



# CIVIL LEGAL NEEDS OF LOW INCOME NEW MEXICANS

## EXECUTIVE SUMMARY

### Key findings:

- Participants identified the following as common legal and non-legal needs facing low income New Mexicans:
  - Family problems (e.g., guardianship, divorce, etc.)
  - Housing (e.g., landlord tenant issues, affordability, accessibility, etc.)
  - Public benefits (obtaining and reinstating)
  - Health care (access and quality)
  - Employment problems
  - Consumer problems
  - Civil rights concerns
  - Other problems (e.g., physical victimization, hunger, nutrition, etc.)
- Underlying these needs are problems such as substance abuse, chronic illness and others; many problems are interdependent and compounded.
- People have varying levels of legal knowledge and awareness of legal services, as well as seeking and utilization of legal services.
- Low income New Mexicans face a variety of barriers to accessing legal services that can be grouped into three main areas:
  - Vulnerability
  - Systemic barriers
  - Practical barriers
 Systemic barriers were the most frequently identified.
- Participants offered a range of solutions to combat these barriers from very specific to overarching.

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In recent years, the New Mexico Commission on Access to Justice and New Mexico Legal Aid completed two separate studies of the legal needs of low income New Mexicans. Combined, these studies provide important information about what community members, legal and social service providers, attorneys and judges consider important legal needs, how well those needs are being met, and the range of barriers that complicate access to legal help and create unmet legal needs among New Mexico's poor. Though these studies identified a broad range of legal needs, they did not explicitly collect information about the specific nature of those legal needs, the experiences and events that often precede and shape those needs or the systemic gaps that complicate access to appropriate services to address these legal needs.

In 2011, the New Mexico Commission on Access to Justice tasked its Systems Planning Working Group (SPWG) with revising the 2007 State Plan for the Provision of Civil Legal Services to Low-Income New Mexicans. As part of the revision, the SPWG identified the need for a new legal assessment.

Thus, in the summer of 2012, the State Bar of New Mexico on behalf of the Commission on Access to Justice contracted with the Institute for Social Research (ISR) to help develop and administer an in-depth legal needs study. ISR worked with representatives from the Commission on Access to Justice, New Mexico Legal Aid, Pegasus Legal Services for Children, Senior Citizens Law Office, Disability Rights New Mexico, New Mexico Center on Law & Poverty, Law Access New

Mexico, Lawyer Referral for the Elderly, United South Broadway Corporation, Equal Access to Justice Campaign, Advocacy Inc., Southwest Women's Law Center and the New Mexico State Bar Foundation to complete the project. This group worked with ISR staff to develop and implement an appropriate methodology to address current knowledge gaps around the legal needs of New Mexico's underserved populations. Representatives from specific legal providers volunteered to participate in the focus group process. Together, these volunteers and ISR implemented focus group discussions with a diverse sample of low-income New Mexicans and a variety of social and legal service provider representatives. The goal was to identify the range of legal needs people face and provide depth regarding how these needs and related issues unfold among this population.

ISR staff developed the focus group interview guides, conducted initial focus groups, trained volunteers to conduct focus groups, analyzed the data and completed a detailed reporting of the results. The volunteers set up the focus groups, identified the locations for the focus groups, recruited participants, and coordinated the trained volunteers to conduct the majority of the focus group discussions.

### Methodology

ISR prepared volunteer interviewers from the legal provider community to conduct focus groups in a competent and impartial manner by completing a research ethics course, a three-hour training on conducting focus groups led by Dr. Lisa Broidy, and observations of the initial focus groups conducted by Dr. Broidy.

Additional safeguards were set in place to ensure data integrity. ISR staff listened to the audio tape of each focus group interview and volunteers were asked to communicate with ISR staff immediately following each focus group to debrief and share any concerns.

Each focus group followed the same structure. The first 15-20 minutes were dedicated to completing the consent form and a brief demographic survey. The moderator then introduced him/herself, the purpose of the study and ground rules. The moderator then asked questions, following the appropriate semi-structured interview guide. In addition, a note taker listed the participants' key ideas on large sheets of paper visible to all participants. All focus groups were recorded, transcribed and uploaded into Atlis.TI for analysis. Data were coded and grouped into themes that emerged under each of the broad discussion categories.

## Data

Data come from a total of 20 focus groups held between March 6, 2013 and August 15, 2013. Recruitment for participation in the focus groups was completed primarily by community partners. The methods used for recruitment included flyers, social media, e-mails and personal phone calls. Most participants were recruited by phone or e-mail.

