

Testimony by New York Legal Assistance Group (NYLAG)

before the NYC Council Committees on Justice System and Public Safety regarding:

Preliminary Budget Hearing – Justice System & Public Safety

March 12, 2018

Chairs Lancman and Richards, Council Members, and staff, good afternoon and thank you for the opportunity to speak to the Justice System and Public Safety Committees about the FY19 budget. My name is Beth Goldman, and I am the President & Attorney-in-Charge of the New York Legal Assistance Group (NYLAG). The New York Legal Assistance Group uses the power of the law to help New Yorkers in need combat social and economic injustice. We address emerging and urgent legal needs with comprehensive, free civil legal services, impact litigation, policy advocacy, and community education. NYLAG serves immigrants, seniors, the homebound, families facing foreclosure, renters facing eviction, low-income consumers, those in need of government assistance, children in need of special education, domestic violence victims, persons with disabilities, patients with chronic illness or disease, low-wage workers, low-income members of the LGBTQ community, Holocaust survivors, veterans, as well as others in need of free legal services.

At last year's Courts & Legal Services budget hearing, NYLAG and many of its colleague organizations testified about the uncertain future facing low-income New Yorkers due to the drastic policy changes threatened by the new federal Administration. Organizations that serve these New Yorkers could only speculate about what the new policies would be and how they would affect our clients. Today, more than a year into the new Administration, many of our worst fears have been realized, and the implications for the populations we serve are dire. The City of New York, however, has not been passive in the face of these challenges. On the contrary, it has committed extraordinary

resources to protecting its most vulnerable citizens and the social safety net that so many of them rely upon.

As we work to navigate this new reality, it is more important than ever for New York City to stand strong for its low-income residents, ensuring that, despite policy and funding decisions on the federal level, they are adequately protected. We are grateful for the truly transformative steps that the New York City Council, in partnership with the Mayor's Office, have taken and hope that you will continue to build on these foundations to ensure that low-income New Yorkers have access to the legal services they need.

New York City's Extraordinary Investments in Legal Services

The City of New York has made incredible investments in legal services over the past several years. In particular, I want to highlight the work the City has done in the areas of housing and immigration, where need has remained high.

The Universal Access to Counsel Initiative, the first of its kind, which began the five-year phase-in process last year, has already greatly increased the number of low-income New Yorkers with access to lawyers in Housing Court. As the program has already shown, access to an attorney greatly reduces the chances of eviction and homelessness, keeping buildings, neighborhoods and communities strong and vibrant. In FY17, NYLAG's Tenants' Rights Unit handled 2,324 cases for more than 2,100 low-income New Yorkers, and greatly increased the proportion of full representation it provided over the previous year. This work would not have been possible without the City's dedication to the Universal Access to Counsel Initiative, and to the expansion of funding for landlord/tenant legal services. Once the program is fully implemented, clients from all corners of the City will be guaranteed access to counsel in their housing matters. NYLAG will be able to leverage its unique community-based service delivery model and 150+ community offices throughout the five boroughs to meet clients where they are, often before they reach the crisis point.

We at NYLAG are proud to play a part in this remarkable initiative that will serve as a model for the rest of the country.

The City Council and Mayor's Administration also made a massive commitment to immigrant legal services in the FY18 budget. Given the needs we see on the ground among undocumented immigrants, which many of us testified about in last year's hearing, the City has focused its expanded immigration funding on removal defense. The need to provide this type of immigration work has become more urgent as we have seen new federal policies that strip away Immigration Customs & Enforcement (ICE) focus on individuals accused of serious crimes, and make every undocumented immigrant a priority for deportation, regardless of circumstances or community standing. We are seeing cases we have not seen before. For example, NYLAG recently met an immigrant from Egypt, through its ActionNYC partnership with the Arab-American Association of New York. She had filed for naturalization after a determination that she met all the requirements under INA Section 316, including good moral character. But, at her naturalization interview, she was served with a Notice to Appear and placed in removal proceedings based on an allegation that a sponsor who signed an affidavit of support misrepresented his family size. Increased scrutiny even of what should be a routine naturalization application now puts her at risk of deportation. Unfortunately, NYLAG expects to see an increasing number of cases like these as DHS seems to be going out of its way to place people in removal proceedings. The City's renewed focus on removal defense is an important step, which must be combined with continued funding for affirmative and other types of immigration work.

