



Empire Justice Center

Making the law work for all New Yorkers

Albany ♦ Rochester ♦ White Plains ♦ Long Island

State Division of the Budget

Town Hall Hearings

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Hauppauge, NY 11788

Testimony of Empire Justice Center

Presented by Don Friedman,

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Good morning. My name is Don Friedman, and I am the managing attorney of the new Long Island office of the Empire Justice Center. Empire Justice is a non-profit legal services organization with offices in Albany, Rochester, White Plains and now on Long Island. We provide statewide support and training to legal services offices and other advocacy groups serving low-income New Yorkers, undertake policy research and analysis, and engage in legislative and administrative advocacy. We also represent low-income individuals, as well as classes of New Yorkers, in a range of poverty law areas

Empire Justice addresses a wide range of legal issues of concern to low-income New Yorkers. But today, I will limit my testimony to two vital issues, the public assistance grant and funding for civil legal services. At Town Hall hearings elsewhere in the State, Empire Justice colleagues will testify or have testified on some of the other critical issues presented in this budget season.

THE PUBLIC ASSISTANCE GRANT

Introduction

I have worked for many years as a policy advocate, focusing particularly on public assistance issues. I take this opportunity to urge the administration to include in the 2008-09 budget funding for an increase in the public assistance grant. Too many public officials treat the subject as politically off-limits or no longer relevant, and for the past twelve years there has been little hope for meaningful consideration of the issue. But it is critical that we recognize that throughout this state there are thousands of households in urgent need of assistance. They include families with disabled household members, families where domestic violence temporarily precludes employment, working families whose earnings are so low that they still qualify for welfare and people whose education, skills and literacy levels bar the door to decent jobs. While welfare reform resulted in massive reductions in the rolls, there are still more than half a million people receiving assistance at any given point during the year.¹ Furthermore, I would submit that thousands more New Yorkers do not receive assistance, not because they are not in need, but only because of the highly restrictive nature in which the program is administered.

Once we acknowledge the need to provide some form of assistance for our neediest residents – and New York has repeatedly done so, in the state constitution, by statute, by regulation and by budgetary appropriation – then it follows that the amount of assistance provided should bear some relationship to the cost of meeting the most basic human needs. After many years in which the issue was essentially not open for discussion, it is now incumbent upon this administration to examine the extent to which the grant does, in fact, enable poor households to meet their fundamental needs. And if it fails to achieve that objective, then we must determine how best to remedy the situation.

Poverty on Long Island

With the Empire Justice Center's new presence on Long Island, we have endeavored to learn more specifically about how poverty and related issues manifest themselves here. My research has confirmed something that is common knowledge here among advocates, social services providers and low-income Long Islanders: the Island conforms, to some degree, to the stereotype of a haven for members of the middle and upper classes. But there is also indisputable evidence of persistent poverty, and conventional

¹ "Temporary and Disability Statistics," June 2007, published by the Office of Temporary and Disability Assistance (OTDA).

measures of poverty grossly understate the phenomenon because of the strikingly high cost of living here. Indeed a recent, well-respected study of “social health” on Long Island conducted at Adelphi University deemed it necessary to suggest alternative measures to the Federal Poverty Level (FPL), according to which the poverty rate on Long Island is around 6% (5.2% in Nassau, 6.5% in Suffolk). In its place, the study proposes that a much truer gauge of financial distress on Long Island is the percentage of residents living below 50% of bicounty median income. Applying that standard, approximately 22% of Long Island residents may be classified as low income.² Even utilizing the FPL, more than 162,000 Long Islanders live in poverty, and more than 75,000 struggle on incomes under half of the FPL. Poverty among blacks and Hispanics is substantially higher, as it is for single-parent families and for singles. One additional indicator of poverty is the fact that approximately 87,000 children on Long Island receive free or reduced-price school meals. Reflecting the concentration of poverty here, some school districts have two-thirds or more of their students receiving free or reduced-price lunches. Finally, recent census data indicates that from 2005 to 2006 poverty in Nassau County remained relatively unchanged, but increased in Suffolk by 35%. And these figures undoubtedly understate poverty in the rapidly expanding immigrant community.

