

**Mayor's Office of Criminal Justice  
New York City Council  
Committee on the Justice System  
Pay Parity and Retention Rates for ADAs and Public Defenders  
October 25, 2018**

Good afternoon, Chair Lancman and members of the Justice System Committee. My name is Elizabeth Glazer and I am the Director of the Mayor's Office of Criminal Justice ("MOCJ"). Thank you for the opportunity to testify today. Deborah Grumet, the Budget Director for my office, is here with me to answer questions.

The Mayor's Office of Criminal Justice advises the Mayor on public safety strategy and, together with partners inside and outside government, develops and implements policies that promote safety and fairness and reduce unnecessary incarceration.

New York City has the lowest crime and incarceration rates of any large city in the nation. Major crime has fallen by 78% in the last twenty-five years and by 13% in the last four. 2017 was the safest year in Compstat history, with homicides down 13% and shootings down 21% from 2016. This success is shared by our partners in government, and all New Yorkers.

Since the beginning of the Mayor's administration, the jail population has declined by 27%, the steepest four-year decline since 1998. The number of people in City jails has fallen across almost every category – the number of people held on bail of under \$2,000 has fallen by around 60 percent, the number of people serving city sentences has fallen by 28 percent and the number of 16- and 17-year-olds has fallen by 50 percent.

Justice system partners—including district attorneys, indigent defense providers and law enforcement—along with non-profit providers and all New Yorkers – have been critical to these achievements.

To support this work, my office works with OMB to invest public resources to help create the safest possible New York City with the smallest and fairest justice system. The district attorneys and indigent defense providers play vital, albeit different, roles in our city, and the success of many of our initiatives involve working with them.

While we make recommendations and share strategies with the district attorneys, each DA is an independently elected official. They set their offices' priorities and develop initiatives. The needs of each office are as unique as the communities they serve. Annually each district attorney submits needs requests to MOCJ and the Office of Management and Budget (OMB). MOCJ and OMB work to make investments that are responsive to community needs and can aid prosecutors and defenders in ways that will improve the fairness and effectiveness of our criminal justice system.

Historically, fluctuations in funding have been a byproduct of providing incremental increases over the years in response to those needs requests. We make concerted efforts to provide such funding and have significantly supported the District Attorneys over the past 4 years. This administration has increased the overall budget from \$287 million (FY14) when the mayor took office to \$383 million (FY19). Salaries are one part of the picture.

Over the past two fiscal years, we engaged with each district attorney's office on issues of salary parity. Each office has its own hiring and recruitment practices, salary structure and retention rates. During this same period, we also funded and supported a significant range of programs at the DAs' offices, increasing staffing and enriching the offices' resources. In this past fiscal year, we were able to work with the DAs to provide parity with the Law Department for starting salaries in years one through five. We are engaged in active discussions with each of the DAs' offices, aimed at better understanding their operations and evaluating their funding needs.

We equally value the critical, constitutionally-grounded role played by public defenders in the criminal justice system and in our city. These dedicated providers are integral to the sound functioning of our justice system and to advancing fairness and the dignity of all New Yorkers. Consistent with the City's commitment to fund indigent defense providers, we have both increased funding and responded to particular needs requests.

Public defenders and district attorneys play equally important but different roles in our criminal justice system. The mechanisms to fund their work differ as well. Indigent defense provider funding is provided through a process in which services are solicited through requests for proposals (RFPs). This process involves application of procurement rules, a series of ongoing discussions, and contract negotiations. New contracts for indigent defense providers to begin next year are in process and we expect the contracts to be registered by January 1, 2019. Given that we have not reached finality on the upcoming contracts, I am unable to provide further comments on Indigent Defense salary structures. We look forward to entering into these new contracts and to funding the ongoing work of the City's public defenders.

I am aware that the Council has proposed a temporary task force on pay parity among public defenders, assistant district attorneys, and city agency attorneys. At this time we are still examining this issue, and have not reached a position as to the necessity or potential scope of such a task force, especially given our ongoing engagement with the district attorneys and the indigent defense providers.

Thank you for the opportunity to speak today and for your continued support and partnership in the transformative justice system reforms that are changing our City.

# RCDA ADA Salary Breakdown and Years of Experience - October 2018

		Total #	Avg. Salary	Avg Salary Totals	% of ADAs in	% of ADAs in
<b>Executives</b>		5	\$193,590.00	\$193,590.00	7.50%	7.50%
<b>ADAs with 30+ years</b>	Bureau Chiefs	1	\$176,488.00	\$176,488.00	1.50%	1.50%
	DBC's	0				
	Unit Chiefs	0				
	ADAs	0				
	Total	1				
<b>ADAs with 25+ years</b>	Bureau Chiefs	1	\$144,050.00	\$144,050.00	1.50%	1.50%
	DBC's	0				
	Unit Chiefs	0				
	ADAs	0				
	Total	1				
<b>ADAs with 20+ years</b>	Bureau Chiefs	1	\$135,000.00	\$135,000.00	1.50%	1.50%
	DBC's	0				
	Unit Chiefs	0				
	ADAs	0				
	Total	1				
<b>ADAs with 15+ years</b>	Bureau Chiefs	3	\$126,666.67	\$128,333.00	9.00%	9.00%
	DBC's	2	\$130,000.00			
	Unit Chiefs	0				
	ADAs	1	\$130,000.00			
	Total	6				
<b>ADAs with 12+ years</b>	Bureau Chiefs	0			0.00%	6.00%
	DBC's	0				
	Unit Chiefs	0				
	ADAs	0				
	Total	0				
<b>ADAs with 10+ years</b>	Bureau Chiefs	1	\$120,000.00	\$103,250.00	6.00%	
	DBC's	2	\$102,750.00			
	Unit Chiefs	0				
	ADAs	1*	\$87,500.00			
	Total	4				
<b>ADAs with 9+ years</b>	Bureau Chiefs	0		\$95,000.00	4.50%	
	DBC's	3	\$95,000.00			
	Unit Chiefs	0				
	ADAs	0				
	Total	3				
<b>ADAs with 8+ years</b>	Bureau Chiefs	0		\$95,000.00	1.50%	
	DBC's	0				
	Unit Chiefs	1	\$95,000.00			
	ADAs	0				
	Total	1				

ADAs with 7+ years	Bureau Chiefs	0		\$94,000.00	3.00%	9.00%
	DBC's	2	\$94,000.00			
	Unit Chiefs	0				
	ADAs	0				
	Total	2				
ADAs with 6+ years	Bureau Chiefs	0				
	DBC's	0				
	Unit Chiefs	0				
	ADAs	0				
	Total	0				
ADAs with 5+ years	Bureau Chiefs	0		\$83,000.00	3.00%	
	DBC's	0				
	Unit Chiefs	0				
	ADAs	2	\$83,000.00			
	Total	2				
ADAs with 4+ years	Bureau Chiefs	0		\$79,000.00	7.50%	
	DBC's	0				
	Unit Chiefs	0				
	ADAs	5	\$79,000.00			
	Total	5				
ADAs with 3+ years	Bureau Chiefs	0		\$76,000.00	15.00%	64.00%
	DBC's	0				
	Unit Chiefs	0				
	ADAs	10	\$76,000.00			
	Total	10				
ADAs with 2+ years (includes 10 felony ADAs)	Bureau Chiefs	0		\$73,000.00	24.00%	
	DBC's	0				
	Unit Chiefs	0				
	ADAs	16	\$73,000.00			
	Total	16				
ADAs with less than 2 years	Bureau Chiefs	0		\$67,700.00	15.00%	
	DBC's	0				
	Unit Chiefs	0				
	ADAs	10	\$67,700.00			
	Total	10				
<b>TOTAL:</b>		67				
<b>Current ADA Vacancies</b>		6				

\* This ADA only has 2 years of criminal law experience, and 8 years of civil law experience



## **Richmond County District Attorney's Office**

### **Testimony before City Council Committee on the Justice System**

### **Pay Parity and Retention Rates for ADAs and Public Defenders**

**October 25, 2018**

Good morning, Chairman Lancman and members of the Committee on the Justice System. I am Staten Island District Attorney Michael E. McMahon and I thank the Committee for allowing myself and my colleagues here today to discuss the important issue of pay parity and retention rates for Assistant District Attorneys.

From the time I took office in 2016, I have fought tirelessly to ensure Staten Island receives its fair share of resources from the City, and I thank the Council for recognizing the immense need on Staten Island and for our recent budget increases, which has allowed my team and me to effectively combat the many challenges facing our borough – from the tragic opioid, heroin, and fentanyl epidemic, to the scourge of gun violence and street crime, and the ongoing threat of domestic violence that plagues far too many families.

