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**Senate Budget and Fiscal Review Subcommittee No. 5  
Thursday, March 2, 2017**

**Testimony of Catherine Blakemore, Executive Director**

Thank you for the opportunity to discuss the overwhelming justice gap faced by low-income Californians, seniors, and people with disabilities, and the need to increase the Equal Access Fund so that California's legal aid programs are able to continue their vital role in protecting the rights of low-income Californians.

I am the Executive Director of Disability Rights California, one of nearly 100 legal services non-profits funded by the State Bar of California (See Attachment 1). Disability Rights California is a statewide program that provides legal services to nearly 25,000 Californians with disabilities each year. I have been a legal services attorney for more than 35 years and know firsthand the important role legal services programs have in securing justice for low-income Californians. I am also the Vice Chair of the California Commission on Access to Justice, a 26-member commission of lawyers, judges, and academic, business, labor and community leaders. The Commission, established to explore ways to improve access to civil justice for low and moderate income Californians, has been instrumental in identifying the barriers to justice faced by disenfranchised communities and ways in which courts, attorneys and the legislature work together to solve these problems.<sup>1</sup>

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<sup>1</sup> Reports issued by the Commission include: And Justice For All: Fulfilling the Promise of Access to Civil Justice in California; Language Barriers to Justice in California; Action Plan for Justice; and Improving Civil Justice in Rural California. All reports are available through the State Bar of California, <http://www.calbar.ca.gov/AboutUs/CenteronAccessToJustice.aspx>

## **Perilous Times for Legal Services Programs and Our Clients**

### The Increasing Number of Low-Income Californians Eligible for Legal Services

The nearly 100 California legal services programs provide legal assistance to low-income Californians who are at, or below, 125% of the federal poverty level (\$30,750 for a family of four in 2017), or meet other criteria that establish similar financial need. Over 8 million Californians live below the 125% of poverty level threshold. Nearly 6 million, or 15.3%, Californians, including almost 2 million children, lived in poverty in based on the official lower poverty measure, a nearly 3% increase from the 2007 poverty rate of 12.4%.

### The Justice Gap: The Difference Between Need and Who Legal Aid Programs Can Serve

California has an overwhelming “justice gap” in the availability of legal services. California’s legal services programs served more than 250,000 low-income Californians including nearly 25,000 children, more than 8,000 veterans, more than 80,000 individuals with disabilities, and nearly 45,000 individuals with limited English proficiency. Given the much higher poverty rates, this is just a fraction of the number of low-income Californians who need legal assistance. California’s roughly 1,000 full-time legal services attorneys cannot adequately serve all Californians in need. There are over 7,500 low-income Californians for every legal services attorney. The legal problems our clients face often are immediate with dire consequences if not resolved. As reflected in the attached case summaries, Attachment 2, and in support letters from legal aid programs submitted today, legal services lawyers help clients restore critical safety net services, help secure guardianship for children whose parents are dying, and secure needed therapies for foster children.

Proposed changes in federal policies also will make it more difficult for our clients to access critical safety net services. Proposals to fundamentally alter Medicaid through a block grant or a per-capita cap will drastically reduce access to critical health care; reductions in federally subsidized housing programs will make housing less affordable and increase homelessness; changes to federal special education and elementary and secondary education laws will reduce access to school services for youth with disabilities and students with limited English proficiency resulting in

increased drop-out rates and involvement with the juvenile justice system. Each change to these critical services will also increase the demand for legal aid services as individuals try to navigate the changes and face the real-life impact of not having access to vital services.

### Impact of Inadequate Funding on the Justice Gap

Thirty years ago, California created the Interest on Lawyer Trust Accounts (IOLTA) program, which has been the primary mechanism for state funding of legal services programs. In the 1990's, these IOLTA accounts brought in over \$20 million dollars annually in interest, and even as recently as 2007, the program generated as much as \$20.2 million in revenue. However, because of the low federal fund rate that has been at .25% since mid-2009, IOLTA funds dropped to less than \$5 million for several years, only recently slightly recovering in 2016 to \$6 million. The IOLTA fund has been supplemented by a \$40 "opt-out" legal services fund on the Bar Dues statement and the Justice Gap Fund, which allows attorneys to make additional contributions to legal services. In addition, because of the widening justice gap, the legislature has taken significant actions to increase legal aid funding. For example, in 1999 the legislature created the Equal Access Fund, and in 2009, the Shriver Projects. Last year, for the first time, the Legislature provided a \$5 million one-time increase in general fund support to the Equal Access Fund. While each of these initiatives has helped shore up legal aid funding, none have been adequate to eliminate, or even significantly reduce, the justice gap. With proposed federal changes, the justice gap is about to get worse.

### Proposed Federal Budget Cuts With Drastically Reduce Legal Aid Funding

The Trump Administration has proposed the elimination of the Legal Services Corporation in fiscal year 2018 with deep cuts likely in the current fiscal year. The federal proposal also includes across-the-board cuts to federal funding for other legal aid programs<sup>2</sup> equal to at least 10% this year with more significant cuts next year. Over half of California's legal aid programs receive some federal funding. If implemented, the net reduction to California's legal aid programs next fiscal year would be nearly \$47 million dollars (a loss of over \$43 million in legal services funds and \$3.6 million in other federal funding). Losses of this magnitude, which for some programs

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<sup>2</sup> Other federal funding includes the Older Americans Act, and the protection and advocacy system.

equal 40 to 50% of total funding, would be so significant that it will impact the program's infrastructure and very existence. For other programs, there would be a significant reduction in the number of clients served; at the very time that clients face serious threats to their ability to access vital safety net services.

