

## Message from the Public Advocate

October, 2003

Dear Friend:

This is the second annual report I have released as Public Advocate, and I am proud to say that, in the wake of a thirty percent budget cut, my office is doing more with less, making New York City a better place to live, work, raise a family, and grow old. This fiscal year, our ombuds unit helped solve the problems of almost ten thousand people. Their input led to investigations of systemic problems in City government and, ultimately, to reports on issues ranging from hunger to classroom overcrowding to the difficulties faced by New York City women. These reports are our way of keeping of calling on City agencies to address their shortcomings and enact reforms. No matter what actions we take, our goal is always to make life better for all New Yorkers.

Since I took office in 2002, I have identified five main areas on which to focus my attention and resources: hunger, education, housing, child welfare, and women's issues. For each of these, I have developed a multi-faceted approach. In all cases, my ombuds unit is an integral part of the process. These dedicated men and women listen to the complaints, problems, and questions that citizens bring to my office. Not only do they roll up their sleeves and work to provide answers and solutions, they also keep their eyes open for trends that may indicate larger, city-wide issues.

My staff and I then go into communities to talk to people and observe conditions for ourselves. We investigate what's going on in our City's schools and nursing homes. We issue reports, make recommendations, cosponsor legislation. We publish pamphlets and guides that provide much-needed information to parents, seniors, and others. Finally, we hold press conferences and other public events to make sure our message gets out to the people we are here to benefit, the citizens of New York City.

In these pages, you will find information on our accomplishments in the five areas I mentioned above, as well as several others of importance. You will also find stories provided by our ombuds unit, real-life stories of people with problems and what we did to help. These stories are what the Office of the Public Advocate is all about. The surest way to make New York City an even better place to live is to help one person at a time. At the end of the year, we can look back and say that kind of hard work and determination really adds up. I look forward to even greater opportunities and results in the year to come. If you would like additional information, please my website at [www.pubadvocate.nyc.gov](http://www.pubadvocate.nyc.gov).

Betsy Gotbaum, Public Advocate

## **Hunger**

### **Gotbaum Champions Food Stamp Program**

In September 2002, the Public Advocate issued a report titled Stamping Out Hunger, which indicated that, despite the economic downturn, nearly 800,000 eligible New Yorkers were not enrolled for food stamps, a program fully funded by the federal government.

The Public Advocate recommended that the City of New York replace its seventeen-page application form with the two-page form used elsewhere in the state. The State followed the recommendation in February 2003. Since then, participation in the program has increased by 48,660 people.

The Public Advocate also recommended that the City pursue and accept a federal waiver that extends food stamp benefits for single people living in counties with high unemployment rates and that it extend hours at Human Resources Administration (HRA) food stamp offices to make accessing the program more convenient. The City has not yet followed these recommendations. The Office of the Public Advocate continues to receive complaints from applicants turned away from food stamp offices with inadequate hours of operation and continues to demand changes to the City's management of the food stamp program.

### **Feeding Needy Seniors**

In October 2002, the Public Advocate focused on a huge gap in the City's ability to provide food for its neediest seniors. In a report titled "Just Getting By." she recommended that the City conduct and publish an annual assessment of senior needs, improve outreach efforts for available senior services, and create a master plan for senior services. In response to the findings in the report, the City Council Subcommittee on Senior Centers held an oversight hearing. Subcommittee members pledged to support the Public Advocate's recommendations.

### **Fighting Hunger in the Classroom**

In October 2002, the Public Advocate began an ongoing investigation into the participation of New York City schools in the federally-funded school breakfast program. At that time, New York City had the highest percentage (72.3%) of students eligible for free and reduced price breakfasts in the state and the lowest participation rate (17.2%) among eligible students.

In the report Starting the Day Hungry, the Public Advocate recommended, among other measures, that the Department of Education move towards a universal school breakfast program in which every child is eligible for free breakfasts regardless of family income. The DOE has since adopted her recommendation, but due to staff cuts at schools and inadequate support from the DOE, participation is still woefully low in many schools.

