

GEORGIA LEGAL SERVICES PROGRAM

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STATEMENT OF

PHYLLIS J. HOLMEN
EXECUTIVE DIRECTOR

GEORGIA LEGAL SERVICES PROGRAM

Presented to the

UNITED STATES COMMISSION ON CIVIL RIGHTS

May 9, 1997

GEORGIA LEGAL SERVICES PROGRAMS, INC.

Offices in Albany, Atlanta, Augusta, Brunswick, Columbus, Dalton, Gainesville, Macon, Savannah,
Valdosta, Waycross, and Tifton (Migrant Farmworkers Division)

AN AFFIRMATIVE ACTION/EQUAL OPPORTUNITY EMPLOYER M/F/H/V

Mr. Chairman and Members of the Commission:

My name is Phyllis Holmen and I am the executive director of Georgia Legal Services Program. I have spent my entire legal career since graduating from the University of Illinois Law School in 1974 working to provide legal services to the poor, most of that time in Georgia. I am pleased to have this opportunity to speak to you about how the funding cuts and restrictions on activities imposed by Congress on legal services programs are affecting low income Georgians and the administration of justice in Georgia.

I want to describe what GLSP does, who our clients are, the funding cuts and restrictions on our activities that were imposed by Congress in 1995 and 1996, and how those cuts and restrictions have changed what we can do for our clients.

I. Georgia Legal Services Program and our clients

Georgia Legal Services Program staff attorneys and paralegals provide civil legal services to low-income Georgians in 154 counties across the state of Georgia, outside the metropolitan Atlanta area. We receive 68 % of our funding from the Legal Services Corporation. Another 10% of our funding comes from other federal programs, such as the Older Americans Act for our services to senior citizens, the McKinney Act for services to homeless persons, and the Ryan White Act for services to persons with AIDS. We also receive federal funds under the Violence Against Women Act to assist victims of domestic violence. We receive slightly over \$300,000 from LSC to serve migrant farmworkers throughout Georgia. GLSP

receives no funding from the Georgia legislature. About 3% of our funding comes from private contributions or United Way funds. For 1997, we received just under one million dollars from the Georgia Bar Foundation's Interest On Lawyer Trust Account program. That Bar Foundation grant varies from year to year. The bottom line is that without stable and substantial federal funding, we would not exist.

In Georgia, 71 % of the population is white and 27.4% is black. 3.4 % are other ethnic groups, over half of those being Hispanic. Poverty disproportionately affects Georgians of color: 55% of those below the poverty line are black, and 30% of blacks are poor, contrasted with 8% of whites. Poverty also disproportionately affects women: although about 15% of Georgia's residents are poor, over one-third of the households headed by women in Georgia have incomes below the poverty line. Poverty affects the elderly, and the young: ten percent of our population are over age 65, yet 20 % of those are below the poverty line. Perhaps worst of all, one in four of our children under age 6 are being raised in poor families. Approximately 8-10% of Georgians are disabled from working, and those persons too are likely to be living at or below the poverty line.

Although Georgia has a growing economy, the economic boom has not spread evenly throughout the state, and rural children and their families are still behind. While we see stories in our press about more and more former welfare recipients finding work, it is still true that employment opportunities, child care, and transportation are much harder to find outside Atlanta, in rural Georgia, our

service area.

Georgia Legal Services Program has 13 offices throughout the state which house 77 staff attorneys and 30 paralegals to serve the one million persons who are eligible for our services. The American Bar Association Legal Needs Study in 1994 found that in Georgia as many as 39% of low-income families have a new legal need each year. We offer civil legal services to residents of the 154 Georgia counties outside the five metropolitan Atlanta counties. Our lawyers and paralegals circuit ride to our counties, meeting clients at welfare offices, courthouses, church basements, and a variety of other sites. We offer community education talks to various groups such as senior citizens, public housing residents, victims of domestic violence, homeless persons. We operate a landlord-tenant hotline which answers questions from 400-700 callers per month on matters related to security deposits, repairs, and lease terms. Each of our offices works closely with a panel of private attorneys who have agreed to take cases on a free or reduced-fee basis.

