

**Written Statements Submitted at the  
First Department Hearing on September 28, 2010**

**Statements of Non-Testifying Witnesses**

The Bronx Defenders

The Legal Aid Society

Legal Information for Families Today (LIFT)

Legal Services NYC

New York County Lawyers' Association

Service Women's Action Network

# The Bronx Defenders

**Written Comments of**

**McGregor Smyth**  
**Managing Attorney, Civil Action Practice**

**and**

**Kate Rubin**  
**Director of Policy & Community Development**  
**The Bronx Defenders**

**Submitted to the**

**Task Force to Expand**  
**Access to Civil Legal Services**

**September 24, 2010**

**INTRODUCTION**

Thank you to Chief Judge Lippman and the Task to Expand Access to Civil Legal Services for holding these hearings and accepting written testimony. We truly appreciate the opportunity to provide comments and recommendations on the legal services needs of our client community and Bronx residents more generally, and on how they reflect on the challenges and opportunities for organizing the statewide provision of legal services.

We submit these comments on behalf of The Bronx Defenders, a provider of holistic criminal defense, family defense, civil legal services, and social services to indigent people charged with crimes in the Bronx. We serve over 14,000 Bronx residents each year, all of whom are poor and nearly all of whom are Black and Latino. The Bronx Defenders views our clients not as “cases,” but as whole people: caring parents, hard workers, recent immigrants, native New Yorkers, and students with hope for the future. Whether defending a client’s liberty, connecting a young man to mental health services, preventing an elderly woman’s eviction, working to keep a family together, or preparing a neighborhood teenager to join the next generation of leaders, The Bronx Defenders ultimately strives to improve the lives and futures of all of the Bronx’s residents.

While our Civil Action Practice staff has grown to include 20 full-time advocates who practice in housing, immigration, public benefits, employment, and other substantive areas of law, ours is not the traditional civil legal services office. Over the past decade, we have built a model for

meeting the critical needs of individuals and families whose arrest, incarceration, or family court involvement have triggered complex and intertwined civil legal problems. The Bronx ranks at the bottom of New York State in most indicators of poverty, health, and stability. Just as our client community faces unemployment, eviction, deportation, addiction, and untreated mental illness at higher rates than those in other parts of the city and state, they also face higher rates of stops by police, arrest, incarceration, and child removal.

Based in a multi-service office, we have developed tools and strategies for helping our clients navigate what is often the widest part of a growing “justice gap.” Last year alone, we provided comprehensive civil legal services to 2,133 clients on 2,487 matters arising out of the challenges of being poor in the Bronx, and we know that an even greater number of our clients could have benefited from representation in civil matters. Through our Reentry Net project<sup>1</sup> we have trained and supported thousands of advocates around the state helping clients address similar problems. Every day, we hear from our clients and from the advocates we assist about the dearth of existing services to meet these needs.

We also know that our clients are among the hardest hit by the recession. In a down economy, job-seekers with criminal records receive even fewer calls from employers. A family who has been evicted from public housing after one member’s arrest will have a harder time finding a place to live. People with mental illness, drug addictions, and other needs have more stressors and fewer services to turn to. So while we echo our colleagues’ calls for greater access to legal services and a broad right to counsel, our testimony focuses on something different: the need to further develop integrated legal services delivery models that cut across practice areas, reach low-income clients most effectively, leverage existing funding streams, and meet constitutional standards for effective assistance of counsel. Expanding this type of initiative is essential for meeting the needs of the most vulnerable client populations throughout New York State, and for avoiding costly emergency services when problems that could be solved early on reach crisis proportions.

### **THE SERVICE MODEL: EARLY, EFFICIENT, AND EFFECTIVE INTERVENTIONS**

Legal aid programs and other civil legal providers serve the very same population that the criminal justice system targets. Interactions with the police, courts, child services, and incarceration have become normal events in our communities. As elaborated in a recent Legal Services NYC report on legal needs of New Yorkers, there is no meaningful line between the population requiring “traditional” civil legal services and the clients that we serve, because criminal justice and family court involvement are both symptoms and causes of poverty.<sup>2</sup>

---

<sup>1</sup> Serving thousands of providers statewide, Reentry Net/NY ([www.reentrynet/ny](http://www.reentrynet/ny)) trains and supports criminal defense, legal services, social services, and policy reform advocates. The online resource center provides front-line service providers with the practical information they need to solve every day problems faced by those whose lives have been affected by an arrest, conviction, and incarceration. More than 20,000 individual materials – model briefing papers, training resources, tip sheets, sample letters, etc. – are downloaded each month from the website’s libraries.

<sup>2</sup> *New Yorkers In Crisis, A Report by Legal Services NYC* (January 2009). Available: [http://www.legalservicesnyc.org/storage/lsny/PDFs/new\\_yorkers\\_in\\_crisis.pdf](http://www.legalservicesnyc.org/storage/lsny/PDFs/new_yorkers_in_crisis.pdf)

The result is a staggering multiplier effect: one in four black children born in 1990 had a parent imprisoned by age 14; only one in 25 white children were similarly situated. By age 14, more than half of African-American children born in 1990 to high school dropouts had a father imprisoned.<sup>3</sup> We see the statistics borne out at the after-school program we run at PS 29, an elementary school a few blocks from our office on Courtlandt Avenue: every child we work with has a family member who has been arrested. When we visit high schools for career fairs and “Know Your Rights” workshops, nearly every young man we meet has been stopped and searched by the police. Many have already been arrested and spent nights in jail. Many more have a parent, uncle, aunt, or sibling in prison.

Decades of research and our clients’ daily experiences reveal two harsh realities. First, that deep and interrelated social problems related to poverty – such as homelessness, addiction, unemployment, or mental illness – often lead to crime. Second, the ensuing arrest, criminal charge, or conviction result in significant legal and practical disabilities that only exacerbate the social problems that often lead to crime in the first place.

New York’s legal services structure must address these twin realities by supporting delivery models and intake streams that serve clients and families with criminal justice involvement early and effectively. The civil penalties enmeshed with criminal proceedings, faced primarily by poor people all over New York State, are now well-documented.<sup>4</sup> With virtually no provisions in our state’s laws for sealing or expungement of convictions for crimes, a young adult convicted even of a misdemeanor – drug possession, turnstile jumping – will have the Scarlet Letter “C” on his record for the rest of his life. If his family lives in public housing, the Housing Authority will move for eviction. If he is a Lawful Permanent Resident, rather than a citizen, the conviction will likely trigger deportation proceedings. If he has a job, he will probably lose it. If he applies for one later, 80% of employers will run a background check and see his conviction history.<sup>5</sup>

Intended to improve “public safety,” these penalties ultimately trap individuals in the revolving door of incarceration and poverty. By blocking the path to self-sufficiency, these barriers actually contribute to recidivism. The impact hits much deeper than individual defendants—entire families suffer the consequences. It also exacerbates existing racial inequalities. A 2004

---

<sup>3</sup> See Christopher Wildeman, *Parental Imprisonment, the Prison Boom, and the Concentration of Childhood Disadvantage*, DEMOGRAPHY (Vol. 46, No. 2, May 2009) at 265-80.)

<sup>4</sup> Often called “collateral consequences,” these penalties in fact are the predictable (if hidden) penalties of criminal charges. As the Supreme Court recognized in *Padilla*, these “collateral consequences” have become an integral and are sometimes the most important part of the penalty of a criminal case. See, e.g., *Re-Entry and Reintegration: The Road to Public Safety* (rev. 2006), available at <http://www.reentry.net/ny/library/attachment.112360> (report and recommendations of the New York State Bar Association Special Committee on Collateral Consequences of Criminal Proceedings); *Internal Exile: Collateral Consequences of Convictions in Federal Laws & Regulations*, (January 2009), available at <http://www.reentry.net/library/attachment.140845> (compiled by the American Bar Association Commission on Effective Criminal Sanctions and the Public Defender Service for the District of Columbia); *Invisible Punishment: The Collateral Consequences of Mass Imprisonment* (Marc Mauer & Meda Chesney-Lind eds., 2002).

<sup>5</sup> See, e.g., McGregor Smyth, *From Arrest to Reintegration: A Model for Mitigating Collateral Consequences of Criminal Proceedings*, CRIMINAL JUSTICE, Volume 24, No. 3 (ABA Fall 2009) (available at [www.abanet.org/crimjust/cjmag/24-3/smyth.pdf](http://www.abanet.org/crimjust/cjmag/24-3/smyth.pdf)).

study found that a white job-seeker with a criminal record is more likely to receive a call back from an employer than a black job-seeker with a comparable resume and no criminal record.<sup>6</sup>

The solution is not segmenting services, as has too often been the practice, but integrating them. With the client at the center, teams of advocates can work together and solve problems early. At The Bronx Defenders, we've created a replicable model for success by locating our civil legal services practice inside a public defender office so that we can begin addressing clients' problems within hours of arrest. We have learned that families experiencing the life problems necessitating wider representation are less likely to seek legal services from a new office, and they often let the first and second notices from their landlord or the welfare office go unaddressed. These problems quickly become emergencies, which are more difficult – and more expensive – to resolve.

Comprehensive services help families find long-term solutions, and they are a cost-effective way of leveraging services. Our civil practice uses The Bronx Defenders' in-house investigators to help evaluate underlying allegations and collect evidence. Social workers can assess needs for various treatment options and services and broker proper placements. In practice, problem-solving collaborations among attorneys, social workers, service providers, family members, and neighbors empower clients to overcome crises. Offices around the state and country are adopting variations on this model, and The Bronx Defenders provides training and technical assistance to dozens of public defenders and civil legal services providers.<sup>7</sup>

## **THE MODEL IN PRACTICE: STABILIZING FAMILIES AND COMMUNITIES**

Any involvement in the criminal justice system – even a simple arrest or a few days in jail – creates a substantial risk of homelessness, shelter use, and job loss.<sup>8</sup> Homelessness and unemployment, in turn, create a substantial risk of future arrest.<sup>9</sup> Our experience has shown that once a person has a criminal record, he or she spends longer in homeless shelters or out of work because of the barriers raised by the convictions. For these reasons, preserving stable housing, employment, and income supports must be primary service goals.

### **Eviction Prevention**

Advocates can often solve a potential housing problem, such as a public assistance error that suspends rent payments, with a simple letter or phone call. Proper planning and client services can prevent some litigation, such as eviction proceedings, altogether. But arrests – even when

---

<sup>6</sup> See audit study by Devah Pager and Bruce Western, *Race at Work* (2004) (available at [http://www.nyc.gov/html/cchr/pdf/race\\_report\\_web.pdf](http://www.nyc.gov/html/cchr/pdf/race_report_web.pdf)).

<sup>7</sup> The Center for Holistic Defense at The Bronx Defenders (<http://www.bronxdefenders.org/our-work/center-holistic-defense>) meets a vast and unmet need in the criminal justice field by supporting the provision of holistic defense to indigent clients. It is a collaboration with the Center for Court Innovation and John Jay College of Criminal Justice and receives funding from the U.S. Department of Justice, Bureau of Justice Assistance.

<sup>8</sup> See, e.g., Zaire D. Flores, Jeffrey Lin, John Markovic & Nancy Smith, UNDERSTANDING FAMILY HOMELESSNESS IN NEW YORK CITY Section III at 29 (Vera Institute of Justice) (2005) (available at [www.nyc.gov/html/dhs/downloads/pdf/vera\\_Study.pdf](http://www.nyc.gov/html/dhs/downloads/pdf/vera_Study.pdf)).

<sup>9</sup> See, e.g., Stephen Metraux and Dennis P. Culhane, "Homeless Shelter Use and Reincarceration Following Prison Release," 3 *Criminology & Public Policy* 2, 137 (2004)

they don't lead to convictions – often trigger eviction proceedings that require litigation. Housing advocates in our office have immediate access to clients' existing case files and the benefit of an established relationship with client families.

*Ms. Sosa lives in public housing with her 4 children. The Human Resources Administration wrongfully and significantly reduced her Public Assistance and Food Stamps when she missed a work assignment because of a conflicting court-mandated appointment. NYCHA then sent her an eviction notice because welfare did not pay her rent. Because of our existing relationship with Ms. Sosa on a recently-dismissed criminal case, we immediately requested and won a fair hearing, restoring her benefits, securing her retroactive rent payments, and preventing her eviction before a court case was filed.*

The impact that these services can have is tangible not only for individual families but for whole communities. Between September 2008 and September 2009, The Bronx Defenders prevented the eviction of over 100 families. We calculate that this saved \$3,636,000 in shelter costs for taxpayers. We also have a sense of the unmet need: every week, Bronx residents walk into our office looking for representation in eviction proceedings that stem from arrest. In many cases, the entire family stands to lose their home because of allegations against one household member or even visitor.

### **Access to Public Benefits**

The current recession has only increased our reliance on safety net supports, and involvement with the criminal justice system presents even more barriers to accessing these bureaucratic systems. When an arrest leads to employment termination but the case is later dismissed, our clients are entitled to Unemployment Insurance, but few will go through the appeals process without an attorney. Families of clients in jail and prison need help navigating complex temporary absence rules for public assistance budgets. Clients returning home from prison encounter waiting periods for enrollment in Medicaid and other crucial programs.

*Mr. Stevens was a resident of a City homeless shelter and a Public Assistance recipient trying diligently to find work and stable housing. The New York City Housing Authority, however, found him ineligible for Section 8 assistance on the basis of minor marijuana drug convictions that were over two years old. The Civil Practice took his case and appealed the denial. At the hearing, our attorneys submitted extensive evidence of his work assignments, job search and job training efforts, a clean toxicology report, and letters of reference. The hearing officer reversed the determination of ineligibility, finding "significant positive changes in his behavior" since the convictions. Mr. Stevens now has stable, affordable, permanent housing.*

Integrated services can help clients and their families access the benefits they are entitled to quickly, and before the loss of income or health insurance leads to emergencies that are costly in both financial and human terms. Advocates working collaboratively within a defender office can address issues as simple – and crucial – as obtaining the identification required to access

benefits. Partly by taking advantage of existing funding opportunities for facilitating benefits enrollment, over the course of a year we secured health insurance for more than 80 families, and obtained cash and non-cash benefits for clients valued at over \$1.5 million.

### **Early Intervention for Non-Citizen Clients**

As the U.S. Supreme Court acknowledged this March in its decision in *Padilla vs. Kentucky*, “deportation is an integral part – indeed, sometimes the most important part – of the penalty that may be imposed on noncitizen defendants who plead guilty to specified crimes.”<sup>10</sup> While convictions for minor offenses – marijuana possession, turnstile jumping – can lead to deportation of a lawful permanent resident, even those that don’t lead to deportation can bar a person from reentering the U.S. after visiting another country, or from later obtaining citizenship. These draconian penalties rip apart families and destabilize the economic and social fabric of many communities.

Under *Padilla*, defense attorneys must provide specific, individualized advice about immigration consequences of pleas. In The Bronx Defenders’ model, early intervention, plea consults, deportation defense, and other immigration legal services are fully integrated into criminal defense practice.

*Mr. F.F. came to the United States as a refugee from Sierra Leone in 2000. Here, he married and now has three U.S. citizen children. In 2006, he applied to become a naturalized U.S. citizen. Unfortunately, while his application was pending, he was arrested for trademark infringement as a result of selling off-brand products to support his family. The Bronx Defenders represented him in his criminal case and in consultation with Civil Action Practice immigration attorneys managed to get his case resolved with an Adjournment in Contemplation of Dismissal (ACD). However, his naturalization application was denied. Our immigration staff lawyers worked with Mr. F to prepare a new naturalization application with supporting documentation to help overcome the negative implication of the prior arrest and submitted the new application once the ACD was finally closed after six months. His application was approved and Mr. F recently took his oath as a U.S. citizen.*

The Bronx Defenders alone completed hundreds of formal plea consults in the year between September 2009 and September 2010, with more than 80% resulting in pleas that avoided negative immigration consequences. With the Census estimating the 29% of Bronx residents – and 20% of New Yorkers in general – are foreign-born,<sup>11</sup> we can only estimate the tremendous unmet need for these services statewide.

### **Criminal Record Review and Employment**

Criminal background checks have become routine for employment, housing, and public benefits applicants. A 2005 survey of human resource professionals by the Society for Human Resource

---

<sup>10</sup> *Padilla vs. Kentucky*, 559 U. S. \_\_\_, 130 S.Ct. 1473, 1480 (2010).

<sup>11</sup> See U.S. Census Bureau, State & County Quick Facts, available <http://quickfacts.census.gov/qfd/states/36/36005.html>.

