
Colorado Access to Justice Commission

The Justice Crisis in Colorado

**A Report on the
Civil Legal Needs of the
Indigent in Colorado**

January 2008

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This report and the statewide hearings described in this report were the result of amazing work by a number of dedicated individuals. A most sincere thank you to all members of the Colorado Access to Justice Commission and its subcommittees who spent many hours planning and attending the hearings and drafting and editing this report. The local Access to Justice Committees were essential to the planning of the hearings and to reviewing drafts of the reports on the hearings in their districts. A special thanks to everyone who attended the hearings and to those who testified and shared their experiences and knowledge with us. We are particularly grateful to the clients and those who unsuccessfully applied to be clients of the legal services and pro bono programs and to all those who have worked and continue to work to ensure access to civil legal services for those who can not afford it.



Manual Ramos, Director of Advocacy, Colorado Legal Services testifies to Boulder hearing panel: Justice Michael Bender, ATJ Commission Chair Constance Talmage, 20th Judicial District Court Chief Judge Roxanne Bailin.

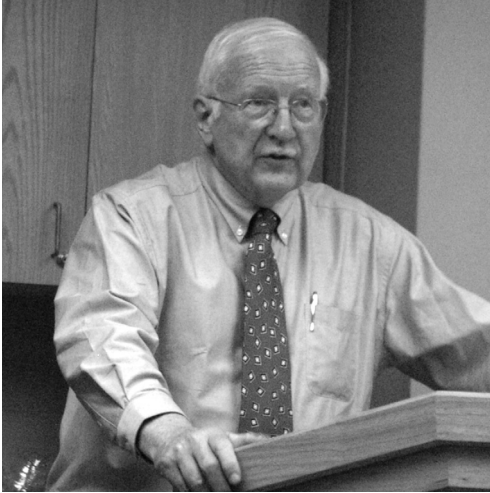
We were ably assisted at all stages of this effort by four University of Denver Sturm College of Law students: Adam Barnhurst, Christopher Kelly and Greg LeBouton attended all the hearings and prepared the first draft of the reports on the hearings; Amber Schrandt helped with editing the final report.

Finally, neither the hearings nor the report would have been possible without the tremendous support of the Colorado Bar Association, particularly the tireless and most talented assistance of Kathleen Schoen and Michael Valdez.

Thank you all.



Frederick Baumann, Access to Justice Commission Vice Chair, opens the Colorado Springs hearing, with panelist Senator John Morse, Richard Skorman, U.S. Senator Ken Salazar's Office, Representative Bob Gardner.



David Butler, ATJ Commissioner, testifies in Durango.



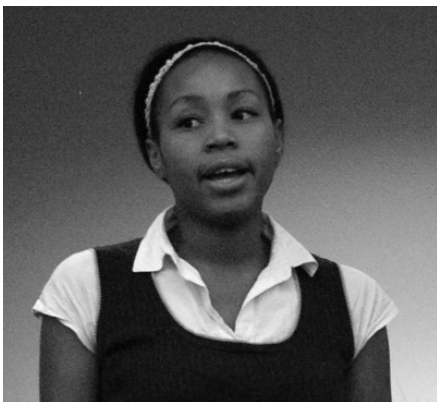
Diane Postell, SafeHouse Denver, testifies at Denver hearing.



Kathleen Bolte, Grand Junction Managing Attorney, Colorado Legal Services, testifies at Grand Junction hearing.



Connie Talmage, Chair of Access to Justice Commission, welcomes panelist and witnesses to Denver hearing.



Sequya Stevens testifies at Colorado Springs hearing.

Executive Summary

Colorado faces a serious crisis in civil legal representation of the indigent. Many Coloradans who need legal assistance to secure and maintain health care, housing, custody or other necessities do not receive help because there are too few lawyers at Colorado Legal Services, Colorado's statewide legal aid program. The Colorado General Assembly's annual funding for civil legal services for the poor is limited to a \$500,000 appropriation to provide legal services to victims of family violence. Not only is this level of state funding well below the national average, it has not increased since 2002.

During 2007, the Colorado Access to Justice Commission held ten hearings throughout the state to assess the civil legal needs of the indigent in Colorado. Hearings were held in Delta, Durango, Grand Junction, Colorado Springs, Pueblo, Fort Collins, Greeley, Breckenridge, Boulder, and Denver. Invited panelist who participated in the hearings included members of the Legislature, representatives of other elected officials, Colorado Supreme Court justices, Colorado Court of Appeals judges, District and County Court judges, Bar Association leaders, and members of the statewide Access to Justice Commission and local Access to Justice committees. Testimony was provided by legal services clients, low income individuals with legal needs who did not receive legal assistance, attorneys who provide civil legal services to the poor, judges, and employees of organizations that serve the indigent.

The most significant findings from the hearings include:

- **Lack of access to legal services.** Low income individuals do not automatically have access to free legal assistance in civil matters, as they do in virtually all serious criminal matters in Colorado.
- **Lack of Legal Aid attorneys.** Most civil legal assistance for the indigent is provided by Colorado Legal Services (CLS). Over the last 20+ years, the number of CLS lawyers has been cut in half, while the number of low income people has increased by almost 75%. In 1980, there was one legal service attorney for every 4,839 eligible clients. Today there is one CLS attorney for every 16,890 eligible individuals. As a result, most low income individuals in Colorado are unable to obtain civil legal assistance when they need it. It is estimated that only one indigent person in five who needs civil legal help will receive some legal assistance.
- **Colorado funding is inadequate to meet the need.** Colorado's only state funding for civil legal services is a \$500,000 appropriation to provide civil legal services to victims of family violence. The amount of this funding has not increased since July 1, 2002. Colorado ranks 40th in state funding for civil legal services for the indigent, and would need to provide another \$1.82 million in state funding to reach the national average.
- **Burdens on the court.** Individuals who do not have lawyers present a special challenge for judges and make it difficult for them to administer justice. Judges cannot represent parties, and often do not get all the information from unrepresented parties that they need to make a correct and just decision. The situation is exacerbated when one of the parties is represented by an attorney and the other is not.
- **Volunteer attorneys cannot meet the need.** The Colorado Supreme Court has made great efforts to encourage participation by private attorneys in meeting the legal needs of the poor and has implemented programs designed to assist parties who do not have lawyers. The private bar also plays a significant role in providing legal services for low income individuals. However, assistance by volunteer lawyers is no substitute for an adequately funded system necessary to provide civil legal services to the indigent.

- **Attorney representation is crucial for many domestic violence victims and their children.** The impact of not having a lawyer can be devastating. For example, it has been documented that the availability of a lawyer is one of the most important factors in determining whether a victim of domestic violence and her children will return to an abusive relationship. Access to legal services can prevent more severe and costly legal and societal problems, saving lives and money in the long run.

This report includes a summary of each of the ten hearings (see Appendices C through L) and provides detailed information on the civil legal needs of the indigent in Colorado. The Colorado Access to Justice Commission urges the Colorado Legislature, the Governor, and the Colorado Supreme Court to take immediate action to address the justice crisis outlined in this report.

Recommendations

1. **Establish a plan to provide civil legal services for the indigent.** First and foremost, the State of Colorado should establish a four-year plan to substantially increase funding for Colorado Legal Services. The goal should be, at a minimum, to place Colorado at the average level of state funding for civil legal services programs for the poor. Beyond that, however, the goal should be to provide sufficient funding so that the civil legal needs of Colorado's indigent throughout the state can be met. Colorado must provide assistance to address legal issues involving the basic human needs of housing, health care, safety, sustenance, and child custody, through a network of CLS attorneys and pro bono programs.

2. **Increase salaries and benefits of Legal Services Attorneys to make them comparable to other public sector lawyers.** The increased funding should bring salaries and benefits for CLS employees to the same level as other public sector law offices (Public Defender's Office, District Attorney's Offices, or the Colorado Attorney General's Office). This funding will enable CLS to attract and retain lawyers who can provide high quality legal services in civil cases involving Colorado's low income citizens.

3. **Promote participation by the private bar in pro bono legal services.** The Colorado Access to Justice Commission should continue to work with the Colorado Supreme Court, the Colorado Bar Association, local bar associations, and other entities to promote and encourage increased pro bono service by private attorneys throughout the state. Such additional pro bono services will supplement the legal assistance provided to low income Coloradans through CLS.

4. **Improve services for pro se litigants.** The Colorado Supreme Court, along with the Colorado Access to Justice Commission, should continue to improve services for unrepresented litigants, including increasing the number of family facilitators and pro se offices, which are necessary to ensure effective access to the legal system.

5. **Improve access to the legal system.** The Colorado Supreme Court, along with the Colorado Access to Justice Commission, should continue to improve access to the courts for all litigants and assure that the provision of legal services is more user friendly, particularly for people with disabilities, people who are not fluent in English, and people unfamiliar with computers and other forms of modern technology.

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Equal justice under law is not merely a caption on the façade of the Supreme Court building. It is perhaps the most inspiring ideal of our society . . . it is fundamental that justice should be the same, in substance and availability, without regard to economic status.

U.S. Supreme Court Justice Lewis Powell, Jr.

Introduction

“Without the civil legal assistance program, there would be virtually no access to civil justice for low income persons in the United States, and the goal of equal justice for all would be only a distant dream.”¹ Colorado Legal Services (CLS) provides free high quality civil legal advice and representation to low-income persons throughout the state of Colorado. Approximately 692,000 (15%) Coloradans are financially eligible for free legal services from CLS.² Low-income households may experience three or more legal problems per year,³ and most of their legal issues involve basic human needs: **housing, health care, safety, sustenance, and child custody.**⁴ Due to a lack of available resources and limited awareness of the legal nature of problems, only one in five legal issues experienced by poor people is addressed with the assistance of a legal services lawyer or a pro bono private lawyer.⁵ In many cases, lawyers can identify and resolve legal issues without going to court or can resolve court cases more efficiently and fairly than persons representing themselves. The provision of legal services helps stabilize families, saves taxpayers money, reduces the number of cases clogging the courts, and helps people move toward self-sufficiency and full participation in society.

While the number of poor people is increasing, the capacity of civil legal assistance programs to assist those in need is shrinking. “(T)here is only one legal aid lawyer per 6,861 poor people in the United States compared to one lawyer providing civil legal services for every 525 people in the general population.”⁶ The statistics in Colorado are even more discouraging. In 1978 there were 82 lawyers employed in the Colorado legal aid system.⁷ Today, CLS employs 41 lawyers, a total of one lawyer for every 16,890 individuals who qualify.⁸ During that period, Colorado’s eligible population (persons who earn less than 125% of poverty level) has skyrocketed from 396,775 in 1980 to 692,505 in 2005, a 74.5% increase.⁹ There is a widening gap between the need for legal services and the resources available to meet that need.

Compared to 1 lawyer for every 525 in general population, there is only 1 legal aid lawyer for every 16,890 qualified Coloradans.

Access to legal services is a major factor in the ability of a domestic violence victim to leave an abusive relationship.

