



IN PURSUIT *of* JUSTICE

An Assessment of
the Civil Legal Needs
of North Carolina

APRIL 2021

NC
Equal Access
to Justice
COMMISSION

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NORTH CAROLINA SUPREME COURT



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Acknowledgments

We would like to express our gratitude to North Carolina IOLTA and the North Carolina Bar Foundation for providing funding to support this research. Many thanks to the Center for Housing and Community Studies at the University of North Carolina at Greensboro (UNCG) for conducting the first comprehensive legal needs assessment of our state in almost 20 years. The members of the research team were: Stephen Sills, PhD, Director of the Center; Bruce Rich, JD, MPA, Housing and Urban Policy Coordinator; Haiyang Su, PhD, Survey Research; and Meredith DiMattina, GIST, Mapping.

We deeply appreciate the willingness of the hundreds of legal aid and social services professionals and members of the legal aid client community who shared their experiences through surveys, focus groups, and in-depth interviews.

This document provides a brief summary of UNCG's extensive findings for a special meeting of the North Carolina Equal Access to Justice Commission (EATJC) held in April 2021. EATJC and the Equal Justice Alliance (EJA) are responsible for the content of this summary.

INTRODUCTION

Whereas the Sixth Amendment guarantees the right to legal counsel to most criminal defendants, there is almost no civil right to counsel in the United States.

A large percentage of the population in North Carolina cannot afford the services of a private attorney. Each year, thousands of North Carolinians must navigate complex civil legal issues such as foreclosure and child custody without the benefit of representation. As a result, basic human needs like food, safety, shelter, and healthcare go unmet.

In 2020, in partnership with UNC Greensboro's Center for Housing and Community Studies, the NC Equal Access to Justice Commission (EATJC) and the Equal Justice Alliance (EJA) completed the first comprehensive civil legal needs assessment in nearly two decades. The study provides an overview of the scope of civil legal needs in North Carolina, as well as the factors affecting the depth and type of civil legal problems people experience. Primary goals of this assessment included:

- Documenting the current resources and services available to meet civil legal needs.
- Understanding specifics regarding the gaps in availability of services and what resources are needed to address unmet legal needs.

UNCG researchers obtained economic and demographic contextual data from secondary data sources. They compiled data for 2015–2019 from the NC Administrative Office of the Courts (NCAOC) for the number and type of civil cases by county. Eight civil legal aid providers in North Carolina provided a snapshot of caseloads in 2019.

Fast Facts: Legal Aid in NC

Until the current study, an assessment of the unmet civil legal needs of North Carolinians had not been undertaken since 2003.

More than 2 million low-income North Carolinians were eligible for the services of legal aid providers in 2018.

71% of low-income families will experience at least one civil legal problem in a given year.

86% of these legal needs go unmet because of limited resources for civil legal aid providers.

The coronavirus pandemic has significantly increased the need for civil legal aid.

There is 1 legal aid attorney for every 8,000 North Carolinians eligible for legal services, compared to 1 private lawyer for every 367 North Carolina residents.

The UNCG team collected primary data over the course of 10 months in 2020 using the following methods:

- 28 semi-structured, in-depth, one-on-one interviews with leaders in the legal aid field that included managing attorneys, policy directors, program officers, executive directors, legal scholars, and frontline attorneys from agencies across the state.
- Focus groups with legal aid lawyers, people who work for nonprofits delivering services in the community, and people who have been legal aid clients or have struggled to find affordable legal help (57 total participants).
- Statewide surveys of 1,176 stakeholders and 708 potential, current, or past clients.

Primary Findings

- Legal aid and social services providers were unanimous on one point: low-income North Carolinians face a severe shortfall in affordable legal resources. Over the past 20 years, some of the resources available to serve people in poverty have expanded while some have contracted—but the needs have far outpaced the resources.
- Some populations are underserved even relative to the larger population of low-income people in need of civil legal services. These populations include veterans, the elderly, people with disabilities, and Native Americans.
- The income limits imposed by the Legal Services Corporation (LSC), a significant source of funding for many legal aid offices, excludes middle-income clients from eligibility for assistance, despite the fact that they often cannot afford a private attorney.
- Legal aid providers are forced to turn away many eligible people with meritorious cases due to lack of resources.
- Family law (particularly custody proceedings) was by far the most often mentioned area of underserved practice. The second most often cited underserved practice area was immigration.
- Funneling additional resources into more routine practice areas like expunctions and traffic law has the potential for tremendous impact on many individuals' ability to be economically self-sufficient.
- Significant barriers make it difficult for low-income people to gain access to legal services. Researchers asked client respondents to name the greatest barriers. By far the most frequent was costs, which 91.2% identified.
- A lack of internet access can significantly hamper the ability of rural and low-income communities to access legal services.
- The need for legal services for low-income families is growing, and poverty drives a large percentage of this need.

