

## COUNTY BARS' RESOLUTION ON THE CITY'S INDIGENT DEFENSE PLAN

March 11, 2010

WHEREAS, The Association of the Bar of the City of New York, Bronx County Bar Association, Brooklyn Bar Association, New York County Lawyers' Association, Queens County Bar Association and Richmond County Bar Association, ("The Bar Associations"), pursuant to the provision of Article 18-B of the County Law, proposed a Plan in 1966 for the adequate representation of indigent persons charged with a crime;

WHEREAS, the Judicial Conference of the State of New York approved the Plan on April 28, 1966, more than 40 years ago;

WHEREAS, the 1966 Plan provides *inter alia*, for the combined system of representation of the indigent by a legal aid society and by private attorneys;

WHEREAS, since the implementation of the Plan and in cooperation and coordination with the Bar Associations, the City of New York has provided legal services to indigent defendants through a dual system of institutional providers and court-appointed private lawyers;

WHEREAS, the Bar Association members serve on the oversight panels of both the Assigned Counsel Plan Central Screening Committees of the court-appointed private attorneys, as well as the Indigent Defense Organization Oversight Committee for the First Department;

WHEREAS, the Bar Associations have repeatedly expressed grave concern about the chronic underfunding and overburdening of legal services providers to the indigent;

WHEREAS, the City of New York has issued a Request for Proposals ("RFP") that contemplates an immediate and far-reaching overhaul of the original Plan and system with respect to indigent representation by virtually eliminating the role of court-appointed private counsel and increasing reliance on institutional providers;

WHEREAS, the Indigent Defense Organizations Oversight Committee in the First Department has for more than a decade reported that institutional providers' excessive and increasing caseloads, combined with limited resources, continue to cause them to struggle under caseloads that the First Department has declared to be excessive;

WHEREAS, the proposed change by the City has been done without notice to or consultation with the Bar Associations who are signatories to the 1966 Plan and, apparently, without studies, hearings or empirical data concerning the effect on indigent defense of abolishing the original Plan;

WHEREAS, the undersigned Bar Associations have grave concerns that the proposed change to the Plan under these circumstances will, among other things, have an adverse impact on the State's ability to meet its constitutional obligation to guarantee indigent accused the effective assistance of counsel;

THEREFORE IT IS RESOLVED that the undersigned Bar Associations renew their commitment to support quality and effective delivery of the constitutionally mandated right to the effective assistance of counsel under the Sixth Amendment to the United States Constitution, including but not limited to, adequate funding for every kind of provider, assigned private counsel, as well as institutional providers, to meet that constitutional obligation; and

IT IS FURTHER RESOLVED that the undersigned Bar Associations oppose the City's proposed change to the Plan under the current circumstances.

Bronx County Bar Association

Brooklyn Bar Association

New York County Lawyers' Association

Queens County Bar Association

Richmond County Bar Association