

Summary of Budget requests made by the District Attorneys
Association of the State of New York (DAASNY) to Governor
Andrew M. Cuomo for Fiscal Year 2018-19

The everyday work of prosecutors is an integral part of maintaining and improving the quality of life for all New Yorkers and visitors. New York State continues to be a leader in public safety. The people of New York deserve a fair, efficient and effective criminal justice system. There are crucial costs associated with keeping the public safe and maintaining public trust in the criminal justice system. The attached letter explains in detail the budget priorities of the District Attorneys Association of the State of New York.

Key items of DAASNY's budget requests for Fiscal year 2018-2019 include:

- ◆ \$2.75 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 \$275,000 to continue **NYPTI's Witness Protection Program**.
- ◆ Increase funding for **State Aid to Prosecution** to \$15 million to support the enhanced prosecution of repeat violent and serious felony offenders.
- ◆ An additional \$1.7 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.
- ◆ Grants to counties in the amount of \$15.5 million as part of **Gun Involved Violence Elimination (GIVE)** to assist in the reduction of firearm related homicides and shootings.
- ◆ An additional \$500,000 for police departments to help maintain and develop locations for **Videotaping Interrogations** and \$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.

- ◆ Continued appropriation of \$3.79 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.

- ◆ Continued appropriation 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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October 16, 2017

Honorable Andrew M. Cuomo
Governor of New York State
Executive Chamber
Albany, NY 11224

Dear Governor Cuomo:

I am writing to highlight DAASNY's budget priorities for fiscal year 2018-2019. As you know, the District Attorneys Association of the State of New York (DAASNY) represents the elected and appointed prosecutors of the sixty-two (62) New York State District Attorney's Offices, New York State Attorney General's Office, the Justice Center for the Protection of People with Special Needs and the Office of Special Narcotics. Our responsibilities are constantly increasing and keeping up with the latest technology is essential.

I strongly believe the prosecutors in New York State have a lot to be proud of. It is truly an honor and a privilege to serve as a prosecutor in this great State. My colleagues and I all approach this role with the utmost respect for the trust placed in us by the public. You have demonstrated through your leadership that you believe that the people of New York deserve a fair, efficient and effective criminal justice system. This includes holding those accountable who commit crimes, exonerating those who are falsely accused and engaging in training and initiatives that enhance public trust in the criminal justice system.

We as prosecutors have been consistently doing more with less money. In recent years District Attorney's offices all over the state have expanded our functions to increase our work within our communities. We have spearheaded educational initiatives for crime reduction. We have created numerous diversion programs including those for veterans and youthful offenders. We continue to develop initiatives and search for better ways to address the needs of those suffering from drug addiction, the elderly, the mentally ill and victims of domestic violence.

New York State continues to be a leader in public safety and that improves the quality of life for all New Yorkers and those who visit our great state. Adequate resources must be provided to make sure that prosecutors can perform our responsibilities at the highest professional level. We acknowledge the goal of fiscal responsibility and the challenges of balancing a budget as we submit our request. Unfortunately, many District Attorneys' offices are underfunded and understaffed. I want to highlight DAASNY's priorities for the upcoming year. Many of these items are cost-neutral or even revenue generating. We

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hope that the rising costs related to keeping the public safe is taken into consideration.

New York Prosecutors Training Institute (NYPTI)

Over the past twenty-five years, the most important advancement in the state criminal justice system was the creation of NYPTI. Now, prosecutors throughout the state receive high-level training including ethics instruction that is second to none. Beyond training, NYPTI provides personal and online assistance and resources to prosecutors throughout the state. NYPTI spurs information sharing and collaboration among prosecutors, and between prosecutors and other criminal justice agencies in order to promote problem solving- all while maximizing scarce resources. Some highlights of NYPTI's services:

