

The Legal Needs of Immigrants in Illinois  
A Report to the Lawyers Trust Fund of Illinois

By Rob Paral

*This is a draft report version that has not been endorsed by the Steering Committee of the Illinois Legal Needs Study of the Lawyers Trust Fund of Illinois nor by the Illinois or Chicago Bar Associations*

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## **Executive Summary**

This paper was commissioned in the spring of 2004 by the Legal Needs Study of the Lawyers Trust Fund of Illinois. The paper examines the characteristics of low-income immigrants in need of legal services, the public policies affecting these immigrants, and the actual needs of these immigrants as reported by a random, statewide telephone survey. Major findings of this report include:

### **The Immigrant Population is Growing and Spreading Across the State**

- The state of Illinois has one of the largest immigrant populations in the United States. The 2000 census reported 1.5 million immigrants in the state, and the census data show that about 69,000 immigrants come here each year. Immigrants grew in number by 61 percent in Illinois in the 1990s compared to 4 percent growth among the native born.
- About 21.7 percent of immigrants have relatively low income levels in Illinois, below 150 percent of the federal poverty level. This compares to 16.3 percent of the native born.
- Perhaps the most significant demographic change involving immigrants in Illinois is the spread of the population to new areas in Illinois. Chicago is the traditional port of entry for immigrants coming to Illinois, but by the year 2000 only 41.1 percent of the state's immigrants were living in the city.
- A majority of low-income immigrant households continue to live in Chicago, but 44 percent are living in the Chicago suburbs or downstate.

### **Immigration Policies Are Increasingly Harsh**

- Immigration-related policies have become increasingly restrictive and severe. Immigration officers are increasingly allowed to make decisions without a formal hearing before an immigration judge. Minor crimes such as hair-pulling or rock throwing can lead to removal (deportation) even if they happened many decades ago. Increasing numbers of immigrants are placed in detention rather than offered bond. Welfare reform has denied basic safety-net services to legal immigrants. Procedural changes include the use of teleconferencing at some immigration court hearings, in which the defendant is alone in a room in Broadview, Illinois, while his or her attorney, the prosecuting attorney and the judge are miles away in Chicago.

### **Immigrants More Likely to have General Civil Legal Problems**

- Immigrant households have more legal problems than the average low-income household in Illinois. About 54 percent of immigrant households had a legal problem over the past year compared to 49 percent of all low-income households.

Immigrants were more likely than any major racial or ethnic group to have a legal problem, with the exception of African Americans.

- Immigrant households are more likely to have a legal problem than the average low-income household, but the immigrants are less likely to get help with their problem. Some 65.3 percent of immigrants successfully got help, compared to 71.5 percent of all survey respondents.
- In all, 38.8 percent of all surveyed immigrant households had an unaddressed legal need in 2003, compared to 33.7 percent of all households.

### **Immigration-Related Problems**

- 12.3 percent of immigrant households had an immigration-related legal problem.
- 73.0 percent of immigrants with immigration-related legal needs did not have their problem addressed.

### **All Illinois Residents Affected by Lack of Legal Aid for Immigrants**

- Lack of immigration-related legal services contributes to breaking up families, inflicting poverty and suffering on American children, and dampening our democratic processes by which we encourage residents to vote and make their voice heard.
- Washington is unlikely to increase funding of any kind for legal services to immigrants. Funds will need to come from Illinois leadership, on the boards of philanthropic agencies and perhaps in Springfield. The health of the economy and society of the state of Illinois are damaged by neglect of immigrant legal needs and this fact needs to be made clear to philanthropic and local government leaders.

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## **The Immigrant Population Is Large, Diverse and Growing**

The state of Illinois has one of the largest immigrant populations in the United States. The state ranks fifth in the overall size of its immigrant population, is fifth in the number of legal immigrants who came to the U.S. in the 1990s,<sup>1</sup> and is estimated to have the fourth largest undocumented immigrant population.<sup>2</sup> The 2000 census reported 1.5 million immigrants in the state, and the census data show that about 69,000 immigrants come here each year.

The immigrant population in Illinois is remarkable for its diversity as well as its overall size. The three principal immigrant groups (Mexico, 618,000 persons; Poland, 140,000 persons; and India, 84,000 persons) represent three different world regions. Other large immigrant populations (of at least 50,000 persons) come from the Philippines and China.

Immigrants grew in number by 61 percent in Illinois in the 1990s compared to 4 percent growth among the native born. Immigration, in fact, represents a replenishment population in a state that experiences substantial out-migration of its natives to southern and western states. Cook County, for example, would have lost population in the 1990s were it not for an increase in the number of immigrants.

### *Types of Immigrants*

There are four major categories of immigrants in Illinois and in the United States:

- Legal immigrants have legal permanent residence and are popularly referred to as holders of “green cards.” They have received an immigrant visa as a result of being sponsored by a family member or an employer.
- Refugees and Asylees have been permitted to enter and remain in the U.S. on the basis of their facing persecution in their native country. Refugees and asylees eventually become legal permanent residents.
- Undocumented immigrants are residing in the U.S. without legal status. They may have entered the U.S. illegally or may have overstayed a temporary visa.
- Nonimmigrants are permitted to live in the U.S. for defined periods of time. They may be students or may be persons employed on a temporary basis.

The categories of immigrants are important because they define the types of experiences these persons encounter, and the types of legal services they are eligible for. Legal immigrants are not eligible for most social safety net programs until they have naturalized. The U.S. has a laissez-faire policy toward regular legal immigrants, and

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<sup>1</sup> 9.8 million came to the U.S.; 475,000 came to Illinois

<sup>2</sup> 432,000 in 1990. See U.S. Immigration and Naturalization Service (no date) Estimates of the Unauthorized Immigrant Population Residing in the United States: 1990 to 2000. Washington: U.S. Bureau of Citizenship and Immigration Services.

provides little assistance in settlement, such as language classes or orientation to U.S. systems in the areas of education, public health, etc.

Refugees and asylees are able to access a set of benefits and assistance in their early months in the U.S., including employment placement and cash assistance. After that period, their social and legal needs may be great, as they usually do not have family in the U.S. and often are recovering from traumatic experiences.

Undocumented immigrants are eligible for few government-funded services. Legal service providers funded by the Legal Services Corporation have been generally prohibited from serving the undocumented since the early 1990s. The undocumented, however, can have substantial needs for legal services because they face deportation although they often have a legitimate claim to legal status, and because they experience employment-based discrimination by employers aware of their illegal status.

Estimating the numbers of immigrants in different statuses in Illinois is a complicated process. Estimating the numbers of legal immigrants and refugees at a given point involves counting years' of prior admissions and adjusting those numbers for emigration, mortality, inter-state migration, etc. Making an estimate of the undocumented population involves using data from surveys from the census in combination with data on legal immigration and other demographic factors. Because of the difficulty associated with making these determinations, only one comprehensive estimate of the Illinois foreign population has been made, by The Urban Institute in 1994.<sup>3</sup> Researchers Jeffrey Passel and Rebecca Clark estimated that the Illinois foreign-born population at that point equaled 716,600 persons. This population was 59.0 percent legal immigrant (including persons who had naturalized), 6.9 percent refugee and asylee, and 34.1 percent undocumented.

