

**TESTIMONY OF THE LEGAL AID SOCIETY**  
**BEFORE THE COMMITTEE ON FIRE AND CRIMINAL JUSTICE**  
**SERVICES AND THE COMMITTEE ON CIVIL RIGHTS**  
**OVERSIGHT HEARINGS**  
**DEPARTMENT OF CORRECTION NON-HEALTH RELATED**  
**DISCHARGE PLANNING**

December 19, 2006

The Legal Aid Society welcomes this opportunity to testify before the City Council concerning Department of Correction Non-Health Related Discharge Planning. Since 1876, The Legal Aid Society has provided free legal services to New York City residents who are unable to afford private counsel. Annually, through our criminal, civil and juvenile offices, our staff of attorneys, social workers, paralegals and investigators, handles about 275,000 cases for poor families and individuals.

As the only free legal services program able to provide the full range of civil legal services for low-income New Yorkers in all five boroughs of the City, The Society continues to be the City's legal "safety net." Society clients are among the most vulnerable New Yorkers: survivors of domestic violence, persons living with HIV/AIDS, homeless or imminently homeless families and individuals, chronically ill or disabled children and adults, immigrants, and unemployed or low wage workers. Those served by the Prisoners' Rights Project – female prisoners who've been sexually abused, people with HIV/AIDS, those with serious mental illnesses, school-age adolescents – also need and deserve to have protection from their abusers, appropriate medical care, mental health treatment, or access to an education.

By contract with the city, the Society also serves as the primary defender of poor people prosecuted in the State court system. The Criminal Defense Division (CDD), which represents

some 210,000 clients each year on charges ranging in seriousness from first degree murder to low-level violations of the New York City Administrative Code, has been at the forefront of efforts to reduce recidivism. Not only have we worked collaboratively with judges and prosecutors, but we have social workers, on staff, who collaborate with attorneys to tell the client's stories and advocate for lesser sentences or alternatives to incarceration based on mitigation. We have also developed special projects, innovative defense-based initiatives that have been proven successful at diverting clients from crime, without compromising the delivery of zealous legal representation.

Given the breadth of legal services we provide, through an interdisciplinary model, the Society is in a unique position to testify about proposals to improve discharge planning and re-entry services.

### **Purpose of Discharge Planning and Re-Entry Services**

In theory, successful discharge planning and re-entry services should prevent re-involvement in the criminal justice system. At the risk of over-simplifying, if you address the underlying reasons that the crime was committed there is a lesser chance it will happen again. In addition, if we are able to assist the client in obtaining essential civil legal services there is a chance that the client's re-entry will be smoother. Social workers and attorneys at The Legal Aid Society work under this operating principle. Social workers explore the underlying reasons for a person's involvement in the criminal justice system in the first place and come up with case management and treatment plans which will address those reasons. Attorneys provide the needed legal services to ensure client's rights are not violated and critical legal services are provided.

The needs that our clients had when they first entered the criminal justice system, are more than likely still there upon their discharged from jail and prison. Their need for housing, education, job coaching, interview coaching, employment, and the like, has not been adequately addressed during their incarceration.

### **What Do Our Clients Need?**

A partial list follows:

- \*probation advocacy
- \*assistance with immigration consequences: developing mitigation against deportation and re-entry services in country of origin if deported
- \*food
- \*housing
- \*emergency rental assistance
- \*clothes
- \*reinstatement of benefits that were stopped during incarceration
- \*money for transportation (metrocards)
- \* family reunification
- \*assistance with how to obtain and clean up a rap sheet
- \*assistance with obtaining certificate of relief from disabilities at sentencing
- \*assistance in addressing the lengthy wait for Relief for Good Conduct and complicated applications for these certificates.
- \*assistance with employment rights (de facto discrimination by employers regardless of the law)
- \*information on voting rights and jury duty
- \*education
- \*job coaching
- \*interview coaching
- \*post felony conviction job coaching
- \*employment training
- \*re-socialization (especially after extended incarceration)
- \*removal of bars from financial aid (*de facto* discrimination regardless of the law)
- \*counseling services for witnesses to violence
- \*better parental supervision plan
- \*assistance with unpaid child support issues

### **Housing**

In the housing area, we see the lack of affordable housing opportunities for poor families but especially for families with members who have criminal records. The New York City

Housing Authority (NYCHA) excludes most people from public housing for the most minor of criminal convictions and excludes from the Section 8 program anyone with a conviction for a drug crime or conviction of a crime of violence no matter how minor. As a result, most people with criminal convictions are prevented from entering public housing or Section 8. Although federal law requires that people with criminal convictions be given an opportunity to show that they have rehabilitated themselves, without an attorney, it is very difficult for someone to prevail. Likewise, when someone is released from prison, they are often prevented from rejoining their families if their families live in public housing or Section 8. We often represent families who are forced to exclude the family member with the criminal record or face eviction themselves. We recommend that the Department of Corrections work with NYCHA to ease these problems and make it possible for people with criminal convictions to access affordable housing.

