

APRIL 2020

EXECUTIVE SUMMARY



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THE JUSTICE GAP

Addressing the Unmet Legal Needs of Lower-Income Utahns



This report was commissioned
by the Utah Bar Foundation.

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ADDRESSING THE UNMET LEGAL NEEDS OF LOWER-INCOME UTAHNS

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About Utah Foundation

Utah Foundation's mission is to produce objective, thorough and well-reasoned research and analysis that promotes the effective use of public resources, a thriving economy, a well-prepared workforce and a high quality of life for Utahns. Utah Foundation seeks to help decision-makers and citizens understand and address complex issues. Utah Foundation also offers constructive guidance to improve governmental policies, programs and structures.

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Research Report 776

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In April 2020, Utah Foundation – a nonprofit non-partisan public policy research organization – released a report focusing on the legal needs of lower-income Utahns. The purpose of the report is to inform the public of Utahns’ civil legal needs and provide research to help stakeholders with informed decision-making on the future allocation of funding for legal resources. Utah Foundation undertook this project at the request of the Utah Bar Foundation.

Recognizing that critical civil legal needs of low-income Utahns were left unmet, the Utah State Bar, pursuant to an order of the Utah Supreme Court, formed an Access to Justice Task Force in 1996 to make recommendations to address gaps in services. These efforts have led to significantly more Utahns receiving legal help to resolve their legal problems.

Even after much progress, however, Utah still has tremendous unmet legal needs.

The Justice Gap: Addressing the Unmet Legal Needs of Lower-Income Utahns is based on a Utah Foundation survey of approximately 1,700 lower-income Utahns — or the roughly 26% of Utah’s population living at or below 200% of the federal poverty line. The report also relies heavily on data and analysis provided by Kai Wilson and David McNeill. In addition, the report includes short stories about the clients of legal service organizations, analysis of data from the United Way of Salt Lake’s 2-1-1 information and referral service, and data from the U.S. Census Bureau’s American Community Survey.

