

**WHO ARE OUR CLIENTS?
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PROBLEMS?
WHAT DO THESE IMPLICATE FOR
STATE JUSTICE COMMUNITIES?**

By
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Center for Law and Social Policy
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As a result of state planning, the civil legal assistance system is undergoing a transformation to comprehensive, integrated, statewide system for delivering civil legal assistance to low-income people. It is also clear that both LSC and the broader civil justice community are moving forward, perhaps with differing emphases, on an agenda to create full access to civil legal assistance for all low-income people. As providers and civil legal assistance leaders engage in this often difficult task and face the myriad problems that have been a part of this effort, we often do not take time to step back and examine what is going on with the low-income communities we are dedicated to serving. As hard as it is to look beyond the time-consuming and tough administrative and organizational issues those leaders locally and nationally face, it is necessary to do so if we are going to actually assist low-income people.

This article is an effort to share with the civil legal assistance leaders some initial thoughts about what is happening to our client communities. There is much more to be said, of course, and many more demographic trends and policy issues that should be discussed and analyzed. Moreover, these trends are presented from a national perspective, although I realize that they will differ in each state and local area. What I do hope this article will do encourage you to examine in your state three questions:

Who are the clients of civil legal assistance?
What changes in public policy affect their legal needs?
What do these changes mean for providers and for the newly developing state justice system?

WHO ARE OUR CLIENTS

The low-income population of 2001 differs from the low-income population of the 1980s and 1990s in some very critical ways.

Many more of our clients are working than previously. Seventy-eight (78) percent of families under the poverty line have one or more adults in the workforce. The percentage of working mothers with children under age one has grown from 31% in 1976 to 59% in 1998. Twenty-eight percent (28%) of TANF recipients are employed at least part-time. Since 1996, there has been a significant increase in employment among female-headed families. In 1999, 59% of single mothers in families with incomes below 200% of poverty were working, versus 43.4% of married mothers.

While the large gains in employment have resulted in increased income for many female-headed families, at the same time, the average income of the bottom 20% of female-headed families, have declined since 1994, because losses in public benefits have been as large or greater than gains in earnings. As Wendell Primus at the Center on Budget and Policy Priorities has documented, between 1995 and 1999 the annual disposable income of female-headed families with the lowest incomes actually declined by a little over \$300 even though their earning grew by a little over \$600.

Who is on Welfare: Fewer families and poor children are on public assistance. In 1994, 62% of poor children were on AFDC; in 2001, 43% of poor children are on TANF. Families who remain on TANF assistance are a heterogeneous group, but generally have severe barriers to employment including substance abuse, mental health problems, physical disabilities, low education and basic skills. Many are subjected to domestic violence that often prevents them from long-term stable employment. Some do not speak English well.

In addition, there are an increasing number of children who live in households headed by grandparents. The latest available data shows that 362,000 or 6.8% of child TANF recipients live in household headed by grandparents and approximately 304,000 of these are child-only cases.

Moreover, minorities are becoming an increasing percentage of means-tested public benefit programs. For example, TANF is made up of a majority of participants who are minority and this demographic fact is not likely to be reversed by a moderate slow-down in the economy.

On the other hand, in non-means tested programs, women will continue to be the primary beneficiaries. For example, sixty percent of Social Security beneficiaries are women, and Social Security is the major source of retirement income for a majority of these women. Pension and retirement savings systems are especially inadequate for women.

Children have and will continue to have the highest poverty rates, even though the child poverty rate has recently fallen. Today, one-sixth of all children are poor and one-fifth of children under 6 are poor. More distressing, poor families with children under 6 are very poor and face the worst economic and social problems of any poverty group. Moreover, one-half of all children under 125% of poverty live in young families and are poor. There is a huge racial difference as well as the age of families. Hispanic and Black children are twice as likely as white children to live in poverty. And immigrant families are particularly vulnerable. One-fourth of all children of immigrants live in poor families, compared with 16% of U.S. Natives.

Over the last three decades, the United States, along with other Western industrial countries, has experienced a significant change in family structure. Today, approximately one quarter of all families are single parent families. Most children will spend part of their life in a single-parent family. In addition, about 40% of children will

live at some point in a cohabiting household. Between 1970 and 1999, the percentage of children in two-parent families decreased for all races. The percentage of black children in two-parent families declined from 58 % to 35 %; the number of white children in two parent homes decreased from 90 % to 74 %; and the number of Hispanic children living in two-parent families decreased from 78 % to 63%. Divorce and non-marital birth rates are rising in Hispanic families where the largest population growth will occur. Hispanic women have the highest nonmarital birth rate of all racial and ethnic groups. According to 1999 Census data, 5.4 million children are living in relative-headed households and 2.1 million live only with relatives, a 53% increase between 1990 and 1998. Of these, 3.9 million are being raised in families with grandparents present and 2.3 million children are being raised solely by grandparents. Unmarried mothers and their children and children living with grandparents are more likely to be economically disadvantaged, have lower educational attainments and lower incomes than married mothers and their children.

