



Legal  
Services NYC

# New Yorkers In Crisis

A REPORT BY LEGAL SERVICES NYC

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A HALLMARK OF LEGAL SERVICES NYC IS OUR ABILITY TO CREATE INNOVATIVE PROJECTS AND COMMUNITY BASED INITIATIVES THAT PROVIDE ESSENTIAL SERVICES FOR CLIENTS, CRITICAL RESOURCES FOR LAWYERS, ADVOCATES AND LAWMAKERS THROUGHOUT NEW YORK CITY AND STATE, AND THAT SERVE AS MODELS FOR LEGAL SERVICES PROGRAMS ACROSS THE COUNTRY.

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# Letter from the Executive Director

**Legal services providers help low income New Yorkers meet basic human needs, challenge systemic injustices and transform their lives and communities.** In partnership with community based advocates and private sector *pro bono* attorneys, we tackle legal problems involving home, family, income, health—survival and well-being.

But our ranks are far too few relative to the need for our services—and we owe it to our clients and their communities (and ourselves) to be thoughtful and strategic with our limited resources. Now, as our clients and their communities bear the brunt of the most serious economic downturn since the Great Depression—and the need for our services becomes all the more desperate—the obligation to be thoughtful and strategic is that much greater.

This report will indeed help us be more thoughtful and strategic. It is an extraordinary document. Not because it tells us things that are surprising to those who work in and for low income communities, but because it documents, confirms and makes sense of what we know. It pulls together our collective wisdom, gathers the voices of low income people and the expert opinions of those who serve them: legal services advocates, community based organizers and service providers, funders, politicians and public policy analysts. And it combines those voices with demographic and other empirical data from disparate sources to document the current and evolving legal needs of low income people in New York City.

Among its many findings: the study confirms that legal services work continues to be civil rights work—that poverty and race are inextricably linked and that racial disparities plague the foster care system, the low wage workforce, and health and housing conditions. The study documents the extent to which work has replaced welfare for low income households and the extent to which government benefits programs remain inaccessible and poorly managed. The study shows the characteristics of the burgeoning immigrant population and particular needs related to limited English proficiency. The study describes how predatory lending practices led to an explosive growth in mortgage foreclosures for low income homeowners, displacement of low income renters, and out of control credit card debt and abusive collection practices. Indeed, as the world is now recognizing, victims of predatory lending were the canaries in the coal mine for the current worldwide financial crisis.

This study gives us the best thinking and the data we need to make the right strategic decisions about what to do with our limited resources—and how to increase those resources.

We at Legal Services NYC and our colleagues in the broader justice community owe Raun Rasmussen, the primary author of this study, an enormous debt of gratitude. He worked tirelessly, garnered an astounding array of support and resources, and with the help of many in our program and many of you in the advocacy community, put together this invaluable resource.

Legal services clients are best served and our work is most effective, most transformative, when we work collaboratively, strategically and thoughtfully. I know you will find this report illuminating. Make good use of it. Our work is cut out for us.

**Andrew Scherer**

*Executive Director and President*

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**Raun J. Rasmussen**

*Chief of Litigation and Advocacy*

# Executive Summary

“The new legal aid lawyer’s role should be defined by the broadest reaches of advocacy...Central to [that] role is the task of helping to articulate the hopes, the dreams, and the real possibility for the impoverished to make the social changes that *they* feel are needed through whatever lawful methods are available....”

Edward V. Sparer, “The New Legal Aid as an Instrument of Social Change,” University of Illinois Law Forum 57, 59-60 (1965).

The economic collapse of the past few months, followed by the federal “rescue” of major financial institutions, provides harsh context for this report—and for the lives of our clients. Housing and employment opportunities for low income New Yorkers will be drastically reduced as landlords and small business owners lose their buildings and businesses to foreclosure and debt. Domestic pressures will increase, jeopardizing family security, educational progress, health and overall well-being.

On top of all these pressures on our clients, legal and other advocacy and social service organizations face drastic funding cuts; low income New Yorkers will have fewer places to turn for help in these increasingly difficult times. Now, more than ever, we need to understand our clients’ legal problems—and be smart and strategically focused to maximize the impact of our services.

The federal Legal Services Corporation has concluded that, nationally, more than 50% of low income people who need legal help don’t get it because there are not enough legal services providers to meet the need.<sup>1</sup> We know that is a vast understatement of need in New York City: here, low income people, overwhelmingly people of color, look for justice, usually without representation, in the courts and administrative agencies throughout the City. Our clients’ needs for legal help will only increase as the economy worsens.

This report describes the civil legal needs of low income New Yorkers, the barriers to addressing those needs and some legal solutions. The report reflects the input of a wide variety of “stakeholders”—those who know firsthand and care deeply about the needs of low income people in New York City. The Executive Summary that follows includes descriptions of some of the most serious problems faced by low income New Yorkers, along with some of the legal strategies that stand to have the greatest potential to help our clients and their communities in the short and long term.

## **Demographic Highlights\***

- There are currently more than three million New York City residents who have low incomes (those with family incomes below 200% of the Federal Poverty Level (FPL), or \$34,300 for a family of three). Low income people constitute roughly 38% of the overall population in New York City.
- African Americans and Latinos make up almost two-thirds of New York’s low income population: African Americans represent 25% of the low income population, and Latinos 38%.

\*Citations for all information contained in the Executive Summary can be found throughout the report.

- The elderly are significantly more likely than most other age groups to be living in poverty. Forty-five percent of the 65+ population in New York City is at or below 200% of the FPL.
- Children are even more likely to be living in poverty—50% of children in New York City live in families at or below 200% of the FPL.
- The immigrant population in New York City grew an unprecedented 38% between 1990 and 2000. By 2006, the number of foreign born New Yorkers had grown to 3.1 million, or 37% of the population of New York City. Over 1.2 million are low income, nearly 39% of all low income New Yorkers.
- Overall, 33% of those who are low income have limited English proficiency.

### *Dimensions of Need*

#### **Public Benefits**

- In January 2008, there were nearly 350,000 recipients of Temporary Assistance (TA). The Human Resource Administration's records show that one-third of those recipients are in the process of having their benefits cut each month.
- The TA benefit for a family of four in 2008 is \$825.70 each month, or \$9,908 a year—less than 50% of the FPL. These benefit levels have not changed significantly since 1990, even though the cost of living in New York City has increased by more than 90%.
- Also in 2008, there were approximately 400,000 SSI recipients, three-fourths of whom were blind or disabled and one-fourth of whom were age 65 or older.
- SSI pays up to \$724 a month in 2008 for a person living alone, more than twice the rate of state temporary assistance payments, but still grossly inadequate.

#### **Hunger**

- 3.1 million residents, or 38% of New York City residents, reported having difficulty affording food in 2007. This figure is up 55% from five years ago when two million residents reported difficulty.

#### **Housing**

- In September 2008, the City reported that more families entered the shelter system than ever before. More than 102,000 New Yorkers spent time in a homeless shelter at some point in 2007, up 5.8% over 2006.
- Affordable housing is in serious decline. In the past five years, over 117,000 regulated apartments—14% of the total stock—were lost due to “high rent” deregulation; 50,000 more are at risk due to the aggressive eviction practices of “predatory equity” driven owners. Thousands more units of project-based Section 8 and Mitchell-Lama units have been lost in the past decade.

- Approximately 68% of poor renters (under 100% of the FPL) and 35% of low income renters (under 200% of the FPL) pay 50% or more of their monthly income for rent.
- Housing discrimination is a major problem. The New York City-based Fair Housing Justice Center receives hundreds of allegations of housing discrimination every year, the majority of which come from low income tenants.
- New York City has been hard hit by the mortgage foreclosure crisis. Foreclosure filings in the City increased by 150% between 2006 and 2007, to nearly 15,000 per year, concentrated in central and eastern Brooklyn, southeast Queens, the Bronx, and the North Shore of Staten Island. More than 30,000 households, including 15,000 tenant households, may get evicted when their landlords lose their buildings to foreclosure.

### Family

- There is a shockingly high incidence of domestic violence in New York City. In 2007 police responded to 229,354 domestic violence incidents, an average of more than 600 per day. More than 16,000 calls from teenagers were received by the City's Domestic Violence Hotline in 2007.
- Nearly 17,000 children were in foster care in 2006. 70% of children in foster care experience one or more school transfers after entering care. And children in foster care are twice as likely as their peers to drop out of school.
- In 2007, 56.7% of children in foster care were African American, while they make up only 27% of the child population in New York City.
- According to the 2000 census, 299,133 grandparents were caring for grandchildren in New York City; since 2000, that number has increased by 30%.

### Health

- Poverty is a direct indicator of the physical health and well-being of New York City residents. Low income people cannot pay for medical care and prescriptions; and they are more likely to be exposed to health hazards, such as lead paint and cockroaches. Because of discrimination and a variety of other factors, low income African Americans and Hispanics suffer a disproportionate share of many health care problems.
- In January 2008, more than 2.5 million people were enrolled in Medicaid programs in New York City. However, as many as 20% of eligible individuals are not enrolled.
- Thousands of low income families are disenrolled from Medicaid and lose months of coverage each year through "churning," a process of enrollment, disenrollment and loss of coverage, followed by re-enrollment. Eligible elderly individuals, often homebound or frail, are at a particular disadvantage when it comes to navigating the complex application and recertification processes.

## Consumer

- Credit cards have largely been a disaster for low income households. The high cost of credit has been shifted to those least able to afford it. From 1989 to 2004, credit card debt among very low income (\$9,999) credit card-indebted households quadrupled.
- There has been an explosion of debt collection litigation in the past decade. More than 320,000 consumer debt collection cases were filed in New York City Civil Court in 2006, for the first time outstripping Housing Court filings. In the Bronx, 65% of all civil filings were related to consumer credit issues.
- The passage of Bankruptcy reform, in 2005, made it dramatically harder for Americans to obtain bankruptcy relief. Filings dropped from over two million in 2005 to under 600,000 in 2006 and just over 800,000 in 2007.
- New York State has the highest incidence of identity theft of all 50 states, and New York City has the highest level of reported cases in any metropolitan area in the country.

## Education

- The graduation rate in New York City public schools ranks 43rd lowest amongst the nation's 50 major cities. In 2006 New York City showed a graduation rate of only 50%.
- Statistics regarding children with disabilities are bleak. One study reported that only 11.8% of students who receive special education services graduate from high school with a Regents diploma in New York City, as compared with 58% of the total population.
- Student suspensions have grown significantly since 2000, especially among students of color. Studies link the growing rates of suspensions, dropout rates and lower school performance in City schools with increased police presence. Schools that have permanent scanning devices spend on average \$3,000 less per student than other schools.
- There are over 223,000 "disconnected" young (ages 16-24) New Yorkers who are not in school and not working—nearly one in five.

## Employment

- Between 1990 and 2005, the number of working poor families rose by nearly 75% in both New York City and State.
- More city residents are working, but they remain poor. Remarkably, 46% of the poorest families in New York City (those under 100% of the FPL) were headed by a worker in 2006.

- In New York City, non-Latino blacks (at 29.2%) and Latinos (at 38.3%) jointly account for more than two-thirds of the low wage workforce. Nearly two-thirds of New York City's low wage workforce is foreign born; about a third (34.7%) arrived in the U.S. after 1989.
- New York City has the widest income gap in the country: the top 20% earn more than 10 times the amount earned by the bottom 20%.
- In addition to inadequate pay, low wage workers usually lack employer provided benefits. More than 50% of low income working mother do not receive a single paid sick day; a third of low income workers surveyed in 2007 have gone without medical care and prescriptions due to lack of insurance and money.

### STRATEGIES FOR LEGAL SERVICES PROVIDERS

The human and legal needs described above and throughout this report suggest a variety of strategies for legal services providers, and we list many throughout the report. But when we step back from the flood of urgent needs that cry out for immediate, focused responses—an eviction to be prevented, domestic violence to be stopped—we can readily identify other strategies that have the potential to accomplish both short and long term results: those that allow us to reach across substantive disciplines and provide multiple services for our many clients who have multiple problems; to improve access to a wide array of benefits and services for isolated clients; to address underserved legal needs; to eliminate barriers for our clients by changing practices and policies and expectations; and to help knit our advocacy community into a more powerful, collaborative whole.

We hope that some of the “Strategies for Legal Services Providers” contained in this Executive Summary, along with the detailed descriptions of legal needs and additional strategies that follow, will provoke discussion and inform priority decisions so that we, as an advocacy community, can work more collaboratively and strategically to address our clients’ needs in these difficult times.

#### *Improve Access to Benefits and Services (including Legal Services)*

A vast array of benefits and services, including legal services, are difficult for low income individuals and families to obtain. People who have limited English proficiency (LEP) or are otherwise isolated because of culture, disability or age have special access challenges. Work to improve access to benefits and services could be done in at least the following areas:

- **Work Supports.** Several fundamental benefits—particularly work supports like Medicaid, Food Stamps, Unemployment Insurance and the Earned Income Tax Credit—are not being utilized because eligible clients do not know about them or how to apply for them. Screening of clients for eligibility and referral, and collaborative work with organizations that do outreach, education and application assistance would likely be especially helpful to our clients. Legal services organizations should continue to engage in litigation and advocacy efforts that address systemic barriers to receipt of those benefits.

- **Language Access Advocacy.** Getting access to benefits and services is a particular problem for immigrants with limited English proficiency and who are geographically and culturally isolated. Numerous laws, regulations and policy directives require public agencies to provide language services, but compliance is weak. Advocacy that eliminates language barriers for LEP households is likely to have transformative results.
- **Legal Services.** In the process of putting together this report, we have consistently heard that legal services are hard to find and hard to get. In a city fortunate to have so many providers, the options can apparently seem both limitless and nonexistent. One community based advocate said that unless she knew someone at a legal services program, she wouldn't even bother to refer a client. Legal services providers should make a concerted effort to simplify and streamline points of entry to their programs for easier access to services.

The Internet provides a potential resource to improve access and intake efficiencies. Although many advocates still assume that the “digital divide” prevents our clients from using computers, that is no longer the case for many low income people with legal needs. Work is going on throughout the country to determine how the internet can be used to improve access to legal services, to improve client service efficiencies, and to improve the use of data that is gathered to make smarter decisions about how to provide services.<sup>2</sup>

### ***Address Legal Needs that Are Underserved***

- It goes without saying that there are not enough legal services advocates to meet the needs of low income people in New York City. In the area of practice with the highest number of advocates, housing, studies still estimate that only 10-15% of the eligible tenants get representation. But there are some practice areas—education, employment and consumer, for example—that are even more dramatically underserved, and the opportunities for improved results for clients and systemic change are potentially great here. According to program data for IOLA-funded New York City-based civil legal services providers in 2006, a minuscule percentage of the overall cases were closed in the Education (.8%), Employment (2.9%) and Consumer (2.6%) areas (see Appendix B). Although there are many non-IOLA funded service providers that are not represented in these numbers, the overall work in these areas is relatively small. Because these practice areas have the potential to expand opportunities for our clients, legal services programs should revisit priorities and consider whether to direct more resources to these areas.
- The decline in specialized public assistance legal service advocates has been precipitous since “welfare reform” of 1996. But the clients who continue to receive welfare are both the poorest of the poor and, often, the neediest because of disabilities and because of demanding and ongoing eligibility requirements. Class action litigation continues to be critical to force the City to improve the functioning of the system, but some of the most innovative and effective work is also being done by community based organizations that are working directly with clients when

they most need the help—at fair hearings. Legal services programs should continue to expand their collaborative work with these organizations and should increase resources devoted to this work.

### ***Engage in Collaborative Advocacy Projects***

For obvious reasons, collaborative advocacy projects have the potential for the greatest impact: if legal services providers talk to and collaborate with client run and community based advocacy programs, settlement houses and service organizations, the private sector and each other, our resources will be more strategically focused, more formidable, and more fully engaged in the multiple forum advocacy work needed to make a difference. Here are some examples of programs and resources that legal services providers should work with more actively:

- **Community based and client run organizations.** Scores of advocacy and service organizations exist throughout New York City—including those that are client run, like FUREE,<sup>3</sup> Community Voices Heard,<sup>4</sup> Mothers on the Move,<sup>5</sup> and many others—that are doing dynamic work to improve the lives of low income households.
- **Housing organizing campaigns.** For several years the Association for Neighborhood and Housing Development, Inc.'s Initiative for Neighborhood and City Wide Organizing has helped to fund and provide technical assistance to numerous community based organizations to improve their capacity to engage in tenant and community organizing designed to advance both local and city-wide initiatives.<sup>6</sup> These locally based groups understand their communities, have resources to devote to community organizing, and are engaged in both local and city-wide initiatives that would benefit from the involvement of legal services advocates.
- **The New York City Commission for Economic Opportunity** has created and is in the process of implementing more than 30 initiatives—directed at children under five, “disconnected youth” between the ages of 12-18, and low wage workers—designed to move these populations out of poverty.
- **Private sector resources.** New York City has the largest pool of private sector (*pro bono*) resources in the world, with expertise that has the potential to improve and expand all the work that we do. More can be done to tap these resources and develop collaborative advocacy efforts.

### ***Target Particular Populations***

Low income people have multiple legal needs. With limited resources, every choice of how to direct our services is a tradeoff. Legal services providers thus should make those choices strategically, after weighing the potential impact of our work and of the choices we make on the lives of our clients. Providing multiple services to particular client groups is one way to increase the likelihood that our services will make a difference in helping to change a client’s life. For example, providing legal services to those who are being served by community based service providers, job training programs and others might increase the likelihood that a family will stabilize and be able to make transformative changes.

### ***Remove Barriers to a “Right” to Counsel***

Identifying and challenging barriers to a right to counsel could have immediate positive results for thousands of low income New Yorkers. City legislation has been drafted to create a right to counsel for elderly low income tenants and homeowners who are faced with eviction or foreclosure. Following the New York State Bar Association and Touro Law School’s *Right to Counsel* conference in March 2008, work has continued to identify other substantive areas where a right to counsel should be provided. In Family Court, where a right to counsel exists in certain proceedings, more can be done to ensure that clients get the adequate representation they are entitled to receive.

### ***Increase Land Use Advocacy Efforts***

Some kinds of development have the potential to displace massive numbers of low income residents and to segregate neighborhoods. Other kinds of development—the placement of noxious solid waste transfer stations or power plants—have the potential to cause health and other problems for the low income residents nearby. Advocacy that halts or modifies development that is bad for low income communities, or that promotes development that is good for them, is critical. Zoning changes (e.g., variances, spot zoning, and inclusionary zoning), environmental justice campaigns, and involvement in community based planning should all be part of the mix.

### ***Increase Community Economic Development Efforts***

Legal services providers should continue to provide services that have the potential for both short- and long-term results. For nearly three decades, legal services providers have played a significant role in supporting community economic development efforts that help to stabilize communities, provide jobs and increase services for low income people.<sup>7</sup> Legal services providers can, for example, act as “house counsel” for community based organizations to help in their creation and growth; provide transactional work to support affordable housing development or the development of other community services; and give legal and technical assistance to micro-entrepreneurs, such as home-based child care providers. This kind of work also provides opportunities for legal services programs to broker relationships between *pro bono* attorneys and community based development efforts.

### ***Fight Race Discrimination***

As described throughout this report, people of color—in particular African American and Hispanic New Yorkers—suffer from the impact of poverty in disproportionate numbers. Racial discrimination—including both “bad actor” intentional discrimination and “structural racism”<sup>8</sup>—continues to put barriers between people of color and their aspirations and opportunities. Legal services providers should increasingly and explicitly attempt to address racial inequities in our work. The Urban Justice Center’s comprehensive and groundbreaking report, *Race Realities in New York City*, provides a wealth of information about racial disparities in New York City and numerous recommendations for advocates.<sup>9</sup>

### ***Address New Needs Created by Demographic Shifts***

Demographic shifts in the boroughs and city-wide provide opportunities for legal services providers to address new populations and new needs. For example, New

York City residents who are “foreign born” now make up 39% of the low income population; the non-citizen population grew by 32% in Staten Island from 2000 to 2006; and the low income Asian population increased by 14% city-wide. These trends, coupled with further, more locally focused demographic research and collaborations with community based organizations, can suggest and help guide the development and delivery of language-appropriate and culturally sensitive services.

### *Engage in Multi-Forum Work*

Outstanding City and State legislative successes have been achieved in recent years—for example, the City’s Tenant Protection Act (protecting tenants from harassment by landlords) and Source of Income bill (which prohibits landlords from discriminating against tenants based on their source of income); and the State’s Responsible Lending Act (a comprehensive bill that regulates mortgage lending and protects low income homeowners from foreclosure), Exempt Funds Act (which protects a fixed amount of essential funds from attachment by debt collectors), and the Fair Access bill (which expands access to Family Court Orders of Protection for intimate partners who are victims of domestic violence). These successes—some the result of years of work by advocates throughout the state—show the dramatic potential that legislative changes hold for our clients. More legal services programs should consider participating in legislative reform efforts.

Finally, legal services programs function in an advocacy world where results are determined by judges, lawmakers, and the court of public opinion. We need to work more actively with the media to tell our clients’ stories, which often provide the most powerful testimony about the need for legal and policy changes that will affect their lives.

# Introduction

There are currently more than three million New York City residents who have low incomes (those with family incomes below 200% of the Federal Poverty Level, or \$34,300 for a family of three) and their life stories run a full spectrum. They are the elderly and they are the youngest New Yorkers. There are many who have called New York City their home for their entire lives, while there is a rapidly growing population who are foreign born. There are record numbers of “working poor” who, despite their employment status, are simply not able to make ends meet. And there are thousands of people with particular challenges that make it nearly impossible for them to leave welfare and join the workforce.

We have gathered what we could learn about low income New Yorkers from our clients, from the advocacy community, and from service providers and policy analysts throughout the City, both to describe the legal needs of low income New Yorkers and to describe some of the services that are critically needed to address those needs.

To guide our research, we examined the traditional areas of legal need—government benefits, housing, family, health and consumer—that are essential to provide stability and security to low income families. We also studied our clients’ needs in the areas of education and employment, two substantive areas that have the potential for transforming people’s lives. We have tried to look expansively at the broad variety of problems faced by our clients, and at how those problems both interact with and exacerbate each other.

In addition, we made sure to describe the legal needs of several discrete populations—including those with limited English proficiency, or disabilities, or HIV/AIDS, among others—that have problems not shared by the rest of the low income population.

