

## PART II: ACCESS TO LEGAL SERVICES

### Access for the Poor

Despite efforts to provide justice to all Americans regardless of economic status, the poor in America have inadequate and ineffective access to systems of civil justice and dispute resolution. These limitations are the result of insufficient resources, misdirected policies and inconsiderate methods of operations.

Notwithstanding gains made during the last quarter of the 20th century to secure funding for legal services for the poor, these efforts have fallen dramatically short of meeting fundamental legal needs. Legal Services Corporation funding for the last two years has been \$330 million – significantly better than in some recent years when Congress cut LSC's budget, but lower in inflation-adjusted dollars than in the program's early years. LSC has provided funding to local grantees throughout the states. Almost 20 percent of Americans are eligible for LSC assistance; some 80 percent of those eligible are unable to attain legal assistance.

Many states also have provided funding for justice initiatives and substantial sums of money have been generated from interest on lawyer trust accounts, or IOLTA programs. In recent years, IOLTA programs have generated \$100 million per year. While these resources have improved funding and created the ability for some to gain access to legal services where they would not have been able to do so in the past, the funding for legal services for the poor continues to be insufficient. Research, including the 1993 ABA Comprehensive Legal Needs Survey, demonstrates this limitation. Generally, all resources combine to meet about 20 percent of the civil legal needs of the poor.

This insufficient funding also creates divisions in the approaches taken by legal aid providers. Some services provide limited legal support and *pro se* assistance to their clients, who are then expected to proceed without full representation and just do the best they can. Other services restrict intake and accept a small fraction of potential clients, denying any assistance to the rest. Still other providers apply their resources toward impact litigation designed to use the law in ways that shape policies to end poverty.

Funding sources frequently impose limitations on the subject matter of the legal issues that may be addressed, hampering efforts by lawyers serving the poor to fully use the law as a resource. Most notably, the congressional authorization of LSC includes a series of restrictions, not only on the direct use of the funding, but also on the use of funds from other

sources. LSC lawyers, for example, cannot take on class actions, or lawsuits seeking attorney's fees or reapportionment, or dealing with abortion or prisoner rights. Consequently, those who provide legal assistance to the poor must do so within fractionalized offices and a multitude of bureaucracies.

Access to systems of civil justice and dispute resolution is also denied to the poor because of fundamental methods of operation by the courts and dispute resolution forums. Geographically, courts tend to be centralized. While they may be accessible by public transportation in urban areas, courthouses are frequently difficult to reach, particularly in rural areas. Other dispute resolution facilities, such as arbitration and administrative hearing facilities, and even community mediation centers, tend to lack outreach or neighborhood accessibility. In addition to geographic constraints, courthouses and centers for civil dispute resolution tend to operate only during daytime hours of workdays. This limitation makes access particularly difficult for those with child care obligations and the working poor, who are less likely to be excused from work and almost certain to lose money from the job when they are able to leave. While some jurisdictions maintain branch courthouses to help overcome the distance barrier, a notable exception to the centralized courthouse is found in Ventura County, Calif. The court has purchased a large mobile home that tours the county, particularly low-income areas, to bring the resources of the court to the neighborhoods.

Those who are not literate in English or do not speak English are also denied full access to systems of justice. Even though courts provide translation services within the courtrooms, resources to enable people to translate pleadings and procedural explanations are lacking.

Although many lawyers contribute their services to the poor, the legal profession lacks the resources to meet the legal needs of the poor on a *pro bono* basis. Many lawyers have recognized a professional obligation to provide free legal services to the poor, which is frequently cited as a value that distinguishes the legal profession from businesses. ABA Model Rule 6.1 encourages lawyers to provide legal services to the poor and suggests that each lawyer dedicate 50 hours per year to public service.

