

REPORT OF PUBLIC HEARINGS ON

**THE UNMET CIVIL LEGAL NEEDS
OF LOW-INCOME MISSISSIPPIANS**



*Justice
for All*

Mississippi Access to
Justice Commission



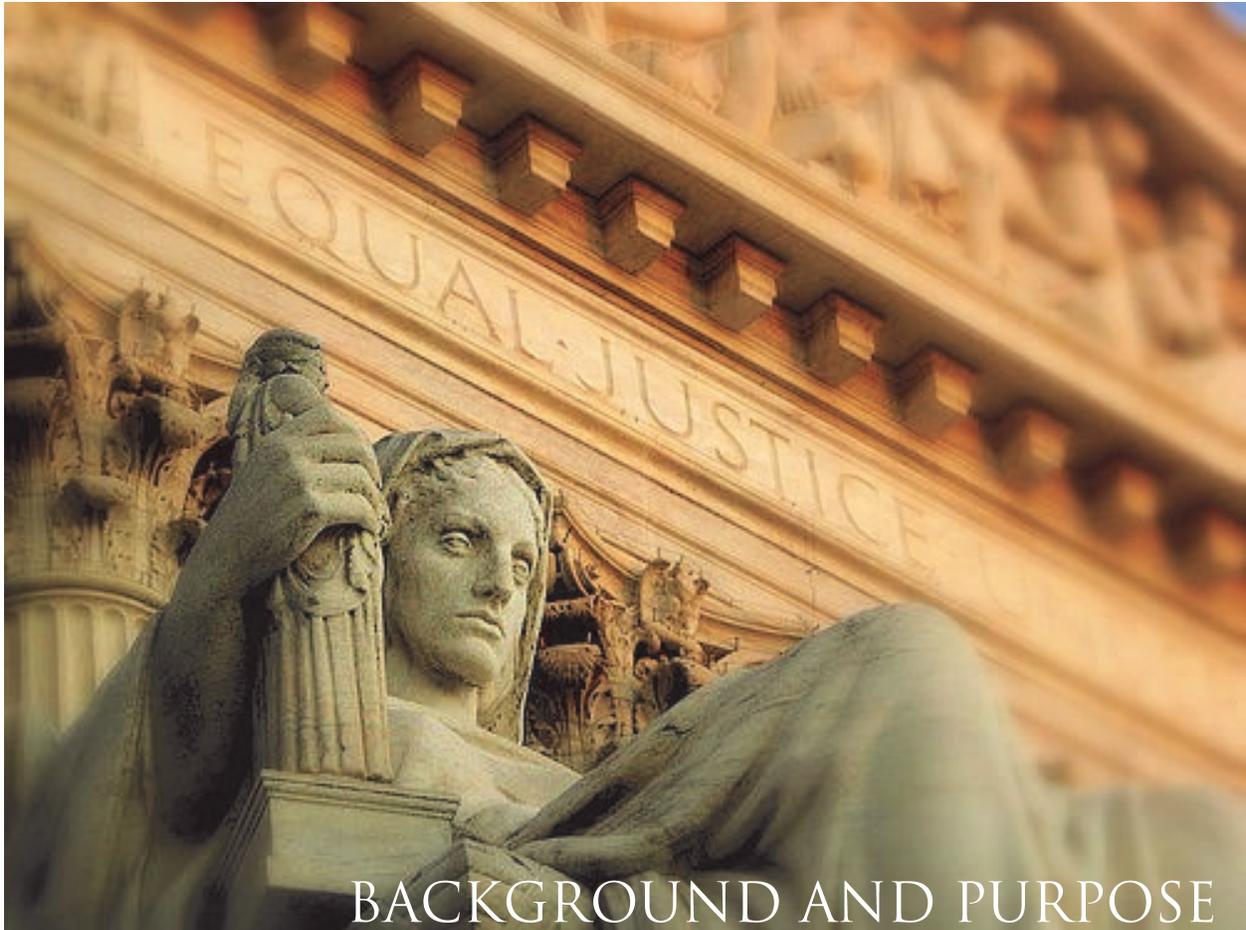
FOREWORD

by Mississippi Supreme Court Justice Jess H. Dickinson

As the Mississippi Supreme Court's liaison to organizations providing legal services to the poor, I have looked forward to this day for several years. The hearings that are the subject of this report were inspired by one of life's great truths: You cannot solve a problem you do not understand. The numerous witnesses who testified at the hearings provided us with, not only valuable information concerning the scope of the problems faced by the poor, but also many new and insightful ideas.

I am proud that the Court on which I serve is fully committed to addressing the problems faced by those who cannot afford to hire legal counsel. This report will assist the Court, the Legislature, and the Governor, in understanding the scope and nature of this problem, and in formulating solutions. Perhaps it will also help to inspire the Congress to increase the funding for the Legal Services Corporation.

Those who deserve our gratitude for making the hearings a success are too numerous to name. Nevertheless, I wish to particularly thank Congressmen Gene Taylor, Congressman Bennie Thompson, Congressman Travis Childers, and Meridian Mayor Cheri Barry, for graciously hosting the hearings in their respective congressional districts. The information and ideas gleaned from these hearings are critical ingredients to a successful plan to move forward toward fair and equal access to justice for all of Mississippi's citizens. And move forward we shall.



To be poor in America is to face myriad challenges in everyday life. Low-income individuals and communities often lack access to safe and affordable housing, transportation, health care, quality education, safety from violence in the family, employment, child care, consumer protection, and various income security programs. The impact on vulnerable populations such as children, the elderly and the disabled is especially troubling. These challenges pose daunting problems for Mississippi, our nation's poorest state. *A Portrait of Mississippi: Mississippi Human Development Report 2009*, published by the American Human Development Project and Mississippi State Conference NAACP, ranked Mississippi last among the states on a Human Development Index. Mississippi has the lowest life expectancy,

highest rate of adults 25 and older who have not completed high school or earned an equivalent degree, and one of the lowest levels of personal earnings from wages or salaries. The consequences for Mississippi's women and children are particularly harsh. Census data reveals that one-fourth of Mississippi females live at or below the poverty line (over half are heads of households) and one-third lack a high school education.

One of the most debilitating problems for poor people and communities is the lack of access to lawyers and the legal system in civil matters impacting fundamental human needs. Legal needs studies conducted by the American Bar Association and other groups in state after state consistently document that only 20% of the civil legal needs of low-and moderate-income people are met.

To respond to this national access to justice problem, the Legal Services Corporation (LSC), founded by an Act of Congress in 1974 and signed into law by President Nixon, launched a national program to establish and fund free Legal Services organizations in every state. Attorneys in local offices that covered every county in every state provided vital legal information and representation to low-income people in civil matters. Over time, however, federal funding for these programs declined significantly. LSC dollars dropped nearly 50% between 1980 and 2009.¹ 2008 data gathered by the ABA Resource Center for Access to Justice Initiatives shows that LSC dollars now comprise only 26% of overall Legal Services funding. Remaining funds must come from private donations, state public funding sources or other federal grant programs. At the same time that funding was declining, Congress steadily began to tighten up restrictions on how Legal Services dollars could be spent, imposing strict prohibitions on providing legal assistance to incarcerated persons and most undocumented immigrants, as well as prohibiting the use of certain advocacy strategies, including class actions, grass roots community organizing and legislative advocacy. LSC restrictions also preclude recovery of attorneys' fees and the acceptance of fee-generating cases.

In an effort to begin to address the “justice gap” in Mississippi, the Supreme Court of Mississippi (“Court”) issued an En Banc Order on June 28, 2006, establishing the Mississippi Access to Justice Commission (“Commission”).² Referencing the authority vested in the Court by the Mississippi Constitution to bear the primary responsibility for the administration of justice and access to justice for all who desire to come before its courts, the Order empowered the Commission to:

- ▶ Identify the current and future needs of the legal services community in providing access to justice to the poor in Mississippi;
- ▶ Develop and establish a strategic statewide plan for delivery of legal services to the poor in Mississippi;
- ▶ Develop strategies and ideas to increase resources and funding for access to justice in civil legal matters, and to make recommendations to appropriate entities to ensure that the resources and funding are applied to the areas and organizations of greatest need;
- ▶ Work to maximize the wise and efficient use of available resources, including development of local, regional and/or statewide systems that encourage the coordination of resources and funding;
- ▶ Develop and implement initiatives designed to expand civil access to justice;
- ▶ Work to reduce barriers to the justice system by addressing existing and proposed court rules, procedures and policies that affect access to justice for the poor; and
- ▶ Monitor and evaluate the effectiveness of the statewide system and services provided, and periodically evaluate the progress made in fulfilling their respective responsibilities.