The Public Advocate continues to monitor the school breakfast program and plans to make recommendations for improving the system.

### **Gotbaum Spearheads The Food Stamp Access Project**

In February 2003, the Public Advocate brought together United Way of New York City, the City's Human Resources Administration (HRA), the New York State Office of Temporary and Disability Assistance (OTDA), and Vivendi Universal Corporation to launch an innovative anti-hunger initiative. The Food Stamp Access Project enables leading community-based nonprofits to conduct outreach at locations such as neighborhood supermarkets and food pantries, prescreen applicants, and sponsor public awareness campaigns. A lack of outreach and public awareness may contribute to the low rate of food stamp use in New York City.

### **Speaking Out Against Hunger**

In August 2002, the Public Advocate was the keynote speaker at the Miami-Dade Conference on Hunger, a gathering of hunger advocates and elected officials in Miami, FL. Gotbaum was invited to share the recommendations she had made for fighting hunger in New York City. In June 2003, Gotbaum gave a speech at the citywide conference of the New York City Coalition Against Hunger. She emphasized her commitment to stamping out hunger in New York City and the centrality of food stamps to her anti-hunger plan.

## **Education**

### **Advocating for Parents**

Throughout the fiscal year 2002-2003, the Public Advocate acted to make herself the parents' advocate, holding meetings with parents in all boroughs to assess their needs and complaints. In addition, the Office of the Public Advocate surveyed parents to identify the most commonly asked questions about their children's education. The information was used to create the guide *Educators Helping Parents*, which was distributed at the start of 2003-2004 school year. Through the Fund for Public Advocacy, Gotbaum raised money to fund Learning Line, a parent helpline that was launched at the start of 2003-2004 school year.

### **Pushing for Less Crowded Classrooms**

The Public Advocate has put overcrowding at the center of her campaign to improve City schools. Because the key to reducing overcrowding is the construction of new schools, she has kept a watchful eye on the Department of Education's School Construction Authority (SCA). In August 2002 (and again in 2003), she inspected new high schools to ensure that they would be ready to open when the school year began.

In addition, in October 2002, the Public Advocate publicly criticized SCA for canceling seven of ten open meetings that year. She had pledged to attend the monthly board meetings as part of her effort to monitor SCA's activity.

That same month, the Public Advocate issued a report indicating that the City had made minor progress in reducing class size for kindergarten through 3<sup>rd</sup> grade but that virtually no headway had been made in grades 4 through 6. Class size for those grades went down by 0.8% between 1999 and 2001, with an average class size of 24.6 students. The report reinforced her call for more efficient and timely school construction.

In November 2002, the Public Advocate issued a report called "School Overcrowding in New York City: Progress, Problems, Projections," detailing how SCA budget cuts and faulty planning would exacerbate the overcrowding problem in middle and high schools. In the report, she recommended that the Department of Education (DOE) prioritize the most overcrowded areas in building new schools, comprehensively address overcrowding in its Five Year Capital Plan, and begin funded construction without delay.

### **Putting an End to Push-Outs**

In November 2002, the Public Advocate issued a report titled Pushing Out At-Risk Students, which uncovered an alarming trend: school officials encouraging low-performing students to leave regular high school programs even though they are of school age or have a right to receive appropriate literacy, support, and educational services through the public school system. In some schools more students were being discharged than were graduating. It took eight months for the DOE to respond to the Public

Advocate's requests for data, and only in September, 2003, did it admit to the problem and pledge to develop a system for tracking "push-outs."

### **Fighting DOE Secrecy**

The Public Advocate has repeatedly confronted the DOE about its failure to adequately communicate its plans and policies to parents, teachers, advocates, and other government agencies.

In May 2003, she called on Chancellor Klein to justify his use of the untested Voyager reading curriculum, which has been the subject of significant criticism from education experts. The following month, she criticized Chancellor Klein's plan to cut classroom instruction in order to make time for twenty minutes of teacher training a day. Teachers had not received substantive training prior to the school year because the new curriculum was adopted hastily.