Our mission in my office is simple: Keep Staten Islanders safe; provide support to victims, and hold criminals accountable for their actions. During my two and a half years in office, overall crime has dropped significantly – making Staten Island the safest borough in the City – and we have successfully launched a myriad of new

initiatives and programs to address the crime and drug problems Staten Islanders face every day. However, we can only continue this positive trend with the proper staff and resources.

Just as with my colleagues here today, we are facing an increasingly uphill challenge with the experiential level of our ADAs and our ability to offer competitive salaries in order to retain the best talent. The People of New York deserve to have prosecutors with proper training and experience; and who are of the highest quality representing them in the courtroom.

As you know, prosecutors are given a tremendous amount of authority with the power of prosecutorial discretion, yet we undervalue them in their pay, which has long lasting effects on recruitment and retention. Similar to the other boroughs, if we do not address the issue of ADA salary parity soon, we will be facing a staffing crisis.

In my office, retention issues have caused a ripple effect on our supervisors: the average experience level of supervisors has had to drop considerably. We have just 1 ADA who is not a supervisor with more than 6 years of criminal law experience.

At the same time, just 64 percent our ADAs (43/67) have 5 years or less of experience; and 15 percent (10/67) have less than 2 years of experience.

Mid-level recruits are almost impossible to find and those positions remain vacant for a considerable period of time. This has lasting repercussions on professional development losses; supervisors are now being promoted with less and less experience yet still expected to do more work. For example, Unit Chiefs, Deputy Bureau Chiefs and Bureau Chiefs at RCDA all carry trial caseloads and can be responsible for prosecuting multiple homicides each. We even have had to reach so far into our experiential pool that ADAs with as little as 2.5 years of experience are assigned to homicide trials. We have also found it necessary to promote staff with

an earlier experience level because of our loss of upper management due to our inability to offer competitive salaries.

While my team is committed to doing whatever it takes to keep Staten Island safe, it is unfair to continue asking so much of my staff with so little to offer in return.

Our attorneys work hard, they confront heart wrenching, emotionally draining, and complex circumstances and decisions every day, and we entrust to them our faith to make the right decisions. Yet public service lawyers are significantly underpaid. The Big Law starting salary for a lawyer in New York City who just graduated law school and passed the Bar is \$180,000. In comparison, the starting salary for an ADA at RCDA is \$68,101, which was increased from \$62,000 in 2016 when I came into office. This increase was made during the transition after we made a thorough analysis of the staffing structure and pay parity within our office and took efforts to normalize and regularize our internal pay structure to meet our recruitment needs.

Unfortunately, what we have been unable to address with that reallocation is the issue of retaining ADAs. The low pay of ADAs in our office combined with the high cost of living, high cost of student loan repayments, and desire to start a family means that we have significant brain drain for ADAs after the 3 year point, and even more significantly after the 5 year mark.

Although the Office of Management and Budget (“OMB”) and the Mayor’s Office of Criminal Justice (“MOCJ”) took a first step in this past budget to address salary parity for ADAs with less than 5 years of experience – quite honestly, this step did nothing for Staten Island, as we had already internally addressed salary parity with that level of ADAs. Our problem remains with retaining ADAs with over 5 years of experience. In fact, it was almost as if we were punished compared to the other

boroughs for proactively addressing our parity and recruitment struggles by reallocating and training younger staff to address our imminent needs.

Additionally, despite often working long hours and on weekends, our ADAs are not paid any overtime; they do not receive weekend pay; and they do not receive compensation for meals, travel, or any other expenses. This is in stark contrast to other City agencies and legal organizations, where employees rightfully earn overtime when they are asked to put in extra hours. And due to the unpredictable nature of criminal cases, working a normal 9-5 day isn't always possible for my ADAs, as many of their duties, such as interviewing witnesses or responding to crime scenes, can fall outside of normal hours.

The changing nature of law practice also means there are fewer and fewer "lifetime prosecutors" who bring much needed experience and expertise to the courtroom. My office, for example, has just 3 Bureau Chiefs with 20 or more years of experience with the office. And notably a Bureau Chief with as little as 11 years of experience.

I cannot stress enough the value that a veteran prosecutor brings not only to the courtroom in trying cases, but also in mentoring and guiding the younger staff to avoid mistakes and grow into better lawyers.

Because of the challenges we face with pay parity, this means that our recruitment pool has dwindled to lawyers who come from personal wealth; law school graduates who have struggled to find other employment; or talented lawyers who have aspired to be prosecutors their whole lives or careers but practically cannot remain in our employ for long.

A look at some of the salaries of other workers in the City reflects the disparity and unfairness of this gap perhaps most effectively:



- A sanitation worker with 5.5 years' experience makes on average \$88,616 with overtime; an ADA at RCDA with that level of experience makes \$81,000 and is not eligible for overtime;
- A police officer with 5.5 years' experience makes \$85,292, not including their holiday pay, longevity, uniform allowance, or overtime; again, an ADA at RCDA with that level of experience makes \$81,000 and is not eligible for overtime;
- A firefighter with 5 years' experience makes on average \$110,293 including their fringe benefit, an ADA makes \$81,000;
- It has been reported that under their current contract, in the next 5 years union hotel housekeepers will see their hourly rate grow so that their annual salary will be around \$68,900 – this exceeds the starting salary for our entry level ADAs who are required to have attended law school and passed the NYS Bar.

We the public deserve the best in our prosecutors, and our prosecutors deserve our respect and, at the very least, the ability to make a living from this honorable and incredibly important public service career.

For these reasons and more, I am proud to join my colleagues here today in bringing attention to this issue and requesting that the Committee takes seriously pay parity and retention rates in the 5 DA's offices. This is not a problem that can be kicked down the road. Crime does not take a vacation, and we need more experienced and talented lawyers at the ready to better serve and keep our communities safe.

Thank you for your time and consideration and I look forward to continuing to work with all of you on behalf of the people of the City of New York.

**Office of the District Attorney, Bronx County**

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**Hearing on Pay Parity and Retention**

**The Council of the City of New York  
Committee on the Justice System**

**October 25, 2018**



*Pursuing Justice With Integrity*

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**Darcel D. Clark  
District Attorney**

**BRONX DISTRICT ATTORNEY DARCEL D. CLARK  
TESTIMONY ON PAY PARITY AND RETENTION  
COMMITTEE ON JUSTICE SYSTEM HEARING  
COMMITTEE ROOM, CITY HALL**

**OCTOBER 25, 2018, 10 A.M.**

Good morning Chairman Lancman and members of the Justice System Committee. It is an honor to appear before you today.

I last appeared before you, on May 14<sup>th</sup>, to make the case for parity for my Assistant District Attorneys.

The five months since, and the summer in particular, have been remarkable for both the sheer number and scope of serious cases my Office has been handling, and the community outreach we have done to enhance trust in our Office and the criminal justice system.

We have seen a rise in homicides. We have 75 so far this year, surpassing the number we had for all of 2017, which was 72.

The Bronx has 30 percent of the city's homicides, while it is home to 17 percent of the city population.

Behind these numbers are people whose cases have gripped the city, even the nation. Fifteen-year-old Lesandro Junior Guzman Feliz, brutally slain on a video that went viral. Lisa Marie Velasquez, killed and dismembered when she tried to help a friend. Valerie Solis, practically butchered by her husband.

While continuing to investigate and prosecute these cases and many others that do not make headlines, in July, my Office held a Silent Peace March to the site of a triple homicide with community leaders, police officers and clergy present.

Last month, we held a Re-entry Resource Fair for those coming back to the community from prison. Hundreds of people received information about jobs, health care and housing.

We sponsored a 5k Run to start Domestic Violence Awareness Month.

We held a Gun Buyback two weeks ago where at least 25 weapons were taken off the streets and out of homes.

In the past year, our Crime Victims Assistance Unit widened its scope and served 423 loved ones and relatives of homicide victims – 90 more than the previous year – as well as 1,831 more domestic violence victims than last year.

Our Opioid Avoidance and Recovery program won praise nationally and continues to save lives – 45 people completed treatment and were diverted from the criminal justice system.

In this turbulent time of criminal justice reform, my ADAs never cease to amaze me with how well they perform their jobs amongst great changes and challenges. And, despite being the lowest paid in the city, we face new hurdles undaunted and committed to improving the criminal justice system.

Since I last appeared before you to ask for pay parity, 50 ADAs left my office. Ten obtained positions in the New York City Law Department, Family Law Unit, which is gearing up to meet the changes accompanied by the Raise the Age legislation.

