



438 Main St, Suite 1200 • Buffalo, NY 14202  
175 Walnut St, Suite 1 • Lockport, NY 14094  
314 Central Ave, Suite 300 • Dunkirk, NY 14048  
(716) 853-3087  
[www.elderjusticenyc.org](http://www.elderjusticenyc.org)

**Testimony to the New York State Legislature  
Joint Hearings of the Senate Finance and Assembly Ways & Means Committees**

**2025-2026 Executive Budget**

**Topic: Public Protection**

**February 13, 2025**

Presented by Karen L. Nicolson, Esq.  
CEO

Thank you, Chair Krueger, and Chair Pretlow, for the opportunity to submit this testimony to the Joint Legislative Budget Hearing on Public Protection. The Center for Elder Law & Justice (“CELJ”) has been serving the Western New York region for over 40 years, providing free civil legal services to older adults, persons with disabilities, and low-income families. CELJ’s primary goal is to use the legal system to ensure that individuals may live independently and with dignity. CELJ also advocates for policy and systems change, particularly in the areas of health care access, housing, elder abuse prevention, nursing home reform, and consumer protection. Currently CELJ provides full legal representation in ten counties of Western New York. CELJ’s Free Senior Legal Advice Helpline is open to all New York State. CELJ operates a central office in downtown Buffalo, with three additional offices in Cattaraugus, Chautauqua, and Niagara counties.

CELJ is also a part of the New York Legal Services Coalition, a membership organization made up of more than forty-five individual legal services programs representing every county in the state of New York, including small, specialized legal services agencies, large core legal aid organizations and those funded by the federal Legal Services Corporation (LSC).<sup>1</sup>

***The Justice Gap***

Simply put, the “justice gap” is the difference between the civil legal needs of low-income Americans and the resources available to meet those needs. While criminal defendants have the right to legal representation, as highlighted by the Federal Legal Services Corporation (LSC), low-income Americans do not get any or enough legal help for 92% of their substantial civil legal problems, often because they cannot afford it.<sup>2</sup> Civil legal problems typically involve essentials of life including safe and affordable housing, access to health care, family stability, protection from abuse, and more.

---

<sup>1</sup> The New York Legal Services Coalition, <https://nylscalition.org/> (last accessed Jan 16, 2024).

<sup>2</sup> LSC, *The Justice Gap: Measuring the Unmet Civil Legal Needs of Low-income Americans*, April 2022, available at <https://justicegap.lsc.gov/> (last accessed Jan. 16, 2024).

As LSC puts it, “[d]espite our pledge of ‘with liberty and justice for all,’ it is still the case that one’s access to justice in our nation too often depends on how much money one has.”<sup>3</sup> LSC further reports that in 2022, household incomes below 125% of the poverty level correspond to annual incomes below \$34,500 for a family of four, which translates to approximately 50 million low-income Americans, including approximately 15.2 million children.<sup>4</sup> Black and Hispanic Americans are more than twice as likely to have household incomes below 125% of poverty.<sup>5</sup> A staggering 74% of low-income households experienced at least one civil legal problem in the past year,<sup>6</sup> making access to justice more crucial than ever.

The New York State Unified Court System created the Permanent Commission on Access to Justice (“the Permanent Commission”) in 2010 with the mission to expand access to civil legal services and improve access to justice for New Yorkers. The Permanent Commission holds annual statewide hearings to assess the unmet needs for legal representation in civil legal proceedings involving fundamental human needs, and it assists the Chief Judge in developing a report and recommendations to the Legislature and the Executive about the level of public resources necessary to meet those needs.<sup>7</sup> In its 2023 Annual Report, the Permanent Commission noted that “while no other state comes close to New York’s commitment [to close the justice gap]...New York’s commitment falls far short of any conceivable measure of need.”<sup>8</sup>

### *The Need for Pay Parity*

Pay parity is just one piece of the overall need for significant increases in civil legal services to close the justice gap. To fully meet the justice gap would mean that every low-income New Yorker who needs an attorney for their civil case has one, and that those lawyer positions are sufficiently paid, so that civil legal services programs can attract and retain attorneys. In November 2023, the Permanent Commission approved and adopted its Funding Working Group’s report, “A Realistic Estimate of the Funding Necessary to Close the Justice Gap in New York. The Funding Working Group found that between \$842 million and \$1 billion is a realistic estimate of the additional annual funding necessary (for full representation, including pay parity), over and above existing funding, to close the justice gap for low-income New Yorkers involved in civil legal matters.”<sup>9</sup>

