

NEWS RELEASE

Legal Services of New Jersey
100 Metroplex Drive at Plainfield Avenue
P.O. Box 1357
Edison, New Jersey 08818-1357

Contact: Harvey Fisher
Office Phone: 732-529-8430
Cell Phone: 908-616-9941
E-mail: hfisher@lsnj.org

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NEW LSNJ REPORT REVEALS WIDENING CIVIL LEGAL ASSISTANCE GAP

EDISON – For as many as 400,000 poverty-stricken adult New Jerseyans facing civil legal problems, equal justice just doesn't exist.

That's one of the grim findings of a new study by Legal Services of New Jersey: that every year hundreds of thousands of impoverished people in the Garden State are not afforded a fair shake because needed legal assistance increasingly is not available to them.

The report, "New Jersey's Civil Legal Assistance Gap," underscores that the divide between the needs of low-income people to have their day in court and the availability of legal help for them "widened sharply in the last twelve months." The new report is available online at http://www.lsnj.org/PDFs/NJ_Civil_Legal%20Assistance_Gap_2012.pdf.

Melville D. Miller, Jr., president of Legal Services of New Jersey (LSNJ), warns that failing to close the gap leads to all sorts of subsequent problems that affect the lives of the poor and their children, and ultimately society as a whole.

"The inability to afford a lawyer or get legal help too often determines whether a family is evicted from an apartment, if a home is foreclosed, if an ailing man gets disability benefits, or even if child custody payments are sufficient to feed and clothe the children of a broken home,"

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he notes.

The report states, “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.”

The report also sets out the makings of an action agenda aimed at putting a crimp in the legal assistance gap, pressing for restoration by 2015 of some \$25 million in funding losses LSNJ has sustained in recent years; developing ways in which significantly more *pro bono* volunteer work might be forthcoming from large and small law firms and solo attorneys; and putting priorities on what *pro bono* activities are most important. It also suggests that it may be time for taking a new look at making representation of low-income people with serious civil legal problems mandatory through the enactment, eventually, of legislation establishing such a right – similar to situations involving criminal matters.

The second annual report by LSNJ spotlighting the issue takes a hard look at what’s befalling the thousands of disadvantaged adults with troubling civil legal problems, no money to afford private attorneys, and severely-limited chances of getting free or *pro bono* legal help from funding-crimped organizations such as Legal Services.

As a counterpoint, the study provides profiles of a few low-income individuals who did get some free help and what that meant to such people as Samson Carr of Belle Meade and others.

Blind, deep in the throes of poverty and on the verge of being evicted from his apartment,

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Carr says he was fortunate to get legal help.

As Carr sees it, it's a shame that so many low-income people are not getting legal assistance. He points out that, if Legal Services of Northwest New Jersey had not come to his aid, he would probably be homeless.

“Simply because you are living at the poverty line, that does not mean that you should not have access to the judicial system,” asserts Carr.

The LSNJ study, though, concludes that sufficient legal assistance and the concept of equal justice are more illusory than real for thousands of poor adults. It specifies that, for every six low-income people with civil legal problems, only one gets some assistance. The other five essentially remain casualties of the gap – the legal system's black hole – even though it is suspected that many of the left-out persons may have viable defenses to the legal problems hanging over their heads.

The civil legal assistance gap centers on at least 400,000 adults who are living at or below 200 percent of the federal poverty line – that's \$30,260 a year for two people and \$38,180 for a family of three – and are effectively being shut out because they are too poor to pay a lawyer. The 400,000 figure does not even consider children in poverty who may have legal issues of their own, so the actual legal assistance gap may even be much larger.

Just a few years ago the gap amounted to only one in five impoverished persons getting legal assistance. Now it's up to one in six and may be on a trajectory to inch up even further.

As Miller, LSNJ president, succinctly put it, “The promise of equal justice remains unfulfilled.”

There are 1,436,000 New Jersey adults living at or below 200 percent of the federal poverty level, and past studies show that a third or nearly 500,000 have one or more legal issues. Of those, only about one of every six – fewer than 80,000 – get varied degrees of legal help. The other 400,000 or so are caught in the legal assistance gap.

Further, the magnitude of the gap doesn't just come down to the numbers of affected individuals. Many of them have multiple legal issues. It is estimated that those issues may well total more than a million civil legal problems, such as domestic violence, child guardianship, applications for medical and financial assistance, foreclosures, and evictions, among others. For nearly 90 percent of those issues, no legal assistance is available.

In fact, the gap now includes many people who previously considered themselves part of the middle class, until the recession tumbled them into the ranks of the poor.

For years Legal Services has been the major agency providing free civil legal assistance to low-income people. But that help has become increasingly limited because of major funding cuts LSNJ and the six regional Legal Services programs in New Jersey have had to absorb in recent years.

Essentially, as the extent of poverty in New Jersey has reached its highest level in at least 30 years, the opportunity for the poor to get free legal help from funding-squeezed Legal Services and other organizations has narrowed. Overall funding for New Jersey's Legal Services programs has dropped from \$72 million in 2008 to \$44.7 million today. That includes the state budget appropriation being reduced from \$29.6 million in the 2008 fiscal year to \$14.9 million currently.

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The funding reductions have led to Legal Services' total staffing going from 720 in 2007 down to 415 at the beginning of this year. That includes a crucial loss of 130 attorneys. With fewer personnel available, the number of low-income people assisted by Legal Services has fallen off. Specifically, new cases opened by Legal Services declined from a high of 69,313 in 2009 to 62,000 in 2010 and 56,247 last year, with another fall-off likely by the end of this year.

The study calls for a number of efforts by LSNJ in conjunction with others to explore improvements and hand up key evaluation reports in the next several years.

It appears to take aim at some long-touchy issues within the legal profession, noting, for example, that lawyers in large firms typically face demands for racking up large billable hour work that effectively eats up any significant time for *pro bono* volunteer efforts..

And the report notes that essentially the state's "organized bar" has not prioritized the needs of those in poverty with critical legal problems, or targeted the real impediments to volunteer activity. In that regard, it states, "Rather a wide range of activities" that can be passed on as *pro bono* "too often are accorded equal weight as the most essential *pro bono* activity."

The general action agenda proposed in the report notes that LSNJ already is taking a significant step of its own by launching soon a newly-designed statewide website that can be used by other organizations and any attorney to explore *pro bono* opportunities.

The study cites statistics for the court year that ended last June 30 showing the range of cases proceeding without the help of a lawyer, and indicating that in many situations defendants essentially give up by not showing up for hearings:

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- 99 percent of 171,546 defendants in landlord-tenant disputes were unrepresented and 43 percent ended in defaults.
- 99 percent of 376,796 defendants in Special Civil Part cases were without legal representation, and 79 percent ended with defaults.
- 97 percent of 49,198 defendants in Small Claims action were unrepresented.
- 17 percent of defendants in general equity matters, about half of which involved foreclosures, were without lawyers.
- Only 27 percent of defendants in divorce matters had attorneys.

The report indicates that one of the major fallouts of Legal Services’ funding reductions has been the inability to provide full attorney representation to many clients who need such assistance.

“People who cannot receive full representation have little chance of securing justice or protecting their rights,” the report states, adding that is especially problematic “when Legal Services has to deal with cases involving loss of a home, family violence, hunger and access to critical health care.” Some 200,000 eligible low-income people seek such full representation every year, in most cases to no avail because of LSNJ’s funding losses.

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Legal Services of New Jersey, located in Edison, is the coordinating office for the state’s system of Legal Services programs, which provide essential legal aid in civil matters to low-income people in all of the state’s 21 counties.