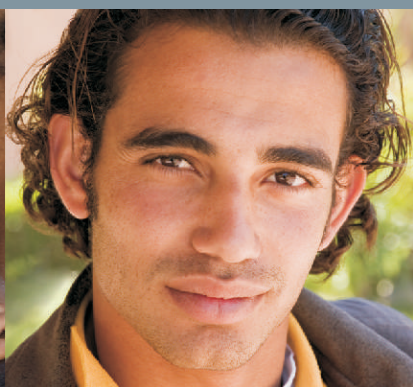


# The Civil Justice Gap



## AN INAUGURAL ANNUAL REPORT

The Shortfall in Essential Legal Aid for  
New Jerseyans Living in Poverty and the  
Necessary Steps to Secure Equal Justice



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## Overview—The Unfulfilled Promise of Equal Justice

**FROM ITS EARLIEST DAYS**, American society has embraced an express commitment to equal justice for all. Fulfillment of that pledge to groups defined by race, gender, ethnicity, and other factors has taken the better part of a century or two to realize but, as of 2011, affirmative progress is palpable. For those in poverty, however, the promise of equal justice remains unfulfilled. By all available measures, the great majority of lower-income people cannot afford lawyers on their own for their civil legal problems. Without such legal assistance, studies and experience confirm that those facing civil legal issues are very unlikely to secure justice.

With this report, Legal Services of New Jersey, on behalf of New Jersey's statewide Legal Services system, which for 45 years has constituted New Jersey's method of providing civil legal assistance to those in poverty, inaugurates an annual report to the three branches of New Jersey's government concerning the status of this unmet need for essential legal representation—the civil Justice Gap. The report does not seek to affix blame. Rather, it presents an accounting of the civil legal assistance shortfall and indicates necessary steps on the road toward solutions.

A society that urges its citizenry to follow the rule of law, to direct their grievances to legal and political systems, and to refrain from taking to the streets to vindicate their rights, must find transcendent urgency in closing this civil Justice Gap. The individual consequences of unrealized legal rights are devastating: they include homelessness, broken families, loss of children to foster care, arrested development of youth, hunger, unchecked domestic violence, and unaddressed health problems. The cumulative long-term social and economic consequences of these conditions are enormous, among them disruption of civil society through violence and crime, expenditures for remediation programs, and unrealized potential of successive generations of children. Even in these challenging financial times, when the very tenets of the social contract appear to be under reexamination, this promise of equal justice beckons inexorably.

### Special Note

Stories of Legal Services clients appear throughout this report, testament to the importance of legal representation. While the report focuses on the extent of and consequences for the *unrepresented*, moral and human considerations compel us to provide at least some legal help—even if it is only advice and referral—to those eligible applicants who seek our help. Necessarily and sadly missing are accounts from those who had no legal help at all.

## ***Maria and Paula***



*When Maria's daughter, Paula, was 11 years old, she became paralyzed on one side of her body, and was eventually diagnosed with multiple sclerosis. The disease has been aggressive, progressing rapidly. By the time she was 17, Paula was wheelchair-bound; completely reliant on others for personal care; and basically non-communicative—understanding everything around her, but unable to speak.*

*The family was referred to Legal Services of New Jersey's LAMP Project (Legal Assistance to Medical Patients) by the Eric B. Chandler Health Center in New Brunswick, when Paula was dropped from the NJ FamilyCare health insurance program because she turned 18. The injections she was receiving at the time cost more than the family's mortgage, and Maria had resorted to paying medical bills with credit cards. The LSNJ attorney, Sarah, interceded and with a phone call to Trenton was able to have Paula's medical coverage reinstated. But a multitude of other legal issues needed attention. Since Paula was now 18, Maria needed to become her legal guardian. LSNJ was able to refer her to a pro bono attorney to help make that happen. Also, Maria had to stop working when her daughter began needing full-time care, and her husband, an electrician by trade, has since become unemployed. They have received help in applying for benefits, such as food stamps and SSI, for Paula.*

