

Testimony of the Office of Indigent Legal Services

Joint Legislative Hearing on the 2020-2021 Public Protection Budget

Presented before:

The Senate Finance Committee

and

The Assembly Committee on Ways and Means

Presented by:

William J. Leahy

Director

Office of Indigent Legal Services

February 12, 2020

Good afternoon Chairwoman Krueger, Chairwoman Weinstein, and distinguished members of the Committees.

I am William Leahy, Director of the Office of Indigent Legal Services. Thank you for the opportunity to appear before you to discuss the FY 2020-21 budget request of the Office of Indigent Legal Services (ILS).

Thank You for Your Support

I would like to thank you for your consistent support of ILS and our Board throughout our nine years of existence. Thanks to the support of both the Legislative and Executive branches, substantial additional resources have been appropriated over the past three years to help us fulfill our statutory responsibility to improve the quality of mandated public criminal defense representation throughout New York State. Since 2015, our responsibilities have increased significantly to include implementation of the historic settlement between the State of New York and the plaintiff class in *Hurrell-Harring et al. v. State of New York*¹ (HH). Two internal assessments of our settlement implementation progress in the five lawsuit counties may be found in two recently published reports, **Implementing *Hurrell-Harring* Caseload Relief: Building Lasting Infrastructures That Enable Quality Public Defense**, and **Implementing Caseload Relief and Quality Improvement Initiatives in Assigned Counsel Programs: Lessons Learned from Settlement Implementation in the *Hurrell-Harring* Counties**. These reports may be accessed under “Announcements” on our website main page, www.ils.ny.gov.

In 2017, the enactment of Executive Law § 832 (4) authorized ILS to implement the HH reforms statewide. In the FY 2018-19 and FY 2019-20 Final Budgets, the Executive and the Legislature fully funded the first two years of the five-year phase-in of those statewide reforms. I am pleased to inform you that we have reached agreement with each of the 52 non-HH counties and with New York City for contracts to extend the HH reforms statewide pursuant to Executive Law § 832 (4).

At last year’s Joint Legislative Public Protection Budget Hearing, I asked this Committee to support the FY 2019-20 Executive Budget proposal that allocated \$23.8 million in funding to implement the HH settlement reforms in the five defendant counties, as well as the \$100 million allocated for the second year of the five-year Statewide implementation plan. I also asked for the elimination of language in the proposed Executive Budget that would have hindered our ability to fully reimburse counties for the expenditures needed to improve the quality of representation. Through your efforts, the funding for the *Hurrell-Harring* settlement and its extension to the

¹ On March 11, 2015, the Albany County Supreme Court approved an historic settlement between the State of New York and a plaintiff class represented by the New York Civil Liberties Union in *Hurrell-Harring et al. v. State of New York*. With this settlement, the State of New York, for the first time since 1965 when it delegated to counties the duty to provide counsel to indigent persons charged with a crime, accepted its responsibility to implement and fund constitutionally compliant representation in the five counties named in the lawsuit. ILS, under the direction of its Board, accepted the responsibility and has since implemented the terms of the settlement, in which the State agreed to ensure that (1) each indigent person charged with a crime is provided representation at their arraignment, (2) caseload/workload standards are developed by ILS and implemented in the five counties, thereby reducing the crushing caseloads previously carried by providers of public defense services; and (3) funding is provided to implement specific quality improvements to representation provided in the counties.

entire State was fully secured, and the language limiting our ability to reimburse counties was removed. We thank you for your support.

In Appendix A (attached), I summarize our FY 2020-21 Budget request and the relevant portions of the Executive's proposed FY 2020-21 Budget. Today, I will highlight the full funding in the Executive Budget for our implementation of the HH settlement reforms in the five lawsuit counties (\$23.8 million), and the full funding for year three of our statewide implementation of those reforms (\$150 million); and I will ask for your continued support of these initiatives. The primary focus of my remarks will address our urgent request for \$5 million in Aid to Localities funding to improve the quality of parental defense representation, which is equally mandated by our Constitution and our laws, yet is not funded in the Executive Budget.

