

The Legal Aid Safety Net

A Report on the Legal Needs of Low-Income Illinoisans



*I think the word has to get out,
both to the legal profession and the public, as to the real situation.
It came as a surprise to me when I entered this work
how few people can find free representation for basic legal needs.
People, both lawyers and lay people,
assume there is a basic safety net there - just prove
you are low income and you're in. I used to assume that, too.*

**- Staff Attorney
Coordinated Advice & Referral Program
for Legal Services (CARPLS)**

THE LEGAL AID SAFETY NET:

A Report on the Legal Needs of Low-Income Illinoisans

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February 2005

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On behalf of the Steering Committee, we are pleased to present ***The Legal Aid Safety Net: A Report on the Legal Needs of Low-Income Illinoisans***. The purpose of this study is to document the legal needs of low-income Illinois residents, and to better understand the legal aid system designed to meet those needs.

The research conducted as a part of this effort reveals that low-income Illinoisans faced over 1.3 million civil legal problems in 2003, ranging from child custody disputes to mortgage foreclosures to cases involving the physical and financial abuse of the elderly.

This finding mirrors the results of the 1989 *Illinois Legal Needs Study*, which also found that low-income Illinois residents faced over one million legal problems each year. The need for legal assistance has not diminished over the past 15 years.

Even more troubling, in the vast majority of cases the individual or family faced the problem alone, without legal help. This study shows that low-income Illinoisans had the assistance of an attorney for only one out of every six legal problems they encountered. There are several reasons for this, but the implications for achieving “equal justice” are not debatable.

A person who does not have meaningful access to our legal system does not enjoy the full benefits of citizenship, in the broadest sense of that word. A society that cannot make its legal system truly accessible to its citizens undermines the foundation of its democracy, its economy and its civil society.

We ask all who read this report to bear in mind that the “statistics” included here represent people – our fellow citizens – who are encountering painful, frustrating and often confusing situations. The outcome of their legal problems is significant both to them and to society. In many cases, a person or family’s safety, health, stability, education, food or financial solvency – their present and their future – depends upon an effective solution to their legal problems.

“Equal justice under law” must not be a mere slogan. It is our nation’s promise. We can do better. We must do better. We hope that this report is helpful to people of good will who share this conviction.



Timothy L. Bertschy



Jennifer T. Nijman

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Tim Bertschy
Jennifer Nijman
February 2005

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Executive Summary

"I think the word has to get out, both to the legal profession and to the public, as to the real situation. It came as a surprise to me when I entered this work how few people can find free representation for basic legal needs. People, both lawyers and lay people, assume there is a basic safety net there – just prove you are low income and you're in. I used to assume that, too."

- Staff Attorney
Coordinated Advice & Referral Program
for Legal Services (CARPLS)

The legal aid system in Illinois was able to address only a small fraction of the civil legal problems encountered by low-income Illinoisans in 2003. The legal aid "safety net," which is designed to ensure that all low-income Illinois residents have access to the protection offered by our legal system, is clearly inadequate to meet this challenge.

The purpose of this report is to document the type and frequency of civil legal issues facing low-income Illinoisans, and to gain a better understanding of the legal aid system. This report, sponsored by The Chicago Bar Association, the Illinois State Bar Association, The Chicago Bar Foundation, the Illinois Bar Foundation and the Lawyers Trust Fund of Illinois, is the second comprehensive statewide study of the legal aid system in Illinois. The first, the *Illinois Legal Needs Study*, was completed in 1989.

This report is based on three primary sources: a telephone survey of 1,645 low-income Illinois households, a survey of legal aid attorneys, and data provided by legal aid programs on their caseloads, funding sources and other issues. For the purposes of this report, the term "low-income" is used to refer to households with incomes below 150% of the federal poverty guidelines, or \$27,600 for a four-person household. According to the 2000 Census, 17.7% of Illinoisans fell into this category.

The Legal Needs of Low-Income Illinoisans

Almost half (49%) of the low-income households in Illinois experienced one or more legal problems in 2003, according to the telephone survey conducted for this report. Low-income households had an average of 1.7 legal problems, and households that experienced at least one legal problem faced an average of 3.5 legal issues. When applied to the low-income population of Illinois, the telephone survey findings indicate that approximately 383,000 households experienced over 1.3 million legal problems in 2003.

The most common categories of legal problems involved **consumer** issues (experienced by 23.2% of households), **housing** issues (20.2%), and **family law** issues (15.8%). The most common individual legal problems involved **debt collection** (experienced by 13.3% of households), **serious conditions problems in a rental unit** (6.3%) and **child support** (5.5%).

Low-income households had legal assistance for only one out of every six (16.4%) legal problems encountered in

2003. When applied to the low-income population of Illinois, this means that individuals and families had legal assistance for approximately 218,000 legal problems, but had no legal assistance for over 1.1 million legal issues.

Low-income households sought, but were unable to secure, legal assistance for over 140,000 problems in 2003. This level of unmet demand existed despite the fact that less than a quarter (23%) of low-income Illinois households were aware of the availability of free legal assistance.

These factors help to explain why the most common response (65.8%) to a legal problem was to attempt to resolve it without legal assistance. In 2003, low-income Illinoisans attempted to resolve approximately 875,000 problems on their own. Many of these problems were complex matters with potentially serious consequences, including **evictions** (83.3% attempted to resolve on their own), **domestic violence** (68.9%), **child custody** (62.5%), **bankruptcy** (50%) and **divorce** (48.5%).

The percentage of households with a legal problem was high among all racial and ethnic groups: 59.2% for African-American households, 51.3% of Latino households and 42.5% for white households. African Americans had the highest number of problems per household (2.2), compared with 1.7 problems per household for Latinos and 1.4 problems per household for whites.

From a regional perspective, rural households were the most likely to have experienced at least one legal problem (52.7%), followed by households in Cook County (50%), downstate counties with 80,000 or more residents (48.6%), and households in the suburban “collar counties” (42.5%).

Almost three-quarters (73.9%) of households that included a person with a disability experienced at least one legal problem during 2003, which is substantially higher than the rate for all low-income households (49%). Households that included a person with a disability experienced an average of 3.6 legal problems – more than twice the average number of problems for all households surveyed (1.7).

Civil Legal Assistance in Illinois

There are many general misconceptions about the legal aid system. There is no constitutionally guaranteed right to counsel in civil cases, as there is in the criminal justice system. This is true despite the fact that the potential consequences of many civil legal problems – the loss of custody of a child, the denial of benefits to cover essential medical care, the loss of a home to foreclosure – are as grave as the penalties for some criminal offenses.

There is also a misconception that legal aid is a service provided by the federal government. In fact, the federal Legal Services Corporation provides less than a third of the total funding for legal aid in Illinois. The legal aid system is actually a loosely connected network of 23 not-for-profit organizations that share the mission of serving the legal needs of the poor. It is a public/private partnership, with financial support provided by the federal government, the state of Illinois, the legal community and private philanthropic organizations.

The 23 programs that make up the legal aid system vary in size, scope and mission. The largest program, the Legal Assistance Foundation of Metropolitan Chicago, employs 78 attorneys, while three programs have a single lawyer on staff. Some programs are organized around a particular type of legal issue (e.g., the Lawyers Committee for Better Housing), while others focus on addressing the needs of clients facing specific types of challenges (e.g., the AIDS Legal Council). The primary means of service delivery also vary. The Coordinated Advice & Referral Program for Legal Services (CARPLS), for example, is a legal aid hotline offering assistance

via telephone, while groups such as the Chicago Volunteer Legal Services Foundation rely on volunteer attorneys to represent clients.

Together, these 23 programs employ 605 staff members (474 full time; 131 part time), including 326 attorneys, 113 paralegals and 166 administrative staff. Approximately two-thirds of legal aid staff members (64%) are located in Cook County.

Legal aid programs in Illinois closed a total of 103,962 cases in 2003. Over two-thirds of these cases fell into the “brief services” category (68.8%), meaning that the client received legal advice or other limited assistance. Less than a third of all cases (31.2%) involved extended representation of a client, and only one in five cases (20.3%) involved litigation or an administrative hearing. Programs based in Cook County handled (72.2%) of the total.

The vast majority of cases (88.9%) were handled by staff attorneys. The 280 full-time equivalent legal aid staff attorneys provided assistance in an average of 330 cases each. Based on data from the telephone survey, there was one full-time equivalent legal aid lawyer for every 4,752 legal problems faced by low-income Illinoisans in 2003.

Pro bono attorneys provided assistance in a total of 11,506 cases in 2003. While approximately 70% of all Illinois attorneys are based in Cook County, over 90% of all pro bono cases were handled by Cook County attorneys.

Legal aid programs provided most of their services in the **family law** (40.5%), **housing** (15.9%) and **consumer** (9%) areas. African Americans made up the largest percentage of legal aid clients (43.4%), followed by whites (28.2%) and Latinos (18.2%). Approximately one out of every six legal aid clients (16.9%) had some type of a disability.

Total funding for the legal aid system in 2003 was \$36,299,420. The largest contributors of funding were the federal Legal Services Corporation (31.9%), other public entities (27%) and the legal community (14.3%), which includes law firms, individual lawyers, bar associations and bar foundations. The average cost per case for the legal aid system was \$349.16.

Major Issues Facing the Legal Aid Delivery System

Access to legal aid in Illinois is severely limited due to resource constraints, and legal aid programs are overwhelmed by the demand for their services. Legal aid intake and referral hotlines around the state are able to respond to less than a third of the calls they receive. Legal aid programs have established elaborate triage systems to screen out all but the most urgent cases.

One consequence of limited access to legal assistance is that a large and increasing number of low-income Illinoisans attempt to resolve their legal problems on their own. In response, courts and legal aid programs are beginning to provide new tools to assist unrepresented litigants as they navigate the legal system. These include court-based **self-help centers**, to provide people with basic information about their legal rights and responsibilities, and **advice desks**, often staffed by legal aid or volunteer attorneys, which provide limited legal assistance to pro se parties.

The Internet is another important resource for people attempting to resolve legal problems on their own. Just under half (49.1%) of the low-income households surveyed had access to the Internet, and 59% had used the Internet. The premier web-based resource for legal assistance in Illinois is Illinois Legal Aid Online. Its web site for the public (www.illinoislegalaids.org) offers legal information, forms and instructions in a user-friendly multi-

media format. While Internet-based resources have their limitations, they also offer distinct advantages over traditional sources of legal assistance. These include “24/7” availability, the capacity for simultaneous access by almost unlimited numbers of users and the ability to serve large numbers of people at little or no additional cost.

The private bar also has an important role to play in providing legal services to low-income individuals and families. Illinois attorneys handled a total of 11,506 pro bono cases through an organized legal aid program in 2003. This is a very conservative estimate of the total pro bono services provided by Illinois lawyers, as there is no mechanism in place to capture the “informal” pro bono services provided by lawyers independent of a legal aid program.

The best opportunity to increase pro bono legal assistance in Illinois would be to adopt “the Florida model” for encouraging attorney volunteerism. As applied to Illinois, the “Florida model” would involve changing the Illinois Rules of Professional Conduct to create aspirational standards for pro bono services, a comprehensive reporting system as part of the annual attorney registration process, and regional and statewide pro bono coordinating committees.

There are also market-based strategies to increase the involvement of private attorneys in providing legal assistance to lower-income persons. These include adding “modest means” referral panels to existing lawyer referral services and encouraging more attorneys to provide “limited scope” or “unbundled” legal assistance to people who might otherwise pursue their cases without legal assistance.

The legal aid system in Illinois offers a strong foundation upon which to build. Despite severe resource limitations, programs have made efforts to streamline service delivery, adopt new technologies to improve efficiency and maximize their fundraising capabilities.

The legal aid system includes a cadre of very experienced leaders. The median tenure is 18 years for executive directors and 15 years for managing attorneys. At the staff attorney level, however, the median tenure is four years, and the high level of turnover among front-line legal aid providers represents a simmering crisis. While many factors contribute to this problem, one major culprit is low salaries coupled with high levels of educational debt. The median starting salary for a legal aid attorney in Illinois is \$36,000, which is 11% lower than the national median starting salary for a prosecuting attorney. After five years of service, the gap between a prosecutor and a legal aid lawyer widens to 30%. More than half (56%) of all staff attorneys have outstanding student loans, and the median debt level is between \$70,000 and \$80,000.

The effectiveness of legal aid programs is hampered by a lack of available resources to purchase, maintain and upgrade computer systems, telephone systems and other office technology. Thanks in part to an eight-year, \$4.9 million investment in technology by the Lawyers Trust Fund of Illinois, legal aid programs were able to increase their productivity during the 1990s. If programs cannot continue to provide their staff members with adequate technology, they face an erosion of those productivity gains.

Facing overwhelming demand for services, staff attorneys who cannot afford to stay in their jobs, and rapidly aging office technology, it is clear that the legal aid system needs a substantial increase in resources.

A calculation of the additional funding needed to provide legal assistance to all those who sought, but did not receive, legal assistance in 2003 (140,719), at an average cost-per-case of \$349.16, reveals the need for **\$49,133,488** to supplement the \$36 million currently spent on legal aid in Illinois. ***This is a very conservative estimate of the funds needed***, as it is based on unmet demand for assistance rather than the total of

over 1.1 million unaddressed legal problems identified by the telephone survey. The \$49 million figure also does not include additional funding needed to establish court-based self-help centers and advice desks or new mediation programs.

In conclusion, it is important to acknowledge that the challenges identified in this report are beyond the power of the legal aid system to address on its own. Partnerships and collaborative efforts with the courts, bar associations, public officials, funding entities, law firms, law schools and other civic and community groups are essential if progress is to be made toward a legal system that offers meaningful access to all low-income Illinoisans.

Imperatives and Recommendations

Imperative 1: Access

Provide a full range of service options to make the legal system accessible to low-income Illinoisans.

- ♦ Increase awareness among low-income Illinois residents of the protections offered by the law, as well as the options available to them as they seek to use the legal system.
- ♦ The Illinois Supreme Court should develop policy guidelines for accommodating pro se litigants in the Illinois courts.
- ♦ The Illinois Supreme Court should study the feasibility of creating simplified, standard court forms that can be used in all Illinois jurisdictions, with an emphasis on areas of the law where there are large numbers of pro se litigants (e.g., domestic relations, landlord/tenant).
- ♦ Each judicial circuit in Illinois should develop a “customer service plan” for dealing with the public, including those persons who use the court system and are not represented by attorneys. These plans should include training for court personnel, as well as the information resources that will be made available.
- ♦ The Illinois court system and major administrative agencies in the executive branch of government, working together with bar associations and legal aid providers, should make “self-help centers” available in every courthouse and central administrative hearing location in the state. These self-help centers should be designed as user-friendly areas where members of the public can obtain basic information about their legal rights and responsibilities, as well as information about court procedures. Whenever possible, these self-help centers should include staffed advice desks offering limited legal assistance to pro se litigants.
- ♦ Expand the use of trained, non-lawyer volunteers who can serve as facilitators at court-based self-help centers and other public access points that offer legal information (e.g., libraries, social service agencies).
- ♦ Develop and maintain a comprehensive library of web-based legal information resources for the public, which would include both substantive and procedural information; interactive, user-friendly forms and instructions; and tools to refer those who need further assistance to legal aid programs or private attorneys. These web-based resources should be offered in multiple formats (written, audio, video) and languages (especially Spanish).
- ♦ Legal aid programs should develop strategies to increase the amount of actual *representation* they provide, by utilizing more efficient and cost-effective strategies (e.g., coordination with telephone hotlines and/or web-based resources) to provide high-volume information, advice and referral services.

- ♦ Expand the use of mediation, which can be an efficient and effective way to resolve many types of legal disputes.
- ♦ Create guidelines to clarify the role that clerks can and should play in assisting pro se parties.

Imperative 2: Resources

Increase funding available to support legal aid and other access-to-justice initiatives in Illinois.

- ♦ The state of Illinois, having recognized by statute that “equal justice is an integral part of the general welfare,” (30 ILCS 765/5(g)) should increase the annual appropriation to the Illinois Equal Justice Foundation to at least \$5 million per year.
- ♦ Legal aid programs should continue to aggressively pursue both public and private contributions to increase and diversify their sources of funding.
- ♦ All lawyers in Illinois should be encouraged to make a *minimum* annual financial contribution equivalent to two billable hours to support legal aid, or, for those attorneys who do not bill by the hour, at least \$250 per year.
- ♦ In recognition of the legal community’s special responsibility to ensure equal access to the justice system, law firms should analyze their annual charitable giving to ensure that their contributions to legal aid organizations are appropriate, relative to their support of other civic, cultural and charitable institutions.
- ♦ Law firms should consider matching their employees’ financial contributions to support the legal aid system.
- ♦ Lawyers and judges involved in class action litigation should consider directing cy pres funds to support the legal aid system.
- ♦ County governments should include funding for self-help centers, mediation programs, and other court-based assistance projects in their budgets for court operations, in the interests of the efficient and effective administration of justice.
- ♦ The Illinois congressional delegation should be encouraged to advocate for increased federal funding to support the legal aid system, including increasing the annual appropriation for the federal Legal Services Corporation and working to establish a federal loan-forgiveness program for public interest attorneys.
- ♦ Private giving programs, such as foundations, corporations and the United Way, should increase funding to legal aid programs, recognizing that legal services are a critical part of the social services safety net.

Imperative 3: The Legal Aid System

Strengthen the existing legal aid system, both in terms of personnel and infrastructure.

- ♦ Raise legal aid salaries to make them competitive with salaries for other public-sector legal jobs.
- ♦ Create and fund loan repayment assistance programs to ease the educational debt burden on legal aid lawyers.
- ♦ Develop retention strategies aimed specifically at keeping more legal aid lawyers, especially those with two to five years of experience.

- ♦ Increase the diversity of legal aid lawyers through targeted recruitment efforts, in conjunction with bar associations, law schools and other entities.
- ♦ Provide cutting-edge research, training and “knowledge management” tools to make legal aid lawyers more effective.
- ♦ Provide adequate office technology and equipment (computers, printers, copiers, telephone systems) to maximize lawyer efficiency in a work environment characterized by large caseloads and limited staff support.
- ♦ Hold an annual training conference for legal aid attorneys in Illinois.
- ♦ Offer a comprehensive library of web-based training programs for legal aid lawyers, encompassing both substantive legal issues and practice skills.
- ♦ Make social service resources available to help lawyers deal with clients who have special needs and/or serious underlying problems that complicate the client’s legal situation, either through enhanced referral relationships, formal collaboration agreements with social service agencies, and/or retaining social workers as volunteers, contract employees or staff.
- ♦ Increase the use of emerging technologies, such as videoconferencing and web-based telecommunication systems to serve clients in remote locations.

Imperative 4: The Private Bar’s Role in Serving Low-Income Persons

Encourage and help lawyers in private practice to serve the legal needs of low-income persons.

- ♦ The Illinois Supreme Court should adopt a comprehensive plan to increase pro bono participation by attorneys, based on models previously adopted in Florida, Maryland and Nevada. The plan should include the following elements: amending the court rules to make explicit an attorney’s professional responsibility to perform voluntary pro bono service; annual reporting on voluntary pro bono activities and/or financial contributions to legal aid; and judicially appointed, circuit-based planning groups to find appropriate means to increase attorney volunteerism based on local conditions.
- ♦ Develop market-based mechanisms to match the excess capacity of private practitioners with potential clients who, despite their low incomes, are willing to pay a near-market fee for legal assistance, for the mutual benefit of both parties. One option would be to create reduced-fee panels of attorneys who are willing to handle certain legal matters at a reduced rate of compensation, either as part of a bar association referral program or a legal aid hotline.
- ♦ Explore the concept of “limited scope representation” by private attorneys as a way of making legal services more affordable for lower-income persons, for the mutual benefit of attorneys and consumers. To the extent necessary, revise ethical rules to make clear what types of “limited scope” assistance are acceptable.
- ♦ Legal aid and pro bono programs should offer a full range of volunteer opportunities, both in terms of substantive legal areas and type of assistance offered, to match the needs of clients with the interests and skills of pro bono attorneys.

- ♦ Law schools should encourage students to engage in public service by providing a range of opportunities including legal clinics, pro bono opportunities, loan repayment assistance programs and courses on substantive topics related to legal aid.

Imperative 5: Gaps

Develop new strategies and partnerships to address legal needs that are currently unmet.

- ♦ Legal aid programs should review their current case priorities in light of the findings of this study.
- ♦ To the extent that certain providers are barred from certain advocacy tools, such as class-action lawsuits, due to restrictions imposed by the federal Legal Services Corporation, other privately funded entities must be organized and supported to do this work.
- ♦ Examine the accessibility of legal aid services to people with disabilities, with the goal of eliminating any barriers that would prevent a person with a disability from using these services.
- ♦ Increase networking efforts with social service agencies that work with people who face additional challenges in understanding their legal rights and/or gaining access to legal aid resources. Examples include the homeless, people with mental illnesses or cognitive impairments, or people who are confined to institutional settings.
- ♦ To serve clients with priority cases who live in areas that are far from the nearest legal aid office, and to preserve limited staff time that would otherwise be spent on the road, legal aid programs serving downstate Illinois should consider expanding the use of contract (or “Judicare”) attorneys, who are compensated at below-market rates.
- ♦ Follow-up research efforts and/or policy summits should be organized to find new ways to address substantive legal issues and the special needs of particular client groups (e.g., persons with disabilities, immigrants).

Imperative 6: Collaboration

Take coordinated action to increase access to justice in Illinois.

- ♦ Recognizing that most of the recommendations in this report can only be addressed through the collective efforts of many individuals and institutions, the Illinois Coalition for Equal Justice should serve as the principal coordinating body for efforts to implement the recommendations of this study.
- ♦ The Chicago Bar Association, Illinois State Bar Association, Chicago Bar Foundation, Illinois Bar Foundation and other funding sources should provide adequate resources and staff support to the Illinois Coalition for Equal Justice, to enable it to carry out its mission effectively.
- ♦ The Illinois Coalition for Equal Justice should develop a set of benchmarks and produce an annual report on the progress made and lessons learned in attempting to implement the recommendations of this study.
- ♦ Beginning in 2005, there should be a triennial statewide conference for legal services providers in Illinois.

SECTION I: INTRODUCTION

The purpose of *The Legal Aid Safety Net* is to document the civil legal issues facing low-income Illinois residents, and to gain a better understanding of the strengths and limitations of the legal aid system that is designed to address those needs.

The Legal Aid Safety Net was sponsored by The Chicago Bar Association, the Illinois State Bar Association, The Chicago Bar Foundation, the Illinois Bar Foundation and the Lawyers Trust Fund of Illinois. The Lawyers Trust Fund served as fiscal agent for the project.

A 14-member Steering Committee appointed by the bar associations, the bar foundations and the Lawyers Trust Fund provided oversight for the research process and approved the study's findings and recommendations.

The Legal Aid Safety Net is the second comprehensive assessment of the legal needs of the poor conducted in Illinois. The first was the *Illinois Legal Needs Study*, published in 1989. The first study's main finding was that four out of five civil legal problems encountered by poor people in Illinois went unaddressed.

The *Illinois Legal Needs Study* made a series of recommendations regarding the use of technology, case priorities, funding issues and coordination among service providers. Many of these recommendations were implemented in the years following the study's publication.

Developments in the Legal Aid System in Illinois: 1989 – 2003

At least in part as a result of the 1989 study, and thanks to the efforts by legal aid programs, bar groups and funding entities, the legal aid system experienced a dramatic period of change during the 1990's. Many of these changes are discussed at length in Section IV of this report. The most noteworthy developments include:

- ♦ **Hotline Intake Systems:** The first legal needs study determined that the many legal aid programs operating in Cook County were a source of confusion for clients, which led to the creation of the Coordinated Advice & Referral Program for Legal Services (CARPLS) in 1993. The CARPLS "hotline" model, in which callers speak directly to an attorney, proved to be a highly efficient and cost-effective way to provide advice and referral services and to prevent callers from being "bounced" from program to program. As a result of CARPLS' success, both the Land of Lincoln Legal Assistance Foundation and Prairie State Legal Services adopted telephone hotlines to serve as their program-wide intake systems.
- ♦ **Technology for Legal Services:** During the first study, consultants found legal aid staff using everything from electric typewriters to mismatched computers. In an effort to boost efficiency, the Lawyers Trust Fund launched its Computerization Project in 1990, investing over \$1 million to put a new, networked computer on the desks of attorneys and paralegals in 50 legal aid offices statewide. Between 1990 and 1998, the Lawyers Trust Fund invested over \$4.9 million in computer technology for legal aid programs.
- ♦ **Dramatic Gains in Productivity:** Thanks in part to the effective use of computer technology and the telephone hotlines, the legal aid system experienced a significant increase in productivity over the past 14 years. For example, the number of cases involving representation of a client (i.e., beyond advice and "brief services") increased by 30.3% between 1987 and 2003, despite the fact that the number of case handlers (attorneys and paralegals) increased by only 9.4%. The average cost per case, adjusted for inflation, fell by 18.3%.

- ♦ **Diversification of Legal Aid Funding:** The first legal needs study reported that 60% of all funding for legal aid programs in Illinois came from a single source – the federal Legal Services Corporation (LSC). By 2003, LSC contributed roughly the same number of dollars to Illinois legal aid programs, but represented only 32% of total funding. The share of total funding provided by government agencies other than LSC, the Lawyers Trust Fund and the legal community all increased significantly. In 2000, the state of Illinois began providing general revenue funds to support legal aid programs through the Illinois Equal Justice Foundation.
- ♦ **Pro Se and Self-Help Efforts:** As the number of unrepresented litigants has increased, legal aid programs, often in conjunction with courts and law schools, have developed programs aimed at providing some level of assistance to pro se litigants. These efforts include court-based “help desks” to advise persons who are unrepresented, as well as Internet-based resources that include information about common legal topics, interactive forms and instructions, video presentations, and other self-help tools.
- ♦ **Statewide Planning, Coordination and Cooperation:** The 1989 legal needs study brought together the leaders of all of the legal aid programs in Illinois for a common purpose for the first time. In the wake of the study, a statewide conference for legal services attorneys was held in June 1989, the first such gathering in Illinois history. In the years since, statewide planning and cooperation efforts among legal aid programs, bar associations and funding entities have become much more common. Examples include the bar-sponsored **Illinois Equal Justice Project** to examine the legal aid system and recommend improvements; its successor, the **Illinois Coalition for Equal Justice**, which serves as a coordinating body for the legal aid system; the 2002 legal aid conference; and **Illinois Legal Aid Online**, the main source of Internet-based legal assistance, which was created as a collaborative project of legal aid programs, bar associations, law schools and funding entities.

Legal Needs Study II: *The Legal Aid Safety Net*

By 2003 there was widespread agreement that the *Illinois Legal Needs Study* was no longer useful as a source of documentation for legal needs, nor as a blueprint for further innovations and improvements. In the 15 years since the first study there have been major changes in laws and policies affecting poor people, in the demographic characteristics of the low-income Illinois population, and in the legal aid delivery system.

Consequently, planning for a new legal needs study began in July 2003. The design of the current study is based on lessons learned during the first legal needs study, as well as a review of recent legal needs studies in states such as New Jersey, Massachusetts, Washington and Tennessee.

Research Methodology

The information contained in this report is based on three primary sources:

- ♦ **Telephone Survey:** The Metro Chicago Information Center, a not-for-profit research organization, conducted a telephone survey of 1,645 low-income households throughout the state. Respondents were asked questions about their experiences with a series of specific questions about common legal problems (*e.g.*, “Was anyone in your household evicted or threatened with eviction?”) during the previous year. If a respondent indicated that there had been a problem in a particular area, he or she was asked what action, if any, had been taken in response. The survey results have a confidence interval of +/- 2.5%. (For more detailed information on the telephone survey, see Appendix 1.)
- ♦ **Legal Aid Survey:** Every executive director, managing attorney and staff attorney working for an Illinois legal aid program was asked to complete a written survey. The surveys asked each respondent to provide information about their demographic characteristics, work experience, and levels of educational debt. Attorneys were also asked open-ended questions about their ideas for improving the legal aid system. The overall response rate to the survey was 74%.

♦ **Legal Aid Program Data:** Information on legal aid programs' case types, levels of service, staffing, volunteer activities, and funding sources is collected each year by the Lawyers Trust Fund as part of its grant application process. The current study incorporates data for 2003, which was provided to LTF in February 2004, along with other data requested from programs as part of the legal aid survey or by specific request.

The study also incorporates data from the 2000 Census, as well as national research and literature on legal aid issues from groups such as the American Bar Association, the National Legal Aid & Defender Association, the Legal Services Corporation, the American Judicature Society, and the National Center for State Courts. These sources are cited as they appear in the text.

Finally, research papers on discrete topics (*e.g.*, housing law, the use of technology to increase access to justice) were commissioned in conjunction with this study. These reports will be used as the basis for future planning efforts to improve the legal aid system.

Poverty in Illinois

The term "low-income" is used in this report to include all persons and households with annual incomes below 150% of the federal poverty guidelines, as determined by the U.S. Department of Health and Human Services. For 2003, this would include a single individual with an annual income of less than \$13,470, or a family of four with an annual income below \$27,600. This income level corresponds to the average income eligibility standards set by legal aid programs in Illinois, as well.

According to the U.S. Census for 2000, there were 2,152,488 persons – 17.7% of the total Illinois population – with annual incomes below 150% of the federal poverty guidelines. These persons comprise a total of 782,037 low-income households.

Of these low-income persons, a significant number (619,240, or 28.8%) can be classified as very poor, with annual incomes of less than 50% of the federal poverty guidelines (\$9,200 for a family of four).

The poverty rates vary considerably based on geography. Nearly a third (29.9%) of the residents of the city of Chicago live at or below 150% of the federal poverty guidelines, while the rate for residents of suburban Chicago is 10%. In the remainder of the state, the percentage of persons with incomes below 150% of the federal poverty guidelines is 19%.

Poverty rates also vary based on race and ethnicity. More than a third of all African Americans in Illinois (36.8%) have annual incomes below 150% of the federal poverty guidelines. The rate for Latinos is 29.3%, while the rate for whites is 11.3%.

In the years between the 1990 and 2000 Census, the number of low-income people increased by 58,312. There were two major trends identifiable in this increase.

The first trend was the increase in suburban poverty. Despite the fact that only one out of every ten residents of suburban Chicago can be classified as low-income, the number of poor people in the suburbs increased by 131,523 during the 1990's. During the same period the number of low-income residents of the city of Chicago held steady, and the number of low-income persons living Downstate actually decreased by 76,059.

The second trend was the growing number of low-income Latinos. In the 1990's, the number of low-income Latinos in Illinois increased by 158,219. During the same period the number of low-income African Americans declined slightly and the number of low-income whites fell dramatically (151,377).

SECTION II. THE LEGAL NEEDS OF LOW-INCOME ILLINOISANS

Legal aid programs in Illinois are overwhelmed by the number of people seeking legal assistance. As discussed in more detail in Section IV of this report, legal aid programs are forced to use triage systems to screen out all but the most urgent and compelling cases. Telephone advice and referral hotlines are able to respond to less than a quarter of the calls they receive. This high level of demand is one indication of the volume of legal problems faced by low-income Illinois residents.

A formal study, however, requires more reliable and objective sources of data. The best way of obtaining this information is through a telephone survey of low-income Illinois households. Telephone surveys have been used extensively in previous legal needs studies, including the 1989 *Illinois Legal Needs Study* and the American Bar Association's national study of the legal needs of low-income persons (1994). Telephone surveys have also been an integral part of recent statewide legal needs studies in Vermont (2001), New Jersey (2002), Massachusetts (2003), Washington (2003) and Tennessee (2004).¹

The Telephone Survey

For this study, the telephone survey was designed to answer four basic questions:

- ♦ How frequently did low-income Illinois households face a (non-criminal) legal problem?
- ♦ What types of legal problems did they experience?
- ♦ What action, if any, did they take in response?
- ♦ How many of these legal problems went unaddressed?

The Metro Chicago Information Center (MCIC), a not-for-profit research organization, was retained to design and execute the telephone survey and to analyze the results.

Survey Design²

To answer the questions set forth above, the research team established the following basic parameters for the telephone survey process:

- ♦ The telephone survey would include completed interviews with respondents from at least 1,600 eligible households selected at random;
- ♦ Eligible households would be those with incomes below 150% of the 2003 federal poverty guidelines, defined as an annual income of \$27,600 for a four-person household;³
- ♦ Interviews would be conducted in English and Spanish, based on the respondent's preference;
- ♦ The survey sample would be designed to allow results to be tabulated based on the respondent's geographic region (Cook County, suburban "collar" counties, rural counties); regions served by a particular legal assistance program (Land of Lincoln, Prairie State, Cook County); and by certain key demographic characteristics (*e.g.*, if the household includes a person over 65 or with a disability).

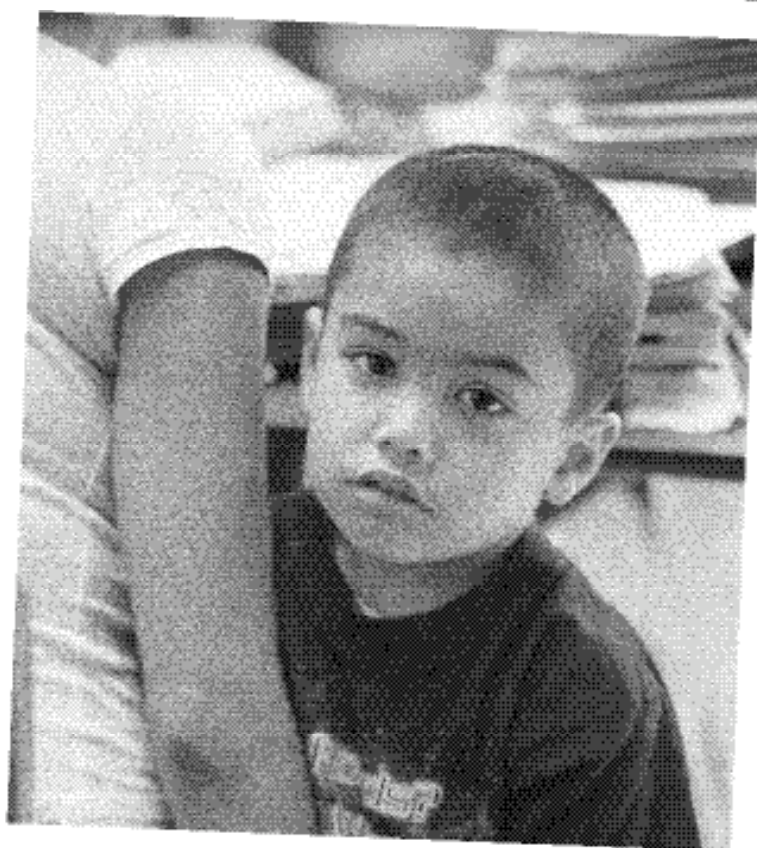
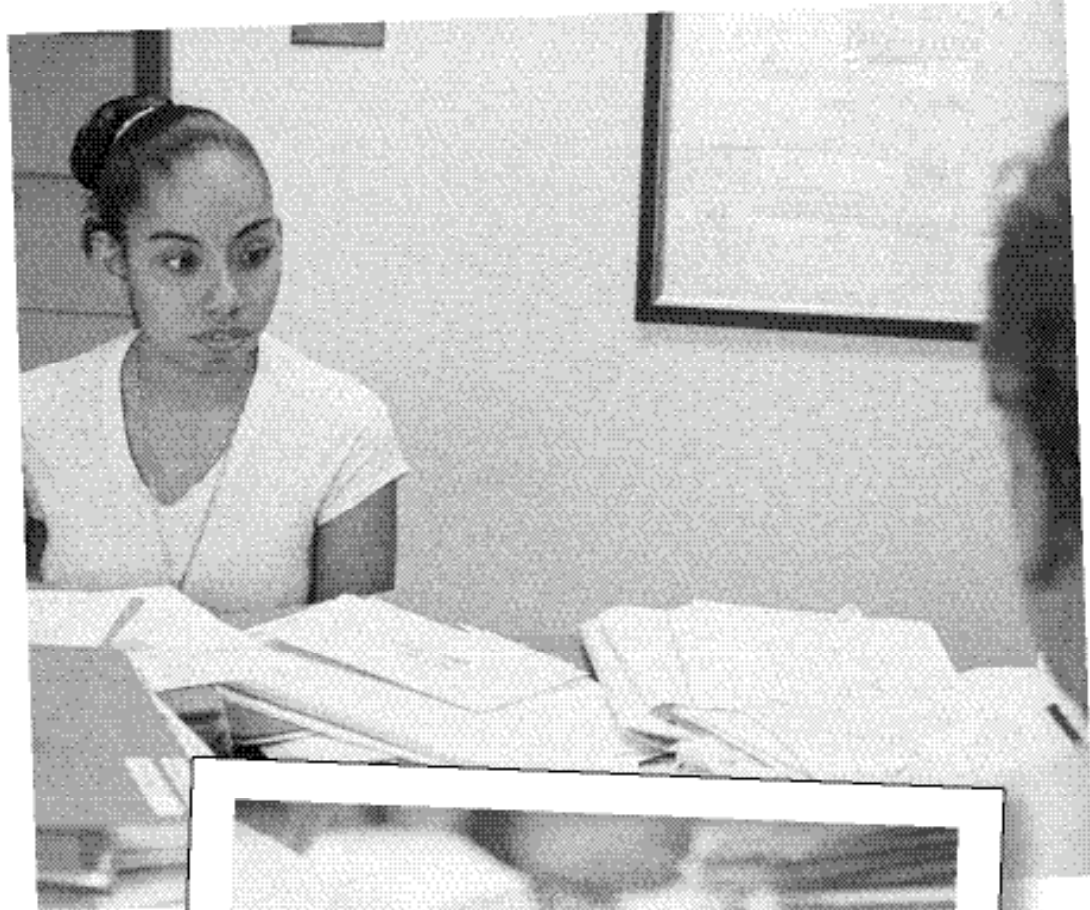
Survey Questionnaire

The survey included a total of 87 questions. The initial questions focused on income and basic demographic information, and were used to screen households for eligibility to participate in the survey.

¹National Legal Aid & Defender Association at www.nlada.org/Civil/Civil_SPAN/SPAN_Library/SPAN_Library.

²For a more detailed discussion of the survey methodology, see **Appendix 1**.

³*Federal Register*, Vol. 68, No. 26, February 7, 2003, pp. 6456-6458.



To quantify and identify types of legal problems, the survey instrument included 70 questions grouped into 11 categories of common legal matters: consumer, housing, employment, education, health, public benefits, family law, immigration, wills and estates, tort defense and disability issues.

For each of these 70 questions the interviewer asked the respondent whether a member of the household had experienced a particular situation that would be a likely indicator of a legal problem during calendar year 2003. (For example: “Did your landlord lock you out of your apartment?” or “Was anyone in your household involved in a child custody dispute with another parent or individual?”).

While a “yes” response did not provide absolute certainty that a person in the household had a valid legal cause of action or defense, the situation would, at minimum, warrant a consultation with an attorney to determine whether the affected persons had any potential legal remedies.

If a respondent indicated that a member of the household had experienced a problem, the interviewer then asked a series of follow-up questions to determine what actions, if any, the affected person(s) took. Did they seek legal assistance? Did they receive legal assistance? If they received legal assistance, did they have to pay for it? Did they attempt to resolve the problem on their own? Did they have to go to court?

Finally, the survey asked respondents whether they were aware of free legal services in their areas, about any barriers to obtaining legal assistance, and how they would go about finding legal assistance if they needed it.

Survey Respondents

During a five-week period in February and March 2004, MCIC completed interviews with 1,645 respondents from eligible households. All respondents were heads of households at least 18 years of age or older.

The survey respondents reflect the low-income population of the state of Illinois, both demographically and geographically. MCIC researchers compared the demographics of the raw sample to the 2000 U.S. Census Public Use Micro-data Sample (PUMS) for the population at or below 150% of the federal poverty level in Illinois. To correct for over and/or under-sampling of sub-samples, MCIC calculated a weight variable, based on age, gender, race/ethnicity and study area for the population of Illinois residents at or below 150% of poverty.⁴

The results of the telephone survey have a confidence interval of +/- 2.5%.

The Legal Needs of Low-Income Illinoisans: An Overview

Just under half (49%) of the low-income households surveyed experienced one or more civil legal problems during calendar year 2003. The average number of legal problems per low-income household was 1.7. For those households that had at least one problem, the average number of problems was 3.5.⁵

When applied to the low-income population of the state of Illinois, the survey results indicate that approximately 383,000 households were confronted with an estimated 1,330,000 legal problems in 2003.

The majority of the legal problems in the survey involved critical threats to the ability of individuals and families to meet basic human needs: stable family relationships, economic solvency, and access to shelter, medical care and a subsistence income. The majority of the problems reported in the survey fell into the areas of consumer law (20.5% of total problems), housing (17.8%), family law (15.7%) and public benefits (12.1%).

⁴For a more information on weighting, see Appendix 1.

⁵This is a conservative estimate, based on the fact that the survey did not ask about multiple occurrences of the same type of problem. For example, if three separate creditors threatened members of a household with legal action to collect debts, the survey would only count this as one legal problem.



"I don't make enough to take care of my needs.

If my child support comes in I would be okay.

The average of 3.5 problems for those households having at least one problem in a one-year period suggests that legal problems occur in clusters, and that the failure to address one problem can have a cascading effect, leading to others. For example, a family that is improperly denied Medicaid coverage might face catastrophic medical bills that result in debt collection suits and, eventually, in bankruptcy.

Despite the potentially serious consequences of these legal problems, low-income households received legal assistance for only one out of six (16.4%) of the problems they encountered. This means that low-income Illinois households did not have legal help for over 1.1 million legal problems in 2003 alone.

While in theory the legal aid system is available to assist all low-income persons, respondents to the survey indicated that they received free legal help for only one out of fourteen (7.2%) of the legal problems they faced in 2003.

Many individuals and families faced with a serious legal issue had no choice but to hire a private attorney, despite the significant costs and resulting financial hardships. Households paid lawyers to deal with 9.2% of the problems they encountered, and were 32% more likely to pay for legal help than to receive free services.

For every person who received free legal assistance, an additional 1.4 people sought help, but were unable to secure any form of legal services – paid or free. In 2003, low-income Illinoisans sought, but did not receive, legal assistance for approximately 140,000 distinct legal problems.

Given the limited availability of legal aid and the expense of hiring an attorney, it is not surprising that people faced with legal problems attempted to resolve the matter without the benefit of any type of legal help in almost two out of three (65.7%) cases.

Types of Legal Problems Encountered

The telephone survey included questions about 70 situations that commonly indicate a legal problem. These questions were grouped into 11 categories:

CONSUMER	Repossessions; bankruptcy; collections; purchase of defective products or unsatisfactory services valued over \$400.
HOUSING	Unsatisfactory home repairs, mortgage foreclosure; predatory lending; property tax issues; evictions; locked out of rental unit; return of security deposit; serious conditions problems in a rental unit; landlord refused to accept subsidized housing certificate; landlord refused to rent to families with children.
EMPLOYMENT	Unable to collect unemployment benefits; unable to collect pension benefits; denial of a job or promotion as a result of discrimination based on race, sex, age or religion.
EDUCATION	Child turned down for a special education program; child placed in inappropriate special education program; child unfairly suspended or expelled; child denied services due to language barriers.

HEALTH	Refused admission to a nursing home or involuntarily discharged; problem getting private medical insurance to pay for a covered expense; turned down for a government-sponsored medical insurance program; problem getting government-sponsored medical program to pay for a covered expense.
PUBLIC BENEFITS	Problem applying for or receiving: food stamps, Temporary Assistance to Needy Families (TANF), Social Security, Social Security Disability Insurance, low-income energy assistance (LIHEAP), veterans benefits; denied access to job training or educational services; denied child care assistance.
FAMILY	Divorce; child custody; visitation rights; child support; maintenance payments/distribution of pension benefits; adoption or termination of parental rights; paternity; guardianships; domestic violence; elder abuse.
IMMIGRATION	Difficulty applying for particular immigration status; threatened with deportation; unfair treatment by an employer based on immigration status.
WILLS & ESTATES	Problem involving the will or estate of a deceased person.
TORT DEFENSE	Sued for a personal injury, auto or property damage.
DISABILITY RELATED	Denied housing due to a disability; denied a job because of a disability; unable to access a business or public facility; unable to use a government service; forced to live in an institutional setting due to lack of services to stay in own home.

The leading categories, both in terms of the percentage of households experiencing them and the total number of problems, were in the areas of consumer, housing, family and public benefits law. Problems in these four categories accounted for approximately two-thirds (66.1%) of all legal issues in the survey.

Consumer – Almost a quarter of low-income Illinois households (23.2%) experienced a consumer law problem during 2003, and one in five of the total problems encountered were in the consumer law category. The leading issue in this category involved households that had either been sued or threatened with legal action by a creditor.

Housing – Just over one out of five low-income households in Illinois faced a legal problem related to housing. The survey included questions about problems affecting both renters and homeowners. The most common issue in this category involved serious problems with the condition of a rental unit, including “rats or mice, broken windows, appliances that do not work or other serious defects.”

Family – Approximately one out of six households experienced a family law problem in 2003, and one out of every six problems identified by the survey fell into the family law category. The most frequently cited issue involved a dispute over child support payments.



“I am 80 years old. I applied for a loan for repairs.

Another person was helping me, but this person received the loan

and ran away with the money. I am stuck with paying for everything.

Public Benefits – One in seven households experienced a problem with public benefits, including access to income support programs, disability benefits, government-sponsored medical insurance and veterans’ benefits. The most common legal problem identified in the survey was difficulty applying for and/or receiving food stamps.

The number and percentage of households that experienced at least one problem in a particular category during 2003 are shown in Table 1.

T1	Households Experiencing One or More Legal Problems		
	Category	Number of Households in Survey with one or More Problems (T=1,645)	Percentage of Households Experiencing One or More Problems
1	Consumer	382	23.2
2	Housing	333	20.2
3	Family Law	259	15.7
4	Public Benefits	221	13.4
5	Employment	203	12.3
6	Health	194	11.8
7	Education	104	6.3
8	Disability	67	4.1
9	Tort Defense	55	3.3
10	Wills & Estates	53	3.2
11	Immigration	37	2.2

The total numbers of problems reported for each category are listed and ranked in Table 2.

T2	Total Problems Experienced by Low-Income Households		
	Category	Number of Problems Identified in Survey	Percentage of Total Problems
1	Consumer	574	20.5
2	Housing	499	17.8
3	Family Law	440	15.7
4	Public Benefits	340	12.1
5	Employment	268	9.6
6	Health	266	9.5
7	Education	139	5
8	Disability	99	3.5
9	Wills & Estates	67	2.4
10	Tort Defense	63	2.3
11	Immigration	44	1.6
	Total	2,799	100%

Types of Legal Problem By Legal Issue

Each of the categories included questions about specific legal issues that the household experienced in 2003. **Table 3** lists the 25 most frequently identified problems, ranked by the number of households that experienced the problem.

The most common problem, by a significant margin, involved households that were either sued or threatened with legal action by a creditor, such as a retailer, a credit card company or a hospital. Over one out of every seven households (13.3%) reported being confronted with at least one debt collection problem in 2003.

However, there is no single issue or set of issues that drives the demand for legal assistance. While certain legal problems (e.g., debt collection, rental conditions and child support) lead the field in terms of raw numbers, the problems encountered by low-income households encompass a broad range of legal issues.

Of the top 25 problems, five are in the categories of housing and family law, respectively. Four are in the public benefits and consumer categories. Three health-related legal problems are represented in the top 25, followed by two problems each from the education and employment categories.

The top 10 problems in Table 3 represent just over a third (34.2%) of the total number of legal problems reported in the survey. The top 25 problems account for 60.9% of the total problems encountered.



*“I had custody battle with ex-husband for joint custody,
but the judge gave him full custody and I got visitation rights twice a week.
I couldn’t afford to keep the lawyer and ended up settling for the decision.”*

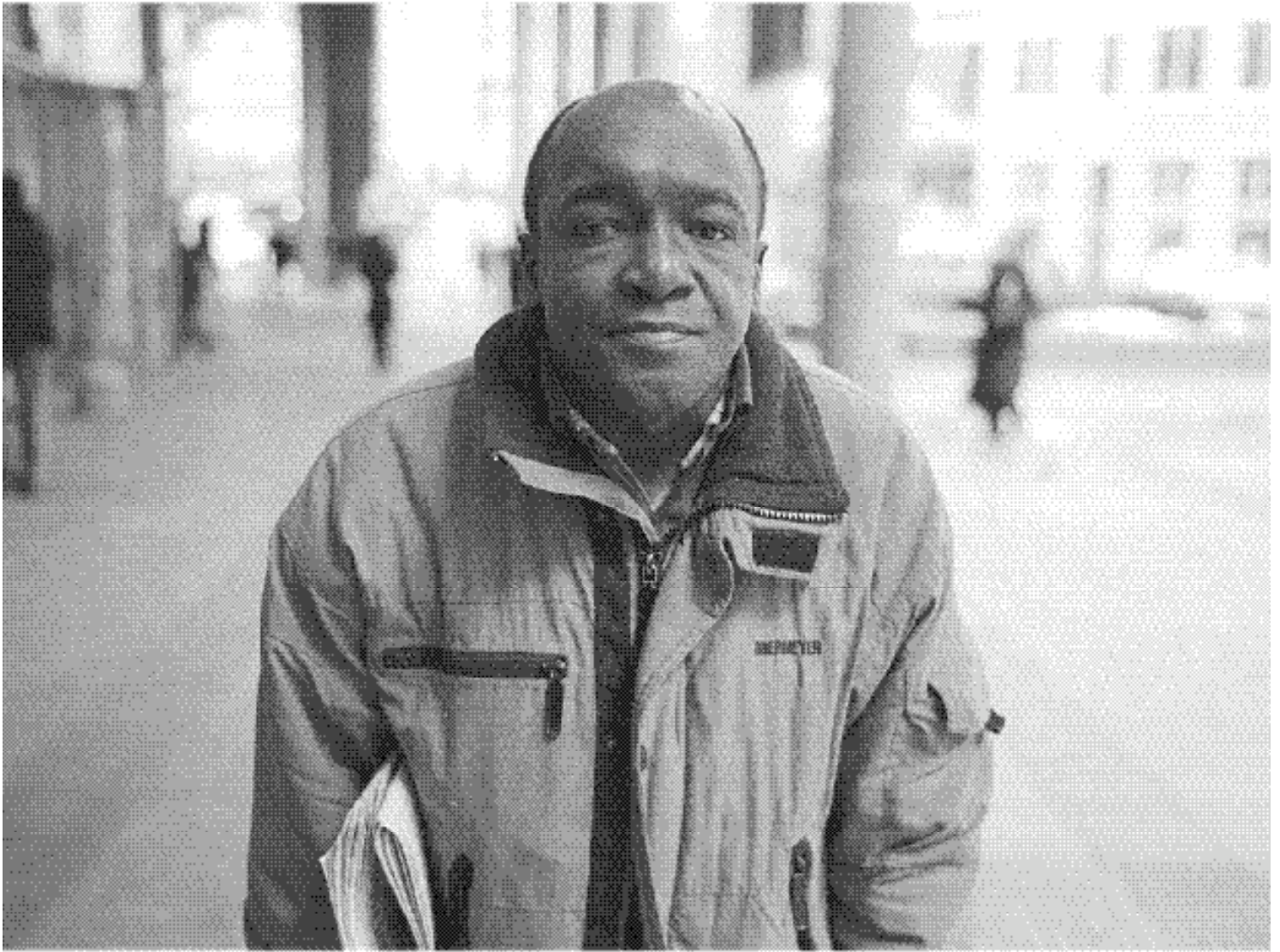
Individual Legal Problems by Category

The charts in this section provide a breakdown of the types of individual legal problems reported by respondents within each major category of legal issues.

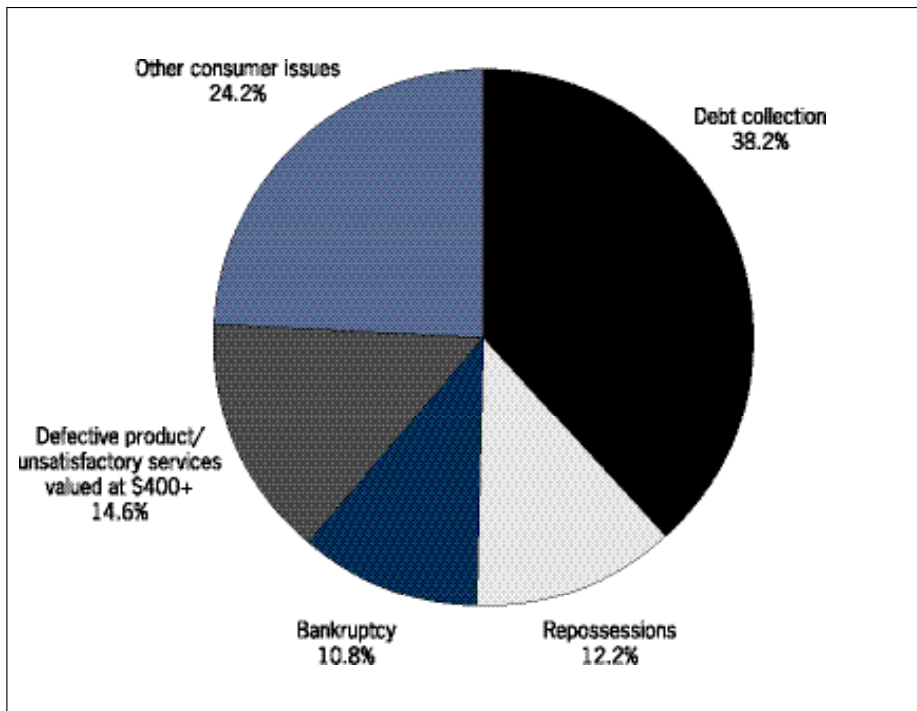
The percentages indicated on each chart correspond to the number of times that a respondent reported that they had experienced a particular problem as a share of the total number of problems reported in that category. For example, in the employment category, respondents reported a total of 266 problems. Of those 266 employment problems, 81 involved unemployment benefits (30.5%), 74 were related to employment discrimination (27.8%) and 19 involved pension issues (7.1%).

It is important to note that respondents were able to report multiple individual problems within one category of legal problems. For example, in the family law area a respondent may have experienced a divorce, a child custody dispute and a problem receiving child support during 2003. Consequently, the totals and percentages indicate the total number of legal problems encountered, rather than the total number of persons experiencing legal problems in a particular category.

