



## ECONOMIC IMPACTS OF LEGAL AID: CIVIL JUSTICE FOR LOW-INCOME PEOPLE CREATES RIPPLE EFFECTS THAT BENEFIT EVERY SEGMENT OF THE COMMUNITIES WE SERVE

By Ken Smith, Barbara Finkelstein and Christopher O'Malley<sup>1</sup>

### Introduction

The primary mission of legal aid is to provide access to our civil justice system for those lacking the means to hire a lawyer. Representation by legal aid advocates fulfills one of our society's most basic promises: *Equal Justice Under Law*.



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Yet this mission also produces economic impacts that ripple outward to benefit many other segments of society. Making public officials aware of the scope and impact of these outcomes is a huge opportunity that legal aid leaders are turning to with greater frequency and success.

This article addresses three questions:

- How are state and local civil justice leaders using economic impact information to successfully preserve and even expand funding for their programs in the face of historic budgetary pressures at the local and state levels?
- What *are* the economic impacts that legal aid programs produce for the larger community in the course of addressing the legal needs of their clients, and how can we quantify them?
- What lessons have we learned to date about the effective use of economic impact information in efforts to secure more funding for access-to-justice programs?

In addressing these questions, the article presents three case examples of how economic impact

information has been used with great success in 2010 and 2011. The examples illustrate that cost-benefit data can have the greatest power when it leverages — rather than replaces — the traditional message of unmet need for legal assistance. In each of these cases, the “economic impact story” has revealed to decision makers a view of legal aid that they had never seen before: demonstrating it to be a vital “engine” that produces economic stability and jobs and saves taxpayers money.

### Preserving and Expanding Funding for Legal Aid from Governments in Crisis: *Three Case Studies*

All three of our case studies come from New York State, but the lessons they provide are applicable anywhere. Two of the cases describe results that were achieved in a statewide context; the other case describes a single legal aid provider's efforts to preserve county funding. Leaders in other states have had comparable successes in applying economic impact information to broaden and strengthen their case for civil justice funding.<sup>2</sup>

#### *New York I: Emergency Funding to Offset IOLA Cuts*

Each year, the IOLA Fund of New York publishes an annual report on its website describing and quantifying the results achieved by IOLA-funded civil justice programs across the state. Since 1997, that report has included total dollar benefits achieved for clients in such matters as Social Security Disability and Supplemental Security Income, unemployment compensation and child support cases.

However, that information had not been a major theme in legislative campaigns seeking state appropriations for legal aid. The message had been primarily about the unmet need for legal assistance and the impact this “Justice Gap” was having on low-income families.

In preparing for the FY 2010-11 budget campaign,

civil legal service providers across the state realized they were faced with extraordinary challenges. The governor and legislature were locked in battle over a massive budget shortfall. Any appeal based on need alone would be lost in the scramble over which worthy programs were to be cut.

At the same time, IOLA revenue<sup>3</sup> had plunged from \$32 million in 2008 to \$8 million in 2009. Without some kind of help from the state, IOLA grantees would face massive cuts, triggering layoffs and service reductions and devastating programs and their clients.

To more effectively state the case for civil legal services, a strategic decision was made. While the needs of clients would remain at the forefront, a new emphasis, with more comprehensive data, would showcase the broad economic impacts that legal aid was producing across the state.

To accomplish this, the economic impacts story itself needed to be expanded. Not only would it capture the economic benefits and cost savings directly produced for legal aid clients, it would also describe a broader range of impacts such as savings for taxpayers resulting from outcomes like preventing families from being evicted and providing protection from domestic violence. It also would quantify the “economic stimulus” impact of federal dollars flowing into the state as an outcome of legal aid’s representation of clients — dollars which support jobs for working New Yorkers and provide income for businesses. IOLA was asked to review the outcomes data it was receiving from its grantees and to estimate the cost savings these results were producing for communities across the state.

IOLA executive director Christopher B. O’Malley was then requested — first by state budget officials, and then, at a legislative hearing over the FY 2010-11 budget request for the Office of Court Administration (OCA) — to provide IOLA’s technical data as to the economic impacts of IOLA-funded programs.

