



"Never forget that justice is what love looks like in public." – Cornel West

THURSDAY FEBRUARY 13, 2025

REVISED TESTIMONY OF THE NEW YORK LEGAL SERVICES COALITION

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

JOINT LEGISLATIVE BUDGET HEARING ON PUBLIC PROTECTION

Thank you, Chair Krueger, Chair Pretlow and honorable members of the legislature, for the opportunity to submit this testimony to the Joint Legislative Budget Hearing on Public Protection. I am Sal Curran, the Executive Director of Volunteer Lawyers Project of CNY and the Co-Chair of the Policy & Advocacy Committee of the New York Legal Services Coalition (NYLSC), which represents civil legal services providers and their clients. 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.

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 competitive salary and benefits package, especially when compared to comparable positions in state and municipal government, as well as the private sector. NYLSC recently undertook a project comparing the pay of civil legal services attorneys to comparable Assistant Attorney General (AAG) positions within the Attorney General's Office (see attached white paper).



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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, starting salaries are 25% lower than their government counterparts, but the total compensation is even lower when taking into account the lack of pension and higher health insurance contributions and co-pays. 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. We are therefore calling for pay equity to justly compensate our workforce. It is the only way that we will ever make great strides in closing the justice gap.

I now note our positions on the SFY 2026 Executive Budget:

1. Support \$150M for Judiciary Civil Legal Services as proposed in the Judiciary Budget;
2. Add \$2.5M to the \$77.5M appropriation (\$80M total) for the Interest on Lawyers Account (IOLA) Fund to support its grantees and accept budget language designating IOLA as "fiduciary fund";
3. Restore traditional legislative adds for civil legal services, including designated funding for domestic violence legal services; and
4. Redirect \$2.83M 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.

Thank you again for the opportunity to speak today. I look forward to answering any questions that you may have.

**Pay Parity: New York Needs a Shared Vision to Achieve
Pay Parity for All Attorneys Working to Close the
Justice Gap**



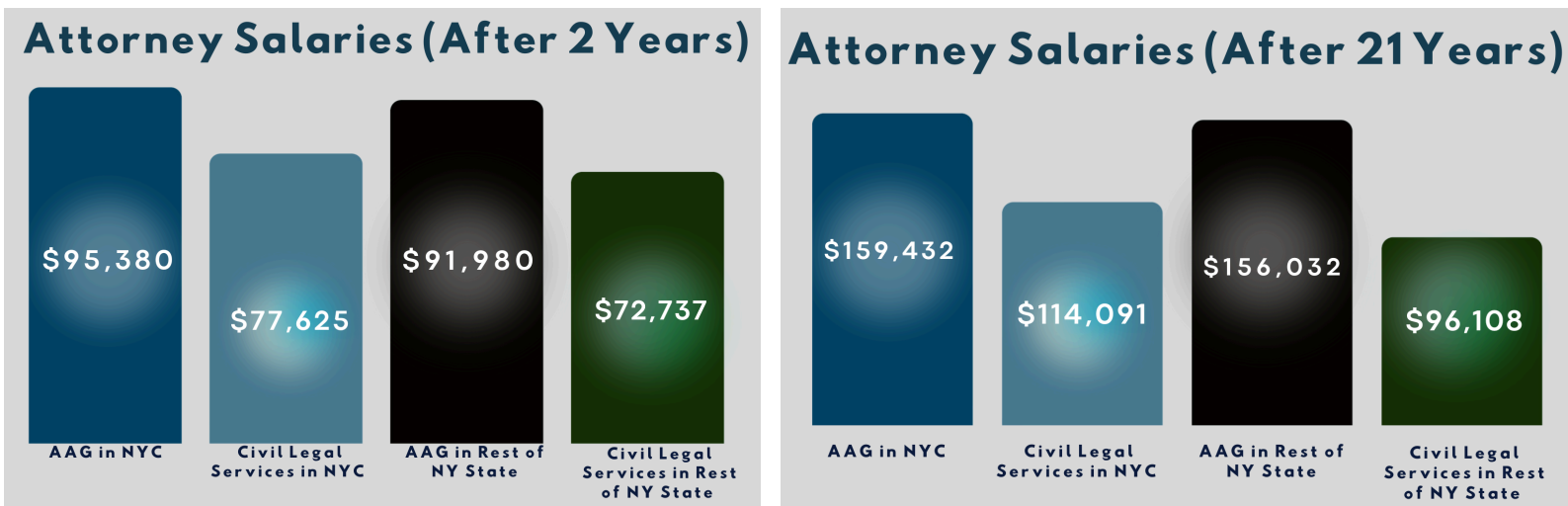
The New York State
Legal Services Coalition
February 2025

Executive Summary

The New York Legal Services Coalition (“the Coalition”) consists of approximately 45 member organizations providing essential civil legal services to low-income and disadvantaged individuals throughout New York State. The Coalition’s member organizations are experiencing alarmingly high attrition rates and difficulty hiring due to lack of adequate funding to compete with government-funded comparable legal positions. This directly undermines the shared goal of our organizations and New York State to close the justice gap.

