

MASSACHUSETTS

ABOUT THIS REPORT

The state report is a resource to inform donors and funders about the local context of social issues affecting at-risk populations. This analysis can be used to better understand current local trends and the unique social and economic situation in which

the social issue exists. The information below complements the social issue report the guide to giving by drawing attention to local initiatives related to the social issue.

FACTS: CIVIL LEGAL ASSISTANCE IN MASSACHUSETTS

Estimated taxpayer savings in shelter costs for providing civil legal assistance to help keep an estimated 625 families out of homelessness¹

\$11.25 million

Amount of federal retroactive payments and first-year benefits to clients generated by \$1.2 million in state funding from the Massachusetts Legal Assistance Corporation's Disability Benefits Project²

\$8.1 million

SOCIAL ISSUE INDICATORS

SIR identified two indicators to assess progress toward providing at-risk³ individuals with access to quality civil legal assistance. These indicators are unmet legal need and the number of self-represented litigants.

Unmet legal need refers to the number of low-income individuals with a civil legal issue who do not act on these legal needs for whatever reason. In Massachusetts, the best estimate for unmet legal need comes from a 2008 study that estimates that **the majority of the nearly one million low-income individuals** who seek legal assistance are turned away.⁴ This supports the Massachusetts Legal Assistance Corporation's (MLAC) conclusion a decade earlier that more than 80 percent of civil legal needs of low-income individuals are not met by the legal services system.⁵

The **number of self-represented litigants** refers to the number of individuals who appear in court without legal counsel. Individuals lacking legal representation consistently fare worse in court than individuals with full legal counsel. One representative estimate for self-represented litigants in the Massachusetts Housing and Probate and Family Courts suggests that, **in more than 90 percent of the cases, one or both individuals are self-represented.**⁶



WHAT'S HAPPENING IN MASSACHUSETTS

LEGAL SYSTEM REFORM INITIATIVES

Massachusetts has been a national leader in its efforts to provide civil legal assistance to at-risk individuals. The state has done so through the establishment of committees tasked with developing and implementing advocacy initiatives and models that examine the efficacy and efficiency of civil legal services that fall short of full representation.

Commissions and Task Forces

- The Task Force on the Civil Right to Counsel considers how to establish a right to counsel for situations in which a family or an individual faces the risk of a loss of shelter, sustenance, or other basic human needs. The task force, which was convened by the Boston Bar Association in 2007, examined two state-funded pilot projects, involving eviction cases in housing courts. The Task Force examined the costs and effectiveness of various forms of legal assistance. In its report on these pilot initiatives, the Task Force confirmed that legal representation is an effective form of homelessness prevention, helping more than two-thirds of tenants to avoid eviction in one local court.⁷ The report also concludes that there was no measurable difference in outcomes between individuals receiving full and limited legal assistance, a finding that lays the groundwork for dramatically changing the administration of legal services.

The report also estimates that for every dollar spent on legal services—even limited legal services—the state would save at least two dollars in shelter costs.

- The Massachusetts Access to Justice Commission, first convened in 2005, has helped guide the implementation of a voluntary added fee to help fund civil legal assistance for at-risk individuals. This fee provided \$1.1 million in the first year it was implemented. It has also helped to track best practices for using technology to improve access to justice, expand the availability of legal information to the public and developing a statewide pro bono website.⁸
- The Supreme Judicial Court's Steering Committee on Self-Represented Litigants was established in 2002 in response to growing numbers of individuals appearing in court without legal counsel, particularly in the Probate and Family Courts and Housing Courts. The committee has been charged with identifying and promoting system-wide policies and innovations. Its 2008 report offered a number of proposals to make the courts more "user friendly," including landmark judicial guidelines for effectively responding to self-represented and limited assistance individuals.⁹

Legal Services Advocacy

The Massachusetts Law Reform Institute (MLRI) acts as the backbone of the Massachusetts civil legal services delivery program, and is considered one of the premier state support centers in the country. The organization acts to advance systemic reform through impact litigation and administrative and policy advocacy. For instance, because as many as 40 percent of Massachusetts families facing eviction due to foreclosure crisis were renters,¹⁰ MLRI played a critical role in preventing neighborhood destabilization and evictions, and helped secure passage of the federal Protecting Tenants at Foreclosure Act (PTFA) in 2009.

