

Assigned Counsel Rates Archives

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Current Developments 2004A

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For related news and information, visit our [New York Public Defense Funding](#) page.

Note: Copies of articles with inactive links may be found by visiting the publisher's web sites or retrieving a copy from a print source. For more information please read our [FAQ](#).

Assigned Counsel Fee News

- Seneca County Attorney continues to file motions challenging indigent status of defendants who have been assigned lawyers in criminal cases. [County Fights Court Fraud](#), Finger Lakes Times (Seneca County), March 23, 2004
- Increased number of drug-related arrests generated by checkpoint near the Canadian border straining resources of Essex County Public Defender. [Roadblock Causing Hardships](#), WORK-TV (Essex County), March 19, 2004
- Staff layoffs possible as last ditch cost-saving measure by Legal Aid Society of New York to remedy the budget gap. [NY Legal Aid Lawyers Warned to Expect Layoffs](#), New York Lawyer (NYC), March 17, 2004
- Rule empowering administrative judges to review assigned counsel rate decisions declared unconstitutional by the Appellate Division First Department. [OCA Rule Governing Review of Higher 18-B Fees Is Voided](#), New York Law Journal (1st Dept), February 25, 2004. Read the court's decision in [Levenson v. Lippman](#), 2004 NYSlipOp 01228 (1st Dept February 24, 2004)
- New York City Legal Aid Society examines cost-cutting measures to close budget gap. [Legal Aid Society Faces \\$21 Million Budget Shortfall](#), New York Law Journal (NYC), February 23, 2004

Assigned Counsel Rates Archives

- State Bar Association forms new committee to focus on promoting quality representation for indigent persons appearing in criminal and family courts. [Committee Formed to Assure Quality Representation for Indigent and Children](#), New York State Bar Association News Release (NY), February 11, 2004
- Criminal defense attorney takes issue with Greene County Public Defender's oversight of assigned counsel vouchers. [Lawyer Alleges Impropriety in Public Defender's Office](#), Daily Freeman (Greene County), January 25, 2004
- Raise in rates increases ranks of New York City family court assigned counsel. [New Rates Help Boost Roster of 18-B Lawyers](#), New York Law Journal (NYC), January 6, 2004

Current Developments Outside New York

- [Allegheny County Public Defender's Expenses Soaring](#), Pittsburgh Post-Gazette (PA), March 24, 2004
- [More Ohio Counties Opting for Public Defenders](#), Plain Dealer Reporter (OH), March 20, 2004
- [Public Defender Forces a Showdown: Judges Order Him to Find Money to Hire Lawyers, Putting Onus on City-County Council](#), IndyStar (IN), March 20, 2004
- [Indigent Defense Bill OK'd](#), Atlanta Journal-Constitution (GA), March 15, 2004
- [Appeal Expected in Public Defenders Case](#), Town Talk (LA), March 6, 2004
- [Lawyers Call for Reforming Alabama's Indigent Defense System](#), Times Daily (AL), March 2, 2004
- [County Officials Battle Over Fund for Trial Defense](#), HeraldNet (WA) February 28, 2004
- [Public Defender Agency Wrestles With Funding for Juveniles](#), Atlanta Journal-Constitution (GA), February 25, 2004
- [Public Defender Crisis Cited in Some Areas](#), WCVB (MA), February 23, 2004
- [Romney Seeks to Sharpen Definition of How Poor Is Poor in Court's Eyes](#), Worcester Telegram & Gazette (MA), February 23, 2004
- [Grant County Public Defender Suspended From Bar](#), Columbia Basin Herald (WA), February 20, 2004
- [Florida's Prosecutors Want a Raise](#) [and Public Defenders Underfunded], Tallahassee Democrat (FL), February 18, 2004

Assigned Counsel Rates Archives

- [New Indigent Defense System to Be Tested in South Georgia](#), Gwinnett Daily Post (GA), February 17, 2004
- [Supreme Court Overturns Public Defender Fees](#), KARE 11 (MN), February 12, 2004
- [Poor-Defendant Fee Unconstitutional](#), Sun News (NC), February 7, 2004. Read the court's decision in [State v. Webb](#), No. 157PA03 (NC February 6, 2004)
- [Proposal Seeks to Raise Standards to Qualify for Public Defender](#), Post-Crescent (WI), February 1, 2004
- [Higher Salaries Sought to Retain Prosecutors](#), Daily Times (MD), January 29, 2004
- [Grant to Help Fund System for Poor Defendants](#), Star-Telegram (TX), January 25, 2004
- [Report: Public Defenders Needed: Lack of Statewide System Said to Cost Millions](#), Clarion-Ledger (MS), January 20, 2004
- [Chief Justice Pleads for Money for Indigent Defense](#), Associated Press (GA), January 16, 2004. Read the [State of the Judiciary Address](#) (GA January 16, 2004)
- [Public Defender Guides Debated](#), Herald Times Reporter (WI), January 16, 2004
- [Probation Fees Raised; Defenders Overloaded](#), Thisweek Online (MN), January 16, 2004
- [Speakers Push Bill to Add Public Defenders](#), Milwaukee Journal Sentinel (WI), January 14, 2004
- [Court Order Nullifies Cumberland Judge's Decision](#), Fayetteville Observer (NC), January 14, 2004
- [Justice or Expedience? Criminal Courts Rely on Plea Bargaining to Cope With Caseloads](#), Columbian (WA), January 4, 2004
- [Right to Counsel: Every Accused Person's Right](#), Washington State Bar Association News (WA), January 2004

Editorials Supporting Increased AC Rates

Newspaper editorials and letters from concerned people have expressed their views about the need to change assigned counsel rates.

- [Appointed Lawyers' Fees Raised](#), Journal News (Dutchess County), May 21, 2003
- [Lawyers for Indigent Will Get Boost in Pay](#), Newsday (Nassau County), May 20, 2003
- [Pay Assigned Lawyers Higher Fees](#), Newsday (NY), April 30, 2003
- [Calls to Improve Pay for Court-Appointed Lawyers](#), Newsday, December 10, 2002
- [State Shamefully Neglects Duty to Indigent Defendants](#), Albany Times Union, December 8, 2002

Assigned Counsel Rates Archives

- [Poor Defendants, Poor Lawyers](#), New York Times, August 23, 2002
- [Shortchanging Justice](#), Albany Times Union (NY), May 8, 2002
- [Assigned Counsel Raise Urged](#), Post-Standard (Onondaga County), May 3, 2002
- [Justice for Poor Endangered by Meager Legal Fees](#), Newsday (Nassau County), May 1, 2002
- [Poor Pay Hurts Pool of Lawyers](#), Rochester Democrat and Chronicle, March 30, 2002
- [Low Hourly Pay Blamed for Exodus of Lawyers From Public-Defender Service](#), Buffalo News, March 27, 2002
- [Crisis in the Court](#), Journal News (Westchester), March 10, 2002
- [Right to Counsel](#), Newsday (Nassau County), December 22, 2001
- [Public-Defense Services Sorely Need Improvement](#), Albany Times Union, June 1, 2001 (Michael Whiteman)
- [Now's the Time to Right a Wrong: Adjust Attorneys' Fees in Next Year's Budget](#), Press Republican Online (Clinton County), May 22, 2001
- [Justice Demands State Do Better](#), Albany Times Union, May 6, 2001
- [Funding Too Low for Legal Assistance for Children](#), Albany Times Union, May 2, 2001
- [Drive-By Legal Defense](#), New York Times, April 12, 2001
- [Lawyers Can No Longer Afford to Advocate for Children](#), Syracuse Online, April 7, 2001 (John E. Carter, NYSBA Committee on Children and the Law)
- [N.Y.'s Coming Guarantee: An Unfair Trial](#), New York Post, April 4, 2001
- [A Destructive Court Protest](#), New York Times, April 3, 2001
- [A Daily Disaster for Children](#), New York Times, February 19, 2001
- [New York's Stinginess Erodes the Right to Counsel](#), Newsday (Nassau County), February 5, 2001
- [Pay Lawyers a Fair Rate](#), Press Republication Online (Clinton County), February 2, 2001
- [Letter to the Editor of the New York Times from NYSBA President Thomas O. Rice](#), New York Times, August 30, 1999
- [The Right to a Lawyer](#), New York Times, June 2, 2000
- [Court-Appointed Lawyers Are Grossly Underpaid](#), Buffalo News (Erie County), May 23, 2000

Assigned Counsel Rates Archives

- [Judicial Reforms in Albany](#), New York Times, May 26, 2000
- [Raise Assigned Counsel Rate](#), Poughkeepsie Journal (Dutchess County), March 28, 2000
- [Justice Demands Fair Pay for Lawyers](#), New York Times, February 21, 2000
- [End Justice on the Cheap: New York's Fees for Assigned Counsel Should be Raised to Reflect Today's Economy](#), Albany Times Union, June 8, 1999

Bar Association Resolutions/Statements on AC Rates

Association of the Bar of the City of New York

President of the Association of the Bar of the City of New York underscored the need for legislative action to increase assigned counsel rates and stop the exodus of attorneys from New York City panels. [Governor Pataki: Raise Assigned Counsel Rates Now](#), 44th Street Notes, January 2000

First Department

[Committee on the Representation of the Poor](#) - A panel formed by the First Department to investigate legal aid services in criminal and family court cases held hearings seeking comment on various issues related to providing legal representation to the indigent. [Panel Proposes 18-B Reforms](#), New York Law Journal, May 31, 2000

- [Testimony by New York State Defenders Association on June 14, 2000 by Executive Director Jonathan Gradess before the Committee on the Representation of the Poor, First Department](#). Click [here](#) to download the 22K PDF

Genesee County Resolution

[Genesee County Resolution No. 62](#) (January 25, 2001) requested the Governor and the Legislature to introduce legislation to increase assigned counsel fees. [Click here](#) to down the 79K PDF document.

Manhattan Borough President

[Manhattan Borough President C. Virginia Fields Supports Increase in 18-B Rates](#), NYSACDL News, July 19, 1999

Nassau County Criminal Courts Bar Association

[New Effort to Increase 18-B Rates](#), Nassau County Criminal Courts Bar Association, December 15, 1999 (Letter from Richard D. Collins to the New York State Office of Court Administration)

New York City Council

New York City Council Resolutions [746](#) (2003) and 770 (2000) called on the New York State Legislature to increase the rates provided under Article 18-B of the County Law.

- [Testimony by NYSACDL on April 14, 2003 by Past-President Marvin E. Schechter, Before the New York City Council Regarding a Proposed Increase in 18-B Rates](#)

Assigned Counsel Rates Archives

- o [Testimony by NYSACDL on January 24, 2000 by Past-President Marvin E. Schechter, Before the New York City Council Regarding a Proposed Increase in 18-B Rates](#)

New York State Association of Criminal Defense Lawyers

[Resolution Supporting State Aid to Defense Funding in All Counties in New York](#), New York State Association of Criminal Defense Lawyers (January 26, 2001) (133K PDF)
[Statement by President-Elect Kathryn M. Kase in Response to Chief Judge Judith S. Kaye's State of the Judiciary Address Regarding Increases in Assigned Counsel Rates](#), New York State Association of Criminal Defense Lawyers, December 10, 2000
[18-B Message from President Marvin Schechter](#), New York State Association of Criminal Defense Lawyers News, July 6, 1999

New York State Attorney General

[Statement By Attorney General Eliot Spitzer Regarding Remuneration For Assigned Counsel](#), Office of the New York State Attorney General Press Release, June 3, 1999

New York State Bar Association

[Court-Appointed Attorneys Face Legal and Financial Challenges](#), New York State Bar Journal, May 2001
[Statement from New York State Bar Association President Thomas O. Rice Regarding Assigned Counsel Rates](#), New York State Bar Association Press Release, June 2, 1999

New York State Defenders Association

[NYSDA'S REPORT ON THE ASSIGNED COUNSEL FEE](#)
NYSDA's report on New York's defense funding crisis, [Resolving the Assigned Counsel Fee Crisis: An Opportunity to Provide County Fiscal Relief and Quality Public Defense Services](#) (March 2001)(200K PDF) reviews defense systems in New York and other states, national studies and standards, and draws upon the collective experience of public defense service providers. It calls for the immediate increase of assigned counsel rates and the efficient and effective provision of public defense services
[Clients and the Client Community Deserve a Say in Defense Services](#), Backup Center Report, March/April 2001 (163K PDF)
[NYSDA Urges AC Fee Increase—And More](#), Backup Center Report, December 2000 (29K PDF)

New York State District Attorneys Association

Robert M. Carney, Schenectady County District Attorney, will assume the presidency of the New York State District Attorneys Association. He supports loan forgiveness for public defenders and increasing assigned counsel rates, while differing on other points of concern to the defense bar. [New Leader, New Agenda for DA Group](#), New York Law Journal, July 31, 2000

Warren County Resolution

[Warren County Resolution No. 658](#) (2000) requested the Legislature to introduce legislation to increase assigned counsel fees to \$75 per hour. [Click here](#) to down the 58K

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PDF document.

