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A Foundation Upon Which Justice Is Built: The Chicago Bar Foundation's Innovations to Improve Access to Justice During Tough Economic Times

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A FOUNDATION UPON WHICH JUSTICE IS BUILT: THE CHICAGO BAR FOUNDATION'S INNOVATIONS TO IMPROVE ACCESS TO JUSTICE DURING TOUGH ECONOMIC TIMES

Danielle Elyce Hirsch

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A FOUNDATION UPON WHICH JUSTICE IS BUILT: THE CHICAGO BAR FOUNDATION'S INNOVATIONS TO IMPROVE ACCESS TO JUSTICE DURING TOUGH ECONOMIC TIMES

*Danielle Elyce Hirsch**

I. INTRODUCTION

“Equal justice for all” is one of the United States’ most proudly proclaimed principles, embellished on courthouse entrances and regularly cited in constitutional decisions.¹ The Illinois Constitution also contains a strong commitment to equal and unimpeded access to our legal system for all of our citizens: “Every person shall find a certain remedy in the laws for all injuries and wrongs which he receives to his person, privacy, property or reputation. He shall obtain justice by law, freely, completely and promptly.”² Notwithstanding these constitutional principles, a large number of people with urgent and important issues at stake—such as the custody of a child, the preservation of one’s home, access to health care, or the loss of a job—have found themselves without legal assistance to help them with their legal problems.³ For these people, equal access to justice is

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Danielle received comments, suggestions and ideas on this Article from Bob Glaves, Dina Merrell, Kelly Tautges, Adam Newcomer, and Austin Hirsch. She dedicates this Article to her colleagues at the Chicago Bar Foundation, who have dedicated their careers to making the justice system more transparent, welcoming, and accessible for all.

1. The rule of law depends in substantial part on the public’s trust in the fairness of the judicial system as a fair vehicle for dispute resolution. For those unable to get counsel, those intimidated at the front door to the courthouse or government office building by the complexities of the law, or even for those who brave the proceedings but taste defeat, one result is cynicism. It is all too easy to blame defeat not on the merits but on how the odds were stacked and on procedures designed for lawyers, not lay people. Such cynicism seriously threatens the credibility and legitimacy of the tribunals, including courts where disputes must be resolved in order to preserve the peace and order of the community.

2. ILL. CONST. art. 1, § 12.

3. There is no constitutionally guaranteed right to counsel in civil cases, as there is in the criminal justice system. This is true despite the fact that the potential consequences of many civil legal problems are as grave as the penalties for some criminal offenses. Tim Bertschy & Jennifer Nijman, *THE LEGAL AID SAFETY NET: A REPORT ON THE LEGAL NEEDS OF LOW-INCOME ILLINOISANS 1-2*, 163 (2005) [hereinafter *LEGAL NEEDS STUDY*]. The Legal Needs Study was released in February 2005 and was sponsored by the Chicago Bar Association, the Illinois State Bar Association, the Chicago Bar Foundation, the Illinois Bar Foundation, and Lawyers Trust Fund of Illinois.

not yet a reality.⁴

Access to counsel is not just a convenience that makes the litigation process more efficient. Legal representation can dramatically affect the outcome of a case. Lawyers advise clients about substantive rights, claims, or defenses that they may not know they have. Lawyers help clients navigate their way through complex laws and procedures that govern the judicial system, which can be confusing even to those with formal education and economic means. Lawyers also make a difference as counselors in situations far removed outside of the courtroom. They provide advice, resolve problems before they turn into court cases, advocate for laws and policies that better serve the interests of their clients, and provide transactional services such as drafting a will or advanced medical directive so that end-of-life wishes will be respected.

Every day, lawyers perform valuable services for individuals with the resources to pay for them. But legal needs are not limited to those with resources. Low-income residents need and deserve legal assistance and representation as well. The consequences of unaddressed civil legal problems can be devastating and spill over into other aspects of life. A person who has been evicted from his or her home, for example, may also have difficulty maintaining employment and keeping children in school. A person unable to remain in this country due to immigration problems may have to leave behind a spouse and children or have to uproot them. For a person with limited resources, losing disability benefits could lead to homelessness. And, if unable to secure legal protection from an abusive relationship, a mother may have to flee her job and her home, subjecting her children to financial insecurity and instability.

This Article details several new projects and programs aimed at improving access to justice for all Chicagoans, particularly during this challenging economic climate. It is important to note that the Chicago Bar Foundation is taking a system-wide approach to address these needs that involves direct legal services, training and support for legal aid and pro bono organizations, advocacy for increased government support and funding for such efforts and assistance for self-represented litigants. One purpose of this Article is to detail the Chicago legal community's innovations to improve access to justice, with the hope that many of these innovations will be adapted for use in other jurisdictions.⁵

II. CHICAGO'S LEGAL COMMUNITY AS A MODEL

Chicago has a variety of resources serving low-income residents.⁶ The city is home to a legal aid community that includes more than thirty legal aid

4. This Article focuses only on civil law. As discussed in note 3, unlike under criminal law, one has no right to legal counsel in civil matters. And yet the civil legal needs of people involve essential human needs, such as protection from abusive relationships, safe and habitable housing, access to necessary health care, disability payments to help lead independent lives, family issues including child support, and custody actions and relief from financial exploitation.

5. The importance of not-for-profits sharing best practices is supported by LESLIE R. CRUTCHFIELD & HEATHER MCLEOD GRANT, *FORCES FOR GOOD: THE SIX PRACTICES OF HIGH IMPACT NONPROFITS* 104-27 (2008).

6. In this Article, the term Chicago refers to both the City of Chicago and the metropolitan Chicago area.

organizations as well as a number of government agencies and law school clinics. These organizations range from one or two lawyers to about ninety and from generalists offering a diversity of legal services to those focusing on particular subject areas. Chicago's legal aid organizations have a wealth of expertise, use varying practice models and provide services ranging from distributing self-help materials, to giving brief advice, to offering full representation. In addition, members of the judiciary have continually demonstrated their commitment to improving access to justice for all Chicagoans.⁷ Chicago is also home to a private bar with an unsurpassed commitment to pro bono work.⁸

The variety and number of legal aid organizations coupled with strong pro bono participation give Chicago a solid base for addressing unmet legal needs. That is the good news. The bad news is that the good news is not nearly good enough. Even in light of these resources, the needs of those who cannot afford legal help substantially outweigh the available services. Due to a long-term underinvestment in our pro bono and legal aid system, there are only about 300 legal aid attorneys to serve the more than one million low-income residents of the Chicago area who qualify for their services.⁹ As a result, even before the current economic downturn, the majority of low-income and disadvantaged Chicagoans were unable to obtain legal assistance and were left to try to solve complex legal problems on their own. This "justice gap" has grown over the past year as the recession has set in.¹⁰

The current economic climate further exacerbates justice in two significant ways: the number of low-income people in urgent need of legal help is growing while funding for these same services is under significant strain.¹¹ These pressures

7. See, e.g. Video: Supreme Court Justice Anne M. Burke Kicks Off CBA/CBF Pro Bono Week 2009 (Illinois Legal Aid Online 2009) available at <http://www.illinoisprobono.org/probonoweek> (last visited Mar. 25, 2010) (discussing the importance of pro bono and legal aid).

8. For the purposes of this article the term "pro bono" is defined as direct legal services provided to low-income individuals, organizations that serve them, or certain other charitable organizations, as well as other legal services provided to these groups, such as training and professional development, when provided without a fee or expectation of a fee. Illinois Supreme Court Rule 756(f) requires that, as part of the annual registration process, all attorneys practicing law in Illinois must report pro bono service as part of their annual registration. Information reported pursuant to this Rule is treated as confidential, and that information can be reported publicly only in the aggregate. ILL. SUP. CT. R. 756. For more information about the Illinois pro bono reporting rule and the most recent reports on the amount and types of pro bono services see ATTORNEY REGISTRATION AND DISCIPLINARY COMMISSION, 2008 ANNUAL REPORT 6-7 (2009), available at <http://www.iardc.org/annualreport2008.pdf> (last visited Mar. 25, 2010).

9. THE MID-AMERICA INSTITUTE ON POVERTY OF HEARTLAND ALLIANCE FOR HUMAN NEEDS & HUMAN RIGHTS, 2008 REPORT ON ILLINOIS POVERTY 41 (2008) (reporting that in 2005, 780,189 people in Cook County were living in poverty) [hereinafter REPORT ON ILLINOIS POVERTY].

10. The difference between the current level of legal assistance and the level which is necessary to meet the needs of low-income people is often referred to as a "justice gap." See THE LEGAL SERVICES CORPORATION, DOCUMENTING THE JUSTICE GAP IN AMERICA 1-3 (2009). The report notes that data collected in the spring of 2009 show that for "every client served by an LSC-funded program, one person who seeks help is turned down because of insufficient resources." *Id.* at 4.

11. The recession threatens to widen the justice gap as avenues that support legal aid programs are facing a series of real financial challenges. Illinois and many of its localities are operating under deficits and are struggling to balance budgets, which already has resulted in deep cuts to the state's funding of legal aid. Historically low interest rates have reduced revenues for the state's Interest on Lawyers Trust

are happening at the same time that Chicago's legal community is facing a very challenging climate¹² and is trying to find its collective bearings in a time of rapid change and great uncertainty.¹³ The cumulative result is a lack of meaningful access to the judicial system for many of Chicago's most vulnerable residents.