One last comment: this is not a “gap” analysis. In New York City, as in much of the country, the needs are so vast and so interrelated that it would be presumptuous to attempt to rank, by severity or volumes areas of legal need that should receive more services than others. Rather, in a City with as many needs, and as much sources of talent, energy and creativity as we have here, our efforts should be to make smart decisions about how we can work together to most effectively direct our resources.

We hope this report gives us, and other legal services providers and advocates, the information we need to make those decisions and to make a difference in the lives of our clients and their communities.

# Who Are New York City's Low Income Residents?

Low income New Yorkers differ from their higher income counterparts, far beyond the simple question of economic resources. This demographic overview describes the population of low income New York City residents (those with family income below 200% of the Federal Poverty Level), demographic changes in New York City's low income population in 2000 and 2006, and key demographic differences between low income New Yorkers and those with higher incomes (those with family income at or above 200% of the FPL).<sup>10</sup>

## *Overview of New York City's Low Income Population*

- There are over 3.1 million New Yorkers living below 200% of the FPL as of 2006. This figure represents 38% of all New York City residents. Poverty has declined slightly in New York City since 2000, when roughly 3.2 million New York City residents (41%) were living below 200% of the FPL.
- **Brooklyn** has the largest number of low income residents (1.1 million), and the second highest rate of poverty (43%), second only to the **Bronx**, where more than half of residents (52%, or 700,000 individuals) have income below 200% of the FPL. **Staten Island** has the lowest number of low income residents, and the lowest poverty rate of any borough (23%), followed by **Queens** (30%) and **Manhattan** (33%).
- Poverty rates in each of the five boroughs declined between 2000 and 2006, with the largest decline in Manhattan (an 11% decline, from 37% to 33%). Staten Island and the Bronx both experienced slight increases in the number of people living below 200% of the FPL, although due to overall population growth the rate of poverty in each borough declined slightly.

## *Low Income New Yorkers Are Disproportionately People of Color*

- African Americans and Latinos make up almost two-thirds of New York's low income population: African Americans represent 25% of the low income population, and Latinos 38%. Twenty three percent of the higher income population is made up of African Americans, and 21% are Latino. In contrast, non-Latino Whites make up only 22% of the low income population, as compared to 42% of the higher income population. Asian Americans make up 12% of the population in each income group.
- Between 2000 and 2006, the population of low income African Americans declined significantly (10% decrease), with the largest declines in Queens (23%) and Brooklyn (11%). Despite overall decline in the low income population overall, there were increases in the population of low income Latinos (1% increase) and Asians (14% increase), but it is important to note that these increases were due to population growth, rather than increasing disparity—the share of Latinos and Asians in the higher-income population grew at roughly equivalent rates of increase, although there is a noticeable increase in low income Latinos in Brooklyn, and low income Asians in the Bronx, Queens and Staten Island.

### ***Low Income New Yorkers Are Disproportionately Youth and the Elderly***

- Almost one-third (32%) of New York City's low income residents are under the age of 18 and 9% are under the age of five, whereas only 19% of higher income New Yorkers are under 18, and only 6% are under age five. Fourteen percent of low income New Yorkers are 65 or older, as compared to 11% of higher income New Yorkers.
- The Bronx has the highest proportion of low income children (37%), and Manhattan has the highest proportion of seniors in the low income population (17%).
- Overall, only 54% of New York City's low income residents are adults between the ages of 18 and 64, as compared to 70% of New York City's higher income population. In total, there are almost one million low income children and almost 450,000 low income seniors in New York City.
- Twelve percent of the New York City population is 65 years or older. The elderly are significantly more likely than other age groups to be living in poverty. Forty-five percent of the 65+ population in New York City is at or below 200% of the FPL, as compared to 32% of adults age 18-64. Children are even more likely to be living in poverty—50% of children in New York City live in families at or below 200% of the FPL.
- In December 2006, there were 25,834 males and 83,770 females 65 years and over living alone below the FPL in New York City.<sup>11</sup> A 2002 study by the International Longevity Center indicated that the percentage of New Yorkers 65 years or older living alone (33%) was far greater than the national average (9%) and that the percentage of seniors living alone with disabilities in New York City (46% of seniors ages 65 and older) was 5% higher than the national rate.<sup>12</sup>

### ***Many of New York City's Low Income Residents Are Part of a Household With At Least One Working Adult—Though, Overall, Low Income New Yorkers Are More Likely to Be Unemployed***

- While many low income residents are workers, a disproportionate number are not. Forty-two percent of low income New Yorkers over age 16 are in the labor force, as compared to 72% of higher income New York City residents. In addition, of those in the labor force, a significant number of low income residents are unemployed (18%), compared to 5% of higher income residents.
- Employment of the low income population has increased slightly since 2000, when 40% of low income residents over age 16 were participating in the labor force and 22% of low income labor force participants were unemployed.

### *Low Income New Yorkers Are Disproportionately Immigrants and Non-Citizens*

- The immigrant population in the United States has experienced rapid growth in recent years, increasing by an estimated 57% between 1990 and 2000—with New York City experiencing an unprecedented 38% growth in its immigrant population between 1990 and 2000.<sup>13</sup> In 2000, 36% (2.9 million) of the eight million people residing in New York City were foreign-born—in 2006, this number had grown to 3.1 million, or 37% of the population of New York City. In 2006, 18% of the population of New York City was non-citizens.
- Of New York City's foreign-born population, over 1.2 million are low income. The foreign born make up almost 39% of all low income New Yorkers, as compared to 37% of the total population of New York City. Forty percent of the foreign-born and 46% of non-citizens are low income, as compared to 38% of the population overall.
- More than half of low income Queens residents (53%) are foreign-born. Despite a City-wide decline in low-income foreign-born residents between 2000 and 2006 (2% decline), the foreign-born populations of Staten Island and the Bronx increased significantly (32% and 12% increase, respectively). These increases were mirrored in the higher-income population as well, indicating overall growth of the foreign-born in these boroughs, rather than a growing disparity.
- Latin America is the largest world area of origin for both low income (50%) and higher-income (47%) foreign-born New Yorkers. Puerto Rico and other U.S. Island Areas are disproportionately represented as an area of origin in the low income population, while European origin is disproportionately represented in the higher income population. Mexicans have had the highest growth in the city, with their numbers nearly quadrupling in the 1990s<sup>14</sup> and continuing to grow between 2000 and 2006.
- While the low income non-citizen population of New York City declined overall from 2000 to 2006 (11% decline), this population grew by 32% in Staten Island and 10% in the Bronx. Unlike the change in the foreign-born population, the change in non-citizens in these boroughs does represent a disparity: the population of non-citizens in the higher income population grew only incrementally (1%) in the Bronx and Staten Island between 2000 and 2006. In Brooklyn, Queens and Manhattan the low income non-citizen population declined by roughly 17%.

#### **Low Income New Yorkers with Limited English Proficiency**

- Overall, 23% of New York City residents—and 33% of those who are low income—have limited English proficiency.
- Queens and the Bronx have the highest rates of LEP residents overall (29% and 26% respectively) and the highest rates of limited English proficiency in the low income population (40% and 32% respectively).
- Of those who speak languages other than English, there is a significant disparity in English proficiency. Among low income non-English speakers, over half (56%) speak English less than “very well,” as compared to only 31% of higher income non-English speakers. According to a recent study, 15% of all city households are linguistically isolated, which means that all members 14 years old or older have difficulty speaking English.<sup>15</sup>

## AREAS OF HUMAN NEED IN NEW YORK CITY ACHIEVING STABILIZATION AND SECURITY

Low income people need the same things all people need to lead healthy and productive lives: enough income to meet essential needs; shelter that is safe and affordable; stable, loving family relationships; easy access to high quality healthcare; and safety from crime and personal harm.

Lack of sufficient income makes all of these essential needs much more difficult to secure. Housing is unaffordable, substandard and the fear of eviction is constant; City agencies are more likely to threaten to remove your child; adequate healthcare can only be found in emergency rooms; protection from violence is much more difficult to secure; and discrimination is more likely to adversely affect your ability to access necessary benefits and services.

Legal services advocates, community based organizations, social service providers and government agencies alike can eliminate barriers to stability and security for low income people and their families. By describing the obstacles low income people face in meeting their most basic human needs, we can also identify the corresponding legal needs and strategize to create and implement effective solutions.

## Lack of a Stable Safety Net

The connection between steady, sufficient income and family stability is obvious. It is no surprise, for example, that most low income tenants threatened with eviction have a welfare or income problem that needs to be solved. The “safety net” provided by various government cash benefits programs is inadequate in amount (averaging less than 50% of the Federal Poverty Level), often impossible to attain or retain, cut episodically and arbitrarily, and delivered through a bureaucracy that is demeaning, demoralizing and sometimes punitive. The City and State administered welfare system, in particular, is a confusing maze that, especially when combined with the challenges of our low wage economy, “churns” the ranks of those who receive benefits—moving them on and off welfare rather than generously and seamlessly supporting those who need benefits.<sup>16</sup> The federal Social Security Administration, which provides disability benefits to those who qualify, is only slightly less challenging for applicants and recipients. Neither program provides a sufficient, stable source of income to support New York City residents and their families.

In addition to cash, childcare subsidies, food stamps and Medicaid (discussed in the Health section of this report) are provided to those who receive government benefits. These benefits are also available to those with low incomes who are making the transition to work, along with Earned Income Tax Credits and Unemployment Insurance Benefits.<sup>17</sup> Although much has been done to increase enrollment in these programs, lack of knowledge, burdensome application procedures, and hostile caseworkers keep the number who receive these benefits much lower than the number who are eligible. As noted in a *City Limits* article titled “The New Safety Net?”: “There’s a standard one-liner about work supports that you’ll hear from most anyone who helps the poor find jobs: Nice if you can get it—and keep it.”<sup>18</sup>

### Legal Services NYC 2008 Staff Survey

**When surveyed in April 2008, Legal Services NYC Staff ranked the following as the four most pressing Income Maintenance problems for low income New Yorkers:**

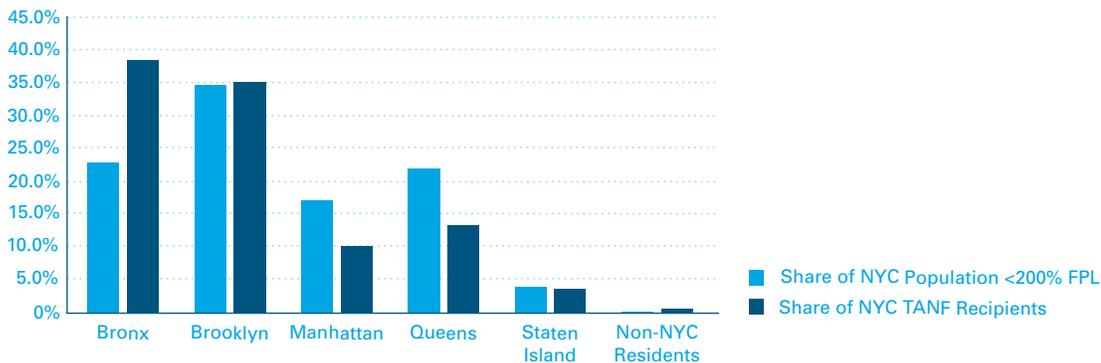
1. Sanctions for failure to comply with work rules
2. Lack of advocates doing welfare representation and advocacy
3. Denial and/or discontinuance of benefits
4. Welfare budgets are unconscionably low

**Needs-Based Cash Assistance Programs in New York City**

The two primary cash assistance programs for low income residents of New York City are Temporary Assistance (a combination of state programs formerly known as public assistance or “welfare”) and Supplemental Security Income (SSI), a federal program. Both are “needs-based” programs, meaning the recipient must be poor to receive these benefits.

In January 2008, there were 347,681 recipients of Temporary Assistance, less than a third of whom were single adults. The vast majority of these recipients live in the Bronx and Brooklyn:

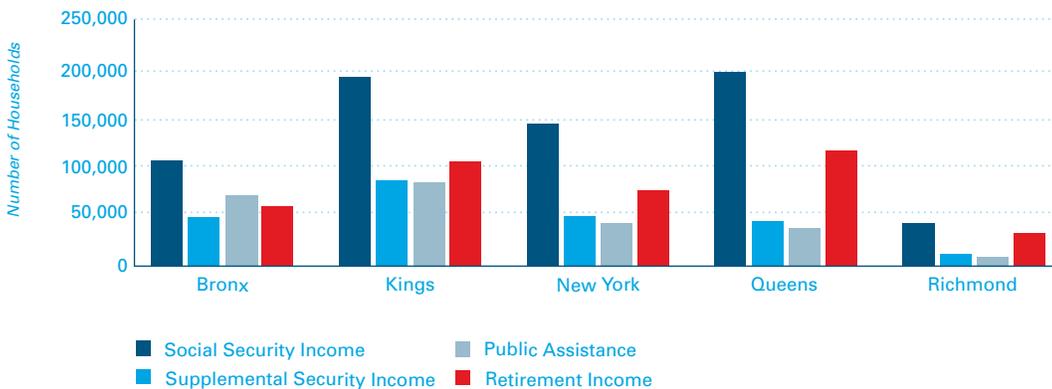
Cash Assistance Recipients (by borough) in January 2008



Data taken from New York City Human Resources Administration: [http://www.nyc.gov/html/hra/downloads/pdf/hrafacts\\_2008\\_01.pdf](http://www.nyc.gov/html/hra/downloads/pdf/hrafacts_2008_01.pdf)

Also in 2008, there were 407,512 SSI recipients, three-fourths of whom were blind or disabled and one-fourth of whom were age 65 or older. The majority of SSI recipients live in Brooklyn (about 37%), the Bronx (21%), Manhattan (20%) and Queens (18.5%).

2008 Income Sources and Recipients



Social Explorer Database: <http://www.socialexplorer.com/pub/home/home.aspx>

**Temporary Assistance** programs have two forms: the **family assistance** program for families with dependent children and the **safety net assistance program** for singles, childless couples, and families who have timed out of the family assistance program. These programs are administered statewide by the Office of Temporary and Disability Assistance (OTDA) and locally by New York City’s Human Resources Administration (HRA). The benefit for a family of four in 2008 is \$825.70 each month, or \$9,908 a year—less than 50% of the FPL. These benefit levels have not changed significantly since 1990, even though the cost of living in New York City has increased by more than 90%.<sup>19</sup>

Adult recipients of either family assistance or safety-net assistance are required to work as a condition of eligibility. Work requirements can be met through approved activities including educational activities, vocational training, jobs, or work assignments through the Work Experience Program (WEP) program. Recipients with work requirements are also entitled to child care in the form of reimbursement for child care costs. If a recipient fails to comply with work requirements without good cause, sanctions are assessed—that is, reductions in grant amounts. Recipients may be exempt from work requirements for several reasons, such as age (60 and older), disability, or status as a caregiver for a young child or other ill or incapacitated member of the household. In New York City, there are more than 23,000 recipients excluded based on age or pending SSI claims. There are more than 75,000 recipients with work requirements and almost 14,000 recipients in the WEP program.<sup>20</sup>

In New York City, HRA operates the WeCARE program to assist recipients who are partially or completely unable to work. A recent study found significant deficits in WeCARE services, notably in its assessment processes, job placement services for those deemed employable with limits, and in services for clients with mental illness.<sup>21</sup> Although WeCARE is supposed to help clients deemed unable to work, it is surprisingly ineffective at helping them apply for federal disability programs: only 10% of WeCARE client applicants succeed in qualifying for disability benefits compared to the national rate for adults of over 30%.<sup>22</sup>

**SSI benefits** are paid based on age (65 and older), blindness, and disability. SSI rates are far better than state welfare benefits, paying up to \$724 a month in 2008 for a person living alone, which is about 84% of the FPL and more than twice the rate of state temporary assistance payments. The federal benefit rate increases each year based on cost-of-living adjustments, and New York State offers a supplement of up to \$87 a month on top of the federal benefit.

### ***Problems Faced by Public Assistance Recipients in New York City***

In 1998, there were more than 700,000 persons on welfare (cash assistance) in New York City; by January 2008, there were 347,681. This dramatic reduction is the result of an intentional effort by the City, State and Federal governments to push people off welfare, commonly known as “welfare reform.” The application process was made more onerous, and various program conditions have been imposed that make it extremely challenging to keep receiving benefits once a person has been found eligible.

*“They don’t have enough money, they don’t have living wage jobs, they don’t have adequate health care. They just don’t have enough. People don’t have enough money to live in a dignified way.”*

—Sarah Ludwig, Co-Director, and  
Claudia Wilner, Staff Attorney,  
Neighborhood Economic Development  
Advocacy Project

#### **Lack of Child Care**

Lack of child care is a major problem for welfare recipients who are trying to comply with work requirements. While New York subsidizes child care for public assistance recipients with children under 13 (if that assistance is needed to allow the parent to comply with work requirements or engage in paid employment), finding adequate child care is a huge challenge for many parents. Although “regulated” care (center or licensed family based care) is generally thought to be higher quality than “license-exempt” care (informal, often provided by family, neighbors or friends), only 29% of TA funded children receive regulated care.<sup>27</sup> The 2007-2008 closure of several city-funded day care centers will make finding child care even more difficult.<sup>28</sup>

One measure of problems faced by applicants or recipients is the number of fair hearings challenging a determination made by HRA, such as a denial or a termination of benefits. In January 2008, there were 20,923 new fair hearing requests, 18,074 of which (86%) came from New York City. Given the incredibly high number of notices—regarding, for example, appointments, overpayments, denials, terminations, and sanctions—sent out by HRA each year, the number of fair hearing requests may not actually be all that high. But the results of those hearings are startling: in January 2008, claimants defaulted in just about half of the cases (9,304 defaults). Of the 15,168 issues decided (a hearing may involve more than one issue), HRA’s determination was affirmed only 8% of the time, reversed 27% of the time, and found to be “correct when made”<sup>24</sup> in just 2% of the cases. HRA withdrew its determination 49% of the time, and issues were decided for other reasons 14% of the time.<sup>25</sup>

According to Project FAIR,<sup>26</sup> which provides advocacy assistance to public assistance applicants and recipients, the most frequent problems encountered by recipients of cash assistance are the discontinuance of benefits, sanctions, application denials, and failures to grant employment exemptions due to medical problems. The finding that discontinuance of benefits and sanctions are the most frequent problems is no surprise: HRA’s own monthly reports indicate that fully one-third of cash assistance recipients are in the process of being sanctioned. Project FAIR also tracks the neighborhoods that produce the highest numbers of fair hearing requests: in Brooklyn, for example, most clients come from Brownsville, Flatbush, Bushwick and East New York. A smaller number of clients are Bronx residents, most often from Melrose, Mott Haven and Highbridge.

**Applicants for SSI** based on disability face an arduous application process, one often filled with long delays and frustration. Wait times for final decisions are notoriously long: the Social Security Administration recently announced it had cleared its backlog of cases that were older than 1,000 days (nearly three years) and had moved to cases pending for more than 900 days.<sup>29</sup> Only about 35% of applicants are approved at the initial level, but a huge number do not appeal: less than 20% request a review even though the approval rate is far higher on appeal.<sup>30</sup> Because gathering the medical information needed to successfully apply for SSI can be challenging, particularly for people with physical or psychological disabilities, advocacy assistance often makes the difference between a denial and a successful application.

#### **SOME IMPLICATIONS FOR LEGAL SERVICES PROVIDERS**

- The decline in specialized public assistance legal service advocates has been precipitous since “welfare reform” of 1996. But the clients who continue to receive welfare are both the poorest of the poor and, often, the neediest because of disabilities and because of demanding and ongoing eligibility requirements. Class action litigation continues to be critical to force the City to improve the functioning of the system, but some of the most innovative and effective work is also being done by community based organizations that are working directly with clients when they most need the help—at fair hearings. Legal services programs should continue to expand their collaborative work with these organizations and should increase resources devoted to this work.

#### **Language Barriers**

LEP clients face additional barriers to applying for and keeping welfare benefits at HRA centers, despite many laws mandating translation services. According to a 2007 Legal Services NYC survey, 66% of HRA offices failed to provide translated applications in the six most commonly spoken languages in New York City—even though translated versions exist; 15% of the centers only had English versions. Bilingual workers or translators were not widely available at these centers.<sup>23</sup>

*“HRA is extremely proficient at issuing multiple sanction notices, yet lacks the capacity to address the needs of a population that is more likely to have physical and/or psychological problems that impede their ability to participate in the HRA employment programs.”*

—Fernando Le’bron, Paralegal,  
Queens Legal Services

- Temporary Assistance recipients need help at fair hearings to prevent wrongfully denied, reduced, or terminated benefits and to ensure that they appeal adverse determinations. In light of the large number of hearing requests in the City, it is also critical to direct resources at improving agency procedures so that mistakes are not made in the first place or can be corrected and resolved at the local HRA office level.
- Advocates are needed to help eligible Temporary Assistance recipients with federal disability claims. In June 2007, there were more than 24,000 Temporary Assistance recipients who had applied for federal disability benefits but had not yet been approved. Many of these applicants are eligible for legal services—and many who will get rejected would likely have been approved with legal assistance in the application process.
- Participation rates in means-tested programs could be improved in relatively simple ways: by increasing awareness of programs, by making it easier to apply for benefits, and by making applications available in other languages. Harder fixes exist too, such as data sharing among agencies to determine eligibility (the client only needs to demonstrate it once in person), or by expanding categorical eligibility (if the client demonstrates eligibility in one program, he or she is automatically eligible for another program).<sup>31</sup>

### **Food Stamps and Employment-Related Benefits**

The Food Stamps Program is a nutrition assistance safety-net program paid for entirely by federal funds and available to families earning up to 130% of the FPL. There are few non-financial categorical requirements, making it widely available; there are more than 1.1 million recipients in New York City alone.<sup>32</sup> The majority are not welfare recipients but are low wage earners or recipients of federal disability benefits.<sup>33</sup> The average food stamp benefit in New York is about \$113 per month.<sup>34</sup>

Another 1.3 million residents of the City rely on the more than 800 Emergency Food Programs (EFP)—soup kitchens and food pantries—throughout the city. Unfortunately, EFPs face flat or reduced funding, causing them to eliminate days they are open for food distribution and to run out of food.<sup>35</sup> Less than half of EFP users receive food stamps.<sup>36</sup> As many as 500,000 people are eligible for food stamps but not enrolled.<sup>37</sup> An increase of just 100,000 recipients could bring an additional \$136 million in federal assistance to the City.<sup>38</sup>

According to the Food Bank for New York City, 3.1 million residents, or 38% of New York City residents, reported having difficulty affording food last year. This figure is up 55% from five years ago when two million residents reported difficulty. “The rising percentage of New Yorkers with difficulty affording food is not surprising given rising costs of food and other basic necessities. The cost of food at home for the New York City metro region increased 15% from 2003 to 2007 and 4% from 2006 to 2007.”<sup>39</sup>



*“While HRA has improved since the Giuliani administration, it is still a brutal system for clients to navigate. This is the area in which there is a significant shortfall in legal representation in the City, due in part to the lack of funding. Public Assistance is the lifeline for most of our clients and the barriers are never ending.”*

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—Cathy Bowman, Director, HIV Unit, South Brooklyn Legal Services

The **Earned Income Tax Credit (EITC)** is the largest federal anti-poverty program. In the 2006 tax year, federal EITC claims nationally paid came to more than \$43.7 billion.<sup>40</sup> In New York State, an eligible worker may obtain as much as \$4,716 in the federal credit and another \$1,415 from the state credit. New York City provides an additional EITC, averaging about \$2,500 in 2004.<sup>41</sup> Total EITC claims for the City topped \$1.6 billion in 2007.<sup>42</sup> Receipt of EITC will not endanger other public benefits: it does not count as income in the Food Stamps Program, Medicaid program, SSI program, or state public assistance programs.<sup>43</sup>

In 2003, less than 25% of the City's recipients claimed their EITC without using a commercial tax preparer<sup>44</sup>—suggesting that low income workers may simply lack information about EITC unless they contact a tax specialist. New York City has an EITC Coalition that runs 50 Volunteer Income Tax Assistance sites citywide to provide free preparation services to families earning less than \$40,000. In 2007, those sites helped 65,000 applicants obtain an EITC.<sup>45</sup> Despite these services, however, estimates by the IRS and others indicate that as many as 25% of eligible workers do not apply for EITC.