*Friends, family, and church members also have chipped in to help. The family has even gone without food so that Paula can receive acupuncture once a week, a treatment that is not covered by insurance, but has been the only procedure improving her strength and mobility. Says Maria, "I would like her to have it twice a week, as they call for, but sometimes I can only do it every two weeks. The treatment costs \$100, but they lowered it to \$70. That helps my daughter to be how you see her now. It has helped her a lot."*

*For Maria, what haunts her is the \$14,000 medical debt they have incurred due to lapses in coverage and uncovered expenses. While acknowledging the amount is not that much by some people's standards, she says, "That is a lot for me because I don't have anything." She is hopeful that with Paula's SSI Medicaid, she will be eligible for more in-home care, which would enable Maria to return to work and focus on paying off their debt.*

*As Maria puts it, the Legal Services advocates "were like angels when they appeared in our lives. They've helped me with almost everything."*

## I. The Need for Civil Legal Assistance

### Baseline: The Social Science Research in New Jersey

**THE MOST RECENT** comprehensive portrayal of New Jersey’s civil Justice Gap appears in *Unequal Access to Justice—Many Legal Needs, Too Little Legal Assistance*, a 2009 social science study released by Legal Services of New Jersey (“Legal Needs Study”). The study actually understates the present dimensions of the problem: it was based on a 2007 random survey (the most extensive ever done in any state), right before the Great Recession took hold in 2008. Poverty was then lower; the foreclosure epidemic had yet to set in; Legal Services’ funding level was at an historic high; and the surge in other recession-related legal problems (debt collection, mortgage foreclosures, evictions, unemployment insurance issues, family crises) was waiting in the wings. Nonetheless, the baseline pre-recession data indicate a very serious shortfall in legal assistance. The study demonstrated that on an annual basis:

- One in three people with incomes below 200% of the federal poverty level (FPL) have at least one civil legal problem requiring the help of a lawyer each year.
- Of these, only one-fifth (21.7%) had the help of a lawyer for one of those legal problems; nearly 80%—four of five—did not.
- Overall, 100,146 of the legal problems of this population had some form of legal help; for over 736,000 (88%) of such legal problems there was no legal help at all.

*Current analyses indicate that presently fewer than one in six low-income New Jerseyans can secure necessary legal help for any of their civil legal problems, and legal assistance is available for at best only one in nine of their total legal problems.*

The combination of Legal Services’ severe loss of funding since 2008 and sharp increases in poverty and legal problems induced by the recession has made the current situation far worse than that observed in 2007. Current analyses indicate that presently *fewer than one in six* low-income New Jerseyans can secure necessary legal help for any of their civil legal problems, and legal assistance is available for at best *only one in nine* of their total legal problems.

### The National Justice Gap

Comparable evidence of a national civil Justice Gap has been compiled by the national Legal Services Corporation (LSC), the federally-created not-for-profit corporation which channels appropriated federal dollars to providers in all of the

*In administrative hearings, such as welfare “fair hearings” (reviews of denials, terminations, or other adverse actions involving welfare grants), recipients were unrepresented 95% of the time.*

states and territories. A September 2009 LSC report updated its initial 2005 study (both are available at [www.lsc.gov](http://www.lsc.gov)), revealing parallel legal needs studies from many states, along with data on those applicants LSC grantees were unable to serve, sharp differences between low-income people and the rest of the population with respect to available attorneys, and information on unrepresented litigants.

From these reports, it is clear the civil Justice Gap is a national phenomenon, although it appears that New Jersey’s civil legal assistance shortfall is more well-documented than most, encompassing both the largest statewide legal needs study and court-based data.