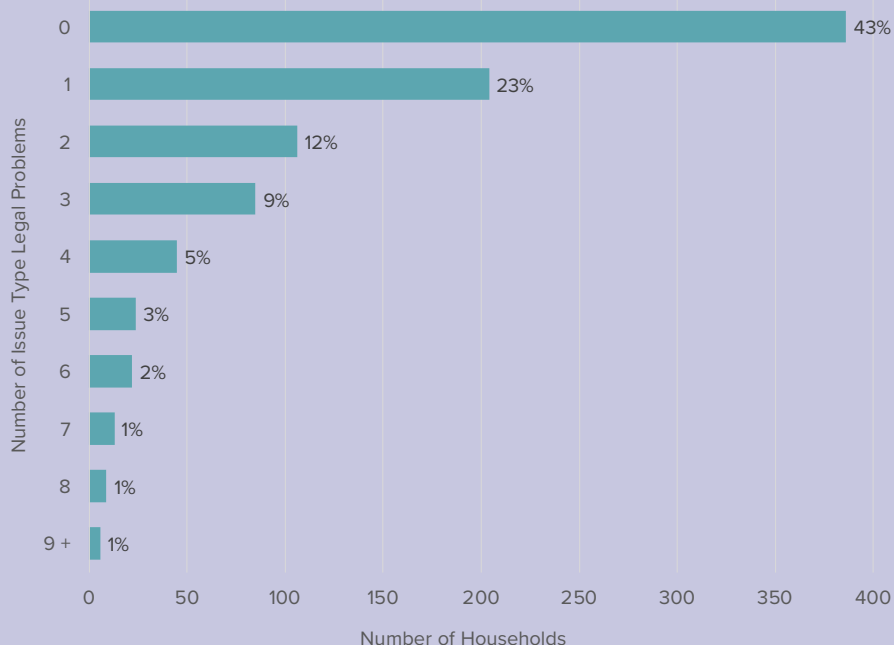


KEY FINDINGS OF THIS REPORT

- Most people do not have representation in civil legal cases in Utah; for the 62,000 debt collection cases, nearly 100% of petitioners (plaintiffs) have lawyers, compared with only 2% of respondents (defendants); for the 14,000 eviction cases, 90% of petitioners have lawyers, compared with only 5% of respondents.
- More than two-thirds of Utah’s lower-income survey respondents indicated that they could not afford a lawyer if they needed one.
- While the median hourly fee for a Utah lawyer is between \$150 and \$250, fewer than one-in-five Utah lawyers offer “discounted fees and rates for persons of modest means” or a “sliding scale based on income.”
- Rural counties tend to have relatively low availability of local legal representation.
- Most lower-income Utahns try to solve their legal problems on their own.
- When asked if the respondents tried to get help with the problems indicated in the survey, three-in-five said they did.
- Half of the respondents that sought help were successful; about one-in-five found assistance from a social or human service agency, one-in-five found help online, and another one-in-five hired a paid attorney. Only about one third used free legal help.
- Over half of all services provided for lower-income Utahns’ legal needs are for family law and immigration issues.
- Financial legal needs topped the list of legal-need types with 26% of households, followed by employment (21%), health law (19%) and public benefits (16%).
- Domestic violence was the least reported legal issue of the 19 types of legal needs in the survey at just 4% of households; however, it had the highest rating for severity for victims and their households.
- The most common employment law issues were that employees were forced to work overtime or “the bad shifts” and that employers “did not pay wages, overtime or benefits, or did not pay them on time.”

Most lower-income households have at least one civil legal needs issue type – and nearly a quarter have three or more issues.

Figure 1: Number of Issue Types per Household, Random-Sample Survey



Note: Survey questions asked about 19 issues types.

Source: Utah Foundation.

The data in this report were collected between November 2019 and February 2020. Note that as a result of the COVID-19 pandemic, certain types of the legal needs estimated in the report have or will likely become much more prevalent and more acute, such as civil legal needs issues related to finances, employment, public benefits, landlord/tenant, domestic violence and others.

Utah Foundation's random sample survey of lower-income Utahns suggests that 57% of lower-income households have at least one civil legal needs issue type – and nearly a quarter have three or more issues. (See Figure 1.)

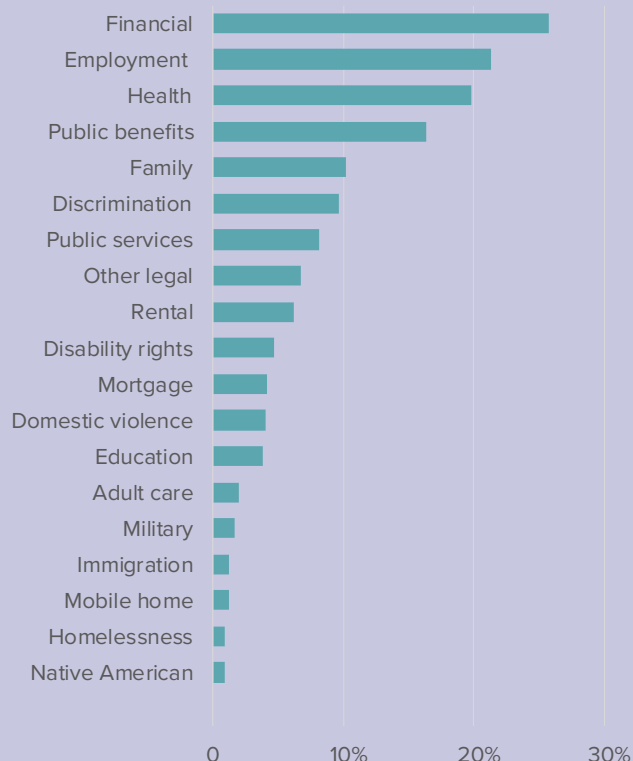
The survey found that financial legal needs topped the list of legal-need types. Over one-quarter of households had a financial legal need issue. This was followed by employment and health legal needs issues. (See Figure 2.)

Financial legal needs are clearly the biggest issues for lower-income households, followed by employment and health care legal needs.

Figure 2: Percent of Respondents' Households with a Specific Need, all Random Sample Survey Responses

Note: Legal issues are divided by the total number of survey respondents, except the "Homelessness" and "Native American" bars, which are online-only responses weighted to be comparable to the other 17 issue types.

Source: Utah Foundation.

