



The State Bar
of California

2019

CALIFORNIA JUSTICE GAP STUDY

EXECUTIVE REPORT





ABOUT THE STATE BAR

Created by the California Legislature in 1927, the State Bar of California is an administrative arm of the California Supreme Court. Its mission is to protect the public and includes the primary functions of licensing, regulation, and discipline of attorneys; the advancement of the ethical and competent practice of law; and support of efforts for greater access to, and inclusion in, the legal system. For more information, please visit: www.calbar.ca.gov/CAJusticeGap

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INTRODUCTION

The State Bar of California's mission is to protect the public and includes the support of efforts for greater access to, and inclusion in, the legal system. The commitment to access to justice is front and center in the State Bar's Strategic Plan,¹ which focuses on increasing access to legal services for low- and moderate-income Californians.

organizations, is the primary source of this funding.³ The State Bar maximizes revenue for legal services by ensuring that financial institutions are in compliance with IOLTA regulations that require them to offer competitive interest rates for IOLTA accounts, and recently launched a Leadership Bank Program to encourage financial institutions to increase revenue.⁴

Many Californians, **regardless of income,**
are navigating critical civil legal issues **without**
meaningful legal assistance.

Access to justice is a core tenet of our legal system. Unlike in criminal matters, there is no right to counsel in civil matters, including those relating to housing, employment, divorce, child custody, and domestic violence. Many Californians, regardless of income, are navigating critical civil legal issues without legal representation or meaningful legal assistance—nearly 90 percent of people facing eviction are unrepresented, and one or both parties are unrepresented in 70 percent of family law cases.²

The State Bar's commitment to access to justice is multifaceted and includes distribution of funds to support free civil legal services for low-income Californians, providing over \$452 million in grants to more than one hundred nonprofit legal services organizations (legal aid) since 1984. The Interest on Lawyers' Trust Accounts (IOLTA) program, which pools interest on short-term or nominal funds held in trust accounts for distribution to legal aid

In addition to IOLTA funds, the State Bar distributes Equal Access Funds (EAF) to legal aid on behalf of the Judicial Council. These funds have increased significantly over the past 20 years due to efforts by the Judicial Council, the Legislature, the State Bar, and other stakeholders. In 2020, the State Bar will distribute nearly \$100 million to legal aid, making it the largest funder of such services in the state. The State Bar's efforts to increase the availability of legal services include the following programs:

- Pro Bono Practice Program, incentivizing pro bono practice by waiving active State Bar licensing fees and providing free and reduced cost MCLE programs to pro bono attorneys;
- Certification of Lawyer Referral Services, which provide information and referrals to qualified, insured attorneys, including attorneys who charge reduced rates for low-income clients;

- Multijurisdictional Practice Program, which recently expanded its rules to allow active licensed out of state attorneys to practice at California legal aid organizations and law schools for up to five years;
- Support of disaster legal services, including convening legal aid organizations and government agencies to coordinate local efforts and connect impacted communities to legal services; and
- Coordination of statewide efforts to provide legal services to veterans and their families.

Despite all these efforts to increase funding and provide programmatic support and coordination, the justice gap in California persists and may be growing. To fully assess the scope of the problem, the State Bar conducted a multipronged analysis of Californians' civil legal needs and the challenges in meeting those needs. The State Bar approached this task with a recognition of California's diverse populations and the unique needs presented by this diversity: California is the third-largest geographically, and most populous, state in the country, with concentrated urban centers and isolated rural counties; no single ethnic group has a majority population, making California a majority-minority state; California boasts the largest veteran population in the country; and nearly 10 million Californians are immigrants.⁵ The study included a special focus on low-income Californians, seniors, those living in rural areas, veterans, people with disabilities, Spanish speakers, and survivors of sexual assault or domestic violence.

In its mission to support access to justice, the State Bar presents the findings of the California Justice Gap Study and recommends solutions to reduce the justice gap in California.

STUDY COMPONENTS

This report provides high-level findings of the California Justice Gap Study, which includes the following components:

- **California Justice Gap Survey:** Findings from a survey of Californians on the civil legal problems they faced in the past year and what they did to resolve those problems;
- **Intake Census: Reports from State Bar-funded legal aid organizations** about their ability to serve those who requested legal help, including the volume and types of problems, and the number of Californians assisted;
- **Legal Aid Recruitment and Retention Study: Findings from a study by the Legal Aid Association of California** on legal aid attorneys that analyzed the challenges faced by legal aid organizations who work to meet the civil legal needs of Californians; and
- **Law Student Survey: Survey and focus groups of California law students** on the impact of the cost of legal education and student loan debt on career choices, and the possible impact of loan forgiveness programs on legal aid career pipelines.

CIVIL LEGAL NEEDS IN CALIFORNIA

The State Bar partnered with NORC at the University of Chicago to conduct the 2019 California Justice Gap Survey. This survey was modeled after a national survey conducted by NORC on behalf of the Legal Services Corporation (LSC) that examined low-income Americans' civil legal needs. LSC's 2017 report, *The Justice Gap: Measuring the Unmet Civil Legal Needs of Low-Income Americans*, revealed a significant gap between low-income Americans' civil legal needs and the help they received to address those needs.⁶

While the LSC report provided an insightful national perspective, the State Bar sought to understand the specific legal needs of Californians and the resources available to meet those needs. The LSC survey focused exclusively on low-income Americans, defined for this report as those with household income at or below 125 percent of the Federal Poverty Level (FPL).⁷ In contrast, the California Justice Gap Survey surveyed Californians at all income levels, and also added questions on civil legal issues concerning immigration that were not included in the LSC survey.

The 2019 California Justice Gap Survey was based on interviews with 3,885 Californians, a sample representative of the state's population as a whole. The survey included an analysis of the civil legal needs of Californians with incomes at or below, and those above, 125 percent of FPL, and specific demographic

groups: seniors (65 and older), those living in rural areas, veterans, people with disabilities, Spanish speakers, and survivors of sexual assault or domestic violence.

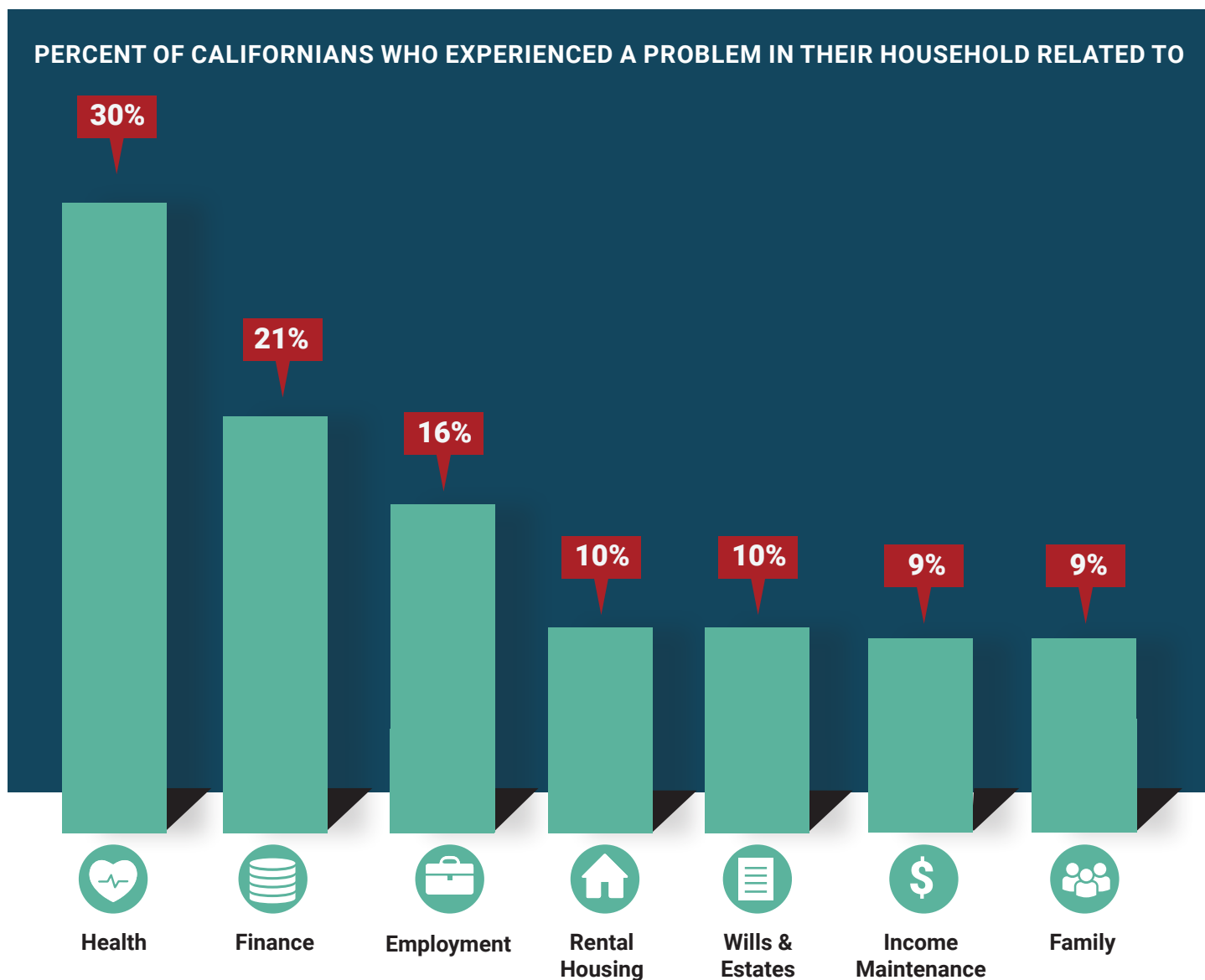
Logistical limitations of this particular survey did not allow for a focus on Californians with limited English proficiency.⁸ Also omitted was a focus on members of tribal communities, whose civil legal issues and corresponding available legal resources may differ significantly from those of the overall population of California. The State Bar intends to include these specific populations in follow-up studies. Analyses and the survey's methodological details are available in the report titled, *The California Justice Gap: Measuring the Unmet Civil Legal Needs of Californians* and its accompanying technical report (available at www.calbar.org/CAJusticeGap).

