



Civil Legal Services and the “Working Poor” Pilot Project

**Report by New Hampshire Legal Assistance
Pursuant to 2005 Session Laws Chapter 177:157**

**To the Governor,
President of the Senate,
Speaker of the House,
Chairpersons of House and Senate Judiciary Committees,
Attorney General,
And the Judicial Council**

November 1, 2006

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Summary

I. A Growing Barrier to Justice in New Hampshire's Courts

Part 1, Article 14 of the New Hampshire Constitution contains a strong and stirring commitment to equal and unimpeded access to our legal system for all of our citizens. Notwithstanding this promise, an ever-wider range of New Hampshire residents with urgent and important issues at stake, such as custody of a child, preservation of their home, access to health care, loss of a job, or continuation of their main source of income, have found themselves unable to afford a lawyer to represent them in court.

In New Hampshire and across the country, the growing lack of access to legal help has led to an explosion in the number of people who have no alternative but to try to represent themselves in the courtroom. This dramatic increase in "pro se" parties has burdened the courts with large numbers of people who struggle to protect their rights as they try to grasp a maze of procedural rules, standards for admission of evidence, and substantive law. Unfortunately, they are often unable to protect their rights, while at the same time slowing down the operation of the court system and increasing the expense to the courts and other parties.

Although the federal government began funding civil legal services for low-income people nearly forty years ago, in the past twenty-five years this funding has declined significantly and the same inflexible financial eligibility rules have remained in effect. The result has been a growing unmet need for the very poor and a nearly total lack of legal help for moderate-income and working class people.

II. The Legislature Responds: Creating a Successful Program That Helps Vulnerable Residents, Local Government, and the Economy

In the past decade the New Hampshire General Court has taken two significant steps to address the growing access to justice gap. In 1997, in response to federal budget cuts that forced the closure of the only legal aid office in the North Country, the Legislature appropriated \$200,000 per year (increased to \$240,00 per year in 2001 and \$270,000 per year in 2005) to set up a New Hampshire Legal Assistance (NHLA) office in Littleton and a part-time satellite office in Berlin.

After a remarkable legislative journey and with bi-partisan support in both the House and Senate, the State budget for the 2005-2007 biennium included \$700,000 per year in additional funding for civil legal services for low-income New Hampshire residents. This new appropriation provided for:

- The creation of a New Hampshire Legal Assistance (NHLA) office in Nashua and a satellite office in Salem to be operated by the Nashua office staff (cost: \$350,000);

- Additional funds (\$350,000) to support the delivery of legal services to the poor across the state; and
- A “Working Poor” Pilot Project aimed at moderate income and working class New Hampshire residents with urgent legal problems who cannot afford to hire private attorneys and who previously have been ineligible for legal aid.

Since the budget became final on July 1, 2005, NHLA, in collaboration with a number of partners, allies and supporters, has moved to implement these legislative initiatives.

**Looking at the Data: NHLA Generates Enormous Value
For Our Clients and the Community**

By funding legal services, the Legislature creates and leverages enormous financial benefits for legal aid clients, the local economy, and state and local governments. The State now invests \$970,000 annually in legal services, and three of the categories of cases that our program handle - domestic violence, disability benefits and Medicare - generated more than **\$4.6 million** in benefits for our clients from July 1, 2005 through October 30, 2006. The child support we obtain for our clients enables them to achieve long-term economic independence from their abusers, and helps reduce state welfare expenditures in the TANF program. A national study concluded that providing legal help to victims of domestic abuse is the single most lasting and effective service that can be given to them. The federal Social Security, SSI, and Medicare benefits we win for these vulnerable clients stabilize their lives, relieve pressure on state and local government budgets, and boost the local economy.

III. The Working Poor Pilot Project

As part of the new appropriation, the Legislature authorized NHLA to undertake a pilot project to serve the “Working Poor” and then report on our findings and recommendations. The purpose of this experiment was to reach beyond the traditional legal aid constituency, which remains significantly under-served, to attempt to learn more about the legal problems faced by working class people who cannot afford to hire private attorneys but have generally been excluded from eligibility for legal aid and other safety-net social programs. New Hampshire Legal Assistance respectfully makes the following findings and recommendations:

- 1) *Working class individuals and families, like the very poor, often face urgent legal problems that threaten their housing and other basic needs. In particular, we have learned from this project that the NH legal aid system needs more capacity to handle foreclosure cases that imperil the homes of working class families.*
- 2) *Working class families often depend on Social Security benefits, and legal advocacy to protect these benefits is vital.*
- 3) *Many working-class families have serious debt problems that result in legal disputes. The New Hampshire legal services system needs to develop more resources and*

work with the Courts to create the capacity to screen these cases and provide at least limited service.

- 4) Because working-class families often live with no financial margin, an illness or the loss of job can precipitate a financial collapse that forces these families to seek help from government benefits programs. Accessing these programs can be difficult, and legal expertise and advocacy are often needed. The private bar generally lacks knowledge of these areas of the law, but the legal aid system already possesses this expertise.*
- 5) Working class individuals are often unaware of legal aid programs or believe that these services are not available to them. Much more publicity and outreach is needed. In particular, outreach through employers, churches, and local government officials, and not just with social service agencies, may help reach the moderate-income population.*
- 6) The legal needs of working class individuals and families overlap significantly with the legal problems of very low-income people and individuals pass between these groups as their circumstances change. Much of the legal expertise needed to serve the moderate-income population already exists in the legal aid system, but its capacity is extremely limited. Developing one integrated civil legal services system to service these overlapping groups will be more cost-effective and efficient than creating two parallel systems.*
- 7) Building on the existing Reduced Fee program, the NH legal aid providers and the NH Bar Association should work together to help increase the availability of reduced fee legal services from private attorneys, especially in more routine legal cases.*
- 8) The ability of "working poor" clients to pay legal fees for help with crisis-related legal problems is extremely limited, but sliding fee scales would be appropriate in non-emergency cases.*
- 9) The "Working Poor" Pilot Project has illuminated an unexamined and significant gap in New Hampshire's justice system that makes "equal justice under law" unattainable for a growing portion of the people in our state. The Project has confirmed that moderate-income working class people have urgent legal problems that imperil the basics of their daily lives, such as their homes, their income, and their access to health care. The Project has also shown that legal aid programs, if freed from narrow and outmoded eligibility rules, can make a difference in resolving legal crises for a class of people in our community who contribute to our collective well-being through hard work and payment of taxes, but historically have had virtually no access to legal help. The Legislature, our legal aid programs, the Courts, and the private bar should work together to develop the resources and build an integrated system to provide legal representation to this under-served group of New Hampshire residents, while also striving to improve access to legal representation to the very poor in New Hampshire who are also woefully under-served.*

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I. A Growing Barrier to Justice in New Hampshire’s Courts

The New Hampshire Constitution contains a strong and stirring commitment to equal and unimpeded access to our legal system for all of our citizens:

Part 1, Article 14. [Legal Remedies to be Free, Complete, and Prompt.] Every subject of this state is entitled to a certain remedy, by having recourse to the laws, for all injuries he may receive in his person, property, or character; to obtain right and justice freely, without being obliged to purchase it; completely, and without any denial; promptly and without delay; conformably to the laws.

Notwithstanding this promise, an ever-wider range of New Hampshire residents with urgent and important issues at stake, such as custody of a child, preservation of their home, access to health care, loss of a job, or continuation of their main source of income, have found themselves unable to afford a lawyer to represent them in court.¹ In New Hampshire and across the country, the growing lack of access to legal help has led to an explosion in the number of people who have no alternative but to try to represent themselves in the courtroom.² This dramatic increase in “pro se” parties has burdened

¹ See Findings and Recommendations #6 and #7 in the “New Hampshire Citizens Commission on the Courts: Report and Recommendations,” issued on June 1, 2006. The Citizens Commission, appointed by the NH Supreme Court, consisted of 99 citizens from varied backgrounds. A majority of the panel, as well as both co-chairs, were neither lawyers nor judges, and the Commission’s task was to scrutinize the state court system from a citizen/customer perspective. The report is available from the Commission’s website: <http://www.nhcitcourts.org/>. Recommendations #6, #7, and #8 are included in the Appendix to this Report.

² See “Challenge to Justice: the Report of the Supreme Court’s Task Force on Self-Represented Persons,” January 2004, which is available on the NH Supreme Court’s website at:

the courts with large numbers of people who struggle to protect their rights as they try to grasp a maze of procedural rules, standards for admission of evidence, and substantive law. Unfortunately, they are often unable to protect their rights, while at the same time slowing down the operation of the court system and increasing the expense to the courts and other parties.³ Although the federal government began funding civil legal services for low-income people nearly forty years ago, in the past twenty-five years this funding has declined significantly and the same inflexible financial eligibility rules have remained in effect. The result has been a growing unmet need for the very poor and a nearly total lack of legal help for “moderate-income” and “working class” people.⁴

II. The Legislature’s First Response: Creating a Successful North Country Program That Helps Vulnerable Residents, Local Government, and the Economy

In the past decade the New Hampshire General Court has taken two significant steps to address the growing access to justice gap. In 1997, in response to federal budget cuts that forced the closure of the only legal aid office in the North Country, the Legislature appropriated \$200,000 per year (increased to \$240,00 per year in 2001 and \$270,000 per year in 2005) to set up a New Hampshire Legal Assistance (NHLA) office in Littleton and a part-time satellite office in Berlin. Two attorneys, one paralegal, and one secretary based in Littleton are responsible for serving the poor and elderly populations of Coös County, northern Grafton County and northern Carroll County.⁵

Since re-opening our North Country office, our mission has been to protect and assist vulnerable poor and elderly people who face legal problems that affect their daily survival and most basic needs. Using our knowledge of complex federal and state benefit programs, we enable desperate people to gain access to Social Security benefits, Medicare, and other subsistence income and health care when they can no longer work due to disability or advancing age. The young and old, individuals and families, turn to us when they are in danger of becoming homeless, and we help preserve their housing. We assist senior citizens who are trying to live on fixed incomes while dealing with high property taxes, convoluted Medicare and Medicaid rules, or the financial, emotional and legal consequences of their spouses’ failing health. We help the victims of domestic violence seek protective orders and build new lives. For a sample of case stories which

<http://www.courts.state.nh.us/supreme/prosereport.pdf>. Excerpts are included in the Appendix to this report.

³ See “Challenge to Justice,” introductory letter from Chair and page 2 of the text.

⁴ To its credit, for a number of years the New Hampshire Bar Association has operated a voluntary “Reduced Fee” program for moderate-income New Hampshire residents, which does provide valuable help to a limited number of people each year.

