

Access to Justice



Kimberly M. Cahill

Access to justice is a phrase that has been bandied about a lot lately. It means different things to different people. For some, it means the literal ability to get into the courthouse or courtroom—unimpeded physical access. Take a look around the next time you are at your local court. Put yourself in a wheelchair, on crutches, or in a scooter—could you get to the jury box, the witness chair, the counsel table, or even into the court building or courtroom?

For others, access to the courthouse is more figurative: Does he have access to a lawyer to help him with his problem? Can the lawyer speak her language or is an interpreter available to help? Have current laws and economic conditions made her case nonviable? A client may have a valid cause of action, but the costs of proving the case and the possibility of and limits on recovery make it difficult if not impossible to pursue it.

Then there is the growing problem of middle-class families for whom retaining a private attorney is nearly impossible. Much like the person who is unable to afford medical insurance and so uses the ER as a primary-care doctor or waits until the simple cold turns into pneumonia before seeking treatment, the client who waits or who comes to us after trying to be his or her own lawyer is almost always in need of more or more-intensive services than the client who seeks us out for regular, preventive care. That all translates into higher costs for the client.

Those who are indigent and in need of criminal defense services are constitutionally guaranteed the right to an attorney. What is just as common, though, is the low- or modest-income client who needs help with a civil issue—the majority of those problems being in the areas

of housing, consumer law, divorce, or child custody. There is no constitutional guarantee to counsel in any of these cases, yet would any of you seriously argue the importance of being able to keep a roof over your head, to have your own means of transportation, or to retain custody of your children?

It is this important issue that the State Bar of Michigan committed to address in starting its Access to Justice (ATJ) campaign. Funds are solicited from law firms, corporations, and individual State Bar members to supplement the budgets of the civil legal services providers in Michigan—commonly

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called legal aid offices. Each lawyer in Michigan is asked to donate 30 hours of pro bono legal services annually, handle three pro bono cases, or donate \$300 to a legal services provider. The funds raised are distributed by our partners at the Michigan State Bar Foundation, who carefully review grant requests from numerous providers to determine the eligibility and viability of the requests. Our partners at the various legal services providers throughout Michigan work to provide pro bono opportunities for our members and to raise awareness about the needs of the clients.

The bulk of the funding for civil legal aid programs comes from the Legal Services Corporation (LSC) in Washington, D.C., which receives annual appropriations from Congress. As of June 2007, the proposed appropriation for fiscal year 2008 is \$376 million, to be allocated throughout the United States. This is an eight percent increase over LSC funding for fiscal year 2007. These monies are generally allocated by total state population, which may harm Michigan. Our population has been decreasing, which means fewer total LSC dollars allocated to us, despite the fact that our poverty population has increased steadily, and we face continuing difficult economic conditions.

Despite raising and distributing almost \$6,000,000 in the six years since the ATJ campaign began, the need remains enormous. With the current funding for civil legal aid, Michigan's legal aid providers can provide services to only four of every seven people who request and qualify for them. Almost half of the people who qualify for legal aid are turned away because there are not enough resources! The scope of this problem is compounded by the fact that many of those who qualify for services may never contact a legal aid provider, and by the fact that many persons who fall outside the federal income limits are also unable to afford private attorneys but are in desperate need of legal advice and representation.

Legal theorists project that the need will become much greater in the future. What is each of us doing personally to address this challenge? Practicing law is a great privilege—what are you giving back to those truly in need? Would we be hard-pressed (or worse yet, embarrassed) to publicly disclose our contributions? It is the legal profession's particular burden to shoulder—we are in the best position to assess and to provide remedies for the problem. ■