- **Training:** NYPTI provides training each year on numerous topics including ethics, forensics, technology, office management, best practices and conviction integrity. All live trainings are recorded and available online. In 2017, to date, NYPTI provided 1,542 Continuing Legal Education (CLE) certificates to prosecutors in New York State.
- **Research and Writing:** NYPTI helps with research and drafting significant motions and appeals, mostly for the 39 counties with fewer than 10 Assistant District Attorneys.
- **Twenty-First Century Case Tracking:** NYPTI created and oversees a case-management system, PCMS, which 53 counties use. Beyond tracking cases, PCMS produces grant reports and documents to facilitate e-discovery and E-filing.
- **Combatting Heroin:** Through PCMS, NYPTI created a simple way for prosecutors and the Special Narcotics Prosecutor to combat the drug abuse epidemic by sharing data on heroin cases and drug traffickers.
- **Public online information:** From their public website, NYPTI provides CrimeTime, an online sentencing calculator relied upon by judges, defense attorneys and prosecutors. It also includes searchable compilations of criminal statutes, case law and new appellate decisions as they are released.
- **Protecting Victims and Witnesses:** Short-term emergency assistance is provided to threatened witnesses (not informants) for their basic needs in mostly domestic violence, gang related and sexual assault cases.

NYPTI has **NOT** received a funding increase in several years, despite significant cost increases. To maintain current services DAASNY requests an appropriation of \$2.75 million for NYPTI and \$275,000 to continue NYPTI's witness protection program.

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State Aid to Prosecution

DAASNY commends the work New York State Division of Criminal Justice Services (DCJS) Commissioner Michael Green has done to make the distribution of this grant more fair and equitable. This essential aid is one of the most important components of the funding of District Attorney's offices. However, the funding of the grant has been reduced significantly over the past 10 years. The reductions in Aid to Prosecution have come at a time when the responsibilities of prosecutors have systematically increased. Prosecutors are increasingly expanding the duties of their staff, utilizing new technologies and adapting to new crime trends.

Funding for Aid to Prosecution must be restored to a more reasonable level. The 2017-18 budget bill appropriated \$12.5 to Aid to Prosecution. We strongly urge that funding for 2017-2018 be increased to \$15 million.

District Attorney Salary Reimbursement Program

In December 2015, the New York State Commission on Legislative, Judicial and Executive Compensation voted to increase the salaries of New York State judges. State Judicial Law 183-a requires that a District Attorney's salary match the County Court Judge or Supreme Court Judge in a county depending on the population of that county. In the last two State budgets, 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 and they are in a political quandary if they demand what is rightfully owed to them by statute. With due consideration to this new and ongoing financial obligation, it is essential that the budget be modified to provide this support.

In 2017-2018, \$4.2 million was appropriated to salary reimbursement. For the 2018-2019 budget years we strongly request increasing the funding by \$1.7 million to cover the salary increase. This would bring total funding to \$5.9 million.

Gun Involved Violence Elimination (GIVE)

The Gun Involved Violence Elimination (GIVE) initiative focuses on the reduction of firearm-related homicides and shootings in communities in 17 counties outside of New York City that collectively report 86% of violent crime. This program under the leadership of DCJS Commissioner Michael Green has been very successful in both reducing gun violence in many counties and enhancing gun involved crime reduction strategies. Despite the program's success and New York's leadership in gun safety, this program has, unfortunately, seen repeated cuts in funding. From a high of \$15.6 million in 2010-2011, GIVE received \$14.39 million in last year's budget. This shortfall will continue to impact the success of GIVE. DAASNY recommends an appropriation of \$15.5 million for GIVE.

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Videotaping Interrogations

In 2010, the District Attorney's 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. DAASNY continues to reiterate its endorsement of this practice.

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, 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 recommends \$500,000 in additional funding for police departments in order to enable them to continue to develop and maintain video recording locations.

Body-worn cameras

A survey of DAASNY members indicated that while several larger police agencies have begun equipping officers with body-worn cameras, there is still a long way to go. 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 so 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 the cameras, which averages close to \$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. Without significant state funding, once police begin routinely wearing recording devices district attorneys will have to deal with the ongoing costs that come with using this technology. Obligations associated with these recordings include reviewing, redacting, transcribing, translating and disclosing thousands of hours of recordings. It is estimated that for every 100 cameras on the street a District Attorney's office will need one additional staff member. There are also costs associated with storage, which range from \$100 to \$1000 per month.

