



# Documenting the Justice Gap In America

*The Current Unmet Civil Legal Needs of  
Low-Income Americans*

An Updated Report of the  
Legal Services Corporation

*September 2009*

## Preface

This report updates and expands the Legal Services Corporation's groundbreaking 2005 report *Documenting the Justice Gap in America: The Current Unmet Civil Legal Needs of Low-Income Americans*, first released in September 2005, which documented the enormous challenge the nation faces in providing civil legal assistance to low-income individuals and families.

This report, completed in September 2009, shows that a continuing, major justice gap exists in our nation: for every person helped by LSC-funded legal aid programs, another is turned away. That was the primary finding in 2005 and LSC's collection of data from LSC-funded programs across the country in 2009 reaffirms that finding. This report replicates the methodologies and analysis used in 2005 and includes data on unrepresented litigants.

Since 2005, additional state legal needs studies have added to the body of knowledge that suggests only a fraction of the civil legal problems experienced by low-income Americans are addressed with the help of a private attorney or a legal aid lawyer. New data also indicate that state courts, particularly family and housing courts, are facing increased numbers of unrepresented litigants, which raises concerns about equal access to justice. Significantly, the number of people in poverty has increased because of the recession and high unemployment rate.

The 2005 Justice Gap Report helped shape the dialogue over equal access to justice and provided a better understanding of the need for enhanced funding for the Corporation. The LSC budget provided by the Congress has increased to \$390 million in Fiscal Year 2009. LSC is deeply appreciative of its bipartisan support in Congress.

Lack of resources, however, continues to be the major factor why LSC-funded programs turn away half of those seeking help. Closing the justice gap will require a multifaceted approach that includes increased funding by federal and state governments, private funders and concerned private parties, and increased *pro bono* contributions by individual lawyers.

Our nation's pledge of equal justice for all is far from being fulfilled. By working together, we can come closer to realizing that ideal.



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Washington, DC  
September 2009

# Documenting the Justice Gap In America

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*“Equal justice under law is not merely a caption on the facade of the Supreme Court building. It is perhaps the most inspiring ideal of our society...it is fundamental that justice should be the same, in substance and availability, without regard to economic status.”*

—U.S. Supreme Court Justice Lewis Powell, Jr.

## Executive Summary

As the institution charged by Congress with the administration of the federally-funded civil legal assistance program for those who would otherwise be unable to afford adequate legal counsel, the Legal Services Corporation (LSC) has a responsibility to communicate to Congress what is required to secure *necessary access to civil legal assistance*—that is, the level of assistance that would be required across the nation to respond appropriately to the civil legal needs of low-income individuals and families.

The civil legal problems of low-income 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 law issues including child support and custody actions, and relief from financial exploitation.

The difference between the level of legal assistance available and the level that is necessary to meet the needs of low-income Americans is the “justice gap.”

In September 2005, LSC issued a comprehensive report, *Documenting the Justice Gap in America: The Current Unmet Civil Legal Needs of Low-Income Americans*, which used a variety of methodologies to document the justice gap and to quantify necessary access to civil legal assistance.

This report updates the 2005 Justice Gap Report, using new data. Analysis of this data confirms that the conclusion of the 2005 Justice Gap Report remains valid: there continues to be a major gap between the civil legal needs of low-income people and the legal help that they receive.

- 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.
- New state legal needs studies have added depth to a body of social science knowledge that has produced consistent findings for a decade and a half, documenting that only a small fraction of the legal problems experienced by low-income people (less than one in five) are addressed with the assistance of either a private attorney (pro bono or paid) or a legal aid lawyer.
- Analysis of the most recent available figures on attorney employment shows that nationally, on the average, only one legal aid attorney is available for every 6,415 low-income people. By comparison, there is one private attorney providing personal legal services (those meeting the legal needs of private individuals and families) for every 429 people in the general population who are above the LSC poverty threshold.
- New data indicate that state courts, especially those courts that deal with issues affecting low-income people, in particular lower state courts and such specialized courts as housing and family courts, are facing significantly increased numbers of unrepresented litigants. Studies show that the vast majority of people who appear without representation are unable to afford

an attorney, and a large percentage of them are low-income people who qualify for legal aid. A growing body of research indicates that outcomes for unrepresented litigants are often less favorable than those for represented litigants.

The first three findings are derived from three different methodologies, which were also employed in the 2005 report. The fourth finding is derived from a review and analysis of data on litigants appearing in court without representation, which was recommended in the 2005 report for which LSC did not have sufficient data at that time.

- **Methodology #1: *Unable to Serve*:** *National count of people seeking legal help from LSC-funded providers who are denied services because programs lack sufficient resources.* LSC asked its 137 grantee programs, with 918 offices, to document the number of people seeking assistance from the program who could not be served due to insufficient program resources. LSC-funded programs collected this data over a two-month period in March-May 2009, the same time period during which this data was collected for the 2005 Justice Gap Report.
- **Methodology #2: *Continuing Documentation of Unmet Legal Needs*:** *Analysis and comparison of recent state legal needs studies.* Since 2005, seven states have conducted legal needs studies using similar methodologies. For this report, the methodologies and findings of the seven recent state studies were compared to one another to draw currently valid, nationally applicable conclusions from them. The findings of these studies were also compared to the nine state studies conducted during 2000-2005 that were discussed in the 2005 report and the Comprehensive Legal Needs Study funded by the American Bar Association and released in 1994.
- **Methodology #3: *Attorneys Per Capita*:** *Attorneys Per Capita: National count of legal aid attorneys; comparison of ratio of legal aid attorneys to low-income population and ratio of private attorneys providing personal legal services to general population.* The count of legal aid attorneys included attorneys in all programs providing civil legal help to low-income people, not just those in LSC programs. The count of private attorneys providing personal legal services to the general population was based on estimates obtained from the American Bar Association. This report used U.S. Census population figures and estimates for the number of attorneys from the year 2007, the most recent year for which all figures were available.
- ***New Data on Unrepresented Litigants*:** Although there are no national statistics on unrepresented litigants, data was obtained from a compilation prepared by the National Center for State Courts of reports from state and federal courts, as well as individual reports from several states. The impact of the current economic crisis on caseloads and unrepresented litigants was documented by a survey of judges conducted by the Self-Represented Litigation Network in the spring of 2009. The available social science research on this topic also was reviewed.

Closing the justice gap and securing *necessary access to civil legal assistance* will require a multifaceted approach which will include a partnership of individual lawyers, the organized bar, federal and state governments, private funders and concerned private parties. In addition to increased funding for staffed legal aid programs, closing the justice gap will require increased pro bono efforts by the nation's lawyers. As the primary conduit for the federal government's share, the Legal Services Corporation bears responsibility for leading the way.

The findings reported here suggest a phased approach to addressing the unmet need. First, LSC's 2005 and 2009 "Unable to Serve" data show that only half of those seeking legal help from LSC

grantees are able to be served. As an initial critical goal, there must be enough funding to serve all of those *currently* seeking help from LSC grantees. This requires a doubling of LSC funds and a doubling of the state, local, and private funds that also support LSC grantees.

Second, state legal needs studies conducted from 2000 to 2009 generally indicate that less than one in five low-income persons get the legal assistance they need. To fund this need, the federal share must grow to be five times greater than it is now, or \$1.6 billion. IOLTA and other state, local and private funding sources, which are being hard hit by the economic downturn at present, will also have to grow in the future to contribute their proportionate share of the increase necessary to fund civil legal services.

In order to keep faith with our national commitment to equal access to justice, it is essential that the nation move toward the necessary funding levels in firm, measured strides that are designed to close the justice gap as quickly as possible.

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# Introduction

## The 2005 Justice Gap Report

In September 2005, the Legal Services Corporation (LSC) issued a comprehensive report, *Documenting the Justice Gap in America: The Current Unmet Civil Legal Needs of Low-Income Americans*, which used a variety of methodologies to document the civil legal needs of low-income individuals and families and to quantify *necessary access to civil legal assistance*—that is, the level of assistance that would be required across the nation to respond appropriately to those needs.

The civil legal problems of low-income 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 law issues including child support and custody actions, and relief from financial exploitation.

The difference between the level of legal assistance available and the level that is necessary to meet the needs of low-income Americans is the “justice gap.”

The 2005 Justice Gap Report was the first nationwide report on the civil legal needs of low-income people since the Comprehensive Legal Needs Study funded by the American Bar Association and released in 1994.<sup>1</sup> The Justice Gap Report was based on data collected from LSC-funded programs in 2004 and 2005, as well as data from other state legal needs studies, the U.S. Census Bureau, and other sources covering the period 2000-2005. The report synthesized and compared the findings of the existing studies from this period, as well as those from the 1994 ABA study.

## LSC’s Responsibility to Assess Legal Needs

Congress, in creating the Legal Services Corporation in 1974, determined that there is “need to provide equal access to the system of justice in our nation for those who would be otherwise unable to afford adequate legal counsel.” Congress explicitly recognized in the LSC Act that, “providing legal assistance to those who face an economic barrier to adequate legal counsel will serve best the ends of justice, assist in improving opportunities for low-income persons,” and “has reaffirmed faith in our government of laws.”

The goal of providing equal access to justice for those who cannot afford to pay an attorney remains the reason for LSC’s existence and the benchmark for its efforts. In developing the budget mark it submits to Congress, therefore, LSC has a duty to assess what has been accomplished in meeting the need, what still needs to be achieved, and the role that federal funding should play in doing so. This was the basis for the determination by the LSC Board of Directors that LSC should undertake the 2005 Justice Gap Report.

## The 2009 Justice Gap Report

Since the first Justice Gap Report was issued in 2005, major developments have occurred that potentially affect levels of need for civil legal assistance and the ability of legal aid providers to meet it.

- The current economic crisis, with its attendant problems of high unemployment, home foreclosures and family stress, has resulted in legal problems relating to consumer credit, housing, employment, bankruptcies, domestic violence and child support, and has pushed many families into poverty for the first time.

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<sup>1</sup> “Report on the Legal Needs of the Low-Income Public: Findings of the Comprehensive Legal Needs Study,” American Bar Association, 1994.



- Just before the 2005 report was issued, Hurricane Katrina struck the Gulf Coast, resulting in legal needs that are still being experienced by low-income residents of Louisiana, Mississippi, and Texas, where many victims of the disaster have relocated. Hurricanes Ike and Gustav hit this region in 2008, a year that also saw widespread, record floods in the Midwest.
- While a long-term trend of increased state funding for civil legal aid has continued, budget crises have put this funding at risk in some states. Revenues from state Interest on Lawyers' Trust Accounts (IOLTA) programs rose in some states with new revenue enhancement techniques, but have recently fallen precipitously in many states as a result of low interest rates and the declining economy, reducing trust account deposits.
- According to the U.S. Census Bureau, the number of individuals living below 125 percent of the federal poverty level in the United States increased from 49.6 million in 2005 to 53.8 million in 2008.<sup>2</sup>
- At the federal level, an increase of \$40 million in LSC funding for FY 2009 was signed into law in March 2009. (The increase was reflected in LSC grants beginning in April 2009, and its impact is not reflected in any of the data in this report.)

