

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

*Maine Civil Legal Services Fund Commission*  
*Report to the Joint Standing Committee on the Judiciary*  
*126<sup>th</sup> Legislature, First Regular Session*  
*February 1, 2013*

Commissioners:

Janis Cohen  
4 Gilman Road Extension  
Standish, Maine 04084  
207-650-2446  
(Appointment through 1/1/13)

David Fletcher  
P.O. Box 402  
Calais, Maine 04619  
207-454-7641  
(Appointment through 1/1/14)

Paul Chaiken  
Rudman & Winchell  
84 Harlow Street, P.O. Box 1401  
Bangor, Maine 04402  
207-947-4501  
(Appointment through 1/1/15)

Mary Toole  
178 Middle Street, Suite 402  
Portland, Maine 04101  
(Appointment through 1/1/16)

MAINE CIVIL LEGAL SERVICES FUND COMMISSION

January 31, 2013

Linda Valentino, Senate Chair  
Charles Priest, House Chair  
Joint Standing Committee on the Judiciary  
100 State House Station  
Augusta, Maine 04333-0100

Re: 2012 Report of the Maine Civil Legal Services  
Fund Commission

Dear Senator Valentino and Representative Priest:

Consistent with the provisions of 4 MRS 18-A, I am pleased to submit the Annual Report of the Maine Civil Legal Services Fund Commission to the Joint Standing Committee on the Judiciary. Included in the binder are the individual reports from ten legal services providers who receive funds from the Fund. As you will see, low-income citizens, people with disabilities and needy elderly in Maine continue to benefit from the efforts of the providers supported by this Fund. The Fund provides a significant portion of the external financial support needed for their programs. Without this funding the providers would be severely limited in the ability to provide services to their clients.

Since its inception, the Maine Civil Legal Services Fund has played a critical role in sustaining and increasing access to justice for Maine citizens in need. In 2012, the Fund distributed \$1,478,000.82 to ten legal services providers as follows:

Cumberland Legal Aid Clinic	\$96,070.05
Disability Rights Center	\$19,214.01
Immigrant Legal Advocacy Project	\$70,205.04
Legal Services for the Elderly	\$285,993.16
Maine Center on Deafness	\$10,346.01
Maine Equal Justice Partners	\$162,580.09
Penquis CAP Law Project	\$19,214.01
Pine Tree Legal Assistance	\$712,396.40
Volunteers Lawyers Project	\$90,158.05
York County Community Action	\$11,824.01

We shall continue to monitor the good work performed by the recipients to ensure that the funds of the Maine Civil Legal Services Fund are utilized in a manner that will most efficiently and effectively maintain and enhance access to justice in our State.

January 31, 2013

Page 2

As a person who practices in Maine's poorest County, I can personally observe the good work that the Fund helps to maintain. The continuing Legislative support for the Fund is critical to address the growing unmet needs in the civil justice arena. On behalf of the Commission, the providers and the thousands of citizens who were served, we thank you.

If you or any of the members of the Committee have any questions, please let me know. I can be reached at (207) 454-7641 or [fletcher\\_law@myfairpoint.net](mailto:fletcher_law@myfairpoint.net).

Respectfully submitted,



David J. Fletcher, Senior Commissioner  
Maine Civil Legal Services Fund Commission

Enclosure

cc: Paul Chaiken, Esq., Commissioner  
Mary Toole, Esq., Commissioner



CUMBERLAND

---

# Legal Aid Clinic

---

UNIVERSITY OF MAINE SCHOOL OF LAW

**2012 ANNUAL REPORT  
TO THE MAINE CIVIL LEGAL SERVICES FUND COMMISSION  
AND THE JOINT STANDING COMMITTEE ON THE JUDICIARY**

**OVERVIEW OF THE PROGRAM**

The Cumberland Legal Aid Clinic of the University of Maine School of Law is pleased to submit this narrative report on the services provided in 2012 as a result of support received from the Maine Civil Legal Services Fund (“the Fund” or “MCLSF”).

Established in 1970, the Clinic is a program of the University of Maine School of Law and provides legal services to low-income individuals in Maine. Such legal services are provided by third-year law students specially licensed under the court rules to practice under faculty supervisors who are experienced members of the Maine Bar. The Clinic’s mission is two-fold: educating law students through an intense, high-quality clinical and mentoring experience while providing pro bono legal services to indigent Maine citizens.

The Clinic primarily serves clients with legal matters pending in state, probate, and federal courts in Cumberland, York, Androscoggin, and Sagadahoc Counties. On a more limited basis, the Clinic provides assistance to prisoners incarcerated in the Maine state prison system who have cases throughout the state. Cases in the Supreme Judicial Court and federal courts may arise anywhere in the state.

As a general matter, the Clinic provides legal services to low-income residents of Maine (defined as having an adjusted income under 125% of the Federal Poverty Level). The Clinic has four distinct programs, described below, each of which has its own target population. Most individuals qualify for our services when: (1) their household gross income falls within our financial guidelines; (2) the court is within our geographic service area; and (3) we have openings for new clients.<sup>1</sup> Because our resources are very limited, the Clinic cannot accept every case that meets our eligibility requirements. The Clinic staff conducts the initial screening of clients to determine eligibility; the student attorneys complete the intake process and cases are accepted only with faculty approval. Because the Clinic is not able to help all eligible individuals, other considerations in accepting the case are:

- client need
- availability of a student attorney
- availability of alternate sources of legal services or assistance
- Clinic’s ability to provide quality representation
- amount of Clinic resources required to represent the client in the matter
- educational value of the case.

---

<sup>1</sup> The eligibility requirements are somewhat different for the Prisoner Assistance, Juvenile Justice and Protection from Abuse programs, but each program serves indigent clients almost exclusively.

A total of 51 students enrolled in Clinic courses during 2012. In addition, the Clinic hired five law students hired this summer to work as full-time interns, and one student worked as a part-time fellow doing policy development work as well as direct representation of clients. As a result, the Clinic was able to provide much-needed representation to individuals on a year-round basis.

The bulk of the legal services provided through the Clinic are by students enrolled in the **General Practice Clinic**, which is a six-credit clinical course. Each semester, the General Practice Clinic enrolls twelve students, each of whom represents from five to ten individuals during the course of a semester. The General Practice Clinic provides full representation, at both the trial and appellate levels, to low-income people living in Southern Maine with any of a broad range of litigation-related matters. The majority of the General Practice Clinic's cases involve family law and domestic matters, but students may also work on state and federal cases involving consumer, criminal, juvenile, probate, administrative and miscellaneous civil issues. Our priorities for representation in the General Practice Clinic include clients with whom we have worked in the Protection from Abuse Program and other limited representation programs of the Clinic, referrals from the Immigrant Legal Advocacy Project and other legal aid providers who are unable to provide assistance, and referrals from area courts who have identified litigants as having a particularly acute need for quality legal representation in their legal matters.

This past year, the Clinic continued its work providing civil legal services to those incarcerated in the Maine prison system through its **Prisoner Assistance Clinic**, a three- or six-credit course enrolling up to five students each semester, with an emphasis on interviewing, counseling and providing "unbundled" legal services (i.e. limited representation) on a wide range of issues. In 2012, the Prisoner Assistance Clinic provided legal information, advice, and, in some cases, full representation to 126 prisoners incarcerated in the Maine state prison system. The Prisoner Assistance Clinic students go to the Maine Correctional Center in Windham every week to meet with prisoners with civil legal matters. The Clinic serves prisoners in other facilities through correspondence and telephone calls.

The **Juvenile Justice Clinic** (also a three- or six-credit course) enrolls up to five students each semester, who work under the supervision of one faculty member, and who have the opportunity to work with troubled youth in a number of contexts. Juvenile Justice Clinic students provide legal representation to children with pending matters in the Maine Juvenile Courts, provide legal information and advice on a wide range of matters to homeless teens and young adults through a Street Law Project at the Preble Street Teen Center, and conduct policy development work on issues such as minority contact with law enforcement, competency, and reducing high school drop-out rates, benefitting children state-wide.

All students enrolled in the Clinic courses or working as summer interns participate in the **Protection From Abuse Program**, through which students attend the protection from abuse docket calls in Lewiston, and represent any victims there who need representation. That program receives top marks from the students, the courts, and clients alike. The Clinic represented 224 victims in 2012 in protection from abuse or protection from harassments matters in Lewiston District Court. The Clinic provided such representation in 2012 through support from the Fund, as well as federal funding received from the United States Department of Justice Office of Violence Against Women.<sup>2</sup>

---

<sup>2</sup> The Clinic started a new program in Fall 2012, the Refugee and Human Rights Clinic, which provides an opportunity for law students to advocate on behalf of low-income immigrants in a broad range of cases and projects. This program's work was supported by grants from private foundations, and therefore that part of the Clinic's caseload will not be included in the data provided in this report.

## INFORMATION REQUESTED BY THE COMMISSION

The Fund provided nearly thirteen percent of the total funds used by the Clinic for its programs in 2012 and approximately 46% of external funds received, making it the Clinic's largest single source of external funding. Accordingly, the Clinic relies upon money received from the Fund for nearly all of the programs described above, but especially for the work of the General Practice Clinic and Protection from Abuse Program.<sup>3</sup> In 2012, the Fund provided the resources by which the Clinic was able to retain a third full-time faculty supervisor and a part-time adjunct faculty member and to operate the Clinic on a year-round basis by hiring two of the five student interns this summer to cover the ongoing cases. Therefore, absent the support provided by the Fund the Clinic would be approximately two-thirds its present size. These funds also enable us to purchase training and legal research materials for our Clinic library and to cover other important expenses (such as hiring interpreters, travel to court, printing, telephone, and mail) directly related to providing legal services. Through the Clinic, the Fund has directly supported the training of new lawyers in Maine's strong pro bono tradition, and enabled hundreds of Maine's poor to have access to justice.

### *1. The types of cases handled by the organization as a result of money received from the Fund*

Family law (not including Protection from Abuse proceedings) comprised approximately 55% of the Clinic's General Practice and Prisoner Assistance civil caseloads in 2012 (a total of 119 cases) and we also assisted 2 teens and young adults with family law matters through the Street Law Program. The Clinic handled 252 Protection from Abuse/Harassment cases, for a total of 373 family-related cases last year. The family law caseload, however, is varied. While the majority of cases in the General Practice Clinic, for example, involve disputes regarding parental rights and responsibilities, child support, and divorce, the Clinic has also taken on cases involving guardianship, termination of parental rights, *de facto* parent status, and protective custody. Other areas of civil legal services in the General Practice Clinic 2012 caseload have included foreclosure, breach of fiduciary duty of a personal representative, violation of duties of trustee and conservator, consumer, civil rights, other public benefits, immigration, wills/estates, establishing a non-profit corporation, and other miscellaneous issues. The Prisoner Assistance Clinic addresses an even wider range of civil legal issues. In addition to many of the above categories of legal cases, the Prisoner Assistance Clinic student attorneys assisted clients with matters involving: tort defense, drafting trusts, wills, living wills, and advanced health care directives; copyright and trademark; conversion of personal property, name change, immigration, social security disability benefits questions, contract claims, attorney's fees disputes, real estate, landlord/tenant, powers of attorney, individual rights, taxes, preservation of professional/business license (including commercial driving, lobstering, fishing), and bankruptcy. Juvenile Justice Clinic students provide information and advice to teens and young adult on civil matters such as education rights, public benefits, immigration, disability, consumer, housing, and family law through the Street Law Program at the Preble Street Teen Center.

---

<sup>3</sup> The Clinic does some work in the areas of criminal and juvenile law, and those clients (a total of approximately 141 cases) have not been included in the client totals for this report, although some of these clients, particularly the juvenile clients, also had civil legal matters for which we provided assistance.

2. *The number of people served by the organization as a result of money received from the Fund*

In 2012, the Clinic provided civil legal assistance to a total of 415 individuals.<sup>4</sup>

3. *Demographic information about the people served as a result of money received from the Fund*

The primary demographic information tracked by the Clinic is the client's county of residence. The county-by-county breakdown of our clients' places of residence is as follows: Androscoggin 230; Cumberland 148; Franklin 2; Hancock 0; Kennebec 2; Knox 2; Lincoln 1; Oxford 6; Penobscot 3; Sagadahoc 0; Somerset 4; Washington 0; York County 11; Out of State 6.<sup>5</sup> The Clinic assisted a number of clients with Limited English Proficiency and/or who were born outside of the United States. During 2012, our clients' countries of origin included: Democratic Republic of the Congo, Djibouti, El Salvador, Mexico, Somalia, Rwanda, Jamaica, and Iraq. The Clinic also represents a large number of people with disabilities, particularly those with serious mental and cognitive illnesses.

4. *The geographical area actually served by the organization as a result of money received from the Fund*

Because the legal work is performed entirely by law students who are also enrolled in other law school courses, the Clinic's geographic coverage is generally limited to courts within a one-hour drive of the Law School in Portland. Therefore, in 2012 we provided full representation to clients with cases in Portland (including the Maine Supreme Judicial Court and federal court), Augusta, Biddeford, Springvale, Alfred, York, Lewiston, Auburn, West Bath, and Bath courts. However, through the Prisoner Assistance Clinic, the Clinic also serves on a more limited basis clients with legal matters arising anywhere in the state.

5. *The status of the matters handled, including whether they are complete or open*

The Clinic had 84 civil cases open at the start of 2012. During the year, the Clinic opened 384 new cases and closed 394. The Clinic has 85 civil cases open at this time. With the start of the new semester in January 2013, we expect to take on several new clients in the upcoming weeks.

6. *Whether and to what extent the recipient organization complied with the proposal submitted to the Commission at the time of the application for funds;*

The Clinic has complied in all respects with the proposal submitted in November 2011. As set forth in the Overview provided in this report, the Clinic has maintained or expanded all

---

<sup>4</sup> We have excluded from our calculations 35 prisoners with whom we had some contact but who were not eligible for our services due to their case type, who did not follow up after an initial contact, for whom the Clinic had to decline representation due to a conflict of interest, or there was some other reason that services were not provided. We have also excluded from our count the individuals, totaling 1703, who contacted the Clinic for legal assistance last year by calling or walk-in and who were provide referrals to other agencies due to a lack of available openings or ineligibility for representation by the Clinic.

<sup>5</sup> These numbers include clients in our Prisoner Assistance Project, who are incarcerated in several locations throughout the state. In some instances the prisoners do not have an identifiable "home" county, in which case we list the county of their correctional facility.

programs described in the proposal. The Clinic's central focus of providing high-quality full representation to low-income individuals has remained unchanged, while the Clinic continues to develop innovative ways to serve an even larger group of individuals on a more limited basis.

7. *Outcomes measurements used to determine compliance.*

The Clinic tracks data regarding its cases through the same case management system used by many of the other legal services providers. With this data-tracking software, the Clinic is able to review the type and volume of cases handled each year. The caseload size is usually a direct result of the complexity of the cases, as well as student enrollment, which can depend upon the number of Clinic faculty supervisors, student interest, and overall law school enrollment. During 2012, there was full enrollment in all clinical courses. Faculty supervisor approval is required for every case acceptance to ensure that the case falls within the Clinic's case acceptance parameters, including those set to ensure that we are complying with our 2011 proposal to the Commission.

The Clinic continues to employ specific evaluation mechanisms to ensure that we are providing quality representation to our clients and that our students benefit from their experience in the Clinic. Since the students are participating in an educational program, every aspect of their work is evaluated and subject to close supervision by faculty supervisors. Every item of incoming mail and every phone message is routed to the student's supervisor and no written work (letter, e-mail, court filing) can be printed, faxed or mailed without the written approval of a supervisor. Faculty supervisors accompany students to every court appearance.

Each client served receives a questionnaire when his or her case is closed. Completed questionnaires are reviewed by the student attorney, faculty supervisor, and Clinic director. While the response rate is not especially high, those who do respond nearly always have high praise for the students' work and express their deep appreciation for the assistance provided through the Clinic. Also, all Clinic students are asked to complete detailed evaluations of the Clinic program. As an educational program, the Clinic is also part of the ongoing evaluations in the Law School and the University, including extensive evaluations of the members of the faculty. The Clinic regularly contacts those who work with our program (judges, clerks, and social service providers) to solicit feedback.

One measure of the program's success is our students' career choices after they graduate. Our recent graduates have taken positions with Maine Equal Justice Partners, National Juvenile Defender Center, Alaska Legal Services, Maine Legal Services for the Elderly, KIDS Legal, Pine Tree Legal Assistance, and several domestic violence agencies. A number of our recent graduates tell us that, as a result of their experiences working in the Clinic, they have decided to become rostered guardians *ad litem* and/or take court-appointed work in the areas of child protection, juvenile defense, and criminal defense. Other graduates have signed on with the Maine Volunteer Lawyers Project to accept *pro bono* cases.

8. *Information particular to each recipient organization regarding unmet and underserved needs.*

The Clinic receives a few thousand calls from individuals seeking legal assistance every year and also receives dozens of referrals from courts and agencies. Unfortunately, the Clinic's small size limits the number of individuals that we can serve. Given the enormous unmet need for

civil legal assistance among low-income Mainers, the Clinic designates as priorities for case acceptance those low-income clients who would otherwise have particular difficulty representing themselves due to mental illness or other disability, language barriers, immigration status, history of domestic violence, youth, sexual orientation, or geographic isolation. We also provide legal representation in those areas of the law where there is a particularly acute need for representation, such as complex family law matters with issues of family violence, substance abuse, mental illness, or conflicting jurisdiction. We make every effort to accommodate referrals from courts and other organizations that have identified specific individuals who would benefit from the Clinic's assistance, particular due to the limitations of other legal aid programs. Some of our programs provide a broad range of limited assistance to many people – Street Law Project, Protection from Abuse Program, and Prisoner Assistance Clinic – enabling us to identify those individuals with a particular need for extensive legal assistance, thus ensuring that our resources are applied to those for whom the need is most acute.

#### CONCLUSION

The faculty, staff, and students of the Cumberland Legal Aid Clinic wish to express their appreciation for the continued support of the Maine Civil Legal Services Fund, without which our program would be severely limited in its ability to serve its dual mission of providing much-needed legal services to chronically under-served populations while educating the next generation of attorneys. The continued cut-backs in state funding for higher education renders the Clinic increasingly reliant on external sources of funding to continue its work at current or higher levels. The Fund is also a particularly valuable source of support as it allows the Clinic the flexibility to explore and develop innovative ways to serve its mission.

Please let us know if you have any questions or if there is any additional information that we can provide.

Respectfully submitted,

*/s/ Deirdre M. Smith*

Deirdre M. Smith

Director and Professor of Law

[deirdre.smith@maine.edu](mailto:deirdre.smith@maine.edu)



**DISABILITY RIGHTS CENTER  
2012 ANNUAL REPORT TO THE  
MAINE CIVIL LEGAL SERVICES FUND COMMISSION  
JANUARY 13, 2013**

**Introduction**

In 2007, the Disability Rights Center (DRC) first sought an award from the Maine Civil Legal Services Fund Commission (“the Fund” or MCLSFC) in order to hire a full time attorney. DRC was awarded 2% of the Fund or approximately \$35,000. DRC was not able to hire an attorney with that award, but staff attorneys billed eligible cases to the Fund. In 2009, DRC again submitted an application for a full time attorney and was awarded a flat \$30,000 for the two years. And in 2011, DRC requested \$67,000 for the third time and was awarded only 1.2% of the Fund or \$19,214.

Even though DRC has not been able to hire a full time attorney with the Fund award, the award is vital as it increases DRC’s ability to provide needed legal representation to Maine’s low-income citizens with disabilities; Maine’s most vulnerable population. Statistics demonstrate that adults with disabilities in Maine are more than three times as likely to live in poverty as adults without disabilities.

2012 has been another year of change for DRC. We lost two staff attorney positions moving into 2012, both of whom were not 100% restricted to federal grants and so were “generalists” and could take a wide array of cases, including those billed exclusively to the Fund. The loss of two staff attorneys obviously reduced DRC’s ability to provide legal services to Maine citizens with disabilities. In order to meet the continuing demand for services, DRC laid off the legal secretary and replaced her with a paralegal, providing the 11 staff attorneys with much needed substantive support.

In April of 2012, the legislature approved the privatization of the state Office of Advocacy (OA) to DRC. The OA funding is limited to solely representing clients of the Department of Health and Human Services who have an intellectual disability. With the state funding, DRC added 5 new advocates; Caribou, Rockland, Bangor, Lewiston and Portland, who work

only with people with intellectual disabilities in their regions. Also in 2012, DRC lost a special education advocate position due to decreased state and federal funding over several years. So although special education advocacy remains the area of greatest need for legal assistance, because there is no discrete federal funding for education advocacy, DRC now has only one special education advocate and one attorney. Also in 2012, the Social Security Administration eliminated funding of \$100,000 for the DRC program that assisted people with disabilities in entering or returning to work, resulting in yet another layoff. In December 2012, DRC received notice that its contract with Acadia Hospital for an advocate is not going to be renewed, forcing DRC to layoff the fulltime lawyer protecting people's rights in that psychiatric institution. Finally, state and private funding that allowed DRC to create and sustain the Brain Injury Information Network is ending in March of 2013 so DRC's brain injury expert will be laid off in two months.

### **About DRC**

The Disability Rights Center is Maine's statewide protection and advocacy agency (P&A) for people with disabilities. Incorporated in 1977, DRC is a private, nonprofit corporation. DRC's mission is to enhance and promote the equality, self-determination, independence, productivity, integration and inclusion of people with disabilities through education, strategic advocacy and legal intervention. Simply put, DRC works to advance and enforce the rights of people with disabilities throughout the state. DRC employs 24 people.

Using federal and state funds, DRC provides no-cost advocacy and legal services to people with disabilities who have experienced a violation of their legal or civil rights. The violation must be directly related to their disability.

DRC is part of the nationwide network of federally funded and mandated disability rights Protection & Advocacy agencies (P&As). P&As are the largest providers of legally based advocacy and legal services for people with disabilities in the United States. As Maine's designated P&A, DRC has standing to bring lawsuits on behalf of its members, can conduct investigations into allegations of abuse and neglect of people with disabilities, and has the statutory authority to gain access to facilities and programs where people with disabilities receive services.

The history of the DRC is tied to the creation and growth of the federal P&A system. DRC receives funding under 6 federal grants (described in Appendix B), a state funded program and a state contract.

DRC gets a small appropriation from the Legislature to represent children with disabilities in special education matters. In order to serve students with disabilities, DRC created an Education Team, consisting of an advocate and a staff attorney. The Education Team had to create very strict priorities because the need is so great, the number of calls so high, so they focus on assisting children with severe disabilities who are being excluded from school or being restrained or secluded in school. In 2013, DRC has added a “transition” priority because so many children with disabilities simply drop into an abyss upon graduation from high school. The Education Team also trains nearly 150 case managers during their slower summer months, in an attempt to increase the DRCs advocacy capacity at educational planning meetings.

Our state funding for special education advocacy has also received cuts over the past 6 years from \$135,543 to \$119,511. The critical and increasing need for special education advocacy funding for Maine's most vulnerable kids - those living in poverty and out of school through no fault of their own - is worrisome. DRC achieves remarkable results for these children but is sorely underfunded. There remains no earmarked federal funding for this special education advocacy.

