



**THE TASK FORCE TO EXPAND ACCESS TO CIVIL LEGAL SERVICES
SUBMISSION OF THE LEAGUE OF WOMEN VOTERS OF NEW YORK
October 5, 2010**

I am Nancy Grosselfinger, Co-President of the League of Women Voters of Hamilton County, a recently formed Member At Large unit.

The League of Women Voters is a nonpartisan grassroots political organization open to men and women. It encourages informed and active participation in government, works to increase understanding of major public policy issues, and influences public policy through education and advocacy. The League operates at the local, state and national levels in every state and has over 50 local leagues.

The League of Women Voters is grateful for the opportunity to raise its voice in response to Chief Judge Jonathan Lippman's charge to the Task Force to come up with permanent funding mechanisms to support affordable representation for the state's low income persons. The League of Women Voters of New York State, and local Leagues statewide, first championed Legal Services for the Indigent in 1975, when it adopted the position that,

The rights of the defendant should be protected at every stage of a criminal proceeding. At present, indigent defendants must be provided counsel at full public expense. The quality of defense provided for the indigent should be improved by better training and screening of attorneys. Funding for indigent defense should come from all levels of government.

In 1983 this position was broadened to include civil as well as criminal proceedings.

For several years the League actively examined how legal representation in Criminal and Family Courts matters was provided at public expense and found reform was greatly needed. Our current research indicates that even in rural upstate New York limited access to civil legal services is being felt. For example, in Hamilton County, a vast county of 1,800 square miles with less than 5,000 population, including the highest percentage of persons over 60 years of age in the state, indigent clients approaching the courts or coming to the attention of the Department of Social Services are referred to the Legal Aid Society of Northeastern New York. That agency serves 11 counties across the northern region of the state but they are only able to accommodate 20% of those approaching them for service because of lack of a consistent stream of funding to hire and retain quality attorneys. Hamilton County residents constitute only .04% of those served by Legal Aid of NE/NY.

The Warren-Hamilton Office for the Aging similarly retains a Glens Falls attorney, more than one hour's drive from Hamilton County's elderly, and contracts for \$13,000 of services in the areas of wills, powers of attorney and credit card cease and desist letters. The Hamilton County Department of Social Services sometimes asks one of the 10 local attorneys in the county, or attorneys in adjacent counties, to provide pro bono services on a case-by-case basis. Judge Feldstein also exercises the power of assignment with great care and attentiveness without compromising his impartiality.

For those still deemed in the workforce by reason of age, unemployment rates vacillate making Hamilton County either first or second highest in the state depending upon the season..

Poverty is deepening especially for dependent children, their parent(s) and the elderly as highlighted in the September/October 2010 Adirondack Life article, "The Other Side of Paradise" that notes "The long distances for basics like food or medical care can be especially daunting for older people who have fixed incomes or diminished physical abilities".

As a resolution to this well-documented, continuously worsening situation the notion of a “Civil Gideon”, recalling *Gideon v. Wainwright* (1963), is apt because, as in *Gideon* there are serious risks to the fundamental liberty and property interests of people who, without a competent lawyer, are not able to defend against these threats because of their situation. In cases of foreclosures, evictions, habitability, and building condemnation rural communities are already seeing increases in legal notices and further increases are anticipated.

As an immediate response appointment of a body similar to the Board of the Interest on Lawyers Accounts (IOLA), would provide a recognized, competent, experienced and fair-minded overseer of resource distribution. For the longer term we urge wider study of the ways in which funding for indigent legal services is handled, giving particular attention to practices in democratic countries worldwide. My own Ph.D. studies on the judiciary in the Dominican Republic introduced me to practices in Latin America. I was particularly taken with the situation in Costa Rica where the entire judicial budget is constitutionally guaranteed and is comprised of a specific percentage of the annual tax revenue intake, awarded to the Chief Justice as administrator of the courts, before the executive and legislative branches have access. This assures the courts will receive funding ahead of both the executive and legislative branches of government and will suffer the same proportional share of diminished or increased intake revenues. Such a formula could be extended to all levels of government to reflect acceptance of responsibility. For instance, at the county level, a protected percentage of county revenues would be forwarded to the new administrative body before the county legislature or executive would craft the county budget.

The League looks forward to providing further constructive input on this important issue for all New Yorkers.