

**ACHIEVING ACCESS TO JUSTICE**  
**FOR HAWAI‘I’S PEOPLE**

**THE COMMUNITY WIDE ACTION PLAN: TEN ACTION STEPS TO  
INCREASE ACCESS TO JUSTICE IN HAWAI‘I BY 2010**

**and**

**THE 2007 ASSESSMENT OF CIVIL LEGAL NEEDS AND BARRIERS OF  
LOW- AND MODERATE-INCOME PEOPLE IN HAWAI‘I**

**November 2007**

Funded by the Hawai‘i Justice Foundation and the Hawai‘i State Bar Association

**A Report of the Access to Justice Hui**

Hawai‘i Justice Foundation, Hawai‘i State Bar Association, and the Judiciary of the State of Hawai‘i  
with the American Civil Liberties Union of Hawai‘i, Domestic Violence Action Center, Legal Aid Society  
of Hawai‘i, Na Loio – Immigrant Rights and Public Policy Center, Native Hawaiian Legal Corporation,  
University of Hawai‘i Elder Law Program, Volunteer Legal Services Hawai‘i,  
and William S. Richardson School of Law



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Without all of your assistance we would not be able improve access to justice in Hawai'i.

## **The Access to Justice Hui**

Lyn Flanigan  
Judge Daniel Foley  
M. Nalani Fujimori  
Mike Gibson  
Moya Gray

Chuck Greenfield  
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# **REPORT AND ACTION PLAN AT A GLANCE**

## **The Access to Justice Hui**

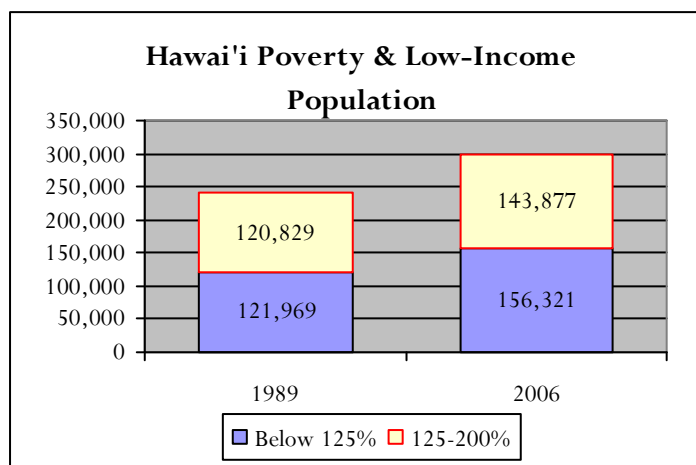
The Access to Justice Hui is comprised of representatives of the Judiciary, the Hawai'i State Bar Association, legal service providers, the Hawai'i Justice Foundation and the William S. Richardson School of Law, as well as bar leaders and other interested parties. The Hui's goal was to carry out a statewide assessment of the civil legal needs of low and moderate-income residents of Hawai'i and to develop a community wide action plan to increase equal access to justice in Hawai'i.

## **The Assessment**

The last legal needs assessment, completed in 1993 (the "Spangenberg Report"), found that low and moderate-income residents had a high level of unmet legal needs. The Hui collected information from a variety of sources<sup>1</sup> to determine the current extent of unmet legal needs, identify barriers to getting legal help, and receive community recommendations to improve access to justice. The resulting report, Achieving Access to Justice for Hawai'i's People: The 2007 Assessment of Civil Legal Needs and Barriers of Low and Moderate-Income People in Hawai'i, indicates that Hawai'i's low-income population continued to increase relative to the population and that a disturbing level of unmet civil legal needs persists.

## **Increased Poverty and High Cost of Living**

One quarter of Hawai'i's residents live below 200% of the federal poverty guideline. Since 1989, the number of people living below 125% of the federal poverty guideline in Hawai'i has grown 28% to 156,321. During the same period, the population living between 125% and 200% of the federal poverty guideline has grown 19% to 143,877.



In 2005, a family of four living at 125% of the federal poverty guideline earned \$2,319 per month, while such a family living at 200% of poverty earned \$3,710 per month. A study by the Center on the Family at the University of Hawai'i found that in 2005 it took \$4,824 per month to cover the basic

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<sup>1</sup> Data was gathered from other studies and demographic information; written surveys of potential clients, social service providers, legal service providers, and adjudicative bodies; interviews with social service providers and members of the judiciary; and community focus groups held throughout the State.

living expenses for a family of four living in Honolulu.<sup>2</sup> Families unable to afford even basic expenses certainly are in no position to pay for legal assistance when it is needed.

## **Key Findings of the Needs Assessment**

- Only 1 in 5 low and moderate-income Hawai'i residents have their legal needs met.
- Legal service providers are able to help only 1 in 3 of those who contact them for assistance.
- The areas with the greatest unmet civil legal needs are housing (24%), family (23%), domestic violence (8%), and consumer (7%).
- Significant barriers to obtaining legal assistance in addition to inability to afford an attorney include language and cultural barriers, lack of knowledge of one's legal rights, lack of knowledge of available legal services, and difficulty in accessing legal services programs.
- There is one legal service attorney for every 2,291 persons living below 125% of the federal poverty guideline.
- There is one legal service attorney for every 4,402 persons living below 200% of the federal poverty guideline.
- There is one private attorney for every 361 persons in the general population.

## **Community Wide Action Plan: Ten Steps in Increase Access to Justice in Hawai'i by 2010**

(1) **Create an Access to Justice Commission.** The Hawai'i Supreme Court should create an Access to Justice Commission with members from the judiciary, organized bar, legal service providers, and others. The Commission would oversee and coordinate statewide efforts to expand access to justice for low-income people, increase funding for legal service providers and pro bono contributions by attorneys, and increase public awareness.

(2) **Increase Funding to Support the Delivery of Legal Services to Ensure Access to Justice.** Legal service provider organizations are the cornerstone of access to justice. The current level of funding from all sources allows these providers to serve less than 23% of low-income residents with critical legal problems. Additional funding should be sought from the Hawai'i Legislature, the federal government and through other means, including adoption of a "comparability" requirement for interest paid on lawyers' client trust accounts and increasing the court filing fee surcharge for the Indigent Legal Assistance Fund.

(3) **Develop a Culture that Values Providing Pro Bono Services.** Attorneys who voluntarily provide free legal assistance to low and moderate-income residents play a key role in helping to address the unmet need for legal services. Measures should be taken that elevate pro bono to a value revered throughout Hawai'i's legal community.

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<sup>2</sup> For the study, a family of four was deemed to consist of two adults, one school age child, and one pre-school child. Comparable monthly basic living expenses on the neighbor islands were found to be \$4,886 on Kauai, \$5,294 in Maui County, and \$4,492 on Hawai'i Island.



(4) **Establish the Recognition of the Right to a Lawyer in Civil Cases Where Basic Human Needs are at Stake.** It is time to recognize that society should provide an attorney for those who cannot afford an attorney but are facing the deprivation of basic human needs, such as those involving shelter, sustenance, safety, health or child custody.

(5) **Enable Individuals to Represent Themselves Effectively When Necessary.** Due to the lack of an attorney, many individuals are forced to represent themselves in court. Self-help centers should be established in all courthouses and programs should be developed to make courts more user friendly.

(6) **Maximize the Use of Available Resources.** Legal services programs should work together to make the most efficient use of their collective resources. Paralegals should be used where appropriate to help meet unmet legal needs.

(7) **Overcome Barriers to Access to Justice.** Language, cultural and other barriers faced by residents need to be addressed by the courts, legal service providers and administrative agencies. Legal services programs should expand the types of cases they handle, the location of their offices or clinics, their hours of operation, and their outreach efforts.

(8) **Expand the Role of the William S. Richardson School of Law in Promoting Access to Justice.** The Law School needs to expand its efforts to introduce its students to the practice of poverty law by increasing clinical programs, emphasizing the professional responsibilities of attorneys to engage in pro bono activity, and engaging in other efforts to encourage law students to enter public interest law.

(9) **Increase Access to Justice in Other Ways.** The Hawai'i Legislature should support the creation of a student loan forgiveness program for attorneys who work for a legal service organization providing assistance to the poor. The Hawai'i Supreme Court should consider adopting rules allowing for limited representation of clients by attorneys and also allowing attorneys licensed in other states to temporarily practice in Hawai'i if they work or volunteer pro bono for a legal service organization providing assistance to the poor.

(10) **Form a Broad Coalition to Address Ways to Alleviate Poverty in Hawai'i.** Legal problems of low-income Hawai'i residents do not occur in a vacuum. They are often interrelated with poverty, and if left unresolved, can plunge families further into poverty. The legal community should join with others in a concerted effort to eliminate the root causes of poverty in Hawai'i.



# **THE COMMUNITY WIDE ACTION PLAN: TEN ACTION STEPS TO INCREASE ACCESS TO JUSTICE IN HAWAI'I BY 2010**

**November 2007**

## Developed by the Access to Justice Hui

Hawai'i Justice Foundation, Hawai'i State Bar Association, and the Judiciary of the State of Hawai'i  
with the American Civil Liberties Union of Hawai'i, Domestic Violence Action Center, Legal Aid Society  
of Hawai'i, Na Loio – Immigrant Rights and Public Policy Center, Native Hawaiian Legal Corporation,  
University of Hawai'i Elder Law Program, Volunteer Legal Services Hawai'i,  
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# **THE COMMUNITY WIDE ACTION PLAN:** **TEN ACTION STEPS TO INCREASE ACCESS** **TO JUSTICE IN HAWAI‘I BY 2010**

The legal needs of low-income residents of Hawai‘i are extensive and well documented. Critical issues are frequently involved, such as securing affordable housing, preventing the loss of a home, eliminating the barriers faced by the homeless, preventing domestic violence, securing custody of a child, preventing elder abuse, stabilizing one’s immigration status, acquiring public benefits, and obtaining protection from consumer fraud.

While the legal needs are great, the resources are plainly inadequate to meet those needs. As the legal needs assessment conducted by the Access to Justice Hui has shown, only 22.8% of low-income residents who have legal needs receive legal assistance. The vast majority of Hawai‘i residents who live in poverty have nowhere to turn for legal assistance.

Each of us in Hawai‘i has a stake in ensuring that all residents have equal access to justice. When access to justice is denied, justice becomes a mere illusion perceived as available only to those who can pay for it. Such a situation undermines a rule of law that is premised on the principle that all individuals stand equally before the law.

After receiving comments and recommendations from social service organizations, judges, legal service providers, residents on every island and most communities during twenty-one focus group sessions, and low and moderate-income residents, and following a conference held on October 19-20, 2007 at the William S. Richardson School of Law of forty community members, the Access to Justice Hui developed a list of action steps to increase access to justice in Hawai‘i. The Hui proposes that the following ten action steps be taken by 2010 with the firm belief that making justice available to all residents of Hawai‘i is fundamental to our society and to our future. A detailed discussion of these steps is provided in the accompanying Commentary (Appendix B, page B-1).

## **1. Create an Access to Justice** **Commission**

The Hawai‘i Supreme Court should establish an Access to Justice Commission as soon as possible under the auspices of the Court to provide ongoing leadership and oversee efforts to increase funding and improve delivery of legal services to low-income residents. The Court should consult with the Access to Justice Hui in setting up the Commission. In addition, the Commission should:

- Establish ongoing access to justice informational briefings, open houses, and statewide conferences to ensure the public is aware of the efforts to promote and support equal access to justice.
- Conduct another assessment of unmet civil legal needs among low and moderate-income people in Hawai‘i in five years to measure the progress being made to increase access to justice.

## **2. Increase Funding to Support the Delivery of Legal Services to Ensure Access to Justice**

- a. The Hawai‘i Legislature should provide funding of civil legal services for low-income residents of Hawai‘i at a level that is adequate to meet the needs of those residents who currently have no access to legal assistance. In addition, an appropriate home for funding for civil legal services should be established to ensure stable state funding.
- b. There should be a concerted effort to increase federal funding for the Legal Services Corporation and other federal agencies that provide support for civil legal services.
- c. The Judiciary and the Hawai‘i State Bar Association should support efforts by the Hawai‘i Justice Foundation to increase the interest rates paid on IOLTA funds, including implementation of “comparability” rules.
- d. The Hawai‘i Legislature should increase the amounts raised through the court filing fee surcharge for the Judiciary’s Indigent Legal Assistance Fund.
- e. The Judiciary and the Hawai‘i State Bar Association should strongly urge attorneys to provide substantial financial support to legal service providers in accordance with the provisions of Rule 6.1 of the Rules of Professional Conduct, including providing additional financial support in years when such attorneys do not meet the pro bono aspirational goals of that Rule.
- f. Additional funding sources for civil legal services should be explored.

# **3. Develop a Culture that Values Providing Pro Bono Services**

- a. The Judiciary, led by the Hawai‘i Supreme Court, other state and federal courts, and the Hawai‘i State Bar Association, should clearly set forth their expectations that lawyers provide at least 50 hours of pro bono services each year pursuant to Rule 6.1 of the Rules of Professional Conduct, including at least 25 hours of no-fee legal services to persons of limited means.
- b. The Judiciary, Hawai‘i State Bar Association and legal service providers should call upon law firms and all other employers of lawyers (e.g., government and corporate legal departments) to actively encourage, support and reward pro bono legal assistance by their attorneys. Some examples of supporting and rewarding pro bono legal assistance are:
  - Including within the firm’s annual billable hours requirement a number of pro bono hours.
  - Where possible, assigning a person of influence within each firm or office to facilitate pro bono services in the office.
- c. The Hawai‘i State Bar Association should actively encourage and support greater levels of pro bono service from its members. The State Bar should consider providing free continuing legal education courses, access to online legal research, and/or malpractice insurance for attorneys who contribute at least 50 hours of pro bono service per year.
- d. The Judicial Selection Commission should consider each candidate’s pro bono contributions as a factor in its selection process.
- e. Nonprofit legal service providers should create or expand programs that recruit and train pro bono lawyers, provide and support pro bono service opportunities, and recognize pro bono service in order to make it easier and more attractive to provide such service.
- f. New ways to increase pro bono involvement by government (county, state, and federal) lawyers, including eliminating any legal or internal policy barriers to such involvement, should be explored and pursued.

## **4. Establish the Recognition of the Right to a Lawyer in Civil Cases Where Basic Human Needs are at Stake**

In certain civil cases, society should provide free counsel to indigents, just as society does with criminal cases and, by judicial decision, in termination of parental rights cases. Hawai‘i should support the recent American Bar Association resolution supporting “legal counsel as a matter of right at public expense to low income persons in those categories of adversarial proceedings where basic human needs are at stake, such as those involving shelter, sustenance, safety, health or child custody, as determined by each jurisdiction.”

## **5. Enable Individuals to Represent Themselves Effectively When Necessary**

- a. Create and fund self-help centers connected to every courthouse in Hawai‘i to provide real-time assistance.
- b. Develop programs designed to make courts more "user-friendly" to low and moderate-income individuals.
- c. Provide information to self-represented litigants on where they can receive legal assistance.
- d. Reduce barriers encountered by self-represented litigants in the court system, e.g., using plain English and translations into other languages and simplifying procedural rules.
- e. Form a task force to evaluate changes to court rules and statutes that would streamline and simplify substantive areas of the law, e.g., family, housing, and landlord-tenant law.

## **6. Maximize the Use of Available Resources**

- a. The Hawai‘i Supreme Court should consider amending relevant ethics and procedural rules, and the Hawai‘i Supreme Court and the Hawai‘i Access to Justice Commission, or equivalent entity, should consider taking such other actions as may be necessary, to



encourage the training and regulation of paralegals and paralegal practice, in appropriate roles to meet particular types of unmet needs for legal services.

- b. Legal services programs should work together in making the most efficient use of their collective resources to ensure that:
- There is an efficient and effective referral system of clients among programs.
  - Innovative methods of legal services delivery are explored and used.
  - New ways to utilize technology, including a centralized access to justice website, to meet current unmet legal needs are implemented where appropriate.
  - Mediation and other alternative dispute resolution methods for resolving legal problems are utilized when appropriate.
  - Outreach efforts are coordinated not only among legal service providers but also with social service providers, agencies and other organizations.

## **7. Overcome Barriers to Access to Justice**

- a. New ways to remove impediments to access to the justice system due to language and cultural barriers should be explored and implemented, including:
- Providing multilingual services, including increasing the number of attorneys and court staff who are bilingual.
  - Providing forms in multiple languages.
  - Providing translation services in court, administrative agencies, and with legal service providers.
  - Partnering with the University of Hawai‘i and other schools offering language training to encourage multilingual volunteers to provide outreach and translation services.
- b. Existing legal services for low and moderate-income residents should be expanded, including:
- Increasing the types of legal problems for which assistance is offered.
  - Expanding office and clinic locations.
  - Extending office hours to include evenings and weekends.
- c. Legal services programs should expand outreach and publicity regarding possible legal remedies to problems and the availability of legal services to the public, including:
- Locating outreach sites in areas convenient to potential clients.
  - Engaging in partnerships with community groups and agencies.

- Publicizing services and programs in low and moderate income communities.
- d. Other barriers to obtaining legal assistance need to be identified and addressed through the provision of ancillary services, such as providing for child care during a court hearing or for necessary mental health services.
- e. The Hawai‘i Access to Justice Commission, working closely with legal service providers, should develop strategies to help address current gaps in services.

## **8. Expand the Role of the William S. Richardson School of Law in Promoting Access to Justice**

- a. Expand efforts to create and develop law student interest in the practice of poverty law by increasing existing clinical programs and instituting new ones to serve the needs of low-income populations.
- b. Emphasize in the professional responsibilities curriculum a lawyer’s ethical duty under Rule 6.1 of the Rules of Professional Conduct to perform pro bono legal services and the ways this obligation can be met and seek additional funding to support law students meet the 60 hour pro bono graduation requirement in a manner consistent with addressing the needs of low-income populations.
- c. Set an example of commitment to equal justice for its students, e.g., faculty members testifying in support of access to justice legislation, accepting pro bono cases, serving on volunteer boards of organizations that serve the legal needs of the poor, contributing financially to organizations that serve the legal needs of the poor, and filing amicus briefs in proceedings affecting legal services to the poor.
- d. Work with Advocates for Public Interest Law, the Hawai‘i State Bar Association, nonprofit legal service providers, and private law firms to develop more public interest summer and academic year clerkships and to obtain grants for summer internships and clerkships that serve low-income populations.

## **9. Increase Access to Justice in Other Ways**

- a. The Hawai‘i Legislature should support the creation of a student loan repayment assistance program to help full-time legal service attorneys pay back their student loans.

- b. The Hawai‘i Supreme Court should consider adopting rules permitting attorneys actively licensed to practice law by the highest court of a state or territory of the United States or the District of Columbia who are working or volunteering pro bono for nonprofit legal service providers, to practice for up to one year without being admitted to practice law in Hawai‘i.
- c. The Hawai‘i Supreme Court should consider adopting rules providing for limited representation or “unbundled” legal services. Continuing legal education programs should be held that promote unbundling as a way to meet currently unmet legal needs.
- d. Judges, lawyers and legal services providers should prepare a series of articles on access to justice topics for publication in the Hawai‘i Bar Journal and make access to justice a regular feature.

## **10. Form a Broad Coalition to Address Ways to Alleviate Poverty in Hawai‘i**

- a. Realizing that legal problems of low-income residents of Hawai‘i do not occur in a vacuum, but instead are often interrelated with poverty, and left unresolved can plunge families further into poverty, the legal community must join with others in a concerted effort to eliminate the root causes of poverty in Hawai‘i.
- b. Our community should adopt as a goal, and pursue with passion the goal, that every child in Hawai‘i has adequate food, shelter, health care, and education.



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## **EXECUTIVE SUMMARY**

*“No citizen shall be disfranchised, or deprived of any of the rights or privileges secured to other citizens, unless by the law of the land.”*

*- Article I, Section 8 of the Hawai‘i State Constitution*

In 1993, the Assessment of Civil Legal Needs of Low- and Moderate-Income People in Hawai‘i (“Spangenberg Report”) found that only 9.6% of low-income families received legal assistance for their civil legal problem and only 23.6% of gap group families received such assistance. Today, we are able to meet the civil legal needs of close to 1 in 5 low- and moderate-income families needing assistance. We still have a great deal of work ahead of us.

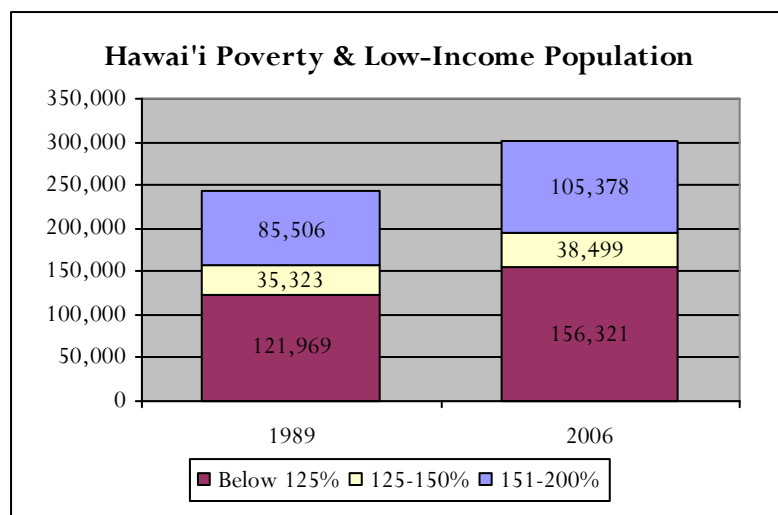
This report examines the civil legal needs of the low- and moderate-income people of Hawai‘i, the barriers that they face in accessing justice and makes recommendations to improve access to justice. This legal needs assessment is not an effort to replicate the Spangenberg Report, rather its purpose is (1) to collect information from a variety of sources to determine the extent of the legal needs in the community, (2) to identify the barriers limiting access to justice, and (3) to provide the community’s recommendations to improve access to justice.

Data for this report was gathered through research on national and local studies and available demographic information; surveys of potential clients, social service providers, legal service providers, and judges; stakeholder interviews with key social service providers and judges; and twenty-one community focus groups throughout the State.

Funding for this report was provided by the Hawai‘i Justice Foundation and the Hawai‘i State Bar Association. In-kind support was provided by the Legal Aid Society of Hawai‘i, Volunteer Legal Services Hawai‘i and the William S. Richardson School of Law.

## **DEMOGRAPHICS**

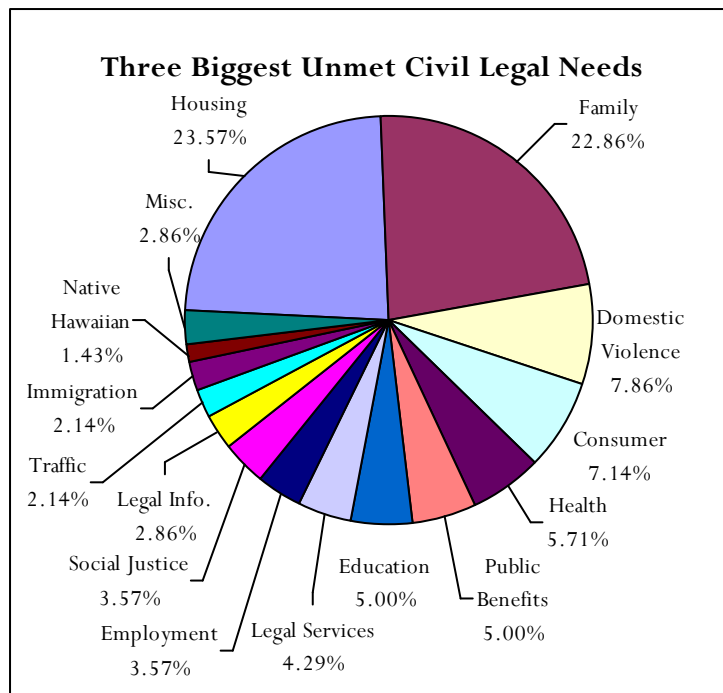
- Approximately one in four people in Hawai‘i live below 200% of the federal poverty guideline. From 1989 to 2006, the poverty and low-income population earning less than 200% of the federal poverty guideline increased 23.64% from 242,798 to 300,198.
- Since 1989, the number of people living below 125% of the federal poverty guideline grew 28.16% to 156,321, the population living between 125-150% of federal poverty grew 8.99% to 38,499 and the population living between 151-200% of the federal poverty guideline grew 23.24% to 105,378.



- A recent study by the Center on the Family at the University of Hawai'i found that in 2005 it took \$57,893, or \$4,824 per month, to cover the basic living expenses for a family of two adults, one school aged and one pre-school child living in Honolulu<sup>3</sup>. However, in the same year, a family of four living at 125% of poverty earned \$2,319 per month, or \$27,825 annually, one living at 150% of poverty earned \$2,969 per month, or \$35,628 per year, and a family of four living at 200% of poverty earned \$3,710 per month or \$44,520 annually.

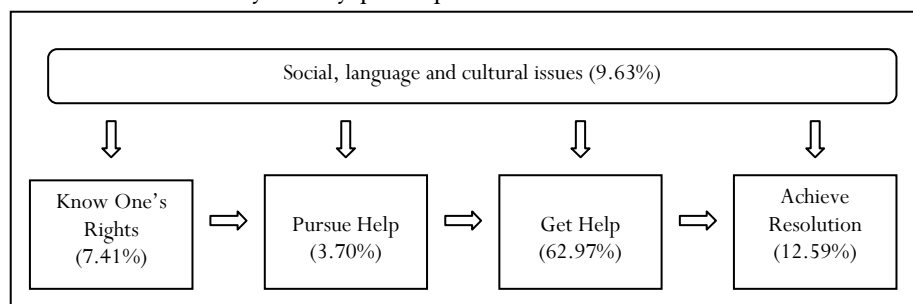
## **SUMMARY OF FINDINGS**

- Close to 1 in 5 low- and moderate-income residents, or approximately 22.84%, have their legal needs met.



- Legal service providers find that they can assist approximately 29.33%, or 1 in 3, of those who contact them for assistance.
- According to social service providers, legal service providers, judges and potential clients, areas with the greatest legal needs are family issues, housing, consumer problems, and domestic violence.
- The greatest unmet legal need for income eligible clients is consumer debt.
- According to judges, legal service and social service providers, the top three barriers to meet legal needs are insufficient funds, lack of knowledge of available services and unawareness of legal remedies.

- Barriers to justice are best identified by the stages it takes to achieve resolution to a problem. A person must realize they have a problem, be willing to pursue help necessary to resolve the problem, and then pursue the help to achieve resolution. Social, language and cultural barriers confront each step of the resolution process. The barriers identified by survey participants were distributed as follows: social, language and cultural issues (9.63%), knowing one's rights (7.41%), pursuing help (3.7%), getting help (62.97%) and achieving resolution (12.59%).



<sup>3</sup> This figure increases to \$58,635 on Kauai and \$63,257 in Maui County. The figure is slightly lower in Hawai'i County at \$53,909.

## AVAILABILITY OF LEGAL SERVICES

- There are currently twelve primary legal service organizations providing civil legal assistance in Hawai'i. They are the American Civil Liberties Union of Hawai'i, Domestic Violence Action Center, Earthjustice, Hawai'i Disability Rights Center, Kokua Legal Services, Legal Aid Society of Hawai'i, Legal Services for Children, Maximum Legal Services Corporation & the Disabled Rights Legal Project, Na Loio Immigrant Rights and Public Interest Legal Center, Native Hawaiian Legal Corporation, the University of Hawai'i Elder Law Project, and Volunteer Legal Services Hawai'i.
- In the last seventeen years the staffing of most organizations has increased or remained steady. Volunteer Legal Services Hawai'i (500%), the Domestic Violence Action Center (300%), the Legal Aid Society of Hawai'i (100%) and ACLU of Hawai'i (100%) saw the greatest growth in the number of their staff attorneys. Overall, 33.75 attorneys grew 102% to 68.2 attorneys and 73.75 other staff members grew 34.9% to 99.5 other staff members.
- In 2004, nine legal service programs<sup>4</sup> recorded combined revenue of \$12,207,170, of which \$9,509,784 came from federal and state government grants. This \$12.2 million must cover the costs of operating seventeen legal service offices and paying the salaries for 61.7 attorneys and 136.5 paralegals, advocates and administrative staff.<sup>5</sup> To make ends meet, many legal service programs pay less than the state government and far less than those in private practice. The average starting salary for an attorney working for a legal service provider ranges from \$40,000 - \$42,000.
- Legal service providers handle over 15,000 cases each year.
- For legal service providers, the top two factors affecting their ability to provide legal services were the availability of in-house staff attorneys and the lack of funding for operations.

*"The poor are virtually 'unseen' by attorneys in their day-to-day lives."—Social Service Provider*

## RECOMMENDATIONS

Recommendations for improving access to justice were provided by social service providers, legal service providers, judges, and community members through surveys, stakeholder interviews and focus groups. These recommendations centered around seven concepts:

- **Increase Services.** It is critical to increase the availability of legal services in the community. With only one in five receiving the civil legal assistance they need, it is important that funding be provided to expand the current level of services available.
- **Increase Pro Bono Involvement.** There are 7,116 active and inactive attorneys in Hawai'i; if each contributed the aspirational 50 hours of pro bono legal assistance per year, these 355,800 hours would dramatically increase access to justice. Attorney contributions should not be limited to pro bono

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<sup>4</sup> ACLU of Hawai'i, Domestic Violence Action Center, Hawai'i Disability Rights Center, Kokua Legal Services, Legal Aid Society of Hawaii, Maximum Legal Corporation & Disabled Rights Legal Project, Na Loio Immigrant Rights and Public Interest Legal Center, Native Hawaiian Legal Corporation and Volunteer Legal Services Hawai'i.

<sup>5</sup> Funding for the Domestic Violence Action Center is included in this total. However it is important to note that in addition to legal services, the agency is also a social service agency providing a wide range of programs for domestic violence victims and public outreach for the prevention of domestic violence. Its legal service staff represents approximately 23.07% or 12 of 52. As such, the number of paralegal, advocate and administrative staff was increased by 40 to illustrate the true allocation of the legal services funding resources.

assistance, as financial contributions for legal service programs can make a significant difference, especially where attorneys lack the requisite experience to assist in a pro bono case.

- **Increase Outreach on the Availability of Services.** Publicity campaigns and other outreach are central to improving access to justice, as many are unaware of the availability and location of civil legal services.
- **Provide High Quality and Available Services.** People, despite their economic status, should be provided with high quality and accessible services. Phone systems must be user friendly. Further, there must be consistent contacts for referrals and intakes, along with timely responses to inquiries.
- **Improve Language and Cultural Access.** Justice is not served if those participating in the system cannot understand it. Multilingual services, including the hiring of individuals who are bilingual, providing forms in other languages and providing translation services at court are key to improving language and cultural access.

*“A ‘one-stop’ legal office that can address necessary services – triage center with the ability access and link services is needed.” – Social Service Provider*

- **Provide Ancillary Services.** For social service organizations that provide a wide variety of services, helping a person in need of legal assistance is not limited to just those legal

services. Providing child care during court proceedings was often recommended as a key ancillary service to court litigants. Providers also recommended combining legal and mental health services to improve access to justice.

- **Systemic Changes.** Overall, changes to the legal system can have a significant impact on increasing access to justice. Recommendations in this area ranged from improving the sensitivity of judges to clients’ difficulties in getting representation, allowing legal advocates to have a voice in court and increasing class action lawsuits to reduce illegal conduct with the poor.

# **THE 2007 ASSESSMENT OF CIVIL LEGAL NEEDS AND BARRIERS OF LOW- AND MODERATE-INCOME PEOPLE IN HAWAI‘I**

*“No citizen shall be disfranchised, or deprived of any of the rights or privileges secured to other citizens, unless by the law of the land.”*

*- Article I, Section 8 of the Hawai‘i State Constitution*

## **I. INTRODUCTION**

In 1950, the first legal services agency in the State, the Legal Aid Society of Hawai‘i, opened its doors to provide free civil legal services to the people of Hawai‘i. Over the last fifty-seven years, eleven other primary organizations have joined the fight for justice in Hawai‘i, yet limited funding and resources still prevents total access to justice for Hawai‘i’s poor.

This report was initially developed in meetings between the Hawai‘i State Bar Association, the Legal Aid Society of Hawai‘i, and Volunteer Legal Services Hawai‘i. During meetings that began in January 2006, it was decided that a new civil legal needs assessment was critical to determining what must be done in the future to improve access to justice in the community. Over the last year, additional groups have joined the Access to Justice Hui. The Judiciary, American Civil Liberties Union of Hawai‘i, Domestic Violence Action Center, University of Hawai‘i Elder Law Program, Na Loio – Immigrant Rights and Public Policy Center, Native Hawaiian Legal Corporation, and William S. Richardson School of Law have all become part of the Hui committed to improving access to justice.

This legal needs assessment does not attempt to replicate the 1993 Civil Legal Needs of Low- and Moderate-Income People in Hawai‘i (known as the “Spangenberg Report”). The purpose of this current assessment is (1) to collect information from a variety of sources to determine the extent of the legal needs in the community, (2) identify the barriers limiting access to justice, and (3) to provide the community’s recommendations to improve access to justice.

It is critical to note that assessing the current level of legal needs is only part of the process. Equally as important is the development of a community wide action plan to focused on addressing these unmet legal needs. The Hui believes strongly that to improve access to justice, a plan utilizing the findings and recommendations from this report must be created with the help of all members of the community.

Funding for this report was provided by the Hawai‘i Justice Foundation and the Hawai‘i State Bar Association. In-kind support was provided by the Legal Aid Society of Hawai‘i, Volunteer Legal Services Hawai‘i and the William S. Richardson School of Law.

## **II. METHODOLOGY**

Four stages were used to gather the data that underlies this report. Stage I consisted of reviewing background literature including national, state and local legal needs assessments as well as conducting demographic research on the low- and moderate-income population of the state of Hawai‘i. Stage II consisted of distributing surveys to over two hundred social service providers and organizations, judges, adjudicative bodies and legal service providers across the State to gather their thoughts and understanding of the legal needs of the low- and moderate-income population.<sup>6</sup> In Stage III, over 50 key stakeholder interviews were conducted by 3Point Consulting and Jo Kim, Co-Chair of the Hawai‘i State Bar Association’s Delivery of Legal Services Committee and a member of the Hui.<sup>7</sup> In Stage IV, twenty-one client focus groups on every island and from most communities<sup>8</sup> were scheduled around the State to gather information from potential clients and the community on their legal needs.<sup>9</sup> Information was also gathered from those who contacted the Legal Aid Society of Hawai‘i and Volunteer Legal Services Hawai‘i regarding their legal needs over the last year.<sup>10</sup>

Key informants for both the surveys and stakeholder interviews were from a wide variety of organizations that have close contact with low- and moderate-income residents in Hawai‘i who are the most in need of access to justice. The experience of these key informants in serving the community provides a macro-level understanding of the complexity of problems faced by the clients they serve. The focus groups and client surveys also provided direct contact with the target population regarding their legal needs.

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<sup>6</sup> A summary from each of these surveys and the survey instrument is provided in Appendix “A” – Attachment 1, page A-2.

<sup>7</sup> A summary from these interviews is provided in Appendix “A” – Attachment 2, page A-67.

<sup>8</sup> Focus groups were held on Oahu in Kaneohe, Kahuku, Haleiwa, Wahiawa, Waianae, Ewa Beach, Waipahu, Pearl City and Kalihi. On the neighbor islands, focus groups were held in Lihue, Kaunakakai, Lanai City, Lahaina, Wailuku, Hana, Honoka‘a, Kea‘au, Hilo, Waimea, Kona and Ocean View.

<sup>9</sup> A summary of comments from these focus groups is provided in Appendix “A” – Attachment 3, page A-77.

<sup>10</sup> A copy of the survey used to gather information from potential clients is provided in Appendix “A” – Attachment 4, page A-87.



### **III. BACKGROUND ON PRIOR RELEVANT STUDIES/REPORTS**

There have been three prior major studies/reports that are extremely relevant to issues of access to justice, and these three studies/reports are briefly summarized below.<sup>11</sup>

#### **Spangenberg Report**

In 1993, the Hawai'i Legal Needs Assessment Commission issued the Assessment of Civil Legal Needs of Low- and Moderate-Income People in Hawai'i. This assessment was prepared by the Spangenberg Group with the assistance of SMS Research, Inc. Through a random statewide sample of 925 low-income and 200 gap group families, legal service provider questionnaires and on-site interviews with over 45 people on five islands (Oahu, Maui, Big Island, Kauai and Molokai), the Spangenberg Report, as it is commonly known in Hawai'i, outlined three sets of findings and recommendations. The first set of findings addressed the studies overall results, the second specifically addressed Legal Service Corporation funded programs and the third looked at special populations. Immediately below are set forth the recommendations of the 1993 Spangenberg Report:

1. Following the review of the data in the study, as well as all of the findings and recommendations, an implementation committee should be formed to develop a comprehensive plan for the improvement of the delivery of civil legal services for both low-income and gap group families in Hawai'i for both the short-term and long-term.
2. Substantial additional funds are necessary to improve the delivery of civil legal services to poor and gap group families in Hawai'i. The implementation committee should develop specific plans so that within the next three years, free civil legal services are available to at least one-third of all low-income families in Hawai'i and that free and reduced legal assistance be provided to at least 50% of all gap group families in the State.
3. As additional resources are made available, the goal to provide legal representation to a significantly larger group of clients must be accompanied by the provision of more comprehensive services to the clients who are served.
4. A coordinated, comprehensive, statewide plan for outreach should be developed with an emphasis placed on recognizing the uniqueness of each island and identifying the specific unmet civil legal needs of each island. In addition, the plan should recognize the unique barriers to access to services which exist on each island, and in each community. This plan should be the centerpiece for all future planning for the improvement of the delivery of services to low-income and gap group families in Hawai'i.
5. The Hawai'i State Bar Association and the Hawai'i Bar Foundation should continue to take the lead in raising the level of participation of the private bar in existing pro bono programs. In addition, larger civil firms should be encouraged to work with the principal service providers in ways which the providers determine to significantly increase the availability of services.

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<sup>11</sup> More complete details on these studies are set forth in Appendix "A" – Attachment 5, page A-91. Item A describes the major report dealing with issues in Hawai'i, which was completed in 1993 and is frequently called the "Spangenberg Report." Item B describes the American Bar Association 1994 national survey entitled "Legal Needs and Civil Justice: A Survey of Americans." Item C describes the 2005 Legal Services Corporation national survey entitled "Documenting the Justice Gap in America."

## **National Legal Needs Assessments**

In 1994 and 2005, two national studies were conducted on civil legal needs. The 1994 study by the American Bar Association looked at the legal needs of Americans, the types of legal needs that exist, and the steps that people take (or do not take) to deal with legal needs. In 2005, the Legal Services Corporation undertook a study documenting the justice gap in America by examining their grantee programs, comparing recent state legal needs studies and comparing the ratio of legal aid attorneys to those per capita.

### **Legal Needs and Civil Justice: A Survey of Americans (1994)<sup>12</sup> (American Bar Association)**

This study found that half of low- and moderate-income households in America have at least one situation that could be addressed by the civil justice system. Tied for the most common legal needs identified for low-income households were personal finances/consumer issues<sup>13</sup> and housing/property issues<sup>14</sup>, followed by community/regional issues.<sup>15</sup> For moderate-income households, financial/consumer issues<sup>16</sup> was the most common legal need identified. The next two major issues identified were found to be of nearly equal importance, with these two issues being housing/property issues<sup>17</sup> and community/regional issues<sup>18</sup>.

As for addressing the problem, most low- and moderate-income households indicated that they handled the problem on their initiative. Low-income households also often chose to take no action at all compared to moderate-income households who indicated that they turned to the civil justice system as their second course of action.

The study further looked at situations in which “formal” action (action involving the civil justice system) was taken and found that both low- and moderate-income households took the most “formal” action with respect to family/domestic issues, respectively at about 67% and 80% of the time. Low-income households then pursued “formal” action in personal/economic injury issues about 33% of the time, followed by finances/consumer, housing/property, and employment-related issues about 20% of the time and health-related and community/regional less than 10% of the time. Moderate-income households pursued “formal” action in 70% of estate/directives issues, approximately 35% of the time for housing/property, community/regional and personal/economic injury issues and then about 27% in employment-related and finances/consumer issues. Only 50% of low- and moderate-income households surveyed were aware of free legal services and most were confused as to their eligibility for services.

### **Documenting the Justice Gap in America (2005)<sup>19</sup> (Legal Services Corporation)**

Over ten years later, the Legal Services Corporation compiled a national study on current legal needs and the justice gap in America. Through a two-month survey conducted on the unmet legal needs conducted by

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<sup>12</sup> American Bar Association, Consortium on Legal Services and the Public, Legal Needs and Civil Justice: A Survey of Americans (1994), <http://www.abanet.org/legalservices/downloads/sclaid/legalneedstudy.pdf>.

<sup>13</sup> Includes problems with creditors, insurance companies, inability to obtain credit, and tax difficulties.

<sup>14</sup> Includes unsafe conditions, disputes about utilities, and disagreements with a landlord.

<sup>15</sup> Includes inadequate police and other municipal services.

<sup>16</sup> Includes problems with creditors, insurance companies, inability to obtain credit, and tax difficulties.

<sup>17</sup> Includes real estate transactions.

<sup>18</sup> Includes environmental hazards and opposition to the location of facilities.

<sup>19</sup> Legal Services Corporation, Documenting the Justice Gap in America (2005), <http://www.lsc.gov/JusticeGap.pdf>.

its LSC-funded, a review of ten states' recent legal need assessments<sup>20</sup> and a comparison of the number of legal aid attorneys available, this study uncovered three principal findings:

1. For every client served by an LSC program, another client who sought help was turned down because of insufficient resources.
2. Only a small percentage of problems encountered by the low-income population are addressed with the assistance of a private attorney or legal aid lawyer.
3. Despite changes in legal aid delivery systems, a majority of legal aid lawyers still work in LSC-funded programs. The per capita ratio of legal aid attorneys funded by all sources to the poverty population (1:6,861) is a tiny fraction of the ratio of private attorneys to the general population (1:525).

This 2005 LSC study also compared its findings to the 1994 ABA Study revealing that recent state legal needs studies placed the level of need as substantially higher than previously recognized (1 problem per household to more than 3 problems in more recent studies).

In its review of the states' studies, LSC also found that there were two emerging reasons why people did not seek help: (1) lack of understanding that the problem has a legal dimension and potential solution and (2) low awareness of legal aid for civil matters.

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<sup>20</sup> Oregon, Washington, Montana, Vermont, Illinois, New Jersey, Connecticut, New Jersey, Massachusetts, and Tennessee.

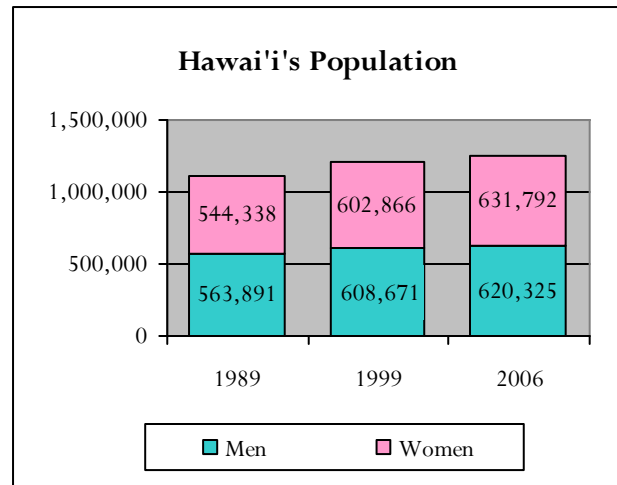
#### IV. DEMOGRAPHICS<sup>21</sup>

Legal services are provided free of charge to a variety of populations throughout the State. While the poor and working-poor are the primary economic demographic served by most programs, legal service programs in Hawai'i also serve a number of special populations, including seniors, children, immigrants, those living with disabilities, Native Hawaiians, domestic violence victims, those living with HIV/AIDS, migrant farm workers, the homeless and those with civil liberty issues including those incarcerated. In the years since the Spangenberg Report, these populations have seen a variety of changes. While most populations have increased, those living with HIV/AIDS and migrant farm workers have decreased.

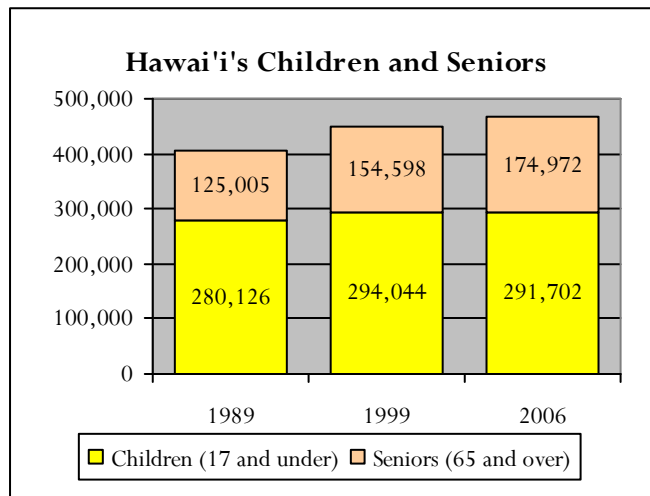
##### Hawai'i's Population<sup>22</sup>

Since 1999, the population of Hawai'i has grown a total of 25.27%. The estimated 1,026,209 people living in Hawai'i in 1989 grew 10.54% to 1,134,351 in 1999 and seven years later that figure grew 13.32% to 1,252,117. Women currently represent 50.46% of the population.

The number of children under the age of 18 has increased slightly over the last seventeen years. In 1989, there were 280,126 children living in Hawai'i; this figure increased 4.97% to 294,044 in 1999 and is currently estimated at 291,702 (a decrease of 0.80%).



The number of seniors living in Hawai'i has increased dramatically as compared to other age groups in the last seventeen years. In 1989, the population of those over 65 was estimated at 125,005. In 1999, that number had grown to 154,598 and in 2006, it was estimated that 174,972 seniors lived in Hawai'i, representing an overall growth of 39.97%. We expect this population to only grow in upcoming years as the first of the Baby Boom generation reaching their sixtieth year in 2006.



As a percentage of the population children are currently 23.30% of the population, down from 1999 figures of 25.01% and 1989 figures of 25.28%. The percentage share of the population

<sup>21</sup> Unless otherwise noted, data was gathered from the 1990 Census, 2000 Census and the 2006 American Community Survey. The American Community Survey fills in the gaps between each 10-year census. The ACS is sent to a small percentage of our population on a rotating basis.

<sup>22</sup> *Id.*

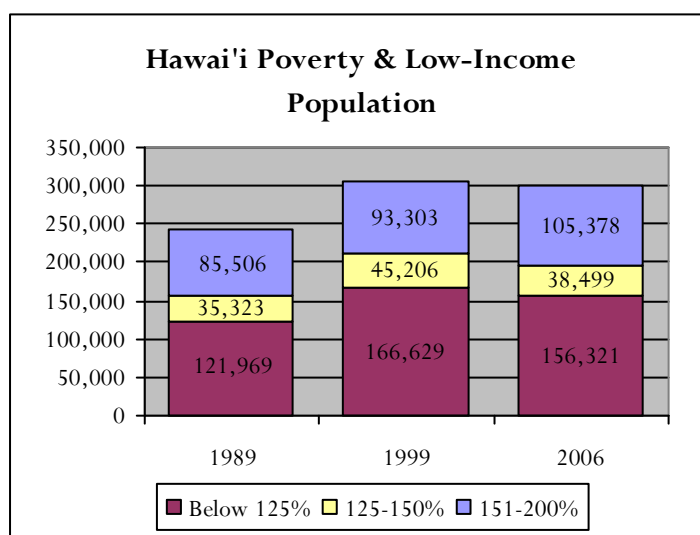
by seniors has increased slightly, but overall remains steady with 13.97% of the population in 1989, 11.28% in 1999 and estimated at 13.15% in 2006.

### **Poor and Working Poor Population**<sup>23</sup>

Established in 1965, the federal poverty guidelines are the most common measures of poverty in the United States. These guidelines are annually issued by the Department of Health and Human Services and are utilized to determine eligibility for a variety of federal programs including free legal services. The guidelines are updated annually from the most recently published (final) weighted average poverty thresholds from the Census Bureau and are updated using the CPI-U.

Persons in Family or Household	2007 Federal Poverty Guidelines <sup>24</sup>				
	100%	125%	150%	200%	250%
1	\$979	\$1,224	\$1,469	\$1,958	\$2,448
2	\$1,313	\$1,641	\$1,969	\$2,625	\$3,281
3	\$1,646	\$2,057	\$2,469	\$3,292	\$4,115
4	\$1,979	\$2,474	\$2,969	\$3,958	\$4,948
5	\$2,313	\$2,891	\$3,469	\$4,625	\$5,781
6	\$2,646	\$3,307	\$3,969	\$5,292	\$6,615
7	\$2,979	\$3,724	\$4,469	\$5,958	\$7,448
8	\$3,313	\$4,141	\$4,969	\$6,625	\$8,281
Each add'l person	\$4,000	\$333	\$500	\$625	\$667

A number of legal service programs in Hawai'i utilize percentages of the federal poverty guidelines to determine income eligibility for services. The Legal Aid Society of Hawai'i and the Native Hawaiian Legal Corporation, both of whom receive federal funding from the Legal Services Corporation, use 125% of the federal poverty guidelines to determine eligibility for programs supported by Legal Services Corporation funds. Na Loio's clients must be below 150% of the federal poverty guidelines and Volunteer Legal Services Hawai'i uses 200% of the federal poverty guidelines to determine eligibility. Both the Legal Aid Society of Hawai'i and Volunteer Legal Services Hawai'i also provide services to the "gap group" or those earning less than 250% of poverty.



Approximately one in four people live below 200% of the federal poverty guidelines. From 1989 to 2006, the poverty and low-income population earning less than 200% of the federal poverty guideline has increased 23.64% from 242,798 to 300,198.<sup>25</sup> It peaked in 1999 at 305,138.

The population below 125% of poverty in Hawai'i has grown 28.16%. In 1989, this population was at 121,969. In 1999, this population had risen over 36.62% to 166,629 and then decreased 6.19% to 156,321 in 2006.

<sup>23</sup> See, Footnote 22.