This report updates the findings and analysis of the 2005 report. As in 2005, LSC President Helaine M. Barnett convened a Justice Gap Advisory Committee to assist in the preparation of the report. In addition to LSC staff, the committee included representatives of the ABA Standing Committee on Legal Aid and Indigent Defendants (SCLAID) and the National Legal Aid and Defender Association (NLADA), both of which have traditionally provided their own recommendations on LSC funding and have independently undertaken efforts to develop new data on the unmet legal needs of low-income people, in addition to representatives of LSC-funded field programs and other members of the legal services community with expertise in documenting legal needs.<sup>3</sup>

The 2009 Justice Gap Advisory Committee concurred with the judgment of the 2005 group that the likely cost of more than \$1 million to conduct a new national legal needs survey would not be justified, and that the justice gap could best be illuminated by using the same three methodologies employed in the 2005 report, each of which has particular strengths and provides a different perspective. In addition, as recommended in the 2005 Justice Gap Report, the committee also reviewed and analyzed available data and research on litigants appearing in court without representation. Together, these different sources offer a broad picture of the justice gap.

The information in this updated report confirms the findings of the 2005 Justice Gap Report and is consistent with a body of social scientific literature that has been growing for two decades. Of those people who seek assistance from LSC-funded legal aid programs, one is turned away because of limited resources for every one helped. Only a small fraction of the legal needs of low-income people are addressed with the assistance of an attorney. There are more than ten times as many private lawyers providing personal legal services to persons in the general population above the LSC

<sup>2</sup> "Income, Poverty, and Health Insurance Coverage in the United States: 2008," U.S. Census Bureau, September 10, 2009. The 2008 data reflect the initial effects of the recession and signal even larger increases for 2009 because of high unemployment rates.

<sup>3</sup> The Justice Gap Advisory Committee members were Jonathan Asher, executive director, Colorado Legal Services; Terry Brooks, legal counsel to SCLAID; Bob Echols, state support consultant at the ABA Resource Center for Access to Justice Initiatives; Deborah Hankinson, former chair of SCLAID; Melville D. Miller, Jr., president, Legal Services of New Jersey; Don Saunders, Civil Director, NLADA; Lois Wood, executive director, Land of Lincoln Legal Assistance Foundation; and Anthony Young, executive director, Southern Arizona Legal Aid.

poverty threshold as there are legal aid attorneys in relation to the low-income population they serve.<sup>4</sup> State courts are being overwhelmed by a rising tide of unrepresented litigants, many of them low-income people eligible for LSC-funded assistance who have been unable to obtain an attorney.

All of these findings support the conclusion that there remains a significant justice gap in the United States: the difference between the level of legal assistance available and the level that is necessary to meet the civil legal needs of low-income Americans.

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<sup>4</sup> LSC is required by law to establish maximum income levels for persons eligible for civil legal assistance. Under LSC regulations, the maximum level is equivalent to 125 percent of the federal poverty guidelines, which are issued annually by the U.S. Department of Health and Human Services.

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# Methodology #1: Unable to Serve

## *Count of People Seeking Assistance From LSC-Funded Programs Who Cannot be Served Due to Lack of Resources*

To document the justice gap at the legal aid program level, LSC collected data on the number of people currently seeking help from LSC-funded legal aid programs who cannot be served due to insufficient program resources. Data was obtained from every state in the country.<sup>5</sup>

This count indicates that almost one million cases (944,376) per year are currently being rejected because programs lack sufficient resources to handle them. This figure does not include the many people who do not reach an LSC-funded program to ask for help, for whatever reason. Other studies indicate that those who seek help from legal aid programs represent only a fraction of the low-income people with legal needs.

Comparison of this data to statistics on cases handled in 2008 indicates that *for every client served by an LSC-funded program, at least one person seeking help will be turned down* due to limited resources. This conclusion is almost identical to the “Unable to Serve” finding of the 2005 study.

### Methodology

LSC asked its grantee programs to collect data on numbers of people who could not be served during a two-month period, from Monday, March 16, through Friday, May 15, 2009. This period replicates that of the 2005 survey, which was taken March 14 through May 13, 2005.

Programs were asked to count the number of people who sought legal help from the program (in person, by phone, or online) for problems within LSC’s statutory mandate and were denied services because the program lacked sufficient resources.<sup>6</sup>

It is important to keep in mind that the data yielded by this methodology is *under-inclusive* as a representation of the justice gap in several ways:

- Data was collected only from LSC-funded programs. The count does not include people who may have sought help unsuccessfully from other programs. This limitation is particularly significant in a few states and grantee service areas where intake is not primarily performed by the LSC grantees, which could consequently count only a small percentage of the total number of persons who were turned down for service.<sup>7</sup>
- The count of people who could not be served does not include clients who received some service, but not the level of service that they actually needed. LSC programs frequently provide advice and counsel to people when they cannot provide full representation. These cases

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<sup>5</sup> As in 2005, data from LSC-funded programs in the District of Columbia, Puerto Rico, Virgin Islands, Guam and Micronesia is also included.

<sup>6</sup> The count did not include people who were denied services because they were financially or otherwise ineligible, because services were prohibited by LSC restrictions, or because their case was determined to have insufficient legal merit to proceed. Nor were cases in which a program made a referral to another program with an expectation that the other program would provide substantial representation included in the count. The instructions provided by LSC to its grantees on completing the survey and other related documents can be viewed on-line at [https://grants.lsc.gov/Easygrants\\_Web\\_LSC/Implementation/Modules/Login/Controls/PDFs/2009\\_UTS\\_Study\\_Instructions.pdf](https://grants.lsc.gov/Easygrants_Web_LSC/Implementation/Modules/Login/Controls/PDFs/2009_UTS_Study_Instructions.pdf)

<sup>7</sup> In some places, other organizations do intake and do not send cases to the LSC-funded program when they know the program is not able to handle them.

do not appear as denials of service because the client has actually received a service (Advice and Counsel or Limited Action).<sup>8</sup>

- Many people who were counted as turned away for a single legal problem are likely to have had more than one legal problem. Legal aid programs regularly find that people who have contacted them for assistance with one problem have other legal problems as well.<sup>9</sup> State legal needs studies confirm that a large percentage of people with at least one legal problem have more than one problem (see Methodology #2).<sup>10</sup>
- The count does not include people who sought unsuccessfully to reach LSC-funded programs. Legal aid programs have a finite capacity to provide legal assistance to eligible clients and, because of limited resources, often must limit intake to certain hours and a limited number of phone lines and intake advocates.<sup>11</sup>
- More broadly, the methodology does not capture people with serious legal needs who did not contact any legal aid provider. Many factors may keep people from seeking help:
  - People with legal problems frequently do not understand that they need legal help (see Appendix C).
  - People with legal problems frequently do not know where to turn to obtain that help, or may not know that they are eligible for legal aid (see Appendix D).
  - People who meet the eligibility requirements for free legal services may not seek help from the program because they believe that the program will not be able to assist them. Legal aid providers observe that calls for assistance involving particular problem types tend to rise when the program is providing services in this area and to fall when intake is limited or closed in this area. A number of factors are typically involved in this phenomenon: for example, social services agencies and community workers are not making referrals; people are being told by others in the community that the program will not be able to help; and conversely, people are not hearing from others that they have obtained help from the program for a similar problem. Thus the number of calls tends to drop during periods when it is unlikely that clients will be able to obtain help, reflecting the understanding of the community about whether services are likely to be available.

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<sup>8</sup> As part of the research for this report, LSC grantees were asked to capture the number of clients that they assisted in a limited fashion where full extended representation would have been more likely to enable the client to obtain a satisfactory outcome. LSC grantees counted 82,500 such cases in the two-month period. This figure does not include cases where the programs judged that the advice and brief service provided was sufficient to resolve the problem presented. Programs estimated that, during the two-month study period, 46,000 cases were resolved in this manner.

<sup>9</sup> For example, Pine Tree Legal Assistance, Maine's LSC grantee, asked people contacting the program in person (rather than by telephone) during the March-May period in which it collected "unable to serve" data whether they had other legal problems. It found that 66 percent of the people contacting the program in person had at least one legal problem beyond the one for which they were seeking immediate help, with an average of three additional problems.

<sup>10</sup> The Virginia legal needs study considered under Methodology #2 reported that the average number of legal needs among households with at least one legal need was 3.62. The Alabama study reported that the average number of legal needs among households with at least one legal need was 3.6. The New Jersey study reported that 51.5 percent of those respondents who experienced at least one problem experienced more than one problem.

<sup>11</sup> Programs typically make legal information available in ways that are not dependent on talking directly with an advocate, such as through their websites, brochures, clinics, and other community education media.

- Other barriers, such as geographical distance and isolation, low literacy, physical or mental disability, limited English proficiency, culture and ethnic background, and apprehension about the courts and the legal system, also pose impediments.

This data provides *specific* documentation of the magnitude of unmet need. It is unique in that, through an extensive, nationwide sample, it documents legal problems for which people have *actually* sought, and been denied, help. It is also understated because it does not include many other people with pressing legal problems who also need assistance, but did not contact an LSC-funded program.<sup>12</sup>

## Findings

The annualized figures for different case types are reported in Table 1.

**Table 1: Unable to Serve**

Type of Legal Problem Categories	Unable to Serve Twelve Month Projections	Calendar Year 2008 Cases Closed
Consumer	98,214	108,404
Education	8,874	6,839
Employment	42,264	26,896
Family	391,038	312,046
Juvenile	18,780	15,143
Health	22,230	30,802
Housing (Other than Foreclosure)	113,706	219,592
Foreclosure	21,756	9,920
Income	49,236	98,257
Individual	39,216	13,250
Miscellaneous*	139,062	48,006
<b>Total</b>	<b>944,376</b>	<b>889,155</b>

\*Includes such services as wills and estates, advance directives and powers of attorney.

<sup>12</sup> There is one way in which this data may be slightly over-inclusive, in that eligibility for LSC services was documented in most, but not all, cases. Eligibility was established for all cases in which the intake process was completed. People who were determined to be ineligible were not included in the count. However, the count of people who were turned away does include some applicants for whom eligibility information was not collected because, before doing screening, the program ascertained and informed the applicant that the type of case presented was not within the program's case-handling priorities. Nevertheless, programs report that it is their experience that an overwhelming majority of those who contact legal services offices are eligible for their services

To obtain an annualized figure, the data from the two-month survey was multiplied times six as a projection for an entire year.<sup>13</sup> For comparison, the number of cases in which service was *provided* by LSC-funded programs in 2008 is also set out in Table 1.<sup>14</sup>

The table shows that there will be roughly 944,000 people seeking legal help in 2009 that LSC programs will be unable to serve at all. In comparison, approximately 889,000 people were served by LSC-funded programs in 2008.<sup>15</sup> This means that *for every client served by an LSC-funded program, at least one eligible person seeking help will be turned down.*

This methodology yielded a similar ratio in the 2005 study, which estimated that 1,086,000 people would be turned away over the course of the year, while in the previous year, LSC programs had served 900,000 clients (see Appendix E, Table 2005-1).

The fact that the 2009 “Unable to Serve” survey did not show a national increased demand for service during a period when such an increase would have been expected, due to the economic crisis, may be attributable in part to several of the limitations of the survey identified above. In particular, the limited intake capacity of many programs means that an increased number of callers would not necessarily result in an increased number of callers who actually reach the program. Another factor that may prevent increased demand from resulting in increased requests for assistance is that many potential clients and sources of referrals learn when legal aid programs are unable to accept new cases and stop calling or making referrals.

