

**North Dakota Legal Needs Assessment for Civil Matters
Of North Dakotans Ages 60 and Over**

Data Analysis Report

March 19, 2008

**Prepared by
Henry J. Lebak, M.A.
Lebak Consultants**

North Dakota Legal Needs Assessment for Civil Matters Of North Dakotans Ages 60 and Over (Elderly)

Purpose of the Study

According to the “Executive Summary of the North Dakota Legal Needs Assessment for Civil Matters” prepared by Joy M. Bingham, J.D., the purpose of this study was “to assess the need for affordable legal services to low-income and under-represented populations in the state through the creation of the North Dakota Legal Needs Assessment. The Assessment’s dual focus was created due to the largely rural nature of North Dakota, which results in severely limited access to legal representation in many areas and especially to free or reduced-fee legal service.” The study defined “low-income” as a household having household earnings less than 125% of the 2006 Federal Poverty Guidelines. The term “under-represented populations” was not defined but was inferred to be the Native American population and the population of North Dakotans ages 60 and older referred to as elderly. The phrase “severely limited access to legal representation” also was not defined in the study.

Study Methodology

According to the Executive Summary as described in the previous paragraph, “the primary tool used in this study was a survey instrument entitled the North Dakota Legal Needs Assessment. The Assessment consisted of ninety-four questions identifying potential legal issues within twelve categories including: 1) housing, 2) family law, 3) elder law, 4) estate planning, 5) employment, 6) government benefits, 7) health care and insurance, 8) personal rights, 9) immigration, 10) consumer issues, 11) elementary education, and 12) recent legal assistance.” A section on socio-economic and demographic questions was included at the end of the instrument.

“Additionally, community outreach and interviewing efforts were focused on the elderly through volunteer efforts of the Retired and Senior Volunteer Program (RSVP) and on Native Americans residing on any of the five Indian Reservations within North Dakota. Student volunteers from the Law Clinic conducted general outreach and interviewing efforts with the assistance of LSND employees. Each assessment was completed with absolute anonymity, including those conducted through personal interviews and telephone surveying.” (Executive Summary, page 5)

“Between September 2006 and May 2007, the distribution and subsequent completion of individual assessments were conducted through combined efforts including: distribution at local community, non-profit, and assistance centers; distribution and personal interviews at local community events; and telephone interviews. All respondent participation occurred on a volunteer basis. Respondents who completed the Assessment remotely were provided with a pre-addressed and pre-paid envelope in which to return the document. Participants who completed the Assessment at a local center or at a community event had the option of returning it to the identified interviewer or through the mail. Ultimately, all completed Assessments were returned to the Law Clinic where the responses were inputted into survey software by the author. Participants also had the opportunity of completing the Assessment online.” (Executive Summary, page 6)

“At the outset of the project the minimum goal for completed Assessments was 600. The final number of Assessments used in compiling and analyzing the legal needs of low-income and under-represented North Dakotans was 700.” (Executive Summary, page 6) Of the total 700 completed surveys, 207 were completed by North Dakotans ages 60 and older (referred to as elderly). (2007 Legal Needs Assessment for Elderly North Dakotans, page 2)

Areas of Potential Legal Needs of the Elderly Respondents

This section highlights the specific areas that could be potential topics of legal need for the 207 respondents ages 60 and older in the study. Further analysis of the actual data is presented in the next section of the report.

- Over 40 percent of the elderly respondents reported having some legal needs in the past 5 years.
- Training may have to be provided to both renters and landlords regarding the benefits of completing a check-in sheet prior to a renter moving in.
- Training may also have to be provided in the area of security deposits and the preparation of itemization lists for the amount subtracted from the security deposit.
- 2 percent of the elderly respondents reported not having has a place to live sometime during the past five years.
- Nearly 6 percent of the elderly respondents have themselves or have known someone during the past year that have been in a situation where an elderly relative or close friend has been taken advantage of financially.
- Over 9 percent of the elderly respondents have themselves or have known someone during the past year who has sought legal help for an elderly relative or close friend who could not handle his or her own affairs.
- Training and legal assistance may need to be provided relating to the importance of:
 - developing a will,
 - having completed a power of attorney for financial affairs, and
 - developing a health care directive or living will for final medical wishes.
- Over 10 percent of the elderly respondents had applied for Medicaid in past three years.
- Nearly 13 percent of the elderly respondents had received Medicaid during the past three years.
- Over 6 percent of the elderly respondents reported having problems getting medical help for either them or for a dependent. The problems included:
 - Being expected to meet unreasonable requirements to get the benefits (2 individuals);
 - Not being given information about how the application process works (3 individuals);
 - Not being given information about how to file a complaint with the agency (1 individual)
 - Not being able to get a hearing (1 individual);

- Being denied access to their file (1 individual); and
 - Other non-specified reasons (4 individuals).
- 5 percent of the elderly respondents reported having had serious problems involving their medical insurance during the past three years.
- 7 percent of the elderly respondents reported to have had problems with creditors or debt collectors.
 - 4 percent of the elderly respondents reported that they had been harassed by creditors and 4 percent reported that they had a debt sent to a collections agency.
- Although this area is not very specific, some training may be needed in obtaining credit.
- 4 percent of the elderly respondents reported to having had problems in either receiving or maintaining legal assistance in the past three years.
- 30 percent of the elderly respondents received legal services in the past five years.
 - 9 percent of the elderly respondents received assistance from Legal Services of North Dakota in the past five years.