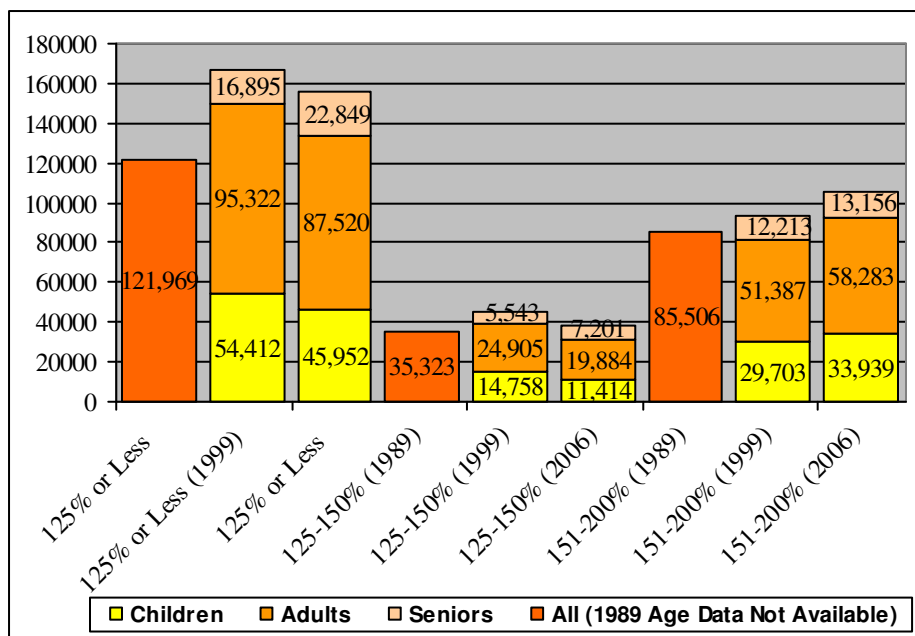
<sup>24</sup> See, Federal Register: January 24, 2007 (Volume 72, Number 15), Pages 3147-3148. 125%, 150%, 200% and 250% of eligibility were calculated based on these federal poverty guidelines.

<sup>25</sup> Census and American Community Survey data on ratio to poverty is not available for 250% of the federal poverty guidelines.

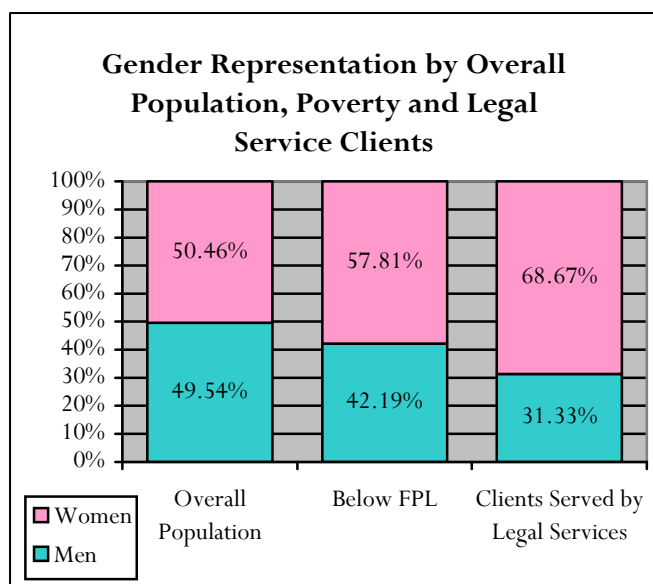
The population in Hawai'i living between 125-150% of poverty grew 8.99% over the last seventeen years. In 1989 this population was at 35,323 and grew 27.98% to 45,206 in the ten years between 1989 and 1999. The population then decreased slightly to 38,499 in 2006.

For the population between 151 and 200% level of poverty,<sup>26</sup> the population grew 23.24% between 1990 and 2006, increasing from 85,506 to 105,378.

Since the 2000 Census, the number of seniors living below 125% of the federal poverty guidelines increased 35.24% from 16,895 to 22,849. Seniors living between 125-150% of the federal poverty guidelines also increased 29.91% from 5,543 to 7,201. Between 151-200% of the federal poverty guidelines seniors also increased 7.72% from 12,213 to 13,156.



The number of children living below 125% of the poverty guideline decreased from 54,412 to 45,952, or 15.55%. Children living between 125-150% of poverty also dropped from 14,758 to 11,414, or 22.66%. Children living 151-200% of the poverty guideline increased 14.26% from 29,703 to 33,939.



Adults living below 125% of poverty decreased 8.18% to 87,520 and those living between 125-50% also decreased 20.16% from 24,905 to 19,884. Adults increased 7.72% between 151-200% of the federal poverty guideline from 51,387 to 58,283.

Women are also disproportionately represented among the poor. In 2006, while women represented approximately 50.46% of the population in Hawai'i, they represented 57.81% of the population living below the poverty guideline. They also represent 68.67% of all clients served by legal service providers.

<sup>26</sup> The Spangenberg Report was able to identify the population that was less than 250% of poverty; however recent census data only provides detailed ratios of the poverty level below 200%. As such, using census data from 1989, the population living between 125-200% was calculated to provide a basis for comparison.

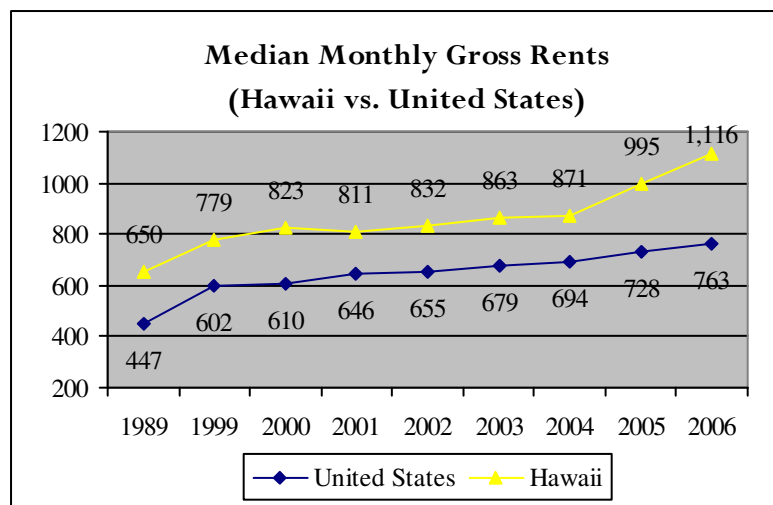
The federal poverty guidelines may not be the best measure to determine those in need given the high cost of living in Hawai'i.

Created in 1965 and based on the U.S. Department of Agriculture's economy food plan multiplied by a factor of three, the federal poverty guideline is updated annually utilizing the Census Bureau's poverty thresholds and the Consumer Price Index. It is not adjusted nor based on the actual cost of living.

A recent study by the Center on the Family at the University of Hawai'i found

that in 2005, it took \$57,893, or \$4,824 per month, to cover the basic living expenses for a family with two adults, one school aged and one pre-school child living in Honolulu<sup>27</sup>. As a comparison, according to the 2005 federal poverty guidelines, a family of four living at 125% of poverty earned \$2,319 per month, or \$27,825 annually; one living at 150% of poverty earned \$2,969 per month, or \$35,628 per year; and a family of four living at 200% of poverty earned \$3,710 per month, or \$44,520 annually.<sup>28</sup>

Federal Poverty Guideline and Estimated Basic Living Expenses by County for Two-Parent With Pre-School Child and School-Age Child, <sup>1</sup> 2005					
	125% Federal Poverty Guideline	Honolulu	Hawai'i	Maui	Kauai
Housing		\$1,703	\$1,293	\$1,475	\$1,368
Child Care		\$787	\$652	\$707	\$668
Food		\$869	\$841	\$1,073	\$1,073
Transportation		\$100	\$463	\$478	\$381
Health Care		\$259	\$259	\$259	\$259
Misc.		\$372	\$351	\$399	\$375
Taxes		\$1,062	\$960	\$1,207	\$1,089
Child Care Tax Credit		-\$160	-\$160	-\$160	-\$160
Child Tax Credit		-\$167	-\$167	-\$167	-\$167
Total	\$2,319	\$4,824	\$4,492	\$5,271	\$4,886



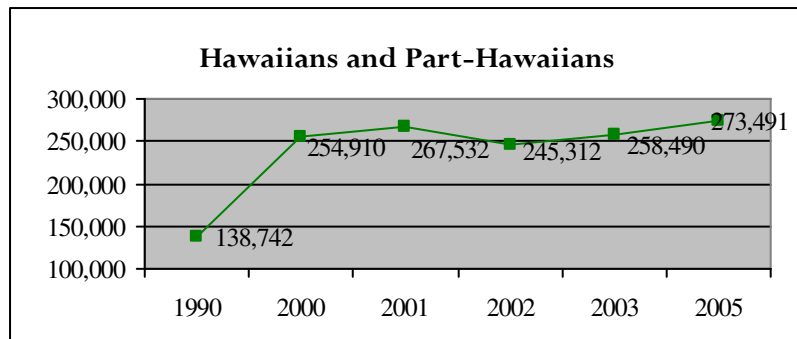
Furthermore, median gross rents in Hawai'i have skyrocketed beyond those rates found on the mainland United States. Where the average median gross rent in the United States is \$763, Hawai'i residents are paying 46.26% higher at \$1,116 per month. The average differential between nationwide and Hawai'i median gross rents over the last seventeen years has been 33.09%, whereas the difference between the federal poverty guideline for the nation and Hawai'i has only differed by approximately 15%.

<sup>27</sup> This figure increases to \$58,635 on Kauai and \$63,257 in Maui County. The figure is slightly lower in Hawai'i County at \$53,909.

<sup>28</sup> See, Federal Register: February 18, 2005 (Volume 70, Number 33), Pages 8373-8375. 125%, 187.5%, 200% and 250% of eligibility were calculated based on these federal poverty guidelines.

## **Native Hawaiians**<sup>29</sup>

Between 2000 and 2005, the Native Hawaiian population has remained fairly steady ranging between 245,312 in 2002 to a high of 273,491 in 2005. Initial figures in 1990 estimated the Native Hawaiian population at 138,742; however these figures did not necessarily include those of part-Hawaiian decent.<sup>30</sup>

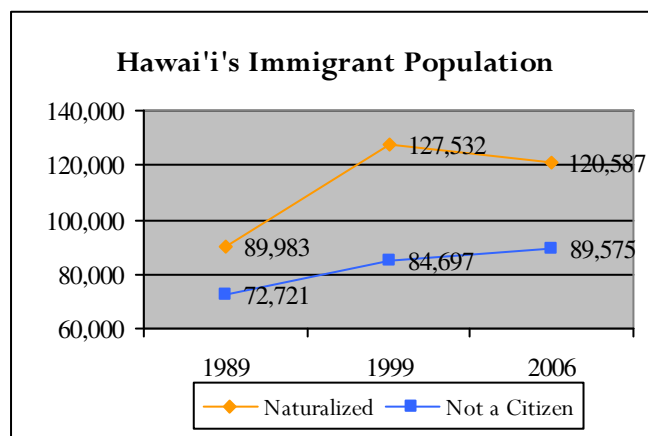


According to the 2006 Native Hawaiian Data Book, published by the Office of Hawaiian Affairs, 38,005 Hawaiians and Part-Hawaiians lived below 100% of the federal poverty guidelines and were the highest represented ethnic group (32%) receiving Temporary Assistance to Needy Families or Temporary Assistance to Other Needy Families from the Department of Human Services.

In serving Hawaiians, the Native Hawaiian Legal Corporation works to assert, protect and defend indigenous Hawaiian land and traditional rights. In addition, other legal service providers indicated that 26.66% of the clients they served were Native Hawaiian or Part-Hawaiian.

## **Immigrants**<sup>31</sup>

Since 1989, the number of naturalized citizens in Hawai'i rose 34.01%, from 89,983 to 120,587. In 1989 naturalized citizens grew 41.73% from 89,983 to 127,532 in 1999. The number of naturalized citizens then decreased slightly 5.45% to 120,587 as of 2006.



The number of non-citizens has grown 23.18% over the last seventeen years, starting at 72,721 in 1989, rising to 84,697 in 1999 and currently estimated at 89,575 in 2006.

One the biggest challenges facing those immigrants who do not speak English or who speak limited English is language access. In 1990, those who spoke a language other than English at home were 24.82% of the State's population, or 254,724; in 2000, that figure grew to 26.63%, or 302,125.

<sup>29</sup> See, Footnote 22.

<sup>30</sup> Changes to data collection in the 2000 census allowed individuals to identify themselves as more than one race resulting in the sharp increase of Native Hawaiians between 1990 and 2000.

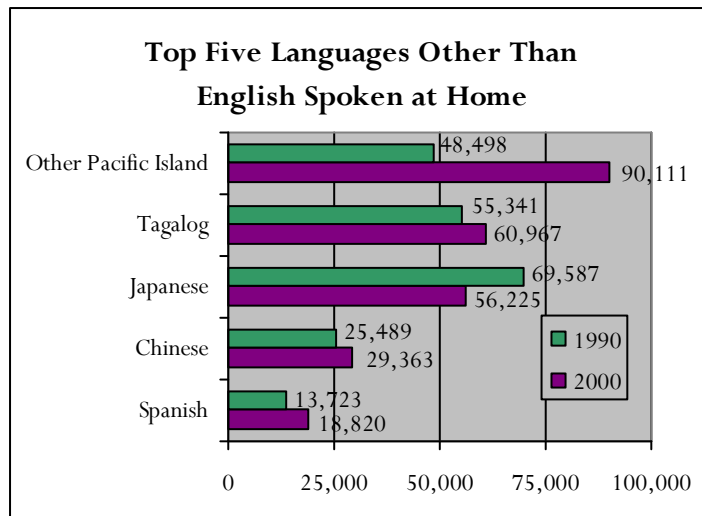
<sup>31</sup> See, Footnote 22.



The top five languages other than English which are spoken in Hawai'i homes are Other Pacific Island languages,<sup>32</sup> Tagalog, Japanese, Chinese and Spanish.

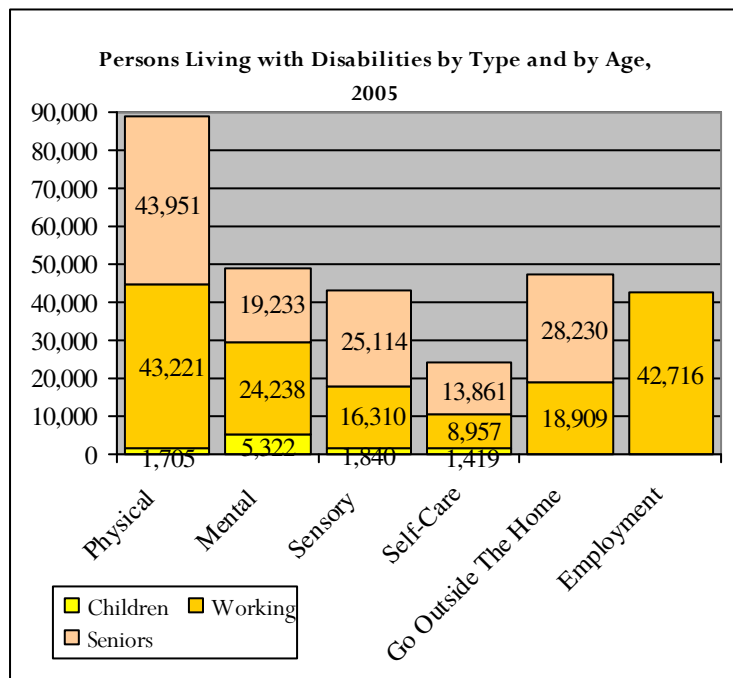
In 2000, the other major languages spoken in Hawai'i homes included Korean (18,337), Vietnamese (8,270), German (4,066), Thai (3,416), French (3,310) Portuguese (1,238), and Other Languages (8,082).

Na Loio is the only legal service provider specializing in immigration and providing free legal services to the State's immigrant population.



### **People Living with Disabilities**<sup>33</sup>

In the 1993 Spangenberg Report, it was estimated that there were over 120,000 people in Hawai'i living with disabilities; in 2005, it was estimated that this number had grown to 144,873, which was an increase of 20.73%. As a percentage of this total, it is estimated that children between the age of 5 and 15 represent 5%, the working population represent 53% and seniors over 65 are 42% of this population.



mental disabilities, 43,264 living with sensory disabilities, 24,237 who had difficulty with self-care, 47,139 unable to go outside the home and 42,716 with disabilities related to employment. It is important to note that due to the reporting of more than one disability, the total number of reported disabilities does not add up to the overall total.

<sup>32</sup> The 1990 figures for Other Pacific Island languages only include Bisayan, Hawaiian, Ilocano, Samoan and Tongan as other Pacific Island languages were included in the "All other languages" category of the census.

<sup>33</sup> See, Footnote 22.

Seniors represent the highest percentage of those with physical disabilities, sensory disabilities, self-care disabilities and the inability to leave the home. Those who are part of the potential working population represent the highest percentage of those living with mental disabilities.

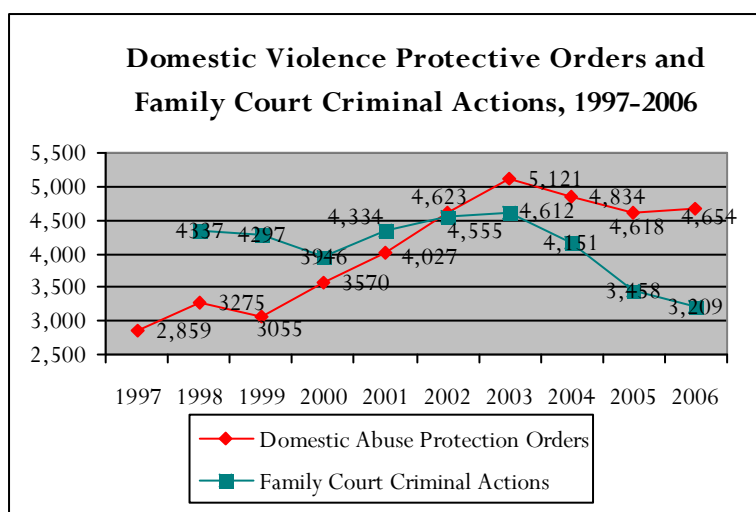
For children, mental disabilities was the highest category followed by sensory, physical and self-care issues. Those eligible to work had the highest disabilities reported as physical, followed by employment related, mental health, go outside home, sensory and self-care disabilities. Seniors were most plagued by physical disabilities followed by the inability to leave their home, sensory disabilities, mental disabilities and finally, problems with self-care.

The Hawai'i Disability Rights Center provides legal service in a wide variety of areas to those living with disabilities. In addition, other legal service providers also provide representation in areas in which disabilities may arise, including social security advocacy, general assistance appeals, fair housing, and special education.

### **Domestic Violence Victims**

Since 1997, the number of domestic violence protective orders filed has risen 62.78% from 2,859 to 4,654 in 2006. At the same time, family court criminal actions has decreased 26.01% from 4,337 in 1998 to 3,209 in 2006.

In 2006, 209 felony offenses against families and children were charged (64 of which were completed resulting in 24 incarcerations, 5 probations and 16 other sentences), 4,704 domestic abuse protective orders were filed and 6,759 criminal actions were charged in the family court.<sup>34</sup>



The Domestic Violence Action Center is the main provider of legal services to domestic victims. However, other providers including the Legal Aid Society of Hawai'i, Na Loio and Volunteer Legal Services Hawai'i also provide legal assistance to domestic violence victims.

### **Those Living with HIV/AIDS**

Over the last seventeen years, the number of HIV/AIDS cases reported has decreased significantly. In 1990, there were 149 cases reported and in 2006, only 88 cases were reported. While there was a spike in the number of reported cases in 1993, this is attributed to an expanded Center for Disease Control definition of HIV/AIDS to include three new clinical conditions which would be utilized in the years following 1993.<sup>35</sup>

<sup>34</sup> State of Hawai'i Judiciary, 2006 Annual Report Statistical Supplement. See, <http://www.courts.state.hi.us/attachment/4D44FE74F4DF1267F34A9452DD/arstatsupp06.pdf>.

<sup>35</sup> State of Hawai'i Department of Health, HIV/AIDS Surveillance Semi-Annual Reports.

According to statistics kept by the Hawai'i Department of Health, the cumulative population of cases reported in Hawai'i is 2,920 with a known death rate of 58.9% or 1,719.

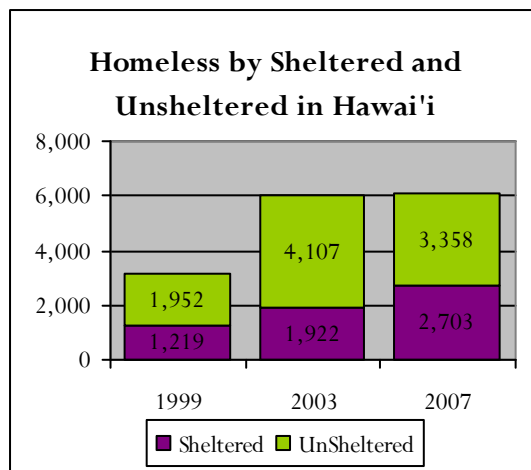
At the time of the Spangenberg Report, the Life Foundation ran a clinic for HIV/AIDS patients needing legal assistance. Currently, Life Foundation refers these cases to other legal service providers for assistance.

### Migrant Farm Workers

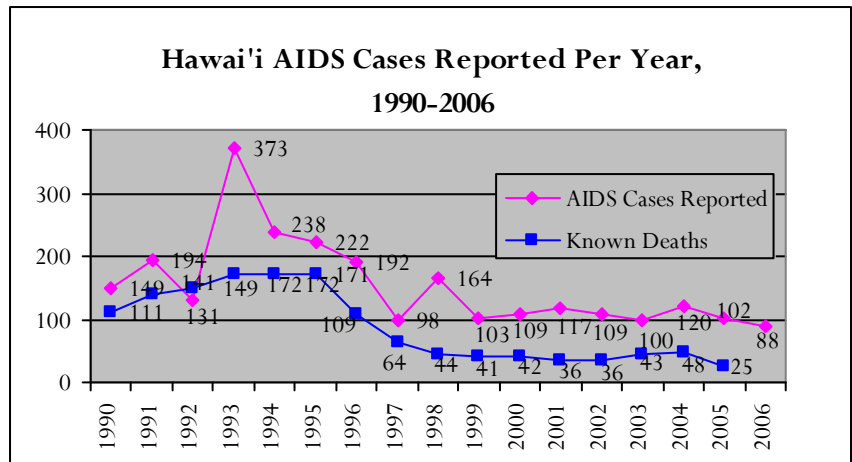
Migrant farm workers were identified by the Spangenberg Report as potentially a group which was being underserved by non-profit legal providers. The Report further pointed out that funding provided by the Legal Services Corporation for migrant farm workers should be pursued as it was believed no organization in Hawai'i was receiving such funding at that time. Currently, the Legal Aid Society of Hawai'i receives migrant farm worker funding from the Legal Services Corporation. According to the 2002 Census of Agriculture, the number of migrant farm laborers on farms with contract labor and hired labor was 232.

### Homeless Population

The Spangenberg Report cited the number of homeless from a 1992 report prepared by Homeless Aloha, Inc., which estimated there were 5,353 homeless people in Hawai'i or 0.5% of the State's total population; in addition, 96,380 , or 8% of the State's total population, were considered the "hidden homeless"<sup>36</sup> and 343,701, or 28% of the State's total population, were considered "at-risk."<sup>37</sup>



In the interceding years (1999, 2003 and 2007), three point-in-time studies on the State's homeless population were conducted by Market Trends Pacific and SMS Research Inc. While the initial figures are less than the 1992 Homeless Aloha Study, these studies showed a doubling of the homeless population between 1999 and 2003 with stability in the years between 2003 and 2007. Between 2003 and 2007 the number of homeless sheltered also increased.<sup>38</sup>



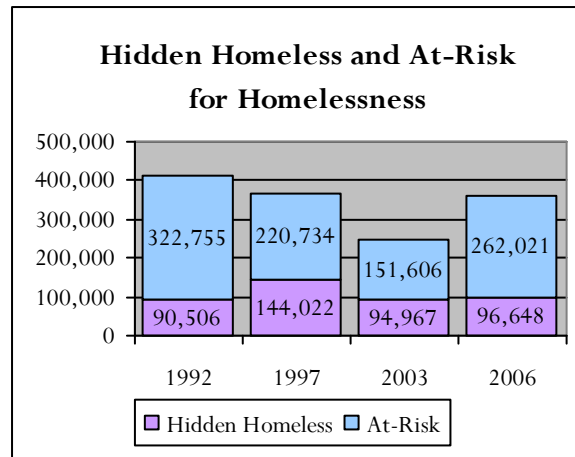
<sup>36</sup> Hidden homeless is a person who (a) share accommodations with other groups in the same household, (b) are 'doubled up' (two or more families or groups of persons related by birth, marriage or adoption), (c) are 'sharing' (two or more families or groups of persons not related by birth, marriage or adoption), or (d) are persons who depend upon public assistance for their shelter payments each month.

<sup>37</sup> At-risk are those who could become homeless in less than three months, if they lost their primary source of income.

<sup>38</sup> State of Hawai'i, Department of Business Economic Development and Tourism, Hawai'i State Data Book (2000, 2005 and 2006).

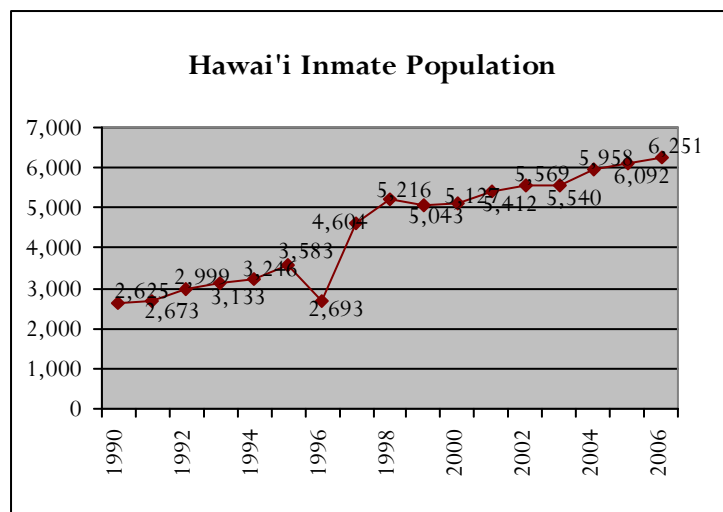
In 2006, according to the Hawai'i Home Project: Homeless and Medical Education, 12,000 to 15,000 people were homeless at some point during the year, with at least 6,000 homeless on any given day. Children make up 23.5-39% of the homeless, 17-42% of Hawai'i's homeless are employed full-time and 37% of the homeless are Native Hawaiian.<sup>39</sup>

The hidden homeless and those at-risk for homelessness are also most likely in need of legal services due to potential evictions and other rental housing issues. In 2006, SMS Research Inc. was contracted by the Homeless Programs Branch, Hawai'i Housing Finance and Development Corporation and the Housing Officers/Administrators for Honolulu, Maui, Hawai'i, and Kauai Counties, to conduct the Hawai'i Housing Policy Study, 2006: Hidden Homeless and Households at Risk for Homelessness.



This study found that the number of hidden homeless grew a total of 6.79% between 1992 and 2006 (from 90,506 to 96,648) with the number of hidden homeless growing to a high of 144,022 in 1997. Those at-risk for homelessness fluctuated starting at 322,755 in 1992, decreasing to a low of 151,606 in 2003 and increasing to 262,021 in 2006. The net change over these fourteen years was a decrease of 18.82%.

Currently, both the Legal Aid Society of Hawai'i and Volunteer Legal Services Hawai'i conduct programs to assist the homeless, hidden homeless and those at-risk for homelessness receive free legal assistance.



### **Incarcerated Population**

From 1990 to 2006, the inmate population in Hawai'i has increased over 138.13%<sup>40</sup>; such an increase has put significant pressure on local jails and prisons and has increased the need for individual legal assistance. Currently, ACLU of Hawai'i is the only legal service agency with the potential to assist the inmate population; however, due to their limited resources they only accept cases which would result in a larger impact on the overall corrections system.

<sup>39</sup> See, <http://www.hawaiihomeproject.org/homelesshawaii.html>.

<sup>40</sup> Hawaii Department of Public Safety, 2006 Annual Report, pg. 31. See, [http://www.hawaii.gov/psd/documents/reports/PSD\\_AnnualReport2006.pdf](http://www.hawaii.gov/psd/documents/reports/PSD_AnnualReport2006.pdf).

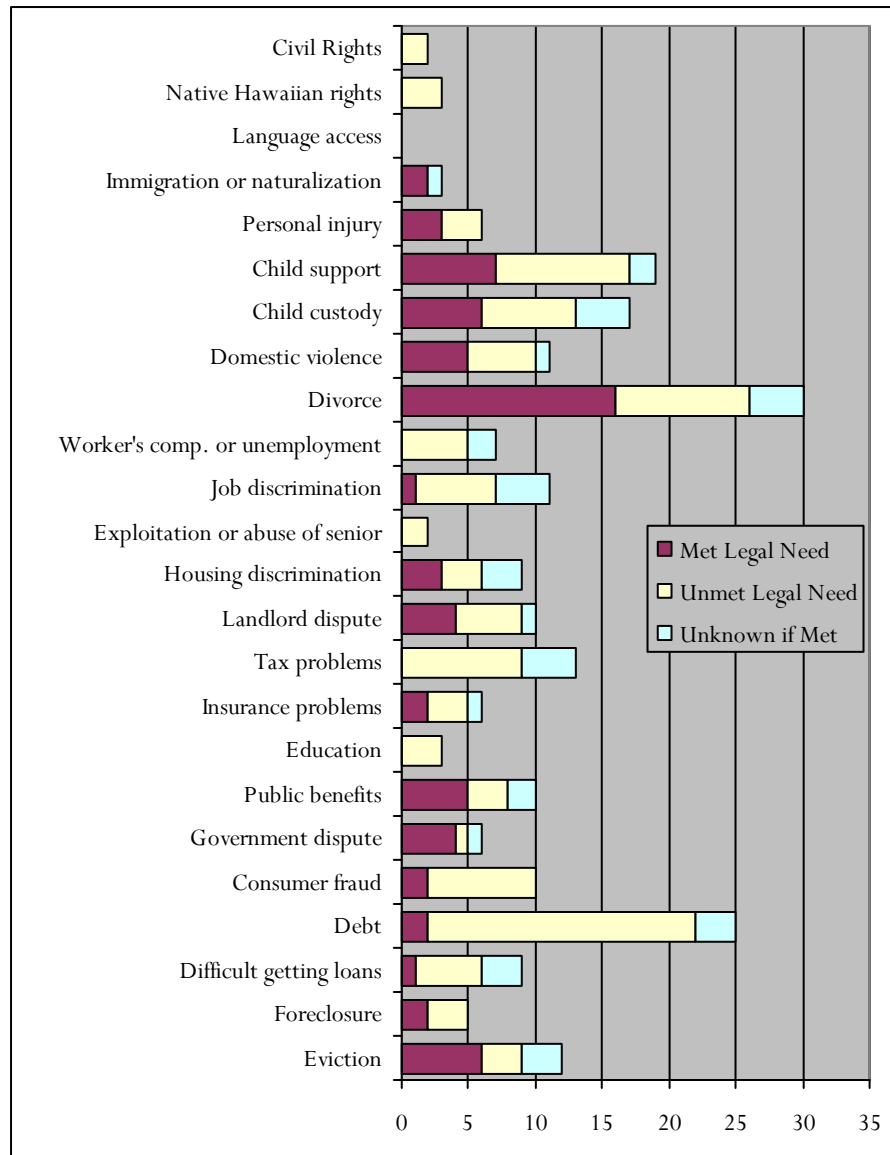
## V. THE CIVIL LEGAL NEEDS OF HAWAI'I'S POOR POPULATION

In the 1993 Spangenberg Report, only 9.6% of low-income residents and 23.6% of gap-group residents contacted by the Spangenberg group reported having their legal needs met. In this current assessment, it is estimated that approximately 1 in 5 low- and moderate-income residents, or 22.84%, has his or her legal needs met.<sup>41</sup> Similarly, legal service providers find that they are able to assist approximately 29.33%, or 1 in 3 of those who contact them for assistance.<sup>42</sup>

The greatest legal needs, according to social service providers, legal service providers, judges and potential clients are with family issues, housing, consumer problems, and domestic violence.

For potential clients of the Legal Aid Society of Hawai'i and Volunteer Legal Services Hawai'i who earn less than 125% and 200% of the federal poverty guideline respectively, the major need for legal services ranked as follows: divorce or family break-up, problems related to debt, problems related to making or receiving child support payments, child custody problems and tax problems.

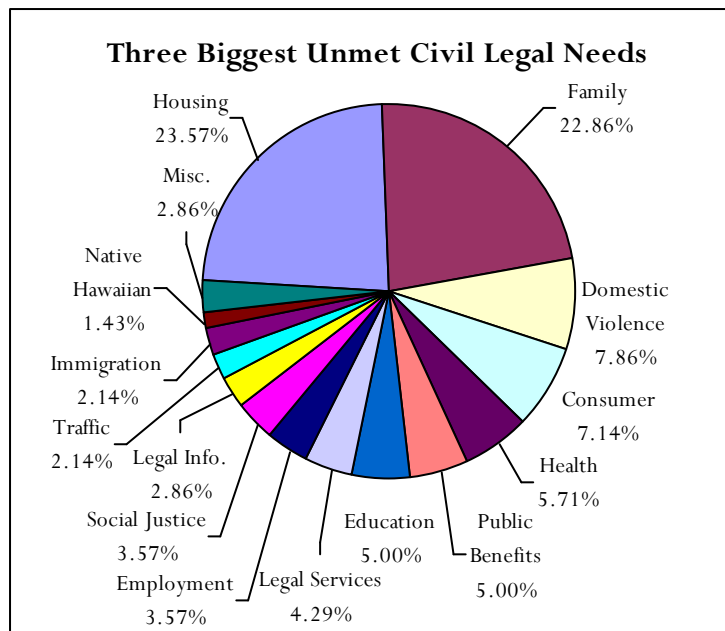
The major area in which potential clients indicated that they received limited professional legal help was



<sup>41</sup> To calculate the met legal needs, results from two surveys were utilized. The first survey was one completed by twenty-nine social service providers who serve over 550,000 people in the state each year. They were asked to estimate the number of their clients who had problems in thirteen legal areas and estimate what percentage had their legal needs met. According to social service providers, the average of met legal needs was 14.68%. The second survey was conducted with seventy-eight potential clients who contacted the Legal Aid Society of Hawai'i and Volunteer Legal Services Hawai'i. The average of met legal needs was 31%.

<sup>42</sup> Four legal service providers indicated that they were able to assist only 0-25% of those who contacted their program. Two legal service providers stated that they were able to assist 51-75% of those who contacted their programs.

consumer debt. Tax, Native Hawaiian rights, Civil Rights, workers' compensation or unemployment insurance, education, exploitation or abuse of a senior citizen, consumer fraud, job discrimination, divorce and child support were other areas in which potential clients did not receive assistance.



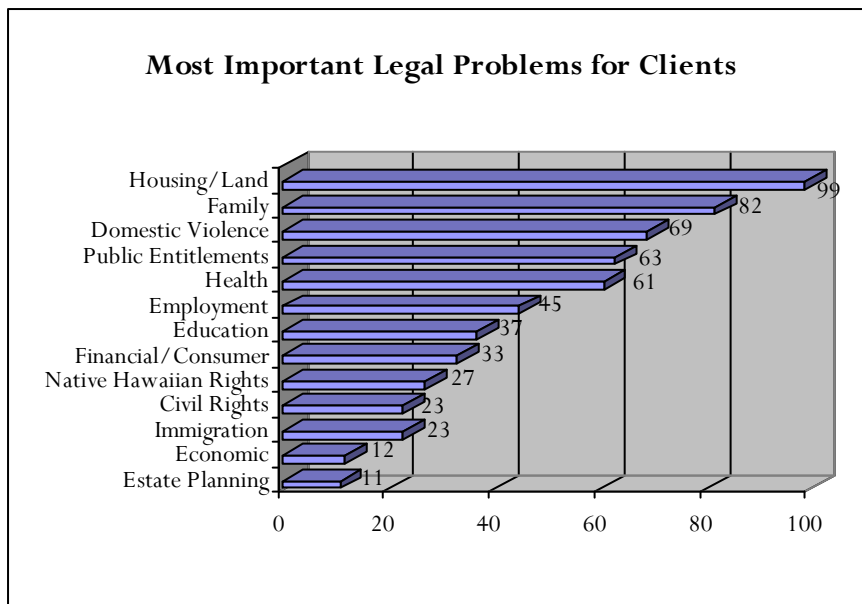
When asked what the three biggest unmet civil legal needs were for Hawai'i's poor community, social service providers, judges and legal service providers indicated that housing at 23.57% and family at 22.86% were the biggest of the legal needs.

Domestic violence issues and consumer law issues followed with approximately 7% each of the overall total and Health, Public Benefits and Education represented 5% each of the overall total. Legal Services, Employment Social Justice, Legal Information, Traffic Violations, Immigration and Native Hawaiian rights all shared between 1.43% and 4.29% of the overall legal needs.

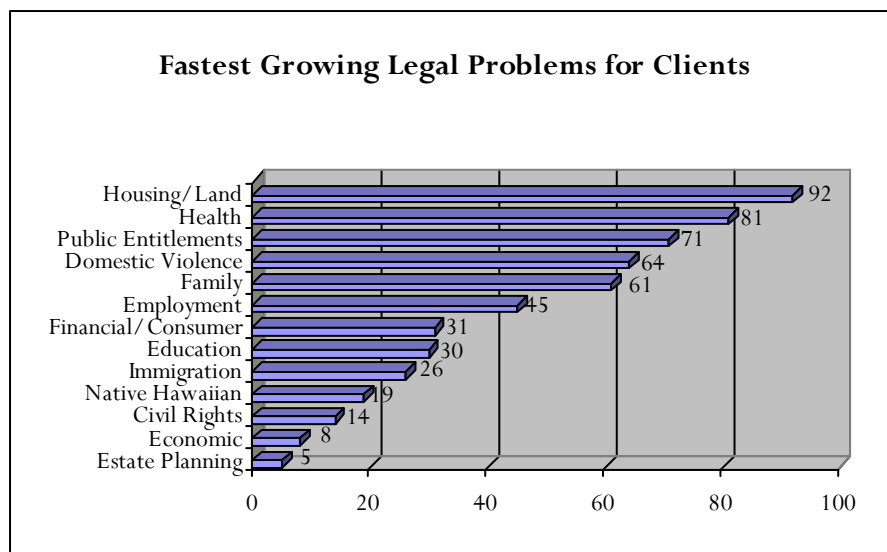
In the Miscellaneous category, legal needs suggestions such as a homeless court system, stronger elder abuse laws, drug programs that address housing needs and public defenders who do not settle cases were included.

According to social service providers, legal service providers and judges, the most important legal problems for the client population are those that center on housing/land, family, domestic violence, public entitlements and health.<sup>43</sup>

These trends continued to be seen in the stakeholder interviews where dominant issues included those that were related to housing, family law (both grandparents rights and



<sup>43</sup> In determining the rankings, a value was given to each ranking (i.e. first – five points, second – four points, third – three points, fourth – two points and fifth – one point) and the sum of these rankings were added to determine the key issues.



general issues), domestic violence and estate planning. Common issues which were also prevalent included criminal law related issues, consumer protection issues, public entitlement issues, immigration issues, health services and access, education services and access, and employment issues.

Housing/land, health, public entitlements, domestic violence and family law were

seen as the fastest growing areas of legal problems for the client population.<sup>44</sup> Dominant themes amongst stakeholders included the fact that legal needs are rising in general, as are family conflicts. They also saw the increased number of Micronesian immigrants and their unique legal status as straining both legal and social services. They also saw more litigiousness behavior among people and a willingness to use the system to resolve disputes. Common themes included the growing population, homelessness, increased complexity and disparities, a growing elderly population, more substance abuse, family problems and social issues.

<sup>44</sup> In determining the rankings, a value was given to each ranking (i.e. first – five points, second – four points, third – three points, fourth – two points and fifth – one point) and the sum of these rankings were added to determine the key issues.

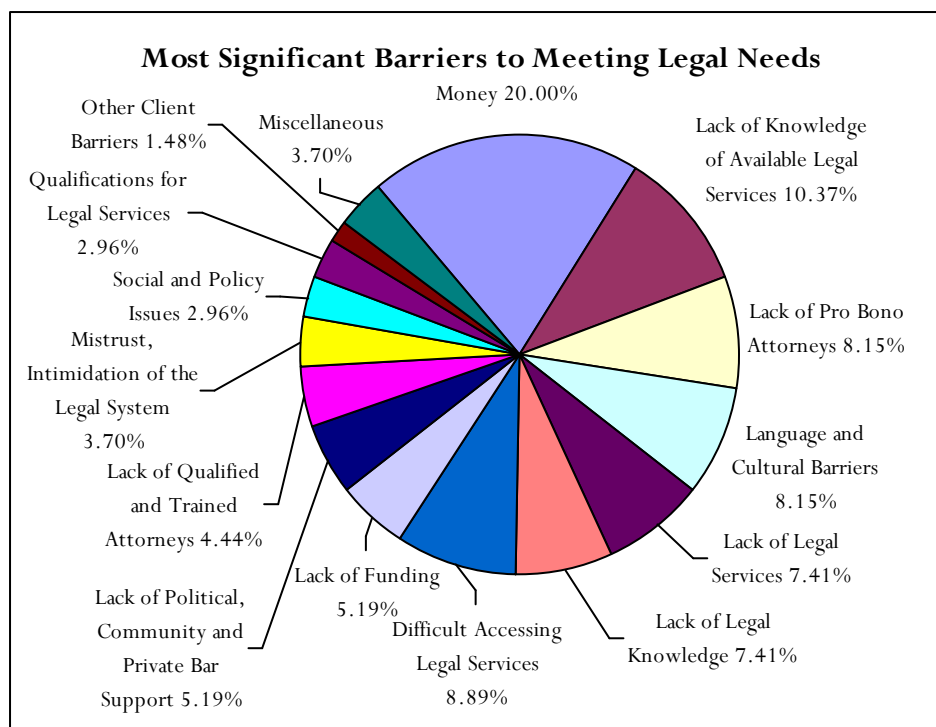
## VI. THE BARRIERS TO ACCESS TO JUSTICE FOR HAWAI‘I’S POOR POPULATION

There is a justice crisis in Hawai‘i; when the legal system is incapable of doing what it is meant to do it undermines people’s faith in the concept of justice. It is a system that is seen as inaccessible, distant, incomprehensible and at times, punitive. At one level, people believe that the American justice system exists to help people, but reality reveals a system that continually falls short of that expectation. People in Hawai‘i deserve to have a justice system that they believe in and in order to create such a system, it is key to identify the barriers that prevent access to justice.

Social service providers, legal service providers, and judges were asked through surveys and key stakeholder interviews, to identify and rate the most significant barriers for the low- and moderate-income which prevented those in need from securing legal services.

When asked to rate the significance of twenty-five potential barriers to access to justice, social service providers, legal service providers and judges identified the top ten barriers as follows:

1. Insufficient Funds
2. Lack of Knowledge of Services
3. Unawareness of Legal Remedy
4. No Attorney or Advocate Available to Accept Case
5. Inability to Represent Self
6. Homelessness
7. Domestic Violence
8. Cultural Barriers
9. Substance Abuse
10. Procedural Barriers to Obtaining Services

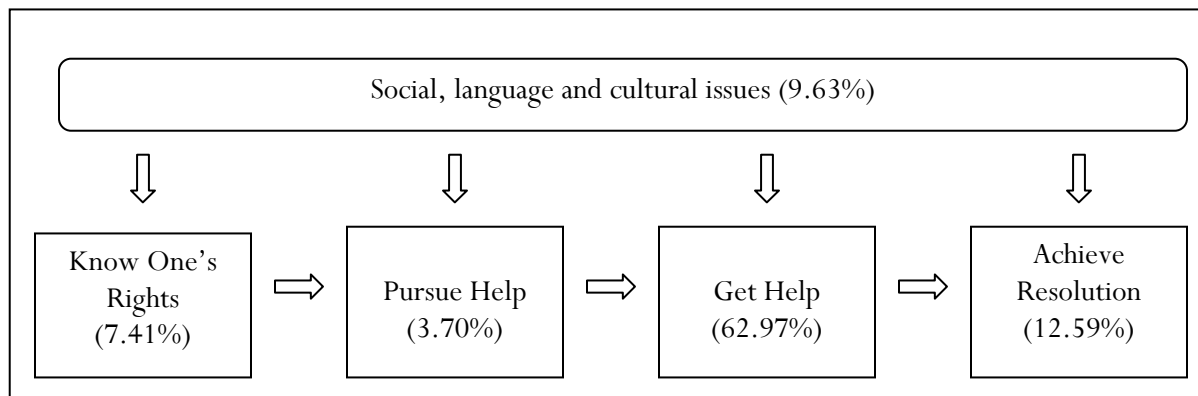


Further, social service providers, legal service providers and judges were asked to self-identify the top barriers to meeting the civil legal needs of Hawai‘i’s poor community. Money topped the list of barriers, followed by a lack of knowledge of available legal services, difficulty in accessing legal services, the lack of pro bono attorneys and language and cultural barriers. The lack of legal services



and lack of legal knowledge tied for a 7.41% share each, while the lack of funding and the lack of political, community and private bar support each shared 5.19% of the self-identified barriers. The lack of qualified and trained attorneys, mistrust and intimidation of the legal system, social and policy issues and qualifications for legal services were seen to represent 2.96% to 4.44% each of the overall barriers. Other client barriers included age and diminished capacity represented which represented 1.48% of the identified barriers. In the Miscellaneous category, schools, leadership, lack of logistics and vexious litigants were mentioned as barriers to access to justice.

### A Framework for Thinking of Barriers to Access to Justice



In reviewing the data, access to justice can be seen as a multi-stepped process. In accessing justice, one must first realize that they have a problem that can be solved by the legal system, then be willing to pursue help, then get help in order to achieve resolution. At each step of this process, there are also social, language and cultural barriers. The percentages in each box represent the answers provided by those surveyed which fall into each of these categories.<sup>45</sup>

### **Social, Language and Cultural Issues**

Social, language and cultural issues disproportionately impact the poverty community in its attempt at access to justice. Of the top three barriers identified by those surveyed, 9.63% had to do with language and cultural barriers or client barriers. Language and cultural

*"The impact of the influx of Micronesians to Hawai'i cannot be underscored. It is not simply a language barrier, many are illiterate in their own language...Polarization is really dangerous especially around public housing where some locals are getting upset at what they perceive as Micronesians getting housing over them."—Social Service Provider*

*"While many receive successful divorces through [legal service providers], many more because of domestic violence do not get help because they are scared to get a divorce."—Social Service Provider*

barriers, homelessness, domestic violence, substance abuse, mental health issues and illiteracy were also identified as society-wide issues that have effects on one's effort to receive legal assistance.

In Hawai'i, 26.63%, or 1 out of 4, people speak a language other than English at home. There are over 6,000 homeless, 96,648 hidden homeless and 262,021 at risk for homelessness. In 2006, 209 felony offenses against families and children were charged (64 of which were completed resulting in 24 incarcerations, 5 probations and 16 other

<sup>45</sup> Total does not add up to 100% as 3.7% of the barriers provided were categorized as miscellaneous and do not appear to fit into a particular category.

sentences), 4,704 domestic abuse protective orders were filed and 6,759 criminal actions were charged in the family court.<sup>46</sup> In a 1998 study contracted by the Department of Health, it was determined that 82,880 people in Hawai'i were in need of treatment for alcohol and/or drug abuse.<sup>47</sup> In 2006, there were 48,793 people in Hawai'i living with mental disabilities and 4,966 people being served in the community by outpatient community mental health centers.<sup>48</sup>

Significant societal factors, such as those mentioned above, demand the need for social service providers and legal service providers to work together with government officials and others to alleviate some of the basic underpinnings of poverty in order for Hawai'i residents to achieve justice.

Some steps have already been taken in this direction such as the passing Act 290 in 2006 which ensures language accessibility to government agencies and entities receiving State funding; it also created an Office of Language Access and requires translation to be provided at any public hearing or meeting with 48 hours notice.

## **Know One's Rights**

One of the barriers preventing Hawai'i's low- and moderate-income residents from seeking and receiving the legal services they need is that many simply do not know what their rights are. The lack of legal knowledge was identified by 7.41% of those surveyed as one of the top three barriers to meeting legal needs. This factor was also dominant in the stakeholder interviews and was ranked third by social service providers, legal service providers and judges.

*"A client once came into our office in tears over her pending eviction. The sheriff had knocked on her door and given her 48 hours to leave. We sat down and I explained to her the eviction process step-by-step because she did not understand what had happened during her court hearings. While she wanted to leave knowing that she could stay in her place, she left with a list of shelter numbers and no longer in tears. She gave me a hug when she left and said, 'At least now I understand.'"—Advocate*

Language and cultural barriers also play critical roles in knowing one's rights; for immigrants coming from countries where individuals are afforded limited legal rights, language barriers and being unaware of standards of behavior and expectations of those living in the United State can impact their ability to seek assistance.

To know that one has a legal remedy is to know that one can seek assistance in enforcing that right; without such knowledge, many in the community live without justice.

## **Pursue Help**

Even when people know that there is a legal remedy available for their problem, many may not seek resolution. As the 1994 American Bar Association study found, many low-income households often choose to take no action at all. Mistrust and intimidation of the legal system, as well as a perception of

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<sup>46</sup> State of Hawai'i Judiciary, *2006 Annual Report Statistical Supplement*. See, <http://www.courts.state.hi.us/attachment/4D44FE74F4DF1267F34A9452DD/arstatsupp06.pdf>.

<sup>47</sup> Wood, Gartrell, and Ovenden. *Substance Abuse and Treatment Needs: Survey Estimates for Hawai'i (1998) Executive Summary*. See, [http://www.hawaii.gov/health/substance-abuse/prevention-treatment/survey/1998householdsurvey\\_execsumm.pdf](http://www.hawaii.gov/health/substance-abuse/prevention-treatment/survey/1998householdsurvey_execsumm.pdf).

<sup>48</sup> State of Hawai'i, Department of Business Economic Development and Tourism, *Hawai'i State Data Book 2006*.

inaccessibility, were some of the reasons cited by social service providers, legal service providers and judges as reasons why assistance is not sought. Stakeholders also agreed that fear of the system and intimidation were key factors, as were the perceived shame and stigma, language barriers and cultural barriers. Of those surveyed, 3.70% identified these issues as one of the top three barriers to receiving civil legal assistance.

### Mistrust and Intimidation

For social service and legal service providers, their clients' mistrust and intimidation of the legal system can leave them without assistance despite a serious need. For some, involvement with the legal system is seen from a criminal context and seeking assistance could result in losing one's children, being put in jail or fear of reprisal from domestic violence perpetrators.

### Shame and Stigma

To seek legal assistance can be viewed to be a sign of one's inability to solve one's own problems and in a place like Hawai'i, the perceived shame and stigma from seeking legal assistance can prevent a client from doing what is best for him or her.

*"People are intimidated by the legal system, and they also feel it is good for nothing – they'd be better off not even starting a legal case." –Focus Group Participant*

In Hawai'i, much of the local culture is driven by Asian immigration patterns as they interface with the Western world. The dominance of shame as a controlling concept in Asian cultures has been shown in other areas, particularly in mental health, as a barrier preventing people from seeking assistance. For stakeholders, shame and stigma were factors that prevented a client from pursuing legal assistance.

