



**NEW YORK STATE
BLACK, PUERTO RICAN, HISPANIC & ASIAN
LEGISLATIVE CAUCUS**

PUBLIC POLICY AGENDA

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New York State Black, Puerto Rican, Hispanic and Asian Legislative Caucus Members

2009-10

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MESSAGE FROM CHAIRWOMAN

Members of the New York State Black, Puerto Rican, Hispanic & Asian Legislative Caucus, are pleased to present this report, which reflect key elements of its initial policy agenda. This agenda attempts to identify problems that directly affect our citizenry, suggest a course of action to resolve these problems, and create a dialogue between that citizenry and their elected representatives.

Sadly, the range of issues affecting people of color throughout New York State are indeed many, including such fundamental concerns as improving access to quality medical care, achieving equality in education, and improving the safety of our streets. The Caucus, on behalf of our constituencies, dares to say we can do better. We can, for instance, make our school systems, health care system and our criminal justice system better. We can pass laws to better the accountability of our authorities and commissions, insurance companies, banks and financial corporations. We can also better regulate utility companies and pressure Washington to keep the oil companies under scrutiny.

Be assured we can, and we will, make numerous aspects of community life better.

For example, the Caucus fully intends to get guns and criminals who possess them off our streets; to place persons with chemical dependency in treatment programs to give them an opportunity to stay out of jails and prisons; and to reduce excessive force by police.

Of course, as we enter the 2010 Legislative Session, Caucus members are mindful of the budgetary constraints forecast by the Executive Branch of State Government. And while all Caucus members will keep this in mind while proposing and passing legislation during the 2010 Legislative session, we must also support critical legislation and advocate for programs that serve the most fundamental needs of New Yorkers, especially our constituents.

Our Caucus is uniquely positioned to address the complex challenges facing communities of color.

We can neither promise to solve every problem, nor do we have access to unlimited resources, but we can promise to deliver unlimited passion and compassion for the issues and the people that make up our communities. On a personal note, I believe there is no limit to the things we can accomplish by working together.

I hope you find this prospective informative. The future of our communities rest on your direct participation in shaping issues of critical importance to all New Yorkers. I look forward to hearing your thoughts, concerns, and ideas.



Sincerely,

A handwritten signature in blue ink that reads "Ruth Hassell-Thompson". The signature is fluid and cursive, with a long horizontal stroke at the end.

Senator Ruth Hassell-Thompson

EXECUTIVE SUMMARY

The economic collapse of the past few months, followed by the federal “bailout” of major financial institutions, provides the context for this public policy agenda. Inadequate housing, health care disparity, unemployment and underemployment continue to compromise the health and vitality of communities of color. The state of the economy over the last year has been perilous as predicted by the Executive in his State of the State address in January 2009 and continued into 2010. While we saw robust Fortune 500 companies collapse, we also saw the collapse of Main Streets throughout our State and Nation.

Often left out of the ensuing tangle of commentary on race and class has been the increasing impoverishment – or re-impoverishment – of people of color. In fact, the most salient and lasting effect of the current recession may turn out to be the complete decimation of the middle class in communities of color. According to a study by Demos and the Institute for Assets and Social Policy, 33% of the Black middle class were already in danger of falling out of the middle class at the start of the recession. The Obama’s, along with Oprah, will no doubt remain in place, but millions of other people of color – from factory workers, lawyers, doctors, bankers and bank tellers - are sliding down towards destitution.

The Executive recently unveiled his \$ 134 billion 2010-2011 budget proposal - up \$787 million from last year - and, as expected, includes deep cuts to both education and health care. While we agree with the Executive that all sectors of our state need to be part of the solution, the Executive’s budget proposes to cut school aid by \$1.4 billion and would leave the state \$4.2 billion below what was originally pledged under the Campaign for Fiscal Equity (CFE) commitment. This comes four years after the Court of Appeals found that New York was shortchanging the education of our most vulnerable constituents, our children. The proposed education budget would leave school districts in the unenviable position of submitting double digit property tax increases--when middle class families are struggling to make ends meet.

New York State’s most vulnerable and least fortunate citizens will suffer as well. Cuts such as those proposed to summer youth employment, domestic violence programs, childcare services and homelessness prevention will save the state very little but cause many of our constituent’s invariable harm.

A recent Community Service Society survey, *The Unheard Third*, found low-income New Yorkers are suffering multiple hardships because of a lack of money or insurance: 27 percent could not fill a needed prescription, 21 percent often skipped meals, and 19 percent postponed getting medical care. While an economic recession has a static definition of a slowdown in the economy, many low-wealth communities find themselves in a perpetual recession, exacerbated by the Wall Street meltdown.

The New York State Black, Puerto Rican, Hispanic and Asian Legislative Caucus members are determined to not balance any budget on the backs of working and poor New Yorkers. Ever-cognizant of the spike in unemployment and underemployment, it would seem access to services such as the Tuition Assistance Program (TAP), Higher Education Opportunity Program (HEOP) and Medicaid are more important now than ever before. Already reeling from years of budgetary cuts, further hikes in tuition and reductions in our state’s student financial aid program would place numerous hurdles in front of each and every student wishing to obtain a higher education, especially the unemployed seeking retraining and preparation for new careers. This derails the state’s efforts to build a brighter and more educated tomorrow for the State of New York.

For African Americans – and to a large extent, Latinos – the recession is over. It occurred between 2000 and 2007, as unemployment increased and incomes steadily declined. During the seven-year long recession, one third of Black children lived in poverty, and Black unemployment - even among college graduates – consistently ran at about twice the level of White unemployment. That was the recession for people of color. What is happening now is a depression.

Lack of sufficient income makes all of life's essential needs much more difficult to secure. Housing is unaffordable, substandard and the fear of eviction is constant; agencies are more likely to threaten to remove children; adequate healthcare is usually only found in emergency rooms; protection from violence is much more difficult to secure; and discrimination is more likely to adversely affect one's ability to access necessary benefits and services.

All of this comes on top of the highly racially skewed sub-prime mortgage calamity. After decades of being denied mortgages on racial grounds, people of color made a tempting market for unscrupulous lenders, with the result that high and middle income people of color were almost twice as likely as low income whites to receive high interest sub-prime loans. United for a Fair Economy has called this family net-worth catastrophe the greatest loss of wealth for people of color in modern U.S. history.

In the depths of this depression for people of color, some commentators are still obsessing about the supposed cultural deficiencies of the various communities. For example, in a December 2008, op-ed in the Washington Post, Kay Hymowitz blames Black economic woes on the fact that 70% of Black children are born to single mothers, not noticing that the white two-family parent family has actually declined at a faster rate than the Black two-parent family. Nationally, the share of Black children living in a single parent home increased by 155% between 1960 and 2006, while the share of White children living in single parent homes increased by 229%.

This report agenda attempts to identify problems that directly affect low wealth communities and communities of color, suggest a course of action to resolve these problems, and create a dialogue between that citizenry and their elected representatives.

We offer these areas of policy as a starting point.

DEMOGRAPHIC HIGHLIGHTS

- There are currently more than three million New York City resident who fall below the Federal Poverty Level, comprising roughly 37% of the overall population in New York City.
- African Americans and Latinos make up almost two-thirds of New York's low income population: African Americans represent 25% of the low income population, and Latinos 28%. Even more severe are the poverty rates for single mother households (female households with no husbands present). Families of this makeup in NYC saw poverty rates of 28.8%, almost double that of families in general (at 15.3%). Black or African-American female headed households experienced a 2008 poverty rate of 27.8%, Hispanics or Latinas 38.6% and Asians 20.1%.
- Research from the 2007 American Community Survey shows that 42% of the children under the age of 17 in Buffalo live in poverty
- The 2008 American Community Survey results released by the U.S. Census Bureau indicated that the share of Rochester's population living below the poverty line has reached 29.3 percent.
- Blacks and Latinos are prosecuted, convicted, and sentenced to incarceration at rates substantially disproportionate to whites. Blacks comprise 16% of the state's population, but make up over 54% of the state's current prison population and 50% of those on parole. Latinos comprise 15% of the state's population but are 27% of the prison population and 32% of those on parole. By contrast whites comprise 62% of the state's population but only 16% of the prison population in the state.
- Children of color and the children of immigrants are failed by the system in far greater numbers than the state average: 57% of Black students, 60% of Hispanic students, and 70% of "English Language Learners" fail to graduate on time

- Between 1990 and 2005, the number of working poor families rose by nearly 25% in both New York city and State.
- There are over 223,000 disconnected young (ages 16 – 24) New Yorkers who are not in school and not working – nearly one in five.
- One and every 22 black children and one in every 59 Latino children in New York City were in foster care, as compared to one in every 385 white children.
- There continues to be disparity in the distribution of health care resources that fall especially salient along racial lines. From 1995 to 2005, 8 out of 12 hospital closures in New York City occurred in communities of color.

NEEDS ASSESSMENT

EDUCATION

Although graduation rates have increased slightly in the last several years, the New York State system of education continues to fail poor children and poor children of color by neglecting the different and varying needs of these children, their families, and their communities.

HIGHER EDUCATION

New York state institutions of higher education in culmination with New York State high schools must develop effective methods of obtaining and retaining students of color in the system of higher education.

HEALTH & HUMAN SERVICES

Historically, persons of color have been precluded from and/or have received substandard health care. This historical inequity exists and persists today.

MENTAL HEALTH

Numerous barriers exist that preclude persons of color, and other underserved populations from obtaining needed community-based, culturally competent mental health services.

ECONOMIC DEVELOPMENT

Rapid changes in New York economy requires greater economic stimulation at the state and local levels, in urban and rural communities, and amongst people of color. Stimulating the economy through the provision of equitable state contracts awarded to women and minorities is important to economic stimulus and communities of color.

CHILD WELFARE REFORM

The juvenile justice system, which confines children of color at an alarming high rate, must undergo radical reform, from the current model of adult style corrections focused on discipline and control, to a therapeutic model focused on treatment, family, and community.

CRIMINAL JUSTICE & PUBLIC PROTECTION

People of color are incarcerated at disproportionate rates. Prison reform is needed with an increased focus on re-acclimating the formerly incarcerated into the community.

HOUSING

Communities of color are adversely affected by the housing crisis. Affordable housing is a necessity in low to moderate income communities. Rent stabilized housing and low interest rate mortgages are essential to survival in these communities.

IMMIGRATION

Immigrant communities, both historically and currently, are an important part of the New York State heritage. There is a need for fair and just immigration policies that address the needs of all New Yorkers.

ENVIRONMENTAL JUSTICE/ENERGY

Pollution in urban areas, communities typically populated with people of color, creates risk for its inhabitants.

JUDICIAL DIVERSITY

Gender and racial diversity within the state judiciary has failed to increase as the number of women lawyers and lawyers of color has increased. Systemic changes in the judicial appointment process must occur to insure better representation of women and people of color.

GENERAL OPERATING PRINCIPLES

- A. **Diversity** - Blacks, Puerto Rican, Hispanics, Asians and Women in executive, middle management and policy positions in the Governor's Office, amongst Legislative Leadership, State agencies, and on State corporations, commissions, authorities and boards.
- B. **Fair Share** - Targeted and increased State budgetary and program assistance according to communities of greatest need, which are quite often communities of color.
- C. **Capacity Building** - A State funded "Community Infrastructure Development Fund" (CIDF) to underwrite capacity building for community based agencies in communities of color and economically disadvantaged regions; and enforcement of Prompt Payment State agency provisions benefiting MWBEs, small businesses, and community based service providers.
- D. **Economic Empowerment** - Immediate launching, completion and implementation of the overdue New York State Disparity Study; and establishment of a Statewide goals program on all State procurement, targeting MWBE participation. Also, establishment of innovative and well funded financial, managerial and technical assistance programs for MWBEs; increased minority employment on State assisted projects; and minority investment and ownership opportunities, MWBE participation, and community benefits programs on state assisted economic development projects.

GOALS

1. Increase educational attainment by increasing our literacy and high school graduation rates paving the way for accessing employment opportunities and higher education
2. Provide pathways to jobs by improving levels of workforce skills and education; matching workforce to employment needs and directing career paths to job opportunities
3. Create an environment that fosters economic opportunity and success and strengthens the middle class by increasing MWBE participation in State procurement, state financed and state economic development projects.
4. Building quality neighborhoods in which to live, work and raise a family by creating safe neighborhoods with affordable housing, high performing schools, increase access to health care services and prevention of homelessness
5. Engage communities in a comprehensive and coordinated approach to reduce poverty
6. Ensure that any additional funds from the American Recovery and Reinvestment Act find their way to Main Street.

EDUCATION

Although graduation rates have increased slightly in the last several years, the New York State system of education continues to fail poor children and poor children of color by neglecting the different and varying needs of these children, their families, and their communities.

Public Education Reform: A Roadmap to Success for Students of Color

Vision

In an increasingly competitive global society it is imperative that the State tackle its antiquated public school system that fails to provide students of color the necessary tools to succeed in the 21st century.

The current system's failure to adequately educate children of color and children of immigrants from high needs district continues to contribute to unstable communities and generations of families living below the poverty line. These communities often have disproportionately high unemployment and crime rates. In fact, the concentration of health disparities and incarceration rates are above the national average. These social indicators are a direct correlation between low student achievement, high dropout rates and low graduation rates

The New York State Constitution guarantees all students the right to an education, and the New York State Court of Appeals' Campaign for Fiscal Equity decision has interpreted this constitutional mandate to require the state to provide an education that would provide the "basic literacy, calculating and verbal skills necessary to enable children to eventually function productively as civic participants capable of voting and serving on a jury."¹

Yet the disparity in the quality of education students receive in urban and rural schools fails to provide a solid basic education. One of the best ways to serve the State's children and youth is to ensure that they receive a proper education in a nurturing, mutually respectful, supportive environment so that they stay on track, graduate and become productive members of the community. (Getting students the educational help they need early on minimizes feelings of frustration and despair that contribute to academic failure, disconnectedness and high dropout rates.)

During this current fiscal crisis it is important to make education reform a priority. In order to create a stable future economy it is crucial to invest in preparing the next generation of citizens, leaders and workforce. Education is the pathway out of poverty for communities of color. The NYS Black, Puerto Rican, Hispanic and Asian Legislative Caucus (The Caucus) continues to provide the leadership necessary to overhaul the way the state educates children of color.

¹ Board of Education, Levittown Union Free School Dist. v. Nyquist, 57 N.Y. 27 (1982); Campaign for Fiscal Equity v. State of New York, 86 N.Y.2d 307, 316 (2006).

The Facts are Startling:

- Children of color and the children of immigrants are failed by the system in far greater numbers than the state average: 57% of Black students, 60% of Hispanic students, and 70% of “English Language Learners” fail to graduate on time.²
- Less than 20% of SUNY population is Black or Hispanic, while 75% of the offender population is Black or Latino.
- New York State ranks 48th out of 50 states in the percentage of students who graduate on time.³
- More than 1 in 10 students dropped out: 13% of poor rural students, 15% of NYC students, and 22% of kids in the “Big 4” Cities (Buffalo, Rochester, Syracuse, and Yonkers).

Pathway Forward

The Caucus has historically advocated on behalf of students across the state attending schools in the neediest districts (See, Campaign for Fiscal Equity v. State, 719 N.Y.S.2d 475 (Sup. Ct. N.Y. County 2001) (“CFE II”) and See Campaign for Fiscal Equity v. State, 295 A.D.2d 1 (1st Dep’t 2002) (“CFE III”).)

The NYS Black, Puerto Rican, Hispanic Asian Legislative Caucus envisions a State where every child regardless of race, ethnicity, socio-economic background and immigration status receives a quality education. The current political environment in Washington and in Albany provides a window of opportunity to develop and advocate for a comprehensive public education reform agenda.

This document serves as a road map to engage stakeholders from across the state and to build consist around a legislative strategy to implement a progressive agenda over the next two years. In 2010, the Caucus will convene a work group of educators, policymakers, and advocates to develop a set of concrete policy recommendations to address the education challenges that exist for the neediest students in seven key areas:

7. Invest in High Need Public Schools

- Address inequities and inadequacy in New York schools
- Invest in school buildings and learning resources
- Monitor Federal funding including the American Recovery and Reinvestment Act, and advocate for Innovation Funds and Raise to the Top funding allocated to the state

8. Provide an Effective Teacher and School Leader in Every Classroom and School

- Recruit and retain highly effective certified teachers, particularly of color in high needs districts
- Invest in the preparation of the next generation of educators and school leaders.
- Hold teachers and school leadership accountable for student performance

² SED PowerPoint Presentation , slides 21, 24-25

³ Jay P. Greene and Marcus A. Winters, Leaving Boys Behind: Public High School Graduation Rates, Manhattan Institute , April 2006; available at <http://www.manhattan-institute.org>.

- Enhance continuing teacher professional development
- Address teacher salaries

9. Enhance Early Childhood Education

- Increase access to full day pre-Kindergarten programs
- Develop appropriate early childhood education curriculum
- Access to high quality early childhood educators and staff

10. Increase Access and opportunity to Affordable Higher Education

- Increase state funds for existing and new higher education opportunity programs for college prep, recruitment, admission, retention and graduation of minority students from New York's Colleges and Universities
- Access to college preparatory curriculum to effectively prepare students of color and ESL learners to enter post secondary institutions.
- Protect funding for tuition assistance programs

11. Create a 21st Century Learning Environment

- Develop a curriculum standard that adequately prepares all students for college or work-force.
- Provide a safe space for students to learn and thrive
- Reduce class size
- Support parent and family engagement in student achievement and school involvement
- Expanded learning time and after-school programs
- Create a strategy to support the development of the whole child
- Investigate bias in Standardized and Regents Examinations

12. Expand Immigrant and ELL Education Opportunities

13. Support the expansion of Charter Schools in high need districts

- Encourage charter schools with proven results to continue to flourish without compromising public school funding.