Management found that 96 percent of businesses perform a background check on all job applicants. Over 100 employment licenses in New York State require criminal history review.<sup>12</sup> Every public housing, Section 8, and public assistance applicant undergoes a mandatory criminal history screening. Private landlords increasingly do the same.

The steady accumulation of collateral sanctions has combined with the exponential increase in the availability of criminal history data to create a “perfect storm.” Criminal history data is increasingly available from a range of sources, and serious questions have arisen about reliability. While more research is needed, existing studies suggest error rates over 60%.<sup>13</sup> Common errors include missing disposition information, unsealed records, and unrecorded vacated warrants. Each of these errors can lead to automatic denial of employment, housing, and benefits applications.

*Ms. Escalera was rejected for a job because of arrest charges from 1989 that appeared on her rap sheet without a disposition. She knew that she had never been convicted of any offense. Our staff investigated, discovering that the district attorney had declined to prosecute within hours of the arrest. We obtained documentation and had all records of the arrest correctly sealed. With this proof in hand, Ms. Escalera got the job.*

Because defenders receive copies of each client’s official criminal history, in-house rap sheet services are efficient and effective ways to reduce widespread barriers to employment as well as housing. Last year, we reviewed and corrected hundreds of rap sheets and preserved hard-earned jobs and self-sufficiency for bread-winners of 20 families after their arrests. The scale of the problem and the depth of impact on communities of poverty argue for making rap sheet review a standard service at civil legal aid organizations. Excellent programs implementing models based both in defender and civil legal services offices exist in New York (The Bronx Defenders, Monroe County Legal Assistance Center, Legal Action Center, Community Service Society), and many other states.<sup>14</sup>

## CONSTITUTIONALLY MANDATED FUNDING

In the face of a vicious cycle of poverty, crime, collateral consequences, and recidivism, everyone stands to gain from cross-sector collaboration and smarter public safety policies. Indeed, the Bush administration recognized that public safety required attention to reentry. In his 2004 State of the Union Address, George W. Bush introduced a new initiative for people leaving prison, stating: “This year, some 600,000 inmates will be released from prison back into society. We know from long experience that if they can’t find work, or a home, or help, they are much

---

<sup>12</sup> See 2006 New York State Occupational Licensing Survey (Legal Action Center) (available at [www.reentry.net/ny/search/item.85874](http://www.reentry.net/ny/search/item.85874)).

<sup>13</sup> See Craig N. Winston, *The National Crime Information Center: A Review and Evaluation* (August 3, 2005) (finding that of 174 million arrests on file with the FBI, only 45 percent have dispositions). In 2007, the Bronx Defenders partnered with a major New York law firm in a pilot project to review and correct rap sheets. Fully 62 percent of the random sample of official state rap sheets contained at least one significant error; 32 percent had multiple errors. The number of errors ranged from one to nine, with a median of two.

<sup>14</sup> Sharon Dietrich, *When “Your Permanent Record” Is a Permanent Barrier: Helping Legal Aid Clients Reduce the Stigma of Criminal Records*, 41 CLEARINGHOUSE REV. 139 (July-August 2007)

more likely to commit more crimes and return to prison.” Law enforcement leaders have also recognized the self-defeating and unfair nature of enmeshed consequences. The National District Attorneys Association officially acknowledged the prosecutor’s role in reentry in 2005:

*[People] reenter our communities in need of housing, medical and mental health treatment, employment, counseling and a variety of other services. Communities are often overwhelmed by these increased demands and, due to budget constraints, unable to provide minimum services... As a result, the safety of our communities and citizens is jeopardized when releasees, who are unable to acquire employment, housing and needed services, revert to a life of crime.*<sup>15</sup>

Unfortunately, the recognition of the link between reentry, civil consequences, and recidivism too frequently fails to influence daily decisions made by prosecutors, policy makers, judges, defenders, and government agencies. It often falls on public defenders and civil legal services providers to work collaboratively to advise clients about penalties that are intimately related to criminal charges and potential pleas, and to help clients prepare for successful reentry.

In *Padilla*, the U.S. Supreme Court held that the minimum standard for effective assistance of counsel in constitutionally-mandated representation requires accurate, individualized advice on the risk of **all** penalties “enmeshed” with criminal charges or potential pleas. In short, defense attorneys must be sufficiently knowledgeable about the often complex and interwoven civil consequences of convictions to provide affirmative, competent advice. While the facts in *Padilla* involved the risk of deportation, other severe penalties “intimately related” to criminal convictions include public housing eligibility, employment, sex offense registration, voting, and student loans. Just this month, the U.S. Court of Appeals for the 11<sup>th</sup> Circuit held in a *per curiam* decision that affirmative misadvice on the risk of civil commitment resulting from a plea is ineffective assistance of counsel.<sup>16</sup>

The Supreme Court’s standard of effective assistance of counsel in *Padilla* applies with equal force to other forms of mandated representation. Attorneys for parents facing child removal or termination of parental rights in abuse and neglect cases must also advise their clients about other civil consequences or penalties that are intimately related to the Family Court case. The removal of children has direct effects on eligibility for a wide range of public benefits, including cash assistance and public housing. Family Court findings, and even Adjournments in Contemplation of Dismissal, can also lead to employment denials and bars to later serving as foster or adoptive parents. Immigrant parents must overcome additional hurdles – ineligibility for certain benefits, a Judge’s consideration of immigration status in assessing the stability of the home – to establish their legal entitlement to custody of their children. In some cases, Family Court findings may form the legal basis for expulsion from the country, and any admission by a non-citizen in Family Court may be used in deportation proceedings.

In this way, the Supreme Court has now endorsed, and in many ways required, a more client-centered, holistic approach to all mandated representation by insisting that attorneys treat clients

---

<sup>15</sup> NDAA, Policy Positions on Prisoner Reentry Issues at 2 (adopted July 17, 2005), *available at* [http://www.ndaa.org/pdf/policy\\_position\\_prisoner\\_reentry\\_july\\_17\\_05.pdf](http://www.ndaa.org/pdf/policy_position_prisoner_reentry_july_17_05.pdf).)

<sup>16</sup> *Bauder v. Dept. of Corrections State of Florida*, No. 10-10657.

as whole people and build their advocacy around priorities defined by the needs of each individual and family they represent. At The Bronx Defenders, we've had the good fortune of receiving IOLA and other civil legal services funds to build collaboration between criminal defense, family defense, and civil legal services attorneys into daily practice through our integrated team structure. Additional strategies for ensuring that criminal and family defense attorneys can accurately advise clients about "collateral" consequences that are nearly always civil in nature include hotlines, online resource centers, and training and technical assistance grants. Because civil legal aid providers are the most likely advocates to have experience coping with the many "civil" penalties that arise in areas of traditional poverty law, the minimum standards of representation set in *Padilla* will necessitate leveraging existing funding streams for mandated representation to expand legal services to the thousands of New Yorkers whose legal problems stem from arrest or removal of children.

### **LESSONS FROM HOLISTIC PRACTICE**

- *Legal services providers must be equipped to serve individuals and families with criminal histories and to meet all of their civil legal services needs.* The Division of Criminal Justice Services reports that over seven million New Yorkers have a criminal record,<sup>17</sup> and we know that the vast majority are concentrated in poor communities of color that are the traditional consumers of civil legal services.
- *Individuals with criminal records are a large legal services population with unique needs.* The future of civil legal services in New York must include funding priorities for unique and effective intake streams and outreach efforts aimed at serving this group. Innovative models of civil legal services practices co-located in public defender offices *and* unique projects in civil legal services offices must be supported and expanded.
- *Most clients will seek services first where they have received them before.* Because of our existing relationships with clients, many come to our office first when their public benefits are terminated, when they receive a letter suspending an employment license or a notice from a landlord.
- *Early intervention can avoid crises and mitigate more severe consequences down the road.* For a client with an open criminal case, a simple plea consult with a legal service provider can prevent deportation, preserve an employment license, or guard against eviction. Fixing a criminal record error or obtaining a Certificate of Relief from Disabilities while the client has a relationship with a public defender and a case before a Judge can mean a much more rapid return to work after the end of a criminal case.
- *No one advocate can deal with every situation, but teams working closely together with individual advocates expert in selected areas are well poised to help clients in any matter.* We have had tremendous success pairing clients with interdisciplinary teams. Because each member of The Bronx Defenders staff is trained differently, they focus on

---

<sup>17</sup> DCJS reported 7,049,600 individual subjects in its criminal history file as of December 31, 2008. See Bureau of Justice Statistics, *Survey of State Criminal History Information Systems, 2008*, Table 2 (October 2009).

issues an attorney in isolation might miss or undervalue, opening opportunities to connect clients with needed services.

- *A first rate support infrastructure raises standards for services statewide.* Through our Reentry Net initiative, hosted by Pro Bono Net and built in collaboration with legal and social service providers statewide, we have trained thousands of advocates on proven strategies for navigating the consequences of criminal proceedings that their clients face every day. Our online resource library ([www.reentry.net/ny](http://www.reentry.net/ny)), live support, and substantive trainings have helped improve outcomes for thousands of people since our launch in 2005. Hundreds of users download over 20,000 individual resources – model briefing papers, training materials, tip sheets, sample letters, etc.– each month from our online libraries.

## **CONCLUSION**

New York State has the opportunity to adapt the structure and delivery of legal services to truly meet the needs of the large and critically underserved population of individuals with criminal records and their families. This group shares many of the same service priorities with the larger legal services client base: access to safety net and income supports; safe, permanent housing; anti-discrimination and labor standards enforcement; and a path out of overwhelming debt. They also share the same goals of stability and self-sufficiency.

Compared to other states, New York practitioners have built an incredible foundation of expertise for serving this client base. Effective, cost-saving models exist for reaching them and solving what can be complex legal problems early, before they become crises. These programs are client-centered and interdisciplinary. They are leveraging existing resources and client relationships to develop new intake streams and outreach strategies. Many are already connected and supported by Reentry Net/NY and other formal and informal advocate networks. New York has the experience and infrastructure necessary to deliver services that reflect reality—to educate ourselves and the people affected, to bridge the criminal-civil divide, and to incorporate an awareness of collateral consequences of criminal proceedings in our daily work. Achieving these goals also involves the potential of directing new funding streams towards the provision of civil legal services in New York and around the country. We ask the Task Force to put the highest priority on this crucial work as you shape the future of civil legal services in this state.

# The Legal Aid Society

199 Water Street  
New York, NY 10038  
T (212) 577-3300  
www.legal-aid.org  
Direct Dial: (212) 577-3277  
Direct Fax: (212) 809-1574  
E-mail: SBANKS@legal-aid.org

Alan Levine  
*Chairperson of the Board*

Blaine (Fin) V. Fogg  
*President*

Steven Banks  
*Attorney-in-Chief*

# **Testimony of The Legal Aid Society**

**on**

## **THE IMPACT OF THE UNMET CIVIL LEGAL SERVICES NEEDS THROUGHOUT THE STATE**

**Submitted to:**

**Hon. Jonathan Lippman, Chief Judge of the State of New York**  
**Hon. Luis A. Gonzalez, Presiding Justice of the First Department**  
**Hon. Ann Pfau, Chief Administrative Judge**  
**Stephen P. Younger, President of the State Bar Association**

**FIRST DEPARTMENT HEARING**

**September 28, 2010**

The Legal Aid Society welcomes this opportunity to testify at this special hearing on the critical need for civil legal services in New York State. We greatly appreciate the consideration of this urgent problem by the Chief Judge, the Presiding Justice, the Chief Administrative Judge, and the State Bar President. With the crucial support of the Assembly and the Senate, the Judiciary's leadership in addressing this problem has been extraordinary – first by allocating \$15 million to rescue the New York State IOLA Fund in the Office of Court Administration's 2010-2011 budget to partially offset a dramatic drop in IOLA funding due to the historic reduction in interest rates, and now by implementing this initiative to respond to the unmet need for civil legal assistance across the State.

We submit this testimony to provide information about the urgent need for civil legal assistance for families and individuals in New York who need legal help to maintain the basic necessities of life – shelter from the elements, family safety and integrity, access to health care, food, clothing, and subsistence income – in the midst of the most extreme economic conditions since the Great Depression of the 1930s.

As you know, with a staff of 1,450, including 850 lawyers and 600 social workers, paralegals, investigators, and support and administrative staff, the Legal Aid Society provides comprehensive civil, criminal, and juvenile rights legal assistance to low income families and individuals in literally every community in the five boroughs of New York City. During the past year, the Legal Aid Society provided these legal services in more than 300,000 cases and legal matters for New Yorkers in desperate need of legal help. Many of our clients are referred to the Legal Aid Society by the constituent services staffs of State elected officials or by community-based organizations serving every district of the City. Indeed, since its founding in 1876, the Legal Aid Society has been a vital part of the social fabric of the City.

We are mindful of the extreme financial difficulties that the State is facing. At the same time, these extraordinary economic conditions are having an especially harsh impact on low income New Yorkers and the need for the civil legal help for these struggling families and individuals is increasing exponentially. Without ongoing substantial support for the provision of civil legal assistance in New York State, the Society and other civil legal services programs across the State and in New York City will have to turn away more families and individuals who need legal aid to get unemployment and disability benefits, flee from domestic violence, and prevent evictions, foreclosures, and homelessness.

Every day, civil legal services programs like the Society provide for thousands of vulnerable New Yorkers a lifeline for basic survival. And the situations our clients are facing – loss of jobs, foreclosure, eviction, hunger – are the grim hallmarks of this current fiscal crisis. As the testimony of the IOLA Fund has demonstrated, the work performed by civil legal services programs also saves New York State millions of dollars a year and is a proven, tested and wise investment.

Nevertheless, even at current funding levels before any IOLA reductions or other State and City funding cuts, national studies have found that at least 80 percent of the low income persons who need civil legal assistance are unable to obtain it.

For example, the Society annually handles some 32,000 civil legal matters in literally every zip code in the City. However, we are able to help only one out of every nine New Yorkers who seek our help with civil legal problems because of lack of resources. The situation has become particularly dire since the economic downturn began. Homelessness, for example, is at record levels in New York City, and unemployment, hunger, and foreclosures are on the rise.

In these severe economic times, civil legal assistance is needed now more than ever. Since the economic downturn began in 2008, for instance, we have seen unprecedented increases in requests for help in core areas of need:

- a 29% increase in requests for help with unemployment benefits and employment problems;
- a 40% increase in requests for health law assistance and help obtaining Medicaid, Medicare, and other health care coverage;
- a 12% increase in requests for help to obtain food stamps, federal disability benefits, and public assistance;
- a 16% increase in requests for domestic violence and family law help;
- a 15% increase in requests for help from current or former low wage workers with earned income tax credit or other low income taxpayer problems;
- a 21% increase in requests for eviction prevention representation; and
- a stunning 800% increase in requests for foreclosure defense assistance.

In fact, the sad truth is that even with the inclusion of \$15 million in IOLA rescue funds in the Judiciary's 2010–2011 budget and other legislative initiative funding from the Assembly and the Senate, there is more that New York State can and should do to address the shocking gap in access to justice that our staff sees first-hand every day. Beyond continuing to stabilize the IOLA Fund with rescue funding in 2011-2012, substantial additional resources are needed to bridge the access to justice gap. In the mid-1990s, then Chief Judge Judith Kaye's task force found that at least \$40 million in additional annual State funding would be needed to bridge the justice gap in New York State at that time. Regrettably, the situation has only gotten more dire since then as more and more New Yorkers need civil legal help in these difficult times.

California has recently recognized that even in these tough fiscal times investing in civil legal services is essential to both meet human needs and avert government expenditures for emergency shelter and other services. However, California's "right to counsel" pilot program does not go far enough for New York. In New York, government and civil legal services providers have already demonstrated that the provision of civil legal services works to benefit vulnerable New Yorkers and save government expenditures by preventing evictions and homelessness, obtaining federal disability benefits in place of State and local public assistance benefits, and securing child support for families with children. Yet, New York State ranks last among its neighboring States in the Northeast, including New Jersey, in per capita expenditures for civil legal services.

Against this backdrop, Chief Judge Jonathan Lippman's initiative to conduct these hearings in each of the four Departments and appoint a Task Force to make recommendations to meet the unmet need for civil legal assistance is exactly the breakthrough that is needed in these extreme economic times. Indeed, the increasing number of unrepresented parties is adversely impacting court operations and represented parties in addition to literally thwarting access to justice for tens of thousands of New Yorkers.