Altogether in 1996, we closed just under 18,000 cases. Only about 900 of those cases were handled by private attorneys; the rest were handled by our 77 lawyers. The matters we handle for our clients are the problems of every day life, perhaps writ larger because our clients have few if any discretionary resources to solve their problems. Over one-third of our cases were family-related matters, most of which involved domestic violence. The next most common type of case involved housing problems, and next, problems with various benefit programs such

as Food Stamps, unemployment, and welfare. Just over 10% of our cases involved litigation or administrative agency action. Slightly over 60% were resolved with brief service, counsel and advice, or some service other than a contested formal proceeding. I have included for you some graphics which depict these figures in more detail.

II. Reductions in federal appropriations to the Legal Services

Corporation and restrictions on LSC grantee activities

Any action that impacts services for the poor disproportionately affects people of color, women, children, the elderly, and the disabled in Georgia. Thus, the legislative actions affecting the appropriation for and the activities of legal services for the poor have a disproportionate impact on these persons. Moreover, these actions also have a harmful effect on the administration of justice in the state.

In 1996, Congress cut the appropriation to LSC by 30%, and that cut was passed along to all of LSC's grantees, including GLSP. This came on top of a 5% rollback imposed by Congress of its 1995 appropriation to LSC. We bore the brunt of most of that rollback as well.

In addition, in 1996, Congress imposed a number of restrictions on the activities that legal services staff attorneys can undertake for their clients, and restrictions on the kinds of clients who legal services staff attorneys can represent. Among the most significant for our practice are the following:

1. a prohibition on legislative and administrative advocacy except under

very limited circumstances and with non-LSC funds

2. a prohibition on filing or participating in class action lawsuits
3. a prohibition on handling litigation on behalf of persons in prison
4. a prohibition on litigation, legislative, or administrative advocacy related to welfare reform, except under very limited circumstances.

III. Impact of cuts and restrictions on legal services for the poor

As a result of the funding cuts of 1995 and 1996, we were forced to reduce staff by over 25%. We closed one office in Dublin, Georgia, and agonized over closing two others which still exist but are very small. Frankly, we avoided more serious cuts only because of a small, one-time emergency grant from the Georgia Bar Foundation and because of severe spending and hiring freezes. The funding cuts and restrictions also produced a significant loss of senior staff, resulting in a very demoralizing "brain drain."

Despite the staff cuts, we have worked hard to avoid a dramatic reduction in the number of people we serve. We have been forced, however, to change the nature of the services we provide. We are focussed more heavily than ever on advice and counsel and brief service, and our more extensive work for clients is directed more and more toward crises - protection from domestic violence, avoidance of eviction, loss of children in custody issues, loss of family income. We are doing more and more community talks to groups about their legal rights and responsibilities, trying to help them avoid legal problems or figure out how to

handle problems themselves. Staff are spending more and more time on the telephone simply screening callers for eligibility and the severity of their problems, or offering some kind of information to desperate people, and less and less time actually working on solving the problems. We are working harder to recruit more volunteer lawyers to accept referrals, but each of those referrals still requires substantial staff time in screening, case evaluation, and often consultation on specific legal issues.

Another probably unintended consequence of the reduction in legal services staff attorneys has been that more individuals are trying to handle their problems by themselves. Every Georgia trial court judge I have talked to over the last year has described dramatic increases in the number of pro se litigants, and the difficulties for the judge faced with the litigant and the lawyer representing the adverse party, not to mention the increased frustration with the judicial system for the pro se litigant. We have worked aggressively to train lay advocates to assist victims of domestic violence obtain temporary protective orders, but that still leaves those individuals without lawyers to really solve their problems by stabilizing the family on a more permanent basis by resolving issues of the marital relationship, custody, and support.

I have described some of the consequences of the reductions in funding. I would now like to tell you about some of the very specific kinds of problems we have addressed for our clients in the past, and to describe to you how those activities are affected by the new restrictions.

In 1994, Tropical Storm Alberto rose up from the Gulf of Mexico and stalled out over Georgia for several days. The storm dumped enormous quantities of rain which filled the south-flowing Flint River. The river overflowed its banks from Atlanta, through South Georgia, and on into the Gulf of Mexico. In Albany, Georgia, the flood -- called by some a 500-year flood -- completely destroyed several predominantly African-American neighborhoods in the low-lying areas near the river. In the ensuing two-and a half years, GLSP lawyers have been the principal advocates for the low-income residents of those areas, dealing with issues related to FEMA emergency housing, redevelopment of public housing projects, consumer fraud by repair contractors, eligibility for repair money from FEMA as well as the City of Albany, even relocation of neighborhood schools.

