

TESTIMONY OF COMMISSIONER NICHOLAS SCOPETTA

FIRE DEPARTMENT OF NEW YORK

BEFORE THE CITY COUNCIL
COMMITTEES ON FINANCE AND ON
FIRE AND CRIMINAL JUSTICE SERVICES

May 15, 2008

INTRODUCTION

Good morning, Chairman Martinez, Chairman Weprin and Council Members.

Thank you for the opportunity to speak with you today about the Fiscal 2009 Executive Budget for the New York City Fire Department (FDNY or the Department).

OVERVIEW

Before turning to the Executive Budget, I would like to update the Committees on two Department initiatives that I discussed at our Preliminary Budget hearing.

As the Fire and Criminal Justice Services Committee is aware, our efforts to enact the revised Fire Code are continuing on schedule. In our two hearings before the Committee we discussed both the Code revision process and the numerous advantages of the new Code. We also conducted two briefings for Council Members and staff last week, and we appreciate the support the Council has provided so far. We hope this important legislation will be passed and signed into law in the coming weeks so that it can become effective on July 1, 2008, the same date the revised Building Code goes into effect.

As I discussed with you at the Preliminary Budget hearing, the trend toward faster response times continues. In this calendar year to date, we are responding 7 seconds faster to structural fires, 10 seconds faster to medical emergencies, and 11 seconds faster to all calls compared with our five-year baseline (2003 through 2007). We hope to see even faster response times to fires after we further expand our successful Queens dispatch pilot program. As I mentioned at our Preliminary Budget hearing, the Queens pilot involves dispatching fire companies after obtaining two key pieces of information: the location and nature of the incident. Dispatchers then gather and provide any additional

information to the responding companies while the companies are en route. I am pleased to report that during the pilot period – February 14th to the present – average response times to structural fires in Queens are 29 seconds faster than during the same period in 2007. Based on this success, we implemented the new protocol in the Bronx on May 1st, and plan to implement it citywide on June 16th. We are training all of our dispatchers in the new protocol and will continue to monitor all pilot results closely.

EXECUTIVE BUDGET

The Fiscal 2009 Executive Budget allocates \$1.51 billion for the FDNY. Since our Preliminary Budget hearing in March, an additional reduction of approximately \$7 million was made in the FDNY Executive Budget. Nevertheless, the Executive Budget allows us to maintain our operations and training at current or enhanced levels, which will enable us to maintain core services throughout the City in the coming fiscal year.

Staffing

In the Executive Budget, we are adding five positions related to the anticipated enactment of the new Fire Code. The new Fire Code greatly enhances the Department's oversight abilities for issues ranging from motor fuel storage to state-of-the-art "green" technology installations (co-generation plants, including microturbines, fuel cells and development of hydrogen motor fuel infrastructure). In addition, we are assuming jurisdiction from the Buildings Department over equipment review for commercial cooking equipment, sprinkler systems, grease ducts and other types of equipment. These new positions – four engineers and one administrative staffer – will enable the Department to meet plan and equipment examination demands created by the new Fire Code. Our new fee schedule for plan or equipment submissions – \$210 or \$625

depending on the type of plan or equipment submitted – is expected to generate an additional \$830,000 in annual revenue.

Due to hospital closures called for by New York State's Berger Commission, the FDNY assumed 13 Basic Life Support and 13 Advanced Life Support ambulance tours over the past year. The Executive Budget contains \$3.5 million for Fiscal 2009 to support these added tours and the 49 new EMT and 50 new Paramedic positions associated with them.

We also have generated savings by reducing the Department's uniformed overtime expenses by approximately \$8-10 million. This has been done through promoting new officers and more efficient utilization of members assigned to Light Duty.

Our OTPS budget for recruitment has been cut by \$500,000 in Fiscal 2009 and Fiscal 2010, the two years in between our firefighter exams; this money is restored in the Fiscal 2011 budget, when we will need it most for targeted advertising prior to the next firefighter exam, which is scheduled for January 2011.

Technology Enhancements

We are pleased that \$5.5 million in Capital funding has been added to the Executive Budget to help us launch a very important initiative to improve our inspectional capabilities through automation. The Department has limited resources to inspect more than 220,000 buildings in New York City. We currently employ a cyclical inspection program that requires our local companies to, among other things, inspect schools and hospitals annually and other buildings less frequently. This system does not sufficiently prioritize the buildings that present the greatest danger to the public and first

responders. We are therefore working toward creating a risk-based system where we will inspect more frequently the buildings that require closer attention.

To accomplish this, we must automate and integrate an array of paper-based and electronic information that we now have on buildings throughout the City. Existing funding has allowed our technology staff to work toward creating a centralized Data Warehouse (called the “Big DW”) that will capture, organize and process this information. IBM recently completed a roadmap for the next steps in this process, which proposes to organize all FDNY building data by a location’s BIN (the common “building identification number” used by DOB and some other agencies to identify City buildings), and establish interfaces with DOB, DEP and other City agencies to share inspection information.

The Capital allocation in next fiscal year’s budget reflects the enormous importance of this work. When completed, FDNY personnel at all levels will be able to quickly access data from our fire prevention and field inspections, and DOB and DEP data, on new construction, demolitions, alterations, abatement jobs, permits, violations, certificates of occupancy and other essential building information. Using this information, we can replace the current cyclical inspections with a more targeted, risk-based building inspection program.

The Department is also beginning the process of computerizing our Critical Information Dispatch System (CIDS). This project, called the Electronic Critical Information Dispatch System (e-CIDS), will improve how our members input and access information on building hazards throughout the City. During fire companies’ building inspections, any noteworthy issues – such as the presence of a non-ambulatory resident,

hazardous materials, or certain building materials – are recorded on a CIDS card that can be referenced en route to an emergency. This increases our members' safety by alerting firefighters to special circumstances that may present additional hazards. It is an enormous challenge to automate this process, involving the creation of entirely new mechanisms for storing and maintaining data. We have been allocated \$350,000 for Fiscal 2008, and \$430,000 for subsequent fiscal years, to hire the personnel and purchase the servers and other technology needed to design and implement this new system. When complete, this program will greatly enhance the accuracy and efficiency of the CIDS system by incorporating informational updates more rapidly and providing units with more efficient access to accurate information.

E-CIDS information will reside in the Department's Data Warehouse and ultimately will be fully integrated into the Department's new BIN-based inspection data, as a result of the integration effort being initiated with the \$5.5 million allocation in our Fiscal 2009 budget.

CONCLUSION

The Department is confident that our Fiscal 2009 budget will meet the City's fire and emergency medical response needs. Thank you again for the opportunity to speak with you today. I would be pleased to answer any questions at this time.

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**TESTIMONY BY JOHN J. McDONNELL, PRESIDENT
OF THE UNIFORMED FIRE OFFICERS ASSOCIATION
BEFORE THE CITY COUNCIL FINANCE AND FIRE AND CRIMINAL
JUSTICE COMMITTEES**

May 15, 2008

Chairmen Weprin and Martinez, and members of the City Council Finance and Fire and Criminal Justice Committees, thank you for the opportunity to testify here today. My name is Lieutenant Edward Boles and I am the Treasurer of the Uniformed Fire Officers Association (UFOA). I am delivering this testimony for Battalion Chief John J. McDonnell, the President of our union. thank you for this opportunity to testify here today.

The Uniformed Fire Officers Association represents more than 2,500 lieutenants, captains, battalion chiefs, deputy chiefs, medical officers and supervising fire marshals of the New York City Fire Department.

The UFOA is not here today to mince words. The Fire Department has been severely abused for five long years, subjected to budget cuts that caused significant reductions in fire coverage for the people of New York City. The abuse has to end, and now would be a good time to end it.

For five years, Mayor Bloomberg has stubbornly maintained that New York City cannot afford a faster, better Fire Department. On May 25, 2003, he closed six engine companies, for no credible reason. He said it had to be done because the city was facing a fiscal crisis. One month later, the city posted a billion dollar surplus.

The following year it was a three billion dollar surplus, and each succeeding year the city wallowed in surplus billions at the end of the fiscal year. This year is no different. Following a tried-and-true formula, the Mayor underestimates revenues, and for every day of each of his six years, revenues have been in the black, and never in the red, not for a single day.

In the meantime, Public Safety be damned.

Response time to Structural Fires is the most critical measuring stick the Fire Department provides in its monthly and annual reports, and the record shows a dismal five years of increased response times in all five boroughs since the six engine companies were eliminated.



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Nowhere in the city is the picture more worrisome and dangerous than in the Borough of Queens. Last year the citywide average for response times to Structural Fires was four minutes and 27 seconds (4:27). That was 14 seconds slower than the citywide average of 4:13 in 2002, the last full year before the axe fell on six neighborhoods. But that isn't the whole story, not by a mile. In Queens, average response time soared to 4:58 last year, 31 seconds slower than the citywide average of 4:27, the worst 2007 performance of any borough in the city.

By the way, when the Queens statistics are excluded from the citywide totals, 2007 response time to Structural Fires in the other four boroughs was only 4:23. When Queens is compared to the other four boroughs, its 4:58 time is 35 seconds slower than the rest of the city. The next time FDNY officials tell you Queens was ONLY 31 seconds slower than the citywide average, please tell them you are tired of their pathetic attempts to cover their failures. Queens is 35 seconds slower than the other four boroughs to fires.

Attached are two charts, both citing FDNY statistics. One is a 38-year chart of Fire Department Performance Indicators and the other is a 15-year breakout of the same Performance Indicators in Queens. Probably the most remarkable revelation in the two charts is the 15-year comparison of response times in the Structural Fire category. The 31-second differential between citywide and Queens statistics in that category for 2007 is the same differential for all 15 years. The entire 15-year period shows the same 31-second differential averaged over all of those years.

In other words, this disparity has been hanging over the city through three Mayors and at least 15 budgets, and nothing has changed. This is a long-standing failure to provide the people of Queens---2.3 million of them---with their fair share of fire coverage.

The City Council can take a small step toward fairness and justice in the days ahead. Closing six engine companies in 2003 left a big hole in the giant elastic net that is fire coverage in New York City. When those companies disappeared, the remaining 197 engine companies had to close ranks and do the job that 203 companies had been doing before. That meant FDNY engine companies had to travel further to the fires than they did before the closings.

And nowhere in the city was this more of a problem than in Queens, the borough with by far the most square miles of any other. In the three years prior to the elimination of Engine Company 261 in Long Island City that unit had been responding to its boxes in 4:28. In the five years since, the same boxes have recorded a 5:05 response time. The neighborhood had a better-than-average engine company until the axe fell. Now the neighborhood has worse-than-average fire and emergency services.

Is that fair? Is that right? Is it good government to single out Long Island City---which has had a population explosion in the last five years, with construction everywhere---and endanger the people living and working there? The answer is No.

The facts are attached. The statistics are from the FDNY, and are not our statistics or yours. They are official statistics of the Fire Department. For five years, Long Island City has been waiting 37 seconds longer for a fire engine, thanks to a 2003 decision that defies logic.

One last important consideration. The mission of the Fire Department is to protect the lives AND PROPERTY of the citizens of our city. But the Department does not keep statistics on property damage. You can bet your last dollar property damage in this city has soared during the last five years, but no one is keeping score. Look at the attached charts. Response time to fires in 2002 (pre-budget cuts) was 4:13. In the five years since, those annual statistics have been 4:20, then 4:21, then 4:36, then 4:29, then 4:27.

Please do not try to tell your lieutenants, captains, battalion chiefs and deputy chiefs in the field that property damage in the last five years has remained constant or gone down. Fires increase exponentially, and every second of arrival time counts. We are currently a much slower Fire Department than we were five years ago, through no fault of our own.

Thank you for your time and your patience. We hope you will hear our plea. We plead not only for ourselves, but for the people most in need of our service.

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Total Incidents 1970 - 2007										

Year	Uniform Force	Structural Fire	Struct. Fire Resp. Times	Non Structural Fires	Non Fire Emergencies	Medical Emergencies	Malicious False Alarms	Total Incidents	Serious Fires	Civilian Deaths
1970	14,235	47,746		79,503	45,999		88,407	261,655	3,508	310
1971	13,896	48,904		76,402	49,543		104,958	279,807	3,573	292
1972	13,558	47,745		70,552	49,610		106,878	274,785	3,410	270
1973	13,394	49,533		79,573	55,247		115,802	300,155	3,261	295
1974	13,091	52,473		77,851	58,733		164,401	353,458	3,852	273
1975	11,548	54,957		82,280	59,460		203,851	400,548	4,307	245
1976	10,662	56,810		96,453	64,524		207,227	425,014	4,880	289
1977	11,271	50,941		78,678	66,950		262,998	459,567	4,640	290
1978	10,979	44,670		76,122	66,323		258,290	445,405	3,445	272
1979	11,466	43,072		71,298	72,243		162,529	349,142	3,095	244
1980	11,252	44,151		83,725	76,327		185,500	389,703	3,303	289
1981	11,720	42,388		79,873	75,653		164,118	362,032	3,090	246
1982	11,990	39,251		77,548	77,132		152,147	346,078	2,782	248
1983	11,908	36,390		59,886	76,772		139,083	312,131	2,320	228
1984	12,096	34,626		59,703	78,769		142,224	315,322	2,148	206
1985	12,080	34,091		63,369	81,533		132,522	311,515	2,240	213
1986	12,101	31,841		62,316	81,848		128,793	304,798	2,126	206
1987	11,943	31,748		58,003	93,557		140,957	324,265	2,134	245
1988	11,433	34,254		70,975	99,175		139,408	343,812	2,775	229
1989	10,630	30,838		63,696	113,037		136,296	343,867	3,187	246
1990	10,710	29,116		67,040	114,883		147,732	358,771	3,275	276
1991	10,660	29,912		70,912	119,279		161,421	381,524	3,498	187
1992	11,033	30,644		66,027	118,596		158,162	373,429	3,906	164
1993	11,026	30,481	4:21	63,305	123,762	1,971	143,056	360,604	3,818	161
1994	11,389	30,626	4:08	56,237	139,727	2,364	119,797	346,387	3,973	162
1995	11,186	30,156	4:18	46,718	155,559	66,408	100,313	399,154	3,905	173
1996	10,947	28,596	4:24	39,613	162,027	134,220	72,045	436,501	3,395	149
1997	10,984	30,652	4:20	35,041	164,751	158,585	64,913	453,942	3,692	145
1998	11,232	29,281	4:16	32,129	165,154	154,973	66,078	447,615	3,183	107
1999	11,319	29,429	4:18	32,083	171,708	156,573	59,238	449,031	3,504	112
2000	11,296	29,217	4:17	29,221	176,148	153,279	56,283	444,148	3,289	125
2001	11,112	27,788	4:16	29,655	172,638	155,396	51,544	437,021	3,157	101
2002	10,734	26,248	4:13	25,315	170,867	158,461	45,651	426,542	2,946	97
2003	11,177	27,105	4:20	24,015	178,156	173,694	41,018	443,988	3,202	125
2004	11,314	27,718	4:21	22,437	180,047	189,162	37,332	456,696	3,164	82
2005	11,387	28,455	4:36	22,940	199,643	202,526	32,138	485,702	3,382	102
2006	11,487	27,817	4:29	20,702	198,202	209,397	28,836	484,954	3,243	85
2007	11,550	28,004	4:27	19,388	209,943	207,677	25,755	490,767	3,143	96

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FIRE DEPARTMENT CITY OF NEW YORK
Queens Incidents 1993 - 2007

Year	Uniform Force	Structural Fire	Struct. Fire Resp. Times	Non Structural Fires	Non Fire Emergencies	Medical Emergencies	Malicious False Alarms	Total Incidents	Serious Fires	Civilian Deaths
1993		4,685	4:50	11,350	21,489	165	36,716	74,405	732	
1994		4,809	4:44	10,687	24,968	197	31,005	71,666	785	
1995		4,942	4:55	9,210	28,599	10,578	26,443	79,772	763	
1996		4,775	5:00	8,166	31,394	31,124	22,448	97,907	665	
1997		4,813	4:59	7,162	32,131	34,985	20,122	99,213	658	
1998		4,673	4:47	6,828	31,642	32,021	19,041	94,205	577	
1999		4,812	4:50	7,023	33,252	32,274	15,377	92,738	744	
2000		4,745	4:47	6,308	33,387	31,507	14,838	90,785	655	
2001		4,159	4:44	5,387	33,059	32,551	10,727	85,883	627	
2002		4,159	4:44	5,387	33,059	32,551	10,727	85,883	627	
2003		4,535	4:53	5,511	33,910	35,378	9,281	88,615	708	
2004		4,538	4:49	4,594	34,114	39,077	8,459	90,782	721	
2005		4,934	5:02	4,974	37,140	42,955	7,290	97,293	776	
2006		4,879	4:55	4,800	38,048	42,827	6,766	97,320	713	
2007		5,166	4:58	4,375	38,572	42,900	6,151	97,164	677	



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Department of Correction
Statement to the New York City Council
Committees on Finance and Fire and Criminal Justice Services
By Martin F. Horn, Commissioner
May 15, 2008

Good afternoon Council Members. I appreciate the opportunity to speak to you today about the Department of Correction, our budget, and our recent accomplishments.

Our operating budget for fiscal year 2009 totals \$984 million and will support 9,452 uniformed personnel and 1,490 civilian staff to oversee an average daily inmate population projected to be 13,561, about 350 below this year's average.

The core mission of the Department of Correction is to provide care, custody, and control of inmates – most of whom are detainees awaiting trial or sentence. Our primary responsibility is to ensure the safety of the public, inmates, and staff. Our budgetary decisions are driven by how we can best use our resources to maintain a safe and healthy environment for inmates and staff and how we can best prepare inmates for life after release from jail.

The recent drop in the inmate population is an encouraging sign that some of our efforts to prepare inmates for life after release and to avoid coming back to jail again in the future are succeeding. Together with this Council, we have made New York City one this country's leaders in discharge planning and aftercare programs. The Mayor's budget reflects these priorities and demonstrates our commitment to further reducing the number of people in jail.

Incarceration is perhaps the greatest power of government; it is a power that is sometimes necessary to ensure justice and public safety. It is a power that should be used as judiciously and sparingly as possible. Incarceration is expensive, and it rarely does much good for the person who is incarcerated. There is a growing recognition that we incarcerate too many people in the United States. Criminal Justice professionals and legislators need to find better and more creative ways of responding to crime and ensuring public safety. We also need to recognize that incarceration is not an appropriate strategy for dealing effectively with social problems like substance abuse and mental illness.

I am pleased to announce today that, building on the City's robust history of investment in alternatives, the City is taking an important step by creating a new alternative-to-detention program. The Executive Budget includes new funding in the Criminal Justice Coordinator's budget of \$750,000 in fiscal year 2009 and \$1 million in fiscal year 2010 to safely supervise alleged offenders in the community while their cases are pending in court. The program will target alleged offenders who would otherwise be remanded to DOC's custody including a significant portion with mental health problems. The program will provide appropriate supervision to ensure public safety and necessary services for defendants to get the help they need. Judges will specify enforceable conditions of release, which could include curfew monitoring, drug testing, school attendance, employment monitoring, or intensive case management for mentally ill defendants. OMB estimates that the pilot program will reduce the City's average daily jail population by 300 and save \$5 million by fiscal year 2010.

In addition, we are also building on our earlier successes by continuing and improving recently begun innovative programs. The Executive Budget renews funding for the Model Education

Programs and the Rikers Island Educational Expansion Initiative that were initiated by the Mayor's Commission on Economic Opportunity.

The Model Education Programs provide GED preparation, career mentoring, and literacy programs for former inmates. From October 2007 to March 2008, 155 formerly incarcerated individuals recruited on Rikers Island have chosen to avail themselves of these educational services upon release from jail. The program is designed to serve 700 persons annually.

The Rikers Island Educational Expansion Initiative seeks to expand the number of inmates between the ages of 19-24 who choose to attend school. From the beginning of this program through March 2008, the average daily school attendance among this group has increased by 23%. This has been facilitated by additional classroom space built by the Department of Correction, the hiring of additional teachers by the Department of Education, and by offsetting the disincentive for school participation by paying inmates between the ages of 19-24 the same wage as that earned by unskilled inmate workers (27 cents per hour).

Of course, we could not effectively educate adults and adolescents in jail or prepare inmates for life after release from jail if we did not maintain a safe, secure, and healthy environment for staff and inmates. Safety and security are fundamental to everything we do. That is why we have allocated \$5 million in fiscal year 2009 to build a new school at our facility for adolescent males on Rikers Island. The existing school (like many of our jail facilities) is a dilapidated wooden structure that has reached the end of its useful life.

Two months ago in my testimony about the Mayor's Preliminary Budget, I summarized many of the investments that the Department of Correction has made over the last five years to improve the safety and security of the jails. In that testimony, I explained how those investments, and the work of our extraordinary staff, had turned New York City's jails into what we believe are the safest big-city jails in the nation. The Executive Budget includes funding to continue two investments that proved effective at improving security: our drug interdiction initiative and a newly created mental health supervision housing area. These initiatives had been funded on a temporary basis through fiscal year 2008. They proved effective and are now budgeted on a permanent basis.

Our correction officers are New York's Boldest and they patrol New York's toughest precincts. Our officers are New York's Noblest because they look out for the safety and well being of an inmate population that includes violent individuals as well as people with serious problems such as drug addiction and mental illness. Even for the Boldest and Noblest, this is a challenging job. It is made even more challenging because of the deteriorating condition of our facilities and infrastructure.

That is why, even though we are reducing our total bed capacity, about three-quarters of our capital budget is devoted to building replacement jails, and we are investing in improving the buildings we will continue to use on Rikers Island. We have begun to tear down many of the 20-year old wooden structures and plastic tents that have been and, in many cases, still are used to house inmates. These structures are in poor and deteriorating condition, and we spend too much time and money trying to patch them up. We still must tear down many more, and a **fraction** of the beds that we will lose must be replaced.

We are committed to reducing the population of the jails, and we are committed to **reducing the total bed capacity of our jail system**. I repeat what I said in March, our plan is to build a 720-bed addition to the Brooklyn House of Detention and a new 1500-bed jail in the Bronx. The construction of these facilities will replace some of the deteriorating structures on Rikers Island that must be closed. **Let me emphasize again: we do not plan to build as many beds as we plan to tear down. Our plan calls for a reduction of 3,000 beds in the City's jail system and a reduction in the number of beds on Rikers Island of nearly 4,000 beds.**

The location of these projects will improve access for families, bring inmates closer to the courts, decrease the security risks associated with inmate movement, and will reduce bus miles travelled, traffic congestion, and pollution. Our planned new construction in the Bronx and Brooklyn will allow us to improve the overall condition of all the jails, including those on Rikers Island.

Since I last testified, the Department of Design and Construction issued a request for proposals for design services for the Brooklyn House of Detention project. The RFP incorporates design elements suggested by the community and elected officials. However, this does **not** represent the only opportunity for community input. This RFP process is for the selection of an architect to design the project. It is **not** a design competition. No design will be rendered, proposed or accepted as part of this RFP. That will be the assignment given to the firm that is finally chosen. Part of that assignment will be to solicit and incorporate community input.

We continue to work with local elected officials and meet with community groups to find an appropriate site for the new jail in the Bronx. We hope to be able to announce a plan and initiate the ULURP process in the coming months.

I thank you for your time today. I will now answer any questions that you may have.

**Statement of John Feinblatt
Criminal Justice Coordinator
New York City Council
Committee on Fire and Criminal Justice
May 15, 2008**

Good morning, Chairman Martinez and members of the Committee on Fire and Criminal Justice. My name is John Feinblatt, and I am the City's Criminal Justice Coordinator. I am joined today by Scott Sigal and Migdalia Veloz. Thank you for the opportunity to be heard on the Mayor's budget as it relates to indigent defense in New York City.

On March 14th, Scott Sigal spoke at the Preliminary Budget Hearing and gave detailed testimony on the state of the defense bar in New York City, our current expenditures on indigent defense, and our accomplishments over the past year. I understand that the purpose of today's hearing is to update the Council on any changes in the budget that have taken place since the preliminary hearing.

Let me begin by reviewing current indigent defense expenditures. In fiscal year 2008, the City will spend about \$205 million for indigent representation in New York City. The expenditures break down in the following way:

- \$85 million allocated to the Legal Aid Society
- \$37 million allocated to six other criminal court providers and three appellate providers
- \$9 million for family court Article 10 providers
- \$73 million for 18-B, for both criminal and family court

For fiscal year 2009, despite the fact that all City agencies – including criminal justice agencies – are facing budget cuts, we are actually increasing spending for indigent defense. The Mayoral budget for indigent defense for fiscal year 2009 is \$192.6 million, a \$4.4 million increase in Mayoral funding from last year. This coming year's Mayoral indigent defense budget will be \$66 million more than the 2002 budget – an increase of 52%.

As the City continues to increase indigent defense spending, we are also finding ways to increase efficiency, accountability, and quality. We are trying to make the most of every dollar we invest in indigent defense representation. For example, the City recently decided to commit approximately \$4 million in capital funds for the second phase of an information technology overhaul at the Legal Aid Society. This funding will pay for a state-of-the-art case management system which will allow Legal Aid to better manage employee productivity and streamline operations. The system will also enable Legal Aid to effectively identify conflicts at the start of arraignment shifts, therefore eliminating time wasted representing clients who will eventually be represented by 18-B attorneys.

This \$4 million investment is in addition to the \$3 million committed last year for the first phase of Legal Aid's technology upgrade, which included funding for computers, software, and a network upgrade. We know that leveraging technology makes for better business practice

– operations run more smoothly and attorneys and managers are better able to maximize productivity and most important of all, provide high quality representation.