Analysis of Data

A summary of the each Assessment question within each of the twelve categories as well as the demographic section can be found on pages 3 through 6 of the document entitled “2007 Legal Needs Assessment For Elderly North Dakotans” completed August 16, 2007 by Jean Lengowski. This information will not be repeated in this analysis; only major findings will be included.

Due to the fact that the study was not based on a random sample of the population of individuals ages 60 and older in North Dakota, the results are not generalizable to the State’s population ages 60 and older but are generalizable to the 207 respondents ages 60 and older.

Overall Need for Legal Help in the Past Five Years (Question 1)

- 4 out of every 10 elderly persons responded that they did have some sort of legal needs in the past 5 years. (41.7%; 83 out of 199)
 - The specific legal needs of the 83 respondents were not given.

Housing Issues (Questions 2 – 21)

- 1 out of every 3 elderly persons responded that they have lived in a rental unit (house or apartment) sometime in the past three years. (35.8%; 74 out of 207)
 - 1 out of every 3 of these elderly renters responded that they and their landlords had not completed a Check-in sheet before they moved in. (35.1%; 26 out of 74)
 - Of the 34 elderly respondents who had rented during the past three years and who had left the rental property, nearly one-half did not receive all or part of their security deposit. (47.1%; 16 out of 34)

- Upon leaving the rental property, more than 6 out of every 10 elderly respondents did not receive from the landlord an itemized list stating the amounts subtracted from the security deposit. (65.6%; 21 out of 32)
- None of the elderly respondents had been denied government housing assistance in the past three years. (100.0%; 66 out of 66)
- None of the elderly respondents reported that during the past five years, a landlord had ever refused to rent to them or treated them unfairly once he or she learned the respondent was receiving housing assistance. (100.0%; 66 out of 66)
- None of the elderly respondents reported to having been refused renting arrangements or having been treated unfairly because of the respondents' race during the past three years. (0.0%; 69 out of 69)
- None of the elderly respondents reported to having experienced unwanted sexual comments or propositions from their landlord during the past three years. (100.0%; 69 out of 69)
- Nearly all of the elderly respondents reported having a place to live during the past five years. (98.0%; 199 out of 203)
- Mortgage foreclosure does not seem to be a problem for the elderly respondents. (193 out of 194 elderly respondents had not been foreclosed on or 99.5 %.)
- Pressure being placed on the elderly respondents to take on additional mortgage debt at unfair terms also was not much of an issue. (99.5%; 195 out of 196 elderly respondents)

Family Law Issues (Questions 22 – 27)

- Difficulty changing names after a marriage or divorce has not been much of an issue to the elderly respondents. (99.0%; 195 out of 197)
- 98.6% of the elderly respondents have not sought assistance during the past three years due to the break-up of a marriage or live-in relationship. (98.6%; 204 out of 207)
- Involvement in a dispute about child custody during the past three years has not been much of an issue for the elderly respondents. (99.5%; 194 out of 195)

Domestic Violence (Questions 28 – 33)

- Being a victim of domestic violence during the past three years has not been much of an issue for the elderly respondents. (99.0%; 201 out of 203)

Common Elder Issues (Question 34 – 41)

- In the past year, most of the elderly respondents themselves or someone known to them have not been in a situation where an elderly relative or close friend was being physically abused or neglected. (98.0%; 198 out of 202)
- In the past year, 9 out of 10 elderly respondents themselves or someone they know have not been in a situation where an elderly relative or close friend has been taken advantage of financially, (94.4%; 187 out of 198)

- In the past year, 9 out of 10 elderly respondents themselves or some they know have not sought legal help for an elderly relative or close friend who could not handle his or her own affairs. (90.8%; 188 out of 2007)
- Nearly two-thirds of the elderly respondents reported to currently have a valid will. (66.2%; 131 out of 198)
- Over one half of the elderly respondents reported to have completed a power of attorney for financial affairs. (52.4%; 108 out of 206)
- Less than half of the elderly respondents reported to have completed a health care directive or living will for their medical wishes. (47.1%; 97 out of 206)

