

# There's a surge in the need for civil legal services among people who are least able to pay

By Kate Prengaman  
Yakima Herald  
Updated Nov 13, 2015



Kelly and Jon Penfold sit in their Yakima apartment Thursday. Legal aid helped Jon Penfold clear a 20-year-old felony drug conviction from his record so they could get a lease on an apartment and get out of transitional housing. “I love being able to cook anytime, day or night,” something they couldn’t do in transitional housing, says Kelly. (GORDON KING/Yakima Herald-Republic)

For Jon Penfold, it’s sweet to be home.

For years, he and his wife had trouble finding safe, affordable housing because of a drug felony that had been on his record for more than 20 years.

That left them with few options, and they bounced between slumlords and homelessness before attorneys with the Northwest Justice Project took Penfold’s case and convinced a judge to clear his record.

“Right after that, a lot of doors opened, and a month later we moved into the new apartment,” said Penfold, who is disabled and lives on Social Security. “Safe housing is a necessity, not a luxury.”

Addressing a single legal issue — such as fighting eviction or getting a driver’s license reinstated — can often prevent a cascade of mounting issues for low-income families, said Penfold’s attorney, Elisabeth Tutsch.

Her client was among the lucky ones. A new state report shows a dramatic rise in the need for civil legal services among those least able to pay for them.

“If you are charged with a crime, you have a right to an attorney, but if you are looking at losing your child or your home, you don’t have the same established right to an attorney,” Tutsch said. As “civil aid attorneys, we can make a big difference in people’s lives; there’s just not enough of us.”

Legal aid for noncriminal cases in Washington is provided by a patchwork of public assistance firms — such as the state-funded Northwest Justice Project and privately funded Columbia Legal Services — and private attorneys who donate their time.

But the study commissioned by the state Supreme Court found that three-quarters of Washington’s low-income residents don’t get the legal help they need — either because they don’t know that a lawyer could assist them or resources are not available.

“Ultimately, it challenges us to work all the harder to secure the investments needed to deliver on the promise embedded in our constitutional history and our nation’s creed — that liberty and justice be made available to all,” said Justice Charles K. Wiggins, the chairman of the study committee, in a statement.

The report, released in late October, is an update of the state’s first look at the civil legal needs of low-income residents, which was first done in 2003. While it highlights the growing “justice gap” between legal needs and help available, it does not offer estimates for how much funding is needed to alleviate the problems it describes nor does it cite potential sources for the funding.

Among the findings:

- Almost three-fourths of Washington’s low-income residents face a civil legal problem each year.
- The most common problems include health care, consumer and financial issues, and employment, but housing and family law issues are significant as well.
- Legal issues are especially acute for victims of domestic violence and sexual assault, minorities and young adults.
- The number of legal problems that low-income families face has tripled in the past decade.

The dramatic increase is likely driven by the economic recession that cost many their jobs, their health care, and in some cases their homes, Tutsch said.

“When the bottom drops out for people because they lose their employment or can’t afford medical bills, problems start to spiral,” she said.

But the recession also took a hit out of a state funding source that funds legal aid, said Andre Penalver, a Yakima attorney and vice president of Campaign for Equal Justice, a group of Washington lawyers who raise private funds for civil legal aid.

In the 1980s, Washington was the first state to establish a system that puts the interest earned on all money that attorneys hold for their clients — such as when bank accounts

are frozen while an estate is settled or payments are made during a foreclosure dispute — toward legal aid for low-income people, Penalver said.

Such programs are now used around the country, but when interest rates crashed in 2008, funds for the program shrunk from \$9 million a year to less than \$2 million.

The Legislature allocates about \$12 million a year to the Office of Civil Legal Aid as well.

Washington state currently has one legal-aid lawyer for every 10,000 low-income residents. Congress recommends twice that. But it's even worse in Yakima County, where the ratio is one lawyer for every 15,000 eligible residents, Tutsch said.

The Equal Justice Coalition says Washington needs an extra \$15 million a year to meet the need statewide.

“People cringe when I say the state should provide more money for legal aid, but there’s a long-term benefit to the community,” Penalver said. “For example, if an attorney can help a family avoid being evicted, that saves money that would be spent providing services for a homeless family.”

Tutsch said some of the most challenging cases involve domestic violence victims who often face medical bills, protection orders, child custody battles and loss of housing.

Given the complexity of many situations, the Northwest Justice Project just doesn’t have the capacity to help everyone who calls.

“Yesterday, for example, we got 23 calls, but we can only take about five to six cases a week,” Tutsch said.

But the report, which is based on more than 1,300 interviews, also shows that many low-income people still don’t know that legal aid could help them or don’t trust the justice system to help people like them.

People are more likely to seek help for problems such as foreclosure or custody fights, and less likely for the most commonly reported problems with health care, consumer and financial services, and employment.

Penalver says that shows there’s an education need as well as a funding need to close what he sees as an unjust “justice gap.”

But more funding — from the state and from donations — would help the half-million residents who are unable to get the legal assistance they need every year, he said.

“\$15 million is not a huge amount relative to the state budget, so it’s a solvable problem,” Penalver said. “People need to understand that there is a crisis going on and then apply that political pressure.”

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