



# Empire Justice Center

Making the law work for all New Yorkers

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## **Joint Legislative Public Hearings on the 2017-18 Executive Budget Proposal**

### **Public Protection**

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Good afternoon and thank you for the opportunity to testify on this year's Executive Budget. My name is Anne Erickson and I am President and CEO of Empire Justice Center. Empire Justice is a statewide, multi-issue, multi-strategy non-profit law firm focused on changing the "systems" within which poor and low income families live. With a focus on poverty law, Empire Justice undertakes research and training, acts as an informational clearinghouse, and provides litigation assistance to local legal services programs and community based organizations. As an advocacy organization, we engage in legislative and administrative advocacy on behalf of those impacted by poverty and discrimination. As a non-profit law firm, we provide direct legal assistance to those in need and undertake impact litigation in order to protect and defend the rights of disenfranchised New Yorkers.

Our work cuts across 30 areas of substantive law and involves three inter-related statewide services:

**Training, technical assistance and information sharing.** As a backup center for civil legal services, our staff provide training and support to legal services and other community based organizations to keep them apprised of any change in law, rule or regulation that will impact their clients. In an effort to use our resources as efficiently as possible, we partner with the Western New York Law Center in running an online training center which puts critical training sessions at the fingertips of advocates across the state. In our role as an informational clearinghouse, we also run a cross cutting website, bringing information and legal resources right to the desktops of advocates.

**Direct legal representation and impact litigation.** We provide a range of legal assistance from our offices in Rochester, Albany, Westchester and Central Islip. We are one of the core legal services providers in the Greater Rochester area, representing clients in the areas of civil rights, Americans with Disability Act (ADA) claims, consumer, foreclosure, disability benefits and special education. In the Capital Region we provide representation to public assistance applicants. In the Hudson Valley we provide representation to under-served immigrants in need of a range of legal assistance, including help in adjusting their status and seeking employment authorizations. Our Long Island office provides a blend of individual representation, primarily for immigrants, and local policy advocacy aimed at improving programs and services for those in need.

**Policy advocacy.** In order to ensure that the needs of low income families are heard within the state's policy making processes, we engage in both legislative and administrative advocacy on a range of issues impacting our clients. We are a resource to the Legislature on a broad range of substantive law matters and we work closely with the state's administrative agencies to identify and help address issues that we see emerging from our work with legal services organizations across the state. We have helped lead the effort to secure funding for legal services since 1993 when the State Assembly first provided general funding for the delivery of legal services in New York.

In today's testimony, we recommend:

- Full Legislative support for the proposed budget of the Unified Court System, including proposed funding for civil legal services;
- Distribution of the Legal Services Assistance Fund including legal services for victims of domestic violence according to last year's schedule in order to maintain current grant levels and provide programmatic stability throughout the state.

### **Making a Difference: The Impact of New York's Investment in Access to Justice**

As you know all too well, study after study here and across the country have consistently demonstrated the incredible gap between the civil legal needs of low and moderate income families and the ability of the legal system to meet those needs. Since the 1980s, this Justice Gap has been a staggering 80%. This means that even in the best of times, we have met at most 20% of the civil legal needs of those in need.

In an effort to take a dramatic and strategic step forward, in early 2010 then-Chief Judge Jonathan Lippmann appointed the Task Force to Expand Access to Civil Legal Services in New York. I am honored to be a member of what is now the Permanent Commission on Access to Justice. It is a Commission whose mission has been embraced and reaffirmed by our new Chief Judge Janet DeFiore.

As part of its charge, the Commission works throughout the year to identify ways in which this Justice Gap can be closed or at least narrowed in New York. The Commission engages pro bono research firms and data analysts, engages the Office of Court Administration in ways to streamline processes and procedures, taps the provider community and the private bar in seeking ways to better serve those who remain unrepresented, and assists in preparing for public hearings held each year to hear from researchers, clients, business leaders and others impacted by the legal services delivery system. The results of the hearings and specific recommendations for improving access to justice are then included in an annual report from the Commission to the Chief Judge.