T3	Top 25 Individual Problems			
	Problem	Category	Number of Problems Identified	Percentage of Households Affected
1	Sued or threatened with legal action by a creditor	Consumer	219	13.3
2	Serious problems with condition of a rental unit	Housing	103	6.3
3	Child Support	Family	91	5.5
4	Problem applying for or receiving food stamps	Benefits	85	5.2
5	Failure of private health insurance to pay for a covered medical expense	Health	84	5.1
6	Purchased defective product or unsatisfactory service valued at \$400 or more	Consumer	84	5.1
7	Problem applying for or receiving unemployment benefits	Employment	81	4.9
8	Discrimination in employment	Employment	74	4.5
9	Repossession of a car or major appliance	Consumer	70	4.3
10	Divorce	Family	66	4
11	Bankruptcy	Consumer	62	3.8
12	Turned down for government-sponsored health insurance	Health	62	3.8
13	Return of security deposit	Housing	56	3.4
14	Problem applying for or receiving LIHEAP (Low-Income Energy Assistance Program)	Benefits	55	3.3
15	Problem applying for or receiving Social Security/Social Security Disability	Benefits	53	3.2
16	Multiple refinancing of mortgage within past two years	Housing	52	3.2
17	Problem applying for or receiving TANF	Benefits	51	3.1
18	Child unfairly suspended or expelled from school	Education	50	3
19	Child visitation	Family	48	2.9
20	Child custody	Family	48	2.9
21	Domestic violence	Family	45	2.7
22	Denied access to special education services	Education	42	2.6
23	Evicted or threatened with eviction from a rental unit	Housing	42	2.6
24	Defective home repairs or improvements	Housing	41	2.5
25	Failure of government-sponsored health insurance program to pay for a covered medical expense	Health	40	2.4

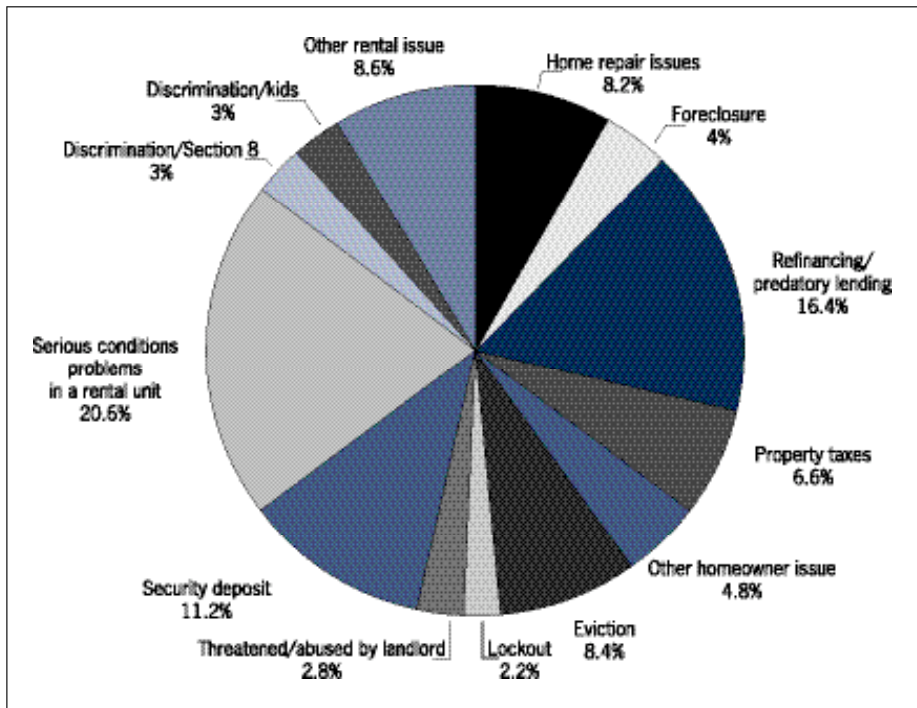


Consumer

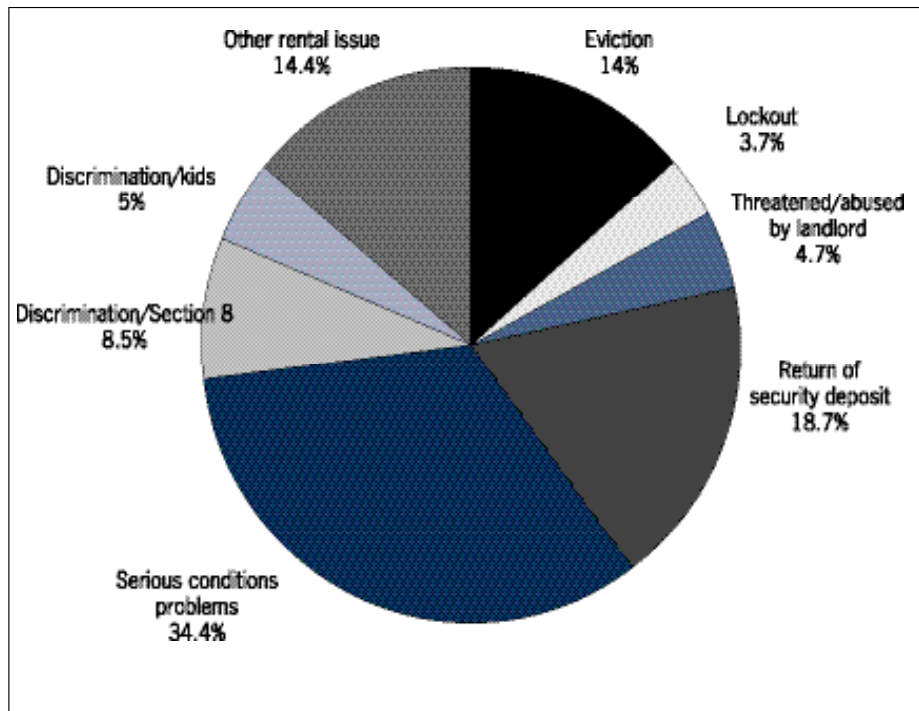


Housing Issues

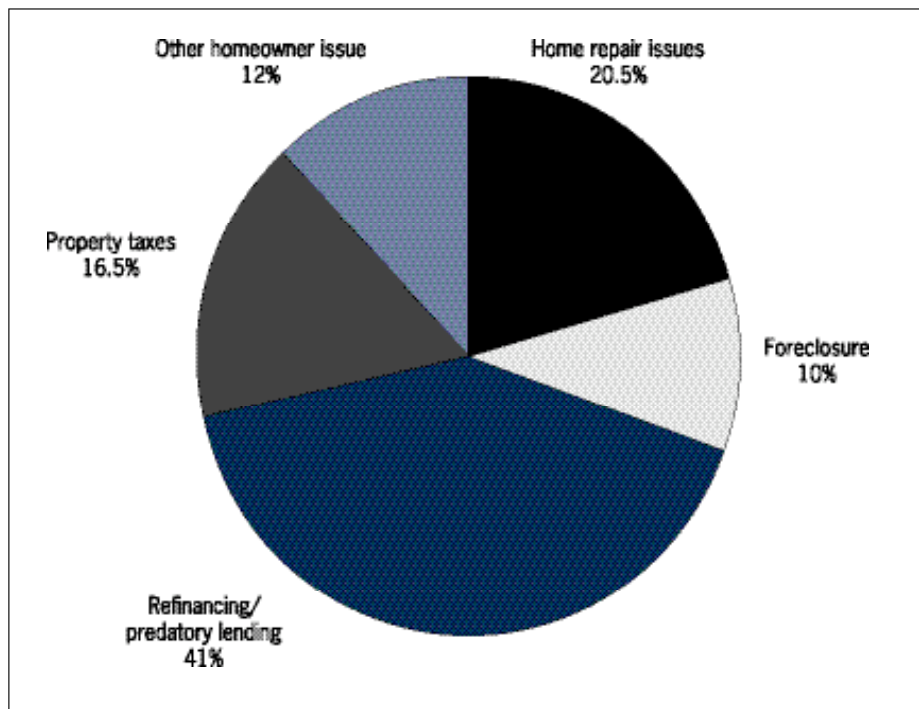
The telephone survey asked respondents whether they owned or rented their homes. The table below provides a breakdown of individual legal problems for all housing matters. The tables on the following pages provide breakdowns of individual legal problems for homeowners and renters, respectively.



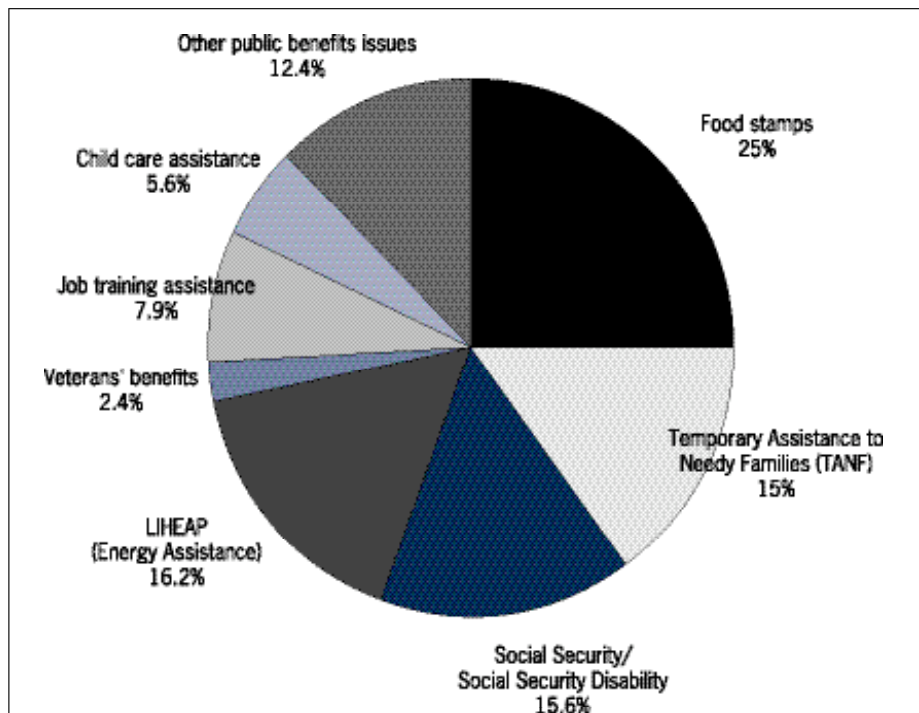
Rental Housing



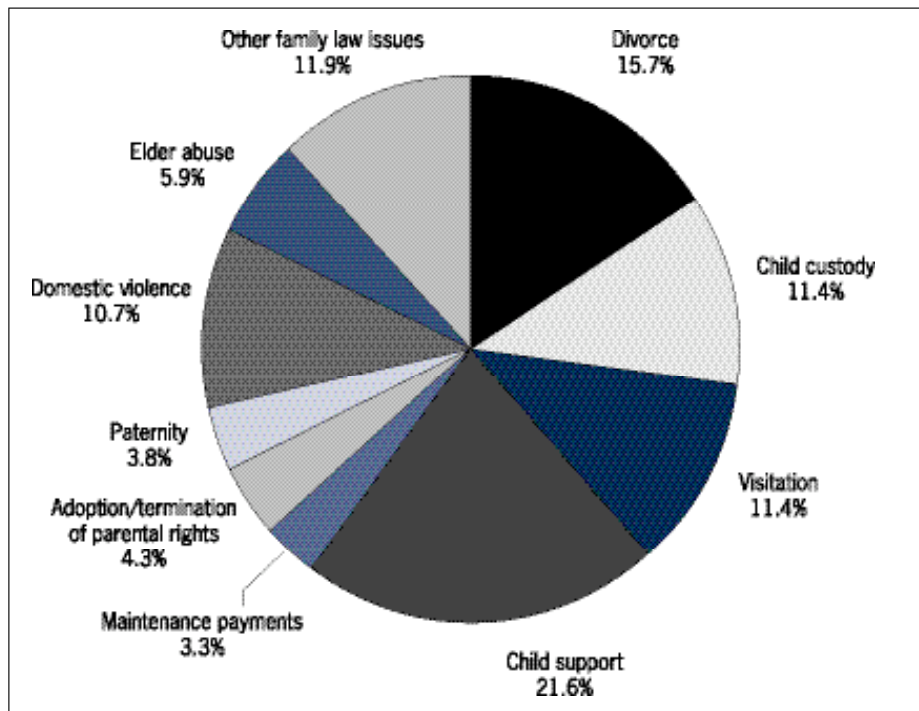
Legal Problems Facing Homeowners



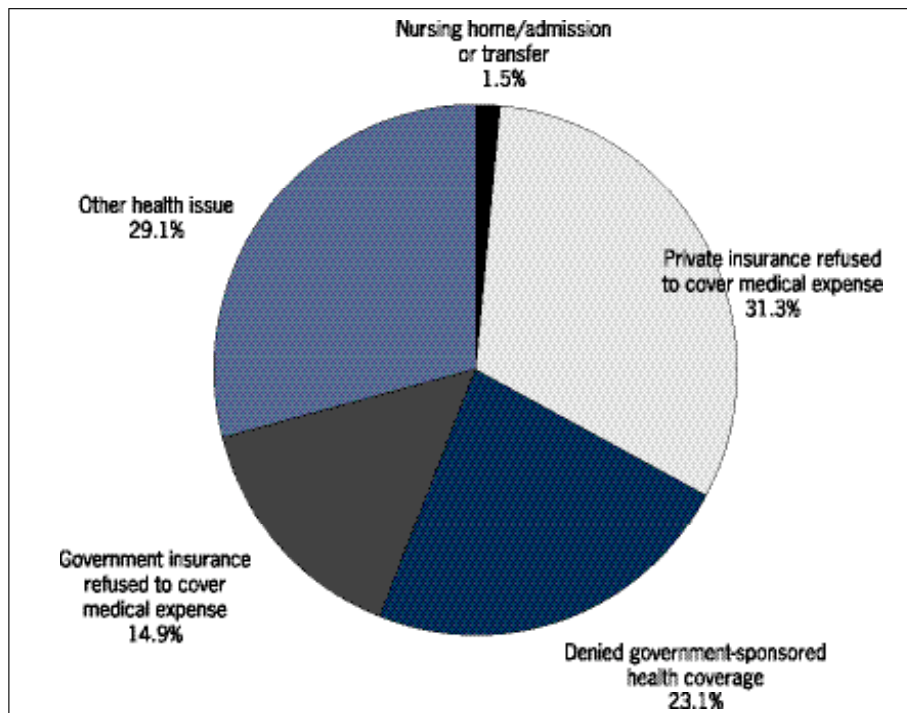
Public Benefits Issues



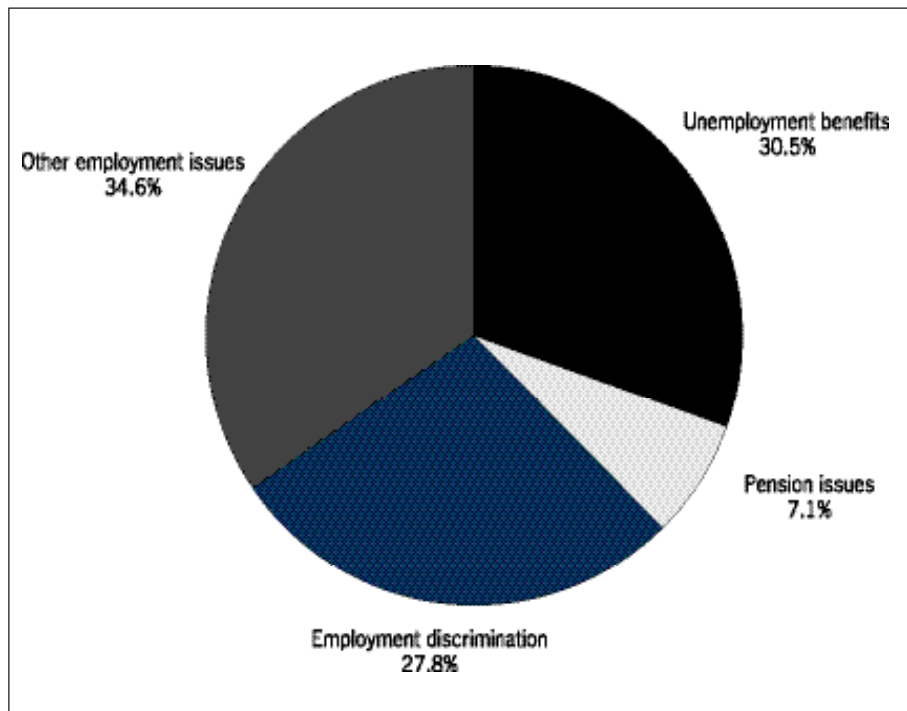
Family Law Issues



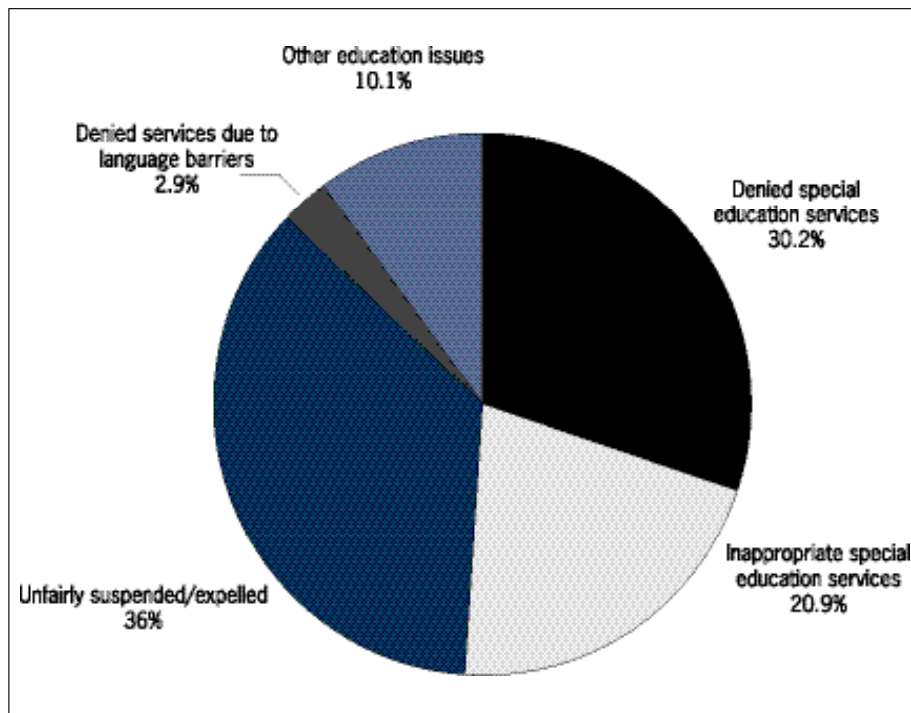
Health



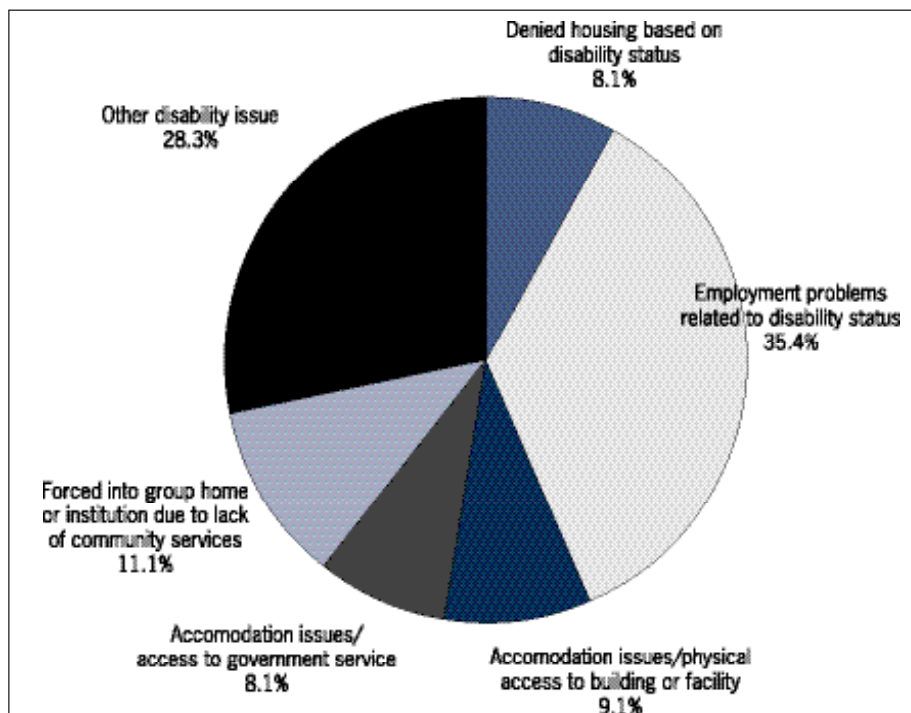
Employment



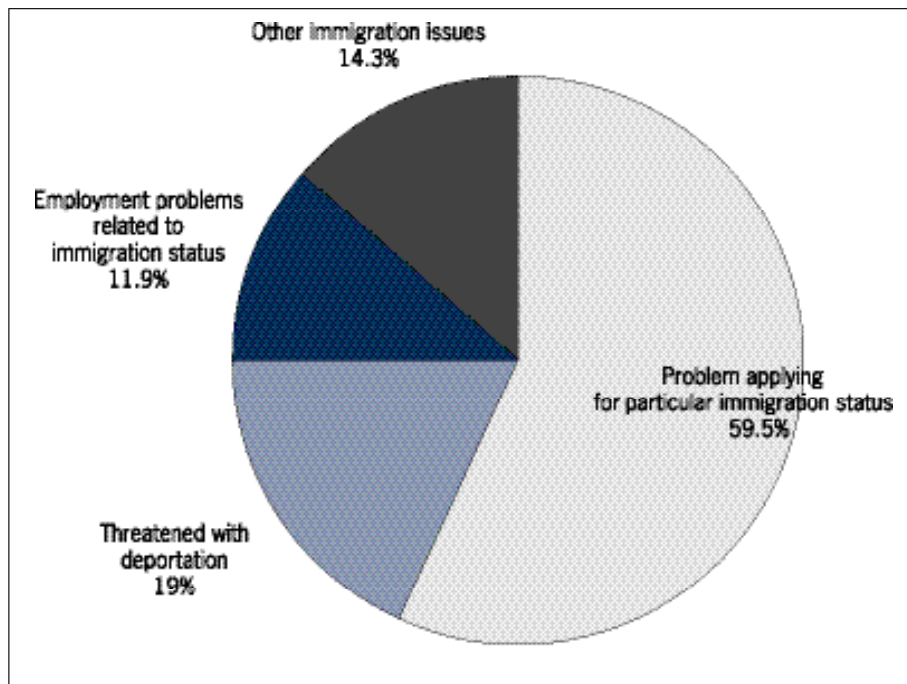
Education



Disability



Immigration



Response to Legal Problems

The survey examined what people did when they experienced a legal problem. For each problem identified in the telephone survey, the interviewer asked a series of follow-up questions to learn more about the responses to the problem. The information in this section is based upon the answers to these questions.

Self-Help Efforts

The most common response to the legal problems encountered by survey respondents was to attempt to resolve the problem without professional legal help. Respondents took steps to address the problem on their own more than twice as often (1,838) as they sought legal assistance (755).⁶ Applied to the entire low-income population of the state, this means that low-income Illinois residents attempted to resolve approximately 870,000 legal problems without legal help in 2003.

Households that had one or more problems but did not have legal assistance were asked: “Why didn’t you have a lawyer to help you with this problem?”

- ♦ One third (33%) said that they thought they could handle the problem on their own;
- ♦ Just over a quarter (26%) indicated that they thought hiring a lawyer would be too expensive;
- ♦ Almost one in ten (9%) made the assumption that a lawyer would not be able to help them resolve the problem.⁷

⁶The two responses (“attempted to resolve on own”; “sought legal help”) are not mutually exclusive. For each problem identified, the interviewer asked the survey respondent both questions. Therefore, it is possible that a person attempted to resolve a problem on their own after seeking legal help, or sought legal help after unsuccessfully attempting to resolve the problem on their own.

⁷This was an open-ended question, and the most common responses are reported here. The remaining responses did not fall into a readily identifiable category.



*“I didn’t think I needed a lawyer. I kept going in there
and thought eventually they’d have to listen to me.”*

These attitudinal barriers far outweighed logistical barriers. Only 2% of respondents said that they did not know how to find a lawyer. Transportation and language barriers were each cited by 1% of households.

Willingness to try to tackle a problem without a lawyer varied depending on the type of issue. As Table 4 shows, people were most likely to try to help themselves with problems involving education, housing and health-related issues, and least likely to try to resolve a problem on their own in the areas of immigration, tort defense and family law.

T4	Ratio - Tried to Resolve on Own : Sought Legal Help			
	Category	Ratio	Number of Problems Respondents Tried to Resolve on Own	Number of Problems For Which Respondents Sought Legal Help
1	Education	4.7 : 1	109	23
2	Housing	4.3 : 1	369	86
3	Health	3.9 : 1	187	48
4	Public Benefits	3.3 : 1	216	66
5	Disability	2.7 : 1	56	21
6	Consumer	2.5 : 1	391	156
7	Employment	2.1 : 1	153	72
8	Wills & Estates	1.6 : 1	42	27
9	Family	1.3 : 1	269	210
10	Tort Defense	1.2 : 1	27	22
11	Immigration	.8 : 1	19	24

It is not surprising that someone would attempt to negotiate their own solution when faced with an insurance company that refuses to pay a medical bill, a landlord who needs to restore heat to an apartment, or a school official who has suspended the person’s child. It would be impractical, unnecessary and perhaps even counterproductive to involve lawyers in every dispute of this type.

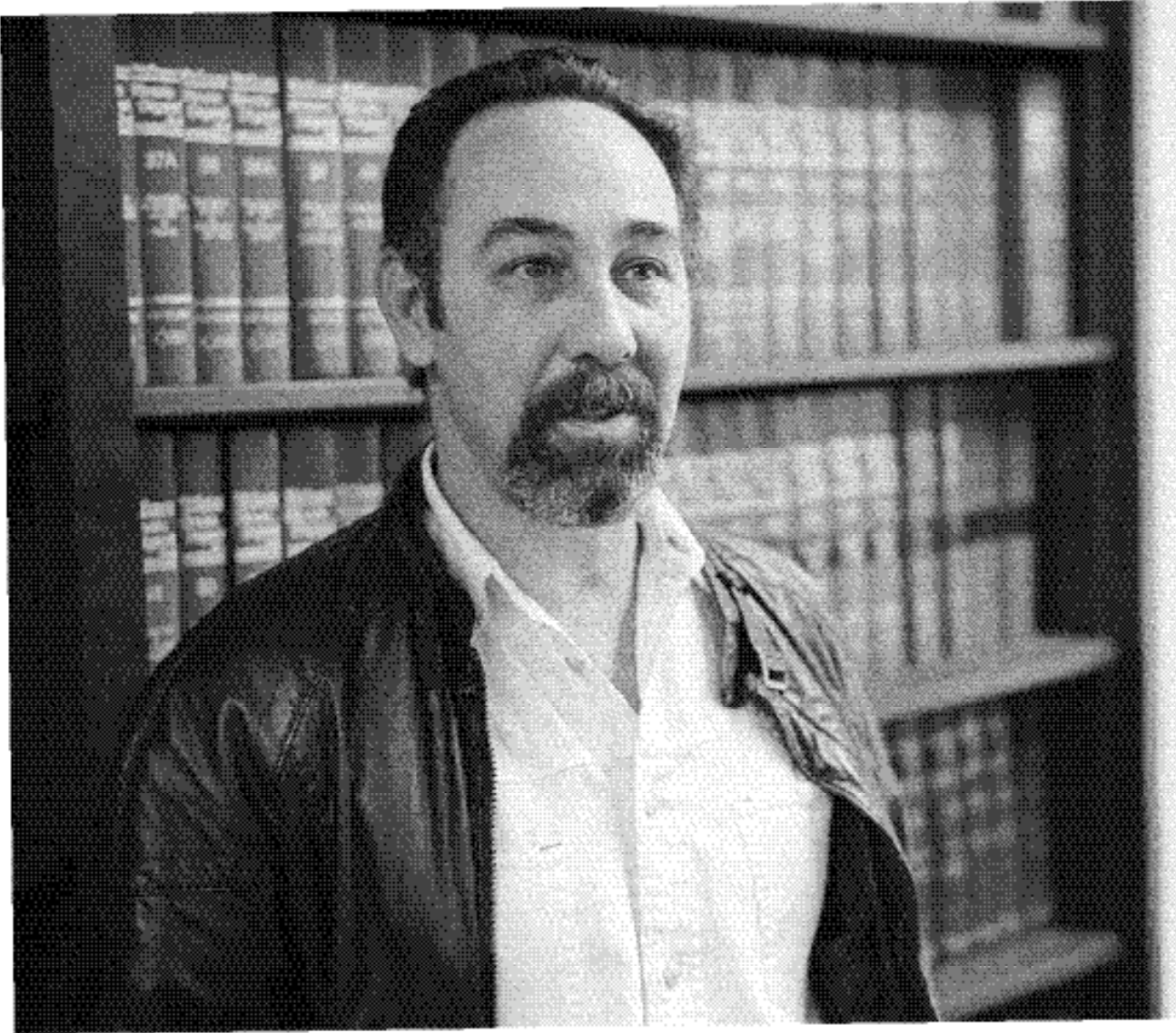
However, a closer examination of the individual legal problems people most frequently sought to resolve on their own (Table 5) reveals many legal issues with potentially devastating consequences. Parents whose children were denied special education services were their own advocates in nine out of ten cases, despite the fact that the laws governing access to special education are complex and the failure to receive proper services could have serious implications for a child’s future. Victims of domestic violence were their own advocates in over two-thirds of cases reported in the survey. People facing bankruptcy – a highly technical federal process – attempted to take matters into their own hands 50% of the time. Almost half of those seeking divorces sought to obtain one on their own.



*“Dealing with the landlord. It was not resolved. There is still mildew in the walls.
My property is damaged. My furniture is all mildewed up. I still may get a lawyer.”*

T5	Individual Problems That Households Tried to Resolve on Their Own⁸			
	Problem	Percentage Trying to Resolve On Own	Total number of Identified Problems in Survey	Number Trying to Resolve on Own
1	Unpaid/late property taxes	90.9	33	30
2	Denied access to special education services	90.5	42	38
3	Eviction	83.3	42	35
4	Purchased defective product or unsatisfactory service valued at \$400 or more	79.8	84	67
5	Private insurance refused to pay for covered medical expense	79.8	84	67
6	Unsatisfactory home repairs	78	41	32
7	Serious problem with condition of a rental unit	76.7	103	79
8	Problem applying for/receiving low-income energy assistance program (LIHEAP)	74.5	55	41
9	Child unfairly suspended or expelled from school	74	50	37
10	Return of security deposit	73.2	56	41
11	Sued or threatened with legal action by a creditor	73.1	219	160
12	Child visitation	70.8	48	34
13	Domestic violence	68.9	45	31
14	Problem applying for/receiving food stamps	64.7	85	55
15	Problem applying for/receiving TANF	64.7	51	33
16	Multiple refinancing of mortgage within past two years	63.5	52	33
17	Turned down for government-sponsored health insurance	62.9	62	32
18	Child custody	62.5	48	30
19	Problem applying for/receiving unemployment benefits	61.7	81	50
20	Child support	61.5	91	56
21	Repossession of a car or major appliance	58.6	70	41
22	Bankruptcy	50	62	31
23	Employment discrimination	48.6	74	36
24	Divorce	48.5	66	32

⁸This includes all problems reported 30 or more times.



Even in the more “routine” matters noted above, such as negotiating with an insurance company over a medical bill or talking to a landlord to get the heat turned on, there are cases where informal negotiations will fail and legal intervention will be the only means to obtaining a fair result.

The emergence of a “self-service” culture in the United States has changed the way people accomplish a range of tasks, from filling up their gas tanks to obtaining airline boarding passes. It is possible that this self-service culture has changed peoples’ expectations about dealing with their legal problems as well, making people more likely to try to resolve their legal problems without professional help.

The nature of many of the problems people tried to resolve without legal help, however, suggests that there are other forces at work – fear of the cost of hiring a lawyer, a limited understanding of the protections the law offers, limited awareness of the availability of free legal aid, and, in many cases, a failure to grasp the seriousness of the possible consequences and the complexity of potential solutions.

The result is that each year hundreds of thousands of low-income Illinois residents face potentially serious legal problems without the knowledge, resources or help they need to obtain a just resolution.

Seeking Legal Assistance

The telephone survey found that the majority of low-income Illinoisans did not seek assistance when confronted with a legal problem. Respondents tried to obtain legal assistance for just over a quarter (27%) of the legal problems they encountered in 2003.



“I had a roof put on and they did it all wrong, so when I discovered what they did wrong they still wanted to charge me for their mistakes, and to also fix it back.”

As noted in the previous section, people’s reluctance to seek legal help was based on the idea that they could resolve the issue themselves (33%), that legal assistance would be too expensive (26%), or that a lawyer would not be able to help (9%).

The lack of knowledge about the availability of legal aid may be another factor discouraging low-income people from seeking assistance. Each respondent in the survey was asked “Are you aware of any free civil legal aid services in your area?” Less than a quarter of persons (23%) indicated that they were aware of legal aid programs.⁹

When people were asked how they would find a lawyer if they needed one, the two most common responses were that they would “ask a friend, family member or acquaintance” (30.7%) or that they would “look in the telephone book” (30.7%). Despite legal aid programs’ traditional reliance on social service agencies and community groups as sources of client referrals, only 3.5% of respondents said that they would contact this type of group. Even fewer indicated that they would seek a referral from a bar association (2.5%) or search the Internet (1.1%).¹⁰

⁹When a similar question was asked as part of the 1989 *Illinois Legal Needs Study*, 43% of respondents indicated that they were aware of legal aid services. This indicates a 47% drop in awareness in the span of 15 years. In the 2004 survey, rates of awareness of legal aid were even lower among African-American (21%) and Latino (14%) respondents.

¹⁰This number is surprisingly low, given that almost half of the respondents (49.1%) said that they had access to the Internet, and 59% said that they had used the Internet.

The willingness and/or motivation to seek help varied based on the type of legal problem (**Table 8**). For example, people sought help for over half of all immigration-related problems, and for almost half of all family law problems. By contrast, people attempted to secure help for less than one in five problems in the categories of public benefits, health, housing and education.

T8	Percentage of Problems for Which Households Sought Help			
	Category	Percentage of Problems for Which Respondents Sought Help	Total Number of Identified Problems	Number of Problems for Which Respondents Sought Help
1	Immigration	54.5%	44	24
2	Family Law	47.7%	440	210
3	Wills & Estates	40.3%	67	27
4	Tort Defense	34.9%	63	22
5	Consumer	27.2%	574	156
6	Employment	27.1%	266	72
7	Disability	21.2%	99	21
8	Public Benefits	19.4%	340	66
9	Health	17.9%	268	48
10	Housing	17.2%	499	86
11	Education	16.5%	139	23

While Table 8 shows the likelihood of a person seeking help for each type of problem, **Table 9** offers a better understanding of the volume of problems for which people sought legal help.

T9	Number of Problems for Which Households Sought Help: By Category		
	Category	Number of Problems for Which Respondent Sought Help	Percentage of Total Problems for Which respondent Sought Help
1	Family	210	27.8
2	Consumer	156	20.8
3	Housing	86	11.4
4	Employment	72	9.5
5	Public Benefits	66	8.7
6	Health	48	6.4
7	Wills & Estates	27	3.6
8	Immigration	24	3.2
9	Education	23	3
10	Tort Defense	22	2.9
11	Disability	21	2.8
	Total	755	100%

The individual legal problems for which people were most likely to seek help are set forth in **Table 10**. Not surprisingly, four of these eleven issues involve critical family relationships (custody, divorce, child support, visitation), and the others have a direct impact on a household's economic viability.

T10 Percentage of Individual Problems for Which Households Sought Legal Help¹¹				
	Problem	Percentage Seeking Help	Total Number of Identified Problems	Number Seeking Help
1	Child custody	70.8	48	34
2	Bankruptcy	67.7	62	42
3	Divorce	60.6	66	40
4	Child Support	57.1	91	52
5	Sued for personal injury, auto or property damage	53.3	30	16
6	Problem applying for/receiving Social Security or Social Security Disability benefits	52.8	53	28
7	Child visitation	47.9	48	23
8	Repossession of a car or major appliance	28.6	70	20
9	Problem applying for or receiving unemployment benefits	27.2	81	22
10	Employment discrimination	21.6	74	16
11	Threatened with court action by a creditor	15.1	219	33

Going to Court

Almost one in five (18.6%) legal problems identified by survey respondents involved a court appearance.

The percentage of problems that involved an appearance in court or at an administrative hearing, either as a plaintiff or a defendant, varied by category (**Table 11**). Over a third of all family law problems necessitated a court hearing, along with almost a third of tort defense and immigration matters. On the other end of the scale, only one in eight public benefits problems, one in twelve health-related legal issues, and one in twenty disability-related issues involved a court appearance.

Not surprisingly, there is a very close correlation between the individual problems for which people had to go to court (**Table 12**) and those for which they sought legal help (see Table 10).



*"I had a newborn at the time and I was denied my Section 8 because I am a male.
I was told I would have to be a female to get Section 8 quicker.
My son's mother moved out of town and I was denied
because I am male, even though I am a single parent."*



“I had to live in a shelter for four and a half months. For my kids it was hell.”

T11 Likelihood of Going to Court in Response to a Legal Problem				
	Category	Percentage of Problems for Which Respondents Went to Court	Total Number of Identified Problems	Number of Problems for Which Respondents Went to Court
1	Family	37.3	440	164
2	Tort Defense	30.2	63	19
3	Immigration	29.5	44	13
4	Consumer	21.4	574	123
5	Wills & Estates	14.9	67	10
6	Employment	14.7	266	39
7	Education	12.9	139	18
8	Housing	12.2	499	61
9	Public Benefits	12.1	340	41
10	Health	8.2	268	22
11	Disability	5.1	99	5

T12 Likelihood of Going to Court for Individual Problems ¹²				
	Problem	Percentage Going to Court	Total Number of Identified Problems	Number Going to Court
1	Child Custody	68.8	48	33
2	Bankruptcy	59.7	62	37
3	Child support	49.5	91	45
4	Child visitation	43.8	48	21
5	Divorce	42.4	66	28
6	Sued for personal injury, auto or property damage	40	30	12
7	Repossession of a car or major appliance	31.4	70	22
8	Domestic violence	26.7	45	12
9	Unemployment benefits	24.7	81	20
10	Problem applying for or receiving Social Security/Social Security Disability	22.6	53	12
11	Threatened with legal action by a creditor	15.1	219	33

¹¹This includes problems reported 16 or more times.

¹²This includes problems reported 12 or more times.

Availability of Legal Assistance

Survey respondents received legal assistance to deal with one in six of the problems they encountered during 2003.¹³ When applied to the population of Illinois, this means that low-income households experienced just over 1.1 million legal problems for which they had no legal help.

T13	Unmet Legal Needs		
	Total Number of Identified Problems	Percentage of Problems for Which Respondents Received Legal Assistance	Number of Problems in Illinois Low-Income Population
Received legal assistance	459	16.4	218,227
Did not receive legal assistance	2,320	82.9	1,103,110
Refused/Don't know	20	.07	9,314
Total	2,799	100%	1,330,651

The total number of those who did not receive legal assistance includes persons who exclusively sought to resolve a problem on their own, and many who, for whatever reason, chose to take no action at all. Even for those who actively sought legal help, the findings underscore the fact that the current legal aid system is not capable of meeting the needs of low-income individuals and the families:

- ♦ A large percentage of people (37.5%) who sought legal assistance were unable to obtain it, either from a legal aid program or from the private legal market;
- ♦ Over a third (34.2%) of those who sought help had to pay for the legal assistance they received, despite their limited incomes;
- ♦ Only 26% of those who sought help were able to obtain free legal assistance.

Unmet Legal Needs

The highest numbers of unmet legal needs among survey respondents fell into the same four categories as the total number of legal problems. Of the 2,320 legal problems reported in the survey for which people did not receive assistance, almost two-thirds (65.1%) were divided among the consumer, housing, public benefits and family law categories (Table 14). These same four categories were responsible for 66.1% of the total legal problems reported in the survey (Table 2).

The only difference between the rankings of the total number of problems by category and the rankings of the number of unmet legal needs is that in the latter, public benefits moved into third place ahead of family law problems. This is because the percentage of unmet needs in the public benefits area was higher (87.1%) than the percentage of unmet family law needs (65.9%). The rankings of all the other categories remained the same.

¹³Of the 2,799 problems identified by telephone survey respondents, people obtained legal help in 459 cases, or 16.4% of the total.

T14	Number of Problems for Which Households Did Not Have Legal Assistance		
	Category	Number of Problems - No Legal Help	Percentage of Total Unmet Legal Needs
1	Consumer	476	20.5
2	Housing	447	19.3
3	Public Benefits	296	12.8
4	Family	290	12.5
5	Health	240	10.3
6	Employment	234	10.1
7	Education	128	5.5
8	Disability	87	3.7
9	Wills & Estates	49	2.1
10	Tort Defense	46	2
11	Immigration	27	1.2
	Total	2,320	100%

Low-income households did not have legal help for 82.9% of all legal problems they encountered in 2003 (see Table 13, above). The likelihood that a person would not have legal help for a problem varied by category, ranging from a high of 92.1% in the education category to a low of 61.4% for problems related to immigration (Table 15). It is worth noting that the even in the category with the next-to-lowest likelihood of a need being unmet (family law), people did not have assistance for almost two-thirds (65.9%) of their legal problems.

T15	Likelihood of A Legal Need Being Unmet: By Category			
	Category	Percentage of Problems - No Legal Help	Total number of Identified Problems	Number of Problems - No Legal Help
1	Education	92.1	139	128
2	Housing	89.6	499	447
3	Health	89.6	268	240
4	Employment	88	266	234
5	Disability	87.9	99	87
6	Public Benefits	87.1	340	296
7	Consumer	82.9	574	476
8	Wills & Estates	73.1	67	49
9	Tort Defense	73	63	46
10	Family	65.9	440	290
11	Immigration	61.4	44	27



The likelihood that members of a household did not have legal assistance for individual problems varied by legal issue, as demonstrated by **Table 16**. For example, the survey found that 56 households faced a problem getting a security deposit on a rental unit returned. Only one of those households had legal assistance – meaning that 98.2% did not. For those seeking a divorce, only 30 out of 66 (45.5%) were able to get legal assistance.

Paying for Legal Assistance

More than half (56.2%) of the survey respondents who received legal help to address a problem during 2003 had to pay for that assistance. This is true despite the fact that the survey was limited to households earning less than 150% of the federal poverty guidelines (approximately \$27,600 for a four-person household), and even a comparatively small legal fee would have the potential to impose serious financial hardships on these already struggling families.

This finding indicates that the private legal market plays a significant role in addressing the legal needs of the poor. It also raises many questions that cannot be answered based on the telephone survey data: Are these low-income clients obtaining reduced-rate services from attorneys in private practice? If so, how much are they paying? Are their satisfaction rates similar to those of clients paying market rates? Are they being served by a wide cross-section of the bar, or by a small number of lawyers in each market who specialize in certain types of cases (e.g., bankruptcy, divorce, Social Security) or who target their services to a certain segment of the population? What financial sacrifices are these households making to cover their legal expenses?

Low-income people were most likely to pay for help with problems in the immigration category (**Table 17**). This can be explained by the fact that even most not-for-profit agencies that provide legal assistance in the immigration area charge at least nominal fees for their services. The second highest-ranking category of problems, tort defense, is not an area of law in which most legal aid programs accept cases.

T17	Likelihood That Households Paid for the Legal Help Received			
	Category	Percentage of Problems for Which Respondents Paid for Help	Number of Problems for Which Respondents Received Help	Number of Problems for Which Respondents Paid for Help
1	Immigration	88.2	17	15
2	Tort Defense	76.5	17	13
3	Consumer	71.7	92	66
4	Wills & Estates	64.7	17	11
5	Family	63.3	150	95
6	Health	48	25	12
7	Housing	39.6	48	19
8	Public Benefits	31.7	41	13
9	Employment	28.1	32	9
10	Education	27.3	11	3
11	Disability	22.2	9	2

T16	Likelihood that Households Did Not Have Legal Help for Individual Problems¹⁴			
	Problem	Percentage of Problems - No Legal Help	Total number of Identified Problems	Number of Problems - No Legal Help
1	Late/unpaid property taxes	100	33	33
2	Return of security deposit	98.2	56	55
3	Government-sponsored health insurance program would not pay for a covered medical expense	97.5	40	39
4	Purchase of unsatisfactory product/service (<\$400)	96.4	84	81
5	Private health insurance refused to pay for covered expense	96.4	84	81
6	Problem applying for/receiving TANF	96.1	51	49
7	Problem applying for/receiving Food Stamps	95.3	85	81
8	Turned down for government-sponsored health insurance program	93.5	62	58
9	Sued or threatened with legal action by a creditor	93.2	219	204
10	Employment discrimination	91.9	74	68
11	Serious problem with condition of a rental unit	90.3	103	93
12	Child suspended or expelled unfairly	90	50	45
13	Evicted or threatened with eviction from rental unit	88.1	42	37
14	Denied access to special education services	88.1	42	37
15	Defective home repairs or improvements	87.8	41	36
16	Problem applying for/receiving low-income energy assistance program (LIHEAP)	87.3	55	48
17	Problem applying for/receiving unemployment benefits	85.2	81	69
18	Multiple refinancing of mortgage within past two years	84.6	52	44
19	Repossession of a car or major appliance	84.3	70	59
20	Domestic violence	82.2	45	39
21	Child visitation	64.6	48	31
22	Problem applying for/receiving Social Security/Social Security Disability Insurance	64.2	53	34
23	Child support	63.7	91	58
24	Divorce	54.5	66	36

¹⁴This includes problems that were reported 30 or more times.

In terms of volume, the vast majority of cases for which people paid for legal assistance fell into the categories of family (95) and consumer (66) law. Together these two categories accounted for 62.4% of the total. In the family law category, people paid for legal assistance to deal with problems involving divorce, child custody, child support and child visitation. In the consumer category, more than half of the cases involved bankruptcy (Table 18).

T18	Individual Problems - Most Likely to Pay for Legal Help ¹⁵			
	Category	Percentage of Problems for Which Respondents Paid for Help	Number of Problems for Which Respondents Received Help	Number of Problems for Which Respondents Paid for Help
1	Bankruptcy	97.1	35	34
2	Divorce	86.1	30	26
3	Sued for personal injury, auto or property damage	78.6	14	11
4	Child custody	73.3	30	22
5	Threatened with legal action by a creditor	73.3	15	11
6	Child visitation	64.7	17	11
7	Will or estate of a deceased person	58.3	12	7
8	Child support	51.5	33	17
9	Social Security/Social Security Disability	47.4	19	9
10	Unemployment benefits	25	12	3

Free Legal Assistance

Low-income households surveyed reported that they received free legal assistance for approximately one out of every fourteen legal problems encountered during 2003. The total number of problems for which respondents received free legal assistance (196) represents well under half (42.7%) of all the total problems for which they received legal help.

It is important to note that the survey did not ask respondents if they had been helped by one of the not-for-profit legal aid organizations that comprise what is generally referred to as “the legal aid system.” The free help referenced here could have come from a number of sources, including a friend or relative who is an attorney. However, based on the number of cases reported by legal aid programs in Illinois, it is fair to assume that in the vast majority of cases the assistance was provided by a not-for-profit legal aid organization.

Households were most like to receive free legal assistance in the education and employment categories, and any help received was least likely to be free in the tort defense and immigration areas, for reasons noted above (Table 19).



“We filed bankruptcy. The mortgage was sold without our knowledge. The insurance was cancelled and the taxes were not paid. We were hit with fees we did not expect...”

¹⁵Based on questions for which for which 12 or more respondent households paid for legal help.

T19	Likelihood that Households Did Not Pay for the Legal Help Received			
	Category	Percentage of Problems for Which Respondents Did Not Pay for Help	Number of Problems for Which Respondents Received Legal Help	Number of Problems for Which Respondents Did Not Pay for Help
1	Disability	77.8	9	7
2	Education	72.7	11	8
3	Employment	71.9	32	23
4	Public Benefits	68.3	41	28
5	Housing	60.4	48	29
6	Health	52	25	13
7	Family	36.7	150	55
8	Wills & Estates	35.3	17	6
9	Consumer	28.3	92	26
10	Tort Defense	23.5	17	4
11	Immigration	11.8	17	2

While a household that received legal assistance with a family law problem received it for free only about a third of the time (35.3%), family law problems were still the legal issues for which people most frequently received free services, accounting for 27% of the total (Table 20).

T20	Problems for Which Households Did Not Pay for Legal Assistance: By Category		
	Category	Number of Problems for Which Respondents Did Not Pay for Legal Assistance	Percentage of Problems for Which Respondents Did Not Pay for Legal Assistance
1	Family	53	27
2	Consumer	28	14.3
3	Housing	28	14.3
4	Public Benefits	28	14.3
5	Employment	23	11.7
6	Health	10	5.1
7	Education	8	4.1
8	Wills & Estates	7	3.6
9	Disability	5	2.6
10	Tort Defense	4	2
11	Immigration	2	1
	Total	196	100%

Despite the earlier disclaimer that the number of problems for which households received free legal assistance is defined more broadly than “problems for which households received services from a legal aid organization,” there is some correlation between the two. It is worth noting that the top four categories in Table 20 (family, consumer, housing, public benefits) account for 69.6% of the total problems resolved with free services. Based on reports from legal aid programs, these four categories made up 75.8% of the caseloads for all legal aid provider agencies in 2003.

Providers of free legal assistance were responsible for all of the cases in which people received legal help for three problems: rental conditions, energy assistance benefits and special education services (Table 21). The leading problem in terms of volume of free legal services was child support (16), followed by rental conditions (10), Social Security (10) and unemployment benefits (9).

T21 Top Individual Problems for Which Households Were Most Likely to Receive Free Legal Help¹⁶				
	Problem	Percentage of Problems for Which Respondents Did Not Pay for Help	Number of Problems for Which Respondents Received Help	Number of Problems for Which Respondents Did Not Pay for Help
1	Serious problem with conditions of a rental unit	100	10	10
2	Problem applying for/receiving low-income energy assistance (LIHEAP)	100	7	7
3	Denied access to special education services	100	5	5
4	Problem with establishing paternity of a child	85.7	7	6
5	Employment discrimination	83.3	6	5
6	Problem applying for/receiving unemployment benefits	75	12	9
7	Problem applying for/receiving Social Security/Social Security Disability	52.6	19	10
8	Child support	48.5	33	16
9	Will or estate of a deceased person	41.7	12	5
10	Sued or threatened with legal action by a creditor	33.3	15	5
11	Child custody	26.7	30	8

Effects of Key Variables on the Telephone Survey Results

The following section examines the effects on legal needs of factors such as race and ethnicity, region of residence, age, and disability status.

Impact of Race/Ethnicity

Each of the 1,645 households that participated in the survey was asked to identify their race or ethnicity from one of four categories: African American, Latino, white, or other race/ethnicity. The “other race/ethnicity” category included those who identified themselves as Asian American, Native American, those who chose multiple categories, and all others. These groups were put into one category because none of the sub-categories included enough respondents to create statistically valid results.

African-American households were the most likely to experience at least one legal problem in 2003 (Table 22). African-American households were 21% more likely to have a legal problem than the survey sample average, and Latino households were 5% more likely than average to face a legal problem. White households were 13% less likely than average to have a legal problem.

T22	Percentage of Households With Legal Problems
Race/Ethnicity	Percentage of Households
African American	59.2
Latino	51.3
White	42.5
Other races/ethnicities	51.3
All	49%

The number of problems per household for each racial/ethnic group ranged from a low of 1.4 for white households to a high of 2.3 for African-American households (Table 23). Latino households reported the same number of problems per household (1.7) as the average for the entire survey sample. Among households that experienced at least one legal problem during 2003, African Americans had an average of 3.9 problems, Latinos had 3.5 problems and white households reported 3.3 problems.

T23	Problems Per Household	
Race/Ethnicity	Average Number of Problems per Household - All Households	Average Number of Problems per Household - Households with 1+ Problems
African American	2.3	3.9
Latino	1.7	3.3
White	1.4	3.2
Other	1.8	3.5
All	1.7	3.5

White households reported the largest number of legal problems, followed closely by African-American households (Table 24). When applied to the general low-income population this means that white households experienced just over half a million legal problems in 2003, and African-American households reported slightly under half a million problems.



“I really had a problem with my landlord, because the apartment that I lived in had really fallen apart. I had holes in every wall because of busted pipes. My apartment was full of rats and roaches. I couldn’t solve the problem legally, so I just moved...”

¹⁶Based on questions for which five or more respondent households received free legal help.



T24	Number of Legal Problems By Race/Ethnicity		
Race/Ethnicity	Total Number of Identified Problems	Number of Problems in Illinois Low-Income Population	Percentage of Identified Problems
African American	1,036	492,517	37
Latino	472	224,390	16.9
White	1,131	537,680	40.4
Other	160	76,064	5.7
All	2,799	1,330,651	100%

The percentage of legal problems for which households did not have legal assistance varied from a high of 88.7% for African-American households to a low of 74.4% for households in the “other race/ethnicity” category (Table 25). African-American households had legal assistance for one out of nine legal problems encountered in 2003. Latino households had legal assistance for one out of six problems. White households had legal assistance for one out of five problems.

T25	Unmet Legal Needs By Race/Ethnicity		
Race/Ethnicity	Number of Problems for Which Households Did Not Have Legal Assistance	Total Number of Identified Problems	Percentage of Unmet Legal Needs
African American	919	1,036	88.7
Latino	391	472	82.8
White	911	1,131	80.5
Other	119	160	74.4
Total	2,340	2,799	83.6%¹⁷

The types of legal problems experienced by low-income households also varied by race/ethnicity (Table 26). While consumer and housing ranked first and second, respectively, for African-American, Latino and white households, family law issues ranked third for both Latino and white households, while public benefits issues ranked third for African Americans.



*“We moved in three months ago and my heat and gas are included in my rent.
A week ago it was turned off for non-payment of \$1,500.”*

¹⁷The actual figure for unmet legal needs is 82.9%, as .7% of those surveyed either refused to answer or said that they did not know if they had received legal help.

T26	Percentage of Households Experiencing A Legal Problem					
	African American	% of HH	Latino	% of HH	White	% of HH
1	Consumer	33	Consumer	22.9	Consumer	18.9
2	Housing	26	Housing	16.4	Housing	17.5
3	Public Benefits	21.6	Family	14.4	Family	14.7
4	Family	19.5	Education	12.4	Health	11.5
5	Employment	18.8	Health	10.2	Public Benefits	10.3
6	Health	13	Employment	9.6	Employment	10
7	Education	9.7	Immigration	9.5	Disability	4.5
8	Tort Defense	5.2	Public Benefits	9.2	Wills & Estates	2.8
9	Wills & Estates	4.8	Tort Defense	4.5	Education	2.7
10	Disability	4.7	Wills & Estates	2.8	Tort Defense	1.6
11	Immigration	.2	Disability	2.5	Immigration	.8

Another key difference involved immigration issues, which affected 9.5% of Latino households, but were experienced by less than 1% of white (0.8%) and African-American (0.2%) households in the survey.

When asked about the availability of free legal services, just under a quarter (23%) of all households indicated that they were aware of a legal aid program in their area. However, white households were 50% more likely to be aware of legal aid services than African-American households, and twice as likely as Latino households to be aware of free legal services in their area (Table 27).

T27	Awareness of Free Legal Services			
	African American	Latino	White	ALL
Aware	21%	14%	28%	23%
Not Aware	79%	83%	71%	76%
Refused/Don't Know	-	3%	1%	1%

Impact of Geographic Region

The survey respondents were grouped into four geographic regions for the purposes of analysis: Cook County; the five suburban “collar counties” (Lake, McHenry, Kane, DuPage, Will); 14 “downstate urban” counties with populations higher than 80,000;¹⁸ and 82 rural counties with populations of less than 80,000.

Households in rural areas were the most likely (52.7%) to have experienced one or more legal problems during 2003, compared to an average of 49% for households statewide. Households in the suburban collar counties were the least likely to encounter a legal problem (45.2%) (Table 28).