There will be an increasing elderly population reaching 30 percent of the overall population by 2020. In addition, the elderly population will be older and frailer than previous cohorts of the elderly.

The overall population composition will also change, because most of America's population growth in the next century will be among immigrant and minority groups, particularly Hispanics. According to the latest census count, the Hispanic population in the US has grown by more than 60 percent since 1990 and is about to pull ahead of African-Americans as the largest minority. This fact is somewhat surprising and was news to many people, because, in part, many more low-income Hispanics reside in the US illegally or undocumented than was anticipated by the Census Bureau. Demographers now predict that Hispanics will continue to increase at a far faster level than previously predicted. Younger children will be increasingly minority and Hispanic. Data on Hispanic children, youth and families show that in many areas such as teen suicide, nonmarital births, health insurance, education and workforce participation, Hispanics fare worse than blacks and whites.

The immigrant population is no longer concentrated in only a few states and a few major cities. The immigrant population is spreading into a large number of states that have previously had few immigrants. Although Immigrants are today concentrated in California, Texas, New York, New Jersey, Florida and Illinois, this pattern of the 20th Century is changing and changing dramatically. The share of the immigrant population living in these six states declined for the first time in decades, dropping from more than 73 percent to below 70 percent in 1999. California's share slipped from 34 percent to 30 percent. Fewer immigrants are settling in these six states and there is a net flow out of the states among the settled immigrant population. New immigrants and those leaving the six states are settling in 19 states that are in the southern center of the US. Demographers predict that this influx of Hispanic immigrants into the South and Mid-West will continue and increase.

PUBLIC POLICY CHANGES

The basic welfare system has been transformed from a system of income support into a system of work and work supports. The caseload for AFDC/TANF has declined from 5 million families in 1994 to 2.2 million by June 2000. According to studies of leavers, 60% of those leaving TANF are working while 40% are not working. Much of the employment for families receiving or leaving TANF assistance is in low-wage jobs. These families need access to Food Stamps, Medicaid, child care assistance and child support services in order to move out of poverty. However, there have been sharp declines in participation in Food Stamps and Medicaid for families leaving assistance. In addition, only one-third of working leavers received child care. While child support enforcement has improved, most leavers did not receive child support.

The basic welfare program has devolved to the states and, in some states, to local governments. It has also changed from a program with extensive federal law and individual entitlements to a program with little federal law and guaranteeing no federal entitlement. States (and local governments in some states) have widespread discretion on who is served, what services are provided and what requirements are imposed to receive services. This fundamental structure is not likely to change during the 2002 reauthorization of TANF, although we may see further devolution from government to faith-based and other local non-profit, non-government programs. In addition to increased state discretion, the welfare program and all levels of government have increased privatization of services. Most Americans and most political elites believe that the private sector can do a better job than the public sector.

The economy will continue to move rapidly from manufacturing to services and information technology, eroding high-paying low-skill employment and increasing competition for emerging high-income generating jobs. The new jobs that offer opportunities for wage advancement and better working conditions require skills and education beyond high school. Yet, the new welfare program limits counting education, training, postsecondary education and other critical activities to meet participation requirements and thus discourages participation by TANF recipients and leavers in activities that would improve their skills and education so as to compete in the new economy. Moreover, the changes brought about by the Workforce Investment Act such as one-stop centers, individual training accounts and other new policies have not created a system of job training that would improve the skills and education of welfare leavers and other low-income workers.

Information technology and other forms of technology are transforming how we communicate, obtain and transmit information, do work, spend non-work time, shop and entertain us. As the Spring 2001 issues of the MIE Journal described in its "Special Feature: 21st Century Justice Tools – What Will They Be, and How Will We Use them, information technology has, and will continue to have, profound effects on how legal services is delivered and how we communicate and interact with low-income clients. However, as my colleague Julia Gordon pointed out in her article, people who are not

connected to the Internet will find themselves falling further and further behind. The percentage of U.S. households with Internet access was 41.5% in August of 2000. In African-American households, 23.5% had Internet access; in Hispanic households, 23.6 percent had Internet access. Rural American households with incomes of \$75,000 and higher were more than twenty times as likely to have access to the Internet than households at the lowest income levels and nine times as likely to have a computer in the home.

