


Georgia State Law

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A black and white portrait of Lauren Sudeall Lucas, a woman with dark, curly hair, wearing a dark suit jacket over a white shirt. She is resting her chin on her hand and looking thoughtfully to the right. The background is dark and out of focus.

LAUREN SUDEALL LUCAS, DIRECTOR,
CENTER FOR ACCESS TO JUSTICE

Shining a
light on
OBSTACLES
TO ACCESS
in the South

OBSTACLES TO ACCESS

Barriers leave many
falling through the cracks
of the justice system

by Jennifer Bryon Owen

WHEN CONFRONTED WITH some of life's most difficult hardships—whether the custody of children, the ability to remain in long-term housing, domestic violence, incarceration, compensation for work or obtaining government benefits enabling a person to put food on the table and receive health care—the assistance of a lawyer is invaluable. Yet a vast number of Americans lack the means and sometimes access to secure an attorney, creating a substantial disparity in equality of justice.

In 2010, the U.S. Department of Justice recognized this “crisis in the criminal and civil justice system” and established the Office for Access to Justice to “improve the justice delivery systems that serve people who are unable to afford lawyers.”

1 in 4 Georgians likely face barriers to obtaining employment, housing and even voting due to having criminal records.

— “The State of Corrections in Georgia,” Georgia Center for Opportunity

This fall, the College of Law launched the Center for Access to Justice, which will convene scholars, practitioners and law and policy makers to research and discuss ways to eliminate obstacles and increase access to justice, with an emphasis on the South. (Read more on page 14).

These efforts are part of similar conversations nationwide, all of which likely start at the same place—defining access to justice, which can mean different things to different people.

“At the center, we conceive of access to justice not only as access to a lawyer, but as encompassing all of the ways in which lower-income individuals navigate the justice system to achieve a desired end,” said Lauren Sudeall Lucas, assistant

professor of law and the center’s faculty director. “True access to justice also has to contemplate the needs that people may not themselves think of as ‘legal’—to those individuals, these are just problems they face every day, whether they relate to housing, a job or family—but which can and should be resolved by the justice system.”

For example, a person experiencing illness caused by mold in her apartment may not understand it’s not only a health issue but potentially a legal issue that should be addressed with the landlord.

On the criminal side, the U.S. Constitution guarantees some defendants the right to an attorney. Yet, just having a lawyer present isn’t always enough to ensure fair access. “If you have a lawyer, and he or she isn’t competent, or if they are competent but not able to do their job effectively due to time or resources, that can be very dangerous,” Lucas said.

On the civil side, there is no parallel to guarantee legal representation. While legal aid is an option for some, the income level to qualify for assistance is shockingly low, Lucas said. With little exception, clients’ incomes must be at or below 125 percent of the federal poverty level. That leaves a large number of middle-income Americans who cannot afford a private attorney but also don’t qualify for a legal aid attorney. In Georgia alone, that is over 1.69 million households.

Even those who are eligible may not get assistance, given limited resources. Data shows that across the country, on average, only one legal aid attorney is

available for every 6,415 low-income households.

The experiences of two Georgia State Law alumnae—a legal-aid attorney and a magistrate judge—highlight the complex issues involved in ensuring access.

Legal aid navigates the system

Nancy DeVetter (J.D. ’08), a staff attorney in the Savannah office of the Georgia Legal Services Program, defines access to justice as an equal opportunity to understand the law and to present a case when something has gone wrong. DeVetter specializes in public benefits—access to Social Security, unemployment, food stamps, Medicare and Medicaid and other programs designed to help people in need.

“My job is to help people who normally don’t have a legal education or access to that kind of lawyer sort through basic legal problems,” DeVetter said.

Of the nearly two million people in Georgia who live below the poverty line, DeVetter said the majority are eligible for a variety of services but have problems dealing with large, underfunded, understaffed government agencies.

“A lot of people fall through the cracks,” she said.

Having the assistance of an attorney who can help navigate the system can make a significant impact.

One of DeVetter’s clients, an elderly woman awaiting a kidney transplant, didn’t understand why her food stamp allocation had been cut from \$190 a month to \$40. DeVetter realized the error,

secured the client \$100 in food stamps in back pay and \$194 in food stamps going forward. Overcome with emotion, the client gave DeVetter a big hug — and told her to use the client's nickname.

"The 24 hours between when she called me and that court appearance made a difference in her life," DeVetter said.

Access to information is another hurdle in closing the justice gap. Many of those eligible for legal aid services don't know they can get help, and some are not

at the local probation office and works with a nonprofit organization providing job training to target people who may need her help. She also works with various agencies to target people recently released from prison to ensure they know what services are available to help them transition back into their communities.

In addition, she relies on satisfied clients to spread the word, often through their churches.

But the downside to awareness is the reality of legal aid:

lack of funding means there are not enough lawyers to serve all who walk through the door. So cases in DeVetter's office are prioritized: first served are domestic violence victims, the elderly and the disabled. There is a dire need for volunteers.

"Pro bono work is essential in helping meet these legal needs," said DeVetter. "We definitely need more."

Adding to her already

heavy caseload, DeVetter has assumed duties as the office's Spanish-speaking attorney. Language can be a barrier to access. But it is not the quality of her Spanish that concerns DeVetter. She and her colleagues want more attorneys and volunteers who are native Spanish speakers so their office will be more representative of the diverse clients they serve.

Funding is key to increasing access

Lack of funding is a frequent barrier to sufficient staff, programs, communication avenues and research — all needed to ensure access to justice.

"Funding is the biggest problem; it always is," said DeKalb County Magistrate Judge Mary McCall Cash (J.D. '92).

While Cash feels good about the opportunities for access in DeKalb County, she said everything depends on funding, and it is never enough.

