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## Access to justice : legal assistance for low-income people in California

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***Access to Justice:  
Legal Assistance for  
Low-income People in California***



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Spring 2006***

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Legal Assistance for  
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Courtroom gavel, Joe Gratz <<http://www.flickr.com/photos/joegratz/117048243/>> Retrieved April 17, 2006

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*Dedication:*

This capstone is dedicated to my mom, dad, sisters, and extended family, my fiancé, my professors, and my capstone advisor. This capstone is dedicated to you for believing in me, and for your countless hours of professional and personal support.

I would like to thank God for blessing me and giving me the strength to continue with this project until the end!

Gracias Mama y Papa por darme siempre su apoyo y por ayudarme hacer mi sueño una realidad!

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## **Access to Justice: Legal assistance for low-income people in California**

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From the beginning of the Gold Rush in 1848, California has been known as the Golden State, where dreams come true. A prominent state, where justice was meant to be for all and all would be treated equally. Today California may still be the land of opportunities, where dreams come true, but this can be limited to certain barriers caused by each person's access to resources.

For years many people such as Martin Luther King Jr., Cesar Chavez, and Johnnie Cochran have been struggling to gain equality for all people regardless of race and/or social status, in American society including within the justice system. In order to ensure equality in this justice system, all people need to have access to legal counsel regardless of economic status. Due to high prices of private attorneys those who cannot afford to pay for legal services are not represented equally in the judicial system. Legal service programs are necessary to ensure that low-income people have an equal opportunity for counsel. Although such programs exist today there is a large population of the low-income community whose legal needs are still not being met.

Like many of the gold-diggers who were driven by the dream to become rich and prosperous, many Californians dream to become equally represented in the legal system. Yet, many barriers to legal assistance still exist, especially to gain access. Low-income people are still not equally represented in the legal system.

The following example, suggests why this issue is so critical:

Substandard housing conditions caused illness for a family. The landlord refused to fix the roof, which leaked for years; mold growing inside the house caused asthma and other respiratory problems for the children.

Under attorney supervision at the legal aid office, law students helped the

family sue the landlord. The case settled for \$11,000, and the family moved to a new, healthier home (“The Path” 11).

Unfortunately not all low-income people who are in need of legal assistance get the help that they need. It is important that low-income people be provided with legal assistance. To ensure equality all people need to have equal access to legal services because that will better ensure equal representation. If California claims to provide justice for all, then not only is legal assistance a fundamental right, but also a necessity in order to work towards true equality and justice for all.

This research paper will touch on several important topics related to assuring access to legal assistance for low-income people. First, legal assistance for low-income people must be seen as a fundamental right. In order to ensure true equality in the legal system, each person must be entitled to equal representation, whether that is through private counsel, for those who can afford it, or through public service programs. Second, California’s poverty rates have a direct impact on the need of legal assistance. High poverty rates cause increasing rates of need for legal assistance in the low-income community. Third, a lack of equal representation for low-income people creates an imbalance in the legal system. This inequality is especially evident in criminal cases, where income has a direct impact on whether a defendant can hire a private lawyer or be appointed a public defender. Fourth, public service programs can significantly help low-income people obtain legal assistance. Finally, I am providing recommendations on how we, as a community, can work towards providing equality in the justice system by ensuring equal access to legal assistance.

## Equal Access to Justice

Scholars argue the need for legal assistance and the need for lawyers to provide community service so that everyone, regardless of income, receives proper defense or proper legal advice in criminal and/or civil cases. Why should lawyers be required to serve the low-income community if restaurants are not required to serve the homeless community? This is a question that has risen from different scholars.

In the Bill of Rights, a list of fundamental civil right for all, the sixth amendment states that all those accused of criminal charges shall “have the assistance of counsel for his defense” (United States). Scholars have looked carefully at whether such legal assistance is in fact a reality. For example, in his book The Law Firm and the Public Good, Robert Katzmann argues that, “the blunt, inexcusable fact is that this nation, which prides itself on efficiency and justice, has developed a legal system that is the most expensive in the world, yet cannot manage to protect the rights of most of its citizens” (2). Katzmann also argues that, “in an adversarial system, governed by complex rules and procedures, fundamental notions of fairness and equality before the law are violated if all parties do not have access to competent legal advise” (6).

Other scholars have focused on the direct impact that California’s poverty rates has on the need for legal assistance, for example The California Commission on Access to Justice, argues that there are 6.4 million Californians who live in poverty and out of those 6.4 million, nearly 4.6 million Californians are in desperate need of legal aid and are not receiving it (“The Path”). Such poverty suggests a need for public service programs. Houseman in his article “Civil Legal Aid in the United States” states that:

These state justice communities seek to create a single point of entry for all clients [...] allocate resources among providers to ensure that representation can occur in all forums

for all low-income persons; and provide access to a range of services for all eligible clients no matter where they live, the language they speak, or the ethnic or cultural group of which they are a member (6).

Due to the amount of financial resources needed to support legal service programs, scholars have argued that in order to improve public access to legal assistance there needs to be more access to funding. For example Houseman suggests that, “without additional funding, the civil legal assistance community cannot achieve increased access for low-income persons nor implement the civil legal assistance system for the future” (20). Yet other scholars argue that additional funding is not possible. Pearce claims that, “the proposals address only a small portion of the inequality within the legal system and do not recognize that our society cannot provide the vast resources necessary to equalize the access to justice for low-income people” (970).