## **Data from the New Jersey Courts**

The social science data is corroborated by information from the New Jersey Administrative Office of the Courts. Civil legal problems confronting those in poverty tend to cluster in certain courts: tenancy, Small Claims, Special Civil Part, foreclosure cases in Chancery, and the Family Division. While the state court system does not determine or track the incomes of litigants, the great majority of defendants in most of these courts are lower-income, and constitute appropriate markers indicating the prevalence of unrepresented people in the judicial system. The figures for the court year ending 6/30/10 are stunning and disturbing:

- 99% of the 164,863 defendants in tenancies were unrepresented (43% were defaults).
- 99% of the 396,195 defendants in Special Civil Part (a court of limited jurisdiction just above the Small Claims amount) were unrepresented (79% were defaults).
- 98% of Small Claims matters (the court with the lowest jurisdictional amount) were unrepresented.
- 20% of the defendants in general equity matters (51% of which were foreclosures) were unrepresented. The percentage of unrepresented defendants in foreclosures clearly is far higher than this overall 20% figure.

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Over 90% of the legal problems of lower-income people involve state law, and those that proceed to formal adjudicatory processes nearly always occur in state courts or state administrative agencies.

## **Legal Services’ Experience:**

### **Saying No**

Further corroboration of the Justice Gap comes from the direct experience of the seven programs in the statewide Legal Services network that serves all 21 New Jersey counties. For several reasons, chief among them lack of awareness or transportation, apprehension about the legal system, language or cultural barriers, lack of understanding of how to find a lawyer and proceed, disability, and a sense of futility, a majority—75% or more—of people in poverty do not seek the help of a lawyer for their legal problems.

Despite all of these impediments, however, typically as many as two hundred thousand eligible people do seek help from Legal Services each year. Because of inadequate resources, *two-thirds must be turned away.*

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### **Able to Provide Only Partial Help**

Most people involved with courts and administrative agencies need the *full representation* of a lawyer through the conclusion of a proceeding to present meritorious claims and defenses. Merely receiving advice, even though helpful, is generally not sufficient to allow most lower-income litigants to realize or protect the rights they have under the law. As Legal Services’ funding was cut and client demand increased during the past three years, programs cut back sharply on the number of cases in which they provide full representation, in order to offer at least some assistance to a greater number of people.

### **Soaring Numbers: More Legal Problems, Many More People**

The Great Recession brought a double whammy, compounding the decline of Legal Services’ funding detailed in the next section. First, people who were working but already in poverty—those who lost hours, wages and even jobs—experienced a significantly higher rate of legal problems due to their sudden reduction in income.



The frequency of foreclosures, evictions, and debt collection actions increased sharply, as did applications (and denials) for government benefits. Legal problems frequently accompanied the severance from previous work. The stress of deepening poverty in turn prompted family problems, increasing incidents of domestic violence, and spurred serious health issues (for which there was typically no insurance coverage). Legal Services observed sharp intake increases in the incidence of such problems, ranging from 20 to 45%.

The second blow was the rapid rise in the numbers of those eligible for Legal Services. Data just released (*Poverty Benchmarks 2011*, March 2011, [www.lsnj.org/PDFs/budget/Benchmarks2011.pdf](http://www.lsnj.org/PDFs/budget/Benchmarks2011.pdf)) show that the recession caused an 8.4% increase in true poverty (below 200% of the federal poverty level) from 2008 to 2009, and a significant number of these new poor fell out of a middle-class lifestyle and into poverty, further increasing Legal Services' client demand.



## Angel

Angel was a 60-year-old man born in Uruguay, and residing in New Jersey as a legal permanent resident. He had worked his whole life, primarily as a security guard, until a car accident limited his ability to handle that position. He began taking other jobs, such as a street vendor and a driver for a flower delivery company. As he grew older, he suffered other health problems, including seizures, which often landed him in the hospital completely disoriented. Additionally, he began experiencing symptoms of swelling and vomiting, which eventually it was learned were due to cirrhosis. While a patient at Newark Beth Israel Hospital, he was referred by a social worker to the Legal Services LAMP project.