Impact of COVID-19

Since descending on our state in March 2020, COVID-19 has both exposed and increased the unmet need for civil legal aid. The pandemic has significantly impacted North Carolina unemployment rates, causing ripple effects for families in many areas such as food insecurity, collections, child custody, and access to affordable healthcare. Stakeholder survey findings indicate that housing, employment, and discrimination are the top three

categories of increased need. Stakeholders noted an increase in domestic violence cases, as well as a surge in people concerned about wills and advance directives. The full impact of the pandemic on legal needs will not be seen for months or even years as vulnerable populations recover.

The unemployment rate in our state more than tripled between October 2019 and July 2020, soaring from 3.5% to 12.7%. The number of unemployed workers during this same time period increased from 180,081 to 436,774. The unemployment rate had fallen back to 6.1% in October 2020 and remains at 6.1% as of this writing; this rate is significantly higher than before the pandemic.

Under difficult conditions, the civil legal aid community has helped families in every county of the state meet basic human needs. Attorneys and other staff adapted to working remotely, socially distancing, and implementing other safety measures. They ramped up technology use to serve more clients and provide vital information to the public. Zoom meetings, email, websites, videos, and social media have been critical advocacy tools and allowed legal aid providers to increase their reach. Facebook Live is one of many tools used to inform people about their rights in a rapidly changing environment.

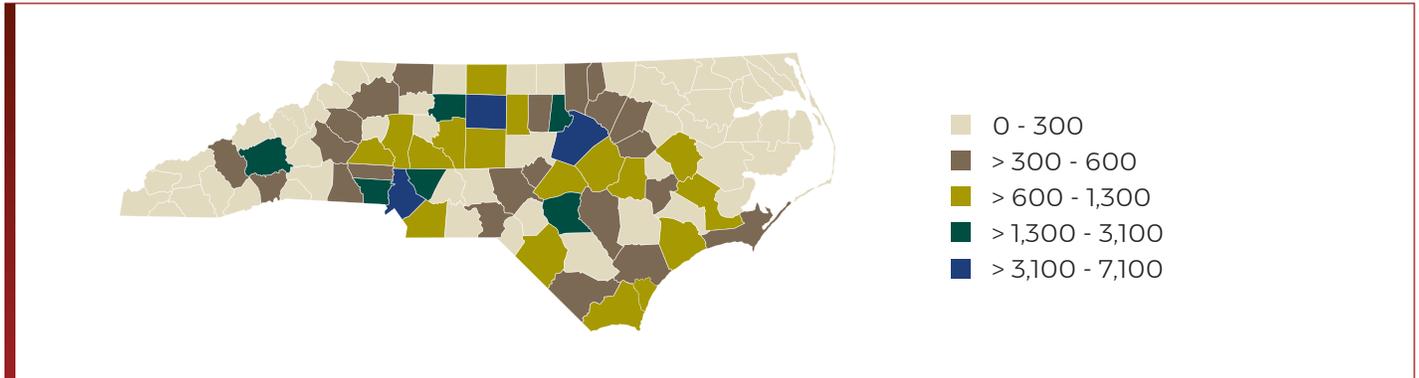
Courts have shifted a variety of hearings to virtual settings. Many study participants noted that people without access to reliable broadband and technology may fall through the cracks of the digital divide.

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Overview of Need

The need for civil legal services for North Carolinians is generally acute. NCAOC records indicate there were more than 1.7 million civil legal cases for 26 civil issue types during the five-year period of 2015–2019, or 340,761 annual cases. Of these 26 case types for which researchers compiled data, 40% appeared in district court with less than 1% in superior court. Magistrates fielded about 45% of cases, and the remainder were primarily handled through special proceedings.

FIGURE 1: Civil Case Volume by County, 2019



Source: NC Administrative Office of the Courts.