¹⁸Champaign, DeKalb, Kankakee, LaSalle, McLean, Macon, Madison, Peoria, Rock Island, St. Clair, Sangamon, Tazewell, Vermillion and Winnebago.

T28	Percentage of Households with Legal Problems
Region	Percentage of Households
Cook County	50
Collar Counties	45.2
Downstate Urban	48.6
Rural	52.7
All	49%

The number of problems per low-income household ranged from 1.5 for collar-county households to 1.9 for households in rural areas (Table 29). For those households that experienced at least one legal problem, the lowest number of problems per household was in Cook County (3.3), and the highest was in the downstate urban counties (3.6).

T29	Problems Per Household: By Region	
Region	Number of Problems per Household - All Households	Number of Problems per Household - HH with at Least 1 Problem
Cook County	1.7	3.3
Collar Counties	1.5	3.4
Downstate Urban	1.8	3.6
Rural	1.9	3.5
All	1.7	3.5

Given its very large low-income population, it is not surprising that households in Cook County were responsible for over half (51.8%) of the total legal problems reported in the survey (Table 30). Cook County households faced more than twice the number of legal problems experienced by households in rural areas, the region with the next highest total.

T30	Number of Legal Problems: By Region		
Region	Total Number of Identified Problems	Number of Problems in Illinois Low-Income Population	Percentage of Identified Problems
Cook County	1,449	688,858	51.8
Collar Counties	223	106,015	8
Downstate Urban	556	264,324	19.9
Rural	568	270,029	20.3
Total	2,796¹⁹	1,329,226	100%

¹⁹The total number of identified problems in Table 30 is slightly lower than the corresponding total in Table 24. This is due to a slight variation in weights, and does not affect the validity of the percentages reported in this table.

While rural households were the most likely to experience a legal problem (See Table 28), they were also slightly more likely to get legal help (Table 31). Rural households did not have legal help for 81.9% of the problems they encountered in 2003, which is slightly lower than the average rate of unmet legal needs for households statewide (83.4%).

T31	Unmet Legal Needs By Region		
Race/Ethnicity	Number of Problems for Which Households Did Not Have Legal Assistance	Total Number of Identified Problems	Percentage of Unmet Legal Needs
Cook County	1,217	1,449	84
Collar Counties	187	223	83.9
Downstate Urban	462	556	83.1
Rural	465	568	81.9
Total	2,331²⁰	2,796	83.4%

Legal problems in the consumer, housing and family law categories were – in that order – the top three problems across all four regions of the state (Table 32), ranked by the percentage of households experiencing that type of problem. Fourth place was occupied by public benefits cases in Cook County, employment matters in the collar counties, and health law issues in both the downstate urban and rural areas of the state.

Immigration issues were much more frequently encountered by households in Cook County (4.1%) than in the other three regions, where immigration-related matters made up less than 1% of reported legal problems.

T32	Percentage of Households That Experienced Legal Problems: By Region							
	Cook County	% of HH	Collar Counties	% of HH	Downstate Urban	% of HH	Rural	% of HH
1	Consumer	22.8	Consumer	19.7	Consumer	23.9	Consumer	25.4
2	Housing	20.1	Housing	18.2	Housing	20.6	Housing	21.2
3	Family	14.3	Family	13.3	Family	17.1	Family	19.7
4	Public Benefits	14.3	Employment	13.1	Health	12.4	Health	15.4
5	Employment	13.4	Health	12.6	Public Benefits	11.5	Public Benefits	14.9
6	Health	10.2	Public Benefits	9.6	Employment	10.4	Employment	11.2
7	Education	7.5	Education	6.2	Wills & Estates	5.2	Disability	4.9
8	Tort Defense	4.2	Disability	5.5	Education	5.1	Education	4.2
9	Immigration	4.1	Wills & Estates	1.9	Tort Defense	3.1	Wills & estates	2.6
10	Disability	3.1	Tort Defense	.9	Disability	1.9	Tort Defense	2.3
11	Wills & Estates	2.9	Immigration	0	Immigration	.3	Immigration	.3

²⁰The total number of problems for which households did not have legal assistance is slightly lower than the corresponding total in Table 25. This is due to a slight variation in weights, and does not affect the validity of the percentages reported in this table.

Awareness of free legal services was significantly higher outside of the metropolitan Chicago area (Table 33). Almost a third of households in downstate urban counties reported that they knew about free legal services in their area,²¹ as did over a quarter of households in rural areas. Awareness in both Cook County and the collar counties were below the statewide average.

T33	Awareness of Free Legal Services: By Region				
	Cook County	Collar Counties	Downstate Urban	Rural	ALL
Aware	19%	22%	31%	27%	23%
Not Aware	80%	76%	67%	72%	76%
Refused/Don't Know	1%	2%	2%	1%	1%

Age & Disability Status

Survey respondents were also asked whether the household included one or more persons with a disability²² or a person over 65 years of age.

People with Disabilities

Almost three-quarters (73.9%) of households that included at least one person with a disability experienced a legal problem during 2003, which means that these households were 50% more likely to have a legal problem than the sample as a whole (49%).

Almost a third (32.9%) of the total problems reported in the survey originated with households that included at least one person with a disability, yielding an average number of problems per household of 3.6. This figure is more than twice the average for the entire survey sample (1.7).

Households that include at least one person with a disability received legal assistance for 115 of the 921 problems encountered during 2003. The percentage of unmet legal needs was 87.5%, compared to 82.9% for the all survey respondents. In other words, households including a person with a disability received legal assistance for one out of eight legal problems, compared to one out of every six legal problems for all survey respondents.

The most common legal problems experienced by low-income households including a person with a disability were the same four issues – consumer, family law, housing and public benefits – affecting the survey sample as a whole (Table 34). The major difference is that disability-related issues ranked eighth for the general population, affecting 4.1% of households. For households that included a person with a disability, disability-related issues ranked fifth, affecting more than a quarter (25.9%) of all households.

²¹One possible explanation for this is that there are branch offices of legal services programs based in 11 of the 14 counties designated as “downstate urban”: Champaign, Kankakee, LaSalle, McLean, Macon, Madison, Peoria, Rock Island, St. Clair, Sangamon, and Winnebago.

²²A disability was defined in the survey questionnaire as “a physical, mental or emotional condition, learning difficulties, or chronic health condition that affects [a person’s] ability to independently complete tasks in their daily lives.”

T34	Percentage of Households with Legal Problems: By Category	
	People with Disabilities	Percentage of Households
1	Consumer	38.7
2	Family	32.5
3	Housing	29.5
4	Public Benefits	28.2
5	Disability	25.9
6	Health	25.2
7	Employment	22.2
8	Education	12.4
9	Wills & Estates	7.5
10	Tort Defense	6.7
11	Immigration	1.5

People with disabilities had the highest level of awareness of the free legal services of any sub-group analyzed in the report (33%), compared to a statewide average of 23%.

People 65 or Older

Despite the fact that many people who have disabilities are elderly, and vice versa, households that included one or more persons age 65 or older were the least likely to experience a legal problem. Just over a third (35.5%) of households with an elderly member reported one or more legal problems in 2003, which is significantly lower than the average for the population as a whole (49%).

Households including one or more persons age 65 or older encountered a total of 385 legal problems, or 13.8% of all the problems reported in the survey. The number of problems per household for this group was less than one (0.92), compared to an average of 1.7.

Households with a person 65 years old or older were able to obtain legal assistance for 67 of the 385 problems they experienced in 2003, making the percentage of unmet legal needs (82.6%) essentially the same as the overall figure of 82.9%.

The legal problems most likely to be experienced by households including at least one person age 65 or older were the same four problems – consumer, housing, public benefits and family law – experienced by the survey sample as a whole (**Table 35**). Despite the common assumption that most people 65 or older are retired, employment issues were tied with family law issues for fifth place in the rankings, affecting 8% of households. Surprisingly, in light of the demographic overlap between the elderly and people with disabilities, only 1.9% of households including a person age 65 or older reported that they had experienced a disability-related legal problem.

For older households, the level of awareness of free legal services was 23%, exactly the same as the percentage for the general population.

T35	Percentage of Households with Legal Problems: By Category	
	Persons 65+	Percentage of Households
1	Consumer	15.4
2	Housing	10.6
3	Public Benefits	9.6
4	Family	8
5	Employment	8
6	Health	7.9
7	Education	4.1
8	Wills & Estates	2.4
9	Disability	1.9
10	Tort Defense	1.5
11	Immigration	1.2

III. CIVIL LEGAL ASSISTANCE IN ILLINOIS

Low-income Illinoisans get legal help from a variety of sources. The two most prominent sources of legal assistance are not-for-profit legal aid programs and attorneys in private practice. Other potential sources of assistance include government agencies, law school clinics, advocacy organizations, community groups and web sites that offer legal information.

Despite all of these options, the telephone survey reveals a dramatic shortfall in the availability of legal assistance. This raises a critical question: Who is ultimately responsible for ensuring that low-income persons have meaningful access to the protections of the legal system?

It is important to note at the outset that unlike in criminal matters, there is no right to free counsel in civil cases. This is true despite the fact that the potential consequences of many civil legal problems – the loss of custody of a child, the denial of benefits to cover life-saving medical care, the loss of a home to foreclosure, deportation to a war-torn country – are as grave as the penalties for some criminal offenses.

There is also a common misconception that legal aid is a service provided by the federal government. In fact, the federal Legal Services Corporation (LSC) provides less than a third of the total funding for legal aid in Illinois. This funding is divided among three not-for-profit organizations that serve distinct geographic areas of the state: Land of Lincoln Legal Assistance Foundation, the Legal Assistance Foundation of Metropolitan Chicago and Prairie State Legal Services. While these three groups are partially funded by the federal Legal Services Corporation, they are autonomous, Illinois-based not-for-profit organizations, and are responsible for raising the majority of their revenues from sources other than the federal government.

The legal aid system is essentially a loosely connected network of not-for-profit organizations that share the same general mission: ensuring that low-income Illinoisans have access to the rights and protections of the legal system. These organizations are each governed by a board of directors, and face the challenge of raising sufficient funds to carry out their respective missions with few, if any, guaranteed sources of financial support.

The legal aid system in Illinois is very American in character – pragmatic, innovative and more reliant on the leadership, contributions and sacrifices of individuals than support and direction from the public sector. The system is a “public/private partnership,” with financial contributions coming from the federal government, the state of Illinois, private philanthropic organizations, corporations, law firms and individual attorneys. Legal aid services are provided by both paid staff members and volunteers.

This diffusion of responsibility has both advantages and disadvantages. On the positive side, shared responsibility makes the legal aid system flexible, independent and entrepreneurial. On the negative side, shared responsibility means that no institution in our society – the government, the courts, the private bar – can be called to account for a woefully inadequate and under-funded legal aid system.

Who is ultimately responsible for ensuring that low-income persons have meaningful access to the protections of the legal system? As a practical matter, this important responsibility lies with the legal aid organizations themselves.

Cassie

Cassie is 75 years old, frail and suffers from a mental illness. She has lived in her Brookfield home for almost 50 years. Cassie entered into a \$52,000 adjustable rate mortgage that contained exorbitant costs that were improperly disclosed. The high monthly payments put Cassie at risk of losing her only significant asset, her home.

Legal aid attorneys sent letters to the original lender and the current holder of the mortgage, alleging violations of the Truth in Lending Act and the Home Ownership Equity Protection Act.

The original lender agreed to settle the matter by contributing almost \$20,000 to pay off the loan. The legal aid attorneys also assisted Cassie in getting a reverse mortgage, which allowed her to pay off the principal amount that she had received and obtain money for needed home repairs.

Source:

Legal Assistance Foundation
of Metropolitan Chicago

The Illinois Legal Aid System in 2003

Overview of Legal Aid Organizations¹

The universe of individuals and entities that play a role in protecting the legal rights of low-income Illinois residents includes private lawyers, government agencies and a vast array of not-for-profit organizations. The latter category includes advocacy groups that work on policy issues affecting large numbers of low-income people, law school legal clinics and community and social service organizations.²

This study uses the term “legal aid system,” to refer to 23 not-for-profit organizations that provide the vast majority of direct legal assistance to low-income individuals in civil legal matters. All of the data in this section is based on information provided by the following 23 organizations:³

AIDS Legal Council of Chicago
Cabrini Green Legal Aid Clinic
Center for Disability & Elder Law
Chicago Legal Advocacy for Incarcerated Mothers (CLAIM)
Chicago Legal Clinic
Chicago Volunteer Legal Services Foundation
Community Economic Development Law Project
Coordinated Advice & Referral Program for Legal Services (CARPLS)
DuPage Bar Legal Aid Service (*Wheaton*)
Equip for Equality
Evanston Community Defender Office (*Evanston*)
Health & Disability Advocates
Immigration Project (*Granite City*)
Land of Lincoln Legal Assistance Foundation (*Alton*)
Lawyers’ Committee for Better Housing
Legal Aid Bureau
Legal Assistance Foundation of Metropolitan Chicago
Life Span Center for Legal Services & Advocacy
Midwest Immigrant & Human Rights Center
Prairie State Legal Services (*Rockford*)
Pro Bono Advocates
Uptown People’s Law Center
Will County Legal Assistance Program (*Joliet*)

¹The data in the following section on the legal aid system comes from two main sources, unless otherwise noted. The first source is the grant applications submitted by the legal aid organizations to the Lawyers Trust Fund of Illinois as a part of the annual funding process for FY 2005. These applications were submitted in February, 2004, and include data on staffing, funding, caseloads, budgets, *etc.* for 2003. The second source is a survey sent to all of the executive directors, managing attorneys and staff attorneys employed by the 23 legal aid agencies.

²For information on other public interest and legal assistance groups see **Appendix 2**.

³ Each organization is based in Chicago, unless otherwise indicated.

These 23 organizations vary in history, size, scope and mission. For example, the Legal Aid Bureau has been in continuous operation since 1886. The newer organizations include CARPLS, which took its first call in 1993, and Health & Disability Advocates, which incorporated in 1997.

The Legal Assistance Foundation of Metropolitan Chicago employed 78 full-time lawyers in 2003, placing it among the 50 largest law firms in Illinois,⁴ while three organizations (CLAIM, Immigration Project, Uptown People's Law Center) had a single staff attorney.

Certain organizations focus on addressing the needs of clients facing specific types of challenges. For example, the AIDS Legal Council of Chicago was created to assist individuals who have AIDS or are HIV+. Equip for Equality advocates for people with disabilities. Life Span and Pro Bono Advocates both serve victims of domestic violence.

Some organizations are organized around a particular type of legal issue. The Immigration Project and the Midwest Immigrant and Human Rights Center handle only immigration-related matters. The Lawyers Committee for Better Housing concentrates on issues and cases related to rental housing. Other groups, such as the Chicago Legal Clinic, Chicago Volunteer Legal Services and the Legal Assistance Foundation of Metropolitan Chicago serve a wide variety cases and clients.

The primary means of delivering services also differ markedly. CARPLS, for example, is a legal aid hotline. It offers advice and referral services to callers, but does not provide extended representation. Other organizations, notably Chicago Volunteer Legal Services, the Community Economic Development Law Project and the Center for Disability & Elder Law, rely primarily on volunteer attorneys to provide legal assistance to their clients, while organizations such as Life Span and Equip for Equality do not use volunteers to deliver services.

Each organization is described briefly in the section below.

Description of Legal Aid Organizations

AIDS Legal Council of Chicago

The AIDS Legal Council provides legal services to people who have AIDS or are HIV+, concentrating on issues such as public benefits, access to health care, discrimination and confidentiality.

Cabrini Green Legal Aid Clinic

Originally formed to assist residents of the Cabrini Green public housing complex, the Cabrini Green Legal Aid Clinic now represents clients living throughout Chicago in cases involving family law and housing issues.

⁴According to a recent survey, if the Legal Assistance Foundation of Metropolitan Chicago were a private firm it would rank as the 41st largest in the state. See "Chicago Lawyer 2004 Survey: The Largest Law Firms in Illinois," *Chicago Lawyer*, June 2004, p. 15.

Mario

A car crash left Mario unconscious for two days. He spent a week in the hospital, and several months recovering from his injuries.

Mario's employer told him that he was holding his job open for him. Instead, Mario learned that despite the verbal assurances, his employment had been terminated the day after the accident and his medical insurance had been cancelled.

Facing a team of volunteer lawyers and allegations of violating employment and discrimination laws, Mario's employer agreed to back pay and twelve months of insurance coverage for Mario, his wife and two young daughters.

Source:
Chicago Volunteer Legal Services

Sameera

Sameera is an immigrant from Bangladesh, who lived with her husband and eight year old daughter in suburban Cook County. Her husband, also from Bangladesh, is an engineer. For several years he abused Sameera, both physically and emotionally. Because she did not have a job, she was afraid that if she sought a divorce, her husband would get custody of their daughter.

Last summer, at the husband's insistence, the family returned to Bangladesh for a vacation. Within two weeks of their arrival, Sameera's husband obtained a religious divorce. He then abandoned Sameera in Bangladesh and returned with their daughter to the Chicago area.

With no money, and no family or friends to help her, Sameera lived on the streets and in shelters for three months, trying to find a way back to her daughter. A relief organization finally helped Sameera obtain an emergency visa to enter the U.S. and paid her airfare.

Center for Disability & Elder Law

The Center for Disability & Elder Law is a pro bono program that uses volunteer attorneys to provide general civil legal services (e.g., family law, housing, public benefits, consumer cases) to the elderly and people with disabilities.

Chicago Legal Advocacy for Incarcerated Mothers (CLAIM)

CLAIM provides legal information, advice and representation to incarcerated women at the Cook County Jail and in other Illinois prisons, with the goal of helping them maintain contact with and regain custody of their children.

Chicago Legal Clinic

Headquartered in the South Chicago neighborhood, the Chicago Legal Clinic provides legal services to lower-income or "working poor" people on a sliding fee scale. In addition to its staff attorneys, the Clinic also has a panel of volunteer attorneys.

Chicago Volunteer Legal Services Foundation

Founded in 1963, and with approximately 2,000 volunteer attorneys and paralegals, CVLS is one of the nation's oldest and largest pro bono programs. CVLS provides services for a broad range of legal issues.

Community Economic Development Law Project

CEDLP is a project of the Chicago Lawyers' Committee for Civil Rights Under Law, and uses a panel of volunteer lawyers with expertise in corporate, tax and other business areas to assist not-for-profit organizations serving the poor, low-income entrepreneurs and first-time home buyers.

Coordinated Advice & Referral Program for Legal Services (CARPLS)

CARPLS is Cook County's advice and referral hotline. CARPLS specially trained attorneys provide callers with legal advice, written self-help materials and/or an accurate referral to an appropriate source of assistance.

DuPage Bar Legal Aid Service

The Wheaton-based DuPage Bar Legal Aid Service is a bar-affiliated program that uses both staff attorneys and volunteers. The Legal Aid Service is the main provider of family law services to low-income people in DuPage County.

Equip for Equality

Equip for Equality (formerly Protection & Advocacy, Inc.) is a statewide organization designed to protect the rights of people with disabilities. Equip for Equality is headquartered in Chicago, and has regional offices in Springfield and Rock Island.

Evanston Community Defender Office

The Evanston Community Defender Office provides civil legal representation to low-income young people in Evanston.

Health & Disability Advocates

Health & Disability Advocates (formerly the SSI Coalition for a Responsible Safety Net) provides legal assistance in cases involving Social Security, Medicaid and other public benefits issues.

Immigration Project

The Immigration Project is an agency based in Granite City that provides legal services to immigrants living south of Interstate 80.

Land of Lincoln Legal Assistance Foundation

Land of Lincoln is the major provider of legal services in a 65-county region of central and southern Illinois. Land of Lincoln has approximately 40 staff attorneys, and has regional offices in Champaign, Springfield, Decatur, Mt. Vernon, Mattoon, East St. Louis, Alton and Murphysboro. Land of Lincoln receives funding from the federal Legal Services Corporation.

Lawyers Committee for Better Housing

LCBH uses staff and volunteer attorneys to represent tenants facing evictions, discrimination, conditions issues and other housing-related matters.

Legal Aid Bureau

Founded in 1886, the Legal Aid Bureau is the oldest legal aid program operating in Illinois, and the second oldest in the United States. Now a part of Metropolitan Family Services, LAB concentrates its work on family law issues.

Legal Assistance Foundation of Metropolitan Chicago

LAFCMC is the largest legal aid agency in Illinois, and receives approximately half of its annual funding from the federal Legal Services Corporation. The program has 78 full-time staff attorneys located in four offices in the city of Chicago and two offices in suburban Cook County.

Life Span Center for Legal Services & Advocacy

Life Span provides comprehensive representation to victims of domestic violence, including orders of protection, divorce and child custody.

Midwest Immigrant & Human Rights Center

A program of Heartland Alliance for Human Needs and Human Rights, MIHRC is the state's largest provider of services to immigrants, refugees and asylum seekers.

Prairie State Legal Services

Prairie State Legal Services is the Legal Services Corporation-funded agency serving 35 counties in northern Illinois. Its service area stretches from the borders of Cook County to the Mississippi River, and the program has branch offices in Kankakee, Bloomington, Peoria, Ottawa, Galesburg, Carol Stream, Batavia, Waukegan, Rock Island and Rockford.

Pro Bono Advocates

Pro Bono Advocates operates a court-based program to assist victims of domestic violence seeking orders of protection and/or divorces.

Uptown People's Law Center

Based in the Uptown neighborhood on Chicago's North Side, the Uptown People's Law Center's small staff provides legal assistance in a variety of types of cases, with an emphasis on public benefits and housing matters.

Back in Chicago, legal aid attorneys took Sameera's case and sought an order of protection, a divorce and custody of her daughter. Her husband, represented by a private attorney, responded to the divorce by saying that they had already divorced in Bangladesh, and that the issue of custody had been decided.

The legal aid attorneys responded that because both Sameera and her husband are U.S. residents, and her husband had lured her to Bangladesh specifically to deprive her of custody of their daughter, the divorce should not be recognized by U.S. courts. The case is still pending, but with legal representation, Sameera still has hope of being reunited with her daughter.

Source:

Life Span Center
for Legal Services and Advocacy



Linella Lim Gavin, Staff Attorney
AIDS Legal Council of Chicago, Chicago

Will County Legal Assistance Program

The Will County Legal Assistance Program, based in Joliet, is the sole provider of legal aid services to residents of Will County. The program receives federal Legal Services Corporation funds as a “sub-grantee” of Prairie State Legal Services.

Geographic Coverage

The city of Chicago is home to the largest concentration of low-income people in Illinois, and is also the base of operations for 17 of the 23 legal aid programs described above. The largest of these, the Legal Assistance Foundation of Metropolitan Chicago, has offices in three Chicago neighborhoods, in addition to its downtown headquarters. Thirteen of the 17 groups are based in or near downtown Chicago, and three others (Cabrini Green Legal Aid Clinic, Chicago Legal Clinic and Uptown People’s Law Center) are located in different Chicago neighborhoods.

While geographic isolation may affect some low-income city residents, the availability of public transportation and the short distances involved means that geographic barriers are not a major factor for Chicagoans seeking legal assistance.

In suburban Cook County⁵ the Legal Assistance Foundation of Metropolitan Chicago maintains offices in South Holland and Evanston. Evanston is also home to the Evanston Community Defender Office, which serves the civil legal needs of low-income juveniles. In addition, many Chicago-based programs will serve residents of suburban Cook County who are able to travel to their offices.

The five collar counties are each served by at least one legal aid organization. DuPage County is home to the Carol Stream office of Prairie State Legal Services and the DuPage Bar Legal Aid Service. There are Prairie State offices in Lake County (Waukegan) and Kane County (Batavia), as well. The Will County Legal Assistance Program is based in Joliet. Prairie State has an “outpost” in McHenry County, and works with the local bar association there to provide pro bono services.

Three of the 23 organizations are headquartered downstate. Two of these – Land of Lincoln and Prairie State – are Legal Services Corporation-funded entities that are responsible for servicing vast areas of the state.

The Land of Lincoln Legal Assistance Foundation’s service area covers 65 counties in central and southern Illinois, a territory roughly equivalent in size to the state of Indiana. The program has branch offices located in eight of the largest urban centers in its territory: Alton, East St. Louis, Champaign, Decatur, Mattoon, Mt. Vernon, Murphysboro and Springfield.⁶ A toll-free intake, advice and referral telephone hotline is available to low-income callers from throughout the service area.

⁵Suburban Cook County was served the Cook County Legal Assistance Foundation, based in Oak Park, until 1999, when it merged with the Legal Assistance Foundation of Chicago. The combined entity became the Legal Assistance Foundation of Metropolitan Chicago.

⁶Land of Lincoln was forced to close additional branch offices in Danville, Effingham and Quincy due to cuts in funding by the Legal Services Corporation in the early 1980’s.

Georgia

Georgia suffers from large cell lymphoma. She had no medical insurance, and the bills for her treatment kept piling up. Her oncologist was treating her in the hope that he might be compensated once Georgia was approved for Medicaid. But a local hospital where she had received treatment refused to perform further tests requested by her doctor, due to the outstanding bills.

While Georgia struggled through chemotherapy at another facility, a legal aid attorney pursued her claims for Social Security Disability and Medicaid. Thanks to this advocacy, Georgia was found to be disabled by her illness and eligible for Medicaid, which has compensated her oncologist and the facilities where she received treatment.

Now Georgia can concentrate on her treatment and her recovery, rather than worrying about her medical bills.

Source:
Land of Lincoln Legal
Assistance Foundation

Yin

After borrowing money against the family home to support his girlfriend, Yin's husband ran up massive debts on a credit card he had obtained in the name of a 20-year-old son.

With help from pro bono attorneys, Yin was able to get a divorce and exclusive title to the family home. The son's credit record has been cleared.

Yin is now free to start a new life, which includes improving her English skills, working in a hotel to help her son pay for college, and volunteering once a week to help the legal aid program that helped her.

Source:
Chicago Volunteer Legal Services

Prairie State Legal Services has nine branch offices that serve a 35-county area in northern and western Illinois.⁷ In addition to the collar county offices noted above, Prairie State has branch offices in Bloomington, Galesburg, Ottawa, Peoria, Rockford and Rock Island. Prairie State also operates a program-wide, toll-free intake hotline, which provides access to attorneys who can offer callers advice or refer them to a branch office, government agency or other resources.

The Immigration Project, based in the Metro East area near St. Louis, is the only downstate resource for persons with immigration issues. The agency serves persons who live south of Interstate 80. Its work is even more critical in light of the fact that neither Prairie State nor Land of Lincoln provides assistance for immigration-related legal matters. In addition, LSC regulations preclude assistance to persons who are not U.S. citizens or lawful permanent residents.

Equip for Equality, which is headquartered in Chicago and provides advocacy on behalf of persons with disabilities, has branch offices in Springfield and Rock Island. The Springfield office, with two attorneys, is responsible for providing services throughout the central and southern regions of the state. The Rock Island office is designated to serve all of northwestern Illinois.

Taking all of these factors into account, it becomes evident that outside of the metropolitan Chicago region, geography is a major impediment to the efficient delivery of legal services.

Three of Illinois' 22 multi-county judicial circuits – the Fourth, Eighth and Fifteenth – do not have a single legal aid attorney based within their borders. In most judicial circuits there are more counties than legal aid staff attorneys. For example, the First Judicial Circuit in southern Illinois includes nine counties,⁸ all of which have rates of poverty higher than the state average. The Land of Lincoln office serving the area, in Murphysboro, has only four staff attorneys and one paralegal.

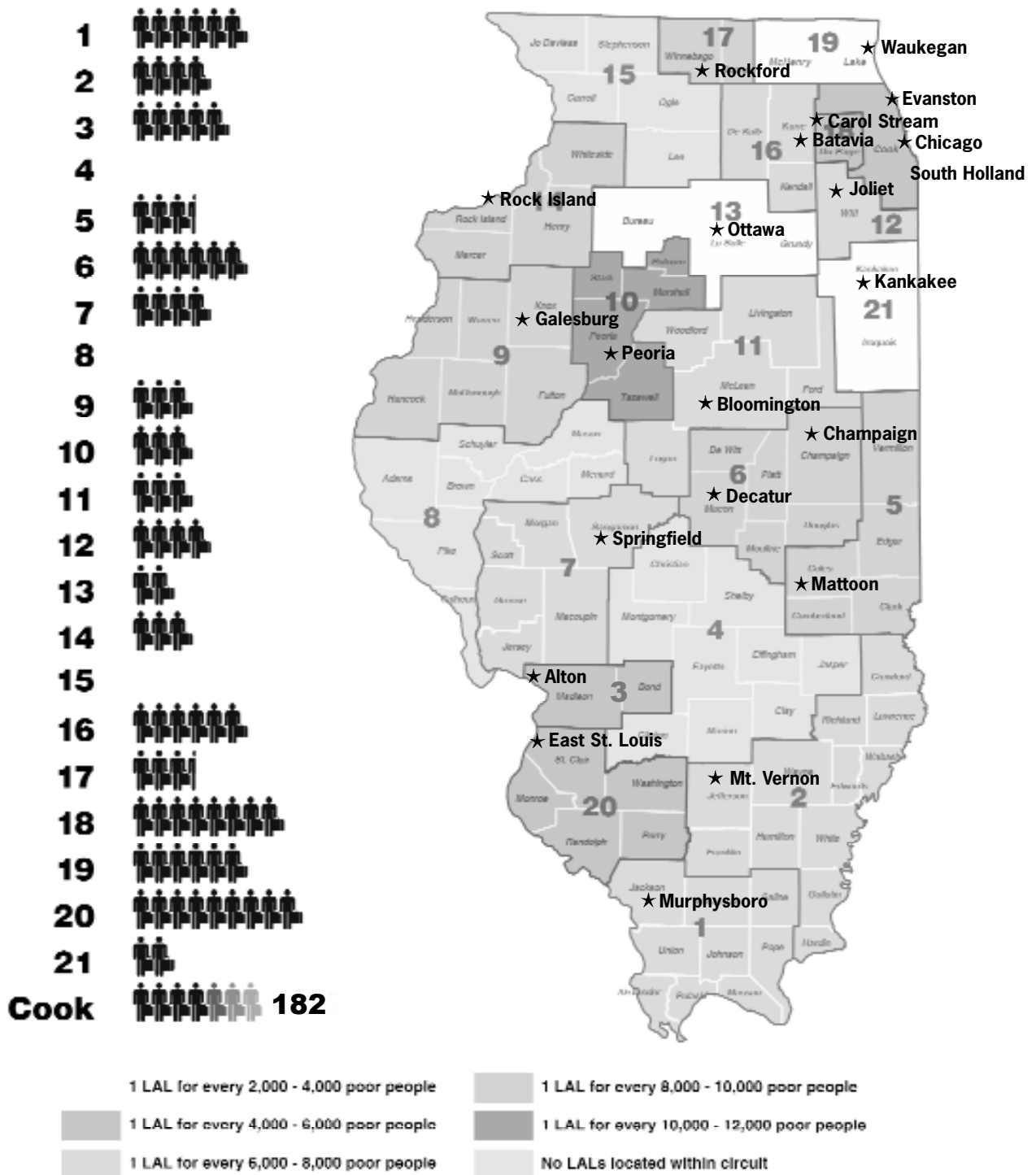
The distances and travel times involved create significant challenges for clients and staff. For clients who do not have reliable transportation, who are elderly, or who face mobility impairments, traveling to a legal aid office 50 or 75 miles away can be an insurmountable obstacle. For legal aid attorneys, handling a case for a client who lives two counties away can mean that a simple hearing can take up most of the day, simultaneously increasing expenses and reducing productivity. Important tasks such as community outreach, staff training and the recruitment of volunteer attorneys also become more difficult.

⁷The LSC-funded West Central Illinois Legal Assistance Foundation, based in Galesburg, merged with Prairie State Legal Services in 2001.

⁸Alexander, Pulaski, Massac, Pope, Johnson, Saline, Union, Williamson and Jackson.

LEGAL AID LAWYERS PER ILLINOIS JUDICIAL CIRCUIT

♣ = 1 Legal Aid Lawyer (LAL)



Poverty statistics from 2000 U.S. Census

★ Legal Aid Office Location

Irene

Irene is a senior citizen who lives in subsidized housing with her daughter and two severely disabled grandchildren. Both of her granddaughters suffer from cerebral palsy and use wheelchairs. Every day, Irene and her daughter had to carry her granddaughters and their wheelchairs up to her second-floor apartment.

When the physical strain became too much for Irene, she requested a transfer certificate from the office that administers the Section 8 housing subsidy program. But finding a first-floor, accessible apartment was harder than Irene realized, and the 60-day deadline set by the transfer certificate were about to expire.

Case Priorities

What types of cases do legal aid programs accept for representation?

The short answer to this question is “serious ones.” Legal aid programs are overwhelmed with prospective clients, and have established procedures and criteria to find those families and individuals who are most desperately in need of help. The result is a “triage” system designed to screen out all but the most critical legal matters.

A review of the priority statements and case-acceptance guidelines of three of the largest legal aid programs⁹ reveals a set of common questions used to determine whether a case is accepted for representation.

The first question raised by the agencies’ guidelines is: “Does the case have legal merit?” While a legal aid attorney may occasionally need to advance a novel legal theory, none of these organizations have the time or resources to represent people who do not have a sound legal defense and/or cause of action.

The second general question can be summarized as: “Is it worth it?” Is there enough at stake for the client to justify the commitment of program resources? Does the matter involve a basic human need, such as the client’s health or safety, access to shelter, or the resources for a subsistence-level existence? What are the potential consequences for the client if he or she does not receive assistance?

The third basic question asks: “Are there alternatives?” Could the person resolve the case on his or her own after receiving written materials and/or legal advice? Is there a social service program or government agency that could offer an effective response to the problem?

The fourth basic question is: “Do we have the resources to help?” Is there an attorney available – either staff or pro bono – with the requisite knowledge, experience and time to handle the case? Does the case fall into an area for which the organization has special funding, such as a foundation grant or government contract? In many instances, personnel factors such as a staff vacancy or parental leave can affect whether a potential client with a particular type of case gets help.

Taken together, these criteria essentially guarantee that legal aid programs provide representation only to people who are facing dire consequences and have no other viable alternative.

⁹“Introduction to Prairie State Priorities,” “Land of Lincoln Legal Assistance Foundation, Inc. 2004 Statement of Priorities,” and “Legal Assistance Foundation of Metropolitan Chicago Priorities in the Provision of Legal Services, July 2002,” all provided by the respective agencies.

Anecdotal evidence, supported by the data from the telephone survey, suggests that even when people have legal problems that meet these criteria, they are often unable to get help. According to Denise Wolf Markham, executive director of Life Span, their Center for Legal Services and Advocacy is forced to turn away two victims of domestic violence for every one case they accept for representation, due to lack of resources.¹⁰

One consequence of this elaborate screening process is that a very large number of those who receive legal services get information, advice and “brief services,” rather than being accepted as a client for representation. According to case statistics provided to the Lawyers Trust Fund for 2003, 68.8% of all client contacts fell into the “brief services” category. This means that less than a third (31.2%) of all legal aid cases actually involved representation.

In some cases, those seeking assistance receive advice about their options because their case does not have sufficient legal merit to justify “opening a file.” In other cases, persons seeking assistance are offered advice and/or brief service because they are viewed as having a reasonable likelihood of success without representation.

However, in far too many instances legal aid programs are forced to offer abbreviated services, despite the fact that the person has a meritorious case with an available remedy, and has little or no chance of success without legal representation, simply because no one is available to handle the case.

The range of civil legal issues handled by legal aid programs runs the gamut from adoptions to zoning.¹¹ The organizations described here spend most of their time, energy and resources on cases in four major areas of the law: **family law, housing, public benefits and consumer issues.**¹² More than three out of four cases (76.1%) handled by Illinois legal aid programs in 2003 fell into one of these four categories.¹³

Even within the four major categories, legal aid programs assign different priorities to different types of cases. In its “Statement of Priorities,” the Land of Lincoln Legal Assistance Foundation identifies specific legal problems as “Priority 1,” “Priority 2,” and “Priority 3” matters. In the consumer area, for example, Land of Lincoln considers a debtor who is facing the possible loss of a home or a car to have a Priority 1 case. However, debt collection cases “that do not threaten a major asset but involve illegal practices or harassment” are classified as Priority 2.¹⁴

While Land of Lincoln’s system of identifying priorities may be more formal than those of some other agencies, all are forced to make the same types of difficult choices regarding whom to serve.

¹⁰According to the telephone survey, only half of victims of domestic violence who sought help were able to obtain it.

¹¹The Community Economic Development Law Project does, in fact, use volunteer lawyers to assist not-for-profit organizations with zoning issues.

¹²For a more detailed discussion of each of these legal categories, see section on *Major Legal Issues*.

¹³Other types of cases handled included immigration/individual rights (9.1%); employment (3%); health (2.7%); juvenile (.9%) and education (.9%). Cases that did not fall into any of the other categories accounted for 7.3% of the total.

¹⁴“Land of Lincoln Legal Assistance Foundation, Inc. 2004 Statement of Priorities,” p. 10.

Irene called the Section 8 office to explain the situation, but was forced to leave a message. When she sent a letter asking for a response to her message, she was told that the letter had arrived too late. As a result, they were not only terminating her transfer certificate, but also the Section 8 subsidy for her current apartment. Irene and her family faced the prospect of becoming homeless.

A legal aid staff attorney filed an administrative appeal, pointing out that under the Fair Housing Act and the Americans with Disabilities Act, Irene had not been provided the support needed to assist her in finding an apartment. The hearing officer wrote a strong opinion in Irene’s favor. Her subsidy was reinstated, and she was provided with a new transfer certificate and active assistance to find a new apartment.

Source:
Prairie State Legal Services



Christine Farrell, Housing Law Attorney
Cabrini Green Legal Aid Clinic, Chicago

Delivery Methods

Legal aid programs employ a variety of methods to deliver legal information, advice and representation to low-income people in Illinois. The major strategies and methods are discussed briefly below.

Staff Attorney Representation

Staff attorneys are the cornerstone of the legal services delivery system in Illinois. They advise and represent clients, support the work of volunteer attorneys and serve as the critical link between low-income communities and the courts.

In 2003, staff attorneys employed by legal aid agencies in Illinois were responsible for 96.2% of all “brief services” cases, as well as 72.9% of all cases involving direct representation of a client.

Pro Bono Representation

Volunteer attorneys and paralegals are an important component of the legal services delivery system in Illinois. Most volunteers participate by accepting cases that are referred to them after being screened by a legal aid organization, using some variation on the triage system described above. Other volunteer attorneys and paralegals choose to work on the front lines, assisting with case screening, operating evening or weekend “clinics,” or making presentations about legal issues to community groups.

In 2003, volunteer attorneys assisted 11,506 individual clients through an organized legal aid program, and were responsible for 27.1% of legal aid cases involving extended representation of a client.

Telephone Advice & Referral Services

In 101 of Illinois’ 102 counties, three legal aid hotline programs offer low-income persons seeking assistance the opportunity to speak directly to a specially trained attorney.¹⁵ The attorney gathers information about the caller’s problem, and then offers the person legal advice (often supplemented with printed materials sent through the mail) or refers the client to the appropriate office for further assistance.

One of Illinois’ three hotline programs, the Coordinated Advice & Referral Program for Legal Services (CARPLS) is a “free-standing” organization that maintains referral relationships with all of the legal aid providers in Cook County. The other hotlines, Prairie State’s Telephone Counseling Service and Land of Lincoln’s Legal Advice & Referral Center, operate as intake and referral units for their respective programs.

Rosa & Angela

Rosa took custody of one-year old Angela when the girl’s mother, a member of the military reserves, was sent to Afghanistan. The month after Angela’s mother was shipped overseas, Rosa realized that she had not received Angela’s Public Aid medical card.

A legal aid attorney discovered that the card had been cancelled in error. The Illinois Department of Human Services said that if Rosa provided documentation that she had custody of Angela, IDHS would process a new card. She provided the documentation.

When Rosa did not receive the new card, her attorney was told by IDHS that they did not have a case pending for Angela, and that Rosa would have to file a new application. When the third application was not processed in a timely manner, Angela was at risk of missing her scheduled immunizations, because she had no medical coverage.

Finally, on the third attempt, the legal aid lawyer was able to convince the Illinois Department of Public Aid to expedite the process so that Angela could receive the necessary immunizations. Written proof of coverage was provided the next day. Angela got her shots, and Angela’s mother, still serving in Afghanistan, could at least take comfort in the fact that her daughter would get the medical care she needed.

Source:

Legal Assistance Foundation
of Metropolitan Chicago

¹⁵The exception is Will County, which is served by the Will County Legal Assistance Program.

Belinda

Belinda suffers from a mental disability and is unable to work. She has been receiving Social Security disability benefits for many years. When Belinda learned that she was also eligible to receive dependent benefits to help support her teenage daughter, Lisa, she filed a claim and was awarded \$13,662 in back benefits.

Because of Belinda's mental disability, she had always received her benefits through Jim, her friend and designated "payee rep." After a dispute with Jim, Belinda changed her "payee rep," and assumed that Social Security would send the dependent benefits to her new designee, as well. Unfortunately, she was wrong. Social Security sent the check to Jim.

When Belinda asked Jim about the check, he claimed he had never received it.

It took a legal aid attorney two years to get a copy of the check. When Belinda's case against Jim finally went to arbitration, Belinda was awarded the \$13,662 in missing benefits, plus \$10,000 in punitive damages.

Lisa recently graduated from high school and plans to attend college, and Belinda can use her money to help her daughter achieve her educational goals.

Source:

Legal Assistance Foundation
of Metropolitan Chicago

Pro Se Assistance

Legal aid organizations are unable to represent everyone seeking their help, and instead often provide information, advice and written materials to help people understand their situations and give them a better chance to resolve legal problems on their own.

This type of assistance takes many forms. Some legal aid organizations operate court-based "advice desks," to assist litigants who come to court without legal representation. Examples in Cook County include several assistance desks developed by the Circuit Court of Cook County in partnership with the Chicago Bar Foundation and others, including: the Guardianship Desk operated by Chicago Volunteer Legal Services; the Domestic Relations Self-Help Desk, operated by CARPLS; and the Chancery Court Advice Desk operated by the Chicago Legal Clinic. In Lake County, Prairie State Legal Services played a role in the creation of the Self Help Legal Center at the courthouse in Waukegan, and the Springfield office of the Land of Lincoln Legal Assistance Foundation operates an advice desk at the Sangamon County courthouse for litigants in eviction and small claims cases.

Many organizations offer information about specific legal issues, including pro se instruction, on their web sites. The two most prominent legal aid web sites are maintained by Illinois Legal Aid Online¹⁶ (www.illinoislegalaid.org) and the Southern Illinois University School of Law's Self-Help Legal Center (www.law.siu.edu/selfhelp/).

Two legal aid programs offer pro se "classes" for low-income persons seeking to obtain a divorce – the Legal Assistance Foundation of Metropolitan Chicago and the Land of Lincoln Legal Assistance Foundation's Murphysboro office, in conjunction with the Southern Illinois University School of Law's Self Help Legal Center.

Community Legal Education

Offering presentations to groups about legal issues is another strategy used by legal aid organizations to assist low-income people. The aim of some of these seminars is to educate people about their legal rights and responsibilities, and hopefully prevent problems that might require legal intervention. The Chicago Legal Clinic, for example, co-sponsors educational seminars on common legal issues that reach approximately 2,000 people each year. The AIDS Legal Council maintains an aggressive schedule of speaking engagements, focusing on both potential clients and social service and health care professionals who work with people who are HIV+.

¹⁶Illinois Legal Aid Online was formerly known as the Illinois Technology Center for Law & the Public Interest.

Some legal aid programs target their presentations to groups of people who are likely to experience a particular type of legal problem. Equip for Equality, for example, offers training programs on disability-related legal issues (e.g., special education, the Americans with Disabilities Act) to people with disabilities and members of their families throughout the state. Chicago Legal Advocacy for Incarcerated Mothers (CLAIM) uses volunteers to present classes on parental rights to women who are incarcerated at the Cook County Jail.

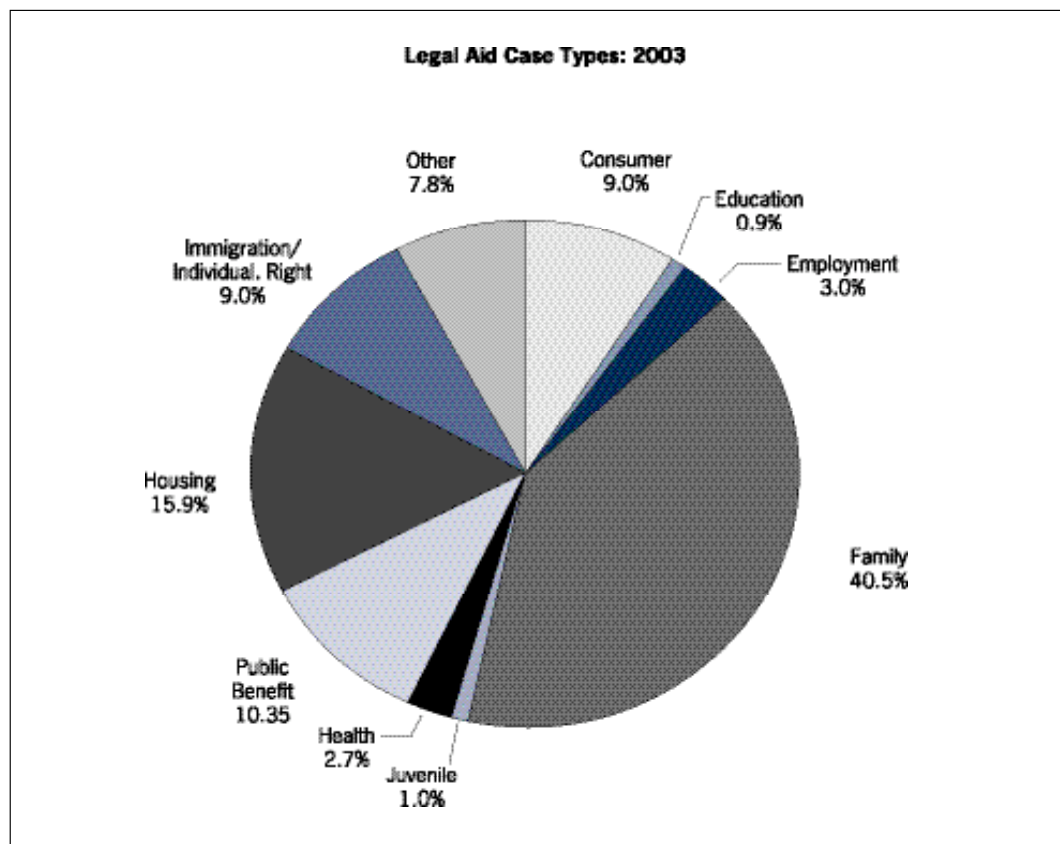
Judicare

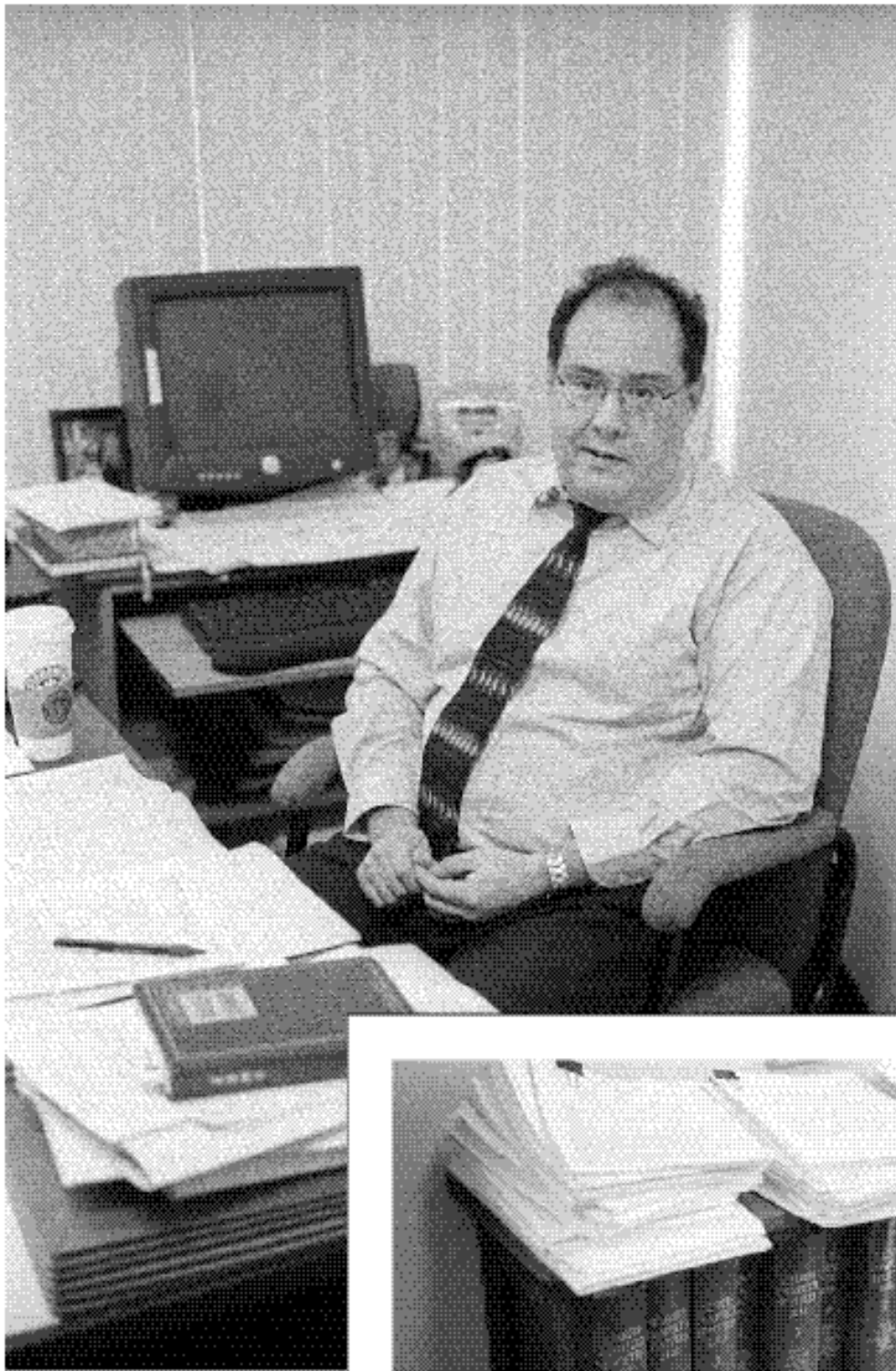
Just as Medicare uses public funds to pay private doctors to delivery medical care, “Judicare” pays lawyers in private practice for their work on behalf of low-income clients. The only Judicare program in Illinois is operated by the Land of Lincoln Legal Assistance Foundation. Land of Lincoln uses funds from its designated “Private Attorney Involvement” funding from the federal Legal Services Corporation to partially compensate attorneys for representing clients referred to them by Land of Lincoln. Land of Lincoln pays its Judicare attorneys half of the prevailing hourly rate in their respective communities. The Judicare model is used most-ly in counties that are farthest away from one of its branch offices. Attorneys compensated through the Judicare program provided representation to 440 clients in 2003.

Legal Aid Cases: 2003

Case Types

The services provided by legal aid organizations are divided into nine categories: family law, housing, public benefits, consumer, immigration/individual rights, employment, health, juvenile and education. The following sections describe the types of cases included in each category and provide statistical information about case numbers, leading providers and geographic distribution.





John Quintanilla, Staff Attorney
Prairie State Legal Services,
Waukegan

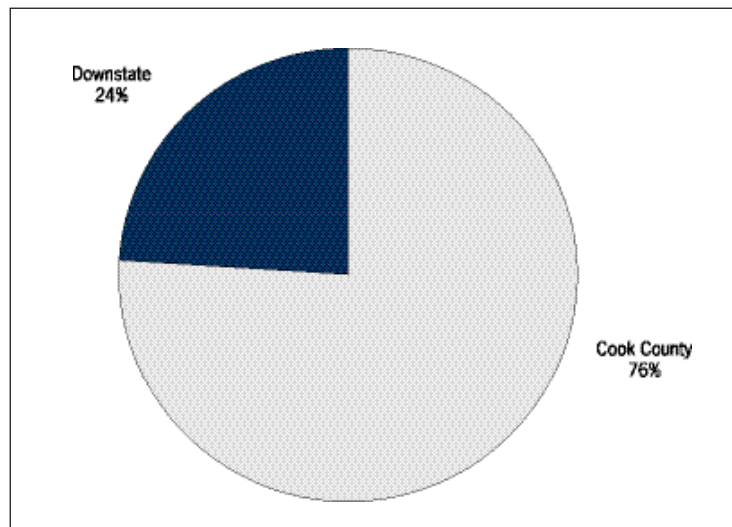


Family Law

The family law category includes divorce, child custody, visitation, child support, paternity, orders of protection, adoption, guardianship, name changes and the termination of parental rights.

Family Law Cases: 2003	
Rank Among Case Types:	1
Number of Cases Reported	56,411
Percentage of Total Cases:	40.5%

Geographic Distribution of Family Law Cases: 2003



Leading Providers in the Family Law Category	
Program ¹⁷	Market Share ¹⁸
Chicago Volunteer Legal Services Foundation	15.3%
Coordinated Advice & Referral Program for Legal Services (CARPLS) ¹⁹	12.6%
Prairie State Legal Services	12.2%
Legal Assistance Foundation of Metropolitan Chicago	11.7%
Land of Lincoln Legal Assistance Foundation	10.7%
Top 5 Market Share	62.5%

¹⁷This table does not include programs if more than 80% of that program's reported cases fell into the "information & referral" category.

¹⁸"Market share" is used here to indicate the percentage of all family law cases reported by legal aid programs for 2003 that were handled by each of the listed providers.

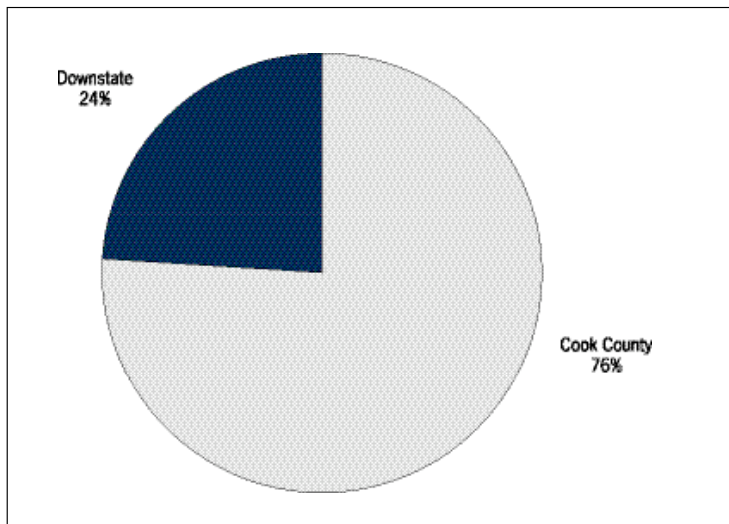
¹⁹It should be noted that CARPLS provides advice and referral services, and does not provide direct representation to clients. The other agencies listed here provide a combination of advice and representation.

Housing

The housing law category includes cases related to rental housing in the private market and in public or subsidized housing (e.g., conditions problems, evictions, lockouts, recovery of security deposits, discrimination, loss of subsidized housing voucher), as well as issues related to home ownership (e.g., foreclosures, predatory mortgage lending).