The Problem

1. In the 2003 Campaign for Fiscal Equity (CFE)⁴ decision, the New York State Court of Appeals, held that the state constitution requires that enough funding be provided, to afford children a “meaningful high school education.” The court mandated that the state act by July 30, 2004. When the Governor and the Legislature failed to act, an appellate court set the additional funding level necessary to meet the constitutional standard at \$4.7 billion to \$5.6 billion for New York City alone (by a combination of city and state funds).⁵ Significantly more will have to be invested to meet this standard statewide.⁶
2. Popular jargon includes, “throwing money at a broken system will not fix it”. However, A report by the Public Policy and Education Fund (2006), indicated that there is a direct correlation between the amount of money a school district spends to educate each child and the graduation rate.
 - ▶ districts with 90% graduation rates spend an average of \$18,551 per pupil;
 - ▶ districts with less than 50% graduation rates spend an average of \$13,593 per pupil, \$4958 less than the top performing district.
3. New York State arguably has the greatest funding gap between high- and low-poverty districts in the nation,⁷ the Legislature has yet to enact a “need-based” formula, in which a higher share of state aid is provided to districts with greater numbers of poor children (urban, suburban and rural). High-need school districts have a disproportionate share of the state’s non-graduates, and are the most negatively impacted by the failure to establish a need-based formula. In December of 2005, the State Education Department (SED) identified its analysis of 127 schools in the state with graduation rates under 70%. SED found that all of the identified schools were in districts that had high student need in relation to district ability to raise resources locally – exactly the districts where educational quality would be promoted by comprehensive formula reform. SED found that students at the identified schools were “more likely to be eligible for subsidized lunches, to be disabled, to be limited English proficient ... Students in these schools are more likely... to be taught by teachers without appropriate certification; they have fewer books and computers per 100 students.”⁸ Failure to establish a more adequate funding system will perpetuate the continued high levels of student failure in the districts where these students live.
4. The New York State Department of Education maintains that graduation rates have been increasing across all groups, except American Indians. Children of color and the children of immigrants are failed by the system in far greater numbers than the state average: 57% of Black students, 60% of Hispanic students, and 70% of “English Language Learners” fail to graduate on time.⁹ Contrary to popular belief, this is not just a big city problem. While it is true, for example, that 57% of New York City children do not graduate on time (far worse than the statewide average), 30% of kids in poor rural districts also fail to graduate on time. Further, a study by the Manhattan Institute concludes that New York State ranks 48th out of 50 states in the percentage of students who graduate on time.¹⁰

⁴ Campaign for Fiscal Equity v. State , 100 N.Y.2d 893 (2003)

⁵ The appellate division decision setting the funding level is now on appeal by both parties to the Court of Appeals. However, the 2003 decision by the high court (CFE II) establishing that the state violated the rights of New York City children, and mandating significant additional funding at some level is not appealable.

⁶ The Schools for New York’s Future Act (“SNFYA,” S.7112, sponsored by Senator Suzi Oppenheimer), sets the additional state operations funding necessary to comply with CFE II at \$8.7 billion after 4 years. The State Assembly passed a budget proposal in 2006 that would instead provide \$6.8 billion after 6 years to comply with CFE II (A.10256).

⁷ Kevin Carey, The Funding Gap 2004: Many States Still Shortchange Low-income and Minority Students, The Education Trust, Inc., October 2004

⁸ James A. Kadamus, Analysis of Graduation Rates for the 2001 Student Cohort , January 4, 2006 (memo to the New York State Board of Regents); available at <http://www.regents.nysed.gov/2006Meetings/January2006/106brd3.htm>.

⁹ SED PowerPoint Presentation , slides 21, 24-25

¹⁰ Jay P. Greene and Marcus A. Winters, Leaving Boys Behind: Public High School Graduation Rates, Manhattan Institute , April 2006; available at <http://www.manhattan-institute.org>.

5. The quest for esoteric methods of trying to educate children of color, proceeds as if such children had never been successfully educated before, when in fact there are concrete examples, both from history and from our own times, of schools that have been successful in educating children from low-income families and from minority families. Yet the reform dogma of the day is that you simply cannot expect children who are not middle-class to do well on standardized tests, for all sorts of sociological and psychological reasons. This assessment is woefully inaccurate.
6. Like earlier drives for reform, the current one aims to improve students' academic achievement. The focus should be on rethinking and restructuring schools to serve all students well. In addition to comprehensive formula reform, central to any reform is the involvement of staff members and parents in decision-making. This entails changing the way practitioners relate to each other, to administrators, to students, and to parents. Traditional hierarchical structures are giving way to more collaborative structures. The goal is to re-conceptualize and renew the school's total operation from within so that reform is tailored to local conditions and teachers are committed to what they have helped to craft.

Comprehensive Sex Education in New York State Schools

1. Recent statistics demonstrate the overwhelming need for comprehensive sex education in New York. In 2005, thirty-nine percent of female high school students and 45 percent¹¹ of male high school students in New York State reported having sexual intercourse, and statistics from the Centers for Disease Control and Prevention show that many New York teens have sex with more partners-and earlier-than teens in the rest of the country.¹² There were nearly 40,000 teen pregnancies in New York in 2005 and New York's abortion rate for teenagers between the ages of 15 and 19 was the second highest in the country . New York State also has the highest rates of HIV/AIDS in the country-nearly 18 % of all American adults and teens with HIV live in New York, and the CDC has warned that youth are persistently at risk for infection.¹³ A recent CDC study on a representative sample of teenage girls across the country showed that up to 25% of them had a sexually transmitted infection, and a reported increase in cases of syphilis in New York City suggests that riskier sexual practices are on the rise. Of the 1,268 teens in the United States aged 13-19 diagnosed with HIV in 2005, more than 10 percent (136 teenagers) lived in New York City.¹⁴ New York can no longer afford to ignore these critical issues. It is time to give our youth the information they need to make healthy decisions, and reduce risky behaviors that lead to teen pregnancy and STI/HIV transmission.
2. Abstinence-only-until-marriage programs ("abstinence-only") often present medically inaccurate or incomplete information about contraception and safer sex practices. For example, programs receiving federal abstinence-only funding are required to instruct young people that sexual activity outside of marriage is "likely to have harmful psychological and physical effects." These programs put young people at a greater risk for unintended pregnancy and sexually transmitted infections. By ignoring the reality of teen sexual activity, the abstinence-only model fails to protect sexually active young people from pregnancy and disease. Indeed, recent studies have shown abstinence-only until marriage programs to be ineffective in lowering rates of teen sexual activity.
 - Sex education should be taught every year: Research shows that when young people have accurate information — whether or not they are sexually active at the time — they are much more likely to protect themselves when they do enter into relationships.

¹¹ Centers. for Disease Control & Prevention, U.S. Dep't of Health & Human Services. (CDC), Youth Risk Behavior Surveillance – United States, 2005, 55 Morbidity & Mortality Weekly Rep.: Surveillance Summaries 1, 78-79 55, tables. 44 & 45 (2006).

¹² N.Y. Dep't of Health, Total Pregnancies and Teenage Pregnancies by Type and Resident County, Vital Statistics of New York State 2004, tbl. 30 (2006), http://www.health.state.ny.us/nysdoh/vital_statistics/2004/table30.htm.

¹³ CDC, Cases of HIV infection and AIDS in the United States and Dependent Areas, 2005, 17 HIV/AIDS Surveillance Rep., 2005, at 23 (2007) [hereinafter Cases of HIV/AIDS in the U.S.], <http://www.cdc.gov/hiv/topics/surveillance/resources/reports/2005report/pdf/2005SurveillanceReport.pdf>.

¹⁴ See Sarah Kershaw, Syphilis Cases on the Increase in New York City, N.Y. Times, August 12, 2007

- **Contraception and prevention should be taught:** 95 percent of parents of junior high school students believe that birth control and other methods of preventing pregnancy are appropriate topics for sexuality education programs in schools. We know many NYC middle school students are already sexually active; one in 10 students reports having had sex before the age of 13. Incorporating information on contraception promotes health and prevention strategies; to deny middle school students access to the information to protect themselves is irresponsible from a public health perspective
- **Sexual orientation diversity should be acknowledged:** DOE must clearly commit to including issues concerning lesbian, gay, bisexual, transgender and questioning youth (LGBTQ) youth in the sex education curriculum.
- **Sex education should have an implementation plan:** We recognize that implementation will take time given the complexity and size of the New York City school system; however, we hope that the implementation of health education will be given the same attention and priority as any other subject matter
- **Sex education should be taught by trained teachers**
- **Sex education requires a plan for evaluation:** There must be a purposeful and public evaluation plan for the curriculum.

Investing in schools improves achievement

- **Increasing our investment in schools improves student performance:** State Education Department statistics show that more money leads to higher test scores. This is true for urban, suburban, and rural schools alike.
- **Class size reduction:** Tennessee students who had been placed in smaller classes in grades K-3 had higher standardized test scores five years after the smaller classes were disbanded. African-American children had double the gains of White children.
- **Teacher quality and retention:** Teachers with less than 3 years of experience have been found to be less effective than those with more experience. A Texas study found that high school students who had been taught in the early grades by teachers with high scores on a standard teacher examination scored remarkably higher than those who had low-scoring teachers.
- **Literacy programs:** 83% of New York City¹⁵ first-graders below grade level that had been placed in a reading program that provides one-on-one and small group instruction by specially trained teachers performed at or above grade level after completing the program.
- **Pre-school programs:** Chicago children who participated in pre-kindergarten programs ultimately had lower dropout rates, more years of completed education, and were less likely to be involved in crime than children who didn't.

¹⁵ Michael A. Rebell and Joseph J. Wardenski, *Of Course Money Matters: Why the Arguments to the Contrary Never Added Up*, January 2004; available at www.cfequity.org. (Bush quote is from page 5 of the report); Education Law Center, *Tracking Progress, Engaging Communities: Union City Abbott Indicators, Key Findings*, May 26, 2005; available at www.edlawcenter.org; New York City Department of Education, Division of Assessment and Accountability, *Flash Research Report #2: Impact of Teacher Certification on Reading and Mathematics Performance in Elementary and Middle Schools in New York City*; available at <http://www.nycenet.edu/daa/reports/>.

Higher Education

New York state institutions of higher education in culmination with New York State high schools must develop effective methods of obtaining and retaining students of color in the system of higher education.

1. More than 1,000,000 students are enrolled in institutions of higher education in New York State. In 2007, New York State institutions granted more than 57,000 associate degrees, nearly 112,000 bachelor's degrees, nearly 64,000 master's degrees, more than 4,500 Doctorate degrees and nearly 9,000 professional degrees. Over 30 percent of adult New Yorkers hold Bachelor's degrees or higher, a distinction which puts New York among the top 10 states nationally in terms of an educated workforce.¹⁶ And New York's 36 community colleges are training the workforce for the innovation economy: from nurses and allied health workers to mechanical and advanced manufacturing technicians to laboratory assistants.
2. Although many more students of color are attending institutions of higher education than in past years, it seems as if it is easier for students of color to enter the prison system than an institution of higher education. For example, in 1991 there were more blacks (34,809) and Hispanics (22,421) incarcerated, more than were attending State University of New York (SUNY), where there were 27,925 black and 17,845 Latino students. While this trend has improved slightly, in 2009, less than 20% of SUNY population is Black or Latino, while 75% of the offender population is Black or Latino. It remains troubling that there is a greater percentage of Black and Latino persons in the state correctional facility than in the State University system. Further, with only 10 out of every 100 Hispanic students obtaining at least a bachelor's degree, the challenges facing administrators attempting to remedy this situation are substantial. In addition, the lack of multicultural faculty, administrators, staff and targeted programs to increase student success are evident throughout New York's university systems. This problem is not trivial, as it impacts communities of color, the state's economy and the state and nation's competitiveness internationally.
3. During an economic downturn, support for higher education is more important than ever. Job opportunities are shrinking. News reports stream in daily about students turning to public higher education in the current economic downturn, making good use of time out of the job market to upgrade skills and expand their educational qualifications. With private colleges and universities costing far more than their public counterparts, families with strained budgets are increasingly turning to the state's public institutions. Getting a post-secondary degree has long been one of the most important pathways to the middle class. Making sure people of color and immigrants have good opportunities to expand their skills and education during this downturn should be a high priority for state officials. CUNY and SUNY are particularly important places where low-income people, people of color, and immigrants turn for advanced education.
4. The problems created by the low levels of people of color academic achievement and educational attainment have reached a critical mass with dire consequences. People of color are no longer a small minority relegated to the margins of our state. The explosive growth of Hispanics in New York and throughout the nation demands serious policy changes that will ensure academic success. For as communities of color go, so too does the state and the nation.
5. Not unexpectedly, it is projected that there will continue to be a significant increase in minority, low income and historically marginalized students eligible to participate in New York's post-secondary education system. By the year 2015, census and other data suggest that the majority of New York high school graduates will be from groups that have been historically underrepresented at SUNY. This demographic shift and a need for a competitive New York workforce present public higher education policy makers

¹⁶ Press Release: Bold Steps to the New Economy: A Jobs Plan for the People of New York. (2009). New York State's Economy: A Year of Turmoil; Leading the National Recovery. Albany, NY: Governor David Paterson. Accessed July 5, 2009. Online at www.state.ny.us/governor/press/pdf/press_0608091.pdf

with a challenge. We must reduce educational inequities faced by people of color while simultaneously maintaining the highest of educational standards. What is needed is a robust response from the University utilizing best practices to vigorously meet the impending influx of multicultural students.

Things to Consider

One of the best ways to serve the State's children and youth is to ensure that they receive a proper education in a nurturing, mutually respectful, supportive environment so that they stay on track, graduate and become productive members of the community. Getting students the educational help they need early on minimizes feelings of frustration and despair that contribute to academic failure, disconnectedness and high dropout rates.

Children living in poverty "face a disproportionate number of risk factors that jeopardize their well-being and life outcomes"; young adults are "more likely to be disconnected from work or employment... [t]his situation will only worsen as employers increasingly demand higher levels of education and skill"; and an "ever-widening skills gap and stubborn wage stagnation require strategic approaches to raise the living standards of low-wage workers".¹⁷

The New York State Constitution guarantees all students the right to an education, and the New York State Court of Appeals has interpreted this constitutional mandate to require the state to provide an education that would provide the "basic literacy, calculating and verbal skills necessary to enable children to eventually function productively as civic participants capable of voting and serving on a jury."¹⁸

Investment in higher education is an important way to help families through the current crisis, to spur growth in the local economy, to narrow racial gaps in income and education, and to help build a solid middle class for New York's future. Supporting the public higher education system is the right thing to do, and it makes good economic sense.

Necessary Steps

- ▶ Parity in funding and graduation rates for all children irrespective of race or region;
- ▶ Continued funding of arts and physical education programs;
- ▶ Support for alternative pedagogical methods;
- ▶ Utilize less punitive measures such as in-school suspension programs;
- ▶ Use of sound mechanisms to ensure that parents are not just passive observers of their children's education rather they have a say in the direction of their child's education.
- ▶ Encourage charter schools with proven results to continue to flourish without compromising public school funding.
- ▶ Adequate pay for all teachers.
- ▶ An end to biases in standardized exams.

¹⁷ The New York City Commission for Economic Opportunity, "Increasing Opportunity and Reducing Poverty in New York City," (September 2006). Retrieved on August 8, 2009, from http://www.nyc.gov/html/om/pdf/ceo_report2006.pdf

¹⁸ Board of Education, Levittown Union Free School Dist. v. Nyquist, 57 N.Y. 27 (1982); Campaign for Fiscal Equity v. State of New York, 86 N.Y.2d 307, 316 (2006).

