

Unequal Access to Justice:

*A Comprehensive Study
of the Civil Legal Needs
of the Poor in Indiana*



A Report by
Indiana Legal Services, Inc.
Indiana Bar Foundation
Indiana State Bar Association

2008

Acknowledgements

June 2009

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This report, “Unequal Access to Justice: A Comprehensive Study of the Civil Legal Needs of the Poor in Indiana,” represents the culmination of a two-year study jointly undertaken by Indiana Legal Services, Inc., the Indiana Bar Foundation, and the Pro Bono Committee of the Indiana State Bar Association (collectively the “Sponsors”), and seeks both to document the variety of civil legal needs facing low-income Indiana residents and to open discussion about the best ways to respond to those needs.

The Sponsors gratefully acknowledge the many individuals and entities that helped and made it possible for us to plan, produce, and complete “Unequal Access to Justice: A Comprehensive Study of the Civil Legal Needs of the Poor in Indiana.” Although we are unable to name everyone who deserves to be recognized, the following individuals deserve special recognition:

- Beth Friedman Kirk, our independent consultant, for her exhaustive review and analysis of all the data collected and then, in consultation with us, drafting of this report. The quantity of time necessary to do this, and quality of her work, exceeded all expectations.
- Nan Stager, Senior Lecturer at Indiana University’s School of Public and Environmental Affairs, for her hard work in organizing and conducting the focus groups and providing support to the Conclave.
- The Survey Research Center at IUPUI for its excellent service in contacting and surveying low-income citizens, and analyzing the important information they provided for this study.
- Judge David J. Avery from Allen Superior Court, for all his work in organizing the Conclave on the Delivery of Pro Bono Services in Indiana.
- Student interns Jelling Lai, Laura Walda, Michele Komora and Jordan Seeder for their careful work in compiling results of several of the component surveys.
- Various members of the support staff at Baker & Daniels, particularly Trish Keener, Louise Bloemer and Bill Spellman, for their invaluable assistance and unflagging patience in the compilation and editing processes.
- All of the many respondents to the various components of the Study for their critical input to this process, including low-income citizens interviewed by telephone; all the individuals who attended focus meetings throughout the state; and the judges, clerks, attorneys, pro bono plan administrators, social service providers, and Indiana Legal Services Board members, staff, and clients who completed surveys.

We hope that each person who reads this report will join the Sponsors in seeking to address the challenges we have identified.

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Executive Summary

This report, “Unequal Access to Justice: A Comprehensive Study of the Civil Legal Needs of the Poor in Indiana (2008)” (hereinafter, the “Final Report”) represents the culmination of the Legal Needs of the Poor Study (the “Study”) jointly undertaken by Indiana Legal Services, Inc. (“ILS”), the Indiana Bar Foundation (“IBF”), and the Pro Bono Committee of the Indiana State Bar Association (“ISBA Pro Bono Committee”) (collectively the “Study Sponsors”) in 2007 and 2008.¹

The Study demonstrates that the greatest legal needs of the poor are in the areas of consumer finance, family law, housing, public entitlements, and health. Despite the variety of programs, services, and individuals providing legal services to low-income Hoosiers free of charge or at substantially reduced rates, the demand for these services far exceeds the supply.² This is particularly true in the area of family law.

The Study process included four phases. Phase I was a telephone survey, conducted by Survey Research Center (“SRC”) at IUPUI, of approximately 1,200 low-income Hoosiers, *i.e.*, individuals below 125% of federal poverty level

The views expressed herein have not been approved by the House of Delegates or the Board of Governors of the Indiana State Bar Association or the Board of Directors of the Indiana Bar Foundation and, accordingly, should not be construed as representing the policy of either organization.

The information obtained from all sources in the Study indicates that the current greatest legal needs of the poor are in the areas of consumer finance, family law, housing, public entitlements, and health. Almost every component of the Study points to the conclusion that consumer finance and family law are currently the primary legal needs of the low-income population.

(“FPL”) and individuals between 125% and 200% of FPL. Phase II consisted of questionnaires to a broad-based constituency, which included private and pro bono attorneys, judges, clerks of court, pro bono plan administrators, service providers, ILS employees, ILS Board Members, ILS clients and potential clients, and other interested persons such as employees of social service and government agencies assisting the poor. Phase III consisted of focus groups and priority-setting meetings with stakeholders around the state. This Final Report is Phase IV. The Conclave on the Delivery of Pro Bono Services in Indiana (“Conclave”), held on April 25, 2008, was also a concurrent part of the Study process.

A comparison of the 2008 data from low-income Hoosiers with data collected by ILS in 1999 demonstrates that there have been significant increases in reported problems relating to utilities, housing, consumer finance, problems with Medicare and Food Stamps, and problems finding or keeping employment. Importantly, the state’s low-income population increased between 1999 and 2008 – from 559,484 to 757,813 Hoosiers living below the poverty level, a 35% increase, and from 1,518,047 to 1,820,046 below 200% of FPL, an almost 20% increase. By comparison, Indiana’s population overall grew by 6.8% between 1999 and 2007.

Legal problems were more prevalent among the poorer respondents. Eighty-six percent (86%) of the respondents with incomes below 125% of FPL reported at least one legal problem, while 70% of respondents with incomes between 125% and 200% of FPL reported at least one legal problem. The differences were particularly large in the categories of utilities, debt/consumer finance, health care, and public entitlements. In terms of specific problems, the poorer respondents reported not receiving child support, suspension of a child from school, and unfair school policies significantly more often than the respondents with incomes between 125% and 200% of FPL. Some problems, including property tax problems, foreclosure or the threat of foreclosure, and Section 8 housing eligibility-related problems were more frequently reported among respondents with incomes between 125% and 200% of FPL.

The information obtained from all sources in the Study indicates that the current

Information gathered from pro bono plan administrators and by ILS during preparation of this Final Report . . . suggest[s] that as many as 62% of those income-eligible applicants applying to plan administrators, and 75% of those income-eligible applicants applying to ILS, were unable to receive attorney representation necessary to fully meet their legal needs.

greatest legal needs of the poor are in the areas of consumer finance, family law, housing, public entitlements, and health. Almost every component of the Study points to the conclusion that consumer finance and family law are currently the primary legal needs of the low-income population.

Similarly, the fastest-growing legal needs of the poor are in the areas of consumer finance, housing, and family law. Given the current economic outlook, it seems likely that these needs will continue to increase and that a great deal of legal assistance will be needed. Housing was rated the second fastest-growing problem by pro bono plan administrators, and the third fastest-growing problem by responding attorneys. Responses indicate that evictions and foreclosures were already a major problem for low-income Hoosiers at the time of the survey, and all evidence indicates those problems have likely increased since. Every one of the pro bono administrators responding to the survey included family law in their list of the five fastest-growing legal problems of the poor. Over 60% of judges and clerks, and approximately 65% of attorneys, identified family law in their list of the five fastest-growing legal problems of the poor; both groups ranked it second only to consumer finance.

In order to more fully understand the legal needs of the poor, additional data should be collected about immigrants, people of Limited English Proficiency (“LEP”), farm workers, and victims of domestic violence. Although the legal needs of these individuals were addressed in the Study, it was difficult to directly reach these groups of individuals through surveys, questionnaires, or even focus groups.

The most obvious reason that the legal needs of the poor are not being met is that there are not enough attorneys serving this population. The ratio of attorneys to Hoosiers living below 125% of FPL is approximately *one attorney per 8,850 potential clients*. If Hoosiers with incomes between 125% of FPL and 200% of FPL are also considered, the ratio increases to approximately *one attorney per 16,100 potential clients*.³ In contrast, the ratio of private attorneys providing paid civil legal services to the general Indiana population was found to be about *one attorney*



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per 688 potential clients. Information gathered from pro bono plan administrators and by ILS during preparation of this Final Report corroborates this discrepancy, suggesting that as many as 62% of those income-eligible applicants applying to plan administrators, and 75% of those income-eligible applicants applying to ILS, were unable to receive attorney representation necessary to fully meet their legal needs. The insufficient number of pro bono and public service attorneys representing the poor in comparison to the need for legal assistance was a theme throughout the responses to the various surveys, questionnaires, and focus groups making up the Study. Attorney responses indicate that this is a particularly serious problem in the area of family law.

Information obtained during the Study suggests there are several reasons for the relatively small number of private sector attorneys who represent low-income Hoosiers on a pro bono basis. Many attorneys struggle to maintain a profitable practice (particularly in rural areas and small towns), are reluctant to take a case outside of their area of expertise, fear malpractice suits, fear involvement in never-ending cases (particularly in family law), and identify a general lack of incentives to provide pro bono representation.

Other barriers to providing legal services to Indiana's low-income population include insufficient coordination between civil legal service providers and the pro bono districts, insufficient coordination between civil legal service providers and social service providers, lengthy waits for legal assistance, conflicts of interest created when there is an insufficient number of providers to handle the legal needs of low-income individuals in an area, and a number of client-related factors. Perhaps the most important client-related factor identified by respondents is a lack of information; fully 60% of those contacted by telephone indicated they were unaware of free legal services programs in Indiana. Other client-related factors that respon-

As a result of the information obtained through this Study, the Sponsors recommend that Indiana should now undertake a strategic planning process . . . to develop a comprehensive set of detailed recommendations and statewide plan of action to better meet the needs of the poor.

dents identified are insufficient knowledge and information, delays in seeking help, lack of transportation, lack of telephone service, immigration status, LEP, inability to take time off from work, difficulties with paperwork, domestic violence, and having an income slightly too high to be eligible for legal aid and pro bono services.

As a result of the information obtained through this Study, the Sponsors recommend that Indiana should now undertake a strategic planning process, considering the information and data obtained in the Study and reported in this Final Report, to develop a comprehensive set of detailed recommendations and statewide plan of action to better meet the needs of the poor. In connection with the strategic planning process, the Sponsors further recommend the creation of a statewide Access to Justice Commission which should include representatives from the judiciary, the executive branch, the legislative branch, the IBF, the Pro Bono Commission, the ISBA Pro Bono Committee, existing legal service providers, the private bar, the law schools in Indiana, social service providers whose clients are low-income, and other interested parties. An Access to Justice Commission could function as an umbrella organization, uniting and coordinating the efforts of the various entities working to address the legal needs of the poor. The Access to Justice Commission's initial charge should include evaluating the current system and initiating a strategic planning process to coordinate and thereby improve the efficacy of our efforts to meet the legal needs of the poor. Because such a process will necessarily involve a critical review of the existing patchwork of methods for meeting the legal needs of the poor, the Commission should involve all of the various stakeholders, but its composition and operation should demonstrate an independence from any one entity within the existing system.



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Endnotes

¹ The Final Report is available on all of the Study Sponsors' websites: Indiana Legal Services, Inc., www.indianajustice.org; Indiana Bar Foundation, www.inbf.org; and the Indiana State Bar Association, www.inbar.org.

² The “legal” needs identified and discussed in the Final Report are not limited to those resulting from entanglement in the court system, as most individuals’ legal problems begin before the initiation of a court case. Virtually all of the issues identified in the Report, if not directly involving legal action, could eventually rise to involvement with the court system; many of these issues could be addressed earlier through preemptive counseling and assistance, or preventive education.

Additionally, “pro bono,” or legal assistance provided at no cost to a low-income person by a member of the private bar, is only one means of addressing the legal needs discussed in the Final Report. For example, staff attorneys at Indiana’s various civil legal service providers (including ILS) provide representation at no cost to low-income people, but because those attorneys are paid for that work, they are not included in the traditional definition of “pro bono.” Similarly, in addition to traditional legal representation, the legal needs identified in the Final Report may also be addressed by programs that facilitate self-representation, preventive educational programs, and other innovative initiatives intended to help meet the legal needs of the poor.

³ These statistics were derived as follows: ILS currently has 51 staff attorneys statewide. Including public interest attorneys from other civil legal service providers that directly represent low-income individuals, there are almost certainly fewer than 75 attorneys statewide who are employed to represent the poor free of charge on a full-time basis. In terms of pro bono work performed by the private bar, the total number of hours reported by pro bono districts to the Pro Bono Commission for 2007 was 33,101 hours. This number is almost certainly an underestimate; if it is increased by 50% and converted to full-time attorney equivalents, the result is about 28 full-time pro bono attorneys. Assuming that the legal assistance provided by the four Indiana law schools’ clinics to low-income clients equates to 10 full-time public interest attorneys, the total supply of free attorneys available to the poor in Indiana would be the equivalent of 113 full-time attorneys. We divided the approximately 1,000,000 Hoosiers living below 125% of FPL by 113. We also added in the additional Hoosiers living between 125% and 200% of FPL for the second statistic.



II. SUMMARY OF THE EXISTING STRUCTURE OF EFFORTS TO MEET THE LEGAL NEEDS OF THE POOR

A. DEFINITION OF PRO BONO AND GUIDANCE IN THE RULES OF PROFESSIONAL CONDUCT⁴

The Indiana Pro Bono Commission's website defines pro bono for the general public as follows:

Pro bono means for the common good. It is a long-standing tradition that lawyers help the defenseless, weak, and oppressed regardless of an ability to pay. Indiana attorneys take an oath to protect all citizens and to protect our system of justice. To that end, attorneys freely donate their time and expertise in many ways. If you are unable to pay for a lawyer you can get connected with one by contacting one of the programs linked below.

Reprinted from www.in.gov/judiciary/probono/public/.

Indiana attorneys are provided some guidance about pro bono service in the Indiana Rules of Professional Conduct. Prof. Conduct Rule 6.1 (Pro Bono Publico Service) provides:

A lawyer should render public interest legal service. A lawyer may discharge this responsibility by providing professional services at no fee or a reduced fee to persons of limited means or to public service or chari-

A lawyer should render public interest legal service. A lawyer may discharge this responsibility by providing professional services at no fee or a reduced fee to persons of limited means or to public service or charitable groups or organizations, by service in activities for improving the law, the legal system or the legal profession, and by financial support for organizations that provide legal services to persons of limited means.

table groups or organizations, by service in activities for improving the law, the legal system or the legal profession, and by financial support for organizations that provide legal services to persons of limited means.

The Commentary to the Rule provides in part:

[1] The American Bar Association House of Delegates has formally acknowledged “the basic responsibility of each lawyer engaged in the practice of law to provide public interest legal services” without fee, or at a substantially reduced fee, in one or more of the following areas: poverty law, civil rights law, public rights law, charitable organization representation and the administration of justice. The Indiana State Bar Association’s House of Delegates has declared that “all Indiana lawyers have an ethical and a social obligation to provide uncompensated legal assistance to poor persons” and adopted an aspirational goal of fifty hours a year, or an equivalent financial contribution, for each member of the bar.⁵

During 2008, the Indiana Pro Bono Commission proposed that the Indiana Supreme Court amend and clarify the commentary in Prof. Conduct Rule 6.1 to include a definition of pro bono services and provide guidance for Indiana attorneys in meeting the aspirational goal of fifty pro bono hours each year. As of the publication of this Final Report, the Indiana Supreme Court sought and is considering public comment regarding the proposed additions to the Commentary to Rule 6.1:

“For the purposes of this paragraph:

- a) Poverty law means legal representation of a client who does not have the financial resources to compensate counsel.
- b) Civil rights (including civil liberties) law means legal representation involving a right of an individual that society has a special interest in protecting.
- c) Public rights law means legal representation involving an important right belonging to a significant segment of the public.
- d) Charitable organization representation means legal representation of charita-

ble, religious, civic, governmental and educational institutions in matters in furtherance of the organization’s purpose, where the payment of customary legal fees would significantly deplete the organization’s economic resources or where it would be inappropriate.

e) Administration of justice means activity, whether under bar association auspices or otherwise, which is designed to increase the availability of legal representation, or otherwise improve the administration of justice. This may include increasing the availability of legal resources to individuals or groups, improving the judicial system, or reforming legal institutions that significantly affect the lives of disadvantaged individuals and groups.”

Additionally, the proposed changes to the Commentary include clarification of what is not considered pro bono service:

[5] Typically, the following would not fulfill the aspirational goals in Comment 1:

- 1) Legal services written off as bad debts.
- 2) Legal services performed for family members.
- 3) Legal services performed for political purposes for election purposes.
- 4) Activities that do not involve the provision of legal services, such as serving on the board of a charitable organization.⁶



B. THE INDIANA PRO BONO COMMISSION

The Indiana Pro Bono Commission is a project of the IBF, which administers Interest on Lawyer Trust Accounts (IOLTA) funds. The Commission consists of twenty-one members appointed by the Indiana Supreme Court and the IBF. These individuals are appointed pursuant to Rule 6.6 of the Indiana Rules of Professional Conduct and together, they have the responsibility of allocating IOLTA funds to the fourteen District Pro Bono Committees in Indiana. The fourteen District Pro Bono Committees are organized in the fourteen Pro Bono Districts in Indiana as set forth in the map on this page.

A trial judge from one of the counties in each Indiana district chairs and appoints the Dis-

district Committee. District Committees submit an annual report and plan that addresses the unmet legal needs in their community. *See id.* Each of the fourteen pro bono districts is managed by a pro bono plan administrator. The plan administrators refer pro bono cases to attorneys and coordinate, with other legal service providers, the delivery of pro bono and free legal services for low-income Hoosiers in the counties in their districts.

The Indiana Pro Bono Commission's mission statement is as follows:

The Indiana Pro Bono Commission will strive to promote equal access to justice for all Indiana residents by facilitating the integration and coordination of existing services; fostering the development of new pro bono programs; supporting and improving the quality of existing pro bono programs; fostering the growth of a public service culture within the Indiana Bar which values pro bono publico service; promoting the ongoing development of financial and other resources for pro bono organizations in Indiana; and enabling Indiana attorneys to discharge their professional responsibility to provide pro bono services.

Reprinted from the Commission's website: www.in.gov/judiciary/probono/about.html.

The Indiana IOLTA program funds the implementation of the district plans and the efforts of the District Committees to improve delivery of civil legal services to the lower income population in their districts. To date, the Indiana Pro Bono Commission has disbursed approximately \$4,000,000 to the fourteen Indiana District Committees. *Id.*

The Commission was created after Rule 6.6 of the Rules of Professional Conduct (then Rule 6.5) became effective in 1998. Commission Chairs have been Hon. L. Mark Bailey, First District Court of Appeals (through 2002); J. Philip Burt, Esq. (2002-2006); Hon. William C. Lee, U.S. District Court, N.D. Indiana (2006-2008); and Hon. Melissa May (2008-present).

The Commission is administered by an Executive Director. Recent Commission projects have included:

- Proposing and advocating mandatory submission of interest earned from attorney IOLTA accounts for pro bono efforts (thereby increasing IOLTA funds available for distribution towards pro bono efforts around the state);
- Working with the IBF to encourage Indiana financial institutions to increase the interest rates paid on IOLTA accounts (thereby increasing IOLTA funds available for distribution towards pro bono efforts around the state);
- Working with the pro bono plan administrators to increase the number of attorneys providing pro bono services around the state;
- Working with the pro bono plan administrators to encourage all attorneys to provide at least 50 hours of pro bono service each year; and
- Proposing the definition of pro bono service (see Section II.A.).

C. THE INDIANA BAR FOUNDATION

The IBF is a charitable foundation dedicated to strengthening access to justice and appreciation for the rule of law in Indiana. To accomplish its mission, the IBF gathers and directs resources toward three main areas: assisting people who have difficulty accessing the justice system, providing law-related educational opportunities for all ages, and improving Indiana's judicial system and the legal profession. See www.inbf.org, the IBF's website. IBF resources are provided primarily by interest earned on IOLTA funds in Indiana.

Among the many projects funded by the IBF, the following list includes a number of projects designed to encourage and promote the delivery of pro bono services:

- Providing IOLTA funds to the fourteen District Pro Bono Committees, after reviewing Commission recommendations;
- Law-related education programs;
- Law student scholarships;
- Awards to Indiana lawyers, law firms, bar associations and law-related organizations making significant contributions in law-related education and pro bono work;
- Law-related research projects;
- Programs that enhance legal services and education for the poor;
- Providing Loan Repayment Assistance Program (LRAP) funds each year to civil legal service attorneys throughout the state; and
- Pro bono training.

D. INDIANA STATE BAR ASSOCIATION (ISBA) PRO BONO COMMITTEE

The mission of the ISBA Pro Bono Committee is as follows:

The Pro Bono Committee (PBC) shall work to identify the legal needs of the poor in Indiana, to advocate for increased resources to address the unmet legal needs of the poor, to educate attorneys about the need for and opportunities to engage in pro bono civil legal services and public service for the poor and for communities, groups, and organizations that assist the poor, to encourage attorneys to engage in pro bono representation and public service directed at the poor, and to recognize and to honor attorneys who exhibit commitment to pro bono representation of clients or the enhancement of pro bono activities within the State of Indiana.

To address this mission, the ISBA Pro Bono Committee set the following goals:

1. Increase the involvement of the ISBA committees and sections in and support for pro bono and public service for low-income persons and communities, groups and organizations that serve low-income persons.
2. Facilitate use of ISBA resources to support and to promote pro bono legal and public service by lawyers for low-income persons and communities, groups and organizations that serve low-income persons.
3. Support the work of the pro bono providers, Judicial District Pro Bono Committees, and Pro Bono Commission to

increase, to enhance, and to improve pro bono legal services.

4. Increase the resources available to provide pro bono legal and public service by lawyers for low-income persons and communities, groups and organizations that serve low-income persons.
5. Increase the knowledge about the unmet need for legal services, the legal services that are provided, the types of legal problems encountered by low-income people in Indiana, the impact of legal assistance on the lives of low-income people, and the manner in which legal resources can be devoted to assist in, to enhance, and to improve the lives of low-income people.
6. Increase the knowledge of Indiana attorneys about pro bono needs and opportunities.

The ISBA Pro Bono Committee is an active committee that meets monthly by telephone. Current and recent projects include:

- Talk To A Lawyer Day (annually on Martin Luther King, Jr. Day);
- Legal Needs of the Poor Study;
- Conclave on the Delivery of Pro Bono Services in Indiana;
- *Res Gestae* columns about pro bono efforts;
- Efforts in providing mortgage foreclosure representation;
- Efforts in providing assistance to members of the military; and
- Coordination with other ISBA sections and committees to coordinate and increase the delivery of pro bono services.

E. INDIANA SUPREME COURT INITIATIVES PROMOTING ACCESS TO JUSTICE

The Indiana Supreme Court has a variety of programs, projects, and initiatives that promote access to justice for individuals seeking to utilize the court system.

The Civil Legal Aid Fund was created in 1997 to solidify the continuity of services by legal service providers. The Fund was established to not only provide more revenue for legal service providers, but to support only the “private, nonprofit organization[s] incorporated and operated exclusively in Indiana, [whose] primary function and purpose [...] is to provide civil legal services without charge to the indigent.” The legislature currently provides \$1.5 million dollars per year (up from \$1 million dollars in prior years) to be divided among the qualified legal service providers. The 2008 data is still being compiled, but in 2007, data shows that qualified legal service providers offered legal assistance in more than 23,000 cases.

The Citizens Self Service Center on the Supreme Court’s website allows self-represented individuals to access a variety of legal forms (including some translated into Spanish) and other resources. Users can find information about how to prepare for court, names of registered mediators, and links to other sites with relevant information. The Supreme Court website also provides free online access to the Indiana Code, the Administrative Code, and various state, local, and administrative rules. There are also guides for Small Claims, appellate practice, and Tax Court practice. Public court records from certain counties are already available at

<http://mycase.in.gov>, and the continuing statewide Case Management System initiative will give individuals access to court information more easily.

The Committee on Self Represented Litigants is tasked with studying and recommending improvement of the practices, procedures and systems for serving self represented litigants in Indiana's courts. The Committee includes members of the Indiana judiciary, academia, bar, legal library staff, legal service representatives, county clerks, and other members of the community.

F. EXISTING CIVIL LEGAL SERVICE PROVIDERS

Most legal assistance rendered to Indiana's low-income residents comes from staff attorneys with the state's civil legal service providers. The Indiana Code defines a Legal Service Provider as "a private, nonprofit organization incorporated and operated exclusively in Indiana, the primary function and purpose of which is to provide civil legal services without charge to the indigent." (Ind. Code § 33-24-12-3). The Indiana Supreme Court uses this definition to determine recipients of the Civil Legal Aid Funds discussed above; during the 2008-2009 fiscal year, the Court provided funding to twelve legal service providers.⁷ Supreme Court records indicate that 23,000 cases were handled by civil legal service providers in 2007. However, a myriad of organizations throughout Indiana actually offer legal assistance to low-income Hoosiers. It is possible to think of the legal support as a primary, secondary or tertiary mission for the organization. For back-

ground purposes, a number of these providers are described here:

1. Legal Service as a Primary Mission

Whether receiving Civil Legal Aid funds or not, the majority of legal service programs limit their support to a specific geographic area. The Legal Aid Society of Evansville, Inc., for example, provides legal representation and advice to residents of Vanderburgh County. Hammond Legal Aid, similarly, focuses support within its community. The Indianapolis Legal Aid Society will accept clients from Marion County and the seven contiguous counties. The Neighborhood Christian Legal Clinic provides legal assistance to residents of the greater Indianapolis metropolitan region and also currently provides limited intake in Fort Wayne. The Community Organizations Legal Assistance Program⁸ (COLAP) provides pro bono support to not-for-profit organizations located in central Indiana that assist the low-income community, but does not provide direct representation to individual persons. Two legal programs provide support throughout the state: the American Civil Liberties Union of Indiana (ACLU) and ILS. The ACLU does not use any type of income guideline and will take a matter independent of the client's income status. ILS has income eligibility guidelines based on one hundred twenty-five percent of the Federal Poverty Guidelines and additional asset guidelines.

2. Legal Service as a Secondary Mission

While the number of purely 'legal service' organizations is relatively small, a significant number of programs augment their primary missions with related legal support. All four of the Indiana law schools have discrete clin-

ics which support an array of important issues to the low-income community including criminal law, civil law, disability law, juvenile law, domestic violence, mediation, tax law, sports, consumer law, and housing law. The mission of the law school clinic is to provide support to the community as well as offer a professional and experiential learning experience to law students.

In addition to the legal service programs and the law school clinics, potential clients often find assistance at social service organizations. Although the primary mission of programs such as The Julian Center is focused on a specific social need,⁹ the staff is structured to provide limited legal assistance as well. The Julian Center maintains both full and part-time legal support at their Indianapolis offices. This is augmented by volunteer attorneys, approximately twenty at this time, who come to the Center directly or through the local pro bono districts. The legal assistance provided covers a variety of services from family law to immigration to bankruptcy.

This type of structure is mirrored at other social service organizations. The Damien Center,¹⁰ located in Indianapolis, maintains a full-time attorney who is able to assist clients with legal issues like estate planning, powers of attorney and social security appeals. The staff attorney offers legal advice and will make referrals to local legal service programs when a client requires additional legal representation. The Shalom Center¹¹ of Bloomington maintains a number of law student volunteers who assist with a weekly legal intake program. Attorneys provide student supervision and volunteer support either coordinated through the local pro bono district

administrator or by direct contact with the Center.

Child Advocates¹² provides representation on behalf of abused and/or neglected children in Marion County. This organization has a number of staff attorneys who represent staff social workers and volunteers at termination of parental rights trials. Child Advocates also trains community volunteers to act as Court-Appointed Special Advocates (CASAs) for the Marion County juvenile courts and supports a mediation in lieu of hearing option for termination of parental/child relationships. Attorney-volunteers support Child Advocates, but in the same capacity as non-attorney volunteers, primarily serving as trained CASAs.

Some programs go beyond offering direct legal advice or assistance to a greater educational role for the legal community. The Indiana Coalition Against Domestic Violence¹³ (ICADV) is an example of this type of outreach. The ICADV maintains a Legal Director who provides legal support and technical assistance statewide to shelter members, the judiciary, local bar associations and the medical community, but does not provide direct legal representation to domestic violence clients. Kids' Voice of Indiana,¹⁴ which recruits, trains, and represents volunteers who serve as Guardians ad Litem in the Marion County Courts, likewise provides legal education, training and technical assistance to individuals serving at-risk children and families and legal information services to the public through a free educational website and free responses to telephone inquiries.

3. Legal Service as a Tertiary Mission

Finally, there are numerous organizations that provide assistance through attorney board members while not offering legal services directly to their clients. It is common for an attorney board member to be made aware of a client's situation and agree to provide legal assistance.



III. SUMMARY OF LEGAL NEEDS OF THE POOR STUDY PROCESS

A. GOALS¹⁵

The goals of the Legal Needs of the Poor Study were:

- To survey significant segments of the Hoosier population to determine the relative importance of the specific legal needs of low-income citizens
- To examine the legal services delivery system to determine the accessibility of those services offered to hard-to-reach populations
- To review the various legal services programs in Indiana to determine ways to improve resource allocations among and collaboration between those programs
- To provide independent, reliable information to be used in long-term, strategic planning for the delivery of pro bono services in Indiana

B. PROCESS

The Study consisted of four phases, as described here.

1. Phase I – Telephone Survey

During November 2007 through January 2008, the SRC at IUPUI surveyed by telephone in excess of 1,200 low-income citizens geographically distributed

throughout the State of Indiana, and evaluated the data according to the eight branch office service areas of ILS and the 14 Indiana pro bono districts. The survey included questions mutually agreed upon by the Study Sponsors, with input from the Study Sponsors as well as Indiana Pro Bono Commission members, judicial appointees, pro bono plan administrators, and other civil legal service providers. SRC also provided a Spanish version of the questionnaire administered by an interviewer fluent in Spanish for Spanish-speaking only respondents.

After preliminary results were provided to the Study Sponsors, and SRC considered feedback from the Study Sponsors, SRC prepared a final report with an executive summary detailing the feedback of the survey respondents.