The Order designated the initial Commission co-chairs as Hinds County Chancellor Denise Owens and then-President of the Mississippi Bar, Joy Phillips, who continue to serve in these capacities at the time of this writing. The Order further provided that the Commission shall consist of twenty-one voting members, as well as Ex Officio, non-voting members designated from eight organizations.

On February 27, 2007, the Court issued a subsequent Order finding the need for regional public hearings and discussions of the current status of the need for, and delivery of, civil legal services to the poor.³ The Court further found that such discussions should be held in each of Mississippi's four Congressional Districts. The Court authorized the Commission to conduct these regional discussions by hearing testimony from witnesses, presentations from experts and comment from members of the public. Finally, the Court ordered the Commission to transcribe the public hearings, make findings and recommendations supported by the testimony, and report its findings and recommendations to the Court.

Pursuant to these Orders, the Commission began a planning process in late 2007 to design and conduct the four public hearings in the Congressional Districts, along with a fifth and final hearing in Jackson. The Commission retained attorney Bonnie Allen as a consultant to assist with organizing the hearings and drafting this report. Ms. Allen has extensive experience in supporting state-based Access to Justice Commissions due to her previous leadership roles at the American Bar Association and National Legal Aid and Defender Association. The purpose of this report is to summarize key points of testimony from the hearings that provide relevant data, and set forth findings and recommendations to be considered by the Commission, the Supreme Court, the Mississippi Bar, state courts, the legislature, and local community leaders.



The establishment of the Mississippi Access to Justice Commission arose out a national movement to create state based Access to Justice Commissions to increase bipartisan support for civil Legal Services and strengthen state level funding and public support. Given the unpredictable and generally decreasing levels of federal funding for Legal Services during the past few decades, the shift to state level support was essential. To that end, the American Bar Association, Legal Services Corporation (LSC) and National Legal Aid and Defender Association began to work with state leaders in the 1990s to promote stronger partnerships among Legal Services organizations, the courts, the private bar, law schools, the business community, nonprofit organizations, and the media. Commissions have played a pivotal role in creating these partnerships.

Access to Justice Commissions - comprised of influential private and public sector leaders - now exist in 29 states and are moving forward in creating comprehensive, integrated state systems for the delivery of civil legal assistance, consistent with the ABA's "Principles of A State System for the Delivery of Civil Legal Aid." They provide an ideal opportunity both to educate community leaders about the need and value of civil Legal Services, and to issue a call to action for these leaders to use their influence to increase public support, funding and *pro bono* legal services. They also offer new levels of accountability for Legal Services providers by encouraging them to increase collaboration across organizational lines and improve the quality of legal services provided to poor people. Public hearings have been a vital tool in equipping Commissions with the information they need to act upon their missions.

The information gathered has informed Commissions' work and generated successes in achieving higher levels of state level funding and *pro bono* participation, greater public awareness of the need for and value of Legal Services, changes to court rules and state laws, and delivery systems that are more integrated and efficient, and that provide a full range of advocacy, including both direct legal services and impact advocacy designed to address the systemic problems underlying poverty and injustice.

Access to Justice Commissions began gaining momentum in the late 1990s, at the same time that then-LSC President John McKay launched a state planning process resulting in mergers of many Legal Services programs across the country, and encouraging states to develop "integrated and comprehensive" delivery systems. In his "Report on the Status of Civil Legal Aid in the United States, Update for 2009," Center for Law and Social Policy Executive Director Alan Houseman describes these systems as having the capacity to: 1) educate and inform low-income people of their legal rights and responsibilities and the options and services available to them; and 2) ensure that all low-income people, including individuals and groups who are politically or socially disfavored, have meaningful access to high-quality legal assistance providers when they require legal advice and representation. These systems include both LSC-funded programs that benefit from ongoing federal support but are subject to restrictions on the

At the time the Commission was created Mississippi ranked 49th in overall funding per person for civil legal services.

types of clients, matters and legal strategies undertaken, and non-LSC-programs that are free to pursue a full range of advocacy, including impact litigation and policy advocacy, but also carry the burden of "raising every penny every year" from law firms, foundations, corporations, individual donors, and state public sources. The state planning trend also has generated tremendous innovations in the delivery of Legal Services through technology and a variety of *pro se* models designed to expand access to legal information and the courts.

At the time the Mississippi Commission was created our state ranked 49th in overall funding per person for civil legal services (\$11.18). Two LSC-funded Legal Services organizations operated in the state: Mississippi Center for Legal Services (MCLS), covering the central and southern part of Mississippi, and North Mississippi Rural Legal Services (NMRLS), covering the north. As of 2008, these programs together received approximately \$4.8 million in LSC funding, which supported only 31 Legal Services lawyers operating out of ten minimally staffed offices. These thin resources cannot begin to serve the civil legal needs of eligible Mississippians (over a half-million people live at or below the federal poverty line). In contrast, during the 1980s, over a hundred Legal Services lawyers worked in Mississippi out of 29 fully staffed offices.

Just as in other states, Mississippi's Legal Services organizations took steps to expand the delivery of legal assistance to low-income people by partnering with the private bar. In 1982, the Mississippi Bar and LSC-funded programs created the Mississippi Volunteer Lawyers Project (MVLV) as a joint venture. MVLV is a separate non-profit organization funded primarily by LSC sub-grants (LSC regulations require grantees to allocate at least 12.5% of their grants to Pri-

vate Attorney Involvement), as well as state funding sources. In 2009, 1800 Mississippi attorneys were on the rolls of MVLP (out of an active Mississippi Bar membership of 6723) but only 500-plus attorneys accepted case referrals. MVLP opened 3950 cases that year and referred 539 to *pro bono* attorneys for extended legal services. MVLP's 2009 budget was \$714, 295 with a staff of 12, but the economic downturn has resulted in a budget reduction to \$650,000 and concurrent staff reductions. In view of the steady decline in LSC funding and the unpredictability of state funding sources, MVLP's board recently completed a strategic planning process that implemented significant changes designed to dramatically increase the organization's outputs, including expansion of the board and the hiring of a General Counsel. These changes already have generated a significant upswing in the recruitment of *pro bono* attorneys.

Mississippi's Legal Services programs are more reliant on LSC funding than many other states, where LSC-funded programs have raised substantial funds through private bar campaigns and significant levels of state funding. In amounts that vary from year to year, Mississippi's two LSC-funded programs and MVLP receive state funding from the Civil Legal Assistance Fund, *Pro Hac Vice* Fund, IOLTA, and the Mississippi Bar's Rule 6.1 Fund. In 2009, the Mississippi Supreme Court administered \$450,000 in the Civil Legal Assistance Fund and \$84,000 in the *Pro Hac Vice Fund*; the Mississippi Bar Foundation administered \$715,000 in IOLTA funds; and the Mississippi Bar administered \$210,000 in funds paid by lawyers into the Professional Rules of Conduct Rule 6.1 Fund.

Other organizations making up Mississippi's broader civil justice system also receive funding from some of the above-referenced state sources. These organizations include the Mississippi Center for Justice, Mission First Legal Aid Clinic, law school legal aid clinics, Mississippi Youth Justice Project, ACLU, Mississippi Workers Center for Human Rights, Gulf Coast Fair Housing Center, Catholic Charities, and Mississippi Immigrants Rights Alliance. These organizations - which are not funded by LSC - address client groups and types of legal matters not handled by the LSC-funded providers, and some pursue systemic advocacy strategies prohibited by LSC regulations. In addition to state funding, they raise money from private foundations, law firms, lawyers, and other individual donors. Consistent with a theme emerging in organizations across the country, there is a strong nexus between lawyer giving and their *pro bono* work.

WHEREAS, this Court, by order dated June 29, 2006, established the Mississippi Access to Justice Commission; and

WHEREAS the MATJC is charged with inter alia the duty to investigate the need for civil legal services to the poor in Mississippi, and to evaluate, develop, and recommend policies, programs and initiatives which will assist the judiciary in meeting the need for civil legal services to the poor in Mississippi;

NOW, THEREFORE, this Court finds a need for regional public discussions of the current status of the need for, and delivery of, civil legal services to the poor. This Court further finds that such discussions should be held in each of Mississippi's four Congressional districts.

The MATJC is hereby authorized and empowered to conduct such regional public discussions by hearing testimony from witnesses who agree to testify, as may be selected by MATJC; presentations from experts selected by MATJC; testimony and comment from members of the public; and such other presentations as may be agreeable to MATJC.