- ▶ Full funding for HEOP, EOP, TAP, and SEEK.
- ▶ Access to higher education and affordable public school tuition

CAUCUS POLICY RESPONSES

- Support- Better Schools Act (reforming mayoral control) (A.8478 Heastie/S.5576 Parker/Savino/Perkins). (Amend the law governing mayoral control of New York City public schools to (1) improve check and balances over school budgets, policies, and large procurement contracts; (2) ensure meaningful structures for parent leadership and participation; and (3) establish transparency structures of the DOE.) ;
- Fully comply with the “Campaign For Fiscal Equity” Court Order and include state stipulations to all public schools in the state that operating and capital funding be distributed directly to public schools in proportion to their achievement gap and according to facilities disparity measures;
- Establish comprehensive sex education in New York State schools through passage of the Healthy Teens Act (A 1806-A Gottfried /S 3836 Duane) , which awards funding for school districts, boards of cooperative education services and community-based organizations to provide comprehensive sex education programs for young people. As documented by numerous studies — health programs that are medically accurate, age-appropriate, and include information about contraception in addition to abstinence — is the most effective way to help young people postpone intercourse and reduce their number of sexual partners;
- Class Size: Smaller class sizes improve student performance by permitting more individualized instruction. Yet, average kindergarten class sizes in the “Big 4” (Buffalo, Rochester, Syracuse, and Yonkers) actually increased in the 1999-2000 to 2003-2004 period, even though a limited state program had been put into place to reduce early grade class size.
- Teacher Quality: Qualified and experienced teachers are critical to raising student achievement. Yet, 15% of New York State teachers and 25% of New York City teachers leave within 1 year.
- Pre-Kindergarten Programs: High quality early learning experiences have been shown to have a wide range of positive effects on young children, including on school readiness, maturation and socialization, and later school performance. Despite this evidence, three-fourths of New York’s 220,000 four-year olds do not have access to pre-Kindergarten.
- School Buildings And Learning Resources: Tens of thousands of students statewide continue to attend classes in outdated school buildings, with conditions like poor ventilation and heating, broken and leaky roofs, and inadequate wiring, impeding children’s ability to learn.
- The Education Funding Gap: New York has the biggest gap in funding between high and low income school districts of any state in the nation.
- State Tests: As of 2004, 38% of 4th graders and 53% of 8th graders statewide failed the state English Language Arts test, and 21% of 4th graders and 42% of 8th graders statewide failed the state Math test.
- Graduation and Drop-Out Rates: In 2005, 36% of high school students didn’t graduate in 4 years. More than 1 in 10 dropped out: 13% of poor rural students, 15% of NYC students, and 22% of kids in the “Big 4” Cities (Buffalo, Rochester, Syracuse, and Yonkers).
- College Attendance: Only about one-half (50.9%) of students plan to attend 4-year colleges; the figure is one-third (33.4%) for poor rural students.

- Continued funding of physical education and arts and culture in school;
- The growth of gangs throughout urban and suburban communities and increasing gang violence and activities in and around school grounds can be countered through the creation of Gang Free School Zones;
- Curtail out of school suspensions and support in-school Suspension - Harsh school policies and practices and an increased role of law enforcement in schools have combined to create a “schoolhouse-to-jailhouse track,” in which out-of-school suspensions, expulsions, and school-based arrests are increasingly used to deal with student misbehavior, especially for minor incidents, and huge numbers of children and youth are pushed out of school and into the juvenile and criminal justice systems. This is more than an education crisis; it is a racial justice crisis because the students pushed out through harsh discipline are disproportionately students of color;
- Increase persons of color access to higher education, through support of TAP, HEOP, EOP, SEEK;
- Oppose additional CUNY and SUNY tuition hikes;
- Launch a “NYS Early Childhood Services” Pilot Program that coordinates state and local bureaucracies to deliver comprehensive, coordinated Universal Pre-K, Head Start and Day Care Services to children;
- Establish a “NYS Urban Teachers Corps” for minority students, including scholarships and loan forgiveness programs for graduates who commit to teach in schools with the highest achievement gaps;
- Enforce state requirements for appropriately certified teachers in the classroom, particularly in Achievement Gap schools; and expand New York’s Teacher Education programs particularly at minority serving institutions to address the growing teacher shortage of New York residents;
- Additional funding in the bilingual grants program to enable school districts to hire interpreters for key parent/teacher activities and to pay for the translation of relevant school materials for parents;
- Appoint minorities to the CUNY and SUNY Trustee Boards, Board of Regents and in executive positions in key state and local educational agencies;
- Consider reducing the academic attainment gap through single gender classes ;
- Investigate alternative pedagogical methods—including extended school hours;
- A streamlined revenue source for Charter Schools, that does not infringe on Public Schools ability to adequately deliver services;
- Investigate bias in Standardized and Regents Examinations
- Increase state funds for existing and new higher education opportunity programs for College Prep, recruitment, admission, retention and graduation of minority students from New York’s Colleges and Universities;
- Increased state funding and resources for libraries and indigenous cultural institutions communities of color throughout the state.;
- Increase parental involvement in education planning;
- Strive to close the achievement and technology gap, with grants and adequate funding.

HEALTH & HUMAN SERVICES

Historically, persons of color have been precluded from and/or have received substandard health care. This historical inequity exists and persists today.

The Problem

1. The body of evidence documenting health disparity is exhaustive, first chronicled in 1906 by W.E.B. DuBois in his 1906 treatise, *Physique of the Negro American*.¹⁹ A myriad of studies since, have revealed that people of color have less access to health care and poorer treatment outcomes than White Americans (see, the U.S. Department of Health and Human Services', *Health, United States 1983*²⁰, *Healthy People 2000*²¹ and *Healthy People 2010*²², the Institute of Medicine's, *Unequal Treatment: Confronting Racial and Ethnic Disparities in Healthcare*²³ and the Agency for Health Care Research and Quality 2003²⁴, 2005²⁵ and 2006²⁶ National Healthcare Disparities Reports).
2. The causes of health disparities are complex in New York State, but two major factors include:
 - ▶ **Inadequate Access to Care**
Barriers to care can result from economic, geographic, linguistic, cultural and health care financing issues. Even when minorities have similar levels of access to care, health insurance and education, the quality and intensity of health care they receive are often poor.
 - ▶ **Substandard Quality of Care**
Lower quality care has many causes, including patient-provider miscommunication, provider discrimination, stereotyping or prejudice. Quality of care is usually rated on the four measures of effectiveness, patient safety, timeliness and patient centeredness.
3. Poverty is a direct indicator of the physical health and well-being of New York residents. Low income people cannot pay for medical care and prescriptions; they are more likely to be exposed to health hazards, such as lead paint and cockroaches; and they are less likely to engage in physical exercise or take advantage of good nutrition. Because of discrimination and a variety of other factors, low income African Americans and Hispanics suffer a disproportionate share of many health care problems.

¹⁹ DuBois, W.E.B. (Ed.). (1906). *The Health and Physique of the Negro American* Report of a social study made under the direction of Atlanta University; Together with the proceedings of the eleventh conference for the study of the Negro problems, Held at Atlanta University, on May the 29th, 1906. Atlanta, GA: Atlanta University Press.

²⁰ U.S. Department of Health and Human Services. *Health, United States 1983*. Washington, DC: U.S. Public Health Service. DHHS Pub. No. (PHS) 84-1232.

²¹ U.S. Department of Health and Human Services. *Healthy People 2000: National health promotion and disease prevention objectives*. Washington, DC: U.S. Public Health Service. DHHS Pub. No. (PHS) 91-50213.

²² U.S. Department of Health and Human Services. *Healthy People 2010* (conference Edition, in Two Volumes). Washington, DC: Available at www.health.gov/healthypeople.

²³ Smedley, B.D., Stith, A.Y., and Nelson, A.R. (2003). *Unequal treatment: Confronting racial and ethnic disparities in health care*. Washington, DC: The National Academies Press.

²⁴ U.S. Department of Health and Human Services. *2003 National Healthcare Disparities Report*. Agency for Healthcare Research and Quality. Washington, DC: Available at <http://www.ahrq.gov/qual/nhdr03/nhdr03.pdf>.

²⁵ U.S. Department of Health and Human Services Agency for Healthcare Research and Quality. *2005 National Healthcare Disparities Report*. Washington, DC: Available at <http://www.ahrq.gov/qual/nhdr05/nhdr05.pdf>.

²⁶ U.S. Department of Health and Human Services. Agency for Healthcare Research and Quality. *2006 National Healthcare Disparities Report*. Washington, DC: Available at <http://www.ahrq.gov/qual/nhdr06/report/>.

4. Amongst Hispanics, the death rate due to asthma is more than four times higher than it is among Whites. Ethnic differences in asthma prevalence, morbidity and mortality are highly correlated with poverty, urban air quality, indoor allergens, lack of patient education and inadequate medical care. African Americans and Latinos experience higher emergency department and hospitalization rates associated with asthma in the case of the Bronx there were 10,135 hospital cases of asthma in children younger than 17 reported in 2002, at a rate of more than 902 per 100,000. That is comparing to an average rate of approximately 150 per 100,000 for the remainder of the state.²⁷ Children living in low-wealth communities under the age of 4 are four times more likely to be hospitalized for asthma than children in high-income areas. Asthma is an illness that is far too common among our most indigent citizens. New York City especially, children are almost twice as likely to be hospitalized as children nationwide.
5. There continues to be disparity in the distribution of health care resources that fall especially salient along racial lines. From 1995 to 2005, 8 out of 12 hospital closures in New York City occurred in communities of color.²⁸ In some cases, more than 90% of the patients using those hospitals were African American, Latino, or Asian.²⁹ Case in point is the area of Central Brooklyn—a community that is more than 90% Black or Latino, and has some of the worst health statistics city or statewide.³⁰ Yet, despite the obvious need for health care services, in just four years, Central Brooklyn has lost two hospitals, OB-GYN services at a third hospital, prenatal services at a fourth hospital, 13 hospital outpatient clinics, a federally-funded health center, and at least two WIC centers. In addition, of the total uninsured in New York State, 61% are racial and/or ethnic minorities.
6. According to a 2007 report released by The New York State Department of Health³¹ (DOH) there has been some narrowing of the health disparity gap, including lower death rates for people of color in HIV/AIDS, asthma, and certain cancers compared with rates for these diseases 10 years earlier, but these rates have not decreased equally across racial/ethnic groups. African Americans suffer disproportionately compared to other groups on certain health indicators. For example, they have the highest age-adjusted mortality rates for diabetes, certain cancers, HIV/AIDS, asthma and heart disease. African American adults also have the highest prevalence of diabetes compared to all other groups.
7. Despite these sobering figures, people of color also showed gains on some measures that reflect improved access to health care. For example, the rate of early diagnosis of prostate cancer was nearly 90 percent for all racial/ethnic groups compared with rates ranging from 68 percent to 77 percent 10 years earlier.³² However, Hispanics are least likely to have early-stage diagnoses of prostate cancer and colorectal cancer. Experiencing cost as a barrier to doctor visits, having no regular health care provider and lacking health insurance are also challenges most often encountered by Hispanic adults.
8. Poor health care also impedes an individual's ability to seek work or advance in the work place. According to low income New York City residents surveyed in the Community Services Society's 2007 Unheard Third Survey of Low-Income New Yorkers, poor health care is one of the primary obstacles to getting and keeping employment.³³ As reported in the Department of Health's 2004 report, Health Disparities in New York City, "[p]oor health makes it difficult for people to achieve high education levels and to obtain and keep well-paying jobs, which, in turn, can lead to poverty."³⁴ Poor health can also lead to an early

²⁷ New York State Department of Health, New York State Minority Health Surveillance Report (Sept. 2007)

²⁸ Opportunity Agenda, *Dangerous and Unlawful: Why Our Health Care System is Failing New York Communities and How to Fix It* (2006)

²⁹ Baley Seton Hospital (Staten Island), St. Joseph's Hospital (Queens), and St. Mary's Hospital (Brooklyn) closed as part of the bankruptcy proceedings of St. Vincent's Catholic Medical Centers. Mary Immaculate Hospital (Queens), which had also been part of the St. Vincent's network, was sold to Caritas Health Care, Inc. to avoid closure, but is currently experiencing financial instability and another risk of closure. Both New York Westchester Square Medical Center (Bronx) and Victory Memorial Hospital (Brooklyn) were ordered to close by the Commission on Health Care Facilities in the 21st Century.

³⁰ Central Brooklyn's health outcomes in almost all areas, including heart disease, diabetes, HIV, mental illness, substance abuse, cancer, asthma, and birth weight, are worse than the Brooklyn borough or the city as a whole. See New York City Department of Health and Mental Hygiene, *Central Brooklyn Community Health Profile* (2006)

³¹ New York State Department of Health, New York State Minority Health Surveillance Report (Sept. 2007)

³² New York State Department of Health, New York State Minority Health Surveillance Report (Sept. 2007)

³³ The New York City Department of Health and Mental Hygiene. "Health Disparities in New York City." (2005): 2. Retrieved September 5, 2009, from <http://www.nyc.gov/html/doh/downloads/pdf/epi/disparities-2004.pdf>

³⁴

death. Life expectancy in some of New York's poorest neighborhoods (such as, South Bronx, East and Central Harlem and North and Central Brooklyn) is eight years shorter than in its wealthiest neighborhoods.³⁵

9. The burden of illness and death among New Yorkers is connected to poverty and race/ethnicity. Moreover, conditions that influence health, such as access to health care and quality of housing, are related to these factors as well. Regardless of the exact mechanisms through which poverty and race/ethnicity affect health, the disparities are striking. The key question, must be: What can individual New Yorkers, health care providers, community organizations, advocacy groups, and government agencies do to improve health and reduce disparities?

Things to Consider

In addition to cash, childcare subsidies, food stamps and Medicaid are provided to those who receive government benefits. These benefits are also available to those with low incomes who are making the transition to work, along with Earned Income Tax Credits and Unemployment Insurance Benefits.³⁶ Although much has been done to increase enrollment in these program, lack of knowledge, burdensome application procedures, and hostile caseworkers keep the number who receive these benefits much lower than the number who are eligible.

Necessary Steps

- ▶ Establish a base of knowledge and understanding of the variations in health measures between cross racial, ethnic and income groups;
- ▶ Increase funding for community health services to prevent and eliminate disparities in treatment of particular diseases and conditions, specifically prominent in communities of color, such as; diabetes, obesity, heart disease, asthma, hypertension and HIV/AIDS;
- ▶ Increase access to health insurance;
- ▶ Implementation of a new prevention agenda;
- ▶ Health care quality incentives must be tied to reimbursement;
- ▶ Streamlined and simplified applications for those seeking benefits.

CAUCUS POLICY RESPONSES

- Increase state resources for community outreach to increase minority communities' enrollment in Child Health Plus and Family Health Plus to improve their access to quality health care;
- Develop and implement a coordinated system of collecting and reporting data on patients' race, ethnicity, and primary language at various points of interaction with providers in order to identify areas of disparities;

³⁵ The New York City Department of Health and Mental Hygiene. "Health Disparities in New York City." (2005): 2. Retrieved September 9, 2009, from <http://www.nyc.gov/html/doh/downloads/pdf/epi/disparities-2004.pdf>

³⁶ McMillan, Tracie. "The New Safety Net?" City Limits Magazine, November/December 2005. http://www.citylimits.org/content/articles/viewarticle.cfm?article_id=3216

- Develop and implement a comprehensive, statewide effort to reduce racial and ethnic disparities that includes financial incentives for disparity reduction;
- Develop and implement a transparent and public process of deliberation prior to the approval of any hospital or clinic closure—whether voluntary or involuntary—that includes an opportunity for public scrutiny and a meaningful review of the closure’s impact on the neighboring community;
- Develop and implement a fully-funded, community-based health planning agency, comprised of a wide array of experts and interested stakeholders, charged with the responsibility to collect and report data, conduct localized needs assessments, and make recommendations regarding the distribution of health care resource;
- Provide Medicaid funding and Health Care Reform Act (HCRA) funds for language access programs to increase interpreting capacity at hospitals;
- Expand access to primary and preventive care services - income eligibility expansions in Family Health Plus to 200 percent of the federal poverty level, making additional New Yorkers eligible for coverage;
- The legislature recently approved the placing of defibrillators in all public buildings in New York State to assist anyone having a heart attack. Similarly, there should be placement of nebulizers in all schools, specifically, those with large numbers of asthmatic children;
- Increase funding for hospital care for the poor;
- Expand outreach for HIV testing, while maintaining written informed consent — Testing is not an end in itself, but rather a diagnostic intervention that is intended to prevent and treat disease. A majority of experts agree that the most effective public health models for preventing and treating HIV/AIDS, in all racial and ethnic groups, is to empower people through education to join the effort. In short, the goal of such a program is not merely to test, but to reduce the incidence of infection. And this objective may be subverted if HIV testing procedures fail to require written informed consent before administering the test;
- Passage of Paid Family Leave Act (S. 5791/A8742) — Paid family leave is a positive for employers, also research has suggested that employees are more productive and remain in jobs longer in companies that provide workplace flexibility, with or without access to paid family leave, workers must care for themselves and their families. When an employee leaves to care for a relative without paid leave, they are not likely to return, thus disrupting the company and requiring new hiring’s and training. Job loss means big costs for businesses in lost productivity, recruitment and training expenses. Experts estimate that replacing a salaried employee costs 150% of compensation. Studies show that 98% of employees return to work for the same employer after taking their longest family and medical leave. Businesses would profit from the higher productivity, increased worker morale and reduced absenteeism that comes from paid family leave;
- Enhance lead poisoning prevention - Although the Centers of Disease Control and Prevention (CDC) health policy researchers universally acknowledge the importance of establishing “primary prevention” strategies to locate lead hazards before a child is poisoned, under the current Public Health Law in New York State, there is no requirement to inspect a building for lead-paint hazards until a child has already been poisoned. The current approach, in effect, requires that a child suffer permanent brain and nerve damage before the hazard in a building will be identified and removed. We do not need to inspect every building in New York State in order to eliminate lead poisoning. It is now possible to identify the areas of highest risk and target inspections to buildings in those areas;