FIGURE 2: 10 Most Prevalent Civil Legal Case Types Statewide (Annualized Incidence by Issue Type)

Issue	District Court	Magistrate Court	Superior Court	Estate	Special Proceedings	Registration	Annualized Rate per 10,000
Summary Ejectment	2,871	167,175	-	-	-	-	169.2
Divorce	37,070	-	-	-	-	-	36.9
Collection on Account	35,931	-	952	-	-	-	36.7
Domestic Violence	32,651	-	-	-	-	-	32.5
Foreclosure	-	-	-	-	23,778	-	23.7
Custody	18,521	-	2	-	-	-	18.4
Findings and Order of Foreclosure	-	-	-	-	13,949	-	13.9
Permanent Civil No-Contact Order	9,329	-	-	-	-	-	9.3
Incompetency	-	-	-	-	4,922	-	4.9
Guardianship of the Person	-	-	-	3,478	-	-	3.5

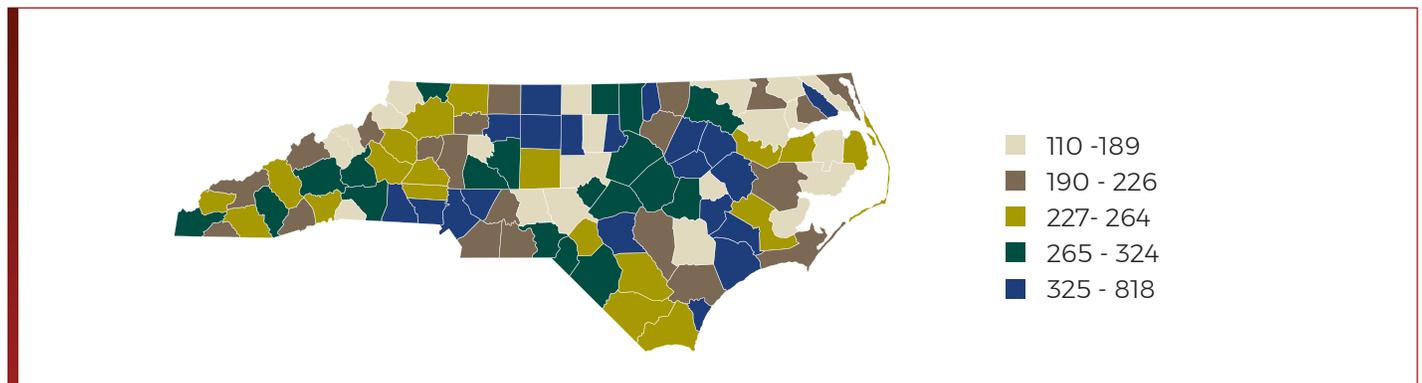
Source: NC Administrative Office of the Courts.

Large variations exist in both the rate and volume of civil cases in different counties across the state. County-level information is available upon request for these select case issue types: summary ejectment, collection on accounts, child custody, divorce, domestic violence, foreclosure, and guardianship. Additionally, UNCC researchers tabulated and mapped county-level information on the rate and volume of cases per court type and disposition. Figures for case issue type, court type, and dispositions are available both as annual rates per 10,000 population per year by county and as total annualized data by county, without consideration of the county’s population. This county-level information may be found at nclegalneeds.org.

The highest raw volume of civil court cases is centered around the larger metropolitan areas of the state, which are located in Wake, Mecklenburg, Guilford, Forsyth, Durham, and Cumberland Counties. Having a greater ratio of rental properties, these same counties are among the highest regarding the volume of summary ejectments, even when accounting for population density.

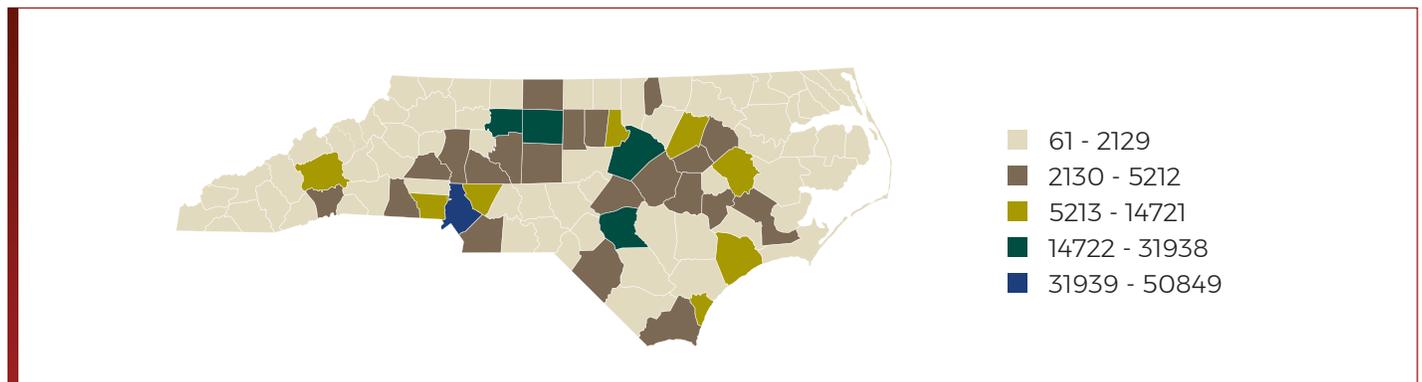
In contrast, foreclosure related cases were less correlated with population density, being highest in some of the eastern and western extremities of the state, as well as in Guilford, Forsyth, Hoke, and Cumberland Counties, while remaining relatively low in counties like Wake and Mecklenburg with major metropolitan areas. Even when low population density is accounted for, cases related to domestic violence were highly concentrated in the western half of the state and lower in the northeastern counties.