In spite of the recognition of this obligation and the outstanding level of commitment provided by some lawyers, most do not provide a meaningful level of *pro bono* work for the poor. The average lawyer put in 39 hours of *pro bono* work in 2000 compared to 40 hours in 1999 and 56 hours in 1992 – a decline of nearly a third in less than a decade. And recent dynamics in the practice of law suggest that voluntary *pro bono* service may decline. For

example, the salaries of associates in large firms have dramatically escalated in the past two years. While the current levels of compensation may not be retained in the long run, they pressure new lawyers to commit increasing amounts of time toward billable hours to justify their salaries. Also, an increasing number of lawyers are employed outside of law firms and, in particular, within major multi-national consulting firms. Some of these lawyers are not practicing law, and most are outside of systems that encourage *pro bono* and instill the professional obligation to provide public services to the poor.

The impact of insufficient resources, restrictive policies, limited methods of operations by the courts and dispute resolution mechanisms, and inadequate *pro bono* services provided by lawyers deny the poor access to justice because of their economic circumstances. As a result, the poor are left without recourse in the law, without confidence in the American system of justice, and with the need to resolve their disputes outside of the rule of law. Because equal access to justice is a fundamental core value of the legal profession, the future of the profession mandates a reversal of this trend.

### The Cost of Justice

The cost to individuals to seek remedies through the justice system often exceeds, or appears to exceed, the value of those remedies, causing people to proceed without a lawyer, ignore legal obligations, or forego the justice system as a method of resolving conflicts even though they could substantially benefit by exercising their rights.

And indeed, many legal matters do cost more to pursue than they are worth. The cost of a lawyer's services is too high for many people in need of personal legal services and not perceived to be of value, even for those who can pay the expense of those services.

Delivering legal services in the traditional method involves a number of steps that make the function labor-intensive and costly, including marketing, consulting, advising, drafting, negotiating, advocating and litigating. Most of these functions depend on the skills of the individual lawyer and cannot be assigned or outsourced. Lawyers must also manage their practices, continue their education and research aspects of their cases.

In the last quarter of the 20th century, lawyers began to employ a variety of economic measures to reduce the costs of their services. They limit their time for research by specializing in niche roles. They outsource client development through advertising and participation in lawyer referral services. They leverage their time through the use of paralegals and office assistants. They have automated, and rely on boilerplate forms and

standardized pleadings. Nevertheless, the individualized nature of each specific case requires the lawyer's time and attention, resulting in costs that are beyond value in many instances.

The costs and perceived costs of using the justice system combine with the economics of the practice of law to create a latent legal marketplace where people of all economic status fail to employ that system. The future of the legal profession requires the delivery of legal services in ways that are cost effective so that matters are addressed and disputes resolved within the rule of law.

### Pro Se Representation

Although statistical information across state boundaries is limited, it is likely that most court matters involve traffic violations, misdemeanor charges, landlord/tenant disputes, collections or small claims cases where at least one of the litigants appears before the court without a lawyer. Hence within the courts overall, *pro se* is the rule rather than the exception.

*Pro se* litigants in these settings are more likely to be defendants, tenants or debtors who did not choose to be in court at all, but who are summoned to appear and given the opportunity to defend. They lack a trained advocate and are subjected to the authority of the courts, rather than viewing the courts as resources for conflict resolution or solutions to legal problems. They face prosecutors, *pro se* landlords skilled in the procedures to collect rent, or the landlord's counsel, and lawyers representing companies in high volume collection matters.

For family law matters, the paradigm is shifting from one where most litigants were represented in court by a lawyer to one where many litigants proceed *pro se*. In some jurisdictions, particularly those in western states such as Arizona and California, *pro se* is now the dominant method of divorcing, with legal representation generally limited to those cases with substantial property interests or disputes involving the interests of minor children.

In most circumstances, people lack resources to advise them of the risks, consequences, benefits or detriments of proceeding with or without a lawyer. Some research indicates that family law *pro se* litigants are challenged by the procedure, but believe they are capable of doing an acceptable job without a lawyer, although in some instances, litigants did not take advantage of opportunities to obtain temporary child support prior to a final hearing and did not fully appreciate the tax consequences of their dissolution agreements.

People proceed *pro se* for different reasons. Some cannot afford a lawyer and have no economic alternative. Some proceed *pro se* because the cost of hiring a lawyer exceeds the value of that which is at issue, such as traffic court defendants, tenants who are planning to move, or debtors who need to enter into a payment schedule.

