

*Maine Civil Legal Services Fund Commission*

*Report to the Joint Standing Committee on the Judiciary*

*125<sup>th</sup> Legislature, First Regular Session*

*February 1, 2011*

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# Maine Civil Legal Services Fund Commission

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## MAINE CIVIL LEGAL SERVICES FUND COMMISSION

January 31, 2011

David R. Hastings, III, Senate Chair  
Joan M. Nass, House Chair  
Joint Standing Committee on the Judiciary  
100 State House Station  
Augusta, Maine 04333-0100

RE: 2010 Report of the Maine Civil Legal Services Fund Commission

Dear Senator Hastings and Representative Nass:

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 individual reports from the 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 civil legal services providers supported by this Fund.

A partial snapshot of low-income citizens in Maine reveals that, according to the U.S. Census Bureau, in 2009 there were approximately 216,617 Maine individuals living at or below 125% the federal poverty level. And according to the U.S. Department of Health and Human Services, in 2010 the federal poverty level was \$22,050 for a family of four, \$14,570 for a family of 2 and \$10,830 for an individual.

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 2010 the Fund distributed \$1,866,845.11 to ten legal services providers according to the following annual distribution formula:

Cumberland Legal Aid Clinic	7% = \$124,029.16
Disability Rights Center	\$30,000.00
Immigrant Legal Advocacy Project	5% = \$88,592.26
Legal Services for the Elderly	20.25% = \$358,798.63
Maine Center on Deafness	\$15,000.00
Maine Equal Justice Partners	11.25% = \$199,332.57

Senator Hastings and Representative Nass  
January 31, 2011  
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Penquis CAP Law Project	\$30,000.00
Pine Tree Legal Assistance	50% = \$885,922.56
Volunteers Lawyers Project	6.50% = \$115,169.93
York County Community Action	\$20,000.00

We shall continue to monitor the good work performed by the recipient providers 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. On behalf of all persons benefited by this Fund, I thank you for your legislative support.

If you or any of the members of the Committee have any questions, please let me know. I can be reached at 650-2446 or [jbc4567@gmail.com](mailto:jbc4567@gmail.com).

Respectfully submitted,



Janis Cohen, Chair  
Maine Civil Legal Services Fund Commission

Enclosure

cc: David Fletcher, Esq., Commissioner  
Paul Chaiken, Esq., Commissioner

CUMBERLAND

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# Legal Aid Clinic

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UNIVERSITY OF MAINE SCHOOL OF LAW

**2010 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 is pleased to submit this narrative report on the services provided in 2010 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 also may arise anywhere in the state.

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.

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

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.

A total of forty-four students enrolled in Clinic courses during 2010. In addition, the Clinic hired five law students hired this summer to work as full-time interns. 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 to fourteen students, each of whom represent 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 Domestic Violence 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-credit clinical course, enrolling up to five students each semester, with an emphasis on interviewing, counseling and providing unbundled legal services on a wide range of issues. In 2010, the Prisoner Assistance Clinic provided legal information, advice, and, in some cases, full representation to 210 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** 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 on a number of levels. 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 Resource 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 **Domestic Violence 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 226 victims in 2010 in protection from abuse or protection from harassments matters in Lewiston District Court. The Clinic provided such representation in 2010 through support from the Fund, as well as federal funding received through the Maine Coalition to End Domestic Violence for the first half of the year.

## INFORMATION REQUESTED BY THE COMMISSION

The Fund provided nearly twenty percent of the total funds used by the Clinic for its programs in 2010 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 Domestic Violence Program.<sup>2</sup> In 2010, 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 four 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 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 58% of the Clinic's General Practice and Prisoner Assistance caseloads in 2010 (a total of 206 cases) and we also assisted 7 teens and young adults with family law matters through the Street Law Program. The Clinic handled a total of 226 Protection from Abuse/Harassment cases, for a total of 439 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, adoption, protective custody, grandparents' rights, and Hague convention rights. Other areas of civil legal services in the General Practice Clinic 2010 caseload have included foreclosure, administrative appeals, immigration, wills/estates, 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 paternity, disability benefits, contract claims, conversion of personal and real property, sexual harassment, landlord/tenant, individual rights, and bankruptcy. Juvenile Justice Clinic students provide information and advice to teens and young adult on civil matters such as emancipation, torts, civil fines, public benefits, immigration, disability, housing and family law through the Street Law Program at the Preble Street Teen Center.

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

In 2010, the Clinic provided civil legal assistance to a total of 479 individuals.<sup>3</sup>

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<sup>2</sup> The Clinic does some work in the areas of criminal and juvenile law, and those clients (a total of approximately 166 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.

<sup>3</sup> We have excluded from our calculations 32 of prisoners with whom we had some contact but who were not eligible for our services due to their case type, the prisoner did not follow up after an initial contact, the Clinic had 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 approximately 2000, who contacted the Clinic for legal assistance last year by calling or walk-in

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. Approximately 46% of our civil clients reside in Androscoggin County, 47% reside in Cumberland County; 1% reside in Kennebec County, 1% Knox, 4.5% in York County, and significantly smaller numbers in Franklin, Hancock, Oxford, Penobscot, Sagadahoc, Somerset and Washington counties.<sup>4</sup> In recent years the Clinic has assisted a growing number of clients with Limited English Proficiency and/or who were born outside of the United States. During 2010, our clients' countries of origin included Djibouti, Sudan, Mexico, Brazil, Somalia, and Germany. The Clinic also represents a large number of people with disabilities, particularly those with serious mental illness.

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 2010 we provided full representation to clients with cases in Portland (including the Maine Supreme Judicial Court and federal court), Augusta, Bridgton, Biddeford, Springvale, Alfred, York, Lewiston, Auburn, South Paris, Skowhegan, 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 87 civil cases open at the start of 2010. During the year, the Clinic opened 411 new cases and closed 412. The Clinic has 86 civil cases open at this time. With the start of the new semester in January 2011, 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 2009. As set forth in the Overview provided in this report, the Clinic has maintained or expanded all 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.*

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and who were provide referrals to other agencies due to a lack of available openings or ineligibility for representation by the Clinic.

<sup>4</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.

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. 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 2009 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, Maine Legal Services for the Elderly, KIDS Legal, CASA, Vermont Legal Aid, 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, Domestic Violence 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*  
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**DISABILITY RIGHTS CENTER  
2010 ANNUAL REPORT TO THE  
MAINE CIVIL LEGAL SERVICES FUND COMMISSION**

**JANUARY 13, 2011**

**Introduction**

The Disability Rights Center (DRC) first sought funding in 2008, from the Maine Civil Legal Services Fund Commission (MCLSFC) for a full time attorney position because DRC federal funds had not increased for four years running. Our capacity to provide legal services for Mainers with disabilities living in poverty was compromised. DRC initially received an award of 2% of the total Fund which was then reduced to a set amount of \$30,000 in 2010, representing a cut of more than \$6000.000.

Even though the initial 2008 Fund award was insufficient to hire a full time attorney, it allowed us to maintain legal services and staffing. We instead eliminated an advocacy position.

Unfortunately, however, due to continued level funding, we were forced to lay off a staff attorney in 2010. As prior reports have indicated, DRC's federal allocation has been flat funded for most of the last decade. We are hoping for at least flat funding in 2011 and are operating under Continuing Resolution, (flat funding), through at least March of 2011. Despite the recent elimination of 3 staff positions, DRC's expenses have outpaced its revenues. The funding for our core purpose is inadequate.

The Fund award is used exclusively within the legal budget and not for any administrative costs, support staff salaries, or advocate salaries.

**About DRC**

The Disability Rights Center (DRC), Maine's statewide protection and advocacy agency (P&A) for people with disabilities, is a private, nonprofit corporation. DRC is dedicated to enhancing and promoting the equality, self-determination, independence, productivity, integration and inclusion of

**MAINE'S FEDERALLY FUNDED PROTECTION AND ADVOCACY AGENCY**

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people with disabilities through education, strategic advocacy and legal intervention. Our mission is to advance and enforce the rights of people with disabilities. DRC employs 23 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 directly relate 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 7 federal grants (described in Appendix A), one state funded program and one state contract.

DRC gets an 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 1.5 advocates and directed by a staff attorney. The team's focus has been on children with severe disabilities who have either been excluded from school or who have been denied the right to receive a free appropriate public education. The staff attorney closely supervises the advocates to frame cases and to provide legal intervention when necessary. For example, the staff attorney becomes involved in negotiations when the schools involve their lawyer, administrative hearings and appeals. Generally, the team has become so effective that few cases require a due process hearing.

Our state funding for special education advocacy has also received cuts over the past 5 years from \$135,543 to \$122,979. 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's Education Team achieves remarkable results for these children but is sorely underfunded. There remains no earmarked federal funding for this vitally important work.

DRC has one contract to provide mental health advocacy in the two state psychiatric facilities; Riverview Psychiatric Center (RPC) and Dorethea Dix Psychiatric Center (DDPC).

## **Maine Civil Legal Services Fund Commission**

DRC's Maine Civil Legal Services Fund Commission (MCLSFC) funding is essential in ensuring that Maine citizens with disabilities living in poverty have access to the free legal services they need and deserve.

The funding that DRC receives from the MCLSFC allows DRC to provide legal services to low income Mainers with disabilities who would not otherwise receive legal assistance. DRC's federal funding includes 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 23 specific case examples providing detailed description of the types of cases DRC attorneys handled during 2010. Generally, 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. 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 care attendant (PCA) waiver services who are challenging service reductions, terminations or suspensions that might lead to their placement in an institution.

The Fund also supports DRC efforts to represent those 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 2010 are listed below:

<b>Active by Problem</b>	<b><u>No. of Cases</u></b>
Abuse	31
Architectural Accessibility	14
Childcare	3
Education	11
Employment	44
Gov't Services & Benefits	11
Guardianship/Conservatorship	2
Healthcare	75
Housing	34
Neglect	26
Non Gov't Services	23
Post Secondary Education	1
Program Access	2
Rights Violations	126
Transportation	3
Unnecessary Institutionalization	4
Voting	4
Other	5

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

The fund allocation is the equivalent of a half-time staff attorney position. During 2010, DRC had 5.5 full time staff attorneys who worked on 416 cases for 376 people. This means that the MCLSFC paid the DRC to handle approximately 38 cases, at \$789.50 per case.

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

<b>Active by Gender</b>	<b><u>No. of Clients</u></b>
Female	174
Male	201
Declined to Respond	1

<b>Active by Ethnicity</b>	
Native American	3
Afro-American	2
Hispanic	1

Multi-Ethnic	6
Multiracial	5
Somali	5
White	333
Unknown	23

**Active by Disability**

Absence of Extremities	1
AIDS/HIV	1
Autism/ Developmental Delay	23
Blindness/Visual Impairment	8
Brain Injury	38
Cerebral Palsy	20
Deafness/Hard of Hearing	3
Epilepsy	2
Heart and Circulatory	3
Learning Disability/SLD	6
Mental Illness	126
Mental Retardation	33
Multiple Sclerosis	3
Muscular Dystrophy	3
Muscular/Skeletal	1
Neurological	19
Physical/Orthopedic	71
Respiratory	10
Spina Bifida	2
Substance Abuse	1
Tourette Syndrome	3

**Active by Age when Case Opened**

Birth-18	83
19-30	59
31-40	56
41-50	81
51-60	81
61-70	10
71-89	6

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

DRC provides statewide service 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:

<b>Active by County</b>	<b>No. of Clients</b>
Androscoggin	27
Aroostook	11
Cumberland	80
Franklin	10
Hancock	9
Kennebec	61
Knox	8
Lincoln	8
Oxford	14
Penobscot	46
Piscataquis	5
Sagadahoc	13
Somerset	21
Waldo	12
Washington	5
York	35
Unknown	11

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

	<b>No. of Cases</b>
Opened	246
Closed	268
Active	416

**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 proposal was for the hiring of a full-time attorney, which was not feasible with the amount we received from the Fund.

DRC has complied with the terms of the award by exclusively using the Fund only toward staff attorney salaries to represent low-income Maine citizens with disabilities and have not used the funds other any other expenses such as administrative costs, support staff salaries, or advocate salaries. DRC did this by expanding 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 those 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, 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. Outcomes 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, Education Team, Mental Health Team and Employment, Public Accommodations (including Housing) Team. The team reviews intake, looking at eligibility and merit and then assigns a lawyer to the case. Each team has at least one attorney.

In addition, DRC’s Litigation Team meets once a month to discuss cases and other 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 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 person 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 will contact 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 to assess quality of services, to streamline operations, and improve data collection and reporting. DRC's teams meet weekly to discuss cases and projects and to assess and record team progress on annual program priorities. DRC's litigation team meets monthly to discuss legal trends and case strategies.

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 those 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" by federal funders; this audit includes a comprehensive financial as well as programmatic review, 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 a staff attorney, DRC has had to cut back on services. DRC lost the ability to represent people in straightforward loss of services cases. The staff attorney who was laid off handled nearly 100 of those cases in a year. We reluctantly turned away more individuals in 2010 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 more selective in taking cases involving requests for accommodations in housing and employment. Sometimes we offer individuals technical assistance or send them materials rather than provide representation.

The only state or federal money earmarked for special education advocacy in Maine is the legislative appropriation to the Disability Rights Center. There are no funds for special education advocacy services for any other children with disabilities. The State Department of Education (DOE) reimburses districts for a portion of the costs they spend on special education attorneys, but fail to provide any funding whatsoever for legal services to 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 get 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 eligible under the other federal programs. 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. 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 have in the past sought, and probably will be again seeking, cuts in education budgets by restricting eligibility for special education services, and by limiting 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. DRC is at risk of not being able to provide the quality services that have delivered in the past. In this era of budget cutbacks, DRC is facing the prospect of losing the little funding it currently has to represent Maine kids who need special education services.

DRC would like 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 with adults with disabilities, the termination of parental rights involving either children or parents with disabilities or 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, unless an individual has a case that meets one of DRC's priorities. We turn away cases that only involve violations of HIPPA or other privacy claims.

DRC would also like to do more to make public accommodations accessible to people with disabilities. 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 accessibility problems.

DRC should be doing far more work in the area of juvenile justice and children's mental health.

## **Appendix A**

### **2010 sample cases**

#### **Community Integration**

DRC was able to keep a residential services provider from discharging a man with traumatic brain injury from its program, allowing the client to maintain a greater level of independence and avoid more restrictive living arrangements. The provider contended that its program was not adequate to meet the man's needs and that his behavior posed a direct threat to the health and safety of the other residents. The client had struggled with alcoholism during his time in the program and had also accidentally caught a piece of paper on fire while trying to light a cigarette. DRC represented the client at an administrative hearing, arguing that the man's behavior issues and poor decision-making skills are symptoms of his TBI, which the program is specifically designed to assist him with, and that there were reasonable accommodations available that would eliminate any threat to other residents. The hearing officer agreed with DRC's arguments, finding that the program should be providing better rehabilitation services to the client and accommodating him by using established cueing techniques when he gets upset, eliminating any possible safety threat. The hearing officer prohibited the provider from discharging the client.

#### **Due Process Protections**

DRC is appealing a Superior Court ruling that a lower court had no obligation to inquire as to the effects that involuntary administered medications had on the ability of a 21-year-old man with mental illness, who was sedated at his commitment hearing, to understand the proceedings and assist his lawyer. The Court found that the client's only right was to be physically present at the hearings. The client was the subject of an involuntary commitment hearing that led to a four month commitment order to a psychiatric hospital. On the day prior to the commitment hearing, the hospital that filed for the commitment, declared a psychiatric emergency and issued an order to forcibly medicate the client with powerful psychotropic medications. Client claimed that at the hearing he was "passed out" due to these medications. Client was under guardianship and guardian did not want client to appeal the commitment. Client contacted the DRC. In an August of 2009 ruling, the Law Court found that individuals who were the subject of a commitment order had a right to counsel at every stage of the appeal process. In a case of first impression, the DRC petitioned the Cumberland County Superior Court for an order appointing DRC as the client's appellate attorney notwithstanding the guardian's objection. A hearing was held and the Court appointed DRC attorney as client's appellate counsel. DRC attorney filed appeal, the issues were briefed and appellate arguments were heard before the Superior Court. Oral argument occurred in October and DRC awaits the Court's decision.

