to effect the timely settlement of proceedings(cases)¹, meet with their clients, meet with opposing counsel, attend various conferences at DSS (including settlement and service plan reviews), prepare various court documents (including petitions, motions, discovery documents, proposed orders, etc.) and attend to a myriad of other office duties. How can the limited number of attorneys proposed adequately attend to all of their responsibilities? The answer, clearly, is that it cannot be done, unless the Laws of Physics are immediately revised. This is clearly illustrated in Appendix B of the submission by the Dutchess County Bar Association.

The attorneys are expected to come to the conferences with the Court Attorneys completely prepared and have their clients at the courthouse to meet with them to discuss terms of settlement. If the petitions are resolved then the judges will hear the parties and attorneys immediately in open court to put the settlements on the record. The longer a proceeding is pending the more attorney and court time will be expended costing the County substantial monies.

The County will also pay substantial monies under the Department of Social Services(DSS) Budget when children remain in placement for extended periods of time because child abuse and neglect proceedings can not be resolved, thus causing lengthy trials to be held. The County Attorney's Office appears for DSS on these petitions as well as at the permanency hearings when the parents, guardians, attorneys for the children, social workers, foster parents, and some children also are present and have a right to be heard. The same attorney who represents a party before the judge must also appear at the permanency hearing because by statute the attorney remains assigned to that client. Additionally, prior to the permanency hearing, service plan review meetings are held at DSS and parties are entitled to have their attorney attend these meeting with them. Various other meetings, for which the attorney's attendance will be required, are anticipated to soon be mandated through the Court Improvement Project, a state wide program establishing guidelines for the expedited permanency achievement of children in foster care.

¹For example, already scheduled for October 2011, Judge Sammarco's principal court attorney, Kelly Myers, Esq. will have nineteen(19) conferences.

The majority of matters handled in family court involve at least one indigent party, if not more. How will the public defender appearing before the judge on the vast majority of matters on the court's calendar ever engage in a second call? Additionally, because most matters involve at least two parties and often more, the public defender could only represent one, and 18 B would represent the others. The more litigation is prolonged, the more attorney time is expended, particularly if the attorneys must prepare and participate in trials.

Mr. Angell has failed to provide in a written plan how the six public defender attorneys will meet with their clients as well as complete all of the outside of court work that must be done. A mere perusal of the 18B vouchers will show at least twice the time is spent out of court as in court. If there are 50 hours attorney time spent in court, there are 100 hours out of court. What are the specific office hours? Will the public defender office be open after court ends at 4:30 P.M. each day? Will the office be open on weekends so that the clients will be able to meet with their attorneys as 18 B attorneys do? It is essential for the public defender attorneys to complete vouchers similar to those that 18B attorneys currently submit so that the judge can compare the in-court and out-of-court time for all attorneys on the file. The Court must insure that attorneys are properly and professionally representing clients including spending sufficient time out of court meeting the clients needs. As a general rule, the attorney representing a client in family court must spend far more time with his or her client than in other areas of law, counseling and giving advice to clients about attending programs, about obtaining mental health and drug/alcohol treatment, parenting skills, and completing preventive services offered by DSS.

Further, often in child abuse and neglect matters expert witnesses, physicians, psychiatrists, psychologists, social workers, and/or validators of credibility of children's statements must be retained at County expense as part of the 18B and DSS budgets costing the County thousands of dollars. Mr. Angell has not provided documentation to show how the public defender will manage these costs or the estimated cost of appeals, expert witnesses in various other matters, investigators, or transcripts which can be substantial after a lengthy trial. The public defender would be responsible for these costs, as 18B currently is responsible for similar costs.

Mr. Angell has graciously provided a copy of the State Bar Association Revised Standards for Providing Mandated Representation:

In part on page 12, General Performance Standards, para. I-3 the following directive is set forth: An attorney must communicate with his or her client on a regular basis during the course of representation, preferably in a private face-to face discussion; communicate with family or friends of the client to the extent that the client waives the attorney-client privilege as to such communication; communicate with professionals and service providers relevant to the case, including, but not limited to, physicians, mental health workers and caseworkers; inform the client on a regular basis of the progress of the case; ensure that the client sees copies of all documents prepared or received by the attorney; and provide the client with the opportunity to make an intelligent and well-informed decision in those instances when a decision is to be made by the client, e.g. whether to plead guilty or enter an admission, whether to be tried by a jury or judge and whether to testify.

In part on page 5, B-1(a) Effective representation includes representation at the early stage of a Family Court proceeding, including the provision of social work, counseling, mental health, and other services.

B-4 provides, Systematic procedures shall be implemented 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 (the family court judges would add any family offense proceeding, and any time there are emergencies including custody matters).

In part on page 18, para. J-9 provides: All attorneys providing mandated representation, regardless of whether pursuant to an assigned counsel plan, a public defender office, a legal aid bureau or society or any other institutional or associational structure, shall keep records of all time spent on the representation of each individual client, indicating the duration and nature of the work done and the dates on which the work was performed.

Mr. Angell has sought to compare the cost of attorney services in other counties as a benchmark for Dutchess County to follow. The basis of comparison is flawed since all the counties have different protocols and procedures in court operations. Our Family Court judges assign attorneys immediately in most cases, particularly emergencies. Para. A-3 of the revised state bar standards, page 5, provide in part, Where mandated representation is to be provided by assigned counsel, the selection of the individual attorney to whom cases are to be assigned shall not be made by a judge or court official except in an emergency or in exceptional circumstances.

Family offense proceedings where orders of protection are issued removing someone from the home and/or denying visitation with children are emergencies. Removing children from their parents is considered an emergency. Denying or curtailing a person's visitation with his or her children, or any requested change in the status quo, in a custody case is an emergency.

In any event, as Mr. Angell admits, the public defender and the courts are not in compliance with 18 B of the County Law because our County does not have an approved 18B Plan. The Dutchess County Bar Association is conscientiously and aggressively looking into the feasibility of the organization of such a plan. In accord with the long-standing approved plan for the Attorney for the Child Program, the judges assign attorneys to children from the Appellate Division Second Department's list of attorneys approved by the program to perform such duties. Those attorneys are paid by the State. This would be an excellent plan to turn to for guidance in the Dutchess County Bar Association's work in creating an 18B plan to submit for approval.

Mr. Angell suggests that all applicants for indigent legal services would be screened by the public defender's intake staff. Not only would it be an ethical conflict for the public defender to decide if the opposing party in a matter is entitled to assigned counsel but that suggestion is in direct conflict with the mandates of the Family Court Act, which dictates that the judge must advise a person on his first appearance in court that he has a "right to have counsel **assigned by the court** where he or she is financially unable to obtain the same."

Where all other municipalities are eliminating government positions in favor of private industry for purposes of long term cost saving, Mr. Angell is advocating for the County Legislature to create more government positions and to pay for another bureaucracy that can only continue to grow. Pension payments and other benefits will likely increase. Personnel will certainly be added for an additional expense since the present recommendation for attorneys and others is completely inadequate.

Unlike the legal aid society (a private organization) where the County pays one contract fee, Dutchess County will be required to pick up every expense of the public defender's new family court office: cost of space and capital expense, maintenance, utilities, security, equipment, legal malpractice insurance, books and supplies, expert witnesses, transcripts, appellate costs. Mr. Angell has failed to account for all of those costs. Additionally, Mr. Angell states that the plan is to house the new staff in existing County space but does not provide any details in that regard. Why is the proposed location of the office being withheld? There must be adequate space for all of the attorneys and the administrative assistants, plus waiting room space for the clients and possibly their children. This office must be kept completely separate from the criminal public defender office and have a separate administrator. These are civil litigants, many of whom have significant trauma in their history, who must not be in the company of defendants either charged and/or convicted of serious crimes including homicide, child molestation, robbery and burglary, assault, or rape.

For the first time in his memo Mr. Angell states: In addition, the administrative, investigative, and social work functions would all be in kind expenses provided by currently employed staff. Questions regarding vacation and sick time are equally inapposite. The Public Defender's office currently has a staff of fifteen attorneys. Some attorneys currently on staff can be cross trained so as to handle Family Court cases if the need arises. However, he has never mentioned to the County Legislature the prospect of using any personnel from the criminal office previously. A separate and distinct budget was submitted for the new proposed unit. The family court unit was to be self contained, and personnel costs were attached to the six attorneys and three administrative assistants.

First of all this part of the proposal is completely unacceptable since the Family Court unit must be independent of the criminal. However, to make a fair comparison with the 18B program, the salaries and costs for all personnel who the proponent wishes to utilize in Family Court from the criminal side must be added to the family court expense and subtracted from the criminal part. Perhaps the public defender's office is now overstaffed since the proponent is willing to use part of the staff in Family Court. Perhaps, some of the personnel can work part-time to save the County money.

The public defender should not have one attorney doing the criminal and family court cases in the integrated domestic violence court. Each matter maintains it's own integrity and is heard separately from the other. The purpose of criminal defense is to get the defendant acquitted or get the defendant the least punishment if convicted. The purpose of family court is to resolve cases civilly for the benefit of the children, and parties including participating in services. In addition, the proponent is asking the six family court attorneys to subsidize the

criminal office and practice criminal law. The cost of the criminal lawyers who will then not be practicing in family court must be added to the family court expense. Why hasn't the proponent submitted a written plan so that the County Legislature can have some fixed idea where the money is going? How many times will the vision of the proponent change?

The current system in family court was put in place by predecessor judges over twenty-five years. There is a three week cycle for the judges, one duty week followed by two weeks containing at least two duty days with the other days for trial and hearings. Sometimes the judge is handling over 45 cases per day. How can the public defenders ever keep up? Right now Judge Sammarco has 27 attorneys on his assigned counsel list, Judge Posner has 30 attorneys, and Judge Forman has 20 attorneys. When an attorney is in a conference, each judge has sufficient counsel to bring in another case with a different attorney. As soon as one case leaves the courtroom another comes in. We must stop the morning session at 12:30 P.M. and the afternoon at 4:30 P.M. unless overtime is approved. Six lawyers can not possibly cover these court appearances.

The Family Court Judges state categorically that the plan to cover 60 percent of the caseload will fail miserably. Rather than witness an increase of the quality of service to the litigants, there will be a catastrophic diminishment of those services. The judges will not allow such a scenario to occur. If the assistant public defender assigned to a client can not attend conferences and trials, and can not see the client outside of court then that assistant public defender must be replaced with an 18B attorney who will be available to attend to his or her obligations.

Under the currently proposed plan, it is more realistic to expect that the public defender will be able to competently handle thirty percent of the cases. Therefore the County will pay all of the expenses of the new office including the salaries and benefits and all overhead and administrative costs plus 18B fees which combined can cause an increase over the present 18B budget from \$500,000 to one million dollars.

It is unclear how the proponent estimated his start up expenses to be \$25,000.00 for computers, furniture, and other necessary equipment. There will need to be a minimum of seven computers, desks and chairs, filing cabinets, software, not to mention additional furniture to accommodate clients and various other office necessities.

Mr. Angell does not detail the uniform financial eligibility guideline he intends the public defender's intake staff to use. The public defender is not following the law and the state bar's revised standards for providing mandated representation if his intention is to rely exclusively on an income-based chart. The present reality is that many people make limited salaries, have no benefits, and can not afford to pay a lawyer a retainer.

See Page 6 of the guidelines contains para. C. ELIGIBILITY OF CLIENT, which provides as follows:

C-1. Any person who is financially unable to obtain counsel without substantial

hardship or entitled to assigned counsel regardless of financial circumstances shall be eligible to receive mandated representation in all situations in which a constitutional, statutory or other right to counsel exists.

C-2. Mandated representation shall not be denied because of a person's ability to pay part of the cost of representation, because friends or relatives have resources to retain counsel or because bond has been or can be posted.

C-3. A judge shall decide a person's initial eligibility and continuing eligibility for mandated representation.

C-4. Rules, regulations and procedures concerning the determination of initial eligibility and continuing eligibility for mandated representation shall be designed so as to protect the client's privacy and constitutional rights and not to interfere with the attorney's relationship with his or her client.

C-5. Provision of counsel shall not be delayed while a person's eligibility for mandated representation is being determined or verified.

C-6. Any attempts to obtain partial payment from any person for the costs of mandated representation or associated services shall be made in accordance with County Law Section 722-d.

Until Mr. Angell can provide the Legislature with specific details about the proposal in writing accounting for every contingency including what attorneys will be in family court, who will be the support staff, what the true cost to our County will be, and how the public defender will cover all the parts of family court, the proposal for whatever it is, must be rejected. To do otherwise will be a disservice to the litigants and to the people and taxpayers of Dutchess County who have a right to expect that justice will be administered at a fair cost. They should not be part of an experiment that can blow up at any time. A budget should be based upon realistic data and not conjecture. The taxpayers should not have to face the prospect of overruns that may exceed \$500,000 to one million.

We are doing everything in our power to cut costs and stand by our original recommendations.

EXHIBIT "B(2)"

Sept 15, 2011

WHY THE PUBLIC DEFENDER PROPOSAL FOR THE FAMILY COURT WILL NOT SAVE MONEY

I. The Public Defender's Own Calculations Do Not Create Any Savings

The Public Defender's proposal, even assuming their own calculations are correct, will not save money. The PD proposal calls for six (6) attorneys to do 60% of the Family Court workload, and they propose to do this for a cost of approximately \$1,000,000 to the County. The unanimous opinion of everyone who actually works in the Family Court system is that 6 lawyers (i.e., 3 experienced and 3 fresh-out-of-law school attorneys) cannot possibly accomplish this task. (More on this point later.) But even if we accept the PD's proposal in this regard, the mathematics shows no savings whatsoever.