Other Legal Services Needs

We are so proud to live and work in a City that has risen to these challenges and is addressing in a serious way the need for access to counsel in immigration and housing. We should not, however, forget that poverty persists in our City and manifests in many ways that legal services can address and often remedy. We urge the City Council and the Administration, through the Office of

Civil Justice, to work closely with the provider community to focus on the needs we see up close on a daily basis, and to design programs and service delivery models that will best achieve our goals of bridging the justice gap and alleviating persistent poverty. Given the extraordinary commitment of this City, let us make sure not to leave others behind.

Low-wage Workers

Low-wage workers are one of the most vulnerable populations in New York City, with issues that often intersect with immigration, housing, and other legal problems. These workers face persistent poverty, yet funding to provide assistance on wage and hour issues, unemployment insurance, and employment discrimination remains difficult to come by. For several years now, NYLAG's small Employment Law Project has had a special focus on discrimination, as low-income New Yorkers face discrimination based on a variety of issues, including age, sex, gender identity, sexual orientation, race, national origin, pregnancy, disability, criminal background, military status, and status as a survivor of domestic violence, and need experienced attorneys to represent them. NYLAG has developed a special expertise in providing employment discrimination legal services to low-income transgender New Yorkers. NYLAG continues to pursue cases on behalf of transgender individuals at the Equal Employment Opportunity Commission (EEOC) and in federal court. As a result of this advocacy, the EEOC has successfully mediated or issued reasonable cause determinations in all of NYLAG's cases advocating for transgender individuals, including litigation on behalf of Danielle, a NYLAG client who faced sustained harassment by her restaurant franchise employer on the basis of her gender identity.

Some employers believe that they can get away with treating low-wage workers illegally because they will not know or be able to assert their rights, and because for-profit employment lawyers are out of reach for them. The private bar generally does not take cases for low-wage workers because a large part of any settlement reached for these clients is based on back pay and private attorneys are unable to recover fees. In the absence of a class action, it is not financially

worthwhile for private attorneys to represent these individuals. NYLAG aims to fill the gap in services to ensure that income is not a barrier to victims of discrimination seeking compensation for lost wages, emotional distress, and other relief. This has not previously been a priority for the City, and it has proven difficult to find sustained private funding for this work. Given that reality, NYLAG is currently unable to provide representation on so many of the meritorious cases it sees. We know our colleague legal services providers face the same challenges in their employment practices, and we enthusiastically support increased City funding for this important work.

Children in Need of Special Education

Low-income families with children with special needs face adversity when it comes to negotiating the legal complexities of the special education system. While all students have the right to a Free Appropriate Public Education (FAPE) under federal and New York State law, the Department of Education often recommends Individualized Education Plans (IEPs) that are either inadequate or improperly implemented. When children with special needs do not receive the proper education and services, not only is their long-term development jeopardized, but they are also at greater risk of exclusionary practices such as suspensions and other classroom removals. Parents of special needs children are forced to battle with schools in order to protect their children's rights. Navigating the appeals process without professional help, however, is incredibly difficult, and low-income families lack the resources to afford expensive special education attorneys. NYLAG's Special Education Unit serves these families, representing disabled children at all stages of the special education process, from the initial meeting with the Committee on Special Education, to Impartial Hearings, all the way to appeals to the State Review Office or Federal Court. Because families are often required to fight for adequate IEPs for their children every single year, these cases can be exceedingly protracted and complex.

As an example, over several years, NYLAG represented the family of Adam, a teenager who is severely autistic, nonverbal, and has acute behavioral difficulties. Through litigation, NYLAG

helped Adam obtain Applied Behavioral Analysis, which helped him manage his disabilities. When it was determined that Adam should be placed in a residential setting, NYLAG filed a due process complaint to compel the DOE to initiate the process. DOE responded to this by offering two residential settings, which the family is now considering. Without assistance from NYLAG's expert special education attorneys, it would have been nearly impossible for the family to get Adam the resources he needs to thrive in his education setting.

This work is of the utmost importance; children who learn in appropriate environments are much more likely to excel throughout their lives, and to break the cycle of poverty. Unfortunately, this special education work is chronically underfunded. An investment in legal services for low-income disabled children could make a difference for generations to come.

Seniors & Students with Consumer Issues

Consumer issues, such as debt and debt collection scams, identity theft, and fraud, have the potential to keep people in poverty indefinitely. Without the assistance of a qualified legal services provider, many low-income New Yorkers simply do not have the tools they need to advocate for themselves and vacate their debts. While consumer protection work in general is not a well-funded area, I want to focus today on NYLAG's work with seniors, as well as its work in the area of student loans, an increasingly important part of our practice as student loan debts continue to climb and have the potential to ensure a lifetime under a nearly unpayable debt.

