



## Letitia James

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**Testimony of the Public Advocate for the City of New York, Letitia James  
Joint Hearing of the Senate Finance and Assembly Ways and Means Committees  
January 26, 2016**

Good morning Chairwoman Young, Chairman Farrell and members of the Finance and Ways and Means Committees. My name is Letitia James, and I am the Public Advocate for the City of New York. As Public Advocate, I was elected to serve all eight-and-a-half million people who call New York City home. The heart of my role as Public Advocate is to ensure that the voices of those people are heard, particularly when it comes to the government entities and agencies that exist to serve them. The baseline for these services is set collectively by the New York State and New York City budgets, both of which profoundly affect the lives of my constituents.

I believe that, with this Executive Budget, Governor Cuomo has laid out an ambitious agenda that will extend the ladder of opportunity and help move our state forward. From lifting up working men and women to reforming our criminal justice system, many of the Governor's proposals have the potential to transform the lives of everyday New Yorkers. However, potential cuts to municipalities, particularly New York City, are a cause for serious concern, and we must maintain a constructive dialogue about how best to balance and pay for our treasured priorities.

The movement for economic justice and income equality has gained traction across the nation, but once again, New York State is leading the way in ensuring all workers have a fair and livable wage. Governor Cuomo's leadership in the fight to raise the minimum wage to \$15 an hour for all industry workers will put money in the pockets of millions of hardworking men and women and uplift families throughout the State. We still have a long way in our quest to eradicate income inequality, but this proposal would mark an enormous step toward expanding the middle class and providing opportunities for those who need it most.

I also join in the Governor's call to make Paid Family Leave a reality in this state. New York's working families cannot afford to spend another day being forced to choose between caring for their loved ones and keeping their jobs. Taking care of a family member, whether it is a newborn child or an ailing parent, can be a full time job, and New Yorkers across our state need help. New York must once again lead the nation by ensuring 12 weeks of paid family leave for all workers. While I would prefer a proposal that provided a greater percentage of worker's wages, as well as a complimentary increase in the state's childcare subsidy appropriation, I commend the Governor for his leadership in ensuring that this pressing issue is at the forefront of our public discourse.

In addition, I was extremely pleased that the Governor's proposal included plans to join the city in an unprecedented commitment to create supportive housing for the homeless. Today, despite

all of the progress that our city has achieved to make our streets safer and cleaner, and to strengthen the city's economic prospects, we still face an extraordinary challenge in caring for the neediest among us. In New York City, homelessness has reached its highest levels since the Great Depression with almost 60,000 homeless individuals, including 14,000 homeless families and 23,000 homeless children.

Permanent supportive housing, which pairs affordable housing with on-site supportive services, is the most effective way of addressing chronic homelessness, particularly among people with mental illness or severe health issues. Permanent supportive housing has been shown to reduce incarceration rates, diminish incidence of drug relapses and cut mental health stays in half. It also more than doubles the likelihood that an individual will still be housed after two years. Additionally, supportive housing provides a clear-cut economic benefit for the city and state, saving between \$10,000 and \$15,000 per individual.

While I believe there are important conversations to be had about the RFP process, oversight, unit allocation and other granular implementation issues, I know that, if approved, NY/NY IV has the chance to increase our stock of supportive housing several-fold and transform the lives of families in need.

On the subject of public housing, I would like to thank the Governor and the Legislature for their recent investments in the New York City Housing Authority. The \$100 million for repairs in last year's budget and the \$42 million for security this past October were desperately needed infusions for an agency that has suffered from chronic federal disinvestment. However, much work still needs to be done, and I hope the legislature will consider adding at least the \$200 million in still needed repair dollars that the City asked for during last year's process. NYCHA has certainly had its problems in the past, but the people who depend on them for a roof over their heads should not be made to suffer for NYCHA's mistakes.

I urge the legislature to take up the Governor's proposals on numerous other issues that will help make New York a fairer more equitable place. For instance, we must make 2016 the year we finally pass the New York State DREAM Act. Discriminating against hard-working young immigrants who just want the chance to go to college is inequality in its purest form. By excluding DREAMers from state higher education aid, we are discriminating against a group of children who have done absolutely nothing wrong, who represent sterling examples of hard work and dedication, simply because their parents came to this great country in search of a better life. By passing the DREAM Act we would be taking a group of people who might be permanently stuck in exploitative, low-wage jobs, and turning them into the next generation of entrepreneurs and job creators.

I also urge the swift passage of the Governor's proposal to expand MWBE procurement goals to every dollar the state spends. New York has a responsibility to lead in growing economic opportunities for women and communities of color and this plan will help ensure we have more

equal representation. I am hopeful that this important step will help New York City reach better MWBE targets and result in a stronger and more equal economy for all.

I was also gratified by the Governor's much needed voter access and ethics reforms. We need to restore trust in our government and ensure that as many people as possible participate in civic life.