This Article explores many of the innovative ways that Chicago's legal community is addressing the growing justice gap despite these difficult economic realities. In this new environment of even greater demand for services coupled with more limited funding, tough, strategic decisions are required to determine how to provide more legal assistance with less funding to a greater number of people. In this new economic climate, old problems must be solved in new ways, and Chicago's legal community is also finding points of leverage to create large-scale systemic change. To do this thoughtfully, it is essential that all justice system stakeholders—from lawyers and legal professionals to judges, from law firms and corporations to legal aid organizations—communicate with one another about how best to address the growing justice gap.

As the charitable arm of the Chicago Bar Association (CBA), the Chicago Bar Foundation (CBF) has a unique position in the legal community because, through grants, advocacy and other programs, the CBF works with all justice system stakeholders.¹⁴ Because of its connections to the legal aid and pro bono

Account (IOLTA) program, the Lawyers Trust Fund of Illinois, which makes grants to legal aid providers statewide. Declines in the stock market reduce the ability of many philanthropic organizations and foundations to make contributions to legal aid non-profits. See, e.g., Bethany Krajelis, *Legal Aid Group Bucks Funds Trend*, CHI. DAILY L. BULL., Aug. 10, 2009 (quoting Kendra Reinshagen, Executive Director of the Legal Aid Bureau of Metropolitan Family Services (one of Chicago's legal aid organizations), as saying "'looking forward, it's not nearly as bright of a picture,' . . . referring to the tough economy that has led many donors to cut back their giving. She also stressed the difficulties that the bureau is facing in the state's financial crisis"); Lynne Marek, *A Flurry of Suits in Illinois Over Social Services Cuts*, CHI. DAILY L. BULL., July 1, 2009; Monique Garcia & Dan P. Blake, *State's Budget Dance Has Illinois Service Agencies Doing a Painful Limbo*, CHI. TRIB., June 25, 2009, at 9. The article notes the following:

Still, the bad economy is bringing a new wrinkle. Agencies that care for the needy say they no longer can turn to private foundations and that credit lines are drying up.

"In other years, we've been able to weather this because the economy hasn't been so awful, but this year every source of money is saying 'We're giving you less' so we don't have any way to compensate for this. That's why it's so devastating," said Denise Wolf Markham [Executive Director of Life Span, one of Chicago's legal aid organizations].

See also Stephanie Potter, *The Funding Crunch*, CHI. DAILY L. BULL., Apr. 25, 2009 (discussing the effect of lost funding to the National Immigrant Justice Center—one of Chicago's legal aid organizations—due to the difficult economy).

12. There have been a number of massive layoffs and proverbial "belt-tightening" within the legal market in Chicago (and this trend bears out nationally). While last year was the largest number of layoffs and deferrals for first-year associates, there remains some uncertainty among the legal market because of the fragile economy. See *infra* note 13.

13. See, e.g., Karen Sloan et al., *Tales of the Recession*, NAT'L L.J., Sept. 28, 2009; Matt Villano, *Law School Grads See Promised Jobs Put On Hold*, TIME, (Mar. 26, 2009.), <http://www.time.com/time/business/article/0,8599,1887270,00.html> (last visited Mar. 22, 2010); Karen Sloan, *Grim Report Advises Law Firms for a Long, Painful Slide*, NAT'L L.J., Oct. 24, 2008

14. Thanks to the generous financial support of thousands of lawyers, other legal professionals, more than 150 law firms and corporations, and many other dedicated supporters, in 2009, the CBF awarded more than two million dollars in grants to legal aid organizations and played a lead role in a number of important access to justice projects and initiatives. The CBF does not provide any direct

community, the courts and the private bar, the CBF is optimally positioned to lead the community on critical initiatives and innovations to address the justice gap in Chicago.

This Article is divided into four parts: Part III provides background on the current legal aid landscape in Chicago and reviews relevant poverty data that quantifies the number of those in need of legal aid assistance. Given the large number of people in need and the limited human and financial resources with which to address this growing justice gap, the remaining sections of this Article identify areas in which innovation is possible and provide examples of how Chicago's legal community is coming together to better meet this need. Part IV explores how the CBF enables dedicated lawyers to pursue careers in legal aid and helps pro bono attorneys to most effectively supplement their efforts. In the current economic climate, pro bono must be used more creatively to address the increasing demands for legal aid, in addition to continued financial support for legal aid organizations. Part IV also describes several innovative new pro bono and professional development programs in Chicago aimed at improving the delivery of legal services, including the CBF Legal Aid Academy,¹⁵ coordination and support for deferred law firm associates,¹⁶ and the SSI/SSDI Overpayment Pro Bono Project.¹⁷ Part V recognizes that the justice gap is simply too large for existing pro bono and legal aid lawyers to solve alone; accessing the varied power and resources of local, state, and federal governments are each part of the solution. Government unquestionably bears a primary responsibility in this effort, consistent with its role in maintaining the formal civil justice system. The CBF advocates at all levels of government for increasing funding and support for access to justice efforts. Part VI details several ways that the CBF is working to make the courts and the legal system more user-friendly and accessible for all. There are several

legal assistance; rather the CBF works to improve the justice system as a whole through grants, programming, supporting and developing pro bono programs, and advocacy. Chicago Bar Foundation, Grants Awarded, <http://chicagobarfoundation.org/grants-awarded> (last visited Jan. 29, 2010).

15. The CBF Legal Aid Academy assists legal aid lawyers with skill-based trainings and involves pro bono participation, in which lawyers, academics, business consultants, and social workers volunteer to teach legal education and skills-based courses for legal aid lawyers. See Chicago Bar Foundation, CBF Legal Aid Academy, <http://www.chicagobarfoundation.org/legal-aid-academy> (last visited Jan. 30, 2010). See also Stephanie Potter, *Program Aims to Fill 'Training Gap'*, CHI. DAILY L. BULL., (Apr. 28, 2009) (describing the CBF Legal Aid Academy).

16. Deferred associates are often recent law school graduates who are facing delayed start dates at law firms and are considering public interest work during their deferral periods. The CBF worked with several national and local partners to develop a coordinated response to the unprecedented interest from law firms seeking to place attorneys in longer-term pro bono commitments at legal aid and other public service organizations. These efforts included convening relevant stakeholders, developing best practices, and creating specialized resources and trainings in order to maximize the opportunities for these longer-term pro bono volunteers to effectively help low-income and disadvantaged clients and address community needs. See, e.g., Matt Straquadine, *Organizations Helping Deferred Associates Transition to Public Interest Placements* AM. L. DAILY, Sept. 17, 2009, <http://amlawdaily.typepad.com/amlawdaily/2009/09/webinar.html> (last visited Mar. 25, 2010).

17. The CBF and several legal aid organizations have collaborated to create and support the Social Security/SSI Overpayment Pro Bono Program, in which volunteer attorneys will be referred cases from any of the participating legal aid organizations to assist low-income disabled individuals who receive benefits from the Social Security Administration and have been notified that they have received an "overpayment." Please contact the Author for more information.

concrete strategies that the bar, the courts, and other stakeholders can implement together to greatly improve the delivery of resources for the self-represented. This includes a multi-tiered approach that creates better access to legal information, brief legal advice and extended legal representation. A few examples of the CBF's recommendations, which are described in depth in Part VI, include a central starting point and brief legal advice desks for self-represented litigants in each courthouse and increased collaboration with local colleges, universities and law schools to assist in this work.

While Parts III through V of this Article focus on individual areas within the larger justice system, it is important to note that, in practice, these topics are interrelated. While certain stakeholders in the justice system are only interested in the particular facet of the justice system where they have expertise or investment, the CBF takes a system-wide approach to improving access to justice. These comprehensive efforts increase the availability of legal information, advice and representation for Chicago's poor and vulnerable residents so that they are better able to access the justice system.

III. BACKGROUND ON CIVIL LEGAL ASSISTANCE IN ILLINOIS

Before discussing the innovative responses of Chicago's legal community to support the legal aid system, it is first necessary to discuss the scope of legal needs¹⁸ and the state of Illinois' economy. According to a 2008 Report on Illinois Poverty, 15 percent of Cook County's¹⁹ population, which includes residents of the City of Chicago and metropolitan Chicago, was found to be living in poverty.²⁰ And of Cook County's population living in poverty, it was found that 21.4 percent of those people were children under the age of eighteen.²¹

In 2008, Chicago's legal aid and pro bono organizations provided free or low-cost direct legal services to more than 120,000 of Chicago's most vulnerable people and their families; and more than 6,000 pro bono attorneys handled more than 13 percent of these cases.²² In that same year, legal aid and pro bono organizations provided information and referral to more than 60,000 additional people in need of legal help and made hundreds of community legal education

18. The term "need" refers to the number of existing clients and vulnerable populations eligible for legal aid.

19. Cook County is the county in Illinois that includes the City of Chicago and much of metropolitan Chicago. For purposes of this Article, Cook County represents the full scope of Chicago's legal need.

20. REPORT ON ILLINOIS POVERTY, *supra* note 9, at 37. The report notes that in 2008, 12.3 percent of Illinois' entire population was living in poverty. *Id.* at 13. According to the 2008 Federal Poverty Guidelines, which are annual poverty measures to determine financial eligibility for certain federal programs, a family of four is found to be living in "extreme poverty" if they live on less than \$10,000 per year, an income level where people are unable to support their basic needs; a family of four is found to be living in "low-income poverty" if they live on less than \$40,000 per year, an income level where people often have trouble meeting their basic needs due to skyrocketing costs for child care, rent, and health insurance. *Id.* at 9.

