

*People Without Lawyers:*  
**The Continuing  
Justice Gap in New Jersey**



*A Report from*  
**Legal Services of New Jersey**  
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## **Introduction**

Legal Services of New Jersey (LSNJ) coordinates the system of non-profit corporations that provides free civil legal assistance to low-income people in all 21 New Jersey counties, with nearly 500 staff and a network of pro bono lawyers. Its mission requires periodic assessment of the extent and nature of the civil legal problems faced by people in poverty. Through Legal Services' nearly four decades, LSNJ has conducted legal needs studies, the most recent being a comprehensive social science survey released in the fall of 2002, "Legal Problems, Legal Needs – The Legal Assistance Gap Facing Lower Income People in New Jersey." This study will be updated in 2007. The 2002 study concluded that 5 out of 6 indigent New Jerseyans cannot secure a lawyer's help for their civil legal problems, and that more than one-third of all those in poverty have a civil legal problem each year.

This report supplements the comprehensive 2002 study, examining specific consequences of this "justice gap," looking particularly at the number who are unrepresented in court cases, the number turned away from Legal Services offices, and other indicators. It follows and supplements a national report, "Documenting the Justice Gap In America," released by the federal Legal Services Corporation (LSC) earlier this month. That document found a national civil justice gap: conservatively, at best only 1 in 5 low-income Americans actually have access to civil legal counsel. Based upon this finding, the LSC as a first step has launched a new five-year campaign to double its appropriation. On reaching that milestone, it will begin to close the remainder of the national justice gap. The LSC has called on its major partners – state governments, the private bar and the private sector – to match its efforts.

## **Methodology**

Unlike the 2002 study, which followed rigorous scientific method to develop new primary data, this report is founded upon already existing available empirical data. The focus is on the first line of *consequences* flowing from the legal assistance gap documented in the earlier study: how many are unrepresented in court or agency cases, how many does Legal Services turn away, and what other evidence exists of the inability to find counsel. For the first time, LSNJ sought and secured information from the state Administrative Office of the Courts (AOC) concerning the number of unrepresented litigants in filed cases. Parallel data was obtained from the New Jersey Department of Human Services Division of Family Development (DFD) concerning the number of unrepresented people in welfare fair hearings, the most common form of administrative agency adjudicatory process affecting low-income people. This information is presented in Part I.

The report then examines the evidence concerning people who are turned away from Legal Services, or otherwise not receiving the full help of an attorney at the time they seek it. Such “declination” data is elusive and nearly always significantly understated: past studies have demonstrated that, when a Legal Services program turns away particular types of cases or clients (e.g., “We can not do simple divorces because of inadequate funding”), the effect is to reduce – quickly – requests for services in that legal area. Applicants, knowing that their request for service will be denied, too often simply decline even to seek help, which also has the effect of suppressing evidence of the need. Nonetheless, the available data reveals significant rates of turn-aways, presented in Part II.

Finally, the report looks at other information suggesting unsatisfied demand: waiting lists and complete closures of intake at Legal Services, and growth in visits at Legal Services’ client website (as a marker for unaddressed needs for direct legal representation). These results are discussed in Part III.

**Part I – Court and  
Agency Data Concerning the  
Number of Unrepresented Litigants**

Only a fraction of the civil legal problems of low-income people actually result in cases filed in court or with an administrative agency. We looked at four types of legal cases in which low-income people are more frequently involved. All data is provided by the AOC (for the first three) or DFD (for the last).

- (1) Family dissolutions (divorces) – of 31,966 resolved cases in Court year 2004, 30% had pro se (unrepresented) plaintiffs, and 67% had unrepresented defendants (51% of these cases were resolved by default).
- (2) “Special Civil” matters (small civil cases where the claim is for less than \$15,000), *not* including Small Claims Court (where lawyers are generally not involved) – 95% of defendants, who are disproportionately lower income people, were unrepresented for the 246,202 cases resolved in Court year 2005 (76% went by default).
- (3) Landlord-tenant cases, again disproportionately involving lower income people – 99% of defendants were unrepresented for the 163,733 cases resolved in Court year 2005 (43% went by default).
- (4) Welfare fair hearings (agency proceedings in which low-income people challenge denial, reduction, suspension or termination of welfare) – 95% of the people were unrepresented for the state fiscal year 2004 (out of 6,799 cases).

The percentage of unrepresented people is extremely high, and unsettling. No comfort may be taken from the fact that sizeable percentages of these cases go by default because, given the dearth of actual representation, no conclusion can be drawn that resolution by default is a proper or just outcome. Unrepresented litigants also represent a

problem for the judicial system. When litigants appear pro se (on their own, without the help of a lawyer), cases are much more likely to take longer to resolve, for a variety of reasons.

## **Part II – Data Concerning Clients Turned Away**

As part of the LSC’s national justice gap study, LSC-funded Legal Services programs in New Jersey tracked their own rates of applicants refused service (“declinations”) during a representative two-month period (mid-March through mid-May) in early 2005. The results closely paralleled the national experience. Of those directly requesting representation from one of the six regional New Jersey Legal Services programs during this period, 47.3% (6,748) otherwise financially eligible people had to be turned away entirely, and another 20% (1,690) had to be given less than the full representation they requested and needed. In other words, two-thirds of those who actually sought legal help from Legal Services were not able to get what they needed. Since typically applicants only seek help in the most pressing cases, these results are especially disturbing.

New Jersey Legal Services programs track similar data on their own, on an ongoing basis year-round. In 2004, the regional programs received nearly 178,000 new requests for help, but resources enabled them to open 51,769 cases – again, the same roughly two-thirds percentage turned away. Combined with the very substantial number of people identified in the 2002 legal problems survey who do not even seek legal help (for many different reasons, including not being aware they need such help or not believing they can get it), the true extent of New Jersey’s justice gap comes into clearer relief.

**Part III – Other  
Indicators of Unmet  
Need for Legal Assistance**

In addition to the statistical information just presented, there are other stark indicators of the legal assistance gap. In 2004, Essex-Newark Legal Services, which has one-third of the state's poor within its service area, completely *closed all intake* (because of their inability to meet demand) in its consumer law unit for 20 business days (roughly equivalent to one month), and in its elder law unit for 30 business days (equivalent to 1 ½ months). It had over 200 names on its divorce waiting list at the time of inquiry this past February. Central Jersey Legal Services closed its family intake in one county for a multi-week period, and two other programs also had multiple intake closures at various points during the year. Several programs offer only group self-help legal education clinics – rather than actual individual legal representation – for certain types of legal problems, and typically even those clinics have significant waiting lists, sometimes running into the hundreds. At least one program only opens its divorce intake once or twice a year, by publishing a one-time ad in local newspapers.

One other powerful indicator points in the same direction. Since LSNJ inaugurated a client-oriented, user-friendly self-help website ([www.lsnjlaw.org](http://www.lsnjlaw.org)) in 2003, its usage has climbed rapidly from a few hundred visits per week to nearly 14,000 weekly, a stunning indication of the extent of need. While this is a public website and access is not limited to those with low incomes, the legal problems addressed are those most typically encountered by low-income people, and the usage is thus an important benchmark.

**Conclusion**

This report provides convincing and disturbing information concerning low-income New Jersey residents' need for civil legal assistance – the justice gap. It will be up to the state's legal community and policy makers to join with their federal partner in a fresh and concerted effort to close that gap.