## **Get Help**

*"Helplessness...Many poor people feel and 'know' that no one cares."  
—Social Service Provider*

While knowing that a legal remedy exists and wanting to pursue help are critical to receiving legal assistance, those actively seeking assistance also encounter obstacles when they pursue the assistance needed. Insufficient funds, the lack of knowledge of what legal assistance is available, the lack of legal services and pro bono attorneys, and difficulty in accessing legal services were some of the most significant barriers to receiving legal assistance. Getting help was one of the most significant areas in which there were identified barriers to meeting legal needs, with 62.97% of those identified barriers falling into this category.

### Insufficient Funds

The primary barrier for most is the lack of money to pay for civil legal services. This was the most often cited barrier by social service providers, legal service providers and judges in the conducted surveys, stakeholder interviews and focus groups. Twenty percent of identified barriers centered around the lack of money and it was also ranked at the top of the list of barriers. Of potential clients surveyed, 77.1% indicated that they could not find legal help they could afford when they or their family needed assistance.

*"I had to pay a consultant \$500/hour to learn about custody issues and then needed \$5,000 to adopt my grandkids...I couldn't do it." -- Focus Group Participant*

Legal assistance can be costly. For example, a family law attorney can charge \$250 per hour to assist with a divorce in which custody of the children is contested. In these cases, services would begin with an initial consultation, the preparation of documents, and then depending on the parties and the level of conflict, the costs can grow exponentially to include court time (including waiting time), additional consultations, witness preparation, and the hiring of a custody evaluator. For many of these cases, the retainer requested could be begin at \$3,000 or possibly more.<sup>49</sup> For low- and even moderate-income individuals, finding an extra \$3,000 to start a divorce proceeding or any other legal action can be nearly impossible.

#### Lack of Knowledge of What Legal Assistance Is Available

*“Our agency helps a variety of people on the Windward side because many Windward residents do not know where else to go. There are many [people] on the Windward side and many do not know what services are available to them.”—Social Service Provider*

Following closely behind insufficient funds to pay for legal assistance was the lack of knowledge as to what legal assistance is available. For judges, social service providers and even legal service agencies, 10.37% identified not knowing where or how to get legal help as a significant barrier for the low- and moderate-income population. For potential clients, not knowing who to call represented

25.7% of the reasons that they did not receive legal help.

#### Limited Legal Services and Pro Bono Attorneys

Once one knows where to go for free legal assistance, such legal assistance may be unavailable due to a number of reasons; the most significant of these reasons is the limited number of legal service and pro bono attorneys in Hawai‘i. Those surveyed felt that the lack of pro bono attorneys represented 8.17% of the barriers to meeting legal needs, while 7.41% of the barriers was due to the lack of legal services.

*“The poor are virtually ‘unseen’ by attorneys in their day-to-day lives.”—Social Service Provider*

There are approximately 67.8 legal service attorneys in Hawai‘i, which equates to 1 legal service attorney for every 2,291 people living below 125% of the federal poverty guideline, or 1 legal service attorney for every 2,857 people living below 185% of the federal poverty guideline, or 1 legal service attorney for every 4,402 people living below 200% of the federal poverty guideline. In comparison, there are 3,558 licensed attorneys in private practice<sup>50</sup> in the State where the ratio jumps to 1 attorney for every 361 persons.

Under the Hawai‘i Rules of Professional Conduct, attorneys should aspire to provide at least fifty hours of pro bono services each year; twenty-five of which should be provided without fee or an expectation of fee to (1) persons of limited means or (2) organizations designed primarily to address the needs of persons of limited means.<sup>51</sup>

In 2006, according to figures released by the Hawai‘i State Bar Association, 1,903 Hawai‘i attorneys (active and inactive, government and judges) contributed 103,627 pro bono hours to the public which is equivalent to the number of hours worked by almost 57.57 legal service attorneys.<sup>52</sup> Inactive bar members provided

<sup>49</sup> Interview with family law attorney.

<sup>50</sup> No judges, government or inactive attorneys are included in this ratio.

<sup>51</sup> Hawai‘i Rules of Professional Conduct, Rule 6.1.

<sup>52</sup> The estimated FTEs was calculated based on an 1800 hour full-time yearly work schedule.

15.73% or 16,298 of these hours. If each licensed attorney in private practice met their fifty hour aspirational goal, 177,900 hours, or the equivalent of 98.83 legal service attorneys could be contributed. If all active and inactive attorneys, regardless of practice area (i.e. government, judicial, etc.) were to participate, these 7,116 attorneys could contribute 355,800 hours of legal assistance or the equivalent of 197.66 attorneys.

For many, the unwillingness of attorneys to take on pro bono cases is a significant factor in the lack of access to justice in the community.

Legal service providers also estimate that they are only able to meet the needs of 1 in 3 people that contact them for assistance, and even in those situations, providers are unable to provide full legal representation.

For legal service attorneys and pro bono attorneys, the lack of funding plays a prominent role in the inability to provide the level of legal service that clients need.

### Difficulty in Accessing Legal Services

For those in need of legal services, contacting a legal service provider and accessing such services can also pose barriers. Bureaucracy, frustration over automated phone systems, delays in responses, lack of transportation and cultural and language barriers can lead many to not receive the services that they desperately need. According to social service providers, judges and legal service providers, procedural barriers were the tenth most significant barrier to receiving legal assistance; in those surveys conducted, the difficulty in accessing legal services represented 8.89% of the overall identified barriers.

In addition, income criteria and conflicts of interest make it difficult for some to access services; these barriers were identified as representing 2.96% of the overall barriers.

Four legal service providers, the Legal Aid Society of Hawai‘i, Na Loio, Native Hawaiian Legal Corporation and Volunteer Legal Services Hawai‘i have income limits which dictate the clientele they are able to assist. For free legal services from Legal Aid Society of Hawai‘i or Native Hawaiian Legal Corporation, a family

*“It seems to me from what I hear that the income limits for free or reduced legal services are very low. There are lots of people I know who are not ‘federally classified poverty level’ but still don’t have enough money to access market legal services because their housing costs are so high. I think it would be helpful to set income limits that take into consideration how high an individual’s housing costs are.”*  
— Social Service Provider

must be under 125% of the federal poverty guideline or a family of four must make less than \$2,474 per month to receive assistance. For Na Loio, this level is at 150% of the federal poverty guideline or less than \$2,969 per month for a family of four. Volunteer Legal Services Hawai‘i uses 200% of the federal poverty guideline or less than \$3,711 per month for a family of four to determine eligibility. Both Legal Aid Society of

Hawai‘i and Volunteer Legal Services Hawai‘i also provide limited legal assistance to the “gap group” up to 250% of poverty or \$4,498 per month for a family of four. When it takes approximately \$4,824 to support a family of four in Honolulu, these current eligibility levels can be seen as a significant barrier to receiving legal assistance.

Conflicts of interest also play a role in the assistance people are able to receive, particularly in family law cases. For domestic violence victims this can be even more difficult when their batterer may call a legal service agency for assistance in order to conflict the victim out of free legal services.

## Achieve Resolution

Once one receives legal assistance, achieving resolution can also be fret with obstacles. The inability to represent one's self, lack of trained and qualified attorneys, frustration with the court system and social and policy issues can adversely impact the ability to achieve satisfactory resolution.

*"Many clients get advice and counsel, but there are rarely attorneys who will go with clients to court and this is where the attorney is needed."*  
—Social Service Provider

The inability to represent one's self was one of the top five barriers according to survey participants. Due to limited funding, many programs have moved to a system of triage, where counsel, advice or brief services are provided to assist clients to help themselves; full representation by an attorney is more limited. According to legal service providers, in only 37.5% of cases do clients have representation by a legal service attorney and in only 4.17% are they represented by pro bono attorneys. Most legal service providers rely on telephone hotlines (20.83%), scheduled neighborhood sessions (9%), clinics (6.51%) and drop-in centers (3.33%) to provide legal services.

The lack of trained and qualified attorneys represented 4.44% of the identified barriers to receiving access to justice. According to social service providers, "private attorneys who try to help, don't know how to help these clients," and "nonprofit legal services are of inconsistent quality." The lack of training and familiarity with the dynamics of domestic violence were also mentioned by a number of social service providers.

*"Calling one court, speaking to one staff with multiple transferring between staff and courts is frustrating. I can spend hours and finally get one staff for help with my patients. Can you imagine a patient dealing with this especially one with psychiatric problems?"*—Health Care Provider

Frustration with the court system was also mentioned by a number of study participants. At one community focus group, a participant shared, "The court system is so overloaded so clients are not treated right." The feeling that judges are not trained in the dynamic of domestic violence was also mentioned.

Child care, conflict with employment and school schedules were also mentioned barriers to access to justice, especially in family court cases, the need for child care during proceedings could make a significant difference. Further, since many low- and moderate-income litigants are employed earning hourly wages, time at court means a loss of income.

In achieving resolution, social and policy issues also come into play. Social and policy issues represented 2.96% of the self-identified barriers to access to justice which must be addressed by the legislature. Particular issues that were of concern to legal service providers and social service providers were illegal discrimination, the tight housing market, a need for stronger elder abuse laws and too many children living in unstable families.

Finally, the lack of concern of politicians, the community and the private bar over access to justice issues represented 5.19% of the identified barriers. Such a lack of support limits the ability for many to achieve resolution to their legal issues.

## VII. AVAILABILITY OF LEGAL SERVICES

At the time of the Spangenberg Report, there were ten identifiable primary civil legal service providers and almost all of these organizations continue to provide some degree of services to the community, a few of whom now operate under different names.

The American Civil Liberties Union of Hawai‘i, Legal Aid Society of Hawai‘i, Maximum Legal Services Corporation & the Disabled Rights Legal Project, Native Hawaiian Legal Corporation, and the University of Hawai‘i Elder Law Project continue to provide legal services in Hawai‘i. Domestic Violence Clearinghouse and Legal Hotline continues to provide legal services, but recently changed its name to the Domestic Violence Action Center. Hawai‘i Lawyers Care is now known as Volunteer Legal Services Hawai‘i. Na Loio No Na Kanaka continues to provide immigrant legal services, but is now known as Na Loio Immigrant Rights and Public Interest Legal Center. Protection and Advocacy’s program is now part of the Hawai‘i Disability Rights Center. Other organizations featured in the Spangenberg Report included the Seniors Law Project on Kauai which continues to provide services to seniors through a private attorney and the Life Foundation Legal Clinic which now refers cases to other legal service providers. Earthjustice, while known as Sierra Legal Defense Fund in 1993, was not featured in the Spangenberg Report, yet it continues to provide legal services in Hawai‘i. In addition, in the last few years, Kokua Legal Services and Legal Services for Children began providing services in Kalihi Valley and on the Waianae Coast, respectively.

### Staffing<sup>53</sup>

	1990		2007	
	Attorneys	Other Staff	Attorneys	Other Staff
ACLU of Hawai‘i	1	--	2	1
Domestic Violence Action Center	1.5	9.5	6	6
Earthjustice <sup>54</sup>	N/A	N/A	4	2
Hawai‘i Disability Rights Center <sup>55</sup>	N/A	N/A	2	16
Kokua Legal Services	--	--	.20	.5
Legal Aid Society of Hawai‘i	19.75	32.75	39	46.5
Legal Services for Children	--	--	0	N/A
Life Foundation Legal Clinic	--	1	0	--
Maximum Legal Services	2	6	0	N/A
Na Loio	2	4	3.5	3
Native Hawaiian Legal Corp.	6	10	7	13
University of Hawai‘i Elder Law Program	1	3	1.5	1
Volunteer Legal Services Hawai‘i	0.5	7.5	3	10.5
<b>Total</b>	<b>33.75</b>	<b>73.75</b>	<b>68.2</b>	<b>99.5</b>

In the last seventeen years, the staffing of most organizations increased or remained steady. Volunteer Legal Services Hawai‘i (500%), the Domestic Violence Action Center (300%), the Legal Aid Society of Hawai‘i (100%) and ACLU of Hawai‘i (100%) saw the greatest growth in their attorney staffs. Overall, 33.75

<sup>53</sup> Information was not available for all providers.

<sup>54</sup> 2007 staffing figures are estimated based on website information.

<sup>55</sup> 2007 staffing figures are estimated based on website information.

attorneys<sup>56</sup> grew 102% to 68.2 attorneys and 73.75 other staff members<sup>57</sup> grew 34.9% to 99.5 other staff members.

While the number of staff members has grown, staffing patterns still do not come close to the levels seen in the 1980s where organizations like the Legal Aid Society of Hawai'i employed approximately 75 staff attorneys.

### **Locations**

Geographically, fourteen of the twenty-one civil legal service offices in Hawai'i are located on Oahu. ACLU of Hawai'i, Domestic Violence Action Center, Earthjustice, Hawai'i Disability Rights Center, Na Loio and Volunteer Legal Services Hawai'i provide statewide services, but their physical offices are located on Oahu. The Legal Aid Society of Hawai'i is the only legal services provider with neighbor island office locations in Kauai, Molokai, Maui, Lanai, Hilo and Kona.

### **Funding**

In the Spangenberg Report, the total funding in 1990 for four programs<sup>58</sup> was estimated at \$3,496,588; in 2004,<sup>59</sup> according to the organizations' 990s, it is estimated that support for these four programs alone grew to \$8,950,220.<sup>60</sup> If calculated in 2004 dollars,<sup>61</sup> funding for these programs increased 77.11%.

In 2004, nine legal service programs<sup>62</sup> recorded revenue of \$12,207,170 of which \$9,509,784 came from federal and state government grants. Many of these government contracts, however, are not unrestricted funds which may be used to meet any civil legal need; many are limited to particular types of services, certain client groups and may involve caps on the amount that can be received and many involve outreach and education rather than legal representation.

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<sup>56</sup> The Spangenberg Report cites to 36.75 attorneys for those programs that reported, however this total is not the actual total if the figures are added up as such this assessment utilizes the correct addition which would have placed the number of attorneys at 33.75.

<sup>57</sup> The Spangenberg Report found that there were a total of 74.75 other staff working at legal service providers, however when the actual number reported were recalculated they came to 73.75. This assessment uses the adjusted figure of 73.75.

<sup>58</sup> The Legal Aid Society of Hawai'i, Native Hawaiian Legal Corporation, Maximum Legal Corporation & Disabled Rights Legal Project and Domestic Violence Action Center all provided financial information.

<sup>59</sup> 2004 990s were used to determine the current level of revenue for programs as it was the latest year for which data was available for all programs.

<sup>60</sup> Funding for the Domestic Violence Action Center is included in this total. However it is important to note that in addition to legal services, the agency is also a social service agency providing a wide range of programs for domestic violence victims and public outreach for the prevention of domestic violence. Its legal service staff represent 23.07% of the staff or 12 of the 15 staff members.

<sup>61</sup> The calculation of how much buying power legal service programs' 1990 revenue had in 2004 was done on the federal government's Department of Labor's Bureau of Labor Statistics Consumer Price Index Inflation calculator. It can be found at <http://data.bls.gov/cgi-bin/cpicalc.pl>.

<sup>62</sup> ACLU of Hawai'i, Domestic Violence Action Center, Hawai'i Disability Rights Center, Kokua Legal Services, Legal Aid Society of Hawaii, Maximum Legal Corporation & Disabled Rights Legal Project, Na Loio Immigrant Rights and Public Interest Legal Center, Native Hawaiian Legal Corporation and Volunteer Legal Services Hawai'i.



## **Cost to Provide Legal Services**

\$12.2 million may seem like a significant amount of revenue for legal services programs; however this amount barely covers the cost of operating seventeen legal service offices and paying the salaries for the attorneys, paralegals and administrative staff. To make ends meet, many legal service programs are unable to pay staff members competitive salaries and instead pay less than the State government, and even far less than those in private practice.

Currently, starting salaries for attorneys with legal services programs are on average \$40,000 - \$42,000 per year, where their State government counterparts average \$42,000 - \$50,000 and those in private practice earn \$60,000 - \$80,000. At the upper end of the legal service spectrum,<sup>63</sup> the highest paid staff members, including Executive Directors and Litigation Directors earn between \$59,000 - \$93,000 which is also far less than their government service and private practice counterparts.

## **Current Non-Profit Legal Service Providers in Hawai'i**<sup>64</sup>

There are currently twelve identifiable primary non-profit legal service organizations in the State.<sup>65</sup> Half of the programs have no income requirement and the other half have income requirements ranging from below 125% to 250% of the federal poverty guideline.

### **ACLU of Hawai'i**

The ACLU of Hawai'i's mission is to protect individual freedoms guaranteed under the federal and state constitutions. In Hawai'i since 1965, the ACLU works through legal action, legislative lobbying and public education. It is a private, non-partisan, not-for-profit organization supported primarily by private donations and is not affiliated with the government and does not accept any government funds in order to maintain its independence.<sup>66</sup>

The ACLU of Hawai'i only handles cases that involve violations of civil liberties and civil rights. Civil liberties include the right to due process and equal protection of the law, as well as freedom of expression; freedom of the press; religious freedom; the right of association; the right of privacy; the right to be free of unreasonable search and seizures, and the right to be free of cruel and unusual punishment.<sup>67</sup> The ACLU receives approximately 1,500 referrals each year and handles 2-3 class action cases.

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<sup>63</sup> Figures gathered from 2004-990s.

<sup>64</sup> Twelve legal service providers were sent surveys to assess the legal needs of Hawai'i's poor community. Eight providers responded to the survey (approximately 66.66% return rate). Follow-up calls to all providers were made to request their response. The legal service providers who responded included Legal Service for Children, Legal Aid Society of Hawai'i, ACLU of Hawai'i, University of Hawai'i Elder Law Program, Na Loio, Domestic Violence Clearinghouse & Legal Hotline and Volunteer Legal Services Hawai'i. Information from their surveys are included in this report. In addition, information on other critical legal service providers like the Native Hawaiian Legal Corporation, Hawai'i Disability Rights Center, Kokua Legal Services, Earthjustice and Maximum Legal Services was gathered from public information sources.

<sup>65</sup> Military legal assistance service centers also provide legal services in Hawai'i to members of the armed forces and their families, retirees and their families and certain civilians, but are not featured in this study.

<sup>66</sup> See, [www.acluhawaii.org](http://www.acluhawaii.org).

<sup>67</sup> *Id.*

## **Domestic Violence Action Center**

The Domestic Violence Action Center is dedicated to alleviating the problem of domestic abuse in Hawai‘i. It is the only agency in the State that accepts large numbers of high risk divorce, temporary restraining orders, post-decree and paternity cases. It is also the only agency in the community with a full complement of services to assist victims they navigates the system and move towards lives of freedom and self-sufficiency. With the assistance of advocates accompanying victims to court, and help in seeking financial support, pursuing educational goals, obtaining child support, or maneuvering the military, medical or mental health systems, victims are empowered and closer to safety if they are working with one of DVAC’s programs.<sup>68</sup>

DVAC, founded in 1990 and incorporated in 1991, began with two staff; DVAC is now fully staffed with 52 employees. Training and education, technical assistance and community building, direct services and public awareness are among the commitments this agency makes to the people of Hawai‘i.<sup>69</sup> DVAC’s legal division assists approximately 500 victims of domestic violence each year.

## **Earthjustice**

Earthjustice is a non-profit public interest law firm dedicated to protecting the magnificent places, natural resources, and wildlife of this Earth and to defending the right of all people to a healthy environment. Earthjustice seeks to bring about far-reaching change by enforcing and strengthening environmental laws on behalf of hundreds of organizations and communities. Earthjustice’s Honolulu office aims to preserve Native Hawaiian cultural and religious sites and practices, protect freshwater resources, preserve marine species, expose and regulate field experiments with genetically modified plants.<sup>70</sup>

## **Hawai‘i Disability Rights Center**

The mission of the Hawai‘i Disability Rights Center is to protect and promote the human, civil and legal rights of individuals with disabilities through the provision of information and advocacy. HDRC is the designated Client Assistance Program (CAP) and Protection and Advocacy (P&A) System for Hawai‘i’s estimated 180,000 residents living with disabilities. HDRC strives to serve as many individuals with disabilities with as many different legal rights issues as resources will allow and to advance the human, civil and legal rights of people with disabilities in gaining freedom from abuse and neglect, to live in accessible communities, to have independence, productivity, integration and inclusion and to have self determination. HDRC provides outreach, training, information and referrals, supervised referrals, individual advocacy and systems advocacy to reach these outcomes. Annually, HRDC handles over 1,800 individual cases.<sup>71</sup>

## **Kokua Legal Services**

Developed in the last few years, Kokua Legal Services provides limited free and low-cost legal assistance to clients in Kalihi Valley as well as provides homeownership education and assists with the development of affordable housing.

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<sup>68</sup> See, [www.stoptheviolence.org](http://www.stoptheviolence.org).

<sup>69</sup> *Id.*

<sup>70</sup> See, [www.earthjustice.org](http://www.earthjustice.org).

<sup>71</sup> See, [www.hawaiidisabilityrights.org](http://www.hawaiidisabilityrights.org).

## **Legal Aid Society of Hawai‘i**

The Legal Aid Society of Hawai‘i is the oldest and largest non-profit law firm and is dedicated to assisting the low- to moderate-income community. Its mission is to achieve fairness and justice for Hawai‘i’s people through quality representation, advocacy, community partnerships, education and outreach.<sup>72</sup>

The Legal Aid Society of Hawai‘i provides help to individuals and families who cannot afford to hire a private attorney to assist with their civil legal needs. Legal Aid Society of Hawai‘i primarily assists in the areas of family, housing, consumer and public benefits law. Legal Aid Society of Hawai‘i also provides assistance through a number of special projects, including tax assistance, homeowner counseling, a senior hotline, special services for the homeless, and more.<sup>73</sup> Legal Aid Society of Hawai‘i handles approximately 8,500 cases each year.

## **Legal Services for Children**

Legal Services for Children, located in the Wai‘anae Coast Community, was formed to educate, provide support and legal representation for parents and caregivers who have concerns about their special-needs children. Legal Services for Children seeks to assist parents and caregivers who feel their children’s civil rights have been violated under the Individuals with Disabilities Act, also known as IDEA, or section 504 of the Rehabilitation Act. The local staff is able to provide a voice to families in need of legal assistance.<sup>74</sup> Legal Services for Children annually handles approximately 25 cases per year.

## **Maximum Legal Services**

Maximum Legal Services Corporation (MaxCorp) is a non-profit organization originally created in 1987 by the Board of Directors of the Legal Aid Society of Hawai‘i to provide legal services otherwise unavailable to underprivileged persons. Currently, MaxCorp operates through two projects: 1) the Guardianship of the Property project, and 2) the Disabled Rights Legal Project, which includes consultation to and legal representation of parents in special education cases.<sup>75</sup>

## **Na Loio – Immigrant Rights and Public Policy Center**

Na Loio – Immigrant Rights and Public Policy Center is a non-profit organization committed to providing immigration legal services and advocacy in the public interest for people living in Hawai‘i with a particular emphasis on serving the poor and low-income immigrants and their families. Founded in 1983, Na Loio offers a full range of legal services, community education, and advocacy for those who are among the poorest, most vulnerable members of our community. It is the only agency in Hawai‘i providing critically needed immigration legal services for those who cannot afford to hire an attorney.<sup>76</sup>

Na Loio provides a full range of legal services for indigent immigrants in removal, exclusion, asylum, naturalization, and adjustment of status matters. Most clients are eligible for legal remedies, yet cannot

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<sup>72</sup> See, [www.legalaidhawaii.org](http://www.legalaidhawaii.org).

<sup>73</sup> *Id.*

<sup>74</sup> See, [www.keiki-legal-services.org](http://www.keiki-legal-services.org).

<sup>75</sup> See, [www.lahawaii.org/maximum\\_legal\\_services.htm](http://www.lahawaii.org/maximum_legal_services.htm).

<sup>76</sup> See, [www.naloio.org](http://www.naloio.org).

prevail without legal representation. Fast and simple over-the-phone advice and referrals are also available for individuals. A toll-free telephone number provides a lifeline for Neighbor Island residents and agencies requiring immigration assistance.<sup>77</sup> Annually, Na Loio represents approximately 150 individuals, provides counsel and advice to over 900 individuals and provides information to over 1,000 individuals at community forums, radio shows and other outreach events.

### **Native Hawaiian Legal Corporation**

The Native Hawaiian Legal Corporation provides families and individuals with affordable and effective legal representation in the unique area of Native Hawaiian rights. Incorporated in 1974, NNLC is a non-profit, public interest law firm whose goals are to assert, protect and defend indigenous Hawaiian land and traditional rights. It is the only public interest law firm working exclusively on behalf of the 200,000+ indigenous Hawaiians in the State.<sup>78</sup>

NHLC's objectives and core purpose are (1) to protect, develop and assert the rights and claims of Native Hawaiians relating to their status as native peoples, (2) to assist with the preservation of Native Hawaiian culture, religion, and traditional practices, and (3) investigate, research and assist Native Hawaiians in asserting, defending, and litigating native claims.

### **University of Hawai'i Elder Law Program**

The University of Hawai'i Elder Law Program provides direct delivery of legal services to the elderly on O'ahu and has a full-time staff of one professor-attorney and one paralegal. UHELP operates throughout the calendar year as a law office and has a case load of nearly 500 cases a year. The program also provides educational seminars for the elderly, caregivers, service provider agencies and community groups.<sup>79</sup>

In addition, UHELP offers law student training and has a public service component. This component focuses most of its energies in serving socially and economically disadvantaged elders on O'ahu with problems involving public entitlements, guardianship and alternatives to guardianship, housing, landlord-tenant, elder abuse, age discrimination, pension and retirement problems, planning for incapacity and death, consumer protection, medical treatment, long-term-care insurance and family law. It also provides education, training and publications for older persons, service providers, law and health care professionals as well as research on elder law issues.<sup>80</sup> UHELP assists approximately 400 people each year and handles approximately 565 cases.

### **Volunteer Legal Services Hawai'i**

Volunteer Legal Services Hawai'i provides free or low-cost legal help to low-income residents and the non-profit organizations serving them in communities across Hawai'i with the help of volunteers who contribute pro bono services. Originally known as Hawai'i Lawyers Care, Volunteer Legal Services Hawai'i began in

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<sup>77</sup> Id.

<sup>78</sup> Native Hawaiian Legal Corporation: 2004 Strategic Analysis, provided by the Native Hawaiian Legal Corporation.

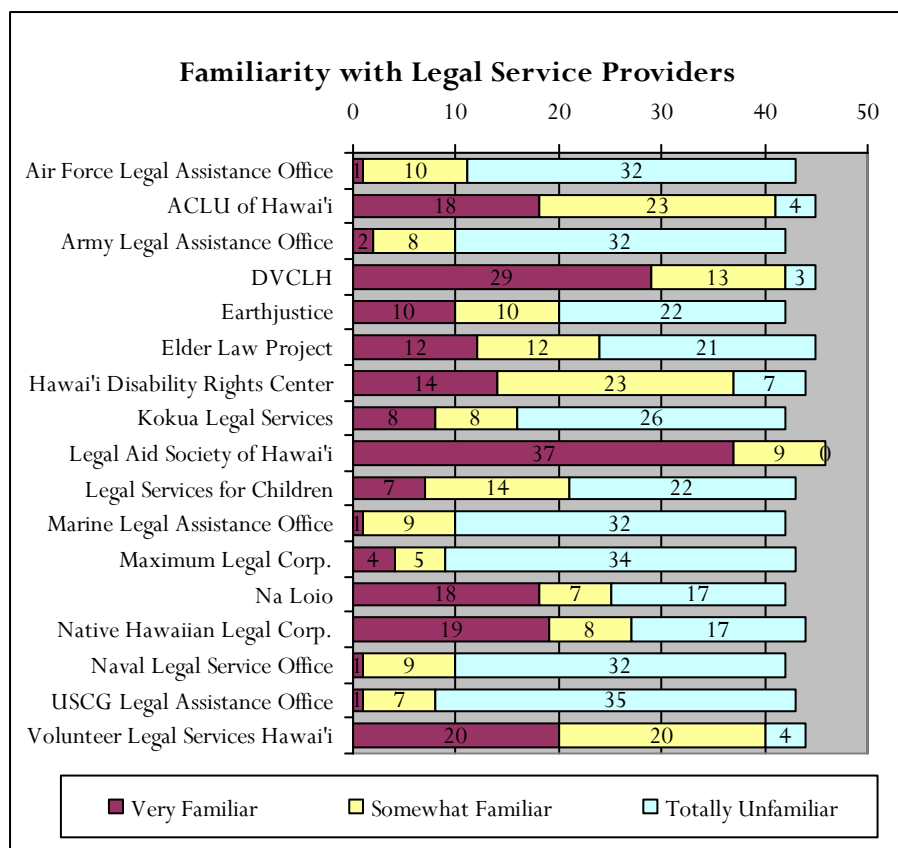
<sup>79</sup> See, [www.hawaii.edu/law/site-content/special-programs-community-service/uhelp-overview/index.html](http://www.hawaii.edu/law/site-content/special-programs-community-service/uhelp-overview/index.html).

<sup>80</sup> Id.

1981 with 10 volunteers; today, that number has grown to more than 850 volunteers and enables them to offer a wide range of services and volunteer opportunities.<sup>81</sup>

Volunteer Legal Services Hawai'i's mission is to help individuals and groups achieve equal access to justice by providing volunteer legal services to those unable to afford such services, collaborating with other service providers, creating models of effective service delivery and encouraging and advocating the practice of pro bono services. Volunteer Legal Services Hawai'i's work is made possible by their volunteers' pro bono contribution of services, along with a staff 20 full- and part-time employees, who are the heart, soul, mind, and backbone that keeps this organization going.<sup>82</sup> Annually, Volunteer Legal Services Hawai'i assists 9,000 people and handles approximately 3,000 cases each year.

### **Familiarity with Legal Service Providers**



Social service providers, legal service providers and judges were asked about their familiarity with the various legal service agencies that provide free legal services in the State. Those surveyed were most familiar with the Legal Aid Society of Hawai'i, followed by the Domestic Violence Action Center, Volunteer Legal Services Hawai'i and ACLU of Hawai'i. Hawai'i Disability Rights Center, Native Hawaiian Legal Corporation and Na Loio were organizations that they were somewhat familiar with.

Those surveyed were least familiar with the military

legal service offices as well as with the Elder Law Project, Earthjustice, Legal Services for Children, Kokua Legal Services and Maximum Legal Corporation.

Social service providers, legal service providers and judges made the most referrals to the Legal Aid Society of Hawai'i, followed by Domestic Violence Action Center, Volunteer Legal Services Hawai'i, Hawai'i Disability Rights Center and Na Loio.

<sup>81</sup> See, [www.vlsh.org](http://www.vlsh.org).

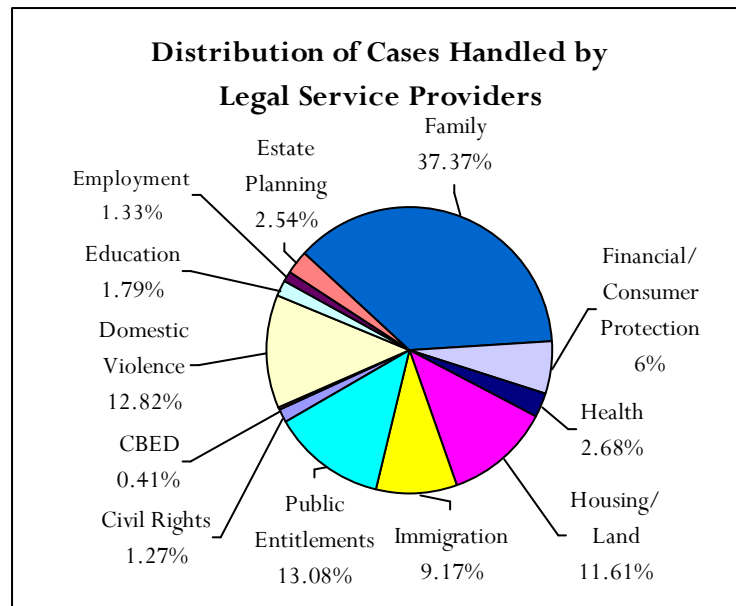
<sup>82</sup> Id.

## Areas of Service

Legal service providers provide a wide variety of legal services to the public.<sup>83</sup> Of the over 15,000 cases in which legal services were provided, the overall distribution falls heavily in the family law area, followed by cases in public entitlements, domestic violence and housing/land.

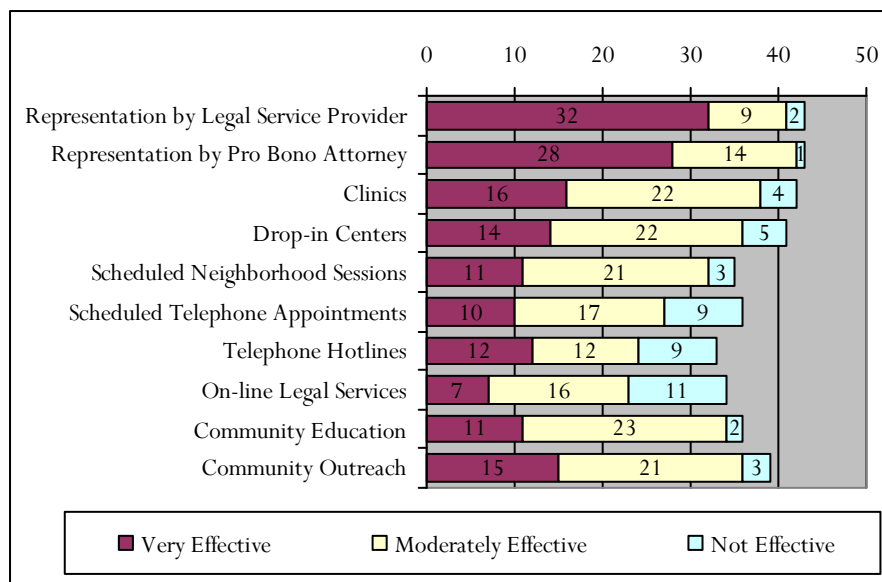
## Types of Assistance

Legal service providers use a wide range of assistance to provide legal help to those in need. They provide basic counsel and advice; brief services to those who need a little more help in the form of clinics, assistance with completing forms or filing documents; full representation; complex advocacy; policy advocacy; community education; and community outreach.



Social service providers, legal service providers and judges were asked to rate these means of assistance in terms of importance to their clients. Those surveyed ranked Counsel & Advice as the most important to their clients, followed by Brief Services and Full Representation. Community Education and Community Outreach were also important, while Complex Advocacy and Policy Advocacy were seen as important, but not the most important type of assistance.

## Delivery Methods

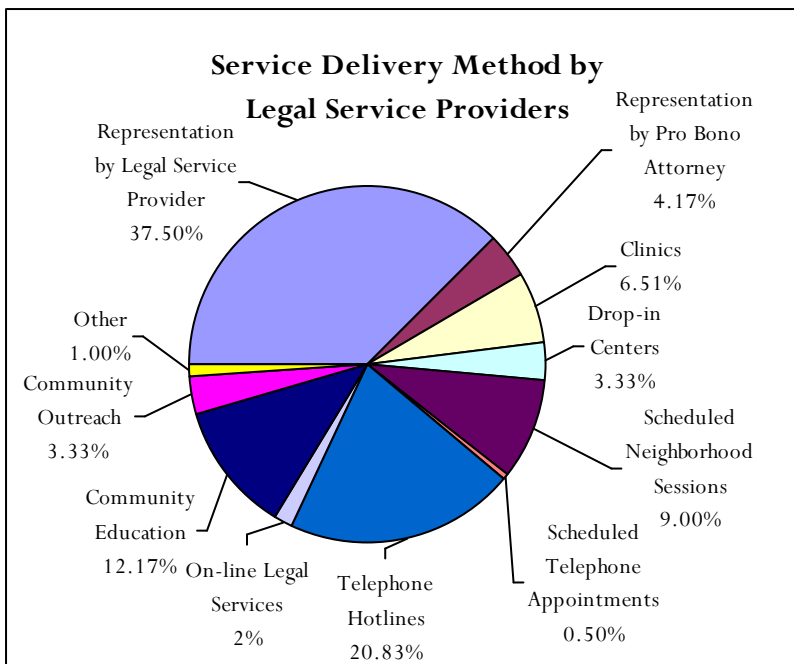


In this day and age of limited resources, many providers must find innovative ways to assist clients. Social service providers, legal service providers and judges were asked to rank the effectiveness of ten different service delivery methods. They ranked representation by a legal service provider and representation by a pro bono attorney as the most effective followed by clinics, community outreach and

<sup>83</sup> These figures are only reflective of those service providers who provided information: ACLU of Hawai'i, Domestic Violence Action Center, Legal Aid Society of Hawai'i, Na Loio, University of Hawai'i Elder Law Program and Volunteer Legal Services Hawai'i. Notably missing was the Native Hawaiian Legal Corporation who provides assistance on Native Hawaiian issues.

community education.

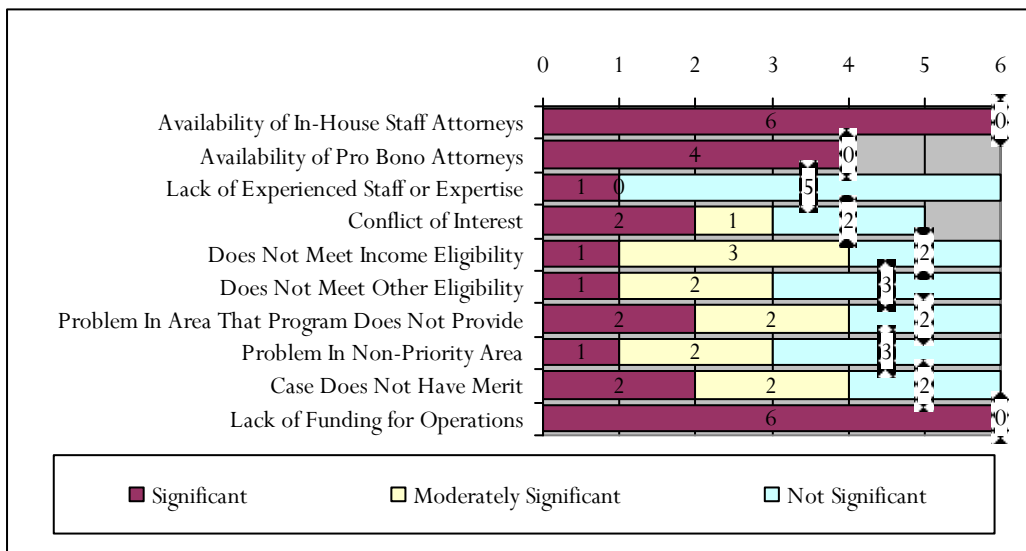
Legal service providers were also asked to identify the service delivery methods that they utilized to provide services. Clients were represented by a legal service provider in 37.50% of their cases. Telephone hotlines provide 20.83% of their services, followed by Community Education at 12.17% and Scheduled Neighborhood Sessions at 9.0%. Clinics are only used 6.51% of the time and Community Outreach and Drop-in Centers are each utilized 3.33% of the time. On-line legal services and scheduled telephone appointments are the least utilized method of service delivery by legal service providers.



### Factors that Affect the Ability to Provide Legal Services

For legal service providers, there are a number of factors that affect their ability to provide legal services to those most in need. In surveys, legal service providers were asked to rank the significance of ten different factors on their ability to provide legal services.

For legal service providers, the top two factors were the availability of in-house staff attorneys and the lack of funding for operations; these top two factors were followed by the availability of pro bono attorneys, cases that do not have merit and problems in an area in which the program does not provide services in. Not meeting income eligibility guidelines and conflicts of interest followed. Least significant was a client's inability to meet other eligibility criteria and the lack of experienced staff or expertise.



## **VIII. RECOMMENDATIONS**

There is great need in the community for civil legal services. With only 1 in 5 low- and moderate-income residents receiving the assistance they need and numerous barriers preventing access, it will take a dedicated community response to improve access to justice.

The key recommendations from legal service providers, social service organizations, judges and clients to improving access and reducing barriers to receiving access revolved around seven central solutions:<sup>84</sup>

1. Increase Services
2. Increase Private Bar Involvement
3. Increase Outreach on the Availability of Services
4. Provide High Quality and Available Services
5. Improve Language and Cultural Access
6. Provide Ancillary Services
7. Systemic Changes

### **Increase Services**

First and foremost, increasing the availability of legal services is critical to improving access to justice; judges raised this point in stakeholder interviews, social service providers suggested it in surveys and participants recommended it in focus groups.

For many, increasing services meant the expansion of services to include free clinics, to hold office hours in the evenings and weekends, provide more services for inmates, expand practice areas to worker's compensation, unemployment and labor issues, expand neighborhood based services beyond Honolulu, adjust income limits to provide services to more people and to go out to the shelters and beaches to help the homeless.

*"We need easily accessible legal representation for people who are being evicted. Many are living from one paycheck to another and if they have one unanticipated expense then they fall behind on the rent. Legal representation would help as would practical advice on where they can get help."*

*— District Court Judge*

Yet, to do so requires adding more attorneys, advocates and staff to legal service programs which requires an increase in necessary funding.

### **Increase Pro Bono Involvement**

With 7,116 inactive and active attorneys in Hawai'i, pro bono contributions would make a significant difference in increasing the availability of legal representation to Hawai'i's low- and moderate-income population. Many study participants suggested mandatory pro bono work, as well as providing incentives for pro bono work, making pro bono work more prestigious and requiring all attorneys to do pro bono work for continued licensure. Other suggestions included holding a pro bono summit to encourage pro

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<sup>84</sup> A complete list of all of their specific recommendations is provided in Appendix "A" – Attachment 6, page A-98.



bono work, focusing some work to legal education rather than just legal services and mandatory pro bono reporting.<sup>85</sup>

Attorney contributions should not only be limited to pro bono assistance as financial contributions for legal service programs can make a significant difference especially in those situations where attorneys do not have the requisite experience to assist in a pro bono case.

### **Increase Outreach on the Availability of Services**

*“A brief listing and description of all low to no cost legal services and contact numbers would be helpful. A listing like this could be translated into various key languages including a means to communicate with persons with disabilities.” – Social Service Provider*

Not knowing what services are available and where to go for services can be one of the biggest barriers for an individual seeking legal assistance. More media articles and public service announcements, a central website for specific legal problems, partnerships with community agencies, workshops with churches and community groups and public education were

suggested as possible ways to reach the client community. According to stakeholders, legal providers need to go where the people are, be visible and work with community leaders.

### **Provide High Quality and Easily Accessible Services**

People, despite their economic status, should be provided with the highest quality and most easily accessible legal services as possible. One the most common recommendations was to make the phone systems more user-friendly with a live person answering requests for services. Consistent contact for referrals, intake and timely responses were also recommended, as was effective communication training for staff members.

*“A ‘one-stop’ legal office that can address necessary services – triage center with the ability access and link services is needed.” – Social Service Provider*

### **Improve Language and Cultural Access**

Multilingual services, including the hiring of individuals who are bilingual, providing forms in other languages and providing translation services at court proceedings were some of the key recommendations to improving access to justice for non-English speakers and those from different ethnic cultures. Increasing the number of culturally-sensitive attorneys and court staff, and even providing pidgin-English speakers so that laypersons could understand were also suggested as means to improve services to the State’s diverse community.

### **Provide Ancillary Services**

For social service organizations that provide a wide variety of services, helping a person in need of legal assistance is not limited to just those legal services. Providing child care during court proceedings was recommended as a key ancillary service that should be provided to court litigants. Providers also recommended combining legal and mental health services as a way to improve access to justice.

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<sup>85</sup> Since the community focus groups, the Hawai‘i Supreme Court adopted amendments to Rule 17(d) of the Hawai‘i Rules of Professional Conduct which requires pro bono reporting.

### **Systemic Changes**

Overall changes to the legal system may also have a significant impact on increasing access to justice. Recommendations in this area ranged from improving the sensitivity of judges to clients' difficulties in securing representation, allowing legal advocates to have a voice in court, and increasing class action lawsuits to reduce illegal conduct against the poor.

## **IX. CONCLUSION**

Our State Constitution says, “No citizen shall be disfranchised, or deprived of any of the rights or privileges secured to other citizens, unless by the law of the land.” We must honor our Constitution and make a community commitment to improving access to justice for all the people of Hawai‘i. While we may be slightly closer today to meeting the civil legal needs of Hawai‘i’s poor and gap group population than we were fourteen years ago, we still have four out of five low- and moderate-income people living with unmet civil legal needs and facing numerous barriers to meeting those needs.

To move toward our goal, we must work together to put in place a plan of action that takes into consideration the needs and barriers, as well as current resources and their potential limitations. Access to justice will only be achieved through a commitment of the community, including members of the bar, the legal service agencies, the Judiciary and the community at large. We still have a long road ahead of us to improve access to justice, but with a community working and moving together we can achieve this goal.



## **APPENDIX “A”**



## **ATTACHMENT 1**

Summary of Surveys:

Social Services Providers  
Legal Services Providers  
and  
Adjudicative Bodies

Survey Instrument





**LEGAL NEEDS ASSESSMENT**  
**SUMMARY OF SOCIAL SERVICE PROVIDERS AND ORGANIZATIONS SURVEY**  
**RESPONSES**

One hundred fifty social service providers and organizations from around the State were sent surveys to assess the legal needs of Hawai'i's poor community; of the one hundred fifty social service providers and organizations contacted, twenty nine organizations provided responses to the survey,<sup>86</sup> at least one from every island except Lanai, which was a return rate of approximately 18.66%. For those social service providers and organizations for which no reply was received, follow-up calls were made requesting their assistance in completion and return of the surveys.

According to the surveys received, organizations indicated that they provide a variety of services to the community, with at least half of the organizations stating that they provide either family or food/nutrition services. Organizations also provided youth programs, housing, or job placement services. Overall, the organizations provided services in all categories listed<sup>87</sup> and also stated that they provided food stamp outreach, assisted with C-BASE alternative education/therapeutic counseling for youth, services relating to child abuse and neglect prevention, homeless services and mental health case management for limited & non-English speaking persons.

The organizations also provided a variety of services to different populations throughout the State. Of those organizations that responded to the survey, at least nineteen of the programs had no eligibility requirements and at least seven had some type of income requirement ranging from below poverty to 150% of the federal poverty level. Other eligibility requirements included income to sustain housing, medical insurance, and only referrals through adult mental health system.

Combined, these organizations serve over 550,000 people in the State each year.

**PRELIMINARY IMPRESSIONS**

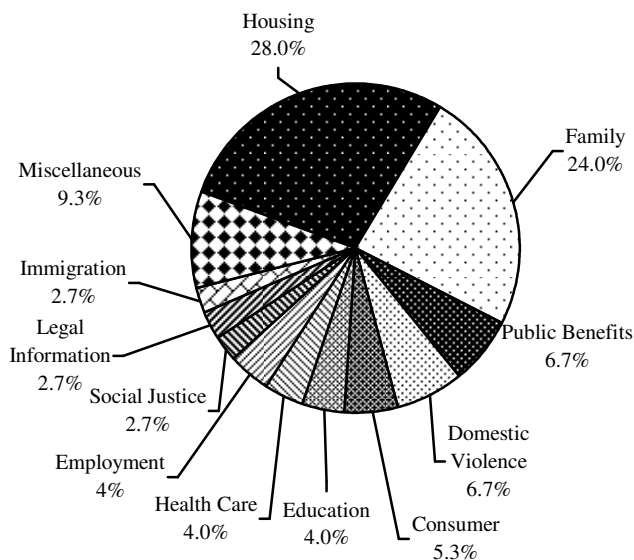
**What do you see as the three biggest unmet civil (non-criminal) legal needs that a lawyer or other legal professional can assist with in Hawai'i's poor community?**

Social service providers provided seventy-five responses to this question. Categorically, these responses fell into ten main categories, with at least two responses in each category. The remaining responses were grouped into the miscellaneous category.

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<sup>86</sup> A complete list of the organizations who provided responses is included at the end of this section.

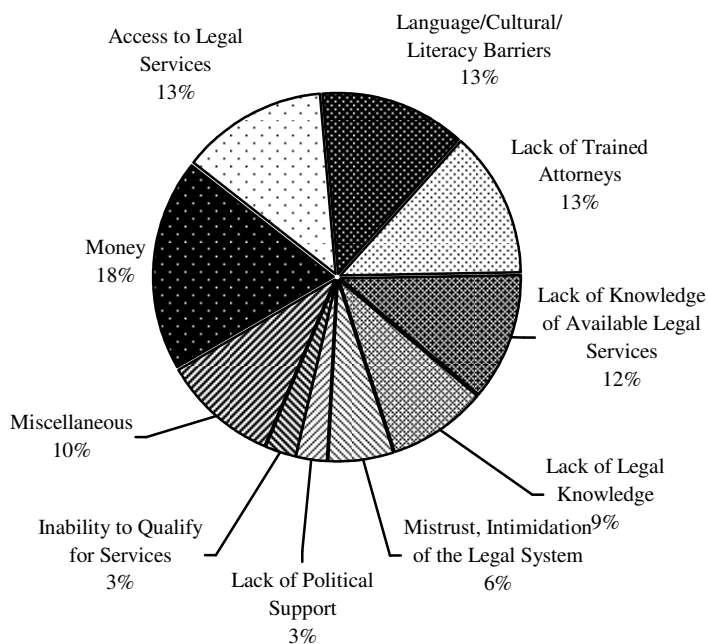
<sup>87</sup> Alternative Dispute Resolution/Mediation, Consumer, Court Services, Disabled, Domestic Violence, Ethnic Group, Faith-Based, Family, Food & Nutrition, Gay/Lesbian/Transsexual, Health Care, HIV/AIDS, Housing Immigrant, Job Placement/Training, Legal Advice and Representation, Senior, Student Rights, Substance Abuse Treatment, Translation, and Youth Programs.



**Housing** (evictions, waitlists, tenant rights, quality of care homes, placement, expedited processing of HUD vouchers, credit restoration for housing, etc.)  
**Family** (custody, divorce, guardianship, adoption, child support, CPS removal of children, etc.)  
**Public Benefits** (welfare, social security, rights and access, etc.)  
**Domestic Violence** (restraining orders, etc.)  
**Consumer** (debt and credit issues, improving and correcting credit reports, predatory lending education, bankruptcy, etc.)  
**Education** (school advocacy, etc.)  
**Health Care** (access to dental care, maintaining health insurance, advance health care directives etc.)  
**Employment** (workman's compensation, job shortages for people with high school diplomas and GEDs, etc.)  
**Social Justice** (violation of children's rights by government, etc.)  
**Legal Information** (getting legal information to low-income people, interpreting legal documents, etc.)  
**Miscellaneous** (immigration, no fault insurance, homeless court, workman's comp., unavailable resources, civil actions, etc.)

### What do you see as the three most significant barriers to meeting these needs?

Social service providers provided thirty-five responses to this question. Categorically, these responses fell into eight main categories, with at least two responses in each category. The remaining responses were grouped into the miscellaneous category.