Angel's niece had applied for Social Security Disability on his behalf and been denied. She had become very frustrated, as family members were already strained providing care for her uncle, who had never married and resided with his elderly parents. Now they were also being forced to pool resources for medical treatment while his disability claim was pending. Charity Care covered some of his hospital bills, but he was not eligible for Medicaid, and the medical bills were mounting. "What little money we had," she explains, "we had to use for medication . . .

for example, he had a staph infection. We had to pay \$900."

An attorney with the LAMP program represented Angel with his disability claim at the hearing level, and requested that the judge consider the case a "TERI" case (one that should be reviewed quickly due to a terminal illness). As Angel's health was deteriorating quickly, the attorney's hope was simply to offer him dignity and peace in death, and provide some relief for the family. And that is exactly what it did.

His retroactive award, once approved, was just about enough for him to purchase Christmas gifts for his family; return home to be cared for by hospice, rather than dying in a hospital bed; and cover the costs of a burial so that the family would not have to bear that burden as well.

Angel died in February 2011. His niece offered these comments on behalf of Angel and his family: "With the help of Stacey, from Legal Services, we were able to get him disability, which means they back-paid him—which was not even enough, to be honest with you, to make up for two years of waiting without any assistance. They paid him \$10,000, which, ironically, paid for his funeral."

## II. The Consequences of Not Having Legal Representation

### Rights Not Protected; Laws Not Enforced

THE 2009 LEGAL NEEDS Study confirmed Legal Services' experience with actual demand: the three largest areas of need for legal assistance involved consumer, family, and housing law. In each of these areas, as well as in the other major types of legal cases encountered by lower-income people (employment, public benefits, education, health care), important statutory and other legal rights are typically at issue. When people do not have legal assistance, meritorious claims and defenses are not presented in the great majority of cases. While the prevalence of such meritorious claims varies with the type of legal problem, a few examples based upon Legal Services' experience illustrate the pattern:

- Most foreclosures currently have valid initial defenses regarding the ownership of the underlying loan, and at least one-third present meritorious additional affirmative defenses to the amount of the obligation or the foreclosure itself.
- At least 40% of evictions present meritorious defenses to the eviction itself, typically because of uninhabitable conditions, incorrect amounts stated to be due, or other facts.
- The vast majority of debt collections involve meritorious affirmative defenses or counter claims, most involving consumer rights specifically conveyed by statute.

*When Legal Services' civil law enforcement is crippled by a lack of resources, as a practical matter, important statutes, regulations, and public policies are simply not given effect.*

When nearly all of these cases proceed without legal representation, and many go by default, these rights are simply not vindicated. Through its work, Legal Services carries out a critical *civil law enforcement role* on behalf of society, which is being eviscerated due to lack of resources. When Legal Services' civil law enforcement is crippled by a lack of resources, as a practical matter, important statutes, regulations, and public policies are simply not given effect.

## Consequences for Individuals

Housing cases—most notably evictions and foreclosures—result in loss of dwelling, and often homelessness, if meritorious defenses are not presented. The ensuing disruption of a household can lead directly to family breakup and placement of children through the child welfare system. For the children, typically there are adverse health, nutrition, education, and long-term emotional consequences traceable to such housing instability and dislocation—all terribly damaging to the individuals involved.

## Consequences for Society

This dislocation, disruption, and harm also extend to society generally.

Neighborhoods frequently decline if there is a high rate of families being evicted: the

*Failure to invest in necessary legal representation at the front end—when the legal problem is actually being confronted—can result in the need for much larger governmental expenditures in the long run, additional costs which can extend for decades.*

very stability of the area is undermined. To address this housing turmoil, extensive government expenditures for response and remediation are required. Anti-homelessness programs, special educational responses, health care for the disadvantaged, greater police protection, mental health and substance abuse programs, corrections facilities, and many other government programs have their roots in dislocations stemming from failure to enforce important legal rights.

Failure to invest in necessary legal representation at the front end—when the legal problem is actually being confronted—thus can result in the need for much larger governmental expenditures in the long run, additional costs which can extend for decades.