Over the past year, 105 ADAs left the office – 31 went to City, State and Federal Agencies (including the Law Department, DOE, DOI, ACS, other DA Offices, State Attorney General, Governor's Office, I.C.E., U.S. Attorney's Office and DOJ).

With 516 attorneys currently on staff, the result is an attrition rate near 20%.

As I have testified before, the most significant staffing challenge we face is recruiting and retaining an adequate number of attorneys to stabilize our legal work force.

The other problem is that, as a result of attrition, our average experience level continues to drop. Currently, the average experience level of an ADA is three years eight months, and that is not sufficient experience to handle complex investigations and felony cases like homicides.

To meet this challenge, we have invested in training our newer Assistants. However, this training and experience will not yield a long term benefit for us if our attorneys continue to take jobs in the private sector or in other agencies for higher pay.

Further, attrition has a destabilizing effect on the cases we are charged with prosecuting. Persistent reassignment of cases undermines the intent and benefits of vertical prosecution. Lost productivity and duplicative reassignment of cases cost an estimated \$3.7 Million dollars this year.

Last March, I asked for \$6.3 million dollars, so my assistants would be paid a salary equivalent to prosecutors in other city and state attorney's offices.

The city, through the good graces of you, the Council, gave me \$2 million for parity last summer.

The money was earmarked for ADAs with one to five years in the office. That meant, in some cases, newer Assistants would make more than some ADAs who have been at the office longer.

But, with a lot of hard work by our financial team, we worked out the numbers to bring salary levels on par with attorneys and ADAs in other agencies.

Effective September 4, starting with the 2018 class, I raised the starting salary of ADAs to \$65,000 and \$69,000 upon admission to the NYS Bar, which mirrors the starting salary of the NYC Law Department, or so we thought.

Recently, we were informed that Law Department salaries increased in September to attract attorneys hired for Raise the Age. If this is in fact true, we are back where we started.

The attrition/salary parity question is even more alarming if it comes to pass that the remaining funding we requested for complete parity – \$4 Million dollars – will not be forthcoming in the November. This means the salary compression for Assistants beyond 5 years will remain.

It is troubling that, in light of concurrent underfunding in our OTPS (Other Than Personal Services) budget, we may be forced to transfer PS (personal services) money into our OTPS budget to pay for computers, office equipment, furniture, supplies, all very much needed to support the work of our Assistants.

I have reviewed the proposed legislation sponsored by you Chairman Lancman and Bronx Councilwoman Diana Ayala and I believe that the idea of establishing a task force to evaluate salary parity, retention, funding, infrastructure, and workloads of assistant district attorneys and public defenders could help.

Right now, from what we can see, there is no uniform, consistent method to fund the city's DA's Offices.

The City has no apparent guidelines for the establishment of fair and competitive starting wage/salary for attorneys in the service of the City of New York.

Some lawyers employed by the City are compensated for overtime, nights and weekends.

However, Assistant District Attorneys routinely work in excess of 35 hours and are "required" to work, nights, weekends and "on call" duties for up to 24 hours at a time, without any additional compensation. They also carry the burden of exorbitant student loan debt, in addition to New York City housing and transportation costs.

ADAs work on average a 45-hour workweek, which amounts to \$18.53 an hour – three dollars more than the minimum wage. This is not fair and reasonable compensation for professionals who ensure public safety, prosecute fairly and meet the highest ethical standards.

At the very least, a 21st Century Strategic Plan for the City to fund DA offices should include a reliable starting salary index, which would apply not just to DA's offices, but to all city agencies.

A 21st Century Strategic Plan should include a periodic review by independent compensation specialists or consultants who could assess the salary requirements of DA's offices taking into account the prevailing and changing economic factors from year to year, as well as the expanding nature of the prosecutor job.

The consultants could propose a DA pay scale with salary ranges that would keep each of the five DA's offices and the Office of Special Narcotics within a known range of salaries, according to experience level. This analysis could and should extend to lawyers throughout city agencies as well to prevent significant future disparities.

While it is our understanding that the City has not articulated a specific formula to address funding over the past few years, we believe that the City should consider an equation which takes into account the following variables:

- (1) each Borough's percentage of the city's population

- (2) percentage of City's overall per capita arrests, felonies, misdemeanors, and pending investigations
- (3) percentage of City's overall diversions [Alternatives to Incarceration]
- (4) percentage of City's overall Crime Victims services delivered.

In closing, I want to reiterate my thanks for the funding my Office has received.

It is heartening to know you have faith in our work.

Our mantra is "Pursuing Justice with Integrity." We carry out criminal justice reforms that benefit victims, witnesses, defendants, and the community at large.

We serve the people of the Bronx, day in and day out, never wavering.

My Assistant District Attorneys, and all Assistant District Attorneys deserve pay parity.

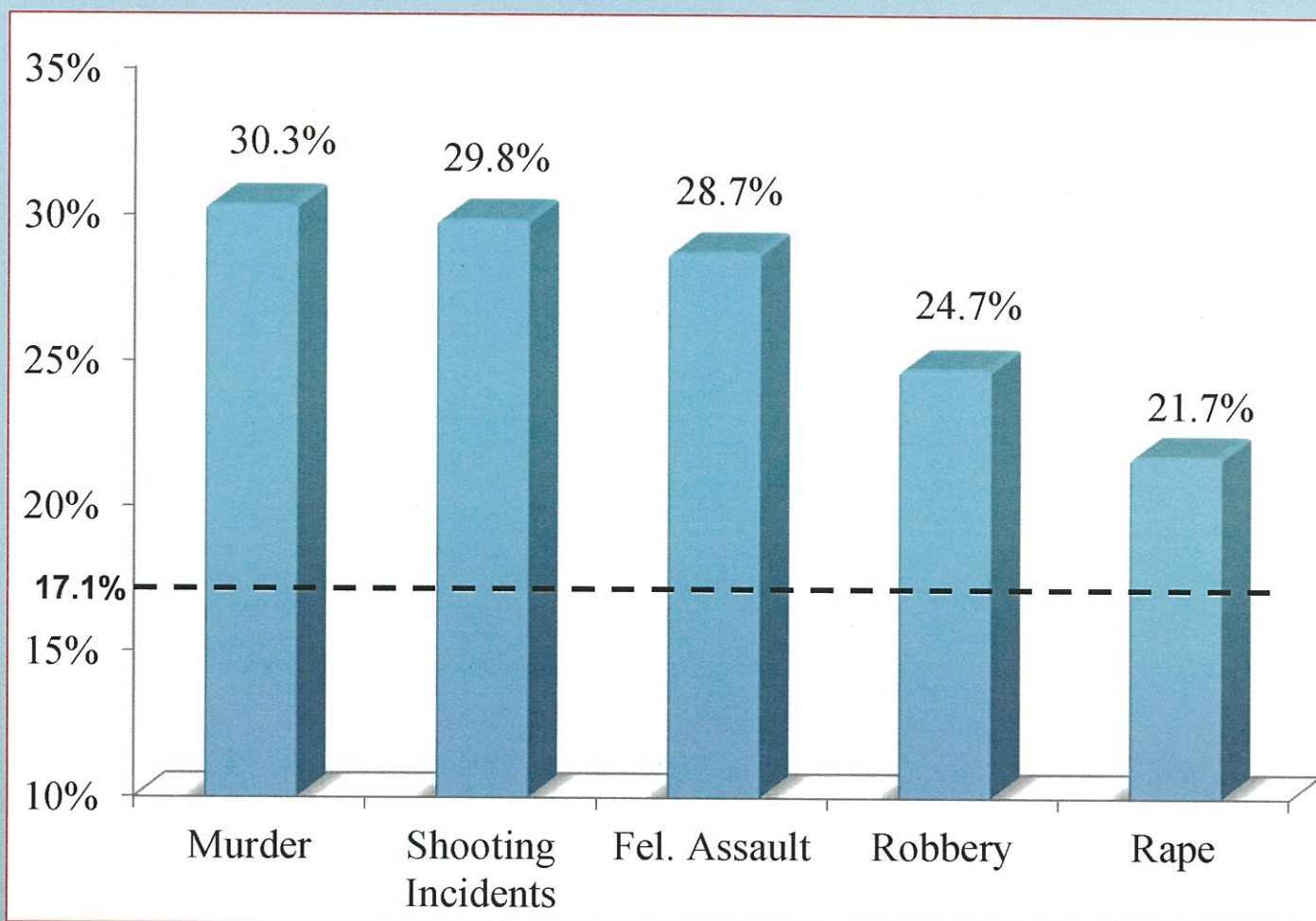
Thank you for the opportunity to make my case, again.