⁵ We serve people in southern Grafton County from our Claremont office, and our Portsmouth office handles cases from southern Carroll County. On a number of occasions we have employed senior attorneys with particular expertise from our Manchester, Portsmouth, and Claremont offices to handle appeals and complex cases for North Country residents.

bring to life the impact of our work on the lives of the people, see the Appendix to this report.⁶

The Return on the State's Investment: Solving Problems and Bringing in Federal Dollars

Our victories help stabilize the lives of our clients and their families, as well as benefiting the North Country economy. In the eleven-month period from July 1, 2005 through May 31, 2006, our advocacy brought the following benefits to our clients:

- In Social Security and Supplemental Security Income (SSI) disability cases we gained \$723,974 in retroactive and on-going monthly income for 30 of our North Country clients and their 9 additional family members.⁷
- In 16 of those 30 cases, once our clients became eligible for Social Security disability benefits, they also became eligible for Medicare, thus gaining Medicare coverage for an estimated \$237,632 of their medical expenses.⁸

In these eleven months, the disability payments, Medicare coverage and other federal benefits our clients received as the result of our advocacy totaled more than **\$961,606**, already greatly exceeding the total appropriation of \$540,000 (\$270,000 per year x 2 years) that we will receive during the 2005-2007 biennium.

These federal benefits enable state and local governments to save significant expenditures of state and local tax dollars. When we help our clients obtain Social Security, SSI, and Medicare coverage, the State is relieved of costs under Medicaid, Aid to the Permanently and Totally Disabled (APTD) and other programs. Likewise, when NHLA obtains these federal benefits for our clients, we lift a financial burden from town and city welfare budgets.

⁶ Since the first appropriation in 1997, NHLA has been required to file reports with the Judicial Council every six months about our activities and expenditures. Copies of the financial and caseload data from our most recent such reports on June 30, 2006 are also included in the appendix to this report.

⁷ These numbers reflect benefits received during the first year of eligibility only. A substantial portion of these clients will continue to receive these benefits for a number of years to come, so the long-term financial impact of our advocacy is much larger than this annual data suggests.

⁸ The federal government reported that in 2002, the most recent year for which data is available, Medicare provided an average of \$14,852 per year in payments for the medical and hospital bills of Social Security disability benefits recipients. See <http://www.cms.hhs.gov/mcbs/CMSSrc/2002/Section4.pdf>. Our estimate of the amount of Medicare coverage gained for our North Country clients is derived by multiplying the 16 new Medicare beneficiaries by this average annual expense (16 x \$14,852 = \$237,632). Since Medicare expenditures have continued to rise, this number is probably lower than the actual amount of Medicare benefits these clients received. Once again, this figure is only for one year's Medicare coverage, even though some of these clients will remain disabled and thus eligible for disability benefits and Medicare for a number of years, and for some, the rest of their lives.

Helping the Local Economy and Changing Lives for the Long Term

Our clients use these federally-funded benefits to pay their rent and utility bills, purchase food, and obtain health care and medicine. Thus, the funds that we obtain for our needy clients rapidly pass into the North Country economy, improving our clients' lives and supporting local businesses, landlords, hospitals, and health care providers.

The health insurance and subsistence income that we gain for our clients sometimes also enables them to get the medical care or vocational rehabilitation they need to eventually rejoin the ranks of the employed and self-sufficient. Thus, providing legal services to needy citizens can be a short-term investment that provides a permanent improvement in their lives.

The long-term dignity and self-respect that flow from turning one's life around cannot be precisely quantified, but are a vital part of what can be achieved through timely and successful legal advocacy. Likewise, obtaining a restraining order for a battered spouse or preventing a foreclosure cannot be readily given a dollar value, but the benefits to our clients, their families, and the community are significant.

III. The Legislature Takes a Multi-faceted Second Step in 2005:

- a) Funding for a Nashua Legal Aid office with Salem satellite**
- b) Funding Expanded Statewide Services**
- c) Authorization of "Working Poor" Pilot Project**

After a remarkable legislative journey and with bi-partisan support in both the House and Senate, the State budget for the 2005-2007 biennium included \$700,000 per year in additional funding for civil legal services for low-income New Hampshire residents. This new appropriation⁹ provided for:

- The creation of a New Hampshire Legal Assistance (NHLA) office in Nashua and a satellite office in Salem to be operated by the Nashua office staff (cost: \$350,000);
- Additional funds (\$350,000) to support the delivery of legal services to the poor across the state; and
- A "Working Poor" Pilot Project aimed at moderate income and working class New Hampshire residents with urgent legal problems who cannot afford to hire private attorneys and who previously have been ineligible for legal aid.

Since the budget became final on July 1, 2005, NHLA, in collaboration with a number of partners, allies and supporters, has moved to implement these legislative initiatives.

⁹ A copy of the relevant sections of the 2005-2007 State Budget, 2005 Session Laws, Chapter 177 is attached to this report.

The Nashua Office is Quickly Opened

Within a month of the enactment of the budget, NHLA had located office space for its new Nashua office on East Pearl Street in Nashua and had signed a two-year lease. Over the next month and a half we furnished and equipped the office, arranged for utilities and other services, and brought it to an operational stage. With staff borrowed from our other offices, we opened the Nashua office for business on September 19, 2005. As we had advised the Legislature, we planned four staff positions: two attorneys, one paralegal, and a secretary. All of these positions were filled by mid-November 2005 and three of the four are bilingual in English and Spanish.

Connecting with the Nashua-Area Community

The support of a wide range of people from the Nashua area's legal community, social service network, and political leadership was vital in obtaining the funding for the new office. Since the appropriation was approved, we have taken a variety of steps to continue and deepen these community relationships. Our bi-partisan House and Senate supporters and the executive director of the Judicial Council were honored by NHLA's Board of Directors at our September 2005 meeting. NHLA's Executive Director, John Tobin, has spoken at two meetings of the Nashua Bar Association about the new office, and he introduced the new attorneys to the local judges, bar leadership, and a number of local practitioners. The new Nashua staff has made a sustained effort to connect with the local social service network, attending a number of meetings and making other contacts with many agencies. We held an open house and dedication ceremony in December 2005, and while attendance was diminished by a fierce snowstorm that day, the wide dissemination of our office-opening announcement accomplished our mission, raising the new office's profile in the community. We have also added a Nashua lawyer, David Pinsonneault, a senior partner in the firm of Winer and Bennett, to our statewide Board of Directors.

Setting up the Salem Satellite Office

Throughout the Legislature's consideration of our budget request, we said that we would use a portion of these funds to create a part-time satellite office in Salem in addition to the new full-time Nashua office. Salem is a population center in Rockingham County and we wanted to improve access to our program for Salem-area residents. This proposal was modeled after our approach in the North Country, where our first state appropriation had enabled us to create a full-time office in Littleton and a part-time satellite office in Berlin. After the Nashua office was up and running, we turned our attention to setting up the Salem satellite, which is also now open. Operated by staff from our Nashua and Manchester offices, the new office is located at 200 Main Street in Salem. The office hours are Tuesday, Wednesday and Thursday 10:00 a.m. to 3:00 p.m. Our long-term goal is to obtain funding to expand the office hours and assign staff permanently to this office.

Preserving and Enhancing Statewide Services

Of the \$700,000 in new funding, approximately \$350,000 was committed to fund the Nashua/Salem office and satellite. The remaining \$350,000 is enabling NHLA to preserve and enhance services in our four other offices which serve all other areas of the state. **This funding allowed us to preserve a housing/homeless project attorney in Manchester**, a position we otherwise would have had to eliminate after a federal grant ended. **We added a new paralegal position in Manchester** and successfully recruited a very experienced paralegal for that position from one of Concord's largest law firms. The new paralegal in Manchester and the re-funded Manchester attorney are providing vitally needed services for the residents of Merrimack, Belknap, and Hillsborough Counties.

We have also hired a third attorney for our Claremont office and a new attorney in our Portsmouth office. These new lawyers in the Claremont office, which serves Cheshire, Sullivan and southern Grafton County, and in the Portsmouth office, which serves Rockingham, Stafford, and southern Carroll Counties, have increased our capacity to help the residents of these areas. The expenses of maintaining our Littleton office and Berlin satellite now significantly exceed our North County appropriation. At the same time, that region's economic hardships have diminished our local United Way funding, but **the new statewide appropriation helped us preserve the existing Littleton/Berlin staff** and maintain services in the North Country.

The new staff that the appropriation has funded are especially talented and promising. They are providing much needed service everyday and they have given our whole program a morale boost because we see a new generation of idealistic and effective advocates for the vulnerable people of our state.

Looking at the Data: NHLA Generates Enormous Value For Our Clients and the Community

The following table shows the financial leverage created by funding legal services in three of the categories of cases our program handles: domestic violence, disability benefits and Medicare. The child support we obtain for our clients enables them to achieve long-term economic independence from their abusers, and helps reduce state welfare expenditures in the TANF program. A national study concluded that providing legal help to victims of domestic abuse is the single most lasting and effective service that can be given to them.¹⁰ As noted above, the federal Social Security, SSI, and Medicare benefits we win for these vulnerable clients stabilize their lives, relieve pressure on state and local government budgets, and boost the local economy.

¹⁰ Farmer and Tiefenthaler, "Explaining the Recent Decline in Domestic Violence" Contemporary Economic Policy, Vol. 21:2, March 2003.

Statewide Outcomes for NHLA Clients: Three Case Categories
July 1, 2005 to October 30, 2006

Case Type	A. One-Time Lump Sum Benefits	B. Ongoing Monthly Benefits	C. Monthly Benefits (Annualized)	Total (A +C)
Child Support (in Domestic Violence cases)	\$179,899	\$11,306	\$135,672	\$315,571
Disability Benefits (Social Security and SSI)	\$1,785,268	\$115,497	\$1,385,964	\$3,171,232
Medicare Benefits (annual value)	n/a	n/a	\$1,188,160	\$1,188,160
Totals	\$ 1,965,167	n/a	\$2,709,796	\$4,674,963

IV. The Working Poor Pilot Project: the Standards and the Data

As part of the new appropriation, the Legislature authorized NHLA to undertake a pilot project to serve the “Working Poor.” The purpose of this experiment was to reach beyond the traditional legal aid constituency, which remains significantly under-served, to attempt to learn more about the legal problems faced by working class people who cannot afford to hire private attorneys but have generally been excluded from eligibility for legal aid and other safety-net social programs.

NHLA revised its financial eligibility guidelines and began this experiment. We raised our income eligibility ceiling in all areas of the state to 250% of the federal poverty standard, the level set by the Legislature.¹¹ The following tables compare the 187.5% and 250% standards according to family size.