The California Justice Gap Survey found that 55 percent of Californians experienced at least one civil legal issue in their household in the past year and 13 percent experienced 6 or more. The rate was higher for those living in households with incomes at or below 125 percent of FPL than for those in households with incomes above this level. Health, finance, and employment were the main legal problem types identified by Californians overall.

55% of Californian's experience at least one civil legal problem in their household each year, and 13% of Californians experience six or more.

Approximately 85 percent of all Californians received no legal help, or inadequate legal help, for the civil legal problems they experienced.⁹ A significant justice gap persists even at higher levels of income: Californians between 501 and 600 percent of FPL received no legal help or inadequate legal help for 74 percent of their civil legal problems; those above 601 percent of FPL, received no or inadequate legal help for 78 percent of their problems.¹⁰

The California Justice Gap Survey revealed that there are two components to the justice gap: a knowledge gap and a service gap. For many problems, Californians simply do not know that the problem they experience has a legal component or remedy, and/or do not know where to look for legal help—this is the knowledge gap. The service gap occurs when Californians who seek legal help for their problems do not receive adequate help to resolve those problems.



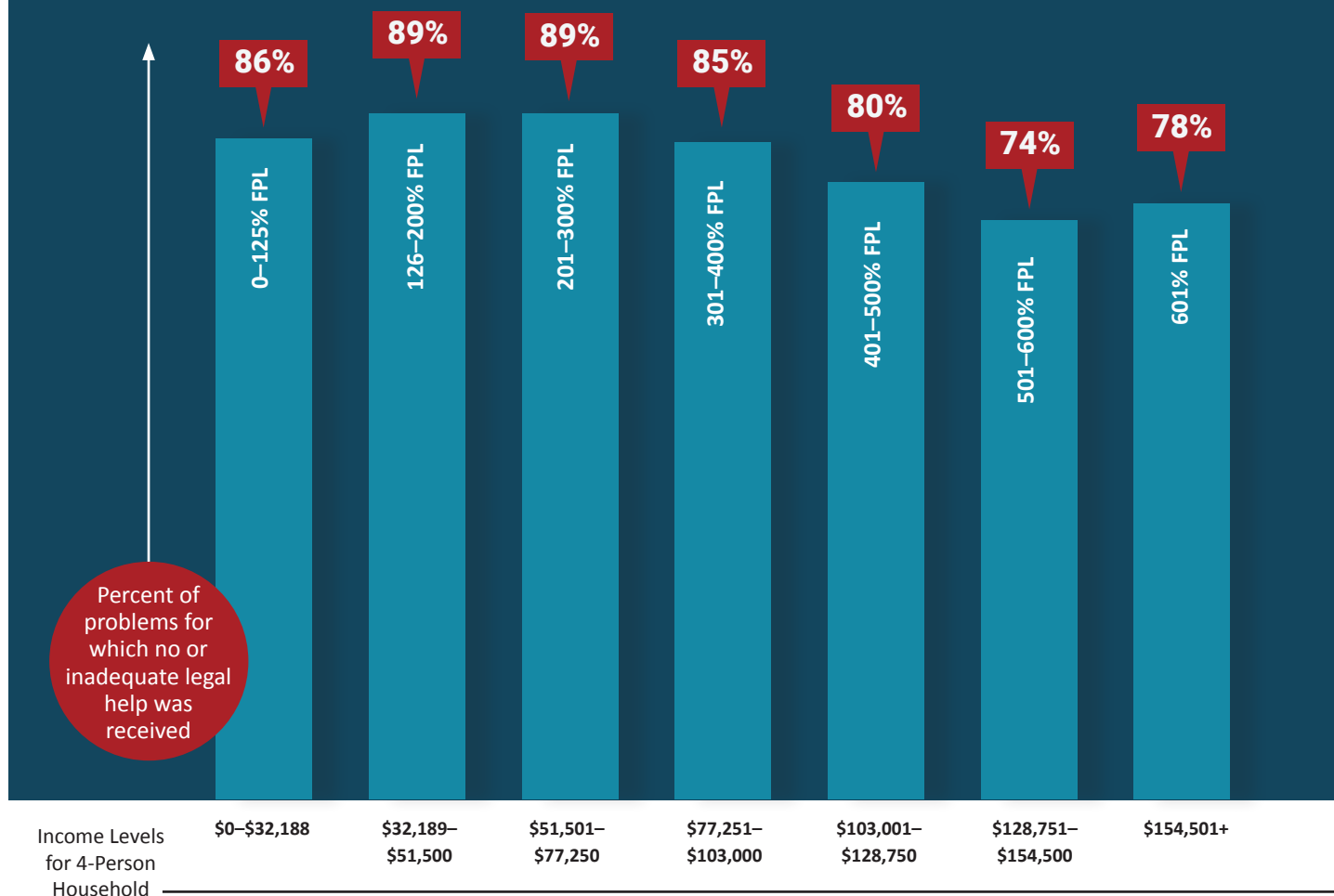
Californians received no or inadequate legal help for

85%

of their problems



THE JUSTICE GAP EXISTS AT ALL INCOME LEVELS



The most common types of civil legal problems experienced by Californians overall included issues related to health, finance, and employment. While the prevalence of specific types of problems was similar regardless of income, the types of problems for which Californians sought legal help varied significantly. Californians of all income levels sought legal help more often for problems they reported as having severe impact on their lives.

The California Justice Gap Survey included a special focus on seniors, those living in rural areas, veterans, people with disabilities, Spanish speakers, and survivors of sexual assault or domestic violence. Results showed that some of these groups experienced a disproportionate number of legal problems and received legal help from different sources compared to the overall population. Those living in households with a person with disabilities

experienced an average of three times as many, and survivors of domestic violence or sexual assault experienced eight times as many, legal problems as others. The sources of legal help also varied: rural Californians were more likely to get help from a legal hotline than urban Californians; veterans and seniors were more likely than others to get help from a paid private attorney.

The California Justice Gap Survey also included an analysis of the justice gap by geographic region. The survey found variances in the rates at which Californians living in different regions experienced civil legal problems, the average number of problems per household, and the rates at which they sought and received help. These differences appear to be caused by differences in the demographic makeup of these regions (see the technical report at www.calbar.org/CAJusticeGap).

TOP PROBLEM TYPES FOR WHICH CALIFORNIANS SOUGHT AND RECEIVED LEGAL HELP

All Californians



73%
Wills & Estates



61%
Custody



58%
Family

Californians at or below 125% FPL



54%
Custody



50%
Home-ownership



47%
Immigration

Californians above 125% FPL



77%
Wills & Estates



67%
Family



54%
Custody

GAP IN KNOWLEDGE

The California Justice Gap Survey revealed that a significant portion of the justice gap in California is caused by a lack of knowledge about the civil legal system. Although more than half of Californians experience at least one actionable civil legal problem in a given year, they seek legal help for only 32 percent of them. Most do not recognize the legal aspects of these problems; if they do recognize those aspects, many do not know how to access the appropriate resources to address them.