The restrictions that we now have would have dramatically impaired our ability to help many of these clients, and would have left them powerless to deal with a number of serious problems. For example, we were able to work out a substantial number of problems for our clients by persuading the City of Albany to change a policy in its flood assistance program to permit persons to methods other than formal title documents to establish that they owned their property. This is especially vital in rural Georgia because of the prevalence of "heir property" where estates are not probated and ownership not always formalized by documents. Had the restrictions on legislative advocacy imposed last year by Congress been in place in 1994, I believe we would have been forbidden from initiating discussions with the City of Albany to change that policy. Many low-income African American

flood victims would have been unable to obtain home repair assistance.

Five years ago Georgia enacted a "family cap" provision on recipients of AFDC, denying additional benefits to recipient families which had additional children following 24 months of receiving benefits. On behalf of a number of potentially affected clients, we submitted comments to the United States Department of Health and Human Services based on the fact that in many Georgia counties family planning services were not available in a timely way, thus creating a dangerous trap for AFDC families. HHS imposed a condition on Georgia's program that additional family planning services be put into place, thereby assisting many families to help themselves. Under the new restrictions limiting our ability to undertake administrative or legislative advocacy, as well as the restriction on welfare reform advocacy, however, we would now be unable to take the same steps for clients. The people most affected by changes in welfare programs have been silenced. What all good lawyers readily do for their clients is impermissible for us to do for ours. How does this advance the cause of justice?

Georgia Legal Services Program has built a reputation for its high-quality representation of persons with disabilities. Over the twenty-five years of our existence, we have brought numerous lawsuits, many of them class actions, and we have represented these clients in legislative and administrative forums. For instance, we represented a class of children with mental disabilities abandoned by their parents, and in some cases even their state caretakers, in state mental institutions. Twenty years ago, it was not uncommon for a child to spend years in

those institutions, with no one advocating for his release to a community-based setting. Today, in large part because of our advocacy, the state is closing its children and adolescent units and redirecting those funds to more normalized community settings where children can learn to function in society instead of an institution.

Just three years ago we filed a class action on behalf of persons who had been or could be involuntarily committed for treatment of tuberculosis. The statutory procedures did not permit the individual to cross-examine witnesses against him, and there was no right to appointed counsel, despite the threat of the loss of liberty. The state attorney general readily agreed the statute was unconstitutional, and he saw to it that new legislation was enacted, thereby settling the case.

I could describe a number of other class actions we have won for disabled persons in Georgia, but the point is that under the new LSC restriction forbidding class actions we are no longer permitted to do those cases. Individual representation of persons with disabilities will never accomplish the results that were achieved in the past in securing more dignity, fairness, and improved conditions for these citizens.

GLSP also used to represent inmates of correctional facilities in matters related to the conditions of their confinement - access to health care, access to law libraries, access to postage stamps, overcrowding, and for women, protection from sexual abuse and assault. As a result of our litigation against the main Georgia

State Prison in Reidsville, considered in the early 1970s to be one of the worst penal institutions in the country, that institution became a model, both for others in Georgia and also for facilities around the country. A case we brought in 1984, revived in the early 90s, resulted in the first ruling in the country that a female inmate has a constitutional right not to be sexually assaulted by her guards. As a result of the new prohibition on class actions, as well as the prohibition on litigation on behalf of prison inmates, we were forced to withdraw from these cases as of January 1996. As you might imagine, the disproportionate majority of inmates in Georgia are persons of color, most of whom come from low-income backgrounds.

In Georgia there are precious few alternative advocacy groups that have the resources or the expertise to take on class action litigation, substantial legislative advocacy, or the substantive issues or groups from which we have been barred.