#### **Housing Rights Violation**

DRC successfully represented a 28-year-old woman with mental illness in a supported apartment setting. Her landlord was also the Mental Health Agency providing her with services. During client's tenancy she was hospitalized at a state operated psychiatric hospital. While at the hospital,

the client was able to obtain a rental subsidy for an apartment located in a different area of the state. Client's efforts to move her things from her current apartment, with the help of a social worker from the state hospital, was stymied by the Mental Health Agency claim that client's lease expired while client was hospitalized. Mental Health Agency entered client's apartment and packed up her belongings and put them in storage. The Agency then refused to return her security deposit and demanded that she pay the storage costs before they would allow her to retrieve them. Due to the withholding of the security deposit, costs of storage and inability to retrieve belongings, client's rental subsidy was placed on hold for her new apartment and she was therefore unable to be discharged from the hospital. DRC communicated with the Agency outlining DRC's opinion that the agency's actions constituted an illegal eviction and conversion of client's property and that withholding of security deposit was not in accordance with the law. CEO of Mental Health Agency contacted DRC attorney and informed him that security deposit would be returned, client would not be charged for storage, and she could retrieve her personal belongings. Client was then able to be discharged from the hospital to her new apartment.

### **Public Accommodations**

The mother and guardian of a 45-year-old woman with autism contacted DRC to complain about how the client and two other women were treated by the owner of a large discount retail store. The three women were barred from entering the store. They were told that "there's already a group of those people in here." The owner of the store met the group at the door and advised them that they could return in about a half an hour, after the other group had left. The owner also indicated that there had been large groups in the store in the past and they had created a mess including in the bathroom and that he did not have the staffing to pick up after them. DRC wrote to store owner to allow him an opportunity to provide redress. After the storeowner failed to respond to the client's demands, DRC attorney filed suit in federal court. Thereafter, the storeowner, through counsel, agreed to provide redress in the form, a nondiscrimination policy, training on the policy, and an apology to the clients.

### **Guardianship**

DRC represented a 21-year-old man with Asperger's Syndrome to become his own guardian. The client contacted the DRC shortly after the probate court had appointed his mother as his full guardian over his objections. The client's parents had an extremely contentious relationship and when they divorced a few years back, the client's father was awarded custody of the client. After the divorce, the client lived with his father and had little or no contact with his mother. Upon turning 18, the client's mother petitioned for guardianship. DRC reviewed the client's records and the client did not meet the legal definition of an incapacitated person. There was no evidence that the client was making unreasonable decisions. Rather, it appeared that the probate had awarded guardianship to the mother because of the client's animosity towards his mother and the combative relationship between the client's parents. DRC, on behalf of the client, filed a petition to terminate the guardianship asserting that the client was not incapacitated. A review of the probate file revealed numerous procedural errors in the prior proceeding. DRC filed a motion for relief from

judgment on behalf of the client. On the day of the hearing on the motion for relief from judgment, the client's guardian resigned as guardian and the guardian ad litem agreed that the client did not need a guardian. As a result, the court terminated the guardianship.

### **Education/Restraint**

A 7-year-old second grade boy with multiple disabilities attended a self-contained behavior classroom. During the previous school year, the he had been bruised after being restrained by the principal. The client's psychologist stated that under no circumstances should client be restrained due to his prior abuse history. Also, medical complications (heart murmur and asthma) contraindicated the use of prone restraint on this student. Even though the district was made aware of the doctor's orders, the same principal placed client in prone restraint. DRC filed for and completed a two-day special education hearing on the use of restraint in this case. While the decision was largely favorable on the educational programming issues, the hearing officer determined he did not have jurisdiction to decide whether or not the district violated the state restraint regulation (Chapter 33). DRC had the student moved to an elementary school in a neighboring town pursuant to a Superintendent's agreement. The district agreed to provide an aide and a behavior assessment that it had previously refused to provide. Student was stable at the new school program and doing well. There have been no restraints.

### **Least Restrictive Placement**

The parent of an 11-year old boy with a mental illness contacted DRC after the district removed the student from the school indefinitely, pending the completion of a risk assessment. After a series of escalating behaviors, the district referred the boy to special education. Before the assessment could be completed, the boy was removed from school indefinitely. (In Maine, only school boards remove a student for more than two weeks.) At an IEP meeting in February, the team found the boy eligible for special education. The advocate insisted that more evaluative information was needed in order to develop an IEP. The district maintained that the student was not in a position for further evaluation. The advocate was successful in convincing the district that a manifestation determination review was needed but could not convince the district that the boy should return to school once the team unanimously agreed the behavior was a manifestation of the boy's disability. The district also refused to provided any more than 10 hours of tutoring per week while the student was out of school, refused to provide any behavior related services and refused to provide compensatory tutoring for the days (above 10) that the boy was out of school and receiving no education. The district offered the family a single option to tutoring and that was private day treatment placement. One program was willing to take the student and so he began attending. After four weeks at the day treatment program, the program staff agreed with the parent that the placement was unnecessarily restrictive. The advocate convinced the district to resume the evaluations and when the evaluations were completed, the IEP team convened and determined that the student would return to public school in the fall with appropriate supports and services. DRC then filed a due process hearing request and prepared to go to hearing on the violations. The

district settled for virtually everything the client sought, including for attorneys fees (\$750.00) for DRC.

### **Education**

An eighth grade special education student with disabilities was expelled after an incident involving brandishing of an unloaded shotgun off school property. The dispute, which flowed over to the neighborhood children, stemmed from an interfamily dispute regarding use of lobster fishing territory. DRC intervened and got the student readmitted to school. There was an issue involving provision of counseling during the summer months and DRC attended an IEP meeting to resolve this issue, to ensure that the student's transition back to school was productive. It was. The student played football and got on the honor roll. DRC then worked to have the wrongful expulsion expunged. The district agreed. Eventually all that remained were two references in his middle school special education file which could not be reached by colleges or recruiters. For safety's sake, the district placed a laudatory letter regarding the student, who was now successfully completing high school, in his school file. It is likely that the student will proceed to college.

### **Public Accommodations**

The DHHS contacted the DRC regarding a man with mental retardation because they felt that the client was getting inadequate treatment at the hospital. Client went into the hospital because he was incontinent and could not walk. The hospital was unable to determine what was causing the issue and was trying to discharge the client. The hospital was theorizing that the issue was a side effect of the client's medication. The DRC successfully advocated for the client to have a full medical work up which resulted in the client having back surgery that relieved the pressure that was causing his incontinence. The DRC later spoke to the client's case manager and the case manager informed the DRC that the client also regained his ability to walk.

### **Community Integration**

DRC successfully represented a young man with a cognitive disability in an eligibility hearing for adult mental retardation/autistic disorder services. After the hearing, the client applied for and did not get on the community supports waiver because the DHHS caseworker lost the client's application. In the meantime, the community supports waiver closed to new applicants. DHHS put the client on a waiting list for services which put him at imminent risk of institutionalization. DRC attorney negotiated with DHHS and the client was placed on the community supports waiver and began receiving services shortly thereafter.

### **Treatment**

DRC won an appeal when DHHS denied continued therapeutic treatment to a 20-year-old woman with depression, bi-polar and substance abuse disorders. The client contacted the DRC seeking assistance to appeal DHHS's denial of continued, therapeutic residential treatment. Without this continued treatment the client would be forced to live in a homeless shelter and would be unable to access therapeutic services in the intensity necessary to meet her needs.

## **Healthcare**

A 7-year-old girl with significant physical and cognitive impairments and 100% dependent on others for her needs, had been receiving 369 hours of nursing care under the private duty nursing program per month (75 hours per week), split among RN, LPN and CNA. After a new assessment, the State reduced her monthly nursing care time to 220 hours per month, representing a 149 hour per month loss in her nursing care. DRC filed an administrative appeal of the reduction and represented the client at an administrative hearing, which resulted in an order for a new assessment which resulted in a determination that she needed 71.5 hours of care, down slightly from the 75 hours per week she had been receiving before the hearing, but adequate.

## **Employment**

The mother and guardian of a 40-year-old male with mental retardation, homocystinuria, visual impairment, fine motor skill delays and delayed response time contacted DRC to express concern that client's employer changed the client's job duties at the supermarket where he had been employed for almost 20 years. Employer now required client to do bagging rather than trash pick up. DRC drafted a reasonable accommodation letter to request that client avoid bagging, advised client's mother about the ADA and employer's obligation to provide reasonable accommodation, and advised client's mother to speak with client's job coach about her concerns. The guardian met with employer and job coach, discussed client's disabilities and limitations and requested that he not be required to bag groceries. Employer and job coach indicated that client was doing well at his job bagging and did not need to be exempted from bagging. The employer agreed to regularly email the guardian thereafter and did, reporting that client was doing well in his job bagging groceries.

## **Public Accommodations**

A 57-year-old female with physical disabilities sees a mental health therapist located in a multi-tenant building. Client called DRC to complain that the entryway into the building lacked a railing and there is no properly designated handicap parking. Client made complaints in the past, but nothing happened. DRC inspected the property, outlined the barriers to access and wrote the landlord who owned the building and the city who owned the parking lot outlining the problems with accessibility. DRC negotiated with the building owner and the city to restructure the handicap accessible parking and entryway so that client could continue accessing the building for her therapy appointments.

## **Accommodation**

A 52-year-old blind male with mental and physical disabilities sent a local medical equipment supplier a prescription for a medical device. The supplier insisted that the client needed to travel to their location so that they could make a copy of his MaineCare information before they would process his prescription. They told him that he would have to come to pick up the device, as they do not deliver. Client requested that they accommodate him by permitting his reader to read them the insurance information over the telephone, and then to mail or deliver the device to his home, as

transportation is a serious problem for him. The supplier refused to do so stating that, even though he is a long time customer, this process is required of everyone. Client contacted the DRC who contacted the medical equipment supplier and negotiated the accommodation. The item was ordered in advance of the insurance information being provided to them, and arrangements were made for the delivery of it in exchange for the medical information being presented for verification at the client's door.

### **Public Accommodations and Employment**

A 48-year-old female with a Traumatic Brain Injury, sustained in a 2000 motor vehicle accident, contacted DRC after her local adult education program denied her reasonable modification for testing. The client attempted to enroll in a local Work Ready Program which requires passing a test. The client explained to administrator that she needed to use a highlighter to mitigate the effects of her short-term memory loss/difficulty reading & remembering important information. The administrator refused, and client did not pass the reading test and because she did not pass, she was not allowed entrance into the Work Ready Program. DRC law student intern requested an accommodation, negotiated with administrator, and received medical documentation. Modification request was granted so client could complete the Work Ready Program.

### **Housing**

A 23-year-old woman with a mental retardation and a one-year-old child was served with a 30 day notice to quit on New Year's Eve. The reason for the eviction was that her child's father had been staying with her at her subsidized apartment, and he is not permitted to be there under the terms of her rental subsidy. The landlord became aware of his presence and, after notifying her that she was in violation of her lease for unauthorized guests, served her the notice to quit. DRC contacted the landlord's attorney and negotiated a generous visitation agreement for her so that her child's father can continue to visit her and his baby. The eviction was withdrawn. DRC also advised the client of how to go about having the child's father added to her section 8 rental agreement.

### **Housing**

A 32-year-old woman with fibromyalgia, chronic fatigue syndrome, PTSD and depression who lived in a section 8 subsidized apartment, had been requesting (verbally and in writing) that the landlord install grab bars and other similar modifications to make her apartment more physically accessible. Having received no action from her landlord on her requests, she contacted DRC. After the landlord became aware that the DRC was involved, her requests were acted upon and all modifications were promptly made.

### **Housing**

A 46-year-old woman with mental illness who was living in a Section 8 subsidized apartment contacted DRC when she was served with an eviction summons and complaint alleging that her lease had expired. After preparing a motion to dismiss the complaint, DRC contacted landlord's attorney and negotiated a settlement whereby the eviction hearing would be continued, the client

would pay her portion of the subsidized rent, and the landlord would pay a moving company to assist client in moving her belongings to a different location. The landlord signed the agreement, agreed to the continuance, and the Court rescheduled the case for a later date. Client moved out of the apartment with the assistance of the moving company and landlord thereafter sent a notice to the Court dismissing the eviction hearing.

### **Housing**

A 56-year-old man with mental illness who was living in an assisted living facility was served with an involuntary discharge notice from the facility. A few weeks later, the client experienced a psychiatric emergency and was involuntarily admitted to a large freestanding psychiatric hospital. While in the hospital the ALF moved client's belongings out of his room and admitted another resident into the facility. Client was informed that he could not return. The client no longer met criteria for hospitalization but remained in the hospital due to ALF's actions. DRC contacted ALF administrator and sent him a letter outlining that the client's position was that the discharge from the facility was in violation of the clients rights secured under both state regulations and the federal constitution. The letter informed the administrator that if he did not allow the client to return to the ALF that any distress caused by this refusal would be assumed to be directly caused by the actions of the ALF. This letter was faxed to the ALF on a Friday afternoon and on the following Monday morning the ALF informed DRC that the client would be allowed to be discharged back into the facility. The client was discharged from the psychiatric hospital and returned back to the ALF the next day.

### **Treatment**

DRC successfully represented a 9-year-old girl with a brain injury who needed appropriate brain injury treatment offered only at a residential treatment facility. Originally, the girl was denied placement based on her "only having a mental illness as the result of a brain injury". Children's residential services are earmarked only for children with developmental disabilities or mental illness not for children with brain injuries. DRC appealed the denial and eventually the state agreed to place her in residential facility specifically for individuals, including children, with brain injuries after the provider they recommended determined that they could not assist her because she needed brain injury services.

### **Rights Violation**

A 44-year-old man with mental illness who was living in an apartment building operated by a large Mental Health Agency (MHA) had a mental health crisis. The MHA had an office in the apartment building that provided intensive mental health services to clients who lived in the various apartments in the building; including medication management, assistance with daily living skills and monitoring for safety. The client was admitted to a large free-standing psychiatric hospital for three weeks and then was ready for discharge. The MHA refused to allow client to return to his home citing concerns that the client would not be safe at his apartment, notwithstanding his treating psychiatrist's opinion to the contrary. DRC spoke with treating clinician at the hospital

who explained that she had arranged for the client to be discharged to a short-term intensive mental health crisis facility for a period of seven days so that the client could be monitored and assessed for safety prior to being discharged back to his home. According to the hospital clinician if, for any reason, there was a problem client could return to the hospital. DRC then called the CEO of the MHA regarding their refusal to allow the client to return to his home. CEO stated that the MHA would allow the client to return to his home under the discharge plan proposed by the hospital. DRC confirmed this in writing with the CEO. The next day the client was discharged to the Crisis facility and then back to his home.

### **Abuse and Neglect**

A 55-year-old man in community hospital for general medical treatment declined treatment. His physician declared him to lack capacity and was treating him against his will. The hospital also brought in a psychiatrist who declared a psychiatric emergency and they started administering him antipsychotic medications. After several attempts to reach staff or hospital attorney, DRC was able to reach a hospital representative and explain that the declaration of incapacity did not authorize them to treat without consulting with a surrogate, that he was apparently not genuinely incapacitated because they were simultaneously having him sign up for in-home treatment, and that psychiatric emergency was inappropriate because client was in fact not emergent and was cooperating with treatment. The hospital then withdrew order for involuntary medication. Meanwhile mental health intensive case manager met with the patient and agreed to follow him in community until alternate services could be found. Client was then discharged to home.