# Bronx Violent Crime 2018

Year-to-Date through October 21

## Percentage of Citywide Violent Crime vs. Population

The Bronx's share of the City's violent crime exceeds its 17.1% share of the City's population.



Source: New York City Police Department and US Census





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**MEMORANDUM**

**October 25, 2018**

**To: The Chairperson and Members of the Committee on the Justice System of the New York City Council**

**From: Queens County District Attorney Richard A. Brown**

**Re: Committee Hearing on Pay Parity and Retention Rates for ADAs and Public Defenders**

Thank you for the opportunity to discuss with you the issue of pay parity and retention rates for ADAs and Public Defenders.

At the outset, I would like to express my gratitude to the Council for its continued support of my Office, particularly in regard to the budget funding provided in the FY 19 Adopted Plan. These funds will enable my Office to hire additional staff in a variety of areas including, opioid/prescription drug trafficking, domestic violence, human trafficking, body worn camera, and property release initiatives. While this additional staffing does not bring us to the level of ADA staffing equivalent to that of my fellow District Attorneys' Offices, it is much needed and will indeed help improve our approach to criminal justice in Queens County.

In addition, in the area of ADA salary parity, the Council's ongoing efforts helped secure \$760,000 in funding for my Office for salary increases for ADAs in class years one through five. As a result, ADA salaries in these class years are now on par with their counterparts in the New York City Law Department. The funding has made a significant impact on salary levels for these ADAs, with a \$5,000 to \$9,000 increase received depending on class year.

We appreciate your recognition of the important work of our ADAs and the need for competitive salaries to reflect that. We are optimistic that these salary increases will enable us to better retain our newer ADA staff who often leave for higher paying jobs in the private sector and other government agencies due to understandable financial concerns often caused by crushing student loan debt.

While we are very appreciative for the funding received, it unfortunately only focused on our newest ADAs, not our entire ADA staff. As a result, our existing salary compression issues were further magnified and we needed to look at our ADA staff as a whole and make

adjustments to the salaries of ADAs beyond the 5-year mark as well. This was critical since over 58% of our ADAs have been with the Office for five years or more. Had we not made adjustments, for example, a 5-year ADA with the new raise would be earning the same as what a 10-year ADA was then making (and more than a six to nine year ADA). We alerted MOCJ and OMB of our concerns at the time when we were informed of the raises for the one to five year ADAs and have since requested baseline funding from OMB to offset the self-funded portion of the raise package. We once again ask for the Council's support in the allocation of these funds to my Office.

With that being said, we still face challenges ahead. While we have been fortunate in that our overall ADA attrition rate is comparatively low, we have seen our ADA attrition on an upward trend over the last several years. The bulk of this attrition continues to be with our assistant district attorneys with between five and 10 years of service – the future of the office.

This poses significant challenges. Each year this Office makes active recruiting efforts to attract new law school graduates to join our office as assistant district attorneys. And when they join our staff, we provide intensive training -- including classroom sessions, Moot Court exercises, visits to drug rehabilitation facilities and jails, continuing legal education and individual mentoring -- to ensure that we provide the quality legal representation for the People to which the residents of Queens are entitled.

We rely on retaining these attorneys as they grow in experience so they can handle more complex prosecutions, including serious felonies and specialized matters involving a wide variety of areas, including sex offenses, child abuse, domestic violence, homicides, gang violence, and sophisticated economic crimes, amongst many others.

When these attorneys leave after we have invested significant time and effort in training them, we lose the experience and training levels needed to most effectively carry out our mission of investigating and prosecuting the over 60,000 arrest cases we handle each year in Queens County.

In addition, moving forward, we must also continue to monitor ADA salary structures to ensure that salaries remain competitive. We look forward to working with the Council, OMB and MOCJ to ensure that ADA salaries are adequately funded and that future salary adjustments are implemented, as needed.

In closing, we have attached a summary chart of the new ADA salary levels for years one through five, as well as the ADA retention statistics you requested.

We thank you again for your ongoing efforts and continued support of my Office. We look forward to continuing to work with you and your staff on these and many other important matters moving forward.

**Office of the Queens County District Attorney  
 ADA Salary Summary  
 October 2018**

	Title	ADA Previous Salary	ADA New Salary (Implemented in August 2018)	Law Department Salary
Starting Salary	CLA (Unadmitted)	\$64,000	\$69,000	\$68,949
Starting Salary	ADA (Admitted)	\$65,000	\$70,000	\$69,929
3-year	ADA	\$67,000	\$72,000	\$70,959
5-year	ADA	\$70,000	\$79,000	\$79,079
10-year	ADA	\$79,000	\$88,000	Unknown

Professional Staff Length of Service [as of September 6, 2018]:

[total 348]

Less than 3 Years:                    94    27.0%

More than 3 to up to 5 Years:    49    14.1%

*Total: 73% of our ADAs have been here three years or more*

More than 5 up to 10 Years:        44    12.6%

*Total: 58.9% have been here five years or more*

More than 10 Years:                 161   46.2%



Kings County District Attorney  
**ERIC GONZALEZ**

Committee on Justice System

Pay Parity and Retention Rates for ADAs and Public Defenders

October 25, 2018

Committee Room, City Hall

Testimony on Public Hearing for Pay Parity and Retention Rates for ADAs and Public Defenders

Salary Parity for ADAs

Good Afternoon. Thank you to the Chairman and all the members of the Justice Committee and all our partners at the City Council for this opportunity to address you again regarding salary parity.

In May 2018, I shared with you my public commitment to making my office a national model of what a progressive district attorney's office can be. We are already developing programs to divert people out of the criminal justice system and reduce the use of criminal sanctions, using data to drive innovation and develop new measures of success, and focusing the resources of my office on the small number of individuals who are the drivers of crime, rather than focusing on the processing of low-level cases.

I shared with you my vision for the Brooklyn DA's office which is to keep the people of Brooklyn safe and strengthen community trust in our criminal justice system by ensuring fairness and equal justice for all.

I asked you to be my partners in realizing that vision, by providing my office with the resources it needs to continue these important reforms.

Specifically, I joined my fellow District Attorneys in asking you to help us ensure a baseline starting salary across the six City prosecutors' offices. The City has used salary parity between our Assistants and those of the City Law Department in the Corporation Counsel's office as a yardstick. This is a vital step toward attracting and retaining the most talented, brightest, energetic new attorneys who are crucial to the realization of this vision.

I want to thank you so much for your advocacy on our behalf in the last budget process. As a result of your strong support, we have been able to begin the equitable adjustment of our salary structure.

Unfortunately, the amount we received from the City was insufficient to fully fund our implementation in the manner the Council intended, and we are again asking for your help in achieving the City's stated goal – making sure every ADA is paid a salary comparable to their peers in the Law Department.

The \$2.2M in the Adopted Budget was intended to raise our starting salary from \$60,000 to \$69,000, and fairly adjust the salary structure for ADA's in their first four years with the Office. Unfortunately, this amount was not sufficient to adjust both the salaries of our new class of ADAs, who began just this week, as well as those who have joined the Office in the last five years. To fully implement this salary structure as intended by the City, my office requires an additional \$500,000 in funding.

We must also adjust other non-managerial ADA salaries in the Office in order to maintain an equitable structure and ensure that pay parity as implemented has its intended effect. Senior ADA's – whose salaries were not adjusted under the original implementation – now stand to earn less than colleagues with fewer years of service, whose salaries have been adjusted. This compression of the salary structure risks undercompensating experienced staff, to the exact opposite result of that intended by parity – we want to both attract the highest quality talent as new Assistants and retain that talent as our senior staff by reducing the financial pressure to leave the Office for other, higher-compensated municipal employment.

Avoiding this compression – which is both inequitable and inconsistent with providing the people of Brooklyn with the very best prosecutors available – requires an additional \$1.2M, which was not funded by the City. In total, my office is still short \$1.7M in funding annually to fully implement the equitable salary structure intended by the City. We have provided this information to OMB and have been in ongoing conversations since the Adopted budget in June to make clear how important this funding is in the next budget cycle with the November plan. We ask for the council’s continued support in this effort to fully implement salary parity as the Council envisioned.

Finally, it should go almost without saying that the quality of our criminal justice system requires skilled advocates with sufficient resources on both sides in any given case. I think the Council is to be commended for beginning to engage with the salary issues that are real for both prosecutors and the indigent defense providers. I hope we can all be part of that ongoing discussion as we continue to work together to reform and strengthen our system of criminal adjudication. As with all of the positive changes we seek to implement, appropriate compensation for defender organizations requires thoughtful, candid engagement – I would be happy to support the City and my colleagues on both sides of the criminal bar in that regard.