### Conclusion to Methodology #1

This methodology indicates that, as in 2005, roughly *one-half of the people who seek help from LSC-funded legal aid providers are being denied service because of insufficient program resources.* Almost one million cases will be rejected this year for this reason.

Because this figure does not include people seeking help from non-LSC-funded programs, people who cannot be served fully, and people who for whatever reason are not seeking help from any legal aid program, it represents only a fraction of the level of unmet need. The methodology reported in the next section provides information about the size of this larger group of low-income people with civil legal needs.

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<sup>13</sup> The hypothesis that this two-month count is approximately equal to one-sixth of a year’s intake was tested in 2005 by asking 10 percent of LSC grantee programs to compare their 2004 April and May intake numbers with their total intake for 2004. The 2004 April and May intake for these programs yielded a count of 19,926 cases. A 12-month extrapolation from this figure would be 119,556 cases. The combined full-year 2004 totals for these programs was 119,166, almost identical to the extrapolation. This confirms that the sample period in 2005 was likely to reflect accurately one-sixth of a full-year total. The Justice Gap Committee did not repeat this test in 2009, relying on the assumption that the same results would hold true.

<sup>14</sup> Case data from 2008 was used for comparison because 2009 data will not be available until March 2010. Past experience suggests that 2009 case totals will be within a few percentage points of those for 2008.

<sup>15</sup> Pro bono cases provided through programs’ private attorney involvement (PAI) requirement are included in the count of clients served. Roughly 7 percent of all cases closed by LSC-funded programs in 2008 were provided by pro bono attorneys. Total PAI cases were more than 10 percent of LSC cases in 2008, with the additional cases being other PAI cases where private attorneys provide services at reduced fees paid by LSC programs.

# Methodology #2: Continuing Documentation of Legal Needs

## *Analysis and Comparison of State Legal Needs Studies 2006-2009*

Over the past four years, seven states have conducted large-scale, survey-based studies to determine the kinds of legal problems experienced by low-income residents and the extent to which these needs are being met. These seven studies were conducted by independent research entities, according to rigorous social science survey standards. The states that produced these studies are Virginia (2007), Utah (2007), Wisconsin (2007), Nevada (2008), Alabama (2009), Georgia (2009) and New Jersey (2009).

These seven studies add to a body of knowledge that has been building since the ABA study in 1994. For this report, the methodologies and findings of these seven studies were compared to one another to determine the extent to which it is possible to draw nationally applicable conclusions from them.<sup>16</sup> The findings and methodologies were also compared to those in the nine state studies considered in the 2005 Justice Gap Report, as well as those in the 1994 ABA study, to assess the continuing validity of the earlier findings.

In the six recent studies based on random telephone surveys, the sample size met the statistical threshold necessary to be able to generalize findings to the state low-income population (and in most instances was well above it). These findings can thus be considered very reliable.<sup>17</sup> Analysis of the seven recent state studies shows that their findings are broadly consistent with one another. This consistency of findings from state to state (and researcher to researcher) reinforces their validity and indicates that they are likely to be predictive of needs at the national level.

Key points of comparison are as follows. (Each is described in more detail in a subsequent section.)

- The seven recent state studies found that low-income households experience a per-household average of legal needs ranging up to three legal needs per year.
- All seven state studies found that only a small fraction of the legal problems experienced by low-income people (less than one in five) is addressed with the assistance of a private or legal aid lawyer.

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<sup>16</sup> Hawaii (2007) and the District of Columbia (2008) also conducted studies of legal needs and the extent to which they were being met; while these studies were based upon data from a variety of sources, those sources did not include a random survey of low-income people. In addition, Indiana (2008) conducted a survey-based study of legal needs, but the questionnaire used did not solicit data about unmet legal needs. For this reason, these three studies cannot be compared directly to the other seven studies considered in this section. However, the findings on unmet legal needs from these studies are reported in Appendix A. All of the studies discussed in this report, as well as all other state studies of the legal needs of low-income people released in 2000 and later and a list of studies released before 2000, are available online at <http://www.abanet.org/legalservices/sclaid/atjresourcecenter/compublicawareness.html> (under “Public Awareness and Communications”).

<sup>17</sup> The one study using the “cluster sampling” methodology (Utah) is based on a sample of 1,185, somewhat smaller than the 1,500 which is deemed to achieve maximum reliability. See Appendix B. However, the consistency of its findings with those in other states indicates that these findings can also be considered reliable.



- Those studies that ask respondents to rank the importance of the problems they experienced show that even if the legal problems included are limited to those considered to be “very important” or “most serious” or that “caused trouble” by the household experiencing it, a large majority of the problems are not addressed with the help of a lawyer.

These key findings of the seven recent state study findings are consistent with the analogous findings in the nine studies reported in the 2005 Justice Gap Report and the 1994 ABA study.

## Methodology

Table 2 shows the studies considered in this report.

**Table 2: State Legal Needs Surveys of Low-Income People 2006-2009**

State	Released	Sponsor/Funder	Survey/Analysis By
Virginia	2007	Legal Services Corporation of Virginia	Schulman, Ronca, & Bucuvalas, Inc.
Utah	2007	Utah Legal Services/ “And Justice for All”	Sociology Department, Portland State University/D. Michael Dale
Wisconsin	2007	State Bar of Wisconsin	Gene Kroupa & Associates
Nevada	2008	Supreme Court of Nevada Access to Justice Commission	Gene Kroupa & Associates; Social Entrepreneurs, Inc.
Alabama	2009	Alabama Access to Justice Commission/Alabama Bar Foundation	Southeast Research, Inc.
Georgia	2009	Georgia Supreme Court Equal Justice Commission, Committee on Civil Justice	A.L. Burruss Institute of Public Service and Research, Kennesaw State University/D. Michael Dale
New Jersey	2009	Legal Services of New Jersey	Schulman, Ronca, & Bucuvalas, Inc./Poverty Research Institute, Legal Services of New Jersey, in consultation with Institute for Survey Research, Temple University

All seven of these state studies used a fundamentally similar methodology, based on the well-established social science survey methodology used in the 1994 ABA study. This is the same methodology used in the nine studies reported in the 2005 Justice Gap Report:

- A statistically valid sample of low-income households was identified either through a random telephone survey or, in Utah, according to an alternative “cluster sampling” methodology (for a description of this methodology, see Appendix B).
- In an interview (by telephone, in the states using a random telephone survey; in person, in Utah, according to the “cluster sampling” methodology), respondents were presented with descriptions of various circumstances constituting potential legal problems and asked whether anyone in their household had experienced these circumstances during the preceding year. The survey questionnaire was reviewed by attorneys to ensure that the situations described to the respondents contained a legal issue and met a threshold of seriousness.

- When respondents reported having experienced such circumstances, follow-up questions were asked about what the household did (or did not do) about the situation and what contacts, if any, they had with the civil justice system.

As shown above in Table 2, the sponsors and funders of the studies were different in each state, and the surveys on which they were based were conducted or overseen by a variety of different independent academic or private research entities. The survey questionnaires varied somewhat to reflect local circumstances and concerns. Other details of the methodology also varied somewhat. (See Appendix B for variations). However, in all seven states, the survey samples were broadly representative of low-income people in the state and the survey questions about legal needs were sufficiently similar to allow the resulting findings to be compared meaningfully to one another.

### Findings: Legal Needs

The studies found that on the average low-income households experienced from 1.3 to 3.0 legal needs per year, as shown in Table 3.<sup>18</sup>

**Table 3: Legal Needs**

State	Average number of legal needs in preceding year per low-income household
Virginia	2.4
Utah	1.3 <sup>19</sup>
Alabama	1.7
Georgia	3.0
State	Average number of <i>categories</i> of legal needs in which low-income households experiencing at least one problem experienced a problem in the preceding year
Wisconsin	2.1 <sup>20</sup>
Nevada	2.4 <sup>21</sup>
State	Average number of <i>new</i> legal needs in preceding year per low-income <i>individual</i> experiencing at least one problem
New Jersey	2.3 <sup>22</sup>

<sup>18</sup> The most common types of problems reported in the seven studies were in the areas of housing (such as evictions, foreclosure, utility issues, unsafe housing conditions and homelessness), consumer (such as abusive debt collection, oppressive contract terms, bankruptcy, and consumer scams), family (such as divorce, domestic violence, child custody, visitation, and support), employment (such as wage claims, unemployment, discrimination), health care (such as disputes over charges, access to services, and nursing home problems), and government benefits (such as difficulty in applying and denials). Although the distribution of problem types varied somewhat from state to state, these problem types appeared in all seven states. Other problem types reported at relatively high levels in at least one of the studies (but not a majority) were education, municipal services, and disability.

<sup>19</sup> The Utah study notes that this figure conservatively understates the number of problems experienced by low-income Utahns each year, since detailed information was only recorded for five legal problems per household. Research from other states has shown that more than five problems occur with some frequency.

<sup>20</sup> The Wisconsin study reports that for the 45 percent of respondents who indicated that they or a household member had experienced at least one legal problem in the past year, the mean number of categories (out of thirteen) for which the household faced a problem or issue was 2.1. However, if a respondent experienced more than one problem within a particular category, only one problem was counted.

<sup>21</sup> The Nevada study reports that for the 68 percent of respondents who indicated that they or a household member had experienced at least one legal problem in the past year, the mean number of categories (out of nine) for which the household faced a problem or issue was 2.4. However, if a respondent experienced more than one problem within a particular category, only one problem was counted.

<sup>22</sup> The New Jersey study reported that 32.5 percent of lower-income respondents reported at least one new legal problem during the preceding year.

## Findings: Legal Help Sought/Received – Unmet Legal Needs

All seven state studies found a similarly large gap between the level of legal needs reported by low-income households and the percentage of those needs for which legal help was received.

The various studies report their findings on this fundamental issue in somewhat different ways, as shown in Table 4. Some studies report a figure for legal help *received*, either by a percentage of overall problems or by a percentage of respondents who obtained help (either *individuals* or *households*, depending on the study). Others report legal help received as a subset of legal help *sought*.<sup>23</sup>

Consequently, not all of the percentages shown are able to be compared directly to one another. However, the gap between the overall level of needs identified and the percentage of those for which legal help was received or sought is similarly large in each instance.

**Table 4: Legal Help Received/Sought**

State	Received legal help (by percentage of problems)
Alabama	15.9 percent of problems, legal assistance received
Georgia	9.1 percent of problems, legal assistance received
	<b>Received legal help (by percentage of households with problems)</b>
Utah	13.0 percent of households with problems received help from an attorney
Nevada	9 percent of households with problems received help from a lawyer for all the problems they identified; 20 percent received help for at least one, but not all of the legal problems they identified.
Virginia	17 percent of households with a legal need used a private lawyer or legal aid to assist them with that problem
	<b>Received legal help (by percentage of households with problems that sought help)</b>
Wisconsin	37 percent of households with legal problems sought help from a lawyer for at least one problem; 27 percent of this group received help from a lawyer for at least one problem; 12 percent of this group received help for all the problems they identified
	<b>Received legal help (by percentage of individuals who sought help or believed they needed help from a lawyer); sought legal help (by percentage of problems)</b>
New Jersey	30.6 percent of respondents who tried to get the help of a lawyer or believed they needed the help of a lawyer were able to get assistance; 19.4 percent of problems, help sought from a lawyer.