In April 2003, the Public Advocate wrote an open letter to Chancellor Klein calling on him to end the DOE's unofficial policy of secrecy. She wrote him a separate letter the same month, requesting information on the DOE's plans for summer school, such as the number of students it is prepared to accept into the program and how many teachers have been recruited.

### **Keeping Students Healthy and Fed**

The Public Advocate's push for a functioning universal breakfast program (see **Hunger**) is one element of her commitment to ensuring that all school children are healthy and well-fed. In addition, in October 2002, she protested cuts to nursing programs in private and parochial schools alongside leaders of the Roman Catholic Diocese of Brooklyn and the Board of Jewish Education of Greater New York. Due to the cuts, nurses were removed from schools with dozens of chronically ill students. "Children attending parochial and private schools have the same health needs as public school children, and have a right to equal care," Gotbaum said.

**Cases Handled: 336**

## **Housing**

### **Protecting Tenants from Negligent Landlords**

In August 2002, the Public Advocate responded to a fire that killed an 8-year-old Bronx boy by demanding that the Department of Housing and Preservation (HPD) aggressively seek to take over the management of buildings from landlords who have been continually cited for breaking the law. The fire was caused by a long-known electrical problem. In the past ten years, four hundred building violations had been issued by the Department of Housing, Preservation, and Development (HPD) to the landlord of the building. HPD had previously petitioned to take over management of the building to make necessary repairs, but the Housing Court judge granted the landlord more time.

Four months later, HPD heeded the Public Advocate's call. It made much-needed emergency repairs and secured a court-appointed manager to take over the building. "This building struggled for two years to get the remedy it needed and it wasn't until Betsy got involved that things began to move," said Sally Dunford, Executive Director of West Bronx Housing and Neighborhood Resource Center. For years, Dunford had been lobbying the city to make this building safe.

### **Defending Rent Control Laws**

In February 2003, the Public Advocate testified before the City Council Housing Committee on the housing crisis that would result from the expiration of rent control laws. "Rent deregulation will drive many working and retired New Yorkers from their homes and from the City," Gotbaum said. She spoke in support of the Council's Resolution 692 urging the State Senate to extend rent regulations and repeal vacancy decontrol. She also endorsed Resolution 691 calling for a repeal of the Urstadt Law, which gives the State control over rent regulations.

### **Gotbaum Joins Tenants, Building Workers to Protest Service Reductions**

In March 2003, the Public Advocate stood with tenants and building service workers representing Local 32BJ (SEIU) to demand that the owner and manager of a dozen apartment buildings in Manhattan and the Bronx restore porter and night watchman services. "For a long time the building service employees have worked hard to serve the tenants of these buildings," she said. "Now the new management company is rewarding them by cutting their pay and benefits...Tenants are losing services at a time when we need buildings to be more secure." In July 2002, Gotbaum cosponsored Intro 239 A, a law requiring new building owners to wait 90 days before releasing employees.

### **Putting an End to the Dysfunctional Scatter Site Program**

Following complaints to the Office of the Public Advocate in January 2003, Gotbaum visited an apartment building in Brooklyn where she witnessed appalling conditions: rodent droppings and trash, a burned-out elevator, no lock on the front door, no working

lights in hallways, no heat or hot water. Next door, the building's landlord was renovating vacant apartments. An investigation revealed that the Department of Homeless Services (DHS) was paying the landlord \$3000 a month, \$2400 above the average rental rate, for each apartment used to house the homeless. The landlord was keeping his paying tenants in squalor with the intention of forcing them out to make room for more homeless people.

The Public Advocate informed DHS of the conditions she observed and, in May, issued a report indicating that they were part of a disturbing pattern. Due to her intervention, DHS has pledged to end the dysfunctional scatter site program as soon as possible and, in the meantime, to reform the process of selecting landlords for the program and require remediation of major violations.

