

Date: June 23, 2009

To: Members, Board Committee on Stakeholder Relations

From: Mary Lavery Flynn, Director, Legal Services Outreach
Stephanie Choy, Director, Legal Services Trust Fund Program

Subject: **Presentation on Status of Legal Aid Programs**

Your July 17th meeting of the Board Committee on Stakeholder Relations will include a presentation on the current status of legal aid programs in California, including an overview of the impact of the economy on their programs and clients, as well as what is being done to address this revenue shortfall.

Presenters:

- Barbara Johnson, Chair, Legal Services Trust Fund Commission;
- Toby Rothschild, General Counsel, Legal Aid Foundation of Los Angeles;
- Hellen Hong, Executive Director, Los Angeles Center for Law and Justice;
- Mary Lavery Flynn, Director, Legal Services Outreach

This agenda item is intended to provide some background information on the current status of the financial health of legal services programs, and describe some of the activities that are going forward to try to ameliorate the impact of the economic downturn on the legal services delivery system.

Part I - Overview of IOLTA Funding and the Impact of the Economy on Legal Services Programs:

IOLTA Funding. The current economic crises and resultant low interest rates directly impact the revenue generated from the IOLTA program. From January through May 2009, the LSTFP has collected \$2.96 million in IOLTA revenue, compared to \$9.61 million at the same time last year – a 69% drop in revenue. Grants to programs have not had to be reduced that much because of a small reserve and because our distribution mechanism delays the impact of revenue reductions.

Survey of Legal Services Programs. The Legal Aid Association of California (LAAC) and the Funding Committee of the Access to Justice Commission have conducted a series of surveys of legal services programs over the past few months. An analysis of the most recent survey, completed in June of 2009, provides the following information:

Legal services revenue projections:

- Overall, of the IOLTA program recipients surveyed earlier this year, 81% of them projected an overall reduction in revenue in 2009 compared to 2008 – and almost 50% of them projected that losses would be in the range of 10% or more of their 2008 budget. 65% of respondents report that they already tapped into their organizational reserves in order to maintain a baseline level of services for their client populations, and 65% also project that they will be forced to use reserves in 2009.

Diminishing Foundation grant resources:

- In the recent survey of State Bar-funded legal services nonprofits, 43% of the respondents reported that they have already experienced decreased funding from private foundations, with losses in funding ranging from \$25,000 to \$500,000. Almost 50% of the nonprofits surveyed predicted additional reductions in foundation funding over the next fiscal year, with several programs projecting losses as high as 60% of their previous support from foundations.
- California foundations that traditionally support legal services have experienced significant losses to their corpus, and many have reduced or eliminated their giving to support legal services delivery. For example, a prominent local foundation in the SF/Bay Area with a long history of funding legal services recently was forced to restructure their “social justice” program, including eliminating the Program Manager position to cover that program area and not renewing several multiple-year grants to legal services programs providing services in the SF/Bay Area. Although the Foundation remains committed to funding social justice projects through their other program areas, the details of how this will work are still in development.

Decreased lawyer and law firm contributions, and reduced response to fundraising events:

- 54% of the IOLTA programs surveyed reported reductions in support from law firms and other corporations in the context of both fundraising events and annual support. Programs reported drops in law firm giving ranging from 15% up to 70% of past giving patterns, and multiple programs project losses this year in the range of \$75,000 to \$100,000.
- As one program stated, “We have seen that firms that usually make donations at a particular giving level are coming in at lower levels. Additionally, with our major donor campaign, we have not been able to have any firms commit for this year or beyond. The best estimate in the amount of reductions is probably \$75,000- \$100,000.”
- Across the board, and in two previous versions of the survey done at the end of 2008, programs reported an average reduction of roughly 20% in combined fundraising sponsorship and year-end donations from law firms and other corporations.

Decreased government grants:

- 53% of the programs surveyed reported losses in federal and state funding for the delivery of legal services. Of these programs, the losses range from \$10,000 to \$100,000, with several programs reporting reductions of \$75,000 to \$100,000.
- Several programs also reported the reduction or elimination of funding from their counties, including fee-for-service grants for work that actually reduces costs for the county, such as programs that provide representation to individuals eligible to move to a federal program like SSI from a county-based program like General Relief.
- One program lost a total of \$490,000 in State funding for programs serving low-income seniors: \$265,000 for services for vulnerable seniors living in skilled nursing facilities and \$225,000 for a statewide senior legal hotline that offers advice, some brief service, and referrals to seniors throughout the state.