Overall, what these studies demonstrate is that only a small fraction of the legal problems experienced by low-income people (less than one in five) are addressed with the assistance of a private attorney or legal aid lawyer.

## Findings: Importance of Problems

Several of the state studies also collected data about the respondent’s assessment of the seriousness of the problem involved and/or the respondent’s understanding of whether a lawyer was necessary to resolve it, yielding data about percentages of the most immediate, serious problems.

- **Utah:** Respondents characterized 55.1 percent of the problems identified as “extremely important” and an additional 27.3 percent as “very important.”

<sup>23</sup> Several studies explored the reasons that many people did not seek legal help for their problems. See Appendix C; on the related issue of the lack of awareness of civil legal aid, see Appendix D. For comparable findings in the 2005 Justice Gap Report, see Appendix E, Tables 2005-7 and 2005-8. Of the state studies analyzed there, several report a finding only for legal help *sought*, not *received*.

- **Georgia:** 40.4 percent of respondents reported that the problem had caused “significant trouble” and almost 66 percent replied that their problem had caused some level of trouble.
- **New Jersey:** Respondents with lower incomes rated 58.2 percent of their legal problems as “most serious.”

### Comparison of State Findings on Unmet Need 2006-2009 to State Findings on Unmet Need 2000-2005 and 1994 ABA Study

The 2005 Justice Gap Report considered nine state legal needs studies issued from 2000-2005: Oregon (2000), Vermont (2001), New Jersey (2002), Connecticut (2003), Massachusetts (2003), Washington (2003), Tennessee (2004), Illinois (2005) and Montana (2005). These were the only survey-based legal needs studies of low-income people released during this period.

Like those considered in this update, these nine studies were sponsored and funded by a variety of different bar, court and funding entities, and the surveys on which they were based were conducted or overseen by different independent academic or private research entities. Like the 2006-2009 group of state studies, the sample size in all of the studies based on random surveys met the statistical threshold necessary to be able to generalize findings to the state low-income population (and in most instances was well above it). Again, especially given the consistency of findings from study to study, these findings can thus be considered very reliable. See Appendix E, Tables 2005-2 and 2005-5.

The findings of the seven studies considered here are wholly consistent with those of the nine studies reported in the 2005 Justice Gap Report. They are also consistent with those of the 1994 ABA study, which remains the only *national* study ever undertaken of this subject.

- The findings on the average number of legal needs per low-income household per year are within the same range: in the 2006-2009 group, from 1.3 to 3.0; in the earlier group, from 1.1 to 3.5 (See Appendix E, Table 2005-3). The ABA study found an annual average of 1.1 needs per low-income household. Only one state study, Vermont (2001), found a level of need as low as that in the ABA study. The ABA study thus represents the *lowest* figure available for estimating the number of legal needs experienced by low-income Americans.
- The findings on the level of *unmet* legal needs are within the same range: in all seven states, only a small fraction of the legal needs experienced by the household were addressed with the assistance of an attorney—less than one in five. In the 2000-2005 state studies that reported the percentage of total problems identified for which legal help was obtained (the most consistent way of measuring unmet legal need among the studies), the range was from 9 to 18.1 percent. (See Appendix E, Table 2005-4). The ABA study, at the low end of the range of study findings on *unmet* legal needs (i.e., showing a high percentage of *met* legal needs), concluded that roughly one out of every five of the legal needs of low-income people was addressed with the assistance of a private attorney or legal aid lawyer.
- As in the studies considered in 2005, those studies that asked respondents to rank the seriousness of their legal problems found that most people considered a majority of the problems identified to be serious (see Appendix E, Table 2005-6).

## Conclusion to Methodology #2

Each of the seven state legal needs studies considered in this section—as well as the nine state studies considered in the 2005 Justice Gap Report—provides a full picture of the legal needs of low-income people in a particular state and the extent to which they are being met or not met. These studies look at the full range of legal needs, including those that never reach an attorney’s office or a courthouse, and they consider legal services provided to low-income people from *all* sources, including pro bono attorneys and private attorneys charging full or reduced fees.

The seven new studies add to a body of knowledge that has been building since the ABA’s 1994 national study. They confirm the findings of these earlier studies, all of which are consistent with one another, and support the conclusion that the findings of these state studies are generally applicable at the national level.

These studies confirm that *only a small fraction of the legal problems experienced by low-income people (less than one in five) are addressed with the assistance of either a private attorney (pro bono or paid) or a legal aid lawyer.*

## Methodology #3: Attorneys Per Capita

### *Legal Aid Lawyers Compared to Private Lawyers*

Another perspective on the justice gap is provided by data on the numbers of legal aid attorneys serving the nation's low-income people. For this report, ABA and LSC staff collected data on the number of legal aid attorneys in the country in 2007, the most recent year for which data is available in most categories. A count was sought of *all* legal aid attorneys, not just those in LSC programs.

The count shows that despite the expansion of non-LSC funded programs since the mid-1990s, a majority of attorneys serving the poor still work in LSC-funded programs: there were 4,231 lawyers in LSC-funded programs (this figure includes all lawyers in the program, including those funded with state, private and other funds) and an estimated 3,700 in programs that do not receive LSC funding. The LSC-funded network thus remains the major source—and in many areas, the only source—of civil legal aid for low-income Americans.

The number of legal aid attorneys available to serve the poor provides a simple demonstration of the justice gap when compared to the number of attorneys serving the general public. The number of attorneys in private practice can be presumed to reflect a market response to the legal needs of the U.S. population. Nationally, there are *well over ten times more* private attorneys providing personal legal services to people in the general population<sup>24</sup> than there are legal aid attorneys serving the poor. While there is only one legal aid lawyer (including all sources of funding) per 6,415 low-income people in the country, this report estimates that there is one lawyer providing personal legal services (that is, services aimed at meeting the legal needs of private individuals and families) for every 429 people in the general population.

### Methodology

ABA and LSC staff collected data on the number of legal aid attorneys in the country in 2007. “Legal aid attorneys” were not limited to those in LSC-funded programs; rather, the number of full-time-equivalent attorneys working in all programs providing free civil legal services to low-income people was sought. Reports from LSC-funded programs (not limited to federally-funded attorneys) were used as a starting point. Additional information was sought from state IOLTA programs or other contacts in each state, with special priority given to states with substantial non-LSC funding. For states where it was not possible to obtain actual attorney counts, ABA staff made projections based on resource data from the ABA Project to Expand Funding for Legal Services (PERLS), an initiative of the ABA Standing Committee on Legal Aid and Indigent Defendants. The ratio of legal aid attorneys to low-income people was calculated from the U.S. Census Bureau's Current Population Survey estimate of the low-income population for 2007, using 125 percent of the federal poverty guidelines as a definition of low-income.

For comparison, ABA estimates for the number of attorneys in private practice in the United States were obtained for the year 2007.<sup>25</sup> This yielded a count of 849,862 attorneys in private practice.

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<sup>24</sup> The general population as used in this report excludes people at or below 125 percent of the federal poverty guidelines, which makes them eligible for LSC-funded legal services.

<sup>25</sup> This was calculated as follows: The American Bar Association periodically conducts a census of lawyers by polling state bar associations or licensing agencies for a count of resident, active attorneys. Figures for 2007 indicate that there were a total of 1,130,136 attorneys in the 50 states that year. The American Bar Foundation (ABF) collects statistics indicating the percentage of lawyers in each type of employment – private practice, federal judiciary, federal government, state judiciary and state government, etc. In 2005 (the most recent year for which such calculations are available) 75.2% of lawyers were in private practice.

A rough estimate of the number of attorneys providing personal legal services to the general population was made based on information from the American Bar Foundation, which has found that 68 percent of attorneys in private practice are solo practitioners or in firms of ten attorneys or fewer.<sup>26</sup> These attorneys are those most likely to specialize in meeting the personal legal needs of private individuals and families. While some of these solo practitioners and small firm attorneys provide criminal defense or services falling outside the area of personal legal services, this is offset by the many attorneys in larger firms who do provide personal legal services in addition to corporate services. This analysis indicates that there are roughly 577,906 attorneys in the U.S. providing personal legal services to the general population.

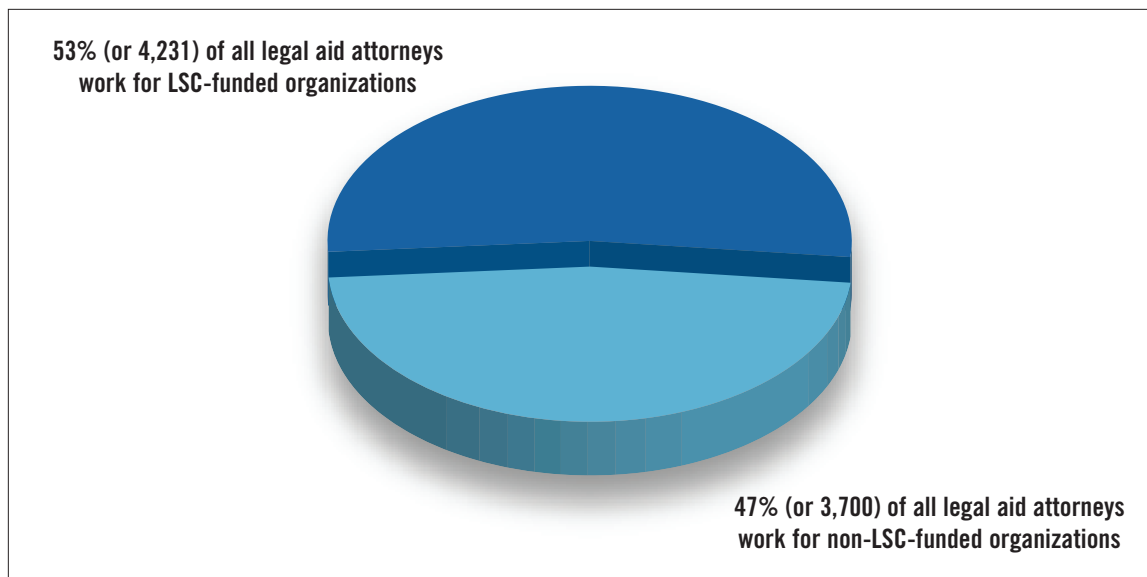
The attorney figures were compared to the population of the United States from the 2007 Current Population Survey to obtain the ratio of private attorneys per capita in the general population.

### Findings

As shown in Table 5, roughly 53 percent of all legal aid attorneys work in LSC-funded programs. The LSC network thus remains the major source of civil legal aid for low-income Americans. In many areas, the LSC-funded program is the only provider of civil legal aid.

Comparing the estimated number of legal aid attorneys in the nation in 2007 (7,931) to the number of people estimated to be living at 125 percent of poverty or lower by the Current Population Survey for 2007 (50,876,000) yields a ratio of one attorney per 6,415 low-income people.