## Impact Upon Judicial Proceedings, and Upon Justice

A July 2010 American Bar Association survey of 1,000 trial judges' views confirms the weaknesses inherent in people representing themselves without lawyers.\*

Commenting on the increase of the unrepresented in their dockets, most notably in “foreclosures, domestic relations, consumer issues such as debt, and... rental disputes,” the judges cite the following negative impacts for clients who were unrepresented:

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\* *Report on the Survey of Judges on the Impact of the Economic Downturn on Representation in the Courts, American Bar Association Coalition for Justice, July 12, 2010.*

- Failure to present necessary evidence (94%)
- Procedural errors (89%)
- Ineffective witness examination (85%)
- Failure to properly object to evidence (81%)
- Ineffective argument (77%).

The report also noted lack of representation's negative impact on the courts (78%) and slowing of court procedures (90%).

## Carlos



*Carlos, age 51, grew up in Irvington and says, “Ever since I was 17, I’ve been basically on my own. I joined the Marine Corps at the age of 17, after graduating from high school.” Carlos worked his way up to a management position in the auto industry, and was making more than \$150,000 per year at a Chrysler dealership until it closed as a result of the plunging economy. Despite his 21 years experience, he found himself unable to secure another position in management, because with so many unemployed managers, dealerships had begun requiring a college degree. He tried to get a job at a fast food restaurant, but was told he was over-qualified. His wife’s income from watching children was only enough to pay for their utilities and food.*

*In the meantime, Carlos was without health insurance and his health was deteriorating. Severe hypertension led to several hospitalizations, and he was diagnosed with polycythemia—a rare disorder that thickens the blood and causes vertigo and fatigue. Polycythemia, like hypertension, can be controlled with proper treatment, but without it, it can be life-threatening. Unable to properly address his health problems, and then being dealt another emotional blow when his mother passed away, he fell into deep depression.*

*Carlos was not accustomed to relying on others for help, and says that he had to “eat a lot of humble pie.” He returned to New Jersey desperate for help from his daughter. But the relationship was strained and he eventually left. He applied for General Assistance (welfare) benefits and began receiving Temporary Rental Assistance, approximately \$200 per month in food stamps, and \$74 per month cash assistance. His initial application for disability was denied, and he was not even aware that he had a right to appeal. While receiving mental health services on another floor of the building that houses Legal Services, he visited the office to ask for literature to help a woman in his counseling group who was in a violent domestic relationship. He literally stumbled upon a Legal Services case handler in the hallway, who suggested that Carlos get help from the SSI Project with his SSDI claim. “I had given up hope. I didn’t know that I could appeal it or nothing. . . . He (Scott) was kind enough to sit me in his office and explain the situation, and tell me that he could help me out. I started bringing him my paperwork and he started being in touch with me. And it was the first line of defense, I guess you could call it, against my depression.”*

*Scott appealed Carlos’s denial of disability benefits, supporting it with a much more developed medical record, and the result was an approval of Social Security Disability benefits. Now, because of his strong past work history and the amount of money he paid into the Social Security system, Carlos will begin receiving \$2,170/month. “I feel,” he says, “like after all the money that I have put into the government’s accounts in taxes, I don’t feel like I’m taking anything from them. I’m just getting what’s rightfully mine.”*

*The increased income will have consequences. Carlos will be ineligible for some of the assistance he now receives, including Medicaid. Still, he is focused on the future, and hopes to someday be able to help others in need. “I have hope now. I see a light at the end of the tunnel.”*

### III. Legal Services' Caseload, Staffing, and Resource Situation

**LEGAL SERVICES** is New Jersey's statewide civil legal assistance delivery system. Consisting of a network of seven independent not-for-profit corporations, Legal Services has six regional programs with offices in each of New Jersey's 21 counties (see Appendix) and the statewide program, Legal Services of New Jersey, which operates the statewide legal hotline LSNJ-LAW™ (1-888-576-5529), maintains the three statewide public Web sites, coordinates statewide training and technology systems and provides of counsel support for regional legal work, and runs over fifteen statewide specialized representation projects. Legal Services also coordinates a statewide *pro bono* attorney program, the state's largest, to marshal volunteer lawyers for those in poverty.

