

From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
Sent: Saturday, March 26, 2022 12:33 PM

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Subject: **NYS BUDGET: Challenge to the constitutionality & lawfulness of the
FY2022-23 NYS budget, the fraud of "ethics reform" -- & the 2022 elections**

Attachments: [oral-testimony-jan-25-2022-corrected-as-read.pdf](#);
[written testimony-for-jan-25-2021-public-protection-budget-hearing-corrected.pdf](#)

[TO: Albany-NYS Legislative Correspondents Association Reporters](#)

MISSING from ALL your reporting about the policy-laden FY2022-23 NYS budget, now being negotiated, as a package deal, behind-closed-doors, by Governor Hochul, Temporary Senate President Stewart-Cousins, and Assembly Speaker Heastie, is that ALL this violates express requirements of the NYS Constitution (Article VII, §2-7, Article III, §10), statutes, and the Legislature's *own* rules – which mandate an open, transparent budget process: a budget from the Governor based on numbers, with policy only as relates to taxes and revenues – followed, after hearings, by Senate and Assembly emendations of the Governor's budget bills by reductions and eliminations of appropriations, with the two houses then reconciling their differing so-amended bills so that each reconciled bill becomes "law immediately without further action by the governor", as a rolling budget – the only exception being the Legislative/Judiciary budget bill (Article VII, §4).

Below is my yesterday's e-mail about the unconstitutionality, unlawfulness, fraud, and larceny of the FY2022-23 budget, addressed to the 25 legislators present for my testimony at the January 25, 2022 "public protection" budget hearing – most of whom are also members of the 15-member "Public

Protection/Criminal Justice/Judiciary” Budget Conference Subcommittee and some of whom are also among the Legislature’s 15 stipend-receiving “leaders” and among the 14 members of the General Budget Conference Committee.

The cc’s to the e-mail bring the total number of legislative recipients to 41 – including those highest in power and in the stipends they receive: Temporary Senate President Stewart-Cousins, Assembly Speaker Heastie, Senate Minority Leader Ortt, Assembly Minority Leader Barclay. The e-mail’s direct recipients include the chairs and ranking members of the Senate Finance Committee and Assembly Ways and Means Committee – Krueger, O’Mara, Weinstein, and Ra, each present for my January 25, 2022 testimony – and requested by my e-mail to furnish my testimony and such findings of fact and conclusions of law as were made with respect thereto to ALL 213 legislators for discussion, IMMEDIATELY, at the Legislature’s majority and minority party conferences, which they hold, behind-closed-doors, in violation of Article III, §10.

Starting with these 41 legislators – most, if not all, of whom are running for re-election or higher office – will you ask them the straight-forward question my e-mail asks “What findings of fact & conclusions of law did you make regarding my testimony at the Jan 25, 2022 ‘public protection’ budget hearing?” Do you not agree that this is what the public MOST needs to know about what is happening now, with the budget, with “ethics reform” – and about the fitness of these legislators for public service?

As always, I am available to assist you, to the max, so that the People of the State of New York – and its voters – can know how they have been betrayed by their public officers, including by their statutorily-violative, fraudulent, and unconstitutional pay raises, whose cost to taxpayers, since April 1, 2012, is approaching three quarters of a billion dollars.

I invite you to call me, with any questions – and have created, for your convenience, an EVIDENTIARY webpage for my below e-mail, [here](#).

Thank you.

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From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>

Sent: Friday, March 25, 2022 5:05 PM

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'vanelc@nyassembly.gov' <vanelc@nyassembly.gov>; 'gibbse@nyassembly.gov'
<gibbse@nyassembly.gov>; 'scousins@nysenate.gov' <scousins@nysenate.gov>;
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Subject: NYS BUDGET: What findings of fact & conclusions of law did you make regarding my testimony at the Jan 25, 2022 "public protection" budget hearing?