Additionally, the City has heeded the call of the legal community to create an institutional provider to represent parents facing abuse and neglect allegations and termination of parental rights in Family Court. Last May, we hired providers to represent parents and guardians in Manhattan, Brooklyn, and the Bronx. We will be reissuing the RFP and expect to select providers in Queens and Staten Island shortly. This innovative program uses a multi-disciplinary approach to provide both legal and social services to parents facing possible termination of parental rights. Having an institutional provider in Family Court ensures better training and supervision of attorneys, allows the City to identify and analyze trends in court practices, and creates a stronger voice for legal advocacy. Reaction to the program so far has been overwhelmingly positive and although it is early, we are hearing that parents are increasingly connected with appropriate social services, resulting in more families being safely kept together.

Finally, since our testimony in March, we have issued an RFP for appellate defense. We will select providers later this month for contracts to begin July 1st.

We are also pleased to announce that, beginning next month, New York City will be the first jurisdiction in the state to implement weekend case processing for juvenile delinquency arrests. In doing so, we will reduce detention time for low-risk juveniles who might otherwise be detained for up to 72 hours. This is just one more way that we are striving to improve the City's criminal and family justice system.

In closing, I want to reiterate this Administration's commitment to improving the quality of indigent representation in this City. Much progress has been made, and we are pleased that the City's criminal defense providers are recognized as among the best in the nation. We pride ourselves on providing high quality representation to indigent defendants and look forward to working with the Council to build on our recent accomplishments.

I'll be happy to take your questions.



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Testimony of The Legal Aid Society

on

THE MAYOR'S FISCAL YEAR 2009 EXECUTIVE BUDGET

Presented before

The New York City Council

Presented by:

Steven Banks, Attorney-in-Chief
The Legal Aid Society

May 15, 2008

The Legal Aid Society welcomes this opportunity to testify before the City Council concerning the Fiscal Year 2009 Executive Budget and its impact on the Legal Society's client services.

As you know, the Legal Aid Society provides civil, criminal, and juvenile rights legal services to low income families and individuals in all five boroughs of New York City. Last year, with a staff of 850 lawyers and 600 social workers, paralegals, investigators, interpreters, and support and administrative personnel, the Society provided legal assistance to New Yorkers in some 295,000 individual cases. In addition to individual cases, the Society has extensive experience in affirmative litigation on behalf of groups of similarly situated clients. Many of our clients are referred to us by the constituent services staff of elected officials. Based on the expertise of our staff, the Society is frequently asked by government officials to provide information and comments regarding existing and proposed public policies affecting our clients. Society staff members also conduct extensive "know your rights" community education for clients and neighborhood-based and city-wide organizations.

City funding is essential to support our city-wide criminal and civil legal assistance. For many years, the City Council has been a leading advocate for adequate funding for our services in order to ensure the availability of high quality legal services for community residents. Special annual funding allocations for criminal and civil services have provided crucial support for the Society's legal services for New Yorkers who have nowhere else to turn for legal help.

We greatly appreciate the support that the Council has historically provided in the budget process. In particular, we want to acknowledge the leadership of the Speaker and Chairperson Miguel Martinez and all of the other members of this Committee and the Council in supporting the restoration and enhancement of legal services funding in the City-wide Legal Services Initiative during the FY08 budget process. In this testimony, we will focus on the proposed funding levels in the Fiscal Year 2009 Executive Budget for the Society's criminal defense representation and civil legal services. Unfortunately, the Executive Budget continues the same funding reductions for the Society's client services that we described in our May 15, 2008 Preliminary Budget testimony, and cuts baseline funding for an additional Society homelessness prevention legal services program.

Criminal Defense Services: Since 1965, the Legal Aid Society has served as the primary defender for persons accused of criminal conduct in New York City who cannot afford counsel. The Society's Criminal Defense Division (CDD) is at the forefront of efforts to address new issues in the criminal justice system, ranging from assisting in the design and staffing of specialized court parts that deal with drug abuse, domestic violence, mental illness and juvenile offenders to consulting regularly with State and City officials on legislation and policy issues of importance to our clients and securing system-wide reform through our Special Litigation Unit. The Society's Special Litigation Unit, for example, litigated the landmark case that established the 24-hour standard for arrest-to-arraignment in New York State.

With trial offices in the Bronx, Brooklyn, Manhattan and Queens, CDD represents indigent persons accused of crimes ranging in seriousness from disorderly conduct to first degree

murder. CDD staff members are committed to ensuring that clients receive high quality legal services, and that representation is not compromised because clients cannot afford to hire an attorney.

With the support of the Council, in FY03 the Administration entered into a new agreement with the Legal Aid Society to provide criminal defense services to a greatly expanded number of clients by transferring a substantial portion of the cases handled by private "18-b" attorneys. The Administration's approach has generated substantial savings for New York City because the Society's criminal defense legal services are significantly more cost-effective than 18-b representation. At the same time, this contract has significantly enhanced the quality of the criminal defense services provided to people who cannot afford to retain counsel because the Society's city-wide criminal defense program provides more comprehensive legal assistance than individual 18-b attorneys can offer. The Society also plays a crucial and central role in the New York City criminal justice system. Our size, history, and commitment to quality representation give us a unique vantage-point not only to represent clients but also to provide support and training for public defenders throughout the City.

Unfortunately, over the past six years, the Society's criminal defense contract with the City has not provided sufficient baseline funding to enable the Society to cover annual cost increases and deploy sufficient staff to provide a constitutionally mandated defense, especially as the number of New Yorkers arrested has increased during FY07 and to date in FY08. Since the new contract went into effect in FY03, the Society has greatly appreciated the City's provision of an additional \$2.82 million in FY05 to establish a City-funded Parole Revocation Defense program to further reduce City 18-b expenditures and improve client services, capital funding in FY07 and FY08 to enhance the Society's technology infrastructure and case management systems, and a 3 percent baseline funding increase for a COLA for the FY08 fiscal year (after four years without a COLA increase). However, during these years, the Society could not have provided constitutionally mandated legal representation without special annual infusions of funding allocated by the Council in the adopted budget – \$11 million in the FY05 budget process, \$6.326 million for FY06, \$9.3 million for FY07, and \$10.8 million for FY08.

Like the FY09 Preliminary Budget, the Executive Budget for FY09 completely eliminates the Council's allocation of \$10.8 million in supplemental funding for the Society. A restoration of this funding in the FY09 budget is essential to enable the Society to provide constitutionally mandated criminal defense representation, particularly at a time when the Society's annual workload has increased. Until FY07, the Society's annual criminal defense workload had been approximately 210,000 cases for a number of years. During FY07, based on an increased number of New Yorkers who were arrested and assigned to the Society for representation, the Society's criminal defense workload increased to 225,000 cases. This increased workload trend has continued during the first ten months of FY08 from July 1, 2007 through April 30, 2008, and the Society's criminal defense staff of 435 line attorneys will handle a projected annual workload of nearly 228,000 cases this year – 3,000 more than last year for a total annual increase of 18,000 cases over our traditional annual workload. During the last fiscal year, the Society's criminal defense attorneys handled more than 100,000 cases which survived a first court appearance, and approximately 30 percent of those cases were felonies. In FY07, more than two-thirds of the Society's staff lawyers handled caseloads in excess of annual

caseload standards set by the Appellate Division, First Department which limit annual workload for attorneys to 400 misdemeanors or 150 felonies, with felonies weighted as 2.66 misdemeanors for mixed caseloads. For FY08, the increased number of police officers deployed in designated communities has continued to result in an increased workload for the Society – which continues to be in excess of First Department standards. The prospects for FY09 are the same.

A \$10.8 million Criminal Defense Restoration And A \$3 million Criminal Defense Enhancement Are Essential: With the Society's increased workload, the truth is that additional funding is needed beyond a restoration of the \$10.8 million in funding that the Council allocated for the Society's Criminal Defense services for FY08. In addition to increased staffing needs resulting from the increase in the number of cases assigned to the Society, the Society's operating costs – including health care and rent – increase from year to year and core funding for the Society's constitutionally mandated representation should be increased accordingly. Accordingly, in addition to the critical \$10.8 million restoration that is needed in FY09, a \$3 million enhancement is necessary enable the Society to address annual cost increases as well as pressing staffing needs resulting from the workload increases.

The requested restored and enhanced funding is a good investment. Our staff provides high quality services for clients. During FY07, for example, our staff obtained dismissals in approximately 11 percent of our Criminal Court cases and approximately 8.5 percent of our Supreme Court cases. In addition, Society staff secured case dispositions of less than the top charge in more than 56 percent of our Criminal Court cases and more than 40 percent of our Supreme Court cases. As we previously reported to the Committee, a special study of our work found that approximately 40 percent of our cases involve clients with some form of impaired – capacity such as mental illness. As revealed by measuring our case activity at various points during the year, our caseload is extremely active. For example, our “point-in-time” analysis revealed that nearly 40 percent of our cases had court activity within the past 15 days.

Our request for a \$10.8 million restoration and a \$3 million enhancement for a total supplement of \$13.8 million for our criminal defense trial practice in FY09 will permit the Society to maintain its current rate of client case assessment and disposition. Our cases in Criminal Court are typically resolved in less than four post-arraignment appearances. Indicted felonies are resolved, on average, in less than 10 post-indictment appearances. The current contract with the City requires the Society to handle all of the non-conflict cases in the arraignment shifts to which the City assigns us, and requires that we handle a minimum standard of 88 percent of the cases in those arraignment shifts or face a financial penalty. Typically, the Society is assigned to very heavy arraignment shifts. As required by our contract, based on the number of non-conflict cases in our shifts, the Society actually handles approximately 90 percent of the cases in the arraignment parts to which we are assigned. However, the contract makes no provision for increasing funding even when our caseload increases as it has during FY07 and FY08.

The requested level of funding for the criminal trials practice is also necessary for the Society to continue to provide the supplemental services to the New York City criminal justice system that the Legal Aid Society is in a unique position to provide. For example, the Society deploys 19 paralegals to provide client services to the public in various locations outside of the

Society's offices. These services, which are not limited to Legal Aid clients, include four paralegals who serve the public in satellite offices or other locations in City courthouses, and 15 staff members who work full-time in the City jails, assisting clients to arrange for the payment of bail, correcting errors in release dates, securing medical attention, scheduling assessment interviews with ATI (alternatives to incarceration) programs, communicating with their attorneys, and retrieving personal property upon release.

In each of our borough offices, the Society also deploys a paralegal every weekday to assist members of the public with legal matters, including arranging surrenders on arrest and bench warrants, assisting people in paying fines and scheduling community service, and securing emergency mental health and drug treatment services. The Society also assigns an attorney and paralegal to represent inmates who are appealing jail discipline assessments in the Rikers Island Writ Court, thereby further reducing City 18-b costs.

Legal Aid also continues to play a central role as the training ground for public defenders in New York City. Legal updates and training materials developed by the Society's 10-person training and support unit are provided at no charge to defenders and 18-b attorneys city-wide and state-wide. The Society also deploys special immigration staff to assist clients with immigration issues. In addition, the Society has assigned paralegals and attorneys to assist in handling the calendar in high-volume and specialized practice court parts created by Chief Judge Judith Kaye, including the integrated domestic violence, drug treatment, and mental health courts.

The annual cost of these systemic services – which is some \$6.2 million – is absorbed by the Society within our City funding allocation even though these costs are not always attributable to individual cases and thereby artificially inflate the Society's cost per case.

In addition to the Society's high quality trial level representation and the critical systemic services which the Council's annual allocation of funding has supported, the Society also provides appellate and post-conviction representation pursuant to the City criminal defense contract. For example, with \$7 million in annual contract funding, the Society's Criminal Appeals staff handled 701 filings for clients in FY07. Since July 2002, the Society's Criminal Appeals staff has filed nearly 100 C.P.L. Article 440 motions challenging the convictions of clients. Many of these motions have required comprehensive re-investigations of the underlying case. In one recent success that was reported in The New York Times, Legal Aid lawyers won release and vindication for two brothers, Carlos and Napoleon Cardenas, who had been wrongly convicted for robbing several jewelry dealers in Queens. By the time they had established the brothers' innocence, our attorneys had arranged for surgery to remove exculpatory ballistics evidence from Napoleon's hand, re-interviewed numerous witnesses, engaged in extensive negotiations with the District Attorney's Office, and appeared for the brothers in Queens County Supreme Court, the Appellate Division, Second Department, federal immigration court, the United States Eastern District Court, the Second Circuit, and the United States Supreme Court.

Since 2002, Legal Aid appellate attorneys have also litigated nearly 150 federal habeas corpus cases, many successfully raising ineffective assistance of counsel claims. In Bell v. Miller, 500 F.3d 149 (2007), for instance, the Second Circuit granted habeas corpus relief in a case where the defendant's attorney had failed to consult a medical expert whose testimony

would have exposed glaring deficiencies in the account of the sole identifying witness, who had sustained serious injuries during the robbery. Similarly, in Cox v. Donnelly, 432 F.3d 388 (2005), the Second Circuit found that the defendant's Sixth Amendment rights had been violated by his attorney's failure to protest constitutionally-infirm and result-altering jury instructions. Likewise, in Henry v. Poole, 409 F.3d 48 (2005), the Circuit found an attorney ineffective for raising an alibi defense for the wrong date and, at the same time, raised important questions regarding the compatibility of the New York and federal ineffectiveness standards.

For all these reasons, the Society respectfully requests a restoration of \$10.8 million and an enhancement of \$3 million for criminal defense services in the FY09 adopted budget. The restoration and the requested enhancement will help the Society handle an increased annual workload of individual cases which is now projected to be 228,000 cases for this year – an increase of 18,000 over the Society's traditional annual caseload. Especially in view of the increased workload during FY07 and FY08, the requested restoration and enhancement funding is necessary for the Society to continue all of the Society's individual client services and systemic services, including maintaining adequate numbers of staff attorneys, supervisors, investigators, paralegals, social workers, and support and administrative staff.

Civil Legal Services: The Society provides civil legal services through our neighborhood-based offices in all five boroughs of New York City and city-wide units that serve families and individuals with special needs. Our civil program provides legal assistance in literally every community in New York City. Annually, we handle more than 30,000 individual civil matters for the most vulnerable New Yorkers: survivors of domestic violence, senior citizens, disabled or chronically ill children and adults, immigrants, unemployed workers, persons with HIV infection, and children and adults faced with evictions and homelessness.

The Fiscal Year 2009 Executive Budget proposes to eliminate civil legal services funding for the following Council civil legal services initiatives that the Council funded in the FY08 budget.¹ Based on the critical need for civil legal services throughout the City, restored funding for FY09 is essential:

\$3.676 Million For The City-wide Low Income Civil Legal Services Program: For more than a decade, the City Council has allocated annual funding to the Legal Aid Society and Legal Services NYC to provide civil legal services in all five boroughs for particularly "at-risk" clients, including senior citizens, survivors of domestic violence, disabled children and adults, and persons living with HIV/AIDS. Substantial numbers of these New Yorkers are referred to Legal Aid and Legal Services offices by the constituent services staff of Councilmembers and City agency staff. In FY08, the program funding level is \$3.676 million, which is evenly divided between Legal Aid and Legal Services. If this funding is not restored, we will have to substantially reduce our provision of civil legal services in the Bronx, Brooklyn, Manhattan, Queens, and Staten Island notwithstanding the increasing numbers of New Yorkers who desperately need legal assistance in these difficult economic times.

¹ The programs that will be eliminated include a grant for Legal Services NYC to provide representation to parents in Family Court cases while the Legal Aid Society is separately funded by the State to represent children in those proceedings.

Restored funding is especially important at a time when the exact level of State Interest on Lawyer Account Fund grant levels is uncertain because of interest rate fluctuations and Legal Aid and Legal Services are slated for State civil legal services funding cuts. In any case, the need for city-wide civil legal services is unremitting. Before September 11, an independent review of our services found that because of lack of resources, we were only able to assist one out of seven clients who sought our help. Over the last seven years, the situation has only gotten worse. Referrals for the Society's city-wide civil legal services provided with support from this program frequently come from the constituent services staff of Councilmembers who turn to Society staff for help in crisis situations in which legal assistance is absolutely vital.

\$3 Million For The Anti-Eviction and SRO Legal Services Program: Since the 1980s, the City has funded legal services programs in all five boroughs (including the Legal Aid Society, Legal Services, the Westside SRO Project, and the Northern Manhattan Improvement Corporation) to provide legal assistance to low- and moderate-income tenants faced with illegal evictions from their homes as well as services for tenants in single-room occupancy buildings known as SRO housing. These programs have helped thousands of low-income working families, disabled New Yorkers, and senior citizens, who are especially vulnerable to harassment and illegal eviction. If this funding is not restored, the Legal Aid Society will be unable to continue to operate our anti-eviction program that provides legal assistance to tenants faced with homelessness in the Bronx, Queens, and Staten Island, to senior citizens in Brooklyn, community residents in Bushwick, and to tenant associations in East Harlem, Harlem, Inwood, and Washington Heights.

\$765,000 For The Earned Income Tax Credit (EITC) Legal Assistance Program: Beginning in the Fiscal Year 2005 budget process, the Council established a new EITC legal services program operated by the Society, Legal Services, and the Community Food Resource Center to help working families qualify to receive the EITC refund, protect working families from unfair auditing practices, and increase tax credit benefits for these working families. The de-funding of this Council initiative will result in the denial of critical legal assistance that helps families move from welfare to work and the elimination of a significant infusion of federal tax credit funds in the local economy.

\$2.5 Million For The Supplemental Security Income (SSI)/Unemployment Insurance (UI) Advocacy Program: In the FY06 budget process, the Council established a new initiative to allocate \$2.5 million to Legal Services and the Society to provide legal representation to help disabled public assistance recipients secure federally-funded Supplemental Security Insurance (SSI) benefits and unemployed workers obtain unemployment insurance benefits. This Council initiative generates significant City and State savings in averted public assistance expenditures when constituents receive federal benefits or unemployment benefits. Eliminating funding for this program will eliminate these cost savings.

The Council-funded SSI advocacy program funds Legal Services and Legal Aid to help low income disabled children and adults obtain Social Security disability benefits and move off public assistance. By securing federal SSI benefits for these individuals, the program shifts the costs of cash benefits and Medicaid to the federal government and secures federal refunds for the City to cover the cost of benefits paid prior to a determination of eligibility for SSI. The

Council-funded Unemployment Insurance (UI) Advocacy Program also helps public assistance-eligible New Yorkers who were initially denied unemployment benefits on appeal. Unemployment benefits cost the City and State nothing; they are paid from a special fund created through payroll taxes. Each public assistance-eligible person who gets unemployment benefits saves the City not only their 25 percent portion of cash public assistance but also Medicaid and administrative costs. The City Council's current funding for this combined SSI/UI Advocacy Program is \$2.5 million, which is evenly divided between Legal Aid and Legal Services. Without restored funding, the Society will be unable to continue to operate this program for constituents.

Restored Immigration Initiative Funding Of \$596,000 For The Society's Legal Services Program For Immigrants: The Society is the preeminent provider of legal assistance for low income immigrants through our network of neighborhood-based offices and community outreach sites in all five boroughs of the City. We want to take this opportunity to express our appreciation to individual Councilmembers, Borough Delegations, and the Council as a whole for providing the Society with \$596,000 in special funding to support immigration legal services and legal assistance for low wage immigrant workers. These funds are not included in the FY09 Executive Budget and need to be restored in order to continue these critical legal services for immigrants.

Finally, the Executive Budget for FY09 proposes a new cut in the baseline funding for the Department of Homeless Services' homelessness prevention legal services program. This new cut represents a 23 percent reduction – approximately \$1.5 million – for this DHS program which prevents families with children from losing their homes and becoming homeless. Through this program, the Society, Legal Services, and several smaller organizations provide legal representation in Housing Court to prevent evictions and resulting family homelessness, and thereby help government avert the cost of providing shelter for families with children. A State study of homelessness prevention legal services initiatives found a number of years ago that programs like the DHS program which is slated for this cut save four dollars in averted shelter costs for every one dollar of program cost. Of course, preventing the human trauma of family homelessness is literally priceless. For the Society, unless this DHS funding is restored, the proposed cut will result in a funding reduction of approximately \$400,000, which in turn will force us to cut back homelessness prevention legal services for families with children in all five boroughs of the City.

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We thank the Council for your continuing support for these essential criminal defense and civil legal services programs. We will continue to update you during the FY09 budget process concerning our funding needs so that we can serve clients who depend on the Legal Aid Society to provide access to justice.

Testimony of

**Michael Polenberg
Vice President, Government Affairs**

and

**Susan Loeb
Director, DoVE Program**

On the Mayor's Fiscal 2009 Executive Budget

**Fire and Criminal Justice Committee
Hon. Miguel Martinez, Chair**

**Finance Committee
Hon. David Weprin, Chair**

New York City Council

May 15, 2008

Thank you, Chairman Martinez and Chairman Weprin, for the opportunity to testify before you today on the Mayor's Fiscal 2009 Executive Budget. My name is Michael Polenberg, and I'm the Vice President for Government Affairs for Safe Horizon, the nation's leading victim assistance organization and New York City's largest provider of services to victims of crime and abuse, their families and communities. Safe Horizon creates hope and opportunities for more than 350,000 New Yorkers each year who are victims of domestic violence, rape, human trafficking, child abuse and other crimes. I'm joined today by Susan Loeb, Director of the Domestic Violence Empowerment (DoVE) program.

The Criminal Justice Coordinator's Office is a valued partner of Safe Horizon. They have been instrumental in supporting and enhancing access to victim services in the courts, community programs, police precincts and in other settings. The Office has been particularly helpful to Safe Horizon by recognizing the role the Administration must play in supporting our Child Advocacy Centers, both in terms of helping us find new locations for our new centers in Manhattan and the Bronx, and bringing together so many city agencies under one roof, but also by funding our centers in the Mayor's budget. We look forward to working closely with the Office in the years ahead to ensure that all crime victims have access to the services and programs they need to help rebuild their lives.

We'd like to update the Committees on the status of several City Council initiatives that have helped move adult and child victims of crime from crisis to confidence. Since the City Council's funding for these initiatives was not included in the Mayor's Fiscal 2009 Executive

Budget, we're also going to ask for your support and that of your colleagues in restoring these vital programs in the year ahead.

Child Advocacy Centers.

At Safe Horizon's Child Advocacy Centers (CACs) in Brooklyn, Queens and Staten Island, victims of child physical and sexual abuse and their families find the help they need – fast – in one location. The police, Assistant District Attorneys, medical professionals, counselors and child protective caseworkers are all under one roof – in a child-friendly environment that minimizes the trauma and begins the healing process as soon as families step through the door.

Over the past year, **Safe Horizon Child Advocacy Centers responded to over 5,100 cases of child physical and sexual abuse.** With City Council support:

- Our Brooklyn CAC saw 3,115 cases, provided 1,570 counseling sessions and conducted 629 on-site medical examination, gathering evidence of abuse while providing basic medical screenings for children who may rarely have routine check-ups;
- Our Queens CAC saw 1,781 cases, comprising between 75-90% of all child sexual abuse cases in the borough, and provided 313 medical examinations;
- Our Staten Island CAC saw 238 cases, provided 195 child clients with individual crisis counseling, and provided 69 children with medical evaluations.

The New York City Council has partnered with Safe Horizon over the past three years to help **sustain** and **expand** the delivery of care through our Child Advocacy Centers. **Moreover, the City Council's financial support in Fiscal 2008 leveraged over \$2.3 million in additional funding from the City and State and from private donations. If the City Council's funding is fully restored in Fiscal 2009, our centers will leverage over \$3.9 million.** This combined

support is critical as we open two new fully co-located CACs in Manhattan and the Bronx later this year.

Criminal Justice and Community Programs

Victims of crime and abuse need support and guidance beginning with their initial encounter with the criminal justice system. They are often injured, angry, unsafe, confused and upset, and may feel overwhelmed by their current circumstances.

Safe Horizon provides services to meet the emotional and practical needs of victims and witnesses in the New York City **Family and Criminal Courts**. Our court-based programs are designed to help restore the victim's sense of dignity, assess safety and work collaboratively to explore risk management options and develop plans, assist victims and witnesses in participating in the court system, and help alleviate the economic implications of victimization.

Our **Domestic Violence Police Program** operates in 21 police precincts throughout the city. Case Managers are paired with domestic violence police officers to provide outreach to victims to conduct safety assessments and risk management planning and identify high-risk cases requiring more intensive law enforcement involvement.

New Yorkers also seek services in Safe Horizon's **Community Programs**, including victims of domestic violence, sexual assault, stalking, elder abuse, robbery, assault and other crimes, as well as family members and loved ones of homicide victims. Oftentimes victims of crime and abuse are unaware of their options and available resources. Safe Horizon Community

Programs provide a safe place for victims of any type of crime or abuse to receive compassionate and expert services.

Safe Horizon operates New York City's toll-free, 24-hour **Domestic Violence, Rape and Sexual Assault, and Crime Victims Hotlines**, which offer a gateway to our services for women and children fleeing violent homes. We provide compassionate guidance and practical support, including links to our legal services and shelters.

With support from the City Council in Fiscal 2008, **Safe Horizon assisted approximately 50,000 domestic violence victims with court orientation, criminal justice advocacy and emergency financial assistance; provided direct services to over 11,500 crime victims in all police precincts; and answered 176,000 calls in our three different hotlines.**

Assigned Domestic Violence Counsel

Safe Horizon's Assigned Domestic Violence Counsel (ADVC) program began as a pioneering effort to provide **direct legal services to indigent domestic violence victims** in New York City's Family Courts.

With support from the City Council in Fiscal 2008, this **program provided court-related advocacy and direct legal assistance to over 325 domestic violence victims in the family courts throughout New York City.** Safe Horizon provides attorneys at the earliest point possible to represent low-income and indigent domestic violence victims and coordinate essential social services. This legal representation is critical to enhance victim safety, ensure that

the civil litigation does not adversely affect the criminal prosecution and increase victim cooperation rates with the district attorney's office, when appropriate.