When they do apply, EITC claimants appear to be audited at a higher rate than the general population of tax filers.<sup>46</sup> When claimants are audited, or when their returns are withheld pending IRS investigation, legal assistance is essential. According to the IRS's own taxpayer advocate, many low income taxpayers are eligible to receive the credit but fail the audit because they do not know how to prepare for it; "represented taxpayers are twice as likely to be found eligible for EITC."<sup>47</sup> Those taxpayers who fail to respond to the audit notice, or who fail the examination, are then audited year after year. Advocacy assistance is critical for many of these taxpayers who will otherwise never be able to get through the examination process successfully.

Although, as noted above, the City and private funders have helped many low income taxpayers get the EITC, none of these services is available to help low income taxpayers who are audited by the IRS. Unfortunately, New York City funding for legal assistance to EITC claimants was eliminated in 2008.

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*“We make rights and remedies available and then we make it impossible for people to access them. In an effort to be fair, we’ve made laws more complicated—too complicated for the poor litigant.”*

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—Judge Juanita Bing Newton, Deputy Chief Administrative Judge, New York State Unified Court System

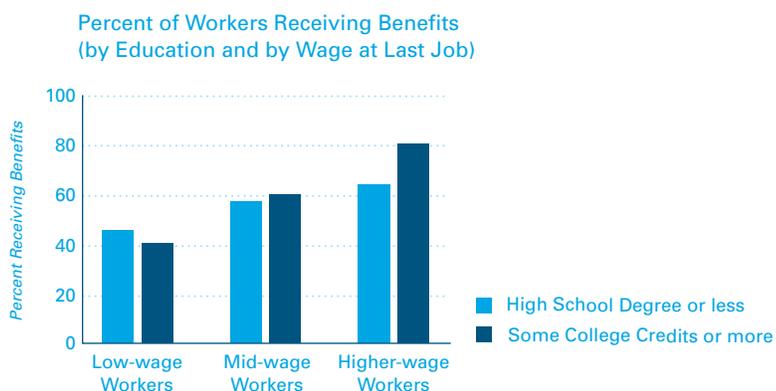
#### **SOME IMPLICATIONS FOR LEGAL SERVICES PROVIDERS**

- All legal services clients should be screened for food stamp eligibility and given guidance or referral information as needed. Food stamp information should be readily available in all legal services waiting rooms and on websites of service providers.
- Because the EITC is a major source of potential income for low income taxpayers, all legal services clients who are working should be screened for EITC eligibility and referred to tax preparation services when appropriate. Legal services should be provided to those clients who are denied the credit or audited by the IRS.
- Work should be done to restore City funding and to obtain State and other funding to provide EITC legal services.

The **Unemployment Insurance (UI) Program** was created in 1935 in response to the Great Depression, when millions of people lost jobs. The program, administered by the New York State Department of Labor (DOL), provides temporary income support—50% of the average weekly wage for up to 26 weeks<sup>48</sup>—for laid off workers who qualify.<sup>49</sup> As a result of the current economic crisis, more people have applied for UI for the first time nationwide than at any time since 1992, after the last major economic downturn.

Today only 41 % of the jobless receive UI in New York City, with hundreds of thousands left out each year, either because they do not apply for benefits or because they do not meet the eligibility requirements.<sup>50</sup> In addition:

- **Low wage workers are less likely to get UI.** Higher wage workers are twice as likely to receive benefits as low wage workers (80% vs. 38%).<sup>51</sup> A study of UI reciprocity in New York City in the post-9/11 period found that low-wage workers were 48% more likely to be rejected for insufficient earnings or hours than other workers. They were also six times more likely to be rejected on the basis of being “unavailable for work” as a result of poor health or care giving responsibilities.



*Brennan Center for Justice at NYU School of Law. “Recession and 9/11: Economic Hardship and the Failure of the Safety Net for Unemployed Workers in New York City” (2003).*

- **Racial disparities exist in UI reciprocity.** About 75% of white workers who are unemployed receive benefits, while 7% are rejected. About 65% of Asian workers receive benefits, while 8% are rejected. About 55% of black workers receive benefits, while 11% are rejected. And only 43% of Latino workers who are unemployed receive benefits, while 14% are rejected.<sup>52</sup>
- **Workers who lose their jobs involuntarily are the most likely to receive benefits.** Workers who lose their jobs due to layoffs or a business closing are much more likely to get benefits than those who are fired or quit their jobs.<sup>53</sup> Although the law allows workers who quit for good cause to receive benefits, these workers in New York are 3.5 times more likely than others to be denied benefits.<sup>54</sup> The DOL has been particularly unwilling to find good cause where a claimant has quit for medical reasons, lack of child care, labor law violations and domestic violence.

- **Hundreds of thousands of jobless New Yorkers do not get UI.** Potential recipients do not believe they are eligible and don't apply, are intimidated by employers into not applying, or cannot prove that they meet the eligibility requirements without assistance.<sup>55</sup> Low wage workers who do not apply for benefits often think that they have not earned enough to qualify for benefits. Outreach efforts can have a significant effect in increasing UI reciprocity rates.<sup>56</sup> Preliminary data in two pilot projects shows that legal representation has a dramatic positive impact on claimants' success at a UI eligibility hearing: in a Massachusetts UI representation pilot project the claimant success rate rose to 90% with representation;<sup>57</sup> in New York City, a City Council funded legal representation program (cut by 40% in 2008), has a success rate of 75% for claimants in UI hearings.<sup>58</sup>
- **UI benefits in New York are extremely low.** The UI program pays approximately 50% of a worker's average weekly wage up to a statutory maximum of \$405. The average UI check in New York is 28% of the average worker's paycheck. When compared with other states, New York ranks 48<sup>th</sup> of the 50 states on the wage replacement benefit adequacy measure.<sup>59</sup> New York has not increased its \$405 weekly maximum benefit since September 2000.<sup>60</sup>
- **New York State provides limited training opportunities for unemployed workers.** Section 599 of the Labor Law allows workers in Department of Labor-approved training programs to qualify for up to 26 additional weeks of UI benefits. The DOL takes a narrow view of the scope of eligibility requirements, and in 2005 approved only 29% of the applications for extended benefits.<sup>61</sup> The \$20 million annual state-wide cap on available benefits creates an additional barrier, so that workers who are approved for participation in the program may not receive benefits if the funds are exhausted. In 2004 approved participants waited eight months to receive extended benefits.<sup>62</sup> Problems with the administration of the 599 program leave thousands of unemployed people unable to get those benefits and to develop new skills needed to advance their careers.<sup>63</sup>

#### **SOME IMPLICATIONS FOR LEGAL SERVICES PROVIDERS**

- Legal services providers should conduct outreach and community education aimed at dispelling myths about UI that prevent unemployed workers from applying for benefits.
- Legal services providers should target resources to represent low wage workers who face additional obstacles to successfully obtaining benefits.
- Representation in UI cases should be expanded and cases involving voluntary quits and extended job training benefits should be prioritized.

# Housing

Low income New Yorkers rank affordable housing along with crime at the top of list of problems they face.<sup>64</sup> Real estate market pressures, often referred to as “gentrification,” have caused noticeable changes in the City’s neighborhoods that are praised by some commentators and lamented by others.<sup>65</sup> But the impact of these changes for low income New Yorkers has been to create a permanent state of housing instability: both the fear and reality of displacement. Static incomes, rising rents, the loss of subsidized and regulated housing, the foreclosure crisis, and the slow pace of affordable housing development have resulted in the highest number of homeless families and individuals in the City’s history, and the looming threat of eviction for those who are housed.

For low income New Yorkers, eviction and homelessness are the ultimate destabilizing indignities, a forcible uprooting of families from schools, jobs and communities. The City’s housing crisis is most graphically illustrated by the shocking number of people without homes. More than 102,000 New Yorkers spent time in a homeless shelter at some point in 2007, up 5.8% over 2006.<sup>66</sup> This number remains high despite increasingly restrictive City policies for entrance to the shelter system and the highly publicized expansion of the City’s homelessness prevention programs.

In this year of economic meltdown, these “normal” housing pressures have become particularly oppressive. The “easy money” predatory lending practices that have destabilized the world’s economies have caused foreclosure rates to skyrocket; and multi-family landlords, prodded by the demands of “predatory equity” lenders, have commenced thousands of meritless eviction proceedings in the hopes of evicting tenants, deregulating their apartments and increasing profits. Once again, the “market” has put unbearable pressure on low income families.

## *Types of Housing for Low Income People*

- More than two out of five (42%) low income households, or approximately 447,000, live in private units protected by rent regulation laws.
- One out of five (21%) live in private unregulated apartments.
- One out of five (20%) live in government-subsidized housing, such as public housing (New York City Housing Authority), Mitchell-Lama, or HUD-subsidized rental developments.
- And nearly one out of five (18%) own their apartments or houses, some in Mitchell-Lama and other subsidized co-operatives.<sup>67</sup>

“Despite the sizeable supply of government-assisted housing in the city, low income New Yorkers—households with incomes up to twice the Federal Poverty Level...—still rely heavily on the private rental market.”<sup>68</sup> Most low income tenants live in rental units without the benefit of subsidy or voucher assistance. In the unsubsidized private rental market (the first two categories above), only one out of eight low income tenants (12%) received federal Section 8 vouchers, which base rent payments on tenant income. That leaves 600,000 households living in private housing without rent subsidies.<sup>69</sup>




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*“Housing is a huge, huge problem. Gentrification and displacement will make this a different city in ten years. People should be in a panic, but only the people who are advocates for the poor are in a panic.”*

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—Amy Carroll, Supervising Attorney,  
Make The Road New York

**Housing-Related Pressures Facing Low Income New Yorkers**

**Rising Rent Burdens.** Partly as a consequence of living in unsubsidized private housing, low income New Yorkers pay an increasing percentage of their incomes for rent. Rising rents coupled with stagnating incomes—from 1996-2005, median contract rent was up 50%, income up only 31%— particularly affected low income New Yorkers, whose rent burden increased from 42% to 46% of income.<sup>70</sup>

Rent-Income Stresses, Poor & Near Poor Renters in Private, Unsubsidized Rentals, 1996 and 2005	MEDIAN RENT BURDEN		% BURDENS 50% OR MORE		PER CAPITA RESIDUAL INCOME (MONTHLY, CONSTANT 2004 \$)	
	1996	2005	1996	2005	1996	2005
	Poor Renters	63%	62%	72%	68%	\$127
Near Poor Renters	36%	42%	22%	35%	\$446	\$393

Community Service Society. "Making the Rent: Who's At Risk?" (May 2008).

**Loss of Affordable Housing**

- Loss of Subsidized Housing.** Subsidized housing units in the major state and federal programs are in serious decline and are scarce relative to demand. Between 1990 and 2006, 27% of the City's Mitchell-Lama (a state housing program administered by either the City or the State) and project-based Section 8 units were lost, with an additional 18% immediately threatened.<sup>71</sup> This may mean a net loss of more than 43,000 subsidized units. The threat to this housing stock is especially important, since 28.9% of Mitchell-Lama units and 54% of project-based Section 8 units are occupied by poor New Yorkers (those with incomes less than 100% of the FPL).<sup>72</sup> Public housing and Section 8 Housing Choice Vouchers, the largest sources of subsidized housing and significant rent subsidies, are not available for new applicants. As of September 30, 2007, more than 160,000 families were on the waiting list for Section 8 vouchers, while more than 125,000 were on the waiting list for public housing.<sup>73</sup>
- Loss of Rent Regulated Units.** Rent-regulated tenants have security of tenure that comes from limitations on rent increases, a right to lease renewal and the knowledge that they may only be evicted for specific reasons. Extra protections exist for the elderly and disabled. However, recent changes in the laws have weakened protections for tenants and have resulted in higher rents and the deregulation of units. "High rent" deregulation and higher vacancy allowances, among other changes, have led to the loss between 2003 and 2008 of over 117,000 regulated apartments—14% of the total stock—affordable to households making the City's median household income.<sup>74</sup> Moreover, recent increases passed by the New York City Rent Guidelines Board threaten to place the rents of increasing numbers of apartments beyond the reach of low income New Yorkers.
- Loss of Single Room Occupancy Housing.** Single room occupancy (SRO) units, an important source of housing for low income single adults, have declined dramatically over the years. Although it is difficult to get reliable data, advocates estimate that fewer than 40,000 units remain of a housing stock that, in 1950, numbered over 200,000.<sup>77</sup>

**Predatory Equity Lenders**

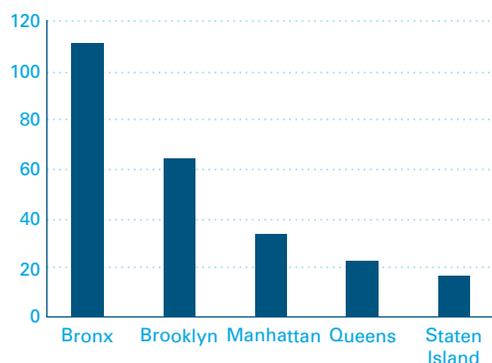
Additional significant losses of rent-regulated units are caused by the wholesale eviction practices of private investment firms—backed by so-called "predatory equity lenders"—that have bought up large numbers of rent regulated apartments (up to 90,000) and seek to maximize profits for investors by driving out long-term tenants, deregulating units, and renting to higher-paying tenants.<sup>75</sup> Advocates at the Association for Neighborhood Housing and Development note that as many as 54,000 units are at risk of default from these lending practices.<sup>76</sup>

**Housing Insecurity.** A significant percentage of low income New Yorkers experiences a lack of security about their housing situation, an insecurity that is likely to create pressures in other areas of their lives. Low income residents ranging from 21% in Queens to 40% in Manhattan believe they will be forced out of their neighborhood over the next two years.<sup>78</sup> These numbers are higher among black and Hispanic households, who express the greatest fears of displacement due to increasing rents.<sup>79</sup>

**Lack of Representation for Tenants in Housing Court.** In 2007, close to 300,000 eviction proceedings were commenced in Housing Court, resulting in nearly 25,000 evictions or legal possessions. The number of households displaced by eviction proceedings is undoubtedly higher, since many tenants “agree” to move in court, under pressure from their landlords, even before a City Marshal actually changes the locks. Eviction proceedings disproportionately involve low income tenants. A 2007 survey by the Brennan Center for Justice found that 67% of respondents had incomes under \$25,000; 49% of tenants facing eviction were African American, double the percentage in the City as a whole.<sup>80</sup> A disproportionate share of eviction proceedings are filed in the Bronx; in 2007, more than 83,000 petitions were filed in the Bronx, compared to 75,000 in Brooklyn, 68,000 in Manhattan, 44,000 in Queens and fewer than 6,000 in Staten Island.<sup>81</sup> Filings of eviction proceedings for nonpayment of rent are highly concentrated in neighborhoods with the lowest incomes.<sup>82</sup>

**Likelihood of Living in Buildings Needing Serious Repair, Including Peeling Lead Paint.** Many poor New Yorkers, in addition to struggling to pay the rent, also must live with deteriorating conditions in their apartments. Studies have found that high numbers of housing code violations are more likely to occur in buildings in poor neighborhoods of the West and South Bronx, Central Brooklyn, northern Manhattan and Jamaica in Queens.<sup>83</sup> These neighborhoods are all low income minority neighborhoods, with a majority of Latino households in the Bronx and African American households in Central Brooklyn. Many buildings had external structural defects including defects in walls, windows, stairways and floors. The percentage of building defects was highest in the Bronx (15.8%), followed by Brooklyn (13.6%) and Manhattan (9.2%).<sup>84</sup>

**Housing Code Violations (by borough)**  
(per 1000 rental units)



Data taken from Association for Neighborhood and Housing Development, Inc. and Public Advocate of the City of New York. “Inequitable Enforcement: The Crisis of Housing Code Enforcement in New York City” (2003).

*“The gigantic displacement effect of gentrification—and the in-migration of wealthy people to now low income neighborhoods—has caused a huge need for legal representation against voracious landlords and speculators. These pressures are hugely exacerbated by the rezoning of the East River waterfront to enable the development of over 10,000 new luxury condo apartments.”*

—Marty Needleman, Project Director,  
Brooklyn Legal Services Corporation A

*“Lack of counsel creates a cascade of problems. If you walk in to Housing Court without an attorney, you walk out with a judgment against you.”*

—Louise Seeley, Executive Director,  
Citywide Task Force on Housing

Large rent-to-income ratios, lower median incomes, overcrowding, and older housing stock leave residents with no choice but to remain in substandard and dangerous housing provided by negligent landlords. Tenants are unable to move into better-quality housing and owners have fewer incentives to make repairs. Among all renter households, 23.7% have a severe affordability problem, which is defined in the New York City Housing and Vacancy Survey as spending 50% or more of household income for rent. Unsurprisingly, the top five neighborhoods with severe quality housing maintenance problems were in the top tier for the affordability problem.<sup>85</sup>

In addition to the housing issues mentioned above, lead paint poisoning remains a serious problem that is, for the most part, concentrated in poor neighborhoods in the five boroughs, with the highest concentration found in Brooklyn.<sup>86</sup>

**Housing Discrimination.** Housing discrimination forces low income families from their homes and prevents them from renting affordable apartments, all in violation of federal, state and city laws. The New York City-based Fair Housing Justice Center (FHJC) has noted that “the New York City metropolitan area is the fourth most segregated metropolitan area in the United States for African Americans and the fifth most segregated for Latinos,” and that “the rate of housing discrimination in New York City is above the national average.”<sup>87</sup> FHJC has received hundreds of allegations of housing discrimination, the majority of which came from low income tenants.

#### **SOME IMPLICATIONS FOR LEGAL SERVICES PROVIDERS**

- Legal services providers should direct more resources to eviction protection of tenants living in threatened housing—rent-regulated and project-based Section 8, as well as Section 8 Voucher holders.
- Advocacy efforts among legal and not-for-profit organizations should be coordinated to save project-based subsidized housing, rent regulated housing threatened by predatory equity firms, and other threatened housing.
- Legal services providers should support and advance advocacy efforts designed to achieve policy and statutory changes—e.g., to strengthen rent regulation (vacancy decontrol, Urstadt law, rent guidelines reform), establish a right to counsel for tenants facing eviction, and establish low income tenant assistance programs for those who live in subsidized housing units that are leaving a subsidy program.