The MATJC is hereby ordered to record the information provided at each of the public discussions, either by transcript or in summary form, to make findings and recommendations supported by such information, and to report its findings and recommendations to this Court.

Excerpted from the Mississippi Supreme Court Order mandating public hearings on the civil legal needs of the poor.



The Public Hearings

Planning Process

To implement the Supreme Court of Mississippi's Orders, the Commission formed an *ad hoc* planning committee to focus on the hearings, and to structure a format for receiving testimony. The committee included the Commission co-chairs, MCLS Executive Director Sam Buchanan, NMRLS Executive Director Ben Cole, Legal Services Resource Developer Cheri Green, MVLP Executive Director Shirley Williams, Supreme Court of Mississippi Justice Jess Dickinson, Administrative Office of the Courts then Project Managers Margarette Meeks and David Dykes, Public Information Officer Beverly Kraft from the same office, and Consultant Bonnie Allen.

PICTURED:

Community advocates and legal services providers testify at public hearings held in each Congressional District and at the Mississippi Supreme Court.

The committee structured the hearings to include two types of panels. First, the Commission would invite local elected officials and leaders in each Congressional District from the bar, judiciary, business community, faith communities, media, and nonprofit community to serve on Listening Panels. The primary role of these panels was to hear testimony from witnesses with direct knowledge of the unmet civil legal needs of low-income people, and to ask clarifying questions. Second, the Commission would invite local service providers, clergy, clients, *pro bono* attorneys, and judges to serve on Witness Panels who could testify about the extent and kinds of unmet civil legal needs of poor people in their communities. The following Witness Panels were designated: Providers of Legal Services and other Social Services; Local Judges and Attorneys; Community Leaders and Clergy; and Clients (list of Listening and Witness Panels for all of the hearings attached as Exhibit C). A short public comment period was reserved at the end of the hearings. Supreme Court Justice Dickinson agreed to moderate each of the hearings. The committee determined that the venues for the hearings should be comfortable and accessible to people of all walks of life, and encouraged attendance through statewide and local press releases and other media efforts. Court reporters would transcribe the hearings.

The committee identified the Fourth Congressional District as an appropriate venue for the first public hearing, and it invited Congressman Gene Taylor to serve as the host. The unmet civil legal needs of low-income people on the Mississippi Coast were particularly visible and dire in the aftermath of Hurricane Katrina. Subsequent locations were Greenwood, in the Mississippi Delta, Oxford, home of the University of Mississippi, Meridian, the largest city in the southeastern part of the state, and Jackson, the Capitol City.



GULFPORT

Hosted by
Congressman Gene Taylor

GREENWOOD

Hosted by
Congressman Bennie Thompson

OXFORD

Hosted by
Congressman Travis Childers

MERIDIAN

Hosted by
Meridian Mayor Cheri Barry

JACKSON

Hosted by
the Mississippi Supreme Court



Statement of Need: Facts and Figures

The Commission held its first public hearing at the Good Deeds Community Center in North Gulfport. Congressman Taylor hosted the hearing and welcomed the panelists and audience, and Justice Dickinson served as the moderator. The Commission co-chairs and 12 community leaders served on the Listening Panel, and 16 witnesses testified on four different Witness Panels.

Key witnesses included Sam Buchanan, Executive Director of Mississippi Center for Legal Services (MCLS). Mr. Buchanan reported that currently, there are two Legal Services providers in the state funded by the Legal Services Corporation in Washington, D.C., the main source of federal funding for civil Legal Services in Mississippi. MCLS serves 43 counties in the central and southern part of the state out of five offices. North Mississippi Rural Legal Services (NMRLS) serves 39 counties in north Mississippi.

Mr. Buchanan testified that three out of four of MCLS' cases involve families with children. Many clients are elderly and disabled and some are veterans. Currently, 19 attorneys work at the organization. At the time of this hearing, MCLS received \$2.9 million from LSC and NMRLS received \$1.9 million. Mr. Buchanan described the decline in funding that began in 1995, when LSC funding in Mississippi was \$7 million. By 2008, it had dropped to less than \$5 million. In 1980, there were approximately 100 Legal Services attorneys statewide in 29 fully staffed offices across the state. Currently, there are only ten offices, and most are minimally staffed. The results of this decline in funding and diminished public service are dire in Mississippi and across the nation. Several years ago, LSC did a study that revealed that one out of two people who comes to Legal Services offices has to be turned away because of a lack of resources.

Attorney Crystal Utley from the Mississippi Center for Justice (MCJ) testified about the extraordinary number of Katrina survivors with housing and consumer legal matters that sought help from MCJ following Hurricane Katrina. MCJ, which does not receive LSC funding, opened a Katrina Recovery Office in Biloxi shortly after the storm. Ms. Utley noted that MCJ had over 800 open cases that have been referred to *pro bono* lawyers, and many more handled by staff attorneys. She stated that MCJ's six in-house attorneys (statewide) could never handle the client demand without significant support from the 400-plus *pro bono* attorneys in national and regional law firms that have assisted Katrina survivors through MCJ's coordinating activities.

Harry Yost from the Northcutt Legal Clinic testified about the legal needs of do-

mestic violence survivors. Client referrals come from the women’s shelter, police, prosecutors, hospitals, and other community-based organizations. Mr. Yost stressed the tremendous need for more training of *pro bono* lawyers in domestic violence matters so that the number of volunteer lawyers can increase. Doreen Davis, Director of the Salvation Army’s Division of Domestic Violence, testified: “There isn’t a client I serve that does not have a legal need because she is leaving everything she has.” Her experience is that Legal Services programs are completely swamped and often unable to even answer the phone. Ms. Davis generally calls private attorneys to beg them to help.

Chancery Court Judge Margaret Alfonso testified that the level of litigants without counsel is of crisis proportion in the chancery courts. She raised the particular concern about parents from whom children are removed due to allegations of abuse and neglect. In Mississippi, poor parents do not have court-appointed counsel in shelter hearings, adjudicatory hearings or dispositional hearings regarding the termination of parental rights. Judge Alfonso voiced her opinion that the biggest obstacle to solving the problem of lack of counsel is the failure of government officials and bar leaders to recognize, study and deal with the problem. Harrison County Law Librarian Francine Perry reinforced Judge Alfonso’s concerns, reporting on the huge demand at the library for “self-help” legal forms.

Thao Vu of Boat People SOS commented on the great need for bilingual attorneys, especially for the Vietnamese community on the Mississippi Coast. The closest Vietnamese-speaking attorney she knows of is in New Orleans.

Client Stories

Four clients from Legal Services Providers testified and confirmed the challenges laid out by service providers. Three clients testified about Katrina-related housing problems, including contractor fraud, insurance dis-

putes, hazardous FEMA trailers, and evictions. All stated that they did not know where they and their families would be today without the help of MCLS and MCJ. One disabled client who lost his home after Katrina and had lived in a tent with his wife and children stated: “There is no justice for people who cannot afford it if it had not been for the Mississippi Center for Justice. I probably would not be alive now without their help.” A fourth client – a domestic violence survivor – gave a powerful testimonial under a fictitious name about the need for more attorneys to help. A client of Northcutt Legal Clinic, she acknowledged that she was one of the lucky ones to have access to a lawyer. Without more Legal Services or *pro bono* lawyers, however, she cautioned that many other survivors will have no hope of remaining safe and rebuilding their lives.

Suggestions for Addressing the Problem

Ms. Utley urged the Mississippi Bar to make *pro bono* service a concrete, supported part of the bar’s culture. Mr. Buchanan concurred, stating that in addition to more funding, there is a significant need to increase the number of volunteer lawyers and other types of volunteers.

Ms. Perry stated that court-approved forms in libraries and other public places would be very helpful for people representing themselves. Several of the witnesses commented on the need for greater community networking to increase public awareness of Legal Services and make referrals to the appropriate resources. These networks could include churches, social services providers and child care centers.



“In 1980, there were approximately 100 Legal Services attorneys statewide in 29 fully staffed offices across the state. Currently, there are only ten offices, and most are minimally staffed.”

—Sam Buchanan

Executive Director
Mississippi Center for Legal Services

“I guess I'll have to tell you that my name is not really Ann Orchid, and I think you'll understand in just a moment.”