DRC has one contract to provide mental health advocacy in the two state psychiatric facilities; Riverview Psychiatric Center (RPC) in Augusta and Dorothea Dix Psychiatric Center (DDPC) in Bangor. Acadia Hospital terminated the DRC contract for a full time lawyer which will force DRC's already overburdened federally funded mental health lawyers (2) to expand into Acadia at least once per week.

### **Maine Civil Legal Services Funding**

The funding DRC receives from the Maine Civil Legal Services Fund Commission is essential in ensuring that Maine citizens with disabilities living in poverty have access to the free legal services they need and deserve.

This funding allows DRC to supplement its federal funding so it can provide legal services to low income Mainers with disabilities who would not otherwise receive legal assistance. DRC's federal funding has significant eligibility restrictions which prevent DRC from representing many Mainers who are in need of legal assistance. The MCLSFC funding broadens DRC's ability to provide access to justice for these people with disabilities.

DRC uses the MCLSFC funding in conjunction with our federal funding in cases where the caller has a disability, lives in poverty and has experienced disability based discrimination or rights violation.

**1. The types of cases handled by the organization as a result of money received from the Fund.**

Appendix A includes 33 specific case examples providing a detailed description of the types of cases DRC attorneys handled during 2012. The Fund award is used to supplement the provision of legal services to low-income Maine citizens with disabilities subjected to abuse or neglect or other rights violations. For example, DRC uses the Fund award to represent low-income Maine citizens who either want to live in the community or who want to continue to live in the community, including those who are involved with the long term care system through MaineCare, such as individuals with personal support services (PSS) waiver services who are challenging service reductions, terminations or suspensions that might lead to their placement in an institution.

DRC's efforts to support community integration mean that DRC also represents individuals who are currently institutionalized and want a community placement near their friends and family. DRC also uses the Fund to represent low-income individuals with disabilities who are facing eviction or need accessible housing, individuals with disabilities who are having trouble accessing government services or public accommodations, individuals with disabilities who lose their jobs and individuals who are eligible to receive public benefits because they lost their job or who are attempting to transition from public benefits to employment but are wrongfully denied employment because of their disability.

The types of cases DRC attorneys handled in 2012 are listed below:

<u>Problem</u>	<u>No. of Cases</u>
Abuse	61
Architectural Accessibility	4
Education	8
Employment	31
Gov't Services and Benefits	6
Guardianship/Conservatorship	6
Healthcare	82
Housing	10
Neglect	32
Non-Gov't Services	18
Program Access	1
Rehabilitation Services	1
Rights Violations	107
Transportation	2
Voting	1
Other	2

**2. The number of people served by the organization as a result of money received from the Fund.**

In 2012, the fund allocation was the equivalent of a half-time staff attorney position. Until September of 2012, DRC had 5 full time staff attorneys and after September, DRC added two additional staff attorneys for a total of 7, all of whom provided direct legal representation to 326 clients on 372 cases.

**3. Demographic information about the people served as a result of money received from the fund.**

<u>Gender</u>	<u>No. of Clients</u>
Female	163
Male	163

<u>Ethnicity</u>	<u>No. of Clients</u>
Alaskan Native	1
Native American	4
Hispanic	5
Multi-Ethnic	3
Multiracial	2
Somali	5
White	290
Asian	1
Unknown	15
<u>Disability</u>	
Absence of Extremities	1
AIDS/HIV	1
Autism/Developmental Delay	23
Blindness/Visual Impairment	5
Brain Injury	22
Cerebral Palsy	23
Deaf/Hard of Hearing	3
Diabetes	1
Epilepsy	6
Heart and Circulatory	1
Learning Disability/SLD	7
Mental Illness	135
Intellectual Disability (formerly Mental Retardation)	26
Multiple Sclerosis	2
Muscular Dystrophy	2
Muscular/Skeletal	1
Neurological	10
Physical/Orthopedic	46
Respiratory	3
Spina Bifida	2
Substance Abuse	2
Tourette Syndrome	2
Other	2

<u>Age</u>	<u>No. of Clients</u>
Birth-18	64
19-30	54
31-40	60
41-50	72
51-60	50
61-70	19
71-89	7

**4. The geographical area actually served by the organization as a result of money received from the Fund.**

DRC provides statewide services and uses the Fund to supplement our ability to do so. Clients served by the Fund live statewide and come to us through our training and outreach, referrals from providers, relatives, friends and state agencies, our website or other means.

A breakdown by County is listed below:

<u>County</u>	<u>No. of Clients</u>
Androscoggin	42
Aroostook	10
Cumberland	78
Franklin	8
Hancock	8
Kennebec	53
Knox	6
Lincoln	4
Oxford	8
Penobscot	44
Piscataquis	5
Sagadahoc	6
Somerset	13
Waldo	6
Washington	8
York	22
Unknown	5

**5. The status of the matters handled, including whether they are complete or open.**

	<u>No. of</u> <u>Cases</u>
Opened	268
Closed	220
Active	372

**6. Whether and to what extent the recipient organization complied with the proposal submitted to the Commission at the time of application for funds.**

DRC's proposed the hiring of a full-time attorney, which was not feasible with the amount we received from the Fund. DRC used the funding to supplement our federal funding.

DRC complied with the terms of the award by exclusively using the Fund only for staff attorney salaries to represent low-income Maine citizens with disabilities and have not used the funds for any other expenses such as administrative costs, support staff salaries, or advocate salaries. When DRC received the first fund award, we expanded our case eligibility under the Fund, first to representing select eligible children in special education matters but then made a decision to broaden eligibility to represent Maine citizens living in poverty who have a disability. This allowed us to be as flexible and as broad as possible in using MCLSFC funds. In other words, we assess any case that comes through for merit, and as long as the caller has a disability, lives in poverty and has experienced discrimination or a violation of rights, they are eligible to be served using MCLSFC funding.

**7. Outcome measurements used to determine compliance;**

Most cases come to the DRC through our intake unit but many are direct referrals to staff or "field intakes" brought back from facilities, trainings and outreach. After an in-depth intake interview, all cases are reviewed by one of DRC's four teams. DRC has a Developmental Disabilities Team, an Education Team, a Mental Health Team and an ADA Team. The teams

review intakes, assess eligibility and merit and then assign a lawyer to each case. DRC's teams meet weekly to monitor cases and projects and to assess and record team progress on annual program priorities.

The new state funded Developmental Services Advocates were incorporated into DRC's Developmental Disabilities Team. The state contracted advocates housed in the two state institutions are part of the Mental Health Team.

In addition, DRC's Litigation Team meets once a month to discuss legal trends and case strategies and issues of mutual concern. The Legal Director conducts periodic in-depth case reviews with each lawyer to ensure appropriate, timely and vigorous representation. The Executive Director conducts an annual "snapshot" case review with every lawyer, to ensure compliance with DRC mission, vision, casework and representation standards and eligibility requirements and to assess each lawyer's general knowledge of the disability service system and civil rights movement. The Legal Director is always available to consult about an issue in a case and daily engages in general discussions regarding cases. In addition, for best practices, lawyers always discuss their cases with other lawyers in the office.

When a case is ready to be closed, the lawyer assigned to the case enters a closed case narrative into DRC's nationally based client management database and notifies the Legal Director that the case is ready to be closed. The Legal Director reviews the case for appropriateness of intervention, timely client contact, accuracy of data and quality of outcomes. The rare case that does not meet these standards is returned for correction and reviewed with the staff attorney during supervision. The Legal Director then places a note in the file approving the closing. A quarterly report, with sample case summaries, is prepared and sent to the Executive Director and the Board of Directors.

When a case is closed at DRC a two page questionnaire is mailed to clients with a cover letter from the Executive Director requesting that they complete the survey and return it to the agency in the self-addressed stamped envelope. The questionnaire is designed to generate feedback from clients on all aspects of DRC services including input on annual priorities. When the surveys are returned, the responses are entered into a database, the compiled results of which are shared quarterly with the DRC Board of Directors.

Responses that indicate problems with DRC services are shared with the Legal Director, the Executive Director, and other members of the management team for review and action. The Legal Director contacts the client to resolve the problem. If need be, the case will be reopened. A detailed written report is then provided to the Executive Director.

The DRC management team meets regularly to assess quality of services, to streamline operations, and improve data collection and reporting.

Every year, DRC prepares comprehensive program reports for our federal funders, called Program Performance Reports (PPRs). In these detailed reports, DRC outlines all of its activities in each of the programs, including cases and non-case activity and explains how our actions furthered the priorities DRC has established for each of its programs.

Each year DRC is fully audited by an independent auditor specializing in non-profit accounting. At random times, DRC is audited/reviewed by various federal funding agencies; these reviews include a comprehensive programmatic review as well as a full fiscal audit, conducted by a team consisting of a Certified Public Accountant, a federal bureaucrat, two lawyers, a non-lawyer advocate and a person with a disability.

#### **8. Information particular to each recipient organization regarding unmet and underserved needs.**

With the loss of several staff, the elimination of three programs and continued flat funding, DRC has cut back on services. We reluctantly turned away more individuals in 2012 than in prior years. DRC must be much more selective in taking certain cases, such as referrals from the Long Term Care Ombudsman. We are only able to serve individuals who are at risk of institutionalization if they do not get the hours of personal support services they requested.

We are even more selective in taking cases involving requests for accommodations in housing, employment and public accommodations than we have been in years past. Sometimes we offer individuals technical

assistance or send them materials rather than provide representation. On average, DRC staff attorneys handle 90 cases per year so losing 3 staff attorneys means turning away more than 200 more people who we would have determined to have a meritorious case of discrimination or rights violation. Unfortunately however, the need for DRC services has dramatically increased and those callers are people with disabilities who have lost critical services; people who would not have needed to call DRC before but people who are at great risk.

At the time of this annual report, Maine is facing a \$100 million shortfall in state spending with most of it coming from the DHHS Medicaid budget. If the Governor proposes drastic cuts to MaineCare, many low income Maine citizens with disabilities may be at risk of losing benefits. If this occurs, Fund resources may prove even more vital in assisting low income Maine citizens with disabilities.

The only state or federal money earmarked for special education advocacy in Maine is the legislative appropriation to the Disability Rights Center, which continues to be cut each year. The State Department of Education (DOE) reimburses districts for a portion of the costs they spend on special education attorneys, but fails to provide any funding whatsoever for legal services for parents. While some parents are fortunate enough to have the resources to hire private attorneys, most do not. DRC believes that all children are entitled to due process when districts fail to meet their needs and that it is fundamentally unfair that people can only access a special education lawyer if they can afford it.

While DRC uses some federal funding to address special education issues, we can only take cases of children who have developmental disabilities or serious mental health issues. Nationally, 30-40% of P&A cases involve issues arising under the Individuals with Disabilities Education Act (IDEA), such as concerns regarding inclusive education, appropriate programming and availability of related services. DRC is only able to take a very small percentage of the cases that come through our intake. We prioritize cases in which the child with a disability is simply not in school so not being educated at all or is restrained or secluded in school. P&As are the single largest enforcer of IDEA and yet receive no federal funds earmarked for this

purpose.

The legal needs of low-income Mainers with children who need special education services have long been ignored. Education officials at both the state and local levels sought, and probably will be again seeking, cuts in education budgets by restricting eligibility for special education services. Low-income Maine citizens who cannot afford legal representation are more affected than those who can afford an attorney and need assistance now more than ever. In this era of budget cutbacks, DRC may face cuts in special education funding. DRC needs the resources to represent children and families with disabilities involved with the child protective and foster care systems. This includes the denial of parental/family rights; particularly taking custody of the children from adults with disabilities, the termination of parental rights involving either children or parents with disabilities and parents with disabilities who have children in these systems.

Another area of need is privacy violations. DRC does not have the resources to address issues of individuals who have violations of their privacy.

DRC also needs to do more to make public accommodations accessible for people with disabilities. For years, DRC has wanted to undertake an "ADA Campaign" to focus resources on compliance with the 1990 law. However, with limited resources, we understandably give priority to cases involving people unnecessarily institutionalized, losing their job or being evicted. With more resources, DRC could represent the many people who call us to report that they do not enjoy equal access to public or private goods and services.

Finally, DRC recognizes that much work needs to be done within juvenile justice and children's mental health. For the last year, DRC had a separate Children's Mental Health Team, but with the change in staff and undertaking a new program, that focus has been absorbed by the existing mental health team and the developmental disabilities team. The need for children's mental health advocacy increases and DRC's ability to respond is restricted. DRC also recognizes the need to be in the two children's juvenile detention centers. Many of the children incarcerated in those institutions have

disabilities and are eligible for special education services. Currently, we do not have the resources to address this need.

DRC also turns away requests for assistance with foreclosure, debt consolidation / collection, bankruptcy, student loans, private health insurance denial of claims difficulty navigating short/long-term disability policies, Family law - DHHS child protective services issues, medical malpractice and personal injury. We need to expand our housing work, to include individuals who are not eligible under PADD or PAIMI.

## APPENDIX A

### Sample 2012 Closed Cases

#### **Abuse, Neglect and Other Rights Violations**

A district court commitment order pertaining to a 19-year-old woman with mental illness was vacated due to DRC representation. A private psychiatric hospital filed for a commitment order against the client while she was a patient. A hearing was held and the court issued an order involuntarily committing the client to the hospital. The hospital did not have the required contractual authority from the state to file for such a commitment. As the client was only 19 years old, and had never been committed in the past, such an order would have substantial collateral consequences throughout the client's life. DRC filed a motion to vacate the court order on the basis that the hospital was without authority to seek it in the first instance. The court agreed and vacated the client's commitment order on the basis that the hospital had no standing to file for the commitment.

#### **Abuse, Neglect and Other Rights Violations**

A district court order to allow a state psychiatric hospital to involuntarily medicate a 32-year-old man with mental illness was challenged due to DRC representation. The client had been the subject of a court hearing pertaining to both involuntary commitment and involuntary administration of medications. The court ordered that the client be committed to a state psychiatric hospital but did not issue an order allowing the hospital to involuntarily medicate the client. Instead of appealing this issue the hospital chose to file for another commitment order which allowed them to request a new hearing regarding involuntary medications, even though the client's original commitment order had yet to expire. A new hearing was held and this time the hospital was successful in obtaining both a commitment order and an order for involuntary medications. The DRC filed a motion with the court to vacate the involuntary medication order on the basis that the court was without jurisdiction to issue such an order as the original commitment order had yet to expire. Briefs were submitted to the court by both the hospital and the client on this issue. Prior to the court issuing a ruling the hospital chose to release the client thereby rendering the issue moot.

### **Abuse, Neglect and Other Rights Violations**

Due to DRC representation in an administrative grievance, a 22 year old man with mental illness was able to obtain an apology and bring about substantive changes in emergency room policies from a large private hospital. Client was living at a group home and was brought by staff to the emergency room of the hospital for a mental health crisis assessment. While there he was separated from his staff and placed in a room with a nurse who was going to conduct the assessment. During the assessment the nurse began to yell at the client. This was overheard by the group home staff who were told that this intervention was designed to discourage the client from using the emergency room in the future due to his past use of the emergency room. Client's guardian filed an internal complaint with the hospital. This complaint was not responded to by the hospital. DRC thereafter filed an administrative grievance against the hospital pursuant to federal regulations. The hospital found that it had violated the client's rights and responded by implementing the following: (1) issuing a formal apology to the client; (2) acknowledging that the actions of the nurse were not an acceptable standard of care and would not be tolerated in the future; (3) providing corrective reeducation to the nurse regarding client interactions; (4) changed the time frame for which the hospital responds to patient grievances from 30 days to 7 days; (5) placing brochures in the hospital lobby that would include steps and contact information if a patient or visitor wished to file a grievance with the hospital.

### **Abuse, Neglect and Other Rights Violations**

An adult male with developmental disabilities contacted DRC seeking assistance with a new budget that he had received from his public guardian. DRC attorney met with client, reviewed the new budget and determined that the budget reduced the client's finances considerably in violation of a contract the client had with the State. DRC attorney assisted the client with filing a grievance and contacted the public guardian. The State found that the budget was a violation of the client's rights and reinstated the client's former budget.

### **Guardianship**

#### **Community Integration/Integrated Settings**

Due to DRC attorney's efforts, DHHS dismissed its petition seeking guardianship of a woman with an intellectual disability, mental illness, and morbid obesity. Client contacted DRC because DHHS wanted her to go to a

nursing facility to lose weight and because they were threatening that if she did not go to a nursing facility they would seek guardianship over her and make her do so. DRC worked with DHHS to find a psychologist to conduct a guardianship evaluation. The evaluation indicated that while the client had some difficulty making decisions, guardianship was not in her best interests. A couple months later, client had severe bedsores, which resulted in her hospitalization. The hospital had their psychologist conduct an evaluation. The hospital's psychologist determined that the client did not have capacity to make medical decisions. Based on the hospital's psychologist's evaluation, DHHS filed for emergency, medical guardianship. The court issued an ex parte order granting DHHS a full emergency guardianship (even though DHHS had only sought a partial, medical guardianship). DHHS also petitioned for a full, long-term guardianship. The court later held a pre-hearing on DHHS's petition for a long-term guardianship. The DRC represented the client and successfully argued that since the client had not had a hearing on the necessity of a temporary guardianship within 40 days as required by statute, the court should not continue the emergency guardianship. The court agreed and let the emergency, temporary guardianship expire. The client then went into a nursing facility to treat her bedsores. Once the bedsores were healed, the DRC attorney advocated for the client to return to the community. The DRC worked with the client, her husband, DHHS's personnel, and nursing facility personnel for an effective and safe transition back to her own apartment. At the time of the transition out of the nursing home, the court had not held a hearing on DHHS' petition for a long-term guardianship. The DRC also negotiated with DHHS and tried to convince them that a guardianship over the client was unnecessary. DHHS eventually agreed and dismissed its petition for guardianship. The client is now living in her own apartment and is her own guardian.

### **Housing**

An 80 year old man with mental illness was able to remain in the assisted living facility where he was a resident due to DRC representation. Client received an involuntary transfer notice from the administrator of the assisted living facility. The notice was procedurally and substantively defective. DRC filed an administrative appeal of the notice and a hearing was scheduled. Prior to the hearing, the facility contacted the DRC and informed DRC that they were going to withdraw the notice and not seek client's involuntary discharge. The

administrative hearing was cancelled and client continued to reside at the facility.

### **Housing**

As a result of DRC's advocacy, a client with Asthma, Emphysema, Chronic Obstructive Pulmonary Disease (COPD), and mental illness was permitted to access services at a homeless shelter in her community. Client contacted DRC and reported that the homeless shelter informed her that she could not stay with an oxygen tank. Due to her severe limitations in pulmonary functions, the client requires a tank of oxygen at all times. DRC attorney provided a written reasonable modification request from client's pulmonologist to the shelter's executive director. DRC attorney also educated the shelter regarding its obligation to provide reasonable modification pursuant to the Maine Human Rights Act and the ADA. Thereafter, the shelter permitted the client to have her oxygen tank present and client was able to access shelter services in her community.

### **Housing**

A 46 year old homeless man with mental illness who, due to DRC's representation, was able to have a denial for subsidized housing overturned and thereafter move into his own apartment. Client had applied for an apartment at a subsidized housing complex but was denied due to his criminal history. The criminal history was over ten years old. DRC filed an appeal with the housing complex under HUD regulations. An informal hearing before the administrator of the housing complex was held at the complex. After the hearing the administrator of the housing complex reversed the denial. There was an open apartment at the complex and the client was offered that apartment immediately after the hearing. The client viewed the apartment and accepted the offer and moved in the next week.

### **Housing**

A 47 year old woman with mental illness was able to have denial policy of a homeless shelter waived as a reasonable accommodation on the basis of disability due to DRC intervention. Client and two daughters were denied entry into an emergency homeless shelter due to past behaviors of client. Behaviors had been related to her mental disability for which she was now receiving treatment. DRC made a reasonable accommodation request for shelter to waive policy that

denied client entry into the shelter and shelter agreed to the request allowing client and two daughters entry into the program.

### **Housing**

Due to DRC representation, a 49-year-old man with mental illness was able to return to the community of his choice rather than remain indefinitely at a state psychiatric hospital. After the client was involuntarily committed to a state psychiatric hospital, he received a notice terminating his tenancy in the apartment he had been living in prior to his admission. The notice alleged that the client kept his apartment in an unsanitary condition. The client's landlord was a private mental health agency that owned the building, as well as provided client with services. DRC filed an administrative complaint against the agency alleging that it had violated the provisions of a court ordered consent decree by terminating the client's tenancy without first obtaining authorization from the state office of mental health. DRC also informed the mental health agency's attorney that the DRC was representing the client and would protect his rights at any eviction hearing. After extensive negotiations the mental health agency agreed to rescind the notice to quit and allow the client to move back into his apartment with added services. Agency also agreed to replace carpets in the apartment with tile flooring in order to make it easier for client to clean his apartment.

### **Housing**

Due to DRC assistance a 56 year old woman with mental illness was able to have a mental health agency that administers housing vouchers change its policy to benefit prospective tenants. Client was viewing an apartment which she was interested in renting. She was going to pay for the apartment, in part, by the use of a housing voucher. She was accompanied by an employee of the mental health agency that was administering her voucher. The landlord increased his original rental amount after the employee informed the landlord that his original asking price was below the maximum amount allowed under the voucher. This had a negative effect on the client, as if her rent was increased after the expiration of her lease it would no longer be within the voucher's acceptable price range. If the starting rental amount was lower than the maximum allowed she would still be within the price range, even if an increase occurred. DRC attorney contacted the mental health agency who agreed to discontinue the practice.

### **Housing**

Due to DRC intervention a 45 year old woman with mental illness was able to have her Section 8 rental voucher reinstated. Client had been on a waiting list for a Section 8 voucher for years. Her name came to the top of the list and she was awarded a voucher. Prior to being able to use the voucher she was arrested for operating a motor vehicle under the influence. The housing authority revoked her voucher due to this arrest. Client had taken an overdose of her antidepressant medication in a suicide attempt and it was the presence of those drugs in her system that the arrest was based on. DRC contacted the agency administering the voucher and sought an accommodation of reinstating her voucher. Client had just begun seeking treatment. Supporting letters were submitted along with the request. The agency agreed to the accommodation request and reinstated her voucher.

### **Housing**

The termination of a 50 year old man with mental illness' Section 8 housing voucher was reversed due to DRC representation. Client had been issued a Section 8 voucher that required that it be used within a certain period of time. Client was sent a letter from the housing authority that was administering his voucher informing him that the time for using this voucher was soon to expire. Client did not respond and therefore his voucher was terminated. At the time this letter was sent to client he was in the hospital due to both a physical and mental health crisis. Therefore he was not able to respond to this letter due to his disability. DRC obtained clinical support from his providers that client had been incapacitated during this time. DRC assisted client in seeking a reasonable accommodation from the housing authority to reverse its decision terminating his voucher and requesting reinstatement of the voucher. The housing authority agreed to grant the reasonable accommodation request and the client's Section 8 voucher was reinstated.