FIGURE 3: Rate of Civil Cases per 10,000 Population Per Year for Select Issue Types By County



Source: NC Administrative Office of the Courts, 2015-2019.

FIGURE 4: Total Count of Civil Cases for Select Issue Types per Year By County



Source: NC Administrative Office of the Courts, 2015-2019.

Note: The 26 case issue types included in the tabulations above are, in descending order, summary ejectment (eviction), divorce, collection on accounts, domestic violence, foreclosure, custody, findings and order of foreclosure, permanent civil no-contact order, incompetency, guardianship of the person, name change, temporary restraining order, domestic violence temporary custody, claim/designate exempt property, domestic violence temporary child support, renew permanent restraining order, general guardianship (incompetent), estate guardianship (incompetent), limited driving privilege, protective services (adult), power of attorney, permanent restraining order, renewal of permanent civil no-contact, general guardianship (minor), objection to exemptions claimed, and unlawful discriminatory housing practice.

Scope and Type of Cases Closed by Legal Aid Providers

Eight civil legal agencies provided data for this assessment from their 2019 records: Charlotte Center for Legal Advocacy, Council for Children’s Rights, Disability Rights North Carolina, Financial Protection Law Center, Land Loss Prevention Project, Legal Aid of North Carolina, NC Free Legal Answers program, and Pisgah Legal Services.

These eight organizations reported the following:

- Closing more than 33,805 cases.
- Serving more than 93,692 individuals, including 2,111 veterans.
- Preventing more than 1,897 evictions and 284 foreclosures.
- Assisting clients in obtaining 3,186 domestic violence protection orders.
- Assisting 628 individuals in expunging records.

Civil legal agencies disproportionately helped non-white clients. Approximately 55% of clients served in 2019 were non-white, whereas about 33% of the state’s population was non-white.

FIGURE 5: Top 10 Civil Legal Case Types Closed by Eight North Carolina Legal Aid Providers in 2019

Rank	Case Type	Closed 2019	Percent of All Cases Closed
1	Domestic Abuse	7,679	22.6%
2	Private Landlord/Tenant Issue	5,046	14.8%
3	Federally Subsidized Housing	1,873	5.5%
4	Other Miscellaneous	1,801	5.3%
5	Custody/Visitation	1,659	4.9%
6	Wills/Estates	1,568	4.6%
7	Advance Directives/Powers of Attorney	1,437	4.2%
8	Collection (including Repossession/Deficiency/Garnishment)	1,388	4.1%
9	SSI Benefits	1,050	3.1%
10	Immigration/Naturalization	1,021	3.0%

Source: Eight Legal Aid Providers.

In some geographic and issue areas, the gap between service need and service availability has reached a crisis stage. If a low-income individual is also a member of another marginalized group such as veterans, they are even more unlikely to obtain services. North Carolinians with incomes that just surpass the limit to be eligible for legal aid are particularly underserved because they earn too little to pay for the services of a private attorney.

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Difficult Choices

Legal aid providers must make difficult decisions about which individuals receive services based on their income eligibility, the importance of the issues being presented, the ability of the person to represent themselves, and whether the potential client's issue falls within one of the organization's priority subject areas.

The ability to meet the need for services will decline further post-pandemic.

Civil legal aid providers reported their ability to meet low-income families' legal needs will decline further post-pandemic due to anticipated increased demand. Stakeholder interviews indicated that the worst practice area shortfall is in family law, and the second most underserved practice area is immigration.