¹¹ Our prior maximum limit varied from 125% to 187.5% of the poverty level, depending on certain deductions previously required by the federal government, which we have now eliminated to streamline the process and make it fairer.

Former Eligibility Limit:
187.5% of Federal Poverty Standard for 2006

Family Size	Gross Annual Income	Gross Weekly Income
1	\$18,375.00	\$353.00
2	\$24,750.00	\$476.00
3	\$31,125.00	\$599.00
4	\$37,500.00	\$721.00

Current "Working Poor" Pilot Project Eligibility Limit:
250% of Federal Poverty Standard for 2006:

Family Size	Gross Annual Income	Gross Weekly Income
1	\$24,500.00	\$471.00
2	\$33,000.00	\$635.00
3	\$41,500.00	\$798.00
4	\$50,000.00	\$962.00

Although this experiment is still new and our data and conclusions are still being formed, we have already found that while some of our predictions have proved accurate, there have been a number of surprises. The table below shows both the case numbers and percentages by case category of our "working poor" caseload for the past nine months.

“Working Poor” Caseload by Legal Problem
(NHLA Clients between 187.5% - 250% of Federal Poverty Standard)
(Data from February 1 – October 30, 2006)

Legal Problem	Total cases in category	% of total cases
Debt Collection / Bankruptcy	7	7%
Other Consumer/Finance	1	1%
Education	2	2%
Custody / Visitation	3	3%
Domestic Abuse	6	6%
Medicaid	2	2%
Medicare	1	1%
Medical Bill Collection	1	1%
Other Health	2	2%
Housing Discrimination	2	2%
Fed. Subsidized Housing	8	8%
Homeownership/Real Prop.	2	2%
Tenant Evictions	6	6%
Home Foreclosure / Attachment	15	15%
Property Taxes	2	2%
Local Welfare	10	10%
Food Stamps / State Welfare	4	4%
Social Security / SSI	23	23%
76 Unemployment Compensation	4	4%
Total number of cases	101	100%

V. The Working Poor Pilot Project - Findings and Recommendations

As noted above, the 2005 legislation which expanded funding and created the Working Poor pilot project directed New Hampshire Legal Assistance prepare a report on the project and make recommendations for further legislative action, if any, to the Governor, House and Senate leaders, and Judiciary Committee chairpersons, the Attorney General, and the Judicial Council. Based on our analysis of the data we collected, our daily involvement with “working poor” clients across the state who came to us with a variety of compelling legal problems, and our awareness of the roles of the Courts and the private bar, New Hampshire Legal Assistance respectfully makes the following findings and recommendations:

1) Working class individuals and families, like the very poor, often face urgent legal problems that threaten their housing and other basic needs. In particular, we have learned from this project that the NH legal aid system needs more capacity to handle foreclosure cases that imperil the homes of working class families.

Overall, it is noteworthy how similar the consequences of the legal problems faced by our working class clients are to those our more deeply impoverished clients confront. For instance, we expected that the working class clients would have different kinds of housing problems: fewer landlord-tenant and subsidized housing issues and more home ownership-related cases. This has proved to be true so far, but the crisis-laden nature of the homeownership cases has been surprising and dismaying. Foreclosure cases have been the second most numerous category of cases for these clients. Our very-poor clients and their families face the loss of their housing through eviction from the apartment they rent, and many working class clients face the equally devastating loss of their homes due to the threat of foreclosure. While the peril looming for both groups of clients is similar, a different set of legal strategies is required to handle foreclosure cases successfully, and we are now building our capacity to take such cases.

2) Working class families often depend on Social Security benefits, and legal advocacy to protect these benefits is vital.

Helping our very poor clients deal with problems related to Social Security benefits has always been a large part of our caseload. The vast importance of this government social insurance program to the well-being of tens of thousand of New Hampshire residents cannot be overstated. From this pilot project we have seen that many working class people also need legal assistance in resolving Social Security disputes. In our initial sample of “working poor” clients in this pilot project, Social Security cases were the most numerous kind of case. Our program already possesses unrivaled expertise in this area, so we have been able to serve these clients without difficulty, although more capacity may be needed.

3) Many working-class families have serious debt problems that result in legal disputes. The New Hampshire legal services system needs to develop more resources and work with the Courts to create the capacity to screen these cases and provide at least limited service.

Every year, thousands of debt collection cases are filed in New Hampshire courts, and virtually all the defendants in these cases, whether very poor or working class, are not able to obtain any legal help. As a result, excessive attorneys’ fees, costs, high interest charges and other penalties are often imposed on already burdened debtors. Sometimes these debtors are required to pay debts out of Social Security benefits and other income that is nominally protected by state and federal law from the reach of creditors. Other debtors endure abusive and dishonest debt-collection harassment. These problems afflict both the very poor and working class people with precarious finances. The New Hampshire legal aid system currently lacks the resources and capacity to handle these cases or even to systematically screen them to identify the most compelling cases. Considerably more legal aid resources are needed. The courts also need education about the law, and the legal aid programs and the courts should work together to create a system to screen cases and refer the most egregious cases to legal aid.

4) Because working-class families often live with no financial margin, an illness or the loss of job can precipitate a financial collapse that forces these families to seek help from government benefits programs. Accessing these programs can be difficult, and legal expertise and advocacy are often needed. The private bar generally lacks knowledge of these areas of the law, but the legal aid system already possesses this expertise.

When a financial reversal like a job loss or illness puts a working class family in a downward spiral, they may need help from the safety-net social welfare programs such as food stamps, Medicaid, TANF, local welfare or unemployment insurance. Few private attorneys have developed any knowledge or expertise regarding these programs, but NHLA and its legal aid partners do have this substantive knowledge. However, in times of economic uncertainty, more resources and capacity may be needed to serve these “newly poor” people.

5) Working class individuals are often unaware of legal aid programs or believe that these services are not available to them. Much more publicity and outreach is needed. In particular, outreach through employers, churches, and local government officials, and not just with social service agencies, may help reach the moderate-income population.

Low-income people are often unaware of the existence of legal aid programs and moderate-income people may have even less familiarity with legal aid. This group of people often believes that such public or private programs are not open to them. New Hampshire’s legal aid programs, the courts, and the Bar Association should undertake a coordinated effort to reach out, beyond the social service network, to employers, churches and local government in order to connect to this population.

6) The legal needs of working class individuals and families overlap significantly with the legal problems of very low-income people and individuals pass between these groups as their circumstances change. Much of the legal expertise needed to serve the moderate-income population already exists in the legal aid system, but its capacity is extremely limited. Developing one integrated civil legal services system to service these overlapping groups will be more cost-effective and efficient than creating two parallel systems.

Because of the experience and knowledge of the existing legal aid programs, it is not necessary to start from scratch in building the capacity to meet the urgent legal needs of moderate-income working class individuals and families. Instead, it makes more sense to broaden the substantive knowledge in specific areas like foreclosure defense, while building on legal aid’s already developed capacity in a range of other areas such as Social Security, housing, domestic violence, government benefits, etc. In order to serve a larger population, however, more resources will be needed. As noted in an earlier section of this report, such an investment of resources in legal aid creates economic leverage that will benefit the clients, the local economy, and state and local government.

7) Building on the existing Reduced Fee program, the NH legal aid providers and the NH Bar Association should work together to help increase the availability of

reduced fee legal services from private attorneys, especially in more routine legal cases.

The Bar Association should be commended for its commitment to this program and encouraged and assisted in expanding it.

8) The ability of “working poor” clients to pay legal fees for help with crisis-related legal problems is extremely limited, but sliding fee scales would be appropriate in non-emergency cases. As our caseload data indicates, most of our working poor clients came to us with legal problems caused by or aggravated by lack of money or an urgent need for more income. Asking these clients to pay fees is impractical and unrealistic. In fact, making fees a prerequisite for legal service in these crisis cases will thwart our attempt to serve this population. However, we have been able to charge fees in Social Security and SSI disability cases, without impeding access, because, by law, these fees are paid out of the lump sum benefits the client receives from a successful appeal. This pilot project has focused on the more urgent cases involving acute financial problems, but imposing sliding-scale fees for more routine legal problems would be appropriate. For example, some level of fees would be appropriate in cases involving land use and property disputes, preparing wills and powers of attorney, adoptions, guardianships, etc.

9) The “Working Poor” Pilot Project has illuminated an unexamined and significant gap in New Hampshire’s justice system that makes “equal justice under law” unattainable for a growing portion of the people in our state. The Project has confirmed that moderate-income working class people have urgent legal problems that imperil the basics of their daily lives, such as their homes, their income, and their access to health care. The Project has also shown that legal aid programs, if freed from narrow and outmoded eligibility rules, can make a difference in resolving legal crises for a class of people in our community who contribute to our collective well-being through hard work and payment of taxes but historically have had virtually no access to legal help. The Legislature, our legal aid programs, the Courts, and the private bar should work together to develop the resources and build an integrated system to provide legal representation to this under-served group of New Hampshire residents, while also striving to improve access to legal representation to the very poor in New Hampshire who are also woefully under-served.

Recognizing that fair access to our legal system is crucial to maintaining the legitimacy of our system of government but also that the public’s resources are finite, the Legislature should incrementally expand the funding for legal aid, while specifying that the moderate-income working class should be included within the range of eligibility for these services. The Legislature should also take steps to foster coordination, innovation, and efficiency by the legal aid programs, the private bar, and the Courts in the delivery of legal services to both the very poor and moderate-income residents of New Hampshire.

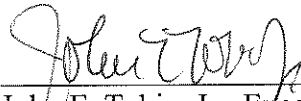
VI. Conclusion

The Legislature's investment in legal services for low-income people, begun in the North Country in 1997 and expanded in Nashua, Salem, and statewide in 2005, has enabled thousands of vulnerable individuals and families to save their housing, obtain subsistence income, gain access to much-needed health care, protect themselves from domestic abuse, and lead more independent and productive lives. This funding has also leveraged millions of dollars in federal benefits and child support which have stabilized and improved the lives of people in our communities, bolstered the local economy and eased local and state public assistance budgets.

In the past year, Legislative support has also enabled New Hampshire Legal Assistance to conduct an important experiment in serving working class New Hampshire residents who previously had no access to legal aid.

We are proud of what we have achieved for our clients and our state with the Legislature's support over the past decade, and we remain profoundly grateful for the expanding opportunity that the Legislature has provided us to build a legal system that embodies "justice for all" in New Hampshire. We look forward to working with the Legislature, the Courts, and the Executive Branch to carry out this great shared duty to all of the people of New Hampshire.

