

# THE CHRONICLE OF PHILANTHROPY

◀ Back to Search Results

---

OPINION

APRIL 08, 2016

## Philanthropy Must Step Up for Fairness in Civil Justice



ERIC GAY, AP

By Mary McClymont

For foundations that have been making grants for years to press for an overhaul of America's criminal-justice system, it's heartening to see that the nation is finally getting serious about pushing solutions to address a devastating challenge. Across the political spectrum, people seem to have reached a consensus that mass incarceration is untenable and has caused dramatic,

negative long-term effects on American society.

At my organization, the Public Welfare Foundation, which has long supported reforms to the criminal-justice system, we hope that meaningful change might be close for the more than 2 million people who are behind bars, the majority of them in state prisons. We see more and more policy makers recognizing that locking up so many people — disproportionately people of color — has damaging consequences for our families, our economy, and our democracy.

But there is another crisis in our justice system that has been overlooked for too long by philanthropy and the rest of society — the part of the system that deals with domestic violence, unlawful evictions, loss of veterans' health benefits, and a range of other important civil matters.

Unlike in criminal matters, the Constitution does not guarantee legal assistance in critical civil cases, and millions of Americans cannot afford the help they need when facing potentially life-changing situations. They are forced to navigate these complex legal situations on their own. Without help, many lose their families, homes, and livelihoods.

They can also wind up facing incarceration, which is yet another reason why the civil-justice system needs to be on the agenda for change. Just as philanthropy is putting more into efforts to overhaul the criminal-justice system, more foundations should support civil legal aid, which encompasses a combination of services and resources that help the most vulnerable navigate the system.

Take the case of Geneva M., a 32-year-old mother of three in South Carolina who was unrepresented in a civil child-support matter. She ended up spending several months in jail for failure to pay. While she was incarcerated, her driver's license was revoked. Without a license, she could not get to and from work reliably, and she fell further behind on her child-support obligations.

She faced more jail time early last year — but this time the outcome was different, because South Carolina Legal Services was involved. A legal-aid lawyer helped Geneva obtain a limited-driving license so she could get to work. The lawyer also persuaded a judge to accept a payment plan rather than perpetuating the cycle by returning Geneva to jail. She paid off her debt in two months, is still employed, and is able to meet her child-support obligations on time.

Or consider the case of Dave P., a Navy veteran and single father of three living in upstate New York. Dave sustained a serious back injury during his military service, and as the symptoms grew worse he was limited in how much and how often he could work. Ultimately, he dipped into his savings to continue paying his mortgage. When his savings were gone and he could no longer make his payments on time, his lender filed a foreclosure action against him.

Dave and his children might have been out on the streets — yet another example of our growing and disturbing crisis of veterans, to whom our nation owes a debt, struggling to find a place to live. Instead, Dave found a lifeline through the Empire Justice Center, a civil legal-aid organization, which went to court nearly a dozen times to win a loan modification that Dave could afford and that allowed his family to stay put.

Dave and Geneva were fortunate to have gotten help. There are 65 million people in poverty in the United States, and studies show that 80 percent of their legal needs go unmet, in large part due to inadequate financial support for legal-aid organizations and related programs and services. In addition, overburdened courts are often unable to accommodate or deal fairly with the 16 million people a year who, by conservative estimates, are forced to handle civil cases in state courts without legal representation. A recent study by the National Center for State Courts found that in 75 percent of civil cases, one or both parties were there without legal help to navigate complicated proceedings.

The good news is that the resource crisis in civil legal aid has led to an array of innovations to help serve more people, including new approaches like licensed legal technicians (people who have legal training but are not lawyers), self-help services, automated standardized forms, and technology tools. The Public Welfare Foundation has tried to do its part to foster such innovations. And while these creative new approaches have drawn some welcome attention, they need greater and more sustained financial backing.

The Kresge Foundation, the California Endowment, and the New York Community Trust, among others are also key supporters of various grant-making efforts for civil legal aid across the country. But the programs and services that are making a difference for people like Geneva and Dave in every community in America need additional investment to continue and expand this vital work. Philanthropy is uniquely suited to help meet this need by catalyzing innovations and supporting proven efforts to offer more and better service.

At the same time, philanthropy can also benefit by embracing civil legal aid as part of its tool kit to advance housing, education, economic security, and other causes central to fairness and prosperity in our nation. Foundations have started to hear the call to action on criminal justice and have stepped up. Now, we must do the same to advance needed reforms in civil justice.

*Mary McClymont is president of the Public Welfare Foundation.*