

THURSDAY JANUARY 25, 2024

WRITTEN TESTIMONY OF BROOKLYN LEGAL SERVICES CORPORATION A

**SUBMITTED TO THE NEW YORK STATE SENATE FINANCE COMMITTEE AND THE
ASSEMBLY WAYS & MEANS COMMITTEE**

JOINT LEGISLATIVE BUDGET HEARING ON PUBLIC PROTECTION

Thank you for the opportunity to submit this written testimony to the Joint Legislative Budget Hearing on Public Protection. This testimony is presented on behalf of Brooklyn Legal Services Corporation A (Brooklyn A) by Jessica A. Rose, Esq., Executive Director. Brooklyn A is a member of the New York Legal Services Coalition (NYLSC), which represents civil legal services providers and their clients, and which is providing live testimony via Coalition President Tina Monshipour Foster. Collectively, NYLSC members provide representation to low-income New Yorkers in each region of the state in the areas of family law, domestic violence, immigration, housing, public benefits, consumer issues, elder law, and LGBTQIA + rights. Brooklyn A serves low- and moderate-income clients throughout the five boroughs of New York with services for tenants, homeowners, small business owners, community nonprofits, taxpayers, survivors of domestic violence, and more. In fiscal year 2023, we served more than 9,000 New Yorkers fighting displacement.

The Coalition and our members are driven by one core mission: advancing access to justice. This means ensuring that all New Yorkers – particularly low-income populations and communities of color – have legal representation when they need it. While we have made strides in this area, thanks to our partners in the Court System, legislature, Attorney General’s Office, and Executive, there is much more work to be done.

In order to close the justice gap, we must focus on strengthening the foundation of civil legal services – our professional workforce. Across the state, organizations are struggling to hire and retain attorneys. This is largely due to the inability of organizations to offer a competitive salary and benefits package, especially when compared to comparable positions in state and municipal government, as well as the private sector. In 2023, NYLSC undertook a project comparing the pay of civil legal services attorneys to comparable Assistant Attorney General (AAG) positions within the Attorney General’s Office.

The results demonstrate a shocking chasm:

- In NYC, an AAG makes a starting salary of \$90,000 compared to the average of \$69,000 for the same position at a CLS provider. After 10 years, an AAG earns \$134,000 per year, while the 10-year veteran at a CLS organization earns \$92,000.
- In “rest of state”, the gap is even wider. A first-year AAG makes \$87,000 to a civil legal services attorneys \$59,000 salary. After 10 years, an AAG earns \$131,000 compared to a \$74,000 annual wage for the CLS attorney.

Simply put, entry level pay is 30% to 45% lower than their government counterparts. Those inequities grow as careers advance – at ten years of service, the gaps in pay between civil

legal services attorneys and AAGs are as much as 75% in some areas of the state. I therefore echo the Coalition's call for pay equity. It is the only way that we will ever make great strides in closing the justice gap.

Additionally, I respectfully echo the Coalition's positions on the SFY 2025 Executive Budget:

- Support the modest increases for civil legal services through the Office of Court Administration (OCA) budget. Specifically, the proposed 6% increase in the Judiciary Civil Legal Services appropriation and the 3% Cost-of-Living Adjustment (COLA) being applied to the Interest on Lawyers Account (IOLA).
- Restore traditional legislative additions for civil legal services, including designated funding for domestic violence legal services.
- Redirect \$2.5 million of the revenue from the Legal Services Assistance Fund (LSAF) to its original purpose to support civil legal service programs with budget language assuring the same.
- Strongly oppose and urge the legislature to reject the proposed sweep of \$100M from the IOLA Private Contribution Account to the General Fund (PPGG, Part X).

On behalf of Brooklyn A, I underscore that the proposed sweep of \$100M from IOLA will directly block access to justice efforts from moving forward. The NY Legal Services Coalition is deeply concerned about the Executive Budget proposal to sweep \$100 million from the Interest on Lawyers Account to the general fund. IOLA funding not only supports essential services that help low-income New Yorkers obtain help with civil legal problems affecting their most basic needs, such as food, shelter, jobs and access to health care, it is a critical source of infrastructure dollars that the civil legal services community is in desperate need of. These funds are accumulated for distribution at the next round of grants to civil legal services providers, which are intended to assist in addressing the dual crises of an estimated \$ 1 billion civil justice gap and community wide salaries that are at least 30% below counterparts in similar public interest and public sector fields. Brooklyn A depends on IOLA support to be able to provide services to our community, and the proposed cuts to funds will jeopardize the ability of Brooklyn A and partners to provide vital legal services that would otherwise be inaccessible for low-income people.

New York's IOLA Fund was established in 1983, under New York State Finance Law (§ 97-v). With the recognition of the vast need to fund civil legal services, these funds were created for the sole purpose of funding civil legal assistance. Even during the most extreme financial crises in the past, IOLA funds have never been swept or used for any other purpose than to provide civil legal services to low-income New Yorkers. Now is not the time to divert or undermine the purpose of this critical resource.

IOLA distributes the accumulated interest dollars through competitive requests for proposals issued every two years. IOLA also collects and distributes outcomes from the services. In 2023, IOLA grantees closed over 307,000 client cases, benefiting over 639,000 low-income New Yorkers. The top five areas of service from 2023 are housing, immigration, family law, education and health.

Since its inception, interest rates have fluctuated wildly; in the early days, this resulted in wild swings in funding for civil legal services, causing uncertainty and financial crisis for providers. To guard against this, IOLA rightly shifted to a “rainy day” approach that creates a reserve of funds that can be used to avoid cuts in funding and thus civil legal services during periods where interest rates and thus earnings are low.

Furthermore, this attempted sweep could not come at a worse time. The civil legal services community faces a complex crisis. The value of and need for civil legal services has never been more front of mind in our state. Recognition that there is no civil Gideon for folks facing bankruptcy, loss of home, healthcare – the essentials of life – has grown among the public and policy makers as a result of educational efforts. The Access to Justice Gap—the space between the civil legal needs of low-income New Yorkers and the resources available to meet those needs—has now been documented and assessed at \$1 billion more than what is currently in the system. As noted in the Permanent Commission on Access to Justice’s 2023 report to the Chief Judge, “the Permanent Commission recently adopted its Funding Working Group’s report finding that between \$842 million and \$1 billion is a realistic estimate of the additional annual funding, over and above existing funding, to close the justice gap.”¹²¹ Notably, this analysis focuses only on those earning up to 250% of poverty and does not include immigration related legal services.

Demand and need for our community’s services is vast, but the resources are not there, leaving far too many New Yorkers facing life-altering legal junctures without an attorney who understands the process. At the same time, salaries are so low compared to any other government-funded attorney services that it is becoming impossible to compete with state, county and city positions. With the well-deserved and long overdue increase in rates for assigned counsel in criminal matters, civil legal services salaries have fallen even further behind. These funds are slated to help address these very issues.

In addition, IOLA has just launched a multi-year Justice Infrastructure project that will assist our under-resourced community with improving the delivery of services and create efficiencies across programs. The accumulated funds are what made it possible for the IOLA Fund to pursue this project.

We need the Legislature’s support in addressing the needs of our client community through rejecting the proposal in the executive budget to sweep funding from IOLA. These funds alongside OCA are essential to our community’s ability to make gains against the justice gap.

Thank you again for considering our written testimony. I am happy to answer any questions that you may have.

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