TO: The 25 Legislators present for my testimony at the Legislature's January 25, 2022 "Public Protection" Budget Hearing

Senate Finance Committee Chair Krueger
Senate Finance Committee Ranking Member O'Mara
Assembly Ways and Means Committee Chair Weinstein
Assembly Ways and Means Committee Ranking Member Ra
Senate Committee on Budget and Revenues Chair Gounardes
Senate Judiciary Committee Chair Hoylman
Assembly Judiciary Committee Chair Lavine
Senate Codes Committee Chair Bailey
Assembly Codes Committee Chair Dinowitz
Assembly Codes Committee Ranking Member Morinello
Senate Crime Victims, Crime and Correction Chair Salazar
Senate Consumer Protection Chair Thomas
Senator Finance Committee Members Gallivan and Serino
Assembly Governmental Operations Committee Chair Zebrowski
Assembly Governmental Operations Committee Ranking Member Lawler
Assembly Correction Committee Chair Weprin
Assistant Assembly Majority Leader Hyndman
Assistant Assembly Minority Leader Palmesano
Assembly Members Burdick, Abinanti, Walczyk, Epstein, Tannousis, & Reilly

You were each present for my three-minute oral testimony, which I read, at [the Legislature's January 25, 2022 "public protection" budget hearing](#) (& [here](#)) – and which followed my more particularized written

testimony, submitted, as required, by January 22nd. None of you questioned me about my testimony – and I was, perhaps, the only witness to testify who was not asked a single question. Nor did I hear from you or any other legislators or staff in the two months since.

Ten of you, additionally, are among the 15 members of the Budget Conference Subcommittee on “Public Protection/Criminal Justice/Judiciary”, whose co-chairs are Senator Bailey and Assemblyman Dinowitz – and whose other five members include Senate Committee on Ethics and Internal Governance Chair Biaggi and Ranking Member Palumbo.

What were your findings of fact and conclusions of law with respect to my testimony, reiterating what I have demonstrated to you, for years, including by two citizen-taxpayer actions and by a mountain of criminal and ethics complaints, namely, that the state budget is “OFF THE CONSTITUTIONAL RAILS” and rife with constitutional, statutory, and legislative rule violations in its grand larceny of vast amounts of taxpayer monies which you obscure by frauds and by inserting non-revenue policy into the budget, which is not only unconstitutional, but distracts attention from the numbers.

Over all these years, you have never denied or disputed the accuracy of what I have presented – and yet you continue to flagrantly violate unambiguous, black-letter law and your duties. This includes with respect to the three “false-instrument” commission/committee reports by which you have stolen, and procured through the budget, statutorily-violative, fraudulent, and unconstitutional pay raises, initially for judges and district attorneys, and then for yourselves, the governor, the lieutenant governor, the attorney general, the comptroller, and executive branch commissioners – the cost of which, since April 1, 2012, is **now approaching three quarters of a billion dollars**. This and your other crimes against the People you have gotten away with because you have refused to oversee and rectify the corruption of the Judiciary, the attorney general, and all ethics and criminal authorities.

As I believe that neither the Senate Finance Committee, nor the Assembly Ways and Means Committee, nor the Senate Committee on Budget and Revenues discussed Governor Hochul’s purported FY2022-23 budget bills at committee meetings – nor any other Senate or Assembly Committees –

I assume you discussed my testimony about the fraudulent introduction of the Governor’s “Article VII” legislation as budget bills at the Senate and Assembly majority and minority conferences, which, in violation of Article III, §10 of the New York State Constitution, you hold behind closed doors. If not, I request that you do so, IMMEDIATELY. My testimony is above-attached and linked [here](#) and [here](#). The EVIDENCE substantiating it is posted on CJA’s webpage for the January 25th “public protection” budget hearing, [here](#) – and on CJA’s companion webpage for pertinent FY2023-24 budget documents and proceedings, [here](#).

