

THE AMERICAN BAR ASSOCIATION LEGAL NEEDS STUDY

The ABA Study consists of:

- A survey done for the ABA Consortium on Legal Services and the Public by the Institute for Survey Research at Temple University, and
- An analysis of survey results performed by the Consortium with the assistance of Albert H. Cantrell and a group of advisors, many with extensive legal services experience.

Survey information was collected via a) telephone interviews of 1,525 persons from low income households and 1,259 persons from moderate income households, and b) face-to-face interviews of 300 persons in households that did not have telephones. “Low income” households were defined as households whose income did not exceed 125% of poverty¹. “Moderate income” households were those whose income was above 125% of poverty but below \$60,000 per year. Interviews were conducted between February and July, 1993, in both English and Spanish; 5% of the interviews were conducted in Spanish².

Participants in the survey were a representative sample of all US households with incomes below \$60,000. As is the case for all census based surveys, persons who are not counted in the census (chiefly, those in institutions—state hospitals, nursing homes, prisons, etc.—and on active military duty) were not included in the survey. Homeless people were included, at least to some extent: 11% of the households interviewed by telephone, and 25% of the households interviewed face-to-face, reported being homeless or “doubling up” (temporarily living with another family) in the year preceding the date they were interviewed.

Three reports present, analyze and comment on the results of the survey:

- *Report on the Legal Needs of the Low-Income Public*. ABA Publication 4290018, January, 1994. Henceforth referred to as “Low Income Legal Needs”.
- *Report on the Legal Needs of the Moderate Income Public*. ABA Publication 4290019, January, 1994. Henceforth referred to as “Moderate Income Legal Needs”.
- *Agenda for Access: The American People and Civil Justice*. ABA Publication 4290022, April, 1996. An analysis of the survey with recommendations for action. Henceforth referred to as “Agenda for Access”.

¹. The Census Bureau determines the official rate of poverty (“100% of poverty”) each year.

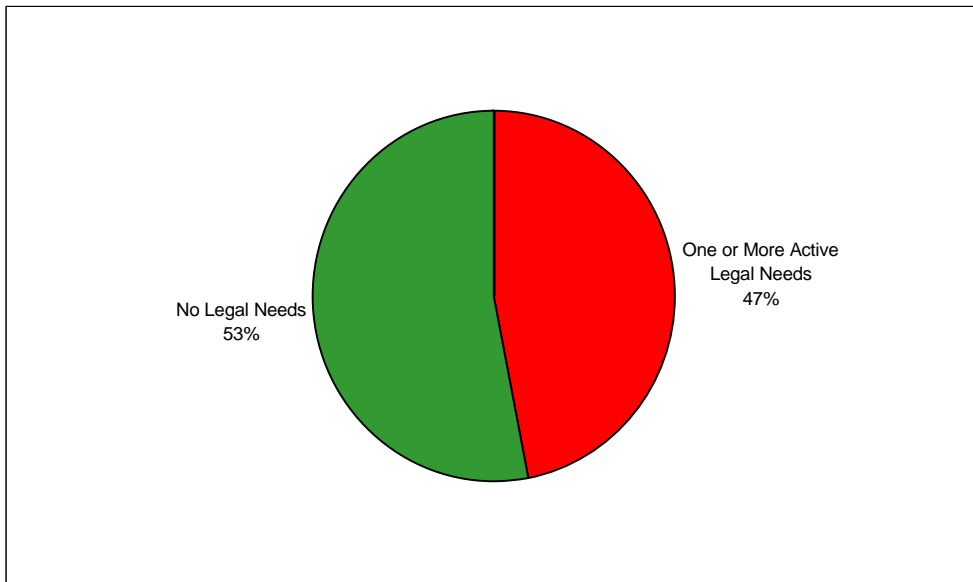
². For full information on the methods used to select and adjust the sample, see the Appendices of *Low-Income Legal Needs* and *Moderate Income Legal Needs*.

Legal Needs of Low Income Households

According to the ABA survey, 47% of low income households have one or more active legal situations³.

The 47% rate is *prevalence*—the total number of active needs, regardless of when the need occurred. The ABA Study also contains data on *incidence*—the number of active problems that originated during the last 12 months. Because prevalence more accurately reflects the situation faced by households with legal needs, prevalence data is used in this document⁴.

