ACCESS TO JUSTICE

The “Essence of Liberty”

This first-ever report on the state of access to civil justice provides critical information about where Maine stands in providing equal justice for its citizens. The promise of “equal justice under the law” is chiseled onto the front of the U.S. Supreme Court in Washington, and is a defining aspect of American democracy. Ensuring that every person, regardless of means, has an equal opportunity to be heard in court is, in the words of the great Chief Justice John Marshall, “the essence of liberty.”

The Maine Justice Action Group (JAG), founded in 1995, works to promote the availability of civil legal aid in Maine, and to support Maine’s private lawyers in providing free, pro bono, legal representation as a public service. Maine’s lawyers and legal aid organizations are leaders in their fields. Without their efforts, civil justice, as we know it, would not exist.

As the statistics in this report demonstrate, however, resources for legal aid in Maine are down dramatically while the need for legal assistance is greater than ever. This gap means that in Maine today, the promise of equal access to justice is truly at risk. It is JAG’s hope that this report will provide critical information to Maine’s leaders as they work to assure the vitality of civil justice in Maine.

Why This Matters to Maine’s Communities

In Maine’s courts, legal aid programs and pro bono attorneys, struggle to meet the needs of hundreds of unrepresented people every week. The adverse “ripple effect” this has for Maine’s communities and businesses is significant. Cases of every type get delayed, disputes remain unresolved, and people miss work for multiple court appearances. The harmful ripple effects on the parties’ children, neighbors, communities, employers, and local businesses are real. These ripple effects are the strongest proof that every community in Maine has a vital stake in assuring equal access to justice.

What it Means to Face a Legal Problem Without a Lawyer

In about 3 out of 4 civil cases in Maine, one or both of the people involved have never spoken to a lawyer and are forced to represent themselves. This is not by choice. Many people cannot afford to hire their own attorney. Also Maine’s legal aid providers do not have sufficient staff to meet the need. Contrary to what some believe, people are provided a court-appointed lawyer only in criminal cases if they are facing a jail sentence and in child neglect cases.

Being your own lawyer in a case involving one of life’s most important decisions—whether it’s the custody of a child, the foreclosure of a home, veteran’s rights, protecting an elderly person from financial fraud, assisting a person seeking asylum, or seeking protection from domestic violence is like acting as your own doctor in the hospital—it is a terrible idea that results in misunderstandings, mistakes, and delay. Persons without legal training are easily overwhelmed by the complexity of the process.

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<th>Year</th>
<th>LSC Funding in Inflation-adjusted (2012) $ Per Eligible Client</th>
<th>Estimated Client Eligible Population (Income &lt; 125% of Poverty)</th>
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http://www.publicwellfare.org/Home_temp.aspx

The Justice Action Group is a coalition of individuals and organizations comprised of Maine’s state and federal judiciaries, the University of Maine School of Law, the Maine State Bar Association, the Maine Bar Foundation, the Maine Trial Lawyers Association, and the boards of legal service providers. JAG was established in 1995 to provide leadership and coordination in planning for the provision of civil legal aid to low-income and elderly Mainers.
State Funding has Declined

The two primary sources of state support for civil legal aid in Maine are the Maine Civil Legal Services Fund ("MCLSF"), enacted by the Legislature and codified in 4 M.R.S. § 18-A, and the Interest on Lawyers Trust Accounts ("IOLTA") program authorized by the Maine Supreme Judicial Court in Rule 6(a)(2) of the Maine Bar Rules. Both the MCLSF and IOLTA have experienced dramatic declines in revenue in recent years. Between FY' 2008 and FY' 2013, the combined annual state support for civil legal assistance in Maine has declined by 29%.

Fewer People can be Served

As the funding and staffing have decreased, there has been a corresponding decrease of nearly 10% in the total number of people served by Maine’s major legal aid providers between 2009 and 2012. During this same period, the number of people in poverty in Maine has increased by 15% resulting in a corresponding increase in need for civil legal services.

For Each Person Served, Four are Turned Away

In 1990, the Maine Commission on Legal Needs, chaired by the late Sen. Edmund M. Muskie (Muskie Commission), found that the legal aid providers were only able to meet the needs of 23% of the people eligible for and in need of their services. A study conducted in 2009 found that the needs of 24% of the people eligible for and in need of services were met. An informal assessment, conducted in 2012 found that the needs of 20% of the people eligible for and in need of services were met.

Fewer Legal Aid Lawyers to Meet the Growing Need

The 1990 Muskie Commission determined that Maine needed the equivalent of 282 full-time lawyers to meet the basic need for legal aid in Maine. In 2012, there were just over 46 full-time equivalent legal aid lawyers to serve the entire state.

Pine Tree Legal Assistance, alone, lost 5 full-time staff attorney positions in the last 4 years.