

Nina Gardner, Chair  
Hon. James E. Duggan, Vice Chair  
Hon. James P. Bassett  
Stephanie Bray, Esq.  
Gina Belmont, Esq.  
Sen. Sharon M. Carson  
Kimberley Casey  
John E. Durkin, Esq.  
Karen A. Gorham, Esq.  
Christopher M. Keating, Esq  
Hon. Edwin W. Kelly  
Hon. David D. King

THE STATE OF NEW HAMPSHIRE  
JUDICIAL COUNCIL  
[www.nh.gov/judicialcouncil](http://www.nh.gov/judicialcouncil)



Sarah T. Blodgett, Executive Director  
25 Capitol Street, Room 424  
Concord, New Hampshire 03301-6312

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Hon. Tina Nadeau  
Stephen Reno  
Rep. Claire Rouillard  
Dino Scala  
Alan Seidman, Ed.D  
Phillip Utter, Esq  
Daniel Will, Esq

April 27, 2018

His Excellency, Governor Christopher T. Sununu  
and the Honorable Executive Council  
State House  
Concord, N.H. 03301

**REQUESTED ACTION**

Authorize the acceptance of the Judicial Council's Biennial Report for the period July 1, 2015 through June 30, 2017 as required by R.S.A. 494:4. Effective upon Governor and Council approval.

**EXPLANATION**

Attached please find copies of the Biennial Report for the Judicial Council for the 2016 through 2017 biennium. This report includes our mission and accomplishments for that time period.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Sarah T. Blodgett".

Sarah T. Blodgett  
Executive Director

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April 27, 2018

His Excellency, Governor Christopher T. Sununu  
and the Honorable Council  
State House  
Concord, NH 03301

Dear Governor Sununu and Members of the Executive Council:

Pursuant to RSA 494:4, the employees of the New Hampshire Judicial Council are pleased to submit their 23rd Biennial Report, for the period of July 1, 2015 through June 30, 2017. This report reflects the efforts and activities of our agency over the past two fiscal years.

The Judicial Council strives to fulfill its statutory and constitutional mission of overseeing the delivery of effective legal representation to indigent New Hampshire residents in criminal, child protection and guardianship court proceedings. We have also continued to engage in public/private partnerships to assist our state's most vulnerable residents with civil legal services.

Respectfully Submitted,

Sarah T. Blodgett  
Executive Director

**STATE OF NEW HAMPSHIRE**



**Judicial Council**

23<sup>rd</sup> Biennial Report July 1, 2015 – June 30, 2017

April 2018

RSA 494:4

**STATE OF NEW HAMPSHIRE**

**GOVERNOR AND EXECUTIVE COUNCIL**

The Honorable Christopher T. Sununu  
Governor

The Honorable Joseph D. Kenney  
Executive Councilor – First District

The Honorable Andru Volinsky  
Executive Councilor – Second District

The Honorable Russell E. Prescott  
Executive Councilor – Third District

The Honorable Christopher C. Pappas  
Executive Councilor – Fourth District

The Honorable David K. Wheeler  
Executive Councilor – Fifth District

### **Mission**

*To oversee the delivery of effective legal representation to indigent NH residents in criminal, child protection and guardianship court proceedings and to engage in public/private partnerships for civil legal services.*

### **Location**

State House Annex  
25 Capitol Street, Room 424  
Concord, NH 03301

## Judicial Council Organizational Chart

<p style="text-align: center;"><b>Judicial Council</b> Department 07 FY2016 and 2017 3 total authorized positions: 1 Unclassified 2 Classified</p>
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### Agency Staff

Sarah Blodgett, Executive Director, Unclassified, appointed by the Council

Patricia Heinrich, Administrative Assistant II, Permanent Classified, hired by the agency

Kimberly Parker, Senior Accounting Technician, Permanent Classified, hired by the agency

### Members of the Judicial Council

Pursuant to RSA 494:1, the Judicial Council is comprised of the following members:

- The 4 members of the judicial branch administrative council, appointed pursuant to supreme court rules.
- The attorney general or designee.
- A clerk of the superior court, selected by the chief justice of the superior court.
- A clerk of the circuit court, selected by the administrative judge of the circuit court.
- The president-elect of the New Hampshire Bar Association.
- The chairperson of the senate judiciary committee or a designee from such committee appointed by the chairperson.
- The chairperson of the house judiciary committee or a designee from such committee appointed by the chairperson.
- Eight other members appointed by the governor and council, 3 of whom shall be members of the New Hampshire Bar Association of wide experience who have been admitted to practice in the state for more than 5 years, and 5 of whom shall be members of the public who are not lawyers.
- Five other members appointed by the chief justice of the supreme court, 3 of whom shall be members of the New Hampshire Bar Association of wide experience who have been admitted to practice in the state for more than 5 years, and 2 of whom shall be members of the public who are not lawyers.

## **Current Members of the Council**

Supreme Court Justice	The Hon. James Bassett
Superior Court Chief Justice	The Hon. Tina Nadeau
Circuit Court Administrative Judge	The Hon. Edwin Kelly
Circuit Court Administrative Judge	The Hon. David King
Administrative Office of the Courts Director	Christopher Keating
Senate Judiciary Chair	Senator Sharon Carson
House Judiciary Chair	Representative Claire Rouillard
Attorney General	Attorney Ann Rice
President Elect of the Bar	Scott Harris
Clerk of the Superior Court	Karen Gorham
Clerk of the Circuit Court	Gina Belmont

8 members appointed by Governor and Council, 3 of whom shall be Bar members:

Attorney Daniel Will	Term: through 10/18/18
Attorney Philip Utter	Term: through 10/18/19
Attorney Brian J.X. Murphy	Term: through 10/18/19
Kimberly Casey	Term: through 1/1/17 <sup>1</sup>
Steven Lubrano	Term: through 1/1/17
Dino Scala	Term: through 1/1/20
Dr. Alan Seidman	Term: through 1/1/20

5 members appointed by the Chief Justice of the Supreme Court, 3 of whom shall be Bar members:

Attorney Stephanie Bray	Term: through 12/31/19
Attorney John Durkin	Term: through 12/31/19
The Hon. James Duggan (Vice-Chair)	Term: through 12/31/20
Nina Gardner (Chair)	Term: through 12/31/19
Stephen Reno	Term: through 12/31/19

## **Standing Committees**

### **Indigent Defense Subcommittee**

Attorney Phil Utter  
Attorney John Durkin  
Attorney Christopher Keating

### **Child Protection Subcommittee**

Dr. Alan Seidman  
The Hon. Kris Spath  
Gina Belmont  
Nina Gardner  
Attorney Christopher Keating

### **Executive Committee**

The Hon. Tina Nadeau  
Kimberly Casey  
Attorney Daniel Will  
Attorney Christopher Keating  
Nina Gardner

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<sup>1</sup> Pursuant to RSA 494:2, Judicial Council members may continue to serve until a successor is appointed and qualified.

### **The Judicial Council and its Duties:**

Pursuant to RSA 494:3, it is the duty of the Judicial Council:

1. To serve as an institutional forum for the ongoing and disinterested consideration of issues affecting the administration of justice.
2. To survey and study continuously the administration of justice within the state and the organization, procedure, practice, rules and methods of administration and operation of the courts of the state.
3. To devise ways of simplifying judicial procedure, expediting the transaction of judicial business and of improving the administration of justice.
4. To recommend and provide general information to the general court, to the supreme court, to the superior court, to the probate court and to the district and municipal courts, to any public official, department or agency or to the state bar association, either upon request or upon the council's own motion such changes in the law or in the rules, organization, operation or methods of conducting the business of the courts, or with respect to any other matter pertaining to the administration of justice, as it may deem desirable.
5. To serve as a catalyst for the discussion of legal and judicial issues through seminars, forums and special studies, and any other means, within the limits of available state and private funding.
6. To administer the indigent defense delivery system and ensure its quality and cost effectiveness, pursuant to RSA 604-A and RSA 604-B.
7. To provide legal and guardian-ad-litem services in child protection cases, pursuant to RSA 169-C:10, RSA 604-A, and RSA 170-C:13.
8. To provide legal services for indigent proposed wards in guardianship proceedings brought under RSA 463 and RSA 464-A.

