

LEGAL AID OF NEBRASKA

WHEN DISASTER STRIKES

LEGAL NEEDS ASSESSMENT
2015



ACKNOWLEDGMENTS

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LEGAL AID OF NEBRASKA

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Table of Contents

Acknowledgments.....	2
Executive Summary.....	4
Key Findings.....	4
Recommendations	5
Introduction.....	6
Methods.....	6
Findings	7
Overview Of State And National Disaster Preparedness	7
Disasters In Nebraska	8
<i>Social Vulnerability</i>	9
<i>Comparison Of The Disasters And Vulnerable Populations</i>	11
Legal Needs Following Disasters	16
Conclusion And Recommendations.....	18
Additional Resources	19
References	20
Appendix A: Disaster Relief Needs Assessment 2015 Survey Instrument	22

EXECUTIVE SUMMARY

For over 50 years, Legal Aid of Nebraska (LAN), a statewide, 501(c)(3) nonprofit law firm, has provided free civil legal services to low-income Nebraskans. In 2015, through a grant from the Legal Services Corporation, LAN began a disaster relief project to ensure that civil legal services were incorporated into Nebraska's disaster response plan. The overarching goal of LAN's Disaster Relief Project (DRP) is to integrate a sustainable and replicable legal component into the existing statewide disaster preparedness/response plan, as well as to recruit, train, and mobilize a network of attorneys to assist low-income and disadvantaged individuals through the provision of pro bono services in the event of a disaster.

While Federal Emergency Management Agency (FEMA) does provide some guidance for developing risk-based, all-hazard emergency plans, the reality is that every locale is faced with their own unique disaster-related challenges, which are often compounded by other underlying socioeconomic disparities. That said, when disasters strike, multiple sectors are usually impacted, fueling the necessity for cross-sector disaster response teams, including legal service organizations. As a result, LAN has approached this project with the understanding that the legal landscape can change very quickly in the wake of a disaster, and any concerted legal efforts should, at a minimum, include pro bono attorneys, legal aid attorneys, bar associations, and other non-profit organizations.¹

A comprehensive state needs assessment was developed to measure any gaps in the delivery of legal services before, during, and after a disaster. The following questions were identified to help facilitate this process:

1. What are the most typical types of disasters that strike in Nebraska?
2. What are Nebraska's population vulnerabilities?
3. What are the legal needs that can be expected following a disaster?
4. What resources are available to address these legal needs?

To ensure the comprehensiveness of the needs assessment, LAN conducted a comparative gap analysis to understand where Nebraska currently is on the disaster preparedness spectrum, and where Nebraska needs to be, compared to other states. Primary data was collected from 33 social service agencies from across the state to determine what services currently exist, and to assess agency experience or knowledge of post-disaster legal issues. Secondary data analysis was conducted to better understand what kind of disasters most commonly occur in Nebraska and how often they strike compared to other states in the region.

Key Findings

- Civil legal services are not currently integrated into Nebraska's disaster response plan.
- With 27 counties having less than three lawyers, and 57 counties with two or more vulnerable populations, it is clear that there is a significant gap in free civil legal services for low-income, disabled and socially disadvantaged individuals in post-disaster situations, of which rural counties experience the brunt of because there are fewer attorneys.
- Since 1960, there have been 52 major disaster declarations in Nebraska, of which approximately 75% involved flooding either alone or in combination with other types of incidents.
- Among the most common post-disaster legal issues cited by survey respondents were rental/homeowners insurance; benefits available to disaster relief (e.g. benefits available from FEMA);

personal property insurance; landlord/tenant issues; securing temporary housing; consumer scams; flood and crop insurance; employment – unemployment assistance; obtaining government identification cards, such as social security cards and state identification cards; insurance; and, medical issues.

Recommendations

- Work with the Nebraska Emergency Management Agency (NEMA) and Voluntary Organizations Active in Disaster (VOAD) to integrate legal services into Nebraska's disaster response plan.
- Train partnering agencies in disaster preparedness, response and recovery, specifically related to identifying common legal problems and the need to integrate the delivery of legal services into Nebraska's disaster response plan.
- Coordinate education, recruitment and training to attorneys with the Nebraska State and local bar associations, to provide civil legal services in the event of a state-declared disaster in areas of law indicated by the needs assessment.
- Propose a court rule change to allow Nebraska attorneys with inactive licenses or attorneys with active licenses in another state to provide pro bono legal services in the event of a state-declared disaster in Nebraska.

INTRODUCTION

For over 50 years, Legal Aid of Nebraska (LAN), a statewide, 501(c)(3) non-profit law firm, has provided free civil legal services to low-income Nebraskans. In 2015, through a grant from the Legal Services Corporation, LAN began a disaster relief project to ensure that civil legal services were incorporated into Nebraska's disaster response plan. The overarching goal of LAN's Disaster Relief Project (DRP) is to integrate a sustainable and replicable legal component into the existing statewide disaster preparedness/response plan, as well as to recruit, train, and mobilize a network of attorneys to assist low-income and disadvantaged individuals through the provision of pro bono services in the event of a disaster.

While FEMA does provide some guidance for developing risk-based, all-hazard emergency plans, the reality is that every locale is faced with their own unique disaster-related challenges, which are often compounded by other underlying socioeconomic disparities. That said, when disasters strike, multiple sectors are usually impacted, fueling the necessity for cross-sector disaster response teams, including legal service organizations. As a result, LAN has approached this project with the understanding that the legal landscape can change very quickly in the wake of a disaster, and any concerted legal efforts should, at a minimum, include pro bono attorneys, legal aid attorneys, bar associations, and other non-profit organizations.ⁱ

In order to effectively identify potential collaborators for this project, LAN conducted a two-part needs assessment. The purpose of this report is to describe the results of this assessment and discuss potential recommendations for action.

Methods

To get an idea of what Nebraska already has in place, and to measure how much legal-related experience those surveyed might have, a comprehensive state needs assessment was developed. The needs assessment was conducted in two stages to measure any gaps in the delivery of legal services before, during, and after a disaster. To facilitate this process, measures were developed to answer the following questions:

- What are the most typical types of disasters that strike in Nebraska?
- What are Nebraska's population vulnerabilities?
- What are the legal needs that can be expected following a disaster?
- What resources are available to address these legal needs?

Stage 1. A systematic review of the literature was conducted to better understand where Nebraska currently is on the disaster preparedness spectrum, and where Nebraska needs to be, compared to other states. This gap analysis consisted of reviewing the state and national regulatory landscape, incidents of disaster in Nebraska, and assessment of Nebraska's disaster-related social vulnerabilities.

Stage 2. A 13 question online survey was developed and administered through SurveyMonkey. A total of 96 agencies were identified to receive the survey with a total of 33 respondents that completed the survey, resulting in a 34.4% response rate. Data was collected about organizational size and type, county location, organizational mission, services provided, experience delivering services during a disaster (including knowledge of legal related issues), and whether or not the organization was interested in collaborating with the LAN Disaster Relief team.