In sum, while Long Island embodies the American economic dream for many, it is also home to many who are struggling to make ends meet. Because, in part, of the mythology of the Island, its institutions are not always well-equipped or eager to confront the issue.

The Inadequacy of the Current Public Assistance Grant

The shameful inadequacy of the public assistance grant can be demonstrated from a variety of perspectives. A reasonable starting point is the fact that the basic allowance has not increased in 17 years. The basic allowance, which can be deemed to include two “home energy allowances” that were added in the 1980s, should theoretically enable a household to cover its basic, recurring needs other than rent and fuel for heating. While Food Stamps provide an invaluable supplement to the public assistance grant, Food Stamp benefit levels are computed based on the assumption that the household is allocating fully 30% of its income to the purchase of food.³ In the 17 years that have elapsed since the basic allowance was last increased, the cost of living, as measured by the Consumer Price Index has risen in the New York metropolitan area (which includes Long Island) by over 68%.⁴ The public assistance grant in 1990 by no means afforded a family a comfortable standard of living, so the fact that its value has diminished dramatically since then can only signal a corresponding increase in hardship for needy families. This hardship manifests itself in a number of ways. To cite one example, in the years from 2001 to 2005, significant increases in the demand for assistance were reported by 32% of the shelters, 67% of the food pantries and 54% of the soup kitchens on Long Island, and nearly half of the Island’s pantries had to turn people away.⁵

² The official poverty data is reported in Carmen DeNavas-Walt, Bernadette D. Proctor, and Jessica Smith, U.S. Census Bureau, “Income, Poverty, and Health Insurance Coverage in the United States: 2006,” U.S. Government Printing Office, Washington, DC, 2007. The Adelphi report is S. Michael, and S. Eichberg, “Vital Signs—Measuring Long Island’s Social Health,” Garden City, New York: Adelphi University (2006), www.adelphi.edu/vitalsigns.

³ See Food Research and Action Center website, “Food Stamps Program Frequently Asked Questions,” http://www.frac.org/html/federal_food_programs/programs/fsp_faq.html.

⁴ U.S. Department of Labor, Bureau of Labor Statistics, www.bls.org.

⁵ “Hunger in America 2006, Joint Report Prepared for Island Harvest and Long Island Cares,” Mathematica Policy Research, February 2006.

Thus the simple failure to increase assistance while costs rise steadily results inevitably in intensifying hardship. Another perspective from which to evaluate the adequacy of the public assistance grant is to compare it with other measures of the cost of living. Not surprisingly, the more realistic the measure, the wider the gap between that measure and the welfare grant.

1. The Federal Poverty Level

It has long been recognized that the Federal Poverty Level significantly understates the true cost of maintaining even the most modest standard of living. Nevertheless, the FPL is the most widely used measure of poverty and does enable us to identify trends over time. In 1975, the typical welfare grant for a family of three in New York would bring the family to roughly 110% of the FPL. In 1990, the last time the basic allowance was increased, the grant brought the family to 66% of the FPL. Seventeen years later, in 2007, the grant leaves that family at 51% of the FPL.

2. The Self-Sufficiency Standard

The concept of the Self-Sufficiency Standard was developed a number of years ago by Dr. Diana Pearce, then of Wider Opportunities for Women. As described in the 2000 analysis for New York State, "...the Self-Sufficiency Standard measures how much income is needed, for a family of a given composition in a given place, to adequately meet its basic needs without public or private assistance..."⁶ So while it is not explicitly a measure of poverty, its value rests for our purposes today in the fact that it strives, with substantial success, to more accurately evaluate household needs by remedying some of the glaring weaknesses of the Federal Poverty Level. For example, it accounts carefully for regional variations in costs and for the differences in cost attributable to the ages of household members. In addition, unlike the FPL, it does not use the cost of one basic need, food, and extrapolate from there to calculate overall expenses. Rather, the Self-Sufficiency Standard is computed by exhaustively researching a wide array of expenses.⁷