In 2010, the total cost to the County for 18b services was approximately \$1.98 million.¹ If 60% of that workload could be covered for \$1,000,000 as proposed, that leaves 40% of the workload still to be covered. 40% of the 2010 budget of \$1.98 million equals \$792,000. Thus, under the PD's proposal, using the PD's own speculative assumptions, the overall cost to the County would equal \$1,792,000.

$$\begin{aligned} & \$1.98 \text{ million} \times 40\% = \$792,000 \\ & \$1,000,000 \text{ (PD cost)} + \$792,000 \text{ (18b cost)} = \$1,792,000 \\ & \text{Overall Cost (PD proposed system)} = \$1.792 \text{ million} \end{aligned}$$

In contrast, the Family Court in the spring of 2011 implemented significant modifications to its billing structure (such as revised billing parameters) that have already shown provable savings of approximately \$270,000 so far for this year alone. (There are numerous additional savings devices that are currently being explored which will inevitably result in even larger savings. Additionally, the \$270,000 figure only reflects the savings achieved from approximately March through July of 2011.) The \$1.98 million budget from 2010 (actually yearly expenditures) was reduced to \$1,707,958 for FY 2011 and expenditures to date are on course to not require supplemental appropriations this year.

$$\begin{aligned} & \$1.98 \text{ million} - \$270,000 = \$1,710,000 \\ & \text{Overall Cost (Modified Existing System)} = \$1.71 \text{ million} \end{aligned}$$

Taking the PD's proposal at face value, and ignoring the reality that it cannot possibly save what it proposes, the fact remains that the current system as currently modified will prove to be less expensive to the County.

¹ Actual costs in 2010 are \$1,977,450 (\$190,000 was to pay for 2009 vouchers)

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EXHIBIT B (2)

II. The PD's Proposal Fails to Account for All Costs

Numerous and significant additional expenses and fixed costs have not been accounted for in the PD's proposal. Specifically, the PD's proposal does not account for the additional and increasing costs (in a public system) of salaries, law office expenses, or pension and benefit requirements.

1. Attorney, Secretarial and Staff Salaries

As employees of the County, it must be realized that all the attorneys, secretaries and other staff hired to handle the Family Court will, in the normal course of business, be entitled to salary increases over time. Thus, the notion that 3 senior-level attorneys and 3 entry-level attorneys will be employed must, by necessity, be viewed merely as a starting point. The cost for those attorneys will inevitably rise over time.

By contrast, the hourly cost for private counsel under the current 18-b system are fixed and should remain constant, as there is no expectation that those costs will rise in the foreseeable future.

2. Office Space, Computers, Desks and Other Related Expenses

Another inevitable cost to the County, not adequately accounted for in the PD's proposal, must include all the normal costs of running a law office. Specifically, PD employees must be provided (at County expense) with office space, computers, software, desks, chairs, and all the normal supplies (i.e., ink, paper, etc.) associated with the practice of law. These are very real and significant expenses necessary for those new attorneys, secretaries and staff to do their work. Many of these costs are continuous and increasing, and all will need to be paid for by the County in any public system.

By contrast, the County avoids all of these costs in an 18b system where the participating private attorneys must pick up those costs themselves.

3. Pensions & Benefits (Medical, Social Security, Disability, Vacation, Etc.)

In addition to the multiple ongoing costs of running a law office, all new PD employees will be entitled to long-term pensions and benefits at the expense of the County bottom-line budget. These expenses are significant, and have not been adequately accounted for in the PD's proposal. Moreover, any realistic view of a public system such as the one proposed by the Public Defender's Office must account for the possibility of injury or incapacitation to one (or more) of the new PD employees. For example, what happens if one of the newly hired 6 attorneys becomes ill

for an extended period of time, or is out on maternity leave? Inevitably, the PD will have to replace that attorney, or suffer the loss of his or her services, and yet the County will still have to pay the salary for that attorney. (One can hope that no attorneys ever become incapacitated, but "hope" does not make for sound fiscal policy.) This potential cannot be precisely quantified because no one can predict how many employees might suffer incapacitation, when such incapacitation may occur, or for what lengths of time. Thus, this very real risk must be borne by the County, and cannot be avoided. Similarly, when any one of the 6 attorneys goes on vacation, again the County will still have to bear the expense of that salary. Assuming 4 weeks of vacation benefit for each attorney (4 weeks x 6 attorneys = 24 weeks), the County will be responsible for 6 months of attorney expense for no work performed. This equates to the County paying for an additional one half of an attorney's salary, just in vacation benefits alone.

By contrast, the County incurs none of these pension and benefit expenses in a privately based 18b system.

III. Why 6 PD Attorneys Cannot Handle 60% of the Family Court Caseload

Under the current 18b system, utilizing some 40 to 50 private attorneys, approximately 75% of the billable hours consist of out-of-court time. This time is spent meeting and communicating with clients, opposing counsel and attorneys for children, negotiating settlements, drafting proposals in pursuit of settlement, and other related activities designed to push a case toward resolution. Unlike in a criminal law context, where defense counsel must negotiate only with the District Attorney's Office, counsel handling Family Court matters must negotiate with numerous private counsel as well as the County Attorneys assigned to represent the Department of Social Services. Indeed, the Court Improvement Project (CIP) has implemented mandated out-of-court meetings with DSS that must be conducted in the interim of the next court appearance on Neglect/Abuse cases as a protocol for expediting outcomes on these matters. This dovetails as a cost-saving measure in Assigned Counsel costs. Thus, the "out-of-court time" spent by counsel is critical to achieving acceptable resolutions and avoiding costly and time-consuming trials.

Even when private counsel are in Court, there are many occasions where they are engaged in negotiations and discussions outside of the Courtroom. For example, it is commonplace for a Judge to be presiding in Court with several attorneys present, while at the same time that Judge's Court Attorney is meeting with several other lawyers on a separate case. As another example, it is very common to have one group of private attorneys placed on second call

in order to give them time to further negotiate a settlement while a second group of private attorneys are before the Judge in open Court. This flexibility is essential to the workings of the Court and to the swift resolution of cases.²

The PD's proposal contemplates that 6 attorneys will be directed to cover all 6 parts of the Family Court (i.e., three judges and three magistrates). By necessity, these PD attorneys would have to remain in their respective Courtrooms throughout the day, and would thus be unable to meet with private counsel, clients, or attorneys for children, or to negotiating settlements, drafting proposals in pursuit of settlement, or complete the myriad of tasks essential to the quick resolution of Family Court matters. The inevitable result would be significant reduction in settlements and a significant increase in trials, which are tremendously time-consuming and thus expensive to the overall system (and the County budget). Another inevitable result, of course, would be a distinct diminution of the quality of representation for litigants.

As previously stated, it is abundantly clear to all those who actually work in the Family Court system that 6 attorneys employed by the Public Defender's Office cannot possibly handle the caseload. To be more precise, 6 Public Defender attorneys cannot handle the caseload in a reasonable and cost-effective manner, and any attempt to do so would invariably lead to a much slower, more congested system requiring many more trials at much higher cost to the County. Alternatively, a Public Defender system would by necessity need to expand to perhaps 8, 10, 12 or more attorneys in order to accomplish what is currently being accomplished under the privately based 18b system. This, of course, would also significantly increase the bottom-line cost to the County.

One or the other of the above-referenced cost-increasing contingencies will be required in a Public Defender system. Thus, it is abundantly clear that the proposed financial calculations of the current PD proposal cannot be viewed as having validity.

By contrast, the privately based 18b system, as modified to include the numerous cost-savings devices already employed and still being explored, serves both to avoid the significant expenses associated with increased delays and trials, and preserves the quality of service to the public.

² An example of how a public component prevents such flexibility may be found by observing how Neglect & Abuse cases involving the County Attorneys Office are handled. In those cases, the various County Attorneys must remain in the Courtroom throughout the day, and are therefore not available to meet with private counsel for the purpose of settling ongoing cases. As a result, County Attorney cases are among the most difficult and time-consuming matters to resolve, and often result in the parties going to trial (which costs time and money).

IV. The Inherent Conflicts Created by a Public Defender System for Family Court Will Add to the County's Cost

Family Court matters often deal with allegations of abuse or violence perpetrated by one parent against another. In criminal cases, alleged perpetrators may be represented by the Public Defender's Office, but we would never ask the alleged victim to also be represented by that same office. We would not, for example, ask a rape victim to go to the Public Defender's Office to meet with their attorney or fill out financial status documentation when that office was also representing the alleged perpetrator of that crime. This conflict of interest is always avoided in the criminal context by the fact that the District Attorney's Office is charged with handling the victim's side of such matters. Under the PD's proposal, however, such conflicts would be common place, and would likely result in fewer cases being handled by the Public Defender's Office than anticipated, thus costing the County more than anticipated in private 18b costs if a PD system is adopted.

Similar to the above issue is the fact that the great majority of cases in Family Court call for two, or very often three, attorneys. While some few cases do not require 18b counsel (e.g., adoptions), and others require only one 18b assignment (e.g., where private counsel is retained by one party), the fact remains that most cases will require that two attorneys be assigned. The Public Defender's Office cannot handle both sides of the same case. Thus, this inherent reality would likely result in fewer cases being handled by the Public Defender's Office than anticipated, thus costing the County more than anticipated in private 18b costs if a PD system is adopted.

By contrast, a privately based 18b system avoids all such conflicts of interest, and thus is far more predictable in regard to cost.

V. Risks Inherent in Creating a New System Will Inevitably Translate Into Higher Than Anticipated Cost to the County

The PD's proposal, if adopted, would overturn all aspects of the Family Court system in favor of what can at best be described as speculative savings. That the creation of such a new, untried system in Dutchess County would invariably lead to unforeseen consequences cannot be doubted. While impossible to quantify, such unforeseen consequences will almost assuredly cost the County more money than anticipated even by the most comprehensive plan.

By contrast, the privately based 18b system, as modified to include the numerous cost-savings devices, avoids such unforeseen consequences, thus again lending itself to far more predictability in regard to cost.

VI. Conclusion and Recommendation

The PD's proposal suggests savings that, when closely examined, are speculative to the point of incredulity. In short, there is no basis to believe that the PD's proposal would result in any savings as compared to the privately based 18b system as modified to include the numerous cost-savings devices. In these difficult fiscal times, it is the proper function of government to seek ways to do more with less, as the Family Court has done through this process of reevaluation. But to overthrow the existing system on the basis of mere speculation would not serve the public interest, either fiscally or in regard to the health and safety of our citizens (particularly our children).

The fiscal costs calculated indicate no cost-savings whatsoever and taking into account maintaining the quality of service currently provided do support keeping the current system in place. Unknown variables such as quality of service (ability to deliver on representing 60% Family Court assignments), ancillary costs being underestimated and future cost increases inherent with an institutionalized system must to be factored into this decision.

Thus, it is the recommendation of the strong majority of this Committee that the PD's proposal be rejected, and that the current system, as modified to include the numerous cost-savings devices, be maintained.

EXHIBIT “C(1)”

Comparison of County workload and Filing Statistics

	Albany County	Dutchess County	% variance
Population	304,204	297,488	2.2%
FC Filings 2009 (in dockets)	17,365	16,198	6.7%
# Assignments 2009	7,160	6,547	8.9%
% given AC	41%	40%	1%
FC Filings 2010 (in dockets)	17,099	15,634	8.5%
# Assignments 2010	7,791	6,435	17%
% given AC	46%	41%	5%

Note: 5% increase in AC for Albany and 1% increase in Dutches indicate more people qualify for AC based on economical factors.

EXHIBIT  **(1)**

Albany County PD, CD and 18B Caseloads

	PD	CD	18B	Total
2009 dockets assigned (not cases)	2,337	1,567	3,256	7,160
2010 dockets assigned (not cases)	2,473	1,656	3,662	7,791
2009 Budget for FC	?	?	?	?
2010 Budget for FC	?	?	?	?
# Attys dedicated to FC in 2009	4.0	3.0	?	?
# Attys dedicated to FC in 2010	4.0	3.0	?	?
Caseload/Atty 2009	584	522	?	?
Caseload/Atty 2010	618	552	?	?

Note: 7 F/T Attorneys handled only 54.4% of total assignments in 2009 and 53% in 2010 with unmanagable caseloads reported by Albany Co PD office.