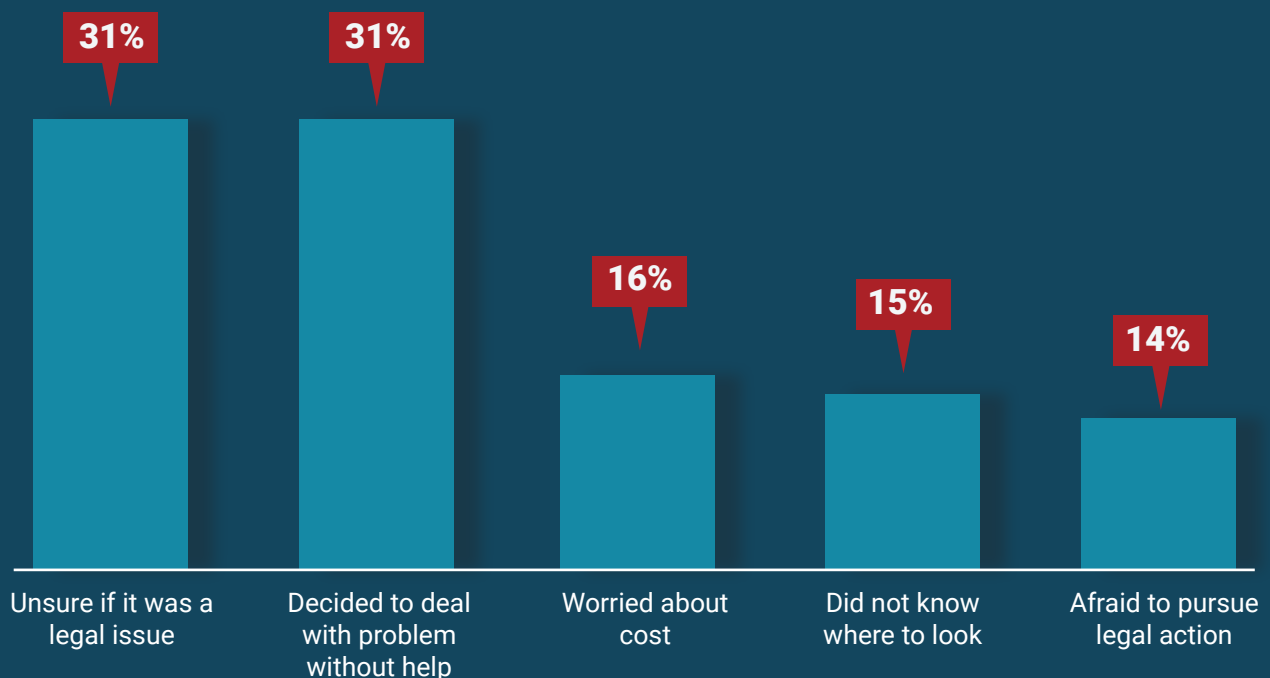
A lack of knowledge, concern about legal costs, or a fear of pursuing legal action leads many Californians to deal with problems on their own rather than seek legal help for their otherwise actionable civil legal issues. The reasons given for not seeking legal help point to a gap in knowledge about the civil legal system.

Californians receive only nonlegal help for 26 percent of the problems they experience. The primary sources of nonlegal help include friends or family, nonlegal professionals such as

CALIFORNIANS WHO EXPERIENCE A LEGAL PROBLEM



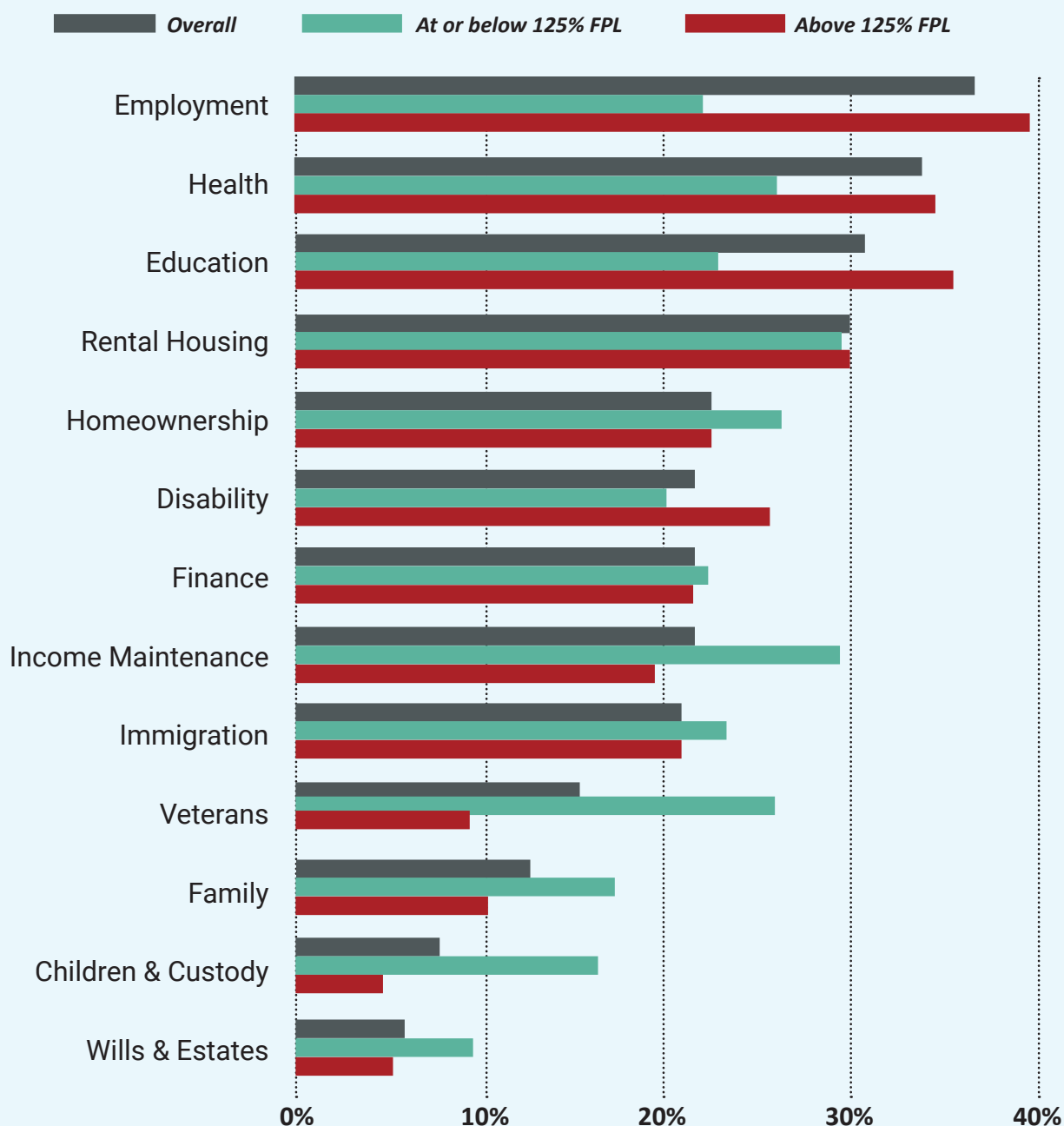
TOP REASONS FOR NOT SEEKING LEGAL HELP



doctors, and religious or spiritual leaders. Californians with incomes above 125 percent of FPL are most likely to seek nonlegal help for problems related to employment, health, and education while Californians with lower incomes are most likely to seek only nonlegal help for problems related to rental housing, income maintenance, health, and veterans issues.

Californians who seek legal help for their problems get that help both online and offline. Legal aid organizations are the most common source for those with incomes at or below 125 percent of FPL, while paid private attorneys are the most common source of legal help for Californians overall and for those with higher incomes.