Because the Self-Sufficiency Standard assumes employment, I do not here make reference to the income levels it ultimately deems necessary, but use it rather as a more realistic measure than is afforded by the FPL of certain key costs. I simply added together their cost estimates for housing "that meets minimum standards of decency," transportation and "necessities" (which includes items like clothing, toiletries, and telephone). I did not include their estimate for food costs, because this cost will be met in part by Food Stamps for the family receiving public assistance; for health care, which is covered by Medicaid; or for child care, which is generally covered by a special welfare grant. The report, for which the latest available edition is dated 2000, estimated these three costs at a total of \$1662 per month for a family of three. The maximum grant for a family of three in Nassau County is \$736 per month, and \$738 in Suffolk, or 44% of true need as approximated with the Self-Sufficiency Standard. Clearly, the public assistance grant—even with Food Stamps added in—no longer affords a viable means for a needy family to meet its most rudimentary needs.⁸

⁶ "The Self-Sufficiency Standard for New York," by Diana Pearce with Jennifer Brooks, with New York State Self-Sufficiency Standard Steering Committee, September 2000. Note that Empire Justice's Susan Antos is a member of the New York Steering Committee.

⁷ The Self-Sufficiency Standard assumes that adults in the household are employed, which can, of course, have a substantial impact on income and expenses. Many public assistance recipients are employed, but others are not. We therefore look to the Standard less as a precise measure of the extent to which the welfare grant should be raised, and more as a "reality check" on the viability of managing on the current grant.

⁸ Support for the general validity of these figures from the Self-Sufficiency Standard is provided by the Economic Policy Institute, whose Basic Family Budget Calculator for Long Island, last updated in 2004, estimated comparable costs at \$1920 per month.

The Cost of Housing

Even with a modest increase in 2003, the portion of the welfare grant designated for housing remains the grant component that is perhaps most at odds with the true cost of living in New York, particularly on Long Island.

The federal Department of Housing and Urban Development annually estimates “fair market rents” (FMR) for more than 2,000 geographic areas around the country, including a composite figure for Nassau and Suffolk Counties. The FMR is computed by surveying rental units in the designated area and determining the 40th percentile, meaning that 40% of “standard quality” rental units cost less than that amount. At the 40th percentile, it can be assumed that units are decent but modest. The 2007 FMR for Nassau and Suffolk is \$1149 for a one-bedroom unit and \$1356 for a unit with two bedrooms.⁹ Standing in stark contrast to these cost estimates, the shelter portion of the public assistance grant is \$334 per month for a household of two and \$445 for a household of three in Nassau, and \$358 and \$447, respectively, in Suffolk. This takes into account the shelter increases of 2003, which amounted to just \$21 for a household of 2 in both Nassau and Suffolk and \$85 and \$60 respectively for a household of three.

Even the limited number of families receiving rent supplements pursuant to litigation are increasingly unable to meet their current rent obligations or to find shelter that they can remotely afford. These figures do not differ substantially from the rent levels for modest housing suggested by the Self-Sufficiency Standard or the Economic Policy Institute’s Basic Family Budget Calculator, both of which I discussed earlier.

Clearly, all levels of government need to act aggressively to expand the stock of affordable housing, but in the meantime, the Legislature should ensure that the public assistance grant is adjusted to more closely reflect the true cost of housing.

Who Will Be the Beneficiaries of a Grant Increase?

Efforts to increase aid to the poorest New Yorkers have been inevitably hindered by deceptive, but sometimes politically expedient characterizations of the population that receives public assistance. It is therefore instructive to briefly address the reality: who are the people who receive public assistance? Generalizations can, of course, be dangerous, but, with a careful look at research and data, important patterns emerge. These patterns sharply contradict tendencies to characterize public assistance recipients as the “undeserving” or “unworthy” poor.

First, a significant percentage of the public assistance population struggles with a range of barriers to employment, including physical and mental disabilities; severely limited levels of education, literacy, English proficiency and work-related skills; domestic violence; and other disabled persons in the household. An expanding body of research confirms that the TANF population lives with disabilities and other barriers to employment that far exceed the rate of such conditions in the general population. Estimates vary, but a series of studies in recent years suggest that between 35 and 44% of TANF families across the nation include one or more members with disabilities or other health-related limitations. By 2002, over 17% of

⁹ “2007 Fair Market Rents – County Level Data Files,” Federal Department of Housing and Urban Development, Policy Development and Research Information Service, <http://www.huduser.org/>.