At the beginning of 2008, New Jersey Legal Services' funding high water mark, it had over \$70 million and 720 staff. Since then, Interest on Lawyers Trust Accounts (IOLTA) funding, a program run under the auspices of the New Jersey Supreme Court and Legal Services' largest funding source for nearly two decades, has dropped from \$40 million to \$8 million annually. Since IOLTA revenue is a joint function of bank interest rates, the real estate market, and the general economy, this 80% drop is not expected to reverse in the foreseeable future. Legal Services' state appropriation (the second largest funding source) was cut from \$29.6 million in state fiscal year 2010 to \$19.9 million in 2011, a 33% reduction, and is continued at that same level in the governor's proposed 2012 budget. This year, the third largest funder, the national LSC (through a congressional appropriation) has already been cut by \$15.8 million nationally, and faces threats of major additional cuts in the FY 2012 federal budget, currently projected at 15 to 20%.

Overall, New Jersey Legal Services funding has been reduced from \$72 million to \$47 million, a 35% decline. As a result, Legal Services' statewide staffing has been cut from 720 in early 2008 to 490 today, with a projected loss of at least another 75 by the end of this year unless state funding is restored.

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Legal Services provided representation in 69,300 cases during 2009, but in the wake of the funding cuts that dropped to 62,000 in 2010. The 2011 projection is for a further reduction, to 55,000 or lower. Equally disturbing, the number of cases in which Legal Services was able to provide *full representation* to the conclusion of the case *dropped by 50%* during 2010, as programs sought to provide at least some more limited help to as many as possible. People who cannot receive full representation have little chance of securing justice or protecting their rights. This sort of triage is extremely difficult when Legal Services has to deal with cases involving loss of a home, family violence, hunger, and the like—literally matters of life and death.

In addition to its direct representation, Legal Services provides assistance and information to another 1.2 million people annually through its interactive Web sites, and reaches at least fifty thousand more through educational and self-help legal clinics, publications, community presentations, court and agency kiosks, and other outreach.

Significant strengths of New Jersey's statewide Legal Services system include:

- Very experienced core staff, gathered over decades, many of whom are the best in their practice areas in the entire state. This core staff has greatly increased efficiency and quality of results.
- Established systems for doing high volume, high quality work, maximizing the effect of scarce public and private funds.
- Establishment of excellent statewide technology systems, further expanding the effect of limited resources through highly developed interactive Web sites, exploration of court and community based self-help kiosks, and statewide operational systems.
- Well-established statewide name recognition and reputation, facilitating client outreach and contacts.



## Robert



*Robert, age 50, worked as a chef, mechanic, and caterer for many years until 2008, when his diabetes and seizures prevented him from continuing. The diabetes has progressed to the point of causing complete blindness in one eye and partial blindness in the other, and he needs a cane to get around. His seizures, which occur several times a month, prevent him from even being able to take public transportation to get to an appointment, because he fears an injury or worse on the way. “A few times, I*

*was downtown, I felt one coming on. All I remember is waking up in the hospital with no wallet, no keys, no nothing. It's a tough town, Paterson.”*

*After losing his job with a dealership because of his health problems, Robert worked more sporadically for local gas stations and was eventually forced to rely on welfare benefits to make ends meet. By the age of 48, when he applied for Social Security Disability, he did not meet the earnings test.*

*Robert received rental assistance, to keep him from becoming homeless, and \$74 per month cash assistance. He also received \$200 a month in food stamps. Unfortunately for him, there is a 12-month time limit on rental assistance, and he was unlikely to have his disability claim approved that quickly. Over 60 percent of applicants are denied SSI Disability at the initial level, and most initial denials are upheld at the next level, called “Reconsideration.” After that, an applicant can appeal for a hearing before a judge. The average time between an initial application and a hearing is 811 days.*

