



## NEW YORK STATE BLACK, PUERTO RICAN, HISPANIC AND ASIAN LEGISLATIVE CAUCUS

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### EXECUTIVE DIRECTOR

Tyrone Benton

February 27, 2009

The Honorable David A. Paterson  
Governor of New York  
The Capitol  
Albany, NY 12224

The Honorable Malcolm A. Smith  
Majority Leader, New York State Senate  
LOB Rm. 909  
Albany, NY 12247

The Honorable Sheldon Silver  
Speaker, New York State Assembly  
LOB Rm. 932  
Albany, NY 12248

Dear Governor and Legislative Leaders:

It is time for New York State to implement former Chief Judge Kaye's call for an Independent Public Defense Commission overseeing an adequately state-funded, statewide defender system.

We write to ask that \$3 million from the Indigent Legal Services Fund, which exists to improve public defense, be designated for each of the next three years to phase in the Independent Public Defense Commission. This would be followed by a complete transfer of administration from counties to the State accompanied by a county cap formula as to their ongoing fiscal contribution pending full State takeover.

The Legislature this year should create by statute a public benefit corporation overseen by a commission of 13 members all appointed by the Governor, but chosen on the recommendations of statutory categories by political leaders and professional organizations competent in the work of the commission.

Pending State administration at a statutory time certain, the Commission would be appointed, and as an operating agency hire staff, develop a work plan, contract with competent evaluators/experts, consult with NYSDA, adapt the Public Defense Case Management System, complete a fair and unbiased evaluation of current programs (using the NYSDA and NYSBA standards), oversee a defender self-evaluation process, develop binding professional, performance, and systemic

Independent Public Defense

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standards to govern all operations of the system, cost out the current and new systems, develop proposed revenue streams, assess the means to reduce the scope of the right to counsel through procedures that will not harm clients, design regions for the new delivery system, and begin the establishment of appropriate private/public partnerships.

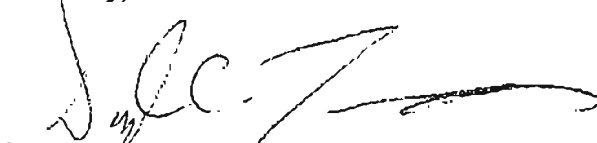
At a time certain, the Commission would take over the day-to-day administration of legal services in criminal cases and adult respondent representation in Family Court, providing services directly and contracting with competent existing or newly-created providers.

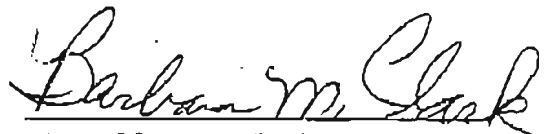
The ongoing crisis in public defense services hurts more than people charged with crime or threatened with loss of parental rights. It hurts the families of individuals unnecessarily detained after arrest for want of timely, well-resourced representation. The ripple effect of wrongful incarceration, wrongful convictions, and wrongful denial of parental rights affects whole communities. It hurts landlords whose tenants are locked away from jobs and cannot pay rent. It burdens extended families and the foster care system into which children are thrown when parents are incarcerated, or lose their parental rights due to lack of advocacy for needed services. As Judge Kaye said in her final State of the Judiciary address, "Properly funding and administering public defense, even in these difficult times, is an investment that would return savings in both social and fiscal costs...."

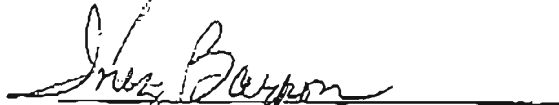
Deficient public defense services lead to expensive and discriminatory overuse of the prisons and the criminal justice system. Without strong advocacy, individuals who should receive drug treatment will continue to be lost behind bars even if we are all successful at repealing mandatory sentences.

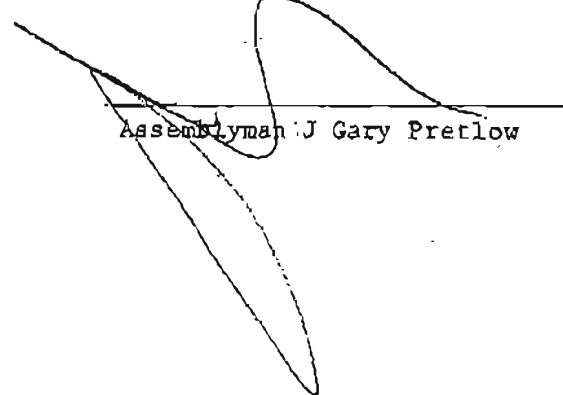
Our communities have too long been denied justice by the current broken public defense system. Please support creation of the Independent Public Defense Commission with \$3 million from the Indigent Legal Services Fund in the 2009 budget and help us begin this critical, long overdue reform.

Sincerely,

  
\_\_\_\_\_  
Assemblyman Darryl C. Towns, Chairman

  
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Assemblywoman Barbara M. Clark

  
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Assemblywoman Inez D. Barron

  
\_\_\_\_\_  
Assemblyman J. Gary Pretlow

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Assemblyman Carl E. Heastie

*Aurelia Greene*  
Assemblywoman Aurelia Greene

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Assemblyman Nelson L. Castro

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*Adam C. Powell, IV*  
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*Michael A. Benjamin*  
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*Grace Meng*  
Assemblywoman Grace Meng

*Velmanette Montgomery*  
Senator Velmanette Montgomery

*Antoine M. Thompson*  
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*Hiram Monserrat*  
Senator Hiram Monserrat

*Annette M. Robinson*  
Assemblywoman Annette M. Robinson

*William Scarborough*  
Assemblyman William Scarborough

*Vivian E. Cook*  
Assemblywoman Vivian E. Cook

*Adriano Espaillat*  
Assemblyman Adriano Espaillat

*Michele R. Titus*  
Assemblywoman Michele R. Titus

*Jose R. Feralta*  
Assemblyman Jose R. Feralta

*Hakeem Jeffries*  
Assemblyman Hakeem Jeffries

*Jose Rivera*  
Assemblyman Jose Rivera

*Felix W. Ortiz*  
Assemblyman Felix W. Ortiz

*Kevin S. Parker*  
Senator Kevin S. Parker

*Shirley L. Huntley*  
Senator Shirley L. Huntley