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**New York County Lawyers' Association
Comments on the Final Report to the Chief
Judge of the Commission on the Future of
Indigent Defense Services**

These Comments were approved by the Board of Directors of the New York County Lawyers' Association at its regular meeting on September 11, 2006.

On June 18, 2006, the Commission on the Future of Indigent Defense Services issued its Final Report to the Chief Judge of the State of New York (Report). The Report includes myriad findings and conclusions, all of which confirm the New York County Lawyers' Association's (NYCLA) longheld view that New York's indigent defense system is fundamentally deficient. The Commission concludes that "there is, indeed a crisis in the delivery of defense services to the indigent throughout New York State and that the right to the effective assistance of counsel, guaranteed by both the federal and state constitutions, is not being provided to a large portion of those who are entitled to it." (Report, p.15). The Report includes five core recommendations for systemic reform and an addendum setting forth numerous recommendations to effectuate interim reforms, pending the overhaul of the entire system and the implementation of statewide quality standards and funding.

The Commission Report embodies the culmination of more than two years of study and evaluation, including an extensive summary of New York's indigent defense system by The Spangenberg Group, a nationally and internationally recognized criminal justice research and consulting firm that specializes in research concerning indigent defense systems. During the course of its study, the Commission held four public hearings throughout New York State, receiving testimony from 93 individuals and written submissions from a vast array of individuals and entities, including representatives of virtually every component of the criminal justice system and interested parties representing the profession and the community.

NYCLA's Board of Directors adopted and submitted extensive written testimony and NYCLA's President personally presented that testimony on March 11, 2005 at the public hearing in Ithaca. Thereafter, following the release of the Commission's Interim Report on

February 6, 2006 by Chief Judge Judith S. Kaye in her State of the Judiciary Message, NYCLA's Board of Directors approved additional Comments at its March 13, 2006 meeting. [Attached as Exhibit A is NYCLA's written testimony before the Commission; attached as Exhibit B are NYCLA's comments on the Commission's Interim Report. Oral testimony on behalf of NYCLA from immediate Past President Norman Reimer can be found on NYCLA's website at: http://www.nycla.org/siteFiles/Publications/Publications209_0.pdf]

NYCLA's previous testimony and comments embodied the Association's core commitment to expanding access to justice, particularly for the indigent, a mission that has been central to this organization since its founding in 1908. (NYCLA Testimony, p. 2). NYCLA's formal written testimony summarizes in painstaking detail the Association's deep involvement in reform advocacy and the pivotal role that it has played since 1994 in elevating awareness concerning the crisis in indigent defense. (NYCLA Testimony, pp. 4 - 10). Based upon recurring patterns that have perpetuated substandard practice, inadequate funding and a wholly disjointed approach to indigent defense, NYCLA proposed broad systemic reform, embodied in Eight Guiding Principles.

Those Eight Principles, which NYCLA now articulates anew, are:

- I. Access to Quality Representation Is a Fundamental Responsibility of Government and Is Cost Effective**
- II. The Defender Must Stand on Equal Footing with the Prosecutor**
- III. The True State of the Indigent Defense System in New York State Must Be Examined Openly**
- IV. All Individuals or Institutions Providing Indigent Defense Representation Must Be Subject to Mandatory Quality Control**
- V. A Statewide Indigent Defense Oversight Entity Must Be Established to Serve as the Principal Funding Agency for Indigent Defense Services and to Provide Oversight and Enforcement of Standards to Assure High-Quality Representation for the Indigent Accused**
- VI. Oversight Authorities Must Be Provided with Adequate Funding to Fulfill Their Mission**

VII. The Hybrid System that Incorporates Both Institutional Providers and Private Attorneys in the Overall Indigent Defense Plan Must Be Preserved

VIII. Both the Unified Court System and the Organized Bar Must Lead Efforts to Galvanize Public Support for the Reform of the Indigent Defense System

General Statement of Endorsement

NYCLA concludes that the Report of the Commission on the Future of Indigent Defense Services substantially incorporates the Eight Principles articulated by NYCLA. While there remain areas of concern related to the implementation of the proposed Indigent Defense Commission,¹ the Report is an historic breakthrough in the struggle to achieve quality representation for the indigent accused. Acknowledgment by a Commission established by a branch of government that the indigent defense system “fails to satisfy the state’s constitutional and statutory obligations to protect the rights of the indigent accused” represents pivotal official recognition that fundamental reform is necessary. (Report, p. 15). The findings and conclusions meticulously delineated in the Report (Report, pp. 15 - 27) confirm what NYCLA, its Criminal Justice Section and its Task Force on Indigent Defense have been contending for more than a decade.

