

With funding low, many legal cases going undefended

By [Megan Woolhouse](#)

| GLOBE STAFF | OCTOBER 15, 2014

Massachusetts legal aid organizations turned away nearly two-thirds of people qualifying for civil legal assistance over the last year due to a lack of funding, leaving thousands of low-income residents without representation in cases from domestic violence to foreclosure, according to the findings of a statewide task force to be released Wednesday.

More than 30,000 low-income clients were denied legal services in 2013, meaning many were unable to pursue cases or were left to represent themselves in court, where they often lost their cases, according to the 37-page report.

CONTINUE READING BELOW ▼

“The overused word ‘crisis’ actually applies here,” said Harvard Law School’s dean, Martha Minow, a member of the task force. “When you have people who are literally not represented in actions where they can lose their homes or face physical violence, where they can’t get legal remedies to which they’re entitled, there’s a failure to live up to the rule of law.”

At least two dozen of 134 lawyers and staff at Greater Boston Legal Services have been laid off since 2008 and another nine will leave due to further cuts at year’s end.

The 32-member task force, which also included Fidelity Investments counsel Jonathan Chiel, EMC Corp. general counsel Paul T. Dacier, and Governor Deval Patrick’s chief legal counsel, Katherine Cook, was convened by the Boston Bar Association. It studied the state of civil legal aid in Massachusetts for 18 months.

Percentage of cases turned away by area of law

Surveys conducted November 12-18, 2013, December 16-20, 2013, and March 17-21, 2014.

Family matters

80%

Employment

74%

Consumer

70%

Housing

56%

Immigration

52%

Federal Benefits

50%

Education

40%

Health care

40%

Other

63%

Totals

64%

**DATA: "Investing in Justice: A Roadmap to Cost-Effective Funding of Civil Legal Aid in
Massachusetts"**

GLOBE STAFF

Unlike criminal cases, in which legal representation is guaranteed by the Constitution, there is no such guarantee in civil cases. These cases are often taken by lawyers working for free, and by legal aid attorneys in agencies partially funded with taxpayer money.

Much of civil legal aid work is financed by the Interest on Lawyers Trust Accounts, an arcane fund generated from the pooled interest paid on small amounts of money that lawyers hold in trust for clients. That fund has shrunk dramatically in recent years, due to historically low bank interest rates.

In 2007, the fund generated nearly \$32 million in annual interest; this year, it is expected to shrink to \$4.5 million.

“We have a staggering problem funding legal aid in Massachusetts,” said Julia Huston, president of the Boston Bar Association. “There is a tremendous need, and that need has become more dire given the economic conditions of the last few years.”

Massachusetts spends about \$15 million yearly for legal aid. The report calls on the state to provide an additional \$30 million over the next three years.

The task force surveyed 13 major legal service agencies, including Greater Boston Legal Services, collecting data over three separate weeks in 2013 and annualizing it. The report characterized the findings as “stunning and discouraging.”

Overall, only one in three people who qualified for help received it, the survey found. In cases, involving family law, such as child custody and domestic abuse, four of five eligible clients were turned away. In consumer and employment cases, nearly three out of four could not get legal help.

“A whopping 11,843 disadvantaged individuals or families facing eviction or foreclosure were turned away over the course of one year,” the report said.

Ginette Brilliant, a Haitian immigrant who worked at Beth Israel Hospital for 25 years, is an example of the impact that legal aid can have, according to the report. Brilliant put \$20,000 down on a house in Randolph and paid \$1,700 a month in a rent-to-own arrangement. She later learned that her broker was a scam artist and that the house was in foreclosure.

She asked the bank’s property manager to make much-needed repairs because water was leaking from the master bedroom and bathroom ceilings. The repairs were not made, despite orders by the board of health, and the ceiling eventually collapsed, according to the report.

With help from an attorney at Greater Boston Legal Services, Brilliant eventually won a judgment of nearly \$50,000 in damages from the bank plus \$30,000 in attorney’s fees.

Dick Bauer, a senior lawyer at Greater Boston Legal Services, said if no one had represented Brilliant, she probably would have been evicted, lost her deposit, and ended up in a homeless shelter or motel.

“We’re talking mostly about people with kids,” he said, who often end up “under a bridge or spending the night in an emergency room of a hospital.”

The task force also surveyed judges, with 80 responding. More than 60 percent of the judges said the number of litigants without representation increased following the economic downturn.

Nearly 90 percent of judges said evidence was improperly presented in 90 percent of the cases in which people were not represented by lawyers. More than 60 percent said that the lack of legal representation hindered the court's ability to ensure equal justice.

The report argued that the benefits of representing eligible people in eviction and foreclosure proceedings far outweighed the costs of providing services. It estimated that providing legal help to the poorest families and individuals alone would save the state about \$25.5 million in emergency shelter services and other costs.

Megan Woolhouse can be reached at megan.woolhouse@globe.com.