

**NEW YORK CITY COUNCIL
Fire and Criminal Justice Services Committee
Finance Committee**

**Executive Budget Fiscal Year 2014
Testimony of Fire Commissioner Salvatore Cassano
New York City Fire Department**

May 14, 2013

Introduction

Good afternoon Chairpersons Crowley and Recchia, and Council Members. Thank you for the opportunity to speak with you today about the Executive Budget for Fiscal Year 2014 for the New York City Fire Department. I am joined this afternoon by FDNY Chief of Department Edward Kilduff, First Deputy Commissioner Don Shacknai and Assistant Commissioner for Budget Steve Rush. Also here is Chief of Fire Operations James Esposito, Chief of EMS Operations, Abdo Nahmod, and other members of my senior staff.

Before turning to the budget, I wanted to first update the Committees on Firefighter hiring. The first class of Probationary Firefighters in nearly five years entered the Fire Academy in January and will be graduating this Friday. I am enormously proud of the success of this class -- all EMS promotees -- who spent 18 weeks at the Fire Academy. I am also extremely proud that this is the most diverse class in FDNY history: 40 percent of the graduates are people of color and five are women. And we expect our classes of new Firefighters during the next few years to be similarly diverse.

Turning to the budget, I can say that -- despite the budget cuts of the last several years -- we have had many achievements in the past 12 years, including record-low fire fatalities and the fastest response times in history despite an all-time high number of EMS incidents. As we look to the next fiscal year, however, we will again face budget challenges including the proposed closure of 20 fire companies. As you have heard me testify at previous budget hearings, we will have difficulty maintaining these performance levels if we close that many companies. Every community in the City will be affected. We hope that does not happen.

Fiscal Year 2014 Budget

Working with OMB, we do have several new needs that have been funded. As I mentioned, we have resumed hiring Firefighters after a four-and-a-half-year hiatus. As a result of the stepped-up hiring -- both Firefighters and EMS personnel -- additional PS and OTPS funding in the amount of \$1.2 million was needed in Human Resources and Health Services. Similarly, to address the increased demand for Firefighter uniforms and equipment, \$5.4 million in OTPS funding has been added for our Quartermaster to ramp up its operations.

The budget also includes \$400,000 PS funding for the long-term planning and maintenance of the Risk-Based Inspection System (RBIS). With RBIS, our fire companies are now able to focus their inspections on the highest risk buildings and management can monitor the timeliness and effectiveness of those inspections.

As I discussed with you at the budget hearing in March, we are also equipping all EMS ambulance crews with a mobile Electronic Patient Care Record (ePCR), an electronic tablet that transmits patient information to the receiving hospitals and to the on-duty FDNY physicians. In FY 13, \$1 million for expense and \$5.9 million in capital has been added to support this initiative. These funds will cover the cost of the mobile data terminals, training and other equipment and supplies. Citywide roll-out is expected before the end of this year.

We have \$1.3 million in funding approved to replace Firefighter safety equipment, including ropes, harnesses, descenders and face pieces that have reached the end of their useful lives.

The FDNY is also adding 24 new EMS positions to replace the six ambulance tours previously operated by Westchester Square Hospital in the Bronx. The cost of assuming these tours is \$1.2 million in expense in FY 14.

Revenue

Total EMS revenue in FY 14 is projected to be \$203.9 million, almost \$1 million more than FY 13 due to an increase in EMS tours, as I just mentioned.

We forecast an increase in Bureau of Fire Prevention revenue generated from the inspection of in-building radio communication systems, fire alarm systems and licensed places of public assembly.

Capital Budget

The Department continues to deal with capital funding constraints, but is facing no *new* reductions. The City has increased funding -- by more than \$100 million -- in the Health and Hospital Corporation's 10-year plan for the purchase of more ambulances. Over the next two fiscal years, we will procure 200 new ambulances.

Funding was also secured for the enhancement of our firehouse alert system, including nearly \$17.7 million in funding over the next four years beginning in FY 13.

Conclusion

We thank this Committee and the entire City Council for their ongoing support. I would be happy to take your questions at this time.