FINDINGS

Overview of State and National Disaster Preparedness

In 1979, President Carter established the Federal Emergency Management Agency (FEMA). FEMA coordinates all assistance provided by the federal government in response to federally declared disasters, including post-disaster legal services.ⁱⁱ Comprehensive emergency management is the process of accomplishing emergency tasks in areas that include prevention, protection, response, recovery, and mitigation.ⁱⁱ The provision of legal services in fee and non-fee generating cases to low-income individuals is part of FEMA's regulatory authority.ⁱⁱⁱ However, in 1988 the Robert T. Stafford Relief and Emergency Assistance Act restricted legal services to only those cases directly related to disasters (e.g., insurance claims, housing problems, consumer protections, replacing or preparing legal documents, etc.).^{iv,v} Furthermore, although FEMA can provide some support when there is a federally declared disaster, the foundation of the system is necessarily local. Local governments take on the brunt of the responsibility for implementing emergency management phases such as partnering with state and local governments. The introduction to FEMA's *Comprehensive Preparedness Guide* indicates that "in many situations, emergency management and homeland security operations start at the local level."ⁱⁱ

At the state level, Nebraska's Emergency Management Act^{vi} provides an emergency management system embodying all aspects of preparedness, response, recovery, and mitigation. Nebraska's Emergency Management Act authorizes the governor to declare an emergency, and to create, change, or repeal rules if necessary to implement it.^{vii} The governor also has the authority to send out Emergency Response teams to assist communities in need of aid.^{viii} Emergency management workers – government or civilian – have the same immunity that state employees have, however, willful misconduct, gross negligence, or bad faith are exempt.^{ix} In regards to civil liability for volunteers there are Nebraska Statutes that apply. Nebraska has a "Good Samaritan" law which states that a person who is giving emergency care cannot be held civilly liable for their acts or omissions while providing aid.^x Additionally, according to the Nebraska Rules of Professional Conduct, lawyers are encouraged to provide pro bono legal services.^{xi}

The need for stronger state emergency response systems has become increasingly clear in recent years as FEMA's duration and scope of practice has raised many questions, particularly in regard to the experiences following hurricanes Katrina and Rita. There were concerns that the program catered to high income households and created procedural barriers that were burdensome to low-income families.ⁱⁱⁱ For those able to make initial contact with an attorney, many needed continuing individualized representation to overcome the numerous legal barriers they faced. Furthermore, a local attorney may not have the competency or expertise to handle the most demanding legal issues after a disaster.ⁱⁱⁱ Since hurricane Katrina, formal collaborations between FEMA, the American Bar Association (ABA), and Legal Services Corporation were initiated to better manage post-disaster legal relief efforts.^{xii} In the aftermath of Katrina, the ABA adopted the Model Court Rule on the Provision of Legal Services Following Determination of Major Disasters, which "permits out-of-state lawyers to provide pro bono legal services when a disaster affects the local justice system."^{xiii,xiv} As of January 2015, 18 states have adopted this rule and 17 states have not; however, Nebraska is one of the remaining 15 states still considering adoption. The ABA has also been actively urging "federal, state and local governments to provide more funding to nonprofit legal services providers, bar associations and pro bono programs to help address unmet legal needs," and lawyers to "assess their practice environment to identify and address risks that arise from ... disaster[s] that may compromise their ability to ... protect client interests..."^{xiii,xv} Yet, gaps in the delivery of legal services to low-income victims of disasters remain.

Literature on lessons learned from previous major disasters has suggested some particular barriers with regard to federal assistance and private homeowners insurance.^{xvi} "The most significant source of benefits for individuals following a natural disaster is FEMA's Individuals and Households Program (IHP)." IHP may provide direct

assistance (housing) or financial assistance through “purpose-specific grants”.^{xvi} There are eligibility requirements and/or monetary caps that applicants typically are not aware of before they register. Furthermore, obtaining the necessary paperwork to request these benefits, obtaining agency decisions regarding an applicant’s eligibility for the program, and even getting a copy of an applicant’s own file presents challenges to disaster victims navigating the system on their own. This is why legal aid may be necessary.^{xvi} Specific documented legal hurdles include:^{xvi}

- “FEMA does not have a file request form, so advocates must create their own.”
- “IHP will not confirm a documentation submission and therefore advocates will only know if there is a problem by contacting IHP with an inquiry.”
- “IHP representatives are not consistently trained in what constitutes a valid file record request”
- “IHP will not necessarily release inspection photos or a written list of payments made to an applicant with the file, but may communicate them orally.”

The Federal Small Business Administration (SBA) and its Disaster Loans program are another significant source of benefits. Specifically the SBA provides, “A category of disaster loans ... to individuals to help them finance up to \$200,000 in home repairs and \$45,000 in personal property replacement.”^{xvi} It is essential to have a general understanding of the FEMA and SBA programs and how they cooperate with each other. For example, FEMA has a program to provide Other Needs Assistance (ONA) when a victim needs help with something other than rental assistance and home repair (e.g., assistance with transportation, medical, personal property, etc.). However, in some circumstances a disaster victim seeking this type of assistance must first apply to the SBA for a loan before FEMA will authorize grant assistance for ONA.^{xvi}

Finally, navigating private insurance (Homeowner’s and Flood) claims, settlements and appeals, homeowner insurance negotiations, and consumer disputes with contractors and public adjusters can become very complex. There is not much information on “preparing, adjusting, and litigating flood insurance claims.”^{xvi} Strict deadlines for submitting claims means that for many who are unaware of such requirements, their claims can potentially be denied by the insurer.^{xvi} Specific legal hurdles include:

- “Filing a proof of loss for an individual homeowner can be a substantial undertaking. A proof of loss must describe the damages item by item and room by room.”^{xvi}
- Line item documentation requirements justifying an individual’s possessions for insurance claims are difficult when most contractors do not or will not provide detailed listings of discrete repairs (e.g., quantities and pricing for each repair) since their focus is on the repairs themselves. The problem is that this lack of detail is not enough for what a lawyer or advocate would need to file a future dispute.^{xvi}

The information reviewed above indicates that individuals may face multiple or complex legal issues when trying to obtain assistance and services after a disaster. Providing legal assistance to those unable to afford an attorney may help individuals and families overcome barriers affecting their ability to recover from a disaster.

Disasters in Nebraska

Since post-disaster burdens are felt unequally by the population, inequitable access to justice becomes more pronounced following disasters.^{xvii} Disaster victims face a complex array of legal issues, some of which are familiar to legal services programs and others of which are particular to the post-disaster context, making the potential need for training in post-disaster legal service situations that much greater. According to the FEMA Disaster Legal Services Fact Sheet, local lawyers typically provide services for: insurance claims for medical bills; loss of property; loss of life; new wills and other legal papers lost in the disaster; home repair contracts; landlord /tenant issues; and, preparing powers of attorney.^{xviii}

