THE UNMET CIVIL LEGAL NEEDS OF THE POOR IN LOUISIANA

By William P. Quigley

Every lawyer and every layman should help with mind and money, heart and soul, until the objective of justice for all has been attained.

Then, but not until then, we can all go fishing.

Harrison Tweed, 1951'

A ccess to civil justice for almost all low-income citizens in Louisiana is nonexistent. Between 85 percent and 92 percent of the low-income people in Louisiana who had civil legal needs in 1991 were unable to receive assistance from an attorney.

Recent years have seen new efforts to provide civil legal representation to the poor of Louisiana. Chief among these efforts is the development of eight local pro bono projects. Soon additional programs will begin in more rural areas. Another recent development is the Interest on Lawyer Trust Account program, or IOLTA. In 1993 the Louisiana Bar Foundation plans to distribute over $1.6 million from IOLTA to various programs in the state, many of which are serving the needs of low-income citizens of Louisiana.

These recent efforts are laudable but absolutely inadequate.

There are an estimated 424,905 civil legal needs in low-income households of Louisiana every single year. At least 361,000 of those legal problems are not handled by attorneys each year.

In 1991, the Louisiana offices funded by the Legal Services Corporation were by far the single largest source of legal services for the poor. In 1991, Louisiana legal services attorneys handled 27,269 civil cases for Louisiana low-income citizens. Their services account for representation in approximately six percent of the situations in which low-income citizens in Louisiana needed civil legal assistance.

Local pro bono projects, law school clinics and other nonprofit associations handle about 4,500 additional cases annually. Combined, these programs provide representation in about one percent of the civil legal matters for which low-income Louisiana citi-
zens need representation.

The combined efforts of all the Louisiana legal services offices, pro bono attorneys and other nonprofit and law school providers meet only 7.5 percent of the need for civil legal services of the poor in Louisiana. These programs do not meet 92.5 percent of the civil legal needs of the poor in Louisiana.

There is no way to accurately document the number of civil legal matters handled by Louisiana lawyers without compensation for low-income citizens. Even if every Louisiana lawyer handled two free legal matters annually for low and moderate income persons, such an effort would meet but another 7.5 percent of the need.

Taking all of these services into account, 85 percent of the civil legal needs of the poor in Louisiana were left unmet in 1991 and will likely remain unmet in each following year.

Explanation of Methodology

In order to accurately report the need for civil legal services for the low-income citizens of Louisiana two items must be documented: the need for civil legal services and the number of low-income persons.

This article uses materials and information from the American Bar Association to estimate the need for civil legal services. Information from the U.S. Census Bureau and other government sources is used to document the number of low-income citizens in Louisiana.

1989 Pilot Assessments of the Unmet Legal Needs of the Poor and of the Public Generally, ABA, 1989. (Hereinafter ABA Report.) For purposes of these studies, poverty was defined by the ABA as persons with income below 125 percent of the federal poverty guidelines. These studies were directed to obtain sufficient, accurate, national data on the need for lawyers by people of low incomes and on the types and extent of unmet legal needs.

Prior to these ABA studies, there had been at least 25 separate studies of the legal needs of low-income citizens. These other studies concluded that there were between 1.0 and 5.5 civil legal problems per household annually.

The 1989 ABA Report concluded there were an average of 0.28 civil legal problems per household for which legal assistance was provided. The average number of civil legal problems for which no legal assistance was provided, the unmet civil legal need, was 1.08 legal problems per household.

This report will use the data and conclusions from the 1989 ABA report to gauge the need for civil legal services in Louisiana.

Documenting the Number of Low-Income Persons in Louisiana

The ABA report used as its definition of low income 125 percent of the federal poverty line. This is the same definition used by the United States Congress to determine eligibility for free civil legal services provided by the Legal Services Corporation. (Table 1) Consequently, this report will use the same threshold.

The U.S. Bureau of the Census estimates 2.74 persons per household in Louisiana in 1990. There were 1,078,000 Louisiana citizens below 125 percent of the poverty line in 1991 or 25.8 percent of the entire state population. Together these numbers yield 393,430 households in Louisiana below 125 percent of the poverty line.