### **The Need for Civil Legal Services**

The Office of Court Administration (OCA) indicated that in 2009 an estimated 2.3 million New York residents went into civil courts in New York State without a lawyer. Seventy percent of these civil matters dealt with the core issues of family, consumer credit and housing. These are not simple matters. They touch on the essentials of life – the roof over one's head and the health, safety and economic security of one's family.

The issues most often confronting our clients center on the most essential civil legal issues:

- **Economic Supports, Education and Employment.** Issues relating to disability assistance and social security income, unemployment insurance, wrongful termination issues, public assistance, emergency assistance and utility shut off issues. Access to appropriate educational services and supports.
- **Housing and Homelessness.** Issues relating to housing, shelter, homeownership and homelessness are among the legal issues generating the greatest demand. Loss of housing can cause an entire cascade of social and economic issues for families; for those with school-aged children the impact on their education can be devastating and life-long.
- **Immigrants and Immigration.** An area of growing need even prior to the recent changes in federal policy, immigrants turn to legal aid for assistance in pursuing citizenship, securing special visa protections (for crime victims and victims of human trafficking for example), seeking legal assistance to pursue protection under the Violence Against Women Act (VAWA), and seeking family reunification assistance.
- **Health Care.** Access to health coverage in an ever-changing industry, eligibility for Medicaid, Medicare and premium assistance through the Exchange, and access to care and services once coverage is in place. Given the incredible uncertainty we are now confronting in our overall health care system, the need for legal assistance will only increase as individuals and families face almost certain denials of service and termination of coverage.
- **Consumer Issues.** Credit and debt issues, bankruptcy, loans (other than mortgages), medical debt, rent to own issues and tax problems. Student loan defaults and illegal practices luring students into ever greater debt continue to increase in the overall legal services caseload.
- **Domestic Violence.** An area of tremendous need that crosses both civil and criminal legal needs. It should be noted that providing legal assistance in civil matters for victims of domestic violence can have life-altering impacts: gaining child support or other economic assistance can empower a victim to leave an abusive situation; securing access to housing can provide the security needed to move from an abusive home; providing orders of protection through family court can offer the protection needed to continue going to work and maintaining employment.

## The Impact of Judiciary Civil Legal Services Funding

When the work of the Commission began in 2010, the consultants engaged in the data review that year confirmed that in New York only 20% of the legal needs of those confronting civil legal matters were being met. In 2015, the Office of Court Administration (OCA) convened a committee to review and update this analysis. The committee found that the investments being made in legal services were indeed having an impact: 31% of the legal needs of low income New Yorkers were now being met. This year, the Commission again sought to update this data, and the OCA Office of Court Research undertook the review, finding that we are now meeting an estimated 37% of the civil legal needs of low income New Yorkers.

<b>JUDICIARY CIVIL LEGAL SERVICES GRANTEEES</b>			
	<b>2013-2014 CASES HANDLED</b>	<b>2014-2015 CASES HANDLED</b>	<b>2015-2016 CASES HANDLED</b>
First Department	108,350	128,095	133,743
Second Department	172,284	183,742	213,819
Third Department	40,482	42,907	36,660
Fourth Department	63,858	66,369	69,686
<b>STATEWIDE TOTAL</b>	<b>384,974</b>	<b>421,113</b>	<b>453,908</b>

Clearly, the new funding made available through the Judiciary has had a significant impact on access to justice in our state. Two key indicators of the impact were cited by the Commission on Access to Justice in this year's report:

- Civil legal services organizations receiving funding through the Judiciary Civil Legal Service (JCLS) handled 453,908 cases in the 2015-16 reporting period, an increase of over 68,930 cases from 2013.
- Overall efforts have increased the percentage of civil legal needs being met, from 20% in 2010 to 37% in 2016.