2. Phase II – Web-Based Questionnaires

In March and April 2008, ILS and the ISBA Pro Bono Committee, working with interns from IU, performed an additional appraisal by web-based questionnaires directed to a broad-based constituency, which included private and pro bono attorneys, judges, clerks of court, pro bono coordinators and service providers, ILS employees, ILS Board Members, ILS clients and potential clients,¹⁶ and other interested persons such as employees of social service and government agencies assisting the poor. ILS and the ISBA Pro Bono Committee worked together, drawing on resources around the state, to prepare the questions in the survey as well as to determine the individuals to be surveyed. The data from the questionnaires were analyzed in April, May, and June 2008. During the same period, the ISBA Pro Bono Committee

held a day-long Conclave. The Conclave brought together legal service providers, attorneys, judges, district pro bono chairs and plan administrators, academics, and others with an active interest in pro bono to examine the existing pro bono efforts in Indiana and to develop ideas for possible improvement and expansion of the present delivery system.

3. Phase III – Focus Groups

In the summer of 2008, Nan Stager of Indiana University's School for Public and Environmental Affairs served as a consultant retained by the Study Sponsors. Ms. Stager worked with Victoria Deak of ILS to organize an additional appraisal utilizing focus groups and priority setting meetings. Ms. Stager, a skilled facilitator, conducted focus groups in eight areas of the state with local judges or other community leaders to address the legal needs of the poor; individuals with special legal problems; difficulties accessing legal services; available pro bono, free, or low-cost legal resources in the area; available training, support, legal education and outreach services; different priorities in the different areas of the state; effective, efficient and productive means for delivering legal services, and the most appropriate services and best practices. This process involved a collaboration of local ILS branch offices and pro bono plan administrators, who set up the specific focus groups and invited participants to the meetings to share their knowledge and expertise for improving the provision of legal services to the poor in the area. Participants included members of the pro bono legal community, judges, clients and potential clients, human service providers, legislators, educators, and any other interested individuals.

After completion of these meetings, Ms. Stager provided a final report about the focus groups.

4. Phase IV – Final Report

In August 2008, the Study Sponsors retained Beth Friedman Kirk, M.A., J.D., to prepare this Final Report. This Final Report combines and synthesizes the information from the telephone survey (Phase I), the web-based questionnaires (Phase II), the priority setting and focus groups (Phase III), and the results of the Conclave, held on April 25, 2008.

5. Collaboration

In order to complete this independent assessment, ILS, IBF, and ISBA each committed substantial time, resources, and funding to hire outside experts (SRC, Nan Stager, and Beth Friedman Kirk). Throughout the process, representatives of ILS, IBF, and ISBA worked together to ensure that the Study would be an effective resource and tool for Indiana.



IV. SUMMARY AND EVALUATION OF THE DATA

A. LEGAL NEEDS OF THE POOR FROM THE CLIENT AND POTENTIAL CLIENT PERSPECTIVE

1. Responses from Telephone Survey

Phase I of the Study was the telephone survey, which assessed the legal needs of Hoosiers at or below 200% of FPL. The SRC conducted the survey from November 2007 through January 2008, resulting in 1,203 completed interviews that were deemed reliable.

a. Demographics and Methodology

SRC purchased a sample of 17,777 household telephone numbers of Hoosiers from a commercial provider of representative samples of landline telephone numbers. The purchased telephone numbers were not restricted to households of any particular income level. (At the time of purchase, the household incomes were unknown.) The sample was stratified geographically across nine regions of Indiana to ensure that the proportion of respondents from each area of the state would reflect the actual proportion of homes under the FPL. This means that the number of telephone numbers randomly selected from a particular geographic area was proportional to the poverty rate in that area, so that the higher the poverty rate in an area, the more telephone numbers that were randomly selected. Because the

The insufficient number of pro bono and public service attorneys representing the poor in comparison to the need for legal assistance was a theme throughout the responses to the various surveys, questionnaires, and focus groups making up the Study.

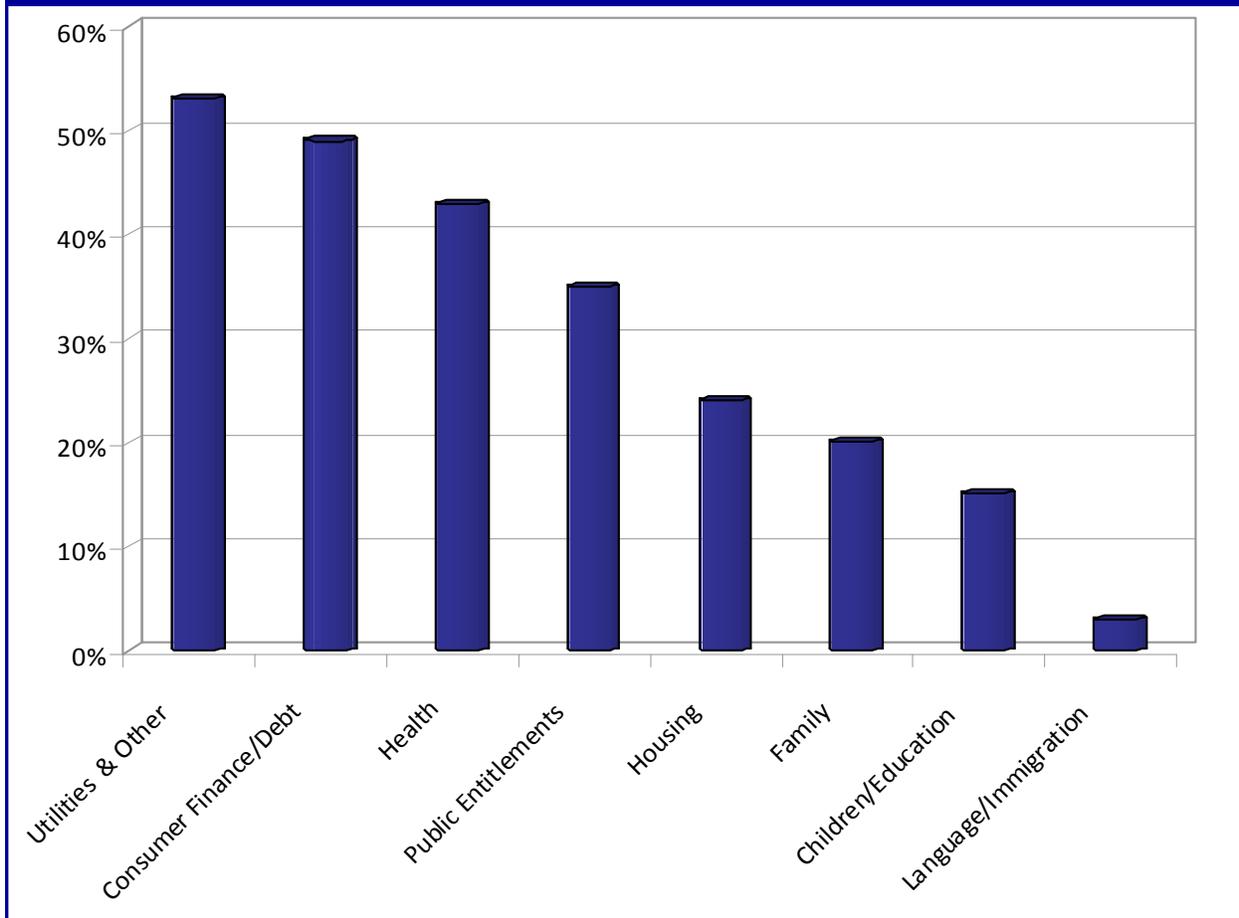
sample was designed to target counties with higher poverty levels, 32 of Indiana's 92 counties were not attempted.

Trained and supervised interviewers then attempted to call all 17,777 numbers, up to 15 times. Some of the interviewers were Spanish-speakers. Once an adult responsible for running the household was on the phone and the interviewer had explained the purpose of the survey, the interviewer inquired as to the number of people living in the household. The interviewer then quickly determined 125% of FPL and 200% of FPL for a household of that size, and asked whether the household's income last year was below 200% of FPL. If the response was affirmative, the interviewer then asked whether the income was less than 125% of FPL. If the income was not less than 200% of FPL, the interviewer thanked the person, terminated the interview, and recorded the household as ineligible. If the income was below 200% of FPL, then the interviewer proceeded to conduct the interview, starting by recording whether the income was also below 125% of FPL.

Interviews, which lasted on average 15.18 minutes each, included a series of detailed questions about problems that people in the household had experienced that might indicate a need for legal assistance. The questions were grouped into the following categories: utilities, debt/consumer finance, health care, government benefits, housing, family/marriage, children/education, and language/immigration. (There is inevitably some overlap between categories; for example, foreclosures are both a consumer finance issue and a housing issue.) The questions were limited to specified time periods; most questions asked whether the problem had occurred within the last year, while others used a five-year timeframe. Respondents were also asked questions about their awareness of free legal service programs in Indiana and their household's use of legal services, and demographic information was obtained.

Of the 17,777 numbers, 8,935 were determined to be ineligible (income too high, non-working telephone number, etc.). Three thousand, six hundred and two (3,602) of those households that were determined to be eligible refused or were unable to do a complete interview. One thousand, two hundred fourteen (1,214)

Graph 1: Telephone Survey Respondents Reporting a Legal Problem by Problem Type



households that were determined to be eligible completed interviews; eleven of those interviews were not used because they were considered unreliable. Three thousand, eight hundred fifty-eight (3,858) households were “of undetermined eligibility.” In computing response rates and other figures, a percentage of the households of undetermined eligibility were treated as eligible. This percentage was calculated in a manner designed to produce a reasonable estimate of the number of households of unknown eligibility that were likely eligible, based on the information gathered from households whose eligibility was actually determined.¹⁷

The response rate of the survey was approximately 19.7%, which means that about 19.7% of eligible households from the purchased phone numbers completed an interview.¹⁸ The cooperation rate¹⁹ was approximately 26%. The refusal rate²⁰ was approximately 55.9%. The contact rate²¹ was approximately 78.1%. The sample was chosen in such a way that the error would not exceed +/-2.8% when using the entire sample.

The majority (71%) of respondents were female. About two-thirds of respondents (66%) were white, almost one fourth (about 24%) were African American, and the remaining almost 10% were of other ethnici-

ties. In terms of age, almost one fourth (about 24.5%) of respondents were over 65, about one third (33%) were between 45 and 64 years of age, more than one third (about 37%) were between 25 and 44 years of age, and fewer than 6% were under 25 years of age. In terms of income, the respondents were divided about equally between those under 125% of FPL and those between 125% and 200% of FPL. About 41% of respondents had children under eighteen.

There were no dramatic differences in gender or race by poverty level, but there were age differences across the two levels of poverty: the respondents with the lowest incomes (under 125% of FPL) tended to be younger than those between 125% and 200% of FPL.

b. Overall Responses (All Respondents)

About 78% of all respondents reported experiencing at least one problem that might indicate the need for legal assistance. Graph 1, on the previous page, shows for each problem category, the percentage of respondents that reported experiencing at least one problem in that category.

Utilities

Approximately 53% of all respondents reported experiencing at least one problem involving utilities. Most of the reported problems involved the respondent's inability to pay the utility bills (41.5%) or the utility deposit (18.5%). Almost 18% of respondents reported having a dispute over a utility charge, and almost 16% reported having had their utility service turned off in the past year.

Consumer Finance/Debt

Approximately 49% of respondents reported

at least one problem with debt. Approximately 37% reported being threatened or harassed by bill collectors and 14.6% reported contacting of their friends, family or employer concerning their debts. About 18% stated that they had considered or declared bankruptcy, and 11% reported denial of credit due to false information on a credit report. Other reported problems included having to appear multiple times in court for the same bill, having wages withheld, problems with used car dealers, and repossession of a car or other property.

One interview question specifically asked respondents about predatory lending. "Predatory lending" was described as "a deceptive lending practice in which lenders loan money using terms that are nearly impossible for the purchaser to successfully repay . . . [but present the terms as reasonable.] . . . [which] can be for home mortgages, payday loans, overdraft loans and even some types of credit cards." Based on that description, approximately one-third of the respondents felt that they had been the victim of predatory lending in the past five years.

Health

About 43% of respondents reported having a problem with medical care. Twenty-seven and one-tenth percent (27.1%) said that they had refrained from going to the doctor due to the cost, and 22% reported inability to obtain a prescribed medication. Other problems identified included refusal of insurance to cover treatment (9%), denial of admittance to a hospital (4.5%), and denial of admittance to a nursing home (0.2%).

Those respondents who reported having received Medicaid in the last year were asked

additional questions about Medicaid.

Twenty percent (20%) of them said that they had been unable to get medical care at some time in the past year due to Medicaid's refusal to cover a service, and 10.6% cited inability to get medical care because no local doctors accepted Medicaid.

Those respondents who reported having received Medicare or Medicaid in the last year were asked about any problems with discrimination or quality of care provided. The questions were broken down by type of care: hospital care, doctor's services, home health care, nursing home care, mental health services, dental services, and other. The most frequently reported specific problem area was dental services (6.5%).

Public Entitlements (Benefits)

Approximately 35% of respondents reported at least one problem with benefits. Respondents were asked about any problems they or members of their household may have had trying to get specific benefits or services from government agencies. The top three reported problem areas were Food Stamps (14.9% of respondents), Medicare (14.7%), and Social Security or SSI (11.3%). About 7% of respondents reported problems getting Worker's Compensation, 6.5% reported problems getting Medicaid, 5.8% Poor Relief/Township Trustee assistance, and 5.2% TANF. Each of the remaining benefit areas was identified as a problem area by three percent or fewer of respondents.

When asked what kind of benefit problems they had had, many respondents cited long waits to obtain benefits, difficulties meeting the documentation requirements, agencies losing their documentation, having to visit

the same office many times, and difficulty contacting a person at an agency. Many respondents said that their Medicaid, Food Stamps, and Medicare had been terminated repeatedly, for reasons that they didn't understand, resulting in long waits before the benefits were reinstated.

Many respondents reported that making slightly too much money, even on an episodic basis, caused them to be denied benefits or to lose benefits. A couple of respondents reported that being self-employed had caused eligibility problems. A number of respondents felt that they had been wrongfully denied SSI. Some respondents reported being denied benefits because they or someone in their household had a criminal record.

Asked about benefits received during the past year, about 41% of respondents said that their households had received Medicaid, and about 36% Food Stamps. Almost 35% reported receiving Medicare; the figure for TANF was almost 7%.

Many respondents stated that they had been required to participate in a job training or job search program as part of the TANF or Food Stamps program. Some of them reported that they had not received assistance needed to complete the job training or job search program. About fifteen percent (15.1%) stated that they had not received needed transportation, and 10.3% reported not getting needed childcare assistance. Almost 14% said that they needed but had not received education or training. About 17% of respondents who reported having received TANF or Food Stamps said that the benefit had been terminated or lowered due to the time limit.

Housing

Approximately 24% of respondents reported at least one problem with housing. About 47% of respondents reported having rented a place of residence in the past year, and about 50% reported owning a place of residence in the last year. Thirteen and a half percent (13.5%) of all respondents reported having trouble finding or keeping housing in the past year. Many of the cited problems involved poor credit, lack of money, the condition of the home, or some type of discrimination.

Of those respondents who reported renting, 13% reported having a dispute with the landlord or someone living in the building, and about 19% reported experiencing unsafe or unhealthy living conditions. Reported disputes with landlords often involved either the condition of the home, failure to pay rent, or both (tenant withholds rent because of poor condition of home, resulting in legal action by landlord). About one-third of those respondents who said that they had experienced unsafe or unhealthy living conditions said they had reported the problem(s) to a government agency; of those respondents, fewer than half said the agency had helped. Unsafe or unhealthy conditions identified by respondents included electrical problems, leaks and mold, holes in floors, icy steps, poor outdoor lighting, gas leaks, termites, and roaches, among other things.

Slightly more than 9% of respondents felt that they had been treated unfairly or discriminated against because of race, gender, or some other characteristic when attempting to buy or rent a residence. The type of discrimination identified by the most respondents was racial or ethnic (around 33%). A

number of respondents alleged discrimination based on disability or the presence of children in the household, particularly in single-parent households. Many respondents felt that landlords do not want to rent to low-income people. Over 80% of those respondents who reported the discrimination to a government agency said that they received no assistance from the agency.

Approximately 17% of respondents reported that they had tried to buy real estate in the past five years. Asked whether they had experienced specific legal difficulties when attempting to buy real estate, approximately 30% reported experiencing a property tax problem, 24% percent reported a dispute with the lender, 20.4% reported experiencing deception by the lender with unfair mortgage or sales terms, and almost 18% reported experiencing foreclosure or the threat of foreclosure. Other reported problems included problems due to credit history, disputes with seller over condition of property and problems with title insurance.

About one-tenth of the respondents reported living in a mobile home in the past year. The most frequently reported mobile home-related problem was unreasonable increase in monthly fees or rents: 25% of these respondents reported experiencing an unreasonable fee or rate increase. The next most frequently cited problem was unreasonable rules or restrictions (18.6%). The cost of, or access to, utilities was identified as a problem by approximately 13% of those who had lived in a mobile home in the past year. Other problems reported by more than ten percent of these respondents included exclusion of older mobile homes and storm damage.

Of those respondents who reported living in or having tried to live in Section 8 housing, over one-half (56.5%) said they had been put on a long waiting list. About 17% reported having their housing subsidy end, 12% reported being turned down due to their credit history, 11.6% reported not having been allowed to apply, and about 5% reported being turned down due to criminal history.

Family Law

Approximately 20% of respondents reported at least one family law problem. The most frequently reported family law problems involved children. Not receiving child support and parenting time (visitation) disputes were the most frequently reported family law issues associated with children. Of the 488 respondents who had children under eighteen, 132 (about 27%) reported not receiving child support and 39 (about 8%) reported a parenting time dispute. Guardianship of a child (7.2%), custody disputes (4.7%), inability to pay child support (6.2%), threat of removal of child by welfare department (2.7%), adoption of a child (1.6%), and child abuse (0.4%) were also reported. Over four percent (4.4 %) of respondents had gotten divorced during the past year, and 2.8% of respondents reported experiencing domestic violence or abuse within the past year.

Of the 132 respondents who reported not receiving child support in full, 107 (over 80%) reported that the person owing the child support was not in jail and 63 (almost 48%) reported problems getting the state or county to help collect child support. Nine percent (9%) of respondents who reported inability to pay child support they were obligated to pay reported being threatened with jail.

Slightly over three percent (3.3%) of respondents reported having needed legal help with making or changing a will in the past year. Almost three percent (2.8%) reported having needed help with executing a living will or power of attorney in the past year.

Children and Education

Approximately 15% of respondents with children under eighteen reported at least one problem involving children and schools. Respondents with children under eighteen were interviewed about issues involving a child's education. The most commonly reported problems were suspension of a child (14.4%), inadequate resources (10.2%), unfair school policies (9.9%), quality of education (9.1%), and difficulty getting special education (8%).

Language/Immigration

The reported incidence of language and immigration problems among survey respondents as a whole was low. (Approximately 3% of all survey respondents reported at least one problem with language or immigration status.) Some people who may have problems involving language were unable to participate in the survey, likely because they spoke only a language other than English or Spanish.²² An additional 28 people were in the queue but never completed the survey because they and a Spanish-speaking interviewer were never available at the same time. As discussed in Sections V.B.5. and V.G. later, due to various challenges and despite diligent efforts, people with language and immigration-related problems may have been under-represented in the survey, with the result that the actual extent of their need for legal assistance may be greater than indicated

by the survey results.

Slightly less than ten percent (9.6%) of respondents reported that someone in their household usually speaks a language other than English. Most often, the language was Spanish. However, respondents identified many other languages, including but not limited to German, Italian, French, several Slavic or Eastern-European languages, Swahili, Sign Language, several Asian languages, a Nigerian language, and Cherokee. Nine and a half percent (9.5%) of these respondents stated that someone in their household had problems defending their rights because of difficulty with English, 7.8% reported difficulty with government agencies, and 8.6% reported not being allowed to speak their native language. In the category of immigration-related problems, lack of valid identification such as a driver's license or social security number was cited as a problem by a number of respondents.

Nine respondents reported that someone in their household had experienced legal problems because of immigrant status. To make a reliable estimate of the extent of status-related legal problems in the immigrant community, it would be necessary to know how many respondent households in the survey included at least one immigrant and to survey a sufficiently large number of such households. It is unclear exactly how many respondent households included at least one immigrant. While it is likely that the subgroup of respondents with a primarily non-English speaker in the household (of which there were 116) overlaps with this group to a large extent, it is not reasonable to assume that the groups are identical. Six (two-thirds) of those nine respondents said that the person

was unable to get help with their legal problem.

Employment

Twenty one and four-tenths percent (21.4%) of respondents reported that they or someone in their household had had problems finding or keeping employment in the last year. Forty five and eight-tenths percent (45.8%) of respondents stated that nobody in their household was employed. The fact that fewer respondents reported problems finding or keeping employment than reported that no one in their household was employed indicates that in some households no one was seeking employment. This is not surprising, given that almost one-fourth of respondents were over sixty-five. Both retirement and disability are possible reasons for not seeking employment.

Respondents who reported problems finding or keeping employment were asked an open-ended question about what problems had been encountered. While some of the responses are difficult to characterize, at least 17 appear to identify potential discrimination based on race, age, sexual orientation or other immutable characteristic. A number of responses identify injuries or disabilities as an impediment to obtaining or keeping employment.

Twenty-two respondents (1.8%) reported having been employed as a farm worker within the last two years. The small size of this sample subgroup calls into question the likelihood that these respondents are representative of farm workers in Indiana. Three of those 22 respondents (13.6%) reported poor working conditions and three (13.6%) reported being shorted on hours worked.

The following problems were reported by two (9.1%) of the 22 respondents: not getting promised wages, denial of healthcare, and unreasonable rules or restrictions related to employment or housing. One respondent reported unsafe or inadequate housing. Of the 16 respondents in this subgroup who had children, two (12.5%) reported problems with schooling or Headstart for children.

Awareness of Free Legal Services and Use of Legal Services

About 60% of respondents stated that they were not aware of free legal services programs in Indiana. About twenty percent of respondents reported having applied for free legal services in Indiana. Of those respondents who reported applying, almost all of them (96.3%) said they had applied to legal aid or a legal services office. Approximately 29% of those respondents reported applying to a pro bono office. (Some respondents had

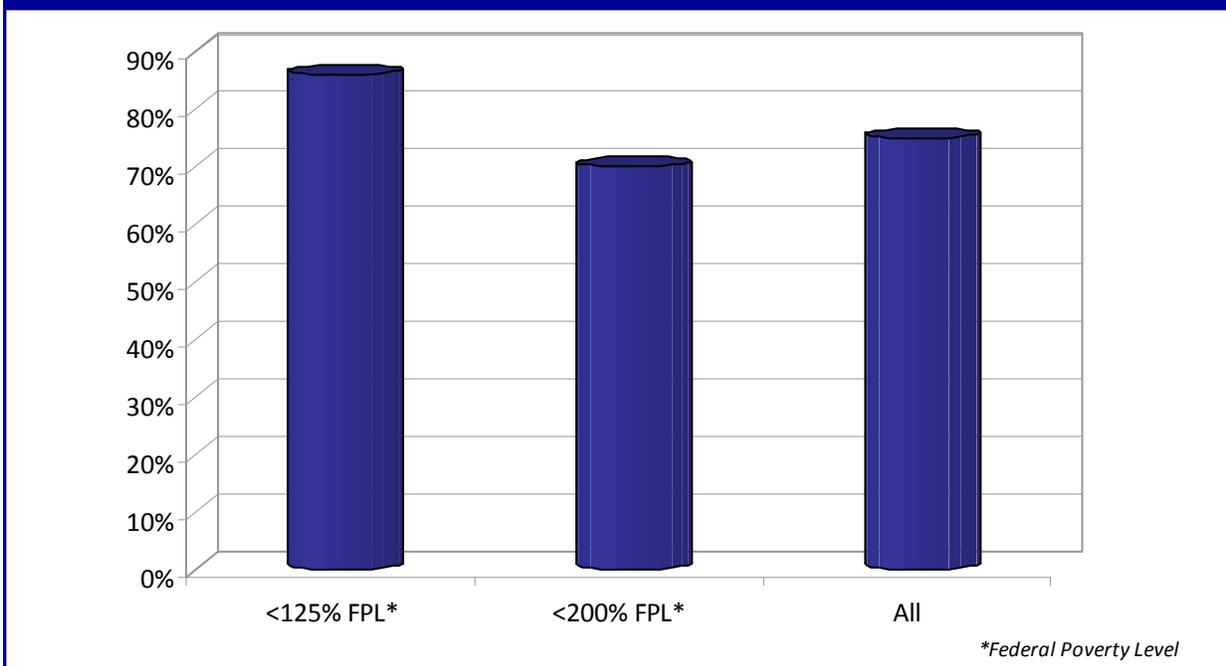
applied to more than one free legal service provider.) Approximately 17% said they had applied to a public defender office.

Almost 16% of respondents said that someone in their household had needed legal help for a problem other than being accused of a crime, but had not been able to get help. Among follow-up responses, the area in which respondents most often cited inability to obtain help was, by far, family law. The next two most frequently identified areas were consumer finance/bankruptcy and benefits (public entitlements). Several respondents identified medical malpractice as an area in which they had needed legal help.

c. Responses by Poverty Category

Not surprisingly, legal problems were more frequently reported among the poorer respondents. Eighty-six percent (86%) of respondents with incomes below 125% of FPL re-

Graph 2: Telephone Survey Respondents Reporting a Legal Problem by Poverty Level and Overall



ported at least one problem indicating a need for legal assistance, whereas 70% of respondents with incomes between 125% and 200% of FPL reported at least one such problem. Graph 2,²³ on the previous page, shows the rates of reporting a legal problem by poverty level and overall.

For every category of legal problem analyzed in the survey (except language/immigration, for which there is very little data), respondents with incomes below 125% of FPL were more likely to report at least one problem than respondents with incomes between 125% and 200% of FPL. The differences are particularly large in the categories of utilities, debt/consumer finance, healthcare, and benefits, indicating a cluster of inter-related problems for low-income families.

In addition to the comparison by problem category, the SRC compared the reported incidence of specific problems within the categories. Most problems were reported more frequently by respondents with incomes below 125% of FPL than by respondents with incomes between 125% and 200% of FPL. In particular, those under 125% of FPL reported not receiving child support, suspension of a child from school, unfair school policies, and problems with access to school records significantly more often than those between 125% and 200% of FPL.

Notable exceptions to the trend of poorer respondents reporting more problems included having property tax problems, foreclosure or the threat of foreclosure, having a housing subsidy end, not being allowed to apply for Section 8 housing, being turned down for Section 8 housing due to criminal history or credit history, and perceiving a child's school as dangerous.

d. Responses by Geographic Categories

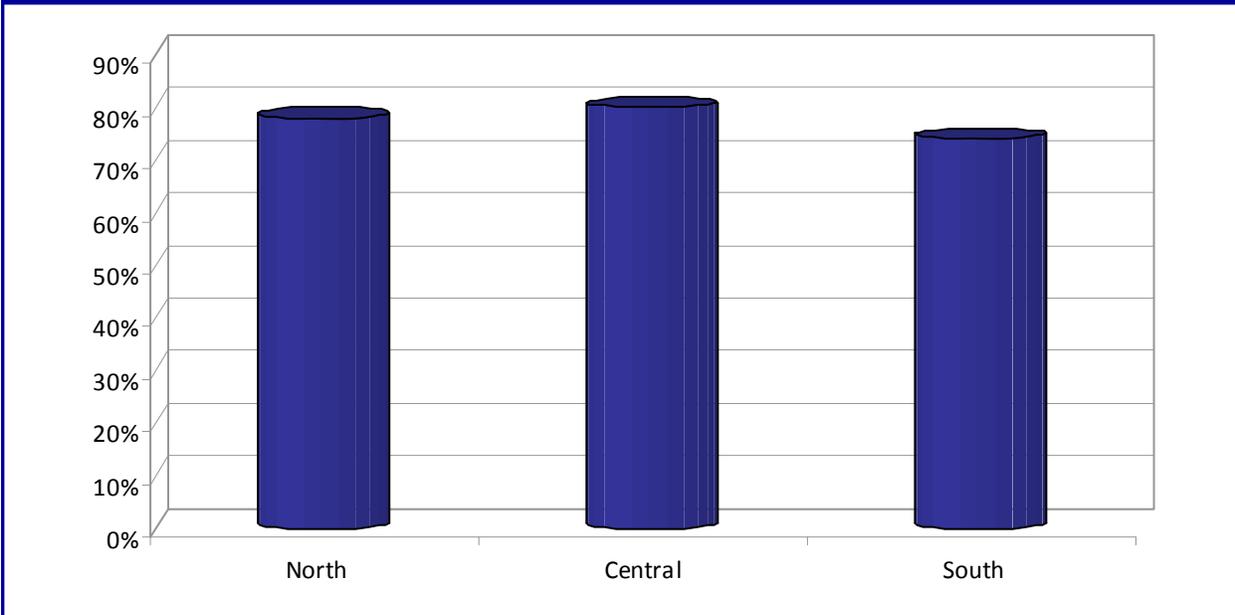
SRC analyzed the data for geographic differences in legal needs of the poor. Comparisons were made among the eight districts of ILS; among the North, Central, and Southern parts of the state; and among the four major metropolitan areas of the state (and the judicial districts containing these metropolitan areas). Graph 3, on the next page, demonstrates the regional differences in rates of reporting a legal problem.

The Central and North regions each made up about 40 percent of the final sample, while only about 20 percent of the sample was drawn from the South region. The respondents drawn from the North and Central regions tended to be somewhat poorer on average than those drawn from the South: 54% of the respondents from the South had incomes between 125% and 200% of FPL, whereas the portions of the sample drawn from the North and Central regions were closer to evenly split between the two poverty levels.