Geographic Disparities

Interviewees noted that it is much more challenging for low-income people in rural areas to access civil legal aid for a variety of reasons. They indicated that rural populations are:

- Less likely to have access to public transport.
- Less likely to reside near a legal aid office.
- Less likely to have access to high-speed internet.
- More likely to be older and have more health issues.
- More likely to suffer from the aftereffects of a weather-related disaster.
- More likely to be generally isolated and therefore less likely to know about available services.

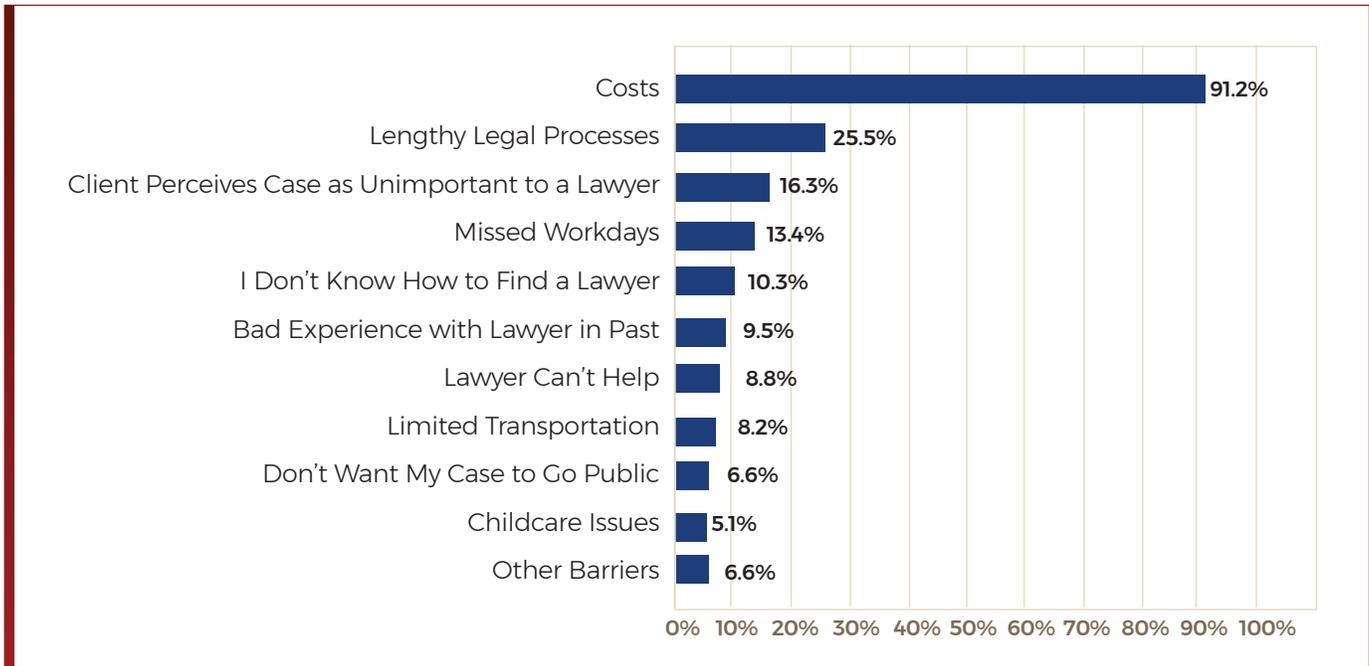
They also pointed out there are fewer pro bono attorneys and less locally-based philanthropic activity to support fundraising efforts in rural counties.

Costs Are Largest Barrier to Receiving Services

Clients overwhelmingly reported that costs are the most significant barrier to obtaining assistance with civil legal issues (Figure 6). In 2018, approximately 15% of North Carolinians lived in poverty, which is disproportionate by race and affects 23.5% of Black households and 12.1% of white households. The percent of households receiving SNAP (Supplemental Nutrition Assistance Program) in 2018 was 14.1%. One-in-five (20.7%) homeowners and 44.1% of renters were cost-burdened, spending more than 30% of income on housing-related costs. Finally, the median annual household income in North Carolina in 2018 was \$53,855, or about \$8,000 lower than that of the United States as a whole, with great variability between counties.

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FIGURE 6: Barriers to Seeking Assistance with Civil Legal Issues, Client Survey Respondents, 2020



The top three most frequently mentioned barriers noted in Figure 6 were consistent across race, income, and level of trust in lawyers. The professionals interviewed further identified the following barriers: lack of childcare, inability to get time off work, lack of transportation, limited language and literacy, lack of internet access, health issues, lack of trust, and lack of awareness.