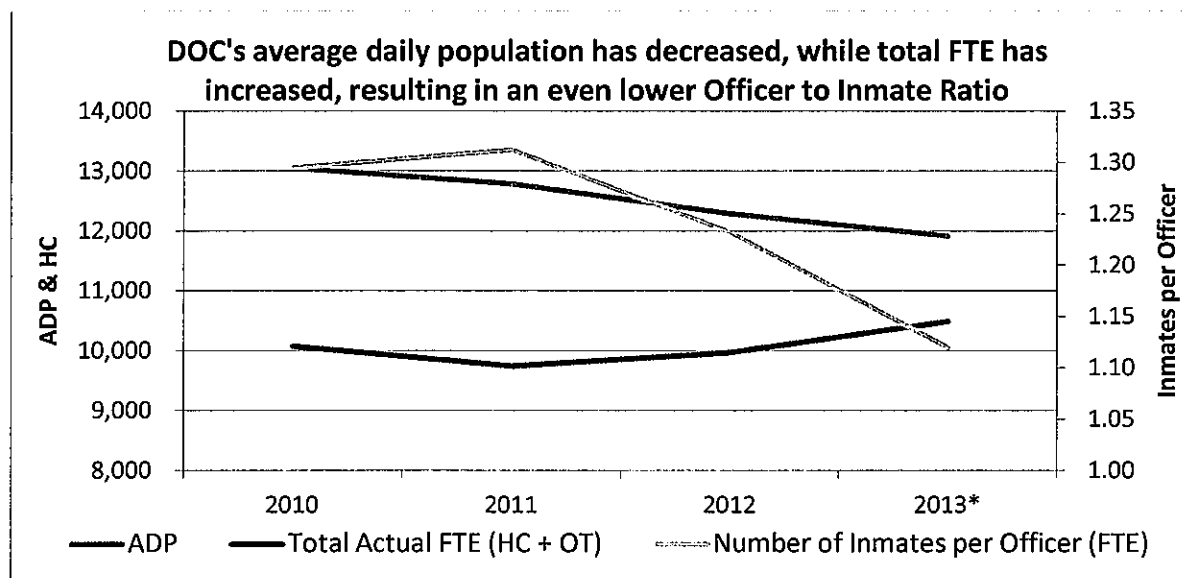
Statement
to the

New York City Council
Committee on Fire and Criminal Justice Services
Elizabeth Crowley, Chairperson
and
Committee on Finance
Domenic M. Recchia, Jr., Chairperson
by
Dr. Dora B. Schriro, Commissioner
NYC Department of Correction
May 14, 2013

Good afternoon, Chairpersons Crowley and Recchia and members of the Fire and Criminal Justice Services and Finance Committees. I am Dr. Dora Schriro, Commissioner of the New York City Department of Correction. I appreciate this opportunity to discuss the Mayor's Executive Budget for Fiscal Year 2014. Thank you.

DOC's Fiscal Year 2014 Executive Budget is \$1.07 billion, of which \$936 million¹ (88 percent) is allocated to Personal Services and \$129 million (12 percent) for Other-Than-Personal-Services. The Department's total authorized headcount for Fiscal Year 2014 is 10,440 FTE – 8,869 uniformed and 1,571 civilian staff – including 275 additional uniformed positions plus \$24 million for Correction Officers' salaries that was added in the November Plan. The FY2014 Executive Budget also includes an additional \$25 million in the current fiscal year (FY2013) to fund overtime expenditures.

The FY2014 Executive Budget reflects the Administration's steadfast commitment to allocate resources critical to safety. Despite PEGs taken over the past several years, as I reported to you in March, our uniformed headcount will show a net increase of 293² by FY2014, compared to the start of FY2011.



¹ About 89 percent of our uniformed staff is assigned to posts within the jails and courts and are directly involved in the custody of the population; another seven percent are allocated to transportation and central security posts; and the remaining four percent to other important support services such as central administration. Our civilian staff also performs a number of important functions in support of the agency. Nearly half of the civilian staff is devoted to three broad functions – facility maintenance (24 percent), food/nutritional services (15 percent), and occupational health and safety (3 percent). The remaining 58 percent perform necessary administrative, legal, financial, investigative, information technology, and programmatic functions.

² This includes 275 positions added during the FY 2014 November Plan and a net of 18 positions restored in the FY 2013 November Plan.

Supporting our staff

When I appeared before this Committee in March, I described our plan to keep pace with attrition by continuing to hire more officers, more often, increasing the number of staff filling posts on straight time up to our authorized capacity³. Our ability to hire uniformed personnel now on a continuous basis, consistent with the rate of anticipated resignations and retirements, effectively eliminates the surges in overtime spending that we used to experience when we had to secure OMB's approval before beginning each new class. The additional headcount of 293 in combination with the recently approved hiring schedule enables us to operate, on average, 110 more posts on straight time, just about 80 percent of the 136 posts that would otherwise be run on overtime. And, later this month, the next new class of over 300 including all of the 293 additional uniformed staff, will report to the Academy. This is significant. It means that we have caught up with hiring and can continue to keep pace with retirements and resignations. It means that on average, over the course of a year; we can continue to fill all vacancies right away and reduce overtime expenditures, which, along with other overtime reduction initiatives, will enable us to operate within budget starting in FY2015.

In addition, with our overtime control initiatives, we have reduced this year's overtime projection by \$8 million from \$163 million as I reported in March, to \$155 million. Recapping briefly, we accomplished these savings by assigning uniformed staff where the most critical security needs are; we have worked hard to ensure adequate scheduling of all staff to maintain a balanced schedule that does not create unnecessary overtime; we have conducted monthly training sessions and meetings with Wardens and Deputy Wardens of Administration to review and discuss overtime; and, in compliance with PEGs taken in recent years and to place as many officers behind the security gate as possible, we continued implementing civilianizations. The rest will be covered by additional resources provided in the Executive Budget⁴.

As a result of additional positions received, our aggressive hiring, and a decline in the average daily population, the staff to inmate ratio is further improved (from 1 CO: 1.34 inmates in 2008 to 1 CO: 1.23 inmates in FY2014). This is important because even though the average daily population has declined over the past few years (from nearly 14,000 in 2008 to less than 12,000 today), inmates in our custody have become increasingly 'jail-wise' and difficult to manage. The trends tell the story: The number of inmates with prior admissions to jail has increased from 7 to 9; the percent of population with prior jail stays has risen from 77 to 86 percent; and the average length of stay in detention continues upwards from 47 to 53 days. Over time, the percent of the population charged with a violent felony increased from 31 to 39 percent; the percent with a mental health diagnosis rose from 24 to 38 percent; and the percent with SRG affiliations has nearly doubled from 10 to 19 percent.

The Executive Budget includes new funding for projects to help our staff succeed in their duties in other ways. Over the next three fiscal years, \$2.3 million is provided for consultants to review, update, and consolidate the department's directives, rules and regulations into a comprehensive policy and procedure manual consistent with applicable laws and standards promulgated by both NYC Board of Correction and NYS Commission on Correction.