Finally, **the funding Safe Horizon receives from the City Council for our ADVC program helps leverage over \$100,000 from the State's Office of Court Administration.** Without the City Council funding in place, we'd lose over \$225,000 for this program and would likely be unable to sustain it.

Domestic Violence Empowerment (DoVE) Initiative

Since 2006, The City Council's Domestic Violence Empowerment (DoVE) Initiative has provided badly needed resources in neighborhoods with high rates of domestic violence. Domestic violence victims in these underserved communities do not always access the criminal justice system, due to in part to unfamiliarity with the complexities of the court process as well as language and cultural barriers. In response to this gap in the service delivery system, Safe Horizon worked with the New York City Council to create the DoVE Initiative.

Fifty-three distinct community-based organizations in thirty-six Council districts are currently supported by the DoVE Initiative to provide domestic violence services, including: community outreach, educational and empowerment workshops, information and referrals, crisis intervention counseling and advocacy, and case management.

Through its role as administrator of the DoVE Initiative, Safe Horizon plays an important role in assisting the 53 community-based organizations that receive grants to achieve or exceed their objectives. In addition to conducting on-site observations and monitoring grantee activities

through regular reports, Safe Horizon conducted an evaluation of the Initiative in terms of each grantee organization's individual goal achievement.

Anti-Trafficking Initiative

In December 2001, Safe Horizon established the **Anti-Trafficking Program, (ATP)** and is one of the largest service providers for survivors of human trafficking in the United States. ATP staff are recognized as human trafficking experts across the country and our expertise is often called upon by policy makers in setting standards, policies and protocols to address human trafficking. We regularly consult with, provide expert testimony for, and help coordinate cases and referrals with agencies across the country at the federal, state and local level.

The New York City Council recognizes the tragic impact of human trafficking and partnered with Safe Horizon to include funding for an anti-trafficking initiative in the Fiscal 2008 City budget. Safe Horizon has used its City Council designation of \$350,000 to provide vital support to survivors including case management, legal representation, reunification with family members and housing options in order for clients to create a life free of the bonds of human trafficking. In addition, Safe Horizon has trained approximately 900 professionals, including those at the Department of Homeland Security, NYPD, the New York State Attorney General's Office, local prosecutors, social workers and rape crisis counselors on how to identify victims of human trafficking and the best ways to refer them for services.

Summary

We thank the New York City Council for its past support for these and other vital initiatives that help hundreds of thousands of crime victims access the help they need in order to

rebuild their lives. Not only has the Council's funding allowed Safe Horizon staff to deliver expert care to a diverse array of survivors, but it has helped leverage millions in additional City, State and private funding, particularly for our Child Advocacy Centers and our Assigned Domestic Violence Counsel program. As the Council enters into final negotiations regarding the Fiscal 2009 Executive Budget, we ask that you fully restore funding for:

- Child Advocacy Centers;
- Criminal Justice and Community Programs;
- Assigned Domestic Violence Counsel;
- Domestic Violence Empowerment (DoVE) Initiative; and
- Anti-Trafficking Initiative.

Thank you, and we'd be happy to answer any questions you might have.

OFFICE OF THE APPELLATE DEFENDER



FY 2009 BUDGET REQUEST

Presented to the

COMMITTEES ON
FINANCE
and
FIRE AND CRIMINAL JUSTICE SERVICES
OF THE
NEW YORK CITY COUNCIL

May 15, 2008

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INTRODUCTION

The Office of the Appellate Defender greatly appreciates the ongoing support of the City Council, which has enabled OAD to continue to provide high quality, client-centered appellate and post-conviction representation and other support services to its poor clients, and to train new generations of lawyers. Now in its twentieth year of providing such critical services, and as the oldest indigent defense organization in New York City other than The Legal Aid Society, OAD again seeks Council support to ensure its continued ability to provide needed representation and support services.

For FY 2009, OAD is requesting \$2.5 million, a restoration of last year's appropriation of \$2.4 million, with a modest cost-of-living enhancement of \$100,000. These funds are necessary to enable OAD to continue to perform its comprehensive mission without reduction in services, to represent a greater number of clients, to maintain its unique social work/re-entry program, and to support its latest initiative – the Reinvestigation Project.

OAD'S MISSION

As a long-standing and integral part of the City's indigent defense network, OAD performs a wide variety of services. OAD's unique role is centered around

providing high quality, client-centered representation in state and federal courts on behalf of indigent clients appealing their felony convictions. This includes fighting against police and prosecutorial misconduct, advocating for fair trials and humane and proportionate sentences, and taking all steps to ensure that innocent persons are not wrongly convicted.

OAD also fills an important need in the criminal justice system by training new and relatively inexperienced lawyers in the practice of client-centered appellate and post-conviction advocacy. OAD trains new staff lawyers, volunteer *pro bono* lawyers from the City's largest law firms, and law students – the lawyers of tomorrow.

Finally, OAD created, and has recently expanded, its unique social work/re-entry program – the first of its kind, to assist those who are incarcerated and those who will be rejoining our communities, and OAD continues to disseminate the model for this program to other indigent defense providers.

Underlying these different aspects of OAD's mission is a unifying principle – that justice means more than seeking to overturn an erroneous conviction, more than working to ensure equality in the law, and more than providing excellent representation. A just society recognizes that those who offend are still human beings, entitled to respect; a just society believes that prisoners must be treated humanely and with basic human dignity; and a just society provides support for those

returning from prison and gives them the tools to succeed and to rejoin the greater community. At OAD, these fundamental principles form the very foundation of all we do.

Successful High Quality Client-Centered Representation

As the Council is fully aware, OAD has earned a long-standing and well-deserved reputation for providing outstanding comprehensive client-centered representation. In the past several months, OAD has continued its record of success by obtaining reversals of convictions and sentence reductions in an array of cases. One such case – the case of *People v. Israel Vasquez* – resulted in the exoneration of an innocent person wrongly convicted of murder.

The Case of People v. Israel Vasquez

Last August, the Appellate Division, First Department, reversed the second degree murder conviction of OAD client, Israel Vasquez, finding that the evidence presented was legally insufficient to support a conviction. The court dismissed the indictment, ending a long ordeal for Mr. Vasquez.

The case arose out of the execution-style murder of Denise Raymond in her apartment in the Soundview area of the Bronx. There were no eyewitnesses and no forensic evidence linking Israel Vasquez or his codefendants to the crime. Nor was

there any evidence that Mr. Vasquez either knew or had ever met with the man whom the prosecution claimed had masterminded the crime. The sole “evidence” against Mr. Vasquez was the questionable testimony of Cathy Gomez – a troubled teen who claimed she overheard certain supposedly incriminating statements in a park, but who later recanted her testimony and said she had been pressured by the police to testify for the prosecution. The trial court discounted the serious concerns about Cathy Gomez’s testimony, and despite the remarkably weak evidence against Mr. Vasquez, after *six* days of deliberations, the jury convicted him of murder.

After a prior appellate attorney failed to have the appeal heard after several years, OAD was assigned to represent Mr. Vasquez. After extensive investigation and further litigation, OAD filed the appeal. Based on OAD’s briefs and arguments, the Appellate Division recognized that the case against Israel Vasquez was “flawed” and “based on speculation unsupported by any credible evidence.” Thus, the court found that, even viewing the evidence in the light most favorable to the prosecution, “there is simply nothing that could lead a rational trier of fact to conclude that defendant was proven guilty beyond a reasonable doubt of this allegedly ‘well-planned’ contract murder.” Having been exonerated after serving more than ten years of his sentence, Israel Vasquez was released from prison to rejoin his family and has successfully resumed his life as a law-abiding citizen.

The Reinvestigation Project

Troubling cases such as Israel Vasquez's and others have led OAD to launch its newest initiative – the Reinvestigation Project. Started last September, this project seeks to coordinate resources and expertise to tackle the root causes of wrongful convictions, focusing on cases where no DNA evidence is available to establish innocence. Since the early 1990s, DNA analysis has led to the exoneration of more than 200 innocent people and focused public attention on the issue of wrongful conviction. Less attention has been given, however, to the thousands of wrongly convicted individuals who have no DNA evidence with which to prove their innocence. Using the latest empirical research on the causes of wrongful convictions, OAD's Reinvestigation Project addresses that imbalance and brings this issue to the fore of the national conversation about wrongful conviction.

As a recent Innocence Project report explains, New York outpaces almost every other state in the country in the number of wrongful convictions overturned by DNA testing, but lags in policy reforms that can prevent these fundamental miscarriages of justice. (*See The Innocence Project, Lessons Not Learned 2007.*) In the first empirical study to examine what went wrong in each of New York's DNA exoneration cases, researchers found that the most common causes of wrongful

conviction are: eyewitness misidentification, the use of unreliable forensic evidence, false confessions, and jailhouse informant testimony. (See Brandon L. Garrett, *Judging Innocence*, 108 Colum. L. Rev. forthcoming 2008.) And as these researchers have pointed out, if these problems are leading to wrongful convictions in cases where DNA evidence exists, there is every reason to believe they underlie wrongful convictions in cases where there is no DNA evidence.

The Reinvestigation Project addresses these endemic problems by providing legal representation in cases where there are serious questions about the person's innocence but no DNA evidence on which to prove it; by training lawyers and law students on how to litigate non-DNA wrongful conviction cases; and by advocating publicly for targeted policy reforms in New York that address the root causes of wrongful convictions. Already, we have identified and begun working on several cases in which preliminary information leads us to believe that there has been a grave miscarriage of justice.

Comprehensive Full-Service Representation

In addition to the appeals and post-conviction litigation in state and federal court that forms the core of our work, OAD attorneys represent clients in prison- and parole-related proceedings, as well as in immigration and deportation proceedings. These services have become more important but also more time-consuming and labor-

intensive, as prison sentences have lengthened, and as the state has more vigorously opposed relief to our clients.

As a full-service, client-centered office, OAD seeks to ensure that our clients are treated fairly in prison, that they are given opportunities for rehabilitation, that they are afforded adequate medical care, and that they are fairly considered for release. Too often, clients are abused, subjected to medical malpractice or neglect, or unfairly placed in solitary confinement in draconian special housing units. Moreover, recent news stories have documented the inherently unfair policies of the state Division of Parole, which has abdicated its duty to fairly consider prisoners for release, and which routinely denies release without any reasoned basis. OAD has achieved success in overturning prison disciplinary actions, having clients transferred to safer and more suitable facilities, ensuring proper medical care, and obtaining greater access to family members, and has successfully gone to court to overturn unfair parole denials.

Although much of OAD's work is unfunded, we believe that every client – guilty or not – has a right to humane and fair treatment, and we fight to vindicate that right. Above all, we believe that all clients are entitled to be treated as human beings – with dignity and respect.

A Training Center for New Attorneys, Volunteer Attorneys, and Law Students

In addition to our mission of providing high quality representation, OAD has always performed a uniquely important role as a training center for new attorneys, ensuring that there will always be a next generation of highly committed and highly qualified lawyers to continue performing the essential work that we do. Each year, as those staff attorneys who have completed their two- to three-year terms move on to other indigent defense offices, criminal defense firms, academia, or other public interest law offices, OAD recruits and hires new attorneys to take their place. The new lawyers – usually a class of four or five new staff attorneys (out of the nearly 500 who apply from all across the nation) – become part of OAD’s committed staff of twenty attorneys. These lawyers receive comprehensive training, and initially are fully double-teamed on their cases with experienced supervisors.

OAD’s training mission also underlies our highly acclaimed Volunteer Appellate Defender Program, through which talented and committed associates at some of the City’s most prestigious law firms handle appeals *pro bono* under OAD supervision, after participating in a special training program for volunteer lawyers.

Finally, through OAD’s Criminal Appellate Defender Clinic, in association with New York University School of Law, OAD trains future lawyers in the practice

of client-centered criminal appellate defense, while instilling in them the importance and rewards of public service on behalf of the poor.

Social Work/ Re-entry Program

In the past year, we have expanded and strengthened our social work program – the only one of its kind in an appellate defender/post-conviction office – enabling us to assist more clients with re-entry issues such as housing, employment, substance abuse, and mental health, while still providing support and assistance to clients with a wide variety of prison-related problems.

Our social work staff – including social workers and social work interns from the Columbia University School of Social Work – works with scores of clients each year on a myriad of issues – medical, mental health, family, employment, and substance abuse, among others. Our staff meets with clients, counsels them, makes appropriate referrals, accompanies them to appointments where necessary, writes recommendations, and provides an array of other critical assistance.

In addition, last year, for the first time, our social work unit created and led a series of comprehensive interactive workshops in the state prison system geared at helping dozens of incarcerated individuals understand the system and better prepare for their release. We also created and led similar workshops in various communities

within the City for family members of incarcerated individuals, to assist them in preparing for their loved one's return to the community and to answer questions about the parole and prison system. Finally, we are continuing to disseminate our social work model to other providers, so that more such services will be available to the thousands of incarcerated persons and their families throughout the City and State.

* * *

In sum, the services OAD performs are part of a committed mission of justice, fairness, and excellence. We are pleased that the City Council has always recognized the importance of, and has supported, our programs. Through the work that we perform, the goals of a humane criminal justice system are more than just a distant hope to so many of the most vulnerable residents of our City.

BUDGET REQUEST FOR FY 2009

Although last year's appropriation of \$2.4 million enabled OAD to substantially meet its operating expenses, OAD will face a deficit in FY 2009 unless the Council not only restores that amount, but provides an additional \$100,000, for a total allocation of \$2.5 million.

Despite the Council's generous appropriation, and notwithstanding OAD's successful efforts to keep our costs down, the cost of providing comprehensive

quality representation to those most in need has continued to rise. Moreover, OAD has committed to represent a greater number of clients. While we seek an increase of 4% in the coming fiscal year, over the last two years OAD has agreed to handle significantly more cases, and is now handling 27% more cases than in FY 2006. Yet, during that same period, OAD's funding has increased only 6%.

OAD faces significant increases in operating costs in the coming fiscal year. Personnel costs continue to rise, as our experienced senior staff receives modest, but well-deserved, cost-of-living increases, and our newer, more junior staff salaries rise. As a training office, each year OAD hires several new attorneys for two- and three-year terms. We have traditionally kept the salary levels of these positions quite low, in order to avoid increased operating costs. However, these salaries continue to lag behind the salaries paid to attorneys at The Legal Aid Society and the various district attorney's offices. In order to continue to attract the finest new lawyers to participate in our acclaimed training program, we must increase the pay scale so as to at least approach, if not attain, parity with these other offices.

Of course, other operating expenses, such as health insurance, legal research, insurance, and the like, have also continued to climb. Most significantly, our rent expenses have risen, both because of annual lease escalations, and because of increased fuel and utility costs which have been passed on to us. Moreover, the real

estate tax abatement we have received through the Lower Manhattan Commercial Revitalization Program will be phased out commencing in January 2009, resulting in an additional significant increase in our rental payments.

Notwithstanding the rising costs outlined above, OAD believes it can meet its obligations and continue to perform its work with only a modest increase over the fixed appropriation of the last two years. Given the breadth, scope, and quality of the work we perform for our clients, OAD remains a uniquely cost-effective appellate provider. And, when one considers other factors – such as the number of attorneys trained by OAD who continue to provide quality indigent defense services for years to come – the benefits to the City are even greater.

We recognize that, this year, the City faces difficult budget choices. However, the work we perform remains too important to abandon or curtail. We therefore urge the Council to support OAD's efforts to continue to provide high quality representation to poor New Yorkers.

Thank you for your support!

NEWS FROM THE OFFICE OF THE APPELLATE DEFENDER

VOLUME IX, ISSUE I

MAY 2008



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Appellate Division Overturns Trial Court's Solitary Confinement Directive

OAD was assigned to handle Jovan Fludd's appeal from his forgery convictions, arising out of his filing of a series of false UCC liens against prosecutors and judges who had been involved in an earlier prosecution and conviction of him. When Staff Attorney Jenny Eisenberg got the case, she learned that the trial court had issued an *ex parte* order, imposing severe restrictions on Mr. Fludd in prison in order to prevent him from continuing to file false claims. The order directed, among other things, that all of Mr. Fludd's mail would be monitored by a Special Master, and Mr. Fludd would be confined indefinitely in a Special Housing Unit (solitary confinement), to prevent him from using other inmates to send mail out on his behalf. OAD first challenged the order by way of Order to Show Cause, arguing that the trial judge had no authority to impose such restrictions once the criminal case was over. While the judge lifted the restrictions on legal correspondence, she kept the other restrictions in place.

OAD then filed an Article 78 petition against the trial judge (in the Appellate Division) again arguing that she had exceeded her lawful authority in

imposing these restrictions. After nearly a year under consideration, the court granted the petition in a 3-2 vote. Justice James M. Catterson wrote for the court (with Justices Eugene Nardelli and John W. Sweeny Jr., joining), while Justice David B. Saxe wrote a dissent on behalf of himself and Justice Luis A. Gonzalez. In its decision, the majority rejected the trial court's reliance on its "inherent power" to impose restrictive conditions, clarifying the extremely limited applicability of this doctrine, particularly when the challenged action is taking place post-judgment. The court held that "[t]o allow the court to place [Mr. Fludd] in solitary confinement because it believes that [Mr. Fludd] *intends* to commit further harassment is repulsive and contrary to the whole foundation of our penal system" (emphasis in original). As a result of this decision, the trial court's orders have been vacated in their entirety. Had the orders remained in effect, Mr. Fludd would likely have served all of his six-to-twelve year sentence in solitary confinement. The State has indicated that it plans to appeal to the Court of Appeals.

Mr. Fludd is represented by Staff Attorney Jenny Eisenberg.

OAD Welcomes its New Board Members

OAD is thrilled to announce the election of three new members to its Board of Directors: Angela Bellizzi Burgess, Maria T. Galeno, and Jeffrey A. Udell. All three have had previous involvement with OAD and we are thus particularly excited to have them join our team.

Angela Bellizzi Burgess is a partner at Davis Polk & Wardwell. After graduating from Harvard Law School in 1994, Ms. Burgess clerked for U.S. District Court Judge Benson E. Legg and then joined the firm in 1995. As an associate at Davis Polk she participated in OAD's Volunteer Appellate Defender program. She became a partner in 2002 and represents clients in a wide variety of criminal, regulatory, advisory and civil matters.

Maria T. Galeno is partner at Pillsbury Winthrop Shaw Pittman LLP. Her practice focuses on commercial litigation, with a strong emphasis on securities fraud and insurance coverage litigation, and corporate investigations and white collar criminal defense. Ms.

Galeno, who graduated from Harvard Law School, served on the Mayor's Advisory Committee on the Judiciary from 1994 to 2001 and has taught trial advocacy for the National Institute for Trial Advocacy. In 2006 Ms. Galeno acted as a justice in OAD's annual *First Monday in October* Mock Supreme Court program.

After working as an OAD Staff Attorney from 1994 to 1996, **Jeffrey A. Udell** now rejoins OAD as a member of the Board. He is currently a partner at Olshan Grundman Frome Rosenzweig & Wolosky LLP, where he is engaged in the practice of complex commercial litigation and white collar criminal defense, and has experience litigating a wide variety of matters in both federal and state courts. Prior to joining Olshan in September 2005, Mr. Udell served as an Assistant United States Attorney in the U.S. Attorney's Office for the Southern District of New York, and was an associate at Paul, Weiss, Rifkind, Wharton & Garrison LLP. Mr. Udell also graduated from Harvard Law School.

Social Work Client Spotlight: An Interview with Gregory Latham



What most surprised you about the reentry process?

The biggest surprise was that I had everything I wanted when I went into prison. When I came out, I had nothing to come home to—no house, no job, no money, no family support. I did not expect people to hold grudges for past behavior.

One of the biggest things I realized when I came home was the amount of personal growth I had. I didn't expect to learn so much about myself in the reentry process. I have consequential thinking now. I think, "if I do this, then what happens as a consequence?" It's not like before I went to prison. Now keeping that change constant is a daily battle.

I used to be that person who didn't think about consequences, who used drugs and only cared about money. I have a great appreciation now for the little things in life. Like going to the park, reading a book, going to a restaurant, even riding the train. They mean so much to me now. It's so different.

The way I used to deal with authority was to fight against it, but they always won. Now I find alternative ways to work with authority. For example, with parole, I needed to know how my parole officer works and to understand her, rather than always asking "why" or challenging her. My parole officer said that as long as I am honest with her [about difficulties I may face], parole will be easier. That's been true.

What are the biggest challenges you have faced?

Things began to get so overwhelming because I was stuck doing job searches for welfare [as a program requirement] despite the fact that I already had a job. But I couldn't keep that job because parole required I do drug treatment before I get a job. I wasn't used to dealing with so many pressures when I was in prison. So I broke down from the pressure and used.

I called my parole officer and told her that things were getting really difficult for me and that I had slipped and handled stress like I used to. It was so frustrating because I felt like I did better in [prison] than I was doing. I was really disappointed in myself.

She understood because I was honest with her and I always had been and she helped place me in a residential drug treatment program. I haven't used since. Every hard time, every obstacle made me a stronger person. I still have my days but I know it is not worth it. I found a strength within myself; it really amazes me how I am able to handle things now.

How has the OAD social work program assisted you?

The letters and communication I had with the social workers while I was in prison were really helpful. It was helpful to know that someone was there to assist me and I was able to concentrate on myself and I had the support to let me do that.

They've been true and non-judgmental. It seems like other places are focused on how to get paid. When I went to family court around child custody, social worker Kelly's support in court meant so much to me. I felt calm and in control. If I was there by myself, I would have probably been freaked out and confused.

Another time, I was trying to get additional counseling services at an organization but I couldn't get what I needed. But, because I had the support of social worker Kelly, she helped me to get through to who I

needed to in order to get what I needed and get my questions answered. The hope and encouragement the OAD social workers give means a lot to me. The support is invaluable and is really not found anywhere else.

What advice would you offer?

Don't forget what brought you to prison. Was it really worth it? Money is not everything. Learn to live in your means. Going to prison does not make you a man. Being there for your children, waking up on a Sunday morning and making breakfast for your children — that's manhood. Those things are priceless. When you come home, don't forget the choices you make have consequences.

Mr. Latham returned home in August of 2007.

Note on Incarceration Rates

The United States has long had, by far, the world's highest incarceration rate. According to a recent study by the Pew Center on the States, one in every one hundred adults in the United States is now in jail or prison, the highest proportion in our nation's history.

While New York's incarceration rate has slightly decreased, much more remains to be done in New York to make sentencing more rational, effective, and humane. The study reports that New York spends an inordinate proportion of its budget on incarcerating people, although these funds could be used on higher priorities, such as improving our failing educational system. For instance, for every dollar that our state spent on higher education in 2007, it spent 73 cents on corrections.

Our society must rethink a system that incarcerates so many poor people for so long. We must tackle the root social causes of crime to prevent it from occurring in the first place. We must not dehumanize offenders and overlook their potential for rehabilitation. As explained in our prior newsletter, OAD supports the reforms suggested by the New York State Commission on Sentencing Reform, which would lead to greater fairness and compassion in sentencing.

Update on OAD's Reinvestigation Project

In our last newsletter, we reported the launch of OAD's latest initiative — the Reinvestigation Project. Drawing from the latest empirical research on the causes of wrongful convictions, the Project's mandate is to identify cases that call for reinvestigation, litigate those cases after thorough reexamination, and draw attention to the endemic problems in our criminal justice system that result in wrongful convictions. To this end, we have developed a screening system that identifies cases that rested heavily or exclusively on the types of unreliable evidence that lead to wrongful conviction. In the months since the Project was launched, we have screened over 50 cases, and identified several that called for reinvestigation. In the near future, we will be filing a series of cases that have been reinvestigated over the past six months, raising claims resulting from newly discovered evidence and evidence that trial counsel failed to uncover. We will continue to report on developments in future issues of this newsletter.

Conviction Reversed: Trial Counsel's Inadequate Performance Doomed His Client's Defense to Failure

On December 15, 2002, Louis Cyrus was arrested leaving a drug-store having shoplifted several gift sets. He was then questioned by the police in three different locations. After 17 hours, and feeling sick from heroin withdrawal, Mr. Cyrus waived his *Miranda* rights and signed a statement admitting that he took the items, and that he displayed a box cutter when leaving the store. The display of the box cutter elevated the crime from petit larceny, a misdemeanor, to robbery in the first degree, a Class B violent felony.

Despite the fact that there were six colorable suppression arguments that trial counsel could have made to prevent the jury from hearing the statement, trial counsel made no legal arguments for suppression. Instead, based on his admitted inexperience and failure to prepare for the hearing, he simply asserted that the officer's testimony was not credible because it contained minor discrepancies. The court denied the suppression motion, which resulted in the jury hearing the inculpatory admission made by Mr. Cyrus. Even more devastating, trial counsel blundered by asking the police officers whether they had viewed a store surveillance tape that had been destroyed prior to trial. The fact that the tape had been destroyed prevented the prosecution from introducing *any* evidence of the tape or its contents. But trial counsel's questions to the officers "opened the door" to their testimony that they had viewed the surveillance tape and had observed Mr. Cyrus with a "metallic object" in his hand.

On appeal, in an opinion by Justice Luis A. Gonzalez, the Appellate Division unanimously found that "counsel's performance at the suppression hearing was abysmal" and that "counsel's performance was only marginally better at trial." Finding that the failure of Mr. Cyrus's trial counsel to investigate the law and facts relevant to the case led to crucial errors that "effectively doomed his client's defense to failure," the court reversed Mr. Cyrus's conviction and ordered a new trial.

Mr. Cyrus is represented by Volunteer Appellate Defender Yehudah L. Buchweitz of Weil, Gotshal & Manges, LLP and OAD Supervising Attorney and Director of Special Litigation Risa Gerson.

Save the Date!