“Explaining the Recent Decline in Domestic Violence”
(see endnote 13)

To assess the extent of the met and unmet legal needs of the poor in Colorado, the Colorado Access to Justice Commission¹⁰ (ATJ Commission), in cooperation with the Local Access to Justice Committees¹¹ (Local ATJ committees), conducted hearings throughout the state. In October and November 2007, ten hearings were held.¹² Hearing panelists included State Legislators, Colorado Supreme Court Justices and Court of Appeals Judges, District and County Court Judges, Bar Association leaders, and members of the ATJ Commission. Testimony was provided by judges, clients, individuals who could not obtain legal services, lawyers and representatives of nonprofits that serve the indigent. In addition to providing information about the met and unmet legal needs of low income people in Colorado, testimony addressed the specific needs of individual communities and areas of the state.

Among the themes that emerged from the testimony presented at the ten Access to Justice hearings throughout the state was the tremendous unmet need for legal services for poor people. Even in those areas in which CLS has an office, one of every two prospective clients is turned away because of lack of resources. At safehouses to assist victims of domestic violence, many women are unable to obtain legal representation, and sometimes return to abusive relationships. While private attorneys performing pro bono service have helped to fill the gap, they are increasingly unable to do so.

Delta attorney Aaron Clay testified that, "While the number of attorneys in the Seventh Judicial District has remained fairly constant, the number of poor people needing legal assistance has increased significantly."

Another theme that became apparent during the hearings is that efforts to use technology to expand the scope of limited resources have had only partial success. Many poor people are less educated, unfamiliar with the legal system and legal jargon, do not own a computer, and do not know how to use one. Thus, witnesses throughout the state emphasized the need for having an attorney or a neutral person, similar to a family court facilitator, who could help poor people navigate the barriers they encounter in the legal system. Additionally, many witnesses testified about the close relationship between civil and criminal legal problems, and that solving civil problems could save the state and other entities hundreds of thousands of dollars. For example, one witness testified that when a husband is incarcerated on charges of domestic violence, his wife, as a result of lost family income, may face eviction. The effect can be homelessness, and a dependency and neglect proceeding that could result in the termination of the wife’s parental rights. Legal representation in this situation may assist the wife in obtaining an alternative to returning to an abusive relationship, as well as help to stabilize the family.

The hearings also emphasized the impact on the judicial system of inadequate legal representation in civil cases. County and District Court judges testified of the difficulties in presiding over cases when one or both parties are pro se litigants. In such circumstances, the judges must be impartial, but do not always believe that they are presented with all relevant information on which to decide cases before them.

This report documents the findings from the ATJ hearings. We hope it will help Colorado’s policy makers understand the extent of the justice crisis in Colorado and develop initiatives to better meet the need for civil legal services for Colorado’s poor and vulnerable populations.

Legal Needs of Low Income People

The civil legal issues and needs of low income people most often involve basic human needs: assistance with safety from abusive relationships, access to health care, habitable and safe housing, and income maintenance [child support, food stamps, Social Security, Temporary Assistance to Needy Families (TANF)]. These basic human needs are the foundation for becoming a fully participating member of society. For instance, “(b)ecause legal services help (victims of domestic violence) with practical matters such as protective orders, custody, and child support they . . . actually present women with real, long-term alternatives to their (abusive) relationship.”¹³ This was echoed by domestic violence victims and service providers in every hearing. Judge Jonathan Walker, an El Paso County Court Judge, noted that as a public defender he saw hundreds of domestic violence cases. For every domestic violence conviction there is a victim, and often children, who need civil legal assistance with safety and survival issues (housing and income maintenance).

Ft. Collins: Annie wants out of a domestic violence relationship. She was initially turned down CLS because she does not meet the poverty guidelines. Her husband drained their joint bank account and her options are limited. 27 years in an abusive relationship is enough. She could file as a pro se litigant . . . but she fears for her safety. She will try to file on her own, but knows that without representation, she is leaving herself in a potentially very dangerous and violent situation. If additional funding is approved, perhaps more women like her will be helped.

When the legal need of a low-income person is not addressed, a host of other legal problems often result. For example, inability to obtain proper health care can result in loss of employment, loss of housing, or the loss of custody of children. Critical issues in Colorado affecting the provision of legal services include rapid population growth, a high rate of foreclosures, inadequate and unaffordable low-income housing, high minority drop-out rates in high schools, a limited Medicaid program and lack of available health care in some rural areas.¹⁴ These issues are even more grave for many of Colorado’s vulnerable populations, including people with disabilities, those with mental illnesses, AIDS victims, and the elderly. According to Victoria Lutz, executive director of the Crossroads Safehouse of Fort Collins, “With legal representation, more women could cost the state less down the line. For example, they would go off welfare and food stamps. There is also a huge medical cost associated with domestic violence, and legal



Judge Martha Minot, County Court, La Plata County, testifies at Durango hearing.

For pro se litigants, court can be overwhelming and intimidating, and they are often too scared to ask any questions. Because the pace of the county court is very fast, it is an environment where pro se litigants tend to lose.

Judge Martha Minot, La Plata County Judge, at Durango hearing.

“What does justice mean? There is a limit on what judges can do. Often, indigent litigants depend on what their neighbors or friends advise rather than rules of evidence.”

Judge Robert Lowenbach, District Court Judge, 19th Judicial District, at Greeley hearing.

help will cut down that cost as well.”¹⁵ The price children pay who are involved in these situations is too high as well. They have poor health, untapped potential, and the cycle repeats if there is no legal help.

