



Testimony of Racial Justice Commission Chair Jennifer Jones Austin

City Council Oversight Hearing on “Racial Justice Commission and related ballot measures” before the Committee on Civil and Human Rights

10/26/2022

Good morning Chair Williams and members of the Committee on Civil and Human Rights. My name is Jennifer Jones Austin, and I am the Chair of the Racial Justice Commission. In addition, I am the CEO of FPWA, an anti-poverty policy and advocacy organization. The Commission Vice Chair is Henry Garrido, Executive Director of DC37. And, there are nine commissioners: K. Bain, Ana Bermudez, Fred Davie, Lurie Daniel Favors, Darrick Hamilton, Chris Kui, Yesenia Mata, Phil Thompson and Jo Ann Yoo. I am joined at this hearing by Executive Director Harold Miller and Commission staff.

The Racial Justice Commission, which is a Charter Revision Commission, is the first of its kind in the City and the first of its kind in the nation. The three ballot questions we have presented to New York City voters are the first of their kind in the city and in the nation. These three ballot questions will give New Yorkers the chance to decide the future of their own city. They are designed to promote equity and justice for all New Yorkers.

Thank you, Chair Williams, for giving the Commission the opportunity to provide a contextual understanding of these proposals—why and how they came to be, and how the Commission intended them to lay the foundation for uprooting structural racism here in New York City.

Racism in our city, as in the rest of America, is baked into our institutions, society, and cultural norms—from education to housing to the criminal legal system. We know the history of our city is deeply entangled with the legacies of slavery, colonialism, and segregation. Indeed, the very founding of our city was through the removal and displacement of the original Lenape people from this land. Since the 17th century, financial gains from the displacement of Indigenous people and the forced labor of enslaved Africans were foundational to the city’s prosperity. Racialized hierarchy became the justification for these atrocities and subsequent violence, segregation, and disinvestment.

Today, structural racism continues to define our reality. We know that there are great racial disparities in New York City based upon health, wealth, and other indicators of well-being.

Those disparities are a reflection of the legacy of structural racism. For example, almost one hundred years ago, redlining and inequitable development pushed BIPOC and low-income communities to the margins in our city. And today we see that many of those same redlined New York City neighborhoods were hit hardest by COVID-19. These same neighborhoods continue to suffer through disinvestment, segregated schools, and worse health outcomes. These patterns that reverberate today are part of our city's past, but they don't have to be our future.

For as long as there has been injustice in our city, there have been people of all backgrounds speaking out and fighting for something better. For hundreds of years, New York City has been a geographical center in the struggle for freedom. Our city has been home to countless thinkers, leaders, artists, and everyday people who challenged us to live up to our values. But for their work, struggle, and imagination, we would not be here today.

The tragic killings of George Floyd, Breonna Taylor, and Ahmaud Arbery shocked the conscience of our nation and ignited protests nationwide, demanding a long overdue reckoning with systemic and structural racism in our country and city. The pandemic also highlighted the pervasiveness of structural racism, as social determinants of health led to worse outcomes among BIPOC New Yorkers not just from COVID-19, but also in adverse health outcomes over the full courses of their lives. The summer of 2020 was a bleak reminder that structural racism is a matter of life and death. The grief and rage of New Yorkers of all backgrounds was a call to action.

As the City dealt with these crises—these symptoms of structural racism—then-Mayor Bill de Blasio believed that it could be time for an unprecedented approach.

The Racial Justice Commission was tasked to examine the City's foundational law and formulate changes that would uproot structural racism. The Mayor appointed a diverse group of eleven Commissioners with deep experience representing communities of color and decades of advocacy, program, and policy experience, both inside and outside City government. The Commission had a new opportunity to investigate why decades of policy and programming has failed to close the gaps experienced by marginalized communities of color, and to examine the structures and foundations of our City government.