The Legal Aid Society applauds and supports the Chief Judge's initiative to bridge this gap in access to justice for the most vulnerable New Yorkers – survivors of domestic violence, senior citizens, disabled or chronically ill children and adults, immigrants fleeing oppression, unemployed and low wage workers, persons living with HIV infection, and children and adults faced with evictions, foreclosures and homelessness.

Thank you for your consideration of these matters which are so critical for families and individuals in New York City and throughout the State who need civil legal help to obtain the basic necessities of life.

Legal Information for Families Today  
(LIFT)



350 Broadway, Suite 501

New York, NY 10013

OFFICE 646.613.9633 · FAX 646.613.9632

HOTLINE 212.343.1122 · WEBSITE [www.LIFTonline.org](http://www.LIFTonline.org)

**Proposed TESTIMONY of  
Legal Information for Families Today (LIFT)  
Presented by Melissa Beck, Chief Executive Officer,  
On the need for Civil Legal Services among kinship caregivers  
On (date to be determined)  
At Chief Judge Lippman's Hearings on Civil Legal Services**

---

Good afternoon, my name is Melissa Beck, and I am pleased to be here today on behalf of LIFT to testify at this important hearing about the need for expanded Civil Legal Services in New York State.

For the past fourteen years, LIFT has been a pioneer and leader in promoting access to justice for disadvantaged families embroiled in the New York City Family Court system. We are the only organization in the City dedicated to empowering court-involved families by providing them with the tools they need to advocate for themselves in Family Court.

We operate our programs where families need us most – inside the Courthouses in all boroughs except Staten Island, at Help Centers and Education & Information Sites – as well as programs in the community – through the Family Legal Center and Family Law Information Telephone and Email Hotlines. We also produce 35 original multilingual Legal Resource Guides, available in seven languages at all programs and on our website. Last year, those we served were typically low-income, black (48%) or Latino/a (37%) parents (82%) or grandparents (18%). One in ten of the people we served were monolingual Spanish speaking.

We offer a unique window into the needs and challenges facing a population in need of an expanded right to council: the many unrepresented litigants in New York City Family Court. As the people who line up, sometimes for hours, at court metal detectors and crowd its waiting rooms well know, the Courts are badly understaffed, and procedures are typically slow, intimidating, and confusing. Free legal representation is in tremendous demand and is not mandated for all types of Family Court matters, forcing people who cannot afford attorneys to

handle their own cases. A staggering 94% of the 25,000 families LIFT serves annually do not have legal representation.

LIFT can, and does empower many Family Court users to successfully self advocate and resolve their cases without the help of an attorney, but we believe strongly that in order for access to justice to be fully realized, all Family Court users should have the right to a free or low cost attorney. We celebrate the triumphs of our participants – their ability to use the courts as they were designed; to serve the best interests of the children at the heart of every family court case, by ensuring financial stability, recognizing parental responsibilities and providing a legal road map through complex, messy and at times dangerous relationships surrounding those children. But ultimately, we recognize that successful self-advocacy is not a realistic goal for every court user, nor does it ensure an even playing field when unrepresented litigants are up against opposing parties with attorneys.

LIFT recognizes and applauds the fact that relative to the rest of the country, New York State Family Law provides for the right to an attorney in many significant and critical instances. But we feel that the law does not go far enough – far too many New Yorkers are left to fend for themselves in matters affecting the very fabric of their families and the lifelong wellbeing of their children, with great social and emotional cost both to the individuals involved and the host of government programs and entitlements that are left to pick up the pieces.

In recognition that change must occur incrementally and associated costs and benefits are being weighted carefully by the Task Force, we urge you to prioritize the following critical category for expanded legal services in Family Court: kinship caregivers – grandparents, aunts, uncles and other relatives who are either formally or informally raising hundreds of thousands of children every day throughout the five boroughs and the state.

According to a June 2009 report from the New York City Kin Care Task Force, in New York City alone, approximately 250,000 children are being raised by grandparents or other relatives who have *no right* to a free court appointed lawyer when they engage with Family Court.

In custody and visitation cases, biological parents are entitled to a free attorney if they cannot afford one. Since in most cases, kin caregivers are not – regardless of how long they have been caring for the child at the center of the case – kinship caregivers are at a severe disadvantage in court proceedings.

As a result, many kinship caregivers find the process of obtaining custody or visitation particularly overwhelming and have great difficulty navigating the court effectively – and this in

turn negatively affects the stability and wellbeing of the children who are in their care or with whom they have long standing relationships.

Kin caregivers often have no idea what their rights are or how to begin when petitioning for custody or visitation and are faced with a frustrating process that moves at a snail's pace due to delay upon delay – in some instances these holdups are caused by their own lack of information and guidance when filling out paperwork. They also face a significant and often formidable opponent, their own child's attorney since biological parents have a right to counsel. These unnecessary setbacks and patent inequities leave children in limbo for far too long and can make dropping a case seem like the only answer – even when that is not a caregiver's real intention nor in the best interest of the child.

A small number of these grandparents, 4,500 or 18% of the 25,000 families served in our programs every year, are lucky enough to find LIFT. 95% of those kinship caregivers that turned to LIFT last year were facing the complex Family Court system without legal representation. The majority of these caregivers are grandparents caring for youth who are often in crisis and in need of therapeutic services. The financial and emotional stress facing these families can be overwhelming and the paths to meeting their needs are highly complex – much can be done by the systems serving them to alleviate this stress and build on their collective strengths so they can thrive as families.

While LIFT can give kin caregivers the tools and knowledge they need to represent themselves in court with confidence and success, there are times, particularly in custody a case, where having an attorney is an imperative if justice is to be served. If many of the grandparents who have found help at LIFT find themselves in challenging battles to get visitation or perhaps custody down the road, there is no doubt that they will be at a disadvantage facing their own kin's court appointed attorney alone.

The vast majority of social service agencies serving kinship caregivers agree that all low income caregivers should have access to free legal representation. We urge you to consider taking action to support an amendment to the Family Court Act to mandate representation for kinship caregivers in matters of custody and visitation as part of your work to extend the right to Civil Legal Services in NY State.

**For more information please contact:**

Betsy Guttmacher, Director of Policy and Planning  
Legal Information for Families Today  
350 Broadway, Suite 501

New York, NY 10013

(p) 646-613-9633 ext. 210

[bguttmacher@LIFTonline.org](mailto:bguttmacher@LIFTonline.org)

# Legal Services NYC



## **Testimony of Legal Services NYC**

### **The Chief Judge's Hearings on Civil Legal Services**

**First Department  
September 28, 2010  
New York, New York**

Testimony of Michael D. Young, Interim Executive Director

Legal Services NYC

The Chief Judge's Hearings on Civil Legal Services

First Department  
September 28, 2010  
New York, New York

*“Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.”*

Universal Declaration on Human Rights (Article 25(1), 1948)

My name is Michael D. Young and I am the Interim Executive Director of **Legal Services NYC** (LS-NYC), the nation's largest organization devoted exclusively to providing free civil legal services to low-income and underserved individuals and communities.

With 18 neighborhood-based offices and numerous outreach sites located throughout the city's five boroughs, LS-NYC has a singular overriding mission: to provide expert legal assistance that improves the lives and communities of low-income New Yorkers.

Our services include a strategic combination of specialized law units, legal helplines, impact litigation, and *pro bono* private attorney efforts. These services are bolstered by LS-NYC's Central Office, which provides: expert litigation and advocacy support and training; Continuing Legal Education (CLE) programs and trainings that are available to New York City's greater poverty law community; and leadership in the development and management of innovative city-wide projects and task forces.

Our provision of legal assistance to clients not only saves the state money but brings dollars into low-income communities, not an easy feat in this time of economic downturn. The child support payments, unemployment insurance benefits and federal social security disability benefits our attorneys and advocates secure for clients saves the state millions of dollars by shifting costs away from state public assistance. It also brings desperately needed dollars into low-income local economies. An IOLA report in 2001 revealed that every \$1 invested in civil legal services yields \$2.44 in client benefits, which flows into local communities to buy food, pay rent, and helps to keep them from fraying apart under the weight of unemployment and underemployment individuals in low-income neighborhoods are now experiencing.

Before I address the key points raised in the hearing invitation, I would like to thank Chief Judge Jonathan Lippman for his leadership in (a) including \$15 million in the FY2010-2011 budget of

the Office of Court Administration to make up for the shortfall in the New York State Interest on Lawyers' Accounts Fund (IOLA), one of the major sources of funding for providers of civil legal services to the poor in New York State, and (b) convening these hearings on the future of civil legal services funding. Indeed, these hearings bring welcome and sorely needed attention to the inadequate level of state funding for these vital services.

In this testimony, I discuss:

- a. the types of cases handled by LS-NYC;
- b. the impact of the recession on our client population;
- c. the loss in funding for the provision of civil legal services over the last two years;
- d. the impact on communities and the state of adequately funded civil legal services; and
- e. the need for a civil right to counsel in matters touching on basic human needs.

### **TYPES OF SITUATIONS OR CASES IN WHICH CURRENT CIVIL LEGAL SERVICES NEEDS ARE UNMET AND THEIR MAGNITUDE**

For 43+ years our network of programs has provided free legal representation to people who have **nowhere else to turn** in areas including: Consumer Law, Disability Rights, Domestic Violence, Education Law, Elder Law, Employment Law, Family Law, Foreclosure Prevention, Government Benefits & Entitlements, HIV/AIDS, Housing, Immigration, Parent Representation, Preservation of Low-Income Housing, Tax Law, and Unemployment Insurance Benefits. Last year, we closed over 20,000 cases, benefiting close to 65,000 clients and their family members with their civil legal services needs.<sup>1</sup>

Despite our best efforts to leverage our work with *pro bono* assistance and collaborations with colleague providers and community partners, the number of people we can serve compared to the need remains small. In 2009, we participated in the Legal Services Corporation's *Justice Gap* Survey. According to the survey results, in 2008 (the beginning of the recession) we were able to serve fully only 12 % of the people who came to us for help; the remainder were either turned away (51%), not served fully (13%), or received only brief services and advice (24%), although for the most part they really needed representation.

These numbers mirror the statewide crisis in the provision of civil legal services. More than 13% of New York State's population – 2.5 million people – live in poverty; almost two million of these people live in New York City. Yet it is estimated that less than 1% of the approximately 143,000 lawyers in the State are dedicated full-time to providing legal services to the poor.<sup>2</sup> As a result, a New York State Bar Association study found nearly two decades ago that the State's civil legal services programs met less than 14% of the legal needs of low-income New Yorkers and their communities. Since that study, the rate of poverty has only continued to grow.

---

<sup>1</sup> See our 2008 IOLA Summary Report, attached hereto as Attachment A.

<sup>2</sup> Based on the percentage of legal services attorneys in the 70,000+ membership of the New York State Bar Association.

## **CATEGORIES OF INDIVIDUALS WHOSE UNMET LEGAL NEEDS CURRENTLY ARE ESPECIALLY CRITICAL**

### ***Impact of the Economic Downturn on the Legal Needs of New York's Low-Income Population***

News media have recently declared that the recession of the past two years in New York City is over; if so, it is a hollow victory for New York's poor. With massive lay-offs over the last two years – many of them service and entry-level positions often populated by low-income individuals – unprecedented numbers of people require unemployment insurance, the rates of foreclosure are off-the-charts, and more homeless families are now in the shelter system than ever before. As a result, the low-income people and communities that we serve are suffering more now than at any time since the Great Depression.

For example, many who were on unemployment have exhausted their benefits and are facing difficulties paying rent and buying food and other necessities—leading to a greater need for legal help with housing issues and securing other public benefits. In July 2010 New York City unemployment was at 9.4%, down from 9.9% at the same time last year. However, though the numbers are starting to improve, the recovery has been uneven. NYC was still far above the statewide rate of 8.2%, with the Bronx and Brooklyn coming in with the two worst rates in the state, at 13% and 10.5% respectively.

Home foreclosure filings continue at record pace. Half a million people nationwide had a foreclosure added to their credit report between March 31<sup>st</sup> and June 30<sup>th</sup>—an increase of 8.7% over the first quarter. The impact in New York State is acute – 57,256 90-day notices<sup>3</sup> were mailed to borrowers between Feb 13<sup>th</sup> and May 31<sup>st</sup>. Of these, more than 27% were to New York City residents, with Queens homeowners receiving nearly 11% of the statewide total. Foreclosures continue to outpace mortgage loan modifications—6 out of 10 seriously delinquent borrowers are still not in any loan mitigation activity.

People are trying to shed their debt – to save homes, buy food, and pay rent – at unprecedented levels. In the 12-month period ending March 31<sup>st</sup>, New York's Southern and Eastern District Court personal bankruptcy filings were up a combined 33% when compared to the same time the year before. This mirrors the national trend, where the number of consumers nationwide with new bankruptcies on their credit reports rose 34% during the period from March 31<sup>st</sup> to June 30<sup>th</sup>.

Finally, last November, *The New York Times*<sup>4</sup> reported that food stamp use was at record highs, helping 1 in 8 Americans and 1 in 4 children. In New York City, use ranges from 11% in Queens for children to 46% of children in the Bronx. According to the United States Department of Agriculture, the number of New York State residents dependent on the Supplemental Nutrition Assistance Program (commonly known as food stamps) increased by 16.4% between June of 2009 and June of 2010.

---

<sup>3</sup> Notices that foreclosing plaintiffs are required to file before commencing a foreclosure action.

<sup>4</sup> DeParle, Jason, and Robert Geldoff. "Food Stamp Use Soars, and Stigma Fades." *The New York Times* [updated 28 November 2009; cited 14 September 2010]. Available at <http://www.nytimes.com/2009/11/29/us/29foodstamps.html>

Not surprisingly, LS-NYC's resources and staff of 400 attorneys, paralegals, social workers, and administrative support staff are being stretched as never before. While all of our practice areas are seeing increases in requests for legal help, LS-NYC has noted, in particular, a dramatic surge in the need for Unemployment Insurance Benefits Advocacy and Foreclosure work, two of the areas hardest hit by the economic crisis:

TOTAL CASES OPENED				
	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010 (Projected)</u>
UIB	669	959	1373	<b>1746</b>
Foreclosure	41	622	1806	<b>2346</b>

In the case of Foreclosure, last year LS-NYC assisted more than 1,800 families at risk of foreclosure, the vast majority of whom were low-income, minority home-owners living in the outer boroughs of New York City. Most of these homeowners were induced into risky, high cost subprime loans that were unaffordable from their inception. Almost 75% of the homeowners who sought assistance had adjustable rate mortgages, many with costly features like balloon payments and pre-payment penalties.

#### **DATA ON THE IMPACT OF THE ECONOMIC DOWNTURN ON SOURCES OF FUNDING FOR CIVIL LEGAL SERVICES**

The State began funding civil legal services for the poor in 1992 and until two years ago, with the exception of 2007, annual State *general fund* support for civil legal services had been limited to an Assembly legislative add of roughly \$4.2 million. In fiscal year 2009-2010, the New York State Senate, under new leadership, was able to demonstrate its strong support through an appropriation of \$4.4 million for legal services, bringing the total general appropriation for the provision of civil legal services to \$8.6 million in FY2009-2010 (combining the Senate and Assembly appropriations). Sadly, these sources of funding were cut by 70% in the State's FY2010-2011 budget, to a combined \$2.5 million general appropriation for civil legal services, well below the \$8.6 million appropriated for civil legal services by the Legislature last year. These losses were compounded by a 21% reduction in New York City Council Initiative funding for the provision of civil legal services for LS-NYC and the Legal Aid Society, the two main providers of free civil legal services to the poor in New York City.

These losses in funding cannot be addressed through the IOLA Fund. Because of the "perfect storm" of historically low interest rates and the decline in the real estate market, last year IOLA suffered an 80% decrease in funding revenues, and is on par for a similar shortfall this year.

#### **IMPACT ON COURTS OF INCREASING NUMBERS OF UNREPRESENTED LITIGANTS**

Courts and administrative tribunals in New York are grappling with a tsunami of increased filings and proceedings. At the end of 2009, Unemployment Insurance hearings had a backlog of

up to 12 weeks. Cases involving charges like assault by family members – the type of domestic violence cases that civil legal services family law practitioners handle – have increased 18% statewide. And because consumer credit card debt continues to escalate in this difficult economic period, Civil Court cases, where most credit card debt actions occur, ballooned to 577,000 in 2009, up from 200,000 10 years ago.