On October 6th, 2008, OAD Presents

FIRST MONDAY IN OCTOBER 2008

A Mock Supreme Court Argument
NYU School of Law

OAD Client Obtains Habeas Relief

United States District Court Judge P. Kevin Castel granted a petition for a writ of habeas corpus for OAD client Charles Walker, ordering that a writ issue within 90 days unless the State Department of Correctional Services (DOCS) removes the period of post-release supervision (PRS) it had imposed administratively. When Mr. Walker pleaded guilty to robbery charges, he was sentenced to nine years in prison. The judge did not impose any period of post-release supervision. However, once Mr. Walker was in state custody, DOCS administratively added five years of PRS.

After litigating the issue in the state courts, Mr. Walker filed a habeas petition in federal court, claiming that, even though PRS was required, only the court could impose it, and DOCS' addition of PRS to the sentence was unconstitutional. Magistrate Judge Ronald L. Ellis recommended that the writ be granted and Judge Castel adopted Magistrate Judge Ellis' Report and Recommendation in its entirety, rejecting all of the government's procedural and substantive arguments.

Risa Gerson, Director of Special Litigation, represents Mr. Walker.

OAD Welcomes New Staff

Maia Falconi-Sachs returns to OAD as a development associate after having worked in the office as a legal intern and translator in the summers of 2004 and 2005. In May of 2006, Maia completed her Senior Thesis—"Perceiving Suffering; Ethical Implications of Photographic Transparency"—and received her B.A. from Bard College at Simon's Rock, where she dual majored in Philosophy and Graphic Design. Prior to her return to OAD she spent a year as an assistant at Gibson, Dunn & Crutcher LLP. Maia plans on applying to law school within the coming year.

Katherine Hardy joins OAD as a social work intern. She has recently worked as a neuropsychological evaluator at Columbia Presbyterian Hospital, and also as an entitlement coordinator and case manager at Mt. Sinai Hospital. Kate has had several pieces published in *Manhattan Home* and has also been published in the *Journal of Neurochemistry*. She graduated from New York University with a B.A. in Psychology and is currently pursuing her M.S.W. at Columbia University School of Social Work.

Consider a gift to OAD

I want to help OAD provide quality defense services to poor New Yorkers. Enclosed please find my gift of:

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Please make checks payable to: Office of the Appellate Defender, 11 Park Place, Suite 1601, New York, NY 10007.

Contributions are tax-deductible. OAD gladly accepts donations in the form of stock transfers or bequests.

For more information, please call Maia Falconi-Sachs at 212-402-4100. Thank you.

A Message from the Attorney-in-Charge: Twenty Years Later

As the Office of the Appellate Defender completes its twentieth year, it is an appropriate time to take stock of what we have accomplished.

OAD was formed during a time of unprecedented crime rates, a fast-growing prison population, and a shortage of qualified appellate counsel. The impetus for the creation of OAD – a class action lawsuit brought by incarcerated individuals to vindicate their right to appeal – highlighted the pressures on a criminal justice system unable to cope with volume and incapable of guaranteeing high quality representation to all. OAD's mission – to help alleviate a backlog of appeals, provide high quality client-centered representation, and train future generations of lawyers – was an ingenious experiment in a new model for indigent defense. By all accounts, OAD has been an unqualified success and has stayed true to that mission.

Over the past twenty years, dozens of talented, committed attorneys have received comprehensive training and supervision at OAD, while providing inspired representation to our clients. Today, these lawyers can be found at indigent defense organizations in and out of the New York area, public interest

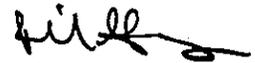
legal organizations, law school clinical programs, large and small law firms, and a variety of other positions. We are gratified by the meaningful and dedicated work being done by so many OAD alums.

We are also proud of new OAD programs that have sprung up over the years and that have expanded our ability to provide a wide array of services to our clients while simultaneously advancing our training mission. Our Volunteer Appellate Defender (VAD) program has become a model *pro bono* program within the larger legal community, offering associates at many of the City's largest law firms an opportunity to represent an OAD client on appeal after in-depth training and under close supervision. OAD's Social Work/Re-entry program – the first of its kind in an appellate defender office – has helped hundreds of OAD clients both in prison and out, as they confront a myriad of problems and try to get their lives back on track. Our Criminal Appellate Defender Clinic with New York University School of Law provides student interns the opportunity to represent a client on appeal, including writing the brief and arguing before the Appellate Division. The Reinvestigation Project – our newest initiative – identifies and re-investigates

those cases where there are indicators that we might be able to locate new evidence of innocence, ineffective assistance of counsel, or prosecutorial misconduct. Already, we have several promising investigations in the works.

One of OAD's most important resources has always been its Board of Directors. Comprised of lawyers, retired judges, academics, and other professionals associated with some of the most prominent firms and institutions in the City, OAD's Board members have provided invaluable contributions in terms of support, fundraising, and genuine leadership.

Now a mature organization, OAD has weathered fiscal storms, battled on behalf of our clients, provided a valuable forum to train the lawyers and social workers of tomorrow, and afforded extensive *pro bono* opportunities to so many. We look forward to the next twenty years of providing committed client-centered representation and thank all of our supporters who have played such a critical role in the pursuit of justice.



Richard M. Greenberg

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TESTIMONY OF THE NEIGHBORHOOD DEFENDER SERVICE

before the

NEW YORK CITY COUNCIL

FINANCE COMMITTEE

&

COMMITTEE ON FIRE AND CRIMINAL JUSTICE SERVICES

on the

EXECUTIVE BUDGET FOR FY2009

by

**RICK JONES
DEPUTY DIRECTOR**

MAY 15, 2008

Testimony of Rick Jones

Introduction

I am Rick Jones, Deputy Director of the Neighborhood Defender Service (NDS), a community-based defender office that provides high-quality legal services to residents of Upper Manhattan. NDS has piloted a model for a neighborhood-based, comprehensive, client-centered approach to service that has led to improvement of defense services throughout New York State. For the past twelve years, NDS has received funding from the City Council to support our efforts to provide the highest quality services and to foster system-wide improvements. We thank you for that support.

I come before you today again to ask for your assistance, as funding for the agency has once again been eliminated in the Mayor's Executive Budget for FY2009. Specifically, **NDS seeks restoration of the \$3.25 million in funding received for the current fiscal year and an enhancement of \$250,000, for a total of \$3.5 million in funding.**

Background

The Neighborhood Defender Service is a community-based non-profit organization, and a social justice leader in the effort to improve the quality of criminal defense representation for those unable to afford an attorney. Since 1991, when NDS began full operations, our service model has enhanced the quality of in-court representation and expanded the scope of services that defenders provide to their clients. Consistent with our expanded approach, NDS has engaged in initiatives to help communities address a wide range of criminal justice problems. As a closely watched model law office, NDS has fostered system-wide improvements as well.

Located in Upper Manhattan, NDS is dedicated to serving some of New York City's lowest-income communities – East, Central and West Harlem, Washington Heights and Inwood. NDS was established to create new techniques in the provision of criminal defense legal services. Since its inception, NDS has grown from a pilot project of the Vera Institute of Justice into an independent, full-service legal and social service provider, and remains committed to a broad approach to helping address the criminal justice issues affecting these neighborhoods.

Characteristics of the NDS service model that make it unique include:

Location: Public Defender Offices are traditionally located near the courthouse, remote from the communities their clients live in and where arrests occur. By contrast, NDS is located in the heart of Harlem, the community we serve. This facilitates investigation of cases, and the client-attorney relationship.

Early Entry: NDS has designed formal systems to offer its services upon request and to encourage community members to seek counsel as early as possible in the life of a case.

Early entry allows us to interview our clients at the police precinct, conduct an initial investigation, and prepare for a bail hearing before the client goes to court. Over 20% of NDS cases are those in which services are requested far in advance of the first court appearance. This fiscal year to-date we have assisted over 40 clients in voluntarily surrendering to law enforcement authorities, enhancing police and community safety and saving law enforcement time and resources.

Team Defense: At NDS, clients are represented by a defense team that combines the skills of attorneys, social service providers, investigators and paralegals. NDS team members investigate the charges against its clients, defend clients charged with a broad range of offenses and, if needed, represent clients in other venues. This highly effective approach, which includes advocacy for alternatives to incarceration, educational advocacy, psychiatric and psychological referrals and drug treatment placements, helps clients become productive citizens.

defensaNDS: Through a dynamic NDS initiative called *defensaNDS*, a bilingual unit comprised of lawyers, a social worker, an investigator, and a paralegal, we offer Spanish-speaking clients access to the same quality representation offered to the English speaking community. *defensaNDS* removes language and cultural barriers that may result from third party interpreters.

Collateral Consequences of Criminal Charges: Increasingly, criminal charges are accompanied by associated civil charges. These collateral consequences disproportionately affect poor women and their children. Family members of criminal defendants may face eviction from their homes. Mothers convicted of minor offenses can lose access to financial assistance for education, and be denied licenses (e.g., beautician, or home health care aide) needed to secure gainful employment. Children may be separated from their parents. Without the assistance of counsel, long-term damage can be done to families and communities ill equipped to negotiate the civil courts. The NDS Civil Justice Project addresses all legal consequences of a client's case, including issues related to family law, employment matters, housing law, and violations of federal civil rights.

Community Education and Youth Leadership: In neighborhoods like Harlem, Inwood and Washington Heights a significant percentage of residents are subject to frequent interactions with the police. NDS regularly conducts educational workshops to teach community members about the legal system, the rights and responsibilities of citizenry and law enforcement members, and the facts and myths about the criminal justice system.

IN 1999, NDS created its youth leadership program, **Students Taking Action Towards Empowerment** (STATE) to address the particular concerns of youth who face the most frequent contact with the police. Initially established to reduce the level of mistrust and misunderstanding between youth and law enforcement, STATE has since grown into a comprehensive youth leadership development program aimed at preventing incarceration and negative interactions with the criminal justice system. The program includes an after-school program and summer employment project in which participants are trained in NDS's model conflict resolution curriculum, **Conflicts with Cops**, designed for high

school aged youth. STATE participants are then prepared to teach the curriculum or its condensed workshop, **Know Your Rights**, to other young people. Through this experience, STATE youth gain leadership and public speaking skills while providing substantive knowledge to their peers. STATE participants are also involved in a variety of other activities, including the production of public service announcements and social justice video projects. STATE also runs an on-site satellite project at Wadleigh Secondary School in Harlem, through which we instruct high school juniors and seniors in our **Conflicts with Cops** curriculum. Over the past year, STATE has held workshops in a variety of New York City venues, serving over 1,500 youth. In addition, 30 participants have benefited from STATE leadership programs.

New Initiatives

NDS recently developed two new projects to further assist clients with resources beyond their immediate criminal case. **Diligent Dads**, a project funded by the Fatherhood Initiative of the New York City Department of Youth and Community Development, is a curriculum-based program that provides counseling, social services, and educational support to formerly incarcerated young fathers. The goal of the program is to help fathers improve their parenting skills and relationships with their children.

The **Volunteer Attorney Project** (VAP) makes additional legal resources available to clients through pro bono services offered by major law firms. With NDS supervision and training large law firm associates are able to represent clients in low-level criminal and collateral civil cases, thus increasing NDS's ability to serve.

Needs of Target Population

NDS serves communities throughout Upper Manhattan through vigorous advocacy, family involvement and community-based initiatives. The need for legal assistance in these constituent neighborhoods is profound. In fact, more than 60% of Manhattan residents prosecuted in the county courts live in the NDS service area, and account for more than 50% of the criminal cases that come before New York County courts. Most of NDS' clients are low-income people of color. In addition to criminal charges, many NDS clients face a host of problems associated with poverty. Among them are medical and mental health issues, substance abuse, housing needs, educational neglect and family violence.

In FY2007, NDS represented over 3,800 Northern Manhattan residents in a full range of criminal matters. We provided limited legal advice and referrals to nearly 1,000 additional individuals as well. We expect to provide a similar level of service in the current fiscal year. NDS also seeks to help clients tap into the strength within their families and communities, and navigate bureaucratic red tape to access resources available from government and other community-based providers. The NDS Civil Justice Project provided legal assistance to over 100 clients to help them address an array of issues they faced as a consequence of a criminal charge including: housing evictions and denial of applications, unlawful termination or denial of employment and immigration matters.

Cost-Effective Services

NDS, with its wide range of services and community-based accessibility to clients, is a cost-effective investment of City resources.

NDS provides a number of critical services not offered by other trial level providers. Among them are our **Early Case Representation Services** provided by our Intake Unit, which provides pre-arrest intervention, assistance with voluntary surrenders to the police, and legal assistance at local precincts immediately after arrest. While other agencies may provide such assistance on an ad hoc basis, NDS is the only provider that has a dedicated unit and formal systems for doing so. In a given year we provide these early representation services in between 20% and 25% of all cases opened.

Similarly, because **NDS offers its services upon request**, we daily see individuals for whom we cannot provide full representation, but to whom we provide limited legal advice or a referral to an appropriate agency. We render such assistance to nearly 1,000 people each year.

Finally, NDS's Civil Unit and its continued social service intervention with clients even after a case is closed are unique features not accounted for in the Criminal Justice Coordinator's cost-per-case analysis. **The array of services NDS provides to individual clients**, and often to entire families, in communities acutely affected by criminal justice issues, **is well worth the City's investment.**

In addition, NDS continues to be a leader in fostering innovation and improvement in the provision of indigent defense services, both locally and beyond. NDS's community-based service model is recognized throughout the United States and internationally. In 1997, NDS was profiled by the U.S. Department of Justice (DOJ) in its series on best practices in the field, highlighting the systemic benefits of NDS's approach to service. NDS has consulted with numerous organizations as they reconsider their operational strategies. Delegates have come from as far as Germany, China, Japan, Lithuania and South Africa to consult with NDS. Several organizations have replicated parts of the NDS service model at their own sites: the Youth Advocacy Project in Roxbury, Massachusetts; the Bronx Defenders and the Legal Aid Society in New York City; the Knoxville Public Defender, in Tennessee; First Defense Legal Aid, in Cook County, Illinois; the Maryland State Public Defender and the Public Defender Service for the District of Columbia.

Funding Request

Since the City Council began supporting NDS in FY1997, our caseload has increased nearly 40%. As you can imagine, operational costs have substantially increased over this ten-year period as well. NDS seeks restoration of \$3.25 million in funding it received for

the current fiscal year and an enhancement of \$250,000, for a total appropriation of \$3.5 million dollars.

Increased Operational Costs

In FY2006, with the assistance of the City Council, NDS was able to secure new headquarters and add badly needed staff lines. As a result of these efforts, NDS has been able to increase its contractual case intake commitment by almost 20% (from 3,200 cases in FY2006 to 3,800 new matters in FY2008). This improvement and expansion in operations, however, has of course led to increased costs, which find NDS projecting an operating deficit of nearly \$100,000 in FY2008 and approximately 200,000 in FY2009. \$200,000 of the \$250,000 enhancement we seek would be used to sustain operations at current levels.

Enhanced Service Capacity

With the \$50,000 balance of the \$250,000 enhancement we seek, NDS will expand its capacity to represent juveniles facing delinquency matters in Family Court or charged as Juvenile Offenders in adult court. Currently, we have only one staff attorney who works in this specialized and very resource intense area of our practice. With the assistance of a fellowship jointly funded by a major corporate law firm and a national non-profit, Equal Justice Works, NDS will add a second staff attorney to our juvenile justice project this fall. Additional funds would allow us to leverage our fellowship dollars, add a dedicated social worker to support the work of these attorneys and better enable us to meet the needs of the community in this critical area. We anticipate being able to reach an additional 75 – 100 youngsters with this additional staff.

For these reasons we appreciate your help in restoring last year's appropriation of \$3.25 and providing an enhancement of \$250,000 for a total funding for NDS in the amount of \$3.5 million dollars.

Conclusion

We again thank the City Council for its steadfast and unwavering commitment to ensuring *quality* legal assistance, and for its support of NDS and its work. We look forward to continuing to work with you in service of our fellow New Yorkers.

Testimony of Kenneth J. Baer, 91 6th Avenue, Brooklyn, NY 11217

Good afternoon. My name is Ken Baer.

I am speaking today in opposition to any funding for the renovation of the Brooklyn House of Detention. As I understand it \$240M is being proposed in the FY2009 budget for the Brooklyn House of Detention. This is a huge amount of money that may as well be flushed down the toilet, if this item is passed.

New York City and the Department of Corrections should be coming forth with plans for reducing the prison population in New York City, not allocating funds to accommodate more prisoners. This \$240M could go a long way toward rehabilitating and providing educational opportunities at all levels for those convicted of crimes.

Incarcerating people for minor and victimless crimes is a waste of taxpayers money. Funding programs that give these people a meaningful first or second chance makes a lot more sense. At a time when proposals are being made to cut the budgets for our schools and community boards, more serious consideration must be given to more dubious items in the 2009 budget.

Once the jail on Atlantic Avenue is demolished, a more appropriate use for the site would be for a badly needed school with the possible inclusion of residences and ground level retail.

Once again please eliminate any funding for the Brooklyn House of Detention.

Thank you.

Atlantic Avenue Betterment Association, Inc.

Testimony Regarding the Brooklyn House of Detention Capital and Expense Budget Items

I am Sandy Balboza, president of the Atlantic Avenue Betterment Association representing merchants and residents on and around Atlantic Avenue. I am here today to request that the City Council scrap the Department of Corrections (DOC) Expense Budget item to pay for a design to double the Brooklyn HOD from 750 beds to 1,500, and to scrap the \$240 Million in the Capital Budget to build it.

The Brooklyn House of Detention (HOD) is a money pit; sucking in more and more tax payer dollars while the City Council considers cuts in the education budget and other vital services.

It makes no sense to keep pouring desperately needed city funds into the never ending renovations of this obsolete jail, which if torn down and rebuilt would have to be three and half times larger to meet Federal guidelines.

In May 2003, DOC Commissioner Horn told a City Council committee that the DOC would save about \$5.3 million in labor costs by closing the Brooklyn jail. Correction experts like Michael P. Jacobson, a John Jay College professor, and former DOC Commissioner, said that the Brooklyn closing made sense because it is more efficient to manage fewer full jails. The City had already closed the Bronx, and Queens Houses of Detention and the brig in the Brooklyn Navy Yard.

Even though the Brooklyn HOD closed in 2003, the City continues to spend money to staff the jail and to upgrade the structure.

The most recent upgrade, completed in 2007, added a ground level addition even as the building stood empty costing more than \$30 Million.

Now, according to the RFP released in March 2008, the DOC Commissioner, Martin Horn, proposes to rip that out and convert it into retail space. In addition, the DOC plans to spend at least \$16 million to replace the glass brick windows. An 18 Million state of the art kitchen has not been in use since the 1990s even before the jail closed.

Brooklyn Community Board Two voted unanimously (April 11, 2007) to oppose any funding for "expansion and renovation of the Brooklyn Detention Complex" in its Citywide Statement of Needs for City Facilities FY 2008/2009.

While the DOC wants to expand the Brooklyn HOD, it leases empty space to other counties. We learned from the NYC Independent Budget Office that Suffolk

County inmates are being housed in Rikers Island facilities in a leasing arrangement beginning 2004 (Letter dated Nov 27, 2006).

In February Borough President Mary Markowitz and local elected officials wrote to Mayor Michael Bloomberg rejecting the DOC 's plans for doubling the jail reasoning that it would be a burden to the many new residential developments surrounding the HOD. (Letter dated Feb 22, 2008 also signed by City Council Member David Yassky, Congressman Ed Towns, Assembly Woman Joan Millman, and State Senators Marty Connor and Velmanette Montgomery)

Again, we ask you to stop throwing any more city tax payer dollars into this money pit. Neighborhood organizations are organizing a Community Forum on May 29th which we call More Vision, Less Prison. We are asking to have ongoing, meaningful community involvement in the planning and decision making for the Brooklyn HOD site.

**And finally, we request that you look into the effect of incarceration rates for low level crimes that are filling jail beds unnecessarily. The City needs to develop policies that would allow it to reduce jail beds by offering needed services and appropriate alternatives to incarceration and detention
Thank you.**



THE CITY OF NEW YORK
INDEPENDENT BUDGET OFFICE

110 WILLIAM STREET, 14TH FLOOR
NEW YORK, NEW YORK 10038
(212) 442-0220 FAX (212) 442-0350
Email: prestonn@ibo.nyc.ny.us

C. Preston Niblack
Deputy Director

November 27, 2006

William L. Harris
71 Hoyt Street
Brooklyn, NY 11201

Re: Suffolk County inmates in NYC Department of Correction Facilities

Dear Mr. Harris:

The following is in response to your request for information regarding the arrangement between Suffolk County and the Department of Correction (DOC). According to DOC:

- The leasing arrangement with Suffolk County began on September 11, 2004.
- The number of inmates from Suffolk County has fluctuated from month to month. The low was zero and the high was 143 (in the month of February 2006).
- The average for November (through the 13th) was 96 beds.
- DOC charges Suffolk County \$150 per day for pre-trial detainees and \$125 per day for sentenced inmates.
 - DOC charges a lower rate for sentenced inmates because there is more available space in its detainee facility. Also, those inmates are typically in DOC custody for a longer duration, which reduces the administrative burden on intake.
- The total revenue to DOC from this arrangement was \$725,850 in fiscal year 2005 and \$645,875 in fiscal year 2006.
- All Suffolk County inmates are housed on Rikers Island. None are housed at the Brooklyn House of Detention, as that facility is currently closed.

Please let me know if we can be of further assistance on this or any other matter.

Sincerely,

C. Preston Niblack



Few Tears Shed for Closing Of Brooklyn's Big House; Rikers Would Take Inmates in Consolidation Enabled by a Decline in People Behind Bars

By DIANE CARDWELL
Published: May 10, 2008

Say goodbye to all that. To the long lines of girlfriends carrying babies and grandmothers carrying bail. To the sad comings and goings, and occasional escape, of men already convicted or just accused. To the catcalls and shouts mysteriously emanating from behind the multitude of tiny, reinforced panes of glass looming over Atlantic Avenue.

As falling crime rates and shifting law enforcement policies increasingly make overcrowded jails in New York a thing of the past, the Bloomberg administration is planning to close the Brooklyn House of Detention this summer.

It may not be forever, city officials say. But given that the city's main jail complex, Rikers Island, can absorb the 600 or so inmates currently housed in Brooklyn without even reopening two jails that are closed, it makes both fiscal and management sense to transfer the inmates to the Rock.

Correction Commissioner Martin F. Horn told a City Council committee yesterday that the department would save about \$5.3 million in labor costs by closing the Brooklyn jail. Department officials said that the 153 correction officers who now work in Brooklyn would be transferred elsewhere, but that the department plans to lay off 315 officers overall.

The city has already closed the Bronx and Queens Houses of Detention. (The Bronx jail was reopened briefly last summer to ease overcrowding for homeless families applying for shelter with the city.) The Correction Department has also shed a jail known as the Brig at the Brooklyn Navy Yard. Once the Atlantic Avenue jail closes, all that will be left is Rikers, a barge tethered near it and the Tombs, the old Manhattan detention complex, now named for Bernard B. Kerik, the former correction and police commissioner.

Correction experts said that the Brooklyn closing made sense because it is more efficient to manage fewer, fuller jails. "Nothing saves as much money as closing a jail," said Michael P. Jacobson, a professor at the John Jay College of Criminal Justice who has been commissioner of both the Correction and Probation Departments. "Instead of having 10 jails that are 90 percent full, you would rather have 9 jails that are 98 percent full," because the administrative savings are so large, he said.

The reason the city can pursue this path is that the jail population has been steadily dwindling of late.

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The New York Times **TECH**
nytimes.com/tech

For decades, New York mirrored the nation, with its city jail and state prison populations skyrocketing, experts said. According to Robert Gangi, executive director of the Correctional Association of New York, a prison watchdog group, there were about 200,000 people incarcerated in this country in 1970; that number is now more than 2 million. In 1980, New York City's jail population was about 7,000, he said. In 1986 that number was about 13,000, and it grew to a peak of 22,600 in 1991. It is now about 14,300.

These days, though, jails are a ripe target for budget officials looking to trim expenses. Many states have looked to thin their prison populations by releasing inmates early or changing sentencing laws. In the city, however, experts say a different dynamic has been at play in reducing the jail population. And, they say, the city's much-heralded drop in crime tells only a small part of the story.

"A little-known or understood dynamic is that crime rates have relatively little to do with incarceration rates," Mr. Gangi said. "In 1972, you could commit a drug offense and get treatment; 1973, the drug laws are passed and you go to jail. But the crime rate didn't change."

One factor contributing to empty jail beds, experts say, is the city's continuing attention to low-level quality-of-life offenses. Mr. Jacobson said that although arrests and indictments for the most serious crimes had gone down, misdemeanor arrests were exceptionally high, which means that those people who are arrested spend much less time in the system.

And so, goodbye to the Brooklyn jail. Built in 1957, it has helped create a whole world there at the crossroads of Downtown Brooklyn, Cobble Hill and Boerum Hill, although it has not been a welcoming one. Across Atlantic Avenue sits a row of bail bond businesses. At night sometimes, when the shadows of the men locked up inside are visible from the street, women park their cars there, communicating love and trouble through hand signals, holding up children for their fathers to glimpse.

It is an institution whose passing few will mourn, although its closing will inconvenience many. "Four hours for a one-hour visit?" Victoria Levy said, incredulous, the other day outside the Visitors House, a corrugated metal shack on State Street that leads into the jail. "Oh, no, that's too long," Ms. Levy said, explaining to another woman, Victoria Vasquez, who was visiting her son-in-law and seemed uninitiated in the ways of the system, that the check-in process at Rikers was more arduous than at other facilities.

