



Montana Supreme Court
Access to Justice Commission
2015-2016 Forum Series Report

Purpose

Almost 150,000 Montanans (about 15%) live at or below the poverty line. These families exhaust their personal resources and networks simply trying to get by. When a civil legal crisis arises, such as access to food, shelter, or safety, many of these Montanans feel they have nowhere to turn. They do not know the civil legal system or how to access available resources designed to help them. Furthermore, resources for such populations are usually stretched beyond limits.

One of the primary goals of the Montana Access to Justice Commission is to foster the development of a statewide program to deliver civil legal services to low- and moderate-income Montanans. In order to further this goal, the Commission hosted a series of regional discussions among community service providers and justice leaders regarding the successes and challenges in securing equal access to the civil legal system for all Montanans and how those issues impact the communities in which we live.

Forum Description

Between October 2015 and October 2016 the Commission held public forums in Kalispell, Great Falls, Billings, Missoula, Bozeman, Butte, and Helena.

At these forums, representatives on a “listening panel” heard testimony from “witnesses” and comments from the public.

The listening panels included representatives from the Montana Supreme Court, local judges, the Access to Justice Commission, the legislature, the governor’s office, local community service providers, the Montana Bar Association, tribes, and more.

The witnesses included representatives from Montana Legal Services Association (MLSA), the Montana Justice Foundation, local attorneys, local judges and court staff, domestic violence shelters, health care providers, programs for the disabled and the elderly, military and veteran’s organizations, youth advocates, and more.

The testimony and discussion offered insights into the successes and challenges of existing statewide programs, as well as highlighted unique perspectives from each community.

Our findings are summarized here.

Universal Themes

Low- and moderate-income Montanans most often face a legal crisis arising out of housing problems, parenting or custody disputes, or domestic violence.

Many Montanans do not realize that they do not have the right to an appointed attorney when they face a civil legal problem. You can be evicted, lose your home, or lose custody of your child—all without ever having the right to an attorney.

When low- and moderate-income Montanans experience civil legal problems, they are usually dealing with a number of non-legal problems at the same time. Some of the common non-legal challenges we heard about included: mental illness, substance abuse, physical disabilities, education barriers, finances, threats to safety, transportation, and child care. Such problems are intersectional in nature, meaning that they affect and intensify one another.

Addressing a civil legal crisis without the help of an attorney is grueling and time consuming. With so many other challenges, low- and moderate-income Montanans often cannot tackle their civil legal problems alone. These problems reach outside of the individual families and affect the entire community.

What is Working

Statewide Programs

- Montana Legal Services Association (MLSA):
MLSA provides civil legal advice and representation to Montanans at or below 125% of the poverty line who qualify for their services. In 2014, 7,000 Montanans sought assistance from MLSA and MLSA met the needs of one-third of those contacts.
- Court Help Centers (Centers):
The six Centers across Montana provide civil legal forms and information to Montanans who do not have an attorney, regardless of income level. The Centers also provide outreach services to rural communities, and maintain self-help kiosks in less populous areas of the state. Self-represented litigants are often not educated on legal issues and take up more of the court's time than represented litigants. After passing through a Center, a Self-Represented Litigant is more prepared, more organized, and takes less of the court's time. More than 46,000 customers have sought the services of a Center since the program's inception in 2008.
- Aging Services Bureau's Legal Services Developer:
Through this program, the Aging Services Bureau puts on eight free document clinics per year, open to Montanans who are age 60+ and below 250% of the poverty line. These clinics provide Montanans with much needed documents such as Wills, Living Wills, Powers of Attorney, Declarations of Homestead, and Indian Wills.

The witnesses and public praised the efforts of Montana Legal Services Association and the Court Help Centers, describing these organizations as "fabulous," "great," and "wonderful." Nonetheless,

participants agreed that these organizations lack the capacity to address all the need in the state, as discussed below.

Local Programs

There are many local organizations in each community that work to address the interconnected problems of low- and moderate-income Montanans. We heard from organizations in each city that help Montanans address problems including parenting, domestic violence, runaway youth, health care, physical and mental disabilities, and veteran’s issues. Organizations and programs like the YWCA, the Cascade County Law Center, Abbie Shelter, Family Court Services, and Court Appointed Special Advocates provide assistance to low- and moderate-income Montanans who are facing civil legal problems. These organizations have developed strong networks and partnerships with each other to broaden and strengthen the services they offer.

What Needs Improving

The Need for More than Just Volunteers

Witnesses emphasized the inability to handle the unmet need with volunteer services alone. Devoted private attorneys offer many hours of *pro bono* legal services each year but they cannot serve all in need. Montana needs funding for dedicated, full-time employees to ensure sustainable, meaningful access to high-quality civil legal services for all Montanans and to make the courts work efficiently for all court users.

“You cannot solve a problem with volunteers alone. Not a problem that is this big—like access to the courts.”
*Alison Paul, Executive Director,
Montana Legal Services Association*

Volunteers are vital but access to justice problems persist.

The staff of the Court Help Centers consists of a handful of employees and AmeriCorps service members. The reliance on AmeriCorps and volunteers results in limited hours of availability, periodic closures of some centers, and consumption of large amounts of time with volunteer training.

The Need for More Attorneys

The Court Help program gives information but not legal advice. The civil legal problems of low- and moderate-income Montanans are often more complex than a Court Help Center can handle. These Montanans need the assistance of an attorney to resolve their legal problems. The Centers provide invaluable assistance to self-represented litigants and greatly ease the burden on the courts, but for some cases there is simply no substitute for the advice and representation of an attorney. MLSA, the primary provider of attorneys for low- and moderate-income Montanans, has only 13 case-handling attorneys for the entire state, making it impossible to serve every qualified family in need.

Community-Specific Examples

Great Falls: The unique needs of veterans were at the forefront of discussion in Great Falls. Veteran’s Court is an exceptional resource for struggling veterans, helping them to get back on their feet and stay

out of the civil and criminal justice systems. The Military Pro Bono Project is an excellent nationwide program that connects service members in need with attorneys.

Suggestions from Forum Participants

Alternative Dispute Resolution

Witnesses suggested the promotion of alternative dispute resolution. Because many low- and moderate-income Montanans have non-legal challenges that intersect with their civil legal problems, a court offers an incomplete solution. Alternative dispute resolution resources ease the courts' dockets and provide holistic solutions for low- and moderate-income Montanans.

A Specialty Court for Domestic Violence Issues

Witnesses suggested the creation of a specialty court to address domestic violence issues. The traditional courtroom can intimidate even an experienced attorney. For a domestic violence survivor, such a stressful environment decreases the likelihood of obtaining a civil protective order, a vital step in moving on with their lives safely. By contrast, the interventionist model of a domestic violence court keeps survivor safety at the forefront of all proceedings.

Conclusions and Recommendations

All of the forums in this series were recorded, and a summary compilation video can be accessed through the Access to Justice Commission's website.

TO BE COMPLETED AT CONCLUSION OF FORUMS