TANF households included at least one adult or child receiving Supplemental Security Income (SSI).¹⁰ There is no reason to believe that these figures would be different today; and, the corresponding figures are likely even higher for the non-TANF public assistance population, which is comprised primarily of singles, and families who have timed out of the TANF program. When we refuse to increase the public assistance grant, the impact hits perhaps most directly upon people with serious disabling conditions.

A second substantial component of the public assistance population is made up of “child-only” cases, that is, households in which only children are receiving aid. Among the most common instances in which only the children in a household are receiving assistance are cases in which the parent is receiving SSI or is otherwise ineligible for welfare, and cases in which a non-parent caretaker relative is receiving welfare only on behalf of the children. Statewide, 35% of all public assistance households are children in child-only cases. The rates on Long Island are even higher, 41% in Nassau and 42% in Suffolk.¹¹ For these households, a consequence of the failure to increase the grant is a harsh impact that falls almost entirely on the shoulders of needy children.

Finally, putting aside the many public assistance recipients who participate in welfare-to-work activities, more than 10% of all cases in New York State report earnings from employment. These represent households in which at least one family member is employed but earnings are low enough that the family is still eligible for public assistance. I would hope that we would not begrudge such households the benefit of an increase with which to supplement their limited earnings.

The very diverse array of New Yorkers and Long Islanders receiving public assistance thus includes people with serious obstacles to employment, households in which only the children receive aid, and households whose earnings simply are insufficient for them to manage. The images of these struggling families must appear foremost in our minds as we contemplate the adequacy of our public assistance program.

How do we increase assistance?

Once we determine that the public assistance grant cannot meaningfully fulfill its fundamental mission to enable poor households to meet their rudimentary needs, an implicit question remains to be explored: What form should an increase in aid to the poor take? A variety of concerns come into play in making that decision: What form of assistance will most meaningfully enhance the standard of living of needy households? What type of increase will help the largest number of needy New Yorkers? What might be the collateral consequences of the designated approach? And might one course of action be more politically viable than another? A thorough discussion of these questions is better reserved for another day. But I would like to briefly touch upon some of the options that we encourage the Governor to consider.

- ***Increase the non-shelter portion of the grant, the basic allowance.*** As I have emphasized in this testimony, the non-shelter portion of the grant has not been increased in 17 years. By definition, this

¹⁰ There are a number of surveys of the research on disability among the TANF population. Although it is now a few years old, one of the more comprehensive is “Disability, Welfare Reform, and Supplemental Security Income,” by Mark Nadel, Steve Wamhoff, and Michael Wiseman, *Social Security Bulletin*, Vol. 65 No. 3, 2003/2004.

¹¹ “Child Only and Total TANF, SNA MOE and Total Non-Services Caseloads – March 2007,” table obtained from the Office of Temporary and Disability Assistance.

component of the grant, coupled with the home energy allowances, at least theoretically covers all of a household's non-shelter costs. Unlike the shelter allowance, this basic allowance is usually provided in the form of cash assistance, meaning that the household has maximum discretion to spend these funds as they determine necessary. That discretion can be an important element in enabling a family to move towards financial independence. For these reasons, it makes sense to target this grant component for an increase. We support for the position adopted by ES2, the Empire State Economic Security Campaign. Their concept is that the increase should at least parallel the change in the cost of living since the last increase in the basic allowance.