### **Housing**

A 44 year old man with mental illness was able to avoid homelessness and potential return to prison due to DRC representation. Client was a man who had been institutionalized most of his adult life, either in psychiatric hospitals or prisons. The conditions of his probation required that he be adequately housed. However, due to his criminal history, he was finding it almost impossible to find

housing. He was living temporarily at a motel. He eventually found a landlord that was willing to rent to him but the rental exceeded the amount of his state funding housing voucher. Client proposed to pay this difference out of his own pocket but the state refused his request. Client contacted DRC who filed an administrative appeal of the state's decision. A hearing was held where both his probation officer and social worker testified that without adequate housing client would likely be re-incarcerated either due to probation violation or committing a new offense. Pending the decision of the hearing officer the client's social worker found another apartment. The state agency immediately authorized the use of the voucher for this apartment prior to the decision being rendered thus mooting the issue. Therefore the appeal was withdrawn after client successfully moved into his new apartment.

### **Community Integration/Integrated Settings**

A young woman with cerebral palsy who had been living in a nursing facility for the past four years, and is a Van Meter v. Mayhew class member, successfully transitioned out of the facility. Due to a combination of extensive natural supports and MaineCare in-home support services, the client was able to move out of the nursing facility without the need for the relief won in the settlement of the Van Meter class action. Attorneys at the DRC assisted her with obtaining a power wheel chair and other assistive technology and assisting her in insuring she had adequate in-home support services to meet her needs.

### **Community Integration/Integrated Settings**

A 59 year old man with mental illness was able to avoid long-term institutionalization and to continue to live in the community due to DRC representation. The client had been living in a group home operated by a mental health agency. He experienced a mental health crisis and voluntarily agreed to be admitted to a private psychiatric hospital with a plan for him to get the necessary treatment he needed and return back to his home. Instead, the mental health agency refused to allow the client to return back to his home and asserted that he had been appropriately discharged to this private psychiatric hospital. The private psychiatric hospital was not equipped to handle long-term patients therefore the client was transferred to a large state-run psychiatric hospital located more than 125 miles away from the client's home with no concrete plans for discharge from that hospital. DRC filed an administrative appeal against the mental health agency alleging that its actions violated state licensing laws. An

administrative hearing was held with the agency administrator, psychiatrist and social worker all being subject to cross-examination regarding this discharge. After the hearing the mental health agency offered to admit the client back to another group home that it operated in the same community if the client would withdraw his appeal. The client agreed to this proposal and was thereafter transferred from the state hospital back to a group home located in his community.

### **Community Integration/Integrated Settings**

Due to DRC advocacy a private psychiatric hospital agreed to install a videophone in its facility. DRC was contacted by a 48 year old deaf woman who had been an inpatient at the hospital. During her stay she was provided with interpreters that were available only at certain times of the day and a TTY telephone service. This did not allow the woman to communicate with others outside of the facility at the same level as other patients who were not deaf. The video phone would allow her to make private calls during regular hours at times she chose like other patients. DRC contacted the hospital and the hospital agreed to purchase the necessary software and devices to ensure that a video phone would be installed in the facility. Client also wanted to bring a lawsuit for damages. DRC declined to offer representation and referred client to other legal resources.

### **Community Integration/Integrated Settings**

Due to DRC intervention a 25 year old man with mental illness was able to secure a safe placement after having spent three weeks living in an emergency room. Client had been living in a group home that was run by a mental health agency. While at the group home he experienced a mental health crisis. The staff at the group home called the police. The police took the man to an emergency room of a general hospital where he was treated and released back to the group home. Upon return to the group home he was placed in a cab by staff and sent back to the emergency room. Group home staff informed the emergency room that the client had been discharged and could not return. The client thereafter was transferred to a behavioral health emergency room located at a different hospital where he continued to live. DRC filed an administrative appeal against the mental health agency asserting that its actions violated state licensing laws. DRC also contacted officials at the DHHS advocating that client could not wait for the outcome of the appeal and needed assistance immediately. DRC attended

a meeting that included members of hospital staff, community social workers and the medical director of the hospital. A group home placement at a facility operated by different mental health agency was located and client was subsequently transferred to this group home. The administrative hearing was dismissed due to it being moot, however DRC agreed to file a licensing complaint against the mental health agency on behalf of client.

### **Community Integration/Integrated Settings**

A 40 year old woman with mental illness was able to continue to live in her community due to DRC representation. The client had been living in a group home operated by a mental health agency. She experienced a mental health crisis and was admitted to the psychiatric unit of a large general hospital. When the hospital determined that the client was ready to go back to the group home the mental health agency refused to allow the client to return back to her home. DRC met with administrators and social workers of the agency who asserted that although the client could not come back to the group home, the agency had not actually discharged the client for purposes of the licensing regulations. DRC filed an administrative appeal against the mental health agency alleging that its actions violated state licensing laws. Prior to the date that the hearing was scheduled to take place the mental health agency agreed to allow the client to come back to live at the group home. Client was then discharged from the hospital back to her community.

### **Community Integration/Integrated Settings**

The guardian of a 52 year old man with intellectual disabilities and congestive heart failure contacted the DRC after her son, for whom she could no longer care for because of her own hospitalizations, was given 30 days notice from his current respite/crisis provider. The DRC filed an initial grievance and stay put request on the client's behalf. While the Department denied the grievance at the first administrative level, the individual was granted the Section 21 waiver after the DRC informed them of our intent to proceed to an administrative hearing.

### **Community Integration/Integrated Settings**

A 67 year old woman with mental illness living in a nursing home was able to maintain her community support services due to DRC representation. Client had lived independently all of her life until a recent medical condition caused her to be admitted into a nursing home. Her community case manager was working

towards helping her move back into the community. The Department of Health and Human Services cut the funding for this community service due to the availability of an onsite social worker at the nursing home. DRC appealed this decision. An administrative hearing was held where both the community case manager and nursing home social worker testified. The hearing officer reversed the Department and reinstated the services. The hearing officer found that the community services were necessary due to the client being at a potential “tipping point” between remaining in the nursing home or moving into a more independent living situation.

### **Due Process**

Due to DRC representation a 52 year old woman with mental illness was afforded the opportunity to obtain an amendment to a protection from abuse order that had been obtained while she had been involuntarily committed to a state psychiatric hospital. The client’s husband filed for a protection from abuse order against the client seeking possession of their marital home. The hearing was scheduled while the client was still involuntarily committed to the hospital. The hospital had notice of the hearing and of the need for transportation but made no arrangements to transport the client to the hearing. The hearing was held and the client was defaulted. The court issued an order granting possession of the home to the husband to the exclusion of the client. The court was unaware of the fact that the deed to the home was solely in client's name. The client, with DRC assistance, filed a pro-se motion to vacate the order on the basis that client’s procedural due process rights were violated by the failure of the hospital to transport the client to the hearing. DRC later entered its formal appearance and negotiated an agreement with the husband's attorney whereby the order would be amended to allow client to file for an eviction action against her husband if she so chose. Although the client initially desired this as an outcome, she changed her mind and decided to withdraw the motion entirely.

### **Due Process**

DRC won a MaineCare administrative appeal on behalf of a medically fragile teenager with severe disabilities and medical conditions, including an intellectual disability, blindness and a seizure disorder. Client is dependent on others for all his activities of daily living. Due to his size and self-injurious behaviors, the client needs two people to perform most care tasks, such as transferring. For the past eight years the client received eighty hours (80) per week of personal

support specialist services (PSS) to help meet his extensive needs. Client lives in a single parent home so this level of PSS services is essential to have his extensive care needs met. A year earlier, DHHS attempted to reduce his PSS services to 40 hours per week but after a full testimonial hearing, the hearing officer and the Commissioner of DHHS found that due to his medical conditions the client continued to need 80 hours per week of PSS care. This year, DHHS attempted again to reduce his hours by even more, asserting that his extensive care needs could be met in just 28 hours per week of care. Again after a full testimonial hearing the hearing officer and the Commissioner of DHHS concluded that the client needed 80 hours per week of PSS care. As a result, the client continues to receive his needed PSS services.

### **Due Process**

DRC attorney successfully negotiated with MaineCare on behalf of a medically fragile toddler with a seizure disorder, sleep apnea, and cerebral palsy to receive necessary nursing services so that he can attend pre-school. The client began receiving all nutrition through a gastrostomy tube so it required a nurse to perform his feeding, which takes at least thirty minutes. The nurse also assessed his condition on a daily basis while at preschool. The client requested nursing services from MaineCare to meet these needs but was only approved to receive 15 minutes per day of nursing care, far less than what the client needed to meet his medical needs. The client appealed this determination. After reconsidering the client's request, MaineCare approved the client to receive two hours per day to meet his medical needs.

### **Due Process**

DRC represented a 5 year old Somali girl with Osteogenesis Imperfecta (brittle bone disease) after the DHHS threatened to reduce her in home support specialist (PSS) hours from 45 to 22. On the day of the hearing, the client's mother, a Somali interpreter and the home health agency's nursing clinical director attended, expecting to testify. The Department representative appeared telephonically and after spending 45 minutes on administrative details about the hearing, the Department's representative offered to settle the case by providing 42 hours of PSS services a week. After discussing the matter, the client's mother decided to take the proposed settlement and the hearing request was withdrawn.

### **Due Process**

The DRC prevented the drastic reduction of in-home nursing services provided to a medically fragile four-year-old boy diagnosed with Cerebral Palsy, Epilepsy, gastroesophageal reflux disease Encephalitis, Cortical visual impairment and asthma. The client, who has a gastromy tube for nutrition, hydration and medication, had been receiving 40 hours per week of care provided by a registered nurse (RN). Although unable to point to anything that had changed about the client's significant medical conditions or need for nursing care, at the administrative hearing DHHS adamantly argued that the client's needs could be met by 1 hour per week of RN care and 10 hours per week of certified nursing assistant (CNA) care, even though a it is beyond the scope of practice of a CNA to treat a child with a g-tube. The hearing officer issued a recommended decision finding that the client should continue to receive all the care he was currently receiving (40 hours per week) and that this care continue to be delivered by RNs. Before the Commissioner of DHHS could issue a final decision in this matter, DHHS's hearing representative offered to settle the case and provide the client with 40 hours per week of RN care he had initially requested and the parents accepted.

### **Due Process**

A 5 year old boy continues to receive much needed professional nursing care at home due to DRC intervention. The client who is blind and diagnosed an intellectual disability, schizencephaly, and an adrenal gland insufficiency, needs significant nursing care, including: daily intravenous injections, constant nursing assessment and treatment of his seizures (sometimes requiring emergency medication), administration of oxygen, and total assistance in performing all daily living activities. DHHS denied his continued request for 50 hours per week of RN services at home, instead, finding that he could be served with CNAs, with far less training than RNs. Due to this lack of training, CNAs cannot perform much of the care the client requires. The week prior to hearing, DHHS reconsidered its prior denial and offered the client the full 50 hours per week of services that he had initially requested.

### **Due Process**

DRC represented an 8 year old boy with cerebral palsy, congenital hydrocephalus, uncontrolled seizure disorder and MRSA disabilities in appealing a DHHS determination to reduce his private duty nursing hours. He was non-verbal, non-ambulatory and was totally dependent on others for all his care and

activities of daily living. He received continuous feeding through his g-tube, which also provided his hydration and medication. He was on a ventilator. He had a tract and needs constant "eyes on" monitoring for suctioning. The Department proposed to reduce his RN hours from 168 hours of RN care a week to 98 hours a week and 21 hours of CNA care. The hearing officer recommended that the boy keeps his RN hours. While the matter was pending in the Commissioner office's awaiting a decision, the client passed away.

### **Healthcare**

As a result of DRC's advocacy, a Somalia woman with paraplegia, post polio syndrome and limited use of her hands has the personal care hours she needs and can stay in her home in the community with her family. The woman requested assistance from DRC after DHHS repeatedly assessed her needed hours of personal care at far less than what she required. DRC attorney moved to continue the hearing to allow for proper consultations with a physical therapist and occupational therapist who concluded that the hours she was receiving were not adequate for her needs and this posed a risk of danger for her. DRC attorney prepped these experts for hearing and advocated that client needs more hours. DHHS then reassessed client and finally increased her hours to the necessary level to meet her needs, which allowed client to remain in her apartment with her children.

### **Government Services & Public Accommodations**

DRC represented a young man with cerebral palsy, and a plaintiff in the Van Meter class action, living in a nursing home after he was served with a collection action by his bank on Christmas Eve. The bank had been unsuccessfully trying to locate the client for months but was only able to do so after the client was featured in a news story concerning the Van Meter case. The DRC attorney pointed out to the opposing attorney that the client's sole income was social security (SSI) and under SSI law, an individual's SSI cannot be attached or garnished even to satisfy a court judgment. Opposing counsel recognized that the client had no assets that could be attached in the event of a judgment but was insistent that he would not dismiss the case. DRC attended a pre-hearing conference and exchanged discovery. Opposing counsel soon refused to return calls, negotiate or do anything associated with the case. After two years, DRC filed, on the client's behalf, a motion to dismiss the case, with prejudice based on the bank's failure to prosecute. The bank informed the court that it had no

objection to the client's motion to dismiss and shortly thereafter, the court entered an order dismissing the bank's case with prejudice.

### **Government Services & Public Accommodations**

As a result of DRC's intervention, client was provided with reasonable accommodation in transportation services. A woman with physical and mental disabilities contacted DRC after a volunteer driver for a transportation provider would not allow her to take her walker to an appointment. A DRC attorney contacted the manager and informed her that provider needed to ensure that their volunteer drivers are trained on their ADA obligations to provide reasonable accommodation to clients and others with disabilities. The manager confirmed that client had a right to reasonable accommodation and she will ensure that volunteers are aware of their obligation. DRC attorney confirmed with client that she can access transportation services with reasonable accommodation.

### **Government Services & Public Accommodations**

With assistance from DRC, a client with mobility impairment obtained the accommodations she needed in order to utilize her local food pantry, which is located downstairs in a historic church. The client, who uses a walker, is a high fall risk and cannot access the pantry. Pantry staff denied the client's request for an exception to the policy requiring that all patrons be on the site in order to pick up their food and requested that her daughter pick up her food for her. The pantry staff stated that the request would be unfair to other patrons. A DRC attorney contacted the food pantry manager and explained that pursuant to the ADA and the Maine Human Rights Act, the client is entitled to a reasonable modification of the practices and policies which require individuals to be present to pick up their food. After discussion, the food pantry manager agreed to allow the modification and client thereafter had her daughter pick up her food and ticket for her.

### **Social Security Overpayment**

With representation from DRC, client who was a victim of financial exploitation by a representative payee prevailed in a Social Security Administration hearing. Client, a 37 year old man with mental illness, contacted DRC after his former wife and representative payee misused his benefits, ruined his credit rating, deceived him and failed to report his earnings,

all of which resulted in an overpayment of social security benefits. DRC attorney represented client at a hearing regarding the overpayment and presented evidence from client's psychologist that client was not at fault for the overpayment and that due to his mental condition during the time period of the overpayment, the claimant was "unstable, unaware of his finances and prone to financial exploitation by his former wife and payee." The psychologist also opined that client was not capable at any relevant time of managing his finances or keeping track of them. In addition, DRC attorney presented evidence from witnesses including client, client's current payee and parents that client's former payee withheld notices from the SSA, misused his funds for her own benefit, and deceived client into thinking that she was reporting his wages. The Administrative Law Judge (ALJ) concluded that the client was entitled to a waiver of repayment since he was not at fault, because recovery or adjustment of the overpayment would defeat the purpose of Title II of the Social Security Act. The ALJ also ordered restitution of the client's full SSA benefit should be processed immediately and restitution of the amounts client has paid back to date be restored to him in full. Finally, the ALJ ordered an investigation into misuse/fraud regarding the client's former payee.

## **Appendix B**

### **DRC federal programs**

1. The Developmental Disabilities Assistance and Bill of Rights Act (DD Act), 42 U.S.C. §15001 et seq., established the P&A system in 1975 and created the Protection and Advocacy for Developmental Disabilities program (PADD). The DD Act was passed in part as a result of reports of inhumane conditions at Willowbrook, a New York State institution for persons with developmental disabilities. Congress, in passing the DD Act, recognized that a federally directed system of legally based advocacy was necessary to ensure that individuals with mental retardation and other developmental disabilities receive humane care, treatment, and habilitation. People are eligible for services under the PADD program only if they have a severe, chronic disability which manifested before age 22, are expected to require life-long services and have substantial limitations in three or more major life activities.

In order to receive federal funding under the DD Act, states were required to create and designate a P&A agency. In 1977, the Maine Legislature had the foresight to create Maine's P&A agency independent of state government. Later that year, then Governor James Longley designated the Advocates for the Developmentally Disabled (ADD) as the state's P&A agency. ADD later changed its name to Maine Advocacy Services, and then to DRC. The state statute, 5 M.R.S.A. §19501 et seq., is modeled on the DD Act and PAIMI Act, discussed below.

2. In 1986, following hearings and investigations that substantiated numerous reports of abuse and neglect in state psychiatric hospitals, Congress passed the Protection and Advocacy for Individuals with Mental Illness Act (PAIMI), 42 U.S.C. §10801 et seq. Modeled after the DD Act, the PAIMI Act extends similar protections to persons with mental illness. Congress recognized when it passed the PAIMI Act that state systems responsible for protecting the rights of individuals with mental illness varied widely and were frequently inadequate. Eligibility under the PAIMI Act is limited to those persons with a significant mental illness, with priority given to people residing in facilities.

3. The third federal grant established the Protection and Advocacy for Individual Rights (PAIR) program, 29 U.S.C. §794e. Established under the Rehabilitation

Act Amendments of 1978, PAIR was not funded until 1994. PAIR funds were intended to serve all individuals with disabilities not covered under the DD Act or the PAIMI Act. Because the PAIR funding is so limited and yet the eligibility is so broad, DRC developed case selection criteria prioritizing civil rights. DRC's PAIR cases involve violations of the Maine Human Rights Act, the Americans with Disabilities Act, the Fair Housing Amendments Act, and/or the Rehabilitation Act. Additionally, PAIR provides legal services to MaineCare recipients who have experienced a denial, reduction or suspension of services.

4. In 1994 Congress created another advocacy program when it passed amendments to the Technology-Related Assistance for Individuals with Disabilities Act, now known as the Assistive Technology Act of 1998, 29 U.S.C. §3001 et seq. Under the Protection and Advocacy for Assistive Technology program (PAAT), P&As are funded to assist individuals with disabilities in accessing assistive technology devices and services, such as wheelchairs, computers, limbs, adaptive computer software and augmentative communication devices. The DRC facilitates changes in laws, regulations, policies and procedures that impede the availability of assistive technology devices and services, as well as representing individuals in technology related matters.

5. In 2000, Congress created a program to provide legal services to individuals with traumatic brain injury (PATBI).

6. Following the 2000 election, Congress passed the Help America Vote Act (HAVA), 42 U.S.C. §15301 et seq., which charged P&As with ensuring that people with disabilities are able to fully and equally participate in the electoral process by being able to register to vote, cast a vote, and access polling places. Seven percent of the funds allocated to P&As must be used for training and technical support. No HAVA funds can be used for litigation. DRC has conducted numerous trainings for hundreds of local clerks throughout the state as well as for state officials, on how to make voting accessible for people with disabilities.

Each funder requires DRC to report back on how funds from each program were spent. As a result, DRC has developed very sophisticated accounting and reporting systems. When cases are opened, they are assigned to a funding source and to a lawyer. That lawyer bills his or her time to the program that the case is

assigned to. For example, an attorney may be assigned two eviction cases. One case may be billed to the developmental disabilities program (PADD) and the other to the mental health program (PAIMI).

ILAP  
REPORT



IMMIGRANT LEGAL ADVOCACY PROJECT

## **FY 2012 Annual Report (January 1, 2012 – December 31, 2012)**

The Immigrant Legal Advocacy Project (ILAP) is pleased to present the Maine Civil Legal Services Fund Commission with its 2012 Annual Report.

### **1. Introduction**

ILAP serves indigent and low-income noncitizens and their US citizen family members as well as service providers who need immigration information and legal assistance. ILAP offers the following services: 1) *education and outreach* to immigrant communities and to service providers; 2) our *Immigration Clinic* offering attorney consultations, group legal informational workshops with eligibility screenings, *pro se* immigration application assistance and brief interventions for persons with slight immigration complications; and 3) full legal representation for persons with complicated immigration issues. Full representation is provided by our *Pro Bono Immigration Project* and by ILAP staff through our *Full Representation Program*.

ILAP serves clients with incomes up to 200% of the annual federal poverty guidelines. Those who are within 150 – 200% of poverty are charged low fees for ILAP's services. Clients with incomes below 150% of poverty are not charged legal fees. In 2012, 92% of our clients were not charged fees for the legal aid provided to them by ILAP.

The grant from Maine Civil Legal Services Fund (MCLSF) helps sustain ILAP's free legal services across all of our legal programs. Funds received from MCLSF for 2012 were critical to our ability to offer legal assistance to benefit a total of 3,137 individuals including 2,886 at no fee (92% of clients) and 251 individuals at low-fee, residing in every county in Maine. The MCLSF grant was applied in the manner that ILAP proposed in its request for funding.

### **2. Types of Cases Handled by ILAP**

ILAP specializes in immigration and nationality law matters, representing clients in civil proceedings before the Department of Homeland Security's Citizenship and Immigration Services, Immigration and Customs Enforcement, and Customs and Border Protection bureaus; before the State Department, the Executive Office for Immigration Review, including the Immigration Court of Boston and the Board of Immigration Appeals, and before the Federal District Court of the District of Maine and the First Circuit Court of Appeals. Virtually all of ILAP's work is in these Federal venues. ILAP also provides a very limited amount of advocacy with Maine administrative agencies, specifically the Department of Health and Human Services or the Bureau of Motor Vehicles. This advocacy is strictly concerning immigrant eligibility for public benefits or for Maine drivers' licenses and ID cards, respectively, or proving U.S. citizenship for U.S. citizens born abroad who have no proof of their U.S. citizenship.

ILAP prioritizes the following: cases of asylum seekers, noncitizen domestic violence, crime, or trafficking victims' cases, cases involving family reunification, and cases of individuals in removal proceedings who would be separated from their U.S. citizen or permanent resident immediate family members if they were to be deported. ILAP also handles applications for citizenship, "Temporary Protected Status," work permits, replacement documents, and other immigration matters as our capacity allows. We do not handle any employment-based immigration matters, referring those cases to private attorneys.

### **3. Number and Demographics of People Served under the Grant**

In 2012, the MSCLF grant supported direct legal aid provided at no fee to 2,886 individuals<sup>1</sup>, 2,649 of whom received various services through ILAP's *Immigration Clinic*. The remaining individuals were full representation clients, including those whose cases were opened in 2012 and those whose cases were opened in prior years and still ongoing in 2012.

In 2012, ILAP's clients came from all 16 Maine counties. The following demographics were represented: Males: 51%; Females: 46.1%; unknown, 2.9%; under 18: 16.5%; ages 18-60: 64.9%; over 60: 4.9%; unknown age: 13.7%.

Additional demographics include the number of clients in categories of citizenship and ethnicity: U.S citizens by birth: 4.6%; U.S citizens by naturalization: 10.5%; noncitizens: 84.9%; Africans: 63.3%; Latinos: 14%; Caucasians: 7%; Asians: 15.7%.

