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February 24, 2015

Hon. Peter Abbate
605 Fort Hamilton Parkway
Brooklyn, NY 11219

RE: *Support for the Office of Indigent Legal Services Budget Request*

Dear Legislator Abbate:

I am writing to introduce you to the Chief Defenders Association of New York (CDANY), and to ask for your support for the Office of Indigent Legal Services Budget Request for 2015-16.

CDANY is comprised of fifty-eight (58) Chief Defenders who lead Indigent Defense Programs across New York State. In 2014, these programs represented over 400,000 persons in the criminal, family, and appellate courts of New York. CDANY members are struggling to provide excellent legal representation to their clients despite significant hardships including a lack of funding and insufficient staffing. CDANY was formed to be a voice for positive change for our indigent defense programs and the justice system.

CDANY strongly supports the Office of Indigent Legal Services' budget request for 2015-16 seeking total funding of \$118.45 million. This funding will permit the Office of Indigent Legal Services to provide vital resources to indigent defense programs throughout New York State. These increased funds will be dedicated to quality improvement, caseload reduction, and providing constitutionally required counsel at arraignment.

Although the Executive Budget increases the Office of Indigent Legal Services' funding by \$4 million, those funds must be used to pay for the State's obligations resulting from the settlement of the *Hurrell-Harring* lawsuit, and therefore will only be expended in the five (5) defendant counties in that action (Onondaga, Ontario, Schuyler, Suffolk and Washington counties). The Executive Budget's proposal provides no increased funding for the remaining upstate counties and will actually result in increased county costs to pay for expanding caseloads and rising expenses.

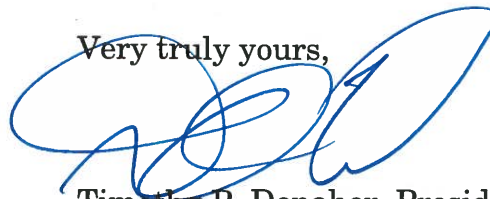
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I have enclosed additional information about the Office of Indigent Legal Services Budget Request and the need to adequately fund all New York counties.

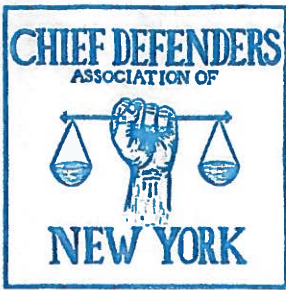
CDANY urges the State to meet its constitutional obligations by fully funding the Office of Indigent Legal Services and adequately funding indigent defense in all counties of New York State.

Should you have need for any additional information, please do not hesitate to contact me directly.

Very truly yours,



Timothy P. Donaher, President
Chief Defenders Association of New York
and Monroe County Public Defender
(585) 753-4531; tdonaher@monroecounty.gov



CHIEF DEFENDERS ASSOCIATION OF NEW YORK

Honor Our Constitution -- Fund Every County Support the Office of Indigent Legal Services Budget Request

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On October 21, 2014, the State of New York settled the case of *Hurrell-Harring v. New York*. In that settlement, the parties agreed that “this Settlement Agreement will ensure counsel at arraignment for indigent defendants in the Five Counties [Onondaga, Ontario, Schuyler, Suffolk and Washington], provide caseload relief for attorneys providing Mandated Representation in the Five Counties, improve the quality of Mandated Representation in the Five Counties, and lead to improved eligibility determinations[.]” In the settlement, the state agreed to include a total of \$3.5 million in the FY 2015-16 Executive Budget for implementation of the settlement.

The Executive Budget honors the settlement agreement by dedicating \$3.5 million toward implementation of the agreement in the Five Counties; **but it adds no money at all to improve the quality of representation in the remaining 52 counties outside of New York City.** These “Forgotten 52” counties benefit neither from the state-funded New York City caseload reduction program (passed by the Legislature in 2009), nor from the *Hurrell-Harring* settlement funding.

These 52 counties are in as bad or worse shape with respect to the right to counsel than the New York City boroughs or the lawsuit counties. Simple fairness and justice demand that they receive a fair share of state funding for the very same purposes that the state has agreed are a state responsibility in the settlement agreement in *Hurrell-Harring*.

Funding two critical components of the Indigent Legal Services Aid to Localities budget request for FY 2015-2016 would begin to correct this inequity, and ensure equal justice for **all** New Yorkers. These two programs, and requested funding levels, are:

- **\$20 million for Upstate Caseload Reduction and Quality Improvement**
- **\$8 million for the provision of Counsel at First Court Appearance in upstate counties**

This funding will begin to improve the quality of representation throughout the state; will create a level playing field for all counties; and will help protect the state and counties against additional crippling lawsuits.

Please support the Office of Indigent Legal Services 2015-2016 Budget Request. (Further information is on the back of this page.)

FY 2015-16 ILS Budget Request

	FY 2014-15	FY 2015-16 Request	Requested Change
State Operations	\$1.9 million	\$6.45 million	+\$4.55 million*
Aid to Localities	\$81 million	\$112,000 million	+\$31 million**
All Funds	\$82.9 million	\$118.45 million	+\$35.55 million

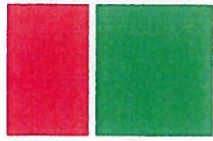
*State Operations:

1. **Hurrell-Harring Settlement**
 - o \$950,000 to establish a *Hurrell-Harring* Settlement Implementation Unit, composed of a Chief Implementation Attorney, four additional attorneys, and three paralegals, at least one of whom will have expertise in research and data analysis.
2. **Adequate ILS staffing**
 - o \$800,000 to add sufficient staff to accelerate progress toward improving the quality of representation *in every locality*.
3. **Regional Support Centers**
 - o \$2 million to begin establishing Regional Support Centers, which are essential for the realization of uniform, high quality representation in every county and region. This initial appropriation would support the first four such Centers, in areas of greatest need for regional help.
4. **NYS Appellate Resource Center**
 - o \$800,000 to begin establishing a NYS Appellate Resource Center. Modeled after the New York Prosecutors Training Institute (NYPTI), this Center will provide litigation assistance to assigned counsel and mandate relief to counties by providing state-funded appellate representation in complex cases and identifying and rectifying wrongful convictions more rapidly than is done at present.

**Local Aid:

1. **Upstate Quality Improvement and Caseload Reduction**
 - o \$20 million to continue and enhance our remediation of the twin evils of excessive caseloads, and wholly inadequate support services, supervision and oversight that continue to exist in all or virtually all upstate counties. The requested appropriation is supported by our September, 2014 report, *Estimate of the Cost of Compliance with Maximum National Caseload Limits in Upstate New York – 2013 Update*, which revealed that New York would have had to spend an additional \$105.2 million in 2013 to achieve compliance with maximum national caseload limits
2. **Counsel at First Appearance**
 - o \$8 million to extend the reach of counsel at first appearance – within the 25 counties that are addressing it now through awards granted under our initial counsel at first appearance RFP, and the 32 counties that did not participate in that initial RFP.
3. **Three Additional RFPs**
 - o \$3 million for three RFPs to (1) address major deficiencies in the quality of representation provided by Assigned Counsel Programs; (2) create two Model Upstate Parental Representation Offices; and (3) create two Wrongful Conviction Prevention Centers.

No County Left Behind: Fund the Forgotten 52



Countries within NYC, reduced state-funded caseloads effective April 1, 2014

5 upstate Hurrell-Harring counties, state pledged to fund reduced caseloads, counsel at first appearance and quality improvements in lawsuit settlement October 21, 2014