Investing in our Infrastructure

The implementation of fire alarm systems in each facility continues to progress. Installations are funded under the capital budget. Ongoing maintenance is incorporated into the operating budget; the Executive Budget

³ Over the past two years, since we received approval for our new hiring plan, we have graduated close to 1,500 probationary Correction Officers, more than all of the recruits we hired during the previous four fiscal years combined.

⁴ The FY2014 Executive Budget provides \$102 million for overtime for the current fiscal year (FY2013), including \$25 million in funding added in this plan. The remaining overtime expenditures are projected to be covered by surpluses in the personal services budget.

includes \$12.1 million from FY2013 through FY2017 and \$3.9 million annually thereafter for fire alarm system maintenance.

And as I reported in March, the Department will demolish the remaining 65 temporary modular units that are beyond their useful life in increments over the next several years⁵. The cost of this demolition, anticipated to be \$1.3 million in operating funds in FY2014, is fully funded in the Executive Budget⁶.

The Capital Budget

The Mayor's Executive Budget includes the FY2014 – FY2023 Ten-Year Capital Strategy of \$1.07 billion, funding critical to maintain existing facilities: \$154 million for fire safety; \$181 million for major infrastructure projects including heating, ventilation, plumbing, and other structural upgrades; \$65 million for IT infrastructure projects including \$7 million for the installation of additional cameras throughout our facilities, and \$25 million for critical security equipment and state-of-art radios and personal body alarms that will continue to enhance communications and further staff's safety and wellbeing.

In just a few months, we will open our interim Centralized Intake, temporary quarters from which we will be able to consolidate the activities of five intake facilities for adult males into one integrated operation, pending the opening of the new 1,500-bed Central Admissions facility in 2018. Centralizing intake processing will improve the operation of custody management overall by ensuring a high level of accuracy and reduced cost in the determination of each incoming inmate's needs and risks. The development of this battery of objective instruments, the recent recalibration of DOC's custody classification system, and adoption of an objective gang affiliation validation instrument affords the most comprehensive evaluation undertaken by DOC and supports other important efforts such as the Adolescent Behavior Learning Experience (ABLE) and the Individualized Corrections Achievement Network (I-CAN) which are now in place and the Court-based Intervention Resource Teams (CIRT) which will open this coming fall.

Also this fall we will break ground for a new 1,500-bed facility, the permanent central admissions center for all newly admitted adult males, and including a 225-bed infirmary and an expanded detoxification unit. During the first phase of the project, site preparation will begin and 20 of the aged modular structures will be demolished to make room for the new building. Combined with the funding provided in the department's operating budget, this capital project is its most significant undertaking towards modernization in many years. This project also includes an enlarged central storage facility that will be located adjacent to the Benjamin Ward Central Visit Building to improve storage and retrieval of inmate property.

Technology

DOC has dedicated many resources to upgrade its aging technology infrastructure and to develop new data systems to support core functions. Most significant is a new Jail Management System (JMS) that will replace its legacy Inmate Information System (IIS). The Executive Budget includes an additional \$5.5 million to fully fund

⁵ There are a total of 74 existing modular and sprung structures; 35 units have been vacated. We expect to demolish these vacated units starting this year, including 16 which will be demolished as we make way for the construction of the 1,500 bed central admissions facility on Rikers Island (another 4 modular structures on the same site are still occupied and will be demolished the following year, for a total of 20). All vacated structures will be demolished in FY2014. An additional 30 structures, currently in use as housing units, will be demolished by the time the new Rikers Island facility opens in FY2018. Until then, the 30 remaining modular structures will afford critical swing space while we complete important fire safety and sanitation projects. The only modular units that will remain in our inventory upon the completion of the demolitions will be nine solid steel structures.

⁶ Demolition of 17 modular and sprung structures will be accomplished with \$1.3 million in operating funds; the demolition of an additional 20 modular and sprung structures is funded through the capital budget as part of the site preparation for the new jail.

this project, bringing the total project budget from \$7.3 million to \$12.8 million. The JMS will provide real-time access to inmate information; manage admissions, assessments, movement, transportation, discharges, and provide real-time counts and tracking. The JMS will also seamlessly provide information to sister city agencies and service providers. It replaces several standalone databases, and will electronically capture many paper-based processes. The system is expected to be completed by the end of FY2014.

In addition, DOC's Real-time Correction Intelligence Center (RTCIC) Data Reporting Repository is expected to launch this September. This \$2.5 million project is funded through the Edward Byrne Memorial Competitive Grant Program as part of the American Recovery and Reinvestment Act⁷ (ARRA) stimulus package. RTCIC will identify, develop and publish the trends and patterns present in the available data to develop leading security risk indicators. Like the JMS, the program allows for enhanced information exchange between the Department and other law enforcement agencies.

We also continue to invest in the latest security technology. The Executive Budget also includes \$3.1 million for security equipment, including additional full-body scanners and drug detection machines.

Inmate Management and Re-entry

In addition to investing resources in both our staff and the infrastructure to sustain the safest system possible, we have added inmate programming consistent with evidence-based practices to reduce idleness and to provide the population with tools critical for their successful return to the community upon their release. To that end, we have implemented several innovative and highly successful reentry programs, geared toward the reduction in readmissions to jail and provision of specialized care to at-risk populations.

The Individualized Correction Achievement (I-CAN) program is the Department's second-generation re-entry initiative, succeeding the Rikers Island Discharge Enhancement (RIDE) program. I-CAN discharge planning and pre-release preparation services are provided by two outstanding community-based providers on contract to DOC. The department determines program eligibility, which is limited to those who are at high risk for readmission to jail and who are anticipated to remain in custody 20 or more days, by thoroughly evaluating each inmate at intake using validated assessment instruments. The providers work with inmates throughout their incarceration and after their release as long as six months as needed. I-CAN is available to both detained and sentenced adult inmates at-risk and is expected to reduce recidivism by 10 percent. I-CAN contracts are entirely performance-based, with payments only for achieved milestones.