And others, such as people seeking a divorce, may proceed *pro se* because they believe they can navigate the system and accomplish their legal matter suitably without a lawyer and the associated costs. The considerations in these latter instances involve the complexity of the matter, the significance of that which is at issue and the jeopardy, or opportunity to return if the matter is not done properly in the first place. These considerations are then weighed against the costs and benefits of proceeding with the representation of a lawyer.

Approaches to *pro se* litigants taken by the courts and other forums of dispute resolution and by the legal profession are mixed. Some forums facilitate *pro se* representation and others impose barriers that deny effective access to justice.

To the extent that courts and other forums of dispute resolution are accustomed to *pro se* litigants, those forums tend to be administered in ways that accommodate the fundamental needs of the litigants. They process the matters in ways that foster resolution, albeit often with great expediency and minimal standards of due process. But when *pro se* litigants appear in forums otherwise dominated by lawyers, they may be viewed as disruptive. They are often held to the procedural standards applicable to and expected of trained advocates, even when these obligations prevent the *pro se* litigants from getting their stories told as they attempt to present their cases or offer their defenses. Lawyers facing *pro se* litigants in an adversarial setting may demand as part of their litigation strategy and obligation to their clients that *pro se* litigants comply with the rules of the court.

In response, some courts are providing resources to prepare *pro se* litigants to comply with the procedural requirements of their cases. Court staff facilitators and self-help service centers have emerged to give individual, hands-on assistance to anyone requesting their information and direction. Lawyers are also responding to the needs of *pro se* litigants, as they unbundle their services. By providing isolated or discrete functions of the lawyering process, such as legal advice, document preparation or negotiations, lawyers serve as a resource to *pro se* litigants who may otherwise depend on less reliable alternatives. In some instances, the courts provide *pro se* litigants with referral information on lawyers who are willing to provide unbundled services.

## Technology

Technology in general and the Internet in particular are resulting in dramatic changes in the delivery of personal civil legal services. Technology is facilitating enhanced avenues of access to legal services and forums of dispute resolution, redefining aspects of the practice of law and restructuring legal institutions. Limitations on the capacity of technology to effectuate these changes result from policies that reflect an unwillingness to accommodate innovations. These policies may conflict with consumer demands for the technology-based services.

The Internet creates a forum to enhance client development far beyond current mechanisms. Methods currently include: 1) individual firm or lawyer web sites, 2) on-line directories, 3) online lawyer referral services, 4) multi-functional information and advice sites, and 5) case-bidding or matching services.

Individual law firm web sites permit a lawyer to provide potential consumers with far more information about the firm's capabilities than any other media. The information is provided at all times at all places at less expense than virtually any other client development vehicle.

Beyond web sites, lawyers use the Internet by participating in a variety of on-line vehicles that are sometimes similar to off-line mechanisms and sometimes unique to the Internet. Simple online lawyer directories allow those with legal needs to cross reference the legal subject matter with the jurisdiction and obtain information about participating lawyers. Lawyer referral services have begun to develop web sites and create another option for potential clients. They sometimes require lawyers to meet objective standards in order to participate on the referral lists, giving viewers a measure of assurance that the lawyers are competent.

An online delivery mechanism that has emerged as a result of the Internet is case-bidding, which matches those who need legal services with those who are willing to bid on those services. Case bidding is a modification of RFPs commonly used when corporate clients select firms for specific legal services at a determined price range. The Internet facilitates this process for those with personal legal needs who do not otherwise have ready access to information about legal services or the costs of lawyers. Potential clients post information through the bidding service. Participating lawyers can then obtain the information and decide whether they are interested in taking the case. If so, the lawyers make a bid that is presented to the potential clients. Clients then decide whether to pursue the

match. This method of client development is simply not feasible outside of the Internet. It is also an example of an innovation that challenges the legal profession's willingness to use technology to change the delivery of legal services.