Some people argue that the private bar can take care of all the legal needs of these clients without means. The private bar in Georgia, working in partnership with GLSP and the Atlanta Volunteer Lawyers Foundation, has in fact increased its efforts to meet these needs, through volunteer and reduced-fee work, and also through direct financial support. GLSP received \$228,000 in direct lawyer contributions to support our work in 1996. While these contributions represent an important statement about the commitment to access to justice by these donors, these dollars are still a drop in the bucket compared to the need. In most areas of rural Georgia, there are no paid public defenders, so the

constitutional indigent criminal defense obligation is borne by these same lawyers who are asked to provide unpaid civil legal services to the poor as well. Those who do agree to take cases rely on our staff's financial screening and case evaluation, without which their volunteer work would undoubtedly fall off. Moreover, the practice of poverty law has in many ways become a specialty in itself, with statutory and regulatory schemes as complex as federal income taxation. Finally, the clients we represent are often those who cannot make it to the lawyer's door, because of distance, disability, language barrier, age, ignorance, intimidation, confinement -- in addition to their lack of means to hire an attorney. The private bar cannot do what legal services lawyers are equipped to do on behalf of their clients.

Despite all the limitations and despite our extremely thinly stretched resources, we are trying still to help our clients achieve some positive changes in their lives. Let me tell you about some of that work. We are helping community-based groups around the state which are interested in a variety of self-help activities, from working to improve their children's schools, to trying to start a business cleaning apartments in public housing, to working to become eligible to develop affordable housing projects, to helping each other collect child support. These groups need lawyer-counselors on organizational matters such as incorporating, but also on looking at the laws surrounding the issues they're interested in, pursuing grant opportunities, dealing with contract issues, and even handling employment issues. Most of these groups have little in the way of a

budget with which to hire a private lawyer.

We are also working to help private lawyers learn the intricacies of special education law, of disability law, of landlord-tenant law, so those lawyers can be more effective advocates when our resources stretch too thin. In 1996, welfare reform legislation put into motion a process whereby any disabled child determined eligible for SSI benefits since 1986 would be reexamined by the Social Security Administration. Somewhere between 5,000 and 8,000 Georgia children with serious disabilities could be affected by these changes. GLSP initiated a collaborative project with a local private law firm and a volunteer lawyer agency serving the Atlanta metro area to work to see that every one of those disabled children has the opportunity to have a lawyer to help appeal a decision by Social Security to terminate benefits. We have had a gratifying response to the calls for volunteers, but they are glad to have the training we have organized to cover the complexities of the new law as well as the special childhood disability issues involved.

We are working with the Judicial Councils and State and local bar groups to find ways to more effectively deal with pro se litigants and provide appropriate assistance to them. These are all important and productive ventures, but they will not get done without federal funding to support the existence of Georgia Legal Services Program.

In summary, the recent cuts in federal funding for civil legal services - especially following similar drastic cuts in the early 80s and a decade where those

cuts were not replaced -- have dramatically reduced the ability of low-income persons to find a lawyer to solve serious legal problems. The recently-imposed restrictions on the activities of legal services lawyers deny to poor persons equal protection of the laws since their only advocates cannot use the full range of available legal remedies to assist them. Justice is both delayed and denied to the poor, and those people in Georgia are disproportionately persons of color, women, children, seniors, and persons with disabilities.

IV. Conclusion

One day recently I had the opportunity to walk to the U.S. Supreme Court building, which I had never done before. While it was late in the day and I did not have the time to enter, I was very moved simply by the experience of standing in front of that building. Of course, for me the words "Equal Justice Under Law" alone were breathtaking, but the impact of the size, scale, and beauty of the building itself seemed to speak to the importance that we place on that concept. Yet daily I talk to people who call me in distress because we cannot take their cases because of lack of staff or volunteer resources. A grandmother who fears she will not see her grandchildren if the son-in-law wins the custody case. A fifty-five year old newly-divorced woman faced with the loss of her medical insurance and her home if her ex-husband is not found and made to comply with the terms of the divorce decree. A woman and her disabled child facing eviction by her private landlord for any number of reasons, but unable to get help because we've set a priority on evictions from federally-subsidized housing where the tenant may have

some additional defenses. The superior court judge who calls wondering why we can't take a specific divorce case. No private lawyer will take these cases. Notwithstanding America's promise etched up there on the Supreme Court building, there really is no equal justice under law for these Americans.