Overall, legal problems in general were somewhat more prevalent among respondents from the North and Central regions, as compared to the South (78% and 80% as compared to 74%). However, there is a pocket of a high incidence of reported legal problems in the portion of Judicial District 13 that surrounds Evansville (93.8%). Moreover, some types of legal problems were more prevalent in the Southern part of the state.

Respondents in the North and Central regions were more likely to report debt-related problems than respondents in the Southern region (49% and 52% compared to 41%).

Graph 3: Telephone Survey Respondents Reporting a Legal Problem by Region



Respondents in the North and Central regions were also more likely to report problems with utilities (54% in the North and 55% in the Central region compared to 48% in the South). Rates of reporting problems with utilities were particularly high in the Gary metropolitan area (62%), the area of Judicial District 8 outside of Indianapolis (60%), and the Gary ILS district (59%).

Respondents in the North and Central regions were also more likely to report problems with benefits (36% in the North and 37% in the Central region, compared to 30% in the South). The large difference in rates between the Bloomington ILS district (24%) as compared to the Gary and South Bend districts (39%) contributed to the regional differences.

Housing problems were more prevalent in the South than in the North and Central regions. Twenty-seven percent (27%) of respondents in the South reported legal prob-

lems with housing; in the North the rate was 22%, and in the Central region the rate was 24%. The rate in the Evansville metropolitan area was 32%; in the surrounding portion of Judicial District 13, it was 38%. The rate for the Evansville ILS district was 33%, the highest of all ILS districts.

Family law problems were most frequently reported in the South region (23%), and least frequently reported in the North region (18%). However, the Lafayette ILS district had the highest rate of reported family law problems of all ILS districts (27%). The Evansville ILS district had a reported rate of 26%, and 31% of the respondents residing in Judicial District 13 outside Evansville reported family law problems.

There were no significant differences among the three regions of the state in reported rates of problems with education of children. All three regions had rates very close to 15%, the reported rate for the state as a whole. How-

ever, there were significant differences between some ILS districts: only 10% of respondents residing in the Bloomington and Lafayette ILS districts reported a problem involving education, while 20% of respondents in the Gary ILS district and 18% of the respondents in the Evansville ILS district reported problems. The reported rate of educational problems in the Indianapolis metropolitan area was also high (18%).

The number of respondents reporting issues related to language or immigration was so low that meaningful geographic comparisons are not possible.

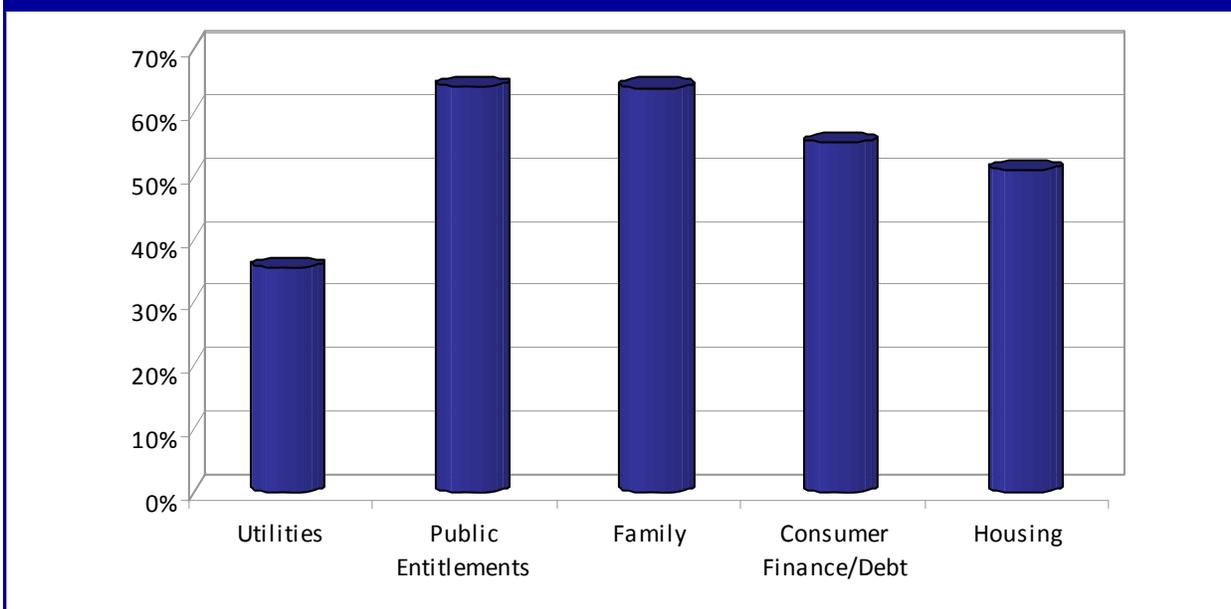
Respondents in the Central and South regions were somewhat more likely to report legal problems with healthcare than those in the North (45% each in Central and South region compared to 41% in the North). Rates of such problems were comparatively low in the South Bend (36%) and Bloomington (39%) ILS Districts and high in the Evansville (54%) and Fort Wayne (50%) districts.

2. Responses from ILS Client Questionnaire

ILS developed a questionnaire for its clients and other people likely to be income-eligible for ILS services. ILS staff throughout the state gave the questionnaire to existing clients and individuals seeking services, and distributed copies to social service providers to give to people likely to be income-eligible for ILS services. ILS received 369 questionnaires, which were filled out between March 26, 2008 and May 5, 2008. The average age of the respondents was about 44 years, and about 68% of the respondents were female. About 73% of respondents provided income information. The vast majority of the respondents that provided income information had incomes under 200% of FPL for the size of their households.

Graph 4, below, shows, for five problem categories, the percentage of respondents that reported experiencing at least one problem in that category.

Graph 4: ILS Questionnaire Respondents Reporting Problems by Category



Housing

Fifty-one percent of respondents reported at least one problem involving housing. Respondents were initially asked, “[h]ave you ever rented or owned a home?” Response choices were “rent,” “own,” and “no.” (We assume that respondents who had both owned and rented chose the response representing their current living situation.) About 14.6% of respondents reported neither renting nor owning a home. Based on the responses, it appears that about 61% of respondents were renting at the time of the survey, and about 21.7% owned a home.

Respondents were asked about problems they may have had when renting a residence. The top reported problem was unsafe or unhealthy living conditions: 47 of the 225 respondents who said they had rented (20.9%) reported having experienced unsafe or unhealthy living conditions. Approximately 19% reported having had a dispute with a landlord. Sixteen and four tenths percent (16.4%) reported having experienced an eviction or termination.

Respondents were asked about problems they may have had when purchasing or owning their homes. The most frequently reported problem was foreclosure or threat of foreclosure: about 36.3% of respondents who said they had owned a home said they had experienced foreclosure or the threat of foreclosure. About 15% of respondents who said they had owned a home identified a property tax problem. Disputes with sellers over the condition of the property, disputes with lenders, and deception by lenders with unfair terms were each reported by between 5% and 10% of respondents who said they had owned a home. Discrimination was rarely reported.

Ninety-four (about one-fourth) of all survey respondents said they had lived in a mobile home. These respondents were asked whether they had experienced eight specific problems with their mobile home. The top four problems, listed in decreasing order of reporting, were: unreasonable rules or restrictions (20%), unreasonable increases in monthly fees or rent (18%), change in ownership of park (13.8%), and the cost of, or access to, utilities (12.8%).

One hundred and four respondents reported having applied for, or lived in, Section 8 or other subsidized housing. Forty-four of these 104 respondents (42.3%) stated that they had been placed on a waiting list. The reported incidence of other problems was much lower. Thirteen and a half percent (13.5%) of these respondents reported having been turned down due to credit history, 7.7% reported that their subsidy had ended, and other problems were reported by fewer than 5% of respondents who had applied for, or lived in, subsidized housing.

Utilities

Approximately 35.5% of respondents reported at least one problem involving utilities. The three most frequently reported problems with utilities were inability to pay utility bills (29.8%), disconnection of utility service (18.2%), and inability to pay utility deposits (14.9%). Almost 9% of respondents identified a dispute over utility charges as a problem.

Consumer Finance/Debt

Overall, 55.3% of respondents reported at least one problem with debt/consumer finance. (If foreclosure or the threat of foreclosure is considered a debt/consumer fi-

nance problem, the figure increases to 59%.) Thirty-nine percent (39%) of respondents reported harassment by bill collectors, and 19.5% reported that their friends, family or employer had been harassed (concerning respondent household's debts). Thirty one and four-tenths percent (31.4%) of respondents said they had considered or filed bankruptcy. Fourteen and nine-tenths percent (14.9%) of respondents reported denial of credit because of erroneous information on a credit report. Slightly more than 13% of respondents reported having had a car or other property repossessed, and 11.4% reported having had wages garnished. Each of the following problems was reported by between 5% and 7% of respondents: problems with used car dealers, repeated court attendance due to the same debt, identity theft, and purchase of a lemon car.

Ten and eight-tenths percent (10.8%) of respondents reported having experienced a problem with taxes, 8.1% with auto insurance, and 4.6% with life insurance.

Employment

When asked whether anyone in the household had experienced problems finding or keeping employment in the past year, 34.1% of respondents answered "yes"; 54.5% answered "no"; and 11.4% of respondents declined to answer. (In a later portion of the questionnaire collecting demographic information, about 43% of respondents indicated that someone in their household was employed, 49% indicated that no one in the household was employed, and the remaining 8% did not respond.) Those answering in the affirmative were asked to identify the problem(s) encountered in finding or keeping em-

ployment. The most frequently identified problem was poor health or disability (including injuries, substance abuse, and mental health problems). Almost 20% of the respondents who said that someone in the household had problems finding or keeping employment identified a medical problem as one of the causes. Many respondents cited layoffs, sale or closure of the company, or the slow job market. About 8% identified lack of transportation as a factor, and about 7% identified childcare issues. Almost 6% of these respondents mentioned a criminal record, and about 5% cited inadequate training, education, or skills.

Eighteen respondents reported that they or someone in their household had been employed as a farm worker. The most frequently cited problems related to employment as a farm worker were denial of health care (6 out of 18, or 33.3%) and unreasonable rules or restrictions related to employment or housing (also 33.3%). The following problems were reported by 2 of the 18 respondents (11.1%): poor working conditions, being shorted on wages or piece work, being shorted on hours worked, and unsafe or inadequate housing. Because so few respondents had experience with employment as a farm worker, this data cannot be considered necessarily representative of farm workers statewide.

Health

Respondents were asked about nine specific problems in accessing medical services. The most widely reported problems were inability to afford prescribed medication (35.2%), inability to afford a doctor or hospital (33.1%), and using the emergency room due to a lack of money or insurance (27.1%).

Inability to obtain medical care due to Medicaid's refusal to cover the service was also frequently reported; 18.7% of all survey respondents reported having this problem, and since it is likely that not all survey respondents had Medicaid, the true incidence of this problem (the percentage of respondents on Medicaid having the problem) would likely have been higher than 18.7%. Six and a half percent (6.5%) of all survey respondents cited an inability to get medical care because they could not find a doctor who accepted Medicaid; again, the true incidence of this problem is likely higher.

Survey respondents were asked whether they or anyone in their household had had problems with discrimination or the quality of care in receiving various types of services paid for by Medicaid or Medicare. Thirty-five respondents (9.5% of all survey respondents) reported such problems in receiving doctor's services, and 35 respondents (9.5% of all survey respondents) cited problems with dental services. After doctor's services and dental services, the Medicaid or Medicare-paid services with which the largest numbers of respondents reported problems were hospital care (5.4% of all survey respondents) and mental health services (4.6% of all survey respondents). Again, the percentages given above are percentages of the entire number of survey respondents (not just those who have sought or obtained Medicare or Medicaid); therefore, the rates of these problems are probably higher than the rates given above.

Public Entitlements

Problems involving public entitlements were frequently reported. An examination of the

responses to the medical benefit-related questions discussed in the Health section previously, together with the responses to questions involving benefits discussed in this section, reveals that 64.2% of all respondents reported at least one problem involving public entitlements.

All respondents were asked whether they or anyone in their household had had problems trying to get any of eleven listed governmental benefits. The top four responses were Social Security Disability (23.8%), Food Stamps (21.7%), Medicaid (20.9%), and Poor Relief or Township Trustee Assistance (14.9%). Because we don't know how many respondents applied for which benefits, the calculated rates of reporting are percentages of 369, the total number of survey respondents; thus, the actual rates are probably higher than the calculated rates. The following benefits had calculated problem rates between 7% and 9%: TANF (8.7%), unemployment benefits (8.4%), Medicare (8.1%), and other Social Security benefits (7.0%).

Respondents were asked several questions about experience they may have had with a job training/job search component in the TANF or Food Stamp program. Fifty-six out of 300 people responding to the question (18.7%) said that they had been required to participate in a job training or job search program as a condition of receiving TANF or Food Stamps. Respondents were then asked whether, as a part of their TANF job training or job search program, they had received transportation assistance, childcare assistance, or other assistance. Seventeen respondents (30.4% of those who said they had been required to participate in a job training or job search program) reported having re-

ceived childcare assistance, and seven respondents reported having received transportation assistance. Individual responses from about seven other individuals appear to indicate that they wanted, but did not receive, assistance.

Fifteen respondents (26.8% of those who had been required to participate in such a program) stated that they had lost TANF benefits or Food Stamps for failing to participate in a training or job search program. Thirty-nine respondents stated that their TANF benefits or Food Stamps had been lowered or stopped because they had reached their time limit.

One hundred thirty-one respondents reported that they had, at some time, applied for Worker's Compensation or unemployment insurance. Fifty-three of these respondents (40.5%) reported problems being awarded or collecting Worker's Compensation or unemployment insurance.

Family Law

Family law problems were very prevalent among the survey group: 64% of all respondents reported at least one family-related problem. The questionnaire asked about the occurrence of 14 specific family law issues. The six most frequently reported issues were divorce (37.4%), child support (30.1%), spousal abuse or violence (25.7%), protective order (17.9%), custody dispute (17.6%), and parenting time/visitation dispute (15.2%).

Some respondents with children answered questions about estate planning and living wills. Twenty-nine respondents reported having needed legal help with making or changing a will and twenty-six respondents

with executing a living will or power of attorney.

Children/Education

The most frequently reported problems with children's education were suspension of a child (7.6% of all survey respondents), obtaining special education services (7.0% of all survey respondents), excessive punishment of a child (4.9% of all survey respondents), and unfair policies (4.1% of all survey respondents). Because some survey respondents may not ever have had children in their household, these rates may understate the incidence of these problems among survey respondents who have had children.

Legal Problems Associated with Incarceration

Eighty-three (83) respondents reported having a history of incarceration. When asked whether they had needed a lawyer in a civil case while incarcerated, twelve (14.5%) reported child support issues, eight (9.6%) reported divorce issues, six (7.2%) reported child custody issues, and five (6.02%) reported child visitation (parenting time) issues.

Fewer than half of respondents who had been incarcerated answered a question about legal issues faced upon re-entry to society. However, about one-fourth of the 38 responses received described some type of domestic relations or domestic violence problem. A number of respondents reported having experienced financial problems upon re-entry (lack of money, lack of job, inability to pay probation fees, court costs, or insurance). A couple of respondents mentioned difficulty finding housing and getting a driver's license.

Language and Immigration

Twenty-nine respondents reported that they or someone in their household usually speaks a language other than English. Most of those who answered the follow-up question identified the language as Spanish; however, Arabic, French, Cambodian, Urdu, Chinese, Bulgarian, Russian, Swahili and Sign Language were also given as answers. When respondents were asked about problems with LEP experienced by household members, the most frequently reported problem was failing to understand legal forms (4 respondents, or 13.8% of the group of 29).²⁴

When asked whether anyone in their household had any legal problems due to immigrant status, 4 respondents answered “yes,” 29 responded “no,” and the remaining 336 didn’t respond. To find the rate of immigration status-related legal problems among respondents for whom these types of problems are possible, we would divide the number of affirmative responses by the number of respondents who are non-citizens or live in a household with a non-citizen. Because we do not have this information, the best we can do is to calculate the rate of immigration status-related legal problems among all survey respondents and understand that it will be much lower than the actual rate in the relevant subgroup. Four respondents is about 1.1% of all survey respondents.

Awareness of Free Legal Services and Use of Legal Services

Over 31% of respondents stated that they were not aware of the free legal services programs in Indiana. Over half of all respondents indicated that they had actually applied for free legal services at some time; of this

group, the vast majority had applied to a legal aid or legal services office.

B. LEGAL NEEDS OF THE POOR FROM THE PERSPECTIVE OF JUDGES AND CLERKS – RESPONSES FROM JUDGES AND CLERKS OF COURT SURVEY (ISBA)²⁵

The survey directed to judges and clerks of court was administered in March 2008 as part of Phase II of the Study.²⁶ Judges and clerks across Indiana were given approximately two weeks to respond online.

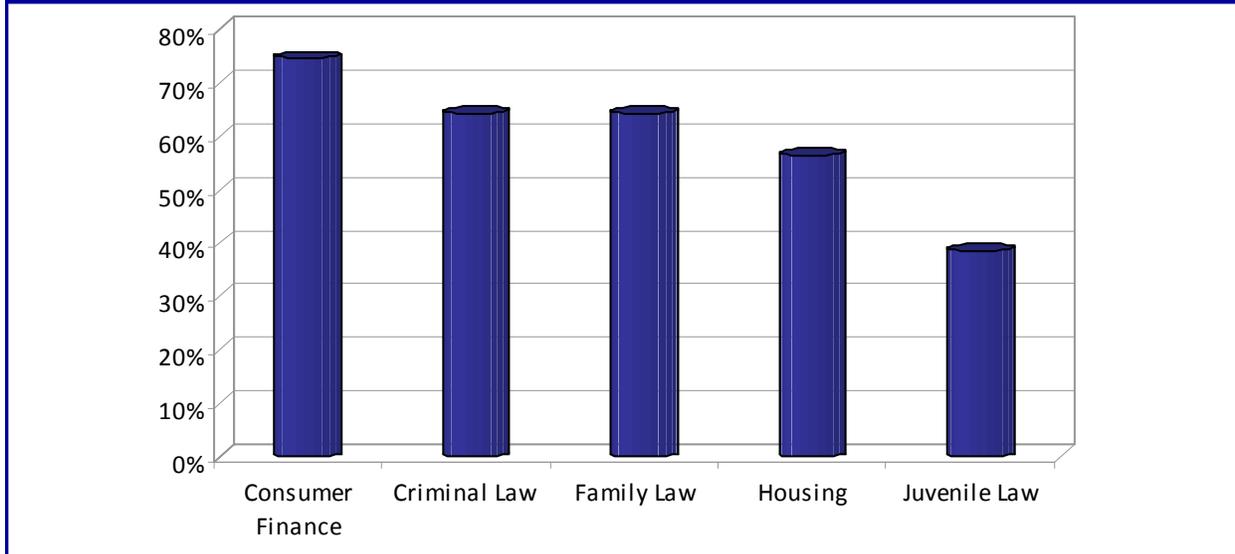
This survey elicited 49 responses. Judges and clerks were first asked to estimate the number of low-income clients proceeding pro se in various subject areas. They reported the highest percentages of litigants proceeding pro se in the areas of protective orders, small claims, and consumer finance or collections cases. The fewest pro se litigants were observed in the areas of personal injury, business law, termination of parental rights, criminal law, employment, and estate planning.

Judges and clerks identified consumer finance as the most troublesome area for low-income citizens in Indiana. Criminal law, family law, housing, and juvenile issues followed as the most problematic issues. See Graph 5 on the next page.

Consumer Finance

As noted, judges and clerks identified consumer finance as the biggest problem for low-income individuals in Indiana. Within this area, respondents identified bankruptcy and credit card debt as the biggest problems, followed by debt collection and predatory lending. One judge stated,

Graph 5: Judges' and Clerks' Most Significant Problems for Low-Income Citizens



“Litigants unrepresented by counsel in cases such as these are unlikely to know of violations of Fair Debt Collection Act, to know of the ability to settle for less than face value of debt, and are the most likely to suffer from predatory lending practices and buy-here-pay-here car lots’ practice of open titling.”

These kinds of observations underscore the importance of counsel for low-income persons.

Criminal Law

Respondents ranked criminal law issues as one of the two second biggest problems for low-income individuals in Indiana. Sixty-four and one-tenth percent (64.1%) of judges and clerks rated criminal law as among the top five problems facing the low-income population. Judges and clerks, like attorneys, identify substance abuse as a major problem within criminal law. Many judges and clerks believe that the presence of public defenders has mitigated legal problems in the area of criminal law.

Education

Twenty and five-tenths percent (20.5%) of judges and clerks ranked education as one of the top five problems facing the low-income population of Indiana. Expulsion and suspension were the two issues that judges and clerks believed were the most important. (By contrast, attorneys identified special education as the most important issue.) Some judges and clerks noted they had not encountered any education-related cases in their court.

Employment

Thirty-five and nine-tenths percent (35.9%) of judges and clerks surveyed ranked employment as among the top five problems facing the low-income population of Indiana. Judges and clerks identified wrongful termination as the biggest employment-related problem.

Family Law

Judges and clerks in Indiana believe that family law issues are the second biggest civil

legal problem for low-income individuals in Indiana. Sixty-four and one-tenth percent (64.1%) of respondents ranked family law issues as a major problem for the low-income population. Within family law, judges and clerks identified dissolution, custody, paternity, lack of knowledge, and litigation expenses (custodial evaluations, mental health evaluations, guardians ad litem, etc.) as major problems.

One respondent described the negative effect that lack of knowledge can have on a family law proceeding:

“We have a fairly heavy pro se case load in family law. Litigants can’t afford counsel or think they can ‘do it themselves.’ It does lead to difficulty in explaining to parties how the procedures are supposed to work. It also leads the judge to question how far we can go without violating the ethical rule against advising litigants about the law. Often parties have more contested hearings because they don’t have attorneys advising them as to how situations should be resolved.”

Health Law

Thirty-five and nine-tenths percent (35.9%) of judges and clerks identified health care as among the top five legal issues for low-income clients. Many of the judge and clerk respondents had not observed problems with health care law in their courts or said this category was not applicable to the low-income population of Indiana.

Housing

Forty-three and six-tenths percent (43.6%) of judges and clerks ranked housing among the top five legal issues, as compared to 68.7%

of attorneys. Within the area of housing, judges and clerks identified mortgage foreclosures and landlord evictions as the two primary problems.

Public Entitlements

Likely reflecting jurisdictional issues, very few judges and clerks responding to the survey had any experience with public entitlements, and most were unaware of the problems in this area.

Fastest-Growing Problem Areas

Judges and clerks identified the fastest-growing problem areas as consumer finance, family law, and criminal law.

Importance and Efficacy of Particular Types of Assistance

Judges and clerks asked about the effectiveness of legal service delivery techniques for low-income litigants ranked direct representation by pro bono service provider staff attorneys as the most effective pro bono legal service, followed by direct representation by a pro bono attorney, and full representation by attorneys at law school clinics. Judges and clerks ranked community education and community outreach as the fourth and fifth most effective techniques.

Factors Impacting the Ability of Low-Income Clients to Access Legal Services

Eighty-four and eight-tenths percent (84.8%) of the judges and clerks identified insufficient funds to pay for legal services as the most significant factor impacting the access of low-income clients to legal services.

Judges and clerks of court also ranked as significant clients’ inability to represent themselves, lack of knowledge about the services available, lack of awareness that legal reme-

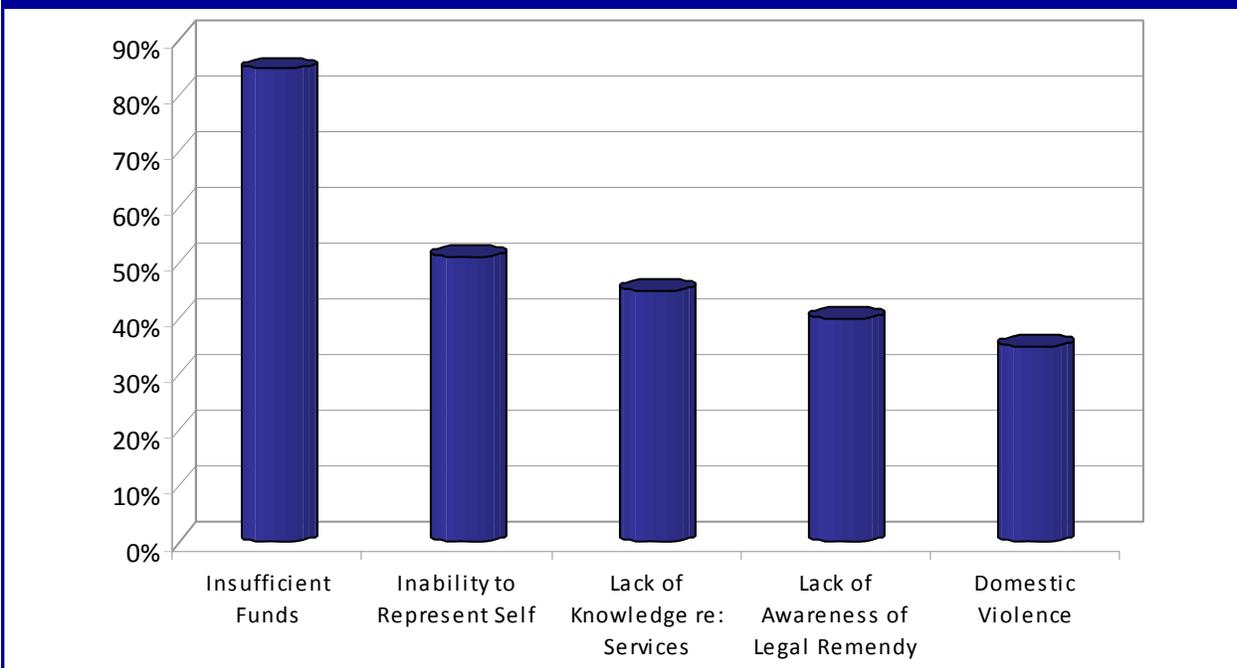
dies exist, and lack of transportation. A number of judges and clerks also ranked domestic violence as a significant factor in the ability to obtain legal assistance. See Graph 6 below.

More than half of the judges and clerks surveyed identified the lack of an attorney or advocate available to accept a case as the single most significant legal service-related factor impacting the delivery of pro bono legal services. Judges and clerks identified procedural barriers to obtaining legal services, inability to contact legal service providers, and being over-income for free legal services as other significant barriers. Most respondents deemed the court-related factors listed to be insignificant (those factors include the perception that courts are unwelcoming, complex court procedures, inability to find the court, inability to get clear information from court employees, and inability to contact the

correct person at the courthouse), though 51.6% acknowledged that the belief that courts are unwelcoming and unhelpful to users could have a moderately significant impact on the ability of low-income citizens to receive services.

Judges and clerks also cited the lack of pro se self-help clinics, transportation problems, and complications arising out of income eligibility as additional barriers to the ability of low-income clients to access pro bono legal services. Asked for their suggestions to reduce or eliminate barriers to the provision of legal services, clerks and judges suggested increasing the amount of general legal information disseminated in low-income communities, establishing an ombudsman office in each county to interview, triage, refer, advise, and represent low-income individuals, and requiring every clerk of the court to maintain a self-service kiosk with legal infor-

Graph 6: Judges' and Clerks' Most Significant Barriers to Low-Income Citizens' Access to Legal Services



mation in the courthouse for pro se litigants.

Linguistic Composition of the Low-Income Litigants

Judges and clerks were asked how many of the low-income litigants they see speak English only as a second language, or not at all. More clerks and judges (58%) than attorneys (43%) indicated that ten percent or more of the litigants they see speak English only as a second language; similarly, 18% of clerks and judges (as compared to 12% of attorneys) indicated that ten percent or more of the litigants they see speak no English at all.

Judges and clerks reported that languages spoken by the client base, in addition to English, most frequently include Spanish, Chinese, Korean, American Sign Language, and Vietnamese. Polish, Romanian, Burmese, Somali and Ethiopian were each mentioned in one response. Judges and clerks reported fairly ready access to translators, at least those speaking Spanish.

Connecting Low-Income Litigants to Pro Bono Assistance

Judges and clerks reported practices that differ widely from courthouse to courthouse in terms of the information available to litigants about pro bono attorneys and in terms of how many people they tell about pro bono services. Nearly a quarter of respondents indicated that no information about pro bono services was available at the courthouse; one respondent even indicated he or she was prohibited from providing such information. Other courthouses post information outside courtrooms and provide pamphlets, online assistance and lists of attorneys. Asked how many people they tell each year about pro bono legal services, respondents provided

answers ranging from none (3 of 26) to several thousand. Of the 26 respondents, eighteen indicated they tell fifty or fewer people per year about pro bono services.

C. LEGAL NEEDS OF THE POOR FROM THE PERSPECTIVE OF ATTORNEYS STATEWIDE – RESPONSES FROM ATTORNEY SURVEY (ISBA)²⁷

The attorney survey, which was administered in March 2008 as part of Phase II of the Study, elicited 508 responses from Indiana attorneys who are involved in pro bono work. Asked to identify the five most important problems faced by the low-income population, approximately three-fourths of the attorneys identified family law, with consumer finance second, housing third, health fourth, and criminal law as the fifth biggest problem. See Graph 7 on the next page.

Other areas of concern include employment, juvenile law and public entitlements. Consumer finance was identified as one of the five fastest-growing problem areas by the largest percentage of respondents, with family law, housing, health, and criminal law as the other fastest-growing problem areas in the law.

