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MEMORANDUM IN SUPPORT

State Commission on Prosecutorial Conduct

A.5285C (Perry)/S.2412D (DeFrancisco)

June 15, 2018

The Chief Defenders Association of New York ("CDANY") is a membership organization of the appointed Public Defenders, Conflict Defenders, Executive Directors of non-profit public defense offices and Administrators of Assigned Counsel Panels throughout New York State. Our organizations collectively represent the vast majority of people prosecuted in every county of New York State—hundreds of thousands of people each year. Collectively, public defense offices represent close to 400,000 people in the criminal, family, and appellate courts of New York State every year.

CDANY strongly supports the creation of a State Commission on Prosecutorial Conduct. Prosecutors have the greatest discretion at every point in the criminal justice process, from choosing how to charge people, what evidence to turn over, what plea to offer, whether to allow for alternative to incarceration programs, and what sentence to ask for upon conviction. As such, prosecutors should be held to a high standard. And yet for too long, New York has allowed prosecutors to act with impunity. New York has the second highest number wrongful convictions in the nation, right behind Texas, with 266 people exonerated in our state since 1989. Prosecutors in our state are rarely, if ever, held accountable for their actions, even in cases where innocent people spend years or decades in prison.

Four decades of decision-making by the Commission on Judicial Conduct has demonstrated that open and honest scrutiny of judges provides a framework for developing ethical best practices. By creating a body of expectations arising from individual cases, ethical norms for the judiciary as a whole have become widely recognized, helping to guide and regularize ethical judicial conduct. This bill, modeled on the success of the New York State Commission on Judicial Conduct, will ensure that prosecutors who abuse their power are held accountable for their actions.

There is currently no effective oversight in New York for prosecutors who abuse their power. In order for the criminal justice system to operate fairly, we need to ensure that prosecutors are held accountable for their actions. People's lives and liberty are at stake. Creating an independent commission to investigate complaints of prosecutorial misconduct is a critical first step in the right direction.

FOR MORE INFORMATION CONTACT:

Tina Luongo, CDANY President, JMLuongo@legal-aid.org, (212) 577-3300

Lisa Schreibersdorf, CDANY Past-President, Lschreib@bds.org, (917) 593-0078