



# Civil Justice is Having a Moment:

## Join the Action

By Amanda L. Brown

**A**cross the globe, legal communities are wondering if the civil justice system is meeting the critical demands of those who need it. The answer is a resounding “no.” In America, this renewed scrutiny is in large part thanks to a 2017 report published by the Legal Services Corporation (LSC) that put a microscope on the efficacy of the legal profession and asked an important question — what is the “justice gap?” Or, in plain terms, what is the gap in service between individuals who qualify for civil legal aid and those who don’t qualify but still cannot afford an attorney?

The results were staggering.

The nationwide Justice Gap Study

found that 71% of low-income households in America experienced at least one civil legal problem the year prior to the survey. Of those, 86% received inadequate or no legal help. Importantly, as much as 20% of households never sought legal help for an issue, in part because they were unaware the issue was legal in nature. No matter how these results are viewed, it is clear there is an access-to-justice crisis in this country.

### A Renewed Energy

The Justice Gap Study was a seminal moment for civil justice in America. Those tasked with serving the underprivileged were already keenly aware of

the problems the study highlighted. But this report was especially sobering for the rest of the legal profession.

Today, large law firms are prioritizing pro bono services, with in-house legal departments following suit. Courts are piloting innovative service-delivery projects, creating more educated and engaged litigants. Technologists and designers are bringing creative problem-solving to important issues like housing and homelessness, consumer debt, bankruptcy and divorce. This action is evidence that the Justice Gap Study brought a renewed energy ensuring the justice system is accessible to all, not just some.

Much like the rest of the country, the

Louisiana civil justice community is looking for creative ways to bridge the justice gap. Part of that effort is taking a data-driven approach to identifying the needs of communities, evaluating the effectiveness in meeting those needs, and determining the financial value of the impact. Through two recently released studies, the case is being built for more civil legal aid support.

The updated Social Return on Investment Study highlights the incredible financial impact civil legal aid has on the state's economy. Meanwhile, the first-ever, formal Unmet Needs analysis conducted in Louisiana aims to document the frequency at which common civil issues are experienced by the community and, most importantly, how often those needs go unmet.

## Economic Impact and Social Return on Investment Study

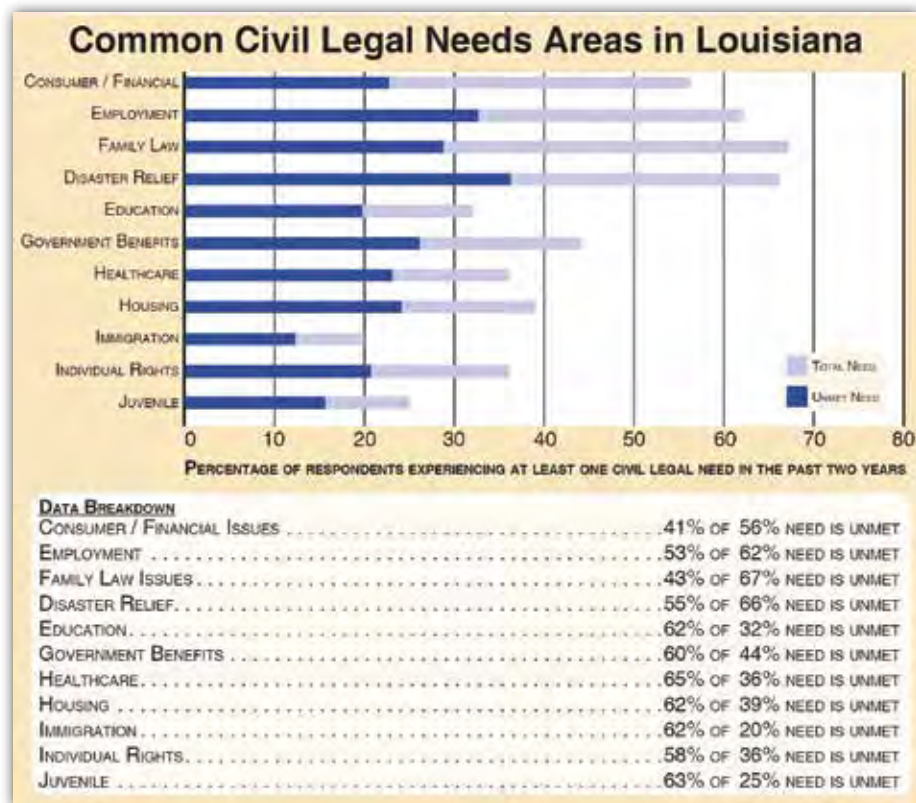
In late 2018, the Louisiana Bar Foundation tasked experts with evaluating more than 40 civil legal service providers to quantify the value civil legal aid brings to the state from a purely economic standpoint. The Social Return on Investment (SROI) calculation — though a bit abstract in concept — is a widely-accepted standard for measuring the social impact of an investment.