**Money** (cost, lack of income, income, no money, money, reduction of resources, etc.)  
**Access to Legal Services** (access, not enough access, access to legal services, bureaucracy when requesting assistance, access to legal assistance, accessibility, getting low-income people #s, connected to legal services, etc.)  
**Language/Cultural/Literacy Barriers** (language/cultural, clients don't speak and understand English well resulting in missed deadlines, culture/shame, language/cultural barriers, language access to legal services, fear of legal system, inability to communicate effectively, etc.)  
**Lack of Trained Attorneys** (get more Kauai Legal Aid people, few attorneys address this population, lawyers, not enough trained attorneys in DV field, lack of legal representation to garnish wages of uninsured motorists, lack of pro bono legal assistance, etc.)  
**Lack of Knowledge of Available Legal Services** (lack of understanding/education, information/ knowledge, education, limited or no knowledge of legal services, lack of knowledge of programs/services that may be available, etc.)  
**Lack of Legal Knowledge** (lack of knowledge about laws/rights, lack of understanding of school/DOE systems, etc.)  
**Mistrust, Intimidation of the Legal System** (victims/ public's general intimidation and mistrust of the legal system, being intimidated about accessing assistance, fear of legal system, misuse of laws/courts)  
**Lack of Political Support** (lack of political motivation, no formal discussion by lawmakers, etc.)  
**Inability to Qualify for Services** (income criteria, qualification for services, etc.)  
**Miscellaneous** (age, illegal discrimination by landlords, lack of alternatives, conflict, lack of public interest, no formal process or guide to recognize legal acceptance of documents, distance to get to lawyer, school, etc.)

## **LEGAL NEEDS OF CLIENT POPULATION**

In this question, social service providers were asked how many clients have problems in one of thirteen legal areas and then were asked to estimate the percentage of those who have problems in those areas that have their legal needs met.

Responses from social service providers vary from eight to eighteen per legal area.<sup>88</sup> Some provided responses to both questions while others only provided answers to one. When combined, the average percent of clients who have their legal needs met is 14.68%. A summary of their responses is provided below (total number of clients served and average response rate for the percentage of those who have their needs met).

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<sup>88</sup> One agency, which is a health care provider, provided relatively high numbers, which affected the overall numbers. This agency's numbers ranged from 10,000 to 90,000 as estimates of clients with particular legal problems and only in certain areas. Due to the high statistical deviation from the median of other responses, this agency's numbers were removed from the overall totals and average percentages were excluded from the data.

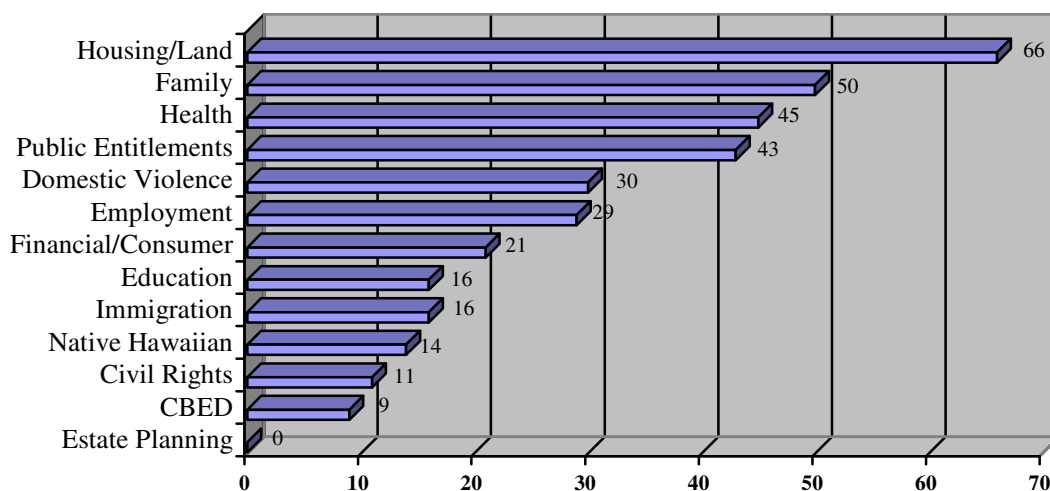
<b><u>Subject Area</u></b>	<b>Number of Clients with problem in the area</b>	<b>% of Overall Clients with this Problem</b>	<b>% needing legal services who have their legal needs met</b>
<b>CIVIL RIGHTS:</b> (including, but not limited to public accommodation problems, first amendment rights, prisoner rights, language access)	2,191	5.75%	12.89%
<b>COMMUNITY BASED ECONOMIC DEVELOPMENT:</b> (including, but not limited to small business problems, non-profit business assistance)	801	2.10%	5.29%
<b>DOMESTIC VIOLENCE:</b> (including, but not limited to temporary restraining order or other protection from violence, access to shelters and housing, access to support services)	4,732	12.43%	12.31%
<b>EDUCATION:</b> (including, but not limited to access to special education services, school discrimination, homeless children rights to education)	5,324	13.98%	17.89%
<b>EMPLOYMENT:</b> (including, but not limited to unemployment compensation, wrongful termination, employment discrimination, worker's compensation)	739	1.94%	18.25%
<b>ESTATE PLANNING:</b> (including, but not limited to wills, advance health care directives, powers of attorney, trusts, deeds, probate)	2,640	6.93%	17.50%
<b>FAMILY:</b> (including, but not limited to divorce, child custody, child support, paternity, adoption, guardianship or conservatorship, child welfare)	5,015	13.17%	18.25%
<b>FINANCIAL/CONSUMER PROTECTION:</b> (including, but not limited to debt collection, bankruptcy, repossession, fraud, predatory lending, credit discrimination, motor vehicle problems, tax)	3,034	7.97%	9.91%
<b>HEALTH:</b> (including, but not limited to access to or denial of health care, problems with Quest, problems with Medicare/Medicaid)	3,520	9.24%	22.38%
<b>HOUSING/LAND:</b> (including, but not limited to leases, evictions, damage disputes, security deposits, Section 8 vouchers, public housing, housing discrimination, mortgage problems, utility shutoff)	3,354	8.81%	18.36%
<b>IMMIGRATION:</b> (including, but not limited to deportation/removal defense, naturalization, adjustment of status, immigrant crime victims, human trafficking, work visas)	925	2.43%	13.75%
<b>NATIVE HAWAIIAN RIGHTS:</b> (including, but not limited to denial of cultural and religious rights, land disputes, water disputes, geothermal disputes, Hawaiian Homeland problems)	758	1.99%	7.29%
<b>PUBLIC ENTITLEMENTS:</b> (including, but not limited to TANF, TAONF, GA, SSI, Social Security Disability, food stamps)	3,030	7.96%	16.78%

## MOST IMPORTANT AND FASTEST GROWING LEGAL PROBLEMS

Of the problems listed below, please rank the five that you would consider the most important to the population you serve?

Twenty-seven respondents provided rankings to the problems faced by their clients. Housing by far was the most important issue, followed by family, health, public entitlements and domestic violence.

In determining the rankings, a value was given to each ranking (i.e. first – five points, second – four points, third – three points, fourth – two points and fifth – one point) and the sum of these rankings was added to determine the key issues.



**CIVIL RIGHTS:** (including, but not limited to public accommodation problems, first amendment rights, prisoner rights, language access)

**COMMUNITY BASED ECONOMIC DEVELOPMENT:** (including, but not limited to small business problems, non-profit business assistance)

**DOMESTIC VIOLENCE:** (including, but not limited to temporary restraining order or other protection from violence, access to shelters and housing, access to support services)

**EDUCATION:** (including, but not limited to access to special education services, school discrimination, homeless children rights to education)

**EMPLOYMENT:** (including, but not limited to unemployment compensation, wrongful termination, employment discrimination, worker's compensation)

**ESTATE PLANNING:** (including, but not limited to wills, advance health care directives, powers of attorney, trusts, deeds, probate)

**FAMILY:** (including, but not limited to divorce, child custody, child support, paternity, adoption, guardianship or conservatorship, child welfare)

**FINANCIAL/CONSUMER PROTECTION:** (including, but not limited to debt collection, bankruptcy, repossession, fraud, predatory lending, credit discrimination, motor vehicle problems, tax)

**HEALTH:** (including, but not limited to access to or denial of health care, problems with Quest, problems with Medicare/Medicaid)

**HOUSING/LAND:** (including, but not limited to leases, evictions, damage disputes, security deposits, Section 8 vouchers, public housing, housing discrimination, mortgage problems, utility shutoff)

**IMMIGRATION:** (including, but not limited to deportation/removal defense, naturalization, adjustment of status, immigrant crime victims, human trafficking, work visas)

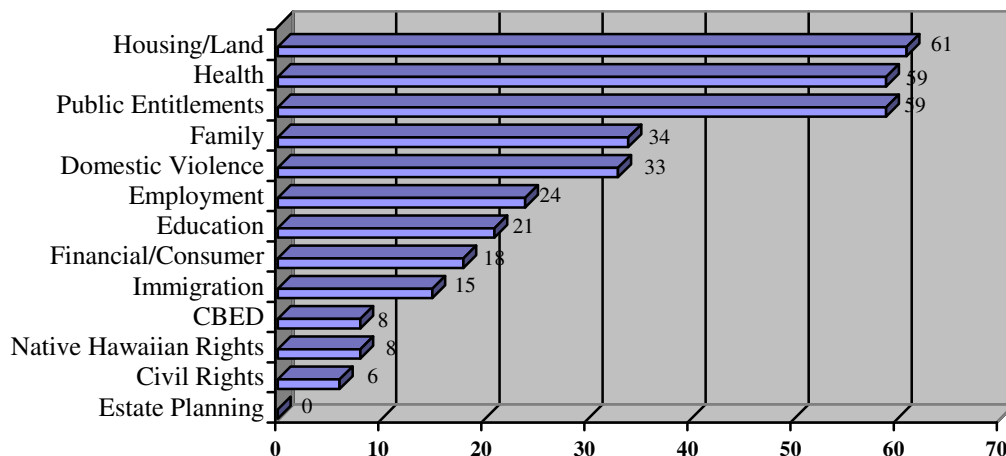
**NATIVE HAWAIIAN RIGHTS:** (including, but not limited to denial of cultural and religious rights, land disputes, water disputes, geothermal disputes, Hawaiian Homeland problems)

**PUBLIC ENTITLEMENTS:** (including, but not limited to TANF, TAONF, GA, SSI, Social Security Disability, food stamps)

**Of the problems listed below, please rank the five that you would consider the fastest growing for the population you serve?**

Twenty-seven social service providers provided rankings to the problems faced by their clients. Housing, closely followed by health and public entitlements were three of the fastest growing areas for the population they serve, followed by family and domestic violence.

In determining the rankings, a value was given to each ranking (i.e. first – five points, second – four points, third – three points, fourth – two points and fifth – one point) and the sum of these rankings was added to determine the key issues.



**CIVIL RIGHTS:** (including, but not limited to public accommodation problems, first amendment rights, prisoner rights, language access)

**COMMUNITY BASED ECONOMIC DEVELOPMENT:** (including, but not limited to small business problems, non-profit business assistance)

**DOMESTIC VIOLENCE:** (including, but not limited to temporary restraining order or other protection from violence, access to shelters and housing, access to support services)

**EDUCATION:** (including, but not limited to access to special education services, school discrimination, homeless children rights to education)

**EMPLOYMENT:** (including, but not limited to unemployment compensation, wrongful termination, employment discrimination, worker's compensation)

**ESTATE PLANNING:** (including, but not limited to wills, advance health care directives, powers of attorney, trusts, deeds, probate)

**FAMILY:** (including, but not limited to divorce, child custody, child support, paternity, adoption, guardianship or conservatorship, child welfare)

**FINANCIAL/CONSUMER PROTECTION:** (including, but not limited to debt collection, bankruptcy, repossession, fraud, predatory lending, credit discrimination, motor vehicle problems, tax)

**HEALTH:** (including, but not limited to access to or denial of health care, problems with Quest, problems with Medicare/Medicaid)

**HOUSING/LAND:** (including, but not limited to leases, evictions, damage disputes, security deposits, Section 8 vouchers, public housing, housing discrimination, mortgage problems, utility shutoff)

**IMMIGRATION:** (including, but not limited to deportation/removal defense, naturalization, adjustment of status, immigrant crime victims, human trafficking, work visas)

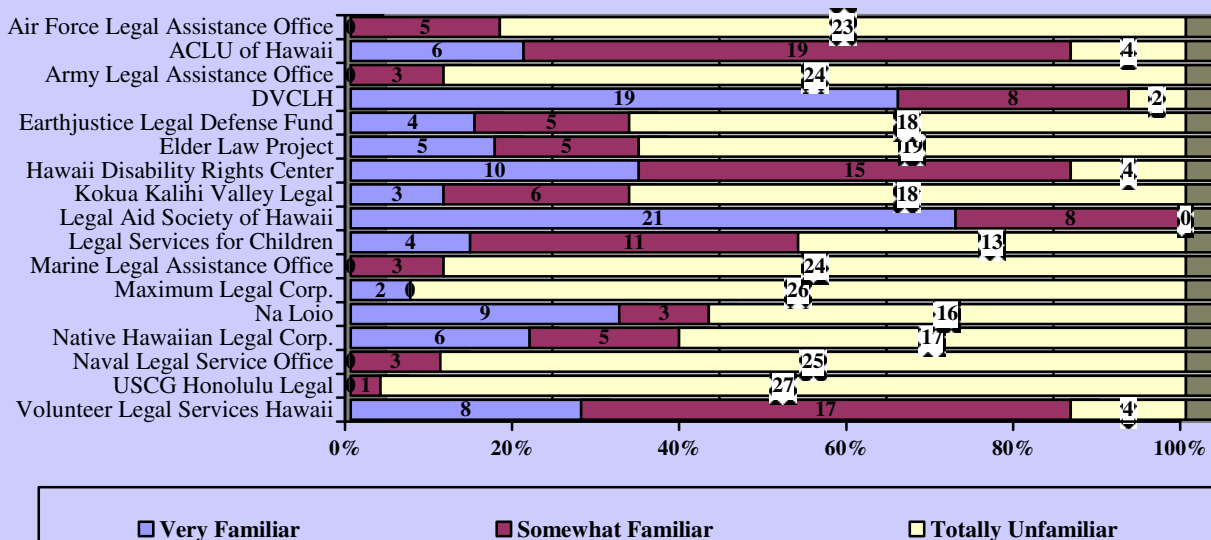
**NATIVE HAWAIIAN RIGHTS:** (including, but not limited to denial of cultural and religious rights, land disputes, water disputes, geothermal disputes, Hawaiian Homeland problems)

**PUBLIC ENTITLEMENTS:** (including, but not limited to TANF, TAONF, GA, SSI, Social Security Disability, food stamps)

## KNOWLEDGE OF LEGAL SERVICE PROVIDERS

Use the scale below to rate your familiarity with each of the organizations listed below:

Nineteen organizations provided responses to this question. Providers were most familiar with the Legal Aid Society of Hawai'i, followed by Domestic Violence Clearinghouse and Legal Hotline,<sup>89</sup> Hawaii Disability Rights Project, Volunteer Legal Services, and ACLU of Hawai'i. They were generally familiar with Legal Services for Children, Na Loio, Native Hawaiian Legal Corporation, the Elder Law Project, Earthjustice Legal Defense Fund and Kokua Kalihi Valley Legal Services. They were most unfamiliar with the military assistance programs and Maximum Legal Corp.



## Do you ever refer clients to organizations that provide free or low-cost legal services?

Of the twenty-nine providers that responded to this question, twenty six (89.7%) said that they referred people to those organizations, two (6.9%) stated that they did not and one said that they don't know.

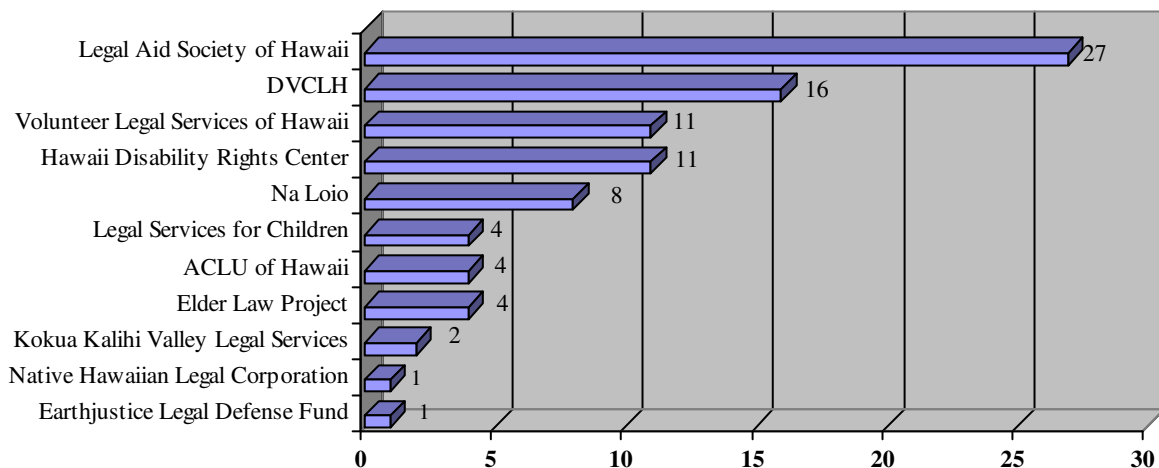
<sup>89</sup> The Domestic Violence Clearinghouse and Legal Hotline changed its name to the Domestic Violence Action Center after this survey was conducted. For data consistency, it will be referred to as the Domestic Violence Clearinghouse and Legal Hotline in this summary.

### **If so, how about how many referrals do you make per year?**

Twenty six providers responded to this question. With three providers making more than 100 referrals, three making between 51-100 referrals, five making 26-50 referrals, twelve making 5-25 referrals and three making fewer than 5 referrals.

### **If so, to which organizations do you refer clients?**

Twenty-eight providers responded to this question and stated that they made referrals to the following agencies:



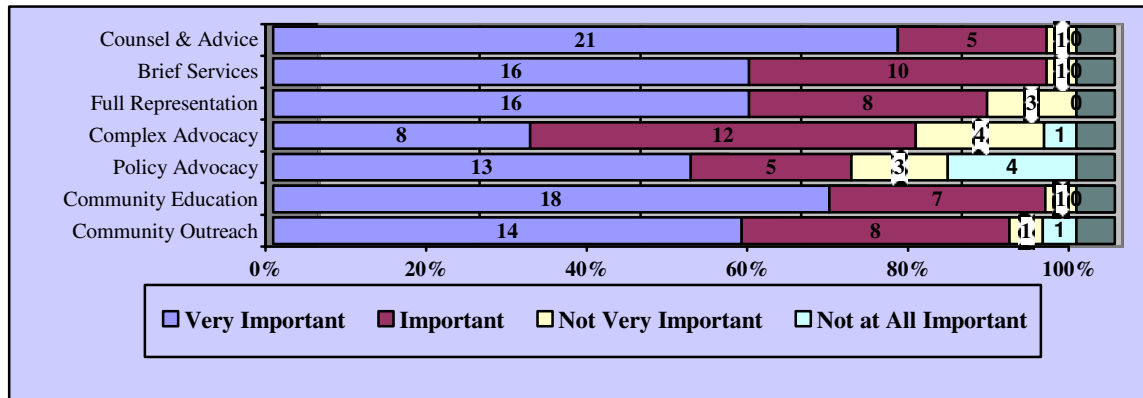
### **If you DO NOT make referrals to these organizations, why not (check all that apply)?**

Nine social service providers answered this question. Three stated it was because they “don’t know which agency to refer them to,” two stated that the “client problems don’t seem to be legal in nature,” two stated that they were “worried about cost of legal services for clients,” and one stated that they were “worried about quality of legal services to client.” Six also provided a variety of responses including: “not aware of legal needs of client;” “don’t know the kinds of help each agency provides;” “few work on Molokai,” “not familiar with those agencies,” “not available on neighbor islands;” and “lack of knowledge about program/services.”

### **Please rate the importance of the following types of assistance to your clients, based upon your experience with them.**

Twenty-seven social service providers provided responses to this question, agreeing that Counsel & Advice and Community Education were very important types of assistance to clients. Brief Services, Full Representation, and Community Outreach were also seen as important, followed by Complex Advocacy and Policy Advocacy.

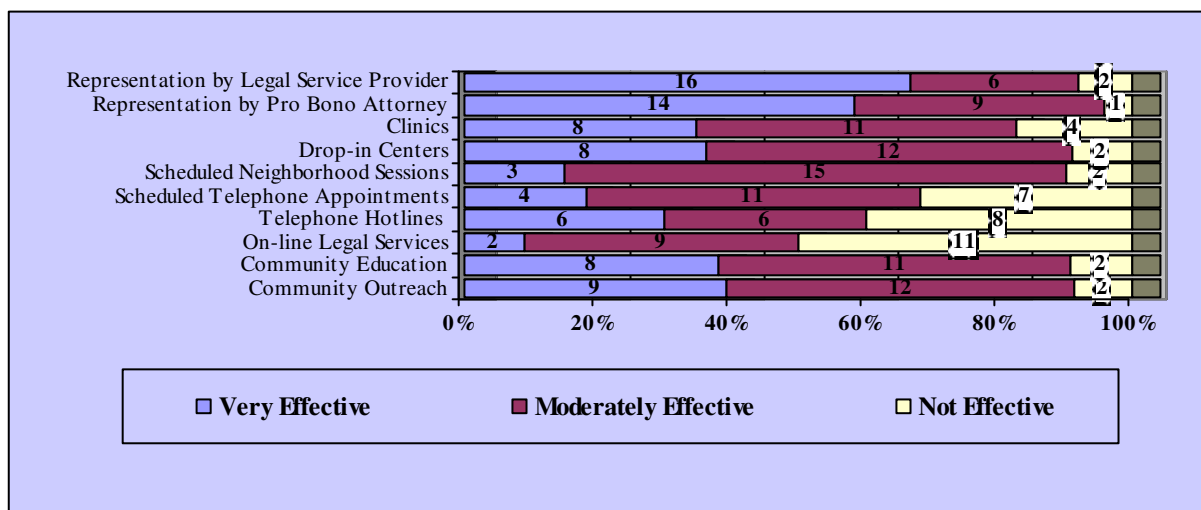




**Please provide your opinion regarding the effectiveness of each of the following legal service delivery techniques:**

Twenty-seven social service providers provided responses to this question aimed at uncovering their opinion as to the effectiveness of a variety of legal service techniques. Direct representation by either a legal service provider or a pro bono attorney were agreed to be the most effective delivery of service technique. Community outreach, drop-in centers, and community education were also ranked as effective techniques, followed by clinics, scheduled neighborhood sessions, scheduled telephone appointments, telephone hotlines providing advice and on-line legal services.

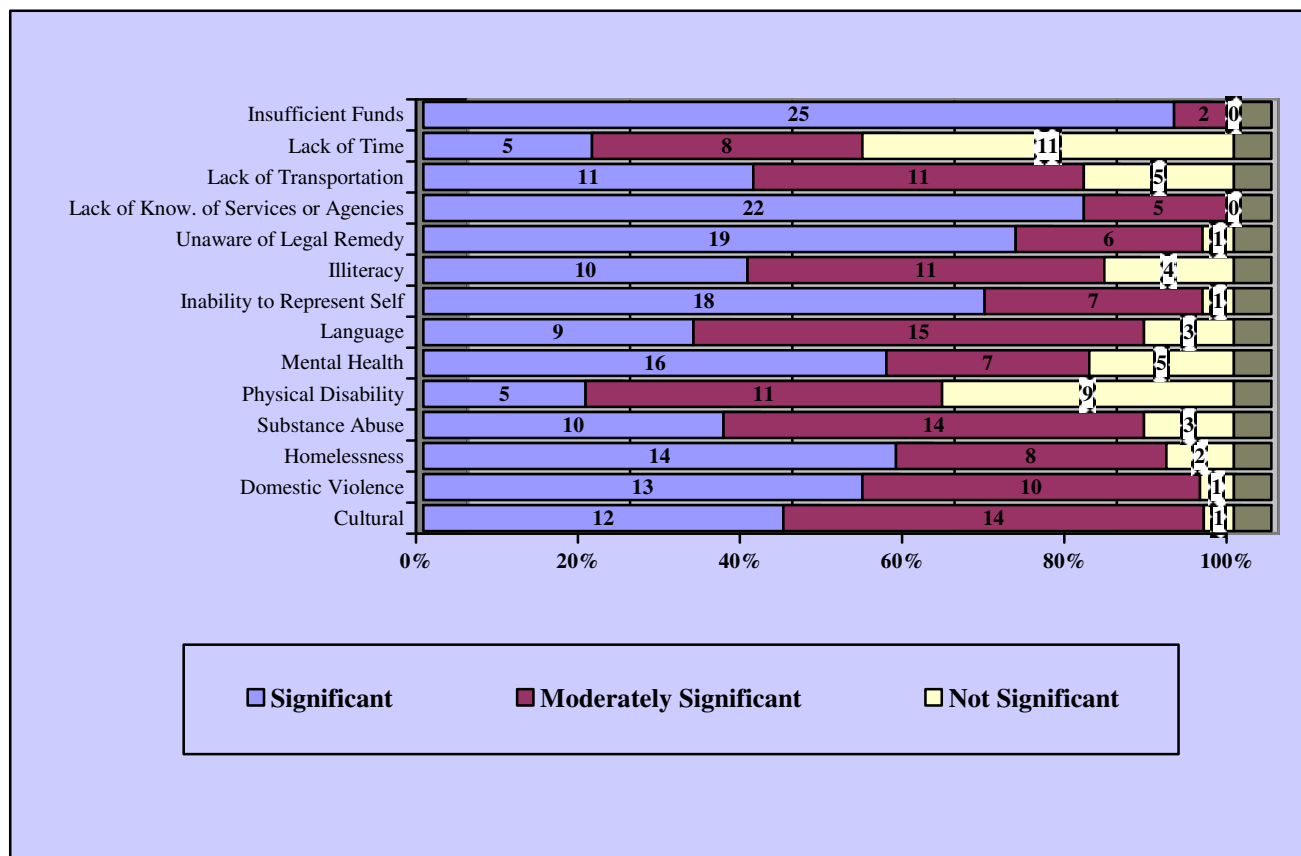
In addition to rating the effectiveness, the providers also indicated that they were most unsure about the effectiveness of telephone hotlines and community education, followed by direct representation by legal service provider and scheduled neighborhood sessions. Of the social service providers, three were unaware that scheduled neighborhood sessions for one-on-one intake existed and at least two providers each stated that they were unaware of drop-in centers, scheduled telephone appointments, telephone hotlines, on-line legal services and community outreach.



## **BARRIERS TO ACCESSING LEGAL SERVICES**

**Please rate the following client related barriers affecting the ability of your clients to receive legal assistance.**

Twenty-eight organizations provided ratings to these barriers. The most significant client-related barrier was insufficient funds of clients, followed by the lack of knowledge of services or agencies, being unaware that a legal remedy exists and an inability to represent oneself. Providers also found mental health, homelessness, domestic violence, illiteracy, language, cultural issues, lack of transportation and substance abuse as moderately significant. The least significant barriers were physical disability and lack of time.

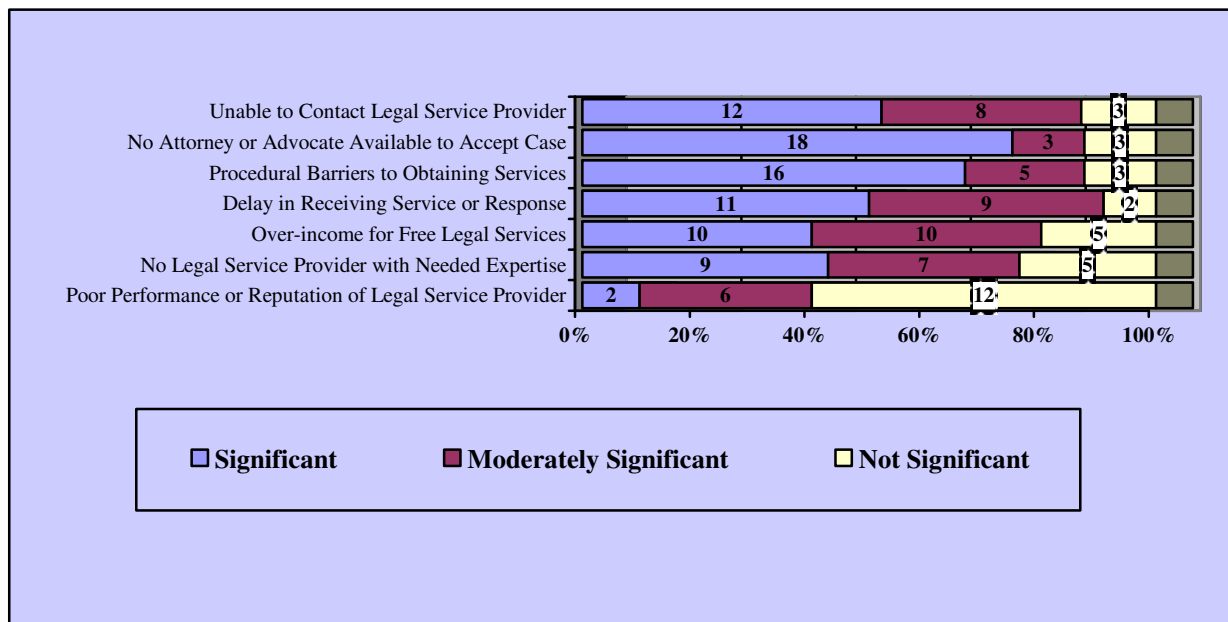


**Please rate the following legal provider related barriers affecting the ability of your clients to receive legal assistance.**

Twenty-eight organizations provided ratings to these barriers. The most significant legal provider related barrier was no attorney or advocate available to accept the case, followed closely by procedural barriers to obtaining services, inability to contact legal service providers, and delay in receiving service or response. Being over-income for free legal services and no legal service provider with needed expertise were also significant factors. For some social service providers, poor performance or reputation of a legal service provider was moderately significant, however, the majority felt that it was not significant.

A number of providers also stated that they were unsure as to these barriers (unable to contact legal service provider (4), no attorney or advocate available to accept the case (4), procedural barriers (4), delay

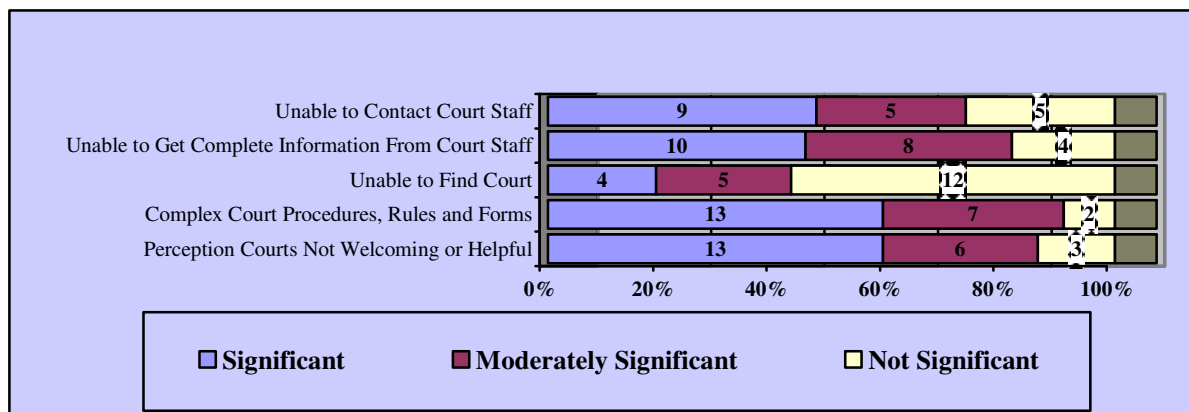
in response (5), over-income for free legal services (2), no legal service provider with needed expertise (6), and poor performance (7)).



**Please rate the following court-related barriers affecting the ability of your clients to receive legal assistance.**

Twenty-seven organizations provided ratings to these barriers. The most significant court-related barriers were the complexity of court procedures, rules and forms and the perception that courts are not welcoming or helpful to users. Providers also found that the inability to get complete or understandable information or to contact a court staff person for information was a slight barrier. Overall, they did not believe that the inability to find the court to be a barrier.

A number of providers also stated that they were unsure as to some of these barriers (unable to contact staff person for information (8), unable to obtain complete or understandable information from court staff (5), unable to find court (6), complex court rules and procedures (5), and perception that court is not welcoming (5)).



**Please list any other barriers to accessing legal services that the people you serve encounter.**

*Need for child care during proceedings.*

*Delays in response from pro bono services. Cultural embarrassment revealing information. Intimidated by court procedures.*

*Conflict of interest perpetrators have already filed with Legal Aid so victims cannot use.*

*Calling one court, speaking to one staff with multiple transferring between staff and courts is frustrating. Can spend hours and finally get one staff for help with my patients. Can you imagine a patient dealing with this especially one with psychiatric problems?*

*The court process is very user unfriendly; people proceeding pro se lose.*

*Money for court and attorney fees.*

*Burnt out workers with too many cases.*

*Conflict with employment and schools; lack of pro bono and affordable and effective lawyers; lack of affordable child care; afraid child welfare will take children away; language and cultural barriers.*

## **RECOMMENDATIONS FOR IMPROVEMENT**

**Please describe any specific suggestions or ideas you have to improve the access that low- and/or moderate-income people in Hawai'i have to legal advice, legal assistance, legal representation or to the court system.**

Twenty-one social service providers offered suggestions and ideas to improve access to the justice system. Suggestions received included increasing and improving services, increasing outreach on the availability of services, providing high quality and available services, improve language and cultural access and providing ancillary services.

### **Increasing services**

- *Offer free clinics.*
- *Hold office hours in evening/weekends.*
- *Group work does not work well for poor people.*
- *More legal clinics.*
- *Let new parents at Kapiolani know their legal rights, re: father's name on birth certificate.*
- *Just need more legal aid for divorce/custody as right now person with most \$ gets kids, etc. Need a level playing field.*
- *More staff at legal aid organizations to handle case and incoming calls and visits.*
- *Battered women need legal help with ROs, divorce, custody, visitation — sometimes more help is needed post-decree.*

- *It seems to me from what I hear (anecdotally) that the income limits for free or reduced legal services are very low. There are lots of people I know who are not “federally classified poverty level” but still don’t have enough money to access market legal services because their housing costs are so high. I think it would be helpful to set income limits that take into consideration how high an individual’s housing costs are.*
- *Offer more clinics or forums in various communities to help people better understand their rights, the availability of mediation as an alternative, how to prepare for mediation with other processes.*
- *Provide an easy to read guide to court processes.*
- *Court/clinic hours during the evening.*
- *Better funding and staffing of legal service providers.*
- *Improved community outreach of services (e.g. home visits).*
- *More funding for hiring of domestic violence trained attorneys.*

#### Increasing Outreach on Availability of Services

- *A brief listing and description of all low to no cost legal services and contact numbers would be helpful. A listing like this could be translated into various key languages including a means to communicate with persons with disabilities.*
- *I think easy access to legal service providers is key for the clients at YO!. They aren't really very good about showing up for appointments at offices that are beyond the areas that they hang out so the more that providers can interact with them in their environments the more likely they are to get the assistance they need. Something we've done at YO! is to establish a partnership with Na Keiki Law Center so that a lawyer from their office attends our Drop-In once a week. While they don't necessarily talk with folks each week, they have now become an established/trusted presence at YO! and so the clients are more willing to seek assistance from them.*
- *We can provide a place to reach our participants if we had more legal assistance available to us.*
- *Sponsor workshops in churches, get involved with community activities, try to get involved with their social groups and provide responsible follow-up.*
- *There needs to be more outreach to lower income people so that they become aware of services available to them.*
- *More public education, re: what legal aid can do or not do; eligibility requirements and fees if any.*
- *Advertise free legal services on TV, radio, “Help Line” access.*
- *PSA advertisement of services on TV.*

#### Increasing Private Bar Involvement

- *Require attorneys to conduct pro bono services.*
- *Incentives for pro bono work for attorneys.*
- *Requiring all attorneys to do pro bono work for continued licensure.*
- *Having scholarship law students give back to community.*

#### Providing High Quality and Easily Accessible Services

- *Making consistent contact for referrals, intake, respond in a timely manner.*
- *Need a live person answering the phone - phone system is not user friendly.*
- *One center to house all information and direct to appropriate court on staff; return phone calls in a timely manner; staff trained in proper and healthy communication; need not to repeat whole scenario over again.*
- *More domestic violence training.*

### Improve Language and Cultural Access

- *Hire individuals whom are bilingual.*
- *Increase the # of culturally-sensitive attorneys and court staff.*
- *Need more diverse and trained translators.*
- *Interpreters available at court.*

### Provide Ancillary Services

- *Childcare needs to be available.*
- *Affordable child care*

### Systemic Changes

- *Stricter penalties for those who abuse the poor's vulnerability.*

**Please describe any specific suggestions or ideas you have to reduce or eliminate barriers to meeting the civil legal needs of low- and /or moderate-income people in Hawai'i.**

Sixteen providers shared their thoughts regarding reducing or eliminating barriers to meet the civil legal needs of low- and/or moderate-income people in Hawai'i.

### Increasing services

- *Increase the pro bono work that students need for their law degree.*
- *More \$ for services.*
- *More drop in sites - i.e. don't just stay in the office, get out to the other parts of the island.*
- *It seems to me from what I hear (anecdotally) that the income limits for free or reduced legal services are very low. There are lots of people I know who are not "federally classified poverty level" but still don't have enough money to access market legal services because their housing costs are so high. I think it would be helpful to set income limits that take into consideration how high an individual's housing costs are.*
- *Funding for adequate services and representation.*
- *Offer more resources for the "gap group" population, they are poor but make too much money to be eligible for free services.*
- *Increased services and centers for people instead of having to drive into Honolulu; outreach centers throughout the state.*
- *Home visits.*
- *More funding for legal representation.*

### Increasing Outreach on Availability of Services

- *A local website that offers information for specific legal problems that briefly explains the legal situation and what people can do to resolve the situation. The information could include persons that can be contacted for more information.*
- *Lots of public education - our clients don't have \_\_\_\_\_ and really don't pay attention to education unless they need it at the time.*
- *More public/community outreach and education workshops for agency staff.*

### Providing High Quality and Easily Accessible Services

- *More live people on the phone.*
- *User-friendly methods to access help*
- *Trained staff who deal with pressure and have healthy and proper communication.*
- *Provide staff, education staff explaining everything at a 5th grade level and have them repeat what is said for all people till they understand.*

### Improve Language and Cultural Access

- *Multi-language responders (i.e. Micronesian, Filipino, Samoan.)*
- *Providers speak pidgin-English or other languages and English that laypersons can understand.*

### Provide Ancillary Services

- *“One-stop” legal office that can address necessary services - triage center with ability to access and link services needed.*
- *Combine legal and mental health services as many suffer from depression, trauma, etc. Good tag team.*
- *Child care programs for court proceedings.*
- *Public defender’s office desperately needs increased staff and compensation.*

### Systemic Changes

- *A special court for these cases (e.g. Drug Court for substance abuse)*
- *Class action lawsuits are so possible to reduce illegal conduct with poor.*
- *Allow legal advocates to have a voice in court.*

## **PARTICIPATING ORGANIZATIONS\***

### **Statewide Providers**

Hawaii Families as Allies  
Hawaii State Coalition Against Domestic Violence  
Mental Health America of Hawaii  
Mental Health Kokua

### **Oahu**

Adult Friends for Youth  
Hospice Hawaii  
Lanakila Rehabilitation Services  
The Mediation Center of the Pacific  
Moiliili Community Center  
Palama Settlement  
Susannah Wesley Community Center  
Wahiawa General Hospital  
Waianae Community Outreach  
Waikiki Health Center  
Youth Outreach

### **Kauai**

Hale Halawai Ohana O Hanalei  
Kauai Economic Opportunity, Incorporated  
Kauai Food Bank

### **Maui County**

Maui Economic Opportunity, Inc.  
Maui Youth & Family Services

### **Maui**

Community Clinic of Maui  
Maui Family Support Services, Inc.

### **Molokai**

Hospice Hawaii  
Mediation Center of Molokai  
Molokai General Hospital

### **West Hawaii**

Neighborhood Place of Kona

### **East Hawaii**

Hui Malama Ola Na 'Oiwi  
Neighborhood Place of Puna

\*Some organizations did not disclose their name.



## LEGAL NEEDS ASSESSMENT

### SUMMARY OF LEGAL SERVICE PROVIDERS AND ORGANIZATIONS SURVEY

### RESPONSES

Twelve legal service providers were sent surveys to assess the legal needs of Hawai'i's poor community; of the twelve service providers contacted, eight providers responded to the survey, which was a return rate of approximately 66.66%. For those legal service providers for which no reply was received, follow-up calls to all providers were made requesting their assistance in completion and return of the surveys.

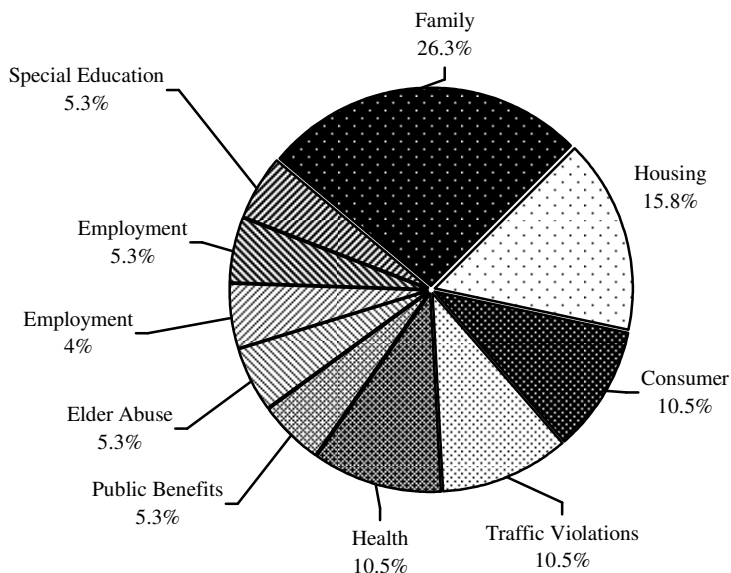
The legal service providers who responded included Legal Service for Children, Legal Aid Society of Hawai'i, ACLU of Hawai'i, University of Hawai'i Elder Law Program, Na Loio, Domestic Violence Clearinghouse & Legal Hotline<sup>90</sup> and Volunteer Legal Services Hawai'i.

These legal service providers also provided various services to different populations throughout the State and at least half of the programs have no income requirement while the other half had income requirements ranging from below 125 to 250% of the federal poverty level. Combined, these organizations serve over 22,000 people in the State each year.

### PRELIMINARY IMPRESSIONS

**What do you see as the three biggest unmet civil (non-criminal) legal needs that a lawyer or other legal professional can assist with in Hawai'i's poor community?**

Legal service providers provided nineteen responses to this question. Categorically, these responses fell into nine categories.

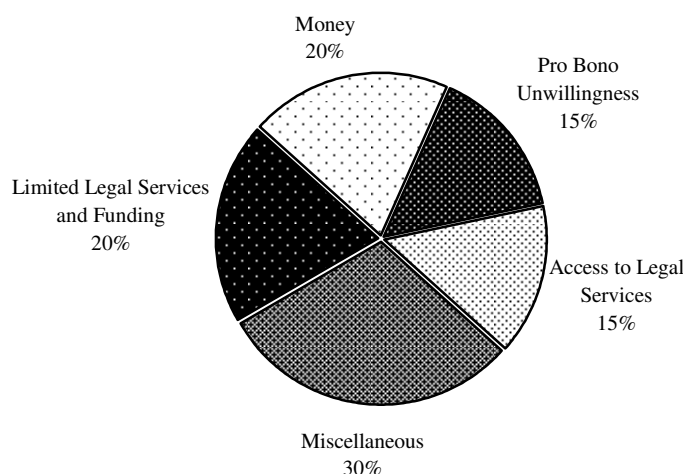


**Family** (guardianship, adoptions, power of attorney, child custody, abuse and neglect, support, assistance to parents dealing with child welfare services, etc.)  
**Housing** (housing foreclosures, foreclosure scams, eviction defense, homeless assistance, landlord-tenant, etc.)  
**Consumer** (better and more accessible financial counseling regarding bankruptcy, credit management, assistance to people with consumer problems, etc.)  
**Traffic Violations** (years of parking citations, speeding tickets)  
**Health** (health issues, friendlier and more accessible information about Medicaid, etc.)  
**Public Benefits**  
**Elder Abuse** (stronger elder abuse laws, re: financial and physical abuse)  
**Domestic Violence** (assistance to victims of domestic violence, etc.)  
**Employment**  
**Special Education**

<sup>90</sup> The Domestic Violence Clearinghouse and Legal Hotline changed its name to the Domestic Violence Action Center after this survey was conducted. For data consistency, it will be referred to as the Domestic Violence Clearinghouse and Legal Hotline in this summary.

## What do you see as the three most significant barriers to meeting these needs?

Legal service providers provided twenty responses to this question. Categorically, these responses fell into four main categories, with at least two responses in each category, the remaining responses were grouped into the miscellaneous category.



**Limited Legal Services and Funding** (availability of legal assistance, lack of funding for civil legal needs, rural communities lack available legal support, absence of legal help, etc.)  
**Money** (cost, no money, money, poverty, inability to pay, etc.)  
**Pro Bono Unwillingness** (attorney's willingness to accept complex cases, attorney's willingness to accept last minute cases, attorney's willingness to accept contested cases, etc.)  
**Access to Legal Services** (don't know who to call, lack of information about how legal services could help, inhibition about seeking assistance, etc.)  
**Miscellaneous** (extremely tight housing market, too many children in unstable families, need increased support for a stronger elder abuse law, diminished mental capacity, lack of information and high cost of health care, lack of training in special education law both for parents and advocate lawyers, etc.)

## LEGAL NEEDS OF CLIENT POPULATION

In this question, legal service providers were asked how many clients have problems in one of thirteen legal areas and then were asked to estimate the percentage of those who have problems in those areas that have their legal needs met.

Responses from legal service providers vary from three to six per legal area. Some provided responses to both questions while others only provided answers to one. When combined, the average percent of clients who have their legal needs met is 35.58%. A summary of their responses is provided below (total number of clients served and average response rate for the percentage of those who have their needs met).

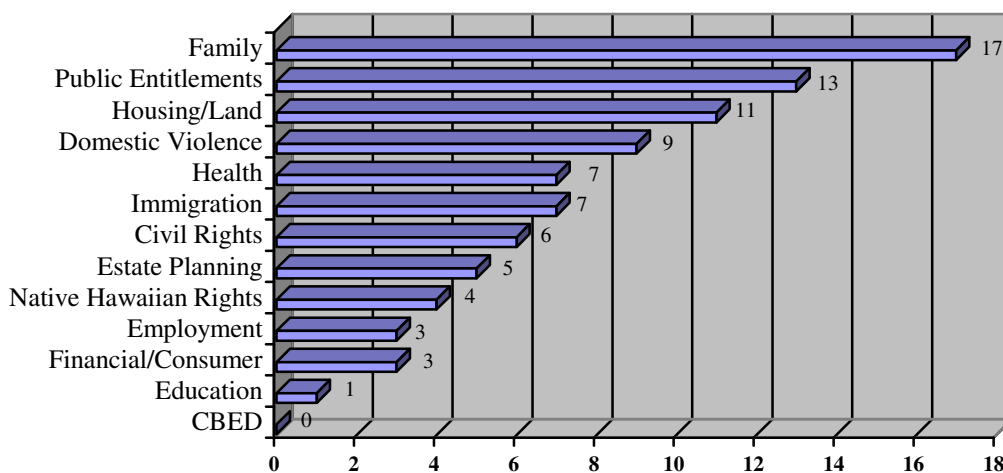
<b><u>Subject Area</u></b>	<b>Number of Clients with problem in the area</b>	<b>% needing legal services who have their legal needs met</b>
<b>CIVIL RIGHTS:</b> (including, but not limited to public accommodation problems, first amendment rights, prisoner rights, language access)	222	21.20%
<b>COMMUNITY BASED ECONOMIC DEVELOPMENT:</b> (including, but not limited to small business problems, non-profit business assistance)	62	25%
<b>DOMESTIC VIOLENCE:</b> (including, but not limited to temporary restraining order or other protection from violence, access to shelters and housing, access to support services)	1754	49.83%
<b>EDUCATION:</b> (including, but not limited to access to special education services, school discrimination, homeless children rights to education)	300	50%
<b>EMPLOYMENT:</b> (including, but not limited to unemployment compensation, wrongful termination, employment discrimination, worker's compensation)	211	26.40%
<b>ESTATE PLANNING:</b> (including, but not limited to wills, advance health care directives, powers of attorney, trusts, deeds, probate)	411	27%
<b>FAMILY:</b> (including, but not limited to divorce, child custody, child support, paternity, adoption, guardianship or conservatorship, child welfare)	5954	52.67%
<b>FINANCIAL/CONSUMER PROTECTION:</b> (including, but not limited to debt collection, bankruptcy, repossession, fraud, predatory lending, credit discrimination, motor vehicle problems, tax)	975	25%
<b>HEALTH:</b> (including, but not limited to access to or denial of health care, problems with Quest, problems with Medicare/Medicaid)	490	35.17%
<b>HOUSING/LAND:</b> (including, but not limited to leases, evictions, damage disputes, security deposits, Section 8 vouchers, public housing, housing discrimination, mortgage problems, utility shutoff)	1692	33.67%
<b>IMMIGRATION:</b> (including, but not limited to deportation/removal defense, naturalization, adjustment of status, immigrant crime victims, human trafficking, work visas)	635	73.33%
<b>NATIVE HAWAIIAN RIGHTS:</b> (including, but not limited to denial of cultural and religious rights, land disputes, water disputes, geothermal disputes, Hawaiian Homeland problems)	10	12.50%
<b>PUBLIC ENTITLEMENTS:</b> (including, but not limited to TANF, TAONF, GA, SSI, Social Security Disability, food stamps)	2204	30.83%

## MOST IMPORTANT AND FASTEST GROWING LEGAL PROBLEMS

Of the problems listed below, please rank the five that you would consider the most important to the population you serve?

Six respondents provided rankings for the problems faced by their clients. Family was the most important issue, followed by public entitlements, housing/land and domestic violence.

In determining the rankings, a value was given to each ranking (i.e. first – five points, second – four points, third – three points, fourth – two points and fifth – one point) and the sum of these rankings was added to determine the key issues.