21. *Id.* at 41.

22. This data was compiled from the CBF's grant application process. Available records on file with Author.

presentations in low-income communities throughout the Chicago area.²³

One of the many unfortunate byproducts of the current economic climate is that overall funding for legal aid is under stress at the same time that demand for legal aid services is increasing significantly. Calls to Cook County's Legal Aid Hotline (CARPLS), for example, are up 25 percent from the same time last year; CARPLS reports receiving the largest number of calls by volume in housing, consumer, and family law.²⁴ Foreclosure filings in Cook County exceeded 45,000 in 2008, jumping almost 300 percent from 2005.²⁵ Due to a shortage of legal aid resources, the vast majority of people facing the loss of their home did not have access to a lawyer to help them.²⁶ Legal aid and pro bono organizations also report that people contacting them for help are in a deeper state of crisis—more vulnerable, financially exposed and desperate.²⁷

The State of Illinois continues to operate with a structural deficit, whereby the state's tax revenue scheme does not bring in enough money to continue to fund services and state employees at current levels.²⁸ The state's poor fiscal health affects legal aid in at least two different ways: (1) due to this large and growing state structural deficit, state funding for legal aid has been slashed in half over the past year;²⁹ and (2) state funding cuts have also been made to other essential state

23. *Id.*

24. *Id.* For more information about CARPLS, see Coordinated Advice & Referral Program for Legal Assistance, <http://www.carpls.org> (last visited Jan. 29, 2010).

25. Chicago Area Foreclosure News, New Foreclosure Filings in Cook County Out of Control, <http://ilfls.com/news/New-Foreclosure-Filings-in-Cook-County-Out-of-Control.html> (last visited Mar. 25, 2010).

26. LEGAL NEEDS STUDY, *supra* note 3, at 1-2 (reporting that “low-income households had legal assistance for only one out of every six (16.4 percent) legal problems encountered in 2003”). See also Francine Knowles, *Chicago Area Sees Upswing in Home Foreclosures*, CHI. SUN TIMES, July 30, 2009, at 3 (citing that one in every fifty-nine homes in the Chicago area has received a foreclosure filing); Associated Press, *Illinois Foreclosure Filings Jump in First Half* (July 16, 2009) (on file with author) (“The number of Illinois households on the verge of losing their homes soared by more than 29 percent in the first half of the year, an increase twice as big as the national jump.”).

27. This is information that the Author has repeatedly been told anecdotally through meetings with legal aid providers.

28. See, e.g., Kerry Grace Benn, *Moody's Warns on Illinois Bond Ratings*, WALL ST. J., July 16, 2009, available at <http://online.wsj.com/article/SB124775413237351801.html> (last visited Mar. 25, 2010) (“Moody's Investors Service has put the state of Illinois's general-obligation bond ratings on review for possible downgrade, saying that the state has long-term budgetary challenges. . . . [T]he state has a long history of general-fund operating deficits, and liquidity in the fund has been increasingly strained, which [Moody's] said was evidenced by growing use of short-term debt and delaying payments to Medicaid providers and vendors.”); Associated Press, *Illinois Budget Hole Could Reach \$9 Billion*, (Feb. 4, 2009) (on file with author); CENTER FOR TAX AND BUDGET ACCOUNTABILITY, ISSUE BRIEF: FACING REALITY: ILLINOIS MUST RAISE REVENUE TO BALANCE ITS BUDGET 2 (2009) (projecting that Illinois will have a deficit shortfall of at least \$8.85 billion in Fiscal Year 2010). See also REPORT ON ILLINOIS POVERTY, *supra* note 9, at 51 (citing RM MARTIRE, FISCAL SYSTEM BASICS (2005)).

29. The State of Illinois financially supports legal aid through the Illinois Equal Justice Foundation (IEJF), a statewide foundation that distributes funds for legal information centers, regional legal services hotlines, alternate dispute resolution centers, advice desks, and legal aid organizations. See Illinois Equal Justice Foundation, About Us, <http://www.iejf.org> (last visited Jan. 29, 2010). Last year, IEJF was funded \$3.5 million dollars to support legal aid efforts statewide; this year, IEJF was funded at \$1.75 million—a fifty percent drop—to support state legal aid efforts. See, e.g., Bethany Krajelis, *Legal*

social services, such as mental health and domestic violence prevention services and probation services.³⁰ These cuts only increase the need for legal aid because more people are without important social services that may help keep them out of the legal system.

Specifically looking at the delivery of legal aid services, the 2005 Illinois Legal Needs Study found that over the course of a year, tens of thousands of less fortunate Illinois residents were unable to obtain legal assistance that was critical to their safety and independence, and hundreds of thousands more people attempted to solve often complicated legal problems on their own.³¹ The most common categories of legal problems involved consumer, housing, and family law issues.³² Moreover, many of these legal problems are complex matters with potentially grave consequences for the people involved (such as: evictions, domestic violence, child custody, bankruptcy, and divorce). The Illinois Legal Needs Study found that a majority of low-income Illinois residents were trying to resolve these issues on their own.³³

For those low-income Chicagoans able to obtain legal assistance, they depend upon the expertise, skill, and commitment of legal aid attorneys to provide them with needed help. In many instances, legal aid helps low-income Chicagoans achieve and maintain self-sufficiency. Legal aid attorneys play an important role in addressing the justice gap and the justice system faces a simmering crisis of attorney recruitment and retention that, if left unaddressed, will diminish the capacity of the legal aid system. A recent ground-breaking study on Illinois recruitment and retention identified many factors causing legal aid attorneys to forego or to leave legal aid positions and provided recommendations to address these concerns.³⁴ Several findings from this study were that (1) legal aid salaries have not kept pace with the dramatic rise of law school debt and are not on par with

Aid Programs Seek Ways To Cope with Funding Decrease, CHI. DAILY L. BULL., July 30, 2009 (stating that the “hefty slash” in funds from \$3.5 million in Fiscal Year 2009 to \$1.75 million in Fiscal Year 2010 will result in approximately 30,000 fewer people being served with necessary legal help); Bethany Krajelis, *Foundation Issues Legal Aid Grants; Money Yet To Come*, CHI. DAILY L. BULL. Apr. 7, 2009 (stating that IEJF funding was \$3.5 million for Fiscal Year 2009).

30. See, e.g., Bethany Krajelis, *Governor To Put More Money Toward Probation*, CHI. DAILY L. BULL., Sept. 11, 2009; Bethany Krajelis, *Chief Justice; Court Officials Press Gov for Increase in Probation Funds*, CHI. DAILY L. BULL. Sept. 9, 2009; Monée Fields-White, *State Budget Stalemate Could Cost Non-profits Billions*, CRAIN’S CHI. BUS., July 6, 2009, available at <http://www.chicagobusiness.com/cgi-bin/news.po?id=34636&seenIt=1> (last visited Mar. 25, 2010); Bethany Krajelis, *New State Budget Crimps Justice Agencies*, CHI. DAILY L. BULL., July 16, 2009; Derrick Blakley, *Social Services Agencies Squeezed in Budget Woes*, CBS (Chicago), July 1, 2009, <http://cbs2chicago.com/politics/illinois.budget.cuts.2.1067809.html> (last visited on Mar. 25, 2010).

31. LEGAL NEEDS STUDY, *supra* note 3, at 1-2.

32. *Id.* at 163. The most common individual legal problems involved debt collection, serious conditions and problems in a rental unit, and child support.

33. *Id.* at 2 (“Many of the problems that people tried to resolve without legal assistance were complex matters with potentially serious consequences, including evictions (83.3% attempted to resolve on their own), domestic violence (68.9%), child care (62.5%), bankruptcy (50%) and divorce (48.5%).”).

34. CHICAGO BAR FOUNDATION & ILLINOIS COALITION FOR EQUAL JUSTICE, INVESTING IN JUSTICE: A FRAMEWORK FOR EFFECTIVE RECRUITMENT AND RETENTION OF ILLINOIS LEGAL AID ATTORNEYS 7-8 (2006) [hereinafter RETENTION AND RECRUITMENT STUDY].

other public service salaries;³⁵ (2) legal aid lawyers are often not provided with adequate professional support and advancement opportunities;³⁶ and (3) attorney turnover has a real cost to the legal aid organizations and to the clients they serve.³⁷ Several of the innovative programs that have recently been launched by the CBF and others, which are discussed in Part IV of this Article, address the issues raised by this retention and recruitment study.

To meaningfully address the justice gap, the legal system must have the resources available to provide the quantity of services necessary to meet the legal needs of the low-income and other vulnerable populations who cannot afford counsel. To do so, particularly in the current turbulent economic climate, the justice system must maximize services by effectively developing, leveraging, and utilizing all potential financial, volunteer, and in-kind resources. The CBF plays an important role in this cause because it fully engages with all entities and individuals involved in the provision of legal aid, as well as the judiciary and court personnel who can reform their rules, procedures, and services to expand and facilitate access to justice. The CBF also advocates for increased government support and funding of civil legal aid services and public interest attorneys. The remaining sections of this Article identify and describe examples of where the CBF, legal aid providers, the private sector, other state and philanthropic funders, the judiciary, the executive and legislative branches of government, law schools, colleges and universities, and other appropriate stakeholders have come together in ongoing and coordinated efforts to support and facilitate access to justice for all.