In the 2024 report from the Permanent Commission on Access to Justice, there were several witnesses who spoke about the hiring and retention difficulties due to the low salaries in civil legal services firms.<sup>10</sup> In fact, the issue of competitive compensation for legal services attorneys was at the center of the annual Civil Legal Services Hearings. Across the board, presenters and written

---

<sup>3</sup> *Id.* at 14.

<sup>4</sup> *Id.* at 22.

<sup>5</sup> *Id.* at 23.

<sup>6</sup> *Id.* at 18.

<sup>vii</sup> NYCourts.gov, Permanent Commission on Access to Justice:

<https://ww2.nycourts.gov/accesstojusticecommission/index.shtml> (last accessed Aug. 23, 2024).

<sup>8</sup> NYS Unified Court System, Permanent Commission on Access to Justice, *Report to the Chief Judge of the State of New York*, November 2023, available at <https://ww2.nycourts.gov/accesstojusticecommission/annual.shtml> (last accessed August. 30, 2024).

<sup>9</sup> NYS Unified Court System, Permanent Commission on Access to Justice, *Report to the Chief Judge of the State of New York*, November 2024, available at <https://ww2.nycourts.gov/accesstojusticecommission/annual.shtml> (last accessed January. 30, 2024).

<sup>10</sup> *Id.* at 16-17.

submissions expressed the same concern: the pay discrepancy between civil legal services attorneys, on the one hand, and government and other public interest attorneys, on the other hand make it impossible to hire and retain staff impeding access to justice.

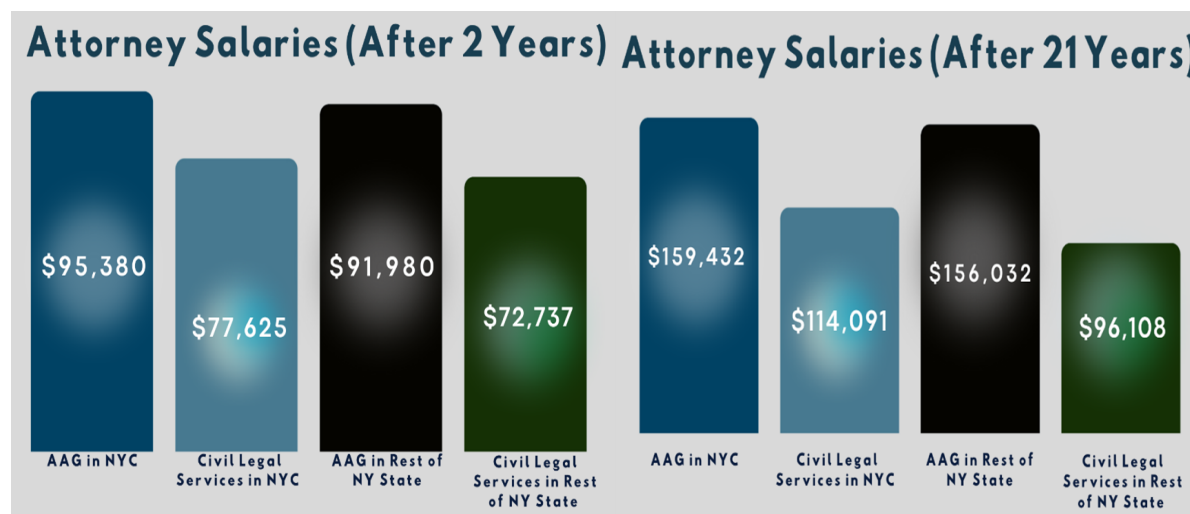
The 2024 report concluded:

“The inability to offer market compensation rates to attorneys has drastically hampered civil legal services providers’ ability to attract and retain new talent. The compensation gap has reached such a critical point that economic considerations are even forcing seasoned, longstanding attorneys to resign in favor of higher-paying government and public interest positions. The Pay Parity Survey demonstrated that attorney turnover in some offices was as high as 35% and that, on a statewide basis, the vacancy rate averaged 13%, representing approximately 426 vacant attorney positions across the State.”<sup>11</sup>