Total Attorneys required to handle 100% caseload in 2009 is $4.0 + 3.0 + 6.2 = 13.2$
60% of 13.2 = 7.92 attorneys

Total Attorneys required to handle 100% caseload in 2010 is $4.0 + 3.0 + 6.6 = 13.6$
60% of 13.6 = 8.16 attorneys

Dutchess County 18B Caseload

2009 dockets assigned: 6,547

Atty on AC Panel 2009: 54

Average caseload (in dockets) 2009: 121/Attorney

2010 dockets assigned: 6,435

Attorney on AC panel 2010: 66

Average caseload (in dockets) 2010: 97.5/Attorney

Vouchers submitted 2010 (in cases) : 2318 (including appeals)

Average # dockets/case: $6,435 / 2,318 = 2.78$ dockets/case

2010 AC costs/case: $1,977,450 / 2,318 = \$853$ /case

2011 projected AC costs/case: $1,707,958 / 2,318 = \$736$ /case

Inadequate # of Attorneys in Public Defender's Proposal

Albany County

2009 PD - 4 F/T Atty and CD - 3 F/T Atty = 7 F/T Atty handled 54.4% total assignments
Average caseload was 553 dockets/Attorney

2010 PD - 4 F/T Atty and CD - 3 F/T Atty = 7 F/T Atty handled 53% total assignments
Average caseload/Attorney was 585 dockets/Attorney

Dutchess County 2012 Public Defender's proposal

Estimated 2012 assignments is constant 6,435 dockets

60% of 6,435 dockets = 3,861 dockets / 6 attorneys proposed = 643 dockets/attorney

643 - 585 (Albany caseload) = 58 cases/atty x 6 = 348 add'l dockets

348/585 (Albany caseload) = 0.59 add'l attorney required

\$770,000 + 50,000 (add'l attorney) = \$820,000

3,861 dockets/2.85 dockets/case = 1,354 total cases

\$820,000/1,354 = \$605/case

Public Defender Proposal 2012

Handle 60% of AC caseload with 6 F/T Attorneys

$6,435 \times .60 = 3,861$ dockets / 2.78 dockets/case = $1,389$ total cases

or $2,318$ cases (2010) $\times .60 = 1,390$ total cases

$1,390$ cases with a budget of $\$770,000$ for 2012 = $\$553$ /case

Dutchess projected 2011 cost/case = $\$736$ /case

Difference as proposed: $\$736 - 553 = \183 /case

Actual Difference after caseload calculation reveal inadequate # attorneys proposed is

$\$736$ /case - 605 /case = $\$131$ /case $\times 1,390$ cases = $\$182,000$ in savings for 2012

Note: In future years increase in salary and benefits will reduce future savings

Caseload differential: PD caseload 585 /attorney vs 2010 AC caseload 97.5 /attorney

Public Defender Proposal 2012

Handle 60% of AC caseload with 6 F/T Attorneys

$6,435 \times .60 = 3,861$ dockets / 2.78 dockets/case = $1,389$ total cases

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Note: In future years increase in salary and benefits will reduce future savings

Caseload differential: PD caseload 585 /attorney vs 2010 AC caseload 97.5 /attorney

Hours dedicated to Family Court

3 F/T Family Court Judges: 7 hrs/day x 5 days/week x 48 weeks = 5,040 total hours

1 F/T CAR: 4.5 hours/day x 5 days/week x 48 weeks = 1,080 total hours

2 F/T SM = 170 total hour (2010)

3 Law Clerk Conference parts @ 5 hrs/week x 48 = 720 total hours (2010)

total In-Court hours 7,010 hours

18B Sampling 400 hours In-Court and 500 Hours Out-of-Court / 3 weeks = 300 hrs/week

300 hours/week x 52 weeks = 15,600 hours for 100% AC for Family Court

60% of 15,600 hours = 9,360 hours

PD proposal: 6 F/T Attorney @ 7 hrs/day x 5 days x 48 weeks = 10,080 total hours

10,080 - 9,360 = 720 hours

Appeals hours 60% of 75 cases/year = 45 cases x 70% AC = 32 cases w/AC

15 hours/Appeal x 32 cases = 480 hours

720-480 = 240 hours

240 - DSS mandated interim conferences 4.5 hrs/week x 48 = 216 total hours (2010)

net plus hours = 24 hours

ORANGE COUNTY REPORT

Submitted by: Kelly Myers, Principal Court Attorney, Dutchess County Family Court

Contact: **Liz Holbrook**, Chief Clerk, Orange County Family Court

Orange County Family Court had **12,916 filings** in 2010

Orange County Family Court has 4 judges

There is no separate Permanency Part, however they do have IDV and Treatment Court (Family and Juvenile)

Orange County Family Court has a separate duty judge, which is shared with County Court

There are 4 Legal Aid attorneys dedicated to Family Court

They do not handle support or paternity matters

Contact: **Lisa Noroian**, Principal Court Attorney for Judge Klein, Orange County Family Court

The judges in Orange County feel that having Legal Aid in Family Court works well they feel that it is better with a specific attorney assigned to each part

The Legal Aid attorneys do not participate in Treatment Court

Contact: **Orange County Budget**, obtained on line

Legal Aid's total expenses for 2010 were **\$2,510,782**

18B's total expenses for 2010 were **\$4,000,000**

* the County budget does not break down those numbers between criminal and family court matters

Contact: **Gary Abramson**, Managing Attorney, Orange County Legal Aid

Legal Aid has been representing litigants in Orange County Family Court since before Mr. Abramson began working for them in 1981.

Legal Aid's budget for Family Court in 2010 was **\$600,000**

this includes: 4 attorneys dedicated to Family Court

½ an investigator (they have one investigator for both criminal and family court matters)

1/6 of the total office expenses (they have a total of 14 attorneys covering criminal and family court matters sharing the same office space)

1 secretary dedicated to Family Court matters

Legal Aid does not handle appellate matters

the 18B budget in 2010 for Family Court matters was **\$734,000**

I attempted to contact John Sellinger, President of the Orange County Bar Association to ascertain the feeling of the local bar with regard to Legal Aid but Mr. Sellinger did not get back to me.

Ulster County

1. Background: Ulster County - Ulster uses the PD for family court assigned counsel, judge determines whether a person qualifies and then they are referred to PD. If there is a conflict, 18B is assigned. They have been doing things this way for about 25 years. I tried calling Andrew

Kossover, Ulster PD; he is on vacation until September 26 th .

2. Filings: Kathy Lasko, Family Court Clerk reported : In 2010, Ulster had about 9,000 filings and for 2011 they expect a 1-2% increase. The Court has two judges, one support magistrate and they use JHO's instead of court attorney referees. Overall, they like the PD. Things run smoothly.

3. Budget: 2010 PD budget was \$1,172,888 and assigned counsel was \$560,600, **2011**

PD was \$1,132,282 and assigned counsel was \$666,500. This includes criminal.

4. Court attorneys - opinions:

Mizel: Chris Vanbenschoten, Court Attorney for Judge Mizel reports that they really like the current system. Each judge has a

full time and a 3/4 time PD/ attorney and a secretary. There is also a floater attorney who covers at times. There is always someone available and the attorneys seem to have no difficulty getting in court and out of court work done. The attorneys are experienced and capable. These attorneys also handle treatment court and IDV, support matters and the JHO cases.

McGinty: Jilda Riccardi, Court Attorney for Judge McGinty, reported the same. She said the PD's are very good and they are always available. There seems to be plenty of support staff- they receive papers faster from the PD's office than from private counsel.

EXHIBIT “C(2)”

Putnam County

Two (2) part time attorneys in 2010 handled Three Hundred Thirty Eight (338) cases. They have Three (3) Judges who all handle Surrogates / County / Family Courts.

Columbia County

Four (4) part time attorneys handled Seven Hundred Forty (740) cases in 2010 for Two Hundred Twelve Thousand (\$212,000) Dollars – Cost Two Hundred Eighty Six (\$286) Dollars per case. Equivalent of One (1) full time judge. Forty (40%) Percent conflict rate.

Ulster County

Two and one half (2 ½) Judges, Two (2) full time Family Court attorneys, Two (2) three quarter time Family Court attorneys.

Orange County

Four (4) Family Court Judges, Four (4) full time attorneys, One (1) full time secretary, One (1) half time investigator in 2010 – One Thousand Five Hundred (1,500) cases – Six Hundred Thousand (\$625,000) Dollars. Cost Four Hundred Sixteen (\$416) Dollars per case.

Exhibit

C (2)

EXHIBIT "C(3)"

Dutchess County Family Court and

Albany County Family Court

Assigned Counsel Plan Comparison Report - 2011



Exhibit C (3)

Comparison of County workload and Filing Statistics

	Albany County	Dutchess County	% variance
Population	304,204	297,488	2.2%
FC Filings 2009 (in dockets)	17,365	16,198	6.7%
# Assignments 2009	7,160	6,547	8.9%
% given AC	41%	40%	1%
FC Filings 2010 (in dockets)	17,099	15,634	8.5%
# Assignments 2010	7,791	6,435	17%
% given AC	46%	41%	5%

Note: 5% increase in AC for Albany and 1% increase in Dutches indicate more people qualify for AC based on economical factors.

Albany County PD, CD and 18B Caseloads

	PD	CD	18B	Total
2009 dockets assigned (not cases)	2,337	1,567	3,256	7,160
2010 dockets assigned (not cases)	2,473	1,656	3,662	7,791
2009 Budget for FC	?	?	?	?
2010 Budget for FC	?	?	?	?
# Attys dedicated to FC in 2009	4.0	3.0	?	?
# Attys dedicated to FC in 2010	4.0	3.0	?	?
Caseload/Atty 2009	584	522	?	?
Caseload/Atty 2010	618	552	?	?

Note: 7 F/T Attorneys handled only 54.4% of total assignments in 2009 and 53% in 2010 with un-manageable caseloads reported by Albany Co PD office. In 2011 staffing issues exist with hiring freeze but still budgeted for staff in 2011.

? : Albany County does not breakdown budgeted items by court and I am not provided with total attorneys on their AC panels to perform calculations.

Total Attorneys required to handle 100% caseload in 2009 is

4.0 (PD) + 3.0 (CD) + 6.2 (equivalent 18b necessary) = 13.2 total attorneys
60%/ of 13.2 = 7.92 attorneys - what the PD/CD would need to handle 60% of assignments

Total Attorneys required to handle 100% caseload in 2010 is

4.0 (PD) + 3.0 (CD) + 6.6 (equivalent 18b necessary) = 13.6 total attorneys
60%/ of 13.6 = 8.16 attorneys - what the PD/CD would need to handle 60% of assignments

Dutchess County 18B Caseload

2009 dockets assigned: 6,547 dockets
Atty on AC Panel 2009 : 54 Attorneys on 18b panel

Average caseload (in dockets) 2009: 121 dockets /Attorney

2010 dockets assigned: 6,435 dockets
Attorney on AC panel 2010: 66 Attorneys on 18b panel

Average caseload (in dockets) 2010: 97.5 dockets / Attorney

Vouchers submitted 2010 (in cases) : 2770 - including appeals and 2009 payments w/2010 \$\$\$

Average # dockets/case: $6,435/2,770 = 2.32$ dockets/case

2010 AC costs/case: $\$2,168,345 / 2770 = \782 /case

2011 projected AC costs/case: $\$1,707,958 / 2,330 = \733 /case

Note: 2011 AC projected costs are on or below budget.

Inadequate # of Attorneys in Public Defender's Proposal

Albany County

2009 PD - 4 F/T Atty and CD - 3 F/T Atty = 7 F/T Atty handled 54.4% total assignments
Average caseload was 553 dockets/Attorney

2010 PD - 4 F/T Atty and CD - 3 F/T Atty = 7 F/T Atty handled 53% total assignments
Average caseload/Attorney was 585 dockets/Attorney

Dutchess County 2012 Public Defender's proposal - adjusted for manageable caseload

Estimated 2012 assignments is constant 6,435 dockets (see 2009 and 2010 assignments)

Estimated 2011 cases 2,333 or 2.76 dockets/case

Proposed workload 60% of 2,333 or 1,400 cases

60% of 6,435 dockets = 3,861 dockets / 6 attorneys proposed = 644 dockets/attorney

644 - 585 (Albany caseload - 2010) = 59 cases/Attorney x 6 = 354 additional dockets

354/585 (Albany caseload - 2010) = 0.61 additional Attorney required

\$770,000 + 50,000 (additional Attorney - estimated) = \$820,000

\$820,000/1,400 cases PD = \$586/case

Public Defender Proposal 2012

Handle 60% of AC caseload with 6 F/T Attorneys

$6,435 \times .60 = 3,861$ dockets / 2.76 dockets/case = 1,400 total cases

or 2,333 cases (2011 projected) $\times .60 = 1,399$ total cases

1,400 cases with a budget of \$770,000 for 2012 = \$550/case

Dutchess FC projected 2011 cost/case = \$733/case

Difference as proposed: $\$733 - 550 = \$183/\text{case}$

Actual Difference after caseload calculation reveal inadequate # attorneys proposed- see Inadequate # of Attorney in Public Defender's proposal - page 4) is:

$\$733/\text{case} - 585/\text{case} = \$148/\text{case} \times 1,400 \text{ cases} = \$207,000$ in savings for 2012

Note: In future years increase in salary and benefits will reduce future savings as well as grossly underestimating operational costs and appeals costs associated with caseloads.

Quality of representation can be measured in the obvious manageability of caseload the current AC program that is six (6) times that of the proposed Public Defender is representing they can handle in the comparison of caseload differential:

PD caseload 585 dockets/Attorney vs 2010 AC caseload 97.5 dockets/Attorney

Hours dedicated to Family Court

3 F/T Family Court Judges: 7 hrs/day x 5 days/week x 48 weeks = 5,040 total hours

1 F/T Court Attorney-Referee: 4.5 hours/day x 5 days/week x 48 weeks = 1,080 total hours

2 F/T Support Magistrates (based on 340 appearances in 2010) = 170 total hours

3 Law Clerk Conference parts @ 5 hrs/week in 2010 x 48weeks = 720 total hours (2010)

total In-Court hours 7,010 hours

18B Sampling 4/18/11 thru 5/05/11:

400 hours In-Court and 500 Hours Out-of-Court

900 total In/Out court hours / 3 weeks = 300 hours

300 hours/week x *52 weeks = 15,600 hours for 100% AC for Family Court

*18b attorneys work 52 weeks/year and are not paid for holidays or vacation

PD hours to satisfy 60% of 15,600 hours = 9,360 hours

PD proposal: 6 F/T Attorney @ 7 hrs/day x 5 days x 48 weeks = 10,080 total hours

10,080 - 9,360 = 720 hours PD surplus hours

Appeals hours 60% of 75 cases/year = 45 cases x 70% with AC = 32 cases/year

Low-estimate that 15 hours in total / Appeal x 32 cases = 480 hours

720 PD surplus - 480 hours processing appeals = 240 hours PD surplus

240 - 216 hours for DSS mandated interim conferences 4.5 hrs/week x 48 = 216 total hours (2010)

PD net plus hours = 24 hours

EXHIBIT "D"

DC Bar

Report on the Proposed Changes to
Dutchess County Family Court's Assigned Counsel Plan

September 2011

EXHIBIT D

Report on the Proposed Changes to
Dutchess County Family Court's Assigned Counsel Plan

September 2011

The purpose of this report is to assist the Dutchess County Legislature in making an informed decision on the proposed changes to how the county provides indigent legal services. This report does not take a position on the proposal before the Legislature. The information presented on the following pages was compiled from a variety of sources, which are included as supplemental materials.

Below are the questions we considered when compiling the report. The information we have included in the appendices can be used to formulate answers to these questions. Additional information, including extensive reports and research notes, is available upon request.