## **Appendix B About DRC**

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. In 2001, the Social Security Administration created a program for P&As to work with social security recipients to assist them to either enter the workforce or to return to work.

7. 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 a 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).



IMMIGRANT LEGAL ADVOCACY PROJECT

## **FY 2010 Year-end Report (January 1, 2010 – December 31, 2010)**

The Immigrant Legal Advocacy Project (ILAP) is pleased to present the Maine Civil Legal Services Fund Commission with its 2010 Year-End Report.

### **1. Introduction**

ILAP serves indigent and low-income noncitizens and their US citizen family members, and service providers from other fields who encounter them, who need immigration information and legal assistance. ILAP presently offers the following services: *Education and Outreach* to immigrant communities and to service providers regarding immigration law and policy; an *Immigration Clinic* offering attorney consultations, group legal informational workshops with eligibility screenings, *pro se* immigration application assistance, and brief intervention for persons with slight immigration complications; and full legal representation for persons with complicated immigration issues by attorneys volunteering with our *Pro Bono Immigration Project* and by ILAP staff through our *Full Representation Program*. ILAP also deals with systemic issues via its *Impact Project*.

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; those whose incomes are below 150% of poverty are not charged legal fees. In 2010, 91% of our clients were not charged fees for the legal aid provided to them by ILAP.

ILAP's grant from the Maine Civil Legal Services Fund (MCLSF) helps sustain the free legal services we provide, across all of our legal programs. Funds received from MCLSF for 2010 were instrumental to ILAP's ability to provide free legal assistance benefiting 2549 individuals residing in every county in the State. The MCLSF grant was applied in the manner that ILAP proposed in its request for funding and indeed, ILAP delivered more direct services than projected.

### **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 State administrative agencies, specifically the Department of Health and Human Services or the Bureau of Motor Vehicles, 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 and need to prove and obtain documentation from US Citizenship and Immigration Services or the Department of State.

ILAP prioritizes 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 2010, the MSCLF grant supported direct legal aid provided at no fee to **2549 individuals**<sup>1</sup>, 2219 of whom received various services through ILAP's *Immigration Clinic*, and the remainder were full representation clients, including those whose cases were opened in 2010, and those whose cases were opened in prior years and still ongoing in 2010. In 2010, ILAP's clients came from all 16 Maine counties, and from 99 countries of origin. The following demographics were represented: Males: 54%, Females: 46%, under 18: 12%, ages 18-60: 82%, over 60: 6%, US citizens by birth: 7%, US citizens by naturalization: 7%, noncitizens: 86%, Africans: 51%, Latinos: 23%, Caucasians: 20%, Asians: 6%.

ILAP also collaborated in 2010 with dozens of entities statewide to assist immigrants with whom they and we were working or had contact, 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, and Immigration authorities and the Immigration Court of Boston.

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

In FY 2010, ILAP's **5.8 legal staff**, augmented by volunteers, provided the following free legal services:

***Immigration Clinic:*** The *Immigration Clinic* is ILAP's first point of contact with consumers. Services range from intake screening and referral, to attorney consultations in-person in Portland or Lewiston or telephonically via our toll-free Immigration "Helpline." Persons served in the *Immigration Clinic* may also be offered additional *Immigration Clinic* services such as "Extended Assistance" or "Brief Intervention,"<sup>2</sup> or, where warranted, full legal representation. Consultations are also conducted in conjunction with outreach trips to migrant worker camps in rural Maine.

**All Clinic Services:** **1,914 services, directly benefiting 2,219 individuals.** Services included:

- **559 attorney consultations for 921 individuals, 79% of them extended** - lasting 45 minutes or more<sup>3</sup>
- **491 intake screenings** with referrals
- **118 persons detained** for civil immigration law infractions by Immigration authorities at Cumberland County Jail attended weekly group **legal rights orientations**, followed by individual relief eligibility screenings, and received **written pro se assistance materials**
- **118 persons received brief interventions** (without ILAP entering its appearance as the person's attorney)<sup>4</sup>

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<sup>1</sup> The total number of clients directly served by ILAP in 2010, including those who were charged low fees for their services and were not funded by the MCLSC grant, was 2788. 91% of ILAP's clients received free services in 2010. Those who attend our education and outreach events, all provided without charge, are not included in the "direct services" number.

<sup>2</sup> "Extended assistance" is ILAP's terminology for providing *pro se* immigration application forms assistance or other "do it yourself" assistance to persons needing legal help but lacking major complications. Typically, ILAP meets multiple times with the client over several weeks, and staff or volunteers spend from 5 to 24 hours to conclude the assistance. "Brief intervention" is ILAP's term for a situation in which a person has a slight complication that definitely requires the expertise of an experienced immigration advocate to properly resolve, but that possibly may be resolved without full attorney involvement, and without the need for ILAP to enter our appearance on the person's behalf. By offering brief intervention, ILAP is able to efficiently provide expert legal assistance to low-income Mainers without incurring the administrative effort and expense that accepting the person as a full representation client would entail. ILAP is prepared in all cases to accept these individuals as full representation clients and to enter our appearance if needed.

<sup>3</sup> In 2010, ILAP instituted group naturalization orientations (attended by 128 individuals, reflected in our *Education and Outreach* numbers), and created more detailed intake screening procedures resulting in fewer initial consultations for those who appeared after screening to lack significant complications and were appropriate for extended assistance. This resulted in greater efficiency, with fewer consultations provided and a corresponding decrease in waiting times for attorney consultations (from a nearly 3 month wait for a non-emergency consultation to a 3 to 4 week wait) and, but the overall level of services provided remained substantially the same as in 2009.

<sup>4</sup> Brief interventions occur when ILAP helps a client resolve a complication without entering a notice of appearance, and range from *pro se* motions to change venue from a distant Immigration Court to the Immigration Court of Boston, to helping respond

- **628 *pro se* immigration forms assists were completed, and 165 were in progress at year's end, including:**
  - **173 permanent residency applications** (52 in preparation at year's end);
  - **40 citizenship (naturalization) applications** (17 in preparation at year's end);
  - **112 family based visa petitions** to allow immediate family members immigrate (59 in preparation at year's end); and
  - **303 other** types of applications or assists (38 in preparation at year's end).

Because decisions regarding applications filed *pro se* go directly to the client, not to ILAP, ILAP cannot track the final outcomes of these matters, though we encourage clients to contact us once they receive decisions. ILAP therefore measures our performance by the number of applications successfully filed without being rejected by USCIS (the Immigration Service) or the State Department. Of the 628 applications prepared, only one was returned due to errors (which were corrected and successfully refilled) – a **99.8% success rate**. **Non-attorney volunteers** contributed **1991 hours** of attorney-supervised immigration forms preparation and other assistance in ILAP's Clinic.

### **Full Legal Representation**

In 2010, ILAP's staff and *Pro bono Immigration Panel* attorneys provided free full representation services under the MCLSF grant in **243 cases benefiting 414 clients with complicated immigration issues** (including cases still open from prior years). Case activity under the grant included<sup>5</sup>:

**Cases opened: 81 for 123 individuals      Cases closed: 71 for 102 individuals**  
**Cases open at year-end: 183 for 335 individuals**  
**Defensive cases served (in removal proceedings): 59 for 87 individuals**

#### **Individual outcomes:**

- **Asylum applications granted: 31 (including 14 spouses and children of the principal applicant, and 11 individuals in removal proceedings)**
  - Asylum applications pending or in preparation: **80**, including 29 in removal proceedings
- **Initial stage of residency granted: 20 (including 8 domestic violence or crime victim's cases)**
  - Initial stage of residency applications pending or in preparation: **17** (including 9 domestic violence survivors' cases)
- **Permanent residency (final stage) granted: 55 (including 7 domestic violence victims' cases)**
  - Permanent residency (final stage) applications pending or in preparation: **56** (including 4 domestic violence survivors' cases)
- **Employment authorization applications granted: 32**
  - Employment authorization applications pending or in preparation: **12**
- **Naturalization to U.S. citizenship applications granted: 10**
- **Removal proceedings successfully terminated (to allow applications to be pursued affirmatively before USCIS), or closed (because relief granted): 17**
- **Cases finally denied (including after appeals): 5**

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to documents requests from the USCIS or from US consulates abroad, to determining if USCIS has lost an application that has been pending for overly long, etc.

<sup>5</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 person who is granted asylum remains open to help the asylee file for permanent residency a year after asylum is granted. The case of a permanent resident whose petition for his wife is approved remains open for years while we await 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.

ILAP measures the quality of its full representation work by tracking the outcomes of all intermediate or final decisions received. In 2010, **97.3% of all applications in full representation cases that received final decisions were approved.**<sup>6</sup> The approval rate for interim decisions received was 100%. ILAP's *Pro bono Immigration Panel* attorneys contributed **4862 hours valued by them at \$1,153,373** to ILAP's clients in 2010.

### **Education and Outreach**

In FY 2010, ILAP conducted **58 outreach events** for immigrant community members or service providers, **attended by 1479 persons**. Workshops or trainings included trainings for domestic violence prevention program staff regarding the immigration remedies for noncitizen victims of domestic violence; workshops for immigrant community groups, including migrant workers in Maine, regarding their Constitutional and immigration law rights. We also conducted monthly Naturalization Orientations at ILAP's office and in Lewiston for individuals seeking legal consultations about the naturalization process. ILAP additionally was quoted in the media (radio, TV and print) around various immigration issues. The *Portland Press Herald* also published a brief op-ed coauthored by Beth Stickney of ILAP and Shenna Bellows of MCLU that is available at <http://bit.ly/dmE7Yu>.

### **Impact Project**

ILAP, often with MIRC partners, worked on the following systemic issues in 2010:

- ILAP's Executive Director Beth Stickney was named to sit on the State's Bias Based Profiling Advisory Committee, which began meeting monthly in February. The committee is comprised of 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 advocated for by ILAP and other civil rights allies. The committee is working to document the extent that profiling happens in Maine and will make recommendations to the Legislature in 2012.
- ILAP wrote the text of a curriculum unit on Human Trafficking in Maine that the Criminal Justice Academy approved as required training for all new recruits at the CJA, as well as for a mandated continuing education unit for existing law enforcement officers. It can be viewed here: <http://bit.ly/brkhDj>. This unit supplements a two hour unit on human trafficking nationally, and should result in ILAP and other NGOs being called in by law enforcement officers to assist as early as possible if they encounter trafficking victims.
- ILAP intervened in Augusta to lessen the overbreadth of LD 1545, a bill designed to discourage hiring of Canadian loggers, but that could have discouraged hiring of any noncitizen, even those with permanent residency and other legal statuses entitling them to work in the U.S. and in Maine without restriction. The bill was modified substantially in response to ILAP's concerns but not defeated in its entirety and still contains bad language, that if applied, ILAP would be willing to challenge in federal court as preempted by Federal employer sanctions laws.
- ILAP continued to work with its Maine Immigrant Rights Coalition (MIRC) partners on federal issues that affect immigrants in Maine, including work to educate Maine's Congressional Delegation's about the federal End Racial Profiling Act (ERPA) and various federal immigration law reform measures, including the DREAM Act. ILAP's work included meeting with Maine's two Senators concerning immigration reform bills, and cohosting a hearing on June 26, 2010 where individuals, including several ILAP clients, who had experienced apparent racial profiling by law enforcement officials, spoke of their experiences. Transcriptions of the hearing were presented to Maine's Senators. In the run-up to the hearing, ILAP's executive Director, Beth Stickney, also met with the editorial board of the *Portland Press Herald*, together MIRC

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<sup>6</sup> Immigration cases can take years in the ordinary course to receive final decisions; three to five years or more is common.

partners Shenna Bellows of the MCLU and Blanca Santiago of Centro Latino, to educate them on ERPA, resulting in an editorial in the Portland Press Herald on June 23, 2010, urging Maine's Senators to support the federal bill.

- ILAP was invited by the Portland Charter Commission (charged with rewriting Portland's City Charter) to present expert information on the process of becoming a naturalized citizen, and barriers preventing immigrants from becoming citizens, as it weighed whether to permit noncitizen voting on local questions in the new Charter. In the end, the question was put on the November 2010 ballot, and was narrowly defeated.
- ILAP continued to serve on the Maine Judicial Branch's Limited English Proficiency Task Force, working to improve mechanisms to provide feedback to the Judicial Branch about interpreter performance in Maine's courts.
- ILAP continued to work with the Maine Bureau of Motor Vehicles to improve their processing of driver's license and ID applications by those, including U.S. citizens, born abroad.

## 5. Unmet or underserved needs.

Although ILAP provides a tremendous amount of services while remaining an extremely lean organization, over a third of those seeking ILAP's assistance cannot be served or can only be provided with limited legal assistance due to lack of capacity. The demand for Immigration law assistance grows each year, but our funding does not allow ILAP to continue growing in a corresponding fashion. ILAP lacked capacity to keep pace with the **450% surge in asylum seekers requesting ILAP's help** which began in the late fall of 2009. By March 2010, we had many cases that we had accepted as meritorious but were unable to place with our *Pro bono* Immigration Panel, or in-house. So much time was needed to intake new asylum seekers and to assess their claims that we lacked time to recruit new attorneys to the Panel. Therefore, we made the painful decision to temporarily close to asylum intake so that we could focus on recruiting new attorneys to the Panel. **Since then the panel has grown from 52 attorneys to 81**, a greater than 50% increase, and asylum cases have grown from about 20% of our full representation caseload in 2009 to nearly 40% in 2010. **Despite this expansion of our *Pro bono* Panel, however, we had to turn more than 100 asylum seekers away in 2010** due to lack of capacity. In addition, our success in recruiting attorneys brings new challenges in terms of having sufficient staff resources to train and mentor the new volunteer attorneys, to continue recruitment, and to systematically monitor case management of the cases handled by the *Pro bono* Panel. The Panel needs to become still larger to help us meet the demand for asylum representation, but we cannot responsibly recruit additional volunteer attorneys at this time without additional staff resources. We have begun aggressively seeking funding to hire an Asylum Coordinator staff attorney by the spring of 2011.

## 6. Conclusion

The MCLS Fund was a critical partner in ILAP's mission in 2010, as we successfully provided information and advice to thousands of Maine's low-income residents, and helped hundreds of them to pursue their dreams of permanent residency and citizenship, or attain safe haven from persecution or domestic violence, or reunite with immediate family members, or defeat removal proceedings so that they could 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 the free legal services, education and outreach, and systemic advocacy efforts that ILAP provided to benefit Maine's low-income immigrants and their U.S. citizen families in 2010. 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 2010 ILAP changed the lives of many of our newest Mainers. ILAP is extremely grateful for the MCLS Fund's support.

# **Legal Services for the Elderly Annual Report to the Maine Civil Legal Services Fund Commission Calendar Year 2010**

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 2010. 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.

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.

## **STATISTICAL INFORMATION**

### **Number of People Served**

In 2010, LSE provided free legal help to 3,685 Maine seniors in 4,668<sup>1</sup> 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 increased by 10% in 2010 as compared to 2009 and 25% as compared to the 2009 service levels (see **Attachment A** for a summary chart of historic and current service levels).

This level of legal services was provided through a small staff: 1.0 full time equivalent (FTE) Deputy Director; 1.0 FTE Intake Paralegal; 3.2 FTE Helpline Attorney;

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<sup>1</sup> Going into the last quarter of the year, LSE’s service levels were projected to exceed 5,000 cases for the year. It was not possible for LSE to sustain that level of service. LSE closed intake on brief occasions during the late summer and fall to deal with unmanageable call volumes. In addition, LSE took the step of curtailing nearly all outreach during the last quarter of the year in an effort to avoid generating a demand for services that would exceed available resources.

