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. 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 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.

- 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.

SOCIAL ISSUE INDICATORS

SIR identified two indicators to assess progress toward providing at-risk 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. 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.

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.

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 homelessness

$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 Project

$8.1 million

STATE REPORT: JUNE 2012 | 1

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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, MLRI played a critical role in preventing neighborhood destabilization and evictions, and helped secured 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.

COMMUNITY-BASED REFORM INITIATIVES

Other efforts to address the justice gap have focused on the

REFERENCES FOR FURTHER RESEARCH

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<th>ORGANIZATION</th>
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<td>Mass Legal Services</td>
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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

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.