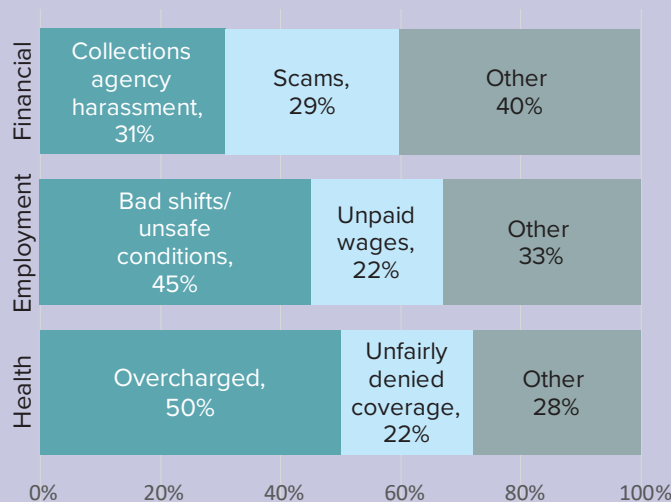


People with financial needs are typically faced with debt collection agency harassment and scams. Employment issues have to do with working bad shifts or in unsafe conditions, and not being paid. People with civil legal health problems report that they were charged too much for services and unfairly declined coverage. (See Figure 3.)

Some needs may be affecting households disproportionately hard. In fact, while domestic violence was the least reported legal issue of the 19 types of legal needs, it had the highest rating for the severity of its impact on households. (See Figure 4.)

Households are grappling primarily with two types of issues in each the top three needs.

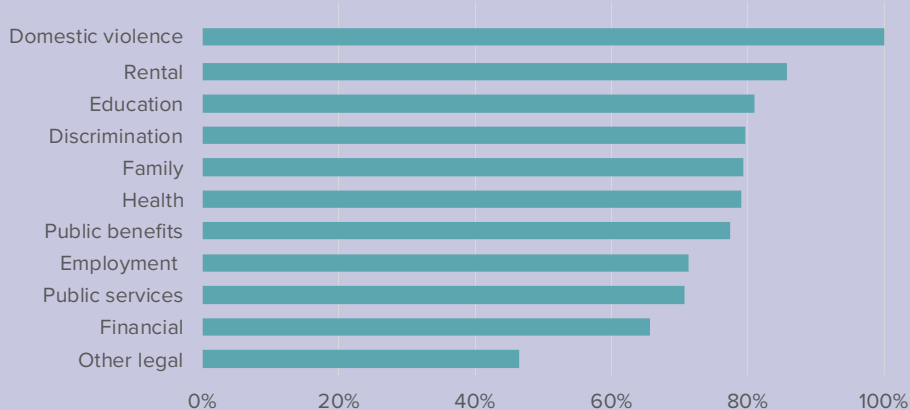
Figure 3: Percent of Respondents' Households with a Specific Need, all Random Sample Survey Responses



Source: Utah Foundation.

Domestic violence is – as expected – at the top of the list of civil legal needs by how much they affect the household.

Figure 4: Severity of the Legal Needs: “How much did the problem affect you or anyone in your household? Not at all, a little, somewhat, a lot,” showing that issue affected household “somewhat” or “a lot,” Online Random Survey Responses



Note: Figure does not include issues with a small sample size.

Source: Utah Foundation.

Most defendants (respondents) in Utah are self-represented in civil cases.

Figure 5: Percentage of Self-Represented Litigants in Utah Court Civil Disposed Cases, FY 2019

	Percentage of all civil cases	Self-represented petitioner	Self-represented respondent
Debt collection	62%	0%	98%
Divorce/annulment	14%	46%	81%
Eviction	6%	10%	95%
Protective orders	5%	53%	70%

Note: Other cases are 2% or less of total cases, consisting mostly of contracts, estates, custody and support, adoption, civil stalking, name changes, and guardianships. The case is considered "disposed" upon dismissal or judgement.

Source: From the Utah Courts, Court Data Request received by David McNeill on January 9, 2020.

Resource disparities highlight the need for legal aid. With the 62,000 debt collection cases, almost none of the respondents or defendants have representation, and most respondents do not have representation for eviction cases. This is vastly unbalanced when considering that almost all of the petitioners or plaintiffs are represented. (See Figure 5.)