The Internet also has the potential to convey information about the capacity of individual lawyers and firms from perspectives other than the firms themselves. Consumer feedback mechanisms have emerged throughout the Internet. Objective ratings and reviews are available for products such as vacuum cleaners and detergents, while subjective opinions are shared for everything from books to mortgage companies. Lawyers should expect that the ratings provided by Martindale-Hubbell will be but one small barometer of their services, standing next to broadly posted client feedback detailing the level of care, overall satisfaction and results of individual files.

Another impact the Internet has on client development is the ability to relegate legal services to one of a series of needs that a person may have as a result of a life transition. For example, a person who decides to end a marriage may need the services of a lawyer as well as a realtor, financial advisor, mental health counselor and spiritual advisor. Similarly, someone incapable of appropriate personal budgeting and money management may need a lawyer for a bankruptcy, as well as a debt counselor and, perhaps, a substance abuse counselor. Myriad services no longer need to be centered on the provider, but can now be focused on the needs of the client/customer/patient. Web sites can seamlessly connect clients to the services they need. While the organized bar is divided on the issue of multidisciplinary practices, the Internet facilitates a similar result for the consumer without the creation of integrated practices or joint businesses.

New technologies delivered over the Internet are restructuring legal services in ways that not only create greater efficiencies in providing legal services, but also simultaneously limit, expand and redefine the role of lawyers who provide those services.

For example, document assembly creates an environment that gives the consumer the ability to complete documents, such as pleadings, that are relatively complex, by asking the consumer a series of relatively easy "yes" or "no" and fill-in-the-blank questions. The responses are then electronically formulated in a way that result in the necessary documents for the legal matter. The technology does the "translation" that had been the function of the lawyer.

Data transfer allows digital documents to be transmitted over any distance nearly instantaneously and therefore facilitates electronic filing of documents with the courts. While

this function reduces the time it takes a law firm to make a physical filing, it can be so simple that it doesn't require the law firm at all. A client can file his or her own documents, if not with desktop equipment then through a copy center or currency exchange such as those that now provide faxing services.

The commoditization of legal services has been demonstrated in various ways in recent years, most notably through over-the-counter software that enables people to prepare their wills and other basic legal documents. More recently, the concept of using technology to provide legal products, or productization, has expanded. Proprietary brief banks are available where clients can obtain legal memoranda on issues within the topics of the banks. Some major firms have dedicated resources to creating legal data banks that allow subscribing clients to access information and answer many of their own legal questions.

Expert systems allow consumers to answer a series of questions that then provide screening, intake or some degree of information that advances the consumer's legal matter. For example, a high volume law firm or legal aid service may have potential clients answer a series of questions that result in a determination of whether the individual qualifies as a client. In the case of a private firm, that screening may include matching with a series of protocols imposed by the firm. In the case of legal aid, it may involve means testing and income qualifying. Experts systems may assist in the threshold determination of legal rights, such as whether the person will be able to obtain an order of protection in a domestic abuse case or whether the person has valid defenses in eviction.

The Internet is using neural networks to answer questions, including legal questions. Sending out bots to locate sites that are responsive to questions and producing the results, these networks also internalize those results and use them when the same question is asked another time. This way, the network feeds its own information needs and expands its abilities to be responsive. (See [askjeeves.com](http://askjeeves.com) for an example).

Perhaps most important, technology enables lawyers to redefine their services. As noted, technology creates document assembly and thereby enhances form preparation. It provides data transfer and thereby economizes case filing. It takes simple, although important, legal services and allows the clients to do them themselves. It facilitates the functions of screening and intake. And it allows for mechanical searches resulting in the identification of important information.

But nowhere does technology supplant the role of the lawyer who adds value to the client by providing knowledge, judgment and wisdom. Technology expands affordable

access to legal services and provides lawyers the opportunities to seek justice for all. The challenge to the legal profession is to make this role the centerpiece of its cultural norms.

Not only are the roles of lawyers redefined by technology and the Internet, but so too are forums of dispute resolution. Just as the Internet enables clients to complete transactions through the use of distance lawyering, without ever meeting those who perform the services, it also enables courts and dispute resolution forums to use technologies in ways that enhance current operations and redefine methodologies of core functions.