Table 1
Legal Services Corporation Poverty Guidelines
as of March 1992

<table>
<thead>
<tr>
<th>Size of Family</th>
<th>Gross Yearly Income</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>$ 8,513</td>
</tr>
<tr>
<td>2</td>
<td>11,488</td>
</tr>
<tr>
<td>3</td>
<td>14,463</td>
</tr>
<tr>
<td>4</td>
<td>17,438</td>
</tr>
<tr>
<td>5</td>
<td>20,413</td>
</tr>
<tr>
<td>6</td>
<td>23,388</td>
</tr>
<tr>
<td>7</td>
<td>26,363</td>
</tr>
<tr>
<td>8</td>
<td>29,338</td>
</tr>
</tbody>
</table>

Documenting the Legal Services Provided in Louisiana

The Legal Services Committee of the Louisiana State Bar Association began gathering information in late 1991 from the providers of civil legal services to the poor of Louisiana. Information was gathered from the Louisiana legal services programs, law school clinics, pro bono projects and other nonprofit providers of civil legal services to the poor.

Estimating the amount of services provided privately by members of the Louisiana bar was considerably more difficult. There are undoubtedly many Louisiana lawyers who provide uncompensated civil legal service to Louisiana low-income citizens. There are also some Louisiana lawyers who choose not to do so or find it difficult to do so because of their employment...
situation. As a compromise, this article includes an estimate that each Louisiana lawyer assists, on a pro bono basis, two low-income people per year, for a total of 32,000 civil legal matters.

**Poverty in Louisiana**

Louisiana is one of the poorest states in the United States, and growing poorer. In the 1980 census, Louisiana ranked 34th in personal income among the 50 states; by 1989 Louisiana had slipped to 47th. Income disparities grew dramatically in the last decade resulting in Louisiana having the largest gap between rich and poor families of all 50 states.

Presently 25.8 percent of the people in the state population, 1,078,000, have incomes of less than 125 percent of the federal poverty threshold.

There are other indicators of the relative poverty of Louisiana’s citizens. For example, Louisiana has about 900,000 people who have no health insurance. In 1992, Louisiana reported 758,628 people receiving food stamps.

The poor of Louisiana are not only people on government income programs. There are over a half million people in Louisiana who work and are still poor.

**Need for Civil Legal Services for Low-Income Citizens of Louisiana**

There are 393,430 households in Louisiana below 125 percent of the federal poverty line. These households contain 1,078,000 people.

According to the 1989 ABA study, *Two Nationwide Surveys: 1989 Pilot Assessments of the Unmet Legal Needs of the Poor and of the Public Generally*, each Louisiana low-income household will encounter 1.08 unmet legal problems on an annual basis or a statewide total of 424,905 unmet civil problems each year.

**Present Availability of Civil Legal Services for Low-Income Citizens of Louisiana**

Even though the vast majority of the civil legal needs of the low-income citizens of Louisiana are unmet, there are many efforts underway to meet some of the need.

The civil legal needs of low-income people in Louisiana that are met are addressed in a variety of ways. Individual attorneys assist uncounted numbers of people with their civil legal needs, even those who cannot afford to pay. Federally-funded legal services offices provide civil legal services to low-income people in their communities. Local pro bono projects have recently begun to assist low-income citizens in civil matters. And numerous other small providers, like law school clinics and other nonprofit groups, help provide legal assistance to the low- and moderate-income citizens of Louisiana.

**Legal Services Corporation Grantees in Louisiana**

The Legal Services Corporation (LSC) was established by Congress in 1974 to provide high quality civil legal assistance to the poor of the United States. It was a stated goal of LSC to provide poor people with "minimum access" to civil legal services, or one full-time lawyer for each 5,000 poor persons. LSC contracts with several Louisiana legal services corporations to provide civil legal services to low-income persons in Louisiana.