In his presentations, O’Malley outlined the cumulative effect of federal benefits such as SSI benefits and Medicaid reimbursements flowing into New York each year as a result of legal aid cases won in previous years as well as those won in the current year. He indicated that in 2009, the “economic stimulus” effect generated by the federal dollars flowing into the state totaled \$476 million and supported 5,000 jobs for working New Yorkers.

In addition, legal aid had saved taxpayers an estimated \$98 million by preventing evictions and foreclosures, and \$6.2 million by protecting families from domestic violence. In support of these figures, O’Malley

pointed to data from studies conducted in New York and elsewhere that quantified the economic costs caused by each incidence of those problems.

He indicated that the prospect of cuts in IOLA grants would likely mean substantial reductions in these revenue streams, jobs and cost savings.

The response to this information was very positive. Despite the difficult economic environment, IOLA received \$15 million in new emergency funding for FY 2010-11 appropriated through the OCA. This was the first time that IOLA had ever received funding from the state, and it allowed IOLA to fund its grantees at nearly the same the level as the previous year. That emergency funding was extended for another year in the budget that was approved for FY 2011-12.

### *New York II: The Case for Maintaining County Funding In Westchester*

In 2010, Legal Services of the Hudson Valley (LSHV) commissioned The Resource for Great Programs<sup>4</sup> to assist in quantifying the economic impacts of legal aid in Westchester County, the largest of the five counties served by the program. Armed with the resulting information, LSHV was able to roll back a threatened thirteen percent cut in its \$1.7 million grant from the county and sustain its services at a time when the need for legal assistance, especially in eviction defense matters, was at an all-time peak.

The Resource’s analysis of LSHV’s 2009 outcomes data showed that the program’s impact in the county was \$19.6 million in documented economic benefits and cost savings. The impacts included \$13 million in federal dollars brought into the county that produced a stimulus effect of \$19.3 million in income and supported 210 jobs. In addition, the analysis showed that the program’s eviction prevention work had saved the county \$5.7 million in emergency shelter costs in that year. In total, the analysis documented a return of \$4.48 for every dollar of LSHV’s funding from all sources and an 11-to-1 return on the county’s \$1.7 million investment.

That information proved to be pivotal in 2010 when the Westchester County executive attempted to slash county-funded programs across the board. In meetings with the county executive and members of the Board of Legislators, LSHV executive director Barbara Finkelstein testified that such a cut would have dire consequences, including cutbacks in county-funded eviction prevention services in the midst of a recession that was causing LSHV offices to be flooded with applicants for legal help.

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When the county executive persisted, the Board of Legislators voted to restore all of the funding for LSHV — a rare instance of a roll-back in the proposed cuts for county-funded programs. After the county executive vetoed the restorations, the Board of Legislators voted unanimously — with five Republicans joining twelve Democrats — to overturn the veto. In the end, the \$1.7 million grant was preserved and LSHV was free to fully serve county residents for another year.

Following the final vote, conversations with county legislators made it clear that the power of the economic impact data was the main reason they had overridden the veto. Members of the board indicated they understood the benefits of LSHV, especially in housing. They agreed the cuts would be counterproductive; they would cost the county more than they would save.

*New York III: Expanding Access to Justice in the Midst of a Budget Crisis*

In 2010, the budgetary environment in New York seemed even less encouraging for increased spending on civil legal services. Nonetheless that was exactly what was needed as the continuing after effects of the “Great Recession” continued to devastate low income New Yorkers. Furthermore, the increase in demand for civil legal services was having more of an impact on the Courts. As caseloads grew, so did the number of unrepresented litigants, which worsened congestion in an already overburdened system.

The Chief Judge of the State of New York, Jonathan Lippman, decided to take a leadership role and tackle these problems head on.

Judge Lippman appointed a blue-ribbon Task Force of civil justice leaders to convene hearings across the state and to provide him with a plan for expanding access to civil legal services. Judge Lippman believed that the increase in demand for civil legal services made it clear that more, not less, funding for legal aid was needed. But he knew that this would be a difficult request given the state’s fiscal position. He wanted the Task Force not only to document the growing justice gap and the economic impact of providing civil legal assistance; he wanted it to build a compelling case describing how increased funding for civil legal services would benefit ALL New Yorkers even in a time of budget crisis.