IV. SUPPORTING LEGAL AID AND PRO BONO ATTORNEYS

A. Fostering Engagement and Commitment from Pro Bono Volunteers

The private bar also plays an important role in providing legal aid to low-

35. The Retention and Recruitment Study found that while legal aid salaries have always been lower than those offered in private practice, salaries at government agencies outpace salaries offered by Chicago's legal aid organizations, and this gap widens with experience level. *Id.* at 20-25. Since the mid-1980s, law school tuition costs have risen dramatically, and more students are taking out significant student loans to cover the costs of attending law school. *Id.* at 23. "Although law school tuition has risen significantly, legal aid salaries have failed to keep pace," which causes newer legal aid lawyers to face increasing student loan burdens with longer periods of repayment. *Id.* at 24. *See also* THE AMERICAN BAR ASSOCIATION COMMISSION ON LOAN REPAYMENT AND FORGIVENESS, LIFTING THE BURDEN: LAW STUDENT DEBT AS A BARRIER TO PUBLIC SERVICE, 15-19 (2003).

36. The Retention and Recruitment Study found that a job exceeding one's skill set, without any supplemental professional training to feel more prepared and comfortable completing those tasks, often led to burnout and the eventual departure of many legal aid lawyers at all levels, but especially staff attorneys and managing attorneys. RETENTION AND RECRUITMENT STUDY, *supra* note 34, at 32-33. Some of the skills that legal aid lawyers stated would help them with their work included programming on working with the needs of the mentally ill, training to help work with angry or difficult people, supervisory skills, and managing opposing counsel. *Id.* at 31.

37. The Retention and Recruitment Study also found that the cost of legal aid attorney turnover is substantial, as an organization has to hire, train, and replace a departing employee as well as the "brain drain" cost associated with turnover (how much knowledge leaves an organization with the employee who is leaving the organization). *Id.* at 16-18. The study further determined that if the legal aid workforce were to lose 10 percent of its attorneys due to attrition or burnout in one year, it would result in 9,245 fewer legal aid clients across Illinois being served in that same year. *Id.* at 16.

income individuals and families. A significant number of lawyers in private practice contribute both time and money to the legal aid system.³⁸ For example, the CBF launched a groundbreaking Law Firm Leadership Circle—a statement of best practices for firms on pro bono, supporting for legal aid, and related issues—that has approximately thirty signatories in Chicago.³⁹ A Corporate Leadership Circle—a statement of best practices for corporations on pro bono, supporting for legal aid and related issues—was recently launched this year. While lawyers are not solely responsible for addressing the legal needs of the poor, they do have a professional obligation, as guardians of the justice system, to play a leading part in that effort.⁴⁰

In the current challenging economic climate, the private bar must continue to expand pro bono and fundraising activities to support legal aid. One such innovation is the CBF Legal Aid Academy (the Academy), a new pro bono program through which law firms, legal aid organizations, academic institutions, consultants, and other professionals are collaborating to help meet the core training and professional development needs of Chicago's legal aid attorneys and staff. Launched this year, the Academy draws upon pro bono resources to provide high quality training and professional development for legal aid attorneys and helps Chicago's legal aid organizations conserve funds in a time of limited budgets.⁴¹

The Academy was developed in direct response to several findings from the Retention and Recruitment Study—specifically around the need for training and professional development.⁴² Through the Academy, legal aid lawyers now have access to existing skills-based trainings at several of Chicago's law firms, on-line skills trainings developed by the Practicing Law Institute (PLI) and, notably, customized legal aid-specific training programs organized by the members of the Academy Steering Committee.⁴³ Some of the initial Academy trainings for legal aid lawyers include workshops on working with mentally ill clients,⁴⁴ negotiations

38. LEGAL NEEDS STUDY, *supra* note 3, at 3 (noting that “while approximately 70% of all Illinois attorneys are based in Cook County, over 90% of all pro bono cases were handled by Cook County attorneys.”).

39. See Chicago Bar Foundation, Law Firm Leadership Circle, <http://www.chicagobarfoundation.org/law-firm-leadership-circle> (last visited Mar. 25, 2010).

40. See *supra* note 8, for information about Illinois's mandatory pro bono reporting rule.

41. Illinois is a mandatory Continuing Legal Education (CLE) reporting state; all members of the Illinois bar must take a certain number of ethics and skills-based CLE courses each year to remain licensed to practice law in Illinois. Minimum Continuing Legal Education (MCLE) Board of the Supreme Court of Illinois, <http://www.mcleboard.org/> (last visited Mar. 25, 2010) [hereinafter MCLE Board]. Only attorneys on inactive or retirement status are exempt from the MCLE requirements. ILL. SUP. CT. R. 791(a)(1). Therefore, the Academy programming not only helps legal aid lawyers to better perform in their jobs, but also assists them to satisfy their annual CLE requirements.

42. Chicago Bar Foundation, Overview of the Legal Aid Academy, <http://www.chicagobarfoundation.org/legal-aid-academy/overview-of-the-legal-aid-academy> (last visited Mar. 25, 2010).

43. The Academy Steering Committee includes executive directors and staff attorneys from several legal aid organizations, law firm professional development lawyers, and other professionals at several law firms and legal academics. *Id.*

44. The requirements of working with the mentally ill are complex, requiring, at a minimum, a basic understanding of the conditions some legal aid clients may struggle with, such as: addiction, trauma, anxiety, depression, and schizophrenia. Learning to recognize these conditions and also to recognize when the services of a social worker or other health professional may be of benefit enables legal aid

skills, stress management, and supervisory skills.⁴⁵ These types of trainings were specifically mentioned in the Recruitment and Retention Study as the kind of workshops legal aid attorneys desired or wanted to improve their job performance and, thus, would reduce the risk of burnout and employee turnover.⁴⁶

The Academy is unique for the amount and diversity of pro bono participation in its creation and operation. These legal aid trainings—both at the law firms and those specifically developed for legal aid lawyers—are made available through partnerships with law firms, legal aid organizations, legal, social work, and business academics, and other non-profit service providers, who are all donating their time and resources pro bono. This successful model proves that law firms and others in the private sector can contribute to the delivery of legal aid and pro bono in important ways beyond providing monetary support and direct legal assistance.

The present challenging economic climate poses several new challenges to the pro bono system.⁴⁷ Because many law firms have reorganized the size of their work forces, there may be fewer firm lawyers able to take pro bono cases. Conversely, with the tightening of the legal market, there are many more unemployed lawyers who may be interested in volunteering to assist but who lack the resources and training that come from being associated with a law firm. At the same time, pro bono and legal aid organizations are losing funding that could be used to train, monitor, and support pro bono attorneys. If the pro bono system is not properly managed in light of these new economic realities, it could result in many missed opportunities to support and facilitate increased access to justice. The CBF has been working with legal aid organizations and law firms to develop creative pro bono projects to most effectively help legal aid organizations meet the increasing demands for legal aid, while also finding good opportunities for lawyers to get involved to meet that need.

For example, the CBF has worked with several national and local partners to develop a coordinated response to the unprecedented interest from law firms seeking to place attorneys in longer-term pro bono commitments at legal aid and other public service organizations.⁴⁸ These efforts included convening relevant stakeholders, developing best practices, and creating specialized resources and trainings to maximize the opportunities for these longer-term pro bono volunteers to effectively help low-income and disadvantaged clients.

The CBF Pro Bono Support Program also helps scores of individual lawyers and a number of law firms and corporations most effectively get involved in pro bono work by providing information, resources and assistance to match them with opportunities that are an appropriate fit for their interests, skills and availability.⁴⁹

attorneys to better serve mentally ill clients. RECRUITMENT AND RETENTION STUDY, *supra* note 34, at 8.

45. Supervisory skills can range from the disciplinary to the motivational, but generally fall in the category of convincing employees to accomplish tasks that they would not normally do themselves. Training and developing these skills improves supervising attorneys' sense of control, reduces their stress, and strengthens their ability to get the best from their staff. *Id.*

46. *Id.*

47. *See supra* note 13.

48. *See, e.g.,* Straquadine, *supra* note 16.

49. *See* Chicago Bar Foundation, Pro Bono Opportunities, <http://www.chicagobarfoundation.org/pro-bono-opportunities> (last visited Mar. 25, 2010).

In addition to helping individual lawyers get involved, the CBF takes a system-wide approach to encouraging pro bono. In 2005, for example, the CBA and CBF launched an annual Pro Bono Week with the twin goals of honoring lawyers' pro bono efforts and educating the public and legal community about how these lawyers are improving the lives of the less fortunate. Pro Bono Week has been so successful, in fact, that the American Bar Association has launched a national Pro Bono Celebration, inspired in part by Chicago's model Pro Bono Week.⁵⁰

Another innovative new pro bono program is the Social Security Overpayment Pro Bono Project, which is a collaborative project between five CBF-supported legal aid organizations and the CBF.⁵¹ In this project, pro bono attorneys assist low-income disabled individuals who receive benefits from the Social Security Administration (SSA) and have been notified that they have received an "overpayment." Many disabled individuals are faced with overpayment cases, which have a potentially devastating financial impact, but because legal aid organizations do not have adequate resources, these disabled people are unable to obtain legal assistance to address these overpayment issues. The Social Security Overpayment Pro Bono Project leverages the expertise and needs of each organization and technology to create a collaborative pro bono program where no single group could develop and manage this program on its own.