Chart 1: All low income households



Low income households with legal needs had an average of 2.3 legal situations each⁵. This compares to 2.0 legal situations per moderate income households with legal needs⁶.

³. *Low Income Legal Needs*, Table 4-1, page 19.

⁴. Incidence rates are used to project future demand for legal services.

⁵. *Low Income Legal Needs*, Table 4-2, page 19.

⁶. *Moderate Income Legal Needs*, Table 4-2, page 19.

Low Income Households: Kinds of Legal Needs

Table 1 shows the kinds of legal needs found in low income households⁷.

Kind of Need ⁸	Incidence	Prevalence
Housing and real property	16%	16%
Personal finances and consumer	16%	16%
Community and regional	9%	12%
Family and domestic	18%	20%
Employment-related	9%	8%
Personal and economic injury	8%	7%
Health and health related	6%	6%
Wills/Estates/Advance directives	5%	5%
Public benefits problems	4%	4%
Small business and farm issues	3%	2%
Children's schooling	3%	2%
Other civil rights/liberties	1%	1%
Vocational training-related	<1%	<1%
Discrimination-ADA related	<1%	<1%
Legal needs of immigrants and speakers of other languages	<1%	<1%
Problems of Native Americans	<1%	<1%
Military and veterans issues	<1%	<1%

These findings are similar to those from other surveys, with two exceptions:

- A. The “community and regional” category did not appear in earlier surveys. This category contains such needs as a) environmental hazards that pose a threat to health or safety or reduce property values; b) location of an undesirable public facility (e.g. a prison or a sewage treatment plant) in a neighborhood; c) inadequate municipal services; and d) ineffective police protection.
- B. The prevalence rate for “public benefit problems” is higher in other surveys. The Institute for Survey Research rechecked survey questionnaires to verify that the figure shown was correct; it was. The proportion of public benefit recipients in the sample was almost exactly the same as the proportion of benefit recipients in the US population⁹.

⁷. Adapted from *Low Income Legal Needs*, Table 4-3, page 21. The percentages shown differ slightly from those in the ABA reports. The ABA reports track “legal situations”—the occurrence of a legal need in a low income household. Some legal situations, such as a marital dispute, generate two legal needs. This document shows legal needs, rather than legal situations.

⁸. See Appendix A for a list of the specific issues in each category. Appendix A is a copy of Appendix E, “Glossary” in *Low-Income Legal Needs*.

⁹. The survey first determined if the respondent received any of 7 public benefits (Social Security or SSI; Medicare; Medicaid; “welfare for families or individuals”; Food Stamps; or “any other government-administered benefit program”. If the respondent answered that the household receive one or more benefits, he or she was then asked whether the household had experienced

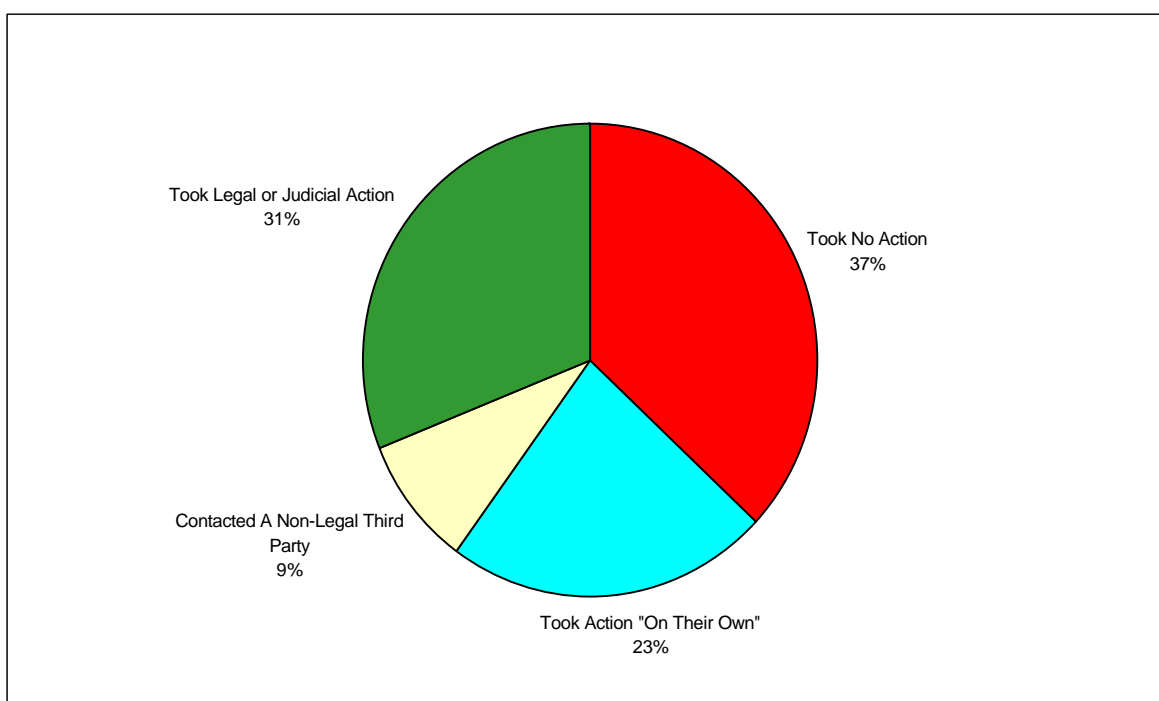
The legal needs of moderate income families were strikingly similar to those of low income families. Moderate income families reported significantly more needs for only three categories: employment; personal and economic injury; and wills estates and personal directives. Low income households reported significantly more needs only in the public benefits category¹⁰.