There is a large gap between the number of low income people needing civil legal services and the availability of that service. Alice Willis, a homeless shelter case manager in Pueblo, testified that only one in ten people she refers to CLS actually will receive help from CLS. At the Breckenridge hearing, Pat Craig from the Northwest Colorado Legal Services Project testified that more than 90% of those who apply for assistance are unable to be helped by the program because of insufficient resources. Similarly, Art Jacobs, CLS Managing Attorney in Durango, testified that his office now has two attorneys but would need ten to meet the civil legal needs of low income people in the Sixth Judicial District.¹⁶ This inability to keep up with the demand was echoed by local bar association leaders. Mike Hockersmith, Board Chair of Uncompahgre Volunteer Legal Services (Seventh Judicial District Bar Association sponsored pro bono program), stated that the program can no longer keep up with the number of low income people needing assistance. He testified that local private lawyers are struggling to provide pro bono assistance necessary to meet the needs of low income clients, while trying to maintain their private practices.

Many other factors serve to deny poor people access to justice. Every low income person who testified at the hearings discussed the complexity of the law and the court system, legal paperwork, and legal procedures that made it difficult or impossible for them to resolve their legal problems. Judges testified that working with unrepresented litigants demands more judicial time. Even more importantly, judges noted that unrepresented litigants often do not present the court with adequate and proper evidence for the court to rule in the best interests of the parties.¹⁷ For example, Judge Roxanne Bailin, Chief District Court Judge, Twentieth Judicial District (Boulder), testified that, at the end of an apparently amicable dissolution of marriage hearing the wife raised her hand and asked, “Does it matter that he beats the children?” Without the wife having asked that question, the judge’s ruling would have put the children in danger. Judges are conflicted by the need to remain impartial and not help either party, while also serving the ends of justice.

Denver: Ms. Rozhon is a CLS client, who received notice of a lien on her home. Years before that she had been financially struggling when a credit card company obtained a judgment against her. With the resulting interest and penalties, she owed \$20,000. The credit card company was demanding that she make payments that exceeded her income. She asked the credit card company to postpone her payments until she finished school and completed her accounting degree. The credit card company refused. Colorado Legal Services helped her file Chapter 13 bankruptcy. She has now completed her Chapter 13 debt payment plan and is back on track. She believes she could not have accomplished this without the help of Colorado Legal Services.

Provision of Legal Services

Over the last forty years, efforts have been made to create an integrated and comprehensive civil legal services system. Nationally, the federally funded Legal Services Corporation is the largest funder of civil legal services to the poor. In Colorado, the Legal Services Corporation-funded program is Colorado Legal Services (CLS) and its efforts are supplemented by a multitude of court and private programs.

Eligibility for Legal Services

To be eligible for assistance from CLS and most other similar programs, a person's income, with few exceptions, must be less than 125% of the federal poverty level and the legal problem must fall within the type of legal issues handled by CLS.¹⁸ Under current federal standards, an individual's gross annual income must be less than \$12,763 per year (or less than \$7/hour for 7 hours per day/5 days per week). The gross annual income for a family of four must be less than \$25,813.¹⁹ This compares to self-sufficiency incomes²⁰ of \$48,065 needed by two adults with two children (one in preschool and one in school) to live in Denver without public or private assistance; or the \$35,463 needed in Alamosa; or the \$44,762 needed in Eagle County.

CLS Eligibility

CLS applicants must be income-eligible:

- Gross family income within 125% of federal poverty guidelines (200% with exceptions).
- For an individual, \$12,763 annually.
- For a family of four, gross annual income cannot exceed \$25,813 on an annual basis.

Example

- Person works 7 hours/day at \$7 per hour = eligible for services.
- Person earns more than \$49/day = not eligible (above government-set income eligibility guidelines).

Due to lack of funding and limitations imposed by Congress, CLS may represent clients in only certain types of cases. CLS limits the cases it accepts to: allocation of parental responsibilities and dissolution of marriage cases where there is domestic violence (not involving post-decree matters²¹), consumer law, income maintenance, public housing and foreclosure matters, access to health care, and some other limited types of cases. However, CLS is still not able to handle all the cases involving these issues and turns away at least one person for every case it accepts.²² Even though the need is great, CLS is unable to provide representation to low income Coloradans in the following types of cases: most private evictions, divorces or custody actions not involving violence, child support and adoptions/guardianships, and consumer cases (identity theft, sales fraud, and defective goods).

*As of 2005,
692,505
citizens are
eligible for
legal services
in Colorado.*

Congress has added additional prohibitions on federally funded legal services, including CLS. CLS is prohibited from providing representation in fee-generating cases, class-action suits, cases on behalf of undocumented people (except where the person is a victim of a crime and is seeking protection), and most legislative and administrative advocacy.²³ Even with local pro bono programs trying to handle some of the cases that CLS can not, many low income people are not able to obtain legal assistance.

Colorado Legal Services

To provide meaningful access to high quality civil legal services in the pursuit of justice for as many low income persons and members of vulnerable populations throughout Colorado as possible.