### **AGENCY**

The Judicial Council (Council) was created by statute in 1946 to serve as a disinterested forum for the discussion and presentation of ideas about how to improve the delivery of justice in our state. Over the years, the Council became tasked with numerous payment and oversight responsibilities, including oversight of the indigent defense delivery system. The Council itself is made up of ex officio members and appointees of the Supreme Court and Governor and Council. The agency is staffed by three people: the executive director, an administrative assistant and an account technician.

The Council is the government agency responsible for ensuring the quality and effectiveness of appointed counsel. It accomplishes this through general supervisory oversight of the New Hampshire Public Defender, and eligibility guidelines and performance standards for contract and assigned counsel. In September of 2015 the Council also adopted eligibility guidelines and performance standards for the specialized representation in post-conviction proceedings in New Hampshire courts in capital cases.

As a stand-alone agency, the Council is expected to comply with the same administrative requirements imposed on any other department of state government, including the production of reports, the maintenance of files, the creation of information technology and other plans, the production and



distribution of requests for proposals and the responsible financial management of a budget in excess of \$27,000,000

Anticipating the impact of the opioid crisis on child protection cases, the Council reformed its Child Protection Subcommittee (CPS) during this biennium. The CPS is focused on minimizing the cost of these cases while safeguarding the quality of legal representation.

In the early spring of 2016, Christopher Keating left the Council to take over as the Executive Director of the Administrative Office of the Courts. The Council was without an Executive Director until July of 2016. During that period, the Council adopted a resolution to allow Mr. Keating to continue acting as its Executive Director in a voluntary capacity. Both Mr. Keating and Nina Gardner, Chair of the Council and former Executive Director, volunteered many hours of their time to run the office. Sarah Blodgett began as the Executive Director in July of 2016. Ms. Gardner and Mr. Keating continued dedicating their time to mentoring the new director.

The Legislature tasked the Council with issuing annual reports on its recommendations and the implementations of Chapter 592-B, known as Felonies First. The following guidance was provided in the legislation:

The judicial council shall survey the municipalities, and counties affected by the felonies first project in order to obtain cost and effectiveness opinions. The judicial council shall evaluate the number of probable cause hearings requested, waived, denied, and held and the final disposition of each probable cause hearing held. The judicial council shall also evaluate the number of discovery depositions requested, denied and approved. Beginning July 1, 2017 and ending in January 2020, the judicial council shall issue an annual report on its recommendations and the implementation of this chapter to the senate president, the speaker of the house of representatives, and the chairpersons of the senate and house judiciary committee. *See Senate Bill 124 (Session Year 2015).*

The Council's Executive Director conducted numerous stakeholder interviews around the state and submitted the first report in December of 2016. Additional interviews and data requests occurred in the end of FY2017, for publication in the 2017 report. Both reports are available on the Council's website at [www.nh.gov/judicialcouncil/](http://www.nh.gov/judicialcouncil/).

### **Accomplishments**

New Hampshire's use of the death penalty obliges the government to ensure that capital defendants in post-conviction proceedings have access to able and experienced counsel in order to protect their rights and legal interests in an arena that is widely recognized as "legally complex and fact intensive," (See generally, *McFarland v. Scott*, 512 U.S. 849, 855056 (1994), "this Court's death penalty jurisprudence unquestionable is difficult even for a trained lawyer to master..." (quoting *Murray v. Giarratano*, 492 U.S. 1, 28 (1989)). The Council is the government agency responsible for ensuring the quality and effectiveness of appointed counsel. Following the court's decision to appoint counsel for Michael Addison in his post-conviction proceedings, the Council developed eligibility guidelines and performance standards for capital post-conviction representation.