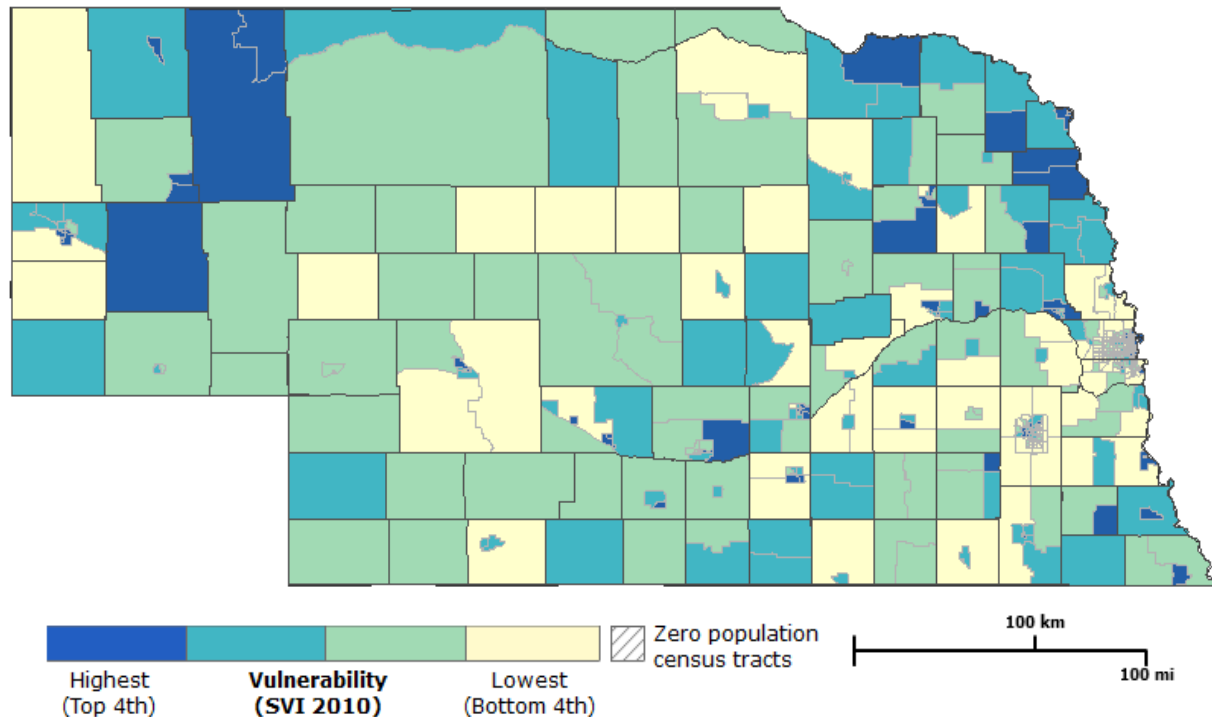
Historically, the most common types of disasters experienced in Nebraska have included flooding, severe storms, and tornadoes. FEMA has made 52 major disaster declarations for Nebraska, compared to the national average of 41.4.^{xix} Of these major disasters, 39 consisted of flooding alone or in combination with other major disasters, compared to the national average of 22.^{xix} Furthermore, Nebraska is ranked 12th out of all 50 states and the District of Columbia for flooding related disaster declarations.^{xix} Additionally, FEMA has documented 5 Fire Management Assistance Declarations and 3 Emergency Declarations in Nebraska.^{xix} Notably the declaration process for FEMA involves a presidential declaration that the local, county and state resources are insufficient to address the problem, and therefore these numbers do not capture all disaster incidents that affect low-income populations. FEMA declared disasters, however, certainly show some measure of resource limitations in Nebraska in the face of very severe environmental threats that happen periodically in the state.

In addition to disasters severe enough to prompt Federal attention, Nebraska experiences many disaster incidences that are less severe, but nonetheless result in significant death, injury, property damage and crop damage. In the past 20 years alone, storms and other weather phenomena have caused over 49 deaths and 480 injuries in Nebraska.^{xx} From May 1, 2014 to May 31, 2015, flash floods and flooding caused \$215.5 million in property damage and \$17.9 million in crop damage across 46 of Nebraska's 93 counties, resulting in two deaths.^{xx} In this same timeframe, tornado related weather caused approximately \$58.8 million in property damage and \$2.9 million in crop damage, resulting in 2 deaths and injuring 21 people across the 38 counties. With Nebraska's farms and ranches utilizing 45.5 million acres, amounting to 93% of the state's total land area, incidents of flooding and tornado related weather demonstrate the very real financial and personal impact on Nebraska residents, particularly on its rural and low-income residents.

Social Vulnerability

The theory of social vulnerability refers to the human factors within a community that negatively affect its ability to manage circumstances harmful to overall wellbeing. Social vulnerability has been a critical part of disaster analysis, as it directs us to interpret the impact of disasters within preexisting societal structures. It has been noted by various scholars that risk and vulnerability are not indiscriminately distributed in the disaster context.^{xxi,xxii,xxiii} Rather, risk and vulnerability are indicators of being of low socioeconomic status that puts vulnerable populations (e.g., individuals with disabilities, pregnant women, children, elderly, ethnic minorities, people with language barriers, the impoverished, etc.) at risk of facing adverse consequences from a major disaster.^{xxiv} The Agency for Toxic Substances & Disease Registry developed the Social Vulnerability Index (SVI) using U.S. census variables at tract level to help local officials identify communities that may need support in preparing for hazards, or, recovering from disaster. The SVI compares and ranks every community in the U.S. on many social factors, including: poverty, lack of car access, and crowded housing, are further grouped into four related themes. Figure 1 below shows that Nebraska is typically most vulnerable in rural counties.

Figure 1. Overall Vulnerability, Nebraska, 2010



Source: Flanagan, B.E., et al., *A Social Vulnerability Index for Disaster Management*. Journal of Homeland Security and Emergency Management, 2011. 8(1). Agency for Toxic Substances & Disease Registry, Geospatial Research, Analysis and Services Program. Retrieved on August 28, 2015 from <http://svi.cdc.gov/map.aspx>.

A 2009 national study of 31 localities focused on how/if vulnerable populations are considered in emergency operations plans.^{xxv} The study found that much work remains to be done to protect these groups during and after disasters.^{xxv} Study researchers also found that fewer than a quarter of the plans they looked at addressed the needs of vulnerable populations in any sort of depth, often focusing on the elderly or disabled with little to no regard for race/ethnicity related issues.^{xxv} Hurricane Katrina is, again, a good example of low-income households being disproportionately impacted with poor living environments, unlawful evictions, and rent spikes, with data showing that over 40% of the households that experienced storm surge damage consisted of low-income families.^{xxvi} According to the Mississippi Regional Housing Authority, 80% of the coast-line subsidized housing was damaged or entirely destroyed.^{xxvi} Meanwhile, low-income households were “less likely to carry either homeowners or flood insurance” and had fewer resources to bridge the gap between the value of their damaged property and the cost of rebuilding.^{xxvii} The fallout from Katrina later led to the Post-Katrina Emergency Management Reform Act of 2006 (EMRA) being passed into law, which included the creation of a disability coordinator in FEMA to aid in disaster planning for individuals with disabilities.^{xxviii} While the law is detailed with regard to disabled populations, it does not cover any at-risk groups other than the disabled. The Act does not mandate any similar protections for minorities, children, impoverished, and other at-risk populations.

With vulnerable populations spanning low-income individuals, children, single-parent households, the elderly, minorities and non-English speakers, the lack of regard for a broader range of at-risk groups in the EMRA is important, particularly for a state like Nebraska where there are varying vulnerabilities across the state – each of which presents its own challenges for the provision of disaster prevention, response, and mitigation services. For example, in 2013, 12.8% of Nebraska’s population lived at or below poverty level. 41 of Nebraska’s counties had

poverty rates higher than 12.8%. The five counties with the highest rates of poverty were Thurston (26.9%), Loup (25.8%), Box Butte (23.9%), Pawnee (21.5%), Dawes (19.3%).^{xxix}

Similarly, in 2013, approximately 24.9% of Nebraska's total population was children under the age of 18, compared to 23.3% nationally.^{xxx} When considering the very youngest segment of the population, 7% of Nebraska's population consisted of children under the age of 5, compared to 6.3% of the national population.^{xxx} Additionally, "The population of infants and young children (aged birth to 5 years) grew by 12.7% over the past decade. One-third of Nebraska households have one or more children under age 18, and the percent of children living in poverty was 17.7%.^{xxix} These numbers are particularly important when taking into consideration the number of single parent households. Between 2000 and 2010, the number of single parent households grew from 23.9% to 28.7%, representing an increase of 20.1% over a ten year period.^{xxix}