However, those in the court system who are seeing the results of two years of an unrelenting economic downturn say it best:

*“I am seeing the ripple effects that destroy the family structure,”* Hon. Pam Jackman-Brown (Family Court, Queens County).<sup>5</sup>

*“People who have lost their jobs, or have taken a lesser-paying job, are not able to make their mortgage payments. People in default of their credit cards may have gotten a job but they can’t accumulate enough money to pay back what they owe plus interest.”* Hon. Philip G. Minardo (Supervising Judge, Richmond County).<sup>6</sup>

#### **ECONOMIC AND SOCIAL HARM TO THE COMMUNITY (DIRECT AND/OR INDIRECT) WHEN CRITICAL LEGAL NEEDS ARE UNMET**

We as a society pay an enormous social and fiscal price for failing to provide counsel. The inequity created because of lack of access to the courts breeds, at best, a lack of faith in the justice system and, at worst, contempt for the system, because it simply doesn't work for those who are forced to rely on it to adjudicate matters of basic survival. The cost to households who are denied legal assistance is reflected in homelessness, broken families, lack of medical care, education and other public benefits. The indirect costs are ultimately reflected in the criminal justice system. These hardships are immeasurable. Providing counsel when needed not only saves people from immediate trauma and long-term hardship, it also saves public dollars.

#### **THE ECONOMIC AND SOCIAL BENEFITS TO THE COMMUNITY WHEN SUCH NEEDS ARE MET**

In this time of economic crisis, LS-NYC and the other legal services providers in New York State save the State millions of dollars per year in costs that the State would otherwise incur. Therefore, whatever amount the State allocates to fund such providers is a proven, tested and wise investment for the State.

---

<sup>5</sup> Glaberson, William. “The Recession Begins Flooding Into Courts Nationwide,” *The New York Times*, December 28, 2009, A3, Col. 2.

<sup>6</sup> Harrell, Jeff. “Empty Pockets, full dockets: Foreclosure filings, family cases soar as economic woes come to roost in Island courts,” *The Staten Island Advance*, January 24, 2010, A1, Cols. 4-5.

Specifically, certain types of benefits that we advocate for on behalf of clients – e.g., Earned Income Tax Credits, Unemployment Insurance Benefits, child support payments, federal disability payments – are not funded by the State or City. To the extent that a client receives such benefits, he or she will need less or no State or City benefits. We estimate that LS-NYC and other legal services providers in New York State win for clients an aggregate of \$131 million in such benefits on an annual basis<sup>7</sup> – all of which results in savings to the State and City. Moreover, the monthly federal disability or Unemployment Insurance benefits, child support payments and Earned Income Tax Credit refunds that we win for our clients are spent or re-invested by them and stimulate the economies of their communities.

## CONCLUSION

*“Justice cannot be for one side alone, but must be for both.”*

Eleanor Roosevelt<sup>8</sup>

When low-income people who can't afford to pay for counsel face legal matters that affect their fundamental human needs, they should have counsel at public expense as a matter of legal right. This, in the long run, is a right that New York, as a matter of due process and simple and fundamental fairness, should guarantee.

In 2006, the ABA passed a resolution that stated:

RESOLVED, That the American Bar Association urges federal, state, and territorial governments to provide legal counsel as a matter of right at public expense to low income persons in those categories of adversarial proceedings where basic human needs are at stake, such as those involving shelter, sustenance, safety, health or child custody, as determined by each jurisdiction.

In 2008, the New York State Bar Association (NYSBA) passed its own resolution that stated, in part:

FURTHER RESOLVED, that in view of the New York State Bar Association's commitment to the goal of a civil right to counsel in legal matters affecting basic human needs, the New York State Bar Association urges the New York State Legislature to expand the civil right to counsel in New York by enacting the following legislation:

1. Provide a right to counsel for vulnerable low income people who face eviction or foreclosure from their homes.

---

<sup>7</sup> See the “Overview of Cost Effectiveness of Civil Legal Services,” attached hereto as Attachment B.

<sup>8</sup> 2009 Marks the 125<sup>th</sup> Birthday of this former First Lady of the United States, great fighter for civil rights, co-founder of the United Nations, and Chairwoman of the 1963 Presidential Commission on the Status of Women.

2. Extend the existing right to counsel for unemployment insurance claimants – those who have received a favorable decision from the Unemployment Insurance Appeal Board and are defending that decision in an appeal to the Appellate Division or Court of Appeals brought by another party – to claimants who have received a favorable determination from an administrative law judge are defending against an appeal before the Unemployment Insurance Appeal Board. Additionally, the existing \$500 cap on reimbursement for appointed counsel should be raised to a level high enough to ensure that attorneys will accept the cases.

The NYSBA resolution sets out the right course for New York’s next step in the development of a right to counsel. We should not, as a society, allow the elderly, the disabled, to lose their homes without a fair shot at providing a meaningful defense. Adequate funding for civil legal services will help propel New York on the course towards being the first state in the nation to guarantee a true right to counsel for all of its citizens.

\* \* \* \*

We are very grateful to the New York State Office of Court Administration and Chief Judge Jonathan Lippman for the historic leadership exhibited by creating the Task Force on Funding for Civil Legal Services and in convening these hearings on the future of funding for the provision of civil legal services in New York State.

This is a unique opportunity for New York State to put forth a vision of how to ensure a basic tenet of the promise of America—justice for all—that the nation could take notice of, and follow.

Attached to this testimony are descriptions of a few cases handled by our offices in the last year. These cases demonstrate the enormous value of providing timely, high-quality legal assistance to poor people. Creating a permanent funding source for legal assistance in New York would be a meaningful step towards making access to justice for all New Yorkers a reality.

Thank you.

Michael D. Young  
Interim Executive Director  
Legal Services NYC

## **LEGAL SERVICES NYC SAMPLE CASE NARRATIVES**

**SEPTEMBER 28, 2010**

### **Unemployment Benefits**

Ms. R was a secretary for a large Wall Street brokerage/securities firm for four years. She had a baby and returned to work after her maternity leave, but was treated differently after her return. Management increased her hours, forcing her to leave her home much earlier and arrive home later at the same pay level. Due to the change in shift, it became very difficult for her to breastfeed her baby and get to work on time. She was forced to bring her car to work in order to arrive on time which created huge expenses due to parking, tolls, etc. She also had increased childcare expenses. She was not compensated for any of her expenses. Ms. R's stress level increased which elevated her blood pressure and made it difficult to produce milk for the baby.

Mr. R asked her employer to change her hours back to her old schedule for two days a week. She also requested other positions within the company which might allow her to work at the old schedule. Two fellow employees offered to cover the hours that she could not work. However, despite her many attempts to try to get the employer to modify the hours she was working, the employer denied all of her requests. After experiencing an anxiety attack where her blood pressure was elevated and she suffered dizziness, headaches and heart palpitations, she went to a doctor who told her it was stress related and that she should avoid anything that was causing her the stress. She was left with no choice but to give up her job. When Ms. R applied for UI benefits she was denied, but with representation from LS-NYC she prevailed on appeal and received her UI benefits.

### **Domestic Violence**

Ms. D fled Mexico and came to the United States when she was 18 with her 6 month old daughter, K, to escape K's abusive father. She gave birth to a second child in 2005, whose father was also abusive. Ms. D suffered from verbal, physical and sexual abuse and first sought assistance after hearing a family worker from the Violence Intervention Program (VIP) speak at her daughter's school. She was referred to LS-NYC through VIP and we assisted her in obtaining an order of protection, custody of her daughters, a divorce, and work authorization for her, in addition to U Visas for both her and K.

### **Social Security Disability**

Mr. H had been a Neurologist who helped people after injuries in rehabilitation. He was robbed and seriously beaten on the streets of New York City and his head injuries left him unable to continue his medical practice. He fell into depression, but then found a job at a non-profit that made him feel useful again. Mr. H was told by the non-profit that the money he earned at the job would not be counted against his SSD benefits, and they gave him a letter to give to Social

Security. Unfortunately, he was only exempted for a trial period of time; nine years later, Social Security threatened to cut off his benefits. LS-NYC was able to advocate on his behalf with Social Security and save his SSD benefits.

### Consumer Debt

#### *Bankruptcy*

J. and A. were a young couple with a load of debt that was breaking their back when they came to LS-NYC's Bankruptcy Assistance Project in late 2009. J. had just returned from seven months in the Army and was struggling to find steady, stable work as a civilian. He had worked as a construction worker, a salesman, and a truck driver, but the work did not last and he was constantly having to look for the next job. A. was in college and had a very low-paying internship in the garment industry. A's parents were unemployed at the same time, and J. and A. tried to help them whenever possible.

Because the couple's income was low to begin with, the job losses set them back considerably, and they were forced to use credit cards to make ends meet. When they came to the Bankruptcy Assistance Project in November 2009, their burden of debt had reached over \$70,000. Volunteers at the Project worked with them to prepare their bankruptcy petition, but the case was complicated because J. had received a lump sum combat pay bonus that made them look better off than they were. But the Bankruptcy Project attorneys didn't give up—they found a special protection in the law for combat veterans that allowed J. and A. to proceed. J. and A. have now completed their creditor meeting and other steps, and are waiting for their debts to be discharged. A. just completed a BA at Queens College and is looking forward to going back to active duty in the Army early next year, and J. is working in completing her degree.

#### *Debt Collection*

One of the state's largest debt collectors agreed to settle a Fair Debt Collection Practices Act lawsuit brought by LS-NYC on behalf of two elderly pensioners. 94-year-old Mr. C and his wheelchair bound 85-year-old wife had their bank account containing \$6,000 in pension and Social Security payments frozen for a debt involving their 53-year-old son. Although the law firm that froze the account soon learned the account did not belong to the couple's son, it still refused to release it for six weeks until LS-NYC intervened. To deter similar conduct in the future, LS-NYC filed a Fair Debt Collection Practices lawsuit. Although not admitting any wrongdoing, the law firm settled in May 2010 for \$10,000 in damages.

### Tax

Over the past year the Legal Services NYC-Bronx Low Income Taxpayer Clinic ("Clinic") has noticed a rise in cases of underreporting (where the IRS claims taxpayers reported less income on their tax returns than was actually due) involving taxpayers selling securities to have money to live on after losing their jobs. In one such case, the Clinic assisted a taxpayer, Ms. Y, who sold securities but failed to include a Schedule D, Capital Gains and Losses, with her tax return showing the cost basis of the securities sold.

Based on the information submitted by the mutual fund company, which only showed the taxpayer's proceeds from the sale of the funds, the IRS assessed additional taxes on the securities sold. The IRS shared the information of an increased adjusted gross income with the NY State Department of Taxation and Finance, prompting the State Tax Department to assess additional taxes as well. This State tax bill eventually caused Ms. Y to seek help from LS-NYC to resolve her tax debt.

After investigating the case and reviewing Ms. Y's investment statements, the Clinic determined that the additional tax was being assessed on the money the taxpayer invested in mutual funds and later withdrew. The attorney concluded that Ms. Y was not required to include the funds received from the securities transaction in her gross income and thus should not have been assessed any additional tax on those funds.

The Clinic attorney requested an Audit Reconsideration from the IRS by submitting an amended tax return (Form 1040X) and by submitting a Schedule D along with copies of the taxpayer's investment statements showing the cost basis of the securities sold. After a delay in the IRS resolving the case, the Clinic attorney contacted the Taxpayer Advocate Service (TAS), an independent organization within the IRS that helps taxpayers resolve problems with the IRS. Within a month, the attorney was informed that the IRS would refund over \$13,600 in payments made and in refunds applied to the Federal debt. The attorney sent the favorable IRS decision to the State Tax Department that then issued nearly \$3,000 in payments made and refunds applied to that debt as well. The approximately \$16,600 in payments and refunds represented over 50% of Ms. Y's yearly wages.

### **Foreclosure**

Mr. C's mortgage problems date back to 2002, when he decided to take advantage of low interest rates and refinance his mortgage. The lender told Mr. C that he qualified for a low fixed rate mortgage, but then engaged in a typical "bait and switch" tactic – at the closing, it secretly changed Mr. C's interest rate to a higher rate. Mr. C discovered the true interest rate upon receiving mortgage bills, but when he called the bank to complain, he was told that he signed the papers and was stuck with the higher rate.

Later that year, Mr. C, a construction worker for 26 years, became disabled. He experienced a dramatic loss in income while waiting nearly two years for approval of his application for disability benefits. As a result of this loss in income, Mr. C fell behind on his mortgage and went into foreclosure. During the foreclosure proceeding, Mr. C finally began receiving disability payments and entered into a repayment plan. The repayment plan was a jumbled payment schedule that listed payments of \$2,300 for just over three years and required a down payment of \$10,000. It did not contain any language explaining the terms of the plan. Mr. C called the bank for an explanation of the terms, and was told that if he made timely payments under the repayment plan for one year, the bank would automatically modify his loan.

Mr. C made timely payments for one year, and then sought the promised loan modification. After spending countless hours trying to reach someone at the bank with information about his

modification, Mr. C finally realized that the bank had no intention of modifying his loan. He then sought to refinance with a different lender, and learned that he did not qualify for a refinance because the bank had been reporting his timely payments as late for the duration of the repayment plan, causing enormous damage to Mr. C's credit score. Mr. C wrote letters for eight consecutive months to credit reporting agencies disputing the bank's reporting of his payments, but the bank continued to report his payments as late.

Mr. C continued to make timely payments every month for the duration of the plan. However, in March 2008, the bank rejected Mr. C's payment and told him he owed a balloon payment of \$41,670 to reinstate the mortgage. When Mr. C told the bank that he could not pay \$41,670, the bank resumed foreclosure proceedings.

LS-NYC defended Mr. C in the foreclosure action and brought an affirmative lawsuit in federal court. As a result of our litigation, the bank dismissed the foreclosure action, repaired Mr. C's credit, and provided Mr. C with a very favorable loan modification that would enable him to stay in his home.

\* \* \* \*

In another foreclosure proceeding, Ms. W first applied for mortgage modification with a housing counselor in the spring of 2009. Her loan servicer, First Franklin, approved her for a loan modification in late July 2009, but the modification was unaffordable and did not comply with the Home Affordable Modification Plan (HAMP) guidelines. With the help of LS-NYC, Ms. W was able to decline the unaffordable modification and request an affordable HAMP modification. She subsequently submitted a new mortgage modification application, which First Franklin reported to be complete in December of 2009. Despite the completion of the application and her eligibility, the loan servicer still refused to provide Ms. W with a timely HAMP modification, resulting in additional interest and fees accruing on the loan as well as months of confusion and worry for Ms. W. During the months of delay by First Franklin, LS-NYC engaged in persistent advocacy by attending numerous mandatory settlement conferences with Ms. W, requesting that the court set firm timelines, pressing for frequent conferences, filing papers requesting that the Settlement Conference Referee toll the interest on the loan due to First Franklin's delay, submitting papers to the Referee on the proper interpretation of HAMP guidelines, and working with the loan servicer to ensure that it had the correct financial information for Ms. W. As a result of these efforts, in June 2010, First Franklin finally offered Ms. W a trial loan modification with affordable monthly payments. After months of on-time trial payments, Ms. W has now been approved for a final modification. If she had not obtained the assistance of legal services, it is unlikely Ms. W would have obtained an affordable loan modification and averted foreclosure.

### **Section 8 Housing**

On April 15, 2009, NYCHA assigned a section 8 voucher to Ms. U, which was set to expire on October 15, 2009. Ms. U found an apartment to rent, and a rental application was submitted to NYCHA's Queens Leased Housing Office on October 9, 2009. In accordance with the regular

processing of the application, an inspection was scheduled and took place on November 13, 2009. The apartment passed inspection.

On December 10, 2009 the rental package, including the approved inspection, was sent to the Quality Control Unit ("QCU") for further processing. Ms. U heard nothing from NYCHA and, on December 18, 2009, her son, Mr. V, called the Leased Housing Office. NYCHA claimed that Mr. V was told that there was a problem with final approval because the landlord, a relatively new owner of the apartment, did not provide a recorded deed for the property. Mr. V states that his conversation with NYCHA never included any problem about the landlord's deed. NYCHA also claims that it contacted the landlord directly for this information and that no such information came by or before 12/31/09. Thereafter, on January 26, 2010, NYCHA notified Ms. U as follows: "On 10/15/09 your Section 8 Choice Voucher expired without rental. We have, therefore, canceled the Voucher and your application has been removed from our active file."

Attorneys at LS-NYC successfully argued that NYCHA's contention that the rental application was incomplete, because it did not have proof that the landlord's deed was recorded, lacked any rational basis. Once NYCHA wrongly concluded that it did not have adequate proof of ownership of the property, it led to a string of decisions and actions by NYCHA that could not be supported. After an 8-month battle, the Supreme Court finally directed NYCHA to reinstate Ms. U to the Section 8 Housing Choice Program.

