

### **Indigent Defense Funding**

In 1963, the United States Supreme Court held in the landmark decision in Gideon v. Wainwright that all criminal defendants had the right to be represented by counsel regardless of their ability to afford an attorney. This constitutional mandate was then charged to all States to carry out and finance. Unfortunately, New York State has passed the responsibility of providing all indigent defense services, and the vast majority of the costs associated with this service, to counties and the local property taxpayer. In 2013, New York State counties outside of New York City spent more than \$150,000,000 on indigent legal services and this number only continues to grow.

#### **1. Support a phased-in takeover of local indigent defense costs**

**Support** the inclusion of S.6341 (DeFrancisco) /A.6202B (Fahy) in the 2016-17 State Budget.

**NYSAC strongly supports S.6341 (DeFrancisco) /A.6202B (Fahy)**, which would require the State reimburse mandated county costs for indigent defense services. Including this legislative language in the State Budget would provide meaningful mandate relief for county government, as well as increase and improve indigent defense services for the poor.

#### **2. Expand and Improve Indigent Defense Services**

**Support** the inclusion of S.6341 (DeFrancisco) /A.6202B (Fahy) in the 2016-17 State Budget.

On November 8, 2007 the New York State Civil Liberties Union (NYCLU) filed suit against the State of New York and five counties - Ontario, Onondaga, Schuyler, Suffolk and Washington. In Hurrell Harring et al. v the State of New York, the NYCLU challenged the indigent defense system claiming that New York State is failing to meet the constitutionally-required standard of providing adequate indigent criminal defense services. Specifically, the plaintiffs sought: additional funding for the system's operations, first arraignment counsel rights, an increase of public defense staffing to lower caseloads, increased training for those providing public defense, and increased public defense support staff such as investigators.

On October 21, 2014 a settlement was reached between the plaintiffs and the State of New York. For the moment this settlement only impacts the State of New York and the five counties named in the suit. The five counties now must provide expanded indigent defense services which include case caps for public defenders as well as provide counsel for defendant first arraignment. Under the agreement, the State must pick up the added costs for these increased services in the five counties *however* this leaves open what the remaining 52 counties must provide and how they must pay for any increased services. The remaining 52 counties are under a state-imposed property tax cap which leaves little room to address increased services without state assistance.