The Task Force decided to make economic arguments a central part of the case it would build. IOLA

was charged with updating its previous economic estimates with fresh figures from the 2010 IOLA grantee reports.

The Task Force produced a report to the Chief Judge in November 2010 having four essential findings.<sup>5</sup> The first was about the increase in unrepresented litigants and its impact on the civil justice system:

**Finding 1:** *The substantial number of unrepresented litigants in civil legal matters adversely impacts the quality of justice for all parties in the Courts of New York State, increases the amount of litigation, and undermines the rule of law.*

This part of the case was supported by extensive court data describing the flood of unrepresented litigants and “ground-breaking testimony from business leaders, judges, lawyers and community leaders across the state” about the resulting impacts on courts, businesses and society as a whole.<sup>6</sup>

The second finding was about the positive economic impacts of legal aid:

**Finding 2:** *Providing civil legal assistance increases federal benefit payments for low-income New Yorkers, and reduces the need for state and local government assistance payments.*

The data compiled by IOLA indicated that the 2010 economic impact in New York in terms of benefits won, costs saved, and income and jobs for business and jobs was almost \$900 million — nearly five dollars for every dollar spent to support civil legal services organizations.<sup>7</sup>

The third finding was about unmet need and the economic costs it imposes on taxpayers as well as low-income residents:

**Finding 3:** *The unmet need for civil legal assistance in New York State is profoundly impacting vulnerable New Yorkers and costing taxpayers millions of dollars by increasing homelessness, failing to prevent domestic violence, and increasing poverty.*

The Task Force estimated “conservatively” that the state’s economy loses more than \$400 million a year by failing to provide the legal assistance that could potentially increase the stream of federal dollars into the state and save even more money for state taxpayers than was possible at existing levels of legal aid funding.

The fourth finding was about the funding shortfall itself:

**Finding 4:** *In these difficult economic times,*

*current funding is inadequate to meet the critical need for civil legal assistance in our state of nearly 20 million people.*

With these four findings in hand, the Task Force made a number of recommendations about how to improve access to civil legal services in New York. The centerpiece was a proposal that would eventually provide \$100 million per year in new funding for legal aid. The increase would be phased in over four years, with a \$25 million line item for FY 2011-12 and a further \$25 million increase each successive year until the budget reached \$100 million in year four.

The amount that was finally approved by the legislature and governor for FY 2011-12 was \$12.5 million. While this was only half of the amount that the Chief Judge had requested based on the Task Force proposal, in the context of the worst budget crisis in New York history it was an important first step. As the economy improves, there is hope the full recommendations of the Task Force can be implemented.

### **What Are the Economic Impacts of Legal Aid? How Do We Quantify the Benefits?**

The economic impacts that civil justice leaders have used successfully in support of funding campaigns include the following:

1. **Income for low-income households** to pay for daily necessities such as food, housing, utilities and transportation, which also reduces the welfare burden on state and local governments.
2. **Dollars saved for debt-strapped families** through negotiated settlements that provide a fresh start and, in many cases, avert worse problems such as eviction, foreclosure and homelessness before they can impose much greater economic costs on society as a whole.
3. **A permanent economic stimulus effect** resulting from the federal dollars brought into the state each year by legal aid advocates' successful representation in dollar-generating matters such as SSD, SSI, Earned-Income Tax Credits (EITC) and Supplemental Nutrition Assistance. These dollars circulate through local economies, providing income for businesses and jobs for working people.
4. **Increased tax revenues for the state and local jurisdictions** in the form of taxes paid by the occupants of the jobs supported by the economic stimulus effect.
5. **Cost savings for taxpayers** from legal aid's success in addressing community-wide problems such as

homelessness and domestic violence.