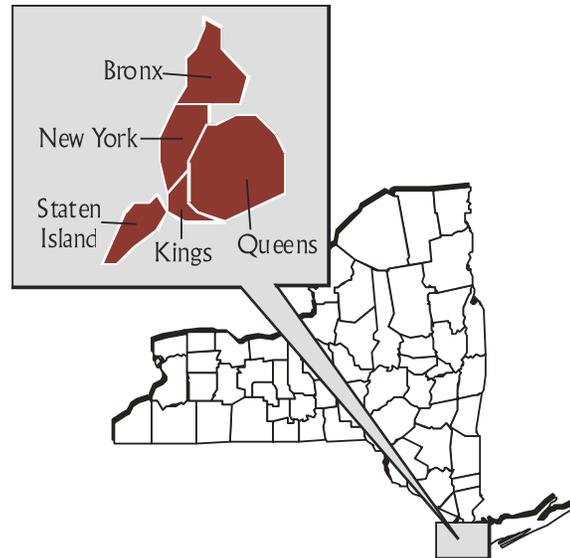
# Legal Services NYC

## Snapshot of Accomplishments, 2008

In 2008, Legal Services NYC programs provided direct legal assistance benefiting over 65,000 low-income New Yorkers in 17,830 individual closed cases. We also provided community legal education, pro se assistance, and "know your rights" materials in print and on websites that benefited over 463,700 persons. We obtained \$14,451,157 in retroactive benefits and \$833,532 in ongoing monthly benefits for our clients and saved taxpayers more than \$57,818,282. During 2008, Legal Services NYC maintained its historic priorities of housing, benefits and family law while expanding services in foreclosure prevention, employment, unemployment, bankruptcy, consumer credit, immigration, and education.

In 2008, our work for clients grew in exciting ways. Our Brooklyn Family Defense Project, initiated in 2007, served over 1,000 clients in abuse and neglect proceedings in Family Court in 2008. Our Language Access Project continued to implement pro-active legal outreach and advocacy efforts on behalf of our LEP client base. We expanded our work with low-wage workers, providing intake at job training sites and handling Earned Income Tax Credit, low-income taxpayer, unemployment insurance benefits and employment law matters. We have significantly expanded our city-wide foreclosure prevention work. We have also hired a new government

*Continued on page 6*



## This Provider At a Glance

Population Served: General Low Income Population  
 Area Served: New York City Metropolitan Area  
 2008 Total Funding: \$44,643,721  
 Total IOLA Grant(s): \$4,514,500

### Program Size - Full Time Equivalents

Total Staff: 354.43  
 Lawyers: 189.33  
 Paralegals: 67.14  
 Other Staff: 97.96

### Types of Services Provided

- Direct Civil Legal Representation
  - Brief Services •
  - Extended Services •
- Hotlines and Other Phone-Based Services •
- Community Legal Education •
- Pro Se Assistance •
- Support for Other Service Providers •
- Major Cases or Other Advocacy Projects •

## The IOLA Grant(s)

Bedford Stuyvesant Community Legal Services Corp. \$208,646	See page 8
Legal Services NYC-Bronx \$883,675	See page 9
Brooklyn Branch \$215,666	See page 10
Brooklyn Legal Services Corp. A \$425,666	See page 11
Legal Support Unit \$302,890	See page 12
Manhattan \$666,744	See page 13
Queens Legal Services Corp. \$717,876	See page 14
South Brooklyn Legal Services \$526,824	See page 15
Staten Island \$98,071	See page 16
Administration / Fiscal Unit \$468,442	See page 17

## Outcomes...

### 65,368 Individuals Benefited from Direct Civil Legal Representation

#### Extended Representation Outcomes

- 20,085 People obtained access to housing
- 3,754 People were prevented from eviction from private housing
- 1,527 People obtained, preserved or increased public assistance, TANF or other welfare benefit/right
- 1,254 People obtained name change
- 9,209 People obtained benefits from other "extended representation"

#### Brief Representation Benefits

- 24,807 People benefited from legal advice and
- 3,127 People benefited from non-litigation advocacy services
- 1,605 People benefited by referral to other sources of help

#### Dollar Benefits Achieved

for Clients - Total **\$30,092,779**

- Social Security, SSI Benefits: \$20,950,821
- Other Federal Benefits: \$2,561,937
- Unemployment Compensation: \$1,160,521
- Family Law - Child Support: \$331,299
- Family Law - Alimony: \$2,316,530
- Affirmative Judgments: \$1,436,317
- Other Benefits: \$1,335,354

*Total includes back awards and 3 year total of monthly benefits, estimated over 6 months (unemployment compensation), 12 months (other federal benefits, food stamps, alimony, affirmative judgements and other benefits) or 36 months (Social Security, SSI and child support).*

## Examples...

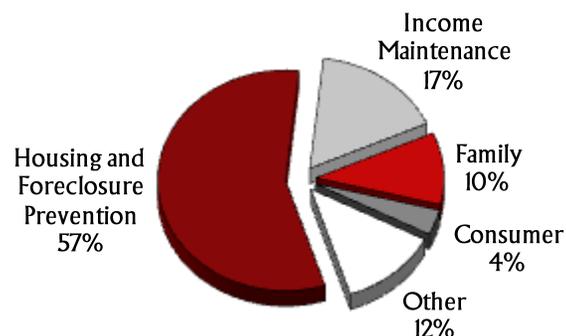
### Outcomes for Clients

On June 19, 2008, the U.S. Supreme Court decided Metropolitan Life Insurance Company v. Glenn. The Court supported the claim of Wanda Glenn, a former employee of Sears Roebuck, whose long-term disability benefits had been cut, even though the Social Security Administration had determined that it would be impossible for Ms. Glenn to return to full-time work. Legal Services NYC and South Brooklyn Legal Services filed a friend of the court brief in support of Ms. Glenn's claim. Ms. Glenn had worked at Sears Roebuck for 14 years when life-threatening heart disease suddenly forced her to quit. Despite the consistent and repeated word of her doctor that Ms. Glenn was unable to return to work, Met Life, the insurance company contracted by Sears to handle their long-term health insurance policy, refused to acknowledge that Ms. Glenn had a permanent disability and insisted she return to some form of work. The Met Life policy had a clause that gave them "discretion" in making eligibility determinations. The practical effect of this is that employees who challenge a decision by filing a lawsuit have very little chance of winning--even if federal judges themselves believe the company made the wrong decision. This is because courts have been required to give great deference to how a benefit plan "exercises its discretion." Ms. Glenn lost her case challenging Met Life's decision in federal district court, but won when she appealed to the U.S. Court of Appeals for the Sixth

*Examples continued on page 6*

## Breakdown By Legal Problem Area

<b>Total</b>	<b>65,368 People</b>
Housing and Foreclosure	37,051 People
Income Maintenance	10,893 People
Family	6,895 People
Consumer	2,395 People
Other	8,134 People



---

## Other Services

### Hotlines and Other Telephone Based Legal Services

Legal Services NYC programs throughout the city staff hotlines for advice and brief service in housing, family law, bankruptcy and general consumer law, public benefits, SSI, elder law, pension, education, and financial justice.

### Legal Services Other Than Direct Legal Representation

All Legal Services NYC programs commit substantial resources to efforts on behalf of poor clients who do not fit the traditional case model. Training, community education programs, pro se clinics, and numerous collaborative efforts involving others in the justice community, are all part of the Legal Services NYC tradition. Legal Services NYC works closely with our community partners and constituent services staff of elected officials who work on behalf of poor people in New York City. Those linkages provide many different kinds of opportunities to provide services. Through our Legal Support Unit (LSU) and our neighborhood offices, we provide training to lay and other legal advocates and to the clients they serve. We hold pro se clinics, make referrals, prepare amici briefs, write manuals, and provide updated materials for LawHelp. We are a resource for other providers, and we collaborate on cases and issues that will benefit our clients' lives by providing expert assistance to other advocates and

back-up case consultation, and providing comments to government agencies on the impact of proposed policies and regulations on the lives of our clients. Finally, we participate in community fairs where we distribute community education materials.

### Support for Other Service Providers

Legal Services NYC's Legal Support Unit (LSU) is the institutional mechanism through which we provide support services. The LSU is a resource to all Legal Services' staff, as well as to public interest advocates throughout the city and state. The LSU provides a comprehensive continuing legal education (CLE) program in a number of substantive areas for legal services providers, advocates, and private attorneys. Several of our trainings are available on DVD so advocates who are unable to attend live classes can still benefit from them and earn CLE credit. The LSU convenes monthly task force meetings in poverty law, open to legal services providers, the pro bono bar, advocates from social services organizations, and elected officials' offices. The LSU maintains listservs in which practitioners share information and discuss case strategies. We also maintain probono.net Web sites in several areas of poverty law, which provide access to important resources not otherwise available online. We distribute legal resource materials, co-counsel in affirmative litigation, prepare amici briefs, and provide

### IOLA Project Grants

Legal Services for New York City  
IOLA Funding Amount: \$4,514,500

IOLA provided significant general support for our city-wide legal services program, and provided a prorated (10 percent) share of our overall delivery of legal services in New York City. Our programs offer a full range of legal services, including representation in court and at administrative proceedings, advice, referral, community education, outreach, and extensive collaboration with other members of the New York justice community, the private bar, and community organizations.

### Number of People Benefited by Legal Services Other Than Direct Legal Representation...

<b>Total:</b>	<b>90,919 People</b>
Community Legal Education:	81,087 People
Pro Se Assistance:	2,201 People
Legal Hotline Services:	7,631 People

## Other Services, *continued*

telephone and electronic mail consultations to neighborhood-based legal services programs, to enable advocates from legal services programs, social services organizations, and the private bar to provide high-quality assistance to their clients.

The LSU also provides critical leadership, program development, and overall coordination of citywide special projects, such as the Language Access Project, the Low Wage Workers Project, the Leadership Institute, the City-wide Civil Legal Needs Assessment, and LawHelp/NY, for which Legal Services serves as a founding and integral Consortium member.

### Major Cases or Other Advocacy Projects

#### Aquaiza v. Vantage Properties

In April 2008, Queens Legal Services (QLS) initiated a case that represents tenants who have been targeted for harassment by one of the private equity firms that are buying up thousands of rent-regulated apartments across New York City, expecting to generate quick profits by increasing rents after existing tenants leave their units. Tenant advocates report that Vantage Properties has used tactics like holding rent checks and initiating frivolous actions to force out tenants. The named plaintiff in the matter, Jose Ricardo Aquaiza, has been sued by Vantage three times: twice for nonpayment of rent, even though he had proof from the post office that rent payments had sent.

The impact of this case will be to discourage Vantage Properties from harassing tenants in its 4,000 Queens apartments and, indirectly, the other 5,000 apartments in its portfolio in other

boroughs. The case will also affect private-equity landlords throughout New York City, and has already played an important role in focusing media attention, and the attention of elected officials, on the issue.

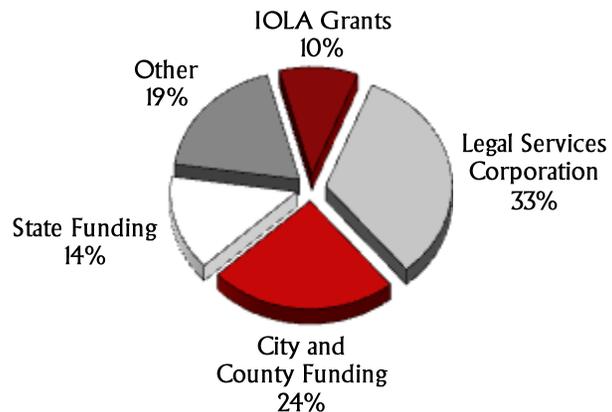
## Pro Bono Private Attorney Involvement

During 2008, we continued to strengthen our ties with the private bar and find new projects that offer opportunities for private attorneys to provide important pro bono services. Examples of innovative and successful ongoing pro bono projects include the following:

- **Bankruptcy Project:** The New York City Bankruptcy Assistance Project brings attorneys and debtors together through a system of workshops where potential filers first hear an informational presentation about the advantages and disadvantages of bankruptcy. After that, clients meet with one-on-one with attorneys for assessment, advice, and possible assistance with preparing and filing a Chapter 7 bankruptcy petition. Those who choose to file a bankruptcy petition through the Project will represent themselves in court. In addition to the pro se filings, pro bono attorneys also help with contested matters. Over 600 attorneys have participated, preparing over 300 bankruptcy petitions and providing assistance to nearly 2,500 debtors -- virtually all the petitions prepared through the Project have led to successful bankruptcy discharge for the petitioners; on average, over \$42,000 per debtor has been discharged, making it possible for working poor people to work and pay their bills, and it has

## Sources of Funding

Total	\$ 44,643,721
IOLA Grants	\$ 4,514,500
Legal Services Corporation	\$ 14,766,968
City and County Funding	\$ 10,726,998
State Funding	\$ 6,340,451
Other	\$ 8,294,803



---

## Pro Bono Private Attorney Involvement, *continued*

become a national model for bankruptcy pro bono.

- **Low Income Taxpayer Clinic:** In a new collaboration between Legal Services NYC-Bronx's Low Income Taxpayer Clinic, Columbia Law School, and the firm of Milbank, Tweed, Hadley & McCoy LLP, the clinic's overflow cases are being referred to the law firm for tax representation. This collaboration provides an opportunity for the clinic to increase its reach in the community by having more taxpayers represented, and to get the private bar involved. Having cases generated by the clinic referred on a pro bono basis to the firm will allow Legal Services NYC-Bronx to continue providing new and potential with the opportunity to fully access free and high-quality legal services, to provide students with the opportunity to work with real clients with real problems, and to expose both the students and private attorneys to pro bono work.
- **Pro Bono Counsel:** In a two-year-old project with Weil, Gotshal & Manges, a partner serves as pro bono "Corporate General Counsel" for Legal Services NYC, advising the organization on all policy and legal matters pertaining to its structure, governance, and operations.
- **Anti-eviction Program:** Since 2002, Manhattan Legal Services has partnered with the firm of Simpson Thacher & Bartlett LLP in an anti-eviction program. Each spring, experienced staff attorneys from the office train between 12 to 20 young associates on Housing Court practice and landlord-tenant law; the associates receive CLE credit for the training. After training is completed, housing cases are referred to the firm -- most referrals are holdover cases where the client's tenancy is at stake. The associates are mentored by senior housing attorneys on their cases. The Anti-eviction Program has been extremely useful in securing legal representation for clients whose cases Manhattan Legal Services could not take; most of the clients would have

faced eviction if they had not received pro bono assistance from the firm.

- **"Local Law 10" Project:** In a unique new project instituted in early 2008, South Brooklyn Legal Services has partnered with Dewey & LeBouef LLP to represent tenants in Local Law 10 cases. Local Law 10 was enacted in 2008 to prohibit landlords from refusing to rent, lease, or sell housing to someone based on their "lawful source of income." Lawful source of income includes public assistance benefits, Social Security, disability benefits, or a Section 8 rental subsidy. While landlords can refuse to accept tenants for other economic reasons, such as a poor credit rating, they cannot use a tenant's use of Section 8 vouchers to pay rent as their reason for refusing to rent, nor can they refuse to accept a Section 8 voucher from an existing tenant.

### Pro Bono Statistics

In 2008, volunteer lawyers participating in our program achieved the following results:

- *Number of cases completed:* 752
- *Hours contributed:* 20,266
- *Dollar value of services\*:* \$3.04 million

*\*estimated at \$150 per hour*

- **Externships:** We have established externship programs with Dewey & LeBouef LLP; Kramer, Levin, Naftalis & Frankel LLP; Weil, Gotshal & Manges LLP; and Simpson, Thacher & Bartlett LLP. Each externship typically lasts from four to six months. We also have a limited externship program with Milbank, Tweed, Hadley & McCloy LLP, through which, each fall, externs are placed with one or two offices for approximately three months.
- **Clinic Staffing:** We have continuing relationships with firms that staff clinics, including Katten Muchin Rosenman LLP, which staffs an HIV clinic at South Brooklyn Legal Services; Carter Ledyard & Milburn LLP, which staffs a wills clinic at Legal Services NYC-Bronx; and McDermott Will & Emery, which staffs cases from the Education

---

## Outcomes for Clients *continued from page 2*

Circuit. Taking into account Met Life's conflict of interest, the Court refused to rubber-stamp Met Life's decision and instead looked closely at the evidence. Based on their review, the Sixth Circuit came to the conclusion that the cutoff to Ms. Glenn's benefits had been unreasonable.