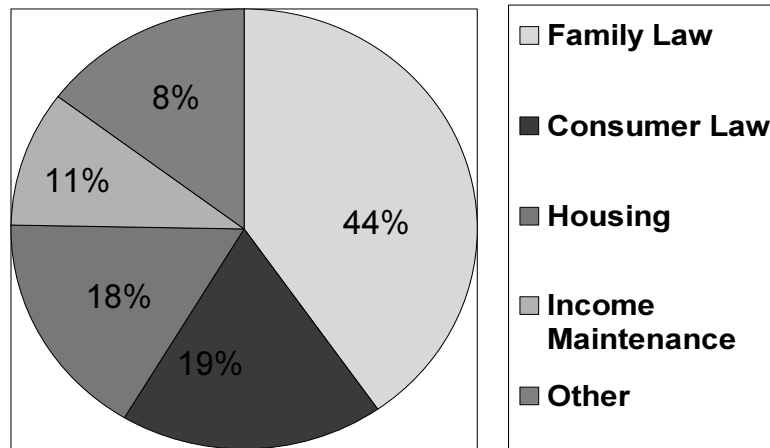
Mission statement for Colorado Legal Services

CLS was formed in 1999 with the merger of Colorado's then existing legal aid programs: the Legal Aid Society of Metropolitan Denver, Colorado Rural Legal Services, and Pikes Peak-Arkansas River Legal Aid. Forty-four percent of legal services provided by CLS involve family law issues (dissolution of marriage, child support, and parenting issues). Consumer law and housing represent 19% and 18% of CLS cases. Another 11% involve income maintenance (food stamps, Social Security, and Temporary Assistance to Needy Families). In 2006, CLS provided legal assistance to 6,632 eligible clients. Of those 5,011 were provided legal advice and brief services. CLS supplied full legal representation in extended actions to 1,621 poor and vulnerable Coloradans.²⁴

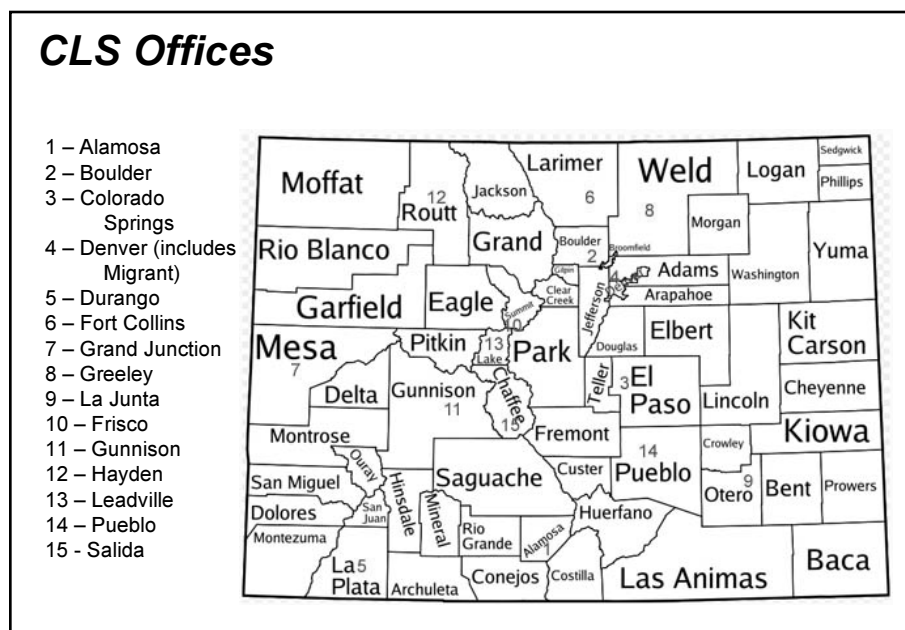
Persons served by CLS are disadvantaged not only financially, but in terms of negotiating the legal system. . . . These are the persons most at risk of losing basic needs.

Kim Shropshire,
Colorado Legal
Services

Case Types Handled



Several current and former legal service lawyers testified that in the late 1970s and the early 1980s there were twice as many lawyers serving Colorado's poor population, compared to the number of legal services lawyers helping the poor today. For instance, in 1972, there were 11 lawyers in the Colorado Springs office. That office now has only three lawyers. Due to budget cuts, eight CLS offices in the state (Trinidad, Montrose, Fort Morgan, Jefferson County, Arapahoe County, Adams County and two in Denver) have been closed and the number of lawyers has been reduced in the remaining offices, often resulting in one or two lawyers covering several counties.²⁵



“In 1980’s we had 5 legal aid lawyers in Trinidad. Today the office is closed.”

Roxanne Bailin,
Chief Judge, 20th
Judicial District

Not only are there fewer legal services lawyers, but those lawyers’ salaries are far below other public interest legal positions. A beginning CLS lawyer’s salary is \$33,180, compared to \$47,436, the starting salary of the Colorado Public Defender’s Office (43% difference) or \$52,394, the starting salary of the Colorado Attorney General’s Office (58% difference). Further, CLS lawyers (and other employees) do not have a pension from the Public Employees Retirement Association (PERA) as do employees of the Public Defender’s Office and the Attorney General’s Office. Nor do they have any other type of employer paid pension. Consequently, the salary gap is even more severe. Because of these low salaries, many new lawyers, with college and law school debt approaching or exceeding \$100,000, cannot afford to accept a CLS position.

Other Legal Service Programs and Efforts

In Colorado, other legal service programs and efforts fill some of the gaps but cannot avert the justice crisis. The Colorado Supreme Court has made great efforts to encourage participation by private attorneys in meeting the legal needs of the poor. The Court has authorized continuing legal education credit for attorneys²⁶ who perform pro bono work and has adopted rules “unbundling” legal serv-

Without the help of a lawyer, homeowners do not know defenses or alternatives to losing their home in foreclosure.

Roberto Silva,
Colorado Legal
Services, Pueblo,
Colorado

ices (permitting limited legal representation).²⁷ More recently, the Court adopted a rule making it easier for inactive and retired attorneys to represent the indigent (Second Season of Service)²⁸ and adopted a Model Pro Bono Policy for law firms and individuals²⁹ and actively recognized their contributions (the Supreme Court Pro Bono Initiative).³⁰ The Court has also implemented, but only on a limited basis, several programs, including pro se offices and family court facilitators,³¹ designed to assist parties who do not have lawyers.