Housing Cases: 2003	
Rank Among Case Types:	2
Number of Cases Reported	22,109
Percentage of Total Cases:	15.9%

Geographic Distribution of Housing Cases: 2003



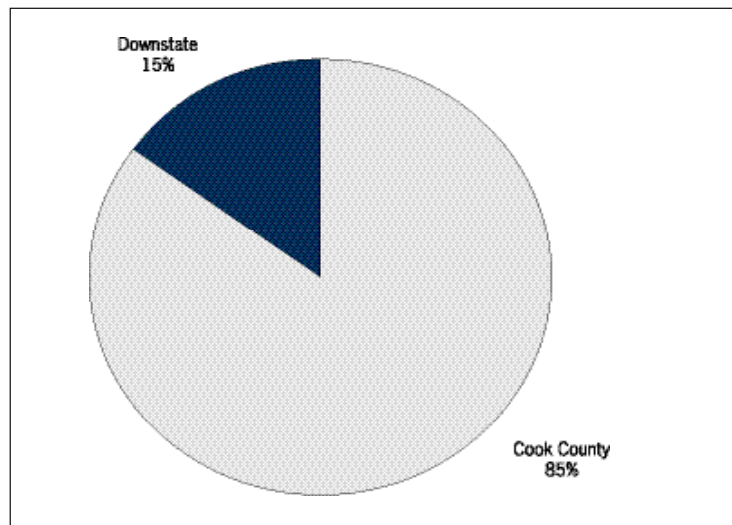
Leading Providers in the Housing Category	
Program	Market Share
Legal Assistance Foundation of Metropolitan Chicago	38.8%
Prairie State Legal Services	15.8%
Coordinated Advice & Referral Program for Legal Services	9.8%
Land of Lincoln Legal Assistance Foundation	8%
Lawyers Committee for Better Housing	7%
Top 5 Market Share	79.4%

Public Benefits

Public benefits cases are those that involve government income support programs such as Temporary Assistance to Needy Families (TANF), food stamps, Social Security, Social Security Disability Insurance, unemployment benefits, workers' compensation and veterans' benefits. (Note: The public benefits category does not include cases related to government-sponsored health insurance programs such as Medicaid or Medicare, which are included in the health category.)

Public Benefits Cases: 2003	
Rank Among Case Types:	3
Number of Cases Reported	14,338
Percentage of Total Cases:	10.3%

Geographic Distribution of Public Benefits Cases: 2003



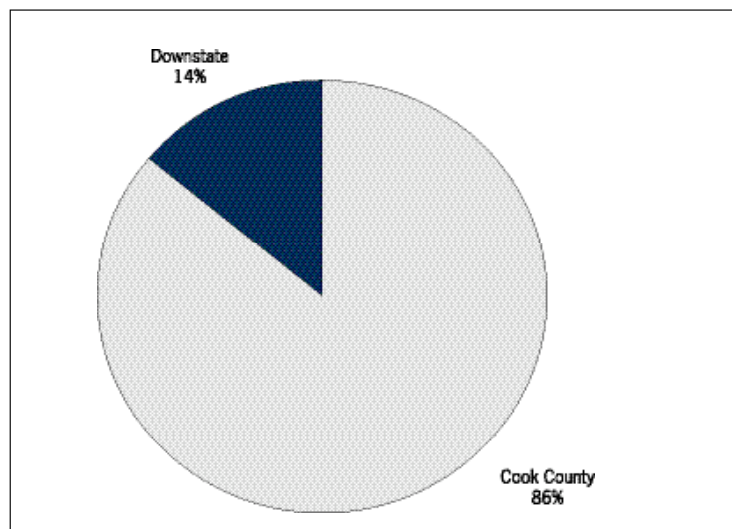
Leading Providers in the Public Benefits Category	
Program	Market Share
Legal Assistance Foundation of Metropolitan Chicago	52.1%
Prairie State Legal Services	10.3%
Health & Disability Advocates	9.6%
Uptown People's Law Center	7.4%
Land of Lincoln Legal Assistance Foundation	4.7%
Top 5 Market Share	84.1%

Immigration/Individual Rights

The immigration/individual rights category includes cases that fall into three primary areas: **immigration**, including naturalization, immigration status, asylum and deportation defense matters; the **rights of persons with disabilities**; and the **rights of persons living in institutions** such as nursing homes.

Individual Rights Cases: 2003	
Rank Among Case Types:	4
Number of Cases Reported	12,525
Percentage of Total Cases:	9%

Geographic Distribution of Individual Rights Cases: 2003



Leading Providers in the Immigration/Individual Rights Category	
Program ²⁰	Market Share
Midwest Immigrant & Human Rights Center	40.6%
Immigration Project	11.8%
Legal Assistance Foundation of Metropolitan Chicago	8%
Uptown People's Law Center	6.5%
Life Span Center for Legal Services & Advocacy	5.9%
Top 5 Market Share	72.8%

²⁰Of the top five programs in this category, three provide services on immigration matters (MIHRC, Immigration Project & Life Span); one concentrates on the rights of persons in institutions (Uptown Peoples Law Center); and the remaining organization (LAFMC) handles cases in each of the three areas.



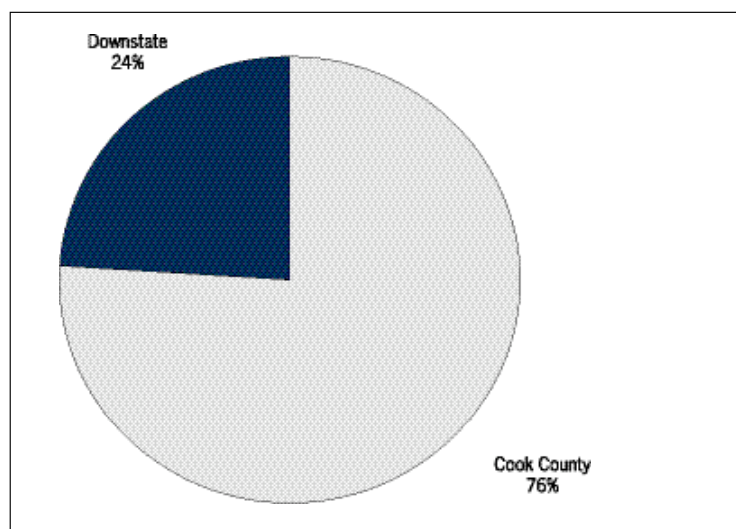
Columbus R. Gangemi, Jr., Chicago Managing Partner - Winston & Strawn, LLP
Pro Bono Attorney - Chicago Volunteer Legal Services Foundation

Consumer

The consumer category includes bankruptcies, debt collection, contract, warranty, garnishment, credit access, loans, unfair sales practices and repossession. This category also includes utility matters, including connections and shut-offs.

Consumer Cases: 2003	
Rank Among Case Types:	5
Number of Cases Reported	12,488
Percentage of Total Cases:	9%

Geographic Distribution of Consumer Cases: 2003



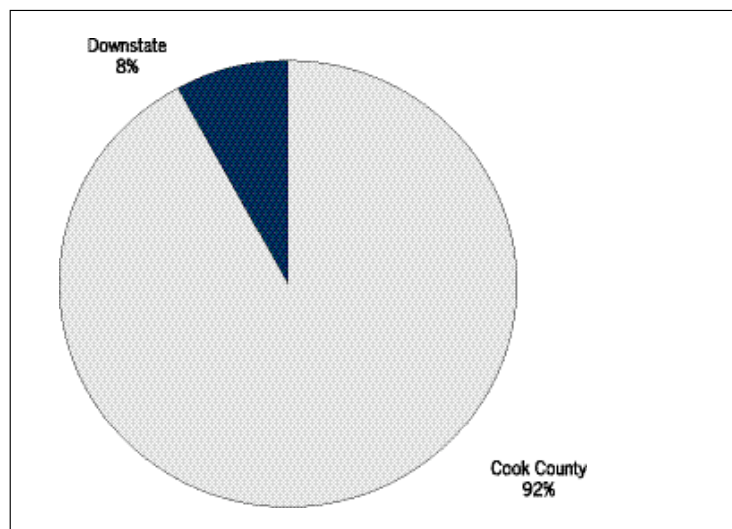
Leading Providers in the Consumer Category	
Program	Market Share
Legal Assistance Foundation of Metropolitan Chicago	31.7%
CARPLS	14.6%
Prairie State Legal Services	14.4%
Chicago Volunteer Legal Services Foundation	11.2%
Chicago Legal Clinic	9.3%
Top 5 Market Share	81.2%

Employment

The employment category includes cases relating to employment discrimination, wage claims and other work-related issues. (Note: This category does not include unemployment benefits and workers' compensation issues, which are included in the public benefits category.)

Employment Cases: 2003	
Rank Among Case Types:	6
Number of Cases Reported	4,198
Percentage of Total Cases:	3%

Geographic Distribution of Employment Cases: 2003



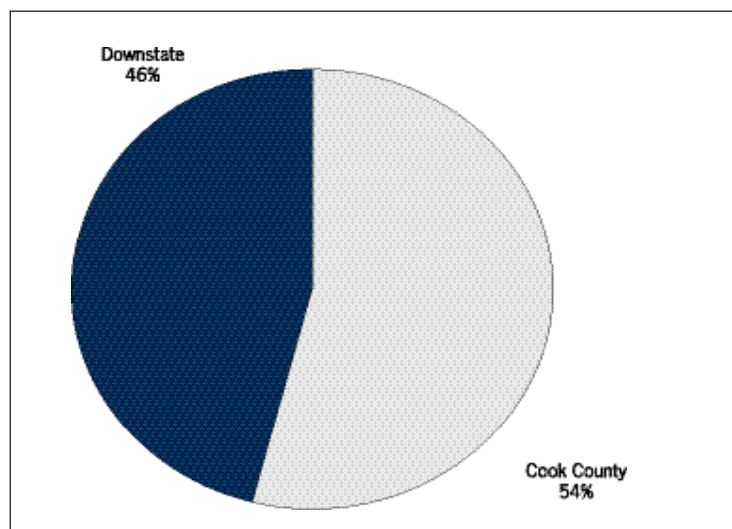
Leading Providers in the Employment Category	
Program	Market Share
Legal Assistance Foundation of Metropolitan Chicago	47.7%
CARPLS	15.9%
Equip for Equality	10.7%
Chicago Legal Clinic	9.9%
Prairie State Legal Services	7.6%
Top 5 Market Share	91.8%

Health

Health cases include those related to Medicaid or Medicare benefits, private health insurance coverage, and all matters involving access to health care services.

Health Cases: 2003	
Rank Among Case Types:	7
Number of Cases Reported	3,744
Percentage of Total Cases:	2.7%

Geographic Distribution of Health Cases: 2003



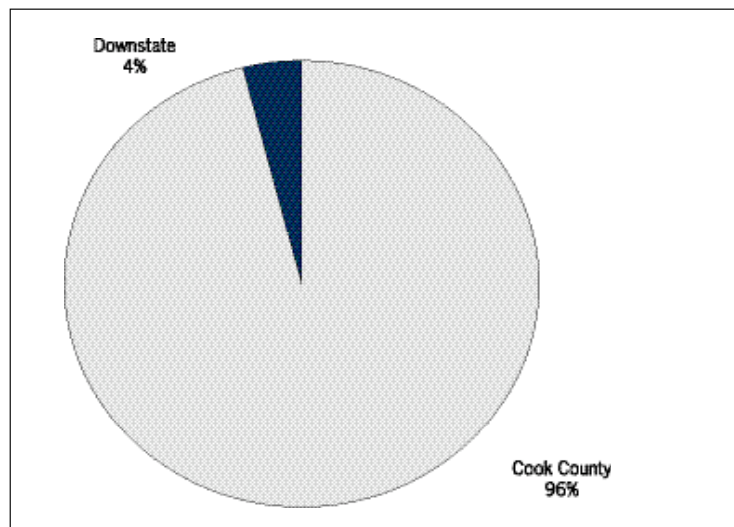
Leading Providers in the Health Category	
Program	Market Share
Legal Assistance Foundation of Metropolitan Chicago	26%
Land of Lincoln Legal Assistance Foundation	24.5%
Prairie State Legal Services	21.6%
Health & Disability Advocates	16.3%
AIDS Legal Council	4.4%
Top 5 Market Share	92.8%

Juvenile

The juvenile category includes delinquency, abuse and neglect cases.

Juvenile Cases: 2003	
Rank Among Case Types:	8
Number of Cases Reported	1,366
Percentage of Total Cases:	1%

Geographic Distribution of Juvenile Cases: 2003



Leading Providers in the Juvenile Category	
Program	Market Share
Midwest Immigrant & Human Rights Center ²¹	27.3%
Legal Assistance Foundation of Metropolitan Chicago	19.6%
Chicago Legal Advocacy for Incarcerated Mothers	18.2%
CARPLS	10.6%
Evanston Community Defender Office	8.1%
Top 5 Market Share	83.8%

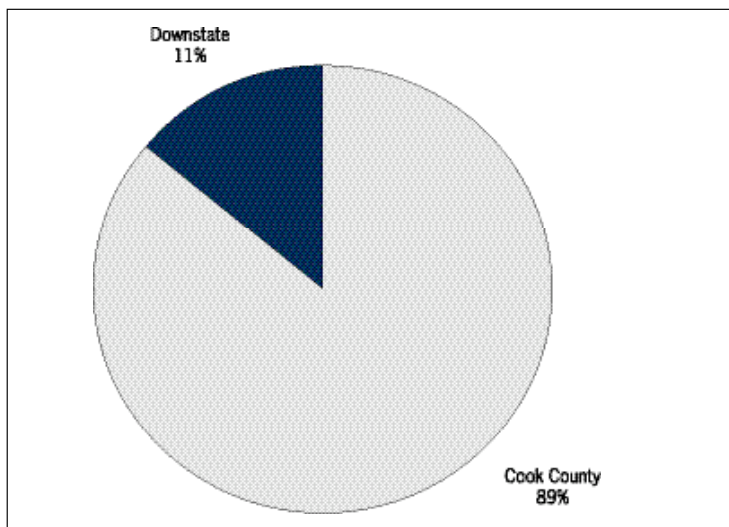
²¹MIHRC's cases in the juvenile area involve representation of unaccompanied immigrant children, and are not traditional abuse, neglect or delinquency matters.

Education

The education category includes all school-related issues, including access to special education programs.

Education Cases: 2003	
Rank Among Case Types:	9
Number of Cases Reported	1,230
Percentage of Total Cases:	0.9%

Geographic Distribution of Education Cases: 2003



Leading Providers in the Education Category	
Program	Market Share
Equip for Equality	50.6%
Legal Assistance Foundation of Metropolitan Chicago	26.3%
Prairie State Legal Services	8.7%
CARPLS	4.4%
Center for Disability & Elder Law	4.2%
Top 5 Market Share	94.2%

Levels of Service

The term “levels of service” is used to describe the nature and extent of the assistance that legal aid programs provide. Each reported case is classified as falling into one of the following four categories:²²

- ♦ **Brief Service:** Legal advice and/or other limited forms of assistance.
- ♦ **Representation without Litigation:** Research, preparation of letters or other legal documents, and/or negotiations with third parties.
- ♦ **Administrative Hearing:** Representation by an attorney or a paralegal before an administrative agency.
- ♦ **Litigation:** Representation in cases where a lawsuit has been filed, and in subsequent court proceedings.

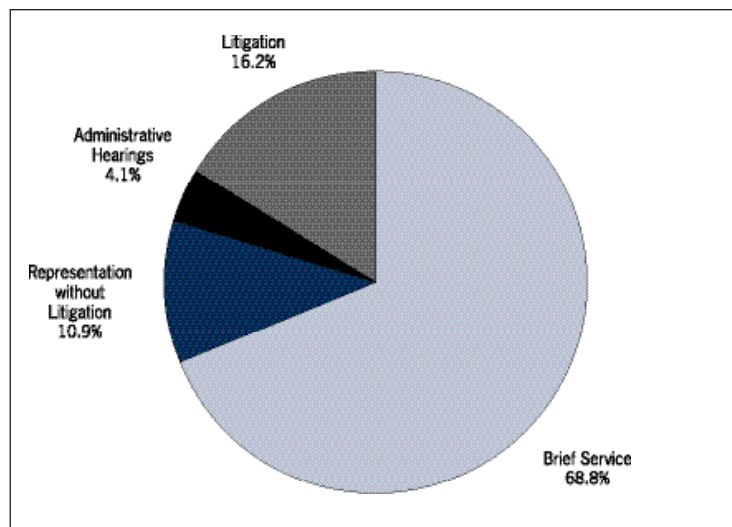
Total Client Contacts

Legal aid programs in Illinois reported 103,962 individual client contacts in 2003. These client contacts fell into the following “levels-of-service” categories:

	Cook County	Downstate	TOTAL
Brief Service	51,490	20,000	71,490
Representation without Litigation	8,495	2,847	11,342
Administrative Hearings	3,371	893	4,264
Litigation	11,696	5,170	16,866
Total	75,052	28,910	103,962

The number of clients who received actual representation (*i.e.*, beyond “brief services”) from a legal aid program in 2003 was 32,472

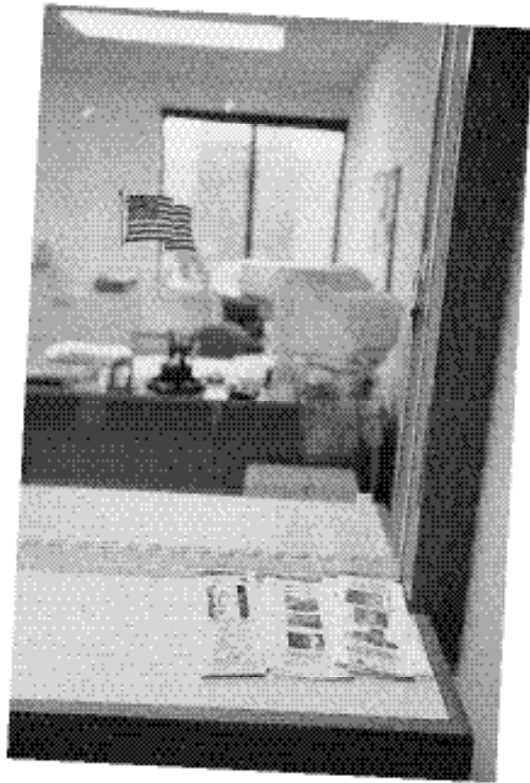
Levels of Service: 2003



²²Many legal aid programs also track client contacts in the “information and referral” category. This category includes those contacts in which the legal aid program provides non-legal information or a referral to another agency. It may also include cases in which the prospective client is rejected at some point during the screening process. Due to the very limited nature of the assistance provided, as well as the lack of consistency among programs in reporting these numbers, information and referral matters are not considered to be “cases” for the purposes of this study.



Lisa Wilson, Managing Attorney
Prairie State Legal Services, Peoria

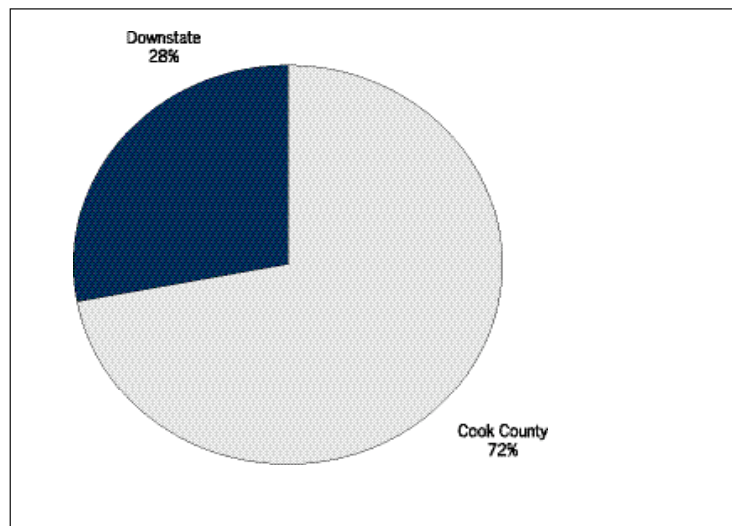


Brief Service

Brief service cases are those matters in which an attorney, or a paralegal under the supervision of an attorney, provides legal advice and/or other limited service. Brief services can be delivered in a number of ways – over the telephone, at a walk-in legal clinic, or at a court-based “help desk.” Clients often receive legal advice from a program after their case has been rejected for full representation.

Brief Service Cases: 2003	
Number of Brief Service Cases:	71,490
Percentage of Total Cases:	68.8%

Brief Service Cases: 2003



Leading Providers in the Brief Services Category	
Program	Market Share ²³
Legal Assistance Foundation of Metropolitan Chicago	27.9%
Prairie State Legal Services	16.9%
Coordinated Advice & Referral Program for Legal Services	12.4%
Chicago Volunteer Legal Services Foundation	9.8%
Land of Lincoln Legal Assistance Foundation	9.6%
Top 5 Market Share	76.6%

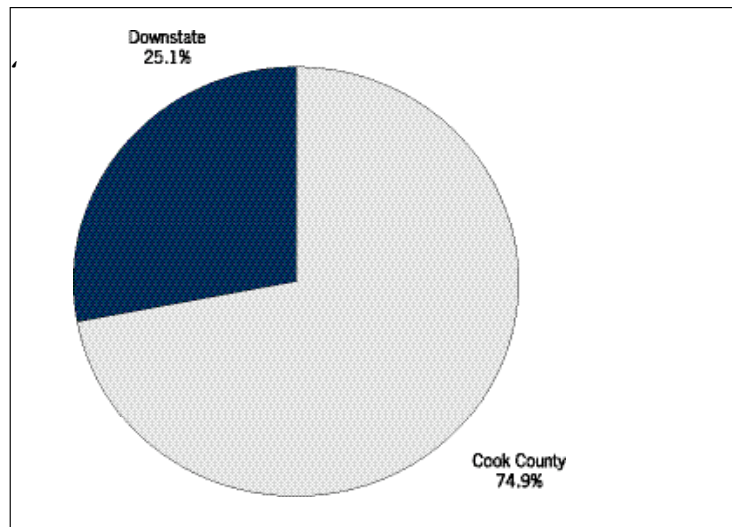
²³“Market share” is the percentage of total cases in each level-of-service category handled by the program.

Representation without Litigation

The representation without litigation category includes research, preparation of letters or other legal documents and/or negotiations with third parties. In most cases, this is the level at which the attorney-client relationship attaches.

Representation Without Litigation Cases: 2003	
Number of Representation without Litigation Cases:	11,342
Percentage of Total Cases:	10.9%

Representation without Litigation Cases: 2003



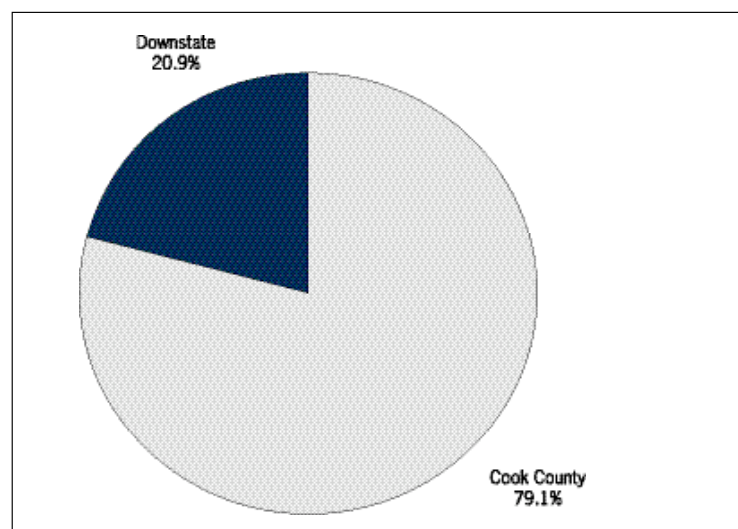
Leading Providers in the Representation without Litigation Category	
Program	Market Share
Land of Lincoln Legal Assistance Foundation	13.4%
Chicago Volunteer Legal Services Foundation	11.9%
Prairie State Legal Services	11.5%
Coordinated Advice & Referral Program for Legal Services	11%
Chicago Legal Clinic	9.6%
Top 5 Market Share	57.4%

Administrative Hearings

The administrative hearings category includes all cases in which a legal aid program provides representation before a governmental body. Common types of cases in the administrative hearing category involve immigration matters and public benefits issues.

Administrative Hearing Cases: 2003	
Number of Administrative Hearing Cases:	4,264
Percentage of Total Cases:	4.1%

Administrative Hearing Cases: 2003



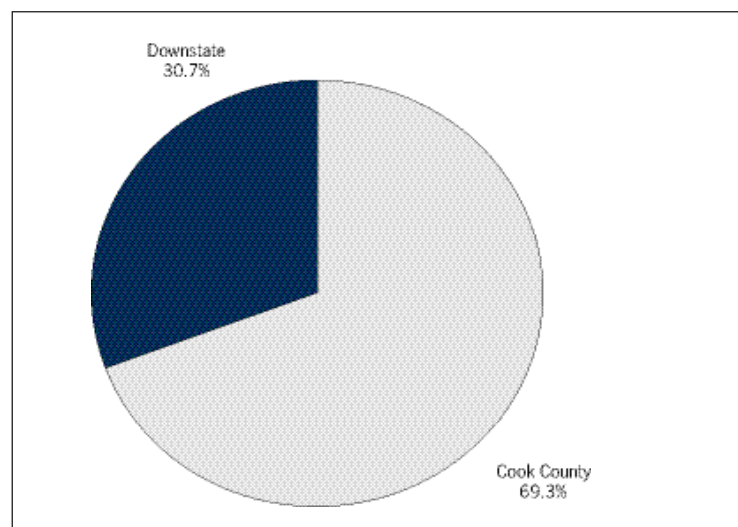
Leading Providers in the Administrative Hearings Category	
Program	Market Share
Legal Assistance Foundation of Metropolitan Chicago	35.6%
Center for Disability & Elder Law	12.7%
Immigration Project	9.7%
Uptown People's Law Center	9.3%
Chicago Legal Clinic	7%
Top 5 Market Share	74.3%

Litigation

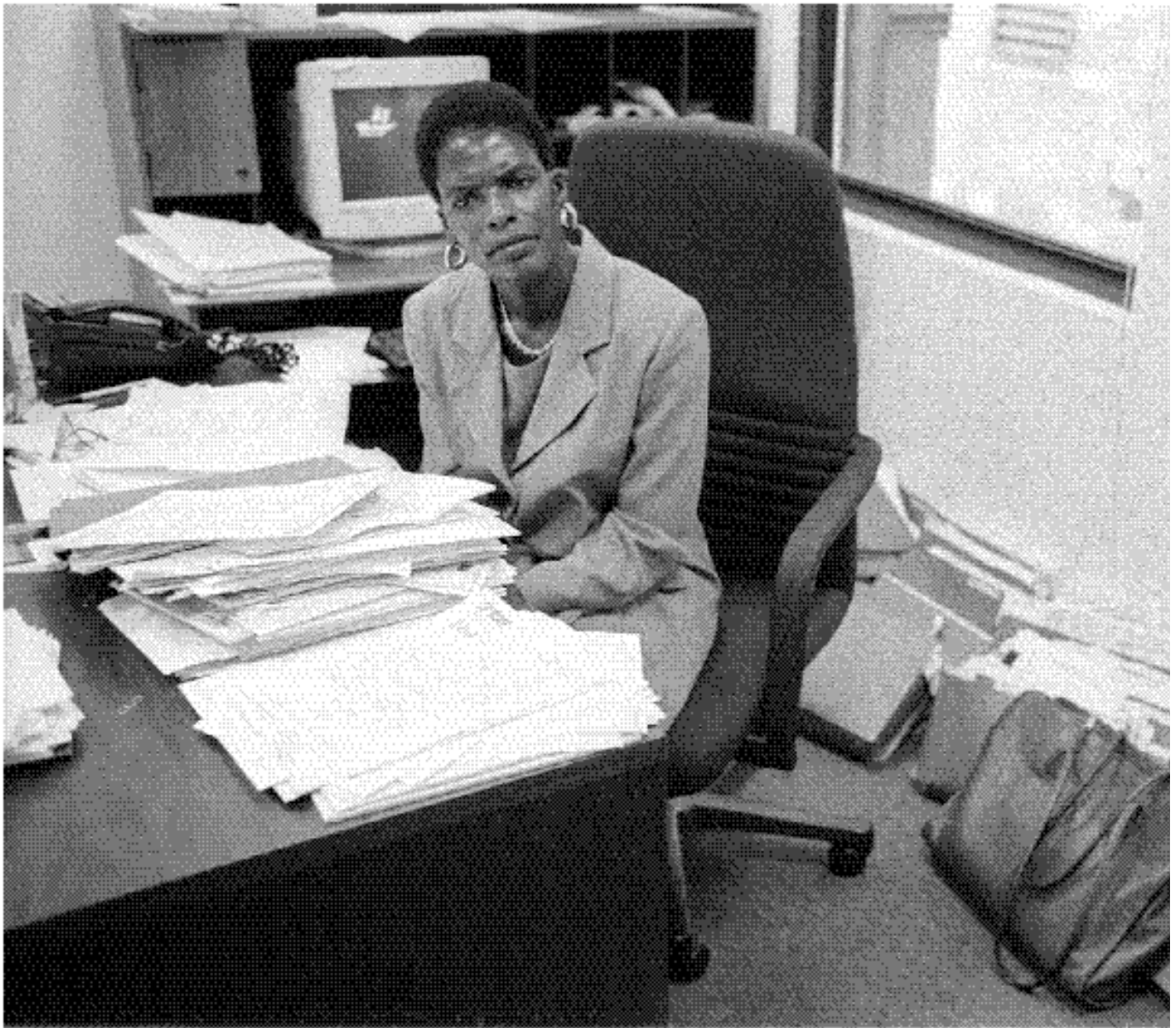
Litigation matters include all cases in which the legal aid program represents a client in a lawsuit, either as a plaintiff or a defendant in state or federal court.

Litigation Cases: 2003	
Number of Administrative Hearing Cases:	16,866
Percentage of Total Cases:	16.2%

Administrative Hearing Cases: 2003



Leading Providers in the Litigation Category	
Program	Market Share
Chicago Volunteer Legal Services Foundation	25.6%
Land of Lincoln Legal Assistance Foundation	15.5%
Prairie State Legal Services	12.2%
Legal Assistance Foundation of Metropolitan Chicago	11.8%
Chicago Legal Clinic	9.4%
Top 5 Market Share	74.5%



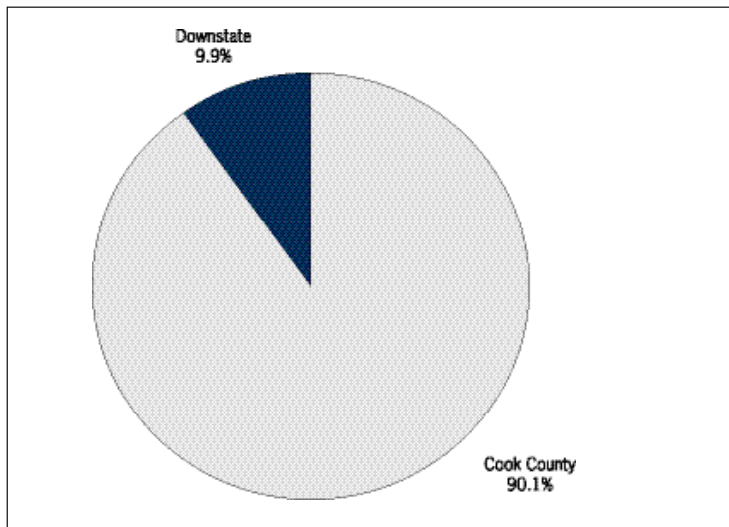
Djuana O'Connor, Co-Director, Legal Center
Life Span, Chicago

Pro Bono Services

Volunteer attorneys were responsible for a total of **11,506** cases in 2003, or 11.1% of all cases handled by legal aid programs. It is important to note that this figure only includes pro bono cases reported by a legal aid program, and does not include free services provided by Illinois attorneys through other, less formal arrangements.

The vast majority of these cases were referred to a volunteer attorney after being screened for both eligibility and merit by a legal aid program. This is one reason why the percentage of litigated cases by pro bono attorneys is much higher (50.8%) than the percentage of litigated cases for all matters handled by legal aid programs in 2003 (16.2%).

Pro Bono Cases: 2003



Geographic Distribution

The vast majority of pro bono cases handled in Illinois in 2003 were in Cook County.

According to the Attorney Registration & Disciplinary Commission, in 2003 there were 58,811 attorneys with a principal business address in Illinois. Just over 70% of those attorneys (41,229) were registered in Cook County.²⁴ The remaining 30% (17,582) were distributed among Illinois' 101 other counties.

The statewide ratio of registered attorneys to pro bono cases handled through a legal aid program is 5:1. In Cook County, the ratio is 4:1, while outside of Cook County the ratio leaps to 15:1. This difference reflects a number of factors at work downstate, including the challenges of geography in recruiting volunteers, the lack of concentrated volunteer pools (*i.e.*, larger firms), and the limited amount of pro bono "infrastructure" (*e.g.*, legal aid staff to recruit and train volunteers, screen cases and provide ongoing support while the case is active).

²⁴ARDC 2003 Annual Report, available at www.iardc.org/AnnualReport03/2003annual_report.html

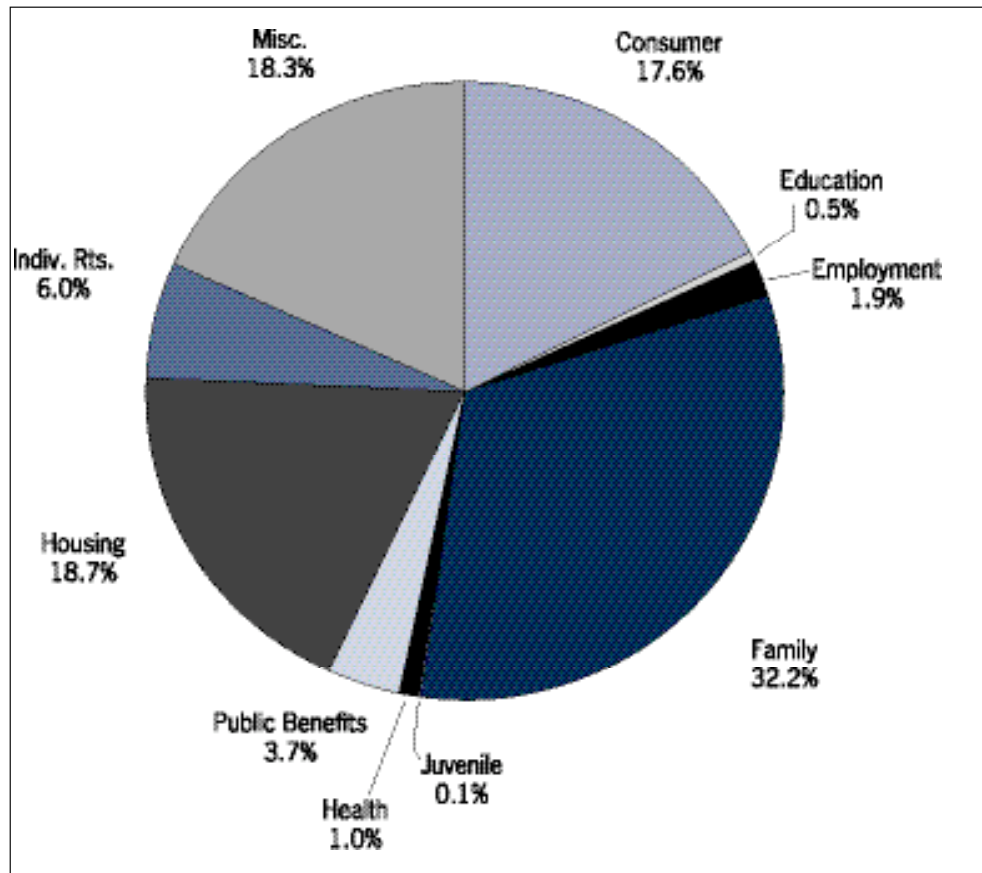
Pro Bono Levels of Service

The 11,506 cases that were handled by volunteer lawyers in 2003 fell into the following levels-of-service categories:

	Cook County	Downstate	TOTAL
Brief Service	2,552	151	2,703
Representation without Litigation	2,035	101	2,136
Administrative Hearings	820	7	827
Litigation	4,963	877	5,840
TOTAL	10,370	1,136	11,506

While volunteers provided services in only 11.1% of all cases reported by legal aid programs in 2003, it is worth noting that they were responsible for handling 34.6% of all litigated cases.

Pro Bono Case Types: 2003



Leading Pro Bono Programs	
Program	Market Share ²⁵
Chicago Volunteer Legal Services Foundation	44.8%
Center for Disability & Elder Law	18.2%
Legal Assistance Foundation of Metropolitan Chicago	6.6%
Prairie State Legal Services	5.2%
Land of Lincoln Legal Assistance Foundation	3.6%
Top 5 Market Share	78.4%

Legal Aid Clients

What kinds of people get help from legal aid programs? The following section examines this question, reporting on the income levels, race/ethnicity, age and disability status of legal aid clients, based on information provided for 2003 by the legal aid programs themselves.

Income Eligibility

The most common characteristic of legal aid clients is that they have low household incomes. The income eligibility standard used by many legal aid programs is 125% of the federal poverty level. (See table, below.) For a four-person household, this amount (\$23,000) is one-third of the median income for residents of the state of Illinois (\$69,168).²⁶

Percent of Poverty	Annual Household Income: 2003 ²⁷	
	1 Person	4 Persons
100%	\$8,980	\$18,400
125%	11,225	23,000
150%	13,470	27,600
175%	15,715	32,200
200%	17,960	36,800

Among LSC-funded programs, both the Land of Lincoln Legal Assistance Foundation and Prairie State Legal Services, which are the main providers of service in 100 of Illinois' 102 counties, use the 125% standard. Exceptions are made for certain types of clients, such as the elderly and victims of domestic violence. The largest provider in Cook County, the Legal Assistance Foundation of Metropolitan Chicago uses 150% of poverty as a standard for determining eligibility. This reflects the higher costs of living in the Chicago region.

The eligibility standards vary among other programs, as the following examples indicate:

- ♦ The Chicago Volunteer Legal Services Foundation uses a standard of 175%.
- ♦ The Cabrini Green Legal Aid Clinic uses 150% of poverty as its standard, but will handle cases for families earning up to 200% of poverty, depending on the circumstances of the case.

²⁵Market share is the percentage of the total pro bono cases handled by a program.

²⁶"Median Income for 4-Person Families, by State," U.S. Department of Health & Human Services, at www.census.gov/hhes/income/4person.html.

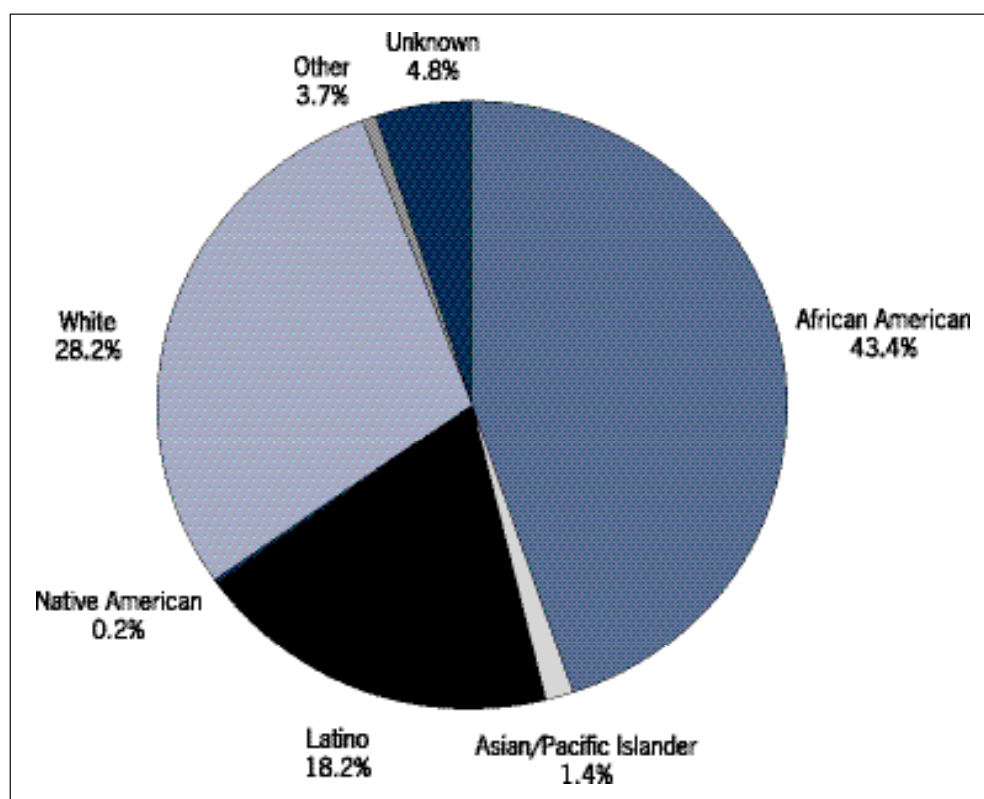
²⁷*Federal Register*, Vol. 68, No. 26, February 7, 2003, pp. 6456-6458.

- ♦ The Coordinated Advice & Referral Program for Legal Services uses 200% of poverty as its cut-off point for free services, but will assist callers with incomes between 201-350% of poverty for a \$25 fee.
- ♦ The Chicago Legal Clinic does not have strict eligibility limits, but charges fees on a sliding scale depending on income.”
- ♦ The AIDS Legal Council assists clients who have AIDS or are HIV+ with incomes up to 300% of poverty, although two-thirds of the people they served in 2003 had incomes of less than \$10,000.

While being poor does not guarantee that a person will get help from a legal aid program, it is in almost every case a necessary precondition.

Race/Ethnicity

The racial and ethnic composition of clients served by legal aid programs²⁸ in 2003 is shown in the following chart:



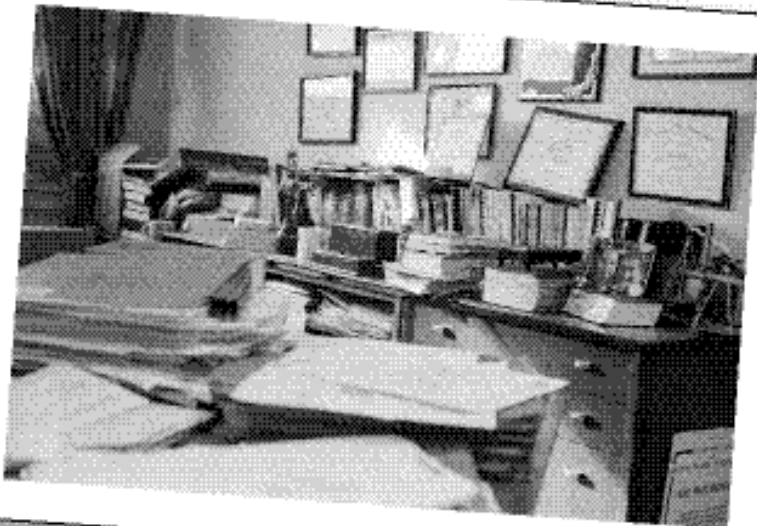
The numbers reveal that members of all racial and ethnic groups receive assistance that is roughly proportional to the numbers of each group who live below the federal poverty level, as the following table shows.

	Percent of Poor in Illinois ²⁹	Percent of Legal Aid Clients
African American	38.6	43.4
Latino	16.7	18.2
White	42.2	28.2
Other	2.4	5.3

²⁸Sixteen of the 23 programs included in this report provided information on the race and ethnicity of the persons served in 2003.

²⁹“2003 Report on Illinois Poverty,” *Illinois Poverty Summit*, Heartland Alliance for Human Needs & Human Rights, p. 24.

Ed Grossman, Executive Director
Chicago Legal Clinic, Chicago



The most likely explanation for the fact that white clients are underrepresented in the totals (42.2% of poor people vs. 28.2% of legal aid clients) is that most legal aid resources – and 72.2% of all legal aid cases handled in 2003 – were concentrated in Cook County, which has a higher number of low-income African-American and Latino residents than other areas of the state. The more rural areas of the state, with higher percentages of low-income white residents, had fewer legal aid lawyers – both staff and volunteer – to cover a vast geographic area.

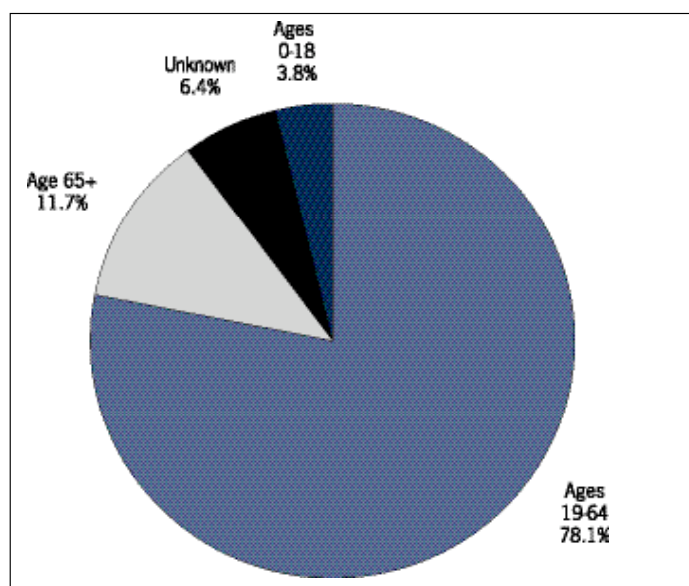
The demographic differences in the racial and ethnic composition of clients in Cook County and downstate are significant, as shown in the following table.

Percentage of Total Clients		
	Cook County	Downstate
African American	48.8	21.2
Asian/Pacific Islander	1.6	0.6
Latino	21.4	4.6
Native American	0.2	0.3
White	17.7	71.7
Other	4.4	0.9
Unknown	5.9	0.7
Total	100%	100%

Almost half of the clients served in Cook County were African American, and just over one in five was Latino. Whites comprised less than 20% of the total caseload in Cook County. Downstate, by contrast, seven out of ten clients were white, and just over one out of five clients were African American. Latinos made up less than 5% of the downstate caseload.

Age

As the following chart indicates, the vast majority (78.1%) of legal aid clients in 2003 were adults between the ages of 19 and 64. Elderly clients made up approximately 12% of the caseload, while juvenile clients accounted for less than 4% of the total.



Fran

Fran had raised ten children. Now widowed and coping with a heart condition, she faced eviction. Her landlord alleged that someone was living with her, which was in violation of the lease. While some of Fran's children visited her during the day to help her with household tasks, no one was living with her in the apartment.

When a legal aid attorney contacted the landlord, he agreed that Fran would not be evicted if he saw no further evidence that someone else was living in the apartment. Two months later, however, he filed another eviction action.

The legal aid attorney represented Fran in court, and the judge dismissed the eviction based on the fact that Fran had continued to pay rent and the landlord had continued to accept it.

Deeply disturbed by the actions of her landlord, Fran sought a new place to live, but she was able to leave on her own terms.

Source:
Prairie State Legal Services

Disability Status

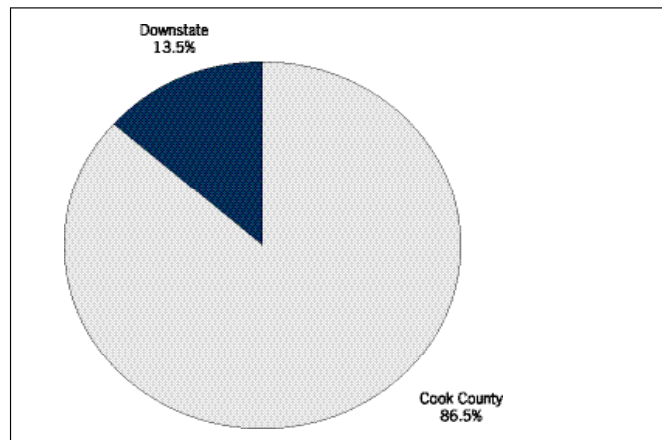
Many legal aid programs collect information on their clients' disability status.³⁰ This information is often a central factor in the client's case (e.g., qualification for Social Security Disability benefits, special education matters), or is a factor in the client's eligibility for service.

Legal aid programs that track disability status reported that **16.9%** of the clients served in 2003 had some type of disability. According to the 2000 Census, 17.6% of Illinois residents had some type of disability.³¹

Legal aid organizations were not asked for a breakdown of the types of disabilities experienced by their clients. Census data indicates that 3.1% of Illinois residents with a disability had a sensory disability; 7.2% had a physical disability; 4.1% had a mental disability; and 2.4% had a "self-care" disability.³²

Clients with disabilities made up 18.7% of the caseloads of Cook County programs, and 10.4% of caseloads outside of Cook County. As the chart below indicates, the vast majority of clients with disabilities assisted by legal aid programs in 2003 lived in Cook County.

Geographic Distribution: Legal Aid Clients with Disabilities: 2003



The percentage of clients with disabilities living in Cook County (86.5%) is significantly higher than the percentage of *all* clients served by legal aid programs who live in Cook County (72.2%). This difference is due to the fact that there are several agencies (or projects of larger agencies) based in Cook County that specialize in serving the needs of people with disabilities. Examples include the Legal Assistance Foundation of Metropolitan Chicago, the Center for Disability & Elder Law and the AIDS Legal Council. Equip for Equality, which focuses exclusively on protecting the rights of people with disabilities, has offices in Springfield and Rock Island, but most of its staff members are based in Chicago.

³⁰Fourteen of the 23 programs included in this report provided information on the disability status of the clients served in 2003.

³¹"Disability Status 2000," U.S. Census Bureau, March 2003, available at www.census.gov/hhes/www/disable/disabstat2k.html.

³²*Ibid.*

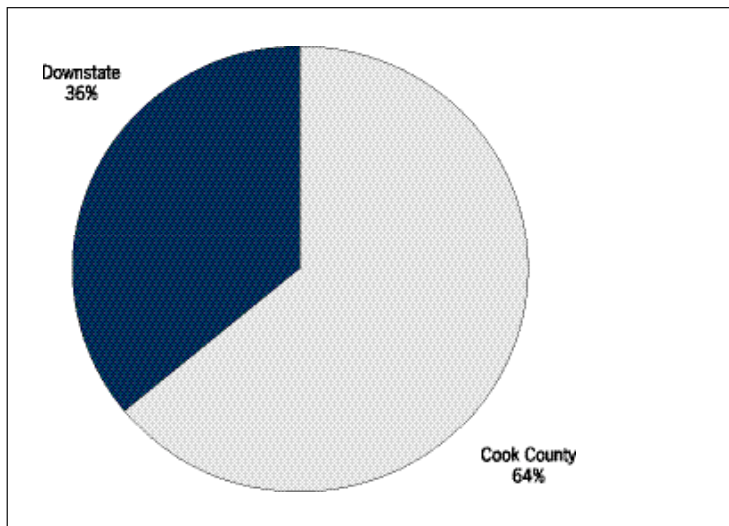
Legal Aid Staff: 2003

In 2003, legal aid programs in Illinois employed a total of **605** persons, including 474 full-time and 131 part-time staff members. These employees are broken down into three types of jobs: attorney, paralegal and administrative personnel.³³ The following chart breaks down the employees by job category.

	Full-time	Part-time	Total
Attorneys	249	77	326
Paralegals	98	15	113
Administrative	127	39	166
Total	474	131	605

In terms of geographic distribution, approximately two-thirds of all legal aid staff members in Illinois are based in Cook County.

Geographic Distribution of Legal Aid Staff



The following table shows the geographic distribution of legal aid staff members by job category.

	Attorneys		Paralegals		Administrative		Total	
	F/T	P/T	F/T	P/T	F/T	P/T	F/T	P/T
Cook County	165	44	81	5	75	17	321	66
Downstate	84	33	17	10	52	22	153	65
Total	249	77	98	15	127	39	474	131

³³In this context, the term “administrative personnel” is used as a catchall term to include intake workers, legal secretaries, fundraising staff, accountants and bookkeepers, information technology staff, *et. al.*

Of the 58,811 attorneys who are registered with the Attorney Registration & Disciplinary Commission and list a primary business address in Illinois, a total of 326 (249 full time; 77 part time) are employed by legal aid programs. This translates into **280 full-time equivalent (FTE)** staff attorneys who are available to represent low-income clients in Illinois.³⁴

If all of the legal aid lawyers in Illinois were consolidated into one organization, it would still only be the eighth largest law firm in the state, ranking between the Chicago offices of Katten Muchin Zavis & Rosenman (288 attorneys) and DLA Piper Rudnick Gray Cary (269 attorneys).³⁵

The number of staff attorney FTE's based in Cook County (183) is roughly twice the number based in the other 101 counties in the state (97).