DeKalb County is fortunate in its criminal system, she said. "We have excellent public defenders, so access in our county is unlike it probably is in most places. There are places in which they still have lawyers who fall asleep in court and don't have any idea what they're doing. Guilty or not, everyone deserves a good defense," Cash said. Even if the person is not acquitted, a good public defender could reduce the charges or limit the time served.

Reiterating that access is affected by where you live, she praises the idea behind Georgia's statewide public defender system, but notes it has never had enough money to make it the truly viable system it could be. In addition, six single-circuit counties opted out of the system.

Part of the funding problem is that the people who don't have good public defenders to represent them are also people who don't really have access to the General Assembly to lobby for their needs. "There's no political pressure," Cash said.

The state is moving in the right direction in criminal cases by providing access to specialty courts, or accountability courts, for juvenile and adult mental health, veterans, DUIs and drug court for nonviolent people with addictions, Cash said.

The war on drugs has had devastating consequences in the criminal justice system, Cash said. "Instead of treating people as having an addiction problem, we treat them as criminals," she said. "The amount of money and time we spend on it — why are we wasting our resources on that? [Many of those people] don't need to be in jail, they just need some help to get back on their feet."

Lack of access and lack of awareness of resources for affordable legal



Nancy DeVetter (J.D. '08)

aware of legal procedures that may help resolve issues affecting their livelihood.

This is often the case in expunging non-convictions from clients' criminal records. "I had a client who was falsely accused of rape, and it had been on his record 20 years, although the warrant against him had been dismissed," DeVetter said. "His record was preventing him from getting work and housing."

But even letting communities know assistance is available has challenges. With little money for marketing, getting the word out often falls on the shoulders of attorneys — another duty tacked on to caseloads that are too high. To network in her community, DeVetter teaches classes

representation and help lead to many citizens representing themselves in court.

In her court, Cash takes measures to ensure it is “user friendly” for pro se clients so they will get a fair hearing. The judges are patient, listening and letting the pro se talk it out. “Under our rules, we won’t let people argue until they’ve gone with a deputy to try to work the problem out by talking, and a huge number of cases get worked out that way,” she said.

In 2013, Georgia’s two legal aid organizations closed 18,047 cases with 110 attorneys.

—secf.org/legal-aid-ga

The ethnically diverse DeKalb County also has a workable solution for the barrier to access that language can present. Cash estimated that five to eight percent of the people appearing in her court do not speak English.

In one-on-one situations, such as in an ex parte interview for a protective order, Cash’s court uses AT&T’s language line for interpreters. It’s also used for hearings held via video.

“However, in all formal, in-person courtroom hearings, the courts in DeKalb County hire court-qualified interpreters to do virtual simultaneous translation,” she said.

Other solutions to closing the justice gap, Lucas said, may involve looking to resources that involve non-lawyers, changing the nature of legal representation (for example, providing unbundled, discrete services for a flat fee) and using technology to assist self-represented litigants.

“There seems to be some increased awareness of the issues people are facing, and I’m hopeful the center can harness the momentum building behind access to justice to solve these problems and create change,” Lucas said.

Q&A WITH LAWYERS FOR EQUAL JUSTICE EXECUTIVE DIRECTOR
STEPHANIE EVERETT (J.D. '02)

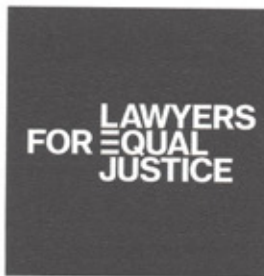
Providing affordable representation

Why was establishing L4EJ important?

First, we are providing much-needed support and training to new lawyers who are launching a practice—picking up where law school leaves off. Second, there are over 1.69 million Georgia households who earn too much income to qualify for free legal services yet cannot afford market rate for most attorneys. It’s estimated that 90 percent of Georgians in this group do not obtain legal help for issues where representation could significantly change the outcome.

Why is affordable representation important for this segment?

These folks often are hitting our legal system at a critical time in their lives. They are facing real problems—losing their home, losing custody of a child, becoming victims of domestic violence or predatory lending. They struggle navigating the legal system on their own. If you are living paycheck to paycheck, you may be able to come up with a small retainer or follow a payment plan, but you’ll need an attorney who is willing to work with you.



What is L4EJ doing differently?

L4EJ provides a laboratory where lawyers can experiment with practicing—trying new delivery models and pricing and learning what is effective. For example, they are providing limited-scope representation. In many cases, all a client needs is someone to point them in the right direction or explain what their options are. For some, a \$25 half-hour consultation arms them with the information they need, and then they can

move on from there. Another option is to draft pleadings for the client or only handle one aspect of a case. For instance, one client needed to modify the terms of his parole. The L4EJ attorney drafted the applicable pleadings, and the client was then able to go to court by himself.

Where do you see a huge need for low-bono lawyers?

Landlord-tenant disputes. Not many attorneys represent tenants in eviction defense because it is not usually economical to do so. But representation often leads to a significantly better result for the client, whether it’s a reduced amount in the back rent owed, improved living conditions or more time to find another place to live. If we can keep a person from having to sleep on the streets, then that may also help prevent other issues that arise from homelessness.

Taking calls from potential clients has opened my eyes to the problem we have in Georgia with substandard housing and landlords who refuse to repair premises. People describe the horrible conditions they are living in, but moving expenses are an insurmountable cost for those who have limited means.

Do you think this model will be adopted by more practitioners?

Many lawyers are just learning about this model, but there are firms that offer unbundled legal services, and the Atlanta Bar has a modest-means referral program. I would love to teach attorneys throughout Georgia how to offer lower cost services and remain profitable. Then we truly can offer all Georgians affordable legal representation.

>> For more information: lawyersforequaljustice.legal.io