### *Causes of Immigration*

Immigrants come to Illinois for a variety of reasons. Conditions in many other countries have deteriorated, promoting emigration to the U.S. In Mexico, for example, a devaluation of the currency, inflation, and social upheaval including loss of agricultural jobs, all promote migration northward.<sup>4</sup> In European nations like Poland, a well-educated population has too few jobs, and a Polish population has existed here for one hundred years, providing a welcoming environment for immigrants.<sup>5</sup> In the case of immigrants from Asia, some migrants fit the image of the high-skilled technology or health care worker, but other arrivals are part of a refugee stream originated by the war in Indochina. These are only some of the factors that send persons to the United States. Other persons from throughout the world come to the U.S. for asylum from persecution.

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<sup>3</sup> Passel, Jeffrey and Clark, Rebecca 1996 *Taxes Paid by Illinois Immigrants* Chicago: Latino Institute

<sup>4</sup> Massey, Douglas et al. 2002 *Beyond Smoke and Mirrors: Mexican Immigration in an Era of Economic Integration* New York: Russell Sage Foundation

<sup>5</sup> Erdmans, Mary Patrice 1998 *Opposite Poles : immigrants and ethnics in Polish Chicago, 1976-1990*, University Park, Pa. : Pennsylvania State University Press

Pull factors that attract persons to the U.S. and to Illinois include our historical legacy as a nation of immigrants. The U.S. operates the largest system of legal permanent immigration in the world, encouraging the arrival of roughly 800,000 persons per year. Economic theorists also single out special characteristics of “world cities” like Chicago as magnets for immigration: these are urban areas that coordinate financial, intellectual and other services and commodities, and which create large numbers of service jobs.<sup>6</sup> Our national economy and also the economy of the state of Illinois have characteristics that encourage immigrants to come here. In recent decades the American labor market has bifurcated into a two-tiered structure of high and low paying jobs. Few Americans accept the lower status jobs, which have grown rapidly in number in service and manufacturing industries. Among high skilled jobs, while these positions are desirable and well paid, too few U.S.-born workers are available to fill certain key positions, and the U.S. fills these jobs with a certain number of immigrants.<sup>7</sup>

The effect of the push-pull and other factors attracting immigrants for Illinois is to create one of the largest immigrant populations in the U.S., as noted earlier. As immigrants, many of these persons work for low-paying jobs and have modest incomes. Some immigrants fall into poverty. For providers of legal services, then, immigrants are an increasingly important portion of the low-income population needing assistance.

### *Immigrant Poverty*

Various factors conspire to consign a portion of the immigrant population to poverty or near poverty. The immigrants may not have skills that transfer into high-wage employment, there may insufficient high-paying jobs available, or the immigrant may be elderly or disabled. Undocumented immigrants have limited economic mobility and cannot freely change jobs to find a place in the labor market where their skills are used at their fullest (and most highly paid) potential. Refugees arrive in the U.S. with few family members or savings, and may be traumatized. Even legal immigrants who are supported by family members and are relatively well prepared to compete in the labor market have their wages and earnings diminished to the extent that the immigrants need time to acculturate and learn English.

In all, about 21.7 percent of immigrants have relatively low income levels in Illinois, below 150 percent of the federal poverty level. This compares to 16.3 percent of the native born. (A family of four at 150 percent of the poverty level would have an income of approximately \$18,000 dollars.) Immigrant poverty rates vary by national-origin category of the immigrants, by the type of legal status they have, and by other factors, just as poverty rates among the native born vary by factors such as race, geographic location.

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<sup>6</sup> Bean, Frank and Stevens, Gillian 2003 *America’s Newcomers and the Dynamics of Diversity*, New York: Russell Sage Foundation

<sup>7</sup> Massey, Douglas et al. 1998 *Worlds in Motion: Understanding International Migration at the End of the Millennium* New York: Oxford University Press

The table below shows the place of birth of householders in Illinois, and the percentage of these householders below 150 percent of the federal poverty level. The table demonstrates the fact that migrants and immigrants are often more economically disadvantaged than native-born persons. This is true not only for international migrants like householders from Mexico (29.7 percent of whom are below 150% of poverty) but also for householders born in the southern U.S. (25.1 percent, most of whom are African Americans) and other locations like Puerto Rico (33.2 percent).

**Householders Below 150% of Poverty, by Place of Birth: 1999**

	Below 150% of poverty level	150% and over of poverty level	
Illinois	16.1%	83.9%	2,776,454
Other Midwest state US	12.4%	87.6%	523,286
Northeast region US	9.5%	90.5%	149,312
South region US	25.1%	74.9%	402,506
West region US	15.6%	84.4%	86,630
Puerto Rico	33.2%	66.8%	30,045
Other outlying area	12.5%	87.5%	938
Abroad to American parents	12.0%	88.0%	18,264
Germany	11.4%	88.6%	18,238
Greece	13.7%	86.3%	10,016
Italy	13.9%	86.1%	16,516
Poland	13.9%	86.1%	58,142
U.S.S.R. (former)	32.9%	67.1%	20,183
Yugoslavia (former)	21.9%	78.1%	14,094
All other Europe	13.6%	86.4%	47,970
China, Hong Kong, Taiwan	21.5%	78.5%	21,491
India	10.5%	89.5%	33,239
Korea	28.0%	72.0%	16,530
Philippines	7.0%	93.0%	25,128
All other Asia	22.3%	77.7%	46,069
Mexico	29.7%	70.3%	202,080
Central America	28.1%	71.9%	15,612
Caribbean	23.0%	77.0%	14,561
South America	19.9%	80.1%	16,516
Northern America	11.0%	89.0%	9,155
Africa	25.0%	75.0%	13,776
Oceania	10.9%	89.1%	1,448
All Places of Birth	17.0%	83.0%	4,588,199