Consumer Finance

According to the attorneys surveyed, consumer finance is a primary problem facing the poor. When asked to name the top five problems of low-income clients, 69.7% of attorneys included consumer finance, second only to family law. Within the area of consumer finance, attorneys identified the major problems as debt collection (26.3%), credit card debt and bankruptcy (24.4% each), and

predatory lending (12.6%).

A number of attorneys expressed concerns that new bankruptcy laws could have negative effects on low-income clients, because of additional requirements of the debtor and stricter rules. One respondent stated: “The new bankruptcy laws impose additional work and liability on attorneys, which has driven the price of a Chapter 7 beyond the means of the working poor. They have no choice but to endure the 25% garnishment on their wages, regardless of how little they make...or how many dependents they have.”

Attorneys also mentioned unfair and deceptive sales practices, rising property taxes, payday loans, and increasing mortgage payments as other consumer finance problems for low-income clients.

Criminal Law

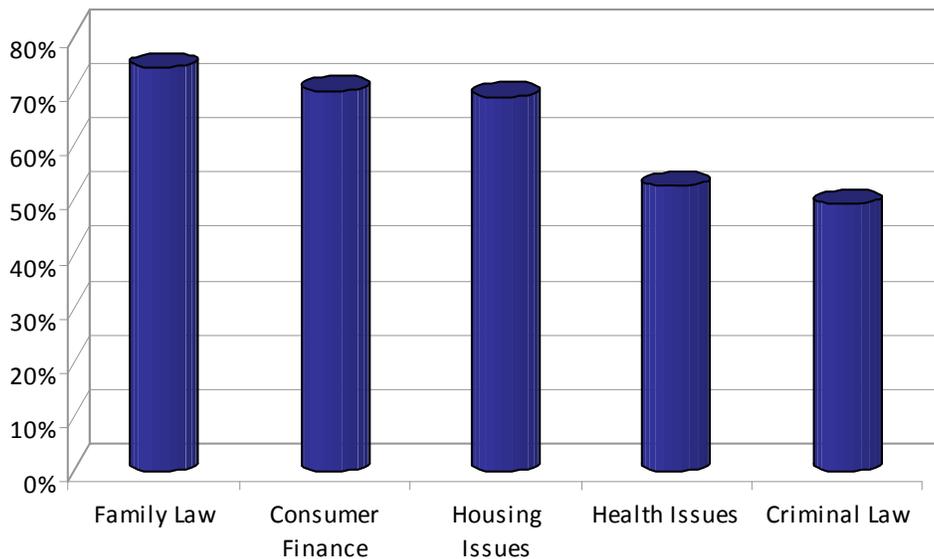
Criminal law issues were identified as among the five primary problems by nearly half (49.0%) of attorney respondents. Attorneys

identified a wide variety of problems for low-income clients in the area of criminal law, including substance abuse-related problems, failure to obtain counsel, overworked public defenders, lack of access to translators, and not understanding rights. Many attorneys felt that public defenders are doing an adequate job defending the low-income population of Indiana despite being overworked.

Education

Like the judges and clerks, attorneys do not rank education issues among the primary problems of low-income clients. Twenty percent (20.0%) of attorneys (and 20.5% of judges and clerks) listed education as one of the top five problems. Within the education area, attorneys indicated that the biggest problem is lack of special education (26.9%). Attorneys ranked expulsions as the second (21.0%), and suspensions as the third (18.3%) most significant problem in education. Many attorneys identified the lack of

Graph 7: Attorneys' Most Important Problems for Low-Income Citizens



resources for schools in low-income neighborhoods as leading to educational problems for the low-income population of Indiana.

Employment

Thirty-eight and seven-tenths percent (38.7%) of attorneys rank employment among the most important problem areas for Indiana's low-income population. Within the employment area, attorneys identified the most prevalent problems as receiving Worker's Compensation/unemployment compensation and wrongful termination. Employment problems can lead to other problems for low-income individuals, as one respondent noted:

“Many low-income individuals become low-income after loss of a job. Specifically, many individuals who lose their job, concomitantly lose their health benefits, and quickly become indebted to medical providers. Without replacement employment these individuals become indigent and often file for bankruptcy.”

Other employment-related problems identified included job discrimination, wrongful termination, and worker documentation.

Family Law

Attorneys believe that family law issues are the biggest problem for the low-income population in Indiana. Seventy-four percent (74.0%) of attorney respondents identified family law as one of the top five problems facing the low-income population of Indiana. When asked to identify specific issues within family law, 59.9% of attorneys named either child support or child custody as a problem. Paternity was next, identified by 14.3% of

attorneys. One attorney responded: “Dissolution and custody are certainly near the top, child support is always a major issue, and unfortunately spousal abuse is still a problem that doesn't get enough attention.” Also, a number of attorneys believe the enforcement of child support obligations is a problem.

Health Law

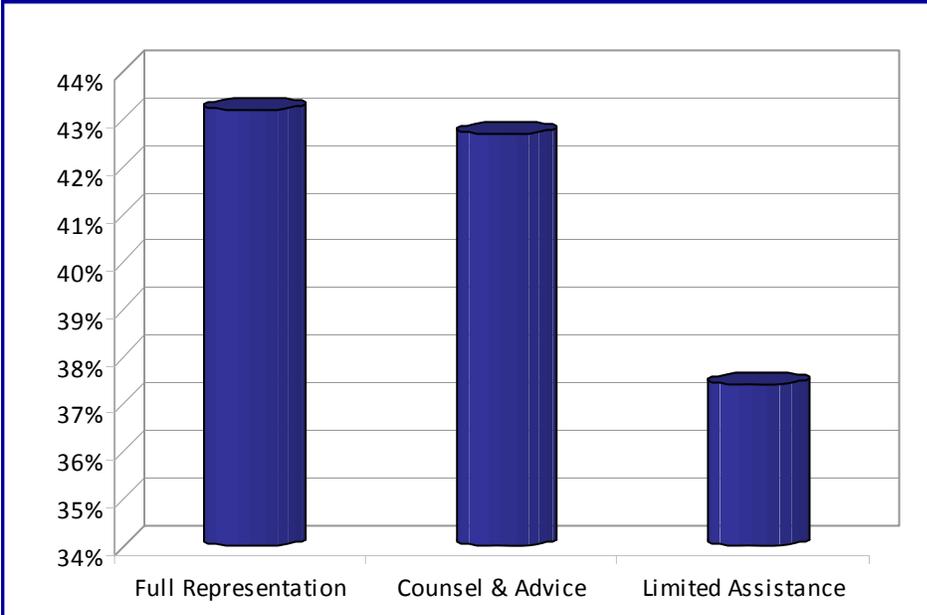
Attorneys surveyed ranked health care as a more significant problem than did the judges and clerks. Over half (52.3%) of attorneys (compared to 35.9% of judges and clerks) believe that health law is among the top five problems for low-income clients. Inability to pay/afford health care was the most common health-related problem (28.0%) identified by attorneys. Attorneys ranked problems with Medicare and Medicaid second (19.7%) and problems with health insurance third (14.5%). Complicated Medicare and Medicaid application processes and procedures can make it difficult for low-income individuals to get coverage, as sample responses note:

“Competition for Medicare wrap insurance has elderly totally confused. Insurance companies are taking advantage of their elderly clients' lack of sophistication by complicating the policy offerings.”

“I can't imagine a lay person...wading through the arcane new Medicaid application procedures. This will result in increased nursing home discharge frequency.”

Other problems with health law included being denied hospital or nursing home admission, and problems bringing medical malpractice suits.

Graph 8: Attorneys' Most Important Types of Legal Assistance



ing, problems with mobile homes, and having utilities shut off.

Public Entitlements

About one-third (33.3%) of attorneys listed public entitlements among the top five problems for low-income Hoosiers. Attorneys identified problems with Medicaid as the most common (22.8%), followed closely by Social Security Disability (SSD and SSDI) (19.8%) and Social Security Insurance (SSI) (15.6%).

Two of the most common complaints with these entitlement programs are the lengthy and complicated application process to receive benefits, and the prolonged appeals process to reinstate benefits when they are removed.

Fastest-Growing Problem Areas

Attorneys (as did judges and clerks) identified family law and consumer finance as the two fastest-growing problem areas. Attorneys ranked housing as the third fastest-growing area. The responses also indicated that attorneys believe that consumer finance is going to be an even more substantial problem in the future than it is today.

Importance and Efficacy of Particular Types of Assistance

Attorneys were first asked to rate the importance of certain types of assistance to low-

Housing

Over two-thirds of attorneys (68.7%) believe that housing issues are a major problem for low-income individuals in the State of Indiana. The primary housing-related problem identified by the attorneys was landlord/tenant eviction, identified by 29.3% of attorneys. Attorneys believe that these problems often arise because tenants do not know their rights. One attorney responded, “[m]ost tenants have no understanding of what their legal rights or responsibilities are and the small claims court cannot provide any legal advice, so most people have no source of information regarding landlord tenant issues.”

Housing includes a wide range of issues affecting the low-income population in Indiana. Foreclosures were identified by 23.4% of respondents. Some attorneys mentioned predatory lending as a cause of high rates of foreclosure among the poor. Other problems included difficulties getting subsidized hous-

income citizens. Full representation (representation by an advocate or attorney), counsel and advice (providing basic information on a legal problem), and brief services (providing limited assistance with a simple legal problem) were rated as the three most important types of assistance by weighted average. See Graph 8 on the previous page.

Next, attorneys were asked to provide their opinions regarding the effectiveness of particular legal service delivery techniques for low-income litigants. Responses indicated that direct representation by a private pro bono attorney was considered most effective, followed by direct representation by pro bono service provider staff attorneys. Full representation by attorneys at law school clinics ranked third most effective.

Impact of Particular Factors on Ability to Receive Legal Assistance

Attorneys ranked insufficient funds to pay for legal services as the primary client-related factor affecting the ability to receive legal services. They also identified clients' lack of knowledge about available services or agencies, their inability to represent themselves, and a lack of awareness that legal remedies exist as other factors that impact prospective clients' ability to receive legal services. The capacity of legal providers (having no attorney or advocate available to accept a case) was identified as the most significant legal provider-related factor affecting the provision of legal services to low-income citizens. Attorneys identified other significant provider-related issues as including reluctance to take cases outside of a practitioner's legal expertise, delay in receiving service or response, and the inability of po-

tential clients to contact legal service providers.

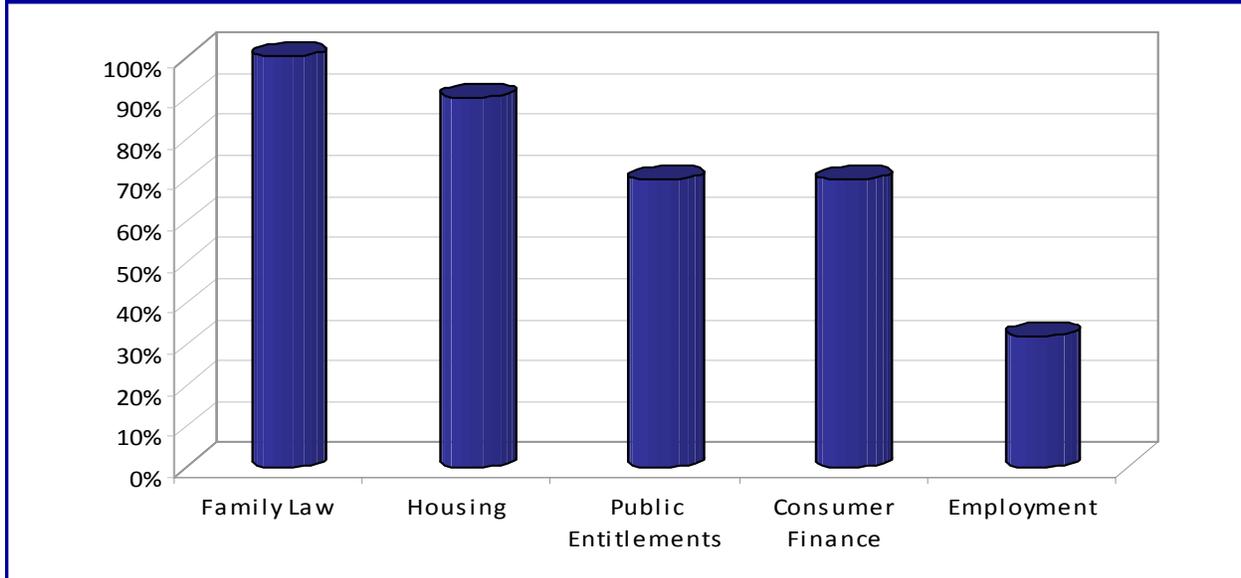
In general, attorneys felt that pro bono legal services lack appropriate funding and staffing, and lack sufficient support from the court system. Attorneys also identified a lack of incentive for attorneys to assist low-income citizens. Financial limitations and language barriers in turn become barriers to accessing pro bono legal services. In response to these problems, some attorneys proposed giving full immunity from liability to attorneys when they are representing low-income individuals, educating junior associates about the need to provide pro bono legal services, and providing billable hour caps on pro bono representations.

Attorneys also identified as a crucial issue the necessity of addressing the needs of those who are unable to afford legal services but who are above income eligibility requirements for pro bono legal services. Several recommended a voucher system for these clients, where the attorneys would submit their time to a government agency and be compensated in full, or allowing these fees to be tax-deductible for the attorney. Other respondents suggested requiring ISBA members to accept a certain number of pro bono cases each year or providing co-counsel appointments as a means to provide more staff and ensure that new attorneys are engaged in the delivery of pro bono legal services.

Linguistic Composition of the Low-Income Client Base

Attorneys were asked how many of their low-income clients speak English only as a second language, or not at all. Ninety-four (94) of 220 respondents (approximately

Graph 9: Pro Bono Plan Administrators' Top Issues for Low-Income Citizens



43%) indicated that ten percent or more of their clients speak English only as a second language; 12% indicated that ten percent or more of their clients speak no English at all. Languages spoken by the client base, in addition to English, most frequently include Spanish, Burmese, Vietnamese, German, French, and American Sign Language. Most attorneys described their access to translators as good or fair.

Serving the Low-Income Clients

Attorneys were asked how low-income clients found them, and given a range of options including referrals from the pro bono plan administrators, the courts, and civil legal service providers, as well as independent phone calls or internet research. Thirty-one percent reported that more than half their clients came to them via referrals from their pro bono plan administrator; 29% reported that more than half their clients found them via independent telephone calls, and nineteen percent reported that more than half their clients came to them by way of referrals from

civil legal service providers or from the courts. By contrast, only 3% of attorneys reported that more than 50% of their clients came to them via the internet.

D. LEGAL NEEDS OF THE POOR FROM THE PERSPECTIVE OF PRO BONO PLAN ADMINISTRATORS – RESPONSES FROM THE PRO BONO PLAN ADMINISTRATORS SURVEY (ISBA)²⁸

There are fourteen pro bono plan administrators in Indiana, one in each pro bono (judicial) district throughout the state. Nine of the plan administrators responded to this survey, which was administered in March 2008 as part of Phase II of the Study.

The pro bono plan administrators surveyed identified the five most pressing problem areas for low-income clients in Indiana as family law, housing, public entitlements, consumer finance, and employment. See Graph 9 on this page.

Generally, plan administrators focused on the same three problems as judges, clerks, and attorneys: family law, housing, and consumer finance. However, two-thirds of the plan administrators identified public entitlements as a major problem, on par with consumer finance, whereas fewer than one-third of attorneys and judges and clerks ranked public entitlements among the five most pressing problems facing the poor in Indiana.

Efficacy of Assistance

Eight of nine pro bono plan administrators indicated that full representation by an advocate or attorney was a very important type of assistance to low-income citizens. Giving brief services, such as assisting with a simple legal problem; providing counsel and advice on legal problems; providing limited scope representation; and community outreach were also ranked as relatively important.

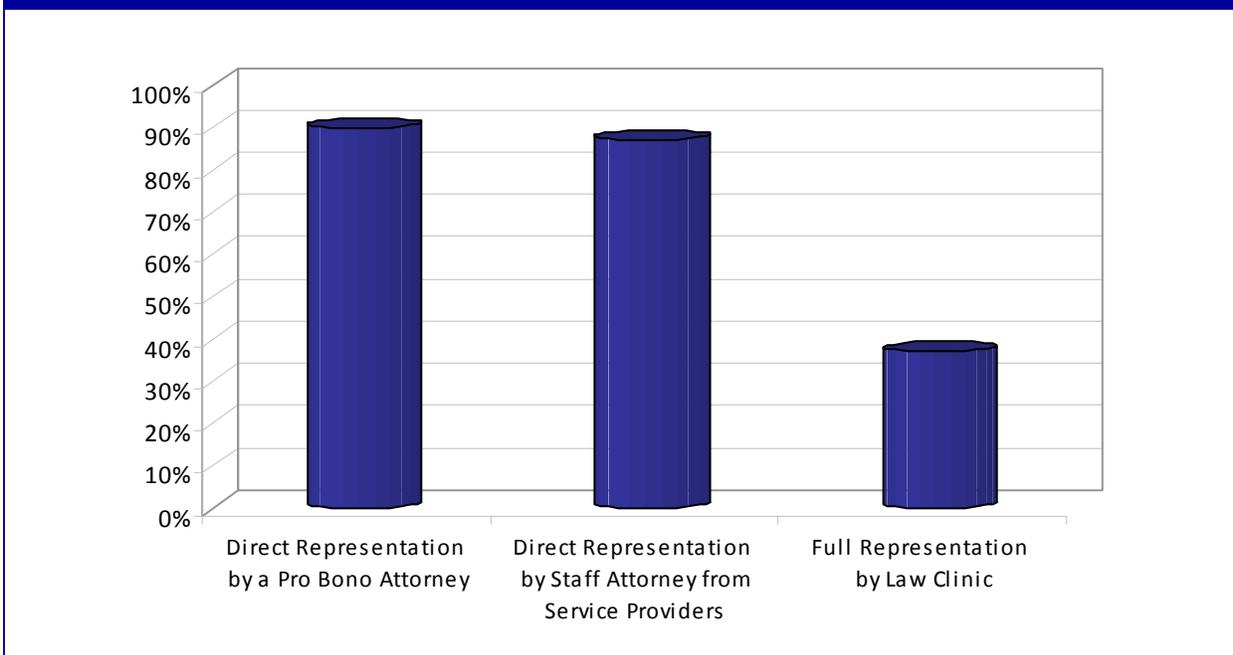
Plan administrators regard direct representa-

tion by pro bono volunteers and direct representation by legal service provider staff attorneys as the most effective tools for legal service delivery. Telephone hotlines, limited scope representations, and self-help or group sessions to assist with legal documents or hearing preparation were also ranked as relatively effective. A majority of respondents also felt that full representation by law school clinics was at least moderately effective, though several respondents indicated they were unsure. See Graph 10 on this page. Open-ended responses focused on the need for more pro bono lawyers, staffing for family law cases, and support for pro se litigants as unmet legal needs that need to be further addressed.

Barriers to the Provision of Legal Services

Responses from plan administrators mirrored those from judges and attorneys: all identified the lack of sufficient funds to pay for

Graph 10: Pro Bono Plan Administrators' Most Effective Legal Service Delivery Techniques



legal services as the most significant factor affecting the ability of low-income clients to receive legal services. Lack of knowledge about available services or agencies and an inability to represent oneself were also cited as major factors affecting the ability to receive legal services. In addressing service provider-related factors, all of the plan administrators cited the lack of an attorney or advocate available to accept a case as the most significant factor; other factors noted included delay in receiving services or responses, attorneys' reluctance to accept cases outside of their legal expertise, and clients who are above income limits for free legal services. Significant court-related factors affecting access included the perception that courts are not welcoming or helpful to users; the complexity of court procedures, rules and forms; and an inability to obtain complete or clear information when speaking to court staff.

Pro bono plan administrators also listed other issues affecting the provision of legal services to the poor that were not suggested by the survey, such as clients' lack of follow-through, the need for more coordination between legal service providers and service groups, conflicts of interest in smaller jurisdictions, limited access to legal services in rural areas, and clients' ignorance about and unrealistic expectations of the legal system and pro bono legal services. To address some of these problems, plan administrators suggested that legal service providers focus their efforts on counties with small attorney populations, that courts be encouraged to be more user-friendly, that attorneys be encouraged to voluntarily provide pro bono legal services, and that the legal community take a

preventative approach in pro se education. Some plan administrators believe Indiana should consider creating more alternative dispute resolution systems in which public advocates represent poor clients in an expedited process. Better integration among legal service providers was also recommended.

E. LEGAL NEEDS OF THE POOR FROM THE PERSPECTIVE OF ILS STAFF – RESPONSES FROM ILS STAFF QUESTIONNAIRE (ILS)

ILS employees were given the opportunity to respond to a survey on the legal needs of clients and potential clients in the spring. Between March 13, 2008 and April 11, 2008, forty-two ILS staff members completed the questionnaire.

Employees were asked what they saw as the three most significant unmet civil legal needs of clients. Approximately 50% of respondents identified one or more family law issues. Several of these responses specifically mentioned post-dissolution matters such as custody modifications and enforcement of child support, custody, and parenting time. About 45% of responding staff members identified some type of consumer finance issue as one of the top three unmet civil legal needs. Nine of these respondents referred to bankruptcy. One mentioned the inability to afford bankruptcy. Over 40% of staff respondents identified housing as one of the three most significant unmet civil legal needs of clients.

One question prompted each responding staff member to identify up to three of the most significant barriers to meeting clients' unmet legal needs. The most frequent responses

were insufficient staff (attorneys primarily) at ILS, insufficient funding for legal service programs such as ILS, and lack of information, knowledge or literacy on the part of clients and potential clients. At least six respondents identified or alluded to the small portion of the private bar that does pro bono work.

Several respondents mentioned restrictions on services that ILS can provide, both federal regulatory restrictions and internal restrictions based on prioritization of needs. One respondent wrote, “Our office does not take custody cases and the Volunteer Program cannot place them because each case requires a tremendous amount of time and energy and at the end of the day any resolution is only temporary . . . Discrimination cases are ‘fee-generating’ but none of the few practitioners who handle the cases will accept these cases without a retainer in advance.”

Other barriers mentioned included reluctance of judges to appoint attorneys without reimbursement, mental illness of potential clients, transportation barriers both for the client and for the attorney, litigation costs and fees that clients cannot afford, the “reactive” nature of ILS, language barriers, changes in the Medicaid application process, and the need for continuing attorney training.

Staff members were asked to provide suggestions to reduce or eliminate the barriers to

meeting the legal needs of clients, including those related to LEP. Many respondents believed that increased funding and staffing of ILS are needed. Other suggestions included expanded hours (some evening and weekend hours) and additional locations for ILS, and streamlining the application process. Several respondents suggested having attorneys or paralegals fluent in other languages, particularly Spanish. One recommended providing incentives for existing staff to learn second or third languages. Improved collaboration with other agencies serving the low-income community generally, and clients with LEP specifically, was suggested.

Some respondents made suggestions aimed at improving the experience of pro se litigants in court. These suggestions included training for judges regarding pro se issues,

Area of Law	Very Important	Important	Very Important or Important
Housing	36 (85.7%)	4 (9.5%)	40 (95.2%)
Health	30 (71.4%)	9 (21.4%)	39 (92.9%)
Consumer Finance	31 (73.8%)	7 (16.7%)	38 (90.5%)
Public Entitlements	28 (66.7%)	10 (23.8%)	38 (90.5%)
Family	35 (83.3%)	2 (4.8%)	37 (88.1%)
Employment	19 (45.2%)	12 (28.6%)	31 (73.8%)
Individual Rights (Immigration, Civil Rights, etc.)	11 (26.2%)	16 (38.1%)	27 (64.3%)
Juvenile (CHINS, delinquency)	12 (28.6%)	11(26.2%)	23 (54.8%)
Misc. (Small Claims, Civil, PI, etc.)	5 (11.9%)	18 (42.9%)	23 (54.8%)
Estate Planning	9 (21.4%)	13 (31.0%)	22 (52.4%)
Education	4 (9.5%)	14 (33.3%)	18 (42.9%)
Criminal Law	6 (14.3%)	10 (23.8%)	16 (38.1%)

Legal Service Delivery Technique	Very Important	Important	Very Important or Important
Administrative Agency Representation	34 (81.0%)	7 (16.7%)	41 (97.6%)
Court Representation	37 (88.1%)	2 (4.8%)	39 (92.9%)
Limited Action (brief service – e.g., letter writing, prep. of simple documents)	23 (54.8%)	15 (35.7%)	38 (90.5%)
Extended Action (settlement negotiation without admin. or court advocacy)	32 (76.2%)	5 (11.9%)	37 (88.1%)
Counsel and Advice	23 (54.8%)	13 (31.0%)	36 (85.7%)
Community Legal Education (trainings, presentations, workshops, brochures, etc. on legal topics)	19 (45.2%)	14 (33.3%)	33 (78.6%)
Community Outreach (information using media, PSAs, referral agreements, and group rep.)	20 (47.6%)	10 (23.8%)	30 (71.4%)

presence in court of attorneys who would answer questions of pro se litigants, and clinics that would teach low income people how to use pro se forms.

Other themes in recommendations for overcoming barriers were education and specialization. Staff suggested using print, electronic, telephone, video, town meetings, and clinics to disseminate information about legal rights and responsibilities and specific types of available free legal assistance to the low-income community. Suggestions for specialization included establishment of units within ILS to handle specific types of matters (e.g., consumer laws or landlord-tenant), funding of clinics to help people with specific types of legal problems (housing or Medicaid, for example), and facilitating more open forums concerning issues.

Asked for recommendations as to allocation of any additional resources potentially made

available to ILS, many respondents restated the suggestions made in connection with overcoming barriers. Most of the additional recommendations involved investment in staff and investment in technology to help staff to work more efficiently. Increasing salary and benefits to attract and retain experienced attorneys, and increasing the quality and quantity of support staff were recurring themes. One person suggested hiring a supervisor for a clinic staffed by law students, perhaps

to handle Medicaid cases. The responses calling for investments in technology mainly involved updating computer systems; however, phones and refurbished computers were also mentioned.

The final open-ended question asked for up to three suggested actions to increase the awareness of potential eligible clients of the availability of free legal services. Nine of the 42 staff respondents questioned or actually disagreed with the idea that more outreach is desirable, stating or implying that resources should be used to increase service provided to clients and applicants.

As in response to the question about overcoming barriers, staff suggested using print, electronic, telephone, video, town meetings, and clinics to disseminate information about legal rights and responsibilities and specific types of available free legal assistance to the

low-income community. Locations recommended for outreach included county health departments, clinics, hospitals, law enforcement jurisdictions (officers' referral cards), unemployment offices, welfare offices, and homeless shelters. Networking with neighborhood associations, houses of worship, and local government officials who field calls from constituents was suggested. One respondent recommended advertising and conducting free "talk to an attorney" days, which would both provide legal service and increase awareness of free legal services. Employees were asked to rate the importance of twelve areas of legal need to clients. Each area of law was to be rated "very important," "important," "somewhat important," or "unimportant." The chart on page 54 gives the number and percentage of respondents that rated each area as "very important" or "important." The areas of law have been ranked based on combined number of "very important" and "important ratings." When two areas of law had the same combined number of "very important" and "important" ratings, the area with more "very important" ratings was ranked higher.

The top five areas (in decreasing order of ranking) were housing, health, consumer finance, public entitlements, and family law. Staff were asked to rate the importance to clients of seven legal service delivery techniques, or types of assistance. As with the areas of law, each method of assistance was to be rated "very important," "important," "somewhat important," or "unimportant," and the types of assistance have been ranked according to the responses. The chart on page 55 gives the number and percentage of

respondents that rated each type of assistance as "very important" or "important."

The top five legal service delivery techniques (in decreasing order of ranking) were administrative agency representation, court representation, limited action, extended action, and counsel and advice. The results were close. More respondents rated court representation "very important" than rated administrative agency representation "very important" (37 as compared to 34); however 41 out of 42 respondents rated administrative agency representation "very important" or "important." Most respondents believed that all seven types of assistance were very important or important. Even community outreach, which ranked last, was rated "very important" or "important" by 30 out of the 42 respondents.

F. LEGAL NEEDS OF THE POOR FROM THE PERSPECTIVE OF ILS BOARD – RESPONSES FROM ILS BOARD OF DIRECTORS QUESTIONNAIRES (ILS)

Between March 13, 2008 and May 5, 2008, members of the ILS Board of Directors were given the opportunity to take a survey concerning the legal needs of clients and potential clients. Twelve Board members completed the entire survey, and one additional Board member answered all short answer questions.

When asked to state what the respondent saw as the three most significant unmet civil legal needs of ILS clients, nine directors (75% of those who responded) specifically mentioned predatory lending, mortgage foreclosures, and/or housing. Two of these Board mem-

bers mentioned bankruptcy in their responses. Seven directors identified one or more family law issues in their response, and three identified immigration issues. It is fair to say that, in the opinion of the majority of the Board of Directors, housing, consumer finance, and family law are very significant unmet civil legal needs of ILS clients.

When asked about the three most significant barriers to meeting those unmet needs, eight directors (two thirds of those who responded) cited inadequate funding and/or staffing. Four directors cited clients’ and potential clients’ lack of information about available legal resources and/or lack of knowledge to recognize legal issues. One mentioned the worsening of legal problems when they are not addressed early. Three directors believed language barriers to be significant, and two directors cited a lack of pro bono service by the private bar. Two directors mentioned

inadequate coordination between pro bono programs.

Board members were asked for suggestions to reduce or eliminate barriers to meeting the legal needs of clients, including barriers related to LEP. Responses included seeking additional funding, hiring more staff, encouraging volunteer efforts (pro bono work by private bar), greater involvement by ILS in the delivery of pro bono legal services, using translators and hiring multilingual staff, and improved education. A range of educational options was suggested. Several respondents suggested community legal education, including preventive law education and publication of available legal resources. One Board member recommended better education in early grades and better access to higher education, language classes, and training in marketable skills. Helping the working poor who don’t qualify for ILS assistance to find affordable legal assistance was suggested.

