



Testimony by the New York Legal Assistance Group (NYLAG)  
Before the Senate Standing Committee on Social Services and Senate Standing  
Committee on Women's Issues  
October 3, 2023

NYLAG is submitting this testimony in response to the NYS Senate's October 3, 2023 public hearing to examine whether the current continuum of care is meeting the needs of gender-based and domestic violence. NYLAG is grateful to be able to submit this testimony on behalf of the survivors it serves.

NYLAG uses the power of the law to help New Yorkers in need combat social, racial, and economic injustice. We address emerging and urgent legal needs with comprehensive, free civil legal services, impact litigation, policy advocacy, and community education. Our Domestic Violence Law Unit (DVLU) provides free representation to domestic violence survivors in the five boroughs of New York City. DVLU attorneys have expertise in family offense/orders of protection, custody and visitation, child and spousal support, contested and uncontested divorces, family law appeals, domestic violence-based immigration claims, and victim compensation claims.

As an attorney who has represented survivors of gender-based violence in family, matrimonial, appellate, and immigration matters throughout New York City's five boroughs for nearly fifteen years, I can unequivocally say that we are not meeting the needs of survivors throughout the State of New York. There is simply not enough quality, trauma-informed services available: not enough shelters spaces, not enough transitional and permanent housing, not enough counseling and supportive resources, not enough options to address IPV (Intimate Partner Violence) outside of the justice system, and not enough qualified attorneys for those who chose to engage in the criminal and civil justice process. As an attorney who now manages a team of attorneys dedicated to providing culturally

responsive, trauma informed, client-centered representation, I am most equipped to speak to the need for more services in the civil legal services realm.

**Most civil legal services grants are structured such that they directly and negatively impact the type and quality of services survivors receive.**

Much of our funding from city and state partners is doled out on an annual basis. Each year, the funding starts anew, and deliverables are tied to “new clients.” Clients receiving ongoing services, who originally came to us in prior grant years, are not “counted” under new grant iterations. Essentially, funding is tied to the date on which the client first received services for a particular matter.

This is especially problematic when survivors are being asked to navigate an overburdened and under-resourced court system which struggles to hear cases in a timely manner. Layering the complexities of domestic violence and coercive control onto this system results in cases which often take several *years* to reach a resolution through negotiated settlement or trial. As advocates well know, litigation abuse is often a harming party’s last gasp at maintaining control over their former partner, and the system is often complicit in allowing this abuse to continue unabated simply due to a lack of resources.

As a result, legal service providers are in the difficult position of having to limit cases that we can take on for full representation, knowing that the funding will not be there next year to support those services. This type of funding structure incentivizes brief or limited services with reportable “outcomes” that appease funders but often leave survivors without the tools or resources to adequately handle the complexities of litigation that is before them.

For the same reason, there are too few organizations which can provide representation on contested divorces – NYLAG is one of the few civil legal service providers offering full representation in contested divorce cases in New York City, resulting in a crisis of need in this area. Divorces are highly complex and require knowledge of and proficiency in several interrelated areas of law. Survivors in contested divorce cases are often fighting for their future financial stability, in the

form of spousal support (maintenance) and the distribution of assets such as the marital home or retirement accounts. There is *no right* to representation in these cases and private lawyers charge anywhere from a few hundred dollars to thousands of dollars per hour; over the course of *years*, the cost of representation is simply inaccessible to most low- and middle-income New Yorkers. In response to this crisis, New York City passed Local Law 5 of 2022, recognizing the dearth of services and the dire need for expert representation in these matters. The law was intended to mandate a pilot program to provide representation to survivors in divorces, similar to NYC's right to counsel law in housing eviction cases. However, despite recommendations for a pilot program, the current economics make the future of this program unclear.

Simply put, brief services have limited value for survivors navigating contested custody and divorce matters which often involve expert witnesses, complex discovery, motion practice, and trial. Funding needs to contemplate and support legal services in providing *full* representation to survivors in complex matters.

**Funding levels for civil legal services are far below what they should be, leading to a dearth of attorneys with the necessary qualifications to represent clients in highly complex matters before multiple tribunals.**

Survivors need expert representation by attorneys who understand the nuances of intimate partner violence, coercive control, and trauma and who can provide client-centered, culturally responsive representation. The stakes for those survivors who appear in court without a lawyer, or without a lawyer who understands trauma and IPV are simply too high. Time and again, research shows that survivors fare much worse in contested court matters without adequate representation. There are simply not enough qualified lawyers to represent survivors in New York City.

Despite the enormity of the impact that intimate partner violence and domestic violence has on our society at large – from the economic cost of lost work and wages, mental and physical health care, and criminal justice services, to the human toll that IPV takes on individuals and families - domestic violence is still not taken as the serious public health threat it is, and is not responded to in the

courts unless and until a skilled advocate is able to draw the court's attention to the issue. Understanding IPV, coercive control, the impact of trauma on adults and children, and how to advocate and articulate those concerns in the context of litigation, is something learned over time and with extensive training, supervision, and mentorship.

Current funding structures keep civil legal service attorney salaries at artificially deflated rates, making it harder and harder to keep skilled attorneys in these positions and to attract and retain attorneys from the populations we serve. Survivors both need and deserve quality, skilled, and culturally responsive representation. As the New York Legal Services Coalition, of which NYLAG is a member, stated in its testimony to the Chief Judge's 2023 hearing on Civil Legal Services:

*Our organizations have struggled to keep pace with exponentially increasing client needs despite almost exclusively flat funding. To better understand the scope of the problem, our Coalition conducted a survey of our members across the state. Preliminary data indicates that civil legal services attorneys earn approximately 20-75% less than their counterparts working directly for the government.*

*For example, in New York City, the average salary for a first-year civil legal services attorney is \$69,000. In contrast, the starting salary for an attorney at the Office of the Attorney General's (OAG) office in NYC is \$90,000. The contrast is even starker in the rest of the state, where OAG attorneys earn at least \$87,000 to start, while the highest starting salary for a legal services attorney outside of NYC or the Hudson Valley is approximately \$59,000. The disparity in pay only increases over time. An upstate attorney with 10 years of experience working for the OAG is paid an annual salary of \$131,000. The same attorney being paid by the government under a legal services contract would earn approximately \$74,000.*

*This extreme pay disparity impacts vital services for those who need them the most. Legal services organizations cannot compete in the present market for legal talent. Our organizations lose much of their top talent to municipal and state government employers, who also offer competitive health and retirement benefits packages as well as access to public interest loan forgiveness. Legal service attorney positions remain open for months with no qualified applicants willing to accept the market rate. As a result, organizations are not able to meet the needs of local litigants and community members are left to navigate the courts without the benefit of legal assistance.*

Failure to adequately fund legal services such that staff can afford to remain in these positions is a large contributor to the turnover in civil legal services, and inevitably leads to less experienced, less qualified representation for survivors, a reality which has a disproportionate impact on BIPOC (Black, Indigenous, People of Color) survivors and survivors experiencing poverty.

To adequately meet the needs of survivors seeking legal representation and advice, we must address these funding issues which directly impact whether a survivor is able to obtain meaningful representation which responds to the myriad legal complexities impacting their case.

I thank the Senate Standing Committee on Social Services and Senate Standing Committee on Women's Issues for the opportunity to submit these comments.

Respectfully,



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