An additional barrier that came to light in the interviews and focus groups is that members of low-income and immigrant communities often have a low level of trust in lawyers, the court system, and the legal system in general. Client survey respondents were asked to rate on a scale from 0 (no trust) to 100 (total trust) their level of trust in lawyers. The average level of trust (mean) was 63.6. The highest trust level was seen among those with high incomes. Notably, veterans had the lowest level of trust in lawyers.

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FIGURE 7: Level of Trust in Lawyers, Client Survey Respondents, 2020

Client Group	Mean
All Clients	63.6
White	64.74
Non-White	62.75
Males	65.28
Females	63.43
Veteran	57.59
Non-Veteran	64.27
Very Low Income	64.49
Very High Income	81.33

Categories of Legal Services with High Need

UNCC researchers analyzed all data collected from the 28 in-depth interviews with leaders in the legal services field; focus groups with 57 total participants (including professionals, clients, and potential clients); and statewide surveys (1,176 stakeholders and 708 past, current, or potential clients). They identified multiple types of civil legal cases with high need for legal services.

Housing Issues for Owners: Housing legal services ranked at or near the top in each component of our assessment of civil legal needs in North Carolina. The most commonly filed legal issues for homeowners were foreclosure and mortgage issues, followed by home repair problems.

Housing Issues for Renters: Housing legal issues for renters were a top category of need and included general affordability issues, rent increases, threats of eviction, and tenants' rights.

Family Legal Services: Statewide NCAOC data and data supplied by legal aid providers indicated that family legal services are in high demand. Among the surveyed issues in the category of family law, more than half of respondents indicated a great need for services for domestic violence and partner abuse, followed closely by child custody, child visitation, and child support issues.

Immigration and Naturalization: Legal services for immigration and naturalization also ranked high on the overall assessment of legal needs, as well as in interviews and focus groups. All subfields ranked relatively high in need, and the most significant areas of need were related to deportation, immigration court hearings, problems resulting from not having a driver's license, and Deferred Action for Childhood Arrivals (DACA).

Seniors: The most prominent issues for seniors were fraud, Medicare/Medicaid issues, and powers of attorney and living wills. Guardianship and abuse of the elderly, while still high need, ranked lowest comparatively.

Healthcare: Medical-legal issues included addressing Medicaid eligibility issues and Medicaid nursing home benefits, as well as the provision of home and community-based services.

Income Maintenance: The most common legal services needs in this area were help with applying for or receiving SNAP, unemployment compensation, and Social Security Disability Insurance (SSDI).

Consumer Rights: Respondents indicated the greatest needs for consumer legal programs were related to collection agency abuse, student loan debt, and creditor harassment.

Employment Legal Services: Respondents agreed there was moderate to great need for addressing employment issues related to criminal records as well as issues concerning unemployment benefits.

Civil Rights/Discrimination: More services are needed for people facing discrimination due to race or ethnicity. Related was a high need for legal services for discrimination due to criminal record or police misconduct due to discrimination. The need was consistently high throughout all categories of civil rights cases.