1. How does the proposed plan compare to what other counties do?

We have compiled information on numerous counties across New York. Some have been selected because of comparable size, Family Court case filings and proximity to Dutchess County. We have also considered the budgets of these counties and the types of programs they use to represent the indigent. In Appendix A you will find:

- a. Comparison of Comparable Counties
- b. Narrative Profiles of Select Counties

2. How will the proposed plan affect service to both clients and the court?

Concerns have been raised about how attorneys who are required to be in court virtually 9-4:30 will be able to meet with clients to the extent required in Family Court cases. When will conferences and settlements be able to take place? Will this system cause delays? How will this system affect the agencies that work in partnership with the Family Court, such as those providing services to children, victims of domestic violence and local police agencies?

3. Are 6 attorneys enough to handle 60% of the caseload?

It is our conclusion that 10 attorneys would be better able to handle the caseload. In Appendix B you will find:

- a. Breakdown of attorney time based on proposed staffing
- b. Breakdown of attorney time based upon a staff of 10 attorneys

4. How will conflicts be addressed?

There was no county we found that did not have 18b panels in place in addition to other forms of representation for indigent clients. In Appendix C you will find:

- a. New York State Defenders Association chart of how each county in NY delivers indigent legal services.

5. Will the plan really save money long term?

How will benefits (pension and health insurance, for example) and other expenses (phones, office space, computers, office supplies) effect the ability of the proposed plan to save money long-term? Will more attorneys need to be hired to handle the case load, eliminating potential initial savings? In Appendix D you will find:

- a. Analysis of Budgets from Comparable Counties/Organizations

Appendix A

Comparison of Counties

Chart Key:

County names are followed by their major city and population in parenthesis

PD = Public Defender

18b = Assigned Counsel list

FT = Full Time

PT = Part Time

Conflict Defender or Alternate Conflict Defender = Conflict Defenders Offices have been established in some counties to assist with cases the Public Defender's Office cannot take because of a conflict.

Legal Aid or Legal Services = Legal Aid or Legal Services organizations contract with some counties in New York to provide legal services. In some cases these organizations are in place of a Public Defender, in others they supplement or handle conflicts. These organizations are private, non profits who can supplement their county contracts with donations, fundraising and pro bono assistance.

Multi-Bench Court = In smaller counties, they have one or two judges presiding over County, Family, Specialty (Drug or Integrated Domestic Violence, for example) and Supreme Court matters. Multi-Bench Courts are found in counties that don't have the population to support separate courts. Generally these judges take certain days of the week and devote them to a specific type of cases.

County and Population	PD/Legal Aid/Other	Number of Staff and Judges	Types of cases handled	Number of Family Court filings in 2010	Notes
Albany (Albany) (304,464)	Full time PD and Conflict office, also 18b	5-5 Just for Family Court budgeted, currently only 2 positions filled, 3 judges	All in all agencies	17,099	
Broome (Brohamton) (200,680)	FT PD, Legal Aid of Mid-NY, 18b	6 +, 3 judges	PD criminal only, Legal Aid handles family and other civil matters, 18b	14,929	
Chautauque (Jameson) (134,965)	Part time PD, 18b			8,172	
Columbia (Hudson) (63,096)	PD PT, Conflict PT, Alt Conflict PT, 2nd Alt Conflict PT		All	3,720	This is a multi-bench court
Jefferson (Watertown, Ft. Drum) (116,229)	FT PD, 18b	\$	Criminal and Family	6,925	
Niagara (Lockport) (216,469)	PT PD, Conflict Office, 18b Plan	22 PT, 2 judges		10,359	
Oneida (Rome, Utica) (234,875)	PD w/ criminal and civil divisions, 18b	3 judges	Civil division handles family court	13,854	

Onondaga (Syracuse) (467,026)	Bar Association Assigned Counsel, Legal Aid Society	FT Admin, PT Staff at LAS, 4 Judges		19,519	
Orange County (Newburgh, Middletown) (372,813)	Legal Aid Society, 18b Judges	6 for Family Court, 4 Judges	All do not handle parole hearings or appeals	13,480	
Oswego (Oswego, Fulton) (122,109)	18b Only	n/a, PT Admin	All	7,564	
Putnam (Carmel, Brewster) (99,710)	Legal Aid Society, 18b Judges	6 attorneys, 1 PT, 5 PT, 2 Judges	All	2,008	This is a multi- bench court.
Rensselaer (Schodack) (159,429)	FT PD, PT Conflict Defender, 18b, Special Family Court and Appellate Counsel	4 FT, 2 PT in PD, 2 PT in Conflict, 1 Special Counsel, 2 Judges, 2 support magistrates	All	10,225	
Rockland (Nyack) (211,687)	FT PD, 18b w/ FT Admin	2.5 Judges	PD, criminal only, Family handled by RCBA	7,971	
St. Lawrence (Canton, Ogdenburg) (111,944)	FT PD, FT Conflict Defender, 18b w/PT admin	6 FT in PD's office	All types	5,955	Also orders repayment to the county.
Saratoga (Saratoga) (111,944)	FT PD, 18b w/ PT admin	7, 19 judges	All types	8,204	

Glen's Falls (219,687)	FT PD, FT	1.8 judges	10,398
Scheneectady (Scheneectady) (354,727)	Conflict Defender, 18b w/ pt Admin.		
Gilster (Kingston) (182,493)	PT PD, 18b w/ pt admin	2 judges	8,876

Narrative Profiles of Select Counties

Below are narratives of a number of counties from across New York. We profiled counties with similar populations, Family Court case filings, and those in close geographic proximity to Dutchess County. Dutchess County had 15,634 Family Court case filings in 2010. Out of the 55 counties outside New York City and Long Island, Dutchess has the 6th highest number of case filings in the state. Erie (36,406), Westchester (32,495), Monroe (27,787), Onondaga (19,519), and Albany (17,009) had higher filings. Onondaga and Albany counties are profiled below.

Albany County

Albany County provides indigent legal services with a full time Public Defenders Office, a full time Alternate Public Defenders Office, and an 18b panel. All three represent people in criminal and family court. In 2010 Albany Family Court had 17,099 filings. Albany County covers the City of Albany and the surrounding areas.

When the Public Defenders Office began working in Family Court, the intention of the county was to establish two separate divisions of that office – one civil and one criminal. They originally had 5 part time attorneys in Family Court. Over the years this has fluctuated and changed numerous times. Currently, they are funded for four full time and one part time attorney. At the start of this year the county instituted a hiring freeze. Due to staff attrition and maternity leave, coupled with a county hiring freeze, this office is currently functioning with one full time and one part time attorney. This situation has forced attorneys from the criminal division and the Public Defender himself to go to Family Court to represent clients. It is important to note that this office does not represent children in JD/Pins cases. The Alternate Public Defenders Office has two full time attorneys.

In from January-June 2010 the Public Defenders Office handled 617 cases; the Alternate Public Defender handled 529. From January-June 2011 the Public Defenders Office handled 580 cases; the Alternate Public Defender handled approximately 300. Overall the Public Defenders Office handled approximately 1,100 Family Court cases in 2010; the Alternate Public Defenders Office handled approximately 1,900 cases.

It has been observed that there is a difference in the way statistics are compiled in Albany County Family Court which may be presenting numbers that appear to be higher than they actually are. It was also observed that many more cases are now being assigned attorneys from the 18b panel because the offices mentioned above are so short staffed. Additionally, it was

noted that many people in Albany County are assigned an attorney at the start of their case who later go on to retain private counsel.

This information was provided to us by the Albany County Public Defenders Office.

Broome County

Broome County provides indigent legal services with a Public Defenders Office, handling all criminal matters, and Legal Aid of Mid-New York handling civil matters. Broome County Family Court has 3 judges and handled 14,929 cases in 2010. Broome County encompasses the city of Binghamton and surrounding rural towns and villages such as Johnson City, Chenango and Endicott.

Six years ago the county entered into a contract with Legal Aid to handle the assigned counsel cases in Family Court. They began the contract by hiring 2 additional attorneys to work in Family Court; that number is now up to 6 new staff members. In addition to those 6 new staff, Legal Aid can no longer address the other types of cases they did before taking the Family Court contract – landlord tenant issues, foreclosures, bankruptcy, elder law, etc. The staff that had been handling these types of cases now work only in Family Court and Legal Aid turns to local attorneys to donate their time to cover these other cases. Similarly, Legal Aid, as a non-profit organization, depends upon donations and fundraisers to cover benefits, administrative costs and other expenses.

In addition to Legal Aid, Broome County also uses an 18b Panel system to cover conflicts.

Broome County reports frequent conflicts and complaints with their current system. Attorneys do not have time to meet with clients outside of court, and the court is now backlogged with cases.

This information was provided to us by the Broome County Bar Association.

Columbia County

Columbia County had 3,691 Family Court filings in 2010. This is a multi-bench court. They have a Public Defender, a Conflict Public Defender, an Alternate Conflict Defender, a 2nd Alternate Public Defender and an 18b Assigned Counsel list. All are part time. There are 8 attorneys in the Public Defender's Office, including the 1st Assistant. No information was immediately available

on the other offices. Columbia County includes the city of Hudson and surrounding rural towns and villages including Chatham, Austerlitz, Kinderhook and Clermont.

Oneida County

Oneida County has a two division Public Defenders Office -- one for criminal and one for family court. There is also a supplemental Assigned Counsel Plan which is administered by the Department of Social Services. In 2010, Oneida had 13,854 filings in Family Court. Oneida County includes the cities of Rome, Utica and Sherrill and surrounding suburban and rural towns.

Onondaga County

Onondaga County has four Family Court judges and had 19,519 filings in Family Court in 2010. They also have four support magistrates and four court attorney referees. Onondaga County includes the cities of Syracuse and Liverpool and surrounding suburban and rural towns and villages.

Onondaga County does not have a Public Defenders office. They use two legal aid organizations to cover their indigent legal services. Onondaga County Bar Association Assigned Counsel Plan handles criminal cases, appeals and Family Court conflicts. Hiscock Legal Aid Society handles Family Court cases. This system took effect in 2004, in response to the pay rate change.

OCBA Assigned Counsel Plan is not a department of the OCBA, they are a separate organization that was established by the OCBA. They maintain a separate board of directors and staff. OCBA Assigned Counsel Plan administers the plan, with judges making assignments from a list of approximately 170 attorneys. They use a computer system they created to track and pay vouchers. In 2010, they spent 4.2 million dollars on criminal cases, and 550,000 on the family court conflict cases they handled. They report that their conflict rate is "very high". In 2003 they handled 1800 cases in family court (this was prior to Hiscock taking over the assignments in Family Court). In 2010 they handled 1350 cases where there were conflicts only.

Hiscock Legal Aid Society (www.hiscocklegalaid.org) has a staff of 8 attorneys, a supervising attorney, 3 paralegals, 1 investigator and 4 administrative staff in their Family Court division. In addition their office handles other civil legal matters and had additional staff of 13 attorneys, 4 paralegals, 3 administrative staff, an Executive Director, Assistant Executive Director, Finance

Assistant, IT coordinator, 2 receptionists and a file clerk. When the Family Court division is overwhelmed, the other staff is available to assist.

This information was provided to us by Renee Captor, Esq., Director of OCBA Assigned Counsel Plan and Helen Druce, longtime Executive Director of the OCBA.

Orange County

Orange County Family Court has four judges and three support magistrates. In 2010, they had 13,019 filings. Orange County includes the cities of Newburgh, Middletown and Port Jervis, and surrounding suburban and rural towns.

Orange County does not have a Public Defenders Office; they have the Legal Aid Society of Orange County. The Legal Aid Society handles both criminal and family court matters. They have 14 attorneys on staff, 6 of whom are assigned to Family Court. In cases of conflict, there is an 18b panel, which is administered by a volunteer. Orange County is currently examining their program and anticipate changes in the next few months. Some of these changes, such as eliminating travel reimbursements for 18b attorneys have already occurred in Dutchess County.

Anecdotally, our research has discovered that Dutchess and Orange County Family Courts operate very differently. Orange County judges must often wait for attorneys since they share an 18b list and must also work around the schedules of the Legal Aid attorneys. This forces them to take cases straight to trial after only one appearance. They also cannot do second calls – where the attorneys on a case leave the courtroom and try to settle the case, then come back to the judge on the same appearance and resolve the issue.

This information was compiled during conversations with numerous judges, staff and Orange County Bar Association Board members. We are still hoping to speak to members of Orange County's committee reviewing these policies and procedures. At the time of this writing, that has not yet been possible.

Putnam County

Putnam County is a multi-bench court. This means the 2 judges in their county handle all family, criminal and other civil proceedings. Putnam County has no city; it includes the towns of Southeast, Carmel and Kent and the Village of Brewster. Justice courts also exist in each town/village. Putnam County Family Court had 2,008 filings in 2010. When Putnam County established their county charter in the 1980's, they chose to establish a Legal Aid Society

instead of a Public Defenders Office. This office handles all indigent legal representation in Putnam; they also have an 18b panel for conflicts.

Legal Aid of Putnam has a staff of 6 attorneys. One serves as the organizations director and also represents clients in court. The other 5 are part time staff who also maintain private law practices. Additionally there is 3-4 administrative staff. Legal Aid does provide some office space for these attorneys to use. A number of computers, conference room space and smaller meeting space is available for their use in close proximity to the court house. Most of their work time is spent in their own offices, even if they are working on LAS cases.

This information was provided to us by Pat Brophy, Director of Legal Aid of Putnam County and Kevin Reeves, Esq., a board member.

Rensselaer County

Rensselaer County has a Public Defender, a Conflict Defender, Special Family Court Counsel, Special Appellate Counsel and an 18b panel. In 2010 they had 10,225 filings in Family Court. Troy is this counties major city, and the county encompasses all of the City of Troy and its suburbs, and is adjacent to Albany.

Their Public Defenders has 3-4 Full time staff, 2 part-time staff in the conflict defenders office, and 1 each in the special counsels offices. Those positions were created to further eliminate the conflict rate going to the 18b panel. Their total 18b budget (above the cases handled by the institutional defenders) was \$500,000 in 2010. During 2010 they did have to approach the county for an additional \$200,000. Of this extra money \$120,000 was for one lengthy felony trial. In addition to the money allotted for 18b and the budgets of the Institutional defenders, there are separate budget lines to cover expenses such as mental health evaluations, transcripts, etc.

