



LEGAL NEEDS OF LOW INCOME HOUSEHOLDS IN MONTANA

2005 EXECUTIVE SUMMARY

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This study could not have been completed without the contribution of substantial time from the 182 volunteer surveyors who conducted over 850 interviews in every part of the state of Montana.

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Most of all, we thank the low income Montanans who took time out of often busy and difficult lives to share their stories and experiences.

For further information regarding the study or report, contact Ann Gilkey, Equal Justice Coordinator, State Bar of Montana at (406) 442-7660 or agilkey@montanabar.org. The report is also available online at www.montanabar.org.

Introduction

This report analyzing data from the Montana Legal Needs Study contains a flood of figures, graphs and charts, detailing the grievous need for legal help that the volunteer interviewers found in low income households across the state. It would be remiss, however, to allow impersonal numbers and charts obscure the profound personal impact of unmet legal need on individuals.

Many households experienced only a single, isolated legal problem over the course of the prior year, and some of those problems were not overly severe. However, in other cases the inability to address one legal problem spiraled into many other serious difficulties. Some cases stand out.

Consider the case of "Frank" from Billings.¹ Frank had filed a report of patient abuse after he was asked by his employer to falsify records about the death of an elder patient. Falsely accused of sexual harassment, he was suspended without pay. Though he was ultimately vindicated and reinstated, he never recovered the wages lost during his suspension. After the abuse investigation ended, Frank was fired for not reporting to work or calling in, though he had been sick and had called to say he would not be coming to work. His foot became infected, but his insurance had lapsed, so he was stuck with the full hospital bill. He was denied credit because of false information on the credit report that he could not get corrected. In desperation, Frank sought to file bankruptcy, but legal services could not represent him, so he had to raise the funds to file; an irony since the reason he wanted to file was because he was broke. He was able to borrow money with a car title loan at an effective interest rate of 315%. But even after he filed bankruptcy, he kept getting harassing calls from creditors regarding discharged bills. These callers were telling personal information about him to co-workers. Finally, he was served a summons to collect discharged medical bills.

"Laura" is a Native American woman who fled to Helena to avoid domestic abuse. Homeless, she lived in a shelter with her two children for three months. Trying to get a divorce from her abusive husband, Laura was able to handle custody on her own, but needed help negotiating a parenting plan, for which she is on a waiting list at legal aid. Meanwhile, she has had to take her children out of Head Start because, without a parenting plan to file with the provider, she can't stop her husband from picking up the children. Laura had worked for 12 years as a secretary, but

¹The names of individual survey respondents described are fictitious to protect them from loss of privacy and from possible retaliation.

developed carpal tunnel, and applied for workers compensation. After her claim was denied she was fired. She applied for social security disability benefits, but was denied, and told to apply for workers compensation. She cannot collect unemployment benefits because she was fired from her job. She has taken out a car title loan, but has no income to repay it.

"Helen" lives on the reservation but life isn't easy there either. She couldn't find representation in a dispute over custody of her children. Her son has had trouble at school, where he would get into fights and be sent home with no dialogue from the school, and no help from social services. He has been suspended five times and she believes that some of the suspensions were unfair, but has had no means to contest them. She has had trouble getting Indian Health Services to pay for her children's medical expenses. Helen gets harassing phone calls at work for a VISA bill. Also, the fees were miscalculated by a payday lender and she had to argue for reimbursement. Helen and her family frequently encounter racism and discrimination in restaurants and stores in town.

Many of these problems could be addressed if there were a lawyer available to help. The report gives examples of successful outcomes in similar, real cases from legal aid.

The key finding of this report is that there are far too many Franks, Lauras and Helens, and too few of the happy endings found by low income families represented by lawyers.

Methodology

This report analyzes data from a survey of the legal needs of low and moderate income households² conducted throughout Montana by the State Bar of Montana with the assistance of Portland State University in Portland, Oregon. The survey asked whether the household confronted certain situations that typically give rise to a need for civil legal services within the last year. If so, respondents were asked additional questions about how the household dealt with the issue—whether they obtained legal help, the reasons for not seeking assistance, and attitudes about the legal system as a result. Since many of the interviewers were not lawyers, the survey forms were reviewed by a lawyer to assure that the situation did, indeed, represent a potential legal problem.

² "Low-income" means a household earning less than 125% of the 2002 Federal Poverty Guidelines, or a household of four earning less than \$401 per week (gross income). "Moderate-income" means a household earning less than 200% of the 2002 Federal Poverty Guidelines, or a household of four earning less than \$942 per week.

The study was designed to assure collection of information about a broad cross-section of the lower income population, but also to include specific segments that face particularly acute legal needs or special barriers to access to the legal system. The groups particularly targeted in the survey included persons with mental or developmental disabilities, persons with physical disabilities, domestic abuse survivors, seasonal agricultural workers, homeless persons, senior citizens over seventy years of age, incarcerated persons, Native Americans living on a reservation, and Native Americans living in a non-reservation setting. Surveys were taken in all areas of the state, in both metropolitan and non-metropolitan settings.