There are 67 legal services attorneys working full-time providing legal services to the poor of Louisiana. There are eight legal services programs providing civil representation in all parishes of Louisiana. These are not federal, state or local agencies but free-standing Louisiana nonprofit corporations governed by members of the local community. The names of these eight Louisiana programs and their headquarter cities are:

- Capital Area Legal Services Corporation (Baton Rouge);
- Kisatchie Legal Services (Natchitoches);
- New Orleans Legal Assistance Corporation (New Orleans);
- North Louisiana Legal Services Corporation (Monroe);
- Northwest Louisiana Legal Services Corporation (Shreveport);
- Southeast Louisiana Legal Services Corporation (Hammond); and
- Southwest Louisiana Legal Services Society (Lake Charles).

Federal law restricts legal services programs to providing civil legal services to the poor in their geographic area. Those eligible for legal services must have household incomes of less than 125 percent of the poverty level. Legal services offices typically provide legal assistance in:

- domestic matters,
- programs involving public benefits,
- consumer and
- housing problems.

In 1991 the 67 Louisiana legal services attorneys represented people in 27,269 cases. Although a stated goal of the Legal Services Corporation is to provide a full-time lawyer for every 5,000 poor people in the United States, Louisiana legal services programs do not even closely approximate that goal, with a ration of one full-time poverty lawyer for every 16,089 poor persons in Louisiana. In fact, the Louisiana legal services corporations are providing less civil legal representation now than they were 10 years ago.

The legal services offices in Louisiana have suffered severe reductions in their budgets in the decade of the 1980s. These budget reductions have resulted in staff cutbacks in the 1980s at the same time as Louisiana saw an increase in its percentage of people in poverty.

As an example, the legal staff of the Acadiana Legal Service Corporation, which serves Acadia, Evangeline, Iberia, Lafayette, St. Landry, St. Martin, St. Mary and Vermillion Parishes, has
Table 2

<table>
<thead>
<tr>
<th>Program</th>
<th>Ratio of Lawyers to Poor People in Area</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1950</td>
</tr>
<tr>
<td>Kisatchie</td>
<td>1.4,702</td>
</tr>
<tr>
<td>NOLAC</td>
<td>1.6,703</td>
</tr>
<tr>
<td>North West Louisiana</td>
<td>1.7,669</td>
</tr>
<tr>
<td>South West Louisiana</td>
<td>1.5,299</td>
</tr>
</tbody>
</table>

Table 3

<table>
<thead>
<tr>
<th>Program</th>
<th>Annual Rejections of Requests for Help</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acadiana</td>
<td>3,000</td>
</tr>
<tr>
<td>Central Louisiana</td>
<td>2,000</td>
</tr>
<tr>
<td>NOLAC</td>
<td>15,000</td>
</tr>
<tr>
<td>North Louisiana</td>
<td>500</td>
</tr>
<tr>
<td>North West Louisiana</td>
<td>13,500</td>
</tr>
<tr>
<td>South East Louisiana</td>
<td>1,674</td>
</tr>
<tr>
<td>South West Louisiana</td>
<td>5,000</td>
</tr>
</tbody>
</table>

Table 4

<table>
<thead>
<tr>
<th>Program</th>
<th>Cases Handled</th>
</tr>
</thead>
<tbody>
<tr>
<td>Baton Rouge Bar Foundation</td>
<td>593</td>
</tr>
<tr>
<td>Iberia Pro Bono Project</td>
<td>35</td>
</tr>
<tr>
<td>Lafayette Volunteer Project</td>
<td>235</td>
</tr>
<tr>
<td>Louisiana Volunteers for the Arts</td>
<td>15</td>
</tr>
<tr>
<td>New Orleans Pro Bono Project</td>
<td>588</td>
</tr>
<tr>
<td>Shreveport Pro Bono Project</td>
<td>265</td>
</tr>
<tr>
<td>South West Louisiana Pro Bono Project</td>
<td>58</td>
</tr>
<tr>
<td>Fourth JDC Volunteer Lawyers</td>
<td>621</td>
</tr>
</tbody>
</table>

While there is not uniform comprehensive record keeping of the declining of requests for assistance, several legal services programs have developed information on people not helped. (Table 3)

Though providing less service than 10 years ago, Louisiana legal services programs are still the biggest single source of civil legal services and alone provide representation in over six percent of the situations in which low-income people in Louisiana need legal services.