Respectfully submitted,



John E. Tobin, Jr., Executive Director
New Hampshire Legal Assistance
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(603) 206-2216
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APPENDIX A

2005 Session Laws Chapter 177:154, et seq.
Civil Legal Services Fund

2005 Session Laws Chapter 177:154, et seq.
Civil Legal Services Fund

177:154 New Section; **Civil Legal Services Fund; New Hampshire Legal Assistance.** Amend RSA 525-A by inserting after section 1 the following new section:

525-A:2 Civil Legal Services Fund. There is established in the office of the state treasurer a separate fund to be known as the civil legal services fund. **The money in this fund shall be distributed to New Hampshire Legal Assistance to be used to establish and operate an office in the city of Nashua to provide civil legal services to low-income persons in the city of Nashua and the surrounding area, and to provide additional attorneys, paralegals, or both, to the staff of the New Hampshire Legal Assistance offices in Manchester, Claremont, Portsmouth, and Littleton. These civil legal services shall include services related to such issues as housing, social security and other government benefits, health care, domestic violence, and consumer issues.** New Hampshire Legal Assistance shall report semi-annually to the judicial council as to its use of these funds in accordance with RSA 525-A:1.

177:155 New Subparagraph; State Treasurer; Application of Receipts. Amend RSA 6:12, I(b) by inserting after subparagraph (235) the following new subparagraph:

(236) Moneys deposited in the civil services legal fund established in RSA 525-A:2.

177:156 Penalty Assessment; Court Fines and Penalties. Amend RSA 188-F:31 to read as follows:

188-F:31 Penalty Assessment; Waiver of Penalty.

I. Every court shall levy a penalty assessment of \$2 or 20 percent, whichever is greater, on each fine or penalty imposed by the court for a criminal offense, including any fine or penalty for a violation of RSA title XXI or any municipal ordinance, except for a violation of a municipal ordinance relating to motor vehicles unlawfully left or parked. ~~[Such penalty assessment shall be divided into the following components, to be designated as follows: 15 percent for the police standards and training council training fund and 5 percent for the victims' assistance fund.]~~

II. If multiple offenses are involved, the penalty assessment shall be imposed on the total fine.

III. If a fine is suspended in whole or in part, the penalty assessment shall be reduced in proportion to the suspension.

IV. The clerk of each court shall collect all penalty assessments and shall transmit the amount collected under ~~[paragraph I designated for the police standards and training council training fund to the police standards and training council]~~ **paragraphs I-III to the state treasurer for deposit in the following funds.** ~~[The council shall pay over all moneys collected by it under this chapter to the state treasurer for deposit in the police standards and training council training fund. The clerk shall transmit the amount collected under paragraph I for the victims' assistance fund to the state treasurer to deposit in such fund.]~~ **The state treasurer shall deposit 65 percent of the amount collected in the police standards and training council training fund, 20 percent of the amount collected in the victims' assistance fund, and the remainder in the general fund.**

V. If it is determined by a court that the payment of all or any part of a penalty assessment would work a hardship on the person convicted or on such person's immediate family, the court may suspend the payment of all or any part of the assessment.

177:157 Pilot Project for Serving the "Working Poor." **The general court finds that many moderate-income and working class New Hampshire residents are unable to afford to hire a private attorney to assist them with urgent civil legal problems, and that further efforts should be made to provide legal services to this population.** Accordingly, for the biennium

ending June 30, 2007, New Hampshire Legal Assistance shall conduct a pilot project to serve this group and may use funds provided pursuant to RSA 525-A:2 for this purpose. This pilot project shall include the use of sliding fee scales and shall be limited to clients whose incomes are below 250 percent of the federal poverty guidelines. On or before November 1, 2006, New Hampshire Legal Assistance shall file a report describing this pilot project, the results achieved, and recommendations for future legislative action, if any. This report shall be filed with the governor, the president of the senate, the speaker of the house of representatives, the chairpersons of the house and senate judiciary committees, the attorney general, and the judicial council.

APPENDIX B

Excerpts from:

Challenge to Justice
A Report on Self-Represented Litigants
in New Hampshire Courts
January 2004

CHALLENGE TO JUSTICE

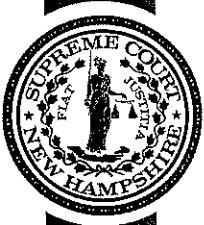
*A Report on Self-Represented Litigants
in New Hampshire Courts*



**Findings and Recommendations of the
New Hampshire Supreme Court Task Force on Self-Representation**

JANUARY 2004

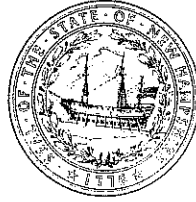
STATE OF NEW HAMPSHIRE JUDICIAL BRANCH



STATE OF NEW HAMPSHIRE
SUPREME COURT

JAMES E. DUGGAN
ASSOCIATE JUSTICE

SUPREME COURT BUILDING
CONCORD, N.H. 03301
(603) 271-3660
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To Governor Benson, Senate President Eaton, House Speaker Chandler, members of the legislature and the legal community:

Every day, hundreds of New Hampshire citizens appear in court without lawyers, many because they cannot afford one, others because they want to represent themselves. Whatever the reason, the reality is that most self-represented litigants, despite their best intentions and commitment, are unable to handle their own cases.

The Supreme Court "Task Force on Self-Representation," of which I was pleased to serve as chairman, recently completed an extensive study of this issue. Our findings and recommendations are included in this report, which we have submitted to the Supreme Court and to its newly established "Committee on Justice System Needs and Priorities."

There is no doubt that pro se litigants make mistakes that result in the loss of their own important legal rights. Their need for guidance and their inexperience with the rules and formalities of the justice system inevitably slows down the operation of the courts, jeopardizing the rights of others who expect efficient resolution of their cases. Part I, Article 14 of the New Hampshire constitution entitles all citizens the right to seek legal remedies and it guarantees that access to the court system will be free, thorough and without delay. Unfortunately, this promise is often unfulfilled for citizens who decide to represent themselves.

The Task Force has concluded that widespread self-representation is here to stay and that innovative changes are needed to ensure that pro se litigants are treated fairly and equally in New Hampshire courts. We urge speedy implementation of our recommendations for the benefit of all New Hampshire citizens.

A handwritten signature in black ink, appearing to read "James E. Duggan".

James E. Duggan
Associate Justice

January 2004

CHALLENGE TO JUSTICE

Introduction

In recent years, New Hampshire courts have experienced a dramatic increase in the number of citizens who choose to represent themselves. This population of self-represented or pro se litigants represents a cross-section of our community: a mother trying to collect child support, tenants upset with landlords, neighbors disputing a property line, a contractor with an unpaid bill, couples tangled in divorce, a family settling the estate of a loved one. They come into *their* court, on their own, with a conflict or change in their lives, and they expect a resolution. That is their constitutional right.

Access to justice is an abiding principle of our system of justice and the doors of our courthouses are open to everyone, whether represented by a lawyer or not. It follows that the obligation of the court system is to see to it that justice is as fair and efficient as it can be for those who arrive on their own. As the number of these pro se litigants continues to grow, and the strain on the court system increases, meeting that constitutional guarantee of *justice for all* will require changes, some of which we have proposed here.

Identifying the Issues

Our intent is not to decrease the number of persons who come to our courthouses without a lawyer, or to erect barriers that discourage them. We do believe it is preferable that litigants have the assistance of a lawyer, and we strongly recommend increased resources for low-cost legal assistance. At the same time, we recognize that pro se litigants are a permanent and growing part of our justice system and we have an obligation to determine what level of assistance we can provide to them. By providing help, we may be able to reduce the number of times these litigants must come to court and thus reduce the stress on the court system.

Self-represented litigants are either unwilling or unable to pay a lawyer. A sample of self-represented litigants in New Hampshire showed that most of them were in court on their own because they could not afford to hire or continue to pay a lawyer. In today's "self-help" society, many people believe they can handle simple legal matters themselves. More often than not, however, it quickly becomes clear that these pro se litigants lack the knowledge and skill to handle their own case and that they need significant assistance from the courts. The courts' resources cannot keep pace with the increasing need to manage individual cases brought by pro se litigants. As a result, New Hampshire courts today are overwhelmed by self-represented litigants and, with existing resources already under pressure, the entire case processing system is only further bogged down. Meanwhile, the needs of self-represented litigants are unmet.

What the Facts Show

Case statistics, and day-to-day experience in our courthouses, confirm the growing impact on the system. One party is pro se in 85% of all civil cases in the district court and 48% of all civil cases in the superior court. In probate court, both sides are unrepresented by lawyers in 38% of the cases. In superior court domestic relations cases, almost 70% of cases have one pro se party, while in district court domestic violence cases 97% of the cases have one pro se party.

The growth in self-representation, and the shortage of resources to deal with this new reality, is a serious issue not just for New Hampshire, of course, but for court systems nationwide. In 1999, at a National Conference on Pro Se Litigation, 95% of the participating courts, including New Hampshire, reported an increase in the number of pro se litigants.

The impact of this dramatic increase in self-representation has been profound. Today's legal system is structured for lawyers. Both the system's complex procedures and the law assume that qualified lawyers will represent both sides of a dispute. This assumption no longer holds true.

The brunt of this change in circumstances is felt by court staff and judges. Court staff literally spend hundreds of hours responding to inquiries from pro se litigants. Judges must explain fundamental procedures to the litigants. Both judges and court staff are often put in the difficult position of assisting a self-represented litigant without impermissibly giving legal advice.

The Work of the Task Force

In October 2001, the New Hampshire Supreme Court created a “Task Force on Self-Representation” to examine the phenomenon of the burgeoning number of self-represented litigants, identify the problems self-represented parties experience in accessing the court, address the difficulties self-represented parties present to courts, attorneys, and represented parties, and make recommendations to the court. The “Pro Se” Task Force set out to study possible approaches, including those implemented by other States that address this challenge.

To accomplish the goals of the Task Force, members were chosen who represent a cross-section of the legal system most affected by the increase in pro se litigation including judges, clerks, administrators, and case managers from all levels of courts. The Task Force also included the director of Legal Services for the New Hampshire Bar Association, a professor from Franklin Pierce Law Center, legal services attorneys and private attorneys.

Reaching out to the Community

The Task Force collected information directly from pro se litigants in New Hampshire through questionnaires that were distributed in the courts. The Task Force also reviewed materials from federal and other state courts, as well as materials from the American Judicature Society and the National Center for State Courts. The Task Force collected basic data concerning the number of self-represented parties in New Hampshire by court and case type.