Understanding Structural Racism

The Commission began its ambitious mission by speaking to as many people as it could. The Commission heard from people across the city and across the nation who were experts. Experts in their own lives, in the stories of their communities, in their subject matter and academic discipline, or in the ways our foundations needed to be changed. The Commission held in-person meetings across the five boroughs during the pandemic, when few other entities were doing so, and held virtual meetings for those who could not be present on-site. It opened online portals for people to submit ideas and spoke with leaders across agencies and government.

The Commission sought stories to understand the effects of structural racism and sought big ideas to reverse the tide. We heard many hundreds and thousands of data points, as well as ideas that people had to fix this policy or that. But we promised to deliver a manageable number of

ballot proposals that New York City voters could easily understand. It would not be fair to voters to put hundreds of policy tweaks on the ballot. Moreover, the Commission’s theory of change was to address root causes. We sought to address a structural problem with structural solutions.

So, upon listening to these many stories and ideas, the Commission identified six patterns of inequity that have plagued the city for decades and centuries. These six patterns were:

1. Inequity in Quality Services that Promote Social and Emotional Wellbeing
2. Inequity in Work, Advancement, and Wealth Building
3. Inequity Within and Across Neighborhoods that Inhibits Thriving Individuals, Families, and Communities
4. Marginalization and Over-Criminalization of BIPOC Persons and Communities
5. Inequity in Representation in Decision-making
6. Lack of Enforcement and Accountability of Government and Entities

It became clear that our City Charter did not address these systemic patterns of inequity in a systematic way. While there may be policies and even laws to address the symptoms of these patterns and tackle them downstream, the City government does not have at its core a foundation to do so. In this way, we risk perpetuating these inequities.

Policy and practice alone cannot program the City out of structural racism if it is built into the foundation.

With that in mind, the Commission arrived at three ballot proposals designed to establish a new foundation through *Aspiration, Action, and Accountability*.

Establishing Foundational Values and Ballot Question #1

To begin the work of creating a new foundation, the Commission realized we needed to start with our core values. It decided that adding foundational values to the Charter through a Preamble could be transformative. And that those values should come directly from the testimony of New Yorkers.

When the founders of this nation drafted the US Constitution, they began with the iconic phrase “We the People.” Although that phrase did not include everyone, it did represent a divergence from the governments of before in which power did not derive from the people. These are the first words a reader encounters in the US Constitution; everything else in the Constitution is read with that purpose and understanding in mind.

In contrast, the City Charter does not have a Preamble. It does not state which foundational values our government should strive toward, nor does it express an intention to diverge from the atrocities of the past. In proposing to add a Preamble to the Charter, the Commission wanted to remedy those omissions.

The language of the proposed Preamble recognizes that the unique strength of our city comes from “We the People,” New Yorkers. In developing this ballot proposal, the Commission sought to recognize that our City government’s legitimacy comes from the people that make up this city,

people of all backgrounds, communities, from different countries, with different skills, languages, and cultures.

The purpose of the Preamble is to set an expectation that our government should strive toward providing neighborhoods where everyone residing in the city can enjoy, for example, “[a] safe, healthy, and sustainable living environment...” and “[s]afe, secure, and affordable housing...” and the “[r]esources necessary to prosper economically and build wealth....”

The Commission also believes that forging a new path forward requires that we tell the truth about the pain and injustice of structural racism. The proposed Preamble “acknowledge[s] the grave injustices and atrocities” that form part of our shared history, such as the forced labor of enslaved Africans, the colonialism that displaced Indigenous people from their lands, and the devaluing and underpaying of immigrant workers.

The Preamble is intended to unite us, the People of New York, and our Charter, in resolving to build a just and equitable city for all New Yorkers.

And although the Preamble does not create a private right of action, meaning you or I could not bring lawsuit against the City to enforce its terms, it does require that public servants who engage in planning, program reviews, or audits must carry out their duties in reference to the Preamble and its foundational values.