**CIVIL RIGHTS:** (including, but not limited to public accommodation problems, first amendment rights, prisoner rights, language access)

**COMMUNITY BASED ECONOMIC DEVELOPMENT:** (including, but not limited to small business problems, non-profit business assistance)

**DOMESTIC VIOLENCE:** (including, but not limited to temporary restraining order or other protection from violence, access to shelters and housing, access to support services)

**EDUCATION:** (including, but not limited to access to special education services, school discrimination, homeless children rights to education)

**EMPLOYMENT:** (including, but not limited to unemployment compensation, wrongful termination, employment discrimination, worker's compensation)

**ESTATE PLANNING:** (including, but not limited to wills, advance health care directives, powers of attorney, trusts, deeds, probate)

**FAMILY:** (including, but not limited to divorce, child custody, child support, paternity, adoption, guardianship or conservatorship, child welfare)

**FINANCIAL/CONSUMER PROTECTION:** (including, but not limited to debt collection, bankruptcy, repossession, fraud, predatory lending, credit discrimination, motor vehicle problems, tax)

**HEALTH:** (including, but not limited to access to or denial of health care, problems with Quest, problems with Medicare/Medicaid)

**HOUSING/LAND:** (including, but not limited to leases, evictions, damage disputes, security deposits, Section 8 vouchers, public housing, housing discrimination, mortgage problems, utility shutoff)

**IMMIGRATION:** (including, but not limited to deportation/removal defense, naturalization, adjustment of status, immigrant crime victims, human trafficking, work visas)

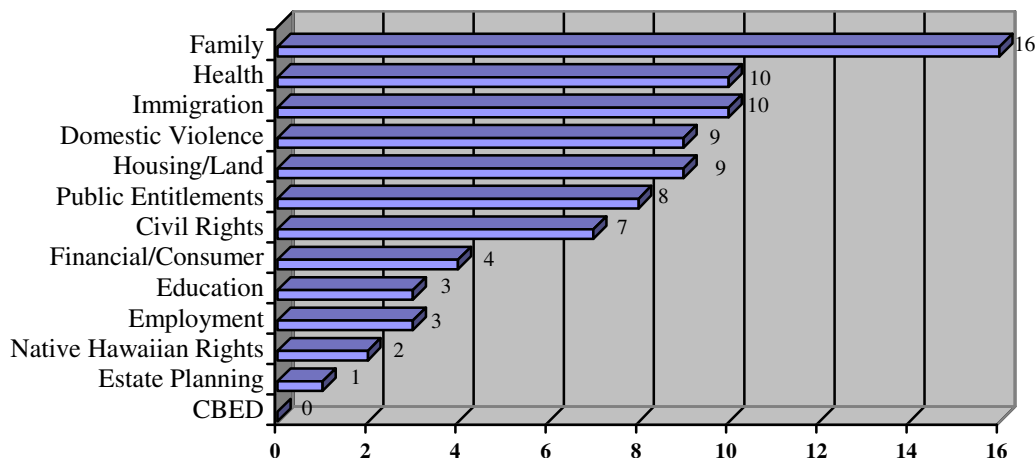
**NATIVE HAWAIIAN RIGHTS:** (including, but not limited to denial of cultural and religious rights, land disputes, water disputes, geothermal disputes, Hawaiian Homeland problems)

**PUBLIC ENTITLEMENTS:** (including, but not limited to TANF, TAONF, GA, SSI, Social Security Disability, food stamps)

**Of the problems listed below, please rank the five that you would consider the fastest growing for the population you serve?**

Six legal service providers provided rankings to the problems faced by their clients. Family, by far, was seen as the fastest growing area for the client population, followed by health ,immigration, domestic violence and housing/land.

In determining the rankings, a value was given to each ranking (i.e. first – five points, second – four points, third – three points, fourth – two points and fifth – one point) and the sum of these rankings was added to determine the key issues.



**CIVIL RIGHTS:** (including, but not limited to public accommodation problems, first amendment rights, prisoner rights, language access)

**COMMUNITY BASED ECONOMIC DEVELOPMENT:** (including, but not limited to small business problems, non-profit business assistance)

**DOMESTIC VIOLENCE:** (including, but not limited to temporary restraining order or other protection from violence, access to shelters and housing, access to support services)

**EDUCATION:** (including, but not limited to access to special education services, school discrimination, homeless children rights to education)

**EMPLOYMENT:** (including, but not limited to unemployment compensation, wrongful termination, employment discrimination, worker's compensation)

**ESTATE PLANNING:** (including, but not limited to wills, advance health care directives, powers of attorney, trusts, deeds, probate)

**FAMILY:** (including, but not limited to divorce, child custody, child support, paternity, adoption, guardianship or conservatorship, child welfare)

**FINANCIAL/CONSUMER PROTECTION:** (including, but not limited to debt collection, bankruptcy, repossession, fraud, predatory lending, credit discrimination, motor vehicle problems, tax)

**HEALTH:** (including, but not limited to access to or denial of health care, problems with Quest, problems with Medicare/Medicaid)

**HOUSING/LAND:** (including, but not limited to leases, evictions, damage disputes, security deposits, Section 8 vouchers, public housing, housing discrimination, mortgage problems, utility shutoff)

**IMMIGRATION:** (including, but not limited to deportation/removal defense, naturalization, adjustment of status, immigrant crime victims, human trafficking, work visas)

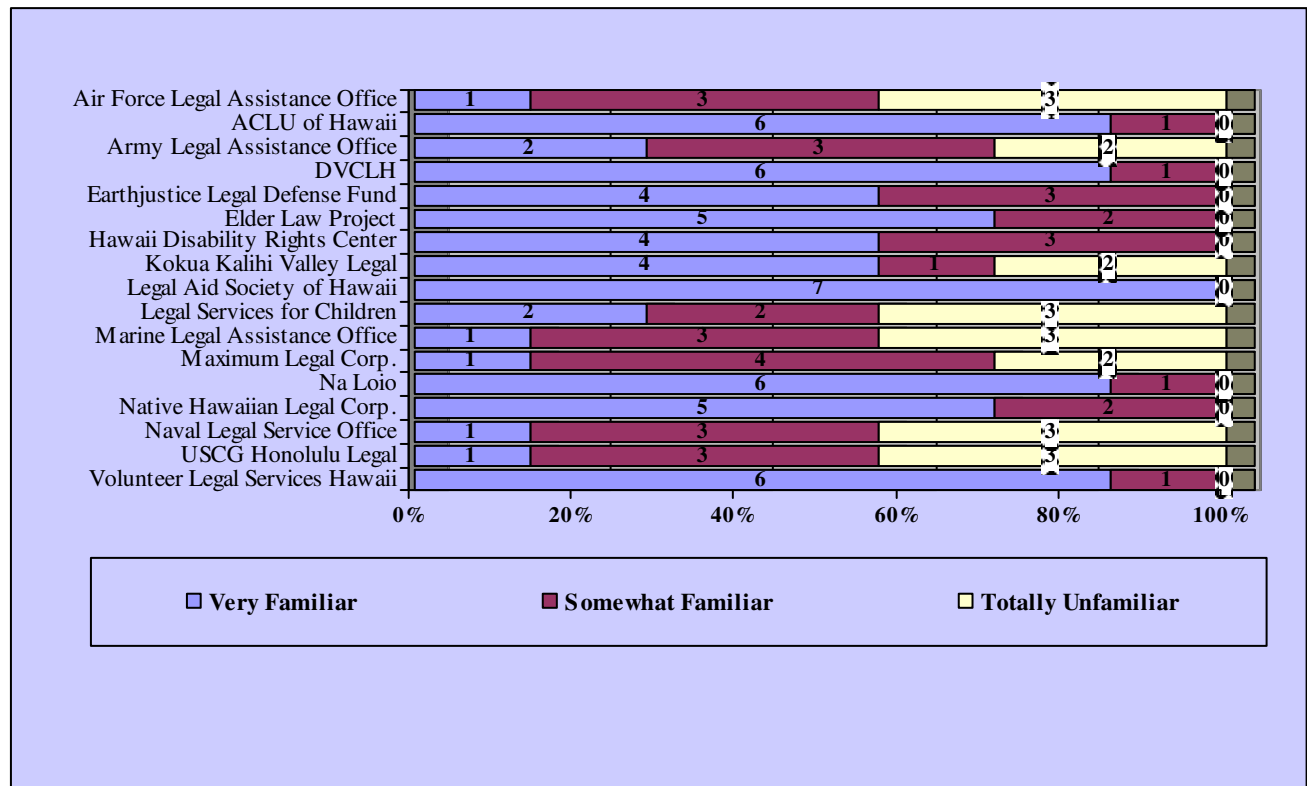
**NATIVE HAWAIIAN RIGHTS:** (including, but not limited to denial of cultural and religious rights, land disputes, water disputes, geothermal disputes, Hawaiian Homeland problems)

**PUBLIC ENTITLEMENTS:** (including, but not limited to TANF, TAONE, GA, SSI, Social Security Disability, food stamps)

## KNOWLEDGE OF LEGAL SERVICE PROVIDERS

Use the scale below to rate your familiarity of each of the organizations listed below:

Seven legal services providers provided responses to this question. Providers were most familiar with the Legal Aid Society of Hawai'i, followed by ACLU of Hawai'i, the Domestic Violence Clearinghouse and Legal Hotline, Na Loio, and Volunteer Legal Services. They were also familiar with the Elder Law Project, Native Hawaiian Legal Corporation, Earthjustice Legal Defense Fund and Hawaii Disability Rights Project. They were most unfamiliar with the military assistance programs, Legal Services for Children, Kokua Kalihi Valley Legal Services and Maximum Legal Corp.



**Do you ever refer clients to organizations that provide free or low-cost legal services?**

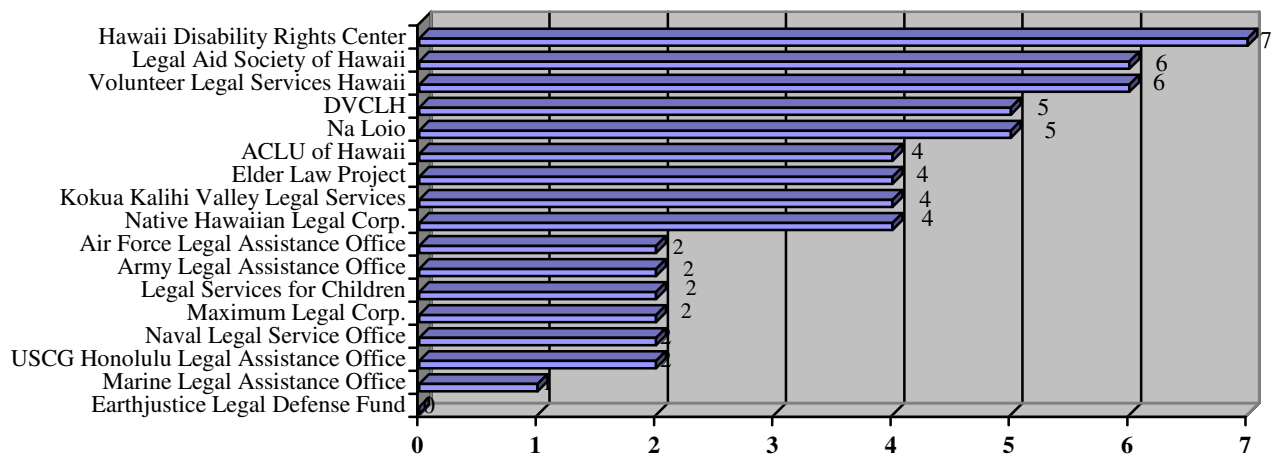
Of the seven providers that responded to this question, all referred clients to organizations that provide free or low-cost legal services.

**If so, how about how many referrals do you make per year?**

Seven providers responded to this question, with six providers making more than 100 referrals and one making 5-25 referrals.

### If so, to which organizations do you refer clients?

Seven providers responded to this question and stated that they made referrals to the following agencies:

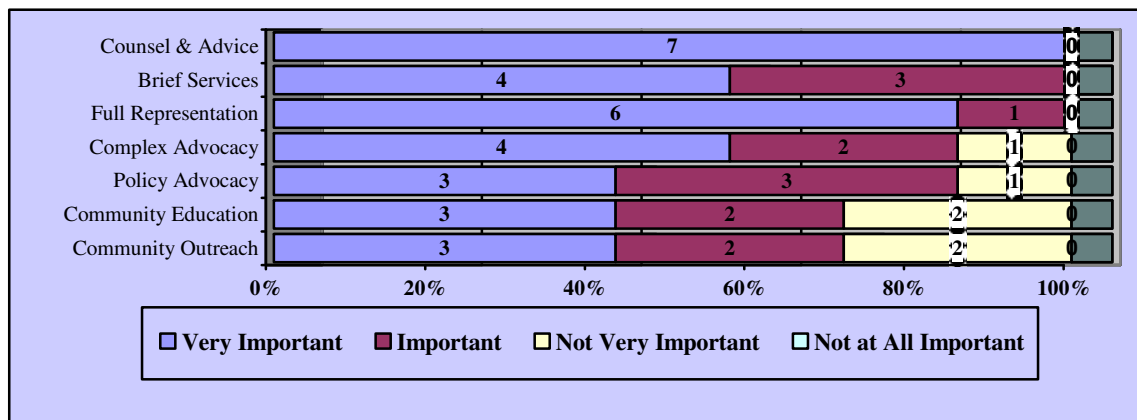


### If you DO NOT make referrals to these organizations, why not (check all that apply)?

None of the legal service providers answered this question.

### Please rate the importance of the following types of assistance to your clients, based upon your experience with them.

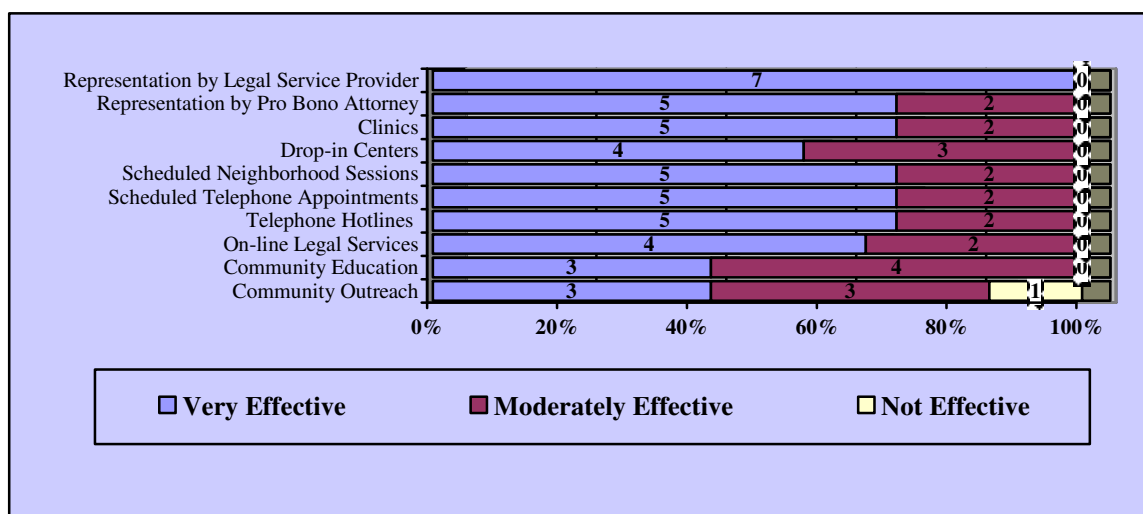
Seven legal service providers provided responses to this question, agreeing that Counsel & Advice and Full Representation were very important types of assistance offered to clients. Brief Services and Complex Advocacy were also seen as important, while Policy Advocacy, Community Education and Community Outreach followed.



**Please provide your opinion regarding the effectiveness of each of the following legal service delivery techniques.**

Seven legal service providers provided responses to this question aimed at uncovering their opinion as to the effectiveness of a variety of legal service techniques. All seven legal service providers agreed that direct representation by a legal service provider was a very effective way to deliver legal services. Representation by a pro bono attorney, clinics, scheduled neighborhood sessions, scheduled telephone appointments and telephone hotlines were also seen as effective delivery of service techniques. On-line legal services, drop-in centers, community outreach and community education were also seen as effective techniques.

In addition to rating the effectiveness, only one provider indicated uncertainty as to the effectiveness of on-line legal services (advice, forms, and brochures).

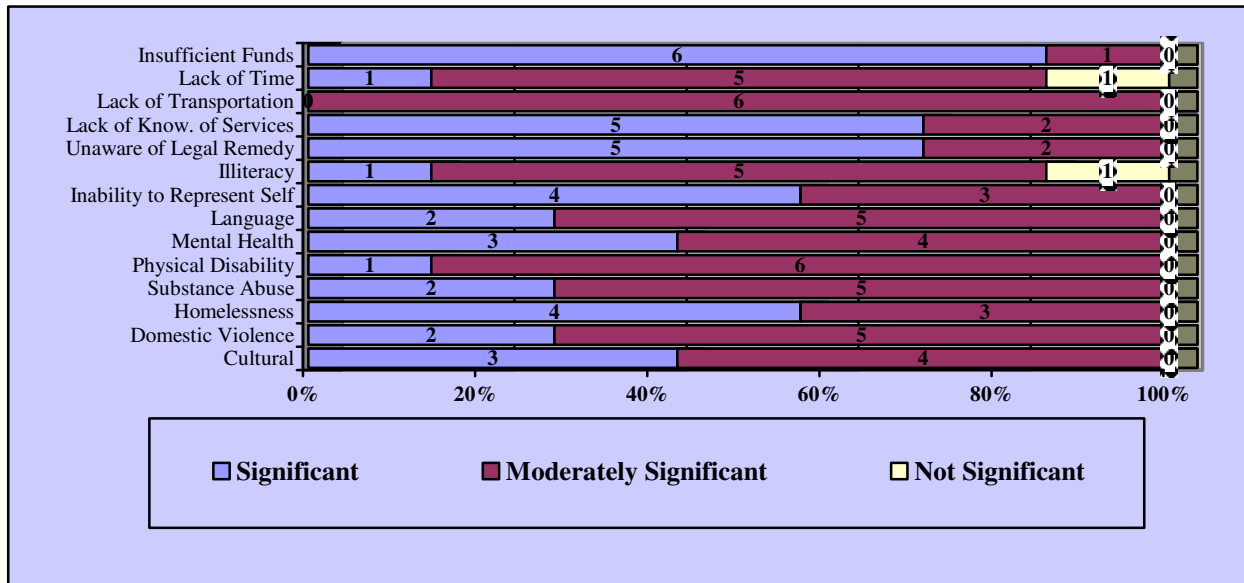


## **BARRIERS TO ACCESSING LEGAL SERVICES**

**Please rate the following client related barriers affecting the ability of your clients to receive legal assistance.**

Seven legal service providers provided ratings to these barriers. The most significant client-related barrier was insufficient funds, followed by the lack of knowledge of services or agencies and being unaware that a legal remedy exists. Providers also found an inability to represent oneself and homelessness as significant factors, while mental health, cultural issues, language, substance abuse and domestic violence were also seen as moderately significant. The least significant client-related barriers were physical disability, lack of time and illiteracy.

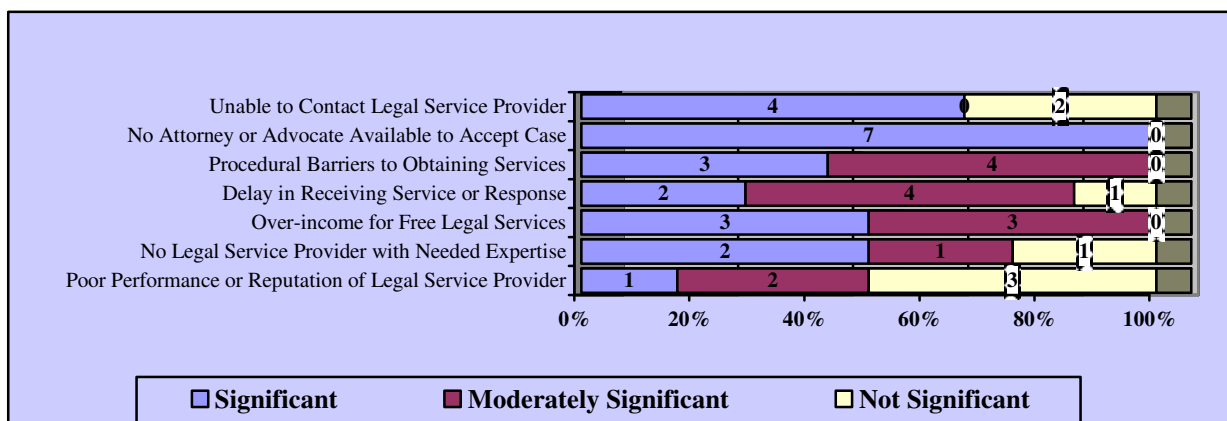




**Please rate the following legal provider related barriers affecting the ability of your clients to receive legal assistance.**

Seven legal services providers rated these barriers. The most significant legal provider related barrier was no attorney or advocate available to accept the case, which was followed by the inability to contact legal service providers, being over-income for free legal services and procedural barriers to obtaining services. Delay in receiving service or response and no legal service provider with needed expertise were also significant factors. For three legal service providers, poor performance or reputation of a legal service provider was moderately significant.

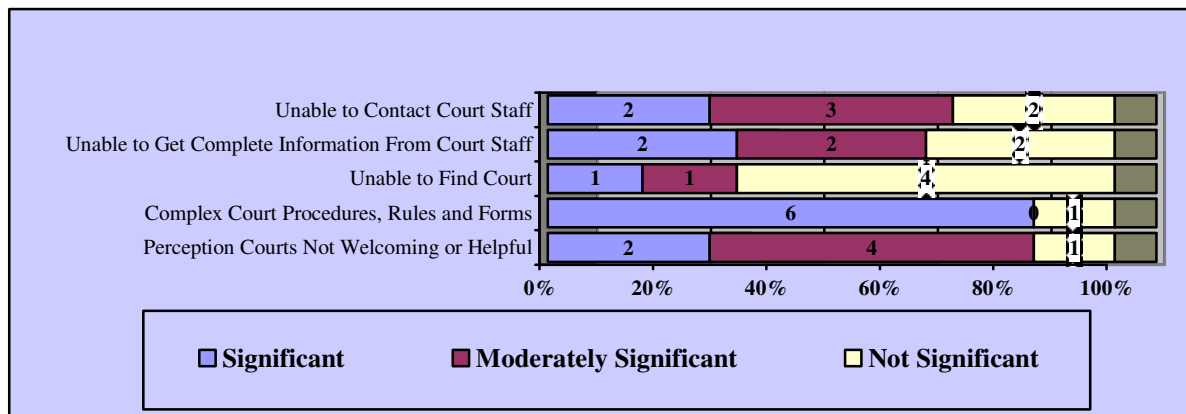
A number of providers also stated that they were unsure as to these barriers (unable to contact legal service provider (1), over-income for free legal services (1), no legal service provider with needed expertise (3), and poor performance (1)).



**Please rate the following court-related barriers affecting the ability of your clients to receive legal assistance.**

Seven legal service providers provided ratings to these barriers. The most significant court-related barrier was the complexity of the court procedures, rules and forms. Providers also noted that the perception that courts are not welcoming or helpful to users, the inability to contact a court staff person for information or not being able to get complete or understandable information were also barriers. Overall, they did not believe that the inability to find the court to be a barrier.

A couple of providers also stated that they were unsure as to some of these barriers (unable to obtain complete or understandable information from court staff (1), unable to find court (1)).



**Please list any other barriers to accessing legal services that the people you serve encounter.**

*Don't know who or where to telephone.*

*Shame!*

*Afraid of being put in jail for violations.*

*Only adult in the household and worried about what will happen to children.*

*Inmates without access because of status.*

*Computer illiteracy.*

*Unable to maneuver telephone selections. Unable to talk to a real person.*

*Fear of reprisal from perpetrator of domestic violence and perception that police will not be helpful in the event that protection is needed.*

*Clients are afraid to attend court without representation; lack of understanding of importance of court dates and hearings, and of the law; client's own mental and stress level at point of contact with us.*

## **RECOMMENDATIONS FOR IMPROVEMENT**

**Please describe any specific suggestions or ideas you have to improve the access that low- and/or moderate-income people in Hawai‘i have to legal advice, legal assistance, legal representation or to the court system.**

Seven legal service providers offered suggestions and ideas to improve access. Suggestions included increasing services, increasing outreach on the availability of services, increasing private bar involvement, providing high quality and available services, improve language and cultural access and systemic changes.

### **Increasing services**

- *Have legal representation go out to the shelters and beaches to interview homeless population to assist with clearing up citations so people can get their driver’s licenses and apply for employment and any other legal problems that may need attention.*
- *More services for inmates – maybe legal services provided within the facility.*
- *More private bar funding of legal services to the poor.*
- *Increased numbers of no-fee attorneys.*
- *Expanding services to worker’s compensation, unemployment and labor issues.*
- *Expansion of neighborhood based services.*
- *Greater funding for civil legal services.*
- *Availability of no-fee attorneys in locations other than Honolulu and on Oahu.*
- *More paid staff attorneys.*
- *Increased pro se support.*

### **Increasing Outreach on Availability of Services**

- *Increased publicity about available services.*
- *Increased community education about how legal services can be helpful.*

### **Increasing Private Bar Involvement**

- *More Pro Bono participation by the bar.*
- *Mandatory pro bono.*

### **Providing High Quality and Easily Accessible Services**

- *Staff telephone intake with a real person; better call back policy; keep telephone prompts simple.*

### **Improve Language and Cultural Access**

- *Increase of multilingual services.*

### **Systemic Changes**

- *Sensitive judges to client’s difficulties in getting representation.*

**Please describe any specific suggestions or ideas you have to reduce or eliminate barriers to meeting the civil legal needs of low- and /or moderate-income people in Hawai‘i.**

Seven legal service providers shared their thoughts to reducing or eliminating barriers to meeting the civil legal needs of low- and/or moderate-income people in Hawai‘i.

Increasing services

- *Substantial increase in State, local and Federal funding.*
- *More collaboration between legal service providers.*
- *Better office procedures and staffing hours.*
- *Increased funding for more staff to service providers.*
- *Increased community-based offices outside of Honolulu and on Oahu.*
- *More staff attorneys to accept cases or more volunteers to take contested, complex cases.*

Providing High Quality and Easily Accessible Services

- *Make dispute resolution simple; use dispute prevention techniques.*

Improve Language and Cultural Access

- *Multilingual information including forms and notaries from the court.*

Other

- *With regards to homeless people living on the beaches, enforcement by police creates more legal problems for those folks. I would like to see a presentation from low and /or moderate-income people as to ways to reduce or eliminate barriers to meeting their civil legal needs.*

**PROVISION OF LEGAL SERVICES IN HAWAI‘I**

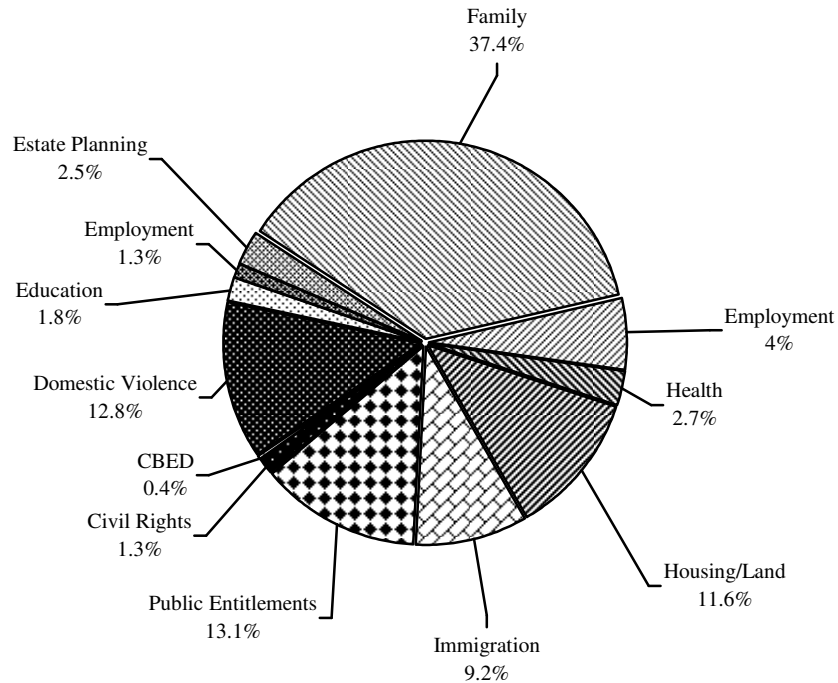
Legal service providers were also asked to provide a variety of information unique to their provision of legal services to those in the community.

**Areas of Service**

Of the six legal service providers that provided responses<sup>91</sup> as to the areas in which they provide legal services, the overall distribution of civil legal services was as follows:

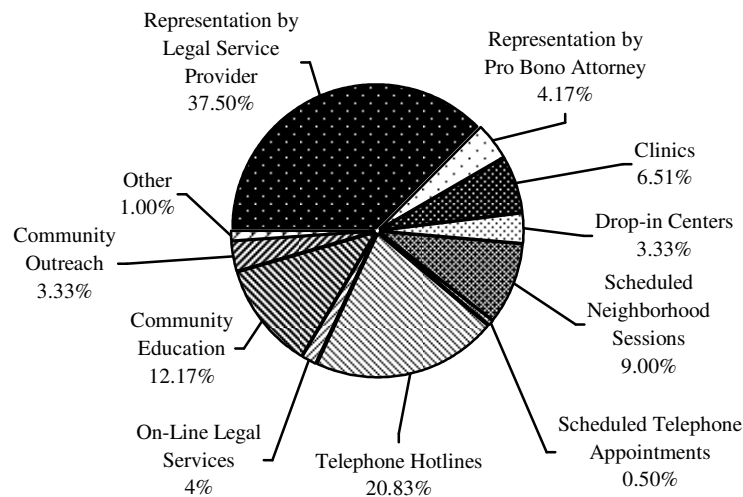
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<sup>91</sup> These figures are only reflective of those service providers who provided information.



**Of your total client base, please estimate the percentage of the cases opened each calendar year served by each of the following service delivery methods:**

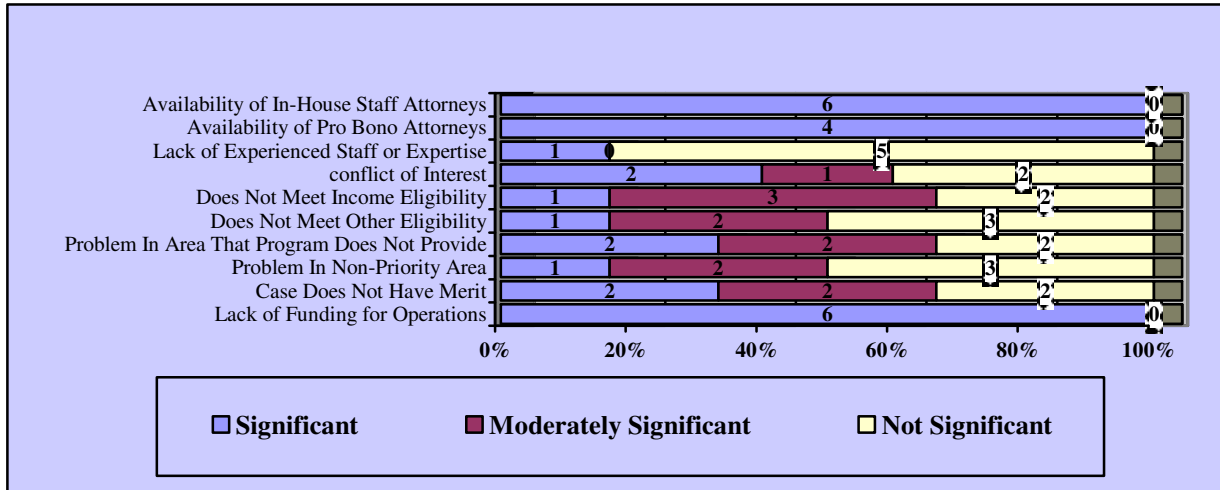
Of the six legal services providers who provided responses, the overall service delivery methods utilized were as follows:



## What percentage of the people who contact your program are you able to assist?

Of the six legal services providers who answered this question, four were only able to assist 0-25% of those who contacted their program and two were able to assist 51-75% of those who contacted their program.

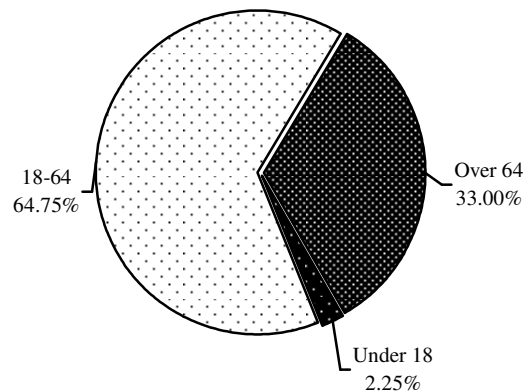
Please indicate the significance that the following factors have in your program's ability to provide legal representation or legal services.



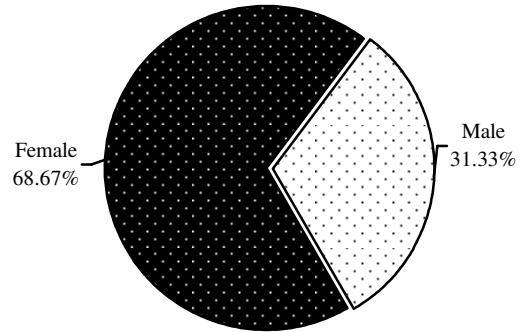
## Client Demographics

Only a few legal service providers provided information on the demographics of the clients that they serve. This information is provided collectively.

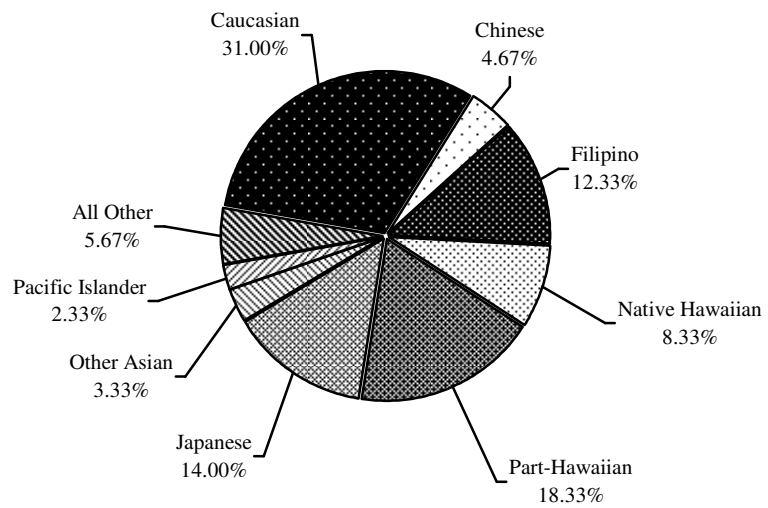
### Age



### Gender



### Ethnic Background



## Legal Service Staff and Offices

Six legal services providers provided detailed information about their staffing and offices:

	FT Atty	PT Atty	FT Para	PT Para	Law Students	Admin.	Total	Pro Bono
ACLU of Hawai'i	2	0	0	0	0	1	3	0
Domestic Violence Clearinghouse and Legal Hotline	6	0	4	0	1	2	13	0
Elder Law Clinic	1	1	1	0	3	0	6	0
Legal Aid Society of Hawai'i	25	28	19	23	2	16	113	60
Na Loio	3	1	0	0	0	3	7	0
Volunteer Legal Services Hawai'i	3	0	4	1	5	6	19	2

The Legal Aid Society of Hawai'i has nine locations throughout the state (Honolulu, Waianae, Kaneohe, Kauai, Molokai, Maui, Lanai, Hilo and Kona). ACLU of Hawai'i, Domestic Violence Clearinghouse and Legal Hotline, Elder Law Clinic, Na Loio and Volunteer Legal Services Hawai'i each have one location based in Honolulu.



## LEGAL NEEDS ASSESSMENT

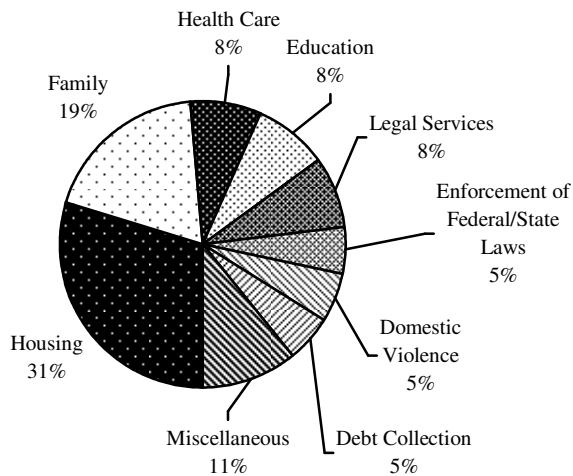
### SUMMARY OF JUDICIARY SURVEY RESPONSES

With the assistance of the Judiciary, fifty-five judges were sent surveys to assess the legal needs of Hawai'i's poor community. The desired target group for survey completion and return were civil trial judges; however some responses were received from appellate judges and/or judges that handle criminal matters. Fourteen judges responded to the survey from every circuit in the State, which was a return rate of approximately 25%.

#### PRELIMINARY IMPRESSIONS

**What do you see as the three biggest unmet civil (non-criminal) legal needs that a lawyer or other legal professional can assist with in Hawai'i's poor community?**

Thirteen judges provided thirty-seven responses to this question. Categorically, these responses fell into eight main categories, with at least two responses in each category. The remaining responses were grouped into the miscellaneous category.



**Housing** (evictions, landlord-tenant, foreclosure, quiet title, etc.)

**Family** (divorce, paternity, representation not pro se assistance, etc.)

**Health Care** (access to health insurance, mental health, medical services information, etc.)

**Education** (education law reform, school/education entitlements, etc.)

**Legal Services** (screening issues for parties, advice – practical/legal, actual pro bono services, etc.)

**Enforcement of Federal/State Laws** (access to government services, keeping government agencies complying with federal and state laws, etc.)

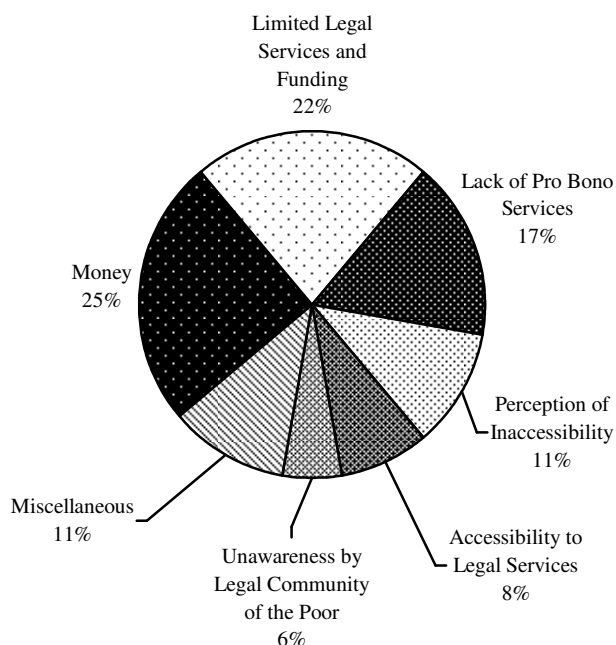
**Domestic Violence** (assisting in restraining orders, etc.)

**Debt Collection**

**Miscellaneous** (employment, entitlements, immigration/non-citizens, financial information, etc.)

## What do you see as the three most significant barriers to meeting these needs?

Thirteen judges provided thirty-six responses to this question. Categorically, these responses fell into six main categories, with at least two responses in each category. The remaining responses were grouped into the miscellaneous category.



**Money** (cannot afford an attorney, finances, ability to pay for legal services, cost of litigation, etc.)

**Limited Legal Services and Funding** (lack of legal aid services, lack of funds for legal services, number of attorneys, many attorneys with no expertise in these areas of practice, lack of advocacy groups to help families, lack of organizations/resources, etc.)

**Lack of Pro Bono Services** (unwillingness of attorneys to do more pro bono work in these areas, many firms may not be willing to provide pro bono services, lack of pro bono services, opportunity costs of pro bono work, availability of attorneys to provide pro bono services, available training, etc.)

**Perception of Inaccessibility** (the poor do not want to visit law offices, transportation, unwillingness to trust justice system, poor people believe lawyers are expensive, etc.)

**Accessibility to Legal Services** (not knowing where and how to seek the assistance, lack of knowledge re: procedures, no access to lawyers, etc.)

**Unawareness by Legal Community of the Poor** (lack of excitement in the legal community about law reform work, the poor are essentially "unseen" by attorneys in their day to day lives, etc.)

**Inability to Qualify for Services** (income eligibility criteria, qualifications for services, etc.)

**Lack of Legal Knowledge** (lack of knowledge of laws and rights, lack of understanding of DOE, etc.)

**Miscellaneous** (leadership, language, liability for attorneys, federal regulations hampering legal aid law reform work, etc.)

## LEGAL NEEDS OF CLIENT POPULATION

In this question, judges were asked to indicate how many of those individuals that appear before them have problems in one of thirteen legal areas and then were asked to estimate the percentage of those who have problems in those areas that have their legal needs met.

Only two judges provided responses to these questions; one was a judge from the First Circuit and the other judge was from the Third Circuit. A summary of their responses is provided below (total number of litigants for both judges and average response rate for the percentage of those who have their needs met):

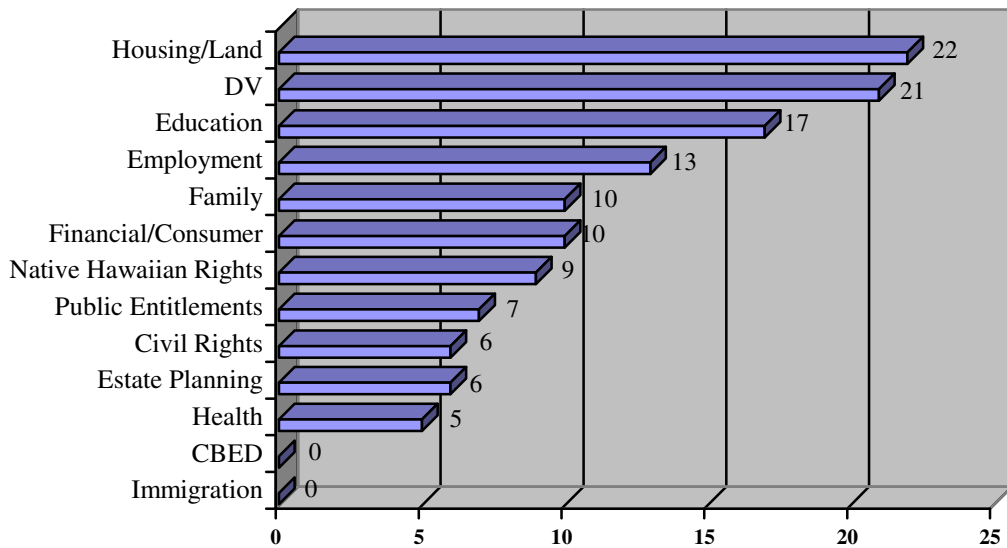
<b><u>Subject Area</u></b>	<b>Number Individuals with problem in the area</b>	<b>% needing legal services who have their legal needs met</b>
<b>CIVIL RIGHTS:</b> (including, but not limited to public accommodation problems, first amendment rights, prisoner rights, language access)	0	0
<b>COMMUNITY BASED ECONOMIC DEVELOPMENT:</b> (including, but not limited to small business problems, non-profit business assistance)	0	0
<b>DOMESTIC VIOLENCE:</b> (including, but not limited to temporary restraining order or other protection from violence, access to shelters and housing, access to support services)	90	50%
<b>EDUCATION:</b> (including, but not limited to access to special education services, school discrimination, homeless children rights to education)	10	50%
<b>EMPLOYMENT:</b> (including, but not limited to unemployment compensation, wrongful termination, employment discrimination, worker's compensation)	0	0
<b>ESTATE PLANNING:</b> (including, but not limited to wills, advance health care directives, powers of attorney, trusts, deeds, probate)	0	0
<b>FAMILY:</b> (including, but not limited to divorce, child custody, child support, paternity, adoption, guardianship or conservatorship, child welfare)	0	0
<b>FINANCIAL/CONSUMER PROTECTION:</b> (including, but not limited to debt collection, bankruptcy, repossession, fraud, predatory lending, credit discrimination, motor vehicle problems, tax)	50	5%
<b>HEALTH:</b> (including, but not limited to access to or denial of health care, problems with Quest, problems with Medicare/Medicaid)	100	50%
<b>HOUSING/LAND:</b> (including, but not limited to leases, evictions, damage disputes, security deposits, Section 8 vouchers, public housing, housing discrimination, mortgage problems, utility shutoff)	150	36.67%
<b>IMMIGRATION:</b> (including, but not limited to deportation/removal defense, naturalization, adjustment of status, immigrant crime victims, human trafficking, work visas)	0	0
<b>NATIVE HAWAIIAN RIGHTS:</b> (including, but not limited to denial of cultural and religious rights, land disputes, water disputes, geothermal disputes, Hawaiian Homeland problems)	0	0
<b>PUBLIC ENTITLEMENTS:</b> (including, but not limited to TANF, TAONF, GA, SSI, Social Security Disability, food stamps)	98	50%

### **MOST IMPORTANT AND FASTEST GROWING LEGAL PROBLEMS**

**Of the problems listed below, please rank the five that you would consider the most important to the population you serve.**

Of the fourteen judges, ten provided rankings to the problems faced by those using the judicial system. Housing and domestic violence ranked as the two areas most important, followed by education, employment and family law issues.

In determining the rankings, a value was given to each ranking (i.e. first – five points, second – four points, third – three points, fourth – two points and fifth – one point) and the sum of these rankings was added to determine the key issues.



**CIVIL RIGHTS:** (including, but not limited to public accommodation problems, first amendment rights, prisoner rights, language access)

**COMMUNITY BASED ECONOMIC DEVELOPMENT:** (including, but not limited to small business problems, non-profit business assistance)

**DOMESTIC VIOLENCE:** (including, but not limited to temporary restraining order or other protection from violence, access to shelters and housing, access to support services)

**EDUCATION:** (including, but not limited to access to special education services, school discrimination, homeless children rights to education)

**EMPLOYMENT:** (including, but not limited to unemployment compensation, wrongful termination, employment discrimination, worker's compensation)

**ESTATE PLANNING:** (including, but not limited to wills, advance health care directives, powers of attorney, trusts, deeds, probate)

**FAMILY:** (including, but not limited to divorce, child custody, child support, paternity, adoption, guardianship or conservatorship, child welfare)

**FINANCIAL/CONSUMER PROTECTION:** (including, but not limited to debt collection, bankruptcy, repossession, fraud, predatory lending, credit discrimination, motor vehicle problems, tax)

**HEALTH:** (including, but not limited to access to or denial of health care, problems with Quest, problems with Medicare/Medicaid)

**HOUSING/LAND:** (including, but not limited to leases, evictions, damage disputes, security deposits, Section 8 vouchers, public housing, housing discrimination, mortgage problems, utility shutoff)

**IMMIGRATION:** (including, but not limited to deportation/removal defense, naturalization, adjustment of status, immigrant crime victims, human trafficking, work visas)

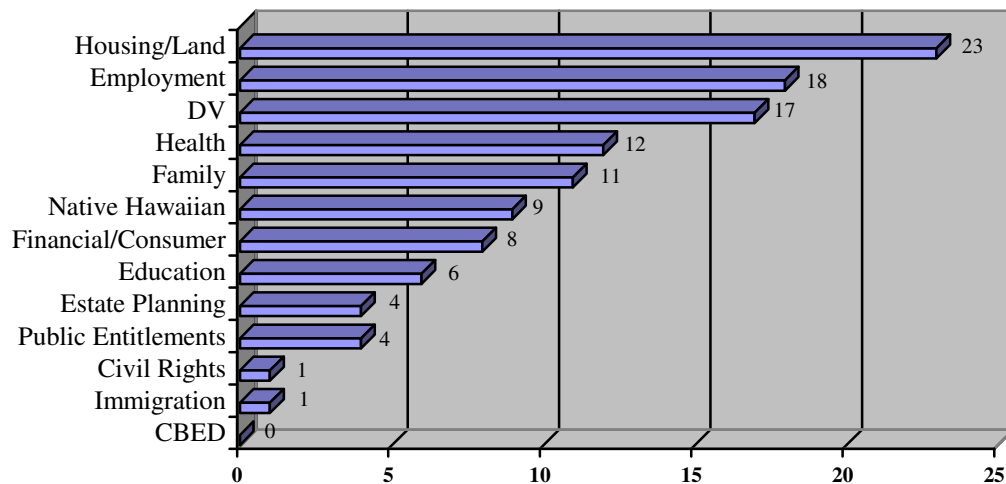
**NATIVE HAWAIIAN RIGHTS:** (including, but not limited to denial of cultural and religious rights, land disputes, water disputes, geothermal disputes, Hawaiian Homeland problems)

**PUBLIC ENTITLEMENTS:** (including, but not limited to TANF, TAONF, GA, SSI, Social Security Disability, food stamps)

**Of the problems listed below, please rank the five that you would consider the fastest growing for the population you serve.**

Of the fourteen judges, eight provided rankings to the problems faced by those using the judicial system. Housing was ranked as the area most important, followed by employment, domestic violence, health and family law issues.

In determining the rankings, a value was given to each ranking (i.e. first – five points, second – four points, third – three points, fourth – two points and fifth – one point) and the sum of these rankings was added to determine the key issues.