*“Illegal housing discrimination adds yet another barrier for low-income households to overcome in a city where being poor is already a full-time, exhausting, and complicated job. When discrimination is allowed to persist, it becomes more difficult for families to move from poverty to self-sufficiency.”*

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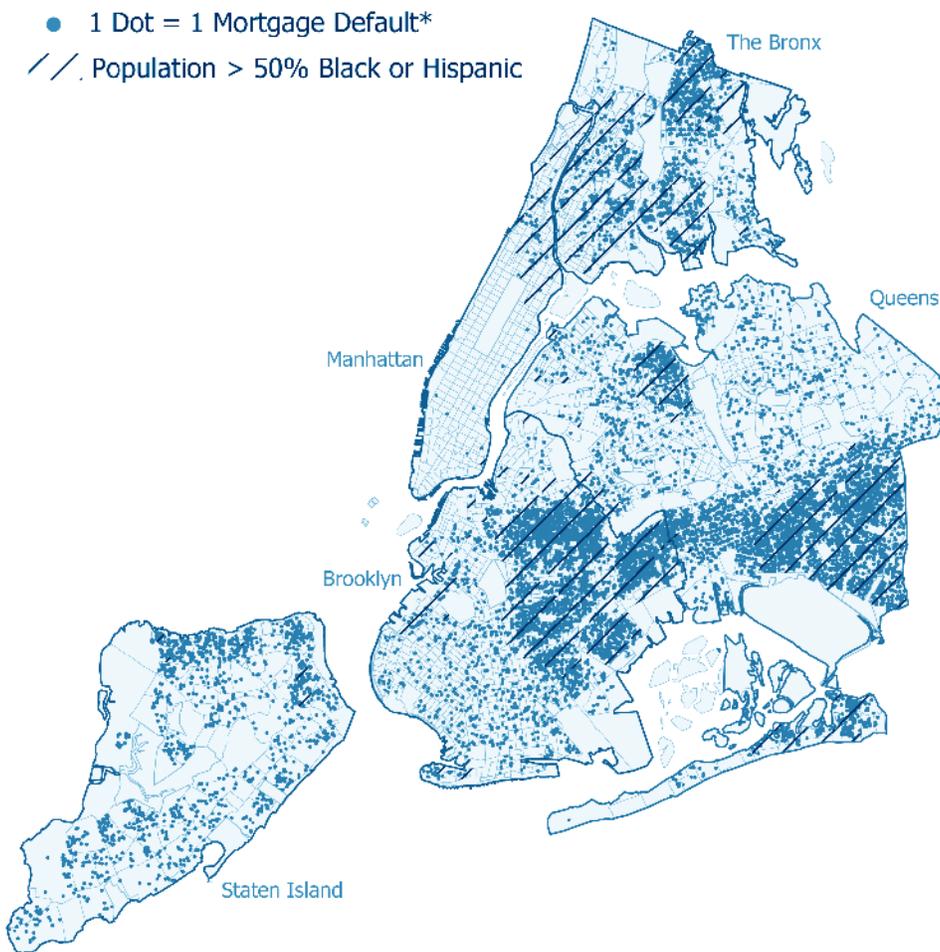
—Diane Houk, Executive Director, Fair Housing Justice Center

# Foreclosure Crisis

The New York City housing landscape—like other major urban areas nationwide—has been hard hit by the mortgage foreclosure crisis, with over 40% of threatened homeowners statewide living in New York City.<sup>88</sup> Foreclosure filings in the City increased by 150% between 2006 and 2007, to nearly 15,000 per year.<sup>89</sup> Within New York City, the borough of Queens has the highest number of foreclosure cases, with 5,789 new foreclosure filings in 2007 and similar numbers projected for 2008—230% higher than in 2004.<sup>90</sup> Brooklyn is similarly hard-hit, with 4,895 new foreclosure cases filed in 2007, 200% higher than in 2004.<sup>91</sup> Staten Island and the Bronx each had approximately 1,500 foreclosure filings in 2007.<sup>92</sup>

## FORECLOSURE PATTERNS - 2007

### New York City



Neighborhood Economic Development  
Advocacy Project (NEDAP)  
(212) 680-5100 | [www.nedap.org](http://www.nedap.org)  
©2008-NEDAP

*\*13,831 lis pendens of mortgage default filings were filed in New York City 1-4 family homes in 2007.*  
Sources: Profiles Publications; U.S. Census (2000)

This foreclosure crisis is driven by predatory and risky lending practices, primarily in the subprime mortgage market which purports to serve borrowers with lower credit ratings. Beginning in the early 1990's, subprime mortgage lenders with financial backing from Wall Street investors entered low income and minority communities and aggressively sold abusive refinance mortgages that stripped borrowers' home equity through excessive closing costs, mortgage broker fees and kickbacks, and prepayment penalties, and put homeowners at risk of foreclosure with inflated interest rates and unaffordable monthly payments.

Predatory brokers and lenders often target elderly homeowners and racial and ethnic minority homeowners and communities, particularly in central and eastern Brooklyn, southeast Queens, the Bronx, and the North Shore of Staten Island.

In 2006, though black households constituted only 20% of all New York City homeowners, they received 50% of the subprime mortgage loans.<sup>93</sup> Similarly in 2006, 9% of mortgage loans made to white borrowers were subprime, compared to subprime lending rates of 14% for Asians, 29% for Hispanic borrowers, and 41% for black households.<sup>94</sup>

More recently, risky mortgage lending practices have saturated the first-time homebuyer market as well. Real estate companies lure first-time home seekers with promises of low or no down payments and closing costs, then arrange not only the home sale but also mortgage financing, the property appraisal and inspection. This "one-stop shop" structure allows unscrupulous real estate investors to collude with property appraisers and mortgage lenders to fraudulently overvalue properties in poor condition and sell them to unwitting buyers, often with "piggyback" financing that combines two mortgages to pay for 100% of the inflated purchase price. Homeowners later discover that they paid tens or hundreds of thousands of dollars more than fair market value, and that they are unable to escape foreclosure even by selling their homes because their mortgage debts exceed the property value. High-cost home purchase loans are also disproportionately marketed to and concentrated in communities of color in New York City.

In a final insult, borrowers who are victimized by fraudulent and predatory lending practices are also vulnerable to so-called "deed theft" and "mortgage rescue" scams, in which individuals or companies promising to help homeowners save their homes from foreclosure instead set up unaffordable sale/leaseback schemes or outright transfer of title in return for token compensation.

**A Recent and Growing Problem: Tenants in Buildings Facing Foreclosure.**

According to recent estimates, more than 15,000 tenant households may face eviction when their landlords lose their buildings to foreclosure.<sup>95</sup> The overwhelming number of landlords facing foreclosure own unregulated buildings (five apartments or fewer). New owners routinely seek to evict the tenants when they take over the buildings and, because the apartments are unregulated, tenants have no defenses to these proceedings. Needless to say, vast numbers of homeowners, too, will be evicted from their homes and neighborhoods when they lose their buildings in foreclosure.

# Family

While all families experience destabilizing family problems, low income people face those problems with fewer supports: they don't have easy access to competent lawyers or to the full range of social services, counselors and therapists to which those with insurance or money have access. Families with high stress exacerbated by lack of money and support are more likely to fracture under pressure, with long-term adverse impact on the entire family, but especially on the children.

## *Problems Faced by Low Income Families*

**Domestic Violence Problems.** There is a shockingly high incidence of domestic violence in New York City. In 2007 police responded to 229,354 domestic violence incidents, an average of more than 600 per day. More than 16,000 calls from teenagers were received by the City's Domestic Violence Hotline in 2007.<sup>96</sup>

In addition to physical abuse and fears of abuse, domestic violence victims face additional problems caused or exacerbated by the domestic violence. For example:

- Long waiting lists at shelters for victims of domestic violence force women to return to their homes or to relatives' apartments where they will be unsafe.
- Low income victims of domestic violence are more likely to lose their apartments and end up homeless when they flee abuse.
- Low wage victims of domestic violence tend to have less flexible jobs and are less able to take time off to heal from injuries or to go to court; they are therefore more likely to lose their jobs as a result of their family problems.
- Low income victims of domestic violence who cannot get free legal representation struggle to get maintenance and a fair share of marital assets and are often faced with consumer debt problems, since abusers often empty bank accounts or otherwise hide assets and incur debts in their victims' names.

**State Intervention Is More Likely for Low Income Families.** A disproportionate number of low income families are subjected to State investigations for abuse and neglect. A 2000 study by Public Advocate Mark Green noted that "families earning incomes below \$15,000 per year are 22 times more likely to be involved in the child protective system than families with incomes above \$30,000."<sup>97</sup> Lack of money is at least partly a cause: low income parents with problems of alcoholism, drug addiction or domestic violence cannot afford private treatment facilities; in public facilities they are more likely to become the subject of child protective investigations and to lose their children. Low income parents experience major crises, including loss of housing, when their children enter foster care, and may lack sufficient supports to help them strengthen their families and reunite with their children.

Nearly 17,000 children were in foster care in 2006.<sup>98</sup>

- In 2007, 56.7% of children in foster care were African American, while they make up only 27% of the child population in New York City.<sup>99</sup>
- Seventy percent of children in foster care experience one or more school transfers for non-educational reasons after entering care.<sup>100</sup>

## Legal Services NYC 2008 Staff Survey

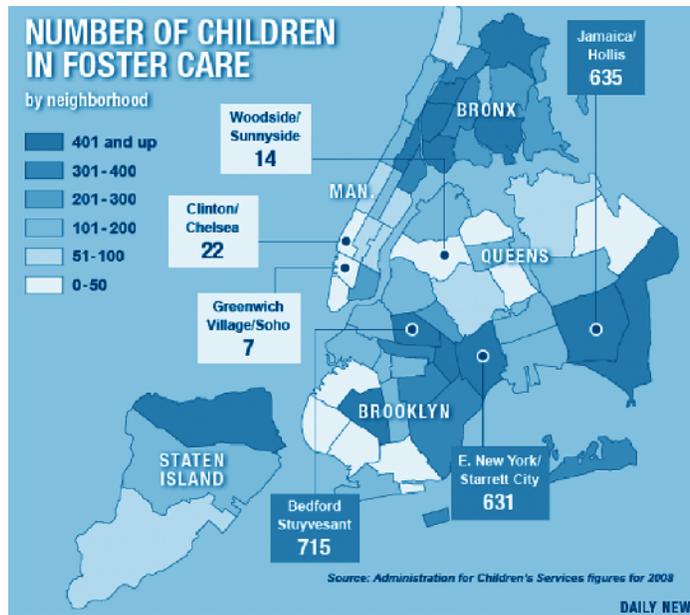
**When surveyed in April 2008, Legal Services NYC Staff ranked the following as the two most pressing family-related problems for low income New Yorkers:**

1. Domestic Violence—and, in particular, lack of access to shelters, alternative affordable housing and advocacy assistance
2. Inability to get adequate legal help and social services for child abuse and neglect matters

*“Very often there’s an intersection between domestic violence and consumer issues. There’s abuse in the form of financial abuse—identity theft, running up debt in the name of the abused—and there’s the challenge of disentangling identities. Women need to have privacy to survive, but men can find out where women live through various financial records.”*

— Sarah Ludwig, Co-Director, and Claudia Wilner, Staff Attorney, Neighborhood Economic Development Advocacy Project

- Children in foster care are twice as likely as their peers to drop out of school.<sup>101</sup>
- Once out of care, former foster youth experience high rates of poverty, homelessness, addiction, and involvement with the criminal justice system.<sup>102</sup>



New York Daily News, L.P., used with permission

**Grandparents Caring for Grandchildren.** According to the 2000 census, 299,133 grandparents were caring for grandchildren in New York City; in the last decade, that number has increased by 30%.<sup>103</sup> These custodial arrangements often occur because the children have been removed from their parents based on allegations of neglect or because the parents are in prison. And many of these grandparents are likely to be low income: in 2005, 22% of elderly heads of household earned less than \$10,000; the median income for older New Yorkers was \$23,415. While some receive foster care monies, others do not receive any financial assistance.

**No Advocacy Help in Contested Divorces or Child Support Cases.** Although there is a right to counsel in a variety of family related cases (see below), there is no right to counsel and there are few legal services advocates for low income clients who need help with a contested divorce and virtually none for those with child support problems. This means that:

- Low income women being divorced by monied spouses are unable to get appropriate spousal maintenance or equitable distribution of resources.
- Without counsel, custodial parents often have difficulty proving the income and assets of the noncustodial parents if they are self-employed or work in a family business.
- Low income noncustodial parents, usually fathers, often accrue insurmountable amounts of child support arrears because of unstable employment or incarceration.

*“Foster care is tenacious. Once children enter, it’s hard to extricate them. Parents know that even if they do everything that is in their service plan, ACS will raise the bar. They’ll say, ‘your apartment is too small, we don’t know enough about your new boyfriend.’ These things are not enough to remove a child from their parent(s), but they can be enough to keep a child in foster care.”*

—Mike Arsham, Executive Director,  
Child Welfare Organizing Project

With legal help, support orders can be modified so the custodial spouse will receive ongoing support at an appropriate level; without legal help, the non-custodial parent, overwhelmed by the unaffordable obligation, often refuses to pay anything or enters the underground economy, making enforcement nearly impossible.

### **A “Right” to Counsel in Family Court Proceedings**

Family law differs from all other areas of civil poverty law in that for several types of cases there is at least a theoretical right to counsel in Family Court: for both parents in child protective cases, custody and visitation, and family offense proceedings, and for respondents in contested paternity and child support contempt cases. Counsel can also be appointed for the custody and order of protection parts of contested matrimonials. However, it is likely that thousands of litigants do not receive the representation to which they are entitled.<sup>104</sup>

In recent years, rates for Assigned Counsel Plan members (who represent the bulk of low income litigants in Family Court) have been increased; as a result, more private attorneys have joined the panel and attorneys on the panel are taking more cases.<sup>105</sup> Federal Violence Against Women’s Act (VAWA) money has been awarded to legal services providers to serve victims of domestic violence since 1994. And, since mid-2007 the City has funded programs in three counties to represent respondent parents in child protective proceedings. Nonetheless, anecdotal evidence suggests that outside the area of child protective proceedings, many litigants who are eligible for appointed counsel do not receive it. Further, although there has been an increase in the number of lawyers available to represent respondents in child protective proceedings, there has also been an enormous increase in the number of cases: between the beginning of 2006 and the end of 2007, there was a 150% increase in the number of neglect or abuse petitions filed in New York City Family Court.<sup>106</sup>

#### **SOME IMPLICATIONS FOR LEGAL SERVICES PROVIDERS**

- The most pressing unmet need for legal services in the family law area is for counsel in contested divorce and in complex child support cases (i.e. other than those proceedings for an initial order of support where the noncustodial parent is a W-2 wage earner).
- Work is needed to stabilize funding for domestic violence advocacy, so that offices that build up staff and expertise with the use of VAWA and other funds don’t lose money arbitrarily from one grant cycle to another.
- The creation of the new institutional providers of parent representation in child protective cases provides an opportunity to learn about efficiencies that can be achieved through technology and other systems of practice, about what approach to representation is most effective, and about what systemic issues need to be addressed. The providers and other family law advocates should collaborate in devising and carrying out practice and system reform strategies.



*“Child welfare policies may have changed, but on the ground practice remains racist, sexist and classist. Lack of affordable housing continues to have major repercussions in the lives of families, and major problems with the public education system continue to leave youth with no education options and few choices for self-determined futures.”*

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—Kaela Economos, Social Worker,  
Legal Services NYC—Brooklyn Family  
Defense Project

# Health

Poverty is a direct indicator of the physical health and well-being of New York City residents. Low income people cannot pay for medical care and prescriptions; they are more likely to be exposed to health hazards, such as lead paint and cockroaches; and they are less likely to engage in physical exercise or take advantage of good nutrition.<sup>107</sup> Because of discrimination and a variety of other factors, low income African Americans and Hispanics suffer a disproportionate share of many health care problems.<sup>108</sup>

A high correlation exists between poverty and the likelihood of contracting specific diseases or health problems. Children from low income neighborhoods, for example, are more likely to have asthma than children from higher income neighborhoods (22% vs. 14%). Childhood asthma is “a leading cause of absences from school and the most common cause of hospitalization for children ages 14 and younger.”<sup>109</sup>

Poor health care also impedes an individual’s ability to seek work or advance in the work place. According to the low income New York City residents surveyed in the Community Services Society’s 2007 *Unheard Third Survey of Low-Income New Yorkers*, poor health care is one of the primary obstacles to getting and keeping employment.<sup>110</sup> As reported in the Department of Health’s 2004 report, *Health Disparities in New York City*, “[p]oor health makes it difficult for people to achieve high education levels and to obtain and keep well-paying jobs, which, in turn, can lead to poverty.”<sup>111</sup>

And poor health can lead to an early death. Life expectancy in New York’s poorest neighborhoods (South Bronx, East and Central Harlem and North and Central Brooklyn) is eight years shorter than in its wealthiest neighborhoods. Low income individuals are much more likely to lack health care coverage or a regular health care provider, and are also more likely to suffer greater numbers of some diseases that may result in premature death, such as diabetes, HIV/AIDS, and high blood pressure.<sup>112</sup>

Even among the working poor, lack of health care is a critical issue:<sup>113</sup>

- Despite working full-time, 31% of poor employees were unable to fill prescriptions and 23% had not gotten or were forced to postpone medical care.<sup>114</sup>
- Employer-sponsored health insurance for working poor New Yorkers has declined over the last six years. In 2002-03, 43% of poor New Yorkers received employer-sponsored health insurance. By 2006-07, the number of poor New Yorkers with employer-sponsored health insurance had declined to 33%.<sup>115</sup>
- Employer-sponsored drug coverage has declined dramatically—more than 15%—from 2003 to 2007.<sup>116</sup>

## *Health Insurance Options for Low Income Families*

### Medicaid:

Medicaid is a federal health insurance program that provides free or low cost health care benefits for eligible individuals of all ages. It covers a range of medical services, such as doctor’s visits, hospital costs, laboratory and other tests, plus skilled nursing care and home care services. Eligible individuals include those receiving Supplemental



*“Access to healthy nutrition is critical to education and general health... In lower income areas of Queens, food choices (grocery and prepared) tend to be over-priced, low-quality items.”*

—John Greiner, Chief Information Officer, Legal Services NYC

Security Income benefits (SSI) or public assistance, or those meeting stringent income and resource rules, ranging from 50% to 200% of the Federal Poverty Level.<sup>117</sup>

Medicaid also offers expanded Medicaid benefits through the state funded Child Health Plus and Family Health Plus programs. **Child Health Plus (CHIPS)** is a subsidized health insurance program that offers free or low cost care for children who are not eligible for Medicaid and whose family income is below 250% of the FPL; there are no citizenship or immigration eligibility requirement so undocumented children can be eligible. In New York City, over 142,000 children are now enrolled in this program, representing 39% of the statewide enrollment. Some estimates place enrollment in CHIPS as high as 88% of eligible children.<sup>118</sup>

**Family Health Plus** provides coverage to individuals older than 18 but younger than age 65, using higher income levels for eligibility, with coverage through managed care plans only. This program covers adults with dependent children and childless adults with income above the Medicaid limit, up to 100% of the FPL for childless single adults, 133% of the FPL for childless couples, and 150% of the FPL for parents.

#### Other Insurance Programs:

Health insurance through **Medicare** is available to Social Security recipients age 65 and older, disabled, or with end-stage renal disease. There are no income and resource eligibility requirements. Some low income Medicare recipients may also be eligible for Medicaid benefits. In these cases, Medicare is the primary payer and Medicaid is the secondary payer. Medicare has three important parts: Part A for hospital coverage; Part B for physician and outpatient coverage, plus durable medical equipment; and Part D, for prescription drug benefits.

Elderly New Yorkers may also be eligible for **Elderly Pharmaceutical Insurance Coverage (EPIC)** benefits to defray the cost of prescriptions, using a sliding scale of co-payments. Individuals with income up to \$35,000 a year may be eligible. Some individuals may have both Medicare Part D and EPIC benefits

#### **Barriers to Health Care**

**Many Who Are Eligible Are Not Enrolled.** In January 2008, more than 2.5 million people were enrolled in Medicaid programs in New York City. However, the New York City Mayor's Office recently estimated that as many as 20% of eligible individuals are not enrolled.<sup>119</sup> Lack of understanding about eligibility and application processes, often aggravated by language challenges, are the main reasons for enrollment problems. Clients with mental illness face even greater barriers to access and to continuation of benefits, since many have conditions that interfere with their ability to negotiate administrative requirements. Many seriously mentally ill individuals are homeless, so they often do not receive notices about their benefits through the mail.

Generally, the highest numbers of unenrolled but eligible people are found in the poorest neighborhoods. Enrollment rates are better for children than for adults.




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*“A lack of insurance encourages people to use emergency care as primary care.”*

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—Amy Carroll, Supervising Attorney,  
Make The Road New York

### Unenrolled Children and Adults by Neighborhood<sup>120</sup>

**Brooklyn:** Five communities have significant numbers of unenrolled children: Crown Heights North, Bushwick, Brownsville/Ocean Hill, Coney Island/Brighton Beach and Brooklyn Heights/Fort Greene. These same neighborhoods have the highest number of unenrolled adults, too.

**Bronx:** There are also five communities with large numbers of unenrolled children: Soundview/Parkchester, Melrose/Mott Haven/Port Morris, Hunts Point/Longwood, University Heights/Fordham/Mt. Hope and Riverdale/Kingsbridge/Marble Hill. The communities of Melrose/Mott Haven/Port Morris and Hunts Point/Longwood also have high rates of unenrolled adults.

**Queens:** Only one community has a significant unenrolled child population (Jamaica/St. Albans/Hollis), but four communities have large unenrolled adult populations: Astoria/Long Island City, Sunnyside/Woodside, Jackson Heights/North Corona and Jamaica/St. Albans/Hollis.

**Manhattan:** Only one community in Manhattan has a large number of unenrolled children (Washington Heights/Parkchester), but three different communities have large numbers of unenrolled adults: Manhattanville/Hamilton Heights, Lower East Side/Chinatown and Central Harlem.

**Staten Island:** There are no communities with large numbers of unenrolled children, but two communities have concentrations of unenrolled adults: Stapleton/Port Richmond and Tottenville/Woodrow/Great Kills.

While these neighborhoods generally have the highest poverty concentrations, two interesting trends emerge: (1) enrollment rates are better for children than for adults (the highest measure of areas with unenrolled children is more than 7,500 while the highest measure for unenrolled adults is 12,000); and (2) the communities of unenrolled children only correspond loosely with the communities of unenrolled adults.

**Many Who Receive Medicaid Are Disenrolled.** Enrolled Medicaid recipients must recertify every year, but pitfalls in the recertification process lead to the involuntary disenrollment of eligible individuals. A large number fail to submit recertification packages, while many others fail to provide sufficiently detailed income information. If eligibility is not reestablished, the individual loses coverage. Involuntary disenrollment rates run as high as 46%.<sup>121</sup> One study of the CHIPS disenrollment rates found that as few as 7% were actually financially ineligible at the time of disenrollment.<sup>122</sup> The process of enrollment, disenrollment and loss of coverage, followed by re-enrollment, is known as churning. Thousands of low income families lose months of coverage each year as a result. Eligible elderly individuals, often homebound or frail, are at a particular disadvantage when it comes to navigating the complex application and recertification processes.

**Language Barriers Prevent Many Low Income Residents From Getting Appropriate Health Care.** According to The New York Immigration Coalition’s report *Language Access to Health Care*, hospitals do not always provide limited English proficient patients with an interpreter—which violates federal, state and local laws.<sup>123</sup> Patients reported they did not receive medical forms in their language or any translation of the medical forms, and that they were forced to rely on unskilled interpreters such as children or even random strangers—leaving them confused or uninformed about care options or medical conditions and unable to ask questions about their conditions. Problems are compounded when these patients are unable to pay their medical bills or negotiate their hospital bills, again because of language issues.