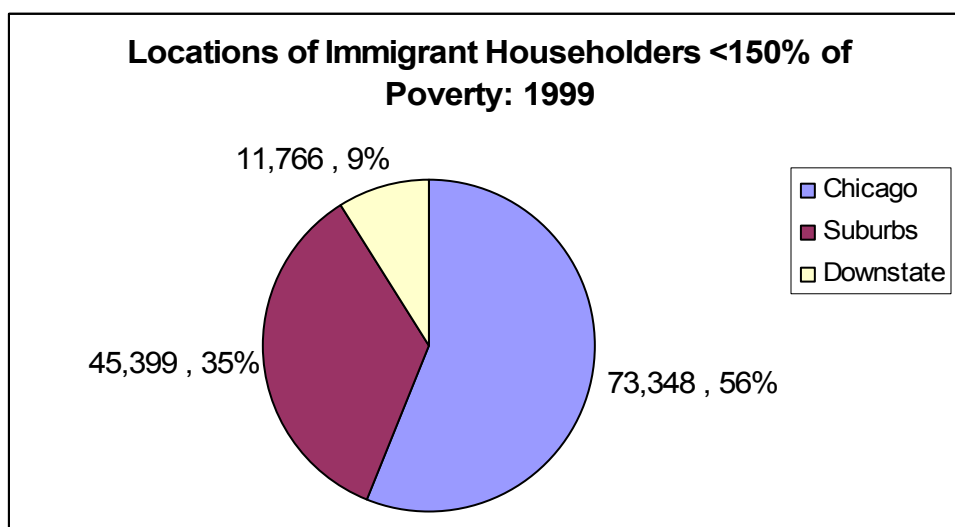
*Immigrants Increasingly Live in “Non-Traditional” Areas*

Perhaps the most significant demographic change involving immigrants in Illinois is the spread of the population to new areas in Illinois. Chicago is the traditional port of entry for immigrants coming to Illinois, but by the year 2000 only 41.1 percent of the state’s immigrants were living in the city. Locations such as Palatine Illinois in northwestern

Cook County or Round Lake Beach in Lake County have become settlement areas for immigrants even though these places have not had large immigrant populations since they were settled by German farmers in the 1860s. Suburbs including Highwood, Harwood Heights, Cicero, Melrose Park, Niles, Schiller Park and others are more than one-third immigrant.<sup>8</sup>

Immigrants have also been arriving in rural Midwestern counties including in downstate Illinois, often attracted by employment in service industries, in meatpacking and in agriculture.<sup>9</sup> Beardstown, Illinois, for example, is located in the central part of the state on the Illinois River, far from the urban neighborhoods of Chicago or St. Louis that are normally associated with immigration. But the 2000 census reported a population of 1,033 immigrants in Beardstown, of whom more than 800 arrived in the last ten years. Illinois counties with the fastest-growing immigrant populations are located in central and southern Illinois.<sup>10</sup>

Among immigrants with relatively low household incomes (i.e., below 150 percent of the poverty level), a majority continue to live in the city of Chicago. Some 44 percent of low income immigrant householders, however, are now found outside of the city limits.



### *Discussion of Findings*

The extraordinary growth of the immigrant population means that there will be an ongoing growth in legal needs of this population. Legal service providers will

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<sup>8</sup> Norkewicz and Paral 2003 *Metro Chicago Immigration Fact Book* Chicago: Institute for Metropolitan Affairs at Roosevelt University

<sup>9</sup> Paral, Rob 2000 *Immigrants of the Heartland: How Immigration is Revitalizing America's Midwest* Chicago: Illinois Coalition for Immigrant and Refugee Rights

<sup>10</sup> Illinois Coalition for Immigrant and Refugee Rights 2003 *Illinois is Home: Statewide Survey of Immigrants and Refugees* Chicago: Illinois Coalition for Immigrant and Refugee Rights.

increasingly find immigrants among their clients. This has implications for the types of services offered by providers and for their preparation to serve immigrants. Increasingly, service providers will be called on to offer immigration-related legal services. These services will be delivered to a largely Latino and to some extent Asian population and oftentimes will need to be provided in languages other than English, particularly in Spanish.

The large portion of the immigrant population that is undocumented has special implications for legal services. The three legal service organizations that receive funding from the Legal Services Corporation – the Legal Assistance Foundation of Metropolitan Chicago, Land of Lincoln Legal Services, and Prairie State Legal Services are unable to serve undocumented immigrants as a condition of their federal funding. Thus the largest sources of legal aid in Illinois – representing arguably the vast majority of free legal aid for low-income individuals and families – is off limits for a substantial and growing segment of the low-income population. This places further burden on the few remaining agencies that are able to provide immigration services to this population such as deportation defense. For general legal services such as consumer or housing law cases, there are virtually no low-cost providers for the undocumented.

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The geographic dispersion of immigrants in recent years places many of them in areas that are underserved by legal aid providers. The majority of legal assistance organizations serving immigrants are located in the city of Chicago and are not equipped to travel to outlying areas of the Chicago suburbs much less downstate Illinois. The few agencies that are located downstate are increasingly burdened. The Immigration Project, based in Granite City, Illinois, is an agency that provides application assistance to immigrants, but it is almost the only free or low-cost immigration legal aid provider with an office south of I-80, covering dozens of Illinois counties.

For philanthropic entities that fund legal services to immigrants, their limited funds must increasingly be stretched across new geographic boundaries and an expanding pool of persons needing assistance. The State of Illinois has recently announced new funding available to groups that offer legal services to immigrants associated with naturalization.<sup>11</sup> The state makes several million dollars in funds available annually through this program, but only a small portion are dedicated to legal services, which are furthermore restricted to naturalization. The funds are administered by the Bureau of Immigrant and Refugee Services in the Illinois Department of Human Services.

### **Immigration Policies Are Increasingly Restrictive and Severe**

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<sup>11</sup> State of Illinois Governor's Office press release, April 19, 2004 "Governor Blagojevich Announces Initiative to Help New Immigrants Become Citizens"

Federal and local policies toward immigrants have undergone enormous change in recent years. These policies have increased overall immigration, at the same time that they have placed new burdens on legal service providers, have affected the ability of immigrants to access safety net programs when they need them, have contributed to a growing class of unprotected individuals, and have affected U.S. citizens who are the spouses, children and other relatives of the immigrants.

American immigration and immigrant-related policy has undergone a sea change in the last few decades, but this came after a long period in which little was done to alter existing rules involving immigrants. In the 1920s, as part of a reaction against the high level of immigration in the 1880-1920 period, the federal government dramatically lowered the overall number of immigrant visas available to potential migrants and set stringent caps on the number of visas available to most countries. This policy regime was in effect for more than forty years until 1965. In that year, President Johnson signed into law a set of amendments that abolished the national-origin quotas and replaced them with a first-come, first-serve system of allocating visas to relatives of U.S. citizens and legal permanent residents. Spouses, children and parents of U.S. citizens would be largely exempt from numerical caps. This is essentially the system in place today, with modifications.

The effect of the 1965 legislation was to dramatically increase the number and diversity of immigrants over time. While 2.5 million immigrants came to the U.S. in the decade of the 1950s, 1.8 million immigrants came to the U.S. in the year 1991, and the decade of the 1990s saw a total of 9.1 million arrivals. Other pieces of legislation added special categories of immigrants on top of the regular arrivals. These legislative acts included the Refugee Act of 1980, which created a procedure by which Congress and the President annually agree on a number of refugees to be admitted to the U.S., exclusive of the caps set on regular legal immigration. The Immigration Reform and Control Act of 1986 afforded legal status to about 3 million persons nationally.