1.0 FTE Consumer Debt Paralegal; 4.85 FTE Staff Attorneys; and .80 FTE Area Office Paralegal.

**Types of Cases Handled by LSE**

The following chart breaks down the number of cases handled in 2010 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 (1272)	27%
Self Determination (1043)	22%
Housing (876)	19%
Health Care (549)	12%
Miscellaneous (277)	6%
Family (215)	5%
Income Maintenance (197)	4%
Individual Rights (includes elder abuse and exploitation) (167)	4%
Employment (72)	1%
<b>Total Cases (4668)</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, wills), housing (public and private housing, foreclosures, evictions), and access to health care (Medicare and MaineCare). Overall, the largest and fastest growing area of demand for LSE's services involves elders facing a financial crisis. As compared to two years ago, before the economic downturn, LSE has seen a 39% increase in consumer debt cases (1,272 versus 912) and a 219% increase in the number of foreclosure cases (134 versus 42). LSE's clients continue to be among the most needy and vulnerable of Maine's seniors.

## Geographic Distribution of Cases Handled by LSE

This chart provides data regarding the geographic distribution of LSE's clients in 2010. 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 2010 STATISTICS		COUNTY STATISTICS <sup>2</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	334	9%	8%	9%
Aroostook	296	8%	7%	10%
Cumberland	687	19%	19%	14%
Franklin	52	1%	2%	2%
Hancock	140	4%	4%	4%
Kennebec	319	9%	9%	9%
Knox	74	2%	4%	3%
Lincoln	84	2%	3%	3%
Oxford	147	4%	5%	5%
Penobscot	533	14%	11%	11%
Piscataquis	71	2%	2%	2%
Sagadahoc	72	2%	2%	2%
Somerset	141	4%	4%	5%
Waldo	121	3%	3%	3%
Washington	131	4%	3%	6%
York	483	13%	14%	12%
<b>Total</b>	<b>3685</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

This chart reflects increases of 15% or more as compared to 2009 in the level of services provided in Hancock, Oxford, Piscataquis, Sagadahoc, Waldo, and York Counties. 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>2</sup> U.S. Census 2000. Current poverty data by county is not available at this time. Note: LSE serves clients with economic needs and social needs. This means the poverty statistics included in this chart provide at best a general picture of the geographic distribution of seniors who may have the greatest need for legal services.

## **Demographic Information**

The clients served were 33% male and 67% female. All clients served were sixty years of age or older and 41% were 75 years of age or older. LSE does not inquire about the race of our clients unless we are required to do so by a specific funder and only obtains financial information if it is required in order to assist the client.

## **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. This means most clients only receive help via telephone. The most intensive level of service, providing a staff attorney to represent an elder in a court or administrative proceeding, is only offered where an elder is at risk of losing their home, can't access needed health or other essential public benefits, or is a victim of abuse or exploitation, and there is no other legal resource available to help the elder.

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 and paralegals in LSE's five local offices in Augusta, Bangor, Lewiston, Presque Isle, and Scarborough ("Area Offices"); 3) special 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.

The remainder of this report describes these four components and highlights accomplishments in the past year. **Attachment C** to this report provides additional information that is responsive to specific Commission requests that are not otherwise covered in the body of the report.

## **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 75% of the Helpline callers though many desire and could benefit from more extensive help. 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 2010 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 over 300 pro bono or reduced fee referrals to referral panel members in 2010.

### **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.

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 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 2010** 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;
- Kennebec County Elder Abuse Law Project;
- Eastern Maine Long Term Care Project (targeting Piscataquis, Penobscot, Washington, and Hancock Counties); and
- Aroostook County Elder Access to Justice Project.

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 62 educational presentations in 2010 that reached over 1,500 people across the state. 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 also 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 2010, there were 90,000 visitors to the website and 178,000 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 2010 and 2025. By 2030, it is projected that 32.9% of Maine's population, or 464,692, will be over 60.<sup>3</sup> Most of Maine's elderly live in isolated rural areas. Maine has the nation's second highest percentage (61%) of its older population living in rural areas. In contrast, the national rate is 20%.<sup>4</sup>

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>5</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 recently 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. The report also found that without free legal assistance, elders who can't afford a lawyer are most likely to 'do nothing' about their legal problem.

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<sup>3</sup> U.S. Census Bureau, Population Division, Interim State Population Projections, 2008.

<sup>4</sup> Across the States 2010: Profiles of Long-Term Care, AARP, 2010.

<sup>5</sup> U. S. Census Bureau, 2005-2007 American Community Survey and Across the States 2010: Profiles of Long-Term Care, AARP 2010.

LSE handles around 5,000 cases per year, representing fewer than 2% of the 270,000+ older Mainers. Without free or low cost assistance being available, low income Mainers who face legal issues that implicate their most basic human needs, things such as health care, housing, and safety, simply go without the legal help they need. The consequences are potentially devastating. Living on fixed incomes, often dependent upon others for assistance, and frequently facing medical, transportation and other challenges, the elderly are particularly vulnerable when facing a threatened loss of public benefits, housing or health care services such as home care. The elderly are also more vulnerable to being victimized by consumer scams and exploited by family members and caretakers due to their isolation and dependency on others.

In summary, there is no question there is significant and growing unmet need for legal services among Maine's most vulnerable seniors.

### **SUMMARY**

MCLSF funding supports LSE in providing statewide legal services to Maine's most vulnerable elderly. 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.

Respectfully submitted,

Jaye L. Martin  
Executive Director

**ATTACHMENT A  
LEGAL SERVICES FOR THE ELDERLY**

**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 Elder 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 programs that are funded entirely by restricted federal and/or state grants. The two programs are: 1) services provided by LSE as a part of the State Health Insurance Assistance Program ("SHIP") and 2) LSE's Medicare Part D Appeals Unit. The SHIP program provides 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.

**Client Services Summary—All Services:**

	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>
<b>Total Legal Matters (these services are the <u>only</u> LSE services supported in part by the Fund)</b>	3,411	3,738 (9.5% increase)	4,217 (12.8% increase)	4,668 (10.7% increase)
<b>Medicare Part D Appeals</b>	912	595	775	808
<b>State Health Insurance Assistance Program (SHIP) services</b>	1,303	955	1,000	1,073
<b>Total of all individual/direct services</b>	5,626	5,288	5,992	6,549

**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 activities are not supported by the Fund.

**ATTACHMENT B**  
**LEGAL SERVICES FOR THE ELDERLY--2010 DETAILED CASE TYPE REPORT**

CASE TYPE	CY 10
<b>CONSUMER/FINANCE</b>	
Bankruptcy/Debtor Relief	33
Collection/including Repossession	176
Collection Practices/Creditor Harassment	674
Contracts/Warranties	37
Funeral/Burial Arrangements	6
Loans/Installment Purchase (Other than Collection)	37
Non-Mortgage Predatory Lending	2
Other Consumer/Finance	233
Public Utilities	32
Unfair & Deceptive Sales & Practices	42
<b>TOTAL</b>	<b>1272</b>
<b>EMPLOYMENT</b>	
Employee Rights	2
Job Discrimination	3
Other Employment	24
Taxes	43
<b>TOTAL</b>	<b>72</b>
<b>FAMILY</b>	
Adoption	0
Child Support	6
Custody/Visitation	0
Divorce/Separation/Annulment	94
Domestic Violence	22
Name Change	0
Other Family	93
<b>TOTAL</b>	<b>215</b>

<b>CASE TYPE</b>	<b>CY 10</b>
<b>HEALTH</b>	
Home & Community Based Care	27
Long Term Health Care Facilities & Services	44
MaineCare for Adult	390
Medical Malpractice	25
Medicare	47
Other Health	0
Private Health Insurance	16
<b>TOTAL</b>	<b>549</b>
<b>HOUSING</b>	
Federally Subsidized Housing	143
Homeownership/Real Property (Not Foreclosure)	301
Housing Discrimination	2
Mobile Homes	43
Mortgage Foreclosures (Not Predatory Lending/Practices)	2
Mortgage Predatory Lending/Practices	155
Other Housing	39
Private Landlord/Tenant	169
Public Housing	22
<b>TOTAL</b>	<b>876</b>
<b>INCOME MAINTENANCE</b>	
Food Stamps	12
Other Income Maintenance	32
Social Security (Not SSDI)	79
SSDI	20
SSI	14
State & Local Income Maintenance	18
Unemployment Compensation	10
Veterans Benefits	12
<b>TOTAL</b>	<b>197</b>

<b>CASE TYPE</b>	<b>CY 10</b>
<b>INDIVIDUAL RIGHTS</b>	
Civil Rights	3
Disability Rights	3
Elder Neglect, Abuse, & Financial Exploitation	129
Immigration/Naturalization	4
Mental Health	3
Other Individual Rights	25
<b>TOTAL</b>	<b>167</b>
<b>MISCELLANEOUS</b>	
Indian/Tribal Law	0
License (Auto, Occupational, & Others)	21
Municipal Legal Needs	5
Other Miscellaneous	223
Torts	28
<b>TOTAL</b>	<b>277</b>
<b>SELF DETERMINATION</b>	
Adult Guardian/Conservatorship	34
Advance Directives/Powers of Attorney	430
Wills/Estates	579
<b>TOTAL</b>	<b>1043</b>
<b>GRAND TOTAL</b>	<b>4668</b>

The level of service provided in these 4,668 matters breaks down as follows (from most to least intensive): 5% extended representation services; 15% limited action taken/brief services provided; 57% counsel and advice only; 8% information only and successful pro bono or reduced fee referral; 1% information only and attempted but failed pro bono or reduced fee referral; 10% information, advice and referral (may be for social services or full fee legal services); and 4% clients who no longer desired services after making initial contact with LSE.

**ATTACHMENT C  
LEGAL SERVICES FOR THE ELDERLY**

**Additional Required Information**

**Status of Matters Handled**

The reported matters were all opened during 2010 and are reported regardless of whether or not they were closed in 2010 (only 155 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.

**Compliance with Proposal to the Commission**

LSE provided all of the core legal services described in its proposal to the Commission.

**Outcomes Measurements Used to Determine Compliance**

Using the Legal Files 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, and the Office of Elder Services.

**THE MAINE CENTER ON DEAFNESS  
CIVIL RIGHTS PROGRAM**

**2010 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 2010 services MCD's Civil Rights Program provided utilizing MCLSF funds. The support of the Maine Civil Legal Services Fund was integral to MCD's ability to ensure that D/deaf, Hard-of-Hearing and Late-Deafened people in Maine had legal assistance in gaining equal access to, and preventing discrimination in the offering of, the services and benefits offered in Maine.

Established in 1988, the Maine Center on Deafness ("MCD") is an independent non-profit agency that serves people in Maine who have hearing loss. Hearing loss is one of the most prevalent chronic conditions in the United States. According to statistical models<sup>1</sup> and recent federal and state census records, there are approximately 130,000 persons in Maine whose hearing is impaired to an extent that impacts their daily lives. Of that number, approximately 10% are profoundly deaf and communicate primarily through American Sign Language ("Deaf"). Historically, Deaf persons have been segregated and excluded from community institutions due to communication barriers. Approximately 110,000 Mainers are Hard-of-Hearing ("HOH") or Late-Deafened ("LD") people who typically access communication through English. The ranks of "graying" Mainers who are HOH or LD are growing every day in Maine.

MCD's mission is to assist persons with hearing loss by providing resources, advocating for social equality, and helping the general public to better understand and appreciate Deaf culture and effective methods of communication. MCD has many different programs: a Telecommunications Equipment Program, which provides equipment to make telephone systems accessible to persons with disabilities and sells adaptive equipment for persons with hearing loss; an HIV program; outreach to promote the Maine Relay telephone system for persons with speech or hearing loss; a Peer Support Group/Visual Gestural Communication program to assist persons with hearing loss and developmental disabilities; a training program for service providers about hearing loss issues; and the Civil Rights Program.

The Civil Rights Program at MCD provides legal advocacy to and on behalf of persons relating to issues affected by their hearing loss. We assist Deaf, HOH and LD ("D/HOH/LD") people in seeking meaningful access, communication and participation in Maine communities, workplaces and services. We work with clients and community service providers and organizations in consultations, and help with informal resolutions to access issues every day. We also provide representation in dispute resolution matters, including formal litigation in administrative forums and state and federal court.

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<sup>1</sup> (Sergei Kochkin, Ph.D., *Better Hearing Institute, The Prevalence of Hearing Loss and MarkeTrak VII: Hearing Loss Population Tops 31 Million People, The Hearing Review*, 2005, Vol. 12, No. 7, at 16).

**i. Types of cases handled by the organization as a result of money received from the Fund.**

Over the past year, the Civil Rights Program at MCD – which has one full-time attorney and one part-time attorney – has handled a wide variety of cases relating to Maine’s D/deaf, Hard-of-Hearing and Late-Deafened (collectively referred to herein as “D/HOH/LD”) citizens. One of the key issues that led to the founding of the MCD Civil Rights Program two decades ago was Deaf consumers’ need for access to sign language interpreters. Sadly, this issue remains our most prominent type of case, reflecting far less change than one might have expected over 20 years. In 2010, MCD’s lawyers represented clients in at least 21 cases seeking sign language interpreters. These cases occurred across the spectrum of life in Maine: in alcohol, drug, and mental health treatment facilities; banks; hospitals; schools; police departments; schools; federal programs and facilities; courts; and jails. We continued to facilitate understanding about the needs of D/HOH/LD consumers with our peers in the Maine Bar and courts as well.

Discrimination in or by private entities open to the public – “public accommodations” – continues to be a significant issue for D/HOH/LD persons. Some public accommodation cases involve interpreter requests that are denied, and are captured in the above paragraph’s description. Other growing types of public accommodation cases include: refusal to accept calls from communication devices used by the D/HOH/LD populations (*i.e.*, teletypewriters, calls through the Telecommunication Relay System and internet- or video-based relay calling, or e-mail or text messages); refusal to provide captioning to HOH/LD persons; and refusing to allow service animals to accompany D/HOH/LD persons. At least 16 disputes relating to public accommodations required sustained individual legal advocacy in 2010. These cases involved landlord/tenant situations, banks, hospitals, courts, police departments, libraries, Social Security Administration offices, Veterans Affairs facilities, television stations, the State of Maine’s programs, and nonprofit organizations.

Employment discrimination, which was the focal issue in approximately 9 of our 2010 cases, also continues to be a significant issue for D/HOH/LD people. These cases involved both federal and state employers, including post offices, nonprofit agencies, hospital clinics, lumber yards, supermarkets, and national chain stores.

Educational rights cases continue to represent a significant portion of MCD’s attorney time, with at least 9 new cases in 2010 arising under the Individuals with Disabilities in Education Act and Section 504 of the Rehabilitation Act of 1973. MCD’s attorneys informed parents about their rights under these education laws, helped parents prepare for team meetings, accompanied them to meetings to assist them in advocating for their D/HOH children, and achieved significant success in obtaining the parents’ desired outcomes for their children.

MCD’s 1.5 attorneys advocated for consumers before the Maine Human Rights Commission, the United States Postal Service, the Social Security Administration, the United States Department of Veterans Affairs, the Department of Health and Human

Services Hearing Division, and several Maine District and Superior Courts. Of course, MCD attorneys also pursued and resolved numerous disputes to client satisfaction without needing litigation.

Aside from actual “cases”, or contested matters, MCD spoke daily with D/HOH/LD clients, their families, and the professionals who work with them regarding the clients’ rights under Maine and federal laws. As part of this service, MCD attorneys regularly informed physicians, landlords, attorneys, dentists, courts, educational institutions, banks and employers about their legal responsibilities to provide effective communication, and how to do so. MCD attorneys also helped Deaf clients get court-appointed attorneys for which they might not otherwise qualify, and helped Deaf clients address consumer complaints that are particularly troublesome for the Deaf, such as internet fraud.