B. Supporting Chicago's Legal Aid System Through Grants

Thanks to the increased involvement of Chicago's private legal community, over the past ten years, the CBF has been able to increase its grants tenfold, to approximately two million dollars in grant funds to pro bono and legal aid organizations.⁵² These CBF grants ensure that tens of thousands of low-income and disadvantaged people in most critical need of the protections of the civil legal system have access to justice. In addition to the direct financial support from these grants, a comprehensive review and evaluation process for the CBF's grants also promotes best practices among Chicago's pro bono and legal aid organizations on common issues like management, governance, pro bono and coordination with other relevant organizations. In addition, the CBF's grants have directly leveraged well over one million dollars from other government and private sources that would not otherwise have been available to support the civil legal system.⁵³

50. See, e.g., Probono.net, Celebrate Probono, <http://www.probono.net/celebrateprobono> (last visited Mar. 5, 2010); Chicago Bar Foundation, 2009 Pro Bono Week, <http://www.chicagobarfoundation.org/pro-bono-week> (last visited Mar. 5, 2010).

51. No print or website information about the Social Security Overpayment Pro Bono Project is available at this time. Please contact the Author with any questions or for training materials.

52. The CBF's base of support includes thousands of individual donors, more than 150 law firms and corporations, and many other committed supporters. Chicago Bar Foundation, About Us, <http://chicagobarfoundation.org/about-us-cbf> (last visited Jan. 29, 2010). For example, the CBF's annual Investing in Justice Campaign involves thousands of individual donors coming together as a community to contribute and support the legal aid system.

53. For example, the Chicago Community Trust's Unity Challenge Grants from July 2009, in which the Chicago Community Trust gave \$675,000 in grants to several of Chicago's pro bono and legal aid organizations to provide legal assistance and coordinate pro bono efforts during the current economic crisis. See Chicago Community Trust, Our Regions Community Foundation,

With legal aid organizations' overall funding likely to be down over the next few years due to the stresses on other major funding sources for legal aid, while demand for those services increase, the CBF is aiming to use its grants process to strategically allocate scarce resources. In light of these new economic realities, the CBF's promotion of organizational best practices will play an even more important role now for legal aid and pro bono organizations in order to weather tough times.⁵⁴ At the same time, the CBF continues to look for opportunities to leverage additional support for pro bono and legal aid organizations by partnering with other funders and by working to maximize the impact of pro bono efforts.

C. Investing in the Legal Aid Attorneys Dedicating Their Careers to Legal Aid

Because training and professional development needs are generally among the first cuts made by legal aid programs in challenging economic times, the CBF has led Chicago's legal community to increase the availability of training and professional development opportunities for the legal aid community. The most ambitious effort for professional development training is the Academy, as explained above.

The CBF also provides additional opportunities for professional development and networking by paying for the CBA membership for all legal aid lawyers working for CBF grantee organizations in Chicago at a special, reduced rate offered by the CBA. This special membership allows most of Chicago's legal aid lawyers to have access to the bar's programming, continuing legal education (CLE) courses, and subject area committees.⁵⁵ One relevant CBA committee is the Chicago Bar Association Legal Aid Committee (CBA Legal Aid Committee),⁵⁶ whose meetings feature presentations by legal aid, government, social service, and firm representatives on emerging issues affecting low-income people and legal aid.⁵⁷ The CBA Legal Aid Committee also reviews legislation relevant to these issues and works within the CBA process to advocate on related legislation at the state and federal levels. Because practicing legal aid lawyers are engaged in the CBA Legal Aid Committee's Legislative Subcommittee, they can use their experience running programs on the ground to inform legislative changes.

D. Supporting Legal Aid Lawyers Through Fellowships and Scholarships

One of the CBF's top priorities is to make it possible for dedicated lawyers to pursue careers in legal aid and public interest law in the face of often overwhelming financial challenges. Over the past few years, the CBF has made it possible for approximately twenty-five dedicated attorneys and law students to

<http://www.cct.org/impact/partnerships-initiatives/fighting-the-recession/unity-challenge-2010/grant-list> (last visited Jan. 29, 2010) (data compiled by author).

54. See *supra* note 11.

55. Access to free or reduced cost CLE courses is a tangible benefit to legal aid lawyers because the Illinois bar mandates reporting CLEs. MCLE Board, *supra* note 41.

56. For information about the Chicago Bar Association's Legal Aid Committee, please contact the Author.

57. The CBF provides staff support and guidance to the CBA Legal Aid Committee.

pursue careers in legal aid.⁵⁸ These fellowships and scholarships place dedicated lawyers in a much better position to pursue and remain in legal aid careers by providing grants for tuition and forgivable loans designed to help newer legal aid attorneys pay back their law school and other educational debt.

V. ADVOCACY

In this challenging economic climate, robust advocacy efforts to increase government funding for legal aid and access to justice initiatives are more important than ever. Legal aid and pro bono programs cannot achieve systemic change through the delivery of legal assistance alone. Through collective efforts, Chicago's legal community has influenced federal and state policies and budget decisions that have affected the lives of many low-income Chicagoans. And to continue to be successful, the entire legal community must be engaged and involved in advocating for increased access to government resources or to change legislation, in order to expand the impact of the civil legal aid system.

The justice gap is a crisis for the legal profession, and the entire legal community undoubtedly needs to lead in advocacy efforts that will improve access to justice. But the failure to provide equal access to justice has significant implications that extend far beyond the reach of the bench and the bar; and the problem is too big for the legal community alone to solve itself. Government unquestionably must bear a primary responsibility in this effort, consistent with its role in maintaining the formal civil justice system and providing an orderly forum for the resolution of disputes and an avenue to equal justice for all. While acknowledging that providing access to justice is primarily a government responsibility, the legal community must take the lead to advocate for government action, funding and support for the civil legal aid system because, without lawyers taking the lead, no one else will.

Even as evictions, foreclosures, and the bad economy are increasing the need for free legal help, legal aid organizations in Chicago are bracing for even more financial fall-out. Many legal aid organizations are at risk of losing a significant amount of their operating funds due to low interest rates for Interest of Lawyer's Trust Accounts (IOLTA), decreases in private foundation funding due to stock market declines, and stresses on state and local government funding.⁵⁹ One important way that Chicago's legal community can address this economic crisis is through advocacy efforts. With targeted legislative reforms and meaningful funding, much can be done to expand access to justice.

The CBF has been working to build a strong community of justice system supporters that can lend the power of their votes and the conviction of their voices to the CBF's policy advocacy efforts. These individuals, as members of the legal community, can reach out to powerful leaders in business and government who can

58. The CBF's scholarships and fellowships for students interested in legal aid careers and dedicated legal aid lawyers include the CBF Sun-Times Fellowship, the Anderson Fellowship, the Moses and the Marovitz Public Interest Law Scholarships, and the CBF's annual sponsorship of an Equal Justice Works public interest law fellowship. Chicago Bar Foundation, Fellowships and Scholarships, <http://www.chicagobarfoundation.org/fellowship-a-scholarship> (last visited Jan. 29, 2010).

59. See *supra* note 11.

exert their influence on behalf of the CBF's causes. They can also mobilize their own personal networks to participate in grassroots advocacy campaigns and push for legislative funding and reform. In addition to its work with Chicago's legal community, the CBF works in coalition with many national, state, and local partners to advocate for increased funding for legal aid programs and access to justice initiatives.⁶⁰

Examples of the CBF's advocacy efforts include working to promote adequate funding for legal aid, increased availability for loan forgiveness and repayment assistance for public service lawyers, and policies promoting due process and access to legal assistance in areas where that is lacking. The remainder of this section of this Article will address each of these advocacy positions in some detail.

A. Funding

The research and analysis in the Legal Needs Study reveals a very serious shortage of civil legal assistance in Chicago.⁶¹ Chart One below reflects all of the funding sources for legal aid programs in Cook County, Illinois,⁶² for 2009-2010, which is estimated at \$36 million. As it currently stands, Chicago's legal aid funding largely comes from five broad funding sources: (1) government funding, (2) Illinois' IOLTA program, (3) the legal community, (4) foundations and corporations and (5) other sources.⁶³

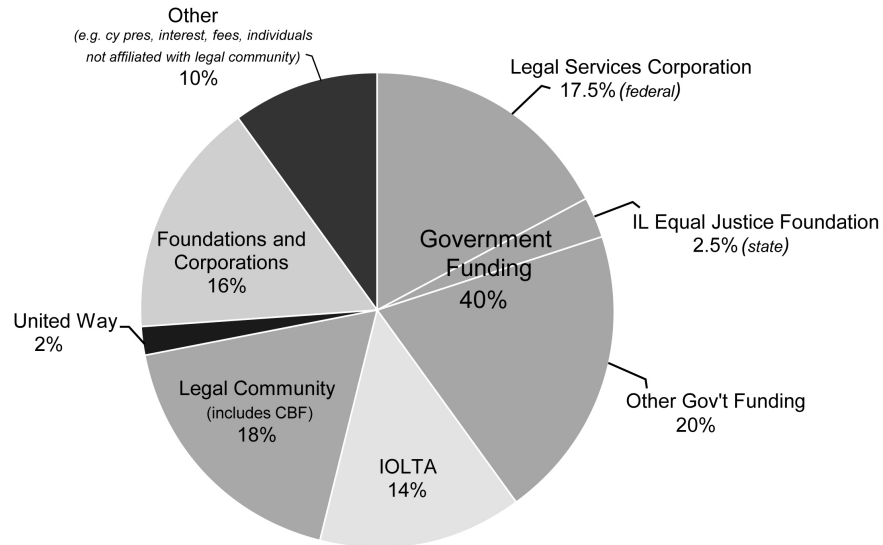
60. The CBF's coalition partners include the Chicago Bar Association, the American Bar Association's Governmental Affairs Office, the National Legal Aid and Defender Association (NLADA), Equal Justice Illinois Campaign, the Illinois Equal Justice Foundation, Equal Justice Works, the National Language Access Advocates Network, several of Chicago's legal aid and pro bono organizations and other national, state, and local groups on particular issues.