Some courts now accept electronic case filings. Briefs are filed on disks and court files are available on the Internet. However, beyond the automation of the court systems, the Internet is facilitating completely new forums of dispute resolution. Specialty forums have emerged to resolve narrow issues. For example, a small number of entities have been authorized to arbitrate domain name disputes online. A forum exists to resolve complaints resulting from transactions on the online auction site eBay. Online mediation is enabling disputants to resolve matters outside of the courts and regardless of their distance from one another. In a more traditional forum, Michigan has announced plans for the first cybercourt, where non-jury cases involving technology and high-tech businesses can be handled online instead of in a courtroom. Briefs will be filed on-line, evidence viewed by streaming video, oral arguments delivered by teleconference, and conferences held by e-mail. As Gov. Engler said, "At a time when you can go from idea to I.P.O. at warp speed, we need to have a way to get through the court system at a faster rate."

### The Role of the Law

The relationships between lawyers and other service providers and institutions are being redefined in ways that affect the delivery of personal civil legal services. These relationships require examinations of the application of ethical principles to different types of legal services and consumer demand for restructured interaction among various service providers.

The focus of the legal profession's debate on multidisciplinary practice has generally been on legal services provided to business interests, rather than to individuals. The debate involves the propriety of lawyers partnering with non-lawyers to provide a range of services to customers. In the business context, MDPs would provide services such as accounting and consulting alongside the legal services provided by the partnering lawyers. The concerns expressed by those who oppose MDPs is that the services would not be provided with the

protections now extended to legal clients, such as confidentiality and the absence of unacceptable conflicts of interests. The legal profession has precluded MDPs through ethics rules that demand the independence of counsel and through prohibitions of fee sharing and the participation of business structures that give non-lawyers authority over lawyers.

However, individuals could have better access to personal legal services if those services were more widely available and associated with other personal services. If law firms joined with brokerage and banking services, insurance agencies, realtors, tax preparation services, financial planners, and substance abuse and mental health counselors, clients could receive holistic services and lawyers could expand and facilitate client development. Those jurisdictions that permit MDPs may find a significant change in the models providing personal civil legal services.

Holistic personal services are already advancing in the delivery of services to people with low incomes. Lawyers team with social workers, job training programs and housing advocates in efforts to meet the entire needs of clients, rather than proceeding under the belief that resolving an immediate legal problem will be the extent of the necessary relief.

Technology is also facilitating these multi-service approaches, where web sites are focused not on a legal problem but on a life-transition problem, such as the death of a family member or the end of a marriage. While these matters do involve major legal issues, those who experience the problems often need assistance from a variety of types of services. Web sites can seamlessly refer people to resources that address all of their needs.

Restructured delivery mechanisms can provide a broader range of services designed to meet individual needs more effectively than any one of those services could. The delivery of legal services would be enhanced if provided within a holistic context, but those services may not continue to be provided with the full range of protections now inherent in the fidelity of the lawyer-client relationship.

### Alternative Dispute Resolution

The emergence of alternative dispute resolution (ADR) has expanded opportunities for people to resolve conflicts, but ADR has limitations that need to be examined.

Historically there have been three methods of dispute resolution: 1) self-help, 2) litigation or arbitration, where a third party decides the disputes, which the disputants are expected to honor, and 3) negotiation or mediation, where the parties decide the resolution themselves, sometimes with the guidance of an independent neutral. Obviously, the

dominant method of resolution in the court system is litigation. Hearing bodies resolving disputes within institutions such as schools and labor unions have also relied on this method. In response to the sense that courts and hearing bodies are slow, cumbersome, complicated, expensive, and sometimes viewed as unjust, alternative dispute resolution mechanisms have become more widely available in recent decades. These mechanisms primarily provide mediation as the alternative method.

A network of public and privately funded community-based mediation and conflict resolution centers has spread throughout the country. Private mediators and, in a few instances, commercial mediation centers have emerged to offer this service as well. For low, or in some cases no, costs, people can arrange for mediation in an effort to resolve their disputes quickly. One of the principles of mediation is that people are empowered to make their own decisions and are then more likely to abide by their agreements..