Language barriers also present serious problems for applicants in Medicaid offices. Legal Services NYC’s 2007 study of New York City Medicaid offices noted that “Medicaid offices were particularly inaccessible to limited English proficient clients and lagged far behind in provision of translated applications. Of the 19 Medicaid offices surveyed citywide, not one provided applications in all six covered languages.”<sup>124</sup> Forty-two percent of New York City Medicaid offices did not provide legally required interpreter services.<sup>125</sup>

#### **SOME IMPLICATIONS FOR LEGAL SERVICES PROVIDERS**

- Neighborhoods with the highest poverty concentrations have the highest rates of individuals who do not receive Medicaid and other available health insurance. It is not difficult to identify and target those areas for outreach and enrollment assistance in order to increase enrollment in available programs. Legal assistance to challenge wrongful denials, terminations and other eligibility barriers should also be provided.
- The re-certification process has been simplified, but more progress can be made to reduce the number of flawed applications by reducing the number of criteria for which documentation must be provided. Local districts can provide more assistance by cross checking eligibility in other public benefits programs to confirm eligibility for Medicaid.<sup>126</sup> Because low income families are disenrolled at higher rates than others, advocates should provide assistance, learn about systemic problems, and work to address those barriers to recertification.<sup>127</sup>

#### **Environmental Problems that Adversely Affect the Health of Low Income Communities**

Low income communities of color in New York City bear an unfair burden of environmental hazards that both depress local economies and damage residents’ health and quality of life. Such burdens include **brownfield sites** and **waste transfer stations**.

**Brownfields** are real property, often vacant, that may contain a hazardous substance or contaminant.<sup>128</sup> Reuse of these properties takes development pressures off undeveloped, open land, and can both improve and protect the environment. However, when these sites are redeveloped or reused, careful clean up is essential. With land scarce in New York City, new public school

construction is often proposed for highly contaminated brownfields. This is problematic since toxic chemicals can be especially harmful to children in both the short and long term.<sup>129</sup>

For example, the City plans to build four schools on a contaminated property in the South Bronx. Toxins found on the property, referred to as the Mott Haven Site, include mercury and lead, as well as suspected carcinogens such as benzene and TCE.<sup>130</sup> Only careful clean-up efforts that prevent stirring dormant contamination and seepage into the soil will eliminate these tremendous health hazards.<sup>131</sup>

Another example is a proposal to build a Gateway to Health Sciences High School at a site located near the Queens Hospital Center that once housed a morgue and stored ambulances. Significant remediation is required to remove toxins in the soil, which include toluene, a gasoline byproduct, and formaldehyde, used in embalming. Community groups and legal organizations have successfully lobbied city officials to adopt a stricter remediation plan for this site.<sup>132</sup>

Low income and minority communities also suffer from proximity to **solid waste (garbage) transfer stations**. There are a total of 66 stations throughout the five boroughs that handle a total of 47,105 tons of waste per day.<sup>133</sup> Sixty-one percent of all stations are clustered around two neighborhoods, Greenpoint/Williamsburg in Brooklyn and Hunts Point/Port Morris in the Bronx.<sup>134</sup> Taken together, the two neighborhoods bear 73% of the City's waste. Other transfer stations are concentrated in Red Hook, Jamaica, Flushing and East New York. By comparison Manhattan has only one transfer station.<sup>135</sup> Each station creates great potential health hazards due to constant truck traffic, noise, odor, dust, vermin and leaching fluids, diminishing the quality of life in the neighborhoods in which they are located. Daily exposure to noxious substances spewed by diesel trucks contributes to high levels of asthma among children and the elderly that are among the highest in the nation.<sup>136</sup>

To solve the problem of land-based stations, some organizations advocate for retrofitting the City's Marine Transfer Stations (MTS's) to compact, containerize and export residential waste via water. The Mayor's plan, adopted in 2002, contemplates moving commercial waste through the MTS's, closing many land-based waste transfer stations.<sup>137</sup> However, alleviating odor and traffic on land may create new problems for other communities. For example, a recent proposal to construct a Gravesend Bay MTS, which will require dredging to permit bigger barges, has met concerns that dredging would release lead, PCB's, mercury, toxic ash and other contaminants into the water, spoiling boating and fishing in the bay and creating a health risk.<sup>138</sup>

# Consumer/Finance

High cost credit, a variety of predatory lending practices—usually targeted at low income, often elderly, people of color—and the aggressive tactics of the burgeoning debt collection industry, have created a “perfect storm” of dramatically increasing, inescapable debt for low income New Yorkers. Low income workers, in particular, have become susceptible to predatory lenders and high pressure debt collectors. Interest payments are astronomical, saving is impossible, and it is an increasing challenge to meet the most basic human needs. The Urban Justice Center estimates that 400,000 poor households in New York City spend 40% of their income on bills and debt payments, and an additional 50% on rent.<sup>139</sup> Excessive debt can make it impossible to escape poverty.

## *Problems Faced by Low Income Consumers*

### Credit Card Debt

Credit cards, while providing some safety valves for those unable to meet unplanned needs, have largely been a disaster for low income households. Credit card companies have become increasingly sophisticated at enticing users and locking them into unjustifiable and wildly escalating interest rates. The high cost of credit has been shifted to those least able to afford it. As reported by the Economic Opportunity Program at the public policy center Demos, “low income families and households of color, primarily African Americans and Latinos, bear the brunt of the cost of credit card deregulation through excessive fees and high interest rates. From 1989 to 2004, credit card debt among very low income (\$9,999) credit card-indebted households quadrupled....”<sup>140</sup> Seniors have also been particularly hard hit: “Average revolving balances among indebted seniors over 65 increased by 193% from 1989 to 2004, from \$1,669 to \$4,906 (in 2004 dollars).”<sup>141</sup> Nationally in 2004, families in the bottom 20% of household income carried the highest proportion of credit card debt—9.5% of their income—compared to 2.3% for the top 20% of households.<sup>142</sup>

### Predatory Lending

- **Predatory and Subprime Mortgage Lending.** “Predatory” lending practices have plagued New York City’s lower income neighborhoods and communities of color for more than a decade, and are a major cause of the foreclosure crisis that is sweeping over the city. Predatory lending describes a wide variety of abusive and discriminatory home purchase and refinancing lending and real estate practices targeted at low income homeowners—often elderly, and African American and Latino. People are made loans they cannot afford from the outset, equity is stripped, homes are lost to foreclosure and communities are destabilized. A longer description of the practices and problems they create is included above in the Housing section of this report.
- **Sub-prime Credit Cards** have caused a massive escalation of the debt carried by low income New Yorkers. They have extremely high interest rates and fees, very low credit limits, and are marketed to people who do not believe they can qualify for less costly credit. The fees are so expensive that “[a] new cardholder might easily and immediately exceed a credit limit without making any charges, simply by accruing fees and interest on those fees.”<sup>143</sup> The Urban Justice Center estimates that 30% of the cases filed in the New York City Civil Court involve debt related to sub-prime credit cards.<sup>144</sup>



*“Exploding credit card debt is at the root of many of our clients’ consumer problems, including home mortgage problems.”*

—Margaret Becker, Director, Homeowner Defense Project, Staten Island Legal Services

- **Tax Refund Anticipation Loans (RALs).** Tax Refund Anticipation Loans (short-term cash advances against a customer’s anticipated income tax refund) are generally offered by tax preparation agencies (Jackson Hewitt, H&R Block, etc.). RALs come with an annual interest rate of anywhere from 40%–700%, depending on the anticipated refund amount.

According to the Neighborhood Economic Development Advocacy Project’s 2007 report on “Predatory Tax-Time Loans,” between 2002 and 2005 New Yorkers lost a shocking \$324 million of their tax refunds and credits through RALs.<sup>145</sup> In 2005 alone, New Yorkers paid more than \$75 million in RAL-related tax preparation fees. “RALs are overwhelmingly concentrated in predominantly African American and Latino neighborhoods.”<sup>146</sup>

- **Trade School Abuses.** Unfair and deceptive practices by trade schools—often vocational and correspondence schools that prey upon low income adults hoping to improve themselves—are another form of predatory “lending.” Schools promise an education, a higher paying career, and obligate students to pay thousands of dollars in fees and tuition. In the worst cases, schools offered sub-par educations, no placement services, or simply closed, leaving students with significant debt and no employment prospects. “The tragedy of trade school fraud is that it robs vulnerable people of their dreams.”<sup>147</sup> Although the worst abuses of the past have diminished, hopeful students are still being saddled with debt and often getting little in return. Fortunately, student loan debt may be discharged under some circumstances, for example: if the school closed before the student completed the program, if it falsely certified that the student was qualified to benefit from the program, or if it forged the student’s signature.<sup>148</sup>
- **Rent-To-Own.** Rent-to-own stores lease household goods, such as furniture, tools, electronics, appliances and computers to working poor people. People make relatively small weekly payments over a period of time, which can appear more financially manageable than paying for an item outright. Rent-to-own transactions, however, are not, in fact, rental agreements, but usurious loans with interest rates in the triple digits. Consumers end up paying significantly more than the manufacturers’ suggested retail prices (MSRPs). A 2001 investigation by the New York City Department of Consumer Affairs found that New York’s 40 Rent-A-Centers typically charged triple the MSRPs.<sup>149</sup> Rent-to-own stores exploit the lack of access to affordable credit in lower income neighborhoods. According to the Neighborhood Economic Development Advocacy Group (NEDAP), Rent-a-Center, which dominates the rent-to-own market in New York City, has located virtually all of its outlets in low and moderate income communities of color in New York City.

### Old Judgments Create New Problems for Many Low Wage Workers

Many low wage workers who are making the transition from welfare to work were “judgment proof” when they were on public assistance; those judgments (from nonpayment cases, medical debt and the like) could not be collected. However, those “old judgments” (which can be legally collected for up to 20 years) can prove problematic for low wage workers who have moved off public assistance: creditors can collect the judgments by garnishing wages and restraining bank accounts, thus creating debilitating financial problems for the newly employed.

### Identity Theft

Identity theft is an increasing problem for all New Yorkers, and causes special problems for low income victims, many of whom are unable to pursue the complicated claims system either in state court or through the federal Fair and Accurate Credit Transactions Act of 2003.<sup>159</sup> According to one study, New York State has the highest incidence of identity theft of all 50 states, and New York City has the highest level of reported cases in any metropolitan area in the country.<sup>160</sup> In May 2005 the New York City Council reported that, of the 16,000 cases of identity theft reported in New York State, two-thirds occurred in New York City.<sup>161</sup>

### Unfair Debt Collection Practices

There has been an explosion of debt collection litigation in the past decade. In New York City Civil Court, non-landlord/tenant civil filings have increased 300% in five years, in large part as a result of consumer credit litigation.<sup>150</sup> More than 320,000 consumer debt collection cases were filed in New York City Civil Court in 2006, over 50% of the total cases filed in the Civil Court. In the Bronx, 65% of all civil filings were related to consumer credit issues.<sup>151</sup>

According to the Department of Consumer Affairs (DCA), there was a 70% increase in the number of consumer complaints the agency received about debt collection practices between 2004 and 2006.<sup>152</sup> Most common complaints are “attempts to collect invalid debts, home and workplace harassment, and improperly damaged credit histories.”

Creditors typically sell debt to third parties, who then aggressively seek to collect that debt by phone, harassing letters and in court. In New York City, 89% of the collectors are debt agencies. Most New Yorkers “are sued by companies with which they have no prior relationship.”<sup>153</sup>

Because defendants fail to appear in court more than 90% of the time,<sup>154</sup> and because they almost never have representation, it is impossible to tell how many of these cases involve legitimate debt claims. However, third party lenders almost never have sufficient documentation of their claims. Hence, many debtors could stop creditors from getting a judgment with relatively little legal intervention.

### Lack of Banking Services

It can be very difficult for low income New Yorkers to open and maintain bank accounts. For decades, banks “redlined” low income neighborhoods, refusing to provide services where they would be accessible to low income people. More recently, and under pressure from community activists and others using the federal and state Community Reinvestment Acts, banks have made more services available. But often, bank accounts for low income consumers include hidden fees and charges and require minimum balances that are impossible for low income families to maintain.

Since 1994, New York State’s *Lifeline Basic Banking Law* has required banks to offer “no-frills” bank accounts to low income customers.<sup>155</sup> However, many consumers are unaware of these accounts, and many banks do not provide all of the required benefits. In June 2008 the Department of Consumer Affairs released a *Neighborhood Financial Services Study* that analyzed supply and demand of the financial services needs of low income New Yorkers in Jamaica and Melrose. Among other things, the study found that the unavailability of appropriate services, rather than a lack of physical proximity, leads many low income New Yorkers to eschew banks in favor of more expensive check cashing services.<sup>156</sup> According to “No Money in the Bank,” the New York City Council’s May 2008 press release regarding its report titled *Access to Financial Institutions for NYCHA Residents*, 24% of NYCHA residents lack basic banking services; 53% use check cashing services; and 50% of those with bank accounts still use check cashing services.<sup>157</sup>



*“Being in debt and being sued for debt are major problems. Not enough information is available to people; they are sued for money they don’t owe; they are served with over-reaching papers. Getting a judgment is now more consequential than it was even 8-10 years ago. Credit scores become unacceptably low, and you can’t get a place to live, can’t get a job.”*

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—Fern Schair, Board Chair, Legal Services NYC

### Obstacles to Filing for Bankruptcy

For most consumers over their heads in debt, the solution is bankruptcy. Bankruptcy relief has always been difficult for poor New Yorkers to obtain because of the complexity of the bankruptcy system and the lack of free or low-cost bankruptcy assistance.

- The passage of Bankruptcy reform, in 2005, made it dramatically harder for Americans to obtain bankruptcy relief. Filings dropped from over two million in 2005 to under 600,000 in 2006 and just over 800,000 in 2007.<sup>158</sup>
- Many of the debtors who file *pro se* do so through bankruptcy petition preparers, who often give bad legal advice (they're not supposed to give *any* legal advice), which results in the petitions being rejected.

### SOME IMPLICATIONS FOR LEGAL SERVICES PROVIDERS

- Since the vast majority of consumer debt cases result in default judgments because the alleged debtors fail to go to court, and since the vast majority of creditors are unable to prove their cases, outreach and education that informs consumers about their rights and the importance of going to court to challenge creditors' claims could have significant results.
- Many creditors and debt collection agencies violate the Fair Debt Collection Practices Act with impunity. Litigation targeted at certain creditors and debt collectors has the potential to change the illegal practices of bad actors and to educate the courts in the process.
- Bankruptcy is a viable option for many low income debtors: they can both reduce or eliminate debt and learn about the importance of money management. Programs that provide *pro se* and other advocacy assistance to debtors should be expanded.
- The foreclosure crisis has created unprecedented government interest in funding education, mortgage counseling and legal services for home owners with unaffordable subprime loans. With effective coordination and collaboration, advocates have the potential to change subprime lending practices and foreclosure procedures for decades to come.

## AREAS OF HUMAN NEED IN NEW YORK CITY

### TRANSFORMING LIVES

Most legal services providers spend the majority of their resources helping clients meet basic human needs—preventing evictions; securing safety for victims of domestic violence; helping clients get welfare benefits or disability payments. The best legal services work has always aspired to be transformative, as well: we hope that our advocacy will help to stabilize our clients’ lives, but also that it will help to provide a foundation from which our clients can transform their own lives and communities.

Education and employment are essential parts of a successful, satisfying life. A person can thrive without them, but life will almost certainly be easier with them. By lifting barriers to high-quality education and satisfying and sustaining employment we can help low income individuals and families move out of poverty and transform their lives.

Providing legal services to young people and those who are attempting to get and keep decent jobs has synergistic potential. The New York City Commission for Economic Opportunity has targeted three “high-poverty groups with the capacity to make demonstrable progress towards long-term financial stability in a few short years”: children, ages 0-5; young adults, ages 16-24; and low-wage workers.<sup>162</sup> These groups were chosen because of their particular challenges and because of their potential for transformation: young children living in poverty “face a disproportionate number of risk factors that jeopardize their well-being and life outcomes”; young adults are “more likely to be disconnected from work or employment... [t]his situation will only worsen as employers increasingly demand higher levels of education and skill”; and an “ever-widening skills gap and stubborn wage stagnation require strategic approaches to raise the living standards of low-wage workers.”<sup>163</sup>

This section describes some of the challenges faced by those who are attempting to get a quality education or keep a good paying job. Because the City is pouring millions of dollars into programs and services designed to meet the needs of these populations, and because most legal services programs have not committed substantial resources in these areas, numerous opportunities exist for new collaborations and improved outcomes for clients.

## Education

One of the best ways to serve the City’s children and youth is to ensure that they receive a proper education in a nurturing, mutually respectful, supportive environment so that they stay on track, graduate and become productive members of the community. Getting students the educational help they need early on minimizes feelings of frustration and despair that contribute to academic failure, disconnectedness and high drop out rates.

The New York State Constitution guarantees all students the right to an education, and the New York State Court of Appeals has interpreted this constitutional mandate to require the state to provide an education that would provide the “basic literacy, calculating and verbal skills necessary to enable children to eventually function productively as civic participants capable of voting and serving on a jury.”<sup>165</sup>




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*“The surest way for a person who is born into poverty to rise out of it is to succeed at school.”<sup>164</sup>*

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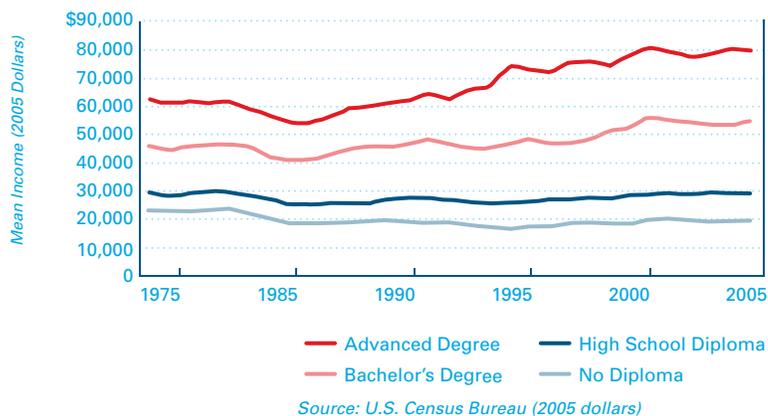
—The New York City Commission for Economic Opportunity, “Strategy and Implementation Report.” (December 2007)

School-aged children have a broad variety of other education-related rights, including rights for students with disabilities, rights to transportation, rights for students and families with limited English proficiency, rights for students in failing schools, rights for students facing discipline, and rights for students in housing or domestic violence shelters or other substandard or temporary housing situations. However, although a small number of specialized legal services programs do dynamic work on education issues, most legal services providers do not provide extensive services to low income families with education-related problems; as a result many of these rights are not realized.

For many reasons, the graduation rate in New York City public schools ranks “43<sup>rd</sup>—lowest amongst the Nation’s 50 major cities.”<sup>166</sup> In 2006 New York City showed a graduation rate of only 50%.<sup>167</sup> Furthermore, more than half (50.5%) of English Language Learner (ELL) high school students drop out of school, as opposed to 32% of overall high school students.<sup>168</sup>

Students who fail to graduate often lose the lifelong benefits of a quality education, including both the potential for a richer intellectual and cultural life and the potential for significantly increased earning potential.

Relationship Between High School Diploma and Salary



City Limits Investigates. “Exit Strategy: Sizing Up NYC’s Dropout Challenge” (Winter 2008).

### Young People in New York City

New York City has the largest educational system in the country with nearly 1,500 schools that serve over a million school children.<sup>169</sup> Of these students, more than 70% fall at or below the Federal Poverty Level.<sup>170</sup> Over 185,000 (one out of three) young children (ages 0-5) are poor,<sup>171</sup> and nearly 572,000 (more than one out of three) children under 17 are living below the poverty line.<sup>172</sup> Approximately 40% of school-aged children in New York City come from homes where English is not the first language and about 13% are ELL students.




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*“Educational gains for poor students with disabilities are dismal. The focus on high stakes testing and corporate management models robs the Department of Education of its ability to help the neediest students.”*

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—Nelson Mar, Senior Staff Attorney,  
Legal Services NYC—Bronx

The Community Service Society recently estimated that there are over 163,000 “disconnected” young New Yorkers (ages 16-24) who are unemployed and out of school; an additional 60,000 young New Yorkers are unemployed but actively seeking work, for a total of more than 223,000 who are not in school and not working—nearly one in five.<sup>173</sup> In other words, a large percentage of young people of every age group in New York City do not have the necessary resources to meet their basic needs.

Low income youth, like low income New Yorkers generally, are predominantly people of color. The “disconnected youth” referred to above, for example, “are overwhelmingly people of color: 43% are Latino and 30% are African American.”<sup>174</sup>

### **Barriers to Education**

In the landmark fiscal equity litigation, *Campaign for Fiscal Equity*, the New York State Court of Appeals held that many New York City public schools had inadequate teaching, facilities, text books, technology and other resources and that funding was inequitable. Further, a “mismatch” was noted between student need and the quality of teaching provided to meet that need.<sup>175</sup>

Given these findings, New York City public school children face an uphill battle to achieve a quality education. For some children these challenges are aggravated by other problems.

- **Children who are the subject of disciplinary proceedings.** The City has a high level of student suspensions, especially among people of color; the number of suspensions has grown significantly since 2000.<sup>176</sup> Studies in recent years link the growing rates of suspensions, dropout rates and lower school performance in City schools with increased police presence. “Since the New York Police Department took control of school safety in 1998, the number of police personnel in schools, and the extent of their activity, has skyrocketed. The NYPD’s School Safety Division alone constitutes the tenth largest police force in the country.”<sup>177</sup> Schools that have permanent scanning devices spend on average \$3,000 less per student than other schools.<sup>178</sup> Resources spent on zero tolerance policies equal resources lost for students in need.

“Every day 93,000 New York City school children are forced by the police department to undergo extreme security measures with no probable cause or means for redress. If you treat children like criminals, they will fulfill those expectations. The stakes are too high to allow these policies to continue,”<sup>179</sup> said Elora Mukherjee, author of the report, *Criminalizing the Classroom: The Over-Policing of New York City Schools*.

- **Children with special needs.** Statistics regarding children with disabilities are bleak. A study done by New York Lawyers for the Public Interest reported that only 11.8% of students who receive special education services graduate from high school with a Regents diploma in New York City, as compared with 58% of the total population.<sup>180</sup> Studies show that education supports and interventions at an early age have an enormous impact on future success in school.

