



Legal Needs Assessment: A Powerful Tool for Expanding Resources and Directing Legal Advocacy

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Introduction

Legal needs assessment is a powerful tool for expanding resources and directing strategic advocacy that is being successfully applied by civil justice groups



across America. By combining solid research with smart campaign strategies, civil justice advocates are generating tens of millions of additional dollars for meeting their clients' needs, and in the process informing and enrolling more and more partners in their efforts.

This article addresses four questions:

- WHAT is a legal needs study?
- WHY do you do it?
- HOW do you do it?
- What do you do with the RESULTS?

The article concludes with examples of a state-wide initiative (New York) and a local campaign (York County, Pennsylvania) that illustrate how a compelling, fact-based case, applied in a campaign that presents clear, concrete action proposals to the decision-makers who control resources, can produce extraordinary results. The examples suggest that an expansion of the “justice gap” story to include the “economic impact” story can help access-to-justice groups raise money and focus their advocacy on the most compelling needs of low-income communities.

1. What Is a Legal Needs Study?

Mid-1980s to 2000: State and national studies first document a vast “justice gap” between legal needs and the resources available to meet them. Legal needs assessments based on scientific surveys, public hearings, and structured interviews were used to produce a strong appeal for legislative appropriations aimed at reducing

the wide disparity between need and resources.

2000s to present: Increasing use of market research tools broaden the scope and sharpen the focus of legal needs assessments. Civil justice advocates at the local, regional, and statewide levels are expanding their efforts to seek support from the business community, health care organizations, human services agencies, and other stakeholders. The methods used for this work encourage civil legal services advocates to get out of the office and into direct conversations with potential partners and supporters. “Community listening” is a term used to capture the spirit of these efforts, aimed at simultaneously collecting data and engaging community partners in the effort to discover solutions to problems of the low-income community that are more holistic and creative than simply hiring more lawyers.²

2009 to present: Expansion of the case for support to include the “economic impact” story. Estimates of economic impact were added to legal needs data to tell a bigger story about why legislatures, courts, foundations, businesses, and individual donors should support legal aid.³ Civil justice advocates began making the case, supported by data, that in the process of addressing compelling legal needs, civil justice programs deliver economic benefits far in excess of the funding they receive.⁴

2. Why Do a Legal Needs Study?

Making a case for funding. Legal needs studies are widely used for documenting the numbers and types of legal problems that the low-income population experiences each year and the percentage of those needs that go unmet due to lack of resources. While the story that emerges is almost always the same – most studies find the unmet need to be around 80 percent – advocates continue to feel that data specific to their state, region, and/or target population is needed to make a persuasive case to decision-makers interested primarily in a

particular constituency.

Informing strategic advocacy efforts. The Legal Services Corporation, IOLTA, and other funders — and indeed, the American Bar Association *Standards for Providers of Civil Legal Services* — call for periodic assessment of legal needs to ensure that a program's resources are aligned with the most compelling needs of the target community. Many programs take steps beyond mere priority setting by engaging their staff and board members every few years in a variety of “community listening” activities aimed at informing both day-to-day representation and broad-scope strategic advocacy.

3. How Do You Do a Legal Needs Study?

Robert Spangenberg, author of many of the legal needs studies conducted in the 1980s and 1990s, describes the traditional approach as follows:

[The] methodology ... combines three primary elements: a telephone survey of low-income individuals within the jurisdiction under review; a mail questionnaire to all providers of free civil legal services in the area; and extensive on-site interviews with individuals familiar with the legal needs of low-income people, individuals who directly provide these services, and members of the three branches of government who are involved with legal services policy, funding and case adjudication.⁵

This approach has produced important results, and telephone surveys continue to be at the core of many large-scale (statewide) legal needs studies today. However, telephone surveys are both expensive and increasingly difficult to implement due to the impact of cell phones and the use of Caller ID by consumers to screen out calls from telemarketers, bill collectors, and pollsters.

These limitations of telephone surveys, coupled with a growing sophistication in the resource development capabilities of legal aid organizations, have resulted in expansion of legal needs assessment methods to include such market research tools as focus groups, web surveys, and informal, face-to-face interviews with individuals at laundromats, bus transfer stations, and other gathering places in the low-income community. An array of methods is being applied either to supplement or to entirely replace telephone surveys, especially at the local and regional levels where

the resources needed to fund a full-blown telephone survey often are lacking.

A detailed, how-to discussion of these methods is beyond the scope of this article, but the table on the next page summarizes some of the highlights of the principal methods now in use for legal needs assessment.

4. What Do You Do with the Results?

Applying the results of a legal needs assessment begins with clarity about the purposes of the study and building a strategy for application of the findings into the project design right from the onset.

If the purpose is to guide and direct legal advocacy, engaging program staff as members of the research team can yield rich dividends. A “community listening” approach gets legal aid staff out of the office and into action as interviewers, focus group facilitators, and meeting leaders. After having heard directly from stakeholders and being energized by these conversations, staff members are ready to contribute insights and ideas when the strategic conversations take place about realigning priorities and launching new strategic initiatives.

