

UNIFORMED
FIRE DEPARTMENT, CITY OF NEW YORK
FIRE OFFICERS
LOCAL 854, INTERNATIONAL ASSN. OF FIREFIGHTERS, AFL-CIO
ASSOCIATION

FOR THE RECORD

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

May 12, 2009

Mr. Chairman, members of the Fire and Criminal Justice Committee, thank you for this opportunity to testify in opposition to reckless, thoughtless proposals to give New York City a smaller, cheaper, slower Fire Department.

My name is Battalion Chief John J. McDonnell and I am President of the 2,500 member Uniformed Fire Officers Association.

The UFOA strongly recommends that the City Council provide the funds necessary to keep the FDNY operating at current levels.

It is not a lot of money - - - in the context of a \$60 Billion FY 2010 budget, we are asking for peanuts and popcorn. If there is one thing Mayor Bloomberg understands completely, it is money and what money can buy.

The New York City Fire Department is a giant elastic network that protects the lives and property of 8.2 million citizens, in addition to millions of commuters and visitors to the City.

When four fire companies are eliminated the elastic net is stretched to answer more than 475,000 alarms annually. Please keep in mind the fact that this City Administration also stretched the elastic net in 2003 with the elimination of 6 engine companies. Now they blithely speak about further closings of four companies at the end of FY 2009 and another eleven companies in FY 2010.



— AFFILIATED WITH —

NEW YORK STATE AFL-CIO
NEW YORK CITY CENTRAL LABOR COUNCIL AFL-CIO * MARITIME PORT COUNCIL OF
GREATER NEW YORK & VICINITY * UNION LABEL & SERVICE TRADES COUNCIL OF
GREATER NEW YORK & LONG ISLAND * NATIONAL SAFETY COUNCIL

Reckless? Yes, and that is no exaggeration. Lives will be lost unnecessarily. Property will be destroyed, more people will be made homeless and uncounted personal treasures will be lost forever. For what purpose?

We urge the City Council to provide for current public safety levels in the FY 2010 budget. The people of New York City - - - and its firefighters - - - believe public safety should always be the firmest pillar of good government.

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**New York City Council
Budget Hearing
Fire and Criminal Justice Services**

**ALTERNATIVE TO
INCARCERATION AND
REENTRY PROGRAMS**

[www.ati-ny.org]

May 12, 2009

Center for Alternative Sentencing and Employment Services (CASES)

Center for Community Alternatives (CCA)

Center for Employment Opportunities (CEO)

Fortune Society

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 seven 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, Legal Action Center (LAC), Osborne Association and Women's Prison Association (WPA). I am here on behalf of the coalition and those organizations.

These seven programs provide alternative to incarceration and reentry services in all of the five boroughs. 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. For over 10 years your support has allowed us to leverage that support many times over, all of which will allow the seven organizations that comprise the ATI coalition to serve over 17,000 clients this fiscal year.

We all know that this is a very difficult budget year and you are faced with difficult choices as you develop the City's budget. In that context it is crucial to note that savings achieved from our programs are immediate. The defendant who enters an ATI program is not being held in detention on Rikers (\$164 per day) or in a DJJ facility (a staggering \$551 per day). By comparison, our programs cost less than \$25 per day. We estimate that **the savings to the City and State correctional systems exceed \$100 million a year.**

There are other savings as well. City hospitals and emergency rooms, homeless shelters achieve additional savings. For defendants who enter CASES mental health program psychiatric hospitalizations are reduced by 56% during their time in the program. And finally, because we prepare our clients for work and help them find jobs, they pay taxes and child support. CEO has collected over one million dollars in child support payments.

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, that response fails to improve public safety or prevent future crimes by people released to the community. Incarceration isolates young people and adults from needed supports; disrupts families and contributes to the cycle of poverty and recidivism.

Our programs provide effective services as an alternative to incarceration and for individuals just released from jail or prison. We work in the Criminal, Supreme and Family Courts in all five boroughs. 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 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, our 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.

ATI Coalition programs reduce recidivism.

- 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: 97% of graduates not convicted of a new crime within one year
- Findings from an independent random-assignment evaluation show that participation in CEO significantly decreases several measures of recidivism including a 40% reduction in re-incarceration for a new crime through two years of follow up.

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.

ALTERNATIVE TO INCARCERATION AND REENTRY PROGRAMS HELP YOUTH ACHIEVE THEIR POTENTIAL

Participants in CEO's Young Adult program are 1.4 times more likely to be placed in a job and are 34% more likely to keep a job for a year, than young adults at CEO who do not join the program.

60% of CCA youth were truant from school at intake, none were truant at program graduation; 100% were promoted to the next grade level.

78% of the young people who had internship placements while in CASES youth program received a diploma or were working one year after graduating the program

74% of the students registered at the CASES-Department of Education High School earned high school credits.

91% of young people graduating from CASES youth program were employed, in school and/or receiving services in their community.

ALTERNATIVE TO INCARCERATION AND REENTRY PROGRAMS STRENGTHEN FAMILIES

Over 200 young fathers enroll in CEO's voluntary Responsible Fatherhood Program each year and attend classes on effective parenting; learn how to find and reconnect to their children; and get help meeting their child support obligations. CEO has collected over \$1 million in child support payments.

100% of the fathers who took Osborne's parenting course at Rikers Island showed improvement in their attitudes toward parenting.

ALTERNATIVE TO INCARCERATION AND REENTRY PROGRAMS PROVIDE RELEVANT AND APPROPRIATE SERVICES FOR WOMEN

Among the predominately homeless women participating in WPA's Hopper Home, 78% enrolled in an employment program; 92% improved housing post-completion; 85% obtained health care coverage, and 68% strengthened their family relationships by either regaining custody of their children or improving parenting skills.

WPA's Law Project helped 76 women and their families address family visitation and custodial concerns while helping to reduce Family Court system costs by expediting or eliminating the need for court proceedings in 68% of the cases.

88% of the clients receiving case management from WPA's Community Linkage Unit obtained identification necessary to obtain legal employment, housing, or benefits and 62% improved their housing situation.

75% of women in CCA's Crossroads program in need of family reunification services were reunited with their children and 100% were linked to health care.

ALTERNATIVE TO INCARCERATION AND REENTRY PROGRAMS CONNECT PEOPLE TO STABLE EMPLOYMENT

CEO made 1,226 placements in permanent jobs in 2008; wages averaged \$9/hour.

In 2007, 473 clients completed Fortune Society's job readiness program. Clients who were placed into employment averaged salaries of over \$9/hour and received two years of job retention services

45% of the women in CCA's Crossroads program – all of whom were unemployed at intake – held jobs at program completion.

In 2008, the Legal Action Center helped 397 individuals overcome 443 legal problems related to their criminal records and overcome barriers to employment, including errors on rap sheets, inaccurate answers to job application questions about past criminal convictions and illegal discrimination by employers.

**ALTERNATIVE TO INCARCERATION AND REENTRY PROGRAMS
PROVIDE A HOME IN THE COMMUNITY**

Since 2002, The Fortune Society's phased permanent housing has helped nearly 382 individuals find stable housing.

50% of women entering CCA's Crossroads program were homeless; 85% of those women were living in stable housing at time of program completion.

**ALTERNATIVE TO INCARCERATION AND REENTRY PROGRAMS
ADDRESS THE PROBLEM OF SUBSTANCE ABUSE**

65% of the men and women enrolled in Osborne's drug treatment program in 2008 stopped using drugs; 100 % of Osborne graduates had either Medicaid or private health insurance; and 75% improved their employment or educational status.

88% of clients enrolled in The Fortune Society's substance abuse treatment services were substance free 12 months later.

**ALTERNATIVE TO INCARCERATION AND REENTRY PROGRAMS
PROVIDE EFFECTIVE SOLUTIONS FOR THE MENTALLY ILL**

92% of clients were homeless at intake into CASES mental health program for individuals with serious and persistent mental illness; after one year all are in safe and secure housing and 61% of those are in long-term permanent housing

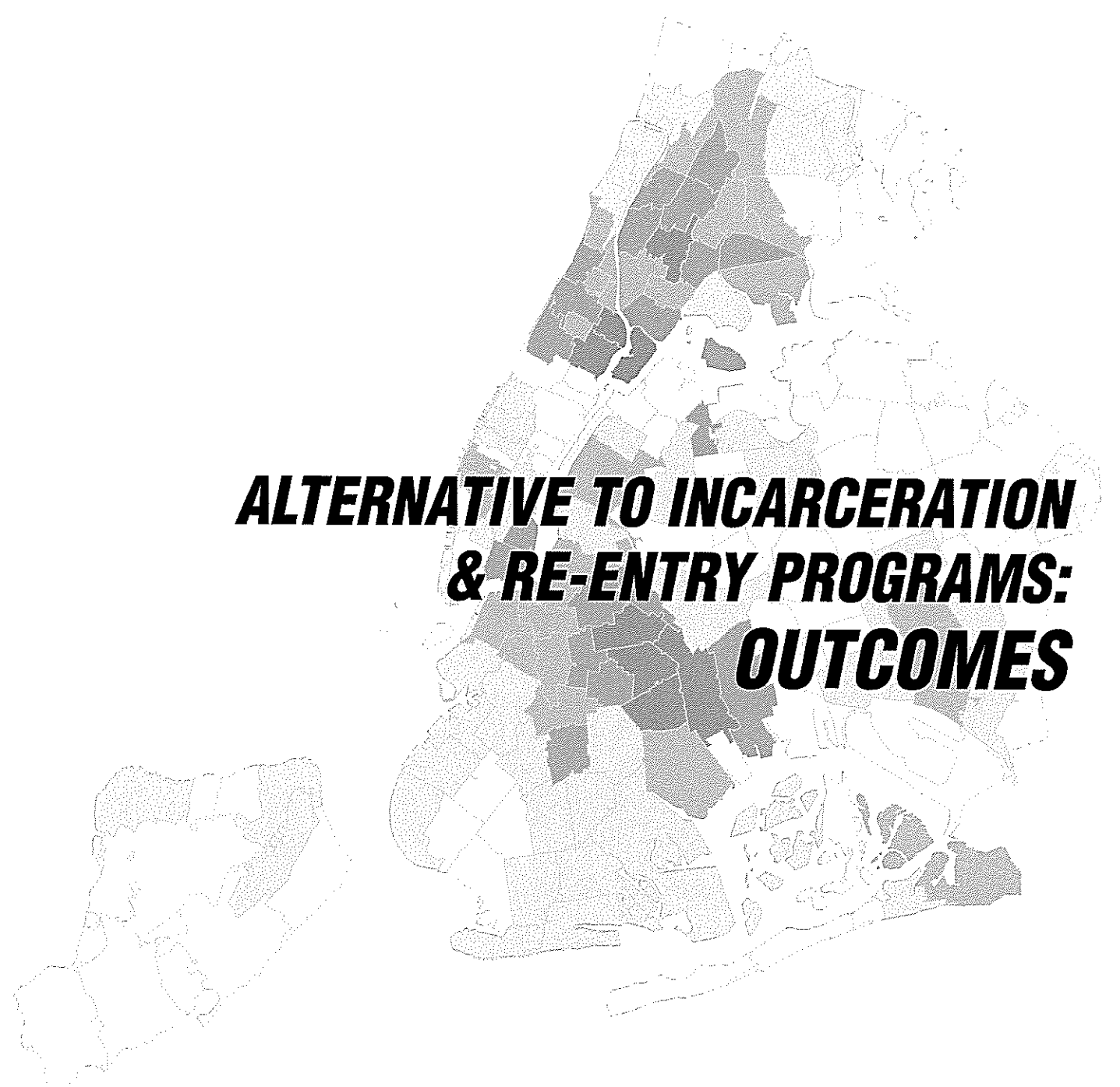
CASES mental health program reduced psychiatric hospitalizations by 56% during program participation

At admission none of the clients admitted to CASES mental health program were engaged in employment or education; during program participation over 30% became engaged in employment or education.

Thank you for your support. We look forward to continuing to work with the City Council.

the ati coalition

Serving New York City



ALTERNATIVE TO INCARCERATION & RE-ENTRY PROGRAMS: OUTCOMES

Cutting Crime and Costs • Strengthening Families and Communities

Protects Public Safety

Recidivism analyses show that **less than 20%** of program graduates have a new criminal conviction within two years.

An independent, random-assignment evaluation shows CEO participation significantly decreases recidivism including a **40% reduction** in re-incarceration for a new crime through two years of follow-up.

Creates Cost Savings

ATI/re-entry programs save City and State correctional systems **over \$100 million** and also create savings through reduced reliance on hospitals, emergency rooms and homeless shelters. Clients who are employed pay taxes on their earnings and make child support payments.

Helps Youth Achieve Their Potential

Participants in CEO's Young Adult program are **1.4 times** more likely to be placed in a job and are **34%** more likely to keep a job for a year than young adults at CEO who do not join the program.