Many scholars have examined how important providing legal assistance to low-income people is. For example, Matt Smith in “Bearing Equality” states, “Groups of people who know the system, have the money to game the system, and possess the political power to manipulate how the system works are accommodated by our government in extraordinary ways.” Smith goes on to argue that those who are the opposite of this character continue to be oppressed in the positions that they are in. Similarly the California Commission on Access to Justice Committee urges there has been a lack of attention so far to the problem. As they state, in California, “the state commission’s report on legal aid for poor people facing evictions, employment barriers and other non-criminal but life-altering problems ranks California near the bottom [...]” In the article from the California Courts, “Equal access fund: A report to the Californian Legislature” the authors argue the importance of this issue by stating that, “These state funding mechanisms are designed to make progress toward the goal of ensuring that the most vulnerable members of

society have access to civil legal assistance if they face critical legal issues.” Not only does it affect us individually, but as entire communities, because having access to legal counsel is a fundamental right that is guaranteed to all through the U.S. Constitution.

Taking a step back and seeing what has already been addressed in this issue of access to justice I am able to add through my own research, a touch of first hand knowledge from personal interviews. These interviews will provide information regarding true-life experiences of people who have in some way or another have encountered issues with trying to gain access to justice and how these experiences have impacted their lives. Other interviews will include people who are knowledgeable on the problems that exist for people who are low-income and are in need of access to the legal system.

To achieve equality among all people, in the state of California, there needs to be a balance in the legal services that everyone can access. Access to legal assistance could make a difference in our lives, especially in a time of need, and Robert Katzmann, in the book The Law Firm and the Public Good offers the reason that, “in an adversarial system, governed by complex rules and procedures, fundamental notions of fairness and equality before the law are violated if all parties do not have access to competent legal advise” (Katzmann 6). The lack of being treated equally and fairly in a justice system that is supposed to be set up to provide equality and justice, is the factor that will make up the outcome of certain cases and their impact on our lives.

In “Equal Justice Under Law: Connecting Principle to Practice,” Deborah L. Rhode, states that, “ ‘Equal justice under law’ is what America proclaims on its courthouse doors. What goes on inside them, however, looks entirely different” (47). It is this proclamation that pushes advocates of legal assistance for low-income people to strive to create awareness of this issue in communities and to urge lawmakers and lawyers to help in closing the gaps of equality.

The only way that we can ensure that everyone will be equal under the legal system is to provide legal assistance as a fundamental right, which would provide the legal services that they need to be equal to any other person, in the same or similar situation. This is important because to ensure legal assistance as a fundamental right, we need to make sure that everyone has access to it. Yet, “the blunt inexcusable fact is that this nation, which prides itself on efficiency and justice, has developed a legal system that is the most expensive in the world, yet cannot manage to protect the rights of most of its citizens” (Katzmann 2). There has also been mention in case law regarding the need for legal assistance and the importance of it in order to achieve equality. In 1956, in *Griffin v. Illinois*, the Supreme Court stated that, “[t]here can be no equal justice where the kind of trial a man gets depends on the amount of money he has.” This should continue to serve as a call for the courts and those involved in shaping the legal system to provide legal assistance for all.

In the early 1990s Carmen Salazar battled a court case against a hospital. Carmen believes that the outcome was based on her lack of financial resources. Being low-income Carmen turned to lawyers in Sacramento who took her case free of charge. Carmen remembers being referred to these lawyers through one of her relatives, but cannot recall if these lawyers worked for a legal service program. Carmen lost her case, but it was never explained to her why the case was lost, from what she remembers, her lawyer told her that everything was going good up until the morning of the verdict. Carmen says, “That morning the lawyer told my husband and me that we had lost the case, but I never knew why.” Carmen did not have the resources to continue with the case, and has since stored her experience away with the memories of her deceased daughter, who she believes, “never got her justice in court.” Many people, like Carmen,

in California struggle to provide the basic needs for themselves and their families, yet they are expected to participate equally in a legal system, which financially excludes them out.

California's rates of poverty have a direct impact on the need for legal assistance among the low-income community. Given a reported 6.4 million Californians who are in poverty, a large population of the state can barely afford to live through each day with only basic necessities (Path 2). If there were a situation where one of these people living in poverty would benefit from legal assistance, whether it is a consultation or legal representation, how would we expect them to pay for it? The California Commission on Access to Justice suggests that 4.6 million Californians are not receiving the legal aid they need ("The Path" 1). This population that is not receiving legal assistance not only includes the low-income communities, but also involves middle class communities as well. Yet, it is low-income communities that suffer most from the lack of legal assistance. Some people in low-income communities are confronted with issues that affect their jobs or homes and they cannot afford to pay for someone to inform them of their rights. "Nearly 1.5 million poor families in California do not have access to lawyers when they confront disputes involving education, employment, health care or other needs" ("The Path" 1). In such cases, someone who is low-income and loses their job or health care can seriously be affected by the inability to pay for legal assistance to help them through these issues and defend their rights.

Access to legal assistance is not a new problem of this generation. It has been a revolving issue that continues to grow, especially because of the increase in poverty rates in California. Although there have been efforts to improve this situation there are still few available resources to help achieve access to legal assistance. Due to the lack of funds, the resources that are available for those who cannot afford legal assistance are limited to only a select few. Shelly

Johnson, a community member who is familiar with access to legal services locally states, “I have seen people with barriers in getting legal advice, they come into our office asking for help with Civil cases, and because we only deal with family law issues I have to send them away. I try to guide them to other places that might give them free service, but in our county there are next to none.” In accordance with Shelly’s personal observation on the lack of access to legal services, the American Bar Association concluded in a 1994 study that approximately 80% of poor Americans do not have the access to an attorney when they are faced with a serious situation where advice and assistance from a lawyer would make a difference (LSC 12). If the majority of low-income people are not getting assistance then it should serve as a demand to work on this issue until we can create a system that does not exclude access to justice due to inability to pay for it.