This proposal is intended to represent the first step of the structural change proposed by the Commission – the *Aspirational* component. If adopted, it would establish the direction the government and our city should go. The next ballot question represents the *Action* component – how we do the work to get there.

Embedding a New Machinery for Equity and Ballot Question #2

Ballot Question #2 has three parts:

1. A new mayoral office of racial equity led by a Chief Equity Officer for the City;
2. The first ever requirement that all City agencies create racial equity plans that roll up into Citywide Racial Equity Plans; and
3. A new type of Commission, the Commission on Racial Equity, to bring community power and accountability into this new equity process.

These three parts work together to permanently embed a new approach to equity and justice.

Mayor’s Office of Racial Equity and Chief Equity Officer

The first part of this ballot question would allow New Yorkers to decide whether they want to establish a permanent agency to build racial justice and equity into the core of government work, one which would not disappear just because a mayor leaves office or simply decides not to keep it. The position of Chief Equity Officer is intended to help create efficiency for City agencies by unifying their equity work, rather than have these programs operate in siloes or even at cross-purposes.

The second part, the Racial Equity Plans, would require for the first time that every mayoral agency and office (and certain independent City bodies and City-affiliated entities) examine their own roles in racial disparities. That agency may be reducing, maintaining, or even widening gaps between communities. This proposal would require each such agency, office, or body to create a plan to improve racial equity. These agency plans, together with the Mayor's citywide strategies to improve equity, would be coordinated into a Citywide plan by the Chief Equity Officer. To ensure that the City's overall strategy aligns with these racial equity plans, each stage of the racial equity planning process would be timed to match with each stage of the City's budget process. This would allow the City Council, the public, and other accountability bodies to highlight any discrepancies between the equity strategy and how we are spending money.

The plans would be completed every two years, and they trigger accountability requirements as well. Every agency will be required to report at least one outcome indicator, disaggregated by race, gender, and other characteristics, to provide evidence about the agency's track record in reducing disparities. This data will also be reported every two years. It would require, for the first time, that the City as a whole document not just the volume of services it provides to residents and communities, but also demonstrate whether its programs are effective in reducing disparities and improving fairness across the city. It would illuminate whether the City is making progress in the six patterns of inequity previously mentioned.

As stated, the Racial Equity Plans would be timed to connect with the City's budget process. The Commission did so to build alignment between the City's staffing and spending decisions and the Citywide strategy on racial justice—we have seen how equity-focused programs and staff are historically underfunded or the first to be downsized. Each draft of the Racial Equity Plans would be released at the same time as each step of the budget process: Preliminary Budget, Executive Budget, and finally with the Adopted Budget.

The third and final part of Ballot Question #2 would establish a Commission on Racial Equity, intended to better incorporate underrepresented community voices and perspectives into government and address inequity in representation and decision-making. We heard so often from New Yorkers that structural racism could only be addressed if more voices were brought to the table.

This Commission would be composed of New Yorkers who are familiar with racial justice issues: for example, those New Yorkers who represent communities of color, LGBTQ+ communities, immigrants, justice-involved persons, and youth. Officials who appoint these members would be expected to prioritize people who have never served on a board or commission before, and the new commissioners would be paid for their time and other costs—like childcare, elder care, and home health care—so that more people and communities have access to this decision-making space. And to ensure this Commission channels the voice of the people and has independence, members will be appointed by different elected officials (7 Mayor, 5 Speaker, 1 Comptroller, 1 Public Advocate, Chair jointly appointed by Mayor and Speaker) so that no single official appoints a majority.

This Commission would have the responsibility to identify priorities for the City’s racial equity plans. It would do so by collecting feedback from community members on what issues and disparities are most important to them. This would include gathering feedback from community members on which data would be most impactful to their lives. The Commission is intended to create a channel for community concerns to be incorporated into the City’s strategy and planning in a meaningful and organized way.

The Commission would also have the task of reviewing the City’s progress on its plans. The requirement for the City to publish data would help the Commission fulfill this responsibility. The intent is for the Commission to hold the Mayor and the City accountable for meeting stated goals, as well as to bring transparency into the efforts that the City is making for communities.