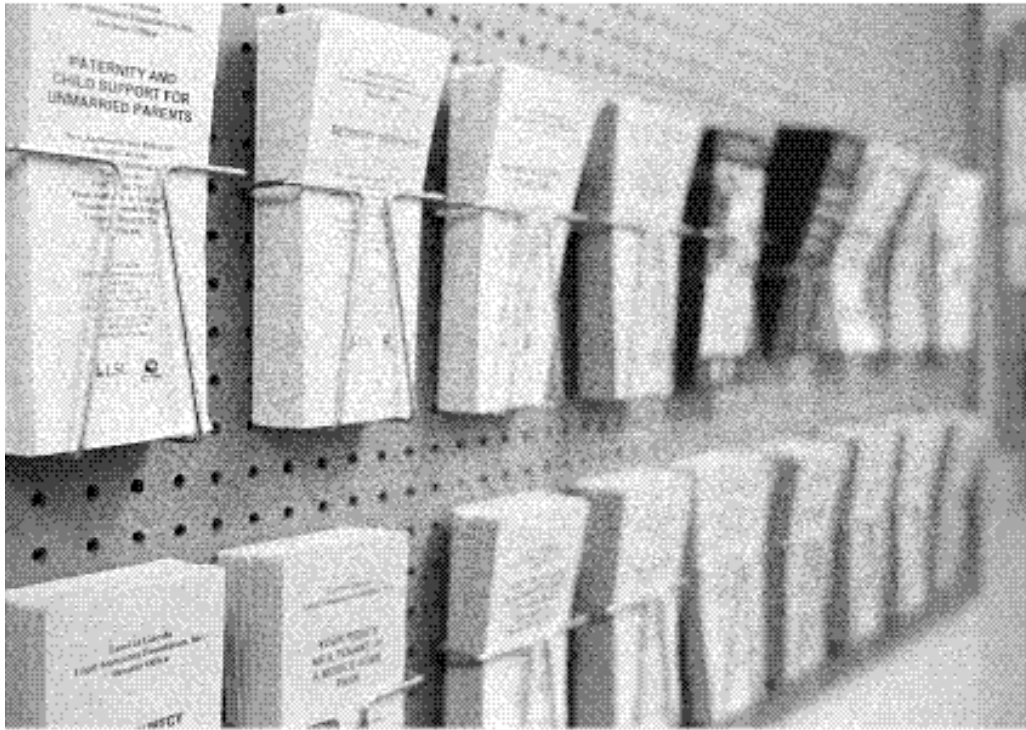
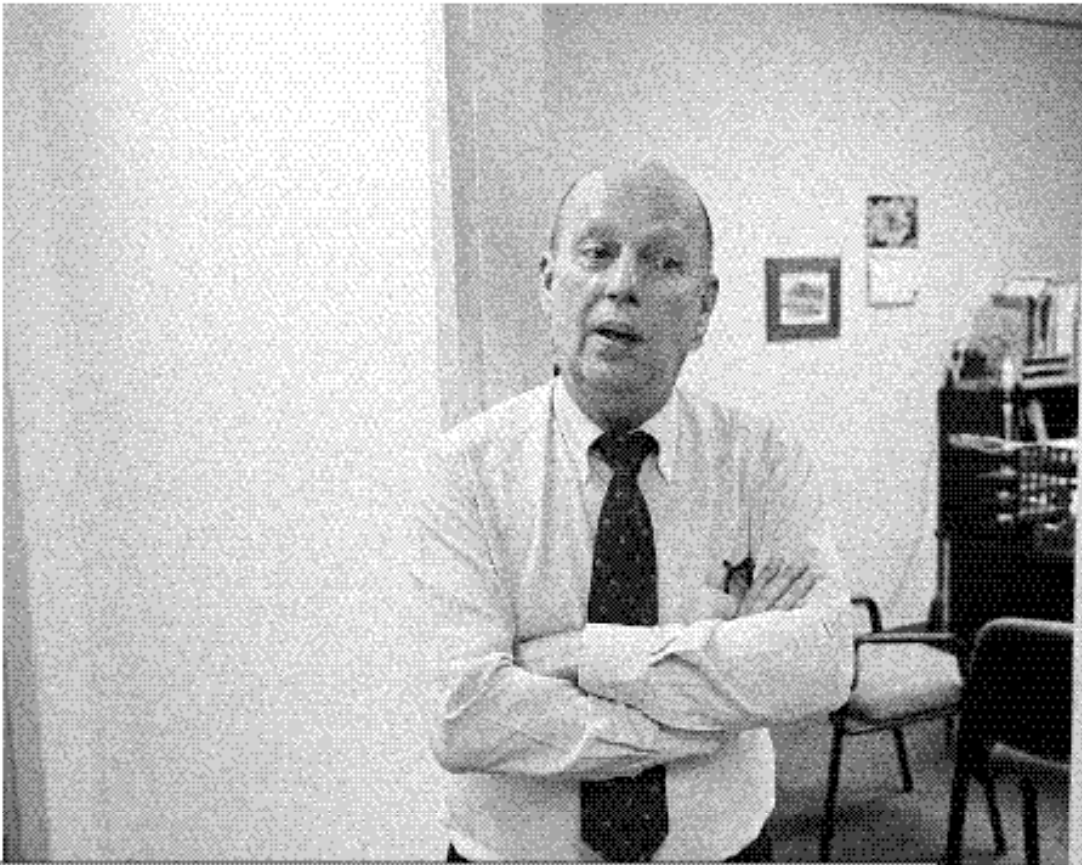
The three legal aid programs with the largest numbers of staff attorneys all receive funding from the federal Legal Services Corporation: the Legal Assistance Foundation of Metropolitan Chicago, Prairie State Legal Services and the Land of Lincoln Legal Assistance Foundation. The following table shows the distribution of staff attorneys among programs.

Program	Full-Time Equivalent (FTE) Attorneys
Legal Assistance Foundation of Metropolitan Chicago	81
Prairie State Legal Services	45
Land of Lincoln Legal Assistance Foundation	41
Chicago Legal Clinic	16
Equip for Equality	16
Coordinated Advice & Referral Program for Legal Services	12
Life Span Center for Legal Services & Advocacy	10
Midwest Immigrant & Human Rights Center	10
Legal Aid Bureau	8
Chicago Volunteer Legal Services Foundation	5
Health & Disability Advocates	5
Lawyers Committee for Better Housing	4
Cabrini Green Legal Aid Clinic	4
<i>Six programs have 3 staff attorney FTE</i>	
<i>One program has 3 staff attorney FTE</i>	
<i>Three programs have 1 staff attorney FTE</i>	

Of the 77 part-time attorneys, 55 are employed as hotline attorneys by CARPLS, Land of Lincoln's Legal Advice & Referral Center or Prairie State's Telephone Counseling Service.

³⁴For the purpose of calculating full-time equivalents, each of the 77 part-time lawyers is counted as 0.4 of a full-time position (16 hours per week), which translates into 30.8 (31) full-time equivalents.

³⁵"Chicago Lawyer 2004 Survey: The Largest Law Firms in Illinois," *Chicago Lawyer*, June 2004, p. 10.



Bill Brown,
Managing Attorney
*Land of Lincoln Legal
Assistance Foundation,
Decatur*

Grace

Grace and her husband followed the rules. They were doing their best to raise their three daughters. Her husband's wages were not enough to cover all their expenses, so food stamps were a necessity.

As a participant in the food stamp program, Grace knew she must report changes in household income. So when her husband's income rose over a few weeks, she reported the change. No adjustment in food stamps was made. Some time later, however, Public Aid noted that there had been a \$360 overpayment and notified Grace. She repaid the overpayment. Then the Department decided that her overpayment was an intentional error and she should be sanctioned from receiving food stamps for six months. This would be a disaster for her family of five.

A legal aid attorney helped Grace preserve this essential source of food for her family. The attorney represented her in an administrative hearing, at which the sanctions were upheld. However, there was no evidence that the error had been intentional. The attorney filed an appeal with the Circuit Court, at which point the Illinois Department of Human Services withdrew the sanction.

Source:
Prairie State Legal Services

Legal Aid Funding

In 2003, Illinois legal aid programs raised a total of **\$36,299,420**. This funding came from a variety of public and private sources, ranging from multi-million dollar grants from the federal Legal Services Corporation to \$10 donations from grateful former clients.

Sources of Funding

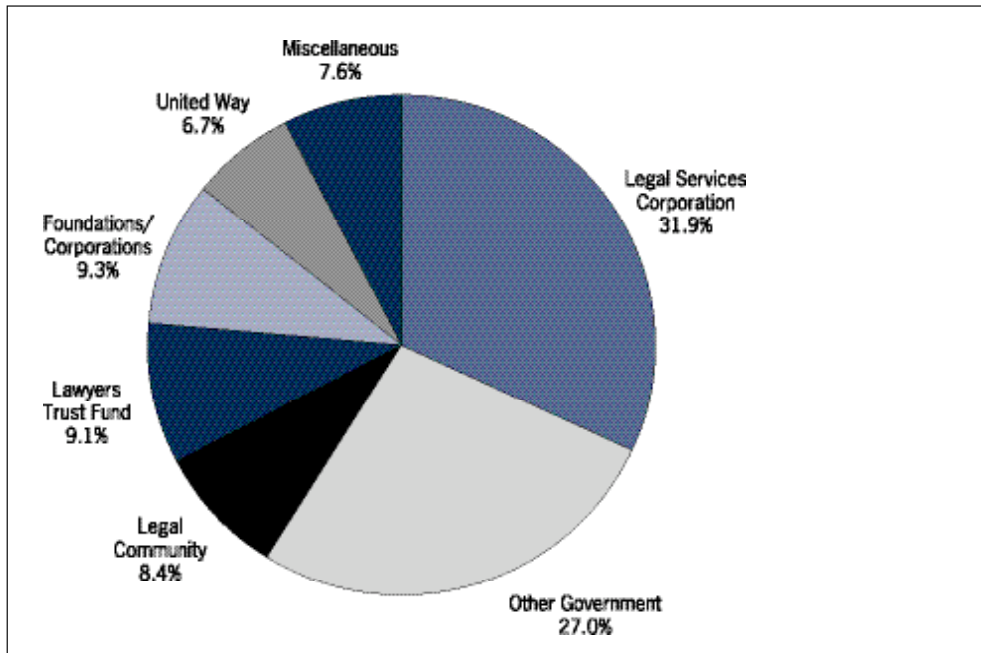
The various funding sources that support legal aid programs are divided into eight categories for the purposes of reporting and analysis. These categories are:

- **Legal Services Corporation (LSC):** All funding from the federal Legal Services Corporation, including basic field grants and funding for special projects.
- **Other Government Funding (non-LSC):** Grants, contracts or reimbursements from federal, state, county or municipal governments, agencies, or authorities. This category includes state funding through the Illinois Equal Justice Foundation.
- **Lawyers Trust Fund of Illinois:** Grants from the Lawyers Trust Fund of Illinois, using revenue from the Interest on Lawyer Trust Account (IOLTA) program and the portion of the annual attorney registration fee designated for legal aid.
- **Foundations and Corporations:** Grants or contributions from foundations, charitable trusts, corporations or corporate foundations.
- **United Way:** Allocations or special purpose grants from United Way, or from other workplace contribution programs such as the Combined Federal Campaign.
- **Legal Community:** Financial contributions from law firms, law firm foundations, bar associations, bar foundations and individual attorneys.
- **Miscellaneous:** Other sources of income, including fee awards, client co-payments or contributions, interest payments, earned revenue, event income that cannot be attributed to another source, and all other contributions that cannot be classified into one of the previous categories.

Breakdown of Funding Sources

As the following chart indicates, well over half (58.7%) of the total funds raised by legal aid programs in 2003 came from public sources, including LSC (31.9%) and grants and contracts in the "other government" category (27%).

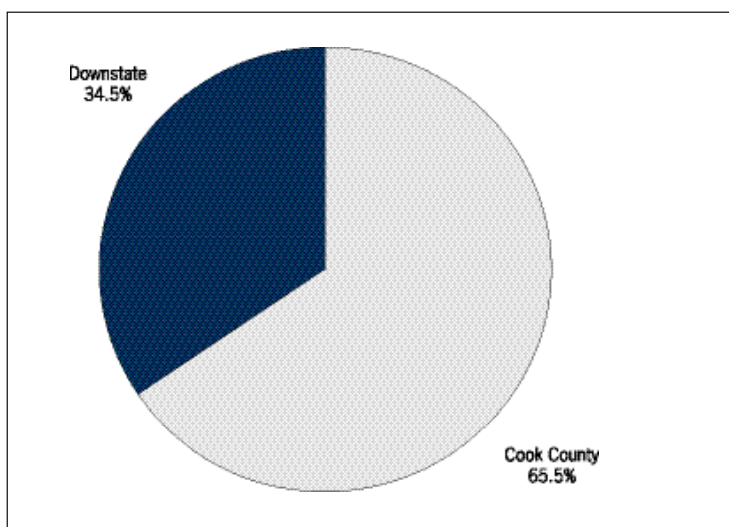
While the “legal community” category accounts for 8.4% of legal aid funding in the chart below, **Illinois lawyers actually contribute at least 14.3%** of the total when the \$42 legal aid fee paid by attorneys as part of the annual registration process is included.³⁶ In addition, a number of law firms earmark their United Way contributions for legal aid and many attorneys contribute to fundraising events that fall into the “miscellaneous” category. Consequently, a conservative estimate of the total contributions of Illinois lawyers to the legal aid system would be 15% of the total, without accounting for the value of the tens of thousands of hours of volunteer time contributed by pro bono attorneys.



Legal Aid Funding: Cook County vs. Downstate

Cook County programs raised almost two-thirds of the total funding for legal aid programs in 2003.

Total Legal Aid Revenue: Cook County vs. Downstate



³⁶The \$42 fee paid by Illinois attorneys is distributed by the Lawyers Trust Fund of Illinois, and is included in the Lawyers Trust Fund’s total contributions in the chart above.

As the following table indicates, programs in downstate Illinois are much more reliant on public funding than programs in Cook County. Government grants and contracts accounted for just over half (53.8%) of the total funding in Cook County, versus more than two-thirds (68.6%) of downstate revenue.

Programs based in Cook County have a tremendous fundraising advantage, as they are able to call upon a far larger group of private funding sources, such as major law firms, charitable foundations and corporations. For example, Cook County-based programs raised \$9.45 from foundations and corporations for every dollar that downstate programs were able to raise from those same sources. For legal community contributions, the advantage for Cook County programs was \$4.92 for every downstate dollar raised.

Amount of Total Funding: 2003			
	Cook County	Downstate	Total
Legal Services Corp.	\$6,292,437	5,303,784	\$11,596,221
Other Government	6,501,597	3,291,460	9,793,057
Foundation/Corporations	3,045,972	322,398	3,368,370
Lawyers Trust Fund	1,819,340	1,501,660	3,321,000
Legal Community	2,520,083	512,136	3,032,219
United Way	1,319,462	1,097,226	2,416,688
Litigation Miscellaneous	2,279,539	492,326	2,771,865
Total	\$23,778,430	12,520,990	\$36,299,420

SECTION IV. MAJOR ISSUES FACING THE LEGAL AID SYSTEM IN ILLINOIS

The legal aid system is currently facing a host of challenges. Programs are overwhelmed by requests for assistance. Funding is barely adequate to keep up with rising costs, and entirely inadequate to allow programs to expand their services. Low salaries and high levels of educational debt make it hard for dedicated staff attorneys to remain in the legal aid field.

Change is needed. While there is no real risk that the system will collapse, there is a very real danger that, over time, the currently inadequate legal aid system will meet an ever-smaller share of the total demand for legal assistance.

There is nothing inevitable about such an outcome. The legal aid system has demonstrated remarkable resiliency. While there have been setbacks, including devastating reductions in federal funding in 1981 and 1996, the system has endured.

The legal aid system has many strengths, upon which an even better system can be built. Programs have been forced to do more with less, and as a result have found creative, entrepreneurial ways to boost productivity, take advantage of emerging technology and engage the private bar. However, there are limits to what the legal aid system can achieve without additional resources, and many programs may have already reached those limits.

The following section analyzes some of the major challenges facing the legal aid delivery system over the next decade. How these issues are addressed will determine whether or not Illinois has a legal aid system capable of fulfilling its proper role in our society.

This section is organized around six major issues:

- ♦ **Access** to legal aid services;
- ♦ **Resources** and funding to support a strong legal aid system;
- ♦ The **health of the legal aid system**, in terms of staff, funding and infrastructure;
- ♦ The **role of the private bar** in addressing the legal needs of low-income Illinoisans;
- ♦ **Gaps** in the current legal aid delivery system; and
- ♦ **Collaboration** among various groups and institutions to strengthen the system.

The information in this section is derived from a number of sources, including a survey of the executive directors, managing attorneys and staff attorneys of legal aid programs; the telephone survey of low-income households discussed in Section II; and data submitted to the Lawyers Trust Fund of Illinois as part of its annual grant-making process. The remaining sources are cited in the text.

Access to Legal Aid Services

The question of “access” encompasses a wide range of issues, ranging from awareness of services to delivery methods to the role of technology in helping people utilize the legal system.

Awareness of Legal Aid Services

To receive legal assistance, one must first be aware of the fact that legal aid programs exist. Given that legal aid programs are overwhelmed with calls from people seeking assistance, this would appear to be an issue of minimal concern. This, however, is not the case.

The telephone survey found that only 22.7% of respondents answered “yes” to the question: “Are you aware of any free civil legal aid services in your area?” Awareness of legal aid was slightly lower than average among African-American households (21%), and significantly lower among Latino households (14%).

A 23% rate of awareness still translates into a potential “market” of approximately 175,000 low-income Illinois households. The fact that a respondent is not aware of any source of free legal assistance does not mean that he or she will not *become* aware of those services when faced with a serious legal problem. However, the telephone survey indicates that the most common response to a problem (65.7%) is to attempt resolution without legal assistance, despite the potentially serious consequences. Therefore, in light of the low rate of awareness and the high rate of “self-help” efforts, it would seem reasonable to assume that many people face their problems without legal help simply because they do not understand that such help might be available.

The level of awareness has dropped significantly in the past fifteen years. When the same question was asked as part of the 1989 *Illinois Legal Needs Study* telephone survey, the rate of awareness was 43%,¹ indicating that awareness of the availability of legal aid has dropped by almost half (46.5%) during the past 15 years.

Part of the explanation may be generational. Survey respondents in 1988 were more likely to have come of age in an era of expansive governmental commitments to social programs and civil rights. Respondents in 2003 were more likely to have had their perceptions shaped by the 1996 overhaul of the welfare system and President Bill Clinton’s declaration that “the era of big government is over.” In such a climate of governmental service cutbacks, there is little reason for poor people to assume that anyone would provide them with free legal assistance.

A second possible explanation is that legal aid programs, already overwhelmed by people they are unable to assist due to limited resources, may have cut back on their outreach and marketing efforts. If a program can assist 100 clients per month, and is already screening 1,000 calls per month, why should it take steps to increase awareness of its services? What would be the possible benefit, either to the program or to potential clients, of increasing the number of callers to 2,000 per month? Given this all-too-common scenario, programs may have elected to give outreach and marketing efforts a much lower place on their lists of priorities. Another possibility is that programs facing a severe lack of resources may have decided not to spend staff time or money on outreach efforts.

If programs *have* cut back on their marketing and outreach efforts, it would be difficult to argue that this is anything other than a rational and understandable response. That being said, there is a price to be paid for allowing ignorance to serve as a mechanism to control demand. Those who need help the most may not get it, simply because they are not aware that the possibility exists. It is important for the legal aid system to operate on a level playing field, even when resources are limited.

On the other hand, it would be irresponsible for programs to hold out false hope. This is why future marketing and outreach efforts should be designed to be as specific as possible regarding the types of cases for which help is available, and about the extent of service that a potential client can reasonably expect.

¹*Illinois Legal Needs Study*, p. 47.

Staff Attorney Representation²

Staff attorneys are the cornerstones of the legal aid delivery system. The fact that there are so few of them is at the heart of the crisis facing the legal aid system.

There are over 75,000 registered attorneys in Illinois,³ and only 326 of them are employed as staff attorneys in legal aid programs. Seventy-seven of the 326 are part-time employees. The total number of full-time equivalent (FTE) legal aid staff attorneys in Illinois is 280.

As a group, these 326 attorneys have the primary responsibility to deliver (or coordinate the delivery of) services to address the legal needs of over 1.3 million low-income Illinoisans living in 102 counties – a ratio of one legal aid attorney for every 4,752 potential clients. This small group of attorneys is charged with providing representation on legal matters including consumer issues, family law, housing, public benefits, immigration, employment and many other specialized areas of law.

In 2003, Illinois legal aid staff attorneys handled a total of **92,456** cases – an average of 330 cases for each FTE attorney.⁴ The levels of service break down as follows:

	Total Cases	Percentage of All Cases	Average per FTE Attorney
Brief Service/Legal Advice	68,787	74.4	246
Representation without Litigation	9,206	10	33
Administrative Hearing	3,437	3.7	12
Litigation	11,026	11.9	39
	92.456	100%	330

In other words, in 2003 the average legal aid staff attorney provided legal advice or “brief services” in 246 cases and extended representation in another 84 cases.

Based on the responses to the staff attorney surveys, it is evident that legal aid attorneys are feeling the pressure that such caseloads impose and are aware of the potential impact on the quality of services they can provide.

“I have a high caseload and there are not enough hours in the day,” wrote an attorney at the Cabrini Green Legal Aid Clinic. “I wish I could spend more time on each individual case and give the client more attention.”⁵

*There are over 75,000 registered attorneys in Illinois,
and only 326 of them are employed as staff attorneys in legal aid programs.*

²Information about pro bono representation is included in the section entitled “The Role of the Private Bar.”

³2003 Annual Report of the Attorney Registration & Disciplinary Commission, available at www.iardc.org/AnnualReport03/2003annual_report.html

⁴These totals do not count cases handled by volunteer lawyers, though it should be noted that many staff attorneys spend significant amounts of time supporting the efforts of attorneys who volunteer for their programs.

⁵All staff attorney written surveys were anonymous, in an effort to encourage the maximum level of candor. Consequently, staff attorneys quoted in this report will be identified only by program.

A lawyer at the Land of Lincoln Legal Assistance Foundation described the biggest challenge of the job as “having time to stay on top of the law while trying to manage such large caseloads.” An attorney at the Legal Assistance Foundation of Metropolitan Chicago (LAFMC) added: “Our caseloads are of a size that it often feels that I cannot devote enough time to an individual case because when I do it means that I am not working on other cases that need attention.” Another attorney at LAFMC put the issue even more succinctly: “Insanely busy practice.”

That legal aid staff attorneys are “insanely busy” is not, in and of itself, a cause for concern. Most lawyers in private practice would probably describe their working lives in similar terms.

Concern about high caseloads is not primarily about quality-of-life issues for attorneys. Instead, the issue is the quality of services for clients. The question raised by this concern is: How should delivery systems be organized to make the best use of attorneys’ time and to ensure the highest-quality services for clients?

One staff attorney at a downstate program suggested that legal aid needed “a better model, based on a law firm, where the main purpose of [non-lawyer] staff are to make the attorneys more efficient,” adding that attorneys faced “too much time spent on answering phones or administrative work.”

It is an oversimplification to conclude, based on the numbers reported above, that legal aid staff attorneys spend almost 75% of their time advising, rather than representing, clients. But the percentage of the average staff attorney’s caseload that is made up of “advice only” matters does raise certain questions. Are programs’ intake systems and staff configurations designed to “make attorneys more efficient?” Are there less labor-intensive ways to give advice?

Staff attorney time is a rare, and thus precious, commodity. There are many types of cases where legal representation by a staff attorney is absolutely essential to a successful outcome. As a lawyer at the Coordinated Advice & Referral Program for Legal Services noted, “most divorce calls I get are contested and complicated, and the people are going to be screwed over by not having a lawyer, but there’s no lawyer.”

While pro bono attorneys can (and do) provide a substantial volume of legal representation, there are certain specialized areas of the law in which few pro bono lawyers routinely practice. These include, for example, public benefits, Medicaid, and public housing, which are highly specialized issues that would rarely, if ever, arise among market-rate clients.

The basic question is: Are legal aid programs taking the proper steps to ensure that their staff attorneys are able to focus on the things that only they can do, *i.e.*, representing clients?

Telephone Advice & Referral Programs

Of the 151,089 client contacts reported by legal aid programs for 2003, 78.5% were classified as either “information & referral” (31.2%) or “brief service” (47.3%) matters.

One of the major innovations of the past decade has been the development of telephone advice and referral programs as a more efficient and cost-effective way to provide information, referrals and legal advice. These programs are often referred to as legal aid “hotlines.”

The hotline service-delivery model uses attorneys as the front-line staff to answer telephone calls from people seeking legal assistance. The hotline attorney screens for certain eligibility factors, such as household income, and listens to the caller’s problem. The attorney helps the caller better understand his or her legal situation and options, and then offers legal advice over the telephone (usually supplemented by printed materials sent via mail); refers the caller to a non-legal resource, such as a social service provider or government agency; or refers the caller to a legal aid office for extended representation.

The hotline model collapses the traditional multi-stage intake process used by many legal aid providers, which involves a screening interview with an intake worker, followed by a legal interview with an attorney or a paralegal. After the second interview, staff attorneys meet to determine whether the case should be accepted for full representation or if the individual should be given legal advice only. The hotline process reduces three steps to one.

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Illinois has been a national leader in the hotline movement. In 1993, the Coordinated Advice & Referral Program for Legal Services (CARPLS) began operating as the first free-standing (*i.e.*, not affiliated with an existing agency) legal aid hotline in the country. In the mid-1990's, both the Land of Lincoln Legal Assistance Foundation and Prairie State Legal Services created centralized intake, advice and referral hotlines for their multi-county service areas. By 1998, low-income residents of 101 of Illinois' 102 counties had potential access to legal aid hotlines.⁶

Hotlines are now a common feature of legal aid systems throughout the country. They have been embraced by the federal Legal Services Corporation (LSC), which in 2002 announced that

LSC believes that a fully integrated and efficient telephone intake, advice and referral system will improve client access and create more time for advocates to do extended services by removing the repetitive intake function from some of the advocates and placing it with a cadre of experts who are facile at determining the appropriate course for an applicant to pursue to obtain help with a problem.⁷

Hotlines as Intake Systems

Hotlines are designed to direct a person in need of legal help to the most appropriate resource as quickly as possible.

The two downstate hotlines, Land of Lincoln's Legal Advice & Referral Center (LARC) and Prairie State's Telephone Counseling Service (TCS) both function as the centralized intake units for their multi-office programs. The Land of Lincoln program uses part-time staff attorneys based in its East St. Louis office, and Prairie State employs part-time telephone counselors in its Waukegan and Batavia offices. The hotline attorneys in both programs are aware of the priorities and the capacities of their programs' branch offices. When a caller presents a problem that requires extended representation, the hotline attorney refers the caller to the nearest office. Those callers whose cases either lack legal merit or are not high on the priority list are given legal advice or are referred to another source of assistance.

⁶The sole exception is Will County, which is served by the Will County Legal Assistance Program. The Will County Legal Assistance Program, which operates as a sub-grantee of Prairie State Legal Services, has elected not to come under the umbrella of Prairie State's Telephone Counseling Service.

⁷"Characteristics of a Telephone Intake, Advice and Referral System," Legal Services Corporation Program Letter 02-4, April 25, 2002, available on the LSC web site at www.lsc.gov/foia/pl/02-4.pdf.

For legal services programs that use centralized telephone intake systems, the hotline systems' ability to identify priority cases from throughout the service area is a distinct advantage.

The hotline program in Cook County, CARPLS, is an independent not-for-profit organization, rather than a unit of a larger legal aid program. CARPLS refers callers to the most appropriate of approximately 30 affiliated legal aid agencies, including all of the major programs in Cook County. Accurate referrals are made possible by a sophisticated computer database that is able to match clients' needs and characteristics with legal aid programs' eligibility criteria.

Another difference between CARPLS and the downstate programs is that CARPLS' telephone number is not widely publicized. Instead, most of CARPLS' callers are referred by an affiliated legal aid program, after program staff members determine that they cannot help the caller. In that sense, CARPLS does not function as a centralized intake system for legal aid in Cook County. It does, however, provide accurate referrals to prevent clients from being "bounced" from program to program, as well as a high volume of legal advice and brief services.

For legal services programs that use centralized telephone intake systems, the hotline systems' ability to identify priority cases from throughout the service area is a distinct advantage. According to Linda Zazove, deputy director of Land of Lincoln, "LARC's ability to 'triage' cases and identify the highest priority cases for branch office referral is critical as [we] struggle to deal with demand for services that exceeds our resources."⁸

One clear advantage for rural Illinois residents, identified by Land of Lincoln, is that offering telephone advice and referral services via LARC has served to equalize access throughout its 65-county service area. In other words, a person living within two miles of the nearest legal aid office no longer has an advantage over someone who lives two *counties* from the nearest office, at least in terms of getting an initial interview and/or legal advice.

Another advantage of centralized intake systems, as identified by LSC, is that they "create more time for advocates to do extended services." One indication that hotlines are successful in this regard is a comparison of the number of cases handled per FTE attorney for the three large, LSC-funded programs in Illinois. The two programs outside of Cook County, Land of Lincoln and Prairie State, use centralized intake hotlines as their "front door." The third, the Legal Assistance Foundation of Metropolitan Chicago (LAFMC), does not.

The following table shows the total number of cases handled at each level of service by staff attorneys⁹ at the three LSC programs in 2003.

	Land of Lincoln	LAFMC	Prairie State
Brief Service	6,786	19,595	11,949
Representation without Litigation	1,480	272	1,209
Administrative Hearing	192	1,494	274
Litigation	1,970	1,618	1,669

⁸Linda Zazove, deputy director, Land of Lincoln Legal Assistance Foundation, personal communication, October 15, 2004.

⁹Cases completed by pro bono attorneys are excluded from the totals.

The overall figures, however, are less revealing than the average caseloads per attorney, which is obtained by dividing the number of cases in the each category by the number of FTE attorneys employed by each program.

	Land of Lincoln (41 FTE)	LAFMC (81 FTE)	Prairie State (45 FTE)
Brief Service	166	242	266
Representation without Litigation	36	3	27
Administrative Hearing	5	19	6
Litigation	48	20	37
	255	284	336

While LAFMC, which does not have a centralized intake, advice and referral unit, has the second highest number of cases per attorney (284), it ranks third in each of the categories involving extended service: all cases involving representation;¹⁰ cases involving administrative hearings and litigation combined; and litigated cases.

While there may be other factors at work, these numbers would seem to support the working hypothesis – embraced by LSC and others – that centralized intake can increase attorney time spent handling more extended representation.

Hotline Advice Services

Research comparing the effectiveness of legal advice provided by telephone hotlines and face-to-face consultations with legal aid attorneys is inconclusive thus far. This is due to the fact that while there has been a study of case outcomes in matters where clients received advice through a telephone hotline¹¹, there has been no comparable study of outcomes for clients who received legal advice in more traditional settings, such as a legal aid office.

The national Hotline Outcomes Assessment used follow-up surveys to determine whether callers who received advice from five legal hotlines around the country, including CARPLS, were successful in resolving their problems. The study found that 69% of respondents reported that their experience with the hotlines was either “very helpful” (41%) or “somewhat helpful” (28%).¹²

The Hotlines Outcome Assessment determined that “when callers understand what they are told to do and follow the advice they are given, they tend to prevail.”¹³ If the caller understood and followed the hotline worker’s advice, he or she achieved an unfavorable result only 6% of the time.

The study also found that three to six months after contacting the hotline, approximately one out of five callers had not acted on the advice, either because they did not understand what they needed to do or were “too afraid to try or lacked the time and initiative.”¹⁴

¹⁰This figure includes reported cases from the representation without litigation, administrative hearing, and litigation categories.

¹¹*The Hotline Outcomes Assessment Study - Final Report - Phase III: Full-Scale Telephone Survey*, Jessica Pearson, PhD, and Lanae Davis, M.A. Center for Policy Research, Denver, CO, November 2002.

¹²*Ibid.*, p. ii

¹³*Ibid.*, p. i

¹⁴*Ibid.*

Finally, the Hotlines Outcome Assessment concluded that callers who spoke English and had at least an eighth-grade education tended to have more favorable outcomes than hotline callers who spoke Spanish, had very low education levels, and who reported having no income.¹⁵ While this may provide some insights for hotline program managers in designing and targeting their services, it is important to note that this could be equally true for people receiving advice through traditional legal aid programs.

The Hotlines Outcome Assessment determined that “when callers understand what they are told to do and follow the advice they are given, they tend to prevail.”

Challenges Facing Telephone Advice & Referral Programs in Illinois

The biggest challenge facing legal aid hotlines in Illinois is that they can only respond to a small percentage of the total calls they receive.

For example, Land of Lincoln reports that the volume of calls to their hotline is overwhelming. During the first nine months of 2004, LARC received an estimated 3,375 non-duplicative calls per month. Of those, LARC attorneys were able to open intake files for an average of 778 callers per month – approximately 23% of the total.¹⁶

Prairie State’s Telephone Counseling Service is also unable to respond to all of its callers. During a four-month period from July to October, 2004, the TCS received 33,223 calls – an average of 382 calls each day. Staff attorneys were able to respond to 4,968 calls (57 per day), or 15% of the total.¹⁷

Despite the fact that CARPLS is a secondary referral source for other legal aid programs and its number is not widely publicized, the Cook County hotline receives an estimated 5,000 – 7,000 non-duplicative calls per month, and is able to respond to an average of 1,625 of them, or between 23% and 33%.¹⁸

Hotline programs have taken steps to respond to the large volume of calls they receive. CARPLS, for example, bolsters its services by using trained volunteer attorneys to respond to callers seeking help with specific areas of the law. CARPLS has also recently initiated a “clinical internship program” with Chicago-Kent College of Law, which “will allow second and third year law students to answer calls in landlord tenant and pre-filing divorce cases.”¹⁹

Prairie State’s Telephone Counseling Service has adopted technological improvements designed to make it easier for callers with emergency cases to reach an attorney and to reduce the number of inappropriate calls. In 2002, Prairie State modified its call distribution software to ensure that callers with priority cases (e.g., domestic violence, evictions, mortgage foreclosures, denial of health care) are connected to a staff attorney within five minutes. Prairie State has also experimented with “voice mail phone trees” that send callers with certain types of emergency cases (e.g. domestic violence, lock outs, utility shut offs) directly to a branch office, and routes callers that Prairie State cannot help (e.g., those with personal injury, traffic or criminal cases) to a lawyer referral service to help them find an attorney in private practice.²⁰

¹⁵*ibid.*, p. ii.

¹⁶Linda Zazove, personal communication, October 15, 2004.

¹⁷Sarah Megan, Deputy Director of Litigation, Prairie State Legal Services, personal communication, October 13, 2004.

¹⁸Allen C. Schwartz, Executive Director, Coordinated Advice & Referral Program for Legal Services, personal communication, September 22, 2004.

¹⁹For more information on this program see www.carpls.com/newsdetail.asp?ID=123454192004.

²⁰Sarah Megan, personal communication, October 13, 2004.

The essential problem for hotlines, as is true for other components of the legal aid delivery system, can be summed up as: too many people in need, too few staff.

Until more hotline staff attorneys are available, most low-income Illinoisans will not be able to get into the “front door” of the legal aid system.

Pro Se Assistance

As this study reveals, large numbers of low-income people face legal problems. Free legal representation is a rationed commodity, however, and most legal assistance that is provided takes the form of advice and other “brief services.” Many legal matters, while of great consequence to the parties involved (e.g., return of a security deposit), may not rise to a level where intervention by an attorney – free or paid – is likely.

Therefore, it is inevitable that many low-income people will find themselves engaged in litigation without legal representation.

While no comprehensive statistics on pro se court filings are available for Illinois, there is some evidence to support the idea that the number of unrepresented litigants is increasing. A recent article in the *Chicago Tribune* reported that the number of pro se divorce filings in Cook County increased from 375 in 1997 to 2,595 in 2003, or from 2.3% to 19.7% of total.²¹

Given the numbers of legal problems and the scarcity of legal aid, perhaps the central question of the next decade for those who care about access-to-justice issues is: **Will litigants without lawyers have meaningful access to the protections of the legal system?**

The growing number of pro se litigants is an issue throughout the country. Both the Conference of Chief Justices (CCJ) and the Conference of State Court Administrators (COSCA) have recognized that there are “rapidly growing numbers of self-represented litigants, especially in domestic relations and small claims cases.”²²

A recent article in the Chicago Tribune reported that the number of pro se divorce filings in Cook County increased from 375 in 1997 to 2,595 in 2003, or from 2.3% to 19.7% of total.

The Conference of Chief Justices and the Conference of State Court Administrators created a Task Force on Pro Se Litigation in 2001. In its July 2002 report, the CCJ/COSCA Task Force explained the pro se phenomenon in this way:

A number of social, economic and political factors – especially the rising cost of legal representation relative to inflation, decreases in funding for legal services for low-income people, and increased desire on the part of litigants to understand and to actively participate in their personal legal affairs – are believed to be at the root of the increase.²³

²¹“In divorce cases, more of the poor go it alone,” *Chicago Tribune*, April 22, 2004, Sec 2, p. 1.

²²*Report of the Joint Task Force on Pro Se Litigation*, Conference of Chief Justices and Conference of State Court Administrators, July 2002, p. 3. Available at <http://ccj.ncsc.dni.us/TaskForceReportJuly2002.pdf>

²³*Ibid.*

The report also recognized that courts must change the way they do business if they are to deal effectively with pro se litigants.

The trend toward self-representation reflects a significant deviation from a fundamental assumption by courts – namely, that litigants are represented by licensed attorneys who are trained in applicable law and court rules. The influx of large numbers of litigants who may not be informed about law and court procedures poses significant implications for the administration of justice – especially, demands on court staff and resources and ethical dilemmas about how to compensate for self-represented litigants’ lack of knowledge without jeopardizing judicial requirements of neutrality and objectivity.²⁴

The CCJ and COSCA approved a joint resolution in August 2002, which affirms that the two organizations:

Recognize that courts have an affirmative obligation to ensure that all litigants have meaningful access to the courts, regardless of representation status;

Urge [their] members to take a leadership role in their respective jurisdictions to encourage the expansion of successful pro se assistance programs, to identify and develop programs to address unmet needs, and to coordinate the delivery of program services effectively and efficiently; and

Support the establishment of court rules and policies that encourage the participation of judges, court staff, legal services agencies, state and local bar associations, and community organizations in the implementation and operation of assistance programs for self-represented litigants.²⁵

Despite these resolutions, it is important to note that there is a limited constituency for improving pro se assistance services. Most people involved in litigation would probably prefer to have a lawyer, if they could afford one and find one willing to take their case. Most judges and clerks would rather deal with lawyers, who know their way around the courthouse and demand less time, attention, and “hand-holding” than unrepresented parties. Lawyers in private practice want paying clients, orderly courtrooms, and opposing parties who know the rules. Legal aid attorneys would rather go to court with their clients than offer pointers on what to say in front of a judge.

As a result, advocates for increasing or improving pro se assistance tend to emerge only when there are no other options. Judges and clerks come to realize that there must be a better way to prepare unrepresented litigants for their day in court. Legal aid attorneys recognize that they are not able to help everyone, and that the people they cannot represent deserve some assistance, even if it is limited assistance. Lawyers in private practice come to understand that most pro se litigants are unrepresented as a matter of necessity, and deserve a level playing field.

*The resolve to make things better for unrepresented litigants comes about
when all of the actors in the justice system realize that the courts belong to the people,
and people cannot be denied meaningful access to the courts simply because
they are unable to afford or otherwise secure legal representation.*

²⁴Report of the Joint Task Force on Pro Se Litigation, p. 3.

²⁵Resolution 31: In Support of a Leadership Role for CCJ and COSCA in the Development, Implementation and Coordination of Assistance Programs for Self-Represented Litigants, Conference of Chief Judges and Conference of State Court Administrators, August 1, 2002, available at <http://ccj.ncsc.dni.us/resol31AsstPgmsSlfLitigants.html>

The resolve to make things better for unrepresented litigants comes about when all of the actors in the justice system realize that the courts belong to the people, and people cannot be denied meaningful access to the courts simply because they are unable to afford or otherwise secure legal representation.

Consider the example of eviction. When a landlord sues a tenant for possession of an apartment, and the tenant cannot secure legal representation, as is likely,²⁶ she has two choices. She can fail to appear in court and lose her home by default, or she can appear in court and attempt to present a defense or negotiate a resolution with the landlord. If the tenant is aware of her legal rights and the relevant legal procedures, she at least has a chance to prevail, even if the odds are not as good as they might be if she had a lawyer.

Self-help efforts, while often imperfect, are at least a step toward justice. In most cases, if people are not able to speak for themselves, there will be no one to speak for them.

Self-Help Assistance: First, Do No Harm

Legal issues are often complex, and legal procedures can be confusing. Some types of cases are more likely than others to be resolved successfully by an unrepresented litigant. In other situations, the risks are great that the person could do himself more harm than good.

In designing better systems for assisting pro se litigants, it is important to make sure that individuals are aware of the risks involved in proceeding pro se, and about the advantages of being represented by an attorney. Pro se forms, instructions and other resources should include warnings about the complexity of certain legal issues and procedural steps, as well as potential consequences that are especially dire.

Pro se resources should also focus on those areas of the law in which there is, in the view of experienced attorneys, the greatest need and the greatest likelihood that unrepresented litigants will have a reasonable chance of success.

Pro Se Litigants and the Courts

The main “customers” of the courts tend to be lawyers, who guide their clients through the maze of the legal system. Judges and clerks may not be used to dealing with unrepresented litigants, and in some cases may even view their presence as an unwelcome intrusion.

National research shows that “there is often a lack of consensus among legal professionals about the best way to accommodate the self-represented.”²⁷ Judges surveyed for a 1998 study²⁸ had differing opinions.

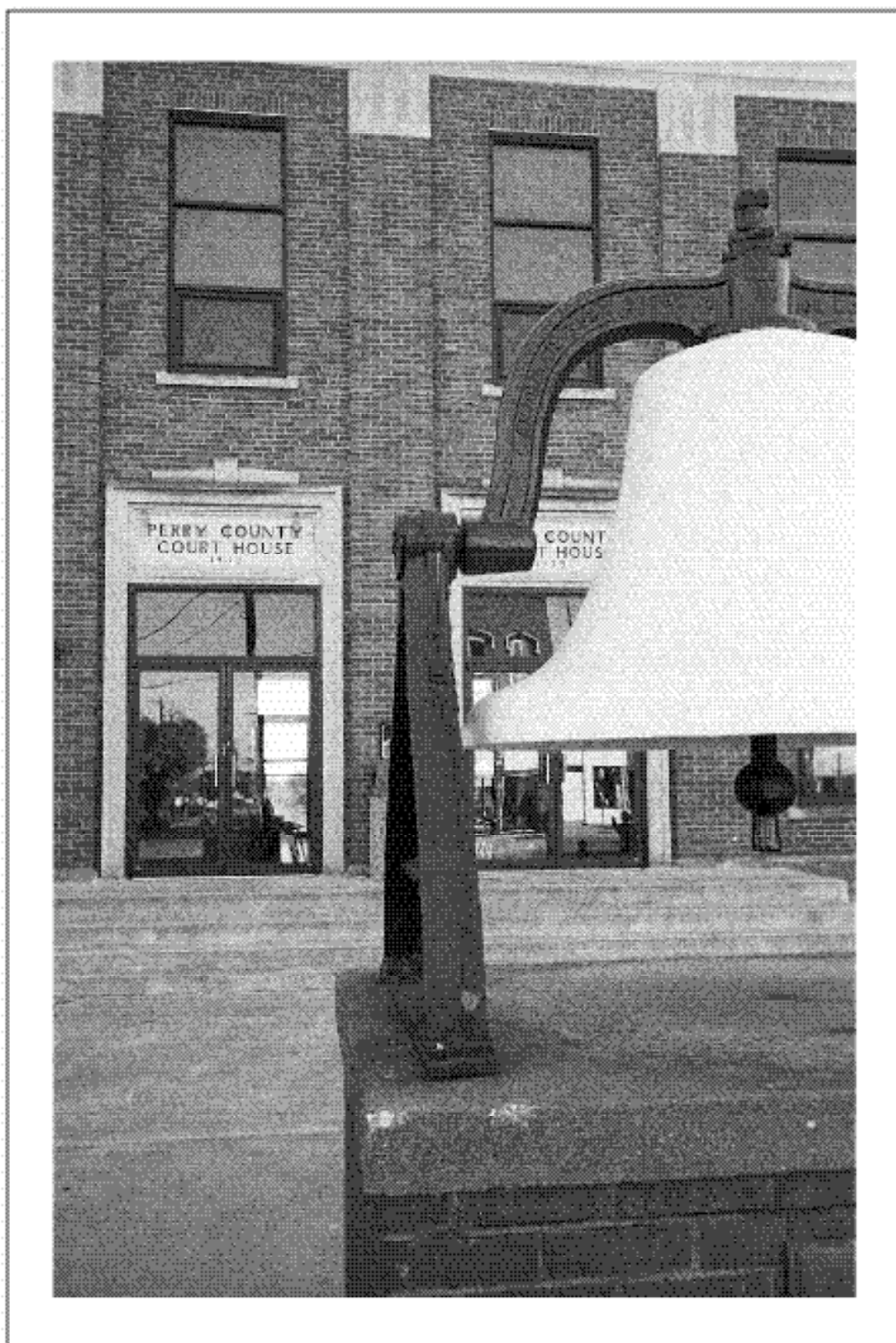
Some were annoyed by the presence of pro se litigants, while others believed judges should help the self-represented receive a fair hearing by relaxing procedural rules. And although many respondents expressed a desire for formal policies to guide judicial behavior in pro se cases, more than 90 percent of judges surveyed said their courts had no such protocols.²⁹

²⁶According to the telephone survey, only 11.9% of tenants facing eviction had legal assistance.

²⁷“Meeting the Pro Se Challenge: An Update,” Kathleen M. Sampson, American Judicature Society, available at www.ajs.org/prose/pro_sampson.asp

²⁸*Meeting the Challenges of Pro Se Litigation: A Report and Guidebook for Judges and Court Managers*, American Judicature Society, 1998.

²⁹Meeting the Pro Se Challenge: An Update,” Kathleen M. Sampson, American Judicature Society, available at www.ajs.org/prose/pro_sampson.asp.



In Illinois, while there are ethical guidelines preventing judges from engaging in biased conduct and clerks from engaging in the unauthorized practice of law, there are no clear affirmative standards or guidelines describing how courts can (and should) deal with a growing number of pro se litigants. The lack of clear standards means that pro se litigants are likely to encounter widely varying reactions from courthouse to courthouse and from judge to judge.

One legal aid attorney, when asked in a survey about the challenges facing low-income persons using the legal system, said:

Bias. Pro se litigants routinely get no respect from anyone – judges, clerks, opposing counsel. If you don't believe this, try going to court without a suit on and talking like a person without legal training. The sheer volume of dismissive and outright abusive communication towards non-lawyers is shocking.

Some jurisdictions have acted on their own initiative to improve the situation for pro se litigants. In July 2000, the Nineteenth Judicial Circuit (Lake and McHenry counties) adopted a strategic plan, which affirmed that “(A)ll who appear before the Court shall be given the opportunity to participate effectively without undue hardship or inconvenience. Judges and other trial court personnel shall be courteous and responsive to the public and accord respect to all with whom they come into contact.”³⁰

Acting on these principles, the Nineteenth Circuit Court, under the leadership of then Chief Judge Jane D. Waller, and in conjunction with Prairie State Legal Services and Illinois Legal Aid Online,³¹ launched the Center for Self Representation, which is housed in the law library of the Lake County courthouse in Waukegan. According to current Nineteenth Circuit Chief Judge Margaret J. Mullen:

The Center has grown out of our concern that courts seem too complicated, even in simple cases, for people to use without a lawyer's help, when they need to represent themselves. At the same time, the number of people who use our courts without a lawyer multiplies every year. There is no substitute for competent legal counsel, but the right to represent oneself is an important one, preserved by the Constitution. The judges and staff of the Circuit Court are committed to making our courts more user friendly, to make equal access to justice a reality, not just a slogan.³²

The Center offers printed materials and access to Internet-linked computer terminals. The Center also has a web site,³³ so that residents of Lake and McHenry counties can seek information without having to travel to the courthouse. Law library staff members are available to help patrons find printed and on-line resources, but are prohibited from filling out forms or offering legal advice.

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³⁰Strategic Plan, 19th Judicial Circuit, July 2000, available at www.19thcircuitcourt.state.il.us/bkshelf/l_range/strategic_plan00.htm.

³¹Illinois Legal Aid Online (www.illinoislegalaid.org) is a collaborative effort to provide reliable, user-friendly information and resources to address legal issues commonly faced by lower-income persons.

³²<http://www.19thcircuitcourt.state.il.us/self-help/index.htm#Message from the Chief Judge, Margaret J. Mullen>.

³³www.19thcircuitcourt.state.il.us/self-help/index.htm

The Center for Self Representation provides information and resources for cases involving small claims, domestic abuse, probate issues, name changes and guardianship of minors. The Center and its web site provide procedural information, including a glossary of legal terms; forms and instructions “specifically written for those who choose to represent themselves;” and a directory of community resources, including lawyer referral and legal aid programs.³⁴

In the past several years, many states have taken steps to manage the rising tide of pro se litigants.³⁵ The most common responses have been for the states’ highest courts to appoint a committee or a task force, or to sponsor a conference. An observer identified several trends in these state-level developments, including “standardizing and simplifying court forms;” “rethinking how courts and technology can be configured to improve access;” and “defining the role of the judge in pro se litigation.”³⁶

While some Illinois courts have taken steps to improve access for pro se litigants, often in conjunction with legal aid programs, Illinois has yet to deal with the issue in a comprehensive manner.

Drawing upon the experience of other states, a committee or task force with the imprimatur of the Illinois Supreme Court may hold the best hope for improving access to justice for people who cannot afford attorneys, as well as for improving the working lives of judges, clerks and court personnel who deal with large numbers of pro se litigants.

The challenge of creating more user-friendly courts in Illinois is a daunting one. Any committee charged with tackling the subject will need to review issues ranging from the standardization of forms, to ethical guidelines (“dos and don’ts”) for court personnel, to the number and size of the signs guiding people through the courthouse. Real change will require imagination, resources and political will.

On the positive side, any committee appointed to study the issue would have a wealth of expertise and practical experience upon which to draw, both nationally and in Illinois. It would also have time on its side. Pro se litigants are not going away, and as their numbers increase, the constituency for assisting them – among judges, public officials, lawyers, and citizens – will only grow.

Tools for Pro Se Litigants

Both traditional legal aid and telephone hotline programs offer legal advice, a substantial portion of which is geared toward helping people prepare themselves for an appearance in court without an attorney. Some legal aid providers have even begun offering pro se “classes” to groups of people facing a specific legal issue, such as divorce. These activities will continue, and legal aid providers will continue to play a significant role in preparing low-income persons to deal more effectively with legal issues and the court system.

However, without a significant increase in resources, it is impractical to expect that legal aid programs will be able to bear the burden of making the courts more accessible to unrepresented litigants. Legal aid programs’ human and financial resources are already strained beyond capacity.

The real challenge is to utilize the expertise of legal aid staff – their substantive legal knowledge, client counseling skills, and litigation experience – to help create new tools and opportunities for unrepresented litigants. Several such efforts are underway in Illinois. They can be divided into two major categories: **court-based initiatives** and **web-based initiatives**.

³⁴*Ibid.*

³⁵For information on state-level efforts, see the web sites of the American Judicature Society (www.ajs.org), the National Center for State Courts (www.ncsonline.org) and the web site www.selfhelpsupport.org.

³⁶Meeting the Pro Se Challenge: An Update,” Kathleen M. Sampson, American Judicature Society, available at www.ajs.org/prose/pro_sampson.asp.

Court-Based Pro Se Programs

Courthouses are a natural place for resources aimed at helping people who need to use the legal system but do not have lawyers to represent them.

There are two basic types of court-based pro se assistance programs, which will be referred to in this study as “self-help centers” and “advice desks.” A **self-help center** is a facility designed to function as a starting point and/or a source of assistance for people who need basic information about their legal rights and responsibilities. For pro se litigants, self-help centers are a place to find court forms and information about court procedures, as well as substantive information about various legal topics. The self-help center may provide facilitators who assist people in finding the resources that they need, but they do not offer individualized legal services or legal advice.

An **advice desk** is a program that is staffed (often by lawyers from a legal aid program) and offers legal advice and limited legal assistance, usually for a specific type of legal issue (e.g., guardianships, domestic violence). Advice desks usually do not provide representation, but are designed to help pro se litigants represent themselves more effectively.

Without a significant increase in resources, it is impractical to expect that legal aid programs will be able to bear the burden of making the courts more accessible to unrepresented litigants. Legal aid programs’ human and financial resources are already strained beyond capacity.

Examples of both types of pro se programs are discussed below.

Nationally, one of the flagship court-based self-help centers is the Self-Service Center of the Superior Court of Arizona, Maricopa County (Phoenix). The Self-Service Center was created in 1995, when judges became concerned about an overwhelming increase in the number of unrepresented litigants, largely concentrated within the domestic relations area.³⁷ The Self-Service Center was designed to be a kind of one-stop-shopping center for unrepresented litigants, offering plain-language legal information, forms and instructions; legal research materials; computer terminals and photocopiers; and referral information for legal aid programs, mediation, and private attorneys.

Court personnel working at the Self Service Center were trained to think of pro se litigants as their “customers,” and users were encouraged to give feedback on the quality of the services they received.

Perhaps the signal innovation of the Maricopa County Self-Service Center, however, was the design of the space itself. Most court facilities are imposing, to underscore the majesty of the law and reinforce the authority of the judicial branch of government. The Self-Service Center is a big, open, well-lit space with large signs and ample seating and work areas. The underlying message is clear: this space belongs to the public, and the public is welcome.

In Illinois, the Nineteenth Judicial Circuit’s Center for Self Representation in Waukegan may be the closest thing to the Maricopa County model. The Center is firmly rooted in a customer-service philosophy, offers both printed and Internet-based resources, and covers a wide range of legal topics.

³⁷The percentage of domestic relations cases involving self-represented litigants in Maricopa County increased from 24% in 1980 to 88% in 1991. Sales, Bruce D., Connie J. Beck and Richard K Haan, “Is Self-Representation a Reasonable Alternative to Attorney Representation in Divorce Cases,” *St. Louis University Law Journal*, St. Louis, MO, 1993.

Another noteworthy example of a self-help center (albeit not court-based) is the Southern Illinois University School of Law's Self Help Legal Center. The Self Help Legal Center is based at the SIU law library in Carbondale, and uses law students, under the supervision of a faculty member, to help people find appropriate legal resources, such as forms, instructions and legal resource guides. One limitation of the Center, however, is that the SIU law library is not a high-traffic area for the public.³⁸

Outside of Cook County, most of the other court-based pro se programs are advice desks focused on a particular type of legal issue. For example:

At the Kane County courthouse, Prairie State Legal Services operates a help desk for victims of domestic violence, in conjunction with the Kane County Court Administrator.

In Sangamon and Madison counties, the Land of Lincoln Legal Assistance Foundation runs Tenant Advice Desks. A staff attorney at the desks offers legal advice and printed information to tenants facing eviction and for parties involved in small claims cases.

In Cook County there are eight separate help desks either in or near the Daley Center in downtown Chicago that have been established in partnership with the Circuit Court.³⁹ Seven of the eight desks are operated in conjunction with a legal aid provider or a law school. Brief descriptions of the help desks follow:

- ♦ **Adult Guardianship Help Desk:** Staff members assist persons who are attempting to establish guardianship of a disabled adult. Sponsored by Loyola University Chicago School of Law.
- ♦ **Chancery Division Advice Desk:** Launched by the Circuit Court, the Chicago Legal Clinic, which staffs the desk, and The Chicago Bar Foundation (CBF), the Chancery Advice Desk primarily assists homeowners facing foreclosure on their mortgages.
- ♦ **Chicago-Kent College of Law Advice Desk for Unrepresented Tenants and Small Claims Defendants:** Attorneys and law students provide counseling and limited representation to low-income defendants in cases involving eviction, tort, personal injury and collection issues.
- ♦ **Domestic Relations Self-Help Desk:** The Domestic Relations desk helps people represent themselves in family law matters, including post-decree divorce issues. Attorneys from the Coordinated Advice & Referral Program for Legal Services (CARPLS) staff the desk. It is a joint initiative of the Circuit Court, the CBF, and CARPLS.
- ♦ **Guardianship Assistance Desk for Minors:** This desk was launched by the Circuit Court, the CBF and the Chicago Volunteer Legal Services Foundation (CVLS). The desk offers self-help packets for people who are representing themselves in seeking guardianship of a minor. Qualified individuals can meet with court staff and a CVLS attorney, who will help prepare the necessary court documents. In complex cases, CVLS will match low-income individuals with a pro bono attorney.
- ♦ **Orders of Protection Help Desk:** Sponsored by Pro Bono Advocates, this desk assists victims of domestic violence who are seeking a civil order of protection.
- ♦ **Pro Se Help Desk:** This desk is operated by the Circuit Court, and uses trained staff members to help plaintiffs and defendants identify and use court-required documents.

³⁸The Center also makes information available by mail and via a web site.

³⁹For a complete description of each desk and its services, see list at www.illinoislawhelp.org

- ♦ **Self-Help Web Center:** The Center offers Internet-linked computers to allow users to access the resources at the www.Illinoislegalaid.org web site. The desk is sponsored by the Illinois Legal Aid Online and the Justice-Web Collaboratory at Chicago-Kent College of Law.

The array of pro se assistance offered by existing Illinois programs offers a set of interesting models, as well as a starting point for future efforts. However, the list of existing programs also reveals a potential weakness that raises questions about their replicability, scalability, and, perhaps even their sustainability. **The vast majority of these programs are staffed by legal aid programs**, which also are often responsible, at least in part, for raising funds (or allocating resources from within their own programs) to support them.