One respondent suggested that ILS and the pro bono districts be combined.

Board members were asked to provide up to three suggestions for ILS to increase the awareness of potential eligible clients of the availability of free legal services. A number of responses involved communication to and through other programs and agencies that serve the same people about what types of services ILS offers. Other answers included public service announcements on television and radio, public appearances

Area of Law	Very Important	Important	Very Important or Important
Consumer Finance	13 (100%)	0	13 (100%)
Housing	9 (69.2%)	4 (30.8%)	13 (100%)
Health	6 (46.2%)	6 (46.2%)	12 (92.3%)
Family	7 (53.8%)	4 (30.8%)	11 (84.6%)
Employment	4 (30.8%)	7 (53.8%)	11 (84.6%)
Public Entitlements	2 (15.4%)	9 (69.2%)	11 (84.6%)
Juvenile (CHINS/Delinquency)	7 (53.8%)	3 (23.1%)	10 (76.9%)
Individual Rights (Immigration, Civil Rights, etc.)	5 (38.5%)	5 (38.5%)	10 (76.9%)
Education	4 (30.8%)	6 (46.2%)	10 (76.9%)
Misc. (Small Claims, Civil, P.I., etc.)	2 (15.4%)	5 (38.5%)	7 (53.8%)
Estate Planning	1 (7.7%)	4 (30.8%)	5 (38.5%)
Criminal Law	2 (15.4%)	2 (15.4%)	4 (30.8%)

Legal Service Delivery Technique	Very Important	Important	Very Important or Important
Counsel and Advice	12 (92.3%)	1 (7.7%)	13 (100%)
Extended Action (<i>settlement negotiation without admin. or court advocacy</i>)	7 (53.8%)	6 (46.2%)	13 (100%)
Court Representation	10 (76.9%)	2 (15.4%)	12 (92.3%)
Community Outreach (<i>information using media, PSAs, referral agreements, and group rep.</i>)	7 (53.8%)	3 (23.1%)	10 (76.9%)
Limited Action (<i>brief service – e.g., letter writing, prep. of simple documents</i>)	5 (38.5%)	5 (38.5%)	10 (76.9%)
Community Legal Education (<i>trainings, presentations, workshops, brochures, etc. on legal topics</i>)	7 (53.8%)	2 (15.4%)	9 (69.2%)
Administrative Agency Representation	5 (38.5%)	4 (30.8%)	9 (69.2%)

and visits to community centers and public venues, meetings or “bazaars” around the state at which private attorneys, clients and ILS representatives seek common ground for respective goals, Yellow Pages advertising, a speakers bureau, additional use of electronic media including changes to the website, and extensive months’ long advertising before self-help clinics. One Board member felt that resources should first be applied to enable ILS to service everyone who comes for assistance before spending money trying to find new clients.

Board members were asked to rate the importance of twelve areas of legal need to clients. Each area of law was to be rated “very important,” “important,” “somewhat important,” or “unimportant.” The chart on page 57 gives the number and percentage of responding directors that rated each area as “very important” or “important.” The areas of law have been ranked using the same method as was used to rank responses to the ILS Staff Questionnaire.

The top three areas (in decreasing order of ranking) were consumer finance, housing, and health. Every respondent considered consumer finance to be “very important.” Family, employment, and public entitlements also ranked very high: eleven of the thirteen participating Board members rated each of these areas as either “very important” or “important.”

Finally, ILS Board members were asked to rate the importance to clients of seven legal service delivery techniques, or types of legal assistance. The types of legal assistance in the chart on this page have been ranked using the same method as was used to rank responses to the ILS Staff Questionnaire.

The top three legal service delivery techniques (in decreasing order of ranking) were counsel and advice, extended action (settlement negotiation without administrative or court advocacy), and court representation. Twelve of thirteen directors rated counsel and advice “very important,” and one rated it “important.” All responding direc-

tors rated both counsel and advice and extended action as either “very important” or “important.”

G. LEGAL NEEDS OF THE POOR FROM THE PERSPECTIVE OF HUMAN SERVICE PROVIDERS – RESPONSES FROM ILS HUMAN SERVICE PROVIDER QUESTIONNAIRE (ILS)

Human service providers around the state were given the opportunity to take a survey on the legal needs of clients and potential clients in the spring. Between March 11, 2008 and April 14, 2008, sixty-seven human service providers completed the questionnaire. Providers of housing services, health-care services, family services, disabled services, domestic violence services, senior citizen services, youth programs, translation/interpretation services, and immigrant services, among others, were included. Almost half of respondents said that their organization had income eligibility guidelines. Approximately two-thirds of respondents reported that their organization serves people of LEP.

Human service providers were asked what they saw as the three most significant unmet civil legal needs of their clients. By far the most prevalent area of responses was family law. Twenty-eight responses (approximately 42%) cited a family law concern. Most of the family law issues identified involved dissolution and post-dissolution matters. Several concerned enforcement of laws against domestic violence.

The second most frequently-raised unmet civil legal need was housing. Sixteen re-

sponses (approximately 24%) included a concern about housing. Within the category of housing, the primary concerns appeared to be eviction or lock-out, mortgage foreclosure, or condition of housing.

Consumer finance and public benefits were each identified by approximately 16% of responding human service providers as a top unmet civil legal need. Within the area of public benefits, Social Security Disability and Medicaid were the top concerns.

Ten respondents (approximately 15%) listed immigration as one of the three most significant unmet civil legal needs of their clients. As discussed in more detail in section V.G.2., undocumented immigrants face daunting challenges, including the inability to access some benefits and services available to other low-income people, prejudice (particularly during recessions), vulnerability to unfair employment practices, and the inability to obtain a driver’s license and insurance, which can make it difficult to find and keep employment. Some respondents reported that even legal immigrants have had difficulty obtaining driver’s licenses and public benefits because government employees were sometimes unwilling to accept their documentation.

Human service providers were asked to list up to three of the most significant barriers to meeting clients’ significant unmet legal needs. Many respondents identified the clients’ inability to pay for legal services, the insufficient number of attorneys willing to do pro bono work, and the insufficiency of funding for programs providing free or low cost legal assistance. The picture that emerges is a high volume of need, together

Area of Law	Very Important	Important	Very Important or Important
Family	40 (59.7%)	18 (26.9%)	58 (86.6%)
Individual Rights (Immigration, Civil Rights, etc.)	37 (55.2%)	17 (25.4%)	54 (80.6%)
Health	36 (53.7%)	18 (26.9%)	54 (80.6%)
Housing	36 (53.7%)	17 (25.4%)	53 (79.1%)
Public Entitlements	32 (47.8%)	20 (29.9%)	52 (77.6%)
Consumer Finance	35 (52.2%)	15 (22.4%)	50 (74.6%)
Juvenile (CHINS, delinquency)	28 (41.8%)	18 (26.9%)	46 (68.7%)
Criminal Law	23 (34.3%)	21 (31.3%)	44 (65.7%)
Employment	21 (31.3%)	23 (34.3%)	44 (65.7%)
Education	22 (32.8%)	19 (28.4%)	41 (61.2%)
Misc. (Small Claims, Civil, PI, etc.)	17 (25.4%)	16 (23.9%)	33 (49.3%)
Estate Planning	13 (19.4%)	14 (20.9%)	27 (40.3%)

Human service providers were asked to provide suggestions to reduce or eliminate the barriers to meeting the legal needs of their clients. Many of them called for more funding for legal services programs and/or recruitment of more attorneys to do pro bono work. One suggested mandatory pro bono service for attorneys.

with a limited number of available attorney hours, creating long waiting lists for free representation. Access to services is reportedly especially limited in rural areas. Lack of transportation or inability to afford transportation was cited in many responses.

Some respondents cited clients not being proactive or timely in seeking assistance. This failure was attributed to various factors including lack of knowledge as to what type of situation requires an attorney, lack of transportation, lack of telephone service, lack of mobility due to disability, inability to get time off work to meet with an attorney, and fear. Other barriers included LEP, immigration status, difficulty filling out forms, inability to pay filing fees or court costs, lack of knowledge of services available, lack of education, “jurisdictional” issues, people with multiple legal problems and “complicated facts,” and the fear of cost of legal assistance.

Many responses included proposals to educate both the low-income community and social service providers on basic legal issues (both substantive law and procedures). Pro se clinics, hotlines, workshops (e.g., “landlord-tenant 101”), legal “guidebooks” written in everyday language, self-service packets on substantive legal areas of high unmet need (child custody, for example), and informational meetings targeted to special populations such as the elderly and undocumented citizens were suggested. One respondent recommended offering a class to prepare pro se litigants for court-ordered mediation, and another suggested financial training including the lasting consequences of poor financial decisions.

Responding human service providers also suggested improving coordination with non-profit social service agencies and outreach to the low-income community. They felt that

more knowledge on their part about which types of matters usually require legal representation and about types of matters handled by specific legal service providers in their area would enable them to make more appropriate referrals for their clients. Outreach suggestions included use of radio, television,

Legal Service Delivery Technique	Very Important	Important	Very Important or Important
Counsel and Advice	49 (73.1%)	14 (20.9%)	63 (94.0%)
Court Representation	39 (58.2%)	16 (23.9%)	55 (82.1%)
Community Legal Education (trainings, presentations, workshops, brochures, etc. on legal topics)	27 (40.3%)	27 (40.3%)	54 (80.6%)
Limited Action (brief service – e.g., letter writing, prep. of simple documents)	26 (38.8%)	25 (37.3%)	51 (76.1%)
Administrative Agency Representation	24 (35.8%)	22 (32.8%)	46 (68.7%)
Community Outreach (information using media, PSAs, referral agreements, and group rep.)	20 (29.9%)	26 (38.8%)	46 (68.7%)
Extended Action (settlement negotiation without admin. or court advocacy)	30 (44.8%)	15 (22.4%)	45 (67.2%)

newspapers, and the ILS website, institution of a 24-hour legal phone center by partnering with Indiana 211, placement of informational handouts and posters in community areas such as physician’s offices, houses of worship, libraries, grocery stores, Medicaid offices, and bus stops. One person suggested doing more face-to-face outreach projects on particular subjects, citing Bloomington’s Tenant Assistance Project and ILS’ work on child support and family issues in Lawrence and Orange counties as examples of successful outreach projects.

Providing legal service with flexible hours and at rural locations, providing bus tokens or reimbursing cab fares, and bilingual representation and more interpreters were suggested.

A couple of responses addressed law enforcement. One person suggested stronger enforcement of laws already in existence,

likely referring to anti-discrimination laws and fair employment laws. Another respondent suggested training for law enforcement officers about people’s basic rights.

Some responses addressed the difficulty and intimidation some potential clients feel about filling out forms and going to court. One suggested the creation of special positions, based in courthouses and attorneys’ offices, to assist clients with paperwork and preparation for court, perhaps accompanying clients to court.

Human service providers were asked to rate the significance of twelve areas of legal need to clients. The chart on page 60 gives the number and percentage of respondents that rated each area as “very important” or “important.” As shown in the chart, the top five areas of law were family, individual rights, health, housing, and public entitlements. Consumer finance ranked sixth.

Human service providers were similarly asked to rate the importance to clients of seven types of legal assistance, or legal service delivery techniques. The chart on page 61 gives the number and percentage of respondents that rated each type of assistance as “very important” or “important.” Respondents identified the top four legal service delivery techniques as counsel and advice, court representation, community legal education, and limited action.

H. INFORMATION FROM FOCUS GROUPS ²⁹

Phase III of the Study consisted of the focus groups. The Study Sponsors hired Nan Stager as the focus group facilitator. Ms. Stager and representatives of the Study Sponsors decided the following: there would be eight focus groups from different geographical regions of the state—four drawing participants from more rural locations and four drawing participants from more urban locations; the meetings would be held in the evening so that more people could attend, and the suggested meeting time would be 5:30 – 8:30 pm; and food at the meeting was important, so funding for dinner would be provided. The committee agreed that a brief presentation that provided an overview of the legal needs of low-income people and the reasons for convening the focus groups would be given at each meeting by ILS staff attorney Victoria Deak. Ms. Deak would also serve as the statewide coordinator of the focus groups. She would arrange meeting dates with the district coordinators from each site and provide them with the basic information they needed in order to host the focus group.

The Study Sponsors agreed that the basic format for the focus groups would be similar to that of the Conclave (discussed in subsection I): small group discussions with each group reporting their results to the full group. Each local coordinator would assign the participants to groups of five to eight in an effort to ensure a diversity of backgrounds in each discussion group. The Study Sponsors also agreed that the small groups would focus their discussion on five questions and that all eight focus groups would be asked the same questions for the purpose of consistency.

The instructions involved having each table select a note-taker/recorder for their group, having all group members take responsibility for moderating at their table (that is, to invite others into the conversation and try not to dominate), and having one person be the spokesperson for their table. They were also informed of the timeline of approximately fifteen minutes discussion per question in order to consider all questions before it was time to report back.

The locations and dates were:

June 26	Evansville
July 18	New Castle
July 28	Lafayette
July 29	Bloomington ³⁰
July 31	Scottsburg
August 12	Fort Wayne
August 25	Indianapolis
August 28	Gary

Meetings took place at restaurants, Ivy Tech classrooms, a hospital’s community room, a church basement, a public library, and a government building. A total of 212 people participated in the eight forums. On average,

about 30% of those invited to the forums actually attended. The participation rate varied among locations and ranged between 25%-50%.

The following is a summary of the responses of all focus groups to each question.³¹

Summary of Question 1: What do you think are the most important legal needs of your community?

The top three legal needs identified by all focus groups were: family issues (divorce, guardianships, and post-dissolution issues such as custody and child support); issues concerning public benefits (applying for benefits and appeals of denials); and consumer debt issues (bankruptcy, collections, foreclosure, evictions, wills and trusts, and medical expenses). Some groups categorized the legal issues related to housing (such as landlord/tenant, affordability and quality of rental housing, applying for Section 8 housing, and the needs of the homeless) as separate from other consumer issues. Other legal needs identified by most groups were the needs of the mentally ill and the “working poor.” Some groups mentioned the legal needs of non-English speakers, the elderly, and the rural poor. Many groups mentioned that pro se litigants needed better assistance. A few groups mentioned the need for civil legal help in criminal matters. Rural focus groups identified the lack of transportation as an impediment to receiving legal services, and also reported more “gaps” in the accessibility of legal services.

Summary of Question 2: How are these legal needs currently being addressed?

There was consensus among all focus groups on this question: despite differing programs

to help the poor with their legal needs (and all focus groups came up with a long list of legal services in their area), there are still not enough resources to meet the demand. In other words, the focus groups all agreed that while there are programs in place in their communities that do a good job of providing legal services to the poor, the need for legal services far exceeds what these organizations are able to do. There are simply not enough pro bono and public interest attorneys to meet the needs of the poor.

Legal services and programs varied by location. However, they typically fell into the following categories: organizations whose mission is to provide legal services for the poor (such as ILS, Legal Aid, and Pro Bono Districts); private practice pro bono attorneys; and social service agencies, mediation programs, law school legal clinics, Ask-a-Lawyer programs, legal help phone lines, and on-line information (pro se forms and websites).

Summary of Question 3: What legal needs are not being met in your community?

The consensus of the groups was that the legal needs identified in response to question one also could be repeated for this question since the demand is not met. However, a few common themes emerged. One was that there was little help for post-dissolution family issues such as child support, custody, and visitation. Almost all focus groups believed that legal guardianships were a great need that was largely unmet.

Another theme was that the “near poor” (*i.e.*, those who were just over the income guidelines) and the mentally ill were not being served at all. Other populations identified as

under-served were the elderly, the disabled, and the rural poor. Some focus groups mentioned that the legal needs of illegal immigrants were unmet, and others mentioned that those who do not speak English are not served well (if at all) due to the lack of translators.

Many groups thought that the legal needs of pro se litigants were not met and that there were not enough attorneys with expertise in bankruptcy to meet the demand. Some groups pointed out the need for legal assistance prior to legal action. Too often lawsuits could have been avoided if the client had sought legal advice earlier instead of waiting until the crisis (*i.e.*, eviction, foreclosure, bankruptcy, or arrest).

Several groups mentioned that those persons who had legal issues relating to criminal actions (such as suspended driver's license, failure to appear, failure to pay child support, violation of probation, etc.) were not being served and that legal help with some of these issues could prevent arrests.

The privatization of public benefits, with its reliance on phone calls instead of face-to-face meetings with a local caseworker, has created a new dilemma. According to some focus groups, the poor increasingly do not have "land lines" and rely instead on prepaid cell phones with a limited amount of minutes. They simply cannot afford to use up their minutes waiting on hold in order to get their benefits.

Lastly, several groups identified the need for legal education and better legal referral as one that is not being met in their community.

Summary of Question 4: What additional alternative service models (i.e., mediation, advice hotline, community legal education, etc.) could be used to more efficiently and effectively address your community's legal needs?

The most common answer to this question focused on the need for expanded legal education for the poor and for those who work with the poor. Efforts to provide better coordination and improved referral of legal services were emphasized, such as better networking among service providers and better legal education of referral sources so that the poor would know what programs existed in the community. Another idea along this line was to have a legal resource center actually located in the courthouse. Ideas for better outreach included a traveling volunteer lawyer, a "Legal Mobile," and a "circuit rider" legal librarian. Groups also suggested holding legal clinics in community locations such as schools, churches, and trustee offices. Also mentioned was the advertisement of available legal services on television and radio, and improved marketing of the 211 "Connect to Help" line and other legal help phone lines. Expansion of the Talk To A Lawyer program and legal clinics on pertinent topics was frequently mentioned. A few groups also suggested increasing the use of legal volunteers and advocates. About half of the focus groups thought that an expansion of the use of mediation in various civil matters would be helpful; the other half did not discuss mediation. Another common idea was to help educate pro se clients through legal information kiosks in places such as the courthouse, public library, or shopping mall.

Similarly, several groups suggested a volunteer attorney, maybe called the “Lawyer for the Day,” along with public computers at the courthouse to specifically help pro se litigants. Various incentives (for example, free CLE hours and student loan forgiveness) for attorneys to do pro bono work were also suggested. The practice of “unbundling” cases, where an attorney would volunteer to take just one part of a case was recommended. Another idea to encourage attorneys to help meet the needs of the “near poor” was to implement a sliding fee scale.

Summary of Question 5: What do you think needs to be done in your community in order to better meet the needs of the poor?

The answers to this question all involved the word “more.” That is, the focus groups stated that they needed more attorneys, more incentives for attorneys to accept pro bono cases, more state funding for poverty law attorneys, more legal education clinics for the clients, more and improved outreach to clients, and more networking among legal and social service providers.

The most common answer to this question centered on increasing legal education to clients, referral sources, and the local legal community. The groups believed that there was a need to make legal information more accessible, especially to clients in rural areas. Since there is a need to increase human resources, many felt that their communities should make better use of non-lawyer professionals such as mediators, advocates, legal volunteers, social workers, and paralegals. Some groups felt that the courthouse should be the physical location of a legal referral center. At the very least, many groups

agreed that courthouses should have a “kiosk-like” area with legal brochures and information, public computers, and volunteer staff to help pro se litigants. More state funding for legal service provider attorneys was suggested often, but in most cases it was not the first thing mentioned. There was some frustration expressed by the attorneys at the focus groups at how few attorneys in their communities took pro bono cases; many supported incentives and/or mandatory pro bono hours.

I. INFORMATION FROM PRO BONO CONCLAVE³²

In October 2007, the ISBA Pro Bono Committee, in conjunction with the Study, determined to host a Conclave to address the delivery of pro bono services in Indiana. The Conclave was seen as an opportunity to examine the existing delivery system of free and low-cost legal services in order to evaluate the positive aspects of the system and to discuss what actions could be taken to improve the delivery of the services. It was felt that this information, coupled with the findings from the Study, would be valuable in obtaining a realistic view of the existing pro bono legal system and would serve as the foundation for assessing what changes may be needed in order to ensure that the State of Indiana is maximizing the use of assets to address the legal needs of those who cannot afford legal services.

The purpose of the Conclave was to bring together a group of selected individuals (legal service providers, attorneys, judges, district pro bono chairs, district plan administrators, academics and individuals with an

active interest in pro bono) from across Indiana, representing rural, suburban and urban areas, in order to examine the existing pro bono efforts in Indiana for the purpose of:

1. Determining the need for pro bono services.
2. Determining the strength and weaknesses of the present delivery of services.
3. Determining the present status of the integration of existing pro bono services and whether a need exists for better integration of services.
4. Establishing a plan for the education of the bench and the bar of existing pro bono efforts and whether there is a need to establish a more comprehensive system of services.
5. Planning for a means of recruiting volunteers for the pro bono effort.

The Conclave was conducted in Indianapolis on April 25, 2008. Over 70 individuals attended the Conclave, including Chief Justice Randall T. Shepard and Douglas Church, then President of the ISBA Board of Governors. The attendees were divided into eight tables and were assigned discussion topics. The topics were:

1. What about our current system of delivery of pro bono services is working well? How can we improve our system of delivery of pro bono services?
2. What are the obstacles and barriers facing our clients and their families in procuring legal representation? How do we overcome these obstacles?
3. What do we know of other creative and innovative pro bono programs? How

can we adapt these ideas to improve our programs?

4. How do we, or can we, best coordinate and integrate the administration and the delivery of pro bono services at the state, district and local level?
5. How can we best recruit, educate and retain attorneys to volunteer to do pro bono work?
6. How do we best educate and involve the courts in ensuring that pro bono services are available?

During the Conclave, each table summarized their discussions and each table reported to the gathered assembly, which reports were recorded. Following the Conclave, the Conclave sub-committee distilled the reports into topic points listed on the following pages. These topic points include areas of inquiry and recommendations from the participants at the Conclave, and are not recommendations from the Study Sponsors. Further, a number of the recommendations have already been implemented in and around the state, and reflect that some participants were not aware of ongoing state or local initiatives.

Education:

▶ Clients

- Services available to clients
 - Use internet and develop website for use by clients.
- Preventative programming
 - Consumer issues
 - Debtor-Creditor
 - Lending practices

- Small claim procedures. (Require plaintiffs to attend seminar?)
 - Prepare videos or DVDs explaining various legal topics that would be available at kiosks in courthouses, libraries, senior citizen centers, internet, etc.
 - Educate clients who are computer illiterate to use computers.
 - Educate clients as to how to contact/communicate with volunteers. Prepare a simple pamphlet of dos and don'ts.
 - Courts or clerks offer pro se clinics.
- ▶ Social service organizations
- Educate social service providers as to legal services that are provided by pro bono providers.
 - Exchange information between different organizations as to services offered.
- ▶ Volunteers
- Training in areas of law where there is great need for services but outside the usual expertise of the volunteer.
 - Make funding available to volunteers, plan administrators, district chairs, etc. to attend national pro bono conferences and to come back and conduct seminars on various ideas that may be useful in Indiana.
 - Offer cultural training for volunteers to better understand special client populations and special need clients.
- ▶ Judicial officers
- Pro bono services available from providers.
 - Funding for ADR programs through court costs (HB 1034 plans) in domestic cases.
- Educate judicial officers on best practices in handling pro se and pro bono litigants. (Sensitivity training?)
 - Develop manual for district chairs and require attendance at training sessions.
 - Plenary session at annual Judicial Conference educating judicial officers on their pro bono responsibilities and the pro bono efforts throughout the state.
- ▶ Court staff
- Training as to the pro bono services available.
 - Training staff how to deal with pro bono and pro se litigants.
 - Sensitivity training.
 - Contact Clerk of Court's state association to provide pro bono training at the state-wide gathering.
- ▶ Legislators
- Value of pro bono services for the citizens of Indiana.
- ▶ Methodology
- Improve the quality of pro bono CLE. Develop more interactive and entertaining training methodology. Use webinars, podcasts and on-line training.
- Volunteers:**
- ▶ Recruitment
- Start development of pro bono culture in law schools and law students.
 - Development of loan forgiveness program for young lawyers to encourage pro bono service.

- Take advantage of the diverse legal services that members of the bar can offer for diverse pro bono problems.
 - Encourage discounts by ICLEF and perhaps the county bar associations across the state for attorneys who volunteer to perform an agreed number of pro bono service hours.
 - Encourage involvement by corporate attorneys.
 - Development of culture of pro bono service in law firms.
 - Review the current benchmarks and discuss development of lower benchmarks or benchmarks of different levels with different rewards and recognition.
 - Use pro bono coordinators in larger firms who would assist pro bono providers by seeking attorneys in a firm to handle certain legal problems.
 - Firms should recognize pro bono service as billable hours.
 - Encourage local judicial officers to encourage pro bono participation and to give recognition of pro bono efforts by the bar.
 - ISBA and local bars should actively encourage its members to meet an established benchmark.
 - ISBA should have a regular column in the *Res Gestae* on pro bono service.
 - ISBA should offer assistance to local bar associations to use its website to promote pro bono opportunities available in the local bar.
 - ISBA should have a program concerning pro bono service at the Solo Practitioner and Small Firm Conference and at bench-bar meetings.
 - ICLEF should have a brief message at the start of video replays that encourages pro bono service.
 - Solicit older attorneys to participate in pro bono service and/or mentoring of less experienced attorneys.
 - Make the reporting of pro bono service mandatory and report the service on the Supreme Court website by individual attorney and by firm; or make pro bono service mandatory.
 - Seek recommendations from volunteers for the names of other attorneys who might become volunteers.
 - Make available on a website a uniform application that a volunteer could complete to register for pro bono service.
- ▶ Support services
- Malpractice insurance
 - Research services
 - Paralegal assistance
 - Mentoring of new volunteers by seasoned pro bono attorneys.
 - Use of law students to conduct legal research (made available by internet).
 - Develop listserv for volunteers to obtain advice from other practitioners. Put the names and the contact info of attorneys who are considered specialists in certain topics who are willing to address queries from volunteers on the listserv.
 - Improve the quality of pro bono CLE. Develop more interactive and entertain-

ing training methodology. Use webinars, podcasts and on-line training.

- Conduct a survey of volunteers to determine if there is more that could be done to recruit and retain volunteers.
 - Place the “Talk to a Lawyer” manual online and make it interactive so queries can be received and addressed.
 - Courts with calendar calls or open calls should give priority in calling up pro bono cases.
 - Courts and clerk’s offices should coordinate fee waiver matters with pro bono appearances.
 - Use the Pro Bono Commission website to provide volunteers with a list of social service agencies available in their county/district.
 - Offer free or low cost CLE classes for volunteers.
- ▶ Recognition
- Award dinners (invite family members of volunteers).
 - Recognize staff of volunteers.
 - Combine award dinner with another bar function in order to encourage other members of the bar to volunteer.
 - Prizes for volunteers.
 - Trial court judges should recognize volunteers for their services in open court.
 - Supreme Court should give certificates yearly to attorneys who complete a set amount of pro bono service in a year or send letters to attorneys nominated by local trial judges for recognition for services. The Court should also recognize the efforts of judicial officers that facili-

tate pro bono efforts.

- Place ads in local papers giving recognition to volunteers that perform a set amount of pro bono service in a year.
 - Waive CLE fees for attorneys that perform an agreed amount of pro bono service.
 - Encourage alumni magazines from the various law schools to run articles featuring the service of alumni volunteers.
- ▶ Use of Mediators
- Promote the use of pro bono mediators.
 - Require all court appointed mediators to perform a set number of pro bono mediations per year (the suggestion was 2).
 - Offer to subsidize the cost of training for mediators in exchange for an agreed number of pro bono mediations.
- ▶ Non-attorney volunteers
- Law students
 - Require mandatory pro bono service at law school.
 - Career fairs for students that emphasize pro bono service or governmental service.
 - Paralegals/non-attorney volunteers
 - Assist volunteer attorneys with client intake, organize documents, and gather information.
- ▶ Unbundle legal services
- Educate volunteers and judicial officers as to the practice of “unbundled legal services.”
 - Establish guidelines for the use of unbundled legal services.

- ▶ Develop advice-only panels of volunteers.

Access to services:

▶ Urban

- Need for translators for non-English speaking clients and deaf clients.
- Make Language Line available to pro bono districts.
- Develop assistance for clients who have difficulty reading.

▶ Rural

- Need to address problem of providing transportation for access to legal services.
 - Use community volunteers to provide transportation.
 - Establish “bookmobile” offering legal services.
- Need to address the lack of attorneys.
- Need to address problems with conflict of interest issues in less populated counties.
- Need to address the lack of telephone service and computer service.
 - Make cell phones with limited minutes available for clients or provide pre-paid minutes for clients with cell phones.
 - Use of public facilities for telephone and computer access, libraries, fire stations, etc.
- Need for translators for non-English speaking clients and deaf clients.
- Development of assistance for illiterate clients.

- ▶ Have pro bono volunteer(s) available in

court on days when there are paternity hearings, eviction hearings, etc.

- ▶ Develop “one stop” service centers for legal and other social services, *i.e.*, kiosks in public buildings that would make the information available in several languages and using forms and video instruction. Consider funding for a staff person or assignment of a staff person to work with pro se litigants. State Court Administration telephone number for pro bono assistance.
- ▶ Increase availability of intake services.
- ▶ Centralized call center for statewide use (211 call-in capability).
- ▶ Use social service providers as points of referral to legal services, *i.e.* give medical clinics information about legal service for abuse victims, legal service for tenants in unhealthy and dangerous environments.
- ▶ Conduct pro se legal clinics or make DVDs available to assist parties to complete legal forms or to educate as to legal processes.
- ▶ Provide re-entry courts with pro bono legal services to assist participants with legal issues concerning driver’s license, debtor/creditor issues, and child support issues.
- ▶ Legal services for military personnel preparing to be deployed.
- ▶ Prepare contingent plans for pro bono legal services as part of disaster relief efforts.
- ▶ Contract with attorneys in rural or outlying counties to perform legal work on a reduced fee basis.