PERCENT OF PROBLEMS FOR WHICH ONLY NONLEGAL HELP WAS RECEIVED



SOURCES OF OFFLINE LEGAL HELP FOR PROBLEMS CALIFORNIANS EXPERIENCED

49% Paid private attorney

31% Legal aid

12% Social or human services organizations

10% Self-help centers at court



10% Volunteer attorneys

6% Legal hotlines

3% Disability service providers

3% Notary public

TYPE OF LEGAL HELP CALIFORNIANS RECEIVED FOR THEIR PROBLEMS



OFFLINE

49%

Legal advice

34%

Filling out documents or forms

23%

Legal professional helped negotiate with other parties

14%

Referral to legal information online

12%

Represented by a legal professional in court



ONLINE

41%

Info about procedures used to solve similar issues

36%

The rights people have and what the law says

22%

Information on how to get legal help

12%

Looked for a lawyer

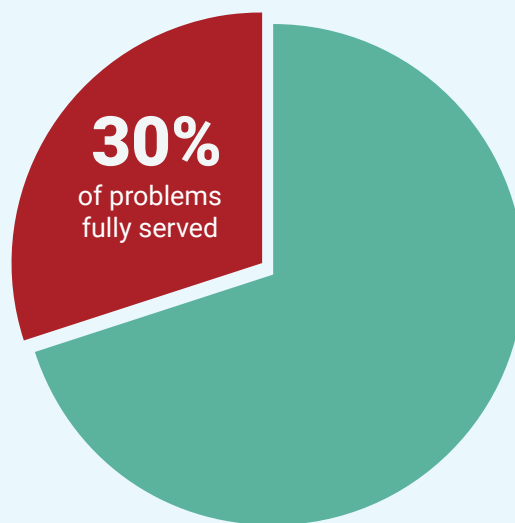
GAP IN SERVICES

The service gap occurs when the available legal services are insufficient to meet the legal needs of Californians who seek legal help for their problems.

Legal aid organizations are the most common source of legal help for those with incomes at or below 125 percent of FPL. The State Bar conducted an Intake Census to collect data from State Bar-funded legal aid organizations about the individuals who contacted them for legal help and the ability of those organizations to serve them. The Intake Census data enables the calculation of the service gap as related to those Californians eligible for free services and seeking legal assistance via a legal aid organization.

Reports from State Bar-funded legal aid organizations indicate they cannot resolve every case presented to them: help was inadequate for 63 to 70 percent of problems reported.¹¹ The reasons why legal aid may not be able to assist with a problem include insufficient resources, conflicts of interest, and the problem type not aligning with an organization's mission or priorities.

Low-income Californians approached State Bar-funded legal aid organizations for help with over 450,000 civil legal problems **and were fully served for only 30% of those problems.**



TYPES OF LEGAL AID ASSISTANCE RECEIVED BY CALIFORNIANS FOR PROBLEMS THAT WERE FULLY SERVED



41%

Limited legal help such as preparation of documents



33%

Legal information, advice, or self-help resources



26%

Ongoing legal help such as complex legal research or representation in court

across all incomes includes court self-help centers, nonprofit social services, and legal hotlines, each serving a distinct purpose:

- *Court-based self-help centers* provide vital information about the court process and may assist litigants in preparing the necessary paperwork to move their cases forward, but they do not provide legal advice or representation; further study of the use and reach of these services requires the collection of current data on self-represented litigants by case type statewide.
- *Paid attorneys* give advice, prepare paperwork, and represent clients in court, but many Californians do not have the means to retain them; the California Justice Gap Survey found that most Californians do not retain attorneys to address their civil legal problems, regardless of income.
- *Social service agencies* provide many resources but may not have legal staff.
- *Legal hotlines* can provide useful information, educate callers, and in some cases, refer them to other resources for representation.

In addition to legal aid and paid private attorneys, the landscape of legal services for Californians

the State Bar
California

FUNDING FOR AND COST OF LEGAL SERVICES

2018 SOURCES OF LEGAL AID FUNDING IN CALIFORNIA ¹³

\$75 million
Private foundation grants

\$49 million
State Bar of California

\$47 million
Legal Services Corporation

\$25 million
Individual donors

\$13 million
Law firms/other organizations

\$8 million
Older Americans Act funding

\$3 million
US Department of Justice Legal Assistance for Victims program

Funding for legal services comes from many different sources, none of which are adequate to support the level of services required to close the justice gap. Understanding the gaps and restrictions in funding is another essential component of improving access to justice.

As the primary source of legal help for Californians with incomes below 125 percent of FPL,¹⁴ legal aid organizations play an essential role in providing access to the civil legal system for this population. Legal aid organizations cite a lack of resources as the reason they are unable to assist, or to fully resolve, one-third of cases reported to them.

Private attorneys donate hundreds of thousands of hours every year to provide free legal services, often through legal aid organizations that provide training and guidance to ensure competent pro bono representation. Based on the State Bar-funded legal aid organizations in 2018, almost 16,000 volunteer attorneys donated 429,913 hours to provide free legal services—equivalent to more than 1,500 full-time attorneys.

The State Bar is the largest single funding source for legal aid in California, distributing grants to approximately 100 legal aid organizations that provide free civil legal services to low-income Californians. The State Bar will distribute almost \$80 million in IOLTA and EAF grants in 2020, an increase from \$40 million in 2018 and \$53 million in 2019.

Fluctuations in revenue for these vital funding sources, caused by shifting interest rates and one-time statutory allocations, creates uncertainty for legal aid organizations. Uncertainty about the level of future-year funds, coupled with a statutory requirement that funds be spent in the year they are granted, limits the ability of organizations that rely on IOLTA funds to plan for the long term. Further, these funds are insufficient on their own to meet the demand for legal aid. Additional funding comes from a variety of public and private sources with varying restrictions and requirements; these funding streams can be unpredictable.

Additional funding for legal services, not exclusively for legal aid, comes from other government agencies, private foundations, fundraising efforts, and individual contributions, including:

- The Judicial Council of California, a major funder of legal services in California, distributed **\$60.9 million** in 2018-2019 to serve self-represented litigants through court-based self-help centers, family law facilitators, and small claims court advisors, and to provide representation for low-income Californians enabled by the Sargent Shriver Civil Counsel Act;¹⁵
- The California Department of Social Services awarded **\$46.7 million** pursuant to Welfare and Institutions Code sections 13302-13306 in 2018-2019 to nonprofit organizations to provide immigration services to immigrants who reside or have formerly resided in California;¹⁶ and
- The California Governor’s Office of Emergency Services distributed **\$2.8 million** in 2017 to organizations that provide legal assistance to crime victims.¹⁷

Funding restrictions present a number of challenges for legal services providers, especially for legal aid organizations. IOLTA funds provide the benefit of flexibility in determining how to spend the funds, as long as they are used to provide legal services to statutorily eligible clients. However, they are time-

limited typically to one-year funding cycles. For other types of grants, short funding cycles, large one-time awards that are unlikely to be renewed, and grants that require specific deliverables, all impact organizational priorities and attorney recruitment and retention efforts, and can hinder long-term sustainability. For example, a large one-time award may require the hiring of additional staff to meet grant deliverables, but result in layoffs when funding ends, leading not only to a reduction in services, but also to negative impacts on recruitment and retention efforts.

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Many Californians who do not qualify for legal aid based on their income **may not be able to afford a private attorney, who have average hourly rates of \$323 in California.**

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Income restrictions on funding, particularly for legal aid, leave many Californians with few alternatives for legal help. For example, a disabled military veteran may not qualify for legal aid based on income due to the amount of benefits received, but would also be unable to afford to pay a private attorney. At an average hourly rate of \$323,¹⁸ private attorneys are out of reach for most Californians. An annual salary of \$75,000 translates to an hourly rate of slightly less than \$37; even the well-compensated have to work nearly 10 hours to afford one hour of services from a private attorney.