This information was compiled from Kelly Cramer, Esq. Rensselaer Assistant County Attorney and 18b panel administrator.

Appendix B

Breakdown of Attorney Time Based Upon Proposed Staffing

In 2010 the Assigned Counsel Actual cost was \$2,168,345.00

After the deduction of the carryover vouchers from 2009 the remaining amount was \$1,977,450.00

At \$75.00 per hour, 26,366 hours of attorney time were paid through this program.

60% of this number is 15,819.6 hours.

If 6 attorneys were hired to work a 40 hour work week, that's 240 total hours per week. Assuming each attorney works a full 52 weeks each year that's 2,080 hours per year. Times 6 attorneys and that's 12,480 hours total. This leaves 3,339 hours with no attorney assigned to them.

Taking into consideration approximately 4 weeks per year for vacation, sick, holidays, and personal time the numbers would look more like this:

Each attorney at 40 hours per week X 48 weeks = 1,920 hours per year

1,920 hours per year X 6 attorneys = 11,520 hours per year

This leaves 4,299.6 hours with no attorney assigned to them.

Based upon number of filings, the case load for each attorney would look something like this:

15,634 cases were filed in DC Family Court in 2010.

60% of that number is 9,380.40 cases.

Divided by 6 attorneys, that works out to be 1,563.40 cases annually per attorney.

While we understand that cases may have multiple filings, each filing needs to be resolved by the attorney assigned to it.

As a comparison, attorneys working in law firms in our area are commonly expected to "bill" (work on cases) 1,700 - 1,800 hours each year. Under this proposal the attorneys hired by the Public Defender would have to work at least 100+ hours per year more than attorneys in private practice, who typically work late into evening to meet deadlines.

Breakdown of Attorney Time Based Upon a Staff of 10 Attorneys

In 2010 the Assigned Counsel Actual cost was \$2,168,345.00

After the deduction of the carryover vouchers from 2009 the remaining amount was \$1,977,450.00

At \$75.00 per hour, 26,366 hours of attorney time were paid through this program.

60% of this number is 15,819.6 hours.

If 10 attorneys were hired to work a 40 hour work week, that's 400 total hours per week. Assuming each attorney works a full 52 weeks each year that's 2,080 hours per year. Times 10 attorneys and that's 20,800 hours total.

Taking into consideration approximately 4 weeks per year for vacation, sick, holidays, and personal time the numbers would look more like this:

Each attorney at 40 hours per week X 48 weeks = 1,920 hours per year

1,920 hours per year X 10 attorneys = 19,200 hours per year

This allows for coverage of all cases, plus back up coverage for sick time, emergency court appearances, trials, etc.

Based upon number of filings, the case load for each attorney would look something like this:

15,634 cases were filed in DC Family Court in 2010.

60% of that number is 9,380.40 cases.

Divided by 10 attorneys, that works out to be 938.04 cases annually per attorney.

While we understand that cases may have multiple filings, each filing needs to be resolved by the attorney assigned to it.

As a comparison, attorneys working in law firms in our area are commonly expected to "bill" (work on cases) 1,700 - 1,800 hours each year. Under this proposal the attorneys hired by the Public Defender would have to work at least 100+ hours per year more than attorneys in private practice, who typically work late into evening to meet deadlines.

Appendix C

STRUCTURE¹ OF PUBLIC DEFENSE SYSTEMS IN NEW YORK STATE
New York State Defenders Association 2011

COUNTY (Population ²)	PROGRAM	PROGRAM TYPE (Full-time/Part-time)	NOTES ³
Albany (304,204)	Albany County Public Defender	PD Full-time	
	Albany County Division of the Alternate Public Defender ⁴	Conflict PD Full-time	Conflict (See FN 6).
	Assigned counsel appointed by the court	No AC Administrator	
Allegheny (48,946)	Allegheny County Public Defender	PD Full-time	
	Allegheny Cattaraugus Legal Soc. Inc.	LAS Part-time	
	Allegheny County Assigned Counsel Plan	PT AC Administrator	
Broome (200,600)	Broome County Public Defender	PD Full-time	
	Legal Aid Society of Mid New York	LAS Full-time	
	Assigned counsel appointed by the court	No AC Administrator	Admin. by County Dept. of Audit and Control.
Cattaraugus (80,317)	Cattaraugus County Public Defender	PD Full-time	
	Cattaraugus County Assigned Counsel Plan	PT AC Administrator	Admin. is Asst. County Attorney.
	Southern Tier Legal Services	LAS Full-time	
Cayuga (80,026)	Cayuga County Assigned Counsel for the Indigent Program	PT AC Administrator	
Chautauque (134,905)	Chautauque County Public Defender Assigned Counsel Plan	PD Part-time PT AC Administrator	Admin. is Public Defender.
Chemung (88,830)	Chemung County Public Defender	PD Full-time	
	Chemung County Public Advocate	Conflict PD Full-time	Conflict (See FN 6).
	Assigned counsel appointed by the court	No AC Administrator	
Chenango (50,477)	Chenango County Public Defender	PD Part-time	
	Assigned counsel appointed by the court	No AC Administrator	
Clinton (82,128)	Clinton County Assigned Counsel Plan	PT AC Administrator	
	Clinton County Conflict Attorney ⁵	Conflict Part-time	Conflict (See FN 6). Contract (See FN 8).
Columbia (63,896)	Columbia County Public Defender	PD Part-time	
	Columbia County Conflict Public Defender	Conflict PD Part-time	Conflict (See FN 6). Contract (See FN 8).
	Columbia County Alternate Conflict Defender	Conflict PD Part-time	Conflict (See FN 6). Contract (See FN 8).
	Columbia County 2 nd Alternate Conflict Defender	Conflict PD Part-time	Conflict (See FN 6). Contract (See FN 8).
	Assigned counsel appointed by the court	No AC Administrator	
Cortland (49,336)	Cortland County Public Defender	PD Full-time	
	Assigned Counsel Plan	FT AC Administrator	Admin. is Public Defender.
Delaware (47,980)	Delaware County Assigned Counsel Plan	PT AC Administrator	
Dutchess (297,488)	Dutchess County Public Defender	PD Full-time	
	Assigned counsel appointed by the court	No AC Administrator	PD handles vouchers.
Erie (919,040)	Legal Aid Bureau of Buffalo, Inc.	LAS Full-time	
	Bar Association Aid to Indigent Prisoners Society, Inc.	AC Full-time	
Essex (39,370)	Essex County Public Defender	PD Full-time	
	Assigned counsel appointed by the court	No AC Administrator	
Franklin (61,699)	Franklin County Public Defender	PD Full-time	
	Franklin County Conflict Defender	Conflict PD Full-time	Conflict (See FN 6).
	Franklin County Assigned Counsel Plan	PT AC Administrator	AC Coordinator is non-atty.
Fullton (65,531)	Fullton County Public Defender	PD Part-time	
	Assigned counsel appointed by the court	No AC Administrator	
Genesee (60,079)	Genesee County Public Defender	PD Full-time	
	Genesee County Legal Assistance Corporation	AC Part-time	
Greene (49,221)	Greene County Public Defender	PD Full-time	
	Assigned counsel appointed by the court	No AC Administrator	

PD = Public Defender; AC = Assigned Counsel; LAS = Legal Aid Society; Conflict PD = Conflict Public Defender; FT = Full-time (but not necessarily indicating that the practice of law outside the program is prohibited); PT = Part-time

STRUCTURE¹ OF PUBLIC DEFENSE SYSTEMS IN NEW YORK STATE
New York State Defenders Association 2011

COUNTY (Population)	PROGRAM	PROGRAM TYPE (Full-time/Part-time)	NOTES
Hamilton (4,836)	Hamilton County Assigned Counsel Plan	PT AC Administrator	Administrator is Chairman of the Board of Supervisors
Herkimer (64,519)	Herkimer County Assigned Counsel Plan	PT AC Administrator	
Jefferson (116,229)	Jefferson County Public Defender	PD Full-time	
	Jefferson County Assigned Counsel Plan	PT AC Administrator	
Lewis (27,067)	Lewis Defenders, PLLC	Contract Part-time	Contract (See FN 8)
	Lewis County Conflict Defender	Conflict Part-time	Conflict (See FN 6)
	Assigned counsel appointed by the court	No AC Administrator	Contract (See FN 8)
Livingston (65,393)	Livingston County Public Defender	PD Full-time	
	Livingston County Conflict Defender	LAS Part-time	Conflict (See FN 6)
	Assigned counsel appointed by the court	No AC Administrator	
Madison (73,442)	Madison County Public Defender	LAS Full-time	
	Madison County Assigned Counsel Plan	PT AC Administrator	Admin. is Assl. County Atty.
Monroe (744,344)	Monroe County Public Defender	PD Full-time	
	Monroe County Conflict Defender / Assigned Counsel	Conflict PD & AC Full-time	Conflict (See FN 6) Admin. is Conflict Defender
Montgomery (50,219)	Montgomery County Public Defender	PD Part-time	
	Assigned counsel appointed by the court	No AC Administrator	
Nassau (1,339,582)	Legal Aid Society of Nassau County	LAS Full-time	
	Nassau County Assigned Counsel Plan	AC Full-time	
Niagara (216,469)	Niagara County Public Defender	PD Part-time	
	Niagara County Conflict Office & Assigned Counsel Plan	PT AC Administrator	Conflict (See FN 6) Admin. is Conflict Defender
Oneida (234,878)	Oneida County Public Defender -- Criminal Division	PD Full-time	
	Oneida County Public Defender -- Civil Division	PD Full-time	
	Oneida County Supplemental Assigned Counsel Program	AC Part-time	Admin. through County Dept. of Social Services
Onondaga (467,026)	Onondaga County Bar Association Assigned Counsel Program, Inc.	FT AC Administrator	
	Frank H. Hiscock Legal Aid Society	LAS Full-time	
Ontario (107,931)	Ontario County Public Defender	PD Full-time	
	Ontario County Assigned Counsel Plan	AC Part-time	
Orange (372,813)	Legal Aid Society of Orange County, Inc.	LAS Full-time	
	Orange County Assigned Counsel Plan	AC Part-time	
Orleans (42,883)	Orleans County Public Defender	PD Part-time	
	Assigned counsel appointed by the court	No AC Administrator	
Oswego (122,109)	Oswego County Assigned Counsel Plan	PT AC Administrator	
Otsego (62,259)	Otsego County Public Defender	PD Part-time	
	Assigned counsel appointed by the court	No AC Administrator	
Putnam (99,710)	Putnam County Legal Aid Society, Inc.	LAS Full-time	
	Assigned counsel appointed by the court	No AC Administrator	
Rensselaer (159,429)	Rensselaer County Public Defender	PD Full-time	
	Rensselaer County Conflict Defender Office	Conflict PD Part-time	Conflict (See FN 6)
	Rensselaer County Assigned Counsel Plan	PT AC Administrator	Admin. is County Attorney
	Rensselaer County Special Family Court Counsel		Position created in 2011 county budget
	Rensselaer County Special Appellate Counsel	Appellate Attorney Part-time	
Rockland (311,687)	Rockland County Public Defender	PD Full-time	
	Rockland County Assigned Counsel Plan	PT AC Administrator	

PD = Public Defender, AC = Assigned Counsel, LAS = Legal Aid Society, Conflict PD = Conflict Public Defender, FT = Full-time (but not necessarily indicating that the practice of law outside the program is prohibited), PT = Part-time

June 2011

STRUCTURE¹ OF PUBLIC DEFENSE SYSTEMS IN NEW YORK STATE
New York State Defenders Association 2011

COUNTY (Population)	PROGRAM	PROGRAM TYPE (Full-time/Part-time)	NOTES
St. Lawrence (111,944)	St. Lawrence County Public Defender	PD Full-time	
	St. Lawrence County Conflict Defender	Conflict PD Full-time	Conflict (See FN 8).
	St. Lawrence County Assigned Counsel Plan	PT AC Administrator	Admin. also a town and village attorney.
Saratoga (219,607)	Saratoga County Public Defender	PD Full-time	
	Saratoga County Assigned Counsel Plan	AC Part-time	Admin. by Public Defender.
Schenectady (154,727)	Schenectady County Public Defender	PD Full-time	
	Schenectady County Conflict Defender	Conflict PD Full-time	Conflict (See FN 6).
	Schenectady County Assigned Counsel Plan	PT AC Administrator	Admin. is Dep. County Atty.
Schoharie (32,749)	Schoharie County Assigned Counsel Plan	PT AC Administrator	Admin. also a town and village attorney.
Schuyler (18,343)	Schuyler County Public Defender	PD Full-time	
	Schuyler County Conflict Attorney	Conflict Part-time	Conflict (See FN 6). Contract (See FN 8).
	Assigned counsel appointed by the court	No AC Administrator	
Seneca (35,251)	Seneca County Public Defender	PD Part-time	
	Assigned counsel appointed by the court	No AC Administrator	
Steuben (98,990)	Steuben County Public Defender	PD Full-time	
	Steuben County Conflict Defender & Assigned Counsel Administrator	PT AC Administrator	Conflict (See FN 6). Admin. is Conflict PD who is Mayor of Village of Bath.
Suffolk (1,493,350)	Legal Aid Society of Suffolk County	LAS Full-time	
	Assigned Counsel Defender Plan of Suffolk County	AC Full-time	
Sullivan (77,547)	Sullivan County Legal Aid Panel	LAS Full-time	
	Sullivan County Conflict Legal Aid Bureau	LAS Full-time	
	Assigned counsel appointed by the court	No AC Administrator	
Tioga (51,125)	Tioga County Public Defender	PD Part-time	
	Tioga County Assigned Counsel Plan	AC Part-time	Admin. is County Attorney.
	Contract for Family Court representation	Contract Attorney(s)	Contract (See FN 8).
Tompkins (101,584)	Tompkins County Assigned Counsel Program	AC Part-time	
Ulster (182,493)	Ulster County Public Defender	PD Part-time	
	Ulster County Assigned Counsel Plan	AC Part-time	Admin. is County Deputy Commissioner of Finance.
Warren (65,707)	Warren County Public Defender	PD Full-time	
	Warren County Assigned Counsel Plan	AC Part-time	Admin. is non-attorney.
Washington (63,216)	Washington County Public Defender	PD Part-time	
	Assigned counsel appointed by the court	No AC Administrator	
Wayne (93,772)	Wayne County Public Defender	PD Full-time	
	Wayne County Assigned Counsel Plan	AC Part-time	
	Legal Aid Society of Wayne County	LAS Part-time	
Westchester (949,113)	Legal Aid Society of Westchester County	LAS Full-time	
	Westchester County Assigned Counsel Plan	AC Full-time	Administered by LAS.
Wyoming (42,155)	Wyoming County Public Defender	PD Part-time	Public Defender is also Director of Attica Legal Aid
	Wyoming County - Attica Legal Aid Bureau, Inc.	LAS Full-time	
	Wyoming County Assigned Counsel Plan	AC Part-time	Admin. is County Attorney.
Yates (25,348)	Yates County Public Defender	PD Part-time	
	Yates County Assigned Counsel Plan	AC Part-time	