Met Life asked the Supreme Court to review the Sixth Circuit Court's decision, and the Court upheld the Sixth Circuit's decision. According to the Supreme Court, in cases like this courts should take into account conflicts of interest as well as other facts that might indicate that a denial was unfair. Although the Met Life case concerned a long-term disability plan, the Court made it clear that its ruling applied to all types of employee benefits, include retirement pensions that are regulated under the Employee Retirement Income Security Act.

**L**egal Services NYC's Pension Counseling Project, one of few such projects in the nation, successfully represented Bo Samadjopoulos, an emergency bridge worker for the city who spent months after 9/11 working at

Ground Zero. His disability pension was denied by the New York City Employees' Retirement Services (NYCERS), which claimed that the evidence failed to prove his disability. He was examined briefly by NYCERS' Medical Board to determine whether or not he could receive a disability pension. However, the board failed to examine the respiratory ailments acquired after six weeks of prolonged exposure to the dust of Ground Zero. Manhattan Supreme Court Justice Walter Tolub ordered the Medical Board to reexamine Mr. Samadjopoulos. "It's quite a remarkable indictment of the Medical Board," said Pension Project Director Gary Stone in an April 8th Daily News article. "It was a disturbing finding, if we think about how many people's cases get decided by the Medical Board." As a result of the Pension Counseling Project's efforts, Mr. Samadjopoulos can finally expect to collect his \$20,000-a-year pension. This case should have an impact on how the NYCERS' Medical Board treats similar 9/11 disability requests.

---

## Snapshot of Accomplishments *continued from page 1*

benefits fellow to support the government benefits work of our advocates and to implement improvements in the delivery and expansion of related services. Pro bono projects continued to flourish: in 2008, some 819 pro bono attorneys, paralegals, and others provided case or other services, for a total value of \$10,253,095, an increase over \$2 million dollars from last year. Each of these developments represents a part of Legal Services' commitment to aggressively seek opportunities to garner both private attorney and public resources to respond to emerging or expanding client needs.

With support from the Robin Hood Foundation, we instituted a branding project and adopted our new name Legal Services NYC and a common graphic design that puts "legal services" front and center, and "connects" all the parts of our program. In 2008, we also issued Legal Services NYC's first Annual Report, which covers activities in 2007. The 2008 Annual Report is currently in production.

We continue to be proud of Legal Services' progress in the use of technology to support our

**Legal Services NYC - 6**

programs and increase access to justice for low-income New Yorkers. For example, in 2008, the Technology Support Unit managed the development of the second generation Legal Support Unit Learning Center, continued planning work on a city-wide fully functional intranet, began converting offices to a much more powerful and economical telephone system, and continued work on a document automation pilot in matrimonial law in collaboration with Probono.net, the New York State Courts, and LAWNY.

Most importantly, in 2008 our offices won significant victories for our clients -- fighting racial discrimination and predatory lending; stemming gentrification and displacement; and advancing the rights of biological parents, students facing school discipline, and low-income consumers. Selected highlights of Legal Services' achievements in 2008 include the following:

- Spurring changes in the city's language access policy: As New York City's demographics have shifted, Legal Services has become a leading advocate for identifying and breaking

*Continued on page 7*

---

## Snapshot of Accomplishments *continued from page 6*

down discriminatory barriers that non-English-speaking clients face in obtaining benefits, services, and access to justice. As a result of the advocacy efforts of our Language Access Project and those of immigrant advocates, in July 2008 Mayor Bloomberg signed an Executive Order requiring city agencies to provide translations or interpretations for the six foreign languages most commonly spoken in the city. Advocates cited Legal Services' 2007 Language Access Report, Translation Woes, as evidence that this action was sorely needed to ensure access to critical services, such as food stamps, Medicaid, and public assistance.

- Conducting a citywide legal needs assessment: With support from IOLA and The New York Community Trust, in April 2008 Legal Services initiated a citywide needs assessment to identify critical areas where indigent legal needs are particularly acute, and to determine what the implications are for New York's legal services providers. While we have undertaken this process in each of our local offices over the years, this comprehensive assessment addresses the full range of legal needs of all low-income New York City residents. New Yorkers in Crisis, the resulting report, was released in February 2009. We hope the report will help inform our work and the work of the larger poverty advocacy community.
- Launching a Leadership and Management Training Institute: A pilot, nine-month training program for legal work supervisors that commenced in October 2008 will continue through June 2009. This ambitious program is meant to ensure that all our managers and emerging leaders receive the professional development training and support needed to ensure effective leadership. To date, this program has received positive feedback and addresses a formerly unmet need among our supervisors. We are excited about programmatic improvements that will result because of increased collaboration and communication. Next steps are to determine how the Leadership Institute will address the training needs of all our managers and

emerging leaders in future years, and how we will institutionalize this program.

- Hosting a Legal Services NYC 40th Anniversary Conference: On March 13, 2008, we held our first Legal Services NYC citywide staff conference, "Achieving Justice: Celebrating Our Past, Planning Our Future." The conference was attended by more than 250 staff members and held at Cardozo Law School. The conference included 14 substantive workshops, a keynote address by Shanta Driver, Esq., and an awards ceremony to recognize outstanding contributions by Legal Services staff.
- Greatly expanded our foreclosure prevention work: In July 2008, the Center for New York City Neighborhoods (CNYCN) awarded \$1,246 million in grants to Legal Services and its programs to be used to coordinate new and expanded, citywide foreclosure prevention legal services. Part of the Center's funding is to support the Legal Support Unit's role as CNYCN Legal Services Program Partner, supporting and coordinating foreclosure prevention legal services through training, technical assistance, and advocacy. Legal Services also received foreclosure prevention funding from the New York State Banking Department and the New York State Housing Trust Fund Corporation of the Department of Housing and Community Renewal to support this important work.
- Instituting a model loan repayment program: In July 2007 Legal Services inaugurated its in-house loan forgiveness program. Since that time, Legal Services has distributed a total of \$101,907 to help its lawyers and social workers pay their professional school debts and to make it easier for public interest-oriented law students to take Legal Services jobs and stay in the program.
- Continuing our quality initiative: Staff and board members continued to be engaged in a "quality initiative" to determine ways in which we can continue to improve the standard of delivery of client services.

IOLA funding provided significant support for all of our work and the achievements described above, representing 10 percent of our total funding.

# Bedford Stuyvesant Community Legal Services Corporation

## This Provider At a Glance

Population Served: General Low Income Population  
 Area Served: Borough of Brooklyn  
 2008 Total Funding: \$1,546,456  
 Total IOLA Grant(s): \$208,646  
 Program Size - Full Time Equivalents  
 Total Staff: 12.40  
 Lawyers: 6.80  
 Paralegals: 1.00  
 Other Staff: 4.60

## Number of People Benefited by Legal Services Other Than Direct Legal Representation...

Total: 13,085 People  
 Community Legal Education: 13,085 People

## Outcomes...

### 1,924 Individuals Benefited from Direct Civil Legal Representation

#### Extended Representation Outcomes

- 101 People prevented eviction from private housing
- 42 People obtained, preserved or increased SSI benefits/rights
- 20 People prevented eviction from public housing
- 19 People obtained federal bankruptcy protection
- 138 People obtained benefits from other "extended representation"

#### Brief Representation Benefits

- 1,386 People benefited from legal advice and counsel
- 77 People benefited from non-litigation advocacy services
- 141 People benefited by referral to other sources of help

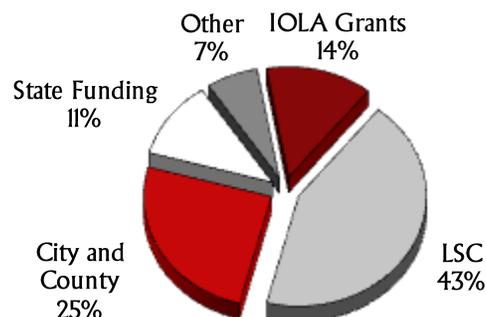
#### Dollar Benefits Achieved

for Clients - Total	\$941,615
• Social Security, SSI Benefits:	\$930,176
• Unemployment Compensation:	\$919
• Other Benefits:	\$10,520

*Total includes back awards and 3 year total of monthly benefits, estimated over 6 months (unemployment compensation), 12 months (other federal benefits, food stamps, alimony, affirmative judgements and other benefits) or 36 months (Social Security, SSI and child support).*

## Sources of Funding

<u>Total</u>	<u>\$1,546,456</u>
IOLA Grants	\$ 208,646
LSC	\$ 669,505
City and County	\$ 391,443
State Funding	\$ 176,242
Other	\$ 100,620



# Legal Services NYC-Bronx

## This Provider At a Glance

Population Served:	Low Income and Elderly Residents of the Bronx
Area Served:	The Bronx
2008 Total Funding:	\$6,665,006
Total IOLA Grant(s):	\$883,675
<b>Program Size - Full Time Equivalents</b>	
Total Staff:	57.60
Lawyers:	29.60
Paralegals:	16.00
Other Staff:	12.00

## Number of People Benefited by Legal Services Other Than Direct Legal Representation...

<b>Total:</b>	<b>2,431 People</b>
Community Legal Education:	726 People
Pro Se Assistance:	1,148 People
Legal Hotline Services:	557 People

## Outcomes...

### 6,797 Individuals Benefited from Direct Civil Legal Representation

#### Extended Representation Outcomes

- 988 People prevented eviction from private housing
- 805 People obtained, preserved or increased public assistance, TANF or other welfare benefit/right
- 361 People obtained, preserved or increased SSI benefits/rights
- 163 People obtained individualized education program and/or appropriate services consistent with special education law
- 1,103 People obtained benefits from other "extended representation"

#### Brief Representation Benefits

- 2,706 People benefited from legal advice and counsel
- 320 People benefited from non-litigation advocacy services
- 351 People benefited by referral to other sources of help

#### Dollar Benefits Achieved

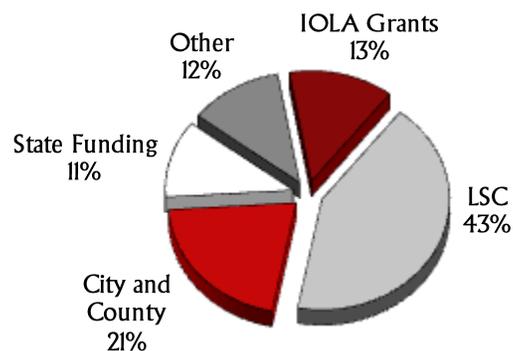
##### for Clients - Total **\$7,792,497**

- Social Security, SSI Benefits: \$5,422,963
- Other Federal Benefits: \$1,970,194
- Unemployment Compensation: \$318,019
- Affirmative Judgments: \$7,040
- Other Benefits: \$74,279

*Total includes back awards and 3 year total of monthly benefits, estimated over 6 months (unemployment compensation), 12 months (other federal benefits, food stamps, alimony, affirmative judgements and other benefits) or 36 months (Social Security, SSI and child support).*

## Sources of Funding

<b>Total</b>	<b>\$6,665,006</b>
IOLA Grants	\$ 883,675
LSC	\$ 2,835,549
City and County	\$ 1,398,208
State Funding	\$ 758,121
Other	\$ 789,452



# Brooklyn Branch

## This Provider At a Glance

Population Served: General Low Income Population  
 Area Served: Kings County  
 2008 Total Funding: \$1,842,215  
 Total IOLA Grant(s): \$215,666  
 Program Size - Full Time Equivalents  
*Total Staff: 13.29*  
*Lawyers: 8.29*  
*Paralegals: 2.00*  
*Other Staff: 3.00*

## Number of People Benefited by Legal Services Other Than Direct Legal Representation...

**Total: 382 People**  
 Community Legal Education: 304 People  
 Pro Se Assistance: 3 People  
 Legal Hotline Services: 75 People

## Outcomes...

### 1,897 Individuals Benefited from Direct Civil Legal Representation

#### Extended Representation Outcomes

- 467 People prevented eviction from private housing
- 118 People obtained, preserved or increased public assistance, TANF or other welfare benefit/right
- 63 People obtained, preserved or increased SSI benefits/rights
- 50 People delayed eviction providing time to seek alternative housing
- 210 People obtained benefits from other "extended representation"

#### Brief Representation Benefits

- 790 People benefited from legal advice and counsel
- 193 People benefited from non-litigation advocacy services
- 6 People benefited by referral to other sources of help

#### Dollar Benefits Achieved

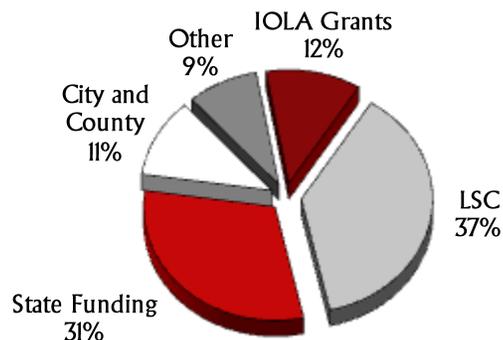
for Clients - Total **\$2,713,189**

- Social Security, SSI Benefits: \$1,756,223
- Unemployment Compensation: \$12,490
- Affirmative Judgments: \$13,608
- Other Benefits: \$930,867

*Total includes back awards and 3 year total of monthly benefits, estimated over 6 months (unemployment compensation), 12 months (other federal benefits, food stamps, alimony, affirmative judgements and other benefits) or 36 months (Social Security, SSI and child support).*

## Sources of Funding

<b>Total</b>	<b>\$1,842,215</b>
IOLA Grants	\$ 215,666
LSC	\$ 692,031
State Funding	\$ 567,031
City and County	\$ 206,036
Other	\$ 161,452



# Brooklyn Legal Services Corporation A

## This Provider At a Glance

Population Served:	General Low Income Population
Area Served:	Kings County
2008 Total Funding:	\$4,157,178
Total IOLA Grant(s):	\$425,666
Program Size - Full Time Equivalents	
Total Staff:	35.06
Lawyers:	21.80
Paralegals:	6.00
Other Staff:	7.26

## Number of People Benefited by Legal Services Other Than Direct Legal Representation...

<b>Total:</b>	<b>8,965 People</b>
Community Legal Education:	8,415 People
Pro Se Assistance:	300 People
Legal Hotline Services:	250 People

## Outcomes...

### 26,228 Individuals Benefited from Direct Civil Legal Representation

*Includes Community Economic Development and Tenant Association cases affecting 21,252 individuals*

#### Extended Representation Outcomes

- 20,002 People obtained access to housing
- 1,250 People obtained name change
- 456 People prevented eviction from private housing
- 140 People obtained assistance in development/renovation of affordable housing
- 1,176 People obtained benefits from other "extended representation"

#### Brief Representation Benefits

- 2,170 People benefited from legal advice and counsel
- 999 People benefited from non-litigation advocacy services
- 35 People benefited by referral to other sources of help

#### Dollar Benefits Achieved

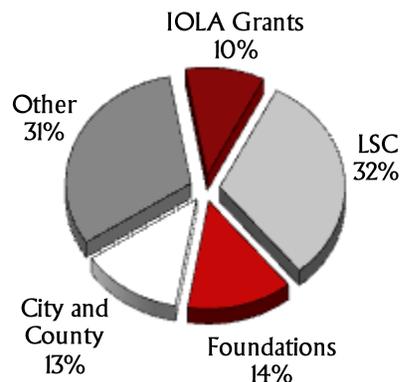
**for Clients - Total** **\$1,754,934**

- Social Security, SSI Benefits: \$1,643,692
- Unemployment Compensation: \$88,530
- Affirmative Judgments: \$22,712

*Total includes back awards and 3 year total of monthly benefits, estimated over 6 months (unemployment compensation), 12 months (other federal benefits, food stamps, alimony, affirmative judgements and other benefits) or 36 months (Social Security, SSI and child support).*

## Sources of Funding

<b>Total</b>	<b>\$ 4,157,178</b>
IOLA Grants	\$ 425,666
LSC	\$ 1,313,444
Foundations	\$ 567,183
City and County	\$ 543,840
Other	\$ 1,307,044



# Legal Support Unit

## This Provider At a Glance

Population Served:	General Low Income Population
Area Served:	New York City Metropolitan Area
2008 Total Funding:	\$2,334,098
Total IOLA Grant(s):	\$302,890
Program Size - Full Time Equivalents	
Total Staff:	10.50
Lawyers:	6.40
Paralegals:	2.30
Other Staff:	1.80

## Number of People Benefited by Legal Services Other Than Direct Legal Representation...

<b>Total:</b>	<b>3,663 People</b>
Community Legal Education:	1,176 People
Pro Se Assistance:	319 People
Legal Hotline Services:	2,168 People

**The Legal Support Unit** provided 105 Continuing Legal Education training events reaching more than 1,700 people in 2008. Legal Services NYC's Legal Support Unit is the only comprehensive legal support services office available to poverty lawyers and other advocates for low-income families and individuals in New York City. In addition to CLE trainings in poverty law, the LSU conducts task forces in a range of critical substantive areas, disseminates materials to practitioners, and provides expert advice and case consultation to scores of social services organizations and other non-profit groups, greatly leveraging resources and augmenting the ability of legal services programs to address legal needs. The LSU also operates special projects and initiatives such as the Bankruptcy Assistance Project, the Language Access Project, the Leadership Institute, and the Community Needs Assessment. Only the Bankruptcy Assistance Project provides direct legal assistance reflected in the outcomes listed below. Finally, the outcomes listed below include those for the Brooklyn Family Defense Project, a program operated directly by Legal Services NYC.