The Executive's Continued Commitment to Improving the Quality of Mandated Criminal Defense

I am pleased to tell you that in its FY 2020-21 Budget proposal, the Executive has again fully honored its commitment to improve the quality of legally mandated criminal defense representation. It has done so in three ways:

1) The *Hurrell-Harring* Settlement

The proposed Executive Budget dedicates \$23.8 million to implement in the five defendant counties the written plans submitted by my Office to: i) ensure that each individual charged with a crime is provided representation at his or her arraignment (\$2.8 million)²; ii) enhance the quality of representation in criminal cases (\$2 million)³; and iii) add staff and other resources necessary to comply with the caseload standards ILS issued in December 2016 (\$19 million). The \$23.8 million included in the Executive Budget proposal represents the full funding needed to implement the HH settlement.

I therefore ask for your full support of the FY 2019-20 Executive Budget as it pertains to funding the implementation of the HH settlement.

2) Statewide Expansion of the *Hurrell-Harring* Reforms

In addition to providing the funding needed to further implement the HH settlement, the FY 2018-19 Executive Budget proposal was historic, because it provided first year funding of \$50 million to begin implementing the written plans ILS developed to extend the HH settlement reforms statewide. We submitted those plans to the Executive on December 1, 2017. They included interim steps for the counties and New York City to achieve full compliance by April 1, 2023. As previously noted, these reforms will extend the "groundbreaking advances in those five counties . . . to the rest of the state," with the State funding "one hundred percent of the costs

² The \$2.8 million appropriation request combines the \$2 million request for counsel at arraignment and the \$800,000 request to continue funding for the four counties that participated in our first Counsel at First Appearance competitive grant.

³ Significantly, the terms of the settlement did not require that quality improvement funding be provided beyond FY 2016-17, but the Executive has very commendably requested this continued funding in each succeeding year.

necessary to extend the reforms.”⁴ In doing so, “indigent criminal defendants [in every county will] have counsel at arraignment,” “new caseload standards [will be established] so that attorneys can devote sufficient attention to each case,” and the “quality of the representation provided to those who cannot afford an attorney [will] not vary from county to county.”

With your support, the first-year funding of \$50 million in the FY 2018-2019 Final Budget and the second-year funding of \$100 million was secured in the FY 2019-20 Final Budget. I am pleased to inform you that in its FY 2020-21 Budget proposal, the Executive has included an additional \$50 million to finance the implementation of the third year of the five-year Statewide Expansion of the HH reforms, for a total funding amount of \$150 million. This amount represents the entirety of what we requested in our FY 2020-21 Aid to Localities Budget Request for statewide implementation. The additional \$50 million not only provides the funding needed to finance the third year of the Statewide expansion, but it allows us to remain on target for full implementation of the statewide reform plans by April 1, 2023 – when the total estimated annual cost to achieve compliance with our plans will be approximately \$250 million.

I therefore ask for your full support of the FY 2020-21 Executive Budget as it pertains to funding our statewide implementation of the HH reforms as set forth in Executive Law § 832 (4).

3) ILS Staffing to Implement These Reforms

The FY 2014-15 Final Budget included the State Operations funding needed for ILS to hire an eight-person team to fulfill our obligation to implement the *Hurrell-Harring* settlement. Similarly, the FY 2018-19 Final Budget included the funding needed for ILS to hire an eight-person team to work with the State, counties, and New York City on implementing the HH settlement reforms statewide. Subsequent state budgets have continued the funding for these essential ILS staff positions. Another essential component of this ongoing reform is adequate staff for our Grants Unit, which processes all the contracts and claims through which ILS issues funding to counties and New York City. Thanks to your support and that of the Executive, the last two final state budgets have included the necessary additional staff for our Grants Unit.

Our proposed FY 2020-21 Budget includes the funding needed for two additional positions – an Assistant Counsel and an additional Grants Unit staff person, both of whom will bolster our capacity to meet our increased responsibilities and efficiently manage the immense number of contracts our office now manages (described in more detail in Appendix A). I am pleased to tell you that the proposed FY 2020-21 Executive Budget also includes State Operations funding for these positions, and I therefore ask your full support of this component of the Executive Budget.

