

Christie's Cuts: Reductions curtail access to the courts

Sixth in a series on the impact of Gov. Chris Christie's cuts.

Renata Desouza was not thinking of state politics earlier this month as she struggled to file divorce papers on her own.

The 26-year-old Aberdeen resident is unemployed and on disability. There was a time she could have turned to Legal Services of New Jersey and its Ocean-Monmouth office for help, but no more.

State budget cuts have forced the group, which provides free legal assistance for low-income residents, to stop handling divorces and some other types of cases, said Bill Rempel, the executive director of the Ocean-Monmouth office.

"Although divorce cases are important to those people, they're not as urgent matters as being evicted or a child being abducted or someone needing Social Security, disability or food stamps," Rempel said. "We have to prioritize what we're doing."

By next June there likely will be 220 staff attorneys available to give free help to qualifying low-income residents with civil cases, which include tenancy disputes, family and debt issues, and benefits from disability cases. That's roughly half the

number there was in 2008, according to Melville D. "De" Miller Jr., president of Edison-based Legal Services of New Jersey.

The reason: A drop in two major funding sources in recent years, namely, state funding and interest accrued on money held in escrow in attorney trust accounts. Overall, Legal Services of New Jersey has seen its operating budget drop from \$72 million in 2008 to \$42 million in 2011.

In the case of state budget funds, the drop has been a downward cascade under Gov. Chris Christie — from \$29.6 million in 2010 to \$19.9 million in 2011 to \$14.9 million in 2012.

The Democratic-controlled Legislature attempted to restore \$5 million to legal services in the fiscal year 2012 budget. The governor, however, line-item vetoed that \$5 million — and cut an additional \$5 million, which meant that the state allocated \$14.9 million for Legal Services of New Jersey.

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Meanwhile, trust account interest plummeted from \$40 million in 2008 to \$8 million in 2009 — a consequence mainly of the stalled real estate market, according to Miller. The funds comes from the Interest on Lawyers Trust Account (IOLTA). This money, which is interest from funds held in escrow by lawyers, usually during real estate transactions, has dropped because there have not been as many real estate transactions the past three years and interest rates have dropped.

Overall, there are 490 employees in the seven programs, but that number will be cut by 100 by the end of the year, according to Tom Makin, the director of development for Legal Services.

Michael Drewniak, a spokesman for Christie, said the cut was difficult but necessary.

“The Legislature sent the governor a budget that was initially out of balance by more than \$900 million,” Drewniak said. “Rather than submit an honest, balanced budget, the majority party chose to play on the emotions of the most vulnerable New Jerseyans by making budget promises that could never be kept, simply to have a political issue to take into their fall re-election campaigns.”

All seven legal services corporations, which operate as a coordinated system but have their own boards and budgeting systems, are struggling to deal with their ever-declining budgets in myriad ways. Offices are closing, and staff is being laid off,

officials said. Since mid-2009, legal services employees have received no matching payments into their retirement plans.

The lawyers and support staff who remain are coming to grips with a grim reality: They cannot serve 65 percent of the people who contact them, Miller said.

“When we go into court or administrative hearing on a contested matter, what’s at stake is our clients’ very ability to survive,” said Gerry Brennan, program director of the Morris County Division of Legal Services of Northwest Jersey. “I don’t mean to be dramatic about it, but that’s what it is.”

A classic example of this is a tenant faced with eviction who does not know his or her rights or how to proceed. With a lawyer, that person could remain in their apartment. Without one, they could become homeless.

In addition to Morris County, Legal Services of Northwest Jersey covers Somerset,

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Sussex, Warren, and Hunterdon counties.

Even the middle class should be concerned about restoring funding to Legal Services of New Jersey, according to Miller.

"Fewer and fewer people are holding on to a middle-class lifestyle, and the question is, Is that going to reverse itself?" he said. "Lawyers become an important element to stop that slide."

Miller said the legal services program, started in New Jersey in 1966, has always been bipartisan.

"Many of its best years, in terms of funding increases, came under Republican administrations," he said. "It's not like it's a Democratic program, though Democrats certainly support it, too."

The promise of American society, Miller explained, is equal access to justice. He argued that access is not equal if a layperson must defend himself in court against an attorney.

Desouza, who is seeking a divorce, said, "I hate that they don't have any more legal aid."

She works as a paralegal on personal injury cases and is not familiar with family law.

"It's very frustrating," she added. "I was going to hire an attorney who would have charged me \$225 an hour, which is a good rate, but still a lot of money. It would take my whole check for a couple of hours of

her time. So I decided to go pro se."

Needing guidance, Desouza turned to the Office of the Ombudsman's Self-Help Resource Center at Superior Court in Freehold. While the statewide ombudsman program is six years old, the self-help center in Freehold opened in March 2010.

The center helps people with process and procedure, Ombudsman Theresa Romano said. It provides them with assistance in completing forms, information about filing motions, deadlines, and more. But not legal advice.

Monthly, a lawyer from Ocean-Monmouth Legal Services presents a workshop in the center that typically draws some 40 people. Last year the center served 5,280 litigants, Romano said, while this year it is projected to assist more than 10,000 people, mostly those representing themselves.

The numbers point to another reality: As the number of Legal Services attorneys falls

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in New Jersey, the number of low-income people who qualify for them rises.

Poverty data released by the American Community Survey of the U.S. Census Bureau show that 10.3 percent of New Jerseyans lived below the poverty line last year, compared with 8.6 percent in 2007.

To qualify for Legal Services, a client's income must be below 200 percent of the federal poverty level. That's \$37,060 for a family of three or \$44,700 for a family of four.

Brennan, of Legal Services of Northwest Jersey, is based in Morristown in Morris County, which census data consistently rank among the top 10 nationwide for median household income.

Yet the number of low-income people in Morris increased by 18 percent between 2007 and 2010, according to Brennan.

"For the middle and upper class in New Jersey, there is one attorney in private practice for every 250 residents," Brennan said. "In Morris County, the ratio of legal services lawyers to low-income county residents is one to more than 6,000."

According to Diane Smith, the executive director of Legal Services of Northwest Jersey, the average open caseload per lawyer is now 76 at a time.

A third source of major funding for Legal Services of New Jersey is not likely to save the day, according to Miller.

Federal funding furnished \$7.1 million to Legal Services of New Jersey in federal fiscal year 2011, which ended Sept. 30. While the federal budget is nowhere near finalized, there is talk, Miller said, of a 26 percent decrease.

State Sen. Anthony Bucco, R-Morris, the Republicans' budget officer, said he's not concerned about the cuts because the Legal Services program is still up and running.

"I don't know how much of a demand there is right now," he said.

Bucco said he supports a senate resolution which calls upon the New Jersey Supreme Court to require all attorneys in New Jersey to either donate 50 hours of free legal services per year or make a monetary contribution to Legal Services of New Jersey.

In the meantime, Legal Services attorneys statewide are holding down their forts.

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"There are fewer attorneys manning and womanning the ramparts," said Brennan, of Legal Service of Northwest Jersey. "Those of us who are left just keep fighting on, like the Alamo, till Davy Crockett is the last one with the flag."



Zoom
10/07/2011 Freehold, NJ State budget cuts on Legal Services: (L) Renata Desouza of Aberdeen is pleased to find the proper forms from Court Services Officer Maureen Kelly to file divorce. TOM SPADER/ASBURY PARK PRESS / TOM SPADER/ASBURY PARK PRESS

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LSNJ Law, You and the Law in New Jersey,

www.lsnjlaw.org

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New Jersey Courts Self-Help Resource Center,

www.judiciary.state.nj.us/prose/index.htm

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