Wyoming County Resolution

[NYSDA Resolution for Defense Funding for All Counties in New York State Supported—Resolution No. 00-287](#) (December 12, 2000) (133K PDF)

Court Decisions Granting AC Fees Above Statutory Cap

RATE INCREASES

"In extraordinary circumstances a trial or appellate court may provide for compensation in excess of the foregoing limits" County Law § 722-b. Criminal and family court judges in various counties have found "extraordinary circumstances" to justify awarding assigned counsel rate increases above the statutory scale.

Rules of the Chief Administrator of the Courts

- [Section 127.2 Compensation of Counsel and Other Providers in Extraordinary Circumstances](#) (85K PDF). Amended March 19, 2001; Effective April 16, 2001. Expansion of review process to include local administrative judges.

Eastern District of New York

- [In re Nicholson](#), No. CV-00-2229 (EDNY Dec. 31, 2001)(55K PDF). Judge Weinstein ordered assigned counsel representing victims of domestic violence in child custody proceedings in New York City, members of class action, to be compensated at a rate of \$90 per hour.

Bronx County

- [People v. Brown](#), Indictment No. 6145/99 (Bronx Supreme Court January 5, 2000). Justice Williams ordered assigned counsel to be compensated at a rate of \$70 per hour for in-court work and \$50 per hour for out-of-court work. ([Judge OKs Higher Rates For Lawyer Assigned to Rape Case](#), New York Law Journal, January 18, 2001). [Click here](#) to down the 265K PDF document.
- [People v. Davis](#), New York Law Journal, at p. 24, col. 5, July 11, 1991 (Bronx Supreme Court). Justice Price ordered assigned counsel to be compensated at a rate of \$50 per hour.

Broome County

- [People v. High](#), No. 00-125 (Broome County January 26, 2001) (555K PDF). Judge Mathews ordered assigned counsel to be compensated at a rate of \$75 per hour.
- [People v. Herring](#), No. 99-43 (Broome County). Judge Mathews ordered assigned counsel to be compensated at a rate of \$50 per hour for out-of-court and \$75 per hour for in-court work. See also [People v. Herring](#) No. 87596 (3rd Dept January 11, 2001) [Click here](#) to download a 426K PDF of the County Court decision.

Chautauqua County

Assigned Counsel Rates Archives

- [People v. Osman](#), No. 01-020A (Chautauqua County Supreme Court May 14, 2002) (582K PDF). Administrative Judge Doyle approved an award of assigned counsel fees above the statutory cap totaling \$30,000.

Clinton County

- [In re Cody "KK,"](#) No. NN-2006/2007-2001 (Clinton County Family Court February 5, 2002). Judge Lawliss ordered assigned counsel in Family Court to be compensated at a rate of \$75 per hour.
- [Matter of Joshua AA](#), No. NA-895-2000 (Clinton County Family Court February 1, 2001). Judge Lawliss ordered assigned counsel to be compensated at a rate of \$75 per hour. (Today's News Update, New York Law Journal, Wednesday, February 6, 2001) [Click here](#) to download the decision (note: this is a 1 megabyte PDF file).

Dutchess County

- [In Re Wager](#) (Dutchess County Family Court, February 8, 2001) (67K PDF). Justice Forman ordered assigned counsel to be compensated at a rate of \$75 per hour.
- [In the Matter of Georgetanne W.](#), No. B-10058-99 (Dutchess County Family Court February 2, 2001) (2.8 meg PDF). Judge Forman ordered all court-appointed attorneys assigned by him to be paid at a rate of \$75 an hour
- [Anthony S. v. Patricia S](#) (Dutchess County Family Court January 30, 2001). Judge Amodeo ordered all court-appointed attorneys assigned by him to be paid at a rate of \$75 an hour. (Today's News Update, New York Law Journal, Wednesday, January 31, 2001). [Click here](#) to download the 429K PDF document.
- [Sweat v. Skinner](#), No. B-1508-00 (Dutchess County Family Court January 12, 2001). Judge Brands ordered all court-appointed attorneys assigned by him to be paid at a rate of \$75 an hour. (Today's News Update, New York Law Journal, January 23, 2001). [Click here](#) to down the 561K PDF document.
- [Department of Social Services v. Mitchell](#), Docket Nos. 10171-73/99 (Dutchess County Family Court January 31, 2000). Judge Brands ordered assigned counsel to be compensated at a rate of \$75 per hour. ([Higher Fees for Family Court Lawyer](#), New York Law Journal, February 8, 2000). [Click here](#) to down the 272K PDF document.

Erie County

- [People v. Lott](#), No. 99-0678-001 (Erie County Supreme Court October 11, 2001) (453K PDF). Administrative Judge Doyle approved an award of assigned counsel fees of above the statutory cap totaling \$4700, but within the statutory rate.

Greene County

- [People v. Faccio](#), No. 01-084 (Greene County Court August 6, 2001) (184K PDF). Judge Pulver ordered assigned counsel to be compensated at a rate of \$75 per hour

Kings County

- [People v. Medina](#) (Kings County Supreme Court September 26, 2001). Justice Giacobbe ordered assigned counsel to be compensated above the statutory cap.

Assigned Counsel Rates Archives

Madison County

- [Laura "HH" v. Tyler "HH"](#), No. V-277-2002 (Madison County Supreme Court May 13, 2002) (136K PDF). Administrative Judge O'Shea determined that an across-the-board rate increase of \$75 per hour was an abuse of discretion, and held that applications for enhanced fees must be determined on a case-by-case basis.
- [Laura "HH" v. Tyler "HH"](#), No. V-277-2002 (Madison County Family Court May 1, 2002) (1.1 MB PDF). Judge McDermott ordered all assigned counsel and law guardians in family court cases to be compensated at a rate of \$75 per hour.

Monroe County

- [People v. Leonard](#), No. 2000-052 (Monroe County Supreme Court May 17, 2001) (96K PDF). Justice Mark ordered assigned counsel to be compensated above the statutory cap.
- [Kevin v. Deborah](#), No. V0356/57-92M (Monroe County Family Court January 31, 2001). Judge Taddeo ordered assigned counsel to be compensated at a rate of \$75 per hour. (Today's News Update, New York Law Journal, Friday, February 2, 2001). [Click here](#) to down the 146K PDF document.

Nassau County

- [People v. Sutton](#), New York Law Journal, December 17, 2002 (Nassau County Ct). Judge Calabrese ordered assigned counsel to be compensated at a rate of \$75 per hour.
- [People v. Pruitt](#), No. 2310N-99 (Dist Ct Nassau County September 6, 2002)(96K PDF). Judge DeRiggi ordered assigned counsel to be compensated at a rate of \$75 per hour.

New York County

- [In re Kendall A.](#), New York Law Journal, March 1, 2002 (Manhattan Family Court). Judge Bednar ordered a volunteer assigned counsel to be compensated at a rate of \$75 per hour.
- [In Re Turner](#) (Supreme Court New York County, August 27, 2001) (16K PDF). Justice Braun ordered assigned counsel in Article 81 Mental Hygiene Law proceeding to be compensated at a rate of \$80 per hour for in-court time and \$50 per hour for out-of-court time.
- [People v. Lytch](#) (Supreme Court New York County, August 21, 2001). Justice Lewis ordered assigned counsel to be compensated at a rate of \$75 per hour.
- [People v. Johnson](#), No. 205/2000 (Supreme Court New York County June 21, 2001) (753K PDF). Justice Kahn ordered assigned counsel to be compensated at a rate of \$75 per hour. ([Judge Challenges Review of Higher 18-B Fees](#), New York Law Journal, June 26, 2001)
- [People v. Roth](#), No. 2964/99 (Supreme Court New York County May 22, 2001)(56K PDF). Administrative Judge Scherer ordered assigned counsel to be compensated at a rate of \$100 per hour upon administrative review pursuant to [Section 127.2\(b\)](#) (85K PDF). ([Order Raising 18-B Fees Overturned](#), New York Law Journal, May 24, 2001)

Assigned Counsel Rates Archives

- [People v. Johnson](#), No. 3671/00 (Supreme Court New York County April 13, 2001) (1.8M PDF). Justice Kahn ordered assigned counsel to be compensated at a rate of \$75 per hour. ([Increased Fees Ordered for Two 18-B Attorneys in Criminal Cases](#), New York Law Journal, April 16, 2001)
- [Matter of Sheppard](#), Nos. N1440/95, B10564/98 (Manhattan Family Court November 17, 2000) (9K PDF). Judge Jurow ordered assigned counsel to be compensated above the statutory cap. ([Family Court Awards Fees Above Cap](#), New York Law Journal, November 15, 2000)
- [Matter of D.H.](#), (Manhattan Family Court). Judge Bednar ordered assigned counsel to be compensated at a rate of \$75 per hour. ([Fees Above 18-B Rate Granted](#), New York Law Journal, August 11, 2000)
- [People v. Brisman](#), 173 Misc. 2d 573, 661 N.Y.S.2d 422 (Supreme Court New York County 1996). Justice Goodman ordered assigned counsel to be compensated at a rate of \$75 per hour for in-court time.

Queens County

- [People v. Xadi Fen](#), NYLJ, September 30, 2002 (Sup Ct Queens County). Privately retained attorneys may make applications under 18-b due to defendant's financial hardships.

Suffolk County

- [AA v. MA](#), New York Law Journal, March 6, 2002 (Suffolk County Supreme Court). District Administrative Judge Oshrin approved order for assigned counsel to be compensated at a rate of \$75 per hour.
- [People v. Anthony McGhee](#), New York Law Journal, February 4, 2002 (Suffolk County Court). Judge Weber ordered assigned counsel to be compensated at a rate of \$75 per hour.
- [Matter of AA](#), No. 845-00 (Suffolk County Family Court October 9, 2001) (190K PDF). Judge Pach ordered assigned counsel to be compensated at a rate of \$75 per hour.

Assigned Counsel Fee Litigation

OCA ADMINISTRATIVE RULE LITIGATION

The power of administrative judges to review assigned counsel fee awards pursuant to [Section 127.2 Compensation of Counsel and Other Providers in Extraordinary Circumstances](#) (PDF) is being challenged in the courts.

Decisions

- [Levenson v Lippman](#), No. 0109292/2002 (Sup Ct NY County March 25, 2003) (191K PDF)
- [Hinman v. Mark](#), No. 01-01840 (4th Dept February 1, 2002)

Assigned Counsel Rates Archives

- [Levenson v. Lippman](#), No. 5283 (1st Dept 2002)

Motions

- NYSDA Amicus Brief in [Levenson v. Lippman](#), No. 5283 (1st Dept 2001) (104K PDF)
- NYSDA Amicus Brief in [Hinman v. Mark](#) (4th Dept 2001) (104K PDF)

Articles

- [Challenge to Review of Counsel Fees Fails](#), New York Law Journal (NYC), April 4, 2003
- [Association of Justices Weigh Challenge to Counsel Fee Awards](#), New York Law Journal (1st Dept), March 14, 2003
- [Bid to Upset 18-B Review Rule Fails](#), New York Law Journal, January 4, 2002
- [Judges Join Opposition to 18-B Compensation Review](#), New York Law Journal, September 25, 2001
- [OCA Defends Constitutionality of 18-B Fee Reviews](#), New York Law Journal, August 21, 2001
- [Judges Express Rancor Over Review of 18-b Fees](#), New York Law Journal, July 26, 2001
- [Lawyer Looks to Judges' Group as Ally in 18-B Dispute](#), New York Law Journal, July 24, 2001
- [Lawyer Seeks to Block Review of 18-B Fee Increases](#), New York Law Journal, July 12, 2001
- [Judge Challenges Review of Higher 18-B Fees](#), New York Law Journal, June 26, 2001
- [Order Raising 18-B Fees Overturned](#), New York Law Journal, May 24, 2001
- [Judge Sets Standards for 18-B Excess Compensation](#), New York Law Journal, March 19, 2001

EXTRAORDINARY CIRCUMSTANCES FEE APPLICATIONS

Collected here are motions filed by assigned counsel seeking fees above the statutory cap based on "extraordinary circumstances."