I am a client of the Gulf Coast -- Mississippi Gulf Coast Women's Center for Nonviolence. I am also a client of the Northcutt Legal Clinic. This dress that I'm wearing is from the donation box at the women's shelter when I was living there. The makeup I'm wearing is also a donation or was donated to the women's center. If you were to pass by me at the post office, you probably would not have imagined that I am a victim of domestic violence. I am the woman that sits next to you in church. I am your children's babysitter. I am the clerk that works at the movie rental store that you go to. I'm the homeless woman that you see sitting under the bridge. I was given hope, and so I've come a long way thanks to the two organizations that have helped me. But there are a lot of other women that need the same kind of hope that's not afforded that -- because they don't have the finances.

I can see in your faces that you have the same question, that one burning question that I've seen so many times before: “Why did she stay? Why do they all stay, or worse yet, why do they go back?” Everyone wants to know that. And can I volunteer an opinion that it's hope. I was lucky enough to have that.

My burning question to you is: If there are enough of my peers to fill this entire auditorium that are victims of domestic violence who don't have higher education, don't have marketable skills to find a job immediately, who have gone that one step to get free and that farther step to get safe, what about my peers who need to remain safe? You can't do that without legal process. So my burning question to you is: If the Gulf Coast Women's Center only has access to one attorney and a part-time legal assistant, where is that hope for them? —Ann

Statement of Need: Facts and Figures

The Commission held its second public hearing in the Second Congressional District, at the Leflore County Civic Center in Greenwood. Sixteen individuals served on the Listening Panel and 12 served on Witness Panels. Congressman Bennie Thompson hosted and opened the hearing, noting that he was a student at Tougaloo College when Legal Services first came into existence. Stating that the purpose of the hearing was to identify current and future needs of the Legal Services community in providing access to justice to poor Mississippians, the Congressman turned the hearing over to Justice Dickinson.

Justice Dickinson stated that the Commission's purpose is to do more than talk about Legal Services. It is to bring together individuals who have resources and connections to address the unmet need. The Supreme Court bears the final responsibility to make sure that money does not provide some Mississippians with access to justice, while others lack it.

Ben Cole, Executive Director of North Mississippi Rural Legal Services (NMRLS), testified that there are only 12 Legal Services lawyers in his program serving 39 counties out of five offices. The program closed approximately 5000 cases in 2007, but it turned twice that many away due to the lack of resources. Census data shows that approximately 220,000 poor people live in NMRLS' service area. Mr. Cole reported the aspirational goal of one lawyer for every 10,000 poor people, a number used by LSC back in the 1980s when they were closer to full funding. More realistically, one lawyer in each of the counties we serve would be a huge step forward.

Other panelists discussed the tremendous challenge to both litigants and judges of *pro se* representation. Circuit Court Judge Jannie Lewis and Chancery Court Judge Marie Wilson noted that *pro se* litigants do not know the rules of evidence, so they are at an unfair advantage when counsel represents opposing parties. It is much more work for the judges when there is a *pro se* litigant, trying to strike a delicate balance between access to justice and practicing law. Floyd Melton, a Greenwood *pro bono* attorney in private practice, stated that *pro se* is a huge problem in Mississippi that is producing bad results.

Pro bono attorney Susan Smith identified a major problem with government agencies that are overwhelmed and under funded. The Child Support Division of the Department of Human Services, where she worked previously, has 7644 open cases in Bolivar County and another 12,400 in Washington County. There is only one attorney serving this need in Washington County, and the agency has gone through five attorneys in the past six years.

Dr. Patricia Davenport from the Greenwood Domestic Violence Shelter testified

that clients come to her shelters in life and death situations. She works with two shelters in 19 counties, dealing with 2300 cases a year. Three-fourths of the clients are living in poverty. If she cannot refer a client to a *pro bono* attorney, she transfers the client to another shelter in the state that might have better luck.

Jaribu Hill, Executive Director of the Mississippi Workers' Center for Human Rights, testified that many areas of the law and advocacy are not covered by traditional Legal Services. She stated that access to justice demands that individuals seeking redress in these areas be included.

Client Stories

One client testified that she was residing in a trailer park in Greenville and was robbed while out of town. Upon her return, the man running the trailer park illegally evicted the client from her trailer and denied her access to her personal property. Legal Services took the client's case and helped her go to court and retrieve her belongings out of the trailer, including her clothes and medication for sleep apnea. Another client shared how Legal Services kept her in her home when foreclosure threatened. She had no other place to go.

Suggestions for Addressing the Problem

Mr. Cole stated that if each of Mississippi's 6800 lawyers who are active members of the bar took one pro bono case per year, that would go a long way to address the unmet need. Mr. Melton stated that judges need to be able to refer pro se litigants to attorneys for at least advice and counsel. Dr. Davenport recommended talking with state legislators about providing specific funding for Legal Services that is earmarked for domestic violence cases. During the public comment period, an audience member recommended community legal needs assessments and legal fairs to raise awareness about the law.

“If each of Mississippi’s 6800 lawyers who are active members of the bar took one pro bono case per year, that would go a long way to address the unmet need.”

—Ben Cole

Executive Director
North Mississippi Rural Legal Services



“The Child Support Division
of the Department of
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There is only one attorney
serving this need.”

—Attorney Susan Smith

“I am disabled, and I will tell you there is no justice for people who cannot afford it.”

MATJ CLIENT PROFILE

If you're a criminal, you get an attorney appointed for you if you can't afford it. If you have an insurance issue, a medical issue, or something of that nature and you can't afford it, there is no justice.

Well, we have a home that is backed by a title insurance that is worthless. You can't borrow money on a home that has a title problem. We had both a flood policy and a hurricane policy. Unfortunately, we had to try to seek legal representation. We tried three states to find an attorney. Finally, the last straw was we were told by one attorney the reason they could not take our case was, your home is not located in the state of Mississippi. Numerous -- tried to get help from FEMA, Red Cross, et cetera.

Finally, we wound up on the doorstep of the Mississippi Center for Justice. And had it not been for a Congressman's staffer named Nancy, I probably would be in a mental institution at this point because we have two kids; we had been married for 23 years, and we had a home that was severely damaged and unlivable. We were actually living in a tent in the yard until FEMA provided us with a formaldehyde box, in which I have chronic asthma and cannot breathe. We recently settled with the insurance company. We are able to move forward. But maybe something should be done as far as the justice field if it's a housing issue, a domestic issue, a medical issue. The thing is, the criminals have more rights than we do. —Rodney

Statement of Need: Facts and Figures

Newly elected Congressman Travis Childers hosted the third public hearing in the First District at the University of Mississippi. Fourteen community leaders served on the Listening Panel and 16 individuals served on Witness Panels. Congressman Childers commended the Commission for holding the hearing, acknowledging that hard working Mississippians were struggling more than ever in the economic downturn.

Justice Dickinson provided an overview of the Legal Services system in Mississippi, stating that there are two Legal Services providers and the statewide Mississippi Volunteer Lawyers Project (MVLV). Last year, he stated, those three organizations together handled approximately 15,000 cases for people living in poverty. Justice Dickinson estimated that at least 200,000 to 250,000 cases need to be handled each year to address the need.

University of Mississippi law student Andrew Goodman testified that the civil legal clinic at the law school spent over 1000 hours on a little boy's case. The clinic was able to provide the child with services that he had no means to afford and extricate him from a very violent and socially septic environment. This case illustrates the dire need for Legal Services. Mr. Goodman went on to say that there is a problem both with resources and visibility. Many poor Mississippians are not aware of Legal Services. But even when they are, the civil clinic and Legal Services providers cannot always serve the need.

Carnelia Fondren, a *pro bono* attorney in private practice, testified that many of the clients she sees cannot afford the filing fee, and attorneys do not feel comfortable asking the Clerk repeatedly to waive the fees. She noted that Legal Services concentrates heavily on domestic violence and disability cases. Clients often have to wait two or three years just to receive disability income.

Circuit Court Judge Henry Lackey echoed the sentiment of judges who testified in previous hearings about their frustration over *pro se* litigants. He sees people coming to his courtroom every week without lawyers who say they cannot afford to pay. Judge Lackey observed that he cannot practice law or give them advice, so it is very frustrating. This problem is growing, especially in the current economic environment. Judge Lackey also decried the fact that many banks in small communities will not make small loans; hence, people who need access to credit the most go to loan companies that charge up to 42 percent. The borrowers often have medical expenses that they cannot pay, and the medical providers will not work with them to accept small monthly payments. As a result,

these individuals only option is bankruptcy. Chancery Court Judge Dorothy Colom commented that she sees the same problem in Chancery Court, where the number of *pro se* litigants has more than doubled in the past 15 years. She sees it in child custody, termination of parental rights and child support cases. Judge Colom refers them to MVLP and NMRLS, but a common response is that they are not taking any new cases right now.