While the impact is impressive, there is still a long way to go: over 60% of the civil legal needs of New York's low and moderate income households are going unmet.

## Income Levels: Targeting Low and Moderate Income Households

The Judiciary Civil Legal Services (JCLS) funding is targeted specifically to low and moderate income households living on incomes at or below 200% of the Federal Poverty Level (FPL). As the economy continues to struggle, this population group has grown in recent years – 35% of all New Yorkers – 6.12 million people -- live on incomes at or below this level.

**Annual Poverty Income Levels by Family Size (2017)**

Household Size	100 %	125 %	200 %
1	\$11,880	\$14,850	\$23,760
2	\$16,020	\$20,025	\$32,040
3	\$20,160	\$25,200	\$40,320
4	\$24,300	\$30,375	\$48,600

## Economic Impact of Providing Legal Assistance

Each year, the Permanent Commission on Access to Justice engages pro bono assistance from leading researchers and economists to review and analyze economic data related to the provision of civil legal services. For example, outside researchers have looked at the economic impact of providing eviction prevention legal assistance, thereby reducing emergency shelter costs; they have analyzed the economic benefits of providing legal assistance to victims of domestic violence and to those seeking disability benefits, looking not only at the financial security driven by these services for clients, but also at the benefit to the overall state economy; and they have looked at the impact of securing work authorization and citizenship for immigrants providing more secure employment status for them.

The following findings are taken from the 2016 Report to the Chief Judge which can be found at: [http://www.nycourts.gov/accesstojusticecommission/PDF/2016 Access to Justice-Report.pdf](http://www.nycourts.gov/accesstojusticecommission/PDF/2016%20Access%20to%20Justice-Report.pdf)

- **The Long-Term Financial Impact of Increased Access to Federal and State Benefits on Recipients and their Families is Estimated to Be \$2.7 Billion**

The impact of providing civil legal aid to those in need includes reducing the cost of emergency housing, securing appropriate economic supports, securing child support for children, securing

appropriate federal disability benefits and securing citizenship for immigrants which then drives higher wages and more secure employment.

➤ **The Economic Benefit from Child and Spousal Support Payments to Recipients of Those Benefits and Their Families**

Every year, legal services providers work to secure child and spousal support payments for those in need. In 2015, the IOLA data indicates retroactive awards of Child and Spousal Support at approximately \$1.38 million and monthly payment awards of \$356,000. The net present value of the monthly payments, based on a payment stream of nine years, is approximately \$38.4 million. Thus, the total value of the Child and Spousal Support awards for 2015 is approximately \$39.8 million. After deducting the estimated value of support payments not actually received, the estimated value of actual Child and Spousal Support payments is approximately \$26.2 million for the work done just in 2015.

➤ **Total Estimated Cost Savings from the Avoidance of Emergency Shelter Have Increased to \$345.2 Million**

In 2013, using 2012 State and local data on the cost of providing shelter in New York State and IOLA data on eviction prevention cases, Cornerstone Consulting concluded that anti-eviction legal services programs that receive IOLA funding saved the government approximately \$116 million annually in averted shelter costs. In the 2014 Task Force Report, updated analysis of eviction prevention data provided by IOLA demonstrated annual savings of more than \$220 million. This year, the research conducted by analysts at Stout Risius Ross (SRR) estimated that the cost savings to government now stands at \$345.2 million. This is based on the 32,038 individuals who benefited as a result of eviction prevention services.

➤ **The Value of the Wage Impact of Work Authorization Assistance for Immigrant Victims of Domestic Violence, Trafficking and Other Crimes is Estimated to Be \$52.6 Million**

With the assistance of legal services, immigrant clients successfully applying for U Visas and T Visas or protections under the Violence Against Women Act (VAWA) receive work authorizations which allow them to work legally, which in turn provides a significant wage differential. Indeed, for 2015, analysts estimate the total increase in annual wages was \$4.24 million for women and \$4.3 million for men. The total net value of wage impacts due to the legal assistance provided, which secures work authorizations, is estimated at \$52.6 million for cases handled in 2015.