With respect to the growing elderly population, Nebraskans 85 years and older grew by 15.8% over a ten year period between 2000 and 2010.^{xxix} What is notable about this population, however, is that there is a higher proportion of elderly people in rural areas, where there are fewer legal resources. Nebraska's senior population is located throughout the state, but the most sparsely populated counties also have higher percentages of senior residents. Due to lower number of attorneys and long travel distances, along with more limited access to internet-based technology, seniors will require special considerations. Based on the 2013 Census estimates, Nebraska's state percentage for individuals 65 years and older is 14.1%, with 84 counties having an elderly population above this state percentage.^{xxix}

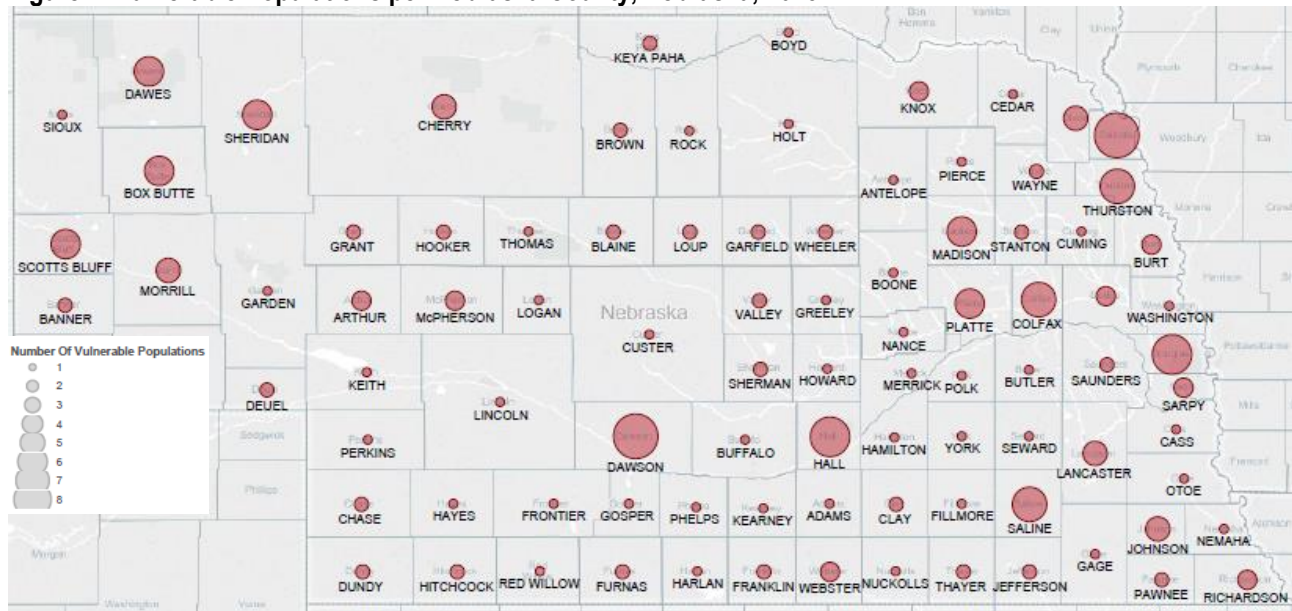
With regard to the minority population, we know that this segment is growing much more rapidly than their white counterparts (50.7% increase between 2000 and 2010).^{xxix} Compared to non-Hispanic whites, more minorities live below poverty.^{xxix} As of 2013, Nebraska's population was 4.8% African American/Black, 2.1% Asian, 1.3% American Indian, 0.1% Hawaiian/Pacific Islander, and 9.9% Hispanic/Latino.^{xxx}

Comparison of the Disasters and Vulnerable Populations

Figure 2 shows the number of vulnerable populations (e.g., low-income, children, single-parent households, elderly, and racial and ethnic minorities) per Nebraska County. While many Nebraska counties are faced with just one vulnerable population, 57 counties have at least two vulnerable populations, which puts those counties at greater risk if struck by disaster. An examination of disaster-related events in Nebraska since 1950 revealed that many of the counties with at least two or more vulnerable populations have incurred \$20 to \$50 million in crop damage as a result of thunderstorms, wind, hail, and drought. Specifically, in July 1994, Clay County lost \$50 million in crop damage due to thunderstorm wind, and Merrick and Dundly Counties lost \$50 million in crop damages caused by hail. In December 2002, 26 counties lost \$20 million caused by crop damage due to drought. Since the 2002 drought, Franklin County, Boyd County, and Buffalo County have suffered losses of \$20 million in crop damages as a result of thunderstorms, drought and hail.

In terms of disaster-related deaths and injuries over the past 55 years, Valley County has accrued the most disaster-related deaths with 11 deaths from a June 1953 tornado. Similarly, Douglas County has had the most disaster-related injuries due to the May 1975 tornado, which caused 118 injuries. Hall County had 110 injuries due to a June 1980 tornado. Knox County had 101 injuries due to the June 1950 tornado. In the past 20 years, Lincoln County has accrued the most disaster-related deaths caused by a winter storm in March 1996. This storm resulted in 3 deaths. Douglas County had 45 heat related injuries in June 2012, Lancaster County had 30 injuries caused by the May 2004 tornado, and Stanton County had 20 injuries as a result of a June 2014 tornado.^{xx}

Figure 2. Vulnerable Populations per Nebraska County, Nebraska, 2013



Sources: U.S. Census Bureau: State and County QuickFacts. Data derived from Population Estimates, American Community Survey, Census of Population and Housing, State and County Housing Unit Estimates, County Business Patterns, Non-employer Statistics, Economic Census, Survey of Business Owners, Building Permits, 2013.

Table 1 shows how much of a gap in legal services there are for low-income Nebraskans. Like its population, attorneys are clustered in the eastern part of the state. “Rural” Nebraska comprises nearly the entire state, yet lawyers are few and far between. There are a total of 47 counties with less than five attorneys, and 12 of those counties have no attorneys at all (see Table 1). For every actively practicing attorney across Nebraska there is approximately 44 people living in poverty, and there is approximately 1 attorney for every 354 Nebraskans in the general population (see Table 1).

While 44 attorneys for every impoverished Nebraskan may not seem alarming, the reality is that unless a private attorney agrees to provide legal assistance for no or low-cost, a low-income individual may be unable to obtain legal help. There is approximately 1 LAN attorney for every 5,600 individuals living at or below poverty level. LAN serves the entire State, with offices in Scottsbluff, North Platte, Grand Island, Lincoln, Omaha, Bancroft and Norfolk. However, LAN is a non-profit law firm with limited resources. LAN has approximately 42 attorneys, most of whom are located in the Lincoln or Omaha offices, as these areas have larger low-income populations. LAN offices have service delivery areas encompassing multiple counties. LAN has a private attorney involvement (PAI) program to engage private attorneys in providing civil legal services to low-income Nebraskans. Typically, PAI attorneys provide assistance with family law issues when a LAN client resides more than an hour away from a local office. Table 1 sets forth population, poverty, and attorney information by counties served by a local LAN office.