Many of the witnesses discussed the need for greater publicity about the availability of Legal Services.

Listening Panelist Wilbur Colom asked how the Supreme Court requirement regarding *pro bono* work has affected the delivery of legal services to the poor. Justice Dickinson responded that the rule does not require attorneys to do *pro bono* work, but it does require them to report their hours. Mississippi attorneys reported a substantial number of *pro bono* hours in the first year following the rule's enactment.

Lina Wiley, Executive Director of the Interfaith Compassion Ministry, testified that she sees people on a daily basis who need legal representation regarding their disability benefits, foreclosure issues, domestic violence, food stamps, understanding legal documents, and lease agreements. People find her organization through word of mouth, particularly through churches.

Justice Dickinson asked Deputy Sheriff Cook how Sheriffs' Offices could better communicate with people who are poor and need help. Deputy Cook replied that law enforcement fields calls every day from people in dire need of help in domestic problems, child custody issues, or comfort and advice.

Representative Kelvin Buck posed the critical question of how to handle the increased demand for Legal Services if more people know they are available. Deputy Sheriff Cook reinforced that concern, stating that when they refer individuals to Legal Ser-

vices, they get the calls back saying: "They cannot help me." Justice Dickinson responded that we need better organization to facilitate more lawyers – who want to do the right thing – to take more *pro bono* cases.

Representative Thomas Reynolds asked what source of new funding should be utilized. Court fees can only be increased so far; otherwise, you will price people out of the legal system.

Justice Dickinson posed the question: "Is this just a question of money? If there was enough money to triple or quadruple the number of lawyers available, could we take care of the problem? Or is this problem so big we need to think outside of the box and do some other things?"

NMRLS attorney Catherine Kilgore noted the particular problems that elderly have in accessing Legal Services. Many are too frail to come to Legal Services offices. Ms. Kilgore stated that she works extensively with area agencies on aging and with social workers, conducts a lot of community presentations, and engages many volunteer law students. Ms. Kilgore sees a real need for the neighborhood Legal Services office where older people can come in and look you in the eye. Trust is a big factor since people in positions of power so often take advantage of the elderly.

Client Stories

A woman spoke on behalf of her 80-year old mother who suffers from multiple, serious health problems, including diabetes and degenerative bone disease. She also has had breast cancer and is legally blind. The 80-year old woman had her food stamps cut off last August based on allegations that she made ineligible purchases or received cash back. The daughter testified that had it not been for North Mississippi Rural Legal Services, her mother would probably be in a nursing home now. Legal Services came to the rescue and restored her food stamps.

She could not have managed without the help of Legal Services and stated: if Legal Services cannot help, there is nowhere else to turn.”

Another client testified that Legal Services was there for her years ago, representing her in a divorce matter. They also were instrumental in helping her father and mother prepare powers of attorney and living wills. More recently, a land development threatened the neighborhood, and Legal Services was there to help. The client stated that her mother was about to “sign on a dotted line,” and someone from Legal Services called and advised her “not to sign it.”

A third client testified about her experience with the Justice Center Legal Clinic at the University of Mississippi School of Law. She had a family member living in another state and DHS in that state had taken her two children. The Justice Center helped this witness obtain all the information she needed. She only had 15 days to pull all of the Mississippi law in their favor, and the students that worked with the client were great help.

Suggestions for Addressing the Problem

Deputy Sheriff Cook favored Justice Dickinson’s idea of officers handing out information to people in need. A collective approach of law enforcement, faith-based groups and community organizations working together could make a big difference. Many panelists suggested getting the word out about Legal Services through public service announcements, churches and community-based organizations. Local courts and bar associations also could convey this information to communities. Courts could provide contact information on every summons. Judge Lackey also recommended the compulsory teaching of “street law” in every high school in the state. Representative Steve Holland and Congressman Childers affirmed that idea, suggesting that lawyers volunteer to teach those courses.

NMRLS Litigation Director Ruby White responded to Justice Dickinson’s question as to “whether this is just about money” by stating that funding and resources are beginning points. She also acknowledged that getting the word out is important. The Social Security Administration and Food Stamp offices include Legal Services in their notices as a contact point.

University of Mississippi Law Professor Debbie Bell, who started the civil legal clinic at the law school, stated that whatever funding is added to Legal Services will not be enough. We need to do a better job of packaging opportunities for *pro bono* lawyers, including manuals and forms. A third piece also is necessary: taking a look at our court systems, rules and practices to determine how we can streamline some of the systems that *pro se* litigants find themselves in so they can make it a more manageable experience.

Ms. White responded that loan repayment programs should be seriously considered to encourage more young lawyers to enter public service law. Ms. Kilgore recommended the inclusion of Legal Services workers in the state retirement plan. Professor Bell added that many states provide for attorneys’ fees in consumer protection and landlord tenant laws.

That kind of legislation might enhance clients’ ability and incentive to get a lawyer. Justice Dickinson suggested approaching the state legislature on providing tax breaks to attorneys rendering *pro bono* legal services. Ms. White commented that Mississippi is one of the few states that is dependent primarily upon federal funding for Legal Services (75-95%). She suggested looking at how other states have increased funding from the private bar and state sources.

Chancery Court Judge Jacqueline Mask noted that the Attorney General’s Office has worked diligently to make domestic violence forms available through Clerks’ Offices. She

also asked the Commission to consider a law that makes guardians *ad litem* available to children so that children will have a voice in court. Attorney David Calder, Director of the University of Mississippi School of Law Guardian *Ad Litem* Clinic, wholeheartedly agreed with that recommendation. Attorney Christine Tatum, a *pro bono* attorney in private practice, stated that many lawyers are intimidated to take on child custody cases, which seem to be the bulk of referrals from Legal Services and MVLP. More lawyers would get involved if *pro bono* referrals were diversified to include other types of matters.

“There is a problem both with resources and visibility. Many poor Mississippians are not aware of Legal Services. But even when they are, the civil clinic and legal services providers cannot always serve the need.”

—Andrew Goodman

Law Student Volunteer
Civil Legal Clinic
University of Mississippi Law School

“The number of *pro se* litigants has more than doubled in the past 15 years ... in child custody, termination of parental rights and child support cases.”

—Hon. Dorothy Colom

Chancery Court Judge

“Had it not been for Rural Legal Services, Mother would probably be in a nursing home or assisted living right now.”

My mother is 80 years old. She’s diabetic. She has degenerative bone disease. She’s had breast cancer, had a breast removed, legally blind. She had her food stamps cut off last August because it was alleged that she made ineligible purchases or received cash back. The proof they had was she had bought groceries at a store that had been caught giving items that wasn’t food for food stamps ... that was it. She draws \$657 a month to live on. She couldn’t have done it without them. It’s my understanding for everyone they help, they have to turn one away. These kids and old people, if we don’t help them, who’s going to? —Kathy

Statement of Need: Facts and Figures

Meridian Mayor Cheri Barry hosted the fourth public hearing, held in the Third Congressional District at the Train Depot in downtown Meridian. Fifteen local leaders served on the Listening Panel, and 15 service providers and clients testified on Witness Panels. Justice Dickinson again served as moderator.

Justice Dickinson referenced Sheriff Cook's suggestion at the previous hearing in Oxford to add information on summons about where to go for legal help. Sheriff Tim Perkins of Amite County responded that his office could easily staple a note on the paperwork adding this information. The bigger problem, he noted, is the fact that Legal Services only serves about half of the people that his office refers to them, and that the closest Legal Aid offices are in McComb or Natchez. Transportation is a big challenge in rural regions. Fonda Rush of Habitat for Humanity recommended that Legal Services work more closely with programs such as First-time Homebuyers, Multi-County Community Services and Mississippi State Extension Services to share basic legal information and explain how Legal Services can be accessed. She also noted that even at Habitat for Humanity closings, low-income homebuyers usually will not ask lawyers questions because they are intimidated by the "suits."

Sheriff Perkins raised the concern that the kinds of agencies Ms. Rush mentioned do not exist in the more rural counties.

Father Joe Dyer, a Catholic priest in a predominantly Hispanic parish, stated that he was very surprised to find out how low the income eligibility cut off is for Legal Services. There are many people who cannot afford lawyers but that make too much money for Legal Services.

Justice Dickinson asked County Court Judge Veldore Young and Chancery Court Judge Edward Fenwick their views on whether the Commission should pursue rules changes that make it easier for poor people to represent themselves. Judge Young stated that she opposed it because there is an inherent imbalance between represented and unrepresented parties. She thinks *pro se* litigants should be given information through legal clinics before the last minute. Deborah McDonald, a *pro bono* attorney in private practice, agreed that we should not be training people to represent themselves. That is the purpose of law schools. But at the same time, we should give them a little more knowledge about the law and how to access information.