The Adolescent Behavioral Learning Experience (ABLE) is financed with funds provided by the private sector through a unique mechanism, the Social Impact Bond. ABLE is, in fact, the nation's first social impact bond financed initiative. ABLE features a cognitive behavioral therapy intervention specially selected for at-risk adolescent inmates, moral reconnection therapy (MRT). Funding is sufficient to serve all of the young adults, ages 16-18, in the department's custody five or more days. Two community-based providers facilitate the daily group sessions in the jails and after release in the community as needed. We expect the ABLE program to reduce adolescent recidivism as well by at least 10 percent.

The creation of Court-based Intervention Resource Teams (CIRT) in each borough are a product of the Mayor's Steering Committee for Mental Health and Criminal Justice, a DOC-led study to better understand the reasons for increases in the presence of mentally ill inmates in custody. By employing newly designed data systems that will share previously unavailable information about defendants' risks and needs, the resource teams will identify

⁷ The American Recovery and Reinvestment Act of 2009 (ARRA), commonly referred to as the Stimulus or The Recovery Act, was an economic stimulus package enacted and signed into law in February 2009 to respond to the late-2000s recession.

eligible clients with a diagnosed mental illness for community-based alternatives to either pre-trial detention or incarceration, via expedited information sharing with the courts. Those accepted into the program will receive community-based supervision and linkages to mental health treatment consistent with their assessments.

The Clinical Alternative to Punitive Segregation (CAPS) units, an alternative to punitive segregation for seriously mentally ill inmates, is a joint effort by DOC and the Department of Health and Mental Hygiene (DOHMH) to provide treatment in a secure setting for seriously mentally ill inmates who violate departmental rules, but for whom placement in punitive segregation is contra-indicated. The unit, capacity of 60 beds, will include both a 20-bed cell housing unit and 40-bed dormitory, and feature an intensive clinical treatment program similar in style and operation to an inpatient hospital setting. The Executive Budget includes funds for DOHMH to hire additional clinical staff; there is no new cost to DOC.

Funding for I-CAN, CIRT and CAPS are included in departments' FY2014 operating budgets.⁸ ABLE is funded in full with private monies.

In Closing

Thank you again for this opportunity to discuss the Department of Correction's Executive budget. We appreciate your steadfast support and are ready to answer any questions you may have at this time.

⁸ Funding for I-CAN is included the DOC FY2014 operating budget, CIRT in the CJC and DOHMH FY2014 operating budgets, and CAPS in the DOHMH FY2014 operating budget.

**Statement of John Feinblatt
Criminal Justice Coordinator
New York City Council
Committee on Fire and Criminal Justice Services
May 14, 2013**

Good afternoon, Chairperson Crowley and members of the Committee on Fire and Criminal Justice Services. My name is John Feinblatt, and I am the Criminal Justice Coordinator. I am joined today by Laurence Busching, the First Deputy Criminal Justice Coordinator; and Migdalia Veloz, our Agency Chief Contracting Officer. I am glad to discuss the Mayor's budget as it relates to indigent defense in New York City.

I want to provide several updates about the budget for indigent defense, our ATI contracts and other criminal justice initiatives I discussed when I testified before you in March. The fiscal year 2014 indigent defense budget totals \$262 million, reflecting an increase in overall funding of 4% from fiscal year 2013, and a 65% increase since the beginning of the Administration. This includes:

- \$88.4 in funding for the Legal Aid Society, including an increase of \$1.7 million from last year to cover increases in health insurance, pension obligations and other contractually required costs. You had asked about this funding in March and I can now report that this funding has been included in the budget; and
- \$1.05 million for institutional providers in Family Court representing indigent parents and guardians in Article 10 abuse and neglect cases for staff to tackle increased workloads.

Last month, we finalized awards to ATI contractors selected through our RFP. With these new contracts, we are increasing Mayoral funding for ATIs by 63%, from \$6.8 million to \$11.1 million, and expanding available program slots by 46%. Two of the new ATI programs this year are:

- The Women's Prison Association's JusticeHome program allows women facing non-violent felony charges in Manhattan, Brooklyn and the Bronx to remain at home with their families while they receive supervision and services; and
- The Vera Common Justice project in Brooklyn targets 16 to 24 year old offenders charged with robbery and assault. This program includes a

restorative justice model, in which victims are able to confront offenders and have a role in shaping strictly monitored supervision and service plans for participants.

We will soon be awarding contracts to institutional providers to handle approximately 26,000 “conflict” cases annually. The Executive Budget now includes \$14 million for institutional providers to start services, and we expect that this effort will save the City roughly \$6 million annually. Evaluations of proposals will conclude in the next two weeks, and we anticipate that services will begin in late summer.

Last week, we issued solicitations for our new program with the Departments of Correction and Health and Mental Hygiene which will target non-violent inmates in City jails with mental health needs and options for court-ordered treatment and supervision instead of jail. We will be receiving responses in June and we expect to launch the program this winter.

We are also moving forward with new projects directed at assisting victims of crime. We will expand our network of Family Justice Centers by adding a Manhattan location this fall, and are developing plans for a fifth FJC in Staten Island in collaboration with District Attorney Donovan. This fall we will begin construction of a Child Advocacy Center in the Bronx, joining the CACs in the other boroughs. This network will provide child victims of violence and abuse in all five boroughs with multidisciplinary treatment and support from a team of health professionals, social workers, investigators and prosecutors.