If the early pieces of modern immigration legislation represented expansion and generosity in immigrant admissions, the recent legislation represents penalty and exclusion. The 1990s, it will be recalled, were an era of particularly acrimonious debate on immigration. Patrick J. Buchanan won the New Hampshire Republican Primary in 1996 while calling for the construction of a wall along the U.S.-Mexico border. In 1994 California voters passed Proposition 187, which tried to prevent undocumented children from attending schools and keep sick immigrants out of hospital emergency rooms. In 1996 alone, the Personal Responsibility and Work Opportunity Reconciliation Act summarily took cash assistance away from elderly refugees who spoke no English, had no relatives and had no other source of income (a rash of suicides helped lead to amendment of this provision); in the same year, the Illegal Immigration Reform and Immigrant Responsibility Act has led to high school fights or minor theft triggering deportation without appeal, and stripped administrative law courts of the right to review INS decisions.

*Expanded Ability to Deport Legal Immigrants and the Undocumented*

The 1996 legislation made placed new controls on who enters the U.S. and makes it easier for the government to deport immigrants. An observer may wonder why advocates are concerned with expanded ability to remove undocumented aliens. As described below, the new procedures for detaining and removing aliens include persons who have committed minor crimes, perhaps years ago, and who may have substantial family here.

Regarding legal procedure, deportation and detention, broad categories of policy created by the 1996 legislation include the following:<sup>12</sup>

- Expanded power for immigration personnel. Immigration officers are increasingly allowed to make decisions without a formal hearing before an immigration judge. Immigration officers have expanded authority to decide whether a person should be removed from the U.S. without judicial review.
- Expanded grounds for deportation. In 1998, Congress created a class of crimes known as “Aggravated felonies” that apply only to immigrants. The 1996 legislation increased the types of crimes that are considered aggravated felonies, including many acts that are fairly minor. Hair pulling, rock throwing, or a high school brawl can be considered aggravated felonies, conviction of which leads to automatic removal from the U.S. A legal aid provider interviewed for this report told the story of a Polish immigrant on a fishing trip in Wisconsin. The immigrant had a car accident in which his best friend died. The resulting conviction for negligent use of a vehicle led to the immigrant’s deportation.
- Elimination of Discretionary Relief. Persons with an aggravated felony conviction have no form of discretionary relief available to them. An immigration judge cannot permit them to remain in the U.S. even if, for example, they have close family members that depend on them.
- Laws are applied retroactively. Immigrants are subject to removal even if their conviction of an aggravated felony happened years or decades ago.
- Access to legal counsel further restricted. Immigrants in certain removal proceedings are not allowed to speak with a lawyer or have a lawyer present during the process
- Expanded use of detention. The government is required since 1996 to detain persons who appear to be inadmissible, who are facing deportation on specific grounds, and persons with final deportation orders.

*Reduced Immigrant Eligibility for Social Programs*

The 1996 legislation, particularly the PRWORA, enacted changes to the ability of immigrants to access safety net programs. The original act barred noncitizens from Supplemental Security Income, regardless of their date of entry, and limited their access

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<sup>12</sup> American Bar Association 2004 *American Justice Through Immigrants’ Eyes* Washington: American Bar Association

to other programs. After suicides among elderly immigrants and widespread condemnation of the harshness of the original cuts to immigrant eligibility, the limitations were modified.<sup>13</sup> However, adult legal immigrants coming to Illinois are essentially ineligible to receive Medicaid-funded medical services, and to access other safety net programs such as SSI and TANF until they naturalize, which takes at least five years. The impact of the welfare-related legislation has been to deny social services to immigrants but also to cause confusion among immigrants and social service providers about which programs immigrants may continue to receive.

### *Procedural Changes*

Other policy changes in recent years, while not stemming from the 1996 legislation, have limited due process for immigrants. In 2002 the U.S. Justice Department reduced the size of the Board of Immigration Appeals (BIA), and the appellate judges were urged to issue more “affirmances without opinion,” summary decisions that offer no explanation of why an immigration judge’s decision has been upheld. New regulations permit only one motion to re-open and one motion to re-consider in a deportation case.

The quality of BIA decisions has been severely criticized by federal appellate judges, with the 7<sup>th</sup> U.S. Circuit Court of Appeals labeling BIA decisions “so inadequate as to raise questions of adjudicative competence.”<sup>14</sup> Attorneys for immigrants increasingly are forced to appeal their cases to the federal appellate court. Nationally, immigration cases have become 14 percent of all appeals to the federal court of appeals. Lawyers providing legal services to immigrants thus find that they are increasingly trying cases in federal court, causing more effort to be expended per case, as cases wind their way past the BIA.

Immigrants detained in Illinois normally have a hearing before an immigration judge in downtown Chicago. Increasingly, however, these immigrants are not permitted to have a face-to-face hearing, but rather are given a videoconference hearing, in which the detained immigrant is kept in a detention facility in Broadview, Illinois, and speaks to the judge, and often his or her lawyer, via camera and microphone. This practice has been implemented as a cost-saving measure to avoid transportation of detainees.<sup>15</sup> Attorneys representing the immigrants are concerned that they cannot adequately communicate with their client (for example, they cannot jointly review documents), and that the proceedings have an artificial quality.

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<sup>13</sup> Singer, Audrey 2001 “Immigrants, their Families and their Communities in the Aftermath of Welfare Reform” in *Research Perspectives on Migration Vol. 3 No. 1* Washington: Carnegie Endowment for International Peace and The Urban Institute

<sup>14</sup> “Judges ‘losing patience’ with immigration bench: experts” *Chicago Daily Law Bulletin* September 3, 2004.

<sup>15</sup> The total number of immigration court matters appearing in the Chicago BIA district rose 18 percent in a recent one-year period: FY2002-FY2003. See Executive Office for Immigration Review, U.S. Department of Justice 2004 *FY2003 Statistical Year Book*.

### *Discussion of Findings*

The new immigration policies clearly have direct impacts on the immigrants. Perhaps less obvious are implications for their family members and the State of Illinois itself. When an immigrant is detained or removed there are usually close family members whose lives are seriously changed. Spouses suddenly become single parents and children lose a father or mother. The remaining family may need to go on welfare, causing expense for the state, and is at least likely to see its household income decline, which will usually lower tax payments. U.S.-born children often leave the country to re-join their parent abroad. The children may grow up in an environment of diminished educational quality, and they may not receive adequate health care and other services such as special assistance for learning-disabled youth. These U.S.-citizen children are very likely to return to the U.S. to live as adults, yet they may not achieve their full potential as income earners because, as a result of immigration control, they have grown up without the advantages available to most other Americans. Because family members of detained and deported immigrants may need welfare, experience lower income, and miss out on educational and other socialization experiences, the state of Illinois has a direct interest in ensuring that immigrants have access to adequate counsel, so that families remain united wherever possible.