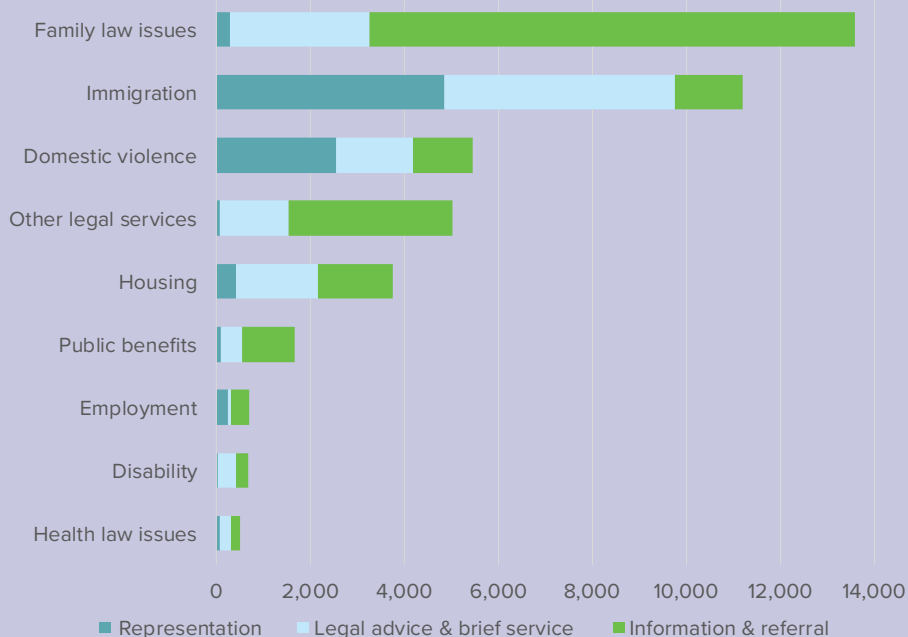
Why are respondents underrepresented? In part because two-thirds of Utah's lower-income survey respondents indicated that they could not afford a lawyer if they needed one – particularly in the face of \$200 per hour legal fees. The situation is even more dire in rural communities. As a result, most lower-income Utahns try to solve their legal problems on their own. This often takes the form of reaching out online. But many people also reach out to social service agencies and elsewhere, including information and referral services, particularly for landlord/tenant disputes and family law issues.

Of those lower-income households who are successful in procuring legal assistance, half are getting help for their family law and immigration issues rather than for financial issues. Domestic violence is not far behind. (See Figure 6.)

Legal services vary widely by number and type of support.

Figure 6: Number of Legal Services Provided in Utah, by Type of Support, 2019

Source: Kai Wilson.



While existing legal services provide support for lower-income Utahns, analysis of Utah's civil legal system shows a large unmet need. In 2019, just over 40,000 lower-income Utahns received some type of legal aid. Utah Foundation's survey suggests that lower-income Utahns' legal problems might total over 240,000. This leaves an enormous legal needs gap. As a result, the 26% of Utahns living at or below 200% of the federal poverty line may find their legal needs insurmountable. (See Figure 7.)

Helping overcome the gap will take more funding for legal aid agencies (either from private or public sources), more social and human service agency support, and more low-cost and pro-bono work by attorneys. While the call to close the legal needs gap has been sounded, there is still a long way to go.

Large legal needs gaps exist between the services provided and the number of problems households experience.

Figure 7: Civil Legal Assistance (2019), Problems (2019), and Needs Gap, Households

	Assistance provided to clients*	Number of problem areas, households†	Legal needs gap
Financial	n/a	42,570	42,570
Employment	694	35,145	34,451
Health law	n/a	32,670	32,670
Public benefits	2,171	27,060	24,889
Discrimination	247	16,005	15,758
Public services	n/a	13,365	13,365
Housing	3,759	16,500	12,741
Disability rights	426	7,755	7,329
Education	153	6,270	6,117
Other legal	5,023	11,055	6,032
Adult care	n/a	3,290	3,290
Family	13,584	16,830	3,246
Military	n/a	2,805	2,805
Native American	14	1,410	1,396
Domestic violence	5,456	6,600	1,144‡
Immigration	11,193	1,980	(9,213)‡
Total	42,720	241,310	198,590

* 49% of "assistance provided in 2019" was in the form of information and referral services. Please note that some assistance may be duplicated; clients may be counted more than once if referred by providers to other providers. See pages 9 and 10 in the full report for more details. Note that this is clients only, not secondary clients, which are typically in the same household as the client.

† The "number of problem areas" is an estimate of the percentage of random-sample survey respondents with a problem area type multiplied by the estimated number of households, multiplied by 66% – the survey respondents who perceived that their legal need "wasn't a big enough problem" or that they "didn't need help." See page 38 in the full report for more details.

‡ Some households may not respond that they need immigration help for fear of a lack of anonymity in the survey.

Source: Kai Wilson data and Utah Foundation random-sample survey. Utah Foundation calculations.



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