### The Wage Gap Crisis

Pay for attorneys in civil legal services is significantly lower than their government counterparts doing substantially similar work, with civil legal services outside of NYC getting paid 21% less than their counterparts in the Attorney General’s office. Those inequities only grow throughout their careers and, after 21 years of civil legal services employment, experienced civil legal services attorneys are paid 38% less than their counterparts in the AG’s office in some parts of the state, based on a 2024 survey of Legal Services Coalition members.

The results are as follows:



Moreover, pay inequities are not confined to attorney positions. Although a straight comparison is difficult due to the varying requirements for paralegals across individual civil legal services programs, we can see that the Attorney General salary for the Legal Assistant 2 positions in NYC is paid \$8,138 more than our members can pay staff with similar positions. Although the most

<sup>11</sup> *Id.* at 39.

recent report from the Permanent Commission on Access to Justice urges study and development of a legal advocate (non-lawyer) program to respond to the critical shortage of attorneys, our member organizations are losing these very same allied professions currently employed by our offices.

Lawyers and other staff are leaving legal services agencies for government jobs at an alarming rate because civil legal services organizations statewide are unable to achieve pay parity with those attorney counterparts working in government positions, such as the New York State Attorney General's Office. The combination of higher salaries and a government pension is difficult to compete against, particularly for mid-career attorneys.

*The New York Times* attributes this rapid increase in attrition rates for legal services organizations to low wages, interviewing public interest attorneys who revealed their difficulties making ends meet on their current salaries, when considering their costs of living and student loan debt, all while working with packed caseloads and high pressure situations which are exacerbated when their colleagues leave for higher paying jobs and leave them with even higher workloads.<sup>12</sup> As one legal services housing attorney put it, “*We are choosing between a decent life and representing low-income clients and making sure that justice is served.*”<sup>13</sup> *The New York Times* also notes an uptick in legal services attorneys taking on second jobs just to make ends meet.<sup>14</sup>

### **The Solution:**

#### **New York State Must Provide IOLA with the Full 80 Million in Spending Authority**

It is acknowledged that New York State cannot single-handedly fix the justice gap overnight, but it is also abundantly clear that the gap will widen without both a direct investment from New York State in civil legal services, and the preservation of one of its core funders, the IOLA Fund. Increasing funding for civil legal services will not only help provider agencies achieve pay parity for their attorneys and improve the justice gap, but it will also reduce the overall need for government benefits, saving state and taxpayer money in the long run.

The Interest on Lawyer Account Fund of the State of New York (“IOLA”) currently provides funding to 81 different providers of civil legal services to low-income New Yorkers. IOLA’s 2024 annual report shows an estimated economic impact of around \$5.32 billion from its Fiscal Year 2024 and 2025 grants totaling \$750 million, including \$1.95 billion in direct benefits to clients and families, and around \$844 million in cost savings to the community (for avoidance of emergency shelter and domestic-violence-related costs).<sup>15</sup> It is clear that civil legal services agencies benefit the New York State economy, in addition to providing advocacy and fervent representation to individuals who are unable to hire an attorney.

---

<sup>12</sup> See Jonah E. Bromwich, *Hundreds Have Left N.Y. Public Defender Offices Over Low Pay*, *The New York Times*, June 9, 2022, available at <https://www.nytimes.com/2022/06/09/nyregion/nyc-public-defenders-pay.html> (last accessed Aug. 28, 2024).

<sup>13</sup> *Id*

<sup>14</sup> *Id*

<sup>15</sup> See IOLA Fund of the State of New York, *Annual Report, 2023*, available at <https://iola.org/all-documents/grantees/resources-and-reports/general-reports/274-2023-iola-annual-report/file> (last accessed Aug. 28, 2024).

IOLA has also taken steps to help us close the wage gap. Recently IOLA has increased its investment in civil legal services to \$562.5 million over five years. This has helped some of our members close the wage gap, but many of our smaller and mid-sized programs, due to the way IOLA funding is statutorily distributed, continue to lag far behind pay equity.