Oftentimes, MCD attorneys helped D/HOH/LD clients understand and clarify what their legal problems actually were, and directed or referred them to other attorneys, a situation which often arose concerning Worker’s Compensation issues, Unemployment Insurance issues, and Social Security issues. In so doing, MCD provided much-needed education to a portion of the public whose isolation from everyday communication left them largely unaware of their basic rights. Helping D/HOH/LD clients understand which problems are truly “legal” problems and which are not is an important service MCD’s lawyers provide for MCD’s clients, one that benefits Maine’s entire legal system.

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

In 2010, our 1.5 attorneys and our one non-attorney interpreter/advocate fielded hundreds upon hundreds of phone calls, TTY calls, calls made via the Telecommunications Relay System (between D/HOH/LD persons and hearing persons through a relay communication assistant or sign language interpreter), e-mails and walk-in client visits over the past year. MCD attempts to quantify this constant influx of contacts about new matters, capturing this data as “intake” contacts in our computer database. Intakes are matters that are resolved quickly, with a relatively short amount of attorney attention. *In 2010, MCD’s Civil Rights Program documented receiving intakes for at least 495 matters relating to D/HH/LD consumers.*<sup>2</sup> *This represents our highest total of intakes since MCD began keeping data – our intakes have been increasing every year.* Since MCD’s attorneys 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 of number of people served in 2010 greatly exceeds 495.

These 495 intakes resulted in 24 new “cases” being opened within the Civil Rights Program. We categorize “cases” as matters that require extended attorney

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<sup>2</sup> In 2009, MCD’s Civil Rights Program received 446 new intakes. In 2008, MCD’s Civil Rights Program received 345 new intakes. In 2007, the Civil Rights Program took in 173 new intakes.

attention and/or litigation. The small percentage of cases opened from a large number of intakes indicates that the Civil Rights Program's lawyers were extremely effective in resolving disputes without the necessity of litigation. The 24 new cases opened in 2010 were not the only cases handled by MCD's lawyers in 2010, though; 53 existing cases were carried into 2010 from 2009. MCD's total load of "cases" requiring sustained involvement in 2010 was 77.

It is worth mentioning that the lawyers from the MCD Civil Rights Program have other contractual obligations from state contracts that keep them busy, but which are not supported by MCLSF monies. MCD Civil Rights Program attorneys planned and led quarterly meetings for the Deaf Rights Group ("DRG"), a statewide cross-disciplinary group helmed by MCD. The purpose of the DRG is to advocate for all D/HOH/LD citizens around Maine, across all agencies, with one voice. MCD's Civil Rights Manager also is Vice-Chair of the Commission for the Deaf, Hard-of-Hearing and Late-Deafened, and in that capacity was frequently asked to contribute civil rights and other legal expertise on behalf of D/HOH/LD communities. MCD's Civil Rights Program also was responsible for holding twice-monthly meetings around the state for American Sign Language users. Finally, and not least, during the 2010 year, the MCD Civil Rights Program lawyers advocated on behalf of D/HOH/LD persons at the Maine Legislature. All of this important work for systemic change that benefits Maine's D/HOH/LD persons – which is not paid for by MCLSF dollars – is in addition to the individual representation MCD's Civil Rights Program offers utilizing MCLSF monies.

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

A substantial portion of our legal work involves Deaf consumers, most of which have limited or no employment resulting from a lack of educational and vocational opportunities. These consumers' historical lack of educational opportunities was the result of exclusion, substandard academic standards in residential schools, communication barriers and lost incidental learning opportunities. Academic approaches to educating D/HOH children are improving, fortunately. At the same time, though, the growing ranks of HOH/LD consumers are being forced out of educational and employment opportunities by their reliance on hard-to-find and expensive technological accommodations like real-time captioning, hearing aids and cochlear implants. This is leading many to rely on federal and state financial assistance and/or low paying jobs and family to support them.

Many low-income Mainers are led to MCD's Civil Rights Program when they access MCD's other programs to provide services to low-income Mainers. Frequently, a consumer who comes into MCD for free adaptive equipment (due to meeting state funding poverty requirements) will present a civil rights issue that will then be referred to a Civil Rights Program attorney. The vast majority of MCD's Equipment Program consumers meet program income requirements that they earn less than 135% or 220% of federal poverty guidelines. Additionally, the growing use of internet-based Relay and videophone communications has led to an increase in requests for civil rights assistance

from far-flung Maine communities that often are rural and have low employment rates and generally low incomes.

Maine's D/HOH/LD populations tend to have disproportionately high rates of mental health issues, whether as a result of isolation, depression, histories of abuse, educational deprivation, or decreased communication opportunities. Although the Civil Rights Program does not separately screen our clients' incomes, almost all are considered to have low incomes as a result of limited or no employment, lack of educational opportunities, and lack of communication and learning opportunities.

It is also worth noting that virtually all of the Deaf clients assisted by the MCD Civil Rights Program lawyers are not native English speakers – commonly, the native language for Deaf persons is American Sign Language (“ASL”). ASL is *not* the same as manually-signed English, so often working on legal issues with Deaf consumers can be time-consuming and complex, as some legal terms and theories simply have no equivalent in ASL. Using a sign language interpreter also roughly doubles the length of time required for meetings with Deaf clients, as legal concepts that do not exist in ASL must be translated from English into ASL and back again.

Additionally, many D/HOH/LD consumers have supplementary challenges that heighten communication difficulties. During 2010, MCD handled 9 civil rights cases on behalf of D/HOH/LD clients who cannot communicate using typical sign language, 14 cases on behalf of D/HOH/LD clients who have notable mental health issues, and 7 cases on behalf of D/HOH/LD clients who are developmentally disabled. MCD lawyers spend a significant amount of time each year assisting Deaf consumers in understanding legal documents they receive, even if they do not present pending civil rights matters.

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

MCD does not track Civil Rights Program intake contacts by county, so this report cannot identify how many civil rights questions MCD's attorneys answered for or regarding D/HOH/LD clients around the state. Anecdotally, we strongly believe that we have served consumers in every county in Maine. As noted above, with the increasing use of technology such as videophones and internet-based communication, rural areas of Maine are more “linked in” and able to contact MCD than ever. MCD actually handled civil rights cases on behalf of clients in the following counties in 2010:

No County Identified:	4
Androscoggin:	10
Cumberland:	31
Franklin:	1
Hancock:	1
Kennebec:	6
Knox:	2
Lincoln:	1

Oxford:	1
Penobscot:	6
Piscataquis:	1
Sagadahoc:	0
Somerset:	0
Waldo:	1
York:	12
Out of state:	1

MCD is actively working to serve its clients in areas of Maine that are remote and/or underserved by public service organizations. In 2010, MCD physically brought Civil Rights Program services around all of Maine.

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

Of the 77 cases that were open at some time in 2010, 26 were resolved. MCD met the clients' needs in 14 cases. Eight cases appear in MCD's database as unspecified resolutions. MCD did not meet the client's needs in 1 case. MCD currently has 54 open cases.

The complexities of working with and on behalf of D/HOH/LD clients also should be mentioned here. The legal matters that affect D/HOH/LD clients are frequently multifaceted, and explaining complex legal issues through an interpreter means that attorney-client relations take roughly double the time than they might for hearing clients. Meeting and/or communicating remotely through technology accessible to D/HOH/LD clients can be extremely challenging. Those factors should be considered when reviewing the 2010 reporting.

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

As stated in MCD's application for MCLSF funds in October 2009, MCD's Civil Rights Program intended to use the funds to continue to provide legal representation for our clients and to expand and improve the services we already provide. We have complied with that intent. MCD answered approximately 495 Civil Rights Program intakes/contacts concerning D/HOH/LD issues in 2010. MCD also provided sustained individual legal representation in 77 cases during 2010. MCD's commitment to legal representation has not wavered.

MCD's application stated that "funds from the Commission would be used toward salary, additional hours, training, legal reference, interpreter services, and hopefully access to web based legal research, such as Westlaw." MCD's use of MCLSF funds has been in conformity with that intent, as MCD has utilized MCLSF monies toward attorney salary, legal research, and attorney professional training. Our ability to use MCLSF dollars toward attorney salary and related research and training needs has

enabled us to utilize our other funding sources for advocacy to expand our program in a wonderful and cost-efficient fashion.

Our October 2010 application to the MCLSF stated our plan to direct 60% of the attorney hours funded by the grant to individual advocacy. We estimated this to equate to 375 attorney hours. We have complied with this proposal. We also stated our plan to direct the other 40% of the attorney hours funded by the MCLSF grant to collaborative work with our legal services colleagues. We estimated this to equate to 250 hours. In 2010, MCD spent many hours facilitating referrals of D/HOH/LD individuals to and from our peers with the Volunteer Lawyers' Project, Disability Rights Center, Legal Services for the Elderly, and Pine Tree Legal Assistance. In 2010, MCD also offered trainings to our nonprofit legal organization peers regarding D/HOH/LD issues, and were enthusiastically taken up on our offer by many organizations such as Maine Equal Justice Project, Volunteer Lawyers Project, Disability Rights Center, Penquis CAP, and Pine Tree Legal. We have provided many hours of individual organization training onsite in Portland, Augusta and Bangor to these organizations this past year. We believe this work goes a long way toward meeting our original goal of substantial collaborative work within Maine's nonprofit legal services community.

**vii. Outcomes measurements used to determine compliance.**

MCD has a network system to monitor intakes and cases for the various services and programs it provides. Each MCD employee inputs data when receiving contacts by phone, Telecommunications Relay call, videophone call, or walk-in, each time documenting the contact and content. Our system tracks intakes by subject matter, by department of referral, by county, by issue, and in several other manners. It also tracks actual cases opened or resolved, and the nature and date of each resolution. Monitoring detailed reports created by this system (cases per advocate, client problems by issue, number of cases by issue, a client-by-client listing, cases for clients with mental health or mental retardation or lack of signing ability) assists the Civil Rights Program in ensuring that our workload is appropriately apportioned and proceeding in an efficient manner. Additionally, MCD's other major contracts require quarterly reporting that keeps MCD's Civil Rights Program on track through the year.

In order to obtain more specific feedback about our clients' experience with our services, in 2009, the Civil Rights Program distributed a customer satisfaction survey to our previous clients. We prepared one survey in English and one that was more "Deaf friendly" for consumers whose primary language was American Sign Language. In May 2009, we sent out approximately 70 surveys, and received back 30 completed surveys. The results have been overwhelmingly positive, as our program attorneys were rated as "excellent" or "great" by 20 consumers, "good" by 7 consumers, "fair" by 1 consumer, and "poor" by one consumer.<sup>3</sup> We plan to distribute a new customer satisfaction survey in 2011.

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<sup>3</sup> The survey was anonymous, but some consumers' responses did allow us to identify them. The one consumer who rated MCD's lawyers as "poor" is unhappy because his discrimination case remains in abeyance at a federal agency while related lawsuits continue in another jurisdiction. MCD has been

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

MCD's D/HOH/LD clients continue to have many unmet and underserved legal and advocacy needs, and barriers to access, education, employment, communication, and community services remain an everyday problem for persons with hearing loss in Maine. For twenty years, MCD has been a trusted member of the Deaf and hearing loss communities in Maine, and a strong partner in addressing these unmet and underserved needs. Unfortunately, in the past year, MCD's Civil Rights Program has lost funding that allows us to provide needed advocacy to Maine's 130,000 D/HOH/LD persons.

In the 2009-2010 fiscal year, MCD had advocacy contracts with the Maine Department of Labor's Division for the Deaf, Hard-of-Hearing and Late-Deafened and with the Maine Department of Health and Human Services ("DHHS") to provide advocacy services. Our DHHS advocacy contract – which represented one-quarter of our program's funding – was terminated by the Legislature as of the end of June 2010. Our contract for advocacy with the Department of Labor remains in effect, but we anticipate that it may be subject to curtailment at any time. With the economy in shambles, Maine's D/HH/LD persons will continue to need our services more than ever.

**Conclusion**

As a direct result of the funding provided by the MCLSF, Maine's Deaf, Hard-of-Hearing and Late-Deafened consumers received high-quality legal representation from MCD's Civil Rights Program. People with hearing loss throughout Maine were included in Maine life and programs when they might otherwise have been excluded. Without the MCLSF continued confidence in MCD's Civil Rights Program, Maine's Deaf, Hard-of-Hearing and Late-Deafened populations will lose access to the only legal advocates with expertise in Deafness and hearing loss in the State of Maine.

MCD's lawyers are deeply committed to these populations and their particular issues and needs. That commitment, and the expertise that develops with sustained attention to the Deaf, Hard-of-Hearing and Late-Deafened, are irreplaceable to our clients and their families. With the growing population of elderly people in Maine, MCD's ranks of Late-Deafened clients will grow as well. Given the budget situation in Maine and nationally, more and more of these older people will remain in Maine's workplaces. MCD's unique knowledge of the distinct needs of – and specific accommodations appropriate for – Late-Deafened persons will be much needed.

With the Governor's current budget curtailments and a terrifying budget scenario looming for the upcoming few years, MCD's Civil Rights Program is facing an uneasy budgetary future. In this time of uncertainty, the Commission's continued support for

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diligent in checking on the status of our client's lawsuit and the related litigation, and has kept the client advised at all times of that status.

MCD is absolutely critical – without it the very existence of MCD's Civil Rights Program would be in jeopardy.

Thank you for the opportunity to submit this report reflecting our MCLSF-funded work in 2010. We would be glad to answer any questions, as needed.

Respectfully submitted,

A handwritten signature in black ink that reads "Amy Sneirson". The signature is written in a cursive, flowing style.

Amy M. Sneirson, Esq.  
Manager, Civil Rights Program  
Maine Center on Deafness

**Maine Equal Justice Partners**  
**2010 Annual Report to the**  
**Maine Civil Legal Services Fund Commission**

**January 2011**

Maine Equal Justice Partners (MEJP) is pleased to provide the Maine Civil Legal Services Fund Commission with its annual report for 2010.

BACKGROUND

In 1996, Congress passed legislation prohibiting Legal Services Corporations from representing people with low income through class actions, and administrative and legislative advocacy. Maine Equal Justice was formed to represent Maine's low-income individuals and families in the legislature, the courts, and before administrative agencies.

Originally two organizations, Maine Equal Justice **Partners** provided representation for low-income people before administrative agencies and in class actions, while Maine Equal Justice **Project** represented the interests of low-income people in the Maine Legislature. As of January 2003, the two organizations were merged into one, with Maine Equal Justice Partners (MEJP) assuming the lobbying activities of the Project.

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 advocacy 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, to update MAIN members about administrative and legislative issues that affect public benefit programs and to provide MAIN members with information on changes to public assistance programs. MEJP also holds client meetings with MAIN's leadership team when issues arise in between monthly meetings that require immediate attention.

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<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 the annual MAIN conference, 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 where members share their stories and experiences with administrative and legislative officials and put a human face on issues and 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;*

Since MEJP's creation, it has been providing free, high quality legal services to socially and economically needy individuals – individuals with income below 150% of the Federal Poverty Level (FPL). MEJP also assists individuals with incomes below 200% of FPL with regard to health care matters. Our legal representation is limited to public benefits law, including MaineCare eligibility and benefits, prescription drug assistance programs for the elderly and the disabled, Temporary Assistance to Needy Families, Alternative Aid, Supplemental Nutrition Assistance Program (formerly Food Stamps), General Assistance, and miscellaneous heating related programs offered through the Public Utilities Commission and the Maine State Housing Authority. In addition, MEJP also provides limited representation with regard to low-wage worker issues, and higher education and training programs.