- Full restoration of HIV/ AIDS funding;
- Increase cancer screening - expand cancer screening programs for free mammograms, ovarian cancer screenings and colorectal screenings for uninsured and underinsured persons;
- Support permanent continuation and funding of the Expanded Syringe Access Program (ESAP);
- Support the state's commitment to preventative health care — New York liberalized its reproductive health law in 1970—three years before the Supreme Court legalized abortion nationwide in *Roe v Wade*. The law was groundbreaking at the time, but in light of cases decided in the intervening years, New York law governing reproductive choice is inadequate. For example, New York law does not contain an affirmative right to obtain an abortion, nor has the New York Constitution been definitively construed as including such a right.³⁷ Instead, the federal Constitution, as interpreted in *Roe* and the cases that have followed it, define the scope of women's reproductive rights in New York State. Reform of our current law is necessary for three principal reasons: (a) abortion should be regulated by state public health law, not by our criminal law; (b) existing law does not adequately protect women's health or permit abortion in cases where a fetus is not viable; and (c) the federal courts cannot be counted on to uphold the constitutional protections that have historically safeguarded a woman's right to choose an abortion;
- Enact the Healthy Schools Act — Improve nutritional standards for food in our schools. Eliminate junk food and expand the school breakfast mandate. Increase funding for school meals;
- Increase funding for Emergency Food Programs. Hunger Prevention and Nutrition Assistance Program (HPNAP) is now funded at \$28,640,000 for fiscal year 2007-2008. We support a four year effort to add an additional \$7 million per year starting with fiscal year 2009-2010 more funding is also needed for nutrition programs targeting the elderly and WIC program;
- Reinstitution of state education funding for minority and bi-lingual medical students. Research indicates that the provision of adequate medical services to minority populations is closely related to the number of minority physicians. Graduates will improve the availability of medical services in many underserved areas of the State.
- Increase resources and public awareness in key neighborhoods with higher prevalence of HIV/AIDS;
- Implement Plan to Fight Obesity – support the Healthy Food/Healthy Communities Initiative to offer a new revolving loan fund to increase the number of health food markets in underserved communities; ban trans fats in restaurants; require calorie posting in chain restaurants; ban “junk food” sales in schools;
- Oppose closing of Hospitals (S.5802 Huntley/A8461-C Lancman) in underserved minority communities, the epicenters of the state's health care disparities, until alternative, community based health care options have been planned, funded and in fact provide alternative quality health care. (1) within thirty days of receiving notice of a hospital's intent to close, hold a public hearing on the impact of the hospital's closing on access to health care in the surrounding community; (2) within thirty days of the hearing, provide the legislature and governor with a report detailing specific measures the health department and other parties have taken or will take to ameliorate such anticipated impact of the hospital's closing; and (3) within thirty days of the report, hold a public hearing to present the report and allow members of the public to comment;

³⁷ Although the Court of Appeals has acknowledged that the protections for reproductive privacy in our State Constitution may be as least as extensive as the protection afforded by the Federal Constitution, see *Hope v. Perales*, 83 N.Y.2d 563 (1994), the court has never directly held that the protections in our State Constitution specifically cover a right to abortion

- The New England Journal of Medicine reported that minority groups are severely underrepresented in clinical trials. The Caucus supports increased minority participation in Pharmaceutical Clinical trials;
- Regulate advertisement of cigarettes and tobacco products in minority communities.

MENTAL HEALTH

Numerous barriers exist that preclude persons of color, and other underserved populations from obtaining needed community-based, culturally competent mental health services.

The Problem

1. The United States, is the only wealthy industrialized nation that does not have some form of universal health care provision for its citizens. According to recently released census data, 15.8 percent³⁸ of the population is without health insurance. In New York State, approximately 13 percent of the state's population is without health insurance.³⁹ These numbers are especially alarming for those individuals who suffer with mental illness. An uninsured individual suffering with mental illness is in a worst position than an uninsured individual who does not suffer with a mental illness because most individuals receive mental health coverage through their formal health insurance provider. Furthermore, many of the programs designed to assist the uninsured and underinsured do not cover mental health services.
2. One and every five Americans experiences a mental disorder in the course of a year.⁴⁰ Having a mental disability often incapacitates an individual physically, emotionally, financially, and socially. People of color have less access to mental health care than their white counterparts, are less likely to receive needed and/or quality care, and underutilize mental health services. Poverty further compounds this issue as racial and ethnic people of color are more likely than the white counterparts to be poor. Poverty increases exposure to stressful social environments. Constant exposure to stress increases the likelihood of a mental disorder.
3. In New York Mental health problems are, generally, more common among the poorer segments of the population than the wealthier. For example, those with the lowest income levels are 2 to 6 times more likely to experience serious emotional distress than those with the highest incomes.⁴¹ The working poor, those who make too much to qualify for government benefits but not enough to pay for private insurance, are generally the most under served and are affected most by the lack of mental health provisions.
4. New York State's population reflects a diversity of cultures and ethnicities. According to the 2000 Census, people of color constitute approximately 32% of the State's population and 62% of New York City's population. Consistent with these figures is the stark reality that there is a lack of available and adequate mental health services in languages other than English, and that there are high rates of underutilization of available mental health services by people of color.
5. Case in point, the borough of Queens located in New York State, the most culturally and ethnically diverse large county in the United States. Census data indicates that 46% of Queens residents are foreign born.⁴² It's 2.2 million residents are drawn from more than 90 countries and speak 138 different languages. Yet, very little is known about the suicide rates, mental health status, and the effectiveness of mental health treatments among ethnic and linguistic minorities. This profound lack of knowledge of the mental health needs of ethnic and linguistic minorities is largely due to barriers in communication.

³⁸ U.S. Census Bureau. 2007. Health Insurance Coverage: 2007. Accessed at <http://www.census.gov/hhes/www/hlthins/hlthin07/hlth07asc.html>

³⁹ US Census Bureau, Income, Poverty, and Health Insurance Coverage in the United States: 2006, Issued August 2007.

⁴⁰ U.S. Dept. of Health and Human Services, Mental Health: A Report of the Surgeon General Executive Summary. Rockville, MD: Substance Abuse and Mental Health Services Administration, Center for Mental Health Services, National Institute of Health, National Institute of Mental Health, 1999.

⁴¹ Health Disparities in New York City: A Report from the New York City Department of Health and Mental Hygiene. Fund for Public Health in New York, Inc., 2004

⁴² 2005 American Community Survey Fact Sheet for Queens County, New York, United States Census Bureau, accessed August 9, 2009.

The Underserved Populations Subcommittee of The Mental Hygiene Task Force of The New York State Assembly Committee On Mental Health Retardation And Developmental Disabilities, in an evaluation of the delivery of Mental Hygiene services in New York State, reported that cultural and linguistic barriers affect millions of New Yorkers, particularly in metropolitan areas.⁴³

6. The fundamental need to address this disparity was recognized in the President's New Freedom Commission on Mental Health.⁴⁴ In the 2002 report, the Commission acknowledged that "the mental health system has not kept pace with the diverse needs of racial and ethnic minorities, often under serving or inappropriately serving them. Specifically, the system has neglected to incorporate respect or understanding of the histories, traditions, beliefs, languages, and value systems of culturally diverse groups. Misunderstanding and misinterpreting behaviors have led to tragic consequences, including inappropriately placing minorities in the criminal and juvenile justice systems. There needs to be more accessible community health care options, we can no longer financially, and more importantly, morally support a medical system that concentrates on its castles (hospitals) and ignores its villages (outpatient care)
7. New York State must take a proactive role in removing the numerous barriers existent in the current mental health system by developing best practices in designated centers of excellence associated to the NYS Office of Mental Health (OMH) Psychiatric Institutes. These centers will require a demonstrated track record in education, research and delivery of culturally and linguistically competent services to minority populations. Through the cooperation with NYS OMH Psychiatric Institutes, consumers, family and community engagement, the centers of excellence will identify, assess the outcome, and disseminate the best practices of demonstrated behaviors, attitudes, policies and structures that enable them to work effectively cross-culturally from the primary health care through inpatient psychiatric treatment.

Mental Health Issues In Prison Special Housing Units

1. According to a report released December 7, 2000 by the New York State Senate Democratic Task Force on Criminal Justice Reform, approximately 5,500 New York State inmates are currently being held in 23-hour disciplinary lockdown. Prisoners call it "The Box." Corrections officials call the disciplinary cells "Special Housing Units" (SHU's). Human rights groups call it torture. Mental health professionals call it a breeding ground for mental illness.
2. The Department of Correctional Services (DOCS) uses SHU's as a form of punishment for inmates who do not follow rules. Inmates who are sent to a SHU are locked up in a 14' x 8' cell 23 hours per day. For one hour, they are released into an empty 9' x 7' caged balcony for "recreation." SHU's offer no rehabilitative services, no recreational programs, no educational programs, and no outside contact.
3. Psychological experts say even for people with no prior history of mental illness, detainment in a SHU can cause psychiatric symptoms, including depression, paranoia, agitation, manic activity, delusions, and even suicide. Inmates who already have a mental illness are more likely to be held in a SHU, because they may have greater difficulty complying with rules and social norms in the general prison population. Dr. Stuart Grassian, a psychiatrist who has studied how SHU's impact inmates' mental health, submitted the following testimony in a lawsuit against Attica State Prison filed May 29th, 1996: "During the course of my involvement as an expert, I have had the opportunity to evaluate the psychiatric effects of solitary confinement in well over 100 prisoners...I have observed that many of the inmates so housed have histories of psychiatric and/or neurological difficulties, and for many inmates, incarceration in solitary caused either severe exacerbation or recurrence of preexisting illness, or caused the appearance of an acute mental illness in individuals who had previously been free of any such illness."

⁴³ 2005 The Underserved Populations Subcommittee Of The Mental Hygiene Task Force Of The New York State Assembly Committee On Mental Health Retardation And Developmental Disabilities. A Report by the Mental Hygiene Task Force to Assemblyman Peter M. Rivera Chair of the New York State Assembly Standing Committee on Mental Health, Mental Retardation and Developmental Disabilities, Albany, NY

⁴⁴ Hogan, M. F. (2003). New Freedom Commission Report: The President's New Freedom Commission: Recommendations to Transform Mental Health Care in America. American Psychiatric Association

4. According to the Albany Times Union report, more than 80 percent of New York's 5,500 SHU inmates have spent more than six months in 23-hour lockdown. About 50 percent have been confined in a SHU for more than one year, about 150 people have been locked up in a SHU for more than five years, and a handful of people have spent more than 15 years in a New York State SHU. New York State is a leader in the use of solitary confinement as a disciplinary tool, we introduced the practice to North America in the early 1800's, and the rate at which we currently use SHU's is more than four times the national average.
5. After over a decade of litigation, the SHU Exclusion Bill was signed into Law as Chapter I of 2008. As a result of the SHU Exclusion Bill and the DAI (Disability Advocates, Inc.) Court Approved Settlement, inmates diagnosed with serious mental illnesses would be moved from solitary confinement into residential mental health units (RMHU) under the auspices of the Department of Corrections (DOCS) and Office of Mental Health (OMH). The first of these facilities is to open at Marcy Correctional Facility in September 2009. However, due to New York State's fiscal crisis, the Governor recommended in his Executive Budget Proposal for 2009-2010 to delay any further expansion. Caucus members recognizing the the importance of the Settlement led the charge in rejecting the executive's proposed delay of the SHU Exclusion Bill. SHU reform is necessary to ensure that incarcerated persons are returning to the community with a set of skills that he or she did not have before, not with additional psychotic pathologies exacerbated by long term commitments in Special Housing Units which has been found to be unconstitutional and unduly capricious.

Things to Consider

Regarding Quality of Clinical Care:

- Cultural competence needs to be further stressed, including having culturally competent services and available translators when bilingual staff cannot provide services. Seek opportunities to identify, develop and include people of color in leadership positions in service organizations, OMH and in community advisory groups.
- Co-occurring mental and physical disabilities are increasingly prevalent and call for integrated services as well as seeking housing directed to this population.
- There is a need to integrate mental health and aging services.
- Outreach and education are critical to engage people of color, low wealth communities and elderly populations, as is the ability to provide services in the home and in community settings such as senior centers and houses of worship.
- Support for family caregivers is essential.

Regarding Workforce Recruitment and Retention:

- Increase the numbers of social workers, psychologists, nurses and psychiatrists to serve people of color and older adults, in community settings.
- There is a need to focus attention on recruitment and retention of professionals skilled to work with people of color and older adults-especially bilingual professionals.

Research:

- The research agenda needs to address the shortage of evidence based practices for people of color, urban and elderly populations. Services, research and epidemiology need to better inform our understanding and service planning for these populations.
- Expansion of the knowledge and use of best practices and fashion integrated service programs to meet the needs of these unique and growing populations.

Necessary Steps

- ▶ Understanding the nature and extent of physical and mental health disparities,
- ▶ A more pronounced direction toward the elimination of mental health disparities;
- ▶ Mental illness must be understood as a legitimate medical illness;
- ▶ Mental health must be brought on par with physical health;
- ▶ Increased accessibility to mental health services in high needs and low wealth communities;
- ▶ Parity in reimbursements for all mental health services;
- ▶ Increase training and recruitment of bilingual and bicultural counselors;
- ▶ Adequate support services for incarcerated mentally ill person.

CAUCUS POLICY RESPONSES

- Current health care provisions for underserved populations within the state must be evaluated for efficiency and effectiveness
- Transparency in agencies currently offering health and or mental health services to underserved populations
- Creation of community based health care agencies that offer mental health services in combination with general health services
- Provision of low cost to no cost medication for those underserved individuals suffering from mental and/or physical health issues.
- Support S.4938/A5055 to evaluate and improve the current mental health service delivery model for ethnic and minority populations in New York State ;Cultural competence in all prevention strategies. New York is arguably the most culturally-diverse state. Varying cultures regard mental illness quite differently. To engage these populations, we need to appreciate those differences and design programs and services that reflect cultural understanding;
- Develop community-based suicide prevention and mental health wellness outreach programs that are culturally appropriate, multi-disciplinary and delivered by community members;
- Increase availability of mental health services in languages other than English;

- Increase the cultural competence of health care and mental health care professionals and staff;
- Implement culturally appropriate suicide screening and prevention training for medical and mental health professionals and staff, including emergency room staff;
- Collect and report data on access and utilization of health and mental health care, including disparity measures by race, ethnicity, primary language, socioeconomic status, age, gender, sexual orientation, geographic location, housing situation, and criminal justice involvement;
- Monitor progress toward elimination of disparities, and increase the dissemination of strategies proven to be effective across cultural and linguistic groups;
- Invest in research to identify and overcome disparities in mental health service utilization and treatment of minorities;
- Adequate administration, medical staff, and provide global care not based on insurance, (i.e. if you have a private payer or government sponsored insurance, you can see no physical difference in plan or treatment);
- Strategically link groups of health professionals from primary secondary and tertiary care working in coordinated manner. This should also include a program to support those existing “private” practices in underserved neighborhoods;
- The reimbursement to the health care providers must be increased in those specialties where intervention is an integral part of their practice (i.e. internal medical, pediatrics, family practice, mental health services etc.);
- Full implementation and DOCS compliance with the SHU Exclusion Bill.

ECONOMIC DEVELOPMENT

Rapid changes in New York economy requires greater economic stimulation at the state and local levels, in urban and rural communities, and amongst people of color. Stimulating the economy through the provision of equitable state contracts awarded to women and minorities is important to economic stimulus and communities of color.

The Problem

1. For most people, steady, well-paid employment is essential for a stable, productive and satisfying life. In the wake of Personal Responsibility and Work Opportunity Act of 1996 the low wage workforce has exploded. For example, New York City's welfare rolls are one-half of what they were in 1995, and a huge number of formerly unemployed low income New Yorkers are now employed. Between 1990 and 2005, the number of working poor families rose by nearly 75% in both New York City and State.⁴⁵ More city residents are working, but they remain poor.⁴⁶ Remarkably, 46% of the poorest families in New York City (those under 100% of the Federal Poverty Level) were headed by a worker in 2006; in 1989, only 29% of those families were headed by a worker.⁴⁷ As the New York City Commission for Economic Opportunity reported in 2006: "The share of working individuals that do not earn enough to move above the poverty line continues to grow."⁴⁸ Insufficient wages, lack of benefits, and wage and hour exploitation by employers all plague low wage workers who are trying to earn a steady income sufficient to meet family needs. In addition to inadequate pay, low wage workers often lack employer-provided job benefits. Health benefits and paid leave, such as vacation, sick, and personal days are not part of the compensation package for a low wage job.
2. The economic recession has had devastating effect on the global and national economy, and has subsequently had a direct effect on nearly every American household, people of color are at least 40 percent more likely to be unemployed than whites, according to a study by the Center for American Progress,⁴⁹ with the highest rates of unemployment in the African American population. New York State has seen the unemployment rate for African Americans soar to 15.1 percent, compared to 6.4 percent for whites. In New York City, where people of color make up more than 50% of the population, the rise in unemployment for African-Americans has spiked to four times that of whites.⁵⁰ A report, authored by UAlbany sociologist and researcher Christine E. Bose, compared census data for 2000 and 2005 and studied Latino migration to the selected high-population areas of Albany, Buffalo, Rochester, Syracuse, and Nassau County.⁵¹

⁴⁵ Fiscal Policy Institute. "State of Working New York." (2007): 27-28. <http://www.fiscalpolicy.org/SOWNY2007.html>

⁴⁶ Community Service Society of New York. "Poverty in New York City, 2005: More Families Working, More Working Families Poor (September 2006). <http://www.cssny.org/pdfs/Poverty-in-NYC-2005-FullReport.pdf>

⁴⁷ The New York City Commission for Economic Opportunity. "Increasing Opportunity and Reducing Poverty in New York City." (September 2006): 14. <http://www.nyc.gov/html/ceo/html/reports/report.shtml>

⁴⁸ The New York City Commission for Economic Opportunity. "Increasing Opportunity and Reducing Poverty in New York City." (September 2006): 14. <http://www.nyc.gov/html/ceo/html/reports/report.shtml>

⁴⁹ Weller, C. E. (2009). Economic Snapshot for September 2009. Boston, MA: Department of Public Policy and Public Affairs, University of Massachusetts Boston.

