

Expanding justice gap puts more Americans at-risk

by Steven McGarrity, executive director

[Gabe Clevenger](#) was murdered by her estranged husband.

On February 5, 2020, fearing for her safety, Gabe appeared in court before a magistrate and asked for a protection order. The magistrate denied Gabe's request. On February 11, Gabe's body was found dumped in a wooded area. Her husband admitted to punching, smothering, and fatally stabbing her before dumping her body.

The judge overseeing the case said "The magistrate assigned to hear this case is responsible for applying the facts, as presented, to the law, and found that domestic (violence) had not been proven by a preponderance of the evidence."

Gabe was alone in that courtroom. She did not have an attorney representing her.

I have stood in court with victims of domestic violence who needed protection from their abuser. I know how to present into evidence photographs of her bruises and hospital records showing her injuries. I know how to cross-examine her abuser.

And having looked at the evidence after the fact, I am pretty confident that any lawyer who represents clients in domestic violence cases would have presented the evidence in a way that the court would have granted a protection order. Gabe didn't know what evidence to present or how to present it. And it cost Gabe her life.

Sadly, every year millions of low-income Americans like Gabe must grapple with civil legal problems without legal help. This need is documented in the recent [Justice Gap Report](#) from the [Legal Services Corporation](#) (LSC).

Shockingly, according to the report, low-income Americans do not get any or enough legal help for 92% of their substantial civil legal problems. The Justice Gap Report states:

The phrase "with liberty and justice for all" in the Pledge of Allegiance represents a fundamental ideal of this country. Yet, the reality of America's justice system does not live up to this ideal. The United States is facing an access-to-justice crisis that disproportionately impacts our society's most vulnerable. Despite our pledge of "with liberty and justice for all," it is still the case that one's access to justice in our nation too often depends on how much money one has.

In criminal cases, legal assistance is a right. Americans accused of a crime are given legal counsel if they cannot afford it. In contrast, one generally has no right to counsel in civil matters where people risk losing their homes, livelihoods, health, and families. Indeed, most low-income Americans must "go it alone" when grappling with civil legal matters – without access to legal information, advice, or representation to help them resolve the matter in our legal system. The result is an expansive "justice gap" – defined by LSC as the difference between the civil legal needs of low-income Americans and the resources available to meet those needs.

But why is an expansive justice gap a problem? Because we are a nation governed by the rule of law. When we have disputes with each other that we cannot resolve, the rule of law requires people to turn to the legal system for justice, not to take matters into their own hands.

In our adversarial legal system, a system we inherited from England, we think the best way to get to the truth is for each party in a dispute to make their best legal arguments and present the facts of the case as they see it to a judge or jury, a neutral third party who has no stake in the outcome of the case. And in this system, in all but the simplest disputes, we rely on trained professionals, lawyers, to represent the interests of each side. But what happens when you don't have access to an attorney? Justice can fail.

At Community Legal Aid, we see and feel the impact of the justice gap in our own community. Every month, hundreds of low income members of our community face evictions, lawsuits for debt collection, wage garnishments, loss of health care, divorce, child custody battles, and more, without the assistance of an attorney. Every year, Community Legal Aid must turn away over 10,000 people needing legal assistance because we don't have enough resources to meet the need.

But there are ways we can narrow the justice gap without increasing available resources. First, through systemic advocacy we try to address the root of a problem. Eliminating the cause of a legal problem eliminates the need for attorneys to assist people with that problem in the future. Community Legal Aid represented several victims of a [fraudulent land contract scheme](#) in Youngstown perpetrated by an out-of-state company. After reaching a settlement, the company ceased operations in Youngstown. In Akron, Community Legal Aid attorneys helped residents of a housing complex form a [tenant union](#) resulting in tenants being empowered to collectively address unsafe conditions.

Second, we can design resources to address many legal issues that most people could resolve with just some accurate legal information, counsel and advice, or help filling out court forms. For example, if an attorney helps a person complete forms for a simple divorce not involving children or property disputes, the person could handle the actual court process without an attorney. The [University of Akron Law School Reentry Clinic](#) assists community members with criminal records, helping them complete court forms necessary to seal old criminal records to improve their ability to find good jobs. [OhioLegalHelp.org](#) provides accurate legal information and fillable forms to address a variety of legal issues faced by low-income Ohioans.

But systemic advocacy and increased access to legal information will not solve the justice gap problem. When a person has a legal issue that can result in a loss of their home, livelihood, health, and family, there is no substitute to an attorney standing side by side with that client. Until that is a reality, we are not living up to the ideals of our country.

This article is part of Legal Aid's ["Big Ideas" series](#).

Find additional details and resources concerning the Justice Gap [here](#).

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