Another critical proposal is the expansion of our state's broadband infrastructure. In the 21st century, Internet access is not a luxury, but a necessity. Today the average Internet speed in New York City is less than half as fast as in European and Asian cities and far more expensive. Governor Cuomo's proposal to expand broadband accessibility throughout the State will go a long way in bridging the digital divide and providing much-needed access to New Yorkers who need Internet access to be able to do homework, send in resumes or run small businesses and advance their opportunities.

I also believe that, if enacted, the Governor's criminal justice agenda would usher in fundamental, sweeping, and much needed changes to the administration of justice in this state.

It is past time that New York rid itself of the shameful distinction of being one of two states that prosecutes *all* sixteen-year-olds as adults. These laws and practices are contrary to modern brain science, sound crime prevention, rehabilitative and educational policy, and basic morality.

Juveniles serving time in adult penitentiaries are exponentially more likely to be the victims of beatings, sexual assaults and inhumane solitary confinement. They are thirty-four times more likely to commit suicide during incarceration. And, when they're released, they are significantly more likely to recidivate or move on to more serious crimes. This is completely unacceptable, and it is well past time we did away with a law that leads inexorably to destroying the lives of children the government should be rehabilitating, teaching, and protecting. I applaud the Governor's unwavering commitment to raising the age of criminal responsibility.

I also commend the Governor's efforts to mitigate the draconian effect of past convictions by finally providing a meaningful path to expunging past convictions for those individuals who have succeeded in rehabilitating their lives. Instead of paying mere lip-service to reform and rehabilitation, we must encourage successful reintegration into society. This measure would be an incredibly important step in that direction. In a similar vein, I applaud proposals that would begin to restore secondary educational opportunities for the currently incarcerated, and the increased funding for reentry services.

I am also pleased to see the proposed codification of the Governor's Executive Order appointing Special Prosecutors in police involved killings. I took a stand on this issue early on, calling on the Governor to appoint a special prosecutor to investigate the death of Eric Garner, and I stood with the Attorney General when he requested the authority to investigate deaths of unarmed citizens at the hands of police officers. I also believe that the provision that would permit the

issuance of a special grand jury report or District Attorney letter in cases where no indictment was issued is a positive step in the direction of transparency. However, I believe that, in order to restore public confidence in the process, we should strongly consider broader disclosure of grand jury proceedings in most instances where the target's identity and the circumstances of the case are broadly known and the public has a legitimate interest in disclosure. I look forward to discussing the specifics of this proposal in the coming weeks.

Gun violence is one of the most important issues confronting the City of New York today. And although Congress has created a situation in which states and localities must try to reduce gun violence with both hands tied behind our backs, there is still much we can do to address its scourge. In the last year, my office proposed several reforms including going after the retailers and banks who help facilitate the gun trade. I have also recommended increasing funding for programs that aim to interrupt the cycle of violence through community intervention. With that in mind, I am pleased to see a modest increase in funding for Operation SNUG, a proven gun violence prevention program based on public health and intervention. However, I would love to see an even larger increase in funding so we can continue to grow this program. I would also urge the state to consider funding for hospital-based gun violence intervention as well as whatever funding is necessary to finally implement ammunition background checks and fulfil the full promise of the SAFE Act.

I was interested to see the inclusion of a three-year extension of mayoral control in the Governor's proposed budget. While I support mayoral control, I would urge consideration of potential reforms that would enhance accountability, transparency, parental-involvement and democratic deliberation in policymaking and contracting before mayoral control is extended.

As part of my duty to provide oversight and investigate concerns on behalf of the public, my office hosted six public forums last year – one in each borough, and one jointly with the City University of New York Law School – to allow parents, community members, and other stakeholders to share their input on how to improve mayoral control. Audience members also completed a survey to measure attitudes and perceptions of parent-community engagement efforts by DOE.

My office analyzed those discussions, and the accompanying audience survey, and found serious, widespread concerns. For instance, the survey found that 92 percent of respondents favored changes to mayoral control allowing parents more of a decision-making role. Tellingly, a contemporaneous poll conducted by Quinnipiac University found that “New York City voters by more than 2-1 believe [the] Mayor should share control of NYC schools with other elected leaders.”

Based on our findings I recommend that the state consider, among other issues: expanding the Panel for Educational Policy (PEP) to include a more diverse array of voices, providing fixed terms for PEP appointees to insulate them from undue political pressure, reforming the DOE's

procurement practices to mirror those set forth by the Procurement Review Board and to provide the City Comptroller with additional oversight, and creating an additional school district in Staten Island.

On an individual level, few issues evoke the passionate engagement that a parent or guardian feels about a child's education. On a systemic level, no service is more important to the City as a whole than a strong, vibrant public school system that is responsive to the needs of students and the voices of parents and teachers. With mayoral control again up for renewal this year, I believe it is imperative we have a frank and open dialogue about what has worked and what needs to be improved upon.

But while there is a great deal to like about this budget, I also have significant concerns, particularly when it comes to new mandates imposed on the City of New York. The City has already assumed a larger share of the burden for providing basic homeless services and MTA funding. This budget doubles down on that transfer of financial responsibility by sticking New York City – and New York City alone – with a larger share of Medicaid costs, not to mention more than \$400 million a year in financial responsibility for CUNY.