Legal service providers are struggling to cope with the effect of the new immigration laws. Immigration law has become markedly more complex in the last decade. As a result, small agencies providing legal services to immigrants have to invest more time in interpreting the law and receiving training. This lowers the numbers and types of cases that they can become involved with. For example, prior to the 1996 legislation, applying for an immigrant visa for a family member of a U.S. citizen or legal immigrant was a simpler process. Today, such applications can inadvertently lead to the sponsor getting placed in removal proceedings. This could happen in part because background checks are now a part of the immigration process at all levels, and a sponsor may have committed a minor infraction decades ago that is now classified, retroactively, as an aggravated felony with mandatory deportation. Legal aid providers, many of whom are working in small organizations trying their best to help a certain ethnic group or neighborhood, navigate a minefield today when they advise clients.

### **Immigrants Have Higher-Than-Average Needs**

In January of 2004 the Legal Needs Study of the Lawyers Trust Fund of Illinois commissioned a telephone survey of 1,645 low-income households in the state of Illinois (i.e., households with incomes below 150 percent of the federal poverty level). The survey produced a statistically representative sample, with results weighted by geography, race/ethnicity and age. The survey used random digit dialing within pre-selected census tracts that have large numbers of low-income persons. The survey instrument included approximately 90 questions about the civil legal problems encountered by household members. If a respondent answered affirmatively to having a

particular legal problem, follow-up questions were asked about how the problem was resolved.

Survey respondents were asked whether there was a foreign-born person in their household. Of 1,645 surveyed households, 224 or 13.6 percent reported having an immigrant member. These households are the basis of the following analysis of legal needs involving immigration.

Discussion of the results of a survey should include an assessment of potential bias either by the instrument or among respondents. Immigrant households, for example, may be harder to reach in a telephone survey, and thus the immigrant households may be underrepresented. This would be similar to the problems that the U.S. Census Bureau encounters in locating minority respondents to the decennial census. (Many immigrants are members of non-white racial groups that historically have had relatively low rates of response to the census.)<sup>16</sup> Low-income persons in general may be less likely to have a telephone by which they may be located, and immigrants in particular could be expected to be even less likely to have a household telephone. Migrant worker households and new immigrant arrivals could have trouble establishing phone service for lack of credit history or could be in the process of opening a phone account if they move frequently.

Once located by the phone survey firm, there may be reasons to bias the immigrant households from responding that they had civil legal problems. Criminal activity is a ground for deportation, and respondents may confuse criminal and civil legal problems, and refuse to acknowledge either to a surveyor. Respondents might refuse to affirmatively respond to questions that would suggest a member of the household is undocumented and in violation of federal immigration law. The number of immigration-related problems reported might be low because immigration is fundamentally different from other areas of civil law. An individual, for example, could encounter a consumer-related problem at any point in his life. In contrast, there are relatively few times when an immigrant will be in the process of initiating an application for an immigration benefit. For a naturalized citizen, there could conceivably be only one time in his life when he applied for an immigration benefit, this being when he submitted a naturalization application (his application for permanent residence could have been processed at a U.S. consulate abroad).

Finally, Spanish interviews were available during the survey process, but the telephone call was initially made by an English speaker and this could lead to confusion and an incomplete survey. Other languages were not available, and this would lead to zero responses from Asian, European and other households that did not speak English or Spanish.

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<sup>16</sup> Farber, James 2001 "Quality Indicators of Census 2000 and the Accuracy and Coverage Evaluation" Washington: U.S. Bureau of the Census

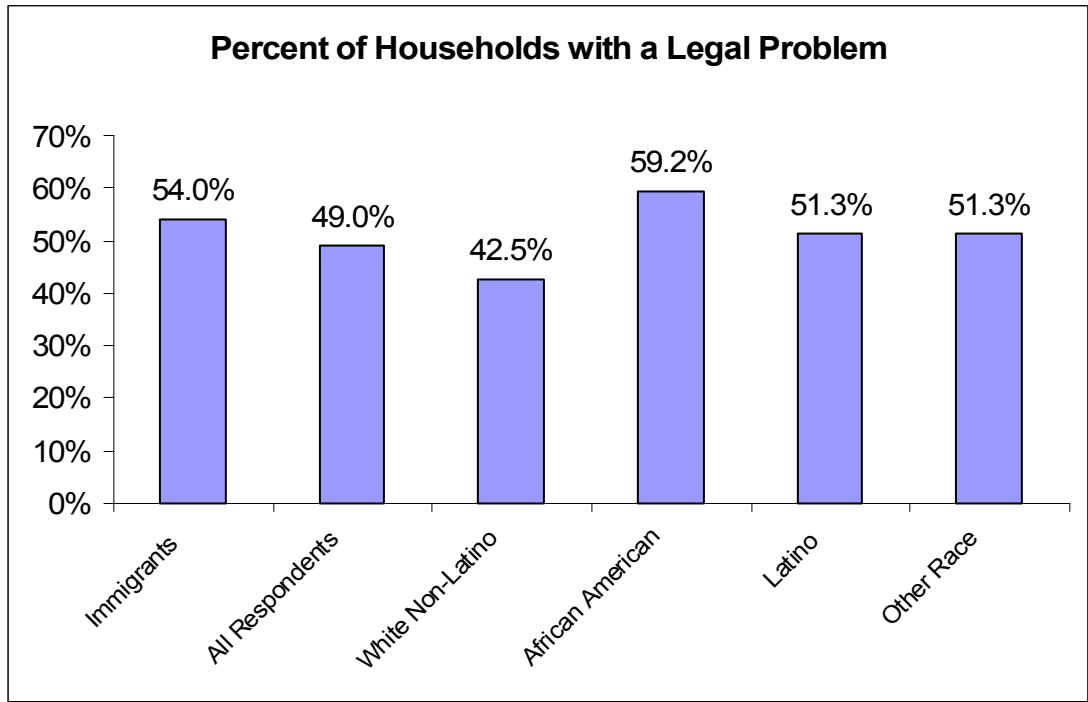
*Overall Legal Needs of Immigrants*

Immigrants may have different legal needs than other persons because of their immigration status. Immigrants, of course, may have immigration-related problems that are not encountered by native-born households, and their experience with other civil legal problems can differ from natives. With regard to public benefits, for example, laws for immigrants differ markedly from those applied to natives.

Thus it would be worthwhile to examine the types of legal problems encountered by immigrants in comparison to other low-income persons. It would also be of interest to determine whether immigrants have different experiences with getting legal help. For linguistic or other reasons, immigrants may not be able to access assistance. They may be ineligible for assistance from some providers if they are undocumented, and they may not be able to find legal aid for their particular needs such as specialized areas of immigration law.