The Task Force also held focus group sessions for pro se litigants in Dover, Manchester, Concord and North Haverhill to learn first-hand about their experiences. At these

sessions, pro se litigants expressed their frustration with the legal system, distrust of lawyers and judges, appreciation for assistance from court staff, and, in some cases, their unrealistic expectations of the legal system. Some pro se litigants, particularly those who are frequently involved in litigation, expressed a desire for easier access to information through computers. The Task Force would like to express its thanks to Connie Boyles Lane Esq. who conducted the focus group discussions and prepared a report, and to the State Justice Institute, which provided grant support for this important aspect of our work.

According to the Task Force survey, people choose to represent themselves mainly because they cannot afford a lawyer or believe that they do not need one. Studies from other States have identified other important factors that account for the huge jump in the number of pro se litigants, including a decrease in funding for legal services to low-income people, the impact of television courtroom shows, dissatisfaction with lawyers and an expectation in today's consumer-oriented society that when a "customer" needs something from the court system, they will receive clear direction about what to do, and how to do it on their own.

Taking Action

Many jurisdictions have responded to the rising tide of pro se litigants by devoting new resources to the judicial system. States have put in place specially trained personnel to operate resource desks and have designed web pages just for use by pro se litigants. Other less costly measures including guidelines for judges and court staff have been developed.

Many of these ideas have yet to be fully evaluated for their effectiveness, because they are so new. But experienced observers in judicial administration all agree that without innovative approaches, courts will only be further weighed down as the pro se population continues to grow.

The New Hampshire Pro Se Task Force selected seven categories of possible approaches to consider. A sub-committee was assigned to study and assess each of the selected approaches and report back to the full task force.

This report is the result of the work of the Task Force. For each of the approaches studied, the Task Force has a recommendation and a suggested plan for implementing the recommendation. The overall purpose of the recommendations is to improve access to justice for pro se litigants. This purpose is served by two basic principles - increasing the availability of legal assistance through more lawyers and limited representation, and making the system more user-friendly through case managers, technology, alternative dispute resolution and simplified rules.

SUMMARY

Findings and Recommendations

1. EXPANDED LEGAL SERVICES. Because low-income clients lack access to attorneys and are most likely to represent themselves, legal services should be expanded significantly. *(See page 8)*

2. LIMITED REPRESENTATION. To increase the availability of lawyers, current professional conduct rules should be revised to clearly allow lawyers to engage in limited representation of clients. *(See page 10)*

3. CASE MANAGERS. Every major court should have one or more well trained case managers to evaluate pro se cases entering the system for possible referral to mediation, the private bar, pro bono or legal services providers and to meet with pro se litigants before their court hearing to prepare the parties and the case for the court. *(See page 13)*

4. PUBLIC ACCESS TO INFORMATION. The Judicial Branch and State Office of Information Technology should launch a “Computer in Every Courthouse” project to establish public access computer workstations. *(See page 16)*

An online “Self-Help Center” should be established on the Judicial Branch Website to provide pro se litigants with forms, instructions and comprehensive, user-friendly information about court procedures and available legal services.

5. ALTERNATIVE DISPUTE RESOLUTION. The courts should designate a state-wide coordinator to oversee alternative dispute resolution programs at all levels of the court system. *(See page 19)*

6. PROTOCOLS FOR JUDGES AND STAFF. The courts should develop and promulgate written protocols for judges and staff that explain their duties and limitations in managing pro se litigation. *(See page 22)*

7. SIMPLIFIED RULES. Court rules, forms and procedure should be simplified, where possible, to accommodate self-represented litigants. *(See page 26)*

CONCLUSION. *(See page 27)*

1. Legal Services should be expanded significantly for low-income litigants.

The Task Force endorses increased public and private funding for legal services so that low-income persons will have better access to attorneys. Legal representation will enable low-income persons to protect their rights more fully and will ease the burden on the courts from pro se litigation.

The Need

Over the past two decades, the population of New Hampshire has grown and the number of lawyers has doubled, but federal funding for legal services has declined. When twenty years of increases in the cost of living are taken into account, the effect of decreased funding is dramatic.

Five organizations currently provide legal services in civil cases to low-income people in New Hampshire: New Hampshire Legal Assistance (NHLA), the Legal Advice & Referral Center (LARC), the New Hampshire Bar Association's Pro Bono Program (Pro Bono), the Disabilities Rights Center (DRC), and the Civil Practice Clinic of the Franklin Pierce Law Center. The number of staff attorneys in these programs combined is less than forty or less than 1% of the practicing attorneys in New Hampshire. Pro Bono relies upon a panel of 1,000 volunteer private attorneys. Law students staff the Franklin Pierce Law Center clinic, principally during the academic year.

Although these programs provide services to many clients each year, they are forced to turn away countless more or are limited to providing them with advice over the telephone or through a pamphlet. While no New Hampshire-specific survey has been done to gauge the unmet need for civil legal services, an ABA national study and surveys in other States have found that legal services and pro bono programs generally meet only from 15% to 25% of the overall need.

Some Examples

Experience in our courtrooms and recent statistics suggest that a large number of tenants, many of whom are likely to be low-income renters, have no attorney when they come to court. In New Hampshire, in 2001, approximately 7,000 landlord-tenant cases were filed in district courts, most involving evictions. Nearly 90% of the tenants in these cases had no lawyer and received no legal advice or information from NHLA.

Legal services programs in New Hampshire and elsewhere have tracked the outcomes of landlord-tenant cases in which clients received advice or a pamphlet but did not have a lawyer represent them in court or negotiate on their behalf. They found that the tenants are often unsuccessful in asserting defenses, presenting evidence, or making legal arguments that might have changed the outcome if a lawyer had represented them.

Having an attorney can be particularly important in cases involving domestic violence. A recent national study shows that the only public service that has reduced domestic abuse in the long term is legal aid. While hotlines, shelters, emergency transportation and counseling programs may help battered women in the short-term, this study found that legal representation helps battered women in the long-term to leave violent relationships permanently. Attorneys help battered women to obtain and enforce protective orders, retain custody of their children, and obtain child support and alimony. According to the study, women living in counties with legal assistance programs that help battered women are significantly less likely to suffer abuse.

Finding the Resources

To increase their capacity to serve low-income New Hampshire residents, NHLA, LARC, and Pro Bono have launched an ambitious joint fundraising campaign with the assistance of the New Hampshire Bar Foundation. NHLA also intends to renew its efforts to expand the State appropriation it has received for the past five years, and will consider seeking an appropriation for LARC. NHLA is also considering modifying its income guidelines to make its services available to individuals who are not income-eligible, but have urgent legal problems and no realistic means to pay for a lawyer. The Task Force vigorously supports these initiatives.

APPENDIX C

Excerpts from:

New Hampshire Citizens Commission
on the State Courts
June 1, 2006

every citizen is "entitled to a certain remedy, by having recourse to the laws, for all injuries he may receive in his person, property, or character; to obtain right and justice freely, without being obliged to purchase it; completely and without any denial, promptly and without delay, conformably to the laws"

**New Hampshire
Citizens Commission
on the State Courts**

**Report and Recommendations
June 1, 2006**

Today, the primary focus of judicial branch management is process, the establishment of rules that determine how every legal circumstance faced by a litigant is to be handled. This approach has the virtue of clarity and certainty. It also has three significant drawbacks. First, it may divert attention from real outcomes like timely and fair justice as it rewards the blind application of process rules. Second, it may restrain institutional progress in the judiciary. Management by process rules does not invite or engage the human resources of the judicial branch in the work of innovation and creating a better future. Third, management exclusively by process creates an ever-expanding list of process rules that make the courts less accessible to the non-lawyer and result in shelves full of court rules. The judicial branch will be best served by placing an emphasis on outcomes that define the long-term success of the judicial branch, while fully recognizing that rules are necessary for the administration of justice in individual cases.

While process is critical to operations, the judicial branch's constituencies are more interested in performance in areas they consider important: timely justice, equal access, customer service, and cost. Without recognizing those desired outcomes, measuring performance against those outcomes, and managing against those objectives, excellence in performance will always be more a matter of chance and exceptional effort than real management and leadership. Further, where an institution views its performance only against process, there is, almost by definition, no progress. Approved processes either are or are not followed. By focusing on outcomes, the judiciary can be engaged in innovation and investments to drive performance improvements. And such measures and reporting would enrich the judicial branch's communication with its constituencies.

Part 2

Public Access

Recommendation #6

Recognizing the importance of protecting the rights of civil litigants in certain legal disputes, the Commission recommends that New Hampshire examine the expansion of legal representation to civil litigants unable to afford counsel and study the implementation of a "civil Gideon." In the landmark criminal case of *Gideon v. Wainwright*, the U.S. Supreme Court found that people cannot adequately navigate the legal system on their own and that going to jail is too high a price to pay for one's inability to afford legal counsel. The concept of a civil Gideon extends the premise of right to counsel to certain limited and specific non-criminal cases in which essential rights are at stake.

We aspire to be a fair and just society. Fairness and justice require the protection of essential rights for all, regardless of economic circumstances. A fair hearing when essential rights are at stake is premised on having legal counsel. As the U.S. Supreme

Court found in *Gideon*, "The right to be heard would be, in many cases, of little avail if it did not comprehend the right to be heard by counsel." Inability to afford representation should not mean having to surrender vital legal rights.

Recommendation #7

The State of New Hampshire should fully fund legal services staffing for traditional civil legal services.

The Commission recognizes that the current network of civil legal assistance is excellent, and in many ways a model in terms of the quality of representation and level of cooperation among providers. That being said, the system is woefully overburdened. By some estimates, only 20 percent of the low-income people who need legal services are receiving them. The current delivery system is tried and true – but lacks the resources to achieve full success. The Commission urges that this system be fully funded.

Meaningful access to New Hampshire courts is limited by the inability of many people to pay for legal services. Economic and procedural barriers present challenges for a growing percentage of the population. It is estimated that among low-income citizens, only a small fraction of those involved in civil

matters have their legal needs met by the current levels of legal assistance services. Moreover, a growing segment of moderate- and middle-income citizens are unable to afford or gain access to conventional legal representation.

As a result, many people forgo use of the justice system even when they face problems in their lives that the system could address. They know they cannot afford a large retainer, so they never pursue potential legal claims.

Another option for low-, moderate-, or middle-income people who cannot afford to pay the cost of legal services is to represent themselves in court. The rise in the number of pro se litigants presents many challenges: pro se parties are not trained in the law

and hence often do an inadequate job of representing themselves. Justice is therefore compromised, resulting in pro se litigants being deprived of their full rights. The increase in the number of untrained

litigants also undermines the smooth functioning of the courts by introducing delays and inefficiencies, adding further to legal costs for all.