Measuring the impact of social services is challenging. ROIs are typically measured in dollars and cents. But many social services' benefits extend beyond monetary benefits and legal services are no exception.

Of course, in virtually every case, a client derives some monetary value from a civil legal aid service. Most commonly, clients avoid the costs of a private attorney. They may also see financial gain via court settlements, awards or other personal costs saved. But in many cases, the true impact of that service may take years to fully realize.

This is where traditional and social ROIs begin to diverge.

The first phase of this process requires measuring the value of the “outputs” organizations deliver. The most



accurate measurement basis for those outputs is the fair market value of the services being delivered, plus the value of benefit immediately received. More plainly, what would it cost the community to acquire the same services if the service providers did not exist? And what immediate, tangible value did the client receive? The sum of these parts represents the “Immediate Net Direct Value of Services.”

The second phase takes on the measurement of the long-term value of the services, or the “outcomes” communities are likely to experience in the long run. This number is found by reviewing such things as savings in community support costs, reductions in community medical-care expenses, additional community tax revenues from benefit programs, savings in housing and support costs for homeless families, and savings in community law enforcement, court systems and other government agency costs. In the SROI equation, this value is coined the “Long-Term Net Consequential Value.”

Adding these figures and comparing them to the total tax-based funding for Louisiana civil legal aid operations

— i.e., the number of dollars directed to the actual provision of legal services — provides the social impact return on investment.

Consider the financial impact of an eviction case. In a typical eviction case, the Immediate Direct Value includes the value of the attorney's services and the avoidance of fines and moving costs. The Long-Term Consequential Values might include money a community center saved in housing and support costs for that family that avoided homelessness.

It is clear that legal services have a ripple effect into the community, saving dollars not just for individuals but also for programs that are otherwise tapped into in times of crisis. Evaluating both the immediate and long-term consequential financial benefit of legal services rendered shows how substantially those services support the economy.

## Louisiana's SROI

Much like the Justice Gap Study, the results of the 2018 SROI study were staggering. *For every \$1 invested in civil legal aid, the economy sees a 913%*

*return on investment.*

According to data from more than 40 participating legal service programs, those programs fielded 22,727 legal issues from the public in 2018. Their work gave Louisiana an immediate net direct value of \$34,697,000, and more than \$60 million in long-term consequential value, yielding a total net value of \$95,124,000. With just \$10.4 million invested in civil legal services that year, there was a 913% return on investment.

Even if *only* the direct value of civil legal services was measured, the civil legal aid funders get excellent returns on their investments. This research proves what the justice community has known all along — the effects of civil legal aid are far reaching and are critical components of the health of the economy.

## 2018 Unmet Needs Study

On the heels of the LSC Justice Gap Study, the Louisiana State Bar Association's (LSBA) Access to Justice Committee felt it important to better understand the specific needs of the state's communities. This first-ever, formal attempt to document unmet civil legal needs in Louisiana provided the unique opportunity to evaluate and consider the pervasiveness of different civil legal issues in the state and how people navigate them.

Using web-based surveys, researchers retained by the LSBA surveyed hundreds of individuals and families across the state. To ensure the results were truly representative of those who would likely qualify for some type of free civil legal aid, survey participants were generally required to fall at or below 200% of the federal poverty level.

Researchers then determined unmet needs by uncovering three main data-points, with each latter point building on the prior points:

- ▶ What percentage of people within the target population experienced a civil legal issue?
- ▶ Of those who had experienced a legal issue, what types of issues did they face?
- ▶ Of the types of issues faced, which

were the most underserved?

In addition to web-based surveys, the researchers leveraged existing data from direct legal aid providers that was collected to advance the previously mentioned LSC Justice Gap Study.