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Strengthens Families

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Addresses the Problem of Substance Abuse

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Provides Relevant and Appropriate Services for Women

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88% of the clients receiving case management from WPA's Community Linkage Unit obtained identification necessary to obtain employment, housing, or benefits and **62%** improved their housing situation.

Supports the Needs of the Mentally Ill

92% of clients were homeless at intake into CASES' mental health program for individuals with serious and persistent mental illness; after one year all are in safe and secure housing and **61%** of those are in long-term permanent housing.

CASES' mental health program reduced psychiatric hospitalizations by **56%** during program participation.

At admission none of the clients admitted to CASES' mental health program were engaged in employment or education; during program participation **over 30%** became engaged in employment or education.

Connects People to Stable Employment

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Provides a Home in the Community

Since 2002, The Fortune Society's phased permanent housing has helped **382** individuals find stable housing.

85% of homeless women entering CCA's Crossroads program were living in stable housing at time of program completion.

the ati coalition

*Alternative to incarceration (ATI)
& re-entry programs save money,
reduce crime, strengthen families,
& bring hope and real opportunity
to some of the City's most
troubled communities.*

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Please visit us at www.atiny.org
or contact our individual members.

CASES

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**New York City Council Fiscal Year 2010
Executive Budget Hearing**

**Finance Committee and
Fire and Criminal Justice Services Committee
Hon. David I Weprin and Hon. James Vacca, Chairs**

May 12, 2009

**Testimony
Osborne Association and Alternative to
Incarceration Programs**

Center for Alternative Sentencing and Employment Services
Center for Community Alternatives
Center for Employment Opportunities
Fortune Society
Legal Action Center
Osborne Association
Women's Prison Association

Presented by Susan Gottesfeld
Associate Executive Director
Osborne Association

My name is Susan Gottesfeld, Associate Executive Director of the Osborne Association. My colleagues are providing testimony that highlights the importance of preserving and enhancing Council support for the ATI programs, including Osborne. I would like to add our appreciation for the Council's past support of our programs as well as other initiatives that respond to the needs of those we serve.

We are obviously aware of the strain that the fiscal crisis has put on services needed by all New Yorkers, and we cannot argue that those we serve are more deserving of services than others. But they are no less deserving either, and we are proud of the fact that even though our Council funded programs were cut 37% last year, we are still providing vital services to those who might otherwise remain incarcerated or return to jail without the cost-saving and life-saving interventions offered by our organizations.

The Council has funded Osborne's Court Advocacy Services for several years. This program, which I directed prior to becoming Associate Executive Director, works with lawyers representing indigent felony defendants, advocating on behalf of alternatives to incarceration in appropriate cases. Our staff of forensic social workers has found that our clients typically struggle with addiction, mental illness, low educational attainment, and have few marketable skills. Yet, by providing them with the treatment and services offered at Osborne, as well as by our colleagues in the ATI Coalition, we have achieved a remarkable level of success, with recidivism rates of only 20%.

With the reform of the Rockefeller drug laws, and the increasing discretion of the judges before whom we appear, we are confident that many more defendants could be diverted to treatment and other needed services, support, and supervision. Yet without the advocacy on the front end, and the supportive services on the back end – whether treatment, employment, family strengthening, mental health services – the opportunity presented by drug law reform could be squandered.

The benefits of Council support of the ATI coalition are not limited to the individual who is arrested. This country's incarceration rates, the highest in the known world, have resulted in the greatest separation of parents from their children in human history. There are at least 100,000 New York City children who have experienced the arrest and incarceration of a parent. The NYC Council has had an important role in reducing the harm of the impact on NYC children by supporting Osborne's FamilyWorks

program, offering parenting education, special visiting, and family support for the men serving time on Rikers Island. The truth is that even parents who have committed crimes can provide the love and nurturing that children need, and it is in our best interest to help parents, wherever they are, to maintain loving contact with their children.

Those who are detained and sentenced to our city jails are still members of our communities. Research continues to demonstrate that strong family ties – perhaps more than jobs, more than treatment – may be the most critical ingredient in post-release success. By reducing the number of people we confine, and offering humane and accessible visitation and parenting support for those whom we do, we will continue to drive the crime rate down and save the City millions of dollars in foster care and incarceration costs.

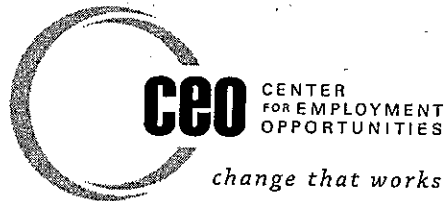
The families we serve through the ATI Coalition – and every individual is part of a family, deeply affected when any of them is entwined in the justice system – have complex needs, like your family and mine. The collaborative partners of the ATI Coalition together are able to address these diverse needs and strengthen our City.

As a result of the budget cuts last year, Osborne was no longer able to provide substance abuse treatment for the Misdemeanor Drug Court in the Bronx. However, we continue to provide family services at Rikers Island, and our Court Advocacy Services continues to offer alternatives to incarceration advocacy, although we have been forced to cut back on the numbers we serve. Nonetheless, we are hopeful that the Council will maintain or restore support to these important programs.

Once again, we thank you for your past support and we ask you to support our programs again this year.

For more information, contact:

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Testimony of the Center for Employment Opportunities, New York, New York
by Mick Munoz, Director of Community Relations
May 12, 2009

Thank you for taking the time to listen to this important panel. I am here on behalf of the Center for Employment Opportunities, known as CEO, an organization that provides immediate, effective and comprehensive employment services exclusively to men and women with criminal records. We are here as a part of the Alternatives to Incarceration Coalition, and we are dedicated to reducing crime and increasing public safety outcomes while saving money for the City and taxpayers.

CEO has helped people with criminal convictions move successfully into the workforce for more than 30 years. CEO features a transitional work model: people come to us within days and weeks after release from prison and work on CEO work crews, providing maintenance and repair work on sites throughout the city, getting paid at the end of each work day. This provides them with needed income and builds a work reference. CEO also provides job coaching to help people get ready for a permanent job with a private employer. CEO then places individuals in permanent, unsubsidized jobs that best match their skill set and interest. After people are placed in jobs, CEO offers up to one year of retention services to ensure participants remain connected to the workforce. Most of our participants who meet with a job developer

get a permanent job—in the last 10 years of being an independent non-profit, we have placed 10,000 people with criminal records in permanent jobs.

CEO's programs have been proven to lower rates of recidivism, thus increasing public safety and saving tax payer dollars. CEO has recently undergone a rigorous random-assignment evaluation, conducted by the research organization MDRC. Based on first year study results, individuals enrolled at CEO are 50% less likely to return to prison than those in a control group. This impact is an outcome researchers say is "rarely" seen by similar programs.

CEO provides the government with a substantial return on its investment. Based on the change in recidivism patterns shown by the MDRC study, CEO calculates preventing an average of two years of incarceration for approximately 200 people each year. At \$30,000 per person per year, CEO saves \$12 million a year at a steady rate. CEO saves an additional \$1 million per year in welfare-related costs for a total savings of \$13 million per year. The cost to serve a CEO client through job placement is \$6,000. Serving 200 clients costs \$1.2 million. CEO yields a net savings of \$11.8 million for 200 people, or \$59,000 per person.

In summary, alternative to incarceration programs, including CEO, are an excellent way to increase public safety and reduce the cost burden to the City. ATI programs have been proven to reduce recidivism, provide quality hard and soft skills training and job placement services that help individuals coming home from prison or jail get the second chance they need to start their lives anew.

**TESTIMONY OF
THE FORTUNE SOCIETY**

**Finance; Fire & Criminal Justice Services Committees
Honorable David I. Weprin, and James Vacca, Chairs**

May 12, 2009

Presented by

JoAnne Page
President and CEO

&

Brandon Austin
Client, Academy Resident, College Student

The Fortune Society
29-76 Northern Blvd.
LIC, NY 11101
212-691-7554 (phone)

Good day. My name is JoAnne Page, and I serve as the President and CEO of The Fortune Society. Thank you, Chairs and distinguished members of the City Council Finance and Fire and Criminal Justice Services Committees, for the opportunity to testify today.

For over four decades, The Fortune Society has been a powerful criminal justice advocate and reentry service provider. We are a longstanding member of the coalition of service providers from across the City and State offering alternative to incarceration (ATI), reentry, and related programs (including pre-trial services, defender-based advocacy, client specific planning, community service sentencing, drug treatment diversion programs, legal and employment assistance). These programs divert appropriate individuals who have been arrested or convicted to community supervision and sanctions and connect people who are transitioning from prison or jail into our communities to needed services. These efforts protect the public and save the city and state revenue by reducing jail and prison costs, preventing recidivism and stabilizing these individuals and their families. At the Fortune Society, for instance, every dollar invested in ATI programs yields three dollars in jail and prison displacement savings to the City and State, while providing individuals an environment that fosters change, allows clients to stabilize themselves, develop legitimate income streams, build a track record of “clean time” without drug use, and access needed services.

The Fortune Society and others in the Coalition appreciate the City Council’s longstanding support for ATI and reentry program. As highlighted in the ATI and Reentry Coalition’s Blueprint for Criminal Justice Reform, it is not a coincidence that New York State has the largest network of ATI programs in the country, and—unlike other large states such as California and Texas—has seen crime and incarceration rates plummet simultaneously, improving public safety and saving much-needed revenue. However, New York’s promising results should not come as a surprise; decades worth of research documents the fact that people in low-income, minority communities are at greater risk of entering the criminal justice system due to the scarcity of prevention programs, early intervention programs, and alternatives to incarceration.

Fortune Society serves individuals throughout NYC’s five boroughs. Our clients overwhelmingly reside in the neighborhoods that account for the majority of the city’s correctional admissions: the South Bronx and Upper Manhattan; the Brooklyn communities of Brownsville, Bedford-Stuyvesant, East New York, Crown Heights; and the South Jamaica neighborhood of Queens. These primarily African American and Latino communities are the most high-need neighborhoods in NYC. Collectively they account for a full 54.5% of NYC prison admissions and re-entry even though the population makes up only 22.1% of New York City’s general census. Criminal-justice experts refer to these neighborhoods as “million dollar blocks” because of the amount of money the state spends annually incarcerating residents (Tucker & Cadora, 2003). The Citizens’ Committee for Children found that, in 2001, there were 73.0 total arrests per 1,000 residents in these communities, compared to 31.1 citywide (CCC, 2001). These are the neighborhoods hit hardest by the criminal justice system, and the communities hit hardest, as well, by crime. In Harlem, for instance, there were 8 murders per 100,000 people in 2007 compared to 2 murders per 100,000 in all other Manhattan neighborhoods. Black and Latino men accounted for the majority of those victims.

According to the NYC Department of Correction, there are 102, 772 jail admissions per year and 13,576 people incarcerated on Riker’s Island today. Eighteen percent of these people are already sentenced to City jail time, with an average length of stay of 38 days, and the rest are detainees awaiting trial or prison bound. Fifty seven percent of these people are African American, 33.7% are

Latino, and 6.9 percent white¹. In comparison, NYC's population is 26.6% African American, 27.0% Latino, 44.7% white². Seventy to eighty of people on Rikers have substance abuse histories, 75% are in on drug-related charges, 32% are illiterate, 40% percent require mental health services and 11% suffer from serious and persistent mental illness. Over 5% of these people are released to NYC homeless shelters, while many more wind up in our shelter system within months of release. In Addition, according the NYC Department of Health and Mental Hygiene, 8% of males and 18% of females on Rikers are HIV positive³. Also, with similar demographics, there are over 63,000 people in NYS prisons, and over 13,000 returning to NYC annually. While the ATI and Reentry Coalition serves a broad swath of these people, given existing resources, by no means are we even coming close to meeting the needs of the entire population.

This is a tough economic time and a time in which the City Council must make hard decisions about where to invest scarce resources. Those of us in the ATI and Re-entry Coalition have a key message to share with you today: Criminal justice is one of the few places in which it is possible to save money and save lives at the same time, and to use the money saved where it is most needed. Study after study has shown that ATI programs save money without increasing risk to community safety, that provision of drug treatment is more cost effective than locking people up, and that supportive housing is a cost-effective investment that prevents greater spending on incarceration and homeless shelters. Seven years ago, we opened the Fortune Academy in Harlem, known as "the Castle" in the community. At an annual \$25,000 cost per bed, comparable to that of a large city shelter and dramatically lower than the \$69,000 annual cost of a City jail bed, have since housed 741 men and women who had been released from incarceration to homelessness. With great joy, I share with you the news that, with strong Community Board support, we are currently building another 114 apartments that, as of July 2010, will both provide supportive permanent housing for formerly incarcerated men and women, and family-oriented truly affordable apartments for our West Harlem neighbors. One of our current residents, Brandon Austin will share with you his experience since he moved in with us, and his hopes for his future.