The Council also established eligibility guidelines for criminal attorneys to act as assigned counsel. Assigned counsel is used if both the NH Public Defender and the contract attorney programs are

unavailable. Contract attorneys do not handle homicides, so all co-defendants in these cases are assigned to a panel attorney.

The Council adjusted unit values and in the contract attorney system to better reflect caseload demands. To maintain its ability to attract and retain experienced counsel for this program, the Council sought and received the first unit rate increase since 2005. While the \$25 increase per unit (\$275 to \$300/unit) was modest, it was a critical step in attracting and retaining competent attorneys.

### **Evolving Role**

In no small part due to the Council's efforts over the past 40 years, various Judicial Branch milestones have led to greater uniformity and efficiency in the administration of justice:

- In 1971, New Hampshire adopted a unified court structure overseen by the Chief Justice of the Supreme Court and the Administrative Council.
- In 1977, the Supreme Court created a Committee on Judicial Conduct to receive and investigate complaints about judges, masters, referees, registers of probate and clerks.
- In 1978, the Constitution was amended to make the Chief Justice of the Supreme Court the administrative head of all the courts, and gave the Chief Justice the responsibility of making rules governing their administration and the practices and procedures to be followed in the courts.
- In 1983, the Legislature consolidated the Judicial Branch funding in the State's biennial budget, and made the costs associated with running the District, Municipal, Probate, and Superior Courts a General Fund obligation.
- In 2004, the Supreme Court established the Administrative Council, made up of the Chief Justice of the Superior Court, the administrative judges of the Family, District and Probate Courts, and the director of the administrative office of the courts. The Court directed the Administrative Council to meet regularly and work "to enhance the effective and efficient administration of justice."
- In 2012, the Judicial Branch's establishment of the Trial Court Center consolidated the offices and administration of the Circuit and Superior Courts, leading to a greater sense of shared mission and cooperation within the Branch.

These developments have lessened what was previously a critical need for the advisory role played historically by the Council. While the Council's statutory membership gave the heads of each court the occasion to meet on a regular basis, but this purpose is now satisfied by the regular meetings of the Judicial Branch's Administrative Council, and by the natural advantages derived from the proximity of the Administrative Council members' offices to each other's. Previously, the Council enjoyed a preeminent role in recommending improvements to the delivery and administration of justice, but this responsibility is now primarily carried out by the Judicial Branch's Administrative Council.

While the Council played an important role in collecting, organizing and disseminating statistical information about the courts, now it is the Administrative Office of the Courts that is responsible for disseminating, (and which has more direct access to), the statistical data concerning the Judicial Branch. Historically, the Council played an important role in recommending to the Legislature certain statutes designed to improve the administration of the courts and the delivery of justice, that role is now filled by the Judicial Branch itself, which utilizes the services of a General Counsel to represent the interests of the Courts before the New Hampshire Legislature.

With 2 full-time staffers and an executive director, and with the invoice paying and oversight responsibilities entrusted to it, the Council has been shorthanded for over 30 years. Nevertheless, during that period, the Council under the stewardship of Nina Gardner was still able to play a major role in most of the justice-improvement efforts of the last three decades, the most significant of which were the statewide expansion and oversight of the Public Defender Program, the creation of the Family Court, the consolidation of the Family, District and Probate Courts into the Circuit Court system, the overhaul of the jury selection process, the move toward full-time judicial positions, and the utilization of CASA volunteers as the primary means of providing guardian ad litem assistance for children and to the courts in Abuse and Neglect proceedings statewide.

**INDIGENT DEFENSE**

The Council oversees the delivery of legal representation for New Hampshire’s indigent defendants. Because important legal, ethical and administrative considerations require that the entity overseeing indigent defense representation stand separate and apart from the prosecutorial, legislative and judicial spheres, the Council has proven to be a good home for this important government function.