- **School pushout.** Students who are “encouraged or forced to leave school for reasons that are against the law” are “pushed out” of school and may not return.<sup>181</sup> Pushout occurs when students are encouraged to leave school because they have bad grades; when they are told they don’t have enough credits to graduate; and when they do not get support services (e.g., for pregnant students or those who are parents). Advocates for Children has engaged in a multi-year advocacy and litigation campaign to end many of these practices and their recommendations can be found in their 2008 report, *School Pushout: Where Are We Now?*<sup>182</sup>
- **Lack of adequate translation services for immigrant youth.** The Coalition for Asian American Children and Families (CACF) released a report in May 2008 highlighting the barriers that immigrant families face in accessing early childhood education in New York City.<sup>183</sup> Some of the problems they identified are:
  - Language barriers and cultural stigma undermine the effective delivery of education services.
  - Parents’ knowledge of options is limited and parents are hesitant to seek services due to concerns over immigrant status and mistrust of the government.
  - Services are delivered through a maze-like system that is difficult to navigate for limited English proficient parents.
- **Overage and under-credited youth.** Another extremely vulnerable subclass of students that has been overlooked by the system is overage and under-credited youth, defined as students who are two years behind their expected age and credit accumulation in high school.<sup>184</sup> These students make up approximately 10% of the overall student population in New York City. Despite the large numbers of such at-risk students, the City has insufficient educational supports and program opportunities available for them.<sup>185</sup> This student population needs additional assistance and advocacy.

### **Other Issues that Create Barriers to Education**

**Homelessness.** Recent studies show that of the approximately 35,000 homeless in New York City at least 20,000 are children.<sup>187</sup> Homeless children and students in transitional housing move with more frequency than other children causing problems with enrollment, transportation and school attendance. Although laws and regulations exist to assist these students, parents, schools and advocates are not widely familiar with them and consequently many youngsters fall through the cracks and miss valuable school time.

**Youth Aging Out of the Foster Care System.** Young people who have been in foster care and are aging out of the system find few supports to help them live independently or to complete their education. “Each year more than 1,200 young adults 18 and older leave the New York City foster care system, but only 22 percent are reunited with their families or adopted. Historically, more than one in four becomes homeless.”<sup>188</sup>



*“Today, young people are being suspended, arrested and otherwise pushed out of schools for behavior that would be better addressed by the guidance counselor or a visit to the principal’s office. As a result of these harsh zero tolerance policies, many will enter the ‘school-to-prison pipeline.’ Our kids deserve better.”*

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—Tara Foster, Senior Staff Attorney,  
Queens Legal Services

**Youth Who Were Formerly Incarcerated.** The New York City Department of Juvenile Justice reports that in 2007, 5,884 young people were admitted to either secure or non-secure detention.<sup>189</sup> The top five Community Districts for youth admitted to detention were East New York, South Jamaica, Bedford-Stuyvesant, Brownsville and Soundview. Forty-three percent of admissions were 15 years old while 24% were 14 years old and 9% were 13 years old. “More than 3,500 youth return to their communities [each year] from youth detention and face extreme difficulty in transitioning to higher education and securing meaningful work. Chronic unemployment also plagues the thousands of youth who re-enter the community after incarceration.”<sup>190</sup>

**Teen Pregnancy.** The New York City Commission for Economic Opportunity reports that, “[w]hile the rate of teen births in New York City has been declining over the past ten years... the strong correlation between teen pregnancy and poverty continues... The same community districts that have the highest rates of poverty have the highest rates of teen pregnancy. For example, the community district that has the highest poverty rate, Mott Haven in the Bronx, also has the highest rate of teen pregnancy, at 16 percent.”<sup>191</sup>



*“We face a choice: invest now in re-engaging these young people, or pay later for the consequences of our inactivity.”<sup>186</sup>*

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—Community Service Society, “Out of Focus: A Snapshot of Public Funding to Reconnect Youth to Education and Employment.” (June 2008)

#### **SOME IMPLICATIONS FOR LEGAL SERVICES PROVIDERS**

- Legal services providers should increase advocacy for students facing discipline and students with special needs—a necessary step in helping at-risk clients such as students of color, homeless and ELL students.
- Community capacity to address education system problems should be enhanced through trainings for lay advocates and collaboration with community based organizations, public officials and parent groups.
- Reform of the punitive and arbitrary school system responses to discipline cases is necessary to protect the due process rights of all students. Policy work and impact litigation in this area would greatly help our client communities.

# Employment

For most people, steady, well-paid employment is essential for a stable, productive and satisfying life. In the wake of welfare “reform,” the low wage workforce has exploded. New York City’s welfare rolls are one-half of what they were in 1995, and a huge number of formerly unemployed low income New Yorkers are now employed. Between 1990 and 2005, the number of working poor families rose by nearly 75% in both New York City and State.<sup>192</sup>

More city residents are working, but they remain poor.<sup>193</sup> Remarkably, 46% of the poorest families in New York City (those under 100% of the Federal Poverty Level) were headed by a worker in 2006; in 1989, only 29% of those families were headed by a worker.<sup>194</sup> As the New York City Commission for Economic Opportunity reported in 2006: “The share of working individuals that do not earn enough to move above the poverty line continues to grow.”<sup>195</sup> Insufficient wages, lack of benefits, and wage and hour exploitation by employers all plague low wage workers who are trying to earn a steady income sufficient to meet family needs.

## *Demographics of New York City’s Low Wage Workers*

- In New York City, non-Latino blacks (at 29.2%) and Latinos (at 38.3%) jointly account for more than two-thirds of the low wage workforce.<sup>196</sup>
- Nearly two-thirds of New York City’s low wage workforce is foreign born; about a third (34.7%) arrived in the U.S. after 1989.<sup>197</sup>
- From 1996 to 2000, the proportion of New York City’s single mothers who were employed rose by 17% (from 42.2% to 59%).<sup>198</sup>

## *Primary Problems Faced by Low Wage Workers*

**Low Wage Workers Often Lack Job Benefits.** In addition to inadequate pay, low wage workers often lack employer-provided job benefits. Health benefits and paid leave, such as vacation, sick, and personal days are not part of the compensation package for a low wage job.

**Health Insurance.** According to low income workers, the percentage of New York City’s workforce with employer-sponsored health insurance and drug coverage has declined over the last six years.<sup>199</sup> Only about one-third of those surveyed in 2007 received health insurance for their families from their employer. Additionally, less than one-fifth received prescription drug coverage from their employer.<sup>200</sup> As a result, almost a third of those surveyed have gone without medical care and prescriptions due to lack of money and insurance.<sup>201</sup>

**Sick Leave.** Most of New York City’s low wage workforce do not receive a single day of paid sick leave. Over half of low income working mothers (52%) lack paid sick days to care for themselves or their children.<sup>202</sup>

**Wage and Hour Violations Are Standard Business Practice in Low Wage Industries in New York City.** In New York City’s low wage labor market, “workers are paid off the

### **Legal Services NYC 2008 Staff Survey**

**When surveyed in April 2008, Legal Services NYC staff ranked the following as the four most pressing Employment problems for low income New Yorkers:**

1. Lack of decent jobs with decent pay
2. Lack of job benefits – including health care, as well as paid or unpaid sick and/or family care leave
3. Criminal records posing barriers to employment
4. Difficulty getting Unemployment Insurance Benefits

*“The fact is that you can work very hard and still be poor.”*

—Lorna Blake, Executive Director, The IOLA Fund for the State of New York

books, don't get paid on time, get paid too little, and don't get paid for overtime."<sup>203</sup> Many of these wage and hour violations have been well-documented:

- A 2006 study of working conditions among domestic workers in New York City found that two-thirds (67%) of workers are not receiving overtime pay although most worked more than 50 hours per week.<sup>204</sup>
- In 2005, 59% of New York City restaurant workers studied reported overtime wage violations, 57% reported working more than four hours straight without a paid break, 13% reported minimum wage violations, and 19% of tipped workers reported that management illegally takes a share of their tips.<sup>205</sup>
- In 2001, about half of the garment-manufacturing businesses in New York City violated overtime and minimum wage requirements under the Fair Labor Standards Act.<sup>206</sup>
- In 2000, the U.S. Department of Labor found that 60% of nursing homes routinely violated overtime, minimum wage, and/or child labor laws.<sup>207</sup>
- In 2007, the U.S. Department of Labor collected over \$52.7 million in back wages for approximately 86,500 workers in low wage industries—an increase of over 33% since 2003.<sup>208</sup>

**Lack of Knowledge About Work Supports.** The federal government spends billions of dollars each year on a variety of work supports—child care subsidies, Food Stamps, Earned Income Tax Credit and Medicaid—that are available to most low wage workers. But many workers either don't know about the benefits or assume only those on welfare are eligible. For those who are transitioning from welfare to work, many of the benefits are supposed to be provided without interruption but are instead cut for a variety of reasons. Those who find out about the benefits and seek to apply for them encounter an arduous and time-consuming process: "Most require multi-page applications, official documentation, in-person interviews and a felicitous attention to detail."<sup>209</sup>

**The Primary Problem for Low Wage Workers Is Low Wages.** The wage decline for low wage workers has contributed to a significant income gap between rich and poor. New York City has the widest income gap in the country: the top 20% earn more than 10 times the amount earned by the bottom 20%.<sup>211</sup>

From the late 1980s through the mid-1990s, wage declines for low wage workers have been dramatic. For example, weekly earnings tumbled by about 15% for workers in less-skilled service occupations. Over the same period, only the top 20% of wage earners have enjoyed wage increases.<sup>212</sup> Wage declines for low wage workers continued from 2000 to 2006. Real wages for workers at the bottom 25% of the wage ladder fell by 3.3% from 2001-2006.<sup>213</sup> During the same period, real wages for workers at the bottom 10% of the wage ladder fell by 2.4%.<sup>214</sup> By comparison, the "average" wage for private sector payroll jobs in New York City rose by 8.5% during that period.<sup>215</sup>



*"New York is the fourth most racially segregated metropolitan area in the country. That segregation creates barriers to jobs, education, transportation, and good city services."*

—Diane Houk, Executive Director,  
Fair Housing Justice Center

#### **Lack of Child Care**

Lack of child care is a major problem for low wage workers. Quality care is hard to find, and qualifying for child care subsidies can be onerous. For example, low wage workers are required to comply with a "child support cooperation" obligation that may require them to spend numerous hours in Family Court or to interfere with informal child support arrangements. The penalty for noncompliance is that the parent is found ineligible to receive the subsidy. Advocates are pushing the state to eliminate that requirement as it creates a serious barrier to those who are trying to get the subsidy and stay in the workforce.<sup>210</sup>

#### **SOME IMPLICATIONS FOR LEGAL SERVICES PROVIDERS**

- Legal services providers should actively engage in legislative reform to bring about living wages, paid sick days and other reforms to increase employment related benefits available to low wage workers.
- Given the widespread nature of wage and hour violations, legal services providers should screen all low wage workers for unpaid or underpaid wages—as well as employ a multi-forum advocacy approach, in collaboration with other advocates and enforcement agencies, to attack this issue. Advocacy strategies should include individual and collective actions, documentation of workplace abuses coupled with media advocacy, industry or sector-specific enforcement, and administrative advocacy to strengthen wage and hour law enforcement by the State Department of Labor.
- Legal services providers should improve the delivery of employment law services to immigrant communities and communities of color by taking proactive steps to ensure that our services are accessible. Language accessible services and intake procedures (including legal clinics) that are available during non-traditional hours, such as nights and weekends, should be made available to accommodate the needs and schedules of low wage workers.



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*“People who are working don’t have time to get what is coming to them. They can’t afford the time necessary to attend a fair hearing.”*

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Kenneth Lam, President, Chinese Community Social Service and Health Council



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*“There is massive non-compliance with basic wage and overtime laws. We see this in the restaurant industry, low-end retail, and small factories. Wall-to-wall non-compliance. People work crazy hours to try to support their families. The economy depends on the willingness of some people to work 24 hours and not get what they are entitled to, much less a living wage.”*

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—Amy Carroll, Supervising Attorney, Make The Road New York

## DISCRETE POPULATIONS WITH UNIQUE NEEDS

All low income people experience some (sometimes many) of the legal needs described above. But certain groups of low income people—immigrants with limited English proficiency, people with criminal records, seniors and those with disabilities or HIV/AIDS, members of the LGBT community and veterans and servicemembers—face additional challenges that are tied inextricably to their circumstances and status. In highlighting these populations, our intent is to describe the unique problems they face and some advocacy strategies to address them.

# Immigrants in New York City— The Newest New Yorkers

Poverty is a reality for many immigrants and their families<sup>216</sup>—and with devastating results:

- Immigrants in New York City are nearly three times as likely to worry about food or to be hungry than the overall population.<sup>217</sup> One-third of children with immigrant parents live in families that have difficulty affording food.<sup>218</sup>
- Forty percent of legal permanent residents entering New York after 1996 had incomes in 1999-2000 below the Federal Poverty Level—a rate double that of the City as a whole.<sup>219</sup>
- In New York City, 28% of non-citizen children and 8% of citizen children in immigrant families were uninsured, versus 6% of children in native citizen families.<sup>220</sup>
- Immigrant families, although frequently poor, are mostly working families. Nearly 75% of low income immigrant families include a working adult.<sup>221</sup>

Language barriers further exacerbate these problems: a recent study of immigrants in New York City found limited English proficiency to be closely related to low earnings, poverty and hardship. In New York City, 59% of limited English proficient residents live below 200% of the FPL, and 34% have incomes below 100% of FPL.<sup>222</sup> The study found that the need for public benefits was more closely associated with limited English proficiency than either legal status or period of arrival to the United States; for example, the study found that 50% of families in New York City with adults who spoke no English at all were food insecure.<sup>223</sup> In addition to language barriers, culture and a lack of familiarity and trust can create additional barriers for immigrants seeking assistance.

### *Legal Needs of Low Income Immigrant New Yorkers*

**Low income immigrants lack access to legal services for immigration-related issues.** Immigration legal services include assistance with naturalization, obtaining legal status, family reunification petitions, and defense in removal and deportation proceedings. Of these services, assistance with naturalization stands out as a legal intervention that has the potential to transform the opportunities available to low income

#### **Legal Services NYC 2008 Staff Survey**

**When surveyed in April 2008, Legal Services NYC Staff ranked the following as the four most pressing problems for low income New York immigrants:**

1. Difficulty gaining legal status
2. Lack of access to public benefits
3. Difficulty accessing benefits and services because of limited English proficiency
4. Fear of deportation

immigrants and allow them to become full members of the society.<sup>224</sup> The importance of naturalization has risen since the mid-1990s as a result of welfare and immigration reform which based access to public benefits and selected rights on citizenship.<sup>225</sup> The benefits of citizenship include the right to vote, improved educational and employment opportunities, faster family reunification and stronger integration into society.<sup>226</sup>

In a study of the 2002 Current Population Survey, there were 1.1 million immigrants in New York State who were eligible to naturalize. While 90% of immigrants view citizenship as something “necessary and practical” or “a dream come true,” significant barriers prevent low income immigrants from naturalizing.<sup>227</sup> Many immigrants do not know when they become eligible to apply for citizenship, and others are deterred by complicated forms and procedures.<sup>228</sup> Nationally, 60% of immigrants eligible to naturalize are limited English proficient and there is a shortage of programs that can assist individuals with learning English.<sup>229</sup> Moreover, many low income immigrants cannot afford the fees associated with the assistance of a competent attorney or even the expensive naturalization filing fees, which have increased significantly in recent years.

Although naturalization may seem to be an easy process for many immigrants who qualify, the process can be deceptively difficult, and the submission of inconsistent information or otherwise defective paperwork during the application process can result in deportation. When family members are deported, those who remain often lose spouses, parents and wage earners and can quickly spiral into poverty.

**Language access issues create significant barriers to justice and services for low income immigrants.** For the 1.8 million New Yorkers who do not speak English well, lack of English proficiency can make navigating the social service system nearly impossible. LEP low income individuals experience barriers in accessing critical services and benefits at almost every agency that they encounter. In many cases the lack of language services violates federal, state and local civil rights mandates, creating a need for legal advocacy to remove these barriers.

In the courts, lack of language access is particularly damaging, since it creates a barrier to justice. Judge Juanita Bing Newton, Deputy Chief Administrative Judge, New York State Unified Court System, noted that for immigrants the courts are “foreign in custom and in language.”<sup>231</sup>

The New York State Office of Court Administration recently issued a new Court Rule mandating the provision of interpreters in court, but implementation of the rule has been mixed, and 37% of judges surveyed were not aware of the rule; in addition, 74% of judges surveyed were not aware of the complaint procedures for problems with court interpretation.<sup>232</sup> The court rule has not been publicized and many limited English proficient *pro se* litigants are unaware of both their rights and any language services that may exist.



*“Immigrants are under terrible pressure now with new laws and new ways of enforcing them. Competent lawyers are needed to represent these people. There are a lot of charlatans around. The stakes are high: the risk of ineffective representation is deportation.”*

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—Jane Stern, Program Director, The New York Community Trust

#### **Obstacles to Applying for Citizenship**

In addition to the challenges created by excessive fees, the citizenship examination has just become more difficult to pass. As of October 1, 2008, applicants for citizenship have to take a new and “improved” test. Although the government claims that the new test will lead to “a more standardized, fair, and meaningful naturalization process,”<sup>230</sup> advocates believe that the new test will create yet another obstacle to citizenship.

Language access barriers also exist at agencies that administer critical income and health supports. A 2007 report by the Legal Services NYC Language Access Project revealed that only 26% of Human Resources Administration offices in New York City provided basic language access services.<sup>233</sup>

The City is well aware of its obligation to provide language services, in part because of advocacy efforts by a broad range of organizations. In addition to the many existing mandates, in July 2008 Mayor Bloomberg passed New York City's first Language Access Executive Order, establishing a uniform policy and standards for translation and interpretation services for city agencies; Executive Order 120 requires city agencies to provide language assistance in Spanish, Chinese, Russian, Korean, Italian and French Creole—the top six languages spoken by New Yorkers.<sup>234</sup>

#### SOME IMPLICATIONS FOR LEGAL SERVICES PROVIDERS

- The significant unmet need for high quality immigration legal services is likely to continue to expand. Naturalization assistance and deportation defense are areas of critical need, especially because the consequences of inadequate assistance (or self help) can be catastrophic. Comprehensive immigration reform, if enacted during the next administration, may provide a pathway to legal status and citizenship for millions in need, but will put an additional strain on the limited legal services that are available. Without significantly increased capacity for legal service providers, immigration reform risks failure.<sup>235</sup>
- Legal services programs can easily improve access to their services by increasing sensitivity to client language needs, by developing better internal translating and interpreting capacity and protocols, and by using external language services more frequently. Access can also be increased by overcoming cultural barriers through close partnerships and better relations with immigrant community groups.
- Language access barriers should be challenged through advocacy with public agencies, policy work and litigation when necessary.

*“Low income people who need assistance with immigration law matters are especially vulnerable. Many are in danger of being seduced by “notarios,” who promise phony solutions, charge a fortune and provide nothing in return. It’s predatory hope-mongering.”*

—Lorna Blake, Executive Director, The IOLA Fund for the State of New York

*“The remedy to the challenges of building trust is for legal programs to do more partnerships with community based organizations. You have to understand the whole picture, especially their cultural background.”*

—Kathy Chae, Coordinator of Legal Services, Young Korean American Services and Education Center

# People with Criminal Records

Over the past three decades, the number of prison inmates in the United States has increased by more than 600%, leaving it the country with the highest incarceration rate in the world.<sup>236</sup> In New York, there are currently more than 63,000 people in state prison and an additional 30,000 in local correctional facilities; 95.5% were men and 4.5% were women. Over half (51.1%) of the inmates were African American, about a quarter were Hispanic (26.3%) and about one-fifth were White (20.5%).<sup>237</sup>

Each year, more than 25,000 people are released from New York State prisons, a majority of whom are from, and return to, New York City.<sup>238</sup> An additional 100,000 people are released from local correctional facilities.<sup>239</sup>

People returning from prison face overwhelming obstacles as they attempt to re-enter society. These obstacles are also faced by the large number of New Yorkers convicted of crimes who serve “noncustodial sentences,” such as probation, payment of restitution or a fine, or community service. The “collateral consequences” of any criminal record are enormous, and becoming more so as the internet makes access to these records practically ubiquitous.

## *Legal Needs of New Yorkers with Criminal Records*

**People with criminal records face serious barriers to employment, including rampant employment discrimination.**<sup>240</sup> A criminal record reduces positive responses—job offers or callbacks—from employers by about 35% for white applicants and 57% for black applicants.<sup>241</sup> A black man without a record, or a white man with a criminal history, is three times more likely to be considered for a job than a black man with a criminal record.<sup>242</sup>

New York State and New York City laws prohibit public and private employers and occupational licensing authorities from discriminating against current or potential employees based on a previous conviction.<sup>243</sup> In spite of these laws, and in large part because enforcement is sporadic, discrimination against people with criminal records remains pervasive in New York City.

Employers have found easy ways to get around anti-discrimination laws. Criminal background checks are now the norm for most non-managerial jobs, and New York State law allows employers and licensing agencies to ask individuals about past convictions for criminal and non-criminal offenses. Once employers find out about an individual’s criminal history, they can simply deny that individual a job by stating they found a more qualified candidate: “This happens with such frequency that we often hear from clients that the word on the street is to lie on employment applications about past criminal history.”<sup>244</sup> A recent report on the collateral consequences of criminal proceedings concluded: “Research from both academics and practitioners suggest that the chief factor which influences the reduction of recidivism is an individual’s ability to gain quality employment.”<sup>245</sup> Employment is thus a major area of concern for both people with criminal records, their families, and the communities in which they live.

**People with criminal records face barriers to securing affordable and stable housing.** Private property owners typically conduct background checks or otherwise inquire into the background of prospective tenants and often deny housing to people with conviction histories. Public housing is also largely unavailable to people with



*“New York has an anti-discrimination statute that limits an employer’s use of a job applicant’s criminal record against them but some employers have blanket policies denying employment to formerly incarcerated individuals.”*

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—Glenn Martin, Associate Vice President for Policy and Advocacy, The Fortune Society

criminal records. Under the federal Housing Opportunity Program Extension Act, the New York City Housing Authority (NYCHA) prohibits some with criminal records, including those with sale, use or possession of controlled substances (including marijuana), and even alcohol-related offenses, from applying for public housing for set periods of time following completion of their sentences. NYCHA similarly prohibits people with certain criminal records from applying for Section 8 vouchers and other federally subsidized housing for set periods of time.<sup>246</sup> These time bars can often be surmounted by presenting paper evidence that the applicant has made life changes —“rehabilitation”—since the conviction was entered. It is difficult for applicants to gather and present this critical proof, however, without an advocate’s assistance.

**Overwhelming debt is a significant problem for people coming out of prison.<sup>247</sup>**

Most of the prison population is poor going into prison—and becomes even poorer before coming out. Incarcerated people accumulate layer upon layer of debt while in prison. Criminal justice-related debt includes fees and costs associated with a conviction—which may range into the thousands of dollars depending on the conviction, fines and assessments, and restitution.

