

Documenting the Justice Gap in America

The Current Unmet Civil Legal Needs of Low-Income Americans

Overview

At its meeting in September 2004, the Legal Services Corporation (LSC) Board of Directors asked LSC staff to try to document the extent to which civil legal needs of low-income Americans are not being met, taking into account all the changes in the civil justice system in the last decade, including both LSC-funded services and non-federal resources. As a result, Helaine M. Barnett, President of the Legal Services Corporation, convened a Justice Gap Committee which included individuals from both within and outside LSC with experience in documenting unmet legal needs and conducted a year-long study culminating in the report entitled, "Documenting the Justice Gap in America: *The Current Unmet Civil Legal Needs of Low-Income Americans.*"

The study used three different methodologies to examine this issue. First, LSC asked its grantees over a two-month period, from March 14, 2005 to May 13, 2005, to document the potential clients that came to their offices that the programs could not serve due to lack of resources. Second, it carefully analyzed the nine studies undertaken over the last five years in individual states about the civil legal problems faced by their low-income residents, examining them for nationally applicable conclusions as well as comparing the results to the 1994 American Bar Association national study on the subject. Finally, it totaled the number of legal aid lawyers, those in both LSC and non-LSC funded programs, and compared that to the total number of attorneys providing civil legal assistance to the general population.

All three methodologies demonstrate that there is a serious justice gap, that is, a significant shortage of civil legal assistance available to low-income Americans. The LSC "Unable to Serve" study, the first comprehensive national statistical study ever undertaken relating to legal services, established that for every client who receives service, one applicant was turned away, indicating that 50 percent of the potential clients requesting assistance from an LSC grantee were turned away for lack of resources on the part of the program. Inasmuch as LSC grantees counted only potential clients who were both eligible for service and whose legal need fit within the grantee's case priorities, this study understated the amount of unmet need.

The nine recent state studies demonstrated that less than 20 percent of the legal needs of low-income Americans were being met. Eight of the nine studies found an unmet legal need greater than the 80 percent figure determined by the ABA in their 1994 national survey. Finally, in adding up the number of legal aid attorneys serving the poor and comparing that to the LSC-eligible population, it was determined that there is one legal aid attorney for 6,861 low-income persons. By contrast, the ratio of attorneys delivering civil legal assistance to the general population is approximately one for every 525 persons, or thirteen times more.

It is clear from this research that at least 80 percent of the civil legal needs of low-income Americans are not being met. Moreover, 50 percent of the eligible people seeking assistance from LSC-funded programs in areas in which the programs provide service are being turned away for lack of program resources.

Although state and private support for legal assistance to the poor has increased in the last two decades, level (or declining after factoring in inflation) federal funding and an increased poverty population have served to increase the unmet demand. Assuming that state and private funding increases keep pace, it will take at least a five-fold funding increase for LSC to meet the documented need for legal assistance, and a doubling of LSC's current level of basic field funding just to serve those currently requesting help.

The analysis for the report was concluded in August 2005. Consequently, none of the data in the report reflects the increased need for legal assistance that will result from the impact of Hurricanes Katrina and Rita by a greatly expanded client-eligible population, not only in the states where the hurricane struck, but across the nation where evacuees have been relocated. A disaster of this magnitude highlights the critical need for civil legal assistance and reaffirms the need for long-term adequate funding.