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HEARING ON THE FISCAL YEAR 2014 EXECUTIVE BUDGET FOR THE

LEGAL AID/INDIGENT DEFENSE

May 14, 2013

EXECUTIVE BUDGET HIGHLIGHTS

- The Fiscal 2014 Executive Budget for indigent defense services is \$262 million
 - \$9.4 million or 3.7 percent higher than the Fiscal 2013 Adopted amount of \$252.6 million.
- Indigent Defense funding breakdown:
 - \$97.9 million for the Legal Aid Society
 - Criminal Defense - \$88.4 million
 - Appellate Litigation - \$9.5 million
 - \$74.8 million for 18-B Assigned Counsel Program
 - \$75.3 million for the alternate providers
 - Criminal Defense - \$46.6 million
 - Appellate Litigation - \$12.4 million
 - \$14.0 million for criminal defense conflict case load (procurement pending)
- The Fiscal 2014 Executive Budget adds \$14 million for 26,000 "conflict" cases. This will transfer cases from 18b to institutional defenders. For Fiscal 2014 the 18-B budget remains unchanged from Fiscal 2013; savings are projected beginning in Fiscal 2015.
- Council Funding for civil legal services provided by LAS in Fiscal 2013:** \$2.4 million (see Appendix 1).
 - The provision of civil legal services is entirely funded by the City Council as the Administration only funds criminal defense and criminal justice contracts.

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INDIGENT DEFENSE OVERVIEW

This report presents an analysis of the Indigent Defense portion of the City's Miscellaneous Budget (Agency 098) as proposed in the Fiscal 2014 Executive Budget. In the section below, the Fiscal 2014 budget is presented in a funding summary table which provides an overview of indigent defense spending for Fiscal 2013 and Fiscal 2014 by provider. The chart is followed by a discussion of year over year changes, budget actions in the Executive Budget, budget changes by provider and Appendix 1 which details the civil legal services provided by Legal Aid and funded through City Council Initiatives. For additional information on the Department's Budget and its various programs, please refer to the "Fiscal 2014 Preliminary Budget Report for the Committee on Fire and Criminal Justice Services" available at: www.council.nyc.gov

FUNDING SUMMARY

| <i>Dollars in Thousands</i> | 2013 Adopted | 2013 FY14 Exec. | 2014 FY14 Exec. | *Difference 2013-2014 |
|---|------------------|--------------------|--------------------|--------------------------|
| 18-B Assigned Counsel Program | \$74,836 | \$74,160 | \$74,836 | - |
| Legal Aid Society – Criminal Defense | \$86,686 | \$87,009 | \$88,415 | \$1,729 |
| Legal Aid Society – Appellate Litigation | 11,423 | 11,423 | 9,481 | (1,942) |
| Legal Aid Society - sub-total | \$98,109 | \$98,432 | \$97,896 | (\$213) |
| NY County Defenders | \$7,236 | \$7,300 | \$7,236 | - |
| Bronx Defenders | 11,732 | 11,796 | 11,732 | - |
| Brooklyn Defender Services | 14,440 | 15,162 | 14,440 | - |
| Queens Law Associates, P.C. | 8,448 | 8,530 | 8,448 | - |
| Neighborhood Defender Services (Upper Manhattan) | \$4,750 | \$4,814 | 4,750 | - |
| Alternative Providers – Criminal Defense sub-total | \$46,606 | \$47,602 | \$46,606 | - |
| Appellate Advocates | \$7,035 | \$7,035 | \$5,350 | (\$1,685) |
| Center for Appellate Litigation | 7,156 | 7,156 | 5,040 | (2,116) |
| Office of the Appellate Defender | \$2,611 | \$2,611 | 2,054 | (557) |
| Alternative Providers – Appellate Litigation sub-total | \$16,802 | \$16,802 | \$12,444 | (\$4,358) |
| Center for Family Representation (Manhattan) | \$2,442 | \$2,442 | \$2,792 | \$350 |
| Center for Family Representation (Queens) | 2,483 | 2,483 | 2,483 | - |
| Bronx Defenders | 4,163 | 4,163 | 4,513 | 350 |
| Legal Services for New York City (Brooklyn) | 3,805 | 3,805 | 4,196 | \$391 |
| Family Court Providers sub-total | \$12,893 | \$12,893 | \$13,984 | \$1,091 |
| Art. 10 Family Justice Center | \$117 | \$117 | | (\$117) |
| Miscellaneous | \$3,233 | \$3,233 | 2,234 | (\$999) |
| Indigent Defense Conflict Cases | | | \$14,000 | \$14,000 |
| Total Indigent Defense Services Budget | \$252,595 | \$253,239 | \$261,999 | \$9,404 |

* Difference between FY 2013 Adopted Budget and FY 2014 Executive Budget.

The Fiscal 2014 Executive Budget for indigent defense services includes \$262 million for Fiscal 2014. This is \$9.4 million or 3.7 percent higher than the Fiscal 2013 Adopted Budget of \$252.6 million and \$8.7 million or 3.5 percent higher than the current modified Fiscal 2013 Budget of \$253.2 million.

In June 2012, the projected Fiscal 2014 budget for indigent defense was \$243.4 million - \$9.2 million less than the Fiscal 2013 Adopted Budget of \$252.6 million. Taking into account that the Fiscal 2014 budget was already lower than the Fiscal 2013 Adopted Budget and year over year changes made since adoption the Fiscal 2014 budget increases by \$9.4 million.