61. LEGAL NEEDS STUDY, *supra* note 3, at 1-2.

62. *See supra* note 9 (defining Cook County).

63. Data compiled by Author.

Chart One. 2009-2010 Funding Sources for Legal Aid Programs Serving Cook County (Estimated)⁶⁴



While far short of where it needs to be, government funding, as pooled from federal, state, and local governments, has been the most important source of revenue for Cook County's legal aid system, accounting for approximately 40 percent of the total funding.⁶⁵ Within this broad government funding category, there are several different sources of funding, each of which is worth briefly exploring.

On the federal level, the primary source of funding for civil legal aid is through the Legal Services Corporation (LSC).⁶⁶ LSC is the single biggest source of support for legal aid in Illinois, and its funding is distributed on a per capita basis and is shared among three recipient agencies covering distinct geographical regions of the state.⁶⁷ The Legal Assistance Foundation of Metropolitan Chicago is the LSC-recipient serving Cook County.⁶⁸ Over the past twenty-five years, when

64. *Id.*

65. *Id.*

66. The federal government began supporting legal aid in 1965 as part of President Lyndon B. Johnson's War on Poverty and the Office of Economic Opportunity distributed legal aid program grants. In 1974, the Legal Services Corporation was created by Congress. LEGAL NEEDS STUDY, *supra* note 31, at 125. See also LEGAL SERVICES CORPORATION, *supra* note 10, at 1; ALAN W. HOUSEMAN & LINDA E. PERLE, CENTER FOR LAW & SOCIAL POLICY, SECURING EQUAL JUSTICE FOR ALL 19-22 (2003).

67. Outside of Chicago, the Land of Lincoln Legal Assistance Foundation serves sixty-five counties in southern and central Illinois. Land of Lincoln Legal Assistance Foundation, Home Page, <http://www.lollaf.org> (last visited Jan. 29, 2010). Prairie State Legal Services serves thirty-six counties in northern and central Illinois. Prairie State Legal Services, About Prairie State, <http://www.pslegal.org> (last visited Jan. 29, 2010).

68. Legal Assistance Foundation of Metropolitan Chicago, Home, <http://www.lafchicago.org> (last visited Jan. 29, 2010).

adjusted for inflation, LSC-funding has been reduced by more than 50 percent⁶⁹ and is now a far smaller share of overall funding for civil legal assistance than it once was.⁷⁰ More than two decades of federal underinvestment has perpetuated the persistent gap in access to justice in Chicago. Each year, working with other national and state partners, the CBF advocates for increased funding for LSC. In the current economic climate, the federal government is one source of funding in a better position to provide new resources to help address the current crisis.

In addition to LSC, at the federal level, there are several other sources of government funding. Unlike LSC funding, most grants from other government sources are not intended to support the legal aid system in general, but are designed for very specific purposes. For example, the United States Department of Justice awards grants to legal aid organizations—typically organizations doing domestic violence work—using funds appropriated as part of the Violence Against Women Act.⁷¹ Another example is grants from the United States Department of Housing and Urban Development to legal aid organizations aimed at preventing homelessness.⁷² Because these funds are directed toward specific purposes, and not to support legal aid in general, programs will only be able to benefit to the extent that they can convince policy makers that their representation is an important strategy for meeting the targeted need.

While these other federal grant programs are valuable and help many thousands of people throughout the country obtain critical legal services, the programs are also known for being extremely bureaucratic and often inconsistent from agency to agency. This deters many good legal aid programs from applying for the funding and requires those who do receive such funding to unnecessarily expend large amounts of time on grant administration. As a result, working with a national coalition led by National Legal Aid and Defender Association (NLADA),⁷³ the CBF is working to make the case to relevant government decision makers that the federal government should standardize grant applications, evaluation criteria and reporting across all government agencies and streamline those processes as much as possible.⁷⁴

The main source of legal aid funding from the state of Illinois is the Illinois Equal Justice Foundation (IEJF).⁷⁵ The IEJF was created by the 1999 Illinois Equal Justice Act, which recognized that “[e]qual justice is a basic right that is fundamental to democracy in this State, and the integrity of this State and this State’s justice system depends on protecting and enforcing the rights of all people.”⁷⁶ In light of the state’s economic ills, the IEJF has experienced significant cuts to its funding for the current fiscal year: its appropriation was halved this year,

69. HOUSEMAN & PERLE, *supra* note 66, at 38.

70. *Id.*

71. LEGAL NEEDS STUDY, *supra* note 31, at 126.

72. *Id.*

73. National Legal Aid & Defender Association, <http://www.nlada.org/> (last visited Mar. 5, 2010).

74. *Id.*

75. LEGAL NEEDS STUDY, *supra* note 3, at 127.

76. *Id.* (citing to the Illinois Equal Justice Act, codified at ILL. COMP. STAT. ANN. 765/5 (West 2009)). Press Release, Illinois Equal Justice Foundation, Illinois Equal Justice Foundation Awards Grants to 14 Organizations Providing Civil Legal Services to Low-Income Residents Statewide (Dec. 4, 2009), available at <http://iejf.org> (last visited Mar. 25, 2010).

from \$3.5 million last year to \$1.75 million this year.⁷⁷ The CBF, in concert with a coalition with partners through the Illinois Equal Justice Campaign, advocates for increased funding for the IEJF, which will directly help Chicago's most vulnerable people.

The second major category of funding for legal aid in Cook County is the Illinois IOLTA program, called the Lawyers Trust Fund (LTF), which is the single largest Illinois-based source of funding for legal aid.⁷⁸ Unfortunately, the recession is severely affecting LTF's income.⁷⁹ While LTF had reserve funds and other structures to help soften the blow of declining revenues, which have minimized the initial cuts in funding to legal aid organizations, these cuts still resulted in millions less in available funds for the legal aid system over the past year.

The third major source of funding for legal aid programs in Cook County is Chicago's legal community. The legal community's total contribution to the legal aid system goes well beyond direct financial support (and includes time spent by attorneys on pro bono cases, indirect contributions through groups like the United Way, directed *cy pres* awards,⁸⁰ and the in-kind contributions of lawyers, law firms, bar associations, and bar foundations).⁸¹ But, a conservative estimate of the Chicago's legal community's direct financial contribution to legal aid is 18 percent of total funding.⁸² This figure includes private funding to the CBF, which is used for its grants discussed above.⁸³

While many members of Chicago's legal community give generously, the legal community as a whole is in a position to contribute more to support the legal aid system.⁸⁴ In the current turbulent economic climate, a major challenge for raising

77. Press Release, Illinois Equal Justice Foundation, *supra* note 76.

78. The LTF was created in 1983 to administer the IOLTA program, which allows interest to be earned on lawyers' and law firms' pooled client trust accounts. In 1987, the Illinois Supreme Court made IOLTA mandatory for all attorneys holding pooled client funds. In 2002, the Illinois Supreme Court adopted a \$49 increase in the annual registration paid by Illinois attorneys, designed to support legal aid programs administered by the Lawyers Trust Fund. LEGAL NEEDS STUDY, *supra* note 3, at 128. See also Lawyers Trust Fund, <http://www.ltf.org> (last visited Mar. 25, 2010).

79. The program, as its title implies, generates money by collecting interest on accounts held by lawyers. The accounts are used to temporarily hold money belonging to clients, including settlement checks, real estate escrows, fees paid in advance for services that have yet to be performed and money for court fees. IOLTA accounts pool the money of many individual clients whose funds are either too small or held for too short a time to realize any net income for the clients. Lumping the funds of many people, each with money moving in and out of the account, generates a sizable amount of interest that is used to provide grants to legal aid organizations. The value of IOLTA accounts is tied to interest rates and principal balances. The Federal Reserve Board lowered interest rates in response to the economic downturn. See, e.g., Ben S. Bernanke, Chairman, Fed. Res. Board, Speech at the Stamp Lecture, The Crisis and the Policy Response (Jan. 13, 2009), available at <http://www.federalreserve.gov/newsevents/speech/bernanke20090113a.htm> (last visited Mar. 25, 2010). As a result, many IOLTA programs, including the Lawyers Trust Fund here in Illinois, have been and will be generating far less money now than in previous years.

80. See *infra* note 89.

81. LEGAL NEEDS STUDY, *supra* note 3, at 129.

82. This information was drawn from CBF grant applications from a broad range of Chicago's legal aid and pro bono organizations. For more information about how this number was calculated, please contact the Author.

83. Chicago Bar Foundation, Investing in Justice, *supra* note 34.

84. LEGAL NEEDS STUDY, *supra* note 3, at 129.

private funds for legal aid is to find creative ways to involve a much broader segment of the bar to make voluntary contributions. While it is important to continue to encourage lawyers and firms who can afford to give more, the CBF and others must also engage more lawyers as donors to sustain long-term growth and success in addressing the justice gap.