**Table 5: Total Number of Legal Aid Attorneys—7,931 (Calendar Year 2007)**

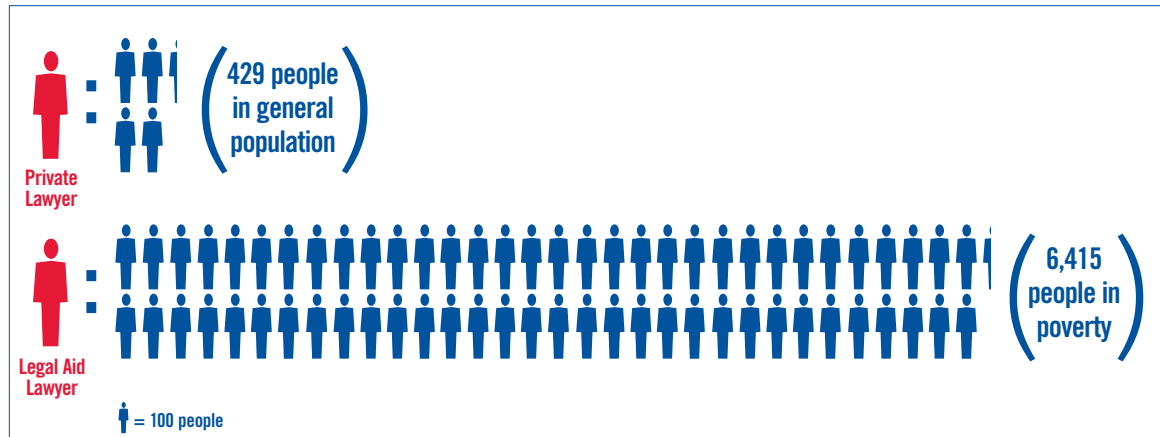


In contrast, nationally, as calculated above, there were roughly 577,906 attorneys providing personal legal services to the general population numbering 247,826,000 in 2007. This yields a ratio of one attorney per 429 people in the general population—well over ten times the ratio of legal aid attorneys to the population they serve.<sup>27</sup> The difference between the level of resources available to the general population and those available to the low-income population is enormous.

<sup>26</sup> Calculated as follows: ABF calculated that in 2005 (the most recent year for which figures are available), 48.4% of the lawyers in private practice were solo, and that 38.8% of the lawyers in firms were in firms of 2-10 lawyers. Thus, of the estimated 849,862 lawyers in private practice, about 581,482, or 68%, were in firms of 1-10 lawyers.

<sup>27</sup> If all 849,862 attorneys in private practice are considered, not just those providing personal legal services, the ratio becomes 1:292.

**Table 6: Comparison of Private Lawyers to General Population and Legal Aid Lawyers to Low-Income Population**



### Changes from 2005 Justice Gap Report

The 2005 Justice Gap Report considered the number of legal aid attorneys in 2002, compared to the number of attorneys serving the general population in 2000, the most recent year for which figures were available.

Between 2002 and 2007, the number of attorneys working in LSC-funded programs increased by 10 percent, from an estimated 3,845 to an estimated 4,231. The number of attorneys working in non-LSC-funded programs increased from an estimated 2,736 to an estimated 3,700. The overall estimated increase was 1,350, from 6,581 to 7,931, roughly 20 percent.

However, due to the growth of the U.S. poverty population, there was little change in the ratio of legal aid lawyers to the low-income population: the 2002 ratio was 1:6586; the 2007 ratio was 1:6415. The percentage of lawyers working in LSC-funded programs has fallen slightly, from 58 percent to 53 percent.

Conversely, lawyers have grown in relation to the general population: the ratio of lawyers providing legal services to the general population in 2007 was 1:429, compared to 1:525 in 2000. The gap between the services available to the general public and the services available to low-income people has increased.

### Pro Bono Efforts

Although this methodology does not include a count of the private attorneys who provided pro bono services to low-income individuals and families, pro bono assistance is essential to helping close the justice gap.<sup>28</sup> Since the 2005 report, LSC has undertaken a major initiative to increase the involvement of private attorneys in LSC-funded programs. The LSC Board of Directors adopted a private attorney action plan, “Help Close the Justice Gap, Unleash the Power of Pro Bono,” which included a call to grantees to adopt resolutions that recognize and celebrate the involvement of private attorneys in the delivery of civil legal services. LSC provided guidance in 2007 to grantees on resources and innovative approaches available to more effectively integrate private attorneys into the

<sup>28</sup> Pro bono services have been taken into consideration in the other two methodologies in this report. The contribution of pro bono attorneys is reflected in Methodology #1, at note 15, and Methodology #2 takes into consideration legal help provided by *all* attorneys, legal aid and private, pro bono and paid.



delivery of civil legal assistance.<sup>29</sup> LSC recommended that grantees develop long-term relationships with large law firms, corporate and government attorneys and offer support to small firms, solo practitioners and judicare attorneys so that they may more effectively provide services. In addition, the guidance encourages grantees to engage law schools and law students in pro bono services. Just as importantly, the American Bar Association has for many years sought to stimulate and support pro bono contributions by private lawyers. Pro bono has always been and will continue to be an important resource in closing the justice gap.<sup>30</sup> But pro bono efforts by private attorneys alone will not be enough to meet the legal needs of low-income individuals and families across the nation. Legal aid programs will need to have both the additional resources necessary to employ more staff and to enhance their efforts to engage the private bar in providing pro bono services.

### Conclusion to Methodology #3

Nationally, on the average, there is one legal aid attorney (including those funded by *all* sources) available to serve 6,415 poor people. This ratio has not changed significantly since the 2002 figure reported in the last report. In comparison, there is one private attorney providing personal legal services for every 429 people in the general population.

Despite the expansion of non-LSC-funded programs in the past decade, a majority of attorneys serving the poor still work in LSC-funded programs. The LSC network thus remains the primary source of civil legal aid for low-income Americans.

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<sup>29</sup> “Guidance to LSC Programs for the Development of Enhanced Private Attorney Involvement,” LSC Program Letter 07-2, December 20, 2007. See: [www.lsc.gov/program/program\\_letters.php](http://www.lsc.gov/program/program_letters.php)

<sup>30</sup> In 1985, LSC adopted 45 CFR 1614, which requires each recipient of LSC funds to devote an amount equal to at least 12.5 percent of those funds to involving members of the private bar in providing services to eligible clients. Some of these funds go toward supporting pro bono programs either directly or through sub-grants with third-party organizations, such as bar associations. The infrastructure supported with these funds leverages public funding to involve thousands of private lawyers nationwide who donate pro bono services to address the legal problems of the poor.

## New Data on Unrepresented Litigants

In the 2005 study, the Justice Gap Committee explored the possibility of obtaining data from courts and administrative agencies about the percentage of litigants who appear without representation in particular categories of cases typically involving low-income people. LSC conducted a pilot project involving four states to test the feasibility of collecting such data. However, the pilot states were able to provide only isolated bits of data, and the 2005 Justice Gap Report identified analysis of court data as a methodology that should be considered in future efforts.

Since the 2005 Justice Gap Report, more data has become available on this subject. In 2006, the National Center for State Courts issued a compilation of reports on “self-represented”—or more accurately, unrepresented—litigants in lower state courts (the category of courts in which low-income people appear most frequently), as well as appellate state courts, and federal courts.<sup>31</sup> In addition, reports from several states provide information about the income levels of unrepresented litigants.

In the spring of 2009, the Self-Represented Litigation Network, a coalition of major national organizations including the Conference of Chief Justices, Conference of State Court Administrators, National Association for Court Management, and LSC, hosted by the National Center for State Courts, conducted a survey of judges and self-help programs to determine the impact of the current economic downturn on the number of unrepresented litigants.<sup>32</sup>

Based on their own observations and currently available data, many judges, court administrators, members of the legal aid community, and commentators have raised concerns about unrepresented litigants, arguing that most people who appear in court without an attorney do so because they cannot afford one, and that the outcome for the litigant (as well as the impact on the courts) can be negative. A number of reports from state Supreme Court task forces and similar entities have called for increased funding for civil legal assistance as one response to the crisis in the courts caused by unrepresented litigants.

The following excerpts from reports by state blue-ribbon commissions in Iowa, New Hampshire, and Massachusetts all address the link between overburdened legal aid programs and the rise in unrepresented litigants, as well as the potentially overwhelming challenges that unrepresented litigants face in presenting their cases and the resulting impact on the court system.

- “Because of their unfamiliarity with the law and court procedures, pro se litigants have trouble negotiating the court system and require judicial staff to spend additional time explaining and assisting litigants through the process.... Legal services programs serving low-income Iowans are forced to routinely turn away large numbers of applicants for services due to limited staff or are only able to provide clients with advice over the telephone or through a pamphlet.

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<sup>31</sup> “Self-Represented Pro Se Statistics Memorandum,” September 25, 2006, National Center for State Courts, <http://www.ncsconline.org/wc/publications/memos/prosestatsmemo.htm#other>. The states from which lower state court data was reported (the most relevant data for the purposes of this report, as noted above), were California, Florida, Iowa, New Hampshire, Massachusetts, Utah, Washington, and Wisconsin.

<sup>32</sup> Surveys of judges and self-help programs were distributed by e-mail to contacts of the Self-Represented Litigation Network. Contacts included judges and others who had attended the Harvard Judicial Conference on the Self-Represented in 2007, the key contacts in every state of the Network, and those included in a national directory of self-help centers. There were approximately 100 responses for each of the two surveys. For additional information on the Self-Represented Litigation Network, see [www.srln.org](http://www.srln.org).

Although the increase in pro se litigants may be attributable to many factors, the limited and decreasing availability of legal services to low-income Iowans is clearly a significant factor.... While there are measures that can be taken and have been recommended to permit better access to the courts for pro se litigants, representation by a competent attorney is still the best alternative. However, decreased access to an attorney forces many desperate litigants to approach the legal system pro se. Consequently, additional funding must be obtained to improve the likelihood that those who are not financially able to hire a private attorney can access an attorney either through a legal services program or through a pro bono project.”

*Report of the Joint Iowa Judges Association and  
Iowa State Bar Association  
Task Force on Pro Se Litigation, May 2005*

■ **“Recommendation #7: The State of New Hampshire should fully fund legal services staffing for traditional civil legal services.**

The Commission recognizes that the current network of civil legal assistance is excellent, and in many ways a model in terms of the quality of representation and level of cooperation among providers. That being said, the system is woefully overburdened.... The Commission urges that this system be fully funded.... The rise in the number of pro se litigants presents many challenges: pro se parties are not trained in the law and hence often do an inadequate job of representing themselves. Justice is therefore compromised, resulting in pro se litigants being deprived of their full rights. The increase in the number of untrained litigants also undermines the smooth functioning of the courts by introducing delays and inefficiencies, adding further to legal costs for all.”

*New Hampshire Citizens Commission on the State Courts,  
Report and Recommendations, June 2006*

■ “Studies have shown that, even though there may be other contributing factors, the primary reason for the growth in self-representation is lack of financial resources. Because of budget constraints, legal services programs are forced to turn away many of those eligible for free legal assistance.... Given the current economic downturn, there is every reason to expect that still more individuals will find it necessary to bring or defend civil cases of great personal importance—involving family, housing, employment, and financial issues—without the benefit of counsel.”