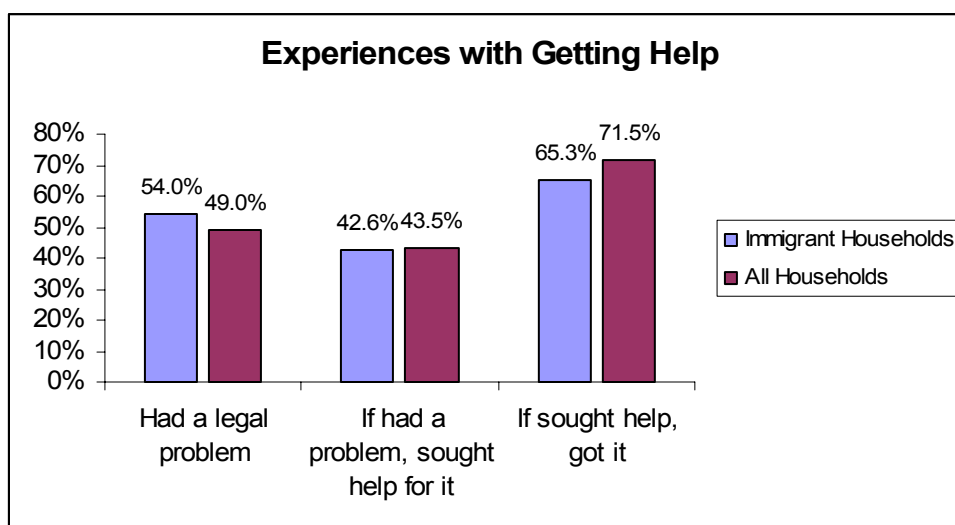
The Legal Needs Study telephone survey found that immigrant households have more legal problems than the average low-income household in Illinois. About 54 percent of immigrant households had a legal problem over the past year compared to 49 percent of all low-income households. Immigrants were more likely than any major racial or ethnic group to have a legal problem, with the exception of African Americans.

The number of legal problems per household works out to about 3.7 for immigrants. This is higher than for any other group except African Americans (3.9 legal problems per household on average). For the overall low-income population the rate is 3.5.



Immigrant households are more likely to have a legal problem than the average low-income household, but the immigrants are less likely to get help with their problem. As seen in the chart below, immigrants (42.6 percent) and all respondents (43.5 percent) are about equally likely to seek help for their legal problems. There is a significant difference, however, in how successful they are getting assistance. Some 65.3 percent of immigrants successfully got help, compared to 71.5 percent of all survey respondents.

In all, 38.8 percent of all surveyed immigrant households had an unaddressed legal need, compared to 33.7 percent of all households. “Unaddressed legal need” is here defined as needs for which a household either sought help but did not get it, or cases where a household had a legal problem but did not seek help for it.



The survey questions on civil legal issues may be categorized in major areas such as consumer problems, housing problems, employment problems, etc. The top three categories of problems for immigrants, non-Latino Whites and Latinos are consumer, housing and family law. For African Americans, consumer, housing and family law problems are among their top four categories of problems.

As might be expected, immigration-related problems were a leading issue for immigrant households, with immigration problems being the fourth most common problem they face. About one of ten or 9.9 percent of immigrant households had an immigration-related problem over the last year.

**Leading Categories of Problems for Immigrants and Other Groups**

	Immigrants	All Respondents	White Non-Latino	African American	Latino	Other Race
Consumer	22.1%	20.5%	18.9%	21.9%	21.6%	18.1%
Housing	15.3	17.8	18.0	17.5	16.7	21.3
Homeowners	7.4	7.1	7.3	7.0	7.0	7.5
Renters	7.9	10.7	10.7	10.4	9.7	13.8
Employment	8.8	9.5	8.6	10.7	8.1	13.8
Education	8.8	5.0	2.9	5.3	10.0	2.5
Health	8.4	9.6	11.1	8.4	9.1	7.5
Public Benefits	7.4	12.1	11.6	14.1	7.6	16.3
Family Law	11.3	15.7	19.7	13.6	13.3	11.3
Immigration	9.9	1.6	0.6	0.3	5.7	5.6
Wills & Estates	1.8	2.4	2.7	2.6	1.9	0.0
Tort Defense	4.1	2.3	1.3	2.3	4.0	3.1
Disability Related	2.0	3.5	4.6	3.3	1.9	0.6
	100%	100%	100%	100%	100%	100%
Leading Problems	consumer housing family law <b>immigration</b> employment education	consumer housing family law public benefits renters	family law consumer housing public benefits health	consumer housing public benefits family law employment	consumer housing family law education renters	housing consumer public benefits renters employment

Source: Legal Needs Study telephone survey

*Immigration Problems*

The telephone survey asked five questions about immigration problems.

Households Reporting an Immigration-Related Problem

	N=	Universe	% of HH	# of HH/# of Problems*	Est. Households with Foreign-born with Problems Statewide
66. Was anyone in your household unable to apply for a particular immigration status that you think they are entitled to?	224	142,496	11.0%	25	11,885
67. Was anyone in your household threatened with deportation from the U.S. by the immigration service?	224	142,496	3.8%	8	3,803
68. Where you or anyone in your household treated unfairly by an employer because of immigration status, for example: denied promotion, not paid in full, or not provided adequate working conditions?	224	142,496	2.4%	5	2,377
69. Did anyone in your household pay for legal advice or services about an immigration matter from someone who is not lawyer, such as a notary or travel agent?	224	142,496	1.3%	3	1,426
70. Did you have any other immigration-related problem where you felt that you could have used a lawyer?	224	142,496	2.6%	6	2,852

Of all immigrant households, 11.2 percent responded yes to question 59, regarding being unable to apply for an immigration status. This represents 11,885 immigrant households statewide. Some 3.6 percent of responding households said yes to question 60, which asked if anyone in the household had been threatened with deportation; this translates into 3,803 households. Less than 3 percent of immigrant households gave affirmative answers to the questions about unfair treatment by an employer, using immigration services provided by a non lawyer, and having other immigration problems that required a lawyer.

About 2.2 percent of all surveyed households had an immigration-related problem. Immigration, however, was a more common problem among Latino and Other Race households (Other Race households are likely to be disproportionately Asian). Among Latinos, immigration-related problems are 5.7 percent of all civil legal problems, and immigration problems are 5.6 percent of all problems encountered by persons of Other Races, many of whom are Asians.

*Unaddressed Immigration-Related Needs*

Statewide, the Legal Needs Study telephone survey found the equivalent of 17,590 immigrant households where there was an immigration-related legal problem. This represents 12.3

**12.3 percent of immigrant households had an immigration-related legal problem.**

percent of the estimated 142,496 immigrant households below 150 percent of the federal poverty line. This is low compared with the general low-income population in Illinois and its experience with civil legal problems of all kinds. For all households below 150 percent of the federal poverty level, 49.0 percent experienced a civil legal problem in the preceding year.