Employment

- Most elderly respondents reported not having been denied a job in the past three years based on gender, race or ethnicity, citizenship (not a U.S. citizen), age, physical or mental disability, marital status or other types of discrimination. (97.6%; 200 out of 206)
- Nearly all of the elderly respondents have not had any problems collecting the amount of overtime pay they were owed. (99.5%; 185 out of 186)
- Nearly all of the elderly respondents have not been paid less than minimum wage (\$5.15) at a job during the past three years. (97.5%; 192 out of 197)
- Nearly all of the elderly respondents have not had any trouble collecting money owed to them after they quit or were fired from a job. (98.6%; 204 out of 207)
- Nearly all of the elderly respondents have not had any trouble with an employer not withholding or properly paying any items such as Social Security, income taxes, child support payments, union dues, health insurance or other insurance premiums. (97.0%; 194 out of 200)
- Nearly all of the elderly respondents have not been denied a promotion or a raise at work during the past three years due to any employer discrimination such as gender, race or ethnicity, citizenship (not a U.S. citizen) age, physical or mental disability. (98.5%; 197 out of 200)
- Nearly all of the elderly respondents have not experienced any difficulties on the job during the past three years involving sexual harassment or workplace harassment. (96.6%; 199 out of 206)
- No elderly respondent had been fired during the past three years from a job due to problems involving domestic violence. (100.0%; 200 out of 200)
- Nearly all of the elderly respondents reported not experiencing any major difficulties on the job. (97.5%; 194 out of 199)

Public Benefits, Insurance, and Medical

- During the past three years, nearly a third of the elderly respondents had applied for government benefits. (31.7%; 65 out of 205)
 - Not surprising, the most number applied for Medicare, a federal health insurance program for people over age 64. (73.8%; 48 out of 65)
 - Other government benefits applied for included:
 - Medicaid (33.9%; 22 out of 65)

- Supplemental Security Income (24.6%; 16 out of 65)
 - Housing assistance (HUD Choice Voucher Program or Project-based subsidies). (20.0%; 13 out of 65).
 - Social Security Disability insurance. (20.0%; 13 out of 65)
- During the past three years, over 60 percent of the elderly respondents had received government benefits. (61.4%; 127 out of 207)
 - Once again, the largest number were receiving Medicare (81.9%; 104 out of 127)
 - Other government benefits received included:
 - Social Security Disability Insurance. (15.8%; 20 out of 127)
 - Supplemental Security Income. (15.8%; 20 out of 127)
 - Housing Assistance. (12.6%; 16 out of 127)
- The elderly respondents currently involved with the government benefit programs are, for the most part, not having any difficulties with them. (94.5%; 120 out of 127)
 - Three people did report having problems with not knowing how the various application processes work.
- Overall, most of the elderly respondents have not been involuntarily terminated from any government benefit programs. (97.1%; 201 out of 207)
- Over 90 percent of the elderly respondents reported no problems in getting medical help for either themselves or their dependents. (93.7%; 194 out of 207)
- 90 percent of the elderly respondents reported no serious problems involving any type of insurance. (89.9%; 186 out of 207)
 - Ten people (4.8%) reported to have serious problems with their medical insurance but the types of problems encountered specific to the medical insurance problems could not be identified in the survey.

Law Enforcement

- Nearly all of the elderly respondents reported did not experience any harassment, no matter the source, in the past three years. (98.6%; 204 out of 207)

Citizenship and Immigration

- All but 3 of the elderly respondents were United States citizens. (98.6%; 204 out of 207)

Consumer Issues

- The elderly respondents generally have not entered into a lease-to-own agreement for electronics or furniture during the past five years. (97.1%; 201 out of 207)
- The elderly respondents generally have not been pressured to buy a product with an unreasonably high interest rate (20%+). (95.6%; 194 out of 203)
- Over 90 percent of the elderly respondents have not had any problems with creditors or debt collectors. (93.1%; 190 out of 204)
 - 9 (4.4%) reported to having problems with credit harassment.

- 9 (4.4%) reported to having problems with a debt being sent to a collections agency.
- 79 percent of the elderly respondents reported being able to obtain credit (credit cards, loans, etc.) during the past years. (79.0%; 150 out of 190)
 - One out of five (21.1%) reported problems with obtaining credit.
 - The types of problems encountered with obtaining credit were not specified.

Parenting and Education

- The elderly respondents generally did not have school-age children. (98.1%; 203 out of 207)

Access to Legal Assistance

- The elderly respondents generally have not had any problems in receiving or maintaining legal assistance. (96.5%; 192 out of 199)
- 28 percent of the elderly respondents requested legal assistance in the past five years. (28.0%; 58 out of 207)
 - The majority of those requesting legal assistance requested it from a private attorney. (19.3%; 40 out of 207)
 - 9 percent requested assistance from Legal Services of North Dakota in the past five years. (9.2%; 19 out of 207)
- 30 percent of the elderly respondents received legal services in the past five years. (29.5%; 61 out of 207)
 - The majority of those receiving legal assistance received it from a private attorney. (20.3%; 42 out of 207)
 - 9 percent received assistance from Legal Services of North Dakota in the past five years. (9.2%; 19 out of 207)