There is a severe and worsening shortage of rental housing affordable to low-income renters and the private market is not producing enough affordable rental housing to meet existing demand. The number of units affordable to renters with extremely low incomes dropped by 750,000 (-13%) and the total number of units affordable to renters with very low incomes fell by 1.14 million (-7%) between 1997 and 1999. In 1999, 4.86 million unassisted renter households could not afford housing. This included 3.6 million children, 1.4 million elderly and 1.3 million disabled adults. This is a decline from a record high of 5.4 million in 1997. This decline is primarily the result of income growth among renters with extremely low incomes. Even with this decline, 68 % of unassisted extremely low-income renters had worst case housing problems. Drops in the worst-case problems were fastest among Hispanics (-16%) and whites (-14%), but worst case needs rose for non-Hispanic Blacks by 23 percent among very-low-income black renters. Unassisted very low-income renters were most likely to have the worst-case problems in central cities and least likely in nonmetropolitan areas. Thus, housing affordable to extremely low-income renters was in shorter supply than housing affordable to other income groups.

Homeownership is often viewed as the key to improving housing for all people, including low-income people, even though many people cannot afford or cannot obtain housing where they want to live. In 2000, the homeownership rate for Hispanic households was 46.3 %, the homeownership rate for Black non-Hispanic households was 47.6 %, but, for the national as a whole, was 67.4 %. Homeownership rates also lag in central cities (51.4%) and among households with incomes below the area median (51.5%).

While preliminary census data reports that there is more integration than in 1990 and that there are increased numbers of minorities who now live in suburban areas adjacent to central cities, concentrated poverty in inner cities remains high. In many inner-city neighborhoods, most adults are not working in a typical week. Hispanic children are more likely than either White or Black children to live in neighborhoods with a high concentration of poor residents; Black children are far more likely than White children to live in such neighborhoods.

Over 42 Million Americans are without health insurance. The uninsured are predominantly low-income working families – 65% of uninsured families have incomes below 200 percent of the poverty level. Most are uninsured because they do not or cannot obtain coverage in the workplace. Eight in ten of the uninsured come from working families, but over 70% of all uninsured workers do not have access to job-

based coverage. Welfare reform has had an adverse effect on coverage of poor children. Although recent efforts to enroll more Medicaid-eligible children and to implement the State Children's Health Insurance Program have reduced the number of uninsured children, they still received Medicaid at lower rates and lacked coverage at higher rates than they did before welfare reform. According the Center on Budget and Policy Priorities, in 1995, 62.1 percent of poor children had Medicaid, and 22.9 Percent were uninsured. In 1999, only 55.6 percent of poor children had Medicaid, and 25.8 percent lacked coverage.

Men's earnings have declined and are a smaller proportion of a family's income than in the past. During the last decade, wives' earnings replaced those of men as the primary reason for any growth in family income and accounted for 95% of the increase in their children's standard of living.

One out of three African-American men is in prison, on probation or on parole; in 1990, it was one out of four. States now spend more per year on prisons than on higher education while ten years ago spending priorities were just the opposite.

The education system is serving some children well and other children poorly. There is wide disparity in funding for school systems within states, particularly with regard to schools serving the urban and rural poor. There is also a significant gap between the performance of ethnic groups and between low-income and higher income students. School reform has become a central issue at the national level and remains a serious public policy focus at the state and local level. There is a growing focus on standards and testing that is supported not only by most Americans but also by most minority groups. (Note that the standards movement is strongly supported by the mainstream civil rights communities and their organizations.)

THE IMPLICATIONS OF THESE TRENDS TO THE DELIVERY OF CIVIL LEGAL ASSISTANCE TO LOW-INCOME PERSONS

While we cannot predict with complete accuracy how these trends will manifest themselves in the delivery of civil legal assistance to low-income Americans, we can attempt to analyze what legal problems are likely to arise in light of the trends described above and how our state delivery systems need to adjust. Specifically, many of our clients will be working or attempting to maintain a relationship to the work force. At the same time, children of single mothers may face more severe problems because mothers are working and not available to provide supervision. We are likely to be representing more immigrants and more Hispanics in states that have had few previously. We may also see more elderly persons, some of whom will have more severe health and long-term care problems than the existing cohort.