POVERTY AND LEGAL SERVICES IN GEORGIA

Over one million Georgians, or 15.8%, were in poverty in 1990; compare to the U.S. average of 13.5%
23.5% of Georgia's children are poor; compare to the U.S. average of 19.5%
11.5% of all families statewide are in poverty
39% of those families have a new legal need each year
Most legal needs relate to housing, consumer, community, or employment-related problems
Only 16% of low-income people consult a lawyer

GEORGIA LEGAL SERVICES PROGRAM

Founded in 1971 by the State Bar of Georgia
Serves 154 counties, outside the Atlanta metropolitan core
1997 funding from the Legal Services Corporation = \$5,576,077
13 offices, 74 lawyers, 29 paralegals, 56 other staff
Closed over 17,700 cases in 1996
Referred over 30,000 more

ATLANTA LEGAL AID SOCIETY

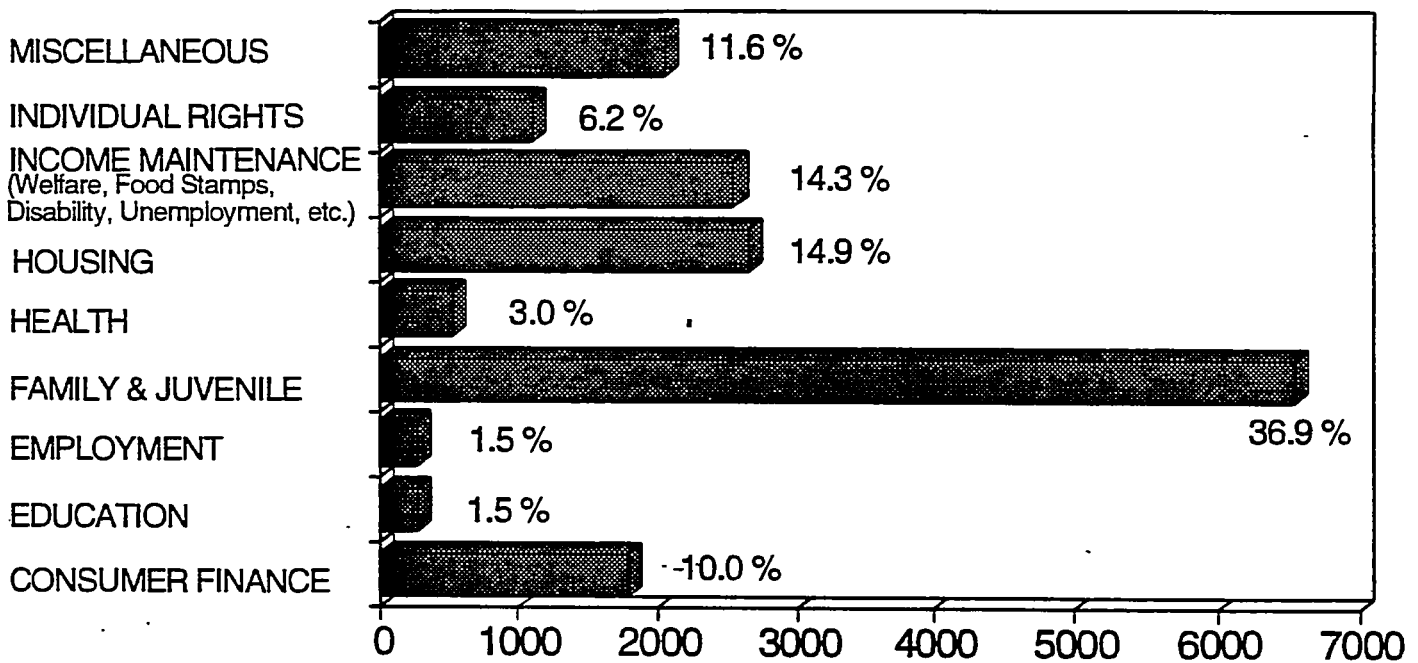
Founded in 1924 by prominent Atlanta lawyers
Serves 5 core counties of the Atlanta metropolitan area
1997 funding from the Legal Services Corporation = \$1,673,128
3 offices, 34 lawyers, 15 paralegals, 21 other staff
Closed over 13,000 cases in 1996
Referred over 22,000 more

SOURCES OF FUNDS (combined)

Legal Services Corporation	\$7,249,205
Georgia Bar Foundation	1,171,500
Older Americans Act	821,500
Private attorney contributions	803,000
United Way	293,800
GA Dept. Community Affairs	112,500
Local and smaller grants	1,603,100