**CIVIL RIGHTS:** (including, but not limited to public accommodation problems, first amendment rights, prisoner rights, language access)

**COMMUNITY BASED ECONOMIC DEVELOPMENT:** (including, but not limited to small business problems, non-profit business assistance)

**DOMESTIC VIOLENCE:** (including, but not limited to temporary restraining order or other protection from violence, access to shelters and housing, access to support services)

**EDUCATION:** (including, but not limited to access to special education services, school discrimination, homeless children rights to education)

**EMPLOYMENT:** (including, but not limited to unemployment compensation, wrongful termination, employment discrimination, worker's compensation)

**ESTATE PLANNING:** (including, but not limited to wills, advance health care directives, powers of attorney, trusts, deeds, probate)

**FAMILY:** (including, but not limited to divorce, child custody, child support, paternity, adoption, guardianship or conservatorship, child welfare)

**FINANCIAL/CONSUMER PROTECTION:** (including, but not limited to debt collection, bankruptcy, repossession, fraud, predatory lending, credit discrimination, motor vehicle problems, tax)

**HEALTH:** (including, but not limited to access to or denial of health care, problems with Quest, problems with Medicare/Medicaid)

**HOUSING/LAND:** (including, but not limited to leases, evictions, damage disputes, security deposits, Section 8 vouchers, public housing, housing discrimination, mortgage problems, utility shutoff)

**IMMIGRATION:** (including, but not limited to deportation/removal defense, naturalization, adjustment of status, immigrant crime victims, human trafficking, work visas)

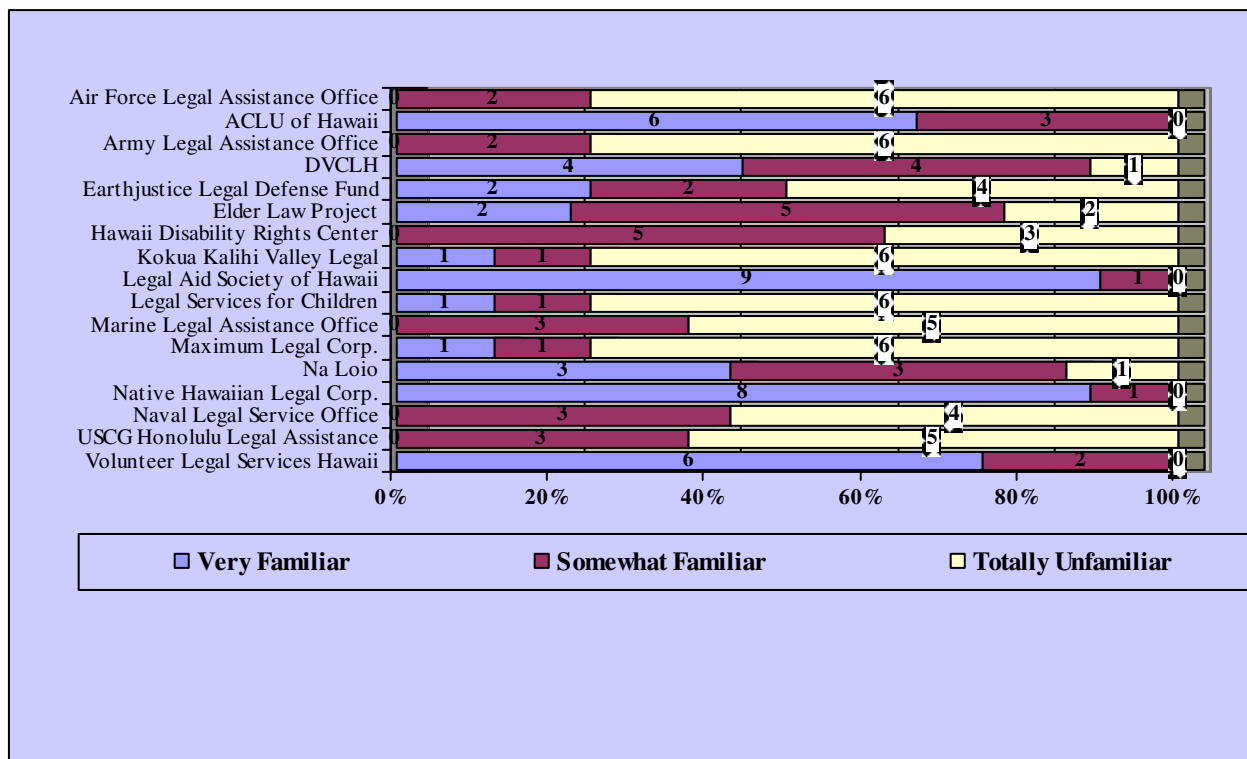
**NATIVE HAWAIIAN RIGHTS:** (including, but not limited to denial of cultural and religious rights, land disputes, water disputes, geothermal disputes, Hawaiian Homeland problems)

**PUBLIC ENTITLEMENTS:** (including, but not limited to TANF, TAONF, GA, SSI, Social Security Disability, food stamps)

## KNOWLEDGE OF LEGAL SERVICE PROVIDERS

Use the scale below to rate your familiarity of each of the organizations listed below.

Ten of the judges provided responses to this question. Judges were most familiar with the Legal Aid Society of Hawai'i, followed by the Native Hawaiian Legal Corporation, ACLU of Hawai'i, and Volunteer Legal Services. They were generally familiar with Domestic Violence Clearinghouse and Legal Hotline,<sup>92</sup> Na Loio, the Elder Law Project, Hawaii Disability Rights Project and Earthjustice Legal Defense Fund. They were most unfamiliar with the military assistance programs, Kokua Kalihi Valley Legal Services, Legal Services for Children and Maximum Legal Corp.



**Do you ever refer clients to organizations that provide free or low-cost legal services?**

Of the ten judges that responded to this question, seven (70%) said that they referred people to such organizations, two (20%) stated that they did not and one (10%) indicated that they did not know.

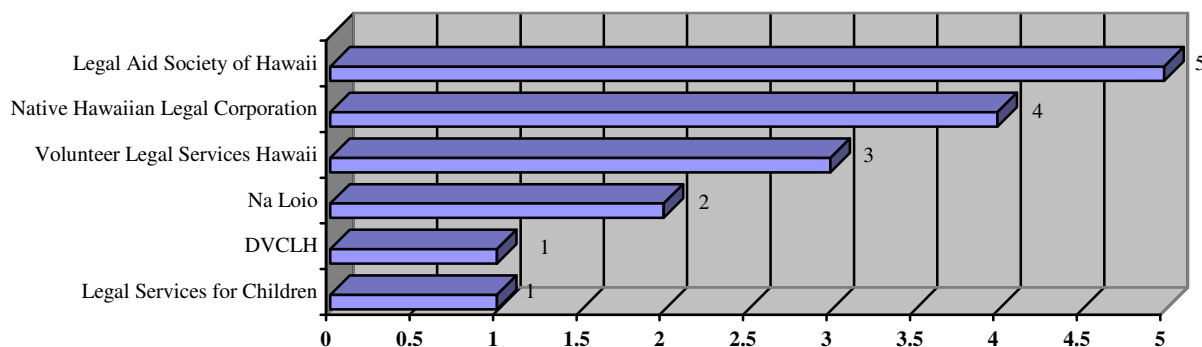
<sup>92</sup> The Domestic Violence Clearinghouse and Legal Hotline changed its name to the Domestic Violence Action Center after this survey was conducted. For data consistency, it will be referred to as the Domestic Violence Clearinghouse and Legal Hotline in this summary.

**If so, how about how many referrals do you make per year?**

Six judges responded to this question. Two judges reported making more than 100 referrals, one making between 50-100 referrals, two making 5-25 referrals and one making fewer than 5 referrals.

**If so, to which organizations do you refer clients?**

Five judges responded to this question and stated that they made referrals as follows:

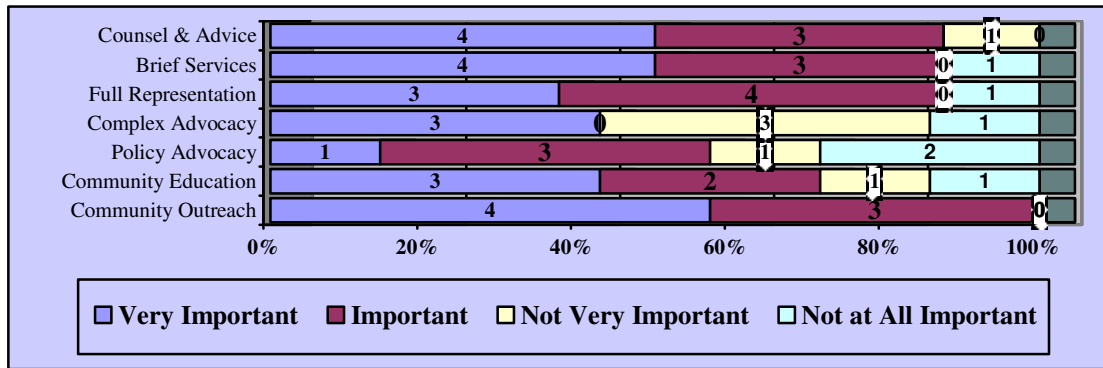


**If you DO NOT make referrals to these organizations, why not (check all that apply)?**

Six judges answered this question. One stated that it was because they “don’t know what kind of legal help clients need,” while five others provided a variety of responses including: “most referrals involve appointment of legal counsel on criminal matters;” “I am not a service organization;” “judge;” “As a Family Court judge, we see family problems. We cannot specifically refer, but we do make people aware that there are free or low cost alternatives for some cases;” and “Would probably not be appropriate for a judge to do so.”

**Please rate the importance of the following types of assistance to your clients, based upon your experience with them.**

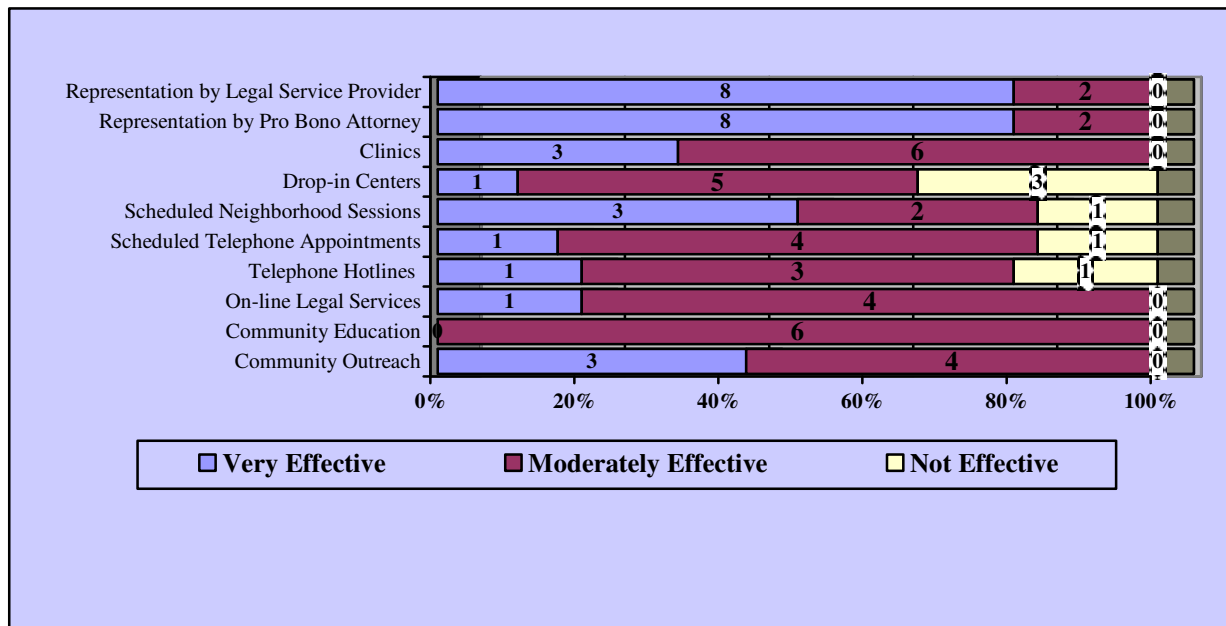
Eight judges provided responses to this question, agreeing that Counsel & Advice, Brief Services and Community Outreach were very important types of assistance to clients. Full Representation, Community Education, Complex Advocacy, and Policy Advocacy followed.



Please provide your opinion regarding the effectiveness of each of the following legal service delivery techniques:

Ten judges provided responses to this question aimed at uncovering their opinion as to the effectiveness of a variety of legal service techniques. Direct representation by either a legal service provider or a pro bono attorney were agreed to be the most effective delivery of service technique. Clinics and community education were also ranked as effective techniques, followed by scheduled neighborhood sessions, drop-in centers, scheduled telephone appointments, on-line legal services and telephone hotlines providing advice. Community education was seen as moderately effective.

In addition to rating the effectiveness of these delivery techniques, the judges also indicated that they were most unsure about the effectiveness of telephone hotlines and on-line legal services, followed by community education and scheduled neighborhood sessions, scheduled telephone appointments and community outreach. At least two judges were unaware of these services, one was unfamiliar with scheduled neighborhood sessions and the other with scheduled telephone appointments.

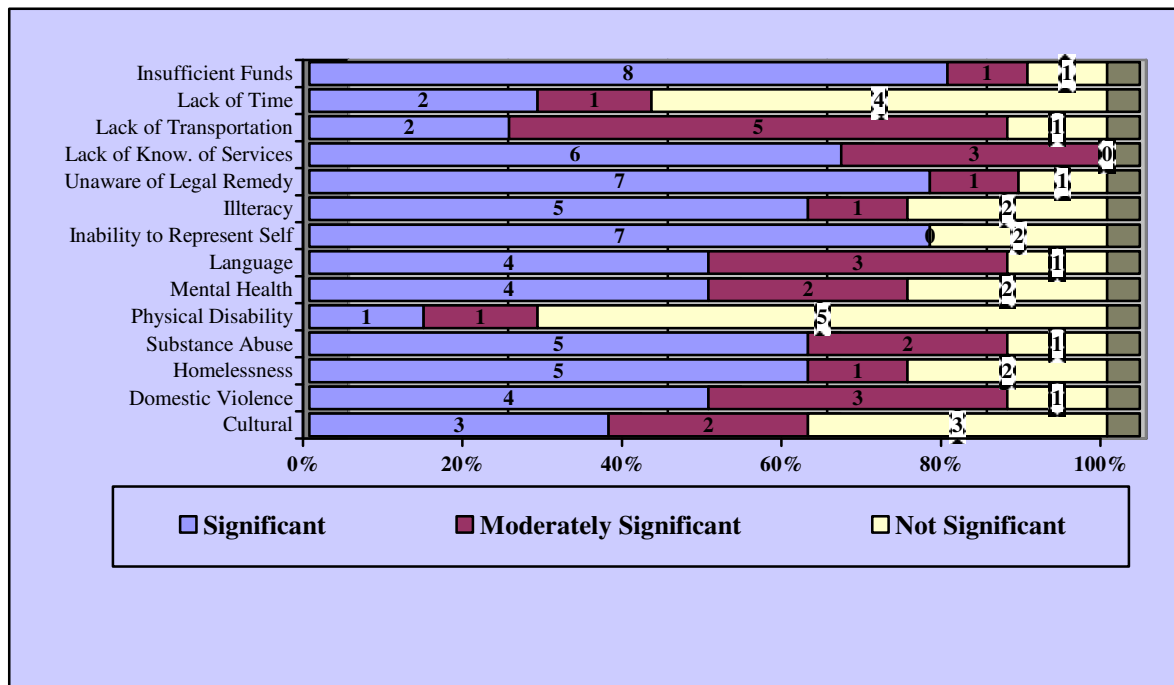




## **BARRIERS TO ACCESSING LEGAL SERVICES**

**Please rate the following client related barriers affecting the ability of your clients to receive legal assistance.**

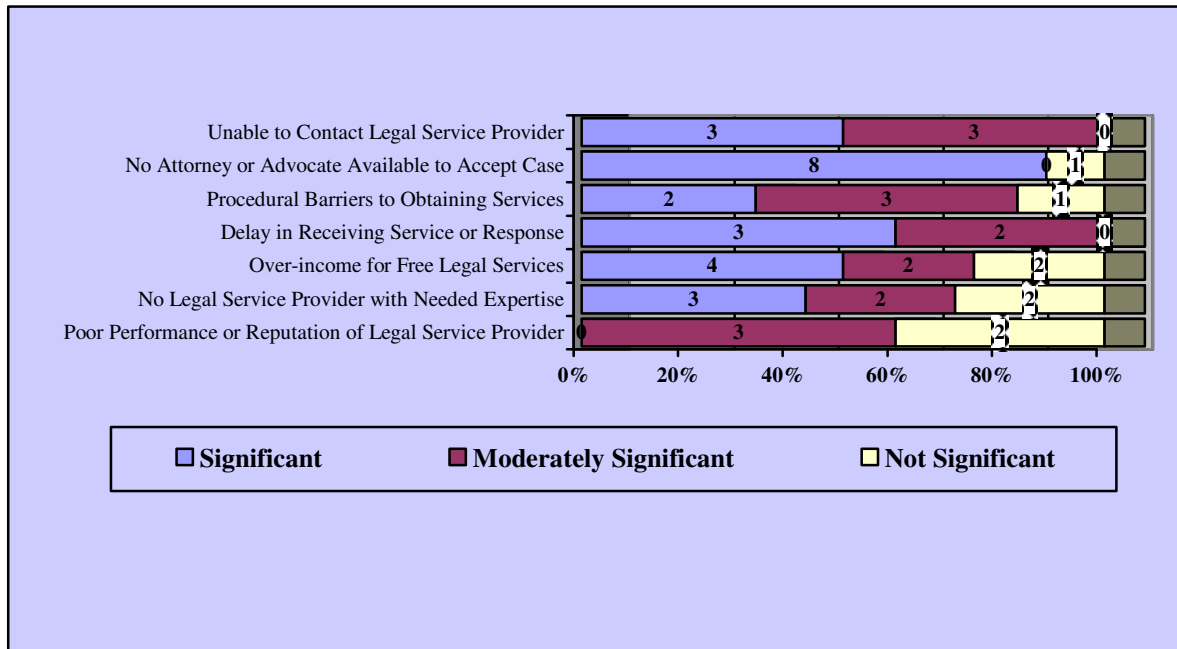
Ten judges provided ratings for these barriers. The most significant client-related barrier was insufficient funds, followed by the lack of knowledge of services or agencies, being unaware that a legal remedy exists and an inability to represent oneself. Judges also found substance abuse, language, domestic violence, homelessness, illiteracy, mental health, lack of transportation and cultural issues as moderately significant. The least significant were physical disability and lack of time.



**Please rate the following legal provider related barriers affecting the ability of your clients to receive legal assistance.**

Nine judges provided ratings to these barriers. The most significant legal provider related barrier was no attorney or advocate available to accept the case. As for other barriers, judges found that being over-income for free legal services, inability to contact legal service providers, delay in receiving service or response, no legal service provider with needed expertise and procedural barriers to obtaining services as moderately significant. Judges also found substance abuse, language, domestic violence, homelessness, illiteracy, mental health, lack of transportation and cultural issues as also significant barriers. The responding judges' surveys reflected that poor performance or reputation of a legal service provider was not so significant.

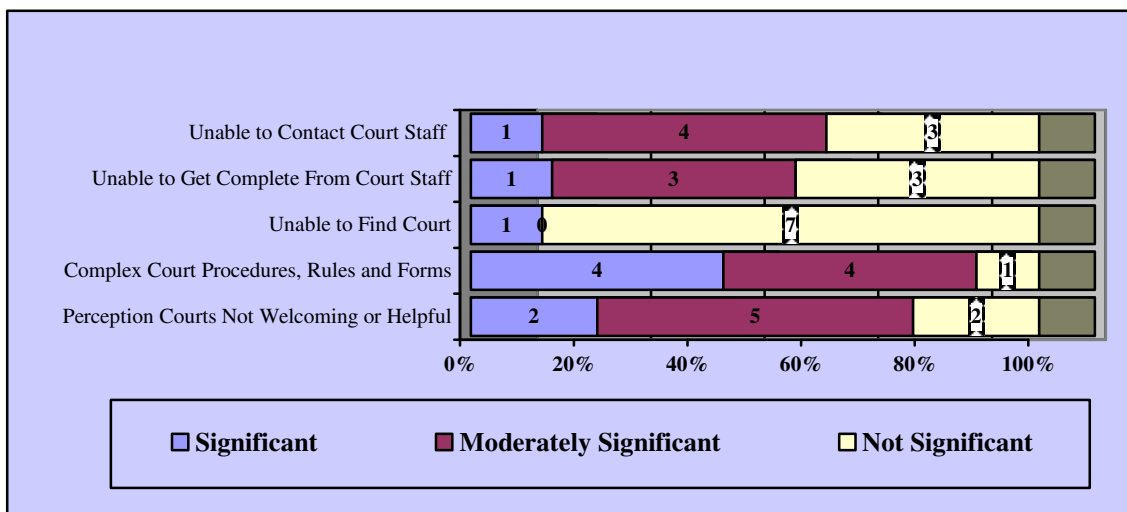
A number of judges also stated that they were unsure as to these barriers (unable to contact legal service provider (2), procedural barriers (2), delay in response (3), over-income (1), no legal service provider with needed expertise (1), and poor performance (3)).



**Please rate the following court related barriers affecting the ability of your clients to receive legal assistance.**

Nine judges provided ratings to these barriers. The most significant court-related barrier was the complexity of the court procedures, rules and forms. Judges also responded that the perception that courts are not welcoming or helpful to users as being a moderately significant barrier, along with the inability to contact a court staff person for information or to get complete or understandable information. Overall, they did not believe that the inability to find the court to be a barrier.

A number of judges also stated that they were unsure as to some of these barriers (unable to contact staff person for information (1), unable to obtain complete or understandable information from court staff (2), and unable to find court (3)).



## **RECOMMENDATIONS FOR IMPROVEMENT**

**Please describe any specific suggestions or ideas you have to improve the access that low- and/or moderate-income people in Hawai'i have to legal advice, legal assistance, legal representation or to the court system.**

*More media articles on this subject. More advertising for services.*

*Need an easily accessible legal representation for people who are being evicted. Many are living from one paycheck to another and if they have one unanticipated expense then they fall behind on the rent. Legal representation would help as would practical advice on where they can get help, e.g. charities, etc.*

*Legal Aid should expand the type of cases they can provide representation.*

**Please describe any specific suggestions or ideas you have to reduce or eliminate barriers to meeting the civil legal needs of low- and /or moderate-income people in Hawaii.**

*Institute good vocational training programs in prison system.*

*Mandatory pro bono requirement for attorneys.*

*More Legal Aid lawyers doing more direct representation on meritorious cases. Better education in our public schools to increase people's reading ability. Can some of the non-profits combine to reduce administrative costs?*

*Provide legal clinics in areas where poor people live; a mobile clinic.*

## **REPRESENTATION IN COURT**

Judges were also asked to estimate the percentage of pro se litigants, those represented by legal service providers and those represented by pro bono attorneys who appeared before them. The responses to these questions varied and it does not appear that the results are necessarily useful for determining the current distribution of types of representation. For on-going conversation, please find included a summary of these results below.

### **State Circuit Court**

Only one Circuit Court judge provided responses to these questions. These responses are provided below. Please note that where there are blanks, no response was provided.

	<b>% Pro Se Litigants</b>	<b>% Represented by Legal Service Providers</b>	<b>% Represented by Pro Bono Attorneys</b>
<b>CIRCUIT COURT</b>			
<b>Civil Actions</b>			
Contract	20%	80%	0%
Personal Injury or Property Damage or Both, Motor Vehicle	3%	95%	2%
Personal Injury or Property Damage or Both, Non-Motor Vehicle	3%	95%	2%
Condemnation	30%	70%	8%
Other Civil Action	40%	50%	10%
District Court Transfers	20%	80%	0%
<b>Probate Proceedings</b>			
Probate Intestate			
Probate Testate			
Special Administration			
Small Estate			
Informal Will			
Other			
Guardianship or Conservatorship Proceedings			
Trust Proceedings			
<b>Miscellaneous Proceedings</b>			
Land Court			
Tax Appeal			
Mechanic's and Materialman's Lien	0%	100%	0%
Other Special Proceedings	48%	48%	4%

### **Family Court**

Only two Family Court judges provided responses to these questions. The averages of these responses are provided below. Please note that where there are blanks, no response was provided.

	<b>% Pro Se Litigants</b>	<b>% Represented by Legal Service Providers</b>	<b>% Represented by Pro Bono Attorneys</b>
<b>FAMILY COURT</b>			
<b>Marital Actions and Proceedings</b>			
Divorce	32.5%	30%	10%
Annulment			
Separation			
Uniform Interstate Family Support			
Adoption Proceedings			
Parental Proceedings			

	<b>% Pro Se Litigants</b>	<b>% Represented by Legal Service Providers</b>	<b>% Represented by Pro Bono Attorneys</b>
Domestic Abuse Protective Orders (Ch. 586)	50%	20%	5%
<b>Miscellaneous Proceedings</b>			
Civil			
Guardianship of the Person			
Other Miscellaneous Proceedings			
<b>Children's Referrals</b>			
Abuse and Neglect	10%	70%	5%

### **District Court**

Only three Family Court judges provided responses to these questions. The averages of these responses are provided below. Please note that where there are blanks, no response was provided.

	<b>% Pro Se Litigants</b>	<b>% Represented by Legal Service Providers</b>	<b>% Represented by Pro Bono Attorneys</b>
<b>DISTRICT COURT</b>			
<b>Regular Civil</b>			
Assumpsit	58.33%	21.33%	2%
Tort/Other	58.33%	24.33%	0.67%
Summary Possession	56.67%	24.33%	0.67%
TRO	86.67%	8%	0.33%
<b>Small Claims</b>			
Assumpsit	97.67%	1.67%	0%
Tort	96%	6.33%	0%
Other	97.67%	1.67%	0%

### **Department of Human Services Administrative Appeals**

The Administrative Appeals office at the Department of Human Services provided the following responses with respect to administrative hearings held.

	<b>% Pro Se Litigants</b>	<b>% Represented by Legal Service Providers</b>	<b>% Represented by Pro Bono Attorneys</b>
<b>DHS Administrative Appeals</b>			
TANF/TAONF	95%	5%	0%
General Assistance	90%	10%	0%
AABD	90%	10%	0%
Food Stamps	95%	5%	0%
Intentional Program Violations	100%	0%	0%
Med-Quest	95%	5%	0%

	<b>% Pro Se Litigants</b>	<b>% Represented by Legal Service Providers</b>	<b>% Represented by Pro Bono Attorneys</b>
Child Welfare Services	90%	10%	0%
Adult and Community Care Services	80%	20%	0%
Other	100%	0%	0%

ACCESS TO  
JUSTICE HUI

Domestic Violence  
Clearinghouse and  
Legal Hotline

Hawai'i State Bar  
Association

Judiciary of the  
State of Hawai'i

Legal Aid Society  
of Hawai'i

Native Hawaiian  
Legal Corporation

Na Loio –  
Immigrant Rights  
and Public Interest  
Legal Center

University of  
Hawai'i Elder Law  
Project

Volunteer Legal  
Services of Hawai'i

William S.  
Richardson  
School of Law

March 15, 2007

The Access to Justice Hui is conducting an assessment of civil legal needs in Hawai'i and the barriers that people, particularly the low-income, face in meeting these civil legal needs. The Access to Justice Hui is comprised of the Judiciary, the Hawaii State Bar Association and non-profit organizations that provide civil legal services. The information and recommendations you provide are extremely important and will help the Access to Justice Hui create a statewide Community Wide Action Plan aimed at improving access to courts and civil legal services throughout the state.

The last civil legal needs assessment in Hawai'i was conducted by the Spangenberg Group in 1993. That assessment found that only 9.6% of low-income families and only 23.6% of gap group families (families with income between 125% and 250% of the federal poverty guideline) had their civil legal needs met.

In the 13 years since the Spangenberg Report was completed, Hawai'i's poverty population has significantly increased. Between the 1990 and 2000 Census, this population increased by 42% from 88,408 to 126,154 while the overall population grew by only 107,443 (19%).

Presently, a family of four earning \$23,000 a year is living at the federal poverty level, and two parents working full-time at minimum wage can earn up to \$28,000 per year. However it takes more than \$40,000 per year for a family of four to live without any dependence on public assistance.

This needs assessment seeks to determine whether the civil legal needs of people of Hawai'i have changed in the last 13 years and identify areas in which additional resources and policy changes will increase for the most vulnerable members of our community access to civil legal services.

This survey is the first stage in the civil legal needs assessment process. Selected stakeholder interviews and community focus groups will also be scheduled during the spring to gather more useful information.

We thank you for your willingness to assist us. Please complete and return the enclosed survey in the self-addressed stamped envelope by April 6, 2007. You may also complete this survey on-line at:

<http://www.surveymonkey.com/s.asp?u=207213126436>.

Please contact Nalani Fujimori at (808) 527-8014 or by e-mail at [nafujim@lashaw.org](mailto:nafujim@lashaw.org) with any questions about this civil legal needs assessment.

Sincerely,

The Access to Justice Hui

## HAWAI'I LEGAL NEEDS ASSESSMENT

### I. PRELIMINARY IMPRESSIONS

1. What do you see as the three biggest unmet civil (non-criminal) legal needs that a lawyer or other legal professional can assist with in Hawai'i's poor community?

1. \_\_\_\_\_  
\_\_\_\_\_
2. \_\_\_\_\_  
\_\_\_\_\_
3. \_\_\_\_\_  
\_\_\_\_\_

2. What do you see as the three most significant barriers to meeting these needs?

1. \_\_\_\_\_  
\_\_\_\_\_
2. \_\_\_\_\_  
\_\_\_\_\_
3. \_\_\_\_\_  
\_\_\_\_\_

### II. BACKGROUND INFORMATION

If applicable, please attach a copy of your most recent annual report, including a short description of the services you provide. If you are a legal service provider and receive IOLTA funds, please also provide a copy of your last IOLTA report.

### III. DESCRIPTION OF SERVICES

1. Where do you provide services (select all that apply):

- ☐ Kauai
- ☐ Oahu - Windward/North Shore (Waimanalo, Kailua, Kaneohe, Waimea Bay)
- ☐ Oahu - Central (Haleiwa, Waialua, Wahiawa, Mililani, Kipapa Gulch)
- ☐ Oahu - Ewa/Aiea (Kunia, Kapolei, Ewa, Pearl City, Aiea)
- ☐ Oahu - Leeward (Nanakuli to Makaha)
- ☐ Oahu - Honolulu (Foster Village to Hawaii Kai)
- ☐ Maui - West Maui
- ☐ Maui - Central Maui
- ☐ Maui - East Maui
- ☐ Molokai
- ☐ Lana'i
- ☐ Hawai'i – North and South Hilo



- ☐ Hawai'i – Puna
- ☐ Hawai'i – Hamakua
- ☐ Hawai'i – South Kohala
- ☐ Hawai'i – North Kohala
- ☐ Hawai'i – North and South Kona
- ☐ Hawai'i – Ka'u

2. What types of services do you provide (select all that apply):

- ☐ Alternate Dispute Resolution/Mediation
- ☐ Consumer
- ☐ Court Services
- ☐ Disabled
- ☐ Domestic Violence
- ☐ Ethnic Group
- ☐ Faith-Based
- ☐ Family
- ☐ Food and Nutrition
- ☐ Gay/Lesbian/Transsexual
- ☐ Health Care
- ☐ HIV/AIDS
- ☐ Housing
- ☐ Immigrant
- ☐ Job Placement/Training
- ☐ Legal Advice and Representation
- ☐ Senior
- ☐ Student Rights
- ☐ Substance Abuse Treatment
- ☐ Translation
- ☐ Youth Programs
- ☐ Other \_\_\_\_\_

3. Who uses your services (select all that apply):

- ☐ Children
- ☐ Disabled
- ☐ Elderly
- ☐ Families
- ☐ Homeless
- ☐ Immigrants
- ☐ Native Hawaiians
- ☐ Women
- ☐ All of the Above
- ☐ None of the Above
- ☐ Other \_\_\_\_\_

4. What, if any, income eligibility guidelines must people meet to receive your services? If available, please provide a copy of your guidelines.

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5. Approximately how many people do you serve each year?

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#### IV. LEGAL NEEDS OF CLIENT POPULATION

1. Please estimate the number of your clients that experience the following types of problems that often give rise to a need for legal services. For each category, please also estimate the percentage of these clients that get help from an attorney resolving this problem:

<b><u>Subject Area</u></b>	<b>Number of clients with the problem in the area</b>	<b>% of clients needing legal services who have their legal needs met</b>
<b>CIVIL RIGHTS:</b> (including, but not limited to public accommodation problems, first amendment rights, prisoner rights, language access)		
<b>COMMUNITY BASED ECONOMIC DEVELOPMENT:</b> (including, but not limited to small business problems, non-profit business assistance)		
<b>DOMESTIC VIOLENCE:</b> (including, but not limited to temporary restraining order or other protection from violence, access to shelters and housing, access to support services)		
<b>EDUCATION:</b> (including, but not limited to access to special education services, school discrimination, homeless children rights to education)		
<b>EMPLOYMENT:</b> (including, but not limited to unemployment compensation, wrongful termination, employment discrimination, worker's compensation)		
<b>ESTATE PLANNING:</b> (including, but not limited to wills, advance health care directives, powers of attorney, trusts, deeds, probate)		
<b>FAMILY:</b> (including, but not limited to divorce, child custody, child support, paternity, adoption, guardianship or conservatorship, child welfare)		
<b>FINANCIAL/CONSUMER PROTECTION:</b> (including, but not limited to debt collection, bankruptcy, repossession, fraud, predatory lending, credit discrimination, motor vehicle problems, tax)		

<b><u>Subject Area</u></b>	<b>Number of clients with the problem in the area</b>	<b>% of clients needing legal services who have their legal needs met</b>
<b>HEALTH:</b> (including, but not limited to access to or denial of health care, problems with Quest, problems with Medicare/Medicaid)		
<b>HOUSING/LAND:</b> (including, but not limited to leases, evictions, damage disputes, security deposits, Section 8 vouchers, public housing, housing discrimination, mortgage problems, utility shutoff)		
<b>IMMIGRATION:</b> (including, but not limited to deportation/removal defense, naturalization, adjustment of status, immigrant crime victims, human trafficking, work visas)		
<b>NATIVE HAWAIIAN RIGHTS:</b> (including, but not limited to denial of cultural and religious rights, land disputes, water disputes, geothermal disputes, Hawaiian Homeland problems)		
<b>PUBLIC ENTITLEMENTS:</b> (including, but not limited to TANF, TAONF, GA, SSI, Social Security Disability, food stamps)		

2. Of the problems listed above, which of the five would you consider the most important to the population you serve?

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_

3. Of the problems listed above, which five are growing the fastest within the population you serve? Please list:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_

4. Use the scale below to rate your familiarity of each of the organizations listed below:

<b><u>Legal Service Agency</u></b>	<b>Very Familiar</b>	<b>Somewhat Familiar</b>	<b>Totally Unfamiliar</b>
Air Force Legal Assistance Office			
American Civil Liberties Union of Hawai'i			
Army Legal Assistance Office			
Domestic Violence Clearinghouse/Legal Hotline			
Earthjustice Legal Defense Fund			
Elder Law Project, University of Hawai'i			
Hawai'i Disability Rights Center			
Kokua Kalihi Valley Legal Services			
Legal Aid Society of Hawai'i			
Legal Services for Children			
Marine Legal Assistance Office			
Maximum Legal Corp.			
Na Loio – Immigrant Rights and Public Interest Legal Center			
Native Hawaiian Legal Corporation			
Naval Legal Service Office			
USCG Honolulu Legal Assistance Office			
Volunteer Legal Services Hawai'i			

5. Does your organization ever refer clients to organizations that provide free or low-cost legal services?

- ☐ Yes  
☐ No  
☐ Don't Know

6. If so, about how many referrals do you make per year?

- ☐ Fewer than 5  
☐ 5-25  
☐ 26-50  
☐ 51-100  
☐ More than 100

7. If so, to which organizations do you refer clients (select all that apply)?

- ☐ Air Force Legal Assistance Office  
☐ American Civil Liberties Union of Hawai'i  
☐ Army Legal Assistance Office  
☐ Domestic Violence Clearinghouse/Legal Hotline  
☐ Earthjustice Legal Defense Fund  
☐ Elder Law Project, University of Hawai'i

- ☐ Hawai'i Disability Rights Center
- ☐ Kokua Kalihi Valley Legal Services
- ☐ Legal Aid Society of Hawai'i
- ☐ Legal Services for Children
- ☐ Marine Legal Assistance Office
- ☐ Maximum Legal Corp.
- ☐ Na Loio – Immigrant Rights and Public Interest Legal Center
- ☐ Native Hawaiian Legal Corporation
- ☐ Naval Legal Service Office
- ☐ USCG Honolulu Legal Assistance Office
- ☐ Volunteer Legal Services Hawai'i
- ☐ Other \_\_\_\_\_
- ☐ Other \_\_\_\_\_

8. If you do NOT make referrals to these organizations, why not (check all that apply)?

- ☐ Client problems don't seem to be legal in nature
- ☐ Don't know which agency to refer them to
- ☐ Don't know what kind of legal help clients need
- ☐ Worried about cost of legal services for client
- ☐ Worried about quality of legal services for client
- ☐ Other reason (describe):

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9. Please rate the importance of the following types of assistance to your clients, based upon your experience with them:

<b><u>Type of Assistance</u></b>	<b>Very Important</b>	<b>Important</b>	<b>Not very Important</b>	<b>Not at all Important</b>
<b>Counsel and Advice</b> (basic information on a legal problem)				
<b>Brief Services</b> (providing limited assistance with a simple legal problem – e.g. letter writing, helping complete legal forms)				
<b>Full Representation</b> (representation by an advocate or attorney)				
<b>Complex Advocacy</b> (advocacy aimed at changing a practice, impact litigation)				
Policy Advocacy ( <b>advocacy to change laws or government practices</b> )				
<b>Community Education</b> (teaching people about legal rights and solutions)				
<b>Community Outreach</b> (providing information to people at community events)				

10. Please provide your opinion regarding the effectiveness of each of the following legal service delivery techniques:

<b><u>Type of Legal Service Delivery</u></b>	<b>Very Effective</b>	<b>Moderately Effective</b>	<b>Not Effective</b>	<b>Unsure</b>	<b>Unaware Service Existed</b>
Direct representation by legal service provider					
Direct representation by pro bono attorney (volunteer attorney)					
Clinics (self-help or group sessions to assist clients with legal documents)					
Drop-in advice or brief service centers					
Scheduled neighborhood sessions for one-on-one intake					
Scheduled telephone appointments					
Telephone hotlines providing advice					
On-line legal services (advice, forms, brochures)					
Community education					
Community outreach					

#### V. BARRIERS TO ACCESSING LEGAL SERVICES

1. Please rate the following factors affect on the ability of your clients to receive legal assistance:

<b><u>Factors</u></b>	<b>Significant</b>	<b>Moderately Significant</b>	<b>Not Significant</b>	<b>Unsure</b>
<b><u>CLIENT RELATED BARRIERS:</u></b>				
Insufficient funds to pay for legal services				
Lack of time				
Lack of transportation				
Lack of knowledge about available services or agencies				
Unaware a legal remedy exists				
Illiteracy				
Inability to represent self				
Language				
Mental health				
Physical Disability				
Substance abuse				
Homelessness				
Domestic violence				
Cultural				
<b><u>LEGAL PROVIDER RELATED BARRIERS:</u></b>				
Unable to get in contact with legal service provider				
No attorney or advocate available to accept case				
Procedural barriers to obtaining legal services				

<b><u>Factors</u></b>	<b>Significant</b>	<b>Moderately Significant</b>	<b>Not Significant</b>	<b>Unsure</b>
Delay in receiving service or response				
Over-income for free legal services				
No legal service provider with needed expertise				
Poor performance or poor reputation of legal service provider				
<b><u>COURT RELATED BARRIERS:</u></b>				
Unable to contact an appropriate court staff person for information				
Unable to obtain complete or understandable information when speaking to court staff				
Unable to find the court				
Complex court procedures, rules and forms				
Perception that courts are not welcoming or helpful to users				

2. Please list any other barriers to accessing legal services that the people you serve encounter:

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## VI. Recommendations for Improvement

1. Please describe any specific suggestions or ideas you have to improve the access that low- and/or moderate-income people in Hawaii have to legal advice, legal assistance, legal representation or to the court system:

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2. Please describe any specific suggestions or ideas you have to reduce or eliminate barriers to meeting the civil legal needs of low- and/or moderate-income people in Hawaii:

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VII. Organization/Program/Community Group/Court Contact Information

1. Name of Person Providing Information: \_\_\_\_\_

a. Please check the one that best describes your position:

- ☐ executive director/senior management
- ☐ program management
- ☐ clerical/support
- ☐ work directly with clients
- ☐ judge or hearings officer
- ☐ other (specify): \_\_\_\_\_

b. Organization Name and Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

c. Telephone Number: \_\_\_\_\_

d. Name of Director: \_\_\_\_\_

VIII. If you are a legal service provider or an adjudicative body, please also complete (as applicable):

Legal Service Provider Addendum  
Adjudicative Bodies Addendum

Please don't forget to attach a copy of your most recent annual report, including a short description of the services you provide. If you are a legal service provider and receive IOLTA funds, please also provide a copy of your last IOLTA report.

Thank you again for your assistance with this survey. Any questions about this survey can be addressed to Nalani Fujimori at [nafujim@lashaw.org](mailto:nafujim@lashaw.org).



## LEGAL SERVICE PROVIDER ADDENDUM

1. For each area of legal need that your program addresses, how many cases are opened annually, and what percentage of your total client base is represented by these cases?

Area of Legal Need	Number of Cases Opened	% of Overall Cases
<b>CIVIL RIGHTS:</b> (including, but not limited to public accommodation problems, first amendment rights, prisoner rights, language access)		
<b>COMMUNITY BASED ECONOMIC DEVELOPMENT:</b> (including, but not limited to small business problems, non-profit business assistance)		
<b>DOMESTIC VIOLENCE:</b> (including, but not limited to temporary restraining order or other protection from violence, access to shelters and housing, access to support services)		
<b>EDUCATION:</b> (including, but not limited to access to special education services, school discrimination, homeless children rights to education)		
<b>EMPLOYMENT:</b> (including, but not limited to unemployment compensation, wrongful termination, employment discrimination, worker's compensation)		
<b>ESTATE PLANNING:</b> (including, but not limited to wills, advance health care directives, powers of attorney, trusts, deeds, probate)		
<b>FAMILY:</b> (including, but not limited to divorce, child custody, child support, paternity, adoption, guardianship or conservatorship, child welfare)		
<b>FINANCIAL/CONSUMER PROTECTION:</b> (including, but not limited to debt collection, bankruptcy, repossession, fraud, predatory lending, credit discrimination, motor vehicle problems, tax)		
<b>HEALTH:</b> (including, but not limited to access to or denial of health care, problems with Quest, problems with Medicare/Medicaid)		
<b>HOUSING/LAND:</b> (including, but not limited to leases, evictions, damage disputes, security deposits, Section 8 vouchers, public housing, housing discrimination, mortgage problems, utility shutoff)		
<b>IMMIGRATION:</b> (including, but not limited to deportation/removal defense, naturalization, adjustment of status, immigrant crime victims,		

human trafficking, work visas)		
<b>NATIVE HAWAIIAN RIGHTS:</b> (including, but not limited to denial of cultural and religious rights, land disputes, water disputes, geothermal disputes, Hawaiian Homeland problems)		
<b>PUBLIC ENTITLEMENTS:</b> (including, but not limited to TANF, TAONF, GA, SSI, Social Security Disability, food stamps)		
<b>OTHER:</b>		
<b>OTHER:</b>		
<u>TOTAL</u>		100%

2. Of your total client base, please estimate the percentage of the cases opened each calendar year served by each of the following service delivery methods:

<b>Service Delivery Method</b>	<b>% of Clients Served</b>
Direct representation by legal service provider	
Direct representation by pro bono attorney (volunteer attorney)	
Clinics (self-help or group sessions to assist clients with legal documents)	
Drop-in advice or brief service centers	
Scheduled neighborhood sessions for one-on-one intake	
Scheduled telephone appointments	
Telephone hotlines providing advice	
On-line legal services (advice, forms, brochures)	
Community education	
Community outreach	
<b><u>Other:</u></b>	
<b><u>Other:</u></b>	
<u>TOTAL</u>	100%

3. What percentage of the people who contact your program are you able to assist?

0-25% ☐  
 26-50% ☐  
 51-75% ☐  
 76-99% ☐  
 100% ☐

4. Please indicate the significance that the following factors have in your program's ability to provide legal representation or legal services (Please check off only one box per factor):

<b><u>Factors</u></b>	<b>Significant</b>	<b>Moderately Significant</b>	<b>Not Significant</b>	<b>Unsure</b>
Availability of In-House Staff Attorneys				
Availability of Pro Bono Attorneys				
Lack of Experienced Staff or Expertise on Staff to Handle Particular a Problem				
Conflict of Interest				
Client Does Not Meet Income Requirements				
Client Does Not Meet Other Eligibility Requirements				
Problem Involves an Area in which the Program Does Not Provide Services				
Problem Involves an Area that is Not a High Priority for Program				
Case Does Not Have Merit				
Lack of Funding for Operational/Administrative Activities				
Other:				
Other:				
Other:				

5. If you have not provided this information earlier (in an annual report or IOLTA report) please estimate the percentage of your program's client base that falls into the following categories per year:

<b><u>Age</u></b>	<b>% of Clients Served</b>
<b><u>Under 18</u></b>	
<b><u>18-64</u></b>	
<b><u>Over 64</u></b>	
<b><u>TOTAL</u></b>	100%

<b><u>Gender</u></b>	<b>% of Clients Served</b>
Female	
Male	
TOTAL	100%

<b><u>Ethnic Background</u></b>	<b>% of Clients Served</b>
Caucasian	
Chinese	
Filipino	
Native Hawaiian	
Part-Hawaiian	
Japanese	
Other Asian <sup>93</sup>	
Pacific Islander <sup>94</sup>	
All Other <sup>95</sup>	
<b><u>TOTAL</u></b>	<b>100%</b>

<b><u>Other</u></b>	<b>% of Clients Served</b>
Disabled	
Homeless	
Domestic Violence	
Low-Income <sup>96</sup>	
Moderate-Income <sup>97</sup>	
Non-Citizens	
Prison Inmates	
Rural Residents <sup>98</sup>	
Veterans	

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<sup>93</sup> Includes Indian, Korean, Laotian, Thai, Vietnamese, Other Asian, and Mixed Asian.

<sup>94</sup> Includes Guamanian or Chamorro, Micronesian, Samoan, Tongan, Other Pacific Islander, and Mixed Pacific Islander.

<sup>95</sup> Includes Hispanic, African American, American Indian/Alaskan Native and No Response.

<sup>96</sup> Below 125% of the federal poverty level.

<sup>97</sup> Between 125% and 250% of the federal poverty level.

<sup>98</sup> People who live outside of urban Honolulu.

6. If you have not provided this information earlier (in an annual report or IOLTA report) please provide the following information regarding your staffing in a calendar year:

<b><u>Position</u></b>	<b>Number</b>
Full-time attorneys	
Part-time attorneys	
Pro Bono/Volunteer attorneys	
Full-time paralegals	
Part-time paralegals	
Pro Bono/Volunteer paralegals	
Pro Bono/Volunteer law students	
Administrative staff	

7. How many offices does your program have?

\_\_\_\_\_

8. Where are these offices located (you may state the island if your location is confidential)?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## ADJUDICATIVE BODIES ADDENDUM

1. Please state the court or administrative body in which you work:

- ☐ State Circuit Court
- ☐ State Family Court
- ☐ State District Court
- ☐ Federal Honolulu Immigration Court
- ☐ Federal Social Security Administrative Hearings Office – Hawai‘i
- ☐ Department of Human Services Administrative Appeals Office
- ☐ Hawai‘i Public Housing Authority
- ☐ Department of Labor and Industrial Relations Employment Security Appeals
- ☐ Hawai‘i Civil Rights Commission

2. In the following categories for which you have information, please estimate the percentage of litigants who are pro se, represented by legal service providers, or represented by pro bono attorneys:

	<b>% Pro Se Litigants</b>	<b>% Represented by Legal Service Providers</b>	<b>% Represented by Pro Bono Attorneys</b>
<b>HAWAII STATE JUDICIARY<sup>99</sup></b>			
<b>CIRCUIT COURT</b>			
Civil Actions			
Contract			
Personal Injury or Property Damage or Both, Motor Vehicle			
Personal Injury or Property Damage or Both, Non-Motor Vehicle			
Condemnation			
Other Civil Action			
District Court Transfers			
Probate Proceedings			
Probate Intestate			
Probate Testate			
Special Administration			
Small Estate			
Informal Will			
Other			
<b>Guardianship or Conservatorship Proceedings</b>			
<b>Trust Proceedings</b>			
Miscellaneous Proceedings			
Land Court			

<sup>99</sup> These categories correspond to those used in the Judiciary’s Annual Report.

	<b>% Pro Se Litigants</b>	<b>% Represented by Legal Service Providers</b>	<b>% Represented by Pro Bono Attorneys</b>
Tax Appeal			
Mechanic's and Materialman's Lien			
Other Special Proceedings			
<b>FAMILY COURT</b>			
Marital Actions and Proceedings			
Divorce			
Annulment			
Separation			
Uniform Interstate Family Support			
<b>Adoption Proceedings</b>			
<b>Parental Proceedings</b>			
Domestic Abuse Protective Orders (Ch. 586)			
Miscellaneous Proceedings			
Civil			
Guardianship of the Person			
Other Miscellaneous Proceedings			
<b>Children's Referrals</b>			
Abuse and Neglect			
<b>DISTRICT COURT</b>			
Regular Civil			
Assumpsit			
Tort/Other			
Summary Possession			
TRO			
Small Claims			
<b>Assumpsit</b>			
Tort			
Other			
<b>FEDERAL HONOLULU IMMIGRATION COURT<sup>100</sup></b>			
<b>Deportation</b>			
Exclusion			
Removal			
Credible Fear			
Reasonable Fear			
Claimed Status			
Asylum Only			
Rescission			
Continued Detention Review			
NACARA			

<sup>100</sup> These categories correspond to those used in the Executive Office for Immigration Review FY 2005 Statistical Year Book.

	<b>% Pro Se Litigants</b>	<b>% Represented by Legal Service Providers</b>	<b>% Represented by Pro Bono Attorneys</b>
Withholding Only			
Unknown			
<b>FEDERAL SOCIAL SECURITY ADMINISTRATIVE HEARINGS OFFICE – HAWAI‘I<sup>101</sup></b>			
<b>OASI</b>			
<b>Disability</b>			
DI			
SSI			
DI and SSI			
<b>Medicare (Parts A and B and adversarial)</b>			
<b>Black Lung</b>			
<b>DEPARTMENT OF HUMAN SERVICES ADMINISTRATIVE APPEALS OFFICE</b>			
BESSD			
TANF/TAONF			
General Assistance			
AABD			
Food Stamps			
Intentional Program Violations			
Med-Quest			
<b>Social Services Division</b>			
Child Welfare Services			
<b>Adult and Community Care Services</b>			
<b>Other</b>			
<b>HAWAI‘I PUBLIC HOUSING AUTHORITY</b>			
<b>Evictions</b>			
<b>Other</b>			
<b>DEPARTMENT OF LABOR EMPLOYMENT SECURITY APPEALS</b>			
<b>Unemployment Insurance</b>			
<b>Other</b>			
<b>HAWAI‘I CIVIL RIGHTS COMMISSION</b>			
<b>Employment</b>			
<b>Housing</b>			
<b>Public Accommodations</b>			
<b>Other</b>			

<sup>101</sup> These categories correspond to those used in the Social Security Administration Annual Statistical Supplement, 2005.



## **ATTACHMENT 2**

### Stakeholder Interview Summary



# Access to Justice Hui

## 2007 Legal Needs Assessment

### *Stakeholder Interviews – Summary*

*September 17, 2007*

*Prepared by 3Point*

#### **SUMMARY**

Those most familiar with the ability of people to “access justice” in Hawai‘i believe there are serious shortcomings in the processes and services that are in place to ensure people can adequately navigate the legal system to get issues resolved. The following are some of the overarching themes that emerged from stakeholder interviews:

#### ***1. Justice crisis***

Many describe the current legal system as a system in severe crisis—incapable of doing what it is supposed to do, and undermining people’s faith in the concept of justice. Many feel alienated from the legal system and doubtful that it either can or aims to serve people and society. Many who are poor, disabled, homeless, or otherwise marginalized see the legal system, at best, as a mystery and, at worst, as a farce—an inaccessible system designed for the few clients who can afford attorneys. Furthermore, the system is distant—non-responsive to people’s needs and without a means to effectively communicate with or affect the way the system works. The system also feels incomprehensible—a web of jargon, paperwork, and arcane rules. Some even see the system as punitive—a foreign, intimidating, rough system that one should avoid.

At one level, all people are led to believe that the American system of justice exists to help people, but reality reveals a system—the courts, private attorneys, the laws, and even the public-interest organizations—that continually falls short of that expectation. This lack of confidence by people and lack of relevance of the system is, in the eyes of many, surreptitiously undermining the very notion of blind justice in our society.