The households with the most legal needs were clustered just below, and just above, 125% of poverty¹¹.

Low Income Households: Response to Legal Needs

Chart 2 shows the ways low income households with legal needs respond to legal needs.

Chart 2: Low income households: Response to legal needs



When confronted by a legal need, low income households are more likely to do nothing than moderate income households: 37% of low income households reported they “did nothing at all” vs. 26% of moderate income households. Clearly,

any problems applying for, getting, or keeping a benefit; been required to pay back money; been denied information to challenge a ruling or been unable to get a hearing; been treated unfairly in a hearing; or experienced “other serious difficult[ies]”.

¹⁰. For a chart comparing the prevalence of legal needs in low and moderate income households, see *Agenda for Access*, Chart 6, page 23.

¹¹. For a discussion of the needs of groups just below and above the 125% limit, see *Agenda for Access*, page 24.

any system which aims to deal with the entire need must first persuade a very substantial number of people who now do nothing to take some kind of action.

Satisfaction with Result Obtained

Table 2 shows low income households' satisfaction with the results obtained by their response to a legal need¹²:

Table 2 Low income legal needs Satisfaction with outcomes of response to legal needs		
Action Taken	Satisfied with Outcome	Dissatisfied with Outcome ¹³
Legal/judicial action	48%	40%
Contacted non-legal third party	46%	49%
Attempted to handle on own	36%	61%
Did nothing at all	29%	58%

Table 3 shows the same information, but by type of legal need¹⁴:

Table 3 Low income legal needs Satisfaction with outcomes of response to legal needs		
Legal Need	Satisfied with Outcome	Dissatisfied with Outcome
All needs	38%	53%
Housing/real property	41%	55%
Personal finance/consumer	46%	48%
Community/regional	22%	71%
Family/domestic	45%	46%
Employment related	29%	67%
Personal/economic injury	52%	45%
Health/health care	22%	64%
Wills/Estates/Adv. Direct. ¹⁵	44-64%	15-32%

The highest rates of *dissatisfaction* were in community/regional: 71%; employment related: 67%; and health/health care: 64%. Three of the categories with the highest rates of satisfaction are family/domestic; personal/economic injury; and

¹². *Low-Income Needs*, p. 58. Does not add to 100% because "Can't say/pending" data omitted from table.

¹³. Column does not add to 100% because some households responded in more than one way.

¹⁴. *Ibid*.

¹⁵. A range rather than a specific figure is shown because the sample for this legal need was too small to permit use of a single statistic. The range shows the "95% confidence level"; that is, there is a 95% probability that the number of satisfied people falls somewhere between 44% and 64% of all people who did something related to wills, estates or advanced directives.

wills/estates. As will be seen in Table 9, low income households with these needs are the most likely to have the assistance of a lawyer.

Table 4 shows the reasons low income households were dissatisfied with the outcome of their actions¹⁶.