For purposes of that discussion, I am cc’ing, in addition to the other five members of the “Public Protection/Criminal Justice/Judiciary” Budget Conference Subcommittee, the nine stipend-receiving legislative “leaders” who were not at the January 25th hearing – most importantly, Temporary Senate President Stewart-Cousins and Assembly Speaker Heastie, who, *inter alia*:

- (1) orchestrated meetings of the 70-plus Senate and Assembly committees having NO agenda of discussion and vote on the FY2022-23 budget bills, such as amendments thereto;
- (2) failed to establish a budget conference committee or subcommittees to reconcile the different Senate and Assembly versions of the budget bills,

as amended and voted-upon by their members, so that the amended bills could become “law immediately without further action by the governor”, consistent with New York’s constitutional scheme of a rolling budget, enacted budget bill, by budget bill (Article VII, §4);

- (3) failed to promulgate the schedule required by Legislative Law §53, entitled “Budget review process”, and Legislative Law §54-a, entitled “Scheduling of legislative consideration of budget bills”, reinforced by §1 of Senate-Assembly Joint Rule III of its Permanent Rules, requiring, within 10 days after the governor’s submission of her budget, that they promulgate, either jointly or separately, “a schedule for the specific budget-related actions of each house” – failing even to do so after my [February 16, 2022 FOIL request](#);
- (4) in violation of all legitimate legislative process, allowed eight of Governor Hochul’s so-called budget bills, excepting her [Legislative/Judiciary Budget Bill #S.9001/A.8001](#) and [Debt Services Budget Bill #S.9002/A.8002](#), to be “amended” by staff – *to wit*, by Assembly staff on Saturday, March 12th and by Senate staff on Sunday, March 13th – and in ways proscribed by Article VII, §4;
- (5) concealed the Legislature’s constitutional, statutory, and legislative rule violations pertaining to the FY2022-23 budget by fraudulent and deceitful one-house budget resolutions, publicly released on Sunday, March 13th – for vote, the next day, by legislators – each resolution embodying its own set of the fraudulently “amended” eight budget bills, plus, unamended, the Governor’s Legislative/Judiciary Budget Bill #S.9001/A.8001, retaining all the larcenies to which I alerted you by my testimony, and the unamended Debt Service Bill #S.9002/A.8002;
- (6) convened a 14-member General Budget Conference Committee on March 14th, immediately following party-line passage of the one-house budget resolutions – not reconvened since because it is sham “window-dressing”;
- (7) announced the appointment of ten budget conference subcommittees on March 15th, with meetings that day – the “Public Protection/Criminal Justice/Judiciary” Budget Conference Subcommittee among them – none of which have reconvened since, because they are sham “window-dressing”;
- (8) are now engaged in behind-closed-doors, “three person in a room”, budget deal-making with Governor Hochul – the flagrant unconstitutionality of which is proven by the [ninth cause of action of CJA’s second citizen-taxpayer action](#) and the record thereon. Such record, summarized by my [analysis of the Appellate Division, Third Department’s fraudulent December 27, 2018 “memorandum and order” \(at pp. 27-28\)](#), was furnished to the New York Court of Appeals by my

[March 26, 2019 letter in support of plaintiffs' appeal of right](#) – and its accuracy as to that ninth cause of action and everything else is [uncontested](#).

Temporary Senate President Stewart-Cousins and Assembly Speaker Heastie are, of course, the co-chairs of the General Budget Conference Committee – and its members are herewith cc'd or direct recipients. These include, in addition to stipend-receiving Senate Minority Leader Ortt and Assembly Minority Leader Barclay, Legislative Ethics Commission (LEC) member Lanza, who is also a member of the Senate Committee on Ethics and Internal Governance.

Suffice to highlight that at the single March 15th session of the “Public Protection/Criminal Justice/Judiciary” Budget Conference Subcommittee, it appeared that no amendments are being contemplated to Governor Hochul’s Legislative/Judiciary Budget Bill #S.9001/A.8001 – or, at least, none to the Judiciary portion – and that already approved is \$7,189,000 for the Commission on Judicial Conduct, appropriated by [Governor Hochul’s State Operations Budget Bill #S.9000/A.8000 \(at p. 431\)](#) and left unchanged by the [Senate’s “amended” Budget Bill #S.9000-B \(at p. 496\)](#) and the [Assembly’s “amended” Budget Bill #A.8000-B \(at p. 495\)](#). The 20-minute meeting concluded with Chair Bailey commending “the incredible staff of the New York State Senate”, followed by Chair Dinowitz commending the “really, really incredible staff of the New York State Assembly” and stating “I look forward to us seeing you at the next meeting, whenever that is”.