➤ **The Value of Securing Citizenship for Immigrants is Estimated to Be \$49.5 Million**

Approximately 3,830 immigrants obtained their citizenship through the work of legal services providers in 2015. According to the research undertaken for the Commission, these new citizens also enjoy an average wage increase of \$735 per year for women and \$823 per year for



men. Based on the 2015 immigration cases in which legal services secured citizenship, the net value of the wage impact is estimated at \$49.5 million.

➤ **Civil Legal Services Funding Provides a Positive Economic Impact on the New York State Economy**

Civil legal services for low income New Yorkers provide substantial economic value to needy families, as well as State and local economies and governments. The economic value to clients and their families of federal benefits secured as a result of legal representation in 2015 is estimated to be approximately \$953.9 million. These benefits also provide a significant stimulus to the New York State economy overall and create thousands of jobs.

Considering the multiplier effect of federal funds brought into New York State in 2015, the positive impact on the economy amounts to an additional \$1.29 billion and the creation of approximately 9,000 jobs.

**New York's Approach to Ensuring Access to Justice: Three Core Funding Streams**

New York now has basically three pillars of funding to support the general delivery of civil legal services: the Judiciary's funding for civil legal services, the Interest on Lawyer Account Fund (IOLA), and targeted funding allocated by the Legislature.

**Judiciary Funding for Civil Legal Services**

Just as the State Education Department works to meet the educational needs of our citizens, or as the Department of Health oversees and manages access to health services, the Unified Court System is the logical "home" for efforts aimed at meeting the civil legal needs of those in need of legal assistance.

➤ **In this year's budget the Office of Court Administration requests \$85 million in funding for civil legal services to continue the investment in these critical services.**

We urge the Legislature to support this recommendation in order to help stabilize the legal services delivery system statewide and meet as much of the unrelenting need for legal assistance as we can.

**The Interest on Lawyer Account (IOLA) Fund**

In 1983, New York created the Interest on Lawyer Account (IOLA) fund based on a national model to generate funding for the provision of legal assistance. Driven by the interest rates paid on lawyers' escrow accounts, IOLA funding has seen its revenue plummet as the recession hit in 2008, dropping from \$32 million on an annualized basis to approximately \$7 million in recent years, an annualized reduction of \$25 million in grant-making capacity.

- **This loss of funding due to historically low interest rates has been offset over the past few years by an infusion of \$15 million in the OCA budget, which is again recommended in this year's Judiciary budget request.**
  - **We urge the Legislature to again support this critical funding.**

### **State Funding Allocated by the Legislature**

The state Legislature began funding civil legal services in 1993 when the IOLA fund saw its revenues drop due to the interest rate declines of the early 1990's. In recent budgets, this general fund support has been shifted to the Legal Services Assistance Fund (LSAF), which was created in 2003 and is supported by a designated revenue stream from payments for criminal records searches. These funds have been used on an annual basis to support civil legal services (including legal assistance to victims of domestic violence), aid to prosecution, aid to defense and a loan forgiveness program for new lawyers who are carrying incredible law school debt and working in the public or public interest sectors.

- **In this year's budget, the Executive proposes an allocation of \$14.2 million from the Legal Services Assistance Fund. As in prior years, this year's Executive Budget allocates most of these funds to Aid to Prosecution, Aid to Defense, Prisoners Legal Services and a loan forgiveness program. It leaves unallocated \$4.38 million in the LSAF for civil and criminal legal services, including legal services for victims of domestic violence.**
  - **We urge the Legislature to support this funding and to again line out both the legal services and domestic violence legal services funding in order to provide clarity and stability for the local programs across the state.**

Thank you for your time and we look forward to working with you as the budget process continues to unfold.

#### **For more information:**

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