Pro bono attorney Joseph Kieronski stated that many people who come to him seeking services do not have the money to pay, but also are past the point of helping. “They have signed a contract and are well past what they should have done, and the wolf is at the door ready to come through, and there is nothing to do.” Mr. Kieronski stated that we need to educate people before they sign contracts. A second problem is that many hard working people who cannot afford lawyers do not get in the door at Legal Services or MVLP because they are over the income guidelines. He recommended that lawyers notify MVLP that they are handling these kinds of cases *pro bono* and work with them to make exceptions.

Attorney Kevin Brady from Choctaw Legal Defense identified the problem of lawyers in big firms doing defense work that are intimidated by requests to take on *pro bono* child custody cases. With annual billable hour requirements up to 2500 in the Jackson firms, there is not a lot of extra time. We need to make it easier to volunteer.

Attorney Patricia Ice from the Mississippi Immigrants’ Rights Alliance Legal Project testified about the growing Hispanic immigrant population in Mississippi, especially in the south and southeast region of the state. These immigrants have no access to justice or lawyers, and there is an enormous need for Spanish-speaking attorneys.

Client Stories

Three clients testified in response to Justice Dickinson’s questions about increasing awareness of Legal Services. They recommended television as the best vehicle. One of the clients stated that she did not talk to any other lawyers before going to Legal Services. She was intimidated by lawyers and afraid to talk with them because she lacked the ability to pay.

Suggestions for Addressing the Problem

Father Dyer suggested a traveling Legal Services clinic or attorneys coming to centrally located courthouses in rural counties once a month to provide basic information and services. Ms. Rush recommended partnering more with churches to get the word out and hold legal clinics. It is common in African-American communities to deal with these kinds of issues within their churches. Hispanic communities also use churches to communicate information.

Joy Harkness, Managing Attorney in the Meridian office of NMRLS, testified that there needs to be a much more coordinated effort with the private bar to address unmet needs. She stated that she does not believe that *pro se* is the answer because it is substandard. Given that there is not going to be any increase in Legal Services funding that would take us back to the glory years, more *pro bono* engagement is the only viable option. Ms. Harkness stated that clerical volunteers in the law firms that are trained to generate pleadings under an attorney’s supervision would be a big help. She shared Mr. Kieronski’s concern about *pro bono* work that is not counted by MVLP. She believes that many more attorneys are doing *pro bono* work on their own that is not documented by MVLP.

During the public comment period at the end of the hearing, a speaker urged the Commission to take more preventive measures, such as citizenship classes in the public schools that educate young people about their rights and responsibilities under the law.

“Many hard working people who cannot afford lawyers do not get in the door at Legal Services or MVL P because they are over the income guidelines.”

—Attorney Joseph Kieronski

**“I was laid off last year,
in September.”**

I [received] unemployment for about five months. I got cut off, then the next week I got a letter saying I owed the State \$4,800.

I didn't know what to do, and I started asking around. Some people were telling me about Legal Services, and I'm going to say I got lucky because I got a chance to get in there.

There were so many people. 252 people were laid off, and all these people were under the same condition that I was under. They were asked to pay back because they said we quit our jobs, 252 people. They said we quit.

I got Legal Services to help me... I knew I couldn't represent myself. Legal Services won my case. I got my unemployment back and I didn't have to pay back the State. But the thing I'm trying to say is it's a lot more people that haven't got theirs because Legal Services [doesn't] have enough help.

—James

Statement of Need: Facts and Figures

The Commission held its final hearing at the Supreme Court of Mississippi in Jackson. Supreme Court Chief Justice William Waller hosted the hearing, and Justice Dickinson served as moderator.

The Supreme Court Justices comprised the Listening Panel, and two panels of witnesses testified, including judges, *pro bono* attorneys, clients, legal services providers, and clergy.

Judge Cynthia Brewer, a Chancellor in the district covering Madison, Leake, Yazoo, and Homes counties, testified that she handles matters dealing with children and divorce, and sees many working people who cannot afford counsel. Judge Brewer stated that more often than she wants to think about, she has to rule on the law in matters where a litigant is not served as well by the court system as she would be if she had a lawyer. There are more legal aid lawyers available in the Jackson metro area, but that is not so when you move further and further out. There is a tremendous need for Spanish speaking attorneys in Leake County.

Clerk's offices constantly raise concerns with Judge Brewer about their inability to help people. The Judge cannot give legal advice, but she and the clerks recognize that many people need help filling out financial forms and understanding the different courts. Judge Brewer's law clerks would welcome a *pro se* manual that tells them what they can and cannot say to *pro se* litigants. Other states have this. The Judge described one litigant who was not eating and living in her car with her four children because her husband was just "whipping up on her" every weekend because he was drunk. She ended up copying someone else's paperwork in order to get help.

Given a choice between spending money on self-help kinds of tools and providing more lawyers, Judge Brewer prefers the latter, but she will take the forms if there is not enough money for more lawyers. There also is a need to create incentives that will encourage *pro bono* attorneys to drive to poor rural counties.

Most lawyers do not turn the Judge down when she asks for *pro bono* services in guardian *ad litem* matters in Madison County, but further away there is a problem. Wealthier counties sometimes put money in the budget for guardian *ad litem* programs, but not the poorer rural counties. As a result, the Judge has to call on the rural county lawyers more often.

Attorney Brandi Brown with Catholic Charities testified that there are thousands

of people with domestic violence issues in Mississippi, and many of those do not come to her because they do not know where to go. Ms. Brown focuses on domestic violence, sexual assault and stalking cases in Hinds, Rankin and Madison Counties. She also assists battered women who live in those counties, as well as Scott, Warren, Lauderdale, Union, Copiah, Chickasaw, and Pontotoc Counties. Ms. Brown does outreach at sheriffs' offices, courthouses and counseling services but the program has very limited resources. Catholic Charities usually begins its services to clients by getting an emergency restraining order so that they can be safe. It is hard for someone who has gone through a traumatic experience to focus on and understand the court forms. Ms. Brown referenced the multiple issues that domestic violence clients face, including the need to move quickly (sometimes landlords are not cooperative), employment discrimination (needing medical attention and being laid off for missing work), food, clothing, and shelter. The system needs to offer a more holistic approach that includes counseling and mental health services. This includes extensive networking with community organizations to make sure we look at the whole problem. A piece of paper alone as a protective order will not give the person what she needs.

Ms. Brown indicated that there were two lawyers in the Domestic Violence program at Catholic Charities last year, but now Ms. Brown is the only one. She has been there for five years and currently is handling 85 cases. Catholic Charities refers cases to MCLS and MVLP, and Ms. Brown has conducted domestic violence seminars for MVLP. She would like a more formal relationship with MVLP so that she could tap into its *pro bono* database. The Domestic Violence program's funding comes from IOLTA and federal Department of Justice Violence Against Women Act grants, but those have been cut. The program occasionally receives funds from the Mississippi Women's Fund and Hinds County Bar. There are two other

domestic violence programs in the state – one on the coast and one in Greenville. Since the hearing, Catholic Charities' Domestic Violence program has been cut even further.

Ms. Brown works closely with the Catholic Charities immigration clinic that has bilingual staff. There are special regulations for battered immigrant women, and Catholic Charities provides those kinds of services in seven counties. These women are eligible for I-360 petitions and U-Visas. Often they are married to US citizens or legal permanent residents who hover over their documentation as a form of abuse.

Reverend Hosea Hines, a member of the Commission and local pastor, testified that clergy need to be educated about the availability of *pro bono* attorneys willing to help parishioners with legal needs.

Beth Orlansky, Advocacy Director for the Mississippi Center for Justice (MCJ), a non-profit public interest law firm that attacks racial and economic injustice, testified that MCJ was formed in 2003 as a policy organization with the idea of effecting systemic change through advocacy and high impact lawsuits. But when Katrina hit, there was a huge vacuum and need for legal assistance, so MCJ started dealing with Katrina survivors in individual cases. MCJ's funding comes from 75% private foundations and 25% individual donations. MCJ President Martha Bergmark is a member of the Commission and previously served as President of the Legal Services Corporation in Washington. When MCJ started handling Katrina cases, the staff realized the need to engage many other lawyers to help, so they established a *pro bono* model as a central vehicle for delivering legal services. MCJ has San Francisco lawyers handling contractor fraud cases and Washington lawyers doing heirship property affidavits and finding people to clear title so that clients can receive MDA grants. Title issue is very big problem. To get a loan on property, the owner has to es-



“There is a need to create incentives that will encourage *pro bono* attorneys to drive to poor rural counties.”