- ***Increase the shelter allowance.*** With households in need of public assistance, for whom securing virtually every item of need poses a challenge, the inability to meet recurring housing costs is perhaps the most likely cause of family crisis, and the impact of – even the threat of – eviction is particularly devastating. Despite the modest shelter increase in 2003, the shelter allowance remains, particularly in areas like Long Island, the component of the grant that is most drastically disproportionate to actual costs. It might therefore be persuasively argued that an increase in the welfare grant should focus upon the shelter allowance. This might also be the politically most viable path, in that public support might well be most successfully mobilized for measures to prevent homelessness. On the other hand, a shelter grant increase will not assist the significant minority of public assistance households that do not have shelter costs in excess of current maximums. In addition, it must be noted that, while the shelter grant can only be used for housing costs, a family can allocate an increase in the basic allowance either to cover housing costs or, if it is not needed for that purpose, it can be used to meet other recurring needs or to address unexpected emergencies.
- ***A Section 8-style housing subsidy.*** An alternative or supplement to an increase in the shelter portion of the grant would be the establishment of a state rental subsidy along the lines of the federal Section 8 program. This program would have some of the strengths of an increase in the shelter grant, in that it might be politically more compelling than other forms of assistance, and would address the most glaring area of need for poor families in New York. Its appeal might be further enhanced if the subsidy were available to both public assistance recipients as well as other low-income households. In addition, as a direct payment to the landlord, this subsidy would not count as income for Food Stamps purposes, and would therefore have no impact on those benefits. On the other hand, it would not benefit recipients without excessive housing costs. There is precedent for a Section 8-style program in New York. In the 1980s, the state created a tenant-subsidy program designed to work in conjunction with a rural multifamily financing program established by the federal Farmer's Home Administration. Through this "Rural Rental Assistance Program," the state has shown its willingness to innovate in this way.
- ***The increase as a food supplement.*** Most direct increases in financial assistance to welfare households result in a reduction in Food Stamps benefits, which are calculated based on household income. For every three dollars of additional income, Food Stamps are reduced by roughly one dollar. In order to avoid such Food Stamps consequences, and in recognition of the very high number of poor families experiencing food insecurity or hunger, an increase in assistance might best be designated as a supplement for the purchase of food. Under current law, this portion of the grant would not be countable as income for Food Stamps purposes and therefore would not affect Food Stamps benefit levels. There is ample precedent for this type of strategy: With the fuel crisis of the late 1970s and early 1980s, federal law was amended to require that assistance dedicated specifically to helping poor families meet energy-related costs would not count as income under the Food Stamps program. In

1980 and again in 1986, the New York State Legislature enacted public assistance grant increases in the form of the Home Energy and Supplemental Home Energy Allowances. As a result, families received 100% of the benefit of the increase in aid, without any Food Stamp reduction.

- ***Aid to households without dependent children.*** To New York's credit, it has historically been committed to providing basically equal assistance to needy New Yorkers, whether or not there were dependent children in the household. But in 2003, for the first time, the state deviated from that commitment by establishing different shelter allowance schedules for households with and without dependent children. For households without children OTDA simply retained the same shelter grant that has been in effect for nearly 20 years, while providing an increase for households with children. The needs of households without children are comparable to those with children. Indeed, my experience suggests that single adults are perhaps even more likely than those in households with children to experience physical and mental disabilities and to be vulnerable to financial crises. Any increase in aid to the needy should equalize benefits.
- ***Rent costs for Section 8 and federal public housing tenants.*** With regard to the restructuring of the shelter allowance component of the welfare grant, there is an additional issue that has plagued the state for years and which should finally be put to rest. That is the question of how the shelter allowance should be determined for Section 8 and federal public housing tenants. The goal should be to maximize federal housing subsidy dollars while assuring that households receiving public assistance who are also participating in these federal housing programs are able to obtain the full benefit of those programs.¹²
- ***A commission on the public assistance grant.*** Throughout this testimony, we contend that the evidence in support of increased aid to poor families is overwhelming. In the event that the State government is nevertheless not prepared to act to remedy this situation, at a minimum measures should be adopted to ensure that this issue remains squarely on the public agenda. One means for accomplishing that objective would be the creation of a commission on the public assistance grant. Such a body could further research the issue and hopefully fill any gaps in information and data necessary to support legislative action. The commission could be authorized to study the adequacy of the basic grant, as well as the fuel for heating grant, and to report back to the Governor with a range of options.

¹² My colleague, Mike Hanley, offers the following explanation of this issue:

New York is the *only* state in the country where the housing subsidy paid to welfare households is reduced below that which other households with the same level of income receive. This is because we are the only state that still uses what is called, for HUD purposes, an "as paid" welfare system. Because the welfare rules here reduce the shelter allowance whenever rent is reduced, the HUD programs have put in place a subsidy formula that sets the tenant rent share at the maximum amount allowed for that family size rather than charging the household a percentage of their income as rent (usually 30%).

