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Allan R. Ansell

Idaho Legal Aid Services advocates for low-income citizens who otherwise would not have access to the justice system. Pictured: a Boise woman outside the Ada County Courthouse, 2011.

5 Losing **LEGAL AID**

by Dennis K. O'Dell

If you are destitute ... especially in a recession ... chances are the scales of justice will be weighed against you. Idaho Legal Aid Services exists to balance those scales, but that is becoming more and more difficult as the organization's budget shrinks and its services reduced. The non-profit legal aid law firm assists low-income families by providing a variety of free legal services for domestic violence and sexual assault victims, abused and neglected children, veterans, senior citizens and persons with disabilities. But budget reductions are taking a heavy toll.

Take the case of Jan, whose story is repeated many times each day as people needing legal assistance are turned away. Concerned about a divorce and child custody battle, Jan was told by Idaho Legal Aid Services that she would have to wait "a while" before an attorney could contact her because the organization didn't have enough manpower to meet the demand.

"Maybe my situation was not as critical as others, but with what I was going through, I felt like I needed at least some answers or advice because I



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Idaho Legal Aid Services moved 13 of its 21 attorney positions to part-time status to cope with federal budget cuts over the last two years. Pictured: ILAS staff providing advice.

honestly felt that my son and I could possibly be in an unsafe situation. If we totally lose these resources, what will become of our citizens who really do need the help?" she asked.

ILAS has a potential clientele of 187,000 people whose incomes are low enough to qualify for free legal assistance, and that number is growing as unemployment numbers remain high in the wake of the Great Recession. The *Poverty Law Journal*, the organization's newsletter, stated that 3,694 Idahoans were served in 2010 through offices in Boise, Caldwell, Twin Falls, Idaho Falls, Pocatello, Lewiston and Coeur d'Alene. However, ILAS estimates another 15,000 people needing legal support could not be served. And this number could take a turn for the worse, predicted Jim Cook, ILAS deputy



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Jim Cook, Idaho Legal Aid Service's deputy director, estimated that 15,000 people needing assistance could not be helped last year because of cost-cutting measures that reduced services.

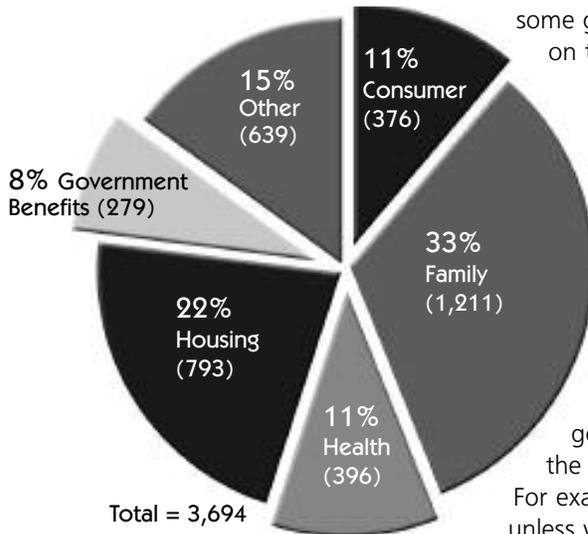
director, because Congress has outlined a 10-year schedule of cuts to federal discretionary spending as part of efforts to balance the federal budget.

This year ILAS is working with a \$2.4 million budget, but is projecting a \$397,000 shortfall. That amount, however, could drop because of cost-cutting measures in place. The shortfall results from a loss of funding from a variety of sources, most notably the federal government. Any loss of federal funds is more keenly felt at ILAS because Idaho is one of the few states that doesn't provide some financial support for its non-profit legal aid program. Cook said ILAS has cut back in a variety of ways to meet the budget challenges—offices now close one day

per month, many attorneys and staff are on reduced hours and some vacant positions have not been filled. And the organization is tapping its reserve account to makeup for the shortfall, a strategy that Cook called "unsustainable" because the account will be depleted by the end of the year without a new source of state funding.

ILAS' September 2011 organization chart listed 21 attorney positions, but 13 have been moved to part-time status, with several working 80 percent of a full-time schedule. Three positions remain vacant. In addition, Ernesto Sanchez, executive director, and Howard Belodoff, associate director and Indian Law unit director, are now considered part time at an 80 percent

2010 Case Distribution



2010 Case Distribution, Chart, *Idaho Poverty Law Journal*, Spring 2011

work schedule. The reduction in hours, combined with already low salaries (\$33,500 starting for an attorney) has led to some attrition, especially with

younger attorneys, explained Cook. "They will work here 2-3 years, long enough to get some good experience, and then they move on to higher-paying firms."

Because of the reduced budget, each year ILAS, with the input from state judges, attorneys and social service providers, prioritizes which types of cases (domestic violence, child abuse, foreclosures, housing, etc.) will be given priority. This process limits the number of eligible citizens who receive legal aid. Cook emphasized that while they have not eliminated any legal categories, the loss of funding does reduce the number of those who can be served.

For example, Cook said in family law cases unless your situation involves domestic violence, you are not eligible for assistance according to the restrictions of the grant that

funds that program. So people who need advice on child custody or divorce cases that don't involve violence have nowhere to go. "There are thousands of people who need us for family law cases and we aren't touching a single one because they aren't domestic violence victims. We have to aggressively weed people out ... it's not nice," said Cook.