But mediation of personal disputes has limitations that are not always addressed in its implementation. For example, parties may not come to the table in parity. Spouses may have a dominant/submissive relationship that cannot be overcome as they try to mediate and compromise aspects of a divorce or resolve issues of abuse. Similarly, employer/employee and landlord/tenant relationships are seldom in parity. And the success of mediation frequently depends on the willingness of the parties to engage the process and make good faith attempts to resolve their problems; it is less likely to be a satisfactory alternative if it is mandated, for example as part of a court pre-requisite to a full hearing. Also, mediators may have limited training and education, supervision and experience, particularly those serving in community centers that provide the services free.

Alternative dispute resolution is capable of expanding access to the resolution of conflicts in affordable ways, but should not be considered an appropriate alternative in all circumstances.

### Demographics

Demographic factors of the general American population, including age, education, mobility, national origin and race, define the need for personal civil legal services. Populations in various demographics need access to legal services that pertain to their specific issues and need readily available mechanisms to locate those lawyers who are competent and able to provide those services on an affordable basis.

For example, the elderly historically have used personal legal services less than the middle aged. They are less mobile, less likely to divorce, and more secure in their personal finances. On the other hand, the elderly have a variety of specific legal needs as a result of their age, including estate planning and health care issues. In the near future, the baby boomer generation will create substantial demand for elderly law services; but as that generation dwindles, legal needs will shift again.

Similarly, as the general population becomes more literate and well educated, more people are able to proceed *pro se*, or at least contribute toward meeting their legal needs, resulting in a greater demand unbundled legal services. A more mobile population will place greater demands on technology to overcome geographic limitations, enabling people to continue to receive services from the same lawyer regardless of their location or helping them to find a lawyer in the location where they need them.

A larger immigrant population influences the needs for legal services in both immediate and long-term ways. Immigrants need services related to their immigration status, and influxes in particular populations influence residential, workplace and health care settings, which have associated legal issues.

The demographics of the legal profession, including both sheer numbers and ethnic and gender make-up, influence the ability of people to gain access to legal services. For several decades the percentage of lawyers has increased substantially more than the percentage of the general population in America, and the ratio of lawyers to people has steadily increased in recent decades.

Yet the legal profession fails to reflect the demographics of our society. The percentage of women who have entered the profession has increased dramatically in the past 40 years – women now represent nearly 30 percent of the legal profession and about half of all law students, and they have achieved near parity in entry-level positions. But women have not yet obtained proportional roles in leadership positions in the legal profession. They are under-represented in bar leadership, in academia, in the judiciary and in large firm partnerships. Only 15 percent of the partners at large law firms are women, a figure no longer attributable to their "recent" influx into the profession. Further, the annual median salary of women lawyers is 73 percent of men's. Women constitute 31 percent of law school faculty, 6.4 percent of tenured faculty, and 10.4 percent of law school deans. They comprise 42 percent of legal aid lawyers and public defenders.

Racial minorities have an even lower percentage of representation within the legal profession. While the number of minority law students has nearly quintupled over the past three decades (from 5,568 in 1971-72 to 25,253 in 1999-2000), this still represents only about 20 percent of total J.D. enrollment. *Miles to Go 2000*, the ABA Commission on Racial and Ethnic Diversity in the Profession's Report on diversity in the legal profession, using data available up to May 2000, showed that:

1. Minority representation in the legal profession is significantly lower than in most other professions.
  - Total minority representation in the profession is about 10 percent.
  - Combined African American and Hispanic representation in the profession in 1998 was just 7 percent in 1998, compared to 14.3 percent among accountants, 9.7 percent among physicians, 9.4 percent among college and university teachers, and 7.9 percent among engineers. The only professions with lower levels of African American and Hispanic representation were dentists (4.8 percent) and natural scientists (6.9 percent).
    - The United States population is projected to be almost 60 percent "minority" by 2050.
2. Minority entry into the profession has slowed considerably since 1995.
  - Nationally, minority representation among law students is holding at about 20 percent, despite the effects of voter initiatives and lawsuits banning affirmative action in law school admissions. However, the growth in minority law school enrollment, which had been steady since 1985, ended in 1995. Over the five years after 1995, minority law school enrollment has increased only 0.4 percent, the smallest five-year increase in 20 years.
    - Minority enrollment has dropped significantly in top public law schools in states that have banned affirmative action. In 1999 there were only two African Americans in the first year class at UCLA, and only two African Americans and four Hispanics in the first year class at the University of Washington Law School.
      - In 1999, the total number of minority law graduates in the United States dropped for the first time since 1985.