ILAP also collaborated in 2012 with dozens of entities statewide, including domestic violence prevention programs from York to Aroostook counties, city governments, hospitals, schools, Maine's Congressional delegation, adult education centers, churches, counseling centers, homelessness prevention programs, immigration authorities and the Immigration Court of Boston.

### **4. Status of Matters Handled Under the Grant**

In FY 2012, ILAP's 7.4 legal staff, augmented by volunteers, provided the following free legal services:

Immigration Clinic: The *Immigration Clinic* is ILAP's first point of contact with clients. Services range from intake screening to referrals to attorney consultations in Portland or Lewiston. Consultations are also conducted in conjunction with outreach events across the state. Persons served in the *Immigration Clinic* may also receive additional *Immigration Clinic* services such as Forms Assistance or Brief Intervention or where warranted, full legal representation. Forms Assistance includes providing *pro se* immigration application assistance or other assistance to

---

<sup>1</sup> 92% of ILAP's clients received free services in 2012. Those who attend our education and outreach events, all provided without charge, are not included in the "direct services" number.

persons needing legal help but lacking major complications. Brief Interventions occur when ILAP helps a client resolve a complication without entering a notice of appearance. ILAP is prepared in all cases to accept these individuals as full representation clients if needed.

All *Clinic Services*: 1,927 services, directly benefiting 2,649 individuals. Services included:

- 534 attorney consultations for 870 individuals
- 752 intake screenings with legal assistance
- 74 persons detained at the Cumberland County Jail for civil immigration law infractions by immigration authorities attended weekly group legal rights orientations, followed by individual relief eligibility screenings, and received written *pro se* assistance materials
- 92 persons received brief interventions (without ILAP entering its appearance as the person's attorney)
- 502 *pro se* immigration forms assists were completed, and 17 were in progress at year's end, including:
  - 72 permanent residency applications (2 in preparation at year's end)
  - 63 citizenship (naturalization) applications (3 in preparation at year's end)
  - 127 family-based visa petitions serving 51 people to allow immediate family members to immigrate
  - 135 work authorization applications completed with 146 in preparation at year's end
  - Temporary protected status granted to 35 clients, 1 in progress
  - 70 other types of applications or assists

Non-attorney volunteers contributed over 2,000 hours of attorney-supervised immigration forms preparation and other assistance in ILAP's *Clinic*.

Full Legal Representation: In 2012, ILAP's staff and *Pro bono Immigration Panel* attorneys provided free full representation services under the MCLSF grant in 293 cases benefiting 488 clients with complicated immigration issues (including cases still open from prior years). Case activity under the grant included<sup>2</sup>:

- Cases opened: 59 for 80 individuals
- Cases closed: 94 for 135 individuals
- Cases open at year-end: 199 for 353 individuals
- Defensive cases served: 96 for 133 individuals

---

<sup>2</sup> The total number of services does not equal the total number of cases open. Some clients received more than one service, and some cases had no activity as client(s) waited to reach the top of Immigration waiting lists, or for processing backlogs to clear before they could proceed further. In addition, receiving a decision in a case or on an application does not necessarily result in the closing of a case. For example, the case of a permanent resident whose petition for his wife is approved remains open for years while ILAP awaits the date the wife will reach the top of the waiting list so the final stage of the residency application with Immigration or the State Department can begin.

#### Individual Outcomes:

- Asylum applications granted: 6
- Asylum applications pending or in preparation: 85 (including 11 in removal proceedings)
- Initial stage of residency granted: 17 (including 4 domestic violence survivor's cases)
- Initial stage of residency applications pending or in preparation: 18 (including 5 domestic violence survivors' cases)
- Permanent residency (final stage) granted: 24 (including 6 domestic violence victims' cases)
  - Permanent residency (final stage) applications pending or in preparation: 36 (including 10 domestic violence survivors' cases)
- Employment authorization applications granted: 135
  - Employment authorization applications pending or in preparation: 146
- Naturalization to U.S. citizenship applications completed: 63  
Granted: 19 in progress: 3
- Removal proceedings successfully terminated (to allow applications to be pursued affirmatively before USCIS), or closed (because relief granted): 3
- Cases finally denied (including after appeals): 3

ILAP measures the quality of its full representation work by tracking the outcomes of all intermediate or final decisions received. In 2012, 161 of all applications in full representation cases that received final decisions were approved. Immigration cases can take years in the ordinary course to receive final decisions; three to five years is common.

Education and Outreach: During 2012, ILAP conducted 52 education and outreach events throughout the State attended by 504 immigrant community members and service providers, regarding relevant Constitutional and immigration laws. This number also includes 63 individuals who attended ILAP's monthly group naturalization orientations. Other education and outreach events included monthly orientations for newly-arrived refugees, annual outreach to migrant workers employed in Maine's agricultural harvests. Additionally, ILAP was quoted in the media (radio, TV and print) around various immigration issues.

Impact Project: ILAP continued to address issues that affect high numbers of noncitizens in Maine, in an effort both to improve the quality of their lives here, and also to reduce the numbers of persons who need to seek individual legal representation due to certain systemic issues. Highlights of ILAP's impact work in 2012 include:

- *Advocacy efforts around the 2012-2013 State Budget:* ILAP joined with MIRC partners to provide accurate information about possible consequences to low-income immigrants of the proposed State budget for 2012-2013, which would have eliminated state-funded public assistance for all legal immigrants who do not qualify for federal benefits during their first five years in the United States. These efforts helped to halt some measures of the proposal that could have been most harmful to immigrants.

- *State Advisory Committee on Bias-Based Profiling*: ILAP continued its participation in the State's Bias Based Profiling Advisory Committee. The committee comprises advocates from civil and minority rights organizations, as well as key representatives of law enforcement, the Attorney General's office, and the Commissioner of Public Safety, and resulted from legislation passed in 2009. The committee presented a symposium on the issue on October 12, 2012, which was attended by over 100 representatives from law enforcement, the legal profession, civil rights organizations and community members. Several major success emerged from this committee: 1) There is now an official police policy prohibiting bias-based profiling; 2) The Maine Chiefs of Police Association created and adopted a model policy that was either adopted outright or adapted by law enforcement agencies throughout the state and 3) The Criminal Justice Academy will begin mandatory training of all law enforcement personnel around this issue in 2013.

## **5. Unmet or Underserved Needs**

Although ILAP provides a tremendous amount of service while remaining an extremely lean organization, over a third of those seeking ILAP's assistance cannot be served due to lack of capacity. The demand for Immigration law assistance grows each year, but our funding does not allow ILAP to continue to grow in a corresponding fashion. The decline of important recurring funding sources remains a particular challenge to ILAP's ability to meet increased demand. Steps continued to be taken in 2012 to expand *Pro Bono* Panel capacity, but ILAP continues to be outpaced by the demand for Immigration legal services in general and asylum representation in particular. In 2012, ILAP continued to expand the intake process for asylum seekers, but still lacked the capacity to place 64 individuals seeking asylum, despite growing the *Pro Bono* Panel from 101 in 2011 to 110 members in 2012.

In 2012, ILAP managed key leadership and personnel transitions, including bringing the agency's new Executive Director onboard and hiring two new Development staff.

## **6. Conclusion**

The MCLS Fund was a critical partner in ILAP's mission in 2012, as we successfully provided information and advice to thousands of Maine's low-income residents. ILAP helped hundreds of low-income immigrants pursue their dreams of permanent residency and citizenship or attain safe haven from persecution or domestic violence, reunite with immediate family members or defeat removal proceedings and remain with their families here in the U.S.

The MCLSF grant was an essential component of our funding mix, helping to sustain all of our free legal services, education and outreach, and systemic advocacy efforts. As Maine's only non-profit legal aid agency offering comprehensive immigration law assistance, ILAP offers a vital service to low-income individuals throughout the State who have nowhere else to turn. With the support of the Maine Civil Legal Services Fund, in 2012 ILAP changed the lives of many of our newest Mainers. ILAP is extremely grateful for the MCLS Fund's support.

LSE  
REPORT

**Legal Services for the Elderly  
Annual Report to the Maine Civil Legal Services Fund Commission  
Calendar Year 2012**

This is the Annual Report from Legal Services for the Elderly (“LSE”) to the Maine Civil Legal Services Fund Commission (the “Commission”) regarding LSE’s services and accomplishments in 2012. The financial support provided to LSE by the Maine Civil Legal Services Fund (“MCLSF” or the “Fund”) is used to provide free legal help to disadvantaged seniors when their basic human needs are at stake. The Fund is LSE’s largest source of funding and makes up 25% of the resources needed to provide the services described in this report.

This report describes only LSE services that are supported in part by the Fund. See **Attachment A** for summary information about additional services provided by LSE that are not supported by the Fund. In 2012, LSE offered all of the core legal services described in the request for funding that was submitted by LSE to the Commission, but did serve fewer seniors than projected due to reductions in funding.

**STATISTICAL INFORMATION**

**Number of People Served**

In 2012, LSE provided free legal help to 3,406 Maine seniors in 4,094 cases involving a broad range of civil legal problems, including the following.

- Elder abuse and neglect
- Financial exploitation
- Debt collection and creditor harassment
- Housing, including foreclosure
- Guardianship revocation
- Nursing home eligibility and other long term care matters
- Medicare appeals, including Medicare Part D
- Social Security appeals
- MaineCare, food stamp, heating assistance, General Assistance, and other public assistance program appeals
- Financial and health care powers of attorney

**The number of elders represented by LSE has been declining since 2010 due to reductions in LSE’s funding, in particular from the Fund. LSE’s funding from the MCLSF has gone down 16% since 2009.** The MCLSF had historically been a stabilizing force for LSE in what was otherwise an unpredictable funding landscape. See **Attachment A** for current and historic service levels. LSE should be seeing a steady increase in service levels every year due to the increasing elderly population.

**LSE's staffing levels are at the lowest level on record in the past twenty five years.** The current staffing includes: 1.0 full time equivalent (FTE) Deputy Director; 1.0 FTE Intake Paralegal; 3.0 FTE Helpline Attorneys (down .2 FTE from last year); 1.0 FTE Consumer Debt/Intake/Referral Paralegal; 4.85 FTE Staff Attorneys (down .80 FTE from last year).

**Types of Cases Handled by LSE**

The following chart breaks down the number of cases handled in 2012 by general case type. **Attachment B** to this report provides a detailed chart of case types.

<b>LSE CLIENT SERVICES BY GENERAL CSE TYPE</b>	
<b>Case Type</b>	<b>Total</b>
Consumer/Finance (1105)	27%
Self Determination (884)	22%
Housing (841)	20%
Health Care (479)	12%
Miscellaneous (225)	5%
Family (203)	5%
Income Maintenance (152)	4%
Individual Rights (includes elder abuse and exploitation) (126)	3%
Employment (79)	2%
<b>Total Cases (4094)</b>	<b>100%</b>

The greatest overall demand for LSE services was in the areas of consumer issues (debt collection, consumer fraud, creditor harassment), self determination/aging preparedness (probate, powers of attorney, advance directives, will referrals), housing (public and private housing, foreclosures, evictions), and access to health care (Medicare and MaineCare).

**Demographic Information**

The clients served were 29% male and 71% female. All clients served were sixty years of age or older and 41% were 75 years of age or older. While LSE serves both socially and economically needy seniors, 85% of LSE's clients were below 200% of the federal poverty level and 53% were below 100% of the federal poverty level. Those callers who are not below 200% of the poverty level typically receive only a referral with the rare exception of a financial exploitation case that may be handled by LSE when a referral to the private bar is not possible due to the time sensitive nature of the case.

**Geographic Distribution of Cases Handled by LSE**

This chart provides data regarding the geographic distribution of LSE’s clients in 2012. As the chart reflects, services were provided on a statewide basis at levels generally consistent with the distribution of the low income elderly by county.

	LSE 2012 STATISTICS		COUNTY STATISTICS <sup>1</sup>	
	Total Clients Served	% of Total LSE Clients Served by County	% of Maine’s 60+ Population by County	% of Maine’s 65+ Population below 100% FPL by County
Androscoggin	339	10%	8%	9%
Aroostook	200	6%	7%	10%
Cumberland	690	20%	19%	14%
Franklin	48	1.5%	2%	2%
Hancock	134	4%	4%	4%
Kennebec	300	9%	9%	9%
Knox	73	2%	4%	3%
Lincoln	85	2.5%	3%	3%
Oxford	139	4%	5%	5%
Penobscot	456	13%	11%	11%
Piscataquis	72	2%	2%	2%
Sagadahoc	67	2%	2%	2%
Somerset	116	3.5%	4%	5%
Waldo	90	3%	3%	3%
Washington	135	4%	3%	6%
York	462	13.5%	14%	12%
<b>Total</b>	<b>3406</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

Each year LSE evaluates its service statistics by county as compared to the statewide demographics and targets customized outreach efforts in the next year to any underserved areas of the state.

<sup>1</sup> U.S. Census 2000. Current poverty data by age and by county is not available at this time.

## LSE'S STATEWIDE DELIVERY SYSTEM

Since its establishment in 1974, LSE has been providing free, high quality legal services to socially and economically needy seniors who are 60 years of age or older when their basic human needs are at stake. This includes things like shelter, sustenance, income, safety, health care, and self determination. LSE offers several different types and levels of service in an attempt to stretch its limited resources as far as possible.

The four types of service provided by LSE include the following: 1) brief services, advice and counseling to clients throughout Maine by the LSE Helpline attorneys; 2) extended representation by staff attorneys in LSE's five local offices in Augusta, Bangor, Lewiston, Presque Isle, and Scarborough ("Area Offices"); 3) special local projects that focus on particular regions of the state where poverty rates are high and LSE has been able to obtain local sources of financial support; and 4) client education and outreach conducted throughout the state by LSE attorneys and other LSE staff. Most LSE clients receive help only via telephone. The most intensive level of service, providing a staff attorney to represent an elder in a court or administrative proceeding, is offered only where an elder is at risk of losing their home, can't access essential health or other public benefits, or is a victim of abuse or exploitation, and there is no other legal resource available to help the elder.

The remainder of this report describes these four components and highlights accomplishments in the past year.

### Statewide Helpline Services

LSE operates a statewide Helpline that provides all Maine seniors regardless of where they live in the state with direct and free access to an attorney toll-free over the telephone. The Helpline is the centralized point of intake for the vast majority of the legal services provided by LSE. The Helpline enables LSE to overcome three substantial service barriers for Maine seniors: distance, mobility limitations and poverty. LSE's Helpline is located in Augusta and accepts calls Monday through Friday during regular business hours. Calls are answered in person by an intake paralegal. Those calling after hours are able to leave a message and calls are returned by the intake paralegal the next business day. Once an intake is complete, all eligible callers with legal problems, except those calling about an emergency situation, receive a call back from a Helpline Attorney in the order the calls were received. Emergency calls are handled as priority calls.

The Helpline Attorneys provide legal assistance to seniors exclusively via telephone. This is the level of service received by about 80% of the seniors receiving help from LSE though most desire and could benefit from more extensive help. **The number of seniors receiving help entirely via telephone continues to grow as LSE's funding continues to shrink.** Only a small subset of case types are referred on to the nearest LSE Area Office for in person representation. Because Helpline services are

much less expensive to deliver than the Area Office services, this overall approach stretches LSE's limited resources as far as possible.

The Helpline received in excess of 8,000 calls for help in 2012 and these calls were handled by a single intake paralegal. The LSE Helpline acts as a referral service for calls that are outside LSE's mission or areas of priority or where the caller actually requires social or other services rather than legal services. In addition to making social service referrals, referrals are made by the Helpline, when appropriate, to other legal services providers (in particular, for those under 60), private attorneys, and other existing resources (e.g., the Attorney General's Consumer Division or Adult Protective Services) to take advantage of and ensure there is not any duplication of other available resources. In addition, LSE maintains a panel of referral attorneys who have agreed to accept reduced fees when a client is between 125% and 200% of the federal poverty level. LSE's panel includes lawyers who practice in substantive areas that are in great demand by callers to the Helpline, but are not handled by LSE, including things like probate, MaineCare planning, real estate, and estate planning. LSE made 280 pro bono or reduced fee referrals to referral panel members in 2012. LSE also makes but does not track full fee referrals.

### **Area Office Services**

The other primary component of LSE's service delivery system is the five Area Offices in Augusta, Bangor, Lewiston, Scarborough, and Presque Isle. With the exception of the administrative office in Augusta, the Area Offices are located within the local Area Agency on Aging. This unique co-location relationship between LSE and the Area Agencies is very important for Maine's elderly and cost effective. Elderly Mainers are able to address many of their problems in one location – a type of one-stop shopping – which removes what is often another barrier to needed services. This is particularly important for clients (and efficient for LSE) when underlying non-legal problems, if unresolved, would manifest themselves as recurring legal problems. **Unfortunately, due to funding reductions, LSE currently has only a very part-time presence at the Lewiston, Bangor and Presque Isle Area Offices.**

The Area Office attorneys and paralegals provide legal services for seniors with legal problems implicating their basic human needs that may require an appearance in an administrative or court proceeding. This includes things like elder abuse/financial exploitation, MaineCare and other public benefit appeals, and evictions and foreclosures. LSE staff attorneys must be thoroughly familiar with District, Superior and Probate Court procedures as well as with administrative hearing procedures. Staff Attorneys also assist clients of very limited means in executing financial powers of attorney and health care advance directives.

### **Special Regional Projects**

In addition to providing services on a statewide basis through the Helpline and Area Offices, LSE conducts special projects that operate on a regional basis and target specific substantive areas of unmet need. These projects are all supported in part by local funding sources such as United Way as well as by private foundations. **The nine special regional projects in 2012** included the following:

- York County Long Term Care Project;
- York County Senior Helpline (includes Franklin and Oxford Counties);
- Cumberland County Long Term Care Project;
- Cumberland County Elder Abuse Law Project;
- Cumberland County Senior Helpline;
- Androscoggin County Elder Abuse Law Project;
- Androscoggin County Senior Helpline;
- Kennebec County Elder Abuse Law Project; and
- Eastern Maine Long Term Care Project (targeting Piscataquis, Penobscot, Washington, and Hancock Counties).

Long term care projects generally focus on assisting elders in appealing reductions or denials of publicly funded long term care services and, in some cases, appointing a trusted agent to assist the elder in planning and making decisions. Elder abuse law projects generally focus on organizing and collaborating with local senior, community, and law enforcement organizations to increase the community's awareness of, and capacity to, respond to elder abuse and stopping elder abuse in individuals' lives and restoring their independence and dignity through legal representation. Each of these regional projects has a unique set of targeted outcomes and LSE provides periodic reports to its local funding sources on the progress being made toward those outcomes.

### **Outreach and Education**

LSE provides legal information to the public through public presentations, print material and its website. LSE materials are distributed directly to homebound residents through the Meals on Wheels program and by direct mail to all town offices, assisted living facilities, home health agencies, hospice programs, and nursing facilities. LSE information is also posted at the courts, Community Action Programs, Social Security offices, senior meal sites, DHHS offices and Area Agencies on Aging. In addition to the distribution of print materials, LSE's staff made 43 educational presentations in 2012 that reached over 967 people across the state. **LSE's outreach efforts are down by 30% as compared to the prior year due to funding reductions.** LSE staff also contributed articles to Area Agency newsletters and local newspapers, participated in senior fairs all over the state, and appeared on cable television and local radio programs on several occasions. In some underserved areas, television and print advertising was done as funding permitted.

The LSE website includes information on powers of attorney, financial exploitation, advance directives, MaineCare estate recovery, MaineCare eligibility for nursing home coverage, Medicare Part D, and many other topics. The website provides a valuable resource not just to Maine's seniors, but also to their family members and caregivers. In 2012, there were 31,233 visitors to the website and 79,826 page views

### **UNMET AND UNDERSERVED NEEDS**

LSE is required as a part of this annual report to provide information particular to the unmet and underserved legal service needs of Maine's elderly. The landscape in this area is daunting. This is because 1) Maine's elderly population is growing at an extraordinary rate; 2) the poverty rate among Maine's elderly is very high; and 3) large numbers of Maine's low income elderly face legal problems each year.

Maine's Growing Elderly Population. Maine is already the oldest state in the nation when measured by median age and Maine's elderly population is growing at a rapid rate. Between 2000 and 2030, Maine's elderly population is expected to more than double, with the bulk of that growth taking place between 2011 and 2025. By 2030, it is projected that 32.9% of Maine's population, or 464,692, will be over 60.<sup>2</sup> Maine is also the most rural state in the nation and most of Maine's elderly live in isolated rural areas.

High Poverty Rate Among Maine's Elderly. Of those 65 and over living in Maine, the U. S. Census Bureau American Community Survey reported 10.1% live below 100% of the federal poverty level, 39% live below 200% of the poverty level and 57% live below 300% of the poverty level.<sup>3</sup> It is important to note that this American Community Survey poverty data significantly underestimates the actual poverty rate among the nation's elderly. The U. S. Census Bureau has acknowledged that the National Academy of Science ("NAS") poverty formula, which takes into account living costs such as medical expenses and transportation, is more accurate. The NAS puts the poverty rate for elderly Americans at twice the rate reported by the American Community Survey. This is because factors such as high medical and other living costs disproportionately impact the elderly

Low Income Elders in Maine Frequently Experience Legal Problems. In September, 2010, the University of Maine Center on Aging published the first statewide study of legal needs among seniors living in Maine. This study found that from 45% to 86% of the low income elderly surveyed experienced legal problems in the prior three years. A follow up survey done in 2011 found that 67% of Maine seniors who are 70 years of age or older experience at least one legal problem each year. LSE currently assists approximately 4% of the very low income seniors in Maine each year. The legal needs studies done in Maine found that without free legal assistance, elders who can't afford a lawyer are most likely to 'do nothing' about their legal problem. This probably

---

<sup>2</sup> U.S. Census Bureau, Population Division, Interim State Population Projections, 2008.

<sup>3</sup> U. S. Census Bureau, 2005-2007 American Community Survey and Across the States 2011: Profiles of Long-Term Care, AARP 2011.

explains why the lack of representation of seniors who are facing situations where their basic human needs are at stake remains a silent crisis in Maine.

### **SUMMARY**

The Fund supports LSE in providing statewide legal services to Maine's most vulnerable elderly. Unfortunately, as the level of financial support from the Fund (and other traditionally stable funding sources) has dropped in the past three years, so has the number of seniors able to seek and obtain free legal help from LSE.

LSE remains committed to working on behalf of Maine seniors to protect their safety, shelter, income, health, autonomy, independence, and dignity. The support provided to LSE by the Fund directly benefits the lives of Maine's elders by increasing and improving their access to justice, which in turn, helps to ensure a better overall quality of life for Maine's growing population of elders. The support provided by the Fund has never been more important to LSE as LSE struggles to maintain a statewide presence with very limited resources and to meet the legal needs of Maine's growing and increasingly impoverished senior population.