## Outcomes...

### 1,397 Individuals Benefited from Direct Civil Legal Representation

#### Extended Representation Outcomes

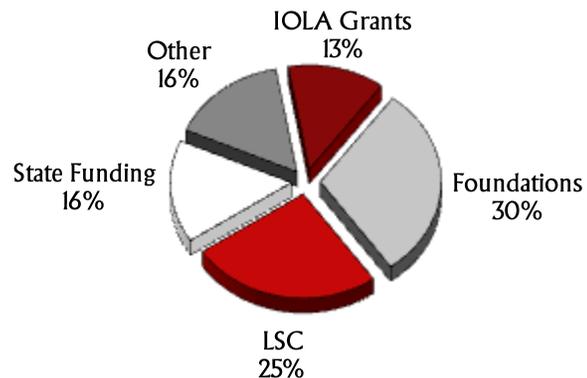
- 455 People avoided termination of parental rights
- 185 People obtained federal bankruptcy protection
- 6 People obtained, preserved or increased Medicare benefits /rights
- 130 People obtained benefits from other "extended representation"

#### Brief Representation Benefits

- 607 People benefited from legal advice and counsel
- 14 People benefited from non-litigation advocacy services

## Sources of Funding

<b>Total</b>	<b>\$2,334,098</b>
IOLA Grants	\$ 302,890
Foundations	\$ 698,474
LSC	\$ 596,348
State Funding	\$ 370,973
Other	\$ 365,413



# Manhattan

## This Provider At a Glance

Population Served:	General Low Income Population
Area Served:	Manhattan
2008 Total Funding:	\$6,231,418
Total IOLA Grant(s):	\$666,744
<b>Program Size - Full Time Equivalents</b>	
Total Staff:	44.70
Lawyers:	28.10
Paralegals:	8.00
Other Staff:	8.60

## Number of People Benefited by Legal Services Other Than Direct Legal Representation...

<b>Total:</b>	<b>6,727 People</b>
Community Legal Education:	5,777 People
Pro Se Assistance:	415 People
Legal Hotline Services:	535 People

## Outcomes...

### 6,446 Individuals Benefited from Direct Civil Legal Representation

#### Extended Representation Outcomes

- 400 People prevented eviction from private housing
- 200 People obtained, preserved or increased public assistance, TANF or other welfare benefit/right
- 154 People obtained, preserved or increased food stamps eligibility/right
- 116 People obtained, preserved or increased SSI benefits/rights
- 1,062 People obtained benefits from other "extended representation"

#### Brief Representation Benefits

- 4,137 People benefited from legal advice and counsel
- 357 People benefited from non-litigation advocacy services
- 20 People benefited by referral to other sources of help

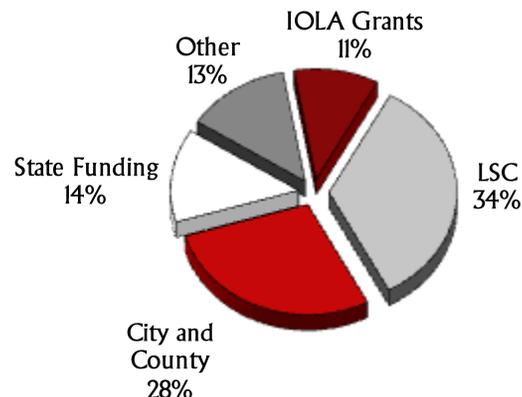
#### Dollar Benefits Achieved

<b>for Clients - Total</b>	<b>\$4,986,713</b>
• Social Security, SSI Benefits:	\$3,762,619
• Other Federal Benefits:	\$493,232
• Unemployment Compensation:	\$121,932
• Affirmative Judgments:	\$402,885
• Other Benefits:	\$206,046

*Total includes back awards and 3 year total of monthly benefits, estimated over 6 months (unemployment compensation), 12 months (other federal benefits, food stamps, alimony, affirmative judgements and other benefits) or 36 months (Social Security, SSI and child support).*

## Sources of Funding

<b>Total</b>	<b>\$ 6,231,418</b>
IOLA Grants	\$ 666,744
LSC	\$ 2,139,458
City and County	\$ 1,751,848
State Funding	\$ 854,187
Other	\$ 819,180



# Queens Legal Services Corporation

## This Provider At a Glance

Population Served:	General Low Income Population
Area Served:	Queens County
2008 Total Funding:	\$5,802,124
Total IOLA Grant(s):	\$717,876
<b>Program Size - Full Time Equivalents</b>	
Total Staff:	47.14
Lawyers:	19.60
Paralegals:	14.54
Other Staff:	13.00

## Number of People Benefited by Legal Services Other Than Direct Legal Representation...

<b>Total:</b>	<b>22,461 People</b>
Community Legal Education:	21,199 People
Legal Hotline Services:	1,262 People

## Outcomes...

### 7,265 Individuals Benefited from Direct Civil Legal Representation

#### Extended Representation Outcomes

- 352 People prevented eviction from private housing
- 264 People obtained, preserved or increased food stamps eligibility/right
- 160 People delayed eviction providing time to seek alternative housing
- 147 People obtained, preserved or increased SSI benefits/rights
- 1,053 People obtained benefits from other "extended representation"

#### Brief Representation Benefits

- 4,803 People benefited from legal advice and counsel
- 301 People benefited from non-litigation advocacy services
- 185 People benefited by referral to other sources of help

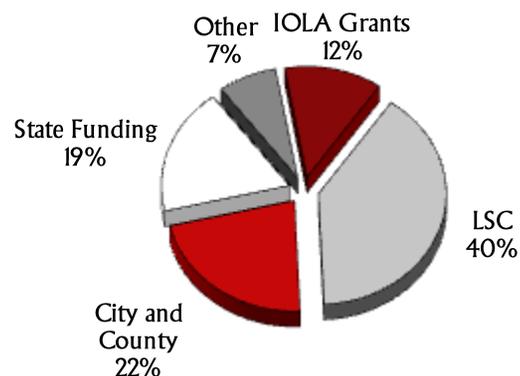
#### Dollar Benefits Achieved for Clients - Total

	<b>\$2,942,695</b>
• Social Security, SSI Benefits:	\$2,428,389
• Other Federal Benefits:	\$82,820
• Unemployment Compensation:	\$410,510
• Family Law - Alimony:	\$14,400
• Affirmative Judgments:	\$4,107
• Other Benefits:	\$2,469

*Total includes back awards and 3 year total of monthly benefits, estimated over 6 months (unemployment compensation), 12 months (other federal benefits, food stamps, alimony, affirmative judgements and other benefits) or 36 months (Social Security, SSI and child support).*

## Sources of Funding

<b>Total</b>	<b>\$ 5,802,124</b>
IOLA Grants	\$ 717,876
LSC	\$ 2,303,531
City and County	\$ 1,276,609
State Funding	\$ 1,075,433
Other	\$ 428,676



# South Brooklyn Legal Services

## This Provider At a Glance

Population Served:	General Low Income Population
Area Served:	New York City Metropolitan Area
2008 Total Funding:	\$6,973,687
Total IOLA Grant(s):	\$526,824
<b>Program Size - Full Time Equivalents</b>	
Total Staff:	61.27
Lawyers:	40.74
Paralegals:	11.80
Other Staff:	8.73

## Number of People Benefited by Legal Services Other Than Direct Legal Representation...

<b>Total:</b>	<b>31,197 People</b>
Community Legal Education:	28,413 People
Legal Hotline Services:	2,784 People

## Outcomes...

### 11,993 Individuals Benefited from Direct Civil Legal Representation

#### Extended Representation Outcomes

- 990 People prevented eviction from private housing
- 250 People preserved or restored access to personal property
- 222 People obtained, preserved or increased SSI benefits /rights
- 213 People obtained, preserved or increased public assistance, TANF or other welfare benefit /right
- 1,449 People obtained benefits from other "extended representation"

#### Brief Representation Benefits

- 7,231 People benefited from legal advice and counsel
- 805 People benefited from non-litigation advocacy services
- 833 People benefited by referral to other sources of help

#### Dollar Benefits Achieved

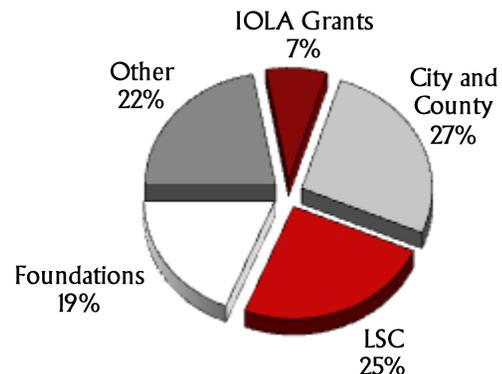
##### for Clients - Total **\$8,611,613**

- Social Security, SSI Benefits: \$4,724,740
- Unemployment Compensation: \$200,273
- Family Law - Child Support: \$288,833
- Family Law - Alimony: \$2,302,130
- Affirmative Judgments: \$984,465
- Other Benefits: \$111,172

*Total includes back awards and 3 year total of monthly benefits, estimated over 6 months (unemployment compensation), 12 months (other federal benefits, food stamps, alimony, affirmative judgements and other benefits) or 36 months (Social Security, SSI and child support).*

## Sources of Funding

<b>Total</b>	<b>\$6,973,687</b>
IOLA Grants	\$ 526,824
City and County	\$ 1,859,760
LSC	\$ 1,719,214
Foundations	\$ 1,318,120
Other	\$ 1,549,768



# Staten Island

## This Provider At a Glance

Population Served:	General Low Income Population
Area Served:	Staten Island
2008 Total Funding:	\$1,112,055
Total IOLA Grant(s):	\$98,071
<b>Program Size - Full Time Equivalents</b>	
Total Staff:	13.00
Lawyers:	8.00
Paralegals:	2.00
Other Staff:	3.00

## Number of People Benefited by Legal Services Other Than Direct Legal Representation...

<b>Total:</b>	<b>2,008 People</b>
Community Legal Education:	1,992 People
Pro Se Assistance:	16 People

## Outcomes...

### 1,421 Individuals Benefited from Direct Civil Legal Representation

#### Extended Representation Outcomes

- 48 People obtained or maintained custody of children
- 36 People obtained protection from domestic violence
- 20 People obtained a divorce, legal separation or annulment
- 13 People obtained assistance in development/renovation of affordable housing
- 232 People obtained benefits from other "extended representation"

#### Brief Representation Benefits

- 977 People benefited from legal advice and counsel
- 61 People benefited from non-litigation advocacy services
- 34 People benefited by referral to other sources of help

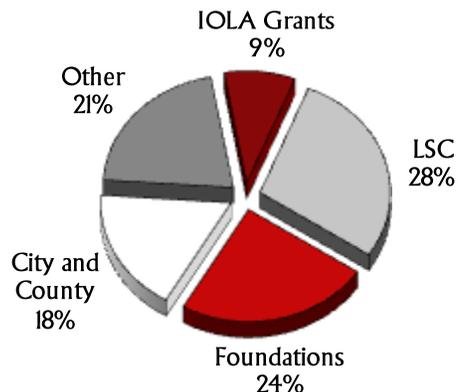
#### Dollar Benefits Achieved for Clients - Total

<b>Total</b>	<b>\$349,524</b>
• Social Security, SSI Benefits:	\$282,019
• Other Federal Benefits:	\$15,691
• Unemployment Compensation:	\$7,848
• Family Law - Child Support:	\$42,466
• Affirmative Judgments:	\$1,500

*Total includes back awards and 3 year total of monthly benefits, estimated over 6 months (unemployment compensation), 12 months (other federal benefits, food stamps, alimony, affirmative judgements and other benefits) or 36 months (Social Security, SSI and child support).*

## Sources of Funding

<b>Total</b>	<b>\$1,112,055</b>
IOLA Grants	\$ 98,071
LSC	\$ 314,687
Foundations	\$ 266,987
City and County	\$ 197,355
Other	\$ 234,955



---

# Administrative/Fiscal Unit

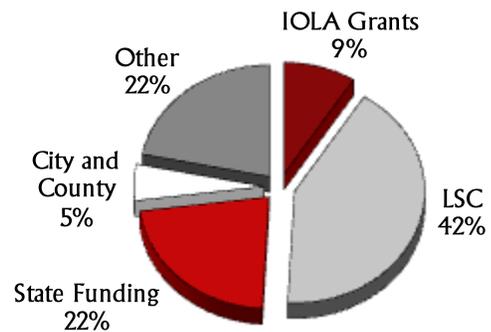
## This Provider At a Glance

Population Served:	Central Support Unit for Legal Services NYC	Program Size - Full Time Equivalents
Area Served:	New York City Metropolitan Area	Total Staff: 32.30
2007 Total Funding:	\$5,216,633	Lawyers: 3.00
Total IOLA Grant(s):	\$468,442	Paralegals: 0.50
		Other Staff: 28.80

---

## Sources of Funding

<b>Total</b>	<b>\$ 5,216,633</b>
IOLA Grants	\$ 468,442
LSC	\$ 2,183,200
State Funding	\$ 1,155,017
City and County	\$ 273,961
Other	\$ 1,136,013



## **Overview of Cost Effectiveness of Civil Legal Services**

### **Generating Economic Activity, Client Benefits, and Savings for State and Local Governments**

- **Client Benefits:** In 2006 civil legal services generated **\$131 million in benefits for their clients, a return of 93 cents on the dollar.** The majority of the benefits flow almost immediately into state and local economies **resulting in sales tax revenues and business income to state and local businesses.**
- **Economic Activity and Jobs:** In their 2001 Grantee Activity Report, the IOLA Fund used a standard economic activity multiplier to estimate that in 1999 **grantees generated \$634.9 million in new economic activity and 10,793 jobs** resulted from both the benefits generated for clients and federal funding secured by grantees to provide services.
- **Leveraging Federal and Private Funding:** Members of the **Statewide Campaign for Civil Legal Services** leveraged **\$29,519,602 in federal funding, and \$34,482,395 in private dollars** to provide legal assistance to low income clients **resulting in payroll taxes, health benefits, rent, utilities, and staff salaries paid here in New York.**
- **Increasing Child Support Payments:** legal services programs generated a total of **\$12,391,387 in child support payments to clients in 2006,** increasing family resources and thus decreasing the need for publicly funded benefits including public assistance and child care subsidies.
- **Maximizing SSI/SSD payments to clients and to state and local government:**
  - ✓ **In 2007 DAP advocates generated \$24,494,483 in retroactive awards for their clients and \$7,620,771 in interim assistance for benefits provided for the State.**
  - ✓ According to the **Office of Temporary and Disability Assistance's** most recent Biennial Report to the Legislature, it is estimated that in 2005 **DAP generated \$10.5 million in public assistance cost reduction, resulting in a net gain of \$14.6 million for the state and localities, more than twice the initial investment.**
- **Maximizing Food Stamps:** For every family of three who receives Food Stamps, **as much as \$5,556 in federal dollars is generated** in nutritional support and subsequent expenditure in the local economy.
- **Avoiding the High Cost of Homelessness:** In 1999 legal services providers helped a total of 48,014 adults and children avoid homelessness. We estimate that **for each family in New York City that avoids eviction as a result of civil legal services representation, \$31,215 in savings is generated.** Savings around the state will vary, but are still substantial. One study **estimates a \$4 savings for every \$1 invested.**
- **Averting Foster Care Costs:** For every child a legal services program is able help keep out of the system, **government will save an average of \$16,200, at bare minimum.** For many children, the savings would be much higher - **as much as \$48,600 for children without special needs, and much more for those who have disabilities or need therapeutic care.**
- **Creating Efficiencies in the Courts:** Civil legal services programs resolve an estimated two out of three client problems by providing advice or non litigation services. Increasing the availability of **legal services will help cut down on the number of cases that wind up before a judge unnecessarily.**

New York County Lawyers' Association

TESTIMONY BY JAMES B. KOBAK JR.  
PRESIDENT, NEW YORK COUNTY LAWYERS' ASSOCIATION  
AT  
THE CHIEF JUDGE'S HEARING ON CIVIL LEGAL SERVICES  
SEPTEMBER 28, 2010  
APPELLATE DIVISION, FIRST DEPARTMENT

The New York County Lawyers' Association (NYCLA) welcomes the opportunity to submit written testimony to the Chief Judge's Hearings on Civil Legal Services.