**Cases Handled: 1233**

## **Child Welfare**

### **Gotbaum Proposes Policy and Practice to Prevent Child Fatalities, Abuse, and Neglect**

In December 2002, the Public Advocate issued a report titled Families at Risk detailing how procedures and policies within the Administration for Children's Services (ACS) have led to double the national rate of children in foster care, lengthy stays in the system before adoption or safe reunification with parents, and an increase in avoidable child deaths. The report identified fifty-two fatalities among children known to the child welfare system in 2001, twenty-six of them preventable. It called for an expansion of child abuse prevention and family support services; for a more cooperative, less adversarial approach to dealing with families; and for greater resources from the federal government.

Following up on the report, the Public Advocate held a City Council hearing in February 2003, to investigate how to prevent deaths in the child welfare system, reduce abuse and neglect, and improve the casework practices of ACS. "If we are going to stop the rise in deaths and improve the City's child welfare system, the Administration for Children's Services must first admit to the full scale of the problem," Gotbaum said.

### **Protecting Preventive Services from Deep Budget Cuts**

The Public Advocate led the effort to protect preventive services for foster children, which were threatened with a \$7.8 million budget cut and a subsequent loss of \$14.1 million in state matching money. Throughout the spring of 2003, she visited preventive programs, meeting with foster parents and staff. In April and May, she stood with parents and advocates at a series of press conferences and, in May, released Cuts Cost, an analysis of the potential effects of the proposed budget cut. According to the report, the \$22 million loss would have meant the end of preventive services and, as a result, a rise in the number of children in foster care. In the wake of the Public Advocate's campaign, the Bloomberg administration abandoned the budget cut.

**Cases Handled: 2370**

## **Women's Issues**

## **Fighting Violence Against Women**

In response to a 5% spike in rapes in 2002, the Public Advocate unveiled a four-point proposal to fight sexual assault crimes against women. The proposal, announced in July, 2002, included four recommendations: using Compstat crime data to proactively target communities where rape awareness/education is needed; creating a partnership between the Police Department and community-based groups that provide rape and sexual assault services; incorporating sexual assault awareness and prevention education into all high school programs; creating a city-wide public relations campaign similar to campaigns against domestic violence, smoking, and drugs.

## **Expanding Availability of Emergency Contraception**

“Choice is fundamental in ensuring the rights of women and is an important building block for happy, healthy families,” the Public Advocate said at a City Council hearing on emergency contraception in February 2003. Gotbaum spoke in strong support of City Council Intros 278-A and 281-A, resolutions she cosponsored to make emergency contraception available at city-funded hospitals and health clinics and at Department of Health centers and clinics, and Intro 285-A, requiring pharmacies to post signs regarding emergency contraception. All three resolutions passed into law.

In April 2003, the Public Advocate received NARAL Pro-Choice America’s Choice Award for her commitment to defending women’s reproductive rights. In her acceptance speech, Gotbaum said, “I pledge as your Public Advocate to continue to fight for safe, affordable, and accessible health care for all women, and most important—fight for a woman’s right to choose her own destiny.”

## **Battle to Succeed**

In March 2003, at a panel discussion co-sponsored by the Office of the Public Advocate and New York Women’s Agenda, Gotbaum released a report revealing that New York City women are less likely than women in other parts of the country to lead healthy, financially stable lives. The report identified several major barriers to success for New York City women, including low educational attainment, a high percentage of single-mother-headed households, and HIV/AIDS as the leading cause of death among women 25 to 34. Gotbaum has used the report as the basis for her campaign to protect and serve women.

## **Local Business/Workforce Development**

### **Protecting Low-Wage Workers**

In March 2002, the Public Advocate cosponsored Intro 66 A, which ensures that low-wage workers employed by firms seeking certain contracts from the City of New York are paid a living wage and provided health benefits. The law passed.