*Assessing the Needs of Self-Represented Litigants in Our Courts,  
Final Report and Recommendations  
Massachusetts Supreme Judicial Court Steering  
Committee on Self-Represented Litigants, November 2008*

## Unrepresented by Necessity

Currently available data bears out these concerns, indicating that the vast majority of people who appear without representation do so because they are unable to afford an attorney, and that a large percentage of these are low-income people who qualify for legal aid.<sup>33</sup> For example:

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<sup>33</sup> Indeed, some people who represent themselves have received advice or written information about how to do so from a legal aid program; in many instances, these people actually need an attorney, but the legal aid program is able to provide them only with these limited services. See discussion above at note 8.

- A 2005 study of unrepresented litigants in New York City Family and Housing Courts found that 57 percent had incomes under \$20,000 per year and 83 percent had incomes of under \$30,000 per year.<sup>34</sup>
- A 2003 California Report to the Legislature found that more than 90 percent of the 450,000 people who use court self-help programs in the state each year earn less than \$2,000 per month.<sup>35</sup>

### Growing Number of Unrepresented Litigants

Although there is no national compilation of statistics on unrepresented litigants in court, data from some court systems shows extremely high numbers, often clustered in those courts in which low-income people are particularly likely to appear, such as family and housing courts:

- The state lower court data collected in the 2006 compilation from the National Center for State Courts demonstrates high numbers of people proceeding without representation in a number of states.<sup>36</sup> For example:
  - A New Hampshire report found that one party was pro se in 85 percent of all civil cases in the district court and 48 percent of all civil cases in the superior court. In superior court domestic relations cases, almost 70 percent of cases had one pro se party, while in district court domestic violence cases, 97 percent of the cases have one pro se party.
  - A Utah study found that 49 percent of petitioners and 81 percent of respondents in family law cases were unrepresented.
  - A California study found that 67 percent of petitioners and 80 percent of respondents in family law cases were unrepresented; in unlawful detainer (eviction) cases, over 90 percent of defendants and 34 percent of petitioners at filing were unrepresented. In domestic violence restraining order cases, litigants are reported to be pro se over 90 percent of the time.
  - A Wisconsin study reported that 70 percent of litigants in family cases were unrepresented.
- More recently, the 2008 Massachusetts Supreme Judicial Court Steering Committee on Self-Represented Litigants Report estimated that at least 100,000 litigants were currently representing themselves in civil matters. In the Probate and Family Court, as many as 80 percent of family law cases involved at least one unrepresented party. In the housing court, self-representation is the general rule among tenants and is increasing among landlords. Based on past experience and nationwide trends, the report predicts that these numbers will only increase in the future.<sup>37</sup>

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<sup>34</sup> "Self-Represented Litigants: Characteristics, Needs, Services: the Results of Two Surveys," Office of the Deputy Chief Administrative Judge for Judicial Initiatives, December, 2005, Table 4, p. 4.

<sup>35</sup> "A Report to the California Legislature: Family Law Information Centers: An Evaluation Of Three Pilot Programs," Judicial Council of California; Administrative Office of the Courts, 2003.

<sup>36</sup> Self-Represented Pro Se Statistics Memorandum, September 25, 2006, National Center for State Courts, <http://www.ncsconline.org/wc/publications/memos/prosestatmemo.htm#other>.

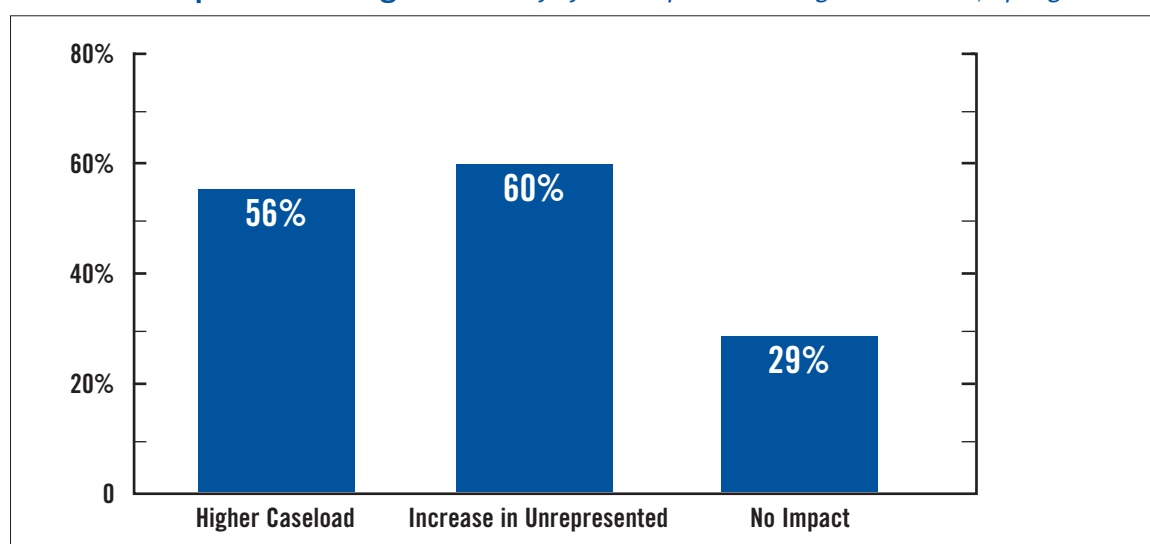
<sup>37</sup> "Assessing the Needs of Self-Represented Litigants in Our Courts, Final Report and Recommendations," Massachusetts Supreme Judicial Court Steering Committee on Self-Represented Litigants, November 2008.

- The 2008 District of Columbia legal needs study reported that 98 percent of both petitioners and respondents in the Domestic Violence Unit of the DC Superior Court were unrepresented; approximately 77 percent of plaintiffs in divorce/custody/miscellaneous cases in Family Court were unrepresented; more than 98 percent of respondents in paternity and child support cases were unrepresented; 97 percent of respondents in housing court cases were unrepresented.<sup>38</sup>

### Recent Increases as a Result of the Economic Crisis

While recent national court data on unrepresented litigants is not available, in a survey conducted in the spring of 2009 by the Self-Represented Litigation Network, 60 percent of the judges responding reported more unrepresented litigants in their courtrooms in that quarter than in the corresponding quarter of the previous year.

**Table 7: Percentage of Judges Reporting an Impact of the Economic Crisis on Unrepresented Litigation** (Survey by Self-Represented Litigation Network, Spring 2009)



### Unrepresented Litigants and the Justice Gap

The rising level of unrepresented litigants in state courts raises critically important questions relating to LSC’s mandate of providing equal access to justice for those who cannot afford to pay an attorney. There is a growing body of research indicating that outcomes for unrepresented litigants are often less favorable than those for represented litigants.<sup>39</sup> Coordinated collection and analysis of data as well as additional research would be helpful to provide national information on how many people are appearing in court without representation, how many of them are doing so because they cannot afford or otherwise obtain counsel, the types of cases involved, and the impact of lack of representation on case outcomes.<sup>40</sup> To the extent that litigants are proceeding without counsel because they cannot afford an attorney, and the outcome of their case is being compromised by lack of representation, equal justice is at risk.

<sup>38</sup> “Justice for All? An Examination of the Civil Legal Needs of the District of Columbia’s Low-Income Community,” District of Columbia Access to Justice Commission, with the assistance of DLA Piper LLP, 2008.

<sup>39</sup> For a compilation of these studies, see Russell Engler, *Connecting Self-Representation to Civil Gideon: What Existing Data Reveal About When Counsel is Most Needed*, Fordham Urb. L.J. (forthcoming 2009).

<sup>40</sup> Specifically, key areas for potential research are: national figures on self-represented/unrepresented litigants, by state, court and case type, distinguishing between those who receive support services and those who receive none; the consequences of not having the full representation of an attorney and how these consequences vary by case type; and the additional cost necessary to address the needs of the currently under-represented.

## Conclusion:

### *Providing Necessary Access to Civil Legal Assistance*

The challenge confronting the nation in providing equal access to justice is large, urgent and complex, as the research and analysis in this report shows. The serious shortage of civil legal assistance identified in the 2005 Justice Gap Report still exists. The progress that has been made in providing civil legal assistance to the nation's poor remains at risk because of a depressed economy and the competition for scarce government funds.

Legal aid clients are the most vulnerable among us and are as diverse as our nation, encompassing all races, ethnic groups and ages, including the working poor, homeowners and renters facing foreclosure or eviction, families with children, veterans, farmers, people with disabilities, victims of domestic violence and victims of natural disasters. Three out of four clients are women—many of whom are struggling to keep their children safe and their families together. According to the U.S. Census Bureau, nearly 54 million Americans are eligible for LSC-funded services. They are at or below 125 percent of the federal poverty guidelines, an income of \$27,563 a year for a family of four.<sup>41</sup>

The data in this report shows that:

- There is still a substantial justice gap. For every client served by an LSC-funded program, one person who seeks help is turned down because of insufficient resources. That was the conclusion of the 2005 Justice Gap Report, and the research for this report reaffirms that finding.
- There is now a substantial body of knowledge demonstrating that only a fraction of the legal problems experienced by low-income individuals is addressed with the help of an attorney. State studies, sponsored by equal justice commissions, state bar associations and legal aid programs, have drawn this conclusion, contribute to a body of work building since 1994, and reinforce a key finding of the 2005 Justice Gap Report.
- Nationally, on average, only one legal aid attorney is available to serve 6,415 low-income people. In comparison, there is one private attorney providing personal legal services for every 429 individuals in the general population.
- Most people who appear in state courts without an attorney do so because they cannot afford one, and the vast majority are low-income individuals who qualify for legal aid. The number of unrepresented litigants, particularly in family and housing courts, is increasing—a critical issue for courts and for LSC as it strives to ensure equal access to justice for all Americans.

As part of its mission, LSC has a responsibility to communicate to the public and the Congress on what is required to secure *necessary access to civil legal assistance*.

Accomplishing this goal will require a multifaceted approach which will include partnerships among federal and state governments, the organized bar, individual lawyers, private funders and concerned private parties. LSC adopted an action plan in 2007—“Help Close the Justice Gap, Unleash the Power of Pro Bono”—to encourage greater private attorney involvement in the delivery of civil legal assistance. The LSC Board of Directors approved a resolution in support of enhanced private attorney involvement and urged LSC-funded programs to adopt similar local resolutions to encourage pro bono services by the bar. More than 100 programs have done so. Across

<sup>41</sup> Federal Register, Vol. 74, No. 19, January 30, 2009, page 5620.

the nation, the creation of Access to Justice Commissions has energized efforts to increase state funding and pro bono support for civil legal aid. LSC has encouraged justices of state Supreme Courts and leaders of state bar associations to support the provision of high-quality civil legal services to low-income populations. LSC also has encouraged its grantees to help close the justice gap by carrying out their duties in the most efficient and economical way. In addition, LSC has urged grantees to enhance the services supported by federal funding through the use of technology and increased collaborations with courts, law schools and community group. Legal services programs at the state and local levels have increased funding for civil legal aid as a result of monetary contributions from lawyers, the public, business entities and private foundations.

Since the 2005 Justice Gap Report, many state legislatures have recognized the need to help close the justice gap in their states. During this period, 25 states and the District of Columbia adopted new or increased funding for civil legal aid. Overall state legislative funding rose by 63 percent.<sup>42</sup> In 2005, seven states had no state legislative funding for civil legal aid; in mid-2009, there are only two. In addition, during these years, many state IOLTA programs also adopted new revenue enhancement measures that increased funding for civil legal aid.