Recommendation #8

The judicial branch should invest in the further education of pro se litigants, including:

- A. **Creating a public education program to educate potential litigants about court procedures, available resources and issues to consider in evaluating legal needs. One such resource is referred to as “unbundled” legal services, where attorneys are permitted to work with a client on a portion of a legal case, even if they do not handle the entire case.**
- B. **Expanding the “case manager” system, ideally with a well-trained case manager in each court. That case manager would interview litigants and either make a referral to legal services providers, recommend and facilitate alternative dispute resolution, or provide procedural guidance and support if the client chooses to litigate pro se.**
- C. **Encouraging the use of non-lawyer professionals to provide basic law-related services within their areas of competency.**
- D. **Helping people involved in uncontested divorces to handle their own cases, by developing an “uncontested divorce kit” and providing paraprofessional support to guide people through the court process.**

The Commission’s conclusion is that a little bit of a lawyer is better than none at all. Keeping in mind that the ultimate ideal is to have full representation by an attorney with a thorough and integrated knowledge of the client and his/her needs, the fact is that a shrinking percentage of the population is financially able to hire an attorney in that comprehensive manner. Until the day arrives when New Hampshire can achieve the ideal, the judicial branch should assume that pro se litigants are not going to go away. It needs to recognize that pro se litigants will remain a part of the process and find ways to support and facilitate those pro se litigants.

Encouraging attorneys to provide unbundled services in appropriate circumstances will provide critically important representation to many litigants who otherwise would not have a lawyer at all. Additionally, building a “case manager” system would be a cost-effective way to triage pro se cases, deflecting many from the court system and increasing the efficiency of those that remain. For certain legal issues, lay persons can handle many tasks on their own, with assistance/guidance from a lawyer or paraprofessional. Such assistance should be made available, ranging from the development of a “kit” (as for uncontested divorces) to guide people to a clinic where attorneys, in person, walk the litigant through the necessary forms and other filings.

Recommendation #9

All courts in the State of New Hampshire must meet or exceed the requirements for compliance with federal and state laws pertaining to accessibility (structural and communicative). Currently one courthouse is not accessible for people with walking disabilities and a majority of court buildings in the state have some areas that are not accessible. All court facilities shall have provisions for:

- A. **Compliance with all applicable building codes for the removal of all structural barriers that prevent or impede physical access.**
- B. **The deployment and usage of effective and accessible methods of communication such as NH Relay, Telecommunication Devices for the Deaf (TTY), Assistive Listening Devices (ALDs), Computer Assisted Real-time Translation services (CART), Video Relay Services (VRS), accessible (508-compliant) websites and alternative formats for all printed materials (large print, Braille, audio-tape and computer disk).**
- C. **The removal of language barriers for non-English speaking citizens by providing translation services, oral or American Sign Language interpreters, and translated written materials.**
- D. **Discrete sources of funding for communication access and annual disability sensitivity training.**

APPENDIX D

Financial Reports and Case Statistics:

North Country Appropriation
July 1, 2005 – May 31, 2006

Nashua and Statewide Appropriation
July 1, 2005 – May 31, 2006

NEW HAMPSHIRE LEGAL ASSISTANCE
 Civil Legal Services
North Country Appropriation
July 1, 2005 - May 31, 2006
 Eleven Months

PERSONNEL	
Attorney Salaries	\$ 82,716
Paralegal Salaries	\$ 32,825
Secretary Salaries	\$ 28,629
Admin. & Finance Salaries	\$ 31,979
sub-total	\$ 176,149
Payroll Taxes	\$ 13,360
Employee Benefits	
health insurance	\$ 44,709
dental insurance	\$ 3,394
life insurance	\$ 1,275
workers compensation insurance	\$ 1,058
pension plan	\$ 8,740
sub-total	\$ 59,176
TOTAL PERSONNEL	\$ 248,685
NON-PERSONNEL	
Space & Occupancy	\$ 23,461
Supplies & Office Expenses	\$ 5,626
Postage	\$ 812
Equipment Rental & Maintenance	\$ 2,081
Telephone & Data Communications	\$ 8,432
Library (incl. legal computer research)	\$ 4,091
Staff Education & Training	\$ 1,907
Insurances (general liability, property, bond)	\$ 1,276
Bar Dues & Fees	\$ 492
Legal Costs (on behalf of clients)	\$ 319
Contracted Services (audit & temporary clerical)	\$ 5,579
Local Travel	\$ 6,034
Printing	\$ -
Recruiting	\$ -
Miscellaneous	\$ 130
TOTAL NON-PERSONNEL	\$ 60,240
TOTAL EXPENSES	\$ 308,925

New Hampshire Legal Assistance
 Civil Legal Services Appropriation Report
 Pursuant to RSA 525A

June 30, 2006

**NORTH COUNTRY
 CASE STATISTICS
 July 1, 2005 - May 31, 2006**
 (eleven months)

		Carroll County	Coos County	Grafton County	Total
Consumer	number of cases	12	36	41	89
	people helped	12	48	64	124
Education	number of cases		1	1	2
	people helped		1	1	2
Employment	number of cases	2	4	9	15
	people helped	2	4	9	15
Family	number of cases	17	39	62	118
	people helped	19	41	71	131
Health	number of cases	15	19	18	52
	people helped	29	31	32	92
Housing	number of cases	41	90	105	236
	people helped	71	203	208	482
Income Maintenance	number of cases	13	34	53	100
	people helped	29	75	100	204
Juvenile	number of cases			2	2
	people helped			2	2
Miscellaneous	number of cases	16	40	39	95
	people helped	21	44	41	106
Wills & Estates	number of cases	8	9	3	20
	people helped	8	9	3	20
Total Number of Cases		124	272	333	729
Total Number of People Helped		191	456	531	1178

NEW HAMPSHIRE LEGAL ASSISTANCE
 Civil Legal Services
Nashua and Statewide Appropriation
 July 1, 2005 - May 31, 2006
 Eleven Months

PERSONNEL		
Attorney Salaries	\$	163,594
Paralegal Salaries	\$	58,761
Secretary Salaries	\$	38,183
Admin. & Finance Salaries	\$	57,186
sub-total	\$	317,724
Payroll Taxes	\$	24,213
Employee Benefits		
health insurance	\$	71,398
dental insurance	\$	5,804
life insurance	\$	2,346
workers compensation insurance	\$	1,541
pension plan	\$	15,755
sub-total	\$	96,844
TOTAL PERSONNEL	\$	438,781
NON-PERSONNEL		
Space & Occupancy	\$	47,004
Supplies & Office Expenses	\$	29,373
Postage	\$	1,852
Equipment Rental & Maintenance	\$	5,700
Telephone & Data Communications	\$	9,562
Library (incl. legal computer research)	\$	8,191
Staff Education & Training	\$	2,799
Insurances (general liability, property, bond)	\$	1,951
Bar Dues & Fees	\$	988
Legal Costs (on behalf of clients)	\$	72
Contracted Services (audit & temporary clerical)	\$	7,676
Local Travel	\$	2,908
Printing	\$	-
Recruiting	\$	-
Miscellaneous	\$	9,143
Computers, Telephone System, Printer, Network & Server, Fax	\$	11,104
TOTAL NON-PERSONNEL	\$	138,323
TOTAL EXPENSES	\$	577,104

New Hampshire Legal Assistance
 Statewide Statistics
 July 1, 2005 - May 31, 2006
 Eleven Months

County	Income Maintenance	Consumer	Education	Employment	Family	Health	Housing	Individual Rights	Juvenile	Wills & Estates	Misc.	Total
Belknap	29	24	0	3	38	25	60	0	1	14	23	217
	51	26	0	4	40	33	71	0	1	14	23	263
Carroll	20	14	0	3	24	20	49	1	0	12	26	169
	46	14	0	3	29	35	84	1	0	12	31	255
Cheshire	39	39	0	13	40	14	71	1	0	4	13	234
	60	44	0	13	51	16	109	1	0	4	13	311
Coos	38	42	6	4	66	22	115	0	0	9	54	356
	85	54	6	4	69	39	251	0	0	9	58	575
Grafton	54	59	1	11	81	25	123	1	2	8	47	412
	98	84	1	11	90	39	224	1	2	8	49	607
Hillsborough	252	240	8	68	469	124	673	6	9	74	399	2322
	979	261	18	76	580	542	878	6	17	74	446	3877
Merrimack	80	64	1	13	73	56	149	0	2	26	142	606
	143	64	1	13	77	115	202	0	2	27	146	790
Out of State	2	6	0	0	4	7	8	0	0	3	7	37
	4	10	0	0	5	7	11	0	0	3	7	47
Rockingham	82	123	7	17	160	44	241	6	2	34	120	836
	141	128	11	17	167	58	336	6	2	35	132	1033
Strafford	79	58	0	5	124	47	180	2	0	17	54	566
	142	66	0	5	139	67	264	2	0	17	58	760
Sullivan	32	44	0	5	51	17	62	0	1	5	6	223
	47	44	0	5	53	28	83	0	1	5	6	272
Unknown	20	26	1	6	70	19	82	0	1	11	166	402
	24	27	2	6	70	27	100	0	1	11	168	436
Total Cases	727	739	24	148	1200	420	1813	17	18	217	1057	6380
Total People Helped	1820	822	39	157	1370	1006	2613	17	26	219	1137	9226

APPENDIX E

Case Stories:

North Country

Nashua / Salem

North Country Case Histories

The case stories in this report transform the case statistics into human terms by revealing how the State appropriation enables the advocates at NHLA to make a difference in the lives of North Country people. The clients' names have been changed to protect their privacy.

NHLA's Persistent Advocacy Pays Off for Two Disabled North Country Women

Erin Sheehan, from a town in Grafton County, is a young woman in her thirties who is disabled because of anxiety, personality disorder, PTSD and depression. She has suffered from mental illness her whole life. She was diagnosed with depression at age 6, bipolar disorder at age 12, borderline personality disorder at age 14 (she started to cut herself). She tried nursing school after high school but dropped out because she could not handle the stress. She tried to commit suicide three times (once at age 14, twice at age 25). She moved from the Upper Valley to New York City and had two jobs managing restaurants, but had to move home because of her mental health problems and alcohol abuse. After returning to New Hampshire she worked at a pet store, at the front desk of a health club and for Pier I as a sales clerk. She needed to work so that she could have health insurance to pay for her medications. However, her mental illness and alcoholism forced her to stop working all together in September 2001. Ms. Sheehan went into treatment and conquered her alcohol abuse but still suffers from her life-long mental health problems.