Local Pro Bono Projects

One of the most encouraging developments in providing access to civil legal services in Louisiana is the recent growth in the number of local pro bono projects. These projects are usually funded, staffed and provide free legal services through the cooperation of the local bar and the Louisiana Bar Foundation.

There are eight local bar association projects matching up low-income Louisiana citizens who need representation with attorneys willing to represent them without fee.

Table 4 shows the number of cases handled without fee by each of the local pro bono projects in the most recent year for which information was made available.

Many programs report more of a need for legal representation than they are able to fill. For example, the New Orleans Pro Bono Project reports speaking with five to 10 people each day that the project cannot help.

Law School Clinics and Other Nonprofit Providers

Loyola University Law School, Southern University Law School and Tulane University Law School each operate clinical education programs where third-year law students represent indigent clients in civil and criminal matters pursuant to Rule 20 of the Louisiana Supreme Court. Table 5 shows the annual number of representations in civil matters.

All of the law school clinics report

been reduced from 21 attorneys to 10. Other programs also reported severe cutbacks in staff attorneys in the last several years. Keep in mind that while the number of staff attorneys has declined in the 1980s, the actual number of poor people has increased and many programs have expanded their service area to cover more parishes.

Table 2 shows the declining ratio of lawyers to poor people in several areas served by legal services programs.

Every Louisiana legal services program reports a pattern of rejection of many financially eligible clients because of a lack of staff to handle the legal problems. Programs are forced to choose between people in need and prioritize requests for legal services.

As an example, due to overwhelming demand for legal assistance in the area of family and domestic law, Kisatchie has been forced to establish emergency criteria for accepting family cases. The highest criterion is for cases involving spouse abuse. But Kisatchie cannot even respond to all requests for legal assistance in domestic abuse cases and will frequently have to decline abuse cases where the abuse did not just immediately occur.
Table 5
Annual Number of Civil Matters Handled

<table>
<thead>
<tr>
<th>Name of Provider</th>
<th>Type of Legal Services</th>
<th>Cases Handled</th>
</tr>
</thead>
<tbody>
<tr>
<td>Loyola Law Clinic</td>
<td>Civil (includes Juvenile)</td>
<td>522</td>
</tr>
<tr>
<td>Southern Law Clinic</td>
<td>Civil (includes Juvenile)</td>
<td>160</td>
</tr>
<tr>
<td>Tulane Law Clinic</td>
<td>Civil (includes Juvenile)</td>
<td>200</td>
</tr>
</tbody>
</table>

Table 6
Annual Number of Matters Handled

<table>
<thead>
<tr>
<th>Name of Provider</th>
<th>Type of Legal Services</th>
<th>Matters Handled</th>
</tr>
</thead>
<tbody>
<tr>
<td>Advocacy Center (New Orleans)</td>
<td>Elderly &amp; Disabled</td>
<td>865</td>
</tr>
<tr>
<td>AIDS LAW (New Orleans)</td>
<td>AIDS Civil</td>
<td>700</td>
</tr>
<tr>
<td>Legal Aid Bureau of New Orleans</td>
<td>Civil</td>
<td>300</td>
</tr>
</tbody>
</table>

a large volume of requests for legal services which cannot be met. For example, Loyola and Tulane report receiving 20 to 60 telephone requests for legal assistance per day which must be denied.

Three other Louisiana nonprofit providers of civil legal services must be included in any portrait of legal services:

- The Advocacy Center for the Elderly and Disabled,
- AIDS LAW and
- The Legal Aid Bureau of New Orleans.

Table 6 describes the types of legal services each provides and the number of matters handled annually.