However, recent attempts to utilize IOLA resources for other purposes have created doubt as to the long-term viability of those increases. Specifically, the SFY 2025 Budget Proposal disrupted a shared vision between IOLA and the civil legal services community to make progress toward pay parity by sweeping \$55 million from the IOLA Fund into the General Fund. New York’s IOLA Fund was established in 1983, under New York State Finance Law (§ 97-v).<sup>16</sup> 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.

Thankfully, the SFY 2026 Executive Budget and a subsequent agreement with the IOLA Fund, provides the funding for the first of five-year IOLA contracts that are providing increases to providers. The Executive Budget also correctly recognizes IOLA as a fiduciary fund, which should avoid future raids on the Fund. However, missing from the Executive Budget is 2.5 million in spending authority that IOLA requested for their Infrastructure Project, a historic investment in its grantees, which will improve the consistency, efficiency, and coordination of the legal services delivery system. We urge the integrity of the fund be protected so that the five-year grants, the plans for the Infrastructure Project and the long-term shared vision of IOLA and the civil legal aid community, may be realized. Therefore, CELJ supports the funding of the full 80-million-dollar request from IOLA in the final budget.

### **We Need Maximum Flexibility in Funding from the Office of Court Administration.**

The Judiciary Budget includes a \$45.5 million increase for Judiciary Civil legal Services. The Chief Judge and his staff understand the difficulties facing low-income litigants in New York State and we appreciate his ongoing support. In the OCA budget, the funding is designated as such: “The funding supports a 3% cost-of-living adjustment and necessary additional funding to address critical needs for the poorest New Yorkers.”

An increase of “\$45.5 million including \$23.1 million base and \$22.4 million enhanced funding.” We are grateful for this significant investment in civil legal services and urge maximum provider flexibility to improve our ability to reach pay parity and fill existing vacancies which provide desperately needed services connected to those vacant positions.

Lawyers are leaving legal services agencies for government jobs at an alarming rate because legal services organizations statewide are unable to achieve pay parity with their government attorney counterparts because they are not afforded the funding necessary to pay an equal wage. As noted above, the pay disparities between these organizations and government-funded legal services are staggering. While we are grateful for the steps taken by IOLA and OCA to close the gap; all three branches of government must take action to remedy these disparities to ensure that all New Yorkers—including those who live in New York’s rural communities—are afforded high quality representation, ability to receive their essentials of life, and access to the justice system with the

---

<sup>16</sup> See N.Y. State Finance Law § 97-v. See also N.Y. Judiciary Law § 497; 21 N.Y.C.R.R. § 7000.

assistance of an attorney, regardless of their ability to pay. Two years ago, the Governor and the legislature rightly came together to increase the rates for assigned counsel in criminal matters, which was long overdue. However, attorneys in civil matters are still grossly underpaid, and the increase in salaries for criminal attorneys without a concurrent increase in civil attorney salaries, has only deepened the salary wage gap. Now, more than ever, are legal services attorneys needed to defend rights and ensure access to the essentials of life.

In addition to the above, **we urge the Legislature to support a Statewide Initiative of Nonprofit Guardians with a \$15 million annual investment** and reject efforts in the development and creation of a public guardian. New York has strong legal protections that entitle individuals access to adult guardianship services when a court finds the appointment of a guardian is necessary. However, this mandate is underfunded. Without a direct and sustainable funding stream to ensure the availability of high-quality guardianship services, persons who have been determined by a court to need a guardian are at risk. **Investing in a Statewide Initiative of Nonprofit Guardians will ensure all New Yorkers who need a surrogate decision-maker have access to qualified, person-centered care, regardless of their financial or social circumstance.** For more information on the need for this investment, please see our written testimony submitted for the Mental Hygiene Hearing, available at: <https://www.elderjusticeny.org/calls-to-action/mental-hygiene-focus>

\*\*\*

Thank you for the opportunity to submit this testimony. CELJ is available to answer any questions and provide additional information.

Contact:

Lindsay Heckler, MPH

Managing Attorney

[lheckler@elderjusticeny.org](mailto:lheckler@elderjusticeny.org)

Center for Elder Law & Justice

438 Main St., Suite 1200

Buffalo, NY 14202

(716) 853-3087 x212