

WSBA Small Town and Rural (STAR) Practice Inaugural Summit

Thursday, June 6 - Friday, June 7, 2024, Spokane, WA

Presented by WSBA CLE

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Chairs and Faculty

A Special Thank You to Our Program Chairs and Faculty!

Those who have planned and will present at this WSBA CLE seminar are volunteers. Their generous contributions of time, talent, and energy have made this program possible. We appreciate their work and their service to the legal profession.

Program Chairs

Laurie Powers — *Gonzaga University School of Law, Spokane, WA*

Merf Ehman — *Columbia Legal Services, Seattle, WA*

Kevin Plachy — *Washington State Bar Association, Seattle, WA*

Program Keynote Speakers

Judge Salvador Mendoza, Jr. — *US 9th Circuit Court of Appeals, Richland, WA*

Chief Justice Steven C. González — *Washington State Supreme Court, Olympia, WA*

Program Faculty

Jacob Rooksby — *Dean of Gonzaga University School of Law, Spokane, WA*

Sonia Rodriguez True — *Yakima County Superior Court Judge, Yakima, WA*

Dolly Hunt — *WAPA Past President/Pend Oreille County Prosecuting Attorney, Newport, WA*

Brett Ballew — *Office of Public Defense Lead Attorney, Olympia, WA*

Rusty McGuire — *McGuire, DeWulf Kragt & Johnson PLLC, Davenport, WA*

Moderator: Jaime Cuevas, Jr. — *Ramsey Companies, Inc., Wapato, WA*

Merf Ehman — *Columbia Legal Services, Seattle, WA*

César E. Torres — *Northwest Justice Project, Seattle, WA*

Laura Contreras — *Northwest Immigrant Rights Project, Granger, WA*

Vanessa Arno Martinez — *Arno Martinez Law, PLLC, Wenatchee, WA*

Paula Arno Martinez — *Arno Martinez Law, PLLC, Wenatchee, WA*

Zaida Rivera — *Seattle University School of Law, Seattle, WA*

Blanca Rodriguez — *Columbia Legal Services, Seattle, WA*

Ethan Jones — *Yakama Nation Office of Legal Counsel, Toppenish, WA*

Laurie Powers — *Gonzaga School of Law, Spokane, WA*

Erin Lloyd — *University of Washington School of Law, Seattle, WA*

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Chairs and Faculty

Program Faculty Cont.

Ashley Cummins — *Seattle University School of Law, Seattle, WA*

Rachel Cortez — *Law Office of Rachel Cortez, Walla Walla, WA*

Sarah Glorian — *Northwest Justice Project, Aberdeen, WA*

Tony Gonzalez — *Columbia Legal Services, Wenatchee, WA*

Kari Petrasek — *Petrasek Law PLLC, Mukilteo, WA*



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Program Schedule

WSBA Small Town and Rural (STAR) Practice Inaugural Summit

Thursday, June 6 - Friday, June 7, 2024

Day 1, Thursday, June 6, 2024

6:30 – 8:00 p.m. Welcome Reception at Gonzaga University School of Law

Day 2, Friday, June 7, 2024

8:00 a.m. Check-in • Walk-in Registration • Coffee and Continental Breakfast

8:30 a.m. Welcome
Jacob Rooksby – Dean of Gonzaga University School of Law, Spokane, WA

8:40 a.m. **Why Access to Justice in Small Towns and Rural Communities is a Statewide Concern**
Chief Justice González will discuss funding of the courts, the constitutional right to counsel, the need for confidence in the court system, and the challenges faced in providing justice in rural communities. Q & A to follow.
Washington State Supreme Court Chief Justice Steven C. González – Washington State Supreme Court, Olympia, WA

9:20 a.m. BREAK

9:30 a.m. **Issues and Opportunities in Small Town and Rural Practice**
The need for small town and rural attorneys is faced across practice areas. This facilitated speaker panel will discuss the legal issues faced by clients in those communities, the unique challenges of representing clients in rural communities, and the many opportunities to establish a successful career in a small town or rural community.
Sonia Rodriguez True – Yakima County Superior Court Judge, Yakima, WA
Dolly Hunt – WAPA Past President/Pend Oreille County Prosecuting Attorney, Newport, WA
Brett Ballew – Office of Public Defense Lead Attorney, Olympia, WA
Rusty McGuire – McGuire, DeWulf Kragt & Johnson PLLC, Ritzville, WA
Moderator: Jaime Cuevas, Jr. – Ramsey Companies, Inc., Chehalis, WA

10:45 a.m. BREAK

Schedule continued on next page

*Program Schedule (cont.)***11:00 a.m. Brainstorming Solutions for Issues in Small Town and Rural Practice**

STAR Committee members will facilitate small group brainstorming sessions on innovative solutions to the problems presented in the earlier presentation. Attendees will examine current laws, rules, and programs that can be improved to facilitate change. The breakout groups will return to share solutions together to prioritize solutions and create a plan moving forward.

Merf Ehman – Executive Director, Columbia Legal Services, Seattle, WA

11:45 a.m. HOSTED BOX LUNCH with KEYNOTE SPEAKER**Law Practice in Rural Communities and Pathways to the Bench**

Judge Mendoza will discuss his experience as first a practitioner and then a judicial officer in multiple Eastern Washington counties. From these beginnings to his current appointment to the US District Court of Appeals for the 9th Circuit, Judge Mendoza's career covers the landscape of rural legal practice in Washington State. He will share his insights on the benefits and challenges of practicing in a smaller community, and how these experiences can create a successful pathway to leadership as a judicial officer.

US 9th Circuit Court of Appeals Judge Salvador Mendoza, Jr. – US 9th Circuit Court of Appeals, Richland, WA

12:50 p.m. BREAK**AFTERNOON CONCURRENT SESSIONS****1:00 p.m. OPTION A: Attracting Lawyers to Rural Practice: How to Find Them, How to Keep Them**

Attorneys and recruiters from private practice, government, and public interest organizations will share their experience in hiring legal interns and attorneys for small town and rural positions. Learn what tips and incentives have produced the most success and what pitfalls to avoid.

César E. Torres – Executive Director, Northwest Justice Project, Seattle, WA

Rusty McGuire – Partner, McGuire, DeWulf Kragt & Johnson PLLC, Davenport, WA

Laura Contreras – Directing Attorney, Northwest Immigrant Rights Project, Granger, WA

OR

1:00 p.m. OPTION B: Bridging Diversity: Navigating Intersectionality in Rural Practice

Explore the nuanced and multifaceted challenges and ethical considerations of practicing law and fostering inclusivity in rural areas. Join us for a conversation on insights and strategies for creating equitable and supportive environments in rural practice areas that not only enhance the services provided to clients but also supports diversity within the legal profession.

Vanessa Arno Martinez – Attorney & Co-Founder, Arno Martinez Law, PLLC, Wenatchee, WA

Paula Arno Martinez – Attorney & Co-Founder, Arno Martinez Law, PLLC, Wenatchee, WA

Zaida Rivera – Visiting Assistant Professor of Law, Seattle University School of Law, Seattle, WA

Blanca Rodriguez – Deputy Director of Advocacy, Columbia Legal Services, Seattle, WA

Schedule continued on next page

Program Schedule (cont.)

2:15 p.m. BREAK

2:30 p.m. OPTION A: Effectively Onboarding and Supervising Legal Interns and New Attorneys

Being an effective supervisor of a law student or new attorney requires some planning, but there is no reason to reinvent the wheel. Learn how to onboard and train your new talent using best practices for orientation, assignment clarification, giving and receiving feedback, and collaboration.

Ethan Jones – Lead Attorney, Yakama Nation Office of Legal Counsel, Toppenish, WA

Laurie Powers – Assistant Dean, Professional Development and Externships, Gonzaga School of Law, Spokane, WA

Erin Lloyd – Assistant Dean, Center for Career Development, University of Washington School of Law, Seattle, WA

OR

2:30 p.m. OPTION B: Myths & Stereotypes About Rural Practice

Learn from attorneys who have always practiced in rural communities and from those who relocated from the “big city” about what the day in the life of a small town and rural lawyer really is like—and how technology is changing the landscape.

Ashley Cummins – Seattle University School of Law, Seattle, WA

Rachel Cortez – Attorney, Law Office of Rachel Cortez, Walla Walla, WA

Sarah Glorian – Managing Attorney, Northwest Justice Project, Aberdeen, WA

3:45 p.m. Closing Remarks • Adjourn

Kari Petrusek – STAR Committee Chair, Petrusek Law PLLC, Mukilteo, WA

4:00 p.m. Wine & Cheese Hour on the Gonzaga Law School patio

Under MCLE Rules, we report hours of course attendance. Our report is based on you confirming your attendance with our CLE representative as you arrive, and the receipt of this CLE Attendance Adjustment Form from anyone who chooses to attend only part of the seminar.

We ask that you complete this form and turn-in to our representative if you leave before the end of the program.

Thank you, WSBA CLE

The purpose of this form is to notify the sponsor listed below if you have earned less than the available credits while attending this CLE course. You can email your completed form to WSBA CLE.

Email: cle@wsba.org

Under Washington State MCLE Rules (APR 11(j)(3)), sponsors must report attendance at each CLE course. The sponsor's report is based on confirming your attendance as you arrive and the receipt of this form as you leave if you choose to attend only part of the CLE course.

- If this form is not returned, the sponsor will presume that you have attended the entire CLE course and earned full credit.
- If you did not attend the full CLE course, this form must be returned to the sponsor.

How to calculate L&LP/Ethics/Other credits:

One credit is equivalent to one hour (60 minutes) of instruction time at an approved CLE course. Credits can be obtained in quarter-hour increments: 15 minutes of instruction equal .25 credits. No credit is given for breaks. Contact the sponsor if you have questions about which sections of the program, if any, have been approved for ethics credit.

For information, see this [document](#) or contact the WSBA Service Center: questions@wsba.org

Seminar Sponsor: WSBA CLE

Seminar Name: WSBA Small Town and Rural (STAR) Practice Inaugural Summit

Seminar Date: Friday, June 7, 2024

Approved Credits: **6.00 CLE Credits for Washington Licensed Legal Professionals**
(0.0 Law & Legal Procedure, 0.0 Ethics, **1.25*** Ethics - DEI, and **6.0*** Other)
*Credits dependent on concurrent sessions selected

Hours of Attendance:

TIME OF ARRIVAL	TIME OF DEPARTURE

Credits Earned: _____ **L&LP** _____ **Ethics** _____ **Other**

Printed Name: _____ **Bar #:** _____

I hereby certify that I have earned the number of L&LP/Ethics/Other credits inserted above on the Credits Earned line.

Signature: _____ **Date:** _____

WSBA Small Town and Rural (STAR) Practice Inaugural Summit

Faculty Biographies

Ashley Cummins; Seattle University School of Law, Seattle, WA

Ashley is passionate about increasing access to justice and advocating for resilient communities and has a demonstrated history of over a decade of working in civil legal aid in some capacity. Her career in legal aid has led her to serve rural communities across Northern Nevada and urban communities throughout King County in Washington State. While she has experience in a variety of civil issues, she has spent most of her career advocating for low-income tenants. Ashley is the Associate Director of the Access to Justice Institute and an Associate Director of the Center for Professional Development at Seattle University School of Law where she develops and supports social justice opportunities and programming for students and advises a diverse student body as they begin their legal careers. She graduated from Washington State University with two bachelor's degrees, one in Sociology and the other in Criminal Justice with a minor in Political Science. She received her Juris Doctor from Gonzaga University School of Law and is currently enrolled part time in the Master of Public Administration program at Seattle University. Ashley strives to be an active member of her community and has held leadership roles in the Washington State Bar Foundation, State Bar of Nevada, and WSU Alumni Association. She is currently the Vice President of the Washington Alpine Club and a member of the WSBA STAR Committee.

Blanca Rodriguez; Deputy Director of Advocacy, Columbia Legal Services, Seattle, WA

Blanca Rodriguez is the Deputy Director of Advocacy at Columbia Legal Services where she supervises and advances systemic, multi-forum legal advocacy and community engagement in CLS's body of work that promotes immigration equity to dismantle the structures that perpetuate poverty, racism, and other injustices in Washington. Before coming to CLS Blanca worked for the Farmworker Unit of the Northwest Justice Project as the supervising attorney of sexual harassment and gender discrimination advocacy. She also represented farmworkers facing disability discrimination, unpaid wages, health and safety violations, and other workplace abuses.

Brett Ballew; Office of Public Defense Lead Attorney, Olympia, WA

Brett Ballew is a Parents Representation Program Co-Supervising Attorney for the Washington State Office of Public Defense (OPD). Prior to joining OPD, Brett was appointed in every type of court in the state for just about every type of case for which an attorney can be appointed, including the representation of parents in dependency and termination cases from 1996 to 2007. Since joining OPD, he has given numerous presentations across the country about the effective representation of parents. He received his undergraduate degree from the University of Washington and his Juris Doctorate from the University of Montana.

César E. Torres; Executive Director, Northwest Justice Project, Seattle, WA

César Torres has served as Executive Director of the Northwest Justice Project since the Fall of 2006. He earned his J.D. at the University of Virginia School of Law and his B.A. from Yale University. He has dedicated his legal career to the cause of equal justice. During law school he clerked for the Legal Aid Society (civil) in New York and served in an externship at the Center for Law and Social Policy in Washington D.C. Immediately after law school he became a staff attorney at Hudson County Legal Services (1985-1989). Thereafter, he worked at Essex Newark Legal Services, Newark, NJ, where he took over as Managing Attorney for that program's Housing & Income Maintenance Unit (1989 – 2006). He was named ENLS Deputy Director beginning in 1998, a position he held until his departure in 2006. Beginning in 2003 he litigated and supervised a Predatory Lending Practices Project. Throughout his tenure at ENLS, he provided statewide training on federally subsidized housing programs. Mr. Torres's advocacy efforts have focused on representation of low-income residents of Essex County New Jersey combining litigation with community struggles to limit the loss of federally assisted and affordable private housing, Hope VI and Mark-to-Market housing programs, including significant state appellate advocacy experience.

Chief Justice Steven C. González; Washington State Supreme Court, Olympia, WA

Chief Justice Steven González was sworn in as the Supreme Court's 58th Chief Justice on January 11, 2021, following a vote of his peers for a four-year term. He was appointed to the court effective January 1, 2012, and subsequently won two contested races for six-year terms starting in 2013 and 2019. Before joining the Supreme Court, Chief Justice González served for ten years as a trial judge on the King County Superior Court hearing criminal, civil, juvenile, and family law cases.

Prior to his election to the King County Superior Court, Chief Justice González practiced both criminal and civil law. He was an Assistant United States Attorney in the Western District of Washington, a Domestic Violence Prosecutor for the City of Seattle and in private practice at a Seattle law firm.

As an Assistant United States Attorney, Chief Justice González was part of the team that successfully prosecuted the international terrorism case U.S. v. Ressaam, for which he received two Department of Justice awards: the U.S. Attorney General's Award for Distinguished Service and the Director's Award for Superior Performance. He also prosecuted organized crime cases and served as the Hate Crimes Prosecution Coordinator. After September 11, he lectured on international terrorism prosecution to U.S. Attorneys in Washington D.C.

While working in private practice, Chief Justice González gained significant civil and business law experience, including acquisitions, mergers, land use, intellectual property, commercial litigation, and contract negotiation. He regularly provided pro bono representation to people who could not afford to pay for a lawyer. Chief Justice González continues to be a lecturer at continuing legal education seminars and speaking engagements.

Chief Justice González has received numerous awards throughout his career, including the Golden Scarf from the Seattle Sounders FC, "2012 Difference Makers Award" from the American Bar Association's Solo, Small Firm and General Practice Division, and "Judge of the Year" awards from the Washington State Bar Association, the Washington Chapter of the American Board of Trial Advocates, and the Asian Bar Association of Washington in 2011. He also received the Exceptional Member Award from the

Latina/o Bar Association of Washington in 2011 and the Vanguard Award from the King County Chapter of Washington Women Lawyers in 2009.

Chief Justice González is passionate about providing open access to the justice system for all. He was appointed by the Supreme Court to the Washington State Access to Justice Board and served on the Board for seven years, including the last two years as its Chair. Chief Justice González has served as Chair to the Interpreter Commission for eight years, supporting efforts to enhance language access across our state, including, the amendment to General Rule 11.3 to address remote interpreting as courts continue to respond to the COVID-19 pandemic, and the adoption of General Rule 11.4 to establish protocols for team interpreting. Chief Justice González also mentors students, regularly participates in the Northwest Minority Job Fair, and serves as a Board member for the Washington Leadership Institute, a program that aims to develop Bar and community leaders who reflect the diversity of Washington State.

Dolly Hunt; WAPA Past President/Pend Oreille County Prosecuting Attorney, Newport, WA

Dolly N. Hunt is in her third term as the elected Prosecutor for Pend Oreille County. Dolly was a Deputy Prosecutor with the office for eight years where she handled various felony crimes. She has also served as a Special Deputy Prosecuting Attorney for the Lincoln County Prosecuting Attorney's Office prosecuting felony drug cases and civil forfeiture cases. Previously, Dolly was a Deputy Prosecuting Attorney with the Okanogan County Prosecuting Attorney's Office.

Dolly was a 2008 fellow with the WSBA Leadership Institute and a past member of the Advisory Board. Dolly has served on various committees for the Washington State Bar Association and has volunteered on various non-profit boards.

Erin Lloyd; Assistant Dean, Center for Career Development, University of Washington School of Law, Seattle, WA

Erin Lloyd is the Assistant Dean of the Center for Career Development at the University of Washington School of Law. Before joining UW Law, Erin spent the previous ten years in private practice in New York, building a successful partnership and deep roots in the legal community there, and teaching as an adjunct at several New York City law schools.

As a founding partner at Lloyd Patel LLP, Erin focused her litigation practice on representing employees who had suffered discrimination, harassment, wage theft and other abuses in the workplace. She also handled commercial litigation and transactional matters, advising small and growing businesses. Erin represented clients in both state and federal court, in mediation and arbitration, before administrative bodies, and in appeals before both the First and Second Department Appellate Divisions in New York. While building her private practice, Erin simultaneously taught as an adjunct professor, focusing her academic work on legal writing, essential analytical and lawyering skills, and professional ethics.

Prior to launching her private practice, Erin spent nearly six years clerking for judges in New York County Supreme Court in Manhattan, first in a general civil trial court and later in the specialized Commercial Division.

Erin earned her Bachelor of Arts degree in English and Women's Studies from Portland State University and a J.D. from the City University of New York School of Law.

Ethan Jones; Lead Attorney, Yakama Nation Office of Legal Counsel, Toppenish, WA

Ethan Jones serves as Lead Attorney for the Confederated Tribes and Bands of the Yakama Nation, where he has worked since 2012. The Yakama Nation Office of Legal Counsel's nine attorneys provide general civil legal representation to the Yakama Nation Government and its enterprises, and Mr. Jones's practice focuses primarily on litigation of federal Indian law issues. Mr. Jones has served as President of the Yakima County Bar Association, member of the WSBA Indian Law Section's Executive Board, and he is about to finish his term as a Lawyer's Representative for the United States District Court for the Eastern District of Washington. He attended the University of Washington for both his undergraduate studies and for law school, and now lives in Yakima with his wife and daughter.

Jacob Rooksby; Dean of Gonzaga University School of Law, Spokane, WA

Jacob H. Rooksby is an academic, administrator, and attorney. Appointed Dean of Gonzaga Law School in 2018, Rooksby's focus at Gonzaga has been on innovating the law school's programming, facility, and operations and integrating the school further into the broader university and regional communities. A champion of diversity who established the first LGBTQ+ rights legal clinic at a Catholic law school in the country, Rooksby has worked to establish pay equity for faculty and provide equality of opportunity for students, faculty, and staff alike. He holds a joint appointment as a Professor of Law and Leadership Studies and has taught five different courses throughout his deanship.

Rooksby enjoys a strong connection to the legal profession. He holds law licenses in Pennsylvania, Virginia, and Washington and formerly practiced with McGuireWoods LLP and Dentons Cohen & Grigsby P.C., the latter while a full-time academic. He currently serves as IP Optimization Strategist for FIG. 1 Patents, PLLC, a boutique IP law firm based in Spokane, and is an elected member of the American Law Institute, a Fellow of the American Bar Foundation, and a member of the bar of the Supreme Court of the United States.

Jaime Cuevas, Jr.; Ramsey Companies, Inc., Wapato, WA

Jr. serves as the General Counsel and Chief Business Development Officer for Ramsey Companies Inc. - a conglomerate of tribal member-owned Yakama Nation enterprises whose mission is to enhance economic development and opportunities in Indian Country while advocating for and protecting the Indigenous right to self-determination. As General Counsel, Jr. has assisted on Indigenous rights litigation and policy matters across the country, including spending time in Washington, D.C. working with the Tribal Economic and Tax Reform Advocacy Alliance.

Before going in-house, Jr. was a commercial litigator at the law firm of Stokes Lawrence. He worked on matters at all levels – including assisting in the representation of clients on Indigenous treaty rights matters at the Supreme Court of the United States, voting rights, labor and

employment disputes, commercial disputes, and all while maintaining an active pro-bono practice. Jr.'s pro-bono experience consists of successful representation of clients in asylum matters, voting rights issues, land-lord tenant cases, and consumer protection issues. In his free time, Jr. is a licensed U.S. Grassroots soccer coach at SOZO in Yakima and a Yakima Little League baseball coach.

Judge Salvador Mendoza, Jr.; US 9th Circuit Court of Appeals

Judge Mendoza grew up in the lower Yakima Valley and attended the University of Washington where he received a Bachelor of Arts degree in Philosophy and later a Juris Doctor degree from UCLA School of Law. He started his legal career as an Assistant Attorney General for the State of Washington then a Deputy Prosecutor for Franklin County. Judge Mendoza was in private practice for almost 15 years handling state and federal cases. In 2013, Governor Jay Inslee appointed Judge Mendoza to the Superior Court bench for Benton and Franklin counties. In 2014, President Barack Obama nominated Judge Mendoza to serve as United States District Court Judge for the Eastern District of Washington, which the Senate later confirmed. Then in 2022, President Joe Biden nominated Judge Mendoza to the Ninth Circuit Court of Appeals where he was confirmed by the Senate.

Kari Petrsek; STAR Committee Chair, Petrsek Law PLLC, Mukilteo, WA

Kari Petrsek was elected to the Board of Governors in 2022. She is a graduate of Seattle University School of Law. She is a solo attorney, having started her own firm, Petrsek Law, in Mukilteo in January 2015. In the 13 years prior to starting her own firm, she worked in several small firms in Everett. She is a civil litigator with significant experience in the areas of juvenile law, guardianships, estate planning, elder law, and family law. Petrsek is also a dedicated advocate for children, having served as a volunteer and attorney guardian ad litem for dependent children. She has been one of the Snohomish County CASA Program attorneys for over 15 years. In addition, Petrsek has served as a judge and commissioner pro tempore for Snohomish County Superior Court since 2010. She is the immediate past-chair of the WSBA Solo & Small Practice Section, the treasurer of Washington Women Lawyers, a past-president of the Snohomish County Bar Association, a member of Washington State CASA, a leader in the ABA GPSolo Division, and a coach for the Archbishop Murphy High School Mock Trial teams. In her free time, Petrsek enjoys skiing, golfing, football, and baseball.

Kevin Plachy; Director of Advancement, Washington State Bar Association, Seattle, WA

Kevin has been employed with The Washington State Bar Association since 2015 and serves as the Advancement Department Director. Before that he worked for twenty years at Wells Fargo, most of which was spent as Regional Escrow Manager with oversight of a statewide real estate closing operation. He is a licensed attorney in Washington and California (inactive in CA) and earned his Juris Doctor from Purdue Global Law School and a Master of Business Administration from Western Washington University.

Mirta Laura Contreras; Directing Attorney, Northwest Immigrant Rights Project, Granger, WA

Mirta Laura Contreras became the Directing Attorney of the Granger Office of Northwest Immigrant Rights Project (NWIRP) in August 2011, after serving for 19 years in various capacities with Columbia Legal Services, and its predecessor Evergreen Legal Services. She was born and raised in Toppenish and is the youngest in a family of Texas migrants (“Tejanos”), who began traveling to the hop fields in Washington State in the early 1940’s. She has represented farm workers and immigrants in employment and family law cases, and in her work at NWIRP, she now represents numerous unaccompanied children and youths, families, and longtime residents facing deportation. Ms. Contreras served on the Washington Supreme Court Gender and Justice Commission, participates in Eastern Washington activities of the Latino/a Bar Association of Washington, Crime Victim Certification Steering Committee, and is a former board member of Volunteer Attorney Services for Yakima County. She is committed in mentoring and recruiting the next generation of public interest attorneys and community leaders in rural Eastern Washington. Her greatest pride and joy are her children, now adults, and watching them transition into strong independent individuals. She and her husband enjoy spending time in Eagle Pass, Texas and traveling the United States, every chance they get.

Laurie Powers; Gonzaga University School of Law, Spokane, WA

Laurie Powers joined Gonzaga Law in 2011 to establish the Moderate Means Program and serve as the Assistant Director of the Center for Law in Public Service. Dean Powers has led the Center for Professional Development since August 2012. After teaching as an adjunct professor in the Externship program for many years, she assumed responsibility for the Externship Program in 2020 and now oversees the joint operation of the Center for Professional Development and Externships (CPDEx.)

A licensed attorney for over 30 years, Dean Powers enjoys using her vast legal network to connect law students with career opportunities. After five years in private practice, she worked as a civil legal aid attorney representing survivors of domestic and sexual violence and unemployed workers seeking benefits. She has directed multiple legal aid programs and been repeatedly recognized as a Top Lawyer by Spokane-Coeur d’Alene Living Magazine and as a “Local Hero” by the Washington State Bar Association.

After receiving her B.A. in Philosophy and Economics-Accounting from Gonzaga, she served with the Jesuit Volunteer Corps in Kansas City, MO before working with King County Judicial Administration to implement WA’s Domestic Violence Prevention Act and draft King County’s first Domestic Violence Comprehensive Plan. She then earned her JD at the University of Washington School of Law.

Dean Powers is on the boards of Legal Employers Advancing Diversity in WA and the Campaign for Equal Justice, the WSBA’s Small Town and Rural Practice Committee, and co-chairs the national Law School Career Chiefs Interest Group.

She married her law school mock trial partner who is now a Superior Court Judge, and they are inordinately proud of their three adult children. She has rooted for the Zags since the 1970’s.

Merf Ehman; Columbia Legal Services, Seattle, WA

As executive director of Columbia Legal Services (CLS), Merf Ehman is a leading organization-wide efforts to prioritize advocacy that supports community-led social justice movements that transform racialized systems and eradicate racism. Organizationally, CLS and Merf are focused on creating an adaptive organization that prioritizes anti-racist efforts internally and externally and learning how to use our legal skills to support and build collective power around initiatives identified by the communities most impacted.

More than 25 years ago, Merf was a client in a welfare-to-work program at a local legal aid office, and now leads a legal aid organization working to change the world for the better. Merf's life experience has been informed by other people believing that Merf could be more, and do more, than the limited options that felt available. People and institutions supported Merf in moving beyond the challenges of poverty, mental illness, and substance abuse to an unimaginably wonderful life. Merf wants those same organizations, people, and institutions to work toward ending racism so that all people enjoy a full life free from trauma and abuse. Additionally, Merf prefers to be as pronoun free as possible.

Paula Arno Martinez; Attorney & Co-Founder, Arno Martinez Law, PLLC

Before starting her own law firm, Paula worked for Colectiva Legal del Pueblo for over four years in the Wenatchee office. Paula's practice focuses on family-based immigration, U Visa, and VAWA.

Before joining Colectiva, Paula worked as an Associate Attorney with Rios & Cruz P.S. in Seattle. Paula previously worked in Granger with the Northwest Immigrant Rights Project (NWIRP) organizing and conducting workshops and legal clinics regarding Deferred Action for Childhood Arrivals (DACA) in Eastern and Central Washington.

While in law school, Paula interned with the Immigration Center for Women and Children (ICWC), where she worked on U Visa and VAWA cases.

Paula served as a Commissioner on the Washington State Commission on Hispanic Affairs, and as the National President for Kappa Delta Chi, Sorority, Inc. in the past. Paula currently serves on the Wenatchee Valley Museum & Cultural Center Board of Trustees, the Wenatchee Valley College Board of Trustees, and the Latino/a Bar Association of Washington Board.

Rachel Cortez; Attorney, Law Office of Rachel Cortez, Walla Walla, WA

Rusty McGuire; McGuire, DeWulf Kragt & Johnson PLLC, Davenport, WA

L.R. "Rusty" McGuire was raised on the family farm that was homesteaded by his great-grandfather west of Steptoe Butte on the rolling hills of the Palouse.

Rusty advises clients in all aspects of elder law, estate planning and estate administration. He also has extensive knowledge in all areas of agricultural law, including estate and tax planning for family, family corporations, and partnerships. Rusty guides families dealing with farm and business issues during the transition of generations. He also advises families on farm real estate transaction planning. He also advises on planning and appeals dealing with Federal farm programs administered by FSA and NRCS.

Because of his specialized experience, Rusty has been invited to speak at the Ag Expo in Spokane, Washington discussing topics pertaining to asset protection for the elderly, nursing home matters, estate planning, tax planning, and family farm business planning. He has also published various articles in Wheat Life. He has also appeared on panels discussing agriculture at EWU and has spoken at Farm Credit Services seminars.

Rusty serves on several boards for Eastern Washington organizations. He is currently a trustee for the Washington Wheat Foundation, St. John Historical Society, Palouse Country Assisted Living and the WSU Land Legacy Council. He is a member of Lincoln, Adams, and Whitman County Bar Associations.

Rusty practices in Rosalia, Davenport, Colfax, St. John, and Ritzville offices.

Sarah Glorian; Managing Attorney, Northwest Justice Project, Aberdeen, WA

Sarah Glorian is a managing attorney of Northwest Justice Project for the Aberdeen field office. She graduated from Lewis & Clark Law School in Portland, Oregon in 2000. Her legal career started in Maryland—first in Baltimore, and then in rural Maryland. She was hired to open the Aberdeen office in 2007.

Sonia Rodriguez True; Yakima County Superior Court Judge

A graduate of the Annie Wright School in Tacoma, Judge Sonia Rodriguez True earned her BA and Law degrees at the University of Washington, and in 2000, moved to Yakima where she began a law practice focused on juvenile and family law as well as a variety of other complex legal matters.

Judge Rodriguez True has been very active in the Yakima community for the past 22 years. She served for a year on the Yakima City Council and has been a member of several boards, including Yakima Valley Memorial Hospital, United Way of Central Washington where she served as Board Chair, Yakima Federal Savings & Loan Association, Yakima Police Athletic League, YMCA, and YWCA. Currently, she is a Board Member of both the Opportunities Industrial Center and the Downtown Rotary.

Before her 2022 appointment to the Yakima County Superior Court bench, Judge Rodriguez True served the Court for over a year as a Family Law Court Commissioner.

Tony Gonzalez; Deputy Director Advocacy, Columbia Legal Services, Wenatchee, WA

Vanessa Arno Martinez; Attorney & Co-Founder, Arno Martinez Law, PLLC, Wenatchee, WA Vanessa Arno Martinez has practiced immigration law in Wenatchee, Washington since 2014. Vanessa earned her Juris Doctor from the Seattle University School of Law in 2013. She is a Washington Leadership Institute (WLI) Fellow, class of 2018. She currently serves as Co-VP of Eastern Washington on the Latina/o Bar Association of Washington (LBAW). She previously served on the LBAW board as Secretary, VP of Eastern Washington, and President. Vanessa is also a board member of the Judicial Institute. Vanessa previously served on the Chelan-Douglas Volunteer Attorney Services Board. She was born and raised in Alaska and never thought she would choose to live in a small town as an adult. Vanessa enjoys travelling, construction projects, and spending time with her wife and dogs."

Zaida Rivera; Visiting Assistant Professor of Law, Seattle University School of Law, Seattle, WA

Professor Zaida Carolina Rivera is the proud daughter of hardworking Mexican immigrants and an immigrant herself. Professor Rivera serves as the Visiting Assistant Professor and the Director of the Immigrant Justice Clinic (IJC) at Seattle University School of Law. In her most recent position, she was the Clinical Fellow and the Director of the Immigration Clinic at Gonzaga Law School. Professor Rivera previously co-supervised students who traveled to Nogales to work with migrants seeking asylum at the US-Mexico border. Professor Rivera has been practicing immigration law for over eleven years, primarily representing clients in immigration proceedings and humanitarian relief. She has worked for various immigration legal services providers in Washington, New York, and New Jersey, including with the NW Immigrant Rights Project, Kids in Need of Defense, and Seton Hall Law School's Immigration Clinic. Professor Rivera is passionate about access to justice initiatives and enjoys coordinating and volunteering for legal clinics. She also enjoys participating in law school pipeline programs to encourage underrepresented students to pursue a legal education. Si se puede! Professor Rivera is the President-Elect of the Latina/o Bar Association of Washington, member of the ATJ Delivery Systems' Undocumented Communities Subcommittee, coordinator with the Labor Based Deferred Action Coalition, and a Washington Leadership Institute Fellow of the Class of 2023. In her free time Professor Rivera enjoys traveling and spending time with family and friends.

Why Access to Justice in Small Towns and Rural Communities is a Statewide Concern

Rural Practice Summit

Chief Justice González Remarks

1. Why do healthy communities need healthy legal systems?
 - a. Fulfilling constitutional promises. (Due process, speedy trial, right to counsel.)
 - b. Protect vulnerable communities and provide community-specific advocacy on issues like water, environment, public safety, health care, education, and substance abuse counseling and treatment.
2. Current challenges in rural court systems and rural practice in Washington State?
 - a. Civic engagement and confidence in the legal system.
 - b. Legal deserts and access to attorneys.
 - c. Infrastructure updates.
3. Why invest in rural communities?
 - a. Necessary to avoid “justice by geography.”
 - b. Rural communities are unique and need community-specific investment.
4. How do we address the current challenges?
 - a. Increasing civic engagement and confidence
 - i. Mentorship, jury integrity, efficient justice systems, recognizing community concerns and harms.
 - b. Legal deserts and attorney access
 - i. Pipeline programs, homegrown recruitment, geographically diverse internship opportunities, affordability of legal education
 - c. Infrastructure
 - i. Interbranch cooperation at all levels of government.

Issues and Opportunities in Small Town and Rural Practice

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The Rural Attorney Shortage is Turning Into a Crisis in Washington State

I remember growing up and watching an old TV program called *Green Acres*. Maybe some of you remember its catchy theme song: “Green Acres is the place to be, farm living is the life for me ... land spreading out so far and wide, keep Manhattan just give me that countryside.” Unlike the main character in the show, attorney Oliver Wendell Douglas, who leaves big-city practice in New York for a farm in a small country town, most law school graduates in Washington are not moving to rural areas of our state to practice.

The American Bar Association noted in a 2020 report¹ that rural areas are often “legal deserts,” with insufficient numbers of attorneys to represent people in all manner of cases, both civil and criminal. This is an ongoing and seemingly increasing problem that small towns and rural communities across the country, including in Washington state, are facing. As attorneys practicing in rural areas retire and/or move away, these communities struggle to recruit and retain attorneys to replace them.

A quick look at the current WSBA demographics reveals that numerous rural counties in Washington have only a handful of active licensed attorneys:

- | | | |
|-----------------------|----------------------|--------------------------|
| • Adams: 16 | • Ferry: 4 | • Pend Oreille: 5 |
| • Asotin: 18 | • Garfield: 4 | • Skamania: 10 |
| • Columbia: 11 | • Lincoln: 18 | • Wahkiakum: 8 |

Ten of the state’s 39 counties have 30 or fewer active WSBA members to facilitate access to justice by prosecuting and defending criminal matters, and providing legal representation for civil and domestic relation matters. In these 10 counties, there are 117 active attorneys in total. I’ve never thought of Yakima County as a particularly large county in terms of population, but by contrast, it currently has 438 WSBA members.

There currently are 26,240 active WSBA attorney members² that practice law within the state of Washington. The vast majority of WSBA members are located in King County and in the neighboring major counties along the I-5 corridor. Spokane County has 2,031 attorneys. The entire 4th Congressional District (Adams, Benton, Douglas, Franklin, Grant, Okanogan, and Yakima Counties), which is the largest geographic area of the state, has only 1,152 current active

WSBA members, with the majority of these located in Yakima and Benton counties.

As a result of the concentration of attorneys in more populated areas, there is a massive shortage of attorneys in rural areas, and to make the situation worse, we are seeing trends where law school graduates, by and large, are not choosing to locate and set up practices in these rural areas. There are some obvious reasons for this: Washington’s three law schools are located in Seattle and Spokane, and these major cities offer more and higher paying jobs at bigger firms. Most law school graduates tend to be in their 20s or 30s, and to be blunt, most rural areas simply do not offer the variety of restaurants, entertainment, and social opportunities that urban areas can provide. Many law school graduates have significant student loan debt, and lower salaries in rural areas—particularly for governmental attorneys—can be a barrier to attracting and retaining new and young lawyers to rural communities.

As more baby-boomer generation attorneys retire, along with other attorneys who chose to stop practicing during the pandemic or do something else with their law degree, the shortage of WSBA members in rural parts of the state will have an even more profound impact on the legal profession in Washington.

SHORTAGE OF DEPUTY PROSECUTING ATTORNEYS AND DEFENSE ATTORNEYS IN RURAL COUNTIES

In Yakima County, where I’ve spent my career, the Prosecuting Attorney’s Office and Department of Assigned Counsel are not seeing many attorneys apply, despite salary and signing bonus increases in 2022 for vacant positions. The result is that criminal deputies in the office are facing felony caseloads of 90 to 200, with an average so far in 2023 of 124 cases per felony prosecutor. Most of these cases involve complex and violent felony crimes. The Yakima County Prosecutor’s Office usually files around 2,500 cases a year, most of which are assigned to a public defender from the Yakima County Department of Assigned Council. The shortage of attorneys creates potential harm to public safety as well as a reduction in effective prosecution and criminal defense efforts. In addition, criminal defendants have a constitutional

right to a speedy trial, so having enough defense attorneys in these areas is critical to ensure that the constitutional rights of defendants are being met.