- [Sample Extraordinary Circumstances Fee Application Pursuant to section 722-B of the N.Y. County Law](#) provided courtesy of the [New York State Association of Criminal Defense Lawyers](#). [Click here](#) to download a copy (82K) of the document in Word format.

CLASS ACTION LAWSUITS CHALLENGING 18-B RATES

Lawsuits have been filed challenging 18-B of the County Law, the assigned counsel rate provision, as being inadequate and depriving indigent defendants due process of law.

Assigned Counsel Rates Archives

Eastern District of New York

Decisions

- o [In re Nicholson](#), No. CV-00-2229 (EDNY March 11, 2002) (339K PDF)
- o [In re Nicholson](#), No. CV-00-2229 (EDNY December 31, 2001) (55K PDF)
- o [Nicholson v. Williams](#), No. CV-00-2229 (EDNY June 14, 2001)

Motions

- o [New York County Lawyers Association \(NYCLA\) Amicus Brief](#) (EDNY November 20, 2001)
- o [Declaration of Frank Moseley in Support of Amicus Brief](#) (EDNY November 20, 2001)
- o [Declaration of Dr. Lawrence Stiffman in Support of Amicus Brief](#) (EDNY November 20, 2001)

Articles

- o [Federal Judge Considers Raising Ceiling on Assigned Counsel Rates](#), New York Law Journal, December 21, 2001
- o [Judge Seeks Friends of the Court in Suit Over Abuse Investigations](#), New York Law Journal, March 21, 2001

Nassau County

Nassau County Criminal Courts Bar Association Class Action

[Lawyers Protest Indigent-Case Fees](#), Newsday, January 24, 2001

[Griffin v. Pataki](#) (EDNY January 23, 2001) [Complaint] (897K PDF)

Liotti Class Action

[Liotti v. State of New York](#) (1.3 MB PDF), Docket No. CV 00-0225 (E.D.N.Y. 2000)

[Suit Seeks Raise in 18-B Fees](#), New York Law Journal, January 25, 2000

New York County

[New York County Lawyers' Association Class Action](#)

Decisions

- o [New York County Lawyers' Association v. State of New York](#), No. 102987-2000 (Sup Ct NY County February 5, 2003)
- o [New York County Lawyers' Association v. State of New York](#) (1st Dept May 14, 2002)
- o [New York County Lawyers' Association v. State of New York](#), No. 102987/00 (Sup. Ct. App. T. 1st Dept May 3, 2002)

Assigned Counsel Rates Archives

- [New York County Lawyers' Association v. Pataki](#), Index No. 102987/00 (NY Sup. Ct. January 16, 2001) [Decision]

Motions

- [Memorandum of Law for Motion of Preliminary Injunction of 18-B Rates](#) (New York Supreme Court May 31, 2001)
- [Frank Moseley's Affirmation in Support of the Preliminary Injunction Motion](#) (New York Supreme Court May 31, 2001)
- [New York County Lawyers' Association v. Pataki](#) (New York Supreme Court May 11, 2000) [Affirmation in Support of Plaintiff's Opposition to Motion to Dismiss] (*Note: 3.8 MB PDF*)
- [New York County Lawyers' Association v. Pataki](#) (New York Supreme Court February 18, 2000) [Complaint]

Articles

- [Assigned Counsel Fee Litigation Is Settled](#), New York Law Journal (NYC), November 13, 2003
- [Suarez Raises Rates for Assigned Counsel](#), New York Law Journal (NYC), February 5, 2003
- [Panel Hears 18-B Fees Debate](#), New York Law Journal, October 24, 2002
- [Suarez Expresses Need for Action on Counsel Fees](#), New York Law Journal, August 23, 2002
- [Night Shift 18-B Lawyers Earn Bonuses](#), New York Law Journal, July 30, 2002
- [Trial Begins on Increasing Fees for Lawyers Assigned to the Poor](#), New York Times, August 7, 2002
- [State Diverges From City on 18-B Attorney Fees](#), New York Law Journal, August 6, 2002
- [18-B Suit Survives Bid to Dismiss](#), New York Law Journal, May 10, 2002
- [Judges Can Set Rates Despite Stay](#), New York Law Journal, May 9, 2002
- [New Hourly Rates Set for Court-Appointed Attorneys](#), New York Law Journal, May 6, 2002
- [Davis Polk's War on Poverty](#), American Lawyer, August 24, 2001
- [Saying Courts Fail the Poor, Lawyers' Group Sues the State](#), New York Times, June 2, 2001

Assigned Counsel Rates Archives

- [Court Filing in 18-B Case Shows Poor Denied Counsel](#), New York Law Journal, June 1, 2001
- [Press Release for Motion for Preliminary Injunction of 18-B Rate](#) (May 31, 2001)
- [Executive Summary of Motion of Preliminary Injunction](#) (May 31, 2001)
- [Lawyers' Group Has Standing to Challenge Assigned Counsel Rates](#), New York Law Journal, January 19, 2001
- [Court Upholds NYCLA's Lawsuit Against New York State Challenging Assigned Counsel Rates](#), NYCLA Press Release, January 18, 2001
- [Manhattan Lawyers Latest to Challenge Attorney Fees](#), Newsday, February 25, 2000
- [Lawsuit Seeks Increase in Rule 18-B Fees](#), New York Law Journal, February 22, 2000
- [New York County Lawyers' Association Sues Pataki on Behalf of Children and Adults Who Cannot Afford Counsel](#), NYCLA Press Release, February 18, 2000
- [New York County Lawyers Resolution on 18-B Rates](#), January 19, 2000

CLASS ACTION LAWSUIT CHALLENGING 35-B RATES

New York State Association of Criminal Defense Lawyers filed a lawsuit challenging the reduction of assigned counsel fees in capital cases.

Decisions

- [New York State Association of Criminal Defense Lawyers v. Kaye](#), 3 No. 82 (June 14, 2001)
- [New York State Association of Criminal Defense Lawyers v. Kaye](#), Mo. No. 1226 (December 21, 2000)

Motions

- [New York State Association of Criminal Defense Lawyers v. Judith S. Kaye](#), Article 78 Petition (April 15, 1999) (2.4 MB PDF)
- [NYSACDL Sues Court of Appeals](#) (excerpt from Article 78 proceeding)

Articles

- [Court Affirms Its Power to Set Defense Rates](#), New York Law Journal, June 15, 2001
- [Court to Review Dispute Over Fees It Approved](#), New York Law Journal, December 22, 2000

Assigned Counsel Rates Archives

- [Appeal Heard on Fee Schedule for Capital Cases](#), New York Law Journal, April 28, 2000
- [Albany Judge Gets a Thankless Case](#), New York Law Journal, September 20, 1999
- [Oral Argument on Capital Pay Reduction Challenge](#), NYSACDL Hot News, September 17, 1999
- [Capital Defense Pay Challenged](#), New York Law Journal, September 10, 1999

ISSUES RELATED TO ASSIGNED COUNSEL REPRESENTATION

In addition to assigned counsel compensation, the issue of related costs and expenses has been addressed by the courts.

Broome County

[Kraham v. Mathews](#), 2003 NYSlipOp 13940 (3rd Dept May 8, 2003). "Notwithstanding the potential availability of CPLR article 78 review as to the fee awards made after the revision of 22 NYCRR 127.2, we are still unable to review the determinations here."

[Kraham v. Mathews](#), No. 2002-0413 (Broome County Sup Ct April 15, 2002). Trial judges have the right to use "increased hourly rate methodology to compensate the defendant [assigned counsel] lawyers."

[McLaughlin v. Matthews](#), No. 89364 (3rd Dept January 24, 2002). "Neither trial court orders granting or denying increases in the statutorily recommended fees under County Law §§ 722, 722-b and 722-c nor administrative determinations reviewing such orders provide any basis for justiciable review."

Genesee County

Decisions

- [Mahoney v. Pataki](#), No. 42 (NY May 7, 2002)
- [Mahoney v. Pataki](#), 261 A.D.2d 898; 689 N.Y.S.2d 830 (4th Dep't 1999) (8K PDF).

Motions

- [Mahoney v. Pataki](#) (NY December 2, 2001) [Plaintiff-Respondents Brief] (**note:** 9.2 MB PDF)
- [Mahoney v Pataki](#), No. I 1997-45939 (4th Dept October 30, 1998)[Appellant's Brief] (**note:** 3.8 MB PDF)

Articles

- [Panel Affirms Capital Defense Case Fees](#), New York Law Journal, May 7, 2002
- [Court of Appeals Reviews Capital Case Staffing](#), New York Law Journal, March 11, 2002

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- o [NYS Must Pay Associates on Capital Cases](#), New York Law Journal, February 28, 2000.

New York County

Matter of Linden H ., (NYC Fam. Ct. June 18, 1999). In a child protective proceeding, the New York City Commissioner of the Administration for Children's Services refused to deliver the case record to the 18-B attorney representing the respondent, unless payment was received for photocopying the file. The agency pointed out that counsel could seek reimbursement for the costs later. The court denying the agency's request and ordering disclosure, observed that both the agency and the 18-B attorney draw their water from the same well. "Requiring respondent's counsel to underwrite this expense places an undue burden on an 18-B attorney who receives only \$40 an hour for court appearances and \$25 an hour for out-of-court representation, and is, to a great extent, volunteering his legal services."

Rensselaer County

Decision

- o [Kindlon v. County of Rensselaer](#), 158 A.D.2d 178, 558 N.Y.S.2d 286 (3rd Dept 1990)

Motions

- o [Kindlon v. County of Rensselaer](#), No. 61127 (3rd Dept May 4, 1990) [Appellant's Brief] (1.6M PDF)
- o [Kindlon v. County of Rensselaer](#), No. 61127 (3rd Dept May 1990) [Respondent's Brief] (835K PDF)
- o [Kindlon v. County of Rensselaer](#), No. 61127 (3rd Dept June 4, 1990) [Reply Brief] (1.4M PDF)
- o [Kindlon v. County of Rensselaer](#), No. 61127 (3rd Dept May 1990) [Amicus Brief] (1.2M PDF)

Legislative Action on AC Fees

[Highlights of the 2003 Assigned Counsel Rate Increase Legislation](#), Backup Center Report, July-August-September 2003 (52K PDF)

This outline, prepared by NYSDA, highlights major points of the new statute raising assigned counsel fees and establishing a state fund to provide money to counties and New York City for public defense.

[Assembly/Senate Enacted Budget Authorizing Assigned Counsel Rate Increase](#) (A2106/S1406) (2003). "Enacts into law major components of legislation which are necessary to implement the budgets for the 2003-2004 state fiscal year." Increases assigned counsel fees to \$60/hour for misdemeanors (with per/case cap of \$2,400) and \$75/hour for felonies and all other eligible cases (with per/case cap of \$4,400) effective January 2004. Raises the caps on expert and investigative services to \$1,000 per expert/service provider. Creates a revenue stream for some state funding

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of public defense services (sources include a raise in attorney registration fees, fees to be paid before suspension of driving privileges can be lifted, a raise in certain mandatory surcharges, and a raise in the fees charged by the office of court administration for criminal history searches and searches of other electronic databases). Establishes an Indigent Legal Services Fund (under the joint custody of the Commissioner of Taxation and Finance and the Comptroller) to distribute funds to localities based on their percentage of the total amount spent by localities on public defense statewide. Creates a task force to review the sufficiency of assigned counsel rates (sunset June 30, 2006).

[Senate Bill to Establish New York State Public Defense Commission S01894](#) (2003).

"Establishes the New York State Public Defense Commission to oversee the provision of public defense services in the State; such Commission shall establish public defense services standards, provide financial assistance to local governments and public defense providers for expenses incurred in providing legal services to the indigent, provide training to persons in the public defense profession and oversee the provision of public defense services in the State; increases assigned counsel rate from \$40 an hour to \$75 an hour with annual consumer price index increases."