Many low-income seniors are specifically targeted by aggressive debt collectors, or only learn of debt collection lawsuits and judgments against them after their exempt-income bank accounts are frozen, their wages are garnished, or their credit reports are pulled when applying for loans to afford their living expenses. NYLAG's Consumer Protection Unit works to assist these seniors in filing motions to vacate and dismiss erroneous default judgments, resulting in overwhelmingly favorable outcomes for seniors who cannot afford to pay a specious claim, especially one coming from a third-party debt collector that cannot prove the original debt and has

been engaging in harassment. NYLAG attorneys also provide thorough bankruptcy options, counseling to seniors to ensure their continued financial stability.

The Consumer Protection Unit also assists low-income clients with both federal and private student loan debt, exploring potential discharge options including Ability-to-Benefit applications, unpaid refund applications, student disability, identity theft, and Defense to Repayment applications. Attorneys advise on loan rehabilitation and consolidation programs, and advocate with debt holders on behalf of clients in order to negotiate affordable, income-based repayment plans that bring clients out of default status. Crucially, NYLAG attorneys also have expertise in assisting students of for-profit sham schools who did not receive the education they were promised and now hold loans with incredibly high interest rates. These fraudulent schools have proliferated over the last several years, and it is critical to meet the need both through direct services and through impact litigation.

Given its complex nature and the lack of understanding of consumer protection work outside of the legal services world, this work has proven extremely difficult to fund over many years. While some funders that specialize in legal services funding, such as the Office of Court Administration, have provided some funding for this work, it is not nearly enough to allow us to keep up with the demand. We know that debt and lack of credit have an enormous effect on the lives of our low-income clients when it comes to necessities such as housing, and funding from the City would allow us to help more people relinquish their debts and get out from under the pressure of enormous student loans.

Shelter Residents

So many of the 60,000+ New Yorkers who find themselves in shelters each night are desperately in need of legal services for various issues, but almost none of them have access to these services. NYLAG's Public Benefits Unit has been able to make a small dent in the issue through its Shelter Advocacy Initiative, but lack of dedicated funding has kept the project small and unable to reach the vast majority of shelter residents. Through this Initiative, NYLAG provides comprehensive

legal services to adults and families denied emergency shelter by the NYC Department of Homeless Services. Without assistance from an experienced attorney, most individuals are not able to file appeals, and, even when they do, denials are almost always upheld for those who file an appeal without representation. The Initiative continues to work with clients once they have gained access to emergency shelter, ensuring they receive the services they need to prevent wrongful shelter evictions and substandard living conditions, as well as fighting for accommodations for the medical and mental health needs of residents. With increased funding, NYLAG and other providers would have the ability to expand initiatives like this one, working to make certain that no individual, child, or family is wrongfully denied shelter.

Veterans

While great strides have been made, particularly by the City Council, funding to provide services to low-income veterans also lags behind funding for other legal services. NYLAG is proud to be part of the Legal Services for Veterans Initiative, which provides critical funding for the important work we do on behalf of veterans on issues such as veterans' benefits, housing, public benefits, consumer protection, and advance planning, but there is simply not enough funding to allow organizations to meet the demand we see in communities. NYLAG's Veterans Legal Assistance Project applies NYLAG's community-based service delivery model to the service of this unique and often extremely vulnerable population, meeting veterans in their own communities and through local veterans' organizations to reach as many people as possible. The Project recently worked with Charlie, a 49-year old Army veteran who suffers from PTSD due to Military Sexual Trauma. Charlie has crippling anxiety as a result of his trauma, so the Coordinating Attorney of the Project made a series of home visits to help Charlie gather the medical evidence necessary to submit a claim for disability benefits to the VA. Charlie was granted a 50% service-connected disability rating, and will now receive a monthly award of \$1,556, as well as \$19,000 in retroactive benefits. NYLAG's intervention helped alleviate Charlie's financial stress, and has allowed him to focus on his mental

health needs. Increased funding would allow NYLAG to expand this important Project, helping more veterans secure the compensation and benefits they earned through their service to this country.

It has been gratifying to see the City respond to the needs of our fellow New Yorkers in critical areas such as immigration and housing. I strongly encourage the City to expand these initiatives and to add new ones, to ensure that we are providing comprehensive civil legal services to low-income New Yorkers, particularly at a time when they cannot rely on protection from the federal government.

Thank you, once again, for the opportunity to testify today. I look forward to a strong continued partnership with the Council and the Mayor's Office to ensure access to justice for those in need.

Respectfully submitted,

New York Legal Assistance Group