Sadly, this isn’t a situation in only Yakima County, nor is it felt only in the criminal arena. There are also shortages of civil attorneys in public and private employment. Speaking from experience, my office has had a vacancy for a civil attorney in our small corporate counsel division for 15 months and counting. This forces remaining attorneys to take on substantially more work and stress in performing their job duties.

The attorney shortage also means there are fewer attorneys to take on pro bono, low bono, and moderate means cases, greatly harming access-to-justice efforts.

STAR COMMITTEE AND OTHER EFFORTS

The WSBA’s Small Town and Rural (STAR) Committee has been attempting to identify the various facets of this complex problem, and to work with local law schools and county bar associations to provide innovative solutions. The STAR Committee has started conducting rural employer job fairs with the three Washington law schools to help match graduating law school students with potential rural employers.

Last year, Washington law schools partnered with Heritage University, a small private college in Toppenish, near Yakima, to create a new program designed to make obtaining a law degree more accessible to BIPOC students in the Central Washington region.³ The three-week intensive summer program is funded by the Law School Admission Council (LSAC) Prelaw Undergraduate Scholars (PLUS) program. The program featured several Washington Supreme Court justices, a mock law school class, meetings with minority bar associations, and other avenues to help prospective students apply to law school, apply for grants, and more. This program was developed in partnership with six additional organizations: Northwest Justice Project, Northwest Immigrant Rights Project, Columbia Legal Services, TeamChild, the Benefits Law Center, and the Office of Civil Legal Aid. The goal of the program is to create a pipeline of local undergraduate stu-

dents from underrepresented communities who will, it is hoped, apply for, be accepted into, and complete traditional law school and ultimately return to their communities and practice law.

In the last issue of *Bar News*, I highlighted another great way to address the attorney shortage in rural areas of the state—expanding the APR 6 law clerk program. The APR 6 program allows people with a B.A. degree who are interested in becoming an attorney, such as a paralegal or a legal assistant, to partner with a qualified attorney, law clerk tutor, or assistant tutor for four years. The end result, at a cost of approximately \$8,100, is a law clerk student who is qualified to sit for the Washington bar exam and become a licensed attorney. Participants in the law clerk program are also more likely to stay in the same small town or rural area where they’ve worked and have families and in this way help to increase access to justice for the members of these communities.

These are some of the many reasons that I have been and will continue to be a major advocate of the APR 6 program. I would like to see the Washington Supreme Court consider expanding the rules of the program to allow for an unpaid APR 6 tutor or panel of tutors to take on more than one APR 6 law clerk student at a time. Such a rule change could increase the pipeline of APR 6 law clerk students becoming attorneys who can help ease the shortage of practitioners in rural communities.

While these efforts are important and should be encouraged, I believe we as a Bar Association and legal profession need to develop more aggressive approaches to recruitment and retention of attorneys to provide necessary services to the public throughout the state.

As always, it remains a tremendous honor to serve as your FY 23 WSBA president. Please feel free to reach me at danclarkbog@yahoo.com with any questions, comments or concerns. [BN](#)

NOTES

1. www.americanbar.org/news/abanews/aba-news-archives/2020/08/legal-deserts-threaten-justice/.
2. Demographics can be found at www.wsba.org/about-wsba/who-we-are.
3. <https://law.seattleu.edu/student-life/community/diversity-equity-inclusion/lisac-plus-program/>.



2015 WASHINGTON STATE

CIVIL LEGAL NEEDS STUDY UPDATE

Civil Legal Needs Study Update Committee
Washington State Supreme Court - October 2015

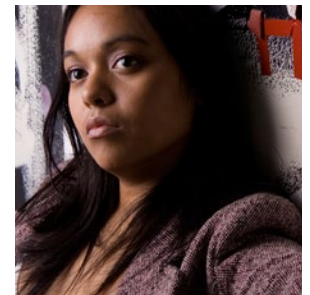




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WASHINGTON'S CIVIL JUSTICE SYSTEM MUST SERVE ALL OF US

This Report summarizes the findings of the 2015 Washington Civil Legal Needs Study Update (CLNS Update). Conducted in late 2014, the Report updates a similar study published by a task force appointed by the Washington State Supreme Court in 2003. Like its predecessor, this Report was commissioned by a special committee of the Washington State Supreme Court.

The 2003 Civil Legal Needs Study was the first rigorous assessment of the unmet civil legal needs of low-income families in Washington State. The 2003 study found that three of every four households experienced at least one civil legal problem, and that nearly nine in ten of those who had a problem did not get the help they needed. The 2003 study galvanized a decade-long effort to increase capacity to address the civil legal problems of low-income Washingtonians and secure the resources to achieve this goal.

Unfortunately, in the years that followed, the economy fell into recession, throwing greater numbers of Washingtonians into poverty, the most since the Great Depression. The face of poverty changed, as members of racial and ethnic minority groups experienced disproportionate consequences of both this recession and its aftermath. Changing government policies and private sector practices also contributed to new and ever more complex legal problems for those living in poverty.

By 2014, the Washington Supreme Court had become increasingly aware that the

2003 Study was outdated and no longer the most relevant or reliable source of information upon which policy makers could make investment decisions and legal aid providers could make strategic decisions about where, when and how to target their limited services. The Court appointed a 12-member Civil Legal Needs Study Update Committee to conduct a fresh assessment of the prevalence and substance of civil legal problems experienced by low-income individuals and families. The Committee engaged Washington State University's Social and Economic Sciences Research Center (WSU-SESRC) to conduct the study. Beginning in June 2015, WSU-SESRC published a series of reports outlining in detail the results of the study. These can be found at: <http://ocla.wa.gov/reports>.

This Report synthesizes and presents the core highlights of that research. The findings are sobering. Low-income Washingtonians routinely face multiple civil legal problems that significantly affect their everyday lives. These problems are experienced to greater degrees by low-income persons of color, victims of domestic violence or sexual assault, persons with disabilities and youth. The compound effect of these problems on individuals and families today is even more acute than it was a decade ago, with the average number of civil legal problems per low-income household having nearly tripled since 2003.

At the same time, and despite much work over the last decade, our state's civil justice system does not serve Washington's poorest residents the way that it should. Most

low-income people do not get the help they need to solve their legal problems, and significant majorities of low-income people do not believe they or others like them will receive fair treatment by our civil justice system.

This Report challenges us to do better:

- It challenges us to ensure that low-income residents understand their legal rights and know where to look for legal help when they need it.
- It challenges us to squarely address not only the scope of problems presented, but the systems that result in disparate experiences depending on one's race, ethnicity, victim status or other identifying characteristics.
- It challenges us to be aware of the costs and consequences of administering a system of justice that denies large segments of the population the ability to assert and effectively defend core legal rights.

Ultimately, it challenges us to work all the harder to secure the investments needed to deliver on the promise embedded in our constitutional history and our nation's creed – that liberty and justice be made available “to all.”



JUSTICE CHARLES K. WIGGINS, *Chair*
Civil Legal Needs Study Update Committee

EXECUTIVE SUMMARY

LOW-INCOME WASHINGTONIANS FACE MULTIPLE CIVIL LEGAL PROBLEMS BUT FEW GET THE HELP THEY NEED



Many Do Not Believe They'll Receive Fair Treatment From the State's Civil Justice System

Justice is absent for low-income Washingtonians who frequently experience serious civil legal problems.

More than 70% of the state's low-income households experience at least one civil legal problem each year on matters affecting the most fundamental aspects of their daily lives, including accessible and affordable health care; the ability to get and keep a job; the right to financial services and protection from consumer exploitation; and the security of safe and stable housing.

Those who face one such problem, often have other serious and related problems at the same time. One struggling mom says she feels as though one problem simply leads to another:

"The day I got custody of my son, I was laid off. Three years later, I'm still having trouble making a living. My son is ADHD and autistic. I can't keep minutes on my phone and keep food in my house. Police have been racial profiling. It's just been hard."

Many see their problems compounded by race, ethnicity, age, disability, immigration status or status as a victim of domestic violence or sexual assault.

While the U.S. Constitution guarantees all people, regardless of their ability to pay, the right to legal representation in a criminal trial, it does not extend that right to people who have civil legal problems. That leaves a majority of low-income individuals and families in Washington to face and resolve their problems alone – without the help of a lawyer, no matter how complex or life-changing a problem may be. And it leads many to feel a high level of distrust in the civil justice system and its ability to help people like them.

Indeed, the Justice Gap¹ in Washington is real and it is growing. This calls out for a thoughtful, significant and coordinated response.

This Report spotlights the key findings of the 2015 Civil Legal Needs Study Update – a rigorous and methodologically sound inquiry into the type and prevalence of civil legal problems low-income families and individuals face today.

Some of the key findings:

- **Civil legal issues are common.** Seven in ten low-income households in Washington State face at least one significant civil legal problem each year. The average number of problems per household increased from 3.3 in 2003 to 9.3 in the latest, 2014 survey.
- **The most common problems have changed.** Health care, consumer/finance and employment now represent the three areas with the highest percentage of problems.
- **Race, ethnicity and other personal characteristics affect the number and type of problems people have.** These personal characteristics also affect the degree to which people experience discrimination or unfair treatment and the degree to which legal help is secured.
- **Victims of domestic violence and/or sexual assault experience the highest number of problems per capita of any group.**
- **Many are adversely affected by data tracking.** In addition to discrimination and unfair treatment of legally protected classes of people (for example, race), significant percentages of low-income households experience unfair treatment on the basis of their credit histories, prior involvement with the juvenile or adult criminal justice system and/or their status as a victim of domestic violence or sexual assault.
- **There is a significant legal literacy problem.** A majority of low-income people do not understand that the problems they experience have a legal dimension and that they would benefit from getting legal help.
- **The vast majority of people face their problems alone.** More than three-quarters (76%) of those who have a legal problem do not get the help they need.
- **Most low-income people have limited confidence in the state's civil justice system.** Also perceptions about the fairness and effectiveness of the system to help solve problems experienced by "people like me" differ significantly on the basis of race, ethnicity and other characteristics.

1 The "Justice Gap" refers to the difference between the number of problems experienced by low-income Washingtonians for which they need legal help and the actual level of legal help that they receive to address such problems.

FACING COMPLEX PROBLEMS ON THEIR OWN



“I HAD NO IDEA WHAT I WAS DOING,”

ANNA CONFESSED

Desperate to stop her abusive ex-spouse from gaining custody of their daughter but unable to afford a lawyer, Anna spent hours in the local library with court documents spread on the counter and plugging quarters into the copy machine.

She didn't understand how the judicial system worked and admitted to making “a lot of mistakes.” She missed so many days of work to be in court that she lost her job at a Skookum shipyard.

Every year Washington's lowest income residents experience an onslaught of civil legal problems. A mother and her kids are evicted from their apartment following a domestic violence dispute. A family drowning in medical bills sees no other choice but bankruptcy. Low-wage workers do not get paid or they have wages improperly withheld. Families are harassed by debt collection companies, often for non-existent debts. Children do not get the special educational services that they need and fall

behind in school. Couples divorce and fight over child custody and family matters.

Low-income individuals and families face these and other significant life-changing issues without legal help and with little understanding of how to navigate the justice system on their own.

The Washington Civil Legal Needs Study Update assesses the type and complexity of civil legal problems low-income individuals and families face. The quotes and personal stories contained within this Report portray the real-life experiences of many whose voices are not often heard.

The updated data is drawn from a statewide survey of more than 1,600 low-income Washingtonians conducted by WSU-SESRC in late 2014. (See Appendix A for detailed survey methodology). It reveals substantive changes both in the number and nature of problems confronting those living in poverty since the 2003 Washington Civil Legal Needs Study was published.

This Report outlines the nature of the civil legal problems low-income Washingtonians are grappling with today. The intent is to inform discussions about how these issues are addressed by the public, state leaders, legal aid providers and the civil justice system.

More than 400 people who participated in the survey offered additional, largely anonymous comments when asked at the end of the questionnaire if they had anything more to add. Some of those comments are reflected within without their names or other identifying information.

This Report also contains stories of people who did not participate in the survey but agreed to share their stories so that justice system leaders, policy makers and the public would understand the very real human experience behind the numbers. Their names have been changed and their stories are italicized.

SEVEN IN TEN LOW-INCOME HOUSEHOLDS FACE AT LEAST ONE CIVIL LEGAL PROBLEM EACH YEAR... AND THEY LIKELY HAVE MORE THAN ONE



“MY HOMELESSNESS WAS THE RESULT OF JOB LOSS, DUE
TO AN EXTENDED ILLNESS AND HOSPITALIZATION.”

2014 SURVEY RESPONDENT

The Civil Legal Needs Study Update underscores what many people know all too well: One problem often leads to another, and then another. Some people find themselves caught in a spiral of legal problems that causes them to lose a job and then, in succession, their housing and whatever financial resources they had.

More than 70% of the low-income households in Washington face at least one civil legal problem during a 12-month period. This finding remains relatively unchanged between the 2003 Civil Legal Needs Study and this 2015 Report.

However, there is a critical difference between 2003 and today: The average number of civil legal problems per household tripled over the past decade.

The 2003 Civil Legal Needs Study found low-income households in the state faced an average of 3.3 legal problems within the previous 12 months. The 2014 survey reveals the number of legal problems confronting Washington low-income residents jumped to an average of 9.3 problems within a year's time.

Average number of legal problems per household	
2003	2014
3.3	9.3

Survey results compared	2003	2014
Households experienced at least one legal problem	75-79%	71.1%
Average number of legal problems per household	3.3	9.3
Households with four or more legal problems	38-54%	46.3%

TODAY'S MOST COMMON PROBLEMS INVOLVE ISSUES RELATING TO HEALTH CARE, CONSUMER/FINANCIAL SERVICES AND EMPLOYMENT



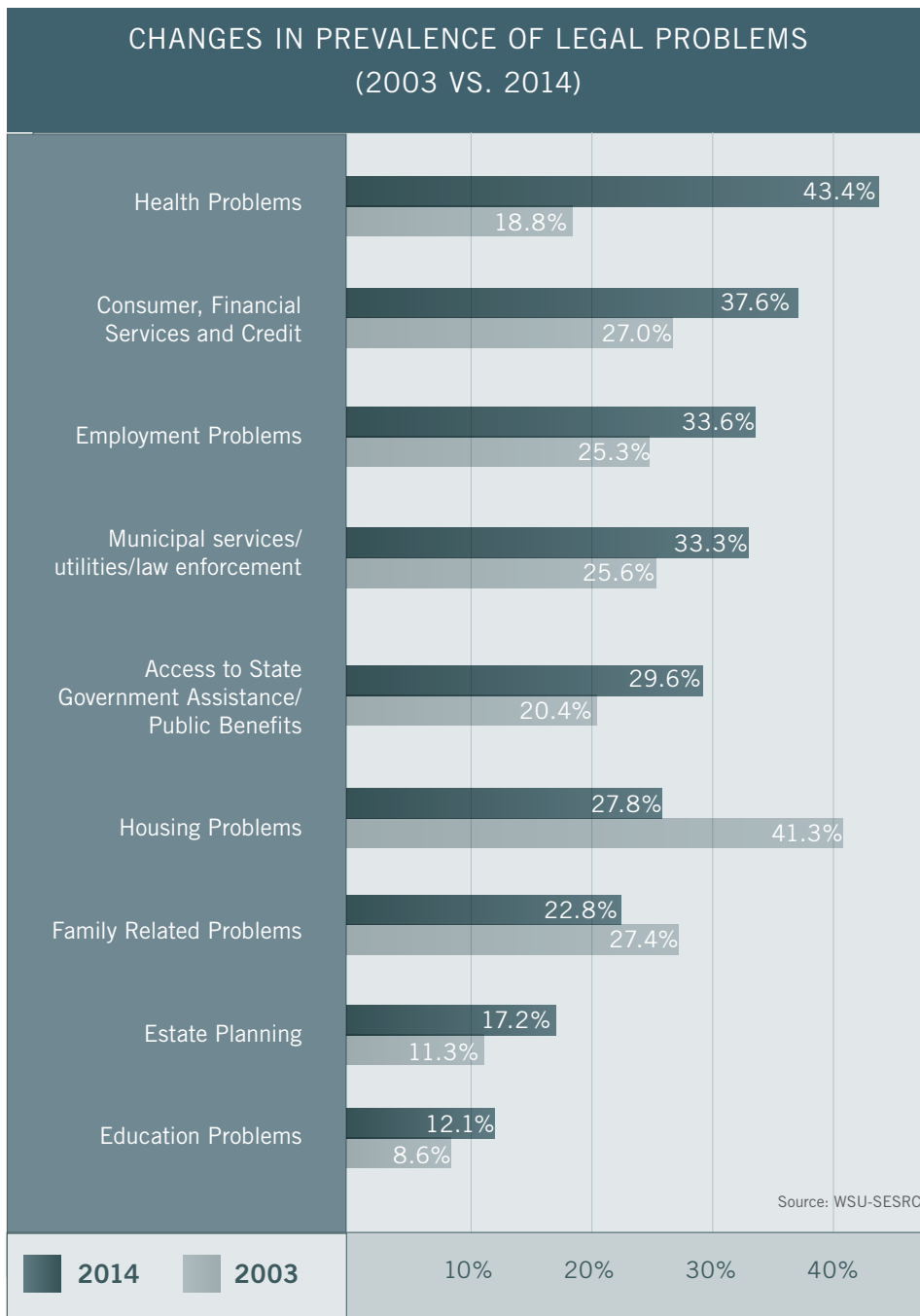
Despite expanded access to public and private health insurance under the federal Affordable Care Act, health care soared to the top of the list of the most prevalent problems facing low-income Washingtonians. More than 43.4% of all 2014 survey respondents identified at least one problem related to health care, a huge increase from 18.8% in the 2003 survey when housing issues were the No. 1 concern.

There were other significant changes in the types of problems experienced by low-income Washingtonians between 2003 and 2014.

For example, in 2003 low-income people reported the highest prevalence of problems in the areas of housing, family relations and employment. More than 10 years later, health care and consumer/finance represent the most frequent areas where people experience the greatest number of problems, with employment closing out the top three.

“I AM SINGLE AND PREGNANT AND HAVE NO IDEA WHAT MY LIVING SITUATION WILL BE LIKE IN THE COMING MONTHS. I RECENTLY SUSTAINED AN INJURY WITH NO DISABILITY INSURANCE, USED ALL MY PAID TIME OFF THAT I WAS SAVING FOR THE BIRTH OF MY BABY AND AM CURRENTLY WORRIED ABOUT HOW I AM GOING TO PAY THE BILLS.”

2014 SURVEY RESPONDENT



While access to necessary and appropriate health care services is an important problem, issues relating to medical care cost recovery -- medical bills and medical debt and related debt collection -- pose even more common problems. And low-income Washingtonians do not realize there are legal remedies to those problems. For example, people are not told, nor do they realize, they are entitled to charity care at a non-profit hospital. As a result, they do not assert those legal rights or ask a lawyer to help them solve such problems.

Problems involving consumer, debt collection, access to credit and financial services rank No. 2 in the list of most common problems reported by Washington's low-income households. Of those who identify at least one civil legal problem, 37.6% face at least one problem in the consumer/finance area.

Reflecting the transition from reliance on governmental support to the low-wage economy that is prevalent today, nearly half (45%) of all survey respondents reported that they were employed at least part-time. Fully one third (33.6%) of all respondents (those actively employed and those not working) reported at least one problem related to employment

Low-Income Washingtonians Face Many Other Significant Civil Legal Issues

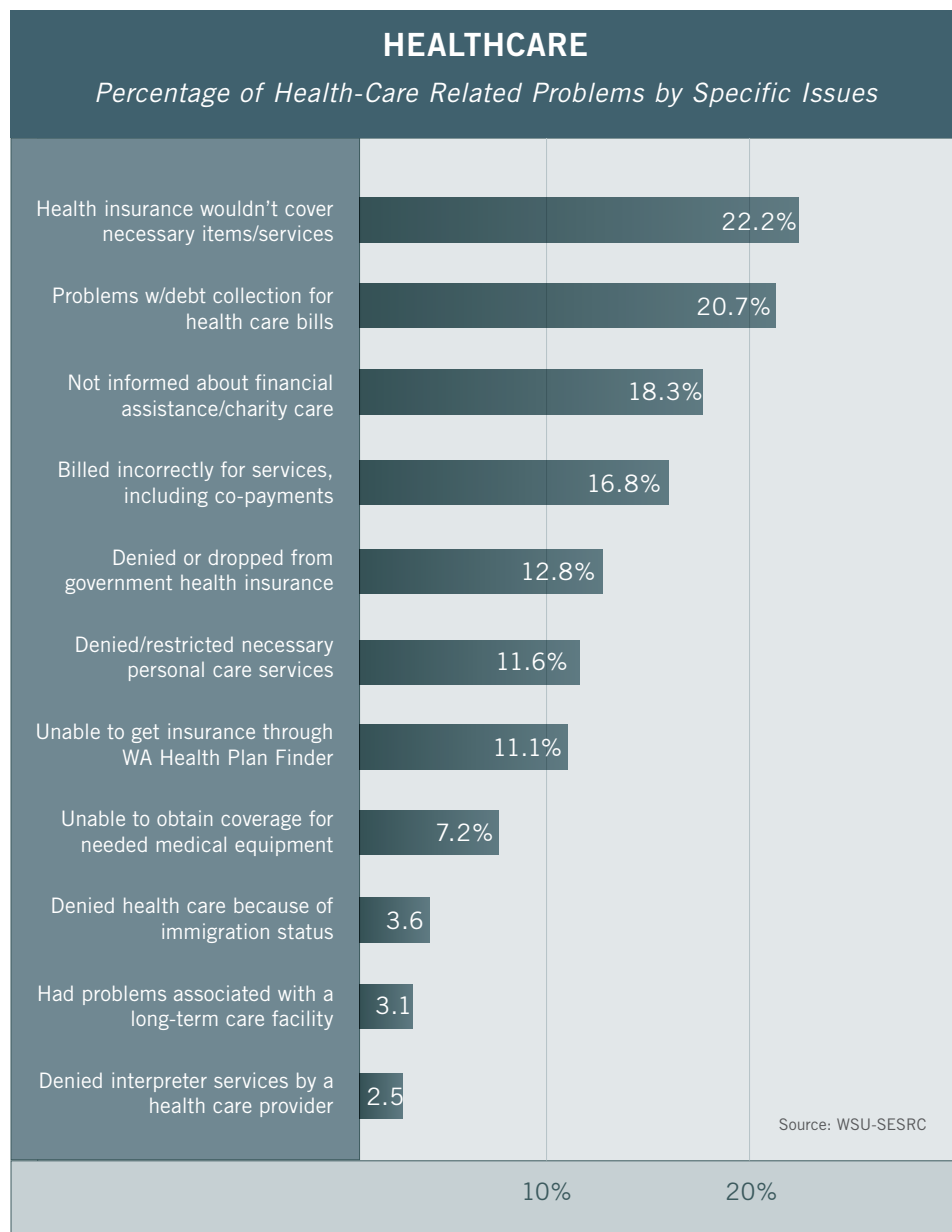
The low-income households and individuals who responded to the 2014 survey reported a total of 7,460 separate civil legal problems, not including those related to discrimination and unfair treatment.

“I HAVE OVER \$80,000 IN MEDICAL DEBT FROM WHEN I DIDN’T HAVE HEALTH INSURANCE AND AM ALSO UNABLE TO AFFORD TO FILE FOR BANKRUPTCY.”

2014 SURVEY RESPONDENT

In addition to health care, consumer/finance and employment, other substantive issues include:

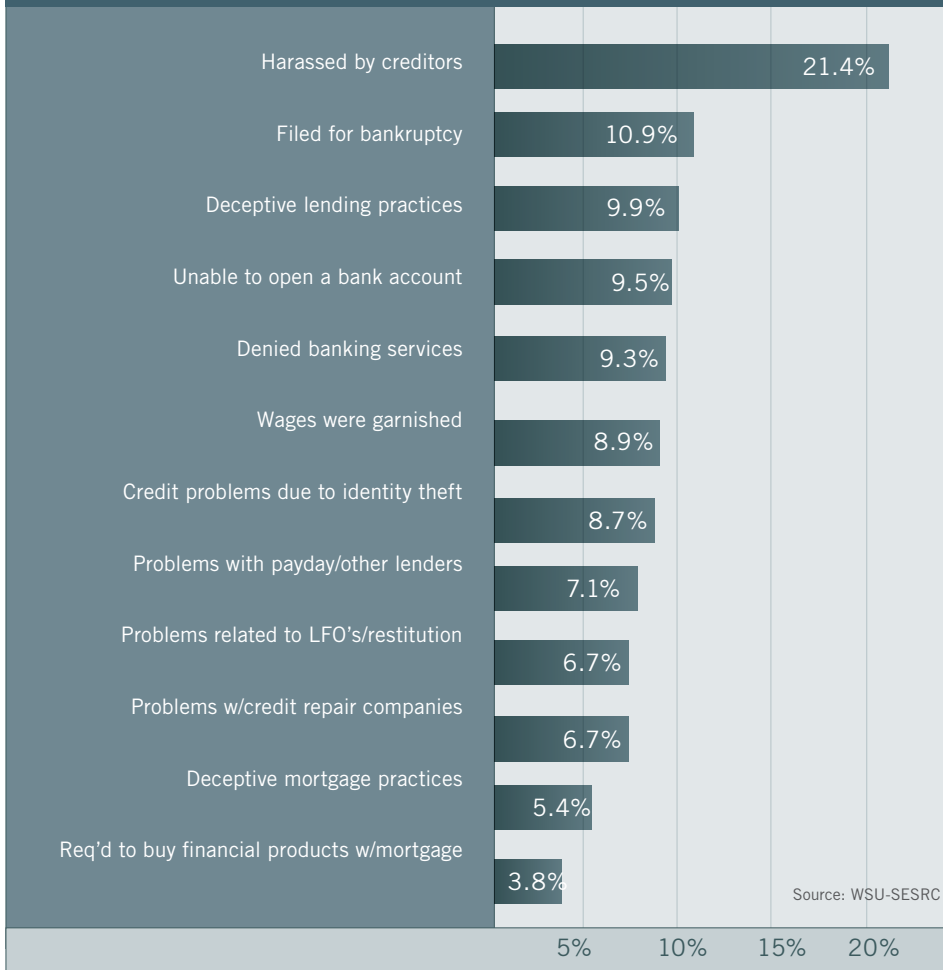
- **Municipal services and utilities.** Low-income households experience significant problems with law enforcement, and have substantial difficulties getting and keeping essential utility services.
- **Access to government assistance.** Individuals and families often have state government-provided benefits denied, terminated or reduced. People experience problems related to the Earned Income Tax Credit or are denied or terminated from federal Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI) benefits.
- **Rental housing.** The most common problems include landlord disputes, unsafe housing conditions and problems related to eviction or termination of a lease.
- **Family-related problems.** Principal problems involve issues arising from family conflict, including child custody and support and problems associated with being a victim of domestic violence or sexual assault.
- **Estate planning and guardianship.** Individuals or families need help with a will or estate plan or inheritance problem. Some have difficulty administering an estate, trust or will.



“IT WOULD BE VERY HELPFUL IF THERE WERE MORE ACCESS TO LOW-INCOME LEGAL RESOURCES FOR DISABLED PEOPLE, ESPECIALLY BECAUSE MY ROOMMATE AND I ARE IN DANGER OF BEING EVICTED AFTER OUR APARTMENT COMPLEX WAS FORECLOSED AND THE NEW MANAGEMENT DOES NOT WANT LOW-INCOME PEOPLE IN THE COMPLEX.”

2014 SURVEY RESPONDENT

CONSUMER, FINANCIAL SERVICES AND CREDIT PROBLEMS BY SPECIFIC ISSUE



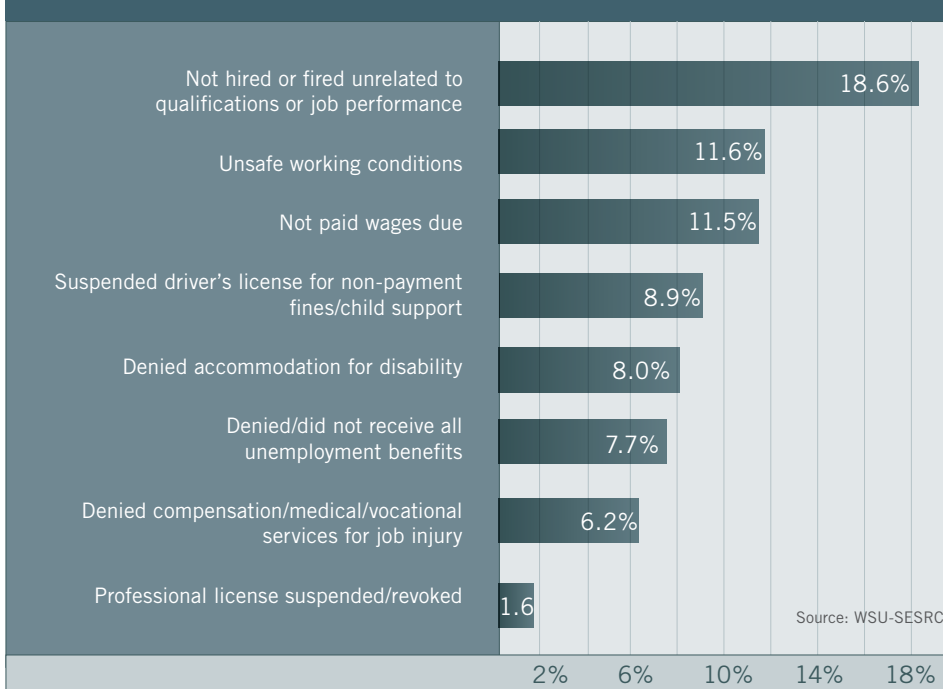
- **Education.** The most common problems include issues relating to unsafe schools, school discipline including suspension and expulsion, and the inability to complete school because of multiple moves and homelessness.

Sixteen-year-old Molly finally worked up the courage to tell her parents she had been sexually assaulted by her brother from the time she was 6 until age 12. She also hinted that she is a lesbian. Her family not only refused to believe her, they threatened to pull her out of high school and keep her at home.

“ONE DAY I WAS AT SCHOOL AND I JUST DIDN’T GO HOME. I DIDN’T HAVE A JOB OR MONEY,”

SAID MOLLY, WHO EVENTUALLY FOUND HOUSING WITH A LEGAL ASSISTANT’S HELP.

EMPLOYMENT PROBLEMS BY SPECIFIC ISSUE



WHO YOU ARE MATTERS

The 2014 survey was designed to measure whether people experience different problems or are treated differently because of legally protected characteristics such as race, ethnicity, age, gender, sexual orientation or disability.²

The survey also probed whether low-income people are treated differently or unfairly because of their credit history and a prior juvenile or adult criminal record or whether low-income people are treated differently or experience different legal problems because of their status as an immigrant, military service member or veteran, or because they or someone in their household is involved with the child welfare system, a victim of domestic violence or sexual assault, or incarcerated in a juvenile or adult correction facility.

The findings show that who you are, indeed, matters.

Native Americans, African-Americans, people who identify as Hispanic or Latino, victims of sexual assault, young adults and families that include military members or veterans experience substantially greater numbers of problems and different types of problems than the low-income population as a whole. Often these problems adversely affect their ability to get or keep a job, secure stable housing and access necessary consumer credit. They also lead to greater difficulties with debt collection and their ability to secure government benefits to which they are entitled by law.

Native Americans and African-Americans Experience Higher Rates of Legal Problems Than Other Low-Income Washingtonians

“The justice system is unfair to black people and not willing to help us.” 2014 survey respondent



“AT WORKSITES, BECAUSE I AM SPANISH, I AM TREATED VERY BAD.”

2014 SURVEY RESPONDENT

Native Americans and African-Americans not only represent a disproportionately larger share of Washington's low-income population, they also face disproportionately more problems in areas that affect the quality of their daily lives as well as limit future opportunities.

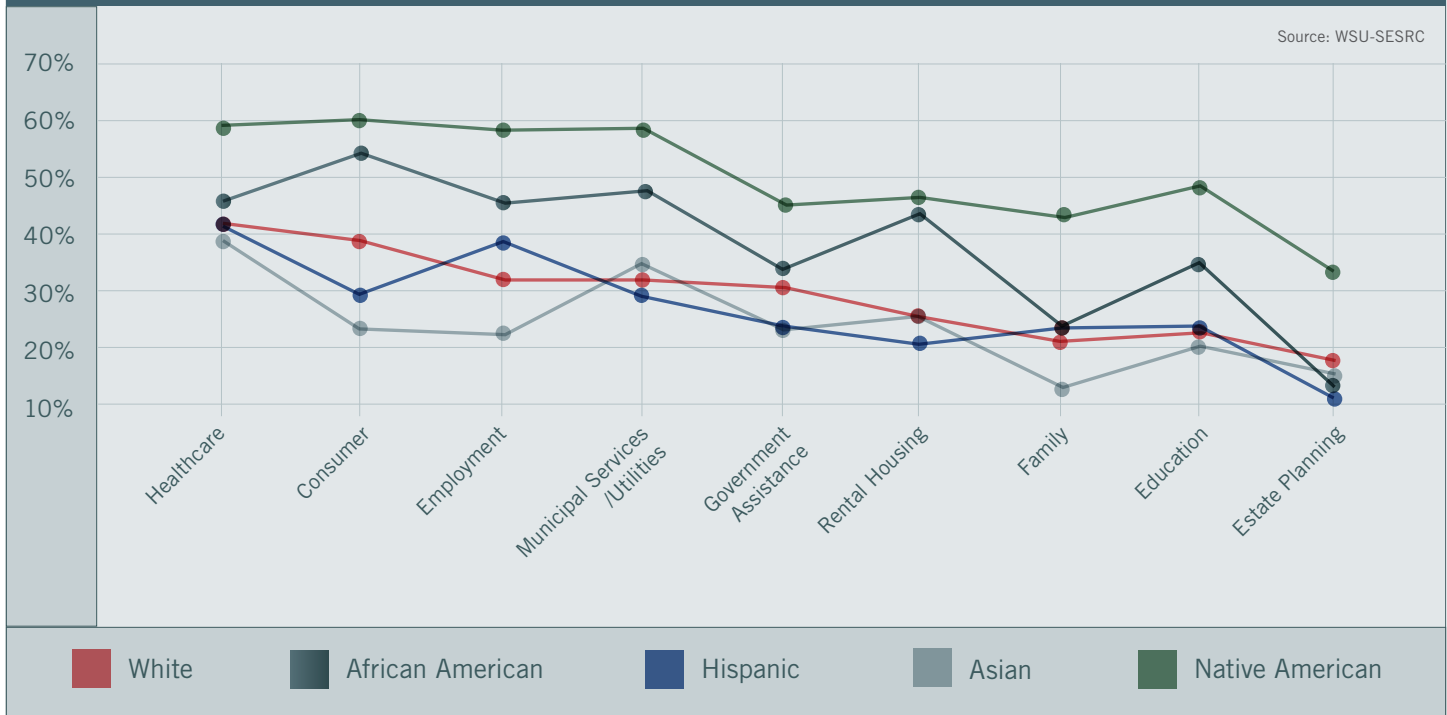
For example, while one-third (33%) of the general population with at least one civil legal problem has an issue related to employment, well over half (56.7%) of low-income Native American households have an employment problem and close to half (44.7%) of low-income African-American households face an employment issue.

While fewer than one-third (27.8%) of all low-income households suffer at least one problem with rental housing, 42.9% of Native American households, 41.5% of African-American households, and 37.8% of households that include a person with a disability have rental housing problems.

² The CLNS Update Committee intended to include low-income persons who identify as lesbian, gay, bisexual, transgender or who were questioning their sexual orientation or gender identity or expression as one of the target groups. Questions relating to this group inadvertently did not get incorporated into the survey instrument. The CLNS Update Committee is now updating its survey data to ensure fair representation of members of this target group.

PREVALENCE OF LEGAL PROBLEMS BY RACE

Source: WSU-SESRC



Group members experience common problems

The Civil Legal Needs Study Update also sought to determine what problems specific groups have in common because of their status or history. Below are the top substantive problem areas among the groups identified within the survey:

- **Persons with disabilities.** Denial or termination of government disability assistance; denial or limited access to government services because of failure to make reasonable accommodation for their disability; denial or limited access to services from a private business because of lack of accommodation or other factor.
- **Immigrants.** Problems with immigration status, including the inability to secure legal authorization to live or work in the U.S.; denial of housing, employment, health care, etc. because of immigration status; job-related harassment because of immigration status.
- **Native Americans.** Denial of services from an Indian tribe or community-based organization that serves Native Americans; denial of services from the Bureau of Indian Affairs or Indian Health Services;

problems with estate planning and protection of inherited trust property; discriminated against or terminated from a job by a tribe or tribally owned business.

- **Military service members and veterans.** Denial of veteran's (VA) disability, educational or other benefits and services; problems related to discharge status; inability to access necessary care for service-related physical or mental health conditions.
- **Youth and young adults (Ages 15 to 21).** Discrimination and unfair treatment by law enforcement; problems getting housing, a job or education due to present or prior involvement in the juvenile justice

system; problems related to involvement in the child welfare or foster care system.

- **Persons involved in the child welfare system.** Investigated by Child Protective Services (CPS); coerced or attempted coercion into giving up custody of child; involuntarily given psychotropic medication to manage behavior.
- **Persons in juvenile and adult correction facilities.** Problems with visitation or communication with family members and friends; lack of access to legal help or law-related materials; lack of planning or support for re-entry after detention or incarceration.

“DISCOURAGED. AS A SENIOR CITIZEN WITH DISABILITIES, I FEEL AS THOUGH I AM OVERLOOKED BY THE SYSTEM.”

2014 SURVEY RESPONDENT

MANY SUFFER HIGHER DEGREES OF DISCRIMINATION AND UNFAIR TREATMENT BECAUSE OF RACE, ETHNICITY AND OTHER STATUS-BASED CHARACTERISTICS

Even though she'd paid both her rent and utility bills, Tiffany's landlord tried to have her lights and water shut off and persuaded a police officer to post a three-day eviction notice on her door.

The officer approached Tiffany's 11-year-old son while she was away, telling him he didn't want to "make it harder for folks like you to live here." Tiffany, who is African-American, was convinced "folks like you" referred to her race, especially because the landlord made it clear he wanted to move a white family into the house.