The fourth and final major category of legal aid funding in Cook County comes from corporations and foundations. Together, these sources account for around 20 percent of the total funding for legal aid in Chicago.⁸⁵ Corporate donors are similar to law firm or individual donors.⁸⁶ Foundations, like non-LSC federal funding entities, usually make grants with a specific purpose in mind. Foundations tend to be interested in combating social ills (like domestic violence or homelessness), for which legal aid can be a means to an end.⁸⁷ Because of stock market losses, it is likely that foundation support for legal aid will be under stress in the near term.

Finally, Chart One above has an “other” category that accounts for approximately 10 percent of the financial support for legal aid in Chicago. This category is a catch-all for everything from interest on a program’s checking account, non-legal community individual donations, to legal fees.⁸⁸ One specific source of funding worth mentioning, which is included in this “other” category, is *cy pres* awards.⁸⁹ *Cy pres* awards are an important mechanism for obtaining what can be substantial additional resources for legal aid.⁹⁰ A new *cy pres* law, which was championed by the CBF, was recently enacted in Illinois to ensure that, to the extent practicable, residual funds in class action cases in the Illinois courts are distributed to pro bono and legal aid organizations that improve access to justice for less fortunate residents of Illinois.⁹¹ An example of the lasting effect of a *cy pres* award is that one of the CBF’s major fellowships for legal aid lawyers; the CBF Sun Times Fellowship that provides \$50,000 in loan repayment relief for five legal aid lawyers per year was created from a two million dollar *cy pres* award.⁹²

85. Data compiled by Author.

86. LEGAL NEEDS STUDY, *supra* note 3, at 130.

87. *Id.*

88. *Id.* at 131.

89. *Id.* Under the *cy pres* doctrine, residual funds from a class action suit can be distributed to a non-profit. See Chicago Bar Foundation, Cy Pres and Residual Funds Awards, <http://www.chicagobarfoundation.org/cy-pres-awards> (last visited Mar. 5, 2010).

90. LEGAL NEEDS STUDY, *supra* note 3, at 131. But note that because “*cy pres* awards almost always come as a windfall, and [thus, they,] cannot be counted on as a consistent source of revenue to shore up strained legal aid budgets.” *Id.*

91. 735 ILL. COMP. STAT. 5/2-807 (West 2009). This new *cy pres* law adds a new section to the Code of Civil Procedure that establishes a presumption that any residual funds in class action settlements or judgments will go to organizations that improve access to justice for low-income Illinois residents. Under this new law, courts have the discretion to award up to 50 percent of these funds to other organizations that serve the public good as part of a settlement if the court finds good cause to do so. In any event, at least 50 percent of any residual funds in class action cases must go to one or more organizations that promote or provide access to justice for low-income Illinoisans. *Id.*

92. Chicago Bar Foundation, The CBF Sun-Time Public Interest Law Fellowship, <http://www.chicagobarfoundation.org/the-cbf-sun-times-public-interest-law-fellowship> (last visited Jan. 29, 2010).

B. *Lifting Unnecessary and Inefficient Restrictions on LSC-Recipients*

As part of its “Contract with America,” the 1996 Congress adopted a number of restrictions on the kinds of cases, clients, and legal strategies that LSC-recipients can take.⁹³ Many of these restrictions, which affect any legal aid organization that receives LSC funds, result in costly and inefficient practices.⁹⁴ These restrictions impose real limitations on the ability of legal aid programs to fully protect the legal rights and interests of the most vulnerable. This is so because they apply broadly to—and limit the use of—all funding that LSC recipients receive, including state and local funding, private funds from the legal community, charitable foundations, and private donations.⁹⁵

LSC-recipients are prohibited from pursuing systemic change because they are unable to bring class-action lawsuits or petition governments to make legislative or regulatory changes.⁹⁶ These avenues could prevent costly and repetitive litigation and may require less staff time, freeing up financial and human resources within tight organizational budgets. Finally, and perhaps most problematic, LSC-recipients are precluded from using non-LSC funds for any of the above purposes.⁹⁷ Those organizations receiving LSC funds are therefore absolutely prohibited from engaging in these activities even if they were to obtain private funds for the related expenses.

The solution of lifting these restrictions is easy and cost-free; in fact, lifting these restrictions would even save money by significantly reducing the administrative burdens on these legal aid programs.⁹⁸ In conjunction with the efforts of its national partners (*e.g.*, the ABA, NLADA, and other state and local bar associations), the CBF advocates for the lifting of several of these costly and inefficient restrictions on LSC and its recipients.

C. *Loan Repayment Programs*

At its core, access to justice requires dedicated lawyers willing to pursue careers in legal aid and public service in the face of often overwhelming personal financial challenges. Many law students must forgo a public service career because of overwhelming law school loans when compared with an average public service legal salary. Scores of public service attorneys struggle to make ends meet and often find it impossible to continue in public service work due to the financial

93. See, *e.g.*, REBEKAH DILLER & EMILY SAVNER, BRENNAN CTR. FOR JUSTICE, A CALL TO END FEDERAL RESTRICTIONS ON LEGAL AID FOR THE POOR 1-5 (2009) available at http://brennan.3cdn.net/7e05061cc505311545_75m6ivw3x.pdf. See also Editorial, *A Test for Equal Justice*, N. Y. TIMES, June 23, 2009, available at http://www.nytimes.com/2009/06/23/opinion/23tue4.html?_r=1&ref=opinion (last visited Mar. 25, 2010); Peter Edelman, . . . *And a Law for Poor People*, THE NATION, July 15, 2009, available at <http://www.thenation.com/doc/20090803/edelman> (last visited Mar. 25, 2010); Editorial, *A Fair Shake for Legal Aid*, WASH. POST, July 13, 2009, available at <http://www.washingtonpost.com/wp-dyn/content/article/2009/07/12/AR2009071201920.html?sub=AR;HOUSEMAN & PERLE> (last visited Mar. 25, 2010), *supra* note 66, at 36-37.

94. See HOUSEMAN & PERLE, *supra* note 66, at 37.

95. *Id.* at 36.

96. *Id.*

97. *Id.* at 36.

98. DILLER & SAVNER, *supra* note 93, at 16-17.

burdens. Like funding for legal aid generally, this is a responsibility of all justice system stakeholders—the federal and state government, law schools, and the legal community all must do their share.

There have been notable recent successes in addressing loan forgiveness for public interest attorneys, including the passage of the College Cost Reduction and Access Act of 2007 (CCRAA),⁹⁹ the Civil Legal Assistance Attorney Loan Repayment Act of 2008,¹⁰⁰ and the Illinois Public Interest Attorney Assistance Act (PIAAA).¹⁰¹ While the passage of these loan repayment bills is a significant achievement, the Civil Legal Assistance Attorney Loan Repayment Act and the PIAAA both remain unfunded and, without funding, have no tangible benefit to public interest lawyers. Together with national and state partners, the CBF continues to advocate for appropriations for these important loan repayment and forgiveness programs.

D. Administrative Due Process

There are some unique challenges to access to justice for people in administrative proceedings that involve important rights that can be significantly improved through targeted reforms to improve due process protections and access to legal assistance. In particular, it is critical that detained immigrants have access to legal assistance, many of whom have cases that literally involve life or death decisions. In addition, the immigration adjudication and appellate review process

99. The College Cost Reduction and Access Act of 2007 (CCRAA) offers full loan forgiveness for federal loans after ten years of public service employment. To qualify for such loan forgiveness, a borrower must make monthly loan payments for ten years while working full-time in qualifying public service employment. College Cost Reduction and Access Act, Pub. L. No. 110-84, 121 Stat. 784, (2007) (to be codified at 20 U.S.C. § 1001 et seq.). Final regulations for the act are published in the Federal Register, Federal Loan Programs, 73 Fed. Reg. 63,232 (Oct. 23, 2008) (to be codified at 34 C.F.R. pts. 674, 682, 685). See also Equal Justice Works, Student Debt Relief, <http://www.equaljusticeworks.org/resources/student-debt-relief/public-service-loan-forgiveness> (last visited Jan. 29, 2010).

100. The Civil Legal Assistance Attorney Loan Repayment Act was included in the 2008 Higher Education Opportunity Act (HEOA). Higher Education Opportunity Act, Pub. L. No. 110-315, 122 Stat. 3078 (2008). HEOA was enacted on August 14, 2008, and reauthorizes the Higher Education Act of 1965, as amended. *Id.* The program of loan repayment for civil legal assistance attorneys authorizes the Education Department to provide up to \$6,000 per year in loan repayment assistance to eligible full-time civil legal assistance attorneys. An attorney may renew service commitment and receive benefits up to maximum of \$40,000. Equal Justice Works, Student Debt Relief, *supra* note 100.

101. The Public Interest Attorney Assistance Act (PIAAA) is the state of Illinois' first loan repayment and forgiveness program for lawyers working "as assistance state's attorneys, public defenders, assistance attorneys general and public guardians, as well as legal aid, legislative and Illinois Guardianship and Advocacy Commission attorneys." See Bethany Krajelis, *1st Step Taken on Lawyer Loan Forgiveness*, CHI. DAILY L. BULL., Aug. 27, 2009, available at <http://www.allbusiness.com/government/government-bodies-offices-heads-state/1277409-1.htm> (last visited Mar. 25, 2010). The PIAAA was championed by the CBF together with the Chicago Bar Association, the Illinois State Bar Association, the Office of the Illinois Attorney General, State's Attorney and Public Defender offices around the State (including the Appellate Prosecutor and Appellate Defender offices), and the Cook County Public Guardian's office. Press Release, Chicago Bar Foundation, Governor Quinn Signs Law That Will Help Dedicated Lawyers Serve Vulnerable Illinoisians, <http://www.chicagobarfoundation.org/press-releases/282-cbf-launches-innovative-new-pro-bono-program-for-professional-development> (last visited Mar. 5, 2010).

is currently devoid of some of the most basic due process protections in the justice system.