**Conclusion**

There are ways to address the unmet civil legal needs of the poor in Louisiana.

Each private lawyer can and must make more of a personal commitment to providing uncompensated legal services to the low-income citizens of Louisiana. Local pro bono projects have made great strides in involving attorneys in providing pro bono services to the poor. Each attorney must take seriously her or his professional responsibility to provide legal services when needed, even on an uncompensated basis.

However, greater volunteer legal work by private attorneys will never alone address the unmet civil legal needs in Louisiana. With more than 350,000 unmet civil legal needs yearly, each Louisiana lawyer would have to volunteer to handle over 20 legal matters annually to meet the unmet need.

The present providers of civil legal services to the poor must be given more support on a national, state and local level in order to allow them to take the lead in providing civil representation.

Alternatives to litigation need to be explored. Innovative programs involving paralegals and alternative forms of dispute resolution need to be considered and implemented. Some legal proceedings need to be changed to reduce or eliminate the need for lawyers if lawyers are not available. As an example, further simplification of the procedures for divorce need to be examined. A significant amount of the unmet need for civil legal services arises in the family law context. With lawyers not available for the poor, it is unjust to require the poor to use lawyers to resolve all family law situations.

Lawyers, above all others, must insist on the principle of equal access to justice. All people, rich, poor and middle class alike, must have a fair and equal opportunity to obtain justice.

If the poor of this state cannot have access to a lawyer in times of need, then the present system of laws is not a system of justice. The present legal system must be changed to be more reflective of the justice upon which all legitimate systems must be based.

**FOOTNOTES**

1. ABA Blueprint for Improving the Civil Justice System, p. 17.
2. According to the Louisiana State Bar Association, Membership Section, there were 15,550 Louisiana attorneys prior to the swearing in of an additional 527 in early October 1992. Telephone conversation with LSB Association, Oct. 23, 1992. This report assumes each Louisiana lawyer handles two or more civil legal matters annually for an estimated total of 32,000 matters.
3. There is little real data on the actual rate of pro bono participation by members of the Bar. The recent ABA Blueprint for Improving the Civil Justice System (1992 at page 23) noted several state surveys that include individual, nonbar association efforts by attorneys indicate actual pro bono participation may involve 50 percent to 70 percent of the Bar. These efforts include everything from church-affiliated programs serving the homeless, legal services to battered women in shelters, hotlines and legal services for ordinary citizens in everyday life.
4. The author wishes to thank Brian Lenard, Spencer Livingston, Ed Lopez, Mark Moreau, Joe Delders and the members of the Legal Services Committee of the Louisiana State Bar Association for their help in designing this report and accumulating much of the underlying data. This report would not have been possible without their assistance.
5. The poverty guidelines are those used by the U.S. Census Bureau as an estimate of the annual amount of income needed by persons to have a nutritionally adequate diet and still be able to pay for other necessities like shelter. They are updated annually.
10. There is little data available nationally on the percentage or amount of pro bono work performed by lawyers. See footnote three above. The American Lawyer, in an article "Doors and Talkers," surveyed 130 of the nation's largest firms and reported that the average lawyer in those firms worked about 40 hours per year on pro bono work. The survey did not count service on boards or bar work or nonlegal volunteer work. 1990 The American Lawyer, July/August 1990 edition.
12. Where Have All the Dollars Gone?, Center on Budget and Policy Priorities, 1992, p. 11.
In 1979, the average income of families in Louisiana's top fifth was 8.7 times the average income of families in the bottom fifth. By the late 1980s, it was 14.5 times as high. The sharp growth in inequality in Louisiana reflected a $2,500 or 31 percent-decline in the average income of the poorest fifth of families, coupled with a $11,500 or 15 percent-gain in the average income of the top fifth.