Tiffany found a volunteer lawyer who helped get the three-day eviction dropped. However, Tiffany decided to move her family anyway because she feared her experience with the landlord would not get any better.

The 2003 Civil Legal Needs Study found that more than a quarter (27%) of all respondents reported one or more problems involving one or more forms of discrimination. In designing the 2014 survey, researchers built in questions that would look more deeply at these issues in order to better understand the types of discriminatory and unfair treatment low-income people experienced.

To this end, the 2014 survey asked not only whether and to what degree low-income people experience discrimination and unfair treatment on the basis of legally protected classifications (e.g., race, ethnicity, national origin, gender, age, disability, sexual orientation), it asked whether and to what degree people experience discrimination and unfair treatment on the basis of other characteristics including their credit history, prior involvement in the juvenile or criminal justice system, immigration status, status as a military service member or veteran, status as a victim of domestic violence or sexual

assault and status as a youth between the ages of 15 and 21.

The findings make it clear that, as a whole, low-income people in Washington are profoundly affected by discrimination and other forms of unfair treatment. Across the entire spectrum of low-income respondents with at least one civil legal problem, 44.1% experienced a problem that involves discrimination or unfair treatment.

These problems are compounded if a person is of color, has a disability, is a victim of

TIFFANY DECIDED TO MOVE HER FAMILY ANYWAY BECAUSE SHE FEARED HER EXPERIENCE WITH THE LANDLORD WOULD NOT GET ANY BETTER.

domestic violence or is between the ages of 15 and 21.

Nearly four in ten low-income African-Americans (36.9%) and nearly three of ten low-income Native Americans (27.6%) experience at least one problem involving discrimination or unfair treatment based on race or color. Two in ten people who identify as Hispanic or Latino (19.6%) have a problem involving discrimination or unfair treatment and related to their race or color.

Jorge was current on his rent and in compliance with his lease, but his landlord claimed he was intimidating and threatening people in the landlord's office. These allegations were racially tinged and never proven, but Jorge was still evicted.

These are not just problems that crop up once in a while. They are struggles individuals and families encounter every day.

More than four in ten low-income African-Americans experience discrimination or unfair treatment related to employment (40.5%) or rental housing (44.6%). Nearly four in ten low-income Native Americans (38.2%) experience discrimination or unfair treatment when it comes to accessing financial services or dealing with consumer issues.

Persons with disabilities who are also low-income report higher rates of discrimination or unfair treatment in areas related to their employment (35.4%), rental housing (32.4%), consumer/financial issues (32.7%) and health care (32.4%).

Low-income young people between the ages of 15 and 21 experience a 43% higher rate of discrimination and unfair treatment than the state's low-income population as a whole.

The survey found more than four of ten (41.3%) low-income young people struggle with discrimination or unfair treatment related to employment. In addition, 10.1% of respondents ages 15 to 21 suffer discrimination or unfair treatment related to their sexual orientation, more than three times the rate (2.9%) experienced by the state's general low-income population.

VICTIMS OF DOMESTIC VIOLENCE OR SEXUAL ASSAULT EXPERIENCE THE MOST PROBLEMS OF ALL

Maria's boyfriend was extremely angry when she ended their relationship. His reaction quickly escalated to physical assault and someone called the police. Afterwards, the landlord told the apartment manager to evict Maria and her three young daughters because "if the police have to come, she is somebody we don't want in the building."

The landlord relented only after Maria begged to stay. Her family kept their home but she faced a frightening choice when she was physically assaulted a second time.

"I didn't call the police because I didn't want to get evicted," she said. "I knew if the police came one more time, I thought the landlord would really push me out."

While 71% of all low-income Washington residents experience at least one civil legal problem, fully 100% of those who have been a victim of domestic violence and/or sexual assault (DV/SA victims) will experience important civil legal problems.

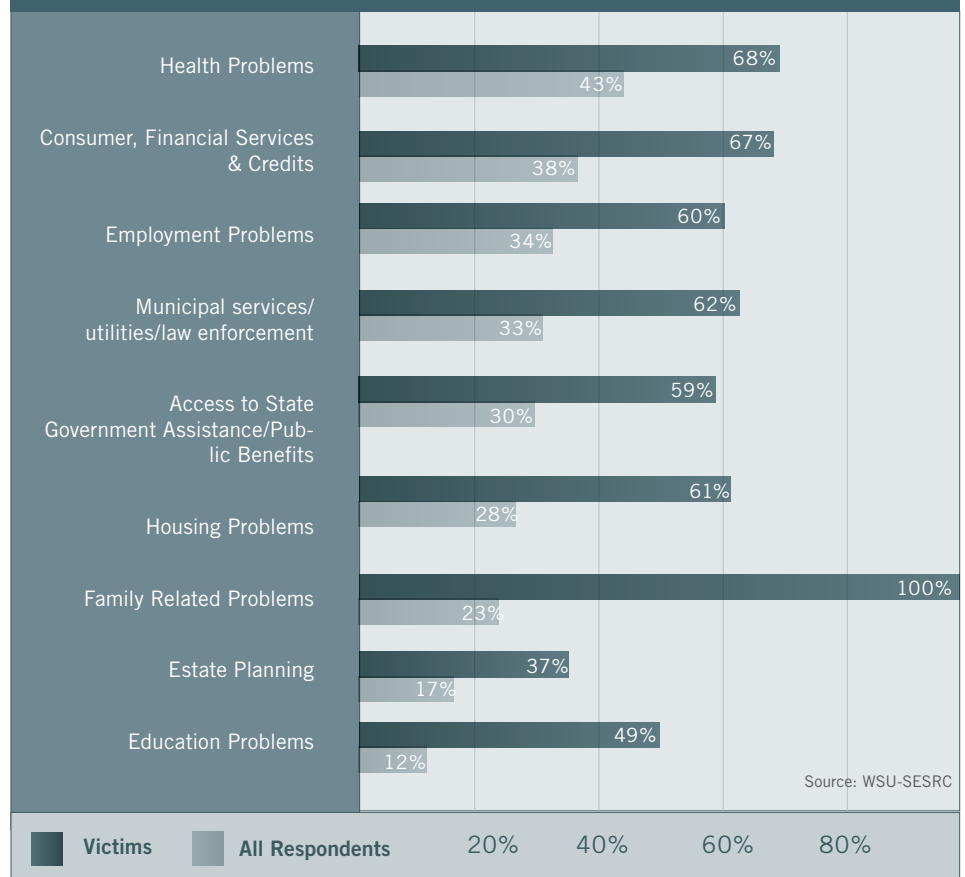
Low-income Washingtonians who have suffered domestic violence or been a victim of sexual assault experience an average of 19.7 legal problems per household, twice the average experienced by the general low-income population. They experience legal problems at substantially higher rates than the general low-income population across the entire spectrum of legal problem areas, including family relations, health care, consumer-finance, municipal services, rental housing and employment.

The majority of the domestic violence/sexual assault victims responding to the survey were female (83.5%), more than half (53.5%) were between the ages of 18 and 39 and 62.5% lived in a household with children.

Here, too, the survey results demonstrate the disproportionate impact that race, ethnicity and certain other characteristics have on the degree to which people experience important civil legal problems.



DOMESTIC VIOLENCE/SEXUAL ASSAULT VICTIMS EXPERIENCE MUCH HIGHER RATES OF LEGAL PROBLEMS



Low-income people who have been a victim of domestic violence and/or sexual assault and who identify as African-American, Native American, Hispanic/Latino, LGBTQ,

have a disability or who are young are more than twice as likely to experience discrimination and unfair treatment than members of the overall low-income population.

DATA TRACKING ENABLES DISCRIMINATION AGAINST THOSE WITH PAST JUSTICE SYSTEM INVOLVEMENT AND CREDIT PROBLEMS

“I’M OVER 70. I’M OF MIXED RACE. I’M GAY. I HAVE A PAST FELONY (FROM 35+YEARS AGO) AND I’M ON SSI. ...IT ISN’T EASY TO EVEN LOCATE WHAT SERVICES THERE ARE, AND THEN IF THERE IS A SERVICE TO BE FOUND, TO BE INFORMED THAT I’M NOT ELIGIBLE TO RECEIVE THAT SERVICE FOR ONE OR MORE OF THE ABOVE LISTED REASONS.”

2014 SURVEY RESPONDENT

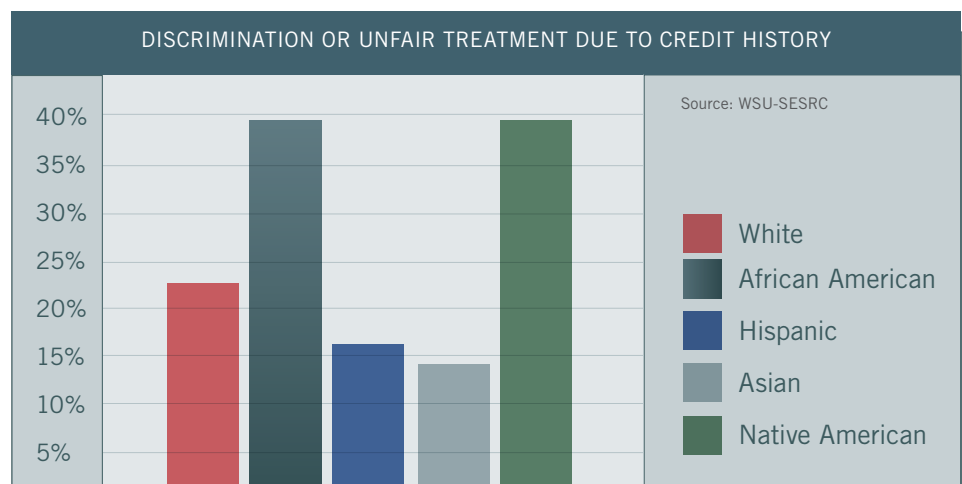
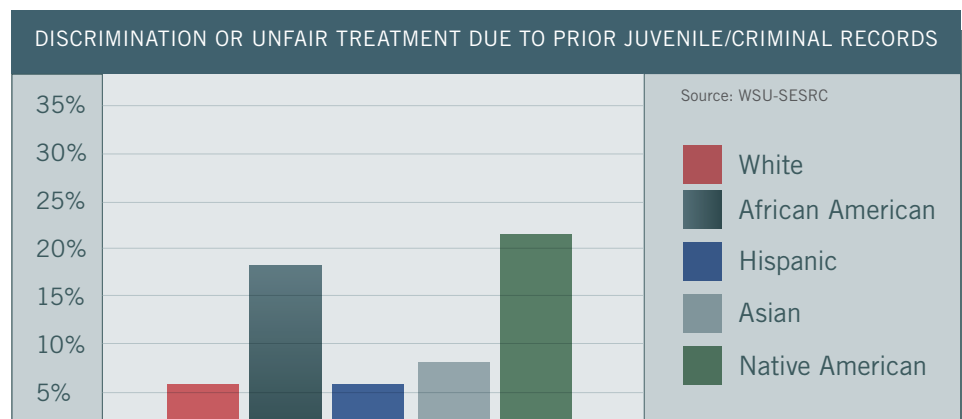
The widespread commercial use of databases and data mining practices makes it easier today for a landlord or prospective employer to check on an applicant’s credit history or court records. For many, that means past mistakes adversely affect a person’s current and future ability to secure housing, get a job, or take care of their financial needs.

Although Washington was among the first states in the nation to limit the circumstances in which employers can rely upon credit history in making hiring decisions ³, nearly one in four of the 2014 survey respondents (23%) said they have been discriminated against or treated unfairly because of their credit history.

Not surprisingly, given the higher level of poverty experienced by members of these groups, African-Americans (38.8%), Native Americans (38.8%), people with disabilities (30.8%) and victims of domestic violence or sexual assault (44.1%) experience substantially higher levels of discrimination and unfair treatment due to their credit history than the general low-income population.

People with juvenile or criminal records also find it hard to get that second chance.

Nearly one in ten (9%) experience discrimination or unfair treatment because they



had a prior juvenile or adult criminal record. Reflecting their disproportionate involvement in the criminal and juvenile justice systems, low-income African-Americans and

Native Americans experience significantly greater levels of these problems than the general low-income population.

THE MAJORITY OF LOW-INCOME WASHINGTONIANS FACE THEIR CIVIL LEGAL PROBLEMS ALONE



In 2003, more than 85% of low-income people in the state faced their legal problems without help from an attorney. Many people didn't understand that the issue they faced – be it financial or family or something else – had a legal solution. Others simply did not know where to find help.

The 2014 survey found little change. The vast majority of people face their problems alone. Of those who experienced a civil legal problem, at least 76% do not get the help they need to solve their problems. Sixty-five percent of those who have a civil legal issue do not pursue help at all.

The latest findings confirm a significant and persistent Justice Gap in Washington, where low-income Washingtonians continue to face their problems without necessary legal help, no matter how serious or complex the problem may be and regardless of the potential short- or long-term consequences.

There is one notable difference from the 2003 study, however. While just 12% of the state's low-income who had a civil legal problem got at least some assistance in 2003; 24% of the households that had one or more legal problems received some kind of assistance in 2014, whether it was from the toll-free legal aid hotline (CLEAR), a non-profit legal aid program or a private attorney.

“I FEEL LIKE WE DON'T UNDERSTAND THE TYPES OF LEGAL SERVICES OUT THERE THAT ARE AVAILABLE TO FAMILIES LIKE US. WE AVOID LEGAL ISSUES BECAUSE WE CAN'T PAY THE COURT FEES.”

2014 SURVEY RESPONDENT

MOST PREVALENT PROBLEMS PEOPLE EXPERIENCE		
Source: WSU-SESRC		
1	43.4%	Health Care
2	37.6%	Consumer, Financial Services, Credit
3	33.6%	Employment
4	33.3%	Municipal Services/Utilities
5	29.6%	Access to Government Assistance

PROBLEMS PEOPLE MOST OFTEN SEEK LEGAL HELP		
Source: WSU-SESRC		
1	28%	Housing
2	22%	Family & Domestic Problems
3	20%	Consumer, Financial Services, Credit
4	19%	Healthcare
5	16%	Disability-Related Problems

Nearly a third (30%) of those who sought help but could not get it said they could not afford to pay for it. Others reported they were unable to get through on busy phone lines or that nobody returned their calls. Some said they were confused by the information they had received.

While low-income people experience the greatest number of problems in the areas of health care, consumer/finance and employment, these are not the problems for which low-income people most often get legal help. Instead, low-income people seek and get help most often when faced with problems involving rental housing, family relations and consumer/finance.

These appear to be problem areas where, from the perspective of the low-income person, there is a clearer understanding

that their problem is legal in nature or that resolution of the problem requires court involvement, such as eviction, divorce, custody, debt collection or bankruptcy.

With other issues, such as denial of service, discrimination and unfair treatment or employment, people may not understand that these problems have a legal solution. Or, even if they recognize the legal component, they are not sure whether or how to seek legal assistance.

Even Limited Legal Assistance Helps People Solve Problems

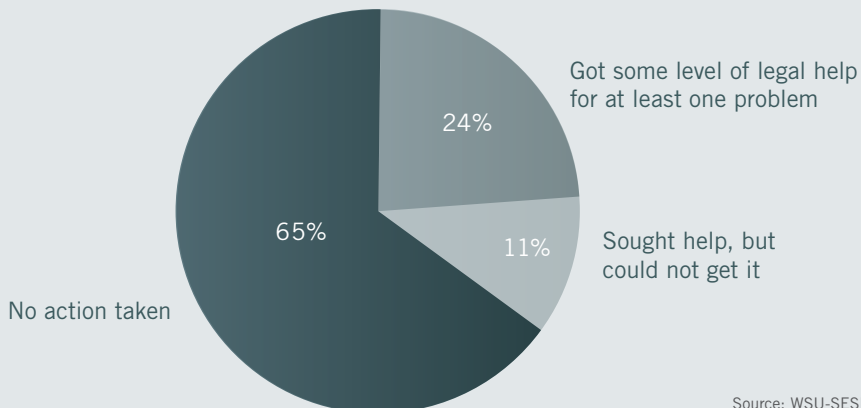
John is deaf. He had a dispute with Section 8 housing inspectors and received an eviction notice.

"A woman came once with an interpreter. She didn't show up the next time. I tried to write notes but the communication was not good," he said. "Eventually, I did find a lawyer who could sign. A lot of deaf people don't know what to do and they don't know how to find a lawyer."

As the 2003 Study found, and results from the 2014 survey confirm, those who get legal help – even limited legal advice or assistance – are able to solve their problems. Nearly two-thirds (61%) of those who sought and received some level of legal assistance were able to solve some portion of their legal problem. Of these, nearly 30% were able to resolve their problems completely.



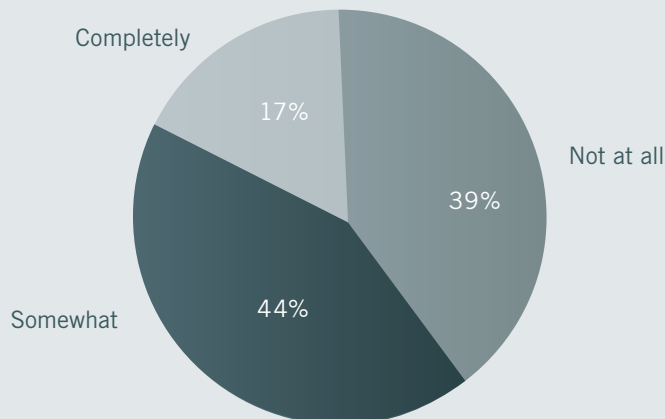
FEW GET THE HELP THEY NEED



Source: WSU-SESRC

LEGAL HELP MAKES A DIFFERENCE

If you got help, were you able to solve your legal problem?



Source: WSU-SESRC

MOST LOW-INCOME PEOPLE DO NOT HAVE CONFIDENCE IN WASHINGTON'S CIVIL JUSTICE SYSTEM



Roger was a teenager when he was convicted back in the 1980s for possession of a small amount of cocaine. He had no other felonies but his past record made it extremely difficult to find housing.

Even after a legal aid lawyer convinced a judge to clear the record, Roger had little confidence in the justice system.

"No, not really," he said. "They can do anything they want and nobody can do anything about it."

Some people do not think their problems have a civil legal dimension, or solution. The 2014 study demonstrates that many lack confidence that the civil justice system can or is even willing to help people like them. More than forty percent (41.2%) of respondents felt that they had little chance of protecting their legal rights or those of their families in the court system. When added to the percentage of those who felt that the courts might help them protect their legal rights "some of the time," the number exceeds two-thirds of all respondents. Only 25% of respondents felt that they could protect their legal rights in court "all of the time" or "most of the time."

Similarly, nearly sixty percent (58.4%) of respondents do not feel that they are treated fairly on a consistent basis within the civil justice system. And roughly the same percentage (58.6%) do not feel that the

"THEY CAN DO ANYTHING THEY WANT AND NOBODY CAN DO ANYTHING ABOUT IT."

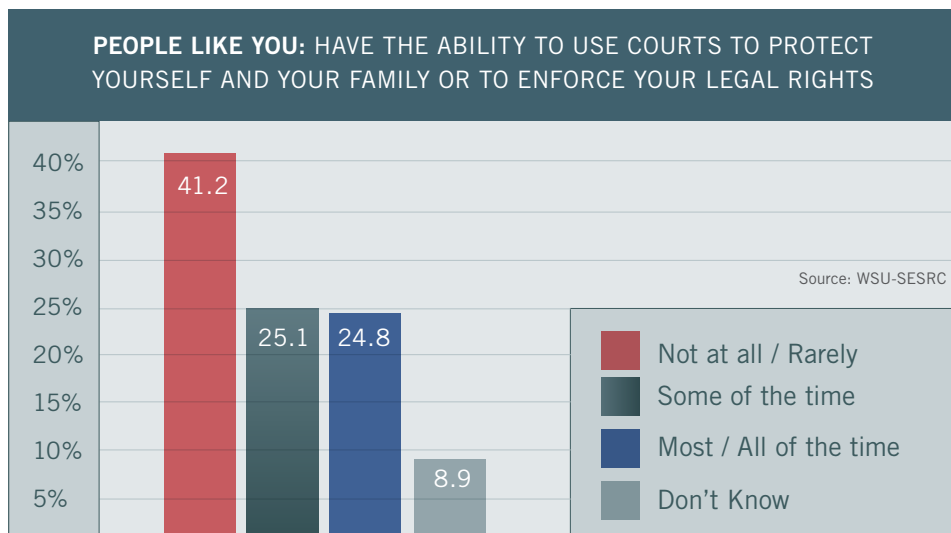
civil legal system is a forum to which they can confidently turn for the resolution of important legal problems.

Higher numbers of white respondents than non-white (35% vs. 25%) believe that the civil justice system will treat them fairly "all of the time" or "most of the time."

Conversely, those with the highest proportion of legal issues have the least confidence

that the legal system can solve their important problems.

More than one in four (28.5%) of low-income African-Americans, nearly one-third (31.5%) of low-income Hispanic households and more than a third (34%) of those who have been victims of domestic violence or sexual assault believe the legal system solves their problems "rarely" or "not at all."



THE CHALLENGE



TURNING FINDINGS INTO ACTION

More than 400 Washingtonians volunteered additional comments after they had completed the survey questions. Many recognized the impact the survey findings and this Report could have for them and for their neighbors.

Some shared deeply personal stories indicating how desperate they are for change. They don't understand their options and even if they do, they cannot get the help they need.

A veteran wrote:

"I moved here one year ago from Portland after my service to this country and I have had to sell my truck, all my tools and constantly fight to stay afloat. If it were not for my wife and child, I do not believe I would even fight to stay alive. People are struggling and it's getting worse. Thank you for trying to do something."

The discouraged veteran joined dozens of others who said they appreciated being able to play a role in making things better.

One person wrote:

"Muchas gracias por hacerme parte de esta encuesta.
(Thank you for making me part of this survey)"

Another shared:

"With my recent battles in state court as well as tribal court, I know how important a survey like this is. Best of luck to you in obtaining the information you need and thank you for allowing me to participate!"

Finally, others challenged the state to turn the findings into action:

"Will anything constructive get done about the legal problems mentioned in this survey?"

One person asked:

"Will people in my position, or worse off than I, get any sort of meaningful help?"

The answer to these questions, and so many others, is up to **all of us**.

ABOUT THIS UPDATE:

WHY, WHO, WHEN, WHERE & HOW

Preparations for this Washington State Civil Legal Needs Study Update began in the summer of 2012, when the Washington State Office of Civil Legal Aid, in consultation with the Washington Supreme Court's Access to Justice Board, convened 16 Washington community leaders for a Civil Legal Needs Scoping Group. Members were asked to assess the continuing relevancy of the landmark 2003 Civil Legal Needs Study and make recommendations regarding the need to update that study.

In December 2012, the group issued its recommendations. It determined that an update of the 2003 Study was necessary to ensure effective and relevant understandings of the civil legal problems experienced by low-income Washingtonians. The Scoping Group recommended that any such update be designed to:

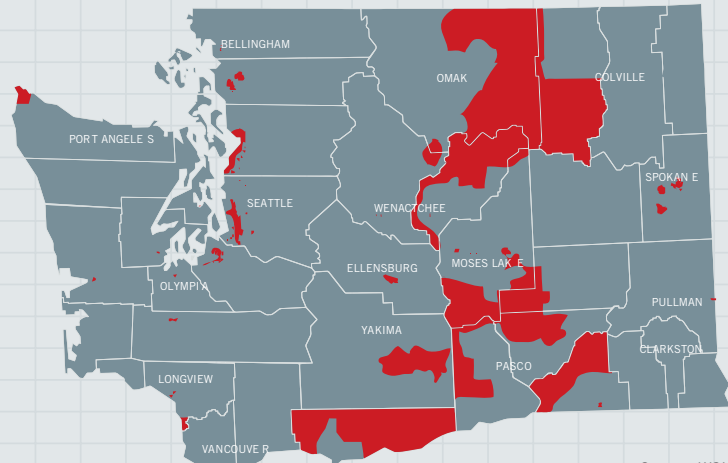
- Understand the nature, gravity and consequences of legal problems that low-income people face in Washington State.
- Identify new civil legal problems that have emerged since the 2003 study.
- Assess the impact those problems have on low-income individuals and families.

The group also recommended that any such update generate a more informed understanding of:

- How race, gender, age, disability and other factors affect the depth and type of civil legal problems people experience.
- Who gets help and who does not and whether those who do get legal help are able to achieve long-term solutions.

Finally, the group recommended that a blue ribbon panel led by a Justice of the Washington State Supreme Court guide the effort. Acting upon that recommendation, the Washington State Supreme Court established a 12-member Civil Legal Needs Study Update Committee. Justice Charles K. Wiggins was appointed to lead it.

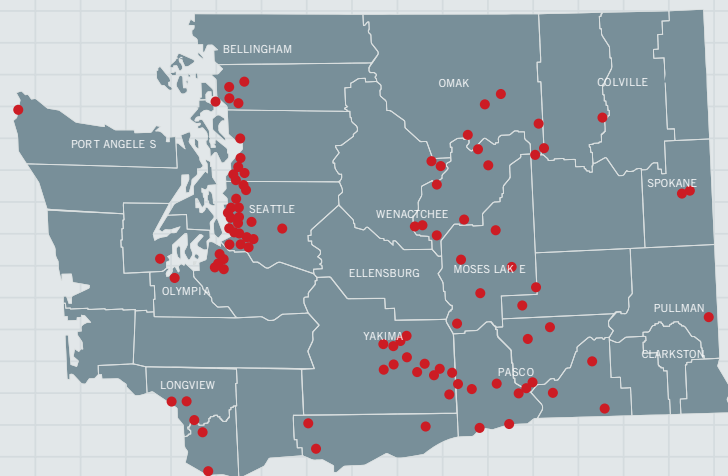
HIGH POVERTY CENSUS TRACTS SURVEYED



Survey randomly sent to 15,000 addresses in 126 census tracts with high poverty and high minority poverty rates

Target Census Tracts

SURVEYS COMPLETED BY HOUSEHOLDS ACROSS THE STATE



With the objectives set, Washington State University's Social and Economic Sciences Research Center (WSU-SESRC) was engaged to conduct the comprehensive update of the civil legal problems experienced by Washington's low- and lowest-income residents.

Researchers identified 126 high poverty and high minority poverty census tracts throughout the state. They designed a 77-question survey instrument that inquired into more than 130 specific legal problems that might be experienced by low-income people within 18 potential problem areas including employment, health care, consumer, education, family relations

and access to government assistance. The survey also asked questions focused on the experience of those who tried to get legal help to resolve their problems and probed the experiences of members of certain demographic groups who might be expected to have different types of problems or different justice system experiences.

WSU-SESRC distributed and conducted the survey via regular mail, the internet and phone, including cell phones. A sample of 15,000 households was initially invited to participate.

To be eligible, individuals needed to have

a household income at or below 200% of the federal poverty guidelines set by the U.S. government. That means no more than \$23,340 for an individual living alone; \$31,460 for a two-person household; \$39,580 for a family of three; \$47,700 for a four-person household and no more than \$55,820 for five persons.

The survey was administered from October to December 2014. A total of 1,375 low-income respondents completed surveys, ensuring that the results would achieve the target of 95% confidence (+/- 3%). (See the appendices for more details on survey methodology.)

SURVEY REFLECTS WASHINGTON'S LOW-INCOME DEMOGRAPHICS

Race	Total	Poverty	Percent of Each Race in Poverty	Percent of Poverty Population	2014 CLNS Percentage Participation
White	5,343,321	668,475	12.5%	69.1%	57.6%
Black or African American	248,640	66,402	26.7%	6.9%	9.2%
American Indian and Alaska Native	92,760	23,815	25.7%	2.5%	6.3%
Asian	529,174	67,765	12.8%	7.0%	7.6%
Native Hawai'ian and other Pacific Islander	41,111	6,972	17.0%	0.7%	1.4%
Some other race	251,012	71,425	28.5%	7.4%	3.1%
Two or more races	330,244	62,428	18.9%	6.5%	3.6%
Total Poverty (including two or more races)	6,836,262	967,282	14.1%		
Hispanic or Latino origin					
Hispanic or Latino origin (of any race)	815,416	216,692	26.6%	22.4%	20.4%
White alone, not Hispanic or Latino	4,854,186	543,367	11.2%		

The survey participants mirror the racial and demographic groups represented at the same level or above their presence in the state's overall low-income population. Poverty data comes from the 2013 American Community Survey, United States Census Bureau.

MORE WASHINGTONIANS LIVE IN POVERTY THAN EVER BEFORE



The worst economic downturn since the 1930s, dealt a blow to every household in Washington State. Wages declined or stagnated. Many families lost their homes while others were caught in the net of high-interest predatory lending. The state's economy has slowly improved for some. The unemployment rate has dropped. However, Washington's most vulnerable residents were struggling prior to the latest recession, and they are not benefiting from the recovery.

According to the U.S. Census, the number and percentage of Washington residents living in poverty rose dramatically between 2000 and 2013. In 2013 Washington ranked among the top three states with the fastest rising poverty rate.

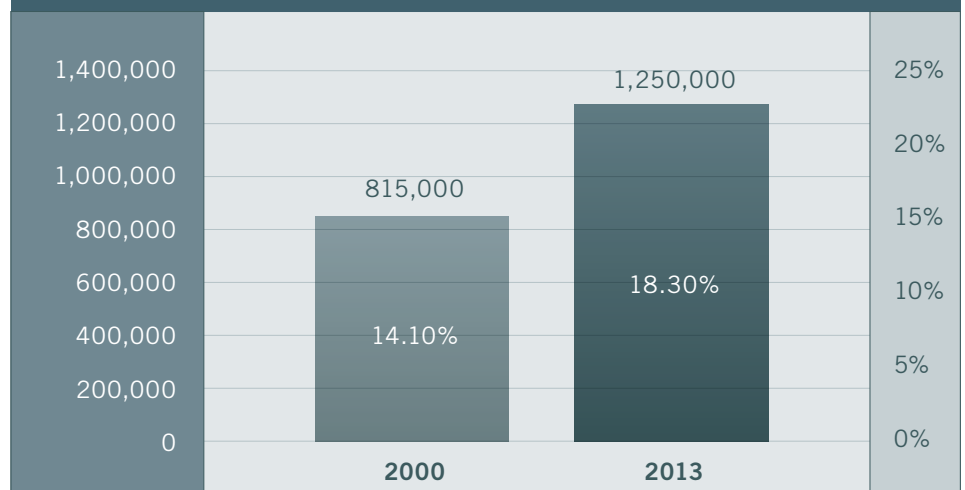
Poverty's grip is also stronger for members of minority and ethnic groups. The latest census figures show Blacks/African Americans who comprise just 4% of Washington's total population and Hispanic/Latinos who account for about 12% of the total population were twice as likely as non-Hispanic whites to have incomes at or below the poverty level. According to the U.S. Census Bureau's 2013 American Community Survey, more than a quarter of all Blacks or African-Americans (26.7%), Native Americans (25.7%) and Hispanic/Latinos (26.6%) living in Washington State had incomes below the federal poverty level. The corresponding level of non-Hispanic Whites is 12.5%

“WHEN YOU’VE WORKED ALL YOUR LIFE AND FIND YOURSELF, AT ALMOST 60, WITH NOTHING, IT’S QUITE A SHOCK.”

2014 SURVEY RESPONDENT

POVERTY RATE CHANGE FOR PERSONS LIVING AT OR BELOW 125% OF POVERTY (2000-2013)

Source: U.S. Census



*A person must have an income at or below 125% of the Federal Poverty Level to be eligible for legal aid.

ACKNOWLEDGMENTS

The 2014 Civil Legal Needs Study Update Committee would like to thank those who dedicated resources and time to make this update possible:

- WASHINGTON STATE OFFICE OF CIVIL LEGAL AID
- LEGAL FOUNDATION OF WASHINGTON
- WASHINGTON STATE SUPREME COURT GENDER AND JUSTICE COMMISSION
- WASHINGTON STATE SUPREME COURT MINORITY AND JUSTICE COMMISSION
- WASHINGTON STATE SUPREME COURT ACCESS TO JUSTICE BOARD
- WASHINGTON STATE OFFICE OF THE ATTORNEY GENERAL
- KING COUNTY DEPARTMENT OF PUBLIC DEFENSE
- WASHINGTON STATE BAR ASSOCIATION
- KING COUNTY BAR ASSOCIATION
- WASHINGTON STATE ASSOCIATION FOR JUSTICE

The Update Committee also extends its appreciation to Washington State University's Social and Economic Sciences Research Center (SESRC) researchers Danna Moore and Arina Gertseva for providing expert guidance concerning project implementation, to other SESRC staff and students at Washington State University for support in the conduct of the survey and data analysis, to the staff of the Office of Civil Legal Aid for coordinating and staffing this effort, to the Washington State Center for Court Research, to members of the CLNS Update Technical Advisory Work Group, and to the thousands of low-income residents throughout Washington State who took the time to participate in this survey.

Committee Members/Staff

Washington State Supreme Court 2014 Civil Legal Needs Study Update Committee

- JUSTICE CHARLES WIGGINS, CHAIR, WASHINGTON STATE SUPREME COURT
- JUSTICE STEVEN GONZÁLEZ, WASHINGTON STATE SUPREME COURT, REPRESENTING THE WASHINGTON SUPREME COURT ACCESS TO JUSTICE BOARD
- ROBERT FERGUSON, WASHINGTON STATE ATTORNEY GENERAL
- HON. LORRAINE LEE, CHIEF ADMINISTRATIVE LAW JUDGE, WASHINGTON STATE OFFICE OF ADMINISTRATIVE HEARINGS
- HON. LESLEY ALLAN, CHELAN COUNTY SUPERIOR COURT
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- RUTH GORDON, JEFFERSON COUNTY CLERK, REPRESENTING THE WASHINGTON SUPREME COURT GENDER AND JUSTICE COMMISSION
- HON. ANITA DUPRIS, CHIEF JUDGE, COLVILLE TRIBAL COURT OF APPEALS
- NINFA QUIRÓZ, REPRESENTING SEA MAR COMMUNITY HEALTH CENTERS
- SALLY PRITCHARD, REPRESENTING UNITED WAY OF SPOKANE COUNTY
- VIRLA SPENCER, REPRESENTING THE CENTER FOR JUSTICE IN SPOKANE
- JAMES A. BAMBERGER, DIRECTOR, WASHINGTON STATE OFFICE OF CIVIL LEGAL AID, PROJECT COORDINATOR



APPENDICES

Appendix A: Methodology

In collaboration with OCLA, the CNLS Update Committee and a Technical Advisory Group convened by OCLA, SESRC developed a detailed strategy to employ multiple modes of data collection which effectively address the research agenda of the study. The study consisted on two components. The first component, the Probability Survey (PS), included a random probability based statewide (mail, web, and telephone) survey of adults in low- and lowest-income households.

To be eligible for the survey individuals must have a household income that falls at or below 200% of the federal poverty guidelines as established by the U.S. Department of Health and Human Services. In 2014, the average US poverty threshold for an individual living alone was \$11,670; for a two-person family, \$15,730; for a three-person family, \$19,790 and for a family of four, \$23,850. The federal poverty threshold was used to determine the eligibility of a household for participation in the survey.

In particular, the eligibility income for an individual living alone was \$23,340 or below; for a two-person household, \$31,460 or below; for a three-person household, \$39,580 or below; for a four-person household, \$47,700 or below; and for a five-person household \$55,820 or below.

To efficiently and effectively reach low-income individuals and households, 126 census tracts having more than 25% of individuals at or below 125% of poverty were selected for sampling.

The study used an Address Based Sample (ABS)—the sampling of addresses from a near universal database listing of addresses. An ABS frame is comprised of all residential addresses within a pre-defined geographic area and, thus, allows targeting the areas with the hard-to-reach demographic groups (e.g., lower income families, people with less education, those with disabilities, Blacks, Hispanics, rural residents, cell phone only households and households without phone service, etc.).

Another advantage of ABS frame is that it can be augmented with an array of socio-economic variables including household size, or neighborhood-level characteristics, such as mean income or education levels, predominant language spoken, and proportion of various racial or ethnic groups. This information can ensure the sample is more representative, particularly if the study wants to target and gain cooperation among the hard-to-reach demographic groups (i.e., people with disabilities, people of color, low-income individuals, new immigrants/English language learners, unemployed/displaced workers, and elders).

Finally, the residential addresses in the ABS frame can be matched against a database of telephone owners. Approximately 40 percent of the addressees in the sample had telephone numbers matched to

the location. This allowed for a mixed mode data collection (mail, internet, and phone), the best approach in resident surveying to maximize response rates. Mixing modes allowed us to ensure most members of the target population are given a chance to respond to a survey using a mode particularly appealing to them or using a mode that was only available to them.

Prior to conducting a large-scale probability survey, SESRC conducted a Pilot Study. The Pilot Study was designed to test the effect of prepaid cash incentives as well as promise of a \$20 payment upon completion of the survey on the response rate. The Pilot Study was initially fielded on August 8, 2014 and it continued through mid-September 2014.

Screening for the survey involved verifying that the respondent met the criteria of: 1) Being the most knowledgeable about family legal matters; and 2) Providing income information that allowed them to be classified by family income; and 3) Having family income below 200 percent of the Federal Poverty Level (FPL).

For the Pilot Study, a representative address based sample (ABS) of 2,000 households was selected from the 126 census tracts having more than 28% of individuals living at or below 125% of Federal Poverty Level (FPL). All 2,000 sample units were randomly allocated to one of the four experimental groups: 1) \$1 prepaid incentive and \$20 payment upon completion; 2) \$2 prepaid incentive and \$20 payment upon completion; 3) \$0 incentive but \$20 payment upon completion; and 4) \$0 prepaid incentive and \$0 payment upon completion. Members of all four groups were promised to be entered into a lottery drawing of one of three \$50 grocery certificates and one tablet computer upon completing the survey.

All four groups were recruited using a mail-based letter-invitation that asked the head of household or a person the most knowledgeable about family legal matters to complete the online survey. The incentives were mailed along with this invitation to members of the incentive groups.