PD = Public Defender, AC = Assigned Counsel, LAS = Legal Aid Society, Conflict PD = Conflict Public Defender, FT = Full-time (but not necessarily indicating that the practice of law outside the program is prohibited), PT = Part-time

June 2011

STRUCTURE¹ OF PUBLIC DEFENSE SYSTEMS IN NEW YORK STATE
New York State Defenders Association 2011

COUNTY (Population)	PROGRAM	PROGRAM TYPE (Full-time/Part-time)	NOTES
New York City (8,175,133)	Appellate Advocates	Appellate Office Full-time	
	Assigned Counsel Plan for the First Department	AC Full-time	
	Assigned Counsel Plan for the Second Department	AC Full-time	
	The Bronx Defenders	Defender Service Full-time	
	Brooklyn Defender Services	Defender Service Full-time	
	Center for Appellate Litigation	Appellate Office Full-time	
	The Legal Aid Society - Bronx, Kings, New York, Queens, Richmond	LAS Full-time	
	Neighborhood Defender Service of Harlem, Inc.	Defender Service Full-time	
	New York County Defender Services	Defender Service Full-time	
	Office of the Appellate Defender	Appellate Office Full-time	
	Queens Law Associates	Defender Service Full-time	
Staten Island Legal Defense Services ¹⁰	Defender Service Full-time		

DEFENDER SYSTEM	FULL-TIME	PART-TIME	TOTAL
Public Defender Office	26	14	40
Conflict Public Defender	6	8	14
Legal Aid Society ¹¹	20	3	23
Assigned Counsel Plan	8	31	39
AC Appointed by the Court ¹²			19
Contract ¹³		2	2
Appellate Office / Attorney	3	1	4
TOTAL	63	59	142

¹⁰Assigned counsel appointed by the court cannot be counted as either full-time or part-time and are therefore included only in the total column.

¹¹These numbers are counts of the "Program Type" columns only.

¹ This chart reflects the many different mechanisms and programs by which localities in New York State seek to comply with the State mandate of providing required representation in criminal cases and to adult respondents in Family Court under County Law § 722. With the existing lack of uniformity, accurate descriptions are difficult to obtain; this chart reflects the information NYSDA collected through June 2011.

² 2010 US Census Bureau

³ http://www.courts.state.ny.us/courts/assigned_counsel/assigned_counsel.htm; DEC 10 PL COTPL/ST/SS&CO/VS/SS/SS/SS

⁴ Counties that have either a legal aid society or public defender office as their primary delivery system must have an assigned counsel panel or conflict office to handle conflict cases (e.g., cases involving multiple defendants). See County Law § 722 et seq. It is not uncommon for some counties to have multiple defender programs handling a portion of indigent defense and Family Court work in addition to conflict cases (e.g., New York City).

⁵ Whether the program is full-time or part-time refers to the status of the administrator or chief defender of the office or program. Some defender offices with part-time chief defenders may have some full-time legal staff members.

⁶ In many counties, the public defender (e.g., Cattaraugus, Cortland, Saratoga, Schuyler), conflict defender (e.g., Monroe, Niagara), Legal Aid Society (Westchester) or even the county attorney (e.g., Columbia, Rensselaer and Wyoming) administers the assigned counsel program. The scope of that administration can range from maintaining lists of attorneys for appointments to reviewing AC vouchers. Both the Judicial Conference (Memorandum to the Boards of Supervisors, November 16, 1985) and the Attorney General (1978 N.Y. Op. Atty. Gen. [Int.] 211) have condemned the practice of having county attorneys act as administrators of assigned counsel plans. The Judicial Conference stated that assigned counsel administrators should be attorneys other than county attorneys, judges, public defenders, or legal aid officials.

⁷ Legal developments regarding representation in conflict cases under County Law § 722 have left unsettled the legal status of many offices handling conflict cases. See e.g., *Gehler v. Cortland County*, 70 AD3d 57 (2009); Laws of 2010, Chapter 56, Part E, § 3; and *New York County Lawyers' Association v. Bloomberg*, 30 Misc3d 921, 2011 NY Slip Op. 21001 [Supreme Ct. New York Co. 1/3/2011].

⁸ Chautauque Public Defender position is 90% of a full-time equivalent.

⁹ New York statutory law requires a county to enact a plan for representation that conforms to the following options: representation by a county public defender office (See County Law Article 18-A), by a private legal aid bureau or society, and/or by counsel selected under an approved bar association plan (See County Law § 722). There is no statutory provision that authorizes counties to enter into contracts with for-profit law firms or individual attorneys to provide public defense services, but some counties have done so.

PD = Public Defender, AC = Assigned Counsel, LAS = Legal Aid Society, Conflict PD = Conflict Public Defender, FT = Full-time (but not necessarily indicating that the practice of law outside the program is prohibited), PT = Part-time

STRUCTURE¹ OF PUBLIC DEFENSE SYSTEMS IN NEW YORK STATE
New York State Defenders Association 2011

⁹ The "Madison County Public Defender's Office" is a legal aid society.

¹⁰ In December 2010, New York City announced that The Legal Aid Society, rather than the current provider, would be awarded a two-year contract for providing public defense services in Staten Island, effective July 1, 2011.

¹¹ Not-for-Profit organizations whose purpose is the provision of public defense services are counted as legal aid societies for the purposes of this chart.

PD = Public Defender, AC = Assigned Counsel, LAS = Legal Aid Society, Conflict PD = Conflict Public Defender, FT = Full-time (but not necessarily indicating that the practice of law outside the program is prohibited), PT = Part-time

June 2011

Appendix D

Budget Comparisons

For this comparison we will focus on Broome County. Broome County provides indigent legal services with a Public Defenders Office, handling all criminal matters, and Legal Aid of Mid-New York handling civil matters. Broome County Family Court has 3 judges and handled 14,929 cases in 2010. Broome County encompasses the city of Binghamton and surrounding rural towns and villages such as Johnson City, Chenango and Endicott. Broome County is the closest comparison to Dutchess in New York State. Both counties have the same number of Family Court judges and comparable Family Court case filings, with only a 705 case difference in 2010.

The Broome County Public Defender's Office handles all criminal cases. Below is a chart illustrating the costs of operating that office since 2004. They have been budgeted for 21 staff positions for each year shown (this includes attorneys and administrative support staff).

	2004	2005	2006	2007	2008	2009	2010*	2011*
Salaries	979,658	1,047,704	1,089,303	1,135,905	1,148,660	1,198,990	1,245,169	1,216,112
Contractual Expenses	90,724	106,689	286,678	246,720	232,771	268,136	81,875	64,505
Benefits	381,637	349,932	365,148	402,761	398,726	408,974	478,991	578,687
Total	1,382,019	1,504,325	1,691,129	1,785,386	1,775,157	1,871,100	1,806,035	1,858,849

*These figures are the proposed amounts; actual amounts were not available for comparison.

Dutchess County's Public Defenders Office had a total cost of \$3,493,369 in 2010.

In 2005 Broome County entered into a contract with Legal Aid of Mid-New York to handle the assigned counsel cases in Family Court. This was the same year that the hourly rate for assigned counsel increased significantly from \$40 to \$75 per hour. Many counties switched to using an institutional defender or Legal Aid Society in response to this increase. We were unable to determine if any county in New York made such a change after 2005.

Legal Aid of Mid-New York serves 13 counties. Broome County is the only county where they have a contract to provide the majority of the indigent representation in Family Court. Because LAMNY serves a wide area and each individual funder is not listed on their IRS 990 filing the exact amount that Broome County contracts with LAMNY was not immediately available. The LAMNY 2006 Annual Report states that LAMNY has been faced with continual cuts in grant funding; this is in line with trends nationally of cuts to legal services programs. However, we can compare the amounts of their government grants since 2004 (the year prior to the contract) through 2009. Numbers for 2010 and 2011 were not available as LAMNY runs on a July 1 - June 30 fiscal year.

	2004	2005	2006	2007	2008	2009
Total Government Grants	2,741,079	3,590,934	3,871,779	4,203,762	4,341,648	4,389,211

This shows a 1.6 million dollar overall budget increase. Considering that during this time funding for most legal services organizations were losing funding, this increase can be directly tied to the contract with Broome County. In addition to these costs Broome County also has an 18b panel for conflicts. The cost for those cases was not available for this comparison.

Two counties in close proximity to Dutchess County also contract with legal aid societies to provide their indigent legal services; Putnam County and Orange County. Both of these agencies provide both criminal and civil representation in Family Court.

	2004	2005	2006	2007	2008	2009
Putnam	529,015	548,072	546,110	609,098	633,359	595,865
Orange	1,765,354	1,933,585	2,045,626	2,178,450	2,337,671	2,478,655

Although Putnam and Orange have lower case filings than Dutchess, you can see an increase in each organizations budget. Both Orange and Putnam also maintain 18b lists for conflicts. It is also important to note that as a non-profit organization, a legal aid society has the capacity to fundraise or recruit attorneys to handle cases on a pro bono basis. This can help to eliminate budget shortfalls or to lighten the case load of staff attorneys.

While a number of other counties were comparable to Dutchess, their budget information was not as readily available as those mentioned above. Below is a chart listing those counties, and Dutchess County's, budgets for 2010. Please bear in mind when considering this information that positions in counties north of Dutchess may have salaries that are less than their counterparts in Dutchess.

County (listed by size, large to small)	Public Defender	Family Court	Alternate Public Defender	18-b	Special Counsel	Total
Dutchess	3,493,369	1,977,450		888,726		6,630,545
Albany	3,492,575		949,501	1,100,000		5,542,076
Rensselaer	974,610	164,507	328,077	500,000	50,702	2,017,896
Schenectady	1,417,802		387,244	775,000		2,580,046

In summary, each county uses various methods to meet the needs of its indigent residents. It appears that in all instances the costs of such representation increase each year. Under the Assigned Counsel Plan currently employed in Dutchess County Family Court, the \$75 per hour rate for attorneys will not be increasing in the next few years. While there is no way to predict the number of cases that will qualify for assigned counsel, measures have been instituted to control costs. These measures were put in place in March 2011.

Full copies of all county budgets and organizational IRS 990 forms are available upon request, or can be viewed online at:

<http://bankofamerica.com/find/funders/0290/index> (for IRS 990 forms)

<http://www.albany.com/department/executive> (Albany County)

<http://www.subsidiary.com/countyexec> (Broome County)

<http://www.rense.com/executive/countybudget.asp> (Rensselaer County)

<http://www.schenectadycounty.com/FullStoryIndex?m=6&amid=790> (Schenectady County)

<http://www.lsi.org>

EXHIBIT "E(1)"

FC

RECOMMENDATIONS FOR REPRESENTATION OF INDIGENT LITIGANTS IN
DUTCHESS COUNTY FAMILY COURT

1. The Ad Hoc Family Court Assigned Counsel Reform Commission has reviewed the present assigned counsel program in Dutchess County Family Court, and has heard from various interested participants. The Family Court Judges make the following recommendations for the commission to adopt.

- A. Pending the Dutchess County Bar Association promulgating a plan for representation of indigent litigants in all the courts in Dutchess County, which plan must be agreed to by Dutchess County and approved by the Chief Administrator of the Courts, the present assignment of County Law 18B attorneys in Family Court should continue.

(1) The County Public Defender's Office presently represents indigent litigants in criminal cases only. In criminal conflict cases 18B attorneys are assigned. The county bar association has appointed a committee to draft a County Law 18 B Plan for the criminal and civil courts. The plan is required to conform to the statute and be approved by the Chief Administrator of the Courts and by the County. The County Legislature is required to pass legislation adopting the plan since County funding will also be required. The expectation is that the plan will be finalized for the budget year 2013.

(2) The State Office of Indigent Legal Services must also promulgate rules and regulations for assigned counsel. Hearings must be held, and comments reviewed. Accordingly, a date has not been set for issuance of the rules/regulations.

- B. The three Family Court Judges each have a panel of the assigned counsel qualified for their part. Some attorneys must also appear in front of the two support magistrates, and the court-attorney referee in the permanency part when children are in foster care. They also appear in other parts.

Judge Posner also has an integrated domestic violence part in which she hears both criminal cases transferred from criminal courts and family court cases. Assistant district attorneys and criminal defense attorneys appear in the criminal matters, and family court attorneys appear in the family court matters.

Judge Forman has both a family treatment part and a juvenile treatment part in which family court attorneys appear.

Because of conflicts in scheduling appearances in all parts, and because of the significant attorney time required in family court cases, a substantial number of

EXHIBIT E (1)

attorneys perform assigned counsel work. The judges will remain responsible for assigning attorneys off of their lists to individual cases taking into consideration the nature and difficulty of the dispute, and the expertise of the lawyer. The assignments will be made equitably and in a timely manner particularly in emergency situations.

