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The Center for Public Policy and the Social Sciences

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The Legal Needs of Low-Income Citizens in New Hampshire

A Study of Legal Aid Services and Needs in New Hampshire

Presented to the Legal Aid Organizations in New Hampshire

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EXECUTIVE SUMMARY

Legal aid is the provision of assistance to people otherwise unable to afford legal representation and access to the court system. Forms of legal aid have existed since the early 1900s, primarily through private funding. In 1974, Congress created the Legal Services Corporation (LSC) to provide federal funding for non-criminal legal aid services. Since then, funding through the LSC has varied radically, leading to inconsistent provision of services and uncertainty throughout legal aid organizations as a whole.ⁱ

Legal aid organizations in New Hampshire are no different. The inconsistencies in funding from federal sources, particularly during the last few years, have made adequate provision of services difficult. This report examines the three largest and most important providers of legal aid services in New Hampshire: New Hampshire Pro Bono, New Hampshire Legal Assistance, and the Legal Advice and Referral Center. The report looks at the cases taken on by these three organizations, as well as the cases turned away, to create an overview of legal aid needs in the state. Additionally, the report tracks the funding of these three organizations, from federal, state, and non-profit sources, and looks at how decreases in funding may hurt their ability to provide service. The findings have shown that there is a considerable amount of unmet legal need in New Hampshire; legal aid organizations are forced to drop a large number of the cases that come to them due to a lack of resources, and the number of successful cases is a very small fraction of the total eligible population. The study concludes that current legal aid organizations are underfunded and unable to help all eligible individuals who are seeking assistance.

1. Legal Aid Organizations in New Hampshire

1.1 New Hampshire Pro Bono

The New Hampshire Pro Bono Referral Program, based out of Concord, NH coordinates private attorneys who volunteer to help low-income people with non-criminal legal problems and needs. Pro Bono is a private non-profit supported by the New Hampshire Bar Association.ⁱⁱ The full scale of Pro Bono's services include recruiting and training attorneys, reviewing applications for assistance, referring and overseeing cases and providing volunteer attorneys with supportive services.ⁱⁱⁱ

The goal of Pro Bono is to serve low-income individuals and families with non-criminal legal matters. Individuals need to meet certain income and asset guidelines to be eligible for Pro Bono attorney referral. According to New Hampshire Pro Bono, the legal issues they deal with (based on attorney availability) are: parenting, divorce, domestic violence, evictions from private housing, mortgage foreclosures, bankruptcies, debt collection, wills and probate, and income tax disputes. Pro Bono also provides legal assistance to



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other non-profit organizations, primarily in the form of legal research and paperwork filing.^{iv}

For the 2010 fiscal year, NH Pro Bono took on 2,872 cases. The following chart shows the percentage of each category of cases tackled by Pro Bono during the fiscal year:

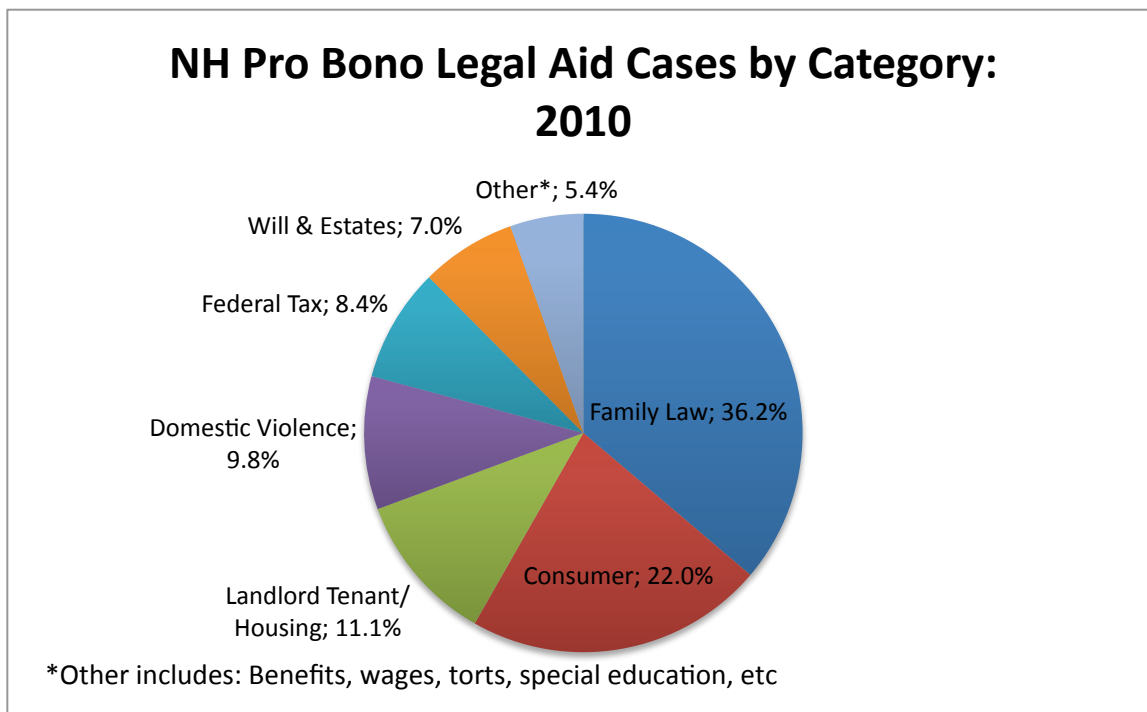


Figure 1: Source: New Hampshire Pro Bono

The two most predominant types of cases that Pro Bono took on were family law cases (1,040) and consumer cases (633). Housing issues (319), and domestic violence cases (282) together also make up over 20 percent of cases.^v

More data is needed from New Hampshire Pro Bono in order to adequately assess its impact in New Hampshire and how it has been influenced by changes in federal funding. Information on services delivered for additional years, a breakdown of Pro Bono's funding sources and total revenues, and cases turned away due to a lack of resources is still needed. Once the information is received, the report will include a thorough assessment of New Hampshire Pro Bono's services, as well as the scope of individuals they are forced to turn away due to decreased funding.

1.2. New Hampshire Legal Assistance (NHLA)

The NHLA organization is a non-profit law firm that specializes in providing legal assistance to seniors and low-income people.^{vi} Much like Pro Bono, NHLA provides a



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litany of services ranging from basic legal counsel and advice to representation of individuals in court. NHLA also provides representation for low-income individuals dealing with state and federal agencies.^{vii} For the past few years, NHLA has been taking on over 3,000 legal aid cases per year:

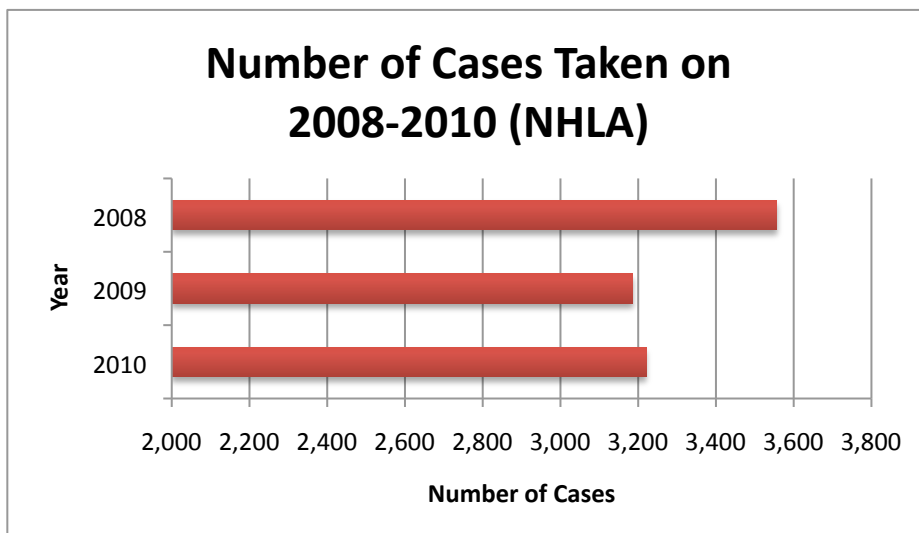


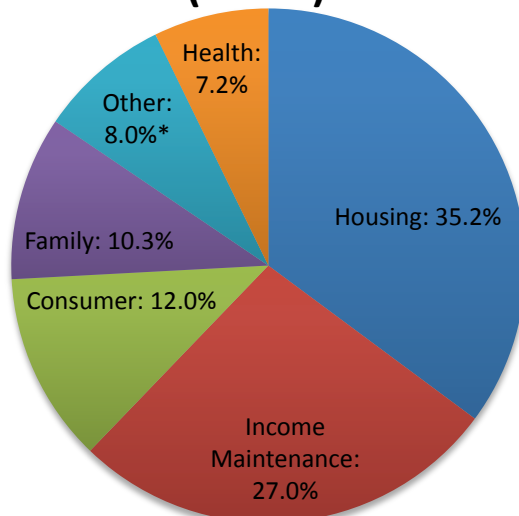
Figure 2: Source: New Hampshire Legal Assistance

Over the past three years, NHLA was able to take on the most cases in 2008, 3,556 cases. From 2008 to 2010, NHLA was forced to decrease their caseload from 3,556 to 3,221, a 9.4 percent decrease.^{viii}

NHLA breaks down their caseload into a wide variety of categories, which include: consumer issues, education, employment, family, juvenile, health, housing, income maintenance, individual rights, wills and estates, and other miscellaneous issues. The following chart shows the percentage of each category of cases taken on by the NHLA from January 1, 2008 to June 30, 2011:



Legal Aid Services by Category 2008-2011 (NHLA)



*Other includes: Individual rights (3.6%), misc (1.5%), employment (1.1%), wills and estates (1.1%), education (1.0%), and juvenile (0.1%)

Figure 3: Source: New Hampshire Legal Assistance

A majority of cases taken on by NHLA are either housing issues (3,955) or income maintenance problems (3,042). Beyond the 62.2 percent of cases in the first two categories, the rest of NHLA's services are fairly evenly spread out amongst the other types of cases.^{ix}

While NHLA operates to full capacity on a daily basis, it is often forced to turn away cases due to a lack of resources. NHLA began collecting data on cases that have been turned away since 2000. The data collection process has been improved over time, and has become more precise in the last five to six years. Below is a count of all cases NHLA had to turn away due to lack of resources every year, dating back to 2005, up until 2010:



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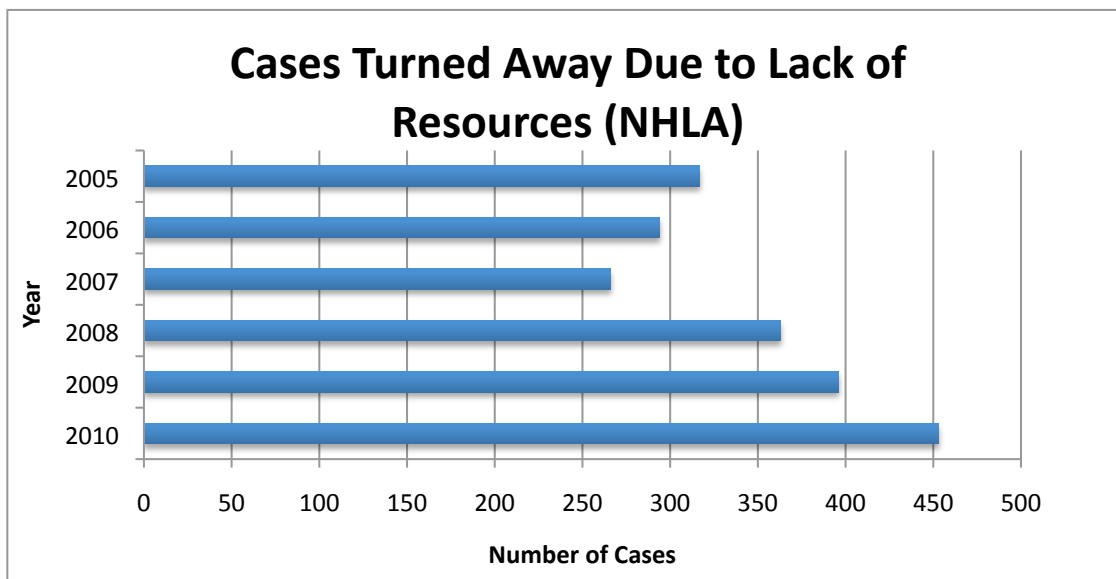


