

Summary of Budget requests made by the District Attorneys
Association of New York (DAASNY) to Governor Andrew
Cuomo for Fiscal Year 2017-18

New York State is a leader in its approach to public safety. There are crucial costs associated with the tools needed to maintain public confidence and ensure justice. The attached letter explains in detail the shared priorities of the 62 District Attorneys of the State of New York and the Special Narcotics Prosecutor.

Key items of DAASNY's budget requests for Fiscal year 2017-2018 include:

- ◆ Increase funding for **State Aid to Prosecution** to \$18 million to support the enhanced prosecution of repeat violent and serious felony offenders.
- ◆ An additional \$1.6 million for reimbursement to counties for **District Attorney Salaries** already voted for in 2015 by the New York State Commission on Legislative Judicial and Executive Compensation.
- ◆ Parity in funding in the amount of the \$3 million provided to public defenders as part of the **Hurrel-Harring** settlement to ensure that prosecutors are present at arraignment in the counties named in the settlement.
- ◆ An additional \$1.5 million for police departments to help maintain and develop locations for **Videotaping Interrogations**.
- ◆ An initial amount of \$1.5 million to equip officers statewide with **Body Worn Cameras**, as well as money for prosecutors to access, transcribe, translate, and disclose recorded material.
- ◆ Appropriation of **Crimes Against Revenue (CARP)** funds in the amount of \$17 million to recover funds from those who deliberately fail to pay taxes or commit Medicaid, welfare, unemployment and worker's compensation fraud.
- ◆ Grants to counties in the amount of \$15.6 million as part of **Gun Involved Violence Elimination (GIVE)** to assist in the reduction of firearm related homicides and shootings.
- ◆ Funds in the amount of \$4.0 million for the **Motor Vehicle Theft and Insurance Fraud Prevention Program** to pay for enhanced enforcement, sting operations and specialized training for prosecutors, police officers and investigators.
- ◆ Reinstitution of \$1.5 million to **Recruit and Retain Prosecutors** and the continued appropriation of \$2.43 million for the **Tuition Reimbursement Program** to meet the contemporary needs of public service attorneys.

- ◆ \$2.8 million to maintain services provided by the **New York State Prosecutor's Training Institute (NYPTI)**. This includes assistance and training, a case management system to track cases, produce grant reports and facilitate electronic discovery. There is an additional request for \$304,000 to continue **NYPTI's Witness Protection Program**.

- ◆ Reinstitution of \$825,000 for the **Office of the Special Narcotics Prosecutor (SNP)** for investigation of narcotics rings and critical statewide leadership in combating the epidemic of prescription drug abuse and the heroin scourge throughout the State.

Please see the following letter for a more thorough description of DAASNY's requests.

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ROCKLAND COUNTY

October 28, 2016

Honorable Andrew Cuomo
Governor
Executive Chamber
Albany, NY 11224

Dear Governor Cuomo:

I am writing on behalf of the 62 New York State District Attorneys and Special Narcotics Prosecutor to urge your support of the District Attorneys Association of the State of New York's (DAASNY) budget priorities for fiscal year 2017-2018.

A well-functioning criminal justice system improves the overall quality of life for all New Yorkers. New York's prosecutors share a common goal: to do justice on behalf of the People of our state by convicting the guilty, exonerating the innocent and safeguarding the integrity of the criminal justice system.

New York has been one of the most innovative states in its approach to public safety. We must have sufficient resources in order to perform our constitutional responsibilities and remain a leader in this arena. Prosecutors' offices are very diverse: they are located in counties with millions of residents and visitors as well as counties with many square miles of rural land. Yet every District Attorney's office is striving to undertake many new responsibilities. In addition to trying cases and conducting long-term investigations, prosecutors work with community and faith leaders, schools, and providers with an eye toward crime prevention. This includes education initiatives and diversion programs focused toward youthful offenders, addicts, veterans, those with mental illness, and many others. We also provide services for vulnerable elderly populations, domestic violence victims and immigrants.