Table 4: Low income legal needs: Reasons for dissatisfaction with outcome of response to legal needs	
Dissatisfied with outcome	53%
Situation unchanged and not happy about it	25%
Need unmet or case lost	15%
Reached unsatisfactory compromise	6%
Situation has worsened	3%
Other	2%

Moderate income households were significantly less dissatisfied with the outcomes obtained: 54% were satisfied with the outcome (compared to 38% of low income households) and 38% were dissatisfied (compared to 53% of low income households)¹⁷. The differences can be attributed to:

- fewer moderate income households did nothing at all;
- moderate income persons were more satisfied with the outcomes obtained when they took action on their own, or consulted a non-legal third party; and
- more moderate income households were represented by an attorney.

Unmet Need

“Unmet need”¹⁸ can be defined in two ways:

- A. If “unmet need” is defined as legal needs for which low income people did nothing or were dissatisfied with the outcome of their own efforts or those of non-legal third parties, then about 61% of all low income legal needs are unmet.
- B. If “unmet need” is defined as all legal needs that are reported but are not brought into the justice system, or are in the justice system without representation by an attorney or the presence of a mediator, then about 75% of all low income legal needs are unmet.

¹⁶. *Low-Income Needs*, p. 59.

¹⁷. See *Moderate Income Legal Needs*, Table 5-14, page 56.

¹⁸. For a more complete discussion of unmet need, see *Agenda for Access*, page 6.

Role of the Justice System

This section provides additional detail on what happens when legal needs of low income people enter the justice system.

Chart 2 (on page 4) showed that 31% of all legal needs in low income households are taken into the legal/judicial system. As Table 5 shows, 68% of those needs were taken to an attorney¹⁹.

Table 5 Low income legal needs in the legal/judicial system: How needs are handled	
Taken into the legal/judicial system	100%
Assisted by an attorney	68%
Taken to a mediator or arbitrator	13%
Taken to a court or hearing body without an attorney or mediator	19%

Legal needs shown as “taken to a court or hearing body without an attorney or mediator” includes some *pro se* litigants (people who represent themselves in court without an attorney), but the proportion of *pro se* litigants can not be determined from the ABA Study. It is likely that most of the people in this category simply went to their local courthouse to seek assistance; the vast majority did not receive any help²⁰.

Of the needs taken to attorneys, about three quarters involved a private attorney, and about 25% were handled by a legal services program²¹.

Table 6: Legal needs with a lawyer: Type of lawyer	
Private lawyer	75%
Legal Services	25%

¹⁹. *Low Income Needs*, p. 52.

²⁰. From Lonnie Powers, who served as an advisor to the ABA Consortium during analysis of the data. Lonnie was very clear that only a small part of the 19% shown in the table are *pro se* litigants.