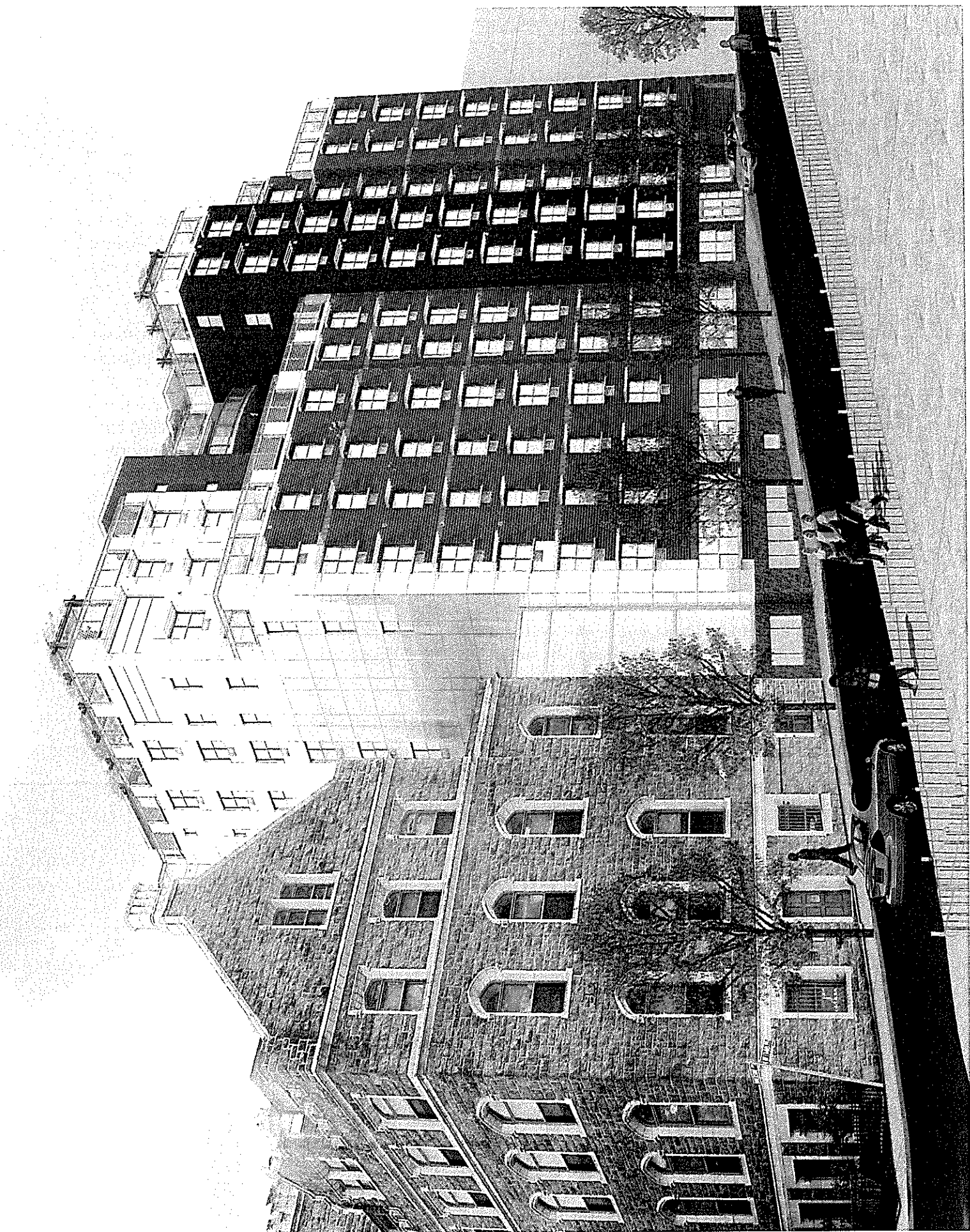
As a full partner in the City's effort to further reduce crime and the jail and prison population and build stronger and safer communities, the Coalition and The Fortune Society continue to serve as a resource to the City Council.

Once again, thank you for the opportunity to testify at today's hearing.

¹ Wynn, Jennifer, Inside Rikers (New York: St. Martin's Griffin, 2001) 74

² Census 2000

³ NYC Department of Health and Mental Hygiene, 1999.





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Testimony of The Legal Aid Society

on

THE MAYOR'S FISCAL YEAR 2010 EXECUTIVE BUDGET

Presented before

The New York City Council

Presented by:

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

May 12, 2009

The Legal Aid Society welcomes this opportunity to testify before the City Council concerning the Fiscal Year 2010 Executive Budget and its impact on the Legal Society's client services.

As you know, with a staff of 1,450, including 850 lawyers and 600 social workers, paralegals, investigators, and support and administrative staff, the Legal Aid Society provides crucial civil, criminal, and juvenile rights legal assistance to low income families and individuals in literally every community in the five boroughs of New York City. During the past year, the Legal Aid Society handled some 295,000 cases and legal matters for New Yorkers in desperate need of legal help. In addition to individual cases, the Society has extensive experience in affirmative litigation on behalf of groups of similarly situated clients. Many of these clients are referred to the Legal Aid Society by the constituent services staffs of elected officials or by community-based organizations serving every district of the City. 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. Indeed, since its founding in 1876, the Legal Aid Society has been a vital part of the fabric of the City.

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 are mindful of the extreme financial difficulties that the City is facing. At the same time, these extraordinary economic conditions are having an especially harsh impact on low income New Yorkers and the need for the legal help that the Society provides to these struggling families and individuals is increasing exponentially. Against this backdrop, the proposed cuts for criminal defense and civil legal services in the FY2010 Executive Budget will hurt New Yorkers accused of crimes and families and individuals who need civil legal help in the midst of this severe economic downturn. In the criminal defense area, we cannot keep taking on new cases, provide the constitutionally mandated defense for New Yorkers, and absorb new City cuts on top of \$3.2 million in cuts that we have already sustained in the 2008-2009 City budget and the 2009-2010 State budget. On the civil side, we have also already suffered \$3 million in cuts in the 2008-2009 City budget and we are forced to turn away six out of every seven New Yorkers who seek our help. With the new proposed City cuts, we will have to turn away more families and individuals who need legal aid to get unemployment and disability benefits, flee from domestic violence, and prevent evictions, foreclosures, and homelessness which is at record levels in New York City.

We greatly appreciate the support that the Council has historically provided in the budget process. In this testimony, we will focus on the proposed funding levels in the FY2010 Executive Budget for the Society's criminal defense representation and civil legal services.

Criminal Defense Services: Since 1965, the Legal Aid Society has served as the primary defender for criminal defendants in New York City who cannot afford counsel. With criminal defense trial offices in the Bronx, Brooklyn, Manhattan and Queens, the Legal Aid Society represents indigent New Yorkers accused of crimes ranging in seriousness from alleged disorderly conduct to first degree murder. The Legal Aid Society's criminal defense program 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 City and State officials on 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 the support of the Council, in FY2003 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 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 comprehensive criminal, civil, and juvenile rights legal services program give us a unique vantage-point not only to represent clients but also to provide support and training for public defenders throughout the City.

Over the past eight years, however, the Society's criminal defense contract with the City has not provided sufficient baseline funding to enable the Society to cover annual cost increases – such as occupancy and health care cost increases – or, more importantly, deploy sufficient staff to provide a constitutionally mandated defense, especially as the number of New Yorkers who are arrested has increased. 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, FY08, and FY09 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). Nevertheless, during these years, the Society could not have continued to provide criminal defense representation to indigent New Yorkers 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, \$10.8 million for FY08, and a reduced amount of \$8.6 million for FY09. While fully funding constitutionally mandated criminal defense representation is an Executive branch obligation, annual Council funding has become integral to the Society's ability to operate a criminal defense program for indigent New Yorkers.

Regrettably, the FY2010 Executive Budget proposes an \$11.1 million reduction in the Society's criminal practice funding and again eliminates essential funding allocated by the Council. Subsequent to the issuance of the Executive Budget, the City acknowledged that \$2

million would be restored to the Society's criminal practice budget for 2009-2010. However, the remaining \$9.1 million City cut comes on top of \$3.2 million in City and State cuts in our criminal defense funding that have already been implemented. These cumulative cuts of \$12.3 million for our criminal practice in 2009-2010 are coming at a time of increasing arrests in New York City and increasing need for our constitutionally mandated criminal defense services. In fact, the Society's annual criminal defense caseload increased from some 197,000 new cases in fiscal year 2002-2003 to approximately 210,000 new cases in 2005-2006 to nearly 227,000 new cases in 2007-2008. This trend of increased cases is continuing during the current fiscal year and the Society is on a pace to exceed the 2007-2008 workload. (A chart showing these increases in the number of new cases that the Society has handled each year is attached to this testimony.)

As a result of these increased arrests in New York City, annually the Legal Aid Society's criminal defense staff of 435 attorneys is handling more than 100,000 cases which survive a first court appearance, and approximately 30 percent of those cases are felonies. Eighty-one percent of our criminal defense attorney staff has caseloads significantly in excess of the annual standard set by the Appellate Division, First Department, which limits annual criminal defense attorney caseloads to 400 misdemeanors or 150 felonies, with felonies counted as 2.66 misdemeanors in mixed caseloads. The average annual caseload for criminal defense staff attorneys is now 592 cases – which is nearly 50 percent above the First Department limit – and the average pending caseload is 103 cases, when it should be 70 if we were in compliance with the First Department's annual standard.

Our criminal defense 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. 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. Noncompliance with the First Department caseload standard is a direct consequence of this situation.

The proposed Executive Budget cut of \$9.1 million for FY2010 on top of the \$3.2 million in City and State cuts that the Society's criminal defense practice has already sustained – which will be a cumulative \$12.3 million cut in 2009-2010 – will further impair the Society's ability to provide constitutionally mandated criminal defense representation. With an increasing caseload and decreasing funding, the Legal Aid Society is being left without the resources to keep taking on new cases and provide the constitutionally mandated defense for New Yorkers.

Although we are mindful of the extraordinary fiscal situation, in order to address this immediate crisis with respect to the governmental obligation to provide resources for constitutionally mandated defense representation, it is essential that the adopted City budget for 2009-2010 restore the \$9.1 million proposed Executive Budget cut as well as the \$2.2 million criminal defense cut in Council discretionary funding that we have suffered during 2008-2009. We simply cannot absorb the combination of the proposed \$9.1 million cut and the current \$2.2 million City cut during 2009-2010 in light of the continuing increased caseloads for our staff attorneys which are substantially in excess of the First Department standard. Without a 2009-

2010 restoration back to the \$11.3 level, we cannot keep taking new cases and provide constitutionally mandated criminal defense representation - especially given the significant impact for New Yorkers charged with even relatively minor offenses in terms of collateral consequences for housing, employment, education, public benefits, and immigration,.

The requested level of 2009-2010 funding for our criminal practice is also necessary to enable the Society to continue to provide special client services in 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 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 former Chief Judge Judith Kaye, including the integrated domestic violence, drug treatment, and mental health courts.

Not including additional appellate and post-conviction representation which the Society provides for New Yorkers pursuant to other contractual arrangements with the City, the annual cost of these systemic services is nearly \$6 million. These expenses are 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.

For all these reasons, the Society respectfully requests a restoration of \$11.3 million. With the Society's increased criminal defense workload, the truth is that in order to bring the Legal Aid Society's caseloads into compliance with constitutional requirements additional funding is needed beyond this interim restoration of \$11.3 million. Former Chief Judge Kaye's Indigent Defense Commission found that there is a criminal defense crisis in New York State. In the New York City section of the Kaye report, excessive caseloads, inadequate funding, and a counter-productive RFP process were highlighted as problem areas.. In recent landmark legislation, the State has now recognized the adverse impact for New Yorkers charged with

crimes that results from excessive criminal defense caseloads at the Legal Aid Society. This past April, the State enacted a law requiring the implementation of a rule to limit the caseloads of the Society's criminal defense lawyers over the course of four years beginning during FY2011. Under the leadership of current Chief Judge Jonathan Lippman, the State Office of Court Administration will propose annual funding for this caseload limitation initiative. Therefore, it is essential that during 2009-2010 there be no further increases in the Society's current excessive caseloads which will be the result if this \$11.3 million restoration is not provided. The requested \$11.3 million in restored funding is also critical because City funding for the prosecution of New Yorkers by the District Attorneys is increasing while funding for the Society's criminal defense representation of New Yorkers is slated to be substantially cut. (A copy of a May 7, 2009 New York Law Journal article, including a chart showing increases for the prosecution and decreases for the defense, is attached.)

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 the City. In many cases, clients are referred to us by the constituent services staff of elected officials who have nowhere else to turn for help with emergency problems like the current dramatic increases in homeowner foreclosures and evictions of tenants of buildings in foreclosure proceedings.

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 fleeing oppression, unemployed workers, persons with HIV infection, and children and adults faced with evictions, foreclosures and homelessness. We help clients with legal problems involving: domestic violence and family law; elder law for senior citizens; housing and homelessness; income and economic security assistance such as federal disability benefits, employment and low wage worker matters, earned income tax credits, federal food stamps, and public assistance; immigration; health care, including Medicare Part D, Medicaid, and access to hospital charity support; HIV and AIDS; and housing development and community development opportunities to help clients move out of poverty.