Of the 17,590 immigrant households that the telephone survey estimates to have had an immigration-related problem, some 12,836 of these households reported that their problem was unaddressed. This equates to 73.0 of immigrant households not having their immigration problem addressed. This high rate of failure to address their immigration legal needs is higher than the comparable rate for the overall population. Some 68.9 percent of all low-income households with problems saw their issue go unaddressed.

**73.0 percent of immigrants with immigration-related legal needs did not have their problem addressed.**

### *Geography of Immigration-Related Needs*

Data from the telephone survey may be stratified by three geographic regions in Illinois that correspond to the service areas of the Legal Assistance Foundation, Prairie State legal services and Land of Lincoln Legal Services. The area served by the Legal Assistance Foundation corresponds with the borders of Cook County. Prairie State Legal Services serves counties in the northern half of the state. The remaining counties in southern Illinois are served by Land of Lincoln.

Statewide, 2.2 percent of households experienced an immigration-related problem in 2003. In the service area of the Legal Assistance Foundation (Cook County) the percent of households with immigration problems was 4.1, while only 0.3 percent of households in the Prairie State and Land of Lincoln households reported an immigration problem.

### *Race/Ethnic Breakdown*

Another way to look at the importance of immigration problems is their salience for immigrant households. Immigration-related problems were reported by 16.5 percent of all immigrant households. For Latino immigrant households, immigration-related problems are 20 percent of all civil legal problems they encounter. For non-Latino Whites immigrants, immigration problems are 12.9 percent of their civil legal problems, and for Other Race households, immigration constitutes 9.4 percent of problems.<sup>17</sup>

### *Discussion of Findings*

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<sup>17</sup> There was only one Black, foreign-born household in the survey.

The fact that immigrants are more likely than the general population to have a civil legal problem highlights the need for legal service providers to target this population. Immigrants mostly experience the kinds of general legal problems faced by the native born, i.e., consumer, housing, etc., and service providers should be careful not to classify immigrant households as primarily needing assistance with problems at the U.S. Bureau of Citizenship and Immigration Services.

The data show that immigration problems are especially important for Latino and Other Race (largely Asian) households. Providing immigration assistance is an important aspect of service to these populations. One in ten immigrant households needed help in applying for an immigration benefit of some kind. This translates into about 14,000 households statewide and illustrates the magnitude of need for legal service providers trained in immigration.

## **Immigration and the Legal Services Community**

### *Types of Immigration Needs*

Immigrants have needs for various types of assistance related to immigration. Many individuals need assistance in filling out forms that involve applying for an immigration benefit like naturalization or that involve compliance with rules such as reporting address changes or renewing an expiring “green card.” Immigration forms are deceptive in that they do not require legal assistance to complete, yet errors in these forms can have serious consequences. Some applicants are better off not seeking some benefits. For example, the N-400 is the naturalization application for an adult. An immigrant who leaves out certain information – however innocently – such as information on previous conviction, can commit a felony in the process. On the other hand, an immigrant with a past criminal conviction might best be counseled to not apply for naturalization, because their past conviction may qualify – retroactively – as an aggravated felony that triggers removal proceedings. Thus immigrants often need legal assistance for even the most basic applications that they may be considering submitting to the USCIS. Form assistance, indeed, is the type of legal assistance most commonly available to immigrants in Illinois. Many non-profit agencies will help applicants complete basic forms, even if the agencies do not have the staff to assist with appeals on decisions or in appearances at the USCIS or immigration court.

Many immigrants have higher-order legal needs than basic form assistance, of course. There are many reasons for which an immigrant could require legal representation including application for asylum, defense against removal, or appeal of claims for protected status. For these types of representation there are extremely few non-profit, low-cost service providers, with by far the largest portion of cases handled by the Midwest Immigrant and Human Rights Center in Chicago.

### *Options for Service*

Illinois and in particular Chicago and its nearby suburbs have a reputation for having a highly multiethnic population representing not only all the major racial groups that live in the U.S. but also diverse immigrant populations from Africa, Europe, Asia, and Latin America. As immigrants and other minority groups have settled into the Chicago area they have often developed their own ethnic organizations to represent and defend their interests. A list of the ethnic organizations would be lengthy, including groups like the Polish American Association on the northwest and southwest sides of Chicago, the Vietnamese association on north Broadway in the city, and the Centro de Informacion y Progreso in Elgin, Illinois. Other groups such as Catholic Charities, World Relief, and Interchurch Refugee and Migration Ministries are affiliated with religious organizations. A few organizations are community based, i.e., serving a particular neighborhood. (An appendix to this report lists organizations in Illinois that offer immigration-related legal services.)

These groups often provide social and educational services to immigrant populations such as English classes, job placement or training services, youth programs, etc. and a portion of them provide some type of legal services as well. Most of the organizations provide referral information to persons looking for legal aid, while some offer limited legal aid services such as by helping immigrants fill out forms to adjust their status, to obtain a green card renewal, to naturalize, or to receive other immigration benefits. A small number of these agencies are accredited to represent immigrants before the Board of Immigration Appeals.

As a practical matter, however, few if any of these organizations appear with clients on a regular basis at hearings before an immigration judge. Such cases require significant time investment as well as a level of technical expertise that most agencies do not have the resources to develop. In all, some 17 organizations are accredited to represent immigrants before the Board of Immigration Appeals. These include larger agencies like Catholic Charities but also groups like the U.S. Baha’I Refugee Office in Evanston, Illinois which only serves Baha’i refugees.

Most of the ethnic/religious/community-based agencies can provide “first step” assistance to immigrants in their interactions with the immigration service, but cannot provide in-depth follow-up representation. Some groups have more involved referral systems than others. The Hebrew Immigrant Aid Society in Chicago, for example, has a relationship with a pool of immigration attorneys who agree to review forms and applications prepared by the agency and advise the individual immigrant on whether it appears that they need legal counsel.

A small number of non-profit organizations provide a relatively full range of legal services to immigrants. These include principally the Midwest Immigrant and Human Rights Center in Chicago, the Legal Assistance Foundation of Metropolitan Chicago, the DePaul University Asylum/Immigration Legal Clinic, and Catholic Charities. These agencies employ full-time immigration attorneys. MIHRC is the largest agency, with a

staff of more than twenty persons providing direct legal assistance to as many as 7,000 persons per year. The Legal Assistance Foundation (LAF) of Chicago has team of three attorneys and a paralegal offering legal aid. LAF, however, is prohibited from representing undocumented immigrants as a provision of its federal Legal Services Corporation funding.<sup>18</sup> The DePaul Legal Clinic plays a unique role in supporting legal services to immigrants. Apart from providing direct representation for clients, the clinic gives legal technical assistance to community organizations that are accredited by the Board of Immigration Appeals.

