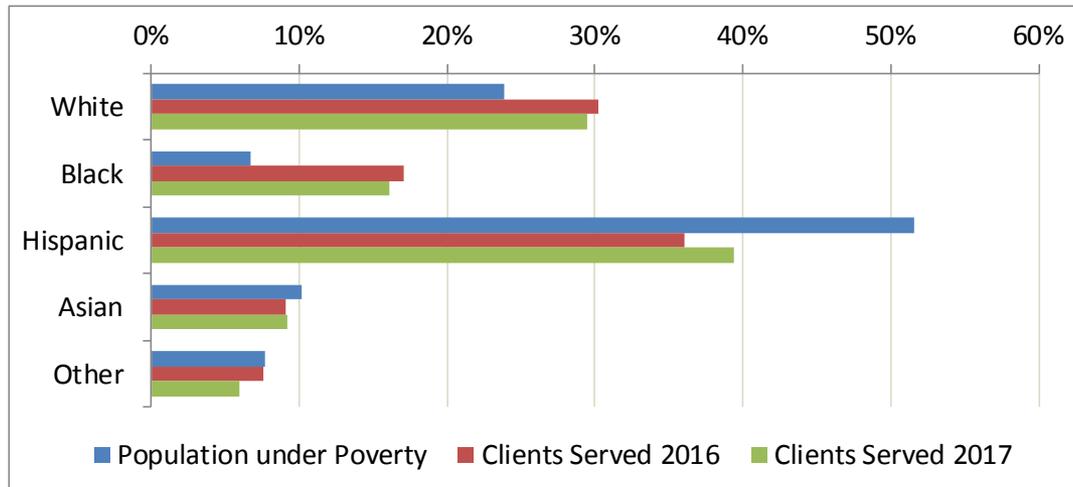




Race/Ethnicity Disparity

Race/Ethnicity	Clients Served, 2016		Clients Served, 2017		California Poverty Population*	
	N	%	N	%	N	%
White	73,821	30%	69,830	29%	1,893,699	24%
Black	41,833	17%	38,052	16%	531,491	7%
Hispanic	88,173	36%	93,249	39%	4,089,126	52%
Asian	22,312	9%	21,763	9%	804,962	10%
Other	18,581	8%	14,105	6%	604,569	8%
Total	244,720	100%	236,999	100%	7,923,847	100%

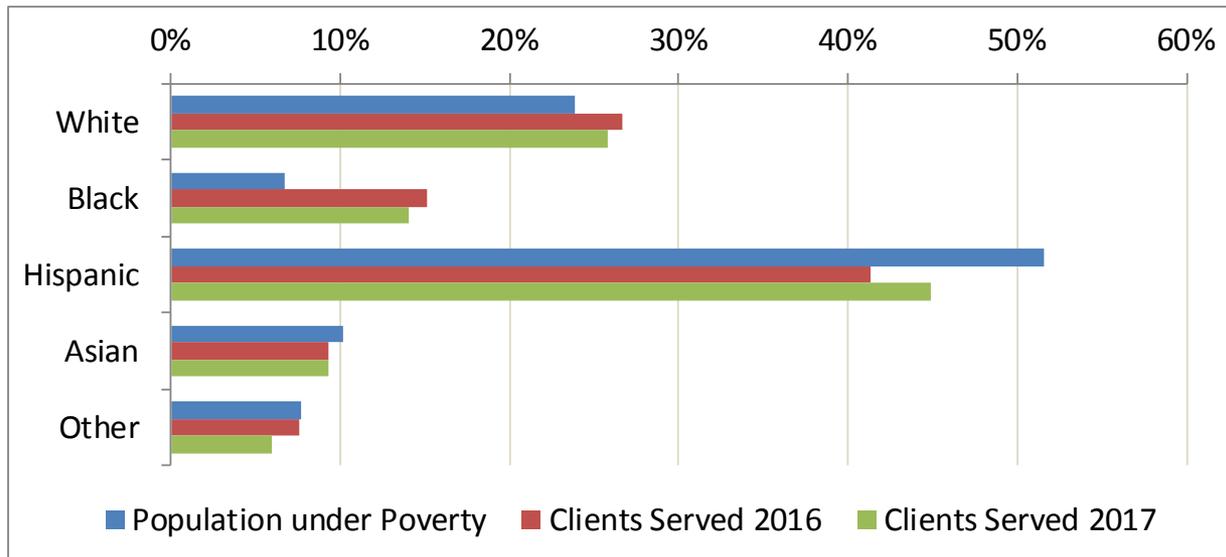


* Below 125 percent poverty line. US Census/American FactFinder. S1703: Selected Characteristics of People at Specified Levels of Poverty in the Past 12 Months, American Community Survey 5-Year Estimates, 2012-2016. October 2018 <<https://factfinder.census.gov>>.



