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NEW YORK STATE SENATE DEMOCRATS

Public Forum
December 9, 2008
Sen. William T Stachowski
Sen. Antoine M. Thompson

Comments of:

Robert M. Elardo
Managing Attorney/CEO
Erie County Bar Association Volunteer Lawyers Project, Inc.

RE: (1) Civil Legal Services
(2) AIDS funding: Families in Transition (FIT) and General Legal
Services (GLS)

Intro:

Good afternoon. My name is Robert Elardo and I am the Managing Attorney/CEO of the Erie County Bar Association Volunteer Lawyers Project, often referred to as simply VLP. VLP is a member of the Legal Services Funding Alliance, a coalition of the 20 civil legal services providers from outside NYC.

At VLP, we provide free civil legal services to low income people and smaller not for profit groups and we recruit, train and coordinate local attorneys who provide pro bono civil legal services for our clients. VLP primarily serves people in Erie County, although some of our services, such as help for individuals and families affected with HIV/AIDS, extend into the surrounding counties of Niagara, Orleans, Genesee and Wyoming.

Senators Stachowski and Thompson, we want to thank you for conducting this hearing. I know that you are both supporters of civil legal services and that you both signed on to Ruth Hassel Thompson's letter in support of our funding.

My goals for today are to:

- 1) Provide you with a brief snapshot of the services we provide and VLP's role in the community;
- 2) Explain how cost effective our services are;
- 3) Discuss the need to adjust for the "mistake" made in last year's civil legal services funding; and
- 4) Discuss the importance of not letting FIT and GLS funding get lost in the shuffle.

Role of VLP:

At VLP, we are witness to the terrible plight that people near or below the poverty line face. Should they pay their car payment or the rent? Should they buy new school clothes for their kids or pay the electric bill? Our clients need to be continually making those choices because there simply is not enough money to take care of everything that they should be paying. When people are living constantly under that type of pressure, they get evicted or, if they were lucky enough to have had a house, it gets foreclosed upon. Their car gets repossessed, which leads to trouble getting to work and they lose their job. They end up needing to file bankruptcy and all of the stress and trouble leads to family problems that end up in divorce, custody battles and child support problems. Unfortunately, this is not an exaggeration.

It is a reality for our clients and each problem in this continuum is a legal problem. VLP works cooperatively with the other legal services providers locally and state-wide to try to provide our services as efficiently as possible. The local providers are all in the same building and VLP has entered into a collaboration with Legal Services for the Elderly and the Western NY Law Center to share conference rooms, other space and a phone system.

At VLP, we try to keep people out of homeless shelters by providing eviction defense and mortgage and tax foreclosure defense. We try to keep people off of the welfare rolls by helping people with unemployment insurance claims and child support cases. We try to keep kids out of the expensive foster care system by handling adoptions, representing grandparents (and other relatives) who step in to seek custody when families become dysfunctional, and parents who are setting up standby guardianships so that when they become incapacitated or die, the standby guardian seamlessly becomes the guardian. We try to help people with fresh starts financially and emotionally by providing assistance with bankruptcies and divorces. I have attached a page briefly describing 4 cases that were recently handled by VLP.

Cost effectiveness:

Providing funding for civil legal services is cost effective in at least three (3) major ways. First, according to data from the New York IOLA Program, civil legal services programs in New York generate almost 93 cents in client financial benefit for every \$1 of funding that the programs receive. These financial benefits come through obtaining things like SSI benefits, unemployment benefits and child support payments that they are entitled to.

Second, not only is this an incredible return upon investment, but putting extra money into the hands of low income people immediately stimulates a wide variety of sectors of the local economy. Low income people cannot afford the luxury of saving. Peter R. Orzag, Congressional Budget Office Director, wrote, "To boost cost-effectiveness further, policymakers would need to focus on lower-income households and those with difficulty borrowing. The studies of the 2001 tax rebate suggest that such lower-income and credit-constrained recipients increased their spending substantially more than the typical recipient. "

The third major way that civil legal services programs are cost effective is that we generate millions of dollars in state and local tax payer savings, by helping clients to avoid homelessness, keeping kids out of foster care, and helping people to develop other income sources so that they can avoid welfare benefits.

For example, our small program added approximately \$250,000 direct to our clients and saved an estimated over \$1 million in tax payer savings. Please see the attached memo from the Empire Justice Center for additional information about cost effectiveness.

State Funding situation:

As you may know, civil legal services providers are in a unique and incredibly awkward position. The 2007-08 state budget included \$15.85 million in statewide funding for civil legal services. In the 2008-09 executive budget, then Governor Spitzer, believing that the other state level core funding source for civil legal services, the Interest on Lawyer's Fund, or IOLA Fund, would see dramatic increases in revenue as a result of a regulatory change that would increase the level of interest paid on these accounts, all but eliminated the state funding. Governor Spitzer left just \$1 million in the budget for the provision of civil legal services. That \$1 million (which later was reduced to \$980,000) still has not been distributed. By the time the budget was enacted, the subprime mortgage crisis had begun to hit and the principle balances in IOLA accounts, which are primarily generated by the housing market began to wane. In addition, the fed had cut interest rates several times. While it had become clear to most that the Spitzer gamble had been a bust, it was too late to mitigate the entire \$15 million funding gap that had been created. Especially with the help of the Assembly Majority, civil legal services providers across the state were able to receive about \$7,205,000 , but that still left a collective \$8 million hole in budgets for the 2008-09 state fiscal year. Then, to further exacerbate the situation, in the August 2008 special session, our Department of State funding was cut by 6% . The total state funding cut in 2008-9 stands at 55% less than 2007-8. This deep cut was not intended and it is terribly disproportionate when compared to other cuts made by the State this year.