In addition to these expanded responsibilities, prosecutors are undertaking ongoing efforts to implement cutting-edge technology that improves the overall quality of the criminal justice system. These dual expansions come at a time of budget cuts that have rendered many district attorneys' offices underfunded and understaffed.

We share your commitment to the public safety of all New Yorkers and goals to maintain a fair, efficient and effective criminal justice system. Before you begin an intensive

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review of the budget bills, I want to bring to your attention DAASNY's priorities for the coming year. We have made every effort to include items that are cost-neutral or even revenue generating.

State Aid to Prosecution

This essential aid is an important component of the funding of District Attorneys offices and has been reduced significantly since 2000. The reductions in Aid to Prosecution have come at a time when prosecutor responsibilities have systematically increased. Fifteen years ago Aid to the Prosecution was funded at \$22.763 million, the 2016-17 budget bill appropriated \$13.72 million Aid to Prosecution. Prosecutors are increasingly expanding the duties of their staff, adopting new technologies and dealing with new crime trends. We strongly urge that funding for 2017-2018 be funded at **\$18 million**.

District Attorney Salary Reimbursement Program

In December, 2015, the New York State Commission on Legislative, Judicial and Executive Compensation voted to increase all state judges salaries. State Judicial Law 183-a requires that a District Attorney's salary be higher than either the County Court Judge or Supreme Court Judge in a County depending on full or part-time status.

In the 2016 State budget, the legislature did not allocate funding to help counties meet the District Attorney salary increases that were tied by statute to judicial salary increases. Cash-strapped counties were reluctant to pay for that unfunded mandate. As a result, not all district attorneys are being paid what the law requires them to be paid for their services. With due consideration to this new and ongoing financial obligation, it is essential that the budget be modified to provide this support. Historically, the State has funded these salary increases in the budget.

For the 2017-2018 budget year we strongly support an increase of funding in the amount of \$1.6 million, as calculated by the state, bringing total funding to **\$5.8 million**.

Representation at Arraignments

As a result of the 2015 settlement in *Hurrell-Harring*, money was made available for the first time for critical funding for public defenders to appear at local court arraignments (something they were previously unable to do), establish public defender caseload caps, and hire qualified expert witnesses.

Unfortunately, a similar commitment was not made to ensure that a prosecutor would be present; therefore jurisdictions outside of New York City are now in a situation where a judge and defense attorney, **but not a prosecutor**, are present for arraignments because prosecutors' offices remain understaffed and prosecutors cannot attend every arraignment in the more than 1,300 courts located in our state. This has far-reaching implications for local court practice, including bail recommendations, the issuance of orders of protection, and plea dispositions.

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Public defenders only represent a portion of all defendants – namely those who cannot afford private representation. Prosecutors -- who represent the People in 100% of all cases -- should also have manageable caseloads, access to high-caliber expert witnesses, and enough staff to represent the interests of the victim and the community at arraignments.

DAASNY recommends immediate relative parity in funding at the level of **\$3 million** for the jurisdictions already impacted by Hurrell-Harring -- Onondaga, Ontario, Schuyler, Suffolk, and Washington Counties.

Further, DAASNY recommends that if the legislature expands this mandate statewide as called for by the Chief Judge, funding be appropriated at \$105 million, as requested by the NYS Association of Counties in its 2015 report.

Videotaping Interrogations

As early as 2010, the District Attorneys' Association and New York's law enforcement community, along with DCJS and the New York State Bar Association, stood together to announce their endorsement of video recording interrogations of suspects in custody. DCJS has been a strong partner in this endeavor and has funded the majority of the interview rooms built in the state. While embracing this technology, district attorneys are now experiencing first-hand the ongoing costs that come with using this technology, such as transcription, translation, photocopying, storage, presentation software for courtroom use, and equipment maintenance and replacement. Investment in video recording of interrogations is money well spent; it directly contributes to a fair, strong and transparent criminal justice system.