[Assembly Bill to Increase Assigned Counsel Fees A.11862](#) (June 23, 2002). "1) Increases the rate of compensation for law guardians and assigned counsel in trial and appellate cases to \$75 per hour in court and out of court, except as to counsel provided in misdemeanor cases, for whom the rate is fixed at \$60 per hour. (2) increases caps to \$3200 in misdemeanor cases and \$4800 in all other cases (3) establishes a special fund in state finance law section 98-b to be known as the Indigent Defense Services Fund to assist localities in funding assigned counsel (4) creates a funding stream for the new Fund consisting of proceeds from: (i) a new \$35 fee to terminate a driver's license suspension based on failure to answer an appearance ticket or summons or pay a fine or penalty, (ii) an increase of \$34 in the fee collected by the Office of Court Administration for criminal history searches, and (iii) diversion from the cultural education account of the recently enacted \$15 increase on the assignment of index numbers."

[Senate Bill to Establish New York State Public Defense Commission S06789](#) (April 4, 2002).

"Establishes the New York state public defense commission as a public benefit corporation which shall consist of thirteen members; establishes nominating committee to establish candidates for appointment to the commission; provides for the appointment of a full time director of public defense services; establishes powers of the public defense commission; states the public defense commission shall adopt public defense services standards; requires state financial assistance to localities and public defense providers for the provision of public defense services; establishes guidelines for eligibility for public defense services; states director shall provide or facilitate training of attorneys providing public defense services; requires annual report to be submitted by the public defense commission; states the public defense commission shall protect the confidences and secrets of public defense clients."

[Assembly Bill to Establish New York State Public Defense Commission A10075](#) (March 5, 2002). "Establishes the New York state public defense commission to oversee the provision of public defense services in the state; such commission shall establish public defense services standards, provide financial assistance to local governments and public defense providers for

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expenses incurred in providing legal services to the indigent, provide training to persons in the public defense profession and oversee the provision of public defense services in the state; increases assigned counsel rate from \$40 an hour to \$75 an hour with annual consumer price index increases."

[Report of the Ways and Means Committee on the New York State Assembly Budget](#) (Fiscal Year 2001-02) (197K PDF). "The Assembly supports an increase in the rates paid to assigned counsel pursuant to Article 18-b of the County Law, an increase in the rates paid to law guardians in the Family Court and related changes to improve the public defense and family court representation systems."

[Legislative History for Article 18-B](#) (2.3 meg PDF 38 pp.)

This is a collection of the documents associated with the enactment of Article 18-B of the County, including memoranda and letters filed with the bill jacket.

[Task Force on Assigned Counsel Rates - Governor George E. Pataki, Senate Majority Leader Joseph L. Bruno and Assembly Speaker Sheldon Silver . . . announced agreement on the creation of a joint task force to study the compensation rates for law guardians and assigned counsel, and to design a proposal that can be enacted into law this legislative session.](#) [Governor Pataki, Majority Leader Bruno, Speaker Silver Reach Agreement to Study Counsel Compensation Rates](#), Governor's Press Release, January 12, 2001

[Assembly Bill to Increase Assigned Counsel Fees A.10083](#) (March 20, 2000) - Provides for an increase in compensation paid law guardians and assigned counsel; eliminates the bifurcated rates for in-court and out-of-court counsel services; eliminates absolute caps on the amount of compensation available in individual cases; divides responsibility for funding of assigned counsel programs between the state and local governments; preserves full state responsibility for the funding of law guardian and certain assigned counsel programs; establishes a temporary state commission on indigent representation; and creates the special legal representation fund. [Text of Proposed Bill](#)

Commission to Study Compensation for Assigned Counsel and Law Guardians. [Text of Proposed Bill](#) and [Legislative Memorandum](#)

Governmental Reports Supporting Increased AC Rates

[Judge Kaye's State of the Judiciary Report](#) (January 15, 2002). "[W]e simply must stanch the bleeding and raise assigned counsel fees. It has now been 16 years since these fees—\$40 for in-court work and \$25 for out-of-court work—were last increased. They are just about the lowest fees paid by any State in the nation. Governor Pataki, legislators, prosecutors and editorial boards, among others, have all recognized that this is an intolerable situation—but no one feels the daily impact more than the judges searching in vain for counsel to assign and the litigants desperately needing lawyers. The continuing failure to resolve this crisis has now generated significant litigation, with a federal court only weeks ago ordering that a substantially higher hourly fee be paid to attorneys assigned in certain Family Court matters. Piecemeal resolution in the courts is plainly not the ideal way to proceed. Appropriate rate levels, procedures for

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implementing the increases and the means of paying for them are issues that should be comprehensively resolved by the policymakers. So let's deal with this now. Even in today's climate of austerity, raising these rates must be a priority. The assigned counsel crisis is undermining our capacity to function as a court system and, even worse, is threatening the very foundation of our justice system—our commitment to equal justice under the law."

[Hourly Fees Paid By Various Federal Agencies to Private Attorneys for Legal Services](#) (GOA 2001). This report contains information on hourly fees paid by the federal government to private attorneys for legal services in fiscal years 1999, 2000, and 2001. Relevant legal services include federal employee defense, litigative consultation, intellectual property consultation, and asset forfeiture-related services.

CRISIS IN THE LEGAL REPRESENTATION OF THE POOR

The Appellate Division First Department Committee on the Representation of the Poor completed an investigation into the state of "governmentally-funded legal representation of those who cannot afford counsel" in New York City and issued a report calling for increased funding for assigned counsel and additional funding and services for public defense. The Committee Chairman was Attorney [Klaus Eppler](#).

Report

- o [Crisis in the Legal Representation of the Poor](#) (2001)

Articles

- o [Court: Fix Legal Aid for Poor](#), New York Daily News, March 27, 2001
- o [Appellate Division First Department Committee on the Representation of the Poor Calls for Restructuring of the Ways Governmentally Funded Legal Representation is Provided to the Poor in New York](#), OCA Press Release, March 26, 2001
- o [First Dept. Urges Overhaul of Legal Services for Poor Families](#), New York Law Journal, March 26, 2001

[Assigned Counsel Compensation in New York: A Growing Crisis](#) (OCA January 2000). "This Report outlines the historical role of assigned counsel in New York, and it describes the dramatic impact that the exodus of attorneys from the assigned counsel panels has had on the justice system. The Report also discusses the Judiciary's recent efforts to convene representatives of the bar, law enforcement and local government to devise a solution to this problem. The Report describes the results of these efforts, sets forth a proposal to increase the current rates and identifies a source of funds to pay for the increase."

[Judge Kaye's State of the Judiciary Report](#) (January 8, 2001) "The situation has worsened. Assigned counsel fees . . . were barely adequate 15 years ago when they were set by the Legislature. Today, they have decimated assigned counsel panels. And the consequences are severe." The proposal to increase rates "\$75 an hour for felony and Family Court cases, and \$60 an hour for nonfelony cases" would be funded by expanding the collection of surcharges and

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finer. "It is the responsibility of all of us in government to address this deepening crisis now. We simply cannot let another year pass without resolving this problem."

[Judge Kaye's State of the Judiciary Report](#) (February 8, 1999). "Another area that cries out for change is the current schedule of assigned counsel fees under section 18-B of the County Law. The current law provides for \$40 an hour for in-court work and \$25 an hour for out-of-court time. These rates have not changed since 1986. In the past 13 years, plumbers, teachers--even judges--have gotten much deserved raises. If we are committed to quality justice, we simply cannot let another year pass without action on this issue."

[The Committee to Promote Public Trust and Confidence in the Legal System](#), Report to the Chief Judge (May 1999). "Increase funding for public defenders' offices. These offices handle not only criminal, but also Family Court and Surrogate's Court matters (County Law §§ 18-A and B). Attorneys in many public defenders' offices carry an excessive caseload which can compromise the quality of legal service that is rendered. Sufficient funds for investigators also are needed. Funding should be more proportionate to that given to District Attorneys' offices." "Increase compensation for assigned—appointed counsel under Judiciary Law § 35. The present fee structure of \$25 per hour for out-of-court time and \$40 per hour for in-court time was last amended in 1985 [sic]. This is wholly inadequate. As a result, capable, experienced attorneys are declining to serve as appointed or assigned counsel because they cannot afford to work at these rates and meet overhead expenses."

[Justice Denied the Crisis in Legal Representation of Birth Parents in Child Protective Proceedings](#) (C-Plan: Child Planning and Advocacy Now May 2000). Child Planning and Advocacy Now, part of the Public Advocate's Office, issued a report critical of problems with the administration of court assigned attorneys handling family court matters in New York City. [Report Rips Family Court System](#), Newsday, May 15, 2000

Special Reports

STATE OF NY INDIGENT DEFENSE

NYSDA has completed a study that documents the poor condition of public defense services for New York's indigent defendants, including the difficulties faced by particular groups, such as migrant farm workers. Based on hearings, meetings and interviews with poor people accused of crimes and other participants in the system, the report exposes problems created by the patchwork of inconsistent defense services in New York counties. It concludes by reiterating the need for a statewide Independent Public Defense Commission to oversee defense services.

Articles

- o [Lawyers: Migrants Need Help in Court](#), Rochester Democrat and Chronicle (NY), October 20, 2003
- o [New York State Defenders Association Finds Farm Workers Suffer Legal Injustices, Calls for Independent Defense Commission](#), Empire Information Services (NY), October 17, 2003

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- [Defenders' Group Documents 18-B From Poor Defendants' Point of View](#), New York Law Journal (NY), October 14, 2003

NEW PUBLIC DEFENDER AND CONFLICT DEFENDER OFFICES

Since the New York legislature authorized an increase in assigned counsel fees, counties have been revisiting their financial plans for defense services. In order to save money, some counties are considering public defender offices as alternatives to assigned counsel programs, and others the creation of conflict defender offices to supplement existing defender programs.

Articles

- [Lawmakers Disagree on Legality of Second Public Defender's Office](#), Watertown Daily Times (St. Lawrence County), March 14, 2004
- [Attorney Takes on Alternate Role for Albany County, Defendants](#), Albany Times Union (Albany County), March 11, 2004
- [Court Has Remedy If Legal Aid Balks](#), Syracuse Post-Standard (Onondaga County), March 3, 2004
- [Legal Aid Move Defies Common Sense](#), Syracuse Post-Standard (Onondaga County), March 3, 2004
- [Legal Aid Out of City Court](#), Syracuse Post-Standard (Onondaga County), March 2, 2004
- [County's Legal Aid Plan Filled With Flaws](#), Syracuse Post-Standard (Onondaga County), March 1, 2004
- [County's Counsel Program Faulted](#), Syracuse Post-Standard (Onondaga County), February 24, 2004
- [And the Best Use of Qualified Assigned Counsel](#), Syracuse Post-Standard (Onondaga County), February 12, 2004
- [McCann Job May Be Up to Ashby](#), Finger Lakes Times (Seneca County), February 11, 2004
- [Seneca DA Wants Part-Time Investigator](#), Finger Lakes Times (Seneca County), February 9, 2004
- [Schenectady County Names Public Defender](#), Albany Times Union (Schenectady County), February 3, 2004
- [DA: Office Will Get \\$50K From State](#), Leader-Herald (Fulton County), February 2, 2004
- [County Adds to Defensive Lineup](#), Times Herald (Cattaraugus County), January 29, 2004

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- [GOP Resurrects Idea of Creating Department of Conflict Defender](#), Buffalo News (Niagara County), January 15, 2004
- [Yates Seeks Property Proposals--Waterfront Site Available for Redevelopment](#), Finger Lakes Times (Yates County), January 13, 2004
- [Greene Panel Rejects Public Defender's Effort to Beef Up Staff](#), Daily Freeman (Greene County), January 13, 2004
- [Fayette Postpones Appointment](#), Finger Lakes Times (Seneca County), January 9, 2004
- [Montgomery County Supervisors Look Back, Ahead](#), Leader Herald (Montgomery County), January 4, 2004
- [Yates Legislators Face Challenging Year](#), Finger Lakes Times (Yates County), January 4, 2004
- [New Year's Wish: Albany: Give Counties a Break](#), Ithaca Journal (Tompkins County), December 31, 2003
- [County Creates New Position](#), Bennington Banner (Rensselaer County), December 20, 2003
- [Assigned Counsel Costs to Be Studied](#), Syracuse Post-Standard (Oswego County), December 15, 2003
- [Property-Tax Payers Will Now See How Much Goes to Medicaid Costs](#), Times Herald (Cattaraugus County), December 13, 2003
- [Schuyler Passes \\$30.5M Budget](#), Ithaca Journal (Schuyler County), December 13, 2003
- [Watkins Lawyer Named Schuyler Public Defender](#), Star-Gazette (Schuyler County), December 9, 2003
- [Jail Doc, Defender Get Nod](#), Daily Freeman (Greene County), December 9, 2003
- [Public Defender Office to Grow](#), Albany Times Union (Albany County), December 9, 2003
- [Public Defenders Seek Plan](#), Record (Albany County), December 8, 2003
- [Otsego Reps OK Budget With Tax Decrease](#), Daily Star (Otsego County), December 4, 2003
- [Schuyler Lawmakers Propose Vehicle Registration Fee Raise](#), Ithaca Journal (Schuyler County), December 4, 2003
- [County Adopts \\$116.9 Million Dollar Plan](#), Ithaca Journal (Tompkins County), December 3, 2003