#### ***2. Good people, bad system***

Generally, organizations are appreciative of the efforts of nonprofit legal institutions, attorneys who provide pro bono services, judges, government agencies, and other well intentioned individuals within the system. Many feel the system is poorly designed and insufficient to accommodate needs, no matter how much effort is put in by good individuals

#### ***3. They just want answers***

Lack of coordination and planning might be best indicated by an oft-made plea from organizations and their clients—“people just want their questions answered.” Responsive, comprehensible, sensitive, concerned, accurate, and timely answers to questions (whether legal or just legal-related) are what people long for. This could reconnect people to their system.

#### ***4. Reduce legal needs through prevention***

A common theme noted by most is that problems snowball into serious legal matters because people lack the basic knowledge, basic skills, and other tools that could be more efficiently provided ahead of time. Prevention in the form of proactive educational activities, both legal and non-legal, could reduce demand for legal help. Alternative methods to resolve disputes outside of courts were also frequently proposed.

## **INTERVIEW PROCESS**

As part of the statewide assessment of legal needs, 3Point—a public-interest consulting firm in Hawai‘i—conducted interviews with key stakeholder organizations or agencies (list provided in Appendix 1). Each interviewee was asked a set of questions (see Appendix 2). The conversation was allowed to stray from the questionnaire script as long as all substantive ground was covered. This was done to encourage interviewees to share points of view and explore strands of thought more deeply. In all cases, interviewees were asked to speak candidly and were assured that their names would not be used in conjunction with specific quotes.

These interviews are but one important aspect of a thorough assessment of access to justice issues in Hawai‘i. This summary is not intended to be, nor can it be, a comprehensive representation of all issues. However, these findings do deserve significant weight. They come from a large sample of organizations that have close contact with those who have the least access in Hawai‘i. The agencies speak for segments of society who often lack a sufficient voice in these matters. They also generally come from a position of expertise and analysis; these agencies have the benefit of multiple, regular interactions with people. In many cases, the interview participants could identify real patterns in social needs and issues that few, if any others, can see.

This report is the product of many hours of reflecting on the interviews, reading and rereading notes, and discussing themes with interviewers (a total of three 3Point consultants and one Access to Justice Hui volunteer conducted the interviews).

## **FINDINGS**

The following is an analysis of the responses provided by interviewees. This analysis takes all responses and groups them together into discernable themes—if two respondents were deemed to hold the same opinion even though they expressed it differently, it is grouped together into a single theme. The intended value of this analysis is to re-articulate and organize thoughts in a way that helps better understand the current state of access to justice in Hawai‘i.

All identifiable opinion themes are listed, even if mentioned only once. As this was not a scientific survey, opinions expressed more often do not necessarily indicate that a view is more commonly held, more accurate, or more a reflection of the whole than those mentioned fewer times. For simplicity, themes are divided into three “weight classes”:

- *Dominant* – These were voiced frequently, by multiple types of organizations in multiple geographic locations. Though none of these are certainties, they are as close to “true” as this part of the access to justice study can provide. Despite their “dominance,” discernable opposing views may have been voiced.
- *Common* – These were referenced various times and appear to be opinions held by a significant number of agencies/people, though sometimes not by a diversity of agencies/people.
- *Other* – These are discernable ideas that came up in conversation with just one or two of those interviewed. It is possible that others agree with these ideas, but they were not “top-of-mind” enough to be mentioned by others in the course of the interview.

### ***Trends in Access to Justice***

Interviewees were asked about trends they see in legal access issues and what they perceived to be driving forces behind these trends

#### *Dominant Themes*

- **Needs rising, in general.** In general, legal needs for those traditionally lacking access are increasing.
- **Family conflicts rising.** Family conflict cases involving domestic abuse, divorce, child custody, and other such issues drag on much longer than in the past and seem more complex, leading to greater needs and less adequate capacity. Lack of experience and/or consistency among judges tie things up even more.
- **Micronesians.** Increased numbers of Micronesian immigrants and their unique legal status are straining legal and social services.
- **More litigiousness.** More people are willing to or wanting to use the legal system to resolve disputes, and the system has not grown to accommodate this.

#### *Common Themes*

- **Too many people.** Hawai'i is getting too crowded and people are having a harder time resolving disputes. Neighbors don't get along as they used to.
- **Housing/Homelessness.** With increased cost of housing and rising homelessness, people are under greater strains resulting in more family and financial problems.
- **Increased complexity.** Legal issues are becoming increasingly complex, especially in the area of family law. Thus people cannot help themselves.
- **Increased disparities.** The legal system is increasingly bifurcated between rich and poor. Much of the system caters increasingly to the rich leaving little assistance to the poor and middle class.
- **Increased elderly population.** The elderly are particularly in need of legal services and the support systems have not kept up with their increasing population.
- **Substance abuse, family problems, social issues.** More grandparents are raising kids because so many parents are consumed by drugs and other abuses.

#### *Other Themes*

- **People are more aware of their rights to benefits.**
- **Cost of legal services is climbing.**
- **Criminalization of mental health unnecessarily crowds the legal system.**
- **Toxic litigants use up precious legal resources.**
- **Access issues are the same as 10 years ago. No change.**

### ***Common Legal Problems***

The kinds of legal issues faced by the clients of interviewees are, obviously, a function of what those agencies specialize in. For example, domestic violence organizations report that their clients have legal needs related to domestic violence. Analysis in this section was done somewhat differently because of this bias. A qualitative look at responses helps better understand which issues may be the most prevalent, pressing, or challenging.

*Dominant Issues* – These are issues that seem to be foremost on the minds of particularly those agencies that provide general services or have broad-based clientele. These issues seem to be on the rise, and/or particularly problematic today.

- **Housing related.** (By far the most often mentioned); including leases, evictions, damage disputes, security deposits, Section 8 vouchers, public housing, housing discrimination, mortgage problems, utility shutoff
- **Family Law – Grandparents rights.** Family law issues specifically as they pertain to grandparents including guardianship, custody, adoption, and legal documentation.
- **Family Law Issues – General.** Divorce, child custody, child support, paternity, etc.
- **Domestic violence.** Including temporary restraining order or other protection from violence, access to shelters and housing, access to support services.
- **Estate planning.** Including wills, advance health care directives, powers of attorney, trusts, deeds, probate.

*Common Issues* – These issues are also prevalent among high-need populations.

- **Criminal law related issues.** Rights of the accused, rights of inmates, probation issues, issues involving ex-offenders.
- **Consumer protection issues.** Including debt collection, bankruptcy, repossession, fraud, predatory lending, credit discrimination, motor vehicle problems, tax.
- **Public entitlements issues.** Including TANF, TAONF, GA, SSI, Social Security Disability.
- **Immigration issues.** Including deportation/removal defense, naturalization, adjustment of status, immigrant crime victims, work visas.
- **Health services and access.** Including access to or denial of health care, problems with Quest, problems with Medicare/Medicaid.
- **Education services and access.** Including access to special education services, homeless children rights to education.
- **Employment issues.** Including unemployment compensation, wrongful termination, employment discrimination, worker's compensation.

*Other Issues* – These issues are not unimportant, but were not top-of-mind for most interviewees.

- **Disability access issues.**
- **Traffic violations.**
- **Protection of indigenous rights.**

## Barriers to Access

Access to justice can be thought of as a multi-step process to go from recognizing one has a legal issue, all the way to getting a legal resolution. This journey is fraught with obstacles. Each obstacle can block a person from obtaining “justice”. The following chart may help illustrate this journey and the comprehensive set of solutions that would be needed to ensure access to justice:

	<b>KNOWING YOUR RIGHTS</b> <i>Many people don't even know they have a legal right or a legal need</i>	→	<b>PURSUING HELP</b> <i>Even if they know they have a legal need, many do not seek to have it resolved</i>	→	<b>GETTING HELP</b> <i>Even if they seek to have it resolved, many cannot get the help they need</i>	→	<b>GETTING RESOLUTION</b> <i>Even if they get the help they need, many do not get their issue resolved</i>
<i>Dominant</i>	<ul style="list-style-type: none"> <li>People simply don't know what their rights are</li> <li>Language barriers, esp. immigrants</li> <li>Unaware of US standards of behavior</li> </ul>		<ul style="list-style-type: none"> <li>Shame; stigma</li> <li>Language barriers</li> <li>Cultural barriers; keeping things private</li> <li>Fear of the system; intimidation</li> </ul>		<ul style="list-style-type: none"> <li>Cost; people can't afford help</li> </ul>		NONE
<i>Common</i>	<ul style="list-style-type: none"> <li>People don't understand the information that they get about their rights</li> </ul>		<ul style="list-style-type: none"> <li>Takes too long. People don't have the time to pursue legal issues</li> <li>Legalese turns people off to pursuing any further</li> <li>People feel it is hopeless; they've given up</li> <li>People have no faith in the system to work</li> <li>Too bureaucratic; too much paperwork and different processes</li> <li>Not a priority for people; other more pressing issues like housing and health</li> <li>Perception that it will cost too much</li> </ul>		<ul style="list-style-type: none"> <li>Language barriers</li> <li>Geographic access to attorneys and courts (neighbor islands and rural O'ahu)</li> <li>Don't know where to go; people get bounced around and then give up</li> <li>Don't qualify for Legal Aid</li> <li>Legal service providers don't/can't take their case</li> <li>People conflicted out because no other alternatives</li> <li>Not enough pro bono attorneys and no VLSH presence</li> </ul>		<ul style="list-style-type: none"> <li>People who do self-help end up worse off</li> <li>Private attorneys who try to help, don't know how to help these clients</li> <li>Nonprofit legal services are of inconsistent quality</li> </ul>
<i>Other</i>	<ul style="list-style-type: none"> <li>Agencies are afraid to give clients the wrong information</li> </ul>		<ul style="list-style-type: none"> <li>Perception that the system is “ugly” and “negative”</li> </ul>		<ul style="list-style-type: none"> <li>Agency staff doesn't know where to direct people</li> <li>Federal rules prevent representation of Micronesians</li> </ul>		<ul style="list-style-type: none"> <li>Opposition is too savvy</li> <li>Nonprofit legal services are not as good</li> </ul>

## Recommendations

The following are a list of recommendations to consider. As this is a compendium of opinions, some of the recommendations may contradict each other.

	NONPROFIT LEGAL PROVIDERS	COURTS	PRIVATE ATTORNEYS	OTHER IDEAS
<i>Dominant</i>	<ul style="list-style-type: none"> <li>Public interest attorneys must be paid more in order to attract and retain good people</li> </ul>	<ul style="list-style-type: none"> <li>Judges need more training; need to know the impacts of long cases; need to utilize best practices</li> </ul>	NONE	<ul style="list-style-type: none"> <li>Agencies' staff need constant legal training; how do we identify legal issues</li> </ul>
<i>Common</i>	<ul style="list-style-type: none"> <li>More outreach is needed. Legal providers need to go where the people are, be visible, and work with community leaders</li> <li>Better coordination and cooperation among them; there's been too much infighting</li> <li>More choices needed. Legal Aid is too busy.</li> <li>More face-to-face education, workshops, and neighborhood clinics</li> </ul>	<ul style="list-style-type: none"> <li>More consistency in rulings; seems arbitrary</li> </ul>	<ul style="list-style-type: none"> <li>Encourage more pro bono; make it prestigious</li> <li>Mandate pro bono or require contributions to public interest law</li> <li>Educate private attorneys on how to help these populations</li> </ul>	<ul style="list-style-type: none"> <li>Utilize law students; get them involved in public interest work</li> <li>More collaboration among players—advocates, legal service providers, government agencies, etc. Case management approach</li> <li>Mediation works; need more</li> <li>One stop shop; legal hotline for individuals and nonprofits</li> <li>More funding</li> <li>More preventative education and help to avoid court</li> </ul>
<i>Other</i>	<ul style="list-style-type: none"> <li>Small, simple, plain language brochures</li> <li>Support for class actions and bankruptcy cases</li> <li>More fee-for-services for people who can pay a little</li> <li>Work with agencies to follow up on referrals</li> </ul>	<ul style="list-style-type: none"> <li>More use of interagency dialogue to communicate and coordinate</li> <li>Judges should visit the programs that they refer people to</li> <li>More e-filing and online forms</li> <li>Improve the environment of family court; it's demeaning</li> <li>Access more federal funds through Title IV-E</li> <li>More diversity of judges</li> <li>More transparency in Family Court</li> </ul>	<ul style="list-style-type: none"> <li>Advocate for systems change</li> <li>Hold a pro bono summit event to encourage pro bono</li> <li>Focus on legal education as pro bono rather than just legal services; broaden the definition of pro bono</li> <li>Mandatory pro bono reporting</li> </ul>	<ul style="list-style-type: none"> <li>Prepaid legal services isn't a solution for most</li> <li>ADR is often not appropriate</li> <li>Need language interpreters</li> <li>Better use of paralegals to answer basic questions</li> <li>Higher pay for Legal Aid attorneys</li> <li>More resources for pro se</li> <li>Clarity on the rights of Micronesians</li> <li>Quicker ways to resolve disputes</li> <li>More attorneys on neighbor islands</li> <li>Increased training for DOE staff on special needs law</li> <li>Allow attorneys to act as notaries</li> <li>Get feedback and evaluations from people dealing with the legal system</li> </ul>



## **LIST OF INTERVIEWED ORGANIZATIONS/AGENCIES**

Alu Like, Inc.  
American Civil Liberties Union of Hawai'i  
Catholic Charities  
Child and Family Services  
Consumer Credit Counseling Service of Hawai'i  
Court Administrator, 2nd Circuit (Maui)  
Court Administrator, 3rd Circuit (Hawai'i)  
Disability and Communications Access Board  
District Court Judge, 2nd Circuit (Maui)  
District Court Senior Judge, 3rd Circuit (Hawai'i)  
District Court Senior Judge, 5th Circuit (Kaua'i)  
Domestic Violence Clearinghouse/Legal Hotline  
Elder Law Clinic  
Family Court Senior Judge, 3rd Circuit (Hawai'i)  
Family Court Senior Judge, 5th Circuit (Kaua'i)  
Goodwill Industries  
Hale Kipa  
Hale Mahaolu  
Hale Na'au Pono  
Hawai'i County Economic Opportunity Council  
Hawai'i Disability Rights Center  
Hawai'i Justice Foundation  
Hawai'i State Bar Association  
Hawai'i State Coalition Against Domestic Violence  
Hawai'i State Public Housing Authority  
Honolulu Community Action Program  
Institute for Human Services  
Kauai Economic Opportunity  
Key Project  
Kokua Kalihi Valley Legal Services  
Kokua Kalihi Valley  
Legal Aid Society of Hawai'i  
Legal Services for Children  
Maui Economic Opportunity  
Na Loio  
Native Hawaiian Legal Corporation  
Neighborhood Place -- Kona  
Neighborhood Place -- Puna  
Neighborhood Place -- Wailuku  
Parents and Children Together  
State Dept. of Human Services  
Volunteer Legal Services Hawai'i

*Access to Justice Hui*  
**2007 Legal Needs Assessment**  
Stakeholder Interview Protocol

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The Access to Justice Hui is a consortium comprised of the Judiciary, the Hawai'i State Bar Association and nonprofit organizations providing free and low-cost civil legal services in Hawai'i. AJH is conducting an assessment of civil legal needs in Hawai'i and the barriers that people, particularly the low-income, face in meeting these civil legal needs. The findings of the study will help shape a Community Wide Action Plan aimed at meeting the unmet legal needs of people across Hawai'i.

As part of the study we are interviewing a limited number of "thought leaders" like yourself – people who understand the challenges faced by low-income and other vulnerable communities, and who can help us think creatively about ways to address their legal needs. We hope that the interviews foster creative, big picture thinking about how Hawai'i might extend equal access to justice to all of its residents.

Your responses will be confidential and will not be attributed to you in any report without your permission.

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1. The last study of legal needs was performed more than 10 years ago. In your opinion, are unmet legal needs among low-income people in Hawai'i greater than, less than, or about the same as they were 10 years ago?
2. If different than 10 years ago, what are the driving forces behind this change (e.g., changes in public policy, the economic environment, or the legal system itself)?
3. In your opinion what are the most common types of problems your clients experience that might give rise to a need for legal advice or services? (If it helps to review a list of household problems that commonly give rise to a need for legal services, we can provide one.)
4. Have these particular needs increased, decreased, or remained about the same for the past 10 years? If increased or decreased, why?
5. What are the things that prevent clients from obtaining the legal advice or services they need (e.g., location of court houses, complexity of the law, intimidated by the legal system, don't know any lawyers, etc.)?
6. Do you have any suggestions about how nonprofit legal service providers might better serve the unmet legal needs of can reach people with unmet legal needs? For instance, do you have suggestions regarding what kinds of information or outreach these agencies should be conducting?
7. Do you see any opportunities for nonprofit legal services providers to work more closely with your organization? For instance, cross-marketing programs or bundling services together?
8. Who within your organization should nonprofit legal services providers be working most with?

9. Do you see any opportunities for nonprofit legal services providers to work more closely with other organizations that serve people of limited means?

10. In your opinion is there a ‘gap group’ of people who may not qualify for free or low-cost legal services but who still cannot access market-rate legal advice or representation? How would you define this ‘gap group?’ Is there any way to estimate its size?

11. Are there any changes to the policies, procedures, or practices that govern our courts and legal system which would help to meet the unmet needs for legal advice and representation?

12. Are there any programs that Hawai‘i should be exploring to help ensure equal access and just outcomes for all regardless of ability to pay (e.g., prepaid legal services, legal insurance, alternative dispute resolution, or other alternatives)?

13. To your knowledge are there other states or countries that we might look to as models to help us create a legal system that provides equal access and just outcomes for all people regardless of financial means?

14. May we list your name among those we interviewed as part of the study?

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Examples of client problems which likely give rise to a need for legal services:

- ▶ **Civil rights issues**, including, but not limited to public accommodation problems, first amendment rights, prisoner rights, language access.
- ▶ **Consumer protection issues**, including, but not limited to debt collection, bankruptcy, repossession, fraud, predatory lending, credit discrimination, motor vehicle problems, tax.
- ▶ **Family law issues**, including, but not limited to divorce, child custody, child support, paternity, adoption, guardianship or conservatorship, child welfare.
- ▶ **Employment issues**, including, but not limited to unemployment compensation, wrongful termination, employment discrimination, worker’s compensation.
- ▶ **Estate planning**, including, but not limited to wills, advance health care directives, powers of attorney, trusts, deeds, probate.
- ▶ **Domestic violence**, including, but not limited to temporary restraining order or other protection from violence, access to shelters and housing, access to support services.
- ▶ **Health services and access**, including, but not limited to access to or denial of health care, problems with Quest, problems with Medicare/Medicaid.
- ▶ **Business and economic development** including, but not limited to small business problems, non-profit business assistance.
- ▶ **Education services and access**, including, but not limited to access to special education services, school discrimination, homeless children rights to education.
- ▶ **Housing and land issues**, including, but not limited to leases, evictions, damage disputes, security deposits, Section 8 vouchers, public housing, housing discrimination, mortgage problems, utility shutoff.
- ▶ **Immigration issues**, including, but not limited to deportation/removal defense, naturalization, adjustment of status, immigrant crime victims, human trafficking, work visas.
- ▶ **Native Hawaiian issues**, including, but not limited to denial of cultural and religious rights, land disputes, water disputes, geothermal disputes, Hawaiian Homeland problems.
- ▶ **Public entitlements issues**, including, but not limited to TANF, TAONF, GA, SSI, Social Security Disability, food stamps.



## **ATTACHMENT 3**

Focus Group Summary



## Access to Justice Hui

### *Community Focus Groups*

- We need honest people... we just want an honest attorney who won't abandon us
- Every aspect of our lives has a legal aspect
- Commercials tell us, "you might have been harmed by somebody else." We've become sue-happy. Everybody is on pins and needles, and insurance companies also are trying to scare you
- I had to pay a consultant \$500/hour to learn about custody issues than needed \$5000 to adopt my grandkids... I couldn't do it.
- Prepaid legal services is helpful to get consultations, but many can't afford the fees
- We can't trust the police department
- Attorney I had in a land dispute did nothing for us.
- We don't trust the system. People are taking our land away by going to the tax office and paying back taxes... that's not right. Everything just comes down to who has the money
- How do you know who to trust?
- How are lawyers held accountable?
- I had to take things on faith because I don't know. I trusted a lawyer and sold my boat to pay him and then found out he wasn't the guy I needed... they referred me to the wrong guy
- We're isolated... so far away... how do we get help?
- We need people who can speak our language
- Bankruptcy is a big issue... it takes money to file for bankruptcy... how do you pay for it
- No one doing pro se
- Who are these people who answer the phone when you call for help? I just need answers and I can't get them
- There are no attorneys on island, only one paralegal.
- When elder abuse happens, where am I supposed to go?
- I have a medical malpractice case, but I'm not going to pursue it. I don't have the money or the time.
- We need business legal services... no one here knows about contracts and nonprofits and that kind of thing.
- We have to wait so long for the lawyer to get here sometimes
- People don't understand the custody laws and the laws about visitation rights. Because parents don't know, issues are never resolved and kids suffer
- Housing rules are also unknown. Domestic violence victims get ostracized

- Immigration rules are hard to understand. People barely speak English and they're supposed to understand the law? Women who get beaten don't come forward for fear of being deported
- Luckily, our Family Court judge on island gets it. It's the agencies \*CPS) that are the barrier
- More legal hotlines would help people
- People don't get legal help because: they feel intimidated, they feel it is hopeless and not worth the effort, they don't have the money or the time, they feel shame, it's too difficult, people can't get the information they need, language barriers, not a priority
- People can't get attorneys because: they can't afford them, they get conflicted out on Kauai, they have an issues (custody, property) that LASH won't take, they are overwhelmed and depressed, attorneys confuse them.
- Lawyers cost too much.
- I've never seen one pro bono case in 10 years here
- Private attorneys need to step it up here. There should be mandatory pro bono
- We need more legal clinics
- We need a sister agency like VLSH here to avoid conflicts
- State agencies need more training on the law
- Better communication from government agencies
- Workshops to help nonprofits with legal issues
- Distinct disadvantages because of income.
- Per diem judges need training
- Guardian ad litem need training
- Self-help solutions for small claims
- Forms need to be simpler and the same for all islands
- Need language translators
- Micronesians are not treated properly.
- Major issue is grandparents and their hanai children. We need more compassion in the system
- We need to collaborate more... know what each other is doing
- People need to think about the law in a more preventative way
- People who don't show up to court on Maui sent to jail... how are they supposed to get there? Criminalizing people because the justice system doesn't work for them
- Workshops needed on legal rights
- We also need to know how to assert our rights, not just defend ourselves. Kuleana rights and land issues



- Court system overloaded so clients are not treated right.
- We need help with custody issues. How do we deal with all the official stuff?
- Legal Aid doing a lot of power of attorney work for people. Helpful
- 2 private attorneys and mostly Legal Aid do the legal education work here
- Filipino families are especially shy about getting legal help
- They are unfamiliar with the courts system in all types of cases.
- Micronesians – relatives taking care of children because parents need to work or they are incarcerated.
- Dealing with directions, financial hardship keeps one from receiving services.
- Judiciary should pay for translators and transportation
- How come Moloka'i people cannot try their own here? No juries here
- Legal Aid needs more resources. They do a good job
- The system is desensitized to people's suffering
- Legal Aid not assisting Micronesians, not assisting new clients. Some person paid \$35 for 2 letters to assist them with their legal problem (they got the information on a flyer that was passed around).
- Prepaid Legal services are big here... seems like these are good for some people. It's a real phenomenon here on Moloka'i for middle income people
- We need help in family law cases where people get conflicted out
- People are intimidated by the legal system, and they also feel it is good for nothing—they'd be better off not even starting a legal case.
- We need to be able to vote for our judges.
- Need more legal service providers at the present time there is VLS, Na Loio and LASH.
- Mediation can be very useful
- Big gap group with people who have a federal case... maybe have a dispute regarding a car they bought. They're stuck.
- Very few services of any kind available to us.
- Na Loio – advocates speak too fast.
- Legal Aid has been great helping us with living wills
- It matters to have the help come from people from here... someone culturally connected. Kupuna will not trust anyone else.
- For LASH – hopefully they will be full staffed and be able to assist more families.
- We need more professionals... more attorneys
- People don't know their legal rights

- Try to do the initial interview with clients before the court hearing day.
- Legal Aid should go out to the Eastside and Westside more often.
- I have no idea where to go for help. Legal Aid couldn't help me and I have a federal case.
- Organize outreach to teach people what/how they can do to seek legal advice.
- We have no law library here, only 1 hour of internet access at the library.
- Things should be just as accessible to us... just because we're on Molokai... Almost cruel and unusual that an American cannot get justice
- LASH – have walk-in intake because a lot of people try to contact intake and are unable to because they get confused with the recording.
- What's right should not be a function of money
- Why do criminals get an attorney and civil litigants can't?
- Many do not know how to dissolve a guardianship afterwards.
- Many receive successful divorces through LASH, however many more do not get help because they are scared to get a divorce (in these cases domestic violence is normally involved).
- Attorney's should have a fixed fee
- Is the system just for the elites?
- Before, we had social structures to work things out... now they arrest the kupunas... they should have a court for kanakas
- Pro bono has to increase... pro se is impossible here.
- Many of the clients on this side of the island come from close knit families and have a hard time trusting new people.
- Influx of Micronesians to Hawaii. Many legal issues have to do with culture. Ex. They have no legal paperwork saying who their parents are. Highly undereducated population. They don't even have tests to test the kids coming in. Not simply a language barrier. They are illiterate in their own language. Polarization is really dangerous. Criteria needs to be set for public housing. Locals get upset Micronesians get housing. Need to learn the community culture.
- Money and literacy affect the fairness of our system.
- Funding for Legal Aid, self-service center at LASH.
- Not trustworthy of attorneys after having a bad experience with an attorney charging her more money than he quoted her.
- Media is a great tool, but finding committed volunteer attorneys is another issue.

## **I. Introduction**

*Begin by introducing yourself, perhaps including where you were born and raised, something about your family, why the law interests you, or some other personal information that might help others feel comfortable sharing about themselves. Have others introduce themselves.*

Thank you for taking time to be with us today. This focus group is part of a study being conducted by the Access to Justice Hui about the barriers that keep people from getting the legal advice, representation, or access to the courts that they need and deserve. The Hui is a group of nonprofit organizations, attorneys and people from the courts who are working to make sure that everyone has equal access to justice, and to the legal services that make justice possible.

Focus groups like this one are being conducted in communities across the state. We hope that they are conversations about the legal system, and the barriers that prevent people from seeking and obtaining justice through that system. We're especially interested in hearing your perspective on the legal system, how you feel it treats your community, and whether there is equal access to the courts and to justice in Hawai'i. We're especially interested in hearing about examples of times when you (or someone you know) felt like you might need a lawyer or legal advice, but weren't able to get either.

Because some of the things we talk about might be personal in nature, we ask that anything said in this room stay in this room. No names will be used in any report that we print, and none of this information will be used for any purpose other than helping us understand how to improve the legal system.

We have a small gift at the end to thank you for your time.

This meeting is scheduled to take no more than 1 hour (90 minutes?). Out of respect for your time, we will end promptly. At the end of our time, we'll ask you to fill out an anonymous survey that should take only about 5 minutes.

Does anyone have any questions before we begin?

## **II. Questions**

### 1. Is our system of justice fair and accessible to everyone?

Probe for:

Do you think that our legal system (courts) treats everyone equally? If not, why?  
Do you think that everyone has the same knowledge about the law and the legal system? If not, why?

### 2. What are the most common legal problems among people you know?

Probe for:

Based on the experiences of people you know, what kinds of problems do you think people have that might require an attorney or legal advice?

Some examples of common problems that attorneys help people with are family problems like divorce or child custody, personal injury, debt or bankruptcy, discrimination in housing or jobs, or fights with government agencies over benefits or services.

3. Do you and others in your community have equal access to legal advice and services?

Probe for:

Has there ever been a time when you thought you (or someone you know) needed a lawyer or legal advice, but didn't get either one? If so, what kept you from getting the advice or services you needed?

If you got into a legal dispute or problem, do you think you would have the same chance as anyone else of getting a just or fair outcome? If not, why not?

4. How can the Hui help to bring legal information or services to your community?

Probes:

Has anyone used the services of a nonprofit legal services provider before? If yes, what was your experience like?

What can nonprofit providers do?

What can the courts do?

What can others do?

### **III. Closing**

Thank you so much for your ideas and perspective. They will help shape the plan for improving the legal system and related programs. If you would like copies of the plan that results from this be sure you have given us your mailing address and checked the appropriate box on the sign in sheet. Before you leave, please take 5 minutes to fill out this survey, and don't forget to pick up your gift as you leave.

Please look at the list of twenty problems below. If, in the past year, you or someone in your family experienced any of these problems, please tell us if you or your family member received professional legal help, and if so, whether the help was satisfactory?

<b>1. Eviction from home</b>		
Did you/your family get professional legal help or representation?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
If "Yes," was the help satisfactory?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<hr/>		
<b>2. Foreclosure on home mortgage</b>		
Did you/your family get professional legal help or representation?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
If "Yes," was the help satisfactory?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<hr/>		
<b>3. Problem getting a home mortgage, small business loan or other loan</b>		
Did you/your family get professional legal help or representation?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
If "Yes," was the help satisfactory?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<hr/>		
<b>4. Problems related to debt (overdue bills, personal bankruptcy)</b>		
Did you/your family get professional legal help or representation?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
If "Yes," was the help satisfactory?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<hr/>		
<b>5. Consumer fraud (e.g., telemarketing scam, identity theft, fake product)</b>		
Did you/your family get professional legal help or representation?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
If "Yes," was the help satisfactory?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<hr/>		
<b>6. Dispute with government over police, sewer, roads, or transportation</b>		
Did you/your family get professional legal help or representation?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
If "Yes," was the help satisfactory?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<hr/>		
<b>7. Dispute with government over public benefits (TANF, Medicaid, Sec. 8)</b>		
Did you/your family get professional legal help or representation?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
If "Yes," was the help satisfactory?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<hr/>		
<b>8. Dispute with DOE or school about your child</b>		
Did you/your family get professional legal help or representation?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
If "Yes," was the help satisfactory?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<hr/>		
<b>9. Problems related to insurance</b>		
Did you/your family get professional legal help or representation?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
If "Yes," was the help satisfactory?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<hr/>		
<b>10. Tax problems</b>		
Did you/your family get professional legal help or representation?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
If "Yes," was the help satisfactory?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<hr/>		
<b>11. Dispute with landlord</b>		
Did you/your family get professional legal help or representation?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
If "Yes," was the help satisfactory?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<hr/>		
<b>12. Housing discrimination</b>		
Did you/your family get professional legal help or representation?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
If "Yes," was the help satisfactory?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<hr/>		
<b>13. Exploitation or abuse of a senior citizen</b>		
Did you/your family get professional legal help or representation?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
If "Yes," was the help satisfactory?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<hr/>		

**14. Job discrimination (in hiring or on the job)**

Did you/your family get professional legal help or representation?

☐ Yes ☐ No

If "Yes," was the help satisfactory?

☐ Yes ☐ No

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**15. Problem with workers' compensation or unemployment insurance**

Did you/your family get professional legal help or representation?

☐ Yes ☐ No

If "Yes," was the help satisfactory?

☐ Yes ☐ No

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**16. Divorce or family break up**

Did you/your family get professional legal help or representation?

☐ Yes ☐ No

If "Yes," was the help satisfactory?

☐ Yes ☐ No

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**17. Domestic violence**

Did you/your family get professional legal help or representation?

☐ Yes ☐ No

If "Yes," was the help satisfactory?

☐ Yes ☐ No

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**18. Child custody problem**

Did you/your family get professional legal help or representation?

☐ Yes ☐ No

If "Yes," was the help satisfactory?

☐ Yes ☐ No

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**19. Problem related to making or receiving child support payments**

Did you/your family get professional legal help or representation?

☐ Yes ☐ No

If "Yes," was the help satisfactory?

☐ Yes ☐ No

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**20. Personal injury to you or your family that was someone else's fault**

Did you/your family get professional legal help or representation?

☐ Yes ☐ No

If "Yes," was the help satisfactory?

☐ Yes ☐ No

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21. Have there been other times during the past year that you thought you might need a lawyer, but didn't get help from one (e.g., represented yourself in court)? If so, please describe:

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22. Have you ever received help from a nonprofit provider of free- or low-cost legal services (see list at right)?

☐ Yes ☐ No

If "No", why not?

- ☐ Didn't need legal help  
☐ Wasn't sure who to call  
☐ Didn't want to deal with lawyers  
☐ Got help from other lawyer(s)  
☐ Other reason:

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**Legal Services Providers:**

Legal Aid Society of Hawai'i  
Volunteer Legal Services Hawai'i  
Na Loio  
Elder Law Clinic  
Native Hawaiian Legal Corporation  
American Civil Liberties Union of Hawai'i  
Domestic Violence Clearinghouse & Legal Hotline  
Kokua Kalihi Valley Legal Services  
Army Legal Assistance Office

23. Any comments about this focus group or this study?

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24. Number of people in your home: \_\_\_\_\_

25. Combined household income:     \$ \_\_\_\_\_





## **ATTACHMENT 4**

Client Survey



The Access to Justice Hui is currently conducting a legal needs assessment for Hawai'i to identify the unmet legal needs and barriers to meeting the legal needs of the community. Your help is greatly appreciated in assisting us with this assessment.

Please look at the list of twenty-four problems below. If, in the past year, you or someone in your family experienced any of these problems, please tell us if you or your family member received professional legal help, and if so, whether the help was satisfactory?

<b>1. Eviction from home</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
If yes, did you/your family get professional legal help or representation?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
If "Yes," was the help satisfactory?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<hr/>		
<b>2. Foreclosure on home mortgage</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
If yes, did you/your family get professional legal help or representation?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
If "Yes," was the help satisfactory?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<hr/>		
<b>3. Problem getting a home mortgage, small business loan or other loan</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
If yes, did you/your family get professional legal help or representation?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
If "Yes," was the help satisfactory?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<hr/>		
<b>4. Problems related to debt (overdue bills, personal bankruptcy)</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
If yes, did you/your family get professional legal help or representation?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
If "Yes," was the help satisfactory?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<hr/>		
<b>5. Consumer fraud (e.g., telemarketing scam, identity theft, fake product)</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
If yes, did you/your family get professional legal help or representation?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
If "Yes," was the help satisfactory?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<hr/>		
<b>6. Dispute with government over police, sewer, roads, or transportation</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
If yes, did you/your family get professional legal help or representation?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
If "Yes," was the help satisfactory?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<hr/>		
<b>7. Dispute with government over public benefits (TANF, Medicaid, Sec. 8)</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
If yes, did you/your family get professional legal help or representation?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
If "Yes," was the help satisfactory?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<hr/>		
<b>8. Dispute with DOE or school about your child</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
If yes, did you/your family get professional legal help or representation?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
If "Yes," was the help satisfactory?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<hr/>		
<b>9. Problems related to insurance</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
If yes, did you/your family get professional legal help or representation?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
If "Yes," was the help satisfactory?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<hr/>		
<b>10. Tax problems</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
If yes, did you/your family get professional legal help or representation?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
If "Yes," was the help satisfactory?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<hr/>		
<b>11. Dispute with landlord</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
If yes, did you/your family get professional legal help or representation?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
If "Yes," was the help satisfactory?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<hr/>		
<b>12. Housing discrimination</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
If yes, did you/your family get professional legal help or representation?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
If "Yes," was the help satisfactory?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<hr/>		
<b>13. Exploitation or abuse of a senior citizen</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
If yes, did you/your family get professional legal help or representation?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
If "Yes," was the help satisfactory?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<hr/>		

14. <b>Job discrimination (in hiring or on the job)</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No
If yes, did you/your family get professional legal help or representation?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," was the help satisfactory?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<hr/>	
15. <b>Problem with workers' compensation or unemployment insurance</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No
If yes, did you/your family get professional legal help or representation?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," was the help satisfactory?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<hr/>	
16. <b>Divorce or family break up</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No
If yes, did you/your family get professional legal help or representation?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," was the help satisfactory?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<hr/>	
17. <b>Domestic violence</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No
If yes, did you/your family get professional legal help or representation?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," was the help satisfactory?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<hr/>	
18. <b>Child custody problem</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No
If yes, did you/your family get professional legal help or representation?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," was the help satisfactory?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<hr/>	
19. <b>Problem related to making or receiving child support payments</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No
If yes, did you/your family get professional legal help or representation?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," was the help satisfactory?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<hr/>	
20. <b>Personal injury to you or your family that was someone else's fault</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No
If yes, did you/your family get professional legal help or representation?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," was the help satisfactory?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<hr/>	
21. <b>Problems related to immigration or naturalization</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No
If yes, did you/your family get professional legal help or representation?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," was the help satisfactory?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<hr/>	
22. <b>Problems related to the failure of the State to provide you with services in a language you understand</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No
If yes, did you/your family get professional legal help or representation?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," was the help satisfactory?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<hr/>	
23. <b>Problems related to Native Hawaiian rights, including access, denial of cultural and religious rights, land and water disputes</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No
If yes, did you/your family get professional legal help or representation?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," was the help satisfactory?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<hr/>	
24. <b>Problems related to civil rights, including public accommodations, first amendment rights, and prisoner rights</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No
If yes, did you/your family get professional legal help or representation?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If "Yes," was the help satisfactory?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<hr/>	

25. Have there been other times during the past year that you thought you might need a lawyer, but didn't get help from one (e.g., represented yourself in court)? If so, please describe:

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25a. If you or your family needed legal help and could not get it, why not?

- ☐ Wasn't sure who to call
- ☐ Couldn't find anyone I could afford
- ☐ I spoke to a lawyer but he or she refused to help
- ☐ I couldn't get to the lawyer's office
- ☐ Language or cultural problems
- ☐ Other reason (please explain below):

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26. Have you ever received help from a nonprofit provider of free- or low-cost legal services (see list at right)?

- ☐ Yes ☐ No

If "No", why not?

- ☐ Didn't need legal help
- ☐ Wasn't sure who to call
- ☐ Didn't want to deal with lawyers
- ☐ Got help from other lawyer(s)
- ☐ Other reason:

**Legal Services Providers:**

Air Force Legal Assistance Office  
American Civil Liberties Union of Hawai'i  
Army Legal Assistance Office  
Domestic Violence Clearinghouse/Legal Hotline  
Earthjustice Legal Defense Fund  
Elder Law Project, University of Hawai'i  
Hawai'i Disability Rights Center  
Kokua Kalihi Valley Legal Services  
Legal Aid Society of Hawai'i  
Legal Services for Children  
Marine Legal Assistance Office  
Maximum Legal Corp.  
Na Loio – Immigrant Rights and Public Interest Legal Center  
Native Hawaiian Legal Corporation  
Naval Legal Service Office  
USCG Honolulu Legal Assistance Office  
Volunteer Legal Services Hawai'i

27. Any comments?

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28. Number of people in your home: \_\_\_\_\_

29. Combined household income: \$ \_\_\_\_\_

30. Are you over the age of 60?      Yes      No



## **ATTACHMENT 5**

Background on Prior Relevant Studies and Reports





## **BACKGROUND ON PRIOR RELEVANT STUDIES/REPORTS**

There have been three prior major studies/reports that are extremely relevant to issues of access to justice. These three prior studies are outlined below. Item A describes the major report dealing with issues in Hawai'i, which was completed in 1993 and is frequently called the "Spangenberg Report". Item B describes the American Bar Association 1994 national survey entitled "Legal Needs and Civil Justice: A Survey of Americans." Item C describes the 2005 Legal Services Corporation national survey entitled "Documenting the Justice Gap in America".

### **A. Spangenberg Report**

In 1993, the Hawai'i Legal Needs Assessment Commission issued the Assessment of Civil Legal Needs of Low- and Moderate-Income People in Hawai'i. This assessment was prepared by the Spangenberg Group with the assistance of SMS Research, Inc. Through a random statewide sample of 925 low-income and 200 gap group families, legal service provider questionnaires and on-site interviews with over 45 people on five islands (Oahu, Maui, Big Island, Kauai and Molokai), the Spangenberg Report, as it is commonly known in Hawai'i, outlined three sets of findings and recommendations. The first set of findings addressed the studies overall results, the second specifically addressed Legal Service Corporation funded programs and the third looked at special populations.<sup>102</sup>

A summary of these three sets of findings and recommendations is provided below:

### **Overall Findings and Recommendations of the 1993 Spangenberg Report:**

Findings of the 1993 Spangenberg Report:

1. There is a serious level of unmet legal need among both low-income families and gap group families in Hawai'i. The telephone survey found that only 9.6% of low-income<sup>103</sup> families receive legal assistance for their civil legal problem and only 23.6% of gap group<sup>104</sup> families receive legal assistance.
2. There is an enormous need to provide additional civil legal services in Hawai'i for low-income and gap group populations. Approximately 35% of low-income families will experience one or more civil legal problems, with an average among this group of four problems per year. For gap group families, approximately 40% will experience one or more civil legal problems per year, however within this group the average number of problems was 2.9.
3. The Legal Aid Society of Hawai'i is unable to meet the legal needs of its targeted population because of inadequate resources and overwhelming caseloads. The same can be said about most of the specialized civil legal service providers in Hawai'i. Approximately 70% of Legal Aid clients receive only telephone advice and referral. Similar limitations on services exist for specialized service programs due to inadequate resources.

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<sup>102</sup> The special populations looked at by Spangenberg were limited to the homeless, children, people with HIV and AIDS, people with disabilities, people with language barriers, migrant farmworkers and inmates of correctional facilities.

<sup>103</sup> Below 125% of the federal poverty level. Spangenberg Report at 5

<sup>104</sup> Between 125% and 250% of the federal poverty level. Id.

4. On some Islands, there is no free legal representation available to low-income people for certain types of legal problems. In parts of the State where services for these legal problems are available, the services are severely limited. This results from a combination of factors including the lack of sufficient resources, LSC case restrictions, Legal Aid priorities statewide/and or by island, and the sometimes limited ability to find attorneys on every island who are willing to provide pro bono representation.
5. Some programs that provide civil legal services to the poor are underutilized for a variety of reasons, including lack of adequate outreach and awareness in the targeted population due to geographical, cultural and/or linguistic barriers. Of those surveyed, only 13.5% of low income people knew of the existence of free legal services, while 25% of the gap group families were aware of such services. Inadequate public transportation was also cited as a barrier to accessing legal services.
6. There is disagreement between the private bar, judges and public interest attorneys in the State regarding whether the private bar is providing an adequate level of pro bono civil legal assistance to low and moderate income individuals. In 1991, a minimum 24-hour voluntary pro bono resolution was passed and tens of thousands of dollars were donated to Hawai'i Lawyers Care. In fiscal year 1991, Hawai'i Lawyers Care served 2,426 clients; however, 67% of them received only referrals or brief services over the telephone.
7. Despite the shift to mandatory IOLTA in 1991, the Bar Foundation distributes only a small percentage of IOLTA funds to the Legal Aid Society of Hawai'i, which is the State's primary provider of civil legal services. The proposed IOLTA contribution for Legal Aid in 1993 represented only 5% of the total amount to be distributed.

Recommendations of the 1993 Spagenberg Report:

6. Following the review of the data in the study, as well as all of the findings and recommendations, an implementation committee should be formed to develop a comprehensive plan for the improvement of the delivery of civil legal services for both low-income and gap group families in Hawai'i for both the short-term and long-term.
7. Substantial additional funds are necessary to improve the delivery of civil legal services to poor and gap group families in Hawai'i. The implementation committee should develop specific plans so that within the next three years, free civil legal services are available to at least one-third of all low-income families in Hawai'i and that free and reduced legal assistance be provided to at least 50% of all gap group families in the State.
8. As additional resources are made available, the goal to provide legal representation to a significantly larger group of clients must be accompanied by the provision of more comprehensive services to the clients who are served.
9. A coordinated, comprehensive, statewide plan for outreach should be developed with an emphasis placed on recognizing the uniqueness of each island and identifying the specific unmet civil legal needs of each island. In addition, the plan should recognize the unique barriers to access to services which exist on each island, and in each community. This plan should be the centerpiece for all future planning for the improvement of the delivery of services to low-income and gap group families in Hawai'i.
10. The Hawai'i State Bar Association and the Hawai'i Bar Foundation should continue to take the lead in raising the level of participation of the private bar in existing pro bono programs. In addition, larger civil firms should be encouraged to work with the principal service providers in ways which the providers determine to significantly increase the availability of services.

In addition to these findings and recommendations, the Spangenberg Report issues specific findings and recommendations for LSC-Funded programs and for Special Populations.

### **LSC-Funded Program Findings and Recommendations of the 1993 Spangenberg Report:**

#### **Findings:**

1. The Legal Aid Society of Hawai'i does not have a sufficient number of neighborhood or outreach offices throughout all of the Islands to be convenient for low-income clients.
2. During the last decade, there has been a major reduction of overall permanent staff, particularly staff attorneys, at Legal Aid. Much of this has been due to inadequate funding from the Legal Services Corporation.
3. During our site visits to the various Islands, concerns were expressed by some Legal Aid staff that central management located on O'ahu was not sufficiently sensitive and/or did not give sufficient attention to the individual needs of the smaller outer islands and that the relationship between outer island staff and central management was inconsistent.
4. Like most LSC-funded civil legal services programs, Legal Aid personnel are underpaid, particularly given the high cost of living in Hawai'i and compared with other public legal organizations. While all staff lawyers are underpaid, those with 5-10 years of experience are particularly underpaid and salaries for all support staff are low, particularly those for paralegals.

#### **Recommendations:**

1. The Board, central management and staff should continue efforts to plan for the future of Legal Aid for both the short-term and the long-term. A comprehensive future plan should be developed involving staff at all levels, the client community, the bar and the larger community in Hawai'i with special attention given to input from Legal Aid staff on each of the Islands. The plan should be developed to coordinate program activities with the implementation committee wherever possible.
2. As soon as new funds become available, Legal Aid should expand its office locations to serve low-income families in those geographic areas not currently served by public transportation. In the meantime, Legal Aid should consider allowing staff attorneys to make occasional visits to outreach offices to conduct intake and provide advice.
3. As soon as additional funding is available, salaries at Legal Aid should be increased. This should be one of the highest priorities in the program.
4. An equally high priority should be the addition of full-time staff, particularly staff attorneys, so that the more comprehensive legal services can be provided to clients when appropriate.
5. If and when legal restrictions are modified by LSC, Legal Aid should carefully review areas of law that it once was engaged in, but forced by the LSC to abandon. In addressing this issue, efforts should be undertaken to examine the degree to which other civil legal service providers are now assisting in these areas of law.

### **Special Populations Findings and Recommendations:**

*Homeless Population:* While some outreach has been done, the large homeless population has a great deal of unmet legal needs in a wide variety of areas. Service providers should develop a coordinated strategy and procedure for conducting outreach to and intake from Hawai'i's homeless population.

*Children:* While there are programs that provide legal services for children's education rights, awareness is lacking among the general population that these rights and services exist and that legal assistance is available. The Disabled Rights Legal Project and other programs which provide representation in special education cases should develop and implement a coordinated statewide strategy to raise awareness among families with disabled children of their rights in the special education field.

*People with HIV and AIDS:* Available legal services designed to consider the unique needs of people with HIV and AIDS are hopelessly inadequate. The one program that does exist is totally dependent on private funds and volunteer attorneys. Legal Services should be greatly expanded and developed with a focus toward the unique needs of this population.

*People with Disabilities:* The Disabled Rights Legal Project currently has an extremely low caseload, which seems to be the result of inadequate community outreach toward disabled individuals. The Disabled Rights Legal Project should conduct a coordinated outreach effort and increase its commitment to providing representation to people with disabilities. A gap group program on a sliding scale fee basis in ADA discrimination cases for which damages cannot be recovered should be considered.

*People with Language Barriers:* Non-English speaking individuals face major barriers in seeking services from public agencies and legal service providers.<sup>105</sup>

*Migrant Farm Workers:* There is a growing population of migrant farm workers in Hawai'i, many who come from Spanish-speaking countries, who encounter difficulties accessing legal services due to a lack of transportation, unawareness of the availability of free legal assistance, or language barriers. Currently, there is no recipient of a LSC migrant farm worker grant in Hawai'i and no programs focusing on the needs of this population. A study should be conducted of the civil legal needs of migrant farm workers in Hawai'i as it may be determined that the population and its legal needs are great enough to warrant applying for a migrant farm worker grant from LSC.

*Prison Inmates of Correctional Facilities:* Legal services for prison inmates are wholly inadequate with the only source of assistance being the ACLU. Resources should be allocated to create a program to provide civil legal services to low-income inmates of correctional facilities.

### **National Legal Needs Assessments**

In 1994 and 2005, two national studies were conducted on civil legal needs. The 1994 study by the American Bar Association looked at the legal needs of Americans, the types of legal needs that exist, and the steps that people take (or do not take) to deal with legal needs. In 2005, the Legal Services Corporation undertook a study documenting the justice gap in America by examining their grantee programs, comparing recent state legal needs studies and comparing the ratio of legal aid attorneys to those per capita.

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<sup>105</sup> The report does not specify recommendations for people with language barriers.

## **B. Legal Needs and Civil Justice: A Survey of Americans (1994)<sup>106</sup> (American Bar Association)**

This study found that half of low- and moderate-income households in America have at least one situation that could be addressed by the civil justice system. Tied for the most common legal needs identified for low-income households were personal finances/consumer issues<sup>107</sup> and housing/property issues<sup>108</sup>, followed by community/regional issues.<sup>109</sup> For moderate-income households, financial/consumer issues<sup>110</sup> was the most common legal need identified, followed by a tie between housing/property issues<sup>111</sup> and community/regional issues.<sup>112</sup>

As for addressing the problem, most low- and moderate-income households indicated that they handled the problem on their initiative. Low-income households also often chose to take no action at all compared to moderate-income households who indicated that they turned to the civil justice system as their second course of action.

The study further looked at situations in which “formal” action (action involving the civil justice system) was taken and found that both low- and moderate-income households took the most “formal” action with respect to family/domestic issues, respectively at about 67% and 80% of the time. Low-income households then pursued “formal” action in personal/economic injury issues about 33% of the time, followed by finances/consumer, housing/property, and employment-related issues about 20% of the time and health-related and community/regional less than 10% of the time. Moderate-income households pursued “formal” action in 70% of estate/directives issues, approximately 35% of the time for housing/property, community/regional and personal/economic injury issues and then about 27% in employment-related and finances/consumer issues.

In situations in which households did turn to the civil legal system, 48% of low-income households and 64% of moderate-income households were satisfied. On average, low- and moderate-income households were completely satisfied by their lawyer’s performance 60% of the time, whereas, low- and moderate-income households were only completely satisfied with the hearing body they appeared in front of 35% of the time.

When asked why they did not turn to the civil legal system, low-income households said (1) that it would not help them and (2) that it would cost too much, while moderate-income households stated (1) the situation was not really a problem, (2) that they could handle it on their own, and (3) that a lawyer’s involvement (a variety of reasons were given). In situations where no action was taken to remedy the problem, only 29% of low-income and 39% of moderate-income households were satisfied.

As for public awareness, only 50% of low- and moderate-income households surveyed were aware of free legal services and most were confused as to their eligibility for services.