"Even in Sing Sing," Ms. Levy continued, where her husband currently resides, "it only takes 15 minutes to get in." At the Brooklyn jail, Ms. Levy was trying to post bail for her son, who, she said, had never been in trouble before. "I wouldn't bring my mother to Rikers," she said. "I wouldn't put her through that. She couldn't take it."

"But the thing is," she added, "it doesn't matter where they are. You're still going to go visit them, no matter how long it takes to get there."

For Jack Robbins, a bail bondsman who has worked in the area for 45 years ("Maybe I've been in the business too long," he said, sounding resigned), the old detention house is already gone.

"Years ago," he said, dapper in a dark suit-vest on a recent afternoon at his office across the street from the jail, "you used to have the toughest people coming in here, but they minded their p's and q's. Now they come in with a chip on their shoulders." This, he said, may be a reflection of the treatment they receive on the other side of the avenue.



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"At the facility, it's terrible what they do," he said, adding that sometimes officers manning the bail window will slam it shut and tell those waiting to come back in an hour, even though it is supposed to be open around the clock. "Years ago you had people with a sense of values working there. Now you get people whose only joy is in giving other people a hard time."

For some, of course, goodbye will simply be good riddance. "A slug on the cabbage of life, that's what it's been," said Heloise Gruneberg, who has lived practically in the jail's shadow for more than 30 years. Ms. Gruneberg, president of the Boerum Hill Association, said she and others who had been engaged in buffing the area's rough edges would begin formulating ideas for what the building could become.

Correction officials say they will hold onto the jail in case it is again needed. Yesterday, Correction Commissioner Horn told the Council committee that the renovation work that had already been started on the Brooklyn House of Detention would continue. The work includes a new visitors entrance, installing sprinklers and fixing the facade.

"The population is down now," said Thomas Antenen, chief spokesman for the Correction Department, "but there's an ebb and flow to the inmate population."

But that has not stopped residents, elected officials and real estate developers from projecting their own desires, whether retail or residence or office complex, onto the institution, which takes up the entire block between Atlantic Avenue and State Street from Boerum Place to Smith Street.

"This is a great opportunity to do something for Downtown Brooklyn's revitalization, and I think it would be silly for the city to just let it sit empty for years and years," said David Yassky, the city councilman who represents the area. There are, he said, plans under way for Brooklyn Law School dormitories and an apartment building in the surrounding blocks.

Borough President Marty Markowitz, who has been urging the city to sell the building, agreed. "It is finally time to close the doors on the House of Detention and throw away the key," he said through a spokesman. "During this fiscal crisis, it makes absolutely no sense to keep pouring at least another \$10 million, by the city's own estimate, of desperately needed funds into the never-ending renovation of a prison that will remain empty."

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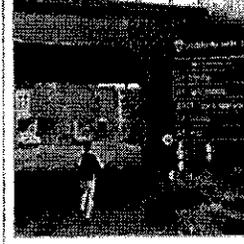
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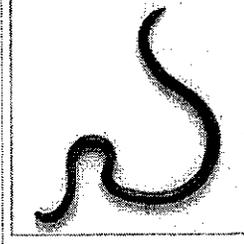
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OFFICE OF THE BROOKLYN BOROUGH PRESIDENT

February 22, 2008

Honorable Michael R. Bloomberg
Mayor
City Hall
New York, New York 10007

Dear Mayor Bloomberg:

We are writing in regards to the plans of the Department of Corrections (DOC) to reoccupy the Brooklyn House of Detention (HOD) as part of a building expansion, increasing its capacity from 759 to 1,479 detainees.

While we understand that because of the obsolescence of facilities and infrastructure limitations on Rikers Island, the intent to reopen and expand the HOD's capacity is based on a master plan to reduce by approximately 3,000 beds the number of detainees on Rikers. Regarding the challenges of managing the functions of DOC, we believe that given the many new residential developments surrounding the HOD, an expanded facility would be a burden to our constituents. In fact, a more prominent HOD at this location would further scar this gateway into a burgeoning Downtown Brooklyn.

An expanded HOD would result in more activity around the facility as there would be a significant increase in the number of personnel assigned there and in the number of anticipated visitors. The added traffic, particularly the private vehicles of staff, with non-city authorized parking permits, will further strain the ability of patrons of Atlantic Avenue shops and community residents to secure on-street parking.

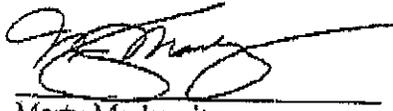
As an alternative to enlarging this site solely as a detention center, a plan was introduced for a mixed-use facility in an attempt to interweave the HOD with the surrounding community by "book-ending" the building with residential and/or commercial property; however, community stakeholders and the majority of elected officials were not supportive of this approach. Ultimately, the city's willingness to pursue this proposal as a mixed-use development did not garner interest from developers. Upon advisement from DOC that the HOD would expand as the sole user on this block, the community stakeholders submitted the enclosed letter dated January 16, 2008 expressing their views on this matter.

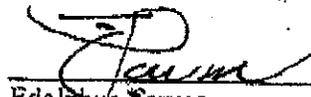
Mayor Michael R. Bloomberg
February 22, 2008
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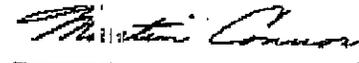
In addition to their opposition to expand the HOD, the stakeholders have been rightfully concerned about the disregard by employees of the Police Department and DOC who routinely violate the city's parking regulations, thus disrespecting the community. We also believe that along with reopening the HOD, physical improvements, as expressed by the stakeholders, are warranted. Therefore, we respectfully request that you reconsider all efforts to expand the HOD and take additional action to address community concerns.

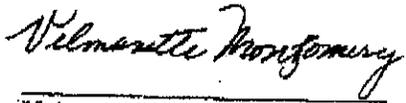
Thank you for your prompt review and consideration of this important matter.

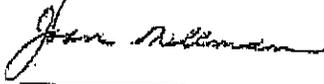
Sincerely,

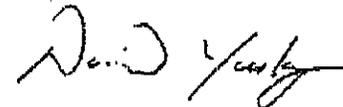

Marty Markowitz
Borough President of Brooklyn


Edolphus Towns
Member of Congress


Martin Connor
State Senator


Velmanette Montgomery
State Senator


Joan Millman
Member of the Assembly


David Yassky
Member of the City Council

MM/rb

Enc.

BBPO#2008-0118-008

cc: Honorable William Thompson
NYC Comptroller
Honorable Charles Hynes
District Attorney
Joanne Simon, District Leader
John Dew, Chair
Community Board 2
Brooklyn House of Detention Community Stakeholders
Judy Stanton, Executive Director
Brooklyn Heights Association
Joseph Chan, President
Downtown Brooklyn Partnership
Bette Stoltz, Executive Director
South Brooklyn Local Development Corporation

LEGAL SERVICES STAFF ASSOCIATION

National Organization of Legal Services Workers, UAW Local 2320, AFL-CIO

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Gibb Surette
President

Meghan Faux
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Vice President

TESTIMONY BEFORE THE NEW YORK CITY COUNCIL IN SUPPORT OF FUNDING FOR CIVIL LEGAL SERVICES MAY 15, 2008

I am Gibb Surette, President of the Legal Services Staff Association, The members of LSSA are the lawyers, paralegals, secretaries, receptionists, social workers, process servers, intake officers and other staff employees of Legal Services for New York City and MFY Legal Services.

We are part of the National Organization of Legal Services Workers, UAW Local 2320, which also represents the employees of the Westside SRO Law Project, Housing Conservations Coordinators, and the Citywide Taskforce on Housing Court. Our sister local, UAW Local 2325 represents the attorneys of the Legal Aid Society, whose support staff are represented by SEIU 1199.

Again, I ask that you fully restore funding to all of these non-profit employers. In hard times, the work of our members only becomes more critically important.

You have heard me here before, listing the many ways in which, despite dwindling funding and numbers, our members, like social first responders, help make New York a more liveable place, listing the many ways in which we also save the City money, listing the many reasons why, year after year, you have stood up to the Mayor to restore funding for civil legal services. Our clients depend on your continuing to do so, and we are truly grateful that you always have. This too, you have heard me say here before. None of that has changed.

Something, of course, has changed. Your ability, in the face of mayoral indifference, to continue uninterrupted funding to nonprofit organizations that do excellent and vital work, even the large and long established among them, is now threatened. While there are measured and targeted proposals for procedural reform, there are also baby-with-the-bathwater proposals for a sweeping transfer of your fiscal prerogatives to the executive and/or the indiscriminate use of RFPs to diminish the role that track records of excellence would play.

As often as I have stood on the steps of this building, asking essentially what I am asking today, it was an honor to stand there recently with a number of members from our own and other unions and with representatives of a broad coalition of nonprofit service providers, highlighting the range, excellence and accountability of the organizations for which you have so often stepped up, the importance of your continued ability to do so, and the debt of gratitude that all New Yorkers owe you for it.

Gibb Surette
President
Legal Services Staff Association
NOLSW, UAW 2320

**E.A.C.'s New York City T.A.S.C.
and
Mental Health Programs**

TESTIMONY

PRESENTED TO

THE COUNCIL OF THE CITY OF NEW YORK

Committee on Fire and Criminal Justice Services



Prepared by:

E.A.C., Inc.

(EDUCATION & ASSISTANCE CORP.)

May 15, 2008

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The Council of the City of New York
New York State Division of Probation & Correctional Alternatives
New York State Division of Criminal Justice Services
New York City Board of Education
New York City Department of Health
Suited for Success is a privately funded program

**Statement on Behalf of E.A.C.'s New York City T.A.S.C.
Programs to the Council of the City of New York
Fire and Criminal Justice Services Committee**

March 15, 2008

Honorable Chairperson Martinez, Council Members, Council Staff:

My name is Alicia McFarlane and with me is Michelle Arcamona. We are each Directors of E.A.C., Inc. (Education and Assistance Corp.), New York City TASC Programs; I am the Program Director in Queens, and Michelle is the Program Director in Brooklyn. New York City Council support has enabled TASC to become the most highly effective alternative to incarceration program in the State. In the Bronx, where we operate the Mental Health Court, we were chosen by the Bureau of Justice Assistance (BJA) under the Attorney General's Office as one of the five Model Mental Health Courts in the entire country, as a teaching Court to teach all of the new Mental Health Courts in how to develop to be Mental Health Court like ours. The competition was rigorous but Bronx TASC's Mental Health Court was one of the five selected. Our staff is lead by a psychiatrist and we assess the mentally ill clients, place them into programs and monitor them for the Court. This TASC does as well

for all of its drug abusing non-violent offenders who go into treatment programs in lieu of prison or jail but for the mentally ill ones we use licensed psychologists or psychiatrists to make an accurate diagnosis and do rigorous risk assessments to insure to the highest degree possible that diversion is appropriate decision. Not only does TASC screen, assess and place these substance-abusing and mentally ill offenders but also TASC provides clinical case management services to them and the program that they are in and monitors them as well for the Courts and the District Attorney's Offices for up to two (2) years. These placements have come about through the trust and support that TASC receives from the Courts and the District Attorneys in the four counties where we operate. To show to you the level of trust that TASC has from the District Attorneys, the New York City TASC programs provide the screening, placement and case management for the District Attorney's DTAP (Drug Treatment Alternative to Prison) second felony offender programs in Brooklyn, Queens, Bronx and Richmond Counties. We are in fact the case management arm of the District Attorneys' in those counties for their

Drug diversion program and we also do this work for their mental health programs.

This past calendar year, combining substance abusing defendants and mentally ill defendants, most of whom also abused drugs, we placed one thousand nine hundred ninety-six (1,996) substance abusing, criminal justice offenders into treatment programs and case managed and monitored their participation for the Courts. The biggest groups of those placed were predicate felons that are those who have a current felony drug charge and who have been convicted of at least one or more prior felonies within the last ten (10) years. Ordinarily, under the Rockefeller Drug Laws even as amended this group would have gone to state prison, but through a collaboration with the Courts and the District Attorneys, we have developed a mechanism to place them into drug treatment programs of up to two years duration, which allows them to be rehabilitated instead of incarcerated. This mechanism has been approved by our highest Court, the Court of Appeals in a unanimous decision with every member of the Court agreeing 7-0 to treatment over jail or prison. Our success rates for the

predicate felony offender population have been consistently maintained at a 70% completion level, with first time felons completing at a 60% to 65% rate.

Our current caseload approaches three thousand (3,000) clients in TASC placed treatment programs. We supervise this number of clients for the Courts and guide them along to productive, drug free lifestyles.

The work of the New York City TASC Programs has net saved the City and State many, many millions of dollars. But besides the net monetary benefit that TASC brings to the criminal justice system¹, it pales besides the incalculable benefit that comes from rehabilitating criminal, drug addicts and helping to create from them productive, taxpaying members of society. Not only does this result in the individual rehabilitation of criminal, drug abusers, and thus safer streets, but in families being reunited, parents now able and willing to assume responsibility for their children and these children now having a parent present who is capable of undertaking their

¹ In a Cost Savings document we have produced using very conservative figures and only applying them to detained offenders for detention savings, we calculate that savings to the City on detained offenders was over six million dollars and net savings to the State were eleven million dollars only calculating prison-bound offenders.

Upbringing. We have achieved this goal for the more than twenty thousand (20,000) clients who have graduated from our programs since inception in New York City in 1985. . Further support for our effectiveness is our TASC recidivism studies on our predicate felony population, which show that an average of 90% of our graduates have sustained a crime-free lifestyle one year after completing the program. These are the figures that make us proud and sustain us in our efforts.

This past year, with State budget cuts and increased costs for our every service and need, we have had great financial difficulties maintaining the levels of service that the Courts and District Attorneys have asked of us. This coming year however we will need a restoration of funding to cover expenses that are fixed to rise for us: rent, transporting our clients, telephone and other such expenses that drive up our costs. Without this, I am sorry to say that there will be some defendants who will not receive alternative to incarceration services or others who will have to wait in jail much longer before they receive them. Also, many clients will be denied the benefit of our TASC case management, which is a major factor in the high

success rates and low recidivism rates that we have demonstrated through the years.

The fact that we net saved the City and State enormous sums of money (a projected total net amount of almost twelve million dollars (\$12,000,000) dollars this year with six million (\$6,000,000) dollars of that sum in savings to the City. This has enabled us to affect so many, many thousands of lives that we only hope that we will be able to be continue our work as we have been doing for the past twenty-three (23) years. For it would be a shame if our citizens lost the benefit of complete TASC services; services that through the years have rehabilitated so many drug offenders and clearly with twenty thousand (20,000) client graduates has had a significant effect on making our communities safer. It could not be the police alone that have made our communities safer, but the cumulative effect of TASC and other effective rehabilitation programs that have helped make our streets safer. Arresting a drug abusing offender, putting him or her in jail or prison, only returns that offender back to the streets and back to drugs and crime after some period of time. It is the rehabilitation of these drug users and developing them into tax paying, productive

citizens that is essential for the maintenance of safe streets and safe communities.

I wish to extend my gratitude to the City Council for recognizing the value of EAC's programs and services to our communities year in and year out and to urge once again that you continue to support us this year. We guarantee that in the coming year, if you allow us, we will continue to produce the extraordinary results for which we are known and we will make you proud that you provided funding for us.

Respectfully submitted,

Alicia McFarlane
Michelle A. Arcamona

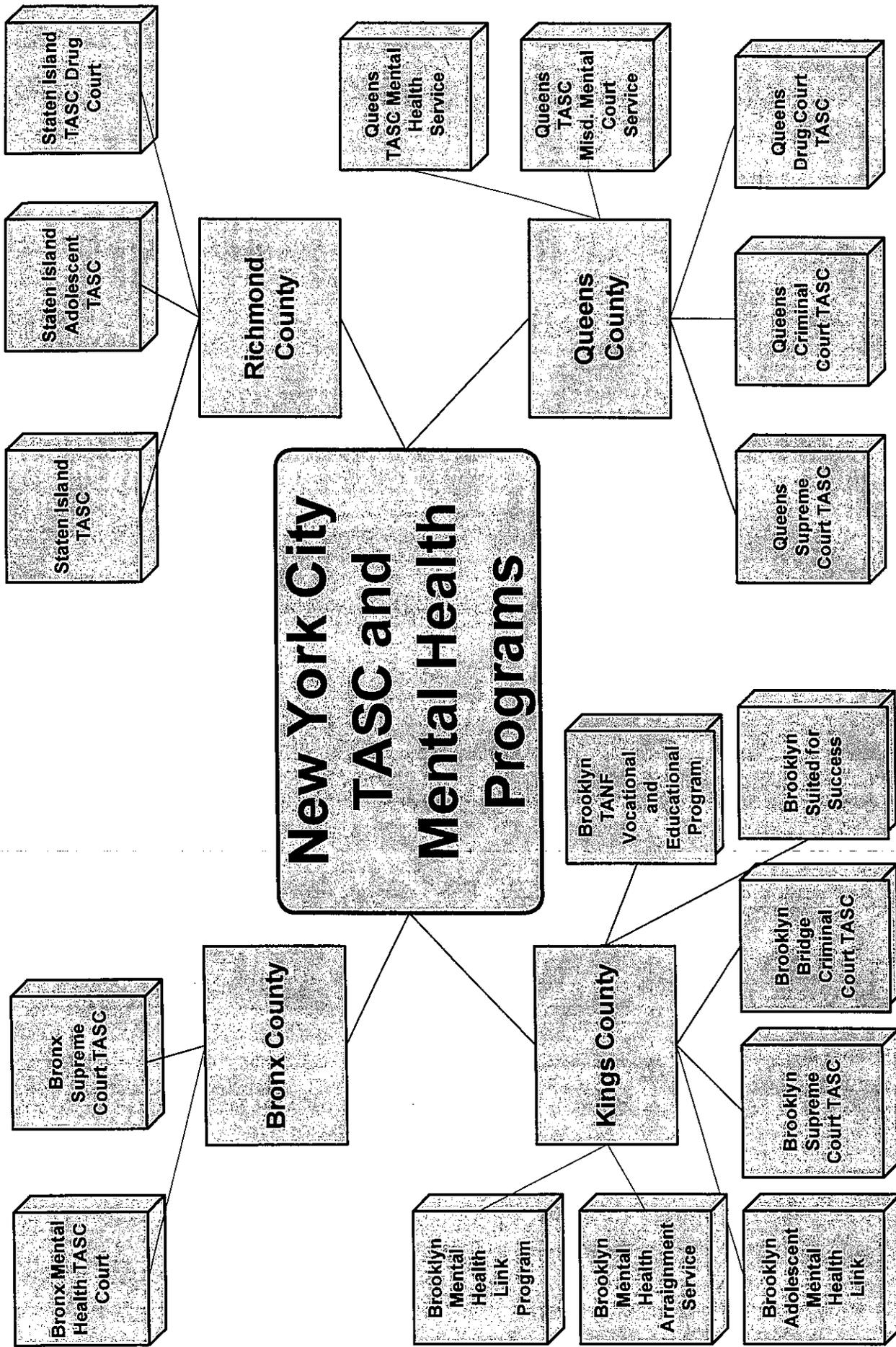


Exhibit A

Introduction

EAC, Inc. (Education and Assistance Corporation) operates alternative-to-incarceration programs, known as TASC, in Kings, Queens, Richmond and Bronx Counties. Services are funded through City Council support (under contract with the Mayor's Office on Criminal Justice), the New York State Division of Probation and Correctional Alternatives (State Probation), the New York State Division of Criminal Justice Services, the Board of Education and the New York City Department of Health and Mental Hygiene. TASC provides a mechanism for the Courts and the District Attorneys to permit certain non-violent felons, including many second felony offenders, and certain chronic misdemeanants facing significant jail time, whose crimes are causally connected to their drug or alcohol addiction or mental illness, to enter into designated treatment programs in lieu of State Prison or in lieu of local jail. In the New York City TASC Programs, the overwhelming majority of placements are into residential treatment programs for 12 to 24 months.

TASC professionals screen offenders for eligibility and then assess and evaluate each defendant for motivation, appropriateness for treatment, severity of substance abuse problem, mental health diagnosis, and community risk. If diversion is deemed possible, the courts mandate defendants to TASC. TASC then places defendants into treatment, matching individual treatment needs with the treatment program that will produce the most effective outcome (overwhelmingly for felony offenders this is a residential treatment program). Detained defendants remain in custody until TASC arranges the treatment slot and then are released to TASC custody and escorted directly by TASC staff to the designated residential treatment program. While in the program, TASC monitors participation and reports progress back to all Criminal Justice components involved in the case, the Court, the District Attorney, Probation, and/or Parole. If a defendant leaves the assigned program in violation of the plea in Court or the conditions of release or sentence, TASC advises the Court and the District Attorney and helps to obtain a warrant as expeditiously as possible. If the defendant is on Probation or Parole, they are notified as well.

Non-violent felons are eligible, whether first time offenders, probation violators or predicate, multiple felons, provided that all participants in the Criminal Justice System have agreed to the diversion. TASC experience with the Criminal Justice offender has shown that a deferred sentencing mechanism, pioneered by our Kings County program wherein the defendant periodically appears back in Court with TASC staff to report on status and progress during the treatment process, has proven to be the most effective procedure to achieve successful outcomes and rehabilitate substance abusing and/or mentally ill offenders.

Public safety is of major concern to all parties involved. When a treatment slot is secured by TASC, the defendant is released to a TASC representative and escorted by TASC directly to the program. A defendant is permitted no time "in the street" or on his own. During participation in the treatment program felony defendants are brought back to Court on a regular basis (approximately every 3 months) for a face to face appearance before the Judge and a report on progress in the program. This also serves to reinforce the Criminal Justice jeopardy for a failure at the rehabilitation effort. During this period of participation in treatment, TASC staff maintains regular contacts with each defendant's counselor at the treatment program and regularly visits the program to ensure that there is compliance with justice and treatment expectations from the offender and from the program. If the defendant is not progressing well at the program, TASC uses creative interventions, which may include immediate appearance before the Court or other more severe criminal justice sanctions through the Court to "motivate" the defendant to participate appropriately. If a defendant leaves the program for any reason, it is TASC's responsibility to advise the Court, the District Attorney and all

other involved agencies and see that a warrant is immediately issued. When the defendant is apprehended, sentence may be imposed without delay.

In the treatment program, a participant learns the skills to overcome his/her addiction, manage mental health problems, receives or is linked to remedial education and then to job skills training and must establish independent living. To graduate from the program, a participant must demonstrate the ability to live substance free and be employed or at least have gained sufficient skills as to be employable and be capable of living independently in the community for a period of time. The total time TASC generally monitors is from eighteen (18) to twenty-four (24) months, the minimum time believed necessary for this process to be most effective.

The following applies to 2007 NYC TASC Placements and includes information on Cost Savings and prior Success/Recidivism Studies:

1). In 2007, the various NYC TASC programs placed **1,996 defendants** into substance abuse treatment programs through Court mandate.

2). Out of these **1,996** total City-wide placements in 2007 made by TASC, **897 were made directly from detention** into treatment programs. These placements represent jail savings to the City based on the Court mandate for TASC directed and monitored treatment, **saving at a minimum 111.25 jail years or 1,335 jail months** and a dollar equivalent in the amount of **\$6,230,004.00** as gross savings to the City of New York. (See below for a chart of total **net** savings to the City and State which totals **\$11,963,114**. A full cost savings evaluation follows).

3). Furthermore, NYC TASC Programs project a prison **displacement of 882.02 prison years or 10,584.24 prison months** resulting in a projected dollar equivalent in gross savings to the State of New York in the amount of **\$10,584,240.00** (See below for a chart of total **net** savings to the City and State of **\$11,963,114**. As previously stated, a full cost savings evaluation follows below).

4). TASC historically has felony **success rates slightly greater than 70%** for predicate felons and higher than **60% for non-predicate felons**. Success is defined as successful completion of treatment to the satisfaction of the Court and the District Attorney.

5). **Recidivism studies** for predicate felons placed in 1991 and 1992 by TASC in Brooklyn reveal re-arrest rates one year after completion of treatment as **7% and 9%** respectively. A similar Queens TASC recidivism study for 1992 and 1993 showed a recidivism rate of **13%** one year after program completion. This shows an average recidivism rate of 10% over 4 years of program completions, one year later. This stands up remarkably well as compared to the re-arrest and conviction rates for drug involved offenders coming from state prison, where 50% are re-arrested (and thereafter convicted) within 6 months of their release from prison.

Comparison of Funding and Net Savings to City and State
Total Net Savings: \$11,963,114

TASC Program	State Funds	City Funds	Total Funds	City Detention Savings (Gross)	State Prison Savings (Gross)	Total Combined Savings to City & State	Total Net Savings**
Brooklyn TASC	\$145,355	\$837,342	\$982,697	\$1,591,334	\$2,286,600	\$3,877,934	\$2,895,237
Brooklyn MH		\$1,425,527	\$1,425,527	\$401,333	\$405,960	\$807,293	-\$618,234
Qns TASC	\$385,566	\$205,064	\$590,630	\$382,666	\$570,840	\$953,506	\$362,876
Qns TASC MH	\$150,000		\$150,000	\$51,333	\$85,560	\$136,893	-\$13,107
Staten Island TASC	\$266,622		\$266,622	\$298,666	\$335,400	\$634,066	\$336,000
SI Adolescent		\$49,348	\$49,348	\$65,333	\$67,080	\$132,413	\$83,065
Bronx TASC	\$380,708	\$406,017	\$786,725	\$2,958,668	\$6,033,600	\$8,962,268	\$8,175,543
Bronx TASC MH	\$150,000	\$449,577	\$599,577	\$480,667	\$799,200	\$1,279,867	\$799,200
TOTAL	\$1,478,251	\$3,372,875	\$4,851,126	\$6,230,004	\$10,584,240	\$16,814,240	\$11,963,114

* Dollar Amounts Rounded

**Total net savings is arrived at by subtracting the costs of the TASC programs, which consists of a combination of both City and State funding from the Total Savings. The cost differential of a year in state prison minus a year of residential drug treatment has already been calculated and subtracted in Chart VII above and is a cost of service and has been considered in determining Total Net Savings.