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- [Republicans Big Losers](#), North Country Gazette (Warren County), November 24, 2003
- [Oswego County Considers a Public Defender](#), News 10 (Oswego County), November 24, 2003
- [Budget Features Some Changes](#), Sullivan County Democrat (Sullivan County), November 18, 2003
- [Seneca County Taxes Up in 2004](#), Finger Lake Times (Seneca County), November 12, 2003
- [Sullivan Is Set to OK \\$174M Budget](#), Times Herald-Record (Sullivan County), November 14, 2003
- [Proposal Hikes Taxes, Cuts Jobs](#), Times Herald (Cattaraugus County), November 13, 2003
- [Schuyler County Will Seek Full-Time Public Defender](#), Star-Gazette (Schuyler County), November 11, 2003
- [Tentative Budget Has 5 Percent Tax Hike](#), Ithaca Journal (Schuyler County), November 6, 2003
- [Public Defender's Office Considered](#), Post-Standard (Oswego County), October 19, 2003
- [Counties React to Counsel Fees](#), Albany Times Union (Albany County), October 16, 2003
- [County Proposes New Legal Service](#), Albany Times Union (Rensselaer County), October 10, 2003
- [Pay for Counties' Assigned-Counsel Lawyers to Increase in '04](#), Press and Sun Bulletin (Broome County), October 9, 2003
- [Counties Examine Legal Services After Pay Hike Law](#), Albany Times Union (NY), July 28, 2003
- [Public Defender Costs on the Rise](#), Leader-Herald (Fulton County), July 1, 2003
- [Ontario Might Switch to Public Defender](#), Finger Lakes Times (Ontario County), May 20, 2003
- [Lawyers to Cost County More](#), Ithaca Journal (Tompkins County), March 7, 2003
- [Pay Raise Possible for Assigned Counsel Lawyers](#), Syracuse Post-Standard (Onondaga County), February 13, 2003

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Public Defense at the Crossroads: Listening to the Voice of Clients

In [Public Defense at the Crossroads: Listening to the Voice of Clients](#) (143K PDF), September 2003, published by the [Drum Major Institute for Public Policy](#), NYSDA Executive Director Jonathan Gradess sheds light on the plight of defendants in New York's criminal justice system. His description of a "lopsided" criminal process weighted against indigent defendants shows that the right to counsel mandate of [Gideon v Wainwright](#), 372 US 335 (1963) has yet to be fulfilled. Among recommendations for improving the system are: (1) client-centered approach to public defense services; (2) appropriate allocation of resources for the defense; and (3) oversight by an Independent Public Defense Commission.

Bristol County, Massachusetts Bar Advocates' Website

This web site contains information on the Massachusetts' public defense system, budget developments, and news about compensation of assigned counsel. It also includes information on current litigation to increase assigned counsel rates. The site is maintained by the Bristol County Bar Advocates, a Massachusetts Non-Profit that manages recruitment, training, and scheduling of local criminal defense attorneys.

Good Practices for Federal Panel Attorney Programs

In 2003, the Vera Institute of Justice prepared this report to assist the Administrative Office of the US Courts to improve and conform the practices of federal assigned attorney panels in all federal districts. The study identifies and reviews good practices for selecting, managing, appointing, and compensating panel attorneys.

NEW YORK PUBLIC DEFENSE COMMISSION

The Committee for an Independent Public Defense Commission delivered to the legislative leadership a proposal calling for an independent statewide commission to guarantee high quality public representation. Included in the proposal is an increase of assigned counsel rates with an index for cost of living increases, elimination of caps on fees, and state financial assistance for all types of public defense programs.

Proposed Legislation

- o [New York State Public Defense Commission Act Proposal](#) (2.8 MB PDF)

Articles

- o [Shortchanging Justice](#), Albany Times Union, May 8, 2002
- o [Legal Services for the Poor](#), Newsday (Letter to the Editor), August 24, 2001
- o [Indigent Defense Proposal Would Raise Fees](#), New York Law Journal, July 10, 2001
- o [Court-Appointed Lawyers Can Expect That Raise](#), Albany Times Union, July 10, 2001

Reports

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[Defense of Public Access to Justice: An Assessment of Trial-Level Indigent Defense Services in Louisiana 40 Years After Gideon](#) (NLADA). This report examines the quality of public defense services provided in Louisiana over the last 40 years. It includes a review of the problems found in the funding system, defense structure, independence of defense providers, and proposed reforms. The report was prepared by the [National Legal Aid and Defender Association](#) and commissioned by the [National Association of Criminal Defense Lawyers](#).

[State of the Judiciary 2004](#) (OCA 2004). In her annual address, Chief Judge Kaye touched on many issues concerning criminal justice and announced the formation of a Commission on the Future of Indigent Defense Services. Its purpose will be to "examine the effectiveness of indigent criminal defense services across the State, and consider alternative models of assigning, supervising and financing assigned counsel compatible with New York's constitutional responsibilities and fiscal realities."

[Comprehensive Review of Indigent Defense in Virginia](#) (ABA 2003). This report concerns Virginia's indigent defense system. It analyzed the effects of funding, caseloads and other factors on public defense representation, and offered recommendations for remedying its shortcomings. The report was prepared by the [Spangenberg Group](#) and published by the [American Bar Association](#).

[Assembly Line Justice: Mississippi's Indigent Defense Crisis](#) (NAACP Legal Defense and Educational Fund 2003). This report describes the value of an adequately funded statewide public defense system in Mississippi. It was based on an economic study of the State's indigent defense system. It concluded that fully-funded defense services could reap cost savings, address racial disparity in case processing of offenders, and improve the quality of representation. The report was prepared by the NAACP Legal Defense and Education Fund.

[Alabama v. Shelton: The Right to Counsel in Misdemeanor Cases Resulting in Suspended or Probated Sentence](#) (NCSC 2003). This report focuses on the Supreme Court's decision in [Alabama v. Shelton](#), 535 US 654 (2002), which mandated assignment of counsel to an indigent defendant charged with a misdemeanor and facing a probationary or suspended sentence. It reviews the states affected by the practices identified in [Shelton](#) and recommends solutions for implementing the right to counsel. The report was prepared by the [National Center for State Courts' Knowledge and Information Services](#).

[Indigent Defense Resources](#) (NCSC). This is a collection of materials and reports from various sources concerning indigent defense. It includes a bibliography of reports produced by the National Center for State Courts, a Resource Guide and FAQs on public defense issues. This web site is maintained by the [National Center for State Courts' Knowledge and Information Services](#).

[Texas Task Force on Indigent Defense](#) . This web site contains extensive data about the public defense system in Texas. It includes information on county indigent defense plans, policies and standards, fiscal reports, and many other resources. The site is maintained by the [Task Force](#).

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For the most current information, please visit [Assigned Counsel Rates](#).

Current Developments 2003

- Some New York City assigned counsel delayed cases to take advantage of new rates according to the Daily News. [Say Lawyers Stalling for Raise](#), New York Daily News (NYC), December 29, 2003
- Albany County Public Defender seeks additional full-time staff to handle increasing caseloads. [Defenders Go Public With Plea for Help](#), Record (Albany County), December 2, 2003
- Trial judge erred in awarding special prosecutor flat fee award instead of basing the calculation on the number of hours worked according to the Appellate Division Third Department. [Panel Rejects Flat Attorney Fee Award](#), New York Law Journal (3rd Dept), November 14, 2003. Read the court's decision in [Katzner v. County of Rensselaer](#), 2003 NYSlipOp 18308 (3rd Dept November 13, 2003)
- [New York County Lawyers' Association](#) reached a settlement with New York City ending an injunction that required assigned counsel rates to be raised to \$90 per hour, and agreed to the new rate schedule set by the legislature. [Assigned Counsel Fee Litigation Is Settled](#), New York Law Journal (NYC), November 13, 2003
- Montgomery County Public Defender seeks additional funds to counterbalance impact of assigned counsel fee increase. [Defender Requests Funding Increase](#), Leader-Herald (Montgomery County), October 29, 2003
- Costs of assigned counsel for multiple co-defendants in murder case raises new concerns about public defense funding in Delaware County. [Murder Trial Costs Equal More Taxes](#), Daily Star (Delaware County), October 11, 2003
- Broome County, among others, considers raising taxes to meet burden of funding legislative increase in assigned counsel rates in 2004. [Pay for Counties' Assigned-Counsel Lawyers to Increase in '04](#), Press and Sun Bulletin (Broome County), October 9, 2003
- Rule on representation of indigent clients discovered to have resources to hire private counsel to be adopted by the Appellate Division Second Department. [Second Department Updates 18-B Rules on Counsel's Role](#), New York Law Journal (2nd Dept), August 28, 2003
- New York counties reevaluate means of providing public defense services in view of assigned counsel rate increase. [Counties Examine Legal Services After Pay Hike Law](#), Albany Times Union (NY), July 28, 2003

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- New York Office of Court Administration's legislative agenda, including an increase in assigned counsel rates, was successful overall. [Judiciary Fares Well in Legislative Session](#), New York Law Journal (NY), July 21, 2003
- Cost of assigned counsel program in Fulton County might triple under new rate increase in 2004. [Public Defender Costs on the Rise](#), Leader-Herald (Fulton County), July 1, 2003
- [New York County Lawyers' Association](#) views legislation that increased assigned counsel rates first step in response to ongoing crisis. [County Lawyers Boycott 18-B Ceremony](#), New York Law Journal (NY), June 2, 2003
- Subpoena for defense attorney's records about fee arrangement with client quashed because prosecutor lacked sufficient cause according to a Manhattan Supreme Court judge. [Attorney Wins Bid to Quash Subpoena](#), New York Law Journal (NYC), May 30, 2003
- Plan under review in Ontario County to change from assigned counsel to public defender system. [Ontario Might Switch to Public Defender](#), Finger Lakes Times (Ontario County), May 20, 2003
- Appellate review of trial courts' assigned counsel rate awards above statutory cap not justiciable according to the Appellate Division Third Department. [Panel Declines to Review Hike in 18-B Rates](#), New York Law Journal (3rd Dept), May 9, 2003. Read the court's decision in [Kraham v. Mathews](#), 2003 NYSlipOp 13940 (3rd Dept May 8, 2003)
- New York's Assembly and Senate have reached agreement on increasing assigned counsel rates through an Indigent Defense Services Fund. [Higher Assigned-Counsel Rates in Sight](#), New York Law Journal (NY), April 30, 2003
- [New York City Council Resolution 746](#) advocating state action to increase assigned counsel rates has been passed. [Cash Pitch for Public Defenders](#), New York Daily News (NYC), April 22, 2003
- Motion for declaratory judgment invalidating OCA administrative review rule denied by a New York City Supreme Court. [Challenge to Review of Counsel Fees Fails](#), New York Law Journal (NYC), April 4, 2003. Read the court's decision in [Levenson v Lippman](#), No. 0109292/2002 (Sup Ct NY County March 25, 2003) (191K PDF)
- [New York State Bar Association](#) supports proposed assigned counsel rate increase in its legislative agenda for 2003. [18-B, Rockefeller Drug Laws and Cameras in the Courtroom Items on NYSBA's 2003 Legislative Agenda](#), NYSBA News Release (NY), March 31, 2003
- Association of Justices of the Supreme Court of the State of New York consider submitting an amicus brief in litigation challenging the Office of Court Administration's procedures for reviewing awards of assigned counsel fees. [Association of Justices Weigh](#)