The private bar plays a significant role in providing legal services for low income individuals. Colorado lawyers are among the most generous in the country and contribute more than \$1.6 million annually to civil legal services.³² In addition, lawyers donate thousands of hours to assist indigent clients with essential legal needs. By one estimate, the annual value of these contributed hours exceeds \$10 million.³³ In addition, local bar associations and access to justice committees provide legal assistance to as many people as they can,³⁴ the law schools offer legal clinics,³⁵ and there are a number of self-help programs³⁶ as well as private legal service programs that serve specific populations, such as children in the foster care system,³⁷ people with disabilities and the elderly.³⁸

While these programs serve an important role, assistance provided by volunteer lawyers is no substitute for an adequately funded system necessary to provide civil legal services to the indigent. As numerous witnesses testified during the hearings, volunteer programs simply do not meet the civil legal needs of the poor.³⁹

Many of the problems that plague our society, such as abusive relationships and landlord-tenant issues, could be lessened if we could provide civil legal representation to larger numbers of people who otherwise do not have access to it, in the same manner as criminal defense. The best pro bono program in the world is unable to fill the legal justice gap that exists, and additional funding is the only way to fill that gap.

Ed Nugent, Private Attorney, Grand Junction

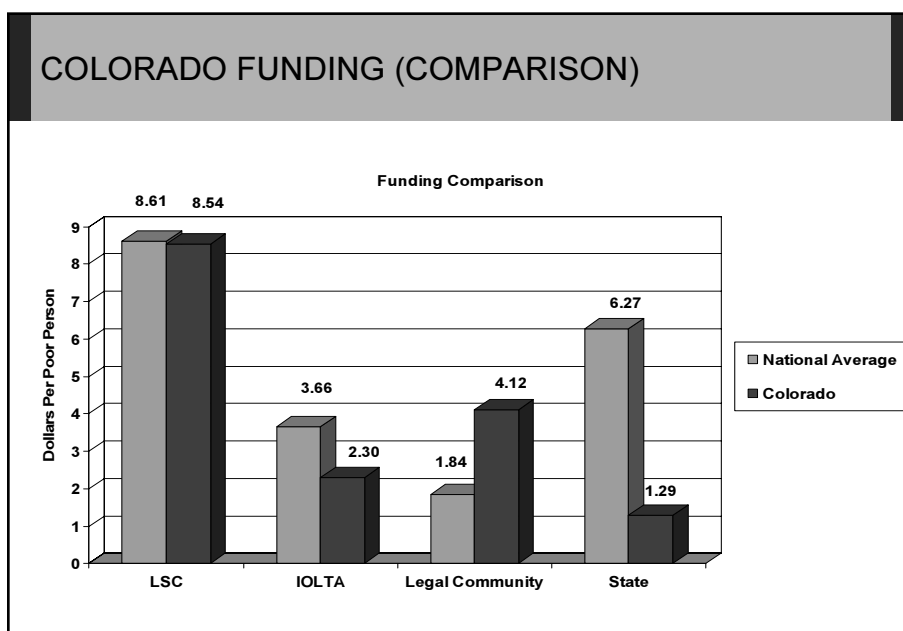
Use of Technology

In an attempt to provide as much help to as many low income people as possible, CLS, the courts, and local bar associations have employed technology to provide legal information,⁴⁰ self-help kiosks,⁴¹ and video-conferencing to some rural Colorado locations.⁴² CLS has been working with public libraries across the state to inform librarians about the legal information that can be accessed on the Internet.⁴³ However, testimony at the hearings revealed that technology has limited use since many low income persons are not familiar with computers, and are therefore, reluctant or unable to access information in this format.

Financial Resources⁴⁴

The total funding in Colorado for civil legal services for the indigent is approximately \$9.5 million, which amounts to \$24.32 per poor person. In terms of dollars per poor person, Colorado ranks 28th in the nation in overall funding.⁴⁵

Only a very small percentage of Colorado’s funding for civil legal services for the indigent is provided through state funds. Since July 1, 1999, the State of Colorado has provided a general fund appropriation through the Family Violence Justice Fund for civil legal services to victims of family violence. The initial state appropriation was increased to \$500,000 on July 1, 2002 and has not increased since.⁴⁶ As a result Colorado now ranks 40th in the nation in the amount of state funding for legal services, measured in terms of dollars per poor person. In contrast, Colorado is the eighth highest state in the country in per capita income.⁴⁷ For Colorado to become average in state funding, the state would need to increase its funding by \$1.82 million.



Colorado appropriates \$1.29 per poor person for civil legal services, ranking 40th in the United States. The average state appropriation is \$6.27.

Conclusion

The justice crisis in Colorado is evident. There is one Colorado Legal Services lawyer for every 16,890 eligible low-income individuals. Colorado has half as many legal services attorneys as it did in 1980. The State of Colorado currently spends only \$1.29 per poor person on civil legal services. The salaries of legal services lawyers are well below those of Colorado Public Defenders and attorneys employed by the Colorado Attorney General, and the courts have had the resources to implement only limited programs to provide assistance to litigants who cannot afford a lawyer.

If someone is turned away because there are no resources to help them, there are many ramifications such as homelessness, children being taken away, foster homes, and housing issues. There is a ripple effect socially.

Molly Ryan,
Colorado Legal
Services

Ignoring the civil legal needs of the indigent in Colorado will not make them go away. Indeed, unmet legal needs increasingly burden our courts, result in greater homelessness, add to foreclosure rates, interrupt children's education, and exacerbate medical problems.