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

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such as Medicaid, public assistance, and worker's compensation.

This program is not just self-sustaining, it is *revenue-generating*. Over \$160 million has been returned to the state since the program began— a 70% increase over the \$90 million in grants provided to district attorneys' offices.

The CARP program has been increasing and expanding every year, however funding has been decreasing. The budget for Fiscal Year 2016-2017 provided for \$14.3 million for CARP. Last year's budget, Fiscal Year 2017-2018 provided for \$13.5 million. The cost of investigating these matters continues to increase.

In the 2010-2011 budget year, upon the recommendation of DCJS and the New York State Tax and Finance Department, this program was expanded to allow all counties to participate in the program which was then funded at \$16 million to account for the additional anticipated requests. The number of District Attorney's Offices taking part in CARP has expanded accordingly from 13 to 28, plus the office of the Special Narcotics Prosecutor, for a total of 29 offices.

We propose the appropriation of CARP funds at \$17 million.

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. As proof as to the success of this program, there has been a reduction in motor vehicle theft by nearly 80% in New York State.

In order to investigate and prosecute motor vehicle theft and insurance fraud cases, funding is critical to pay for enhanced enforcement, sting operations and specialized training for prosecutors, police officers and investigators. DAASNY recommends the appropriation continue at last year's funding of \$3.79 million.

Prosecutor Recruitment and Retention

The 2008-2009 Enacted Budget appropriated \$1.5 million for District Attorneys outside of New York City to recruit and retain prosecutors. This program enabled District Attorneys to retain prosecutors with trial skills, legal experience and familiarity with their communities. Well-trained, experienced prosecutors are desperately needed, but attorneys burdened by student loans and the rising costs of living expenses are forced to leave the public sector for higher paying jobs in the private sector or even public defender offices.

The appropriation of this program 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

The Tuition Reimbursement Program for Prosecutors and Indigent Legal Services Attorneys, a “loan forgiveness” program, allows prosecutors and public defenders with at least three years of experience to receive up to \$3,400 a year in forgiveness of their student loans if they continue in public service. By easing the burden of undergraduate and law school loans that regularly exceed \$100,000; our offices are able to maintain continuity in personnel.

DAASNY is not asking for additional funding for this program, we are requesting that in conjunction with our counterparts at the Association of Legal Aid Attorneys that changes be made to meet the contemporary needs of public sector attorneys. These changes can be made within the most recent budget appropriation and require no additional funds. The changes we request 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 along with the legislative revisions detailed above.

Office of the Special Narcotics Prosecutor (SNP)

The Office of the Special Narcotics Prosecutor (SNP) has unique jurisdiction over felony narcotics cases. SNP spearheads investigations into narcotic importation rings and provides critical statewide leadership combating the epidemic of prescription drug diversion and abuse and the seismic problems related to the explosion of heroin and fentanyl 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 doctors and pharmacists. The Special Narcotics Prosecutor works with local, state and federal law enforcement, and partners with the Department of Health and OASAS to address the scourge of prescription drug abuse, which can lead to heroin addiction. The Office works hand in hand with the State Police and local authorities to find the sources of heroin and fentanyl that flood our communities.

Since 1990-1991, the SNP budget has been cut by 74.6%, from \$3.5 million to \$825,000 in 2017-2018.

Every week – if not every day – we hear news stories about how prescription drug abuse and heroin abuse are destroying the lives of people of all ages and their families. This is

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not the time to reduce funding – it is time to shore up funding.

DAASNY requests that \$825,000 be provided to SNP in the 2018-2019 budget.

Respectfully submitted,

Sincerely,

A handwritten signature in black ink, reading "Scott D. McNamara". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Scott D. McNamara
President, DAASNY
District Attorney, Oneida County

CC: Robert Mujica, Budget Director
Commissioner Michael Green, DCJS
Alphonso David