1. Emerging Legal Problems

As a result of these Demographic changes and the aforementioned social policies, state civil legal assistance providers will have to focus more attention on both

pre-employment and post-employment issues. Legal assistance will need to focus on removing barriers to employment. For example, in order to be hired, some clients may have to get arrest or conviction records expunged. Others may be homeless and in need of housing before they can be employed. Some may face suspensions of their driver's license or impoundment of their car (if arrested when the license is suspended.) After employed, civil legal assistance systems will need to address issues arising in the employment of low-income persons in low-wage work. Clients may need assistance to obtain wages, improve working conditions, and remedy employment discrimination in firing or advancing in the job.

To survive, low-wage workers may need to obtain vital supports to which they may be entitled such as Food Stamps, child care, transportation, and supplementary cash assistance. Low-wage workers may work in jobs where health insurance is unavailable or priced too high to obtain. Others may be eligible for Medicaid or the State Child Health Insurance Program and not realize or know that they can receive these benefits. Single parents will need to obtain child support to make ends meet and state policies will need to be adjusted so that child support is distributed directly to the family and not to the state welfare department.

To retain employment and advance in the labor market, low-wage workers will need access to effective education and skill training programs. State workforce development programs will need to ensure such access. At the same time, workforce development must promote wage advancement and retention among low-wage employers. The TANF program will need to ensure that participation requirements include skills training and the overall workforce development system must increase access of low-wage families to effective post-secondary education programs.

In addition, there may be increased need for representation of low-wage workers to obtain unemployment insurance because short-term cash assistance may not be otherwise available. At the same time, the unemployment insurance system will need to change in order to be available to a larger group of low-wage workers and become the safety net for the working poor.

We are also likely to see a host a consumer problems associated with low-wage workers, such as predatory lending practices, new issues of credit, car purchases and repossessions.

Potential wage earners in some families may not be able to participate in the labor force because of low skills, substance abuse, mental health problems, learning or physical disability, language barriers or the impact of domestic violence. These families may need critical legal representation to address these barriers to labor force participation. Workforce development and cash assistance policies will also have to change to take into account the needs of these families. Among other policies, states will have to develop community services employment and supported work programs to ensure effective help for these families and provide for their economic security.

Furthermore, as single mothers (and both adults in two-parent low-wage families) are required to work to meet their economic needs, we need to consider how the civil legal assistance system can help improve the early development and well-being of children and prevent them from becoming involved in anti-social activities that may have long-term consequences. Young children will need to participate in Head Start, Smart Start, early education and pre-kindergarten programs and such programs will need to be expanded to meet the need. Older youth will need to participate in after school and other programs.

These are not the only examples of changed legal needs of our clients nor do the activities laid out above begin to address other legal issues that low-income persons are facing. Our civil legal assistance system must also consider what it can do to help address the housing crisis for low-income people. Civil legal assistance has developed strategies to protect clients from eviction or loss of a home, and remedy fraudulent land and home purchases. It has been less successful at strategies to increase the supply and affordability of housing for low-income families in both rural and urban areas.

As many advocates have previously pointed out, civil legal assistance also needs to increase its community economic development work to address the problems of urban concentrated poverty by, for example, creating jobs and community service employment opportunities and developing affordable housing.

In addition, because education is essential to advance in the labor force, the state civil legal assistance system should consider how it can help improve our education system to ensure that all children, including racial minorities, immigrants and those with language needs, receive an effective education. On the one hand, this will require that we focus some effort on helping poor performing schools to substantially improve. At the same time, the civil legal assistance system must protect low-income children from unfair truancy laws, discriminatory expulsion policies, unrealistic zero tolerance policies and work to ensure alternative education programs for children that are expelled.

The demographic and public policy developments described above also highlight the need to reconsider family law work. To be sure, the civil legal assistance system should continue to provide representation in domestic violence and child welfare cases where the consequences to the family and particularly women and children are so severe. In addition, we need to consider what the civil legal assistance system can do to help fragile families remain families, reduce teen pregnancy, assist poor fathers so that they meet their family (and child support) obligations and help teen parents obtain an education and parent their children appropriately. And we need to consider how we can best assist grandparents who are raising their grand children and often face considerable problems obtaining the supports and assistance they need to succeed.

These newly emerging legal issues will affect the substantive priorities on which providers work as well as the priorities established by the state justice system. Staffing will be needed with the expertise and training to address these legal problems.

Providers will have to change their internal structures and reorganize their substantive units. In addition, the civil legal assistance system will need to coordinate and collaborate more closely with other social services providers and with a broader range of private lawyers. Moreover, the state justice community in each state and nationally will have to change the nature and focus of training and support that is provided to advocates working on the ground.