Table 1. Number of Persons in Poverty Per Actively Practicing Attorney, Nebraska, 2013 – 2015

County/LAN Service Area	Total Population ¹	Total Pop in Poverty ¹		Total Actively Practicing Attorneys ²		Ratio of Population in Poverty ¹ to every Attorney ²
	#	#	%	#	%	
Nebraska	1,868,969	234,742	12.9	5,279	100.0	44
Adams	31,581	3,434	11.4	42	0.8	82
Buffalo	48,058	5,766	12.7	86	1.6	67
Clay	6,383	717	11.4	6	0.1	120
Hall	60,923	8,887	14.9	90	1.7	99
Hamilton	9,122	783	8.8	16	0.3	49
Howard	6,341	684	10.9	4	0.1	171
Kearney	6,553	593	9.2	5	0.1	119
Merrick	7,801	847	11.1	9	0.2	94
Nance	3,600	441	12.6	3	0.1	147
Sherman	3,110	420	13.8	4	0.1	105
York	13,863	1,283	9.8	17	0.3	75
Fillmore	5,685	491	9.0	6	0.1	82
Franklin	3,091	396	13.0	3	0.1	132
Greeley	2,483	330	13.6	1	0.0	330
Harlan	3,513	417	12.1	6	0.1	70
Nuckolls	4,395	505	11.6	2	0.0	253
Phelps	9,197	784	8.7	19	0.4	41
Polk	5,250	458	8.9	4	0.1	115
Thayer	5,196	658	13.1	6	0.1	110
Valley	4,197	510	12.3	9	0.2	57
Webster	3,675	441	12.4	4	0.1	110
Grand Island Service Area	244,017	28,845	12.3	342	6.5	84
Gage	21,816	2,427	11.3	35	0.7	69
Lancaster	297,285	41,799	14.8	1,150	21.8	36
Otoe	15,717	1,506	9.8	24	0.5	63
Saline	14,298	1,594	12.0	17	0.3	94
Saunders	20,881	1,778	8.7	37	0.7	48
Seward	17,064	1,606	10.2	20	0.4	80
Butler	8,324	793	9.8	6	0.1	132
Cass	25,381	2,040	8.2	48	0.9	43
Jefferson	7,547	946	12.7	7	0.1	135
Johnson	5,129	616	14.8	6	0.1	103
Nemaha	7,178	874	13.2	5	0.1	175
Pawnee	2,726	404	15.2	4	0.1	101
Richardson	8,125	1,145	14.4	15	0.3	76
Lincoln Service Area	451,471	57,528	24.5	1,374	26.0	42
Antelope	6,456	818	12.8	4	0.1	205
Boone	5,375	520	9.9	6	0.1	87
Colfax	10,406	1,040	10.1	5	0.1	208
Cuming	9,005	864	9.8	8	0.2	108
Madison	35,251	4,278	12.5	67	1.3	64
Pierce	7,164	673	9.6	4	0.1	168
Platte	32,513	3,262	10.2	40	0.8	82

County/LAN Service Area	Total Population ¹	Total Pop in Poverty ¹		Total Actively Practicing Attorneys ²		Ratio of Population in Poverty ¹ to every Attorney ²
	#	#	%	#	%	
Stanton	6,084	505	8.3	4	0.1	126
Wayne	9,437	1,092	13.2	7	0.1	156
Burt	6,583	755	11.7	5	0.1	151
Cedar	8,686	804	9.4	5	0.1	161
Dakota	20,944	2,961	14.4	23	0.4	129
Dixon	5,835	584	10.2	4	0.1	146
Knox	8,557	1,257	15.1	11	0.2	114
Thurston	6,897	2,073	30.5	3	0.1	691
Norfolk Service Area	179,193	21,486	9.2	196	3.7	110
Dawson	24,152	3,521	14.8	35	0.7	101
Frontier	2,712	345	13.4	2	0.0	173
Hayes	973	142	14.6	0	0.0	0
Keith	8,121	1,121	13.9	26	0.5	43
Lincoln	36,092	4,441	12.6	65	1.2	68
Logan	764	80	10.6	0	0.0	0
McPherson***	523	78	14.9	0	0.0	0
Arthur***	451	42	9.2	0	0.0	0
Chase	3,977	383	9.8	4	0.1	96
Custer	10,796	1,390	13.1	16	0.3	87
Dundy	1,969	266	13.6	3	0.1	89
Furnas	4,856	674	14.2	9	0.2	75
Gosper	1,974	190	9.9	4	0.1	48
Hitchcock	2,873	427	15.0	1	0.0	427
Perkins	2,910	287	10.0	4	0.1	72
Red Willow	11,023	1,302	12.2	13	0.2	100
North Platte Service Area	114,166	14,689	6.3	182	3.4	81
Douglas	537,529	80,032	15.2	2,691	51.0	30
Sarpy	169,358	10,560	6.3	258	4.9	41
Dodge	36,617	3,982	11.3	42	0.8	95
Washington	20,231	1,512	7.7	34	0.6	44
Omaha Service Area	763,735	96,086	40.9	3,025	57.3	32
Blaine	481	87	18.0	0	0.0	0
Boyd	2,019	275	13.9	0	0.0	0
Brown	2,924	398	13.8	4	0.1	100
Cherry	5,779	771	13.5	14	0.3	55
Garfield	2,033	255	12.9	2	0.0	128
Grant	625	70	11.1	0	0.0	0
Holt	10,438	1,330	13.0	11	0.2	121
Hooker	732	70	9.9	0	0.0	0
Keya Paha	797	153	19.4	0	0.0	0
Loup	581	96	16.7	0	0.0	0
Rock	1,417	209	15.2	1	0.0	209
Thomas	696	108	15.5	0	0.0	0
Wheeler***	758	121	16.0	0	0.0	0
Sandhills Service Area	29,280	3,943	1.7	32	0.6	123

County/LAN Service Area	Total Population ¹	Total Pop in Poverty ¹		Total Actively Practicing Attorneys ²		Ratio of Population in Poverty ¹ to every Attorney ²
	#	#	%	#	%	
Banner	777	93	12.3	2	0.0	47
Box Butte	11,310	1,428	12.9	7	0.1	204
Kimball	3,687	495	13.6	1	0.0	495
Morrill	4,882	645	13.4	5	0.1	129
Scotts Bluff	36,870	5,490	15.2	70	1.3	78
Sioux	1,319	217	16.5	4	0.1	54
Cheyenne	10,079	988	9.9	17	0.3	58
Dawes	9,093	1,443	17.5	12	0.2	120
Deuel	1,934	245	12.8	4	0.1	61
Garden	1,904	297	15.9	3	0.1	99
Sheridan	5,252	823	16.0	3	0.1	274
Scottsbluff Service Area	87,107	12,164	5.2	128	2.4	95

Sources: ¹US Census Bureau, Population Estimates for the U.S., States, and counties, 2010-14, Model-based Small Area Income & Poverty Estimates, Poverty estimates for the U.S., States, and counties, 2013; and ²Attorney Services Division, Nebraska Supreme Court, 2015.

