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Tracy Warner | Equal justice is still our promise

by Tracy Warner | Nov. 12, 2015, 7:51 a.m.

Commentary

Equal justice under law. That is the lofty motto inscribed over the marble columns of the Supreme Court building in Washington, D.C. It is not a goal, or an ideal. It is a promise. The words come straight from the Constitution. We put our hands over our hearts and pledge allegiance to a land with justice for all.

Oh, how we fall short. A free and orderly society relies on our confidence in justice, that anyone can walk into a courtroom and be fairly treated. And yet our legal system is a maze of enormous complexity. The civil legal system we need to resolve our most basic disputes and problems is thick and unapproachable and filled with unseen traps. Without legal representation it is next to impossible for an ordinary person to know their rights. People unable to afford a lawyer are disadvantaged and exploitable if they do seek help, but most don't bother. They are convinced that the promise of equal justice does not include them. They suffer. Domestic violence, sexual assault, homelessness, bankruptcy, joblessness, disability, multiple forms of unnecessary and unjust destitution are often solvable problems with access to justice.

Society as a whole benefits when we provide sufficient legal services for the poor and vulnerable so they may have at least a chance for justice. We pay the price in chaos and suffering if we don't. Too often, we don't. Those accused of crimes are guaranteed legal representation — in civil cases, no guarantee at all.

The Washington Supreme Court recently commissioned a statewide survey of low-income residents, an update of a survey first taken in 2003, and found an enormous and growing need. Seven in 10 low-income households in Washington face at least one significant civil legal problem each year. Unsolved, they multiply. The number of legal problems per household rose from 3.3 in 2003 to 9.3 in 2014. Health care, finance and employment problems rise above the once more common complications of family law and tenant disputes. Domestic violence and sexual assault victims suffer most. Race plays a role. Three quarters of those with problems will get no help. Washington has one state-funded legal aid attorney for every 11,628 eligible residents, less than half the accepted minimum.

"The need is just constant. We see it every day," said Chelan County Superior Court Judge Lesley Allan, who served on the study committee.

Judith Lurie, senior attorney at the Wenatchee office of the Northwest Justice Project, described two recent cases. In one, an elderly disabled veteran moved from his isolated property in Lincoln County to be near his daughter and medical care in Okanogan County. His chore services helpers convinced him to make them the payee for his veterans benefits, his only income. A unscrupulous neighbor convinced him to trade away his Lincoln County land. He ended up destitute, living in a RV at a remote site with no power or water, sick and alone. A chance contact, a request by his exploitive helpers, led the Northwest Justice Project to seek a protection order, restore his benefits, undo the land deal, and place him in a apartment near medical care. He was lucky. He knew nothing of his rights or legal remedies. "He was totally isolated. He had no idea," said Lurie.

Then there was an H2A guest orchard worker who after a full day working in 100-degree-plus heat collapsed and began to convulse and stopped breathing. He was rescued by his co-workers and an ambulance crew, spent three days in the hospital, and then was presented with a bill for \$30,000. His employer said the illness occurred after work. Legal help gave him access to the state industrial insurance to which he was entitled.

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State legal aid funding is far from sufficient. Jim Bamberger, director of the state Office of Civil Legal Aid, said they will seek a \$500,000 emergency appropriation next year, to keep legal aid offices from closing. In the next biennium they will present a focused, efficient funding request that will make progress possible in closing the justice gap.

An investment in equal justice for all will pay dividends we cannot yet foresee. Promises should be kept, and for this the price will be a bargain.

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