Once a system of imbalance is adapted into a society it creates an unfair legal system because then the only people who can benefit from the legal system are those who have access to it. For example, “groups of people who know the system, have the money to game the system, and possess the political power to manipulate how the system works are accommodated by our government in extraordinary ways. Those without insider knowledge, money, or clout, meanwhile can encounter laws and policies seemingly contrived to make them more powerless still” (Smith). If those people being served by the legal system are only those who can afford to pay for private counsel, it suggests that we need to work harder to bridge this gap to ensure true equality for everyone.

One of the reasons that low-income people do not get equal representation in the legal system is because of their lack of financial resources. For example, if there is an issue where you are entitled to a settlement because your rights were or are being violated, you must 1) know that

there is something unjust happening, and 2) have the ability to pay for the legal services, which may include filing paper work, consultations, and/or representation in the case. Those who are being denied access to the legal system, because they cannot afford to pay for it, are the low-income community members who already suffer from the lack of accessibility to other resources. “It is not uncommon that impoverished individuals are unable to pay and are therefore denied access” (Anderson 3). This denial of access to legal services proves that in order to be able to have an opportunity at equal representation there will always be a call for covering the costs. Not only are legal services costly, but they are also time consuming. As Michael Anderson states, “hiring lawyers and using legal institutions can be very costly in themselves, but also entail opportunity costs, which for the poor usually means time away from income-generating activities” (18). Not only is it difficult for low-income people to pay for legal services, but if they are lucky enough to be granted access through public service programs, it also requires them to take time off from work, which in many cases, is taking away from their only source of income.

It should be obvious that income has an affect on whether or not someone can afford to pay for legal assistance. Not only does it affect their accessibility to legal services, but it may also affect the quality of the services they receive. Let’s take as an example the right to counsel, in criminal cases it is entitled to all under the Bill of Rights of the Constitution. It is stated that: “In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence” (United States).

Although the accused is entitled to counsel, it does not specify what the quality of that counsel will or should be. If someone who is low-income finds himself or herself in a criminal proceeding the majority, if not all, will not be able to afford hiring private counsel, therefore they will be appointed a public defender, who is not always the best prepared to represent his or her client. Since the outcome of each case is determined by the effectiveness of each lawyer to persuade a jury or judge, then whether or not one can afford to pay for a lawyer who has the resources needed for a fair and un-prejudicial trial creates an imbalance. “Our results show that like crimes do not receive like punishments, and that the kind of trial a defendant gets depends to a significant degree on whether he or she has enough money to retain private counsel” (Beck 537). If we know that this is a problem in our legal system, yet many people cannot afford to pay for private counsel, this should be a cause for concern because we can then assume that those who are being assigned public defenders due to lack of economic resources are not always getting an equal opportunity at a fair and equal trial. Primarily because these “lawyers [are] grossly underpaid [and] they literally cannot afford to do the job they know needs to be done” (Beck 535). So in cases where the public defender needs financial resources to be able to do a thorough investigation for their client, those resources may not be available to them, and at this point they are risking the outcome of the case.

There is speculation as far as the amount of effort that goes into public defenders preparing the best possible defense for their clients. This could possibly be due to the fact that most public defenders work for the courts and their salary is not based on whether or not they win their case. In fact, “contemporary observers consistently report poor performance of appointed counsel” (Beck 535). As mentioned above this could be because of lack of financial resources, but it can also be based on bias towards the people who seek public legal assistance. If

the majority of people who are appointed counsel are those who are low-income and cannot afford to pay for private counsel, they may be looked down upon, or presumed to be guilty. Due to the negative connotation that sometimes comes along with being low-income they could automatically be stereotyped before they are given an opportunity for a fair defense.

Although the quality of counsel that defendants get may be questionable or not up to par for certain individuals, everyone in a criminal proceeding is entitled to legal assistance. Yet this is not the case for all legal proceedings, such as family law (which includes divorce, custody battles, etc), labor law, and private cases brought in civil court. Defendants and/or plaintiffs in such cases are not entitled to legal assistance or legal representation by law. This means that someone who is involved in a non-criminal case would have to seek their own legal assistance with their own financial resources. This is where public service programs can help make a difference in the outcome of legal proceedings for low-income people.

Public services programs that help low-income people obtain legal assistance in civil and non-criminal cases are an important resource in California. They are a vital part of our progress towards providing equal justice. Alan Houseman, in his article “Civil legal aid in the United States: An overview of the Program in 2003,” describes the programs, stating:

These state justice communities seek to create a single point of entry for all clients [...] allocate resources among providers to ensure that representation can occur in all forums for all low-income persons; and provide access to a range of services for all eligible clients no matter where they live, the language they speak, or the ethnic or cultural group of which they are a member (6).

Such public service programs help low-income people obtain equal access to the legal system, and provide a resource that they can turn to when they are unsure of their legal rights.

Nationally the Legal Service Corporation (LSC) program works with low-income people to obtain legal assistance. Its main purpose is, “to provide high quality legal assistance to those who [are] otherwise unable to afford legal counsel” (Houseman 6). Although the LSC program strives to achieve equality in the legal system by helping low-income people they are also mandated to follow a number of rigorous restrictions:

LSC-funded programs do not handle criminal cases, nor do they accept fee-generating cases that private attorneys are willing to accept on a contingency basis. In addition, in 1996 a series of new limitations were placed upon activities in which LSC-funded programs may engage on behalf of their clients, even with non-LSC funds. Among them are prohibitions on class actions, challenges to welfare reform, collection of attorneys' fees, rulemaking, lobbying, litigation on behalf of prisoners, representation in drug-related public housing evictions, and representation of certain categories of aliens (“What is LSC”).