As immigrants seek low-cost legal aid they can fall victim to frauds and incompetence at the hands of individuals and agencies that practice as notaries, particularly in the Latino community. In many Latin American countries, a *notario público* may conduct a variety of legal affairs including drafting documents, providing legal advice, settling disputes and archiving documents.<sup>19</sup> In the U.S., however, a designation of notary does not imply that someone is authorized to practice law. Many notarios operate in Latino communities in Illinois, and there is an abundance of stories involving their fraudulent advice. Individuals, for example, have filed asylum claims on the advice of a *notario* when they were not eligible for asylum. This has led to their deportation when they could have been eligible for voluntary departure.

In August 2004 Illinois Governor Blagojevich signed into law S 2548 that prohibits a notary public, unless he or she is an attorney, from accepting fees for immigration advice. The coming months will tell whether fraud emanating from *notarios* is laid to rest.

### Discussion of Findings

Low-cost immigration legal services are provided by ethnically based agencies, entities with religious support, and other agencies that do not focus on a particular group. The ethnically based agencies cover a wide geography and have the ability to communicate effectively with their clients and have their clients' trust. At the same time, the resources available to these groups are small, and the law around immigration has grown more complex. While it may seem desirable to help these groups hire attorneys, it would be difficult for the agencies to maintain new positions. A good investment would be increase the training and educational opportunities available to the existing staff of these organizations. This would strengthen their existing infrastructure. Larger agencies with staff attorneys would be more capable of absorbing and supporting increased numbers of staff attorneys.

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<sup>18</sup> LAF also houses the Illinois Migrant Assistance Project, which provides employment-related representation to migrant workers, who also must be legal residents per federal funding rules.

<sup>19</sup> See National Notary Association, at <http://www.nationalnotary.org/howto/index.cfm?text=whatIsNotary>

## **Conclusion**

Illinois is faced with a serious challenge when it comes to providing legal services to immigrants. The growth of the immigrant population is dramatic. A majority of the state's population increase is due to immigration, and a disproportionate portion of immigrants have relatively low income levels. The survey data in this report show that the immigrants overall have greater legal needs than any other major group except African Americans.

At the same time that the immigrant need for legal services is booming and spreading geographically to all corners of the state, the amount of dollars available to legal service providers is relatively fixed. There is no evidence of a substantial increase in philanthropic or governmental dollars coming into the legal services arena in the past few years and little likelihood of this happening in the near future without a substantial realignment of philanthropic and governmental priorities. Furthermore, a large portion of the dollars that go to immigration-legal services are from the federal government – through the Legal Services Corporation – and largely cannot be used to provide services to the undocumented, this while the undocumented immigrant population exceeded 400,000 persons in Illinois and has been steadily growing over the years (consider that undocumented immigrants are now more than three percent of the entire state's population, and a much higher proportion in many towns, cities and neighborhoods). The existing legal service community, aside from ethnically based providers, is further hampered by a lack of staff trained in immigration and a chronic lack of bilingual professionals. The ethnically based providers, meanwhile, are by nature limited in their scope of services and target population.

The implications of the growing disconnect between immigrant need and legal service capacity are profound. On the one hand, the immigrants are subject to a harsh and draconian set of immigration laws passed in one of the most restriction-oriented periods in the nation's history, the 1990s, which brought us Proposition 187, Patrick Buchanan ("José, you're not coming in this time!"), a 1996 welfare law that derived 40 percent of its savings from cutbacks to services to immigrants who were 5 percent of the welfare population, and another 1996 immigration law that has made legal immigrants deportable for actions such as high school fist fights that happened forty years ago, ended the discretion of immigration judges in numerous instances and made the appeals process of immigration a target of derision and scathing sarcasm from, of all people, sitting federal judges. This scenario is a perfect storm in which immigrants who are contributing members of society and who, ironically, have often been attracted here by American employers who seek their labor, are summarily expelled from the United States. But who is affected by this? Most immigrants have family here and many have U.S. citizen family members. These latter persons – children for the most part – are the true tragedy in this process. The increased deportations leave children without fathers and mothers, or send American citizen, native-born boys and girls out of the country to be raised in developing nations about which most Americans are well aware of their insufficient systems of public education, social development, liberty and justice.

But the undocumented immigrants and their exposure to caprice are not the entire story in the current state of immigrants and the legal system. Lack of legal aid providers slows down the entry into naturalization of perfectly legal residents who today often need legal counsel before applying for naturalization because what used to be a fairly straightforward system – the process of naturalization – today involves background checks that can reveal minor offenses that lead to not only denial of citizenship but, indeed, initiation of removal proceedings. At the same time, the political voice of immigrants is suppressed because they cannot naturalize and then vote.

Thus the issue with immigrant legal services has to be seen not as affecting only immigrants but of breaking up families, inflicting poverty and suffering on American children, and dampening our democratic processes by which we encourage residents to vote and make their voice heard. This is why immigrant legal services are necessary. One could be callous toward the immigrant but sensitive to the fact that we are damaging our own, larger, social and political fabric in the state of Illinois by failing to incorporate immigrants into our legal aid systems commensurate with the population size of immigrants.

Perhaps the message that by ignoring immigrants we ultimately damage our own self interests is one that may ultimately lead to increased support for immigration-related legal services. If enough private foundations and the legislature of the state of Illinois realize that immigrant legal services are American citizen legal services, perhaps we could stimulate more investment in this area. Given the make-up of the current Congress and the tone and tenor of the debate on immigrants on Capitol Hill (with proposals in 2004 to make hospital emergency rooms report undocumented trauma patients to immigration authorities), there is scant hope of sympathy or compassion from Washington in the form of relaxed Legal Services Corporation rules on the use of their funding. The resolution will need to come from Illinois leadership, on the boards of philanthropic agencies and perhaps in Springfield. The health of the economy and society of the state of Illinois are damaged by neglect of immigrant legal needs and this fact needs to be made plain and clear.

## **Immigrant-Serving Organizations**

Note: a chart will be inserted here; it is in \*.pdf form and its insertion will require assistance from a graphic designer. RP 10-22-04

**List of Persons and Agencies Interviewed for this Report**

Siobhan Albiol, DePaul University Legal Clinic  
Vincent Beckman, Legal Assistance Foundation of Metropolitan Chicago  
Diego Bonesatti, Illinois Coalition for Immigrant and Refugee Rights  
James Fujimoto, U.S. Board of Immigration Appeals  
Nancy Gavilanes, Catholic Charities  
Bob Glaves, The Chicago Bar Foundation  
Marti Jones, The Immigration Project  
Barbara Lacz, Polish American Association  
Mary Meg McCarthy, Midwest Immigrant and Human Rights Center, Heartland Alliance  
Lisa Palumbo, Legal Assistance Foundation of Metropolitan Chicago  
Susan Schreiber, Catholic Legal Immigration Network, Inc.  
Delia Seeburg, World Relief  
Jose Manuel Ventura, Centro Romero  
Diana White, Legal Assistance Foundation of Metropolitan Chicago