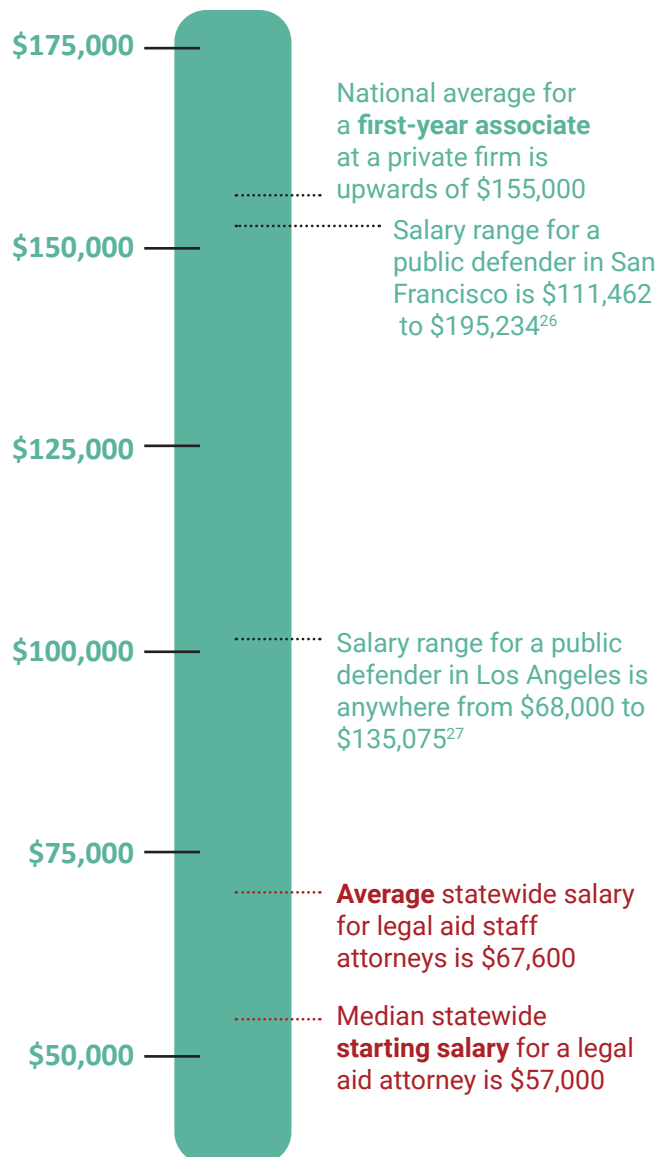
The service gap for Californians can be attributed only partially to insufficient funding. The nature of funding streams and grant requirements can also significantly influence the type and amount of services provided by legal aid organizations. Additionally, staffing challenges can limit a legal aid organization’s capacity. To fully understand the ongoing gap in services requires analysis of personnel trends.

LEGAL AID RECRUITMENT AND RETENTION

Despite increased funding for legal aid in recent years, recruitment and retention of attorneys has become an acute issue for legal aid organizations in California. A 2010 survey by the Legal Aid Association of California (LAAC) found that over one-third of attorneys working in legal aid left within three years of being hired.¹⁹ This trend appears to be accelerating, with legal aid organizations reporting in LAAC's most recent 2019 survey that one-third of their attorneys left within two years.²⁰

This problem is compounded by recent difficulties in recruiting, with smaller pools of applicants for open positions. Between October and November 2019, almost 60 attorney positions had been posted by over 20 legal aid organizations throughout California in the preceding two months.²¹ One executive director reported receiving as few as five applicants for a position that typically would have seen over 100 applications in years past.²²

According to LAAC's most recent study, the primary factors impacting recruitment and retention are low salaries, few career advancement opportunities, and burnout.²³ Salaries at legal aid organizations are drastically lower than their equivalents in private practice, and even in government.²⁴ The average statewide salary for a legal aid staff attorney is \$67,600.²⁵



The median statewide starting salary for a legal aid attorney in 2019 is **\$57,000**.²⁸ In contrast, the national average for a first-year associate at a private firm in 2019 is \$155,000, with some of the biggest firms starting at \$190,000.²⁹

The average statewide salary for legal aid staff attorneys is **\$67,600**.³⁰

Coupled with unprecedented levels of educational debt, low salaries pressure legal aid attorneys to seek other employment opportunities.³¹ Educational debt in particular has become a major barrier to long-term career prospects in legal aid.

The increasing cost of living in California is another factor impacting decisions to pursue careers in legal aid. In major metropolitan areas such as San Francisco and Los Angeles, housing costs can consume more than 50 percent of a legal aid attorney's income.³² Beyond the ability to meet their financial needs, many attorneys report feeling the psychological toll of low salaries, stating that they do not feel their work is valued or respected, especially those who are only able to work in legal aid because of their partner's income. Those with education debt report high levels of financial stress.³³

In addition to low salaries, the primary reasons attorneys report leaving a legal aid organization include burnout and limited opportunities for career advancement. Four in ten attorneys report burnout as a primary motivator for their decision to leave their legal aid organization.³⁴

High staff turnover has consequences for legal aid organizations and their clients. The majority of legal aid organizations surveyed by LAAC reported that it takes three to six months to fill an open attorney position.³⁵ A three- to six-month delay in filling an open position can result in project delays, impacting an organization's ability to meet grant deliverables or plan for the long term. Existing resources must be redirected to searching for new candidates, a substantial amount of time must be devoted to training new hires, and remaining staff must shoulder the burden of the caseload left behind. Staff turnover may result in reduced funding if the organization is unable to absorb or redistribute the workload and meet grant deliverables.

Clients are also impacted by staff turnover, who may feel confused or unsupported when their cases are transferred to a new attorney; this impact is exacerbated for cases that can take years to resolve, such as those involving immigration. The high turnover rate, and its attendant cost and client impact, contributes to the service gap.

TOP REASONS ATTORNEYS LEAVE LEGAL AID ORGANIZATIONS

61%

Financial pressure due to low salary

44%

Lack of career advancement opportunities

41%

Burnout

Respondents could select multiple factors as "major" or "primary" reasons for leaving

IMPACT OF THE COST OF EDUCATION

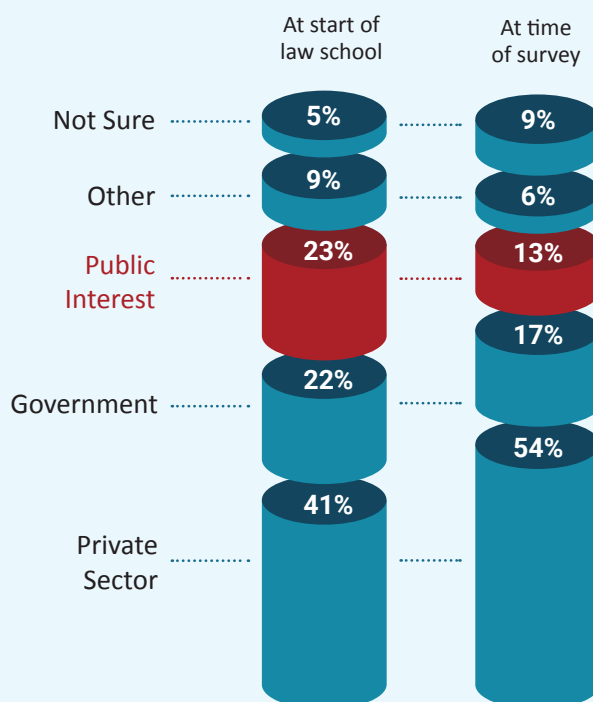
Addressing the pipeline of attorneys to legal aid is critical to reducing the justice gap. The California Justice Gap Study included an exploration of career decisions among law students to examine the status of the pipeline into public interest and legal aid careers.

The State Bar surveyed 2,476 law students registered with the State Bar and/or enrolled in California law schools during fall 2019. The survey asked students about their past and current career plans, their law school and total educational debt levels, their primary motivating factors in choosing their first job after law school, their familiarity with and rating of current loan repayment programs, their internship experiences, and their demographic characteristics. The State Bar partnered with LAAC to conduct law student focus groups across the state to validate and contextualize the survey results. The analysis and accompanying methodological details are in the report titled, *Public Interest Drift: Findings from the 2019 California Law Student Survey* (available at www.calbar.org/CAJusticeGap).

Research on public interest career pipelines in law school has examined what researchers call “public interest drift,” the trend among law students to veer away from public interest careers despite previous motivation to pursue such careers. According to the survey results, California law students enrolled in law schools accredited by the American Bar Association (ABA) and California-Accredited Law Schools (CALS) experienced a cumulative drift rate of 49 percent. This figure was 57 percent among students in their third or later year of law school. Given that only a fraction of students enrolled in California ABA law schools, and 14 percent of those enrolled in CALS ever express an interest in a public interest career, this level of drift is particularly problematic.³⁶

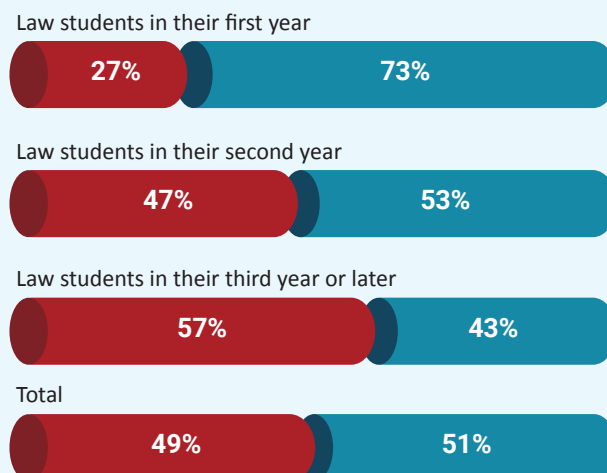
Among students at California ABA law schools and CALS who drifted, the most widely cited reason was the