Ms. Sheehan applied for Social Security disability benefits but her claim was denied. With representation by NHLA attorney Ben Mortell at an administrative hearing, an Administrative Law Judge (ALJ) from the Social Security Administration made a partially favorable decision, but did not grant benefits back to the worsening of Ms. Sheehan's disability in April 2001. Attorney Mortell appealed the decision to the Social Security Appeals Council in Washington, DC, which then lost the file. After multiple phone calls and faxes, the Appeals Council acted on the case in 2005 and ordered a remand to the ALJ. The ALJ finally revised his initial decision and found Ms. Sheehan eligible back to April 2001. However, problems continued with the case. Social Security took out excess Medicare premiums, but NHLA convinced SSA to issue her a refund. As a result of NHLA's advocacy and persistence, Ms. Sheehan received \$3,734 in retroactive benefits, and she now receives a monthly check of over \$800, along with Medicare coverage.

Nora Anthony is a 42-year-old homeless woman who has suffered from cerebral palsy and paranoid schizophrenia since childhood and has been living in a homeless shelter in Lancaster. She applied for Social Security disability benefits in February 1998 but was denied. She filed a second application in April 2004 and her application was again turned down. She appealed on her own, and a series of hearings were held, but the Judge refused to let the case go forward until she could obtain a lawyer. NHLA attorney Jonathan Baird stepped into the case in 2005.

An enormously difficult issue in Ms. Anthony's case was that, because she had no recent earnings or work history, Social Security law required that Ms. Anthony prove that she had been disabled before her 22nd birthday in 1985. Unfortunately, there was no medical evidence still available from this time period. Initially, it looked like the Judge would have to deny Ms. Anthony's claim for benefits because of the lack of evidence. However, Jon Baird researched the legal issues involved and found a prior Social Security ruling which required, in a case such as this, that the Judge bring a medical expert at a supplemental hearing to discuss the "onset date" of disability.

At the supplemental hearing, Attorney Baird questioned Ms. Anthony at length about her medical history, and then the medical expert testified. Based on Ms. Anthony's testimony as elicited by NHLA and the questions that the expert then asked her, the expert concluded that Ms. Anthony had, in fact, been disabled before her 22nd birthday. Based on this testimony, the Administrative Law Judge ruled that Ms. Anthony was eligible as of the date of her first application, which was filed in February 1998. This meant that she was entitled to eight years of back benefits. She will also receive on-going monthly Social Security disability benefits and Medicare coverage as a result of the decision.

Ms. Anthony had been living in the homeless shelter in Lancaster for the last six months, but will now be able to afford an apartment and live a more stable life.

NHLA Helps End a Pattern of Severe Domestic Abuse

Judy Jensen is from Grafton County. Although college-educated, she was a stay-at-home mom with no independent income, and her husband was a successful contractor, who built high-end homes in the state. They have two young children. Her husband became abusive after the birth of their first child and he was physically, verbally and emotionally abusive towards her. He hit her, called her degrading names in front of the children and isolated her from her friends and family. He completely controlled the family's finances. Ms. Jensen would have to ask him for money for household necessities and then detail how the money was spent. He was not an involved father. Her husband also used and sold drugs. He made and sold methamphetamine. He was having an affair with his bookkeeper. He created turmoil for this family when he was home.

Ms. Jensen made plans to leave her husband. She called the local crisis center and made an appointment to meet with them to discuss her options. She was driving to the crisis center with the children for this meeting when she saw her husband driving in the other direction. Mr. Jensen did a u-turn in the middle of the busy road and began chasing her in his truck. He caught up to her and indicated to her to pull over. She was afraid and kept driving. He then forced her car off the road by crashing his truck into it. The children were screaming and asking her why their daddy was crashing into their car. Ms. Jensen's husband got out of his truck and told her and the children to get into his truck. There were guns and a bow and arrow in his truck. Ms. Jensen's car was disabled by the crash. The police arrived at the scene, but just before they did, her husband told

Ms. Jensen in no uncertain terms that she was to tell the police that it was just an accident, which she did. Mr. Jensen took our client and the children back home.

When she was able to do so, Ms. Jensen called the police, told them what really happened and asked for their help to leave her residence and go to the crisis center. The police helped her leave and helped her get a temporary emergency order of protection, and then took her statement to initiate a criminal investigation of the incident. Her husband got an experienced criminal defense attorney to represent him at the restraining order hearing and to file a divorce petition against her. Ms. Jensen's husband alleged that she had mental health issues, that she was lazy and did not work, that she wanted to undermine his successful contracting business, that she made up her story that he crashed into her car and that she is in general a habitually dishonest person.

Ms. Jensen applied through the DOVE program for an attorney to help her with the restraining order hearing and for help with the divorce. There were no private practice attorneys available to help her. At the eleventh hour, the New Hampshire Bar Association called NHLA, and Attorney Valerie Reed agreed to represent Ms. Jensen. Attorney Reed was successful in getting Ms. Jensen a permanent restraining order and also agreed to represent her in the divorce. She also went back to Court to enforce Mr. Jensen's child support obligation and other financial obligations under the restraining order. Mr. Jensen would not pay child support, took the family car from our client and gave it to his girlfriend and did not pay the home expenses as ordered. His attorney was very aggressive and difficult to work with, particularly in responding to requests for information.

There were approximately ten hearings in the divorce case and three hearings in the restraining order case, but eventually Ms. Jensen was given primary responsibility for the children. The Grafton County Attorney's Office successfully prosecuted Mr. Jensen on seven felony counts, and he is now incarcerated in the New Hampshire State Prison. Ms. Jensen obtained full-time employment as a teacher's aide and is doing fairly well. The children are also doing fairly well now but are continuing with counseling to help them deal with the trauma of growing up in an abusive home, losing contact with their father because of his incarceration, being involved in the incident during which their father tried to run their mother off the road, and worrying that their father will get out of prison and kill their mother.

Because Mr. Jensen had plenty of money for his attorney's time and because his attorney was aggressive and filed many motions in the divorce and restraining order cases, it was essential for Ms. Jensen to have her own legal representation and she has always been grateful for NHLA's help.

Working with a Landlord to Preserve an Elderly Man's Housing

Charles Fortier is an older man who has been a fixture on the streets of Berlin for a long time, well known to many businesses and service providers. He had been living in subsidized housing for several years. He was referred to NHLA by his case worker at

DHHS after he received a Notice to Quit from his landlord that alleged conduct that disturbed other tenants. While Mr. Fortier actually presents no threat of physical harm to others, when excited he tends to speak loudly and gesticulate wildly. His mannerisms caused the other residents of his senior living facility to complain to management.

When NHLA attorney Robert Brazil reviewed Mr. Fortier's case, he discovered potential legal defenses if the landlord moved forward on an eviction. However, after a lengthy interview with Mr. Fortier at NHLA's Berlin satellite office, Attorney Brazil contacted Mr. Fortier's landlord and arranged for an informal meeting with all parties. His hope was that the landlord could be persuaded to work toward keeping Mr. Fortier in his apartment rather than making him homeless. To their credit, the property management expressed a clear reluctance to evict Mr. Fortier, particularly in light of the fact that there would be few options left for him as an elderly man with very limited monthly income. An eviction could result in the loss of his federal subsidy, and would make it even more difficult for him to secure another apartment. The management company, however, felt they were running out of options with Mr. Fortier.

At this meeting Attorney Brazil learned that while Mr. Fortier was generally a very good tenant, he had recently begun acting in a manner that concerned those around him. There were allegations that he was observed outside the property late in the evening speaking loudly and pacing about waving his arms. Two of the residents had gone so far as to summon the police to the property. (In both instances Mr. Fortier merely followed police advice and returned to his apartment without further incident.) Mr. Fortier, on the other hand, found it difficult to acknowledge that he had engaged in any particular conduct, let alone conduct that threatened others. To make matters even more troublesome, he was having a hard time managing his income, and he was falling behind on his rent.

As a result of the informal meeting, the landlord agreed to move very slowly toward an eviction, thereby allowing NHLA to find a solution to Mr. Fortier's situation. The landlord agreed to contact NHLA if Mr. Fortier were to become the source of concern in the future. Mr. Fortier was also encouraged to make paying his rent in a timely fashion a priority and to pay down the rent arrears by periodic payments. Through further interviews with Mr. Fortier, Attorney Brazil learned that Mr. Fortier had been the subject of financial fraud by someone he considered to be one of his few good friends. Although the financial amounts in question were relatively small, it was occurring often enough to cause Mr. Fortier to fall behind on his rent. The emotional strain was making him angry and upset, but with little in the way of an outlet it was not uncommon for him to work through his emotions by speaking to himself loudly while pacing about. Attorney Brazil connected Mr. Fortier with an area social service agency that helped him file a criminal complaint against his former friend with the Berlin District Court. The agency also "buddied" Mr. Fortier up with another elderly gentleman with whom he could socialize and talk to. Having an emotional outlet enabled Mr. Fortier to return to his previous "good tenant" status. He makes his current rent payments on time, and is slowly paying down his arrearage. As a result, the landlord is no longer attempting to evict him.

Protecting a Handicapped Woman from Violence

Debbie Issacs has a seven year old child. She has serious mental illness and developmental limitations and doesn't drive. Her husband also has mental illness and he was very abusive and controlling. In two recent incidents, he kicked her in the stomach with steel-toed boots, leaving bruises, and on Mother's Day he choked her, leaving marks on her neck. He has several guns, and he threatened to blow her head off and to blow up her mother's house. He also had punched her, thrown and broken furniture, and he had done this in front of their son and sometimes he had hit the boy too.

After the two recent incidents, Ms. Issacs finally escaped and contacted NHLA for help. Attorney Ruth Heintz took the case. She helped Ms. Issacs obtain a restraining order and a child support order, which in turn gave Debbie some peace of mind. Her husband subsequently left the state, and Ms. Issacs and her son are now living with her mother who is providing some stability for Ms. Issacs and her son.

Protecting the Housing of a Young Widow

Paula Gordon is a naturalized U.S. citizen who came from Germany. Her husband was killed while on active duty in the U.S. Army, and she lives on a VA widow's pension and earnings from a part-time housecleaning job. She lives with her six-year-old daughter in a mobile home she owns in a Carroll County manufactured housing park. She fell behind in her lot rent and the park owner began an eviction proceeding. Because of the expense, the lack of available lots and the risk of damage to the home, it is virtually impossible to relocate a mobile home when the homeowner/tenant is evicted from the park. Therefore, a homeowner/tenant like Ms. Gordon faces the loss of her only asset in such a case. Accordingly, New Hampshire's manufactured housing law requires strict compliance with the specified procedure for eviction.