### Survey: Number of Participants Facing Civil Legal Problems

To lay the foundation for this study, researchers had to know how many survey participants have faced a civil legal problem. Of all respondents, 54% said they or a member of their family had a civil legal need in the past, with more than half of those having had a civil legal problem within the prior two years.

The remaining 46% of respondents identified as never having a civil legal need. In reality, however, as recognized by the Justice Gap Study, the number of individuals that *have* previously experienced a civil legal issue is generally moderately higher than reported due to some individuals' failure to identify a problem they have as legal.

Nonetheless, the 54% of survey participants that identified a previous civil legal issue then became the focus of the remainder of the study.

### Survey: What Type of Legal Needs?

The next stop on the researchers' journey was determining the different types of legal issues respondents had faced. The researchers broke down higher-level topics, like "family law" and "employment law," into need-based scenarios that could be more easily identified by someone with a particular need. In all, more than 65 descriptions of specific legal scenarios made up 11 high-level legal issues.

Topping the list of types of legal issues was Family Law, with 67% of participants indicating that they or a close family member had dealt with some type of family law issue in the prior two years. With Louisiana being a disaster-prone state, it's no surprise that Disaster Relief-related issues came in second, having been experienced by 66% of survey takers, especially in light of the widespread flooding that occurred in 2016. Rounding out the top four issues in Louisiana were Employment (62%)

and Consumer and Financial (56%) civil legal issues.

### Survey: What Type of Legal Help?

To determine which legal issues went most underserved, the researchers asked participants to identify what action they took when faced with their legal problem. This creatively crafted question gives insight into how people who do address their legal issues accomplish their goals. It also gives a better understanding of the reasons why people have unmet needs or otherwise unresolved legal issues.

This aspect of the study revealed that while fewer numbers of people experienced civil legal issues like healthcare, juvenile, education, immigration and housing, those legal problems had the highest unmet need. In fact, more than 60% of each of those types of legal issues went unmet.

But even those legal issues that saw the greatest percentage of *met* needs fell short of the state's lofty goal of 100% meaningful access to justice. For example, people with Consumer and Financial Legal Needs had the highest percentage of their needs met relative to other frequently experienced civil legal issues. Even so, only 59% of that population received some sort of assistance or otherwise had their needs met. The data shows that this is largely because many people cannot afford a lawyer and don't qualify for legal aid (falling within the justice gap), do not know where to go for help, or simply decide to do nothing about the issue.

## Join the Action and Get Involved

These studies have proven to be immensely valuable in making the case for civil legal aid.

At the state level, the SROI and Unmet Needs studies put a face to the "Justice Gap" and were crucial in persuading the Louisiana Legislature to reinstate a \$500,000 appropriation for civil legal services for 2019. Prior to this appropriation, civil legal services in Louisiana had gone almost 10 years



without funding, making Louisiana only one of four states in the country with no legislative support or dedicated statewide filing fee.

At the organizational level, these studies are allowing different players within the civil justice ecosystem to organize their efforts for greater impact. More data about the volume and severity of cases with unmet needs means organizations are better equipped to prioritize their efforts and focus collaboratively on the highest needs. The Unmet Needs study gives a clearer picture about the pathways people are taking to resolve their issues and provides the opportunity to intercept individuals before their needs go unmet.

At the individual level, legal professionals are encouraged to join the action. Louisiana's robust civil justice ecosystem offers an entire spectrum of opportunities for involvement. Consider joining the LSBA's Access to Justice Committee to gain insights into the current challenges the civil justice commu-

nity is tackling and to find opportunities to help research new methods and propose solutions.

Participate in local Pro Bono Projects or register for the LSBA's Modest Means Directory. The Modest Means Directory allows attorneys to provide full scale or limited scope representation to those in need at a reduced cost.

The LSBA's new program, *LaFreeLegalAnswers.com*, is an online forum allowing qualifying individuals to pose questions to attorneys who provide anonymous legal information and advice. If influencing change through policy is a goal, become a member of Louisiana Appleseed or the Louisiana Bar Foundation and join their annual Fellows' class projects.

## Conclusion

No matter what is chosen, everyone's contributions make a difference. As the studies indicate, there is a critical mismatch between the needs of the most

vulnerable and the services the legal community is providing. Work is continuing to build a sustainable justice system that ensures access to all who need it. Everyone's help is needed to capitalize on civil justice's moment.

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