

“Justice for Some”

A recently released two-month study of requests for legal services in civil cases in Maine has shown both a significant increase in overall demand for help, and a decline in the ability of legal aid providers to meet that need. It is clear that Maine is far from delivering the promise of “justice for all” that is embodied in the Pledge of Allegiance.

Six organizations in Maine serve as the primary providers of free legal services to low-income and needy elderly Maine residents with non-criminal legal problems, such as housing, medical care, food, protection from violence, child support, consumer problems, immigration, and a wide range of other matters. The organizations are the University of Maine School of Law’s Cumberland Legal Aid Clinic, Immigrant Legal Advocacy Project, Legal Services for the Elderly, Maine Equal Justice Partners, Maine Volunteer Lawyers Project and Pine Tree Legal Assistance. The organizations are supported with a range of different funding sources, including federal and state grants and contracts, foundation and United Way support, as well as individual donations.

For an eight week period in 2009, from March 15 through May 16, these six legal aid providers tracked each request for legal help received at their offices. A total of 6,372 requests for civil legal services were received during that time, but the providers only had the resources to fully handle 1,508 cases.

The study confirms that only 24% of total demand for legal assistance with non-criminal problems in Maine can be addressed by existing legal aid resources. For certain kinds of legal needs, such as to save a home from foreclosure, only 6% of requests for help received the level of attention necessary to resolve the problem.

The actual need for civil legal assistance is undoubtedly greater than these numbers reveal. Many individuals are unaware of legal aid resources in Maine and do not know how or when to request help from one of the six providers. For instance, a 2005 patient survey conducted for a medical/legal collaboration within Barbara Bush Children’s Hospital found that 60% of low-income patients with serious legal problems did not know that free legal services could be a resource for them.

Low-income and needy elderly Mainers are especially vulnerable to the difficult economic conditions facing Maine, and the legal aid providers participating in the study have seen a significant increase in the demand for their help. During the first six months of 2009, the legal aid providers handled almost 13,700 cases, putting them on track to increase case handling by almost one-third above 2008 levels. This increased demand, however, must be managed without increased staffing. Indeed, many of these legal aid providers have experienced decreases in their funding levels. The gap between the agencies’ capacity to handle new matters and the actual demand for legal assistance has widened substantially.

The gap between legal resources and demand for help is particularly acute at this time, but it is not new. The 1990 Maine Commission on Legal Needs conducted a year-long study of this problem and found that Maine would need a total of 287 salaried legal services attorneys to

meet the need for free legal help. Twenty years later, less than 44 legal aid attorneys are employed by Maine's primary legal aid providers to handle those cases.

Due to these chronic funding shortages, the six organizations have developed collaborative working relationships to use their limited resources to maximize efficiencies, and to secure economies of scale wherever possible. As a result the six providers were able to handle 20,596 cases impacting close to 41,000 Maine people in 2008. This level of service does not include the broader impact of their systemic efforts with the justice system, page views of self-help tools and legal information on program websites, or trainings.

Notwithstanding these agencies' efficient provision of legal aid, this recent study indicates that more must be done to close the justice gap affecting a large segment of the Maine population.

In 2009, the Maine Legislature established the Indigent Legal Services Commission to address the court system's challenges of providing court-appointed counsel to low-income Mainers in criminal and civil cases in which individuals may be entitled, pursuant to the Constitution or to statute, to court-appointed counsel. However, because there is no recognized statutory or constitutional right to counsel for most civil legal matters, including access to housing, food, and health care, the Commission's work will not have any impact on the civil justice gap documented by the new study.

Since its founding in 1995, the Justice Action Group, an organization of leaders from the bench, the bar, state government, and legal services providers, has made improving access to justice for low-income and elderly Mainers its central mission. JAG and the University of Maine School of Law are hosting a day-long symposium on October 2 to bring together a diverse group of professionals to explore potential strategies to address the justice gap. The Symposium's theme, "Expanding Justice in Maine: Upstream Solutions to Downstream Problems," reflects one of the core recommendations of JAG's recent report of its statewide planning initiative "Justice For All: A Report of the Justice Action Group" -- to intervene "upstream" to solve problems before they become legal crises. The Symposium will revisit the core mission of civil legal aid as it was originally envisioned in the context of the "War on Poverty" as a means to bring fundamental change to the lives of people in need. Panel discussions will examine the evolution of civil legal aid in Maine, its wide impact on policy affecting Maine residents, and the importance of ensuring access to justice for Mainers of all races and backgrounds. The Symposium will also feature workshops with interdisciplinary panels examining innovative upstream initiatives through medical-legal partnerships, foreclosure diversion, affordable housing, and outreach to low-wage workers. We anticipate participants from a range of professions and disciplines to engage in these discussions.