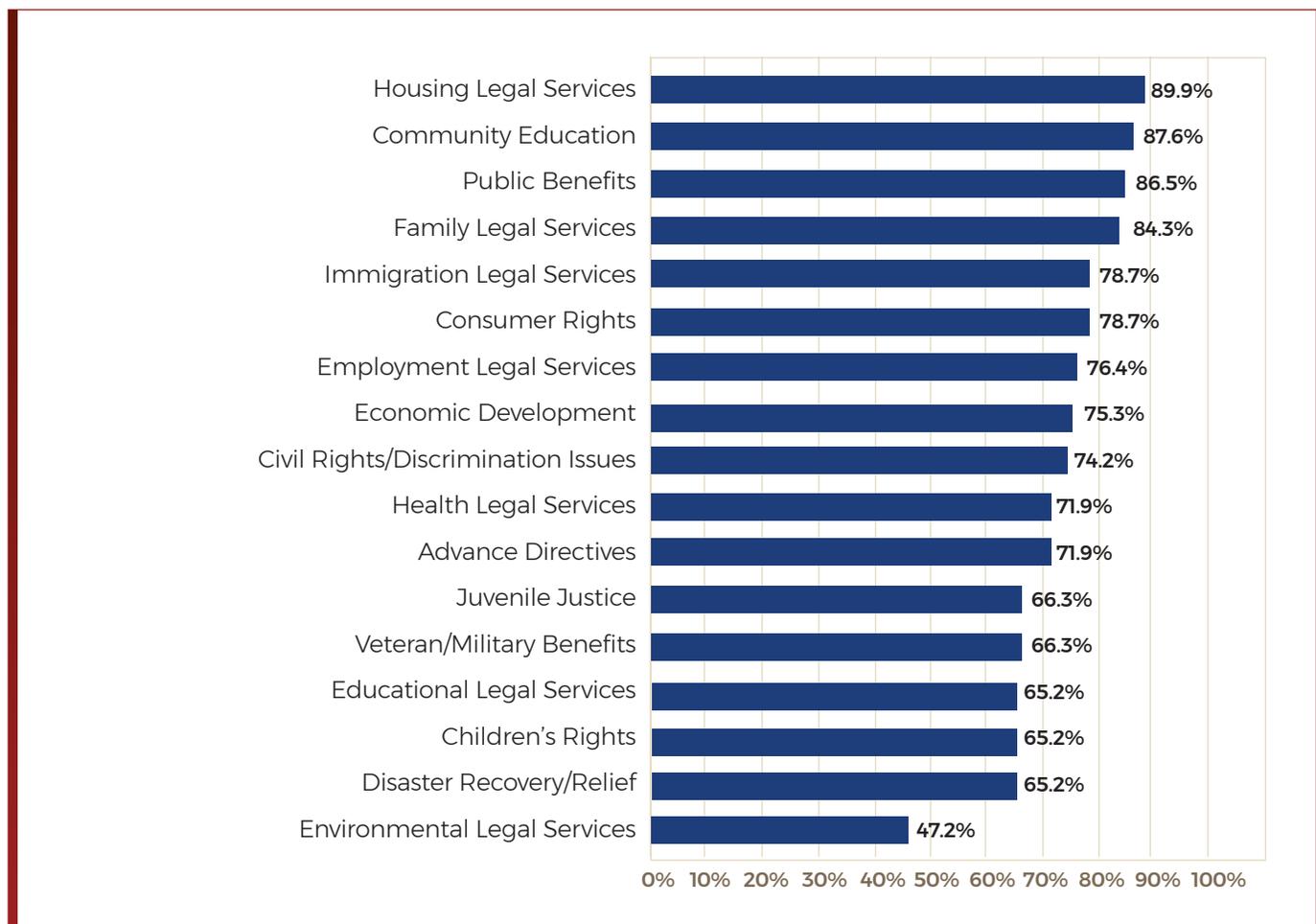
Veteran/Military Benefits: Denial of veterans benefits was the greatest area of legal need indicated by respondents, while discharge status upgrade or correction was the least needed service.

Education Legal Services: The majority of respondents agreed there was moderate to great need for addressing Individual Education Program (IEP) issues, school enrollment for homeless youth, and issues of youth being turned down for special education programs. The need was consistently high throughout all categories of educational legal cases.

Disability Benefits: The majority of respondents also recognized moderate to great need for legal services for cases where disability benefits were denied, reduced, or terminated; for Social Security Disability Insurance (SSDI) claims; and for mental illness or commitment hearings.

Wills and Estates: Respondents indicated roughly equal need in the following four areas of wills and estates: estate planning, probate, household members had problem with will or estate of deceased person, and unspecified legal problems with will or estate.

FIGURE 8: Top Needs Identified by Nonprofit Legal Aid Providers, 2020



Existing Financial and Human Resources

Researchers asked survey respondents to identify programs and efforts in their area that are successful in the current provision of civil legal services. Respondents provided 227 write-in responses, and key themes included the emergence of new programs, strong civil legal aid providers, effective community partnerships, and improvements in court training.

Funding: Legal aid providers throughout the state receive funding from a variety of sources. Federal funds through LSC furnish the greatest amount of funding for civil legal representation for low-income people in our state but exclude many people who need services. Additional federal, state, and local government grants are important sources as well. Respondents frequently mentioned the Governor's Crime Commission, which allocates funding to agencies under the Violence Against Women Act (VAWA) and the Victims of Crime Act (VOCA). These funds primarily support services to victims of domestic violence and sexual assault. Additional sources respondents identified were NC IOLTA, philanthropic foundations, individual and corporate contributions, attorneys' fee awards, and nominal fees from clients who exceed income levels.

As discussed, the funding for services to address North Carolinians' civil legal needs is severely inadequate. The lack of stability of funding emerged as a key issue. Many respondents also commented that restrictions on funding hampered their efforts to provide services efficiently.