Addressing these legal needs will save significant costs for society. Legal services will stabilize families, reduce the number of cases clogging our courts, and help people move toward self-sufficiency and full participation in society.

Colorado needs a long-term plan to address this justice crisis. The elements of such a long term plan are contained in the following recommendations.

Recommendations

1. Establish a plan to provide civil legal services for the indigent. First and foremost, the State of Colorado should establish a four-year plan to substantially increase funding for Colorado Legal Services. The goal should be, at a minimum, to place Colorado at the average level of state funding for civil legal services programs for the poor. Beyond that, however, the goal should be to provide sufficient funding so that the civil legal needs of Colorado's indigent throughout the state can be met. Colorado must provide assistance to address legal issues involving the basic human needs of housing, health care, safety, sustenance, and child custody, through a network of CLS attorneys and pro bono programs.

2. Increase salaries and benefits of Legal Services Attorneys to make them comparable to other public sector lawyers. The increased funding should bring salaries and benefits for CLS employees to the same level as other public sector law offices (Public Defender's Office, District Attorney's Offices, or the Colorado Attorney General's Office). This funding will enable CLS to attract and retain lawyers who can provide high quality legal services in civil cases involving Colorado's low income citizens.

3. Promote participation by the private bar in pro bono legal services. The Colorado Access to Justice Commission should continue to work with the Colorado Supreme Court, the Colorado Bar Association, local bar associations, and other entities to promote and encourage increased pro bono service by private attorneys throughout the state. Such additional pro bono services will supplement the legal assistance provided to low income Coloradans through CLS.

4. Improve services for pro se litigants. The Colorado Supreme Court, along with the Colorado Access to Justice Commission, should continue to improve services for unrepresented litigants, including increasing the number of family facilitators and pro se offices, which are necessary to ensure effective access to the legal system.

5. Improve access to the legal system. The Colorado Supreme Court, along with the Colorado Access to Justice Commission, should continue to improve access to the courts for all litigants and assure that the provision of legal services is more user friendly, particularly for people with disabilities, people who are not fluent in English, and people unfamiliar with computers and other forms of modern technology.

Endnotes

1. Houseman and Perle, "Securing Equal Justice for All: A Brief History of Civil Legal Assistance in the United States." Center of Law Social Policy, Washington, D.C., 2007, at p. 1.

2. These figures are based on 2005 estimates of the U.S. Census Bureau. See Appendix A for presentation by Colorado Legal Services at hearings. Eligibility for services by CLS is based on the Federal Poverty Guidelines which are determined by U.S. Department of Health and Human Services under the guidance of the Office of Management and Budget. The guidelines were established in 1963 and updated by a cost living index each year. The guidelines are based on the cost of food for a low-income family in 1955, with the assumption that families spend one-third of their income on food. The food budget is multiplied by three to come up with the level of poverty. Houseman, "Civil Legal Aid in the United States: An Update for 2007," Center for Law and Social Policy, August 2007, footnote 17, found at http://www.clasp.org/publications/civil_legal_aid_2007.pdf.

3. Documenting the Justice Gap, Legal Services Corporation, Washington, DC, September 2005, p.9.

4. In 2006, the American Bar Association unanimously approved a resolution urging state and federal governments to provide "legal counsel as a matter of right at public expense" to low-income persons in adversarial proceedings in five areas "where basic human needs are at stake." American Bar Association (ABA), "Report to the House of Delegates No. 112A" (2006), available at <http://www.abanet.org/legalservices/sclaid/downloads/06A112A.pdf>, (ABA Report) at 9.

5. Documenting the Justice Gap, Legal Services Corporation, Washington, DC, September 2005, p. 4.

6. Documenting the Justice Gap, Legal Services Corporation, Washington, DC, September 2005, p. 15.

7. Legal Service Corporation, "Narrative Program Directory," Washington, DC, July 1978.

8. Statement of Jonathan Asher, Executive Director, Colorado Legal Services.

9. Presentation by Colorado Legal Services at hearings. See Appendix A.

10. Formed in 2003, the Colorado Access to Justice Commission is composed of appointees from the Colorado Supreme Court, Colorado Bar Association, Colorado Governor, the President of the Colorado Senate, the Colorado Speaker of the House, the Colorado Lawyer Trust Account Foundation, the Colorado Legal Aid Foundation, and Colorado Legal Services. The mission of the Commission is to develop, coordinate and implement policy initiatives to expand access to and enhance the quality of justice in civil legal matters for persons who encounter barriers in gaining access to Colorado's civil justice system. See Appendix M for additional information.

11. Judicial districts statewide have formed local access to justice committees to address the legal needs of the low income people in their district. There are currently 11 active committees (some encompassing several judicial districts) and 3 that are in the formation stage.

12. Hearings were held in Boulder (20th JD), Breckenridge (9th JD), Colorado Springs (4th JD), Delta (7th JD), Denver (2nd JD), Durango (6th JD), Fort Collins (8th JD), Greeley (19th JD), Grand Junction (21st JD), and Pueblo (10th JD).

13. Farmer and Tiefenthaler, "Explaining the Recent Decline in Domestic Violence," *Contemporary Economic Policy*, 21: 2, April 2003, pp. 158-172.

14. Presentation by Colorado Legal Services at hearings. See Appendix A.

15. Testimony of Victoria Lutz at Ft. Collins hearing. See Appendix I.

16. See Appendices for witness testimony.

17. As several judges testified, they must be neutral and cannot advocate for either party. They are bound to rule according to the evidence presented by the litigants.