3. The distribution of minority lawyers still differs significantly from that of whites.
  - Minorities are more likely than whites to enter government, public interest and business, and less likely to enter private practice. In 1998 only 49.5 percent of minority law graduates entered private practice, compared to 57.1 percent of whites. African Americans, in particular, are less likely than other groups to enter private practice.
  - Minority women are especially likely to take government and public interest jobs. In 1998, 23.6 percent of minority female graduates entered government or public interest, compared to 18.9 percent of minority men and 15.2 percent of whites. Only 46.5 percent of minority female graduates entered private practice, compared to 52.8 percent of minority men and 57.1 percent of whites.
  - The percentage of minority law graduates entering business has increased substantially, from 6.3 percent in 1987 to 15.2 percent in 1998. As a result, the percentage of minority graduates entering the for-profit sector (private practice and business) has increased. In 1987, 60.9 percent of minority graduates entered the for-profit sector, compared to 72.6 percent of whites. In 1998, 64.7 percent of minority graduates entered the for-profit sector, compared to 70 percent of whites. At the "sector" level, therefore, minority and white career paths are converging.
4. Minority representation in upper-level jobs remains minuscule, especially in the for-profit sector.
  - Minority representation among law partners remains less than 3 percent in most cities, and minority partners tend to be "partners without power," clustered at the bottom of firm management and compensation structures.
  - Minority representation among general counsel in the Fortune 500 is 2.8 percent.
5. Progress has been especially slow for minority women in the profession.
  - Minority men significantly outnumber minority women in most upper-level jobs. Minority women make up less than 1 percent of capital partners in Chicago, and only 1.2 percent of income partners. There is only one minority female general counsel in the Fortune 500, only six minority female federal appellate judges, and two minority female law school deans.

- Law firm attrition rates for minority women are higher than for any other group. Fully 12.1 percent of minority women leave their firms within the first year of practice, and more than 85 percent leave by the seventh year.

6. Minorities in general continue to face significant obstacles to "full and equal" participation in the profession.

- The attack on affirmative action in law school admissions threatens to have a devastating effect on minority applications and admissions to law school. An analysis of law school admissions decisions for the 1990-91 applicant pool found that under a "numbers-only" admissions policy (where admissions are based solely on applicants' LSAT scores and undergraduate GPAs), African American admissions would drop 80 percent, Hispanic admissions would drop 51 percent, Asian American admissions would drop 37 percent, and Native American admissions would drop 55 percent.

- A numbers-only admissions policy also would deny admission to many graduates who could perform well in law school if admitted, pass the bar, and enjoy successful legal careers. A study published in 2000 of more than 1,000 University of Michigan Law School graduates found that minority graduates were admitted to the bar at about the same rate as whites, and enjoyed equally successful careers, as measured by income, career satisfaction and public service.

- Minorities in law firms continue to have difficulty building business among white clients, and gaining access to mentors and training within the firm. Minority women, in particular, feel isolated in white male dominated firms.

These demographic limitations in the legal profession create huge barriers to access, especially when the criminal justice system shows significant disproportionate incarceration of minority youth. In a Building Blocks for Youth Initiative 2000 report, *Justice for Some*, researchers found that about two-thirds of the studies of disproportionate minority confinement showed negative "race effects" at one stage or another of the juvenile justice process. This issue is accentuated with judges, bar leaders and other decision-makers who lack diversity and often the sensitivity and understanding necessary to advance the interests and meet the legal needs of those who are different.

This growing chasm is a significant issue for the legal profession and will become more so as it goes forward.