⁵⁰ McGeehan N, P. N., & Warren, M. R. (2009). Job Losses Show Wider Racial Gap in New York. New York Times

⁵¹ Bose, C. (n.d.). Geographic Dispersion of Latinos in NY State Does not Erase Gaps in Income, Education. State University of New York at Albany New York Latino Research and Resources Network, 2009.

3. The report found:

- While 25.3 percent of New York’s Latinos lived below the poverty level in 2005, Latinos had dropped from 3.2 times to 2.9 times more likely to live in poverty than non-Hispanic whites. However, considerable variation existed across the state: Latino poverty rates sharply increased in Buffalo (from 29.4 to 43.4 percent), but decreased somewhat in Nassau County (from 12.8 to 10.3 percent).
 - Increased poverty was partly due to the rise in unemployment over five years both among whites and Latinos of either sex and in all locations. Latinos were 1.8 times more likely to be unemployed than whites: statewide, Latino unemployment rates increased from 7.9 to 10 percent, while non-Hispanic white unemployment increased from 4.0 to 5.4 percent.
4. The Caucus in the past has led the charge for the so called “millionaires tax of 2009”. we continue to believe we must look at the overall tax burden in this state and realize that over the last two decades, the top rate of the income tax has been continually cut, we have also seen dramatic increases in property taxes across the state. The Caucus believes we can relieve the pressure on the property tax, increase funding for critical services, restore revenue sharing and make sure that working families are not shouldering the tax burden for the rich.
 5. The economy New York has dominated for the past hundred years is rapidly transforming. As evident by economic downturn of 2009, we cannot continue to rely on a few juggernauts for economic growth. A new economy is emerging – based on knowledge, technology, and innovation. The new economy will require us to break with the status quo and take bold steps forward. We must start by creating a fertile environment for entrepreneurship and building a new infrastructure for innovation.
 6. All New Yorkers must be able to participate in the work force and have equal access to capital and economic opportunity. The playing field must be level and open to everyone. As the State moves to make targeted investments in innovation, the Caucus is committed to keeping open the doors of opportunity for Minority and Women-owned Businesses (MWBEs).
 7. Public purchasing is one of government’s most important functions. Its effective use or potential abuse can have a substantial impact on governmental efficiency, the income of particular companies and communities, and the financial burden of taxpayers. Over many years, minority-owned and women-owned businesses have experienced difficulties in tapping into government procurement purchasing programs. Barriers to government contracts still exist for MWBEs because they are smaller in size and fewer in number than non-minority owned firms.

Things to Consider

There must be parity in contracts awarded to people of color, support for economic development in communities of color and low-wealth communities, assistance for minority and women-owned businesses and increased access to the financial service sector and asset building opportunities

CAUCUS POLICY RESPONSES

- Increase MWBE participation in state procurement, state financed and state economic development projects;
- Establish a procedure requiring state agencies and authorities subject to Article 15-A of the Executive Law to submit a goal plan and to establish compliance reporting of such goals;
- Passage and signage of the Article 15-A successor laws and regulations;
- Create and adequately fund Urban Economic Development and Innovation Centers/ as MWBE Incubators in collaboration with colleges and universities across the state;
- Uniformed and streamlined certification procedures and consistent MWBE Certification standards;
- Innovative use of the State's \$ 109.9 billion in pension funds, as well as state economic development funds, in partnership with private finance to underwrite debt, equity and venture capital funding to increase MWBE ownership opportunities and entrepreneurial growth in minority communities as well as in mainstream capital markets and investment arenas. The Buffalo area needs special attention to an opportunity to recruit Black banks for the East side community;
- Launch a comprehensive "Workforce Development Employment and Training Assistance"(WETA) Program modeled after earlier CETA programs and other successful models, including public works and public employment programs, in partnership with business, government, labor unions, and the community. Also, increased Apprenticeship and Training slots in building trades unions on all state assisted construction and development projects;
- Establish five (5) additional Empire State Empowerment Zones in Albany, Queens, Long Island, Central and Western New York in minority communities with high unemployment, and low entrepreneurship rates;
- Create violations system against contractors failing to comply with Article 15-A;
- Create greater accountability by requiring the Division of Minority and Women Business Development to create a master list of all state agencies required to file quarterly compliance reports and to list in its annual report the names of non-compliant agencies and the extent of their noncompliance;
- Requires contractors to provide utilization plans at the time a bid is submitted;
- Requires the posting of contractor MWBE utilization plans and prohibits the use of automatic waivers;
- Provides for greater contracting opportunities by alleviating the burden of performance and payment bonds for small businesses and certified MWBEs when the aggregate amount of the contract is under \$500,000;
- Provides the Director with the authority to mandate an audit of state contracting agencies that do not comply with Article 15-A reporting requirements, and requires the contracting agency to hire and pay for an independent auditor;
- Increase MWBE's participation in state public authority assisted construction and rehabilitation projects;
- Reform Unemployment Insurance. Increase the maximum benefit, increase benefits at the bottom of the income distribution and establish dependent allowances;

- Create Living Wage Jobs for all. This includes establishing the Empire State Jobs Program, creating a publicly funded transitional jobs program, primarily for individuals transitioning from welfare to work;
- Universal broadband is the keystone to creating equal access to opportunity in the innovation economy. The pace of business in the global economy has far surpassed the age of dial-up Internet connections. The Caucus supports broadband access throughout New York.
- Increase the welfare grant. Increase the non-shelter portion of the public assistance grant from \$291 to \$475 for a family of three to reflect increases in the cost of living since the last adjustment in 1990. Increase Fuel For Heating Allowances to account for inflationary increases since the last adjustments in 1987. Establishing a commission to investigate the adequacy of all public assistance allowances and to recommend mechanisms to provide for annual cost adjustments;
- Regulation and Caps on interest rates of “buy here pay here” and “pay day” loans
- **Strengthening Local Communities:** Rather than putting increased pressure on the local property and sales tax bases and then providing “relief” to local taxpayers in the form of state rebate checks, New York State policymakers must work together to reduce the pressure on local property and sales tax bases by restoring the state’s commitment to “revenue sharing” with its local governments and having the state government take over a greater share of local education and healthcare costs. And the state’s STAR programs must be targeted to provide adequate relief to those families that are most in need;
- Support- Domestic Worker Bill of Rights (A.1470/S.231I) — Many domestic workers are regularly forced to work six-day weeks and receive little or no pay. They are often abused, mistreated, and work under harsh conditions. This act would institute paid time off and a weekly day of rest, medical leave, health insurance, and an annual cost of living adjustment for domestic workers;
- Support Green Jobs-Green New York Legislation (S.5888/S.6032) — With the right investment, we can upgrade one million homes over the next five years, saving working families up to 30% (over \$1,000 a year on average) on their total energy costs. All that construction work can create tens of thousands of living-wage, green jobs that New York’s economy needs. And the program will jump-start demand for Green materials we can make right here in New York.

CHILD WELFARE REFORM

The juvenile justice system, which confines children of color at an alarming high rate, must undergo radical reform, from the current model of adult style corrections focused on discipline and control, to a therapeutic model focused on treatment, family, and community.

The Problem

1. The modern criminal justice system has begun to saturate our schools. The introduction of the criminal justice systems punitive and overbearing approaches into America's schools has created a wormhole. The direct result of which serves to remove children from mainstream educational environments and funnel them onto a path toward prison.
2. Various policies, put into practice in today's schools, collectively referred to as the School-to-Prison Pipeline, push children out of school and hasten their entry into the juvenile, and eventually the criminal, justice system, where prison is the end of the road. African American children are disproportionately represented in the juvenile justice system constituting 62 percent of detained juveniles while only constituting 32 percent of America's youth.⁵² Furthermore, the juvenile justice system punishes African American children more harshly with 32 percent receiving some sort of out of home placement as compared to 26 percent white of White children.⁵³ Historical and modern inequities, such as segregated education, concentrated poverty, and racial disparities in law enforcement, account for these disparities and feed the pipeline.
3. The New York State Office of Children and Family Services (OCFS) oversees 25 juvenile justice facilities throughout the state that provide adult correctional care for approximately 1,900 adolescents in state custody. Juvenile detention is often the first, and the most restrictive "intervention" used for youth who don't adhere to societal norms. Juvenile detention, modeled after an arguably ineffective adult correction system, is the least affective option for caring for the children of New York State, who are unfortunate enough to come in contact with the juvenile justice system.
4. From the moment that a child enters the juvenile justice system, decisions critical to the future of that child, his family and many others like him/her are made. These life changing decisions are often made without input from the children and the families that these decision affect. Juvenile detention is a watershed for thousands of youth who will either flow into long term residential care, return to their communities, or are funneled into the adult system. It is only prudent to support the investment of resources in alternative to incarceration programs centered in the youth's community of origin.

⁵² Snyder, H., and Sickmund, M. 2006 (March). Juvenile Offenders and Victims: 2006 National Report . Washington, D.C.: Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice.

⁵³ Snyder, H., and Sickmund, M. 2006 (March). Juvenile Offenders and Victims: 2006 National Report . Washington, D.C.: Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice.

5. In December, 2007, the U.S. Department of Justice (DOJ) notified Governor Spitzer of its intent to conduct an investigation of four New York juvenile justice facilities (Lansing Residential Center (“Lansing”), Louis Gossett, Jr. Residential Center (“Gossett”), Tryon Residential Center (“Tryon Boys”), and Tryon Girls Residential Center justice facilities). Specifically, DOJ stated that its investigation would focus on allegations of sexual misconduct and unreasonable use of force by staff. After the first set of site inspections, DOJ notified Governor Paterson that it would be expanding its investigation into the mental health care provided to the youth in these facilities. Upon completion of its investigation DOJ indicated the following:
 - ▶ Violations of constitutional standards in the area of protection of youth from harm;⁵⁴
 - ▶ Violations of constitutional standards in the area of mental health care;⁵⁵
 - ▶ No evidence of systemic constitutional deficiencies in the area of sexual misconduct⁵⁶

6. Children of color, specifically African American children, are disproportionately represented in the child welfare system relative to their proportion in the population. Child protective services, systemically designed to prevent harm to children in danger of abuse has in many cases unnecessarily traumatized children, cutting them off from their families and communities. State and local agencies charged with assisting families must concentrate more on community and preventative based interventions and less on removal from the home and placement in state care.

7. State and local agencies must address the institutional racism that exists within the child welfare system. The institutionalized racism in the child welfare system directly and adversely affects children and families of color, specifically African American children and families. Research indicates that there is no statistically significant difference between the rates of abuse and maltreatment between African Americans and whites. Yet, African American children encounter the child welfare system more and African American children are removed from their homes and communities at a higher rate than their white counterparts. Furthermore, African American children remain in care on average 9 months longer than their white counterparts.

8. In 1998, the Center for an Urban Future released the following startling statistics:
 - One and every 22 black children and one in every 59 Latino children in New York City were in foster care, as compared to one in every 385 white children.
 - Currently, according to the Office of Children and Family Services:
 - ▶ There are 25,878 children in foster care, 62.7% of which are located in New York City.
 - ▶ 47.2% of the children in foster care are African American 20.5% of the children in foster care are Latino
 - ▶ 18.5% of the children in foster care are white

⁵⁴ Letter from Loretta King, Acting Assistant Attorney General, The U.S. Department of Justice Civil Rights Division to the Honorable David A. Paterson, Governor (August 14, 2009). Available online at: http://www.usdoj.gov/crt/split/documents/NY_juvenile_facilities_findlet_08-14-2009.pdf.

⁵⁵ Letter from Loretta King, Acting Assistant Attorney General, The U.S. Department of Justice Civil Rights Division to the Honorable David A. Paterson, Governor (August 14, 2009). Available online at: http://www.usdoj.gov/crt/split/documents/NY_juvenile_facilities_findlet_08-14-2009.pdf.

⁵⁶ Letter from Loretta King, Acting Assistant Attorney General, The U.S. Department of Justice Civil Rights Division to the Honorable David A. Paterson, Governor (August 14, 2009). Available online at: http://www.usdoj.gov/crt/split/documents/NY_juvenile_facilities_findlet_08-14-2009.pdf.

Factors contributing to disproportionate number of African American Children in Foster Care:

- Higher rates of poverty among African Americans
- Difficulties in accessing support services
- Distrust of child welfare system
- Racial bias
- Cultural misunderstanding among child welfare decision makers
- Racial and/or cultural bias among those reporting abuse or neglect to the child welfare agency
- Case worker bias, cultural misunderstanding among those reporting abuse or neglect to the child welfare agency
- Racial and/or cultural bias in judicial rulings
- Lack of preventative services programs
- Large number of single parent households
- Substance abuse
- Lack of treatment for mental health and substance abuse issues
- Lack of affordable housing
- Limited or inadequate access to legal services
- Limited or inadequate access to legal representation

Factors affecting length of stay among African American children:

- Lack of appropriate adoptive homes
- Lack of support services for purposes of reunification
- Greater use of kinship care
- Older African American Children
- Lack of affordable housing
- Distrust of child welfare system
- Lack of substance abuse treatment for parents
- Misinformed belief that African American children are more likely to be diagnosed with illnesses.

Things to Consider

In New York and across the nation, state legislatures have enacted legislation that has increased the number of offenses for which juveniles can be charged in the adult criminal court; increased the length of time for which young people can be incarcerated; permitted youths to be incarcerated with adults; and created maximum security placement centers for juveniles.

These kinds of approaches to youth crime represent a return to the abusive and unjust conditions that originally led to the creation of the juvenile justice system. Moreover, despite the clear intersections between poverty, racism, and youth incarceration in New York there continued to be huge sums of public money spent to lock up youth, especially youth of color and from low-income families rather than address the underlying factors contributing to the youths injurious behavior.

Necessary Steps

- Create alternative and graduated sanction for juvenile probation violators;
- Reduce unnecessary delays and detentions by decreasing Family Court caseloads and implementing court case processing changes;
- Provide more funding to non-profit agencies to create or expand private alternative to detention programs;
- Fund more aftercare services, complete with chemical dependency treatment and mental health services to reduce the high rate of recidivism of youth leaving detention;
- The use of confinement a last resort;
- Expanded use of community care and community placements

CAUCUS POLICY RESPONSES

- Appropriately assess children entering the juvenile justice system to ascertain what level of care is best for each child;
- Provide appropriate community based alternatives to placement;
- Funding to establish a study on juvenile detention utilization patterns from region to region, facility level to facility level;
- Forster increased collaboration between OCFS, DOH, OMRDD and the Department of Education;
- Ensure that youth are adequately protected from excessive use of force by staff;
- Ensure that the use of physical restraint⁵⁷ is limited to exceptional circumstances when all other proactive, non-physical behavior management techniques have been tried and failed;
- Mandatory investigation of ALL allegations of abuse in OCFS facilities;

⁵⁷ A full restraint or full prone restraint is one of the OCFS-approved restraint techniques which staff explained and demonstrated for us during our tours. A full restraint involves staff ultimately placing the youth face down on the ground with his or her arms behind the back. The youth is frequently handcuffed by staff while in this position. By policy, the youth may not be handcuffed longer than thirty minutes.

- Provide adequate training and supervision to staff in all area necessary for the safe and effective performance of job duties, including training in child abuse reporting in the safe and appropriate use of force and physical restraints;
- Provide adequate mental health, chemical dependency and rehabilitative treatment;
- Ensure that there is an adequate, appropriate, and effective behavior management system in place;
- Ensure that the mental health treatment providers, including the psychiatrist, develop a uniform working diagnosis for each youth;
- Undergo reform; from the current model of adult style corrections focused on discipline and control, to a therapeutic model focused on treatment, family, and community;
- Ensure that prescription of psychotropic medications is tied to specific target symptoms, and that youth records reflect the rationale for prescription of every medication, that target symptoms intended to be treated by the medication; Including family members in case planning;
- Address racial and cultural bias at every level of decision making;
- Competency in working with families from various cultures;
- Cultural competency training for all OCFS employees working with youth;
- Recruiting, retaining and promoting culturally competent staff;
- Increase use of culturally competent or validated risk assessment tools;
- Collaboration with neighborhood based services;
- Interagency support and cooperation to improve access to services and service delivery;
- Implement the use of certain tools to help caseworkers make more systematic decisions regarding the level of a child's risk;
- Assist parents with obtaining housing;
- Assist parents in need of mental health and drug treatment services;
- Promote family reunification;
- Ensure that OFCS facilities play a greater role in the intake/admission screening and discharge process;
- Cultivation of more efficient transfer of information as well as the elimination of duplicative testing and assessment would reduce overall costs to both the state and localities;
- Funding to develop and implement a core training curriculum designed specifically for local OCFS facility staff to assure uniform practices and reduce liabilities;

- Regionalized placement for OCFS placed youth to provide treatment and confinement as near their locality of origin as possible;
- Stricter adherence by Family Court Judges to time frames for hearings mandated by the Family Court Act;
- Development of consistent law guardian practices, including:
- Adequate time and resources to effectively represent respondents.
- Autonomy from judicial appointments to represent respondents.