The right to counsel is guaranteed through the XV amendment to the NH Constitution and the VI and IX amendments of the US Constitution. The Bill of Rights in the NH Constitution provides: “Every person held to answer in any crime or offense punishable by deprivation of liberty shall have the right to counsel at the expense of the state if need is shown.” Approximately 85% of the Council’s budget is dedicated to guaranteeing this Constitutional right.

**New Hampshire Public Defender**

Following a Request for Proposals in 2015, the New Hampshire Public Defender (NHPD) entered into a 2-year contract with the Council to provide state-wide public defender services. The NHPD is a private, non-profit corporation whose sole purpose is to provide legal representation to indigent criminal defendants, to civil commitment respondents and to children in delinquency proceedings throughout the State of New Hampshire. With a staff of 119 attorneys in 10 offices throughout the state, this program handles 87% of all indigent criminal defense appointments. In FY16, the Public Defender handled over 30,000 cases ranging from juvenile delinquencies to homicides.<sup>2</sup>

**New Hampshire Public Defender<sup>3</sup>**

<b>Fiscal Year</b>	<b>Homicides</b>	<b>Felonies</b>	<b>Misdemeanors</b>	<b>Delinquencies</b>	<b>Others</b>	<b>Totals</b>	<b>Contract Amount</b>
FY16	7	8,141	10,562	2,916	8,650	30,876	\$19,541,710
FY17	13	8,283	9,667	2,823	7,602	28,750	\$20,127,961

<sup>2</sup> Data provided in this report is based on statistics collected and maintained by the Council and the NHPD. All costs have been rounded to the nearest dollar amount.

<sup>3</sup> “Others” includes include parole violations, probation violations, sentence related hearings (e.g. post-conviction matters, compliance reviews, deferred sentence hearings, motions to impose), supreme court appeals, violations, witness representation, and any miscellaneous hearings in which the court asks NHPD to be involved.

The composition of NHPD's caseload has changed drastically over the past several years. While the number of misdemeanor and other less time-consuming cases have declined, felony cases have increased. The opioid crisis has been a significant factor in this shift. In 2010 felonies comprised less than 20% of the caseload. By 2017, NHPD felonies comprised nearly 30% of the caseload.

Many of these new felonies are drug-related such as possession, possession with intent, or sale of a controlled drug. Still other felonies have been committed by clients with substance abuse disorder. Felony cases are more complex and time-consuming from as reflected by attorney time spent to defend such charges. An increase in felonies also puts an additional burden on support staff because felonies generate more discovery, more hearing dates, more correspondence, more office appointments and more phone calls.

In addition to the increase in felony cases, the opioid crisis has taken a more personal toll on the NHPD. 236 NHPD clients died between June 15, 2015 and June 15, 2017 – overwhelmingly by drug overdose – while drug charges were pending.

The NHPD maintains the capacity to handle death-penalty eligible cases and has been designated in RSA 135-E to handle the defense of those persons which the state seeks to hold beyond their term of incarceration as sexually violent predators.<sup>4</sup> This program is nationally recognized for the quality of its staff and its commitment to proper oversight and training. This reputation enhances its ability to recruit competent and committed attorneys.

This program alone has the capacity to provide high-quality defense on a statewide basis in the most sophisticated and complex legal matters. Inadequate funding of this program will result in cost-shifting to other, more costly, components of the indigent defense budget. The importance of this budget to the efficient administration of justice and the protection of constitutional rights cannot be overstated.

### **Contract Attorney Program**

Under the statutory order of appointment, all criminal appointments are initially assigned to the NHPD. (See RSA 604-A:2, II). The Council contracts with private attorneys to provide representation in conflict cases where ethical rules forbid NHPD representation. This system was established in 1985 to serve as a backstop to the Public Defender, to provide predictability of costs and to reduce the State's reliance on the more expensive assigned counsel system. The contract attorney system handles approximately 14% of the indigent defense caseload. Contract attorneys are approved by the Council's Indigent Defense Subcommittee. These attorneys are paid a flat fee for each case. During this biennium, the reimbursement rate was set at \$275 per unit.<sup>5</sup>

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<sup>4</sup> NHPD is not currently funded to handle a death penalty case. Such representation would require a significant appropriation.