By converting from an "as paid" to a "flat" shelter allowance for public housing and Section 8 households, we can put welfare tenants in NY on the same footing as those everywhere else in the country. Unfortunately, doing so at this point in time – without an adjustment at the federal level – would result in a devastating hit on the housing programs. To address this problem, we urge the state to convene meetings with appropriate officials from OTDA, DHCR and HUD. More importantly, we need to discuss this issue with our Congressional and Senate delegations to find the appropriate solution. We believe that with a one-time federal appropriation to adjust for the change, these programs can be put back on track and New York's neediest households can be treated the same as those in the rest of the nation.

How do we pay for an increase in assistance to the needy?

It is tempting to argue that, if the will is there to increase aid to the poorest and most vulnerable New Yorkers, then the financing can be found. I personally believe that to be the case. But I will conclude my testimony by making a few points on this issue.

- First, a number of budget experts have advanced proposals that would help the state fund urgently needed programs. An informal group working under the rubric of the Revenue Forum has focused on this issue; leading organizational participants include the Fiscal Policy Institute, New Yorkers for Fiscal Fairness and the Hunger Action Network for New York State. Their proposals include restoring fairness and progressivity to the tax system, closing unfair loopholes in corporate taxes and bringing accountability to state and local economic development programs. We acknowledge that proposals of this nature are ambitious, and that some policy makers prefer to demand that every dollar that is added for one worthy cause be matched with a cut to another. It is to avoid pitting essential programs against each other that groups like the Revenue Forum seek alternative approaches.
- Clearly, the increase in aid that we are supporting will have a substantial cost attached to it. But the cost may be compensated for to some degree by savings that will be realized. With an increased grant, some families that would have been evicted will remain in their homes, thereby reducing the massive cost of emergency housing. There should also be some diminution of costs from other crises that result from recipients' lack of resources, including food and utility emergencies. The enhanced stability in people's lives may well have favorable consequences in terms of health costs as well.
- While we may endlessly debate whether welfare reform was a success – I would certainly argue that it was not! – the fact is that welfare rolls statewide have declined by roughly 60% in the past 10 years. The resulting cost of a grant increase will therefore be considerably less than it would have been at any time in the recent past.
- We would also ask the Governor to review the various uses to which the TANF block grant is being put, and to determine whether it is time to restore more of that block grant to the most fundamental purpose of helping poor families to survive. For starters, we urge the Governor to make a commitment to shifting the cost of the State Earned Income Tax Credit to the General Fund over the next three years. This would make more TANF dollars available not only for a grant increase but also for critical education and training services and work supports that are essential to welfare participants' ability to attain financial stability.

CIVIL LEGAL SERVICES

Continue to Invest in Infrastructure and Funding for Civil Legal Services

Let me begin by noting that out of our Albany office, Empire Justice coordinates the Civil Legal Services Advisory Committee, a coalition of 21 civil legal services programs outside of New York City that make up the civil legal services delivery system. As the "upstate" or "rest of state" community we work closely with our colleagues in New York City to speak with a single voice on issues related to state funding whenever possible. For our purposes today, I will speak about the need for civil legal services funding for

civil legal services, but my recommendations reflect only the positions held by our Civil Legal Services Advisory Committee.

The issues confronting the poor and those living on low incomes are incredibly complex. Whether it's the ever-changing landscape governing access to public assistance or health care or the newly emerging legal needs of consumers and financially strapped homeowners, the legal needs of our state's most vulnerable populations remain critical and all too often unmet. Nationally, according to the Legal Services Corporation (LSC), less than 20 percent of the legal needs of the poor are being met.¹³

In order to meet these needs, legal aid programs across the nation rely on three core funding streams: federal Legal Services Corporation funding, Interest on Lawyer Account (IOLA) funds, and state funding. Here in New York the civil legal services system relies on these three funding streams, although not all legal services programs receive funding from all three sources. Our state funding, initiated by the Assembly Majority in 1993 in response to a dramatic drop in interest rates and subsequent IOLA grants, now includes a number of components.