We are continuing to develop our data-driven evaluation tools for indigent defense services. In March, I shared some early findings showing that conviction rates on non-homicide felonies for 18-b attorneys and institutional providers were about the same: 59% for institutional providers, compared to 58% for 18-b. I also reported that 18-b cases took 47% longer to reach disposition than those handled by institutional providers.

At your request, we took a further look at two questions: the impact of trials in driving the longer average case duration for 18-b; and the abilities of the providers to resolve felonies by securing more favorable convictions to misdemeanors or violations.

We found that trials had a minimal impact on average disposition times for both 18-b and institutional providers. As I reported in March, average case duration for non-homicide felonies was 293 days for 18-b, and 200 days for

institutional providers. When we excluded trial cases, average case duration for 18-b was 282 days, which was only 11 days shorter than their overall average including trial cases, and for institutional providers it was 194 days, only 6 days shorter than their overall average duration. We also learned that 18-b trial cases accounted for only 6% of the total days it took their cases to reach disposition, compared to 3% for institutional providers. Even though 18-b handles a higher percent of trials than institutional providers, the percent of cases that go to trial is too small to have a substantial impact on average case duration.

In taking a deeper look at the conviction rates on felonies, we found that institutional providers had more success securing pleas to charges below the felony level than 18-b. We found that:

- For felony cases that resulted in conviction, institutional providers secured pleas to non-felony charges 80% of the time, compared to 61% for 18-b;
- For violent felonies, institutional providers secured non-felony pleas 68% of the time, compared to 48% for 18-b; and
- In Class A, B and C felony cases, institutional providers secured non-felony pleas 50% of the time, compared to 35% for 18-b.

We are continuing to analyze this data and we expect to release more results this summer.

We will continue our data-driven approach to measuring performance in other areas of indigent defense and criminal justice. Our new contracts for ATIs increase requirements for providers to deliver data on program intakes, compliance and recidivism, and through the upcoming Article 10 RFP, we will require providers to report uniform data about their cases, outcomes and processing times to enable us to make “apples to apples” comparisons.

We are proud that we have been able to consistently fund indigent defense services and support our other criminal justice programs in New York and look forward to continuing to work with the Council to ensure that low-income clients continue to have access to high-quality legal representation.

I'll be happy to take your questions.

Testimony of The Legal Aid Society

on

**THE MAYOR'S FISCAL YEAR 2014
EXECUTIVE BUDGET**

Presented before

The New York City Council

Presented by:

Steven Banks, Attorney-in-Chief

The Legal Aid Society

Adriene Holder, Attorney-in-Charge, Civil Practice

Seymour James, Jr., Attorney-in-Charge, Criminal Practice

May 14, 2013

The Legal Aid Society welcomes this opportunity to testify before the New York City Council concerning the Fiscal Year 2014 Executive Budget and its impact on The Legal Aid Society's client services.

City funding supports the Society's legal assistance in the areas of civil legal services, criminal defense, and parole revocation defense. Special annual allocations from the Council for criminal defense and civil legal services have provided crucial funding for the Society's legal assistance for New Yorkers who have nowhere else to turn for legal help. This testimony describes the impact of the FY14 Executive Budget funding levels for criminal defense and civil legal services for low-income New Yorkers in all five boroughs of the City.

We are mindful of the continuing significant financial challenges that the City is facing. At the same time, the continuing difficult economic conditions are having an especially harsh impact on low-income New Yorkers – which has now been exacerbated by Superstorm Sandy's impact. The need for the legal help that The Legal Society provides to struggling low-income families and individuals – now including Sandy victims – is increasing exponentially. Data presented in this testimony documents that the numbers of vulnerable New Yorkers who seek our civil legal assistance have increased dramatically during the continuing economic downturn even as our City funding has decreased. Due to a lack of resources, however, we are forced to turn away eight out of every nine New Yorkers who, among other things, seek our help to obtain unemployment and disability benefits, flee from domestic violence, and prevent evictions, foreclosures, and homelessness – which is at record levels in New York City. Against this backdrop, the proposed City budget cuts for civil legal services in the FY14 Executive Budget will hurt families and individuals who desperately need our legal help because we will have to turn away more low-income New Yorkers if these cuts are implemented.

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 FY14 Executive Budget for The Legal Aid Society's criminal defense representation and civil legal services.

The Legal Aid Society: The Legal Aid Society, the nation's oldest and largest not-for-profit legal services organization, is more than a law firm for clients who cannot afford to pay for counsel. It is an indispensable component of the legal, social, and economic fabric of New York City – passionately advocating for low-income individuals and families across a variety of civil, criminal and juvenile rights matters, while also fighting for legal reform.

The Legal Aid Society has performed this role in City, State and federal courts since 1876. It does so by capitalizing on the diverse expertise, experience, and capabilities of more than 1,000 of the brightest legal minds. These 1,000 Legal Aid Society lawyers work with nearly 700 social workers, investigators, paralegals and support and administrative staff. Through a network of borough, neighborhood, and courthouse offices in 25 locations in New York City, the Society provides comprehensive legal services in all five boroughs of the City for clients who cannot afford to pay for private counsel.

The Society's legal program operates three major practices — Civil, Criminal and Juvenile Rights — and receives volunteer help from law firms, corporate law departments and

expert consultants that is coordinated by the Society's Pro Bono program. With its annual caseload of more than 300,000 legal matters, The Legal Aid Society takes on more cases for more clients than any other legal services organization in the United States. And it brings a depth and breadth of perspective that is unmatched in the legal profession.

The Legal Aid Society's unique value is an ability to go beyond any one case to create more equitable outcomes for individuals and broader, more powerful systemic change for society as a whole. In addition to the annual caseload of 300,000 individual cases and legal matters, the Society's law reform representation for clients benefits some two million low-income families and individuals in New York City and the landmark rulings in many of these cases have a statewide and national impact.