### **Protecting Service Workers**

In July 2002, in response to the firing of porters and night watchmen at dozens of apartment buildings under new ownership in Manhattan and the Bronx (see **Housing**), the Public Advocate cosponsored Intro 239 A, a law requiring new building owners to wait 90 days before releasing employees. The law, which passed the City Council, protects employees from being fired by new owners and replaced by lower-wage workers.

### **Contracting with Local Businesses**

In June 2003, the Public Advocate released a report identifying how New York City could use its significant purchasing power to award more contracts to local business, thereby increasing local tax generation and job creation. The city spends in excess of \$10 billion—about one quarter of the city’s budget—on the purchase of products and services.

Gotbaum’s report analyzed the Department of Education’s (DOE) procurement policy and practice during 2000, the most recent year for which information is available, and analyzed the Department of Small Business Services’ (DBS) programs for educating and training local vendors on the city’s contracting process. Based on her findings, she recommended expanding DBS education and outreach, streamlining the City’s bureaucratic procurement process, ensuring competition in contracting, and remedying the issue of retroactive contracts. The City Council is currently considering legislation to reform the procurement process, and the Charter Commission has drafted a ballot initiative that takes up some of the Public Advocate’s recommendations.

## **Health Care**

### **Gotbaum Cosponsors Legislation for a Safer New York**

In March 2002, the Public Advocate cosponsored Intro 101, a local law relating to childhood lead poisoning prevention. The law calls for the avoidance and correction of lead-based paint hazards in housing, schools, day care facilities, and playgrounds.

That same month, the Public Advocate cosponsored Intro 86, which would require the placement of automatic external defibrillators in certain public places.

### **Shedding Light on Free Prescription Drug Programs**

In June 2002, the Public Advocate released a report examining the efficacy of Patient Assistance Programs (PAPs) and called on pharmaceutical companies to do more to fulfill their promise to provide poor patients with life-saving medications. The report recommended that pharmaceutical companies increase public awareness of PAPs, which attempt to meet the needs of individuals who do not qualify for Medicaid but earn too little to afford private prescription drug coverage; publicize eligibility requirements; forego burdensome documentation requirements; facilitate speedy access to medication; and ship medication directly to patients.

### **Gotbaum Introduces Safety Preparedness Project**

Responding to citizen concerns about warnings of a possible terrorist attack, the Public launched her year-long Safety Preparedness Project in August 2002. The Preparedness Project's public information campaign is based on a brochure that contains general instructions about disaster preparedness and on an expanding web site that includes the brochure, links to other web locations, and expanded information about particular kinds of threats. Monthly web features have included mental health and disasters, children and disaster preparedness, and disaster preparedness for seniors. The brochure text has been translated into Spanish and made available in print and on the Web.

### **More Funding for HIV/AIDS Services**

In April 2003, the Public Advocate criticized the Department of Health (DOH) for failing to submit necessary documentation on time and thereby causing a \$14 million cut in federal funding for New York City's HIV/AIDS services. Gotbaum said, "The New York City Department of Health's failure to demonstrate severe need for a city with the highest number of AIDS cases in the country and maintain supplemental funding is reprehensible. The City's failure to simply submit required paperwork on time does not only cost money, it costs lives."

## **Banning Ephedra**

In April 2003, the Public Advocate joined Council Member James Oddo and Health Committee Chair Christine Quinn to announce their plan to introduce sweeping legislation banning ephedra, an herbal stimulant used as a dietary aid and energy booster. Ephedra can cause high blood pressure, heart palpitations, psychiatric disturbances, and has been linked to heart attacks, strokes, seizures and eighty-one deaths between 1993 and 2000. The Food and Drug Administration has received nearly 1400 reports of adverse health events resulting from ephedra consumption. In June, the Public Advocate issued a report that provides medical and legal justification for the proposed ban.

## **Cleaning Up Superfund Sites**

In June 2003, the Public Advocate released a report indicating that the rates of problems such as cancer and asthma are significantly higher for those who live near one of City's 38 still-uncleaned toxic Superfund sites than for those who live elsewhere in the City. Godbaum demanded that the State refinance its Superfund program and clean up the sites immediately. In October, Governor Pataki signed legislation to fund the clean-up of the sites.

