

JUSTICE – THE CALL FOR EQUAL ACCESS

Long before the creation of our country's constitution and long before the birth of our nation, talks surrounding the concepts of equal justice and accessibility to it for all people, regardless of social standing, were loud and lively- especially amongst the poor. Even before this social phenomenon was termed the "justice gap," people saw the truth with their own eyes- that great disparities existed in one's ability to obtain justice with that same individual's ability to pay for it.

"Equal justice under law is not merely a caption on the façade of the Supreme Court building. It is perhaps the most inspiring ideal of our society... it is fundamental that justice should be the same, in substance and availability, without regard to economic status."

--U.S. Supreme Court Justice Lewis Powell, Jr.

Although the words "equal justice under law" are carved in the stone of our courthouse walls, the reality for millions of financially-strapped, deserving people is that justice is rationed on a first come- first serve basis "while supplies last" and only if you're lucky enough to know where to find it and how to sign up for it. With today's current recession, the sheer magnitude of people experiencing poverty with valid legal cases has overwhelmed legal aid offices across the country. As this population increases, access to equal justice becomes even more threatened to extinction, and the message- that justice is for some, but not for all, grows louder and more frightening.

In 1974, Congress created the Legal Services Corporation (LSC) in response to the increasingly desperate need to provide equal access to our judicial system for low-income Americans who would otherwise be denied legal counsel. In 2007 this same organization reported alarming news- that a staggering 50 percent of eligible potential clients are turned away due to a shortage of legal resources. This percentage translates into approximately 1 million cases per year rejected, and that's only counting those cases that make it to the doors of an LSC-funded agency. Helaine Barnett, president of LSC, calls this finding an "understatement,"¹ as many give up long before finding the doorway.

Our current recession has further widened the justice gap between those people who will get a chance to obtain access to legal aid and those who will simply do without. In an economic downturn, the most basic of human necessities are at stake- food, shelter, medical care, and physical safety. People are struggling to hang on to their jobs, their homes, and their families. The foreclosure crisis, rising unemployment rates, and dwindling government benefits have impacted our individual stress levels leading to an increase in mental illness, domestic violence, and homelessness. Some people are experiencing poverty for the first time; others have spent a lifetime in it. It is crucial that our nation's most vulnerable people receive the legal assistance they need when they need it- now, at *their* critical point in time.

For decades, we as Americans have mouthed hollow words when the subject of equal

justice is broached. In order for justice to be equal, it must pass the test of accessibility for all who seek it. Engraved in building facades and in legal theory, equal justice may appear as a fundamental principle of constitutional law, but in reality over a million people each year show us that justice is not equal and is not free. Out in the open, in plain view for all to see, we fail the very test we created for the purpose of accountability. We further betray the promise of real justice by accepting this condition as commonplace.

Since accessibility to legal aid programs is indeed the culprit to this crisis, the federal government must take action to expand the resources available to legal aid societies. Congress must pass the Civil Access to Justice Act (S. 718), which will increase LSC's authorized funding in 2010 from approximately \$440 million to \$750 million and provide law school clinics the fiscal support to expand clinical education programs that offer free legal services under the direct supervision of law school professors who are also lawyers.

Paralegal students, as well as law students, are an untapped, invaluable resource in every community where legal aid agencies exist. Both student populations possess the ability to perform substantive legal work such as legal writing, research and drafting of documents. Both are capable of conducting client in-take evaluations, researching databases to find case law on point to assist lawyers in forming a defense, and helping to prepare legal arguments. In exchange for work experience and school credit, students have the potential to make substantial contributions to these overworked agencies, as well as the ability to directly be of practical service to those seeking aid. In providing curriculum that

safely explores and reveals the whole truth behind the deployment of legal resources, schools expose students to piercing, moral issues that may positively impact how and where they choose to work after graduation. Humility is a lesson well learned.

And finally, if effective legal representation of our nation's poor has become a statistical impossibility, then we must change those statistics at their very core. The private bar itself, along with all its individual members, should further grow its pro bono efforts. The facts that most attorneys choose to do no pro bono work at all and "... that the American legal profession averages less than half an hour of work per week on pro bono services..."² are a colossal injustice to the spirit of our constitution that bonds us as one. Now more than ever, legal firms must step to the plate and help close the justice gap. In conjunction with local and national bar efforts, paralegal societies must also contribute with pro bono services.

At present, all that can be done to insure equal access to justice is most certainly not being done. Together, we could choose to hear the call. With tremendous support from the federal government, private bar, paralegal organizations, and students and educators from law and paralegal schools, we could choose to create a reality that gets us closer to the truth behind the words, "equal access to justice." We *need* to get closer to prove that "justice" and "equal" are not merely words carved in stone but attainable, American truths.