Now is the time for the profession to close ranks and build bridges to the community at large in order to generate the necessary momentum to achieve lasting reform. It is essential that New York have an adequately funded indigent defense system that articulates and enforces meaningful standards, ends the balkanization of indigent defense, stops practices that encourage substandard representation and recognizes that defense counsel and ancillary defense services deserve to be funded in parity with comparable prosecution services. The Commissions’s Report substantially advances these goals and therefore deserves strong support. In its testimony to the Commission, NYCLA offered the following observation:

Neither the mainstream bar, the defense bar, nor the court system has demonstrated sustained commitment to the cause, and, when they have, their voices pale in comparison to the natural constituencies and broad organizational support available to law enforcement interests. (NYCLA Testimony, p. 11).

We are now at a defining moment for indigent defense in this State. The court system has undertaken an exhaustive review of that system, concluded that it is broken and proposed

¹ These areas of concern are addressed in the comments below.

comprehensive reform. It has done so in a manner wholly consistent with principles articulated by NYCLA. It has proposed solutions that have long been championed by this Association. In a very real sense, the Report is the direct consequence of NYCLA's historic lawsuit and thereby provides the quintessential example of how a mainstream bar association can advance the cause of justice. The legal profession, as custodians of our system of justice, should not squander this unique opportunity to achieve enduring reform. Accordingly, while there is ample opportunity to debate the nuances of the proposals, NYCLA endorses the overall Report, including its findings, conclusions and recommendations, and is prepared to take all necessary steps in support of this reform effort.

Comments on the Report's Five Core Recommendations

(Report, pp. 27 - 33)

The Report sets forth five principal recommendations, all of which we endorse, in some cases with some modification or explanation.

Recommendation A

The delivery of indigent defense services in New York State should be restructured to insure accountability, enforceability of standards, and quality of representation. To this end there should be established a statewide defender office consisting of an Indigent Defense Commission, a Chief Defender and Regional Defender and Local Defender Offices, a Deputy Defender for Appeals, and a Deputy Defender for Conflict Defense.

COMMENTS

In establishing a statewide Indigent Defense Commission, it is essential that the enabling legislation address the following key concerns that NYCLA identified both in its original testimony and in comments submitted after the Commission issued its Interim Report, as well as additional concerns arising from the Report.

- The legislation must make clear that indigent persons have a fundamental right to high-quality representation, and that merely providing representation that is not found to be constitutionally ineffective is insufficient. A legislative declaration of this principle will address a longstanding concern that cost effectiveness not supplant quality as the standard by which a provider is judged.
- The legislation should include a general statement of principle in support of the continuation of a hybrid system of representation that will include both the private bar and institutional providers.² Continuation of existing institutional providers or assigned counsel programs should be encouraged when it is clear that they are capable of satisfying the standards articulated by the Indigent Defense Commission and to do so would further the goal of providing quality representation.
- The legislation must explicitly provide for the appointment of Indigent Defense

² The rationale for this comment is fully delineated in NYCLA's Comments on the Interim Report, issued on March 13, 2006. Those comments are hereby incorporated by reference.

Commissioners recommended by bar groups, law schools and community and civic organizations. Those groups will be charged with the responsibility of nominating individuals with the high qualifications and commitment to quality representation articulated by the Report in Recommendation (1) (b) (2). (Report, p. 28). While the proposal includes the recommendation that the appointing authorities should solicit candidates from such groups, we believe that there must be a requirement that a minimum number of Commissioners must be selected from a list of nominees provided by bar associations,³ law schools and recognized community and civic entities.