6. **Efficiencies in the courts** made possible by legal aid's representation of clients and assistance to self-represented litigants.
7. **Economic benefits for health care providers**, including Medicaid reimbursements for costs of providing emergency care to uninsured low-income people that the providers would otherwise have to write off.

**How can we quantify the benefits?** The information used in the New York cases described in this article relied heavily on data collected by IOLA grantees regarding client outcomes they are achieving for clients, using a statewide reporting system implemented by the IOLA Fund in 1994. Under that system, IOLA grantees are required to collect outcomes data for each completed case using a standardized statewide system of categories and definitions. Grantees submit annual reports to IOLA that include aggregated dollar benefits obtained for clients in such matters as Social Security Disability (SSD), child support and unemployment compensation. The reports also quantify the numbers of people directly benefited by such non-monetary outcomes as eviction prevention and protection from domestic violence.<sup>8</sup>

The data from the IOLA reports proved crucial in preparing the statewide economic impacts story for the Task Force and the Chief Judge, and at the local level for LSHV's efforts to rescind the Westchester County funding cuts. The IOLA reports provided the following key information:

- Total dollar benefits received by clients as a result of successful advocacy;
- The numbers of cases in which clients avoided outcomes that would impose significant costs on the larger community, such as eviction, foreclosure and domestic violence.

Additional information proved pivotal for quantifying economic benefits:

- Studies from New York and elsewhere that quantified the average costs resulting from each episode of an event such as eviction (requiring costly emergency shelter for the evicted family) and domestic violence (requiring emergency room treatment and counseling for victims as well as lost productivity and property damage).
- Data from the U.S. Department of Commerce that allowed computation of the New York-specific "economic multiplier" effect of federal funding

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flowing into a particular locale in terms of household income and jobs.

- Additional data supporting important nuances in the story, much of it obtained through web research. For example, a study by the Social Security Administration found that the average duration of SSD benefits was 9.7 years and of SSI benefits was 10.5 years. That information quantified the SSD/SSI dollars that continue to flow into the state each year as a result of successful outcomes achieved by legal aid programs as far back as 2000.

### Insights from the Three Case Studies

Weaving these kinds of economic data together to build a case is a creative exercise similar to preparation of a legal case. In each of the New York examples, this was accomplished through close teamwork of individuals who provided different resources to the effort:

- Access to hard data from the programs being described;
- Technical skills in applying the methods of financial estimation to quantify economic benefits typically generated through legal aid work;
- Access to recognized leaders whose testimony would lend texture, credibility and power to the story; and,
- Contact with the decision makers who ultimately would need to find the results persuasive.

As with preparing any case, it takes much iteration before one is “ready to go to court.” There is no handbook for this work, but the following are some suggestions based on experience to date:

- **Be in conversations with the decision makers and their proxies.** It is important to target your points and supporting data on impacts of special concern to those who control the resources. The key concerns might be savings for taxpayers or they might be business and jobs. In the New York cases, leaders of legal aid organizations were in conversations with legislators and their staff and had a good sense of which arguments could carry the day.
- **Localize the information.** In the Westchester County case, LSHV was able to supply cost-benefit data specific to Westchester County. In the case of the statewide legislative campaigns, the grantee data reported to the IOLA Fund provided the capacity to highlight specific geographic areas. In some instances, statistics for New York City were

contrasted with “New York Suburbs” and “Upstate New York,” lending credibility to the story for those sensitive to the vast diversity among different regions of the state.

- **Be conservative in your assertions.** No matter how good your data are, the economic impacts you identify will be only estimates based on assumptions that link hard data with “softer” information — for example, a study from another state indicating a range of cost savings per episode of homelessness prevented. Credibility is enhanced when you can honestly say, “our figures are, if anything, very conservative.”
- **Be transparent in your method and assumptions.** Have a detailed appendix ready to hand over to the decision makers in case they ask. If the method is reasonable and the assumptions conservative, your figures will be accepted as fact by most people. Those who reject your proposal will most likely do so for reasons other than the validity of your figures.<sup>9</sup>

### Conclusion

Legal aid is, first and foremost, about *Equal Justice Under Law*. In pursuit of that vision, legal aid produces millions of dollars in income, cost savings and economic activity that ripple outward to benefit every segment of the community. In a time of budget austerity, the capacity to tell that story effectively is a key to preserving and expanding resources for civil justice. As shown by the examples in this article, this is possible even today with a budget-cutting fever gripping state and local governments across the country. The possibilities for the future when the economy improves provide hope that the “Justice Gap” can ultimately be bridged.

