



Empire Justice Center

119 Washington Ave. ♦ Albany, NY 12210

Phone 518.462.6831 ♦ Fax 518.935-2852

www.empirejustice.org

Joint Legislative Public Hearings on 2021-2022 Executive Budget Proposal on

Public Protection

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Prepared by

Kristin Brown
President and CEO
Empire Justice Center

Thank you for the opportunity to testify on this year's Executive Budget. My name is Kristin Brown and I am the President and CEO of Empire Justice Center. Empire Justice is a statewide, multi-issue, multi-strategy not-for-profit civil legal aid provider focused on changing complex systems impacting low-income and marginalized New Yorkers. With a focus on poverty law, Empire Justice takes a 360 degree approach in the areas of law we practice in — by providing individual legal representation, policy research and analysis, training and technical assistance as well as impact litigation.

In today's testimony, we want highlight some of the trends in legal services during the Covid-19 Pandemic and respectfully ask that you:

- Support a 10% restoration of funding for civil legal services programs in the Judiciary budget as submitted by Chief Judge Janet DiFiore, including \$85 million to help bridge the gap between civil legal services needs of low-income New Yorkers.
- Allocate the Legal Services Assistance Fund (LSAF) in the same manner as last year, including legal services for victims of domestic violence, and distribution of those funds to provide programmatic stability to legal services organizations throughout the state.

THE NEED TO INVEST IN CIVIL LEGAL SERVICES DURING THE COVID-19 PANDEMIC

Since the Covid-19 Pandemic began, there has been a shift in the type and volume of cases sought. According to a November 2020 report from the Pew Charitable Trust¹, housing, unemployment assistance, and protection from intimate partner violence saw significant increases in demand during various points of the Pandemic. Meanwhile, the vast majority (97%) of Legal Services Corporation grantees anticipate a sharp increase in legal needs arising from COVID-19 in the areas of eviction, foreclosures, unemployment assistance and appeals, consumer debt and income maintenance².

We see clearly that the Pandemic has made existing needs of low-income New Yorkers more urgent, but didn't change fundamental inequities long present in society. We believe providing legal services to all low-income New Yorkers is one of the many ways to address systemic inequities so that no New Yorker has to face life-altering events without expertise or representation.

Thanks to the groundbreaking funding provided by the Office of Court Administration (OCA) and funding from the Legal Assistance Fund provided by the state legislature, New York has

¹ Erika Richard and Casey Chiappetta, "Legal Assistance Portals Reflect Shifting Needs Since Pandemic's Start," Pew Charitable Trust, available online. November, 2020. Accessed on February 8, 2021.

² "LSC Survey Finds Major Impact of COVID-19 Pandemic on Legal Aid," July 2020. Accessed online February 8, 2021.

been the national leader in funding civil legal services. However, even pre-pandemic, the demand for legal services had fallen short, and has become more daunting during the public health crisis, especially in housing, homelessness prevention, healthcare, unemployment, and immigration law. According to latest 2019 data available from OCA, 58 % of civil legal needs of low-to-moderate income New Yorkers continue to go unmet each year. In addition, older reports from OCA indicate that in *pro se* civil cases where New Yorkers represented themselves without an attorney, 70% of the cases dealt with core issues such as family, consumer debt and housing.

We also note that in addition to helping low-income New Yorkers with legal needs affecting basic security, studies have also shown that civil legal aid is a fundamental force in building family and community stability as well as in providing cost effective services, leveraging an estimated \$10 for every \$1 invested.³ In short, funding civil legal services is likely to be important to New York's equitable recovery from the Pandemic.

COVID-19 PANDEMIC TRENDS

The Covid-19 Pandemic is leaving an indelible mark on our client communities, and the way we work together. Here are some noticeable trends that we expect to continue well into 2021.

- Outreach to clients and educational activities have become much harder. The public health crisis has suspended most, if not all community outreach activities such as know-your-rights trainings, making it more difficult to reach clients in low-income communities, while demands for information about new laws and regulations on unemployment benefits, healthcare, and housing have only increased during the Pandemic.
- Reliance on technology has created deep divides between people who have the skills and resources and those who do not. For example, during nursing home fair hearings and foreclosure proceedings, many of our clients lack computers, technical skills, and reliable internet access to take advantage of virtual hearings. For attorneys, the Pandemic has made it harder for us to collect evidentiary proof, maintain attorney – client privilege in the virtual setting, and have meaningful sidebar negotiations with judges and co-counsels.
- Incidents of intimate partner violence appear to be increasing in some communities. On Long Island where Empire Justice Center provides immigration legal services, we have seen an increase in incidents of intimate partner violence compared to pre-Pandemic times, especially in relations to clients seeking U visas, which is a type of nonimmigrant visa set aside for victims of the certain types of crimes.
- Legal services providers have become a source of information and referral for all social services. The Pandemic has made existing problems more acute and blended for people in low-income communities. If problems such as unemployment, eviction, lack of

³ Permanent Commission on Access to Justice, "Report to the Chief Judge of the State of New York" (2015), available at http://www.nycourts.gov/accesstojusticecommission/PDF/2015_Access_to_Justice-Report-V5.pdf. Accessed February 8, 2021.

benefits, intimate partner violence, and removal proceedings could have been navigated separately through different attorneys and service organizations, the Pandemic has melded the challenges into a single landscape, often with a single attorney as the main person triaging services and providing advice.

- Housing legal needs, especially in eviction and foreclosure defense for renters and homeowners, have become essential during the Pandemic and will extend well into 2021 after the moratoriums lift. Even with moratoriums in place, illegal evictions persist, especially against renters in immigrant communities.

KEEP LEGAL SERVICES ASSISTANCE FUND LEVEL IN 2021

There is no question that the Judiciary Civil Legal Services (JCLS) funding has been a game changer in allowing more civil legal needs to be met in our client communities. That said, the JCLS funding has remained at the same level since 2016 and was cut by 10 % in 2020.

In this year's Executive Budget, the 10 % cut is sustained in the judiciary's budget at the very time more resources will be needed. As New York emerges from the Covid-19 Pandemic and the eviction moratoriums are lifted, courts fully re-open and New Yorkers are forced to grapple with the economic fallout of job loss, medical debt, unpaid rents and mortgages — fairness demands that those unable to afford a private attorney do not face life altering crises without legal representation.

Legislative funding provided via the Legal Services Assistance Fund for to civil legal services has remained at the same level since the fund was created in 2009-10. This year, the Governor has allocated \$19.9 million in the LSAF for a variety of purposes, including \$4.2 million that he proposes to direct to civil legal services, among other things. The civil legal services portion of the LSAF, which includes direct grants to agencies is a small but critical funding source that allows agencies to allocate funds to pressing needs in their region. At Empire Justice Center, the funds support our 360 degree approach to providing individual legal representation in immigration, employment and civil rights, trainings for attorneys and advocates in emerging areas of poverty and family law and in providing legal analysis in pursuit of systems change.

RECOMMENDATION

- Restore last year's LSAF funding allocations for civil legal services, including funds for DV legal services from the Governor's proposed \$4.2 million LSAF allocation.
- Support a 10% restoration of funding for civil legal services programs in the Judiciary budget as submitted by Chief Judge Janet DiFiore, which would restore \$85 million to help bridge the tremendous gap between civil legal services needs of low-income New Yorkers.

Thank you for the opportunity to testify today.