MEJP offers several different levels of direct legal representation in order to provide services to the greatest number of people possible. The four types of services offered are as follows: (1) brief services, advice and referrals to clients located statewide; (2) extended representation; (3) administrative advocacy; and (4) training and outreach.<sup>2</sup>

#### **Brief Services, Advice, Referrals *and* Extended Representation**

MEJP provides brief legal services, advice and referrals to clients throughout the state via our toll free number Monday through Friday. In light of the fact that MEJP's focus is systemic we focus on statewide public benefit programs that benefit all people with low income; other legal issues are referred to the appropriate legal services organizations or administrative agencies. In addition to receiving calls via the toll free number, MEJP regularly provides legal services to members of MAIN and to those individuals and/or social services agencies that are assisting individuals applying for benefits or appealing a denial of benefits. The vast majority of the cases that fall under our brief services, which consist of

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<sup>2</sup> Although MEJP also represents the interest of people with low income at the legislature, discussion of these services is omitted from this report as Maine Civil Legal Services Funds are prohibited from supporting our legislative activities.

one or two calls made on behalf of a client or a referral to a particular agency, are resolved succinctly and successfully. By providing these services we are able to serve more clients with limited resources.

MEJP identifies cases for possible litigation through direct contact with individual MAIN members, referrals from other legal service or social services providers, and individuals who contact us directly. MEJP strives for negotiation and settlement of potential litigation matters to achieve its goals of systemic reform, resorting to resolution in court where appropriate.

In 2010, MEJP continued to work on a case that had been filed in December 2009. The case, *Van Meter, et. al. v. Brenda Harvey, Commissioner, Maine Department of Health and Human Services*, began with the filing of a complaint in the United State District Court for the District of Maine. The complaint was then subsequently amended to add class action allegations. The court has not yet issued a decision on our motion for class certification. Discovery has begun with the exchange of initial disclosures, including expert reports, completed. Written discovery has been served, with depositions to ensue shortly.

The suit is brought by three young men with Cerebral Palsy who are confined in nursing facilities. The goals of the lawsuit are to compel the State to change its policies and practices in order to provide enhanced services to people who reside in nursing facilities and who have Cerebral Palsy, Epilepsy or other related conditions and to provide appropriate opportunities for people in this situation to reside in the community.

The case has two primary legal claims: one, that the Defendant's actions violate the Nursing Home Reform Act (NHRA) Amendments of 1987- part of the Medicaid statute- and the other that the Defendant's policies violate the Americans with Disabilities Act (ADA) and Rehabilitation Act of 1973 (Rehab Act).

One desired result is that the Defendant revise its NHRA required Pre-Admission Screening and Resident Review (PASRR) process for those with "other related conditions" such as Cerebral Palsy and Epilepsy, so that people with those conditions never go into a nursing facility and instead are offered community based options or, if they truly need or desire to stay in the nursing facility, then they get services designed to maximize their ability to live independently - a primary goal of the NHRA and the PASRR program. (Already, the Defendant has acknowledged that its PASRR program is out of compliance with federal law, but disagrees as to the extent of the changes it must make.)

The second desired result - the primary goal of this lawsuit - is to compel the state to comply with the integration mandate of the ADA and the Rehab Act by making reasonable accommodations in existing programs, which would allow the Plaintiffs and others similarly situated to live in community based settings. Each of the named Plaintiffs has tried for years to leave the nursing facilities in which they reside.

## Direct legal services lead to systemic solution

As an example of MEJP's direct legal services leading to a systemic solution, MEJP was contacted by an older gentleman in early 2010 after his MaineCare services were terminated and he was unable to resolve the issue. This gentleman is blind, uses a wheelchair, receives daily dialysis and has in-home services for his basic daily needs. He was terminated from MaineCare because his SSDI placed him over the income limits for one coverage group in MaineCare.

MaineCare rules require workers to assess a recipient for eligibility under other Medicaid groups before terminating an individual's benefits. Based upon our client's disabilities and the medically necessary services, which the DHHS knew at the time, he should have been automatically transferred to another MaineCare eligibility group; the home and community-based waiver for the elderly and disabled, which has higher income limits.

MEJP successfully represented this gentleman, resulting in the DHHS reinstating his MaineCare, as well as covering the medical costs he incurred, retroactive to when he first lost coverage. As a result of what we learned from this case, we informed the DHHS that its policies and procedures violated federal Medicaid law, which requires the Department to conduct an *ex parte* review prior to any Medicaid termination. We provided the DHHS with recommended changes to its policies and procedures, which it agreed to in principle. MEJP continues to monitor the implementation of those changes, to ensure that other eligible MaineCare enrollees do not needlessly lose access to vital health care services.

## **Administrative Advocacy**

In 2010, MEJP, primarily on behalf of the Maine Association of Interdependent Neighborhoods, was successful in increasing access to social and economic justice on a systemic level through its administrative advocacy. In order to improve access to public benefit programs and improve the processes and procedures that govern these programs, MEJP met regularly with various agencies within the Maine Departments of Health and Human Services, Labor and the Maine State Housing Authority as well as with their federal counterparts. In addition, we submitted comments on the state and federal level for administrative rulemakings ranging from children's health services through MaineCare, nursing facility rules for specialized services and treatment, access to oral health, food supplement benefits, housing assistance for low-income families, and other issues. Furthermore, MEJP participated in over 35 state boards, committees, workgroups and /or task forces, some at the request of the legislature and the administration, in order to improve the systems and supports available to people with low income. (Please see Appendix A for a list of the various groups MEJP participated in during 2010.)

The cases outlined below represent the wide variety of initiatives that MEJP pursues through administrative advocacy on behalf of its clients.

- Education & Training Opportunities: Programs like Parents as Scholars and the Competitive Skills Scholarship Program – both, hallmarks of MEJP’s successful public policy initiatives - are making a difference for families whose wage earners have been confined to low-wage jobs. With supports that help participants go to school and earn a degree, they provide a gateway to the labor market and position families to succeed in today’s economy. MEJP’s vision to link two education and training programs – the Competitive Skills Scholarship Program (CSSP) and the training component of the Supplemental Nutrition Assistance Program (SNAP) came to fruition in July 2010, creating greater opportunities for low-wage workers to gain the skills they need in today’s labor market. Our policy analysis and resulting recommendations resulted in federal approval of a state plan amendment to Maine’s SNAP, permitting the use of federal SNAP funds to help pay for the support services for SNAP-eligible individuals enrolled in training through CSSP.
- Improving the delivery of public benefits in Maine: This initiative began in 2009, with the goal of developing a more streamlined public benefit system in Maine, thereby creating efficiencies in the system and improving the delivery of services. It initially focused on identifying administrative solutions to the ‘on and off’ cycling – or churning – of people on the Medicaid program. The literature confirms that maintaining continuity of coverage not only improves delivery of care and health outcomes but achieves administrative cost savings as well. While coverage instability and churning lead to significant waste in resources and expenditures, they are problems that can be addressed largely through administrative means.

There has been significant progress on this initiative; Maine now has a concrete plan to implement an electronic application and renewal process for MaineCare and other assistance programs. As noted in a previous report, the Department of Health and Human Services (DHHS) convened a Work Group, as charged by the Governor’s Executive Order, to ‘streamline and upgrade procedures and technology used to determine access to public benefits in the State of Maine, while assuring the integrity of those public benefit programs’. The Work Group, in turn, oversees several subcommittees that are conducting the actual design work for a new electronic system that will provide online capacity for application and renewal to MaineCare, SNAP, TANF, and other public assistance programs.

MEJP facilitates the steering committee, which is responsible for the development and implementation of the state’s portal. This group, consisting of DHHS program and IT staff has developed the portal requirements, established testing protocols, and developed an outreach and marketing plan. A design subgroup has developed the actual screening/application tool.

We are pleased to report that the DHHS will have an operational portal that will allow individuals to complete an eligibility screening tool as well as an online application for benefits by May 2011. Later in the year the DHHS plans to have the second phase of the portal – recertification capability – up and running.

- Medicaid managed care. MEJP is monitoring the development of the state's Medicaid managed care initiative. We are working collaboratively with the DHHS, providing recommendations for certain policies and consumer protections to be included in the Request for Proposals (RFP) process. MEJP is also facilitating the involvement of MaineCare members in various stakeholder meetings that DHHS is holding as it develops this initiative. The release of the RFP is scheduled for May 2011 with an implementation date of April 2012.
- TANF policies that can work for Maine families. As we noted in our 2009 report, Congress is slated to begin reauthorization of the TANF program in the near future. MEJP believes that this is an opportunity to address the fundamental shortcomings of the federal program and promote a set of policies that can alleviate poverty and foster economic security. Our goal is to move a policy agenda that enhances the program's capacity to support the varying needs and circumstances of its beneficiaries. With increasing numbers of families falling through the cracks in this continued recession, it is essential that both state and federal policy makers focus on the toll that poverty takes – hunger, homelessness, ill health and poor educational outcomes for children – when they take up the debate on TANF reauthorization.

In order to bring public policy in line with reality, we need to better understand the needs of families in today's economy so that we can develop constructive proposals for systemic change. MEJP mailed a survey in the spring of 2010 to over 8,700 randomly selected families receiving, or eligible for TANF benefits, with assistance from DHHS and the University of New England. The 9-page questionnaire sought to assess families' individual circumstances and needs, and their experience on the TANF program. Over 1,480 surveys were returned, yielding a 17% response rate. Findings from the survey are now informing our policy recommendations.

The preliminary findings told us that TANF is an essential safety net for families in need. Most strikingly, it serves as a homelessness prevention program, helping to keep families in their homes. Overwhelmingly respondents to the 2010 survey reported that TANF made a dramatic difference in their lives with 81.3% saying that they and their children would not have a place to live if they did not get help from TANF.

With data about the experiences and needs of TANF families, we can assess what works and analyze various policy options for federal and state reform. We are developing specific policy recommendations that we will share with policymakers nationally and here in Maine.

- Housing assistance for people in need. The TANF Emergency Fund, a short term program created as part of the American Recovery and Reinvestment Act in 2009, enabled states to assist some of the most vulnerable families in the height of the recession. In Maine, MEJP took this opportunity to advocate for a program to help families on the verge of homelessness. Working with the Department of Health and

Human Services and the Maine Housing Authority, we created the Family Housing Stabilization program, which provided assistance to nearly 600 families in 2010, preventing them from becoming homeless.

One such family was Saeed and his seventeen year old son, who were living on the brink of homelessness this past spring, unable to keep up with the rent. Jobs for Saeed as a web design contractor had become increasingly scarce with the recession. When the eviction notice arrived, he applied for assistance from the FHS program but was initially denied. He called MEJP and, with our in-depth knowledge of the program, we were able to successfully represent him and get the decision reversed, averting homelessness for Saheed and his son. With just a few months left in the school year, his son was able to finish his senior year with his classmates and graduate in June.

- Health care reform. MEJP has been deeply involved in the design and implementation of health care reform as it affects people under 200% of the federal poverty level in Maine. Among the many components of the Act, the areas on which we are providing substantive input include the following:
  - The design of Medicaid coverage to all non-elderly childless adults, who are not eligible for Medicare, with income up to 133% FPL.
  - The creation of state-based health insurance Exchange where individuals and small employers will be able to buy coverage through private insurers.
  - The provision of premium subsidies and help with other cost sharing for people with income below 400% FPL who purchase coverage through the Exchange.
  - The design of a Basic Health Plan for adults between 133 and 200% of FPL.
- Unemployment insurance initiative. In 2009 the Maine Legislature passed a bill that required the Department of Labor (DOL) to examine Maine's low unemployment insurance reciprocity rate. Data reveals that only 3 out of 10 unemployed workers who need help from the unemployment system receive it. This area has long been of interest to MEJP because if a worker earned low wages, or is a single parent, or worked in the service or retail industry, his or her chances of qualifying for unemployment insurance are even less. In fact, low-wage workers are twice as likely to find themselves unemployed, but only half as likely to collect unemployment benefits as workers that earned higher wages.

In 2010, MEJP focused its efforts to improve the reciprocity rate in Maine by (1) working with the Department of Labor (DOL) and its consultant to identify the reasons that people fail to apply or qualify for unemployment benefits; (2) identifying existing statutes and/or rules that may be hindering access to unemployment insurance; and (3) looking at system reform that would facilitate access to the application process for low-wage workers.

## Training, Education and Outreach

In addition to direct client representation, MEJP provides information to clients, providers and the general public through training and education presentations throughout Maine. In 2010, MEJP reached over 500 individuals through workshops and conferences. We provided information on a wide range of topics, including specific MaineCare issues such as the non-categoricals and prescription drugs as well as general information regarding MaineCare; TANF/ASPIRE; Parents as Scholars; Food Stamps; Dirigo Health; Alternative Aid; General Assistance; and federal health care reform.

### MEJP's 5<sup>th</sup> Annual Advocacy Conference

On October 29<sup>th</sup> MEJP held its 5<sup>th</sup> Annual Advocacy Conference in Lewiston. Approximately 150 people attended the conference and the following workshops were offered: Family Law; Housing (tenants rights and issues); Language and Cultural Barriers; MaineCare and Health Care Reform; Employment and Education Opportunities for Low Wage Workers; Health Care and Prescription Drug Resources for People Without Health Insurance; TANF, ASPIRE, and Parents as Scholars; and Advocacy for Change. The evaluations revealed excellent reviews for the entire day and high praise for MEJP.

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, TANF/ASPIRE, Parents as Scholars, Medicare Part D, prescription drugs, Food Stamps, Alternative Aid, Maine Medical Assistance Program and more.

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

As a result of the systemic nature of MEJP's work, the exact number of people served by MEJP is hard to estimate. Given the direct and indirect impact of our work, MEJP served the following numbers of Maine people in 2010:

<b>Activity</b>	<b>Number of People Served</b>
Full intakes – Advice; brief services; full representation	216
Advice and Referral – Advocates/social service providers	64
Advice and Referral – Individuals	225
Administrative Advocacy – all public benefit programs	over 400,000
Training, Education & Outreach – presentations	500+

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>3</sup> We focus specifically on efforts to benefit:

- Approximately 14,070 families, including 24,900 children who receive TANF benefits and 708 TANF parents receiving Parents as Scholars benefits;
- Approximately 299,000 families and individuals (in any given month) who receive MaineCare benefits;
- Approximately 87,000 individuals, including elderly and disabled individuals, who are eligible for prescription drug assistance;
- Approximately 125,000 families, representing over 243,300 individuals, who receive food stamp benefits; and
- Low-wage workers and their families whose wages are below 150% of the poverty guidelines.

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

In 2010, 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;*

Of the 505 cases that received brief services, advice, referral and extended representation in 2010, 438 cases have been closed. Of the 438 cases that have been closed in 2010, MEJP achieved favorable results for its clients in 419 instances.

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 2009. 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 2010-2011 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.

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<sup>3</sup> MEJP provides free legal services for individuals with income up to 200% of FPL with regard to health care coverage issues, because Maine's MaineCare program provides health care coverage for parents up to 200% of FPL.

- 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 believes that the number of requests for trainings and our success in providing valuable information are due to the fact that various social service organizations and advocates view MEJP as a valuable legal resource and expert on issues affecting low-income individuals. MEJP's training and outreach sessions were 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, municipal representatives and grass root coalitions. The evaluations sheets submitted by workshop and training participants in 2010 were extremely favorable and stressed the need for MEJP's expertise and knowledge within the local communities throughout the state.