The Commission intended that together, these three components would represent the most concerted effort in the nation to place a permanent infrastructure of racial equity and justice at the heart of government. This infrastructure—this machinery to give government a better “operating system”—is intended to represent both *Action and Accountability*.

Measuring our Ability to Thrive and Ballot Question #3

The third ballot measure is likely the most tangible and immediately understandable for most New Yorkers. New Yorkers will be able to vote on whether City government should be required to report a new True Cost of Living measure every year. The intention of this True Cost of Living measure is to change the conversation from living in poverty to what it means to live with dignity.

So much of the conversation around the City’s progress is based on the outdated Federal Poverty Guidelines. In 2022, the poverty line for a family of four is \$27,750 across the country, whether that family lives in rural South Dakota or here in the five boroughs.

This number warps our understanding of how many Americans and New Yorkers can actually meet their essential needs. The federal government has not updated the Federal Poverty Guidelines criteria since they were created in the 60s. These guidelines are as low as they are because they were calculated by multiplying the basic minimum annual food cost by three.

BIPOC communities are disproportionately in poverty and suffer from enormous structural gaps in income and wealth. However, we know that folks of *all races and backgrounds* struggle to meet the costs of living in this City.

We know that to live with dignity, much more is needed than enough money to barely afford three meals a day. As such, the True Cost of Living would measure the cost of meeting essential needs. This means measuring the cost of housing, food, childcare, transportation, and other costs that people face every day.

With this true accounting in hand, New Yorkers would be empowered to engage in new conversations with the City. For example, the Commission heard and saw how so many of the City’s essential workers, who form the backbone of this city and who carried us through the pandemic, are underpaid. Many of them, especially women of color providing essential care

services that allow our families to flourish, do not earn enough to make ends meet. The Commission intended the True Cost of Living measure to equip people with information that could inform discussions about wages and how to help the city maintain its vitality. Similarly, program and policy designers could use the True Cost of Living when considering the optimal eligibility standards to use.

This ballot question also seeks to establish a method of *Accountability*. The City would be required to report the True Cost of Living every year to provide New Yorkers with one measure of how our government is living up to its values. We know that the racial wealth gap remains extraordinary and shows little progress towards closing. We also know the wealth gap between those with power and those without also remains vast, and that these gaps will take significant time and effort to close. The Commission believes that meaningfully addressing those gaps first requires an accurate accounting of how New Yorkers' incomes are matching up against the actual cost to live.

Commonly Received Questions

As the Commission has engaged in its education campaign, we have heard a lot of support for these ballot proposals, as well as questions about their potential effectiveness.

We received questions about the costs of these proposals, particularly the new offices. While the proposed Charter amendment text does not prescribe a specific budget, we estimate the cost of staffing the core functions of the office to be under \$10 million out of our \$100 billion + Citywide expense budget. The Commission's intent behind the proposed racial equity infrastructure is that it act as a preventative measure that mitigates downstream impacts, thereby having the potential to save the City money in the long run.

Structural racism costs all New Yorkers. From the Commission's perspective, the cost of implementing the proposal will be more than offset by the savings generated from aligning the City's strategy and preventing the costs that arise from downstream harms. A recent McKinsey study estimated that the racial wealth gap will cost the US economy between \$1 trillion and \$1.5 trillion between 2019 and 2028. That number takes into account the dampening effect on consumption and investment, but does not account for savings in addressing negative health outcomes, crime-related outcomes, educational attainment outcomes, labor inefficiencies, and all their downstream symptoms.

Another question we have received relates to the generality of the proposals. Some want them to be more specific, perhaps to address specific policy gaps that contribute to disparate outcomes. However, as I have previously stated in my testimony today, the Commission was laser-focused on making structural changes and resetting foundational values. As such, we were focused on a whole-of-government approach to racial equity. Instead of offering hundreds of policy solutions to many different issues, we sought to put in place a system and structures to help the City make *fairer* and *more just* policy and program decisions in perpetuity.