Race/Ethnicity Disparity – Clients Served Extrapolated to Households

Race/Ethnicity	Clients Served, 2016		Clients Served, 2017		California Poverty Population	
	N	%	N	%	N	%
White	184,553	27%	174,575	26%	1,893,699	24%
Black	104,583	15%	95,130	14%	531,491	7%
Hispanic	286,562	41%	303,059	45%	4,089,126	52%
Asian	64,482	9%	62,895	9%	804,962	10%
Other	52,584	8%	39,917	6%	604,569	8%
Total	692,763	100%	675,576	100%	7,923,847	100%



4a. Demographic Analyses

Problems With Comparing Case Summary Report Data and Census Data To Determine Disparities

James W. Meeker JD, PhD
Legal Services Trust Fund Commissioner
Advisor to the Working Group
Professor Emeritus UC Irvine

Case Summary Report (CSR) data are provided by Legal Services Providers (LSPs) who have been funded by the Legal Services Trust Fund Commission (LSTF). The data are used by LSTF to develop summary statistics on the state wide overall impact LSPs are having on providing legal services to the poor (125% of the federal poverty level). Recently there has been an attempt to compare racial/ethnic and gender percentage distributions from the CSR to the census data from the American Community Survey (ACS) to demonstrate bias in the allocation of legal services by LSPs. Because of different measurement assumptions behind these two databases such comparisons are highly problematic and any conclusions drawn from such comparisons are not supported by the data.

1. The CSR data are based on legal services provided by LSPs to clients when there has been established an attorney client relationship and the case has been closed. This does not represent all clients served by LSPs. In 2017 the LSPs reported 240,806 clients represented in the CSR data. However during that year an additional 71,353 clients were served with self-help and 14,468 clients were served with outreach events. In neither of these last two types of service is an attorney client relationship established. Consequently CSR data only represents 74%, less than three quarters, of the clients served by LSPs. The ACS on the other hand is a statistically estimated count of the total population.
2. The CSR, by focusing on the represented client, does not capture all served in certain types of legal action. Take for example a Hispanic family of a married couple and four children has a legal housing problem (unlawful detainer/eviction or mortgage problem) and is successfully represented by a LSP preserving their housing situation. CSR counts one Hispanic being served, the defendant in the legal proceedings that the LSP has an attorney client relationship with. In fact six Hispanics were being served and that would be the counting approached used by the ACS. Any type of legal representation that could have an impact on the entire household is undercounted by the CSR data.
3. Number 2 above becomes even more complicated when impact litigation is being measured. Take a well-known classic impact litigation case *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954) eliminating de jure racial segregation in public schools. The case was originally filed as a class action suit, and the class was comprised of thirteen parents on behalf of their twenty children. By the time the case reached the Supreme Court it was combined with five other cases from different jurisdictions. Needless to say the impact of this case reaches far beyond the individuals directly involved in the litigation who had attorney client relationships. Under current reporting rules, if a LSP had a similar case in front of the 9th Circuit it would appear in the CSR database as a case representing the thirteen named clients. In addition, the LSP would file an impact and policy work form (see California Legal Aid Reporting and Evaluation Handbook, 2018) that addresses the impact nature of the case primarily in narrative form. The important point is that the CSR dataset does not reflect the number of individuals impacted by the case.
4. LSPs primarily serve the poor who seek them out for legal assistance with their problem. Research has found that not all people who have a legal problem will seek legal assistance. In fact most do not, for a number of reasons. The Legal Services Corporation (LSC) Justice Gap 2017ⁱ reports that only twenty percent of low-income Americans seek professional legal help for the civil

4a. Demographic Analyses

legal problems they face. While the LSC study does not address racial/ethnic difference, an earlier American Bar Association study did.

“African Americans report more community and regional problems than whites and fewer needs relating to personal finances and consumer issues. Latinos report fewer legal needs than non-Latinos, especially regarding finances and housing and property, although they express slightly more difficulties of a community or regional nature.”ⁱⁱ

Given that not all poor will seek assistance, that this varies by type of problem, and that problems vary by race/ethnicity (as well as by gender) it is completely unrealistic that race/ethnicity and gender distributions of clients seeking LSP assistance would mirror the overall race/ethnicity and gender distributions for the total poor population. In order to use the ACS census poverty distribution as a comparison group to see if legal services provided is done so in a biased fashion you would have to assume that legal help seeking behavior is the same across race/ethnic and gender categories and the evidence does not support such an assumption.

5. LSPs provide CSR data in aggregated form for the reporting year. The total number of males, females, non-binary, and gender unknown, white-not Hispanic origin, Black-not Hispanic, Hispanic etc. Because it is aggregated you cannot tell with the CSR data how many Black females were represented in housing cases or domestic violence cases.

If one wanted to see if there were bias in terms of clients represented by LSPs I would think you would need to design a data set with that purpose in mind. Given that we know that most people do not seek legal help, even when they have a problem that is recognized to be legal in nature, I would think the data would have to have information on those seeking legal help, those who are represented by LSPs and those who are turned away. You would also need to have data on type of service provided (brief advice and information, versus partial representation versus full representation). You would need gender and racial/ethnicity data as well as area of law. Finally you would need these data on an individual case level and not aggregated.

Currently such data are not available. In addition, it is not clear how IOLTA and EAF resources could be distributed differently even if bias was shown. The current regulatory requirements specify an allocation based on a county's proportional amount of poor based on the total poor population for the state. The statute would have to be significantly changed and policies developed for how allocation would be changed to account for demonstrated bias in service provided.

ⁱ 2017 Legal Services Corporation, “The Justice Gap: Measuring the Unmet Civil Legal Needs of Low-income Americans,” <https://www.lsc.gov/sites/default/files/images/TheJusticeGap-FullReport.pdf>

ⁱⁱ 1994 American Bar Association, “Legal Needs and Civil Justice, A Survey of Americans: Major Findings from the Comprehensive Legal Needs Study.” P13 of 33 document is not paginated
https://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/downloads/legalneedsstudy.pdf