### Impact of the One-Time Equal Access Fund Increase

Legal aid programs appreciate the Legislature's action last year to provide a one-time \$5 million increase in legal services funding. With those funds, legal aid programs have used the funding to hire multiple one-year legal fellows; a Tagalog hotline, a newer addition to an Asian Language Legal Intake Project; a campaign to combat a threat to affordable housing in Los Angeles; and, provide clinics in rural areas including citizenship and naturalization clinics. However, given the one-time nature of the funding, no permanent staff can be hired, nor can long-term projects be initiated.

## **The Benefits of Legal Services**

### The Economic Benefit of Legal Services

Recent studies show that investment in legal services has a positive economic benefit bringing in more dollars to California resulting in significant local savings. A statewide report of New York's legal services program showed a return of \$10 for every \$1 invested in legal aid.<sup>3</sup> A regional report by Legal Aid of Sonoma County showed a return of over \$8 for every \$1 invested.<sup>4</sup> A similar study by the Justice and Diversity Center of the Bar Association of San Francisco showed a return of nearly \$5 for every \$1 invested.<sup>5</sup> Many studies have shown that ensuring clients get the federal benefits they are entitled to brings in critical federal dollars and frees up local funds. A Boston Bar Association Task Force used three separate economic consulting firms that found for every \$1 invested in legal aid, the programs

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<sup>3</sup> *The Task Force to Expand Access to Civil Legal Services in New York: Report to the Chief Judge*, November 2014, [http://www.nycourts.gov/accesstojusticecommission/PDF/2015\\_Access\\_to\\_Justice-Report-V5.pdf](http://www.nycourts.gov/accesstojusticecommission/PDF/2015_Access_to_Justice-Report-V5.pdf), at 2.

<sup>4</sup> *Legal Aid of Sonoma County, Social Return on Investment Analysis*, 2014, at <http://legalaidresearch.org/wp-content/uploads/SROI-Sonoma-County-1.pdf>, at 8.

<sup>5</sup> *Justice and Diversity Center of the Bar Association of San Francisco, Social Return on Investment Analysis*, 2014, <http://www.csaco.org/files/103641543.pdf>, at 3.

brought in \$5 in federal benefits.<sup>6</sup> Preliminary data from California shows that for six months in 2016, legal services programs obtained over \$22 million in back awards and settlements and new monthly benefits (not annualized) was over \$2 million.

### Legal Services Are a Critical Component of Effective Access to the Courts and Justice

The lack of access to legal aid not only impacts the poorest of Californians but also the Courts. Indigent Californians are among those most unlikely to successfully navigate the court system or present meritorious arguments on their own. And, yet they are some of the most likely to need access to courts to address the most basic of legal problems; obtaining a domestic violence restraining order; obtaining child support; or, preventing an eviction that will result in homelessness. Because courts have an obligation to assist self-represented litigants, these individuals consume significant court resources and create delays in court calendars.

### **A \$30 Million Increase in the Equal Access Fund Is a Smart Investment That Provides Access to Justice**

Historically, California has been a leader in ensuring access to justice for low-income Californians. However, with increasing numbers of Californians living in poverty, we are no longer a leader and have fallen behind 21 other states. Since 2000, the number of Californians living in poverty has increased by more than 25% from 6.4 million to more than 8 million, and the number of Californians over 65 has increased nearly 13% from 3.6 million to over 5 million. There are 3,851,442 Californians with a disability not living in institutions. The poverty rates of individuals with disabilities are higher, with the national data reflecting a poverty rate of 26.5% compared to the national overall poverty rate of 12.8% for individuals without a disability. The need for a strong legal safety net is growing.

The average amount for any state that appropriates funds for free civil legal aid is \$5 per eligible person. New York on the other hand, spends more than \$20 per eligible person - \$100 million in all. Using just the average amount spent by other states on free civil legal aid, means that California is \$30 million behind.

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<sup>6</sup> *Investing in Justice, A Roadmap to Cost-Effective Funding of Civil Legal Aid in Massachusetts*, 2014. [www.bostonbar.org/docs/default-document-library/statewide-task-force-to-expand-civil-legal-aid-in-ma---investing-in-justice.pdf](http://www.bostonbar.org/docs/default-document-library/statewide-task-force-to-expand-civil-legal-aid-in-ma---investing-in-justice.pdf), at 4-5

Civil legal aid ensures equal access to justice. Each day, legal aid attorneys across the state help thousands of clients resolve a myriad of legal problems including housing crises, job losses, domestic violence, elder abuse, and obstacles to health care and education. When justice is available to those who need it, society benefits from increased family stability, safer communities, and a stronger workforce. Our ability to provide this assistance depends upon a stable, consistent source of funding. Increasing the Equal Access fund is critical to ensuring that we can continue our work and help your constituents access the services and supports they need. Thank you for your support.