Respectfully submitted,

Jaye L. Martin  
Executive Director

**ATTACHMENT A  
LEGAL SERVICES FOR THE ELDERLY  
Additional Services Not Supported by the Fund**

**Services Complementary to LSE’s Core Legal Service**

LSE is a vital part of Maine’s legal services system as well as its eldercare network, which includes the Office of Aging and Disability Services, the Area Agencies on Aging, the Long Term Care Ombudsman Program, and the state’s public guardianship program. Working closely with these partners, LSE provides comprehensive, statewide services to Maine’s seniors. This includes the provision of legal services as well as non-legal services that are complementary to LSE’s core legal services. LSE has two significant statewide non-legal programs that are funded entirely by restricted federal and/or state grants (and receive no support from the Fund). This includes: 1) services provided by LSE as a part of the State Health Insurance Assistance Program (“SHIP”) and Senior Medicare Patrol (“SMP”) programs, and 2) LSE’s Medicare Part D Appeals Unit. The SHIP and SMP programs provide elderly and disabled Maine residents with information and assistance on health insurance matters, in particular Medicare, MaineCare and prescription drugs. The LSE Medicare Part D Appeals Unit assists low-income Maine residents who are being denied access to needed prescription drugs under Medicare Part D in obtaining the drugs they need.

**Systemic Work and Public Policy Advocacy**

Primarily through its fulltime Public Policy Advocate, LSE participates in two general areas of systemic advocacy: legislative work and administrative work, including task forces and work groups. This work enables LSE to have a larger impact on the policies and systems affecting Maine’s elderly than would be possible if LSE were to limit its activities to individual representations. The LSE Board of Directors has adopted guidelines which govern the nature and scope of this systemic advocacy work. These legislative and systemic activities are not supported by the Fund.

**Client Services Summary—All Direct, Individualized Services**

	2007	2008	2009	2010	2011	2012
<b>Total Legal Matters Opened (these are the <u>only</u> LSE services supported by the Fund)</b>	3,411	3,738 (9.5% increase)	4,217 (12.8% increase)	4,668 (10.7% increase)	4,542 (should have been at least a 5-6% increase)	4,094 (should have been at least a 5-6% increase)
<b>Medicare Part D Appeals</b>	912	595	775	808	748	535
<b>State Health Insurance Assistance Program (SHIP) services</b>	1,303	955	1,000	1,073	1,139	994
<b>Total direct services</b>	5,626	5,288	5,992	6,549	6,429	5,623

**ATTACHMENT B  
LEGAL SERVICES FOR THE ELDERLY  
2012 DETAILED CASE TYPE REPORT**

CASE TYPE	CY 12
<b>CONSUMER/FINANCE</b>	
Bankruptcy/Debtor Relief	23
Collection/including Repossession	472
Collection Practices/Creditor Harassment	220
Contracts/Warranties	26
Funeral/Burial Arrangements	5
Loans/Installment Purchase (Other than Collection)	43
Non-Mortgage Predatory Lending	0
Other Consumer/Finance	208
Public Utilities	57
Unfair & Deceptive Sales & Practices	51
<b>TOTAL</b>	<b>1105</b>
<b>EMPLOYMENT</b>	
Employee Rights	5
Job Discrimination	4
Other Employment	32
Taxes	38
<b>TOTAL</b>	<b>79</b>
<b>FAMILY</b>	
Adoption	0
Child Support	9
Custody/Visitation	0
Divorce/Separation/Annulment	83
Domestic Violence	16
Name Change	0
Other Family	95
<b>TOTAL</b>	<b>203</b>

<b>CASE TYPE</b>	<b>CY 12</b>
<b>HEALTH</b>	
Home & Community Based Care	19
Long Term Health Care Facilities & Services	43
Medical Malpractice	27
Medicare	19
Maine Care	355
Private Health Insurance	16
<b>TOTAL</b>	<b>479</b>
<b>HOUSING</b>	
Federally Subsidized Housing	136
Homeownership/Real Property (Not Foreclosure)	322
Housing Discrimination	1
Mobile Homes	30
Mortgage Foreclosures (Not Predatory Lending/Practices)	126
Mortgage Predatory Lending/Practices	1
Other Housing	41
Private Landlord/Tenant	148
Public Housing	36
<b>TOTAL</b>	<b>841</b>
<b>INCOME MAINTENANCE</b>	
Food Stamps	21
Other Income Maintenance	31
Social Security (Not SSDI)	38
SSDI	10
SSI	20
State & Local Income Maintenance	19
Unemployment Compensation	9
Veterans Benefits	4
<b>TOTAL</b>	<b>152</b>

<b>CASE TYPE</b>	<b>CY 12</b>
<b>INDIVIDUAL RIGHTS</b>	
Civil Rights	2
Disability Rights	3
Elder Neglect, Abuse, & Financial Exploitation	87
Immigration/Naturalization	1
Mental Health	3
Other Individual Rights	30
<b>TOTAL</b>	<b>126</b>
<b>MISCELLANEOUS</b>	
Indian/Tribal Law	2
License (Auto, Occupational, & Others)	19
Municipal Legal Needs	5
Other Miscellaneous	177
Torts	22
<b>TOTAL</b>	<b>225</b>
<b>SELF DETERMINATION</b>	
Adult Guardian/Conservatorship	33
Advance Directives/Powers of Attorney	334
Wills/Estates	517
<b>TOTAL</b>	<b>884</b>
<b>GRAND TOTAL</b>	<b>4094</b>

The reported matters were all opened during 2012 and are reported regardless of whether or not they were closed in 2012 (only 126 remained open at the end of the year). LSE consistently reports matters opened for the reporting period in question to all funders unless specifically asked for other data. This ensures the data provided by LSE may be compared from year to year and does not include any duplicate information.

The level of service provided in these 4,094 matters breaks down as follows (from most to least intensive): 6% extended representation services; 12% limited action taken/brief services provided; 56% counsel and advice only; 7% information and successful pro bono or reduced fee referral; 1% information only and attempted but failed pro bono or reduced fee referral; 12% information, advice and referral (may be for social services or full fee legal services); and 6% clients who no longer desired services after making initial contact with LSE.

## **Additional Required Information**

### **Outcomes Measurement**

Using the Legal Files case management software that is shared by several of the legal services providers and Crystal Reports to run reports, LSE is able to collect, maintain, and analyze comprehensive data regarding the scope and nature of its services. This includes things like the location of the individual served, the type of case, and the outcomes achieved. Information from this database is used to monitor compliance with all funder requirements and commitments, including the MCLSF. LSE service and outcome data is also reviewed on a regular basis by the LSE Executive Director and its Board of Directors and this data analysis influences decisions regarding how to allocate resources across the state and how to focus ongoing outreach efforts. In addition to monitoring for compliance with MCLSF commitments, LSE routinely provides extensive statistical and narrative reports to other key funders, including the Maine Bar Foundation, United Way agencies, the Area Agencies on Aging, the Office of Aging and Disability Services and the Administration on Aging.



# **THE MAINE CENTER ON DEAFNESS**

## **CIVIL RIGHTS PROGRAM**

### **2012 Annual Report to the Maine Civil Legal Services Fund Commission**

The Maine Center on Deafness is pleased to submit this report to the Maine Civil Legal Services Fund Commission ("MCLSF") regarding the 2012 services the Civil Rights Program provided utilizing MCLFS funds.

#### **I. Overview of the Maine Center on Deafness**

Maine Center on Deafness is a vibrant, nationally unique, independent not for profit agency that assists individuals with hearing loss by providing resources, advocating for social equality, and helping the general public to better understand and appreciate Deaf culture. Maine Center on Deafness is known for its innovative programs. As you read about the programs below, imagine the various skills required of employees and the synergy created as they crisscross Maine implementing the programs.

#### **The Civil Rights Program**

The Civil Rights Program consists of one part time (20 hours) attorney and three part time advocates. Two of the advocates are fluent in American Sign Language and are Licensed Clinical Social Workers. One advocate is a nationally certified legal interpreter and a lifelong advocate for the Deaf. Its attorney provides free legal advice and individual representation at meetings, hearings, and court proceedings with the full weight of multiple disability rights laws behind her. Examples of such laws include the Maine Human Rights Act, the Americans with Disabilities Act, the Rehabilitation Act, the Air Carrier Access Act, the Communications Act and Individuals with Disabilities Education Act. Funding comes from the Maine Department of Labor Bureau of Rehabilitation Services, the Maine Civil Legal Services Fund and settlement proceeds from civil rights cases.

The Civil Rights Program also promotes systemic change by working directly with Maine agencies and legislators on matters of importance to the Deaf and hard of hearing. (Capital D "Deaf" is used in this report to represent individuals who use American Sign Language and are part of a distinct culture.) Recent examples of the Civil Right Program's successful legislative efforts include the passage of a law requiring health insurance policies to cover the cost of hearing aids for children and the creation of a free hearing aid program for Maine's elderly.

The Civil Rights Program also provides community education. For example, ASL New meets around the state twice a month to discuss in American Sign Language topics of interest to the Deaf.

Typical topics might be changes in MaineCare, tax rebates, avoiding financial scams or disability rights laws. (Up to date, accurate information about complex topics is greatly valued by the Deaf community.) Maine Center on Deafness ("MCD") also puts on an annual educational conference at Colby College on topics of importance to the Deaf and hard of hearing.

### **Telecommunications Equipment Program**

The Telecommunications Equipment Program was established by state law to provide "No" or "Low" cost adaptive telecommunications equipment to Mainers with disabilities. The program is funded by the Universal Service Fund. Examples of equipment distributed include TTY's, amplified telephones and voice carry over telephones. In 2012 TEP began distributing hearing aids to older, low income Mainers who live alone and desire hearing aids in lieu of phones.

TEP also administers the **Emergency Notification System**. This innovative program was the nation's first! Clients select a one-way or two-way pager at "No" or "Low", or request to have alerts sent to equipment they already own. Typical alerts are notifications of threatening weather conditions, public safety emergencies, power outage and other emergencies happening in Maine.

MCD was recently selected by the FCC to run the **Deaf-Blind Equipment Distribution Program**, a new federally financed, two year pilot project to provide specialized equipment to those who are visually and hearing impaired. Some of equipment distributed include OCR (optical character recognition) devices, laptops and with screen reader or text zooming software, amplified telephones and Braille communicators.

### **Peer Support Group and Visual Gestural Communication**

MCD runs two programs designed to help deaf adults with intellectual disabilities improve the quality of their lives. These two programs are the Peer Support Group and Visual Gestural Communication Classes, both of which are funded by Maine's Department of Health and Human Services.

Peer Support Groups is a structured gathering of deaf adults with intellectual disabilities and their caregivers, and families. The focus of these group sessions is to enhance communication skills through structured activities. Many of the participants spent their formative years in Pineland and were not taught American Sign Language or any other language. Having passed the window of opportunity to acquire a true language, any increase in communication helps improve the Peers' relationships with others and access to health care, safety information and vocational opportunities.

Visual Gestural Communication Classes are taught by MCD staff to employees of group homes and family members who wish to enhance communication with individuals with limited formal language. Often MCD staff gives advice on how to handle common and not so common communication problems. For example, one MCD staff member is a trained sex education instructor and a visual gestural communication instructor. She sometimes combines those skills to educate clients.

## **Communication and Outreach Program**

MCD contracts with Hamilton Relay Service to inform the public of its traditional relay services for the state of Maine including TTY, Voice Carry Over (VCO), Hearing Carry Over (HCO), Speech-to-Speech (STS), Spanish-to-Spanish and CapTel®. (Most people have no idea how to contact a deaf person using their own traditional telephones. The answer is dial 711 and use the Maine Relay Service!) This contract provides MCD a unique opportunity to travel statewide speaking at hospitals, community groups, law enforcement agencies and various businesses about the Maine Relay Service, Maine Center on Deafness and hearing loss related topics.

## **II. Information Requested by the Commission**

### **1 The Types of Cases Handled by the Organization as a Result of Money Received from the Fund.**

Due to the fact that MCD is accessible to Maine's ASL using Deaf and our extensive outreach programs, it would be easier to describe the types of legal problems we do not handle. Every day we are asked legal questions covering disability law, trusts and estates, contracts (credit cards!), landlord/tenant law, Social Security, Medicare/Medicaid, family law, email scams, unemployment compensation and workplace conflicts - to name a few. In general, our clients wish that we were "Legal Services for the Deaf," but we are not. Our concentration is on violations of the many disability rights laws.

That being said, we try never to turn a client away "empty handed." MCD's part time attorney has been practicing law for twenty five years and its advocates are equally experienced in their fields. Legal questions that are easy to answer we answer with a brief explanation and promise to be there for a follow up call.

More complex legal issues that do not fall within the field of disability rights law, we refer to other attorneys, agencies and legal service providers. Many times our referrals are considered "supervised referrals." We take the time to learn the details of a particular case and match the case to the area of expertise of an attorney. We often email ahead and let the attorney know that a Deaf individual will be calling and how the attorney can obtain an interpreter from Maine's Legal Interpreting Fund. In some cases we continue to be involved helping to resolve misunderstandings between client and attorney. Most of the time misunderstandings have to do with communication challenges and lack of knowledge of Deaf culture. (The average Deaf adult reads English at a fourth grade level. Attorneys often over estimate how much "self help" a Deaf client is capable of. )

In 2012 MCD's attorney advocated for clients before the Maine Human Rights Commission, the United States Postal Service, the Social Security Administration, Maine District and Superior Courts. Since its establishment in 1988, failure to provide interpreters as required by law has been the number one problem of our clients. However, a review of some of the cases we completed this year reveal that progress is being made. Most often problems are resolved with a phone call or two. When this was not enough, we successfully resolved many case without going to court. For example, we represented a client who was not provided an interpreter at her local Social Security Office. Since filing the case, the office has installed remote video interpreting and deaf individuals can walk into the office at any time and be served. Another case involved the United States Post Office's refusal to get interpreters for

group meetings. The Post Office is now equipping its processing centers with remote video interpreting. Another case involved an employer who had an interpreter, but the interpreter was not qualified.

A few of our cases completed in 2012 involved keeping public accommodations up to date. For example, many accommodations only offer TTYs (Text Telephones) to allow the Deaf to call out. However, most Deaf individuals have switched to video phones where they do not have to rely on writing English to communicate. With very little expense public accommodations can now offer their patrons video phones. Another example where MCD's cases are nudging public accommodations to keep up with technology involves motion picture theaters. Theaters that do not want to offer open captioned movies can now purchase special glasses that provide viewers closed captioning.

While it is rare for MCD to get involved in a land/lord tenant cases, MCD handled two in 2012. One involved a non verbal deaf tenant with mild behavior issues. Due to the fact that our client could not speak, some of his fellow tenants found him menacing. MCD reached a settlement in court allowing him to remain in his apartment for months while his case worker found a more suitable place for him.

Often cases are resolved with a promise to fix a problem, modest financial compensation and a confidentiality agreement. For this reason, more details may be given about cases that are still open as of the date of submitting this report, January 15, 2013. At this time MCD has two court cases, and seven cases before the Maine Human Rights Commission.

Both court cases are against the Maine Department of Health and Human Services(DHHS). In one case a woman, who was hard of hearing since childhood, worked as a teacher's assistant at her churches nursery school for thirty one years. DHHS determined that she could not be counted in the staff to child ratio and her employer fired her. The second court case involves DHHS's refusal to get remote video interpreting for the Deaf. DHHS currently provides instant interpreting via telephone for limited English proficiency consumers, but the Deaf sometimes have to wait weeks for an appointment.

The seven cases currently before the Maine Human Rights Commission evolve two cases where employees were fired because of the cost of interpreters. Two cases involve the refusal of agencies to provide extensive day care services due to the accommodations the disabled individuals need. Two cases involve big box stores refusal to have a system where deaf shoppers may view the closed captioning functions on televisions prior to purchase. One case involves a social service agency and its refusal to provide an interpreter for a course it offered the public.

## **2. The number of people served by the organization as a result of money received from the Fund.**

In 2012 MCD's part time (20 hours a week) attorney fielded numerous phone calls, emails, and walk-ins. MCD attempts to quantify these contacts about new matters, capturing this data as "intake" contacts in our intake computer base. Intakes are matters that are resolved quickly, with a relatively short amount of attorney/advocate attention. In 2012 MCD documented receiving intakes for at least 218 non equipment related matters. (Since MCD's part time attorney and advocates routinely answer questions regarding legal issues and civil rights at meetings and in impromptu formats that do not result in the creation of a new "intake" for the tracking program, the actual number of people served in 2012 exceeds 218.)

These 218 intakes resulted in 19 new “cases” being opened within the Civil Rights Program. We categorize “cases” as matters that require extended attorney attention, filing a complaint with the Maine Human Rights Commission or some other governmental agency and/or litigation. The small percentage of cases opened from a large number of intakes indicates that the Civil Rights Program’s lawyer and advocates were effective in resolving disputes without the necessity of Maine Human Rights Commission complaints and litigation. The 19 new cases opened in 2012 were not the only cases handled by MCD’s part time lawyer in 2012. Twenty eight existing cases were carried into 2012 from 2011

The challenges of working with the culturally Deaf (American Sign Language users) should be mentioned here. Explaining complex legal issues may take roughly double the time it might for hearing clients. This is due to two reasons. The first reason is that MCD’s part time attorney works with an interpreter and this can double the time it takes to communicate. (Luckily MCD employs one of Maine best legal interpreters, which eases communication and importantly, lessens the burden of Maine Legal Interpreting Fund.) The second reason that it takes longer to serve Deaf clients than hearing clients is because the Deaf bring to the table less incidental learning. Most information needs to be discussed in great detail in order fill in needed background information.

### **3. Demographic information about the people served as a result of money received from the Fund.**

Our clients overwhelming are culturally Deaf and use American Sign Language to communicate. Using our 47 cases in 2012 as representative of all the people we serve, 78% of our cases involved clients who used American Sign Language or visual gesture. That being said, the number of hard of hearing clients is increasing. This is perhaps due to the aging of the baby boomers and the increase use of hearing aids and cochlear implants.

Almost two thirds of our legal work involves clients who have limited or no employment. The major reason for not working is a lack of educational and vocational opportunities. (Vocational opportunities are often limited simply because of the reluctance of employers to pay for accommodations.) Some of our clients are unemployed due to health problems or age.

The vast majority of our clients are in their fifties. There are several reasons for this. Rubella (German measles) was the cause of many cases of deafness in the 1950’s and 1960’s. Since 1968 a vaccine against Rubella has been available. Also many hard of hearing baby boomers lost their jobs during the latest recession.

Most of our clients are low income due to their disability, discrimination and health problems. The most common health problem involves mental health issues. These mental health issues may be due to isolation and decreased opportunities to communicate.

### **4. The geographical area actually served by the organization as a result of money received from the Fund**

MCD does not track Civil Rights Program *intakes* (brief services) *by county*, so this report cannot identify how many civil rights questions MCD’s attorney answered for or regarding deaf and hard of

hearing clients around the state. We strongly believe that we have served consumers in every county in Maine. We *do* track *cases* by county and their demographics should be roughly representative of all our work. In 2012 MCD actually handled civil rights cases –sustained advocacy and representation in legal matters- on behalf of clients residing in the following counties:

<b>County</b>	<b>No of Cases</b>
Androscoggin	5
Cumberland	22
Kennebec	5
Knox	1
Lincoln	1
Penobscot	4
Somerset	3
York	6
<b>TOTAL</b>	<b>47</b>

**5. The status of the matters handled, including whether they are complete or open**

Of the 47 cases that were open in 2012, 28 of these cases were carried over from 2011 and 19 new cases were opened. Twenty four cases were resolved “meeting the clients’ needs.” More specifically, as 2012 drew to a close, MCD was handling 19 cases, including two court cases, seven cases before the Maine Human Rights Commission and several school law cases.

**6. Whether and to what extent the recipient organization complied with the proposal submitted to the Commission at the time of application for funds.**

MCD has used MCLSF funds toward salary and professional training of its part time attorney in compliance with the proposal submitted to the Commission. The attorney hours paid for by the MCLSF have been well spent addressing important legal issues that are not only of concern to individual clients but are also of significance to other Deaf and hard of hearing residents of Maine and the entire nation.

**7. Outcome measurements used to determine compliance**

MCD has a database system to monitor intakes and cases for the various services and programs it provides. Each MCD employee is requested to input data when receiving contacts by email, phone or walk-ins. (Naturally, in the rush of the day, it is common for staff to forget to create an intake.) Monitoring detail reports created by the system quarterly keeps the Civil Rights Program on track through the year.

**8. Information particular to MCD regarding unmet and underserved needs.**

For twenty four years, MCD has been a trusted member of the Deaf and hearing loss communities in Maine, and a strong partner in addressing unmet and underserved needs. That being said, MCD’s Deaf and hard of hearing clients continue to have many unmet and underserved legal and advocacy needs.

Barriers to access to education, employment, community services and health care remain an everyday problem for persons with hearing loss in Maine. A review of our records indicate that the Deaf and hard of hearing are under served in Piscataquis, Aroostook, Washington and possibly Oxford County. Identifying and addressing these needs takes time and financial resources. Unfortunately, MCD is faced with difficult times ahead. In January 2013 MCD's Civil Rights Program received notice of a \$20,000 curtailment of funds from Maine's Department of Labor and next year's funding has been targeted by the Governor's proposed budget.

### **Conclusion**

As a direct result of the financial support provided by the Maine Civil Legal Services Fund Maine's Deaf and hard of hearing clients received high-quality legal representation from MCD's Civil Rights Program in 2012.

January 15, 2013

Beth Gallie

Beth Gallie, Attorney  
Maine Center on Deafness  
68 Bishop Street  
Portland, Maine 04103  
207 797 7656



**Maine Equal Justice Partners**  
**2012 Annual Report to the**  
**Maine Civil Legal Services Fund Commission**  
**January 2013**

Maine Equal Justice Partners (MEJP) is pleased to provide the Maine Civil Legal Services Fund Commission with its annual report for 2012.

**BACKGROUND**

In 1996, Congress passed legislation prohibiting the federal Legal Services Corporation from funding organizations such as Pine Tree Legal Assistance, if they provided legal representation to people with low income in class action litigation, “welfare reform litigation,” and legislative advocacy. Maine Equal Justice was formed to fill this void in legal representation of Maine’s low-income individuals and families in the legislature, the courts, and before administrative agencies.

MEJP’s mission is to find solutions to poverty and improve the lives of people with low income in Maine. We accomplish our mission through (1) public policy advocacy in the legislature<sup>1</sup> and with governmental agencies; (2) legal representation and impact litigation on systemic issues; and (3) statewide outreach and training on issues affecting people with low income and the supports that can help them prevent or move out of poverty. MEJP focuses its work on issues that affect people’s daily lives – access to adequate health care, food assistance, income supports, housing issues, fair working conditions, and higher education and training opportunities.

Maine Equal Justice’s legal work is on behalf of and informed by our primary client, the Maine Association of Interdependent Neighborhoods (MAIN). MAIN is a statewide coalition of low-income individuals and their allies, which was formed in 1980 for the purpose of creating a network of people and organizations that seek economic and social justice for Maine’s low-income families and individuals. MEJP’s staff meets monthly with MAIN members to learn about emerging issues that low-income individuals are facing and to update MAIN members about changes or proposed changes in the laws and regulations that affect public benefit programs. MEJP also holds client meetings with MAIN’s leadership team when issues arise in-between monthly meetings that require MAIN’s immediate attention.

---

<sup>1</sup> No funds from the Maine Civil Legal Services Fund are used to support MEJP’s legislative work.