### **Employment**

People who have criminal records are faced with multiple barriers in employment, including discrimination by employers. New York State and New York City restrict an employer's use of and inquiries about criminal history. *N.Y. Correct. Law* §§ 750-754; *N.Y. Exec. Law* § 296 (16); New York City Human Rights Law. At The Legal Aid Society's Employment Law Project, we often counsel and represent persons who were denied employment or were fired from their jobs based on criminal history background checks. Employers can violate state and city human rights laws by not performing individualized determinations before firing employees or denying jobs to people who have criminal background histories. Individualized determinations must include an analysis of whether there is a "direct relationship" between one or more previous convictions and the specific employment sought. "Direct

relationship” means that the nature of the criminal conduct for which the person was convicted has a direct bearing on the person’s fitness to perform one or more duties related to the employment sought. Employers often refuse to conduct individualized determinations and thereby perpetuate the obstacles faced by people who have criminal background histories in their attempts to transition from the criminal justice system back to their communities, making re-entry all the more difficult.

### **Our Clients’ Stories Further Illustrate the Needs**

#### **Education:**

Michael O has been incarcerated at Rikers Island for four months and would like to work towards earning his GED. He was a motivated high school student, well liked by teachers, until his arrest on a criminal charge based on admittedly poor choices. This is his first arrest and he is struggling at Rikers Island. Although his housing unit participates in classroom study, they do not have a program that allows inmates to study for GED exams. He knows he needs to have the tools to move forward with his academic and vocational goals upon his return to the community. He can’t move forward with what he has so far.

#### **Domestic Violence and Housing:**

Kristen P is a 17 year old charged with Criminal Contempt in the second degree, a class A misdemeanor. She violated a limited order of protection that her mother filed against her as a result of a physical altercation the two had over Kristen’s 23 year old boyfriend whom the mother does not like. Subsequently, Mrs. P currently has a full order of protection against Kristen. Although Kristen is on her mother’s insurance, her mother refuses to pay for court ordered counseling unless Kristen is living at home with her and going to school. Mrs. P was reminded

that it is not possible for Kristen to live with her with a full order of protection in effect; however she would not relent, leaving Kirsten in limbo.

**Parental Supervision Plan, Education, Job Training, Counseling:**

Sixteen year old Lloyd A lives in Harlem and is being raised by his 85 year old great grandmother, since his mother died from kidney failure partly due to her drug addiction. Lloyd, who was a good student who received praise from his teachers for his writing ability, lost enthusiasm for school following his mother's death. Soon after, he was arrested for selling marijuana. A New York Supreme Court Judge decided to give Lloyd the opportunity to earn Youthful Offender status since this is his first arrest. He was been accepted by The Fortune Society where they can connect him with an intensive educational and vocational curriculum as well as therapy. Shortly before this intervention was to be implemented, Lloyd was shot while leaving a store in his neighborhood, witnessing the other victim's death. He underwent surgery for a deeply embedded bullet in a bone in his leg and was in a full leg cast for months requiring physical therapy and home schooling. He had no way of getting to and from the Fortune Society and is therefore unable to comply with his alternative sentence.

**Domestic Violence Counseling and Housing:**

Karen M came to our attention having fled an abusive relationship. She was charged with assaulting her drug addicted and violent boyfriend. She and her boyfriend are both from Corning, New York. However, Ms. M's boyfriend's father lives in Rockaway, and got his son a job working construction in Queens. The boyfriend convinced Ms. M to move down here with him, away from her emotional support system. This ended up being a mistake. A fight and assault charge ensued and Ms. M ended up in jail. Her boyfriend lost their Queens apartment, as he was

mandated to residential drug treatment. When Ms M was released from jail she had nowhere to go.

**Transportation, Food and Clothes:** Samuel F was convicted of 3 A-1 Drug felony offenses and was serving a consecutive 25 years to life sentence at Green Haven Correctional Facility. Due to mitigation our social worker presented, he was recently re-sentenced under the Rockefeller Drug Law Reform Act of 2004. He was also reviewed before the merit board, and granted an early release date for July 28, 2006. For the past eleven years of his incarceration, Mr. F demonstrated outstanding prison adjustment, and exhausted most institutional programming opportunities. He is considered a “model prisoner” which has allowed Department of Corrections to see that Mr. F has learned from the mistakes he made in the past, and is seriously committed to improving himself with this second chance. He found a job within two days, and is eager to re-enter the community. However he had no money for transportation two and from his job nor did he have money for groceries or clothes for work.

**Emergency Housing, Long Term Housing, Clothing, Vocational Training, Re-Socialization:**

Eliezer C was convicted under the New York Rockefeller Drug Laws. He served eighteen years of a 20 years to life sentence at Otisville Correctional Facility. Eliezer was re-sentenced under the New York Rockefeller Drug Law Reform Act and was released from prison April 10, 2006. He returned to a community where he has absolutely no family or friends. When our Legal Aid social worker visited him for the purpose of collecting information, it was his first visit in seventeen years. Eliezer was visibly nervous and could barely communicate with her the first time they met. As his social worker explored what it would be like for Eliezer to be released and

returned to New York, Eliezer was clearly overwhelmed with the idea that he was returning to a world that has radically changed over the past two decades. He did not know what a metrocard was. Eliezer has been institutionalized and possibly suffers from posttraumatic stress. He needed a great amount of support with his reentry. Upon his release, Eliezer's social worker picked him up from the Port Authority bus terminal. He was overwhelmed and fearful. The crowded bus station and the hustle and bustle of the city is enough to make someone like Eliezer panic. The Legal Aid Society was there to make sure this did not happen. Eliezer's social worker secured transitional housing with Praxis Housing Initiatives, where he received 90 days of vocational training, employment planning, computer training, and assistance to secure permanent housing.

### **Conclusion**

We appreciate the opportunity to testify before the Council Committees today and hope that the Council will do all that is within its power to improve all discharge planning and re-entry services to all New Yorkers.

Respectfully Submitted:  
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