Impact on client services at a time of increasing need for legal assistance:

- Many legal services nonprofits have had to reduce staff levels in response to drops in funding, which necessarily means it is more difficult to provide the same level of services for clients. Programs also report that clients are more desperate when they contact the organization for assistance. Approximately 62% the survey respondents reported having eliminated staff positions, with some programs projecting reductions as high as 1/3 of all staff in the future. Roughly 63% of the organizations report that funding losses have resulted in a reduced ability to serve as many clients, with programs estimating a reduction in services provided ranging from 6% to 15%.
- One program reported that their organization is now forced to turn away 60% of their clients seeking assistance in immigration cases due to the loss of funding for that project.
- Many programs report significant increases in the number of calls they are receiving from potential clients asking for assistance. Programs with hotline intake systems report more calls coming into the system than last year. Another provider has seen a 12% increase in requests for assistance over prior years.
- As one legal services organization stated, “We have experienced increased client demand in several ways -- increased calls for appointments, increased waiting time for appointments; increased numbers showing at walk in clinics, [and] increased requests from other social service providers to help people they are serving.”
- Several programs report an increase in requests for assistance in eviction defense and mortgage/foreclosure-related cases.
- Another nonprofit reported a doubling of requests for assistance, and noted that the intakes for children with disabilities involve issues that are more troubling and egregious than in years past.

- Many programs report increases in requests in areas relating to finances – debt collection, bankruptcy, foreclosure, wage and hour issues, and evictions.

Part II – Description of Efforts to Increase Resources for Legal Services Programs.

Justice Gap Fund – A Joint Committee of the Legal Services Trust Fund Program and the Access to Justice Commission has been actively engaged in communication and outreach to a variety of constituents to seek contributions to the Justice Gap Fund. Although our revenue this year is down 20% from last year (from \$1 million in 2008 to \$800,000 in 2009), the Joint Committee continues its efforts to increase both the percentage of lawyers giving to the fund and the total amount of funds received. Establishment of the Justice Gap Fund is a significant achievement; for the first time in California, we have a statewide vehicle through which we can solicit contributions to the delivery of legal services.

“Peak Your Interest” Campaign to increase IOLTA Revenue – The Legal Services Trust Fund Commission and staff have begun a campaign to encourage and recognize banks that pay IOLTA rates higher than they are legally required to pay. While many banks are paying .05% to their similarly situated customers, the Trust Fund Program has convinced many banks to pay more on IOLTA accounts. Nineteen banks have agreed to be leaders by paying 1% net of fees OR a rate higher than legally required that results in \$1 million more in IOLTA remittance. Sixty-two percent of our eligible banks have agreed to waive fees.

Efforts thus far potentially will increase annual IOLTA yield by \$1 to 2 million. The Commission is working through colleagues in the private bar and through legal aid boards and other contacts to talk about how important it is for attorneys to communicate with their banks about the IOLTA rates paid. Banks paying good rates need to hear “thanks,” and banks paying bad rates need to be asked by their customers to join the ranks of leadership banks that have “peaked their interest.” Additionally, the Trust Fund Program and legal aid programs are developing opportunities to honor and give other publicity to leadership banks.

Promoting Role of Legal Aid Programs in the Recovery Effort – State Bar staff has been working closely with Legal Services Trust Fund Commission, the Funding Committee of the Access to Justice Commission and the Legal Aid Association of California (LAAC) to ensure that decision makers with the authority to allocate stimulus funds are aware of the key role that legal aid programs are playing in the recovery effort across the state. They are also

working to provide information to legal services programs about how to apply for all appropriate funds. A website has been developed to provide this information to legal aid programs, and the following two documents were made available:

- Attachment A is a “dear colleague” letter signed by legislative leaders and our State Bar President supporting the concept that legal aid programs are appropriate recipients of stimulus funds wherever they fulfill the funding requirements because of their key role in the communities seeking to overcome the disastrous impact of foreclosures and job-loss.
- Attachment B is a fact sheet describing the role of legal aid programs within their local communities and how they are an appropriate partner in the recovery effort.

Other Efforts -- The presenters at your meeting will discuss other efforts that are going forward to bring in additional resources for legal aid programs so they can fill the higher level of need being faced by their client communities.