Notes:

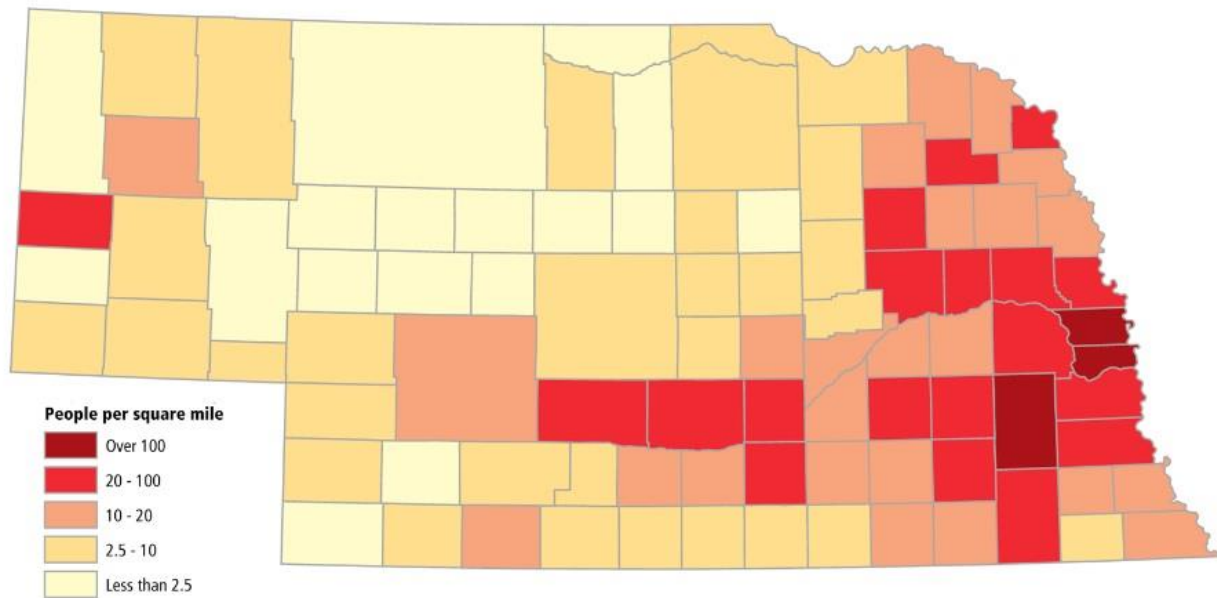
*Refers to data from 2013 only.

**Refers to data from 2015 only.

***Defined Legal Aid of Nebraska service areas.

Consideration should also be given to Nebraska's population density, particularly in rural counties. 39 of Nebraska's 93 counties are classified as frontier (frontier is defined by the U.S. Census as less than seven people per square mile).^{xxxi} The frontier counties cover more than half of the state; about 54.6% of the State's total land area.^{xxxi} As a frontier state, "The population density in Nebraska exhibits a wide disparity across the state, ranging from 1,574 persons per square mile in Douglas County in eastern Nebraska to less than one person per square mile in some of the counties in the western part of the state (2010 census). Roughly 75% of the geographic area of the state has a population of less than 11 persons per square mile."^{xxxii} Additionally, according to Nebraska Emergency Management Agency's 2014 "State of Nebraska Hazard Mitigation Plan," land use trends are also an essential component to consider in disaster risk assessment/vulnerability, as well as disaster mitigation. Nebraska's top ten counties (Douglas, Lancaster, Sarpy, Hall, Buffalo, Scotts Bluff, Dodge, Lincoln, Madison and Platte) represent 68.7% of the total state population, however these ten counties are only one-tenth of Nebraska's total land mass (see Figure 3). With such a large portion of the population concentrated in one area, it is already a challenge for LAN to reach those people living in poverty with unmet civil legal needs in general, let alone in the event of a disaster. It is clear that LAN cannot be the sole civil legal services provider during disaster situations.

Figure 3. Population Density, Nebraska, 2013



Source: U.S. Census Bureau: State and County QuickFacts. Data derived from Population Estimates, American Community Survey, Census of Population and Housing, State and County Housing Unit Estimates, County Business Patterns, Non-employer Statistics, Economic Census, Survey of Business Owners, Building Permits, 2013.

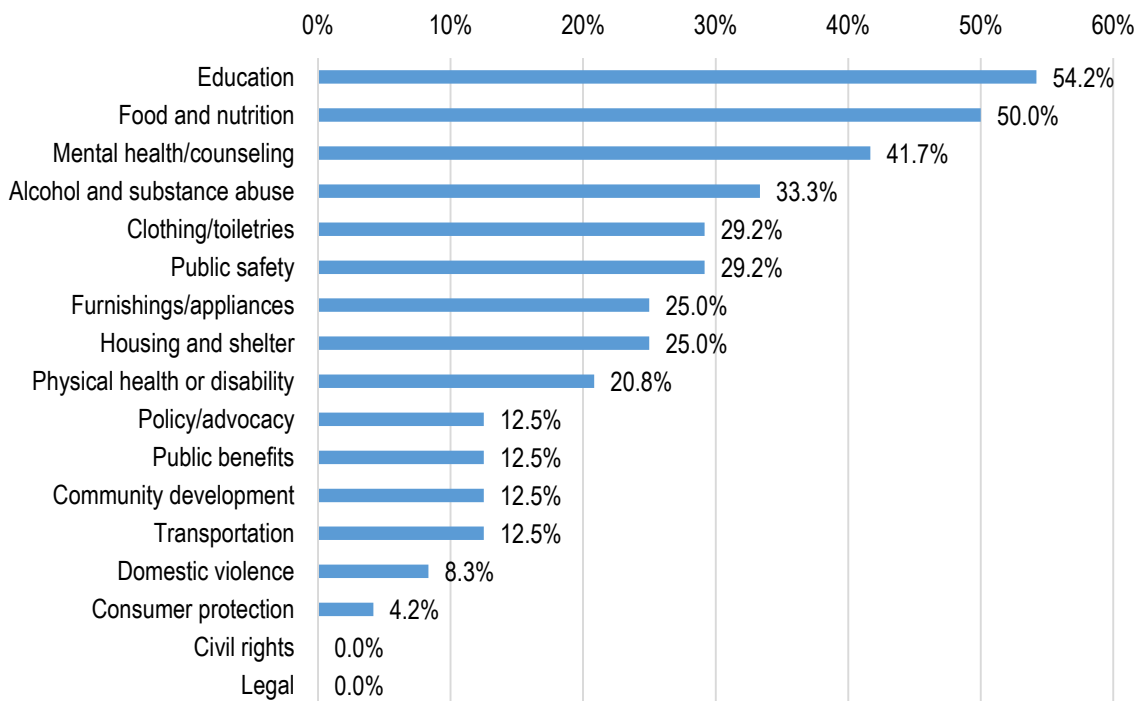
Legal Needs Following Disasters

In order to better anticipate the types of legal problems that might arise out of disasters in Nebraska specifically, a survey of Nebraska social service agencies was conducted in the Spring of 2015. Responses from 33 agencies, collectively serving all 93 counties, were obtained. Those surveyed were asked about organizational size and type, county location, organizational mission, services provided, experience delivering services during a disaster (including knowledge of legal related issues), and whether or not the organization was interested in collaborating with the LAN's Disaster Relief project. Results of the survey are presented below.

Approximately 58.1% of responding agencies reported that they employ 50 or fewer people; 16.1% between 51 and 200 people; and, 25.8% more than 200 people. About 42.4% of those surveyed indicated that they operated out of one office, while 36.4% indicated that they operated out of six or more offices. Understandably, most of the smaller agencies typically have less than 100 volunteers at any one time.

Surveyed agencies reported providing services for a range of issues, but the most common included education (54.17%), food and nutrition (50%), mental health/counseling (41.7%), alcohol and substance abuse (33.3%), clothing/toiletries (29.2%) and public safety (29.2%). None of the agencies surveyed specifically provided any legal services (see Figure 4). Out of the surveyed agencies, almost 90% indicated that they had provided assistance and/or support to victims of a disaster.