Although LSC programs are accountable for a lot of the national access to legal assistance, they are limited to the cases that they are allowed to handle. Due to these restrictions that may apply to several low-income people their opportunity of legal assistance deteriorates if they fall under one of the restricted categories.

At a state level the Equal Access Fund program is a statewide system that works to provide legal assistance to low-income people. “These state funding mechanisms are designed to make progress toward the goal of ensuring that the most vulnerable members of society have

access to civil legal assistance if they face critical legal issues” (“Equal Access” 8). Some of these critical legal issues may include child support, custody battles, evictions, health care, etc. In most, if not all, of these cases legal assistance can play a big role in the outcomes. For example, if there were a case where a family is wrongfully evicted from their home and they are low-income, not only are they now homeless, but they may not have the knowledge to access the resources that can help them through their situation. In cases such as these, programs such as the Equal Access Fund can work to fight for the rights of those who otherwise have no say.

A good local example is the Watsonville Law Center, a non-profit organization in Santa Cruz County that works, “to provide equal access to the law by helping low-income individuals understand and exercise their rights through education and outreach and to enforce those rights through the provision of effective and accessible legal services” (Watsonville Law Center). This organization works with clients from the tri-county area, including Monterey, Santa Cruz and San Benito Counties. The Watsonville Law Center assists clients through drop-in advice clinics, one-on-one consultations, and if needed, direct representation (Watsonville Law Center). Serving a primarily low-income and agricultural community the Watsonville Law Center strives to achieve the high demand of needs for their clients. Not only do they offer legal assistance but they also work to educate their clients on their legal rights and they provide them with the resources that they need to be confident if another such situation were to arise and to be aware of the potential of future legal issues.

Resources such as the Legal Services Corporation, the Equal Access Fund program, and the Watsonville Law Center all depend on county, state, federal, and/or public funding to meet the high demand for legal assistance in their low-income communities. In order to continue to work towards equal representation for low-income people there is a high demand for funds, yet if

the funds are not available then there is no alternative way of running these programs. “Without additional funding, the civil legal assistance community cannot achieve increased access for low-income persons nor implement the civil legal assistance system for the future” (Houseman 20). Currently there are a large number of low-income people whose needs are not being met, primarily due to lack of funding. For example, “LSC has been unable to obtain sufficient funding to maintain the level of access achieved” (Houseman 4). This has caused a huge imbalance in the ratio of lawyers available to provide legal services to low-income people. In an October 2002 report from the California Commission on Access to Justice, the authors reported that currently there is only one legal aid lawyer for every 10,000 poor Californians (2). Even though there are programs that are aiming at closing this large gap, it is a very unbalance number of one lawyer for every 10,000 people, and this also questions the quality of legal assistance those 10,000 people are receiving if the one person is handling their case yet at the same time they are also handling many other cases. These numbers are shocking because it is not realistic to think that this should be an acceptable ratio in the access to legal aid for low-income people.

Each state’s ability to fund these programs affects the quality and accessibility of public services and resources for low-income communities. California’s public resources differ from other states based on the allocations set aside towards public service programs. Although funding is determined by each state, it is also based on the amount of funding that they get from federal assistance programs, such as the Legal Services Corporation. In order to improve public access to legal assistance there needs to be more access to funding, because recently, “the state’s commission’s report on legal aid for poor people facing evictions, employments barriers and other non-criminal but life-altering problems ranks California near the bottom [...]” (“The Path” 1). While taking this information into account it is necessary that, “supporters of increased

federal funding ... overcome significant political barriers to substantially increase federal funding for civil legal assistance” (Houseman 20). One of these barriers may include the differences in opinions about whether federal and/or state funded programs should even exist to assist low-income people.

Federal programs have made incredible cuts to the budget for legal service programs, “[o]ver the last two decades, national spending on legal assistance has been cut by a third, and increasing restrictions have been placed on the cases and clients that government-funded programs can accept” (Rhode 48). To be able to access more funding for public service programs, which would help to close the gap between those who need legal assistance, and those who are actually receiving it, there needs to be a strong voice advocating for it. Without funding it is impossible to try to break down the barriers, which restrain many people from accessing legal service.

Some people may argue that legal assistance isn’t something that everyone is entitled to, and that the problem of access to legal services should not be of concern to everyone. However this country claims to be the land of the free, where everyone is created equally and there must be access to legal services in order to achieve equal representation in the legal system. This effort will not be successful unless we have public support for these programs, because unfortunately, “substantial growth in federal funding as well as in state and local governmental funding is not likely to occur until there is much great support for civil legal aid among the general public” (Houseman 21). This is an issue that should concern everyone because an informed public with knowledge about their legal rights will lead to a better society as a whole, which will lead to equal representation in the legal system.

Bringing awareness to the community about legal rights and how to go about obtaining legal assistance would help to break down barriers to access because the community would be educated, and would have knowledge on what to do if they are in a legal bind and if legal assistance is necessary. In the past, public service programs have reached out to the low-income community through consultations and representation, and now we currently have a new development of how these public services programs should look, for example, “[these] new state systems are designed to (1) increase awareness of rights, options, and services; (2) achieve access to civil legal assistance; and (3) provide a full range of civil legal assistance and related services” (Houseman 7). With this new system not only are we able to provide legal assistance to those who need it, but we are also taking the time to create awareness among the low-income community, which will then help to inform others, therefore creating a better community for everyone.