## **Scrutinizing On-Line Prescription Drugs**

Also in June 2003, the Public Advocate addressed the rising popularity of on-line prescription drugs by releasing a report on their downside. She determined that potentially addictive pharmaceuticals are too easily available over the web and recommended stricter enforcement efforts by the FDA, US Customs, and the DEA; increased public education on the dangers of purchasing prescription drugs on-line; and New York State legislation restricting the dispensing of prescriptions on-line without a face-to-face physician visit.

**Cases Handled: 259**

## **Seniors**

### **Better Services for the Disabled**

In October 2002, the Public Advocate, joined by elected officials and advocates of the disabled, released a series of recommendations to the Metropolitan Transit Authority (MTA) for improving Access-a-Ride, the city's transit system for the disabled. In a letter to MTA Chairman Peter Kalikow, Gotbaum and her partners called for better information about pick-up delays, better back-up service for stranded riders, better response to complaints. In response, -- called for an investigation of the Access-a-Ride program, including a review of vendors who fail to show up for scheduled pick-ups.

In May 2003, the Public Advocate wrote a follow-up letter to Chairman Kalikow pointing out that the elimination of tokens for subway and bus rides has meant the end of tax benefits for Access-a-Ride users. Many of the disabled had used the tax-deductible TransitChek to purchase fares, but Access-a-Ride vans do not contain MetroCard readers. The MTA has committed to correcting this discriminatory practice.

### **Seniors and Hunger**

In October 2002, the Public Advocate directed her anti-hunger campaign toward the City's neediest seniors. Her report titled "Just Getting By," prompted the City Council Subcommittee on Senior Centers to hold an oversight hearing. Subcommittee members pledged to do more to assure that senior nutrition needs were assessed and met. (See **Hunger**.)

### **Preparing Seniors for Emergencies**

In – 2003, the Public Advocate expanded her Safety Preparedness Project by collaborating with AARP to publish Being Prepared—Reminders and Tips for New York City Seniors. The pamphlet reminds seniors to make a handy list of contact information, to always carry ID cards or tags identifying any medical conditions, and to keep extra eyeglasses, written prescriptions, and batteries for hearing aids and radios, among many other suggestions. Gotbaum distributed the guide at senior centers and made it available through her website.

## **Public Advocate Complaint Resolution Report**

According to the following complaint resolution report, between July 1, 2002, and June 30, 2003 a total of 11,153 New Yorkers contacted the ombudsman unit of the Office of the Public Advocate to get help with government related problems. 82% of those calls concerned New York City agencies. The remaining 18% concerned state and federal agencies. The majority of the complaints (8,340) were received by telephone. 2,259 came in the form of letters, faxes, or e-mail. 211 complainants came to the office in person.

All complaints are either “advocated” or “referred.” In “referred” cases, complainants are put in touch with the city agency to which their complaint or problem most directly pertains. If the agency in question does not provide a satisfactory solution, the complainant may again contact the Office of the Public Advocate and request that the case be advocated. Often complainants who contact the Office of the Public Advocate have already exhausted all the usual methods for resolving complaints directly with city agencies. Advocating their problems can require ombudspeople to make dozens of calls to city agencies and to the complainant before arriving at a resolution.

Despite severe budget cuts during the fiscal year, the Office of the Public Advocate handled nearly as many cases as in the previous year. The areas that are subject to the most complaints continue to be child welfare, human resources, housing, and transportation. Complaints concerning the Administration of Children’s Services went from 16% of the total last year to 26% of the total this year, the increase most likely due to continued outreach by the Public Advocate’s Child Welfare Project. Complaints concerning the Department of Human Resources accounted for 9% of the total, the New York City Housing Authority 6%, and the Metropolitan Transit Authority 3%.

The numbers that follow paint a picture of the Office of the Public Advocate helping citizens deal with the difficulties and complexities of life in New York City.