Georgia Legal Services Program

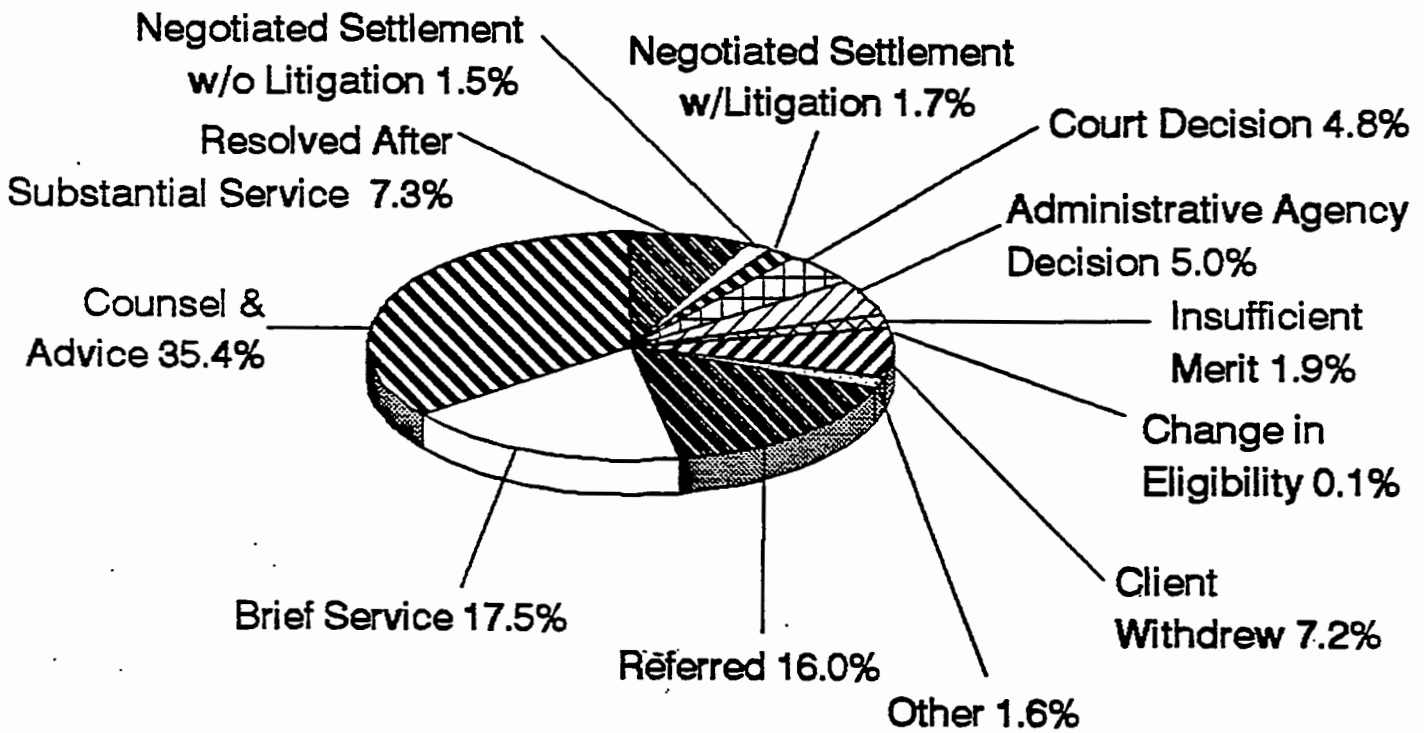
Legal Problems Handled



1996 Closed Cases: 17,736

Georgia Legal Services Program

Type of Service



1996 Closed Cases: 17,736

**GEORGIA LEGAL SERVICES PROGRAM
COMPARISONS**

	1997	1981
LSC: Basic Field	\$5,262,037	
LSC: Migrant	\$314,040	
LSC: State Support	\$ -0-	
LSC: Total	\$5,576,077	\$7,417,329
Other Funding	\$2,617,156	\$411,192
Total Funding	\$8,193,233	\$7,828,521
Poverty Population	700,388 ¹ (1990 census)	675,098 ¹ (1980 census)
\$ Per poor person	\$7.51	\$10.98
Offices	13	21
Attorneys	77	115
Paralegals	30	86
Support Staff	58	113
Cases Closed	(1996) 17,763	(1980) 13,565

ⁱ Census figure for GLSP service area at or below poverty line. GLSP eligibility guidelines include persons up to 125% of the poverty line.