Pro Bono: In our conversations about resources, study participants repeatedly mentioned the private bar as an important resource available to support the provision of legal services. Some legal aid providers reported receiving significant support from private attorneys who provide pro bono services to low-income families. These volunteers take on individual and appellate cases, as well as partner with legal aid attorneys for complex civil litigation cases. In many cases, bar associations also organize pro bono projects such as phone banks to provide answers to legal questions and clinics that help low-income people prepare documents. Training and supporting pro bono attorneys can, however, be labor intensive for legal aid providers. Opinions varied regarding the efficiency of utilizing pro bono services to assist clients.

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Leveraging Non-Lawyers: Civil legal aid providers struggling with limited resources told researchers they need community partners who can play a number of supporting legal roles. Respondents identified potential allies in local social services agency staff, social workers, navigators, advocates, housing counselors, victim witness assistants, paralegals, law students, and volunteers. Respondents also indicated that working closely with other social services organizations allows attorneys to meet client needs more effectively.

Partnerships within the Legal Civil Aid Community: Professionals serving low-income clients report dramatic growth in the effectiveness of their partnerships with other members of the civil legal aid community. Increasingly, they work together to support each other as well as their clients. They collaborate to educate clients and the wider community about legal issues. This interdependence sometimes also extends to the relationships between legal aid firms and the private bar.

Suggestions for Improvements from Justice System Stakeholders

After extensive discussion of needs, shortfalls, barriers, and resources, researchers asked study participants what changes they would like to see at the local, state, or federal level. We heard many suggestions for improvement, ranging from sweeping systemic change to modest tinkering with regulations. Recommendations generally fell into the three broad categories of structural change, funding, and regulatory reform.

Regarding structural change, some study participants recommended that steps be taken to reduce poverty and oppression. Ideas ranged from greater access to food and child care to increasing the minimum wage and the amount of affordable housing available. Many supported a civil right to counsel.

Short of sweeping systemic change, study participants generally felt that lack of funding is the key issue in explaining and remedying the shortfall in civil legal services. Many participants mentioned the need for far greater resources. Others advocated that funding be more flexible so that it can be used to cover nonprofit operational costs or small expenses of clients such as bus fare.

In terms of regulatory reform, several respondents mentioned Medicaid expansion. Other ideas were reinstating the earned income tax credit as an anti-poverty measure for children and reforming the unemployment insurance system in North Carolina.

The domestic violence sector gave rise to a number of policy recommendations. Among other suggestions, one practitioner urged that domestic violence protective orders be issued for longer periods and that courts take greater advantage of the statutory authority to award child and spousal support, as well as housing allowances, with protective orders. Reform of the campus sexual assault system was also mentioned.

Other ideas included:

Expansion of the property tax reduction available to disabled and elderly homeowners, liberalization of bankruptcy rules to permit restructuring of a mortgage on a primary residence, and expansion of Department of Agricultural rules to allow low-resource farmers to have more access to credit and conservation programs. Several informants recommended that the Self-Serve Center in Mecklenburg County be expanded to other counties. Remote court and administrative hearings and a system for remote notarizations were suggested as other ways to increase access.

Remote court and administrative hearings and remote notarizations were suggested as other ways to increase access.

Many legal aid attorneys struggling to meet needs with limited resources advocated for training community partners and leveraging non-lawyers for support. Examples included providing more training for police and court officials regarding the dynamics of domestic violence, training housing counselors to assist in eviction and foreclosure cases, and utilizing prison staff to screen for needs like expungement. Non-lawyer advocates, with the appropriate support of lawyers, could be utilized to a greater extent to accompany clients to the courthouse to help them file *pro se* or represent themselves in court.

We do not yet know the full picture regarding the civil legal needs emerging from the pandemic. This study relied on court data from 2019 and interviews conducted throughout 2020. We know that unemployment, education deficiencies, housing instability, and other issues will have a prolonged impact on our state, and we will continue to monitor gaps in services over the coming months and years.

YOU CAN HELP

There are real steps that citizens can take to help bridge the justice gap.

Volunteer

Attorney volunteers bridge the gap between those with low/modest income and the court system.

More information is available at
ncprobono.org.

Donate

Support your community's second responders by giving to civil legal aid organizations in North Carolina.

More information about civil legal aid organizations is available at
ncequaljusticealliance.org.

Spread the Word

Tell others how civil legal aid is vital for North Carolina citizens and how it can solve problems early, make communities more resilient, and strengthen the economy.

More information is available at
ncaccesstojustice.org.



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