CRIMINAL JUSTICE & PUBLIC PROTECTION

People of color are incarcerated at disproportionate rates. Prison reform is needed with an increased focus on reacclimating the formerly incarcerated into the community.

The Problem

1. Criminal justice remains an issue of concern for the Caucus. Defendants face a host of collateral consequences to their convictions that far surpass the justice system. A prior conviction can jeopardize future employment, housing, education financing, and a myriad of other areas of life, preventing the formerly incarcerated person from being a contributing member of his or her community. A fair justice system requires that defendants be aware of the charges against them and the potential consequences of a conviction or plea, and that they are adequately represented by competent counsel. Criminal defendants are often unaware of collateral consequences until their sentences have been served and they are faced with incarceration and then unexpected barriers to their reentry. Failure to address the underlying consequences of incarceration can impose unnecessary social and economic costs on the convicted, their families and has negative fiscal implications for the entire community.
2. There is a presumptive argument that crime is dropping in New York State. Court records show that arrests and prosecutions have been and continue to be on the rise and the spike comes at a time when New Yorkers are falling deeper into an economic depression. Arrests for felonies and drug related felonies have steadily increased during the past seven years. However, after the cases are docketed by the court system, an overwhelming majority are disposed of by guilty pleas to reduced misdemeanor charges. Additionally, thousands of cases are diverted to alternative to incarceration (ATI) programs like the successful drug treatment courts. Consequently, with less felony convictions and greater use of ATI programs the state prison population has decreased. However, with more misdemeanor plea bargains the local jail population has increased. Alternative to incarceration programs that mandate drug treatment, basic educational goals and job training reduce crime and increase public safety. Just as importantly, rehabilitation programs are much more cost efficient than placing a misguided person into state prison. In the end the tax payers save money. Support of court administered programs that mandate drug, alcohol treatment; educational development and job training need our continued support. Without a safety net backed by financial commitment first time offenders will be back on the revolving door of prison stay.
3. The Caucus provided leadership in changing criminal justice policy to require persons with chemical dependency to register into drug treatment programs or go to prison. Though, on its face very simple, Caucus initiatives changed the way Americans responded to drug related offenders. Now, the system recognizes that drug addiction is a medical problem and each defendant is assessed and given the opportunity to become drug free. Prior to the Caucus led reforms, defendants were simply warehoused in prisons, completing their sentences, committing new crimes and coming back to prison. The Caucus continues to need to expand the use of successful drug courts, not only in communities of color but everywhere in the State of New York. We call for the preservation of existing alternative to incarceration programs, especially in parenting skills, anger management, educational development and vocational skills. Protecting our reforms means making sure that a sufficient number of probation and parole officers have reasonable case loads so that there is quality in supervision and good and sincere offenders can get a second chance.

4. **Great Disparity.** In 1991-92, the chances that a violent felon, not including an A-I felon, would be released by any given parole board were 51%.⁵⁸ By 2005, that figure had fallen to 16%.⁵⁹ Thus, whereas in the pre-Pataki years, good behavior, a willing performance of program requirements, and a demonstrable desire to avoid criminality virtually guaranteed parole release at or reasonably close to a minimum term, inmates and violent felons in particular are routinely “hit” and “hit” again by the Board, regardless of their prison accomplishments, based solely on the one thing they can never change: “the seriousness of the offense”. The case of Brian E. Jacques, who plea bargained for a term of 15 to life, is typical. When Mr. Jacques pleaded guilty to an Albany County murder in 1983, he expected to be released after 15, maybe 17 years. At the time that was a reasonable expectation. But Mr. Jacques had the misfortune of coming up for parole when government attitudes about early release had changed. Despite a good prison record and no prior history of violent behavior, Mr. Jacques was denied parole 4 times since Mr. Pataki took office and has now spent 23 years behind bars.
5. Contrary to popular perception, in New York, offenders convicted of the most serious crime – murder – are the least likely to commit a felony once they are paroled. Between 1999 and 2003, only 1.6% — 6 people — were returned for a new felony within three years. This compares to an 11.8% re-incarceration rate for all other offenders. Parole determinations should be objective and consistently fair. Decisions should be based upon all of the factors listed in the Executive Law and not on how the political winds fall on any given election day. The Caucus is committed to finding a way to insure that “points” are given to every release factor and that decisions are not based on any one factor exclusively.
6. Graduated Sanctions are necessary for parole violators that are found guilty of “technical violations” like missed curfews, positive drug tests, or otherwise fails to adhere to the conditions of release. Instead, parole officers will require violators to register into drug treatment programs, require more frequent parole visits and place offenders in prison according to the degree of the infraction. It is hoped that this shift away from immediate incarceration will change the culture from immediate imprisonment to a treatment geared approach to parole supervision. The aim is rehabilitation for the petty offender and the need to save tax money from the high cost of unnecessary imprisonment.
7. The Caucus is keenly aware of the disproportionate incarceration of persons of color, and like the Drug Law Reform of 2009, the Caucus will continue to be a vital force in ensuring that there is justice for all and not for a few. We see a day when justice is the rule and not the exception. Most police officers are great public servants. However, the law gives great discretion and power to each police officer. That is why police officers must be held to greater scrutiny and accountability. The use of deadly force against people of color is a fact of life and the Caucus must vigilantly be on the watchtower to repudiate and investigate every shot fired.

Things to Consider

Over the past three decades, the number of prison inmates in the United States has increased by more than 600%, leaving it the country with the highest incarceration rate in the world.⁶⁰ In New York, there are currently more than 63,000 people in state prison and an additional 30,000 in local correctional facilities; 95.5% are men and 4.5% are women. Over half (51.1%) of the inmates are African American, about a quarter are Hispanic (26.3%) and about one-fifth are White (20.5%).⁶¹

Each year, more than 25,000 people are released from New York State prisons, a majority of whom are from, and return to, New York City.⁶² An additional 100,000 people are released from local correc-

⁵⁸ Caher, J. (2006). Dismanteling Parole. Pro Se: Prisoners' Legal Services of New York, 2-7.

⁵⁹ Caher, J. (2006). Dismanteling Parole. Pro Se: Prisoners' Legal Services of New York, 2-7.

⁶⁰ U.S. Department of Justice, Bureau of Justice Statistics Bulletin. “Prisoners in 2006.” (2006). <http://www.ojp.usdoj.gov/bjs/abstract/p06.htm>

⁶¹ Human Rights Watch Press Backgrounder. Race and Incarceration in the United States (February 27, 2002): Table 4: Percentage of blacks among resident population and incarcerated population. <http://www.hrw.org/backgrounder/usa/race/>

⁶² Assembly Standing Committee on Social Services, Correction, and Housing. “Public Hearing of the New York State Assembly.”

tional facilities.⁶³ The Court system disposed of more cases related to overall felony arrests in 2007 (166,208) than at any other time reported since 2001 (165,455). Caseloads for the prosecution, the defense bar and the courts are straining the system and a shortage of lawyers has eroded the constitutional right to quality counsel that is constitutionally mandated by the State of New York.

People returning from prison face overwhelming obstacles as they attempt to reenter society. These obstacles are also faced by the large number of New Yorkers convicted of crimes who serve “noncustodial sentences,” such as probation, payment of restitution or a fine, or community service. The “collateral consequences” of any criminal record are enormous, and becoming more so as the internet makes access to these records practically ubiquitous.

CAUCUS POLICY RESPONSES

- **Establish an Office of Special State Prosecutor for Police Misconduct.** This office house a state wide reporting database designed to track and analyze allegations of the use of deadly force, excessive physical police force, police corruption, general police misconduct and racial profiling. With respect to the use of deadly force, the recent cases of Sean Bell and Omar Edwards reinforce the fact that there is something terribly wrong in the selection of police candidates and review of certain veterans. The Caucus proposes a critical review of psychological examinations for candidates, a critical review of training programs at the academy, the development of continuing education curriculum for veteran police officers and an analysis of minority representation in management positions.

- **DNA Evidence.** DNA evidence represents several challenges to policymakers. DNA samples are currently collected from persons convicted of some but not all crimes. The list of crimes subject to collection has been expanded three times, but many misdemeanor convictions remain outside the scope of collection. Currently, DNA collection is not required from persons adjudicated youthful offenders. There is tension between those who believe that DNA should effectively replace fingerprints and those who believe that expansion of DNA collection to all misdemeanors is an unnecessary government intrusion.

Criminal Procedure Law §240.20 defines the scope of a defendant’s right of pre-trial discovery of existing evidence but does not include the authority to apply for court-ordered DNA testing. Moreover, post-conviction relief currently authorized by Criminal Procedure Law §440.30(1-a) allows for a defendant’s application for DNA testing of evidence secured in connection with the trial, but it does not permit application for an order to have such evidence compared against DNA databanks maintained by law enforcement. Moreover in People v. Byrdsong, 33 A.D.3D 175 (2D Dept. 2006), the existing authority was held in applicable to defendants who pled guilty.

- **Video Taped Statements.** Miranda v. Arizona, 384 U.S. 436 (1966), held that statements made in response to custodial police interrogation will be admissible at trial only if the prosecution can show that the defendant was informed of his right to consult his lawyer, of the right against self-incrimination and that the defendant understood his right and voluntarily waived them. Despite the development of Miranda Rights tens of thousands New Yorkers file motions alleging police violation against their constitutional rights. All statements allegedly made by the defendant while in police custody should be videotaped. The legal issues concerning custody, voluntariness, reliability and honesty of the parties will essentially be resolved by filming the questioning of the defendant by the police.
- **Prison Reform. Merit Time. Parole Reform and Re-Entry for Returning Men and Women.** One smart way to protect the public is for government to implement policy that reduces the number of repeat offenders. Lengthy prison terms are appropriate in some cases and not appropriate in others. Where a man or women demonstrates remorse for their crimes against society and objectively demonstrates that they will not commit any new crimes, then under these circumstances such individuals should be given

⁶³ Assembly Standing Committee on Social Services, Correction, and Housing. “Public Hearing of the New York State Assembly.”

the right to apply for early release. Educational advancement and Good Conduct while in prison are evidence based factors which prison administrators should consider when reviewing an application for early release.

- **Merit Time.** Good Conduct, evidence of remorse and educational advancement constitute the cornerstones of New York State's Merit Time Program. Currently, Merit Time is available to only non-violent felons. The Caucus believes that this program should be extended to most violent felonies as well. Ironically, we believe, it is our violent felons that need the most attention but are legally prohibited from applying for programs targeted to eradicate their criminal behavior. Extending Merit Time to violent felons will encourage good conduct and provide an incentive for violent felons to put an end to their criminal conduct. In the end we believe that by balancing notions of rehabilitation and punishment, recidivism will be reduced and our streets and homes will be made safer.
- **Parole Reform.** Likewise, government needs to review the rules governing the Division of Parole. The major problem centers around the so-called "discretion" given to parole board members when considering whether or not an inmate should be released. Instead of applying a rule of law to every parole application, determinations are made based on political considerations and whether the case is a high profile case. Unfairness is most pronounced when release statistics dramatically shift depending upon who gets elected to be Governor. The parole board consists of 19 members, who sit in three person panels and interview approximately 16,000 individuals a year. The Executive Law provides that the Board should not release an inmate unless it believes that (1) that he or she can live and remain at liberty without violating the law; (2) that the inmate's release is not incompatible with the welfare of society; and (3) the inmate's release would not diminish the seriousness of the offense. The Board is also required to consider factors such as community services and resources that would be available to the inmate upon release, the inmate's institutional record; and the recommendations of the district attorney, the defense attorney and the sentencing judge. Finally, the law entitles crime victims or their representatives to submit a victim impact statement any time a person convicted of a violent felony is considered for parole release.
- **Community Re-Entry.** Public safety is enhanced when men and women stop committing crimes. In 2008 there were approximately 45,000 men and women under parole supervision in New York State. The parolee population is largely people of color, poorly educated, underemployed and concentrated in urban New York. According to March 2008 statistics, 52% were Black, 25% were Hispanic and 21% were White. Ninety-two percent of the parole population was male and 8% were female. Seventy-one percent had a history of drug abuse and 14% had a grade school education only. 64% were from the five boroughs and Long Island and 36% were from upstate.
- **Equal Justice:** the New York Civil Liberties Union (NYCLU) recently produced a study (2008) that showed clear racial disparities in marijuana arrests. The New York Police Department (NYPD) arrested and jailed nearly 400,000 people for possessing small amounts of marijuana between 1997 and 2007, a tenfold increase in marijuana arrests over the previous decade. While government surveys of high school seniors and young adults 18 to 25 consistently show that young whites use marijuana more often than young African Americans and Latinos, between 1997 and 2007, police arrested and jailed about 205,000 African Americans, 122,000 Latinos and 59,000 whites for possessing small amounts of marijuana. African Americans accounted for about 52 percent of the arrests, though they represented only 26 percent of the city's population over that time span. Latinos accounted for 31 percent of the arrests but 27 percent of the population. Whites represented only 15 percent of those arrested, despite comprising 35 percent of the population.
- **Judicial Discretion to Modify Child Support Orders (support S.4684 Hassell-Thompson/A 8178 Aubry):** New York, judges have no discretion to modify any prior order or judgment of child support to reflect a reduction in income caused by incarceration, and therefore no ability to set realistic child support orders for incarcerated parents. As a result, about half of incarcerated parents have open child support cases, and are responsible for ongoing payments in the range of \$225-\$300 per month that accumulate

during their incarceration (and cannot be paid down with no steady source of income). Compounding this problem, upon their release from incarceration, up to 65% of non-custodial parents' net income can be automatically deducted from their paychecks to repay support arrears. High withholding from low-wage checks acts as a disincentive to legal employment. It creates pressure on recently released people to quit on-the-books, often low paying jobs and return to the underground economy, a choice that harms families and communities.

The IOLA Crisis

In 1983 with the strong support of the New York Bar Association the New York State Legislature created the New York State Interest On Lawyer Account Fund ("IOLA") as a means to provide additional financial support to civil legal service organizations that had been decimated by federal budget cuts. These monies are used to provide lawyers for foreclosure actions, unemployment hearings, representation of victims of domestic violence, disability hearings landlord tenant eviction proceedings, DSS Fair hearings and dozens of other legal actions confronted by people who are in a crisis but cannot afford an attorney.

Attorneys routinely receive funds to be held in trust for future use. If these funds are large in amount or to be held for a long period of time, the attorney customarily deposits the money in a certificate of deposit or other interest bearing account in the name of, and for the benefit of, the client. However, in the case of deposits which are small in amount or are short term in duration, it is impractical to establish separate interest bearing accounts. In the past, attorneys had no alternative except to place these nominal or short term trust deposits in desegregated, non-interest bearing checking accounts.

The IOLA program requires attorneys to open IOLA accounts for the deposit of these nominal or short term funds. These otherwise idle funds are then pooled to generate interest income which is forwarded directly from the financial institution to the IOLA Fund. The Fund, which is administered by a 15 member Board of Trustees, awards grants to civil legal service providers.

As a result, no client is deprived of any practical income opportunity since the administrative costs to the lawyer and the service charges of the financial institution, coupled with a resulting tax liability to the client, would more than offset any income earned.

Because of less activity in real estate markets and falling interest rates, especially the federal funds interest rate directly pegged to what banks are supposed to pay to IOLA, the fund has experienced a dramatic loss of revenues in the past 18 months. The bottom line is that the fund which once allocated \$31 million dollars is lucky if it has \$6 million dollars to allocate, once administrative costs of \$2 million are deducted.

For the calendar year 2006, IOLA provided client service data for the following organizations, all of whom were funded by IOLA to provide direct services to low income clients: Legal Aid Society; Legal Services NYC; Northern Manhattan Improvement Corporation; New York Legal Assistance Group; Urban Justice Center. These programs employed approximately 390 lawyers and 140 paralegals during 2006. According to program data for these service providers, a total of 88,299 cases were closed in 2006, benefiting more than 170,000 individuals. The vast majority of those cases were Housing-related, followed by Income Maintenance, Individual Rights and Family cases. These cases included a total of 26,484 (30%) extended service cases and 61,815 (70%) brief service cases.

The Caucus is committed to doing all it can to support legal services for the working poor and the poor. The Caucus intends to provide Leadership to initiate a dialogue between government, the private sector and legal service providers with the goal of finding alternative funding for the people in the greatest need of legal representation.

HOUSING

Communities of color are adversely affected by the housing crisis. Affordable housing is a necessity in low to moderate income communities. Rent stabilized housing and low interest rate mortgages are essential to survival in these communities.

