

Testimony of Lenore Banks

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New York State Division of the Budget Town Hall Hearings

Achieving Balance through Prioritization

Buffalo Museum of Science

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My name is Lenore Banks. I am the League of Women Voters of New York State's off-board Judicial Specialist and Liaison to the New York State Defenders Association (NYSDA). I am also a member of NYSDA's Client Advisory Board.

The League has long been concerned about public defense issues. In 1998, we began cosponsoring with NYSDA a series of fact-finding hearings and speak-outs about public defense problems in a variety of communities. In 2002, the State League made "Establish an Independent Public Defense Commission" a priority on its Legislative Agenda. Such a commission would promote the independence of constitutionally and statutorily required legal services. We continue to press for this reform.

New York State has for over 40 years failed to shoulder its constitutional and moral duty to provide quality representation for people who are accused of crime but can't afford an attorney. Instead, the State has burdened the counties with the cost of its duties. The counties have been unable to provide sufficient resources to do the job right. And the State, when it did begin to provide some financial relief to counties for their public defense costs, did so without providing the oversight necessary to guarantee this right to counsel.

Last year, as you no doubt know, a commission appointed by Chief Judge Judith S. Kaye examined New York's public defense system. After the most comprehensive study ever undertaken of that system, the Kaye Commission issued a report noting that public defense in New York is in continuing crisis. That system, as those affected by it have long known, "fails to satisfy the state's constitutional and statutory obligations to protect the rights" of those eligible for public defense services.

The Kaye Commission recommended a complete overhaul of the system. A growing number of organizations and individuals who care about fairness have endorsed the Kaye Commission's recommendations. Those recommendations are that the State create an independent public defense commission, and that the commission be empowered to direct a state-wide, adequately state-funded defender system.

Bipartisan legislation has been introduced in both houses of the Legislature to implement the Kaye Commission's recommendations. County legislatures have called for implementation of those reforms as well. But without money to begin the process, all we

have – all that clients and communities and every New Yorker concerned about fairness has – are pieces of paper and empty promises.

Money to set up a truly independent, efficient, and effective public defense commission would be a wise investment. Without independence, the defense function is crippled. This harms the entire judicial system, causing, among other things, undue delays, erroneous decision-making in vital matters of liberty, and erosion of public trust and confidence in the system.

I sat on the dais during many of the League/NYSDA hearings. I heard, from clients and advocates around the state, horror stories about public defense. Without oversight by an independent public defense commission, New York's public defense system will continue to generate such stories. (The hearing transcripts are available on the NYSDA website, www.nysda.org, under Defense Services.)

You no doubt hear about many government and social needs in these town hall meetings. None are more important than justice. I ask that you put money in the budget to begin implementation of the Kaye Commission recommendation for creation of an Independent Public Defense Commission.