<sup>5</sup> A misdemeanor is 1 unit, a felony is 2.75 units and a serious felony such as an aggravated felonious sexual assault is 8.30 units.

### Contract Cases

<b>Fiscal Year</b>	<b>Felonies</b>	<b>Misdemeanors</b>	<b>Delinquencies</b>	<b>Others</b>	<b>Total</b>	<b>Amount</b>
FY16 CCA	1,619	1,228	172	781	3,800	\$1,811,153
FY17 CCA	1,671	1,106	181	765	3,723	\$1,898,340

### Assigned Counsel

The remaining 1% of criminal appointments are assigned to private lawyers who bill on an hourly basis. The assigned counsel are attorneys in private practice who are appointed to represent the accused when there is a conflict for the Public Defender and Contract attorneys or when there are multiple co-defendants in murder cases. These cases are reimbursed at \$60/hour with a \$1,400 cap for misdemeanors and a \$4,100 cap for felonies. Serious felonies, including first degree assault and aggravated felonious sexual assault are reimbursed at \$100/hour, with a cap of \$8,000. Homicides are reimbursed at \$100/hour with a cap of \$20,000 per co-counsel. Every effort is made to minimize the number of assigned counsel appointments.

### Assigned Cases

<b>Fiscal Year</b>	<b>Homicides</b>	<b>Felonies</b>	<b>Misdemeanors</b>	<b>Delinquencies</b>	<b>Other</b>	<b>Total Cases</b>	<b>Amount</b>
FY16	5	219	111	39	89	463	\$515,023
FY17	3	52	35	19	44	153	\$873,920

### Services other than Counsel

The Council also administers the funds for court-approved non-counsel services. When an accused person is indigent and cannot afford expert services necessary to his defense in a criminal case, statutory and constitutional law require that the State provide him with funds sufficient to retain the expert. RSA 604-A:6 states:

In any criminal case in which counsel has been appointed to represent a defendant who is financially unable to obtain investigative, expert or other services necessary to an adequate defense in his case, counsel may apply therefor to the court, and, upon finding that such services are necessary and that the defendant is financially unable to obtain them, the court shall authorize counsel to obtain the necessary services on behalf of the defendant.

This statute protects the well-established constitutional rights of an accused person to due process, equal protection, effective assistance of counsel and the right to present all proofs favorable. RSA 604-A:6 requires the Council to pay for these services when a trial judge has ruled that the defendant is indigent and that the services are necessary to an adequate defense. Most commonly these services include language interpretation, private investigators, blood analysis, transcripts, depositions of witnesses,

toxicology experts, witness fees, psychological examinations, forensic experts, and accident reconstruction experts.

In certain instances, failure to consult with an expert can result in counsel being found ineffective and a appointment of a new attorney. The New Hampshire Supreme Court found counsel ineffective in a negligent homicide case for failing to consult with an accident reconstruction expert. State v. Whitaker, 158 N.H. 762, 772-75 (2009).

**Services other than Counsel<sup>6</sup>**

<b>Fiscal Year</b>	<b>Homicides</b>	<b>Felonies</b>	<b>Misd.</b>	<b>Juveniles</b>	<b>Witness</b>	<b>Other</b>	<b>Amount</b>
FY16	\$67,541	\$691,490	\$79,957	\$16,246	\$7,897	\$9,580	\$872,711
FY17	\$154,849	\$782,571	\$104,024	\$32,810	\$10,606	\$127,003 <sup>7</sup>	\$1,211,862

**CHILD PROTECTION CASES**

When the Division of Children, Youth and Family brings a petition of abuse or neglect against a parent, a confidential Family Court case is opened. If the accused parent is indigent, the court is required to appoint an attorney pursuant to RSA 169-C:10, II (a). These cases are extremely time-consuming and deadline driven. A typical abuse and neglect case can have as many as 8 hearings before the matter is closed. If the child is not reunified with his or her parents at the end of the case, a termination of parental rights case is brought forward. A parent also has opportunities to appeal a court’s decision to Superior Court and the Supreme Court.