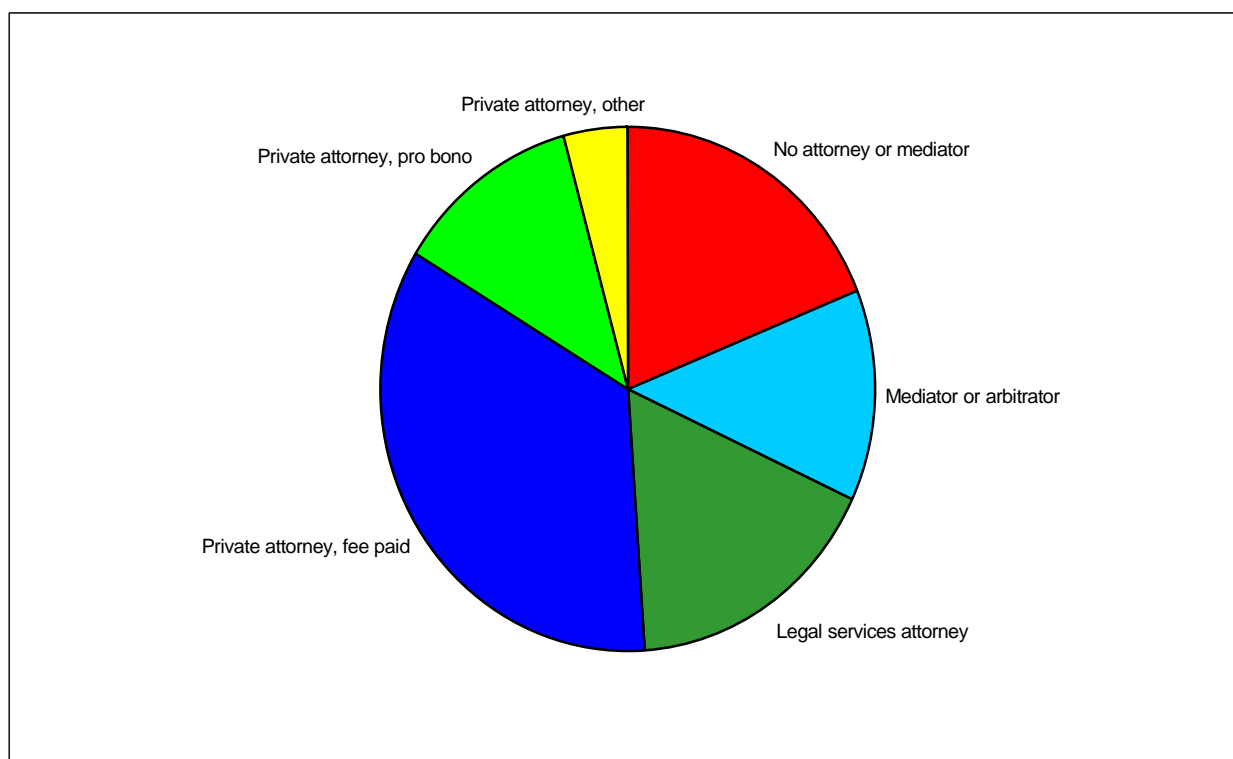
²¹. *Agenda for Access*, p. 26.

Most low income households represented by a private attorney pay a fee for legal assistance²².

Table 7: Legal needs with a private lawyer: Fee arrangement	
Agrees to represent	100%
Paid fee	68%
Usual fee	39%
Reduced fee	8%
Not sure if usual or reduced	8%
No fee	32%
Contingent fee but lost	7%
Pro bono assistance	25% ²³

Chart 3 shows the information in Tables 5 through 7 in graphical form.

Chart 3: Low income legal needs in the legal/judicial system



²². *Low Income Needs*: Table 5-12, page 56.

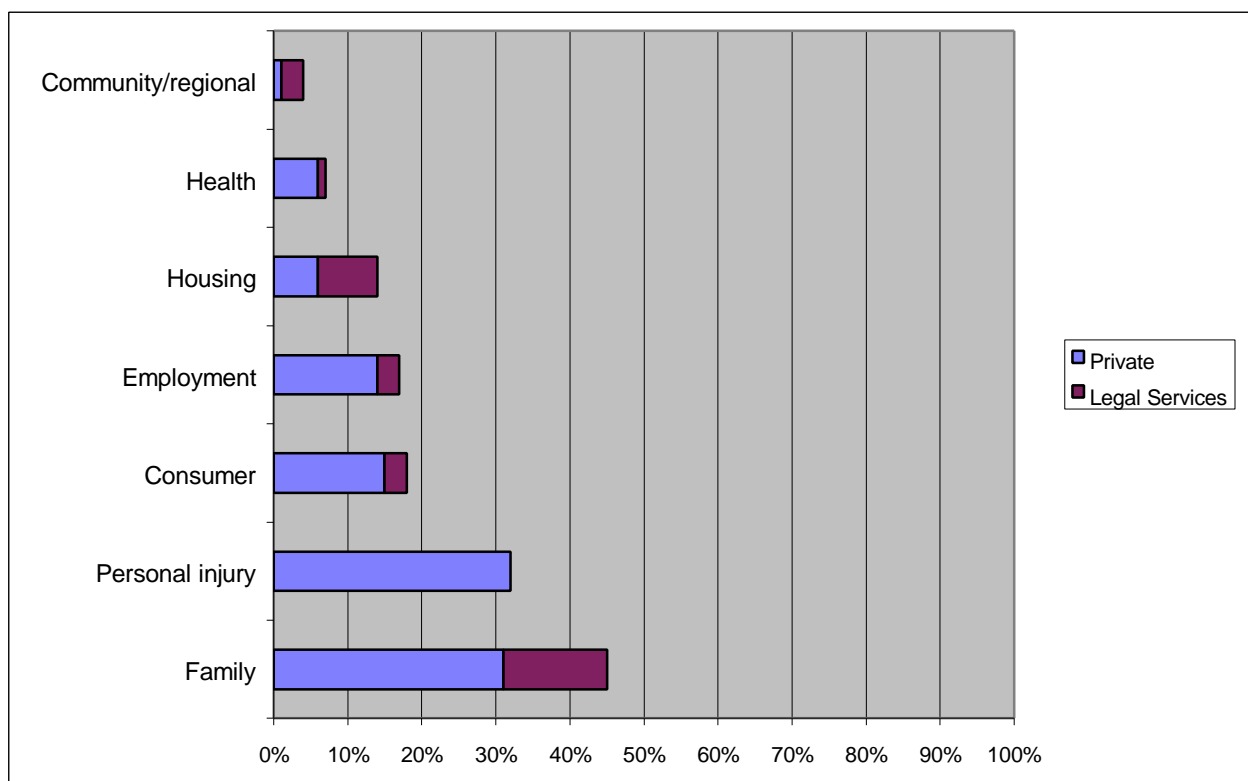
²³. If situations in which a private attorney provides a free initial consultation but does not agree to take the case are included, then the percentage of pro bono is 48%.

