



**New York County District Attorney's Office**  
**Written Testimony by Chief Assistant District Attorney Karen Friedman-Agnifilo**  
**for City Council Committee on Justice System**  
**Oversight Hearing on Pay Parity and Retention Rates for ADAs and Public Defenders**  
**October 25, 2018**

Chairman Lancman, and members of the Committee on Justice System, thank you for the opportunity to submit testimony for the City Council's oversight hearing on Pay Parity and Retention Rate for ADAs and Public Defenders. This is a critically important topic for the future of the justice system, and I thank you for giving it the attention it deserves.

District Attorney Cyrus R. Vance, Jr. stated before the City Council early this year that the ability of the New York County District Attorney's Office (DANY) to recruit and retain talented prosecutors is greatly influenced by the competitiveness of our salaries. We appreciate the City Council's immediate acknowledgment of the issue and its support during the Fiscal Year 2019 Adopted Budget negotiations. Thanks to your advocacy, the Mayor's Office also recognized this concern and took steps toward addressing the historical pay disparity among assistant district attorneys and other public sector law professionals. As part of the Fiscal Year 2019 Adopted Budget, an additional \$253,808 in City Tax Levy funding was allocated to our baseline budget to increase the salaries of attorneys in years 1 through 4 of service. The new starting salary for a Manhattan ADA will be \$69,000, the same as an entry-level attorney at the New York City Law Department. We are grateful for these funds and we are eager to implement a new salary structure for our most junior assistant district attorneys. However, the funding received in the Adopted Budget is insufficient to implement this new salary structure. DANY requires an additional \$549,066, for a total of \$802,874 annually, to enact the pay raises. We have alerted the Mayor's Office of Management and Budget to this funding need and we await their response.

To ensure justice and fairness without fear or favor, prosecutors and indigent defense agencies must be able to recruit and retain the brightest legal minds. A low starting salary combined with the twin burdens of tremendous law school debt and the cost of living in New York City make it extremely challenging for our offices to recruit recent law school graduates in the competitive legal labor market. In the last five years, the law career landscape has changed dramatically, further exacerbating recruitment challenges in the legal profession. Both law school enrollment and JD graduation rates have decreased by 20 percent since 2013. The total number of Manhattan DA applicants decreased by 45 percent over the same period. Our office is proud to have maintained consistent diversity staffing levels over the past few years despite a 28 percent decline in minority applicants since 2014. The low starting salary continues to be an impediment, however, and we do not expect that we will be able to attract the same level of talent much longer, because we are falling behind other public offices. Our salary structure, particularly for assistant DAs in their first 10 years of service, is lagging as compared to our public service competitors – including the U.S. Department of Justice – to say nothing of those individuals lured each year by private law firm salaries. We are

unfortunately heading down a path whereby the only individuals who can accept a position within our office are those of privileged backgrounds and therefore, the applicant pool is less likely to reflect the population it is seeking to serve. The last thing any of our Offices want is to have classes of prosecutors comprised only of individuals with independent means or wealth. Prosecutors need to be reflective of the diverse population they are seeking to serve. Addressing the low starting salary is an important step toward reversing this trend.

New York County has seen a steady downward trend in all areas of crime over the past decade. Our innovation to not prosecute thousands of low level crimes and violations has further decreased case volume while creating a more just and compassionate justice system. From a cursory review of the data, a detached observer might conclude that there is a reduced need for prosecutors to handle the smaller incoming case volume. The reality, however, is that criminal activity has become significantly more sophisticated and places far greater emphasis on complex investigation and litigation. Furthermore, as we work to make the justice system more fair and create better outcomes for those involved, it is our policy to consider collateral consequences and alternatives to incarceration at very early stages of a case. Accordingly, prosecutors must dedicate a significantly larger amount of time to each case to adequately serve the interests of justice. The time associated with meeting the increased qualitative demands associated with today's complex caseloads more than compensates for the higher number of simpler cases handled by an earlier generation of prosecutors.

Furthermore, retention of highly trained prosecutors is key to our success in this challenging environment. DANY currently has a 17 percent attrition rate after ADAs meet their three-year commitment. DANY's ADAs often leave for significantly higher paying public service positions. We often hear from young prosecutors departing the office that they have families to provide for and they are struggling to pay for early childhood care while occupying a demanding, full-time job in the public sector. It is not a level playing field, and we simply cannot compete.

Finally, we understand that the Committee is considering [Int 1103-2018](#), which would establish a temporary taskforce to evaluate salary parity, retention, funding, infrastructure, and caseloads of public defenders and assistant district attorneys. While we take no position on the bill's proposed task force, if such a task force is established, its composition should include the City's district attorneys and public defenders.

Thank you for holding this hearing and for giving prosecutors an opportunity to be heard regarding an issue that is essential to the future of our justice system.