—Hon. Cynthia Brewer

Chancery Court Judge

establish that he or she owns the property. It may be in the name of an ancestor and not in the occupant's name, even though the property was handed down in the family. MCJ also established a statewide *pro bono* foreclosure project in Jackson. Former Mississippi Bar President Rodger Wilder sent out a letter about a year ago to all bar members asking them to volunteer to handle foreclosure cases, and over 100 signed up immediately. MCJ offered attorneys 12 hours of free CLE credit and gave them a manual. MCJ did some media publicity and encouraged people to contact MCJ before they were evicted from their homes. Ms. Orlandy reported that in the news this week is a 483% increase in foreclosures in the Biloxi area. She described a terminal cancer client who had lost his job and could not make his mortgage payments. He tried to get a loan modification and was \$400 short, so he was not able to meet the gap. Law students who came down from Maryland to volunteer over winter break learned of the case and went back to Baltimore and held a fundraiser at their law school. They sent a check and the client was able to stay in his home.

Mississippi Center for Legal Services (MCLS) Attorney Tara Walker discussed the fact that Legal Services programs have to turn many clients away. In addition, many people do not know Legal Services programs exist, so there is an even greater need out there. Getting the word out through community events, churches, radio, and TV would be the best way. Ms. Walker is one of five regional managing attorneys and she covers ten counties. There are three Legal Services lawyers in those ten counties. There is a big problem with gaps – folks who are over the LSC income eligibility threshold but who cannot afford to hire a lawyer. The types of cases MCLS handles include domestic relations, landlord tenant, disability, Medicaid, unemployment, and consumer cases.

LaVerne Edney, General Counsel of MVLP, testified that she is still part of the Brunini

Law Firm where she has worked for over 11 years. She has an arrangement with her firm and MVLP that enables her to serve in this role for two years. Since starting in her position at MVLP in September, Ms. Edney has realized the need is even greater than she knew. Many people do not understand the need for and lack of volunteer lawyers. The message has to be spread around the state, and it is going to take a combined effort of lawyers and judges to get the word out.

Ms. Edney is working with the Legal Services providers to help them understand how cases can be streamlined and what types of cases can be offered successfully to private lawyers. She thinks “unbundling” legal services is a good idea – doing portions of cases. Ms. Edney has put into place a mentoring program so that attorneys with specialized expertise in certain areas can mentor those who are new to it. The largest 13 firms in Jackson developed practice manuals. Each firm took on a particular topic, such as guardianship, and law students are now updating the case law and pleadings in the manuals, which are posted online.

MVLP is handling divorces cases, guardianships, adoptions, and probate. More recently, the organization started taking in tax and elder law cases. Ms. Edney is trying to work with Legal Services to discourage referrals of complex domestic cases that go on for years. Ninety percent of MVLP's cases come through Legal Services, but now they are increasing direct intake through Legal Line, which operates from noon to 2 p.m. every day in MVLP's office. Volunteer lawyers return those calls. One third of Mississippi's lawyers are in the Jackson metro area which poses a huge challenge for *pro bono* in other parts of the state. MVLP has launched a new campaign: “Each One Reach One” designed to call every attorney in the state. Law students and volunteers are making those calls. MVLP is working on saying “yes” a lot more often.



“It is hard for someone who has gone through a traumatic experience to focus on and understand the court forms. The system needs to offer a more holistic approach that includes counseling and mental health services. This includes extensive networking with community organizations to make sure we look at the whole problem. A piece of paper alone as a protective order will not give the person what she needs.”

—Attorney Brandi Brown
formerly of Catholic Charities

Courtney Bowie, with the Mississippi Youth Justice Project, described the nonprofit civil rights organization's work representing children at risk of entering the juvenile justice system. Several years ago, the Project did a study of the quality of Youth Court representation and access to justice for children in the state. They produced a pink book that made a number of recommendations. Ms. Bowie stated that more recently, the Project started looking at educational issues affecting families and children, particularly children with disabilities. Very few attorneys in the state provide this type of representation. The Youth Justice Project is located in Jackson but works statewide. They are a project of the Southern Poverty Law Center based in Montgomery, Alabama, funded by grants and private donors. The Project has two attorneys in Mississippi with three more applying to the Mississippi Bar. They decide which children to represent by looking at whether their cases fit into a larger systemic issue the Project is addressing. For example, if the Project is working on detention issues in a particular county, they might provide direct legal representation to students. The Project represents children who have been suspended or expelled and are going through school disciplinary proceedings.

Ryan Beckett, a *pro bono* attorney in private practice with the Butler Snow firm, testified in his capacity as a MVLP volunteer lawyer and director of the Homeless legal Clinic at Stewpot Community Services in Jackson. He coordinates various Jackson law firms to staff the legal clinic once a week. They go to where the people are - at Stewpot - and address domestic issues, benefit issues, name changes, and Social Security. MVLP and 12 law firms coordinate this effort. They offer a CLE training each year and 100-150 lawyers are involved. Each firm takes a month and together they serve 150-250 clients a year, using MVLP income guidelines.

Mr. Beckett opined that as to the 6.1 requirement to either contribute money or write a check, we should encourage attorneys to do

the work. The larger firms are encouraging more *pro bono* work at the urging of their General Counsels and ethics counselors.

Beau Cole is a *pro bono* attorney with the Forman Perry law firm who helped compile the practice manuals. He testified that every lawyer has an obligation to do *pro bono* work. We need to indoctrinate the younger lawyers to get out here and become part of the *pro bono* efforts. His firm deals primarily with *pro bono* divorce cases. A senior partner in the firm receives the cases from MVLP and then refers them out to lawyers in the firm. Sometimes the firm absorbs costs associated with *pro bono* cases. Mr. Cole raised a concern about a potential unfair disadvantage to *pro se* clients of electronic filings.

Patti Gandy, Executive Director of Mission First Legal Aid Clinic, testified that she became involved three years ago when she learned that Mississippi College School of Law was going to open a legal aid office and was looking for a director. At the time, Ms. Gandy was practicing at Butler Snow.

Mission First Legal Aid Clinic saw its first clients in October 2006 and opened 90 cases in those first three months. In 2007, they opened 617 cases. Ms. Gandy conducts outreach by speaking to civic and church groups. They operate tax clinics and do notarizations. In 2008, the clinic opened 914 cases. They also partnered with the law school and offered a Veterans Advocacy Clinic where lawyers and law students did simple wills, health care directives and powers of attorney. The clinic opened 1015 cases in 2009.

Ms. Gandy stated that Mission First Legal Aid Clinic's focus is on people who make too much to qualify for Legal Services. She noted that senior lawyers, retired or close to it, are some of their best volunteers. Staff resources are one lawyer and Ms. Gandy, along with 260 volunteers.



Mission First, Incorporated, is a separate nonprofit organization and a stand-alone ministry that started the Legal Aid Clinic with the Mississippi College School of Law. Mission First also has a medical and dental office, as well as children's ministries. Doctors and dentists at First Baptist Church of Jackson started Mission First, but eventually they formed a separate non-profit. It is privately funded and receives IOLTA and 6.1 funds, along with small grants from the Junior League. They also receive free office space, and the law school donates administrative support.

In response to Justice Lamar's question about how to encourage Mississippi's law schools to promote *pro bono* work, Ms. Gandy responded that Mississippi College School of Law recently implemented a *pro bono* program whereby students donate 15 hours during the semester. Professor Jackson, who teaches Professional Responsibility, started this program.

Client Stories

Two clients testified at the hearing, including a man who learned of MCLS through the Department of Human Services. He desperately needed a lawyer to get custody of his daughter. With help from a Legal Services attorney, the client gained custody within a year.

A second client, represented by Mission First Legal Aid Clinic, testified that she found herself in an emergency hearing where she needed legal help in a family abuse situation. A guardian ad litem came to the client's house and asked her if she had a lawyer. The client responded that she could not afford it, and the guardian referred her to Mission First. Patti Gandy, the Director, helped the client resolve her situation, not only legally, but also with other family matters. The client testified that "Mission First is a God-send. They are very caring and right on top of what you need when you need it." She indicated that her family situation did a 360 turn around because of the counseling provided.