Table 8 shows the distribution of attorneys by category of legal need.²⁴ (In all categories not shown, less than 1% of legal needs have a lawyer).

Table 8: Kind of attorney by category of need		
Legal Need	All needs with private attorney	All needs with legal services attorney
Housing/real property	6%	8%
Personal finance/consumer	15%	3%
Community/regional	1%	3%
Family/domestic	31%	14%
Employment related	14%	3%
Personal/economic injury	32%	*
Health/health care	6%	1%
* Not statistically significant but more than 1%.		

Chart 4 summarizes the information in Table 8.

Chart 4: Percent of all legal needs with a lawyer



²⁴. Total needs from *Comprehensive Findings*, p. 20. Needs with a private or legal services attorney, from *Agenda for Access*, p. 27.

Chart 4 confirms what many have long suspected—low income households use attorneys in the same way as others: for family matters, for personal injury, and for wills and estates (which is not shown on the chart, but ranks third in frequency of use of attorneys).

The fact the private attorneys handle about three times more legal needs than legal services attorneys is the most surprising finding in the ABA study. Actually, a little analysis shows that this situation is not at all surprising. Consider the kinds of needs that low income households most often take to attorneys: family/domestic, personal/economic injury, and wills and estates. Personal/economic injury are fee generating cases that cannot be handled by legal services attorneys. Because of the very high demand for family/domestic assistance, legal services programs generally restrict representation to situations in which abuse has occurred. And many legal services programs do not handle wills and estates.

Second, consider how low income persons made contact with their private attorney:

Table 9: Legal needs with private attorneys ²⁵	
How made contact:	
Already knew advocate	37%
Referred by a friend	37%
All other (yellow pages, ad, lawyer referral service, pre-paid plan, etc.)	26%

In essence, nearly three-quarters of low income people with an attorney obtain those services because they knew the attorney, or because they have a friend who knew an attorney. This also helps explain the large amount of pro bono assistance provided by private attorneys (see Table 7).

²⁵. *Low Income Needs*, p. 55.

Overview of Survey Findings

- Slightly less than half of all low income households have one or more active legal needs. Low income households with a legal needs, however, typically have more than one need. The average number of needs per household with a legal need is 2.3 legal needs.
- For nearly 2 out of 5 legal needs, poor people did nothing at all.
- Less than one-third of all low income households with a legal need enter the legal/judicial system.
- More than half of low income households with legal needs were dissatisfied with the outcomes they obtained when they did anything except take their needs into the legal/judicial system.
- Of those that took their needs into the legal/judicial system, 14% did not have the assistance of a mediator or attorney.
- Low income households with family, personal injury and estate needs are most likely to have an attorney. Those with community/regional, health and civil rights needs are least likely to have an attorney.
- Of those that had an attorney, about three out of four were assisted by a private attorney. Nearly three-quarters of those attorneys were paid a fee. About one-quarter of all needs handled by private attorneys were pro bono cases.

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