All 213 legislators are responsible for the state budget – and, mercifully, this an election year and yet another opportunity for you to be held accountable to the voters.

Please confirm that my EVIDENCE-substantiated January 22, 2022 and January 25, 2022 written testimony has been furnished to ALL legislators – and that you are also furnishing them with the findings of fact and conclusions of law that you or the “incredible staff” of the New York State Senate and Assembly have made with respect thereto and, specifically:

- as to my [March 18, 2020 letter](#) – identified and linked by both my January 22, 2022 testimony (at p. 3) and my January 25, 2022 written testimony (fn. 1) – and whose sole enclosure is my August 21, 2013 letter as to how a bill becomes a law in a properly-functioning legislature;
- as to **the corruption of the Commission on Judicial Conduct, as established by its handling of my series of judicial misconduct complaints pertaining to CJA’s second citizen-taxpayer action, the budget, and the “false instrument” judicial pay raises** – most importantly, [my February 7, 2021 judicial misconduct complaint to the Commission](#) – and, based thereon, [my November 24, 2021 complaint to JCOPE against the Commission and its Administrator/Counsel Tembeckjian](#) – to which my January 22 and January 25, 2022 testimony alerted you, including by a substantiating [inventory of my complaints to New York’s “public protection” entities pertaining to the state budget – and the pay raises](#), so that you could readily access all records for verification purposes.

Thank you.

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From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
Sent: Wednesday, January 26, 2022 8:16 AM
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Subject: Jan. 25, 2022 Public Protection Budget Hearing -- (Superseding) Written ORAL 3-minute TESTIMONY, as read -- FOR POSTING & THE RECORD

TO: Senate Finance Committee/Assembly Ways and Means Committee

Attached is my oral (written) testimony, as read by me shortly before 10 pm at yesterday's "public protection" budget hearing – superseding what I sent you, prior to testifying, by my below e-mails.

I note that at the conclusion of yesterday's hearing Senate Finance Chair Krueger announced that testimony might yet be submitted – in other words, overriding the written requirement that it be submitted before 5 pm of the hearing date. It was because of that requirement that I had sent you my (written) oral testimony *before* I testified, which was not until five hours later.

Thank you – and apologies for any inconvenience.

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From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
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Subject: SUPERSEDING -- Jan. 25, 2022 written 3-minute oral testimony -- FOR POSTING & THE RECORD: Public Protection Budget Hearing

TO: Senate Finance Committee/Assembly Ways and Means Committee

This follows up my below e-mail, sent at 4:54 pm,

In view of the non-fiscal, even non-budget, policy questioning of the legislators at this “public protection” budget hearing, I have accordingly modified my written 3-minute oral testimony that I will be reading, as the last witness. Please post & include with the record, as likewise my above-attached corrected January 22nd written testimony that I had sent with the below, which I ask that you replace with what is posted.

Thank you.

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From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
Sent: Tuesday, January 25, 2022 4:54 PM
To: 'Finance Chair' <financechair@nyenate.gov>; 'wamchair@nyassembly.gov.' <wamchair@nyassembly.gov>

Subject: FOR POSTING & THE RECORD: Public Protection Budget Hearing -- (1) written Jan 25, 2022 oral testimony; (2) corrected/superseding Jan. 22, 2022 written testimony

TO: Senate Finance Committee/Assembly Ways and Means Committee

Attached, as required BEFORE 5 pm of this day’s “public protection” budget hearing, is my 3-minute written/oral testimony. Please make part of the record – and post.

Additionally, please replace the January 22, 2022 written testimony that you have posted: <https://www.nysenate.gov/calendar/public-hearings/january-25-2022/joint-legislative-public-hearing-2022-executive-budget-0>, with the above attached, correcting typos and making minor non-substantive adjustments.

Thank you.

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