A major source of accumulating debt is child support: about half of incarcerated parents have child support orders that they remain responsible for and that continue to accumulate while in prison. There is currently no way to stop this accumulation and the accrual of interest on unpaid arrears during an individual’s incarceration (which is deemed to be “voluntary unemployment”), with the result that many people emerge with tens of thousands of dollars of debt. These noncustodial parents need assistance from advocates in structuring debt repayment that is manageable. Without this help, people may find their wages garnished and their bank accounts frozen.

**People released from jails and prisons often lack access to affordable medical care.** Legislation passed last year permits suspension of Medicaid during incarceration, but many who enter and leave custody are entitled to but don’t have this vital benefit. It takes two to three months for Medicaid applications to be processed and approved, which means that many people are without coverage for essential medication, drug and alcohol treatment upon their release.

**SOME IMPLICATIONS FOR LEGAL SERVICES PROVIDERS**

- Legal services providers should represent clients at occupational licensing hearings, help them obtain certificates of relief/certificates of good conduct, enforce state and city anti-discrimination laws (via administrative agency advocacy or lawsuit), and make proper referrals to workforce development agencies that can help clients with job placement and training.
- Legal services programs should provide debt-related services to clients with criminal records to help them restructure debt and ensure that modification orders are adhered to.
- Assistance with Medicaid applications and other health-care related issues is a critical service that should be provided to this client group.
- Legal services providers can offer housing services: assistance with NYCHA housing and Section 8 applications hearings; representation of people in danger of losing their homes due to convictions or pending arrests; and advocacy with private landlords to accept clients with conviction histories.

# Elderly

In New York City, over 16% of the population is age 60 and older—and almost 40% of this population lives at or below 200% of the Federal Poverty Level. In some boroughs, the percentage is even higher: 46.6% in Brooklyn and 43.6% in the Bronx.<sup>248</sup> The poverty rate (those who are under 100% of FPL) of New York’s elderly is far higher among minorities: 14.3% among whites; 21.9% among blacks; 24.9% among Asians, and 34.4% among Hispanics.<sup>249</sup> While the low income elderly face all the problems that other low income New Yorkers face, their problems are compounded by fixed incomes, lack of mobility, and increasing health problems.

Isolation is another issue that has an adverse effect on New York’s elderly. At least 35% of older New Yorkers live alone<sup>250</sup>—a rate that is far higher than the national average (9%), as is the percentage of seniors with disabilities who live alone (46% versus 5% nationally).<sup>251</sup> Of older low income New Yorkers living alone, women far outnumber men (over 25,000 men and more than 83,000 women live below the poverty level).<sup>252</sup> These vulnerable New Yorkers often lack regular caregivers, and the City chooses not to expend the resources needed to fill in the gaps.<sup>253</sup>

## **Legal Needs of Low Income Elderly New Yorkers**

**The elderly are often victims of abuse and neglect.** The elderly are especially vulnerable to self-neglect and to abuse and neglect by others (including family members) because their problems can easily go unnoticed and unreported.<sup>254</sup> The City government agency charged with protecting seniors when there is no one else to do so is Adult Protective Services (APS). APS has been sharply criticized by the Public Advocate and has been sued repeatedly in recent years because of its failure to comply with legal mandates; advocates claim that low income seniors who must rely on the government not only for financial help but also for assistance in daily life are being consistently overlooked and neglected by those responsible for their protection.<sup>255</sup>

APS’s failures are particularly egregious in the context of housing cases involving elderly tenants who have no one to help them manage (three out of five APS referrals in 2002); when the agency fails to timely apply for back rent or financial management for an elderly tenant, the tenant may become homeless or be placed in a nursing home.<sup>256</sup> It is likely that these problems will grow as the baby boomer generation enters retirement and more and more persons need APS’s services.

**Most low income elderly New Yorkers live on fixed incomes.** In New York City, Social Security accounts for approximately 80% to 90% of income for people in the lowest two-fifths of the income spectrum. Yet Social Security often does not cover the high cost of living in New York City. Retired workers in the City receive an average of \$1,011 per month from Social Security; widows and widowers receive an average of \$947; disabled workers \$943. One-bedroom apartments in New York City typically cost more than \$1,000 per month. The high cost of living and low and fixed incomes result in a high number of eviction cases involving older renters in New York City—almost 20,000 in 2006.<sup>257</sup>



*“Self-representation is a very difficult thing for seniors. They’re afraid to stand up for themselves against a lawyer; they have trouble accessing courts; they fear opening themselves up to more abuse.”*

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—Sarah Ludwig, Co-Director, and  
Claudia Wilner, Staff Attorney, Neighborhood  
Economic Development Advocacy Project

**Low income seniors are often unaware of their eligibility for the Senior Citizen Rent Increase Exemption.** Low income senior citizens who live in rent-regulated apartments can obtain relief from rent increases under the City’s Senior Citizen Rent Increase Exemption (SCRIE) program. Tenants whose rents are or will rise above one-third of their net monthly income may apply for a SCRIE at the time of the rent increase, so long as the tenant is age 62 or older with after-tax household income of less than \$28,000.<sup>258</sup> The SCRIE freezes the rent for the tenant at the current rate; the landlord is then permitted to deduct future “exempted” rent increases from property taxes.

As of August 2006, 44,643 households participated in the SCRIE program,<sup>259</sup> but estimates are that less than 40% of eligible households apply.<sup>260</sup> Seniors simply may not know that this benefit is available—information about it is not widely disseminated. Those who apply for the SCRIE often wait months for approval. In the meantime, applicants are forced to pay the increased rent, and they may not get it back from the landlord once the SCRIE is in place.<sup>261</sup>

**Low income seniors’ bank accounts are improperly frozen.** Although federal law exempts Social Security benefits from collection by private debt collectors, state law permits creditors to freeze bank accounts even when the only money in those accounts is exempt. When an elderly person’s sole income is frozen, that person suddenly cannot pay for rent, food or other basic needs. Many simply leave their bank accounts (and the money) and ask the Social Security Administration to send them a paper check the following month—to be cashed at a check cashing business for a fee. After years of litigation and legislative work by advocates throughout the state, a new law offering better protection for exempt funds goes into effect on January 1, 2009.<sup>262</sup> In the meantime, thousands of low income elderly New Yorkers will have their accounts frozen, advocates will spend thousands of hours helping to unfreeze those accounts, and seniors who don’t get advocacy assistance will lose precious dollars when they walk away from frozen bank accounts.

#### **SOME IMPLICATIONS FOR LEGAL SERVICES PROVIDERS**

- Advocacy that continues to put pressure on Adult Protective Services to expand and improve its services is critical.
- Increased efforts should be made to inform seniors about the Senior Citizen Rent Increase Exemption and to help them apply. Senior clients who come to legal services offices for problems other than housing would be an easy group to target with this kind of information (we assume all senior housing clients are given this information when appropriate).
- Advocacy continues to be needed to help seniors “unfreeze” bank accounts; continued work may be needed to ensure that banks comply with the new law once it is signed.

# People with Disabilities

In 2006, 22% of New York City's low income residents had disabilities, as compared to 10% of all other New Yorkers. People with disabilities in New York City face unique challenges. Children with mental and physical disabilities should receive a range of supportive special education services, but those services are notoriously difficult to get and often inadequate. Children and adults struggle to access a variety of public and private accommodations, including stores, voting booths, transportation and housing. And adults are further hindered in their ability to be employed; in New York City, 18% of the low income population report having disabilities that limit their ability to be employed, and 12% report disabilities that keep them confined to their homes.<sup>263</sup>

Although federal, state and local laws provide solutions to many of these problems, those laws are not widely enforced. Other than helping low income people to apply for federal disability benefits (SSI and SSD), few legal services programs directly serve the unique needs of the disabled population in New York City, making these problems even more difficult to surmount.

## *Legal Needs of New York City Children and Youth with Disabilities*

**The special education system fails the majority of disabled students.** Under the Individuals with Disabilities Education Act (IDEA), school districts in New York are required to provide “each and every student with a disability, ages 3 to 21, with a free appropriate public education in the least restrictive environment.”<sup>264</sup> To develop an appropriate education plan, an Individualized Education Program (IEP) is created for each child—noting what sort of class the student should be placed in and what services, such as therapy or counseling, are necessary.<sup>265</sup> Although the legal requirements are clear, there is a desperate need for a higher quality special education system: only 11.8% of students who need special education services graduate with a high school diploma.<sup>266</sup>

In addition, the needs of special education students transitioning out of high school are not adequately met. The IDEA requires school districts to provide transition services for students. These services include academic preparation, vocational training, and counseling, and are documented on students' IEP's. According to Advocates for Children, “if the New York City DOE fails to adequately plan for and provide transition services, then students with disabilities not only exit the school system without a diploma, but also without critical preparation for independent living, employment, and higher education.”<sup>267</sup>

Advocates for Children reports that 26% of students with disabilities have no transition services indicated on their IEP's, and therefore do not have any plans for achieving post-secondary goals. When the IEP's include transition plans, the plans themselves are often deficient, lacking adequate details about the academic coursework, credits, and support services that the students must obtain to earn high school diplomas and achieve long-term goals.<sup>268</sup>

### **Legal Needs of New York City Adults with Disabilities**

**Adults with disabilities cannot secure adequate and affordable housing.** Housing accessibility is a major problem for disabled New Yorkers. Lack of ramps and lifts, halls that are too narrow and bathrooms that are too small prevent disabled people from renting housing and, if rented, confine people to their homes.<sup>269</sup>

Disabled adults who live on federal disability benefits receive average benefits of less than \$1,000 a month and pay an exorbitantly high percentage of their income for rent. MFY Legal Services reported that their disabled clients who rely on SSI and live in unsubsidized apartments spend 77% of their monthly income on rent, and that “this group of SSI recipients residing in unsubsidized apartments is at great risk of losing their homes in the event of any financial setback.”<sup>270</sup>

- Enacted in 2005, the Disabled Rent Increase Exemption (DRIE) program freezes the rent of low income people with disabilities, much like the Senior Citizen Rent Increase Exemption program discussed in the Elderly section in this report. The Community Service Society estimated that 20,000 New Yorkers would be eligible for DRIE.<sup>271</sup> However, as of 2006, the Center for Independence of the Disabled reported that only 2,000 New Yorkers were enrolled in the program.<sup>272</sup>

**Adults with disabilities face barriers in using public accommodations.** Under the New York City Human Rights Law, it is discriminatory to directly or indirectly refuse access to a public accommodation based on a person’s disability.<sup>273</sup> However, many New York City establishments are not accessible to people with disabilities.

- Disabled in Action,<sup>274</sup> a civil rights organization for people with disabilities represented by New York Lawyers for the Public Interest, recently settled a lawsuit that challenged Duane Reade’s refusal to make their stores accessible. Customers with disabilities faced blocked entryways, sets of doors that did not clear wheelchairs, and aisles that were too narrow or cluttered to negotiate. In the settlement, Duane Reade agreed to make their stores accessible throughout the City.<sup>275</sup>

**People with physical disabilities face barriers in using New York City’s extensive public transportation system.** To comply with the Americans with Disabilities Act (ADA), and under pressure from lawsuits that date back to the 1970s, the MTA has made all of its buses and most of the New York City Transit fleet wheelchair-accessible. However, only 11 % (53) of the City’s 468 subway stations comply with the ADA; 22 of those stations are located in Manhattan.<sup>276</sup>

- According to Manhattan Borough President Scott Stringer’s 2006 report on MTA repairs, the MTA routinely violated city law by failing to inspect and repair elevators and escalators in Manhattan’s subway stations.<sup>277</sup> “For people with disabilities, individuals with physical impairments, seniors, and those traveling with strollers, an out of service elevator or escalator can mean being stranded on a subway platform or at street level without other means of transportation, severely limiting their independence.”<sup>278</sup>



*“People with disabilities face lots of inaccessibility in the health care system. Some people can’t go to their local doctor because their offices aren’t accessible. What does it mean to emphasize community based care, or what does having your own doctor really mean, if you can’t get in the door or can’t get on the exam table?”*

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—Susan Dooha, Executive Director,  
The Center for the Independence of the  
Disabled, NY

**Access-A-Ride** is the alternative transportation service available to people with disabilities who cannot use the “fixed route” subway, bus, or commuter railroad system used by the non-disabled population.<sup>279</sup>

- Although Access-A-Ride (AAR) has improved markedly over the past decade, the service is still plagued by policy and performance problems. Pick-ups must be scheduled more than 24-hours in advance, all but eliminating emergency requests. “Late cancellations,” or cancellations later than 5:00 p.m. the day before a pick-up, can be punished by suspension. These policies are serious inconveniences for AAR customers.<sup>280</sup>
- AAR consumers frequently face unnecessarily long trips and late pick-ups. Passengers who need to travel from Queens to Nassau County for medical appointments or the like are forced to change vehicles at the border. The MTA consistently receives only a C+ in its own customer satisfaction surveys, according to Council Member John Liu.<sup>281</sup>

The combination of long-term illness, confinement and transportation problems causes people to miss appointments with government agencies, hearing and court dates, and doctor’s appointments, thus exacerbating existing problems.

#### **SOME IMPLICATIONS FOR LEGAL SERVICES PROVIDERS**

- Additional special education advocacy services are needed to help disabled students get the educational services they need to develop properly and graduate.
- Better outreach to the disabled community can increase participation in the DRIE program. For example, legal services programs with existing practices in federal disability claims could provide information on the DRIE program to their clients.
- People with disabilities face tremendous difficulties accessing a variety of public and private accommodations and services. Many of these barriers can and should be challenged through advocacy and litigation using the Americans with Disabilities Act (ADA) and various City and State laws and regulations.

# People with HIV/AIDS

As of June 30, 2007, there were more than 100,000 people reported to be living with HIV/AIDS in New York City.<sup>282</sup> New York City has more AIDS cases than Los Angeles, San Francisco, Miami, and Washington, D.C. combined.<sup>283</sup> Of the 4,000 New Yorkers diagnosed with HIV in 2006, more than a quarter also had AIDS when diagnosed, indicating that many people are living with HIV for years prior to diagnosis and that actual numbers exceed those reported.<sup>284</sup> A disproportionate number of people living with HIV/AIDS are poor. Statewide, approximately 40% of the population living with HIV/AIDS is poor enough to qualify for Medicaid.<sup>285</sup>

While the legal needs of New York's HIV/AIDS population have shifted and evolved over the years—as advances in medicine and technology have enabled HIV-positive individuals to live longer, healthier lives, the need for specialized permanency planning services has diminished considerably—there remains a myriad of legal issues that are specific to this population, including housing, benefits, immigration, mental health and drug treatment needs, among others.

## *Legal Needs of New Yorkers with HIV/AIDS*

**People living with HIV/AIDS are more likely to have housing problems than the rest of the low-income population.** In December 2005, New York City's Departments of Health and Mental Hygiene and Homeless Services revealed that single adults with HIV/AIDS were more than twice as likely to use the single adult shelter system as the rest of the adult population.<sup>286</sup> Stable housing helps to ensure adequate primary health care and adherence to complex HIV drug treatment. To be effective, HIV antiretroviral treatment regimens require 95% compliance, a level nearly impossible to maintain without a clear mind, stable housing, adequate food and cooking facilities, and consistent coverage for medical care and prescriptions.<sup>287</sup> Persons who are HIV positive are four times more likely to enter into health care if they have housing.<sup>288</sup>

Stable housing also helps to prevent the transmission of HIV/AIDS. Research shows a direct relationship between housing status and risk behaviors among low income HIV positive persons. For example, recent hard drug use and sex exchange were four times higher among homeless persons; high risk sex was six times higher among homeless persons.<sup>289</sup>

Eviction prevention services for people with HIV have been severely curtailed by funding losses. Ryan White funds can no longer be used for housing representation. In 2008, the New York City Council zeroed out funding for HIV/AIDS legal services, a loss of approximately \$1.1 million in money targeted primarily at eviction prevention. With federal funding for legal services (Housing Opportunities for People with AIDS) scheduled to end in June 2009, there will be no designated funding available to represent childless people with HIV in housing proceedings.

**People living with HIV/AIDS need specialized assistance in accessing benefits from New York City's Human Resources Administration, the Social Security Administration and the City's HIV/AIDS Services Administration.** Research indicates that the needs of 35% of the HIV-positive population for benefits advocacy services are not being met.<sup>290</sup> It is extremely challenging for low income persons who are HIV-



*“Housing continues to remain a significant issue for people with HIV/AIDS, but with people living longer with the disease, consumer debt issues, including huge child support arrears, are now coming to the forefront.”*

—Pavita Krishnaswamy, Senior Staff Attorney,  
South Brooklyn Legal Services

positive to navigate the complexities of many state and federal relief programs while simultaneously attempting to manage the effects of the disease. Legal assistance is needed to access and maintain public assistance, Medicaid, Food Stamps, AIDS Drug Assistance Program (ADAP), SSI, and Social Security benefits, which trigger Medicare benefits.

In New York City, people living with HIV/AIDS can get enhanced benefits such as rental assistance and increased food and nutrition funds from the City's HIV/AIDS Services Administration (HASA).<sup>291</sup> But until their virus progresses to a symptomatic HIV or AIDS diagnosis (T-cell count of under 200 or an opportunistic infection), HIV-positive persons are only eligible for standard public assistance benefits and are not eligible for enhanced benefits from HASA.<sup>292</sup> According to the New York City AIDS Housing Coalition, approximately one in four low income persons living with HIV/AIDS in New York City are not eligible for HASA benefits because their disease has not progressed to symptomatic HIV or AIDS.<sup>293</sup> Once eligible for HASA, low income clients need advocacy assistance getting these special benefits and services.

Advocacy assistance for public benefits is particularly important because of the potential impact on health care. Medicaid benefits, for example, can be instrumental in reducing delays in accessing treatment among persons who are newly diagnosed.<sup>294</sup> One study found that more than one in three persons with HIV postponed or did without health care because of competing survival needs such as food, benefits and housing.<sup>295</sup>

**There is a shortage of affordable mental health services and substance abuse treatment for New Yorkers who are HIV-positive.** At least 27% of New Yorkers diagnosed with HIV/AIDS as of March 2003 were intravenous drug users. Yet there is a shortage of affordable substance abuse treatment and mental health services for New Yorkers who are HIV-positive, especially for those who need both.<sup>297</sup> For these reasons, persons with HIV and either of these problems often face difficult family reunification and foster care challenges, and legal and other advocacy services are essential.

#### **Federal Government Lifts Entry Ban for Immigrants with HIV/AIDS**

In July 2008 the President signed the President's Emergency Plan for AIDS Relief (PEPFAR) that lifts a 15 year-old entry ban that prevented non-citizens from entering the country based on known or suspected HIV infection.<sup>296</sup> Gay Men's Health Crisis and other advocacy groups have been pushing to eliminate the entry ban for more than a decade. Continued work will be needed by advocates to ensure that the change in law is properly implemented.

#### **SOME IMPLICATIONS FOR LEGAL SERVICES PROVIDERS**

- The shortage of low-income housing demands that, whenever possible, people remain housed. Although legal service providers have prevented the eviction of thousands of individuals and families affected by HIV/AIDS each year, these services are on the verge of complete de-funding. Advocacy to increase funding for housing legal services is essential.
- Benefits advocacy and representation is critical for people living with HIV/AIDS. Without essential benefits, clients are unable to pay their rent, purchase nutritious food, pay for transportation to and from medical and social support services, and access primary health care.
- Legal services providers should help parents with HIV/AIDS plan for their children's future in the event that they will be unable to care for them due to illness or death. Future planning work can include the preparation of wills, health care proxies, and court-approved guardianship plans.

- People with HIV/AIDS have a unique blend of overlapping health, family and legal problems. Because particular public benefits and housing opportunities are available to these clients, it is extremely helpful to have advocates who specialize in the provision of services to those with HIV/AIDS. In recent focus groups in New York City, 87.2 % of people living with HIV ranked legal services as “essential.”<sup>298</sup> Work should continue to expand funding for legal services for people with HIV/AIDS.

# Lesbian, Gay, Bi-Sexual and Transgender (LGBT) People

The bias and hostility directed at LGBT communities has made them “a people who sometimes have to hide and deny their existence for fear of discrimination.”<sup>299</sup> As a result, statistical and demographic data concerning LGBT populations is not widely reported. New York City is fortunate, however, to have several advocacy organizations that serve these populations and that are good sources of information about LGBT demographic profiles and legal needs.<sup>300</sup>

Civil legal problems are often exacerbated by discrimination and fear of hostility. For example, LGBT youth may be forced from their homes and made homeless by their parents, or treated badly and pushed out of schools by their teachers and school administrators; LGBT seniors, in part because of discrimination and estrangement from their family of origin, more often live alone—66%, as compared to 26% in the general senior population. Public agency caseworkers are frequently insensitive to or biased against LGBT clients, and non-profit legal and community based service providers have much to learn about how to interview LGBT clients in a sensitive and respectful manner.<sup>301</sup>

But LGBT legal problems are not all related to interpersonal or agency discrimination and bias; some are rooted in the law. Until very recently, “New York State law [did] not... provide its citizens in same-sex relationships with access to legal marriage, civil unions, domestic partnerships, or other methods for recognizing and legitimizing their relationships.”<sup>302</sup> Because LGBT relationships are not legally recognized in various critical ways, LGBT individuals do not receive many of the protections and benefits that are available to heterosexual “married” individuals. LGBT victims of domestic violence, for example, have far fewer protections available than people who are victimized by those who are legally recognized to be “family.”<sup>303</sup>

That bleak situation is changing. A 2008 decision of the New York State Supreme Court, Appellate Division, Fourth Department, held that valid same-sex marriages performed in other jurisdictions are “entitled to recognition in New York in the absence of express legislation to the contrary.”<sup>304</sup> (The Court of Appeals denied a motion for leave to appeal, but on procedural grounds.) As a result, on May 14, 2008, Governor Paterson “directed all state agencies to begin to revise their policies and regulations to recognize same-sex marriages performed in other jurisdictions....”<sup>305</sup> The revisions are most likely to involve as many as 1,300 statutes and regulations in New York. For example, the State Office of Health Insurance Programs just issued a General Information System message that advises all local Department of Social Services offices of a “new Medicaid eligibility policy regarding equal treatment and recognition of same-sex marriages that have been legally performed elsewhere.”<sup>306</sup> Advocates will need to be vigilant to ensure that their clients are able to take advantage of these and other legal developments.