Twelve days later after the initial recruitment mailing, the portion of the sample with mailing addresses only was sent a mail-based invitation to complete the survey in three possible ways: 1) complete an enclosed paper-based version of the survey and return it via mail in the enclosed return envelope; 2) complete the survey via web (URL and unique access code were provided); and 3) complete the survey via phone (a toll-free number to call was provided).

The portion of the sample with known phone numbers was contacted via phone fifteen days later after the initial recruitment mailing and respondents were given the option to complete the survey over the phone at the time of the contact or at the time scheduled by the respondent. If a respondent indicated he/she was unable to complete the survey by phone, he/she was offered the survey URL and unique access code as an alternative way to

complete the survey. An email message with the URL and access code were sent at the time of the phone call to those respondents opting for the internet. The phoning has continued throughout the data collection period.

Five days after the second contact, those with mail addresses only (no corresponding phone number tied to the location) received a postcard-reminder with the URL, username and password that allowed respondents to go to a web survey to complete the survey. Those with known phone numbers are being contacted via phone.

Finally, a week after the third contact the portion of the sample with mailing addresses was sent another mail-based invitation to complete the survey in three possible ways: 1) complete a replacement paper-based survey and return it via mail in the enclosed return envelope; 2) complete the survey via web (URL and unique access code were provided); and 3) complete the survey via phone (a toll-free number to call was provided). Those with known phone numbers are being contacted via phone and were given the option to complete the survey over the phone at the time of the contact or at the time scheduled by the respondent.

The pilot study showed that the \$2 prepaid incentive and \$20 payment upon completion is generating a substantially higher completion rate than the \$1 prepaid incentive and \$20 payment, and that both are exceeding the zero incentive. This combination of incentives (group 2 in the experiment) was chosen for the larger study because it yielded the highest proportion of responses.

The state-wide survey that was launched in October 2014 used the same data collection used in the pilot study. A sample of 15,000

households within 126 pre-selected census tracts with high concentration of poverty was invited to participate in the survey.

A total of 3,125 households distributed throughout the state participated in screening for eligibility for the study. 1,375 eligible low and lowest income households completed the probability survey. In addition, 224 low-income respondents participated in the non-probability survey.

A total of 1,375 completed questionnaires from eligible respondents is large enough to ensure a sample error of no larger than +/-3% sample error (SE) at the 95% confidence level. Thus, it is possible to draw conclusions about the low-income population as a whole that can be accepted with a high degree of confidence from observations about the survey respondents.

While conclusions about the entire sampling frame can be drawn with confidence, the word of caution is in order. The universe from which the sample was drawn—residential households—is only an approximation of the universe that the study seeks to measure. High degree of residential instability that was reflected in approximately 15% mailings returned to sender from the total number of surveys sent out indicates that some low and lowest income households were not reached. Further, some households may have limitations of language that prevented them from participating in the survey. Finally, some kinds of sensitive legal problems are difficult, under the best of conditions, to discuss with strangers. A telephone survey is less amenable to building the personal trust and confidence to induce the survey respondent to speak freely about sensitive matters like abuse, immigration problems, or a wide range of family issues.

Appendix B: Master Tables

Master Table 1A: Relative Percentage of Legal Problems Shown as a Percentage of Total Number of Legal Problems by Substantive Problem Area and Demographic Group

	All	White	Non-White	African-Americans	Hispanics	Asians	Native Americans	Seniors	Not employed	Persons with a disability	Military Service Members	Households with children	DV/SA victims	Immigrants	Youth	Women	Men
Employment	11.8%	10.2%	12.3%	11.7%	15.1%	9.5%	10.8%	7.4%	10.4%	10.5%	11.1%	11.8%	10.8%	11.5%	14.1%	10.6%	12.9%
Rental Housing	15.4%	15.7%	14.9%	17.4%	11.9%	15.9%	14.4%	11.3%	15.9%	15.6%	15.1%	13.9%	16.9%	12.0%	14.4%	15.7%	13.9%
Mobile Housing	0.5%	0.4%	0.6%	0.0%	0.6%	1.7%	1.1%	1.1%	0.6%	0.5%	0.7%	0.5%	0.9%	0.9%	0.5%	0.3%	1.0%
Municipal Services/Utilities	10.7%	10.2%	10.9%	12.1%	9.4%	11.7%	11.3%	9.5%	11.0%	10.2%	8.8%	11.1%	9.2%	10.8%	11.9%	10.6%	10.8%
Consumer	17.1%	17.6%	17.1%	21.5%	15.3%	15.9%	15.8%	14.0%	16.4%	16.6%	19.4%	16.4%	15.2%	15.6%	13.9%	16.6%	18.7%
Government Assistance	8.0%	8.7%	7.5%	6.2%	7.2%	8.0%	7.6%	7.2%	9.1%	9.1%	7.8%	8.0%	7.3%	7.7%	9.1%	8.2%	8.0%
Health care	20.5%	21.2%	20.4%	16.2%	21.9%	21.4%	18.5%	28.8%	20.8%	22.1%	19.4%	18.7%	15.8%	25.1%	19.9%	20.9%	20.6%
Family	7.4%	7.5%	7.4%	7.4%	8.9%	7.0%	8.0%	4.4%	7.0%	6.8%	6.8%	9.9%	14.7%	6.5%	6.8%	8.2%	6.0%
Education	3.6%	2.6%	4.3%	4.5%	5.6%	3.1%	4.9%	1.1%	3.0%	3.2%	3.9%	5.9%	4.2%	5.2%	5.7%	3.7%	3.1%
Estate Planning	5.1%	6.0%	4.5%	3.0%	4.0%	5.8%	7.6%	15.5%	6.0%	5.4%	7.1%	3.8%	4.9%	4.7%	3.9%	5.2%	5.0%
Number of Legal Problems	7,460	3,234	4,010	881	1,281	515	842	666	3,998	3,921	1,255	3,654	1,770	1,590	1,087	4,600	2,502
Number of respondents	1,234	634	585	113	251	93	78	224	650	466	203	522	99	326	151	736	468
Mean number of problems per capita	6.05	5.10	6.85	7.80	5.10	5.54	10.79	2.97	6.15	8.41	6.18	7.00	17.88	4.88	7.20	6.25	5.35

Note: DV/SA abbreviation stands for Victims of Domestic Violence and Victims of Sexual Assault

Master Table 2: Prevalence of Discrimination and Unfair Treatment Based on Demographic Identity by Substantive Problem Area and Demographic Group

	All	White	Non-White	African-Americans	Hispanics	Asians	Native Americans	Seniors	Not employed	Persons with a Disability	Military Service members	Households with children	DV/SA victims	Immigrants	Youth	Women	Men
Employment	35.5%	35.9%	35.5%	40.5%	36.6%	34.2%	35.3%	26.3%	35.1%	35.4%	31.1%	39.1%	50.0%	36.4%	41.3%	34.2%	38.7%
Rental Housing	26.9%	27.3%	27.1%	44.6%	17.0%	18.4%	27.9%	15.0%	26.4%	32.4%	20.6%	29.7%	50.0%	17.5%	26.7%	32.1%	18.1%
Home ownership	7.8%	6.0%	10.0%	13.5%	6.3%	2.6%	17.6%	2.5%	8.0%	8.4%	8.7%	11.3%	20.8%	7.7%	6.7%	9.7%	5.4%
Utility Services	7.2%	5.0%	8.4%	5.5%	8.0%	5.3%	17.6%	2.5%	8.0%	9.2%	4.9%	8.2%	18.1%	7.0%	10.7%	6.7%	6.3%
Municipal Services/Land Use	3.5%	2.6%	4.0%	1.4%	3.6%	0.0%	13.2%	5.0%	3.7%	4.9%	1.0%	2.3%	6.9%	4.2%	2.7%	3.5%	3.2%
Law Enforcement	18.7%	16.9%	21.1%	21.6%	19.6%	15.8%	33.8%	7.5%	17.0%	23.5%	21.4%	20.2%	31.9%	17.5%	24.0%	16.1%	23.4%
Consumer	28.2%	30.9%	27.4%	33.8%	21.4%	26.3%	38.2%	18.8%	28.6%	32.7%	31.1%	30.0%	37.5%	18.9%	26.7%	28.6%	30.2%
Health care	22.3%	23.3%	21.5%	16.2%	19.8%	21.1%	32.4%	16.5%	26.3%	32.4%	22.5%	19.5%	29.2%	23.1%	21.3%	23.5%	20.8%
Government Assistance	17.7%	16.7%	19.7%	14.9%	16.1%	15.8%	29.4%	13.8%	20.9%	25.7%	24.3%	19.6%	33.3%	16.2%	18.9%	19.2%	15.8%
Education	10.7%	9.0%	13.0%	8.1%	13.4%	10.5%	23.5%	8.8%	11.2%	11.2%	9.7%	12.1%	16.7%	11.9%	18.7%	11.6%	10.4%
Government Programs	5.2%	2.6%	7.7%	5.4%	5.4%	7.9%	13.2%	5.0%	6.2%	7.4%	7.8%	4.7%	15.3%	4.9%	9.3%	5.1%	5.0%
Access to private business svc.	6.6%	6.6%	6.4%	9.5%	2.7%	2.6%	11.8%	6.3%	7.1%	8.1%	7.8%	5.8%	9.7%	4.9%	12.0%	6.7%	6.8%
Number of respondents	1,234	634	585	113	251	93	78	224	650	466	203	522	99	326	151	736	469

Note: DV/SA abbreviation stands for Victims of Domestic Violence and Victims of Sexual Assault

Note: Percentages include reported problems involving discrimination and unfair treatment on the basis of credit history, juvenile and criminal justice system involvement, immigration status, veteran status and status of a victim of domestic violence or sexual assault

Master Table 2A: Relative Percentage of Legal Problems Involving Discrimination Based on Demographic Identity Shown as a Percentage of Total Number of Discrimination Problems by Substantive Problem Area and Demographic Group

	All	White	Non-White	African-Americans	Hispanics	Asians	Native Americans	Seniors	Not employed	Persons with a Disability	Military Service members	Households with children	DV/SA victims	Immigrants	Youth	Women	Men
Employment	18.7%	19.6%	17.6%	18.9%	21.6%	21.3%	11.6%	20.6%	17.7%	15.3%	16.3%	19.3%	15.7%	21.4%	18.9%	17.4%	21.1%
Rental Housing	14.1%	14.9%	13.4%	20.8%	10.0%	11.5%	9.2%	11.8%	13.3%	14.0%	10.7%	14.6%	15.7%	10.3%	12.2%	16.3%	9.8%
Home ownership	4.1%	3.3%	5.0%	6.3%	3.7%	1.6%	6.4%	2.0%	4.1%	3.6%	4.6%	5.6%	6.5%	4.5%	3.0%	4.9%	2.9%
Utility Services	3.8%	2.7%	4.1%	2.5%	4.7%	3.3%	6.9%	2.0%	4.1%	4.0%	2.6%	4.0%	5.7%	4.1%	4.9%	3.4%	3.4%
Municipal Services/Land Use	1.8%	1.5%	2.0%	0.6%	2.1%	0.0%	4.6%	3.9%	1.9%	2.1%	0.5%	1.2%	2.2%	2.5%	1.2%	1.8%	1.7%
Law Enforcement	9.8%	9.3%	10.4%	10.1%	11.6%	9.8%	12.1%	5.9%	8.6%	10.2%	11.2%	10.0%	10.0%	10.3%	11.0%	8.2%	12.7%
Consumer	14.8%	16.9%	13.6%	15.7%	12.6%	16.4%	12.1%	14.7%	14.4%	14.1%	16.3%	14.8%	11.7%	11.1%	12.2%	14.5%	16.4%
Health care	11.7%	12.7%	10.6%	7.5%	11.6%	13.1%	11.0%	12.7%	13.3%	14.0%	11.7%	9.6%	9.1%	13.6%	9.8%	11.9%	11.3%
Government Assistance	9.3%	9.1%	9.8%	6.9%	9.5%	9.8%	9.2%	10.8%	10.5%	11.1%	12.8%	9.6%	10.4%	9.5%	8.5%	9.7%	8.6%
Education	5.6%	4.9%	6.5%	3.8%	7.9%	6.6%	7.5%	6.9%	5.6%	4.9%	5.1%	6.0%	5.2%	7.0%	8.5%	5.9%	5.6%
Government Programs	2.7%	1.5%	3.8%	2.5%	3.2%	4.9%	5.2%	3.9%	3.1%	3.2%	4.1%	2.3%	4.8%	2.9%	4.3%	2.6%	2.7%
Access to private business svc.	3.5%	3.8%	3.2%	4.4%	1.6%	1.6%	4.0%	4.9%	3.6%	3.5%	4.1%	2.9%	15.7%	2.9%	5.5%	3.4%	3.7%
Number of Legal Problems	1,209	551	603	159	190	61	173	102	640	658	196	519	230	243	164	731	408
Number of respondents	1,234	634	585	113	251	93	78	224	650	466	203	522	99	326	151	736	468
Mean number of problems per capita	0.98	0.87	1.03	1.41	0.76	0.66	2.22	0.46	0.98	1.41	0.97	0.99	2.32	0.75	1.09	0.99	0.87

Note: DV/SA abbreviation stands for Victims of Domestic Violence and Victims of Sexual Assault.

Note: Percentages include reported problems involving discrimination and unfair treatment on the basis of credit history, juvenile and criminal justice system involvement, immigration status, veteran status and status of a victim of domestic violence or sexual assault

Master Table 3: Prevalence of Discrimination and Unfair Treatment by Category of Differential Treatment and Demographic Group

	All	White	Non-White	African-Americans	Hispanics	Asians	Native Americans	Seniors	Not employed	Disability	Military	Households with children	DV/SA victims	Immigrants	Youth	Women	Men
Race or color	13.7%	6.5%	21.8%	36.9%	19.6%	9.4%	27.6%	6.4%	12.8%	18.2%	9.6%	16.8%	30.3%	15.1%	19.6%	14.9%	12.6%
National origin	6.9%	4.3%	10.0%	9.5%	11.9%	8.3%	10.6%	1.0%	6.0%	8.0%	4.8%	8.0%	14.9%	15.3%	8.0%	6.6%	7.9%
Religion	4.5%	3.1%	6.5%	7.3%	4.5%	3.5%	15.5%	4.5%	5.4%	7.0%	6.9%	4.4%	11.8%	4.1%	7.9%	4.8%	4.8%
Native American Identity	3.1%	0.9%	5.6%	2.1%	2.2%	3.5%	27.6%	2.5%	4.1%	5.0%	3.7%	2.1%	9.1%	2.1%	3.6%	2.9%	3.3%
Gender	10.6%	10.7%	11.3%	13.7%	5.8%	10.8%	23.5%	7.5%	10.9%	14.4%	11.0%	10.7%	20.9%	5.9%	17.3%	13.5%	6.5%
Marital status	5.6%	4.9%	6.6%	4.2%	5.5%	3.6%	10.6%	2.0%	5.9%	8.1%	4.8%	6.3%	20.9%	3.8%	8.0%	6.8%	3.6%
Children in home	4.0%	2.9%	5.4%	8.4%	1.3%	3.5%	10.5%	0.5%	4.2%	5.6%	4.2%	8.2%	15.1%	3.1%	5.1%	5.4%	1.9%
Sexual orientation	2.9%	2.6%	3.3%	7.3%	1.8%	3.5%	7.4%	2.0%	3.3%	3.9%	3.7%	2.3%	10.5%	1.4%	10.1%	2.3%	3.6%
Age	14.1%	13.7%	14.9%	19.0%	8.4%	11.5%	24.7%	17.6%	16.1%	20.9%	17.4%	12.0%	31.0%	9.5%	22.0%	14.4%	14.0%
Veteran	1.8%	1.7%	1.9%	2.1%	0.0%	2.4%	4.2%	2.1%	2.1%	3.8%	8.4%	0.8%	6.8%	0.7%	1.4%	0.9%	3.3%
Disability	12.3%	13.5%	11.1%	12.4%	6.7%	7.1%	25.8%	7.0%	17.7%	29.5%	15.9%	8.2%	28.2%	5.1%	11.6%	13.5%	10.5%
Service dog	1.1%	0.7%	1.7%	2.1%	0.5%	1.2%	0.0%	0.0%	1.2%	2.2%	1.6%	1.5%	3.4%	0.7%	0.0%	1.2%	1.2%
Prior Juv. or crim. record	8.9%	8.0%	10.0%	18.4%	5.4%	7.1%	20.8%	2.0%	8.2%	13.3%	7.3%	9.5%	24.2%	4.5%	6.5%	8.7%	9.0%
Credit history	23.0%	23.6%	23.2%	38.8%	15.0%	14.1%	38.8%	12.5%	23.8%	30.8%	23.6%	26.0%	44.1%	14.6%	20.7%	24.9%	21.3%
Immigration status	4.5%	0.9%	8.9%	4.3%	12.8%	7.1%	7.4%	0.0%	4.5%	4.4%	2.1%	8.4%	14.9%	15.4%	8.8%	4.2%	5.3%
DV/SA Victim Status	5.4%	5.0%	5.8%	7.4%	4.5%	5.8%	10.5%	3.6%	5.5%	8.7%	4.3%	6.3%	36.0%	3.7%	5.0%	7.1%	2.4%
Number of respondents	1,234	634	585	113	251	93	78	224	650	466	203	522	99	326	151	736	469

Note: DV/SA abbreviation stands for Victims of Domestic Violence and Victims of Sexual Assault

Master Table 3A: Relative Percentage of Legal Problems Involving Discrimination Shown as a Percentage of Total Number of Discrimination Problems by Category of Differential Treatment and Demographic Group

	All	White	Non-White	African-Americans	Hispanics	Asians	Native Americans	Seniors	Not employed	Disability	Military	Households with children	DV/SA victims	Immigrants	Youth	Women	Men
Race or color	11.4%	6.3%	15.2%	19.8%	19.2%	9.2%	10.5%	9.1%	9.8%	10.0%	7.3%	13.0%	9.5%	14.6%	12.9%	11.4%	11.5%
National origin	5.6%	4.2%	6.7%	4.7%	11.3%	8.0%	4.4%	1.4%	4.5%	4.3%	3.7%	6.0%	4.6%	14.6%	5.1%	5.0%	7.0%
Religion	3.7%	3.0%	4.4%	3.6%	4.2%	3.4%	5.3%	6.3%	4.0%	3.8%	5.3%	3.3%	3.5%	3.9%	5.1%	3.6%	4.3%
Native American Identity	2.5%	0.8%	3.7%	1.0%	2.1%	3.4%	11.4%	3.5%	3.1%	2.7%	2.8%	1.6%	2.8%	1.9%	2.3%	2.1%	3.0%
Gender	8.6%	10.3%	7.6%	6.8%	5.4%	10.3%	8.8%	10.5%	8.3%	7.8%	8.5%	8.1%	6.4%	5.5%	11.1%	10.2%	5.7%
Marital status	4.5%	4.7%	4.4%	2.1%	5.0%	3.4%	3.9%	2.8%	4.4%	4.3%	3.7%	4.8%	6.4%	3.6%	5.1%	5.1%	3.2%
Children in home	3.2%	2.8%	3.6%	4.2%	1.3%	3.4%	3.9%	0.7%	3.1%	3.0%	3.3%	6.2%	4.6%	2.9%	3.2%	4.1%	1.7%
Sexual orientation	2.3%	2.5%	2.2%	3.6%	1.7%	3.4%	3.1%	2.8%	2.5%	2.1%	2.8%	1.7%	3.2%	1.3%	6.5%	1.7%	3.2%
Age	11.6%	13.3%	10.2%	9.9%	7.9%	11.5%	9.2%	25.2%	12.3%	11.4%	13.4%	9.2%	9.2%	9.1%	14.3%	10.9%	12.8%
Veteran	1.4%	1.7%	1.3%	1.0%	0.0%	2.3%	1.3%	2.8%	1.6%	2.1%	6.5%	0.6%	2.1%	0.6%	0.9%	0.7%	3.0%
Disability	10.1%	13.1%	7.5%	6.3%	6.3%	6.9%	10.1%	9.8%	13.5%	16.2%	12.2%	6.2%	8.5%	4.9%	7.4%	10.3%	9.4%
Service dog	0.9%	0.7%	1.2%	1.0%	0.4%	1.1%	0.0%	0.0%	0.9%	1.2%	1.2%	1.1%	1.1%	0.6%	0.0%	0.9%	1.1%
Prior Juv. or crim. record	7.2%	7.8%	6.7%	9.4%	5.0%	6.9%	7.5%	2.8%	6.2%	7.3%	5.7%	7.1%	7.8%	4.2%	4.1%	6.5%	8.1%
Credit History	18.9%	23.1%	15.8%	20.8%	14.2%	13.8%	14.0%	17.5%	18.4%	17.1%	18.7%	20.0%	14.5%	14.0%	13.4%	19.1%	19.4%
Immigration status	3.7%	0.8%	5.9%	2.1%	12.1%	6.9%	3.1%	0.0%	3.4%	2.3%	1.6%	6.3%	4.6%	14.6%	5.5%	3.2%	4.7%
DV/SA Victim Status	4.3%	4.8%	3.9%	3.6%	4.2%	5.7%	3.5%	4.9%	4.1%	4.7%	3.3%	4.8%	11.3%	3.6%	3.2%	5.3%	2.1%
Number of Legal Problems	1,452	601	778	192	240	87	228	143	773	772	246	631	283	308	217	886	470
Number of respondents	1,234	634	585	113	251	93	78	224	650	466	203	522	99	326	151	736	468

Note: DV/SA abbreviation stands for Victims of Domestic Violence and Victims of Sexual Assault

Master Table 4: Relative Percentage of Legal Problems by Substantive Area and Region.

	King	Capitol	South-west	North Central	South Central	South East	North East	North-west	Overall Total
Employment	12%	9%	10%	12%	12%	15%	8%	14%	12%
Rental Housing	16%	17%	15%	17%	13%	14%	19%	15%	15%
Mobile/Manufactured Housing	0%	0%	0%	1%	1%	0%	0%	2%	1%
Municipal Services/Utilities	11%	11%	14%	9%	11%	8%	11%	11%	11%
Consumer/Finance	16%	20%	18%	17%	16%	15%	19%	18%	17%
Access Government Services	7%	9%	10%	8%	8%	9%	7%	8%	8%
Healthcare	21%	21%	21%	23%	22%	19%	18%	18%	21%
Family Related Problems	6%	7%	5%	6%	8%	10%	8%	9%	7%
Education Related Problems	4%	3%	2%	3%	5%	4%	3%	2%	4%
Estate	5%	4%	5%	6%	5%	6%	8%	4%	5%
Total	100%	100%	100%	100%	100%	100%	100%	100%	100%
Number of Legal Problems	2,166	1,167	294	531	1,486	871	242	703	7,460
Number of Respondents	374	151	59	116	242	260	28	145	1,375

Master Table 5: Extent to Which the Civil Legal System Can Solve Important Problems by Demographic Group as Reported by Survey Participants

	All	White	Non-White	African-Americans	Hispanics	Asians	Native Americans	Seniors	Not employed	Persons with a disability	Military Service Members	Households with children	DV/SA victims	Immigrants	Youth	Women	Men
Not at all	10.2%	8.1%	12.0%	8.0%	17.2%	7.5%	3.9%	10.0%	9.8%	8.1%	9.5%	13.1%	13.8%	10.8%	8.8%	10.1%	9.9%
Rarely	16.5%	16.1%	17.5%	20.5%	14.3%	19.4%	18.2%	10.0%	16.2%	17.8%	11.4%	16.4%	20.2%	14.9%	16.3%	17.1%	15.8%
Some of the time	31.9%	34.2%	30.9%	35.7%	27.9%	25.8%	39.0%	24.9%	30.9%	36.3%	38.3%	29.0%	31.9%	24.1%	36.7%	32.2%	31.5%
Most of the time	21.2%	22.1%	19.4%	14.3%	19.7%	24.7%	24.7%	26.7%	20.7%	19.4%	21.9%	20.4%	16.0%	22.5%	22.4%	20.2%	23.1%
All of the time	7.6%	6.1%	9.5%	8.9%	12.7%	4.3%	7.8%	11.8%	8.7%	5.9%	9.0%	8.8%	12.8%	11.4%	6.1%	6.9%	8.2%
Do not know	12.6%	13.3%	10.6%	12.5%	8.2%	18.3%	6.5%	16.7%	13.6%	12.3%	10.0%	12.3%	5.3%	16.2%	9.5%	13.5%	11.4%
Number of Legal Problems																	
Number of respondents	1,234	634	585	113	251	93	78	224	650	466	203	522	99	326	151	736	469

Note: DV/SA abbreviation stands for Victims of Domestic Violence and Victims of Sexual Assault

Appendix C: Target Survey Groups

- White. Persons who identify as white or Caucasian.
- African-American. Persons identifying as black or African-American
- Hispanic/Latino. Persons identifying as of Hispanic or Latino origin, regardless of racial identity.
- Asian. Persons identifying as of Asian origin or descent
- Pacific Islander. Persons who identify as of Pacific Island origin or descent.
- Native American/Indian, Alaska Native or Hawai'ian. Persons who identify as Native American, American Indian, Alaska Native or Hawai'ian regardless of tribal membership.
- Mixed Race. Persons who identify as being of more than one race.
- Seniors. Persons age 65 or over.
- Youth. Persons between the ages of 15 and 21.
- Immigrants. Persons not born in the United States, regardless of legal status or authorization to be present or remain in the country.
- DV/SA Victims. Persons who affirmatively responded that they have been or are a victim of domestic violence or sexual abuse.
- Military Service Members and Veterans. Persons who are currently active or who have separated from the military, regardless of the reasons for separation
- Persons with Disabilities. Persons who identify as having a physical, mental health, sensory (vision, hearing, etc.) or developmental disability.
- Detained or Incarcerated Persons. Persons who, in the past 12 months, were involuntarily confined in a juvenile detention center, adult corrections facility or an immigration detention facility.
- LGBTQ. Persons who identify as lesbian, gay, bisexual, transgender or questioning of their sexual orientation or identity.¹
- Homeless Persons. Persons who answered affirmatively to the question "Are you homeless?"

¹ Unintentionally omitted from the probability survey, this group is the focus of a supplemental non-probability survey that will be completed in late 2015.

Appendix D: Substantive Problem Areas

Employment (including hiring, terms and conditions of employment, firing/termination, disability accommodation, unsafe working conditions, licensing, unemployment insurance and compensation for job-related injury)

Rental Housing (including the ability to apply for rental housing, terms and conditions of a lease, conditions of unit, termination of a lease or eviction, relocation assistance, return of security deposit, and housing safety and privacy)

Mobile or Manufactured Housing (including problems with purchase, financing, warranties and fees, mobile home park services rules and practices, eviction or relocation, and closure of mobile home parks)

Utility and Municipal Services (including access to or termination of essential utility services, billing and service disputes, land use and zoning, and issues relating to law enforcement)

Consumer, Financial Services and Credit (including access to mortgage, consumer credit and banking services, payday lending, unfair and deceptive lending practices, debt collection, garnishment, bankruptcy, car purchase and repossession, and legal financial obligations resulting from prior involvement in juvenile or criminal justice systems)

Access to Government Assistance (including ability to obtain and retain income, food, disability, housing or other state government assistance, SSI and SSDI benefits, crime victim compensation, Earned Income Tax Credit)

Health Care (including ability to secure private or government managed health insurance, insurance coverage issues, access to necessary medical, mental health and personal care services, medical services cost recovery, discrimination, and problems associated with long-term care providers)

Family Related Problems (including domestic violence and sexual assault, divorce/legal separation, custody and visitation, child support guardianship, paternity and exploitation of a vulnerable adult)

Education (including school discipline, suspension and removal, school safety, special educational services, educational services for homeless children, and bilingual education)

Child Welfare and Foster Care (including CPS investigation and intervention, foster parent licensing and services, quality of foster care, consequences of multiple foster care placements, involuntary administration of psychotropic medication, and extended foster care services)

Estate Planning, Guardianship and Related Issues (including wills, estate planning, powers of attorney, inheritance, probate or administration of trusts or wills, and guardianships)

Discrimination and Unfair Treatment (including discrimination based on legally protected characteristics or status as well as discrimination and unfair treatment based on credit history, prior involvement in the juvenile or criminal justice system, status as a victim of domestic violence or sexual assault, status as an active military member or veteran)



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LSAC Prelaw Undergraduate Scholars (PLUS) Program

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LSAC Prelaw Undergraduate Scholars (PLUS) Program

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LSAC Prelaw Undergraduate Scholars (PLUS) Program

McNair Scholars Program

Mellon Mays Undergraduate Fellowship (MMUF)

STEM

Online Course Exchange

LSAC Prelaw Undergraduate Scholars (PLUS) Program at Heritage University



Are you a college student or recent graduate living in Central Washington who dreams of becoming a lawyer, but aren't sure where to start? Are you searching for a rewarding way to help and serve the community you call home?

There is now a program designed specifically to help make your dream a reality.

The Law School Admission Council (LSAC) Prelaw Undergraduate Scholars (PLUS) Program at Heritage University is an innovative partnership among Washington's three law schools – Seattle University School of Law, University of Washington School of Law, and Gonzaga University School of Law – and Heritage University in Central Washington. It aims to make a law degree more accessible to diverse students, especially Latino/Latina/Latinx and Indigenous students.

Our objective is to expand your horizons by helping you realize that gaining entrance to law school and launching a legal career are achievable goals. By the end of the program, you will have a much better understanding of what it takes to apply to and become accepted by a law school, thrive as a law student, and work as a lawyer. In the process, you will make valuable connections with diverse attorneys and judges in your community who are invested in your future success.

LSAC Prelaw Undergraduate Scholars (PLUS) Program at He...



Eligibility

Created for diverse rising sophomore, junior, and senior college students or recent college graduates (no more than 3 years out) in the Central Washington region who have an interest in learning about and pursuing a career in law. First priority will be given to Heritage University students and graduates.

Application Process

- Deadline to apply: Monday, April 15, 2024, 5:00 p.m. PDT
- Complete the online application through the LSAC website. After logging in (or creating a new LSAC account), choose “Summer 2024 – Plus Summer Program” under “LSAC Diversity, Equity and Inclusion.”

Program Dates

- Friday, June 14 (4:00 p.m. to 8:00 p.m.)
 - Violet Lumley Rau Center Room 1701 and Eagles Cafe
- Saturday, June 15 (9:00 a.m. to 5:00 p.m.)
 - Violet Lumley Rau Center Room 1701 and Eagles Cafe
- Monday, June 17 (3:00 p.m. to 8:00 p.m.)
 - Violet Lumley Rau Center Room 1701 and Eagles Cafe
- Tuesday, June 18 (3:00 p.m. to 8:00 p.m.)

- Violet Lumley Rau Center Room 1701 and Eagles Cafe
- Monday, June 24 (3:00 p.m. to 8:00 p.m.)
 - Violet Lumley Rau Center Room 1701 and Eagles Cafe
- Tuesday, June 25 (3:00 p.m. to 8:00 p.m.)
 - Violet Lumley Rau Center Room 1701 and Eagles Cafe
- Monday, July 1 (3:00 p.m. to 8:00 p.m.)
 - Violet Lumley Rau Center Room 1701 and Eagles Cafe
- Tuesday, July 2 (3:00 p.m. to 8:00 p.m.)
 - Violet Lumley Rau Center Room 1701 and Eagles Cafe
- Week of July 8 — Field Trip to Law School(s)
 - SU/UW or Gonzaga
- Week of July 15 — Field Trip to Law School(s)
 - SU/UW or Gonzaga
- September 14 (9:00 a.m. to 4:00 p.m.)
 - Violet Lumley Rau Center Room 1701, Eagles Cafe, and Smith Family Hall

Location

- All program sessions will be held on the campus of Heritage University, located in Toppenish, Washington.
- Exception includes optional field trips to Washington law schools.

Purpose

Funded by a grant from the Law School Admission Council (LSAC), the primary objective of the **LSAC PLUS Program** is to create a pipeline of diverse students from Central Washington who will enroll in law school and then return home to practice.

Historically, Central Washington does not have sufficient lawyers, particularly racially and ethnically diverse lawyers, to serve the legal needs of its people and the community. Providing this opportunity to area students will help address the critical shortage of diverse lawyers in the

region, thus enhancing access to justice for the clients and communities they will serve.

Program Description

- The primary element will be an intensive, three-week summer program, held on the Heritage University campus.
- Key aspects of the program are designed to help students envision themselves as lawyers, with a visit by several Washington Supreme Court justices, a mock law school class, roundtable discussions with leaders of minority bar associations, mentoring by community lawyers and judges, and modules that provide helpful information to demystify the application process and the law school experience.
- Students can also choose to visit one of the Washington law schools.
- A shorter, follow-up program will take place in September.
- Students who successfully complete the program will receive a \$1,000 stipend and a certificate of completion.

Partner organizations

In addition to Washington's three law schools, Heritage University, and LSAC, the program was developed in partnership with several legal services organizations, which first identified the critical and longstanding need for more homegrown lawyers drawn from Central Washington:

- Northwest Justice Project
- Northwest Immigrant Rights Project
- Columbia Legal Services
- TeamChild
- Benefits Law Center
- Office of Civil Legal Aid (OCLA)

These organizations will be integrally involved in designing and implementing the pipeline program. They will also help provide the critically important connection to practicing lawyers and judges, as well as insights on the access to justice gap in rural communities and the urgent need for lawyers who are more representative of their clients and communities.

This program received funding from the Law School Admission Council, Inc. (LSAC) The opinions and conclusions contained in this document are the opinions and conclusions of the

author(s) and do not necessarily reflect the position or policy of LSAC.



CAMPUS LOCATIONS

Main Campus

3240 Fort Road
Toppenish, WA 98948

Heritage at Columbia Basin College

2600 N 20th Ave, MS: HU
Pasco, WA 99301

Tri-Cities Regional Site

333 W Canal Dr
Kennewick, WA 99336

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The State of Washington



Proclamation

WHEREAS, the rule of law is fundamental to our democracy, and access to justice is the right of all Washingtonians; and

WHEREAS, lawyers are necessary to represent the interests of all people in the justice system at every level; representation is crucial to ensure fairness and justice for all; small town and rural lawyers play an indispensable role in this system; and

WHEREAS, in Washington there are rural areas and counties with few lawyers in them, or no lawyers at all; and

WHEREAS, many residents of small towns and rural communities in Washington must travel significant distances to appear in court or meet with a lawyer; and

WHEREAS, many Washingtonians can access legal services online, but do not have sufficient broadband access in their area or would be better served by in-person service; and

WHEREAS, people in rural areas and small towns have important legal needs such as wills, family law matters, business needs, discrimination, domestic violence, or a criminal or other civil cases; and

WHEREAS, while about 20 percent of our nation's population lives in rural communities, only 2 percent of America's small law practices are located there in rural areas; and

WHEREAS, increasing opportunities for and support of rural attorneys and the communities they service will increase access to justice across Washington state;

NOW, THEREFORE, I, Jay Inslee, Governor of the state of Washington, do hereby proclaim November, 15, 2022, as

Rural and Small-Town Practice Day

in Washington, and I encourage all people in our state to join me in this special observance.

Signed this 3rd day of November, 2022

Governor Jay Inslee



Skip to content

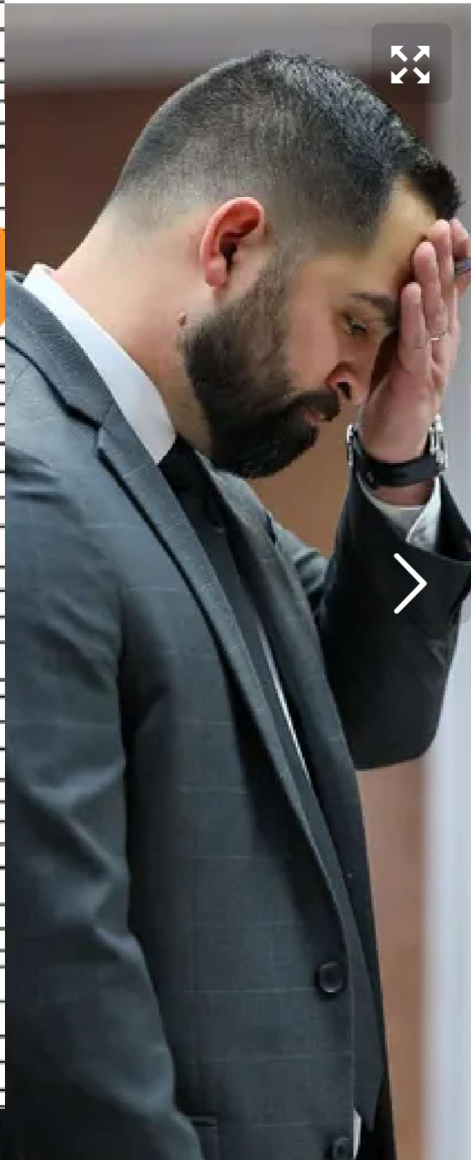
The Seattle Times

Local Politics

The Seattle Times

Public defender system is breaking down, communities reeling

Updated Feb. 25, 2024 at 7:00 am



Support the important work of local nonprofits.

READ GIVING GUIDE >

CONTENT STUDIO

1 of 9 | Josh Cuevas, left, public defender, and Joseph Farhoul
attend to court cases at the Franklin County District Court in



By **Daniel Beekman**
Franklin County has made progress in its backlog
requiring public defenders. (Kevin Clark / The Seattle
Times)
Seattle Times staff reporter

KENNEWICK — When you're charged with a crime that could put you behind bars and you don't have enough money to pay an attorney to defend you, the government is supposed to provide you with one. But that isn't happening in some communities across Washington state, at least not right away.

"We're still working on getting you an attorney," Judge Terry Tanner told one defendant after another in Benton County District Court last month, adopting an apologetic tone as he made his way through a series of cases dating back weeks and months and explaining why each case would remain in limbo. "We have a shortage of public defenders, so that's why we're in a jam."

The right to an attorney is rooted in the U.S. and Washington constitutions, crucial to ensuring that everyone gets a fair shake. And yet, the scene that played out in Tanner's courtroom Jan.

31 has become routine there, to the point where people without public defenders are asked to sit on one side of the room and people with attorneys are asked to sit on the other.

That's an alarming sign, according to many people who work inside Washington's criminal legal system — one warning among many that the state's beleaguered public defense apparatus is in danger of breaking down.