Although there is support to increasing funding for public services programs, there are others who have examined the issue and do not think that increasing funds is the answer. Russell Pearce, in his article “Redressing Inequality in the Market for Justice: Why Access to Lawyers Will Never Solve the Problem and Why Rethinking the Role of Judges Will Help,” argues that legal service programs are not the way to obtain equality for those who are currently underrepresented in the legal system because, “these proposals have more of an effect of easing the suffering of those few low-income people lucky enough to obtain legal representation and not of realizing equal justice under law” (970). Pearce suggests that by providing public service programs with more funding, we are not actually working towards equality for all, due to the large gap between those who are actually getting the legal assistance, and those who need it. Pearce instead proposes that: “Judges, who already take a more active role in particular courts

and particular types of cases, [should] have an obligation to ensure that the parties' procedural errors do not deprive the court of access to relevant evidence and legal arguments" (970). In Pearce's proposal judges would take it upon themselves to make sure that if there is a lack of ability to obtain important information, for example due to a lack of financial resources, then the court would still be able to access that information. Pearce recommends that it should be a judge's role to take responsibility for, "explaining the proceedings at every step and making sure that the parties understand the explanation, describing what the parties need to prove, explaining relevant evidentiary issues and establishing whether foundations exist, preventing a lawyer from taking advantage of a self-represented party, and referring a self-represented party for advice to a self help center or other expert where appropriate" (976). This would ensure that those who cannot afford to pay for counsel but are still willing to have their day in court understand their responsibilities as a self-represented party.

There are differing views on how the issue of access to legal assistance should be handled. Nevertheless, there is a common agreement that it is a problem and that something needs to be done to work towards equality in the legal system. Given the research to date, some recommendations for change are possible. First, anyone involved in a legal dispute, whether it is a civil lawsuit or criminal case, should have the resources available to him or her to understand what is being said to him or her. Although interpreters are required by law to be available for translations, we need to ensure that this law is being enforced because we cannot expect equal representation if the parties involved cannot fully comprehend the legal process that they are participating in and "[we] cannot hope for justice without the assistance of trained interpreters and other services that can help them understand and present their cases, and courts must have the ability to provide adequate certified interpreters" ("The Path" 6). This would work effectively

towards gaining access to legal assistance because it is important for those being charged with crimes, and/or involved in cases, to know exactly what they are being held accountable for.

Given the fact that, “fewer than a fifth of the nation’s 100 most financially successful firms meet the ABA’s standard of providing fifty hours a year of pro bono service” (Rhode 60). The second recommendation would be to encourage more lawyers to provide pro bono hours, which would ensure that low-income people have some access to legal assistance. If every lawyer provided at least 2-3 hours per week, of pro bono hours it would make an impact on the availability of legal assistance. Even though it may not seem like 2-3 hours a week is a large quantity it will provide some help, and that is what we are trying to work towards, improving access to legal assistance.

Third, in order to ensure that true equality is achieved court judges should take it upon themselves to make the process of the case and their judgments free of bias. For example if judges assume the responsibility to make sure that each party is given the information needed or provided with the financial support to access this information it would enable everyone to a adequate defense. Provided that the judge will be neutral to people whether they are rich or poor will assure that equality will begin to exist.

Another suggestion would be that through, “these services include legal education designed to help members of the community understand law-related issues they face and avoid litigation wherever possible” (“Equal Access” 12). It would benefit the individual as well as the community if public service programs also presented self-help workshops because it would help individuals become educated about the legal process and the services that they can complete themselves. It would prove valuable to the community and the individual person if instead of just

getting their issues solved through legal services programs, they are also informed and educated on what they could do differently in the future, and how to approach other legal issues.

Lastly, we should push for a campaign, geared towards the state governor and state representatives, to increase the funds that are allocated for public service programs that provide access to legal assistance for those who cannot afford it. This is an important part of trying to make a difference in the fight for access to justice because “recently estimates suggest that well over ten times that amount-on the order of three to four billion dollars-would be required to meet the civil legal needs of low-income Americans” (Rhode 50). Although this goal may seem out of reach, it is vital for change because no matter how much effort is put into awareness of the legal service programs that currently exist they cannot meet the demand of the low-income community without having the proper funding.

We have come a long way in order to insure that those who live in the United States are treated equally, but there is still work to be done. The way that this system should be set up is to encourage those who cannot afford legal services to continue to fight for their rights, and to seek out the resources that are out there to help them. Although we cannot guarantee that the funds will soon be available to meet the high demand of legal assistance among the low-income community, we can guarantee an honest effort to allocate funds through federal and state programs.

Equal treatment is the fundamental value of this country, and in order for us to work towards becoming a unified nation who provides equal treatment and access to all, we need to give our support to services that try to provide legal equality, to the low-income community, through their programs. I believe that making sure that everyone has a right to access legal

assistance is not only going to improve the life of that person but will improve society as a whole, because having an educated public will call for having an equally represented public.

As long as we have people who will continue to advocate on behalf of those who cannot afford to do so, we can work towards improving the legal assistance programs, not only by offering support to allocate funding for these programs, but also by making the community aware of their rights as citizens and residents.

Regardless of race, culture, or social status everybody should be able to count on the legal system as a fair way to get their voices heard, but when that does not work we need to instill reassurance that there will still be legal service programs that will do just that for them. This is why it is important that as a community we support such programs that try to help others become equally represented. However, we cannot expect a legal system that works towards equality if we all do not have the same access to the same resources.

## **Annotated Bibliography**

### **Primary Sources**

**Griffin v. Illinois. No. 351 U.S. 12. Supreme Court of the United States. 23 April 1956.**

This case involves an argument of due process and equal protection clause of the Fourteenth Amendment. The Supreme Court decides that because of lack of funds the petitioner was not able to access the documents needed in the appellate review. This case indicates that a person cannot be denied access to such documents that are required for an appeal, because they cannot afford to pay for them.

**Johnson, Shelly (pseudonym). Email Interview. 13 March 2006.**

Shelly is a community member who is aware of the lack of legal assistance locally.