- C. The Family Court will continue to provide the financial form application for litigants to request assigned counsel. Each application will be reviewed to determine whether the individual qualifies for counsel. In appropriate cases supporting information will be required including pay stubs and income tax returns.

(1) In the event an individual has assets that are not liquid and can not afford to pay a retainer for a private attorney but has an ability to have access to monies in the future, the Court will assign an 18B attorney if the applicant consents to repaying the fees and expenses to the County. The Judge will issue a court order for the person to reimburse the County for sums found expended at the conclusion of the case. If the person will not pay the County, then the court order will provide that the County will have recourse to collect the debt through legal action.

(2) The Family Court Judges will continue to review the vouchers submitted by the attorneys for their accuracy and completeness. After the judges approve the vouchers they will be submitted to the County Comptroller's Office for payment.

- D. The Family Court Chief Clerk is attempting to have the Dutchess County Family Court be granted permission to utilize the State software program used by attorneys for children in every county. The program currently contains a limit for the total amount of time spent in a case and could also be designed to include standard fees and charges for various forms of legal services such as mailing a letter, telephone calls. If the time limit or cost is exceeded, then the attorney will have to identify in narrative form the reason for expending the additional time/amount. This program is also extremely valuable for generating reports and statistics with respect to the expenditure of funds for the representation of these litigants. The utilization of the funds can be documented to determine whether changes should be made in the application of assigned counsel services.
- E. Pending approval and implementation of the software program the Family Court has formed an ad hoc committee to set a schedule of rates for various services by the attorneys, and to put in place other requirements in a concerted and good faith effort to reduce the cost of 18B attorney fees. This committee should continue to function. The Family Court Judges will ensure that the schedule of rates is adhered to when reviewing vouchers.

2. The Dutchess County Family will continue to explore ways to reduce the cost of assigned counsel while at the same time: safeguarding the rights of the litigants; and preserving the safety of them and the children. Complicated and time-consuming issues such as domestic violence, custody and visitation, child abuse and neglect, juvenile delinquency and persons in need of supervision must be resolved. Often the attorneys spend twice as much time out of court when compared to in-court appearances. They must meet with their clients, speak with other attorneys, investigate the case, and prepare for trial. Significant monies are saved when the cases are amicably settled without a hearing/trial.

3. Assigned attorneys earn \$75.00 per hour for both in-court and out of court time. They pay their staff and own overhead expenses. Private attorneys are earning an average hourly rate of \$200.00 or more. The Family Court Judges have met with the 18 B attorneys in an effort to apprise them of the importance of meeting with their clients prior to court appearances and of communicating and negotiating terms of proposed settlements with opposing counsel. In-court time will be greatly reduced, and settlements reached. Also the judges and/or their court attorneys often hold conferences with the attorneys in the case in an attempt to assist in settlement negotiations and to resolve matters expeditiously.

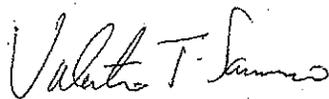
4. The judges have also informed the attorneys of the serious problem that the County has in funding the cost of 18B representation, and the obligation the attorneys have to make every effort to avoid protracted, unnecessary litigation which will result in increased fees. The attorneys have been very receptive.

5. The administration in Family Court will continue to work hard to ensure that every litigant receives justice guaranteed by our laws and that County Law 18 B funds be spent wisely and prudently.

The adoption of these recommendations will reduce the cost of representing indigent individuals in family court and is the only way to keep the cost of such representation to a minimum moving into the future.

Dated: Poughkeepsie, New York
August 2, 2011

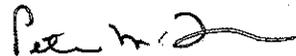
Respectfully submitted,



Hon. Valentino T. Sammarco
Family Court Judge



Hon. Joan S. Posner
Family Court Judge



Hon. Peter M. Forman
Acting Family Court Judge

EXHIBIT "E(2)"

MONEY SAVING IDEAS Concerning the 18b System

1. **PROBLEM:** A lot of money is spent by the Court in postage sending letters and various notices to 18b attorneys. **SOLUTION:** The Court could save money by simply placing all correspondence to 18b attorneys in the attorney's boxes, and requiring that all 18b attorneys frequently check (or make arrangements to check) those boxes.

2. **PROBLEM:** When a neglect or abuse case is going to trial, numerous attorneys must spend time at DSS going through DSS files. Those files are generally then copied by DSS pursuant to a subpoena from an attorney. But if several attorneys wish to go through and seek copies of these files (as is frequently the case), there is a tremendous expense given to duplicative effort. **SOLUTION:** When an abuse or neglect case is scheduled for trial, and perhaps upon the request of any attorney, the Court should require that DSS scan the entire file, creating an electronic copy on a CD. Copies of that CD could be provided to each attorney by stipulation, or upon the issuance of a subpoena. In complex DSS cases, this could save a lot of money.

3. **PROBLEM:** Some people who are assigned 18b attorneys are later able to repay the legal fees incurred by the taxpayers. Although the law requires that 18b attorneys must be assigned where a litigant cannot afford to hire an attorney, the law does not prevent the County from seeking reimbursement where appropriate. **SOLUTION:** Require many, most or all 18b litigants to sign a "Confession of Judgment for all legal fees incurred" as a condition of being assigned an 18b attorney. This Confession of Judgment should say that the County, at its discretion, may seek reimbursement of all legal fees incurred. These Confessions of Judgment can then be offered to private collection agencies upon mutually agreeable terms (i.e., 50%/50% split of recovered money) for possible collection. Through this method, the County could, at no cost to the County, recover a large amount of its expended 18b funds.

EXHIBIT E(2)

Paul McGowan

**RESPONSE TO 18-B COMMITTEE
MINORITY REPORT OF THOMAS ANGELL, ESQ.**

TO ALL COUNTY LEGISLATORS:

As you know, the County Legislature earlier this year created a committee, chaired by the Hon. Albert Rosenblatt, to review a proposal submitted in 2010 by the Public Defender regarding representation of indigent litigants in Family Court. That proposal called for the hiring of six new public defender attorneys, and three staff, in an effort to cover 60% of the Family Court caseload. This proposal was thoroughly studied throughout the summer and fall of 2011, with every effort being made to have the Public Defender provide to the committee a comprehensive and detailed written plan as to exactly how, where, when and in what fashion the Public Defender would proceed. Despite earnest and repeated requests, no written "business" plan of any kind was ever presented by the Public Defender. Indeed, having studied the original proposal all year, and the committee having overwhelmingly (15 to 1) concluded that it was not feasible in that it would substantially lower quality of service while offering no provable savings (and would in fact cost more), the Public Defender then presented to this Legislature an entirely different plan, this one calling for two public defenders to handle one third (1/3) of the Family Court caseload. The Public Defender's new plan increases each attorney's caseload from 10% to over 16% of the Family Court caseload. In furtherance of this new, unstudied proposal, the Public Defender has now put forth several claims and statements that are erroneous or highly exaggerated. It is vital that this Legislature understand the true facts. Thus, please consider the following:

1. The 18-b Plan is Eligible for NY State Grant Money:

The current 18-b assigned counsel program IS ELIGIBLE for State grant funding, and there is no reason to believe that grant funding for the 18-B program would not be approved. Indeed, William Leahy, Esq., director of the Office of Indigent Legal Services, spoke to the Dutchess County Bar Association on October 13, 2011, and stated that **his committee met in September and approved a discretionary distribution to Dutchess County in the amount of \$270,000.** As stated by Mr. Leahy, **"we are going to keep a floor under your feet, and we are not going to allow you to fall through the cracks** and disserve our statutory purpose, which is to improve the quality of representation." (Leahy transcript pgs 11-12).

State Finance law § 98-b (Indigent legal services fund) provides that **a county shall not be precluded "from decreasing local funds as long as the county demonstrates to the office of indigent legal services ... that the quality of services has been maintained or enhanced notwithstanding the use of state funds."**

The Legislature should seek a grant for criminal and civil 18-B representation immediately since that system will remain in full force and effect for the foreseeable future even under the public defender's proposal for Family Court. Since all of the criminal and civil courts are out of compliance by not having an independent administrator, a grant to fund the administrator would be advantageous to the County.

Cost savings measures have already been adopted for 18-B representation in Family Court (the details of which are in the committee report). These measures have clearly been effective as illustrated by comparing the Family Court budgets for the last two years. If the County rejects the Public Defender proposal in lieu of requesting a grant for the creation of a comprehensive 18-B plan, these cost saving measures can be implemented county-wide.

2. The Public Defender's Proposal May Not Qualify for NYS Grant Money:

Due to the myriad of flaws (set forth in detail in the majority report of the Committee) in the Public Defender's proposal, quality of representation will DECREASE under a Public Defender system, calling into question the Public Defender's ability to obtain or maintain State grant

funding. Despite the exaggerated and unsupported assertions to the contrary, common sense dictates (and Judge Rosenblatt's committee clearly concluded) that **Public Defender attorneys, with a dramatically increased per-attorney caseload, could not possibly provide the same high quality legal representation as currently prevails.** Indeed, the quality of service to indigent litigants would undoubtedly be diminished, placing at risk the lives and health of domestic violence victims and the children of Dutchess County.

Mr. Leahy made clear that the purpose of the grant funding is "to improve the quality of representation." Indeed, Executive Law § 832 (3)(g) (Office of indigent legal services) cites as one of the duties and responsibilities of the office "to target grants in support of innovative and cost effective solutions that enhance the provision of quality indigent legal services ..."

The Public Defender proposal CANNOT COUNT ON STATE FUNDING because the quality of service under such a system would inevitably be diminished, thus defeating the very purpose of the state funding. State Finance Law § 98-b (Indigent legal services fund) provides that all such state funds "shall be used to improve the quality of services provided."

Mr. Leahy indicated that each county should be striving to reduce attorney caseloads to comply with national standards which include 150 felonies. (Leahy transcript pgs 18-19). Mr. Angell's cost per case analysis is based on arbitrary and inaccurate numbers (the details of which are included in the majority report). However, even taking the numbers proposed by Mr. Angell of a projected 250 caseload per attorney, this is 100 cases over the national standard that Mr. Leahy has indicated each county should strive to reach.¹ If the plan of Mr. Angell cannot even meet the only standard for representation set forth so far by Mr. Leahy it is highly unlikely that any grant proposal including such a plan would be approved.

Mr. Angell has never provided a specific detailed written or oral plan for implementing his proposal. Mr. Angell states that he will provide separate waiting areas for criminal and family court clients, however he still has not provided a location to house any new attorneys and support staff. Mr. Angell has not provided information with regard to hours of operation for this new office. He has not indicated how he will see the clients outside of court since the public defender attorneys will be in court all day.

Further, Mr. Angell's field of expertise is criminal law, yet he comes to the Legislature with a proposal to represent clients in Family Court and has never discussed a plan with any Dutchess County Family Court staff or attorneys who regularly practice in this Court. Every court in every county functions differently and knowledge of one Family Court's procedures cannot be transferred to another's. **HE HAS NOT DISCUSSED HIS PROPOSAL WITH ANY OF THE LITIGANTS IN FAMILY COURT, AND IN PARTICULAR THE VICTIMS OF DOMESTIC VIOLENCE, SO THAT THEY MAY STATE WHETHER THEY WISH TO HAVE THE PUBLIC DEFENDER REPRESENT THEM RATHER THAN PRIVATE ASSIGNED COUNSEL.**

Also, there is not any guarantee that the State will fund the grants based upon the fiscal crisis which continues to grow. Without the grant the County will pay outright for both the Family Court public defenders and 18-B counsel.

¹It is a fair comparison to equate each Family Court matter to a felony matter as the State Legislature has already established that attorneys handling each are entitled to \$75/hour compensation while misdemeanors are compensated for at a lower rate.

3. The Public Defender's Proposal Will Negatively Impact the Safety of Victims of Domestic Violence:

The Legislature has pronounced time and time again that the safety and welfare of domestic violence victims are paramount. Indeed, great initiatives have been implemented by this County to protect victims of domestic violence.

If the Public Defender proposal is adopted then the victims of domestic violence will be denied the good quality representation to which they are entitled, and will lose accessibility to their attorneys. When these victims are under threat of being maimed and killed and emotionally scarred they, as well as all litigants in family court, are entitled to the finest representation available, something the Public Defender can not give because the office would be handling too many cases and could not give full attention to each one.

The report submitted by the Committee is extensive, complete, coherent, rational and without bias; rejecting the Public Defender's proposal by a vote of 15 to 1, the one being the Public Defender. Independent members of the committee, Judge Rosenblatt and County Comptroller Coughlan, being in the majority. The Public Defender participated in the Ad-hoc Committee, and had every opportunity to provide information and support for its proposal. After everyone was heard, the Committee members voted in good faith. The report should be adopted in its entirety by the Legislature because of the hundred of hours devoted to the work by Committee members, the research, the debate, and the reasonable and logical decision reached.

The Public Defender has failed, after repeated requests, to submit a detailed written "business" plan for consideration, either to the committee tasked with reviewing the Public Defender's proposal, or to this Legislature. Additionally, the committee, chaired by the Hon. Albert Rosenblatt, after thorough examination of all the available evidence, overwhelmingly concluded that the proposal of the Public Defender would not only diminish the quality of representation but would in fact cost more money than the current 18-B program. It would therefore be incongruous to now approve a new and as yet unexamined Public Defender proposal, submitted to this Legislature at the eleventh hour. To do so would not only place at risk the taxpayers of Dutchess County, but would also place at greatly heightened risk the indigent women, children and victims of domestic violence within our community.

The Legislature must give cogent reasons to the families and taxpayers of Dutchess County to justify the acceptance of such an untested, unexamined and dangerous proposal. Higher quality? Certainly not. Lower cost? Speculative at best. Grant money from the state? Such grant money is already available to the current system (contrary to the assertions of the Public Defender), and indeed is unlikely to be available to the Public Defender because that system would not meet the criteria of improving the quality of representation.