*State prison savings is achieved by calculating the differential of one year of State prison at \$30,000 minus the one year cost of residential drug treatment at \$18,000 (\$12,000 net). This is used despite the fact that 898 defendants went to less costly out-patient treatment programs broken up as follows: 125 predicate felons, 510 non-predicate felons, 263 misdemeanants.

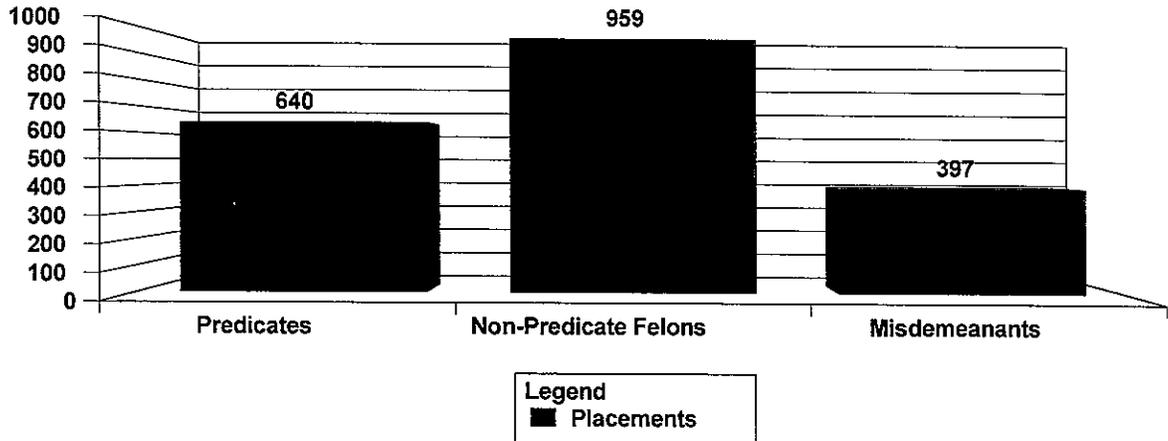
**Total net savings is arrived at by subtracting the costs of the TASC programs, which consists of a combination of both City and State funding and adding that to the amount that has already been calculated as the differential of a year of residential treatment services subtracted from a year of State prison..

NYC TASC PLACEMENTS

TOTAL YEAR 2007 PLACEMENTS: 1,996

In Calendar Year 2007, EAC's New York City TASC programs (Brooklyn TASC, Brooklyn Mental Health, Queens TASC, Queens Mental Health TASC, Staten Island TASC, Staten Island Adolescent TASC, Bronx TASC and Bronx Mental Health TASC) placed a total of **1,996** non-violent, substance abusing and/or mentally ill criminal offenders into substance abuse/mental health treatment programs as an alternative to a sentence to prison or jail. With success rates for predicate felons at 70%, and non-predicate felon success rates better than 60%, the TASC numbers are a testament to the positive role of the TASC programs in improving public safety, but also its role in community betterment and in restoring families one at a time. But with 20,000 placements in the last 10 years that makes many families re-united and made whole.. These placements are monitored by TASC for the length of the Court mandate, which ranges up to 24 months for predicate felons and one year for misdemeanor offenders. An accompanying Cost Savings Report, demonstrates how as a result of the **1,996** Placements made in 2007 by the E.A.C.'s New York City TASC programs the City and State of New York have net saved **\$11,963,114.00**. The breakdown of the **1,996** placements show that **640** were predicate felons, **959** were prison-bound non-predicate felons and **397** were chronic misdemeanants.

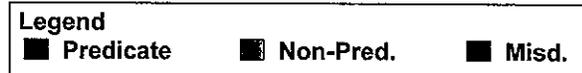
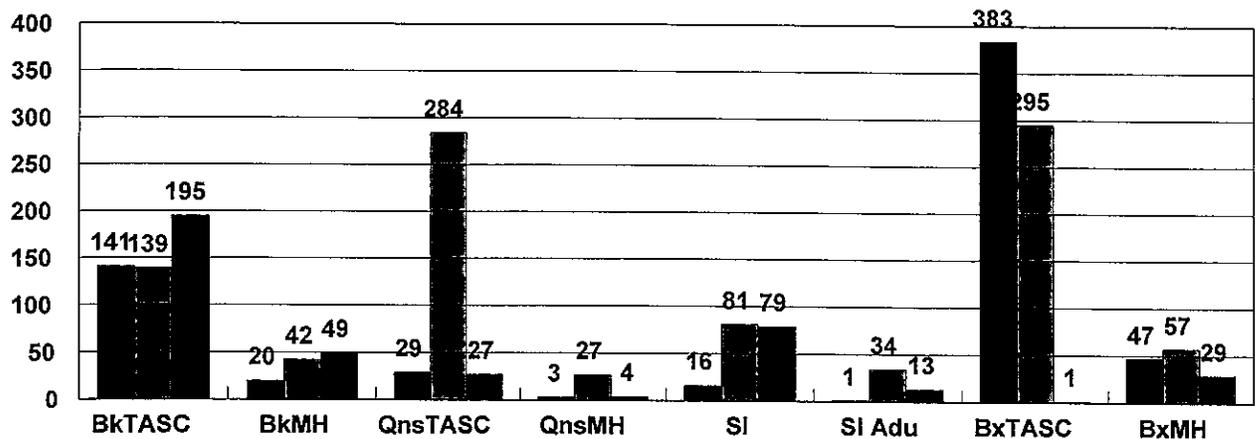
PLACEMENTS: 1,996



TASC Program	Total	Predicate Felons	Non-Predicate Felons	Misdemeanants
Brooklyn TASC	475	141	139	195
Brooklyn MH	111	20	42	49
Queens TASC	340	29	284	27
Queens MH	34	3	27	4
Staten Island TASC	176	16	81	79
Staten Island Adu	48	1	34	13
Bronx TASC	679	383	295	1
Bronx MH	133	47	57	29
Total	1,996	640	959	397
		32.1%	48%	19.9%

The breakdown of the **1,996** Placements made in 2007 by program is laid out in the chart above and in the graphic that follows. It is clear that the **640** predicate felons would have gone to State prison now go into community based treatment programs in lieu thereof though TASC and because of TASC' relationship with the District Attorneys' Offices.

Placement of 1,996 Defendants by Program and Criminal Justice Status
(Predicate Felons, Non-Predicate Prison-bound Felons and Chronic Misdemeanants)



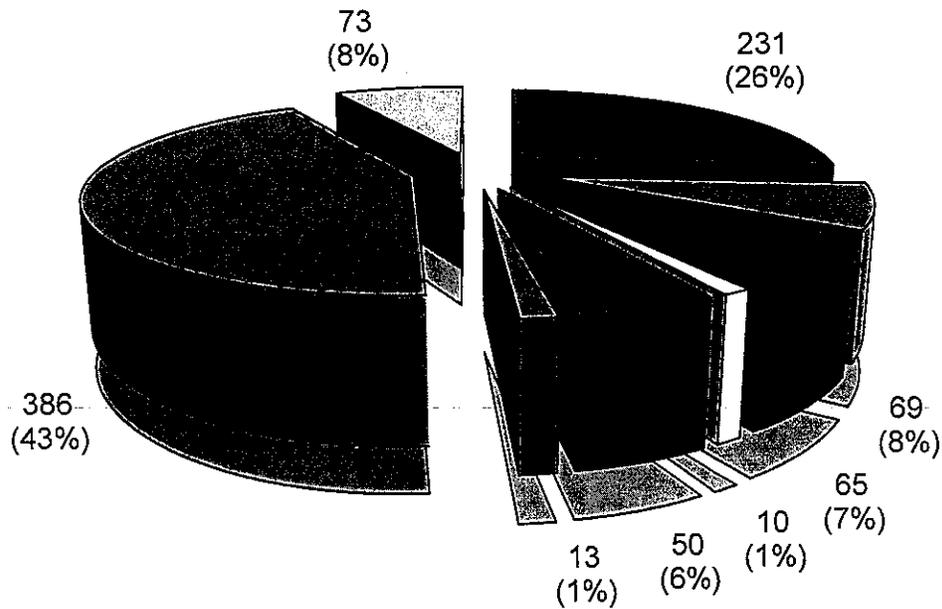
Total 2007 Placements from Detention: 897

Of the 1,996 offenders placed into treatment programs, 897 or 44.9%, were incarcerated at the time of their placement. This is worth noting because of the complex process involved in the placement of detained offenders, particularly those who are placed into residential treatment. For example, many incarcerated offenders do not have the necessary documents or medical records that most treatment programs require before they will accept a client. TASC staff work to acquire all necessary documents. This is certainly much more difficult while the offender is still incarcerated. In addition, it is a difficult task coordinating all of the variables so that each defendant is released to TASC custody at the appropriate time and date to gain entry directly into the treatment program. The annual cost of detaining an offender in a New York City jail while he/she awaits trial and/or sentencing is \$56,000, or \$4,600 per month. Because the TASC process expeditiously moves the offender from detention into drug treatment, costly time spent in detention is greatly reduced, resulting in savings, which accrue directly to the City. The greater the numbers of offenders placed into far less costly drug treatment, the greater the savings to the City of New York. Using conservative figures, the total jail savings involved through the utilization of E.A.C.'s TASC programs in 2007 is projected as \$6,230,004. Additional savings totaling \$10,584,240 are achieved for the State of New York as well by diverting offenders from prison sentences. E.A.C. has prepared a full report which describes the methodology and formulas upon which the study is based and breaks down the savings to the City and State as a result of TASC's work. The result is a net savings to the City and State, which totals \$11,963,114.00.

Placements from Detention Total	Bklyn	Bklyn MH	Qns	Qns MH	SI	SI Adol	Bx	Bx. MH
897	231	69	65	10	50	13	386	73

TASC Program	Total	Predicate Felons	Non-Predicate Felons	Misdemeanants
Brooklyn TASC	231	110	64	57
Brooklyn MH	69	17	26	26
Queens TASC	65	17	34	14
Queens MH	10	0	9	1
Staten Island TASC	50	14	23	13
Staten Island Adu	13	1	11	1
Bronx TASC	386	248	137	1
Bronx MH	73	30	29	14
Total	897	437	333	127

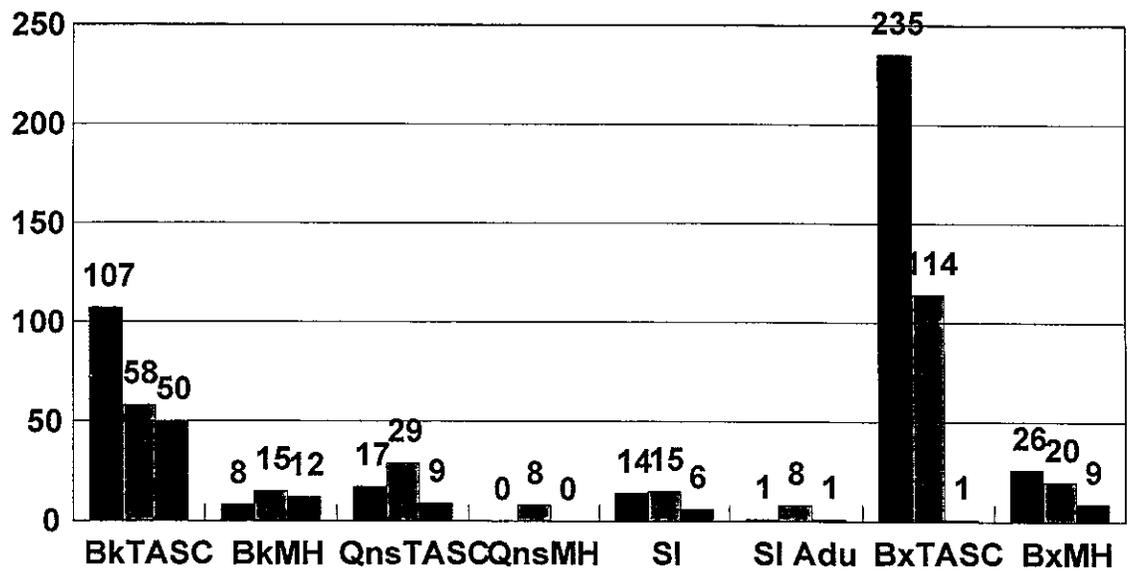
The total placements from detention totaling 897 reflect a savings to the City of New York in detention savings of \$6,230,004.00. There is detailed Cost Savings study prepared by E.A.C. which spells out the full methodology behind the net cost savings to the City and State as a result of the work done by New York City TASC. The charts above and the graphics that follow provides the placement numbers upon which the detention savings to the City are based.



Legend							
■	■	■	□	■	■	■	■
Bklyn	Bklyn MH	Qns	Qns MH	SI	SI Adu	Bx	Bx MH

Placements from Detention: 897

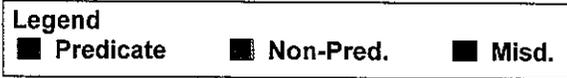
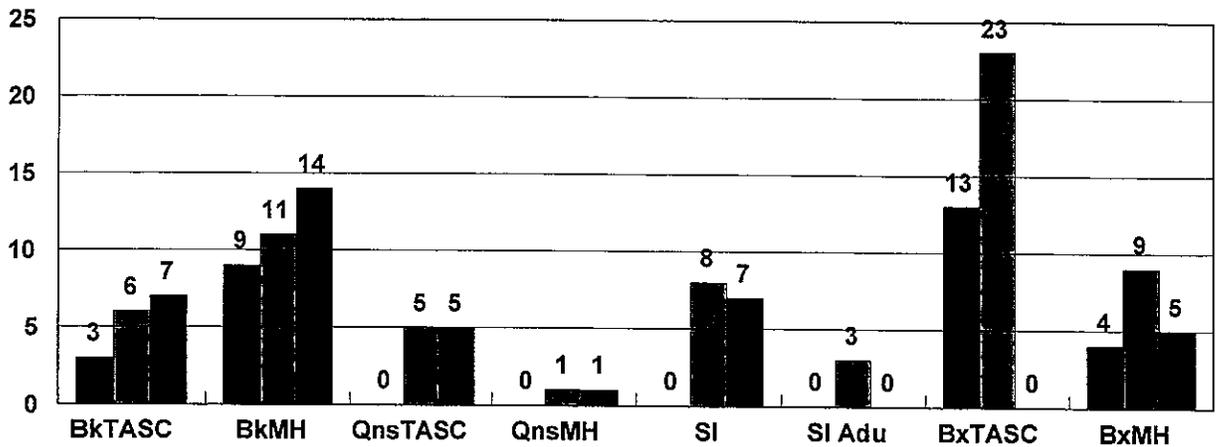
Total Residential Placements from Detention: 763



Legend
 Predicate Non-Pred. Misd.

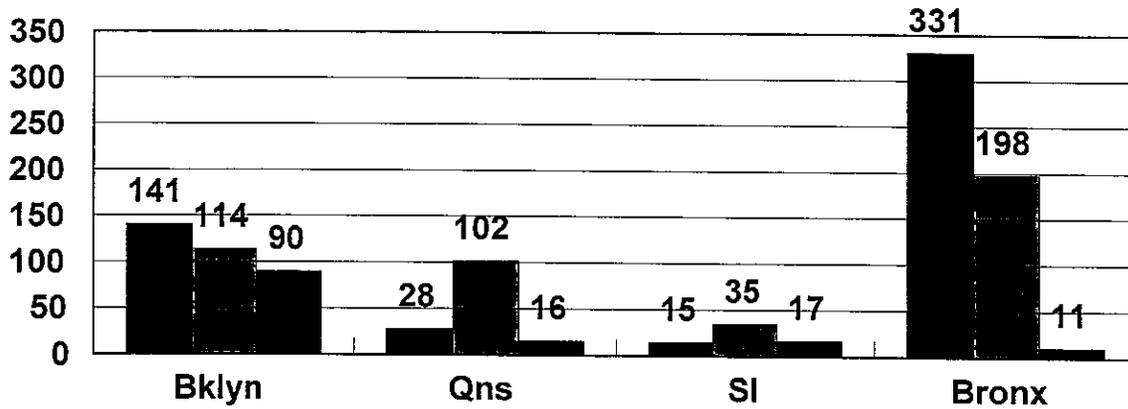
TASC Program	Total	Predicate Felons	Non-Predicate Felons	Misdemeanants
Brooklyn TASC	215	107	58	50
Brooklyn MH	35	8	15	12
Queens TASC	55	17	29	9
Queens MH	8	0	8	0
Staten Island TASC	35	14	15	6
Staten Island Adu	10	1	8	1
Bronx TASC	350	235	114	1
Bronx MH	55	26	20	9
Total	763	408	267	88
		53%	35%	12%

Total Out-Patient Placements from Detention: 134



TASC Program	Total	Predicate Felons	Non-Predicate Felons	Misdemeanants
Brooklyn TASC	16	3	6	7
Brooklyn MH	34	9	11	14
Queens TASC	10	0	5	5
Queens MH	2	0	1	1
Staten Island TASC	15	0	8	7
Staten Island Adu	3	0	3	0
Bronx TASC	36	13	23	0
Bronx MH	18	4	9	5
Total	134	29	66	39
		22%	49%	29%

Total Residential Placements: By County: 1,098



Legend		
■ Predicate	■ Non-Pred.	■ Misd.

	Bklyn	Qns	SI	Bx	Total
Pred Felons	141	28	15	331	515
Non-Pred Felons	114	102	35	198	449
Misdemeanants	90	16	17	11	134
Total	345	146	67	540	1,098

Exhibit B

COST SAVINGS

**An Evaluation of NYC TASC Services to the City/State in Jail/Prison Displacement by
Time and Dollars**

Evaluation of NYC TASC Services to the City/State in Jail/Prison Displacement by Time and Dollars

1. NYC TASC Detention Displacement: 2007

I. The Method and Formula:

In order to evaluate program effectiveness as a vehicle for New York jail displacement, it was necessary to develop a formula based on examining the number of inmate/defendants removed from Corrections custody through NYC TASC intervention and placed by TASC in substance abuse treatment pursuant to a plea bargain and Court mandate. A very conservative formula intentionally was adopted applying the minimum numbers in order to insure a valid potential displacement calculation. It is only those **897 defendants released from jail** by the Court to TASC custody and escorted by TASC staff into drug treatment programs that are considered in arriving at local jail displacement to New York City.

In 2007, E.A.C.'s NYC TASC Programs throughout the City of New York placed 1,996 defendants into substance abuse treatment programs and mental health treatment programs; 897 of this total were released from Court Corrections pens by the Court and placed directly into treatment programs by TASC staff. Only these 897 detained offenders are considered for jail displacement calculations. *

The values attributed to detained defendants for displacement purposes vary by criminal justice status. The following estimates are based on the long experience of TASC in criminal justice matters and represents a very conservative estimate, which clearly undercounts, rather than overstates the numbers. Thus, for **detained predicate felons**, ("B" and other second felony offender drug sellers/users facing significant mandatory State prison time with more serious criminal consequences, who are more intractable and less likely to leave Corrections in as short a period of time as detained non-predicate felons and detained misdemeanants facing lesser potential sentences), there was attributed **2 months of detention displacement savings for each predicate felon** released from custody to TASC and placed by TASC into a substance abuse program through a Court mandate. **For each detained non-predicate felon and each detained misdemeanant** released from Correction's custody to TASC and placed by TASC into a substance abuse treatment program through a Court mandate there was attributed **1 month of detention displacement**.

Thus, the following values have been adopted for jail displacement calculations:

- 1) For each detained predicate felon, two (2) months of jail time displaced.**
- 2) For each detained non-predicate felon, one (1) month of jail time displaced.**
- 3) For each detained misdemeanant, one (1) month of jail time displaced.**

Significantly, omitted from any calculation of jail displacement is the consideration of local ATI sentence displacement for non-detained defendants despite the fact that many of the 626 non-detained, non-predicate felons and many chronic misdemeanants of the 270 non-detained misdemeanants would be facing some local jail sentence if not for TASC intervention and placement. Similarly, many of the 203 non-detained predicate felons would have spent some time in local jail before sentence and/or before being processed into state prison. Despite this reality, these defendants are omitted from jail displacement calculations in order to insure the most conservative approach possible and insure the highest level of reliability.

TOTAL DETAINED DEFENDANTS PLACED IN 2007: 897

II. Detained Defendant Distribution By Criminal Justice Status

TASC Program	Predicate Felons	Non-predicate Felons	Misdemeanants	TOTAL
Brooklyn TASC	110	64	57	231
Brooklyn MH	17	26	26	69
Queens TASC	17	34	14	65
Queens TASC MH	0	9	1	10
Staten Island TASC	14	23	13	50
Staten Island Adu	1	11	1	13
Bronx TASC	248	137	1	386
Bronx TASC MH	30	29	14	73
TOTAL	437	333	127	897

III. Jail Displacement In Months by Program/Jurisdiction

TASC Program	Total Months for Predicate Felons	Total Months for Non-Predicate Felons	Total Months for Misdemeanants	TOTAL DETENTION MONTHS DISPLACED
Brooklyn TASC	220	64	57	341
Brooklyn MH	34	26	26	86
Queens TASC	34	34	14	82
Queens TASC MH	0	9	2	11
Staten Island TASC	28	23	13	64
Staten Island Adu	2	11	1	14
Bronx TASC	496	137	1	634
Bronx TASC MH	60	29	14	103
TOTAL	874	333	128	1,335

IV. Dollar Value Equivalent of Jail Displacement

When dollar values are assigned to displacement figures, the breakdown at *\$56,000/year or \$4,666.67/month would be as follows:

TASC Program	TOTAL DETENTION MONTHS DISPLACED	DOLLAR VALUE FOR JAIL BEDS DISPLACED
Brooklyn TASC	341	\$1,591,334.00
Brooklyn MH	86	\$401,333.00
Queens TASC	82	\$382,666.00
Queens TASC MH	11	\$51,333.00
Staten Island TASC	64	\$298,666.00
Staten Island Adu	14	\$65,333.00
Bronx TASC	634	\$2,958,668.00
Bronx TASC MH	103	\$480,667.00
TOTAL	1,335	\$6,230,004.00

* \$56,000 per year or \$4,666.67 per month is the recognized cost of a bed in Rikers Island or one of the local borough jail facilities.

**Dollar Amounts Rounded off to a dollar amount dropped to lowest hundred dollars so as to not consider any ten's of dollars, i.e., \$1,582 would therefore be rounded to \$1,500.00.

***Addendum:

- 1) TASC Programs have excluded from local jail displacement calculations, the 1,099 non-detained offenders that were placed into treatment programs and monitored thereafter by TASC, including the 203 predicate felons who clearly would have spent time in local jail.
- 2) TASC Programs have excluded from local jail displacement calculations all of those 270 non-detained misdemeanants and the 626 non-detained non-predicate felons (out of the total of 1,099 non-detained offenders) even though it is likely that a certain portion would have been sentenced to a local jail sentence if not for TASC intervention and placement.

2. NYC TASC State Prison Displacement: 2007

I. The Method and Formula:

In order to evaluate program effectiveness as a vehicle for State Prison displacement, it was necessary to arrive at a realistic formula to estimate State Prison displacement. A very conservative formula was intentionally adopted applying the minimum numbers in order to insure a valid potential displacement calculation and to maintain credibility.

In 2007, EAC's NYC TASC Programs throughout the City of New York in the counties where TASC operates, placed 1,996 defendants into substance abuse treatment programs. Of this total, 640 were predicate felons facing mandatory State Prison sentences. Another 959 defendants were non-predicate felons, 333 of whom were in detention at the time of TASC intervention and subsequently were released from the Court Corrections pens by the Court and placed into treatment programs by TASC staff. For purposes of this report, only predicate felons and detained non-predicate felons are considered prison-bound and are used to calculate State prison displacement*

The prison displacement values attributed herein to defendants are based on statutory minimums but also based on the minimum allowable plea bargain permitted by law for predicate felons. For non-predicate felons, calculations are based on research performed by the Vera Institute of Justice and others and confirmed by TASC experience, which supports the proposition that the two most significant variables for determination of an ultimate jail/prison sentence is detention status of the defendant and the plea offer of the District Attorney. Therefore, based on minimum statutory considerations, there was **attributed a displacement sentence of 2-4 years for each predicate felon**, which is the minimum allowable plea offer permitted by statute, post indictment and the minimum allowable sentence on such a plea bargain for predicate felons. For those **detained non-predicate felons** where the plea offer of the District Attorney was at least 1-3 years at the time that TASC was asked to intervene, there was **attributed a minimum sentence of 1-3 years**. Then the minimum was applied for each. Thus, a 2 year prison sentence was adopted to the predicate felons for State prison displacement purposes and a 1 year minimum to the detained non-predicate felons. It was necessary then to reduce these minimum displacement figures by 4 months, as the estimated amount of local jail detention time that the average detained defendant would stay in jail pending ultimate case disposition and which then would reduce and be credited against the minimum State prison sentence. It has been applied here as credit to all detained defendants in the categories considered; predicate felons and detained non-predicate felons, despite the fact that many such defendants spend far less time in detention.

Furthermore, since only successful defendants displace prison beds, only projected success rates are applied to displacement calculations. In this regard, the long NYC TASC history and experience was drawn upon. Since TASC accepted and placed its first predicate felon in 1990, consistent success rates with this population have exceeded 70% and thus, a projected **70% success rate for predicate felons for prison displacement purposes** has been adopted.

*Significantly, not included for ATI State Prison sentence displacement figures are those non-detained, non-predicate felons totaling 626, some of whom clearly were facing a prison sentence if not for TASC intervention and placement. Despite the fact that TASC only accepts cases in this category when the final plea offer is to a prison term. Since it is difficult to assign displacement values to this population, the entire category of 626 non-detained, non-predicate felon defendants has been excluded from any part of these displacement calculations.