DAASNY therefore recommends **\$1.5 million** in additional funding for police departments in order to enable them to continue to develop and maintain video recording locations.

Body-worn cameras

District Attorneys have a vested interest in equipping police officers with cameras; cameras memorialize police-civilian encounters from a different visual perspective. District Attorneys are committed to this initiative, some offices are assisting police departments by helping to fund the purchase of cameras; many offices do not have the resources to provide this assistance.

The cost of purchasing cameras, which averages \$1,000 per camera, is only part of the equation. Maintenance, storage of digital evidence, software to “tag” camera footage in a way that connects it to the correct arrest record, transcription of materials, and discovery compliance all create ongoing expenses. Indeed, absent significant state funding, once police begin routinely wearing recording devices district attorneys will be unable to perform the voluminous Constitutional and statutory obligations that will be associated with these recordings -- to review, redact, transcribe, translate and disclose thousands of hours of recordings. It is estimated that for every 100 cameras on the street it a District

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Attorney's office will need one additional staff member. There are also costs associated with storage, which range from \$100 per month to \$1000.

DAASNY recommends that an initial amount of **\$1.5 million** be allocated to equip officers statewide with cameras, as well as for prosecutors to access, transcribe, translate and disclose recorded material, a cost that remains to be established. It must be noted that a final yearly cost for body worn cameras is yet to be determined.

Crimes Against Revenue

The Crimes Against Revenue Program (CARP) was initiated in 2004 as a means to hold accountable those who defraud the state of revenue from taxes owed, as well as programs such as Medicaid, public assistance, and worker's compensation.

This program is not just self-sustaining, it is *revenue-generating*. Approximately \$160 million has been returned to the state since the program began 10 years ago – a 70% return on the \$90 million in grants provided to district attorneys' offices.

This program has been increasing and expanding every year. In addition, the amount of money returned to the state has been increasing every year. However, the cost of investigating these matters continues to increase. We propose the appropriation of CARP funds at **\$17 million**.

Gun Involved Violence Elimination (GIVE)

The Gun Involved Violence Elimination (GIVE) initiative (previously known as Operation IMPACT) focuses on the reduction of firearm-related homicides and shootings in those communities in 17 counties outside of New York City that collectively report 86% of violent crime. Despite New York's leadership in gun control, this program – which is designed to reduce gun crimes – has seen repeated cuts in funding. From \$15.6 million in 2010-11, the program now receives \$15.219. These cutbacks, if sustained, will handicap the revised focus of GIVE.

DAASNY recommends the appropriation of **\$15.6 million** for GIVE.

Motor Vehicle Theft and Insurance Fraud Prevention Program

This competitive grant program provides funds for innovative local programs aimed at reducing insurance fraud and motor vehicle theft, which is dangerous and costly to all New Yorkers. Evidencing the success of the program in just one arena, the reduction in motor vehicle theft stands at nearly 80%.

Funding has been cut nearly in half since 2007. In order to investigate and prosecute motor vehicle theft and insurance fraud cases, funding is critical to pay for enhanced enforcement and sting operations and specialized training for prosecutors, police officers and investigators.

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DAASNY recommends the appropriation of **\$4.0** million to fund this program.

Prosecutor Recruitment and Retention

Well-trained, experienced prosecutors are desperately needed, but attorneys overwhelmed by student loans and living expenses are consistently forced to leave public service for the private sector or even the public defenders office. The appropriation for disbursements by District Attorneys outside of New York City to recruit and retain prosecutors, which once stood at \$1.5 million, **has been completely defunded**.

DAASNY strongly recommends **reinstating** this program at the previous funding level of **\$1.5 million** to ensure the integrity of the statewide prosecuting infrastructure.