During FY2009, we have already sustained City civil legal services cuts of \$3 million which means we have to turn away increasing numbers of vulnerable New Yorkers with legal problems that we could otherwise solve. Prior to the economic downturn and these cuts, we were able to help only one out of every seven New Yorkers who sought our help with civil legal problems because of lack of resources. The economic downturn is having a particularly harsh impact in our client communities and the need for our civil legal services is more crucial than ever. Homelessness, for example, is at record levels in New York City, and unemployment, hunger, and foreclosures are on the rise. During FY2009, we have seen exponential increases in requests for help in core areas of need: a 29 percent increase in requests for help with unemployment benefits and employment problems; a 40 percent increase in requests for health law assistance and help obtaining Medicaid, Medicare, and other health care coverage; a 12 percent increase in requests for help to obtain food stamps, federal disability benefits, and public assistance; a 16 percent increase in requests for domestic violence and family law help; a 15 percent increase in requests for help from current or former low wage workers with earned

income tax credit or other low income taxpayer problems; a 21 percent increase in requests for eviction prevention representation; and a stunning 800 percent increase in requests for foreclosure defense assistance.

In the face of this unprecedented need for civil legal assistance, during FY2010, we have also been told to expect a dramatic decrease in our State Interest On Lawyer Account Fund grant as a result of the economic downturn which has resulted in near zero interest rates and a drying up of economic activity. The current State-wide annual IOLA funding level of \$25 million is projected to be reduced by at least 60-70 percent during calendar year 2010. Consequently, the Society is facing a minimum 60-70 percent reduction in our \$4.5 million annual IOLA grant.

To make matters worse, the FY2010 Executive Budget proposes to eliminate all civil legal services funding for the following Council civil legal services initiatives that the Council funded in the FY09 budget.¹ The consequences of eliminating this critical City civil legal services funding will be dire – increases in evictions, foreclosures and homelessness, increases in the number of women and children who cannot escape domestic violence, increases in the numbers of immigrants lawfully in this country who will be wrongfully deported, and increases in the numbers of children and adults who will go without subsistence income, health care, and food because of bureaucratic mistakes that cannot be challenged effectively in the absence of counsel.

Again, although we are mindful of the City's fiscal condition, based on the critical need for civil legal services throughout the City, restored funding for 2009-2010 is essential for these programs which are slated for elimination in the Executive Budget:

The City-wide Low Income Civil Legal Services Program: Since 1993, 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. Funding for this program is evenly divided between Legal Aid and Legal Services. In the adopted FY2008-2009 budget, funding for this program was reduced by 59 percent from \$3.676 to \$1.5 million, which has resulted in at least 1,822 fewer households served this year. 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.

The Supplemental Security Income (SSI)/Unemployment Insurance (UI) Advocacy Program: In the FY2006 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

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.

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 this program will eliminate these cost savings. Funding for this combined SSI/UI Advocacy Program is evenly divided between Legal Aid and Legal Services.

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 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.

In the adopted FY2009 budget, funding for this program was reduced by 48 percent from \$2.5 million to \$1.3 million, which has resulted in at least 1,241 fewer families served this year. If this funding is not restored, we will have to substantially reduce our provision of crucial unemployment and disability legal assistance in the Bronx, Brooklyn, Manhattan, Queens, and Staten Island notwithstanding the increasing numbers of New Yorkers who are seeking these vital services to receive assistance in obtaining unemployment insurance benefits and federal disability benefits.

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, MFY Legal Services, 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. In the adopted FY2009 budget, funding for this program was reduced by 25 percent from \$3 million to \$2.25 million, which has resulted in at least 1,900 fewer “units” service (including full case representations, training programs, outreach sessions, and tenant association assistance). 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.

Immigration Initiative Funding For Legal Services 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. Together with Legal Services NYC, the Society provides IOI-funded immigration legal services

and legal assistance for low wage immigrant workers in all five boroughs of the City. In the FY2009 budget, funding for each organization has recently been awarded at a level that has been reduced from approximately \$596,000 in 2007-2008 to \$354,000, with the result that fewer low income immigrants will receive legal assistance. Again, the Executive Budget completely eliminates funding for this program. If this funding is not restored, we will have to substantially reduce our provision of civil legal services for immigrants in the Bronx, Brooklyn, Manhattan, Queens, and Staten Island.

For all these reasons, we urge that these crucial civil legal services programs be restored in the adopted FY2010 budget.²

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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 FY2010 budget process concerning our funding needs so that we can serve clients who depend on the Legal Aid Society to provide access to justice.

² In the adopted FY2009 budget, Council funding for the \$765,000 Earned Income Tax Credit (EITC) Legal Assistance Program was completely eliminated. Beginning in the FY2005 adopted budget, the Council established a new EITC legal services program operated by the Society and Legal Services 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 initiative has resulted in the denial of critical legal assistance for 740 households, which helps families move from welfare to work, and the elimination of a significant infusion of federal tax credit funds in the local economy.

City-Wide

	FY03	FY04	FY05	FY06	FY07	FY08	FY09	Diff
Felony Intake								
July	2,082	2,498	2,500	2,498	2,550	2,703	2,439	(264)
August	2,353	2,509	2,362	2,556	2,531	2,779	2,638	(141)
September	2,185	2,520	2,248	2,531	2,410	2,670	2,564	(106)
October	2,538	2,602	2,749	2,679	2,867	2,783	2,745	(38)
November	2,822	2,402	2,119	2,451	2,483	2,438	2,403	(35)
December	2,448	2,071	2,275	2,213	2,385	2,178	2,016	(162)
January	2,866	2,459	2,394	2,253	2,875	2,460	2,279	(181)
February	2,285	2,545	2,343	2,116	2,351	2,394	2,060	(334)
March	2,484	2,522	2,445	2,444	2,541	2,518	2,417	(101)
April	2,303	2,501	2,551	2,429	2,295	2,477	2,182	(295)
May	2,454	2,582	2,631	2,368	2,646	2,571	-	
June	2,334	2,444	2,509	2,476	2,721	2,503	-	
Total Intake	29,154	29,655	29,126	29,014	30,655	30,474		(1,657)
Disposed at assignment	725	1068	940	594	779	790		
% disposed at 1st appearance	2.5%	3.6%	3.2%	2.0%	2.5%	2.6%		
Total surviving 1st appearance	28,429	28,587	28,186	28,420	29,876	29,684		
Intake at end of April	24,366	24,629	23,986	24,170	25,288	25,400	23,743	
Disposed at end of April	565	865	818	512	638	729	683	
Surviving 1st appearance at end of Apr	23,801	23,764	23,168	23,658	24,650	24,671	23,060	(1,611)

Misdem/Other Intake

July	11,565	15,338	14,143	14,064	15,629	16,692	15,414	(1,278)
August	12,375	14,315	13,791	15,531	16,064	17,842	16,789	(1,053)
September	11,584	15,088	12,994	14,950	15,533	16,907	16,556	(351)
October	13,153	16,118	15,835	15,790	16,215	16,970	17,412	442
November	15,523	14,429	14,350	14,617	14,514	14,925	15,495	570
December	13,596	13,118	13,110	13,055	13,998	13,481	14,817	1,336
January	16,394	15,501	14,418	14,160	18,034	16,885	17,520	635
February	13,747	17,577	14,966	14,661	16,253	15,786	17,019	1,233
March	15,262	17,270	16,477	16,890	18,024	18,408	18,881	473
April	14,696	15,714	17,175	15,740	16,588	16,376	17,766	1,390
May	15,425	16,025	16,572	16,047	17,001	15,914	-	
June	14,722	14,761	15,858	15,421	16,276	15,969	-	
Total Intake	168,042	185,254	179,689	180,926	194,129	196,155		3,397
Disposed at assignment	107,071	116,944	109,100	114,387	120,229	111,597		
% disposed at 1st appearance	63.7%	63.1%	60.7%	63.2%	61.9%	56.9%		
Total surviving 1st appearance	60,971	68,310	70,589	66,539	73,900	84,558		
Intake at end of April	137,895	154,468	147,259	149,458	160,852	164,272	167,669	
Disposed at end of April	88,265	97,825	89,640	94,661	99,777	102,042	99,891	
Surviving 1st appearance at end of Apr	49,630	56,643	57,619	54,797	61,075	62,230	67,778	5,548

Total Annual Caseload

Total cases	197,196	214,909	208,815	209,940	224,784	226,629		
Total surviving 1st appearance	89,400	96,897	98,775	94,959	103,776	114,242		
Total surviving 1st appearance end of Apr	73,431	80,407	80,787	78,455	85,725	86,901	90,838	3,937

New York Law Journal



THURSDAY, MAY 7, 2009

Mayor's Budget Incorporates Higher Spending for Prosecutors

BY DANIEL WISE

DESPITE a continued nosedive in tax revenues, New York City's six prosecutorial offices are in line to receive a 2.5 percent increase in funding under the executive budget unveiled last week by Mayor Michael R. Bloomberg.

All told, the city's prosecutors would receive \$261.5 million, up from \$255.1 million this year.

On the criminal defense side, however, the Legal Aid Society is slated for only \$72 million under the mayor's 2010 fiscal year budget, which starts July 1, a drop of 13.6 percent from its current funding of \$83.3 million.

The final budget will be hammered out before July 1 in negotiations between the Bloomberg administration and the City Council. Last year, such negotiations produced \$8.7 million in additional funds for Legal Aid. Should the City Council add-on remain at that level, Legal Aid's indigent criminal defense bud-

get would dip only 3.1 percent.

Eight other defender groups would split a total of \$43 million from the executive budget. Seven of those groups would receive the same funding as this year, but the budget also contains \$3.6 million for a new group, the Office of Appellate Defender.

Meanwhile, the New York City Law Department is slated to receive a \$5.7 million increase, or 4.7 percent, to \$127.8 million. The hike would be used to fund required collective bargaining raises (\$2.3 million) and increased litigation support costs (\$3.4 million), officials there said.

The mayor's budget also provides \$663 million to cover settlements and judgments arising from legal claims against the city, about 95 percent of which is used to pay tort claims. The amount contained in the 2010 budget is 3.9 percent higher than the \$638 million allocated in 2009.

The Queens District Attorney's Office would receive the largest increase of any of the

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By the Numbers

	FY '10*	FY '09	Change
Prosecutors			
Manhattan	\$78.2	\$74.5	5.0%
Brooklyn	\$73.8	\$73.6	0.3%
Bronx	\$43.1	\$43.3	-0.5%
Queens	\$44.0	\$40.7	8.1%
Staten Island	\$7.4	\$7.3	1.4%
Special Narcotics	\$15.0	\$15.7	-4.5%
Total	\$261.5	\$255.1	2.5%
Legal Aid Society	\$72.0	\$83.3	-13.6%

*Begins July 1, 2009; dollars in millions

SOURCE: New York City budget documents

Budget

« Continued from page 1

city's five county prosecutors, with an 8.1 percent hike to \$44 million. The only other significant change is for the Manhattan District Attorney's Office, whose funding would increase 5 percent, to \$78.2 million.

Among the six prosecutors' offices, the Office of the Special Narcotics Prosecutor, is taking the biggest hit with a 4.5 percent decline in funding, to \$15 million. But officials in that office expect much of the decline to be made up in negotiations with the Council as it was a year ago.

City officials said all six offices were treated evenly after increases for fixed costs, such as mandatory rent hikes, were taken into account.

Queens District Attorney Richard A. Brown said he is "encouraged" by the level of funding for his office. He also pledged to work closely "in these challenging times" with City Hall to balance "the need to maintain a safe city while doing our fair share to help address the fiscal crisis."

Steven Banks, attorney-in-chief of the Legal Aid Society, said the budget reduction his group faces "would result in staff cuts and higher case loads for attorneys who remain."

In adopting its budget in April, the Legislature for the first time required the development of criminal case load caps for New York City (NYLJ, April 6). The caps would be phased in over four years starting on April 1, 2010.

The mayor's \$59.4 billion citywide budget proposes a combination of cuts and added taxes to make

up a projected \$6.6 billion deficit. The 2010 budget is only .5 percent higher than the 2009 budget.

A substantial portion of \$3.4 billion in citywide savings would come from layoffs and attrition. By the end of fiscal year 2010, 3,759 city workers will have been laid off since the beginning of this year and another 9,782 are expected to leave the workforce and not be replaced.

In January, the mayor said 608 workers at the Administration for Children's Services would be let go (NYLJ, Feb. 4). In the executive budget ACS is spared from further cuts.

In the coming fiscal year, city tax revenues are projected to decline by \$7.4 billion, or 30 percent from the amount collected in the last full year before the start of the Wall Street meltdown last fall.