The issues of concern raised during MAIN’s regular monthly and ad hoc meetings comprise the majority of the initiatives MEJP pursues in every forum necessary to accomplish systemic change in public policy. MEJP regularly seeks MAIN members to participate in administrative and legislative advocacy. Members share their stories and experiences with administrative and legislative officials and provide the “human face” on issues under consideration and in regulatory proceedings.

**INFORMATION REQUESTED by the COMMISSION**

MEJP relies upon money received from the MCLSF to support the services described below.

1. *The types of cases handled by the organization as a result of money received from the Fund;*

MEJP handles several different categories of cases, which require different levels of representation in order to provide services to the greatest number of people possible. The three types of services provided are as follows: (1) direct legal representation in the form of advice and referrals, limited and full representation to clients located statewide; (2) administrative advocacy; and (3) training and outreach.

In 2012, MEJP handled the following types of legal cases:

Case Type	# of Cases	# of MCLSF supported cases <sup>2</sup>
Consumer	11	
Education	1	
Employment (UI)	2	
Family	17	
Juvenile	1	
Health Care	168	
Housing	15	
Income Maintenance (i.e. TANF, FS, LIHEAP, SSI)	254	
Individual Rights	1	
Miscellaneous	12	
Total	482	231

<sup>2</sup> MCLS funding represents 48% of the total legal aid funding (MBF, CFJ, and MCLSF) received by MEJP in 2012.

Administrative advocacy cases:

Case Type	# of Cases	# of MCLSF supported cases <sup>3</sup>
Consumer	1	
Unemployment Benefits	1	
Health	12	
Income Maintenance (i.e. TANF, FS, LIHEAP, SSI)	9	
Total	23	11

Trainings and Outreach:

Type of Training	# of Trainings	# of MCLSF Supported Trainings <sup>4</sup>
Health Care	8	4
Employment Benefits	1	0
Immigrant Related	17	8
General Assistance	3	1
Safety net (all Public Benefit Programs)	22	11
Total	51	24

**Direct Legal Representation  
(Advice, Referrals, Limited and Extended Representation, including Impact Litigation)**

MEJP provides direct legal representation through its toll-free telephone intake system on issues involving the denial, termination or reduction of benefits under programs, including MaineCare, Temporary Assistance for Needy Families (TANF), ASPIRE, the Food Supplement Program (Food Stamps), General Assistance, low-wage worker programs, and training and educational programs. This legal work provides important input for our systemic legal work on the same subjects. These services require a thorough understanding of the state and federal statutes and rules governing the various programs as well as an on-the-ground working knowledge of the particular programs and how they are implemented. In addition to providing direct representation to income-eligible clients, MEJP also serves as a legal resource regarding these programs for other civil legal aid organizations in Maine.

In providing direct legal representation to income-eligible individuals on these subject

---

<sup>3</sup> Id.

<sup>4</sup> Id.

matters, MEJP seeks to determine whether or not a particular issue raised by a client has systemic impact, i.e. an impact on more than the single individual presenting the legal issue. Where MEJP identifies a systemic issue, MEJP works with those responsible for the oversight of these programs to make the changes necessary so that the same legal issues do not reoccur. In the rare cases where this representation is not sufficient to resolve a case, MEJP works with other civil legal aid providers and/or *pro bono* attorneys to provide more extensive legal representation.

The initial benefit of providing direct representation on an individualized basis is that individuals get the legal services they need to resolve their immediate issue. Beyond this MEJP is able, through these direct representation engagements, to maintain its “finger on the pulse” on what beneficiaries are encountering daily. This in turn enables MEJP to identify systemic issues in a timely manner, which, when corrected, benefit thousands of Maine people, thereby using limited civil legal aid resources efficiently.

In 2012, MEJP handled a total of 482 cases (this number does not include our administrative advocacy cases). Maine Civil Legal Services funds provided funding for 231 of those cases. A sample of those cases is summarized below:

#### Immigrants

During 2012, MEJP assisted lawful immigrants in a number of ways. MEJP conducted 17 trainings with various immigrant groups and organizations that serve immigrant populations, reaching a total of 525 people. In addition to these trainings, MEJP, as part of the Maine Immigrant Rights Coalition participated in community meetings serving as a legal resource regarding the public benefit programs available to assist them. These meetings also enabled MEJP to identify legal issues that immigrants in Maine are facing. Based upon these outreach efforts, including direct, limited representation, MEJP undertook a number of initiatives, including the following:

1. In April, 2012 MEJP, along with the ACLU of Maine and pro bono attorney Jennifer Archer of Kelly, Rimmel & Zimmerman, filed a class action lawsuit on behalf of the approximately 500 legal immigrants who lost their health care coverage through the MaineCare program as a result of a 2011 change in Maine law. The suit, *Hans Bruns, et al. v. Commissioner*, challenges the State law as a violation of Equal Protection. Plaintiffs have prevailed over the State’s Motion to Dismiss and are awaiting the Court’s ruling on Motions for Class Certification and Preliminary Injunction.
2. During 2012, MEJP represented a number of immigrants who were wrongfully denied other public assistance benefits. These cases included: helping Judith Busby, a legal immigrant from Scotland, whose home was being foreclosed upon ascertain assistance through the State SSI program, a little known and utilized program, which helped her address her financial problems and save her home. Through that representation, MEJP identified a number of legal problems with the program that are now being addressed.
3. MEJP put together a comprehensive summary of the eligibility requirements of public

assistance programs for legal immigrant, which DHHS is now utilizing as a desk guide for its employees as they administer these complex programs. MEJP and DHHS are hopeful that this will result in fewer erroneous determinations of eligibility.

### Unemployment Benefits

MEJP received a number of calls from unemployed workers who were financially eligible for unemployment but whose claims were being delayed due to problems with the administration of the program. MEJP informed the Maine Department of Labor that the delays violated federal and state law and MEJP threatened to sue. Maine DOL agreed to address the delays in the decision making process for all applicants and further agreed to a corrective action plan to ensure that Maine does not remain the second worst State in terms of delayed payment of claims to unemployed workers.

### Heating Assistance

MEJP became involved in a number of cases dealing with the administration of the Low Income Heating Assistance Program (LIHEAP), which serves over 70,000 low-income people in Maine. In part, these cases involved the failure of the program to provide notices and a fair hearing process in the event of a denial of assistance. The program was also erroneously denying LIHEAP to people with Intellectual Disabilities who lived in supportive housing. As a result of MEJP's advocacy, Maine State Housing adopted a fair hearing system, provided assistance to our clients living in supportive housing and has entered into negotiations with MEJP to fix other outstanding issues.

### MaineCare

In 2012, DHHS, moved to implement recently enacted legislative changes to the co-payment provisions of the MaineCare program. In seeking to enact these changes, MEJP determined that DHHS was acting in violation of federal Medicaid law in a way that threatened access to prescription drugs for over 300,000 Maine people. Each time DHHS sought to move forward with the changes MEJP threatened to sue DHHS, because of the manner in which DHHS sought to implement the changes. The result has been that DHHS has, for now, decided to not move forward with these changes.

### Food Supplement

MEJP learned through several cases in which we represented individual clients that although federal law required Maine to waive Food Supplement (formerly Food Stamp) overpayments in certain case, that, in fact, Maine had never followed this federal law. After meeting with DHHS officials and explaining our concerns, DHHS agreed to amend its current policies and procedures to ensure that those eligible for a waiver under federal law get one.

## **Administrative Advocacy**

MEJP's advocacy before administrative agencies of government arises from issues identified through the following: (1) direct client services, including our work with our primary client, the Maine Association of Interdependent Neighborhoods (MAIN); (2) community involvement and coalition work; (3) training and educational outreach activities to individuals with low income and to the agencies that serve them; and (4) participation on multiple work groups, commissions and boards related to government functions affecting our clients. The last category often requires a significant time commitment for our attorneys and policy analysts due to related legal research and analysis as well as the number of meetings scheduled. It is not unusual for MEJP's staff to collectively serve on 20-plus such bodies in any year. (Please see Appendix A for a list of the various groups in which MEJP participated during 2012.) Our presence is often requested because we (1) have expertise with regard to public benefits programs; (2) work directly with clients with low income; and (3) are strategic about how to move an issue forward. Our presence is vital to the protection of our clients' interests on a systemic level.

MEJP conducts administrative advocacy at the federal and state level in all of its focus areas. MEJP's goal is to resolve grey areas in the applicable governing statutes or regulations. By so doing we clarify eligibility and services covered, which, in turn improves the ability of other providers to more efficiently use civil legal aid resources. It also enables our clients to navigate a complex and confusing system more successfully.

In 2012, MEJP either advocated or submitted rulemaking comments at the state and federal level on a wide range of issues, including the following:

### Health Care

1. **MaineCare – Opioids, Methadone and Suboxone** – In 2012, there was new legislation restricting access in the MaineCare program to opioids for the treatment of pain and to Methadone and Suboxone to treat addiction. MEJP worked with DHHS to ensure that the new policies complied with federal law, which prohibits states from instituting lifetime limits on prescription drugs. The result is rules that follow federal law and authorize the continued use of these legal prescription medications when such continued use is “medically necessary.”

2. **Transitional MaineCare Benefits for Working Parents** – DHHS proposed cutting MaineCare benefits to working parents with incomes are between 133% and 150% of the poverty limits. As part of that proposal, DHHS proposed not extending Transitional MaineCare benefits to parents with earned income or child support income. Under federal Medicaid law, these groups of parents are eligible for up to 12 additional months of MaineCare (for parents with earned income) or 4 additional months of MaineCare (for parents with child support). The legal issue is whether these parents are only eligible if their earned income or child support income “increases” and not eligible if the income guidelines for the program are changed, as is the case here.

MEJP submitted rulemaking comments arguing that under federal law and two federal circuit court decisions, Transitional MaineCare is required even when the reason for termination of regular MaineCare is a reduction in eligibility limits and not an increase in the parents earned income or child support. DHHS recently announced that it will be providing Transitional MaineCare to approximately 6,000 parents who are no longer eligible for regular MaineCare coverage.

3. **Affordable Care Act** – Following the U.S. Supreme Court’s decision in *National Federation of Independent Business v. Sebelius*, MEJP quickly produced a summary of the impact on the decision on Maine’s Medicaid program in order to provide clarity on how this decision impacted recently enacted cuts to Maine’s Medicaid program as well as federal health care reform. In an August letter to Secretary Sebelius, MEJP asserted legal arguments based on this decision for why Maine must continue to cover low-income seniors, people with disabilities, working families and young adults, despite the Attorney General’s assertion that such coverage was no longer mandated.

#### Income Maintenance

1. **Food Supplement (FS) - Medical Expense Deduction** – In the FS program there is an underused provision that enables certain individuals, including seniors and people with disabilities, to increase the amount of assistance they are eligible for if they spend more than a certain dollar amount on medical services each month. In light of the number of client calls that we received where we identified this program would prove beneficial, MEJP created a Medical Expense Deduction form that contains client education information on one side and an easy to complete form on the other side for eligible individuals to complete and submit to the Maine Department of Health and Human Services. After the Department reviewed the form and affirmed that it was accurate, MEJP advocated for the DHHS to accept the form from FS beneficiaries as a way of streamlining the medical expense deduction request process. DHHS agreed to accept the form.

2. **Temporary Assistance for Needy Families Rulemaking** – The proposed 60-month TANF time-limit rule included a very limited set of extensions that would enable an eligible individual to remain on TANF for longer than 60 months. One of the permissible extensions was if a person was enrolled in an approved education or training program. The extension, however, was capped. MEJP believed that the extension for an approved education or training program should not have been capped, because such a cap would make it nearly impossible for someone in the Parents as Scholars program from graduating with a 4 year degree.

MEJP as well as several of MEJP’s clients, who would have been directly impacted by the new rule, testified at the rulemaking hearing and submitted written comments. As a result of this advocacy, the final rule was written without a cap on the number of extensions that can be granted for a person in an approved education or training.

3. **Public Utilities Commission Rulemaking on Termination of Utility Services to People with Serious Medical Conditions** – In August, 2012 the PUC opened an inquiry to

discuss the issue of customers with serious medical conditions who are threatened with termination of their utility services. A small work-group of utility companies and representatives of low-income consumers, including MEJP, met regularly during the fall. In a subsequent meeting with PUC staff it was agreed to move forward with rulemaking. The rulemaking would allow customers who reside in subsidized housing and who use oxygen or ventilator equipment to become eligible for the Low Income Assistance Program (LIAP) and the enhanced benefit under that program for those who use oxygen or ventilator equipment. This change in current rules will provide a substantial credit on those customer's electric bills.

### **Training, Education and Outreach**

Maine Equal Justice complements its direct legal services and administrative advocacy with education and training activities for health and social service providers at CAP agencies, Head Start programs, health centers, homeless shelters, hospitals and other organizations throughout the state. By explaining the statutory and regulatory requirements of public assistance programs to these providers, they in turn are better equipped to assist clients who turn to them for assistance. Through these targeted trainings, MEJP is able to provide critical rights and responsibilities information to a larger number of low-income individuals than we would otherwise be able to accomplish with our small staff. In 2012, MEJP conducted approximately 51 separate training events, reaching approximately 2,125 individuals.

MEJP's direct training, education and outreach is supplemented by our website ([www.mejp.org](http://www.mejp.org)), which contains a wealth of client education materials and information on MaineCare, health care reform, TANF/ASPIRE, Parents as Scholars, prescription drugs, Food Supplement, Alternative Aid, General Assistance and more. In 2012, MEJP's website served as a resource for 134,433 people, resulting in 275,412 page views.

#### *2. The number of people served by the organization as a result of the award received from the Fund;*

In 2012, MEJP opened a total of 482 cases (includes full intakes, counsel & advice and referral cases *only*) of which 231 were supported by MCLS funding.<sup>5</sup> The services impacted approximately 1221 individuals, of which 586 were assisted with MCLS funding.

These numbers, however, do not include the individuals that are impacted by our administrative advocacy, which impacts all similarly situated individuals, or our training, education and outreach efforts. The total number of cases opened and people served as well as the number of cases and people served as a direct result of MCLS funding is broken down in the chart below.

---

<sup>5</sup> MCLS funding represents 48% of the total legal aid funding (MBF, CFJ, and MCLSF) received by MEJP in 2012.

<b>Activity</b>	<b>Total # of Cases Opened/ People served</b>	<b>Cases Opened / People Served with MCLSF</b>
Full intakes – includes limited and full representation	229 cases / 606 people	110 cases / 291 people
Counsel & Advice and/or Referred	253 cases / 615 people	121 cases / 295 people
Administrative Advocacy	23 / the exact # of people impacted by systemic initiatives is unknown	11 cases / the # of people impacted cannot be accurately determined given the systemic nature
<b>Activity</b>	<b># of People Participating</b>	<b># of people served with MCLSF funding</b>
Training, Education & Outreach – 51 separate trainings and workshops	2125	1020

3. *Demographic information about the people served as a result of money received from the Fund;*

MEJP offers free legal services to individuals with income below 150% of the Federal Poverty Level (FPL). In some instances, primarily health care related matters, MEJP provides free legal services to individuals with income up to 200% of FPL.<sup>6</sup> We focus specifically on efforts to benefit:

- Approximately 9,193 families, including 15,293 children, who receive TANF benefits and 401 TANF parents receiving Parents as Scholars benefits;
- Approximately 295,145 individuals who receive MaineCare benefits;
- Approximately 44,527 individuals, including elderly and disabled individuals, who are eligible for prescription drug assistance as well as assistance with Medicare premiums, co-payments and deductibles through the Medicare Savings Program; and
- Approximately 133,254 families, representing over 252,651 individuals, who receive food stamp benefits.<sup>7</sup>

<sup>6</sup> MEJP provides free legal services for individuals with income up to 200% of the federal poverty level (FPL) with regard to health care coverage issues because Maine's MaineCare program provides health care coverage for parents up to 200% of FPL.

<sup>7</sup> The data contained in this section is from a Maine Department of Health and Human Services December report, accessed January 14, 2013, at <http://www.maine.gov/dhhs/ofi/reports/2012/geo-december.pdf> and from a January 9, 2013, DHHS presentation to the Appropriations and Financial Affairs Committee.

4. *The geographical area actually served by the organization as a result of money received from the Fund;*

In 2012, Maine Equal Justice provided legal services to individuals residing in all sixteen Maine counties.

5. *The status of the matters handled, including whether they are complete or open;*

In 2012, MEJP opened a total of 482 cases of which 231 were funded with MCLS funds. Of the 482 cases opened, MEJP closed 433. In addition, MEJP opened 24 administrative cases with 5 completed during 2012.

6. *Whether and to what extent the recipient organization complied with the proposal submitted to the Commission at the time of application for funds.*

MEJP complied in all respects with the proposal submitted in October 2011. MEJP has maintained all services described in the proposal. If we deviated from our proposal at all, it was to expand the breadth and depth of the number of issues we undertook.

7. *Outcomes measurements used to determine compliance.*

The proposal submitted for 2012-2013 is based upon the core legal representation and substantive work that MEJP pursues; therefore, we evaluate our work using outcome measurements that reflect our ability to achieve systemic reform.

- Brief services, advice, referrals and extended representation: MEJP measures its success by the number of cases resolved favorably and in which litigation was avoided through negotiation.
- Administrative Advocacy: MEJP measures its success by the extent to which its rulemaking comments are accepted in whole or in part; by the implementation of policy changes made at the administrative level that improve the lives of low-income people; the number of task forces, work groups and commissions MEJP is appointed to or asked to participate on as a result of our expertise and knowledge; and the number of requests from the State for MEJP's analysis and assistance with meeting federal requirements.
- Training, Outreach and Education: MEJP measures its success by the extent of its outreach and training activities throughout the state and the number of individuals trained during the year. MEJP receives more requests for trainings than it can actually provide. The reason MEJP's trainings are so widely sought after is due to our public benefit program expertise as well as our up-to-date information regarding recent changes to the programs. MEJP's training and outreach sessions are requested and or attended by a diverse number of organizations, including but not limited to, social service providers, family practice residency programs, provider associations, community actions programs, homeless shelters, tenants organizations, domestic violence programs, Head Start parent groups, seniors, disability rights groups,

immigrant communities and coalitions, municipal representatives and grass root coalitions. The evaluations sheets submitted by workshop and training participants in 2012 were extremely favorable and underscored the need for MEJP's expertise and knowledge within the local communities throughout the state.

8. *Information particular to each recipient organization regarding unmet and underserved needs.*

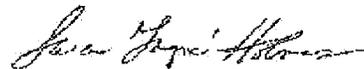
Maine Equal Justice Partners receives funding from the MCLSF, the Maine Bar Foundation, the Campaign for Justice (a joint collaboration of six civil legal aid providers) as well as individual donations and grants from Maine and national foundations. Over the last several years, we have seen a significant decrease in our core legal aid funding due to low interest rates and lower than anticipated MCLSF collections. While MEJP's funding from these sources decreased in 2012, demand for our services continues to increase due to Maine's slow economic recovery. The need for our services will continue to increase as federal and state fiscal issues result in additional comprehensive changes to eligibility and other criteria within Maine's safety net programs, which leave many individuals and families with low-income confused and misinformed about where they can turn for assistance.

As reported in MEJP's 2011 Annual Report, systemic consumer and housing law issues continue to go unmet. The consumer law area is of particular concern to MEJP, because there is no agency currently handling systemic consumer law issues in Maine. In order to expand our representation into these areas, MEJP would need to hire a full time employee with expertise in these areas. At this time, our funding is insufficient to sustain an additional position.

### CONCLUSION

In 2012, legal aid funding available to organizations providing civil legal aid services continued to decline for the third straight year. As a result, the funding MEJP receives from the MCLSF is vital to our ability to pursue systemic reform on behalf of Maine's most vulnerable people. Quite simply, without MCLSF the level and breadth of services MEJP currently provides would be decimated. We are grateful to MCLS Commission for making the work of MEJP possible. On behalf of the Board, staff, and clients of Maine Equal Justice, we thank the Commission for its continued support.

Respectfully submitted:



Sara B. Gagné-Holmes, Esq.  
Executive Director

## APPENDIX A

The bulleted items listed below represent work groups, advisory committees, coalitions and boards that MEJP staff actively participated in during 2012. Although these commitments consume a great deal of time; it is vital that we participate in these forums as we are often the only public benefit experts serving and, more often than not, the only consumer voice for low-income individuals at the table. The relationships and information gained from serving enables MEJP to build broad coalitions and shape systemic policy reform that benefit Maine people with low income.

### Health Care

- Maine Health Access Foundation Board of Trustees (Vice Chair)
- MaineCare Advisory Committee (MEJP chaired this committee)
- Campaign for Better Care – promoting patient involvement quality of care
- Health Care For Maine Steering Committee
- MaineCare Non-categorical Workgroup
- MaineCare Managed Care Stakeholders Advisory Committee

### Oral Health

- Maine Dental Access Coalition
- Oral Health Advisory Committee (related to the Dental Bond RFP)

### Housing

- Tedford Housing Board of Directors

### Legal

- Maine Civil Rules Advisory Committee
- Maine State Bar Association Board of Governors
- Campaign for Justice Steering Committee
- Justice Action Group (JAG) (non-voting member)
- Advisory Committee of Providers to the JAG

### Poverty

- Maine Council of Churches' Policy Committee
- Temporary Assistance to Needy Families Advisory Council and Parents as Scholars Subcommittee
- Maine State Portal Steering Committee (creating a State portal by which people can apply for public benefits electronically)

### Social and Economic Security

- Coalition for Maine Women
- Maine Can Do Better Steering Committee
- Working Families Coalition
- Maine Immigrant Rights Coalition



**Maine Volunteer Lawyers Project  
Report to the Maine Civil Legal Services Fund Commission  
January 2013**

**Overview**

The Maine Volunteer Lawyers Project (VLP) is pleased to submit this year-end narrative report on its operations and services provided to Maine people with low incomes during 2012. Funding from the Maine Civil Legal Services Fund (MCLSF) enabled VLP to continue to provide a wide range of legal services to thousands of clients and to further develop access to services despite a continuing decrease in overall funding and staffing levels.

VLP was formed in 1983 as a joint project of the Maine Bar Foundation and Pine Tree Legal Assistance for the purpose of organizing, encouraging, and coordinating the *pro bono* efforts of private attorneys on behalf of Maine people with low incomes facing civil legal problems. VLP services are generally limited to Mainers whose gross household incomes are at or below 200% of the federal poverty guidelines and whose net incomes following the deduction of certain basic living expenses fall at or below 125% of the federal poverty guidelines. Clients are also subject to asset limitations based on household size. (These eligibility requirements are determined by the federal Legal Services Corporation which provided approximately 20% of VLP's overall funding in 2012.)

VLP has three broadly stated goals:

- to maximize private bar involvement in providing *pro bono* legal representation and assistance to low-income clients;
- to focus VLP services on the most pressing legal needs of clients; and
- to give all individuals contacting the VLP some meaningful information and assistance with their legal problem

VLP has been a recipient of MCLSF funding since the Fund's inception in 1998. In addition to supporting the Project's overall provision of client services, MCLSF funding is also used to support *pro bono* representation for a number of clients with particularly compelling cases, who do not meet the restrictive criteria imposed by other funding sources. These clients, for example, may have incomes minimally above federal poverty and deduction guidelines or may be victims of domestic violence without meaningful access to family assets. MCLSF funding also may be used when a private attorney contacts VLP requesting permission to provide *pro bono* representation to a particular client who falls within VLP's service priorities but again does not meet the letter of VLP's traditional eligibility requirements.