13. See footnote 10, supra.
16. For example, though there are approximately 251,000 recipients of the Aid to Families with Dependent Children (AFDC) program in Louisiana (Statistical Abstract of the United States 1989, table 615, p. 37) there are 716,000 children receiving free or reduced price school lunch, a program which requires the family to have a household income of less than 185 percent of the poverty line. (Statistical Abstract of the United States 1991, table 611, p. 371)

The total number of people in Louisiana receiving AFDC, SSI and SSD is approximately 510,000. This leaves over one half million working poor people in Louisiana.
21. Programs in Northwest Louisiana and Southwest Louisiana reduced staff attorneys from nine to six. New Orleans Legal Assistance Corporation was reduced from a high of 31 attorneys to a low of 14, with a current staff attorney level of 20. Kuutch was reduced from eight attorneys to four. Capital Area serves Ascension, Assumption, East Baton Rouge, West Baton Rouge, East Feliciana, West Feliciana, Iberville, Lafourche, Pointe Coupee, Terrebonne, St. John and St. James parishes with 10 attorneys.
22. The Legal Aid Bureau reports interviewing approximately 3,000 persons per year. No data on numbers actually represented. Reports no idea how many rejected. The figure used is consistent with the ratio of telephone interviews to cases actually handled by other providers.

About the Author...

William P. Quigley is an assistant professor of law, director of Law Clinic and director of the Gillis Long Poverty Law Center at Loyola University Law School.
HOW WIDESPREAD IS HUNGER IN AMERICA?

One in 8 Americans, or more than 34 million people are at risk of hunger, according to a 1997 USDA study. This ground-breaking study, "Household Food Security in the United States in 1995," documents widespread hunger throughout the nation. It found that nearly 12 million household, about 12% of all US households, are not assured access to enough food for an active, healthy life. Of those, 4 million households suffer from moderate or severe hunger. The study was based on 1995 census data, a year before the welfare bill was signed into law. The 1996 welfare bill slashed $28 billion in food stamp funding over 6 years. An estimated 1.3 million people lost food stamp benefits as a result, including about 1 million legal immigrants.

There has been a major shift in how the nation responds to hunger in the last 4 years. Nine million people, nearly one third of all participants, have stopped receiving food stamps, the nation's premier anti-hunger program. A few may have moved to higher-wage jobs produced by the growing economy, according to preliminary analysis. The majority however, are believed to have stopped receiving food stamps because, in the wake of welfare reform, benefits are both harder to access and smaller in value.

Meanwhile, private food programs such as soup kitchens, food banks, and other emergency food providers are reporting increasing demand for food as the cuts in food stamps and other safety net programs take effect.

Several recent studies also document rising hunger in America:

A new study by Network, "Poverty Amid Plenty: The Unfinished Business of Welfare Reform," found that 43% of survey respondents eat fewer meals or less per meal due to cost. Twenty-four percent of the parents reported that their children are skipping meals or eating less per meal due to inadequate income.

Catholic Charities' 1999 annual survey of its parish social ministries found that "approximately 73% of respondents reported an increase in requests for emergency food assistance. The average rate of increase was 38%." Alarmingly, Catholic Charities agencies also are reporting that they are beginning to turn people away without providing food for the first time in their history.

Second Harvest, the nation's largest network of food banks, reports an increase of 17% in demand for their services in 1997 with more than 21 million people using their emergency food programs during the year. Forty percent of people using Second Harvest food banks were from working families.

The poverty rate for children in the US, 20.2%, is the highest in the Western industrialized world and is increasing. The National Center for Children in Poverty at Columbia University released a report in 1998, which found that the number of young children living in poverty in the US increased by 12% between 1979-1983 and 1992-1996 even though there was a 3% increase in the proportion of young children with at least one parent employed fulltime.
Seventy-four percent of the recent growth in employment is in jobs that pay less than half a livable wage, according to "Working Hard, Earning Less: The Story of Job Growth in America," by the National Priorities Project.

Approaching the new millennium is an occasion for us to assess our strengths and weaknesses as a nation. Entering the Year 2000 with hunger, humankind's oldest problem, widespread in our midst is a disgrace. Hunger advocates have the chance to re-raise this most basic of social issues - the right to be free from hunger.