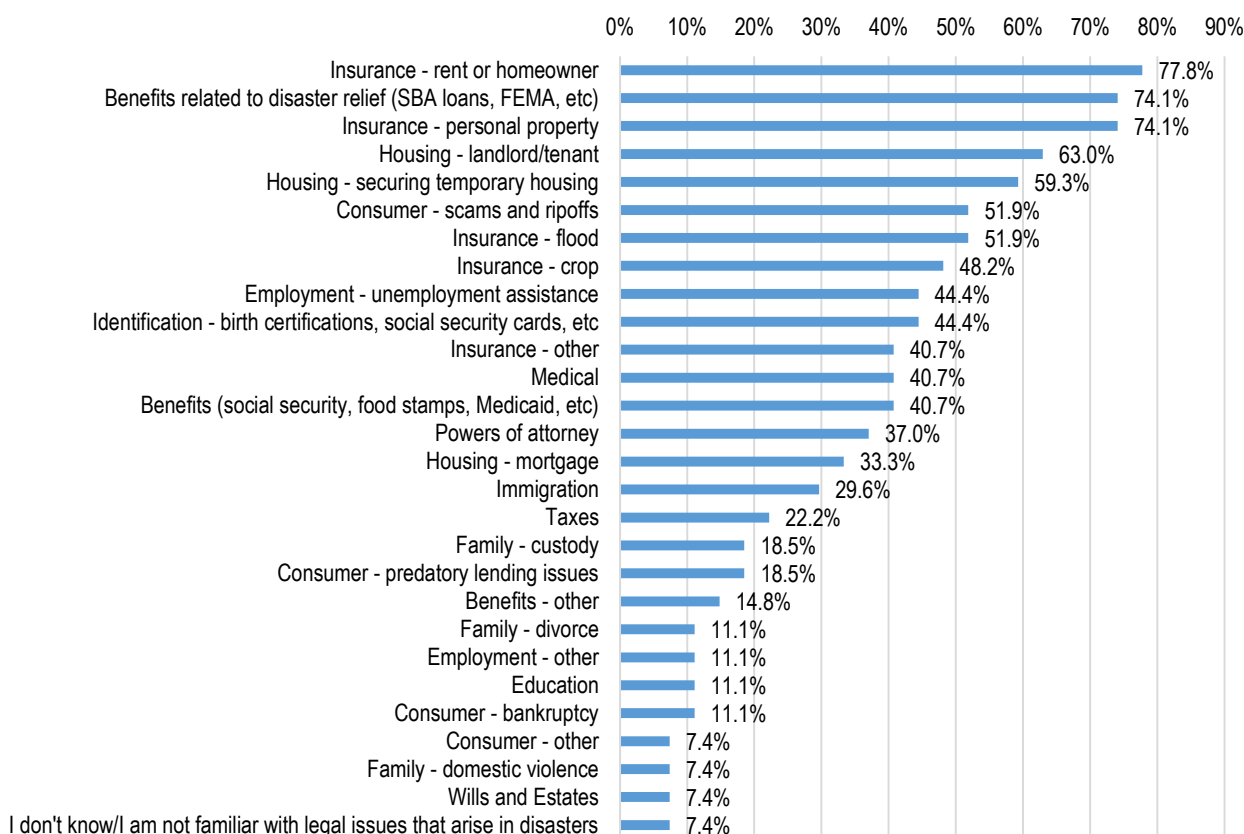
Figure 4. Services Provided by Surveyed Agencies, Nebraska, 2015



Source: Legal Aid Disaster Relief Survey, Legal Aid of Nebraska, 2015.

The surveyed agencies were asked to indicate the types of legal issues they see arising out of disasters. The results indicated that the most common legal issues arising out of disasters in Nebraska include rental/homeowner's insurance (77.8%), benefits related to disaster relief (74.1%), personal property insurance (74.1%), landlord/tenant (62.9%), and securing temporary housing (59.3%). Only two of the agencies surveyed indicated that they were not familiar with legal issues arising in disasters, suggesting that there is a great need for legal services in such contexts (see Figure 5).

Figure 5. Legal Needs in the Disaster Context, Nebraska, 2015



Source: Legal Aid Disaster Relief Survey, Legal Aid of Nebraska, 2015.

Surveyed agencies were also given the opportunity to provide narrative explanations for their experiences of legal needs in Nebraska during or after disasters. One respondent indicated “to some degree, depending on each disaster, all of these issues can and do arise.” To the above provided list, respondents also added: improper management of waste, environmental justice issues and care of pets/showing proof of ownership of pets.

CONCLUSION AND RECOMMENDATIONS

There are a number of legal issues that may arise and present barriers to an individual’s or family’s ability to recover after a disaster. Attempting to obtain assistance from government disaster relief agencies can be confusing and complex. Additionally, disaster victims may be dealing with injuries, death, property loss, income loss, insurance claims, consumer scams and other serious issues. These victims may have literally just lost everything. When disaster victims have social vulnerabilities, such as being impoverished, disabled, or having language barriers, these legal issues can be even more difficult to address. Access to legal assistance is crucial to disaster victims as they begin the path to rebuild their lives and their communities.

There is a significant gap in free legal services for low-income, disabled, and socially disadvantaged individuals throughout Nebraska, particularly after a disaster. While legal aid offices are accessible in Nebraska’s more heavily populated cities (e.g., Omaha, Lincoln and Grand Island), there are not enough legal aid attorneys to assist the large population of low-income disaster victims in these urban communities. The lack of disaster legal

assistance is even more pronounced in rural communities that may be a significant distance from a legal aid office and may have few to no attorneys. Even if an attorney is accessible, legal costs are often prohibitive.

Through conversations with NEMA and the Young Lawyers Section of the Nebraska State Bar Association (NSBA), coupled with needs assessment results above, the Disaster Relief Project team developed the following recommendations:

- Work with the Nebraska Emergency Management Agency (NEMA) and Voluntary Organizations Active in Disaster (VOAD) to integrate legal services into Nebraska's disaster response plan.
- Train partnering agencies in disaster preparedness, response and recovery, specifically related to identifying common legal problems and the need to integrate the delivery of legal services into Nebraska's disaster response plan.
- Coordinate education, recruitment and training to attorneys with the Nebraska State and local bar associations, to provide civil legal services in the event of a state-declared disaster in areas of law indicated by the needs assessment.
- Propose a court rule change to allow Nebraska attorneys with inactive licenses or attorneys with active licenses in another state to provide pro bono legal services in the event of a state-declared disaster in Nebraska.

These recommendations were developed based on the premise that in order to provide much needed legal assistance during a disaster, attorneys need to be recruited from the private bar to be part of the Disaster Relief Network, properly trained in disaster response, and provided an incentive to do so. For training needs, NEMA recommends training attorneys on the National Incident Management System (NIMS) and the Incident Command System (ICS), which were mandated by the Emergency Management Reform Act of 2006 (EMRA) and is the epicenter of the National Training Program since, together, the systems provide a workable template for "Federal, State, tribal, and local governments, the private sector, and nongovernmental organizations to work together to prepare for, prevent, respond to, recover from, and mitigate the effects of incidents regardless of cause, size, location, or complexity."^{xxxiii} The Young Lawyers Section of the NSBA adds that if these trainings also included ethics components that would count as continuing legal education credits, this would go a long way in bolstering the number of lawyers willing to participate. Furthermore, in order to maximize the amount of attorneys in the network, the Disaster Relief Project will consider proposing a court rule change to allow Nebraska attorneys with inactive licenses or attorneys with active licenses in another state to provide pro bono legal services in the event of a state-declared disaster in Nebraska.