For a much more thorough discussion of these and other emerging legal problems that arise because of the changing demographics of low-income persons served by the civil legal assistance system, I encourage you to read and circulate widely the January-February 2001 Issue of the *Clearinghouse Review* which devoted a special issue to “New Legal Problems Low-Income Clients Face When They Work.” This issue includes a wealth of substantive information about the relevant legal issues as well as some excellent articles about how legal services providers will have to change to ensure that the legal issues are addressed.

2. Emerging Delivery Issues

The civil legal assistance delivery system is undergoing a fundamental change. The system is changing from a system of local providers with responsibility for service in one geographic area to comprehensive, integrated statewide systems of delivery – state justice communities - that involve a number of civil legal assistance providers (not all of which are funded by LSC). In some states, this new system is coordinated or even managed by a broadly representative access to justice commission. State justice communities seek to involve a single point of entry for all clients, integrate all institutional and individual providers and partners, and seek to provide access to a range of services for all eligible clients no matter where they live, the language they speak or the ethnic or cultural group of which they are a member.

The newly emerging state systems are being designed to reach three fundamental objectives of a client-centered civil legal assistance delivery system: first, to increase awareness of rights, options and services; second, to facilitate access to legal assistance so that no one is left out; and third, to provide a full range of civil legal assistance and related services to enable low-income persons to anticipate and prevent legal problems from arising, resolve their legal problems efficiently and effectively protect their legal rights, promote their legal interests, enforce and reform laws and improve their opportunities and quality of life.

The demographic and public policy developments outlined above will affect how state justice communities carry out these three functions.

a. Increasing Awareness of Rights, Options and Services

State justice communities will need to adjust their outreach and community legal education (CLE) efforts in order to reach the vast majority of low-income adults who are in the low-wage workforce. Aggressive outreach and client education initiatives involve

more than ad hoc meetings with clients or written communications to clients without personal contact. These limited techniques have not been particularly effective or successful. Truly effective efforts will require program staff to work outside of their offices and make contact with a variety of organizations and providers in order to reach clients and to fully utilize innovative and new technologies. To reach low-income workers, outreach efforts must be made to low-wage employers and, for large employers, to their human resources departments. In addition, outreach efforts will be necessary to reach people during the evenings and on weekends and in places where low-income people congregate, such as churches, community centers, food and retail stores, restaurants and bars, etc. Moreover, the civil legal assistance system will have to do more effective outreach to those who are providing kinship and non-relative care as well as to those who have disappeared from the TANF and other social services' systems. In addition, CLE materials will need to address the range of new and emerging legal issues outlined above.

b. Facilitating and Enhancing Access to Civil Legal Assistance

As states establish a coordinated system of service providers that uses both institutional providers and individuals in order to ensure that services are accessible from all parts of the state, they will need to be sensitive to the fact that there are newly emerging legal issues for low-income workers, Hispanics, immigrants and others. Advice and brief services systems and intake systems must be accessible to low-wage workers and their families, operated at times that are convenient for workers and are staffed by lawyers and paralegals with the specialized expertise in all the major new substantive areas of the law affecting low-income persons. In addition, the coordinated systems must be designed to provide legal information and assistance in all of the languages spoken by a significant number of low-income persons. As immigrants, and particularly Hispanic immigrants, move into the states in the South and Midwest where there have not been large Hispanic populations in the past, states will have to develop the capacities and appropriate staff to communicate in Spanish and other languages. State systems will need to make sure that they have the capacity to serve, and use new and innovative electronic and video technologies to reach, all segments of low-income and vulnerable households, including, for example, those who reside in nursing homes and long-term care as well as those living in isolated, remote rural areas.

c. Providing a Full Range of Civil Legal Assistance Services

To provide a full range of civil legal assistance, state justice communities must develop the capacity to provide legal assistance on the new substantive areas of work outlined above and ensure training of, and dissemination of, information to individual and institutional providers about these new areas and developments within these new areas. Moreover, a number of emerging issues may only be addressed through community economic development and other transaction initiatives that offer the possibility of creating jobs, community service employment opportunities and affordable housing. In addition, there is an increasing need for policy advocacy on the state and local levels in order to provide the full range of legal assistance needed to address the

newly emerging legal needs. Some of the problems facing low-income persons can only be addressed by policy changes at the state and local levels. Examples include: expanding unemployment insurance system; ensuring cash supplements to low-income working families; changing the child support distribution system so that families actually receive child support; and ensuring the Food Stamps, child care, transportation, child support and health care are available to low-wage workers. Full access, state justice communities would ensure that these capacities exist and that resources are allocated to providers and organizations that can provide these services and undertake the appropriate advocacy.