

International Legal Aid Forum 2009

Summary of Legal Services in Civil Matters to Low Income Persons in the United States of America

Introduction

In the United States, eligible low-income persons and groups receive legal assistance in civil matters primarily through a loose network of several hundred non-profit organizations that operate within the fifty states and the District of Columbia. Funding for this work comes from a variety of public and private sources including the federally funded Legal Services Corporation (LSC), different state and local governments, philanthropic organization, bar organizations, private lawyers and other individuals.

The Legal Services Corporation is the largest single source of funding (See Chart #1) for civil legal services in the U.S. LSC was created by the United States Congress in 1974, but in major U.S. cities like Baltimore, Cleveland and New York there were private legal aid societies helping low-income persons since the latter part of the 19th century. For example, Maryland's Legal Aid Bureau was organized in the 1890s and was formally incorporated in 1911.

CHART #1 Funding For Free Legal Services In U.S. (2008)¹

Legal Services Corporation Funding	\$354,647,367
Other Services	<u>526,322,522</u>
	<u>\$880,969,889</u>

Overall Structure and Organization

Under current U.S., law a legal services organization that receives any amount of financial support from LSC must abide by provisions of the federal statute and regulations promulgated by LSC. Also, the federal and LSC provisions apply to the use of funds that legal services providers receive from any other sources. The new Obama administration has recommended to the U.S. Congress that many of the regulations, including the prohibition on the use of non-LSC funds be

¹ Source: LSC Fact Book 2008.

removed. At this writing, the appropriate legislation is making its way through the U.S. Congress.

In general, the non-profit legal services organizations that provide legal services to low-income persons are governed by boards of directors, usually composed of lawyers and the low-income people. These boards hire executive directors who, in turn, build appropriate staffs and infrastructures according to the amount of funds they have available.

Financial Affairs

Except for certain designated clients, legal services for low-income persons in the U.S. is primarily a charitable benefit that is provided free of charge. Most filing fees and court costs associated with legal proceedings on behalf of low-income clients are waived by the courts in each local jurisdiction. Every legal aid organization engages in fundraising to support its activities. The 2009 Maryland Legal Aid budget is in excess of U.S. \$23 million (see Chart #2) of which only \$4 million comes from LSC. In Maryland, the Equal Justice Council whose membership is derived primarily from the larger law firms throughout the state is a body that strictly raises funds for Maryland Legal Aid and advocates for and supports the interests and initiatives of the organization as becomes necessary and appropriate.

CHART #2
Funding For Maryland Legal Aid (2009)

Legal Services Corporation (federal)	\$3,955,600
Children Advocacy Project	7,200,000
Maryland Legal Services Corporation	8,508,600
State, Local Governments and Courts	1,800,800
Private (Lawyers, Foundations)	1,300,000
Other	<u>35,000</u>
	<u>\$22,800,000</u>

Service Delivery Models and Criteria for Granting Legal Aid

Organizations that receive LSC funds must establish particular financial eligibility guidelines that are revised annually according to changes in the overall economic picture (See Chart #3 for the current LSC financial eligibility guidelines). No local legal aid organization has the capacity

to assist all the persons who may be eligible and who seek their assistance. Therefore, these organizations also establish priorities and case acceptance guidelines that work similarly to the triage system of the emergency room of a hospital; only the most critical cases and certain contractual clients can be assisted. Under certain contracts, the U.S. federal government provides funding for legal service organization to help persons 60 years and older regardless of their income.

CHART #3
Legal Services Corporation 2009 Poverty Guidelines

Size of Household	Income Limit
1 person	\$13,538
2 people	18,213
3 people	22,888
4 people	27,563
5 people	32,238
6 people	36,913
7 people	41,588
8 people	46,263
For each additional member of the Household in excess of 8, add	4,675

In Maryland and other states, social services agencies and the courts identify children who are at risk of being abused or neglected and the state, through contracts with private attorneys and Legal Aid, provides legal representation of such children in various court proceedings that seek to determine outcomes that are in the children’s best interest. People who seek assistance from legal aid organizations are often referred by courts, social service agencies or other charitable organizations. Some find out about the availability of assistance by word of mouth from other individuals in the community.

The probability of successfully achieving the outcome that the client wants is one of the factors considered in the decision to accept a case for representation. Recipients of LSC funds can provide legal assistance only to lawful permanent residents and other designated categories of persons. Undocumented persons residing in the U.S., except victims of domestic violence, are not eligible for services provided by LSC funded legal aid organizations. Non-nationals in the

U.S. who are without documentation may receive legal assistance from religious and other non-federally-supported organizations.

In the U.S., most of the legal services organizations are staffed with full or part-time attorneys. These lawyers receive salaries that are substantially lower than their counterparts of similar experience in the private sector. Not surprisingly, many lawyers join a legal services organization because they have a strong commitment and passion for helping vulnerable and economically disadvantaged people. However, their length of service is usually limited to less than five years due to the difficulty of being able to repay their educational loans and afford their regular living expenses, especially when they desire to start a family.