INTENDED PRACTICE AREAS AMONG LAW STUDENTS IN THEIR THIRD YEAR OR AFTER



DRIFT AMONG LAW STUDENTS WHO START LAW SCHOOL INTENDING TO PRACTICE IN PUBLIC INTEREST SETTING UPON GRADUATION

Drifted from Public Interest (Red) Did not drift from Public Interest (Blue)



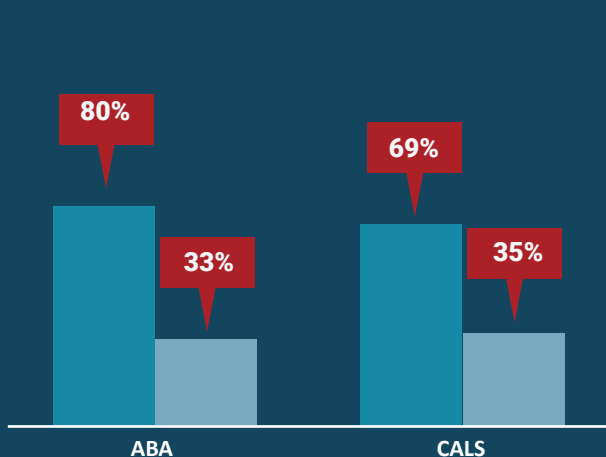
need to repay educational debt. Among students enrolled in California ABA law schools, 80 percent expect to graduate with law school loans, with a median estimated debt load of \$147,000. Student responses about expected law school loan debt at graduation closely match self-reported debt figures by ABA law schools.³⁷ Students who experienced public interest drift had a median law school debt load 40 percent higher than those who did not drift.

Law school Loan Repayment Assistance Programs (LRAPs) and the federal government's Public Service Loan Forgiveness Program (PSLF), as currently structured, have provided limited results in reducing public interest drift. Only 27 percent of law students enrolled in California ABA schools and CALS with current or prior interest in public interest careers were aware of their school's LRAP, and 68 percent were aware

of PSLF. When asked to rate these programs, respondents on average did not agree that the programs increased their feelings of financial security, nor were they confident that they would receive funds from, or have their loans forgiven by, the program. Law students commented that existing programs were ineffective due to low income ceiling requirements, inadequate funding, overly complicated terms, and influence over potential marriage decisions. For example, the LRAP program at one California ABA approved law school requires applicants to resubmit forms every six months, work in a nonprofit or government agency, and maintain a total income of less than \$60,000. If the graduate is married, income is calculated based on either the highest partner's income or one-half of their joint income, whichever is greater. Such requirements are typical of LRAP programs found at law schools throughout the state.

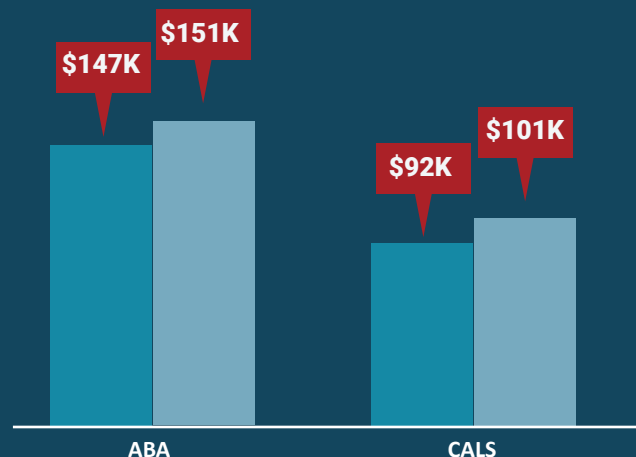
PROPORTION OF CALIFORNIA LAW STUDENTS WITH EDUCATIONAL DEBT

- Proportion with law school loan debt
- Proportion with other educational loan debt




MEDIAN EDUCATIONAL DEBT LEVELS REPORTED BY CALIFORNIA LAW STUDENTS WITH EDUCATIONAL DEBT

- Median law school loan debt
- Median total educational loan debt (including law school loan debt)



LOAN REPAYMENT/FORGIVENESS PROGRAM RATINGS

 Law School's Loan Repayment Assistance Program

 Public Service Loan Forgiveness Program

1 = Strongly Disagree

5 = Strongly Agree



I understand
how the program
functions



I am confident I
will receive funds
from the program/
loans will be
forgiven by the
program



The program
influenced my
career plans
after law school



I feel more
financially secure
because of the
program



Students who experienced public interest drift had a median law school debt load **40 percent higher** than those who did not drift.

Requirements for maintaining PSLF eligibility are also burdensome. Those applying for PSLF must provide proof of ten years of full-time employment at a qualified workplace as well as 120 loan payments on qualified loans. As of June 30, 2019, only 1,216 out of 102,051 applications have been approved by the U.S. Department of Education, with missing qualifying payments serving as the most common reason for rejection.³⁸

Based on the information gathered in the law student survey, a California law student with no debt is 10 percentage points less likely to drift than an identical law student with the average amount of law school debt. Other factors, such as internship experience and ratings of existing loan repayment programs, also play important roles in determining the likelihood of public interest drift among law students. Holding all factors equal, students at California ABA schools and CALS schools who interned at a public interest firm the prior summer were 34 percentage points less likely to drift than those who did not. This analysis suggests that experience interning at a public interest organization is the strongest predictor of a student maintaining their plans to pursue a public interest career after graduation.³⁹

The results from the focus groups administered by LAAC provide additional context on the value of internships. In the focus groups, students intent

TOP 5 REASONS CITED FOR PUBLIC INTEREST DRIFT ⁴⁰



71% need to make more money than public interest jobs pay because of educational debt

40% are not confident that Federal Loan Forgiveness Program will continue

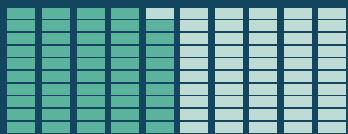
32% plan to pursue public interest job after paying off educational debt

28% plan to pursue public interest job after working in the private sector

27% want or have to make more money than public interest jobs pay, but not because of educational debt

on working in the public interest field reported obstacles to interning at public interest organizations due to a lack of funding for such internships. Considering the strong statistical relationship between internship experience at public interest organizations and commitment to public interest

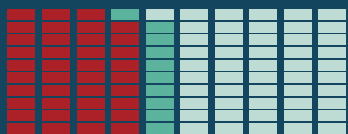
careers, as well as the reported scarcity of available funding for students to pursue such internships, it is clear that increasing funding for internships at public interest organizations is a direct way to assist law students in sustaining their public interest career goals.⁴¹



49%

CURRENT DRIFT RATE

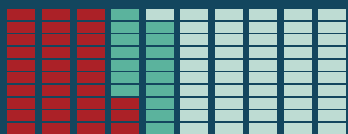
Under current conditions, California law students intent on public interest careers have a 49% chance of veering away from public interest careers.



39%

REDUCE DEBT

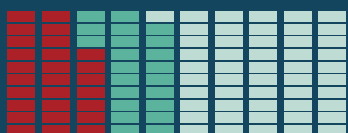
If all California law students intent on public interest careers had no debt, they would have a 39% chance of veering away from public careers.



33%

ENSURE LRAP/PSLF

If all California law students intent on public interest were confident in LRAP and/or PSLF repaying their debt, they would have a 33% chance of veering away from public interest careers.



27%

PROMOTE INTERNSHIPS

If all California law students intent on public interest careers held internships at public interest firms, they would have a 27% chance of veering away from public interest careers.

RECOMMENDATIONS

Most Californians do not seek or receive legal help because they do not know that the problems they face are legal, and if they do, they are uncertain as to how to access legal help. Even when Californians do seek and receive legal help for their problems, that help is insufficient to fully resolve a majority of those problems. The recommendations that follow address the two primary components of the justice gap as identified by the data collection and analysis that formed the basis for the California Justice Gap Study: the Knowledge Gap and the Service Gap. In addition to the present recommendations, the State Bar has identified a number of areas requiring further study including:

- The legal services needs and corresponding resources of tribal communities and Californians with limited proficiency in English,
- The legal help-seeking behavior of Californians and the factors that keep them from seeking legal help,
- Recruitment and retention challenges that legal aid organizations face and further data-gathering on staff turnover, and
- The public interest career pipeline, with a focus on diversity in the legal profession.

KNOWLEDGE GAP

Strategic efforts to educate the public about the civil legal system can help reduce the knowledge gap.