“Community listening” produces results that contrast sharply with the traditional approach of hiring consultants to conduct a study and deliver a report. All too often, consultant reports are met with indifference, or even resistance, from advocacy staff when the findings and recommendations are delivered. A community listening approach treats program advocates, client-eligible community members, and community partners as the experts, and uses outside consultants in a support role as trainers, coaches, and specialized data analysts. Direct engagement in the research enables program staff to develop a better understanding of community needs and to buy into the solutions that are created.

If the purpose is to power the case for funding, then the strategy for application of the findings looks like a campaign. The design process begins with a focus on identifying who the decision-makers will be and uses the study process to generate the kinds of information that will move these audiences toward “yes.” As the examples below illustrate, the most powerful outcomes have been achieved when the study findings are woven into a campaign that augments the “Justice Gap” story with the “Economic Impact” story. The message is: *Legal aid is a vital “economic engine” that creates jobs and social stability and saves money for taxpayers. Your support will produce “X” dollars of benefit for every dollar invested.*

Methods Used for Legal Needs Assessment

Method	Target Respondents	Strengths	Challenges	Application
1. Computer Assisted Telephone Interview	Low-income population	<ul style="list-style-type: none"> • Best scientific accuracy & reliability 	<ul style="list-style-type: none"> • High cost - \$50-\$100 per completed interview • Requires outside firm to accomplish 	Statewide legal needs assessment
2. Mail Survey	Low-income population	<ul style="list-style-type: none"> • Low cost • Programs can do themselves 	<ul style="list-style-type: none"> • Low scientific accuracy & reliability • Care needed to avoid unreliable results 	Local legal needs assessment
3. Informal, in-person interviews at community gathering places (e.g., bus transfer stations)	Low-income population	<ul style="list-style-type: none"> • Low out-of-pocket cost • Programs can do themselves • Good for getting in-depth, nuanced information 	<ul style="list-style-type: none"> • Time-consuming • Requires attention to interviewer selection & training 	Local, regional, or statewide legal needs assessment
4. Web Surveys (e.g., SurveyMonkey™)	People who work in jobs where the Internet is a basic tool	<ul style="list-style-type: none"> • Low cost • Programs can do themselves 	<ul style="list-style-type: none"> • Unreliable for use with low-income population • Close tracking & follow-up needed to get decent response rate 	Legal aid staff, board, pro bono lawyers, community partners, etc.
5. Structured interviews (by phone or in-person)	People (e.g., judges) who are hard to reach by other methods	<ul style="list-style-type: none"> • Low cost • Programs can do themselves • Educational for interviewers • Builds rapport with interviewees 	<ul style="list-style-type: none"> • Time-consuming to conduct interviews & compile results • Requires attention to interviewer selection & training 	Key stakeholder groups that are hard to reach, e.g. judges, business leaders

Continued

Methods Used for Legal Needs Assessment (Continued)

Method	Target Respondents	Strengths	Challenges	Application
6. Community meetings & public hearings	<ul style="list-style-type: none"> • Low-income population • Variety of other stakeholders, e.g., business community 	<ul style="list-style-type: none"> • Programs can do themselves • Good for building awareness & support • Credibility of findings 	<ul style="list-style-type: none"> • Time-consuming • Logistically challenging • Require attention to process factors, e.g., staging & facilitation 	Use for strengthening case for funding with business community & other important constituencies
7. Focus groups	<ul style="list-style-type: none"> • Low-income population • Variety of other stakeholders, e.g., business people 	<ul style="list-style-type: none"> • Programs can do themselves • Good for getting in-depth, nuanced information 	<ul style="list-style-type: none"> • Caution needed in extrapolating results to the larger constituencies represented 	Use for gaining in-depth awareness of key stakeholder groups' perspectives (e.g., business leaders)

5. Examples

New York: The Chief Judge's Task Force to Expand Access to Civil Legal Services

In 2010, the civil justice system in New York was experiencing a growing crisis due to the confluence of legislative resistance to increased spending on civil legal services, a growing demand for legal aid, and congestion in an already overburdened court system stemming in part from a flood of unrepresented litigants. In response, Chief Judge Jonathan Lippman took a leadership role, appointing a blue-ribbon Task Force of civil justice leaders to convene hearings across the state and to provide him with a plan for expanding access to civil legal services.⁶

Using formal public hearings, a statewide survey of the low-income population, and an economic impact study, the Task Force not only documented the growing justice gap, but built a compelling case describing how increased funding for civil legal services would benefit *all* New Yorkers, even in a time of budget crisis. The Task Force made a number of recommendations about how to improve access to civil legal services in New York. The centerpiece was a proposal that would eventually provide \$100 million per year in new funding for legal aid. The increase would be phased in over four years, with a \$25 million line item for FY 2011–12 and

a further \$25 million increase each successive year until the budget reached \$100 million in year four.

The amount that was finally approved by the legislature and governor for FY 2011–12 was \$12.5 million. While this was only half of the amount that the Chief Judge had requested based on the Task Force proposal, in the context of the worst budget crisis in New York history, it was an important first step.