New York State already shifts a disproportionate share of responsibility for funding Medicaid to its localities, the largest burden of any state. If anything, we should be moving toward a world where the state pays more of its fair share, not one where New York City could be paying an extra billion dollars a year by 2020. Many states recognize that making municipalities pay Medicaid costs creates a cycle of inequity because it is the localities with the highest poverty rates that must pay the most in costs, putting the burden on those same low-income individuals and families.

More than a decade ago, the State capped the costs localities were forced to pay for Medicaid and agreed to pay for any growth above inflation. Its ability to do so rests squarely on the fact that New York City is the local equivalent of a donor state, providing the state with 45-50% of its revenue while only receiving 40% back in funding. New York City remains the engine of this state's economy, and it should not be singled out for an unfunded mandate so out of step with the traditional allocation of Medicaid cost responsibility. I am hopeful that we can all work together to find a better way to generate whatever savings are necessary.

I am also alarmed by the nearly half- billion dollar increase in the City's obligations to CUNY. While the state has wisely budgeted for long overdue raises for CUNY staff, that funding, and more, will essentially come out of the City's coffers. Since before the 2008 recession, per-student state funding for CUNY has decreased by 17 percent after adjusting for inflation. Meanwhile, students have been asked to pay more each year for tuition, to the tune of an extra \$1,500 by 2022. Rather than put the onus on the city and CUNY students, the state should continue to pay its fair share of costs and look closely at increasing the maximum TAP grant. While I have been encouraged by recent statements that make clear that this burden may not fall

on the city in the final reckoning, I have serious concerns about any plan that would either place an undue burden on the city or gut CUNY's administrative structure.

Every student in this state – regardless of gender, race, ethnicity, disability, income, sexual orientation, or zip code – deserves access to a quality education. While this budget contains some good news on public K-12 education, including a substantial investment in the transformation of failing schools into community schools, the overall allocation continues to fall short of a robust commitment to fully fund New York's public schools. In fact, the total funding is more than a billion dollars shy of what is recommended by the Board of Regents and education experts. I understand and share the desire to see the Gap Elimination Adjustment ended for good, but I do not believe it should be the foremost priority. My primary concern is that Foundation Aid, which benefits the poorest districts in greatest need of increased funding, only goes up by \$266 million in this initial proposal. That's just not enough in a world where, if Foundation Aid were fully implemented, districts across the state would be owed more than \$4 billion.

Another troubling development is the failure to fully fund the state's portion of the MTA Capital Plan. While \$1 billion is set aside, the plan hinges on the remaining \$7.3 billion coming later, potentially through bonding by the MTA itself. With New York City already footing a significantly increased portion of the MTA bill, I am concerned by any plan that essentially makes the state the funder of last resort. I, and my many constituents for whom public transportation is a critical fixture of everyday life, would greatly prefer the certainty of a dedicated revenue stream to pay for the necessary upgrades and repairs to our transit system.

Finally, I am seriously concerned about the proposal to take \$200 million dollars a year from the City's Sales Tax Asset Receivable Corporation (STARCO) debt refinancing savings over the next three years. It is my understanding that the respective obligations of the city and state in this matter have been settled law since the 2004 Court of Appeals Decision in *Local Govt. Assistance Corp. v Sales Tax Asset Receivable Corp.* The state appropriates \$170 million annually to the city and any net proceeds not necessary to retire the remaining debt are paid to the city. The state's attempt to "recoup" these funds is not some mere technical fix to restore funds the state is rightly owed, but a sweeping reversal of a long-standing obligation on which the city has relied. The payment to the city, ordered by the legislature and affirmed by the Court of Appeals, would in fact be a net taking of \$30 million, flying in the face of legislative intent. When combined with the abovementioned obligations, this measure would severely impact the City's bottom line.

In a world where our financial sector may be experiencing the first signs of a new contraction, New York City cannot afford to have its hard won rainy day funds depleted by this transfer of responsibility. I believe that, instead of saddling the City with these costs, we should look at new sources of revenue instead. For instance, we should take a long look at enacting a *pieds-à-terre* tax, which the Fiscal Policy Institute estimates would generate \$665 million a year. Non-resident owners of high-end properties are unlikely to pay New York City income taxes and are often

subject to effective property tax rates compared to the market values of the properties they own. It is only right that we find a reasonable way to level the playing field, so all those who enjoy New York City pay their fair share. We could also consider making our personal income taxes more progressive. New York City's Independent Budget Office estimates that even a modest increase for high-end filers could raise \$445 million. There are many other worthy proposals on the revenue side that could combine to generate whatever funds are needed to balance the state's ledger, without overburdening the City of New York.

I look forward to working with the Governor and both houses of the legislature to help enact the many laudatory proposals contained in this Executive Budget. I also anticipate a robust discussion about how best to pay for critical public programs. I am confident that, in the end, we will achieve a state budget that will help lift up all New Yorkers.

Thank you.