- In order to afford adequate representation to the above groups, we recommend that the Indigent Defense Commission be expanded from the proposed size of nine to 13 members to at least 13 and no more than 20 members. At least seven of the designees must be selected from among the bar group nominees. Furthermore, in addition to the criteria articulated in the Report, at least 60 percent of the members should have at least ten years experience in providing representation to criminal defendants.
- In order to ensure local input, there should be at least one local Advisory Commission for each Judicial Department,⁴ to include representatives designated by local elected officials, the Presiding Justices of the respective Appellate Divisions, local bar associations, law schools and community and civic entities. The qualifications for service should be the same as those required for service on the statewide Indigent Defense Commission. The function of the local Advisory Commissions shall be to provide local input and work with the Regional Defender, the Chief Defender and the Indigent Defense Commission in the discharge of their stated functions. It is anticipated that this mechanism will ensure that local concerns and costs of living are fully considered in the implementation of policy. The same size and criteria for selection that we propose for the Indigent Defense Commission should apply to the Advisory Commissions.
- With respect to Appellate Representation, any plan developed by the Deputy Defender for Appeals must provide for representation of any indigent client beyond the direct appeal in any matter in which there is any non-frivolous claim upon which

³ Among the bar groups that should be included are the New York State Bar Association, mainstream county and city bar associations and statewide criminal defense advocacy bar groups.

⁴ We take no position at this time as to whether more than one Advisory Commission may be desirable in those judicial departments that encompass numerous counties and a wide geographical area.

relief may be granted. The determination of whether any such issue exists shall be made in the sole discretion of the attorney appointed to prosecute the direct appeal. This proposal recognizes that often the only viable opportunity for relief from an unjust, erroneous or improper conviction is by means of a collateral attack, either through a state post-conviction proceeding or a federal habeas corpus petition. Complex procedural requirements and severe time limitations, which can foreclose federal habeas relief, make it absolutely essential that litigants have the benefit of qualified state appellate counsel to timely pursue these collateral claims at the state level.

- The independent judgment of appellate counsel to determine under what circumstances to raise a claim of ineffective representation must not be inhibited. Accordingly, the Commission and the Defender for Conflicts should promulgate such rules as are necessary to ensure that the Deputy Defender for Appeals requires all appellate providers to implement appropriate standards and practices to insure independent assessment of such potential claims.

Recommendation B

The enactment of the Indigent Defense Commission plan should be followed by an expeditious phase-in schedule that sets reasonable time limits for complete implementation.

COMMENT

The magnitude of the crisis in public defense representation cannot be overstated. The tangible harms that flow from sub-standard representation profoundly disadvantage countless indigent defendants and their families. Accordingly, it is absolutely essential that the enabling legislation provide dates by which each phase of the implementation must be completed.

Recommendation C

Adequate funding of indigent criminal defense must be provided by the New York Legislature from the State's General Fund, not from the counties. County funding should be phased out over a three-year period.

COMMENT

Statewide funding from general revenue is absolutely appropriate and essential to maintain an adequate system of public defense. We recognize that a full assumption of the funding responsibility by New York State deviates from the original NYCLA testimony calling for localities (either New York City or the counties elsewhere in the state) to “continue to contribute to the cost of indigent defense at current levels” (NYCLA Testimony, p. 22, footnote 17). We now endorse the recommendation in the Report, with the proviso that the enabling legislation must require that the funding level in each county or New York City must be maintained at least at the level provided as of the date of the State assumption of funding responsibility. Furthermore, we reaffirm NYCLA’s earlier position that the legislation should permit localities to augment funding beyond the State levels in any manner that will further the objective of providing high-quality defense services.

Recommendation D

The system for funding indigent criminal defense services should provide for elimination of the overall disparity between prosecution and defense resources so as to achieve “adequate and balanced funding” of defense representation.

COMMENT

This recommendation fully embraces NYCLA’s Principle Number II (“The Defender Must Stand on Equal Footing with the Prosecutor”). The articulation of this broad concept of parity should not be misconstrued as requiring that the funding of public defense must equal the overall funding for the myriad investigative and law enforcement responsibilities of the prosecutors. Rather, it recognizes that in the context of the prosecutorial and defense functions, there must be an end to disparity. Thus, salary disparity for lawyers and support staff must be eliminated and resources for appropriate ancillary services such as experts, investigators, trial consultants and social service providers must be “adequate and balanced.”

Recommendation E

A comprehensive data-collection system designed to provide an accurate picture of the provision of indigent criminal defense services in New York State should be established and maintained. Such a system would enable policymakers and administrators to make

informed judgments concerning the administration of the indigent defense system and plan for improvements.

COMMENTS

Comprehensive data collection is essential to evaluate compliance with practice standards and to assess the financial integrity of all providers. We urge, however, that the enabling legislation include privacy provisions so as to protect the confidentiality of any individual whose case is disposed of in a manner in which no public record is to be maintained, or of witnesses whose identity is not a matter of public record. The authorities should design a system that maintains the anonymity of such individuals, while ensuring that the necessary case-related data are available for review. The law should clearly prohibit unauthorized disclosure of protected identities.