Given the competing demands on the time and resources of legal aid programs, and the difficulties they face in maintaining their core services, the existing system is not likely to be a viable strategy for the expansion of pro se assistance efforts, absent a substantial infusion of new money directed toward this purpose.

The long-term solution to providing assistance to pro se litigants will necessarily involve the cooperation of judges, clerks, representatives of state and county government, legal aid providers and members of the organized bar.

Ideally, Illinois would develop a service model and a funding plan that would allow every county to have a well-designed, properly scaled version of the Maricopa County Self Service Center. This would send a powerful signal to members of the public that they have a place in the courthouse.

*The long-term solution to providing assistance to pro se litigants
will necessarily involve the cooperation of judges, clerks, representatives of state
and county government, legal aid providers and members of the organized bar.*

Web-Based Pro Se Assistance

One of the main commodities offered by legal aid providers is information, and the Internet has created revolutionary improvements in the way that people find and use information. The Internet is an indispensable tool for making legal information more accessible and giving more pro se litigants the resources they need to understand their legal problems and take effective action to resolve them.

As a conduit for information, the Internet has several obvious advantages over traditional legal aid or hotline models. These include:

- ♦ **Accessibility:** Web-based resources are available “24/7” from any computer connected to the Internet. Unlike hotlines, there are no busy signals. Unlike traditional legal aid programs, there are no waiting lists for an appointment.
- ♦ **Cost:** Once content is developed and posted on a web site, the cost of providing that information is fixed, whether it is accessed by one person or one thousand people each day.
- ♦ **Instant, Comprehensive Information:** When a person calls a hotline or a legal aid office to ask, “How can I modify my child visitation schedule?” the caller will receive verbal advice from the hotline attorney, and may receive written materials through the mail within a few days. If the caller takes bad notes, she would have to call back and ask for clarification. The web can offer a comprehensive set of materials on the subject, including fact sheets, interactive forms, detailed instructions, and, in some cases, audio or video presentations.

With Internet-based resources, there is no zero-sum game whereby if one person gets help, another will not. A major challenge for the future will be to direct as many people as possible who *can* benefit from Internet-based resources, e.g., those who need answers to basic questions like “How can I get my security deposit back?” to use the Internet, thereby freeing up attorney time for cases requiring extended services.⁴⁰

It is important to remember, however, that the Internet is not a panacea. The usefulness of Internet-based resources will vary from person to person and from legal issue to legal issue. A significant number of people facing legal problems will need not only information, but also the reassurance that can only come from talking to another person, whether face-to-face or on the telephone. Others will have difficulty comprehending web-based information. And, of course, many people have complex legal problems that are simply not amenable to resolution without an attorney. Web-based resources may help these people understand their situations, but will be of little help in resolving them.

The digital divide raises another concern. Is the Internet a tool that is accessible and useful to low-income people? To get a clearer answer to this question, the telephone survey asked: “Do you have access to the Internet?”⁴¹ and “Have you ever used the Internet?”

Just under half of all survey respondents (49.1%) reported that they had access to the Internet, and well over half (59%) indicated that they had used the Internet at some point in the past. The results were lower for certain groups, including African-American households (38% had access; 48% had used); and households with a person 65 or older (28% had access; 31% had used).

These percentages are likely to increase as the Internet becomes more integrated into the educational system, bandwidth increases, costs of computers and other Internet devices decline, and public Internet access points become more readily available. But even at current “access” and “use” levels the percentages noted above translate into a large potential market for Internet-based legal information. There are 782,037 low-income households in Illinois. At 49.1%, this means that **383,980** low-income households have access to the Internet.⁴²

The Internet becomes an even more important resource in light of the number of legal needs identified by the telephone survey. Applying the survey’s basic findings regarding the numbers of legal problems experienced by low-income households, approximately half (49%) of the 383,980 households with Internet access – 188,150 households – had one or more legal problems in 2003. These 188,150 households would have experienced 653,444 distinct legal problems.⁴³ Households would have had legal help for 107,165 of those problems, meaning that people were left to deal with 546,279 problems on their own.

Just under half of all survey respondents (49.1%) reported that they had access to the Internet, and well over half (59%) indicated that they had used the Internet at some point in the past. These percentages are likely to increase as the Internet becomes more integrated into the educational system, bandwidth increases, costs of computers and other Internet devices decline, and public Internet access points become more readily available.

⁴⁰Many businesses have adopted strategies to drive/entice customers to use their web sites for essentially the same reasons – the cost of human resources. For example, airlines frequently offer lower fares to passengers who purchase their tickets via the company’s web site, as an incentive for them to bypass the more expensive method of talking to a customer service representative on the telephone.

⁴¹The question did not specifically ask whether respondents had Internet access at home, or through a workplace, school, library or other public access point.

⁴²Even for segments of the population that report a lower level of Internet access, the numbers are still substantial, including 81,234 African American households and 58,300 households that included a person 65 or older.

⁴³The average number of problems per household for households that experienced at least one legal problem in 2003 is 3.473.

This leads to two assumptions about the use of the Internet as a strategy to address the legal needs of low-income Illinoisans:

First, low-income households that have access to the Internet could, if made aware that such a resource exists, use the web to help them better understand and/or resolve a significant share of their 546,279 unaddressed legal needs.

Second, given the number of legal problems faced by low-income Illinoisans and the limited human resources of legal aid providers to address those problems, the Internet may be the best available way to address a significant share of their unmet legal needs.

Web-Based Efforts in Illinois

Many legal aid programs in Illinois have web sites, and some of those web sites include some legal information, forms, instructions and other resources.

The pioneering legal information web site in Illinois, in terms of the depth and breadth of its content, was the Southern Illinois University School of Law's Self Help Legal Center site (www.law.siu.edu/selfhelp), created by Michael Ruiz, an assistant dean at the law school and a former staff attorney with the Land of Lincoln Legal Assistance Foundation. SIU law students help to maintain and update the site with new content.

The most comprehensive web-based resource in Illinois is Illinois Legal Aid Online.⁴⁴ Illinois Legal Aid Online was created in 2001 as a collaborative project of Illinois legal aid providers, funding agencies, bar groups and law schools. The collaboration partners are the Cabrini Green Legal Aid Clinic, Chicago Bar Association, Chicago Bar Foundation, Chicago Volunteer Legal Services Foundation, Chicago-Kent College of Law, Coordinated Advice & Referral Program for Legal Services, Illinois Bar Foundation, Illinois State Bar Association, Land of Lincoln Legal Assistance Foundation, Lawyers Trust Fund of Illinois, Legal Assistance Foundation of Metropolitan Chicago, Prairie State Legal Services, Sargent Shriver National Center on Poverty Law, and Southern Illinois University School of Law.

Illinois Legal Aid Online's goal is to offer comprehensive web-based information for legal aid lawyers, pro bono attorneys and members of the public who need legal information or legal assistance. The program is based at Chicago-Kent College of Law, which has a national reputation for the work of its faculty on issues involving law and technology.

Illinois Legal Aid Online supports three web sites directed toward the following audiences: members of the public (www.illinoislegalaid.org), legal aid advocates (www.illinoislegaladvocate.org), and volunteer attorneys (www.illinoisprobono.org). The three sites are all linked to a database that, as of November 2004, contained over 2,900 separate pieces of legal content, much of which was created by legal aid program staff. All of the posted content has been reviewed by content editors, most of whom are legal aid attorneys.

⁴⁴Illinois Legal Aid Online was originally known as the Illinois Technology Center for Law & the Public Interest. The name change occurred in 2005.

The web site designed for the public (www.illinoislegalaid.org) offers information about legal rights and responsibilities, instructions for handling common legal problems, and an interactive referral database to help users find the legal aid program that is most likely to help them. It has resources in each of the following areas:

- ♦ Accidents & Injuries
- ♦ Children
- ♦ Civil Rights Law
- ♦ Consumer Law
- ♦ Criminal Law
- ♦ Disability
- ♦ Education
- ♦ Family Law
- ♦ Going to Court
- ♦ Health Care
- ♦ Housing
- ♦ Immigration
- ♦ Licenses
- ♦ Life Planning
- ♦ Public Benefits
- ♦ Senior Citizens
- ♦ Taxes
- ♦ Work

The great promise of Illinois Legal Aid Online's web site for the public is based on its ability to provide interactive tools, not just static content, including the following features:

- ♦ **"Guide Me" Modules:** These are sections of the web site designed to offer users all the information and resources they would need on a particular topic, in one place. By clicking on a tab, users can access the following features: common questions, forms/letters, summaries of the law by topic and other related information. All legal terms that appear in the module are hyperlinked to a glossary, so that users can click on the word and get an instant definition. Audio is available for people who have visual impairments or limited literacy skills.⁴⁵
- ♦ **Interactive Forms:** Legal forms can be intimidating to non-lawyers. Illinois Legal Aid Online is designing templates that use a simple question-and-answer format to help people complete legal forms. The templates are built on the HotDocs® software platform from Lexis/Nexis.
- ♦ **Multimedia:** Illinois Legal Aid Online is committed to providing information in written, audio and video formats to reflect different learning styles. As of October 2004, Illinois Legal Aid Online's database contained 135 video modules, many of which are archived "web casts" of attorney training or community legal education presentations made by legal aid providers.

The public web site also incorporates a content rating system based on feedback from users. This allows Illinois Legal Aid Online staff members to revise content that users do not find helpful. Since the rating system was implemented in January 2004, 90% of the feedback has been positive.⁴⁶

The number of users has increased steadily. In October 2003, the "illinoislegalaid" web site had 6,527 unique visitors who made 11,300 visits and viewed 46,983 pages of content. In October 2004 the site had 21,785 unique visitors who made 32,734 visits and viewed 109,608 pages. Thus, in one year the site experienced a 234% increase in the number of unique visitors, a 190% increase in the number of visits and a 133% increase in the number of pages viewed.⁴⁷

The following quotes from users, while selectively chosen by Illinois Legal Aid Online as part of its marketing efforts, at least give a sense of the potential benefits for users:

Your site has given me instant relief...the information is concise and easy to get to. I believe that it has given me hope in protecting my own rights during foreclosure. I am grateful that your site exists.

♦ ♦ ♦

⁴⁵For an example, see the eviction module at www.illinoislawhelp.org/staticguideme/GM_xml_settleeviction.html.

⁴⁶Lisa Colpoys, executive director, Illinois Technology Center for Law & the Public Interest, personal communication, November 19, 2004.

⁴⁷*Ibid.*

Found exactly what I needed to know about a question I had regarding FMLA [Family and Medical Leave Act] leave. I now know that my rights were definitely [sic] violated and I have the address of the nearest Dept. of Labor office...Thanks!

• • •

I am considering getting a Civil Order of Protection against my husband. It is the hardest thing I've ever done. He is doing crack and I cannot help him. He's lied, stolen money from my personal checking account, threatened to "Bash my head in," and threatened to kill me. He keeps saying he's sorry and is going to stop, but goes out and does it again. He also keeps saying that he is moving out, but when HE'S ready. It was supposed to be the end of November and now it's after the holidays. I know when payday comes, it'll start again. I've never had to do anything like this before, so I needed to know many things. Things like "How long does it last?" and "Can he bother me at work?" "Does it cost money?" "Since he hasn't hit me, can I still get one?" Your site answered these questions for me. Thank you.⁴⁸

These quotes illustrate the promise of web-based resources to give people information, a starting point, and, perhaps, a sense of hope as they confront their legal problems.

Future Challenges: Technology and Pro Se Litigants

If the admonition to "first, do no harm," applies to efforts to increase pro se assistance, it applies equally to technology-based initiatives to streamline the courts and make the practice of law more efficient.

Technology is changing both court administration and the practice of law, and these changes will continue in ways that are difficult to predict. Because courts have traditionally been designed for use by lawyers, rather than by the public, it will be a significant challenge to make sure that pro se litigants are not ignored in the process of adopting new technology, and that their interests are not harmed.

A prominent example of this type of change is electronic court filing, or e-filing. In November 2004, the Eighteenth Judicial Circuit (DuPage County) became the first jurisdiction in Illinois to "let lawyers file lawsuits and motions over the Internet instead of at the circuit clerk's office."⁴⁹ Under this pilot program, law firms set up accounts with a third-party vendor, and are billed on a monthly basis for their use of the system. For attorneys who would otherwise be forced to drive across the county to file a motion in person, this is a great convenience.

The decision as to whether to file the case electronically is left up to the plaintiff. If the case is filed electronically, then all subsequent filings – from the plaintiff *and* the defendant – must be in electronic form. If the defendant in an e-filed case is unrepresented, he or she would be required to either find a computer and submit documents using a credit card for payment, or go to the circuit clerk's office and scan in the documents there.

⁴⁸User quotes are from Illinois Legal Aid Online's administrative web site at www.itcweb.org.

⁴⁹"DuPage County courts set to unveil e-filing," Daniel C. Vock, *Chicago Daily Law Bulletin*, October 29, 2004.

In a paper on the subject of e-filing and pro se litigants⁵⁰, Professor Ronald W. Staudt of Chicago-Kent College of Law notes that the infrastructure for e-filing was built by private companies based on anticipated revenues from lawyers who would use the systems. Professor Staudt observes that

This historical model for financing and deploying outsourced electronic filing systems is not well suited for those case types in which litigants are frequently self-represented, like traffic violations, small claims, family law matters, and many landlord tenant cases. The systems built are for law firm users, attorneys and paralegals, not for the self-represented litigant.⁵¹

This is not to say that e-filing is inherently inimical to the interests of pro se litigants. But the needs and interests of pro se litigants must be considered as a part of the system's design, not as an afterthought.

As a positive example, Professor Staudt cites the Interactive Community Assistance Network (I-CAN!) system operated by the Legal Aid Society of Orange County, California:

The I-CAN! system uses kiosks and web sites to inform potential litigants of their legal rights and options and to assist them in creating necessary court forms. Upon completing the forms, the litigant can choose to file them electronically with the Orange County Superior Court from the same kiosk or web site with a few additional commands.⁵²

Professor Staudt concludes that "(i)nterface design specifically crafted for self-represented litigants is a key need and most of this design work is still in the future," and that "(n)ew financial models are needed to pay the cost of building and maintaining electronic filing for self-represented litigants, especially those who are also low-income."⁵³

Because courts have traditionally been designed for use by lawyers, rather than by the public, it will be a significant challenge to make sure that the interests of pro se litigants are not ignored in the process of adopting new technology, and that their interests are not harmed.

Perhaps the best example of a laudable effort to address the needs of unrepresented litigants as new technologies are explored and adopted can be found in Washington State. The state's Access to Justice Board, which was appointed by the Washington State Supreme Court in 1994, recognized that "(t)echnology can provide increased pathways for access to justice, but it can also create significant barriers."⁵⁴

To maximize the new pathways and minimize barriers, the Access to Justice Board drafted a "Technology Bill of Rights" – a set of guidelines designed to keep the interests of low-income persons and unrepresented litigants at the forefront of discussions regarding new uses for technology in the courts.⁵⁵

If Illinois is to avoid taking one step forward (by offering increased assistance to pro se litigants), and one simultaneous step backward (by unintentionally creating technological barriers to court access), then a comprehensive planning effort similar to that in Washington State must be considered.

⁵⁰Staudt, Ronald W., "White Paper: Self-Represented Litigants and Electronic Filing" available at <http://a2j.kentlaw.edu/presentations/SRLandEfiling>.

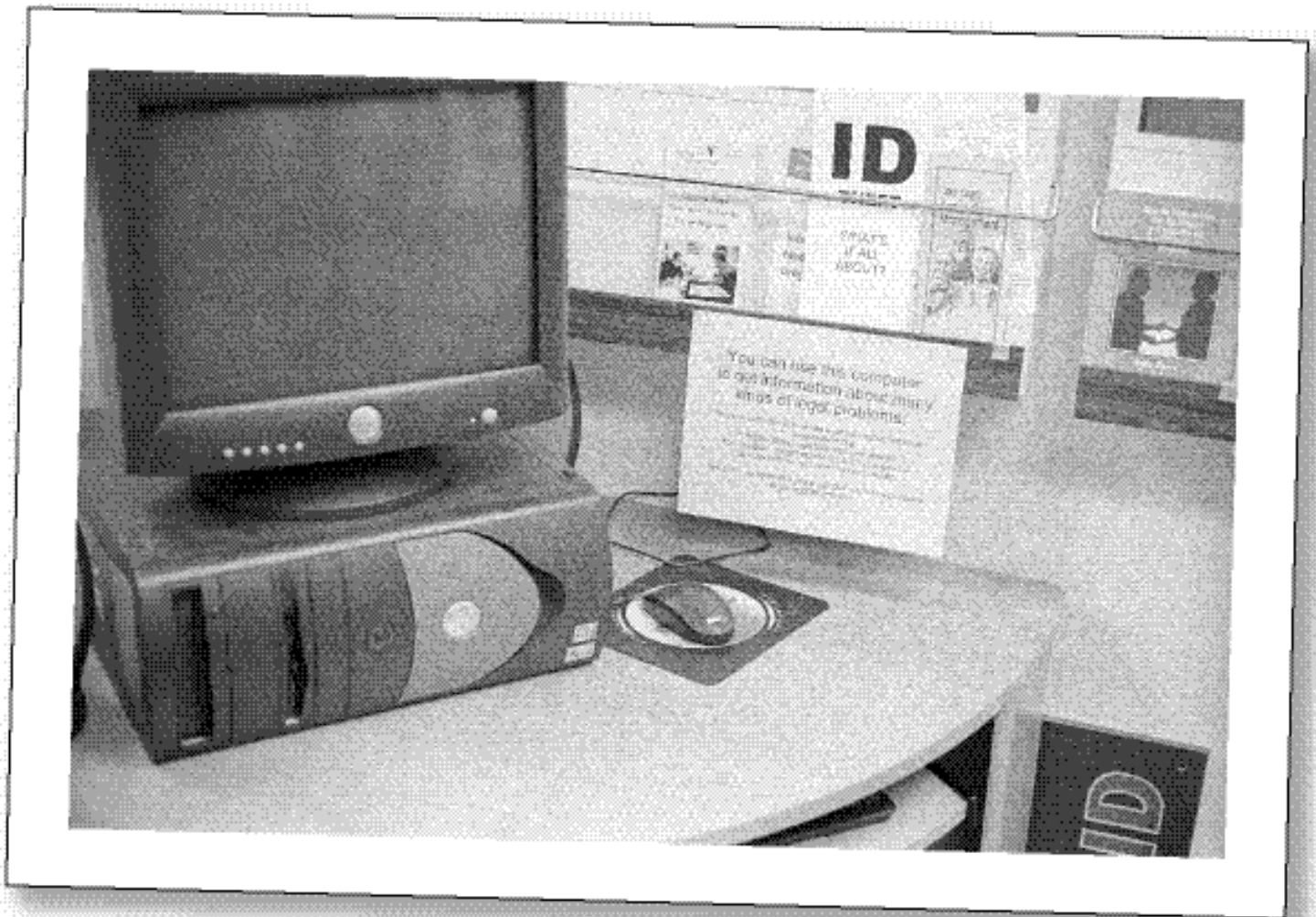
⁵¹*Ibid.* p. 2

⁵²*Ibid.*, p. 3.

⁵³*Ibid.*

⁵⁴Access to Justice "Technology Bill of Rights," see "History & Context" @ www.atjtechbillofrights.org.

⁵⁵www.atjtechbillofrights.com



Mediation

Mediation is widely recognized as an effective way to address a variety of legal issues, including many issues commonly faced by low-income individuals and families. Examples include consumer disputes, landlord/tenant conflicts, and family disputes related to a divorce, such as child custody and visitation issues or the distribution of marital assets.

Mediation services are available to some low-income Illinois residents through not-for-profit community mediation programs and court-sponsored mediation programs.

Illinois has only two community mediation centers despite the fact that since 1987 there has been a law in place specifically designed to encourage the development of such programs.

Community Mediation Centers

Community mediation centers are not-for-profit organizations that provide mediation services. These centers use trained volunteers as mediators, and in most cases offer their services free of charge.

There are currently two community mediation centers in Illinois. The oldest and largest is the Center for Conflict Resolution, which is based in Chicago. The Center for Conflict Resolution (CCR) was founded in 1978 as an initiative of The Chicago Bar Association. CCR has a roster of approximately 150 trained volunteers who mediate over 2,000 disputes each year. Most of these cases are referred by the Circuit Court of Cook County.⁵⁶

The Kankakee Center for Conflict Resolution was launched in 1992, and is a program of the not-for-profit Victims' Assistance Center in Kankakee. The Kankakee Center for Conflict Resolution has a part-time staff person and an active group of 8 – 12 volunteers who mediate approximately 100 cases per year.

Illinois has only two community mediation centers despite the fact that since 1987 there has been a law in place specifically designed to encourage the development of such programs. The Illinois Not-for-Profit Dispute Resolution Center Act (710 ILCS 20) authorized the creation of a dispute resolution fund in Cook County, and gives the chief judge of any other judicial circuit the discretion to impose an additional \$1 fee on civil filings to finance a not-for-profit dispute resolution center within that circuit. More than seventeen years after the law's passage, only the two community mediation centers serving Cook and Kankakee Counties receive funding under the Act.⁵⁷

In addition to the not-for-profit mediation centers, two Illinois law school also offer mediation services to their respective communities. The Southern Illinois University School of Law Alternative Dispute Resolution Clinic is a program of the SIU School of Law. Founded in 1993, the ADR Clinic provides specially trained third-year law students to mediate a wide variety of both campus and community disputes, including small claims and landlord/tenant cases referred by the Circuit Court in Jackson County.⁵⁸

In 2001, the Northern Illinois University College of Law created a program to provide third-year law students with mediation training and the opportunity to mediate pro se visitation disputes between parents who have never been married. Cases are referred by domestic relations judges in both Kane and Winnebago counties.⁵⁹

⁵⁶For more information about the Center for Conflict Resolution, see their web site at www.ccrchicago.org.

⁵⁷CCR receives the statutory maximum of \$200,000 per year. The Kankakee center receives from \$4,000 to \$5,000 per year.

⁵⁸For more information about the SIU ADR Clinic, see www.law.siu.edu/adr.

⁵⁹For more information on the NIU mediation program, see www.caadrs.org/adr.NIUclinic.htm.

The newest mediation program is the Rockford-based Small Claims Mediation Project, which is being launched by the Winnebago County Bar Association, in cooperation with the Circuit Court of Winnebago County. As of January 2005, the Small Claims Mediation Project is in the process of recruiting and training 24 lawyers who will mediate small claims cases referred by the Circuit Court of Winnebago County.

Court-Sponsored Mediation Programs

The vast majority of court-sponsored mediation programs relevant to the needs of lower-income Illinoisans involve family law issues.⁶⁰ As noted elsewhere in this report, there is significant demand for legal assistance in the area of family law. These legal problems range from relatively simple divorces to bitter custody battles to post-divorce conflicts over visitation rights and child support.

Many courts have determined that mediation is a good way to try to resolve divorce-related issues, especially in cases involving children. As the rules of one circuit state:

Healthy family relationships are more likely to emerge from a mediated agreement than from the adversarial judicial process. Mediation will help ensure that the parties consider fully the best interests of the children and that they understand the consequences of any decision they reach concerning the children. This process will assist the parties in examining the separate and individual needs of the children and consider those needs above their own desires. The secondary purpose of the process is to provide a reasonable, cost-effective alternative dispute resolution forum for the parents in divorce and family litigation.⁶¹

Eleven of Illinois' 22 judicial circuits now have local rules that authorize (or in some cases require) judges to refer cases involving child custody and visitation to mediation.⁶²

In Cook County, mediation services are provided through the Marriage and Family Counseling Service, which is a department of the Office of the Chief Judge of the Circuit Court of Cook County. The Marriage and Family Counseling Service provides mediation services in divorce cases that involve a contested custody or visitation matter. The Service mediates approximately 2,400 cases per year, or about 12% of all the dissolution of marriage cases filed annually in Cook County. The mediators are employees of the Circuit Court of Cook County, and services are provided free of charge to participants, regardless of their income.⁶³

In other Illinois counties, judges refer cases to mediators in private practice. While there is no official licensing or certification process for mediators in Illinois, under the court rules in each judicial circuit mediators on the court's approved roster are required to have law degrees or advanced degrees in fields such as social work, counseling or psychology. Specialized training in family mediation is also required.

Parties are required to pay for the mediation services out of their own pockets, though in some cases mediators will assist lower-income parties either on a sliding scale or on a pro bono basis. The availability of pro bono and/or sliding scale services varies by jurisdiction.⁶⁴

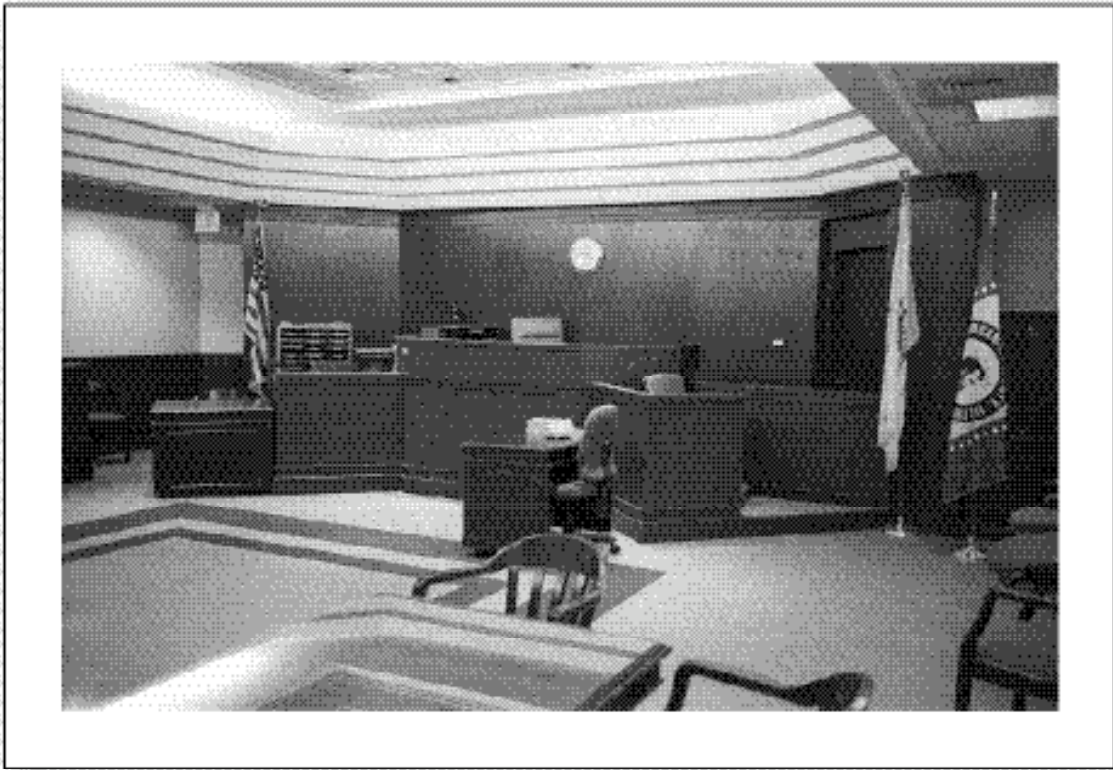
⁶⁰The exceptions are court-sponsored small claims mediation programs in Sangamon and McHenry counties. See generally the web site of the Center for the Analysis of Alternative Dispute Resolution Systems (CAADRS) at www.caadrs.org.

⁶¹17th Judicial Circuit, Local Rule No. 14 – Matrimonial Proceedings, 14.08 Family Mediation Program, Rule 2, at www.co.winnebago.il.us/trialct/Lr1/Lr14.html.

⁶²See CAADRS web site at www.caadrs.org/adr/ilprogsjuris.htm.

⁶³For more information see www.caadrs.org/adr/CookMFCS.htm.

⁶⁴For more information on pro bono and reduced-fee mediation options, see www.caadrs.org/ReducedFeeProgs.htm.



One creative approach to the need for free mediation services in the domestic relations area can be found in the Second Judicial Circuit. Under a program initiated by Chief Judge James M. Wexstten and Judge Stephen M. Sawyer, lower-income parties with custody or visitation disputes can receive “judicial mediation” from Judge Sawyer, who has received special training in this area.

A possible avenue for the expansion of mediation services in child custody, divorce and paternity cases has been proposed by the Special Supreme Court Committee on Child Custody Issues. Among the Committee’s recommendations is the adoption of Proposed Rule 905, “which calls for each judicial circuit to establish a mediation program for dissolution of marriage and paternity cases involving the custody of a child or visitation issues. Mediation would be mandatory for these cases, except in cases in which good cause to be excused is shown.”⁶⁵ To the extent that services would be offered free of charge or at minimal cost, this proposal would be a significant step toward meeting the divorce and custody-related needs of many low-income Illinois families.

Resources

The first *Illinois Legal Needs Study*, using data from 1987, reported that Illinois legal aid programs raised a total of **\$18,806,038**, and employed a total of **271** full-time equivalent (FTE) attorneys. By 2003, programs in the legal aid system were raising a total of **\$36,299,420**. Unfortunately, in 2003 the number of FTE attorneys employed by the legal aid system was only **280**.

In other words, the number of staff attorneys available to serve clients and support the work of volunteers increased by a mere **nine attorneys** – *half an attorney per year* – between 1987 and 2003. After 16 years of hard work and creative efforts by legal aid programs to find and secure new resources, this is a sobering statistic.

One obvious culprit is inflation. The \$36,299,420 raised in 2003 would be worth only \$22,435,332 in 1987 dollars, or a total increase of 19.3%. (See table, below.)

Changes in Funding: 1987-2003					
	Total Contributions 1987	Total Contributions 2003	Dollar Increase: 1987 to 2003	Inflation-Adjusted Value of 2003 Contributions in 1987 Dollars ⁶⁶	Percentage Change from 1987 to 2003 Adjusted for Inflation
Legal Services Corporation	\$11,273,888	\$11,596,221	\$ 322,333	\$7,167,196	-38
Other Government Funding	1,412,619	9,793,057	8,380,438	6,052,727	+329
Legal Community ⁶⁷	649,014	3,032,219	2,383,205	1,874,102	+189
Lawyers Trust Fund of Illinois ⁶⁸	318,000	3,321,000	3,003,000	2,052,588	+546
Private Funding ⁶⁹	2,867,825	5,785,058	2,917,233	3,575,531	+25
Other Funding	2,284,692	2,771,865	487,173	1,713,188	-25
Total	\$18,806,038	\$36,299,420	\$17,493,382	\$22,435,332	+19%

The implication of this fact is clear: If the legal aid system is to increase its service capacity, address significant gaps in the delivery system and shore up salaries to retain experienced staff – in fact, if the legal aid system hopes to do *anything* more than keep up with inflation – significant additional revenue will be needed.

On the positive side, legal aid programs' efforts to raise new money have given the system a more diverse funding base. For example, in 1987, LSC funding accounted for 60% of legal aid funding. By 2003, LSC funding was less than a third (31.9%) of the total. The share of total funding represented by "other government" grants and contracts increased from 7.5% in 1987 to 27% in 2003. The Lawyers Trust Fund of Illinois' (LTF) grants accounted for less than 2% of 1987 funding. In 2003, LTF contributed just over 9% of legal aid funding in Illinois.

The number of staff attorneys available to serve clients and support the work of volunteers increased by a mere nine attorneys – half an attorney per year – between 1987 and 2003. After 16 years of hard work and creative efforts by legal aid programs to find and secure new resources, this is a sobering statistic.

A diverse funding base is important to non-profit organizations for the same reason that a diverse investment portfolio is important to a person saving for retirement – losses in one area can be offset by gains in another. Legal aid programs have become more resilient as they have developed new revenue streams.

The following sections discuss each of the major categories of legal aid funding listed below, examining historical trends, recent developments and the likelihood of significant increases in the foreseeable future.

- ♦ **Legal Services Corporation**
- ♦ **Other government funding**, including the Illinois Equal Justice Foundation;
- ♦ **Legal community**, including law firms, bar associations and foundations, and individual donors;
- ♦ **Lawyers Trust Fund of Illinois**
- ♦ **Private contributions**, including foundations, corporations, and United Way;
- ♦ **Other funding**.

⁶⁵"Mediation Expands in Illinois" *Analyzing the Alternatives*, Center for the Analysis of Alternative Dispute Resolution Systems, Fall/Winter 2004, p. 3.

⁶⁶All inflation calculations were made using the calculator at the web site of the Federal Reserve Bank of Minneapolis at <http://minneapolisfed.org/research/data/us/calc/>.

⁶⁷Includes funding from law firms, individual donors, bar associations and bar foundations, but does not include the approximately \$2.4 million in contributions to legal aid by attorneys as part of their annual registration fee, which is administered by the Lawyers Trust Fund of Illinois. When those funds are included, the legal community's direct annual contribution increases to **\$5,452,404**. Also, as noted in more detail in Section III, this is a very conservative estimate of the legal community's support for the legal aid system. It does not include the value of pro bono services, nor does it include other direct financial contributions to support access-to-justice efforts that are not considered part of the legal aid system for the purposes of this report.

⁶⁸The Lawyers Trust Fund's contributions for 2003 include both funding from the Interest on Lawyers Trust Account (IOLTA) program and from the annual attorney registration fee. See footnote 67, above.

⁶⁹Includes funding from foundations, corporations, the United Way and other non-governmental charitable institutions.

Legal Services Corporation

The federal role in supporting legal aid began in 1965, as part of President Lyndon Johnson's War on Poverty. The Office of Economic Opportunity distributed grants for legal aid programs until the creation of the Legal Services Corporation (LSC) in 1974.⁷⁰

LSC describes itself as "a private, non-profit corporation established by Congress to seek to ensure equal access to justice under the law for all Americans by providing civil legal assistance to those who otherwise would be unable to afford it."⁷¹

LSC is the largest single source of support for legal aid in Illinois. Its funding is distributed on a per capita basis, and is shared among three recipient agencies covering distinct geographical regions of the state: **Land of Lincoln Legal Assistance Foundation** (65 counties in Southern and Central Illinois); the **Legal Assistance Foundation of Metropolitan Chicago** (Cook County); and **Prairie State Legal Services** (36 counties in Northern Illinois).⁷²

While LSC was intended to serve as a stable source of general operating funds for its grantee organizations, free from the vicissitudes of politics, this has not proven to be the case.

In 1982, funding for LSC was cut by 25%. At the time, LSC funding accounted for more than 70% of total legal aid funding in Illinois.⁷³ The result was devastating. In the early 1980s Land of Lincoln was forced to close offices in Cairo, Danville, Effingham, Harrisburg, Lawrenceville and Quincy. Prairie State closed offices in Freeport, Kewanee, Pontiac, Sterling and Woodstock. None of these offices has reopened.

*Adjusted for inflation, LSC's contribution to the Illinois legal aid system
decreased by 38% between 1987 and 2003.*

In 1996, at the behest of the 104th Congress, LSC funding was cut by 30%. Illinois programs were forced to absorb a 30% reduction in funding, which resulted in staff layoffs.

The most recent negative development involving federal funding came in 2002, when LSC recalculated its per capita funding allocations based on changes in the number of poor people in each state, according to the 2000 Census. While the number of poor people in Illinois did not decrease between 1990 and 2000, it did not increase as fast as the low-income populations of many Sun Belt states, such as California, Arizona and Nevada. As a result, LSC funding for Illinois fell by \$528,134 between 2002 and 2003.

The net result is that in the past 16 years LSC funding for Illinois increased by a mere \$322,333, or about 3%. Adjusted for inflation, LSC's contribution to the Illinois legal aid system decreased by 38% between 1987 and 2003.

⁷⁰For more information on the history of LSC and the federal involvement in legal aid funding, see *Securing Equal Justice for All: A Brief History of Civil Legal Assistance in the United States*, Alan W. Houseman and Linda E. Perle, Center for Law & Social Policy, November 2003.

⁷¹www.lsc.gov/welcome/wel_who.htm

⁷²The Will County Legal Assistance Program, based in Joliet and serving Will County, receives LSC funds as a sub-grantee of Prairie State Legal Services.

⁷³*Illinois Legal Needs Study*, 1989, p. 62.

Future prospects are similarly discouraging. While LSC is no longer a political lightning rod, and the threat of elimination has receded, it is unlikely that in this era of high federal deficits and competing spending priorities, LSC will be in a position to provide a significant share of the increased funds needed to fuel the growth of the legal aid system. To restore LSC to its pre-1996 funding levels in 2004, adjusted for inflation, would have required an appropriation of \$496,850,353. The actual appropriation for FY 2005 is approximately \$330,789,000.

Other Government Funding

Grants and contracts from federal, state, and local government have been the most important source of revenue growth for the Illinois legal aid system over the past 16 years. Government funds from sources other than the Legal Services Corporation jumped from \$1.4 million in 1987 to \$9.8 million in 2003 – an increase of 329% when adjusted for inflation.

The vast majority of the funds in the “other government” category are from the federal government. Unlike LSC funding, most grants from other government sources are not intended to support the legal aid system in general, but are designated for specific purposes. For example, grants from the U.S. Department of Housing and Urban Development are aimed at preventing homelessness. Legal aid programs use this money to assist tenants who are at risk of becoming homeless due to utility shut-offs, hazardous conditions in a rental unit or eviction. In these types of situations, legal aid services are the means to achieve a larger policy goal.

Some of the federal grants are administered directly. For example, the U.S. Department of Justice awards grants using funds appropriated as part of the Violence Against Women Act (VAWA) through its Office of Justice Programs.

Other federal funds are administered as “pass-through” funding by state or local entities. The Illinois Criminal Justice Information Authority, a state agency, coordinates grants for victims of domestic violence using funds appropriated under the Victims of Crime Act (VOCA). Also, regional Area Agencies on Aging direct federal funding appropriated under Title III of the Older Americans Act to legal aid programs to provide legal assistance to people age 62 or older.

Twenty-one of the 23 programs included in this study receive some type of “other government” funding.⁷⁴ Because of the breadth of services they offer and the large territories they cover, the three LSC-funded programs received over half (53.7%) of the total \$9.8 million in government grants and contracts.

The legal aid program receiving the largest amount of “other government” money in 2003 was the Legal Assistance Foundation of Metropolitan Chicago, which garnered grants and contracts totaling \$2,790,350, in addition to its LSC grant.

Some legal aid programs (CVLS, CARPLS) received funding from a single governmental source. Other programs were able to secure grants from a wide range of public sources. Prairie State Legal Services, for example, had 17 separate government grants or contracts in 2003, worth a total of \$1,430,970. The services supported by these grants helped Prairie State assist older people suffering physical abuse and neglect, people with AIDS, victims of domestic violence, tenants at risk of homelessness, and children in need of adoptions or guardianships.

⁷⁴The exceptions are Chicago Legal Advocacy for Incarcerated Mothers (CLAIM) and the Uptown People's Law Center.

The main source of funding from the state of Illinois is the Illinois Equal Justice Foundation (IEJF). The IEJF was created by the 1999 Illinois Equal Justice Act (30 ILCS 765). The Illinois Equal Justice Act recognized that “Equal justice is a basic right that is fundamental to democracy in this State, and the integrity of this State and this State’s justice system depends on protecting and enforcing the rights of all people.”⁷⁵ The IEJF is governed by a 13-member board of directors appointed by the Illinois State and Chicago Bar Associations.⁷⁶

Since 2000, the IEJF has received an annual appropriation of approximately \$500,000 in general revenue funds, administered by the Illinois Department of Human Services. Funds are distributed in four statutorily prescribed categories, reflecting the need for a range of appropriate and cost-effective options to assist people with legal problems. The categories are:

- ♦ **Civil legal assistance**, which includes legal representation for family law issues and for elderly clients. (*Total 2003 grants: \$228,000*).
- ♦ **Legal information for the public**, which includes court-based and web-based pro se assistance programs. (*Total 2003 grants: \$54,721*).
- ♦ **Mediation services**, to provide an alternative forum for the resolution of disputes. (*Total 2003 grants: \$48,000*).
- ♦ **Telephone advice & referral services**, to support regional legal aid hotlines. (*Total 2003 grants: \$135,000*).

As with any type of funding, government grants and contracts have their advantages and disadvantages. On the positive side, once a grant or a contract is awarded, the funding is usually available over a period of several years. Another advantage is that government grants tend to be larger than contributions from private philanthropic organizations.

One disadvantage of government grants is that they require a great deal of time and effort. Application processes are often complex. Once a grant is awarded, the reporting requirements can be extensive. Another disadvantage is that because these grants are earmarked for specific purposes, legal aid programs are sometimes forced to tailor their services to meet the specific restrictions set by the funding source.

For example, grants for domestic violence victims under the Victims of Crime Act (VOCA) can be used to help women secure orders of protection, but cannot be used to pay for divorce-related services. In many cases, women who secure orders of protection need representation in a divorce as well, especially if the abuser retaliates by filing for a divorce and seeking custody of the couple’s children. In that instance, the legal aid program would have to pay for the divorce services out of pool of money separate from the VOCA grant. If no other resources are available, the client might be forced to get an order of protection with assistance from one program and be forced to seek representation in a divorce from another. This is not an ideal way of doing business for the client or for the legal aid program.

It is extremely difficult to predict whether additional government funding will be available to sustain (or fuel the growth of) the legal aid system in the future. Because such money is directed toward specific purposes, and not to support legal aid in general, programs will only be able to benefit to the extent that they can convince policy makers that their representation is an important strategy for meeting the targeted need. This will be judged by funding sources on a case-by-case basis.

⁷⁵30 ILCS 765/5(a).

⁷⁶For more information on the Illinois Equal Justice Foundation, see www.iejf.org.

Also, given the federal budget deficits, it is unlikely that discretionary spending on social programs will increase substantially in the short term.

In Illinois, there is a concerted effort to increase the state's contribution to the legal aid system through the Illinois Equal Justice Foundation. A coalition of bar associations, funders, and legal aid programs has launched the Equal Justice Illinois Campaign. The Campaign is a broad-based, bipartisan effort, led by former Illinois Governor James R. Thompson and former Illinois Senate President Philip J. Rock, to convince state officials to increase the IEJF's annual appropriation. The Campaign's goal is to increase Illinois' annual contribution to legal aid to a minimum of \$5 million.⁷⁷

Another key question centers on public funding for court-based self-help centers. Will courts throughout the state embrace the idea of offering pro se assistance as a necessary component of the effective administration of justice? If so, will there be funding in the budgets of the court system – whether through state or local sources – to support these programs?

Lawyers Trust Fund of Illinois

The Lawyers Trust Fund is the single largest Illinois-based source of funding for legal aid. Founded in 1983, the Lawyers Trust Fund was created to administer the Interest on Lawyer Trust Accounts (IOLTA) program, which allows interest to be earned on lawyers' and law firms' pooled client trust accounts.⁷⁸

The IOLTA rule was adopted by the Illinois Supreme Court in 1984, and began as a voluntary program. In 1987, the Illinois Supreme Court made IOLTA mandatory for all attorneys holding pooled client funds.⁷⁹

As a result of the mandatory IOLTA program, coupled with high interest rates, the Lawyers Trust Fund's net income rose to over \$4 million in 1992. This allowed LTF to increase its grants from \$318,000 in 1987 to over \$3.6 million by 1992.

Unfortunately, IOLTA net income has never again reached the peak \$4 million level. Between 1990 and 1992, the Federal Reserve cut the federal funds rate from 8% to 3%.⁸⁰ As banks slashed interest rates on lawyers' pooled trust accounts, net IOLTA income plummeted from \$4,047,555 in 1992 to \$2,316,546 in 1994 – a 42% drop in two years. This forced LTF to make substantial reductions in its grants.

Over the next decade, as interest rates rose, IOLTA income slowly recovered. For 2001, net IOLTA income approached the \$4 million peak of 1992. Then, between January 2001 and November 2002, the Federal Reserve lowered the federal funds rate from 6.0% to 1.25%.⁸¹ Once again, IOLTA income collapsed, dropping 38% between 2001 and 2003.

Recognizing the importance of the Lawyers Trust Fund as a source of support for legal aid, as well as the inherent instability of IOLTA revenue, the Illinois Supreme Court adopted a \$49 increase in the annual registration paid by Illinois attorneys in October 2002.⁸² Of this increase, the Supreme Court designated \$42 to support legal aid programs, to be administered by the Lawyers Trust Fund. For 2003, the new attorney registration fee for legal aid raised \$2,420,185.⁸³

⁷⁷For more information on the Equal Justice Illinois Campaign, see www.equaljusticeillinois.org.

⁷⁸For more information on the Lawyers Trust Fund, see www.ltf.org.

⁷⁹Illinois Supreme Courts Rules of Professional Conduct, Article VIII, Rule 1.15(d).

⁸⁰www.federalreserve.gov/fomc/fundsrate.htm.

⁸¹*Ibid.*

⁸²Illinois Supreme Courts Rules of Professional Conduct, Article VII, Rule 751(e)(6).

⁸³The revenue from the attorney registration fee increase is not reflected in LTF grants for 2003, which were approved prior to LTF receiving the additional funding.

The Illinois Supreme Court's action was the single most significant step to shore up funding for legal aid since the adoption of the mandatory IOLTA program in 1987. Unfortunately, until the Federal Reserve (and, in turn, Illinois banks) raises interest rates significantly, the additional funding received through the attorney registration fee will mostly be used to make up for lost IOLTA revenue.

The Legal Community

Illinois lawyers' total contribution to the legal aid system is extremely difficult to calculate. A comprehensive assessment would include the value of the time spent by attorneys on pro bono cases, indirect contributions channeled through groups such as the United Way, and the direct financial and in-kind contributions of lawyers, law firms, bar associations, and bar foundations.⁸⁴

That being said, a very conservative estimate of the legal community's direct, voluntary financial contribution to legal aid in 2003 was \$3,032,219. If the mandatory \$42 per attorney annual registration fee administered by the Lawyers Trust Fund is included, this figure rises to \$5,452,404. The latter figure is 8.4 times greater than in the first *Illinois Legal Needs Study*.

Cook County-based legal aid programs received the overwhelming majority (86.8%) of the total voluntary contributions from the legal community in 2003 – \$1,864,781. Downstate programs raised \$284,640, or 13.2% of the total.

One key challenge for those raising funds for legal aid in the coming years is to find creative ways to involve a much broader segment of the bar in making voluntary contributions.

This imbalance stems from the fact that Cook County is home to 70% of the state's lawyers, as well as 68 of the state's 75 largest law firms.⁸⁵ The Chicago Bar Foundation, which is the charitable arm of The Chicago Bar Association, is also a major contributor to legal aid programs in Cook County.⁸⁶

The two LSC-funded programs located downstate, Land of Lincoln and Prairie State, have worked hard to cultivate donors among members of the legal community. Both organizations run annual fund drives targeting the legal community. In 2003, Land of Lincoln reported total contributions from the legal community of \$97,903, while Prairie State received \$77,897. Another major recipient of private bar support is the DuPage Bar Legal Aid Service. DuPage County lawyers contributed \$83,020 to the Legal Aid Service in 2003.

While many members of the legal community give generously, the legal community as a whole is in a position to contribute more to the support of the legal aid system. One key challenge for those raising funds for legal aid in the coming years is to find creative ways to involve a much broader segment of the bar in making voluntary contributions. While it is important to continue to encourage lawyers and firms who can afford it to give more, engaging more lawyers as donors is important to long-term success in this area.

⁸⁴A conservative estimate of the value of the time contributed by pro bono lawyers who accepted a case through one of the 23 legal aid programs included in this study would be between \$14 - \$17 million dollars. This figure is based on 11,506 pro bono cases, with an average time of 10 hours per case and an average of hourly rate of \$125 - \$150.

⁸⁵"Chicago Lawyer 2004 Survey: The Largest Law Firms in Illinois," *Chicago Lawyer*, June 2004, pp. 10 - 25.

⁸⁶For more information on 2, see www.chicagobarfoundation.org.

Private Contributions: Foundations, Corporations and United Way

The three main sources of funding discussed here are foundations, corporations, and the United Way. Together, these sources contributed a total of \$5,785,058 to legal aid programs in 2003, which is more than twice the amount contributed in 1987.

Legal aid programs in Cook County, where large numbers of corporations and charitable foundations have their headquarters, received \$4,365,434, or just over three quarters (75.5%) of total private contributions in the state. Downstate programs received \$1,419,624.

The imbalance was most pronounced in the areas of foundation and corporate giving. Cook County programs received \$3,045,972, or more than 90% of foundation and corporate grants.

While Cook County programs also received the majority of United Way contributions in the state – \$1,319,462, versus \$1,097,226 for downstate programs – this revenue stream was much more balanced (54.6% for Cook County programs; 45.4% for downstate programs). Of the 18 legal aid programs based in Cook County, twelve received some United Way support.

One possible explanation for this is that all of the Cook County programs are competing for funds from one major United Way entity (United Way of Metropolitan Chicago), while downstate programs such as Prairie State and Land of Lincoln are able to tap into the resources of separate United Way entities throughout their service areas. Land of Lincoln, for example, received funding from five United Way organizations serving seven distinct regions within their 65-county service area.

The outlook for increased contributions from these sources is, again, very hard to predict. Corporate donors are similar to law firm or individual donors, in that they require cultivation and the right connections in order to increase donations. While corporations are often willing to buy a table at a benefit dinner, they are unlikely to make a very large contribution to a single entity in any given year. Consequently, growth in corporate contributions tends to be incremental, at best.

Foundations, like many government funding entities, usually make grants with a specific purpose in mind. Foundations tend to be interested in combating social ills such as domestic violence or homelessness, in which legal aid can be a means to an end. Consequently, legal aid programs must be opportunistic in matching their services with foundations' interests. Because dozens of foundations make grants to legal aid programs at varying levels, it is unlikely that foundation support will increase in a dramatic, across-the-board way in the short term.

The income and grant levels of United Way entities downstate tend to fluctuate with the economy, but once a program has become a "member agency," that program can count on consistent support at slightly varying levels. Because most United Way funding is not restricted to a particular purpose or project it can be used where it is needed most.

In Cook County, the United Way of Metropolitan Chicago has faced financial difficulties in recent years, and as part of its turnaround strategy is changing the way it distributes its funds. The long-term impact of these changes on legal aid programs in Cook County is not known at this time. In the short-term, reductions in funding will have a major impact on a small number of programs that receive a substantial portion of their annual budgets from United Way contributions.

Whether downstate or in Cook County, however, it is unlikely that overall United Way funding will increase significantly in the near future.

Other Sources of Funding

The “other sources” category is a catchall for everything from fundraising dinners to interest on a program’s checking account. As such it is hard to analyze trends. There are two specific areas that deserve to be mentioned: legal fees and cy pres awards.

In 1987, when the first *Illinois Legal Needs Study* was conducted, fees paid to legal services programs as the prevailing parties in litigation totaled \$1,346,994, or just over 7% of all legal aid revenue. Legal Service Corporation-funded programs received the vast majority of this fee income.

In 1996, Congress imposed new restrictions on recipients of LSC funding. As part of LSC’s effort to rein in its grantees’ activities in the areas of law reform and impact litigation, “programs were prohibited from claiming or collecting attorneys’ fees,” which meant that “legal services programs were cut off from a significant source of funding.”⁸⁷

Another, more encouraging funding possibility that deserves to be mention is cy pres⁸⁸ awards. Under the cy pres doctrine, residual funds from a class action suit, or funds produced by other court actions such as restitution orders, are distributed to the “next best use.”⁸⁹

There are numerous examples in Illinois of judges ordering that legal aid providers receive some or all of a cy pres award. The Land of Lincoln Legal Assistance Foundation has been particularly successful in this area. Between 1996 and 2004, Land of Lincoln was awarded over \$1.8 million in cy pres funds.⁹⁰ This funding served as a welcome, if unexpected, cushion for the program as it dealt with the aftermath of the 30% reduction in LSC funding in 1996.

The success of Land of Lincoln and others in receiving cy pres awards is usually due to contacts they have cultivated among lawyers who are routinely involved in class action litigation. Cy pres awards are a relatively low-cost mechanism for obtaining what can be substantial additional resources for legal aid. Unfortunately, cy pres awards almost always come as a windfall, and cannot be counted on as a consistent source of revenue to shore up strained legal aid budgets.

⁸⁷*Securing Equal Justice for All: A Brief History of Civil Legal Assistance in the United States*, Alan W. Houseman and Linda E. Perle, Center for Law & Social Policy, November 2003, p. 35.

⁸⁸From the Norman French phrase “*cy pres comme possible*,” or “as near as possible.” For more information on cy pres awards, see *Innovative Fundraising Ideas for Legal Services – 2004 Edition*, Meredith McBurney, American Bar Association Standing Committee on Legal Aid and Indigent Defense/Project to Expand Resources for Legal Services, March 2004, pp. 45 – 49.

⁸⁹*Innovative Fundraising Ideas for Legal Services – 2004 Edition*, p. 45.

⁹⁰*Ibid.*

The Health of the Legal Aid System

There are three essential components to the legal aid system in Illinois: personnel, infrastructure and the money necessary to support both.

This section examines the overall health of the legal aid system, taking into consideration questions such as:

- ♦ Are legal aid programs able to recruit qualified staff?
- ♦ How are salaries and debt levels affecting attorney retention?
- ♦ Does legal aid attract a diverse group of attorneys?
- ♦ Do legal aid staff members have adequate facilities and office technology?
- ♦ How financially stable are the programs that make up the legal aid system?

The information in this section is based largely on a survey of executive directors, managing attorneys and staff attorneys in legal aid programs.

Legal Aid Personnel

The 23 programs included in this study employ a total of 474 full-time and 131 part-time staff members. The majority (326) are lawyers. There are 166 persons classified as “administrative personnel,” which includes a broad range of job titles: intake specialist, legal secretary, development director, and information technology specialist, among others. The smallest group is paralegals (113).

Programs range in size from three staff members (the Immigration Project) to 173 (Legal Assistance Foundation of Metropolitan Chicago). The median staff size is ten employees.

The table on the following page provides an overview of the experience levels and demographic makeup of attorneys in the legal aid system in Illinois. The attorneys are divided into three categories:

- ♦ **Executive directors:** Executive directors are the chief executive officers of their organizations, or, if the program is part of a larger agency, the person responsible for managing the legal aid component of that agency.⁹¹ The executive directors of 19 of the 23 agencies are attorneys.
- ♦ **Managing attorneys:** Managing attorneys are those lawyers who are not executive directors, but who are responsible for overseeing the work of a legal staff, either as the person in charge of a branch office, a discrete project, or as the chief legal officer of an organization if the executive director is not an attorney.
- ♦ **Staff attorneys:** This includes any attorney who is employed by a program to represent clients, supervise volunteers, and/or perform related legal work for a minimum of 15 hours per week.

⁹¹For example, the Legal Aid Bureau is a part of Metropolitan Family Services, a large social services agency.

Experience and Demographics

	Executive Directors	Managing Attorneys	Staff Attorneys
Total Responses ⁹²	19	54	164
Median Years Out of Law School	24	21	8
Median Years in Legal Aid	23	19	5
Median Years with Organization	18	15	4
Median Year of Birth	1951	1956	1966
Male	33%	54%	36%
Female	66%	46%	64%
African American	–	8%	6%
Asian/Pacific Islander	–	2%	4%
Latino	6%	–	9%
Native American	–	–	–
White	94%	90%	75%
Other/Multi-racial	–	–	6%
Speak Spanish	22%	15%	17%
Speak Other Language	11%	9%	9%

Executive Directors

The duties and challenges involved in leading a legal aid program can vary based on the size, scope and mission of the organization. Some executive directors, especially in smaller agencies, function as managing attorneys, and spend most of their time on direct services to clients and/or supervising the work of other staff attorneys, paralegals or volunteers. In larger agencies, executive directors usually spend more of their time on management issues, fundraising, marketing, community relations, human resources and other related tasks.