Suggestions for Addressing the Problem

Judge Brewer stated she would like to see an 800 number crisis line set up for those needing an attorney. The number could be posted at the jailhouse door. There are a lot of civil problems connected to criminal problems. She also suggested that law students help pro se clients fill out court forms. Clients recommended advertising the availability of Legal Services through radio and television. Other witnesses suggested educating front line first responders, police, fire departments, DHS, and court personnel. Witnesses also recommended looking at ways in which government already communicates with the public: license renewals, tax returns, etc.

Ms. Brown recommended that lawyers and community leaders speak more to domestic violence survivors to hear their stories and craft laws that address the whole range of their needs.

Reverend Hines suggested offering clergy some kind of compiled database of Legal Services offices and *pro bono* attorneys, along with seminars that educate them about a process for referring needy people to lawyers. He suggested going through assembly bodies or social justice departments in the different denominations.

Ms. Orlansky recommended outreach to the private bar by subject matter and offering training programs and materials as a way to recruit more *pro bono* attorneys. Ms. Gandy suggested developing pamphlets for different sections of the bar. She also suggested amending Rule 6.1 to require a lawyer buy-out rate of 20 hours times their daily billing rate. That would get lawyers' attention and encourage them to take cases.

ABOVE LEFT:

Mississippi Supreme Court Justices listen to testimony from judges, clients, legal services providers, community advocates and lawyers who render pro bono services.



“This Commission's overriding objective is to make sure that every citizen of this state, regardless of economic status, has reasonable access to justice and that no one is excluded because they don't have the money to hire an attorney.”

—Justice Jess H. Dickinson

Mississippi Supreme Court

“I first learned of Mississippi Legal Services from the Department of Human Services. During that time, I was very desperate. I desperately needed a lawyer.”

I needed some type of representation because I had a situation where I was trying to get custody of my daughter and couldn't afford a lawyer. I contacted Legal Aid and [the attorney] got on the case immediately. I got my daughter [and] put her school, because she wasn't in school. And her mother, she was trying to take legal action as well, so I needed some help right then and there. [The attorney] gave me very good legal advice, and I followed his advice and I did get custody of my daughter a year later, and that was really a blessing.

—Rakeem



HEARING FINDINGS

1. Two LSC-funded Legal Services programs operate in Mississippi: Mississippi Center for Legal Services covering the central and southern part of the state, and North Mississippi Rural Legal Services covering the north. Together these programs received approximately \$4.8 million from the Legal Services Corporation (LSC) in 2008. Mississippi Volunteer Lawyers Project (MVLP) is a statewide *pro bono* project that works closely with the LSC programs.
2. Overall funding for Legal Services in Mississippi in 2008 was \$11.18 per poor person, ranking 49th in the country.
3. Thirty-one LSC-funded attorneys worked in Mississippi's two Legal Services programs in 2008.
4. Ten Legal Services offices operated in the state in 2008, serving 82 counties. Most of these offices are minimally staffed.
5. One hundred LSC-funded attorneys worked in Mississippi in 1980 out of 29 fully staffed offices.
6. LSC funding dropped from \$7 million in 1995 to less than \$5 million in 2008.
7. Mississippi's two Legal Services programs turn one client away for every two that seek help.
8. The two Legal Services programs and MVLP handled approximately 15,000 cases in

2007. Conservative estimates are that the programs should be serving 200,000-250,000 clients a year to handle the need.

9. Mississippi is our nation's poorest state with one-half million people living at or below the federal poverty line, and that are eligible for federally funded Legal Services.
10. Low-income Mississippians need legal services in a broad range of matters that include domestic violence, divorce and child custody, disability, food stamps, housing, Medicaid, foreclosure prevention, contractor fraud, and landlord-tenant.
11. Domestic violence clients have high legal needs, and the Legal Services programs in the state and MVLP cannot begin to handle the demand.
12. Certain client groups and forms of advocacy cannot be funded by LSC because of federal restrictions.
13. Government agencies, such as child support offices, are overwhelmed and underfunded.
14. Many Legal Services clients cannot pay filing fees, and *pro bono* attorneys must ask the Clerk to waive fees on a case-by-case basis.
15. The number of people representing themselves in court (*pro se*) has spiked in the past decade. Chancery and circuit court judges struggle with the delicate balance between access to justice and practicing law.
16. There is a shortage of Spanish-speaking and Vietnamese-speaking attorneys in Mississippi to help clients in those population groups.
17. The elderly face particular challenges, such as getting to Legal Services offices.
18. Many of the most rural counties in the state do not have Legal Services offices or other social services organizations.
19. Legal Services is not visible enough in communities: both among social services providers and among poor people who need legal assistance. There is a great need to get the word out.
20. Mississippi Bar members are required to report their *pro bono* hours each year to the Bar, but they are not required to provide *pro bono* legal services.
21. More money alone will not solve the problem of unmet civil legal needs. This must be heavily supplemented by *pro bono* legal services.
22. Many Mississippi attorneys are providing *pro bono* legal services on their own, but not through MVLP. In some cases, clients cannot afford to pay a lawyer, but they also are over-income for LSC and MVLP requirements.

Increase Pro Bono Legal Services through:

- ▶ a much better organized and coordinated *pro bono* response that becomes an integral part of the Mississippi Bar’s culture.
- ▶ better packaging of *pro bono* opportunities, with support that includes manuals and standard forms.
- ▶ a broader mix of *pro bono* “offerings” to include matters other than family law.
- ▶ tax breaks for attorneys that provide *pro bono* legal services.
- ▶ trained *pro bono* clerical staff in law firms that generate pleadings with attorney supervision.
- ▶ a mechanism that enables attorneys to receive credit for handling *pro bono* cases that do not meet LSC income guidelines or that are referred through MVLP.

Heighten Public Awareness by:

- ▶ community networking to increase public awareness of Legal Services by churches, social service providers, law enforcement, child care, centers, and low-income people themselves.
- ▶ adding information on summons and other law enforcement or official notices about where to access Legal Services.
- ▶ teaching “street law” and citizenship classes in the schools with volunteer lawyers as teachers.

Increase Funding through:

- ▶ additional funding for Legal Services in Mississippi to provide resources to handle 200,000 to 250,000 cases per year.
- ▶ significant increases in non-LSC funding by studying and implementing what other organizations and states have done to raise substantial funds from law firms, individual lawyers, foundations, corporations, and state funding sources.

Facilitate Pro Se/Self-Representation through:

- ▶ court-approved forms in libraries for self-representation.
- ▶ advice and counsel by *pro bono* attorneys for parties representing themselves in court, including clinics that litigants attend before court hearings.
- ▶ streamlined systems to make *pro se* representation more manageable.

Expand General Access through:

- ▶ traveling legal clinics in rural areas and/or lawyers in courthouses in rural counties at least once a month
- ▶ more bilingual attorneys, particularly those that speak Spanish and Vietnamese
- ▶ creating a capacity to serve individuals and provide systemic advocacy approaches that LSC-funded programs cannot perform due to restrictions.

Other Recommendations include:

- ▶ loan repayment programs for public interest lawyers
- ▶ state retirement plans for Legal Services lawyers
- ▶ attorney's fees in landlord-tenant and consumer protection cases
- ▶ attorneys for children in *Guardian Ad Litem* proceedings

CONCLUSION



Through the public hearings process, the Mississippi Access to Justice Commission confirmed the undeniable need for significant expansion of access to civil legal services for low-income Mississippians. The stories, data, findings, and recommendations arising out of the witnesses' testimony provide the Commission with a strong record upon which to approach the courts, the legislature, the Mississippi Bar, the business community, and funders for support in developing multiple strategies for increasing access to justice.

The Commission will use this report as it meets with policy makers, funders, and leaders in the bar and the broader community to make the case for stronger partnerships among legal services organizations and other service providers, innovations in legal services delivery systems and access to our courts, a much higher level of *pro bono* attorney participation, greater public awareness of the value of and need for civil legal services, and increased funding from both public and private sources. While the Commission will continue to support efforts by legal services organizations and the private bar to increase federal Legal Services Corporation funding, we also recognize that sustainability of a comprehensive, well-resourced civil legal services delivery system will require much stronger support from other funding sources as well, including, state and local governments, private bar contributions, major donors, foundations, and businesses. Working together, we believe we can make this vision a reality in Mississippi.

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REFERENCES

¹ Legal Services Corporation Fact Book 2008 at page 4, August 2009.

² A copy of the En Banc Order establishing the Mississippi Access to Justice Commission can be found on the Commission's website at www.matjc.com.

³ A copy of the Order mandating regional public hearings on unmet civil legal needs can be found on the Commission's website at www.matjc.com.

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Mississippi Access to
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