For non-predicate felons, TASC has a consistent pattern of success rates that approach 65%. However, for the population of detained non-predicate felons that are considered here for calculation of displacement rates from State Prison, a very conservative rate of **60% as the projected success rate for non-predicate detained felons** has been adopted.

Thus, the following formula has been applied for prison displacement calculations:

1) For the total number of predicate felons placed by TASC, a projected success rate of 70%. Then, for each successful predicate felon, two (2) years of prison time displaced, minus 4 months of credit for time in local jail detention is subtracted from this minimum. Thus, 1 year 8 months (1.67 years) is considered for displacement purposes for each displaced successful predicate felon. The formula is then Total Predicate Felons placed at a 70% success rate to determine the total number of projected successful predicate felons. Then for each of these projected successful predicate felons, 1.67 years (1 year 8 months) of State prison displacement (the minimum sentence of 2 years minus 4 months of credit for local detention time).

Total predicate felons @ 70% successful x 1.67 years = Prison Displacement in Prison Years

2) For each detained non-predicate felon, placed by TASC, a projected success rate of 60%. Then, for each successful detained non-predicate felon, one (1) year of prison time displaced, minus 4 months of credit for time in local jail detention is subtracted from this minimum. Thus, 8 months (.67 years) is considered for displacement purposes for each displaced successful non-predicate detained felony defendant. The formula is then Total Non-predicate Detained Felons placed at a 60% success rate to determine the total number of projected successful Non-predicate Detained Felons. Then for each of these projected successful Non-predicate Detained Felons, .67 years (8 months) of State prison displacement (the minimum sentence of 1 year minus 4 months of credit for local detention time).

Total non-predicate detained felons @ 60% successful x .67 years = Prison Displacement in Prison Years

3. Total Gross Prison Bed Displacement With Dollar Value Conversion As Basis For Cost Savings

V. Total State Prison Years Saved for Predicate Felons by Program/Jurisdiction

TASC Program	Predicate Felons	Projected % Success Rate	Projected Success	Prison Displacement Rate	Prison Years Saved
Brooklyn TASC	141	70%	98.7	1.67 Years	164.83
Brooklyn MH	20	70%	14	1.67 Years	23.38
Queens TASC	29	70%	20.3	1.67 Years	33.90
Queens MH	3	70%	2.1	1.67 Years	3.51
Staten Island TASC	16	70%	11.2	1.67 Years	18.70
Staten Island Adu	1	70%	.7	1.67 Years	1.17
Bronx TASC	383	70%	268.1	1.67 Years	447.73
Bronx MH	47	70%	32.9	1.67 Years	54.94
TOTAL	640	70%	448	1.67 Years	748.16

VI. Total State Prison Years Saved for Detained, Non-predicate Prison-bound Felons by Program/Jurisdiction

TASC Program	Non-Predicate Detained Felons	Projected % Success Rate	Projected Success	Prison Displacement Rate	Prison Years Saved
Brooklyn TASC	64	60%	38.4	.67 Years	25.72
Brooklyn MH	26	60%	15.6	.67 Years	10.45
Queens TASC	34	60%	20.4	.67 Years	13.67
Queens MH	9	60%	5.40	.67 Years	3.62
Staten Island TASC	23	60%	13.8	.67 Years	9.25
Staten Island Adu	11	60%	6.6	.67 Years	4.42
Bronx TASC	137	60%	82.2	.67 Years	55.07
Bronx MH	29	60%	17.4	.67 years	11.66
TOTAL	333	60%	199.8	.67 Years	133.86

VII. Total State Prison Years Saved for All Prison-bound Felons by Program/Jurisdiction in Dollars

TASC Program	Prison Years Displaced for Predicate Felons	Prison Years Displaced for Non-Predicate Felons	Projected Total Prison Years Displaced	Total Net Prison Savings by Displacement in Dollars**
Brooklyn TASC	164.83	25.72	190.55	\$2,286,600
Brooklyn MH	23.38	10.45	33.83	\$405,960
Queens TASC	33.90	13.67	47.57	\$570,840
Queens MH	3.51	3.62	7.13	\$85,560
Staten Island TASC	18.70	9.25	27.95	\$335,400
Staten Island Adu	1.17	4.42	5.59	\$67,080
	447.73	55.07	502.80	\$6,033,600
Bronx MH	54.94	11.66	66.60	\$799,200
TOTAL	748.16	133.86	882.02	\$10,584,240

**This calculation is based on one year of Prison costs for one inmate at \$30,000 and is reduced by the sum of the cost of one year of residential drug treatment at \$18,000. Thus, the net savings attributed to Prison Displacement is \$12,000 per year. This figure is adopted despite the fact that certain defendants (125 predicate felons and 66 non-predicate felons) are enrolled in less costly out-patient treatment programs.

4. Total Net Savings to the City and State Attributable to NYC TASC Services in Dollars

VIII. Total Funding by City and State

TASC Program	State Funds	City Funds	Total Funding
Brooklyn TASC	\$145,355	\$837,342	\$982,697
Brooklyn MH		\$1,425,527	\$1,425,527
Queens TASC	\$385,566	\$205,064	\$590,630
Queens MH	\$150,000		\$150,000
Staten Island TASC	\$266,622		\$266,622
Staten Island Adu		\$49,348	\$49,348
Bronx TASC	\$380,708	\$406,017	\$786,725
Bronx MH	\$150,000	\$449,577	\$599,577
TOTAL	\$1,478,251	\$3,372,875	\$4,851,126

IX. Comparison of Funding and Net Savings to City and State

TASC Program	State Funds	City Funds	Total Funding	City Detention Savings (Gross)	State Prison Savings (Gross)	Total Combined Savings to City & State	Total Net Savings**
Brooklyn TASC	\$145,355	\$837,342	\$982,697	\$1,591,334	\$2,286,600	\$3,877,934	\$2,895,237
Brooklyn MH		\$1,425,527	\$1,425,527	\$401,333	\$405,960	\$807,293	-\$618,234
Queens TASC	\$385,566	\$205,064	\$590,630	\$382,666	\$570,840	\$953,506	\$362,876
Queens MH	\$150,000		\$150,000	\$51,333	\$85,560	\$136,893	-\$13,107
Staten Island TASC	\$266,622		\$266,622	\$298,666	\$335,400	\$634,066	\$336,000
Staten Island Adu		\$49,348	\$49,348	\$65,333	\$67,080	\$132,413	\$83,065
Bronx TASC	\$380,708	\$406,017	\$786,725	\$2,958,668	\$6,033,600	\$8,962,268	\$8,175,543
Bronx MH	\$150,000	\$449,577	\$599,577	\$480,667	\$799,200	\$1,279,867	\$799,200
TOTAL	\$1,478,251	\$3,372,875	\$4,851,126	\$6,230,000	\$10,584,240	\$16,814,240	\$11,963,114

* Dollar Amounts rounded off to a dollar amount with any cents dropped

**Total net savings is arrived at by subtracting the costs of the TASC programs, which consists of a combination of both City and State funding from the Total Savings. The cost differential of a year in state prison minus a year of residential drug treatment has already been calculated and subtracted in Chart VII above and is a cost of service and has been considered in determining Total Net Savings.

Conclusion

EAC's New York City TASC Programs provide a viable mechanism for the criminal justice system; Judges, Prosecutors, Corrections, Probation and Parole to effectively utilize an Alternative to Incarceration Program with a proven track record of reliability and enormous success. When a TASC program intervenes on behalf of a non-violent, substance abusing offender, criminal justice resources may then be concentrated on the more violent, predatory criminal with surety in the knowledge that the substance abusing offender under TASC supervision will be given every chance at rehabilitation with an appropriate placement into the substance abuse program that is best suited for achieving this rehabilitation. Thus, jail and prison space may be more effectively utilized and the concentration of the Prosecutors and the Judiciary able to be more focused on the high risk, violent offender.

It however, is not only the **897 detained offenders TASC** removed from jail in 2007 who have gained benefit from the opportunity to treat their substance abuse problem, but the **1099 substance abusing, non-detained offenders** that TASC has placed into treatment programs as well. A large proportion of these **1,996** defendants that TASC has placed into treatment program in 2007 will eventually become productive, hard working, taxpaying members of society. Thus, those who once preyed upon society and our communities will become an asset rather than a detriment to it.

Furthermore, the 2007 placements reflect only one year of the type of work that TASC has been doing since its inception in New York City since 1985. **In the past six (6) years alone, the New York City TASC Programs have placed more than twelve thousand (12,000) substance abusing offenders** into treatment programs and **in the last 10 years, they have placed more than twenty thousand (20,000) defendants** into treatment programs. With felony success rates approaching 70%, and low recidivism rates, this certainly has inured to the benefit of our communities and our society as a whole.

TASC has played a significant role in crime reduction through providing offender accountability resulting in measurable accomplishments, which include not only the individual rehabilitation of criminal drug abusers and making them taxpaying productive citizens, but in families being reunited, parents now able and willing to assume responsibility for their children and these children now having a parent present who is capable of undertaking their upbringing.

THE TASC PROCESS

- * Initial identification of potential clients.
- * Screening/Assessment to determine the suitability and then treatment match of defendant to the treatment program. (Preparation for the treatment experience is begun by TASC staff at this point and continues at each contact between staff and defendant until the defendant enters the treatment program). If the defendant is in detention and is being released to residential treatment, he/she is escorted from jail (Court Correction Pens) directly into the treatment program by TASC staff.
- * If the defendant is not detained, he/she will be referred and placed into treatment as quickly as a treatment slot (or bed) becomes available in the TASC designated program.
- * All criminal "holds" on the defendant are cleared (in or out-of-county warrants, etc.) that would inhibit the defendant's timely release from custody and entry into treatment.
- * Defendant identification documents, necessary for admittance to a treatment program are obtained by TASC staff (birth certificate, Social Security printout verification, Proof of Residency for aliens, etc.).
- * All medical information is obtained and documented; any outstanding medical problems that would prohibit defendant's entry into treatment are resolved. When necessary, TASC will arrange for a 30-day supply of medication to accompany the newly released offender to the program to cover the period before Medicaid becomes affective.
- * All mentally ill offenders are diagnosed through professional assessment and placement made to the program best suited to the defendants needs.
- * Upon release from custody, the defendant is escorted by TASC staff to the treatment program. The defendant is well aware of the sanction he/she faces from the criminal justice system in event of his/her failure to successfully complete treatment. Also, he/she has been well prepared by staff for participation in treatment.
- * The individuals who are not in detention and are awaiting a residential placement are case managed from the time of Screening/Assessment. They must appear several times per week at the TASC office for urinalysis monitoring and informal counseling and must continue to do so until a bed is secured and they are able to enter the treatment program. Compliance at this point by defendant is required and has an impact on his/her continued liberty during the pre-placement phase.
- * The Case Management Unit monitors the defendant (caseloads are assigned by program) via telephone contact with the treatment program as well as monthly site visits with the defendant and counseling staff at the program. If the defendant is in residential treatment, he/she will appear in court at specific intervals during the 12 to 24 month course of treatment. (This is done to re-enforce to the defendant the importance of completing treatment successfully as well as to allow the court to review the progress of the defendant). Case management continues until the defendant has successfully completed all requirements of treatment and TASC, the Court and the District Attorney.
- * In the treatment programs, a participant learns the skills to overcome his/her addiction and to come to terms and understand mental illness if a mentally ill client, receives or is linked to remedial education and then to job skills training and must establish independent living. To graduate from the program, a participant must demonstrate the ability to live substance free and be employed or at least have gained sufficient skills as to be employable and be capable of living independently in the community for a period of time.

**Testimony Before The
New York City Council
Executive Budget Hearings**

the ati coalition

[www.ati-ny.org]

May 15, 2008

Center for Alternative Sentencing and Employment Services (CASES)
Center for Community Alternatives (CCA)
Center for Employment Opportunities (CEO)
Fortune Society
Family Justice (Family Bodega & La Bodega de la Familia)
Legal Action Center (LAC)
Osborne Association
Women's Prison Association (WPA)

Testimony Presented By
Joel Copperman
CEO / President
CASES

My name is Joel Copperman. I am the CEO and President of CASES, one of the eight organizations that make up the ATI Coalition. The Coalition includes the Center for Alternative Sentencing and Employment Services (CASES), Center for Community Alternatives (CCA), Center for Employment Opportunities (CEO), Fortune Society, Family Justice (Family Bodega & La Bodega de la Familia), Legal Action Center (LAC), the Osborne Association and the Women's Prison Association (WPA). I am here on behalf of that coalition.

These eight programs provide alternative to incarceration and reentry services. Our ATI work takes us into the courts where, in cooperation with judges, prosecutors and the defense bar, a person's appropriateness for one of our programs is assessed and a determination is made whether to admit him or her to the program instead of incarceration. Our reentry work is at the back end of the system when individuals are released from incarceration and returning to their communities.

On behalf of the ATI Coalition, I want to thank the City Council for the assistance you have provided to our programs and to our clients. Your support allowed us to leverage your support many times over, all of which will allow the eight agencies that comprise the ATI coalition to serve over 17,000 clients this fiscal year.

We all know that crime affects each of New York City's communities – victims, the person committing the offense, families, community members, and taxpayers. Incarceration has long been the primary response to crime. Too often, though, incarceration fails to improve public safety or prevent future crimes by people released from jail or prison. Incarceration isolates young people and adults from needed supports. It disrupts families and it contributes to the cycle of poverty and recidivism within communities. Incarceration is also expensive, costing the City hundreds of millions of dollars every year.

Our programs provide effective services as an alternative to incarceration and for individuals just released from jail or prison. We work in all five of the City's boroughs. We work in the Criminal, Supreme and Family Courts. Our offices and services are spread across the five boroughs as well. The maps in the Atlas attached to this testimony give a good picture of the breadth and the depth of our services across the City.

The work of the ATI Coalition is an integral part of the strategy that has enabled the City to reduce crime. We have also made important contributions to the lower populations in the jails, prisons and juvenile detention facilities. The Coalition brings services to some of the City's most disadvantaged neighborhoods. As opposed to incarceration, ATIs and reentry programs invest in people and their families and ultimately strengthen whole communities. Supporting the Coalition is a cost-effective way to reduce crime, help people change their lives for the better, strengthen communities, and save taxpayer dollars.

While all of our clients are involved in the criminal justice system, the range of the ATI Coalition's work stretches across the social services, housing and employment fields.

Our work strengthens families, helps youth achieve their potential, provides relevant and appropriate services for women, connects people to stable employment, provides a home in the community, addresses the problems of substance abuse, and provides effective solutions for the mentally ill. Our work is part of a process to develop the skills and resources to avoid future criminal involvement.

The programs in the ATI Coalition are continually developing new initiatives. We partner with City agencies, work with communities and look at the most current research to develop new modalities that will help individuals who are involved with the justice system. A few of our most recent initiatives include:

- A partnership with Bronx Community College to create a learning center offering certificates in plumbing, electrical, and automotive repair;
- Youth participants testified before UN Committee on the Elimination of Racial Discrimination in Geneva;
- Partnerships with 73rd (Bronxville), 75th (East New York), and PSA 2 (housing police) precincts to offer family case management to youth at risk of criminal involvement;
- A housing initiative in West Harlem that will provide 50 housing units for the homeless and formerly incarcerated plus 63 affordable housing units;
- Intensive mental health services for individuals charged with misdemeanors in Manhattan;
- A partnership with Brooklyn District Attorney's Office to offer family case management for truant youth in East New York;
- Wraparound services in Long Island City, including case management, education services, career development, mental health counseling, substance abuse treatment, housing assistance, healthcare and family services;
- Work in partnership with Department of Correction to improve the visiting experience on Rikers Island by making information more available to families, providing training to corrections staff and improving visiting practices;
- Provide tobacco reduction interventions, therapies, education and counseling for incarcerated individuals reentering their communities;
- In response to the high incidence of new HIV cases in the Bronx, expand Bronx-based drug treatment services for individuals mandated to treatment to include HIV/AIDS prevention and treatment services; and
- A study of youth who have been affected by school-based arrests and who straddle multiple systems to provide policy recommendations that better address student needs

We are hoping to launch a new initiative this year. We are requesting an additional \$1.2 million for our programs. With this additional funding, we will be able to target disconnected youth (16–24 year olds) involved in the criminal justice system. By targeting this population, the ATI Youth Initiative will promote outcomes that increase employment, education, housing and positive community activities while reducing involvement with the criminal justice system.

The ATI Coalition will use its collective experience working with disconnected youth and their families to create a network of support systems and services proven to reduce barriers towards a successful life. Services and programs supported by the ATI Youth Initiative are outlined in an attachment to this testimony.

Our most important message to you is that **THE PROGRAMS OF THE ATI COALITION WORK**. Our programs are far less expensive than incarceration. ATI services average \$10,000 per client served. Compare this to the \$22,000 (prison), \$66,000 (jail) or \$150,000 (juvenile detention).

ATI Coalition programs **reduce recidivism**. A few examples demonstrate the effects of our services.

- A program that serves young people charged with a felony: 80% of graduates not convicted of any new crime within 2 years
- A program that serves adults with serious and persistent mental illness charged with a felony: 97% reduction in conviction rate following intake into the ATI program
- A residential program for women who have committed felonies: 3% of graduates not convicted of a new crime within one year
- An employment program for individuals recently released: less than 1% were incarcerated for a new crime within one year

The results go beyond recidivism. Not only do we keep our clients out of jail and prison, we help them make dramatic **changes in their lives and helping our clients helps communities**.

- At intake, 64% of the clients entering a program that serves people with mental illness were homeless. Currently, 37% are in their own apartment, a congregate treatment program or supported housing; 33% are living with family and 15% are in transitional housing.
- One year after graduation from a drug treatment program serving women charged with felonies, 63% remained drug free one year after program graduation.
- Family members participating in a family case management program report an increase in their overall well being due to an increased use of needed medical and social services.

We have spoken about the extraordinary quantitative outcomes of our programs. There is another set of outcomes that demonstrate our success, perhaps the most important outcomes – **the stories of the people we serve**. Here are few of the thousands of stories about lives of New Yorkers who have been made better by our work.

Jovan was 15 when he was arrested on a felony robbery charge and referred to one of the programs in the ATI Coalition. He had a history of truancy, problems at home and smoked marijuana regularly. While in the program, he received drug abuse education and was regularly tested for substance abuse. Jovan was monitored by the program to make sure that he was going to school and adhering to the curfew imposed by the court. After a psychiatric evaluation, he was linked to mental health services in the community. Jovan stopped using marijuana. His school attendance improved and his grade point average increased by over 20 points from 67% to 88%.

Douglas entered an ACT program for people with serious mental illness after he was charged with robbery and grand larceny. Following his release from Rikers Island, Douglas moved into an apartment in a supported housing program. He was diagnosed with paranoid schizophrenia. He worked with the ACT team's psychiatrist to determine an effective treatment, while other ACT team members helped Douglas obtain benefits and maintain his sobriety from alcohol and marijuana. After sharing the supported apartment for 11 months, Douglas moved into his own apartment at a mental health treatment program in Harlem, where he currently resides. Douglas has not had a psychiatric hospitalization since joining the ACT program and now has an internship performing administrative work at a real estate agency.

When Harold entered an ATI drug treatment program, he reported a five-year history of marijuana abuse. In addition, Harold was unemployed and a high school dropout. The drug treatment staff worked with Harold to maintain his sobriety while he participated in the program's education and career development workshops. After completing job-readiness training, Harold obtained full-time employment as a sales representative at a music store and is drug-free.

Once again, thank you for your support and we hope that you will continue to support us in the year ahead.

ATI Youth Initiative

With your assistance the ATI Coalition hopes to launch an ATI Youth Initiative that targets disconnected youth (16–24 year olds) involved in the criminal justice system. By targeting this population, the ATI Youth Initiative will promote outcomes that increase employment, education, housing and positive community activities while reducing involvement with the criminal justice system.

The annual costs to incarcerate a person in a city jail is \$66,085 per year, juvenile detention averages \$150,000 per year, while the annual cost for most ATI programs averages \$10,000 per person. A recent Independent Budget Office report analyzed the stages a youth takes in the juvenile justice process, from arrest to disposition, the different paths their case may take through those stages, and the typical costs per youth at each stage. IBO found that the total city cost of providing juvenile justice has increased from \$202 million in 2003 to more than \$251 million estimated for the current fiscal year – an increase of 24 percent – due to substantial increases in detention costs.¹ The report concludes that the cost of detaining arrested youth and placing them in state facilities, consumes more than 75% of city spending on the juvenile justice system, and alternatives to detention and placement programs bring both immediate and long-term cost savings.

The number of youth entering the criminal justice system has also caught the attention of the City Council. Council Member Letitia James introduced Res 1182, which calls for an end to practices that foster the “School to Prison Pipeline,” where students are pushed out of the public school system and into the juvenile and criminal justice systems through the strict interpretation of “zero tolerance policies.” This problem is exacerbated when you factor in recent neuroscience research that confirms that the brain of a youth is not fully developed until they reach their early twenties. Consequently, they lack the capacity for adult level reasoning or a full realization of the consequences of their actions.²

Many young people (some 14-15 year olds and all 16-24 year olds) who are involved in the juvenile justice system subsequently wind up in the adult criminal justice system. This age group is a growing and significant portion of the incarcerated population, and face distinct challenges. The combined experience of juvenile justice and young adult criminal justice system involvement obstructs young people from maturation experiences such as first jobs, independent living, higher, vocational, or professional education, and stable romantic relationships and family building. Thus, 16-24 year old people in the criminal justice system face not only the challenges associated with the transition out of that system, but those associated with the transition to adulthood.

The ATI Coalition will use its collective experience working with disconnected youth and their families to create a network of support systems and services proven to reduce

¹ IBO Fiscal Brief, *The Rising Cost of the City's Juvenile Justice System*, December 2007

² *Roper v. Simmons*, United States Supreme Court (2005)

barriers towards a successful life. Services and programs supported by the ATI Youth Initiative will include:

- Expansion of linkages to substance abuse treatment services;
- Expansion of education related services including literacy, truancy prevention, pre-GED and GED classes; one-on-one tutoring; liaison services in schools; college planning and assistance with college applications;
- Expansion of comprehensive work programs that offers immediate paid transitional work and extra support and coaching for youth with little work experience or maturity for the workplace;
- Provision of case managers to work with clients and family members to teach problem-solving, communication and parenting skills that improves family and peer-relationships;
- Expansion of mental health services to identify those young people with serious mental health needs and programs that provide necessary services or linkages to community based mental health programs;
- Expansion of gang intervention and education programs on gang related issues; and
- Enhancement of parent-child programs targeted to reduce risk factors - such as parental incarceration, low literacy and education levels, and abuse and neglect in the family setting - which lead to incarceration.

the ati coalition

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Website: www.fortunesociety.org

Family Justice (Family Bodega & La Bodega de la Familia)

Carol Shapiro, Executive Director

625 Broadway, 8th Floor

New York, NY 10012

(212) 475-1500

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E-mail: cshapiro@familyjustice.org

Website: www.familyjustice.org

Legal Action Center (LAC)

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(212) 243-1313

Fax: (212) 675-0286

E-mail: psamuels@lac.org

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Osborne Association

Elizabeth Gaynes, Executive Director

809 Westchester Avenue

Bronx, NY 10455

(718) 707-2600

Fax: (718) 707-3103

E-mail: egaynes@osborneny.org

Website: www.osborneny.org

Women's Prison Association (WPA)

Georgia Lerner, Executive Director

110 Second Avenue

New York, NY 10003

(646) 292-7740

Fax: (646) 292-7763

E-mail: glerner@wpaonline.org

Website: www.wpaonline.org

the ati coalition

Serving New York City

CASES

(Center for Alternative Sentencing
& Employment Services)

Joel Copperman, President/CEO

346 Broadway, 3rd Floor

New York, NY 10013

(212) 553-6301

Fax: (212) 619-2821

E-mail: jcopperman@cases.org

Website: www.cases.org

Center for Community Alternatives (CCA)

Marsha Weissman, Executive Director

39 West 19th Street, 10th Floor

New York, NY 10011

(212) 691-1911

Fax: (212) 675-0825

E-mail: mweissman@communityalternatives.org

Website: www.communityalternatives.org

Center for Employment Opportunities (CEO)

Mindy Tarlow, Executive Director/CEO

32 Broadway, 15th Floor

New York, NY 10004

(212) 422-4850

Fax: (212) 422-4855

E-mail: mtarlow@ceoworks.org

Website: www.ceoworks.org

Fortune Society

Jo Anna Page, President/CEO

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Long Island City, NY 11101

(212) 691-7554

Fax: (212) 255-4948

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Website: www.fortunesociety.org

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Website: www.wpaonline.org

The logo for Legal Services NYC, featuring the text "Legal Services NYC" in white on a black background.

Legal
Services NYC

FUNDING FOR LEGAL ASSISTANCE
TO THE POOR

**TESTIMONY OF LEGAL SERVICES NYC BEFORE THE NEW YORK CITY
COUNCIL COMMITTEE ON FIRE AND CRIMINAL JUSTICE**

ANDREW SCHERER, EXECUTIVE DIRECTOR

MAY 15, 2008

My name is Andrew Scherer and I am the Executive Director and President of Legal Services NYC (formerly Legal Services for New York City, or LSNY), the largest organization exclusively devoted to providing free *civil* legal services for low-income persons in the United States.

I am here today, on behalf of our clients and our staff, to thank the City Council for your strong leadership with respect to funding for civil legal services to the poor, and for your unwavering support for the services we provide *free of charge* to poor people in New York City through branch offices and constituent corporations located in every borough of the City.