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<sup>106</sup> American Bar Association, Consortium on Legal Services and the Public, Legal Needs and Civil Justice: A Survey of Americans (1994), <http://www.abanet.org/legalservices/downloads/sclaid/legalneedstudy.pdf>.

<sup>107</sup> Includes problems with creditors, insurance companies, inability to obtain credit, and tax difficulties.

<sup>108</sup> Includes unsafe conditions, disputes about utilities, and disagreements with a landlord.

<sup>109</sup> Includes inadequate police and other municipal services.

<sup>110</sup> Includes problems with creditors, insurance companies, inability to obtain credit, and tax difficulties.

<sup>111</sup> Includes real estate transactions.

<sup>112</sup> Includes environmental hazards and opposition to the location of facilities.

### C. Documenting the Justice Gap in America (2005)<sup>113</sup> (Legal Services Corporation)

Over ten years later, the Legal Services Corporation compiled a national study on current legal needs and the justice gap in America. Through a two-month survey conducted on the unmet legal needs conducted by its LSC-funded, a review of ten states' recent legal need assessments<sup>114</sup> and a comparison of the number of legal aid attorneys available, this study uncovered three principal findings:

4. For every client served by an LSC program, another client who sought help was turned down because of insufficient resources.
5. Only a small percentage of problems encountered by the low-income population are addressed with the assistance of a private attorney or legal aid lawyer.
6. Despite changes in legal aid delivery systems, a majority of legal aid lawyers still work in LSC-funded programs. The per capita ratio of legal aid attorneys funded by all sources to the poverty population (1:6,861) is a tiny fraction of the ratio of private attorneys to the general population (1:525).

This 2005 LSC study also compared its findings to the 1994 ABA Study revealing that recent state legal needs studies placed the level of need as substantially higher than previously recognized (1 problem per household to more than 3 problems in more recent studies).

In its review of the states' studies, LSC also found that there were two emerging reasons why people did not seek help: (1) lack of understanding that the problem has a legal dimension and potential solution and (2) low awareness of legal aid for civil matters.

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<sup>113</sup> Legal Services Corporation, Documenting the Justice Gap in America (2005), <http://www.lsc.gov/JusticeGap.pdf>.

<sup>114</sup> Oregon, Washington, Montana, Vermont, Illinois, New Jersey, Connecticut, New Jersey, Massachusetts, and Tennessee.

## **ATTACHMENT 6**

### Recommendations





## RECOMMENDATIONS FOR IMPROVEMENT

**Please describe any specific suggestions or ideas you have to improve the access that low- and/or moderate-income people in Hawaii have to legal advice, legal assistance, legal representation or to the court system.**

### Increasing services

- *Offer free clinics.*
- *Hold office hours in evening/weekends.*
- *Group work does not work well for poor people.*
- *More legal clinics.*
- *Let new parents at Kapiolani know their legal rights, re: father's name on birth certificate.*
- *Just need more legal aid for divorce/custody as right now person with most \$ gets kids, etc.. Need a level playing field.*
- *More staff at legal aid organizations to handle case and incoming calls and visits.*
- *Battered women need legal help with ROs, divorce, custody, visitation — sometimes more help is needed post-decree.*
- *It seems to me from what I hear (anecdotally) that the income limits for free or reduced legal services are very low. There are lots of people I know who are not “federally classified poverty level” but still don’t have enough money to access market legal services because their housing costs are so high. I think it would be helpful to set income limits that take into consideration how high an individual’s housing costs are.*
- *Offer more clinics or forums in various communities to help people better understand their rights, the availability of mediation as an alternative, how to prepare for mediation with other processes.*
- *Provide an easy to read guide to court processes.*
- *Court / clinic hours during the evening.*
- *Better funding and staffing of legal service providers.*
- *Improved community outreach of services (e.g. home visits).*
- *More funding for hiring of domestic violence trained attorneys. Have legal representation go out to the shelters and beaches to interview homeless population to assist with clearing up citations so people can get their driver’s licenses and apply for employment and any other legal problems that may need attention.*
- *More services for inmates — maybe legal services provided within the facility.*
- *More private bar funding of legal services to the poor.*
- *Increased numbers of no-fee attorneys.*
- *Expanding services to worker’s compensation, unemployment and labor issues.*
- *Expansion of neighborhood based services.*
- *Greater funding for civil legal services.*
- *Availability of no-fee attorneys in locations other than Honolulu and on Oahu.*
- *More paid staff attorneys.*
- *Increased pro se support. Need an easily accessible legal representation for people who are being evicted. Many are living from one paycheck to another and if they have one unanticipated expense then they fall behind on the rent. Legal representation would help as would practical advice on where they can get help, e.g. charities, etc.*

- *Legal Aid should expand the type of cases they can provide representation.*

#### Increasing Outreach on Availability of Services

- *A brief listing and description of all low to no cost legal services and contact numbers would be helpful. A listing like this could be translated into various key languages including a means to communicate with persons with disabilities.*
- *I think easy access to legal service providers is key for the clients at YO!. They aren't really very good about showing up for appointments at offices that are beyond the areas that they hang out so the more that providers can interact with them in their environments the more likely they are to get the assistance they need. Something we've done at YO! is to establish a partnership with Na Keiki Law Center so that a lawyer from their office attends our Drop-In once a week. While they don't necessarily talk with folks each week, they have now become an established/trusted presence at YO! and so the clients are more willing to seek assistance from them.*
- *We can provide a place to reach our participants if we had more legal assistance available to us.*
- *Sponsor workshops in churches, get involved with community activities, try to get involved with their social groups and provide responsible follow-up.*
- *There needs to be more outreach to lower income people so that they become aware of services available to them.*
- *More public education, re: what legal aid can do or not do; eligibility requirements and fees if any.*
- *Advertise free legal services on TV, radio, "Help Line" access.*
- *PSA advertisement of services on TV.*
- *Increased publicity about available services.*
- *Increased community education about how legal services can be helpful.*
- *More media articles on this subject. More advertising for services.*

#### Increasing Private Bar Involvement

- *Require attorney's to conduct pro bono services.*
- *More Pro Bono participation by the bar.*
- *Mandatory pro bono.*
- *Incentives for pro bono work for attorneys.*
- *Requiring all attorneys to do pro bono work for continued licensure.*
- *Having scholarship law students give back to community.*

#### Providing High Quality and Easily Accessible Services

- *Making consistent contact for referrals, intake, response in a timely manner.*
- *Need a live person answering the phone - phone system is not user friendly.*
- *One center to house all information and direct to appropriate court on staff; return phone calls in a timely manner; staff trained in proper and healthy communication; need not to repeat whole scenario over again.*
- *More domestic violence training.*
- *Staff telephone intake with a real person; better call back policy; keep telephone prompts simple.*

#### Improve Language and Cultural Access

- *Hire individuals whom are bilingual.*
- *Increase the # of culturally-sensitive attorneys and court staff.*

- *Need more diverse and trained translators.*
- *Interpreters available at court.*
- *Increase of multilingual services.*

#### Provide Ancillary Services

- *Childcare needs to be available.*
- *Affordable child care*

#### Systemic Changes

- *Stricter penalties for those who abuse the poor's vulnerability.*
- *Sensitive judges to client's difficulties in getting representation.*

**Please describe any specific suggestions or ideas you have to reduce or eliminate barriers to meeting the civil legal needs of low- and /or moderate-income people in Hawaii.**

#### Increasing services

- *Increase the pro bono work that students need for their law degree.*
- *More \$ for services.*
- *More drop in sites - i.e. don't just stay in the office, get out to the other parts of the island.*
- *It seems to me from what I hear (anecdotally) that the income limits for free or reduced legal services are very low. There are lots of people I know who are not "federally classified poverty level" but still don't have enough money to access market legal services because their housing costs are so high. I think it would be helpful to set income limits that take into consideration how high an individual's housing costs are.*
- *Funding for adequate services and representation.*
- *Offer more resources for the "gap group" population, they are poor but make too much money to be eligible for free services.*
- *Increased services and centers for people instead of having to drive into Honolulu; outreach centers throughout the state.*
- *Home visits.*
- *More funding for legal representation. Substantial increase in State, local and Federal funding.*
- *More collaboration between legal service providers.*
- *Better office procedures and staffing hours.*
- *Increased funding for more staff to service providers.*
- *Increased community-based offices outside of Honolulu and on Oahu.*
- *More staff attorneys to accept cases or more volunteers to take contested, complex cases.*
- *More Legal Aid lawyers doing more direct representation on meritorious cases. Better education in our public schools to increase people's reading ability. Can some of the non-profits combine to reduce administrative costs?*
- *Provide legal clinics in areas where poor people live; a mobile clinic.*

#### Increasing Private Bar Involvement

- *Mandatory pro bono requirement for attorneys.*

### Increasing Outreach on Availability of Services

- *A local website that offers information for specific legal problems that briefly explains the legal situation and what people can do to resolve the situation. The information could include persons that can be contacted for more information.*
- *Lots of public education - our clients don't have \_\_\_\_\_ and really don't pay attention to education unless they need it at the time.*
- *More public/community outreach and education workshops for agency staff.*

### Providing High Quality and Easily Accessible Services

- *More live people on the phone.*
- *User-friendly methods to access help*
- *Trained staff who deal with pressure and have healthy and proper communication.*
- *Provide staff, education staff explaining everything at a 5th grade level and have them repeat what is said for all people till they understand.*
- *Make dispute resolution simple; use dispute prevention techniques.*

### Improve Language and Cultural Access

- *Multi-language responders (i.e. Micronesian, Filipino, Samoan.)*
- *Providers speak pidgin-English or other languages and English that laypersons can understand.*
- *Multilingual information including forms and notaries from the court.*

### Provide Ancillary Services

- *“One-stop” legal office that can address necessary services - triage center with ability to access and link services needed.*
- *Combine legal and mental health services as many suffer from depression, trauma, etc. Good tag team.*
- *Child care programs for court proceedings.*
- *Public defender’s office desperately needs increased staff and compensation.*

### Systemic Changes

- *A special court for these cases (eg Drug Court for substance abuse)*
- *Class action lawsuits are so possible to reduce illegal conduct with poor.*
- *Allow legal advocates to have a voice in court.*

### Other

- *With regards to homeless people living on the beaches, enforcement by police creates more legal problems for those folks. I would like to see a presentation from low and/or moderate-income people as to ways to reduce or eliminate barriers to meeting their civil legal needs.*
- *Institute good vocational training programs in prison system.*

## **APPENDIX “B”**

COMMENTARY TO  
COMMUNITY WIDE ACTION PLAN:  
TEN ACTION STEPS TO INCREASE ACCESS TO JUSTICE  
IN HAWAI‘I BY 2010



# COMMENTARY TO COMMUNITY WIDE ACTION PLAN: TEN ACTION STEPS TO INCREASE ACCESS TO JUSTICE IN HAWAI‘I BY 2010

## **1. Create an Access to Justice** **Commission**

The Hawai‘i Supreme Court should establish an Access to Justice Commission as soon as possible under the auspices of the Court to provide ongoing leadership and oversee efforts to increase funding and improve delivery of legal services to low-income residents. The Court should consult with the Access to Justice Hui in setting up the Commission. In addition, the Commission should:

- Establish ongoing access to justice informational briefings, open houses, and statewide conferences to ensure the public is aware of the efforts to promote and support equal access to justice.
- Conduct another assessment of unmet civil legal needs among low and moderate-income people in Hawai‘i in five years to measure the progress being made to increase access to justice.

The summary that follows draws from materials distributed at the ABA March 2007 National Meeting of State Access to Justice Chairs in Denver as well as documents found on the ABA Resource Center for Access to Justice Initiatives and NLADA websites.<sup>115</sup>

### Background

There is a strong national trend toward the creation of state ATJ commissions (or equivalent entities). Since early 2005, Supreme Courts in ten states<sup>116</sup> and the District of Columbia have created new ATJ commissions. ATJ commissions or similar entities already existed in 15 other states<sup>117</sup> and Puerto

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<sup>115</sup> See Access to Justice Support Project, State Access to Justice Tools, Best Practices: Twelve Lessons from Successful State Access to Justice Efforts; Access to Justice Support Project, State Access to Justice Tools, Access to Justice Checklist; Echols, R., The Rapid Expansion of “State Access to Justice” Commissions, Management Information Exchange Journal (Summer 2005).

<sup>116</sup> Alabama, Georgia, Massachusetts, Minnesota, Mississippi, Nevada, New Hampshire, North Carolina, South Carolina, and Utah.

<sup>117</sup> Alaska, Arkansas, California, Colorado, Delaware, Idaho, Illinois, Maine, Montana, New Mexico, New York, Oklahoma, Texas, Vermont, and Washington.

Rico. More than a decade of experience clearly demonstrates that ATJ efforts are much more likely to succeed if an effective ATJ commission or similar entity exists.

### The Access to Justice Commission Model

Most ATJ commissions follow the same basic model:<sup>118</sup>

- They are created by Supreme Court rule or order.
- Their members are representative of the courts, the organized bar, civil legal service providers, law schools, and other key entities, and are either appointed directly by these entities or appointed by the Supreme Court based on nominations by the other entities.
- They are conceived as having a continuing existence, as distinct from a blue-ribbon body created to issue a report and then sunset.
- They have a broad charge to engage in ongoing assessment of the civil legal needs of low-income people in the state and to develop, coordinate, and oversee initiatives to respond to those needs.

The profound impact of Supreme Court leadership is widely recognized. In addition to raising the overall visibility and credibility of ATJ, Supreme Court leadership greatly enhances the effectiveness of efforts to increase funding for civil legal assistance, to increase pro bono activity, and to make the courts more accessible to low-income people.

Experience has also shown that formal structures which are accountable to more than one partner are more secure than informal structures or structures accountable to only one partner. For example, a state ATJ commission that is staffed by the Bar but created by Supreme Court rule and made up of representatives appointed by different institutional constituencies is least likely to be vulnerable to funding or staffing cuts as the results of a change in bar leadership. Similarly, a service provider-dominated group is less likely to win credibility and long-term support with the other partners.

Typically, the ATJ commission reports regularly to the state Supreme Court and, in some states, to the state bar as well.

### Some Reasons for Creating ATJ Commissions

- They provide an ongoing structure for the engagement of the highest levels of state courts and the bar as well as other partners in the delivery of civil legal services.
- The process of creating an ATJ commission increases the awareness of the state Supreme Court, bar board of governors, and other high-level state institutions of the legal needs of low-income people in the state.
- An entity created by the state's highest court in conjunction with the state bar's governing body has built-in credibility and visibility.

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<sup>118</sup> Source: Echols, R., The Rapid Expansion of "State Access to Justice" Commissions, Management Information Exchange Journal (Summer 2005).



- By increasing court and bar engagement, ATJ commissions build support for legal aid and develop committed allies who can make the case for increased resources effectively at the state and federal levels.

### Members of Access to Justice Commissions

These vary greatly by state, as does the number of members, but may include:

- Supreme Court justices and other judges
- Bar representatives
- Civil legal service providers
- Bar foundations
- Law schools
- State legislators
- Administrative branch representatives
- Business, social service, client, other communities

Creating clear terms of office, with rotating leadership, helps cultivate new ATJ leaders to continue the work of those who preceded them. Terms need to be long enough to build expertise and relationships, *e.g.*, three-year terms for officers seem to work well.

### What Access to Justice Commissions Do

- Bring together representatives of the key institutions involved in improving and expanding access to justice for low-income people
- Identify goals and objectives and steps necessary to achieve them
- Oversee and coordinate implementation of those steps
- Increase public awareness of the need for civil legal assistance, *e.g.*, through legal needs studies and reports, hearings, ATJ conferences, bar/court education and media campaigns
- Increase funding for civil legal assistance, *e.g.*, through state appropriations, court filing fee and fine surcharges, attorney registration fee surcharge or dues assessment, *pro hac vice* fee, rule changes to increase IOLTA revenues, private bar fundraising campaigns, *cy pres* awards, support federal Legal Services Corporation funding
- Increase pro bono contributions, *e.g.*, through rules changes, recruitment campaigns, greater court involvement, increased attorney recognition
- Increase support for self-represented litigants
- Increase collaboration and coordination among legal service providers and promote creation of new providers if needed to ensure that all low-income people in the state have access to the services they need
- Pursue other initiatives, *e.g.*, public interest student loan repayment and improved access for people with limited English proficiency

### Staffing of ATJ Commissions

An ATJ commission must be effectively staffed. Ideally, this involves creation of a new position. Simply adding the ATJ responsibility to a staff person's existing duties is unlikely to be successful. The skills, abilities, and energy level of the staff person are essential to the success of the ATJ effort. The staff person must have the full trust of all the institutional partners and understand legal services delivery. Most staff who support ATJ commissions work in the state bar office. It is strongly recommended that ATJ groups do whatever they can to find the resources to ensure that their efforts are effectively staffed. Funding comes from a variety of sources, *e.g.*, IOLTA, the state bar, and legal service providers.

### Education about Access to Justice

It is important to educate the public about and build support for increasing access to justice. For example, statewide conferences, open houses at legal service providers, and informational briefings are held in many states, *e.g.*, Washington State has held annual Access to Justice Conferences since 1996. It is also important to increase awareness among low-income people and social service providers of legal rights and responsibilities to reduce the likelihood that legal help will be needed as well as where to go when civil legal services are required.

### Follow-up Assessment

After a reasonable period of time, assessing the degree to which these recommendations have been implemented and the results thereof will help renew and build support within the access to justice structure as well as the larger legal and non-legal communities. Each time a needs assessment is completed and publicized, stakeholders, lawyers, and the public will be reminded that unmet legal needs still exist and the collective effort to address those needs will be reinvigorated. Measuring the progress made in improving and increasing access to justice is also important to publicize accomplishments and to target and fine tune continuing efforts to ensure equal justice.

## **2. Increase Funding to Support the Delivery of Legal Services to Ensure Access to Justice**

- a. The Hawai'i Legislature should provide funding of civil legal services for low-income residents of Hawai'i at a level that is adequate to meet the needs of those residents who currently have no access to legal assistance. In addition, an appropriate home for funding for civil legal services should be established to ensure stable state funding.

The Hawai'i Legislature is providing the following periodic support for civil legal services in FY 2007-08 (July 1, 2007 – June 30, 2008):

- Volunteer Legal Services Hawai'i - \$600,000
- Na Loio Immigrant Rights and Public Interest Law Center - \$422,496
- Legal Aid Society of Hawai'i - \$810,000

The current level of funding from all sources is only able to reach 23% of low income residents with critical legal problems who need legal assistance. The Legislature should provide substantial additional funding for civil legal services to meet the needs of the 77% who currently have no access to an attorney.

Many current legal service providers are being funded by grants-in-aid from the Legislature, which are subject to uncertainty and change each year. An appropriate home for this funding needs to be located.

**b. There should be a concerted effort to increase federal funding for the Legal Services Corporation and other federal agencies that provide support for civil legal services.**

The Legal Services Corporation (LSC) is the primary federal funder of legal aid programs throughout the country. In 2007, LSC received an appropriation of \$348.5 million from Congress. However, LSC funding continues to be substantially below the \$400 million it received in 1995. Further, a recent report issued by the Legal Services Corporation, "Documenting the Justice Gap in America," found that nationally for every one client served by an LSC-funded program, at least one eligible client is turned down and that on average a low-income household has at least three legal needs per year.<sup>119</sup>

The Legal Aid Society of Hawai'i and the Native Hawaiian Legal Corporation are recipients of LSC funding in Hawai'i.

**c. The Judiciary and the Hawai'i State Bar Association should support efforts by the Hawai'i Justice Foundation to increase the interest rates paid on IOLTA funds, including implementation of "comparability" rules.**

Attorneys in Hawai'i are required to put their client trust funds into interest bearing accounts under Rule 11(b) of the Rules of the Supreme Court of Hawai'i. The interest on these accounts is paid by the banks and other financial institutions to the Hawai'i Justice Foundation to distribute "to provide legal aid to the poor, to enhance delivery of competent legal services, to make student loans, and to implement other programs aimed at improving the administration of justice in Hawai'i." Rule 11(a).

Currently, banks are paying very low interest rates on these accounts. Annual IOLTA interest revenue in Hawai'i is currently about \$600,000. A number of states have required that attorneys put their IOLTA accounts in financial institutions that pay interest on their IOLTA accounts at a rate comparable to the rates the financial institution pays on non-IOLTA products. IOLTA comparable rate requirements have raised significant additional support for legal services for the poor in other states, often doubling and tripling the revenue.

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<sup>119</sup> Legal Services Corporation, "Documenting the Justice Gap in America: The Current Unmet Civil Legal Needs of Low-Income Americans," October 2005.

States that have adopted IOLTA interest comparability requirements<sup>120</sup>

Alabama  
Arkansas (effective February 1, 2007)  
Connecticut  
Florida  
Illinois (effective June 1, 2007)  
Maine (to become effective January 1, 2008)  
Massachusetts (effective on or before January 1, 2007)  
Michigan  
Minnesota (effective on July 1, 2007)  
Mississippi (effective January 1, 2007)  
Missouri (to become effective January 1, 2008)  
New Jersey  
New York (effective August 15, 2007)  
Ohio  
Texas (effective March 1, 2007)

**d. The Hawai'i Legislature should increase the amounts raised through the court filing fee surcharge for the Judiciary's Indigent Legal Assistance Fund.**

H.R.S. Section 607-5.7 provides for a \$25 surcharge in civil cases in circuit court when there is an initial filing, such as a complaint or petition, a \$10 surcharge when filing a summary possession charge in district court, and a \$25 surcharge when filing a civil action in the Supreme Court. The funds generated are placed in the Indigent Legal Assistance Fund for distribution to organizations that provide civil legal assistance to indigent persons. The Administrative Director of the Courts administers the funds in cooperation with the Hawai'i Justice Foundation. In FY 2007-8, the amount to be distributed to eight legal services providers is \$305,000.

According to a recent compilation by the ABA Resources Center for Access to Justice Initiatives, 32 states fund legal services for the poor from court fees and fines. Annual revenue generated ranges from a low of \$73,000 per year in Rhode Island to a high of \$7,299,000 in Michigan.

The total annual funding for indigent legal services nationally from court fees and fines is currently about \$89,243,000 per year. In comparison, the total annual funding for legal services for the poor from state appropriations, separate from court fees and fines, is approximately \$108,509,000. Thus, 45% of state generated funding for legal services for the poor throughout the U.S. is from court filing fees and fines. (ABA Resource Center of Access to Justice Initiatives, McBurney, August 2, 2007). In Hawai'i, only 14% of total annual funding from appropriations is from filing fees and fines. (\$305,000 of \$2,137,496). An increase in the court filing fee surcharge for the Indigent Legal Assistance Fund, as well an expansion to cases where it does not currently apply (for example, other District Court cases not involving summary possession), would generate substantial additional revenue for legal services for low-income residents of Hawai'i.

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<sup>120</sup> Effective dates are listed for those states in which comparability has been in effect for less than one year. (Information provided by the American Bar Association Commission on Lawyers' Trust Accounts, October 2007).

- e. **The Judiciary and the Hawai‘i State Bar Association should strongly urge attorneys to provide substantial financial support to legal service providers in accordance with the provisions of Rule 6.1 of the Rules of Professional Conduct, including providing additional financial support in years when such attorneys do not meet the pro bono aspirational goals of that Rule.**

Rule 6.1 of the Hawai‘i Rules of Professional Conduct provides that lawyers should voluntarily contribute financial support to organizations that provide legal services to persons of limited means. The Rule further provides that, in years when a lawyer experiences personal or employment circumstances that make it unduly difficult or impossible to provide services which qualify for the pro bono services that each lawyer should aspire to provide under Rule 6.1 (see discussion below), the lawyer may substitute a financial contribution for direct pro bono legal services. The commentary to the Rule indicates that lawyers who discharge their responsibility to provide pro bono services by providing financial support to organizations providing free legal services to persons of limited means should provide such financial support at levels that are reasonably equivalent to the value of the hours of service that would otherwise be provided.

Rule 6.1 is an expression of what the aspirations of each lawyer should be. However, the information available suggests that many if not most lawyers are not meeting the aspirations of Rule 6.1 in either the level of pro bono services they are providing or the level of financial support they are providing to providers of legal services to persons of limited means.

The current level of giving is far below what would be expected to be the case under the aspirational standards of Rule 6.1. The judiciary, the HSBA and other leaders of the legal community need to make active efforts to assist in encouraging judges, lawyers and law firms to increase the level of giving.

- f. **Additional funding sources for civil legal services should be explored.**

## **3. Develop a Culture that Values Providing Pro Bono Services**

- a. **The Judiciary, led by the Hawai‘i Supreme Court, other state and federal courts, and the Hawai‘i State Bar Association, should clearly set forth their expectations that lawyers provide at least 50 hours of pro bono services each year pursuant to Rule 6.1 of the Rules of Professional Conduct, including at least 25 hours of no-fee legal services to persons of limited means.**

Hawai‘i was one of the first states in the country to adopt what is now Rule 6.1 of the Hawaii Rules of Professional Conduct. Rule 6.1 provides that every lawyer should aspire to provide at least 50 hours of pro bono services each year, including (a) 25 hours of legal services without fee or expectation of fee to persons of limited means or to charitable, religious, civic, community governmental and educational organizations in matters which are designed primarily to address the needs of persons of limited means; and (b) additional services through (i) delivery of legal services at no fee or substantially reduced fee to

individuals, groups or organizations seeking to secure or protect civil rights, civil liberties or public rights, or charitable, religious, civic, community, governmental and educational organizations in matters in furtherance of their organizational purposes, where the payment of standard legal fees would significantly deplete the organization's economic resources or would be otherwise inappropriate, (ii) delivery of legal services at a substantially reduced fee to persons of limited means, or (iii) participation in activities for improving the law, the legal system or the legal profession.

Based on the limited information available, which information will be enhanced by the Hawai'i Supreme Court's recent adoption of a rule requiring reporting of pro bono activity<sup>121</sup>, it does not appear that Hawai'i lawyers are meeting the aspirational goals of Rule 6.1. According to HSBA statistics based on voluntary reporting of pro bono activity by attorneys, in 2006 only 1,903 of the 6,954 HSBA attorneys, or 27.4%, reported pro bono hours. In fact, the percentage of Hawai'i attorneys reporting pro bono hours has decreased since 2003, when 28.4% of HSBA members reported pro bono hours.

While there is undoubtedly additional pro bono activity that goes unreported, these statistics show that only a relatively small number of lawyers are meeting the aspirational goals of Rule 6.1. Since these are aspirational goals and not requirements, the most appropriate and feasible ways of improving pro bono participation is a combination of active efforts at moral persuasion by the judiciary, the HSBA and leading lawyers in the community coupled with programs by the providers and the courts that (i) make it as easy as feasible to provide the services, such as providing good case selection screening, training and support, and (ii) providing recognition of the efforts of those who provide pro bono services.

**b. The Judiciary, Hawai'i State Bar Association and legal service providers should call upon law firms and all other employers of lawyers (e.g., government and corporate legal departments) to actively encourage, support and reward pro bono legal assistance by their attorneys. Some examples of supporting and rewarding pro bono legal assistance are:**

- Including within the firm's annual billable hours requirement a number of pro bono hours.
- Where possible, assigning a person of influence within each firm or office to facilitate pro bono services in the office.

**c. The Hawai'i State Bar Association should actively encourage and support greater levels of pro bono service from its members. The State Bar should consider providing free continuing legal education courses, access to online legal research, and/or malpractice insurance for attorneys who contribute at least 50 hours of pro bono service per year.**

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<sup>121</sup> It should be noted that on October 10, 2007 the Hawai'i Supreme Court adopted a rule requiring attorneys to report their pro bono hours, effective December 1, 2007. The Hawai'i Supreme Court amended Rule 17(d) of the Rules of the Supreme Court of Hawai'i requiring that each attorney annually report the number of pro bono hours to the Hawai'i State Bar Association. It is too early to determine how much positive impact the rule mandatory pro bono reporting rule will have, however it is anticipated that this new rule will significantly increase the number of pro bono hours.

- d. The Judicial Selection Commission should consider each candidate's pro bono contributions as a factor in its selection process.**
- e. Nonprofit legal service providers should create or expand programs that recruit and train pro bono lawyers, provide and support pro bono service opportunities, and recognize pro bono service in order to make it easier and more attractive to provide such service.**

As part of a legal service provider's mission, efforts should be made to develop or to collaborate with other legal service providers to engage lawyers in their work using the pro bono model. For example, Volunteer Legal Services Hawai'i identifies client need through a variety of methods, attempts to create novel solutions that could be provided by pro bono attorneys, develops the program to deliver these services, finds the funding for such solutions and implements the program. Some of these activities are performed in collaboration with other partners, such as the Judiciary.

- f. New ways to increase pro bono involvement by government (county, state, and federal) lawyers, including eliminating any legal or internal policy barriers to such involvement, should be explored and pursued.**

H.R.S. §28-10, entitled "Prohibition on private practice of law by the attorney general, first deputy, and other deputies" requires that these attorneys

"devote their entire time and attention to the duties of their respective offices. They shall not engage in the private practice of law, nor accept any fees or emoluments other than their official salaries for any legal services...."

While the apparent intent of this statute is to ensure that there are no conflicts in the performance of the duties of attorneys general, it is incorrect to apply this prohibition to pro bono work in every instance. So long as there are appropriate procedures in place to ensure no conflicts of interest, attorneys general can perform some aspects of pro bono work. Moreover, as pro bono work does not provide any person with a fee or emolument as prohibited by H.R.S. §28-10 (unless you consider the good feeling one gets in helping their fellow person), it is not likely that attorneys general will be swayed from zealously performing their duties.

But more importantly, blanket interpretations of this state policy do more harm than good because the prohibition on the engagement in private practice effectively prohibits all attorneys hired by the Attorney General from fulfilling the Rule 6.1 aspirational goals of their profession. This blanket prohibition carves out a class of attorneys from the entire legal sector that are absolved from professional responsibilities.

Fulfilling professional aspirational goals need not conflict with the work of the attorneys general. Other government agencies have found ways to support their attorneys in the fulfillment of their professional responsibilities. For local examples, the attorneys from both the Corporation Counsels of the County of Hawai'i and the County of Maui engage in a limited form of pro bono work.

With regard to the possible use of county time and equipment in the performance of pro bono work, the Corporation Counsel of the County of Hawai‘i asked for an opinion from the Board of Ethics. As the people being served through pro bono work (low income residents within the County of Hawai‘i) were also those people the very same people the County served, and based on the limited form of pro bono work (providing pro bono legal advice and counsel to low-income individuals without an on-going client relationship through Volunteer Legal Services Hawai‘i’s Neighborhood Legal Clinics) the Board of Ethics found that the potential use of county equipment to be *de minimis*, opined that these attorneys could engage in this pro bono work.

On the other hand, when the Corporation Counsel of the County of Maui also asked its Board of Ethics for a similar opinion, the Board of Ethics of the County of Maui found that despite a *de minimis* use of county equipment (telephone calls), no Corporation Counsel could engage in pro bono work on County time nor use any county equipment. Today, attorneys at the Corporation Counsel of the County of Maui do pro bono work through Volunteer Legal Services Hawaii’s Neighborhood Legal Clinics.

Federal examples exist as well. The Department of Justice has developed a comprehensive pro bono policy encouraging its attorneys to take on pro bono work as well as direct representation, which can be accessed at <http://www.usdoj.gov>.

## **4. Establish the Recognition of the Right to a Lawyer in Civil Cases Where Basic Human Needs are at Stake**

**In certain civil cases, society should provide free counsel to indigents, just as society does with criminal cases and, by judicial decision, in termination of parental rights cases. Hawai‘i should support the recent American Bar Association resolution supporting “legal counsel as a matter of right at public expense to low income persons in those categories of adversarial proceedings where basic human needs are at stake, such as those involving shelter, sustenance, safety, health or child custody, as determined by each jurisdiction.”**

The concept is that for certain civil cases, society should provide free counsel to indigents, just as society does with criminal cases pursuant to Gideon v. Wainwright (felonies) and Argersinger v. Hamlin (misdemeanors). The concept really got some legs when in August 2006 the ABA House of Delegates unanimously adopted the following resolution favoring the Civil Gideon’s right to counsel:

**RESOLVED**, That the American Bar Association urges federal, state, and territorial governments to provide legal counsel as a matter of right at public expense to low income persons in those categories of adversarial proceedings where basic human needs are at stake,



such as those involving shelter, sustenance, safety, health or child custody, as determined by each jurisdiction.<sup>122</sup>

Washington State and some other states are litigating this issue, but Washington State's case arises from specific language in the Washington State Constitution.

The "Civil Gideon" concept needs to be a major plank of our justice system. Questions remain as to cost estimates and the necessity of deciding which types of cases should be included and what level of representation should be provided (legal advice only, representation at trial, representation on appeal, etc.)

## **5. Enable Individuals to Represent Themselves Effectively When Necessary**<sup>123</sup>

- a. Create and fund self-help centers connected to every courthouse in Hawai'i to provide real-time assistance.
- b. Develop programs designed to make courts more "user-friendly" to low and moderate-income individuals.
- c. Provide information to self-represented litigants on where they can receive legal assistance.
- d. Reduce barriers encountered by self-represented litigants in the court system, e.g., using plain English and translations into other languages and simplifying procedural rules.
- e. Form a task force to evaluate changes to court rules and statutes that would streamline and simplify substantive areas of the law, e.g., family, housing, and landlord-tenant law.

On an ongoing basis and in collaboration with all stakeholders, barriers that self-represented litigants face should be identified and solutions developed to assist in overcoming those barriers.

Some of these barriers are easier than others to identify, e.g., complex language and the frequent use of legal terms of art prohibit understanding and engender frustration with the judicial system and may lend themselves to rather simple solutions. On the other hand, systemic barriers, such as the complexity of the law in combination with the social encouragement to litigate, may be easy to identify but good solutions

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<sup>122</sup> See American Bar Association House of Delegates Resolution 112A, August 2006, <http://www.abanet.org/legalservices/sclaid/downloads/06A112A.pdf>.

<sup>123</sup> See, Conference of Chief Justices, Resolution 23, Leadership to Promote Equal Justice (1/25/01), attached to the Commentary.

may be difficult to develop. Ensuring that these issues are regularly assessed and worked on will improve access to justice.

## **6. Maximize the Use of Available Resources**

- a. The Hawai‘i Supreme Court should consider amending relevant ethics and procedural rules, and the Hawai‘i Supreme Court and the Hawai‘i Access to Justice Commission, or equivalent entity, should consider taking such other actions as may be necessary, to encourage the training and regulation of paralegals and paralegal practice, in appropriate roles to meet particular types of unmet needs for legal services.**

Use of Paralegals: Access to justice is affirmed as a policy goal of the State of Hawai‘i at Haw. Rev. Stat. Sect. 226-24(b):

(b) To achieve the individual rights and personal well-being objective, it shall be the policy of this State to:

- (1) Provide effective services and activities that protect individuals from criminal acts and unfair practices and that alleviate the consequences of criminal acts in order to foster a safe and secure environment.
- (2) Uphold and protect the national and state constitutional rights of every individual.
- (3) Assure access to, and availability of, legal assistance, consumer protection, and other public services which strive to attain social justice.
- (4) Ensure equal opportunities for individual participation in society.

However, it is well known that the civil legal needs of a great many people in Hawai‘i go unmet, despite our consistent efforts to deliver *pro bono* services and facilitate the *pro se* approach. We should be cultivating all resources available to meet this need. The Assessment of Civil Legal Needs of Low- and Moderate-Income People in Hawai‘i undertaken for the Hawai‘i Legal Needs Assessment Commission by The Spangenberg Group in 1993 (“the Spangenberg study”) confirmed the acute unmet need for legal services of not only the poor, but also the near-poor or moderate-income individuals (those who earn between 125% and 250% of the federal poverty level). Individuals in this “gap group” do not qualify for most government-subsidized free legal services, and yet also cannot afford most private legal services. The Spangenberg study revealed that only 9.6% of low-income families and only 23.6% of moderate-income families in Hawai‘i receive assistance for their civil legal problems. According to this study, significant unmet legal needs for both low-income and gap group respondents in Hawai‘i in 1993 included needs in utilities, consumer, medical, and housing categories. In a 1990 article in the *Georgetown Journal of Legal Ethics* titled “The Delivery of Legal Services by Non-Lawyers,” Deborah L. Rhode notes that lower-income people also commonly experience legal needs in family, discrimination, and public benefits areas, among others. It is expected that the Hawai‘i needs assessment now being undertaken will help to better identify the current areas of unmet need in this state.

Paralegals are one promising resource that may be explored to better meet many such needs. Members of the Hawai‘i Paralegal Association, for example, are exhorted by their Code of Ethics and Professional Responsibility to serve the public interest by contributing to the delivery of quality legal

services and the improvement of the legal system. Paralegals are outstanding *pro bono* contributors for the benefit of the poor, and they would be far more effective in this capacity were they permitted to evolve to their full potential. For example, a regulated supervised paralegal who is qualified to draft legal documents or to advocate under general supervision, or a regulated unsupervised paralegal who is qualified to negotiate or to give legal advice within certain limited areas of specialty that have been identified in the public interest, would be an even more effective member of the *pro bono* team than is a paralegal who must be directly supervised. All legal service providers, including paralegals, have an ongoing responsibility to help to address the needs of the poor through *pro bono* services.

**b. Legal services programs should work together in making the most efficient use of their collective resources to ensure that:**

- There is an efficient and effective referral system of clients among programs.
- Innovative methods of legal services delivery are explored and used.
- New ways to utilize technology, including a centralized access to justice website, to meet current unmet legal needs are implemented where appropriate.
- Mediation and other alternative dispute resolution methods for resolving legal problems are utilized when appropriate.
- Outreach efforts are coordinated not only among legal service providers but also with social service providers, agencies and other organizations.

## **7. Overcome Barriers to Access to Justice**

**a. New ways to remove impediments to access to the justice system due to language and cultural barriers should be explored and implemented, including:**

- Providing multilingual services, including increasing the number of attorneys and court staff who are bilingual.
- Providing forms in multiple languages.
- Providing translation services in court, administrative agencies, and with legal service providers.
- Partnering with the University of Hawai'i and other schools offering language training to encourage multilingual volunteers to provide outreach and translation services.

At the heart of democracy lies the notion that our laws are the creation of the people. They are designed to shield us from tyranny and lawlessness and to protect our freedoms and our individual and collective welfare. In the global society where business is conducted across international borders and people freely migrate between countries at an unprecedented rate, language access is of critical importance in sustaining and fostering democracies and its institutions.

Approximately 17% of Hawai'i's residents are immigrants to the United States, with 26% of Hawai'i's population reporting they speak a language other than English at home. Significantly, 12.7% of Hawai'i's residents are limited English proficient (LEP), the fourth highest percentage in the nation.<sup>124</sup> Despite the significant number of LEP persons in Hawai'i, the judicial system, the administrative law system, and legal service providers have been slow in responding to the needs of LEP residents.

To enhance access to justice by LEP persons, stakeholders need to: 1) identify successful efforts in other jurisdictions that have improved access to our courts, administrative proceedings, and services; 2) identify best practices; and 3) create and implement appropriate rules and systems to ensure language accessible services in the judicial, administrative, and non-profit legal sectors.

- b. Existing legal services for low and moderate-income residents should be expanded, including:**
  - Increasing the types of legal problems for which assistance is offered.
  - Expanding office and clinic locations.
  - Extending office hours to include evenings and weekends.
- c. Legal services programs should expand outreach and publicity regarding possible legal remedies to problems and the availability of legal services to the public, including:**
  - Locating outreach sites in areas convenient to potential clients.
  - Engaging in partnerships with community groups and agencies.
  - Publicizing services and programs in low and moderate income communities.
- d. Other barriers to obtaining legal assistance need to be identified and addressed through the provision of ancillary services, such as providing for child care during a court hearing or for necessary mental health services.**
- e. The Hawai'i Access to Justice Commission, working closely with legal service providers, should develop strategies to help address current gaps in services.**

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<sup>124</sup> The National Asian Pacific American Bar Association, *Increasing Access to Justice for Limited English Proficient Asian Pacific Americans*, (2007), p. 3.

## **8. Expand the Role of the William S. Richardson School of Law in Promoting Access to Justice**

- a. Expand efforts to create and develop law student interest in the practice of poverty law by increasing existing clinical programs and instituting new ones to serve the needs of low-income populations.**

The Law School does not presently have a specific poverty law course, though one was taught during our summer session several years ago. It is uncertain what enrollment would be. The Law School has not perceived a demand from students for such a course.

The Law School had a Legal Aid Clinic for 3-4 years. This was a hybrid clinic which used both Legal Aid Society Hawai'i staff and Law School faculty to provide students with a general public interest law clinical experience. Most times, there was a full complement of six students, but the course was under enrolled at least once. The course drew solid student evaluations but did not generate consistently strong student interest.

The Law School has 16 clinical offerings of which eight primarily serve the poor. These eight include the Defense Clinic, Elder Law Clinic, Environmental Law Clinic, Native Hawaiian Rights Clinic, Family Law Clinic, Immigration Law Clinic, and two new clinics – a Low-Income Taxpayer Clinic and a Small Business Clinic. In addition, there are two directly relevant major programs: the UH Elder Law Program and the Hawai'i Innocence Project. The former serves financially and socially disadvantaged older adults while the latter helps wrongly convicted persons serving long sentences to gain their release.

Any expansion of the clinical program would need to take into account the Law School's relatively small student body, student demand, the potential dilution of class enrollments, the budgetary constraints, and the availability of qualified teachers.

- b. Emphasize in the professional responsibilities curriculum a lawyer's ethical duty under Rule 6.1 of the Rules of Professional Conduct to perform pro bono legal services and the ways this obligation can be met and seek additional funding to support law students meet the 60 hour pro bono graduation requirement in a manner consistent with addressing the needs of low-income populations.**

Presently the Law School funds the pro bono requirement from its operating budget. The main expense is the salary of the staff persons who direct and administer the program. The real expense is the time and effort these staff persons dedicate to pro bono and the corresponding loss of time and energy that would have been directed to their other activities. Almost all law schools use a similar arrangement. The Association of American Law Schools has recommended that each school hire a full time person to provide continuity and supervision to such a program. Most law schools, including William S. Richardson School of Law, have not gotten there yet. But the Law School already has sought and will continue to seek funding for

a full-time Social Justice Program coordinator. Some schools use soft money or a combination of “hard” university funds mixed with special grants.

- c. Set an example of commitment to equal justice for its students, e.g., faculty members testifying in support of access to justice legislation, accepting pro bono cases, serving on volunteer boards of organizations that serve the legal needs of the poor, contributing financially to organizations that serve the legal needs of the poor, and filing amicus briefs in proceedings affecting legal services to the poor.**

Many law professors already do or believe they do work that serves the public interest, and they do so without compensation. Negotiating what constitutes “pro bono” work in the academic context might be difficult, assuming that a formal policy is adopted to encourage and support faculty members in performing such pro bono work.

Nationally, only a few law schools have a faculty pro bono requirement. Where such requirements exist, they tend to be quite modest. For example, Charleston School of Law requires its faculty to perform 30 hours of pro bono work every three years.

Law schools do different things to encourage faculty to engage in pro bono work. At least one includes it in annual evaluations. In the Law School’s tenure and promotion process, faculty members are required to demonstrate sufficient “community service” to justify promotion and/or tenure.

- d. Work with Advocates for Public Interest Law, the Hawai‘i State Bar Association, nonprofit legal service providers, and private law firms to develop more public interest summer and academic year clerkships and to obtain grants for summer internships and clerkships that serve low-income populations.**

The Law School is interested in creating more public interest law opportunities, particularly paying ones, for students. Advocates for Public Interest Law (APIL) continues to have a major presence at the school, and with the assistance of its faculty liaison Professor Justin Levinson, APIL is considering ways to launch a fundraiser that is larger and more lucrative than the relatively modest ones to date.

The Legal Aid Society of Hawai‘i recently funded and celebrated the first ever two-year Legal Aid Fellow, Brengyei Katosang, a 2007 WSRS� graduate. Paying about \$40,000/year, this fellowship offers an impressive opportunity for a Law School graduate who seeks a career in public interest law.

## **9. Increase Access to Justice in Other Ways**

- a. The Hawai‘i Legislature should support the creation of a student loan repayment assistance program to help full-time legal service attorneys pay back their student loans.**

With law student loans averaging \$42,000 after graduation (some students accrue as much as \$100,000 in law school related debt), public interest law jobs, many of which can only offer modest

salaries, become impossible for a good number of law school graduates. A loan repayment assistance program would help provide financial assistance to help repay student loan debt for attorneys who work for an organization providing legal assistance to low-income Hawai'i residents. An effective loan repayment program has been successful in other states in both recruiting and retaining civil legal assistance lawyers.

The William S. Richardson School of Law strongly supports the adoption of a Loan Forgiveness or Repayment Assistance Program and will continue to join partners in making this happen. There is a sense of growing attention to this in our Legislature and the Law School is gratified by recent congressional action to support such programs.

- b. The Hawai'i Supreme Court should consider adopting rules permitting attorneys actively licensed to practice law by the highest court of a state or territory of the United States or the District of Columbia who are working or volunteering pro bono for nonprofit legal service providers, to practice for up to one year without being admitted to practice law in Hawai'i.**

The Rules of the Supreme Court of Hawai'i do not allow for the limited admission to practice law without taking the bar examination for attorneys who are working for a non-profit legal services program. The Rules do allow for the limited admission (for four years) of attorneys of full-time active duty military officers serving in the office of the Staff Judge Advocate of the various military branches (Rule 1.7) and for the admission of full-time law school faculty members at the William S. Richardson School of Law (Rule 1.8).

According to the National Conference of Bar Examiners, 20 states now allow for at least the limited admission without examination of attorneys admitted in other states who are working for legal services programs.<sup>125</sup> These provisions range from allowing an attorney to practice until he or she is able to obtain the results after taking the next scheduled bar exam, to limitations of two years, to an indefinite period as long as the attorney continues to work for a legal services program.

The lack of a provision allowing for at least the limited practice of law in Hawai'i for attorneys employed by a non-profit legal services program complicates the hiring of experienced legal services attorneys from other states. There is often a need for an attorney to immediate practice so that clients' critically important needs can be addressed. Under the current rules, an attorney admitted in another state may very well have to wait from five months to a year to be able to practice, depending on when he or she was hired. This compromises a legal services program's ability to address client needs.

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<sup>125</sup> Comprehensive Guide to Bar Admission Requirements 2007, National Conference of Bar Examiners and ABA Section on Legal Education and Admissions to the Bar.

- c. **The Hawai‘i Supreme Court should consider adopting rules providing for limited representation or “unbundled” legal services. Continuing legal education programs should be held that promote unbundling as a way to meet currently unmet legal needs.**

"Unbundled" legal services can be described as "discrete task representation." An attorney who provides a specific service to a client (who is otherwise handling an action *pro se*) is providing one service out of the possible range of "bundled" services, otherwise referred to as full representation.<sup>126</sup>

Unbundling "is changing the face of the legal profession today. Given minor modifications, any firm can start unbundling their law practice and offer this new consumer-oriented approach to legal service delivery to their clients."<sup>127</sup>

Attorneys who are committed to the "unbundled" concept are willing to provide limited legal services to clients, such as:

- Legal advice: office visits, telephone calls, fax, mail, E-mail
- Advice about availability of alternative means to resolving the dispute, including mediation and arbitration.
- Evaluation of clients' self-diagnosis of the case and advising client about legal rights.
- Guidance and procedural information for filing or serving documents.
- Reviewing correspondence and court documents.
- Preparing and/or suggesting documents to be prepared.
- Factual investigation: contacting witnesses, public record searches, in-depth interview of client.
- Legal research and analysis.
- Discovery: interrogatories, depositions, requests for document production.
- Planning for negotiations, including simulated role playing with client.
- Planning for court appearances made by client, including simulated role playing with client.
- Backup and trouble-shooting during the trial.
- Referring client to other counsel and to other experts.
- Counseling client about possible appeal.
- Procedural assistance with appeal and assisting with substantive legal argumentation in appeal.
- Provide preventive planning and/or schedule legal check-ups.
- Other services as needed by the client.

(See Civil Justice Network, <http://www.civiljusticenetwork.org/pages/unbundled.html>)

The promotion of unbundling of legal services in Hawai‘i can result in an increase of available legal options for our residents.

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<sup>126</sup> See Civil Justice Network, <http://www.civiljusticenetwork.org/pages/unbundled.html>.

<sup>127</sup> See "Unbundling Legal Services: A Guide to Delivering Legal Services a la carte", Forrest Mortson, ABA Law Practice Management Section, (2000).



- d. Judges, lawyers and legal services providers should prepare a series of articles on access to justice topics for publication in the Hawai'i Bar Journal and make access to justice a regular feature.

Education is an essential step in building support for access to justice, including increased pro bono, within the Bar. As the Hawai'i State Bar Association publication distributed to every Bar member each month, the Hawai'i Bar Journal provides an optimal medium for disseminating information to Hawai'i lawyers about topics related to access to justice. Making such articles a regular feature in the Journal will increase lawyers' awareness of the importance of equal access to justice and encourage greater levels of pro bono service by attorneys.

## **10. Form a Broad Coalition to Address Ways to Alleviate Poverty in Hawai'i**

- a. Realizing that legal problems of low-income residents of Hawai'i do not occur in a vacuum, but instead are often interrelated with poverty, and left unresolved can plunge families further into poverty, the legal community must join with others in a concerted effort to eliminate the root causes of poverty in Hawai'i.
- b. Our community should adopt as a goal, and pursue with passion the goal, that every child in Hawai'i has adequate food, shelter, health care, and education.

## Policy Statements & Resolutions

### Resolution 23

#### Leadership to Promote Equal Justice

WHEREAS, equal justice for all is fundamental to our system of government; and  
WHEREAS, this promise of equal justice under law is not realized for individuals and families who have no meaningful access to the justice system; and

WHEREAS, this de facto denial of equal justice has an adverse impact on these individuals, families, and society as a whole, and works to erode public trust and confidence in our system of justice; and

WHEREAS, the Judicial Branch, in our constitutional structure, shoulders primary leadership responsibility to preserve and protect equal justice and take action necessary to ensure access to the justice system for those who face impediments they are unable to surmount on their own; and

WHEREAS, the Conference of Chief Justices has, by resolution, provided leadership in improving the administration of justice by encouraging pro bono services in civil matters, supporting the Interest on Lawyers Trust Account Program, and supporting the continued funding of the Legal Services Corporation;

NOW, THEREFORE, BE IT RESOLVED that the Conference acknowledges that judicial leadership and commitment are essential to ensuring equal access to the justice system and to the achievement through nationwide effort of equal justice for all and encourages individual members in their respective states to establish partnerships with state and local bar organizations, legal service providers, and others to:

1. Remove impediments to access to the justice system, including physical, economic, psychological and language barriers; and
2. Develop viable and effective plans, to establish or increase public funding and support for civil legal services for individuals and families who have no meaningful access to the justice system; and
3. Expand the types of assistance available to self- represented litigants, including exploring the role of non-attorneys.

*Adopted as proposed by the Access to and Fairness in the Courts Committee of the Conference of Chief Justices in Baltimore, Maryland at the 24th Midyear Meeting on January 25, 2001.*