18. See note 2.

19. Presentation by Colorado Legal Services at hearings. See Appendix A.

20. "Self-sufficiency . . . measures how much income is needed for a family of a given composition in a given place to adequately meet their basic needs without public or private assistance. (emphasis deleted)" Pierce, Diana, "The Self-Sufficiency Standard for Colorado 2004: A Family Needs Budget," Colorado Fiscal Policy Institute, April 2004, p. 1, 9-13.

21. Post decree cases are those involving the parties after the divorce decree has been issued by the court. These often involve the failure of one party to comply with the divorce decree with regard to paying child support, parenting time, or relocation of one parent.

22. Testimony of Jonathan Asher, Executive Director, Colorado Legal Services.

23. Presentation by Colorado Legal Services at hearings. See Appendix A.

24. Presentation by Colorado Legal Services at hearings. See Appendix A.

25. Testimony of Jonathan Asher, Executive Director, Colorado Legal Services. For instance, there are 1.75 lawyers in Durango, whose service area includes both Indian Reservations and the counties of La Plata, San Miguel, Archuleta, Dolores, and Montezuma.

26. Colorado Rules of Civil Procedure, Rule 260.8.

27. Colorado Rules of Professional Conduct, Rule 1.2(c).

28. Colorado Rules of Civil Procedure, Rule 223.

29. Colorado Rules of Professional Conduct, Rule 6.1.

30. 36 *The Colorado Lawyer* 98 (Sept. 2007), Colorado Supreme Court Pro Bono Legal Services Recognition Program.

31. Colorado Rules of Civil Procedure, Rule 16.2(c)(2)(C).

32. The legal community donates money for the provision of legal services to Colorado's low income population through direct contributions to the Legal Aid Foundation of Colorado, other legal services providers, and local bar association pro bono projects. For instance, each member of the Delta Bar Association contributes \$275 to the Association's pro bono project. Metro Volunteer Lawyers, the \$250,000 Denver metropolitan area pro bono project, is funded through the dues and fund raising efforts of the Denver, Arapahoe, Adams, First Judicial (Jefferson/Gilpin counties) and Douglas/Elbert Bar Associations. The funds contributed by lawyers for pro bono projects pay for the coordination and logistics of providing pro bono services. In addition, lawyers contributed \$1 million in 2005-2006 to the Legal Aid Foundation of Colorado, the funds going exclusively to CLS.

33. For instance, the Colorado Supreme Court sponsors a pro bono initiative whereby law firms and solo practitioners pledge 50 hours of pro bono work per attorney per year. It was estimated that \$10 million of pro bono legal service was provided by the 35 law firms who reported they had met their pledge in 2006. This represents a small percentage of the pro bono work provided by Colorado lawyers.

34. See Appendices C through L for a description of the current programs of the local access to justice committees. CLS and local bar associations fund pro bono programs to coordinate private attorneys handling cases for low income persons. For instance the Denver Bar Association funds Metro Volunteer Lawyers with a full-time director and 3 staff to provide pro bono referral and clinics. In addition, the Denver Access to Justice Committee coordinates clinics and "ask a lawyer" programs, including LawLine9, Legal Night at El Centro de San Juan Diego, Legal Night at Mi Casa, a Bankruptcy Clinic, a Child Support Enforcement Clinic, a Collections Clinic, and a Do Your Own Divorce Clinic. Other bar associations with similar programs include Delta Bar Association, Pueblo Bar Association, Mesa County Bar Association, Weld County Bar Association, and El Paso County Bar Association.

35. University of Denver Sturm School of Law and University of Colorado Law School offer clinics to assist low income people.

36. Colorado courts, local bar associations, and Colorado Legal Services offer legal information and forms on their websites, clinics, and ask-a-lawyer programs.

37. Rocky Mountain Children's Law Center is one such organization.

38. The Legal Center for People with Disabilities and the Elderly is one such organization.

39. Testimony: Patricia Craig (Breckenridge Hearing) and Aaron Clay (Delta Hearing).

40. Colorado Legal Services provides a website (www.coloradolegalservices.org) with information for self represented litigants. The Colorado Judicial Branch provides self-help information on its webpage. (www.courts.state.co.us). Several local bar associations include information on their websites for self represented litigants (Denver – www.denbar.org).

41. Colorado Legal Services piloted a program in four counties where self service kiosks were installed in the courthouse. These kiosks were designed to help self-represented litigants prepare their own court forms. The kiosks have had mixed success because litigants have had difficulty understanding the law and are therefore unable to properly fill out the forms. In addition, many self-represented litigants are unfamiliar with the use of technology, such as computers.

42. Colorado Legal Services is piloting a project in the northeast part of Colorado that allows a lawyer to use video conferencing to interview clients who live miles from the closest CLS office. This allows a legal service lawyer to spend more time in the office working on cases than in the car traveling long distances to interview clients.

43. Testimony of Aaron Clay, Delta Hearing.

44. The information about the amount of funding and comparisons to other states was calculated by the American Bar Association's Access to Justice Support Committee and is based primarily on year 2005 funding, the last year where a comparison can be made for all states. www.abanet.org/legalservices/sclaid/atjresourcecenter/home.html.

45. For a complete description of all funding in Colorado for civil legal services for the indigent, see Appendix B .

46. No funds were appropriated in FY2005 (July 1, 2004 to June 30, 2005).

47. See www.census.gov/compendia/statab/tables/08s0659.xls#Data!A1. IN 1979, Colorado ranked 14th in per capita income. In 2006, Colorado ranked 8th.