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Hello, counsel and all who are in attendance today. My name is Brandon Austin. I am 24-year-old resident at the Fortune Academy, the Fortune Society's residential facility for formerly incarcerated individuals who are homeless. Despite my age and apparent young physical features I served a four years and six months prison sentence which began in June of 2003 and ended June 2007. While much of my internal change took place during my incarceration, the Fortune Academy, known to many as the Castle, has afforded me the opportunity to make the transition necessary for assimilation back into the community. The one word that I use to describe the Fortune Society is hope. This hope is not the wish upon a star hope but rather the hope that is based in human services which provide practical approaches for disenfranchised individuals to reach heights that we once deemed impossible. Among these practical approaches at the Academy are daily group meetings, where therapeutic conversation is facilitated for and by residents; weekly counseling sessions with case managers, where weekly progress reports are discussed and residents are given the advice and assistance they need on an individual bases; and training sessions facilitated by staff members for residents who are moving into the community. Since joining the family at the Academy I have enrolled in a four-year college, at which I am a dean's list student. I was recently accepted for a merit based paid internship with a major business news publication. The staff at the Academy has also assisted me in finding employment. In short without the Fortune Society I would be without hop for a better life and society would be without hope for a better overall existence.

TESTIMONY OF COMMISSIONER NICHOLAS SCOPPETTA

FIRE DEPARTMENT OF NEW YORK

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

MAY 12, 2009

Introduction

Good morning Chairman Vacca, Chairman Weprin and Council Members. Thank you for the opportunity to speak with you today about the Fiscal Year 2010 Executive Budget for the New York City Fire Department (FDNY).

The Executive Budget for Fiscal Year 2010 reflects the difficult times we continue to face economically. The FDNY, like all City agencies, faces significant reductions. We took great caution in making the hard choices we had to make, but the reductions are nonetheless difficult. I will discuss the details of the budget in a moment, but I want to emphasize that -- despite these budget difficulties -- our Firefighters and Emergency Medical Service (EMS) personnel will continue to carry out their responsibilities as they always do, to ensure the safety of the New York City communities we serve.

The Budget

As we testified at the Preliminary Budget hearing, the four fire companies previously selected for nighttime closures - Engine 4, Engine 161, Engine 271 and Ladder 53 - are scheduled to be closed full-time effective July 1, 2009. While these companies will be closed, all four firehouses will stay open; ladder companies 15, 81 and 124 will remain open in their firehouses when the three engines close, and Engine 70 will be open after Ladder 53 is closed.

The Preliminary Budget for Fiscal 2010 had also called for additional fire companies to be disbanded effective July 1, 2009. The savings from the closures were to be derived from attrition, but we have learned in the ensuing months that our projections about attrition required adjustment. Indeed, out of the 110 nights from January 17 to

May 6, we had enough manpower to keep all the engines open 87 times; all four engines were closed on only eight nights.

Because fewer members than we expected are leaving the Department in this difficult economic climate, the Executive Budget now reflects this lower attrition rate and pushes back the additional closings until the latter half of the fiscal year. We project a total savings of approximately \$18 million in Fiscal 2010 as a result of these closures, provided headcount savings can be achieved.

We sent out the Charter-required 45-day notice of the four July 1 closures to the affected City Council members at the end of last week. We will keep the City Council advised of any additional closings as those decisions are made and timeframes established, and of course will provide 45 days notice of any such closings.

We remind the Council that the Mayor offered, as an alternative to the closings, a reduction in staffing for 60 engine companies. We proposed reducing from five to four the staffing on the 60 engine companies that now operate with five Firefighters. Note that of our 198 engine companies, 134 now operate with four Firefighters, and only 64 engine companies operate with five Firefighters. But we cannot reduce the manning without the UFA agreeing to do that. If the UFA would agree to accept four-Firefighter staffing for those 60 companies, **these company closings would not be necessary**, nor would any of the 12 closings planned for later in FY10. We strongly believe that your constituents would rather keep a local fire company open -- with four Firefighters and a Fire Officer-- than have no company at all. I emphasize that for many years two-thirds of our engine companies have operated with four Firefighters and one Officer.

The Firefighters' union's assertion that operating an engine with four Firefighters isn't safe is simply erroneous. As I stated, two-thirds of our 198 engine companies

operate every day with four Firefighters. For countless years the majority of FDNY engines have operated safely and effectively with four Firefighters. Indeed, we know of no City in the United States that staffs engine companies with more than four Firefighters plus one Fire Officer. For example, in cities like Los Angeles, Boston, Miami and Baltimore, engines operate with three firefighters and an officer.

Again, decisions about the closings have been difficult to make and, understandably, we have been extremely cautious in our review process. We generated a wealth of data and carefully analyzed numerous criteria in making these decisions.

The three primary criteria in the Department's assessment were:

- The projected impact on first due response times of closing the company; after the closing, one or more nearby companies would be "first due" at the closed company's former first-due alarm boxes.
- The number of occupied structural fires at which the company performed any firefighting work ("Occupied Structural Workers" or "OSW"); and
- The projected impact on second due response times of closing the company; after the closing, one or more nearby companies would be "second due" at the closed company's former second-due alarm boxes.

In its assessment, the Department also considered the:

- Closed company's workload:
 - total runs
 - medical emergencies
 - runs where it performed any work ("Workers");
- Proximity of other units to the closed company;
- Impact of the closing on the workload of surrounding units;
- Street layout in the company's response area;
- Geographic obstacles faced by perimeter companies in responding to the closed company's calls;
- Impact of the company closing on the communities it serves and on the overall safety of the City; and
- Operational knowledge and experience of senior chiefs.

The reductions to EMS are also significant and equally difficult. The Executive Budget provides for the elimination of 30 Basic Life Support (BLS) ambulance tours

citywide and nine supervisory lines on July 1, 2009. OMB estimates that we will save \$3.3 million (112 EMTs). Of course, this poses challenges for us. While we will attempt to distribute this reduction as evenly as possible citywide, the loss of 30 BLS tours could increase response times to Segment 1-3 -- our most serious -- assignments by approximately 20 seconds, from 6 minutes 38 seconds to 6 minutes 58 seconds. This estimate is based on last year's call volume and unit performance. Of course, these projections may change based on unexpected events, unusual weather, etc. In addition, we will need to further prioritize call types.

Some context is important here, however. Even with these reductions, we have 52 percent more ambulance tours than we did in 1996, when EMS merged with the FDNY. In 1996 we ran 635 eight-hour ambulance tours (502 by FDNY and 133 by hospitals), compared to 966 now (626 by FDNY and 340 by hospitals). Moreover, with the introduction of the Automated Vehicle Location (AVL) system in all of our FDNY ambulances, we have significantly enhanced our dispatch capabilities and improved response times. With AVL, dispatchers now know the exact location of all ambulances and can assign the closest available unit to any incident. Response times to critical calls have been 19 seconds faster on average since AVL's introduction in 2006.

I am happy to report that the threatened State cut in Medicaid funding was restored in the State budget in April. Had we not received that funding, we faced the possibility of having to reduce many more ambulance tours. We are continuing to work with the State to finalize the amount of the funding we will receive, but anticipate it will be in the range of funding we have received in the past.

The closure of Mary Immaculate Hospital and St. John's Hospital in Queens meant the loss of a combined 28 ambulance tours. The closure of Our Lady of Mercy

Hospital and anticipated closure of Westchester Square in the Bronx means the loss of a combined six ambulance tours. I am pleased that we will receive \$3.58 million in funding for 17 ALS tours (64 Paramedics and 5 lieutenants) to replace that lost capacity; we will add 11 tours in Queens and six in the Bronx. We also developed and implemented a plan with three 911-system participants to assume the remainder of those lost tours:

- New York Hospital Queens assumed three ALS tours;
- North Shore Hospital assumed five BLS tours; and
- Wyckoff Hospital assumed three BLS tours and 3 ALS tours.

The Preliminary Budget called for the reduction of 27 Fire Marshal and 5 Supervising Fire Marshal lines, based on attrition, to save \$3.2 million. We are optimistic that we will receive Federal stimulus money for Fire Marshal personnel, and should know shortly the level of that funding. This may mean we can mitigate the loss of some of the planned reduction in Fire Marshals positions.

All civilian vacancies as of December 2008 have been eliminated, except those that are revenue producing or in dispatch operations. We have instituted a freeze on all new civilian hiring except for those associated with Fire Prevention, the new Construction, Demolition and Abatement unit, Grants and Fire Alarm Dispatch. This will save \$5.3 million in Fiscal 2010. We have issued guidelines to address critical civilian vacancies when and if they arise. It should be noted that between Fiscal 2008 and the end of Fiscal 2010, the FDNY will have eliminated 191 civilian vacancies through attrition. From Fiscal 2003 through the end of Fiscal 2010, we will have made a

26 percent reduction from our base headcount in 2003 of both administrative and support positions.¹

As we announced earlier this year, we are adding funding to staff a new specialized Construction, Demolition and Abatement (CDA) inspection program. This program is one of several measures that we will undertake as part of our agreement with the New York County District Attorney's Office (DA), which investigated the 130 Liberty Street fire and brought no charges against any FDNY member. The City agreed to create this new civilian unit to focus exclusively on CDA buildings and strengthen our inspections in this area. The unit complements fire company field inspections and includes quality assurance measures and standpipe inspection audits. The CDA Unit and related audit units are now operational.

Stimulus Package and Other Federal Funding

FDNY has aggressively pursued funding from the Federal stimulus package or, more specifically, the American Recovery and Reinvestment Act. While not all of the funding has been finalized, we are optimistic about receiving some funding and will know more in the coming weeks.

We will also receive a \$1.1 million Assistance to Firefighters grant that will fund the development of innovative techniques and tools for the FDNY to battle wind-driven, high-rise fires.

We are continuing to work with City Hall, OMB and other City agencies and should know in the coming months the full extent of any further funding we might receive. While this may provide some good news for the Department, it does not mean that we can avoid the deep cuts I have just enumerated.

¹ Including cuts in the January 2009 Financial Plan, a total of 533 civilian lines will have been eliminated by the end of Fiscal 2010 (compared to the base headcount in Fiscal 2003).

Revenue

We forecast an increase of \$3.2 million in ambulance collections in Fiscal 2010 due to improvements in collections and a 5 percent increase in Medicare reimbursement rates. We also forecast \$1 million in revenue generated from the issuance of ECB Notices of Violation and \$600,000 in revenue generated from fees paid to the Department for plan review and Certificates of Fitness.

Capital Budget

Like all City agencies, the FDNY has had to re-assess its Capital Budget in light of proposed reductions imposed citywide. Our goal is to ensure that we can accomplish our highest priority projects, and allow other projects to proceed on as fast a schedule as funding allows.

Conclusion

While we would all like to see a quick economic recovery, as OMB testified yesterday we still face very bleak forecasts for City revenues for the next several years. That means we must use our finite resources as efficiently as possible to enable us to continue to serve the public as well as we have throughout our history.

We remain committed to that and, as always, appreciate the support of the New York City Council during these difficult times. Thank you for the opportunity to speak with you today. I would be happy to take your questions at this time.

**Statement of John Feinblatt
Criminal Justice Coordinator
New York City Council
Committee on Fire and Criminal Justice
May 12, 2009**

Good morning, Chairman Vacca and members of the Committee on Fire and Criminal Justice. My name is John Feinblatt and I am the Criminal Justice Coordinator. I am joined today by Shari Hyman, the Deputy Criminal Justice Coordinator and Migdalia Veloz, our Agency Chief Contracting Officer. 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 20th, Shari Hyman 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. I am happy to report that in this trying fiscal climate, indigent defense expenditures remain the same.

The current amount budgeted for indigent defense for fiscal year 2010 is \$188 million, a 49% increase from the 2002 budget. Additionally, as the Council is aware, we are in the process of drafting, but have not yet issued, an RFP for the trial level providers. In order to continue to meet the City's indigent defense needs during the pendency of the RFP, we have offered to extend all the trial level provider contracts that are Mayoral funded as a result of the 2001 RFP, for one year at current funding levels.

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. As I noted in March, the City committed approximately \$4 million in capital funds for the second phase of an information technology overhaul at the Legal Aid Society. This funding is paying for a state-of-the-art case management system which will allow Legal Aid to better manage employee productivity and streamline operations. For example, the system will 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 in FY 07 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.

In May of 2007, we hired institutional providers to represent parents and guardians in Article 10 proceedings in Manhattan, Brooklyn, and the Bronx. 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 a year later

has been overwhelmingly positive and parents are increasingly connected with appropriate social services, resulting in more families being safely kept together.

In 2008, CJC issued the RFP for appellate providers which resulted in a standardized cost per case across providers. To that end, we increased Mayoral funding by \$1.6 million for appellate representation and awarded 4 two-year contracts with options for renewal. These 4 providers include the original 3 providers who were already Mayoral funded -Appellate Advocates, Center for Appellate Litigation and the Legal Aid Society Criminal Appeals Bureau. Now, however, the Office of the Appellate Defender, which used to be solely Council funded, is a Mayoral funded provider.

In closing, I want to reiterate that this Administration has always made a commitment to provide sufficient funding for those without the means to retain their own counsel to receive high-level representation. Even in these difficult financial times, when every agency is being asked to make cuts across the board, we are happy to report we have been able to keep indigent defense spending at last year's levels. As we go forward, we will continue to ensure New York City has a strong indigent defense system. We look forward to working with the Council to that end.

