

The Erosion of Justice for All

JOHN MCKAY Reflects on His Pro Bono Service, the Justice Gap, and the Promise Built into the Constitution

I was fortunate to go to a law firm right out of law school that valued pro bono work. There wasn't a lot of preaching about it. I understood I could go down to the legal aid office and meet with clients, something all of the lawyers I admired in the firm did regularly.

I did and I was hooked. At my firm, I represented big corporations. While that could be exciting, it was not as rewarding as stopping an eviction that was going to occur at 9 a.m. the next morning. To this day, I believe volunteering for legal aid work connects many lawyers to the reason we went to law school in the first place: we want to help people.

If anything, my commitment to legal aid grows stronger, even though my role has changed over time. I still like the idea of representing real clients, especially helping people who face some pretty awful injustices in their lives. In the nearly 35 years since I started volunteering at Evergreen Legal Services, I've shifted more of my time to being an advocate for legal aid funding because it was obvious that the resources are never adequate.

That's why the recently released 2015 Washington Civil Legal Needs Study Update (available at ocla.wa.gov) is so depressing. We are only reaching a fraction of the Washingtonians who need our help, and the needs are growing exponentially.

We learn from the study that the average number of civil legal problems low-income Washingtonians face in a year has nearly tripled from 3.3 in 2003 to 9.3 today. We get a glimpse of how complex

and interrelated civil legal problems often are — and that they can carry long-term consequences.

An eviction is rarely a clear-cut landlord/tenant dispute. Some families can't make the rent because their child has an insurmountable medical problem that has taken them away from their job too many days and cost them a paycheck. Others are caught in abusive, violent relationships and discover they've been served an eviction notice from a landlord who has seen the police on his property too many times.

The 2015 Washington Civil Legal Needs Study Update confirms that, despite our best efforts, we have a wide and growing justice gap in our state. In fact, more than three in four of low-income Washingtonians face significant civil legal problems and get no help at all.



JOHN MCKAY

was the U.S. Attorney for the Western District of Washington from 2001 until he resigned along with eight other U.S.

Attorneys in 2007. A former White House Fellow, McKay has served as president of the Legal Services Corporation in Washington, D.C., and as litigation and managing partner at Seattle law firms. He is a professor at Seattle University School of Law.

People often know what's happening to them is wrong. They may even know it's against the law. Still, they are powerless because they don't have anyone to advocate for them.

In essence, this study judges the justice system in Washington state and it gives it an extremely low grade — very near failure, in my opinion. There is also an irony within this study: the system is not a failure for those who are able to get help. In fact, 17% of the low-income Washingtonians who got help with their legal problems said their problem was fully resolved.

People are seeing change in their lives. We just don't have enough of it.

So what can we do? I think it begins with awareness. Let's not fool ourselves into thinking there's equal justice for all under the law — because there isn't. Injustice in our state takes many forms, including racial discrimination and economic discrimination. The doors to the courthouse are closed to the poor and the powerless. We have to admit it and confront it.

Government at all levels — local, state and national — has to respond. Washington has just one state-funded civil legal aid attorney for every 10,783 low-income residents. That's less than half the nationally recognized minimum service level of one civil legal aid attorney for every 5,000 eligible residents.

The public and private sectors need to work together to generate much-needed dollars. Financial support for legal aid doesn't pay just for attorneys; it keeps the lights on and makes it possible for staff to screen eligible clients, so more of us can volunteer our time.

And yes, lawyers have to volunteer more to help those cast adrift in our complex world. I personally know the satisfaction that comes when I've been able to help someone to overcome seemingly unsolvable problems. When you are able to help a young mother stay in her home, escape a violent spouse or get the medical attention her child so desperately

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needs ... that's life-changing.

Finally, we have to reach people who aren't lawyers and encourage them to speak up and say, "Not in my name. The justice gap in Washington state is unacceptable."

Whether you believe in small government or expansion of government, you believe in having a justice system that's open and fair for everyone. That's a bedrock American principle. Not a political principle. It's what everyone — from the Constitution's framers to Ronald Reagan — believed in. And yet, today we're witnessing the erosion of the proud American principle of *justice for all*.

Our court system must ensure that people are being treated fairly and in accordance with the law. That is a promise built into the Constitution and a promise that must extend to all, no matter who they are or what resources they have. Not to deliver on that promise is a colossal failure.

Let's roll up our sleeves and get to work. We can do better. **NWL**

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