Thank you.

## NOTES





**New York County District Attorney's Office**

**Written Testimony by Chief Assistant District Attorney Karen Friedman-Agnifilo  
for City Council Committee on Justice System**

**Oversight Hearing on Pay Parity and Retention Rates for ADAs and Public Defenders**

**October 25, 2018**

Chairman Lancman, and members of the Committee on Justice System, thank you for the opportunity to submit testimony for the City Council's oversight hearing on Pay Parity and Retention Rate for ADAs and Public Defenders. This is a critically important topic for the future of the justice system, and I thank you for giving it the attention it deserves.

District Attorney Cyrus R. Vance, Jr. stated before the City Council early this year that the ability of the New York County District Attorney's Office (DANY) to recruit and retain talented prosecutors is greatly influenced by the competitiveness of our salaries. We appreciate the City Council's immediate acknowledgment of the issue and its support during the Fiscal Year 2019 Adopted Budget negotiations. Thanks to your advocacy, the Mayor's Office also recognized this concern and took steps toward addressing the historical pay disparity among assistant district attorneys and other public sector law professionals. As part of the Fiscal Year 2019 Adopted Budget, an additional \$253,808 in City Tax Levy funding was allocated to our baseline budget to increase the salaries of attorneys in years 1 through 4 of service. The new starting salary for a Manhattan ADA will be \$69,000, the same as an entry-level attorney at the New York City Law Department. We are grateful for these funds and we are eager to implement a new salary structure for our most junior assistant district attorneys. However, the funding received in the Adopted Budget is insufficient to implement this new salary structure. DANY requires an additional \$549,066, for a total of \$802,874 annually, to enact the pay raises. We have alerted the Mayor's Office of Management and Budget to this funding need and we await their response.

To ensure justice and fairness without fear or favor, prosecutors and indigent defense agencies must be able to recruit and retain the brightest legal minds. A low starting salary combined with the twin burdens of tremendous law school debt and the cost of living in New York City make it extremely challenging for our offices to recruit recent law school graduates in the competitive legal labor market. In the last five years, the law career landscape has changed dramatically, further exacerbating recruitment challenges in the legal profession. Both law school enrollment and JD graduation rates have decreased by 20 percent since 2013. The total number of Manhattan DA applicants decreased by 45 percent over the same period. Our office is proud to have maintained consistent diversity staffing levels over the past few years despite a 28 percent decline in minority applicants since 2014. The low starting salary continues to be an impediment, however, and we do not expect that we will be able to attract the same level of talent much longer, because we are falling behind other public offices. Our salary structure, particularly for assistant DAs in their first 10 years of service, is lagging as compared to our public service competitors – including the U.S. Department of Justice – to say nothing of those individuals lured each year by private law firm salaries. We are

unfortunately heading down a path whereby the only individuals who can accept a position within our office are those of privileged backgrounds and therefore, the applicant pool is less likely to reflect the population it is seeking to serve. The last thing any of our Offices want is to have classes of prosecutors comprised only of individuals with independent means or wealth. Prosecutors need to be reflective of the diverse population they are seeking to serve. Addressing the low starting salary is an important step toward reversing this trend.

New York County has seen a steady downward trend in all areas of crime over the past decade. Our innovation to not prosecute thousands of low level crimes and violations has further decreased case volume while creating a more just and compassionate justice system. From a cursory review of the data, a detached observer might conclude that there is a reduced need for prosecutors to handle the smaller incoming case volume. The reality, however, is that criminal activity has become significantly more sophisticated and places far greater emphasis on complex investigation and litigation. Furthermore, as we work to make the justice system more fair and create better outcomes for those involved, it is our policy to consider collateral consequences and alternatives to incarceration at very early stages of a case. Accordingly, prosecutors must dedicate a significantly larger amount of time to each case to adequately serve the interests of justice. The time associated with meeting the increased qualitative demands associated with today's complex caseloads more than compensates for the higher number of simpler cases handled by an earlier generation of prosecutors.

Furthermore, retention of highly trained prosecutors is key to our success in this challenging environment. DANY currently has a 17 percent attrition rate after ADAs meet their three-year commitment. DANY's ADAs often leave for significantly higher paying public service positions. We often hear from young prosecutors departing the office that they have families to provide for and they are struggling to pay for early childhood care while occupying a demanding, full-time job in the public sector. It is not a level playing field, and we simply cannot compete.

Finally, we understand that the Committee is considering Int 1103-2018, which would establish a temporary taskforce to evaluate salary parity, retention, funding, infrastructure, and caseloads of public defenders and assistant district attorneys. While we take no position on the bill's proposed task force, if such a task force is established, its composition should include the City's district attorneys and public defenders.

Thank you for holding this hearing and for giving prosecutors an opportunity to be heard regarding an issue that is essential to the future of our justice system.

Committee on the Justice System

Oversight Hearing on Pay Parity and Retention Rates for ADAs and Public Defenders

October 25, 2018, 10:00 AM

Elizabeth Bender, Staff Attorney, Legal Aid Society's Decarceration Project

Last week, I celebrated the end of my seventh year at Legal Aid. I worked for over five years in our Bronx Criminal Defense Practice before joining the Decarceration Project, where I focus on bail litigation and policy. In my current position, I argue against both Assistant District Attorneys and Corporation Counsel lawyers to advocate for my clients' freedom. In each of those seven years, I have earned less than the City employees who seek to incarcerate my clients and who defend the City against my clients' claims of excessive force by police and corrections officers. Whether true or not, what that pay disparity tells me—and my clients—is that my work is worth less than the work of those lawyers.

There is no constitutional mandate that a state prosecute its citizens. There is no constitutional requirement that we fill our jails with Black and Latino men in a city whose population is almost 50% White. What the Constitution does protect is the right to a lawyer when the state chooses to prosecute and jail you. My colleagues and I give that constitutional right meaning. I believe that the members of this Committee know how important that is. But when we are paid less than our adversaries, that is not the message we hear. We hear that lawyers jailing our clients and defending the City are worth more than we are. We hear that serving those in power is more important than defending the indigent accused. We hear that our work is less valuable.

It is not just the smaller monthly paychecks that send that message. It is the lack of support when we retire, too. Within weeks of arriving at the Bronx office as a new lawyer in 2011, my senior colleagues organized a union meeting to talk about how important it was for us new attorneys to start thinking about retirement now, because we do not have the type of pension a City employee gets. For us, with barely a month on the job and most of us not yet 30 years old, the impact of that felt far away, almost abstract. For them, it was real. They wanted to help us protect our financial futures, because they knew that we do not receive a defined benefit pension the way ADAs and Corporation Counsel lawyers do.

To be clear, any public defender will tell you that they do not do it for the money. What we mean is that we do not do it to get rich. I am not asking you to make me rich. I am asking for a salary that will support me and my family in the City I serve. I am the breadwinner in my home. My spouse works two jobs while he is getting his PhD at CUNY. One of his jobs is as an adjunct professor at City College, where he is also overworked and underpaid. This family structure is not unique—people who want to serve tend to find each other. For many of my Legal Aid colleagues with partners in public interest, our low salaries mean we cannot take advantage of some of the non-monetary benefits that our union has fought hard to secure. For example, I am eligible to take an unpaid six-month sabbatical. This is an incredible privilege, but one that I believe we have earned: our work is taxing. We stand beside our clients at what is, for many of them, the worst and most stressful moments of their lives. It is impossible not to absorb that stress. For attorneys fighting on the front lines, there are grueling night court and weekend arraignment shifts. There are trials where you are lucky to get three hours of sleep for days on

end. There are clients whose unfair treatment weighs on you like a boulder, and you spend all your energy trying to keep that boulder from crushing your client too. This work can be physically and emotionally exhausting, and a sabbatical can help us deal with the secondary trauma we bear. Six months away, to rejuvenate and recharge, could make a world of difference for us and our clients. But I, and people in my financial position, cannot take advantage of it. My spouse and I simply do not make enough to save up for six months without my paycheck. We also cannot survive without my health insurance, which would lapse during a sabbatical. My husband has an ongoing condition that went untreated until we were married and he could join my insurance plan. We would have to buy additional coverage on the market if I went on sabbatical, making it even more financially out of reach for us. To be clear, we are aware of our great fortune in life: we are educated and employed, we have health insurance, we live in a safe home. I am lucky to have a union that bargained for non-monetary benefits that respond to the stressful job I have chosen. But my salary keeps me from taking advantage of them.