Data collection must also include appropriate time records. In this regard, we reaffirm NYCLA's position on "quality assurance," adopted by the NYCLA Executive Committee on February 22, 2005, and thereafter submitted to the New York State Bar Association Special Committee to Ensure Quality of Mandated Representation: "All attorneys providing mandated representation, regardless of whether pursuant to an assigned counsel plan, a public defender office, a legal aid bureau or society, or any other institutional or associational structure shall keep records of all time spent on the representation of each individual client, indicating the duration and nature of the work done and the date on which the work was performed."

The requirement that all lawyers engaged in public defense maintain time records was subsequently adopted by the New York State Bar Association when it adopted the Standards proposed by the Special Committee. The recording of time and task is the only objective benchmark for assessing the performance of individual attorneys. This practice, which has long been required by law firms throughout the private bar, is essential to good practice. Experience in assessing the performance of assigned counsel confirms that assessment of time sheets is a reliable practice for ensuring integrity and a useful tool in assessing the nature and quality of the representation. These data are an essential resource for those who seek to objectively assess quality and should be required as part of the overall data-collection system.

Comments on the Report's Proposed Addendum

(Report, pp. AD-1 - AD-10)

The Report sets forth a number of recommendations that either do not require legislative action for implementation or require legislative action far short of the implementation of the broad reforms proposed in the body of the Report. We have reviewed the “General Proposals” and comment as follows:⁵

A. Amend the Rules of the Chief Administrator to require that the denial by a trial court of an assigned counsel’s request for appointment of an investigator or expert under County Law Section 722-c be set forth in a written order with written findings of fact supporting the court’s determination.

Comment

We support this initiative and urge its immediate adoption, but with one important caveat. A number of years ago, when the administrative arm of the courts acted to overturn trial court awards of extraordinary compensation, NYCLA argued that this was an inappropriate exercise of administrative authority. NYCLA’s position was eventually rejected by the Court of Appeals. *See Levenson v. Lippman*, 4 N.Y.3d 280, 827 N.E.2d 259, 794 N.Y.S.2d 276 (2005). We continue to believe that appointment and compensation determinations should be subject to appellate review as opposed to administrative fiat. To the extent that this is not the state of the law, we urge legislative action to restrict the administrative authority of the courts to overturn trial court determinations and to explicitly provide for appellate review of trial court determinations of denials of requests for assignment of ancillary services or reduction of compensation of attorneys.

Notwithstanding this view, and unless and until the law is modified, the proposed reform will mandate the creation of a full record and in many cases will result in administrative amelioration of potentially abusive and prejudicial denials of essential services. Accordingly, we endorse the recommendation as an interim step until the law is modified.

B. Amend the Rules of the Chief Administrator to permit administrative review of a trial court order reducing or denying a claim for compensation submitted by an assigned attorney, expert or investigator.

⁵ Part II of the Addendum sets forth Town and Village Court Proposals. As these courts do not exist in New York City, we do not comment on the specific proposals, except to note our unqualified support for all reforms that will remedy constitutionally deficient practices and promote high-quality public defense in every location throughout New York State.

Comment

We support this initiative with the same caveat and explanation provided above with respect to Recommendation A.

C. Revise and periodically review OCA's hourly rate guidelines for investigators and experts, and develop and maintain a statewide list of available investigators and experts.

Comment

We endorse these proposals but urge that in establishing rate guidelines, due consideration be given to variations in the cost of these services in different areas of the state.

D. Expand the number of non-Penal Law petty offenses subject to the existing plea-by-mail procedure in the Summons Part of the NYC Criminal Court.

Comment

Under the present state of the law, we cannot support this recommendation because there is no way to guarantee that there will be no “collateral consequences” to such mail-in convictions. NYCLA has long supported a decriminalization initiative. Only when decriminalization occurs should the plea-by-mail procedure be utilized. We reiterate NYCLA’s proposal, set forth in our comments on the Interim Report, (p. 4), that the Chief Judge empanel an entity to study excessive reliance upon the Penal Law and to propose remedial action.