Criminal Defense Services: Since 1965, The Legal Aid Society has served as the primary defender for persons accused of crimes in New York City who cannot afford counsel. The Society's status as the citywide primary defender has been reaffirmed through the City's 2010 competitive bidding process. With criminal defense trial offices in the Bronx, Brooklyn, Manhattan, Queens, and Staten Island, The Legal Aid Society represents indigent defendants accused of crimes ranging from alleged disorderly conduct to serious felonies.

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 State and City 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. Recent Society systemic law reform efforts include litigation to stop unlawful marijuana arrests resulting from the New York Police Department's stop and frisk policy as well as unlawful trespass arrests of residents and their guests in New York City Housing Authority developments.

In addition to criminal defense trial offices in each of the five boroughs, our overall Criminal Practice includes a citywide Appeals Bureau and a citywide Parole Revocation Defense Unit, which have played a leadership role in successful appellate and post-conviction representation to reverse wrongful convictions and improper sentences. The Society's Parole Revocation Defense Unit was the first program in the nation to provide legal representation and social work diversion services specifically to persons who have been paroled from State prisons. The Legal Aid Society also deploys paralegals directly on Riker's Island who provide innovative assistance to the clients of other providers and individual 18-B attorneys in addition to Legal Aid clients.

Within our criminal defense trial offices in all five boroughs, we provide the following services and programs to enhance legal assistance for clients:

- special representation for clients with mental health and chemical addiction needs, including deploying social workers directly at arraignments in all five boroughs, that has been singled out for support by the Langeloth Foundation, the van Ameringen Foundation, and the New York State Division of Criminal Justice Services;

- innovative representation for victims of human trafficking that has been praised by the American Bar Association as one of two initiatives in the United States that is addressing this issue;
- targeted representation of juveniles charged as adults in criminal cases as well as youthful offenders that has been recognized by the New York City Council as part of its initiative to address gun violence;
- enhanced representation in DNA matters through a newly formed citywide unit that is the first of its kind in New York and draws on similar DNA initiatives in public defender offices in other parts of the United States, and through which Unit staff is deployed to provide expert and more cost-effective representation as co-counsel in individual cases in each county;
- immigration services for which the Society has a national, statewide, and citywide representation for excellence;
- a staff training and continuing legal education program which the Brennan Center's Community Oriented Defender initiative has recognized as a national model for institutional providers; and
- social work services integrated with criminal defense representation which the Society pioneered nationally in the 1970s;

Moreover, The Legal Aid Society is able to provide these unique and essential additional services to enhance criminal defense representation:

- comprehensive collateral civil legal assistance provided in each borough through the Society's nationally recognized Civil Practice; and
- legal aid for clients under the age of 21 who have juvenile justice or child welfare needs provided in each borough through the Society's nationally recognized Juvenile Rights Practice.

As you know, in 2011 the City entered into criminal defense contracts pursuant to a Request For Proposals process for indigent defense and parole defense services. The Legal Aid Society was again awarded the largest number of primary criminal defense trial-level cases so that the Society continues to be the primary indigent criminal defense provider in the Bronx, Brooklyn, Manhattan, and Queens. In addition, the Society has been restored to its role as the primary indigent criminal defense provider in Staten Island. The prior City Administration had prevented the Society from providing indigent defense representation in Staten Island beginning in the mid-1990s. Accordingly, as a result of the RFP, the Society is the primary indigent criminal defense provider in each of the five boroughs and citywide. The Society has also been designated to continue to serve as the sole institutional provider of indigent parole revocation defense representation on Riker's Island.

The Society's first 2002 contract with the current Administration assumed that our annual caseload would be 210,000 trial-level cases. As a result of increased arrests, the Society's annual caseload exceeded 225,000 cases for a number of years. To help address this problem, the Council provided supplemental annual funding at the level of \$11.3 million. In the new RFP contract, the City allocated 213,000 trial-level cases to the Society in addition to parole revocation cases and base-lined the \$11.3 million in supplemental Council funding in FY12 along with other funding to cover certain fixed contractual expenses, such as health care. For FY14, the City has allocated \$88.4 million for the renewal of our criminal defense and parole revocation defense contract, which includes base-lined funding for increased costs for health care and contractual requirements in FY13 and FY14. As a result of a prior RFP for appellate and other post-conviction cases, the Society has continued to serve as the largest provider of indigent appellate and post-conviction criminal representation, and the City has allocated up to \$9.5 million for our performance-based appellate and post-conviction contract in FY14.

In addition to 213,000 trial-level criminal defense non-conflict cases, as we have testified previously, the City planned to allocate to the Society conflict cases to provide the Society with an additional annual caseload and additional funding associated with an increased caseload. The City was blocked from doing so as a result of litigation claiming that the City cannot assign conflict cases to institutional providers like Legal Aid. Therefore, the Society intervened in the litigation in support of the City. In December 2010, the trial court agreed with the City and Legal Aid that State law provides the City with the authority to assign any cases – whether non-conflict or conflict cases – to institutional providers like Legal Aid. On March 15, 2012, the Appellate Division, First Department affirmed that trial court ruling. After that ruling was appealed to the Court of Appeals, on October 30, 2012, the Court of Appeals upheld the lower court rulings that the City has the legal authority to assign both non-conflict and conflict cases to an institutional provider like The Legal Aid Society. The City is now in the process of determining how to implement the Court of Appeals decision.