- ▶ Offer “Talk to a Lawyer” day on Law Day in addition to Martin Luther King, Jr. Day.
- ▶ Each courthouse should provide a computer and printer available to the public to provide access to Supreme Court forms.
- ▶ Develop list of “contract attorneys” to handle cases for which it is difficult to find volunteers. Use IOLTA funding or develop other funding sources to pay for the contract attorneys.

Data gathering:

- ▶ Need for statewide uniform definition of pro bono services
- ▶ Reporting of services.
- ▶ Develop method of evaluating the services that are rendered and the effectiveness of various pro bono services.

Communication:

- ▶ Need to improve communications between social service providers and free or low-cost legal service providers
 - Regular meetings between social service providers and free or low-cost legal service providers on a district wide basis.
- ▶ Adapt Supreme Court forms to use basic language at 4th or 5th grade level.
- ▶ State funding for Language Line use by legal service providers across the state.

Working poor:

- ▶ Review definition of those who are financially eligible.
- ▶ Develop “reduced fee” services for those

who don’t meet the guidelines but are defined as the working poor.

Integration of pro bono services:

- ▶ District Chairs and Plan Administrators should have regular periodic meetings of legal service providers with social service providers to promote discussion of services, avoid duplication, coordinate funding requests, facilitate referrals and coordinate recruiting efforts.
- ▶ Pro Bono Commission should take a more active role in educating judicial officers about pro bono.
 - Prepare pro bono bench book listing services available and contact information for free and low-cost legal service providers.
 - Encourage Indiana Judicial Center to offer educational/informational programs at judicial conferences.
- ▶ Annual statewide meeting of legal service providers.
- ▶ Clarify the roles of the Pro Bono Commission and the ISBA Pro Bono Committee.
- ▶ Provide funding to districts to assist districts in organizing free and low-cost legal services, *i.e.*, software to assist in intake and for reporting purposes.
- ▶ Within each district and/or county, recruitment of volunteers should be undertaken by only one organization to avoid competition for volunteers and confusion of volunteers (judicial officers should not maintain a private panel of volunteers).
- ▶ Indiana Pro Bono Director to lead state-

wide pro bono coordination and have expanded duties and authority. Provide adequate support staff to the director.

- ▶ Indiana Supreme Court should establish a Pro Bono/Pro Se Committee that coordinates with the Commission and pro bono committees so that there is not a duplication of forms and services.
- ▶ Should ILS districts match up with pro bono districts?

The Conclave sub-committee, now known as the Pro Bono Planning Committee, a sub-committee of the ISBA Pro Bono Committee, is in the process of preparing to share the information received from the Conclave and the Study with the entities that are responsible for overseeing and/or implementing the delivery of pro bono legal services. This Committee also views its work in part to assist in the implementation of the strategic planning process recommended by the Study Sponsors.



V. ANALYSIS

A. CHANGES SINCE ILS' "LEGAL NEEDS STUDY OF LOW-INCOME HOOSIERS" WAS UNDERTAKEN IN 1999

In 1999, Legal Services Organization of Indiana, Inc.³³ contracted with IUPUI's Public Opinion Laboratory³⁴ ("POL") to conduct a study of the needs of low-income Hoosiers. The 1999 study consisted of a telephone survey of 600 randomly selected Hoosiers with incomes below 200% of the FPL, supplemented by a survey administered by social service agencies to hard-to-reach low-income people.

The 2008 study was broader, including, in addition to surveys of low-income Hoosiers, inquiries directed to members of other groups with direct knowledge of the legal needs of the poor. The 2008 Legal Needs of the Poor Study included two surveys of low-income Hoosiers: the 2008 telephone survey and the ILS Client Questionnaire. The 2008 telephone survey included a relatively large number of low-income residents randomly selected from the population of Hoosiers with landline telephones. It is therefore likely that the respondents in the sample were fairly representative of the entire population of low-income Hoosiers with landlines at that time, including people who may have needed services but never had contact with any social service agency. As discussed in detail in Section V.B.1., the ILS Client Questionnaire surveyed a similar but slightly different population of

low-income Hoosiers (those already involved with or at least aware of social service agencies or ILS) .

Many of the questions asked in the 2008 telephone survey were the same as, or similar to, questions asked in the 1999 telephone survey. The 1999 telephone survey was conducted using methods very similar to those used by the SRC in conducting the 2008 telephone survey.

In order to assess changes from 1999 to 2008, primary reliance will be placed on comparison of the telephone survey results because they are the most similar in terms of methodology and they are random sample surveys. We are interested in statistically significant changes – changes that are very likely to demonstrate an actual change of the rate of the problem in the low-income Hoosier population between 1999 and 2008.³⁵ We will point out some increases or decreases that fall slightly short of being demonstrably statistically significant using the margin of error method, particularly where they appear to be part of a trend.

One factor to consider is that the Hoosier low-income population increased between 1999 and 2008. In 1999, there were approximately 559,484 Hoosiers living below the poverty level, and about 1,518,047 below 200% of FPL (including the 559,484 below 100% FPL). As of 2007, the Census Bureau estimates that 757,813 Hoosiers have incomes below 100% FPL and 1,820,046 have incomes below 200% FPL. Therefore, even if the rate of a problem remained the same, the number of low-income people experiencing the problem will have increased. This is true for all problems. If the available supply

of attorneys willing to help with the problem increased at about the same rate as the number of people needing assistance, then the supply to demand ratio will have stayed about the same. This is unlikely, given that the state's low-income population grew at a faster pace than the state's population as a whole. Therefore, it is probable that the amount of unmet need increased even for those legal problems which remained at about the same prevalence percentage-wise.

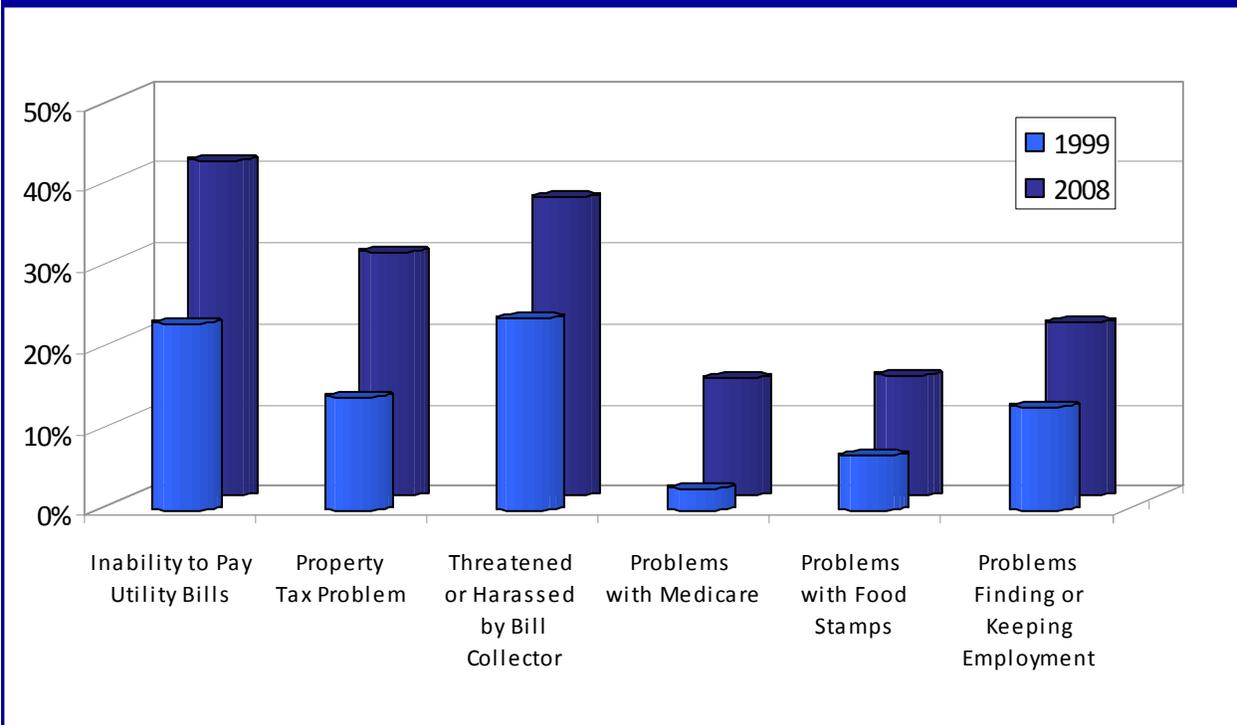
In addition to reporting rates of specific problems, SRC calculated the percentage of respondents reporting at least one problem in each category (for example, family) in the 2008 survey. The latter is not available for the 1999 data, so we will compare rates of specific problems within the categories. Changes in rates are discussed below, grouped together by category. Unless otherwise stated, rates are from the telephone surveys.

Graph 11, on the next page, illustrates some of the most striking changes in rates of reported problems in 2008 as compared to 1999.

Utilities

The data point definitively to an increase in the prevalence of utility problems. From 1999 to 2008, the rates of reporting inability to pay utility bills rose from 23.2% to 41.5% and the percentage of respondents who reported disconnection of utilities increased from 8% to 15.5%. Reported rates of disputes over utility charges increased from 11.2% to 17.6% during the same time period. Each of these increases is statistically significant.

Graph 11: 2008 Telephone Survey Respondents, Compared to 1999 Telephone Survey Respondents, Reporting Specific Legal Problems



Housing

The data indicate an increase in housing-related problems. The rate of home-ownership among low-income Hoosiers as measured by the telephone surveys increased from 44.2% in 1999 to 50% in 2008. The reported rate of foreclosure or threat of foreclosure increased from 9.4% to 17.6%, and the reported rate of property tax problems jumped from 14.1% to 30.2%. The increase in the rate of reporting property tax problems is statistically significant; the increases in the reported rates of home ownership and foreclosure or threat of foreclosure may or may not be statistically significant.

Among mobile home residents, the reported incidence of unreasonable increases in monthly fees or rents rose from 15.8% to 25.4%. Among respondents seeking Section

8 housing, the rate of reported long waiting lists increased from 42.7% in 1999 to 56.5% in 2008. The rate of renters reporting unsafe or unhealthy living conditions increased from 15.5% to 19% during the same period. None of these three rates can be considered statistically significant using the margin of error method.

Almost 11% of telephone respondents in 1999 reported problems finding or keeping housing. That figure increased to 13.5% in the 2008 telephone survey. The rate of discrimination in buying or renting a residence, as measured by the telephone surveys, increased from 6.8% in 1999 to 9.2% in 2008. Although these increases in rates are probably not statistically significant, they do appear to be part of an overall trend of increases in housing problems.

Consumer Finance/Debt

Almost every debt/consumer finance problem examined in both telephone surveys increased in frequency of reporting from 1999 to 2008. Reported harassment by bill collectors increased from 23.8% to 36.9%, and the reported rate of one's friends, family or employer being contacted about one's debts increased from 8% to 14.6%. These two increases are statistically significant. Approximately 13.3% of 1999 telephone survey respondents reported having considered or declared bankruptcy, while the figure for 2008 was 18.1%. A possible exception to this trend is problems with used car dealers; the reported rate of this problem decreased from 8.2% in 1999 to 6.8% in 2008, however this decrease is probably not statistically significant.

Family Law

In the area of family law, no clear trend is apparent. As measured by the telephone surveys, the reported rates of some family law problems increased, while the reported rates of other family law problems decreased. There were more decreases than increases; however, most of the changes (increases and decreases) were so small as not to be statistically significant.

The rate of respondents who reported not receiving child support increased from 25% to 27.2%. The biggest changes in the reported rates of family law problems were in custody disputes (a decrease from 8% in 1999 to 4.7% in 2008) and establishing paternity (a decrease from 6.3% in 1999 to 2% in 2008), and even these changes are within the margin of error and therefore probably not statistically significant. The reported rate of parent-

ing time disputes decreased from 10.3% to 8%. The rates of a number of other problems also increased or decreased by less than 2%.

The most likely conclusion is that the rates of most family law problems stayed about the same or decreased slightly. However, given the increase in the size of the low-income population and the likelihood that the supply of attorneys willing to accept family law cases on a pro bono basis is decreasing (see Section V.B.2.b.), it appears that the unmet need for family law assistance among low-income Hoosiers is increasing.

Public Entitlements

In the category of public entitlements, problems with Medicare appear to be on the rise, perhaps in part as a result of complicated prescription program changes. Two and eight-tenths percent (2.8%) of respondents in 1999 reported problems with Medicare, while 14.6% in 2008 reported problems trying to get Medicare.³⁶ This increase of 11.8% is statistically significant. Another significant change in the public entitlement category is the increase in the rate of problems with Food Stamps from 6.8% in 1999 to 14.9% in 2008. Despite information received in other Study components concerning the difficulties caused by changes in application procedures, the rate of reported problems with Medicaid remained about the same from 1999 to 2008.

Employment

The surveys included questions about problems related to employment, including problems finding or keeping employment. Loss of a job (or inability to find employment) can lead to a number of legal problems, including issues related to COBRA, unemployment insurance and other public entitlements, and

housing and consumer finance issues. Problems finding or keeping employment increased from 12.8% in 1999 to 21.4% in 2008.

B. WHAT ARE THE MOST PRESSING LEGAL NEEDS OF INDIANA’S LOW-INCOME POPULATION?

1. Comparison of Data/Synthesis

The ILS Client Questionnaire (the “Questionnaire”) and the telephone survey assessed similar but slightly different groups of low-income Hoosiers. The telephone survey respondents were randomly selected Hoosiers with landline telephones whose household incomes were below 200% of FPL. The group of Questionnaire participants was not randomly selected and was made up of low-income Hoosiers who were already involved with or at least aware of social service agencies or ILS. Another difference between the Questionnaire and the telephone survey is that many questions in the Questionnaire were unlimited with respect to time, while almost every telephone survey question asked the respondent to identify only those legal problems occurring during a specific “look back” period. As described below, each of the differences between these two surveys of low-income Hoosiers may cause differences in the reported rates of a legal problem in the two surveys. Nevertheless, it is useful to compare reported rates of problems assessed in both surveys. When the rates of a problem in the two surveys are fairly close, this may suggest that the rate of that particular problem is fairly consistent among low-income Hoosiers.

Random selection of a survey sample of a sufficient size makes it likely that the sample truly represents the population of interest. The fact that the people taking the Questionnaire were selected by people exercising subjective judgment makes the sample unlikely to be representative, even of the group of low-income Hoosiers seeking social services. The composition of the group of people taking the Questionnaire probably affected the responses to some of the questions. For example, the rate of domestic violence reported in the Questionnaire responses was much higher than that of the 2008 telephone survey and the 1999 surveys. If some Questionnaire respondents were seeking services for domestic violence (which may or may not be the case), that could account in part for the difference in reported rates. (As discussed in subsection 5.d., there is good reason to believe that the rate of domestic violence reported in telephone surveys is lower than the actual rate in the population.) The telephone survey respondents were a large randomly selected sample of low-income Hoosiers with landlines. It is likely that this group was representative of low-income Hoosiers with landlines statewide. The use of landlines obviously eliminated poor people without landlines from consideration. This may have had the effect of decreasing to some extent the representation of young people and very poor people in the sample, but this is not clear.

In comparing reported rates of problems for which the telephone survey question included a timeframe and the Questionnaire did not, this difference could explain a higher reported rate of the problem in the Questionnaire responses. For example, the telephone survey included the question, “*In the past*

year, have you or anyone in your household had problems trying to get any of the following benefits of services from government agencies?” (Emphasis added.) The Questionnaire asked, “Have you or anyone in your household had problems trying to get any of the following benefits or services from government agencies?” If the same group of people were asked each question, it is very possible that more of them would respond affirmatively to the question that was unlimited in time; for example, someone who had had a problem trying to get Food Stamps two years ago would answer yes to the ILS question and no to the telephone survey question. Therefore, it is not surprising that for almost all of the enumerated benefits, the reported rates from the Questionnaire were higher than those from the telephone survey. (The exceptions to this rule were Medicare and Worker’s Compensation.)

Consumer Finance/Debt

In comparing rates, it is also important to note that there are slight differences in phrasing of similar questions in the two surveys, and that in some cases the questions are grouped differently. A comparison of some of the results follows.

Both surveys indicate that consumer finance/debt problems are very common in the low-income population. Approximately 49% of telephone survey respondents and 55% of Questionnaire respondents reported at least one problem involving consumer finance/debt. The reported rates of individual problems within this category were fairly consistent. For example, about 39% of Questionnaire respondents and 37% of telephone survey respondents reported having been har-

assed by bill collectors; and about 20% of Questionnaire respondents and 15% of telephone survey respondents reported that their friends, family, or employer had been contacted about their debts. (Foreclosure or threat of foreclosure may be considered a housing problem and/or a consumer finance problem. The reported rate of foreclosure or threat of foreclosure among Questionnaire respondents was about double the reported rate among telephone respondents.)

Public Entitlements

In the area of public entitlements (“benefits” in the telephone survey), 35.4% of respondents in the telephone survey and 64.2% of Questionnaire respondents reported at least one problem with public entitlements. As previously mentioned, the telephone survey question about problems trying to get specific benefits was limited to the past year, while the Questionnaire question was unlimited in time; therefore, higher rates in the latter are not surprising.³⁷

The reported rates of waits for Section 8 housing (56.5% of telephone survey respondents and 42.3% of Questionnaire respondents) taken together provide persuasive evidence that waits for Section 8 housing are a very prevalent problem. (Neither question was limited to a recent period of time. The only significant difference was that the telephone survey asked about a “long” waiting list.)

Utilities

Turning to the utility category, about 30% of Questionnaire respondents, and 42% of telephone survey respondents, reported inability to pay utility bills. The rates of respondents who reported having experienced disconnec-

tion of utility service were much closer: 15.5% of survey respondents and 18.2% of Questionnaire respondents reported experiencing this problem. Both of these surveys indicate that problems with utilities are prevalent among the poor in the state.

Family Law

Questionnaire respondents reported family law problems much more often than telephone survey respondents: 64% of Questionnaire respondents reported a family problem, while the corresponding figure was 20.4% of telephone survey respondents. The differences may be attributed in part to the unique composition of the Questionnaire sample – Questionnaire respondents had obtained or sought assistance from ILS or a social service agency, and family law is ILS' top area in terms of the number of cases handled. The fact that the telephone survey questions, but not those in the Questionnaire, were limited by time period may also have contributed to the difference.

In the telephone survey, the most frequently reported family law problems involved children. Not receiving child support and disputes about parenting time (visitation) were the most frequently reported family law issues associated with children. Of the 488 respondents who had children under eighteen years of age, 132 (about 27%) reported not receiving child support and 39 (about 8%) reported parenting time disputes.

Housing

Housing-related problems overall were reported much more often by Questionnaire respondents than by telephone respondents: 51% of Questionnaire respondents and approximately 24% of telephone survey re-

spondents reported at least one housing-related problem. The higher reported rate among Questionnaire respondents likely reflects the large portion of ILS' caseload made up of housing matters. Despite the large difference in overall rates of housing problems, the rates of some of the specific problems in the housing category were close. Among renters, about 19% of telephone survey respondents and 21% of Questionnaire respondents reported having experienced unsafe or unhealthy living conditions. The rates of disputes with landlords or others in the building were reasonably close. The eviction rate among renters in the Questionnaire was about 16%. There is no corresponding rate from the telephone survey. The rates of problems reported by homeowners were inconsistent between the two surveys. About 36% of Questionnaire respondents and 18% of telephone survey respondents reported having experienced foreclosure or the threat of foreclosure. Only 15% of Questionnaire respondents, as compared to about 30% of telephone survey respondents, reported a property tax problem.

Medical Care

Comparison of the incidence of medical problems between the two survey groups is difficult for a number of reasons, including phrasing of questions and technical issues such as identification of the appropriate subgroup of the sample. However, some comparisons can be made. Approximately 27% of telephone survey respondents reported not having gone to the doctor due to cost in the past year, and approximately 33% of Questionnaire respondents reported having experienced inability to afford a doctor or hospital. Twenty-two percent (22%) of telephone sur-

vey respondents reported being unable to obtain a prescribed medication within the past year, while about 35% of Questionnaire respondents reported having experienced inability to afford prescribed medication. Considering that these Questionnaire questions were unlimited as to time, these response rates are remarkably consistent.

Children/Education

Comparison of the prevalence of children's educational problems is challenging because it is unclear how many Questionnaire respondents had children under eighteen in their households, with the results that the calculated problem rates in the education area probably understate the incidence of the problems. However, it is probably significant that suspension of a child was the most frequently reported problem in both groups, with incidence of 14.4% of respondents with children under eighteen in the telephone survey and 7.6% of all survey respondents in the Questionnaire group. Unfair school policies also made the top four among both groups. Difficulty getting special education was the fifth most prevalent problem in the telephone survey sample (8%), and second among Questionnaire respondents (7% of all respondents).

Language/Immigration

Comparison of the prevalence of problems related to immigration status is not possible because the rates of these problems among the relevant subgroup of each survey cannot be calculated. Comparison of the prevalence of language-related problems probably would not be meaningful due to the small sizes of the relevant subgroups and phrasing issues.

2. Current Greatest Legal Needs of the Poor – A Comprehensive View

a. Consumer Finance

Almost every component of the Study points to the conclusion that consumer finance is currently a primary legal need of the low-income population. Almost 60% of responding judges and clerks reported that over 80% of low-income litigants in consumer finance cases in their court appeared pro se. In the telephone survey of low-income Hoosiers, the debt/consumer finance category was the second most frequently reported type of problem. Consumer finance was the top-ranked problem area in both the ILS Board of Directors Questionnaire and the ISBA Judges and Clerks Survey. The focus groups, attorneys statewide, and ILS staff all ranked consumer finance within the top three areas of legal need, and pro bono plan administrators ranked it fourth out of a choice of over ten areas. As to causes of excessive debt, many responses pointed to poor understanding on the consumer's part about financial matters such as interest rates, the inability to understand the "fine print" in contracts, and a lack of understanding of what one can and cannot afford.

Within consumer finance, areas of particular concern included predatory lending, credit card debt, bankruptcy, and debt collection. Examples of predatory lending included payday loans, some used car loans, and subprime mortgages. One attorney stated that most people he sees who want to file Chapter 7 bankruptcy have been the victim of predatory collection practices. Approximately one-third of the low-income people participating in the telephone survey felt that they had been a

victim of predatory lending in the past five years. One response identified as problematic the practice of credit card companies raising interest rates, even when a consumer is current on his or her account, based on the credit card company's determination that the consumer is "overextended."

A number of attorney responses described the impact the bankruptcy law amendments of 2005 have had on the ability of low-income people to file for bankruptcy. The consensus was that the additional work and liability placed on attorneys has caused them to raise their fees for a Chapter 7 to the point where the working poor cannot afford it. As one potential client responded in the ILS Client Questionnaire, "If we had the money needed to file bankruptcy, then we would not need to file . . ." Another issue raised was that impact of the law's requirement for pre-petition credit counseling. The implication was that many pro se debtors, unaware of this requirement, end up with their petitions dismissed for failure to obtain the counseling.

Attorneys identified a number of improper collection practices, including out-of-state collection agencies attempting to collect after the statute of limitations has run and repeat filings in proceedings supplemental. Thirty-seven percent (37%) of telephone survey respondents reported having been threatened or harassed by bill collectors in the last year, and 14.6% reported that their friends, family or employer had been contacted concerning their debts. As one judge pointed out in a survey response, pro se litigants are unlikely to be aware of violations of the Fair Debt Collection Act or the ability to settle for less than face value of a debt.

b. Family Law

Almost all components of the Study indicate that family law is one of the areas of greatest legal need of the poor. This is particularly true for post-dissolution matters such as custody modifications, parenting time modifications, and child support issues. All focus groups identified family law as a top need. Attorneys, pro bono plan administrators, and human service providers all ranked family law as the biggest problem for the low-income population in Indiana. Judges and clerks ranked family law as the second biggest problem, and the ILS Board of Directors also ranked it high. ILS staff ranked it fifth (after housing, health, consumer finance, and public entitlements).

Sixty-four percent (64%) of ILS Client Questionnaire respondents reported at least one family-related problem. In the telephone survey, approximately 20% reported at least one family law problem, making family law the sixth most prevalent problem category out of eight categories.³⁸ These reported rates are not inconsistent with family law being an area of large unmet need because this is a function of both demand and available supply. The almost unanimous observation that family law is one of the most significant problems for the population of low-income Hoosiers likely reflects the reluctance of most attorneys to take family law cases on a pro bono basis. Survey responses indicate that this reluctance may be due, in large part, to the potentially ongoing nature of dissolution cases, with the court retaining jurisdiction over the case until the youngest child reaches the age of majority. An inadequate supply of pro bono attorneys handling family law cases is a widespread problem, according

to a report issued by the ABA Center for Pro Bono in 2002.³⁹ The report suggests several reasons for the reluctance to take family law cases, including vagueness of the “best interests of the child” standard, the complexity of family law cases, the difficulty of obtaining an evaluation, and the “burnout factor.” The pro bono program representatives participating in the ABA study felt that the pool of attorneys taking family law cases had dwindled over the years, while the number of family law cases had remained the same or increased.

c. Housing

Housing was ranked the most important legal problem area by ILS staff, and the second most important by the ILS Board of Directors. Pro bono plan administrators rated it the second most significant problem, and it was among the top five problems identified by judges and clerks, human service providers, and attorneys.

The surveys of low-income Hoosiers confirm that housing problems are prevalent. In the telephone survey, about 19% of renters reported experiencing unsafe or unhealthy living conditions. Of those respondents who had tried to buy real estate in the preceding five years, about 30% reported experiencing a property tax problem, about 20% reported experiencing deception by the lender, and almost 18% reported experiencing foreclosure or the threat of foreclosure. In the ILS Client Questionnaire responses, about 21% of renters reported experiencing unsafe or unhealthy living conditions, and about 16% reported having experienced an eviction or termination. Of homeowners responding to the ILS Client Questionnaire, about 15% re-

ported experiencing a property tax problem, about 6% reported experiencing deception by the lender, and about 36% reported experiencing foreclosure or the threat of foreclosure.

Utility problems, which obviously affect habitability of a home, were prevalent. About 53% of all telephone survey respondents experienced at least one problem involving utilities, and the corresponding rate for the ILS Client Questionnaire was 35.5%. Mobile home residents report many problems. One quarter of mobile home residents responding to the telephone survey reported unreasonable increases in monthly fees or rents.

The wait for Section 8 housing is often long. Over half of telephone survey respondents who lived in or had tried to obtain Section 8 housing reported being put on a long waiting list.

The responses to the ISBA surveys and the ILS Staff Questionnaire indicate that, in addition to eviction and mortgage foreclosures, utility shut-off, failure to return security deposits, and unsafe living conditions are significant problems. The information obtained in the Study indicates that many people are precariously housed.

d. Public Entitlements

The focus groups identified public entitlements as one of the top three legal needs of the poor, and pro bono administrators ranked public entitlements third. This category was ranked in the top five areas of legal need by ILS staff and human service providers, and was considered important by most responding ILS Board members.

Very few responding judges and clerks had had any experience with public entitlements. Public entitlements did not rank in the top five among attorneys as a group, although about one third of responding attorneys rated public entitlements in their top five.

Problems with public entitlements were prevalent in both 2008 surveys of low-income Hoosiers. Approximately 35% of people taking the telephone survey, and approximately 64% of people taking the ILS Client Questionnaire, reported at least one problem with public entitlements. The responses of the groups surveyed, including low-income Hoosiers, support the conclusion that public entitlements are one of the most pressing legal needs of the poor in Indiana.

e. Health Care

Problems obtaining or paying for appropriate medical care can lead to legal problems including a need to obtain public entitlements, filing for bankruptcy, and involvement with the child welfare system. ILS staff ranked health the second most important legal need of the poor: 92.9% of responding staff members rated health “very important” or “important.” Both ILS Board members and human service providers ranked health the third most important legal need of the poor. Attorneys statewide ranked health the fourth most important legal need of the poor, after consumer finance, family law, and housing. The telephone survey and ILS Client Questionnaire responses demonstrate that health care problems are very prevalent among low-income Hoosiers.

3. Fastest-growing Legal Needs of the Poor — A Comprehensive View

a. Consumer Finance

Both attorneys and judges and clerks ranked consumer finance the fastest-growing legal problem of low-income Hoosiers: over 72% of attorneys and 74% of judges and clerks listed consumer finance among the five fastest-growing problems. Pro bono administrators rated consumer finance the third fastest-growing legal problem of the poor.

As discussed in Section V.A., the incidence of most consumer finance problems has increased since 1999. Predatory lending practices, including payday loans, rent-to-own, and some subprime and/or adjustable rate mortgages, appear to be on the rise. The ability of credit card companies to increase rates even if a customer’s account has been current may also be a factor in the increased incidence of consumer finance problems. The changes in the bankruptcy laws have made Chapter 7 filing too expensive for many low-income people. Given the current economic outlook, it seems likely that the trend of increasing consumer finance needs will continue and that a great deal of legal assistance will be needed.

b. Housing

Approximately 63% of responding attorneys rated housing among the five fastest-growing problems of the poor, with the result that attorneys as a group ranked it the third fastest-growing problem. Pro bono plan administrators rated housing the second fastest-growing problem; approximately 88.90% of them included it in their top five.

As discussed in subsection V.B.2.c., evic-

tions and foreclosures are a major problem for low-income Hoosiers. Several survey responses suggest that it is not uncommon for a tenant with legitimate reasons for withholding rent to be unable to raise these issues in court before an eviction is ordered

c. Family Law

All nine of the pro bono administrators responding to the survey included family law in their list of the five fastest-growing legal problems of the poor. More than 60% of judges and clerks and approximately 65% of attorneys also identified family law, with the result that both groups ranked family law second.