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- Respond. Call back. Ask what the deadline is.
- Do be brief. Less is more.
- Do repeat your message over and over- until you are sick of it. Repetition is the key to success.
- Do be concise. Use no more than three points to make your case.

You must be an effective communicator in this age of crisis and uncertainty. The more you do, the better you will become.

- 1 Pat Bath is the Director of Communications for The Legal Aid Society in New York City, a position she has held since 1977 when she created the public information/communications office. She was a reporter for the *Chicago Tribune* for seven years, specializing in social services reporting and investigations, and an assistant city editor for two years. She was nominated for a Pulitzer Prize for a series on Chicago healthcare crisis affecting infants and children and was part of a team of reporters investigating vote fraud in Chicago that resulted in a series which won a Pulitzer Prize. Pat may be reached at [PBath@legal-aid.org](mailto:PBath@legal-aid.org).

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attorney in juvenile court cases, I get to exercise my advocacy skills in this context on a regular basis. For instance, I can relay my client's needs to their case manager, and remind them when they have not provided a service to my client they agreed to provide a month prior. By doing this I am able to ensure that my clients receive the assistance they need in a timely manner to improve their circumstances and reunify with their children.

**"We Lived Happily Ever After": Conclusion**

While our families may make jokes about how we are a "poor attorney," new graduates drawn to legal aid work understand that being an attorney gives you the ability to do more than earn a six-figure salary. The work is complex and challenging, but it provides attorneys an opportunity to have a positive impact on the lives of others that cannot be found elsewhere. For some of us, our education not only gives us the ability to practice law, but also the responsibility to make a positive contribution to our community and assist those who have nowhere else to turn.

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Ken Smith is president of The Resource for Great Programs ([www.GreatPrograms.org](http://www.GreatPrograms.org)), a national consulting firm serving civil justice programs and their funders across North America. He served as consultant to the IOLA Fund and to Legal Services of the Hudson Valley in generating the economic impact information used in the three initiatives that serve as case studies in this article. Ken may be reached at [ken@greatprograms.org](mailto:ken@greatprograms.org).

- 2 Economic impact data have been used with positive results in campaigns in several states, including Massachusetts, Minnesota, Texas and Virginia, seeking more funding for legal aid. In Texas, for example, findings from an economic impact study were instrumental in securing a two-year, \$26 million appropriation for legal aid in 2009.
- 3 We use "IOLA" throughout this article to refer to the IOLA Fund of the State of New York. In most other states, the acronym "IOLTA" is used to refer to Interest on Lawyer Trust Account programs.
- 4 The Resource for Great Programs, Inc. is a national consulting firm specializing in strategic research for civil justice programs across North America. Since 1990, it has assisted the IOLA Fund and its grantees as well as IOLTA programs in more than a dozen other states in collecting and reporting reliable statewide data describing the results of legal aid work.
- 5 "The Task Force To Expand Access To Civil Legal Services In New York: Report To The Chief Judge Of The State Of New York," November 2010, <http://www.courts.state.ny.us/ip/access-civil-legal-services/PDF/CLS-TaskForceREPORT.pdf>, page 15.
- 6 *Ibid*, page 15.
- 7 *Ibid*, page 20.
- 8 The IOLA Fund and its grantees partnered with The Resource for Great Programs in 1993-94 to pioneer the application of outcome measures for civil legal aid programs on a statewide basis. For more information, see Ken Smith and Lorna Blake, "Outcome Measurement: An Integral Part of an Effective Statewide Legal Services System," *American Bar Association: Dialogue*, Summer 2000 Issue, page 1.
- 9 In our collective experience of over twenty years following these guidelines for using economic impact data to advocate for legal aid funding, we have never been challenged on the validity of our figures.