The Council has taken on an ever increasing role in child protection cases and is now responsible for paying for parent representation, Court Appointed Special Advocates (CASA) and private Guardians ad Litem (GAL). A GAL is court appointed to represent the interests of a minor in a legal proceeding. CASA provides GAL services through its volunteers. The statutory basis for this arrangement lies in RSA 169-C:10 where the appointment of a GAL in an abuse and neglect case is required. Expenditures for child protection cases have risen sharply since the advent of the opioid crisis. SB515, which was passed during the 2016 session, created a rebuttal presumption of harm based on a custodial parent’s abuse of or dependence on opioid drugs. Staff increases at DCYF have also contributed to the increase in cases.

**CASA**

Beginning in 1996 with a small, three-month trial, the Council began providing funding to support a small portion of the administrative, recruitment and training activities of CASA. Since that time, the funding has increased to match CASA’s increasingly larger share of the statewide caseload. Legislation enacted in 2012 requires courts to appoint a CASA GAL in the first instance. At its inception, the rationale for providing funding to CASA was that for its investment in supervision, recruitment, and support for a legal position, the State was able to provide services of a well-trained and supervised volunteer to serve as

<sup>6</sup> These costs have been rounded to the nearest dollar.

<sup>7</sup> The Other costs for FY17 include representation in Michael Addison’s post-conviction capital proceeding.

GAL. The State's funding represents only a partial cost of CASA's operations, and is an example of the benefits of a public-private partnership.

Following a Request for Proposals in 2015, CASA entered into a 2-year contract with the Council to provide statewide GAL services.

#### CASA Assignments

<b>Fiscal Year</b>	<b>Abuse &amp; Neglect Appointments</b>	<b>Terminations</b>	<b>De Novo</b>	<b>Supreme Court Appeal</b>	<b>Supreme Court Writ</b>	<b>Total Cases</b>
FY16	314	58	21	12	1	<b>406</b>
FY17	367	103	37	13	1	<b>521</b>

#### Private GALs

If CASA is unavailable, the court appoints a private GAL. The Council pays for this service. The Council's Executive Director sits on the GAL Board. Per Supreme Court Rule, private GALs are reimbursed \$60/hour, with a cap of \$1,400 through disposition and a \$300 cap per review hearing.

#### Private GALs

<b>Fiscal Year</b>	<b>Abuse &amp; Neglect Appointments</b>	<b>Number of Invoices Processed</b>	<b>Total cost</b>
FY16	119	262	\$160,547
FY17	179	445	\$225,552

#### Parent Attorneys

The attorneys appointed to represent accused parents are reimbursed at \$60 per hour, with a cap of \$1,700 through adjudication, and then \$300 per review hearing. While there are experienced parent attorneys throughout the state, the increasing need for this representation and upcoming retirements for older lawyers will be a challenge in the near future. The Council's Child Protection Subcommittee will focus on this issue during the 2018-2019 biennium.

#### Parent Attorneys

<b>Fiscal Year</b>	<b>Number of Invoices Processed</b>	<b>Number of Appointments</b>	<b>Total cost</b>
FY16	1,602	823	\$790,576
FY17	3,028	994	\$1,003,448

#### Additional Services in Probate and Family Matters

The Council also pays for court-ordered services provided by GALs for children in termination of parental rights cases, attorneys for parents in termination of parental rights cases, guardianships of

incapacitated adults and minors, and representation in Supreme Court appeals from any of these case types. These costs are paid out of line 1092.