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[Challenge to Counsel Fee Awards](#), New York Law Journal (1st Dept), March 14, 2003

- Tompkins County concerned over anticipated increase in assigned counsel rates. [Lawyers to Cost County More](#), Ithaca Journal (Tompkins County), March 7, 2003
- [New York County Lawyers' Association](#) suggests that New York City lawyers can seek \$90 assigned counsel fee rate despite stay of decision approving increase. [Court-Assigned Attorneys Urged to Request \\$90 Rate](#), New York Law Journal (NYC), February 26, 2003. Read [NYCLA Clarifies Position Concerning Effect of Automatic Stay of Judgment Declaring Assigned Counsel Rate Unconstitutional](#)
- Reviews of trial judges' decisions on assigned counsel fee vouchers under Office of Court Administration Rules show varying results. [Approval of Assigned Counsel Enhancements Varies Statewide](#), New York Law Journal (NY), February 25, 2003
- Chief Administrative Judge Lippman emphasized need to increase 18-B rates during legislative hearing on judiciary budget. [Lippman Defends Judiciary Budget as Austere, Contained](#), New York Law Journal (NY), February 24, 2003
- Bronx case dismissed when defendant's right to testify before grand jury was prejudiced by his court appointed attorney's heavy caseload. [Indictment Is Dismissed Over 18-B Caseload](#), New York Law Journal (Bronx), February 21, 2003. Read the court's decision in [People v. Quiones](#), NYLJ, February 27, 2003 (Sup Ct Bronx County)
- Concerns raised that increased assigned counsel rates will become an unfunded mandate. [Pay Raise Possible for Assigned Counsel Lawyers](#), Syracuse Post-Standard (Onondaga County), February 13, 2003
- Permanent injunction granted by trial court in NYCLA lawsuit increasing fees for assigned counsel work in New York City to \$90 per hour. [Suarez Raises Rates for Assigned Counsel](#), New York Law Journal (NYC), February 5, 2003 (For more information, see [Assigned Counsel Fee Litigation](#) below)
- Governor Pataki's proposed budget included assigned counsel rate increase in criminal and family court cases, \$75 in court, \$60 out of court. [Pataki Proposes Higher Fees to Fund Raise in 18-B Rates](#), New York Law Journal (NY), January 29, 2003
- Judge Kaye focused on concerns about funding public defense and increasing assigned counsel rates at the [New York State Bar Association's](#) Access to Justice Forum. [Access to Justice Faces an Uphill Battle, Kaye Says](#), New York Law Journal (NY), January 23, 2003
- Court unlikely to penalize Green County Public Defender for not providing attorney in Family Court Article 4 Child Support proceeding. [Greene County Public Defender Probably Won't Be Fined](#), Daily Freeman (Greene County), January 16, 2003

Assigned Counsel Rates Archives

- Assigned counsel program will continue in Essex County Family Court due to insufficient applicants for position in new Public Defender office. [Essex County Public Defender on the Job](#), Press Republican (Essex County), January 14, 2003

Current Developments Outside New York 2003

- [Group Wants Full Funding for Indigent Defense Program](#), Associated Press (GA), December 30, 2003
- [Supreme Court Denies Defenders' Plight for Lighter Workloads](#), Star Tribune (MN), December 30, 2003
- [ACLU Won't Drop Missoula County From Public Defender Suit](#), Billings Gazette (MT), December 29, 2003
- [Change to Come: The Futures of Indigent Defense and Charles Douglas Graham Are Uncertain](#), Gainesville Times (GA), December 15, 2003
- [ACLU Sues Judges Over Legal Defense for the Poor](#), Daily Inter Lake (MT), December 10, 2003
- [Newsmaker of the Year: Stephen B. Bright—Angry Man of Indigent Defense](#), Fulton County Daily Report (GA), December 3, 2003
- [Fees for Public Defenders Are in Hands of High Court](#), Minnesota Public Radio (MN), December 3, 2003
- [Indigent Defense Ruling Overturned](#), Athens Banner-Herald (GA), November 11, 2003
- [Public Defenders Now Coming With a Cost](#), Detroit Free Press (MN), November 14, 2003
- [Suffolk Lawyers for Justice Today Announced That the Federal Trade Commission Has Cancelled Its Investigation of the Group](#), Suffolk County Lawyers for Justice Press Release (MA), October 27, 2003
- [A Day in the Life of a Public Defender: Too Many Cases, Too Few Hours](#), Brainerd Dispatch (MN), October 20, 2003
- [Woman Suing Public Defender's Office for Delay in Case](#), Billings Gazette (MT), October 16, 2003
- [Right to an Attorney Comes at a Price](#), Washington Post (US), October 20, 2003
- [Lawyers for the Poor Feel Slap From US](#), Boston Globe (MA), October 17, 2003
- [High Court Hears Public Defenders' Plea](#), Star Tribune (MN), October 16, 2003
- [Public Defender Co-Payment Declared Unconstitutional](#), Star Tribune (MN), September 4, 2003
- [Afghanistan Gets Public Defense, American Style](#), New York Law Journal (AF), August 29, 2003
- [Lawyers for Poor Cry Foul](#), Standard-Times (MA), July 25, 2003
- [Thousands Lack Lawyers in Crucial Court Hearings](#), Seattle Post-Intelligencer (WA), July 21, 2003
- [Minnesota's Public Defender Copays: A Fee for Being Poor](#), Star Tribune (MN), July 9, 2003
- [Fees for Fee Fights](#), American Bar Association Journal (US), July 11, 2003
- [New State Fees for Poor Defendants Challenged](#), Duluth News Tribune (MN), July 3, 2003

Assigned Counsel Rates Archives

- [Buying Time for Budget Talks](#), Oregonian (OR), July 1, 2003
- [Jury Pay: Raise Is Overdue; Appointed Lawyers Need One, Too](#), Detroit Free Press (MI), June 16, 2003
- [FTC Probing Clark County Lawyers Who Refused to Take Cases](#), KATU TV (OR), May 21, 2003
- [Indigent Defense Gets Force but Needs Funds](#), Atlanta Journal-Constitution (GA), May 23, 2003
- [County: State Responsible for Funding Public Defense](#), Clarion-Ledger (MS), April 30, 2003
- [Rich Texas Ex-Official Asks Judge for Public Defender](#), Washington Times (TX), April 30, 2003
- [Lawyers Strike Back in Clark County](#), Seattle Post-Intelligencer (WA), April 29, 2003
- [Lawyer Gets OK to Refuse Public Defender Assignment](#), Atlanta Journal-Constitution (GA), April 26, 2003
- [Suit Filed Against Clark County](#), Columbian (WA), April 26, 2003
- [Indigent Defense Clears Hurdle](#), Atlanta Journal-Constitution (GA), April 25, 2003
- [County Says It's Too Poor to Defend the Poor](#), New York Times (MS), April 15, 2003
- [Supervisors Must Remove Bottleneck](#), Hattiesburg American (MS), April 15, 2003
- [North Carolina High Court Agrees to Hear Challenge to Indigent Fees](#), Associated Press (NC), April 3, 2003
- [A Fight Over Limits on Pay, Hours: Florida Faces a Suit From a Death Penalty Lawyer](#), National Law Journal (FL), April 3, 2003
- [LaSalata Drops Public Defender Work](#), San Juan Islander (WA), March 19, 2003
- [Oregon Can't Afford Indigents' Right to Counsel](#), National Law Journal (OR), March 20, 2003
- [Bill Seeks Elections for Public Defenders](#), Atlanta Journal-Constitution (GA), March 14, 2003
- [NAACP: Hire More Public Defenders](#), Clarion-Ledger (MI), March 14, 2003
- [Public Defenders Facing Budget Crunch](#), Advocate News (LA), March 2, 2003
- [States Not Rising to Call of Gideon](#), Connecticut Law Tribune (US), March 4, 2003
- [Ghost of Gideon](#), American Lawyer (US), March 4, 2003 and [Arnold & Porter: A Tradition](#), National Law Journal (US), January 13, 2003
- [Raising Bar on Indigent Defense](#), Atlanta Journal-Constitution (GA), February 17, 2003. Read [Senate Bill 102](#)
- [Indigent Defense Bill Boosts Perdue's](#), Atlanta Journal-Constitution (GA), February 13, 2003
- [Better Representation for Poor Sought](#), Birmingham News (AL), January 21, 2003

Special Reports 2003

PROPOSED ASSIGNED COUNSEL FEE INCREASE 2003

In the [2003-2004 Executive Budget](#), Governor Pataki included an increase for assigned counsel rates in criminal and family court cases—\$75 in court, \$60 out of court. Legislators, government agencies, counties and interested groups have voiced concerned over the funding implications of the Governor's proposal.

Assigned Counsel Rates Archives

- [Pataki Seeks Rate Hike for Lawyers](#), Newsday (NY), February 7, 2003
- [Partial Funding to Raise 18-B Rates Worries Some](#), New York Law Journal (NY), February 4, 2003
- [Lawyer Fees Plan Irks Critics](#), Albany Times Union (NY), January 31, 2003
- [Pataki Proposes Higher Fees to Fund Raise in 18-B Rates](#), New York Law Journal (NY), January 29, 2003

GEORGIA'S INDIGENT DEFENSE SYSTEM

Georgia's Commission on Indigent Defense completed its work to "study the status of indigent defense in Georgia, to develop a strategic plan and to set a timetable for its implementation." The full-text of their report, including the Spangenberg study and hearing transcripts, appears below. The [Atlanta Journal-Constitution](#) has been reporting on the shortfalls of the current system as well, see articles below.

Reports

- [Report of the Chief Justice's Blue Ribbon Commission on Indigent Defense](#) (Georgia Supreme Court 2002).

Articles

- [Indigent Defense Rates F](#), December 12, 2002
- [Experts Indict Indigent Defense: Lax Accountability, Oversight Criticized](#), December 8, 2002
- [It May Take a Lawsuit to Bring Reform to Indigent Defense System](#), April 23, 2002
- [How Other States Grapple With the Issue](#), April 23, 2002
- [Dodge County Provides \\$49.86 a Case to Provide Legal Counsel to Poor Defendants](#), April 22, 2002
- [Chart Illustrating State and Local Funding](#), April 22, 2002
- [Indigent Defense System a Patchwork That Provides Little Protection](#), April 21, 2002
- [Georgia Uses Three Systems, None Superior](#), April 21, 2002
- [Chart Illustrating Three Systems for Indigent Defense](#), April 21, 2002
- [How Funds Are Distributed to Counties](#), April 21, 2002

CRIMINAL JUSTICE ACT (CJA) FUNDING

An increase in the hourly rate for Criminal Justice Act attorneys to \$90 for both in-court and out-of-court work has been approved by both houses of Congress.

Legislation

- [HR 2500 Bill Summary and Status](#)
- [Conference Report: 107-278](#). The conference report adopts, by reference, the House report language. The conferees expect the Judiciary to implement the panel attorney pay increase to \$90 per hour in- and out-of-court, by no later than May 1, 2002.

Articles

- [Federal Counsel Will Get Rate Hike](#), New York Law Journal, April 2, 2002

Assigned Counsel Rates Archives

- [Criminal Justice Act Attorneys' Pay Increased to \\$90 an Hour](#), New Jersey Law Journal, January 3, 2002
- [Federal CJA Rate Increase](#) (NLADA 2001)
- [Rehnquist's Year-End Report: Chief Justice Urgently Requests Higher Pay for Court-Appointed Lawyers](#), Washington Post, January 1, 2000
- [Federal CJA Rate Increase in Doubt](#), Indigent Defense, July/August, 1999
- [Hoping for \\$75/hour](#), National Law Journal, June 7, 1999

[Report of the Ways and Means Committee on the New York State Assembly Budget](#) (Fiscal Year 2001-02) (197K PDF). "The Assembly supports an increase in the rates paid to assigned counsel pursuant to Article 18-b of the County Law, an increase in the rates paid to law guardians in the Family Court and related changes to improve the public defense and family court representation systems."

Assigned Counsel Rates Archives

For the most current information, please visit [Assigned Counsel Rates](#).