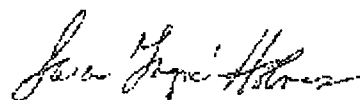
8. *Information particular to each recipient organization regarding unmet and underserved needs.*

Maine Equal Justice Partners receives funding from the MCLSF, the Maine Bar Foundation, the Campaign for Justice (a joint collaboration of the six primary legal aid providers) as well as individual donations and grants from state and national foundations. These resources enable MEJP to pursue systemic reform through representation focused on public benefits law as well as low-wage worker issues and higher education and training programs. Unfortunately, we are currently unable to expand our representation to include two critical areas where the unmet demand in Maine is growing: consumer law and housing related issues. The consumer law area is of particular concern to MEJP, because the current nonprofit handling systemic consumer issues has redirected its focus, leaving a void 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

MCLSF is vital to MEJP's ability to pursue systemic reform on behalf of Maine's most vulnerable people. Quite simply, our organization could not provide the level and breadth of services it currently offers without this funding. We are grateful to MCLSF and its 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:

A handwritten signature in cursive script, reading "Sara B. Gagné-Holmes".

Sara B. Gagné-Holmes, Esq.  
Executive Director

## APPENDIX A

In light of the administrative and legislative advocacy that MEJP undertakes, we are regularly asked by the Legislature or Administration to sit on various work groups and/or advisory committees. In addition, our far-reaching coalition work sometimes results in invitations to join various boards.

The bulleted items listed below represent work groups, advisory committees, coalitions and boards that MEJP staff was actively involved in during 2010. These commitments consume a great deal of our time; however, 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 at the table. The relationships and information gained from serving enables MEJP to build broad coalitions and shape systemic policy reform that benefits Maine people with low income.

### Health Care

- Dirigo Board of Trustees
- Maine Health Access Foundation Board of Trustees
- MaineCare Advisory Committee (MEJP chairs this committee)
- Materials Workgroup regarding DHHS notices
- Maine Voices for Coverage – promoting access to health care
- Elder Issues Partnership
- Consumers for Affordable Health Care Coalition
- MaineCare Non-categorical Workgroup
- Maine Assembly on School Based Health Care (Board)
- MaineCare Children's Waiver Workgroup
- MaineCare Section 27/41 Children's Services Workgroup
- MaineCare Managed Care Stakeholders Advisory Committee

### Oral Health

- Maine Dental Access Coalition
- Oral Health Funders Stakeholders Planning Group (focused on workforce)
- LD 624 Working Group (focused on decreasing use of Emergency Departments for Oral Health issues)
- Oral Health Advisory Committee (related to the Dental Bond RFP)

### Housing

- Maine Affordable Housing Coalition (MAHC)
- Section 8 Campaign Workgroup

### Legal

- Maine Civil Rules Advisory Committee
- Advisory Committee of Providers to the Justice Action Group
- Campaign for Justice Steering Committee
- Justice Action Group (non voting members)
- The Girls' Action Group

### Legislative

- Coalition for Maine Women
- Maine Can Do Better
- Work and Family Coalition

### Poverty

- Council of Poverty & Economic Security
- Poverty Symposium Planning Committee
- Maine Council of Churches' Policy Committee
- Temporary Assistance to Needy Families Advisory Council
- Parents as Scholars Subcommittee
- Messaging Coalition (working with 20 plus organizations to counter anti welfare and immigration issues)
- Executive Order Workgroup on Streamlining Access to Public Benefit Programs
- Maine State Portal Steering Committee (creating a State portal by which people can apply for public benefits electronically)

### Jobs

- Maine Jobs Council and Policy Committee of the Maine Jobs Council

**Maine Volunteer Lawyers Project**  
**Report to the Maine Civil Legal Services Fund Commission**  
**January 2010**

**Overview**

The Maine Volunteer Lawyers Project (VLP) is pleased to submit this year-end narrative report on its operations and services provided to low-income Mainers during 2010. 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 its operational and organizational capacity.

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 low-income Maine residents with civil legal problems. VLP services are limited to low-income Mainers, generally those individuals 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 2010.)

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

Initial requests for assistance are made through a statewide telephone Hotline staffed by non-attorney volunteers and supervised by VLP staff in its main Portland office. Hotline 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.

Law students and participating *pro bono* attorneys provide limited 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 new Penobscot Clinic. Clients for the Helpline and Penobscot Clinic are referred to it 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, 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 more limited 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 ensure that VLP's services complement the assistance provided by Maine's other legal service providers and that the impact of donated legal services is maximized.

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 through all the mechanisms described above, MCLSF funding is used to support *pro bono* representation for a small number of clients with particularly compelling cases who do not meet the restrictive criteria imposed by other funding sources. 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 does not meet the letter of VLP's traditional eligibility requirements. MCLSF funding makes it possible for VLP to provide support and encouragement to these attorneys' commendable *pro bono* efforts without violating restrictions on other sources of program funding.

In 2010, MCLSF funds represented 20% of VLP's total funding.

### Cases Handled in 2010

In 2010 VLP Hotline volunteers conducted intake interviews and provided legal assistance to clients in 4,426 new cases.

2191 clients received limited representation from a *pro bono* attorney, most through a clinic or family law helpline.

VLP also provided support to *pro bono* attorneys in 842 full representation cases, 563 of which were opened in 2010.

Cases that were worked on in 2010 break down in the following manner (with cases that had full *pro bono* representation, and those supported solely by the MCLSF, highlighted):

Case Type	Total Cases Handled	Total <i>Pro Bono</i> Representation Cases	<i>Pro Bono</i> Representation Cases Supported Exclusively by MCLSF Funding*
<b>Consumer</b>	662	137	6
<b>Education</b>	18	6	1
<b>Employment</b>	100	35	1
<b>Family</b>	3,724	318	9
<b>Juvenile</b>	152	27	0
<b>Health</b>	6	2	0
<b>Housing</b>	345	90	9

<b>Income Maintenance</b>	477	181	12
<b>Individual Rights</b>	22	2	0
<b>Miscellaneous (Torts, licenses, wills &amp; estates, etc.)</b>	191	44	2
<b>TOTAL</b>	<b>4944</b>	<b>842</b>	<b>40</b>

\*While only 40 cases were fully charged to MCLSF, it is important to state again that MCLSF funding supports 20% of all VLP programming.

### **Clients Served in 2010**

VLP's direct services benefited 5,732 Maine households and an estimated 14,348 individuals in 2010. Of this number, 377 households (representing an estimated 906 individuals) were served exclusively with MCLSF funding. Of clients served exclusively with MCLSF funds about 83% were white, about 60% were female, and about 8% did not speak English as their first language. Twenty-two percent of MCLSF households had at least one disabled member.

In addition to referrals for full representation by the private bar, the VLP also used MCLSF funds helped sustain VLP's limited representation programs. Through VLP's Domestic Violence Pro-Bono Panel, *pro bono* attorneys represented more than 130 victims of domestic violence and sexual assault. VLP served more than 900 self represented litigants through Courthouse Assistance Projects [CHAP]. CHAP is a project that provides limited representation to help self represented litigants navigate the family law court process. In 2010, CHAP operated in Biddeford, Lewiston, and Portland. *Pro bono* volunteers with the Family Law Helpline provided more than 1000 consultations on an individual or ongoing basis to self-represented family law litigants. In addition, MCLSF funds continued to support VLP's website, which we have started to re-vamp in preparation for moving to an enhanced platform.

### **Geographic Areas Served in 2010**

Geographic distribution of VLP clients shown by county:

<b>County</b>	<b>Total VLP cases handled in 2010</b>	<b>Percentage of Cases handled exclusively with MCLSF funding</b>
<b>Androscoggin</b>	677	20%
<b>Aroostook</b>	111	<1%
<b>Cumberland</b>	1,561	37%

<b>Franklin</b>	83	<1%
<b>Hancock</b>	0	0%
<b>Kennebec</b>	350	7%
<b>Knox</b>	77	<1%
<b>Lincoln</b>	74	1%
<b>Oxford</b>	186	3%
<b>Penobscot</b>	615	6%
<b>Piscataquis</b>	62	<1%
<b>Sagadahoc</b>	94	2%
<b>Somerset</b>	146	1%
<b>Waldo</b>	123	<1%
<b>Washington</b>	118	2%
<b>York</b>	774	21%

### **Status of 2010 Matters**

The VLP completed work on 4,604 cases in 2010.

Of the 595 cases closed through the Family Law Helpline, the closing statuses are as follows:

- 174 cases were closed after a discussion of the client's problem and advice on next steps
- 415 cases were closed after the provision of additional services, including assistance with legal forms
- 6 were referred for full representation

Of the 134 cases closed through the DV *Pro Bono* Panel, the closing statuses are as follows:

- 3 cases were closed after the provision of additional services but not full representation
- 76 cases were resolved after negotiated settlement
- 55 cases were resolved after a court hearing

Of the 788 CHAP cases closed after receiving limited representation by private attorneys the closing statuses are as follows:

- 29 cases were closed after a discussion of the client's problem and advice on next steps
- 751 cases were closed after provision of additional services, including assistance with legal forms, case specific evaluation and substantive advice, or informal negotiations with an opposing party.
- 2 cases were closed after extended representation
- 6 cases were closed for other miscellaneous reasons

Of the 483 cases closed by private attorneys after being referred by a "Lawyer of the Day", the closing statuses are as follows:

- 94 cases were closed after a discussion of the client's problem and advice on next steps
- 146 cases were closed after provision of additional services, including assistance with legal forms or informal negotiations with an opposing party
- 22 cases were closed after a formal negotiation outside the context of litigation
- 44 cases were closed after a formal negotiation involving some litigation
- 136 cases were closed after a full court or administrative hearing
- 18 cases were closed after some other form of extensive service
- 23 cases were closed for other reasons

The remaining 1,570 clients were given information, referrals and client-based educational materials. [To help clients have better access to appropriate legal information, VLP and Pine Tree Legal Assistance have started collaborating this year with Public Libraries in Maine to make sure that Librarians are able to assist patrons with accessing and understanding the legal information resources that are available through the HelpMElaw web site.]

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

In its application to the Maine Civil Legal Services Fund for 2010, 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; brief legal advice via the Family Law Helpline and limited and full *pro bono* representation provided by volunteer attorneys. As reported above, VLP provided legal assistance, advice and representation to clients across Maine 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 2010.

### **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

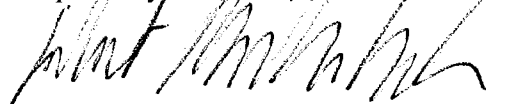
software, Legal Files, as part of technology collaboration with other legal service providers in Maine. Each case continues to be assigned codes indicating law type, funding source, level of service provided (including the total number of volunteer and staff hours) and, at the time of the case's completion, 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, VLP is able to leverage extraordinary levels of legal service for Maine people. This year, VLP continued 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 2010, the value of services donated to low-income clients under the auspices of VLP again exceeded \$2 million, while the number of clients served increased by 8 % over 2009. MCLSF funding was critical to supporting VLP in 2010 in its efforts to improve the delivery of legal services through the work of volunteers, and, again this year, in VLP's efforts to expand limited representation projects that enable VLP to efficiently help a greater number of low income Mainers.

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 12, 2011**  
**Re: Annual Progress Report, January-December 2010**

## 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, sexual assault, dating violence, 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 serves Penobscot and Piscataquis counties, as well as Knox County, which was added to the service area in 2006 as a result of funding from the MCLSF.

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 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

By creating access to comprehensive civil legal assistance, the Law Project seeks to increase the ability of victims of domestic violence, sexual assault, and stalking to become free – physically, financially, and emotionally – from their abusers.

## 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 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, 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 2009 application to the MCLSF we proposed to serve Penobscot, Piscataquis and Knox counties with a staffing structure consisting of three full-time attorneys, one of whom would be fully funded by the MCLSF. In addition, we requested MCLSF monies to also support our part-time directing attorney and part-time legal secretary. These positions are necessary for the overall operation of the Law Project; the directing attorney provides administrative oversight and supervision while the legal secretary is crucial to our ability to field intake calls, serve our clients, and provide secretarial support to the attorneys. The legal secretary also fulfills some paralegal duties as the part-time paralegal position was eliminated in 2008.

Because the Law Project's request was not fully funded by MCLSF, we were unable to support an attorney position. However, the funding we received from the MCLSF was used, as proposed, to support our part-time directing attorney and legal secretary. Thus, MCLSF funds provided crucial operating support to the Law Project as a whole. Numbers reported reflect the individuals served by the Law Project as a whole during 2010.

Funding from the MCLSF originally allowed us to expand to Knox County in 2006. We sought to expand Law Project services to the mid-coast region when Knox County became part of the Penquis service area. As a result of having only two attorney positions, we refocused our efforts on Penobscot and Piscataquis counties in order to maximize the attorneys' time and travel.

Additionally, we have implemented new outreach and service delivery methods in order to best serve communities with the resources available. For instance, we have begun an "attorney for the day" program on Order for Protection ("PFA") days in the Dover-Foxcroft District Court. 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.

Because of these efforts, as well as the fact that we were fortunate to have both attorney positions filled throughout the year, we were still able to substantially meet the numbers we projected to serve in our proposal. Additionally, one of the attorney positions was held by an individual with several years experience working for the Law Project, a significant factor in helping to increase numbers. The total number to be served by the Law Project was estimated at 300; this year we served 285.

**1.) The types of cases handled by the organization 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 2010. 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	51	57
Protection from Abuse	32	19
Parental Rights &	32	31
Post-judgment	36	46
Other	0	2
Total Case Types	151	155

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

The attorneys served a total of 285 unduplicated individuals. There were 140 clients who received representation and 145 individuals who received one-time consultations. There were 156 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. 97 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	24	18
25-59 years	114	125
60+ years	2	2
Unknown	0	0
<b>Gender</b>		
Female	137	138
Male	3	7
<b>Race</b>		
White	130	137
Hispanic	1	2
Black or African American	0	1
American Indian	7	1
Asian	1	1
Native Hawaiian/Pacific	0	0

<b>Demographics</b>	<b>Rep.</b>	<b>One-times</b>
Unknown	1	3
<b>Housing</b>		
Rent	81	77
Own	31	41
Other (includes staying w/ relatives, friends)	18	20
Homeless	3	2
Unknown	7	5
<b>Health Insurance</b>		
MaineCare	87	84
Other Insurance	24	40
No Insurance	21	17
Unknown	8	4
<b>Disabled</b>	26	21
<b>With Minor Children</b>	121	123
<b>Income Level</b>		
≤ 75% of poverty	97	86
≤ 100% of poverty	12	13
≤ 125% of poverty	9	14
≤ 150% of poverty	8	11
≤ 175% of poverty	3	7
≤ 200% of poverty	1	5
At or above 200% of poverty	0	3
Unknown	10	6
<b>TOTAL PERSONS</b>	<b>140</b>	<b>145</b>

All clients have experienced some form of victimization. The overwhelming majority of individuals receiving one-time consultations have experienced either domestic violence, sexual assault, or stalking – 120 or 83% of those served. Occasionally, attorneys provide one-time consultations to individuals who have *not* disclosed that they have experienced domestic violence, sexual assault, or stalking but have disclosed a reason that might make it particularly difficult for them to proceed without assistance, such as a disability, 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.

Of the clients with unknown income, most were served at our new “attorney for the day” PFA program in Dover-Foxcroft. While we are not always able to obtain income information for the client, the Judge is aware that we are funded to serve individuals who cannot otherwise afford an attorney and makes referrals to the attorneys accordingly.

**4.) The geographical area actually served by the organization 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>
Aroostook	1	0
Hancock	4	0
Kennebec	1	0
Knox	5	8
Lincoln	0	1
Penobscot	75	104
Piscataquis	43	27
Somerset	3	1
Washington	2	0
Waldo	0	1
Out of State	6	3
TOTAL	140	145

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

Of the client files, 93 were closed by the end of December 2010. 47 clients remained open as of January 1, 2011.

Of all client files closed, 76 clients received a final order in at least one of their pending matters. Additional outcome information will be described in number #7. Of the 17 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 losing contact with us resulting in the case never being filed or the attorney withdrawing, 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 proposed serving 300 individuals; 285 were served during this time period. Outcome data demonstrates the positive outcomes for clients served.