NYCLA, a 10,000-member bar association organized 102 years ago, has always had as part of its fundamental mission a commitment to access to justice for New Yorkers without regard to their resources. Over the years, NYCLA has expressed this concern in several ways: operating *pro bono* programs offering legal advice and representation to low-income persons and advocating for adequate government funding for legal services for the poor in both criminal and civil matters.

Last December, Immediate Past President Ann Lesk testified before the New York State Senate Standing Committees on Crime Victims, Crime and Correction, Judiciary, Codes and Veterans and Military Affairs on the crisis in funding for civil legal services in New York. Focusing on the impact of the drastic drop in funds available through the Interest on Lawyer Account Fund of the State of New York (IOLA), she noted that in 2009, NYCLA had experienced a 30 percent increase in the number of persons seen in its *pro bono* legal counseling clinic, which provides legal information and assistance in areas such as family, landlord/tenant, consumer bankruptcy and employment law. Thanks to Chief Judge Lippman's request that the Legislature provide an allocation, the Judiciary Budget did receive a supplement for IOLA's use in its grant-making process.

Small ad hoc supplements and programs like NYCLA's, though important, are not a solution and do not address the dimensions of the issue. Annual skirmishes in the United States Congress, New York State Legislature and New York City Council over funding for civil legal services yield inadequate funding for legal service providers. Even when annual funding is supplemented, such sporadic and unreliable sources contribute to the precarious financing of civil legal services. Foundation grants and private contributions, however welcomed by legal service providers as temporary infusions, are not of the magnitude needed

to shore up a system with growing numbers of litigants facing, among other difficult situations, the loss of their homes through foreclosure or their resources through judgments obtained by alleged creditors. Bar associations like NYCLA cannot fill the gap in services as the sheer numbers of needy and unrepresented litigants overwhelm the abilities of volunteer lawyers. As just one example, the number of consumer debt filings in New York City Civil Court has hovered around 300,000 for several years, exceeding the number of foreclosure actions filed in Housing Court. In both these courts, the vast majority of tenants and debtor-defendants are unrepresented as there are not enough legal service or *pro bono* attorneys to take their cases.

What is the remedy? For the past six years, NYCLA has called for a funded right to counsel, “civil Gideon.” On the national level, NYCLA supported the civil Gideon resolution adopted by the American Bar Association (ABA) at its House of Delegates meeting in 2006, as well as the ABA Basic Principles for a Right to Counsel in Civil Legal Proceedings adopted by its House of Delegates this August. These principles embody minimum obligations for jurisdictions when establishing a system of effective representation in certain legal proceedings for persons unable to pay for an attorney. As stated in Principle 1: “Legal representation is provided as a matter of right at public expense to low-income persons in adversarial proceedings where basic human needs—such as shelter, sustenance, safety, health, or child custody—are at stake.”

On the local level, NYCLA has strongly advocated for a civil right to counsel. NYCLA held a major conference on the 30<sup>th</sup> anniversary of the Housing Court in 2004, where conference participants considered challenges to making access to justice a reality in a court in which over 90 percent of the cases involve unrepresented parties. One of the three conference reports adopted by the NYCLA Board of Directors and published in 2006 was the “Report on Right to Counsel in Housing Court,” which states: “The right to counsel must be recognized for individuals in danger of losing their home due to a legal or administrative proceeding. Counsel shall be appointed based on clear guidelines for those who are unable to afford counsel. In order for this right to be realized, government must provide appropriate funding. This right is based upon concerns relating to the state and federal constitutions, statutes, costs associated with homelessness, budgetary fairness and other sound social policy.”

NYCLA is an active member of the NYC Coalition for a Right to Counsel for Senior Citizens, which supports City Council legislation that would provide a right to counsel for low-income seniors facing eviction or foreclosure. A bill introduced in March 2010, and previously introduced in 2008, would ensure that seniors with income less than \$29,000 would be represented by lawyers when threatened with eviction or foreclosure. The cost of this limited right to counsel was estimated at \$10 million a year. Some of the cost of keeping seniors in their home would be offset by savings from what the City would otherwise spend for shelters, hospitals, nursing homes and other institutions.

Focusing on a right to counsel for a particularly vulnerable group such as seniors is just a first step. With the U.S. poverty rate now at a 15-year high (*New York Times*, September 17, 2010), more New York families will confront eviction, resulting in their moving in with relatives, thereby putting their extended families at greater risk of eviction, or entering shelters for the homeless. According to the New York City Department of Homeless Services, 35,319 individuals were in shelters on September 15, 2010—21,218 adults and 14,101 children. Although a precise number is impossible to determine, given the facts that upwards of 90 percent of tenants are not represented by attorneys in Housing Court and that represented tenants fare better against represented landlords, many of these single adults and families, with the benefit of counsel, might still be in their apartments or at least have gained time to find other non-emergency housing. Losing one's home, with its devastating consequences for adults and even more severe implications for children, is too traumatic an event for government not to provide adequate safeguards.

NYCLA has supported the right to counsel with actions as well as advocacy. Advocates estimate that over 95 percent of consumers have to defend themselves in Civil Court debt-collection cases. To assist these unrepresented litigants, NYCLA, in partnership with the Civil Court of New York County, launched the Consumer Debt Volunteer Lawyer for the Day Project, which has provided free consultations to 245 self-represented debtor-defendants since it began in January 2010. In addition, since 2008, NYCLA's Manhattan CLARO (Civil Legal Advice and Resource Office) Project has provided advice to more than 700 unrepresented debtor-defendants. However, these worthy projects are a drop in the bucket against an ocean of need.

Other countries have recognized the need for a civil right to counsel. NYCLA's sister bar association in Lille, France recently held a conference on representation of the indigent, attended by attorneys from France, England, Belgium, Italy, other countries and the European Commission for the Efficiency of Justice. As reported by Immediate Past President Ann Lesk, who represented NYCLA: "...there was a vast disparity between the continents with respect to the assistance provided as of right to indigent persons in civil litigation. All of the European states provide some level of civil legal assistance as of right. The other participants in the conference found it hard to believe that in the U.S., indigent parties to actions leading to foreclosure, eviction and other serious consequences had no right to counsel."

A civil right to counsel, supported by adequate funding, is long overdue. Fiscal constraints cannot be the deciding factor for New York City and New York State, any more than for other parts of the United States or other governments around the world. Rather, fundamental fairness, and the constitutional rights to due process and equal protection of the law in the New York and U.S. constitutions,

require a civil Gideon for poor people in adversarial proceedings where basic human needs are at stake. Sound public policy leads to the same conclusion, given the societal costs of homelessness, neglected youth, services for the poor and inadequate access to health care. New York should assume its proper constitutional role and be a leader in providing this basic right to the poor.

# Service Women's Action Network



Service Women's Action Network (SWAN)  
P.O. Box 1758  
New York, NY 10156-1758  
[www.servicewomen.org](http://www.servicewomen.org)  
212-683-0015 x324 (phone)

---

Task Force to Expand Access to Civil Legal Services in New York

**First Judicial Department Hearing: Unmet Civil Legal Services in New York**

Rachel Natelson, Legal Advisor, Service Women's Action Network  
September 28, 2010

My name is Rachel Natelson, and I am legal advisor to the Service Women's Action Network (SWAN). SWAN supports, defends, and empowers today's servicewomen and women veterans of all eras, through advocacy initiatives and healing community programs. SWAN's vision is to transform military culture by securing equal opportunity and the freedom to serve in uniform without threat of harassment, discrimination, intimidation or assault. SWAN also seeks to reform veterans' services on a national scale to guarantee equal access to quality health care, benefits and resources for women veterans and their families.

SWAN effects change for servicewomen and women veterans by educating policy makers and the public, engaging military leadership and veterans' providers, developing community programs, offering support and guidance from fellow women veterans, and providing pro bono legal referrals.

**Population**

As Operations Enduring and Iraqi Freedom stretch into the future and Vietnam veterans continue to age, demands for health care and other services have exploded, along with a corresponding need for assistance in accessing such benefits. Unlike the wars of the recent past, in which non-fatal casualties outnumbered deaths by a modest factor, today's conflict has resulted in far more injuries than fatalities. Although 90% of seriously wounded OEF/OIF servicemembers have survived combat, their post-deployment needs reflect the grave and varied nature of their injuries.

Amid a combat arena in which danger is omnipresent and the discrete front-lines of past wars have given way to diffuse and hidden weaponry, the lack of relative "safe" zones in Iraq and Afghanistan yields a host of physical and psychological consequences. The risks presented by these factors have already begun to materialize on a national scale, with one-third of returning servicemembers reporting mental health conditions and only a fraction of these veterans actually accessing treatment. Their status has resulted not only in nearly 300,000 new VA disability claims but also in an 18% unemployment rate and a 25% sub-minimum wage-earner rate among returning veterans alone.

Home to over a million veterans, New York State contains the fourth largest veteran population in the country, with 35% of this cohort residing in the five boroughs. In fact, at 350,000 and growing, the number of veterans in New York City alone surpasses the respective *statewide* veteran populations in 28 states.

## Needs

These numbers translate into a web of needs that threatens to grow ever more tangled in the absence of appropriate resources. Veterans residing in or returning to the City already face a host of concerns: a corrupt and inefficient disability benefits system, a family court system that fails to accommodate the demands of deployment, a criminal justice system insensitive to the warrior mindset, and a declining job market in which employers often view military service as a liability instead of an asset.

In spite of the magnitude of these needs, not nearly enough services are in place to accommodate them. Veteran Service Officers, who have historically offered representation to those seeking VA benefits, face staggering caseloads, undermining their ability to analyze claims and obtain and submit evidence for every case. At the same time, New York City's VA benefits office remains one of the most troubled in the country, with recent investigations revealing a pattern of document destruction. Long notorious for its delays in handling claims, this office routinely takes over a year to process initial applications.

A similar need exists for representation in military discharge matters. The gateway to a host of government benefits, an honorable discharge characterization determines the difference between poverty and self-sufficiency for many New Yorkers. The growing incidence of PTSD and other psychological ailments, however, has significantly blurred the line between willful and involuntary misconduct, leaving the military considerable discretion in assessing performance during the discharge process. At the same time, the relative ease of obtaining discharges based on pre-existing "personality disorders" presents an incentive for traumatized soldiers to forgo the lengthy application process required for service-related medical discharges, thereby depriving themselves of VA benefit entitlement.

Meanwhile, veterans and active duty personnel are equally in need of assistance in asserting their rights in civilian matters ranging from family relations to employment to voting. New York City's Administration for Children's Services (ACS), for example, currently offers no policy to accommodate deployed parents with children in foster care, in spite of having devised a comparable procedure for incarcerated parents. Instead, the agency has deemed deployed soldiers "absent parents," denying them the right to participate in placement decisions. At the same time, military attorneys are often unfamiliar with state-specific family law and thus unable to provide meaningful representation.

Given the disconnect between state family law and military family policy, servicemembers often suffer a double injury, as family courts disregard the care plans they devised through the military and the military overlooks the implications of state court orders. A client, for example, was bewildered to learn that the military power of attorney he had signed to appoint his mother guardian of his children during his deployment carried no weight with a local family court judge, who ultimately placed his children in foster care. At the same time, the military continued to deduct family support money from his salary in spite of the fact that his children were no longer in their mother's care.

As the divorce rate among enlisted personnel continues to rise, servicemembers have also begun to encounter difficulties in seeking and maintaining custody of their children. Even ordinarily straightforward matters like uncontested divorce tend to be complicated by issues of service and availability for court proceedings. Meanwhile, startlingly few family law practitioners are

sufficiently versed in the Servicemembers Civil Relief Act and comparable protections to assist military personnel with such matters.

A similar lack of guidance exists with respect to voting rights for deployed personnel. Military voters must currently contend with a daunting voting process composed of seven major steps and up to 13 discrete sub-steps, from deciding to participate in the electoral process to actually casting a vote. As a result, GI voter participation is substantially lower than that of civilians, with fewer than 30% of all absentee ballots requested by military personnel actually cast. Just last year, in fact, the Department of Justice cited New York State for failing to afford overseas military personnel enough time to submit their votes for a special district election.

In spite of laws prohibiting discrimination against servicemembers in housing and hiring, landlords and employers are often wary of accommodating active duty personnel due to their itinerant lifestyle. Veterans, meanwhile, have expressed concern that employers shrink from hiring them for fear of their potential psychological problems.

Service-related mental illness also yields repercussions within the criminal justice system. Without access to treatment, psychologically scarred veterans are increasingly likely to engage in conduct harmful to themselves as well as to others. The criminal justice system, meanwhile, is often insensitive to the circumstances underlying such behavior, with few jurisdictions offering alternatives to incarceration geared specifically to the veteran population. As a result, offenses ranging from drug use to weapon possession have prompted a wave of sentences that tend to exacerbate mental health conditions instead of relieving them.

## **Recommendations**

1) New York City should dedicate a funding stream in support of free legal services for this vulnerable population. According to a recent Legal Services report, more than 83,000 veterans in the City are income-eligible for free legal services; in addition, the American Bar Association has deemed enlisted personnel at the first 6 pay grades eligible for free representation. In spite of qualifying financially for such services, however, individuals in need of representation have remarkably few options. While the NYC Bar Association sponsors a monthly pro bono clinic for VA claimants, there are currently no institutional providers of comprehensive legal services for this population in New York State.

While state and city funding streams exist to support representation in Public Assistance and Social Security proceedings, there remains no comparable funding source for VA benefits and military discharge representation. At a moment in which private foundations are severely limiting their grantmaking efforts, public money is especially vital for this fast-growing population. Like Disability Advocacy Program (DAP) funding, this money would serve as a sound investment; at Swords to Plowshares, a legal service provider in San Francisco, every \$1 used to fund VA benefits representation generates more than \$26 in benefits directly to the veterans.

2) Existing legal service providers must make a greater effort to integrate veterans and servicemembers into their practices. Since military status tends to complicate family and housing proceedings, civil legal service attorneys tend to lack the expertise to accept such cases. The state-specific nature of these proceedings, however, often removes them from the purview military attorneys, leaving a pronounced void in resources. The City should dedicate funding for the retention and training of legal service providers in this area.

3) The City should take steps to ensure greater cultural competency among such traditional “first responders” as police, paramedics, child welfare agents, teachers, and employers. Often unfamiliar with the practical and emotional needs of returning veterans, these figures should be trained to recognize and respond to the varied challenges of deployment, homecoming, and reintegration into civilian life. Veterans should not have to sacrifice their rights to child custody, employment, or housing as a result of the insensitivity of civilian agents.

4) Area courts should explore and promote alternatives to incarceration for offenders with service-related psychological disorders. While the City currently sponsors a mental health court and a number of drug treatment courts, these programs have reported only a small percentage of veterans among their respective populations. Whether these findings are due to deficiencies in screening or a failure to divert mentally ill veterans to existing programs, courts must make a greater effort to identify these veterans and refer them to treatment.

An important first step would be to incorporate VA and nonprofit veteran service providers into the network of providers already affiliated with the City’s mental health and drug treatment courts. Once screened for veteran status, defendants should also be paired with veteran mentors, a treatment method that has proven particularly effective in Erie County’s Veteran Court.

5) State and local elected officials must demand greater federal oversight of New York City’s VA benefits office. Within a national system notorious for its injustice and inefficiency, the Houston Street Regional Office has earned the reputation as one of the very worst offices in the entire country.

Even before a public scandal revealed an institutional practice of backdating claims documents, the office was known for its interminable review period, often exceeding a year per claim, and its substandard accuracy rates. The Manhattan Regional Office is a particularly grim illustration of the consequences of the Veterans Benefits Administration’s ill-conceived work credit system, under which reviewers are rewarded based on the quantity and not the quality of claims they process. The resulting combination of too much work and too little time ultimately gives rise to premature—and inaccurate—determinations, setting in motion years of appeals.

I would be happy to answer any questions you might have about these and other issues. Thank you for granting me the opportunity to testify.