Unfinished Business: State Investment in Improving the Quality of Mandated Parental Defense

The simple fact is this: publicly funded representation of parents who are financially unable to retain counsel in Family Court cases is every bit as legally required as is public defense representation in our Criminal Courts. Yet there has been no comparable effort by the State to

⁴ See “New York State: Ever Upward, 2017 State of the State, Governor Andrew M. Cuomo,” pp. 186-187.

appropriate the funding or authorize the implementation plans that are necessary to bring the quality of parental representation to a consistent and constitutionally compliant level.

Many people have concluded that only litigation like *Hurrell-Harring* will spur action by the State. We do not subscribe to that belief. We believe two things instead. *First*, that the reasonable and specific recommendations issued in February, 2019 by Chief Judge DiFiore's Commission on Parental Legal Representation, chaired by former Presiding Justice Karen Peters, offer a blueprint for comprehensive statewide reform. *Second*, that our request for \$5 million in Aid to Localities will provide immediate relief for overburdened county providers of parental representation, will enable them to upgrade their client services, and will give them and their clients hope that their noble work to preserve families and communities will not continue to be neglected.

Last year, we requested an additional \$3 million in Local Aid funding to improve the quality of mandated parental representation. Unfortunately, this funding was not included in the FY 2019-20 Final Budget.

This year, our Board has authorized me to ask for an additional \$5 million in Local Aid funding to improve the quality of mandated parental defense, as well as an additional \$820,000 in State Operations funding for a six-person Parental Representation unit modelled after the *Hurrell-Harring* implementation units.

The Board authorized me to ask for this additional funding because this category of cases and clients, with family integrity and children's well-being at stake in every case, and with such enormous impact upon low-income communities and communities of color, has been neglected for far too long and must be addressed now.

Unfortunately, neither request was included in the proposed FY 2020-21 Executive Budget. We call upon the Governor and the Legislature to include mandated parental representation funding as an integral part of this year's FY 2020-21 Final Budget. Specifically, we ask you now to support \$5 million in Local Aid for disbursements to counties for improvements in mandated parental representation, and an additional \$145,000 in State Operations to hire a Senior Researcher dedicated to improving our capacity to monitor the quality of mandated parental representation.⁵

⁵ The Office of Court Administration reports family court petition filing and disposition data in its Annual Report, however, this data does not include all petition types for which parental representation is mandated, nor does it distinguish between representation provided by private attorneys and that provided by public defense providers. Therefore, we do not have accurate and complete data on the number and types of petitions for which public defense representation is provided, either in the aggregate or broken down by county or by public defense provider. A Senior Researcher would be solely dedicated to collecting this type of information from providers statewide for both initial petition filings and appellate filings. Gathering this information is a critical step in assessing the nature and scope of parental representation statewide and developing comprehensive plans for quality improvement.

The Crisis in Parental Representation Must be Addressed Now, in This Budget

Both the 2018 *Memorandum in Support of State Funding for Mandated Parental Representation* issued by the NYSBA Committee on Families and the Law which was approved by the NYSBA House of Delegates, and the 2019 Interim Report by Chief Judge DiFiore's Commission on Parental Legal Representation, chaired by former Presiding Justice Karen Peters, have conclusively stated the case that the representation of parents in Family Court cries out for support and guidance by the State. In these cases – where not only the established legal rights of parents but the integrity of families is often at stake – the poor parent far too often finds herself represented too late, by a lawyer who is overburdened by far too many cases, and who utterly lacks support resources.

The contrast between the State of New York's necessary and constitutionally compliant funding and guidance of comprehensive public criminal defense reforms under the *Hurrell-Harring* settlement (2015) and Executive Law § 832 (4) (2017), and its total failure to support parental representation could not be more stark. Nor could the contrast between the resources that enable the provision of high quality holistic representation to parents in New York City, and the inadequacy of resources that abounds in the rest of the state.