Civil legal services providers face a stark reality. As the economic crisis deepens, more and more clients come to our doors in need of help. They've lost their job, they've lost their health benefits, they've lost their disability assistance, they are in foreclosure, they are being wrongfully evicted, they can't afford a lawyer and they need help. Yet in this time of crisis, our state funding has been cut in half. Before the economic downturn and before the state funding cuts, more than 80% of low income New Yorker's civil legal needs went unmet. Without immediate intervention, that already dismal number will continue to climb.

I sit before you today in fear. Afraid that our plight and the plight of our clients will be lost in the midst of "big budget" concerns. But we simply cannot afford to fall between the cracks. In the interest of justice we ask that you help us to ensure that we do not fall between the cracks.

We are hopeful that Governor Paterson, who has long been a supporter of our services, will prioritize fixing the wrong that was done in last year's budget. However, we know that he has many other much larger budget items to address. That is why we need you to help make sure that civil legal services remain a priority.

To that end, we are asking that you reach out to Governor Paterson and ask him to provide \$11,400,000 in the 2009-10 Executive Budget for civil legal services (specific dollar amounts and state agencies are attached in a chart). This would still result in an effective 28% funding reduction in comparison to the 2007 level.

AIDS Funding

In addition to the general civil legal services funding just discussed, our program and several other legal services providers receive funding through the Department of Health AIDS Institute to provide civil legal services to individuals and families that are affected by HIV/AIDS. There are really 2 separate funding streams that I am discussing here. They are called "Families in Transition" or "FIT" and "General Legal Services" or "GLS". I am addressing these funding sources separately because they are treated differently within the State government and because there is currently a separate issue concerning them that I want to make sure that you are aware of.

As you know, Governor Patterson has been calling on each State government department to find ways to cut their own budgets. The Department of Health is continuing to go through this process. One of the ways that they are considering cutting their own budget is to propose that these two important programs not be cut or eliminated, but moved to the Office of Children & Family Services. Our concern is not so much which office administers the funds, but we want to make sure that the funding does not get lost in the shuffle. I have attached two Program Information Sheets from the Department of Health AIDS Institute Core Budget Report.

The Department of Health AIDS Institute programs are primarily medical and social services in nature. However, for many years, they have funded these two important legal services programs, FIT & GLS. GLS is focused directly on the people

that are HIV positive and FIT focuses on families with minor children of the HIV positive person.

FIT & GLS combined only add up to \$2 million state wide and the programs like VLP that receive the funding tend to have large geographic service areas to cover, but this is extremely important funding.

When someone is dealing with HIV/AIDS, they have all of the financial and family problems discussed above, and more. They have to deal with declining health, multiple health care appointments, the devastation of the realization that they are HIV positive, planning for the end of their life and the long term care of their children, and subtle and sometimes not so subtle discrimination.

These clients have more legal problems than the average low income person and tend to require more time and attention to help them through their legal issues. Please see the attached sheet describing 4 cases that we have recently handled with FIT & GLS funding.

The FIT & GLS programs are the only ones focused on this very vulnerable population's legal problems. Please do not let the State abandon them through oversight or otherwise.

Conclusion

I want to close by saying, that it is in these very difficult economic times that the State must be more vigilant, more active and more aggressive in making sure that people in need do not fall prey to denial of life sustaining benefits, loss of their home or further injustice. It is in these times – at this very moment – that we should be expanding our investment in civil legal services and ensuring greater access to justice.

Access to justice – funding for legal services -- is NOT a special interest. Providing legal assistance to the poor and the elderly is a fundamental public interest.

Thank you.

Proposal for 2009-10 State Funding for Civil Legal Services¹

	2007-08	2008-09	2009-10 proposed
OCA	\$5,000,000	\$0	\$0
DOS (Assembly)	\$4,600,000	\$3,987,000	\$4,200,000
DOS (Governor)	\$3,000,000	\$980,000 (not yet distributed)	\$4,000,000 ²
LSAF3	\$2,000,000	\$2,000,000	\$2,000,000
DCJS4	\$1,250,000	\$1,218,000	\$1,218,000
TOTAL	\$15,850,000	\$8,185,000 *\$7,205,000 distributed (55% less than 07-08 level)	\$11,418,000 (28% less than 07-08 level)

1 This memo is focused on the 2009-10 Executive Budget and therefore does not address our ongoing discussions related to money from the 2008-09 state budget that remains undistributed.

2 We recommend combining the Assembly \$4.2 and the Governor's \$4 million into a single DOS appropriation of \$8.2 million.

3 Budget language reflects a \$3 million LSAF appropriation – this includes approximately \$2 million for civil legal services and \$1 million for criminal legal aid as distributed by the Assembly Majority in both 2007-08 and 2008-09.

4 Note that domestic violence funding was shifted from DOS to DCJS in 2007 and reduced substantially. Our proposal holds domestic violence funding at the reduced level for 2009-10