A shortage of public defenders across Washington state is putting strain on the legal system, creating a backlog of defendants waiting to be assigned an attorney. (Kevin Clark / The Seattle Times)

“I compare it to what COVID was for ER nurses,” said Jessica Rodriguez, a private attorney doing contract defense for Benton County. “People are showing up every week to have an attorney appointed and waiting hours, just to be told to come back the next week ... How can anyone hold down a job? They just want somebody to talk to. I see the desperation on their faces.”

Staffing shortages and burnout-inducing caseloads are squeezing urban areas like King County, rural areas like Asotin County and communities in between. Facing each other across the Columbia River, Benton and Franklin counties are struggling as they compete for attorneys from the same shallow pool.

There are consequences. In some instances, people presumed innocent are languishing in jail without counsel. In others, prosecutions have been delayed or dismissed because defendants lack representation, potentially putting crime victims and others at risk. In still others, defendants are getting shortchanged because their attorneys are too busy. It’s difficult to get a grip on the scale of such problems, because statewide data is lacking.

Meanwhile, cash-strapped counties are watching their expenses soar with minimal support from the Legislature. Some counties are actually suing the state over that

65

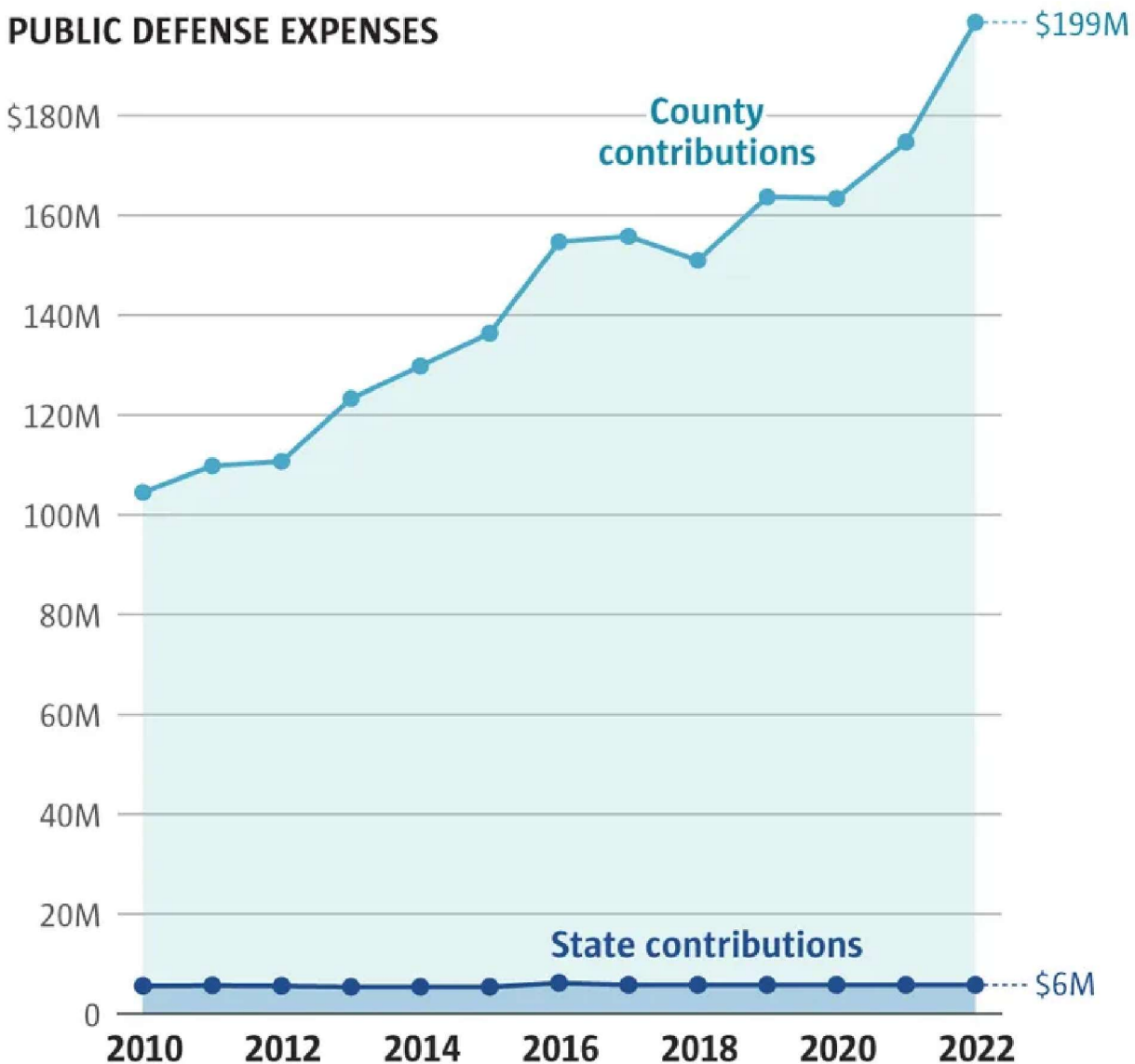
reality, and experts say it's only a matter of time before an unrepresented defendant also sues, alleging their rights have been violated.

"We're at the precipice of collapse," Franklin County Administrator Mike Gonzalez said recently. "And it's not just affecting us, it's the whole state."

As defense costs soar, counties pay

Washington counties are paying more for public defenders but getting minimal help from the state, according to data from the Washington State Association of Counties. The association is suing the state over the situation.

PUBLIC DEFENSE EXPENSES



Source: Washington State Association of Counties

Reporting by DANIEL BEEKMAN, graphic by FIONA MARTIN / THE SEATTLE TIMES

Things grew so bad last year that Larry Jefferson, director of the state Office of Public Defense, begged the Washington state Supreme Court for relief. He asked the court's justices for a 90-day moratorium on attorney assignments for out-of-custody defendants in order to clear backlogs of clients who were in jail. He also asked the justices to immediately lower caseload limits for defenders, partly to keep overburdened attorneys from quitting.

The justices declined Jefferson's requests. While they plan to consider new caseload caps soon, with recommendations from the [Washington State Bar Association](#), lowering the caps too quickly could aggravate the shortages, because more attorneys would be needed for the same number of cases.

Washington lawmakers are working on a bill that would establish a state-managed internship program to train law students and graduates as defenders and prosecutors in rural areas. But internships won't reverse the shortages overnight, and a proposal to repay student loans for new recruits has been cut during the bill's journey through the current legislative session. A separate bill that would greatly bolster state funding for public defense is likely dead, with no action taken since the session began in January.

Some advocates say communities should reduce pressure on public defenders and the entire system by scaling up alternatives to prosecution, especially for nonviolent and lower-level crimes.

"The solutions have to be short-term and long-term and are going to require work from all three branches of government," Justice Steven González said.

Backstory

Defender shortages and unrealistic caseloads are posing a threat to rights cemented in court decisions like 1963's [Gideon v. Wainwright](#), where an unrepresented Florida man challenged his state conviction, and 2013's [Wilbur v. City of Mount Vernon](#), where Skagit County defendants said their public attorneys had too many cases. In *Gideon*, the U.S. Supreme Court ruled that states, per the U.S. Constitution's Sixth Amendment, must provide defenders. *Wilbur* pushed Washington's state Supreme Court to [adopt caseload limits](#).

The underlying principles are simple. Anyone charged with a serious crime needs an attorney and, to be effective, that attorney needs a reasonable workload. But those

principles crumble when public defenders are scarce. Defendants have no one to talk with about their options. To argue for their release so they can keep a job or custody of a child. To interview witnesses. To secure evidence, like surveillance video before a recording gets taped over.

Dozens of people had to wait for attorneys in [Whatcom County](#) last year, including people locked up in jail. Defendants are now waiting about three weeks in Yakima County, down from about six weeks, according to Paul Kelley, that county's director of the Department of Assigned Counsel.

The right to a speedy trial — within 60 or 90 days of being arraigned in Washington, depending on whether a defendant is in jail — also gets twisted when public attorneys are scarce, leaving the people in Tanner's Benton County courtroom with bad choices. They're told they can either move closer to trial without representation, or pause their speedy-trial clock while waiting for a defender. That's not fair, said Sheri Oertel, a resource attorney for the nonprofit Washington Defender Association.

"When there aren't enough public defenders, or when public defenders are overworked, the people who suffer are the defendants," said Jason Schwarz, director of Snohomish County's Office of Public Defense, making the point that a huge number of Americans have been arrested — [about 1 in 3 adults](#) have such records.

[Most Washington defendants](#) are found to be [indigent, meaning](#) they can't afford a private attorney.

"You probably know someone who's been through the system," Schwarz said. "So when we talk about this, we're talking about your neighbor, or you."

At the same time, some leaders worry about the attorney shortages complicating cases and allowing bad actors to avoid justice.

"That's the scariest part of the problem," said Jon Neal, an Okanogan County commissioner. "You may end up releasing people you really don't want to."

The causes behind the crisis are multiple and debatable, experts say: Fewer people are going to law school; young attorneys are choosing less-intense jobs with better pay; the COVID pandemic created backlogs; policing changes like body-worn cameras are making cases more time-consuming to handle.

There's always been a stigma associated with the job. Like the stereotype of a distracted public defender with baggy eyes and a wrinkled suit.

"We started to see interest really waning" before COVID, and then the pandemic "just threw everything into chaos," Kelley said. "We started seeing people leaving the profession and that just exacerbated the problem."

Public defenders aren't the only government workers in short supply. Cities and counties are also struggling to hire enough prosecutors, police officers and corrections officers. And Washington isn't the only state in trouble. [In November](#), a U.S. District Court judge responding to a lawsuit over defender shortages in Oregon ordered counties there to release anyone held in jail without an attorney for more than seven days after being arraigned.

But Washington's challenges are distinctly thorny, partly because its system is decentralized, with each county court administered locally. Most other states pay for public defense services, whereas Washington covered 3% of those costs through grants and special programs in 2022, [according to data collected by the Washington State Association of Counties](#).

For those reasons and others, most counties that responded to [a December survey](#) by Jefferson's office reported vacancy rates of 10% to 67%; 34 reported recruiting/retention issues last year, up from 31 in 2022. Larger counties employ staff defenders and smaller counties rely on contractors.

Rural areas

What exactly the crunch looks like depends on where you're arrested.

In some of Washington's smallest counties, officials scramble to hire out-of-town contractors and pay them by the hour to represent defendants because there are so few local attorneys and even fewer who want the work.

Ten counties in the state have no more than 30 residents practicing law of any sort, Dan Clark, a senior deputy prosecutor in Yakima County, wrote in [a column](#) for the state Bar Association last year, noting that attorney shortages are resulting in vacancies on the prosecutorial as well as the defense side.

"Most law school graduates tend to be in their 20s or 30s, and to be blunt, most rural areas simply do not offer the variety of restaurants, entertainment, and social

opportunities that urban areas can provide,” Clark wrote. “Many law school graduates have significant student loan debt, and lower salaries in rural areas — particularly for governmental attorneys — can be a barrier to attracting and retaining new and young lawyers to rural communities.”

Several defense attorneys under contract with Okanogan County in North Central Washington live elsewhere, including over the mountains in Western Washington, said Anna Burica, who leads the work and manages the roster. Judges allow them to appear in court via video, reluctantly.

“You want that face-to-face contact before making a big decision, and a lot of people just don’t get that opportunity,” Okanogan Judge Robert Grim said.

In January, tiny Asotin County in Eastern Washington had only one attorney under contract to represent defendants charged with felonies, and he lived 100 miles away in Spokane, County Commissioner Brian Shinn said. Shelling out \$150 per hour to other attorneys boosted the county’s defense costs (by about 43% last year), putting strain on an already-tight budget, he said.

Although Asotin County is raising its sales tax rate this year, most stores in the area are located across the Idaho border, so the revenue bump will be modest, Shinn said, explaining why he’s glad the Association of Counties sued the state [in September](#), claiming the Legislature should step in.

“The state sends us \$30,000,” while the county spent about \$825,000 last year, the county commissioner said. “The state is really dropping the ball.”

Bigger cities

Urban areas like King County have more attorneys available to hire and more tax dollars to spend on salaries. But such areas also have more big cases, which involve extra work and require special experience. For example, only attorneys who have already completed three lower-level felony trials are allowed in Washington to represent people charged with rape or murder.

Those conditions have sucked King County’s Department of Public Defense into a vicious cycle. Attorneys burn out, leave and can’t immediately be replaced, creating additional work for a smaller number of remaining high-level attorneys, who burn out, leave and ... the cycle continues.

In an email to the Metropolitan King County Council last October, Ramona Brandes said she quit working high-level cases because she worried her load of “approximately a dozen homicides, another dozen rape cases” and many others was going to give her “a stroke, a heart attack or an aneurysm.”

“The weight of the souls on my shoulders was crushing me,” Brandes wrote, saying she often worked more than 16 hours per day and knew she had to make a change because “I would not survive another felony rotation.”

At an October [council meeting](#), officials said King County saw 18 high-level felony defenders leave in two years, while pending high-level cases climbed 80%. The attorneys who remain in place are drowning, they said, pointing to recommendations in September in an American Bar Association report.

The National Public Defense Workloads Standards [Report](#) determined that caseload limits should be much, much lower than those currently used in Washington and elsewhere (150 felony cases or 400 nonfelony cases per year, based on data from the 1970s). Reworking the limits may be hard and take time, yet “We’ve got to break the cycle,” said Anita Khandelwal, King County’s public defense director.

The status quo “means people sit caged — waiting, waiting — because we have too many cases,” King County defender Adam Heyman told the council.

“Everyone is fighting righteously to do their best,” but there aren’t enough hours in each day to do all the work needed, Heyman added this month. “There’s no question that mistakes are being made. Honest mistakes.”

Tri-Cities

State Sen. Nikki Torres, R-Pasco, has championed several attempts to respond to the defender crisis during the Legislature’s current session, including the bills that would establish internships and increase state funding. Her district, which includes parts of Benton and Franklin counties, has been hit hard, eliciting concerns from prosecutors as well as defense advocates.

In one Franklin County case [last year](#), a woman accused of embezzling more than \$500,000 saw her charges dropped because she had gone without an attorney for so long, the Tri-City Herald reported. [In another](#), a man accused of stealing a car had his bail cut because he lacked representation, was released and was arrested again within days, this time for burglary.

In a third, a man spent months in jail without a defender and pleaded guilty because he was desperate to leave, said Kathryn Russell Selk, a Seattle appellate attorney who [asked the state Supreme Court](#) whether such pleas should be declared invalid, hoping to set a precedent. Prosecutors responded by agreeing to vacate the man's conviction in exchange for him dropping his appeal, so the court didn't rule, Russell Selk said.

Benton and Franklin counties share the Tri-Cities, population 316,000. Richland and Kennewick belong to Benton, while Pasco belongs to Franklin.

In each place, the turnover has been head-spinning, said Benton County defense manager Charlie Dow, previously a staff defender for Franklin.

"This time last year, everybody working here now as an attorney wasn't working here," said Dow, who jumped across the river in June.

Because Benton has a backlog, Dow's difficult job includes deciding who gets an attorney right away and who doesn't. He's prioritizing people in jail.

"They get appointments over and above everybody out of custody," he said.

That explains the unrepresented people waiting in Tanner's courtroom with nonfelony charges for offenses like assault, theft and driving with a suspended license. On Feb. 7, the judge saw about 20 such defendants in a row, shepherded by a defense staffer who spoke to each for a few seconds.

"None of us are comfortable with what's going on," said Dow, the defense manager. "We're doing everything we can with the little we've got."

Hugo Mendoza, 29, had no attorney when he showed up, despite multiple prior appearances. Once again, the warehouse worker heard he would have to come back. Each time, he misses work. Each time, his stress level rises.

"I feel like it should have been dealt with a long time ago," Mendoza said, anxious to see his case resolved. "They just keep rescheduling."

Potential solutions

Things have improved in Franklin County since last year's backlog made headlines, partly because officials have pumped more money into piecemeal contracts with private attorneys, said Gonzalez, the county administrator. Unfortunately, "constantly signing

off” on deals worth “five grand, seven grand, ten grand,” is unsustainable, he said, calling for relief from Olympia.

“We’re just running around chasing our tail,” Gonzalez said.

In theory, the internship program would hone more staff defenders like Franklin County’s Josh Cuevas, who can see his childhood apartment from the 111-year-old brick courthouse where he works today. Being from Pasco and speaking Spanish, Cuevas is more likely to stick with the job and is better equipped to serve a county that’s majority Latino, Gonzalez said.

“Maybe people have bigger dreams,” but public defense “is a big deal for me,” said Cuevas, who spends more time conferring with clients in hallways than jousting in court. “I’m happy to do it in my community.”

Dow, in Benton County, doubts an internship program would accomplish much without monetary incentives, thinking about the student loans and housing costs that burden new attorneys. Like Cuevas, Dow grew up in the Tri-Cities and returned after law school but, “We can’t rely on that,” he said.

More spending on public defense and lower caseloads may not even be adequate to solve the crisis, given its severity and the magnitude of costs involved, according to advocates like King County’s Khandelwal.

“We need to find more efficient and evidence-based ways of addressing harm in our community,” the defense director wrote in a Seattle Times op-ed with King County Councilmember Girmay Zahilay [in September](#).

Until then, the system will lean on defenders like Cuevas, whose recruiting pitch is straightforward: The lows may be low, but the highs really matter.

“There’s a high of getting someone who was in an impossible situation into a much better position,” Cuevas said. “That’s incredibly rewarding.”

Seattle Times staff reporter Claire Withycombe and news researcher Miyoko Wolf contributed.

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Brainstorming Solutions for Issues in Small Town and Rural Practice

10-1-2023

One Crisis or Two Problems? Disentangling Rural Access to Justice and the Rural Attorney Shortage

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ONE CRISIS OR TWO PROBLEMS? DISENTANGLING RURAL ACCESS TO JUSTICE AND THE RURAL ATTORNEY SHORTAGE

Daria Fisher Page* & Brian R. Farrell**

Abstract: We have all seen the headlines: *No Lawyer for Miles* or *Legal Deserts Threaten Justice for All in Rural America*. There is a substantial body of literature, across disciplines and for diverse audiences, that looks at access to justice in rural communities and geographies. However, in both the popular and scholarly imaginations, the access to justice crisis has been largely conflated with the shortage of local attorneys in rural areas: When bar associations, lawyers, and legal academics define the problem as not enough lawyers, more lawyers become the obvious solution. Consequently, programs aimed at building pipelines from law schools to rural locations and incentivizing rural practice have proliferated in central states, including South Dakota, North Dakota, Montana, Illinois, Nebraska, and Arkansas. And while there may be good reasons to want more lawyers in rural communities, we argue that more lawyers may not, in fact, be the most effective or impactful intervention in the rural access to justice crisis.

This Article begins with the hypothesis that an attorney shortage and the justice gap are two distinct issues that have been uniquely conflated in the rural context and that when we begin to disentangle these problems, we better understand the complexity of each. As a starting point, we cannot measure what we cannot define. Advocates, scholars, and the legal profession lack shared definitions of both “access to justice” and “rural,” making measurement of rural access to justice, let alone comparisons across jurisdictions, nearly impossible. When we look at rural access to justice independently and without a bias or preference for lawyer-focused solutions, it seems less likely that more attorneys can effectively address the crisis for a multitude of reasons including rural community dynamics, information gaps, unclear demand, mismatched skills or expertise, cost, and potential conflicts. What we propose, instead, is a conceptualization of access to justice that is not centered around the lawyer, and we argue for a measurement of access to justice that does not rely on lawyers per capita or county (or anything) as its primary unit of measure. This Article, in turn, establishes the foundation for future work developing broader measures of access to justice infrastructure and proposing legal vulnerability as a concept that could help anticipate the needs of a community.

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**Associate Professor of Instruction, University of Iowa College of Law. This project began in 2019–2020—and survived the COVID-19 pandemic—because of the support of the Bellow Scholars Program. Many of our most thought-provoking conversations on rurality and rural access to justice were with Dr. Eric Tate, Associate Professor of Geographical and Sustainability Sciences at the University of Iowa, who also helped us create our first series of GIS maps for this project. Numerous readers at workshops and conferences have taken the time to give us feedback on the ideas that are incorporated into this Article including the Clinical Law Review Writers Workshop (2019), the Law & Society Annual Meeting (2020), and the Rural Reconciliation Project’s Law & Rurality Workshop (2022). We also appreciated the opportunity to engage through presentations organized by the Irish Centre for Human Rights, the Iowa Innovation, Business & Law Center, and the International Society for the Study of Rural Crime.

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INTRODUCTION

The exploration of rural access to justice that we undertake in this Article grew from our own conversations about access to justice in Iowa. These conversations were informed by our identities as a small-town, homegrown Iowan (Brian) and an East Coast transplant (Daria); our roles as a former county seat lawyer and member of the state Access to Justice

Commission¹ (Brian) and as director of a community lawyering clinic² (Daria); and our shared commitments to social justice and public service. We teach at the University of Iowa College of Law. The university is Iowa's flagship public university and an R1 institution. The College of Law is the oldest law school west of the Mississippi River and one of the state's two law schools. And Iowa is a predominantly rural state, both in the popular imagination (tall corn, *Field of Dreams*, Grant Wood, the Iowa State Fair) and by most "objective"³ metrics.

Each of Iowa's ninety-nine counties has a courthouse, but more than seventy-five percent of the state's attorneys are located in the eleven counties with populous, urban centers.⁴ As in many other Midwestern states, rural attorneys are retiring and younger attorneys are not buying

1. The American Bar Association (A.B.A.) describes access to justice commissions as "collaborative entities that bring together courts, the bar, civil legal aid providers, and other stakeholders in an effort to remove barriers to civil justice for low-income and disadvantaged people." *Access to Justice Commissions*, A.B.A., https://www.americanbar.org/groups/legal_aid_indigent_defense/resource_center_for_access_to_justice/atj-commissions/ [https://perma.cc/8QVM-ATGL]. The Iowa Supreme Court established its commission in 2016. In the Matter of Appointments to the Iowa Access to Justice Commission, (Iowa Sept. 22, 2016), https://www.iowacourts.gov/static/media/cms/Order_Appointing_Members_with_terms_F06ECFB75BA65.pdf [https://perma.cc/475P-AD9Z].

2. Community lawyering—also known as rebellious lawyering or democratic lawyering—aims to reverse "political, economic, and social subordination. Subordination manifests and perpetuates itself through practices that presume that some people matter and some don't, that some people merit consulting and some don't, that some people should shape the contours and rules of our society and some need not The goal is to build the power of 'ordinary'—non-affluent, non-expert, non-privileged—people and communities to shape their circumstances and living conditions." Ascanio Piomelli, *Sensibilities for Social Justice Lawyers*, 10 HASTINGS RACE & POVERTY L.J. 177, 183 (2013) (emphasis omitted).

3. Much of Iowa is still "rural." In 2022, Iowa had just over 3.2 million residents and more than one-third lived in rural areas. *Annual Population Estimates and Rankings with Numeric and Percent Change: Vintage 2022*, IOWA DATA CTR., <https://www.iowadatacenter.org/index.php/data-by-source/population-estimates/annual-population-estimates-vintage-2021> (last visited Sept. 10, 2023) (select "state" from menu for "geographic level"). The state is comprised of ninety-nine counties, the smallest of which, Adams County, has only 3,611 residents. *Id.* Iowa's total area is 35.7 million acres, and 30.5 million acres—or approximately eighty-five percent of the land—is farmland. *See Iowa Data and Statistics*, FARMLAND INFO. CTR., <https://farmlandinfo.org/statistics/iowa-statistics/> [https://perma.cc/NKC7-3NJL]; *2022 State Agriculture Overview: Iowa*, U.S. DEP'T AGRIC., https://www.nass.usda.gov/Quick_Stats/Ag_Overview/stateOverview.php?state=IOWA [https://perma.cc/SE6H-WJPS] (last updated Sept. 17, 2023). More than 200,000 individuals were employed on Iowa farms in 2017. William Edwards, *New Census of Agriculture Reveals Much About Iowa Farms*, AG DECISION MAKER 2 (Sept. 2019), <https://www.extension.iastate.edu/agdm/newsletters/nl2019/sep19.pdf> [https://perma.cc/6DTT-Z3Q7].

4. *See* IOWA CODE § 602.6105 (2015); Grant Rodgers, *Rural Areas Face Declining Lawyer Numbers*, DES MOINES REG. (Nov. 2, 2014, 9:45 AM), <https://www.desmoinesregister.com/story/news/investigations/2014/11/02/rural-areas-face-declining-lawyer-numbers/18362425/> [https://perma.cc/737S-F2W5].

their practices or replacing them, creating “legal deserts.”⁵ A popular conclusion is that as “fewer and fewer attorneys locate in rural communities, th[e] access to justice issue is becoming more evident.”⁶ Faced with this conclusion, state legislatures and bar associations have initiated programs to address the attorney shortage, from the groundbreaking Project Rural Practice and Recruitment Assistance Pilot Program in South Dakota to the Illinois Rural Practice Fellowship.⁷ Public law schools—like South Dakota’s Knudson School of Law—frequently play a critical role in these programs,⁸ often predicated on the understanding that rural attorney recruitment will enhance access to justice.⁹

5. See Laura Brown, *Rural Minnesota’s Legal Deserts*, MINN. LAW. (Oct. 27, 2021), <https://minnlawyer.com/2021/10/27/rural-minnesotas-legal-deserts/> [<https://perma.cc/JYQ4-EQGZ>]; Jack Dura, *North Dakota Takes Cue from South Dakota to Recruit Lawyers*, U.S. NEWS (Feb. 21, 2022, 1:01 AM), <https://www.usnews.com/news/best-states/north-dakota/articles/2022-02-21/north-dakota-takes-cue-from-south-dakota-to-recruit-lawyers> (last visited Sept. 10, 2023); Danielle Kaeding, *Rural Wisconsin Lacking Lawyers, Especially Up North*, WIS. PUB. RADIO (Aug. 23, 2016, 5:40 PM), <https://www.wpr.org/rural-wisconsin-lacking-lawyers-especially-north> [<https://perma.cc/XK7E-M9JD>]; Collin Schopp, *Here’s How the Illinois State Bar Association Works to Bring Lawyers to Illinois’ ‘Legal Deserts,’* WCBU (Sept. 29, 2022, 3:44 PM), <https://www.wcbu.org/local-news/2022-09-29/heres-how-the-illinois-state-bar-association-works-to-bring-lawyers-to-illinois-legal-deserts> [<https://perma.cc/E2QR-X95W>].

6. Amy Mayer, *Rural Lawyer Shortage Spurs Affordable Option: A La Carte Services*, IOWA PUB. RADIO (May 18, 2018, 5:00 AM CDT), <https://www.iowapublicradio.org/agriculture/2018-05-18/rural-lawyer-shortage-spurs-affordable-option-a-la-carte-services#stream/0> [<https://perma.cc/UD5T-N6L5>] (quoting Jennifer Zwagerman, Director of Career Development and Associate Director of the Agricultural Law Center at Drake University Law School); see also *Legal Deserts Threaten Justice for All in Rural America*, A.B.A. (Aug. 3, 2020), <https://www.americanbar.org/news/abanews/aba-news-archives/2020/08/legal-deserts-threaten-justice/> (last visited Sept. 10, 2023).

7. See Dura, *supra* note 5; Schopp, *supra* note 5; see also Megan Hill, *State Level Responses to the Rural Attorney Shortage*, INDIANAPOLIS BAR ASS’N (Aug. 10, 2022), <https://www.indybar.org/?pg=GovernmentPracticeNews&blAction=showEntry&blogEntry=79790> [<https://perma.cc/PC9F-HKK6>]; *Rural Practice Incubator Project*, UNIV. ARK. LITTLE ROCK WILLIAM H. BOWEN SCH. L., <https://ualr.edu/law/clinical-programs/rural-practice-incubator-project/> [<https://perma.cc/FRH2-QAMW>]; *Rural Incubator Project for Lawyers*, MONT. LEGAL SERVS. ASS’N, <https://www.mtlsa.org/rural-incubator-project-for-lawyers/> [<https://perma.cc/7FPJ-F3N3>]; *Rural Law Opportunities Program*, UNIV. NEB. COLL. L., <https://law.unl.edu/RLOP/> [<https://perma.cc/FY9V-WKKD>].

8. Melissa L. Kidder, *The Future of Rural Lawyering: How Law Schools Should Embrace a General Practice Legal Clinic Model to Address the Current and Future Legal Needs of Rural and Smaller Communities*, 70 DRAKE L. REV. 83, 97–102 (2022); *A Champion for Rural Law*, UNIV. OF S.D. (Mar. 7, 2022), <https://www.usd.edu/academics/colleges-and-schools/knudson-school-of-law/south-dakota-lawyer/a-champion-for-rural-law> [<https://perma.cc/533U-D5ZZ>].

9. See, e.g., Kathryn R.L. Rand, Joseph A. Wetch, Hon. Gail Hagerty & Tony J. Weiler, *Rural Justice in North Dakota*, 42 MITCHELL HAMLINE L. REV. 1027, 1028–30 (2016) (articulating the access to justice motivations for the North Dakota program); Patrick G. Goetzinger & Robert L. Morris, *Project Rural Practice: Its People & Its Purpose*, 59 S.D. L. REV. 444, 446 (2014) (explaining the roots of the South Dakota program as a response to a crisis of access to justice).

We began wrestling with this question: If Iowa has a rural access to justice crisis caused by a declining number of resident rural attorneys, what should the University of Iowa College of Law be doing to ameliorate the situation?¹⁰ But we shared a suspicion, occasionally voiced by academics, lawyers, and those outside the legal profession, that more lawyers might not necessarily equate to more justice—or even access to it.¹¹ Moreover, it seemed clear to us that the concept of “access to justice” had a different meaning depending on the other people in the conversation. If various stakeholders are not operating from a common understanding of “access to justice,” how could we reliably measure it? If we cannot measure access to justice, or can only do so using assumptions (e.g., X attorneys per capita = access to justice), how can we begin to fully understand if there is a problem, let alone begin to formulate effective solutions?

We recognized that measuring numbers of attorneys was an understandable and straightforward baseline for those working to understand and enhance access to justice. We also recognized that rural access to justice conversations, unlike those in urban areas, were uniquely shaped by the narrative of declining attorney numbers.¹² Yet, we remained troubled by the lack of understanding around the goal: How many attorneys per *anything*—capita, county, square mile—were needed to achieve “access to justice” or some positive impact? And we were equally troubled by the possibility that the relationship between attorney numbers and access to justice was based more on assumption than evidence, in part because the measures for access to justice are limited.

10. Scholars have noted the role of law schools in addressing rural needs, urging that “the burden of integrating rural people and rural issues into legal education should be borne in proportion to an institution’s clout and resources.” Lisa R. Pruitt, Amanda L. Kool, Lauren Sudeall, Michele Statz, Danielle M. Conway & Hannah Haksgaard, *Legal Deserts: A Multi-State Perspective on Rural Access to Justice*, 13 HARV. L. & POL’Y REV. 15, 146 (2018) [hereinafter Pruitt et al., *Legal Deserts*].

11. See, e.g., Rebecca L. Sandefur, *Access to What?*, 148 DÆDALUS 49, 50 (2019) [hereinafter Sandefur, *Access to What?*] (“[D]iagnosis of the problem proceeds from a preference for a single specific solution: more legal services.”); Rebecca L. Sandefur, *What We Know and Need to Know About the Legal Needs of the Public*, 67 S.C. L. REV. 443, 450 (2016) [hereinafter Sandefur, *What We Know and Need to Know*] (noting “[e]ven when lawyers are free we see an interesting lack of recourse to them”); Emily A. Spieler, *The Paradox of Access to Civil Justice: The “Glut” of New Lawyers and the Persistence of Unmet Need*, 44 U. TOL. L. REV. 365, 365 (2013) (describing the “market failure between the growing supply of lawyers and the unmet need for legal services in these [small] communities”); Zachariah DeMeola & Michael Houlberg, *To Close the Justice Gap, We Must Look Beyond Lawyers*, UNIV. DENV. INST. ADVANCEMENT AM. LEGAL SYS. (Nov. 4, 2021), <https://iaals.du.edu/blog/close-justice-gap-we-must-look-beyond-lawyers> [https://perma.cc/BTX9-MB6E] (arguing that “[r]eliance on more lawyers—and more pro bono services—to address our country’s justice crisis is a practical impossibility under the circumstances”).

12. Goetzinger & Morris, *supra* note 9, at 446 (“With the decline in the number of lawyers on Main Street . . . rural resident’s access to lawyers, and by extension, access to justice, also declined.”).

We wanted to contribute to the important and well-intended discourse within legal education, state bar associations, and access to justice efforts by articulating this thesis: While it is reasonable to believe there is *some* relationship between the presence of attorneys and access to justice, perhaps these two factors do not perfectly correspond. In the rural context, this discourse would benefit by recognizing that what we often see as one crisis is, in fact, two related but distinct problems: (1) There is a decline in rural attorneys, a real phenomenon with real implications for communities and the profession, which may have *some degree* of impact on access to justice;¹³ and (2) In rural communities, there is a legitimate access to justice concern for which the decline in attorneys might be a cause, and an increase in attorneys might be *one of several* potential interventions.¹⁴ Discussions about rural access frequently rely on the presence of one particular actor, the attorney, as the default metric.¹⁵ Thus, data related to one of these problems (rural attorney shortage) was typically being relied upon as the primary or exclusive measure for the other (rural access to justice). By using attorney numbers to measure access to justice, it followed that attorneys were also the default intervention to increase access to justice.

This exploration of rural access to justice—which admittedly does not lead to any concrete solutions—asks important questions to help us think more systematically about every facet of rural access to justice and to think critically about the need for, and role of, attorneys in rural communities. Parts I, II, and III interrogate the definitions of “crisis,” “rural,” and “access to justice” respectively. In each part, we review existing scholarship and consider the challenges and implications related to each definition. In Part IV, we examine access to justice measurements, highlighting the limits of existing measures and the problems of conflating

13. See *infra* Part I.

14. AM. BAR ASS’N HOUSE DELEGATES, RESOLUTION 10B (2012) (emphasis added) (on file with authors) (capturing the related-but-distinct nature of these issues by urging action to “address the decline in the number of lawyers practicing in rural areas *and* to address access to justice issues for residents in rural America”).

15. See, e.g., Robin Runge, *Addressing the Access to Justice Crisis in Rural America*, AM. BAR. ASS’N. HUM. RTS. MAG. (July 1, 2014), https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/2014_vol_40/vol_40_no_3_poverty/access_justice_rural_america/ [<https://perma.cc/JJ2N-ERC9>] (framing rural access to justice crisis around lack of attorneys); William Morris, *Does Iowa Have Enough Lawyers? American Bar Association President Says It Could Use More*, DES MOINES REG. (Apr. 5, 2023, 1:32 PM CT), <https://www.desmoinesregister.com/story/news/crime-and-courts/2023/04/05/american-bar-association-president-deborah-enix-ross-interview-tort-reform-indigent-defense-iowa/70075847007/> [<https://perma.cc/8DBD-3FQL>] (using lawyers per capita in state compared to national average as evidence of need); Rand et al., *supra* note 9, at 1027–28 (presenting lawyers per capita as evidence of crisis).

attorney to justice with access to attorneys, particularly in the rural context. Part V urges a reframing of the rural access to justice conversation around broader definition and measurement of access to justice and the possibility that the resident rural attorney is but one among multiple potential access to justice interventions.

I. DEFINING A CRISIS

Over nearly the last two decades, an alarm has been raised about the shortage of attorneys in rural America.¹⁶ The choice of passive voice is purposeful, as we should more closely examine *who* is raising the alarm, *how*, and *why*. Nationally, statistics show that twenty percent of the United States population lives in rural areas, yet only two percent of attorneys practice in rural America.¹⁷ Given the raw numbers, it is no surprise that national media, like *The New York Times*, have proclaimed, “[r]ural Americans are increasingly without lawyers.”¹⁸

This recent decline in rural attorneys has coincided with heightened awareness of the “justice gap,” defined by Legal Services Corporation as “the difference between the civil legal needs of low-income Americans and the resources available to meet those needs.”¹⁹ These two concepts have, understandably, become linked, with media describing a growing “access to justice issue” as “fewer and fewer attorneys locate in rural communities.”²⁰ One legal academic stated unequivocally that “[w]e have an access to justice crisis in rural America. A disproportionate percentage of people living in poverty live in rural communities in the United States. At the same time, there are very few attorneys providing legal services in rural communities, and their numbers are dwindling.”²¹ Another concluded that “the simple presence of rural private practice lawyers goes a long way to provide [rural residents] access to justice.”²² And state court judges have expressed similar sentiments, with Chief Justice David E. Gilbertson of the South Dakota Supreme Court analogizing that “[a]

16. Kidder, *supra* note 8, at 84–85, 88.

17. Ethan Bronner, *No Lawyer for Miles, So One Rural State Offers Pay*, N.Y. TIMES (Apr. 8, 2013), <https://www.nytimes.com/2013/04/09/us/subsidy-seen-as-a-way-to-fill-a-need-for-rural-lawyers.html> (last visited Aug. 6, 2023).

18. *Id.*

19. LEGAL SERVS. CORP., THE JUSTICE GAP: THE UNMET CIVIL LEGAL NEEDS OF LOW-INCOME AMERICANS 7 (2022), <https://lsc-live.app.box.com/s/xI2v2uraioTbbzrhwtjlgI0emp3myz1> [<https://perma.cc/HS3R-JCT8>].

20. Mayer, *supra* note 6 (quoting Jennifer Zwagerman, Director of Career Development and Associate Director of the Agricultural Law Center at Drake University Law School).