What are the Legal Needs of Lower Income Households in Montana?

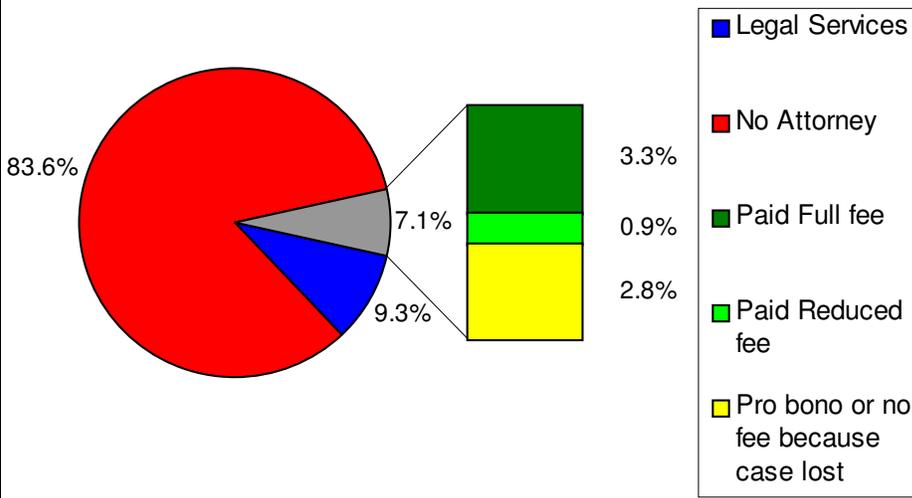
General Findings. Low income households in Montana reported a mean number of 3.47 legal problems in their households over the last year. These problems entailed a range of substantive legal issues, with employment, housing and family being the most common legal issues reported. 38.2% of low income households in Montana are likely to have a legal need involving a housing issue. Family law issues (35.2%), consumer problems (29.7%), employment issues (28.9%) and issues with public service (27.5%) were among the most common legal needs reported.

Severity of Legal Problems. While a few of the identified problems were viewed to be rather insignificant, more than half of the problems were rated to be “extremely important,” another quarter were seen to be “very important,” and nine out of ten problems were rated as “important,” “very important” or “extremely important.” Family law and public safety issues are much more likely to be described as extremely important, while consumer issues are less likely to be so perceived.

Analysis of Problems within Substantive Areas. The report also provides an analysis, within each general substantive area, of the relative frequency of specific issues.

Discrimination As a Factor. One of the striking observations in the analysis of legal needs of lower income families in Montana is the significant role played by perceived discrimination in the reported legal needs of the respondent households in this survey. Discrimination was cited as a factor in fully 32.8% of the legal issues identified by the respondents in this survey.

Fig. 22: Did An Attorney Help with the Legal Need?



Did the Respondent Households with Legal Problems Have Help from a Lawyer?

Overwhelmingly, the legal needs identified were not addressed with the assistance of counsel. In 83.6% of the legal need situations the household was not assisted by a lawyer at all. An attorney provided some form of help in only 16.4% of these situations. Legal services programs provided assistance with 9.3% of the issues, while the private bar lent help in 7.1% of the situations. The household paid a normal, full fee in 3.3% of the total legal problems. Figure 22 illustrates the likelihood that a household received assistance by an attorney to address an identified legal need, by whom the assistance was provided and on what fee basis.

It is about three times more likely that a household with a family law problem will be represented than a household with other kinds of legal needs. Households with family and consumer problems are far more likely to be actually represented in connection with a court or administrative hearing, while other cases are more likely to be handled through non-court intervention.

Why were so Few of the Respondents Represented, and Where did they Turn for Help?

One of the key reasons that many of the respondents who reported legal needs did not receive legal help is that they did not seek it. Nearly a third thought that nothing could be done about the problem; almost one quarter didn't think of the problem as a legal issue. About twenty percent did not know who could help with the problem, or were worried about the cost.

16.6% of respondents said the process of getting a lawyer was too difficult. One in ten felt intimidated. Very few thought that the issue was not important enough to seek counsel (4.3%).

The report describes significant differences in the reasons given by respondents who had a problem but did not look for a lawyer depending upon the type of legal problem encountered by the household, and also depending upon their being in one of the cluster groups studied.