I'll be happy to take your questions.

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 12, 2009

Good day, Chairman Vacca, Chairman Weprin and Council Members. I am here today to speak to you about the Department of Correction's fiscal year 2010 Executive Budget.

The operating budget for next year is \$993 million, and will support a staff of 8,842 uniform and 1,505 civilian staff. The Department's ten-year Capital Strategy totals \$1.37 billion including \$191 million planned in fiscal year 2010. The Department is working with its partners in the criminal justice system on innovative initiatives that are expected to reduce our inmate population by about 500, bringing our average daily inmate population down to 13,000. This budget continues our commitment to reduce the size of the jail system, as that is the best way to reduce the cost of incarceration.

When I testified in March, I told you that the budgetary choices we have made over the past several years, as well as the excellent work of our staff, have undoubtedly led to safer jails. Our number one priority is always to keep the jails safe, to prevent violence, and to prevent escapes.

This budget preserves the improvements that we have made in jail safety and our commitment to discharge planning. The budget also recognizes that we can't cut costs without reducing our workload, and the only way to reduce workload is to reduce the number of people housed in our city jails. This requires us all to reexamine the criminal justice system and to make it more rational and more efficient.

The initiatives we put forth in the January Plan are expected to reduce the average daily population in the City jails by a total of 500-600 inmates per day. Those initiatives require the City to:

- implement a new Release Under Supervision program;
- reduce the conviction to sentencing time for newly sentenced felons bound for State prison; and
- expand the bail-expediting program.

The Criminal Justice Coordinator's Office is leading these efforts.

As you may recall, the January Plan also assumed two proposals that require approval of the Board of Correction. The first was to lengthen the recreation period from an hour to an hour-and-a-half but to offer recreation five days per week instead of seven. The other was to reduce our visit schedule without decreasing the number of opportunities each week that a person in jail can visit with his or her loved one. We have requested the

necessary variances to implement these proposals, and the Board of Correction is now reviewing these requests.

The Executive Budget includes three additional initiatives to reduce costs. First, our budget includes savings resulting from a reduction of 72 civilian positions through attrition. The reduction will not prevent us from hiring staff that are needed for reasons of health or safety, trades titles needed for the maintenance and upkeep of our physical plant, or the new positions needed to complete civilianization efforts assumed in previous budget cycles. However, this cut will mean that very few managerial, administrative or clerical employees will be replaced as they leave the agency. Losing these 72 positions on top of the 306 managerial and support positions that have been eliminated over the last 18 months will diminish our managerial, analytic and support capacity.

We re-examined our dietary practices and determined that we can decrease bread production to save the city \$400,000. Currently, we bake enough wheat bread to provide an average of four slices of bread per person per meal (or 12 slices of bread each day). We will now cut bread production by one-third and make available an average of 8 slices of bread a day. This change is in addition to an earlier change in which we began providing an additional fruit or vegetable serving each day. These changes are consistent with dietary guidelines and will have a favorable impact on inmate health and nutrition. DOC will continue to prepare meals that meet all of the USDA recommended dietary allowances. This menu change will reduce the calories and carbohydrates served each day and will lower sodium intake.

Like other city agencies, the Department of Correction is also reducing its non-emergency vehicle fleet. This will save \$226,000 in vehicle replacement costs in FY 2010 and on-going maintenance costs in the out-years.

Even as we try to reduce workload and civilian staffing devoted to management and administration, we will also take on a new function. Beginning in fiscal year 2010, we will staff the pre-arraignment holding cells in the Bronx Criminal court and provide additional court escorts in the Bronx Hall of Justice. The Police Department now performs this function; however, these duties will be transferred to the Department of Correction, which already performs these duties in Manhattan and Queens.

We have reduced our capital budget by 30 percent over the next 10 years. Despite this \$567 million reduction, we remain committed to our plans to:

- build an addition to the Brooklyn House of Detention,
- build a new facility in the Bronx
- convert our steam plant on Rikers island to a cogeneration facility
- make fire safety upgrades in our jails, and
- invest in our basic security and infrastructure needs.

With the 30% capital reduction, we will have to be very careful and prudent about maintaining our facilities and infrastructure and spending our capital dollars.

Our capacity reduction plan, which will **reduce the City's total jail capacity by 3,000 beds and will reduce our Rikers Island capacity by 4,000 beds**, remains my top priority in the capital budget. To maintain Constitutional conditions in the jails, we must tear down the wooden structures and plastic tents that we continue to rely on. We have talked about replacing them for the last 15 years; and it can no longer be put off.

This plan will **not** replace all of the beds that we demolish; we must replace some of them. Not building is not an option. The only question is where we build the replacement jail space we need.

Building that capacity in the boroughs is the right thing to do. As I have said so many times since we first discussed our capacity reduction plan years ago, jails belong close to courts, close to families, close to attorneys and close to the communities.

Building the jails in the boroughs also makes economic sense. New borough jails will be cheaper to build and cheaper to operate than new jails on Rikers Island. This analysis is available for public view on the Department's web site.

(http://www.nyc.gov/html/doc/html/contact/DOC_reply_to_Yassky_6-23-08.pdf)

Thank you for your time today, Council Members. I would once again urge you all to come out to Rikers Island to see for yourself the challenges we face, the progress we have made, and the reasons that our borough plan is so important.

I will answer any questions that you may have.

**TESTIMONY BEFORE THE
NEW YORK CITY COUNCIL
COMMITTEE ON FIRE AND CRIMINAL JUSTICE**

Legal
Services NYC

MAY 12, 2009

My name is Andrew Scherer and I am the Executive Director and President of Legal Services NYC, the largest provider of free civil legal help for low-income persons in the United States.

I want to thank the City Council for supporting us in our efforts to provide civil legal services to the poor through our network of legal services offices located in every borough of the City. Our partnership with the Council is long-standing and I am proud of our history over the past two decades of working together to help thousands of people defend their legal rights in civil cases, empower themselves, become self-sufficient, and live with dignity. **However, in FY 2009 civil legal services took a hard hit when the Council was able to restore only half of Mayor Bloomberg's cuts to civil legal services funding in the City budget.** In fact one program, the Earned Income Tax credit (EITC) Legal Assistance Project was *completely* defunded. The loss of this program reduced funding to represent 740 households denied the tax credit they were entitled to receive, a credit which, in the current economic downturn, is desperately needed in the low-income communities we serve.

For FY2010 we urge the Council to restore the following critical civil legal services programs to their FY2008 levels of funding:

- ***The City-Wide Civil Legal Services Program, from \$1.5 million back to \$3.676 million;***
- ***The Keeping Families Together Program, from \$300,000 back to \$500,000;***

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Andrew Scherer, Executive Director & President
Fern Schair, Board Chair

- *The Supplemental Security Income (SSI)/Unemployment Insurance (UI) Advocacy Project, from \$1.3 million back to \$2.5 million; and*
- *To also reinstate the totally eliminated EITC Legal Assistance Project at its original level of \$765,000.*

Low-income people suffer the most acutely from the current economic crisis and these programs are needed now more than ever.

City-Wide Civil Legal Services

- This Citywide program provides civil legal services, community legal education activities, and hotlines in order to help disabled persons, domestic violence victims and persons with HIV. The program also allows our local offices to work with Council staff to resolve constituents' legal problems.

Keeping Families Together

- This program keeps children safe at home by representing the natural parents in Family Court neglect proceedings, permanency planning, and termination of parental rights cases.
- The average stay for a child in foster care is 4.1 years. We reunite parents and children in less than 8 months.

Supplemental Security Income (SSI)/Unemployment Insurance (UI) Advocacy Project

- This program provides residents with legal representation when appealing denials of disability and Unemployment Insurance benefits.
- Obtaining UI for these individuals and families **saves the City thousands of dollars. UI benefits cost the City nothing**; they are paid from a special fund created through payroll taxes. Thus, for each welfare-eligible person enabled to get UI, the City saves not only its 25% portion of cash public assistance but also Medicaid and administrative costs.
- Obtaining SSI for the scores of adults and children denied it **saves the City millions of dollars.** In 2004, a \$2.5 million allocation to Legal Services NYC and Legal Aid saved the City over \$6.5 million in averted public assistance and Medicaid costs.

Earned Income Tax Credit (EITC) Legal Assistance Project

- Families helped by Legal Services NYC 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 has not received the credit, and information about eligibility and referral services for those clients who need help applying for EITC

* * * *

New York City is facing a projected loss of 294,000 jobs by the summer of 2010, a significant decrease of affordable housing (with a loss of 17,000 rent-stabilized apartments from 2005 to 2008), and a continued increase in foreclosure filings. Low-income New Yorkers are suffering greatly beneath these grim numbers and statistics, and legal services provide – for thousands of vulnerable New Yorkers every day – a lifeline for basic survival.

We are enormously grateful to the Council for supporting civil legal assistance for the poor, and ask you to restore and protect these important programs. Thank you, once again, for your unwavering support.

Andrew Scherer
Executive Director and President
Legal Services NYC



CIVIL LEGAL SERVICES FUNDING MUST BE SUSTAINED!

LEGAL SERVICES NYC AND LEGAL AID SOCIETY CITY-WIDE PROGRAMS CUT IN LAST YEAR'S BUDGET:

- The **City-wide Civil Legal Services Program** enables us to provide legal assistance for disabled persons, persons with HIV and others for whom we have little to no additional funding. This program also funds community legal education activities, hotlines and the like.

*A 59% **reduction** in funding from \$3.676 million in FY2008 to \$1.5 million in FY2009 resulted in 1822 fewer households served this year.*

- Through the **Unemployment Insurance/Supplemental Security Income (UI/SSI) Advocacy Program** we provide New Yorkers with legal representation in appeals of denials of disability and Unemployment Insurance benefits.

*A 48% **reduction** in funding from \$2.5 million in FY2008 to \$1.3 million in FY2009 resulted in 1241 fewer families served this year.*

- The **HPD Anti-Eviction Program** funds our work to prevent homelessness and improve housing conditions for at-risk individuals, seniors and families.

*A 25% **reduction** in funding from \$3 million in FY2008 to \$2.25 million in FY2009 resulted in 1900 fewer "units" of service (including full case representations, trainings, outreach sessions, and tenant association meetings) this year.*

- The **Keeping Families Together Program** keeps children safe at home through representation of natural parents in Family Court neglect proceedings, permanency planning, and termination of parental rights cases.

*A 40% **reduction** in funding from \$500,000 in FY2008 to \$300,000 in FY2009 resulted in 137 fewer families served this year.*

- Finally, the **Earned Income Tax Credit (EITC) Legal Assistance Project** was *completely defunded*. Through this program, we represented EITC-eligible families that had been denied the tax credit they were entitled to.

*Because the \$765,000 in funding from FY2008 was **eliminated** in FY2009, 740 households were not served.*

Assisted by the above Council-sponsored Initiatives, low-income New Yorkers have been able to access benefits for themselves and their families. They have in turn reinvested in the economies of the communities in which they live. These programs also save the City money in homeless shelter costs, foster care costs and other expenses.

We ask the Council to RESTORE these PROGRAMS to their FY2008 FUNDING LEVELS.

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: Andrew Scherer 646-442-3606; Edwina Martin 646-442-3586; Vinny Montalbano 212-587-0587

**Support the FULL RESTORATION of
Civil Legal Services Funding to FY2008 Funding Levels for:**

Citywide Civil Legal Services

HPD Anti-Eviction Programs

SSI/UI Advocacy Programs

Keeping Families Together

Earned Income Tax Credit Legal Assistance Project

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	718-934-2989
	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	646-442-3100
	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

LEGAL SERVICES STAFF ASSOCIATION

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TESTIMONY BEFORE THE CITY COUNCIL FIRE AND CRIMINAL JUSTICE SERVICES COMMITTEE MAY 12, 2009

I am Gibb Surette, President of the Legal Services Staff Association, a unit of the National Organization of Legal Services Workers, Local 2320 of the UAW. We are some 270 lawyers, paralegals, secretaries, receptionists, social workers, process servers, intake officers and other staff employees at Legal Services NYC and at MFY Legal Services. Our local also represents the frontline workers at Housing Conservation Coordinators, Goddard Riverside Westside SRO Project and the Citywide Task Force on Housing Court.

Like the attorney members of our sister local, 2325, and the Legal Aid support staff represented by SEIU 1199, our members are dedicated social first responders. We address the most emergent needs of New York's poorest and most vulnerable citizens when all else fails.

Our work is essential, and is more badly needed by more New Yorkers in hard economic times like these. Moreover, we are effective for our clients, and in numerous ways, both short and long term we are cost effective for the

city. Our effectiveness and our efficiency owe much to the sacrifice and dedication of our members, and to the hard-fought contracts that make their careers viable.

The council has often heard these points, and the particular arguments and examples that support them. You have appreciated their truth and importance and embraced them. Time and again, when the executive has been indifferent or hostile, the council has saved our services to the poor from devastation. By last year, we had been nearly restored to 1994 funding levels.