21. Runge, *supra* note 15.

22. Hannah Haksgaard, *Rural Practice as Public Interest Work*, 71 ME. L. REV. 209, 215 (2019).

hospital will not last long with no doctors, and a courthouse and judicial system with no lawyers faces the same grim future.”²³

On its face, there seems to be little doubt about the nature and scope of the rural access to justice crisis and its cause: Rural communities cannot access justice largely because they lack local attorneys.²⁴ In fact, from the collective imagination to policymaking decisions, these ideas have become interchangeable: “Access to justice” as shorthand for lack of local attorneys and “attorney shortage” in rural areas as a synonym for the access to justice crisis. This conflation appears to be a unique aspect of *rural* access to justice discourse, where access to justice has been so directly and singularly tied to the presence and numbers of resident attorneys in a community.²⁵ It is a common conclusion that the decline in attorneys is the cause of the rural justice gap, and reversing this tide is the best—or only—solution.²⁶

However, the conflation of these issues presents problems, in part because the “crisis” has been primarily diagnosed by members of the legal profession who, because of their training and perspectives, naturally place themselves at the center of the identification and resolution of legal problems.²⁷ It is lawyers, judges, bar representatives, and law professors labeling the shortage of rural attorneys as a “crisis” with dire access to justice implications; those raising the alarm typically view the problem from their position within the legal profession and are generally invested in maintaining and growing the legal profession.²⁸ In particular, the

23. Bronner, *supra* note 17.

24. Kidder, *supra* note 8, at 92 (“[A] shortage of lawyers presents a clear access to justice issue for those in rural communities.”).

25. *Id.*

26. *Id.*; Kristi Eaton, *Rural Areas Struggle with Lack of Lawyers*, MINN. PUB. RADIO (Dec. 12, 2011, 1:06 PM), <https://www.mprnews.org/story/2011/12/12/rural-lawyers> [<https://perma.cc/L5P2-A9Q3>]; Grant Gerlock, *Lawyers Needed to Work in Rural Areas*, IOWA PUB. RADIO (Dec. 16, 2016, 8:40 AM CST), <https://www.iowapublicradio.org/agriculture/2016-12-16/lawyers-needed-to-work-in-rural-areas> [<https://perma.cc/8ENR-RFYZ>].

27. Eaton, *supra* note 26 (“‘The numbers speak volumes about who we have -or don’t have -in the rural communities,’ said Patrick Goetzinger, president of the South Dakota State Bar Association. ‘We’re going to have some problems in delivering justice in these rural communities if we don’t do anything proactively.’”); *see also* Gerlock, *supra* note 26 (“‘You don’t have access to justice because you don’t have access to lawyers.’” (quoting Lyle Koenig, co-chair of the Rural Practice Initiative at the Nebraska Bar Association)).

28. North Carolina State Bd. Dental Exam’rs v. FTC, 574 U.S. 494, 496 (2015) (“When a State empowers a group of active market participants to decide who can participate in its market, and on what terms, the need for supervision is manifest.” (citation omitted)). In *Goldfarb v. Virginia State Bar*, 421 U.S. 773 (1975), the Court, in finding that the Virginia State Bar’s activities were not exempt from the Sherman Act, explained that the State Bar, controlled by lawyers participating in the market, had “joined in what is essentially a private anticompetitive activity” for “the benefit of its members.” 421 U.S. at 791–92.

narrative and responses have been shaped by the economic and succession planning concerns of current rural attorneys.²⁹ It is not primarily rural teachers, doctors, social workers, or residents themselves who have proclaimed a “crisis” related to a lack of attorneys. In fact, if there are significant unmet legal needs, communities themselves are not a calling for more lawyers.³⁰

This is not to say that the equation of a shortage of attorneys with an access to justice crisis is completely unfounded or nefarious. As the United States Supreme Court has noted, “established ethical standards may blend with private anticompetitive motives in a way difficult for even market participants to discern. Dual allegiances are not always apparent to an actor.”³¹ That practicing lawyers and others who have made the investment in obtaining a Juris Doctor would advocate for more lawyers is not surprising and may very well prove to be a potential solution. However, the lawyer’s monopoly³²—which is reinforced by calling for more lawyers, and only lawyers, as the solution to the access to justice crisis—is itself a root cause of the access to justice crisis. Other scholars have decried the “tremendous negative effect” that the lawyer’s monopoly has had on access to justice in the United States.³³ These “dual allegiances”³⁴ have led to eighty-five percent of Americans being priced

29. The Illinois State Bar Association’s Committee on the Rural Practice Initiative was presented with “complaints from members in rural areas, including those who wanted to sell their practices and retire but could not find lawyers interested in moving to their communities and buying the practices.” Dan Kittay, *Success on the Horizon? New Efforts to Increase Rural Access to Justice*, A.B.A. BAR LEADER (May 1, 2022), https://www.americanbar.org/groups/bar_services/publications/bar_leader/2021_22/may-june/success-on-the-horizon-new-efforts-to-increase-rural-access-to-justice/ [https://perma.cc/DQC6-CUFD]. Some bar association rural recruitment efforts are driven primarily by succession planning concerns among older solo practitioners. See Pruitt et al., *Legal Deserts*, *supra* note 10, at 71 (describing Georgia’s Succession Planning Pilot Program, which launched in 2014).

30. See, e.g., Rodgers, *supra* note 4 (quoting Philip Garland, Chair of the Iowa State Bar Association’s Rural Practice Committee, as saying, “[i]n all honesty, I’m not hearing any citizens complaining about the lack of lawyers in their communities”).

31. *Bd. of Dental Exam’rs*, 574 U.S. at 505.

32. See Benjamin H. Barton, *The Lawyer’s Monopoly—What Goes and What Stays*, 82 FORDHAM L. REV. 3067, 3080 (2014) (“State supreme courts control lawyer regulation in all fifty states. Many state supreme courts have claimed an exclusive ‘inherent authority’ to regulate lawyers, barring legislative encroachment. . . . State supreme court inherent authority over lawyer regulation has been predictably advantageous to lawyers. Courts have used their inherent authority to create unified bars in multiple states . . . , to prosecute the unauthorized practice of law, to adopt the American Bar Association’s (ABA) Rules of Professional Conduct, and to require bar passage and attendance at an ABA-accredited law school.” (footnotes omitted)).

33. Jessica K. Steinberg, Anna E. Carpenter, Colleen F. Shanahan & Alyx Mark, *Judges and the Deregulation of the Lawyer’s Monopoly*, 89 FORDHAM L. REV. 1315, 1319 (2021).

34. *Bd. Dental Exam’rs*, 574 U.S. at 495.

out of civil legal services,³⁵ a glut of lawyers serving a handful of large multinational corporations,³⁶ and a deep “mismatch between people’s legal needs and their ability to access services.”³⁷ Perhaps some skepticism is warranted if those who played a key role in creating a problem then propose that they are also the sole solution to the problem.

Legal professionals do hold critical information relevant to understanding and addressing the access to justice problem. Local lawyers know the number of clients they have to turn away and the nature of their legal issues; courts know how many litigants proceed pro se or default; bar associations know if the number of attorneys in an area is increasing or decreasing; law schools know where their graduates seek employment. But there is a risk when this information, from these sources, is exclusively used to frame the problem or inform the response, in part because the information is woefully incomplete, and in part because the sources are both self-interested and self-regulated.

As a matter of general policymaking, when

a new problem definition gains significant support, it shapes the ensuing action. It legitimates some solutions rather than others, invites participation by some political actors and devalues the involvement of others, focuses attention on some indicators of success and consigns others to the scrapheap of the irrelevant.³⁸

The definition of a problem determines the realm of solutions. Legal professionals, in their myopic approach, may conclude that an access to justice crisis in rural communities must be wholly the result of decreasing numbers of attorneys in these communities. The predetermined solution is then more attorneys, which *may* benefit residents with unmet legal needs, but will *certainly* benefit law schools, bar associations, and lawyers generally.

II. DEFINING RURAL

An initial and somewhat basic hurdle to understanding the rural access to justice problem is determining what we mean by rural. An area could be defined as rural because of its economic activity or based on its population density. A community could be defined as rural because of shared culture and relationships. There is no uniformly applied definition

35. Steinberg et al., *supra* note 33, at 1315.

36. *Id.* at 1319.

37. *Id.* at 1321.

38. Janet A. Weiss, *The Powers of Problem Definition: The Case of Government Paperwork*, 22 POL’Y SCIS. 97, 98 (1989).

of “rural” in the United States.³⁹ Perhaps the most compelling evidence of the challenges associated with identifying rurality is that rural is frequently defined “as the foil to urban,”⁴⁰ meaning that which does not meet the definition of urban must be rural. And even once rurality is defined, it is equally complicated to determine where it starts and stops. Is it defined by legal borders such as the county line? Institutional limits like school district boundaries? Or more ephemeral boundaries defined by shared meanings and beliefs, as with the members of a congregation?

A. *Who is Rural?*

Rural communities may be defined not by geography or density, but by shared history, experiences, rituals, and vernacular: “An object, a practice, a custom, an experience, a person, etc., might be imagined as ‘rural’ even if located in a spatial context considered to be urban.”⁴¹ Community, as a social field, is defined not “[by] the space (or place) itself, but on the social interaction that gives this space meaning.”⁴² Alternatively, sociologists view community as a social system, defined by the “relatively lasting arrangements among concrete institutional entities such as education, the church, local government, the economy, and the polity.”⁴³ Defining *who* is rural is no less complex than *where* is rural. Can an individual be rural by choice or only by heritage?⁴⁴ Some scholars believe these groups can

39. “Researchers and policy officials employ many definitions to distinguish rural from urban areas, which often leads to unnecessary confusion However, the existence of multiple rural definitions reflects the reality that rural and urban are multidimensional concepts.” *What Is Rural?*, USDA ECON. RSCH. SERV., <https://www.ers.usda.gov/topics/rural-economy-population/rural-classifications/what-is-rural/> [<https://perma.cc/99PW-DM5T>] (last updated Oct. 23, 2019).

40. Lisa R. Pruitt, *The Rural Lawscape: Space Tames Law Tames Space*, in *THE EXPANDING SPACES OF LAW: A TIMELY LEGAL GEOGRAPHY* 190, 191 (Irus Braverman, Nicholas Blomley, David Delaney & Alexandre Kedar eds., 2014) [hereinafter Pruitt, *The Rural Lawscape*].

41. MICHAEL WOODS & JESSE HELEY, *CONCEPTUALISATION OF RURAL-URBAN RELATIONS AND SYNERGIES*, ROBUST 6 (2017), <https://rural-urban.eu/sites/default/files/D1-1%20Conceptualisation%20of%20Rural-Urban%20Relations%20and%20Synergies.pdf> [<https://perma.cc/9CL7-9ZGY>].

42. DAVID L. BROWN & KAI A. SCHAFFT, *RURAL PEOPLE AND COMMUNITIES IN THE 21ST CENTURY: RESILIENCE & TRANSFORMATION* 70 (2d ed. 2019).

43. *Id.* at 75.

44. In the Northeast, the terms “woodchuck” may be used to refer to someone who was born in rural New York or Vermont, while a “flatlander” is a transplant, generally someone who relocates from the city to more rural areas. See Nina Keck, *Where Do the Terms ‘Woodchuck’ and ‘Flatlander’ Come From?*, VT. PUB. (Dec. 17, 2020, 6:41 PM EST), <https://www.vermontpublic.org/programs/2020-12-17/where-do-the-terms-woodchuck-and-flatlander-come-from> [<https://perma.cc/E277-BUHZ>]. It is a derogatory term to label an outsider, who does not have the requisite skill and work ethic to survive or succeed in their new home. Cf. *id.* (showing a cartoon in which woodchucks “[k]eep on plowing with hot coffee served in the field”

have shared goals: “Those who are rural by choice versus rural by heritage sometimes conflict, but they can come together through their commitment to place.”⁴⁵ It is less clear whether and what is necessary for an individual and/or their family to transcend one category to the next. In other words, if rurality is a result of heritage, how many generations, what sort of investment, and what personal changes must occur to become truly rural?

B. *Where is Rural?*

The Census Bureau, the Office of Budget Management (OMB), Department of Agriculture, Department of Health and Human Services, Department of Veterans Affairs, and other state and federal agencies all use differing definitions of urban and rural for developing policies and for allocating resources.⁴⁶ Additionally, there may be several definitions at

while flatlanders “[c]elebrate the successful changing of the air filter in their Volvo with some moderately priced prosecco”). It is an open question as to whether the passage of time and acquisition of skills and local knowledge can convert a person into a “local,” or in the case of Vermont, a “woodchuck.” *Cf. id.* In Iowa, you can buy bumper stickers to label yourself a “native” (meaning you were born here), a “transplant” (meaning you chose to be here), or a “captive” (meaning you are being held here against your will). *See, e.g.,* Eric Johnson, *Visual Design*, ERIC JOHNSON, <https://www.ericdjohnson.net/work-ive-done/visual-design/> [https://perma.cc/YH8U-E7ZN] (discussing Iowa’s famous “Iowa Native” sticker and describing the author’s “transplant” sticker he made for his wife, who is “from Illinois but considers herself an Iowan now”); RAYGUNshirts, FACEBOOK (Nov. 15, 2013), <https://www.facebook.com/raygunshirts/photos/a.10150165331455441/10153521934415441/?type=3> (last visited Sept. 17, 2023) (noting that the “native” stickers are “for someone who is from Iowa” and that the “captive” stickers are those who are “unable to escape”). Notably, these conversations and terms, essentially about who was somewhere first and who is the interloper, completely leave out Native Americans, the only people who can accurately be described as “native,” and ignore the fact that all other Americans are interlopers.

45. CORNELIA BUTLER FLORA, JAN L. FLORA & STEPHEN P. GASTEYER, *RURAL COMMUNITIES: LEGACY AND CHANGE* 3 (5th ed. 2016).

46. *See, e.g.,* Michael Ratcliffe, Charlynn Burd, Kelly Holder & Alison Fields, *Defining Rural at the U.S. Census Bureau*, U.S. CENSUS BUREAU (Dec. 2016), https://www2.census.gov/geo/pdfs/reference/ua/Defining_Rural.pdf [https://perma.cc/BHQ7-4A8P] [hereinafter *Defining Rural at the U.S. Census Bureau*] (describing the Census Bureau definition of “rural”); *The Federal Definition of ‘Rural’ – Times 15*, WASH. POST (June 8, 2013, 7:35 PM EDT), https://www.washingtonpost.com/politics/the-federal-definition-of-rural--times-15/2013/06/08/a39e46a8-cd4a-11e2-ac03-178510c9cc0a_story.html?utm_term=.4bc95b118998 (last visited July 15, 2023) (summarizing fifteen different federal definitions); Carolyn McAndrews, Kirsten Beyer, Clare E. Guse & Peter Layde, *Are Rural Places Less Safe for Motorists? Definitions of Urban and Rural to Understand Road Safety Disparities*, 23 INJ. PREVENTION 412, 412 (2017) (emphasizing “there is no agreed-on definition of rurality”); *What is Rural?*, USDA NAT’L AGRIC. LIBR., <https://www.nal.usda.gov/ric/what-is-rural> [https://perma.cc/99PW-DM5T] (noting different federal definitions are used for different purposes).

play within a single agency, and the methodology used by the agency to classify urban and rural areas may change over time.⁴⁷

The geographic unit to which the definition is applied adds another complication. In some cases, such as OMB, these definitions are applied to a county as a binary determination.⁴⁸ It is important to bear in mind that the size and nature of these geographic and administrative units can vary widely. For example, Clark County, Nevada, covers approximately 7,892 square miles and had a population of 2.3 million people as of 2022.⁴⁹ OMB designates Clark County as a “metro” county.⁵⁰ By comparison, Clinton County, Iowa, covers approximately 695 square miles and had a population of 46,460 as of 2020.⁵¹ OMB designates Clinton County as a “nonmetro” county.⁵² Over ninety-eight percent of the population of Clark County lives in the 453 square miles in and around Las Vegas, while approximately seventy percent of the population of Clinton County lives in the twenty square miles comprising its county seat, Clinton.⁵³ The population density in the remaining 7,439 square miles of “metro” Clark County is less than four people per square mile, five times fewer than the twenty people per square mile in the remaining 675 square miles of “nonmetro” Clinton County.⁵⁴

47. See Surabhi Balachander, *Why Study the Rural West?*, BILL LANE CTR. AM. W., STAN. SCH. OF HUMANS. & SCIS., <https://west.stanford.edu/research/rural-west-initiative/why-study-rural-west> [https://perma.cc/4XUU-RKRY].

48. See OFF. OF MGMT. & BUDGET, EXEC. OFF. OF THE PRESIDENT, OMB BULL. NO. 23-01, REVISED DELINEATIONS OF METROPOLITAN STATISTICAL AREAS, MICROPOLITAN STATISTICAL AREAS, AND COMBINED STATISTICAL AREAS, AND GUIDANCE ON USES OF THE DELINEATIONS OF THESE AREAS, app. at 3 (2023) [hereinafter OMB BULL. NO. 23-01], <https://www.whitehouse.gov/wp-content/uploads/2023/07/OMB-Bulletin-23-01.pdf>

[https://perma.cc/492U-WHAJ] (stating the geographic components of statistical areas are counties and equivalent entities); *Defining Rural Population*, U.S. DEP’T HEALTH & HUM. SERVS., <https://www.hhs.gov/guidance/document/defining-rural-population> [https://perma.cc/DSN8-94ZM].

49. *Urban and Rural: County-Level 2020 Census Urban and Rural Information for the U.S., Puerto Rico, and Island Areas Sorted by State and County FIPS Codes*, U.S. CENSUS BUREAU [hereinafter *County-Level 2020 Census*], <https://www.census.gov/programs-surveys/geography/guidance/geographic-areas/urban-rural.html> [https://perma.cc/L8ML-TLNL].

50. OMB BULL. NO. 23-01, *supra* note 48, app. at 59. For a discussion of the OMB classification criteria, see generally *id.* at 2–3 (stating the geographic components of statistical areas are counties and equivalent entities).

51. *County-Level 2020 Census*, *supra* note 49.

52. *Iowa: Rural Definitions Based on Office of Management and Budget (OMB) Metro Counties*, USDA, https://www.ers.usda.gov/webdocs/DataFiles/53180/25570_1A.pdf?v=8668.5 [https://perma.cc/2F5X-WGQK].

53. *County-Level 2020 Census*, *supra* note 49.

54. *Id.*

A wealth of writing preceding this Article has grappled with how to define rural, but little consensus has emerged.⁵⁵ In a 2015 study of the shortage of attorneys in rural Arkansas, the county was used as the unit of analysis,⁵⁶ and rural was defined as a county with fewer than 15,000 residents.⁵⁷ That same year, a study of rural access to justice in Montana used the Index of Relative Rurality (IRR), developed by Brigitte Waldorf in 2007.⁵⁸ The IRR uses counties as the unit of analysis, but asks, “What is a county’s degree of rurality?” rather than “Is a county rural or urban?”⁵⁹ The IRR uses four characteristics—population size, population density, percentage of urban residents, and distance to the nearest metropolitan area—to locate a county on a scale of zero (least rural) to one (most rural).⁶⁰ In the 2010 IRR dataset, the most urban place was Manhattan (New York County, New York) with a 0.04, and the most rural location was the Northwest Arctic Borough in Alaska with a 0.89.⁶¹ For comparison, Clark County, Nevada, discussed above, scored a 0.39, identifying it as significantly more urban than Clinton County, Iowa with a 0.49.⁶²

A 2016 article on the Rural Justice Program in North Dakota quoted Judge Gail Hagerty who “pitched” the Program as noting that,

55. See, e.g., *Defining Rural at the U.S. Census Bureau*, *supra* note 46 (explaining the history and meaning of rural in the Census Bureau); *The Federal Definition of ‘Rural’ – Times 15*, *supra* note 46 (summarizing the myriad definitions of “rural”); McAndrews et al., *supra* note 46 (comparing definitions and purposes); *What is Rural?*, *supra* note 46 (emphasizing there is no shared meaning of “rural”); Balachander, *supra* note 47 (highlighting the varied purposes of different definitions); L. Gary Hart, Eric H. Larson & Denise M. Lishner, *Rural Definitions for Health Policy and Research*, 95 AM. J. PUB. HEALTH 1149, 1150 (2005) (discussing rural taxonomies).

56. Lisa R. Pruitt, J. Cliff McKinney, II & Bart Calhoun, *Justice in the Hinterlands: Arkansas as a Case Study of the Rural Lawyer Shortage and Evidence-Based Solutions to Alleviate It*, 37 UALR L. REV. 573, 582–84 (2015) [hereinafter *Justice in the Hinterlands*].

57. *Id.* at 586–88.

58. Hillary A. Wandler, *Spreading Justice to Rural Montana: Rurality’s Impacts on Supply and Demand for Legal Services in Montana*, 76 MONT. L. REV. 225, 232–33 (2015).

59. Brigitte S. Waldorf, A Continuous Multi-Dimensional Measure of Rurality: Moving Beyond Threshold Measures 2 (2006) (unpublished conference paper) (on file with the Agricultural and Applied Economics Association), <https://ageconsearch.umn.edu/record/21383> (last visited Sept. 17, 2023).

60. *Id.* The IRR was revised and updated in 2015. BRIGITTE WALDORF & AYOUNG KIM, *DEFINING AND MEASURING RURALITY IN THE US: FROM TYPOLOGIES TO CONTINUOUS INDICES* 10–11 (2015), https://sites.nationalacademies.org/cs/groups/dbassesite/documents/webpage/dbasse_168031.pdf [<https://perma.cc/WTW6-82NE>].

61. Brigitte Waldorf & Ayoung Kim, *The Index of Relative Rurality (IRR): US County Data for 2000 and 2010*, PURDUE UNIV. RSCH. REPOSITORY (Apr. 18, 2018), <https://purr.purdue.edu/publications/2960/about?v=1> (last visited Sept. 17, 2023) (select “Download Bundle”).

62. *Id.*

“communities of 15,000 or fewer residents” are rural.⁶³ An ambitious, comparative study of rural access to justice in California, Georgia, Maine, Minnesota, Wisconsin, and South Dakota published in 2018 acknowledges the shortcomings of its analysis because of the “multiple definitions of ‘rural’ [that] are employed across the various and specific states and data” surveyed.⁶⁴

A 2018 study of attorneys in rural California used Medical Service Study Areas (MSSA), as defined by the California Office of Statewide Health Planning and Development (OSHPD).⁶⁵ An MSSA is the geographic unit used by OSHPD for needs assessments, policy planning, and resource allocation, with a focus on primary care services.⁶⁶ Each MSSA is composed of one or more complete census tracts, but does not cross county lines.⁶⁷ MSSAs typically align with “communities” in that they are defined by shared geography, culture, and socioeconomic status. In addition, all population centers within an MSSA must be within thirty minutes travel time to the largest population center.⁶⁸ When these criteria are met, population (and population density) are used to determine whether an MSSA is designated urban, rural, or frontier. Rural MSSAs have a population density of less than 250 persons per square mile and no population center can be larger than 50,000 persons.⁶⁹

A 2019 study of the challenges of rural practice in New York targeted all attorneys with “listed rural-county addresses in the attorney registration list kept by the New York State Office of Court Administration.”⁷⁰ However, the study does not explain how rural counties were defined, and the Office of Court Administration does not have proprietary definitions of urban and rural counties.⁷¹

63. Rand et al., *supra* note 9, at 1030.

64. Pruitt et al., *Legal Deserts*, *supra* note 10, at 24, 27.

65. Lisa R. Pruitt & Rebecca H. Williams, *Rural Justice*, 41 L.A. LAW. 26, 26, 29 (2018).

66. See LEE D. KEMPER, ON THE FRONTIER: MEDI-CAL BRINGS MANAGED CARE TO CALIFORNIA’S RURAL COUNTIES, CAL. HEALTHCARE FOUND. 7–9 (2015), <https://www.chcf.org/wp-content/uploads/2017/12/PDF-FrontierMediCalMgdCareRural.pdf> [<https://perma.cc/FT6M-LXT8>].

67. Hovik Khosrovian, *Medical Service Study Areas (MSSA) Guidelines Project*, OFF. STATEWIDE HEALTH PLAN. & DEV. 4 (June 2020), <https://hcai.ca.gov/wp-content/uploads/2020/12/Attachment-W-Agenda-Item-16-Medical-Services-Study-Area-MSSA-Guidelines-Project-ADA-Accessible.pdf> [<https://perma.cc/NPQ9-M5EV>].

68. *Id.*

69. *Id.* A rural MSSA occupies the middle ground between an urban MSSA and a frontier MSSA, which is extremely rural and has a population density of less than eleven persons per square mile.

70. TAIER PERLMAN, RURAL LAW PRACTICE IN NEW YORK STATE, ALBANY L. SCH. GOV’T LAW CTR., 1 (2019), <https://www.albanylaw.edu/centers/government-law-center/the-rural-law-initiative/Documents/rural-law-practice-in-new-york-state.pdf> [<https://perma.cc/WD2D-9Z7Q>].

71. *Id.*

Similarly, Canadian scholars and practitioners have been unable to reach consensus on how to identify rural communities. Studies of access to justice in Alberta⁷² and Ontario,⁷³ completed in 2011 and 2015 respectively, make important distinctions between rural communities and remote communities. The 2015 study's authors advocate for a "multifaceted approach" to defining rurality that includes: (1) distance and density; (2) demography; and (3) social and cultural characteristics.⁷⁴ Yet a 2014 study of the geography of access to justice in Canada identified lawyers as practicing in rural communities based on their postal code,⁷⁵ relying on Canada Post's designation of urban or rural.⁷⁶

There is consensus among scholars across fields that rurality is not a monolith: "[I]f you've seen one rural place, you've seen one rural place."⁷⁷ At the same time, though, scholars are constantly struggling to identify shared characteristics of rural communities. Some common threads have emerged. Rural communities, because they generally have smaller populations and less population density, are commonly defined by a high density of acquaintanceship.⁷⁸ Historically, these communities also tend to be more homogenous and less diverse.⁷⁹ These factors, in turn,

72. MARY STRATTON, CAN. F. ON CIV. JUST., ALBERTA LEGAL SERVICES MAPPING PROJECT: AN OVERVIEW OF FINDINGS FROM THE ELEVEN JUDICIAL DISTRICTS (2011), <http://www.cfcj-fcjc.org/sites/default/files/docs/2011/mapping-final-en.pdf> [https://perma.cc/83P6-U9RE].

73. NICOLE AYLWIN & LISA MOORE, CAN. F. ON CIV. JUST., RURAL & REMOTE ACCESS TO JUSTICE: A LITERATURE REVIEW (2015), <https://cfcj-fcjc.org/wp-content/uploads/Rural-Remote-Lit-Review-N-Aylwin-and-L-Moore.pdf> [https://perma.cc/E22Q-SRH6].

74. *Id.* at 6–15. The approach to defining rurality proposed in the Canadian studies is theoretically rich but nearly impossible to use. The network of questions to be addressed in this assessment of rurality include: How far are rural communities from larger urban centers? How many people per square kilometer reside in a community? How does the demographic profile of a community (average age, income levels, education levels, language profiles, etc.) shape the population and their needs? (average age, income levels, education levels, language profiles, etc.). How does the social organization of a community influence the specification of a population? How do the value systems and beliefs influence the specification of a population?

75. Jamie Baxter & Albert Yoon, *No Lawyer for a Hundred Miles? Mapping the New Geography of Access of Justice in Canada*, 52 OSGOODE HALL L.J. 9, 47 (2014).

76. *See generally* CAN. POST, *Addressing Guidelines*, 41–43 (last updated June 14, 2021) <https://www.canadapost-postescanada.ca/cpc/doc/en/support/addressing-guidelines.pdf> [https://perma.cc/TSCX-NHC8]. A Canadian postal code consists of six alphabetic (A) and numerical (N) characters, formatted as "ANA NAN." *Id.* at 40. Canada Post codes all rural areas by making the first N a zero. *Id.* at 43. Urban areas will have any number from one to nine in that same place. *Id.*

77. Lisa R. Pruitt & Bradley E. Showman, *Law Stretched Thin: Access to Justice in Rural America*, 59 S.D. L. REV. 466, 475 (2014).

78. *Cf.* William R. Freudenburg, *The Density of Acquaintanceship: An Overlooked Variable in Community Research?*, 92 AM. J. SOCIO. 27, 27–28 (1986) (noting that residents of rural areas tend to know a greater proportion of their neighbors than do persons in urban areas).

79. DW Rowlands & Hannah Love, *Mapping Rural America's Diversity and Demographic Change*, BROOKINGS (Sept. 28, 2021), <https://www.brookings.edu/articles/mapping-rural-americas-diversity-and-demographic-change/> [https://perma.cc/AZS9-YWJZ].

lead to communities in which residents have a strong attachment to place, shared values, and a commitment to tradition.⁸⁰ Rural areas also tend to lack economic diversity and, consequently, have become associated with “cheap labor and bad jobs.”⁸¹ Rural areas are associated with substandard infrastructure and a lack of human capital due to “brain drain.”⁸² Whether these characterizations are accurate, and what the nature of the relationship between these factors is, are ongoing subjects of scholarly debate across several fields from sociology to political science. It is nearly indisputable, though, that the “*hallmark of rural living [is] that residents must travel greater distances, at greater cost, to access all sorts of services and institutions.*”⁸³ It is this commonality that underlies the need to map rural access to the legal system.

III. DEFINING ACCESS TO JUSTICE

“Access to justice” is a phrase used frequently by scholars, journalists, and politicians, but without precision and often without a shared meaning. It is perhaps foreseeable, then, that many lawyers, policymakers, and legal educators reflexively equate “access to justice” with the presence of a lawyer, particularly in rural communities where attorney numbers are already low. The lack of a common definition allows various actors to adopt an understanding of the concept that is—not surprisingly—shaped by their perspectives or interests. A narrow understanding might also result in failure to consider the availability or efficacy of some potential interventions. This Part explores the challenges in defining access to justice and evaluates definitions proposed by scholars.

A. _____ to Justice and Access to _____

Rebecca Sandefur, one of the leading scholars studying access to justice through an empirical approach, aptly frames the definitional question as, “Access to what?”⁸⁴ The other question, though, is, “What is access?” We understand “access,” generally, as “permission, liberty, or ability to enter . . . a place or to approach or communicate with a person.”⁸⁵ Another definition, beyond just entering or approaching,

80. See Pruitt & Showman, *supra* note 77, at 481–82.

81. *Id.* at 483.

82. See generally PATRICK J. CARR & MARIA J. KEFALAS, *HOLLOWING OUT THE MIDDLE: THE RURAL BRAIN DRAIN AND WHAT IT MEANS FOR AMERICA* (2009).

83. Pruitt & Showman, *supra* note 77, at 486 (emphasis added).

84. Sandefur, *Access to What?*, *supra* note 11, at 49–50.

85. *Access*, MERRIAM-WEBSTER, <https://www.merriam-webster.com/dictionary/access> [<https://perma.cc/6M84-MDDB>] (last updated Sept. 14, 2023).

focuses on agency: “[T]he freedom or ability to obtain or make use of something.”⁸⁶ In the former definition, access is given, bequeathed by those with power; in the latter, access is intrinsic and requires the exercise of choice.

Scholarship that examines access to healthcare differentiates between potential and realized access, and spatial and social access.⁸⁷ Potential access focuses on the probability of entry into the system (health or legal, in this case), but does not ensure that the needed services will be used.⁸⁸ Realized access is accomplished when services are actually used. Spatial access focuses on proximity: It identifies geographic and temporal variables as either an obstacle or an advantage to system entry.⁸⁹ Social (or aspatial) access encompasses factors beyond time and distance, including social, cultural, economic, and demographic factors, as well as “personal idiosyncrasies and individual perceptions.”⁹⁰

The most basic and traditional definition of access to justice focuses on “lawyers and courtrooms.”⁹¹ Under this early definition, conceived nearly 200 years ago, access to justice is synonymous with “[a] right of access to judicial protection” and centers “an individual’s *formal* right to litigate or defend a claim.”⁹² Empirical evaluations of access to justice operating under this definition consider “an individual’s ability to secure a lawyer and resolve in court issues already framed in legal terms.”⁹³ In the 1960s, the definition of access to justice narrowed to focus on the ability of individuals living in poverty to obtain legal representation and became the foundation of the legal aid movement.⁹⁴ Scholars in the last twenty years have continued to refine the definition of access to justice to make it more meaningful and relevant; these new definitions of access to justice, though, are simultaneously more nuanced but less subject to measurement.⁹⁵

86. *Id.*

87. A. Patel, N.J. Balmer & P. Pleasence, *Geography of Advice Seeking*, 39 GEOFORUM 2084, 2085–86 (2008).

88. *Id.* at 2085.

89. *Id.*

90. *Id.* at 2085 (citation omitted).

91. Pruitt & Showman, *supra* note 77, at 479.

92. Mauro Cappelletti & Bryant Garth, *Access to Justice: The Newest Wave in the Worldwide Movement to Make Rights Effective*, 27 BUFF. L. REV. 181, 183 (1978) (emphasis in original) [hereinafter Cappelletti & Garth, *Newest Wave*]. See generally 1 ACCESS TO JUSTICE: A WORLD SURVEY (Mauro Cappelletti & Bryant Garth eds., 1978).

93. Pruitt & Showman, *supra* note 77, at 497.

94. Cappelletti & Garth, *Newest Wave*, *supra* note 92, at 196–99.

95. See generally Sameer Ashar & Annie Lai, *Access to Power*, 148 DÆDALUS 82 (2019); Sandefur, *Access to What?*, *supra* note 11; Pruitt & Showman, *supra* note 77.

Earlier definitions of access to justice presumed that the individual seeking justice had already identified their problem as a legal issue to be addressed by a court. In the early twenty-first century, legal scholars like Gary Blasi articulated a definition of access to justice that emphasized “helping individuals identify legal needs” when they might not understand a problem as a legal problem.⁹⁶ This definition expands access to justice in several directions: Does an individual have the education necessary to parse legal and non-legal problems? Can individuals avail themselves of a system to triage the problem? Blasi also went beyond the individual, bringing the collective problems of communities under the access to justice rubric.⁹⁷ This further expands access to justice to include the community’s ability to access legal or similar assistance, and decision makers’ (including courts’) ability to bring about systemic change through “class actions, lobbying, or organizing.”⁹⁸

Lisa Pruitt’s extensive scholarship on rural access to justice has advocated for a “thicker” understanding of access to justice as compared to the historically “thin” definition.⁹⁹ Pruitt presents access to justice as a path to strengthen communities by responding both to immediate needs and symptoms as well as the larger, underlying issues, while centering community needs and desires.¹⁰⁰ Pruitt’s definition aptly addresses the complex relationship between underlying causes (e.g., systemic racism), immediate needs (e.g., affordable housing), and symptoms (e.g., a recent eviction), as well as the relationships between individuals, communities, lawyers, and advocates.¹⁰¹ At the same time, this “thicker” definition is amorphous and lacks concrete factors to consider when evaluating access to justice and formulating solutions.

Sameer Ashar and Annie Lai posit an equally bold and all-encompassing definition of access to justice that focuses on power. They eschew traditional models of access to justice, at least on the surface, because of the legal system’s complicity in creating, maintaining, and obscuring oppression.¹⁰² Undeniably, the “legal system distributes rights and privileges based on a particular configuration of interests, favoring those who have power and burdening those who do not.”¹⁰³ Yet,

96. Pruitt & Showman, *supra* note 77, at 498–99 (citing Gary Blasi, *Framing Access to Justice: Beyond Perceived Justice for Individuals*, 42 LOY. L.A. L. REV. 913, 914 (2009)).

97. *Id.* at 499.

98. Blasi, *supra* note 96, at 915.

99. See Pruitt & Showman, *supra* note 77, at 497.

100. See *id.* at 498.

101. *Id.* at 497–98.

102. Ashar & Lai, *supra* note 95.

103. *Id.* at 83.

traditional models of access to justice presume that once an individual has access to courts and legal services, justice will follow. Ashar and Lai's "access to power"—their variation of access-to-what—focuses on capacity-building and reconfiguring power in communities. Their vision is much closer to Pruitt's "thicker" access to justice, which centers and strengthens communities. Still, Ashar and Lai rely solely and explicitly on legal representation (or collaboration with attorneys and law students) as the primary tool for increasing access to justice.¹⁰⁴

In response to a self-posed question, "Access to what?," Sandefur proposes that access to justice encompasses both a broader set of problems than those immediately recognizable as legal problems and a broader spectrum of resolutions.¹⁰⁵ This definition of access to justice requires that (1) "the relevant substantive and procedural norms govern resolution;" (2) "that resolution is lawful;" and (3) "justice" can be achieved without lawyers or a formal "dispute-resolving forum."¹⁰⁶ Sandefur's understanding of access to justice, in its most utopian form, does not need any of the traditional hallmarks of dispute resolution in a common law system: lawyers, judges, courts.¹⁰⁷ Justice does need norms, both substantive and procedural, but the source of those norms is not specified. The only part of Sandefur's approach that invokes something more familiar, more traditionally legal, is reliance on a "lawful resolution" as the ideal outcome.¹⁰⁸

An equally challenging, though very appealing, definition of access to justice is described in Michele Statz's work on the rural Northland in Wisconsin and Minnesota.¹⁰⁹ Statz posits that "access" occurs when (pro se) litigants "[get] the chance to say it,"¹¹⁰ when they can "tell their story,"¹¹¹ and "what they want to do,"¹¹² and adjudicators and decision-makers really "listen[.]"¹¹³ This "participatory access to justice"¹¹⁴ may be

104. *Id.* at 84–85.

105. Sandefur, *Access to What?*, *supra* note 11, at 49–50.

106. *Id.* at 50.

107. *Id.* at 51. Sandefur succinctly explains, "[w]hen the relevant substantive and procedural norms govern resolution, that resolution is lawful and we have access to justice, whether or not lawyers are involved in the resolution and whether or not the problem comes into contact with any kind of dispute-resolving forum." *Id.*

108. *Id.* at 51, 54.

109. Michele Statz, *On Shared Suffering: Judicial Intimacy in the Rural Northland*, 55 LAW & SOC'Y REV. 5, 6 (2021) [hereinafter Statz, *On Shared Suffering*].

110. *Id.* at 25 (emphasis omitted).

111. *Id.*

112. *Id.* (quotation marks omitted).

113. *Id.* at 24.