The Problem

1. Low income New Yorkers rank affordable housing along with crime at the top of list of problems they face.⁶⁴ Real estate market pressures, often referred to as “gentrification,” have caused noticeable changes in New York City’s neighborhoods that are praised by some commentators and lamented by others.⁶⁵ But the impact of these changes for low income New Yorkers has been to create a permanent state of housing instability: both the fear and reality of displacement. Static incomes, rising rents, the loss of subsidized and regulated housing, the foreclosure crisis, and the slow pace of affordable housing development have resulted in the highest number of homeless families and individuals in the City’s history, and the looming threat of eviction for those who are housed.
2. For low income New Yorkers, eviction and homelessness destabilizing indignities, a forcible uprooting of families from schools, jobs and communities. The City’s housing crisis is most graphically illustrated by the shocking number of people without homes. More than 102,000 New Yorkers spent time in a homeless shelter at some point in 2007, up 5.8% over 2006.⁶⁶ This number remains high despite increasingly restrictive City policies for entrance to the shelter system and the highly publicized expansion of the City’s homelessness prevention programs.
3. Many poor New Yorkers, in addition to struggling to pay the rent, also must live with deteriorating conditions in their apartments. Studies have found that high numbers of housing code violations are more likely to occur in buildings in poor neighborhoods of the West and South Bronx, Central Brooklyn, northern Manhattan, Jamaica in Queens, Yonkers, Albany, Syracuse, Rochester and Buffalo. Many buildings had external structural defects including defects in walls, windows, stairways and floors. The percentage of building defects was highest in the Bronx (15.8%), followed by Brooklyn (13.6%) and Manhattan (9.2%).⁶⁷
4. This affordable housing crisis is evident on a number of different levels and is documented in various reports. In a September 2004 report,⁶⁸ the (\$6.00 per hour) would have to work 121 hours a week in order to afford the then fair market rental of \$945 a month for a two-bedroom apartment in New York State. Overall, from 37% to 61% of New York State households, county-by-county, cannot afford this fair market rent. Statewide, 86% of households with at least one identified housing need have either a cost burden or a severe cost burden. The data also indicates that 32% of New York households have housing costs which are more than 30% of their income, which is the acceptable standard of affordability.

⁶⁴ Community Service Society. “Unheard Third Survey of Low Income New Yorkers.” (2007): 3. Retrieved September 14, 2009, from http://www.cssny.org/pdfs/UnheardThird_booklet_2007.pdf

⁶⁵ Sewell Chan, “Gentrification as Benign Ethnic Cleansing,” *The New York Times*, City Room, November 7, 2007. <http://cityroom.blogs.nytimes.com/2007/11/07/gentrification-as-benign-ethnic-cleansing/>

⁶⁶ Coalition for the Homeless. “State of the Homeless 2008.” (2008): 6. <http://www.coalitionforthehomeless.org/FileLib/PDFs/stateofthehomeless2008-report-3-27-2008%5B1%5D.pdf>

⁶⁷ City-Wide Task Force on Housing Court. “Residential Housing Court Statistics.” Office of Court Administration Activity Report (2008). <http://www.cwtfhc.org/materials.html>

⁶⁸ Vargas-Ramos, C. (2005). *The State of Housing for Hispanics in the United States A 2005 Policy Brief for the New York State Assembly Puerto Rican/Hispanic Taskforce*. Albany, NY: New York State Assembly Puerto Rican/Hispanic Taskforce.

Ten Community Districts with the Highest Rates of Foreclosure Filings in 2008

	CD	RATE
1	Bedford Stuyvesant	55.2
2	Brownsville	53.4
3	East New York/Starrett City	52.9
4	Bushwick	52.6
5	Jamaica/Hollis	49.5
6	Highbridge/Concourse	48.3
7	Belmont/East Tremont	38.9
8	Fordham/University Heights	38.2
9	Crown Heights	36.7
10	Rockaway/Broad Channel	36.4

NOTE: RATES ARE CALCULATED AS THE NUMBER OF FORECLOSURE FILINGS PER 1,000 1 - 4 FAMILY PROPERTIES

5. In this past years economic meltdown, these “normal” housing pressures have become particularly oppressive. The “easy money” predatory lending practices that have destabilized the world’s economies have caused foreclosure rates to skyrocket; and multi-family landlords, prodded by the demands of “predatory equity” lenders, have commenced thousands of meritless eviction proceedings in the hopes of evicting tenants, deregulating their apartments and increasing profits. Once again, the “market” has put unbearable pressure on low income families.

6. The mortgage foreclosure storm has fallen with a special ferocity on Black and Latino homeowners.⁶⁹ Defaults occur three times as often in mostly minority census tracts. Eighty-five percent⁷⁰ of the worst hit neighborhoods –where the default rate is double the regional average – have a majority of Black and Latino homeowners. The hardest hit is the Black middle class. In New York City for example, Black households making more than \$68,000⁷¹ a year are almost five times as likely to hold high interest subprime mortgages as are European Americans.

7. The Furman Center for Real Estate and Urban Policy (2009) found that foreclosure activity was relatively stable (and relatively low) in the first years of the 2000s. But in 2006, as the subprime mortgage crisis was beginning to unfold, we saw a sizable increase in the number of foreclosure filings, which reached approximately 15,000 in both 2007 and 2008. In the first quarter of 2009, there were approximately 3,800 foreclosure filings citywide.
8. Beyond the foreclosure crisis that has had caustic effects on communities of color, affordable housing stock for low income persons is at a near-crisis level. As of the end of 2007, 30% of New York City’s 119,061 subsidized housing apartments had been lost since 1990 and another 19% face a real threat of subsidy loss.⁷² The Community Service Society reports that the loss of subsidized housing is due to physical deterioration of part of the stock and partly due to the opportunities for owners to receive higher profits in the unsubsidized market. Low-income and moderate wage earners will find a greater scarcity of housing as each year passes and more and more owners abandon a partnership with subsidy programs.
9. The need for mixed income housing is abundantly clear, a recent study (Furman Center for Real Estate and Urban, 2008) found study looks also at the performance of NYCHA youth at the high school level, and finds a similar but somewhat smaller gap: 53% of NYCHA students taking the Math Regents pass the exam, compared to 60% of other students. Similarly, about 70% of NYCHA students taking the English Regents pass, while slightly over 75% of other students pass. Finally, the research proves that the neighborhood context matters even within the NYCHA population; NYCHA students living in neighborhoods with concentrated poverty tend to do worse in school than those living in lower-poverty neighborhoods.

⁶⁹ U.S. Department of Housing and Urban Development, *Unequal Burden: Income and Racial Disparities in Subprime Lending in America*, http://www.huduser.org/Publications/pdf/unequal_full.pdf; and Robert B. Avery, Kenneth P. Bevoort, and Glenn B. Canner, *The 2007 HMDA Data*, forthcoming (FEDERAL RESERVE BULLETIN, 2008)

⁷⁰ This report may be found at: <http://www.empirejustice.org/publications/reports/paying-more-for-the-american.html>

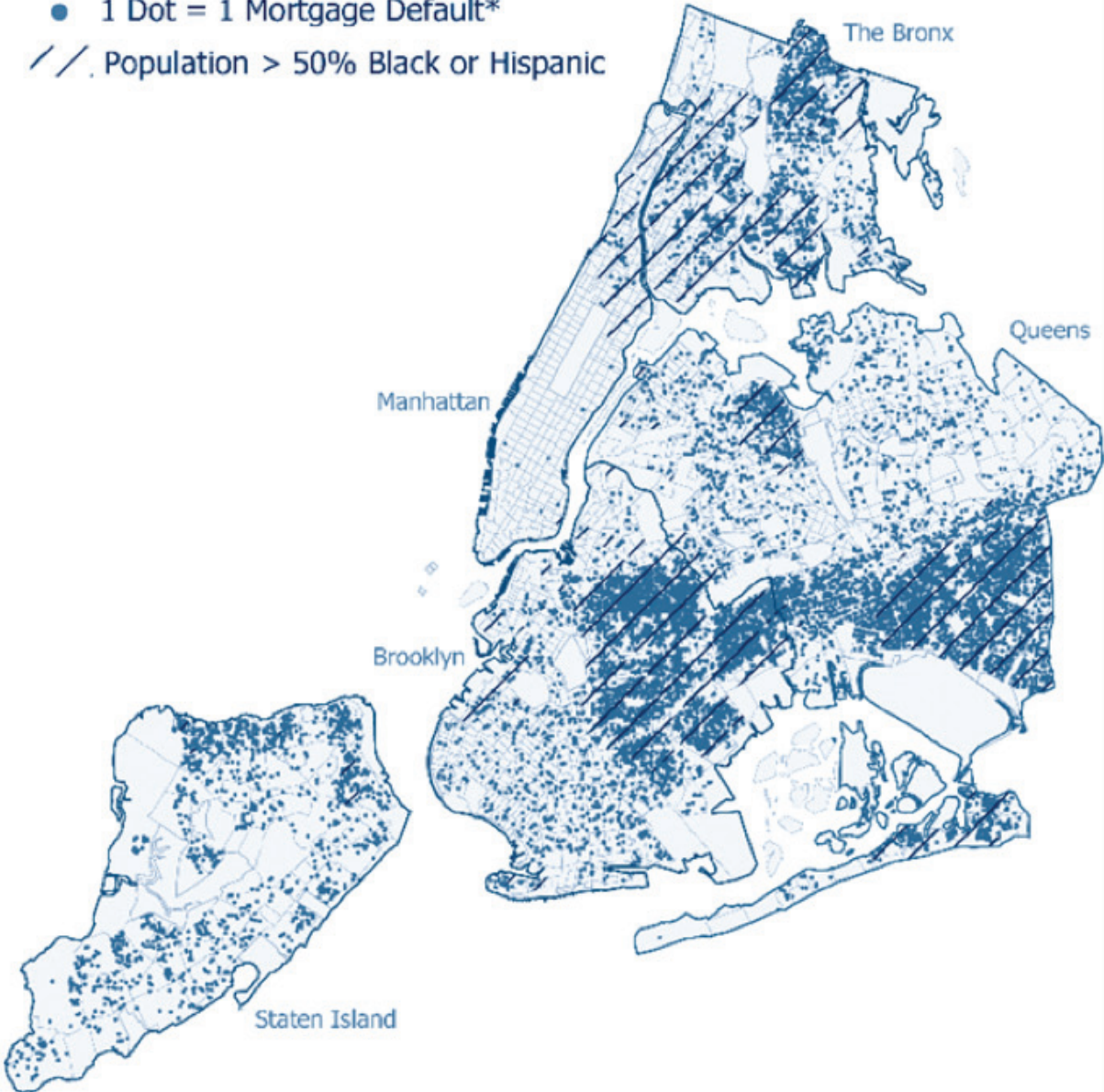
⁷¹ John Leland, *Homeownership Losses Are Greatest Among Minorities, Report Finds*, *New York Times*, May 12, 2009 available at <http://www.nytimes.com/2009/05/13/us/13homeowner.html> (last visited June 07, 2009)

⁷² Tom Waters and Victor Bach, *Closing the Door: Accelerating Losses of New York City Subsidized Housing* (New York: Community Service Society, May 2006), 3. http://www.cssny.org/pdfs/ClosingTheDoor_Brief.pdf. This study analyzed properties financed under the New York City/New York State Mitchell-Lama mortgage programs, as well as properties with certain HUD-financed project-based operating contracts. It did not include properties subsidized through Low Income Housing Tax Credits, properties with HUD-financed project-based Section 202 or Section 811 contracts, properties with Section 8 Moderate Rehab contracts, or non-Mitchell Lama properties with HUD mortgage financing but no project-based operating contract in place. It also excluded institutional Mitchell-Lama developments.

FORECLOSURE PATTERNS - 2007

New York City

- 1 Dot = 1 Mortgage Default*
- /// Population > 50% Black or Hispanic



**13,831 lis pendens of mortgage default filings were filed in New York City 1-4 family homes in 2007.*
Sources: Profiles Publications; U.S. Census (2000)

Things to Consider

Despite the sizeable supply of government-assisted housing in New York City, low income New Yorkers—households with incomes up to twice the Federal Poverty Level—rely heavily on the private rental market.” Most low income tenants live in rental units without the benefit of subsidy or voucher assistance. In the unsubsidized private rental market, only one out of eight low income tenants (12%) received federal Section 8 vouchers, which base rent payments on tenant income. That leaves 600,000 households living in private housing without rent subsidies.

Defaults occur three times as often in mostly minority census tracts as in mostly white ones. Eighty-five percent of the worst-hit neighborhoods — where the default rate is at least double the regional average — have a majority of black and Latino homeowners. In New York City, for example, black households making more than \$68,000 a year are almost five times as likely to hold high-interest subprime mortgages as are whites of similar — or even lower — incomes.

Necessary Steps

- ▶ Increase the stock of affordable housing in all communities;
- ▶ Full restoration of the Section 8 and Mitchell-Lama program;
- ▶ End to vacancy decontrol;
- ▶ Increase mixed-income housing;
- ▶ End predatory lending and other unscrupulous lending practices;
- ▶ Ensure adequate repair and maintenance of all dwellings;
- ▶ Protection from redlining by banks
- ▶ Protection from housing discrimination

CAUCUS POLICY RESPONSES

- Support- Rent Regulation / Repeal Vacancy Decontrol (A.2005 /S.2237) (Rent regulation is the most effective means of preserving affordable housing. Under vacancy decontrol, however, more than 300,000 rent-stabilized units have been removed from regulation—in some cases by landlords withholding services, inflating or falsifying renovation costs, and harassing tenants to vacate units. Participants called for repeal of vacancy decontrol as a critical way to protect the state’s precious supply of affordable housing);
- Creation of the middle class circuit breaker tax credit;
- Enactment of the foreclosure diversion act of 2009 (S.4109B/ A 8236-A);
- Increased housing subsidies to assist seniors, veterans, and indigent person;
- The state should examine new high speed rail models that will help reduce overcrowding and the high population density in New York City. These factors create a high demand for housing that leads to increased housing costs. This high speed rail model should connect rural counties nearest to New York City and to other urban centers in the state;

- The State of New York continues to play an important role in regulating and supporting the operation of public housing. Currently, over 18,000 units of state-regulated public housing are operated by 30 public housing authorities. In New York City alone, state-supervised public housing developments provide housing to over 30,000 people. These developments, which play an important role in the state's efforts to provide affordable housing, desperately need additional assistance in order to make long overdue capital improvements. However, due to the inadequate levels of federal funding and funding provided through the State's Public Housing Modernization program over the last decade, many essential improvements and repairs continue to languish. Increased funding for modernization remains one of the Caucus top priorities;
- Launch a fully funded "NYS Low and Moderate Income Housing Program" (similar to NYC's \$ 7.5 billion program) to produce 200,000 units of renovated and new, affordable housing in minority and working class neighborhoods, especially older urban areas in Buffalo, Syracuse and Rochester, in collaboration with local and federal government, and private and non-profit sectors;
- Establish an early warning homelessness prevention system through the creation of community-based prevention programs, especially in high-risk neighborhoods;
- Identify and provide housing options for formerly incarcerated persons, and for those aging out of foster care;
- Provide legal assistance to individuals and households with housing problems through the coordinated efforts of anti-eviction and Legal Service Providers, Government, and Community-Based Prevention Programs;
- Increase funding and access to emergency cash assistance and emergency grants to families facing a housing crisis
- Redistribution of educational funding sources from localities to the state and federal governments would disencumber local governments from growing education costs financed largely by real estate/property taxes, providing relief for homeowners, particularly in poorer districts;
- Restoration and preservation of Section 8 program;
- Implement a moratorium through 2010 on the buyout of Mitchell Lama apartments—(preserve state and locally-subsidized units with expiring use restrictions through a refinancing program, increasing the money for capital improvements in exchange for continued affordability, and/or allowing conversion to cooperatives with sales prices affordable to current tenants);
- Improve the SCRIE program (which provides rent exemptions to senior citizens in rent-stabilized apartments) by providing a tax credit incentive to stimulate landlord participation;
- Protect tenants against landlord abuse by increasing harassment penalties and making harassment of Section 8 tenants unlawful;
- Require landlords to provide written notice to DHCR and tenants when they intend to modernize apartments, as well as require DHCR to review and audit these improvements;
- Prohibit the sale of tenant "blacklists;"
- Create a new public-purpose entity to expedite development of public land, retain long-term ownership to ensure permanent affordability, and allow use of tax-exempt or municipal private bond capacity beyond the annual Volume Cap allocation;

- Expand tenant protections by limiting an owner's ability to take possession of units for their personal use;
- In many jurisdictions the market housing costs may be too high for many individuals released from correctional facilities given the preponderance of poor work histories, low educational achievement, and few marketable job skills in this population. Subsidized housing, available through a variety of publicly funded, project-based or voucher-based programs, when available, may be a viable, affordable option;
- New York State Public Housing Authorities must have adequate funds for repair and maintenance projects to maintain an appropriate and adequate standard of living
- Launch and adequately fund comprehensive reentry programs for formerly incarcerated persons. Equipped with temporary housing and vocational training.

IMMIGRATION

Immigrant communities, both historically and currently, are an important part of the New York State heritage. There is a need for fair and just immigration policies that address the needs of all New Yorkers.