4. Importance of Particular Legal Service Delivery Techniques

There was less agreement between different groups surveyed about the importance of particular legal service delivery techniques than about legal practice areas of greatest need. For example, ILS staff rated administrative agency representation the most important legal service delivery technique, while ILS Board members rated administrative agency representation the least important technique. Nevertheless, there were some areas of agreement.

There was a consensus that court representation⁴⁰ is very important. Counsel and advice was rated as “important” or “very important” by the majority of attorneys, ILS staff, ILS Board members, and human service providers; in fact, twelve out of thirteen responding ILS Board members rated counsel and advice “very important”, and the thirteenth rated it “important.” Most respondents felt that community legal education was “important” or “very important.” When asked to rate the

effectiveness of community education, slightly fewer than half of responding judges and clerks rated it “very effective” or “moderately effective.”

At least half of responding attorneys, pro bono plan administrators, ILS staff, ILS Board members, and human service providers rated limited scope representation/brief service “important” or “very important.” Although judges and clerks of court were not asked to rate the importance to clients of specific types of service, they were given the opportunity to rate the effectiveness of types of service. The majority of responding judges and clerks did not rate limited scope representation/brief service as “effective” – most either felt it was ineffective or were unsure or unaware that the service existed.

5. Additional Information That Is Needed

a. Immigrants

Both the telephone survey and the ILS Client Questionnaire provided useful information about legal problems affecting immigrants. However, neither survey determined which respondents were immigrants or members of households including immigrants. Without knowing which respondents fall into this category, it is not possible to calculate the rate of a problem among this subgroup.⁴¹ Presumably for this reason, SRC calculated the rate of problems related to immigrant status among the entire group of survey respondents. The rate among all survey respondents (most of whom were probably not immigrants) of problems related to immigrant status was slightly less than one percent.

Social service provider responses indicate that many immigrants are reluctant to speak with people they don't know for fear of com-

ing to the attention of Citizenship and Immigration Services or other law enforcement. For this reason and because some potential respondents were unable to take the telephone survey, among other reasons, immigrants may have been under-represented in the surveys.

The information that was obtained directly from immigrants and members of their households, as well as responses from human service providers, attorneys, and other professionals who work with immigrants, suggest that immigrants face unique and serious legal problems. (See the discussion of legal problems of immigrants in Section V.G.2.) Further study to determine the extent of the legal needs of immigrants is needed.

b. Limited English Proficiency

One hundred sixteen (116) of the 1,203 telephone survey respondents, and 29 ILS Client Questionnaire respondents reported that someone in their household usually speaks a language other than English. Although many people who usually speak a language other than English are people with LEP, some people speak two or more languages well. Due to the combination of the small number of respondents in this category (116)⁴² and the imprecision of the correlation between usually speaking a language other than English and being a person with LEP, further study is needed to reliably estimate the rates of problems among Hoosiers with LEP.

c. Farm Workers

Only 22 of the 1,203 telephone survey respondents reported that they, or someone in their household, had been employed as a farm worker in the past two years. A sample of 22 people is too small to be considered

representative of farm workers in Indiana; therefore, the rates of legal problems in the sample cannot be considered a reliable estimate of the rates of these problems among farm workers in the state. The comparable group of ILS Client Questionnaire respondents was even smaller.

d. Domestic Violence

The telephone survey asked whether there had been family abuse or violence in the last year. Thirty-four of the 1,203 respondents (2.8%) responded affirmatively. Given that domestic violence is one of the most under-reported crimes, it appears unlikely that a victim of domestic violence would tell a stranger on the telephone that he or she had been abused, even if the perpetrator were not home. If the perpetrator were at home and allowed the victim to speak on the telephone, the abuse almost certainly would not be reported. It is also unlikely that an abuser would tell a caller that he or she had committed acts of domestic violence. Given the social science research, it appears likely that 2.8% is an underestimate of the extent of domestic violence in Indiana.

Over 25% of ILS Client Questionnaire respondents reported that there had been domestic violence in their home. This survey was typically administered in a setting less likely to have a chilling effect on giving a truthful response than the telephone survey. However, the respondents to this survey were not randomly chosen, as they were applying for, or already receiving, services from ILS or a social services agency. Therefore the prevalence of domestic violence in this group may also not be considered representative of

the rate of domestic violence in Indiana's low-income population as a whole.

C. HOW WELL ARE THESE MOST PRESSING NEEDS CURRENTLY BEING ADDRESSED?

There are a number of programs, services, and individuals providing legal services to the poor free of charge or at substantially reduced rates. These include civil legal service providers, pro bono districts, attorneys accepting cases through the pro bono districts, legal service programs, attorneys performing pro bono service on their own, law school clinics, and various social service organizations. Availability of services varies in different geographic regions. Participants in the New Castle focus group stated that Jay and Henry counties have virtually no free or low-cost legal services. Other areas, such as Bloomington and Evansville, have multiple providers of services.

Even in areas that have a relatively large amount of legal resources for the poor, however, there are still not enough resources to meet the high demand. Some people have reported experiencing long waits for assistance, and some people have been unable to obtain assistance. Responses obtained during the Study lead to the conclusion that demand for services far exceeds the supply.

The SRC survey included a question directly asking low-income people about unmet civil legal needs generally and a few questions about specific unmet civil legal needs.

About 16% of respondents responded affirmatively to the question asking whether they or someone in their household had

needed legal help for a noncriminal problem but been unable to get it. Responses from attorneys and others who work with low-income Hoosiers indicate that a common barrier is failure to recognize a problem as a legal problem; therefore, the true rate of unmet legal needs was likely higher than 16%.

In the survey directed to judges and clerks during Phase II of the Study, judges and clerks were asked to estimate the percentage of low-income litigants appearing pro se in various types of cases. These estimates suggest that many low-income people appear pro se, which indicates that they are unable to obtain legal representation. For example, almost 60% of judges and clerks responding estimated that between 80 and 100% of low-income respondents in consumer finance cases in their courts appeared pro se. In housing cases, the corresponding figure was almost 43%.

Information provided by ILS and Indiana's pro bono plan administrators in connection with the preparation of this Final Report, corroborates the Study finding of a shortage of attorney representation for the poor. For the period from March 16, 2009, through May 15, 2009, ILS conducted an actual count of poor people seeking assistance from ILS, and whether or not full attorney representation or limited legal services were provided to these individuals. For purposes of this Final Report, the first 39 of the total 45 workdays were considered. During that time period, 2,341 financially eligible applicants sought legal assistance from ILS. ILS was able to provide full representation to 612 of those 2,341 applicants; 490 received extended legal representation, and 122 received advice or brief services that resolved the applicant's

legal matter. ILS was unable to provide any services to 589 financially eligible applicants, and was unable to provide full services to 1,140 (i.e., ILS provided some limited legal assistance that did not fully resolve the applicant's legal issue). Viewing this data in terms of percentages, ILS was unable to provide full attorney representation to 75% of the applicants.⁴³ The highest percentage of cases that ILS was unable to staff was in the family law area; 313 of the 589 cases that ILS was unable to serve at all, and 452 of the 1,150 cases that ILS was unable to serve fully were family law cases.

Reports from Indiana's pro bono plan administrators provide similar information: On average among the pro bono districts, during 2007, 62% of applicants for pro bono attorneys did not receive full attorney representation.⁴⁴ To determine this statistic, each pro bono district was asked to provide four pieces of information: 1) the number of applicants requesting help in 2007 (limiting this to actual intake done for individuals meeting income eligibility guidelines and requesting assistance in civil matters and applicants to Talk To A Lawyer Today, an annual Indiana program in which limited legal services are provided); 2) in response to 1) above, the number of applicants provided with legal services through volunteer attorney referral in 2007; 3) in response to 1) above, the number of applicants who were provided with assistance organized by the plan administrator (e.g., limited legal services provided by plan administrator, his/her delegate, or a volunteer attorney) in 2007; and 4) the number of applicants identified in 1) above who were financially eligible to receive pro bono assistance in a civil matter, but did not receive

any assistance in 2007.⁴⁵ Not including limited legal services, these reports indicate that, in at least eight districts, fewer than half of the potential clients requesting attorney representation actually received help during the relevant calendar year. In five districts, 79-95% of applicants did not receive attorney representation. Most of the plan administrators reacted to this reality by providing and/or arranging limited legal services for applicants to help them meet pressing legal needs.

D. TO THE EXTENT THAT ANY OR ALL OF THESE NEEDS ARE NOT BEING MET, WHY AND IN WHAT WAYS ARE THEY NOT BEING MET?

The primary reason that some of these needs are not being met is that there are not enough attorneys doing this work. Insufficient funding for civil legal service providers to hire attorneys and to retain experienced attorneys is a major cause of the inability of the supply to satisfy the demand. Overall, responses indicated that the attorneys who do legal work for the poor do an excellent job. Several ILS clients made comments such as the following: “. . . I had no job and no money. I needed help and free legal services were there to help me. I couldn't thank them enough.” There simply are not enough attorneys doing this much-needed work. The relatively small amount of pro bono work performed by the private bar as a whole is also a significant factor. Survey responses indicate that private attorneys are particularly reluctant to handle family law cases on a pro

bono basis, resulting in a particularly high level of unmet need in the family law area. Other reasons that many legal needs of the poor are not being met are identified in the discussion of major barriers. These reasons include insufficient coordination between civil legal service providers and pro bono districts. Although civil legal service providers, the Pro Bono Commission and pro bono districts have been coordinating on a state-wide level and in some areas on a regional level, coordination could be improved. With improved coordination and streamlined intake processes, the delivery of services could be improved.

The substantive areas of greatest unmet need are family law, consumer finance, housing, public entitlements, and health. In terms of types of services, there is a large unmet need for legal advice before an issue becomes a major problem and for preventive legal education of the low-income community.

E. MAJOR BARRIERS TO INDIANA’S LOW-INCOME POPULATION RECEIVING LEGAL SERVICES

Study participants identified many factors that they felt were significant barriers to low-income Hoosiers receiving legal services. These barriers include the following:

1. Insufficient Number of Attorneys Serving Low-Income Population

Many low-income people in Indiana cannot afford to pay for legal services. Many of these people can obtain the assistance of an attorney only if it is provided free of charge;

some may be able to afford legal assistance at reduced fees compared to market rates. The United States Census Bureau estimates that, as of 2006, more than 1,820,000 Hoosiers had household incomes below 200% of FPL and that about 1,000,000 of these individuals lived in households with incomes below 125% FPL, www.factfinder.census.gov. There are people (the “near poor”) who are above 200% of FPL, yet still have trouble making ends meet and have little or no money available to pay an attorney. Indiana’s low-income population has been increasing at a faster rate than its overall population.

ILS currently has 51 staff attorneys state-wide. Including public interest attorneys from other groups that directly represent low-income individuals, there are almost certainly fewer than 75 attorneys statewide who are employed to represent poor people at no cost on a full-time basis. The total number of pro bono hours reported by pro bono districts to the Pro Bono Commission for 2007 was 33,101 hours. This number is almost certainly lower than the actual number of pro bono hours worked.⁴⁶ If this number is increased by 50%, which probably gives an overestimate, and converted to full-time equivalents based on the assumption that a full-time attorney represents clients for 1,750 hours in a year, the result is about 28 full-time pro bono attorneys. Assuming that the legal assistance provided by law school clinics to low-income clients equates to 10 full-time public interest attorneys, the total supply of free attorneys available to the poor in Indiana would be the equivalent of 113 full-time attorneys. Dividing the estimated number of Hoosiers living below 125% of FPL

(1,000,000) by 113 gives a ratio of approximately 8,850 potential clients per attorney. (If Hoosiers with incomes between 125% and 200% of FPL are considered, the ratio of potential clients per attorney increases to approximately 16,100.) In contrast, the ratio of private attorneys providing personal civil legal services to the general Indiana population is approximately one attorney to every 688 Hoosiers.⁴⁷ Obviously, there is a substantial disparity between these ratios, indicating that there are not enough pro bono and public interest attorneys to meet the needs of the poor who cannot afford to pay an attorney.

The insufficient number of pro bono and public service attorneys representing the poor in comparison to the need for legal assistance was a theme throughout the responses to the various surveys, questionnaires, and focus groups making up the Study. Attorney responses indicate that this is particularly true in the area of family law. And, while many responses to the open-ended questions in the ILS Client Questionnaire expressed gratitude for services received,⁴⁸ some pointed to the need for additional attorneys.⁴⁹

The information obtained during the Study, particularly from the ISBA attorney survey, suggests several reasons for the relatively small number of private sector attorneys who represent low-income Hoosiers on a pro bono basis. These reasons include attorneys struggling to maintain a profitable practice (particularly in rural areas and small towns), reluctance to take a case outside of one's area of expertise, fear of malpractice suits, fear of involvement in never-ending cases (particularly in family law), and a general lack of incentives. The inadequate number of pro bono and public service attorneys is a

major barrier to Indiana's low-income population receiving legal services.

2. Inadequate Funding

The information obtained from the focus groups, the ILS Staff Questionnaire, ILS Board of Directors Questionnaire, and ILS Human Service Provider Questionnaire responses, and the ISBA attorney survey supports the need for additional funding for civil legal service providers. Clearly, there is a relationship between funding levels and staffing levels; additional funding would enable providers to hire additional attorneys and other staff. Money could also lessen some other barriers, including costs of litigation (filing fees, deposition expenses, expert witness fees, copying costs, custody evaluations, etc.) and attorney training.

3. Need for Better Coordination

Another recurring theme in responses was the need for better coordination. The coordination issue arose in two contexts: (1) coordination between civil legal service providers and the pro bono districts, and (2) coordination between the pro bono providers (civil legal service providers, pro bono districts, and other attorneys serving the poor) and social service agencies.

ILS and the pro bono districts are set up and operate very differently; yet, there is an extensive area of overlap in their potential clients and matters. The pro bono districts operate under the supervision of the Indiana Pro Bono Commission and are funded with IOLTA money. Each pro bono district facilitates the provision of services by local attorneys to low-income residents of the district on a pro bono basis. The districts do not in general employ staff attorneys to provide le-

gal services; instead, they recruit volunteer attorneys to take cases on behalf of low-income clients who have contacted the district office seeking assistance. There is no statutorily established maximum income level for eligibility for pro bono service through the pro bono districts, though all have income guidelines, and most of them follow the ILS guidelines. The districts are also limited in what types of cases or matters they can accept for referral, as they can only take civil cases, there are also eligibility guidelines that go beyond income, and there are also limitations contained within the Indiana Rules and within grant agreements with the districts.

ILS is funded in part by the Legal Services Corporation (“LSC”). As a LSC recipient, ILS may use LSC funding only to serve people meeting the income eligibility requirements set forth at 45 CFR 1611. LSC regulations also preclude ILS from taking certain types of cases. For example, ILS may not represent prisoners, 45 CFR 1637; under some circumstances may not represent non-citizens, 45 CFR 1626; and may not use LSC funding to represent clients in fee generating cases absent a specific demonstration that other adequate representation is unavailable, 45 CFR 1609.

Coordination between the Pro Bono Commission and districts and civil legal service providers, including ILS, has been ongoing both on the statewide level and, in some areas, on the regional level. For example, the ILS Evansville District Office and Pro Bono District 13 jointly conduct case acceptance. Representatives of the two agencies meet weekly to review the week’s intakes and decide with whom the case can best be placed.

This system works very well. Further, this Study is a result of statewide collaboration between ILS, the IBF (parent organization of the Pro Bono Commission), and the ISBA’s Pro Bono Committee.

However, many stakeholders suggested that, at least in some areas of the state, there is inadequate coordination between civil legal service providers and the local pro bono district. Regular communication of the availability, existing commitments, and intakes of each organization in a region (in terms of numbers and types of cases and areas of expertise of attorneys) could result in potential clients being helped sooner and experiencing less confusion and frustration. Focusing efforts on coordination is particularly appropriate given that the mandates of both the Indiana Pro Bono Commission⁵⁰ and ILS⁵¹ include integration and coordination of services. On the subject of coordination, one pro bono plan administrator recommended that ILS focus its efforts on the counties with small attorney populations where there is little or no ability to take pro bono cases.

One attorney commented, “clients [are] frustrated [at] having to apply[,] then, if turned down by legal service program, re-apply for pro bono services, only to potentially be turned down again. Given how late the clients come to legal help to begin with, this can be problematic for a satisfactory result.”

In regard to coordination between attorneys and social service agencies, a number of ILS Human Services Provider Questionnaire respondents expressed a desire for more information about what types of legal work are done by which legal service providers and, more basically, about what matters require

legal representation. They pointed out that this type of coordination could lead to more appropriate referrals, which would get the client help sooner. This idea of educating intermediaries who have daily contact with the poor to help them make appropriate referrals to legal services also was raised by focus groups.

On the need for coordination, one pro bono plan administrator wrote, “More coordination needs to be [developed] between legal service providers and support groups so that a two way system of client assistance is developed to provide a more consistent safety net that incorporates the benefits offered by both a legal service system and a social welfare system. Clients [who] come directly to legal services many times need more than just legal help to fully participate in their legal affairs, parenting and interpersonal skills, for example. And vice versa, persons who are getting assistance on their social problems could benefit from some good legal advice. Support networks also could help with more pro se, and general legal education that would assist clients in using better judgment in making life decisions to prevent legal problems.”

4. Waits for Legal Assistance

Some people have reported experiencing long waits for assistance from legal service providers. Long waits can make many legal problems more complicated and difficult to resolve. Sometimes early advice, or a telephone call by an attorney to a potentially adverse party, can prevent the need for litigation. A number of responses to the ISBA surveys indicated that, in some parts of the state, delayed legal representation is a fre-

quent and serious problem in CHINS and delinquency cases. In CHINS cases, some unrepresented parents reportedly make admissions without a full understanding of their rights, and some parents fail to participate in services without understanding the potential consequences, sometimes leading to separation of families that perhaps could have been prevented. Responses indicate that, on the delinquency side, some unrepresented families don’t understand the implications of waivers into adult court and the potential for juvenile records to appear in adult presentence investigation reports.

Long waits for legal assistance also act as a barrier by decreasing the likelihood that some potential clients follow through once assistance becomes available. Responses from social service providers indicate that some potential clients already feel skeptical that they can be helped or that the legal system will treat them fairly. Faced with a long wait, some of these people may just give up. The magnitude of the demand for free and low-cost attorney time in comparison to the supply is obviously a primary cause of long waiting times. In some cases, insufficient coordination between agencies may be a factor.

5. Insufficient Information/Knowledge

Insufficient knowledge about the law and the legal system presents a major barrier. Substantive law and legal procedures are complicated and can be overwhelming. Survey responses indicate that low-income Hoosiers with problems often do not know which problems can potentially be resolved by the legal system. Further, even if they correctly believe that a problem is a legal problem,

they may not know whether it is one they can handle on their own or one that truly requires the assistance of an attorney. If they are to represent themselves, either because the matter does not require the assistance of an attorney or because no attorney is available and willing to represent them, they may have no idea how to represent themselves. Over half of responding judges and clerks, over 55% of responding pro bono plan administrators, and almost half of responding attorneys rated “inability to represent oneself” as a significant factor on the ability of low-income citizens to receive legal assistance. Judges and clerks identified the lack of pro se self-help clinics as a barrier, and other stakeholders also identified the need to educate low-income Hoosiers to represent themselves.

Responses indicate that many potential clients do not understand the legal aspects of public entitlements. An ISBA attorney survey respondent commented: “I can’t imagine a lay person, who owns land and modest bank accounts and life insurance policies, wading through the arcane new Medicaid application procedures. This will result in increased nursing home discharge frequency.” According to a responding human service provider, some clients are unaware of the need to appeal denials from the SSA. Many respondents stated that changes resulting from privatization of TANF, Food Stamps and Medicaid programs have created confusion and difficulties.

Responses suggest that potential clients are often unaware that legal assistance is available. Approximately 60% of telephone survey respondents, and approximately 31% of ILS Client Questionnaire respondents, were not aware of free legal services programs in

Indiana. The 60% figure is likely more representative of the entire population of Hoosiers with incomes below 200% of FPL. The ILS Client Questionnaire respondents were already in contact with, or at least aware of, a social service program or ILS; the fact that almost one third of this group was unaware of free legal service programs may indicate that some social service programs are missing the opportunity to make clients aware of available legal services.

Sometimes potential clients know that free legal assistance programs exist, but they don’t know where to go for which type of legal problem. For example, some low-income people have received help from a civil legal service provider on matters before, and have been turned down by that provider on other matters of a type that provider doesn’t handle either because of eligibility regulations or priorities. Many people do not have a clear understanding of which types of matters their civil legal service provider handles and does not handle. For example, a human service provider wrote of the need for clear policies regarding immigrant eligibility for legal services.

6. Conflicts of Interest

Another major barrier, identified primarily in counties with few free or low-cost attorneys, is conflicts of interest in family law cases. One attorney stated, “The biggest problem in family law is conflict of interests. It makes no sense that because one attorney for Pro Bono or ILS is representing one spouse in a divorce just because he or she got there first, that the other spouse, who is probably equally needy, cannot get help. There has to be a way to fix this problem.”

7. Delay in Seeking Help

Delay in seeking legal assistance was identified as a major barrier to Indiana's low-income population receiving legal services. A number of survey responses stated that low-income Hoosiers sometimes wait too long to seek help. As discussed previously in connection with long waits for legal assistance, delay can have adverse consequences.

Survey responses identified several reasons that potential clients may wait to seek legal assistance. The cited reasons include failure to recognize a legal issue, fear, hopelessness, being occupied getting basic needs met, pride, an unrealistic expectation of immediate "emergency" help, and other barriers discussed below.

Some people apply for assistance and then fail to follow through. One pro bono district coordinator indicated that many applicants fail to provide necessary information requested by the provider, while others work their way through the process long enough to make an appointment with an attorney but do not show up for the appointment. This coordinator estimated that approximately 20% of the district's applicants each year do not receive services because of failure to follow through.

8. Lack of Transportation

Lack of transportation was frequently identified as a major barrier to obtaining representation, particularly in rural areas. A number of ILS staff members cited transportation concerns in relation to communities located far from their ILS district office. The majority of responding attorneys, judges and clerks, and pro bono plan administrators rated lack of transportation as either

"significant" or "moderately significant" to the ability of low-income citizens to receive legal assistance.

Rural focus groups identified lack of transportation as a barrier to receiving legal services. Asked to identify the most significant barriers as part of the ILS Human Service Provider Questionnaire, one respondent responded: "Local access in rural communities – our agency serves low-income in 6 rural counties and there [are] no free or low-cost legal service attorneys available . . . have to travel to Ft. Wayne, Anderson, etc. Cost of gas just goes hand in hand as another barrier." Sometimes the transportation problem arises because the person lacks a valid driver's license due to immigrant status or criminal history. A number of stakeholders identified the difficulty of obtaining hardship driver's licenses and the level of Bureau of Motor Vehicle fees as barriers for poor people attempting to get their legal needs and basic life needs met.

9. Lack of Telephone Service

Lack of telephone service or limited telephone service was identified as a barrier both in terms of communicating with attorneys and in terms of obtaining and keeping public benefits. Without reliable telephone service, it is difficult to contact attorneys to obtain representation in the first place. Even if the client is able to find an attorney who will take his or her case, it seems likely that timely attorney-client communication during representation is difficult. In terms of public entitlements, limited telephone service was identified as a major obstacle to obtaining and keeping public entitlements under the new privatized welfare system that relies on

phone calls to a call center instead of meetings with caseworkers. Some of the focus groups noted a trend for the poor to rely on pre-paid cell phones with a limited number of minutes instead of having traditional land-line phones and pointed out that many people cannot afford to use up their minutes being on hold to get benefits.

10. Immigration Status

Immigration status often acts as a barrier to obtaining legal assistance. By regulation, ILS can represent undocumented aliens only under certain circumstances. See 45 CFR 1626. According to one attorney response, the only legal organization providing free representation to undocumented people who are ineligible for civil legal service provider services is NCLC. However, NCLC does not handle divorces even if there is domestic violence, and it has a limited service area. It appears that some undocumented persons are unable to obtain legal assistance anywhere. Moreover, there is some confusion, even on the part of attorneys, as to under what circumstances undocumented people are eligible for ILS services.

Even when legal assistance is available, respondents stated that some undocumented people are reluctant to contact an attorney or appear in court due to their fear of coming to the attention of immigration authorities.

11. Limited English Proficiency

LEP is a significant barrier for many non-English speakers. Nine and six-tenths percent (9.6%) of telephone survey respondents, and about 8% of ILS Client Questionnaire respondents reported that someone in their household usually speaks a language other than English. Fifty-eight percent (58%) of

responding judges and clerks reported that 10% or more of the litigants they see speak English only as a second language, and 18% reported that 10% or more speak no English at all. Responses indicate that access to interpreters varies by geographic area. In some areas, the courts reportedly provide interpreters only at later stages of litigation. Even if the court provides interpreters in court, it can be difficult to find an interpreter for client counseling sessions. Some attorneys reported that clients with LEP often bring friends or family members (in some cases children) to provide interpreting services during attorney-client meetings; it was not always clear whether the interpretation thus provided was adequate.

12. Getting Time Off from Work

For those low-income Hoosiers who have jobs, getting time off from work to meet with an attorney can be difficult or impossible. Even if they are excused from work to meet with an attorney, they are likely to lose pay for the hours missed. Some responses indicate that times to meet with public interest or pro bono hours are particularly limited in rural areas.

13. Difficulties with Forms, Contracts, and Other Paperwork

Difficulties understanding forms and contracts and filling out paperwork emerged as a theme in the Study. It was identified as both a cause of legal problems and a barrier to getting legal problems resolved efficiently. Signing contracts (*e.g.*, leases, mortgage documents) without understanding their terms can cause problems even if the contract is completely reasonable; it also makes people vulnerable to predatory practices. Diffi-

culty understanding and completing forms was frequently mentioned as an obstacle to getting and keeping public entitlements. A number of responses cited additional documentation demands, including computerized forms, associated with the recent privatization of benefit programs as a major barrier.

Difficulty with forms acts as a direct barrier to obtaining the assistance of an attorney when forms are part of the process of applying for legal assistance. It seems evident that representing oneself in court would be extremely difficult for people challenged by paperwork. In some cases the difficulty with forms is likely a result of illiteracy or very limited literacy.

14. Domestic Violence

Domestic violence is often a barrier to obtaining legal assistance. Victims of domestic violence may be unable to obtain assistance due to fear of the abuser, isolation by the abuser, the abuser's control of funds, and a low sense of self-worth, among other factors. In order to overcome the financial barrier often caused by domestic violence, some civil legal service providers and pro bono districts give priority to domestic violence victims in taking cases. If this were not done, very few victims would obtain legal assistance. However, the need for services is great and more attorneys are needed to represent victims of domestic violence. Moreover, the non-monetary barriers such as fear and isolation remain.

15. Income Slightly Too High – Near Poor

Many people who cannot afford to pay an attorney are ineligible to receive services from civil legal service providers because their income is slightly too high.

F. DIFFERENCES BASED ON GEOGRAPHY, DENSITY OF POPULATION, AND POVERTY LEVEL

In terms of the prevalence of legal problems, the telephone survey results indicate that there are some regional differences and differences based on poverty level.⁵² It was not clear whether the prevalence of legal problems varied by density of population; however, it was clear that the availability of legal services in rural areas is less than in more densely populated areas.

In terms of poverty level, legal problems were more prevalent among the poorer respondents (those with incomes below 125% of FPL). Eighty-six percent (86%) of the respondents with incomes below 125% of FPL reported at least one legal problem, while 70% of respondents with incomes between 125% and 200% of FPL reported at least one legal problem. The differences were particularly large in the categories of utilities, debt/consumer finance, health care, and public entitlements. In terms of specific problems, the poorer respondents reported not receiving child support, suspension of a child from school, and unfair school policies significantly more often than the respondents with incomes between 125% and 200% of FPL.

Some problems, including property tax problems, foreclosure or the threat of foreclosure, and some Section 8 housing-related problems were more prevalent among the less poor respondents.

Comparison of legal problems by region shows that overall, legal problems in general were somewhat more prevalent among re-

spondents in the North and Central regions of the state, as compared to the South: 78% of respondents from the North and 80% of respondents from the Central region, as compared to 74% of respondents from the South, reported at least one legal problem. However, there is a pocket of high incidence of legal problems in the portion of Judicial District 13 that surrounds Evansville. In this area, 93.8% of respondents reported at least one legal problem. Moreover, family law problems and housing problems were most prevalent in the Southern portion of the state, and healthcare problems were more prevalent in the South and Central regions than in the North.

In rural areas, there tend to be few attorneys and little or no public transportation. The nearest civil legal service provider office is typically not within walking distance. Transportation and attorney/legal service organization conflicts of interest are particularly significant barriers in rural areas.

G. LEGAL NEEDS OF SPECIALIZED LOW-INCOME POPULATIONS

Information obtained in connection with the Study suggests that the following groups have specialized legal needs: inmates and former inmates, immigrants, people with LEP, the disabled (particularly the mentally ill and developmentally disabled), the elderly, rural residents, victims of domestic violence, and farm workers.

1. Inmates and Former Inmates

The ILS Client Questionnaire included questions about civil legal problems during incarceration and legal problems upon reentry to

society. During incarceration the most prevalent problems were family law problems. Eighty-three of the survey respondents had a history of incarceration. Of this group, 14.5% reported having had child support issues while incarcerated, 9.6% divorce, 7.2% child custody issues, and 6% parenting time issues. Federal regulations prevent ILS from representing prisoners. See 45 CFR 1637. A prisoner whose spouse files a dissolution or post-dissolution action against him or her may have few or no options for obtaining legal assistance unless an attorney willing to represent him or her on a pro bono basis can be found.