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 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.

What are Civil Legal Services

Civil legal services are part of the social safety net in New York state, working on the front lines with other government funded service providers, using the law to keep families in their homes, food on the table and kids in school, getting the educational services they need. Civil legal services provide *free* legal assistance to low- and middle-income people who have *civil* legal problems. These mostly government funded nonprofit organizations help people who are income eligible access basic necessities such as health care, immigration, housing, government benefits, employment, and educational services, in many cases, the “essentials of life.” These are distinct, non-criminal legal issues. Many are surprised to learn that there is no right to legal representation in civil cases, except in limited areas, such as New York City’s right to counsel in eviction matters.

The New York Legal Services Coalition

The New York Legal Services Coalition (“the Coalition”) consists of approximately 45 member organizations providing essential civil legal services to low-income and disadvantaged individuals throughout New York State. Our members cover every county in New York State and include large organizations funded by the Federal Legal Services Corporation (LSC) and small grass-roots organizations and everything in between. The Coalition works to ensure fairness for all in the judicial system through a wide range of educational activities; advocates on legal issues affecting low-income communities and the delivery of civil legal aid; identifies and promotes best practices in the civil legal aid community; and provides technical assistance and capacity building resources for its members. The Coalition’s mission is further propelled by growing concern about stable on-going state funding to meet the critical legal needs of our communities—needs that vary by region but have a common vision of justice.ⁱ

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.ⁱⁱ Civil legal problems typically involve essentials of life including safe and affordable housing, access to health care, family stability, protection from abuse, and more.

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.”ⁱⁱⁱ 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.^{iv} Black and Hispanic Americans are more than twice as likely to have household incomes below 125% of poverty.^v A staggering 74% of low-income households experienced at least one civil legal problem in the past year^{vi}, making access to justice more crucial than ever.

In New York State, poverty rates have surpassed the national average for over a decade with 13.9% of New Yorkers living in poverty (compared to 12.8% of all Americans).^{vii} 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.^{viii} 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.”^{ix}

The Need for Pay Parity

Pay parity is just one piece of the overall need for significant increases in civil legal services in order 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.

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.^x The issue of competitive compensation for legal services attorneys was at the center of the annual Civil Legal Services Hearing. Across the board, presenters and written 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.

In the report, Adriene Holder (Chief Attorney, Civil Practice, The Legal Aid Society) reiterated and affirmed the remarks of earlier presenters regarding how crucial adequate investment in legal services is for advancing the fight against racism, injustice, and poverty in New York State. Ms. Holder stated that the need for funding is greater and more urgent than ever before, as civil legal services providers grapple with unprecedented levels of staff attrition, and the overburdening of

those who remain. She noted that while salary is the main reason that most departing attorneys cite for leaving, the gap in benefits play a role. She urged an increase in funding for civil legal services organizations in order to enable providers to offer compensation, including retirement benefits, commensurate with similar public interest and government positions. Ms. Holder argued that funding must cover not just attorney costs, but also the cost of necessary support staff (such as paralegals or social workers), as well as other holistic services that provide crucial administrative or legal support^{xi}.

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 forcing even seasoned ^{xii}, 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”

According to a recent report ^{xiii} by the American Bar Association (ABA), there are approximately seven civil legal aid attorneys in New York State per 10,000 residents in poverty ^{xiv}. We know from LSC and the Commission’s reports that 74% of low-income households experience at least one (often more) civil legal problem annually. This equates to a ratio of about one civil legal services attorney per 1,057 New Yorkers living in poverty with civil legal needs related to the essentials of life – making it currently *impossible* to close the justice gap in New York.

Discussion

The Wage Gap Crisis

One glaring reason for the shortage of civil legal services attorneys is the wage gap. Nationwide, legal services organizations are struggling to hire and retain quality advocates to fulfill their important missions, due to the inability to compete with other salaries. According to the ABA, “[t]he median salary of \$200,000 for first-year associates at private law firms was more than triple the median salary for a first-year lawyer in a public service job (\$57,500 to \$63,000 for lawyers at civil legal aid offices, public interest groups and public defender’s offices in 2022).”^{xv} Though impossible to compete with private-sector salaries like this, the Coalition simply seeks to reach parity with government-funded legal services as a starting point.

