



## **Why New York Needs an Independent Public Defense Commission** *Heading a Statewide Public Defense System*

### **What if you can't afford a lawyer?**

We hear the cop-show warnings all the time: "... You have a right to a lawyer. If you can't afford a lawyer, one will be provided to you...." But when will that lawyer be provided, when will you get to talk to the lawyer – and what will the lawyer do for you? In too many places in New York, no lawyer will be provided until after you have been questioned, brought before a judge, and jailed pending trial. When a lawyer is provided, that lawyer may be too busy to listen to what happened, find out what matters most, and figure out what must be done. The lawyer may lack funds to hire investigators or even to take your collect calls from jail.

### **How did this happen?**

Beginning in 1965, New York State made counties and New York City provide public defense representation. But because these local governments bear the costs, programs are often set up not to provide quality representation but in whatever way seems cheapest at the time. Whatever program is chosen rarely has the funding needed to provide high-quality representation. The result: excessive caseloads that prevent attorneys from talking to clients, investigating cases, or keeping up with relevant law; lack of necessary resources; and varying quality of representation from place to place. Local politicians are free to threaten the funding of programs that do "too much." Lawyers fearful for their jobs may fail to stand up for their clients. And there is no one at the State level to intervene.

### **Why should you care?**

Even if you won't ever need a lawyer, you care about fairness – and what is happening now is anything but fair. Additionally, the current system involves hidden costs that make underfunded public defense very expensive. Errors by overworked lawyers cause retrials, or even wrongful convictions, with their fiscal and human costs. Locking up those who, with better representation, might safely continue working while on bail before trial, or on probation after conviction, cheats victims of restitution and imposes unnecessary jail and prison costs.

### **What can be done?**

In 2006, a group appointed by Chief Judge Judith S. Kaye recommended creation of a new, statewide, state-funded public defense system headed by an independent public defense commission.\* Legislation\*\* has been introduced to create that system, which would provide standards and oversight to ensure quality representation. And the State would pay the costs.

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\* The Final Report to the Chief Judge of the State of New York by the Commission on the Future of Indigent Defense Services, 6/18/06, is available at [www.nycourts.gov/ip/indigentdefense-commission/index.shtml](http://www.nycourts.gov/ip/indigentdefense-commission/index.shtml).

\*\* S.4311-A and A.9087-A, available at <http://assembly.state.ny.us/leg/>.

*I support the Kaye Commission's call for an*  
**Independent Public Defense Commission**  
to head a Statewide Public Defender System

The federal and state constitutions guarantee a right to counsel. New York has failed to maintain its proud tradition of ensuring fairness for people who can't afford to hire a lawyer; the current statutory system for providing legal representation mandated by law has failed.

**I want to:**

- *Ensure adoption of statewide, enforceable standards guaranteeing high-quality public defense services statewide;*
- *Keep the defense function independent of political influence;*
- *Place the fiscal burden of the State's public defense obligation on the State, not local taxpayers; and*
- *Put New York back in the forefront of fairness.*

**I support creation of an Independent Public Defense Commission to head a statewide public defender system.**

**Signature:** \_\_\_\_\_

Name (please print): \_\_\_\_\_

Relevant state or local affiliation(s)/membership(s): \_\_\_\_\_

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

City: \_\_\_\_\_ State: NY Zip Code: \_\_\_\_\_

Phone number(s) where you may contact me about this issue: \_\_\_\_\_

Email where you may contact me about this issue: \_\_\_\_\_

**I will** ask my State Legislators to support S.4311-A / A.9087-A.

**I can** help organize a meeting in my community about the need for this reform.

**I think** the following group(s) would support this reform or benefit by receiving information about it. \_\_\_\_\_

*I know that many groups support creation of a statewide public defender system headed by an independent public defense commission. They include the Committee for an Independent Public Defense Commission, the Committee for Modern Courts, the New York State Association of Criminal Defense Lawyers, the League of Women Voters of New York State, the New York State Defenders Association, and The Justice Fund. Across the state, community leaders, members of the client community, and concerned citizens are calling for reform. **I am proud to join them.***

**Mail or fax petition to:**

Campaign for an Independent Public Defense Commission  
194 Washington Avenue, Suite 500  
Albany, NY 12210  
(fax) 518-465-0520

**For more information, contact:**

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