Targeted outreach to Californians based on the specific types of problems most commonly experienced may increase the likelihood that the legal aspects of those problems are diagnosed.

Technology can be leveraged to help Californians more easily diagnose legal problems and navigate the civil legal system. A 2019 study of legal technology for nonlawyers by Rebecca Sandefur found that there are currently hundreds of legal tools for nonlawyers on the market, but those tools are limited, often poorly designed, and not accessible to those who would benefit from them the most.⁴² This study also found that most legal tools focus on providing information or assistance that is only helpful once an individual has recognized that their problem has a legal aspect and is ready to take action. Unfortunately, these tools are of little use for the majority of Californians who experience legal problems but do not seek legal help due to the knowledge gap.

Recommendation: Increase the availability of accessible, engaging, and reliable legal information and tools to help diagnose legal problems.

- Optimize search engine results, to ensure that Californians are directed to reputable sources of information and assistance. Provide online legal information about the most common types of problems faced by Californians: health, finance, employment, and income maintenance. Regularly

Strategic efforts to educate the public about the civil legal system can help reduce the knowledge gap.

update websites to ensure that information is current, digestible, and easy to find.

- Explore regulatory reforms designed to encourage technological innovation in the legal sector and remove obstacles to the development of useful diagnostic legal tools.
- The private sector should partner with legal service providers to develop intuitive tools that can help Californians diagnose legal problems and navigate the civil legal system.
- Legal aid funding should address the need for help in diagnosing the legal aspects of problems.
- Legal service providers should deliver “know your rights” trainings online and develop content to distribute at nonlegal entities such as schools, social services organizations, and community centers, to educate the public about the most common types of legal problems.

SERVICE GAP

The current legal services delivery system is unable to meet the legal needs of Californians. The service gap leaves millions of Californians, across all income levels, without access to adequate legal help to fully resolve their civil legal problems. Funding for legal services is a key component to reduce the justice gap, but funding alone will not be enough.

Recommendation: Modify legal aid funding requirements to improve organizational efficiency and sustainability.

- Adopt uniform income eligibility limits and other funding requirements to decrease administrative burdens on legal aid organizations.
- Extend funding cycles beyond 12 months to support long-term planning and provide a consistent funding base for legal aid.
- Provide unrestricted multiyear grants for general operating costs and consider raising income eligibility limits for free civil legal aid to support Californians whose incomes are above 125 percent of FPL.⁴³

Recommendation: Remove barriers to recruitment and retention of legal aid attorneys.

- Fund paid law student summer internship opportunities, which increase the pipeline of legal aid attorneys.
- Incorporate flexible hours and remote work options, career advancement opportunities, and support for self-care and wellness into legal aid recruitment and retention strategies.
- Promote legal aid careers through law school career centers, at campus events, and on job boards.
- Fund paid internships at legal aid organizations.
- Increase law school support to those navigating loan repayment programs.

Funding for legal services is a key component to reduce the justice gap, but **funding alone will not be enough.**

The State Bar of California recognizes the **need for legal innovation and regulatory reform** that could stimulate the creation of new legal service models designed to **reduce the justice gap in California.**

- Pilot LRAPs that target areas of greatest legal need, based on problem types and geographic regions.
- Pilot tuition assistance programs contingent on public interest work to determine impact on public interest drift.

Recommendation: Increase the availability of legal services and address the areas of greatest legal need.

- Identify technology and nontechnology based approaches to create more affordable legal services for those who will not qualify for legal aid, but who cannot pay the current market rate for attorney services.
- Fund projects addressing the most common types of problems faced by Californians: health, finance, employment, and income maintenance.
- Address, through funding and services, the regional disparities identified in the California Justice Gap Study (see the technical report at www.calbar.org/CAJusticeGap).
- Collect more robust data on self-represented litigants so that approaches to addressing the needs of this population can be informed by current and comprehensive data.

As a regulatory agency with a mission to protect the public and increase access to justice, the State Bar of

California recognizes the need for legal innovation and regulatory reform that could stimulate the creation of new legal service models in order to reduce the justice gap in California. In 2018, the State Bar's Board of Trustees created the Task Force on Access Through Innovation of Legal Services (ATILS). ATILS is charged with identifying possible regulatory changes to enhance the delivery of, and access to, legal services through the use of technology, including artificial intelligence and online legal service delivery models. Since its inception, ATILS has expanded its focus to include nontechnology based solutions, including the Limited License Legal Technicians model, adoption of which in California could increase access to legal services by expanding the universe of people eligible to give legal advice.

Final recommendations from the ATILS Task Force will be submitted to the State Bar Board of Trustees in Spring 2020. As highlighted in the recommendations listed above, responsible regulatory reform is likely one part of the solution to closing the justice gap; given the magnitude of the problem and the diversity of California's population, no single intervention alone will be enough to close it. The California Justice Gap Study findings present opportunities for legal services providers, courts, funders, and other stakeholders to help increase access to the legal system for all Californians.



ACKNOWLEDGEMENTS

The State Bar of California acknowledges NORC at the University of Chicago for its contributions to the 2019 California Justice Gap Survey, the State Bar-funded legal aid organizations who participated in the California Justice Gap Study, the California Commission on Access to Justice, and the Legal Aid Association of California for their contributions to this report. The State Bar thanks the California State Bar Board of Trustees, the Legal Services Trust Fund Commission, and the Judicial Council of California for their support of the California Justice Gap Study.

2019 STATE BAR OF CALIFORNIA GRANTEES

Advancing Justice - Asian Law Caucus
Advancing Justice - Los Angeles
Affordable Housing Advocates
Aids Legal Referral Panel
Alameda County Homeless Action Center
Alliance for Children's Rights
Asian Pacific Islander Legal Outreach
Bay Area Legal Aid
Bet Tzedek Legal Services
California Advocates for Nursing Home Reform
California Indian Legal Services
California Rural Legal Assistance Foundation
California Rural Legal Assistance, Inc.
California Women's Law Center
Casa Cornelia Law Center
Center for Gender and Refugee Studies - California
Center for Health Care Rights
Center for Human Rights and Constitutional Law
Central California Legal Services
Centro Legal de la Raza
Chapman University Family Protection Clinic
Child Care Law Center
Coalition of California Welfare Rights Organizations
Community Legal
Community Legal Aid SoCal
Community Legal Services in East Palo Alto
Contra Costa Senior Legal Services
Disability Rights California
Disability Rights Education and Defense Fund
Disability Rights Legal Center
East Bay Community Law Center
Elder Law & Advocacy
Family Legal Assistance at CHOC Children's
Family Violence Appellate Project
Family Violence Law Center
Greater Bakersfield Legal Assistance
Harriett Buhai Center for Family Law
Housing and Economic Rights Advocates
IELLA Legal Aid Project
Immigrant Legal Resource Center
Impact Fund
Inland Counties Legal Services
Inner City Law Center
Justice & Diversity Center of the Bar Association of San Francisco
Justice in Aging
La Raza Centro Legal
LACBA Counsel for Justice
Law Foundation of Silicon Valley
Lawyers' Committee for Civil Rights
Learning Rights Law Center
Legal Access Alameda
Legal Aid at Work
Legal Aid Foundation of Los Angeles
Legal Aid Foundation of Santa Barbara County
Legal Aid of Marin
Legal Aid of Sonoma County
Legal Aid Society of San Bernardino
Legal Aid Society of San Diego
Legal Aid Society of San Mateo County
Legal Assistance for Seniors
Legal Assistance to the Elderly
Legal Services for Children
Legal Services for Prisoners with Children
Legal Services for Seniors
Legal Services of Northern California
Los Angeles Center for Law and Justice
McGeorge Community Legal Services
Mental Health Advocacy Services
National Center for Youth Law
National Health Law Program
National Housing Law Project
National Immigration Law Center
Neighborhood Legal Services
New American Legal Clinic
OneJustice
Prison Law Office
Public Advocates Inc.
Public Counsel
Public Interest Law Project
Public Law Center
Riverside Legal Aid
San Diego Volunteer Lawyer Program
San Luis Obispo Legal Assistance Foundation
Santa Clara County Asian Law Alliance
Santa Clara University Alexander Law Center
Senior Adults Legal Assistance
Senior Advocacy Network
Senior Citizens Legal Services
UC Davis School of Law Legal Clinics
USD School of Law Legal Clinics
Veterans Legal Institute
Voluntary Legal Services Program of Northern California
Wage Justice Center
Watsonville Law Center
Western Center on Law and Poverty
Worksafe, Inc.
Youth Law Center
Yuba-Sutter Legal Center for Seniors

ENDNOTES

1. The State Bar of California: 2017-2022 Strategic Plan (updated November 2019), p.5 at www.calbar.ca.gov/Portals/0/documents/bog/Updated-2017-2022-Strategic-Plan.pdf (last visited Dec. 4, 2019).