Our request for \$5 million to begin reducing the crushing caseloads of parents' attorneys in the rest of the state, and providing their clients with essential resources like a social worker or a parent advocate, may strike some as too little. In a strictly long-term sense, it *is* too little. But parents and children live in the here and now. We simply cannot wait any longer. Our plan to provide immediate support to counties to improve the quality of their parental representation follows a tried and true model, which we used from 2012-2014 - before the HH settlement - to jump-start public criminal defense reform. It is a practical and effective way to begin, using a proven technique, building upon a successful precedent. Please read the memorandum from our FY 2020-21 Budget Request, **Parent Representation Caseload Relief and Quality Improvement: Replicating a Successful Public Defense Initiative**, attached as Appendix B.

We also attach, as Appendix C, several statements by attorneys who represent parents in Family Court proceedings, in support of our request for this modest but vital appropriation.

NYSDA's Public Defense Backup Center

Finally, as I do every year, I emphasize the critical importance of the New York State Defender Association's Public Defense Backup Center receiving adequate funding to continue performing its function of providing essential training and support services, including its case management system, to providers of mandated representation throughout the state. Public defense providers all over the state of New York depend upon the immediate and accurate legal advice they receive from NYSDA staff, every day. This support is indispensable to maintaining the quality of representation provided to indigent clients in every locality. Simply stated, NYSDA is essential to New York's fulfillment of its Constitutional obligation to provide competent counsel to those who cannot afford to pay for it.

APPENDIX A

FY 2020-21 ILS Budget Request and the FY 2020-21 Proposed Executive Budget

Below is a summary of ILS's requested FY 2020-21 Budget and the proposed FY 2020-21 Executive Budget as it applies to ILS.

FY 2020-21 ILS Budget Request

In September 2019, the Indigent Legal Services Board unanimously approved our budget request of \$267.81 million for FY 2020-21.¹ Of this amount, \$259.81 million would be devoted to Aid to Localities and \$7.37 million to State Operations.

- **Local Aid.** The \$ 259.81 million in Local Aid represents an increase of \$55.0 million over FY 2019-20 funding levels, with proposed increases consisting of the following:
 - **Statewide Expansion of Hurrell-Harring Reforms.** \$50 million of the additional Local Aid funding request would be used to finance the third year of the five-year implementation of the written plans developed by the Office pursuant to Executive Law § 832 (4) and filed with the Division of Budget on December 1, 2017. These plans to extend the reforms of the *Hurrell-Harring* settlement statewide would ensure that, by April 1, 2023, i) each indigent person charged with a crime in New York State is provided representation at his or her arraignment, ii) caseload/workload standards are fully implemented in the non-Hurrell-Harring counties and the City of New York in accordance with the caseload standards the Office issued in December, 2016 and iii) adequate funding is provided to implement specific support services and quality improvements to public defense representation.
 - **Regional Support Centers.** \$2.2 million of this Local Aid appropriation would be used to establish two Regional Support Centers, which are essential for the realization of uniform, high quality representation in every county and region. The first Center is to be located in far western New York in the 8th Judicial District, while the second would be in the North Country, in the 4th Judicial District. These two Judicial Districts represent 19 different counties where over 2.3 million people reside.²
 - **Parental Representation.** \$5 million of the additional Local Aid funding request would be used to improve the quality of mandated parental representation in

¹ The ILS Budget Request was approved by the ILS Board at its September 20, 2019 meeting.

² Our written plans submitted on December 1, 2017 to extend the *Hurrell-Harring* reforms statewide included funding for the establishment of a statewide network of eight Regional Support Centers. The FY 2019-20 Final Local Aid Budget included language to authorize the transfer of Local Aid funding to State Operations, which would be needed to establish these Centers. The Executive's FY 2020-21 Proposed Budget continues to include this language.

Family court, by replicating ILS's low-cost, high-impact, pre-*Hurrell-Harring* offering of targeted funding to county providers for the purposes of reducing caseloads and accessing appropriate support services such as investigators, social workers and parent advocates.