According to LSC, the average salary for a starting legal services attorney in 2008 was \$43,661. On the other hand, it is general knowledge that the starting salaries for private lawyers in major law firms can range from U.S. \$120,000 to U.S. \$160,000.

Scope and Types of Services

Most legal aid organizations in the U.S. including Maryland Legal Aid, provide legal services through a mix of approaches including advice, information, brief service (a letter or telephone call, for example) or full representation. There is an increasing reliance on Alternative Dispute Resolution approaches to address certain disputes, particularly with regard to family and other domestic disputes.

In general, applicants for services can communicate by mail, telephone, or in person depending on the nature of their matter and their ability to be mobile. When necessary, interpreting services are available to legal aid personnel who are providing assistance to non-English speaking clients. These services are also provided by the courts.

When a legal aid organization like Maryland Legal Aid accepts a case for representation, such an organization is usually prepared to handle the case through all necessary stages of legal proceedings, including trials and appeals at the highest level.

Innovative Legal Aid Initiatives

The amount of financial resources invested by government and private sources to support the provision of legal services to low-income persons are woefully inadequate. As a result, legal services offices, bar associations and other organizations employ a variety of approaches to ensure that these clients receive some assistance with their civil legal needs. In every state, private lawyers provide services to this population *pro bono* (i.e. without cost). In some states, like Maryland, private lawyers are required annually to report the number of hours they have provided free of charge to low-income persons. The aggregated total time that private lawyers donate in this way is significant, but not nearly enough to make up the difference between the level of need and the amount of services that are actually provided by legal services organizations. A recent (2009) update of LSC's publication, "*Documenting the Justice Gap in America*" reports that "state legal needs studies conducted from 2006 to 2009 generally indicate that less than one in five low-income persons get the legal assistance they need."

Law schools are another source of legal assistance to low income persons. Several law schools have created clinics, which serve a dual purpose. They engage law students (under the supervision of licensed lawyers and law professors) to provide direct services to low-income clients. At the same time, this activity enables the students to develop and improve their skills as legal practitioners.

Another development in the U.S. is that many people, particularly those who are more educated, are choosing to represent themselves in court proceedings. This is described as a "pro se" or "self-help" approach. Recently, Maryland Legal Aid entered into a contract with the state's judicial system to develop a pilot project to assist "pro se" clients in a court of general jurisdiction. It is expected that the lawyers and legal assistants who staff this project will provide information, forms and guidance to litigants in landlord-tenant, small claims and domestic matters.

People in need of legal assistance find out about the services provided by legal service organizations through different sources. Word of mouth is a primary source of this information. Also, many courts and social services agencies refer people to legal aid offices. In addition,

legal aid offices participate in outreach efforts to make sure that isolated clients, such as non-English or institutionalized individuals receive relevant information. These outreach efforts are conducted in person or sometimes through radio, television or print media outlets. An increasing number of persons in rural communities rely on computers and the internet to obtain helpful information.

Legal Aid Lawyers

This author often refers to legal aid workers as “a special breed.” These workers have clients that are not popular and who have limited resources to help themselves. These workers often work in environments and physical facilities that are not optimal. Further, the compensation and other support they receive is often less than adequate. Yet under these circumstances, they are expected to perform their duties at the highest level of excellence and output.

For the most part, legal aid lawyers are highly respected in the U.S. These lawyers have been involved in numerous significant and landmark cases and legislative developments throughout the country. Several noteworthy U.S. Supreme Court cases have been litigated by legal services lawyers, many of whom are among the most outstanding graduates from a broad cross-section of educational institution in the U.S. This year, the top graduate from a local state law school (who actually was credited with achieving the highest results ever) joined Maryland Legal Aid.

All staff at legal aid offices are trained and supervised to ensure that the quality of their work is consistent with established standards adopted by the American Bar Association and other entities. The staff of legal aid offices also undergo regular evaluation and receive feedback and guidance to encourage their development and improvement.

Challenge

Legal Aid organizations in the U.S. face many challenges. Universally, too many people with a need for legal assistance (80%) are unable to obtain such help. As a consequence, several initiatives have been launched to improve this situation. There is hope that the new U.S. Congress and President will provide increased resources for legal aid assistance and that they

would also lift the previously imposed barriers that prohibited legal services lawyers from fully representing their clients. There is another major initiative underway to establish in the U.S. a right to counsel for low-income persons in civil cases. This “Civil Gideon” movement is active in all states and the American Bar Association has endorsed the principle.

Conclusion

This summary attempts to respond to most of the questions set forth in the guidelines for preparing the specific country reports.

Fortunately, in recent weeks, several comprehensive reports pertaining to legal services have been published in the U.S. Certain links are provided here for the benefit of anyone who wants to obtain more detailed information about civil legal services to low-income persons in the United States.

For such detailed information please go to: www.clasp.org and locate “*Civil Legal Aid in the United States, An Update for 2009*,” and www.lsc.gov and locate “*Documenting the Justice Gap in America*,” and the “*Legal Services Corporation, Fact Book 2008*”.