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For the Defense

"Justice for all" is an increasingly difficult proposition if you're poor.

by [STEPHEN C. BUSH](#)

A lot was said over the past year about the haves and have-nots, about the 1 percent and the rest of us, about the growing income gap in America. In Memphis, we've been told it's even worse; we live in the poorest big city in America. As the public defender for Shelby County, I see the results of this disparity firsthand. Every day in the criminal justice system, our office represents hundreds of people who are threatened with loss of liberty and cannot afford representation. In the civil courts, scores of attorneys assist the growing number of those who cannot hire a lawyer; many of these attorneys work without compensation.

Here and across the country, people face major challenges to their ability to access justice, and the problem is magnified in communities like ours, already hard hit by economic and social problems. If you need a lawyer and cannot afford one, you face an unprecedented justice gap that is vast and expanding.

An estimated four-fifths of low-income Americans do not have access to a lawyer when they need one. Independent nonprofit legal aid programs like Memphis Area Legal Services (MALS) are working to bridge this gap. Created in the wake of Dr. King's death over 40 years ago, MALS exists to help those who cannot afford basic legal advice or advocacy.

For most of us, responding to unlawful debt collection attempts or battling an unscrupulous landlord may mean a quick phone call for advice or, in some situations, a few hundred dollars to retain an attorney. However, the number of people who cannot do this has never been higher. In 2007, MALS received 7,000 requests for services. Last year, that number tripled to 21,000 requests. At the same time, MALS is facing consecutive years of federal funding cuts resulting in a net loss of \$300,000 in revenue in just two years.

Despite these obstacles, MALS staff, the Community Legal Center, the Memphis Bar Association, dozens of big and small law firms, and individual lawyers and students have joined them, giving time, money, and a voice to help meet the need.

The nation's public defense system faces a similar crisis. It is estimated that 80 percent of those charged with a crime are eligible for court-appointed counsel. Public defender systems are stretched dangerously thin, and there is little to suggest things will get better soon. In the foreword of a new book on the topic, former FBI director and federal judge William Sessions goes so far as to say, "Our nation's public defense systems in state courts, with few exceptions, should be a source of great embarrassment for all of us: judges, bar associations, lawyers, public officials, and all other citizens."

In Shelby County, we are not embarrassed, but we are aware of the damage done by the justice gap. In 2012, the 74 attorneys at the Law Offices of the Shelby County Public Defender will step forward and stand in that gap more than 30,000 times for those in our community who need us. And we are not simply busy defending our clients; we are retooling the way we practice law to ensure that there is justice for a new generation.

Established in 1917, we are the fourth-oldest defender office in the country, and we stand proudly in the gap, on the shoulders of almost 100 years of dedicated public defenders who have helped prepare us for these challenges.

In this moment, we cannot compromise on justice; living in poverty is hard enough. Our community has more than its share of hurting families, unemployment, substance abuse, hunger, sickness, mental illness, homelessness ... the list goes on. These problems create more have-nots, more gaps. We cannot afford that. We must bear these costs together.

The lawyers who seek justice in this community will not stop going to court every day. We will continue to advocate for the least among us no matter what. Those of us who are able will help bridge the funding gap. But if we hope to fully close the justice gap, we need help. Justice doesn't begin in the courtroom; it begins in the community.

Stephen C. Bush is the Shelby County chief public defender.

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