The provision of civil legal services to those who cannot afford counsel is crucial to the fair administration of justice. The Council has recognized this for over two decades and has partnered with us to help tens of thousands of people empower themselves, become self-sufficient, and live with dignity. It is a partnership that gives true meaning to the promise of equal justice for all.

* * * *

Today, I am asking you to restore four (4) vital City Council-funded programs cut from the budget by the Mayor:

- *City-Wide Civil Legal Services;*
- *“Keeping Families Together;”*
- *The Earned Income Tax Credit (EITC) Legal Assistance Project; and*
- *The Supplemental Security Income (SSI)/ Unemployment Insurance (UI) Advocacy Project.*

Let me briefly describe each one:

City-Wide Civil Legal Services

- This City-wide Civil Legal Services program provides legal assistance to the most vulnerable New Yorkers, including senior citizens, domestic violence victims, disabled persons, and persons with HIV. This program also includes community legal education activities, hotlines and the like. This funding stream allows our local offices to work with Council staff to resolve constituents’ legal problems.
- The total restoration for this project is \$3.676 million, shared between Legal Services NYC and the Legal Aid Society
- With this money we have been able to help people such as Ms. X, who came to Legal Services NYC seeking assistance because of the termination of her Section 8 housing subsidy. She was at the time receiving public assistance and in school seeking a degree in physical therapy. Her landlord had commenced an eviction proceeding against her and her rent was too high for her pay. Legal Services NYC helped Ms. X get a Housing Court settlement in which the landlord agreed to accept a lower rent until the appeal on the subsidy termination was decided. We then helped Ms. X with her appeal, the Housing Authority reinstated her Section 8 subsidy retroactively, and Ms. X was able to focus on completing her physical therapy degree.

Keeping Families Together

- This program keeps children safe at home, through representation of natural parents in Family Court neglect proceedings, permanency planning, and termination of parental rights cases.
- The total restoration for this project is \$500,000.

- The case of client “RF” demonstrates the wrap-around, “holistic” services that we provide through this program. “RF” came to Legal Services NYC seeking help with a housing case but we learned she was the subject of an ACS investigation and that ACS was threatening to place the remaining 3 of her 4 special needs children in foster care. RF was also a survivor of domestic violence. With the help of a staff social worker, we helped move the child in ACS custody from an institutional setting to a therapeutic foster home setting, arranged for home maker services, helped her with her housing case and successfully negotiated a resolution that permitted the three other children to remain at home, until the entire family could be reunited in Pennsylvania.

Earned Income Tax Credit (EITC) Legal Assistance Project

- We represent EITC eligible families that have been denied the tax credit they are entitled to.
- The total restoration for this project is \$765,000, shared between us and the Legal Aid Society
- With this funding Legal Services NYC recently represented a 22-year-old who was denied his EITC dependency exemptions and head of household filing status leaving him with a \$6,337 tax liability. By proving that he left college and returned home to live with and support his mother and younger brothers and sisters after they became homeless, we turned a tax bill into a refund of \$6,785.

Supplemental Security Income (SSI)/

Unemployment Insurance (UI) Advocacy Project

- The Council instituted the SSI/UI Advocacy Program three (3) years ago to provide residents with legal representation when appealing denials of disability and Unemployment Insurance benefits.
- The total restoration for this project is \$2.5 million, shared between us and the Legal Aid Society.
- With this money, Legal Services NYC represented a 51-year-old homeless man who suffered from severe depression, severe migraines and assorted physical problems. He didn't have papers or records and thought that his SSI application had been denied. Legal Services NYC tracked down his

records, won his claim on appeal and got him his benefits. He is now working with a community based organization to find housing.

* * * *

The economy is in precipitous decline. The human toll of persistent poverty and want will only continue to grow. Amongst the luxury condos and anxious wall street, there is another New York City, a city of homeless families, of fear, of hunger – of people who truly suffer the brunt of economic decline.

- individuals with AIDS and HIV, and others facing eviction or who need court orders to correct heat, hot water and other hazardous violations
- victims of domestic violence and parents in need of child support or facing child custody battles; and
- the elderly, disabled people, and the unemployed, who need our expertise to help them obtain critical government benefits.

In partnership with the City Council, we have, for years, been able to use funding from Council initiatives to successfully help low-income New Yorkers in their time of greatest need. Thus, they, and we, are enormously grateful to the Council for supporting civil legal assistance for the poor, and I ask you, once again, to restore and protect these important programs.

Thank you for your time and your unwavering support.

Andrew Scherer
Executive Director and President

LEGAL SERVICES NYC

*BEDFORD-STUYVESANT COMMUNITY LEGAL SERVICES * THE BROOKLYN FAMILY DEFENSE PROJECT * BROOKLYN LEGAL SERVICES CORPORATION A * LEGAL SERVICES NYC-BRONX * LEGAL SERVICES NYC-BROOKLYN BRANCH * LEGAL SERVICES NYC-CENTRAL OFFICE * THE LEGAL SERVICES NYC LEGAL SUPPORT UNIT * MANHATTAN LEGAL SERVICES * QUEENS LEGAL SERVICES * SOUTH BROOKLYN LEGAL SERVICES * STATEN ISLAND LEGAL SERVICES*

350 Broadway, 6th Floor, New York, New York 10013 · (212) 431-7200 · WWW.LEGALSERVICESNYC.ORG



**PRESERVE CIVIL LEGAL SERVICES FUNDING
FOR THE MOST VULNERABLE NEW YORKERS**

**Please Support the FULL RESTORATION of
Civil Legal Services Funding**

➤ **\$3.676 Million for City-wide Civil Legal Services**

For more than a decade, the City Council has allocated annual funding to Legal Services NYC and Legal Aid to provide civil legal services in all five boroughs for the most vulnerable New Yorkers: senior citizens, survivors of domestic violence, disabled and chronically ill children and adults, unemployed workers, immigrants fleeing oppression, persons living with HIV/AIDS, and homeless or imminently homeless children and adults. City Council Members and City agency staff frequently receive the first call for help from these citizens whom they then refer in substantial numbers to Legal Services and Legal Aid offices for assistance.

➤ **\$2.5 Million for the Supplemental Security Income (SSI)/Unemployment Insurance (UI) Advocacy Program**

The Council's Supplemental Security Income (SSI) advocacy program funds Legal Services NYC and Legal Aid to help low income disabled children and adults get Social Security disability benefits and move off public assistance. By getting these individual Federal SSI benefits, the program shifts the costs of cash benefits and Medicaid to the Federal government and secures Federal *refunds* for the City, which covers the cost of benefits paid for the duration of SSI applications. The Unemployment Insurance Advocacy Program (UI) helps welfare-eligible people who were initially denied UI to get their benefits on appeal. *UI benefits cost the City and State nothing; they are paid from a special fund created through payroll taxes. Each welfare-eligible person who gets UI saves the City not only their 25% portion of cash public assistance but also Medicaid and administrative costs.* The City Council's current funding for these two programs is \$2.5 million.

➤ **\$3 Million for the HPD Anti-Eviction Program**

Since the 1980s, the City Council has funded legal services programs in all five boroughs to provide legal assistance to low- and moderate-income families faced with illegal evictions from their homes and substandard housing conditions, as well as services for SRO (single-room-occupancy) tenants. This anti-eviction legal services program is provided by neighborhood-based Legal Aid and Legal Services offices in all five boroughs and is also provided by the West Side SRO Law Project, Northern Manhattan Improvement Corporation, and MFY Legal Services.

➤ **\$765,000 Earned Income Tax Credit (EITC) Legal Assistance Project**

The representation provided by the EITC complements the work done by the City Council to promote outreach, education, and free tax preparation services for low-income, working families who are applying for the EITC. Each family that is helped by Legal Services NYC and Legal Aid can receive an EITC refund of up to \$6,000 from the federal and state governments. Our help lines provide easy access to legal assistance when a client is denied, disallowed or not receiving the credit, and information about eligibility and referral services for those clients who need help applying for the EITC.

➤ **\$500,000 for the Keeping Families Together Program**

The Keeping Families Together (KFT) program—funded by the Council through the City Coordinator for Criminal Justice Services—saves the City money by avoiding or shortening costly foster care and group home placements, avoiding adoption subsidies and decreasing the likelihood of juvenile justice system involvement. By securing services for families, the program helps keep families together and children out of foster care, averting annual foster care costs of \$15,000 per child and group home costs of \$54,000 per child. The current budget allocation is \$500,000.

Support the Council *FULL RESTORATION* of Civil Legal Services Funding for:

- | | |
|---|---|
| <ul style="list-style-type: none"> • Citywide Civil Legal Services • EITC Legal Assistance Project • SSI/UI Advocacy Program | <ul style="list-style-type: none"> • HPD Anti-Eviction Programs • Keeping Families Together |
|---|---|

Legal Services NYC and Legal Aid provide high quality legal help to all of New York City's low-income communities through offices in every borough:

Bronx

LEGAL SERVICES NYC

LEGAL SERVICES NYC-BRONX

- Main Office 718-928-3700
- Housing Annex 718-928-3700
- Courthouse Office 718-928-2864

LEGAL AID SOCIETY

BRONX NEIGHBORHOOD OFFICE

718-991-4600

Brooklyn

LEGAL SERVICES NYC

BEDFORD-STUYVESANT COMMUNITY
LEGAL SERVICES

718-636-1155

BROOKLYN LEGAL SERVICES CORPORATION A

- Williamsburg Office 718-487-2300
- East Brooklyn Office 718-487-1300
- Bushwick Office 718-326-1300

SOUTH BROOKLYN LEGAL SERVICES

718-237-5500

LEGAL SERVICES NYC- BROOKLYN BRANCH

- Downtown Office 718-852-8888
- Brighton Branch 718-934-298
- Williamsburg Neighborhood Office 718-643-0854

LEGAL AID SOCIETY

OFFICE FOR THE AGING

718-645-3111

BROOKLYN NEIGHBORHOOD OFFICE

718-722-3100

Manhattan

LEGAL SERVICES NYC

ADMINISTRATIVE AND SUPPORT UNITS

212-431-7200

MANHATTAN LEGAL SERVICES

- Harlem Office 212-348-7449
- Downtown Office, SRO Project 646-442-3100

LEGAL AID SOCIETY

HARLEM COMMUNITY LAW OFFICE

212-426-3000

LOWER MANHATTAN NEIGHBORHOOD OFFICE 888-218-6974

MANHATTAN COURTHOUSE OFFICE PROJECT 212-766-2450

Queens

LEGAL SERVICES NYC

QUEENS LEGAL SERVICES

- Long Island City Office 718-392-5646
- Jamaica Office 718-657-8611
- Jamaica Office—Courthouse Office 718-657-8181

LEGAL AID SOCIETY

QUEENS NEIGHBORHOOD OFFICE

718-286-2450

Staten Island

LEGAL SERVICES NYC

STATEN ISLAND LEGAL SERVICES

718-233-6480

LEGAL AID SOCIETY

STATEN ISLAND NEIGHBORHOOD OFFICE

718-273-6677

For More Information Contact:

Legal Aid Society • Steven Banks & Adriene Holder 212-577-3277, 3355
 Association of Legal Aid Attorneys—UAW Local 2325 • Deborah L. Wright • 212-343-0708
 1199SEIU United Healthcare Workers East • Donald Crosswell • 212-261-2380
 Legal Services Staff Association, NOLSW—UAW Local 2320 • Gibb Surette • 212-228-0992
 Legal Services NYC • Edwina Martin 646-442-3586 • Vinny Montalbano • 212-587-0587

2008 ANNUAL REPORT TO THE NEW YORK CITY COUNCIL

Who We Are

Legal Services NYC makes access to the legal system a reality for low-income people throughout New York City who have no where else to turn.

Legal Services NYC, the **largest** provider of free civil legal services to low-income persons in the United States, has provided high quality legal help to people who have no where else to turn for 40 years. Each year, the over 200 attorneys, and support staff of Legal Services NYC provides direct legal assistance that benefits approximately **50,000** low-income persons throughout New York City in the full range of their civil legal needs, keeping over **4,281** families in their homes, producing over \$11 million in back benefits and \$835,331 in ongoing monthly benefits for clients, and saving New York taxpayers more than **\$76 million** dollars. Our work not only helps our clients, it saves public money – for example, *every \$1 spent on our homelessness prevention work saves the public \$4 in shelter costs and emergency welfare grants!*

Our programs and offices are located in transportation hubs and low-income communities throughout New York City. Our offices serve people based upon their zip-code, although several programs and projects are citywide. Legal Services NYC's local offices include **Bedford-Stuyvesant Community Legal Services, The Brooklyn Family Defense Project, Brooklyn Legal Services Corporation A, Legal Services NYC-Brooklyn Branch, Legal Services NYC-Bronx, The Legal Services NYC Legal Support Unit, Manhattan Legal Services, Queens Legal Services, South Brooklyn Legal Services, and Staten Island Legal Services.**

What We Do

Legal Services NYC's programs handle cases in the following categories: **Consumer** (including bankruptcy, debt relief, collections, and utilities); **Education; Employment** (including unemployment insurance benefits advocacy, the Earned Income Tax Credit (EITC), job discrimination, unsafe worker conditions, and wage claims); **Family** (including adoption, custody/visitation, divorce, guardianship, termination of parental rights, paternity, spouse abuse, and support); **Health** (including Medicaid/Medicare); **Housing** (including federally subsidized housing, homeownership, landlord/tenant, and other public housing); **Government Benefits** (including TANF, other welfare, food stamps, social security, SSI, veterans benefits, and worker's compensation); **Individual Rights** (including immigration and naturalization); and **Permanency Planning** (including guardianships, wills and estates).

We have a wide range of special projects that address the needs of particular communities or client populations, including South Brooklyn Legal Services' Foreclosure Prevention project, which assists low-income elderly homeowners threatened with foreclosure; Brooklyn Legal Services Corporation A's community economic development project; HIV advocacy projects in several of our offices; disability advocacy and eviction prevention projects at all of our offices; projects that assist victims of domestic violence at the Harlem office of Manhattan Legal Services and in most of our other offices; an EITC Advocacy Project; an Unemployment Insurance Advocacy Project; projects geared to Russian immigrants at Legal Services NYC-Brooklyn Branch, Asian immigrants at Queens Legal Services, and youth at risk at Bedford-Stuyvesant Community Legal Services; the New York City Bankruptcy Assistance Project, which uses pro bono assistance from over 25 law firms to help low-wage New Yorkers get relief from crushing debt; and our Single Stop Project, which provides legal assistance on-site at Community Based Organizations throughout the City.

How We Help People

- We represent our clients in courts and administrative tribunals;
- We provide advice or referral information when we can't provide representation;
- We assist clients with community-based economic development;
- We provide legal education through community workshops, *hotlines* and written materials; and
- We provide professional training in poverty law for attorneys, advocates and others.

How Many People We Help

Last year, we closed 22,176 cases, helping over 50,000 New Yorkers with their civil legal services needs.

Our Funding

In addition to the City Council, funding sources for our work include the Federal Legal Services Corporation, the IOLA Fund of the State of New York, the New York State Legislature, foundations, corporations, and individuals.

Our City Council Funding:

The programs below are not included in the Mayor's FY2008 Budget. The total amount of these programs is \$10,441 million; Legal Services NYC's share is \$5,056,586.

Program Name and Allocation	Program Description	Legal Services NYC's Contract Goals and Cost Per Case (where available)	Sample Case Narrative
City-wide Civil Legal Services Total Grant: \$3.676 million Legal Services NYC's share: \$1.838 million	For over a decade, the City Council has allocated this funding to provide civil legal services for the most vulnerable New Yorkers: senior	Number of Cases – * 22,176 cases Number of People Served – *	When Ms. X came to Legal Services NYC seeking assistance, she was on public assistance and in school seeking a degree in physical therapy. She had previously received a Section 8 voucher to enable her

Program Name and Allocation	Program Description	Legal Services NYC's Contract Goals and Cost Per Case (where available)	Sample Case Narrative
	<p>citizens, survivors of domestic violence, disabled and chronically ill children and adults, unemployed workers, immigrants fleeing oppression, persons living with HIV/AIDS, and homeless or imminently homeless children and adults. Staffs of City Council Members and City agencies refer substantial numbers of these New Yorkers to Legal Services and Legal Aid offices.</p>	<p>50,000</p>	<p>and her young child to move from a domestic violence shelter. Her Section 8 assistance was terminated approximately six months before she came to us and her landlord had commenced a non-payment case against her. Her rent was too high to be paid by any other subsidy program. We brought an Article 78 proceeding challenging the termination of her subsidy and got a favorable decision from Supreme Court. The Housing Authority appealed the favorable decision, which automatically stayed the Judge's order. As a result, we were back in housing court with a favorable decision on the subsidy termination that could not be implemented because it was under appeal. We filed a motion in housing court alleging that the landlord had overcharged the tenant and settled our motion with an agreement that the landlord would accept a lower rent until the appeal on the subsidy termination was decided. She was able to apply for an alternative subsidy program based on the lower rent. The Housing Authority eventually withdrew the appeal and agreed to reinstate her Section 8 subsidy retroactively. She is now reinstated to the Section 8 program and is working as a physical therapist.</p>
<p>HPD Anti-Eviction Program Total grant: \$3.0 million Legal Services NYC's share: \$1,111,086</p>	<p>The HPD Anti-Illegal Eviction and SRO (single-room-occupancy) program is a critical part of Legal Services NYC's services, helping to provide legal assistance to low- and moderate-income families faced with illegal evictions from their homes and substandard housing conditions, as well as services for SRO tenants.</p>	<p><i>Full Representations</i> -- ** 651 cases</p> <p><i>Brief Advice and Service</i> -- ** 1314 matters</p> <p><i>Community Education</i> -- ** 724 persons trained</p>	<p>Legal Services NYC represented a group of tenants fighting to prevent the Salvation Army from evicting them from the Parkside Evangeline and Ten Eyck Troughton, two single room occupancy hotels for women operated by the Salvation Army for more than five decades on the East side. Both buildings are expected to sell for millions of dollars. The tenants were all women of low and modest means, some of whom have disabilities. The Salvation Army was exempt from coverage of State and City rent laws at these buildings because they operated them for charitable purposes. Because they decided to sell the buildings and evict the remaining tenants, we argued that the Salvation Army was no longer entitled to this exemption and that the tenants should have the same</p>

Program Name and Allocation	Program Description	Legal Services NYC's Contract Goals and Cost Per Case (where available)	Sample Case Narrative
<p>Supplemental Security Income (SSI)/Unemployment Insurance (UI) Advocacy Program</p> <p>Total grant: \$2.5 million</p> <p>Legal Services NYC's share:</p> <p>SSI – \$625,000</p> <p>UI – \$625,000</p> <p>Total – \$1,250,000</p>	<p>The City Council implemented the SSI/UI program two years ago to (i) help low-income disabled children and adults initially denied Social Security get their benefits on appeal and move off of Public Assistance, and (ii) help welfare-eligible people initially denied UI get their benefits on appeal.</p> <p>Both SSI and UI shift costs off of the City to other entities – in the case of SSI, the program shifts the costs of cash benefits and Medicaid to the Federal government and secures Federal refunds for the City, which covers the cost of benefits paid for the duration of SSI applications. UI benefits cost the City and State nothing because they are paid from a special fund created through payroll taxes. Each welfare-eligible person who gets UI saves the City not only their 25% portion of cash public assistance but also Medicaid and administrative costs.</p> <p>Last year, our UI advocates won approximately 70 percent of their cases, winning an average recovery</p>	<p><i>Full Representations</i> – 333 cases at \$3,000 per case</p> <p><i>Brief Advice and Service</i> – 669 cases at \$375 per case</p> <p><i>Community Education</i> – 5 trainings</p>	<p>protection against losing their homes that other New York City tenants have. See <i>Tenants To Sue the Salvation Army Over Plans To Sell Residences</i>, Juliet Lapidus, The New York Sun, February 16, 2007, http://www.nysun.com/article/48801; Metro Section, New York Times, February 16, 2007, http://www.nytimes.com/2007/02/16/nyregion/16mbrifs-tenants.html?_r=1&oref=slogin.</p> <p>SSI:</p> <p>We represented Mr. C.C., a 21-year-old man with severe mental and physical impairments, in a claim for Social Security benefits. He is unable to communicate in English, and he had participated in a special education program but did not graduate. He had lost his appeal at the administrative hearing, and we appealed to the Appeals Council, which granted our request for a new hearing. At the new hearing, we presented substantial medical evidence of the client's mental retardation, congenital cataracts and migraine headaches. The claim was approved and he received retroactive benefits of \$8,644 and as of January 2007 is receiving a monthly benefit of \$646.</p> <p>UI:</p> <p>Ms. B called the Legal Services NYC Unemployment Insurance helpline from a homeless shelter. After working for her employer for 19 years, she was terminated when she was physically unable to return to work after an approved medical leave. Ms. B had given her employer documentation from her doctor stating that she was recuperating from surgery and could not work, but her employer denied her request for additional leave and terminated her employment. When Ms. B applied for unemployment, her employer told the Department of Labor that she was ineligible for benefits because she had violated the company's attendance policy when she failed to report to work at the end of her medical leave. Legal Services NYC represented Ms. B at her hearing and produced evidence that her</p>

Program Name and Allocation	Program Description	Legal Services NYC's Contract Goals and Cost Per Case (where available)	Sample Case Narrative
<p><i>rate of \$6,706 per client; our success rate with our SSI funding from the council was approximately 80 percent.</i></p>			<p>employer had notice that Ms. B's doctor did not clear her to return to work. The Administrative Law Judge found Ms. B eligible for benefits, and the recovery of \$10,530 in unemployment insurance benefits allowed Ms. B to move out of the shelter and get back on her feet.</p>
<p><i>Earned Income Tax Credit Legal Assistance Project</i> Total grant: \$765,000 Legal Services NYC's share: \$357,500</p>	<p>The EITC Legal Assistance Project complements the work done by the City Council to promote outreach, education, and free tax preparation services for low-income working families who are applying for the EITC. Each family that is represented by Legal Services NYC and Legal Aid can receive an EITC refund of nearly \$6,000 from the federal and state governments. Our help line provides easy access to legal assistance when a client is denied, disallowed or not receiving the credit, and information about eligibility and referral services for those clients who need help applying for the EITC.</p>	<p><i>Full Representations</i> – 65 cases at \$3,750 per case <i>Brief Advice and Service</i> – 304 cases at \$375 per case</p>	<p>We represented a 22-year-old who was denied his 2005 EITC dependency exemptions and head of household filing status leaving him with a \$6,337.20 tax liability. By proving that he left college and returned home to live with and support his mother and younger brothers and sisters after they became homeless, we reversed the disallowance and secured his EITC and refund of \$6,785. We provided proof that his father was deceased, that his mother received Food Stamps and had a Section 8 voucher but no other income, and that he had withdrawn from college in Buffalo and was working as a prep cook at Lutheran Medical Center. Significant advocacy was needed to prove that he satisfied the residency test to receive the credits because the family had been living in a homeless shelter, making gathering documentation more complicated.</p>
<p><i>Keeping Families Together</i> Total grant: \$500,000 Legal Services NYC's share: \$500,000</p>	<p>The Keeping Families Together program <i>saves the City and State money</i> by avoiding or shortening costly foster care and group home placements, avoiding adoption subsidies, and decreasing the likelihood of juvenile justice system involvement. By securing services for families, the program helps keep families together and children out of foster care, averting annual foster</p>	<p><i>Full Representations</i> – 75 cases at \$3,840 per case <i>Preventive Services</i> – 56 cases at \$1,920 per case <i>Brief Advice and Service</i> – 222 cases at \$398 per case <i>Community Education</i> –</p>	<p>Ms. W came to Legal Services NYC seeking advice regarding an ACS investigation. ACS had repeatedly come into her home and made explicit threats to remove her 13 year old son. The main complaint was the condition of the apartment -- entering the front door was difficult; accessing the bedrooms or fire escape was nearly impossible. No repairs had been done in over 20 years, and, in fact, no repairs could be done until the apartment was "deep cleaned." Like many "compulsive hoarders," Ms. W and her family were resistant to the idea of strangers coming in to go through their personal</p>

Program Name and Allocation	Program Description	Legal Services NYC's Contract Goals and Cost Per Case (where available)	Sample Case Narrative
	<p>care costs of \$15,000 per child and group home costs of \$54,000 per child.</p> <p>While the City's creation of institutional providers in 3 boroughs is a wonderful step, this program is still vital for low-income families because the new City contracts do not fund: work in Queens or Staten Island; pre-litigation advice and counsel; representation of relatives who want to get children out of foster care; or community education. Until all 5 boroughs are funded to do this type of comprehensive work, KFT is still a necessary and relevant program.</p>	<p>16 trainings at \$1,000 per training</p>	<p>belongings and discard their possessions. Ms. W and the child's elderly father were also both suffering from multiple serious health conditions which prevented them from doing the work themselves. The family was in crisis.</p> <p>Over the course of a year, a family law attorney and social worker from Legal Services NYC counseled Ms. W through accepting preventive services, working with the agency to get the home in a livable condition, the landlord-tenant issues she potentially faced, and through the death of the child's father this summer. Social work support was crucial in this case – an intern was able to make home visits and document progress in the apartment, and to help the client navigate the child welfare system and the various and competing demands that were being placed on her physically and emotionally. We also helped Ms. W with debt issues, an application for the disability rent exemption program, and various benefit issues that arose with the death of the child's father.</p> <p>Because of our intervention, ACS's assessment was that her son was no longer in any danger of foster care placement and the case was closed.</p>

** This funding provides general support to Legal Services NYC to provide legal services to low-income populations for whom no other services are available. It is not assessed on a "cost per case" analysis, but instead provides general back-up funding for all of the work that Legal Services NYC performs.*

*** The scope of services provided for under our HPD contracts is very broad, ranging from counseling and advice for individuals and families, to full representation of a family in court, to representation of groups of SRO tenants challenging illegal eviction by landlords.*