114. *Id.* at 32.

uniquely applicable to rural settings. It locates justice in the process, arguably in judges themselves, and not in the outcome.¹¹⁵ In many ways, “access” is about process precisely because the outcomes are foregone conclusions of “persistent injustice.”¹¹⁶

Statz describes communities and lawscapes,¹¹⁷ in which judges are not immune to the hardships suffered by litigants. Population decreases, economic downturns, loss of industry, and the neglect of urban politicians and policy makers are experienced by everyone in the community. Judges and litigants know the “pervasiveness of opioids and methamphetamines . . . , the absence of treatment centers and a dearth of rural mental health providers, the consequences of deep regional poverty, and the embittering failures of a poorly funded criminal or judicial system.”¹¹⁸ In Statz’s understanding of access to justice, it is this shared experience of living in a “left behind” rural region,¹¹⁹ coupled with the level of intimacy between litigants and decision-makers in a rural area,¹²⁰ that shifts the focus to “listening.”¹²¹

In assessing procedural justice, individuals consider the “fairness and neutrality of the decision maker; opportunity to present one’s side of the dispute (also called *voice*); trustworthiness (as opposed to mere neutrality) of the decision maker; and respectful treatment of all parties.”¹²² The judges described in Statz’s work are all of these things; they become “the eventual, if not only, source of respect, time, and ultimately, access.”¹²³

115. *Id.* at 24–25.

116. *Id.* at 9 (citing Wandler, *supra* note 58, at 236); *id.* at 32.

117. The term “lawscape” was described by Andreas Philippopoulos-Mihalopoulos as the “connection of reciprocal invisibility between law and the urban space.” Andreas Philippopoulos-Mihalopoulos, *Mapping the Lawscape: Spatial Law and the Body* 121 (Univ. of Westminster Sch. of L., Working Paper No. 12-06, 2013). It was initially employed in an urban context (“city becomes law becomes city *ad infinitum*”). Andreas Philippopoulos-Mihalopoulos, *Spatial Justice in the Lawscape*, in *URBAN INTERSTICES: THE AESTHETICS AND THE POLITICS OF THE IN-BETWEEN* 87, 93 (Andrea Mubi Brighenti ed., 2013). Scholars, such as Pruitt, have extended the concept to rural spaciality. *See, e.g.*, Pruitt, *The Rural Lawscape*, *supra* note 40, at 190 (applying the idea to rural contexts). Pruitt and Showman describe the “rural lawscape” as “the rural socio-spatial-cultural-economic milieu as it relates to law and access to justice.” Pruitt & Showman, *supra* note 77, at 480.

118. Statz, *On Shared Suffering*, *supra* note 109, at 20–21 (citation omitted).

119. *Id.* at 30.

120. *See, e.g., id.* at 19 (highlighting the personal connections between judges and litigants who grew up in the same town, went to school together, and whose families have known each other for generations).

121. *See id.* at 24.

122. Alan J. Tomkins & Kimberly Applequist, *Constructs of Justice: Beyond Civil Litigation*, in *CIVIL JURIES AND CIVIL JUSTICE: PSYCHOLOGICAL AND LEGAL PERSPECTIVES* 261 (Brian H. Bornstein, Richard L. Wiener, Robert F. Schopp & Steven L. Willborn eds., 2008) (discussing Tom Tyler’s groundbreaking work on procedural justice).

123. Statz, *On Shared Suffering*, *supra* note 109, at 13–14.

Statz' judges make the choice to see the parties who appear before them as "us" not "them."¹²⁴ This theory of access to justice, focused on the relationship between the judge and the parties, makes particular sense in rural areas where judges are fewer in number; judges themselves *are* procedure; and the outcomes cannot truly be just, often due to non-legal factors. Social psychologists and legal academics have observed that "the presence of sufficient evidence of procedural justice can overcome a lack of distributive justice in the outcome of a given proceeding[], leaving losing participants nevertheless willing to accept the outcome."¹²⁵ As with Ashar and Lai, Statz adopts a distinctly alternative vision of access to justice, but Statz too disregards an opportunity to consider access and justice as ideas which do not require the traditional legal system, nor its players.

B. What Do People Need? And, What Do People "Need"?

These different definitions of access to justice essentially ask, "What do people, and particularly individuals from low-income or marginalized communities, need?" What do they need to protect their basic necessities when they are threatened by a more powerful party—whether it is physical safety (unsafe living conditions or utility shut-off), health (food benefits, disability benefits, medical care), education (school discipline, special education), or family (divorce, custody, child support) being threatened by the government, a landlord, a company, or an influential spouse? But they also need (not want) to feel certain things: To feel seen and heard; to feel they have been treated with respect and dignity; and to feel the process was fair. If we understand justice, writ large, as "the use of methods that signal inclusion or exclusion of another person or group,"¹²⁶ these individuals and communities are simply seeking inclusion.

These individuals may need anything from a user-friendly manual to a lawyer, from a new and creative dispute resolution system to an empathetic judge who understands context. These individuals need

124. See Julie Van de Vyver, Giovanni A. Travaglino, Milica Vasiljevic & Dominic Abrams, *The Group and Cultural Context of Restorative Justice: A Social Psychological Perspective*, in *THE PSYCHOLOGY OF RESTORATIVE JUSTICE* 29, 30 (Theo Gavrielides ed., 2015). The authors note that the deployment of retributive rather than restorative justice can be viewed as a psychological and societal vehicle for maintaining systems of authority and control by [signaling] exclusive or inclusive intent towards the target. . . . [A] crucial issue for those involved in delivering and receiving justice, is therefore whether the targets of their decisions are defined as (or intended to be) one of "us" rather than one of "them".

Id.

125. Tomkins & Applequist, *supra* note 122, at 262.

126. Van de Vyver et al., *supra* note 124, at 30.

information, power, community, and deep, far-reaching systemic change. What they need most of all is *not* to have been fucked in the first place. As Michele Statz has boldly asserted, access to justice may be love.¹²⁷ It may be the ability—comprised of information, power, community, and deep agency—to create a system that makes sense to you, is accessible to you, does not discredit you when you show up as yourself, and understands your problems.

The historical evolution of the concept and the breadth of definitions now in use suggests that access to justice, understood in a robust sense, is not easily quantified. It also suggests that we are asking one phrase to do too much work, to make individual, subjective experiences and expectations into something universal and objective. What may be measured is access to the legal system—specifically access to litigation and access to legal counsel. Yet, even these two components of access to the legal system are different from each other and, taken alone or together, may have little to do with access to justice. As Hugh McDonald posed, “How much legal do people need?”¹²⁸

Both measurements, though, capture important data about the supply-side of the lawscape. A theoretical measurement of access to litigation could focus on an individual’s ability to present a problem in a court. Relevant factors could include the location and hours of the courthouse, the delay before a matter is heard, the availability of pro se resources and guidance, and the ability to retain an attorney. Access to legal counsel as a distinct, theoretical measurement could target concerns about attorney shortages, but with more detail than a mere headcount. Access to legal counsel could consider more traditional factors like attorneys per county, attorneys per capita, travel time to the nearest attorney, attorneys’ fees as compared to median incomes, and practice areas.

Both these assessments may lead to useful information for the state judiciary and court administration, as well as law schools and bar associations. They provide an evidence-based foundation for decisions

127. Michele Statz, “*It Is Here We Are Loved*”: Rural Place Attachment in Active Judging and Access to Justice, 00 LAW & SOC. INQUIRY 1, 16 (2022) [hereinafter Statz, *Rural Place Attachment*] (“[A]ctive judging . . . is at once a matter of providing access to justice and even more about providing a sense of trust and even love.”). Statz’s conception of justice as love seemingly draws on the work of several Black leaders and activists, including Ella Baker and the Student Nonviolent Coordinating Committee (SNCC’s manifesto fought “a social order of justice permeated by love”), Martin Luther King, Jr. (“Love without power is anemic and sentimental. Power without love is reckless and abusive.”), and, famously, Dr. Cornel West (“Never forget that justice is what love looks like in public.”). Compare *id.*, with Omid Safi, *Justice Is Love, Embodied*, ON BEING (Mar. 24, 2016), <https://onbeing.org/blog/justice-is-love-embodied/> [<https://perma.cc/U2D6-4C2A>] (discussing the linking of love and justice during the civil rights movement).

128. Hugh McDonald, *Assessing Access to Justice: How Much “Legal” Do People Need and How Can We Know?*, 11 U.C. IRVINE L. REV. 693, 693 (2021).

about the location and staffing of courts, investment of resources and technology, whether law schools should focus on certain areas of the law where there is greater demand, and whether they need to funnel recent graduates to certain locations, when possible. Yet these metrics and the questions they address are, at best, dancing around the periphery of an inquiry into what justice is, what it means to make it more accessible to more Americans, and how we might actually do that.¹²⁹

The abundance of definitions of access to justice also reminds us that access to justice—even access to litigation or legal counsel—is not absolute; it is not something you have or do not have. All of these concepts exist on a spectrum. For example, an individual may have more or less access to justice as compared to their urban counterpart or a similarly-situated person in a neighboring, rural county. Equally important, an individual may have access to justice (or access to litigation or to counsel) vis-à-vis some problems but not others. The same person might have more substantial access to justice in matters like divorce, child custody, and child support, but almost no access to justice in dealing with unsafe housing conditions and potential eviction.¹³⁰

IV. MEASURING ACCESS TO JUSTICE

Having examined the definition of access to justice in Part III, this Part considers the challenges in measuring access to justice. It begins by looking at our usual starting point—numbers of attorneys—and questions whether that metric provides even an accurate gauge of access to attorneys. It then argues that even if access to attorneys can be measured, it should not be relied on as the exclusive—or perhaps even primary—measure of access to justice.

129. See Wandler, *supra* note 58, at 230. Wandler aptly explains that “[w]hen defining ‘access to justice’ by the number of legal professionals available in a person’s immediate community, lawyers and community organizers may miss more complex community culture, concerns, and needs.” *Id.*

130. If we accept the notion that access to justice may be context-specific, we must begin to consider why an individual or community is accessing the legal system and how they got there. Colleen F. Shanahan, Anna E. Carpenter & Alyx Mark, *Lawyers, Power, and Strategic Expertise*, 93 DENV. L. REV. 469 (2016) [hereinafter Shanahan et al., *Lawyers, Power, and Strategic Expertise*] (discussing the critical role of burdens in unemployment insurance appeals in the District of Columbia, in particular how they impact who may benefit from legal representation). Does the party who bears the burden of proof have greater needs? Or is it the party who has been hauled into court that requires more assistance? Understanding these may be one and the same. Does our understanding of access to justice—who needs and deserves it and why—change whether an individual or a community is attempting to bring about positive change, using the law as a sword? Or if they are defending themselves against more powerful opponents, using the law as a shield? See MARGINALIZED COMMUNITIES AND ACCESS TO JUSTICE 254 (Yash Ghai & Jill Cottrell eds., 2010) (discussing the use of public interest or class action litigation as both a sword and a shield).

A. *How Many Lawyers Is Enough?*

Most studies of access to justice in rural areas look at one of two measures: (1) Attorneys per capita—an attempt to assess the potential market demand for an attorney and thereby understand the potential for unmet needs—or (2) Number of attorneys in a specified geographic unit, whether that is a square mile or a county—a measure of density of attorneys. From the studies discussed above,¹³¹ and the American Bar Association’s *Profile of the Legal Profession*,¹³² we know that the number of attorneys per 1,000 residents varies significantly from coastal states to inland states and from urban areas to rural areas:

<u>Jurisdiction</u>	<u>Attorneys per 1,000 residents</u> (2020)
New York	9.5 ¹³³
National Average	4.08 ¹³⁴
California	4.3 ¹³⁵
Average in urban California	5.7 ¹³⁶
Average in rural California	1.6 ¹³⁷
Arkansas	2.1 ¹³⁸
Average in most rural counties	0.64 (2015) ¹³⁹
Iowa	2.3 ¹⁴⁰

131. See sources cited *supra* notes 15, 56, 58, 65, 70, 78.

132. A.B.A., PROFILE OF THE LEGAL PROFESSION 3 (2020) [hereinafter PROFILE OF THE LEGAL PROFESSION], <http://www.americanbar.org/content/dam/aba/administrative/news/2020/07/potlp2020.pdf> [<https://perma.cc/EDD2-7HYR>].

133. See *id.* at 3.

134. *Id.* at 2.

135. *Id.* at 3.

136. See CAL. COMM’N ON ACCESS JUST., CALIFORNIA’S ATTORNEY DESERTS: ACCESS TO JUSTICE IMPLICATIONS OF THE RURAL LAWYER SHORTAGE 1 (2019), <http://www.calbar.ca.gov/Portals/0/documents/accessJustice/Attorney-Desert-Policy-Brief.pdf> [<https://perma.cc/9NR8-8RZY>] (noting that there are 175 residents per attorney in urban areas: 1,000/175=5.7).

137. See *id.* (noting that there are 626 residents per attorney in rural areas: 1,000/626=1.6). This number is solely for rural MSSAs. Frontier MSSAs average 1.4 attorneys per 1,000 residents. See *id.* (noting that there are 738 residents per attorney in frontier areas: 1,000/738=1.4).

138. PROFILE OF THE LEGAL PROFESSION, *supra* note 132, at 3.

139. LISA R. PRUITT, J. CLIFF MCKINNEY II, JULIANA FEHRENBACHER & AMY DUNN JOHNSON, U.C. DAVIS LEGAL STUD. RSCH. PAPER SERIES NO. 426, ACCESS TO JUSTICE IN RURAL ARKANSAS 2 (2015).

140. PROFILE OF THE LEGAL PROFESSION, *supra* note 132, at 3.

Arizona	2.1 ¹⁴¹
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The American Bar Association has calculated the national average and found there are approximately four attorneys per every 1,000 residents.¹⁴² However, neither the profession nor the academy has formulated an optimal standard for when “access to justice” might be achieved based solely on the imperfect measure of “access to lawyers.” The national average—4 in 1,000—may be optimal in some circumstances, but it may also be too many or too few attorneys in other circumstances. That is to say, we are taking measurements, but we have no idea what we are trying to achieve other than making rough comparisons that communities which match or surpass the national average are doing well and those that fall below the national average “compare[] very poorly.”¹⁴³

Not surprisingly, major cities have much higher ratios of attorneys to residents—Manhattan (New York County), New York¹⁴⁴ averages 42 attorneys for every 1,000 residents and Washington, D.C.¹⁴⁵ averages roughly 83 attorneys for every 1,000 residents. Yet in New York City, the outer boroughs have ratios below the baseline national average: Brooklyn (Kings County) has 2.3 attorneys for every 1,000 residents and the Bronx (Bronx County) has only 1.5 attorneys for every 1,000 residents.¹⁴⁶ And despite D.C. being the “lawyer capital” of the country,¹⁴⁷ the District’s pro se rates are shockingly high, from ninety-seven percent of plaintiffs in small estate matters to seventy-five percent of plaintiffs in housing conditions cases who proceed without an attorney.¹⁴⁸ In three small, rural counties in Arkansas, the pro se rates for plaintiffs in small estate matters

141. *Id.*

142. See PROFILE OF THE LEGAL PROFESSION, *supra* note 132, at 2.

143. See *Justice in the Hinterlands*, *supra* note 56, at 593–94.

144. Neil Borowski, *New York Lawyer Report: How Many Lawyers Per Resident in Each County in New York State?*, PRESSCONNECTS (May 15, 2018, 12:16 PM ET), <http://www.pressconnects.com/story/news/local/2018/05/14/new-york-lawyer-report-how-many-lawyers-per-resident-each-county-new-york-state/545197002/> [https://perma.cc/5939-UYRA] (citation omitted) (noting that, per 1,000 residents, New York County (Manhattan) has 42.1 lawyers; Kings County (Brooklyn) has 2.3; Richmond County (Staten Island) has 2.0; Queens County (Queens) has 1.9; and Bronx County (Bronx) has 1.5).

145. See Brian Hughes, *D.C.: The Lawyer Capital of the World*, WASH. EXAM’R (Oct. 30, 2011, 12:00 AM), <http://www.washingtonexaminer.com/dc-the-lawyer-capital-of-the-world> [https://perma.cc/ME5B-KEKE].

146. Borowski, *supra* note 144.

147. Hughes, *supra* note 145.

148. D.C. ACCESS JUST. COMM’N, DELIVERING JUSTICE: ADDRESSING CIVIL LEGAL NEEDS IN THE DISTRICT OF COLUMBIA 4 (2019), http://dcaccesstojustice.org/files/Delivering_Justice_2019.pdf [https://perma.cc/JF2D-ZQ29].

were approximately 44%, 71%, and 100%.¹⁴⁹ The mere fact of living in a big city—an area with high population density, more professionals, and a high attorney per capita ratio—does not mean there is increased access to justice; it does not even mean there is increased access to legal representation. By the same token, being literally surrounded by attorneys, regardless of the geography and the community, does not increase access to justice or access to legal representation.

At the macro level, efforts to assess the density of attorneys per square mile or county also generally fall short. On American Bar Association maps that show the density of lawyers, not surprisingly the density is greatest around large metropolitan areas and substantially less in other areas.¹⁵⁰ But, of course, these areas also tend to have much larger populations. For example, in California, the highest densities are around San Francisco, Sacramento, Los Angeles, and San Diego,¹⁵¹ and in Arkansas, attorneys cluster around Little Rock and Fayetteville.¹⁵² Read in tandem with the attorneys per capita data, these maps give us some general insights into the accessibility of attorneys, particularly in relation to travel time. But they generally conjure more questions than they answer: What is the geography (mountain ranges, deserts) where lawyer density is low or changes sharply? How is the land used (national or state parks, agricultural purposes) where lawyer density is low and how populous is the area? Are areas where lawyer density is low economically privileged or disadvantaged? Is the low density a result of low legal need or is there substantial unmet need in the area?

B. Problems of Conflating Access to Justice with Access to Attorneys

The measurements we currently use to assess access to justice are premised on several faulty assumptions, including the profession's closely-held belief that an attorney will inherently and immediately make the process or outcome “better” for an individual in a dispute and the related belief that more attorneys is always better. Yet, as discussed below, more attorneys may only be better if we imagine an idealized army of lawyers with the skill to deal with any type of matter, no financial needs, unlimited capacity for clients and cases, and no biases of their own.

149. See Chanley S. Painter, Exploring the Problem of Self-Represented Litigants in Arkansas Civil Courts 12–15 (2011) (J.D./M.P.S. capstone project, University of Arkansas Clinton School of Public Policy), <https://arkansasjustice.org/wp-content/uploads/2017/04/Capstone-Report-AAJC-Final-1.pdf> [<https://perma.cc/WG88-K6EP>] (discussing the number of pro se plaintiffs in Cleburne, Pulaski, and St. Francis counties from 2010 to 2011).

150. PROFILE OF THE LEGAL PROFESSION, *supra* note 132, at 4–22.

151. *Id.* at 4.

152. *Id.* at 15.

When we try to unpack these assumptions and test hypotheses using data, we are often left with more questions as theories and findings conflict.

1. *Is the Problem “Legal”?*

There is much scholarship analyzing whether and when lay people understand their problems as legal problems or “justiciable events.”¹⁵³ From a commonsense perspective, if an individual does not see their problem as legal, they will not even try to access an attorney, court, or other legal mechanism. If an individual does not recognize their problem as justiciable, the number of attorneys and their cost, proximity, and skill set become moot questions. An American Bar Foundation study in 2014 established that two-thirds of Americans experience an average of approximately two civil justice problems a year.¹⁵⁴ These civil justice issues are frequently related to debt, employment, insurance claims, government benefits, and rental housing.¹⁵⁵ Yet many individuals did not try to engage the legal system because “they [did] not understand these situations to be legal.”¹⁵⁶ Put another way, “people do not consider law as a solution for their justice problems They think of them simply as problems: problems in relationships, problems at work, or problems with neighbors.”¹⁵⁷

Statz, however, pushes back on—or perhaps adds a new dimension to—the conclusion that low-income Americans’ inability to see an issue as justiciable is pervasive. Survey data reflects these Americans’ “documented experiences of exclusion *along with* their alternative, expansive, and insistent understandings of legal rights and entitlements.”¹⁵⁸ If a key part of the access to justice puzzle is that low-income individuals do not always self-diagnose their problems as “legal” problems, this is less about a shortage of attorneys or access to representation and more about access to information.¹⁵⁹ Efforts to make

153. See McDonald, *supra* note 128, at 696–97; Emily S. Taylor Poppe, *Institutional Design for Access to Justice*, 11 U.C. IRVINE L. REV. 781, 786 (2021); Sandefur, *What We Know and Need to Know*, *supra* note 11, at 448.

154. REBECCA L. SANDEFUR, ACCESSING JUSTICE IN THE CONTEMPORARY USA: FINDINGS FROM THE COMMUNITY NEEDS AND SERVICES STUDY 3, 17 (2014), https://www.americanbarfoundation.org/wp-content/uploads/2023/04/sandefur_accessing_justice_in_the_contemporary_usa_aug_2014.pdf [<https://perma.cc/3KGN-MDXT>].

155. *Id.* at 7.

156. *Id.* at 3.

157. Sandefur, *Access to What?*, *supra* note 11, at 51.

158. Statz, *Rural Place Attachment*, *supra* note 127, at 17–18.

159. See Steinberg et al., *supra* note 33, at 1321 (describing an “information deficit”).

legal information more accessible through more broadly available platforms, such as public libraries¹⁶⁰ and online resources,¹⁶¹ may prove valuable in achieving this end.

2. *Would a Lawyer, Any Lawyer, Help Achieve a Positive Outcome?*

The access to justice scholarship largely promotes or critiques new interventions to increase the number of lawyers, paraprofessionals, and self-help tools. These interventions, however, only become necessary once an individual recognizes a problem as legal and/or has a suspicion sufficiently strong enough to make them visit the courthouse. Yet, even at this point on the timeline, there is no clear agreement as to whether these interventions help or harm individuals with legal issues and in what circumstances. As Colleen Shanahan, Anna Carpenter, and Alyx Mark note in their studies of access to justice, as a society “we are still unable to answer a fundamental question: when do civil litigants *need* a lawyer to effectively participate in our justice system?”¹⁶² Their question raises other fundamental questions: What do we mean by “effective participation”? From whose perspective?

Several studies show that legal counsel increases positive outcomes for litigants,¹⁶³ but how and when are less clear. For example, initial studies established that the assistance of legal counsel increased applicants’ chances of being granted asylum in immigration court.¹⁶⁴ However, when

160. See Beth Bilson, Brea Lowenberger & Graham Sharp, *Reducing the “Justice Gap” Through Access to Legal Information: Establishing Access to Justice Entry Points at Public Libraries*, 34 WINDSOR Y.B. ACCESS JUST. 99 (2017); Deborah K. Hackerson, *Access to Justice Starts in the Library: The Importance of Competent Research Skills and Free/Low-Cost Research Resources*, 62 ME. L. REV. 473 (2010).

161. For example, the People’s Law Library of Iowa was launched in 2022 as a collaboration between the State Library of Iowa and the University of Iowa Law Library on the recommendation of the Iowa Access to Justice Commission. It was modeled on the existing People’s Law Library of Maryland. Adria Carpenter, *People’s Law Library of Iowa Aims to Make the Law Accessible for All Iowans*, LITTLE VILL. (Oct. 25, 2022), <http://littlevillagemag.com/peoples-law-library-of-iowa-aims-to-make-the-law-accessible-for-all-iowans/> [<https://perma.cc/XBV5-TDKZ>].

162. Shanahan et al., *Lawyers, Power, and Strategic Expertise*, *supra* note 130, at 470–71 (emphasis added).

163. *Id.* at 482–83.

164. REFUGEE ROULETTE: DISPARITIES IN ASYLUM ADJUDICATION AND PROPOSALS FOR REFORM 92 (Jaya Ramji-Nogales, Andrew I. Schoenholtz & Philip G. Schrag eds., 2009) (stating that their empirical findings “confirmed the findings of prior studies showing that represented clients win their cases at a rate that is about three times higher than the rate for unrepresented clients”); Banks Miller, Linda Camp Keith & Jennifer S. Holmes, *Leveling the Odds: The Effect of Quality Legal Representation in Cases of Asymmetrical Capability*, 49 LAW & SOC’Y REV. 209, 210 (2015) (“Past research has shown that aliens who apply for asylum within the U.S. immigration courts with the assistance of legal counsel have a much greater chance of being granted asylum than do aliens who petition without the aid of attorney.”).

probed, poor or ineffective counsel is more harmful to asylum applicants than no attorney at all.¹⁶⁵ Presumably, representation by an experienced immigration attorney would be a good thing for applicants. Yet, representation by an attorney that specializes in immigration law, as compared to a less experienced attorney, does not improve the probability of a positive outcome for an applicant.¹⁶⁶

In their study of unemployment insurance appeals in the District of Columbia, Shanahan, Carpenter, and Mark found that legal representation has two clear impacts: Represented parties are more likely to appear at a hearing and are more likely to use evidentiary procedures.¹⁶⁷ For claimants, though—the “have nots” in the civil litigation context—having representation coupled with the use of evidentiary procedures actually decreases claimants’ win rates (albeit only slightly).¹⁶⁸ The authors conclude that this trend of “worse case outcomes with increased procedural participation” is explained by their theory of strategic expertise.¹⁶⁹ Strategic expertise accounts for: the complexity of burdens of proof and persuasion, including presumptions; the choices that representatives make in light of these; and the inferences that judges may make from these choices about the relative strength or weakness of a case.¹⁷⁰ When *someone* (perhaps a lawyer) shows up with a claimant, the claimant is more likely to appear and more likely to have a positive

165. See M. Margaret McKeown & Allegra McLeod, *The Counsel Conundrum: Effective Representation in Immigration Proceedings*, in REFUGEE ROULETTE, *supra* note 164, at 287–88 (describing representation in immigration court as “the classic ‘good news, bad news’ scenario: the good news is that petitioners had a lawyer; the bad news is that petitioners had a lawyer,” critiquing the *Refugee Roulette* study because it “does not account for the relative effects of the quality of counsel on case outcomes,” and finding that “[some] cases [also] underscore that some individuals may be better served without counsel than by the assistance of an incompetent attorney”); Miller et al., *supra* note 164, at 213 (2015) (characterizing McKeown and McLeod study’s conclusions simply as “ineffective counsel is worse than not having an attorney”).

166. See Miller et al., *supra* note 164, at 227 (“Contrary to our expectations . . . , increasing attorney experience does not improve the applicant’s chances of securing relief, indeed increased experience appears to reduce the likelihood of victory.”).

167. Shanahan et al., *Lawyers, Power, and Strategic Expertise*, *supra* note 130, at 473. Other studies have shown that text message reminders have a similar impact, decreasing the number of cases dismissed for failure to appear. CONF. STATE CT. ADM’RS, SERVING COURT CUSTOMERS 15 (2022), http://cosca.ncsc.org/_data/assets/pdf_file/0021/80328/ServingCourtCustomers.pdf [<https://perma.cc/3CMP-9H9Q>].

168. See Shanahan et al., *Lawyers, Power, and Strategic Expertise*, *supra* note 130, at 505; see also Marc Galanter, *Why the “Haves” Come Out Ahead: Speculations on the Limits of Legal Change*, 9 LAW & SOC. REV. 95 (1974) (explaining that the “have nots” are the “one-shotters” who are frequently low-income and not repeat players).

169. Shanahan et al., *Lawyers, Power, and Strategic Expertise*, *supra* note 130, at 508.

170. *Id.* at 508–10.

outcome; yet, when that same *someone* acts like a lawyer, and uses more complex procedures, the rate of positive outcomes decreases.

Shanahan, Carpenter, and Mark also concluded that trained lawyers, as opposed to lay advocates, add the most value when law reform or broader change is necessary.¹⁷¹ Law reform has two components: case-focused challenges¹⁷² and system-focused challenges.¹⁷³ Both types of challenges also include an informed decision *not* to represent an individual and their set of facts.¹⁷⁴ The idea that law reform is necessary, and that lawyers are necessary for law reform, again raises questions about what people *need*, or at least what they need *now*. Lisa Pruitt and Bradley E. Showman describe a legal problem as itself having three different components—underlying cause, immediate need, and symptoms.¹⁷⁵ This taxonomy also captures the temporal element at issue, namely, what is a problem for now, what is a problem for later, and who decides? They critique: “[I]nterventions that are less than full representation may provide low- or middle-income Americans with assistance that serves a discrete need in a particular moment, but the nature of this assistance does not and cannot challenge the law.”¹⁷⁶ Low-income individuals undoubtedly need the underlying causes of their problems to be addressed—and none of us would argue otherwise—but this may be a long(er)-term goal, which requires political and societal change beyond the legal representation and the profession. Arguably, these immediate needs and symptoms reflecting physiological and safety needs are a more significant priority for these individuals.¹⁷⁷ Most telling, if institutions attempting to address the access

171. Colleen F. Shanahan, Anna E. Carpenter & Alyx Mark, *Can a Little Representation Be a Dangerous Thing?*, 67 HASTINGS L.J. 1367, 1371–72 (2016) [hereinafter Shanahan et al., *Can a Little Representation Be a Dangerous Thing?*].

172. *Id.* at 1373. Case-focused challenges involve persuading a judge “to shape the law to fit the client’s needs,” or to change their interpretation of, or behavior around, the law such that it becomes different in practice. *Id.*

173. *Id.* at 1373–74. System-focused challenges are, clearly, larger than a single client. They may involve seeking out a client to pursue more traditional impact litigation or advocacy or pushing for changes in particular practices. *Id.*

174. *See id.* at 1375.

175. *See* Pruitt & Showman, *supra* note 77, at 497.

176. Shanahan et al., *Can a Little Representation Be a Dangerous Thing?*, *supra* note 171, at 1368. This argument also completely discounts the contributions to law reform made by community organizers and activists and focuses exclusively on lawyers and quasi-lawyers as the exclusive agents of change.

177. *See* Douglas T. Kenrick, Vladas Griskevicius, Steven L. Neuberg & Mark Schaller, *Renovating the Pyramid of Needs: Contemporary Extensions Built upon Ancient Foundations*, 5 PERSPS. ON PSYCH. SCI. 292, 294 (2010). The authors propose a revised pyramid of needs, but still fundamentally rely on cognitive priority: “[S]ome motives take precedence over others, which in turn take precedence over others. If a person, is starving, for example, the desire to obtain food will trump all other goals and dominate the person’s thought processes.” *Id.*

to justice crisis knew which needs were most important to rural communities, they could and should shape interventions to reflect this prioritization.¹⁷⁸

In the context of rurality, we must also consider the need for law reform. There is no doubt that rural communities perceive themselves as harmed by “urbanormative” policies.¹⁷⁹ Shanahan, Carpenter, and Mark assert that a lack of law reform on behalf of low-income individuals is problematic because it means the law is evolving in response to the needs and experiences of those with more resources and more access.¹⁸⁰ While we suspect that the needs and experiences of urban and rural individuals are sufficiently different to necessitate law reform driven by rural communities, there is, at best, a lack of clarity about when the differences are salient and in which contexts they arise. For example, the differences between urban and rural geography, distance, and access to transportation result in vastly different abilities to access abortion, a central focus of the analysis in *Whole Woman’s Health v. Hellerstedt*.¹⁸¹ In this context, advocacy that was motivated by, and took into account, rural women’s experiences was necessary for meaningful law reform. However, other legal rights or processes *may* look nearly identical in both urban and rural context—divorces without children, for example—negating the need for uniquely rural law reform in this area of the law.

We do know, however, that problems are resolved without the assistance of lawyers in formal and informal settings every day. A divorce may never be heard by a judge if it was successfully mediated, potentially

178. This sense of who and what drives change—the people most impacted—is a core tenet of rebellious collaborative or community lawyering. See GERALD P. LÓPEZ, *REBELLIOUS LAWYERING: ONE CHICANO’S VISION OF PROGRESSIVE LAW PRACTICE* (1992); Gerald P. López, *Shaping Community Problem Solving Around Community Knowledge*, 79 N.Y.U. L. REV. 59 (2004); see also Monika Batra Kashyap, *Rebellious Reflection: Supporting Community Lawyering Practice*, 43 N.Y.U. REV. L. & SOC. CHANGE 403, 407 (2019); Ascanio Piomelli, *The Democratic Roots of Collaborative Lawyering*, 12 CLINICAL L. REV. 541, 598–99 (2006); *id.* at 600 (“Rather than assuming they know best how to solve problems, these lawyers aim to facilitate collective strategizing that voices and applies what everyone knows and can contribute.”).

179. See Michele Statz, Hon. Robert Friday & Jon Bredeson, “*They Had Access, But They Didn’t Get Justice*”: *Why Prevailing Access to Justice Initiatives Fail Rural Americans*, 28 GEO. J. ON POVERTY L. & POL’Y 321, 326 (2021) (“Drawing on extensive mixed-methods data, this Article offers the first sustained empirical consideration of the consequences of urbanormative state-sponsored access to justice supports in rural communities.” (footnote omitted)).

180. See Shanahan et al., *Can a Little Representation Be a Dangerous Thing?*, *supra* note 171, at 1376.

181. See Michele Statz & Lisa R. Pruitt, *To Recognize the Tyranny of Distance: A Spatial Reading of Whole Woman’s Health v. Hellerstedt*, 51 ENV’T & PLAN. A: ECON. & SPACE 1106, 1107 (2019).

by a person without formal legal training.¹⁸² Pro se parties reach out-of-court settlements.¹⁸³ In the criminal context, adults or juveniles facing charges may be diverted into a restorative justice program where the victim and offender may engage in dialogue, conferencing, or peace circles.¹⁸⁴ Restorative justice practitioners who facilitate these programs are often not lawyers.¹⁸⁵ We also know that these problem-solving approaches, which do not require lawyers and may actually be hindered by them, are successful by several metrics. Numerous empirical studies show that restorative justice programs result in lower recidivism rates for the offender, greater satisfaction with the process by the victim, and a shared feeling that the process was more fair than a traditional court hearing.¹⁸⁶ Similarly, couples divorcing who go through mediation are more likely to reach a joint custody agreement, less likely to go to court

182. See, e.g., Roselle L. Wissler, *Representation in Mediation: What We Know from Empirical Research*, 37 FORDHAM URB. L.J. 419, 458 (2010) (“Settlement was more likely when both parties were unrepresented than when both were represented. One domestic relations mediation study found that a full or partial settlement was more likely when neither party had a lawyer present during mediation than when one or both parties’ lawyers attended.”); JUD. SERVS. DIV. ADMIN. OFF. CTS., AN ANALYSIS OF PRO SE LITIGANTS IN WASHINGTON STATE 1995–2000, at 16, http://www.courts.wa.gov/subsite/wscsr/docs/Final%20Report_Pro_Se_11_01.pdf [<https://perma.cc/2CWX-2D25>] (“The result that: (1) cases involving two pro se litigants generally have the lowest occurrence rates for most courtroom events, and (2) the filing-to-resolution time of this group is consistently the shortest, most likely signals that these individuals have resolved all of their issues prior to their arrival in court. To add credence to this argument we looked at the percentage of cases in which a joinder was recorded in the docket on the same date as the filing of the petition for dissolution. The results . . . provide significant evidence that when a case has two active pro se litigants, the majority of these litigants - in dissolutions either with or without children - have resolved their differences at filing.”).

183. See Mark D. Gough & Emily S. Taylor Poppe, *(Un)Changing Rates of Pro Se Litigation in Federal Court*, 45 LAW & SO. INQUIRY 567, 580–82 (2020). Of federal court cases in which both parties are pro se, 11.1% reach settlement. *Id.* at 582.

184. BAILEY MARYFIELD, ROGER PRZYBYLSKI & MARK MYRENT, RESEARCH ON RESTORATIVE JUSTICE PRACTICES, JUST. RSCH. & STATS. ASS’N 1–2 (2020), <https://www.jrsa.org/pubs/factsheets/jrsa-research-brief-restorative-justice.pdf> [<https://perma.cc/HD73-KEES>].

185. See, e.g., *Restorative Justice Facilitator*, BOULDER CNTY., <https://bouldercounty.gov/safety/victim/restorative-justice/facilitator/#> [<https://perma.cc/8W68-55TM>] (seeking restorative justice facilitators, who may be volunteers, and who need to attend a twenty hour training); *How to Become an Arbitrator, Mediator, or Conciliator*, U.S. BUREAU LAB. STAT., <https://www.bls.gov/ooh/legal/arbitrators-mediators-and-conciliators.htm#tab-4> (last visited Aug. 26, 2023) (explaining that mediators may be lawyers, but legal training is not always required).

186. See MARYFIELD ET AL., *supra* note 184, at 6–9; see also SUJATHA BALIGA, SIA HENRY & GEORGIA VALENTINE, RESTORATIVE COMMUNITY CONFERENCING: A STUDY OF COMMUNITY WORKS WEST’S RESTORATIVE JUSTICE YOUTH DIVERSION PROGRAM IN ALAMEDA COUNTY, IMPACT JUST. & CMTY. WORKS WEST 1 (2017), https://impactjustice.org/wp-content/uploads/CWW_RJreport.pdf [<https://perma.cc/6KFM-UXAB>]; Jeff Bouffard, Maisha Cooper & Kathleen Bergseth, *The Effectiveness of Various Restorative Justice Interventions on Recidivism Outcomes Among Juvenile Offenders*, 15 YOUTH VIOLENCE & JUV. JUST. 465, 477 (2017).

to modify custody, and tend to reach agreements more quickly, and with less expense than couples who litigate.¹⁸⁷

3. *Would Other Quasi-Legal or Non-Traditional Legal Assistance Help Resolve the Problem?*

If individuals do not necessarily or may not always need lawyers, what do we know about the efficacy of other interventions? Although lay advocates may not be well-positioned to advance law reform, studies have shown that a Juris Doctor may not be necessary for engaging in some cases, as “lay advocates can perform successfully as legal professionals.”¹⁸⁸ We also know that trial court judges with domestic violence dockets rely heavily on an informal network of nonlawyer advocates—for better or for worse—who assist pro se parties behind the scenes.¹⁸⁹ A United Kingdom study comparing lawyer and nonlawyer provision of legal aid in the early 2000s concluded that “clients were more satisfied with nonlawyers than lawyers, and nonlawyers were more successful than lawyers.”¹⁹⁰

Numerous jurisdictions have recently engaged in regulatory reform aimed at allowing space for non-lawyers to provide some level of advice or advocacy on behalf of clients.¹⁹¹ Most programs are still in early stages, however, and it is not yet clear whether they will yield improved access to justice. The impact of regulatory reform on access for low-income individuals remains unclear a decade after implementation in England and

187. See, e.g., Lori Anne Shaw, *Divorce Mediation Outcome Research: A Meta-Analysis*, 72 CONFLICT RESOL. Q. 447, 464–66 (2010) (presenting findings from a meta-analysis of divorce mediation research and concluding that mediation is quantitatively superior to litigation in divorce cases and also tends to have better qualitative results).