**Salazar, Carmen (pseudonym). Personal Interview. 23 April 2006.**

Carmen was involved in a court case with a hospital due to the loss of her daughter.

**“The Path to Equal Justice: A five-year status report on access to justice in California.”**

**The California Commission on access to justice. October 2002. 22 September 2005**

**<<http://www.calbar.ca.gov/calbar/pdfs/accessjustice/2002-Access-Justice-Report.pdf>>.**

This article covers the need for California to provide “justice for all.” One of the quotes from the article states that programs such as LSC are needed because for many different races, ethnic groups, and ages, this is the only help that they can obtain. “California’s most vulnerable residents need legal assistance more than ever – to secure safe, affordable housing; to overcome barriers to employment; to obtain health care and an adequate education; or to stop domestic violence and elder abuse.” This article helps the reader obtain an insight in the programs that are currently offered in California.

**United States. The Bill of Rights: The First 10 Amendments to the**

**Constitution as Ratified by the States. 15 Dec. 1791. 3 February 2006**

**<<http://www.billofrights.org/>>**

The Bill of Rights states the fundamental rights of all Americans to ensure equality in the United States. Specifically I will be focusing on the following part of Amendment VI, which states that the accused shall have, “the Assistance of Counsel for his defense.” This article establishes the fundamental right to equal access to legal services that will ensure equality in cases involving low-income people.

**Watsonville Law Center. Personal Observation. September 2005 - December 2005.**

Doing an internship at the Watsonville Law Center is going to help me in identifying the issues involved in trying to obtain legal assistance because I will have the first hand experience. This will be useful to my capstone because it will give me the experience that I need in order to be able to get a personal insight into how services provided by the Watsonville Law Center help people who otherwise wouldn't be able to obtain the services.

**“What is LSC?” Legal Services Corporation. 2006. 1 April 2006**

**< <http://www.lsc.gov/about/lsc.php>>**

This website offers valuable information about the Legal Services Corporation (LSC) program. This information includes the LSC mission statement, a resources library that offers information on different legal topics, budget plans, client success stories, etc.

## Secondary Sources

**Anderson, Michael R. “Access to Justice and Legal Process: Making Legal Institutions**

**Responsive to Poor People in LDC’s.” 16-17 August 1999. 22 September 2005**

**<<http://siteresources.worldbank.org/INTPOVERTY/Resources/WDR/DfiD-Project-Papers/anderson.pdf>>**

This essay provides information on access to justice because it discusses the issues surrounding trying to obtain access to justice, and why people who are low-income do not get equal representation in the law. The paper also discusses how “political and legal rules have a direct effect upon social practices and economic outcomes.” One of the issues that are discussed in the article is the fact that the reason why a lot of people do not have access to public goods, such as law, is because they cannot afford to pay for it. If someone cannot afford the legal help, then the legal system is of no help to him or her because they cannot use it.

**Beck, James C., Robert Shumsky. “A Comparison of Retained and Appointed Counsel in**

**Cases of Capital Murder.” Law and Human Behavior. Volume 21, Issue 5, Oct 1997: Pages 525 – 538.**

This article addresses the difference in outcomes of capital murder when there are court appointed defense counsel vs. privately attained. It has been the experience in the research analyzed for this article that there is a better chance of not getting a death sentence when you have a privately attained defense counsel, instead of a court appointed defense counsel. The authors argue that this is true because, “there is contemporary anecdotal evidence that defense counsel appointed in capital cases are frequently inexperienced, underpaid, and lacking in resources to adequately defend their clients.

**“Equal access fund: A Report to the Californian Legislature.” California Courts. March 2005. 15 September 2005**

**<<http://www.courtinfo.ca.gov/programs/equalaccess/eaf.htm>>**

This essay outlines the Equal Access Fund program in California. It also outlines the starts and the establishment of this program. Its mission is to help low-income achieve equal access to law. It also discusses the programs funding and the issues with the lack of funding. The authors also focus on how the issue of funding affects the effectiveness of the program. This article focuses on the state of California.

**Houseman, Alan W. “Civil Legal Aid in the United States: An Overview of the Program in 2003.” Center for Law and Social Policy. September 2003. 17 October 2005**

**<[http://www.clasp.org/publications/Legal\\_Aid\\_2003.pdf](http://www.clasp.org/publications/Legal_Aid_2003.pdf)>**

In this article, Houseman does a great job of doing an overview of the LSC (Legal Services Corporation) Program. He addressed what the program does now, how it has affected different people and what can be changed in order to achieve equal justice for all. For example Houseman addressed that, "State court systems, for example, are continuing to struggle with the large number of litigants who are not represented by a lawyers and are beginning to develop innovative and systematic approaches to addressing this problem." Houseman concludes by saying that, “the legal assistance community must continue to move forward to implement an integrated, comprehensive statewide system in every state.”

**Katzmann, Robert A., ed. The Law Firm and the Public Good. Washington, D.C.:**

**Brookings Institution, 1995.**

This book addresses the importance of being able to provide justice for all in the United States. In order to be able to provide justice, everyone regardless of income, is entitled to the best legal services possible. The author argues, “the blunt, inexcusable fact is that this nation, which prides itself on efficiency and justice, has developed a legal system that is the most expensive in the world, yet cannot manage to protect the rights of most of its citizens.” The editor stresses the importance of lawyers providing pro-bono hours, in order to help maintain some sort of equality in the legal system.