Last year, however, our programs and our clients were made to suffer. Matters were made worse by the fact that the grants hardest hit were, for the most part, the general funds that best allow programs to respond to shifting and growing client needs.

Most disturbingly, unionized programs—especially those with the longest track records and greatest economies of scale—were targeted for the heaviest cuts, not just absolutely but proportionately (50% overall and 59% for general funds). Many whom we count as friends felt compelled to concur in this result.

Layoffs and threats of layoffs, service reductions, and dislocation of staff from areas of hard-won expertise have been among the results.

Council members have differed as to just how and why this occurred. What is more important is a consensus that it cannot recur.

The UAW opposes any further cuts to these unionized programs, and we support their requests for full restoration to FY2008 levels. If full

restoration for all is not to be, we urge you. to restore funding to unionized programs proportionate to the amounts they were cut last year.

Thank you.

GIBB SURETTE
President, Legal Services Staff Assn.



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 FY2010

by

**RICK JONES
EXECUTIVE DIRECTOR**

May 12, 2009

Testimony of Rick Jones

Introduction

I am Rick Jones, Executive Director of the Neighborhood Defender Service (NDS), a community-based defender office that provides high-quality legal services to residents of Upper Manhattan. NDS created 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 fourteen 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 FY2010. Specifically, **NDS seeks restoration of the \$3.25 million in funding received for fiscal years 2006 – 2008.**

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 34 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. Studies suggest that as many as 40% of the searches conducted upon citizens in Upper Manhattan are illegal. 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 several 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.

Youth Law Project: Children and young adults are both the most hopeful segment of our population and are disparately targeted by the criminal justice system. In order to address this issue, our Youth Law Project provides the benefits of NDS's multi-disciplinary, team-based representation to those age 7 through 18 who are criminally accused, whether they are prosecuted as adults in Supreme Court or as delinquents in Family Court. We reach into the community to partner with law schools, social service agencies, educational advocates, mental health providers and sports activists.

Immigrant Defense: On April 1, 2009, NDS became the first public defender office in the nation to implement the Immigrant Defense Project's Public Defender Immigration Service Plan Model Protocols. The implementation of this plan will dramatically improve the services that we can provide to our clients. This plan will provide for the timely delivery of accurate advice regarding the immigration consequences of contemplated dispositions in criminal cases, and will also allow NDS to provide direct immigration services to many of our clients. At a time when immigration consequences are escalating, not only in serious cases but also in cases where there are non-criminal dispositions, we believe that this plan is vital to any defender office, but particularly to NDS where we strive to provide high-quality, holistic services to our clients.

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 FY2008, NDS represented over 4,000 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 150 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 holistic approach and continued social service involvement with clients even after a case is closed are unique features not accounted for in the Criminal Justice Coordinator's cost-per-case analysis. No other public defender office is able to leverage its government funding as effectively as NDS. **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 fiscal years 2006-2008.**

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 4,000 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 in FY2010.

Conclusion

For these reasons we appreciate your help in restoring our FY2008 appropriation of \$3.25 million dollars.

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 the Center for Appellate Litigation

before the

**New York City Council
Committee on Fire and Criminal Justice Services**

Re:

Proposed Executive Budget for FY2010

by

Robert S. Dean, Attorney-in-Charge
Center for Appellate Litigation
74 Trinity Place - 11th Floor
New York, NY 10006
www.appellate-litigation.org

May 12, 2009

I. Introduction to CAL

The Center for Appellate Litigation (“CAL”) is a New York not-for-profit corporation now in its 12th year of providing outstanding appellate representation to indigent criminal defendants. During that time, it has represented indigent criminal defendants in appeals and post-conviction proceedings in matters assigned to it by the Appellate Division, First Department, pursuant to a contract with New York City.

CAL not only provides high quality representation, but is highly cost-effective. Currently, CAL takes in 340 case assignments annually from the First Department. Our total contractual budget is \$3,399,320. The cost to the taxpayers per assignment is thus \$9,998. CAL’s staff consists of 20 attorneys and 5 support staff.

For more information see our website at www.appellate-litigation.org.

II. Specific Council Funding Request

CAL’s Council funding request of \$20,000 is for our Parole Advocacy/Prisoner Re-entry Project, which assists CAL clients and non-clients in facilitating their release from prison and re-entry into society.

For FY 2009, CAL received a grant from the law firm of Kirkland & Ellis to fund this program. For FY 2010, we have received a grant from Columbia University to fund part of this program, but it is not enough to cover the costs for the entire fiscal year. Notably, by lowering the rate of recidivism, this program actually saves the City money.

A detailed description of this project starts at page 2 of this written testimony, and our previously-submitted formal proposal is attached as Exhibit A.

III. Quality of Representation on Appeal and in Post-Conviction Proceedings

Appeals

It is CAL’s paramount goal to provide high quality representation to indigent defendants. We do so by presenting the courts with persuasively argued briefs, motions and oral arguments, and by providing a wide range of representation to our clients. Indeed, every one of the First Department’s Indigent Defense Organization Oversight Committee’s annual reports has concluded that CAL provides “quality” representation to its clients.

Not only is our written work of high quality, but we also provide a broad range of representation to our clients and enjoy a high success rate. If unsuccessful in the intermediate appellate courts, we will seek to obtain relief in the State's highest court, the New York Court of Appeals.

"Justice First" Project & Reinvestigations

Traditional appellate practice is sometimes inadequate to address the plight of the wrongfully convicted since new evidence cannot serve as the basis for a direct appeal. To address this problem, in 2002 the CAL developed "Justice First – The Collateral Relief Project" a program designed to identify possible wrongful convictions and aggressively pursue claims of actual innocence through collateral litigation.

The mission of Justice First is to harness the expertise of those CAL attorneys who have successfully worked on off-record investigations. Through a unique screening process, cases that warrant additional factual investigation are quickly identified so that effective investigation strategies can be developed and implemented. Every case to which the CAL is assigned is screened to determine whether additional off-record investigation is warranted. Cases referred to the project involve issues such as erroneous eyewitness identifications, unreliable confessions, ineffective assistance of counsel and prosecutorial misconduct. Since its inception seven years ago, the Project has enjoyed impressive results. (Results in specific cases may be accessed on our website, www.appellate-litigation.org.) Claudia S. Trupp, the Project's Director, was a recipient of NYCLA's 2007 Public Service Award. She has worked in both the public and private sectors and has both civil and criminal appellate and trial experience.

Parole Advocacy/Prisoner Re-entry Project

In 2007, CAL started the Parole Advocacy & Prisoner Reentry Program to provide clients with parole advocacy and reentry services in order to help them live as productive, law-abiding members of society after their release from prison. The Program is run by the Director of CAL's Justice First Project, Claudia S. Trupp, and staffed by a full-time civil attorney and two social work interns.

Clients eligible for discretionary parole release are offered parole advocacy services. Lawyers and law student interns gather the client's prison records, plans for reentry, and letters of support from family and friends. These materials form the basis for a comprehensive parole advocacy letter that is submitted to the Chairman and Commissioners of Parole prior to the parole hearing. For those successful in gaining parole release, the letter is a template for their reentry plan, and the client is offered reentry services.

The Program begins working with clients to prepare for reentry months in advance of their release from prison when possible, often, though not always, through parole advocacy. Before release, social work interns assess the client's reentry needs, researching and providing appropriate referral information, especially to housing and employment training resources. They also advocate for clients to receive reentry services while still incarcerated by following up with facility parole officers and other staff at the correctional facilities who are responsible for reentry planning.

After release, participants are in regular contact with the lawyer and social work interns, who provide support, guidance, referrals, and follow up in order to address clients' civil legal and social needs. Clients commonly seek help in areas such as (1) accessing housing, employment, and benefits; (2) pursuing educational and career goals; (3) securing identification and vital documents; and (4) remaining law-abiding and parole-compliant. Interns also help clients navigate the complicated maze of bureaucracies and applications they encounter when released by serving a case management function. A typical Reentry client interacts with at least four or five different bureaucracies in the weeks and months after release. Clients are also offered a range of civil legal services, including representation at fair hearings challenging housing and employment denials based on conviction history, assistance applying for certificates demonstrating rehabilitation, and advocacy in navigating long lists of parole conditions. Regular client meetings allow CAL's reentry team to assess needs on an ongoing basis in a non-judgmental, safe space for clients to discuss problems, frustrations, concerns, and successes.

CAL's Parole Advocacy and Prisoner re-entry services are provided to not only the clients whose cases we handle on appeal, but also a significant number of non-CAL clients who we represent at Drug Law Reform resentencings and PRS resentencings, at the request of the trial-level courts.

Drug Law Reform & PRS Resentencings

Recently, as part of Rockefeller drug law reform, the State Legislature passed several laws allowing defendants convicted of Class A and Class B narcotics felonies to seek resentence in trial court and obtain a lower sentence. Hundreds of inmates convicted in New York City are eligible for resentence and are entitled to lawyers to handle the proceedings. Although the State provided no extra out-of-pocket funding to the City to pay for such legal representation, CAL has handled and continues to handle many such motions at the City's request, including cases other providers cannot handle. Additionally, at the City's request, we have handled many Post-Release Supervision resentencings, also at no extra out-of-pocket expense to the City.

Law School Clinical Programs

CAL conducts criminal appeals clinics at Columbia and Brooklyn Law Schools. CAL lawyers oversee students as they each draft an appellate brief on behalf of clients of the organization. Closely supervised by the CAL attorneys, the students review the trial records, identify issues, and research and draft an appellant's brief.

Law Firm Volunteer Programs

CAL and the law firms of Chadbourne & Parke LLP, and Milbank, Tweed, Hadley, & McCloy LLP, maintain a pro bono volunteer program. Under the supervision of a CAL attorney and a Pro Bono Coordinator at each firm, associates brief and argue cases in the Appellate Division, First Department. Under CAL's aegis, each associate plans briefing strategies. The associate writes the brief under close supervision, and later orally argues the case. This program provides associates with an opportunity to brief and argue cases of their own, and CAL attorneys with an opportunity to share their expertise with lawyers who might never otherwise be exposed to the practice of criminal law for indigent defendants.

Federal Litigation Unit

Federal habeas litigation involves a complex web of constitutional and statutory hurdles. Yet the writ of habeas corpus remains a vital check on the state's power to incarcerate individuals in violation of their constitutional rights. CAL is committed to protecting our clients from unconstitutional state action and regularly seeks writs in the United States District Court and the United States Court of Appeals. In order to facilitate that habeas practice, CAL has created a Federal Litigation Unit within the office. Overseen by two experienced litigators, the unit enables CAL attorneys to effectively litigate these highly complex cases. The unit does so by maintaining a detailed practice manual, monitoring all federal habeas litigation in those courts, regularly conducting continuing legal education classes on habeas practice, and assisting CAL attorneys in all aspects of such litigation.

★ ★ ★

I thank the City Council for this opportunity to testify before it, and will be happy to answer any questions.

Exhibit A



New York City Council

FY 2010 ORGANIZATION QUALIFICATION FORM

NOTE: This application must be completed by all organizations requesting funding from the City Council.
Please Return to:

New York City Council Finance Division
250 Broadway, 15th Floor
New York, NY 10007
Attn: Scott Crowley

Section A: Organization Information

Legal Name of Organization Center for Appellate LitigationFederal Identification # (FEIN) 11-3360488 Amount Requested: \$20,000Address 74 Trinity Place, 11th Floor City New York State NY Zip 10006Contact Person: Robert S. Dean Phone: 212-577-2523 Email: rdean@cfa1.orgSize of Organization: The organization's budget for its current fiscal year is \$ 9,399,320 TextPercentage of Organization's Budget from City Council Funding: 0% % of the Organization's budget in its current fiscal year comes from funding initiated by the City Council (local, speaker discretionary or Council initiative funding)

Service Area: Indicate the Service area for which funding is requested by checking the appropriate box below:

- | | | |
|---|--------------------------------|--|
| <input type="checkbox"/> DYCD (Youth) | <input type="checkbox"/> SBS | <input type="checkbox"/> Other <u> </u> |
| <input type="checkbox"/> DYCD (Community Development) | <input type="checkbox"/> DPR | |
| <input type="checkbox"/> DFTA | <input type="checkbox"/> CUNY | |
| <input type="checkbox"/> DOE | <input type="checkbox"/> DHS | |
| <input type="checkbox"/> HPD | <input type="checkbox"/> HRA | |
| <input type="checkbox"/> DOHMH | <input type="checkbox"/> ACS | |
| <input checked="" type="checkbox"/> CJC | <input type="checkbox"/> DSNY | |
| <input type="checkbox"/> NYCHA | <input type="checkbox"/> FDNY | |
| <input type="checkbox"/> DCA | <input type="checkbox"/> DOITT | |

Did you apply for Pre-Qualification in FY 09? Yes ☐ No ☒Was your application approved: Yes ☐ No ☐ (If no, please skip to Section B)If yes, Did anything substantive change from your FY 09 application: Yes ☐ No ☐

If No, please skip to Section E. If Yes, please continue with Section B.