NEW IN THE EXECUTIVE BUDGET

The Fiscal 2014 Executive Budget increases the indigent defense budget by \$9.4 million. This includes additions of \$14 million for the conflict cases and \$1.2 million for family court providers offset by a reduction to various contracts and one-time costs that were included in the Fiscal 2013 Budget.

☑ CRIMINAL DEFENSE CONFLICT CASES

The Executive Budget introduces changes related to the Administration's plan to transfer conflict cases, which are, typically, criminal cases with more than one defendant, from 18-B lawyers to institutional defenders. The shift will yield a net savings of \$6 million annually beginning in Fiscal 2015. According to OMB, preliminary analyses indicate that savings will be attributed to a lower cost per case of the institutional providers compared to 18-B attorneys. The projected savings is based on an anticipated caseload of 26,000 conflict cases that will be handled by institutional defenders in Fiscal 2014.

First, the Executive Budget adds \$14 million beginning in Fiscal 2014 for the anticipated conflict cases contracts. Conflict cases funding grows to \$15.3 million in Fiscal 2015, \$15.8 million in Fiscal 2016 and \$16.3 million in Fiscal 2017 and the outyears. The Budget recognizes savings in the 18-B budget starting in Fiscal 2015 due to the conflict cases contracts starting in Fiscal 2014. The Executive Budget reduces the 18-B budget by \$21.3 million in Fiscal 2015, \$22 million in Fiscal 2016 and \$22.7 million in Fiscal 2017 and the outyears. Combined, savings are a followed; \$6 million in Fiscal 2015, \$6.2 million in Fiscal 2016 and \$6.4 in Fiscal 2017 and the outyears.

It is anticipated by the Administration that contracts will be awarded to the alternate provider(s) starting in Fiscal 2014.

☑ ONE-TIME FUNDING FOR FAMILY COURT ARTICLE 10 PROVIDERS

The Fiscal 2014 Executive Budget adds one-time funding of \$1.050 million in Fiscal 2014 cover increased costs associated with greater than anticipated caseloads and an unexpected increase in the average length of time to disposition for cases. Of note, the contract for the Family Court providers has been extended by one year. The Administration will be issuing a new RFP for defense in Article 10 abuse and neglect cases in Fiscal 2014 with the expectation of expanding the current program from four boroughs to citywide by developing a provider in Staten Island. It is anticipated that contracts will be awarded in Fiscal 2015.

CHANGES BY INDIGENT DEFENSE PROVIDER

THE LEGAL AID SOCIETY (LAS)

As the primary indigent criminal defense provider in the State court system, the Legal Aid Society handles at least 213,000 cases annually in all five boroughs. On the appellate level LAS is funded to handle 1,010 cases annually. The Fiscal 2014 Executive Budget for the Legal Aid Society is \$97.9 million. Of that amount \$88.4 million is for criminal indigent defense and \$9.5 million is for appellate litigation services.

At the time of Adoption for Fiscal 2013, the Fiscal 2014 budget was \$94.2 million (\$84.7 million for criminal defense and \$9.4 million for appellate litigation) - \$3.9 million less than the Fiscal 2013 Adopted Budget of \$98.1 million. The \$3.9 million difference was attributed to one-time costs that were added in Fiscal 2013 but not included in the baseline budget. (\$1.9 million covered costs associated with 218 additional appellate cases that were handled in Fiscal 2012 and \$2 million were labor-related costs).

The Fiscal 2014 Executive Budget baselines \$3.7 million to address the labor-related costs - \$2 million was added beginning in Fiscal 2013 to cover increased health care and labor costs and an additional \$1.7 million beginning in Fiscal 2014 for additional increases in health care and labor costs This action increases the budget to \$97.9 million and reconciles the year over year reduction of \$213,000.

FAMILY COURT PROVIDERS

The Fiscal 2014 indigent defense budget contains \$12.9 million for three organizations that provide legal representation to adults in certain Family Court proceedings in four boroughs as follows: \$4.8 million for the Center for Family Representation to work in Manhattan and Queens; \$4.2 million for the Bronx Defenders to serve clients in the Bronx; and \$3.8 million for Legal Services NYC to work in Brooklyn.

The Executive Budget adds one-time funding of \$1.050 million in Fiscal 2013. (See above for an explanation.)

APPENDIX 1: COUNCIL INITIATIVES AND FUNDING

The Fiscal 2013 Budget contains \$2.4 million for the Legal Aid Society to provide civil legal services through several Council Initiatives. None of the Fiscal 2013 Initiative funding is baselined. Please see below for the initiatives that were funded by the Council in Fiscal 2013.

| FY 2013 Council Initiatives | |
|---|--------------------|
| Anti-Eviction and SRO Legal Services | |
| Legal Aid Society / Civil Division- Bronx | \$124,643 |
| Legal Aid Society / Civil Division- Brooklyn | 163,963 |
| Legal Aid Society / Civil Division- Community Law Office | 262,782 |
| Legal Aid Society / Civil Division- Queens | 93,750 |
| Legal Aid Society / Civil Division- Staten Island | 68,750 |
| Subtotal | \$713,888 |
| Anti-Gun Violence Initiative | \$550,000 |
| Citywide Civil Legal Services | \$750,000 |
| Immigrant Opportunities Initiative | \$585,000 |
| Unemployment/Supplemental Security Income Advocacy | \$500,000 |
| Subtotal | \$2,385,000 |
| Local Initiatives | \$26,719 |
| Total | \$3,125,607 |