I appreciate the Committee holding this hearing and taking seriously our demand for pay parity. I know you value the service we provide. I am asking that our pay reflect that, and that the City guarantee my colleagues and I have pay parity with Corporation Counsel.

**Testimony of the Legal Aid Society**

**on**

**THE VITAL NEED FOR PAY PARITY FOR PUBLIC DEFENDERS**

**Presented before**

**The New York City Council  
JUSTICE SYSTEM COMMITTEE**

**Presented by:**

**Tina Luongo, Attorney-in-Charge, Criminal Practice**

**October 25, 2019**

Thank you Chairman Lancman for holding this important hearing at a critical time in our City, where we must finally tackle the issue of pay and resource parity for those organizations that are providing legal services and public defense to the people of this City. My name is Tina Luongo and I am the Chief Defender for The Legal Aid Society's Criminal Defense Practice, and have served the people of this City as a public defender since 2002.

This testimony today is not only on behalf of the staff I lead, but on behalf of Adriene Holder, Attorney in Charge of the Civil Practice and her staff; Dawne Mitchell, Attorney in Charge of the Juvenile Rights Practice and her staff; and on behalf of the heads of each of this City's defense organizations: Bronx Defenders, Brooklyn Defender Services, Neighborhood Defender Service of Harlem, New York County Defender Services, and Queens Law Associates and all of their staff. Together, our organizations employ close to 4,000 people who represent over 300,000 New Yorkers in Criminal, Civil, Family and Immigration direct legal matters annually and affect the lives of millions of New Yorkers by the work we do to reform policies through legislative and administrative advocacy and systemic litigation.

Let me begin by speaking proudly about the people who dedicate their lives to the public defense we provide.

Every single day, seven days a week, nearly 24 hours a day, the staff of our offices who are attorneys, paralegals, investigators, social workers, and managers fight for racial equity and social justice. To them, being a public defender is a calling, not a job. They are driven to working long hours, under very stressful circumstances, not because they are interested in

counting the wins but because they simply love what they do and whom they do it for. They are diverse in identity and lived experiences. And while they are motivated to do this work for a host of reasons, they are unified in their commitment to provide excellent, zealous representation to the people they serve. They are often the only person standing between their clients and, frankly, everyone else. They are the defenders of the People of this City.

Despite the incredible passion and dedication of staff, our offices are all facing unprecedented rates of attrition, particularly attorneys of color that have joined our offices in the last few years. What starts as a hope and dream of a lifelong career at our offices slowly diminishes as the cost of living in New York City and the burden of paying back school loans become reality.

By a person's fifth or sixth year of service as a public defender, people sometimes take on a second job in food services or driving Lyft to try make ends meet. By year ten, the dream of being a New York City public defender has often ended because living in the City on a public defender salary is so difficult. Instead, they look for, and often find, new higher paying positions, ironically often with Corporation Counsel, the Office of Court Administration or outside of New York City completely.

### **THE RENT IS TOO DAMN HIGH**

Simply put, the cost of living in New York City is too high for public defenders to afford at the current salary levels we are able to pay given our budget limitations. Recently, we analyzed the retention rates of all the public defenders in the Criminal Defense Practice at The Legal Aid Society hired between 2007-2017. Sadly, but not surprising, as the years of service and



experience of staff increased, the rate of retention decreased, with the largest percentages of staff leaving between five and ten years. By the tenth year of hire, essentially half of the class hired in that year (nearly 48%) had departed Legal Aid for other employers.

In exit interviews of staff from those years, we hear the same tale over and over again. They want to stay. They love the work they do for their clients, yet they cannot afford to continue to work for us. Some leave to take public defender positions in cities and states that pay more or have a lower cost of living, such as Seattle, Washington or cities throughout New Jersey. Others take positions at the Federal Defender offices right here in New York City in the Eastern or Southern District, where the rate of pay is far greater. Most frustrating for us, many leave to work for the City of New York at agencies like the Human Rights Commission or Corporation Counsel. Many go to work for the Office of Court Administration. These agencies are luring staff away from Legal Aid because their salaries are so much higher. Just this month, six experienced Legal Aid Society staff attorneys left Legal Aid to become OCA Court Attorneys because OCA salaries are so much higher.

When our staff tell the tale of how hard it is to live, work and thrive in this City, here are the things that are breaking them:

- A recent report on New York City median rent prices indicates that it costs \$2,850 a month for a one bedroom apartment and \$3,280 a month for a two bedroom apartment.<sup>1</sup>

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<sup>1</sup> <https://www.zumper.com/blog/2018/09/zumper-rent-report-october-2018/>

- In a recent report of 181 law schools in the U.S., the average student indebtedness ranged from \$53,237 to \$198,962.<sup>2</sup> While it is well known that many law schools participate in loan forgiveness programs, it is proven to be extremely difficult for applicants to meet all requirements and thus to receive approval. In fact, since President Trump has taken office, 98% of applicants for the Public Loan Forgiveness Program have been denied.<sup>3</sup>
- For families with two children in the City, where child care is a significant added cost to living, the annual cost of child care ranges between \$30,245 and \$36,497.<sup>4</sup>

When the City of New York pays a Corporation Counsel attorney with 10 years of experience an annual salary of \$108,153, the City is recognizing the need to keep pace with the cost of living. This salary is \$18,000 more than we are able to pay for an attorney at the same experience level. When the Office of Court Administration pays \$98,824 to Court Attorneys who need only three years of experience, it is because OCA understands the need to keep pace with the cost of living.<sup>5</sup> That salary is more than \$34,000 higher than we are able to pay for an attorney with the same three years of experience. It is \$28,347 more than someone earns at The Legal Aid Society at five years of experience. It is more than \$8,619 higher than a Legal Aid Society attorney earns who actually has over seven years more experience!

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<sup>2</sup> <https://www.usnews.com/best-graduate-schools/search?program=top-law-schools&specialty=grad-debt&location=New%20york>

<sup>3</sup> [https://www-forbes-com.cdn.ampproject.org/v/s/www.forbes.com/sites/zackfriedman/2018/09/24/public-service-loan-forgiveness-rejected/amp/?amp\\_js\\_v=0.1&usqp=mq331AQICAEoATgAWAE%3D#origin=https%3A%2F%2Fwww.google.com&prerenderSize=1&visibilityState=prerender&paddingTop=54&p2r=0&horizontalScrolling=0&csi=1&aoh=15403487816213&viewerUrl=https%3A%2F%2Fwww.google.com%2Famp%2Fs%2Fwww.forbes.com%2Fsites%2Fzackfriedman%2F2018%2F09%2F24%2Fpu](https://www-forbes-com.cdn.ampproject.org/v/s/www.forbes.com/sites/zackfriedman/2018/09/24/public-service-loan-forgiveness-rejected/amp/?amp_js_v=0.1&usqp=mq331AQICAEoATgAWAE%3D#origin=https%3A%2F%2Fwww.google.com&prerenderSize=1&visibilityState=prerender&paddingTop=54&p2r=0&horizontalScrolling=0&csi=1&aoh=15403487816213&viewerUrl=https%3A%2F%2Fwww.google.com%2Famp%2Fs%2Fwww.forbes.com%2Fsites%2Fzackfriedman%2F2018%2F09%2F24%2Fpu)

<sup>4</sup> <https://www.epi.org/resources/budget/>

<sup>5</sup> <http://www.nycourts.gov/careers/2jd/20809.pdf>

Our inability to pay salaries competitive with those that New York City and OCA pay to their staff is directly related to how much we are paid by these same entities through our contracts. Many of you listening or reading this may be asking: Why can't these offices simply pay more to their staff? The answer is: We do not receive enough funding under our contracts.

For those of us charged with leading our offices and negotiating our budgets with the Mayor's Office of Criminal Justice or the Office of Administration, the daunting task is to try to increase staff salaries while also paying cost increases for healthcare, rent, utilities, and retirement plans, problems that the District Attorneys and Corporation Counsel do not have. DA offices, Corporation Counsel, and other City agencies do not pay their own rent (with the exception of Kings County) or healthcare or pension plan payments. When they receive additional funding in their annual budgets, those dollars can be dedicated entirely to salaries and programs. As independent not-for-profits, we do not have that benefit. If we are provided additional funds – and that is not always done; in fact, some organizations have received less funding this year than in others – we must make hard choices between increasing salaries or covering costs associated with running our offices and frankly, keeping the lights on.