Current Developments 2002

- Essex County Board of Supervisors has created a Public Defender Office to cut costs by replacing its assigned counsel program. [County Creates Defense Posts](#), Press Republican (Essex County), December 17, 2002
- Essex County is considering elimination of the assigned counsel program in favor of a public defender system to save money. [A New Defense Strategy?](#), Press Republican (Essex County), November 19, 2002
- Public Defender office to be established in Cattaraugus County in response to rising assigned counsel program costs. [Cattaraugus County Legislature Approves Creation of Public Defenders Office](#), Post-Journal, November 14, 2002
- Oral arguments were heard by the Appellate Division First Department in the NYCLA preliminary injunction suit seeking increased assigned counsel rates. [Panel Hears 18-B Fees Debate](#), New York Law Journal, October 24, 2002
- Nassau County judge orders assigned counsel to be paid at a rate of \$75 per hour. [Judge OKs Lawyer's Fees](#), Newsday, September 11, 2002
- New York County Lawyers' Association trial on assigned counsel rates comes to a close. [Suarez Expresses Need for Action on Counsel Fees](#), New York Law Journal, August 23, 2002
- Lawsuit asserting racial discrimination by the Assigned Counsel Plan for the Appellate Division First Department for not recertifying attorney has been dismissed by a federal judge. [Judge Dismisses Bias Suit Against 18-B Panel](#), New York Law Journal, August 23, 2002
- New York City bonus system for nighttime assigned counsel work examined during testimony in New York County Lawyers' Association lawsuit. [Night Shift 18-B Lawyers Earn Bonuses](#), New York Law Journal, July 30, 2002. See [Assigned Counsel Fee Litigation](#) section for more information
- President of the Onondaga County Bar Association criticized the application of court fees to cultural education instead of an increase for assigned counsel rates. [Rise in Court Fee Draws Objection](#), Post-Standard, July 1, 2002
- Ontario County's assigned counsel panel has shrunk because attorneys cannot afford to accept cases at current rates. [Low Pay, Thinning Ranks](#), Finger Lakes Times, June 28, 2002

Assigned Counsel Rates Archives

- End of session bill to increase assigned counsel rates approved by Assembly. [Chances Dim for Legislation on 18-B Fees](#), New York Law Journal, June 25, 2002. Read Bill [A11862](#)
- Chief Judge Kaye has called for immediate action to increase assigned counsel rates, while urging greater participation in pro bono programs. [Kaye Calls on Bar to Promote Pro Bono](#), New York Law Journal, June 14, 2002
- Revenue from new court fees has been allocated to cultural education and not to funding an increase for assigned counsel rates. [Law Earmarks Court Fee Hikes for Use in Cultural Education](#), New York Law Journal, May 28, 2002
- Court award of \$30,000 for assigned counsel fees in Chautauqua County murder case approved by administrative judge. [High Court Says County Must Pay Legal Fees](#), Post-Journal (Chautauqua County), May 17, 2002
- New York Budget did not include funds to increase assigned counsel rates. [No Funds Included for Public Defense](#), Albany Times Union, May 17, 2002
- Madison County judge has ordered across the board rate increases for law guardians and family court assigned counsel. [Judge Gives Raise to Assigned Counsel](#), Post-Standard (Madison County), May 13, 2002. This ruling was modified by the supervising judge, see cases under Madison County in [Court Decisions Granting AC Fees Above Statutory Cap](#).
- Lawsuit in [New York County Lawyers' Association v. State of New York](#) withstood motion to dismiss in Appellate Division. [18-B Suit Survives Bid to Dismiss](#), New York Law Journal (1st Dept), May 10, 2002. See cases under New York County in Class Action Lawsuits Challenging 18-B Rates below [Assigned Counsel Fee Litigation](#).
- New York City judges can still award rate increases despite appeal and automatic stay of Appellate Term decision in [New York County Lawyers' Association v. State of New York](#). [Judges Can Set Rates Despite Stay](#), New York Law Journal (1st Dept), May 9, 2002
- Power of New York Court of Appeals to set rates for assigned capital defense counsel and support staff affirmed. [Panel Affirms Capital Defense Case Fees](#), New York Law Journal, May 7, 2002. Read the court's decision in [Mahoney v. Pataki](#), No. 42 (NY May 7, 2002)
- Assigned counsel in New York City are to be paid \$90 per hour according to a preliminary injunction issued by Appellate Term, First Department. [New Hourly Rates Set for Court-Appointed Attorneys](#), New York Law Journal, May 6, 2002. Read the court's decision in [New York County Lawyers' Association v. State of New York](#), No. 102987/00 (Sup. Ct. App. T. 1st Dep't May 3, 2002)

Assigned Counsel Rates Archives

- Judge Kaye addressed the need to increase assigned counsel rates among other reforms in her Law Day speech. [Law Day Speakers Address Range of Issues Facing Society and Courts](#), New York Law Journal, May 2, 2002
- Trial judges have the right to increase assigned counsel rates in their awards according to a Broome County Supreme Court. [Broome County Ordered to Pay Higher Rates](#), New York Law Journal, April 17, 2002. Read the court's decision in [Kraham v. Mathews](#), No. 2002-0413 (Broome County Sup Ct April 15, 2002)
- Increase in assigned counsel rates makes little progress in the legislature, while the situation worsens for local panels. [Lawyers for Poor Still Waiting for Pay Raise](#), Newsday, April 17, 2002
- New York City Council budget recommendations will increase funds to Legal Aid Society while cutting budget for assigned counsel program. [City Council Unveils Its Budget for Courts](#), New York Law Journal, April 8, 2002
- Broome County Attorney lawsuit against local judges for awarding assigned counsel fees above statutory rate will proceed to hearing. [State Judge to Hear Suit Over 'Assigned Counsel' Fees](#), Press & Sun Bulletin, April 5, 2002
- Gideon Coalition advocated for increased funding and supported bill for establishment of New York State Public Defense Commission. [Bill Would Create Statewide Agency to Defend Indigent](#), New York Law Journal, March 19, 2002. Read [Assembly Bill A10075](#)
- Westchester referee awarded ordered divorce lawyer working through not-for-profit agency to be paid at private attorney rate. [Referee Approves Higher Than Agreed Fee](#), New York Law Journal, March 11, 2002
- Chief Judge Kaye expressed the urgent need for action by the legislature to resolve the assigned counsel fee crisis. [Chief Judge Calls on Legislature for 18-B Solution](#), New York Law Journal, March 6, 2002
- Judge Weinstein in the Eastern District of New York has issued a detailed memorandum in the [Nicholson](#) case justifying increased assigned counsel rates. [Child Welfare Agency Criticized](#), New York Law Journal, March 5, 2002
- Suffolk County Administrative Judge has approved first excess fee award for assigned counsel at a rate of \$75 per hour. [First 18-B Rate Increase in Suffolk Approved by Administrative Judge](#), New York Law Journal, March 4, 2002
- Broome County Attorney has filed an action against local judges to prevent them from awarding assigned counsel fees above statutory cap. [Power to Raise 18-B Fees Challenged](#), New York Law Journal, March 4, 2002

Assigned Counsel Rates Archives

- NYSDA's Executive Director Jonathan Gradess, Chief Administrative Judge Jonathan Lippman and other leaders testified before the legislative budget committee concerning the deepening crisis in New York's justice system due to inadequate assigned counsel rates. [Assigned Counsel Fee Boost Sought](#), Albany Times Union, February 26, 2002 and [Lippman Addresses Worsening 18-B Crisis](#), New York Law Journal, February 25, 2002
- Group of Manhattan family court assigned counsel are declining new cases in protest of the legislature's failure to raise fees. [Manhattan Panel of 18-B Counsel to Refuse Cases](#), New York Law Journal, February 22, 2002
- Clinton County Family Court Judge has increased assigned counsel rates based on the due process rationale of [In re Nicholson](#) (EDNY 2001) (55K PDF). [Upstate Judge Raises 18-B Fees in Neglect Case](#), New York Law Journal, February 6, 2002. Read the courts' decision, [In re Cody "KK,"](#) No. NN-2006/2007-2001 (Clinton County Family Court February 5, 2002)
- Assembly Judiciary Chairwoman Helene E. Weinstein renewed call to increase assigned counsel rates and public defense funding. [Weinstein Calls for 18-B Raises and Legal Services Funding](#), New York Law Journal, January 22, 2002
- Chairman of the Senate Judiciary Committee Senator James J. Lack raised concerns about finding money to pay for an increase in assigned counsel rates. [Lack Sees Judiciary Budget as Top Priority](#), New York Law Journal, January 22, 2002
- New York State Bar Association's (NYSBA) legislative program for 2002 includes seeking an increase in assigned counsel rates. [N.Y. State Bar Association Unveils 2002 Legislative Program](#), NYSBA Press Release, January 16, 2002
- Challenge to Office of Court Administration Rule authorizing administrative review of assigned counsel fee awards declared nonjusticiable by the Appellate Division. [Bid to Upset 18-B Review Rule Fails](#), New York Law Journal, January 4, 2002

Assigned Counsel Rates Archives

Current Developments Outside New York 2002

- [Legal Counsel for Indigent Is Our State Responsibility](#), Racine Journal-Times (WI), December 26, 2002
- [Editorial: The Uneven Scales of Justice](#), Milwaukee Journal Sentinel (WI), December 8, 2002
- [Without Legislative Action, More Poor Will Struggle Finding Attorneys](#), Milwaukee Journal Sentinel (WI), December 8, 2002
- [Poor Often Left Defenseless in Courtroom](#), Milwaukee Journal Sentinel (WI), December 7, 2002
- [Cuts Worry Chief Public Defender](#), Hartford Courant (CT), December 6, 2002
- [Court Orders Counsel for Indigent Defendants](#), Oklahoman (OK), November 27, 2002
- [Court Weighs Indigent Defense Failure](#), Oklahoman (OK), November 26, 2002
- [Justice Told to Pay Overtime to Lawyers: Department Loses Class Action Lawsuit](#), Washington Post (US), November 16, 2002
- [Lawyers Sue Court for Raise](#), Detroit News (MI), November 12, 2002
- [Forum: The Right to a Lawyer](#), Post-Gazette (PA), September 15, 2002
- [Okla. Court Clears \[Defense Back Pay\] Hurdle for Nichols Murder Trial](#), Reuters (OK), October 28, 2002
- [Lawyer Wrestles With High Court Over Low Fees](#), National Law Journal (SCT), October 18, 2002
- [New Suit Filed on Behalf of Indigent Inmates in Georgia](#), Fulton County Daily Report (GA), October 2, 2002
- [Judge Questions Nichols' Defense Expenses](#), Oklahoman (OK), September 18, 2002
- [Judge Keeps Alive Public Defenders Suit](#), Billings Gazette (MT), July 29, 2002
- [Poor Justice](#), Boston Globe (MA), July 14, 2002
- [Minnesota Supreme Court: Eligibility for Public Defender Narrowed](#), Pioneer Press (MN), July 12, 2002
- [Aiding Legal Aid: Some States Are Looking at Court Fees as a Way to Provide Services to Indigents](#), American Bar Association Journal (US), June 7, 2002
- [ACLU Asks Courts to Review Cases: Request Follows Ruling That Poor Facing Jail for Minor Charges Be Appointed Attorneys](#), Detroit News (MI), May 27, 2002
- [Pryor: Indigent Defense Ruling to Cost State Taxpayers More](#), Birmingham News (AL), May 22, 2002
- [Vegas Farms Out Some Criminal Matters](#) (Contract Defense), American Bar Association Journal (NV), May 17, 2002
- [North Carolina May Add Public Defenders](#), Charlotte Observer (NC), May 15, 2002
- [Fix Georgia's Indigent Defense, Expert Says](#), Atlanta Journal-Constitution (GA), May 14, 2002
- [Cash-Flow Woes Plague Program](#), Charlotte Observer (NC), May 9, 2002
- [Contract Lawyers Can't Get Job Done](#), Atlanta Journal-Constitution (GA), May 5, 2002
- [Lawyers Seek New Image](#), Detroit News (MI), May 1, 2002
- [Defender of Poor Relieved of Duties: Testified He Assumed His Clients Guilty, Liars](#), Atlanta Journal-Constitution (GA), April 30, 2002
- [Georgia County Ordered to Improve Defense of Indigent Detainees](#), Fulton County Daily Report (GA), April 18, 2002

Assigned Counsel Rates Archives

- [State Bar Bravely Supports System to Protect the Poor](#), Atlanta Journal-Constitution (GA), April 10, 2002
- [2002 Georgia Legislature: Indigent Defense Ills Cited](#), Atlanta Journal-Constitution (GA), January 25, 2002

Special Reports

NASSAU COUNTY LEGAL AID FISCAL CRISIS

The Nassau County Legal Aid Society has survived a serious funding crisis that jeopardized its existence.