- **State Operations.** The \$7.37 million request in State Operations funding represents an increase of \$1.28 million over FY 2019-20 funding levels, consisting of the following:
 - **Staff Positions.** Adding two new positions, including i) an Assistant Counsel³ and ii) an Assistant Grants Manager 2 position.
 - **Full Annualization Costs.** Remaining funds would be used to fully annualize costs of new FY 2019-20 and FY 2020-21 staff positions.
 - **Total costs** of these staff positions and full annualization is \$6.46 million.
 - **Creation of Parental Representation Unit:** This 6-person unit would add to our existing staff of two people to enable ILS to fulfill our statutory mandate to improve the quality of parental representation in Family Court cases.
 - ILS requested \$820,000 for these six positions. A particularly essential proposed staff person is the Parental Representation Senior Researcher, who is necessary to further ILS's statutory mandated to study mandated parental representation. The cost of this additional staff person is \$145,000.

FY 2020-21 Executive Budget Proposal

The FY 2020-21 Executive Budget proposal (released on January 21, 2020) recommends funding for the Office in the amount of

- \$6.46 million in State Operations (\$0.37 increase over FY 2019-20 Final Budget of \$6.09 million)
- \$254.81 million in Aid to Localities (\$50 million over FY 2019-20 Final Budget of \$204.81 million)
- All Funds total of \$261.27 million (\$50.37 increase over FY 2019-20 Final Budget of \$210.9).

³ The FY 2018-19 Budget amended County Law § 722 (3) (b) and (c) to transfer authority to approve plans of bar associations to operate an assigned counsel program or office of conflict defender from the Chief Administrator of the Courts to the Office of Indigent Legal Services, effective April 1, 2019. The Assistant Counsel would work under the supervision of ILS Counsel to, among other things, coordinate with counties, providers and bar associations to develop bar association plans that satisfy the ILS standards for the administration of assigned counsel program.

The Executive Budget proposed increases are as follows:

- **State Operations.** The additional State Operations funding (\$0.37 million) would be used to add an Assistant Counsel position and to add one position in our Grants Unit.
 - The funding increase would not be adequate to support the request for a Parental Representation Unit. Nor does it include the \$145,000 for ILS to hire an additional Senior Researcher devoted to Parental Representation who can help ILS achieve its mandate to study parental defense representation across the State.
- **Local Aid.** The additional Local Aid funding (\$50 million) provides full funding for the third year of the five-year implementation of the written plans developed by the Office to extend the *Hurrell-Harring* reforms statewide. With this additional funding of \$50 million, a total of \$150 million would be appropriated in FY 2020-21 to finance the implementation of the third year of the five-year plans.⁴
 - The Executive’s FY 2020-21 Local Aid budget language includes language to transfer funding to State Operations, which would be needed to establish our first two Regional Support Centers, which are an integral part of the Statewide Plan we submitted on December 1, 2017. These Centers will significantly advance our implementation of the statewide reforms under Executive Law § 832 (4).
 - The Executive Budget does not include our request for an additional \$5 million to enhance the quality of parental representation.

⁴ In addition, the Aid to Localities language continued the language added in FY 2019-20 Final Budget of an annual reporting requirement for the statewide expansion of the HH reforms.



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APPENDIX B

**Parent Representation Caseload Relief and Quality Improvement:
Replicating a Successful Public Defense Initiative**

The immediacy and urgency of our request for \$5 million dollars to reduce excessive caseloads and provide access to appropriate professional support services for providers of mandated parent representation has been made apparent by two significant findings and recommendations. First, in January 2018, the New York State Bar Association (NYSBA) Committee on Families and the Law issued its *Memorandum in Support of State Funding for Mandated Parental Representation*. Approved by NYSBA House of Delegates in April 2018, this memorandum states as follows:

With groundbreaking reform well underway in criminal defense, similarly intense attention needs to be focused on improving parental representation. . . . Indeed, more than a decade ago, while noting that its “mandate was limited to indigent criminal defense,” Chief Judge Judith Kaye’s Commission on the Future of Indigent Defense in New York (the “Kaye Commission”), in its 2005 Interim Report, emphasized that “identical problems affect representation of adults in family court. This representation, carried out by the same 18-B providers, with the same staff, under the same statutory scheme . . . needs to be addressed.”