We are extremely grateful for the supplemental criminal defense funding the Council provided from 2004 through FY11 that the City base-lined for FY12. We are also grateful that the City has determined to include this supplemental funding in our base-line budget and is addressing our FY14 funding needs in our renewal contract. Accordingly, we did not need to seek a restoration of the prior Council funding for FY12 and FY13, and we do not need to do so for FY14. However, the Council allocated \$625,000 to The Legal Aid Society in FY13 as part of the Council's special anti-gun violence initiative, and we hope that the Council will continue to allocate this funding to this new program in FY14.

Finally, we also want to report to you on our progress in coming into compliance with the Office of Court Administration's criminal defense caseload standards. In the 2009-2010 State budget, the Governor and the State Legislature enacted a landmark law authorizing the Chief Administrative Judge to promulgate caseload standards for The Legal Aid Society and other criminal defense lawyers in New York City that are being phased in over a four-year period. This action by New York State is so significant that the United States Attorney General cited this law as one of two major breakthroughs for the provision of indigent defense in the entire nation.

As a result of the implementation of the 2009 caseload law to date, the annual average weighted caseload of the Society's criminal defense lawyers has been reduced from 682 at the

time of the implementation of the law to 517 as of the Society's most recent November 1, 2012 report to the Office of Court Administration. Pursuant to the caseload law, the Society's average annual weighted caseload must be reduced to 400 effective for the April 1, 2014 – March 31, 2015 State fiscal year, with felonies weighted as 2.66 misdemeanors. Working with the Chief Judge, the Chief Administrative Judge, and the City, we expect to be in compliance with the caseload standard as required under State law in order to ensure that New Yorkers accused of crimes – often wrongfully – are represented by Legal Aid lawyers with proper caseloads.

Civil Legal Services: The Society provides civil legal services through our neighborhood-based offices in all five boroughs of New York City and citywide units that serve families and individuals with special needs. Our Civil program provides legal assistance in literally every community in New York City.

In addition to contacting us directly, clients are referred to the Society's Civil program by the constituent services staffs of elected officials as well as the courts, community and social services organizations, government agencies, or by word of mouth. Other legal services groups also refer their clients to us when they cannot provide all necessary services, have limited or no case intake capacity, or do not serve a particular community.

Over the past year, because of the increased need for our civil legal assistance as a result of Superstorm Sandy, we are on track to work on nearly 50,000 individual civil matters benefiting more than 100,000 of the most vulnerable New Yorkers: survivors of domestic violence, senior citizens, children and adults with disabilities or chronic illnesses, immigrants fleeing oppression, unemployed and low-wage 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; consumer credit and debt matters; HIV and AIDS; housing development and community development opportunities to help clients move out of poverty; and re-entry to the community from correctional facilities.

In the aftermath of Superstorm Sandy, Legal Aid Society staff members have also been called upon to provide comprehensive disaster relief legal assistance at the shelters for homeless and displaced New Yorkers, at the disaster centers, at community-based organizations, through the Society's Mobile Justice Unit, and through our special Disaster Relief Helpline. The Society has targeted and will continue to target regular disaster relief services in the most affected communities in Far Rockaway, Coney Island, Red Hook, Staten Island, parts of Lower Manhattan, and other locations with individuals and families affected by Superstorm Sandy. Many New Yorkers impacted by Sandy need assistance with the types of services we handle on a day-to-day basis, including: housing, public benefits, health law, family law, immigration, employment law, tax assistance, consumer assistance, assistance for homeowners, and assistance for small businesses. Since the storm, we have handled more than 5,000 Sandy-related matters. As each day passes, new issues and challenges are presented for the victims of this terrible tragedy, and The Legal Aid Society stands ready to continue to respond to these Sandy-related

legal needs. For example, as you know, we have recently commenced litigation to prevent the Department of Homeless Services from terminating hotel placements for several hundred families who were rendered homeless because of Sandy.

As a result of the continuing extraordinary economic conditions and the aftereffects of the Superstorm, the need for civil legal help for struggling low-income families and individuals is increasing exponentially. Without continued City support for the provision of civil legal assistance, the Society will have to turn away increasing numbers of families and individuals who desperately need legal aid to obtain and maintain the basic necessities of life – housing, health care, food, personal safety, and subsistence income or self-sufficiency.

Even before the storm, the continuing economic downturn had clearly increased the need for civil legal services. Against this background, every day, The Legal Aid Society provides for thousands of vulnerable New Yorkers a lifeline for basic survival. And the situations our clients are facing – loss of jobs, foreclosure, eviction, hunger – are the grim hallmarks of this current fiscal crisis. The work performed by Legal Aid also saves government millions of dollars a year and is a proven, tested and wise investment. Last year, for example:

- millions of public dollars were saved because we are able to preserve homes, avert homelessness for New Yorkers, and keep families together;
- millions of dollars in retroactive federal disability awards were obtained for clients in place of State and City public assistance payments; and
- the monthly disability benefits, Earned Income Tax Credit refunds, and Unemployment Insurance benefits we obtain for New Yorkers were reinvested by them and stimulated the economies of their communities.

The more than 100,000 New Yorkers who benefited from the individual civil legal matters which we handled last year were constituents in every zip code in the City. However, as we have reported previously, we are able to help only one out of every nine New Yorkers who seek our help with civil legal problems because of lack of resources. The situation has become particularly dire in the aftermath of Sandy and as the economic downturn continues. Since the economic downturn began in 2008, we have seen unprecedented increases in requests for help in core areas of need. Even before the storm, during last year alone, we have seen further increases in requests for our civil legal aid above prior high levels of increased legal need: an additional 54% increase for low-wage employment and unemployment matters; an additional 18% increase for housing problems; an additional 12% increase for domestic violence and family matters; an additional 23% increase for subsistence income support problems; and an additional 11% increase for access to health care matters.