NYCLA has documented the problems of collateral consequences resulting from convictions to petty offenses in the May 8, 2006 report from its Criminal Courts Task Force entitled “Collateral Consequences of Non-Criminal Adjudications.”⁶ This NYCLA Report proposes reasonable solutions on this issue, and we strongly urge those who will seek to implement the Addendum recommendations to consider both the nature of the problems outlined in that Report, as well as the proposed changes found therein.

E. Amend the CPL and other relevant statutes to expand the availability of

⁶ This Report can be downloaded from the NYCLA website at:
http://www.nycla.org/siteFiles/Publications/Publications238_0.pdf

plea-by-mail procedures for selected petty offenses prosecuted outside NYC.

Comment

As expressed in our comments on D above, expansion of plea-by-mail procedures is desirable but only if legislation ensures that no public record of any kind is maintained of any non- criminal offense and that no collateral consequences of any kind flow from an arrest or conviction for such an offense.

F. Amend Joint Rules of the Appellate Divisions to require that full-time defenders earn no less than 18 CLE credits, and other defenders earn no less than 12 CLE credits, every two years in criminal law.

Comment

We support the notion that providers of public defense must remain current in their understanding of law, practice and procedure. Once the Indigent Defense Commission is established and develops standards, it would be entirely appropriate for that entity to require that institutional providers and private attorneys engaging in public defense must obtain a minimum number of CLE credits in criminal law. As a policy matter, however, we question the propriety of the Appellate Divisions exercising their authority to enforce mandatory CLE requirements selectively as to only one category of attorneys.⁷ Nevertheless, all institutional providers should immediately take steps to require that attorneys in their employ obtain adequate CLE in criminal law, and Appellate Divisions overseeing Assigned Counsel Plan panels should immediately do the same as a prerequisite for panel service.

G. Expand opportunities for free CLE and joint training with prosecutors.

Comment

We support this initiative, but note that it is only an interim measure. We reaffirm NYCLA's proposal advanced in its comments to the Interim Report, urging that the Indigent Defense Commission establish centralized training programs and pooled support services. The economies that may be achieved could generate significant cost

⁷ Indeed, a compelling case can be made that the privately retained attorney who accepts the occasional criminal case is more in need of CLE in the field than individuals regularly providing public defense services. Unless and until the Judicial Conference decides to require minimum levels of subject-matter-specific CLE for all attorneys, depending upon principal area of practice, the authority should not be employed selectively.

savings and ensure the availability of training and support services on a statewide basis. Accordingly, the enabling legislation should articulate this mission as a core task of the Indigent Defense Commission.

We, of course, support all efforts to provide no-cost or low-cost CLE to attorneys providing public defense. In this regard, we note that the Appellate Division for the First Department has maintained such a program for several years.

H. Modify Rule 17.4 of the Rules of the Chief Judge to require that trial judges exercising criminal jurisdiction complete an OCA-certified program in indigent defense and related topics every two years.

Comment

We support this proposal.

I. Take immediate steps to ensure that, in accordance with County Law section 722(3), every existing county bar association assigned counsel program in the State is operated pursuant to a written plan that has been filed with, reviewed and approved by OCA.

Comment

We support the notion that every assigned counsel program must be operated pursuant to a written plan. This has long been the case in both the First and Second Departments. We believe, however, that as is the case in those Departments, review and approval authority should be vested in the respective Appellate Divisions. Further, we oppose any effort to divest the Appellate Division for the First Department of its current oversight authority with respect to either the Assigned Counsel Plan or the Indigent Defense Organization Oversight Committee. Of course, once legislation establishing an Indigent Defense Commission is enacted, that authority will then shift to that entity.

J. Allow defenders to use CPL article 182 videoconference technology to communicate securely with incarcerated clients. 2. Enact legislation to make CPL Article 182 authorization statewide and permanent.

Comment

We support the proposal.

K. Amend the Uniform Rules for the Trial Courts to require that Superior Courts conduct CPL 530.30 bail reviews promptly after arraignment in all cases where an incarcerated defendant has been arraigned without counsel.

Comment

We support the proposal.

L. Devote OCA and DCJS resources to improve the collection and verification of indigent defense data.

Comment

We support the proposal, but reiterate the privacy and confidentiality concerns expressed above with respect to Recommendation E. See *p. 11, supra*.

M. Create an office or entity within OCA charged with facilitating the implementation of this Commission's recommendations and preparing generally for the implementation of the statewide defender system.

Comment

We support this proposal.