Second, in February 2019, Chief Judge DiFiore’s Commission on Parental Legal Representation issued an interim report decrying the “systemic problems in our underfunded, county-based system [as] well-documented” and calling for State investment and oversight of parental representation in child welfare matters.

The need for State funding and support cannot be seriously questioned. Nor can the efficacy of our approach to begin redressing these well-established deficiencies. We plan to replicate our low-cost, high-impact, pre-*Hurrell-Harring* offering of targeted funding to county providers, for the purposes of reducing caseloads and accessing appropriate support services such as investigators, social workers and parent advocates.

This approach has worked well in the past with respect to the delivery of mandated criminal defense representation. In an April 19, 2016 memorandum to the Indigent Legal Services Board, I reported on the impact of similarly modest and targeted state funding upon public defense staffing and caseloads in upstate counties between calendar year 2012 and 2014. In that memorandum, which is attached, I reported a 12.5% increase in attorney staff numbers, a 17.8% increase in support staff, and a 14.3% decrease in average caseloads. These real and measurable impacts can certainly be replicated among providers of parent representation. We therefore request funding in the amount of \$5 million in our Aid to Localities appropriation for this purpose.



Andrew M. Cuomo
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Improving the Quality of Mandated Representation Throughout the State of New York

To: Indigent Legal Services Board

From: Bill Leahy

Re: Indicia of Progress in the 57 Counties Outside of New York City

Date: April 19, 2016

Every fall for the past three years, our Director of Research, Andrew Davies, has produced an Estimate of the Cost of Compliance with Maximum National Caseload Limits in Upstate New York. Each report covers the previous calendar year – 2012, 2013, and 2014 have been analyzed thus far, using caseload data submitted to OCA by over 130 providers of mandated representation, and spending reports required to be filed by counties with the Office of State Comptroller (OSC).

Recently I took the time to review these annual reports, in search of trends between calendar 2012 and calendar 2104 that might help us assess our progress and influence future action. A few of our most prominent findings are highlighted below.

- **Higher Spending, especially in Institutional Provider Programs:** overall spending rose by almost \$16 million, or 9.5%. Almost all of increase occurred in Institutional Provider Programs (+ 17.2%), while Assigned Counsel Program (ACP) spending rose by only 0.5%.
- **Significant staff increases in Institutional Provider Programs:** attorney staff rose from an FTE of 654 to 736, an increase of 12.5%. Support staff rose from 297 to 350 FTE, an increase of 17.8%.
- **A Reduction in Institutional Provider Weighted Caseloads:** the average weighted caseloads of attorneys in upstate institutional providers declined by 14.3%, from 719 in 2012 to 616 in 2014. Note that this number remains far in excess of national and ILS caseload limits of 367 new weighted cases per attorney per year.
- **The Amount Spent Providing Representation per Case Increased:** The amount spent on each case is one indicator of effective lawyering. While the average cost per case among upstate providers is very low, it has increased by \$46.51 (22%) among institutional providers, and by \$52.95 (16%) in Assigned Counsel Programs.

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- **Institutional Providers Spend Significantly Less per Case:** In 2014 the average spending per case was \$382.59 in Assigned Counsel programs, compared to \$255.28 in Institutional Provider Programs.
- **The Estimated Cost of Compliance with Maximum Caseload Limits Decreased:** The estimated cost of compliance declined from \$111.2 million in 2012, to \$105.2 million in 2013, to \$99.1 million in 2014; a two-year decrease of \$12.1 million or 10.9%.

This progress is primarily attributable, we believe, to several actions which the Office and Board have undertaken. First, we have required mandated representation providers and county officials to consult with each other, and have encouraged them to produce an annual proposal to use ILS funds to improve the quality of their representation. Many counties have done so, which has undoubtedly contributed to the staffing increases and reduced caseloads noted above. Second, by 2014 as many as 25 counties were providing representation at a defendant's first court appearance pursuant to the state funding provided under our Counsel at First Appearance grant program. And finally, a few of the 47 counties who responded to our RFP for Upstate Quality Improvement and Caseload Reduction RFP may have begun hiring before the end of 2014.