Additionally, the experts and investigators we hire to help us defend our clients are all funded out of our budgets. That is not the case for the DA or Corporation Counsel. Their investigators are provided by the New York City Police Department. Their medical experts are City employees of the Office of the Chief Medical Examiner or New York Health and Hospital Corporation. Since these agencies are all part of New York City, the DAs and Corporation

Counsel incur no costs in their own budgets for these services, which would otherwise draw money away from what can be paid to staff as salaries.

And while the examples and salary rates used above are for attorney positions, the cost of living in New York City creates the same issues for all our staff. Members of our paralegal, social work and investigator departments are working night and weekend side jobs in addition to their full-time positions. The high rate of turnover forces us to play catch-up to fill open roles that often are hard to fill because we cannot attract people based on the salaries we can afford to pay.

Having open positions also affects the staff who remain with us, and who must take on the client work left when someone resigns. This creates higher workloads that further increase stress and burnout.

### **The Solution**

The solution is simple, and I submit to you, it does not require a task force. Pay the public defenders of this City the same salaries as Corporation Counsel. For those who are suffering with ballooning school debt, The City Council could launch a New York City Public Interest Loan Debt Assistance program for all those staff that are dedicated to providing public service to New York City residents.

By increasing salary and reducing school debt, New York City would commit to ensuring that being a public defender returns to the lifelong career that attracts and retains diverse and dedicated staff. Our staff deserve it. And more importantly, our clients, the People of New York City, deserve it.

My name is Deborah Wright, I am the President of the Association of Legal Aid Attorneys – UAW Local 2325. In New York City alone, we represent over 1,100 members, including the attorneys and the Legal Aid Society, Federal Defenders of New York, as well as both attorneys and support staff at Youth Represent and CAMBA Legal Services. Our members provide a vast array of indigent legal services in the criminal, family, and civil courts of New York City.

Our members did not make an easy choice when they chose to represent the most marginalized in society, but I strongly believe that the thread that runs through the character of all of our members is their true dedication to social justice and their clients. This is why they have chosen this calling and this profession. Just like the District Attorneys and the Corporation Counsel, our members have chosen a path of public service, but, because our members represent the indigent instead of the powerful, they have not been treated equally in terms of salary or benefits among their colleagues they stand opposite from in court every day.

It should come as no surprise that our membership carries an overwhelming load of educational debt, with the majority of members holding above \$175,000 in student loans. This is something we monitor closely as a union, because it is one of the chief hurdles that members face in dedicating themselves to this career path. The vast majority receive no financial assistance from their law schools in paying back these loans and rely solely on the small amount of assistance from the State and their own salaries to manage their debt. This, combined with the astronomical cost of living in New York City, has led to vast attrition among the attorneys in our membership, especially those within 4-10 years of experience, who are leaving the Legal Aid Society and other providers in droves to seek alternative employment. In those that leave,

we have seen that it is not their commitment to public service that has changed, as they often seek jobs in the public sector serving those same communities or have moved to other localities in search of lower rent, but continue as public defenders and indigent legal services attorneys. Instead, it is clear that as our members move through their careers, it is economic hardship and the realities of raising a family in one of the most expensive cities in the United States that is responsible for this turnover. Our people want to continue serving their clients, but the reality of this City is that they cannot do that at a Legal Aid salary.

The continued attrition at Legal Aid and other providers has led to a gap in critically trained attorneys who are able to perform the increasingly specialized fields of law into which the City has rightfully been expanding and which are desperately needed by our clients. By allowing the attrition of experienced attorneys to continue, we will not only be doing a disservice to those attorneys, but more importantly, we will be doing a disservice to the clients to whom we will be unable to provide quality, dynamic, and important services. There is a direct correlation between the working conditions of our members, and the ability of our clients to access justice in this city which we hold to be the shared goal of our union, the providers, the Administration and the City Council. Our interests have always been inextricably intertwined with those of our clients.

For years the Assistant District Attorneys have outpaced us in terms of salary and benefits to the point that we have never even gotten close to their level of compensation. Now, the Assistant District Attorneys and Indigent Legal Services Attorneys and Staff should achieve parity with Corporation Counsel, who, under the City's expanded programs, especially in the Civil practice, have had more and more interaction with our members as opposing

counsel in the face of increased civil legal services. We have seen that at ten years of experience, the average Assistant Corporation Counsel will earn \$20,000 more than their Legal Aid counterpart—and this is only counting the base salary, and does not including bonuses or the generous defined benefit pension which our members unfortunately do not receive as they are not public employees. I would also like to specifically highlight the disparity and injustice faced by our paralegal casehandlers at multiple providers, who zealously stand up and represent their clients against a law department attorney in NYCHA hearings who may be earning upwards of \$80,000 more than them. Parity with adversaries is not uncommon, even among those who represent the indigent. Our members at the Federal Defenders of New York have maintained parity with the US Attorneys, which has allowed them to defend their clients, often facing some of the most serious charges, with dignity and respect.

The answer today is clear: to retain qualified attorneys and support staff dedicated to the representation of indigent clients, ensure just working conditions for those workers, and preserve and improve our clients' access to justice, New York City must fund all legal services contracts, both criminal, civil, and otherwise, to ensure parity with the Law Department.

Good morning. My name is Lily Goetz and I am a staff attorney at the Legal Aid Society in the Brooklyn Criminal Defense Practice.

There is no justification for Legal Aid attorneys getting paid less than the lawyers we oppose in criminal and family courts every day.

Eight years ago, when I started working as a public defender at Legal Aid in the Bronx, I was a family of one, sharing the cost of rent with two roommates. Unlike most of my contemporaries—whose law school debt measured in the hundreds of thousands—I was fortunate to attend CUNY law school on a fellowship. In addition, because I'd already been a lawyer for three years, I got to skip the shamefully low bottom three steps of our payroll. I could save money for retirement, or just for the nebulous "future."

Now I am married, and my husband and I have a child. I am the sole breadwinner in my family. We live modestly—I bring my lunch from home, my daughter wears mostly hand-me-downs, and we live in a one-bedroom apartment. I love my job, but the rising costs of life make it harder and harder for us to live in New York City on my Legal Aid salary. The savings I'd accumulated as a single person, upon which my family relies to supplement my income, are quickly disappearing. I am decades from retirement, but I no longer earn enough to set aside much at all. Writing this has made me reflect on just how problematic my decreased ability to save will be for my family in years to come.

My story is not special, or an outlier. Several of my most talented colleagues have recently left Legal Aid for better paying jobs. They were single parents who could not afford to raise their kids on our salaries, or recent law school graduates who couldn't afford to pay their rent and their student loans, and still eat.

Clearly none of us chose public service for the money, but we should be able to have a second child if we want to, to save up and buy a home, to pay our rent and our student loans and still have money left for food, to retire while we are still healthy enough to enjoy it. I spoke with two of my supervisors about how I would be testifying in this hearing today, and they mentioned that their counterparts in the District Attorney's Office, lawyers who began their careers at the same time, are currently making \$40,000 more. We struggle to provide for ourselves and our families the very same basic human needs—food, shelter, clothing, education, childcare, elder care—that we fight for, every day, for our clients. This is shameful.

We could have decided to work anywhere, and we chose to serve the most vulnerable New Yorkers. We deserve fair compensation for the public service we provide every day—attorneys, support staff, supervisors, social workers, investigators, paralegals. That is why we are asking the City to provide pay parity with the Law Department in all of its legal services contracts.

When I leave her in the mornings, my daughter knows that I am going "to work," but I want to be able to afford to continue working at Legal Aid when she is old enough to ask me what my work is. I want to be able to afford to continue working at Legal Aid when my daughter is ready to leave home for college. I want to be able to afford to continue working at Legal Aid when my daughter is deciding what kind of work she wants to do.

Thank you.



Akin Akinjiola  
Legal Aid Society  
Criminal Defense Staff Attorney  
10/25/18

- I am grateful for the chance to be able to be heard on this important issue. I am supposed to be here advocating for public defenders to receive pay parity with the district attorney's office and corporate counsel. But before I begin, I'd like to pose a question to the committee Why do you think our work as attorney's deserve less?
- I've been racking my brain to try to figure out how you would justify the disparity, and the only conclusion I can come to is that you don't value our clients and their constitutional right to a defense.
- They, being the district attorney's office and corporate counsel, took the LSAT just like us. Graduated from the same law school as us. Passed the same NY State bar exam we did. Yet, you value their efforts to put indigent New Yorkers, our clients, in cages, over our efforts to provide our clients with the dignified, quality representation that the constitution demands.
- I took this job in 2013, at 28, fully aware the pay would not be glamorous or even close to what "paid" lawyers make. I knew I was my commitment to serve others, those born into severe poverty and fragile families, that would keep me motivated and dedicated to doing this job
- That same commitment to others is what encouraged me to enlist in the United States navy, at 18, and proudly serve this country, by risking my life and wellbeing while spending more time in war zones than any person ever should
- See, I grew up poor and on government assistance until we were able to make it out. So I am more familiar with the plight of our clients than most. And I love them. I may not like all of them, but I love them all for their ability to survive and not give up hope in a world that has given them less than nothing and with very few opportunities to pull themselves out. I was able to make it out. And this survivors guilt I live with hasn't allowed me to walk away from them. At least not yet.