The question about problems experienced upon reentry to society was open-ended, and fewer than half of the group responded. Among the responses received, recurring issues were domestic violence and other family law issues and financial problems (including difficulty obtaining employment). A couple of respondents mentioned difficulty finding housing and getting a driver's license.

While the group of respondents who had been incarcerated is too small to draw definitive conclusions about the rates of incarceration-related civil legal problems in the low-income Hoosier population as a whole, the responses are consistent with other information obtained (primarily attorney responses).

2. Immigrants

The information obtained in the study demonstrates that low-income immigrants have unique legal needs. Even immigrants who legally reside in the United States, such as permanent residents, face problems. For example, respondents indicated that at times

government employees have been reluctant or even refused to accept valid documentation of immigration status, in connection with driver's license applications, benefit applications, and law enforcement matters. According to attorneys and human service providers, undocumented immigrants are particularly vulnerable to abuses. An attorney gave the example of employers refusing to pay minimum wage to undocumented workers and threatening deportation if the worker complains.

A non-citizen who is the victim of domestic violence at the hand of her U.S. citizen spouse may be able to apply for permanent residence pursuant to the Violence Against Women Act. There are issues of coordination of the timing of the VAWA visa application in relation to the disposition of the abuser's criminal case and initiating an action for dissolution. The complexity of issues in this type of matter makes it very difficult for the victim (a non-citizen who may not be familiar with even basic federal and state law in the U.S.) to pursue relief without legal assistance.

Many undocumented workers cannot obtain a driver's license and insurance, which prevents them from driving legally and makes it difficult to find employment.

3. People with LEP

LEP may create unique legal needs. Due to difficulties understanding paperwork and oral communications without interpretation or translation services, individuals with LEP may need legal assistance to obtain access to language-appropriate government services. They may suffer discrimination based on

their language. Children of adults with LEP may have difficulty obtaining an education.

In the telephone survey, 9.5% of respondents reporting that they or someone in their household usually spoke a language other than English stated that someone in their household had problems defending their rights because of difficulty with English, 7.8% reported difficulty with government agencies, and 8.6% reported not being allowed to speak their native language. While these results are not definitive, they do confirm that some people with LEP have unique legal needs.

4. Disabled People, Particularly the Mentally Ill and Developmentally Disabled

People with disabilities often have legal needs. They may experience employment discrimination. They may need assistance obtaining public entitlements. Many attorneys described seemingly automatic denials and routine waits of over two years for their clients to receive Social Security Disability. For those disabled people whose disabilities are work-related, help obtaining Worker's Compensation may be needed.

People with mental illnesses often have legal needs. Mental health disorders can affect many areas of life, including parenting and the ability to obtain and maintain employment. Many mentally ill individuals spend time in jail or prison. Some survey respondents felt that poor people in Indiana do not get consistent high quality mental health care, instead receiving temporary treatment with medications and being released only to be hospitalized again once they run out of medication or stop taking the medication.

The developmentally disabled are particularly vulnerable to exploitation and abuse. They may need someone to advocate for them. One human services provider stated that Adult Protective Services in his or her geographic area is reluctant to intervene on behalf of adults with developmental disabilities even when there is evidence of physical, sexual or economic abuse, for the stated reason that the local prosecuting attorney would not pursue the matter. The developmentally disabled may need extra assistance to understand their legal rights and how the legal system operates.

Substance abuse was identified as the cause of many legal problems. In addition to potentially leading to criminal matters, substance abuse often affects a person's ability to parent, keep a job, and keep a driver's license.

Some disabilities make it difficult to access the legal system. Certain physical disabilities may make travel to meet with an attorney or attend court challenging.

5. The Elderly

Many of the special legal needs of low-income elderly people involve ensuring that they get appropriate care to enjoy their remaining years with as much self-determination as possible. These needs may include assistance with powers of attorney, advance health care directives, Medicaid and/or Medicare.

Some elderly people are vulnerable to financial or other exploitation by strangers or relatives. An elderly person may need help seeking or challenging the appropriateness of a guardianship. If he or she lives in a nursing

home or assisted living center, he/she may need assistance with patient rights issues.

6. Victims of Domestic Violence

Domestic violence victims often have specialized legal needs. Ideally, an attorney representing a domestic violence victim would have an understanding of the dynamics of abuse, including the reluctance to seek help that some victims feel and the effects on children of witnessing abuse. When representing a domestic violence victim, consideration may need to be given to safety issues. Screening may be necessary to determine whether the victim can safely and comfortably be in the same room with the abuser for mediation or a court hearing.

In litigation, it may be important to provide admissible evidence about the dynamics and effects of domestic violence, particularly in custody and parenting time matters. It is not uncommon for a domestic violence victim to make a poor impression when testifying. Calling an expert witness to testify about the effects on victims of domestic violence can mitigate this problem by explaining why the victim acts as she or he does. Testimony on the impact on children of seeing one parent batter the other, even if the child is not physically harmed, can also be important.

7. Farm Workers

Farm workers have specialized legal needs. On average, in the United States as a whole, hired farm workers are younger, less educated, more likely to be foreign-born, less likely to speak English, and less likely to be U.S. citizens or to have a legally authorized work permit than other U.S. workers.⁵³ Agricultural work is among the most hazardous occupations in the United States. *Id.* Hired

farm workers earn less than, and have higher unemployment rates than, other workers. *Id.* Hired farm workers who migrate between locations are particularly disadvantaged. The seasonal nature of their work can operate as a barrier to obtaining benefits such as Medicaid, because state agencies may calculate annual income based on the most recent pay stub. Their children may be academically disadvantaged by the lack of continuity in education.

8. Rural Residents

There are few attorneys and no public transportation in most rural areas of the state. Many low-income rural residents have no way to get to the nearest civil legal service provider office or pro bono attorney. They may lack internet and telephone access and be isolated.

H. DISCUSSION OF POSSIBLE METHODS BETTER TO MEET THE LEGAL NEEDS OF THE POOR

Respondents, focus group participants, and other Study participants proposed many ideas for enhancing legal services to the low-income community. The list in this section is a compilation of recommendations received in the Study and does not represent recommendations of the Study Sponsors. Some of these actions are already being implemented.

1. Additional Funding

Study participants pointed out that additional funding could be used to hire more civil legal service attorneys and support staff, to increase compensation for civil legal service attorneys with longevity, to invest in better

technology to enable civil legal service provider staff to work more efficiently, and to operate civil legal service provider offices in rural areas. It was also suggested that additional funding be used to pay for client transportation to meet with an attorney and attend court, as well as to pay litigation costs and expenses that would otherwise preclude low-income people from taking their claims to court.

2. Pro Bono Culture Beginning in Law School

Ideally the commitment to pro bono service should begin with pro bono experience in law school. All four Indiana law schools⁵⁴ already have clinics and pro bono programs that serve low-income Hoosiers. One way to encourage this commitment to pro bono service would be for each of Indiana's four law schools to establish a mandatory poverty law course and a requirement or aspirational goal of performing a specified number of hours of service to low-income people under supervision of a clinical instructor or other attorney.

3. Mandatory Pro Bono Hours or Reporting of Pro Bono Hours

While the Pro Bono Commission and the ISBA House of Delegates have established an aspirational goal of fifty pro bono hours per attorney per year or an equivalent financial contribution, there is currently no requirement that an Indiana attorney perform pro bono work other than the ethical obligation pursuant to Professional Conduct Rule 6.1. Several attorneys and other professionals taking part in the study advocated for mandatory pro bono hours for Indiana attorneys. Some respondents suggested that in lieu of pro bono service, attorneys could opt

to pay some amount of money, which could be put in a fund used to pay attorneys to represent low-income people.

Some participants recommended that, instead of mandatory pro bono service, attorneys should be required to report their pro bono hours. Mandatory reporting, without mandatory pro bono service, would aid in the tracking of pro bono hours statewide and could raise awareness of the need for pro bono work. If attorneys' reported pro bono hours were made public, it seems likely that some attorneys would perform pro bono service to obtain favorable publicity.

4. Incentives for Pro Bono Service

Study participants identified many options for incentives, including tuition-free CLE, awarding CLE credits for performing pro bono service, student loan forgiveness, and income tax deductions. Tuition-free CLE is already being used as an incentive in Indiana; an example is free attendance at training in exchange for service at Talk To A Lawyer Today events on Martin Luther King, Jr. Day. Some states are giving limited numbers of CLE credits in exchange for pro bono service. Student loan forgiveness in exchange for significant pro bono or public interest work is another potential incentive.

5. Attorneys Mentoring Attorneys

One suggestion raised at the Conclave was that attorneys with expertise in an area of law mentor less experienced attorneys in pro bono cases. This would make more attorneys available for pro bono service in areas of high need and address attorney concerns about potential malpractice liability resulting from pro bono representation in areas out of their usual areas of expertise. It would also

benefit the mentored attorney by opening up new areas for possible for-profit work.

6. Education

Basic legal education for citizens, including low-income citizens, was suggested by Study participants. Legal "guidebooks" could be written in everyday language on specific areas of law such as landlord-tenant, family law, consumer law, and public entitlements. Respondents also recommended that self-service pro se packets including forms in areas of high unmet need (child custody, for example) be made available at courthouses, public libraries, and social service agencies, as well as online. Pro se clinics and workshops were frequently recommended. Some people suggested that informational meetings be held periodically for special populations such as the elderly and undocumented citizens. Financial training was also proposed. It was suggested that these meetings and trainings be advertised extensively.

It was suggested that legal education courses targeted to social service providers be developed, with the goal of teaching the basics of frequently encountered areas of law and criteria for determining whether the assistance of an attorney is needed.

Education for law enforcement officers in the areas of appropriate handling of the mentally ill, immigrants, and domestic violence matters was suggested, as was education of judges and clerks of court on best practices with pro se litigants.

One respondent recommended education for public defenders on identification and referral of civil legal problems of clients and a similar type of training (geared to non-attorneys) as part of the transition for re-

cently released inmates.

7. Improved Coordination

Study participants observed that conducting joint intake sessions between civil legal service provider offices and pro bono district offices in the same geographical area would have the potential to speed up and make more efficient the process of assigning an attorney to represent a poor person. It could eliminate a great deal of frustration and delay for low-income people with legal problems. They would only have to apply once for legal assistance.

If joint intake sessions are not implemented in a geographical area, it would seem especially important to keep social service workers and other intermediaries apprised of which agencies or attorneys are handling what types of cases, as well as publicizing current, accurate information on this topic in ways likely to reach the low-income community directly.

One respondent suggested combining ILS and the pro bono districts in order to avoid confusion, competition for the same attorneys to take referrals, and duplication of resources. This would result in one large entity bound by LSC's restrictions, which could leave people falling in certain categories (the "near poor" and prisoners, for example) and people with certain types of cases (discrimination cases under some circumstances) with nowhere to turn for legal assistance. Some of these restrictions, including prohibited representation of aliens and representation of prisoners, apply to work performed by an LSC recipient even when using funding from an independent source.

In order to avoid competition for volunteer

attorneys and confusion of volunteers, the Conclave Report includes the recommendation that within each pro bono district and/or county, recruitment of volunteers should be undertaken by only one organization. A recommendation on the subject of coordination from a pro bono plan administrator was for ILS to focus its efforts on the counties with small attorney populations where there is little or no ability to take pro bono cases.

8. Malpractice Coverage or Immunity from Liability for Pro Bono Service

Some attorneys proposed giving full immunity from liability to attorneys representing low-income individuals on a pro bono basis; others discussed the need for malpractice insurance for volunteer pro bono attorneys. Providing immunity for pro bono service is problematic in a couple of ways. It at least gives the appearance of discriminating on the basis of financial means. Prof. Conduct Rule 1.8(h)(1), prohibiting a lawyer from making an agreement prospectively limiting the lawyer's liability to a client for malpractice unless the client is independently represented in making the agreement, recognizes the importance of a client's interest in retaining the option of bringing a malpractice action. Although blanket immunity provided by law would not pose the risk of the attorney taking advantage of the client in extracting the agreement, it would raise the same concern about undermining competent and diligent representation. Providing malpractice insurance for pro bono work arranged through the pro bono district, which all districts are required to do, provides attorneys adequate protection without sacrificing important interests of their clients.

9. Interpretation/Translation/Multi-lingual Staff

Many Study participants recommended that interpreters and translators be provided statewide for non-English speaking clients and deaf clients, not just in court but for meetings with attorneys and paralegals. Other suggestions included increased hiring of multilingual staff, as well as provision of incentives for existing staff to learn additional languages, on the part of providers of legal services to the low-income population.

Some respondents felt that it would be beneficial for civil legal service providers and the pro bono districts to obtain access to Language Line, and for written educational materials to be made available in several languages and translated to other languages upon request.

10. Paralegal Services at Courthouse or Other Convenient Locations

One recurring idea in survey responses was to staff courthouses and/or other locations (including rural locations) with paralegals to help people understand and fill out paperwork, including pro se forms and public entitlement applications, and to answer basic, frequently asked legal questions.

11. Traveling Attorney or Attorney at Courthouse

Having an attorney, either a volunteer attorney or an attorney employed for this purpose, located at the courthouse or traveling to different locations to answer unrepresented people's basic legal questions and assist pro se litigants, was a theme in the Study. Some people also suggested a traveling legal librarian.

12. Additional Drug Courts and Mental Health Courts

Establishment of drug courts and mental health courts where they do not already exist was suggested as a means of reducing the extent of legal problems caused by drug and mental health problems.

13. Unbundled Services

According to attorney responses, one reason for the reluctance of many attorneys to perform pro bono service is the concern about getting drawn into complicated long-lasting cases. The Indiana Rules of Professional Conduct offer two avenues to overcome this barrier. Prof. Conduct Rule 1.2(c) provides for limited representation agreements between an attorney and a client, and Prof. Conduct Rule 6.5 provides for short-term limited legal services under the auspices of a nonprofit or court-sponsored program.

Rule 1.2(c) provides that a lawyer “may limit the scope and objectives of the representation if the limitation is reasonable under the circumstances and the client gives informed consent.” An example of unreasonable limitation is a telephone consultation with insufficient time allotted to yield advice upon which the client can rely. Rule 6.5, governing nonprofit-sponsored and court-sponsored programs, also requires the lawyer to secure the client's informed consent to the limited scope of the representation. Recognizing that these programs are normally operated under circumstances in which systematic checking for conflicts of interest is not feasible, the rule makes the conflict of interest prohibitions inapplicable during the short-term limited representation unless the lawyer knows of a conflict.

An example of a nonprofit-sponsored or court-sponsored program is the annual “Talk To A Lawyer Today” event on Martin Luther King, Jr. Day, which has been extremely successful. These types of events offer the opportunity to practice preventive law, which is a delivery technique Study participants recommended be increased.

14. Increased Availability of Mediation and Other ADR

Stakeholders suggested that there is a great need for additional free or low-cost mediation services for the poor. Subsidizing the cost of training for mediators in exchange for an agreed number of pro bono mediations or requiring all mediators who are appointed by courts to perform two pro mediations each year were proposed methods of increasing the availability of pro bono mediation.

There was a suggestion that public advocates represent the poor in mediation or other alternative dispute resolution systems.

15. Contract Attorneys in Rural Areas

A common theme was the need to make more attorneys available to represent low-income Hoosiers in rural areas. In addition to providing transportation to rural Hoosiers and establishing civil legal service provider satellite offices in rural areas, the idea of paying private attorneys to perform legal work on a reduced fee basis, using public funds or other funding earmarked for legal services to the poor, was raised as an option to meet the legal needs of low-income rural residents.



VII. CONCLUSION

Despite diligent efforts by legal service providers and the pro bono community, Indiana's low-income citizens are not getting the legal representation they need for their problems. As a result of the information obtained through this Study, the Sponsors recommend that Indiana should now undertake a strategic planning process, considering the information and data obtained in the Study and reported in this Final Report, to develop a comprehensive set of detailed recommendations and statewide plan of action to better meet the needs of the poor. In connection with the strategic planning process, the Sponsors further recommend the creation of a statewide Access to Justice Commission which should include representatives from the judiciary, the executive branch, the legislative branch, the IBF, the Pro Bono Commission, the ISBA Pro Bono Committee, existing legal service providers, the private bar, the law schools in Indiana, social service providers whose clients are low-income, and other interested parties. An Access to Justice Commission could function as an umbrella organization, uniting and coordinating the efforts of the various entities working to address the legal needs of the poor. The Access to Justice Commission's initial charge should include evaluating the current system and initiating a strategic planning process to coordinate and thereby improve the efficacy of our efforts to meet the legal needs of the poor. Because such a process will necessarily involve a critical review of the existing patchwork of methods for meeting the legal needs of the poor, the Commission should involve all of the various stakeholders, but its composition and operation should demonstrate an independence from any one entity within the existing system.

***If we are to keep democracy,
there must be a commandment:
Thou shalt not ration justice.***

***Judge Learned Hand
(1872-1961)***



VIII. ENDNOTES

Endnotes 1 through 3 can be found on page 13 at the conclusion of the Executive Summary.

- ⁴ Sections A through D of this section are based on a document prepared by Amy G. Applegate in connection with the Conclave on the Delivery of Pro Bono Services in Indiana, held on April 25, 2008. In preparing this document, Ms. Applegate relied on information in public websites with substantial help from members of the pro bono community. Section E was prepared by Catherine Meeker from information provided by Camille T. Wiggins, Staff Attorney at the Indiana Supreme Court Division of State Court Administration. Section F was developed by Victoria Deak of Indiana Legal Services, relying on information from other providers and/or information contained in other provider websites.

- ⁵ The remainder of the existing commentary provides:

[2] The rights and responsibilities of individuals and organizations in the United States are increasingly defined in legal terms. As a consequence, legal assistance in coping with the web of statutes, rules and regulations is imperative for persons of modest and limited means, as well as for the relatively well-to-do.

[3] The basic responsibility for providing legal services for those unable to pay ultimately rests upon the individual lawyer, and personal involvement in the problems of the disadvantaged can be one of the most rewarding experiences in the life of a lawyer. Every lawyer, regardless of professional prominence or professional workload, should find time to participate in or otherwise support the provision of legal services to the disadvantaged. The provision of free legal services to those unable to pay reasonable fees continues to be an obligation of each lawyer as well as the profession generally, but the efforts of individual lawyers are often not enough to meet the need. Thus, it has been necessary for the profession and government to institute additional programs to provide legal services. Accordingly, legal service offices, lawyer referral services and other related programs have been developed, and others will be developed by the profession and government. Every lawyer should support all proper efforts to meet this need for legal services.

Adopted Sep. 30, 2004, effective Jan. 1, 2005.

- ⁶ The proposed changes also include new paragraphs [3] and [4] in the Commentary.
- ⁷ Twelve programs received Civil Legal Aid Funds for the 2008-2009 fiscal year: Bartholomew Area Legal Aid, Inc., Community Organizations Legal Assistance Program, Elkhart Legal Aid Service, Inc., Indiana Coalition Against Domestic Violence, Inc., Indiana Legal Services, Inc., Indianapolis Legal Aid Society, Inc., Law School Legal Service, Inc., Legal Aid Corporation of Tippecanoe County, Legal Aid Society of Evansville, Inc., Legal Services of Maumee Valley, Inc. (this organization ceased operation in December 2008), Neighborhood Christian Legal Clinic, Inc., and Volunteer Lawyer Program of Northeast Indiana, Inc.
- ⁸ The Community Organizations Legal Assistance Project, Inc. (“COLAP”), doing business as the Community Development Law Center (“CDLC”), is the only legal services organization in Indianapolis specifically formed to provide free or low-cost legal services to community organizations.
- “CDLC’s mission is to empower low-income people by providing high quality pro bono legal and related services to new and existing Indiana nonprofit community organizations that serve low-income neighborhoods. CDLC clients battle against homelessness, inadequate housing, unemployment, substance abuse, racial discord, crime, and a myriad of other social and economic problems.”
- ⁹ The posted mission statement: “The Julian Center is a nonprofit agency providing counseling, safe shelter, and education for survivors of domestic violence, sexual assault, and other life crises. Through outreach and consultation, we also seek to educate the community about the issue of domestic violence and its impact on all our lives.”
- ¹⁰ “The mission of the Damien Center is to lead the fight to prevent the spread of HIV and to empower persons in Central Indiana affected by HIV/AIDS to move forward each day with dignity. The Damien Center offers vital supportive services to those infected and affected by HIV/AIDS so they may live abundant and productive lives. We also provide comprehensive HIV prevention services, including HIV testing, prevention counseling, education, and advocacy. We believe passionately in the dignity and worth of every person who seeks our services. We strive to be a safe and welcoming place so that no barriers separate people from the services they need to prolong and enhance their lives.”
- ¹¹ “The Shalom Community Center is dedicated to relieving the plight of those experiencing homelessness and poverty in South Central Indiana. Since access to food, housing, education, and health and human services are fundamental human rights, we seek to meet these basic needs. As a non profit resource center, we deliver social services directly and in collaboration with other agencies in a respectful and secure environment. We advocate for the most vulnerable among us and promote activities that empower people to develop their assets to the fullest extent possible.”
- ¹² “The mission of Child Advocates is to protect the rights and well-being of abused and neglected children in order to ensure that every child has a safe and permanent home.”
- ¹³ “ICADV is committed to the elimination of domestic violence through: providing public awareness and education; advocating for systemic and societal change; influencing public policy and allocation of resources; educating and strengthening coalition members; and, promoting the availability of quality comprehensive services.”
- ¹⁴ According to the 2006-07 Annual Report, the sole mission of Kids’ Voice of Indiana “is to promote and represent the best interest of children and to serve as an advocate for them and their families.” The Bette J. Dick GAL Program recruits, trains, and represents volunteer attorneys, law students, and community volunteers who serve as Guardians ad Litem in the Marion Superior Courts, Civil and Probate Division, and Marion Circuit Court, Paternity Division. Judicial officers assign Kids’ Voice to provide GAL services in contested dissolution, paternity, guardianship, and adoption cases where there are allegations in child abuse, neglect, or endangerment.
- ¹⁵ This section is based on materials written by Amy G. Applegate.

- ¹⁶ Some ILS clients and potential clients completed the survey on paper. Their responses were later entered into the database.
- ¹⁷ The percentage was determined by dividing the number of households known to be eligible by the number of phone numbers in the survey that were not of unknown eligibility. It was approximately 35% for this survey.
- ¹⁸ The response rate was obtained by dividing the number of completed interviews by the sum of the following three numbers: the number of completed interviews, the number of known eligible households that did not complete the interview, and 35% of the number of households of unknown eligibility. The 162 numbers that were still in the queue were ignored in the calculation.
- ¹⁹ The cooperation rate is the number of completed interviews divided by the number of eligible respondents actually reached.
- ²⁰ The refusal rate is the number of respondent interview refusals or breakoffs divided by the sum of the numbers of completed interviews, eligible households that refused or were unable to complete the interview, and the portion of unknown eligibility telephone numbers estimated to be eligible.
- ²¹ The contact rate is the number of households in which some responsible member of the household was reached divided by the sum of the number of households in which some responsible member of the household was reached and the portion of unknown eligibility numbers estimated to be eligible.
- ²² The disposition table for the SRC survey shows that 16 eligible people were “language unable” to complete the survey.
- ²³ Graphs 2 and 3 are reproductions of graphs provided by SRC in its Report to the Sponsors.
- ²⁴ Calculating this as a percentage of those who reported that they or someone in their household usually speaks a language other than English assumes that that subgroup of the survey sample is the same subgroup of people who have Limited English Proficiency.
- ²⁵ This section is based on material provided by Catherine Meeker, who edited drafts originally written by IU interns Jelling Lai and Laura Walda.
- ²⁶ The content for the judge and clerk, attorney, and pro bono plan administrator surveys came from many sources, including questionnaires and surveys used in Hawaii and Tennessee to determine whether their legal service structures were working and what steps could be taken to better their systems. After basing the initial survey structure and questions on those used in other states, members of ILS and the ISBA Pro Bono Committee, along with the interns, tailored questionnaires for specific constituent groups. With the assistance of many in the pro bono community and the technical expertise of William Spellman III of Baker & Daniels LLP, three final questionnaires (one for judges and clerks, one for attorneys, and one for pro bono plan administrators) were developed and then sent out via an online survey mechanism (Survey Monkey).
- ²⁷ This section is based on material provided by Catherine Meeker, who edited drafts originally written by IU interns Jelling Lai and Laura Walda.
- ²⁸ This section is based on material provided by Catherine Meeker, who edited drafts originally written by IU interns Jelling Lai and Laura Walda.
- ²⁹ This section is based on materials provided by Nan Stager.
- ³⁰ Originally, Terre Haute was chosen as one of the rural locations. However, the location was later changed to Ellettsville. When a sufficiently large meeting place could not be located in Ellettsville, the meeting was moved to Bloomington.
- ³¹ Summaries of the responses from each focus group are available for review upon request to the ISBA Pro Bono Committee.

- ³² The information in this section was prepared by Judge David Avery, the Chair of the Conclave.
- ³³ ILS is the successor of Legal Services Organization of Indiana, Inc.
- ³⁴ The name of the Public Opinion Laboratory was changed to Survey Research Center in 2005.
- ³⁵ A margin of error table was used to determine the margin of error for each question. The margin of error for a question depends on the sample size (which for most questions will be 600 for 1999 and about 1200 for 2008) and the rate. Rates closer to 50% have higher margins of error than rates farther from 50%, given the same sample size. A change in a rate can be considered statistically significant if the lower of the two rates plus its margin of error is less than the higher rate minus its margin of error; in other words, if the difference between the two rates exceeds the sum of the two margins of error. If a change is smaller than the sum of margins of error, it may or may not be statistically significant. Other methods of determining statistical significance are beyond the scope of this Final Report.
- ³⁶ The phrasing of the questions was slightly different.
- ³⁷ The two types of benefits that telephone survey respondents reported having difficulty obtaining at a higher rate than Questionnaire respondents were Medicare and Worker's Compensation. The higher Medicare rate in the telephone survey group may reflect the ages of the respondents. Both differences could be a result of the uniqueness of the Questionnaire group.
- ³⁸ One possible reason for the disparity between the 2008 telephone survey and the ILS Client Questionnaire is that the telephone survey asked about family law problems in the last year, whereas the ILS Client Questionnaire question is not limited in time. Further, family law is ILS' top practice area in terms of the number of cases handled.
- ³⁹ Mary Ann Sarosi, "*The Impact of Family Law Cases on Pro Bono Programs*," 2002, www.abanet.org/legalservices/probono/family_law_report.pdf.
- ⁴⁰ The ISBA surveys did not use the term "court representation." However, the groups taking ISBA surveys rated "direct representation" or "full representation," which would seem to include court representation.
- ⁴¹ Although there may be a large overlap between the group of people who usually speak a language other than English and the group of people who are immigrants without citizenship, it is not reasonable to assume that the two groups are identical.
- ⁴² The larger margins of error assigned to smaller sample sizes on the margin of error table reflect the problems with drawing conclusions based on data from small groups of people.
- ⁴³ If limited legal services are considered, then ILS was unable to provide 25% of applicants with any legal services.
- ⁴⁴ If limited legal services are considered, then on average, the pro bono plan administrators were unable to provide 39% of applicants with any legal services.
- ⁴⁵ As of the preparation of this Final Report, the most recent reports available for twelve of the fourteen pro bono districts were for the calendar year 2007; two districts were unable to provide the requested information.
- ⁴⁶ Based on the pro bono reporting practice in the state, attorneys reported pro bono hours worked only on cases closed in 2007, omitting hours spent in 2007 on cases that were still open at the end of the year, but including hours actually worked in prior years on these cases. Some pro bono districts included hours from other providers in their district, while others did not.

⁴⁷ Nationally, the ratio of attorneys providing paid legal services to the United States population was found to be about one attorney per 525 people as of 2002. Documenting the Justice Gap in America: The Current Unmet Civil Needs of Low-Income Americans, a Report of the Legal Services Corporation, 2nd ed. June 2007, www.lsc.gov/justicegap.pdr. The Indiana ratio was derived by dividing the 2008 population of the state by 9,061, the number of attorneys both licensed and residing in Indiana who hold IOLTA accounts. The 9,061 number is a close but not exact approximation of the number of attorneys who are in private practice, as there are some private practice attorneys who are exempt from IOLTA because their type of practice does not involve holding client trust funds. According to IBF records, there are a total of 17,171 lawyers licensed in Indiana, and of those, 15,306 practice in Indiana. Among the 15,306, there are 9,061 lawyers who have IOLTA accounts. Presumably, these 9,061 lawyers are engaged in private practice providing paid individual legal services to Hoosiers.

⁴⁸ These comments included the following: “[Attorney] has helped me so much. Thank God we have people like that,” and “I had [attorney’s] help with receiving SSI. She is a great loving person. God bless all of you for your help.”

⁴⁹ These comments included the following: “[n]ot enough of them,” and “[t]he reply was, twice, “sorry, [they] do not have enough resources.””

⁵⁰ “A goal of the voluntary attorney pro bono plan is to improve the overall delivery of civil legal services to persons of limited means by facilitating the integration and coordination of services provided by pro bono organizations and other legal assistance organizations throughout the State of Indiana.” Prof. Conduct Rule 6.6(a)(2).

⁵¹ The “availability of another source of free or low-cost legal assistance in a particular category of cases or matters” is one of the factors LSC recipients consider in establishing priorities. 45 CFR 1620.

⁵² These differences are discussed in more detail in Section IV.A.1.c. and IV.A.1.d..

⁵³ Economic Research Service Report Summary, U.S. Department of Agriculture, July 2008.

⁵⁴ Indiana University Maurer School of Law, IU School of Law – Indianapolis, Notre Dame Law School, and Valparaiso University School of Law are the four Indiana law schools.



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