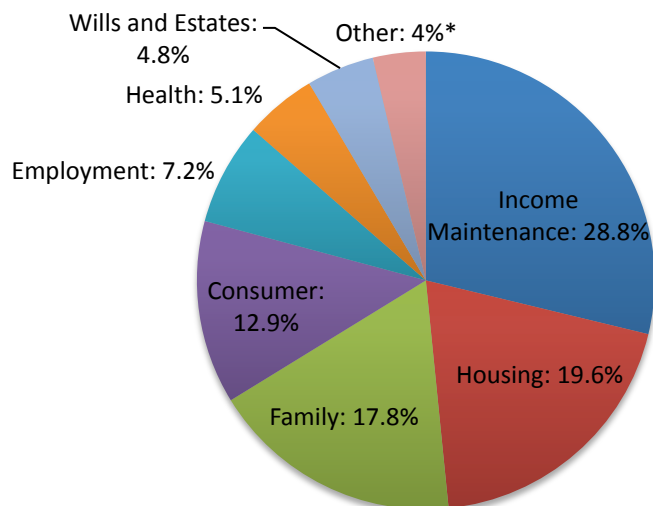
Figure 4: Source: New Hampshire Legal Assistance

From 2005 to 2010, NHLA saw a 43% increase in the total number of cases they had to turn away due to lack of resources, from 317 cases in 2005, to 453 cases in 2010. While the number of turned away cases has clearly increased over the past five years, that number dropped in 2006 and 2007, then increased again starting in 2008. It is important to note that these numbers very likely underestimate the true number of cases turned away, since they only reflect turned away cases that were recorded, whereas no records were kept for a large number of these cases.^x

In addition to keeping a total count, NHLA also categorizes the cases they turn away into the same categories they use for the cases they take on:



Cases Dropped Due to Lack of Resources 2000-2011 (NHLA)



*Other Includes: Juvenile, individual rights, and misc

Figure 5: Source: New Hampshire Legal Assistance

Much like the breakdown of cases NHLA was able to accept, the categories with the largest percentages of cases turned away were income maintenance (28.8 percent) and housing (19.6 percent). Consumer issues and other miscellaneous cases also made up a good deal of the cases that were turned away, 12.9 percent, and 17.8 percent, respectively. Overall, the distribution of cases that NHLA were forced to turn away over the last ten years is fairly similar to the caseload they take on during any given year. This leads to the conclusion that NHLA is mainly forced to turn cases away due to a lack of funding, and not a lack of qualified individuals in the respective fields.^{xi}

Like the other legal aid organizations in New Hampshire, NHLA gets its funding from a variety of State, Federal, and private non-profit sources. NHLA tracks their total revenues on an annual basis, which can be seen in the chart below:



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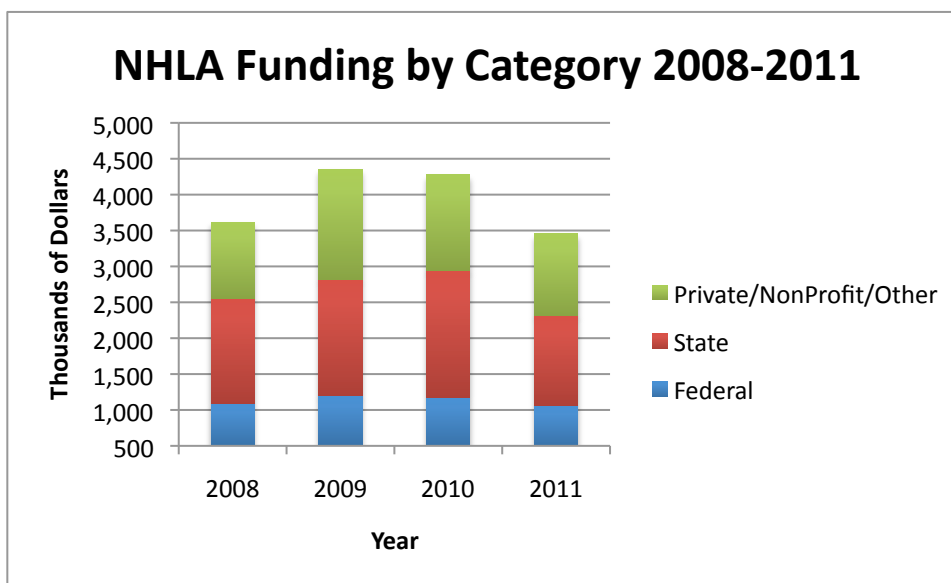