The first four sessions were completed by Dr. Broidy; the remaining focus groups were conducted by the trained volunteers. Focus groups targeted three groups: legal providers (N=3), community service providers (N=7) and community members (N=10). The focus groups were held throughout the state to ensure representation of rural, urban and other geographically specific needs. Besides ensuring sufficient geographic representation, within each target group, the aim was to include a range of individuals representing diverse populations. The number of participants in each focus group varied from a low of 3 to a high of 23. While the intent was to group participants according to their roles (community member, community provider or legal provider), there was sometimes overlap. In addition, a few people provided written comments to the volunteer coordinator either as a follow up to a focus group they attended or in lieu of one. Those comments were incorporated into the findings.

## Findings

### Legal and non-legal problems

One of the objectives of the focus group discussions was to have participants identify and talk about the key legal and non-legal problems low income New Mexicans face. Participants identified a number of problems that

low income New Mexicans experience, many of which are co-occurring. In some cases, the problems simply occur simultaneously; in others, the problems build on one another in such a way that one problem causes the next problem in a chain of events. The problems noted include:

- housing (landlord tenant issues, lack of affordable housing, lack of access to affordable housing, and limited shelters and transitional housing)
- difficulties with obtaining and reinstating benefits and entitlements
- civil rights concerns (education, immigration and criminal justice misconduct)
- family problems (guardianship, divorce, custody and child support, domestic violence, family instability, and lack of affordable child care)
- health (types of healthcare problems, barriers to accessing healthcare, and quality of healthcare received)
- employment (underemployment, unemployment, unfair/illegal employment practices)
- consumer problems (debt, debt collection practices, predatory loans, inability to pay taxes, limited financial literacy)
- other problems (physical victimization by non-family members, hunger and nutrition deficiencies, exposure to environmental degradation and its impacts, lack of substance abuse treatment facilities, and limited transportation).

While prior survey data points to similar problems, the focus group data summarized in this report goes a step further. This data helps to clarify the nature of the problems, the extent and complications of co-occurring problems, as well as key details that point to underlying causes for the legal problems experienced.

### Accessing legal services

A second key area that the focus groups addressed is in regards to accessing legal services. Participants indicated that people have varying levels of knowledge regarding their legal rights, as well as the types of legal assistance they seek and use. Participants were often not aware of all of the legal services available to them. For example, many were unaware of Law Access New Mexico. This is consistent with the findings in the New Mexico Commission on Access to Justice Study conducted in 2006, suggesting that this resource has not been widely advertised or is not reaching the target population.

When people seek legal help, they often look to friends or to the community organizations with which they have ties. Further, they seek help at the courts and online.

Community service providers and legal providers reported that they most commonly refer people to New Mexico Legal Aid and Law Access New Mexico, as well as pro bono attorneys. Interestingly, many people noted that they refer or have been referred to individuals, agencies or organizations that do not provide legal services. Among those who sought services, some reported that their cases were successfully resolved, while others did not.

## Barriers to accessing the legal system and the suggestions for improvement

Finally, participants identified barriers to accessing the legal system and many ways to overcome those barriers. We grouped these problems into three main categories: vulnerability, systemic barriers and practical barriers. Among these barriers, focus groups identified a particularly broad range of systemic barriers, suggesting the necessity of systemic reforms for improving access to legal services for low income New Mexicans.

### Vulnerability

Low income New Mexicans are often vulnerable, which both creates legal problems and can inhibit people from seeking legal services due to fear of retribution, unintended consequences, distrust of the system and physical or mental barriers. While all low income New Mexicans are potentially vulnerable, the focus group participants identified several groups who are especially likely to be vulnerable: immigrants, victims of family violence, disabled individuals and those in rural areas. Vulnerability can also lead to legal problems such as illegal employment practices, landlord tenant disputes and housing discrimination.

Suggestions for overcoming vulnerability include:

- Create partnerships between legal providers and community partners trusted by vulnerable groups
- Provide case managers who can help people access and navigate the system
- Establish and expand options to in person requirements, such as video and teleconferencing

### Systemic barriers

Focus group participants described a number of systemic barriers that inhibit legal providers from meeting people's needs, as well as those challenges that prevent people from accessing and fully utilizing the legal system. First, specialization of the law can make it difficult for people to find services or address the multi-faceted problems people often face. Compounding the problem is that agencies are independent, and often providers (both legal and community providers) are unaware of the specific expertise of various legal providers, making

both appropriate referral and effective collaborations difficult.