Section B: Charitable Status

Is the organization a registered Charity in New York State? Yes ☒ No ☐ Registration #: 060903

(Please attach signature and date page of filing)

If "no", is the organization exempt from registering as a Charity in New York State? Yes ☐ No ☐

If the organization is exempt from registering as a Charity with New York State, you must complete an Exemption Certification form to be eligible for funding.

If you cannot provide a charitable registration number and you do not qualify for an exemption, the organization is not eligible for funding.

Section C: Investigations, Inquiries, and Audits

Is the organization now, or has the organization been in the last 3 years, the subject of an investigation, inquiry, or audit by a local, state or federal government entity? Yes ☐ No ☒

If "yes" describe the nature of the investigation, inquiry, or audit

If "yes", has the investigation, inquiry or audit been concluded? Yes ☐ No ☐

If "yes," what are the findings or conclusions (including any sanctions or charges) from the investigation, inquiry or audit? (include any relevant documents)

Section D: Evaluations

Has the organization received a performance evaluation in the last 3 years from a City agency, and if so what was the overall evaluation grade? (see instructions)

FY 2009	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Agency	Overall Grade: V <input type="checkbox"/>	S <input type="checkbox"/>	I <input type="checkbox"/>	U <input type="checkbox"/>
FY 2008	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Agency	Overall Grade: V <input type="checkbox"/>	S <input type="checkbox"/>	I <input type="checkbox"/>	U <input type="checkbox"/>
FY 2007	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Agency	Overall Grade: V <input type="checkbox"/>	S <input type="checkbox"/>	I <input type="checkbox"/>	U <input type="checkbox"/>

Section E: Purpose and Use of Funds

What is the organization's mission?

CAJ represents criminal defendants on appeal in court-assigned cases. As part of our commitment to holistic representation, the Parole Advocacy & Reentry Program helps clients in housing, employment, and other areas before and after release from prison.

Description of Purpose of Funds: (include description of program; money spent on program last year, if any; target populations, including geographic areas of program services; number or persons served last year; number of persons expected to be served this year. Feel free to attach additional documents.)

Please see attachment A.

Who is the population being served and what service(s) are you providing to them?

Please see attachment B.

Is your program open to all eligible applicants – for example, if you have a program for seniors, are all seniors in the area eligible for participation?

Eligible applicants are CAL clients with upcoming (within the next year) dates for parole hearings or release from prison. Clients already released or never incarcerated are also eligible.

How do you determine who will receive the services you are offering?

All applicants (i.e. CAL appeals and resentencing clients) can receive the services offered by the Parole Advocacy and Prisoner Reentry Program.

Are there any criteria by which you determine eligibility for services or membership? ☒ Yes ☐ No
If Yes, please describe:

To be eligible, individuals must be represented by CAL in either their criminal appeal or a resentencing matter (Drug Law Reform & Post-Release Supervision cases). CAL receives criminal appeals through assignment by the Appellate Division, 1st Dept.

If your organization is a school, what percentage of participants, out of the total participants in the program, are not students at the school? How many participants does your program serve, and what number are not students at the school?

N/A

How are you advertising to the population you are aiming to serve?

Advertising is entirely through personal outreach. Program staff send personalized letters to incarcerated clients who have upcoming parole hearings or release dates. Clients already released are contacted by phone and letter.

Please attach a copy of a brochure and/or recent advertisement or promotional materials you used to promote the services you are providing. Please indicate below how and where the brochure or materials were distributed and/or where the advertisement was run.

Please see attachment C. The attached brochure is mailed to CAL clients who are within six months of their likely release from prison. It is also distributed to clients who visit the office after their release or on request.

Required only if amount of expense request exceeds \$25,000. What experience does the organization have in providing the services and what staff will be responsible for providing services? (include number of staff, function of staff, professional or functional title of staff, role of different types of staff in service provision)

N/A

Section F: Other Government Funding Sources

Have you received City, State or Federal funds this year or last fiscal year? Please specify below (include agency providing funding and specify if City funding was Council initiated and identify fiscal conduit with contact information if a fiscal conduit was used for City funding):

All current funding is from a contract with the City's Criminal Justice Coordinator via the procurement process. PIN number 00209DMPS203.

Non-Discretionary City Contracts: Please provide the contract number and agency for all city contracts to which your organization is currently a party for FY 2009 other than City Council or Borough President Discretionary Contracts.

Criminal Justice Coordinator, PIN number 00209DMPS203.

FY 2010 ORGANIZATION QUALIFICATION FORM

Section G: Disclosure & Compliance Certification

A materially false statement willfully or fraudulently made in connection with this certification, and/or the failure to conduct appropriate due diligence in verifying the information that is the subject matter of this certification, may result in rendering the Vendor non-responsible for the purpose of contract award, and a materially false statement willfully or fraudulently made in connection with this certification may subject the person making the false statement to criminal charges.

No Conflict of Interest: Except as otherwise fully disclosed below (attach additional pages as needed), the organization affirms, to the best of its knowledge, information and belief, that no City Elected Official, nor any person associated with any City Elected Official, is an employee, Director or Trustee, Officer or consultant to/of, or has any financial interest, direct or indirect, in the organization, or has received or will receive any financial benefit, directly or indirectly, from the organization or from this funding. For purposes of this certification, "associated" persons include: a spouse, domestic partner, child, parent or sibling of a City Elected Official; a person with whom a City Elected Official has a business or other financial relationship, including but not limited to employees of a City Elected Official and/or a spouse, domestic partner, child, parent or sibling of such employees; and each firm in which a City Elected Official has a present or potential interest.

NOTE: The organization is encouraged to disclose any connection to a City Elected Official that could create an appearance of a conflict of interest, regardless of whether it meets the listed definitions.

Name of Employee & Position in Organization: N/A

Name of Council Member or Staff Member:
Relationship:

Name of Employee & Position in Organization:

Name of Council Member or Staff Member:
Relationship:

Attach additional sheets as needed.

Incorporation:

The Organization is incorporated under the NYS Not-for-Profit Corp. Law (check one)

☒ Yes ☐ No (explain below). Explain corporate status if not incorporated under NYS Not-for-Profit Corp. Law.

NOTE: Information concerning the organization's corporate status will be used by the City to verify compliance with applicable requirements for charities registration, payment of taxes and other legal mandates and Funding will not be allocated and a contract will not be entered into unless the organization is in compliance.

Center for Appellate Litigation

Name of Organization

74 Trinity Place, 11th Floor

Organization's Address

New York, NY 10027

City, State, Zip Code

Robert S. Dean

Signature of Authorized Official/Date
Print Name/Title of Signer

Sworn to before me this 17th day of MAY, 2009

Stacey A. Simon
Notary Public, State of
No. 41-490911
Qualified in Queens
Commission Expires October 19, 2009

Attachment A

Section E: Purpose and Use of Funds

Description of Purpose of Funds:

CAL handles appeals and post-conviction proceedings for criminal defendants in cases assigned to it by the Appellate Division, First Department, as well as Drug Law Reform and Post-Release Supervision (PRS) resentencing cases. CAL provides persuasive written and oral advocacy that is equaled by its commitment to evolving and holistic approaches to appellate representation. To this end, CAL's Parole Advocacy and Prisoner Reentry Program provides clients with parole advocacy and reentry services to help them live as productive, law-abiding members of society after their release from prison.

The Program begins preparing clients for reentry while still incarcerated when possible. After release, participants are in regular contact with the Program's lawyer and social work interns, who provide support, guidance, referrals, and follow up in order to address their civil legal and social needs in areas such as (1) accessing housing, employment, and benefits; (2) pursuing educational and career goals; and (3) remaining law-abiding and parole-compliant.

Clients eligible for discretionary parole release are also offered the Program's parole advocacy services. Lawyers and interns gather the client's prison records, plans for reentry, and letters of support from family and friends. These materials form the basis for a comprehensive parole advocacy letter that is submitted to the Chairman and Commissioners of parole prior to the parole hearing. For those successful in gaining parole release, the letter is a template for their reentry plan, and the client is offered reentry services.

Money spent on program last year

Personnel Costs:	\$55,000	One full-time lawyer; one part-time social work consultant
Program Costs:	\$3,000	Travel to visit incarcerated clients; site visits; Metrocards to enable clients to attend appointments at CAL

Target Populations

The Program targets recently and soon to be released individuals who come to CAL either through assignment of their direct appeal or for Drug Law Reform and PRS resentencing matters.

Numbers Served

	<i>Year 1</i> <i>7/1/07 - 6/30/08</i>	<i>Year 2 (estimated)</i> <i>7/1/08 - 6/30/09</i>	<i>Year 3 (anticipated)</i> <i>7/1/09 - 6/30/10</i>
Reentry Services	25	30	50*
Parole Advocacy Services	15 (estimated)	15	40*

*These projections represent increases over FY 09 and FY 08 because the Program will intake many clients eligible for resentencing and possible release under the recently passed Drug Law Reform Act. The Program will have assistance from volunteer attorneys.

Attachment B

Section E: Purpose and Use of Funds

Who is the population being served and what service(s) are you providing to them?

The Program targets CAL clients who may or will soon be leaving prison. Nearly all clients and their families live in New York City. Due to resource and mission constraints, participation in the Reentry Program is open to individuals represented by CAL in a criminal appeal and/or Drug Law Reform or PRS resentencing case. Parole advocacy and reentry services are provided both before and after they are released.

If the individual has an upcoming parole hearing, the Program provides parole advocacy services, described above. In addition for advocating for the client's parole release, this process also familiarizes clients with the scope of reentry services available to them, including those available through CAL, and helps them make progress in their own reentry planning.

Before release, social work interns provide clients with referrals to housing and employment training. Social work interns work to secure transitional or other temporary housing for clients so that, whenever possible, they are not released to a homeless shelter. As necessary, clients are referred to specialized housing, usually to provide the client with substance abuse and/or mental health services. The Reentry Program is also able to advocate for our clients to receive reentry services while still incarcerated by following up with facility parole officers and other staff at the correctional facilities who are responsible for reentry planning.

After release from prison, the Program provides team-based support to clients through regular meetings with social work interns and lawyers. These client meetings are the means through which CAL's reentry team assesses needs and provides legal assistance, social services, referrals, and a non-judgmental, safe space for clients to discuss problems, frustrations, concerns, and successes.

Center for Appellate Litigation
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Please call or write to schedule an
appointment.

Travel Directions:
From Manhattan or the Bronx: Take the (4) or (5) train to Wall Street, or the (1) to Rector.
From Brooklyn: Take the (A) train to Fulton then transfer to the (4) or (5) to Wall.
From Queens: Take the (R) or (W) train to Rector.

Mission Statement

The Center for Appellate Litigation is a 20-attorney not-for-profit law firm handling appeals and post-conviction proceedings on behalf of the indigent criminal defendants, in cases assigned to CAL by the Appellate Division, First Department. We are funded by New York City and do not accept payment from clients for our services. The office handles approximately 330 direct appeals assignments each year. While providing effective appellate advocacy is our core mission, CAL is committed to creating dynamic approaches to serve our clients. We search for new evidence outside the appellate record, help clients with issues relating to their conditions of confinement, petition for re-sentencing under the recently enacted drug law reforms, and partner with law schools and the private sector on a regular basis. Our ultimate goal is to serve each client's needs with professionalism and humanity.

CAL is only able to provide services to individuals whose cases are assigned to us by the Appellate Division, First Department.

The Reentry Program at The Center for Appellate Litigation

Are you currently incarcerated and approaching your release date? Or were you recently released from prison?

Are you thinking about what you will do when you are released?

Are you interested in housing and employment? Are you concerned about your health?

As a client of the Center for Appellate Litigation, you may be eligible for the Reentry Program.

At the Center for Appellate Litigation, we believe that breaking the cycle of recidivism is one promising way to shrink the prison population and improve the well-being of formerly incarcerated individuals, their families, and their communities.

The Reentry Program assists CAL clients with housing, employment, and mental and physical health needs once they leave prison walls. Program services include counseling and case management, helping you to identify and address your needs. We also provide appropriate referrals to mental health services, drug and alcohol treatment, vocational and educational services, housing, and employment readiness programs.

If you are still incarcerated ...

It is important for you to start thinking about and preparing for your reentry as early as possible. If you are still incarcerated, it is not too early to become involved in the Reentry Program! If you are a CAL client interested in the services described in this brochure, please write to us (Attn: Reentry Program) so we can begin planning for your release. Be sure to include your expected release date in your letter.

Employment

Finding a job is one of the biggest challenges individuals face when they leave prison. CAL's Reentry Program can help you formulate goals for your job search and provide referrals to organizations specializing in job training and employment for those reentering.

We may also be able to help you apply for a certificate of relief from disabilities or a certificate of good conduct, which if granted can help you by lifting bars to employment that are a result of your conviction.

Housing

Having a stable place to live is an important part of successful reentry. The Reentry Program can help you think about your housing options and find an appropriate place to live.