Figure 6: Source: New Hampshire Legal Assistance

NHHLA saw its revenues increase by 19.5 percent from 2008 to 2009, from \$3.6 million to about \$4.3 million. Their funding remained relatively stable from 2009 to 2010, only decreasing by about 1.6 percent. The largest change in revenues in recent years is between 2010 and 2011. NHHLA saw their revenues decrease by 20 percent, from about \$4.3 million to \$3.4 million.

The largest source of funding for NHHLA comes from the state level, ranging from 36 to 41 percent of total funding from 2008 through 2011. In 2011 NHHLA saw its state funding decrease by 29 percent, from \$1,765,575 in 2010 to \$1,257,344 in 2011. Additionally, federal funding decreased by 10 percent in 2011 and private/nonprofit funding also decreased by 14.5 percent. As funding decreases from all three sources, NHHLA will continue to find itself short on resources, and will be forced to increase the number of cases it has to turn away. This lack of resources, combined with a weak housing market and high unemployment will most likely lead to a greater number of people who cannot obtain legal aid assistance.^{xiii}

1.3. Legal Advice and Referral Center (LARC)

The New Hampshire Legal Advice and Referral Center (LARC) is a private, non-profit law firm that provides free legal services to eligible, low-income people.^{xiii} Unlike the other legal aid organizations, LARC does not have attorneys who represent low-income clients in court. The primary focus of LARC is to provide legal advice over the phone to low-income individuals who are unsure of their legal options to handle issues. LARC is predominantly staffed by paralegals and attorneys who will speak with individuals, often multiple times, and help walk them through the complex legal system. This assistance can include basic legal advice, contact with the adverse party in advocacy of the



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individual's claim, as well as referrals to other legal aid organizations and private lawyers who may be willing to take the case.^{xiv}

According to LARC, their phone center based in Concord, NH fields hundreds of calls every day.^{xv} Of the calls that are received, LARC takes down a variety of information from the client in order to organize their services by issue category, service provision, and basic demographics of their clientele. The following chart shows the percentage of each category of cases taken on by LARC during 2008-2010:

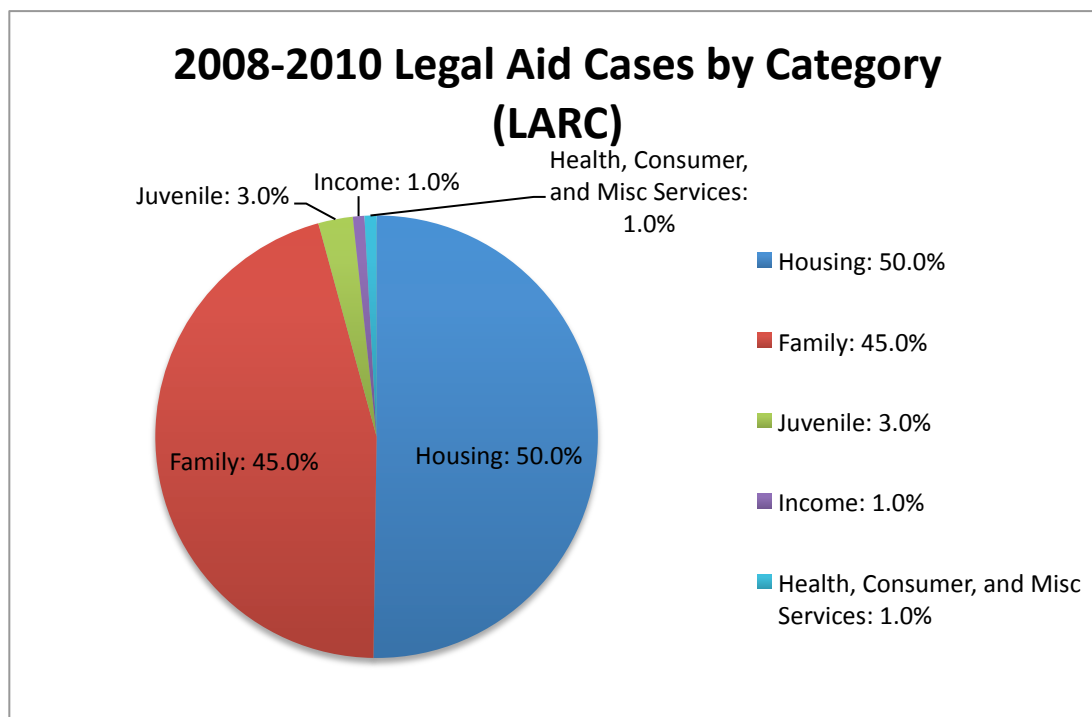


Figure 7: Source: Legal Advice and Referral Center

These graphs show the types of cases taken on by LARC from 2008 through 2010. Over the three years, the vast majority of cases taken on by LARC were either family cases (divorce, child custody, etc.) or housing cases, with only a small minority of cases coming from other areas of law. Housing cases constituted a clear majority of the cases in 2009, while family and housing case numbers were about equal in 2010; however, this is not due to a decrease in housing cases (the number of housing cases actually went up from 1,067 in 2009 to 1,296) but an increase in the number of cases overall (from 1,808 to 2,760). This increase could be interpreted in several ways. It could indicate that there are more people in need of legal aid, it could mean that LARC has expanded its resources over the past year to take on more cases, or it could mean that LARC has improved its outreach and education efforts so more people know about and are able to take advantage of LARC's services. More data is needed from LARC about their



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funding/resources/change in resources over the year/historical trends to analyze this data appropriately.^{xvi}

LARC also breaks down their data based on the types of services they are able to provide to their clients:

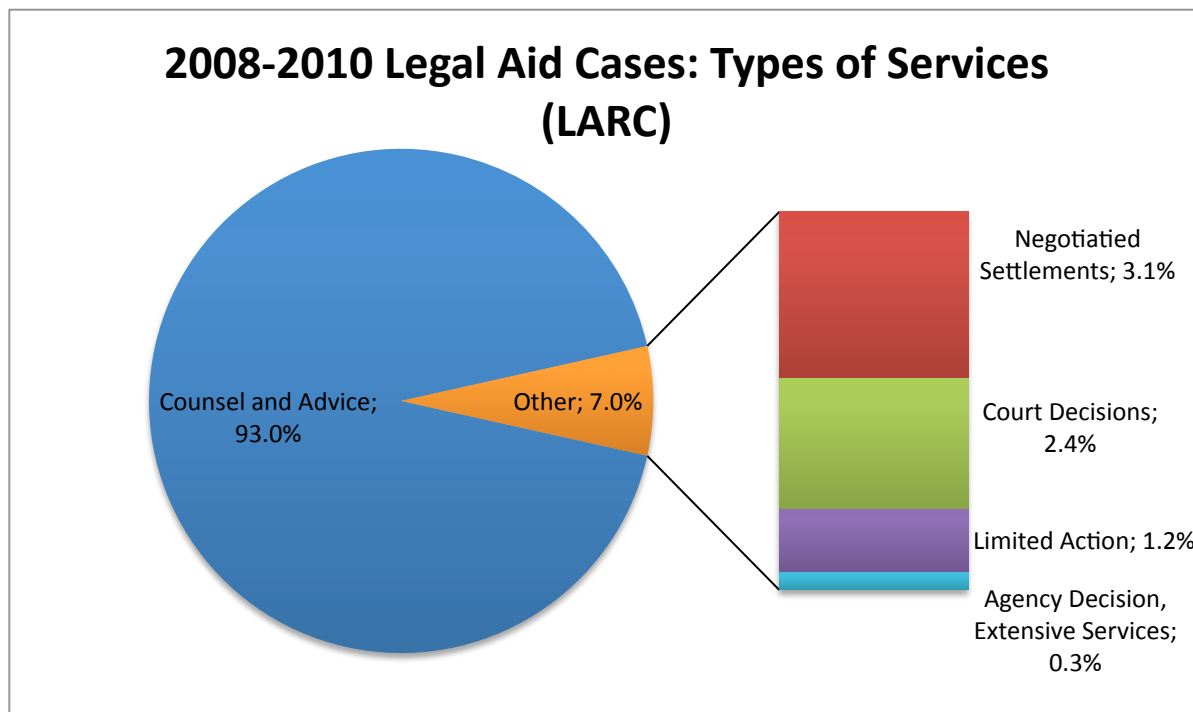


Figure 8: Source: Legal Advice and Referral Center

These charts show the percentages of each type of legal service provided by LARC from 2008 through 2010. In the overwhelming majority of cases, LARC provided clients with counsel and advice but no legal representation. In fact, LARC staff members only provided counsel and advice, as well as limited action in a select few cases; essentially every other service was provided by lawyers outside of LARC that were paid contractors.

In addition to providing advice and counsel over the phone and through their website, LARC also refers a great deal of individuals eligible for legal aid to Pro-Bono lawyers and organizations in New Hampshire. LARC works very closely with NH Pro-Bono, sending a lot of callers to Pro-Bono who they believe may be eligible to receive free or reduced rate legal representation in court. The number of referrals to NH Pro-Bono has remained relatively stable over the past three years, dropping from 288 referrals in 2008 to 239 in 2009, and then increasing back up to 257 in 2010. Overall there has not been any significant changes in the number of referrals from LARC to Pro-Bono, although Pro-Bono has stated that the cuts to its budget in 2011 from decreased federal funding will most likely force the organization to be more stringent when accepting referrals. As



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funds are cut back, cooperation between the two organizations will become even more crucial, as information sharing will be a vital way to decrease time and costs of providing services.

2. Poverty and Legal Aid Eligibility

2.1 Poverty Breakdown in New Hampshire

The federal poverty line is the minimum level of income necessary to achieve an acceptable standard of living, as determined by the United States Department of Health and Human Services. This number is adjusted annually to reflect the changing economic climate in the country. In 2009, the federal poverty line in the United States was \$22,050 per year for a family of four. According to the American Community Survey Conducted by the US Census Bureau, there were approximately 109,213 individuals living below the poverty line in New Hampshire in 2009. That is 8.5 percent of the total population, a 1 percent increase in the percentage of homeless individuals in New Hampshire in 2008. New Hampshire is one of 10 states with less than 11% of its population living below the poverty line.^{xvii}

2.2 Legal Aid Eligibility and Services Received

The American Community Survey also breaks down the proportion of individuals living below or just above the poverty line into three categories: people living at an income level of more than 50 percent below the poverty line, people living at an income level between 50 and 100 percent of the poverty line, and people living at an income level between 100 and 125 percent of the poverty line. In New Hampshire, approximately 4 percent of the total population lives below 50 percent of the poverty level, about 4.5 percent live between 50 and 100 percent, and about 2.5 percent live between 100 and 125 percent of the poverty line.^{xviii} Because the cutoff point for legal aid services in New Hampshire is 125 percent of the poverty level, all these individuals, comprising approximately 11 percent of the state's total population, qualified for legal aid in 2009. The following chart compares the total number of New Hampshire residents eligible for legal aid with the total number of cases that were taken on in 2009:

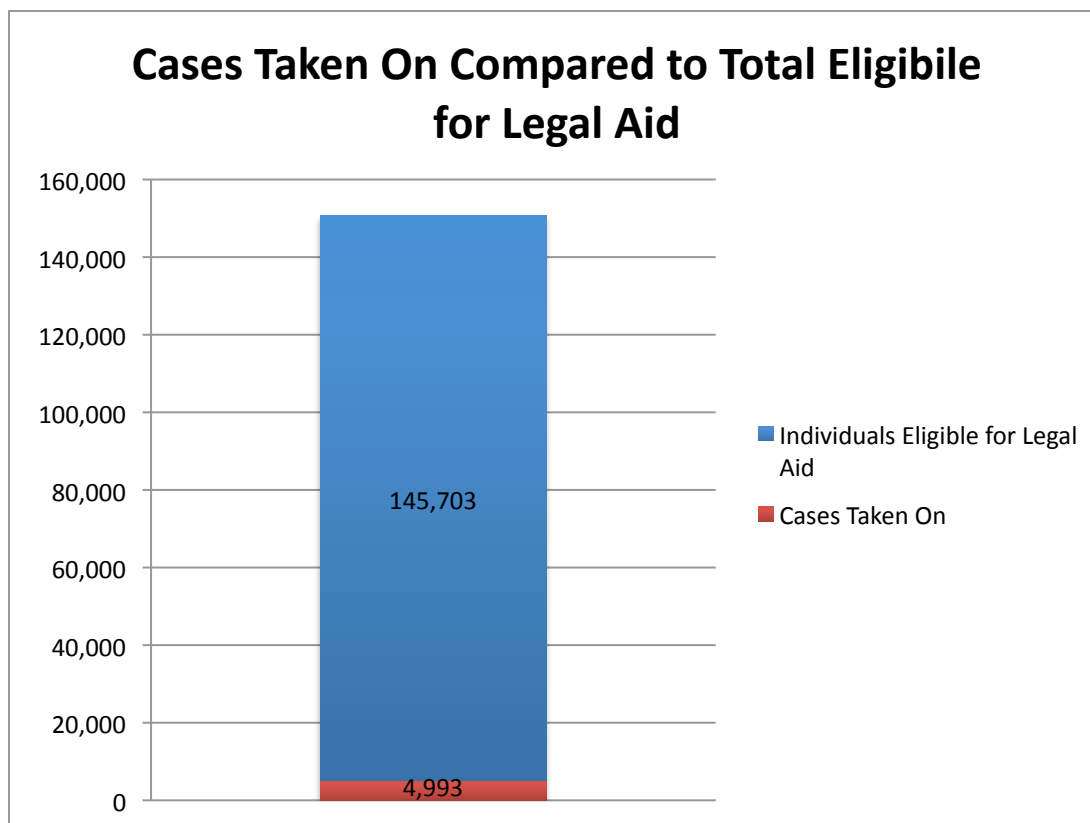


Figure 9: Source: New Hampshire Legal Assistance, Legal Advice and Referral Center, American Community Survey

The chart shows that only 3.4 percent of individuals eligible for legal aid in New Hampshire are actually receiving legal aid services. It is important to note that not everyone eligible for legal aid actually needs these services; at the same time, this report has already demonstrated a large number of legal aid cases are turned away, and many people who need legal aid may not have the resources or information to seek out assistance. Therefore, obtaining a truly accurate picture of the amount of unmet legal aid in New Hampshire is difficult. However, this chart does suggest that, since such a small percentage of the eligible population is receiving legal aid services, there is a sizeable amount of unmet need in New Hampshire. Legal aid organizations currently suffer from a lack of funding and resources that would allow them to bring these services to a larger percentage of the population.

3. Conclusion

Despite some limitations in the data, the information provided in this report is enough to make clear that legal aid services in New Hampshire are currently not equipped with adequate funding or resources to address a large portion of the low-income population that is eligible for legal aid. Since the state government is legal aid's largest funder,



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recent budget cuts may prove devastating to a sector that is already resource-constrained. Additionally, although the effects of the most recent budget cuts are not yet clear, legal aid service providers have expressed concerns that their organizations will suffer severely from the decrease in funds.^{xixxx}

Looking forward, the future of legal aid organizations in New Hampshire is in jeopardy. The significant decrease in funding that these organizations must deal with in 2011, and potentially in the years going forward, is going to have an impact on the ability to provide sufficient legal aid. Without more funding from the state or federal government, it is highly likely that many low-income individuals will be forced to go without the legal services they need.



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- ^{iv} Ibid
- ^v Data from New Hampshire Pro Bono
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