*Robert’s initial application was, in fact, denied, as was his request for reconsideration. At this second, “Reconsideration” level, there was apparently misinformation in the record regarding the opinion of the treating physician—something Robert probably would never have learned on his own. The LSNJ case handler was able to review Robert’s Social Security file, identify the source of the problem, and help Robert obtain signed statements from the treating doctor attesting to the fact that the information in the file was incorrect. The treating physician offered his opinion, and documentation to support that Robert did indeed meet the Social Security standard for disability.*

*The judge approved Robert’s claim right away—four years after his initial application was filed. As a result, while he is no longer eligible for Social Security Disability benefits (those based on prior earnings), he will at least be able to receive SSI benefits—\$705 per month in cash payments, and medical coverage.*

*In reference to his LSNJ advocate, he says, “He walked me through the process of how to get what I wanted—Social Security—and, he made it simple for you. ‘This is what we have to have.’ And then I would call the doctor and say, ‘Listen, this is what I need to get.’ And I would go and pick it up and then fax it over to LSNJ. And then everything just fell, like ducks in a row. He was just a really, really caring man.”*

## IV. Solutions: Necessary Steps to Secure Civil Justice for Those in Poverty

### Step 1—Increased Funding

There is no substitute for restoration of recent cuts, followed by paced increases to meet the actual need for representation. The Justice Gap is enormous; the great majority of those in poverty do not receive essential legal assistance. The additional measures discussed in this section are each important parts of a comprehensive strategy, but none is in any sense a replacement of the need for funding, or an answer in its own right.

In addition to expansion of services to meet true need, Legal Services faces a special challenge in needing to retain its highly experienced staff—and the very substantial investment in years of training and mentoring that they represent. This investment delivers results, in efficiency and quality, every day.

Only increased funding can enable staff retention. Only increased funding can make a meaningful dent in the enormity of the Justice Gap. Only increased funding will permit *full representation* of clients in the cases that require it, and only through such full representation can justice be secured.

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### Step 2—Pro Bono Contributions

*Pro bono* (free) contributions of services from private lawyers have been an important supplemental resource for Legal Services' civil legal assistance mission, both nationally and in New Jersey. At their most helpful, such efforts can include representation by a large firm in certain selected major cases, and in-depth concentration by firms or corporate law departments on representing a volume of clients in a particular type of case.

As will be reviewed in an upcoming LSNJ report on *pro bono*, such volunteer activities traditionally are limited by certain key challenges, among them:

1. The percentage of practicing lawyers who contribute to formal *pro bono* civil legal assistance programs for those in poverty in New Jersey and nationally is very low, typically well under 10%.

2. Only a small percentage of volunteers are willing to do the kind of work—*full representation* of a client to the conclusion of a case—that corresponds to the type of representation that is most needed by—and not available to—those in poverty. Such representation is especially difficult to secure in litigated family matters.
3. Many large firms perceive that they have institutional and ethical conflicts with representation, especially in two areas where help is most sorely needed—foreclosure defense and consumer debt collection defense.
4. While advice clinics and other brief commitments are attractive to many volunteers because they are scheduled and time-limited, unfortunately such interventions often fail to offer clients who face multiple, concurrent and interconnected legal problems the kind of multi-front assistance they really need.
5. In New Jersey, nearly half the practicing lawyers work solo, and over 60% work in either one or two-person firms. These lawyers rarely have an economic base that allows them to commit a large number of hours to *pro bono* work.
6. Few private and corporate lawyers practice actively in the specialized substantive legal areas most critical to people living in poverty.

*Pro bono* is a key supplement to staff-delivered legal services, but these and other challenges prevent it from significantly narrowing the Justice Gap.

### **Step 3—Technology**

In addition to facilitating the efficiency and effectiveness of Legal Services' internal operations, through a statewide computer network, telephone system, case management system, and other applications, ever-expanding Web capacities have become the principal way to reach millions of people with community legal education material, *pro se* (self-help) support, and general outreach. As Legal Services' capacity for *full representation* has diminished, these alternative approaches to reducing the harm from lack of legal assistance have assumed heightened importance, affording unrepresented litigants a better idea of what is happening to them.