When she got her eviction notice, Ms. Gordon contacted NHLA. Attorney Ruth Heintz found a technical violation in the eviction process and followed this up with a request to the park owner's lawyer for more information on this issue. At that point, the owner withdrew the eviction action and Ms. Gordon had the opportunity to catch up on her lot rent. She was able to do so, and she and her daughter still live there in the home she owns.

Helping a Family Cope with North Country Employment Cycles

Hank and Fran Ellis have one child. In a situation that occurs frequently in the North Country, both have seasonal jobs, at a campground and a motel, and they fell behind in their rent when they were both laid off for several months. Their landlord started an eviction action and they turned to NHLA for help. When Attorney Ruth Heintz investigated, she determined that the landlord had wildly misstated the amount of rent due, and the landlord's attorney subsequently withdrew the eviction. The Ellis family was then able to get back on their feet.

Nashua/Salem Case Histories

The case stories in this report transform the case statistics into human terms by revealing how the State appropriation enables the advocates at NHLA to make a difference in the lives of Nashua/Salem-area people and other needy individuals and families across the state. Many people are able to solve their own problems once they receive a pamphlet or simple legal advice. In other cases, especially those involving government agencies with complex and ever-changing rules, our clients need an advocate who can review the relevant regulations, give them advice and perhaps make a telephone call or write a letter to the appropriate official. As in most areas of law practice, full administrative or court hearings are necessary in only a relatively small number of our cases, but our staff is prepared to take whatever steps are necessary to protect the legal rights of our clients. These stories illustrate how NHLA's expertise helps solve urgent problems. The clients' names have been changed to protect their privacy.

Fighting for a Disabled Ironworker

Andy Matthews of Nashua contacted NHLA for help with his Social Security case after the reemergence of medical problems arising from a severe workplace injury 17 years ago. Mr. Matthews was injured when he fell approximately 40 feet (four stories) while employed as an ironworker. He landed on his outstretched hands and received crippling injuries to both hands/wrists. Mr. Matthews underwent multiple surgical procedures to his hands, including the insertion of plates and screws in his hands/wrists. He eventually returned to work as an ironworker after three years of medical care.

Several years ago Mr. Matthews began to develop pain and arthritis in both hands/wrists. He could not grasp or hold items like a coffee cup, and he had difficulty holding a razor or toothbrush. He found it impossible to work and he lived off his savings for several months. The workers compensation carrier continued to pay for his medical treatment, but he had no cash income. In March, 2005 he applied for disability benefits from the Social Security Administration, but his application was denied. Mr. Matthews became homeless, with only food stamps and the kindness of his friends to keep him going.

Because of the severity of Mr. Matthews's current medical condition and his financial destitution and homelessness, NHLA was able to have his Social Security appeal expedited. After a hearing at which we presented up-to-date medical evidence about the severity and duration of the injuries to his wrists and hands, as well as a written brief pointing out the relevant legal and medical standards, the Administrative Law Judge found Mr. Matthews eligible for Social Security and SSI disability benefits. He received approximately \$13,000 in retroactive benefits and he is now getting \$1,233 in monthly benefits. His three minor children are also receiving about \$200 each per month in dependent's benefits. He will be eligible for Medicare in about another year. He is no longer homeless and now can afford an apartment and the basics of daily living.

Helping an Elderly Couple Deal With The Social Security Administration's Mistakes

Ed and Margaret Harrison are an elderly couple who live in Nashua. They came to NHLA because they were notified by the Social Security Administration (SSA) that they owed \$7,412 because they allegedly had been overpaid Social Security benefits. SSA told them that they had failed to report rental income, but the Harrisons knew they always had reported their income as part of SSA's regular reporting system. The Harrisons owned a two-family unit and they had always previously notified Social Security about their rental income. The two-family home is their only asset.

After reviewing the Harrison's file at SSA, NHLA discovered that the problem in the case developed in December 2005 when, because of his age, Social Security switched Ed from disability benefits to old-age Social Security benefits. After this switch SSA failed to stay in touch with the Harrisons. The Harrisons always provided the information that SSA requested about their rental income when they were asked, but after Social Security made the switch in Ed's benefits, they stopped requesting this information from Mr. and Mrs. Harrison.

NHLA represented the Harrisons at a hearing before an Administrative Law Judge. Based on the records that we assembled and a brief that we wrote, the ALJ was persuaded that the Harrisons were not at fault in creating the overpayment and that their income is so low that they do not have the financial ability to pay it back. As a result, the Administrative Law Judge waived the \$7,412 overpayment.

NHLA Helps a Young Family Gain Housing

Ken Downing and Carol Brinkley, from Nashua, are the young parents of twins. Seeking affordable housing, they applied for tenancy in a private subsidized-housing development in Nashua managed by a large property management company. The apartment manager rejected their application because Mr. Downing allegedly had a criminal history. They sought help from NHLA because, in fact, Mr. Downing did not have a criminal record. He was arrested once at age seventeen for a minor misdemeanor and the case was eventually dismissed.

When NHLA attorney Christine Wellington reviewed the development's admission policy, it was clear that the manager's decision was not consistent with it. Attorney Wellington suspected that the reason given for the rejection may have been a pretense and that the clients' youth or ethnicity may have been part of the rationale for denying them admission.

Attorney Wellington contacted the manager and discussed the situation with her and asked her to clarify the basis for her decision. The manger then decided that our clients did qualify for admission, but since they had small children, they would have to wait for a first-floor unit to become available. Attorney Wellington reminded the manager that limiting full access to families with children violated state and federal housing discrimination laws. Within two weeks, the manager offered our clients an apartment and they have moved in.

Advocacy for Single Mother with Cancer

Amy Genovese, a divorced single mother of three children who lives in Amherst, was diagnosed with breast cancer in August 2004. She had worked as a science teacher in the four years prior to her diagnosis. Because she had a particularly invasive form of cancer, she had to have a double mastectomy. She then needed to have extensive chemotherapy. She was not able to work after her cancer treatment started. She suffered from pain, nausea, and vomiting. She no longer had abdominal muscles and she struggled to sit up. She had trouble with the use of her arms, and she had a frozen shoulder. She needed to rest frequently. All of this was very challenging for her as a single parent responsible for children ages 10, 8 and 3.

Ms. Genovese applied for Social Security Disability because of her breast cancer, but, incredibly, her application was denied. She then contacted NHLA. NHLA systematically gathered all available medical records and sought opinion letters from her treating physicians. NHLA then wrote the Administrative Law Judge (ALJ) a letter-brief, arguing that Ms. Genovese should be found disabled because she had been out of work a year already and she needed to have 18 months of additional treatment, including more chemotherapy. Initially, the ALJ refused to grant this request and tried to insist on a shorter period of disability. However, NHLA was able to persuade the ALJ to grant benefits back to the time of the initial diagnosis based on new medical records we provided. The ALJ agreed to a fully favorable decision on the record. Ms. Genovese received almost \$14,000 in back benefits and more than \$1,400 in monthly benefits. She also will become eligible for Medicare as a result of the ALJ decision. She and her children urgently needed this money, as she had been living on savings and irregular child support payments.

Protecting a Mother and Three Children from Violence

Lorraine and Bill Pierce have three children, and Lorraine has tried to make her marriage work, even though Bill has been physically abusive periodically throughout their marriage. Mr. Pierce has bipolar disorder and he needs to take medication regularly to keep it under control. In early December, Mr. Pierce was being treated by a new doctor and he stopped taking his medication. On December 11th, he came home and began to yell at Lorraine and then started swearing at her. He would not stop despite her many requests, and because she refused to respond, he began yelling and swearing at Lorraine's mother who was on the telephone at the time. Lorraine's mother ended her telephone call and dialed 911. The police came and escorted Mr. Pierce out of the house.

Then the harassment began. Mr. Pierce would wait just down the street until Lorraine's mother left for work and he would come and bang on the door, yelling and swearing. Lorraine became more and more frightened. He called her cell phone and the home phone so many times, it would not accept any more messages. Sometimes the messages would be conciliatory, and other times abusive – all within a matter of a couple of hours. The messages would start at 5:00 a.m. and go on until noon. Then on December 30th, he came over to the house and stole her car. He left his car running in the driveway. Lorraine was afraid to go outside to shut it off because she thought he might be waiting for her to do just that. So she called the police instead. When

the police entered the car to turn off the ignition, they found a gift for Lorraine, a card, a letter, and a receipt for several rounds of ammunition. Lorraine was able to obtain a TRO.

On January 3, Lorraine received a phone call from Mr. Pierce's mother (who lives in Florida) telling her to get the kids and get out of the house. According to her, Mr. Pierce had just called and was the worst she'd heard him in 17 years. Lorraine did not react until the phone rang again a few minutes later. This time, it was a mutual friend who told her to get the kids and get out of the house. This second call frightened and spurred Lorraine to begin packing up the 3 kids and their belongings. Then the phone rang again a few minutes later and it was one of Mr. Pierce's friends who told her he had just talked to Mr. Pierce and she should get out NOW. She did (Lorraine now keeps the car packed at all times so she can leave on a moment's notice.).

Lorraine was terrified and so she came to NHLA for help. We obtained a restraining order against her husband, custody of her children for Lorraine, and an order for child support. Mr. Pierce finally admitted himself to the hospital for a psychiatric evaluation.

Protecting a Mother and Child from Abuse

Alicia Alvarez is a bilingual native of the Dominican Republic, and is now a citizen of the United States, residing in Nashua. Ms. Alvarez has multiple sclerosis (MS) and tires very easily. Her husband is an undocumented immigrant from the Dominican Republic, who does not speak English very well. He was employed on a cash basis as a buyer for a local grocery store, which was owned by a family member.

Because of the abuse she suffered at the hands of her husband, she was very afraid of him. She and her husband have a nine-year-old son, who has grown up in Nashua. He is a gifted pianist and does very well in school. Ms. Alvarez wanted to encourage her husband to be involved with their child, and for their son to know his father and to be able to do things with him. But at the same time she worried that her husband would take their son and leave the country. Ms. Alvarez' husband was very angry and even his own lawyer had difficulty dealing with him.

As is often the case in these situations, at the outset of the case her husband's lawyer requested that the husband be awarded custody of the child. NHLA, however, obtained primary custody of the child for Ms. Alvarez, a decent child support order for her, an agreement from the husband to pay for the child's piano lessons and to bring the child to church during his weekend visitations. The Court also adopted NHLA's proposals regarding visitation, which NHLA drafted to address Ms. Alvarez's fears that her husband would take their child to the Dominican Republic and disappear.

Because of her fear for herself and her son, as well as her MS and depression, Ms. Alvarez would not have been able to navigate this process on her own.