Can this progress be sustained and enhanced? Certainly it can and will be enhanced in the five counties in which we are implementing the settlement order in the *Hurrell-Harring* case. For the remaining 52 upstate counties which benefit neither from the New York City caseload reduction funding nor from the lawsuit settlement, the answer is much less certain. We have just witnessed a third consecutive state budget that contains no increase in funding for any of the 52 counties or their 120 providers of mandated representation, and we have heard concerns from some providers that the Eligibility Standards and Criteria that go into effect on October 3, 2016 may drive up costs in counties that can ill afford the additional expense. There is no question that our progress toward assuring a capable and uniform quality and availability of representation in every locality within the state of New York is in its very early stages, and faces daunting challenges. At a minimum, there remains a dire need for significant additional state funding and enhanced agency authority that the Fahy-DeFrancisco bill would provide; and for the Regional Support Centers and the statewide Appellate Resource Center that we have long proposed.

My hope is that this analysis will generate an ongoing discussion, in which Board members will be actively engaged, as to how we can best advance the day when New York will provide well-prepared and high-quality representation to every eligible client in mandated representation cases.

APPENDIX C

Statements by Providers of Parental Representation

Sarah J. Merry, Supervising Attorney for Family Court, Washington County Public Defender Office:

“It is no secret that the well-being of our community hinges on parents succeeding at parenting their children. Astoundingly though, we continue to fail our community by refusing to provide the resources that are necessary to provide proper legal representation to our families in Family Court.”

“This failure to act has left us with a generational continuum of individuals who begin in the family court system as children and continue through the system as adults. The bottom line is that children suffer the consequences of inadequate parental representation and when the children suffer, they are unable to succeed as parents themselves. We must break the cycle. We cannot continue to turn a blind eye to parental representation and fail our communities by refusing to address this issue.”

Tom Sartain, Chief, Family Court Bureau, Suffolk County Legal Aid Society:

“Funding for parental representation has long been neglected to the detriment of the rights of our indigent citizens to equal protection under the laws of our state. The statutory right to effective representation for those financially unable to afford their own attorney...as codified in the Family Court Act, is certainly a right entitled to the same support and funding as that provided to those involved in the criminal justice system. [Also], studies have shown that effective parental representation benefits not only the parents involved, but also and most importantly their children, as well as the child welfare and court systems.”

Professor Suzette M. Melendez, Director, Children’s Rights & Family Law Clinic, Syracuse University College of Law:

“In my years as a family law practitioner, I have seen numerous instances where parents were stripped of their fundamental rights because they did not have adequate legal representation. Given the legal resources of the state, the chance that parents can respond to this challenge without quality legal representation are slim to none.”

“All too often, parents must wait far too long before they are assigned counsel who can represent them effectively. In such cases, parental rights are terminated not because the legal burden has been met, but due to the lack of engagement of a qualified attorney. Parents, particularly those from marginalized, disenfranchised communities must be provided with timely access to counsel. Not only is this a much more efficient utilization of our public resources, but our principles of justice require nothing less.”

Nicole L. Sherman, former Family Court attorney at Legal Aid Society of Mid New York, now at Levene Gouldin & Thompson, Vestal, NY:

“Every year our local public interest attorneys are at risk for funding cuts. That means more highly skilled attorneys leave the public sector for job security, there are higher caseloads for less experienced attorneys, there is less staff, less technology, and less funding for training. With adequate funding, public service attorneys could hire more staff, and continue to provide the vital representation so important to families involved in the legal system.”

Linda Gehron, Esq., Executive Director, President and CEO, Frank H. Hiscock Legal Aid Society, Syracuse:

“Keeping families together and saving counties millions of dollars in unnecessary foster care costs requires a sustainable funding source and unified oversight system that supports consistent strong parental representation and advocacy services.”

“Whenever we are able to devote sufficient resources to lessen attorney caseloads and add targeted social work services to ensure the provision of specialized rehabilitative services to families, we are able to prevent costly foster care placements or shorten their duration.”

“With this approach everyone in the community benefits, especially children and families.”