2. These statistics are outdated as they were published in a 2013 California report about serving self-represented litigants. Further study requires updated data on this population. Judicial Council of California, Task Force on Self-Represented Litigants: *Statewide Action Plan for Serving Self-Represented Litigants*, p. 2 at www.courts.ca.gov/documents/selfreplitsrept.pdf (last visited Dec. 4, 2019).

3. Business and Professions Code sections 6210-6228, known as the IOLTA statute, require lawyers to place client funds that are on deposit for short periods of time or of nominal amounts into interest- or dividend-bearing accounts. The interest from these accounts is pooled and remitted to the State Bar and distributed (less administrative costs), based on the IOLTA statutory formula, to qualified legal aid organizations that provide free legal services in civil matters to indigent persons in California.

4. The Leadership Bank Program encourages financial institutions to elect the established compliance interest rate and waive all fees on IOLTA products to increase revenue for legal services.

5. United State Census Bureau, at www.census.gov/quickfacts/geo/chart/CA/VET605217 (last visited Dec. 4, 2019).

6. Legal Services Corporation: *The Justice Gap: Measuring the Unmet Civil Legal Needs of Low-income Americans* (June 2017). Prepared by NORC at the University of Chicago for Legal Services Corporation, at www.lsc.gov/media-center/publications/2017-justice-gap-report (last visited Dec. 4, 2019).

7. A family of four living at 125% of the 2019 FPL has an annual income of \$32,188. (<https://aspe.hhs.gov/poverty-guidelines>) This income level is used to define low-income because State Bar-funded organizations apply this statutory requirement to determine income eligibility for free civil legal services.

8. The California Justice Gap Survey included an analysis of Spanish speakers, identified as those who speak Spanish at home. This group was not limited to those with limited proficiency in English.

9. This figure includes problems for which respondents indicated (1) they sought no help of any kind, (2) they sought some sort of assistance from others and/or information online, but they did not seek the help of a legal professional offline, (3) they sought help from a legal professional, but were unable to get it, or (4) they sought and received help from a legal professional offline, but felt that they did not or would not be able to get as much legal help with the issue as they felt they needed.

10. A family of four living at 600% of the 2019 FPL has an annual income of \$154,500, putting them at the upper end of the middle class in California, estimated by the Pew Research Center to range between \$59,702 and \$179,105. www.pewresearch.org/fact-tank/2018/09/06/the-american-middle-class-is-stable-in-size-but-losing-ground-financially-to-upper-income-families

11. At the time of reporting, State Bar-funded organizations reported the level of service for seven percent of problems remained pending; those problems would receive some level of service, but how much was unclear. Assuming that all those problems were fully resolved, legal aid would have been unable to fully assist with 63 percent of problems. Assuming that none of those problems received sufficient help, then 70 percent of problems would not be fully served. The true percentage is likely somewhere in between this range.

12. According to the California Justice Gap Survey, 60 percent of low-income Californians experienced at least one civil legal problem in the past year, with the average low income household experiencing 4.3 civil legal problems. According to the 2017 American Community Survey 5-Year Estimates, there are 12.9 million households in California. Of these households, approximately 16 percent live at or below 125 percent of FPL (based on the proportion in the weighted NORC sample, which is representative of California's population). Combining this information, low-income California households had an estimated 5.3 million civil legal problems in the last year. Low-income Californians did not receive legal help for 70 percent of their problems, meaning that Californians had an estimated 3.7 million civil legal problems in the last year for which they did not receive help. Assuming that each problem would require an average of 5 hours of work and that a full-time attorney works 40 hours per week, there would need to be an additional 8,961 attorneys solely devoted to the civil legal problems of low-income Californians to service all of their problems.

13. This is not an exhaustive list and does not include local funds, including Community Service Block Grants, among others.

14. This does not represent all the legal aid organizations in California. Additional organizations provide free or low-cost services but may not be eligible, or choose not to apply, for State Bar grants.

15. The Judicial Council also funds Juvenile Dependency Counsel. In FY 2018-19 that amount was \$136.7 million.

16. Not all of these grant funds were solely for legal services.

17. Funding information for 2018-2019 is not available.

18. The \$323 average hourly rate is based on actual rates in California (actual rates are the rates a lawyer charges) according to the 2019 *Legal Trends Report* by Clio. www.clio.com/resources/legal-trends/2019-report/read-online/

19. Legal Aid Association of California: *Shaping the Future of Justice: Effective Recruitment and Retention of Civil Legal Aid Attorneys in California* (2010), p. 1. www.laaonline.org/wp-content/uploads/2010-LAAC-Recruitment-Retention-Report.pdf

20. Attorney turnover averaged 16.4 percent per year for 2017 and 2018 at the 56 organizations surveyed. Legal Aid Association of California: *California Legal Aid Recruitment and Retention Study* (2019), Preliminary findings.

21. Legal Aid Association of California, Legal Aid Jobs, <https://www.laaonline.org/employment/> (as of Nov. 12, 2019).

22. Legal Aid Association of California: *California Legal Aid Recruitment and Retention Study* (2019), Preliminary findings.

23. Ibid.

24. New Public Service Attorney Salary Figures from NALP Show Slow Growth Since 2004, https://www.nalp.org/uploads/PSASR_7-9-18_FINAL.pdf.

25. OneJustice: *California Legal Aid Compensation Survey* (2019), p. 56.

26. City and County of San Francisco, Salary Ordinance for Fiscal Years 2018 and 2019, p. 233, <https://sfdhr.org/sites/default/files/documents/Forms-Documents/Annual-Salary-Ordinance.pdf>

27. Information from GovernmentJobs.com where Los Angeles County lists open positions, description of Deputy Public Defender I position's minimum salary and Public Defender II position's maximum salary, <https://www.governmentjobs.com/careers/lacounty?key-words=Public+Defender> (as of Nov. 12, 2019).

28. Legal Aid Association of California: *California Legal Aid Recruitment and Retention Study* (2019), Preliminary findings.

29. National Association for Law Placement, Findings on First-Year Salaries from the 2019 Associate Salary Survey (2019), <https://www.nalp.org/0619research>

30. OneJustice: California Legal Aid Compensation Survey (2019), p. 56.

31. Legal Aid Association of California: California Legal Aid Recruitment and Retention Study (2019), Preliminary findings.

32. Ibid

33. Ibid

34. Ibid

35. Ibid

36. In the Law Student Survey, public interest includes civil legal aid organizations, public defender's offices, district attorney's offices, civil/human rights law firms, and other nonprofits.

37. Student responses to expected debt levels at graduation are significantly lower than debt levels recorded in the Recruitment and Retention survey administered by LAAC. Potential reasons for this include expanding interest on income based repayment plans and underestimation by students when calculating debt loads.

38. According to the June 2019 Public Service Loan Forgiveness Report from the U.S. Department of Education Office of Federal Student Aid. Note that these figures include applicants from all eligible professions, including lawyers. Data from the report can be found at <https://www.ed.gov/news/press-releases/departments-education-releases-new-public-service-loan-forgiveness-application-data>.

39. These estimations are based on a multivariate logistic regression model in which the dependent variable is public interest drift. Independent variables in the model include the student's law school information, primary factors in choosing a first job out of law school, experience interning in a public interest firm, ratings of existing loan forgiveness programs, financial support and other demographic information. The sample population in this model is 468 students, representing the number of responses that selected "Public Interest" as their intended area of practice either currently or at the start of law school.

40. This chart does not add up to 100 since the question allowed respondents to select as many responses as were applicable. The denominator (202) includes California ABA and CALS students who experienced public interest drift.

41. The findings regarding internship experience may be the result of self-selection, in which public interest-minded students who interned at public interest organizations were more committed to public interest careers than those who did not. However, the results of the focus groups indicate that funding was a major barrier to pursuing internships in public interest organizations. The students in the focus groups did not report any relationship between level of commitment to public interest careers and the decision to take on internships in public interest organizations.

42. Sandefur, Rebecca L. 2019. *Legal Tech for Non-Lawyers: Report of the Survey of US Legal Technologies*. Chicago, IL: American Bar Foundation.

43. In 2019, a family of four must have an income at or below \$32,188 in order to qualify for legal aid.