However, these legislative and IOLTA increases only benefited the particular states involved. The current economic recession—and in particular, low interest rates and shortfalls in many state budgets—is placing many of these gains at risk.

The federal government plays a vital role in providing a pathway to equal justice for all, consistent with its role in maintaining the formal civil justice system and providing an orderly forum for the resolution of disputes. LSC serves as the primary conduit for the federal government's share of civil legal assistance. It establishes the federal funding baseline, supporting and ensuring a backbone of civil legal aid providers throughout the country.

The findings in this report suggest a phased approach to addressing the unmet need. As a first, critical goal, there must be enough funding to serve all of those *currently* seeking help from LSC-funded programs. This requires a doubling of LSC funds and a doubling of the state, local and private funds that also support LSC grantees.

The long-term goal must be to develop resources sufficient to meet the civil legal needs of all eligible low-income persons. Pro bono efforts need to be expanded substantially in the years ahead, but even expanded pro bono contributions will not be enough to address a major portion of the unmet need. As we observed in our 2005 report, to fund these needs, the federal share must grow to be five times greater than it is now, or \$1.6 billion. IOLTA and other state, local and private funding sources also will have to grow to address the overall needs.

In order to keep faith with our national commitment to equal access to justice, it is essential that the nation move toward the necessary funding levels and a renewed commitment to pro bono efforts in firm, measured strides that are designed to close the justice gap as quickly as possible. Without such meaningful steps, the nation's promise of equal justice for all will ring hollow for the nation's poor.

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<sup>42</sup> Based on resource data from the ABA Project to Expand Resources for Legal Services (PERLS), an initiative of the ABA Standing Committee on Legal Aid and Indigent Defendants.

# Appendices



## **Appendix A**

### **Other State Studies of the Legal Needs of Low-Income People**

#### **Excerpts: Estimates of Unmet Legal Needs**

##### *Achieving Access to Justice for Hawai'i's People (2007)*

**A Report of the Access to Justice Hui, Hawai'i Justice Foundation, Hawai'i State Bar Association, and the Judiciary of the State of Hawai'i, with the American Civil Liberties Union of Hawai'i, Domestic Violence Action Center, Legal Aid Society of Hawai'i, Na Loio – Immigrant Rights and Public Policy Center, Native Hawaiian Legal Corporation, University of Hawai'i Elder Law Program, Volunteer Legal Services Hawai'i, and William S. Richardson School of Law**

To calculate the percentage of legal needs that were being met, results from two surveys were utilized.

- The first survey was one completed by twenty-nine social service providers who serve over 550,000 people in the state each year. They were asked to estimate the number of their clients who had problems in thirteen legal areas and estimate what percentage had their legal needs met. According to social service providers, the average of met legal needs was 14.68 percent.
- The second survey was conducted with seventy-eight potential clients who contacted the Legal Aid Society of Hawai'i and Volunteer Legal Services Hawai'i. The average of met legal needs was 31 percent.

These two figures were averaged together, for an estimate that one in five low- and moderate-income residents, or 22.84 percent, has his or her legal needs met.

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##### *Justice for All? An Examination of the Civil Legal Needs of the District of Columbia's Low-Income Community (2008)*

**District of Columbia Access to Justice Commission, with the assistance of DLA Piper LLP**

#### **Estimating the Magnitude of Unmet Legal Needs**

It is extremely difficult to calculate the precise level of the low-income community's unmet legal needs.<sup>546</sup> Nationally, studies have indicated that about 80 percent of low-income residents' legal needs are unmet.<sup>547</sup> Prior studies in the District have estimated that the figure in the District is closer to 90 percent.<sup>548</sup> Whatever the actual figure, it is clear that the unmet need is substantial. The DC Courts' *pro se* statistics provide one snapshot of the unmet need. For example, in 2005:

- Almost 45 percent of formal probate matters, 98 percent of the small estate matters and 60 percent of the trust matters before the Probate Division of DC Superior Court involved *pro se* plaintiffs.

- About 98 percent of both petitioners and respondents in the Domestic Violence Unit of the DC Superior Court proceeded *pro se*.
- Approximately 77 percent of plaintiffs in divorce/custody/miscellaneous cases in Family Court were *pro se*.
- More than 98 percent of respondents in paternity and child support cases were *pro se*.
- About 97 percent of defendants who had to appear in Landlord/Tenant Court were *pro se*.<sup>549</sup>

We recognize that not everyone wants or needs full representation to address his or her legal problems. Many issues presumably could be resolved through brief advice or by giving the person materials relevant to the issue. Nonetheless, the *pro se* statistics from the DC Superior Court, which take into account representation from legal services providers, government attorneys and pro bono lawyers, indicate that thousands of people enter the DC Courts every year without a lawyer at their side. It is difficult to imagine a person of means making the same decision if given the choice.

Furthermore, it is likely that the matters that actually make it into court represent only a fraction of the existing legal needs in the community. As our study found, community-based organizations almost universally felt that the low-income community lacks knowledge about their legal rights, and an understanding of how to vindicate those rights. It is unlikely that those who do not know about their rights will ever go to court to seek resolution of a legal matter. Even those people who know about their rights and legal resources may be reluctant to bring matters to court without the advice or presence of counsel.<sup>550</sup>

546 Several other states have attempted to calculate the legal needs of the low-income community by relying on telephone surveys of low-income households. These studies found that low-income households have, on average, between 1.1 and 3.5 legal needs per year. See Echols, *supra* note 19, at 32.

547 *Id.*; LSC, “Documenting the Justice Gap in America” (2005).

548 DC Bar Foundation, *supra* note 21; Cunningham, *supra* note 70.

549 See Appendix H.

550 See *supra* Section IV.C. to D.

### ***Unequal Access to Justice: A Comprehensive Study of the Civil Legal Needs of the Poor in Indiana***

**A Report by Indiana Legal Services, Indiana Bar Foundation, Indiana State Bar Association (2008)**

Of survey respondents with incomes below 125 percent of the federal poverty level, 86 percent reported having at least one legal problem in 2008.

The ratio of attorneys to Hoosiers living below 125 percent of the federal poverty level (FPL) is approximately *one attorney per 8,850 potential clients*. If Hoosiers with incomes between 125 percent of FPL and 200 percent of FPL are also considered, the ratio increases to approximately *one attorney per 16,100 potential clients*. In contrast, the ratio of private attorneys providing paid civil legal services to the general Indiana population was found to be about *one attorney per 688 potential clients*.

Information gathered from pro bono plan administrators and by Indiana Legal Services during preparation of this Final Report corroborates this discrepancy, suggesting that as many as 62 percent of those income-eligible applicants applying to plan administrators, and 75 percent of those income-eligible applicants applying to Indiana Legal Services, were unable to receive attorney representation necessary to fully meet their legal needs.

The insufficient number of pro bono and public service attorneys representing the poor in comparison to the need for legal assistance was a theme throughout the responses to the various surveys, questionnaires, and focus groups making up the Study.

The report also compares certain demographic data from 2008 and 1999—the last year a similar study was done—and found that Indiana’s poverty population has grown by 35 percent over the time period.

## Appendix B

**Table: Methodological Variations in State Legal Needs Studies 2006-2009**

	Sample Size (low-income) <sup>1</sup>	Primary survey type	Phone interviews supplemented with in-person?	Definition of low-income (as percentage of poverty)	Household or individual
Virginia	1043	phone	no	125-184	household
Utah	1185	cluster sampling	n/a	125 <sup>2</sup>	household
Wisconsin	1122	phone	no	125-200	household
Nevada	1000	phone	yes (focus groups)	125-200	household
Alabama	500	phone	no	125	household
Georgia	1027 <sup>3</sup>	phone	Yes (204 supplemental field interviews)	150	household
New Jersey	2412 <sup>4</sup>	phone	no	200	individual

### Explanation of Survey Types

- Random telephone survey:** This methodology employs Random Digit Dialing (RDD) to place telephone calls. Parties who agree to participate in the survey are asked questions about their income to determine if they are low-income. Low-income respondents are interviewed. The sample will not reflect the responses of low-income people who do not have telephones or are not willing to respond to questions by telephone. The telephone survey is often supplemented by in-person interviews with low-income people likely to be in these categories.
- “Cluster sampling” survey:** This methodology uses census data and other sources of information to identify the principal sub-populations of low-income people in the state according to demographic categories and characteristics (e.g., immigrants, homeless people, senior citizens, disabled people, African-Americans, Native Americans, Latinos, migrants, etc.). A sufficient number of people within each cluster group is interviewed to ensure reasonable levels of reliability. Within cluster groups, interviewees are selected as randomly as possible. Interviews are generally conducted in person. In addition to the cluster groups, other respondents in the general low-income population are also surveyed. The results from the various cluster groups are weighted to reflect their proportion of the low-income population as a whole. The survey is deemed to achieve maximum reliability at about 1,500 interviews.

<sup>1</sup> When generalizing sample estimates to a large or unknown population, the larger the sample size the more confidence can be attributed to the survey findings as representative of the population as a whole. The statistical rule of thumb is that 400 surveys provide a confidence interval of less than +/- 5 at a 95 percent confidence level, meaning that 95 percent of samples of the same size would generate an estimate within 5 percent of the estimate produced by the given sample, for estimates that are proportions or percentages.

<sup>2</sup> Text says 129 percent, but this can be presumed to be a typographical error.

<sup>3</sup> An additional 516 moderate-income people (incomes 150-300 percent of poverty) were also surveyed.

<sup>4</sup> An additional 400+ moderate-income people (incomes 200-400 percent of poverty) were also surveyed.

## Appendix C

<b>Table: Reasons Given for Not Getting an Attorney<sup>5</sup></b>	
<b>Virginia</b>	<p>Reasons for taking no action, by percentage of respondents with a problem who took no action:</p> <ul style="list-style-type: none"> <li>• Not a problem (just the way things are): 20.5</li> <li>• Don't know: 17.9</li> <li>• Nothing could be done: 16.8</li> <li>• Didn't want hassle: 15.1</li> <li>• Didn't know who could help: 5.5</li> </ul>
<b>Utah</b>	<p>Reasons for not seeking legal help, by percentage of respondents with a problem who did not seek legal assistance:</p> <ul style="list-style-type: none"> <li>• Didn't know who could help: 32.8</li> <li>• Too much hassle: 22.1</li> <li>• Worried about cost: 20.6</li> <li>• Thought nothing could be done: 18.7</li> <li>• Not a legal problem (just the way things are): 17.3</li> <li>• Afraid/intimidated (feared retaliation): 6.4</li> <li>• Help not needed yet (wait and see): 5.3</li> </ul>
<b>Georgia</b>	<p>Reasons given for not seeking legal help, by percentage of respondents with a problem who did nothing:</p> <ul style="list-style-type: none"> <li>• Didn't know the problem was legal in nature: 18</li> <li>• Believed nothing could be done about the problem: 16.7</li> <li>• Didn't want the hassle: 7.5</li> <li>• Didn't know where to go for help: 7.1</li> </ul> <p>Of households with a legal problem, 73 percent did not know that the problem was legal in nature.</p>
<b>New Jersey</b>	<p>Major reasons given for not seeking legal assistance (no percentages reported):</p> <ul style="list-style-type: none"> <li>• Didn't think I needed a lawyer</li> <li>• Couldn't afford a lawyer</li> <li>• Tried to resolve on my own</li> <li>• Didn't think it was necessary</li> <li>• Problem not important enough</li> <li>• Didn't think there was anything to be done about the problem</li> </ul>

<sup>5</sup> For some states, additional reasons with very small percentages are omitted in this table.