The Problem

1. At this time of economic crisis, the state has a historic opportunity to set the standard for responsible government and work in partnership with immigrant communities. Immigrants are workers, consumers, business owners and taxpayers, and are part of the solution in creating a better, fairer, stronger New York.
2. According to the Federation for American Immigration Reform the population of undocumented immigrants was 645,000 in 2006. They estimate that in 2009, the population increased by 55% to over one million people, placing New York in the number 2 spot, behind California for the greatest concentration of undocumented immigrants in the nation. States across America have grappled with the lack of an effective national policy and the costs to the respective states – in terms of education, health care and incarceration.
3. Language barriers further exacerbate these problems: a recent study of immigrants in New York City found limited English proficiency to be closely related to low earnings, poverty and hardship. In New York City, 59% of limited English proficient residents live below 200% of the FPL,⁷³ and 34% have incomes below 100% of FPL. A recent study found that the need for public benefits was more closely associated with limited English proficiency than either legal status or period of arrival to the United States; for example, the study found that 50% of families in New York City with adults who spoke no English at all were food insecure.⁷⁴ In addition to language barriers, culture and a lack of familiarity and trust can create additional barriers for immigrants seeking assistance.
4. According to the Empire State Poll (2006) of a representative group of New Yorkers by the Survey Research Institute (SRI) in Cornell's School of Industrial and Labor Relations reveals these opinions: About 72 percent of all state residents say that entering the United States without valid immigration documents should be made a criminal offense; two-thirds of the state's residents strongly support border controls; 45 percent think the number of immigrants in New York should remain the same; and 45 percent want the number to decrease. At the same time, 87 percent support a guest worker program that allows foreigners to work in the United States for a limited time. And 70 percent support "giving amnesty to persons already in the United States so that they can stay here and work."⁷⁵
5. The Caucus is committed to advocating for a fair and just immigration policy in Washington, D.C. We believe that our borders should be secure and that foreigners seeking legal presence in the United States be admitted in an orderly and lawful manner. At the same time, there is an ocean of people here illegally, with children born here in New York and who are now American citizens. To separate the parents from the children would be an unworkable policy.

⁷³ Fix, Michael, and Randolph Capps. "Immigrant Well-Being in New York and Los Angeles." Immigrant Families and Workers: Facts and Perspectives Policy Brief Number 1. (August 2002). www.urban.org/url.cfm?ID=310566 (accessed August 10, 2008).

⁷⁴ Fix, Michael, and Randolph Capps. "Immigrant Well-Being in New York and Los Angeles." Immigrant Families and Workers: Facts and Perspectives Policy Brief Number 1. (August 2002). www.urban.org/url.cfm?ID=310566 (accessed August 10, 2008). Urban Institute, and Immigration Studies Program. "Immigrant Families and Workers, Trends in Naturalization." (September 2003). http://www.urban.org/UploadedPDF/310847_trends_in_naturalization.pdf

⁷⁵ Myers, L. (2006). Most New Yorkers want to restrict immigration, Cornell's Empire State Poll shows. Cornell University Chronicle Online

6. In a study of the 2002 Current Population Survey, there were 1.1 million immigrants in New York State who were eligible to naturalize. While 90% of immigrants view citizenship as something “necessary and practical” or “a dream come true,” significant barriers prevent low income immigrants from naturalizing.⁷⁶ Many immigrants do not know when they become eligible to apply for citizenship, and others are deterred by complicated forms and procedures.⁷⁷ Nationally, 60% of immigrants eligible to naturalize are limited English proficient and there is a shortage of programs that can assist individuals with learning English.⁷⁸ Moreover, many low income immigrants cannot afford the fees associated with the assistance of a competent attorney or even the expensive naturalization filing fees, which have increased significantly in recent years.
7. New York State has been transformed by high levels of immigration over the last 25 years. Nearly two-thirds of New York City’s population and one-third of the State’s population are made up of immigrants and their children. Furthermore, the ratio of immigrants to native-born New Yorkers is projected to continue increasing throughout the first decade of the 21st Century. Consequently, the very future of New York depends on how well our newest New Yorkers are able to integrate socially and economically into our society.

Things to Consider

Although naturalization may seem to be an easy process for many immigrants who qualify, the process can be deceptively difficult, and the submission of inconsistent information or otherwise defective paperwork during the application process can result in deportation. When family members are deported, those who remain often lose spouses, parents and wage earners and can quickly spiral into poverty.

Necessary Steps

- ▶ Creation of a responsible 21st-century immigration policies so all New Yorkers can leverage their strength, commitment to hard work, and entrepreneurial spirit;
- ▶ Language access issues create significant barriers to justice and services for low income immigrants;

CAUCUS POLICY RESPONSES

- **Support ESL as a major workforce development strategy for immigrant workers**
Immigrants recognize that learning to speak English is the single most important thing they can do to succeed, economically, in New York.
- **Establish a “Welcome to New York” initiative for new immigrants.**
Provide funding to community-based organizations to provide beginner English/civics classes, assistance with immigration requirements, job referrals and other services needed to assist newcomers to integrate successfully.

⁷⁶ Chenoweth, Jeff, and Laura Burdick. “A More Perfect Union: A National Citizenship Plan.” (January 2007). <http://www.cliniclegal.org/DNP/citiz-plan07/final-complete.pdf> Urban Institute, and Immigration Studies Program. “Immigrant Families and Workers, Trends in Naturalization.” (September 2003). http://www.urban.org/UploadedPDF/310847_trends_in_naturalization.pdf

⁷⁷ Urban Institute, and Immigration Studies Program. “Immigrant Families and Workers, Trends in Naturalization.” (September 2003). http://www.urban.org/UploadedPDF/310847_trends_in_naturalization.pdf

⁷⁸ Urban Institute, and Immigration Studies Program. “Immigrant Families and Workers, Trends in Naturalization.” (September 2003). http://www.urban.org/UploadedPDF/310847_trends_in_naturalization.pdf

- **Support Vital Programs for Low-Wage Workers**

Immigrant workers constitute half of the city's workforce, but they face some of the harshest working conditions, toil extremely long hours, and are concentrated in low-wage jobs where employers often fail to pay workers the minimum wage or to pay them at all.

- **Improve Educational Outcomes for Immigrant & ELL Students.**

Over half of New York City children come from immigrant families and more than half of New York City school parents are not native English speakers. There are nearly 150,000 English Language Learner students (ELLs) in New York City, representing 14% of the total student population. Barely a quarter of ELL students graduate within four years. More than half (50.5%) of ELLs in New York City never earn a diploma

- **Assure Immigrants Access to Health Care: Uphold the Law and Preserve the Safety Net**

Access to health care is a critical issue for all New Yorkers. Noncitizens are 3.5 times more likely than citizens to lack insurance and are less likely to seek medical care, including emergency care. Many are afraid to access government services and programs, and lack clear information about their rights or the safety of using health care and insurance programs.

- **Promote affordable housing and access to housing services immigrants have reversed the tide of decline and abandonment in many New York neighborhoods. Without immigrants, the state would face population decline, housing abandonment, and a far harsher economic climate. The Caucus urges the state to help build and maintain affordable housing in high immigrant populated communities and to shape its responses to the current economic crisis in a way that creates permanent affordable housing for all low- and moderate-income New Yorkers.**

- **Increase state aid to Legal Services for Immigrants;**

- **Support - Farm Workers Fair Labor Practices Act (A.1867/S.2247)**

(Farm workers perform necessary, arduous labor and are entitled to the same workplace protections as other workers. This act would provide protection under the workers' comp, unemployment compensation, state disability, wage and hour and public health laws. It would grant collective bargaining rights, require sanitary compliance at farm and food processing labor camps, mandate reporting of injuries, and guarantee at least 24 consecutive hours of rest each week and 8 hour work days plus overtime rates.)

- **Support- Better Schools Act (reforming mayoral control) (A.8478/S.5576).**

(Albany should amend the law governing mayoral control of New York City public schools to (1) improve check and balances over school budgets, policies, and large procurement contracts; (2) ensure meaningful structures for parent leadership and participation; and (3) establish transparency structures of the DOE)

ENVIRONMENTAL JUSTICE/ENERGY

Pollution in urban areas, communities typically populated with people of color, creates risk for its inhabitants.

The Problem

1. We have now entered a new era defined by sophisticated and well-financed support and opposition to environmental protection, both sides embracing “green” rhetoric. This is a critical time to reinvigorate the state’s heritage of environmental leadership, especially in relation to urban decay. Urban poverty is very strongly associated with high levels of environmental risk – largely because of poor quality and overcrowded housing and the inadequacies in provision for water, sanitation, drainage, health care and garbage collection. The very large health burdens that arise from these risks are also a major cause or contributor to poverty. The visual image of many low-income settlements with their poor quality housing, open drains and uncollected garbage suggests a ‘degraded’ living environment.
2. Urban poverty should not be associated with environmental degradation in the sense of overuse of, or damage to, finite natural resource bases or the generation of ecologically damaging or disrupting wastes. It is the consumption patterns of non-poor groups (especially high-income groups) and the largely urban-based production and distribution systems that serve them that are responsible for much of the environmental degradation. Approximately 1.3 million adults and 370,000 children in New York State suffer from asthma.⁷⁹ Among New York’s counties, the Bronx, including the neighborhood of Hunts Point-Mott Haven, has the highest rates of adult and child hospitalizations for asthma – approximately three times the statewide rate. The Bronx also has the highest rate of emergency department visits and deaths due to asthma. Asthma hospitalizations in New York State cost approximately \$502 million annually.
3. There are often conflicts between proponents of the ‘Green Agenda’ and the ‘Brown Agenda’ over which environmental problems should receive priority. The Green Agenda concentrates on reducing the impact of urban-based production, consumption and waste generation on natural resources and ecosystems and, ultimately, on the world’s life support systems. The Brown Agenda emphasizes the need to reduce the environmental threats to health that arise from poor sanitary conditions, crowding, inadequate water provision, hazardous air and water pollution, and local accumulations of solid waste. Generally, the Brown Agenda is more pressing in poor cities and the Green Agenda is more pressing in affluent cities. However, the two agendas need not be mutually exclusive. Both agendas should include the plight of the poor and disadvantaged that are that are often relegated to communities that experience higher degrees of neglect, and environmental decay. There are practical steps that can be taken to reduce children’s exposure to dangerous toxic exhausts and waste, much of which are connected to the production sector.
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⁷⁹ Press Release: Governor Paterson, (2008). IN ONE OF NEW YORK’S ASTHMA HOT SPOTS, THE BRONX: GOVERNOR PATERSON ANNOUNCES ENFORCEMENT INITIATIVE TO CURB HEALTH IMPACTS ASSOCIATED WITH HEAVY TRUCK EMISSIONS. Accessed October 1, 2009. Press Release. Online at http://www.state.ny.us/governor/press/press_1125081.html

Things to Consider

More needs to be done. Reform of our Brownfield's cleanup program, development of a state and federal comprehensive energy plan – one that is both environmentally just and economically sound, Increased investments in the transportation system(s) and infrastructure. Strong leadership in these areas will result in a cleaner environment and a healthier, more robust economy.

Necessary Steps

- ▶ Improvements in provisions for water and sanitation.
- ▶ Less crowded and better quality housing.
- ▶ Improved provisions for storm and surface water drainage.
- ▶ Avoidance of hazardous land sites for settlements.
- ▶ “more green” and affordable public transportation systems.
- ▶ Parity in access to recycling programs.
- ▶ Regulation of power plants that cause undue harm to the health of many communities.
- ▶ Incentives for development of urban gardens, and fresh food co-ops.
- ▶ Further tax incentives for home and small business weatherization projects.

CAUCUS POLICY RESPONSES

- State-wide effort to reduce carbon emissions and fight climate change. The danger posed by climate change to New York State's natural resources and economy is growing each year;
- Improvements in provisions for water and sanitation;
- Ensure adequate environmental conservation funding. Economic uncertainty, makes it ever more critical to protect vital sources of funding for environmental conservation programs;
- Promote a smart growth development strategy: Smart growth strategies create the policy environment necessary for sustainable physical and economic development. The state has a clear role in supporting intelligent growth strategies for communities throughout New York;
- Reduce energy consumption and encourage clean energy production. Addressing climate change requires a clear energy strategy that will encourage the development and use of clean energy sources while promoting energy efficiency;
- Support environmental justice. Far too many of our communities are overburdened by polluting industries and other inappropriate uses. We must work toward an equitable distribution of environmental burdens;
- Create an environmentally sound transportation policy. Transportation policy is a critical component of any agenda for a sustainable and environmentally friendly future. New York State must invest in its mass transit infrastructure and promote clean transportation systems;

- Increase recycling and develop sustainable solid waste management policies. The tremendous amount of solid waste produced in New York state poses a series of difficult problems for our environment. We must begin to address them through increased recycling, waste reduction, and a fresh perspective on new waste disposal technologies.
- Further regulation of sites within cities that may be hazardous. Settlements are often well suited to parks or wildlife reserves and may also be well suited to helping in flood protection but not suitable for development as living quarters;
- Increase in availability and access to public transportation and alternative forms of transportation—Transit-friendly, walk able communities reduce reliance on motor vehicles and promote higher levels of physical activity;
- With the passage of the Pesticide Neighbor Notification Law in 2000, advance notice of pesticide use in New York's schools and day care centers must now be provided to parents and teachers. Counties can also adopt local laws requiring commercial pesticide applicators to notify neighbors before spraying pesticides on trees and lawns;
- As many as 30,000 children, 80 to 90 percent of which are children of color, are estimated to have blood lead levels exceeding federal and city standards.⁸⁰ Lead particles ingested by the human body cause severe damage to the brain and central nervous system. Severely elevated blood lead levels can cause coma, convulsions, kidney damage, and even death. All levels of lead toxicity cause some brain damage and reduced IQ—and produce altered behavior such as attention deficit disorders, learning disabilities, and other cognitive and behavioral disturbances. These deficits in intellectual performance are considered irreversible. Consequently, this environmental disease has significant adverse socio-economic impacts;
- Further regulation of power plant location and emissions;
- Open schoolyards as playgrounds in every neighborhood;
- Further tax incentives for weatherization of homes and small business;
- Development and implementation of Commission on Clean Water to address, sewage treatment, drinking water quality, wastewater infrastructure funding, storm water infrastructure, availability of adequate supplies of fresh water and beach closings, particularly in the states urban centers;
- Total prohibition of idling by vehicles outside school and child care facilities though enforcement of no idling rules by administrators during school arrival and dismissal periods. Diesel fuel exhausts have been documented by health experts and the federal government to pose serious health risks, especially to children. From Buffalo to Long Island this is a real problem with harmful consequences for our children. Each school day, over two million children board over 50,000 diesel-powered school buses and are exposed to lung-irritating chemicals. For many children this exposure triggers asthma attacks. For others this exposure will lead to respiratory problems

⁸⁰This report focuses primarily on the number of children with low to moderate levels of lead poisoning at or above 10 µg/dL. (See Maps I and 2; Graphs 1, 2 and 4; and Tables I, 2, 3, 4A and 4B.) Even at these levels, lead poisoning causes cognitive and developmental damage. S.Grosse et al., "Economic Gains Resulting from the Reduction in Children's Exposure to Lead in the United States," *Environmental Health Perspectives*, Vol. 110, No. 6 (June 2002). NYPIRG also obtained NYCDOH data pertaining to the number of children with a higher level of lead poisoning, usually at or above 20 µg/dL. Some of these data are also presented

JUDICIAL DIVERSITY

Gender and racial diversity within the state judiciary has failed to increase as the number of women lawyers and lawyers of color has increased. Systemic changes in the judicial appointment process must occur to insure better representation of women and people of color.

The Problem

1. Judge Bruce Wright, a famously outspoken New York City trial judge, once criticized “black judges in skin color only” who “fail to understand that if there is no difference between White and Black judges, there is no need to emphasize the paucity of Black judges.”⁸¹ Those who defend race-conscious selection of judges must confront two questions embedded within Judge Wright’s question: Do black judges adjudicate cases differently than white judges? And, if not, why should we care about the race of judges?
2. Judge Wright’s question is a critical one. Does race matter? There are important structural divisions, including race, that coincide with our philosophical differences. Over the past 20 years (from 1986 to 2006) the law school population have been steadily growing more diverse.⁸² This pipeline of diverse new talent presents a real opportunity for state courts to increase the gender and racial diversity of its judges over the coming years. However, improvements in the appointment process are necessary to avoid missing this opportunity, since diversifying the bench requires more than just the mere existence of more female and minority attorneys; it requires an intentional and systematic approach to ensure that this diversity is reflected on the bench, including leadership by governors, chief justices and other high ranking officials who can set the proper inclusive tone.
3. In New York, all of the selection systems used for courts of all levels fail to achieve adequate diversity. At the Supreme Court level, we have elections in name, and appointments in practice. When county party leaders care about diversity, they ensure judicial diversity in their county, although current levels even in New York City still do not reflect the diversity of the population. When diversity is not a priority for the county leader, people of color cannot reach the Supreme Court bench. The story is similar at the appellate level: Under current appointive systems—de facto or de jure—levels of diversity are only as high as the appointer allows.

⁸¹ BRUCE WRIGHT, BLACK ROBES, WHITE JUSTICE 65 (1987).

⁸² Torres-Spelliscy, C., Chase, M., & Greenman, E. (2009). Improving Judicial Diversity. Brennan Center for Justice at NYU School of Law

CAUCUS POLICY RESPONSES

- Judicial screening committees need more serious attention if they are to promote diversity on the bench. The selection of Committee members must be transparent and open to public comment.
- Increase strategic recruitment. Ensure a diverse applicant pool is making sure that an open judicial seat is widely advertised and that all qualified candidates are welcomed to apply.
- Commissions should have clear parameters of when and how diversity can come into play. Such clarity can be laid out in a statute.
- Ensure that the application and interviewing process are transparent
- Increase judicial salaries to assure that they attracting the best lawyers and lure diverse candidates out of law firms and onto the bench.