The 2007- 08 State budget provided funding for legal services through the Office of Court Administration (OCA), the Department of State (DOS), and the Division of Criminal Justice Services (DCJS) as part of the Legal Services Assistance Fund (LSAF) – again, not all programs receive funding from all of the state funding streams:

- Department of State - The funding level rose steadily from \$3 to \$7.5 million – and then dropped and stayed at \$4.6 million after 9/11. Total funding for 2007 was maintained at \$4.6 million.
- Office of Court Administration – Thanks to the vision of Chief Judge Judith Kaye and the leadership of Judge Juanita Bing Newton, \$5 million was included in the Judiciary budget for the provision of civil legal assistance for the first time last year. Ultimately, through the efforts of Governor Spitzer, a total of \$8 million in new funding was appropriated in last year's budget, nearly doubling the funding that had been available through the Legislature alone.
- Legal Services Assistance Fund. Created in 2003 when the state was raising fees to cover the cost of increased reimbursement for mandated representation on the criminal side, the LSAF is supported by a set-aside of a portion of each criminal history search fee. Rather than dedicate the funds to civil legal services, the LSAF is available for both criminal and civil legal assistance and is allocated based on Memoranda of Understanding between and among the Governor and Legislative Leaders. We estimate that last year, approximately \$2 million went to civil legal services providers statewide.

Combined, these funding streams support a full range of services needed to ensure a vibrant civil legal services delivery system. From front-line organizations that provide direct legal assistance through staff model programs, to organizations providing targeted assistance to special populations, to programs organizing the pro bono efforts of the private bar, to support centers providing the coordination and over-arching statewide services, the delivery system in each state should strive to meet the new standards

¹³ *Documenting the Justice Gap in America*, Legal Services Corporation, September 2005.

adopted by the American Bar Association last year.¹⁴ New York has all the components of a comprehensive delivery system in place, it is just severely overwhelmed and underfunded.

State Funding and Governor Spitzer's Leadership

The 2007-08 budget was historic in its treatment of civil legal services. Since 1993, when the state first provided general support for the delivery of legal services, without support from the Executive, this funding had always been a last-minute "member item" add carried by the Assembly Majority and, in the 2006-07 budget these funds totaled \$4.6 million.

Even prior to taking the oath of office last January, then Governor-elect Spitzer indicated his support for a more stable, more structured approach to funding the delivery of civil legal services in New York. He clearly understood that these are vital services – that ensuring access to legal assistance means protecting access to justice and supporting the rule of law. While we clearly understand the extremely tight financial constraints the state is facing, we believe we must continue to build on the momentum the Governor created in last year's budget.

Our 2008 Budget Request

We are asking the Governor to not only maintain last year's commitment but to increase the \$14.6 million in state funding for legal services to \$25 million in next year's budget. This will put New York on track to secure a state investment of \$50 million by 2010.

Creating an Office for Civil Justice

As noted above, the state's general operating support for legal assistance is currently made available through three separate agencies and is distributed with three different methodologies. We strongly support the maintenance of the three core funds for the delivery of legal assistance: Federal LSC, IOLA and the State. In terms of the state's funding commitment, we believe that the general operating funds provided by the state should be brought together under one agency through the creation of an "Office for Civil Justice" in the Executive Branch.

We believe this could be a relatively small office which would create substantial administrative efficiencies for the state by taking responsibility for the coordination, contracting oversight and data collection for all general support dollars New York makes available for the provision of civil legal assistance. Such an office would also create efficiencies for providers by affording a single point of entry for state general operating dollars, potentially standardizing the application and reporting processes, and being responsible for ensuring that state funding is included in the Executive Budget each year. Such an office would play a key role in coordinating with the other core funding sources to help ensure that funding is not duplicative and critical or emerging needs are being met. We envision the "office" working closely with IOLA to help ensure stability and broad access to services in every region of the state.

We urge the Governor to maintain his leadership in this area by continuing to invest in legal assistance through the state budget, creating a focal point for civil legal assistance within the executive,

¹⁴ See: Standards for the Provision of Civil Legal Aid and ABA Principles of a State System for the Delivery of Civil Legal Aid, both adopted by the ABA House of Delegates August 2007.

and maintaining his support for IOLA's continued growth. Together these efforts will ensure that New York moves closer to the promise of equal access to justice.

Once again, we appreciate the Governor's initiative in seeking out and listening to the views of New Yorkers throughout the state. Unfortunately, it is a daunting challenge for the voices of poor New Yorkers to be heard, even in this open and enlightened process. Despite the severe pressures on the budget this coming year, we urge that the executive budget address the needs of the State's most vulnerable people. Thank you.