To make matters worse, the FY14 Executive Budget proposes to eliminate all funding for the civil legal services initiatives that the Council funded in the adopted FY13 budget. The consequences of eliminating this critical Council 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 FY14 is essential for these programs which are slated for elimination in the Executive Budget:

The Citywide 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, children and adults with disabilities, 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 FY09 and FY10 budgets, funding for this program was reduced by 59 percent from a pre-FY09 level of \$3.676 million to \$1.5 million currently, which has resulted in at least 3,000 fewer households served this year. If at least \$3 million in Citywide Low-Income Civil Legal Services funding is not restored (split between Legal Aid and Legal Services) to help us meet the increased need for civil legal assistance because of Superstorm Sandy as well as the continuing underlying increased need for our civil legal aid that existed even before the storm, 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 times.

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

The Council's SSI advocacy program funds Legal Aid and Legal Services to help low-income children and adults with disabilities obtain and maintain 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 its portion of cash public assistance but also Medicaid and administrative costs.

Funding for this combined SSI/UI Advocacy Program is evenly divided between Legal Aid and Legal Services. In the adopted FY09, FY10 and FY11 budgets, funding for this program was reduced by 60 percent from a pre-FY09 level of \$2.5 million to \$1 million currently, which has resulted in at least 1,551 fewer clients served this year. If at least \$1 million in Supplemental Security Income (SSI)/Unemployment Insurance (UI) Advocacy funding is not restored (split between Legal Aid and Legal Services), we will have to reduce substantially 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, New Yorkers with disabilities, and senior citizens, who are especially vulnerable to harassment and illegal eviction. In the adopted FY09, FY10 and FY11 budgets, funding for this program was reduced by 33 percent from a pre-FY09 level of \$3 million to \$2 million currently, which has resulted in at least 2,533 fewer “units” of service (including full case representations, training programs, outreach sessions, and tenant association assistance). If at least \$2 million in Anti-Eviction and SRO Legal Services funding is not restored (of which at least \$714,000 is allocated to Legal Aid), The Legal Aid Society will be unable to continue to operate the Society’s anti-eviction program that provides legal assistance to tenants faced with homelessness in the Bronx, Queens, and Staten Island, to senior citizens in Brooklyn and 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. 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 adopted FY13 budget, the Council restored IOI funding for The Legal Aid to approximately its traditional level of \$585,000 to provide citywide training and case consultations for front-line community-based staff in addition to the Society’s own direct individual representation and assistance in complex immigration matters. As a result of this restored support, the Society was able to implement a Deferred Action program for young immigrants in response to the new federal policy announcement in August 2012 through which we submitted more Deferred Action applications – over 1,000 – than any other entity in the State. In FY14, further changes in the federal immigration law are expected. Notwithstanding the continued urgent need for immigration legal assistance, particularly with immigration policy changes in the offing, the FY14 Executive Budget proposes to eliminate completely this \$585,000 IOI allocation. If IOI funding of at least \$585,000 for the Society is not restored to help us continue to meet the high need for our comprehensive immigration legal assistance as well as the anticipated increased need for our immigration legal

aid due to changes in the federal immigration law, we will have to reduce substantially 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 FY14 budget. However, the sad truth is that in these dire economic times and in the aftermath of Superstorm Sandy increased funding is required because the most vulnerable low-income New Yorkers have an even greater need for civil legal assistance to obtain the necessities of life – housing, health care, food, subsistence income or self-sufficiency, and family stability and security.

* * * * *

We thank the Council for your long-standing support for our essential criminal defense and civil legal services programs. We will continue to update you during the FY14 budget process concerning our funding needs so that we can serve clients who depend on The Legal Aid Society to provide access to justice.

Submitted by,

Steven Banks
Attorney-in-Chief
Adriene Holder
Attorney-in-Charge, Civil Practice
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**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 5/14/13

(PLEASE PRINT)

Name: Evelyn Mirabal

Address: Chief of Department

I represent: Dept. of Correction

Address: _____

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in favor in opposition

Date: 5/14/13

(PLEASE PRINT)

Name: Ari Wax

Address: Senior Deputy Commissioner

I represent: Dept. of Correction

Address: _____

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Date: 5/14/13

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Name: Mark Cranston

Address: First Deputy Commissioner

I represent: Dept. of Correction

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in favor in opposition

Date: 5/14/13

(PLEASE PRINT)

Name: Dr. Dara Schirio

Address: Commissioner

I represent: Dept. of Correction

Address: _____

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Name: Salvatore Cassano

Address: FDNY

I represent: Commissioner

Address: _____

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Name: Edward Kilduff

Address: _____

I represent: Chief of Department

Address: FDNY

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Name: Daniel Shacknai

Address: _____

I represent: First Deputy Commissioner

Address: FDNY

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in favor in opposition

Date: _____

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Name: JOHN FEINBLATT

Address: _____

I represent: CRIMINAL JUSTICE COORDINATOR

Address: _____

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THE CITY OF NEW YORK**

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Name: LAURENCE B. SCHULZ

Address: _____

I represent: CRIMINAL JUSTICE COORDINATOR

Address: _____

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THE CITY OF NEW YORK**

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Date: _____

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Name: Judith Goldiner

Address: Attorney in Charge

I represent: Civil Law Reform

Address: Legal Aid Society

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THE CITY OF NEW YORK**

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in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Steven Banks Atty-in-Chief

Address: 199 Water St. NY NY 10038

I represent: The Legal Aid Society

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Seymour James Jr.

Address: The Legal Aid Society

I represent: Attorney-in-Charge of the Criminal Practice

Address: _____

▶ Please complete this card and return to the Sergeant-at-Arms ◀