MLRI has also responded to the record rise in family homelessness in Massachusetts by advocating for a short-term rental assistance program. Known as HomeBASE, this legislation was enacted in 2011 and is intended to keep homeless families in homes, rather than in emergency shelters, by shifting state funds from shelters to cash subsidies used to prevent eviction or pay other housing costs. The initiative is expected to reduce the costs of sheltering homeless families by two-thirds, which cost the state a record \$161 million in 2011.¹¹

COMMUNITY-BASED REFORM INITIATIVES

Other efforts to address the justice gap have focused on the

development of outreach and early intervention models to make legal services more accessible to greater numbers of people.

The Medical-Legal Partnership (MLP) model was first developed in Boston in the early 1990s as a children's health initiative. It provides a mechanism for lawyers, social workers, and doctors to work together to resolve the legal and health needs of lower-income patients. The model now operates through partnerships between 30 legal service providers and nearly 25 hospitals or healthcare facilities across the state.

The model has demonstrated positive impacts on patient health and in the provision of legal services. One study showed that adding an attorney to the medical team increases awareness of and access to social and legal services.¹² Another report showed that providing legal training to frontline healthcare staff as well as direct legal assistance to low-income individuals reduced the risk that these patients would experience utility shut-off.¹³ Lack of access to heat and electricity has been connected to severe health consequences.

In the mid-2000s, the Kellogg and Robert Wood Johnson Foundations provided the support to develop the infrastructure required to expand the initiative nationally and beyond the field of pediatrics. In 2010, Medical-Legal Partnerships provided legal assistance to more than 34,000 individuals and families through

REFERENCES FOR FURTHER RESEARCH

ORGANIZATION

Mass Legal Services

Massachusetts Access to Justice Commission

Massachusetts Law Reform Institute

Massachusetts Legal Assistance Corporation

Medical-Legal Partnership Boston

WEBSITE

www.masslegalservices.org

www.massacesstojustice.org

www.mlri.org

www.mlac.org

www.mlpboston.org

ABOUT SOCIAL IMPACT RESEARCH

Social Impact Research (SIR) is the independent research department of Root Cause, a research and consulting firm dedicated to mobilizing the nonprofit, public and business sectors to work collaboratively in a new social impact market. Modeled after private sector equity research firms, SIR conducts

research on social issues and independent analysis of program performance to provide leaders and funders with the rigorous, actionable information they need to make strategic decisions about creating and investing in social impact.

ENDNOTES

1. Massachusetts Legal Assistance Corporation. Civil Legal Aid Yields Economic Benefits to Clients and to the Commonwealth: Some Benefits from FY11 Advocacy (2011).
2. Massachusetts Legal Assistance Corporation, Economic Benefits of Civil Legal Aid: How Legal Aid Boosted the Commonwealth's Economy in FY11.
3. At-risk individuals include minorities, disabled, have low literacy and/or limited English language ability; and/or live in a rural location. There is no standard definition of low-income; in this report, it is an annual income of 100 to 199 percent of the poverty level as designated by the U.S. Census Bureau. Those individuals under 125 percent of the poverty level, which constitute approximately the bottom fifth of the population, are often eligible for publicly supported legal services.
4. Boston Bar Association Task Force on Civil Right to Counsel, "Gideon's New Trumpet: Expanding the Civil Right to Counsel in Massachusetts," Sept. 2008.
5. Massachusetts Legal Assistance Corporation, The Massachusetts Legal Services Plan for Action, Nov. 1987.
6. Boston Bar Association Task Force on Civil Right to Counsel, "Gideon's New Trumpet: Expanding the Civil Right to Counsel in Massachusetts," Sept. 2008. People choose to forgo legal services for many different reasons, and not all unrepresented litigants are "at risk" individuals.
7. Boston Bar Association Task Force on Civil Right to Counsel, "The Importance of Representation in Eviction Cases and Homelessness Prevention," Mar. 2012.
8. See MA Access to Justice Commission, www.massacesstojustice.org.
9. The Supreme Judicial Court Steering Committee on Self-Represented Litigants, Addressing the Needs of Self-Represented Litigants in Our Courts: Final Report and Recommendations, Nov. 21, 2008.
10. The National Housing Law Project, The Foreclosure Crisis and Its Impact on Tenants, undated. www.nhlp.org/foreclosureandtenants/.
11. Abel, David, "State drafts an approach to keep families in homes," The Boston Globe, June 20, 2011.
12. Weintraub, D., et al., Pilot Study of Medical-Legal Partnership to Address Social and Legal Needs of Patients, Journal of Health Care for the Poor and Underserved 21 (2010): 157-168.
13. Utility Access and Health: A Medical-Legal Partnership Patients to Policy Case Study. National Center for Medical-Legal Partnership and Medical-Legal Partnership | Boston. Boston: June 2010.
14. See National Center for Medical-Legal Partnership overview. www.medical-legalpartnership.org.