ADDITIONAL RESOURCES

- National Disaster Legal Aid Resource Center:
<http://www.disasterlegallaid.org/>
- American Bar Association, Committee on Disaster Response and Preparedness:
<http://www.americanbar.org/groups/committees/disaster.html>

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Appendix A: Disaster Relief Needs Assessment 2015 Survey Instrument

Instructions

Nebraska experiences many incidences of disaster, with the most common types including flooding, severe storms, and tornadoes. Meanwhile, there is a significant gap in free legal services for low-income, disabled, and socially disadvantaged individuals throughout the state, particularly after a disaster strikes. Therefore, Legal Aid of Nebraska recently began a project to create and implement a statewide plan for addressing the legal gap in disaster response and preparedness.

An effective, statewide plan to address the legal needs of victims of disasters necessarily includes gathering information from other service organizations and determining whether there are any possibilities for collaboration.

Please complete this brief survey regarding what types of services your organization offers, your insights on the needs of victims of disasters, and the role your organization might be able to play in this project. The survey will take no more than 5 minutes.

1. Please indicate the name and location of your organization below. If your organization operates out of multiple locations, please provide the location for the main office.

Company:

Address:

Address 2:

City/Town:

Country:

2. Approximately how many employees work at your organization?

☐ 1

☐ 21-50

☐ 2-5

☐ 51-100

☐ 6-10

☐ 101-200

☐ 11-20

☐ More than 200

3. Approximately how many volunteers does your organization typically have?

☐ None

☐ 21-40

☐ 100-200

☐ 1-5

☐ 41-60

☐ 201-500

☐ 6-10

☐ 61-80

☐ More than 500

☐ 11-20

☐ 81-100

4. Out of how many offices/sites does your organization operate?

☐ 1

☐ 5

☐ 2

☐ 6+

☐ 3

☐ N/A (remote organization, for example)

☐ 4

5. Please select all of the counties in which your organization provides services. If your organization provides services for many counties, please describe the region your organization serves in the text box below. A county map of Nebraska is provided below for your reference.

☐ Adams

☐ Furnas

☐ Nuckolls

☐ Antelope

☐ Gage

☐ Otoe

☐ Arthur

☐ Garden

☐ Pawnee

☐ Banner

☐ Garfield

☐ Perkins

☐ Blaine

☐ Gosper

☐ Phelps

☐ Boone

☐ Grant

☐ Pierce

☐ BoxButte

☐ Greeley

☐ Platte

☐ Boyd

☐ Hall

☐ Polk

☐ Brown

☐ Hamilton

☐ Red Willow

☐ Buffalo

☐ Harlan

☐ Richardson

☐ Burt

☐ Hayes

☐ Rock

☐ Butler

☐ Hitchcock

☐ Saline

☐ Cass

☐ Holt

☐ Sarpy

☐ Cedar

☐ Hooker

☐ Saunders

☐ Chase

☐ Howard

☐ Seward

☐ Cherry

☐ Jefferson

☐ ScottsBluff

☐ Cheyenne

☐ Johnson

☐ Sheridan

☐ Clay

☐ Kearney

☐ Sherman

☐ Colfax

☐ Keith

☐ Sioux

☐ Cuming

☐ KeyaPaha

☐ Stanton

☐ Custer

☐ Kimball

☐ Thayer

☐ Dakota

☐ Knox

☐ Thomas

☐ Dawes

☐ Lancaster

☐ Thurston

- | | | |
|-----------------------------------|------------------------------------|---|
| <input type="checkbox"/> Dawson | <input type="checkbox"/> Lincoln | <input type="checkbox"/> Valley |
| <input type="checkbox"/> Deuel | <input type="checkbox"/> Logan | <input type="checkbox"/> Washington |
| <input type="checkbox"/> Dixon | <input type="checkbox"/> Loup | <input type="checkbox"/> Wayne |
| <input type="checkbox"/> Dodge | <input type="checkbox"/> Madison | <input type="checkbox"/> Webster |
| <input type="checkbox"/> Douglas | <input type="checkbox"/> McPherson | <input type="checkbox"/> Wheeler |
| <input type="checkbox"/> Dundy | <input type="checkbox"/> Merrick | <input type="checkbox"/> York |
| <input type="checkbox"/> Fillmore | <input type="checkbox"/> Morrill | <input type="checkbox"/> All of the above |
| <input type="checkbox"/> Franklin | <input type="checkbox"/> Nance | |
| <input type="checkbox"/> Frontier | <input type="checkbox"/> Nemaha | |

If many counties, please describe the region your organization serves

6. What is your organization's mission statement?

7. Please indicate below the type(s) of services your organization provides. Select all that apply.

- | | | |
|--|---|--|
| <input type="checkbox"/> Alcohol and substance abuse | <input type="checkbox"/> Education | <input type="checkbox"/> Physical health or disability |
| <input type="checkbox"/> Civil rights | <input type="checkbox"/> Food and nutrition | <input type="checkbox"/> Policy/advocacy |
| <input type="checkbox"/> Clothing/toiletries | <input type="checkbox"/> Furnishings/appliances | <input type="checkbox"/> Public benefits |
| <input type="checkbox"/> Community development | <input type="checkbox"/> Housing and shelter | <input type="checkbox"/> Public safety |
| <input type="checkbox"/> Consumer protection | <input type="checkbox"/> Legal | <input type="checkbox"/> Transportation |
| <input type="checkbox"/> Domestic violence | <input type="checkbox"/> Mental health/counseling | |

Other (please specify)

8. Has your organization ever provided assistance and/or support to victims of a disaster?

☐ Yes

☐ No

9. Please describe the relief your organization most typically provides for victims of disasters.

10. Who is your organization's person of contact for disaster relief efforts?

Name:

Email Address:

Phone Number:

11. In your experience, what kind of legal issues do you see arise out of disasters? Select all that apply.

- | | |
|---|---|
| <input type="checkbox"/> Benefits (social security, food stamps, Medicaid, etc) | <input type="checkbox"/> Housing - mortgage |
| <input type="checkbox"/> Benefits related to disaster relief (SBA loans, FEMA, etc) | <input type="checkbox"/> Housing - securing temporary housing |
| <input type="checkbox"/> Benefits - other | <input type="checkbox"/> Immigration |
| <input type="checkbox"/> Consumer - bankruptcy | <input type="checkbox"/> Insurance - rent or homeowner |
| <input type="checkbox"/> Consumer - predatory lending issues | <input type="checkbox"/> Insurance - personal property |
| <input type="checkbox"/> Consumer - scams and ripoffs | <input type="checkbox"/> Insurance - crop |
| <input type="checkbox"/> Consumer - other | <input type="checkbox"/> Insurance - flood |
| <input type="checkbox"/> Education | <input type="checkbox"/> Insurance - other |
| <input type="checkbox"/> Employment - unemployment assistance | <input type="checkbox"/> Identification - birth certifications, social security cards, etc |
| <input type="checkbox"/> Employment - other | <input type="checkbox"/> Medical |
| <input type="checkbox"/> Family - custody | <input type="checkbox"/> Powers of attorney |
| <input type="checkbox"/> Family - divorce | <input type="checkbox"/> Taxes |
| <input type="checkbox"/> Family - domestic violence | <input type="checkbox"/> Wills and Estates |
| <input type="checkbox"/> Housing - landlord/tenant | <input type="checkbox"/> I don't know/I am not familiar with legal issues that arise in disasters |

Other (please specify or provide further explanation)

12. Please feel free to use this space to provide any additional comments regarding how legal aid can best assist victims of disasters.

13. Is your organization is interested in partnering or collaborating with Legal Aid of Nebraska in its disaster relief efforts?

- ☐ Yes
- ☐ No
- ☐ Maybe