Recently, the Coalition conducted a study surveying its constituent members to gather data on starting salaries for their attorneys. The study compared attorneys and paralegals at several inflection points in their careers to that of the New York Attorney General’s office. The results are striking. At the two-year mark (the level at which the Attorney General’s office prefers to hire) our members pay at an average of **\$72,737** outside of NYC and **\$77,625** for attorneys living in NYC, compared to an annual starting salary of **\$91,980** for Assistant Attorney Generals (“AAG”) throughout New York State (adjusted to around **\$95,380** per year for those AAGs in most New York City and surrounding counties).^{xvi}

These disparities in pay tend to increase throughout an attorney’s career. At the time of the survey, the coalition found that an attorney working at a legal services agency for 21 years in New York City made an average of **\$114,091** per year, while those with similar experience made around **\$96,108** per year in the rest of the state. Once again, this compares to an annual salary of around **\$156,032** for AAGs with 21 years of experience (compared to **\$159,432** per year for AAGs working in New York City and surrounding counties). The purpose of the New York State Attorney General, and the affiliated Law Divisions, is to serve “the public interest of all New Yorkers in matters affecting their daily lives, enforcing laws to protect consumers, tenants, patients, workers, investors, and charitable donors.”^{xvii} In effect, legal services agencies are fulfilling the same missions, albeit on more restrictive budgets, to promote the public interest of those New Yorkers who are in greater need of legal assistance and support as demonstrated by the Coalition, LSC and the Permanent Commission.

This significant wage inequality between government positions and legal services positions, despite similar mission-driven work, is creating a true crisis for legal services organizations who are losing employees in droves. For example, the Legal Aid Society, a Coalition member and New York’s largest provider of criminal and civil legal services for low-income New Yorkers, reported losing 10 percent of its staff, or about 200 people total between June 2021 – June 2022 (a 73% increase from the prior year’s attrition rate).^{xviii} *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.^{xix} 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.”***^{xx} *The New York Times* also notes an uptick in legal services attorneys taking on second jobs just to make ends meet.^{xxi}

With inflation and the cost of living on the rise, this wage gap and the overall justice gap will only continue to grow if New York State does not take imminent, direct and meaningful action to invest in civil legal services.

The Solution

New York State 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).^{xxii} 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.

IOLA also has made 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 has 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).^{xxiii} 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 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, we support 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. We realize that 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.”

Pay parity is a critical issue from an equity perspective, but also a services perspective and both require funding flexibility. Without this, providers are consistently unable to fill vacant positions quickly enough or retain staff long enough to maximize the utility of our funding and systemically address emerging needs. We are grateful for this significant investment in civil legal services and urge

maximum provider flexibility to improve our ability to fill existing vacancies and provide desperately needed services connected to those vacant positions.

Conclusion

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; however, 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 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.

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

ⁱⁱ 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). ⁱⁱⁱ *Id.* at 14. ^{iv} *Id.* at 22. ^v *Id.* at 23. ^{vi} *Id.* at 18.

^{vii} Office of the NYS Comptroller, *New Yorkers in Need: A Look at Poverty Trends in NYS for the Last Decade*, December 2022, available at <https://www.osc.ny.gov/files/reports/pdf/new-yorkers-in-need-poverty-trends.pdf> (last accessed Aug. 29, 2024).

^{viii} NYCourts.gov, Permanent Commission on Access to Justice: <https://ww2.nycourts.gov/accesstojusticecommission/index.shtml> (last accessed Aug. 23, 2024). ^{ix} 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). ^x 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). ^{xi} *Id.* at 16-17.

^{xii} *Id.* at 39. ^{xiii} American Bar Association, *Profile of the Legal Profession, 2023*, available at <https://www.americanbar.org/content/dam/aba/administrative/news/2023/potlp-2023.pdf> (last accessed Jan. 16, 2024). ^{xiv} *Id.* at 7. ^{xv} *Id.* at 37.

^{xvi} See American Bar Association, *supra* n. xii.

^{xvii} See Office of the New York State Attorney General, About the Office: <https://ag.ny.gov/about/about-office> (last accessed Jan. 16, 2024). ^{xviii} 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). ^{xix} *Id.* ^{xx} *Id.* ^{xxi} *Id.*

^{xxii} 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). ^{xxiii} N.Y. State Finance Law § 97-v. See also N.Y. Judiciary Law § 497; 21 N.Y.C.R.R. § 7000.