The Illinois legal aid system includes an experienced group of leaders. Taking median figures from the survey of executive directors, the typical executive director graduated from law school in 1980, has been in the legal aid field since 1981 and has been with his or her organization since 1986.

In terms of prior experience, more than half of the executive directors who are attorneys (53%) had experience in private practice before joining their respective programs. Three of the attorneys held judicial clerkships. One worked in government.

⁹²Only attorneys working 15 or more hours per week were eligible to complete the survey. The response rate for executive directors was 83%. The response rate for staff and managing attorneys combined was 73%.

*The Illinois legal aid system includes an experienced group of leaders...
the typical executive director graduated from law school in 1980,
has been in the legal aid field since 1981 and has been with his or her organization since 1986.*

Demographically, the median age for legal aid executive directors in Illinois is 53. Women run two-thirds of the legal aid programs in Illinois, including six of the ten programs with the largest number of total staff members.⁹³ The executive director corps is overwhelmingly white (94%).

Managing Attorneys

The middle managers of the legal aid system – the lawyers directly supervising the vast majority of the legal work done by staff attorneys and volunteers – are also an experienced group. Again using median figures, the typical managing attorney graduated from law school in 1983, has been in the legal aid field since 1985 and has been with his or her current organization since 1989. At the time the survey was conducted (April 2004), the most experienced managing attorney had been on the job for 35 years; the least experienced, for two months.

Prior to joining their current program, over a third (35%) of managing attorneys were in private practice and just over a quarter (28%) worked for another legal aid program. Approximately one in ten had worked in the public sector (11%) or had a judicial clerkship (9%).

The typical managing attorney is 48 years old. The ranks of managing attorneys are more evenly divided between men and women than the executive director corps, with men holding just over half (54%) of these jobs. Ninety percent of managing attorneys are white.

Of the 54 managing attorneys responding to the survey, five reported that they had outstanding loans from law school and/or college. The median balance on these loans was between \$10,000 and \$20,000.

Staff Attorneys

The typical legal aid staff attorney graduated from law school in 1996, has worked in the legal aid field since 1999 and has been with his or her current program since 2000. At the time the survey was conducted, the longest-serving staff attorney had been on the job for 38 years. The newest had been employed for two weeks.

Over a third of all staff attorneys (34%) came to legal aid with experience in private practice. Approximately one out of six came after working for another legal aid program (17%) or from a position in government (16%). Twelve of 164 respondents had clerked for a judge.

The median age for staff attorneys is 38, though ages ranged from 26 to 86. The largest number of staff attorneys were in their thirties (37%), followed by those in their forties (25%) and those in their twenties (23%). Three staff attorneys who responded to the survey were over the age of 60.

In terms of gender, more than six out of ten (62%) staff attorneys are women.

⁹³AIDS Legal Council, Equip for Equality, Land of Lincoln Legal Assistance Foundation, Legal Aid Bureau, Life Span and the Midwest Immigrant & Human Rights Center.

Staff attorneys are a more racially and ethnically diverse group than executive directors or managing attorneys. Three-quarters (75%) of staff attorneys are white, followed by Latinos (9%), persons identifying themselves as multi-racial (6%), African Americans (6%), and Asian/Pacific Islanders (4%).

Staff attorneys were much more likely to have outstanding educational debt than executive directors or managing attorneys. Well over half (56%) of staff attorneys owed money on their law school and/or college loans, and the median balance on those loans was between \$70,000 and \$80,000.

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Diversity

Legal aid attorneys, as a group, are predominately female (60%) and overwhelmingly white (81%).

The table below compares the racial and ethnic makeup of legal aid attorneys with that of all Illinois attorneys and the Illinois population as a whole.

	Percentage of Illinois Population ⁹⁴	Percentage of Illinois Attorneys ⁹⁵	Percentage of Legal Aid Attorneys
Male	49	69	40
Female	51	31	60
African American	15.1	4.9	5.5
Asian/Pacific Islander	3.4	2.9	3
Latino	12.3	2.6	6.8
Native American	0.2	0.2	-
White	73.5	87.8	81
Other/Multi-racial	1.9	1.6	3.7

According to data compiled by the Illinois Attorney Registration & Disciplinary Commission (ARDC), legal aid attorneys are much more likely to be female than are members of the bar in general (60% vs. 31%).

The legal aid community is somewhat more racially and ethnically diverse than the Illinois bar as a whole. According to the ARDC survey data, 87.8% of Illinois lawyers are white, compared to 81% of legal aid lawyers. With the exception of Native Americans, other racial and ethnic groups have slightly higher levels of representation in the legal aid field than in the ranks of all Illinois attorneys. This underscores the fact that increasing diversity is a challenge for the entire legal profession, not just the legal aid system.

What are the implications of the fact that legal aid attorneys are not demographically reflective of the population they serve? This is a question for which there are no simple answers. It is reasonable to assume that in some situations and settings, the linguistic and cultural differences between the lawyer and the client are an impediment to effective communication and mutual trust. In other contexts, this may be less of a concern.

⁹⁴Data from U.S. Census 2000, available at www.illinoisbiz.biz/2000census/04017.pdf. Note: Latino respondents can be of any race, which means that the data in this column will not add up to 100%.

⁹⁵Data from 2003 Annual Report of the Attorney Registration and Disciplinary Commission, available at www.iardc.org/AnnualReport03/2003annual_report.html.

Legal aid programs and coalitions in several states (e.g., Massachusetts, New York, Washington) have developed diversity plans and set goals aimed at ensuring that programs are as reflective as possible of the communities they serve.⁹⁶

Illinois needs to address the issue of diversity within the ranks of the legal aid system. Efforts in this area will be complicated by the fact that the legal aid system is made up of 23 independent programs. Consequently, there is no way to increase diversity by a single set of plans or mandates. However, much more can be done to raise awareness of the issue and to help programs examine any institutional barriers that may exist to recruiting and retaining a more diverse workforce.

The Crunch: Salaries, Recruitment and Retention of Legal Aid Attorneys

The key asset of a legal aid program is its people. The knowledge, experience, and energy that staff members bring to their jobs will, more than any other factor, determine the success of a legal aid organization. To be successful, legal aid programs must be able to attract talented lawyers and other staff members. Then they must be able to keep them.

Based on the survey responses, it is clear that there is a simmering crisis in the area of staff attorney recruitment and retention. The combination of low salaries and high debt levels is making it almost impossible for many dedicated legal aid lawyers to stay in the field.⁹⁷

High turnover leads to declining efficiency, which in turn leads to fewer clients receiving legal assistance. Every time an attorney departs, the workload increases for those who remain, at least until the position is filled. Supervisors are forced to spend more time hiring and training new attorneys, and less time serving clients.

The difficulties programs face in recruiting and retaining qualified staff members has a direct impact on the quality and quantity of services provided to clients. Low salaries and high debt can make it more difficult to attract the most qualified candidates for staff attorney positions. When staff members leave they take their experience and expertise with them, which means that a source of knowledge is lost to those who follow. High turnover leads to declining efficiency, which in turn leads to fewer clients receiving legal assistance. Every time an attorney departs, the workload increases for those who remain, at least until the position is filled. Supervisors are forced to spend more time hiring and training new attorneys, and less time serving clients.

Salaries

“I think most people who go into this line of work realize they’re making a sacrifice. But there’s a difference between making a sacrifice and being able to survive.”

- Bob Graves

Chicago Bar Foundation⁹⁸

No one goes into legal aid to get rich, but more and more legal aid lawyers are drifting toward the line between sacrifice and survival. As a result, many are leaving the field.

⁹⁶For more information on these initiatives, see the LSC Resource Library section on diversity at www.lri.lsc.gov/sitepages/diversity/diversity.htm.

⁹⁷It should be noted that economic issues are not the sole cause of retention difficulties for legal aid programs, and that private law firms face substantial turnover, as well. The Illinois Coalition for Equal Justice is studying the retention issue to get a more comprehensive understanding of the issue.

⁹⁸Quoted in “Nonprofit tracking pay in public interest law,” *Chicago Daily Law Bulletin*, September 7, 2004.

The median starting salary for a legal aid attorney in Illinois is \$36,000. This is slightly higher than the national median starting salary (\$34,000) for legal aid attorneys in 2004, according to the National Association for Law Placement.⁹⁹

National Salary Comparisons: 2004 ¹⁰⁰			
	Legal Aid	Public Defender	State's Attorney
Entry Level	\$34,000	39,000	40,000
5 Years	40,000	50,000	52,000
11 - 15 Years	51,927	65,000	69,255

The most relevant salary comparisons for legal aid attorneys are with other public sector jobs. The Illinois median starting salary for legal aid attorneys is 8% less than that for public defenders nationally, and 11% below median starting salaries for prosecuting attorneys.

The gap widens as attorneys gain experience. At the five-year mark, legal aid attorneys make 25% less than public defenders and 30% less than prosecuting attorneys. For the most experienced staff attorneys (11-15 years), the salary gap between legal aid attorneys and public defenders remains at 25%, and the gap between legal aid and prosecutor salaries increases to 33%.

A recent article in a journal for managers of legal aid programs does an extremely effective job of framing the issue of low salaries, and deserves to be quoted here at length. The author is John Tobin, executive director of New Hampshire Legal Assistance. The title of the article neatly captures some of the attitudes that have contributed to the current crisis: "Urgent Memo to Ourselves: Legal Services is Not the Peace Corps."¹⁰¹

Mr. Tobin begins by asking his fellow legal aid managers to consider the contrast between their "obligations as the stewards of legal services programs," and "the current realities that we tolerate, with varying degrees of awareness and resignation," when it comes to legal aid salaries.¹⁰²

To create the greatest long-term stability for programs and long-term benefits for the client community, Mr. Tobin asks his colleagues to recognize:

(T)hat an effective legal services program, like a successful private law firm, contains a blend of highly experienced lawyers who have strong skills and great credibility in the legal community with mid-level and new advocates who bring new perspectives and fresh energy.

In order to create, develop and maintain a vibrant staff of varying backgrounds, experience levels, and skills, any organization must provide its staff with a livable middle class standard of living, not so they can become wealthy, but so they can pay off their school loans, buy an average home, raise children if they choose (and contribute meaningfully to those children's education), and prepare for a decent retirement. This modest version of the American Dream is consistent with our clients' aspirations for themselves, and it is not greedy or selfish but decent and fair.¹⁰³

⁹⁹See "2004 Public Sector and Public Interest Attorney Salary Report" and "2004 Associate Salary Survey," National Association of Law Placement, available at www.nalp.org/nalpresearch/salindex.htm.

¹⁰⁰*Ibid.*

¹⁰¹"Urgent Memo to Ourselves: Legal Services is Not the Peace Corps (Addressing the Salary Chasm Now)," *Management Information Exchange Journal*, Spring 2003, pp. 5 - 8.

¹⁰²*Ibid.*, p. 5.

¹⁰³*Ibid.*

*At the five-year mark, legal aid attorneys make 25% less than public defenders
and 30% less than prosecuting attorneys.*

The situation for most legal aid attorneys does not live up to this ideal, however.

Salaries are so low that it is not unheard of for new legal aid attorneys to take on a night or weekend job to survive financially.

Many people can only work in legal aid if they are “subsidized by a spouse/partner,” and can only stay in the field for as long as they are in the marriage/partnership, and as long as the other spouse/partner will agree to continue to support the arrangement.¹⁰⁴

As a result, “(l)egal services staffs are becoming disproportionately female,” in a culture that “conditions women to work for less.” A related consequence is that “legal services programs bear a disproportionate burden of employing the primary child caregivers who are the secondary earners,” which puts additional stress both on the legal aid program and the employee.¹⁰⁵

Another consequence is that “(l)ateral recruitment of mid-level or highly experienced staff is extremely difficult, except from other legal services programs, because mid-level or senior legal services salaries lag far behind those of private firms, the federal government, other successful non-profits, or even state and local government.”

Mr. Tobin also argues that low salaries make it harder to build a diverse workforce within legal aid.

Finally, he asserts that the status quo will inevitably lead to lower productivity, due to high levels of turnover and burnout:

Many people in legal services are resigned to the “Peace Corps” view of our programs that is prevalent in the outside world. Under this vision, all but a few of those who join us will devote a few years to our cause, living a life of temporary semi-poverty, but will then depart for a “real job” that will provide financial stability, if less personal satisfaction. The perpetuation and internalization of this view leads our programs to accept as inevitable a constant burden of turnover and training new staff.

At the same time, low salaries in many legal services programs have helped to create an implicit “civil service” tradeoff with some experienced staff. Under this unspoken bargain, the management of the program will not raise issues of burnout, stagnation, low productivity and lack of leadership unless they become extreme, because the staff person with these problems is willing to live with a low salary.¹⁰⁶

¹⁰⁴*Ibid*, p. 6. As noted above, 60% of legal aid attorneys in Illinois are female.

¹⁰⁵*Ibid*.

¹⁰⁶*Ibid*.

In Mr. Tobin's home state of New Hampshire, the two legal aid programs concluded that they had to raise salaries. Working closely with the New Hampshire Bar Foundation, they devised a plan for salary improvements based on comparability to other public sector salaries in that state. As a result, in 2002 the boards of the two legal aid organizations decided to increase base salaries by 20% over a three-year period, in addition to 3% annual cost-of-living adjustments. This action was taken despite the fact that "neither program had the funds to implement these increases at current staffing levels," and that if they were not able to raise additional private funds, "some shrinkage in staff size," might be necessary "to set salaries at a level of long-term sustainability."¹⁰⁷

Finally, it is very important to acknowledge that pay for paralegals and administrative staff is also extremely low. The median annual salary for a full-time paralegal at a legal aid program is \$24,250. While salaries for administrative staff vary based on specific job title (e.g., a development director would make more than an intake worker), it is safe to assume that salaries for administrative personnel are low, as well.

Law School Debt

While salaries are too low in general, the factors at the heart of the crisis in legal aid pay are the skyrocketing costs of law school and the rising levels of educational debt.

Between 1992 and 2002, the U.S. experienced a 28% increase in the cost of living. According to an American Bar Association report, during the same period, private law schools raised tuition by 76%. At public law schools, tuition increased by 134% for in-state residents and 100% for out-of-state residents. By 2002, the median law school tuitions were \$24,920 (private), \$18,131 (public, non-resident), and \$9,252 (public, resident).¹⁰⁸

Rising tuition levels caused more law students to borrow, as well. The ABA study reports that 87% of students took out loans to finance their legal educations, and in "the 1990's the average amounts students borrowed more than doubled."¹⁰⁹ These debt figures do not take into account any loans that a legal aid attorney may have outstanding from his or her undergraduate education.

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A 2002 study confirmed that on a national level, law school debt had a significant impact on the recruitment and retention of attorneys in public interest and public sector organizations. Among the key findings:

- ♦ Law school debt prevents 66% of law student respondents from considering a public interest or government job.
- ♦ Sixty-eight percent of public interest and government employers reported difficulty recruiting attorneys. The vast majority of these employers cite low salaries (89%) and educational debt (88%) as the principal factors contributing to this problem.

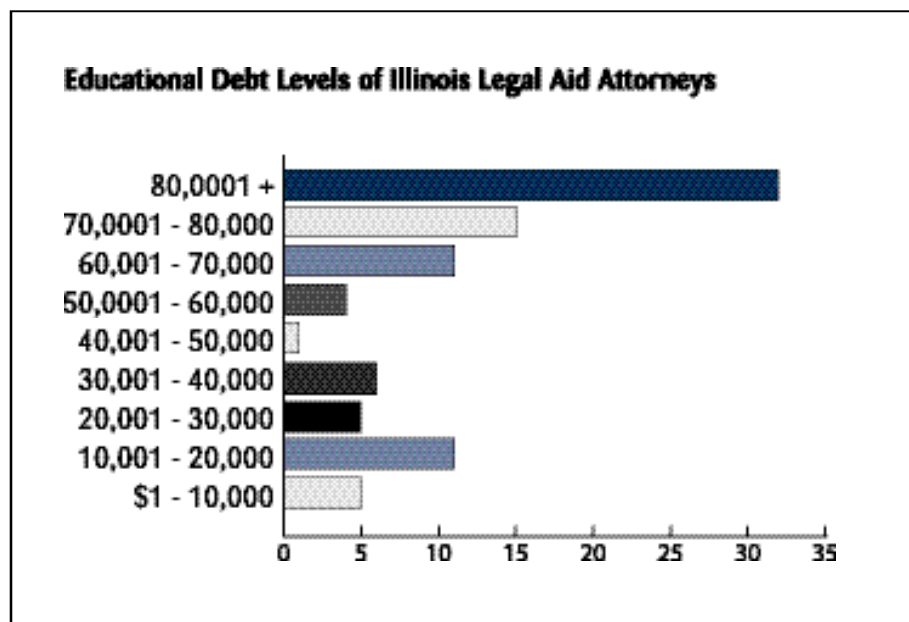
¹⁰⁷ *Ibid.*

¹⁰⁸ *Lifting the Burden: Law School Debt as a Barrier to Public Service*, ABA Commission on Loan Repayment and Forgiveness, American Bar Association, 2003, p. 11.

¹⁰⁹ *Ibid.*

- ♦ Sixty-two percent of public interest and government employers reported difficulties retaining experienced attorneys. Retention problems are attributed to the same factors as recruitment problems, with 92% indicating low salaries and 82% indicating educational debt.
- ♦ Sixty-nine percent of attorneys in public service jobs leave within five years of employment.¹¹⁰

The survey of legal aid staff attorneys conducted as part of this study confirms that educational debt is a problem for many legal aid staff attorneys in Illinois. Of the 161 staff attorneys who responded to this question, 56% indicated that they were carrying educational debt. For those with loans, the median balance was between \$70,000 and \$80,000.



Beyond the numbers, the effects of low salaries and high debt are evident in written comments submitted by legal aid attorneys, who were asked to “describe the three biggest challenges you face in your current job.” The most common response involved concerns about salaries and/or debts.

A staff attorney at Land of Lincoln commented:

My student loans make it difficult to work as a legal aid attorney. My student loan payments make up approximately 30 percent of my net pay each month. I have extended my loan to the 30-year maximum repayment plan. I have no student loan assistance either through my law school or my employer. I am dedicated to public interest work but need some sort of financial assistance with my student loans.

¹¹⁰From *Paper Chase to Money Chase: Law School Debt Diverts Road to Public Service*, Equal Justice Works, 2002, p. 6.

An attorney with the Midwest Immigrant & Human Rights Center wrote:

First and foremost my biggest challenge is my student loans. They are huge and overwhelm me. I love the work I do – absolutely love it. But everyday I ask myself whether I can continue to work in the public interest sector and manage to pay my loans. I live with several roommates to save money, however even that is uncertain. I cannot afford to live on my own in Chicago given my current student loan debt.

An attorney at the Legal Assistance Foundation of Metropolitan Chicago said that the biggest challenge “is living with my current salary. I love my job and I cherish the privilege of knowing that I’ve done something positive by the end of each day, but its tough to make ends meet sometimes.”

The comments of some attorneys indicate that leaving the legal aid field is a matter of *when*, rather than if: “Salary is not enough to cover monthly expenses (because of high student loans),” wrote an attorney at the Legal Aid Bureau, “therefore [I] will not be able to continue working in legal aid for [an] extended period of time.”

Other comments from Illinois legal aid attorneys underscore some of the key points made by John Tobin in his “Legal Services Is Not the Peace Corps” article. An attorney at Prairie State Legal Services reported that one of the biggest challenges was “trying to budget rent, living expenses, and my school loans on my legal aid salary. So far I’ve managed, but I’m nervous that soon I’m going to have to go out and get a part-time job to pick up the slack.”

It is also increasingly difficult for legal aid attorneys to support a family. “As a single mother and sole source of income for my child, it is an everyday struggle to live on my salary,” wrote an attorney with the Cabrini Green Legal Aid Clinic. A Land of Lincoln attorney noted: “I am the sole supporter of my family of 4, and it is difficult making ends meet.”

The possibilities for the future seemed limited to an attorney with the Legal Assistance Foundation of Metropolitan Chicago, who wrote: “Amount of pay creates severe financial pressures – *i.e.*, cannot afford a family or buying a home, etc.”

Others seemed almost apologetic about staying in the legal aid field. An attorney with the Chicago Legal Clinic commented that a major challenge was “[j]ustifying my current employment with a public interest organization when my student loan debt hovers at \$105,000.” An attorney with Chicago Volunteer Legal Services commented: “It’s hard to say to your family that you have to work on Saturday, and then bring home a measly paycheck.”

Some managing attorneys commented on the toll that low salaries caused in terms of recruitment and retention. A managing attorney with Land of Lincoln noted that it was becoming increasingly difficult “to hire strong candidates for vacant lawyer positions.”

“First and foremost my biggest challenge is my student loans. They are huge and overwhelm me. I love the work I do - absolutely love it. But everyday I ask myself whether I can continue to work in the public interest sector and manage to pay my loans.”

“Our organization experiences a high degree of turnover,” wrote a managing attorney with the Midwest Immigrant & Human Rights Center. “The training and retraining has required a significant amount of my time that could have been focused on advocating the substantive goals of the organization or supporting the further growth of more tenured staff.”

Loan Forgiveness

I wish there was a greater emphasis in our profession on programs of student loan forgiveness. The turnover rate for nonprofits is high because eventually attorneys get burned out and/or must leave because their loans and other expenses are too enormous to justify staying. I often struggle with this question. I don’t want to leave. I went to law school FOR THIS PURPOSE. It doesn’t make sense that law school is now causing me to turn my back on what I believe is important.

- Staff attorney
Midwest Immigrant & Human Rights Center

Programs aimed at debt relief for public interest and public sector attorneys are commonly referred to as “loan repayment assistance programs,” or LRAPs. The common mission of all LRAP programs is to help attorneys with large loan balances manage their educational debt, allowing them to work in lower-paying public service jobs. This is sometimes accomplished through loan forgiveness, in which some portion of the loan is written off for each year the lawyer stays in a public service job, or through grants to help cover monthly loan payments.¹¹¹

Loan repayment assistance programs are administered by law schools, and, in some cases, on a state level. There have been limited efforts to implement loan forgiveness programs for public interest and public sector lawyers at the federal level, as well.

Law School LRAPs

The concept of law-school based “loan forgiveness” programs began at Harvard University in 1978.¹¹² Between 1978 and 2004, the number of law schools offering some type of loan repayment assistance has increased from one to 81.¹¹³

The rate of increase in law school LRAP programs has gained momentum in recent years. The number of law schools with LRAPs increased from 47 to 81 between 2000 and 2004. During the same period the total disbursements by LRAPs increased by 40%, from \$7.6 million to \$10.6 million. Twenty-two additional law schools reported that they were working to create LRAP programs.¹¹⁴

Despite the significant increase, only 42% of all ABA-accredited law schools have LRAP programs in place. For many schools with LRAP programs, eligibility criteria are extremely limited. Only 17 of the 81 law schools with LRAPs provided funding to 20 or more graduates in the 2002-2003 academic year.¹¹⁵

¹¹¹*Ibid.*, p. 17.

¹¹²“Paying the Way: Loan programs booming for grads in public service jobs,” *National Law Journal*, July 5, 2004, p. 18.

¹¹³*Financing the Future: Equal Justice Works 2004 Report on Law School Loan Repayment and Public Interest Scholarship Programs*, Equal Justice Works, 2004, p. 10.

¹¹⁴*Ibid.*, p. 9.

¹¹⁵*Ibid.* Schools with 20 or more LRAP students were Yale, Harvard, Georgetown, Columbia, Stanford, University of Michigan, Northeastern, University of Pennsylvania, Boston College, Hofstra, Rutgers, University of Virginia, Valparaiso, Brooklyn, Duke, George Washington and Case Western.

Of the nine law schools in Illinois, three have active LRAP programs: Loyola, Northwestern and the University of Chicago. Four others (Chicago-Kent, DePaul, Northern Illinois University and the University of Illinois) report that they are in the process of planning for a loan repayment assistance program. No LRAP activity has been reported at the two remaining schools (John Marshall and Southern Illinois University) according to Equal Justice Work's 2004 report.¹¹⁶

State LRAPs

State-level LRAPs exist in nine states: Arizona, Florida, Maine, Maryland, Minnesota, New Hampshire, New York, North Carolina and Texas. In four states (Arizona, Florida, Maine, New Hampshire) the LRAP programs are administered by the state bar foundation, using funding from the Interest on Lawyer Trust Account (IOLTA) program. The Minnesota and North Carolina programs are operated by independent not-for-profit organizations. The Maryland program is administered by state government, and the Texas program is run by the Texas Access to Justice Commission, an independent entity created by the Texas Supreme Court and staffed by the state bar association.¹¹⁷

In recent years, the legislatures of California, Georgia and Texas have acted to create statewide LRAPs, but then failed to appropriate any money to fund them. The Texas program has gone forward using private donations. Neither the California nor the Georgia programs are operational.¹¹⁸

The state bar associations of Missouri, Montana and Washington State have also acted in recent years to create LRAP programs.¹¹⁹

Federal LRAP Efforts

In May 2003, a bipartisan group of U.S. Senators, including the senior senator from Illinois, Dick Durbin, introduced S. 1091, the Prosecutors and Defenders Incentive Act. Under the umbrella of the existing Stafford Loan Program, S. 1091 would have provided loan repayment assistance for public defenders and prosecuting attorneys who agreed to serve for a minimum of three years. A related bill, H.R. 2562, the Public Interest Lawyer Assistance and Relief Act, was introduced in the House of Representatives in June 2003, and included legal aid lawyers. While neither bill was passed during the 108th Congress, the introduction of these bills indicates an increased level of awareness of this issue at the federal level.

A recent success at the federal level came with the final passage of the budget for the Legal Services Corporation (LSC) for Fiscal Year 2005. At LSC's request, Congress will allow the agency "to spend up to \$1 million in previously appropriated funds to pilot a loan repayment assistance program (LRAP)."¹²⁰ It is not clear whether any of this money will be used among LSC-funded programs in Illinois, nor is it certain that additional money for LRAPs will be included in future LSC appropriations.

¹¹⁶*Ibid.*, pp. 36 – 38.

¹¹⁷*Lifting the Burden: Law Student Debt as a Barrier to Public Service*, ABA Commission on Loan Repayment and Forgiveness, 2003, p. 52.

¹¹⁸*Ibid.*

¹¹⁹For more information see www.abanet.org/legalservices/lrap/state/stateprograms.html.

¹²⁰See Legal Services Corporation website @ www.lsc.gov.

Other LRAP Efforts and Related Initiatives in Illinois

While Illinois does not have a formal statewide initiative on LRAP issues, there are a number of programs in the state to help law students and young lawyers pursue legal aid and public interest careers. Each year The Chicago Bar Foundation awards the Kimball R. and Karen G. Anderson Public Interest Law Fellowship to an outstanding legal aid attorney to assist with loan repayment issues. About a dozen legal aid attorneys in Illinois receive Equal Justice Works or Skadden fellowships, which include loan repayment assistance.

The Chicago Bar Foundation also awards two substantial public interest law scholarships, the Moses and Marovitz Scholarships. The Women's Bar Foundation also gives out one public interest scholarship each year, and the Illinois Bar Foundation considers a law student's desire to pursue a career in public interest work as a factor in awarding its annual scholarships.

Financial Health

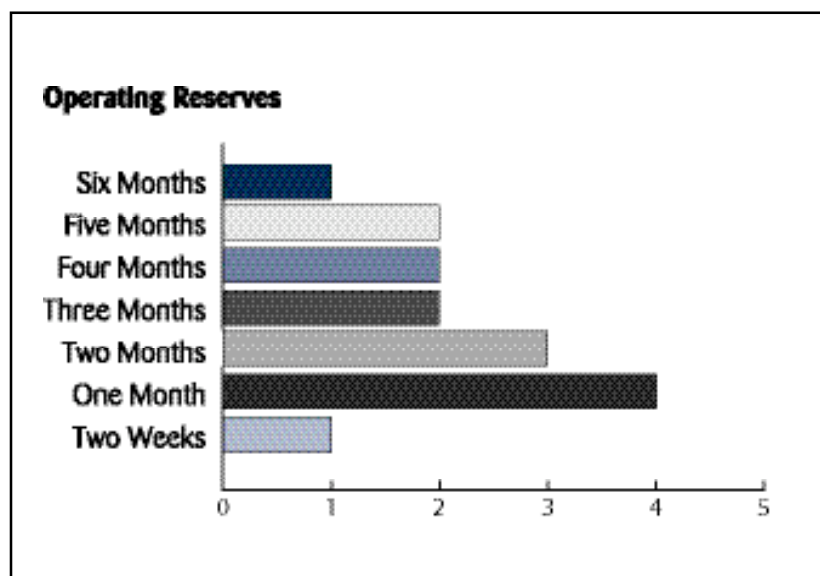
To assess the financial health of Illinois legal aid programs, executive directors were surveyed about two key issues: their organizations' financial reserves and the percentage of income that can be raised each year from identified sources.

Financial Reserves

Like other businesses and organizations, legal aid programs face financial uncertainty. Late grant payments or extraordinary expenses can create cash flow problems. Cuts in government funding or changes in a foundation's grant priorities can lead to the reduction or elimination of formerly stable funding sources.

As a matter of fiscal prudence, not-for-profit institutions should maintain financial reserves equal to three to six months of operating expenses, to allow the organization time to recover without having to eliminate core staff or services.¹²¹

Seven of the 15 executive directors who responded to this question indicated that their programs met the three- to six-month standard. The median number of months' operating expenses in reserve was two. Four organizations reported having a single month's worth of cash in reserve, and one program reported a mere two-week financial cushion.

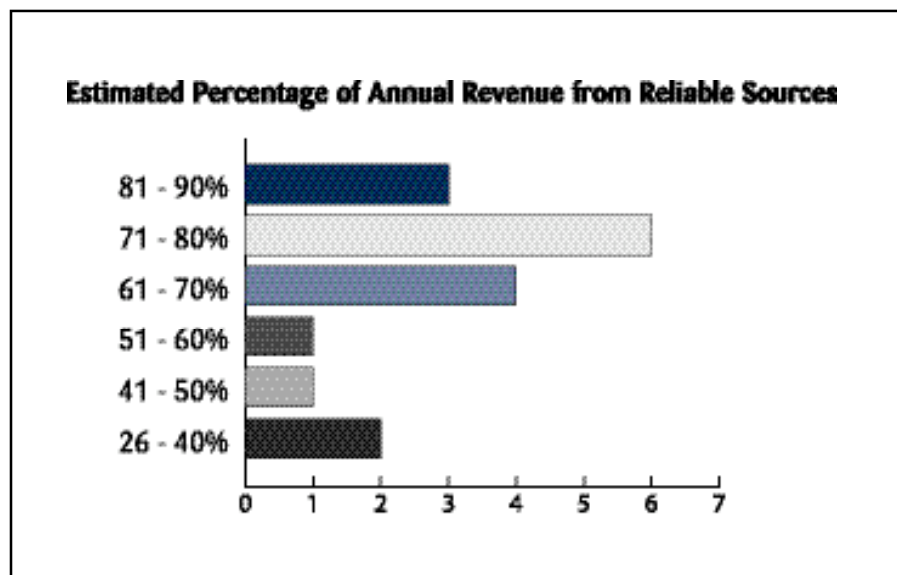


¹²¹ *How Effective Nonprofits Work: A Guide for Donors, Board Members and Foundation Officers*, Marcia Festen and Marianne Philbin, Forum of Regional Associations of Grantmakers, 2002, p. 68.

Reliable Sources

Not-for-profits rely on a combination of old and new funding sources. A strong organization will always seek to expand its donor base and add new revenue streams. But a stable organization requires a core group of donors – both individuals and institutions – that can be relied upon from year to year.

As a measure of financial stability, executive directors were asked to estimate the percentage of their organizations' annual budgets that could be relied upon from identified sources. This does not mean that this percentage of a program's annual funding is guaranteed. It simply means that the organization has a reasonable likelihood of raising this much of the budget without having to make extraordinary efforts to find new donors to replace lost funding.



The median score for reliable annual funding was 71-80%. Fourteen of the seventeen executive directors responding to the question indicated that they could count on identifiable sources for over half of their annual revenue. Three programs had a stable source for four out of every five dollars needed.

Legal Aid Infrastructure

Legal aid staff members are increasingly dependent on their computer systems, telephone systems, copiers, printers, fax machines and other office infrastructure. These systems are critical to maintaining an efficient, productive law practice, especially since legal aid attorneys have limited support from paralegals and secretaries.

When the first *Illinois Legal Needs Study* was conducted in the late 1980's, consultants visiting legal aid offices found staff members relying on a combination of electric typewriters, Dictaphones, and, in the more "tech savvy" offices, a handful of mismatched computers. One of the study's major recommendations was that "programs should increase their use of office technology to improve efficiency."¹²²

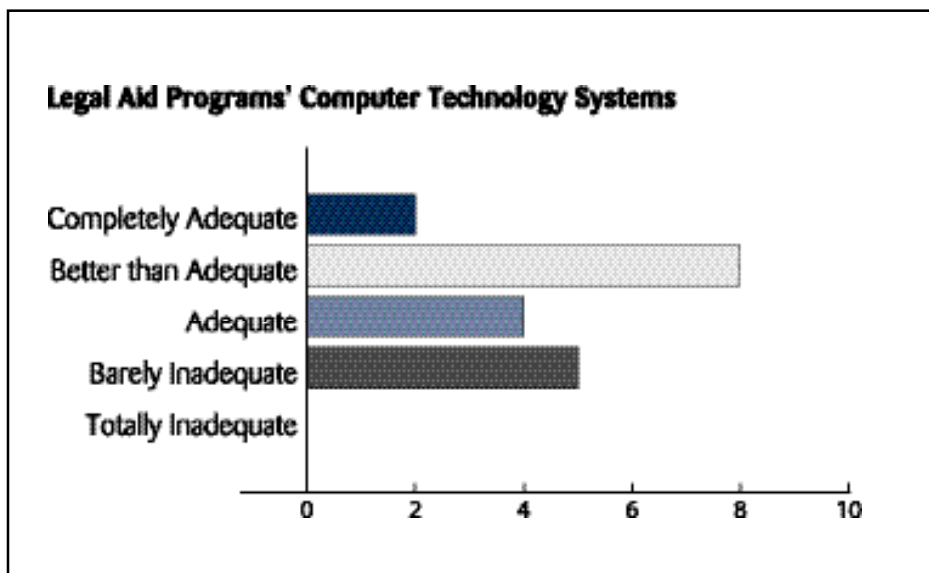
¹²²*Illinois Legal Needs Study*, p. 144.

In response, the Lawyers Trust Fund of Illinois (LTF) launched its Computerization Project in 1990. In an 18-month period, LTF invested over \$1 million to put a new, networked computer on the desk of every attorney and paralegal, as well as at least one new printer, in more than 50 legal aid offices throughout the state. Through a separate capital grants program, LTF provided funding to allow programs to purchase copiers, fax machines, telephone systems and other office equipment.

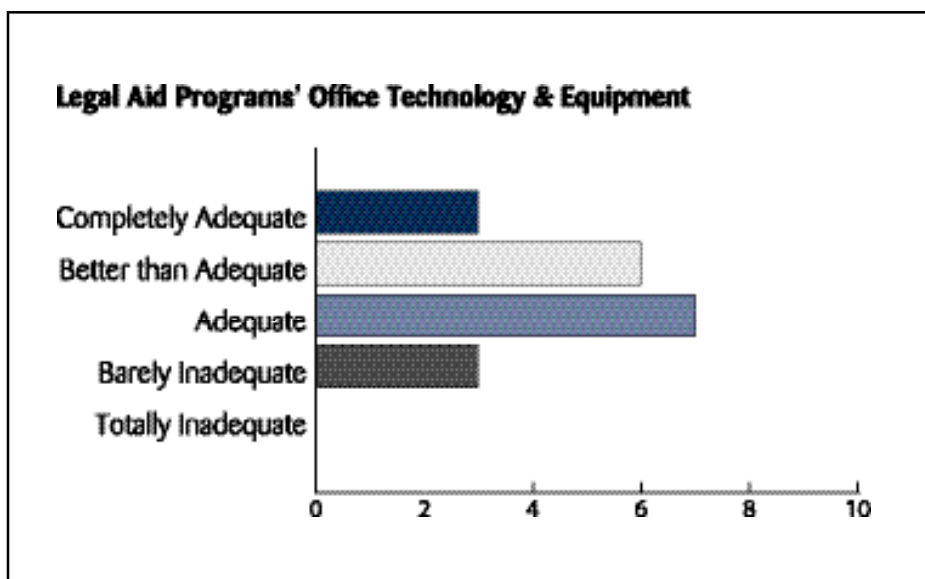
Over the next eight years, the LTF Computerization Project invested approximately \$4.9 million to provide three generations of computer hardware and software, taking the legal aid system from the era of the typewriter to the era of the Internet. The Lawyers Trust Fund phased out the Computerization Project in 1998, due to limited IOLTA income and a desire to maximize general operating grants.

In the survey for this study, conducted six years after the end of the LTF Computerization Project, executive directors were asked to rate the adequacy of both their computer technology (*i.e.*, hardware, software, networking, Internet access), and their general office technology infrastructure (*i.e.*, telephones, copiers, printers, fax machines, *etc.*).

The following tables indicate the executive directors' views of their respective programs' computer and office technology systems.



Executive directors gave their programs' computer technology a median score of three ("adequate") on a five-point scale, though five executive directors rated their computer systems as "barely adequate."



The median score for office equipment was a three (“adequate”). Only three program directors rated their organization’s office systems and equipment as “barely adequate.”

Despite the relatively positive overall ratings, comments from staff attorneys and managing attorneys suggest that there are some significant problems related to technology and office systems.

In their narrative responses to the survey, one downstate legal aid attorney cited as a major challenge “(t)he inability to get technology upgrades and new equipment when it is readily apparent that what we have is no longer current, repairable or functional.”

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An attorney at a large Chicago program lamented “[n]ot having the technological resources that our peers in the private sector do to make our time more efficient.”

An attorney at a smaller Chicago program noted the challenge of “[c]oping with [the] lack of resources (copiers, faxes, computers that do not work).” Another attorney at the same program mentioned not having “[a]ccess to legal research tools like Westlaw or Lexis/Nexis.”

Given the small number of legal aid attorneys and the overwhelming numbers of clients needing assistance, it is vitally important that legal aid programs provide staff members with computers and other office technology that increase efficiency and do not add frustration to an already difficult job.

Staff Support for Attorneys

In addition to adequate technology, legal aid attorneys also need adequate staff support to operate at maximum efficiency. In the narrative responses to the survey, attorneys from 12 programs mentioned the lack of staff support as a major challenge.

An attorney at a large Chicago-based program wrote: "I tend to do every step of the process from the typing, printing, filing, mailing of any pleading that I file. I do not use the services of a secretary because there are about 11 attorneys using the support staff that we currently have at my specific office."

Attorneys at a smaller Chicago programs noted that "(w)e rely on volunteers for support services. I spend a lot of time on administrative tasks." An attorney at another agency cited "[f]rustration in spending time on clerical tasks instead of delivery of legal work." A third commented that a major challenge was the "[l]ack of support staff, such that I get bogged down with clerical and routine tasks."

An attorney at a downstate program mentioned the "[l]ack of paralegal back-up staff with litigation experience," as an impediment of effective advocacy. An attorney at another downstate program wrote that "[b]ecause secretaries are assigned to 4 case-handlers, they aren't able to help with cases in a close to paralegal capacity as the secretarial staff in a private firm can do."

Another attorney suggested that legal aid programs "need a better model based on a law firm, where the main purpose of staff are to make the attorneys more efficient."

An attorney at a large Chicago-based program wrote: "I tend to do every step of the process from the typing, printing, filing, mailing of any pleading that I file. I do not use the services of a secretary because there are about 11 attorneys using the support staff that we currently have at my specific office."

Conclusion

Given the resource limitations that all programs face, the organizations that make up the Illinois legal aid system have done a reasonably good job of balancing competing demands, maintaining morale, recruiting and retaining staff, and utilizing technology to provide services more efficiently.

However, legal aid programs are under severe strain. Because of low salaries and high debt levels, the legal aid system faces a growing crisis in the area of staff recruitment and retention. Most legal aid programs do not have adequate financial reserves. Many legal aid attorneys do not have the computer technology, office equipment or staff support to perform at maximum efficiency.

Without a significant infusion of new resources, many programs will continue trying to do more with less, and simply fix things as they break. When the computers no longer function, it will be time to buy new ones. When the starting salary of \$36,000 no longer attracts anyone who is qualified, the salary will be raised.

Without a significant infusion of new resources, many programs will continue trying to do more with less, and simply fix things as they break. When the computers no longer function, it will be time to buy new ones. When the starting salary of \$36,000 no longer attracts anyone who is qualified, the salary will be raised.

Other programs will take more affirmative steps to align their resources with the organization's long-term goals. These programs might, for example, raise salaries or invest in new technology to improve productivity, even if it means reducing the number of staff.

If new resources *do* become available, programs will face the more pleasant but equally daunting challenge of setting investment priorities. Boards of directors and executive directors will have to plan carefully to manage the competing demands for new attorneys, salary increases, new technology and more support staff, among others.

In either case, the leaders of legal aid programs need to think and act strategically. They must take steps to assess and respond to their most pressing organizational needs, even if it means a reordering of priorities or painful shifts in policy.

The Role of the Private Bar

The private bar plays an important role in meeting the legal needs of low-income Illinois residents. Significant numbers of lawyers in private practice contribute both time and money to the legal aid system. While lawyers are not solely responsible for addressing the legal needs of the poor, they do have a professional obligation to play a leading part in that effort.

The Illinois Rules of Professional Conduct state that:

It is the responsibility of those licensed officers of the court to use their training, experience and skills to provide services in the public interest for which compensation may not be available. It is the responsibility of those who manage law firms to create an environment that is hospitable to the rendering of a reasonable amount of uncompensated service by lawyers practicing in that firm...An individual lawyer's efforts in these areas is evidence of the lawyer's good character and fitness to practice law, and the efforts of the bar as a whole are essential to the bar's maintenance of professionalism.¹²³

There is an urgent need to increase both the number of cases handled by volunteer attorneys and the percentage of lawyers who participate in pro bono activities. The Illinois Supreme Court recognized this need in May 2001, when it appointed a Special Committee on Pro Bono Publico Legal Service. The Special Committee has recently completed a report and recommendations calling for the adoption of a plan to increase attorney volunteerism in Illinois.¹²⁴

It is also important to recognize that the private legal market has an important role to play in meeting the needs of low-income individuals. The telephone survey found that low-income Illinoisans paid for the assistance they received in well over half (56.2%) of the cases for which they were able to find legal help. In fact, poor people paid for legal assistance more often than they received it for free.

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¹²³Rules of the Supreme Court of Illinois, Article VIII. Illinois Rules of Professional Conduct, Preamble.

¹²⁴Report of the Special Supreme Court Committee on Pro Bono Publico Legal Service, December 4, 2003, available at www.isba.org/probono2%2D05.pdf.

Improving Pro Bono

It is impossible to say with any certainty what percentage of Illinois attorneys perform pro bono services each year. It is reasonable to assume that many lawyers offer free assistance to people in need in their communities independent of an organized pro bono program operated by a legal aid group. However, there is no mechanism in place to collect data on the extent of these “informal” pro bono services.

It is possible, however, to measure the amount of volunteer service provided by attorneys in private practice through the pro bono components of legal aid organizations. Of the 23 programs in this survey, only five do not use volunteer lawyers to represent clients on a regular basis.¹²⁵ Volunteer lawyers at the remaining 18 programs handled a total of 11,506 cases in 2003, which represents 11.1% of all cases handled by legal aid programs during that year. The ratio of Illinois lawyers to pro bono cases handled was 5:1.

How can pro bono service be increased and improved? The answers to this important question fall into two categories. The first category encompasses discrete micro-level initiatives that can be implemented by legal aid programs or members of the private bar at the individual, law firm, or program level. The second category includes systemic macro-level solutions that will have a statewide impact on the availability of pro bono services.

Discrete Initiatives for Improvement

Increasing volunteer participation and utilization is a task that staff and board members of legal aid programs grapple with on a regular basis. For some legal aid staff members it is the challenge that defines their work.

Increasing volunteer participation is not an easy task. Most volunteers require a significant amount of support. The job is made even more challenging by the fact that the vast majority of attorneys are already extremely busy.

Consequently, effective pro bono programs must constantly evaluate their methods for recruiting, training, supporting and retaining their volunteers. “What works” varies not only from program to program, but also from volunteer to volunteer. That said, there are some common challenges that all organizations must address in order to maintain an effective pro bono program:

- ♦ **Case screening:** To avoid wasting volunteers’ time, cases must be carefully screened and evaluated for legal merit before they are assigned. This process must be thorough, and may involve a review of documents and/or interviews with third parties.
- ♦ **Training:** Many attorneys volunteer to handle cases in areas of law in which they have substantial experience. However, this is not always the case. Those who agree to take cases that fall outside their areas of expertise must have access to training, whether in a classroom setting, via the Internet, or through written materials.
- ♦ **Case support:** Depending on the volunteer’s level of knowledge and experience, he or she will need some degree of hands-on support in the course of a pro bono case. This could include coaching from an experienced attorney, clerical support, malpractice insurance and/or having the ability to take the case back “in house” in the event that the volunteer cannot complete it.
- ♦ **Recognition and Retention:** Programs must show that they value the work of their volunteers by providing them with appropriate cases, offering the necessary level of support and publicly recognizing them for their efforts.

¹²⁵These are Equip for Equality, Evanston Community Defender Office, Health & Disability Advocates, Immigration Project, and the Life Span Center for Legal Services & Advocacy.

All pro bono programs in Illinois must review their efforts on a regular basis to ensure that they are doing all they can to offer volunteers a meaningful and rewarding experience.

An encouraging micro-level trend is that several major law firms in Chicago have hired or appointed attorneys to serve as full-time pro bono coordinators within the firm. Five of the 20 largest firms in Illinois (Baker & McKenzie; Katten Muchin Zavis Rosenman; Mayer, Brown, Row & Maw; Sonnenschein Nath & Rosenthal; Winston & Strawn)¹²⁶ now have full-time attorneys who serve as pro bono coordinators, and whose duties include serving as liaisons between attorneys in their respective firms and legal aid organizations seeking volunteers.

Bar associations have a role to play in promoting volunteerism among their members. Several bar associations in Illinois have adopted policies promoting pro bono work. The Chicago Bar Association, for example, has adopted a policy urging its members to donate at least 50 hours of pro bono service each year. Many bar associations and bar foundations also host pro bono recognition events, and provide a variety of pro bono resources, including training sessions, for their members. Finally, bar associations communicate with their members regularly through meetings, mailings, and publications, and can use all three to inform their members about the need for more volunteers, pro bono opportunities and the good work being done by their peers.

Systemic Efforts to Improve Pro Bono

The Illinois Supreme Court appointed the Special Committee on Pro Bono Publico Legal Service (“the Committee”) in 2001, and charged it with the task of studying and recommending “methods to promote among attorneys a commitment to render uncompensated legal services and to encourage every member of the practicing bar of the State of Illinois to perform pro bono legal work as a matter-of-course.”¹²⁷ In fulfilling that duty, the Committee examined the pro bono delivery system in Illinois, as well as model programs and initiatives in other states.

One of the Committee’s conclusions was that any movement towards mandatory pro bono service was a bad idea:

The Committee considered the issue of “mandatory pro bono.” Having weighed the idea carefully, and solicited the opinions of volunteers and managers of pro bono programs, *the Committee categorically rejects the idea that Illinois attorneys should be required to perform pro bono service as a condition of their licensure.* This opposition is based on both practical and philosophical considerations.¹²⁸

The Committee also concluded that “judicial leadership is absolutely essential to creating a culture in Illinois that is conducive to pro bono service, and the role of the judiciary in promoting pro bono service needs to be institutionalized and made permanent.”¹²⁹

The Committee’s major recommendation was that the Illinois Supreme Court adopt a series of rule changes aimed at encouraging voluntary pro bono service. The proposed changes were based on rules adopted by the Florida Supreme Court in 1993. Similar plans were subsequently adopted in Maryland (2000) and Nevada (2003). In light of Florida’s pioneering role, the various plans are often referred to as the “Florida model.”

¹²⁶Other major firms have full-time pro bono coordinators who are not attorneys (e.g., Jenner & Block, Sidley Austin Brown & Wood, Skadden Arps), while other major firms with Chicago offices (e.g., Holland + Knight) have attorney pro bono coordinators based in another city.

¹²⁷www.state.il.us/court/SupremeCourt/Committees/Committees.htm#ProBono.

¹²⁸Report of the Special Supreme Court Committee on Pro Bono Publico Legal Service, December 4, 2003, p. 6.

¹²⁹*Ibid.* p. 5.

In its report and recommendations, the Committee stated that the Florida model “is the only example we can find of a ‘macro’ initiative that has had a significant, measurable impact on the availability of pro bono services on a statewide basis.”

While each state’s program differs in its details, the Committee identified three elements that are common to each and should be adopted in Illinois:

- ♦ **Rules:** to strengthen the language regarding lawyers’ responsibility to provide pro bono service;
- ♦ **Reporting:** requiring lawyers to submit information about the voluntary pro bono services they provide via the annual attorney registration process;
- ♦ **Regional planning and accountability:** permanent statewide and circuit-based coordinating committees to inventory needs and resources on the local level, to set goals for improvements, and to monitor progress toward those goals.¹³⁰

The Committee found that in Florida, “the benefits of the combination of circuit-based planning and mandatory reporting have been astounding.”¹³¹

Using 1994-1995 data as a baseline, by 1999-2000 the number of Florida lawyers providing pro bono service had increased from 22,283 to 28,897, a 21% increase. During that same period, the hours of pro bono service reported more than doubled, from 561,352 to 1,146,501...Florida now claims that 53% of attorneys in the state perform pro bono service – the highest rate of participation of any state in the country.¹³²

The Committee was not able to evaluate the success of the Maryland and Nevada programs, as both states were still in the process of collecting the baseline data upon which future progress would be judged. However, the highest courts in both states were persuaded by the Florida experience, and their own prior failures to increase pro bono service significantly by other means, to adopt the Florida model. The Mississippi Supreme Court is now considering a similar proposal.¹³³

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¹³⁰*Ibid.*, p. 6.

¹³¹*Ibid.*, p. 25.

¹³²*Ibid.*

¹³³For more information see the Mississippi Supreme Court web site at www.mssc.state.ms.us/news/MRPC61Notice.pdf.

¹³⁴*Report of the Special Supreme Court Committee on Pro Bono Publico Legal Service*, p. 35.

The Committee specifically recommended that the Illinois Supreme Court take the following steps:

- ♦ “Strengthen the language of the Illinois Rules of Professional Conduct regarding pro bono service,”¹³⁵ by adopting a new rule (Article VIII, Rule 6.1) stating that “each lawyer, as part of that lawyer’s professional responsibility, should render pro bono legal services to the poor.” The proposed rule would further state that this responsibility “is aspirational rather than mandatory in nature,” and that “the failure to fulfill one’s professional responsibility under this rule will not subject a lawyer to discipline.” Finally, the proposed rule would encourage each lawyer to provide “at least 20 hours” of pro bono service or to make “an annual contribution of at least \$250 to a legal aid organization.”¹³⁶
- ♦ “Establish a statewide Illinois Pro Bono Coordinating Council and regional Pro Bono Coordinating Councils in each of Illinois’ 22 judicial circuits.”¹³⁷ The purpose of the Councils would not be to replace the existing pro bono or legal aid programs. Instead, the Councils would work with judges, legal aid programs and the private bar to encourage and improve the delivery of pro bono services.
- ♦ “Require Illinois attorneys to report on the hours of pro bono service performed and/or financial contributions made as part of the annual attorney registration process.”¹³⁸ The Committee recommended this change based in part on their conclusion that “voluntary pro bono schemes often have responses rates that are so low that they are useless.”¹³⁹

The Illinois Supreme Court has referred the Special Committee’s report to the Supreme Court Rules Committee for consideration.

Market-Based Mechanisms to Increase Private Bar Services to Low-Income Illinoisans

According to a recent survey of law firm economics conducted by the Illinois State Bar Association (ISBA), the average hourly rate for family law services is \$183.¹⁴⁰ A family living at 150% of the federal poverty guidelines, which is the definition of “low-income” used in this report, has a gross household income of no more than \$27,200 per year, or \$2,267 per month. At a rate of \$183 per hour, twelve hours of legal work would consume a low-income family’s entire gross monthly income. Market-rate legal services are simply not affordable for low-income persons.

Despite the resultant economic hardships, low-income individuals still pay lawyers to help them resolve their legal problems. According to the telephone survey, low-income persons paid for legal assistance to help resolve 9.2% of the 1.3 million legal problems they encountered in 2003.

The likelihood of paying for assistance varied depending on the type of case. People who were able to obtain legal assistance in a divorce case paid for it 86.1% of the time. Those who received legal representation in a tort defense matter paid 78.6% of the time. Individuals embroiled in child custody disputes paid for assistance in 73.3% of cases, and those who received help with a child support issue paid just over half (51.5%) of the time. Low-income clients received paid assistance in just under half (47.4%) of Social Security and Social Security Disability cases, and in 25% of unemployment benefits matters.

¹³⁵*Ibid.*, p. 35.

¹³⁶*Ibid.*, p. 46.

¹³⁷*Ibid.*, p. 35.

¹³⁸*Ibid.*

¹³⁹*Ibid.*, p. 37.

¹⁴⁰“Highlights of the 2004 ISBA Law Firm Economic Benchmarking Survey,” *Illinois Bar Journal*, December 2004, Vol. 92, p. 625.

Low-income individuals and families constitute a segment of the market for legal services. The question is: Are they a segment of the market that attorneys are interested in serving?

According to the ISBA economic survey, the median personal gross income for an Illinois attorney was approximately \$110,000.¹⁴¹ Where lawyers fell on the median income scale was related to several factors, including their location and the number of years in practice.

Geographically, respondents in several regions fell below the median income, including lawyers in Cook County¹⁴² (\$70,000 - 79,000), the St. Louis Metro Area (\$80,000 - 89,000), the Collar Counties (\$90,000 - 99,000), and cities with populations between 10,000 and 100,000 (\$100,000 - 109,000).¹⁴³

Newer attorneys made less on average than the all Illinois attorneys. Respondents admitted to practice after 1990 had median incomes in the \$70,000 - 79,000 range.¹⁴⁴

Finally, the survey found that at least some members of the Illinois bar are struggling financially. "Sixteen percent of females and nine percent of males reported incomes of less than \$40,000."¹⁴⁵

The ISBA economic survey would seem to indicate that at least some Illinois lawyers would be interested in finding additional sources of revenue, and might be willing to pursue those sources through mechanisms that are not simply "business as usual." This section examines two such mechanisms: modest means referral panels and limited scope representation.

Modest Means Referral Panels

Lawyer referral services are bar-sponsored entities designed to market the services of their members. They have traditionally operated as telephone-based services, but are increasingly using web sites to match clients with attorneys.