**Legal Services Corporation. Serving the Civil Legal Needs of Low-income Americans: A special report to Congress. 30 April 2000. Washington, D.C.: The Corp., 2000.**

This article addresses the need for the Legal Services Corporation program, and it outlines how the program works and what is within their boundaries of providing services. The article also addresses the need for public service programs that help people gain access to legal assistance, who otherwise may not have any other alternatives to access. This article addresses two important questions: What is the Legal Services Corporation, and how does it serve the public? Is there a need for legal assistance?

**Pearce, Russell G., "Redressing Inequality in the Market for Justice: Why Access to Lawyers Will Never Solve the Problem and Why Rethinking the Role of Judges Will Help". Fordham Law Review. Vol. 73, p. 969-980, 2004. 22 September 2005**

**<<http://ssrn.com/abstract=745444>>.**

This essay addresses the issue of equal access to law in a different perspective than my own. The author suggests that increasing government funding for legal services for the

poor is not a proper solution to try to obtain equality of justice. Instead the author suggests that “a more effective way to enhance equal justice under law would be to rethink the proper role of the judge and make the judge an ‘active umpire’ responsible for the quality of justice.”

**Rhode, Deborah L. “Equal Justice Under Law: Connection Principle to Practice.”**

**Washington University: Journal of Law and Policy. Vol. 12, pgs. 47-62, 2003. 8**

**March 2006 <<http://law.wustl.edu/Journal/12/p%2047%20Rhode.pdf>>**

This article covers the need for legal assistance, and that “equal justice under law” should be just that, equal. The author addresses the issue of funding, and argues that the main thing that contributes to the lack of funding for legal service programs is that many people don’t care, and pretend that it isn’t a problem. This article also covers the inadequate representation from public defenders, and basis this argument on the fact that most public defenders are underpaid and are overworked, and therefore cannot provide the representation that their clients need.

**Smith, Matt. “Baring Equality: The cases of a young defendant and a repeat offender**

**attorney show power and privilege tip the scales.” SF Weekly. 9 November 2005. 15**

**November 2005 < <http://sfweekly.com/Issues/2005-11-09/news/smith.html>>**

This article gives the reader a perspective on how power has a direct impact on privilege in the courtroom. The author touches on the differences in access to justice between someone who is rich and someone who is not. The author also provides examples of cases in San Francisco that have proven to favor those who can afford to “game the system.”

# **APPENDICES**

## Appendix A: Interdisciplinary Reflection Essay

## **Interdisciplinary Reflection**

When I first decided to declare HCOM as my major, I was concerned because of the reputation of the major. From talking with others I was told that HCOM was tough and required a lot of reading and writing. Reading and writing were two of the things that I least enjoyed doing. Now that I can take a step back and look at my accomplishments I am glad that HCOM has a curriculum that is outcome based and that did focus a lot on reading, writing, and analyzing because not only has it helped me with my writing skills, but it has also given me confidence to know that I have fulfilled this major to the best of my ability.

Through courses such as HCOM 330: Intro to Creative Writing, I learned that I could be a good creative writer, which I had doubted for many, many years. I have to say that I believe I had one of the most intense and real experiences than ever before in this creative writing course. I not only learned to gain confidence in writing about my own life and personal experiences, but I was able to cope with things that I hadn't coped with before, and I also gained personal insight to other peoples experiences. HCOM is about being real, and writing about real experiences, and I don't think I could have gained it without this course.

While fulfilling MLO 3 I took the course, HCOM 403: Ethical Issues. Before taking this course I knew that I wanted to go into law, and that one-day I would hope to be a great defense lawyers, but this course taught me a lot about the ethical issues that are involved in being a defense lawyer. Being exposed to the ethical dilemmas that defense lawyers face, made me realize that I won't be able to handle some of the clauses that contradict each other, yet have to followed. For example, a defense lawyer is supposed to provide the best defense possible for their clients, and they should believe that regardless of what the client tells them, they are legally innocent until they are proven guilty in court. Morally and ethically I would not be able to defend

someone who admits their guilt to me as their lawyer, but who is still legally innocent. I took this into consideration while deciding what kind of law I want to specialize in. Now I have chosen to focus on the prosecution of criminals.

While fulfilling my MLO 5 and Service-learning requirement I took the course HCOM 340S: Topics in Social Movements. My service site was at the Watsonville Law Center and I was volunteering as a translator for attorneys and clients. Being able to learn about different social movements that have affected the U.S. and participating in a social movement at the same time gave me a real life perspective of how the material from the course could be applied in life. Since the Watsonville Law Center is a non-profit organization that helps the low-income community with their legal issues, I was proud to be part of their social movement to gain equality in access to justice for all.

Although I did enjoy my work through the HCOM major, there were certain courses that I have taken that I did not feel helped to prepare me in my future career choice. There are certain breadth courses that fall under certain MLO's and I understand that many different aspects of the major need to be covered, but I would change the choice of taking more concentration courses to be able to get more exposure to each persons focus in the major. I feel that with this choice there would be better preparation for each person's future career choice.

My concentration in HCOM is Pre-Law and I wouldn't change my choice for anything else, because I absolutely love my concentration and the courses that I have taken to fulfill its requirements. Through this concentration I feel that I am prepared in continuing on to law school, and although it will be a tough transition, because of the curriculum I have completed I will do just fine. In HCOM 357: Constitutional Law, I learned for the first time how to read cases, and how to do case briefings. All of this was to prepare me for a Moot Court Case, kind of

like the ones that are required in the first year of law school. I had fun preparing and going through with the Moot Court case, and I feel that it was great exposure into what is to come in the near future. Through my two other concentration courses HCOM 310: Free Speech and Responsibility and HCOM 343: Race and Gender Justice, I have been taught to look at all aspects of different court cases, and learning how to interpret them, and also giving my personal opinion on how the cases were decided. Overall my concentration has been very well rounded and I do feel that it has prepared me for law school, which will be my next step.