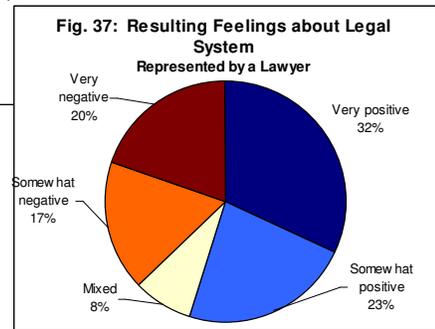
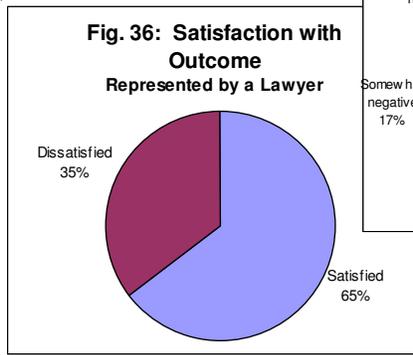
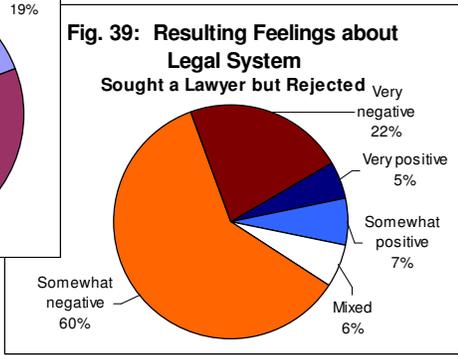
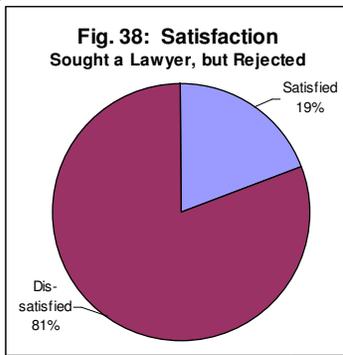
A majority of respondents did not know that there was a program that provided free legal services and only slightly more than half thought that they would be eligible for free legal services. A minority of the respondents were aware of the existence of lawyer referral services (36.0%), a legal hot line (30.1%), an internet website to assist in locating legal resources (21.0%), or even of the existence of a small claims court.

Resulting Attitudes from Having Had a Legal Problem

Overall, encounters with legal problems were a very negative experience for respondents in this survey. When asked whether they were satisfied with the outcome, respondents who had experienced legal problems were largely dissatisfied (68%). A quarter of all respondents said they were feeling “very negative” about the legal system, and nearly sixty percent were either “very negative” or “somewhat negative.”

On the other hand, if the households had received some level of assistance from a lawyer, they were much more positive. However, if a household had tried to get help, but did not succeed, the resulting attitudes were extremely negative. Compare Figures 36 and 37 with figures 38 and 39. It appears that having an attorney's help results in very significantly better feelings

Feelings About the Legal System



about the outcome and about the legal system. The report discusses some differences in resulting attitudes depending upon the type of substantive problem involved and depending upon the cluster group to which the household belonged.

Prospects of Improving Access through Technology

To establish a baseline for the prospective usefulness of technology in improving access to the legal help, respondents were asked about their access to and ability to use various means of technology. Most of the respondents (83.9%) had private, reliable access to a telephone. Cable television reached 61.3%. Fewer than half had private, reliable access to the internet. Only 37.5% had private, reliable access to email, and only about a fifth had such access to a fax. Of those who had private reliable access, about half used the internet at home, 19.5% at a library, 13.5% at work, and 6.3% at school. Almost a quarter did not have anyone in the household who completed twelve years of school. Information about regional variations in educational levels and access to technology is reported.

Differences in Legal Problems of Demographic Clusters

A significant finding of the survey is that certain population groups encounter (or report) different numbers of legal problems per year, with different levels of complexity. There were also significant differences in the nature of substantive problems encountered by the various population groups which are reported.

What differences were observed with respect to different regions of the state?

There were some differences in reported response depending upon region of the state. Some regions seem to encounter a relatively

higher number of legal problems than others, ranging from mean number of 4.46 legal problems per household per year in the northwest part of the state to significantly lower numbers of 2.74 and 2.72 in the east and southwest, respectively. The substantive nature of those problems was fairly similar, but some differences in regions are reported.

The likelihood of a household with a legal problem having had assistance of an attorney was found to vary regionally, ranging from 22.9% in eastern counties to 13.1% in north central regions.

How large is the unmet need for legal services in Montana?

The central finding of this survey is that there is an enormous unmet need for legal services among lower income households in Montana. From the data generated, it is possible to estimate the size of that need—roughly 207,051 unmet legal needs each year in Montana.

Undoubtedly, some of these cases may not have sufficient merit to take action, when all of the facts are out. Others would probably be handled with advice, or very simple

intervention far short of litigation. Still, to the households involved, these needs represent important, unmet needs, and may, in appropriate cases, require more significant assistance. Of the projected number of unmet needs, the households involved would be expected to feel that 90.1%, or 187,795 of these cases, were either “important,” “very important,” or “extremely important.” 52.4%, or 108,495 cases would be seen as “extremely important,” and 26.2%, or 54,247 cases, “very important.”

Conclusion

The Montana Legal Needs Study has identified a huge unmet need for civil legal services among low income families in Montana—probably in excess of 200,000 cases each year for which no legal assistance is available. These problems are seen to be highly important to the families involved. Where counsel is available, an encounter with the legal system is likely to produce relatively positive attitudes towards the institutions of the law. However, the wide-spread inability to obtain representation is creating very negative attitudes with respect to the legal system.