A modest means referral panel is defined as "a facet of a lawyer referral and information service that is specially structured to improve the availability of lawyers to those of moderate income."¹⁴⁶

According to the ABA Lawyer Referral Directory, there are 90 modest means panel programs operating around the country.¹⁴⁷

The impetus to create modest means panels is based on the fact that "too many people cannot afford the full price of the legal services they need, yet they can afford to pay something less. Reducing fees for eligible clients broadens access, while it creates more business for participating lawyers."¹⁴⁸

¹⁴¹ *Ibid.*

¹⁴² The Cook County figure excludes lawyers based in downtown Chicago, who had a higher median income.

¹⁴³ *Ibid.*

¹⁴⁴ *Ibid.*

¹⁴⁵ *Ibid.*

¹⁴⁶ "A Blueprint for Lawyer Referral and Information Service Modest Means Panels," ABA Standing Committee on the Delivery of Legal Services, available at www.abanet.org/legalservices/delivery/blueprint1.html.

¹⁴⁷ www.abanet.org/legalservices/lris/directory.html#

¹⁴⁸ *Ibid.*

The specific policies and operating procedures of modest means referral panels vary from program to program, but there are some common features, including:

- ♦ **Fees:** Modest means referral programs typically cap their hourly fees at a level between \$40 and \$100. Other programs ask lawyers to charge half of their regular hourly fee. Some programs offer certain types of services (e.g., drafting a will, bankruptcy) for a set fee.
- ♦ **Retainers:** Modest means referral programs often limit the retainers clients must pay to between \$175 and \$1,000. Retainers will vary based on the type of case, but are usually less than \$500.
- ♦ **Client eligibility:** The target clients for modest means referral programs have incomes between 125% and 200% of the federal poverty guidelines, or \$23,000 to \$36,800 for a four-person household, with the latter figure being the cut-off point for eligibility in many programs.

Why would lawyers want to participate in a modest means referral panel? For some, it may be a purely economic decision. In the same way that airlines sell empty seats for a discount as the date of departure nears, lawyers and firms with “excess capacity” may be interested in the modest means referral program as a source of additional paying clients. Other lawyers may have more altruistic motives, and many could be spurred to participate by a combination of these factors.

Illinois has eleven bar-sponsored lawyer referral services. Both the Illinois State Bar Association and The Chicago Bar Association have lawyer referral services, as do three regional bar associations in Cook County (Northwest Suburban, North Suburban, West Suburban) and six county bar associations (DuPage, Kane, Lake, Peoria, Will, Winnebago). None of the Illinois lawyer referral services have modest means panels.

Limited Scope Legal Assistance

Limited scope legal assistance is one of the many terms used to describe the idea of lawyers collaborating with their clients to share the work of resolving the client’s legal problem. This concept is also commonly referred to as “discrete task representation,” or “unbundling.”

A recent American Bar Association report described unbundling this way:

To understand unbundling, consider all of the tasks that a lawyer performs as part of his or her representation. Take those tasks apart. They include counseling, drafting or document preparation, investigation/discovery, negotiations, advocacy/litigation, and possibly appellate work. Instead of automatically providing most, if not all, of these tasks, the lawyer who unbundles may provide some or a combination of them.¹⁴⁹

¹⁴⁹ *Innovations in the Delivery of Legal Services: Alternative and Emerging Models for the Practicing Lawyer*, American Bar Association Standing Committee on the Delivery of Legal Services, September 2002, p. 14.

While the concept of offering limited scope legal assistance strikes many lawyers as innovative or novel, others argue that it is very much a part of the traditional practice of law. For example, the Colorado State Bar Association Ethics Committee offered the following examples in a 1998 opinion:

[C]lients often negotiate their own agreements, but before the negotiation ask a lawyer for advice on issues that are expected to arise. Sometimes, a lawyer's only role is to draft a document reflecting an arrangement reached entirely without the lawyer's involvement. Clients involved in administrative hearings (such as zoning or licensing matters) may ask their lawyer to help the client to prepare for the hearing, but not to appear at the hearing. In each of these situations, the lawyer is asked to provide discrete legal services, rather than handle all aspects of the total project.¹⁵⁰

Whether traditional or innovative, the practice of offering limited scope legal assistance is becoming more common, mirroring the rise in the number of pro se litigants. In fact, offering limited scope legal assistance can be seen as an effort by lawyers to recapture a segment of the market made up of those who choose, for reasons of cost, to proceed without legal assistance.

The potential advantages for both clients and lawyers are succinctly summarized in a 2003 report on access to lawyers, prepared by an ABA presidential task force:

Unbundled approaches to providing services hold promise in making legal services more affordable to a greater percentage of the population. If a client works with the lawyer to share the tasks necessary to resolve the legal problem, clients can invest time instead of money. This approach can then broaden the base of clients for lawyers who are willing to adopt this model.¹⁵¹

The idea of offering limited scope legal assistance raises ethical questions for many lawyers, and most states' codes of professional conduct and court rules do not explicitly address the issue. As evidence of the growing trend toward unbundling, however, six states (California, Colorado, Florida, Maine, Washington and Wyoming) have amended their ethics codes or civil procedure rules to allow assisted pro se representation since 2000. Eleven other states have launched efforts to study the issue.¹⁵²

In Illinois, the ISBA issued an "Advisory Opinion on Professional Conduct" in 1983 that offered at least a partial approval of limited scope legal assistance. The digest of the ISBA opinion stated that:

It is not improper for an attorney, pursuant to prior agreement with the client, to limit the scope of his representation in a proceeding for dissolution of marriage to the preparation of pleadings, without appearing or taking any part in the proceeding itself, provided the client is fully informed of the consequences of such agreement, and the attorney takes whatever steps may be necessary to avoid foreseeable prejudice to the client's rights.¹⁵³

¹⁵⁰Colorado Bar Association Ethics Committee, Formal Opinion 101 (1998), as quoted in the *Handbook on Limited Scope Legal Assistance*, Modest Means Task Force of the American Bar Association Section of Litigation, 2003, p. 5.

¹⁵¹*Final Report: ABA Presidential Commission on Access to Lawyers*, American Bar Association, July 2003, available at www.abanet.org/legal-services/delivery/accesscommn.html.

¹⁵²"Helping Self-Helpers – ABA Web Site Offers Information on Limited Representation of Clients," *ABA Journal*, September 2004, p. 72.

¹⁵³ISBA Advisory Opinion on Professional Conduct, Opinion Number 849, Illinois State Bar Association, December 1983, affirmed January 1991.

It is uncertain whether Illinois lawyers will embrace the concept of limited scope legal assistance as a way to make their services more affordable to a larger pool of potential clients. There is an obvious difference between the lack of ethical prohibitions and encouragement. If “unbundled” services are to be one of the building blocks for broader access to legal assistance, affirmative steps will be needed. These steps could include clarification of ethical rules regarding limited scope representation, dissemination of information to attorneys on how to incorporate unbundled services into their practices, and mechanisms for marketing limited scope assistance, perhaps through lawyer referral service web sites or the legal aid web site, www.illinoislegalaid.org.

Conclusion

A recent ABA study noted some of the shortcomings of “the legal marketplace:”

In many respects, the function of putting lawyers together with clients who need their services has not been successful, resulting in a legal marketplace that is ostensibly open and efficient, but which in actuality too frequently requires that individuals pursue legal matters with the assistance of non-lawyer service providers who lack the skills of lawyers, or worse, do not pursue resolutions of their legal concerns at all.¹⁵⁴

Both modest means referral panels and limited scope legal assistance are ways to make private legal services both more affordable and more accessible to lower-income Illinoisans. However, they may also point the way to creating a more efficient marketplace for legal services in general, something that could ultimately benefit the members of the legal profession.

Gaps in the Delivery of Legal Aid

The current legal aid system in Illinois is clearly inadequate to meet the needs of the state’s low-income population. The purpose of this section is to examine the gap between the legal needs identified in the telephone survey and the assistance available through the legal aid system, and to estimate the amount of funding that would be necessary to close this gap.

Need vs. Demand

Unmet Legal Needs

The telephone survey revealed that low-income Illinois households experienced a total of **1,330,652** legal problems in 2003, and did not have any legal assistance for 1,102,936 of those problems. This is the number of “unmet legal needs” identified by the telephone survey.

The number of unmet legal needs is approximately *10.6 times* the number of cases handled by the legal aid system in 2003 (103,962). Obviously, there is no conceivable way to expand the current legal aid system to address all of the legal problems identified by the telephone survey.

As a practical matter, however, a ten-fold expansion of the legal aid system is not necessary. For a great many legal problems, legal assistance would not be sought and/or required. The telephone survey supports the notion that the most common course of action for a person with a legal problem is to attempt to resolve the problem without legal assistance.¹⁵⁵ Others choose not to take any action at all when confronted by a legal problem.

¹⁵⁴*Final Report: ABA Presidential Commission on Access to Lawyers*, American Bar Association, July 2003, available at www.abanet.org/legal-services/delivery/accesscommn.html.

¹⁵⁵Households attempted to resolve problems without legal assistance 65.7% of the time. The telephone survey was not able to determine the outcome of these self-help attempts, though it is important to note that many of the problems people attempted to address on their own were matters with potentially serious consequences (e.g., bankruptcy, evictions, divorce and domestic violence).

Consequently, a true measure of the legal needs that require a response from the legal aid system is difficult to calculate. For example, how many of those who did not seek legal help when facing a legal problem would have sought help if they had been aware of the availability of free legal aid services? How many took no action because they face overwhelming personal difficulties and are too demoralized to attempt to resolve their problem? These questions are impossible to answer based on the available data.

Estimating the Unmet Demand for Legal Assistance

It is possible, based on telephone survey data, to measure the unmet demand for legal assistance. In this case, the term “unmet demand” is used to describe **those problems for which a person actively sought legal assistance, but did not receive it**. According to the telephone survey, low-income Illinois households experienced **140,719** such problems in 2003.¹⁵⁶

Because people were motivated enough to seek legal assistance, it is reasonable to assume that the 140,719 legal problems were among the more serious and/or complex issues identified by the telephone survey. Thus, it is also reasonable to conclude that these are the types of cases for which legal assistance would be most appropriate and necessary.

The number of problems for which people sought assistance but did not receive it varied significantly by type of legal issue, as the following table reveals.

Type of Problem	Number of Problems for Which People Sought Legal Assistance	Number of Problems for Which People Received Legal Assistance	Unmet Demand for Legal Assistance
Consumer	74,163	43,737	30,426
Family	99,835	71,310	28,524
Employment	34,229	15,213	19,016
Housing	40,885	22,819	18,065
Public Benefits	31,377	19,491	11,885
Health	22,819	1,885	10,934
Education	10,934	5,229	5,705
Disability	9,983	4,279	5,705
Wills & Estates	12,836	8,082	4,754
Immigration	11,410	8,082	3,328
Tort Defense	10,459	8,082	2,377
Total	358,929	218,210	140,719

Estimating the Costs: Expanding the Legal Aid System to Meet the Demand for Assistance

How much would it cost to expand the current legal aid system to address the unmet demand for legal assistance? Before answering this question, it is important to note that an estimate based on demand, rather than need, will result in a very conservative figure.

¹⁵⁶This number is a very conservative estimate of unmet legal demand. The actual number of unaddressed legal problems is substantially higher. See Section II, Availability of Legal Assistance.

The current average cost per case for the legal aid system is calculated by dividing the total amount spent on legal aid in 2003 (\$36,299,420) by the total number of cases handled (103,962). This yields an average cost per case of **\$349.16**.

This cost-per-case average includes a very broad spectrum of services, ranging from legal advice provided in a ten-minute telephone call to complex litigation that may take ten years to resolve.¹⁵⁷ The possible types of services included in this cost-per-case average include:

- ♦ Legal advice or other brief service from a telephone hotline;
- ♦ Legal advice or other brief service from a court-based help desk;
- ♦ Legal advice or other brief service from a pro bono attorney at a walk-in clinic operated by a legal aid program;
- ♦ Legal advice from a legal aid staff attorney;
- ♦ Representation by a legal aid staff attorney;
- ♦ Representation by a pro bono attorney.

Based on the calculation that low-income Illinoisans need direct legal assistance for 140,719 additional problems each year, and that the average cost per case is \$349.16, the **additional** funding needed to ensure that all those who seek legal assistance have meaningful access to the justice system is **\$49,133,488**. This figure is 35.4% more than was spent on legal aid in 2003.¹⁵⁸

When added to the current amount spent on the legal aid system (\$36,299,420), this means that the target for total annual expenditures on legal aid services in Illinois would be **\$85,432,908**.

A gain, it is important to note that this is an extremely conservative figure. If the cost-per-case average was applied to even *half* of the unmet legal needs identified in the telephone survey (551,468), the amount of funding required would be over \$192 million dollars. The demand for legal assistance is also limited by the fact that only 23% of all low-income households are aware of the existence of programs providing legal aid services.

The table below shows the various amounts required to address the unmet demand in each category. The estimated cost is reached by multiplying the number of problems for which people sought, but did not receive, legal assistance by the average cost-per-case of \$349.16.

Additional Costs

The additional \$49 million required to enable the legal aid system to respond to the full demand for assistance does not include resources for additional types of help aimed at providing legal information to people who choose to try to resolve a legal problem without direct legal assistance. These include:

- ♦ Internet-based resources, such as Illinois Legal Aid Online;
- ♦ “Self-help centers” based at courthouses, libraries or other public facilities;¹⁵⁹ and
- ♦ Mediation service programs.

¹⁵⁷Just over two-thirds (68.8%) of these cases were in the legal advice and “brief services” category, and the remaining 31.2% representation of a client in negotiations, litigation or an administrative hearing

¹⁵⁸The \$49 million figure does not include other costs involved in attempting to provide information and assistance to those who attempt to resolve problems on their own. (See “Additional Costs,” below).

¹⁵⁹While some courthouse-based self-help centers offer access to direct legal assistance, the term is used here to describe a place where people can access information about their legal rights and responsibilities.

Estimated Cost to Provide Legal Assistance to Address Unmet Demand		
Type of Problem	Unmet Demand for Legal Assistance	Estimated Cost
Consumer	30,426	\$10,623,457
Family	28,524	9,959,491
Employment	19,016	6,639,661
Housing	18,065	6,307,677
Public Benefits	11,885	4,149,788
Health	10,934	3,817,805
Education	5,705	1,991,898
Disability	5,705	1,991,898
Wills & Estates	4,754	1,659,915
Immigration	3,328	1,161,941
Tort Defense	2,377	829,958
Total	140,719	\$49,133,488

As noted earlier in this section (*see* “Web-based Pro Se Assistance”), Internet-based tools are an extremely cost-effective way to provide information to large numbers of people. An Internet resource such as Illinois Legal Aid Online, which could offer information and other assistance on a wide variety of legal topics in multiple formats (text, audio and video) and languages would require an annual investment of an estimated \$1 - 2 million to fully realize its potential for serving the needs of the public.

The total cost of placing self-help centers in courthouses, libraries and other public facilities, which would serve as “starting points” for those seeking legal information, will vary dramatically based on several factors, including the number of sites (one per county or one in every public library) and the design of each center (an Internet-linked computer terminal or a facility with several computers, printed materials, and paid or volunteer “facilitators” to help users). Consequently, it is impossible to estimate the cost of creating a network of self-help centers in public facilities around the state without further planning and investigation. One thing that is absolutely certain is that public self-help centers cannot be financed by already overburdened legal aid programs, unless they receive a significant infusion of resources dedicated to that purpose.

Finally, this estimate does not include the costs of offering mediation services, either through a separate network of not-for-profit mediation centers or as an integral part of the court system. The total costs involved in making mediation services more widely available is another topic requiring further study.

Conclusion

The need for an additional \$49 million to meet the current levels of demand for legal assistance underscores the fact that Illinois’ legal aid system is severely under-funded, and leaves the majority of low-income individuals and families without access to a critical social service. As stated above, this is a very conservative estimate of the need for legal assistance. To provide legal assistance to address even half of the unmet legal needs identified in this study would require an additional investment (\$192 million) almost four times as large.

In the health care field, a person who is sick or injured always has the option of seeking treatment at an emergency room, where they cannot be turned away because they lack money or insurance. There is no similar guarantee for those in need of legal aid, who may face situations involving domestic violence, the loss of custody of a child, the loss of a home due to foreclosure or a host of other extremely serious legal issues.

While an expenditure of \$85 million per year for legal aid seems like an extraordinary figure, it is less so when viewed in the context of investments in other social services. In FY 05, the state of Illinois *alone* spent over \$234 million on home-based care and community services for the elderly; \$262 million on addiction treatment and prevention, and \$236 million on employment and social services.¹⁶⁰ These figures do not include any additional federal funds spent on these services, nor do they include private philanthropic contributions to not-for-profit organizations working on these issues. Viewed in this context, an investment in legal aid of \$85 million from all sources does not seem so extraordinary, especially in light of the fact that half of the low-income households in the state experienced at least one legal problem in 2003.

The challenge of raising an additional \$49 million per year for the legal aid system remains a daunting one. It must be acknowledged that this is a long-term effort, and one that must be shared by all stakeholders in the legal aid system, including federal, state and local governments, the legal community and other private funding sources.

The Need for Collaboration

The challenges facing the legal aid system are so vast that there is a temptation to conclude that individual contributions cannot make a difference. This would be a mistake. The efforts of every board member, staff member and volunteer working with a legal aid program make a difference. Every dollar donated by an individual, a law firm, charitable foundation or government agency helps to ensure that individuals and families have meaningful access to the justice system.

The challenges are, however, far beyond the means of any individual, any legal aid program, or even of any one branch or level of government to address. The legal aid system must remain a public/private partnership, with every partner in the system doing more.

The task of improving the legal aid system will require new ideas and investments, and it is critically important that those investments are made strategically. Efforts must be made to identify common priorities, coordinate investments, encourage innovation, highlight successful models and promote the important work of the entire legal aid system. It is vitally important that the legal aid community establish and maintain forums for discussing issues, debating ideas, sharing information and identifying opportunities and priorities.

The Illinois Coalition for Equal Justice currently serves as the main coordinating body for the legal aid system. The Coalition's members are jointly appointed by the Illinois State Bar Association and The Chicago Bar Association, and include bar leaders, judges, legislators, other public officials, funders, legal aid providers and representatives of other community and advocacy groups.

The Coalition meets on a quarterly basis, and has working groups to deal with issues such as the pay and retention issues for legal aid staff, interactions between the federal Legal Services Corporation and Illinois legal aid providers, the improvement of pro bono services, the use of alternative dispute resolution to address the legal needs of low-income persons, and many others. The Coalition is also the official sponsor of the Equal Justice Illinois Campaign, an effort to increase state funding for legal aid services and other access-to-justice programs. The Chicago Bar Foundation serves as fiscal agent for the Coalition and provides staff assistance to support the efforts of the all-volunteer group.

¹⁶⁰FY 05 Budget, Illinois Department of Human Services, www.dhs.state.il.us.

While other ad hoc efforts will be needed to address various policy and service delivery issues, the Coalition is the entity best suited to play a coordinating role for the legal aid system for the foreseeable future. It is important to note, however, that despite the dedication of many members who volunteer significant amounts of time to Coalition and the generous staff support provided by The Chicago Bar Foundation, the Coalition is limited by the fact that the only staff and resources it has at its disposal are, in effect, borrowed from other entities. If the Coalition is to live up to its potential, it will require additional human and financial resources.

Most important of all, the people who make up the legal aid system must be made to understand that the burden of ensuring access to justice does not fall entirely on their shoulders, and the failure of the current system to do so does not rest at their feet. Creating opportunities for all people to secure the protection of the legal system must be a societal responsibility, as well as a goal that is widely shared.

MAJOR FINDINGS

The Legal Needs of Low-Income Illinoisans

- ♦ **Percentage of Households:** Almost half (49%) of the low-income households in Illinois experienced one or more legal problems in 2003.
- ♦ **Problems per Household:** Low-income households had an average of 1.7 distinct legal problems. Households that had at least one legal problem had an average of 3.5 distinct problems.
- ♦ **Availability of Legal Assistance:** Low-income households had legal assistance for only one out of every six (16.4%) legal problems they encountered in 2003.
- ♦ **Total Number of Problems:** When applied to the low-income population in Illinois, the survey findings indicate that approximately 383,000 households experienced over 1.3 million legal problems in 2003, and that they did not have legal assistance for over 1.1 million of those problems.
- ♦ **Unmet Demand for Legal Assistance:** Low-income Illinois households sought, but were unable to obtain, legal assistance for 140,719 distinct legal problems in 2003. This is a very conservative estimate, based on unmet demand rather than the total number of unaddressed legal problems.
- ♦ **Categories of Legal Problems:** The most common types of legal problems were **consumer** issues, experienced by 23.2% of households; **housing** issues, experienced by 20.2% of households; and **family law** issues, experienced by 15.7% of households.
- ♦ **Individual Legal Issues:** The most common individual legal issues involved debt collection, experienced by 13.3% of households; serious conditions problems in a rental unit, experienced by 6.3% of households; and issues involving child support, experienced by 5.5% of households.
- ♦ **Free Legal Assistance:** Households received free legal assistance for only one out of fourteen (7%) of all legal problems encountered during 2003.
- ♦ **Self-Help Efforts:** The most common response to a legal problem (65.8%) was to attempt to resolve it without legal help. Applied to the low-income population of Illinois, individuals attempted to resolve approximately 875,000 problems without legal assistance. Many of the problems that people tried to resolve without legal assistance were complex matters with potentially serious consequences, including eviction (83.3% attempted to resolve on their own), domestic violence (68.9%), child custody (62.5%), bankruptcy (50%), and divorce (48.5%).
- ♦ **Impact of Race/Ethnicity:** African-American households were the most likely to have at least one or more legal problems (59.2%), compared with 51.3% of Latino households and 42.5% of white households. African Americans also had the highest number of problems per household (2.2), compared with 1.7 problems per household for Latinos and 1.4 problems per household for whites.
- ♦ **Impact of Disability:** Almost three-quarters (73.9%) of households that included a person with a disability experienced at least one legal problem during 2003, compared with 49% for all low-income households. Households that included a person with a disability had an average of 3.6 legal problems, which is twice the average number of problems for all households surveyed (1.7).

- ♦ **Impact of Region:** Rural households were the most likely to have experienced at least one legal problem in 2003 (52.7%), followed by households in Cook County (50%), downstate counties with 80,000 or more residents (48.6%), and households in the suburban “collar counties” (42.5%).
- ♦ **Awareness of Free Legal Assistance:** Less than a quarter of low-income Illinois residents (23%) were aware of the availability of free legal assistance in their area. Whites (28%) were more likely to be aware of legal aid than African Americans (21%) or Latinos (14%). People in rural areas (31%) were more likely to be aware of legal aid than those in the “collar counties” (22%) or Cook County (19%).
- ♦ **Finding Legal Assistance:** Low-income persons seeking legal assistance were most likely to find a lawyer by word of mouth (30.7%) or by looking in the telephone directory (30.7%).

Civil Legal Assistance in Illinois

- ♦ **Increases in Productivity:** In the years since the first *Illinois Legal Needs Study* (1989), legal aid programs have achieved remarkable gains in productivity. For example:
 - The number of cases involving representation of a client (*i.e.*, beyond “brief service”) increased by 30.3% between 1987 and 2003, despite the fact that the number of case handlers (attorneys and paralegals) increased by only 9.4%;
 - The average overall cost per case, adjusted for inflation, fell by 18.5% between 1987 and 2003.
- ♦ **Case Types:** Legal aid programs directed most of their services to the areas of family law (40.5% of the total cases), housing (15.9%), public benefits (10.3%), and consumer issues (9%).
- ♦ **Levels of Service:** Legal aid providers handled a total of 103,962 client matters in 2003. The vast majority fell into the “brief service” category (68.8%), meaning that the legal aid program provided legal advice or other limited assistance. Less than a third of all cases (31.2%) involved representation of a client. Only one in five cases (20.3%) involved litigation or an administrative hearing.
- ♦ **Pro Bono Services:** Volunteer attorneys were responsible for 11.1% (11,506) of all cases handled by legal aid programs in 2003. Lawyers based in Cook County handled the overwhelming majority of these pro bono cases (90.1%).
- ♦ **Client Demographics (Race/Ethnicity):** African Americans made up the largest percentage of legal aid clients (43.4%), followed by whites (28.2%) and Latinos (18.2%). By way of comparison, the percentages of the low-income Illinois population represented by these groups are: African Americans (38.5%), Latinos (16.7%) and whites (42.2%).
- ♦ **Client Demographics (Disabilities):** Approximately one out of every six legal aid clients (16.9%) had some type of a disability. The percentage of all Illinois residents with some type of a disability is 17.6%.
- ♦ **Legal Aid Funding:** Total funding for the legal aid system in 2003 was \$36,299,420. The sources of funding providing the largest shares of resources were the federal Legal Services Corporation (31.9%), other sources of public funding (27%) and the legal community (14.3%).

Major Issues Facing the Legal Aid System

Access to Services

- ♦ **Decreasing Awareness:** Awareness of the availability of free legal assistance has dropped by almost half since the first *Illinois Legal Needs Study* was conducted, from 43% to 23%. Despite this lack of awareness, legal aid programs are still overwhelmed with callers seeking assistance.
- ♦ **Access to Staff Attorneys:** Of the more than 76,000 attorneys registered in Illinois in 2003, only 326 are employed by legal aid programs. There are 249 full-time and 77 part-time legal aid attorneys in Illinois, or 280 full-time equivalents. Based on data from the telephone survey, this means that there is one legal aid attorney for every 4,750 legal problems experienced by low-income Illinois households.
- ♦ **Caseloads:** The average annual caseload for each staff attorney is 330, which includes 246 “brief service” matters, 33 cases involving “representation without litigation,” and 51 cases involving litigation or an administrative hearing.
- ♦ **Volume of Hotline Calls:** The three regional telephone advice and referral hotlines are overwhelmed with calls from people seeking assistance, and estimate that they are able to respond to only between 15% and 33% of the calls they receive.
- ♦ **Pro Se Litigants:** The most common response to a legal problem is to attempt to resolve it without legal assistance, and the number of litigants appearing in court without representation is increasing.
- ♦ **Pro Se Assistance:** In response to the increase in pro se litigants, some courts, in collaboration with legal aid programs, have created self-help centers or assistance desks. (A good example is the Nineteenth Judicial Circuit’s Center for Self-Representation at the Lake County Courthouse.)
- ♦ **The Internet:** The Internet holds extraordinary promise as a way of offering legal information, especially as materials are made available in multimedia (text, audio, video) formats. The Internet is a highly efficient and effective way to provide answers to common questions (e.g., “How do I get my security deposit back?”) that currently demand the time and attention of hotline attorneys or other legal aid staff.
- ♦ **The Digital Divide:** The telephone survey found that 49.1% of low-income households surveyed had Internet access, and 59% reported that they had used the Internet.
- ♦ **Illinois Legal Aid Online:** Illinois Legal Aid Online is an important resource for members of the public, legal aid advocates and pro bono attorneys. Illinois Legal Aid Online has produced a comprehensive web-based library of materials for the public (www.illinoislegalaid.org), for staff attorneys (www.illinoislegaladvocate.org), and for pro bono attorneys (www.illinoisprobono.org).

Resources

- ♦ **Need for Funding:** Legal aid programs are severely under-funded. The legal aid system would require an additional **\$49 million** to meet the needs of all Illinoisans who sought, but did not receive, legal assistance for a problem in 2003. Significant new sources of funding are needed if legal aid programs are to do any thing more ambitious than keep up with inflation.

- ♦ **The Range of Funding Needs:** Additional staff attorneys, paralegals and support staff are needed to respond to the unmet demand for legal assistance. Even at existing staff levels, programs face critical financial needs in the areas of technology, infrastructure and salaries.
- ♦ **LSC Funding:** Funding from the federal Legal Services Corporation, which is still the largest single source of support for legal aid in Illinois, fell by 38% (adjusted for inflation) between 1987 and 2003.
- ♦ **State Funding:** The state of Illinois provides a very minor share (1.4%) of the total funding for legal aid in Illinois. Of the ten most populous states in the U.S., Illinois provides the smallest annual contribution to support legal aid: \$480,000 versus an average of \$6.1 million.
- ♦ **Legal Community Contributions:** The legal community in Illinois is a significant contributor to the legal aid system. A very conservative estimate of the legal community's direct financial contributions to the legal aid system in 2003 was \$5.4 million, a figure that does not include the value of pro bono services. The vast majority of Illinois attorneys pay \$42 per year to support legal aid programs as part of the annual registration process. Increasing the percentage of Illinois attorneys who are willing to contribute on a voluntary basis is both a major opportunity and a major challenge facing the legal aid system.

The Health of the Legal Aid System

- ♦ **Leadership:** The Illinois legal aid system is led by an experienced group of executive directors and managing attorneys. The median length of service with their organizations is 18 years for executive directors and 15 years for managing attorneys.
- ♦ **Staff Attorneys:** Many programs have difficulty retaining staff attorneys, largely due to low salaries and high levels of educational debt. The median tenure for legal aid staff attorneys in Illinois is four years.
- ♦ **Attorney Salaries:** Salaries for legal aid attorneys are low compared to starting salaries for public sector lawyers, and the gap increases over time. The median starting salary for a legal aid attorney in Illinois is \$36,000, which is 11% lower than the national median salary for an assistant state's attorney. After five years of service, the gap between a prosecutor and a legal aid lawyer widens to 33%.
- ♦ **Other Salaries:** Salaries are also low for other legal aid staff members. The median starting salary is \$24,250 for paralegals and \$23,000 for other administrative personnel. This means that a paralegal or an administrative assistant attempting to support a four-person household would be eligible for free legal aid from most programs.
- ♦ **Educational Debt Levels:** More than half (56%) of all staff attorneys have outstanding loans from law school and/or college. The median debt level is between \$70,000 and \$80,000.
- ♦ **Infrastructure:** Because of resource constraints, legal aid programs have a limited ability to purchase, maintain and upgrade computer systems, telephone systems, and other office technology. If programs cannot provide their staff members with adequate technology, they face an erosion in the productivity gains achieved over the past decade.

The Role of the Private Bar in Providing Legal Assistance

- ♦ **Systemic Improvements in Pro Bono:** Illinois attorneys contribute a significant amount of time each year to pro bono service. However, there is room for improvement. The best opportunity to increase attorney volunteerism in a comprehensive manner would be to adopt the “Florida model.” As applied to Illinois, the “Florida model” would involve changes to the Illinois Rules of Professional Conduct to create aspirational standards for pro bono service, a comprehensive pro bono reporting system in conjunction with the annual registration process, and the establishment of regional and statewide pro bono bodies to increase planning and coordination.
- ♦ **Market-based Strategies:** There are market-based strategies available to increase the involvement of private attorneys in providing legal assistance to lower-income persons. These include adding “modest means” referral panels to existing lawyer referral services and encouraging more attorneys to provide “limited scope legal assistance” to people who might otherwise pursue their case without any legal help.

Collaboration

- ♦ **Scope of Challenges:** The challenges identified in this report are beyond the power of the legal aid system to address on its own. Partnerships and collaborative efforts with the courts, bar associations, public officials, funding entities, law firms, law schools and other community and civic groups are necessary for progress.
- ♦ **Illinois Coalition for Equal Justice:** The Illinois Coalition for Equal Justice, which includes representatives from most of the entities noted above, currently serves this coordinating role. The Coalition must have adequate resources to play a meaningful role in crafting solutions to the major challenges facing the legal aid system.

IMPERATIVES AND RECOMMENDATIONS

The responsibility for improving the legal aid delivery system is widely shared. Government, the courts, bar associations, law firms, individual lawyers, foundations and other private funding sources, and legal aid programs themselves all must bear some of the burden if we are to make the protections of our legal system available to all Illinois residents, regardless of their income.

The recommendations are organized around six imperatives – issues that must be addressed as a necessary precondition to making our system of justice more accessible to low-income Illinoisans. Under each imperative there are several more specific recommendations that are meant to serve as the basis of an implementation plan for the period 2005 – 2010.

The recommendations recognize that in most cases, no single person, group or institution is capable of creating and implementing solutions to the problems identified in this report. Therefore, most of the recommendations are not addressed to a particular constituency, but offered with the idea that they will serve as organizing principles and/or rallying points for collaborative efforts in the years ahead. There are some exceptions, in cases where lines of authority and responsibility are clear.

The recommendations also take into account the fact that identifying problems, prescribing solutions, and finding ways to implement those solutions are three separate steps in an ongoing process. With a very few exceptions, the recommendations do not attempt to prescribe detailed steps that must be taken to solve a problem. Instead, they call attention to potential solutions that are worthy of further study, deliberation and investment over the next five years.

Finally, it should be noted that the Illinois Coalition for Equal Justice, funding entities and legal aid programs are already working on many of the ideas identified below. One goal of these recommendations is to bring new attention and support to those efforts.

Imperative 1. Access:

Provide a full range of service options to make the legal system more accessible to low-income Illinoisans.

Imperative 2. Resources:

Increase the funding available to support legal aid and other access-to-justice initiatives in Illinois.

Imperative 3. The Legal Aid System:

Strengthen the existing legal aid system, both in terms of personnel and infrastructure.

Imperative 4. Private Bar:

Encourage and assist lawyers in private practice to increase services to low-income persons.

Imperative 5. Gaps:

Develop new strategies and partnerships to address legal needs that are currently unmet.

Imperative 6. Collaboration:

Pursue opportunities for coordinated action to increase access to justice in Illinois.

Imperative 1: Access

Provide a full range of service options to make the legal system accessible to low-income Illinoisans.

- ♦ Increase awareness among low-income Illinois residents of the protections offered by the law, as well as the options available to them as they seek to use the legal system.
- ♦ The Illinois Supreme Court should develop policy guidelines for accommodating pro se litigants in the Illinois courts.
- ♦ The Illinois Supreme Court should study the feasibility of creating simplified, standard court forms that can be used in all Illinois jurisdictions, with an emphasis on areas of the law where there are large numbers of pro se litigants (*e.g.*, domestic relations, landlord/tenant).
- ♦ Each judicial circuit in Illinois should develop a “customer service plan” for dealing with the public, including those persons who use the court system and are not represented by attorneys. These plans should include training for court personnel, as well as the information resources that will be made available.
- ♦ The Illinois court system and major administrative agencies in the executive branch of government, working together with bar associations and legal aid providers, should make “self-help centers” available in every courthouse and central administrative hearing location in the state. These self-help centers should be designed as user-friendly areas where members of the public can obtain basic information about their legal rights and responsibilities, as well as information about court procedures. Whenever possible, these self-help centers should include staffed advice desks offering limited legal assistance to pro se litigants.
- ♦ Expand the use of trained, non-lawyer volunteers who can serve as facilitators at court-based self-help centers and other public access points that offer legal information (*e.g.*, libraries, social service agencies).
- ♦ Develop and maintain a comprehensive library of web-based legal information resources for the public, which would include both substantive and procedural information; interactive, user-friendly forms and instructions; and tools to refer those who need further assistance to legal aid programs or private attorneys. These web-based resources should be offered in multiple formats (written, audio, video) and languages (especially Spanish).
- ♦ Legal aid programs should develop strategies to increase the amount of actual *representation* they provide, by utilizing more efficient and cost-effective strategies (*e.g.*, coordination with telephone hotlines and/or web-based resources) to provide high-volume information, advice and referral services.
- ♦ Expand the use of mediation, which can be an efficient and effective way to resolve many types of legal disputes.
- ♦ Create guidelines to clarify the role that clerks can and should play in assisting pro se parties.

Imperative 2: Resources

Increase funding available to support legal aid and other access-to-justice initiatives in Illinois.

- ♦ The state of Illinois, having recognized by statute that “equal justice is an integral part of the general welfare,” (30 ILCS 765/5(g)) should increase the annual appropriation to the Illinois Equal Justice Foundation to at least \$5 million per year.
- ♦ Legal aid programs should continue to aggressively pursue both public and private contributions to increase and diversify their sources of funding.
- ♦ All lawyers in Illinois should be encouraged to make a *minimum* annual financial contribution equivalent to two billable hours to support legal aid, or, for those attorneys who do not bill by the hour, at least \$250 per year.
- ♦ In recognition of the legal community’s special responsibility to ensure equal access to the justice system, law firms should analyze their annual charitable giving to ensure that their contributions to legal aid organizations are appropriate, relative to their support of other civic, cultural and charitable institutions.
- ♦ Law firms should consider matching their employees’ financial contributions to support the legal aid system.
- ♦ Lawyers and judges involved in class action litigation should consider directing cy pres funds to support the legal aid system.
- ♦ County governments should include funding for self-help centers, mediation programs, and other court-based assistance projects in their budgets for court operations, in the interests of the efficient and effective administration of justice.
- ♦ The Illinois congressional delegation should be encouraged to advocate for increased federal funding to support the legal aid system, including increasing the annual appropriation for the federal Legal Services Corporation and working to establish a federal loan-forgiveness program for public interest attorneys.
- ♦ Private giving programs, such as foundations, corporations and the United Way, should increase funding to legal aid programs, recognizing that legal services are a critical part of the social services safety net.

Imperative 3: The Legal Aid System

Strengthen the existing legal aid system, both in terms of personnel and infrastructure.

- ♦ Raise legal aid salaries to make them competitive with salaries for other public-sector legal jobs.
- ♦ Create and fund loan repayment assistance programs to ease the educational debt burden on legal aid lawyers.
- ♦ Develop retention strategies aimed specifically at keeping more legal aid lawyers, especially those with two to five years of experience.
- ♦ Increase the diversity of legal aid lawyers through targeted recruitment efforts, in conjunction with bar associations, law schools and other entities.
- ♦ Provide cutting-edge research, training and “knowledge management” tools to make legal aid lawyers more effective.
- ♦ Provide adequate office technology and equipment (computers, printers, copiers, telephone systems) to maximize lawyer efficiency in a work environment characterized by large caseloads and limited staff support.
- ♦ Hold an annual training conference for legal aid attorneys in Illinois.
- ♦ Offer a comprehensive library of web-based training programs for legal aid lawyers, encompassing both substantive legal issues and practice skills.
- ♦ Make social service resources available to help lawyers deal with clients who have special needs and/or serious underlying problems that complicate the client’s legal situation, either through enhanced referral relationships, formal collaboration agreements with social service agencies, and/or retaining social workers as volunteers, contract employees or staff.
- ♦ Increase the use of emerging technologies, such as videoconferencing and web-based telecommunication systems to serve clients in remote locations.

Imperative 4: The Private Bar's Role in Serving Low-Income Persons

Encourage and help lawyers in private practice to serve the legal needs of low-income persons.

- ♦ The Illinois Supreme Court should adopt a comprehensive plan to increase pro bono participation by attorneys, based on models previously adopted in Florida, Maryland and Nevada. The plan should include the following elements: amending the court rules to make explicit an attorney's professional responsibility to perform voluntary pro bono service; annual reporting on voluntary pro bono activities and/or financial contributions to legal aid; and judicially appointed, circuit-based planning groups to find appropriate means to increase attorney volunteerism based on local conditions.
- ♦ Develop market-based mechanisms to match the excess capacity of private practitioners with potential clients who, despite their low incomes, are willing to pay a near-market fee for legal assistance, for the mutual benefit of both parties. One option would be to create reduced-fee panels of attorneys who are willing to handle certain legal matters at a reduced rate of compensation, either as part of a bar association referral program or a legal aid hotline.
- ♦ Explore the concept of "limited scope representation" by private attorneys as a way of making legal services more affordable for lower-income persons, for the mutual benefit of attorneys and consumers. To the extent necessary, revise ethical rules to make clear what types of "limited scope" assistance are acceptable.
- ♦ Legal aid and pro bono programs should offer a full range of volunteer opportunities, both in terms of substantive legal areas and type of assistance offered, to match the needs of clients with the interests and skills of pro bono attorneys.
- ♦ Law schools should encourage students to engage in public service by providing a range of opportunities including legal clinics, pro bono opportunities, loan repayment assistance programs and courses on substantive topics related to legal aid.

Imperative 5: Gaps

Develop new strategies and partnerships to address legal needs that are currently unmet.

- ♦ Legal aid programs should review their current case priorities in light of the findings of this study.
- ♦ To the extent that certain providers are barred from certain advocacy tools, such as class-action lawsuits, due to restrictions imposed by the federal Legal Services Corporation, other privately funded entities must be organized and supported to do this work.
- ♦ Examine the accessibility of legal aid services to people with disabilities, with the goal of eliminating any barriers that would prevent a person with a disability from using these services.
- ♦ Increase networking efforts with social service agencies that work with people who face additional challenges in understanding their legal rights and/or gaining access to legal aid resources. Examples include the homeless, people with mental illnesses or cognitive impairments, or people who are confined to institutional settings.
- ♦ To serve clients with priority cases who live in areas that are far from the nearest legal aid office, and to preserve limited staff time that would otherwise be spent on the road, legal aid programs serving downstate Illinois should consider expanding the use of contract (or “Judicare”) attorneys, who are compensated at below-market rates.
- ♦ Follow-up research efforts and/or policy summits should be organized to find new ways to address substantive legal issues and the special needs of particular client groups (*e.g.*, persons with disabilities, immigrants).

Imperative 6: Collaboration

Take coordinated action to increase access to justice in Illinois.

- ♦ Recognizing that most of the recommendations in this report can only be addressed through the collective efforts of many individuals and institutions, the Illinois Coalition for Equal Justice should serve as the principal coordinating body for efforts to implement the recommendations of this study.
- ♦ The Chicago Bar Association, Illinois State Bar Association, Chicago Bar Foundation, Illinois Bar Foundation and other funding sources should provide adequate resources and staff support to the Illinois Coalition for Equal Justice, to enable it to carry out its mission effectively.
- ♦ The Illinois Coalition for Equal Justice should develop a set of benchmarks and produce an annual report on the progress made and lessons learned in attempting to implement the recommendations of this study.
- ♦ Beginning in 2005, there should be a triennial statewide conference for legal services providers in Illinois.

APPENDIX I: TELEPHONE SURVEY METHODOLOGY

The Metro Chicago Information Center was retained to quantify the recent legal needs of economically disadvantaged Illinois residents through a telephone survey.

The survey sample was derived using a stratification process that identified the probability of reaching households at or below 150% of the poverty level throughout Illinois. As requested by the sponsors of the study, four study areas (Cook County, Collar Counties, Downstate Urban, and Rural Counties) and three legal service areas (Legal Assistance Foundation of Metropolitan Chicago, Prairie State Legal Services, and the Land of Lincoln Legal Assistance Foundation) were also used so that a statistically valid sample would allow drill-down analysis by these areas. Individual counties were selected to be part of the sampling frame based on the probability of households at or below the target income level in that county would be proportional to the total population. ZIP codes in the counties were then identified using the same method and a quota was assigned to ensure distribution of completed interview throughout the sampling frame. This stratification method maximizes research dollars by increasing the incidence rate – that is, focusing on those geographies where households were more likely to meet the sample screening criteria than in the population at large.

The purchased sampling frame consisted of phone number banks assigned to households within the ZIP codes identified through the stratification process. Potential respondents were identified using a random digit dial (RDD) design. This produced a simple random sample of households within each ZIP code, meaning that each household with a telephone had an equal probability of selection. Once contacted by phone, household income screening completed the respondent eligibility determination process. Within each low-income household, the adult head of household 18 years of age or older was interviewed about legal problems he or she, or anyone in the household, had in the year 2003.

Data Prompt International conducted the telephone survey of 1,645 households over a five-week period in February and March, 2004. Interviewers entered responses directly into a database designed to coordinate with screen prompts of survey questions. Such a system decreases data entry errors because only “logical” responses are accepted by the system. Quality of data was also confirmed by spot-checking and on-line monitoring of interviews.

The survey was available to be administered in both English and Spanish. When the RDD produced a monolingual Spanish respondent, the call was transferred to a Spanish-speaking interviewer who would then complete the interview in Spanish. However, if no Spanish-speaking interviewer was available at the time, the telephone number was flagged for callback by a bilingual interviewer.

The demographics of the raw sample were compared to 2000 U.S. Census Public Use Micro-data Sample (PUMS) for the population at or below 150% of the federal poverty level in Illinois. To correct for over and/or under-sampling of sub-samples, MCIC calculated a weight variable, based on age, gender, race/ethnicity and study area for the population of Illinois residents at or below 150% of poverty. (*See tables, below.*)

All findings presented in this report reflect the use of the weighted sample and can be generalized to the population of the state of Illinois. The results of the telephone survey carry a confidence interval of +/- 2.5%, an acceptable variance in the industry for a survey of this type.

Gender of Survey Respondents				
	2000 Census PUMS	Study Sample	Number of Weighted Sample	Weighted Sample
Male	43%	33.1%	718	43.6%
Female	57%	66.6%	924	56.2%

Race/Ethnicity of Survey Respondents				
	2000 Census PUMS	Study Sample	Number of Weighted Sample	Weighted Sample
Asian	3.2%	1.4%	62	3.8%
African-American	27.4%	26.1%	444	27%
Latino	13.2%	7.5%	283	17.2%
White	54.5%	58.5%	829	50.4%
Other	1.7%	6.4%	27	1.6%

Age of Survey Respondents				
	2000 Census PUMS	Study Sample	Number of Weighted Sample	Weighted Sample
18 - 24	12.4%	6.6%	228	13.9%
25 - 34	19.4%	15.3%	351	21.4%
35 - 44	19.4%	15.7%	334	20.3%
45 - 54	13.3%	15.5%	207	12.6%
55 - 64	10.7%	14.5%	162	9.9%
65 - 74	10.7%	13.7%	158	9.6%
74 - 85	10.3%	14.7%	149	9.1%
85+	4.2%	4.1%	53	3.2%

Geographic Region of Survey Respondents				
	2000 Census PUMS	Study Sample	Number of Weighted Sample	Weighted Sample
Cook County	12.4%	6.6%	228	13.9%
Collar Counties	19.4%	15.3%	351	21.4%
Downstate ¹	19.4%	15.7%	334	20.3%

¹U.S. Census PUMS boundaries do not correspond to the two study areas chosen for this survey: “downstate urban” (counties with populations of 80,000 or more) and “downstate rural” (counties with fewer than 80,000 residents). Consequently, U.S. Census PUMS comparison data was used for the combined categories, referred to in this table as “Downstate.”

APPENDIX 2: OTHER SOURCES OF LEGAL ASSISTANCE

While the 23 not-for-profit organizations referred to collectively as the “legal aid system” in this report provide the overwhelming majority of civil legal assistance to low-income Illinoisans, they are by no means the only entities that provide such assistance.

This appendix includes information on three additional categories of legal assistance entities that were not included as legal aid programs in the body of this report: **advocacy groups**, **law school clinics** and community-based **immigration service providers**.

Advocacy Groups

The term “advocacy group” is used here to refer to organizations that use litigation, administrative advocacy and legislative advocacy to address policy issues affecting low-income Illinois residents. While legal aid programs work to address consumer, housing or disability rights issues on an individual, case-by-case basis, advocacy groups file lawsuits, analyze public policy and advocate for change on a more systemic level.

This list does not include programs that were included as legal aid programs, despite the fact that many of those programs also do a significant amount of policy-related work, *e.g.*, the AIDS Legal Council, Equip for Equality, Health & Disability Advocates, and the Midwest Immigrant & Human Rights Center, among others.

In 1996, Congress imposed new restrictions on the types of advocacy work that could be performed by recipients of funding from the Legal Services Corporation. Under the new regulations, LSC-funded programs could no longer file class action lawsuits or collect statutorily provided attorneys fees, among other prohibitions.¹ At the same time, LSC eliminated funding for all “state support centers,” which coordinated advocacy efforts on a statewide basis. This led to the closing of the Springfield-based Illinois State Support Center.

The three LSC-funded programs in Illinois (Land of Lincoln Legal Assistance Foundation, Legal Assistance Foundation of Metropolitan Chicago, Prairie State Legal Services) still engage in policy work and impact litigation within the limits set by the 1996 regulations, but they are barred from using many of the tools and strategies that had been most effective in the past.

All of the advocacy programs listed below are based in Chicago. All quotes are from the organization’s web site, unless otherwise noted.

Access Living (www.accessliving.org): Access Living was founded in 1980 and describes itself as is “a non-residential center for independent living for people with all types of disabilities.” Access Living engages in advocacy work, including impact litigation, on a wide variety of issues affecting people with disabilities, such as housing, transportation and legal protections under the Americans with Disabilities Act.

Chicago Coalition for the Homeless (www.chicagohomeless.org): The Chicago Coalition for the Homeless “organizes and advocates to prevent and end homelessness.” The Coalition’s Law Project engages in legal advocacy on a range of issues, including the education of homeless children and services for teenage parents who are wards of the state.

¹For more information see “What You May and May Not Do Under the Legal Services Corporation Restrictions,” Alan W. Houseman and Linda E. Perle, *Poverty Law Manual for the New Lawyer*, National Center on Poverty Law, pp. 242-248, available at www.povertylaw.org/legalresearch/manual/LSC%20restrictions.pdf

Chicago Lawyers Committee for Civil Rights Under Law, Inc. (www.clccrul.org): The Chicago Lawyers Committee for Civil Rights Under Law was founded in 1969 and describes itself as the “public interest law consortium of Chicago’s leading law firms.” The Chicago Lawyers Committee’s litigation and advocacy efforts are organized around five major projects: the Children’s Health & Education Project, the Fair Housing Project, the Employment Opportunity Project, the Project to Combat Bias Violence, and the Community Economic Development Law Project.

Leadership Council on Metropolitan Open Communities (www.lcmoc.org): The Leadership Council was founded in 1966, as the result of a campaign against housing discrimination led by Dr. Martin Luther King, Jr. The Leadership Council carries out its mission “by promoting fair housing, equitable community development, and regional problem solving, but also by providing one-on-one counseling for people seeking homes and strong fair housing enforcement actions for victims of housing discrimination.”

Mexican American Legal Defense & Education Fund (www.maldef.org): MALDEF is a national organization working “to promote and protect the legal rights of Latinos.” The Chicago office was opened in 1980, and addresses issues such as employment discrimination, educational inequality and immigration.

Sargent Shriver National Center on Poverty Law (www.povertylaw.org): The Shriver Center is a national resource for legal services advocates. Formerly known as the National Clearinghouse for Legal Services, the organizations’ funding was eliminated by the Legal Services Corporation in 1996. The organization is now privately funded. In addition to its extensive library of poverty-law related materials, the Shriver Center has an advocacy program that focuses on a wide range of issues affecting low-income Illinoisans, including housing, health care, public benefits and consumer protection.

Law School Clinics

There are nine law schools in Illinois, including six in the city of Chicago (Chicago-Kent, DePaul, John Marshall, Loyola, Northwestern, University of Chicago) and three downstate (Northern Illinois, Southern Illinois, University of Illinois). Each of these law schools offer clinical programs, which are designed to provide students with practical opportunities to put their legal education to use. In many cases these law school clinical programs provide legal assistance to lower-income individuals and families.

Brief descriptions of the relevant law school clinical programs are offered below:

Chicago-Kent College of Law (www.kentlaw.edu): Chicago-Kent operates clinical programs or projects that relate to civil legal issues in the following areas: employment/civil rights, family law, health law, mediation/ADR and assistance for low-income taxpayers. Chicago-Kent also sponsors an Advice Desk for Unrepresented Tenants and Small Claims Defendants at the Daley Center, co-sponsors a program with the Coordinated Advice & Referral Program for Legal Services (CARPLS) to use trained student volunteers to assist hotline callers, and provides space and in-kind support for Illinois Legal Aid Online.

DePaul University College of Law (www.law.depaul.edu): DePaul offers clinical programs in three main areas. The Asylum and Immigration Clinic serves immigrants in hearings before the U.S. Citizenship and Immigration Services, and also provides technical assistance to community-based organizations that serve immigrants. The Community Development Clinic represents not-for-profit organizations with transactional legal issues, including tax, corporate and real estate matters. The Disability Rights Clinic represents people with disabilities in their efforts to ensure the accessibility of public accommodations.

The John Marshall Law School (www.jmls.edu): John Marshall sponsors a Fair Housing Legal Clinic, which provides legal assistance to victims of discrimination in housing and housing-related issues such as insurance and lending.

Loyola University Chicago School of Law (www.luc.edu/law): Loyola's Community Law Center serves low-income persons facing a variety of legal problems, including disability claims, family law issues, and defense in eviction and consumer litigation. Loyola also operates the Business Law Center Clinic, to assist small businesses and community based organizations; the Civitas ChildLaw Clinic, to represent juveniles in child protection cases; an Elder Law Clinic, which provides community legal education presentation on issues such as advance directives; and the Tax Clinic, which helps individuals resolve federal tax problems.

Northern Illinois University College of Law (www.law.niu.edu): NIU sponsors the Zeke Georgi Legal Clinic, which is based in Rockford and provides legal assistance to victims of domestic violence, the elderly, and parties involved in mediation.

Northwestern University School of Law (www.law.northwestern.edu): Northwestern's Bluhm Legal Clinic offers a range of programs dealing with civil legal issues. These include the Children and Family Justice Center, which represents young people on issues involving education, family violence, health and immigration; and the Small Business Opportunity Center, which provides legal assistance to lower-income entrepreneurs.

Southern Illinois University School of Law (www.law.siu.edu): SIU operates clinical programs that provide legal advice and representation to victims of domestic violence and to persons 62 or older. SIU also operates a mediation clinic.

University of Chicago Law School (www.law.uchicago.edu): The University of Chicago's Mandel Legal Aid Clinic provides legal assistance to low-income persons in the areas of employment discrimination, mental health and affordable housing development. The University of Chicago law school is also home to the Institute for Justice Clinic on Entrepreneurship, which provides legal assistance to "entry-level businesspersons in and around Chicago."

University of Illinois College of Law (www.law.uiuc.edu): The University of Illinois operates a Civil Litigation Clinic, which assists low-income persons in cases involving family law, consumer law and other legal issues; and an Employee Justice Clinic, which assists low-income individuals and groups with cases involving employment issues.

Immigration Service Providers

Many of the 23 programs identified as legal aid providers in this report provide assistance in immigration matters. Two of these programs (the Immigration Project and Midwest Center on Immigrant & Human Rights) focus exclusively on immigration issues. Others (e.g., AIDS Legal Council, Chicago Legal Clinic, Legal Assistance Foundation of Metropolitan Chicago, Life Span) provide services in immigration as one component of the legal services they offer.

In addition to these organizations there are many community-based not-for-profit organizations that assist immigrants as they navigate the U.S. immigration and citizenship process. These organizations are in many cases community groups organized along ethnic, religious or linguistic lines, and began providing immigration-related services in response to the needs of their constituents.

The following is a list of all of the community-based organizations that are accredited by the U.S. Department of Justice's Board of Immigration Appeals to provide assistance to immigrants in proceedings involving the Department of Homeland Security's U.S. Citizenship and Immigration Services (formerly the Immigration & Naturalization Service).² (Note: This list does not include legal aid organizations that have been included elsewhere in this report.)

Chicago

Catholic Charities
Centro Romero
Chinese American Service League
Counseling Center of Lakeview
Hebrew Immigrant Aid Society
Interfaith Refugee & Immigration Ministries
Latinos Progresando
Polish American Association
World Relief

Downstate

Centro de Informacion (*Elgin*)
Catholic Charities (*Rockford*)
Childserv/Centro SIGA (*Waukegan*)
World Relief (*Wheaton*)

²"Non Profit Agencies Providing Free or Low-Cost Assistance with Immigration Matters," Illinois Coalition for Immigrant & Refugee Rights, Updated July 2004, available at www.icirr.org/dar/pages/agencyreferral.pdf.