Comments on Additional Commentary

(Zeidman, Eppler and Marks Comments)

Several members of the Commission wrote separately to address a number of issues. These thoughtful comments warrant a separate response.

Professor Steven Zeidman⁸ urges immediate action to address “alarmingly high disposition rates, particularly at the accused’s first court appearance.” He further notes that “[c]oncerns about the reliance on guilty pleas are exacerbated by the explosion of collateral consequences attendant to conviction.”

Recommendation:

⁸ Professor Zeidman served on NYCLA’s Task Force on Indigent Defense and is a NYCLA nominee to the First Department’s Indigent Defense Organization Oversight Committee.

We concur with the concerns expressed by Professor Zeidman, but also recognize that the organized bar has a preeminent responsibility to address these issues. Accordingly, without taking a position on any of the possible courses of action proposed by Professor Zeidman, we recommend that the President of the New York County Lawyers' Association empanel a Task Force on Plea Policy to study all aspects of plea policy in New York City and to propose any and all appropriate remedial measures. The Task Force, which should include representation by all participants in the criminal justice system, should conduct a broad review of the policies and practices that result in high disposition rates, and the ensuing consequences, both direct and collateral.

Klaus Eppler⁹ urges preservation of the hybrid system and immediate adoption of minimum standards by all institutional providers and assigned counsel plans.

Recommendations:

We have already noted our unequivocal support for a hybrid approach to indigent defense (*See p. 7, supra*).

We agree that compliance with minimum standards is essential to quality defense. In presenting NYCLA's testimony to the Commission, then President Norman L. Reimer expressed skepticism that the court system can or should administratively enforce minimum standards under the present approach to indigent defense. Nevertheless, now that the State Bar has adopted Standards, we urge all institutional providers and assigned counsel plans to immediately pledge to enforce those standards and we urge all counties and the City of New York to desist from contracting for indigent defense with any entity that fails to do so.

Judge Patricia D. Marks, concerned about the magnitude of the crisis, urges that the Unified Court System immediately create a judicial office to adopt, monitor and enforce performance standards.

Recommendation:

Judge Marks's thoughtful, articulate and passionate efforts to achieve meaningful reform on an expedited basis are laudable. Unfortunately, for the reasons articulated in NYCLA's oral testimony at the Ithaca hearing, we remain unconvinced that the Unified

⁹ Klaus Eppler is a Past President of NYCLA and served as the first Chair of the Indigent Defense Organization Oversight Committee and Chair of the First Department's Committee on the Representation of the Poor.

Court System can effectively enforce standards. Notably absent from Judge Marks's otherwise comprehensive recommendation is an articulation of what remedy the Unified Court System may employ to enforce the standards. Under the present system the respective counties or New York City contract for services. What steps can the Unified Court System take if the terms of the contract result in substandard representation, as in fact the Commission has found? Will it have the authority to bar a provider from appearing on cases? Will it hold the county or City in contempt for failing to comply with the standards? Will it order the county or City to expend more public funds in support of indigent defense? We believe that if the Unified Court System were to take such drastic steps, it would precipitate harmful confrontation among the various branches of government that may result in the kind of attacks upon the judiciary that can undermine respect for the judicial branch and thereby threaten the independence of the judiciary.

It is for all of these reasons that as much as we agree that the courts must ensure quality representation on a case-by-case basis, we do not believe that administrative oversight of the indigent defense system will result in the kind of meaningful reform that can only be achieved through the creation of a statewide Indigent Defense Commission with statewide funding. As noted above, however, we urge voluntary adoption of the State Bar's quality standards and we urge New York City, the counties and the Appellate Divisions, in their oversight authority, to require adoption of those standards.

Additional Recommendation Concerning Eligibility for Appointed Counsel

The Commission points out that there are "no clear standards regarding eligibility determinations and procedures." This is of concern to institutional providers, who may expend resources in representing ineligible clients; to private attorneys, whose potential client base may be inappropriately contracted; and to funding authorities, who may be unnecessarily expending public resources. An even greater concern is that the haphazard approach to eligibility results in the denial of assigned counsel or assigned ancillary services to eligible defendants, resulting in substandard representation or severe financial hardships to individuals and their families.

Accordingly, we urge that the enabling legislation authorize the Indigent Defense Commission to develop and implement coherent and objective eligibility standards that give due regard to prevailing financial realities, including the regional variations in the cost of living and the unique financial circumstances and obligations of the individual accused.