In subsequent reports issued each year, the Task Force has updated its findings regarding the human impacts of the justice gap and the positive economic impacts generated by legal assistance programs across the state.⁷ For FY 2015–2016, the total funding allocated in the judiciary budget to civil legal services providers had grown to a total of \$70 million.⁸

York County, Pennsylvania: The "Shelter from the Storm" Campaign

In 2012, the York County Bar Foundation (YCBF) sponsored a study with both legal needs and an economic impact components.⁹ Empowered by the study findings, the YCBF mounted a campaign called "Shelter from the Storm."¹⁰ Within seven months of launching the campaign, the YCBF announced it had already raised 70 percent of its \$1 million, 5-year goal.

In the York County study, an estimate of the "justice

gap” was produced by extrapolating the findings from the ABA Legal Needs Study to the low-income population of York County, thereby avoiding the need for an expensive and time-consuming telephone survey. The resulting estimate of the incidence of legal problems was compared with data provided by the legal services providers indicating the total numbers of people they were serving annually. Consistent with the findings of virtually every legal needs study conducted since the mid-1980s, this analysis documented an overwhelming disparity between the numbers of legal problems experienced by low-income families each year and the capacity of the civil justice system to address them.

Conclusion

The success of the efforts to boost funding for legal services in New York State and York County, Pennsylvania, highlights the importance of combining smart campaign strategies with solid research. Research studies by themselves, in the absence of effective, campaign-based fundraising strategies, often fail to produce funding results strong enough to justify the substantial investments they require. Similarly, legislative or fundraising campaigns lacking a strong research foundation that anticipates the needs of skeptical decision-makers for solid data all too often fall short of the sponsors’ expectations. Taken together, an investment in a powerful, fact-based case, coupled with a campaign that presents a clear, concrete action proposal to the decision-makers who control resources, can produce a result far more powerful than either studies or exhortation alone.

The expansion of legal needs assessments to include methods borrowed from market research, and to add the “economic impact” story to the “justice gap” story, is providing a powerful new capability for civil legal services funders, administrators, providers, and access-to-justice groups across America. Civil justice advocates are generating tens of millions of additional dollars for their work, and in the process informing and enrolling more and more partners in their efforts. The practice of legal needs assessment deserves a central place in the toolkit of every civil justice community.

- 1 Ken Smith is president of *The Resource for Great Programs* (www.GreatPrograms.org), a national consulting firm serving civil justice programs and their funders across North America. Since 1997, he has conducted economic impact analyses and legal needs assessments for civil justice organizations, and served as consultant for the studies in Pennsylvania and New York cited as examples in this article. Ken may be reached at ken@greatprograms.org.
- 2 I first heard the term “community listening” in 2010 from Hannah Lieberman, then a consultant and now Executive Director of Neighborhood Legal Services Program in Washington, DC, to describe the eclectic approach for legal needs assessment she has used and which nicely captures the purpose and methods I believe will be most successful for this work.
- 3 Legal aid advocates began using estimates of the economic impacts of legal aid in making their case for funding in the early 1990s — see, for example, Jane Hardin, “Disability Advocacy Projects: *Programs that Assist Low-Income Clients and Ease State Government Fiscal Problems*,” *Clearinghouse Review*, November, 1992, page 776. However, economic impacts began to be integrated with legal needs as a bigger story about legal aid starting around 2009.
- 4 See, for example, *A Report on Pennsylvania’s Access to Justice Act, FY 2004-2011*, by The Resource for Great Programs, Inc., available at <https://www.paiolta.org/wp-content/uploads/2014/05/Report-on-Pennsylvanias-Access-to-Justice-Act.pdf>
- 5 Quoted from the Spangenberg Group website at http://www.spangenberggroup.com/work_civil.html
- 6 See Ken Smith, Barbara Finkelstein, and Christopher O’Malley, “Economic Impacts of Legal Aid: *Civil Justice for Low-Income People Creates Ripple Effects That Benefit Every Segment of the Communities We Serve*,” *MIE Journal*, Fall 2011, page 14; available at http://www.greatprograms.org/mie_article/pdfs/Economic%20Impacts%20of%20Legal%20Aid_MIE%20Journal_Fall%202011.pdf
- 7 The reports of the New York Chief Judge’s Task Force issued from 2010 through 2015 are archived on the Web at <https://www.nycourts.gov/accesstojusticecommission/annual.shtml>
- 8 See the 2015 report at page 8, available on the web at https://www.nycourts.gov/accesstojusticecommission/PDF/2015_Access_to_Justice-Report-V5.pdf
- 9 See Ken Smith and Kelly Thayer, “An Assessment of the Economic and Societal Impacts of Civil Legal Services Programs Funded by the York County Bar Foundation,” available on the Web at https://c.ymcdn.com/sites/ycba.site-ym.com/resource/resmgr/Legal_Aid/YCBF-Econ_Impacts_of_Legal_S.pdf
- 10 See the website of the York County Bar Foundation at <http://www.yorkbar.com/?page=YCBFShelterFromStorm>