But Cook added that changes have been made to serve people in ways other than face-to-face contact with an attorney. Statewide hotlines staffed by attorneys offer advice on domestic violence, senior citizen and housing issues. And a website offers 160 brochures and educational documents along with dozens of interactive forms.

The biggest hole in the budget comes from a reduction in funding to the Legal Aid Services Corporation, the primary federal funding source that underwrites 60 percent of ILAS' operations. This year the grant was just over \$1.3 million. "They provide us the bedrock grant that allows us to survive," explained Cook. In February 2011, there was an effort in Congress to eliminate all funding for the Legal Aid Services Corporation. That measure was defeated, but other legislation did pass that called for a reduction to non-



Idaho Legal Aid advocates for low-income seniors without access to housing and health care. Before 2010, Legal Aid annually served more than 1,600 seniors. Pictured: homeless in Boise.

essential services spending. The result, said Cook, is that the ILAS budget has been cut by \$300,000 over the last two years. "When Medicare and Social Security cuts are on the Congressional table, there would be no hesitation to cut or eliminate smaller budgets such as legal aid," he said.

One way to stabilize funding and reduce reliance on federal sources is to receive state support, like legal aid organizations in 47 other states. In the 2011 legislative session, ILAS went to state lawmakers to add a new \$10 user fee on civil cases within the Idaho court system, which would have raised \$800,000 for legal aid. This money would have been used to aid victims of domestic violence, abused and neglected children, elder exploitation and foreclosures as well as veteran's issues, said Cook. That bill passed the House but was not heard in the Senate. In the 2012 session, ILAS advocated

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Idaho Legal Aid attorneys will be making fewer trips to Idaho courthouses as personnel reductions take their toll. A bill to help fund Idaho's only non-profit legal assistance program was not approved by the 2012 Idaho Legislature. Pictured: Ada County Courthouse.

for a revised bill that would have added to an existing fee on family cases. That fee would have generated \$300,000 annually. But that proposal also failed, leaving an even more gaping hole in ILAS' budget.

The recession has affected other funding sources such as the Department of Justice, Idaho Law Foundation and United Way, which in turn means fewer funds provided to ILAS. For example, statewide attorney retainers are placed in a client trust account to generate bank interest for the Idaho Law Foundation. The interest supports programs such as ILAS and the Idaho Volunteer Attorney Program. But bank interest rates have declined substantially, causing ILAS funding to drop from \$190,000 to \$81,000 between 2008 and 2012. In addition, Cook said reductions in the federal grant pool in the Department of Justice and in many other agencies that provide legal aid grants are trickling down to agencies like ILAS.

Donations are another source of revenue. So far, corporations are not a major ILAS funder, but many local foundations give their support, such as the Wittenberger Foundation in Canyon County, the Seagrave Foundation in Twin Falls and the Casey Foundation. When Idaho's foreclosure rate skyrocketed more than 100 percent after 2008, the Weyerhaeuser Company Foundation donated funds to ILAS to fight wrongful foreclosures.

ILAS frequently collaborates with partners such as the Idaho Coalition Against Sexual and Domestic Violence, the Nampa Family Justice Agency and several other agencies that receive grants and then subcontract with Idaho Legal Aid for services. Other federal funds are passed through from state agencies like the Idaho State Police, which use some of their federal funding so ILAS can serve victims of domestic violence at the FACES justice center in Boise and the Nampa Family Justice Center. Funds also come from the Idaho Council on Domestic Violence and Victim Assistance.

At the Nampa Family Justice Center, law enforcement takes victims to a location designed as a home kitchen and a children's playroom. The intent is to have a more relaxed and comfortable environment rather than a police station or hospital. At this location all service providers are readily available to the victims—law enforcement, prosecuting attorneys, victim/witness coordinators, Idaho Department of Health and Welfare social workers, child protection staff, nurses and physicians and ILAS attorneys. ILAS has two part-time and one full-time attorneys located at the Justice Center, but one of the part-time positions is now vacant because of the funding shortfall. More than 30 women, most with children, needing legal assistance are on a waiting list as the two remaining attorneys have a full client schedule, said Cook. Funding cuts to other state and county programs also can increase caseloads for ILAS because attorneys must represent newly acquired clients created by



The Interpreter's Friend

Idaho Legal Aid recently sued on behalf of the blind and disabled whose benefits were improperly denied.

reductions in funding. For example, when payments through the Aid for the Aged, Blind and Disabled program were cut for more than 1,200 people, ILAS sued on behalf of Idaho residents who were improperly denied benefits.

Three different studies at the national level all concluded that there is a significant shortage of civil legal assistance available to low-income people. The studies determined that there was 1 legal services attorney for every 6,861 low-income Americans. In Idaho, with its 21 legal aid attorneys, that number is 1 per every 9,000 eligible persons. These funding statistics were based on the 49 states that provided funding and support for their legal aid systems. (Two states have ceased funding legal aid since the studies were conducted.) This puts the ILAS in the worst possible financial scenario in the entire nation since it receives no state funding.

The budget cuts mean the low-income population is not getting as much access to Idaho's justice system as it was prior to the recession.

Assistance in serious legal matters—domestic violence, sexual assault, child abuse, senior citizen issues and foreclosure—is getting more difficult to access. If the cuts continue, Cook said ILAS may have to close some regional offices, which means legal aid will be rationed “pretty severely.” At the heart of the funding cuts is the fundamental American concept of justice for all. Cook asked a key question: “In the long term, is it good for the state to have so many people without access to the third branch of government?”

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