- [Nassau OKs \\$400,000 Bailout for Legal Aid](#), Newsday, August 23, 2001
- [Citibank Agreed to Loan for Nassau County Legal Aid Society](#), NYLJ, August 22, 2001
- [Nassau Legal Aid Board Presents Proposal to Thwart Shutdown](#), New York Law Journal, August 15, 2001
- [Nassau Must Bail Out Cash-Strapped Legal Aid Society](#), Newsday, August 14, 2001
- [Debts May Close Legal Aid Society](#), Newsday, August 12, 2001
- [Chief of Nassau Legal Aid Retiring](#), Newsday, August 8, 2001

LAW DAY STATEMENTS ON DEFENSE FUNDING

On Law Day, Chief Judge Judith Kaye and noted members of the New York bar expressed concern over the plight of indigent defendants and underpaid advocates. They agreed on the urgency of increasing funding for public defense as soon as possible.

- [Chief Judge Kaye, Others Speak on Children's Issues](#), New York Law Journal, May 2, 2001
- [Poor Litigants Suffer Greatly](#), New York Law Journal, May 1, 2001 (President County Lawyers Association)
- [Fix Lack of Access to Courts](#), New York Law Journal, May 1, 2001 (President of New York State Bar Association)

TWO-TIER JUSTICE

The crisis in providing adequate defense services for those unable to afford counsel was examined in a series of articles by the New York Times decrying the need for increasing assigned counsel rates and the establishment of a commission to oversee a statewide public defense initiative. "Lawmakers ought to provide for a strong state role — preferably through a politically insulated commission — in setting quality standards for defense services, including reasonable caps on attorney caseloads, and in exercising vigorous oversight to make sure those standards are met." Editorial: [Drive-By Legal Defense](#), New York Times, April 12, 2001

- Part 1: [Legal Help Often Fails New York's Poor](#), New York Times, April 8, 2001
- Part 2: [For New York City's Poor, a Lawyer With 1,600 Clients](#), New York Times, April 9, 2001

Assigned Counsel Rates Archives

- Part 3: [On Appeals, the Poor Find Little Leverage](#), New York Times, April 10, 2001

ONONDAGA COUNTY ASSIGNED COUNSEL PROGRAM UNDER REVIEW

The Onondaga County Assigned Counsel Program Board voted to discharge its director in the face of questions about the program's budget. Meanwhile some board members have resigned to protest the decision.

- [Assigned Counsel Director Hired](#), Syracuse Online, March 30, 2001
- [Board Leader Quits Legal Aid Program](#), Syracuse Online, February 3, 2001
- [Legal Program Director Fired](#), Syracuse Online, February 1, 2001
- [Legal Program Board to Meet](#), Syracuse Online, January 30, 2001
- [Legal Program Faces Review](#), Syracuse Online, January 29, 2001

18-B SYSTEM OVERLOAD

In a series of articles, the New York Law Journal explored the depths of the problems associated with New York State's failure to adequately fund the assigned counsel mandate.

- [Family Court Struggles to Find Counsel](#), June 14, 2000
- [18-B Woes: Low Pay and Lack of Respect](#), June 15, 2000
- [The Harried Life of an 18-B Lawyer](#), June 19, 2000

TEXAS ASSIGNED COUNSEL SYSTEM UNDER REVIEW

Inconsistent standards for assignment of counsel, delays in appointments and low pay are among the issues facing indigent defense in Texas according to studies conducted by the [Star-Telegram](#), the Texas Appleseed Fair Defense Project and the State Bar of Texas Legal Services to the Poor in Criminal Matters Committee.

Star-Telegram

- [Indigent Defense: Slide Show](#)
- [Unequal Justice-Part I](#)
- [Unequal Justice-Part II: Lawyers for Poor Say Pay Low, Stress High](#)
- [Unequal Justice-Part III: Poor More Vulnerable to Death Penalty](#)
- [Unequal Justice-Part IV: Shadows of Doubt](#)
- [Armed with Indigent Defense Study, Advocates Seek Change](#)
- [Group Seeks Abeyance of Texas Executions](#)
- [Top-Paid Appointed Attorneys Speak on Indigent Defense System](#)
- [Senator Seeks Change in Texas' Provision of Lawyers for the Poor](#)

Texas Appleseed Fair Defense Project

- [Court's Handling of Poor Faulted](#), San Antonio Express-News, December 6, 2000
- [Lawyers for Poor Kids Often Are Inadequate, Statewide Study Says](#), Austin American-Statesman, October 24, 2000

State Bar of Texas Reports

- [Lawyers' Report Blasts the Way Poor Defended](#), San Antonio Express News, September 22, 2000

Assigned Counsel Rates Archives

- [Reports from the State Bar of Texas Legal Services to the Poor in Criminal Matters Committee 1996-1999](#)

Articles

- [LSC Service Area Merger Troubles Some Texas Legal Aid Lawyers](#), Texas Lawyer, May 31, 2001
- [Texas Poised to Reform Its Criminal Defense System for Poor](#), Los Angeles Times, May 25, 2001
- [Critics Snipe at Bill to Streamline Legal Help for Poor](#), Star-Telegram, May 13, 2001
- [Texas to Safeguard Legal System](#), Findlaw Legal News, April 17, 2001s

Legislation

- [An Act Relating to the Provision of Legal Services for Indigent Persons Accused of Crimes](#) (Texas Legislature SB 7)

WASHINGTON D.C. ASSIGNED COUNSEL PROGRAM

Congress is investigating the cost-effectiveness of the District of Columbia's assigned counsel program. At the same time, D.C. Criminal Justice Act (CJA) lawyers have brought suit against the court system for delays in paying their vouchers.

- [Hill Probes D.C. Court Programs](#), Legal Times, May 18, 2000
- [D.C. Courts Default in Suit by Lawyers: Officials Fail to Respond in Late-Payment Case](#), Legal Times, January 14, 2000
- [Defense Attorneys to Sue D.C. Courts Over Late Payments](#), Legal Times, December 17, 1999
- [D.C. Indigent Counsel Fees Delay . . . Again](#), NACDL, September 14, 1999

Assigned Counsel Rates Archives

For the most current information, please visit [Assigned Counsel Rates](#).

Current Developments 2001

- Increase in assigned counsel rates reevaluated by Governor Pataki in light of new fiscal constraints. [Pataki Rethinks Promise of a Pay Raise for Lawyers to the Indigent](#), New York Times, December 24, 2001
- New York federal court considers increasing assigned counsel rates in family court cases on constitutional grounds. [Federal Judge Considers Raising Ceiling on Assigned Counsel Rates](#), New York Law Journal, December 21, 2001
- Assigned counsel rates increase, among other issues, has not been reached as the legislative session comes to a close. [Legislative Session Finishes With Loose Ends](#), New York Law Journal, December 18, 2001
- Coalition of judges and prosecutors called on the Legislature and the Governor to increase assigned counsel rates. [State Pushed to Hike Public Defender Pay](#), New York Daily News, November 30, 2001
- Need to increase assigned counsel rates remains a critical concern of Chief Judge Kaye and the legislature. [Dearth of Article 18-B Attorneys Creates Near 'Catastrophe' Situation](#), New York Law Journal, November 7, 2001
- Outlook for legislative action to increase assigned counsel fees appears dim as court system prepares for reduced budget. [Judiciary Braces for Lean Budget](#), New York Law Journal, October 18, 2001
- Increase in assigned counsel rates and funding for defense services has taken a backseat to the budget issues created by the World Trade Center disaster. [Legal Services, 18-B Fees Likely Victims of Budget Cuts](#), New York Law Journal, October 2, 2001
- Delay in payment of 18-B vouchers is having a detrimental impact on New York City assigned counsel lawyers. [18-B Attorneys Face Slow Down on Payments](#), New York Law Journal, October 1, 2001
- Manhattan judge awards fee above statutory cap to assigned attorney in Article 81 Mental Hygiene Law case. [Judge Calls for Increases in 18-B Rates](#), New York Law Journal, August 29, 2001. Read the decision [In Re Turner](#) (16K PDF) below.
- Defense costs in embassy bombing case for assigned counsel made it one of the most expensive cases in recent history. [Government Pays Over \\$7 Million for Defense in Embassy Bombings Case](#), New York Times, July 31, 2001
- Association of Justices of the Supreme Court of the State of New York will file an amicus brief in a lawsuit challenging an OCA rule permitting administrative judges to

Assigned Counsel Rates Archives

review assigned counsel fee decisions by trial judges. [Judges Express Rancor Over Review of 18-b Fees](#), New York Law Journal, July 26, 2001 and [Lawyer Looks to Judges' Group as Ally in 18-B Dispute](#), New York Law Journal, July 24, 2001. Read the OCA rule, [Section 127.2 Compensation of Counsel and Other Providers in Extraordinary Circumstances](#) (85K PDF)

- Manhattan lawyer challenging rule permitting administrative judges to review fee increase decisions by trial judges. [Lawyer Seeks to Block Review of 18-B Fee Increases](#), New York Law Journal, July 12, 2001
- Demand for public defense commission accompanied renewed pleas for increasing assigned counsel rates. [Indigent Defense Proposal Would Raise Fees](#), New York Law Journal, July 10, 2001 and [Court-Appointed Lawyers Can Expect That Raise](#), Albany Times Union, July 10, 2001
- Legislature approved various court bills without addressing the assigned counsel fee issue. [Legislators Approve Key Judiciary Bills](#), New York Law Journal, June 27, 2001
- New York City Administrative Judge's decision against uniform rate increases not recognized as binding by a Manhattan Supreme Court Judge. [Judge Challenges Review of Higher 18-B Fees](#), New York Law Journal, June 26, 2001. Read the court's decision in [People v. Johnson](#) (753K PDF), below.
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- Low assigned counsel rates have caused a precipitous drop in the number of attorneys serving on Westchester's assigned counsel panel. [Number of 18-B Lawyers Down Sharply](#), New York Law Journal, July 24, 2000
- Legislative action on assigned counsel rates is at a stand still as the legislative session nears the end. [Increase in 18-B Rates Is Unlikely](#), New York Law Journal, June 7, 2000
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- Assigned counsel fee increase is not high on the legislative agenda. [Hope Waning for NYS Court Reform](#), New York Law Journal, May 24, 2000
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- Third Department heard oral arguments concerning the claim that the capital defense rates approved by the Court of Appeals were so low that they violated statutory requirements. [Appeal Heard on Fee Schedule for Capital Cases](#), New York Law Journal, April 28, 2000
- Office of Court Administration program to increase collection of fines and surcharges in criminal cases may be used to support a raise in assigned counsel rates. [Company Hired to Collect Court Fines](#), New York Law Journal, April 26, 2000
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- Gideon Coalition lobbied legislatures on many issues concerning public defense funding including an increase in assigned counsel rates. [Coalition Protests Assigned Counsel Fees](#), New York Law Journal, March 15, 2000
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- Genesee County Supreme Court Justice ruled that assigned counsel in capital cases could recover the fees of their associates and paralegals. [NYS Must Pay Associates on Capital Cases](#), New York Law Journal, February 28, 2000
- Dutchess County Family Court Judge ordered that a fee of \$75 per hour be paid to an assigned counsel under the court's discretionary power to exceed the statutory limits. [Higher Fees for Family Court Lawyer](#), New York Law Journal, February 8, 2000
- Class action suit has been filed in federal court challenging the validity of the assigned counsel statutory fee structure, under Article 18-B of the County Law, as unconstitutional. [Suit Seeks Raise in 18-B Fees](#), New York Law Journal, January 25, 2000
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- Underpaid assigned counsel are leaving family court practice to earn a living wage. [Family Court Lawyers Flee for Private Practice](#), MSNBC, August 25, 1999 (video report)
- Chief Judge Kaye suggested using revenues from fines and surcharges to fund an increase in assigned counsel fees. [Broad Support for Boosting 18-B Fees](#), New York Law Journal, June 3, 1999; [Chief Judge and Law Leaders Propose Increased Fees and Source of Funding for Assigned Counsel](#), Office of Court Administration Press Release, June 2, 1999
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