**1092 Costs**

<b>Fiscal Year</b>	<b>Total Invoices Processed</b>	<b>Guard. of Incapacitated Adult</b>	<b>Guard. of Minor</b>	<b>Supreme</b>	<b>Termination</b>	<b>Services</b>	<b>Total</b>
FY16	890	\$193,292	\$22,328	\$38,213	\$160,745	\$10,915	\$425,065
FY17	854	\$171,395	\$27,893	\$50,874	\$166,513	\$9,378	\$426,053

**CIVIL LEGAL SERVICES**

Since 1997 the Legislature has provided vital funding for New Hampshire Legal Assistance (NHLA) in support of its efforts to provide legal aid to low-income New Hampshire residents. The State funding for NHLA has been a cornerstone of civil justice for vulnerable elders, veterans, the disabled, and victims of domestic violence. According to a study published in 2013, legal services organizations were able to assist less than 6% of low-income residents with legal needs.<sup>8</sup>

NHLA assists individuals and families with civil legal problems such as preserving affordable housing, preventing homelessness, maintenance of subsistence income, access to affordable health care, enforcing consumer rights, youth education rights, long-term care for vulnerable seniors and safety from domestic abuse. While the Council has no statutory or contractual supervisory oversight over NHLA, this organization submits regular reports on its state appropriations.

**New Hampshire Legal Assistance**

<b>Fiscal Year</b>	<b>State Appropriation</b>
FY16	\$1,200,000
FY17	\$1,200,000

**Legislation Review and Information**

The Council reviews all prospective legislation having a direct or indirect impact on the administration of justice. The Executive Director monitors the progress of legislation, appears before the appropriate legislative committee and testifies about the expected impact of proposed legislation. The Executive Director, at the request of the Legislative Budget Assistant, is responsible for the preparation of fiscal notes pursuant to RSA 14:44-47. These cost estimates are required for each piece of legislation expected to have a fiscal impact on the Council’s budgetary function.

**Accounts Payable**

On a day-to-day basis, the great majority of the Council’s activities concern the receipt, review, approval, payment and recording of the bills submitted to us by vendors who have provided court-ordered

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<sup>8</sup> See New Hampshire Supreme Court Access to Justice Commission *The Justice Gap: A Study of the Legal Needs of New Hampshire’s Low-Income Residents* available at <https://www.courts.state.nh.us/access/>.



# New Hampshire Judicial Council

## Expenditure Review

Through June 30, 2017

		FY 2014 Actual	FY 2015 Actual	FY 2016 Actual	FY 2017 Actual
1091	<b>Assigned Counsel</b>	603,229	973,978	1,305,598	1,877,368
	Representation in criminal and delinquency cases	291,556	431,836	515,023	873,920
	Representation for parents in abuse & neglect cases	311,673	542,142	790,576	1,003,448
1092	<b>GAL Fund</b>	458,696	484,357	425,065	426,053
	Representation for proposed wards in guardianship proceedings				
	Representation for parents in termination-of-parental-rights cases				
	Non-CASA G.A.L. services for children in termination-of-parental-rights cases				
1093	<b>Contract Attorneys</b>	1,801,384	1,666,630	1,811,153	1,744,800
	Representation in criminal and delinquency cases				
1094	<b>NH Public Defender</b>	18,875,447	19,541,710	19,541,710	20,127,961
	Representation in criminal and delinquency cases				
1097	<b>Agency Budget</b>	275,484	286,658	246,113	280,544
1098	<b>NH Legal Assistance</b>	1,100,000	1,200,000	1,200,000	1,200,000
	Civil legal services for the poor				
1099	<b>CASA Guardians ad Litem</b>	494,000	539,000	589,000	639,000
	G.A.L. services for children in abuse & neglect cases				
	G.A.L. services for children in termination-of-parental-rights cases				
1101	<b>Non-CASA Guardians ad Litem</b>	148,192	113,446	160,547	225,552
	G.A.L. services for children in abuse & neglect cases				
1103	<b>Services Other than Counsel</b>	848,350	897,589	872,711	1,211,862
	Ancillary services in criminal and delinquency cases				
	<b>totals</b>	<b>24,604,782</b>	<b>25,703,368</b>	<b>26,151,898</b>	<b>27,733,139</b>
Shaded lines reflect eligibility to request additional funds through Joint Fiscal Committee Process					