## Services

Initial requests for assistance are made through a statewide telephone intake line staffed by non-attorney volunteers and supervised by VLP staff in its main Portland office. Intake volunteers screen all prospective clients for eligibility and provide every caller with legal information relevant to their problem together with referrals to other organizations where appropriate. Some callers may also receive written legal education materials developed by Pine Tree Legal Assistance for people living in Maine.

Participating *pro bono* attorneys, (and supervised law students), provide limited (unbundled) legal services through several special VLP initiatives: the Family Law Helpline, the Domestic Violence *Pro Bono* Panel, the Court House Assistance Project (CHAP), and the Penobscot Clinic. Clients for the Helpline and Penobscot Clinic are referred by VLP intake volunteers; the clients for the Domestic Violence Pro Bono Panel and CHAP are typically self-referred during Court hours. All Clinic services are also supported by undergraduate student volunteers from various colleges, (including Bates, Bowdoin, USM and Husson University among others), who provide invaluable help with “on the ground” organization and intake.

In addition, VLP utilizes attorney volunteers to refer cases for full *pro bono* representation, (and occasionally for unbundled service), to private attorneys around the state both from its Portland office and from a satellite office in Bangor. Cases are chosen for referral for *pro bono* representation, based on a series of service priorities which are periodically reviewed by the VLP Advisory Committee and staff. In general, these priorities are designed to meet the most pressing needs, to ensure that VLP’s services complement the assistance provided by Maine’s other legal service providers, and to maximize the impact of donated legal services.

In 2012, MCLSF funds represented 14.6 % of VLP’s total funding.

### Cases Handled in 2012

In 2012, VLP staff or volunteers provided service in **4,362** cases:

- Hotline volunteers provided **legal information** to clients in 1126 cases
- *Pro bono* attorneys provided **limited representation** in 1917 cases
- *Pro bono* attorneys provided **full representation** in 1163 cases
- Cases pending for *pro bono* service: 156 cases

Total: **4362**

While MCLSF funds support all of VLP’s work, service was provided in 415 of the above cases using specially designated MCLSF funds only.

VLP opened **3,325** new cases in 2012, which break down into the following law categories:

<b>Case Type</b>	<b>Total Cases Handled</b>
<b>Consumer</b>	260
<b>Education</b>	6
<b>Employment</b>	34
<b>Family</b>	2511
<b>Juvenile</b>	70
<b>Health</b>	1
<b>Housing</b>	114
<b>Income Maintenance</b>	256
<b>Individual Rights</b>	9
<b>Miscellaneous (Torts, licenses, wills &amp; estates, etc.)</b>	64
<b>TOTAL</b>	<b>3,325</b>

**Clients Served in 2012**

- VLP’s direct services benefited 4,362 Maine households and benefited an estimated 12,000 individuals. The average annual household income was \$14,946 and the median annual household income was \$12,852.
- The average age of a client at intake was 40.5 years.
- 88.5% of clients identified as White, 4.1% as Black, 3.2% as Native American 1.2% as Asian, and 2% as Hispanic.
- 40% of households had at least one person with a disability.
- 4.6% were veterans and .5% were active military.
- 65% of clients were female and 35% were male.
- About 5% of clients did not speak English as a first language

### **Geographic Areas Served in 2012**

Geographic distribution of VLP clients shown by county:

<b>County</b>	
<b>Androscoggin</b>	11.9%
<b>Aroostook</b>	1.7%
<b>Cumberland</b>	28.4%
<b>Franklin</b>	1.3%
<b>Hancock</b>	2.9%
<b>Kennebec</b>	10.4%
<b>Knox</b>	1.6%
<b>Lincoln</b>	1.4%
<b>Oxford</b>	3.5%
<b>Penobscot</b>	13.9%
<b>Piscataquis</b>	0.6%
<b>Sagadahoc</b>	1.9%
<b>Somerset</b>	2.3%
<b>Waldo</b>	2.2%
<b>Washington</b>	2.4%
<b>York</b>	13.2%

(Out of state 3.1% / Unknown 4.4%)

### **Unmet Need**

Most qualifying clients who receive an intake would benefit from full representation, but VLP is able to provide less than one in four with that service because of lack of resources. Further, VLP is aware of a bottleneck in our system wherein we do not have the resources to expand our phone intake to accommodate more than the 2,500 plus phone intakes that we already conduct each year. To mitigate some of this problem we have set up special phone lines for unemployment compensation and probate issues, where we are confident of having pro bono capacity in the Bar. In addition, VLP is able to provide some "court panel" pro bono service for victims of domestic violence, who are referred at court for help with protection from abuse. Most of these underserved clients, however, are seeking help with Family Law. VLP is well positioned to help clients with low incomes who need help in Family Law, because as a referral project, VLP can find different pro bono attorneys for each party, so avoiding the conflicts that arise in other direct legal service programs with family law assistance. VLP has been able to respond to the increasing number of

unrepresented family law litigants by creating limited representation family law projects that offer meaningful service to many clients, including courthouse clinics. In fact, client numbers rise in every county where a family law courthouse clinic is opened because these clinics are a walk in service, which provides immediate access to pro bono assistance. In the past few years, VLP has started to collaborate with public libraries across the state to work on providing wider geographical access to pro bono legal services, and in 2013 VLP will be starting our first “Skype” clinics, connecting clients in libraries with pro bono lawyers around the state. Still, VLP lacks the resources to respond to all callers, to provide full representation to all clients who fit within our priorities, or to set up clinics in more courthouses around the state where more people could have access.

### **Compliance of Services Delivered to Services Proposed**

In its application to the Maine Civil Legal Services Fund for 2011, VLP proposed using its MCLSF Funding to support general legal services to clients from around the state in all areas of law and at all levels of service including: brief legal assistance via the Hotline; limited representation via the Family Law Helpline and clinic projects, and full *pro bono* representation provided by volunteer attorneys. As reported above, VLP provided unbundled and full representation, as well as legal information and referrals, to clients across Maine, including service from the Bangor office, and in a wide variety of legal areas. Client services supported by MCLSF funding ranged from the provision of brief information and assistance to extended representation in cases that will continue well beyond 2012. While VLP was not able to increase the number of clients served as has been possible over the last few years, VLP was able to maintain services at a high standard continue a high level of client intake, despite decreasing income from IOLTA and LSC which necessitated the loss of one full time staff position. VLP has done this through innovative programming and increased efficiency, all supported by MCLSF funding.

### **Outcomes Measures Used to Determine Compliance**

VLP utilizes a number of systems and measures to document information about the clients it serves, case types and outcomes. An intake interview which includes the collection of demographic, geographic, eligibility and case data is conducted for each case and the client and case data is entered into VLP’s computerized case management system, Practice Manager. Starting at the beginning of 2010, VLP switched to new case management software, Legal Files, as part of technology collaboration with other legal service providers in Maine. Each case continues to be assigned codes indicating law type, funding source, level of service provided (including the total number of volunteer and staff hours) and, at the time of the case’s completion, case outcome. Clients selected for service from a volunteer attorney must submit additional documentation including a signed financial and citizenship eligibility form.

For cases referred to volunteer attorneys, VLP requires regular reporting on case progress including the number of hours donated and the final case outcome. Case reporting forms are sent to volunteer attorneys three times per year and attorneys who do not report regularly are contacted by staff to ensure the case is progressing appropriately. Additionally, VLP staff maintains contact with all clients with cases open with volunteer attorneys.

**Conclusion**

By organizing donated services of private attorneys and community volunteers, and by pioneering new service models, VLP is able to leverage extraordinary levels of legal service for Maine people. VLP continues to work on increasing opportunities to provide *pro bono* service while, at the same time, increasing the number of people able to access these services. In 2012, the value of services donated to clients with low incomes under the auspices of VLP again exceeded \$2 million, providing almost \$2.5 of service for every \$1 in funding actually received. MCLSF funding was critical to supporting VLP in 2012 in its efforts to maintain and improve the delivery of legal services through the work of volunteers, and in VLP's efforts to expand limited representation projects that enable VLP to efficiently help a greater number of Mainers people with low incomes.

Respectfully submitted,

Juliet Holmes-Smith  
Director  
Maine Volunteer Lawyers Project



# PENQUIS

Helping Today • Building Tomorrow

**To: Maine Civil Legal Services Fund Commission**  
**From: Penquis Law Project**  
**Date: January 14, 2013**  
**Re: Annual Progress Report, January-December 2012**

## OVERVIEW

The Penquis Law Project is a program operated by Penquis. It was established in 1995 in response to a grassroots effort to help meet the civil legal needs of the poor. The mission of the Law Project is to assist low-income individuals, primarily victims/survivors of domestic violence, dating violence, sexual assault and stalking, to become safe, self-sufficient community members through access to free civil legal assistance. The Penquis Law Project primarily serves individuals who have experienced or are experiencing domestic violence, dating violence, sexual assault and/or stalking. Assistance is available for protection orders; family matters such as divorce, parental rights and post-judgment cases; as well as other civil matters related to sexual assault and stalking. The Law Project currently serves Penobscot and Piscataquis counties.

Without access to free civil legal services, many victims would be unable to navigate the civil legal system on their own. While some individuals without complex legal issues may be able to proceed without an attorney or *pro se*, other individuals face complex legal issues which may prevent them from proceeding *pro se*, or some individuals may be too intimidated by their abuser or perpetrator to enter a courtroom alone. Individuals can easily be re-victimized by an intimidating legal system, and some may choose to drop their case rather than proceed on their own. Law Project attorneys provide individualized representation to clients, as well as one-time consultations to individuals who are ultimately able to handle their legal matters *pro se*.

## ANTICIPATED RESULTS

The Penquis Law Project seeks to increase physical, emotional and economic safety for Penobscot and Piscataquis county residents – particularly those who have experienced or are experiencing domestic violence, dating violence, sexual assault or stalking – by providing civil legal assistance, primarily in matters of family law, to individuals who would not otherwise be able to access these services.

## LAW PROJECT

---

262 Harlow Street (207) 973-3671  
PO Box 1162 Fax (207) 973-3699  
Bangor, Maine 04402 TDD (207) 973-3520  
www.penquis.org 1-800-215-4942

## **Client Impacts**

*Representation:* Attorneys represent clients throughout the court process, including preparing filings, court appearances, and negotiations. Clients will receive a final court order, usually an Order for Protection, Divorce Judgment, Parental Rights and Responsibilities Order, or an Amended/Modified Judgment or Order (post-judgment modification of an original judgment or order). Final orders may include a child support order, primary residence and visitation schedule, division of debts and personal property, division of real estate, and an award of spousal support, if appropriate. Clients who chose to dismiss their case and reunite with their abuser or perpetrator will receive information and support and the option to reengage in services when the client is ready to proceed with their case.

*One-time Consultation:* Attorneys meet one time with an individual to answer questions about the legal process and/or help an individual complete court forms. Individuals receive answers to their legal questions and thus are better able to proceed *pro se*.

## **Projected Outcomes**

*Initial Outcomes:* Individuals who are victims of domestic violence, dating violence, sexual assault or stalking and would otherwise be unable to afford or have access to an attorney receive direct representation and are therefore able to successfully negotiate the court process.

*Intermediate Outcomes:* Clients increase their physical, emotional, and economic safety.

*Long term Outcomes:* Clients maintain their physical, emotional, and economic safety.

## **PROGRESS REPORT**

In our 2011 application to the MCLSF we proposed to serve Penobscot and Piscataquis counties with a staffing structure consisting of two full-time attorneys, a part-time Directing Attorney and part-time legal secretary. We were fortunate to be fully staffed throughout the year. While our most experienced attorney, who filled the role of Lead Attorney, left the Law Project at the beginning of August, we were fortunate to hire a new attorney who started later that month. The other attorney, who has been at the Law Project for several years, was promoted to Lead Attorney.

One of the unique aspects of the Law Project is that our priority population is individuals who have experienced or are experiencing domestic violence, dating violence, sexual assault or stalking. In order to ensure that our services are sensitive to issues of violence all staff are required to take domestic violence and sexual assault trainings to learn the dynamics of domestic violence and sexual assault, including power and control and trauma. Since being hired our new attorney has completed 40 hour advocacy training at Rape Response Services, the sexual assault victim services center serving Penobscot and Piscataquis counties, and has

begun her 40 hour training at Womancare/Aegis Association, the domestic violence project serving Piscataquis County.

During the year we continued our efforts to promote access to our services, particularly for rural populations in our service area. We have continued our “attorney for the day” program on Order for Protection (“PFA”) days in the Dover-Foxcroft District Court, which began in 2010. An attorney from the Law Project is available for the Judge to refer unrepresented litigants for limited representation that day. This has allowed us to reach individuals we may not have served otherwise; some have been served for their PFA only and others have subsequently entered into extended representation. We also provided weekly office hours at Womancare/Aegis Association and provided office hours in Lincoln as needed.

In 2012, the Law Project was also successful in securing funding for unmet client needs and costs such as witness fees, fees for medical records, and *guardians ad litem*, expenses that most clients are unable to afford on their own. We received an award of \$3,200 from the Francis Hollis Brain Foundation.

As proposed, funds from the MCLSF provided crucial operating support to the Law Project as a whole. The total number to be served by the Law Project was estimated at 275; this year we served at total of 286.

**1.) Types of cases handled as a result of money received from the Fund:**

The table below details the number and types of cases handled by Law Project attorneys in 2012. Some individuals had more than one case type. Individuals with more than one case type may have a protection order and another family matter, may have pending actions against more than one opposing party (i.e. the current husband and a prior boyfriend) or may have an initial action and then a post-judgment action.

<b>Case Type</b>	<b>Rep.</b>	<b>One-times</b>
Divorce	55	40
Protection from Abuse	36	22
Parental Rights	29	22
Post-judgment	38	68
Other	0	4
Total Case Types	158	156

**2.) Number of people served as a result of money received from the Fund:**

The attorneys served a total of 286 unduplicated individuals. There were 146 clients who received representation and 140 individuals who received one-time consultations. There were 147 one-time consultations delivered because some individuals received more than one consultation during the year or received a consultation and then later became a client. 99 clients were newly served and the rest were carried over from the previous year.

**3.) Demographic information about the people served as a result of money received from the Fund:**

<b>Demographics</b>	<b>Rep.</b>	<b>One-times</b>
<b>Age</b>		
Under 18 years	0	0
18-24 years	21	18
25-59 years	122	115
60+ years	2	3
Unknown	1	4
<b>Gender</b>		
Female	140	136
Male	6	4
<b>Race</b>		
White	138	120
Hispanic	2	3
Black or African American	1	0
American Indian	4	2
Asian	1	2
Native Hawaiian/Pacific	1	0
Unknown	0	14
<b>Housing</b>		
Rent	86	66
Own	28	39
Other (includes staying w/ relatives, friends)	27	33
Homeless	1	1
Unknown	4	1
<b>Health Insurance</b>		
MaineCare	113	89
Other Insurance	16	30
No Insurance	13	19
Unknown	4	3
<b>Disabled</b>	32	38
<b>With Minor Children</b>	125	112
<b>Income Level</b>		
≤ 75% of poverty	84	81
≤ 100% of poverty	17	16
≤ 125% of poverty	12	12
≤ 150% of poverty	13	5
≤ 175% of poverty	9	5
≤ 200% of poverty	3	12
At or above 200% of poverty	1	2
Unknown	7	7
<b>TOTAL PERSONS</b>	<b>146</b>	<b>140</b>

All clients have experienced some form of victimization. The overwhelming majority of individuals receiving one-time consultations have experienced domestic violence, dating violence, sexual assault, or stalking – 116 or 83% of those served. Occasionally, attorneys provide one-time consultations to individuals who have not disclosed that they have experienced violence but have disclosed a reason that might make it particularly difficult for them to proceed without assistance, such as a mental health issue, a teen parent, or extremely limited financial resources. We also may meet with an individual who has not disclosed some type of victimization when providing office hours out in the community. MCLSF funding allows us this flexibility to serve some individuals who may not otherwise be eligible under our other funding sources.

**4.) Geographical area actually served as a result of money received from the Fund:**

While we primarily practice in the District Courts in Penobscot and Piscataquis counties, individuals served sometimes reside in other areas of the state or move while their case is pending.

<b>County of Residence</b>	<b>Rep.</b>	<b>One-times</b>
Androscoggin	0	1
Hancock	2	1
Kennebec	3	1
Knox	3	5
Lincoln	0	1
Penobscot	92	91
Piscataquis	41	35
Somerset	0	2
Washington	1	0
Waldo	1	2
Out of State	3	1
<b>TOTAL</b>	<b>146</b>	<b>140</b>

**5.) The status of the matters handled, including whether they are complete or open:**

Of the client files, 99 were closed by the end of December 2012. 47 clients remained open as of January 1, 2013.

Of all client files closed, 79 clients received a final order in at least one of their pending matters. Additional outcome information will be described in number #7. Of the other clients who did not receive a final order, most closed because the client reconciled with their abuser at some time during the case. Other reasons for the case closing include the client losing contact with us resulting in the case never being filed or the attorney withdrawing from a pending matter, the client deciding not to move forward with or to dismiss their case, or the client or attorney withdrew for various other reasons.

**6.) Whether and to what extent the recipient organization complied with the proposal submitted to the Commission at the time of application for funds:**

The Law Project provided services as described in its application. We proposed serving 275 individuals annually, 125 individuals through representation and 150 through one-time consultations; 286 were served during this time period, 146 through representation and 140 through one-time consultations. Outcome data demonstrates the positive outcomes for clients served.

**7.) Outcome measurements used to determine compliance:**

The following table describes the projected and actual outcomes for calendar year 2012, with associated indicators, measurements, and data sources. Data confirms that we have substantially met or exceeded our projected outcomes.

<b>Outcomes</b>	<b>Indicator</b>	<b>Projected</b>	<b>Actual</b>	<b>Data source:</b>
<u>Initial Outcomes:</u> Individuals who are victims of domestic violence and would otherwise be unable to afford or have access to an attorney will receive direct representation and will therefore be able to successfully negotiate the court process.	Percent of individuals who meet with an attorney at an initial consultation gain access to representation and enter into the attorney/client relationship	85%	95% (99)	The Law Project keeps records regarding those individuals we have met with. Files are maintained for each client.
<u>Intermediate Outcomes:</u> Clients will increase their physical, emotional and economic safety.	Percent of clients who seek an interim order for child support, spousal support or to address a specific property issue will receive the interim order.	90%	94% (29)	(1) Closed Client Survey* (2) Closed Client Form**
	Percent of clients who seek an interim order granting them primary residence of their children will receive the interim order.	92%	85% (29)	
	Percent of clients who report that threats or abuse were less during involvement with the Law Project than previously	70%	90% (9)	
	Percent of clients who report that their involvement with the Law Project made them feel more in control of the process	80%	100% (11)	
<u>Long term Outcomes:</u> Clients will maintain their physical, emotional and economic safety.	Percent of clients who seek a final order for child support, spousal support or to address a specific property issue will receive the final order.	90%	96% (53)	(1) Closed Client Survey* (2) Closed Client Form**
	Percent of clients who seek a final order granting them primary residence of their children will receive the final order.	95%	96% (50)	
	Percent of clients who report that threats or abuse were less after involvement with the Law Project than previously	80%	80% (8)	
	Percent of respondents to a Closed Client Survey reported that utilizing the Law Project helped them to feel that the court process was manageable.	100%	100% (11)	
*Closed Client Survey: Number or percent will be based upon the answers of those clients who choose to complete and return the anonymous survey; **Attorneys fill out a Closed Client Form based upon information contained in the client file and the attorney's observations				

**8.) Information particular to each recipient organization regarding unmet and underserved needs:**

The Law Project secretary conducts an intake and completes an intake sheet with all individuals who call the Law Project who may be eligible for services. For example if a caller immediately identifies that he or she seeks a criminal attorney for an OUI, no intake is done and the caller is referred elsewhere. Otherwise, an intake is done whenever the caller may possibly be eligible for services. Each intake is run through our conflicts database and reviewed by the Directing Attorney or Lead Attorney. Every individual receives a call back and is referred to other resources if we are unable to assist. In 2012, there were 459 Law Project intakes, 239 of whom were served. Individuals may not be served for a variety of reasons such as a conflict of interest, no history of victimization, living out of the service area, choosing to decline an appointment when one is offered, or because caseloads are full. But, this volume of callers speaks to the number of individuals in our area who are seeking civil legal assistance, primarily in the area of family law.

**CONCLUSION**

The MCLSF's support of the Penquis Law Project provides us with crucial funding and has a measurable impact on the lives of those experiencing violence.

*"I was so happy with how helpful the Law Project was- by standing by me."*

*"My lawyer was very helpful and explained things to me so I could understand what was going on."*

*"Knowing I had someone there, fighting for me. That alone took a lot of stress off me and allowed me to see I can do it on my own, without my ex. He was very controlling and always thought I couldn't do things or be able to live on my own. I got my confidence back through this process."*

*--former Law Project clients*

Thank you for helping to increase access to free civil legal assistance and making the safety of Maine families a priority. For any questions regarding the Penquis Law Project or outcomes resulting from MCLSF funding, please contact me at 973-3671 or [tmathieu@penquis.org](mailto:tmathieu@penquis.org).

Respectfully submitted,



Tamar Perfit Mathieu  
Directing Attorney  
Penquis Law Project

PTLA  
REPORT

**Pine Tree Legal Assistance**  
**Report to the Maine Civil Legal Services Fund Commission**  
**January 2013**

**Overview**

Pine Tree Legal Assistance was established as a statewide nonprofit corporation in 1966 by local attorneys concerned about the lack of coordinated legal services for low-income individuals in Maine. Today, Pine Tree is the oldest and largest statewide legal aid provider in Maine, providing free civil legal assistance in thousands of cases every year where it can make a difference in meeting basic human needs or in enforcing basic rights, including access to housing, food, income, safety, education, and healthcare.

With six neighborhood offices strategically located throughout Maine, services are accessible to Mainers throughout the state. Offices located in Augusta, Bangor, Lewiston, Machias, Portland, and Presque Isle are accessible to clients via walk-in and telephone. This structure reflects Pine Tree's commitment to local access and reducing barriers to services. Pine Tree's intake system allows new clients multiple points of entry by phone or in person (rather than just relying on a single 1-800 number answered in a single location.) The intake system is accessible in 9 different languages; local offices comply with ADA requirements. At a time when many organizations have abandoned a local presence in favor of centralized offices in a single place, Pine Tree's structure assures that its staff and advocates can reach any court in the State within roughly an hour's drive, and stay attuned to local needs and resources.