Participants offered a number of solutions for improvement:

- Create and maintain partnerships between attorneys to learn about services offered as well as to engage in cross training
- Create a central location that houses multiple legal providers and community service providers so that people could easily access legal and social assistance
- Create a shared database that could be used to track problems

Second, participants across all three types of focus groups recognized that there are limited resources to meet civil legal needs, and that the demand for services outweighs the ability to meet that need. These limited resources impact the legal provider agencies at every level, from front office staff to attorneys. Agencies with limited staff may turn people away due to caseload limitations, case prioritization or conflicts of interest. These issues can be especially problematic for those in rural locations.

Suggestions to address resource limitations:

- Increase funding for those who provide legal services to low income New Mexicans
- Increase pro bono requirements for private attorneys, including increasing the number of hours required, limiting the use of financial contributions to the State Bar in lieu of pro bono hours, and increasing direct representation
- Offer a sliding scale for those who are outside income requirements and for those who have more complex cases
- Create a civil version of the public defender's office
- Increase incentives for attorneys to work in underserved locations
- Dedicate funds to pay for experts in complex cases
- Increase the number of paralegals

Third, participants identified numerous barriers to filing pro se related to accessing and completing forms. The suggestions for improvement include:

- Maintain forms and access to forms in a centralized location, such as a kiosk at the court
- Create an easy to navigate website that would direct people to the forms they need based on their responses to a series of questions
- Create instructions with examples written in lay terms
- Create forms that are written in lay terms

A fourth problem is related to knowledge of the law and navigating the legal system. People often do not know their legal rights, do not know how the legal process operates, do not know where or how to find legal help, or when they do find information, discover that information is out of date. Further, jurisdictional boundaries can complicate navigation of the legal system.

Another barrier to navigating the legal system is communication. First, there is a disconnect between the level of language and type of speech used by legal providers and those accessing legal services, leading to a lack of understanding on both sides. Second, the language spoken can also be a barrier. While many legal service providers offer bilingual services, typically Spanish, they are not all equally proficient in the language. Further, other language needs arise too, such as various Asian languages, Native American languages, etc. that may not be adequately accommodated. Finally, the method used to connect legal providers and clients may be a problem. Some people prefer or need face to face contact. For example, the deaf may have difficulty obtaining services over the phone. Others prefer face to face contact due to cultural norms.

Participants offered several suggestions to help with barriers to understanding and navigating the legal system:

- Use a case manager or social worker to help people identify their needs, where they can get assistance and navigate through the system
- Partner with University programs to create internships that can train case managers
- Increase use of “warm referrals” (when a provider calls a legal provider on behalf of someone else)
- Offer “customer service” training for legal providers who regularly interact with low income New Mexicans
- Ensure language proficiency among interpreters
- Increase education about legal rights and navigating the legal system
- Increase awareness about the law, legal system, and legal services using various strategies such as pamphlets, public service announcements, and actively educating community providers and the public
- Ensure legal resource lists are accurate

### **Practical Barriers**

Finally, focus group participants identified some notable practical barriers. These include the hours that law offices are typically open, telecommunication barriers, problems with communicating by mail, as well as barriers related to time, money and transportation.

In order to overcome these practical barriers, the follow-

ing suggestions were made:

- Increase accessibility
- Offer services in strategic locations in harder to reach areas
- Expand office hours
- Offer sliding scales
- Institute copayments

## **Conclusion**

The current study sought to expand what has been learned from prior legal needs surveys to develop a deeper understanding of the legal needs of low income New Mexicans. Using an in-depth focus group design with three key respondent populations, discussions provided detailed insights about the ways in which the circumstances of New Mexico’s low income population shape the problems they face, the legal needs they experience as a result of these problems, and the barriers that keep them from successfully addressing their legal needs and, more broadly, resolving their problems. The New Mexico Commission on Access to Justice who commissioned the study on behalf of a group of legal services providers and who worked with ISR to design and implement it, did so with the goal of developing a more comprehensive understanding of the legal needs and related barriers to service that affect the low income population. The ultimate goal is to use this information to reform the system in ways that would better serve the vulnerable and at-risk populations most in need of systemic intervention and services. The findings reinforce the need for a variety of systemic changes and show the mismatch between a system designed to address specific, independent problems and the reality of the lives of New Mexico’s poor, which are characterized by interdependent and compounded problems. Importantly, the data introduce a number of potential avenues for redress, highlighting ways in which the system could better meet the needs of low income New Mexicans.

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**A full-length version of this report can be obtained by contacting:**

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