The Law Project provided services as described in its application. It did not hire an additional attorney, due to the partial funding of the request, but it did support key, existing staff (also proposed in the application), which made it possible to deliver the services as described.

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

The following table describes the projected and actual outcomes for calendar year 2010, with associated indicators, measurements, and data sources. Data confirms that we have substantially met 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% (97)	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. Percent of clients who seek an interim order granting them primary residence of their children will receive the interim order. Percent of clients who report that threats or abuse were less during involvement with the Law Project than previously Percent of clients who report that their involvement with the Law Project made them feel more in control of the process	90%	93% (43) 90% (47) 66% (2) 75% (3)	(1) Closed Client Survey* (2) Closed Client Form**
<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. Percent of clients who seek a final order granting them primary residence of their children will receive the final order. Percent of clients who seek a final protection order will receive one. Percent of clients who report that threats or abuse were less after involvement with the Law Project than previously Percent of respondents to a Closed Client Survey reported that utilizing the Law Project helped them to feel that the court process was manageable.	95%	89% (40) 88% (41) 83% (19 ) 100% (3) 100% (4)	(1) Closed Client Survey* (2) Closed Client Form**
*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				

One of our challenges this year has been the return rate of our Closed Client Survey. Usually we receive an average of ten surveys back per year but this year we only received four. While we want to increase the return rate, we do not wish to provide incentives for returned surveys because we feel it is very important to keep the surveys as anonymous and voluntary as possible. We are working with our program contact at the United Way to find other ways to increase the return rate.

**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 senior attorney. Every individual receives a call back and is referred to other resources if we are unable to assist. In 2010, there were 538 Law Project intakes, 285 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.

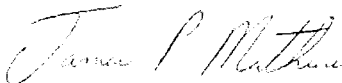
**CONCLUSION**

The MCLSF continues to provide crucial funding for the Penquis Law Project. The MCLSF's support of the Penquis Law Project has a measurable impact on the lives of those experiencing violence.

*"When my life was turned upside down and I thought all hope was lost, a hand reached out to help bring me back into the light." -- former Law Project client*

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

**Pine Tree Legal Assistance**  
**Report to the Maine Civil Legal Services Fund Commission**  
**January 2011**

**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. Since 1967, the program has provided free legal services to low-income individuals around the State who are confronted with serious civil legal problems, using a network of local field offices and telephone intake systems staffed by Pine Tree employees and volunteers.

Today, Pine Tree operates fully staffed field offices in Portland, Augusta, Lewiston, Bangor, Machias and Presque Isle to support the provision of general legal services to local low-income individuals. A Pine Tree attorney is also housed in the York County Shelter to address homelessness in York County. In addition, Pine Tree operates five specialized projects:

- The Foreclosure Prevention Project is based in Lewiston but operates statewide to provide legal assistance to homeowners at risk of losing their homes.
- 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;
- The Family Law Unit is based in Portland and provides legal assistance primarily to victims of domestic violence and sexual assault in southern Maine;

Legal services range from simple advice and brief service to negotiations and include full representation in the most serious cases. The program also devotes significant resources to support for *pro se* litigants, including the development of legal education materials and other "do it yourself" tools available from its offices and online at its program websites (including [www.ptla.org](http://www.ptla.org), [www.helpmelaw.org](http://www.helpmelaw.org), [www.kidslegal.org](http://www.kidslegal.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.)

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 28-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.

Pine Tree is Maine's oldest, largest legal service provider. It has been in continuous operation since 1967, allowing it to develop 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 16 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 is also committed to the provision of local access to its services through its unmatched network of local offices and outreach sites around the State (Portland, Augusta, Bangor, Machias, Presque Isle and Lewiston), as well as an outreach project based at the York County Shelters in Sanford. Its 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 costly network 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.

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.

## **Types of cases handled in 2010**

While the database for calendar 2010 is still being finalized, it appears clear that the staff of Pine Tree Legal Assistance handled a minimum of 7,437 cases during the year with all sources of funding, including some support from MCLSF. This total included the following:

- 497 consumer matters
- 221 education matters
- 561 employment matters
- 1,130 family law cases (including domestic violence)
- 50 juvenile issues
- 143 health law cases
- 4,004 housing issues (including foreclosure)
- 625 income maintenance issues

A total of 386 cases were funded exclusively with MCLSF funding. MCLSF funding allowed Pine Tree to target assistance to needy individuals whose household incomes were slightly above Pine Tree's usual guidelines or who faced other barriers to service as a result of restrictions imposed by one of Pine Tree's other funding sources. This total was allocated as follows:

- 41 consumer matters (e.g., debt collection)
- 3 education case
- 20 employment cases
- 33 family law
- 1 juvenile issue
- 11 health law cases (e.g., Maine Care eligibility)
- 227 housing issues
- 28 income maintenance cases (e.g., food stamps and Social Security)
- 14 individual rights (e.g., immigration)

Included in the family law total were four complex cases in which a Pine Tree attorney served at the request of the Court as an unpaid guardian *ad litem* in a divorce or parental rights case involving a low-income child. Particularly in northern and eastern Maine, the Family Court Division has asked Pine Tree to accept appointment in high conflict family law cases, where no other resource would be available to ascertain the best interests of the child. The availability of MCLSF funding in 2010 allowed this important (and very time-consuming) work to go forward.

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

Pine Tree's direct legal services benefited a total of 18,427 individuals in 2010, including 861 whose cases were supported exclusively with MCLSF funding and 17,566 whose legal services were supported in part with MCLSF funding.

In addition to direct legal service to individual clients, some MCLSF funding has been traditionally used to support a range of other important services. In 2010, these services included more than 1,163 individuals who were trained by Pine Tree staff during a wide range of presentations and programs around the State, the distribution of 1,507 “hard copies” of self-help materials or other legal education tools created by Pine Tree, and consultations with 2,224 low-income individuals needing legal help who were ultimately referred to other resources.

Although it is not possible to know how many individual users benefited by access to Pine Tree’s web-based resources ([www.ptla.org](http://www.ptla.org), [www.kidslegal.org](http://www.kidslegal.org), and [www.helpmelaw.org](http://www.helpmelaw.org)), the Pine Tree web sites were viewed more than 2.2 million times in 2010. Pine Tree has consistently been #1 or #2 legal aid program in the current in terms of traffic to its website, even though far larger legal aid programs exist in other States. Further evidence of the value placed on Pine Tree’s website content is the fact that it consistently appears in the “top ten” Google searches for “legal assistance”

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

MCLSF funds were the sole source of support for legal representation to 386 low-income Maine households in 2010. The average age of the MCLSF client was 42 and 60 % of this group were women. Thirty-two percent of these client households included at least one person with a disability.

MCLSF funds also provided partial support for an additional 7,051 cases handled by Pine Tree staff. As with cases funded exclusively by MCLSF, Pine Tree’s “typical” client for representation in 2010 was a woman in her late-thirties with at least one young child, although 34 % of all clients served were male. Thirty-seven percent of all clients received some household income from employment. Thirty-seven percent of all client households included at least one person with a disability. More than five percent of client households included a veteran or current service member.

These totals do not reflect people served in ways other than individualized legal service. For instance, the tiny staff of the Migrant Farmworker Unit distributed 1,488 copies of an innovative “Harvest Calendar” that combined easy-to use legal information in Spanish and English with a calendar suitable for recording work hours and distributed 446 newsletters 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 2010, allowing Pine Tree to provide much more 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 4,100 issues of “Wabanaki Legal News” in two editions during the year.

### **Geographic area served because of MCLSF funding**

Program services supported by MCLSF funding were 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 2010 involved residents of 543 Maine towns and communities. The following table reflects the allocation of cases on a countywide basis during 2010.

<b>County</b>	<b>Cases funded only with MCLSF</b>	<b>Total cases</b>
<b>Androscoggin</b>	<b>43</b>	<b>822</b>
<b>Aroostook</b>	<b>7</b>	<b>847</b>
<b>Cumberland</b>	<b>121</b>	<b>2,111</b>
<b>Franklin</b>	<b>5</b>	<b>69</b>
<b>Hancock</b>	<b>0</b>	<b>133</b>
<b>Kennebec</b>	<b>34</b>	<b>482</b>
<b>Knox</b>	<b>0</b>	<b>31</b>
<b>Lincoln</b>	<b>2</b>	<b>53</b>
<b>Oxford</b>	<b>10</b>	<b>188</b>
<b>Penobscot</b>	<b>54</b>	<b>795</b>
<b>Piscataquis</b>	<b>1</b>	<b>52</b>
<b>Sagadahoc</b>	<b>2</b>	<b>146</b>
<b>Somerset</b>	<b>3</b>	<b>57</b>
<b>Waldo</b>	<b>4</b>	<b>75</b>
<b>Washington</b>	<b>5</b>	<b>439</b>
<b>York</b>	<b>28</b>	<b>709</b>

### **Status of matters handled**

Of the 386 cases handled exclusively with MCLSF funding, the status of each case is as follows:

- 140 involved individualized advice on a specific legal issue;
- 34 involved the provision of additional services, including assistance with legal forms or informal negotiations with an opposing party;
- 17 involved a formal negotiation outside the context of litigation;
- 33 involved a negotiation with litigation;
- 13 were resolved with a court decision or involved extensive transactional assistance;
- 105 remained open on December 31, 2010

The status of Pine Tree's total caseload during 2010 is as follows:

- 2,168 involved individualized advice on a specific legal issue;
- 703 involved the provision of additional services, including assistance with legal forms or informal negotiations with an opposing party;
- 234 involved a formal negotiation outside the context of litigation;
- 841 involved a formal negotiation after litigation commenced;
- 491 involved a court or administrative decision or extensive transactional assistance;
- 2,626 cases remained open on December 31, 2010;

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

As proposed in the 2009 application to the ME Civil Legal Services Fund, MCLSF funding was used to support more than 7,400 cases during 2010, including casework in all six Pine Tree field office locations, as well as by the Farmworker/Employment Unit, the Native American Unit, the Family Law Unit, KIDS LEGAL, and the Foreclosure Unit. All direct legal services were provided free of charge to low-income individuals in Maine.

MCLSF funding was also used to support Pine Tree's traditional role in educating Maine people about their civil legal rights and remedies. This is accomplished primarily through Pine Tree's three nationally acclaimed websites: core issues are covered by [www.ptla.org](http://www.ptla.org); legal issues specific to Maine children at [www.kidslegal.org](http://www.kidslegal.org), and a clearinghouse and search engine for all of Maine's legal aid providers at [www.helpmelaw.org](http://www.helpmelaw.org). In 2010, Pine Tree launched [statesidelegal.org](http://statesidelegal.org), a new national website with legal resources specific to veterans and service members. All four offer access to libraries of user-friendly legal information and self-help tools.

### **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 92 MCLSF cases closed with some level of extended service in 2010, all but 5 (92%) were resolved in favor of the Pine Tree Legal Assistance client.

Of the 1,575 cases involving extended representation and completed in 2010 with all sources of funding, including MCLSF, all but 88 (94%) were resolved in favor of the Pine Tree Legal Assistance client.

Pine Tree also tracks a range of measurable outcomes with respect to its program activities and services. While this data is not yet final, a sample of outcomes associated with cases funded exclusively by MCLSF includes the following:

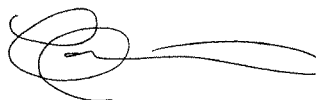
- Prevented homelessness in 24 cases by delaying an eviction to provide more time for the client to find alternate housing;
- Prevented homelessness in 11 cases by preventing an eviction;
- Preserved or restored access to housing in 5 cases;
- Stabilized family conflict in two cases by securing divorce or parental rights and responsibilities orders.

Finally, 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,



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 13, 2011  
Re: Maine Civil Legal Services Fund Annual Report  
January – December 2010

**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 stability and/or economic independence. 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 three days per week in our Biddeford office, one day in Sanford, and one day per week in Kittery. 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 1249 unduplicated clients, during 1854 office visits or phone calls. Of note:

- \* Nearly 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.
- \* 35%, or 435 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.
- \* 213 individuals, or approximately 17%, were referred *to* civil legal services providers such as Pine Tree Legal Assistance, Legal Services for the Elderly, Cumberland Legal Aid, other attorneys, etc.
- \* 72% had incomes equal to or less than 125% of the Federal Poverty Guidelines; 80% had incomes less than 150% of the Poverty Guidelines; and 96% had incomes less than 200%.

**Geographic Area Served:**

ACTON	24	BUXTON	16	KENN'PORT	9	NEWFIELD	10	SANFORD	327
ALFRED	25	CORNISH	11	KITTERY	44	NO.BERWICK	24	SHAPLEIGH	15
ARUNDEL	14	DAYTON	3	LEBANON	32	OGUNQUIT	1	SO.BERWICK	22
BERWICK	44	ELIOT	14	LIMERICK	15	OOB	31	WATERBORO	61
BIDDEFORD	144	HOLLIS	14	LIMINGTON	19	PARSONSFIELD	13	WELLS	44
		KENNEBUNK	30	LYMAN	18	SACO	75	YORK	33
OTHER TOWNS	35	OTHER STATES	82						
TOTAL: 1249 UNDUPLICATED CLIENTS 1854 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 economic independence.*

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 2010, 1249 unduplicated individuals were provided assistance, including 213 referrals to legal services providers, and 69 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 2009, we received the following responses:

*"It is a tremendous help to the clerk's office to refer the public to her.... paperwork comes in complete with notes on each copy so the client knows which one to file with the court. Plus when we see that she has helped them we know that it's correct." "It is wonderful to be able to give the pro se person a name and number of your agency to help them through the process... almost all the files that she helps with go through with few or no problems." " Feedback from clients is VERY positive". " It saves the clerks a tremendous amount of time. We are able to keep the line moving and still make people feel as though we have given some help." "Clients understand the process and know exactly what to expect."*

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 2010, staff conducted a telephone survey of thirty-seven individuals who had received services through the Access to Justice Program in 2010. All believed that they were adequately prepared to represent themselves through the various court processes (i.e. conferences, mediation or hearings), and that the court clerks were satisfied with their paperwork. Twenty five of the individuals surveyed also reported a positive outcome to their court experience, for example, a grandparent granted temporary guardianship of children in an unsafe situation, or the granting of sole parental rights because of an abusive parent. An additional six reported that they had partially resolved their situation, or fully resolved it through other means, e.g. reconciliation.

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

*213 individuals were referred to a legal services provider, and an additional 69 were referred to a wide range of other resources and services, e.g. Caring Unlimited, DHHS, Disability Rights Center, 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. 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 really require attorney representation. Cases stall, or clients give up because they cannot proceed further. We put forth a few examples we have observed:

1. Attorney representation for divorce when one party has hired an attorney, there are many assets at stake, and the other party cannot afford an attorney. It is our observation that the party without attorney representation often capitulates to demands in order to “get the process over with”, and as a result suffers a financial loss.
2. Another observation is that many non-custodial parents do not have a physical address to serve the other party and can only get it through a court order to have DHHS disclose it. This can take months. If DHHS could serve the known party, without revealing the address, the process could be much faster. Most non-custodial parents do not know their rights in this area and proceed for months, and sometimes years with a child support order that is prohibitive, incurring a huge back debt, loss of license and/or jail time. Many of these non-custodial parents are often illiterate or disabled.
3. At the same time, there are custodial parents who are owed tens of thousands of dollars, cannot afford an attorney, and do not know how to correctly file and proceed with contempt paperwork. When we assist them, and they are successful, they still have to take on the full responsibility for enforcement without representation, a very daunting task.

We also would underscore the continued need for education by legal services providers for low-income Mainers, and for legal advocacy in the court system to help explain procedures and terminology to clients when they appear in court for family matters in particular, but also small claims, disclosure hearings, and other civil actions. Persons living in poverty have great need of better understanding of their rights and responsibilities, our system of law and justice, and of the means of dealing with that system.

**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