### **Legal Needs of LGBT Low Income People**

**LGBT people, particularly youth, are at heightened risk of being homeless.** According to a nation-wide report by the National Gay and Lesbian Task Force, there are between 15,000 and 20,000 homeless youth in the city of New York.<sup>307</sup> Of these, as many as 8,000 (40%) of all homeless youth identify as LGBT (3-5% of the general population identifies as LGBT). LGBT youth become homeless at high rates for many reasons: some are forced to leave home when they come out to their parents (26% of gay teens claim to have been forced out); others have been physically, sexually and emotionally abused while in their family's home. Homeless LGBT youth are more likely to use drugs, participate in sex work, attempt suicide, and develop related health problems, including HIV and AIDS. If they are able to get access to city-run shelters, many LGBT youth report they are threatened, belittled and abused by staff as well as other residents.<sup>308</sup>

**LGBT people face discrimination from family, peers and public facilities.** The New York State Sexual Orientation Non-Discrimination Act prohibits discrimination based on sexual orientation in employment, education and housing.<sup>309</sup> But as with many discrimination laws in New York State, enforcement of legal remedies can be extremely time consuming, and the stigma still associated in some places with being LGBT often prevents people from pursuing claims.

**LGBT people often lack a stable safety net and face discrimination when trying to get essential benefits.** Homeless LGBT youth who are estranged from their parents cannot receive welfare benefits because they cannot get letters from parents attesting to their independence.<sup>310</sup> And because they cannot marry in New York (and the Defense of Marriage Act prevents the federal government from recognizing lawful marriages in other states and countries), many lesbian and gay immigrants cannot become Legal Permanent Residents (LPR's) and therefore cannot receive certain welfare benefits available to heterosexual LPR's.<sup>311</sup> Further, LGBT substance users who are addicted and seek public assistance to join treatment programs are more likely to drop out because of homophobic/transphobic harassment.<sup>312</sup>

**LGBT students often face discrimination in school.** Findings from the Gay, Lesbian & Straight Education Network's 2005 National School Climate Survey indicate that: a) 93% of students reported hearing homophobic remarks at school; b) 68% of LGBT students felt unsafe in their schools; c) LGBT students were three times more likely than others to miss school because they felt unsafe or uncomfortable; and d) harassment in schools had negative implications for LGBT students' academic performance.<sup>313</sup>



*“Low income queer youth are marginalized in every way: Their families kick them out; they confront violence on the streets.”*

—Amy Carroll, Supervising Attorney,  
Make The Road New York

**LGBT victims of domestic violence have fewer protections than married victims.**

Domestic violence occurs within the LGBT community with the same frequency as it does in the rest of the population, yet it is more difficult to address given the lack of legal protections and available services.<sup>314</sup> Until July 2008, for example, most LGBT victims of domestic violence could not go to Family Court to get orders of protection because they were required to be “married” under the Domestic Relations Law or to meet other definitions of “family” that they could not meet. After years of work by advocates to address this problem, the Governor recently signed a bill that will allow domestic partners to get orders of protection in Family Court in the same way that married victims of domestic violence have always been able to.<sup>315</sup> The law provides the potential to help thousands of victims of domestic violence get better protection, faster, from their abusers, therefore advocates will have to educate clients about it, help them use the new law and monitor how it is being implemented.

Getting orders of protection, while critical, is only part of the solution. LGBT victims of domestic violence have far fewer beds in shelters, can face insurmountable legal challenges in keeping visitation with their children, and face discrimination and other challenges to maintain economic independence from their batterers.<sup>316</sup> The Integrated Domestic Violence Courts, created to help provide a more coordinated response to domestic violence in New York State, are, for the most part, unavailable to LGBT victims.<sup>317</sup> Legislation that allows LGBT individuals to marry if they desire, that explicitly protects them, or that addresses the illegality of violent incidents and provides both criminal and civil remedies, continues to be needed.<sup>318</sup>

**SOME IMPLICATIONS FOR LEGAL SERVICES PROVIDERS**

- Legal services providers should educate themselves about the unique legal problems faced by LGBT individuals and should increase access to their services by improving outreach, interview skills, and general sensitivity to the legal challenges faced by LGBT individuals.
- The new law that expands access to orders of protection in Family Court to LGBT victims of domestic violence may significantly increase the need for attorneys in Family Court.
- Continued advocacy is needed to ensure that LGBT individuals are not discriminated against in seeking benefits and services, especially in light of recent and developing policies and practices of city and state agencies.

# Veterans and Servicemembers

Large numbers of veterans and servicemembers reside in New York City, many of whom are low income. In September 2004, there were 302,561 veterans in New York City, representing approximately 25.8% of all veterans in New York State: Queens County was home for 86,920 veterans; 78,554 lived in Kings County; 60,248 lived in New York; 47,269 in the Bronx and 29,570 in Richmond County.<sup>319</sup> In 2006, more than 83,000 were low income city-wide.<sup>320</sup>

Those who serve in the military, and their families, face problems not encountered by those who have not served. National Guard and Reserve members who are called to serve leave behind rent and debts that must be paid, children who must be fed, and jobs that must be put on hold or abandoned. Those who are discharged face adjustments upon reentry to their homes and communities. They need to find work, other sources of income and support, and deal with credit problems created while they were out of country and out of touch with their families. Many have combat-related mental health problems that make readjustment to family, community and employment challenging or impossible. Veterans injured in combat often need to get disability benefits, costly medical treatment, and to develop new employment skills.

The problems of many returning veterans are aggravated because they are young adults with limited or no employment experience and they are unfamiliar with how to navigate complex government bureaucracies. However, all veterans struggle with complex laws and application procedures that require professional help.

## *Legal Protections for Veterans*

Numerous state and federal laws and programs have been created to help veterans and their families both during and after combat assignment. For example, the federal Uniformed Services Employment and Reemployment Rights Act allows qualifying Citizen-Soldiers to keep their jobs and benefits for up to five years; service members who have Guaranteed Student Loans can qualify for payment extensions or deferred payments during the period of active duty; and the Servicemembers Civil Relief Act protects those in active duty from debt collection efforts, foreclosure, and eviction for certain periods during and after service.<sup>321</sup> The United States Veterans Administration has disability and pension programs for service and non-service related disabilities. New York State laws provide additional benefits and protections, such as Patriot Plan II, which increases state active duty pay, expands eligibility for tuition assistance, and provides a variety of other benefits and protections.

To get the benefits and protections offered by these state and federal laws, however, service members and their families must know about the laws, know about program requirements, complete complex application procedures, and work with sometimes hostile governmental bureaucracies. Although a number of veterans' assistance organizations (e.g., Veterans' Administration, Black Veterans for Social Justice<sup>322</sup>) can help, none of them has a significant number of lawyers to provide legal services when needed. Servicemembers need information about the availability of benefits and they need legal help to qualify to get them.

### **Unmet Needs of Veterans**

Nationwide, homeless and formerly homeless veterans identify childcare, welfare benefits, and long-term permanent housing as their top three unmet needs, in that order.<sup>325</sup>

Fortunately two relatively new legal services programs in New York City can help—the City Bar Justice’s Veterans Legal Clinic,<sup>323</sup> started in late 2007, and the Urban Justice Center’s Veterans and Servicemembers Project,<sup>324</sup> started in early 2008. Each provides legal services and is beginning to gather data about the nature and number of problems faced by those who have served in the military.

### **Legal Problems at Home**

Low income veterans have the same problems that other low income families have, but they also face problems that are caused by or related to their time in the military. Unfortunately, veterans are often reluctant or unwilling to seek help. “‘We’ve been trained that asking for help is an admission that you’ve failed in some task,’ said Ricardo Singh of Black Veterans for Social Justice, a veteran himself. ‘Veterans as a group are usually very reluctant to ask for help.’”<sup>326</sup>

**Disability-related problems.** When veterans return home from active duty many “experience high rates of post-traumatic stress disorder due to ‘lengthy and multiple tours of duty, decreased mortality rates and traumatic brain injuries.’”<sup>327</sup> “If each war has a signature illness, say veterans’ advocates, Iraq’s is post traumatic stress disorder.”<sup>328</sup> According to the 2008 Rand Corporation study, *Invisible Wounds*, nearly one-third of returning veterans suffer from some kind of “mental health or cognitive condition,” including post traumatic stress disorder.<sup>329</sup> The Veteran’s Assistance Project at the New York City Bar Association, which provides veterans with *pro bono* legal assistance in filing disability claims at the Veterans Administration, reports that a significant number of their clients, particularly those returning from Iraq and Afghanistan, have PTSD or some kind of Traumatic Brain Injury.

**Housing problems.** The most serious housing problems are faced by those who return from service and who have trouble finding and keeping employment because of lack of skills or a variety of mental health and substance abuse problems. According to estimates provided by the Department of Veteran’s Affairs in 2008, approximately 154,000 veterans, nationwide, are homeless on any given night.<sup>330</sup> In New York City, “advocates estimate that the total is between 15,000 and 20,000.”<sup>331</sup> A caseworker at New Era Veterans (a residence for previously homeless veterans in the Soundview section of the Bronx) estimated he received 40 calls from veterans looking for help each month in early 2006.<sup>332</sup>

Reservists living at home also face housing problems. For example, Army Reservist Penelope McClenan was evicted from her home by HUD.<sup>334</sup> Queens Legal Services, a Legal Services NYC program, proved that Ms. McClenan was in the service and that the Soldiers’ and Sailors’ Act therefore prohibited her eviction. The judge restored Ms. McClenan to her apartment.

**Family problems.** Stress and psychological disabilities caused by combat can have serious repercussions for returning veterans and their families. Active service—and the resulting geographic distance from family—can cause or aggravate other legal problems, such as custody disputes. As described in “Iraq GI At War Over Kids on



*“Homelessness... is generally the end result of multiple problems spinning out of control. There is a connection between the lack of supportive services and homelessness... but this is not obvious immediately. It was eight years after Vietnam... before Vietnam veterans began turning up for homeless services in significant numbers.”<sup>333</sup>*

—John Driscoll, National Coalition for Homeless Veterans.

Homefront,” a GI posted in Iraq recently lost custody to his wife, in part, because “he was no longer in the picture.”<sup>335</sup> When his wife then turned their child over to the Administration for Children’s Services (ACS) and a foster family, neither ACS nor the foster family permitted the father to contact his children. After advocacy by the Urban Justice Center ACS allowed the father to contact his children and claimed that it was their policy to ensure the soldier was “in touch with his kids.”<sup>336</sup>

#### **SOME IMPLICATIONS FOR LEGAL SERVICES PROVIDERS**

- A variety of special legal protections and benefits are available to veterans and servicemembers who face legal problems. Therefore legal services providers should make sure to consult with experts to determine what legal claims and defenses might be available.
- Legal services providers who plan to increase services to veterans and servicemembers will need to devote sufficient resources to outreach—both to veterans’ service organizations and to veterans—to increase the likelihood that those who need help will seek it.

# Appendix A. Methodology

This report is the culmination of a broad collaborative effort driven by a variety of stakeholders—both internal and external to Legal Services NYC. We designed the study to ensure collection and examination of information regarding the overall needs of low income individuals in the five boroughs of New York City, as well as the unique barriers faced by several subsets of New York City’s low income population. We are fortunate to live in a city full of experts—poverty advocates, legal services providers, politicians and policy makers, and low income families themselves. While we knew that we needed to learn as much as we could from all of them, in a city as large, complex and fast changing as New York, no report on legal needs could ever hope to be fully comprehensive.

In this report we define “low income” to mean anyone living under 200% of the Federal Poverty Level—which includes those deemed to be “poor” (100% of the FPL, or \$17,150 for a family of three) and “near poor” (200% of the FPL, or \$34,300 for a family of three). We did this, in part, to acknowledge that an increasing number of our clients have joined the ranks of the “working poor”; their incomes are “low” by any objective standard, but are no longer below the FPL. We are aware that the FPL has been widely criticized as being insufficient as a measure of need, and applaud efforts, led by the New York City Commission for Economic Opportunity, to determine a new standard.<sup>337</sup> But until census data is tracked in some other way, we are bound to use the FPL while acknowledging that it falls far below any realistic measure of need.

Over the course of four months in 2008, a Working Group—made up of Legal Services NYC staff members from most of our offices and having a wide range of substantive expertise—met on a monthly basis to determine the scope and methodology of the report, identify stakeholders in their communities, oversee and review research and findings, and determine the overall structure of the report. Members of our Legal Support Unit had primary drafting responsibilities.

Overall, the report is based on analysis and synthesis of the following data sets:

**Surveys of poverty law and community based advocates and politicians.** In April 2008, 275 Legal Services NYC staff—including supervisors, attorneys, social workers, paralegals and administrative staff from all five boroughs of New York City—responded to an online survey prepared and administered by the Community Resource Exchange. In April and May 2008, advocates from more than 100 non profit legal services and community based advocacy programs responded to an additional survey, and local politicians responded to another. All surveys elicited opinions about the most pressing legal needs of low income New Yorkers. Copies of the survey questions are available upon request.

**Stakeholder interviews.** Throughout April 2008, 21 advocates and leaders from public interest and anti-poverty organizations across New York City participated in telephone interviews coordinated by the Community Resource Exchange. A list of interviewees is included as Appendix C; interview questions are available upon request.

**Survey of low income people in New York City.** We relied on the Community Service Society's 2007 *Unheard Third Survey of Low-Income New Yorkers*—their annual survey of more than 1,500 low income New Yorkers—to hear what our potential clients say about their needs.

**Secondary research.** A team of Hunter College Urban Affairs graduate students, supervised by Professor Jill Simone Gross, Ph.D., researched and reviewed a variety of articles, policy papers, and studies of problems currently facing low income New Yorkers. Additional research was conducted by members of the Legal Support Unit.

**Civil legal services data.** The New York State Interest on Lawyer Account Fund (IOLA) generously shared data regarding civil legal services provided by its grantees in 2006. The data includes the numbers of cases closed by substantive area throughout the City. This data is annexed as Appendix B to this report.

**Court filing data.** Data on court filings in the New York City Civil Court and New York State Supreme Court was obtained from the Office of Court Administration concerning litigation in the areas of family, foreclosure, housing, and general civil matters.

**Demographic data.** Data for the demographic analysis was drawn from the Department of Census 2000 Decennial Census and 2005 and 2006 American Community Survey (ACS). Using the Public Use Microdata Sample (PUMS) file for each of these datasets, custom tabulations of population rates were prepared for a range of demographic characteristics for the population below 200% of FPL and above 200% of FPL by borough and New York City-wide, for the periods 2000 and 2006 (based on 2005 and 2006 two-year blend).<sup>338</sup> Finally, we re-weighted the calculated population rates to the total population of each county as reported by Department of Census for 2000 (2000 Census PUMS) and 2006 (2005-2006 blend of ACS PUMS) to arrive at population counts by income for each demographic item.

Additional methodological detail is available upon request.

# Appendix B. New York State Interest on Lawyer Account (IOLA) Funded Civil Legal Services in 2006

For the calendar year 2006, IOLA generously provided client service data for the following organizations, all of whom were funded by IOLA to provide direct services to low income clients: Legal Aid Society; Legal Services NYC; Northern Manhattan Improvement Corporation; New York Legal Assistance Group; Urban Justice Center. These programs employed approximately 390 lawyers and 140 paralegals during 2006.

According to program data for these service providers, a total of 88,299 cases were closed in 2006, benefiting more than 170,000 individuals. The vast majority of those cases were Housing-related, followed by Income Maintenance, Individual Rights and Family cases. These cases included a total of 26,484 (30%) extended service cases and 61,815 (70%) brief service cases.

CASES CLOSED IN 2006			CASES CLOSED IN 2006		
Housing	39,234	44.4%	Employment	2,564	2.9%
Income Maintenance	17,932	20.3%	Consumer/Finance	2,334	2.6%
Individual Right	9,685	11.0%	Education	710	0.8%
Family	8,995	10.2%	Juvenile	158	0.2%
Health	3,453	3.9%	Total	88,299	100%
Other	3,234	3.7%			

Of those cases closed after extended service (i.e., not including counsel and advice and other forms of brief service), the following benefits were obtained for clients:

In the area of **Housing**, more than 5,500 evictions were prevented and more than 1,000 clients obtained repairs to their apartments. A total of 70,662 New Yorkers benefited from housing-related legal services, including eviction prevention, landlord overcharges, enforcement of tenants' rights, foreclosure prevention, and housing discrimination.

The majority of **Income Maintenance** cases involved obtaining, preserving or increasing public assistance and various welfare benefits (5,387 cases closed); obtaining or preserving food stamps (1,219); obtaining SSI/SSD (1,630); and obtaining Unemployment Insurance (221). A total of 40,950 clients and their family members benefited from income maintenance-related legal services.

Of the more than 9,000 people whose **Individual Rights** matters were handled by a legal services program, 3,528 of these cases (36% of the total number of Individual Rights cases closed) were related to **Immigration**. Most (2,670) received assistance obtaining citizenship; other critical immigration issues included adjustment of legal status for aliens (273), employment authorization or obtaining/replacing Green Cards (240), and preventing deportation (118). Other Individual Rights matters handled included protection of the rights of disabled or institutionalized persons and access to public facilities/accommodations.

**Family** law issues most commonly addressed were child custody and visitation (1,333 cases closed); divorce (1,296); domestic violence (591); and child support (492). A total of 20,083 clients and their family members benefited from family related legal services.

More than 9,000 cases were closed in four other practice areas: **Consumer** (debt collection, bankruptcy, garnishment and utility problems, among the most common); **Education** (particularly disciplinary, enrollment and disciplinary matters); **Employment** (wage and back-pay, job discrimination and pension matters); and **Health** (preservation or increase of Medicaid/Medicare benefits).

# Appendix C. List of Stakeholder Interviewees

1. **Mike Arsham**  
Executive Director  
*Child Welfare Organizing Project*
2. **Irene Baldwin**  
Executive Director  
*Association for Neighborhood and Housing Development, Inc.*
3. **Lorna K. Blake**  
Executive Director  
*Interest on Lawyer Accounts (The IOLA Fund for the State of New York)*
4. **Amy Carroll**  
Supervising Attorney  
*Make The Road New York*
5. **Ji Hyun (Kathy) Chae**  
Coordinator of Legal Services  
*Young Korean American Service & Education Center*
6. **Jennifer DeCarli, Esq.**  
LMSW  
*New York City Family Justice Center*
7. **Susan Dooha**  
Executive Director  
*The Center for the Independence of the Disabled, NY*
8. **Colvin Grannum**  
President  
*Bedford-Stuyvesant Restoration Corporation*
9. **Diane Houk**  
Executive Director  
*Fair Housing Justice Center*
10. **Kenneth Lam**  
President  
*Chinese Community Social Service and Health Council*
11. **Sarah Ludwig**  
Co-Director  
*Neighborhood Economic Development Advocacy Project*
12. **Glenn Martin**  
Associate Vice President for Policy and Advocacy  
*The Fortune Society*
13. **Carolyn McLaughlin**  
Executive Director  
*Citizens Advice Bureau*
14. **Judge Juanita Bing Newton**  
Deputy Chief Administrative Judge  
*New York State Unified Court System*
15. **Fern Schair**  
Chairperson of the Advisory Board  
*Ferick Center at Fordham University*  
Board Chair  
*Legal Services NYC*
16. **Louise Seeley**  
Executive Director  
*Citywide Task Force on Housing Court, Inc.*
17. **Thomas Shea**  
Director of Training and Technical Assistance  
*The New York Immigration Coalition*
18. **Jane Stern**  
Program Director  
*The New York Community Trust*
19. **Rev. Terry Troia**  
Executive Director  
*Project Hospitality, Inc.*
20. **Claudia Wilner**  
Staff Attorney  
*Neighborhood Economic Development Advocacy Project*
21. **Rabbi Moshe Wiener**  
Executive Director  
*Jewish Community Council of Greater Coney Island, Inc*

## Appendix D. Organizations Responding to Non Profit Survey

African Services Committee  
American Homeless Society of New York  
Argus Community Inc. ACCESS Program  
Brooklyn Bar Association Volunteer Lawyers Project, Inc.  
Bronx Defenders  
Brooklyn Community Housing and Services, Inc.  
Bushwick Housing Independence Project  
Center for Disability Advocacy Rights  
Center for Employment Opportunities  
Center for Family Representation, Inc.  
City Bar Justice Center  
Coalition for the Homeless  
Community Access-HOWIE the HARP  
Community Advocates for Educational Excellence, Inc.  
Community Service Society  
Center for Urban Community Services  
Cypress Hills Child Care Corporation  
Day One  
Employment Program for Recovered Alcoholics  
Fifth Avenue Committee  
Goodwill Industries Back-to-Work  
Housing Works Client Legal Services  
InMotion, Inc.  
LawHelp.org/NY  
Legal Action Center  
Legal Information for Families Today  
Lenox Hill Neighborhood House  
MFY Legal Services, Inc.  
Mosholu Montefiore Senior Center  
Nah We Yone, Inc.  
Neighborhood Association for Inter-Cultural Affairs, Inc.  
New York Association of New Americans  
New York City Bar Association, Legal Referral Service  
New York County Lawyers Association, Legal Referral Service  
New York Lawyers for the Public Interest  
New York Legal Assistance Group  
Northern Manhattan Improvement Corporation  
Office of the Appellate Defender  
Office of the District Attorney, Bronx County  
Office of the District Attorney, Kings County (ComALERT Prison Reentry Program)  
Osborne Association  
Palladia  
Partnership for the Homeless  
People Organized for Our Rights, Inc.  
Per Scholas, Inc.  
Resources for Children With Special Needs  
Safe Horizon  
Samaritan Village, Inc.  
Sanctuary for Families, Inc.  
SKILL Center  
South Bronx Overall Economic Development Corporation  
Southside United Housing Development Fund Corp. (Los Sures)  
STEPS To End Family Violence  
The Child Center of New York, Asian Outreach Program  
The Door, Legal Services Center  
The Fund for New Citizens  
The Legal Aid Society  
University Settlement Society of New York  
VIP Community Services  
Volunteers of Legal Service  
William F. Ryan Community Health Center

## Appendix E. Survey Questionnaires (Staff, Non Profits, Elected Officials)

Available on Request.

# Endnotes

*(click on arrows to return to associated text)*

## Executive Summary

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## Lack of A Stable Safety Net

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