Respectfully submitted,



Hon. Valentino T. Sammarco
Dutchess County Family Court Judge
Committee Member



Hon. Joan S. Posner
Dutchess County Family Court Judge
Committee Member

November 22, 2011

Dutchess County Bar Association

P.O. Box 4865, Poughkeepsie, New York 12602 (845) 473-2488 Fax (845) 485-1484

Officers 2011-2012

November 17, 2011

Rebecca Valk, Esq.
President

Dutchess County Legislature
22 Market Street
Poughkeepsie, NY 12601

Daniel McCabe, Esq.
President-Elect

Hon. Jonah Triebwasser
Vice-President

Dear Legislator,

Hon. Frank Mora
Secretary & Editor

By now I am sure you have received the report I wrote earlier this fall regarding the proposed changes to how the county provides representation to the indigent in Family Court, as well as the report of the committee chaired by Hon. Albert Rosenblatt which spent most of this year examining this issue extensively. It has been the position of the Dutchess County Bar Association since this issue was raised last year that the legislators should be provided with as much information as possible so that they could formulate an informed decision.

Kelly Traver, Esq.
Treasurer

Sharon Faulkner, Esq.
Assistant Treasurer

Janna Elizabeth Whearty
Executive Director

In furtherance of our desire that you make the most informed decision possible, we ask that you look at the information provided by the Acting Public Defender with a critical eye. To that end, there are a few brief points I would like to add to the discussion.

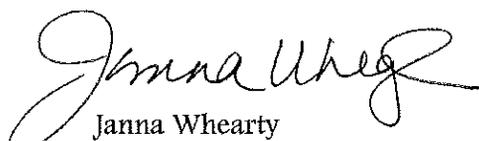
Hon. Peter Forman
Immediate Past President

1. The DCBA has formed a committee and charged them with drafting a plan to bring us into compliance with the county law. The assertion by the Acting Public Defender that the only way for us to be in compliance with the county law is to adopt his proposal is false. I have done extensive research into the plans and procedures in other counties. We have sample plans from Erie, Onondaga, and Broome Counties. We are prepared to move forward with drafting a plan and submitting it for consideration as soon as the proposal at hand is decided upon. This would bring us into compliance with the county law.
2. Attached you will find a revised Breakdown of Attorney Time based upon the current budget proposal of 2 attorneys. This breakdown indicates that if 2 attorneys attempted to handle 1/3 of the caseload in Family Court nearly 5,000 hours of court time would be left unstaffed.
3. Based upon the information provided on page 201 and 202 of the budget, I have calculated the cost to provide services in Family Court with a department of 10, which is the number the DCBA feels is needed to provide representation in Family Court. My calculations are attached.

4. A Family Court case is valued at the same amount as a felony in New York. Attorneys appointed to both kinds of cases are compensated at a rate of \$75 per hour. The New York State Bar Association recommends attorneys handle no more than 150 felony cases per year. Attorneys in the proposed Family Court department would be handling much larger caseloads.
5. William Leahy, Director of the New York State Office of Indigent Legal Services was the keynote speaker at the DCBA's October luncheon. A transcript of his address is available on our website, www.dutchesscountybar.org. Mr. Leahy made it clear that day, and has made it clear to me personally, that we are in no way excluded from receiving grant funding if we choose not to change the way we provide representation to the indigent.
6. The dynamic between a Family Court case and a Criminal case is very different. In a criminal case, the attorney gets assigned after the underlying facts have been discovered. In Family Court, attorneys are assigned at the beginning of a case while the situation is still evolving. This creates a situation where the attorney assigned must be available to their clients outside of business hours and well versed in the facts as circumstances change very quickly and can have a profound impact. We are still unsure of how the proposal accounts for this important facet of handling cases in Family Court.

I have done extensive research over the past few months on this issue. If you would like to speak to me about what I have learned, or have questions, please feel free to contact me anytime. I can be reached at my office or via email janna@dutchesscountybar.org. Email is often the best way to reach me as it comes directly to my phone.

Sincerely,



Janna Whearty
Executive Director

**Dutchess County Legislative
Citizens' Advisory Committee on Domestic Violence**

November

22, 2011

Dear Members of the County Legislature:

As you consider the Public Defender's plan to replace the 18-b attorney panel with the Public Defender's office, this committee urges you to consider several aspects of the plan, as proposed, which will have a detrimental impact on victims of domestic violence in this County. As you know, indigent victims and offenders are entitled to assigned counsel in Family Court. The cases may include a petition for an Order of Protection, a Custody petition or a petition filed by the Department of Social Services alleging neglect.

• **Case load and distribution.** The plan as proposed calls for a single deputy public defender to be assigned to each Judge's part. This committee is quite concerned that a deputy public defender that will be in Court all day on a variety of cases will have a case load that is so substantial that no opportunity will be available for the attorney to meet with the clients. A model based upon handling criminal matters will not work in Family Court because circumstances are constantly changing and a victim needs more attorney time than the average criminal defendant.

• **Configuration of office space.** While this may appear to be a fiscal issue, it is clear that the configuration and location of space is critical for victims of domestic violence. The public defender represents those charged with crimes, and it is possible that a victim of domestic violence may be waiting in the same office as the offender. This is unsafe, not only for the victim, but for everyone in the office. In addition, victims often bring children with them to their meetings with their attorneys and the plan, thus far, does not contain any provision for new and separate waiting rooms.

• **Inexperienced lawyers.** The public defender's plan calls for hiring lawyers to be paid \$35,000 to \$43,000 annually and there appears to be no plan for training. This is far less than the amount allotted for attorneys handling criminal defendants. We are concerned that inexperienced attorneys represent a true safety concern for victims, since it takes experience to understand the dynamics of domestic violence and the impact that actions in Court may have on a victim's safety and the safety of children. We know that the Family Court Judges now assign 18-b attorneys, many of whom have decades of experience in family law. In addition, the Judges typically use their discretion in assignment of cases to attorneys so as to ensure that more complex cases have more experienced attorneys.

• **Disempowerment of Victims.** In other counties where the victims are represented by the Public Defender's office, there is a real issue of concern for victims, who are sometimes mistaken for criminals when the victim states that her attorney is the public

defender. A victim may also distrust the Public Defender's office due to concerns of confidentiality. The victim's public defender may be in the same office that is representing, or has represented their batterer in the past. This concern can undermine the victim's trust and can interfere with the victim's use of the systems that are designed to help keep her safe.

Conclusion

While it is possible that use of an institutional provider is the best way to promote safety of victims of domestic violence in Family Court, it is clear to this committee that the plan proposed by the Public Defender has many flaws. We support further study of this proposal to fix the problems, before the County engages in a "pilot project" that will have the practical impact of experimenting on cases involving victims of domestic violence.

Very truly yours,

Dutchess County Legislative Citizens' Advisory Committee on Domestic Violence

Legislator Donna Bolner

Elaine Andersen

Susie Balutis-Mallory

Leah Feldman

Kathryn Graham

Judith Lombardi

Det. Sgt. Jason Mark

Deborah Reeves-Duncan

Lisa Rubenstein

Peter Phipps

Catherine Poluzzi

Marjorie Smith

Janice Weinstein

**Dutchess County Legislature Public Hearing
Thursday, December 2, 2011 @ 7:00 pm**

I'm Linda Keech, the Executive Director for Dutchess County's Cooperative Extension. With me tonight is our Board President, Laurie Rich from Red Hook. On behalf of our Board, thank-you once more for this opportunity.

Cornell Cooperative Extension is a subordinate governmental 501C3 agency in accordance with our enabling federal and state acts of legislation. "Cooperative" refers to our legal funding structure of federal, state and county appropriations. All of our funding for all of our educational programs start with and depend upon our Annual County appropriation.

~~You may not know that the laws that created CCEDC do not allow us to manage, operate or be a fiscal agent for EMC, a function of county government. A vote for CCEDC county funding is a vote for CCEDC county funding, not for any other organization.~~

As I stated during the November 10th Public Hearing, the \$590,000 reduction in our county appropriated funding over the past two years has been challenging. As a result, we have made difficult choices, reducing our staff from 40 to 25 (from all funding sources) which ultimately impacted the resources and educational programs provided to county residents.

Our organization has continued to seek out funds from other sources, successfully securing grant dollars and establishing new fund raising efforts – both important aspects of diversifying our funding streams. Plus, we are implementing shared services to increase efficiencies.

But the fact remains that every county appropriated dollar is critical for our organization and the **educational programs and resources available to and utilized by taxpayers throughout Dutchess County.**

Supporting the proposed 2012 Budget for 4-H will directly increase our capacity to serve Dutchess County youth, **our future leaders and workforce. Primary prevention youth development programs such as 4-H are more cost-effective than incarceration. CCEDC youth programs reduce the likelihood of a young person becoming involved in risk behaviors.**

Supporting the proposed 2012 Budget for AGRICULTURE/HORTICULTURE will directly increase our capacity to serve Dutchess County farmers. **Agriculture/Horticulture is a major contributor to the economy of Dutchess County – over \$40 million dollars. Approximately 34% of the land in Dutchess County is in Agriculture Districts.**

Supporting the proposed 2012 Budget for NUTRITION will maintain current programming. **Research indicates that for every single dollar spent on Nutrition and Wellness education, up to \$4.00 is saved in Health Care and other Human Services costs down the road.**

Increasing the proposed 2012 Budget by \$25,000 for ENVIRONMENT will maintain current GIS and other research-based educational programs that impact individuals, municipalities, CAC's and many local partnerships including with watershed groups, EMC, colleges and schools, Ag/Farmland Protection Board and the Planning Department. The \$25,000 decrease in the proposed budget will result in the reduction of tools and resources utilized by many to make more informed decisions regarding land use, invasive species, preparedness and our natural resources. Natural resources that each of us, and humankind, relies on to exist.

For 2012 we ask that you uphold the proposed 2012 appropriated funding for 4-H, Nutrition, Agriculture/Horticulture and Environment - and consider *andive* *way to* increasing ~~to~~ the Environment line item by \$25,000.

On behalf of our Board of Directors, we would welcome further discussions in regards to the proposed CCEDC budget including other possibilities you may have or to provide any additional information you may need. THANK YOU for your consideration.

First and foremost, Dutchess County has a very dedicated and professional work force. Even Without a teacher's Tribourough Amendment provisions contract, county workers have had their monies frozen for several years. It would be nice if the county approved one. Knowing as per the NYS Court of Appeals ruling, the contract isn't worth the paper it is written on!!!!!!

D.C. FUNDS THE FAMILY PARTNERSHIP WHERE VENDORS ARE COVERED UNDER THEIR 501-C-3 IRS. TAX EXEMPTION. POP WARNER FOOTBALL INC IN CITY FOLK. LOST THEIR 501-C-3 EXEMPTION. A PROVISIO IS THAT AN ANNUAL FINANCIAL STATEMENT BE GIVEN BY EACH 501-C-3 TO MUNICIPALITY. HAS THIS BEEN DONE BY THOSE WHO ARE COVERED UNDER THE UMBRELLA?

12/01/11

C. KAZOCIAS

SHEET / OF 5

After listening for several hours testimony on YNN DEC public hearing held at Sullivan Community College on hydro-fracking ,the speakers were very informative!!!!Without giving a long list of concerns and objections, I will note several this board should take notice.

[1]the waste water from the operation is hazardous and it is either pumped into a holding tank only to be dumped back into the water table/aquifer.

[2]NYC DOESN'T WANT ANY HYDROFRACKING/ DRILLING OVER ITS WATERSHED. WHY? YOU GUESSED IT!!!

[3]Those property owners who sold out are muzzled for seven years, by contract!!!!

12/01/11

C. KAZOCHAS

SHEET 20/25

Saving ONE MILLION DOLLARS
ANNUALLY COULD BE THE REDUCTION
OF THE DUTCHESS COUNTY
LEGISLATURE FROM ITS 26 TO 6. A
former D.C. Legislator Van The Paint Man
who moved to Florida mentioned that to
me years ago. WHY NOT HERE IN
DIUTCHESS COUNTY?????

12/01/11 C. KAZOVIA
SHEET 3 OF 5

Finally. The US spends \$2.1 MILLION PER MINUTES AROUND THE CLOCK. The Kosovo, both Iraq wars, Afghanistan and Libya were nations that did not attack any NATO country. IF it were, the entire rest of the NATO countries by charter would go to war against the agresser. ~~NONE OF THE ABOVE COUNTRIES DID~~. War was not declared by congress and the US can possibly be in those countries for decades like South Korea, THE FORGOTTRN WAR.

The JFK ass⁹¹gnation with its 37 WARREN COMMISSION VOLUMES WITH LEE HARVEY OSWALD, THE LONE ASS^{AS IN}IN WHY THE 75^{MR} COVERUP OF PERTINENT INFORMATION Also, why the 30 year ^[COVER UP] impoundment by the FBI of 911 info.

Osama wasn't on the FBI'S ^{FEN} most wanted list for 911. Osama said he ^{HAD} nothing to do with 911 The Seal6 team was ASSIN^{team} team

12/01/11
PAGE 4 OF 5

SO Dead men tell no tales. If a picture is worth a thousand words, a video is worth a MILLION. THAT'S WHY FROM THE ALLEDGED ASSINNATION TO DUMPING OVER BOARD from THE BILLON DOLLAR Air Carrier Vinson, WHICH did not have an 8 foot tape, BUT ^{HAD} to LAY A 6 FOOT SAILOR NEXT TO 6'-4" OSAMA.COME ON!!!!FYI WHY IN LESS THAN TWO MONTHS later THAT SAME SEAL 6 TEAM GOT SUCKERED IN AND GOT WASTED WHEN BEING AMBUSH IN AFGANISTAN!!!! .Seal teams are sworn to secrecy by law. Once again dead men tell no tales!!!!

12/01/11

C. KAZOLIAS

SHEET 5 OF 5