Tuition Reimbursement Program

DAASNY is appreciative of the legislative and executive commitment to helping young public servants continue in public service by providing assistance with student loan debt relief. The Tuition Reimbursement Program for Prosecutors and Indigent Legal Services Attorneys is vital to many attorneys who are saddled with debt in excess of \$100,000.

We are not asking for additional funding; we are requesting, in conjunction with our counterparts at the Association of Legal Aid Attorneys, that changes be made to this program to meet the contemporary needs of public sector attorneys. These changes can be made within the current budget appropriation and require no additional monies. Those changes, reflected in the attached proposed legislative language, are:

- Increase the maximum annual loan reimbursement from \$3400 to \$4000;
- Increase the period of eligibility from 6 to 8 years of service;
- Add a tolling provision so that time spent by the ADA on maternity and military leave would no longer be considered an “interruption” to the service year, which under the current statutory construct prevents them from receiving loan assistance.

DAASNY supports the continued appropriation of **\$2.43** million, which is already included in the budget, along with the legislative revisions detailed above.

New York Prosecutors Training Institute (NYPTI)

NYPTI delivers invaluable assistance and training to our state prosecutors by providing traditional legal research and training plus many online tools needed to operate a 21st Century prosecution office.

Research and Writing: NYPTI’s extensive work in this area is mostly for the 39 counties with fewer than 10 ADAs, for which NYPTI serves as a backup center.

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21st Century Case Tracking: The case-management system (PCMS) NYPTI created is used by 51 counties. Beyond tracking cases, PCMS produces grant reports and documents to facilitate e-discovery and e-filing.

Combatting Heroin: This year, through PCMS, NYPTI created a simple way for prosecutors using PCMS and the New York City Special Narcotics Prosecutor to share data on heroin and drug traffickers to better combat the drug abuse epidemic.

Training - NYPTI trains thousands of prosecutors each year to educate on ethics, forensics, technology and best practices. Trainings are recorded and available on demand.

Protecting Victims: Short-term, emergency assistance is provided to threatened witnesses (not informants) for their basic needs in mainly domestic violence, gang and sexual violence cases.

Public online information – From their public website, NYPTI provides CrimeTime, an online sentencing calculator relied upon by judges, defense attorneys and prosecutors; and searchable compilations of criminal statutes, caselaw and new appellate decisions as they are released.

State funding for this critical non-profit, has remained at \$2.3 million for several years despite increased operating costs. To maintain current services, DAASNY requests an appropriation of **\$2.8 million** for NYPTI and **\$304,000** to continue NYPTI's witness protection program.

Office of the Special Narcotics Prosecutor (SNP)

The Office of the Special Narcotics Prosecutor (SNP), with its unique jurisdiction over felony narcotics cases, not only has continued to spearhead investigations into narcotic importation rings, but has provided critical statewide leadership combating the epidemic of prescription drug diversion and abuse and related explosion of heroin distribution throughout the state. The office has taken a major role in conducting investigations, developing strategies, and crafting legislation to curb the sale of pharmaceuticals by criminal rings, rogue doctors and unscrupulous pharmacists. The black market for prescription drugs involves not only the sale of narcotic pills, but also Medicaid fraud, and corrupt practices by practitioners. The Special Narcotics Prosecutor is working with local, state and federal law enforcement, and is also partnering with the Department of Health and OASAS to address the scourge of prescription drug abuse, which often leads to heroin addiction. The Office is also working hand in hand with the State Police and local authorities to find the source of heroin that is flooding communities outside of New York City and cut off supplies.

Since 1990-1991, the SNP budget has been cut by 74.6%, from \$3.5 million to \$825,000 in 2014-2015.

DAASNY requests that **\$825,000** be reappropriated in the 2017-2018 budget.

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Respectfully submitted,

Sincerely,

A handwritten signature in black ink, appearing to read 'T. Zugibe', with a stylized flourish at the end.

Thomas P. Zugibe
President, DAASNY
District Attorney, Rockland County

CC: Michael Green, DCJS