Appendix D

<b>Table: Awareness of Free Legal Aid/Lawyer Referral</b> (bold figures represent data from most closely comparable questions)	
<b>Utah</b>	<b>23.6</b> percent were aware of a free legal assistance program; About 20 percent believed they were eligible for free legal assistance
<b>Wisconsin</b>	<b>37</b> percent were aware of free legal assistance 56 percent of people with income less than 125 percent of poverty guideline believed they were eligible for free legal services 28 percent of people with income between 125 and 200 percent of poverty guideline believed they were eligible for free legal services
<b>Nevada</b>	<b>33</b> percent are aware of free civil legal services
<b>Alabama</b>	<b>20</b> percent were aware of free legal assistance
<b>Georgia</b>	47.7 percent were <i>not</i> aware of legal services or attorney referral services

**Appendix E**  
**Tables from 2005 Justice Gap Study**

<b>Table 2005-1: Unable to Serve</b> (Table 1 in 2005 Justice Gap Report)		
<b>Type of Legal Problem Categories</b>	<b>Unable to Serve Twelve Month Projections</b>	<b>Calendar Year 2004 Cases Closed</b>
<b>Consumer</b>	129,798	107,040
<b>Education</b>	12,234	6,830
<b>Employment</b>	46,122	18,986
<b>Family</b>	504,312	383,484
<b>Juvenile</b>	15,804	8,291
<b>Health</b>	24,660	27,780
<b>Housing</b>	143,904	218,688
<b>Income</b>	59,634	113,252
<b>Individual</b>	34,998	12,267
<b>Miscellaneous</b>	114,372	44,449
<b>Total</b>	<b>1,085,838</b>	<b>901,067</b>

**Table 2005-2: State Legal Needs Studies Released 2000-2005  
(Table 2 in 2005 Justice Gap Report)**

State	Released	Sponsor/Funder	Survey/Analysis By
Oregon	2000	Oregon State Bar Judicial Department Office of the Governor	Sociology Department, Portland State University/D. Michael Dale
Vermont	2001	Committee on Equal Access to Justice	ORC Macro
New Jersey	2002	Legal Services of New Jersey	Schulman, Ronca, & Bucuvalas, Inc./ Poverty Research Institute of Legal Services of New Jersey
Massachusetts	2003	Massachusetts Legal Assistance Corporation	Schulman, Ronca, & Bucuvalas, Inc.
Connecticut	2003	Connecticut Bar Foundation	Institute for Survey and Research, University of Connecticut
Washington	2003	Supreme Court Civil Equal Justice Funding Task Force	Social and Economic Research Center, Washington State University/ Sociology Department, Portland State University/D. Michael Dale
Tennessee	2004	Tennessee Alliance for Legal Services	Office of Research and Public Service, University of Tennessee College of Social Work
Illinois	2005	Chicago Bar Association Illinois State Bar Association Chicago Bar Foundation Illinois Bar Foundation Lawyers Trust Fund of Illinois	Metro Chicago Information Center
Montana	2005	Montana State Bar Equal Justice Task Force	Sociology Department, Portland State University/D. Michael Dale

**Table 2005-3: Legal Needs  
(Table 3 in 2005 Justice Gap Report)**

	Average number of legal needs in preceding year per low-income <i>household</i>
Oregon	3.2
Vermont	1.1
Connecticut	2.7
Washington	2.9
Massachusetts	2.4
Tennessee	3.3
Illinois	1.7
Montana	3.5
	Average number of <i>new</i> legal needs in preceding year per low-income <i>individual</i> experiencing at least one problem
New Jersey	1.8



**Table 2005-4: Legal Help Received/Sought as a Percentage of Legal Need**  
(Table 4 in 2005 Justice Gap Report)

	<b>Received legal help (by percentage of problems experienced by household)</b>
Oregon	18.1 percent of problems, help received from private bar or legal aid attorney
Washington	12 percent of problems, help received from private bar or legal aid attorney
Montana	16.4 percent of problems, help received from private bar or legal aid attorney
Vermont	9 percent of problems, help received from private bar, legal aid, courts, or other legal source
Illinois	16.4 percent of problems, legal assistance received
	<b>Received legal help (by percentage of individuals with problems)</b>
New Jersey	16 percent of individuals with problems received legal help
	<b>Sought legal help (by percentage of problems experienced by household)</b>
Connecticut	10 percent of problems, help sought from private bar, legal aid, family/friend, other
	<b>Sought legal help (by percentage of problems experienced by individual)</b>
New Jersey (2002)	11 percent of problems, legal help sought
	<b>Sought legal help (by percentage of households with problems)</b>
Massachusetts	16.4 percent of households (no more than; could be less) with a legal need sought legal help from private bar or legal aid
Tennessee	29.2 percent of households that identified their <i>biggest</i> legal problem sought legal help from private bar or legal aid

**Table 2005-5: Methodological Differences in State Legal Needs Studies**  
(Appendix B in 2005 Justice Gap Report)

	<b>Sample Size (low-income)</b>	<b>Primary survey type</b>	<b>Phone interviews supplemented with in-person?</b>	<b>Definition of low-income (as percentage of poverty)</b>	<b>Household or individual</b>
<b>Oregon</b>	1011	cluster sampling	n/a	125 125+-200	household
<b>Vermont</b>	436	phone	yes, but results not incorporated with phone survey figure	187.5	household
<b>New Jersey</b>	1013	phone	no	200	individual
<b>Massachusetts</b>	1800 200	phone	yes	125 125+-184	household
<b>Connecticut</b>	400	phone	no	125	household
<b>Washington</b>	1333	cluster sampling	n/a	125	household
	427 <sup>b</sup>	phone		125 125+-200	
<b>Tennessee</b>	824	phone	yes	125	household
<b>Illinois</b>	1645	phone	no	150	household
<b>Montana</b>	860	cluster sampling	n/a	125 125+-200	household

<sup>b</sup> The Washington study was based primarily on in-person interviews. However, a telephone sample was conducted for comparative purposes. In addition to the 427 low-income respondents, the telephone survey also included 383 respondents with incomes between 200 and 400 percent of poverty, to compare the responses of the low-income group to those with a slightly higher income level.

**Table 2005-6: Importance of Problems as Ranked by Respondents**  
(Data reported on p. 11 in 2005 Justice Gap Report)

<b>Montana</b>	Respondents characterized 53 percent of the problems identified as “extremely important” and 91 percent as “important.”
<b>New Jersey (2002)</b>	84 percent of people with a legal problem thought the problem was highly serious and important; 52 percent thought that they needed a lawyer to help with the problem.
<b>Washington</b>	Respondents characterized 56 percent of their legal problems as “extremely important” and 93 percent as “important.”

<b>Table 2005-7: Reasons Given for Not Getting an Attorney<sup>7</sup></b> (Appendix C in 2005 Justice Gap Report)	
<b>Oregon</b>	Reason for not getting a lawyer's help, by percentage of respondents with a problem who did not seek legal assistance: <ul style="list-style-type: none"> <li>• Nothing can be done: 17</li> <li>• Not a legal problem: 12</li> <li>• Nowhere to get help: 12</li> <li>• Too much hassle: 12</li> <li>• Worried about cost</li> <li>• Afraid/intimidated 11</li> <li>• Turned to other help: 7</li> </ul>
<b>New Jersey</b>	Reason for not getting a lawyer's help, by percentage of respondents who perceived a need for legal help but did not seek it: <ul style="list-style-type: none"> <li>• Could not afford: 56</li> <li>• "Other reasons included the belief that the problem was not important enough to pursue, the fear of retaliation, and the belief that nothing could be done." No further breakdown given.</li> </ul>
<b>Connecticut</b>	Reasons for not seeking legal assistance <i>from legal aid program</i> , by percentage of problems: <ul style="list-style-type: none"> <li>• Did not know legal aid was available: 30</li> <li>• Legal aid does not help with this problem: 10</li> </ul>
<b>Washington</b>	Reason for not getting an attorney, as a percentage of households with a legal problem (more than one reason could be cited): <ul style="list-style-type: none"> <li>• Thought nothing could be done: 27.9</li> <li>• Didn't know who could help: 24.1</li> <li>• Worried about cost: 22</li> <li>• Not a legal problem just the way things are: 21</li> <li>• Afraid or intimidated: 10</li> <li>• Turned to someone else: 7.8</li> </ul>
<b>Massachusetts</b>	Main reason did nothing, by percentage of all legal encounters for which households took no action: <ul style="list-style-type: none"> <li>• Not a problem, just the way things are: 30</li> <li>• Nothing could be done: 18</li> <li>• Did not know who could help: 8</li> </ul>
<b>Tennessee</b>	Reason for not taking action to resolve their most difficult legal problem, by percentage of households reporting no action: <ul style="list-style-type: none"> <li>• Just the way things are: 17.6</li> <li>• Nothing can be done: 16.8</li> <li>• Didn't know where to go: 12</li> <li>• Too much hassle: 12</li> </ul>
<b>Illinois</b>	Reason for not having a lawyer, by percentage of household experiencing at least one problem: <ul style="list-style-type: none"> <li>• Thought they could handle it on their own: 33</li> <li>• Hiring a lawyer would be too expensive: 26</li> <li>• A lawyer would not help resolve the situation: 9</li> </ul>
<b>Montana</b>	Montana: Reasons for not seeking legal help, by percentage of respondents with a problem who did not seek legal assistance: <ul style="list-style-type: none"> <li>• Thought nothing could be done: 19</li> <li>• Did not see problem as legal: 23</li> <li>• Didn't know who could help: 20</li> <li>• Worried about cost: 19</li> <li>• Too much hassle: 16</li> <li>• Afraid: 10</li> <li>• Didn't want public dispute: 9</li> </ul>

<sup>7</sup> For some states, additional reasons with very small percentages are omitted in table.

**Table 2005-8: Awareness of Free Legal Aid/Lawyer Referral**  
**(Appendix D in 2005 Justice Gap Report)**  
**(bold figures are most closely comparable)**

<b>New Jersey</b>	26 percent were aware of free legal services 8 percent were aware of lawyer referral services
<b>Washington</b>	<b>40.8</b> percent were aware of free legal services
<b>Tennessee</b>	<b>21.2</b> percent know of a place that gives free legal help 29 percent know of any place that helps you find a lawyer.
<b>Illinois</b>	<b>23</b> percent were aware of the availability of free legal assistance.
<b>Montana</b>	<b>48.5</b> percent were aware of free legal services 53.6 percent believe they are eligible for free legal services
<b>Oregon</b>	47 percent <i>not</i> aware of lawyer referral 39 percent <i>not</i> aware of legal aid 37 percent said <i>not</i> eligible for or didn't know if eligible for legal aid.
<b>Connecticut</b>	for 30 percent of cases, the reason that respondent gave for not taking action was that they did <i>not</i> know that legal aid was available (this figure is not comparable to others because it is linked to the problem and other options were given)



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