



The State Bar *of California*

OPEN SESSION AGENDA ITEM 703 SEPTEMBER 2019

DATE: September 19, 2019

TO: Members, Board of Trustees

FROM: Dag MacLeod, Chief of Mission Advancement & Accountability Division
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SUBJECT: Justice Gap Study Update

EXECUTIVE SUMMARY

The State Bar Strategic Plan, Goal 4 objective (e) provides that the State Bar will complete a California Justice Gap Study no later than December 31, 2019. The California Justice Gap Study is modeled on the 2017 Legal Services Corporation (LSC) Justice Gap Study, but will also include an evaluation of the costs of legal education in California and the impact of those costs on access to justice, as well as possible approaches to addressing the costs of legal education including loan forgiveness programs or other means. This agenda item provides an update on the Justice Gap Study.

BACKGROUND

The Legal Services Corporation (LSC) 2017 study, *"Measuring the Civil Legal Needs of Low-income Americans,"* documented the civil legal needs of Americans living below 125 percent of the federal poverty line,¹ help-seeking behaviors as related to these needs, and the resources available to address them. Although the report provides a great deal of valuable information, the national focus prevented the findings from being used directly to inform California policy and planning in the area of civil legal assistance and increasing access to justice.

To provide California-specific data for these purposes, the State Bar's Strategic Plan directs staff to conduct a California Justice Gap Study. Though modeled on the national study conducted by

¹ The Federal Poverty Line is defined as an annual income of \$32,188 for a family of four.

LSC, the California Justice Gap Study departs from the national report in a number of important areas. Specifically, the California Justice Gap Study:

- looks at low-income Californians *and* Californians who are above the federal poverty level. This data will help the State Bar understand the extent to which all Californians encounter, and how they address, civil legal problems;
- includes an over-sample of Spanish-language speakers, seniors, and disabled Californians to better understand issues that may uniquely affect these communities;
- includes survey questions about civil legal needs related to immigration issues;
- includes an evaluation of the costs of legal education in California and adds information from a survey of law-school students to understand the impact of student-loan debt on career choices, specifically, why students choose careers in legal aid and why they do not; and
- includes information from a study on recruitment and retention of legal aid attorneys, again, looking at the availability of legal aid attorneys to meet the civil legal needs of Californians.

DISCUSSION

Survey of the Civil Legal Needs of Californians

The centerpiece of the Justice Gap Study is a survey of Californians conducted under contract with the National Opinion Research Center (NORC) at the University of Chicago. Modeled on the survey conducted for the LSC, NORC surveyed nearly 4,000 California residents to determine the extent of civil legal problems they faced in the past year and whether they sought legal help for those problems.

The survey also included questions about the kinds of help respondents received or why they chose not to seek help and the respondents' attitudes about the status or resolution of their legal issues. Through these interviews, the survey allows for a detailed analysis of the civil legal challenges Californians faced in the past year.

NORC has provided a technical report with a summary of the findings which is being reviewed and analyzed by State Bar staff (Attachment A). During the next month, staff will continue working with NORC and other stakeholders to finalize the technical report and begin writing an Executive Justice Gap Report that goes beyond the technical elements of the study and draws out the policy implications of the findings

Preliminary findings from the technical report indicate that:

- health, financial, and employment problems are the most commonly reported among Californians of all income levels;
- low-income Californians are most likely to say that problems related to child and custody issues, income maintenance, and homeownership have impacted them very much or severely;
- low-income Californians are less likely to have sought or received legal help for their problems;
- those low-income Californians who received legal help were generally satisfied with how their issues were resolved with 72 percent saying that they received or expect to receive as much legal help as they need, and 56 percent indicating that they were very or extremely satisfied with the outcome;
- where no legal help was sought, the top reasons cited for not seeking assistance were:
 - deciding to deal with the problem without getting help (28 percent);
 - uncertainty about whether the problem was a legal issue (24 percent);
 - fear of pursuing legal action (22 percent) and;
 - concerns about cost (21 percent).

Survey of Law Students

Attorneys working in legal aid nonprofits, many of which are funded by the State Bar, are among the most essential resources for meeting the civil legal needs of low-income Californians. Thus, an important question that arose in planning for the Justice Gap Study has to do with not only the need for funding for legal aid, but also the supply of attorneys who choose to work in this practice area. The survey of law students is designed to collect information on the areas that law students plan to practice in, determine whether intended practice areas change over the course of law school, and evaluate how the cost of a legal education and student-loan debt affect the salary expectations and career plans of law students. This information will help the State Bar understand the potential impact of loan forgiveness programs on career choice.

The law student survey was launched on September 9 with a distribution by email to approximately 7,000 students currently registered with the State Bar. A series of reminder emails will be sent to students encouraging their participation through early October before the survey closes on October 6. As of September 12, over 700 students had responded to the survey.

Recruitment and Retention Study

Continuing the examination of the role that legal aid attorneys play in meeting the needs of low-income Californians, the State Bar partnered with the Legal Aid Association of California

(LAAC) to conduct a Recruitment and Retention Study of current and former legal aid attorneys in California. Whereas the survey of law students will evaluate the choices that law students make and the pathways that lead to (or away from) careers in civil legal aid, the Recruitment and Retention Study looks at the challenges of recruiting and retaining attorneys in this field.

The State Bar will receive the data from the Recruitment and Retention Study prior to its public release and will incorporate those findings into the Justice Gap study.

The Technological and Regulatory Challenge

Together, the three components described above will comprise the final California Justice Gap Report. The report will summarize and synthesize the findings of these various studies to provide analysis and recommendations to improve access to legal services for Californians.

Outside of the scope of the Justice Gap Study are two questions that are being addressed by the Task Force on Access through Innovation of Legal Services (ATILS): What role might technology play in closing the justice gap, and how might regulatory reform help meet the need for legal services?

While the California Justice Gap Report does not address the potential impact of technology on the justice gap, it should be noted that the distinction between the Justice Gap Study and the work of the ATILS Task Force is primarily one of focus rather than purpose. Economists distinguish between *extensive* gains in output and *intensive* gains in output. Increasing output extensively refers to adding more resources at an assumed level of productivity. The Justice Gap Study is seeking to understand exactly this question: assuming the *same* type of resource—legal aid attorneys—and the same level of productivity, what additional resources would be needed to close the gap?

In contrast, increasing outputs intensively refer to *qualitative* changes in the organization of production, or changes in technology that actually increase the productivity per unit of input. The ATILS Task Force is examining the possibility of *intensive* gains in the production and delivery of legal services. By looking at the regulatory framework and the way in which that framework interacts with and inhibits investment and technological innovation in the delivery of legal services, the ATILS Task Force considers the possibility of changing the underlying level of productivity to meet the civil legal needs of Californians.

FISCAL/PERSONNEL IMPACT

None

RULE AMENDMENTS

None

BOARD BOOK AMENDMENTS

None

STRATEGIC PLAN GOALS & OBJECTIVES

Goal: 4. Support access to legal services for low- and moderate- income Californians and promote policies and programs to eliminate bias and promote an inclusive environment in the legal system and for the public it serves, and strive to achieve a statewide attorney population that reflects the rich demographics of the state's population.

Objective: e. No later than December 31, 2019, complete a California Justice Gap Study. The Justice Gap Study will be modeled on the 2017 Legal Services Corporation Justice Gap Study but will also include an evaluation of the costs of legal education in California and the impact of those costs on access to justice, as well as possible approaches to addressing the costs of legal education including loan forgiveness programs or other means.

RECOMMENDATIONS

None

ATTACHMENT(S) LIST

- A. 2019 California Justice Gap Study – Technical Report