One of the best ways to show how the collaborative work from this major has paid off in full is through my senior capstone. I am focusing on the need for legal assistance for low-income people in California. This project has been inspired by my drive for social action, and because of my work at the Watsonville Law Center. After being exposed to the quantity of people who do not have access to legal services, I knew that this would be a perfect senior capstone. I feel that because of my work through the major I was fully prepared to battle the challenges that come with senior capstone. For example, through many HCOM courses I was required to work on research papers, which is the most fundamental part of my capstone. I know how to complete accurate research in order to be able to write the research paper. Through my courses I have also learned how to complete annotated bibliographies, which is also important. Most importantly through Topics in Social Movements I have been able to identify social issues, and therefore was able to identify one that was important to me, and that I would soon use as the basic foundation of my capstone.

There is a lot of pressure that goes with designing a capstone project because you are told that you need to cover and design an interdisciplinary project. Yet being an HCOM major made it come naturally because when it came down to sitting down and think about capstone I realized

that most if not all the HCOM courses I have taken have covered social action and multiculturalism in some way. One of the biggest challenges in capstone has been narrowing down the subject and make a clear focus and sticking with that focus through the project. Because once you get started on your capstone research you find so much more information that you want to include in the project, but once you starting introducing new information it may take your project into a different route than what you originally intended.

Once I complete my capstone project I feel that others will have gained knowledge about the issue of legal assistance for low-income people, and how it affects an entire community. Through the interviews that I will conduct readers will get a personal insight look at what some people have gone through due to their lack of financial ability to get legal assistance, and how this has affected their lives. I would hope that anyone who reads my project will appreciate the different perspectives on this issue, and will use this knowledge for their own use in the future, and to help spread further awareness as well.

There is a little bit of every course that I've taking in my HCOM career that I use in everyday life, whether it's making book recommendation to others, course recommendations, and/or applying theories and knowledge that help shape my own opinions. I am grateful to say that HCOM has helped me in becoming an educated person in many different aspects and I am satisfied with the course work and the requirements of the major.

## Appendix B: Interview Questions

## Interview Questions

1) Tell me about your experience with the legal system.

Cuénteme de su experiencia con el sistema legal.

2) Overall how well do you know about your legal rights?

¿Cómo de bien sabe usted de sus derechos legales?

3) Would you identify yourself with any of the following?

Poor

Low-income

Middle Class

Better off than most

¿Se identificaría usted con unos cualquiera de los siguientes?

Pobre

Bajos-ingresos

Clase mediana

Mejor que la mayoría

4) Do you feel that you have experienced any barriers in obtaining legal assistance? If so, what have those barriers been?

¿Se siente usted que ha tenido alguna barrera en tratar de obtener ayuda legal? ¿Si eso es el caso, cuales han sido esas barreras?

5) Have these barriers affected your life? If so, how?

¿Estas barreras han afectado su vida? ¿Si eso es el caso, como?

6) Are you aware of any services, which help people who are low-income in obtaining legal assistance? If so, which service do you know about? How did you hear about them?

¿Usted está enterado de algún programa, cuál ayuda a personas que son de bajos-ingresos a obtener ayuda legal? ¿Si eso es el caso, cuáles son esos programas? ¿Cómo es que usted se informo de ellos?

7) Have you used any of these services? If so, do you feel that they have helped you or not helped you? If not, why?

¿Ha utilizado usted cualquiera de estos servicios? ¿Si eso es el caso, se siente que le han ayudado o no? ¿Si no, por que?

## Appendix C: E-Poster

# HCOM Senior Capstone Digital Poster Spring 2006

**Name:** Cecilia Arias-Deniz  
**Project Title:** "Access to Justice: Legal Assistance for Low-Income People in California"  
**Concentration:** Pre-Law

## Project Abstract

The main thesis of this project is arguing the need in California to provide legal assistance to low-income people. I argue this through focusing on: a) legal assistance as a fundamental right; b) the direct impact that poverty rates have on the need for legal assistance; and c) the lack of equal representation for low-income people in the legal system.

## Project Context & Contributions

This project will be used to educate others on the issue of access to justice. The significance of this project is to conduct personal interviews and see what the impact of not being able to afford legal services has had on others lives. As a pre-law major who wants to go into the practice of being a lawyer, it is important that I am aware and make others aware that many people do not have access to lawyers and it is part of the job to be able to help others in need.

## Relevant Links

Legal Service Corporation:  
<http://www.lsc.gov/index.php>

California Court Information:  
<http://www.courtinfo.ca.gov/>

Center for Law and Social Policy:  
<http://www.clasp.org/>

Watsonville Law Center  
<http://www.communitybridges.org/watsonvillelawcenter.html>

<http://www.flickr.com/photos/joegratz/117048243/>



## Research Questions

What kind of legal assistance is available for low-income people in California?

How do we achieve equality in legal representation?

Why is this an issue that affects the entire community?

## Key Findings

The most important influence on the public service programs is the ability to fund them. Currently there have been many cuts to the budget that would allow low-income people to access legal services. There are those who advocate that legal assistance is a fundamental right, and others that ignore the fact that this is a problem.

## Evidence

My research combines history, ethics, and law. I integrate critical communication, relational communication, and a call for social action. I drew my evidence and conclusions through examining scholarly, peer-reviewed articles and books, scholarly websites, case law, online journals and online newspapers, and personal interviews.

## Project Format

The format of my project is a 25-page research paper.

## Selected Bibliography

Griffin v. Illinois. No. 351 U.S. 12. Supreme Court of the United States. 23 April 1956.

"The Path to Equal Justice: A five-year status report on access to justice in California." The California Commission on access to justice. October 2002. 22 September 2005  
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