## **Step 4—Simplification of Legal Rules and Procedures**

Long a goal of legal reformers, with intermittent paroxysms such as the “delegalization” movement of the 1970s, simplification seeks to reduce dependency upon lawyers by making legal processes more accessible to the unrepresented. While the goal is laudatory, there is scant evidence that three decades of effort have in fact made these processes more navigable, and those who have tried often are heard to complain of “two steps back for each one forward.” While the efforts must continue, because every possible strategy should be pursued, this alternative offers little reason for optimism as a tool for narrowing the Justice Gap significantly.

## **Step 5—Research**

Further research concerning the actual impact of the presence or absence of legal assistance will be important, to guide deployment of scarce resources, help shape Legal Services provider case acceptance policies, and inform broader societal judgments concerning the ultimate funding requirements for essential legal assistance. Inquiry is also necessary concerning the efficacy of advice-only, limited service, legal education, *pro se* support, and all other alternative legal assistance delivery strategies.

## Conclusion

**THE CENTURIES-OLD** American promise of equal justice elevates Legal Services from being just another item on the “budget buffet” (in the words of the current LSC president) to a moral imperative. Ignoring this imperative has often tragic consequences for the individual, and very costly implications for society as a whole. Nationally and in New Jersey, the vast majority of low-income people cannot get essential civil legal assistance when they need it, and significant individual and social harm follows. Essential legal assistance is neither charity nor luxury, but a commitment of our democracy. Legal Services of New Jersey will update this Justice Gap report annually, documenting our society’s progress in meeting this pledge of equal justice under law, and justice for all.

## Appendix

### New Jersey Legal Services Programs

#### Legal Services of New Jersey

100 Metroplex Drive, Suite 402

P.O. Box 1357

Edison, NJ 08818-1357

Other office: Bridgeton

Melville D. Miller, Jr., President

***www.LSNJ.org***

LSNJ-LAW™ toll-free statewide legal hotline:

1-888-LSNJ-LAW (1-888-576-5529)

***www.LSNJLAW.org***

***www.probononj.org***

#### Central Jersey Legal Services

*Covering Mercer, Middlesex, and Union counties*

317 George Street, Suite 201

New Brunswick, NJ 08901

(732) 249-7600

Other offices: Perth Amboy, Trenton, Elizabeth

Director: Paul V. Mullin

#### Essex-Newark Legal Services

*Covering Essex County*

5 Commerce Street, 2nd Floor

Newark, New Jersey 07102

(973) 624-4500

Director: Felipe Chavana

#### Legal Services of Northwest Jersey

*Covering Hunterdon, Morris, Somerset, Sussex, and Warren counties*

34 West Main Street, Suite 301

Somerville, NJ 08876

(908) 231-0840

Other offices: Flemington, Morristown, Belvidere, Newton

Executive Director: Diane K. Smith

#### Northeast New Jersey Legal Services

*Covering Bergen, Hudson, and Passaic counties*

574 Summit Avenue, 3rd Floor

Jersey City, NJ 07306-2797

(201) 792-6363

Other offices: Hackensack, Paterson

Director: John H. Fitzgerald



**Ocean-Monmouth Legal Services**

*Covering Ocean and Monmouth counties*

303 West Main Street, 3rd Floor

Freehold, NJ 07728

(732) 866-0020

Other office: Toms River

Executive Director: William Rempel

**South Jersey Legal Services**

*Covering Atlantic, Burlington, Camden, Cape May, Cumberland,  
Gloucester, and Salem counties*

745 Market Street

Camden, NJ 08102

(856) 964-2010

Other offices: Atlantic City, Cape May Court House,

Mt. Holly, Pennsville, Vineland, Woodbury

Executive Director: Douglas E. Gershuny

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