- But after doing this for 5 years. Being 33 I'm not sure how much longer I can do this job for this salary. I wasn't born into money like many of the people that have the access, ability and privilege to attend law school. I have debt. Only 100 thousand. I say only 100 thousand because many of my coworkers have closer to a quarter million in debt.
- Our salary prevents me from living any where near work. For two years I lived in New Jersey, over 90 minutes away, just to have affordable housing. This limited salary must be divided amongst paying loans, high cost of New York City Living, helping out my extended family and saving what little I can for my future. Which makes the idea of starting my own family very daunting.
- This is not a 9-5 job. The last two weeks I put in over 80 hours a week. Slept barely 4 hours a night because I was on trial fighting for a client facing 7 years in prison. Those hours I put in, there were no short cuts, and they helped to free a man, when that jury said not guilty.
- I'm 33 years old and still forced to live with two other roommates. One, happens to be another Legal Aid Society attorney and the other is a former staff attorney. This salary is forcing us to live like college students even though we each have advanced degrees and are highly skilled.
- And soon I'm going to have to make a big decision. Between what I feel is my civic duty, passion and calling or a financially stable future. I shouldn't have to make this choice. You have the ability to change that.



**New York City Council, Justice System Committee  
Hearing on The Vital Need for Pay Parity in Public Defense  
October 25, 2018**

**Oral Testimony of The Bronx Defenders,  
By Shannon Cumberbatch**

**Introduction**

My name is Shannon Cumberbatch and I am the Director of Hiring, Diversity & Community Engagement at The Bronx Defenders. Thank you for having me.

In my role at The Bronx Defenders, I am responsible for recruiting and hiring skilled attorneys and advocates committed to zealously representing our clients in the family, criminal, immigration and civil legal systems. A related and equally important part of my job is helping to promote a diverse, inclusive, and conscious workplace that centers the needs of the communities we serve. Integral to this goal, is attracting and retaining staff members from populations most directly affected by our work - those from immigrant communities; from racially and socioeconomically marginalized communities; and those whose lives have been directly impacted by the legal systems in which we are advocating. What has become painfully evident in my diversity recruiting and retention efforts, is that the lack of financial stability in public defense makes this career path feel largely inaccessible to, and unsustainable for, many of our most passionate candidates, particularly those who reflect the identities and experiences of our client population.

**Pay Disparity for Public Defenders Dilutes Diversity in Defense**

Lack of adequate pay has a detrimental effect on defenders across a variety of backgrounds and experiences, and on office morale as a whole. However, I have found that pay for public defenders often disproportionately burdens and sometimes, effectively excludes people from the populations we serve -- undermining their ability to serve their own. As we are all aware, low-

income Black, Latinx, and Indigenous people are overwhelmingly overrepresented in the court systems as defendants, and incredibly underrepresented as defenders. This is not mere coincidence, nor for lack of interest. In my experience, the lack of pay in public defense is one of the most salient, consistent and seemingly insurmountable barriers that maintains the divide between who needs defending, and who has the privilege of being a defender.

Candidates from populations disproportionately affected by poverty, structural inequality and system involvement, are least likely to benefit from generational wealth, least likely have familial support to supplement their low salaries, and least likely to have resources to subsidize their exorbitant expenses. In fact, those of us from marginalized communities are more likely to be primarily responsible for financially supporting our loved ones stifled by and entrapped in the same systems our client's navigate. Coming out of financial hardship, with even greater financial responsibility (mountains of student debt), no safety net and unsustainable pay maintains the cycle of struggle for many applicants - not only making it impossible for them to help their families out of poverty, but ensuring that they are not too far removed from it themselves.

Summer interns often compose the primary and most competitive pool of applicants to public defender offices. So much of my recruiting and research around diversity in public defense involves mentoring and cultivating interest among students. I find that as early as undergrad, students from populations we serve are saddled with the anxiety of how they could possibly afford to serve communities like their own.

While expressing her passion for public defense and anxiety around the financial limitations of the career, one undergraduate summer intern applying to The Bronx Defenders shared:

*"I am considering a career in public service because I feel like it is my responsibility and passion to contribute to communities like my own. I grew up in a poor neighborhood in the Bronx. My parents are both Mexican immigrants . . . During my time [in school] I have had some difficulties not being able to work as many hours throughout every week to help send money back home. Since high school I have been financially responsible for myself and it has always been an extra worry for me to make sure that my family is not having too much financial instability . . . I know that it is easy for many people from low income families to go into jobs that are a lot more financially secure because their first priority is being able to provide for their family. Personally, I want to continue working in public service but I also know that I am not in a financial position where my parents can take care of my expenses or even help out with my living expenses."*

This student's circumstances and early anxiety about pursuing a career in public defense is neither unreasonable, nor uncommon, but instead very accurately reflects the daunting reality for so many of our applicants and staff members from similar backgrounds.

Many believe that choosing a career in public defense means to sacrifice the luxury afforded by lucrative positions in private law, but for many, and *especially* those from the communities we serve - it means struggling to attain and maintain basic necessities. It means after much debt and formal education, potentially facing housing insecurity, not being able to cover medical expenses, not being able to use your privilege and education to provide financial stability for your own family in the community you serve.

This takes a huge mental, emotional and physical toll on those who do decide to make the sacrifice. It often means going with critical needs unmet, and after working long, hard hours as a defender, spending nights and weekends working additional jobs to make ends meet.

One legal intern from The Bronx Defenders shared:

*"I chose to attend law school ... because I always wanted to serve as a public defender...I would watch my father get relentlessly pulled over by the police. I would shake in fear every time the blue and red lights flashed behind us. I thought that the police were an inescapable, unshakable fact of a person of color's existence. . . . Despite having only a limited ability to speak in English, my father would fearlessly stand up for himself. My father is of course, still dealing with the collateral consequences of his past, but he is nevertheless my hero and an exemplar of the fierce advocate that I hope to become. Neither of my parents work: my dad suffers from Parkinson's disease and my mom tries to make ends meet by taking care of my dad and pursuing odd jobs such as cleaning houses. Growing up as a Latina and as the daughter of two immigrants, I have learned that communities of color are incredibly resilient. With my experience as a woman of color, I hope to apply my unique background in order to foster a trusting relationship between myself and the Bronx community that the Bronx Defenders serves."*

This summer intern is now in fact a staff attorney at Bronx Defenders, and just two days ago shared that while she is incredibly excited to be working in our office, doing work that she truly believes is priceless, she wishes that she could devote her full attention to zealously defending her clients and acclimating to this new role without constant concern about her financial situation and the looming anxiety of how she will manage to pay her mountain of student debt while covering living expenses.

### **The Importance of Diversity in Public Defense**

The negative, disparate impact pay disparity in public defense has on the recruiting and retention of applicants from racially and socioeconomically diverse backgrounds is not just a matter of equity, it's a matter of providing quality, culturally competent, client-centered representation in public defense. We need people on staff who can relate to, interpret and empathize with our clients' experiences in their cultures and communities; people who can speak the many languages and dialects represented in this incredibly diverse city; people who know what it's like to be in desperate need of legal assistance when facing a loss of liberty or family separation. These perspectives and experiences are critical to the culture at a public defender office, but are lost, when people have to decide between supporting their community and being able to support themselves.

Thank you for your attention to this issue - I look forward to collaborating to make public defense a more sustainable career, and more accessible to people from communities most directly affected by the work.

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I represent: ALAA

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Address: LAS Defendant

I represent: \_\_\_\_\_

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Address: \_\_\_\_\_

I represent: BRONX COUNTY DISTRICT ATTORNEY

Address: 198 E. 161 ST.

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I represent: Mayor's office of Criminal Justice

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I represent: Brooklyn Defender Services

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Name: SHANNON CUMBERBATCH

Address: 360 E. 161st St. Bronx NY

I represent: THE BRONX DEFENDERS

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I represent: RCDH

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I represent: Queens County District Attorney's Office

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I represent: 1199 SEIU

Address: 310 W 43 ST NY NY 10036

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