

New York County Lawyers Association

Task Force on Judicial Budget Cuts

Public Hearing

December 2, 2013

**Statement of Loretta E. Lynch, United States Attorney for the Eastern
District of New York**

Good morning. Thank you for the opportunity to address this group, as we consider the devastating impact of recent budget cuts stemming from the sequestration process upon the administration of justice within the Eastern District of New York. My comments will focus on sequestration's harmful impact, both impending and already felt, upon the Department of Justice and the US Attorney's Office for the Eastern District of New York. I am honored to share not just today's panel but also our concerns for the protection of the people of the Eastern District with Chief Judge Amon, Chief Probation Officer Eileen Kelly and David Patton, Executive Director of the Federal Defenders of New York.

I am honored to lead the United States Attorney's Office for the Eastern District of New York. It is an office that is at the forefront of the mission of the Department of Justice – the protection of the American people. It is an office that has prosecuted more terrorism cases since 9/11 – in Article III courts – than any other United States Attorney's office in the country. It is an office that, working with our law enforcement partners, has foiled the plot to blow up the New York City subway system and the later plot to blow up the Federal Reserve Bank building. It is an office that has put together cases that have literally changed the construction industry in New York City, that has taken down international cybercrime cases, such as the recent \$45 million ATM heist, that has stopped the exploitation of vulnerable workers by 7-11 stores nationwide, and has gone after those who have committed corporate fraud as well as defrauded literally thousands of Americans out of their hard earned savings.

The current financial crisis, embodied by sequestration, constitutes a grave threat to our ability to carry out our mission. The mandatory cuts of sequestration

took a meat cleaver, to put it bluntly, to the federal budget, with little to no consideration for the impact on the government's ability to carry out its mission.

The Department of Justice alone was cut over \$1.5 billion for fiscal year 2013, with projected cuts of \$2.1 billion for 2014. Within the U.S. Attorney community, the overall budget for all U.S. Attorney's offices and the Executive Office for U.S. Attorneys was cut \$98.6 million in 2013, a cut that came in the middle of the fiscal year. The projected sequestration cut for FY 2014 is an additional \$138 million. Furloughs within the U.S. Attorney community were avoided only by using reserve funds as well as slashing training, travel, IT investment and all other expenses to the bone. One particularly difficult means employed was to rescind a percentage of the budget allocation to U. S. Attorney's Offices, based on their size. As an extra-large office we, along with our colleagues in the Southern District of New York, took an 8% cut to our non-personnel budgets. These sequestration cuts, deeper than just furloughs, meant that AUSAs had to forgo vital training and could not always travel when needed to perform their duties. These cuts also mean that the Department's IT infrastructure, already

strained with the explosion of E discovery, not to mention sheer age, cannot be supported as needed, putting essential communications and other vital services at risk. Other agencies did not fare well either, with sequester furloughs occurring throughout government this summer.

The Attorney General instituted a hiring freeze in early 2011, with few exceptions allowed. That freeze continues to this day, and should sequestration continue, will have to stay in place until mid-2015. U.S. Attorney's Offices cannot hire, not even to replace departing employees. The Department of Justice overall has lost over 3200 employees since the implementation of the hiring freeze, with over 1000 of those coming from U.S. Attorney's offices – a 9% reduction in U.S Attorney office personnel nationwide . We have also recently offered early retirement options to senior staff, to further reduce the payroll and costs. In the Eastern District alone, we have lost 25 attorneys – 25 empty chairs – that I cannot fill. We have lost a corresponding number of support staff – the backbone of our office. And yet victims continue to suffer from crimes of violence as well as fraud, and the complex matters brought to us for investigation continue.

If fully implemented, sequestration would take the Department of Justice back to the staffing levels of the late 1990's – which would mean the loss of an additional 2000 people across the Department, with almost 1000 of those again coming from the U.S. Attorney community. The Eastern District alone would stand to lose another 15 attorneys – more empty chairs that would go unfilled. Those of us who were prosecutors in the late '90's recall that we were tremendously effective then. But a return to late '90's staffing is not as simple as it may sound. The world has changed. When we express a need for resources now, we are not saying we need to buy extra paper and copying machines. We are talking about the resources needed to bring the terrorism and national security cases that are at the forefront of our practice, that require working across the law enforcement, intelligence and military communities to manage complicated and often classified matters. We are talking about the resources needed to investigate complex fraud and find both justice and assets for the victims. We are talking about the need to remain on a level playing field with the armies of attorneys in white collar and public corruption cases, as well as manage the flood of electronic

data in every case. We are talking about the need for personnel with the training and analytical skills to bring the important affirmative civil cases in our portfolio, that focus on false claims, health care fraud, environmental harm, and civil rights. And through it all, we are talking about the ongoing need to maintain our focus on the victims of crime and help them through what is often the most harrowing experience of their lives.

Of vital importance is the need to make sure that crime does not pay. An important part of our mandate is to separate criminals from their ill-gotten gains and recover funds for victims. Here is where one sees the true cost of sequestration. By way of example, in the last fiscal year, my office, in both solo and shared investigations, was credited with over \$2.2 billion in fines, restitution, penalties, forfeiture and civil settlements of large health care and mortgage fraud cases. These funds will come in over several years – and all will inure to the benefit of the American people. Focusing on annual collections alone – just what was taken in for one year - also underscores the point. Nationwide, the U.S. Attorney's offices collected \$13.1 billion in criminal and civil actions in FY 2012,

more than six times the appropriated budget of the combined 94 offices for that year. In FY 2012 criminal collections alone, U. S. Attorney's offices collected \$3,035 billion in restitution, criminal fines and felony assessments – over a billion dollars more than their combined budget. Working with partner agencies, the U.S. Attorney's offices collected \$4,389 billion in asset forfeiture actions in FY 2012. Collections information for FY 2013 will be released by the Department within a few weeks, although within the Eastern District of New York alone, our individual collections – just for FY 2013 – were approximately \$902 million dollars. Our office budget is approximately \$38 million per year.

Under sequestration, we will be furloughing people next year. We will continue to shrink in size. U.S. Attorney's Offices nationwide are already starting to review intake guidelines, and meet with our state and local counterparts to discuss how to address law enforcement needs with all our shrinking budgets. The delays that result from having to juggle many meritorious cases will enable criminal conduct to continue and/or delay or deny justice for crime victims. As both federal law enforcement resources and federal financial support of state and

local law enforcement recede, some criminal cases will go unaddressed. We will continue to prioritize the most serious crimes, but the thought of other crimes leading to tragedy is one that keeps me and my colleagues up at night. We will have to constantly assess priorities and cases and risk reductions in our ability to recover fines, forfeiture and settlements. In the ultimate irony, by cutting the United States Attorney's Offices, sequestration will effectively cut revenue to the government.

While some may say we're shrinking government, what will shrink is the blanket of protection we provide for the American people and the recoveries we provide to the Treasury. Budget cuts may indeed be necessary, but they need to be done with an eye toward the very real costs that come with them. Whatever the result, the dedicated men and women of the Eastern District of New York, indeed of all U.S. Attorney's offices, will continue to work all day and well into the night for the protection of the people of this city, this state, and this country.

Thank you for having me.