In addition to general field offices that handle a wide range of legal needs, Pine Tree has developed specialty units to address the unique needs of specific populations or to handle specific legal issues. These include:

- The Employment/Farmworker Unit is based in Bangor but operates statewide to provide legal assistance to individuals with legal issues related to wages or the workplace, including migrant farmworkers;
- The Native American Unit is based in Machias but operates statewide to provide legal assistance to Native Americans who are members of Maine's four federally recognized tribes, as well as off-reservation tribal members;
- KIDS LEGAL is based in Portland but provides services statewide; it provides legal assistance focused on the special needs of low-income children;

Legal services range from simple advice and brief service to negotiations and include full representation in the most serious cases. In an effort to make the legal system more accessible to all Mainers, Pine Tree has developed hundreds of user-friendly explanations of laws and self-help tools, written in plain English at an 8th grade reading level, which are available online at its program websites (including [www.ptla.org](http://www.ptla.org), [www.kidslegal.org](http://www.kidslegal.org), [www.helpmelaw.org](http://www.helpmelaw.org), and [www.statesidelega.org](http://www.statesidelega.org), Pine Tree's newest website that addresses the legal needs of veteran and military service members.) These websites reflect Pine Tree's national reputation for high quality web-based resources.

Pine Tree is a valuable community resource in the state, providing community education and outreach and working with other stakeholder groups that serve low income people, including social service providers, members of the private bar, and the court system.

Pine Tree's general services are structured to respond to the areas of highest need for assistance and the lack of other available resources in the local community to meet those needs. Program wide priorities are established by a 26-member Board of Directors that includes lawyers and low-income representatives from around the State. Pine Tree staff also actively participate on statewide and local initiatives designed to address systemic justice concerns, serve as trainers for social service agencies, the Courts and the private bar, and work closely with other members of the legal service community.

In general, Pine Tree's clients are individuals whose household income after certain deductions is at or below 125% of the federal poverty guidelines, and whose assets do not have a value in excess of \$3,000 (depending on the size of the household.) MCLSF funding is used to provide services to some low-income individuals with critical legal needs whose incomes fall outside usual criteria – for instance, to provide legal services to victims of domestic violence who are not able to access other legal help. Pine Tree does not discriminate based on race, color, sex, sexual orientation, creed, national origin, age, religion, political affiliation or belief, or disability. However, funder restrictions do not allow Pine Tree to provide legal assistance to undocumented aliens and certain non-US citizens except in cases of domestic violence.

The intake process routinely includes questions about household income and assets, as well as citizenship status, all of which are documented on the computerized case management system. No fees are charged for services but clients are asked to pay for the costs of litigation where feasible.

Because Pine Tree has been in continuous operation since 1967, it has developed a unique place in the State's justice system. It is recognized nationally as one of the country's best legal service providers -- a reputation that reflects the impressive list of legal victories secured in Maine through Pine Tree advocacy AND its ability to attract, support and retain high quality staff.

Pine Tree's diverse staff includes several attorneys with 15 – 30 years of experience as legal service advocates as well as recent judicial clerks and other attorneys with 1- 7 years experience with the program. (The average Pine Tree staff attorney has 14 years of legal experience.) Pine Tree is committed to strong support and mentoring of its entire staff, and relies on its existing managers in local offices, as well as its Director of Training and Litigation, to provide this support. The program offers ongoing in-house training and access to formal CLE programs on a regular basis. Pine Tree advocates are encouraged to develop effective working relations with community organizations and client groups in their service areas and to pursue issues of special interest that will strengthen their ability to serve our clients.

Pine Tree has been a recipient of MCLSF funding since 1998 when the Fund first became available to support civil legal services to low-income and needy individuals. MCLSF funding is also used to leverage funding support from other sources.

## **Types of cases handled in 2012**

The types of cases handled by Pine Tree reflect its commitment to prioritizing cases where legal assistance can make a difference in meeting basic human needs or in enforcing basic rights. While the database for calendar 2012 is still being finalized, the staff of Pine Tree Legal Assistance handled a minimum of 7,386 cases during the year with all sources of funding, including some support from MCLSF. This total included the following:

- 703 consumer matters
- 217 education matters
- 493 employment matters
- 929 family law cases (including domestic violence)
- 84 juvenile issues
- 165 health law cases
- 3,898 housing issues (including foreclosure)
- 731 income maintenance issues

A total of 382 cases were funded exclusively with MCLSF funding:

- 73 consumer matters (e.g., debt collection)
- 16 employment cases
- 14 family law
- 15 health law cases (e.g. Maine Care eligibility)
- 199 housing issues
- 50 income maintenance cases (e.g., food stamps and Social Security)
- 11 individual rights

## **Number of people served as a result of MCLSF funding**

Preliminary data suggests that Pine Tree's direct legal services benefited a total of 18,130 individual in 2012, including 850 whose cases were supported exclusively with MCLSF funding and 17,280 whose legal services were supported in part with MCLSF funding.

In addition to direct legal services to individual clients, some MCLSF funding had been used to support a range of other important services. In 2012, these services included:

- 3,042 individuals who were trained by Pine Tree staff during a wide range of presentations and programs around the state,
- 3,684 "hard copies" of self-help materials or other legal education tools created by Pine Tree, and distributed in person;

- 5,949 case consultations with low-income individuals who were ultimately referred to other resources (legal or otherwise) to address their problem;

Pine Tree's popular websites ([www.ptla.org](http://www.ptla.org), [www.kidslegal.org](http://www.kidslegal.org), [www.helpmelaw.org](http://www.helpmelaw.org) and [www.statesidelegal.org](http://www.statesidelegal.org)) continued to provide important legal information and self-help tools to people in Maine and around the country. Website traffic continued to outpace legal aid sites in far more populous States and kept Pine Tree in the "top ten" of Google searches for legal aid services, including 2.2 million "page views" of website content in 2012 and a total of 711,202 "unique visitors" to the websites.

Stateside Legal continues to attract visitors from all 50 states and more than 135 foreign countries for its national content on laws and benefits specific to military and veteran households. This specialized national website is also very important to Maine families because the State ranks third in the country in the percentage of Maine residents who are its population who are veterans.

### **Demographic information about people served because of MCLSF funding**

As noted earlier, MCLSF funds were the sole source of support for legal representation to 382 low-income Maine households in 2012. The average age of the MCLSF client was 43 and 58% of the group were women. Thirty six percent of these client households included at least one person with a disability. Almost six percent of client households included a veteran or current service member.

MCLSF funds also provided partial support for an additional 7,004 cases handled by Pine Tree staff. As with cases funded exclusively by MCLSF, Pine Tree's "typical" client for representation in 2012 was a single parent household with at least one young child, although people of all ages and household compositions were included in the service mix. Because of Pine Tree's statewide service area and role as a "first resort/last resort" provider, several other characteristics defined 2012 clients:

- 44% included at least one person with a disability;
- The average household had income significantly below the federal poverty guidelines for Maine in 2012 (an average of \$14,174/year);
- 8% had past or current military service;
- Legal work benefitted 7,130 children
- Victims of domestic violence and sexual assault were again prioritized during 2012, both in southern Maine where special grants provided support, and in northern and eastern Maine where there are few other legal resources available to provide this help.

In addition to providing individualized legal services, Pine Tree conducts outreach activities throughout the state to promote access to justice. For instance, the tiny staff of the Migrant Farmworker Unit continued to conduct outreach to migrant workers in Maine for a range of seasonal harvest activities:

- 756 workers received legal information or consultations during outreach to 73 different labor camps through Maine;
- 1,787 copies of an innovative “Harvest Calendar” were distributed at the camps, (combining easy-to use legal information in Spanish and English with a calendar suitable for recording work hours)
- 339 newsletters were distributed at the camps addressing the laws impacting on H-2A workers as part of a regional collaboration in New England.

Similarly, the Native American Unit staff conducted regular outreach to all of Maine’s tribal communities in Maine in 2012, allowing Pine Tree to provide responsive services to low-income members of the Penobscot Indian Nation, Passamaquoddy Tribe, Houlton Band of Maliseets, and Aroostook Band of Micmacs. The Unit also distributed over 3,452 issues of “Wabanaki Legal News” (addressing important legal developments for Maine’s tribal populations) in two editions during the year.

**Geographic area served because of MCLSF funding**

Program services supported by MCLSF funding were again provided on a statewide basis. The cases supported exclusively with MCLSF funding involved residents of 137 Maine towns and communities, as well as some migrant farm workers who experienced legal problems while working in Maine. Overall, cases handled by Pine Tree in 2012 involved residents of 518 Maine towns and communities. The following table reflects the allocation of cases on a countywide basis during 2012.

<b>County</b>	<b>Cases funded only with MCLSF</b>	<b>Total cases</b>
Androscoggin	28	875
Aroostook	9	730
Cumberland	119	1882
Franklin	2	71
Hancock	4	150
Kennebec	7	628
Knox	0	52
Lincoln	3	50
Oxford	13	178
Penobscot	30	857
Piscataquis	0	61
Sagadahoc	2	102
Somerset	1	76
Waldo	1	70
Washington	79	683
York	54	647

## **Status of matters handled**

Staff continue to work on closing legal matters in the program database for which work was completed in 2012, so the number of cases listed as “open” below may change by the time the database is officially closed.

Of the 382 cases handled exclusively with MCLSF funding, the status of each case is as follows:

- 200 involved individualized advice on a specific legal issue;
- 31 involved the provision of additional services, including assistance with legal forms or informal negotiations with an opposing party;
- 10 involved a formal negotiation outside the context of litigation;
- 29 involved a negotiation with litigation;
- 14 were resolved with a court decision or involved extensive transactional assistance;
- 55 remained open on December 31, 2012;

The status of Pine Tree’s total caseload during 2012 is as follows:

- 2,414 involved individualized advice on a specific legal issue;
- 812 involved the provision of additional services, including assistance with legal forms or informal negotiations with an opposing party;
- 247 involved a formal negotiation outside the context of litigation;
- 1,270 involved a negotiation with litigation;
- 468 were resolved with a court decision or involved extensive transactional assistance;
- 1,667 remained open on December 31, 2011.

## **Relationship of services to MCLSF proposal**

In 2011, Pine Tree began the year with a staff of 49 employees, including 28 attorneys working in the six field offices around the State. As a result of funding pressures that were noted during the 2011 MCLSF hearing, Pine Tree ended 2012 with a staff of only 44, and its attorney staffing level had dropped to 24 attorneys. This represents a 20% loss since 2009 as a result of federal and state funding declines, especially for general legal services. It is also well below Pine Tree’s staffing levels in 1980 when the poverty population in Maine was smaller.

In the 2011 application, Pine Tree projected handling a minimum of 7,200 cases benefitting 20,000 Maine residents (which represented a significant decline from previous years and was based on certain assumptions about future funding from a range of different sources.) As noted above, Pine Tree did achieve its case handling target, although those cases did not reach the original projected level of Maine residents .

Pine Tree also projected that it would prevail in 93% of the cases in which it was able to devote staff time to fully resolve the client's legal problem. In fact, Pine Tree prevailed in 96% of those cases, and the percentage of cases receiving full representation increased to 34% of the total number handled (as a result of a conscious effort to target limited resources in this way.)

As noted above and consistent with the 2011 application, some MCLSF funding was also used to maintain and update the Pine Tree library of legal education materials and self-help tools on program websites. As legal aid resources shrink, access to accurate legal education materials written at a 6<sup>th</sup> grade reading level, as well as other self-help tools and forms, has become even more essential. The Pine Tree websites remain a unique resource in Maine.

### **Outcome measurements used to determine compliance**

Pine Tree Legal Assistance has a variety of systems in place to determine compliance with funder requirements and to insure the provision of high quality legal services.

Pine Tree Legal Assistance documents demographic information (including eligibility data) and other relevant case data in a sophisticated computerized case management system, *Legal Files*, which is also utilized by the Legal Services for the Elderly, Maine Volunteer Lawyers Project and Cumberland Legal Aid Clinic. The program identifies the primary funding code that supports each case as it is opened and includes a timekeeping function. Time spent on individual cases, as well as on training events and all other work activities, is recorded and forms the basis for the cost allocation system by which specific funding sources are identified with particular cases or types of legal work.

The program also tracks the outcome of each individual case handled by its staff in order to determine the program's rate of success in advocating for low-income Mainers.

Of the 51 MCLSF cases closed with some level of extended service in 2011, all but 2 (96%) were resolved in favor of the Pine Tree Legal Assistance client.

Of the 2,102 cases involving extended representation and complete in 2012 with all sources of funding, including MCLSF, all but 67 (97%) were resolved in favor of the Pine Tree Legal Assistance client.

As noted in the 2011 application, Pine Tree also used outcome measures to track the actual impact of legal representation in client lives, demonstrating remarkable achievements for the individuals whose cases could be accepted by the program:

**In 2012, Pine Tree's legal advocacy restored/returned over \$5.5 million to Maine families as a result of enforcement of legal protections/remedies for Pine Tree clients. Family law advocacy also secured \$500,000/year in alimony and child support for Pine Tree clients, especially victims of domestic violence or sexual assault.**

All Pine Tree Legal Assistance staff are subject to internal "Standards of Practice" designed to insure the quality of all legal services provided to low-income Mainers, in addition to other professional standards governing their work.

### **Conclusion**

Every Pine Tree office and outreach site (in Presque Isle, Bangor, Machias, Augusta, Lewiston, Portland and York County) has been supported with this funding in the past year. Because of Pine Tree's ongoing investment of MCLSF resources in Internet-based services, individuals all over the State who have access to their public library or school's computers can get easy-to-use information about legal rights and responsibilities under Maine law. Poor Mainers from Fort Kent to Kittery and from Oquossoc to Eastport have a better opportunity to receive justice today, thanks to the continuing services made possible from the Maine Civil Legal Services Fund.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Nan Heald", with a long horizontal flourish extending to the right.

Nan Heald, Executive Director  
Pine Tree Legal Assistance  
PO Box 547 Portland ME 04112





To: Maine Civil Legal Services Fund Commission  
From: The Access to Justice Program  
Date: January 15, 2013  
Re: Maine Civil Legal Services Fund Annual Report  
January – December 2012

**Overview of the Access to Justice Program:**

York County Community Action Corporation's *Access to Justice Program* provides assistance to self-represented litigants in family law matters, with the goal of assuring that these individuals have the information, assistance, and advocacy required to ensure a positive and productive experience with the judicial system, and that they are connected to other resources as needed to promote family and/or economic stability. The Access to Justice Program is comprised of one staff member, a Legal Advocate, who is available to assist with court paperwork and to explain the court procedures for divorce, parental rights, post-judgment motions, guardianship, and other family law related matters. She provides services two days per week in our Biddeford office and two days per week in Sanford, with days spent in the Kittery office on an as-needed basis. If needed, a home visit can be scheduled. Our Legal Advocate assists individuals in filling out forms, notarizes and makes copies for them, and explains the various ways in which service may be accomplished on the opposing party. Individuals are given directions about filing the paperwork, how long to expect to wait for a hearing, and what to expect when they go to court. If mediation is required, the Legal Advocate explains the role of a mediator, how the mediation will be conducted, and how individuals should prepare themselves. The Legal Advocate is also available for follow-up questions as the case proceeds. YCCAC's Executive Director is an attorney, with experience in family law, and she serves as a resource for the Legal Advocate.

**Program Report:**

As a result of funding received from the Maine Civil Legal Services Fund Commission, which pays for a portion of the Legal Advocate's salary, services were provided to 1185 unduplicated clients, during 1934 office visits or phone calls. Of note:

- \* Just over 40% were office visits to complete court paperwork or explain court procedures.
- \* The remainder were phone calls to complete paperwork, explain procedures, assist with additional motions, discuss rights and responsibilities, or provide information and referral.
- \* A significant percentage of queries pertain to divorce or parental rights; other topics include guardianship, adoption, and small claims.
- \* 34%, or 404 individuals, were referred *by* the Court, Pine Tree Legal, Cumberland Legal Aid, VLP, or attorneys. The remainder were referred by YCCAC staff, other providers such as DHHS, York County Shelter, and Caring Unlimited, or other clients via word of mouth.
- \* 275 individuals, or approximately 23%, were referred *to* civil legal services providers such as Pine Tree Legal Assistance, Legal Services for the Elderly, Cumberland Legal Aid, other attorneys, etc.
- \* 71% had incomes equal to or less than 125% of the Federal Poverty Guidelines; 79% had incomes less than 150% of the Poverty Guidelines; and 97% had incomes less than 200%.

**Geographic Area Served:**

ACTON	32	BUXTON	24	KENN'PORT	4	NEWFIELD	8	SANFORD	323
ALFRED	19	CORNISH	5	KITTERY	57	NO.BERWICK	25	SHAPLEIGH	8
ARUNDEL	7	DAYTON	2	LEBANON	46	OGUNQUIT	0	SO.BERWICK	24
BERWICK	59	ELIOT	28	LIMERICK	10	OOB	26	WATERBORO	43
BIDDEFORD	116	HOLLIS	12	LIMINGTON	22	PARSONSFIELD	8	WELLS	38
		KENNEBUNK	27	LYMAN	11	SACO	69	YORK	39

OTHER MAINE TOWNS 36 OTHER STATES 57

TOTAL: 1185 UNDUPLICATED CLIENTS 1970 OFFICE VISITS OR PHONE CALLS

**Evaluation and Outcome Measurement:**

As stated in YCCAC's proposal to the Civil Legal Services Fund Commission, the Access to Justice Program is small, but the outcomes can be significant. Some of the legal problems confronted by low-income individuals do not require the direct services of an attorney, which they usually cannot afford, but can be resolved by assistance with paperwork and education about legal procedures and the legal system.

The goal of the program is to *assure that these individuals have the information, assistance, and advocacy needed to ensure a positive experience with the judicial system, and that they are connected to other resources as needed to promote family and economic stability.*

Objective: The Access to Justice Program will provide 975 low-income York County individuals with *pro se* assistance in family law matters, including referrals to attorneys as required, and advocacy throughout the process. *During 2012, 1185 unduplicated individuals were provided assistance, including 275 referrals to legal services providers, and 98 referrals to other agencies or resources.*

Anticipated Outcomes:

- (1) Individuals provided services will be adequately prepared to represent themselves in court or to negotiate a settlement through mediation.

One method to measure this outcome is to survey the Clerks of Court regarding adequacy of client preparation to represent themselves in court, and we do this biannually. In the fall of 2011, we received the following responses:

*"Once clerks have exhausted all resources, explaining procedures, they are grateful to offer the additional services provided by YCCAC... when we receive paperwork it is complete and correct, and there are notes on each copy so clients know which one to file with the court." "I would say there are quite a few people who do try and tackle the paperwork alone and struggle with it; they would greatly benefit from a legal advocate or an attorney. It just makes the process a lot smoother and faster." "The paperwork is filled out completely and the clients seem more knowledgeable about how the process works. The paperwork is notarized which makes the process go quicker...."*  
*"This service is extremely helpful when it comes to having the filing completed and served. When paperwork is missing it causes a delay in scheduling parties for a hearing in the future..... clients have a better understanding and have the paperwork ready so that a hearing can be set." "Thanks*

*to the legal advocate, clients' paperwork and their understanding of procedures helps them and helps us."*

Another method is to survey a sample of clients regarding their experience with the judicial system, that is, whether the information and support received helped them achieve a positive outcome. In the fall of 2012, staff conducted a telephone survey of seventy-eight individuals who had received services through the Access to Justice Program in 2011-12, and were able to reach thirty. All but two believed that they were adequately prepared to represent themselves through the various court processes (i.e. case management conferences, mediation or hearings), and that the court clerks were satisfied with their paperwork. Twenty-six of the individuals surveyed reported a positive outcome: nine stated that their financial situation improved (for example, receipt of child support so could pay for security deposit and not lose new apartment) and seventeen stated that the court action provided more stability for themselves and/or their children (for example, a grandparent granted temporary guardianship of children in an unsafe situation). Two survey respondents stated they consider themselves to be safer; ten stated that their children or grand-children are safer.

- (2) Individuals provided services will be connected to a comprehensive network of other programs and resources as needed.

*275 individuals were referred to a legal services provider, and an additional 98 were referred to a wide range of other resources and services, e.g. Caring Unlimited, DHHS, Social Security, Southern Maine Agency on Aging, and the myriad of programs and services offered through York County Community Action.*

#### **Unmet and underserved needs:**

York County Community Action's *Access to Justice Program* occupies a unique niche in the broad network of civil legal services. Very low-income persons who are in need of legal assistance for family law matters often do not have money to hire attorneys, and therefore either do not seek help or else they burden an already overloaded court system with improperly completed paperwork. Moreover, some of the legal problems confronted by the poor do not require the direct services of an attorney, but can be resolved by assistance with paperwork and

education about legal procedures. Even when the legal issues are not particularly complicated, people with literacy challenges find navigating the system to be daunting at best, and, for some, too difficult without assistance. Our goal is to ensure that people who are representing themselves fully understand how the court works and that they receive all the assistance they require with paperwork.

That said, we know that in an ideal world attorneys would be available to all who need them, and we know that each one of the legal service providers struggles daily with the challenge of balancing limited resources and the ever present legal needs of our poorest and most vulnerable Maine citizens.

- A) **Attorney representation**, especially pertaining to family law, continues to be an unmet/underserved need. There are simply not enough *pro bono* attorneys for cases that require attorney representation. Cases stall, or clients give up because they cannot proceed further. One solution might be consideration of an expanded role for legal advocates in the court procedures.
- B) **Legal advocates**: Persons living in poverty have great need of better understanding of their rights and responsibilities, our system of law and justice, and the means of working with that system. At present, advocates from domestic violence programs provide a crucial role supporting their clients through the court process for a Protection from Abuse Order. More advocates should be allowed into the court as support for clients who cannot always understand what is going on, when or if they should speak, and what exactly the judge is asking. This could be not only in Family Law but in Small Claims, Disclosures, and Forcible Entry and Detainers. At present, most attorneys are pleased when an advocate sits with their client at a mediation; it often helps keep emotions from flaring and issues clarified. Unfortunately, advocates are not typically allowed at hearings, and if they are, they have no voice. An advocate is usually well-informed and could be of valuable assistance to the Judge when the client loses his or her way because of stress and intimidation.
- C) Another serious unmet need relates to clients who must represent themselves at a trial. In front of a judge, the Rules of Civil Procedure must be followed. When one side is *pro se* and the other side has an attorney, the self-represented individual is disadvantaged in a number of ways. They do not know how to prepare for court, questions to ask, how to subpoena witnesses, how to prepare exhibits, and how to testify. They can be overwhelmed or easily cut off by an attorney, and justice is not served. Going to trial is difficult under any circumstances, but being unprepared is a serious liability on the day of trial. When both parties are self-represented, they are still expected to follow the rules, but often the judges can be more lenient.

It would be helpful if a small booklet could be available, in simple and clear language, which detailed how to prepare for a trial. It could also provide guidance on conduct in court and proper ways to give testimonies and ask questions of witnesses.

- D) Finally, an issue which the court cannot address, but which impacts many low-income clients, is transportation. Many clients miss court dates because their car breaks down, they don't have the money for gasoline, a friend fails to pick them up as promised, and so forth. This is a great barrier to access to justice.

**Conclusion:**

On behalf of York County Community Action Corporation's *Access to Justice Program*, we thank you for your continued investment in civil legal services. In this uncertain and challenging economic environment, the Maine Civil Legal Services Fund is a constant, and makes possible the broad continuum of legal services that allow many poor Maine citizens access to justice.

Respectfully submitted,

Deborah Downs  
Director of Community Outreach

Helen Rousseau  
Legal Advocate