VI. ACCESS TO JUSTICE IN THE COURTS

In recent years, Chicago's courts have experienced a dramatic increase in the number of people who represent themselves.¹⁰² This population of self-represented litigants represents a cross-section of Chicagoans: tenants trying to resolve a disagreement with a landlord, a contractor trying to get compensation from an unpaid bill, couples tangled in a divorce, a family setting the estate of a loved one. They come into court, on their own, with a conflict or a change in their lives, and they expect a resolution—which is their constitutional right. Access to justice is an abiding principle of the justice system, and the doors of Chicago's courthouses must be open to everyone, whether represented by a lawyer or not. It follows that the obligation of the court system is to see to it that justice is as fair and efficient as it can be for those with legal representation and those who arrive to court on their own.

Every day, many people appear in Chicago's courts without lawyers, most because they cannot afford one or they do not know how to find one, others because they want to represent themselves.¹⁰³ Whatever the reason, the reality is that most self-represented litigants, despite their best intentions and commitment, find it difficult to handle their own cases. There is no doubt that self-represented litigants make mistakes that result in the loss of their important legal rights. Their need for guidance and their inexperience with the rules and formalities of the justice system inevitably slows down the operation of the courts and jeopardizes the rights of others who expect efficient resolution of their cases.

In many respects, Chicago's legal community has been a national leader for its dedication to access to justice for unrepresented litigants. Chicago's courts—at the City of Chicago, state, and federal levels—in partnership with the CBF and several legal aid and pro bono organizations and the Cook County Board have developed legal advice desks that, last year alone, served more than 35,000 self-represented litigants.¹⁰⁴ These advice desks are staffed by legal aid or pro bono attorneys who provide limited legal assistance to self-represented parties.¹⁰⁵ Brief legal advice and assistance completing and drafting pleadings is currently available at these advice desks addressing areas of the law including adult guardianship, bankruptcy, collections, domestic relations, expedited child support, expungement and sealing of criminal records, eviction, and debt collection, among other topics. Along with others, the CBF continues to advocate for a stable and consistent source of funding for the courts that also provides funding for self-representation centers, advice desks, pro bono mediation programs, and information and resources for self-

102. See, e.g., John Keilman, *No Legal Ease for Amateurs*, CHI. TRIB., Aug. 5, 2009, at 1; Jerry Crimmins, *Big Jump in Pro Se Cases*, CHI. DAILY L. BULL., Apr. 25, 2009.

103. Keilman, *supra* note 103, at 1.

104. There are seven advice desks in the Circuit Court of Cook County, two advice desks in the United States District Court for the Northern District of Illinois, and one desk in the City of Chicago Office of Administrative Hearings. The seven advice desks in the Circuit Court of Cook County served approximately 32,000 self-represented litigants last year alone. Data compiled by Author.

105. See Keilman, *supra* note 103, at 1.

represented litigants.

Another nationally recognized Illinois innovation is Illinois Legal Aid Online (ILAO). With the active support of the CBF and others, ILAO is a growing web-based resource for the public and self-represented litigants, with about 80,000 visitors to its public website each month.¹⁰⁶ ILAO's nationally recognized website provides a wealth of legal information, interactive forms and instructional videos, referrals to free legal services and links to other critical legal resources. Through its various programming and interactions with other justice system stakeholders, the CBF will continue to work with and support ILAO to expand the awareness and availability of reliable web-based legal information and resources for self-represented litigants.

Despite these examples of the Chicago legal community's great leadership assisting self-represented litigants, more is still needed. In the current turbulent economic climate and as the numbers of self-represented litigants continue to grow, all stakeholders must continue their steadfastness to improve access to justice for all, and in so doing, take its efforts for self-represented litigants to the next level.

As one response, the CBF created the CBF Advisory Committee on Pro Se Services (Pro Se Advisory Committee) in partnership with the Circuit Court of Cook County to examine the phenomenon of the burgeoning number of self-represented litigants, identify the problems self-represented parties experience in accessing the court, address the difficulties self-represented parties present to courts, attorneys, and represented parties, and make recommendations on the same to the Court. Members of the Pro Se Advisory Committee represent a cross-section of the legal system most affected by the increase in self-represented litigants. This includes judges from many of the Circuit Court divisions, representatives from the Office of the Clerk of the Circuit Court, legal aid attorneys that staff and supervise several of the advice desks, private attorneys, county law librarians, bar leadership, and representatives from other foundations.¹⁰⁷

The Pro Se Advisory Committee has found that there is no coordination between the different court-based programs available to assist self-represented litigants. As its first official action, the Pro Se Advisory Committee submitted a proposal for an administrator for self-represented services (pro se administrator) within the Office of the Chief Judge to the Chief Judge of the Circuit Court of Cook County.¹⁰⁸ If appointed, the pro se administrator could improve court

106. Maria Kantzavelos, *Online Legal Aid Service Aiming to Establish Centers Statewide*, CHI. DAILY L. BULL., Dec. 18, 2009. All across the State, internet-based self-help centers (that assist self-represented litigants navigate ILAO's public website) have proven to be a practical and efficient resource for self-represented litigants.

107. A full list of the CBF Advisory Committee on Pro Se Services is on file with the Author.

108. Models for a pro se administrator exist in other jurisdictions. In Hennepin County, Minnesota, for example, the court employs a high level pro se services administrator who has substantial relevant expertise and the respect of the judicial leadership to coordinate the delivery of programs for self-represented litigants. See, e.g., Showcase of Pro Se Assistant Programs Program Profile, <http://www.ajs.org/prose/Midwest%20Notebook%20Contents/Tab%2011/Self-Help%20Center-MN.pdf> (last visited Mar. 25, 2010). The Author met with Susan Ledray, Pro Se Services Administrator for Hennepin County, along with other self-help court employees, judges, and members of the local bar in Hennepin County, Minnesota earlier this year. See Memo Detailing CBF Pro Se Advisory Committee Trip to Hennepin County (on file with author) [hereinafter CBF Memo].

efficiency, public satisfaction, and case outcomes through coordination with all justice system stakeholders.¹⁰⁹

While it is obviously preferable that litigants have the assistance of a lawyer to represent them through court proceedings, with the exception, perhaps, of very simple and direct cases, Chicago's legal community must recognize that self-represented litigants are a permanent and growing part of the justice system. Providing a spectrum of legal services—legal information, brief legal advice, and legal representation—may reduce the number of times that self-represented litigants must come to court and thus reduce stress on the court system.

One area for growth is to develop a centralized starting point for self-represented litigants in each courthouse with designated staff to whom self-represented litigants and the public can be directed for information about court procedures, litigants' rights and responsibilities, legal representation, and access to other court-based resources.¹¹⁰ In Chicago, these central starting points would operate in concert with the various legal advice desks staffed by attorneys who offer legal advice and limited legal assistance to self-represented litigants in appropriate matters. Working with the Pro Se Advisory Committee and others, the CBF will continue to advocate for the creation of such central starting points in Chicago's courts, particularly in the Circuit Court of Cook County.

Another prospect for innovation is increased partnership with local colleges, universities, and law schools to explore ways that their students can better assist the legal community in providing access and information to the public and self-represented litigants. Law students currently volunteer with at least two legal information desks in the Circuit Court—the Self-Help Web Center and the Adult Guardianship Help Desk—but there is the potential to increase the number of students working in the courts in various capacities. The CBF is currently exploring a Justice Corps program, where students could help make the justice system more user-friendly by educating pro se litigants about the legal process, explaining court rules and procedures, and conducting legal information workshops in courthouses. Justice Corps members would receive intensive training throughout the year so that they could provide in-depth and individualized assistance to self-represented litigants, often in their own languages, and under the supervision of an attorney. Adopting a model similar to one launched in California, Justice Corps members would assist self-represented litigants by providing one-on-one direct service, conducting legal information workshops, helping complete legal forms and navigate ILAO's public website, and conducting front desk "triaging."¹¹¹

109. CBF Memo, *supra* note 109.

110. Some of these court-based resources include services for litigants with limited English proficiency and disability accommodations.

111. For information about California's successful Justice Corps program, *see, e.g.*, Casey Lee, *The Real-World Benefits of JusticeCorps*, CAL. CTS. REV., Spring 2007, at 20-23, available at http://www.courtinfo.ca.gov/reference/documents/CCR_07spring.pdf (last visited Mar. 25, 2010); Blair Clarkson, *Pro Per Litigants Get New Help: College Students Will Train To Assist Legal-Aid Groups*, L.A. DAILY J., Oct. 21, 2004, at 1 (on file with author). *See also* California Courts, California Justice Corps Program, <http://www.courtinfo.ca.gov/programs/justicecorps> (last visited Jan. 30, 2010).

VII. CONCLUSION

Chicago's already overburdened pro bono and legal aid system faces rising demands for help from increasingly desperate people in need, at the same time that almost all of the major sources of funding for this work are declining or under severe stress. Despite difficult economic times—indeed, because of them—all justice system stakeholders must remain steadfast in their commitment to improving access to justice. With the leadership of the Chicago Bar Foundation, Chicago's legal community is rising to the challenge, finding ways to address problems by working with, and through, government to launch innovative solutions to the growing justice gap.