Some have expressed concerns that lawsuits as a result of the proposals would bankrupt the City. I want to clarify that the ballot proposals expressly do not create a private right of action. These measures do not create an avenue for a plaintiff seeking monetary damages to sue the City.

I also want to recognize those who worry that the proposals are not centering specifically on Black New Yorkers. I want to acknowledge the reality of our hurt and the need to put the people most impacted by structural racism at the center of our work. We know that the root of structural racism in this country and this city is anti-Blackness. Without a doubt, the experiences of Black New Yorkers were at the forefront of the thinking that went into these proposals. At the same time, the Commission is a diverse multiracial group who were tasked at uprooting structural racism as a whole. The work of the Commission was deeply grounded in cross-racial solidarity and a broad, expansive, and intersectional understanding of racial justice. We heard about the pains felt in Latinx communities and Asian communities, and about issues specific to women of color, to people with disabilities, to the LGBTQ+ community, to immigrants, and many more. Many of these struggles are rooted in the same structures. Our task was to reimagine those structures to work for everybody. As a result, we centered on the antithesis to racism – inclusivity, even while recognizing that it is Black communities and Indigenous communities that have borne and continue to bear the most horrific injustices of our history.

Finally, there are some who suggest that our existing anti-discrimination laws are sufficient to eliminate racism within and among our institutions, rendering the ballot measures unnecessary. I want to highlight that the Commission heard repeatedly from New Yorkers and experts in the field alike that despite our laws and programs being “race neutral” on their face, their impact continues to entrench and perpetuate disparities. Consistent with that testimony, the ballot proposals reflect the Commission’s determination that that “neutrality” likely cannot reverse structural racism. The Commission believes that for laws, policies, and programs to undo racism embedded into our foundations and status quo, they must be *proactive* in reducing one or more of the six patterns of inequity identified:

1. Inequity in Quality Services that Promote Social and Emotional Wellbeing
2. Inequity in Work, Advancement, and Wealth Building
3. Inequity Within and Across Neighborhoods that Inhibits Thriving Individuals, Families, and Communities
4. Marginalization and Over-Criminalization of BIPOC Persons and Communities
5. Inequity in Representation in Decision-making
6. Lack of Enforcement and Accountability of Government and Entities

Conclusion

Thank you again Chair and Committee members for this invitation to speak on the Racial Justice Commission’s work and ballot questions. We are now engaged in an education campaign to inform 5.5 million New York City voters about our three ballot questions. We are not telling New Yorkers how to vote on our ballot proposals, but rather empowering them with education to make an informed decision at the polls. You will hear and see us on TV, radio, on billboards, and in your communities. We are partnering with trusted community-based organizations in all five

boroughs to help us spread the word. We are speaking to New Yorkers of all backgrounds in over 14 languages. As we enter the home stretch leading up to the election, we ask for your continued support in helping us educate New Yorkers and reminding them to flip their ballots this election.

The work of uprooting structural racism is not over. We acknowledged at the outset that our efforts alone would not undo 400+ years of persisting harms. However, we have put forth aspiration, action, and accountability to begin to lay a new foundation. We take much pride in all that has gotten us to this point. This is an historic moment for New York City and a profound achievement for the movement for racial justice that has fought since generations long before us and will likely continue to fight long after us.

I also want to take a moment to thank the New Yorkers who came to our input sessions, panels, events, and submitted testimony online. These three ballot questions are a reflection of what we heard from you. Scholars, advocates, City agency experts, and everyday New Yorkers told us their stories and called on us to put forth bold and authentic change. We are tremendously grateful for the thousands of New Yorkers who guided us to this moment and challenged us to step into our values.

Early voting begins October 29th and Election day is November 8th. If you are a New York City voter, please remember to flip your ballot this election. Your vote is your voice.