188. Steinberg et al., *supra* note 33, at 1323–24; see also Sandefur, *What We Know and Need to Know*, *supra* note 11, at 452.

189. See Steinberg et al., *supra* note 33, at 1316.

190. Shanahan et al., *supra* note 171, at 1371 (citing Richard Moorhead, Alan Paterson & Avrom Sherr, *Contesting Professionalism: Legal Aid and Nonlawyers in England and Wales*, 37 LAW & SOC’Y. REV. 765, 785 (2003)).

191. See MICHAEL HOULBERG & JANET DROBINSKE, THE LANDSCAPE OF ALLIED LEGAL PROFESSIONAL PROGRAMS IN THE UNITED STATES, INST. ADVANCEMENT AM. LEGAL SYS. 4 (2022), https://iaals.du.edu/sites/default/files/documents/publications/landscape_allied_legal_professionals.pdf [<https://perma.cc/TTA6-Y9WB>]; MICHAEL HOULBERG & NATALIE ANNE KNOWLTON, ALLIED LEGAL PROFESSIONALS: A NATIONAL FRAMEWORK FOR PROGRAM GROWTH, INST. ADVANCEMENT AM. LEGAL SYS. 6 (2023), https://iaals.du.edu/sites/default/files/documents/publications/alp_national_framework.pdf [<https://perma.cc/4TRR-HRBS>].

Wales,¹⁹² and more research is needed to assess nascent American innovations.¹⁹³

State courts have also developed self-represented litigant resources and navigator programs aimed at improving the experiences of those who proceed without a lawyer.¹⁹⁴ While such initiatives show promise, evidence is limited, and more research is needed to understand the scope of their impact.¹⁹⁵ It is also possible that some interventions have the effect of making it easier and more efficient for courts to handle pro se litigants without significantly improving the experience of those litigants themselves. Taking aim at the self-help and simplification interventions implemented in Minnesota, Statz concludes that “the very same self-help forms, helplines, and online advice systems” that the State believes advance equal access to justice are actually experienced by low-income rural residents as “*barriers* to justice.”¹⁹⁶

Similarly, forty-one states now allow attorneys to provide unbundled legal services, an “a la carte” option in which a client can engage a lawyer for discrete parts of a legal matter.¹⁹⁷ Though considered another potentially promising approach to enhance access to justice over the last fifteen years, the efficacy of unbundled legal services has been called into question. A 2010 study from California showed that lawyers providing unbundled legal services did not improve substantive outcomes for

192. See DAVID FREEMAN ENGSTROM, LUCY RICCA, GRAHAM AMBROSE & MADDIE WALSH, STANF. L. SCH., LEGAL INNOVATION AFTER REFORM: EVIDENCE FROM REGULATORY CHANGE 20–21 (2022), <https://law.stanford.edu/wp-content/uploads/2022/09/SLS-CLP-Regulatory-Reform-REPORTExecSum-9.26.pdf> [<https://perma.cc/84T5-7848>].

193. See Rebecca L. Sandefur & Emily Denne, *Access to Justice and Legal Services Regulatory Reform*, 18 ANN. REV. L. & SOC. SCI. 27, 38 (2022).

194. See, e.g., SELF-REPRESENTED LITIG. NETWORK, BEST PRACTICES IN COURT-BASED PROGRAMS FOR THE SELF-REPRESENTED 43–52 (2008), <https://www.srln.org/system/files/attachments/SRLN%20Best%20Practices%20Guide%20%282008%29.pdf> [<https://perma.cc/ZW2V-2K35>] (providing attributes for development of forms to be used by pro se litigants); Dimarie Alicea-Lozada, *Court Navigators Help Self-Represented Litigants*, NAT’L CTR. STATE CTS. (July 19, 2023), <https://www.ncsc.org/information-and-resources/trending-topics/trending-topics-landing-pg/court-navigators-help-self-represented-litigants> [<https://perma.cc/S82Q-F32M>] (summarizing court navigator programs).

195. See MARY E. MCCLYMONT, JUST. LAB GEO. L. CTR., NONLAWYER NAVIGATORS IN STATE COURTS: AN EMERGING CONSENSUS 39–40 (2019), http://www.ncsc.org/_data/assets/pdf_file/0024/53691/Justice-Lab-Navigator-Report-6.11.19.pdf [<https://perma.cc/ZWD6-RUK6>].

196. Statz, *supra* note 109, at 16.

197. See *Unbundling*, SELF-REPRESENTED LITIG. NETWORK, [http://www.srln.org/Unbundling#:~:text=ABA%20Model%20Rule%201.2\(c,or%20a%20substantively%20similar%20rule](http://www.srln.org/Unbundling#:~:text=ABA%20Model%20Rule%201.2(c,or%20a%20substantively%20similar%20rule) [<https://perma.cc/5XE5-HVFZ>].

indigent tenants facing eviction compared to unrepresented litigants,¹⁹⁸ while another study of eviction cases in Massachusetts found a large difference in outcomes between tenants who received unbundled assistance and those given full representation.¹⁹⁹

Going forward, empirical assessments of innovation in the legal system have the potential to be both richer and more complex because of the COVID-19 pandemic.²⁰⁰ During the pandemic, state and local courts were forced to reimagine their practice, conducting telephonic and video conference hearings and modifying evidentiary procedures.²⁰¹

4. *Is a Lawyer the “Right” Lawyer?*

It may go without saying that the physical presence of a lawyer—or several lawyers—in a locality does not mean that they (1) provide the legal services needed by community members; (2) are affordable to the local community; or (3) have the capacity to take on new cases or the case in question. As in Washington, D.C., an individual can be surrounded by attorneys but unable to obtain legal representation. This is not because lawyers are not geographically proximate. It is because of other mismatches related to the services needed and the services provided; the cost of obtaining services and the cost of providing services; and the inherent limitations (ethical, physical, etc.) on how many cases a given attorney can responsibly manage.

If there is a need in rural communities, it is not necessarily a blanket need for more lawyers everywhere.²⁰² One rural community may have a

198. See Jessica K. Steinberg, *In Pursuit of Justice? Case Outcomes and the Delivery of Unbundled Legal Services*, 18 GEO. J. ON POVERTY L. & POL’Y 453, 457 (2011). While unbundled representation did further procedural justice by affording initial access to the justice system and preventing default judgements, it did not secure more actual relief than that achieved by unrepresented pro se tenants. *Id.*

199. See D. James Greiner, Cassandra Wolos Pattanayak & Jonathan Hennessy, *The Limits of Unbundled Legal Assistance: A Randomized Study in a Massachusetts District Court and Prospects for the Future*, 126 HARV. L. REV. 901, 908 (2013).

200. See, e.g., Colleen F. Shanahan, Alyx Mark, Jessica K. Steinberg & Anna E. Carpenter, *COVID, Crisis, and Courts*, 99 TEX. L. REV. ONLINE 10–12, 16–18 (2020) (describing the growth in research and scholarship on state courts and the opportunity for transparent experimentation by courts in response to the COVID-19 pandemic).

201. *Id.* at 14–16; see, e.g., CAL. COMM’N. ON ACCESS JUST., REMOTE HEARINGS AND ACCESS TO JUSTICE DURING COVID-19 AND BEYOND 15, https://www.ncsc.org/_data/assets/pdf_file/0018/40365/RRT-Technology-ATJ-Remote-Hearings-Guide.pdf [<https://perma.cc/Z5TU-8SDH>] (discussing best practices for remote hearings).

202. See M. Blacksell, A. Clark, K. Economides & C. Watkins, *Legal Services in Rural Areas: Problems of Access and Local Need*, 12 PROGRESS HUM. GEOGRAPHY 47, 50 (1988). A 1988 study by Watkins et al. established that geographic accessibility of legal representation actually increased in rural communities in the United Kingdom. *Id.* Rural communities had more solicitors per capita

basic, regular need for a family law practitioner to assist residents with divorce, custody, and child support. A neighboring community may need immigration attorneys due to an influx of workers with temporary legal status. Another rural community may need civil litigation attorneys to address unemployment and other public benefits during an economic downturn. Still another rural community, with a robust community economic development program and incentives, may have a need for small business, tax, and transactional attorneys to help entrepreneurs and provide long-term support to Main Street businesses. Some of these needs may remain constant, while others are context-specific and may only exist for shorter periods of time. The “more lawyers” approach to rural access to justice alone cannot be the answer.

5. *Do Rural Communities Want More Local Lawyers?*

The legal community’s theories about the relationships between access to justice and access to legal representation also assume that, all things being equal, an individual with a problem would seek out legal advice if the advice was knowledgeable, affordable, and accessible.²⁰³ However, what we know about the complex network of relationships within rural communities again clouds this seemingly obvious conclusion.

One key difference between urban and rural communities is Freudenburg’s concept of density of acquaintanceship—“the average proportion of the people in a community known by the community’s inhabitants.”²⁰⁴ Put simply, “city residents tend to know a smaller proportion of their neighbors than do persons in smaller communities.”²⁰⁵ Sociological studies use density of acquaintanceship as a lens to consider urban-rural differences in several phenomena: crime rates²⁰⁶ and youth

than urban areas, and “few people would experience any difficulty in contacting a solicitor.” *Id.* A closer analysis, though, showed that these solicitors offered very restrictive services focused on the lucrative work related to conveyance and probate, but also that there was an “almost total lack of expertise in nearly all aspects of welfare and consumer law.” *Id.* Although potential legal representation, as gauged by attorneys per capita, was plentiful, the legal services available were of little use to less affluent residents and those who did not own property. *Id.*

203. See Elizabeth Chambliss, Renee Newman Knake & Robert L. Nelson, Introduction, *What We Know and Need to Know About the State of “Access to Justice” Research*, 67 S.C. L. REV. 193, 195–96 (2016).

204. Freudenburg, *supra* note 78, at 29–30.

205. *Id.* at 27–28.

206. See Joseph F. Donnermeyer, *The Social Organisation of the Rural and Crime in the United States: Conceptual Considerations*, 39 J. RURAL STUD. 160 (2015).

behavior,²⁰⁷ community and political engagement,²⁰⁸ and mental health treatment.²⁰⁹ However, density of acquaintanceship is more nuanced than the urban-rural dichotomy. Factors that affect density of acquaintanceship include the community's population; diversity of the community; segregation within a community; an individual's length of residence in a community; their anticipated length of residence; and, related to all of these, people's ability to create informal agreements to accomplish shared goals with predictable outcomes.²¹⁰

Notably, more than thirty years ago, residents in many rural communities were not well acquainted with the lawyers in their communities, despite the presumed high densities of acquaintanceship. In a 1986 study of four communities in western Colorado, Freudenburg looked at communities with fewer than 5,000 residents.²¹¹ Three of these communities had little to no growth, but the fourth community was a "boomtown," doubling in population due to the construction of an electricity plant.²¹² Residents were asked if they were acquainted with different types of people: Did they "know any of the following *kinds* of persons in the area[,] . . . know their names[,] and speak to them on a conversational basis?"²¹³ The question applied to twenty different types of people, ranging from plumber and coal miner to newspaper reporter and banker.²¹⁴ In both the still-rural communities and the boomtown, just over fifty percent of residents were acquainted with a lawyer in town, with that percentage being slightly higher, though not statistically significant, in the unchanged communities.²¹⁵ By comparison, more than ninety percent of residents of the rural communities knew a grocer and nearly seventy percent knew a mayor or city councilperson.²¹⁶ The only types of people who were less known than lawyers were dentists, coal company officials, county- or state-level officials, and local "hippies"—presumably

207. See D. Wayne Osgood & Jeff M. Chambers, *Community Correlates of Rural Youth Violence*, JUV. JUST. BULL. (U.S. Dept. Just. Off. Juv. Just. & Delinq. Prevention, Rockville, Md.), May 2003, <https://www.ojp.gov/pdffiles1/ojjdp/193591.pdf> [<https://perma.cc/J6MT-KSFH>].

208. See Meredith Redlin, Gary Aguiar, George Langelett & Gerald Warmann, "Why Are You Still Out There?" *Persistence Among Deep Rural Communities in the Northern Plains*, 5 ONLINE J. RURAL RSCH. & POL'Y 1, 5 (2010).

209. See Emily Jordan Jensen & Tai Mendenhall, *Call to Action: Family Therapy and Rural Mental Health*, 40 CONTEMP. FAM. THERAPY 309 (2018).

210. Freudenburg, *supra* note 78, at 29–34.

211. *Id.* at 35.

212. *Id.*

213. *Id.* at 37 (quotation marks omitted).

214. See *id.* at 38.

215. See *id.*

216. See *id.*

because respondents did not know their names (likely coal company executives) *and/or* did not engage in casual conversation with them (likely local “hippies”).²¹⁷ In other words, even when there were local attorneys, residents did not know who they were in the same way they “knew” other service providers or significant individuals in the community.

Even when lawyers are “known” in the community, residents may not seek out their services. A 2007 study of advice-seeking behaviors in the United Kingdom looked not at “acquaintanceship,” but “awareness” of legal services—whether an individual was able to identify that some source of legal advice existed within two miles or five miles of their residence.²¹⁸ Although many survey participants could arguably walk to a source of legal advice, a surprising number were unaware that there was legal advice available only a relatively short distance away.²¹⁹ There were significant disparities in knowledge among respondents—sixty-five percent of respondents who had a legal service source within two miles of their home knew that fact, while thirty-five percent could not identify any legal service source within two miles of their homes, despite the proximity of a solicitor or a legal advice center.²²⁰ In the context of low- and pro-bono legal services, akin to legal aid, residents were equally unaware of the services around them: Of respondents with a Citizens Advice Bureau within two miles of their homes, forty-six percent were unaware of it, and for those with a Law Centre within two miles, eighty-three percent did not know it was there.²²¹

217. *Id.* There were clear differences between the communities with a higher density of acquaintanceship and the boomtown with a presumed lower density of acquaintanceship: In the unchanged rural communities, more than ninety percent of residents were acquainted with a grocer, while in the boomtown, only approximately sixty-three percent knew a grocer. *Id.* Nearly seventy percent of residents knew a mayor or councilperson, compared to the boomtown, where less than fifty percent knew such an official. *Id.* Unlike the other categories Freudenburg used in the boomtown study, two groups warrant a brief, parenthetical clarification: By doctors, Freudenburg meant “physician[s],” and by “local ‘hippie[s]’” Freudenburg meant individuals with “longhair.” *Id.* at 38. The boomtown study was conducted from 1977 to 1979, suggesting that any “hippie[s]” in small, rural towns were expected to be easily recognizable (at least as Freudenburg described them).

218. Patel et al., *supra* note 87, at 2084; *id.* at 2089.

219. *Id.* at 2089–90.

220. *Id.* at 2089.

221. *Id.* at 2089–90. At the time of the survey, the United Kingdom had 882 Citizens Advice Bureaux (CAB) and 60 Law Centres. *Id.* at 2087. CAB is a national charity that primarily uses trained volunteers to provide legal and other advice on issues relating to housing, public benefits, family, immigration, consumer protection, and employment. *Who We Are and What We Do*, CITIZENS ADVICE, <https://www.citizensadvice.org.uk/about-us/about-us1/introduction-to-the-citizens-advice-service/> [<https://perma.cc/AVL3-Y6RV>]. Law Centres, akin to organizations funded by the Legal Services Corporation, provide legal representation to individuals who cannot afford an attorney in an array of civil matters. *About Law Centres*, LAW CENTRES NETWORK, <https://www.lawcentres.org.uk/about-law-centres> [<https://perma.cc/44RZ-HDNU>].

One primary reason residents may not seek legal advice is high density of acquaintanceship typically means that “everyone knows everything about everyone else.”²²² Residents in rural areas and small towns “cannot depend on privacy or anonymity in public places,” and social norms require that some minimal level of acknowledgment and engagement occurs when acquaintances cross paths, regardless of the individuals’ relative positions of power or status.²²³ Taken to its extreme, this phenomenon becomes what sociologist David Showalter calls “acquainted marginality”—meaning “surveillance and stigmatization by acquaintances and authorities in everyday life”—which aggravates “the pains of poverty and discrimination.”²²⁴ In urban locations, the interactions between service provider—whether doctor, lawyer, or therapist—and recipient are typically anonymous.²²⁵ Yet in rural areas, the service provider and recipient may have “grow[n] up with one another, live[d] as neighbors, and develop[ed] multilayered relationships,”²²⁶ and they will almost certainly encounter each other in public spaces with some regularity. Showalter concludes, in the context of drug treatment, that marginalized individuals may “avoid a local provider out of fear of poor treatment or breach of confidentiality.”²²⁷ Some legal issues may be sufficiently impersonal and lack the stigma of drug treatment—like business incorporation or drafting a sales contract—such that residents might be comfortable sharing the necessary information with a local attorney. However, numerous legal issues, such as pending eviction, bankruptcy, domestic violence, or divorce due to infidelity, involve deeply personal, potentially shameful facts and emotions that a rural resident might not want to share with a local attorney, regardless of whether one is available.

The concept of density of acquaintanceship brings us full circle to Statz’s assertion that access is increased—in fact, may only be possible—because of shared experiences.²²⁸ Showalter acknowledges that “overlapping personal and professional ties” and social intimacy “can facilitate trusting therapeutic relationships.”²²⁹ However, this may be true

222. David Showalter, *Steps Toward a Theory of Place Effects on Drug Use: Risk, Marginality, and Opportunity in Small and Remote California Towns*, 85 INT’L J. DRUG POL’Y 1, 4 (2020).

223. *Id.*

224. *Id.* at 4.

225. *Id.* at 5.

226. *Id.*

227. *Id.*

228. See Statz, *supra* note 109. Statz describes “a solidarity many judges assumed with rural litigants, one born of shared grief, economic frustration, and in many ways, vulnerability.” *Id.* at 22.

229. Showalter, *supra* note 222, at 5.

primarily for individuals in rural areas who “live comfortably and enjoy supportive relationships with others.”²³⁰ Individuals with complex, messy, potentially embarrassing legal problems may not experience social intimacy in such a positive way. Those who “are deprived of [social] capital and positive social relations and who have reason to avoid interactions with powerful people” may experience social intimacy negatively, such that it “undermine[s] privacy, augment[s] surveillance, and provoke[s] defensive practices.”²³¹

In urban communities, there are more service providers of nearly every type, allowing the provider to refuse service and/or make a referral when there is a pre-existing acquaintanceship. In rural communities, however, a service provider may be forced to take on a client despite an actual or perceived conflict because there is no other service provider.²³² A 2019 study of rural legal practice in New York State found that more than one-third of the rural attorneys who completed the survey indicated they declined cases because of a conflict of interest.²³³ One attorney explained, “[t]he ethics rules are not geared to and show no understanding of small town life [They] have no idea about the reality and struggle of keeping conflicts at bay when you know everyone or their brother or parents, literally.”²³⁴

V. REFRAMING THE RURAL ACCESS TO JUSTICE CONVERSATION

Improving rural access to justice is an important and necessary goal, one to which many individuals and institutions have committed significant energy and resources.²³⁵ And while this has resulted in many meaningful improvements,²³⁶ the impact of these laudable efforts is not fully maximized due to the lack of a common understanding of access to justice and reliance on imperfect measurements.²³⁷ The emphasis on attorney numbers as a measure of access to justice means that in the rural context, the decline in attorneys has been wholly conflated with the justice

230. *Id.*

231. *See id.*

232. *Id.*

233. PERLMAN, *supra* note 70, at 10.

234. *Id.* at 9.

235. *See supra* Part I.

236. *See, e.g.,* Kittay, *supra* note 29 (describing access to justice initiatives in Illinois, Washington, and Maine).

237. *See supra* Parts III–IV.

gap. As a result, the replenishment of rural attorneys has become the default intervention to improve access to justice in rural communities.²³⁸

The goal of improved rural access to justice will benefit from a more robust understanding of the concept of access to justice and an acknowledgement of the limits of traditional measures of access to justice. In this Part, we propose a model for understanding access to justice and advocate for a rethinking of both *what* we measure and *how* we measure it. We then consider the particular impact of this reframing in the rural context.

A. *Proposed Conceptualization of Access to Justice*

Conceptually and practically, access to justice is multifaceted and complex. Drawing from prior scholarship,²³⁹ the work of access to justice advocates, and our own experiences, we conceptualize access to justice as having three pillars as represented in Figure 1 below.



First, an individual must be empowered to access basic information that allows them to recognize that they are experiencing a problem and to identify the problem as one of a legal nature.²⁴⁰ This information may come from a variety of sources: Their own education; resources, such as a public library, the internet, or a know-your-rights presentation; or from

238. See *supra* Part I.

239. See *supra* section III.A.

240. See Blasi, *supra* note 96, at 914.

another individual, such as a friend, social worker, clerk of the court, or even an attorney. An individual's social capital will impact their ability to obtain and utilize this information to understand their problem and its nature.

Second, an individual may choose or need to take action related to their problem. This could mean seeking legal advice or pursuing litigation, but it could also mean communicating with the other person involved or engaging in informal advocacy to address the problem. When this action is a mobilization of the law, it will typically involve a greater level of knowledge, skill, or access to the system. This will often, and most conventionally, be provided by a licensed attorney, whether they are hired, court appointed, provided through a legal aid organization, or working pro bono.²⁴¹ It could also come from a non-J.D. legal professional, such as a paralegal, limited license legal technician, or domestic violence advocate.²⁴² Alternatively, some individuals will navigate legal problems themselves, either by choice or necessity, aided by self-representation resources and forms available in many jurisdictions.²⁴³ Further, many individuals will receive informal guidance from other experienced individuals. And some may employ a mix of these options. For example, an individual dealing with a family law matter could attend a legal advice clinic, file their petition pro se, or hire a lawyer for a discrete piece of the matter under a limited scope representation agreement.

The third pillar is access to resolution of the problem. In a traditional understanding of access to justice, this would consist of adjudication and enforcement through a court. However, resolution of a legal problem might also be achieved through amicable resolution of a matter without the intervention of a court or, for that matter, any lawyers. It could take the form of a friendly agreement between two neighbors after they have identified a property line issue; notably, this resolution may happen because of, or without, research on the law. It might occur through alternative dispute resolution means or court-sponsored online dispute resolution.²⁴⁴ An issue might be resolved through correspondence between two lawyers before any lawsuit is filed.

241. See, e.g., HOULBERG & DROBINSKE, *supra* note 191, at 4 (noting that “[w]ith few exceptions, anyone other than a lawyer providing legal services is engaging in the unauthorized practice of law”).

242. See, e.g., Sandefur & Denne, *supra* note 193, at 30–31 (describing the growth of allied legal professionals).

243. See generally Gough & Poppe, *supra* note 183.

244. See generally Amy J. Schmitz & John Zeleznikow, *Intelligent Legal Tech to Empower Self-Represented Litigants*, 23 COLUM. SCI. & TECH. L. REV. 142 (2021) (providing examples of emerging online dispute resolution tools).

One important takeaway is that traditional, formal legal actors, such as attorneys, might be relevant in any, all, or none of these pillars in any given situation.

B. Rethinking Measurement of Access to Justice

Access to justice measures have typically focused on attorney numbers, due to assumptions about the centrality of the attorney in ensuring access to justice and the availability of data on raw attorney numbers.²⁴⁵ We need to consider, however, that formal actors might not be relevant in all circumstances. As suggested above, an attorney might not be involved within any of the pillars. Essentially, we tend to measure access to justice using the data we have available, which might provide an accurate reflection in some circumstances, but likely does not in many others.

There is a need to develop access to justice metrics that correspond to a broader conceptualization of access to justice. In Figure 2 below, for example, we illustrate measures that flow from each of the pillars we describe above. In a given situation and in particular pillars, interventions *other than an attorney* may be more readily available, relevant, effective, or economical. Including those interventions (e.g., library resources; self-help desks or clinics; non-J.D. legal service providers; self-represented litigant forms and guides; online dispute resolution options) in efforts to quantify access to justice will provide a more complete picture of at least the supply-side of the lawscape.

While such expanded measurement would be extremely valuable, it would still only establish the existence and adequacy of a broader range of access to justice infrastructure (supply-side) for *identified* legal problems, which represent only part of demand. Of course, in our conceptualization, we consider access to basic legal information and the ability to identify justiciable events as pillars of access to justice. We are cognizant of the challenges in measuring unmet legal needs where problems may not have been identified or where supply-side infrastructure has not been engaged.

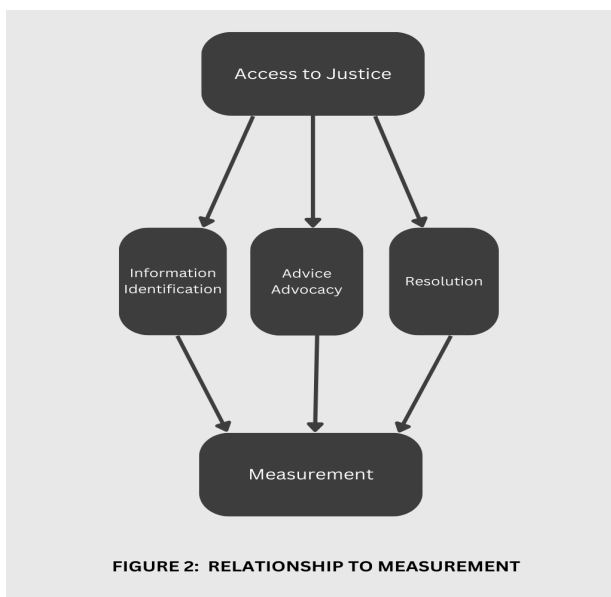
Social vulnerability may provide a useful approach to thinking about legal demand. It is a concept frequently used in geography to describe social, cultural, economic, political, and institutional processes that shape how individuals experience and recover from environmental hazards.²⁴⁶ These various dimensions are combined to anticipate differences in these

245. See *supra* section IV.A (discussing the inadequacy of current measures).

246. Seth E. Spielman, Joseph Tuccillo, David C. Folch, Amy Schweikert, Rebecca Davies, Nathan Wood & Eric Tate, *Evaluating Social Vulnerability Indicators: Criteria and Their Application to the Social Vulnerability Index*, 100 NAT. HAZARDS 417, 418 (2020).

experiences to assist in planning.²⁴⁷ Researchers describe social vulnerability as a “latent” variable, meaning it is “inherent to a person or place but not directly observable” and “can only be measured indirectly through statistical procedures.”²⁴⁸

We hypothesize that a similar approach might be used to anticipate (and plan for) “legal vulnerability” in a particular community. Census Bureau statistics and other publicly available data might be utilized to anticipate the likelihood that individuals with certain characteristics or histories in a specific place may (1) experience justiciable events; (2) have the ability to identify the event as such; and (3) access various types of resources. This demand-side predictor would then be compared to more robust measurements of available supply-side interventions in a particular place. This combination of measures could more accurately identify where gaps exist in existing legal resources and guide more effective and efficient interventions to meet specific needs.



C. *Implications for Rural Access to Justice and Attorney Recruitment*

This Article builds on the body of prior scholarship arguing that attorneys are just one of many tools available in the effort to enhance access to justice in any geographic space—urban, suburban, rural, or on a cruise ship in the middle of the ocean—and that relying exclusively on

247. *See id.* at 419.

248. *Id.*

attorney numbers is, at best, an incomplete measure of access to justice in any space.²⁴⁹ A key observation in this Article is that it is uniquely in the rural context that the phenomenon of declining attorney numbers has led these two issues—the rural attorney shortage and the justice gap—to be viewed as one and the same by so many key stakeholders. And this conflation seems to disproportionately shape rural access to justice interventions.²⁵⁰ The development of better and more diverse measures of access to justice, which reflect the multilayered nature of the concept, would hopefully guide more targeted, efficient, and effective interventions.

Our goal of disentangling the attorney shortage from the justice gap is not inconsistent with the possibility that a resident attorney can be of importance to the economic and civic vitality of a given rural community. In seeking to reframe the relationship between the rural attorney shortage and the justice gap, we are conscious that our efforts might be mistaken for an attempt to de-emphasize the importance of rural practitioners generally or to suggest the rural attorney shortage does not have consequences. We feel compelled to dispel this notion and to simultaneously urge more research into the value and importance of resident attorneys to a rural community. We also feel compelled, as legal educators, to encourage more honest reflection and open discussion about preparation for, and messaging around, rural careers in law schools.²⁵¹

The recruitment of a new practitioner may be a priority for a rural community for a variety of reasons: Drawing new business to town, maintaining the local economy,²⁵² facilitating the transfer of wealth,²⁵³

249. See *supra* sections IV.A, IV.B.3.

250. See *supra* Part I.

251. Others have noted that law schools need to “validate” rural encounters for students and have called on law schools to “consider how rural perspectives and opportunities can permeate every aspect of their mission and operation.” Pruitt et al., *supra* note 10, at 146. One aspect worth further exploration is the makeup of the legal academy. Law schools “tend to be self-perpetuating, culturally and otherwise.” *Id.* While we, as law teachers in the Midwest, can identify numerous colleagues who were raised in rural communities, we are aware of very few colleagues with meaningful rural practice experience. This likely shapes not only how rural perspectives and issues are incorporated into the curriculum, but also how rural practice is valued within the academy.

252. A 2012 American Bar Association resolution states that the presence of small-town attorneys “is directly connected to the health of the local economy.” AM. BAR ASS’N HOUSE DELEGATES, *supra* note 14, at 2.

253. An Iowa State Bar Association economic survey from 2015 showed that real estate, estate planning, and probate were the most common practice areas for attorneys in smaller communities. IOWA STATE BAR ASS’N, 2015 SALARY & ECONOMIC SURVEY 109 (2015), <https://www.iowabar.org/?pg=Reports> [<https://perma.cc/L9M7-APB5>] (select “2015 Economic Survey of Legal Practice In Iowa”). In communities with a population fewer than 4,000 people, ninety-one percent of surveyed attorneys’ practices included real estate and eighty-eight percent

supporting other aspects of community infrastructure, and providing civic leadership.²⁵⁴ However, given that a newly-recruited rural attorney *might or might not* play a meaningful role in providing civil access to justice, particularly for underserved or vulnerable populations, it is necessary to challenge Haksgaard’s assertion that “the presence of any attorney—even a private practice attorney—increases access to justice” in the rural context,²⁵⁵ and to recognize that other, perhaps more economical interventions, might have greater impact.

There may also be a temporal element at work. It is possible that rural attorneys historically have provided access and services due to the absence of other non-attorney legal resources that were available in more populated areas.²⁵⁶ Of course, the fact that rural attorneys have provided these services in the past, in the absence of other alternatives, does not mean that replacing yesterday’s lawyer with a newly-recruited attorney is the only, or best, vehicle to provide these services going forward.²⁵⁷ In some cases, the lack of attorneys might be easier to diagnose and remedy than consideration of reforming the structures or procedures that require attorneys.²⁵⁸

included estate planning and probate. *Id.* The percentages for each of these practice areas decreased across the six population categories to just twenty-six percent and twenty-four percent of attorneys practicing in these areas, respectively, in communities over 100,000 people. *Id.*

254. See Haksgaard, *supra* note 22, at 218. Haksgaard writes:

Rural lawyers provide integral services and long-term benefits to rural communities, even if those lawyers represent only fee-paid clients in a private practice. Private practice lawyers in rural communities “assist[] the infrastructure of these rural counties to vibrantly expand and grow, rather than wither away and ultimately become uninhabited with only remnants of courthouses and what once was a thriving rural society.” In addition, rural lawyers also provide critical community services, for example by serving on local nonprofit or school boards.

Id. (alteration in original) (footnotes omitted); see also Kidder, *supra* note 8, at 126–28 (describing the community relationships and involvement of rural lawyers).

255. Haksgaard, *supra* note 22, at 215.

256. See Emily Prifogle, *Winks, Whispers, and Prosecutorial Discretion in Rural Iowa, 1925–1928*, 79 ANNALS IOWA 247, 257, 271–73 (2020). Charles Pendleton, a prosecutor in rural Storm Lake, Iowa, had a range of duties: In addition to prosecuting crimes, Pendleton “maintain[ed] a private practice” and undertook “civil responsibilities (advising the county on issues of contracts, zoning, education, mental health commitments, and so forth).” *Id.* at 253. Pendleton described also “perform[ing] all the social welfare work in the county.” *Id.* at 268. While having one individual provide so many legal and quasi-legal services to a community may have been necessary, it was far from ideal.

257. We also recognize that in some situations an attorney may be the only viable intervention in the immediate term due to structural or procedural factors, even if other interventions may prove to be more effective and/or efficient in the longer term.

258. See, e.g., Hon. David Gilbertson, *Reflections on the Rural Practice of Law in South Dakota: Past, Present, and Future*, 59 S.D. L. REV. 433 (2014) (focusing exclusively on the lack of rural attorneys without considering other structural changes or innovations). For example, the Chief Justice states: “I do not desire to be the Chief Justice who, on my watch, was charged with turning out the

Rural attorney recruitment programs can be motivated by a variety of interests.²⁵⁹ If rural attorney recruitment or incentive programs are predicated on increasing access to justice,²⁶⁰ legislatures, bar associations, and law schools must thoughtfully and critically consider how to measure the access to justice impact beyond the mere presence of the additional attorney. Stakeholders' decisions to invest time and resources in attorney recruitment programs should be based on data, not assumptions or romanticized notions of the country lawyer²⁶¹—particularly given the growing array of other potential interventions.²⁶²

A final thought relates to the diversity of rural areas and rural attorneys. We agree with the assertion that “[t]he easiest way to add a lawyer to a particular community is to educate and train a person who hails from that community and wishes to return.”²⁶³ At the same time, this means the pool of potential lawyers may be limited when “some leaders are also concerned about a lack of diverse lawyers [in rural areas] in particular.”²⁶⁴ And the diversity of rural lawyers likely has implications for access to justice. There are many historic examples, like Charles Pendleton, of small-town attorneys who occupy several roles in the community, holding particular power through the exercise of discretion, often to the exclusion

lights permanently in forty-eight courthouses because they were abandoned for lack of attorneys,” suggesting that the number of attorneys should correspond the existing number of courthouses, without interrogating structural factors such as the number of courthouses or size of judicial districts. *Id.* at 442.

259. See Goetzinger & Morris, *supra* note 9, at 447. The State Bar of South Dakota wrote that “[t]he decline of Main Street lawyers is directly connected to the health of the local economy, impacts shrinking budgets, and is key to effective advocacy to ward off discussions about courthouse closings and county consolidation.” *Id.* (citation omitted). “Real estate transactions, trusts and estates matters, family law, and business legal issues are all at risk because of the lack of lawyers.” Kittay, *supra* note 29.

260. Recruitment programs have been “articulated as increasing access to justice in rural communities.” Haksgaard, *supra* note 22, at 215; see also Runge, *supra* note 15.

261. See generally Judy M. Cornett & Heather H. Bosau, *The Myth of the Country Lawyer*, 83 ALBANY L. REV. 125 (2020). The archetype of the “country lawyer . . . is middle-aged or older, an avuncular mix of wisdom and good humor. He is a generalist, in a small town, deeply connected to his community. He is trusted and respected. The person who is called upon when trouble threatens.” *Id.* at 125; see also Bailey Tulloch, Book Notice, *Reconstructing Rural Discourse*, 120 MICH. L. REV. 1337, 1344 (2022) (noting the portrayal of “country lawyers” in *Where the Crawdads Sing*, *To Kill a Mockingbird*, *Tutt and Mr. Tutt*, and *Anatomy of a Murder*). There is also a need for increased data on the efficacy of rural attorney recruitment programs in achieving their basic goal of recruiting and retaining attorneys to rural communities. John Hult, *Rural Lawyer Recruitment Efforts Show Local Results, but Fail to Alter Urban-Rural Divide*, S.D. SEARCHLIGHT (Jan. 15, 2023, 12:59 AM), <https://southdakotasearchlight.com/2023/01/15/rural-lawyer-recruitment-efforts-show-local-results-but-fail-to-alter-urban-rural-divide/> [<https://perma.cc/8WT5-ER4R>].

262. See *supra* section IV.B.3.

263. Pruitt, et al., *Legal Deserts*, *supra* note 10, at 147.

264. Kittay, *supra* note 29.

of marginalized groups.²⁶⁵ Deliberate recruitment or expanding access to justice interventions beyond the lawyer-only approach might allow a more diverse range of rural community members to enter the legal services profession.²⁶⁶

CONCLUSION

What we know from studies of access to justice generally, and in the rural context specifically, is that the data, quantitative and qualitative, do not speak with a singular voice. Low-income residents do not know their rights, nor do they recognize problems as justiciable—or they most certainly do. Lawyers improve outcomes in civil litigation, except when they do not. Lawyers are necessary for law reform, but we do not know exactly when we need law reform. Innovations in courts help pro se litigants, but sometimes they are more of a hindrance. Unbundled services make legal representation available to more people, which is good. But it may not improve outcomes, so does it matter? Increased awareness of available legal resources would increase the use of said resources, or would it? Geographically proximate legal services would increase the use of said services, or would it? Density of acquaintanceship and social intimacy improve legal relationships and access to justice, except when they impede relationships and discourage people from turning to local lawyers and the legal system.

What we do know is that more research is necessary, *both* research on the attorney shortage in rural areas *and* research on access to justice in rural communities, not because they are one and the same, but because each issue has the potential to impact rural residents' quality of life. There

265. See Prifogle, *supra* note 256. The concern that more “local” attorneys who return to their rural communities may, at best, improve access to justice for only certain people when the justice fits within certain shared norms, is borne out by Prifogle’s analysis of Charles Pendleton’s memoirs. *Id.* Pendleton practiced law in Storm Lake, Iowa, in the 1920s, in a fluid role as county attorney and private practitioner. *Id.* In this setting, Prifogle describes how “[s]ocial boundaries in a rural community required active safeguarding and maintenance, which included stigmatizing certain types of legal actions brought by certain types of people.” *Id.* at 254. Pendleton self-identified as the “People’s Pendleton” and “was a lawyer for the underdogs.” Emily Prifogle, *Rethinking Rural: Life & Law in the Heartland* 11, 13 (unpublished manuscript) (on file with authors). However, Pendleton nonetheless did not assist migrant Mexican farmworkers seeking unpaid wages from a local judge. Prifogle, *supra* note 256, at 255–56. Prifogle makes clear that Pendleton “did more than exercise discretion within the scope of criminal prosecution, he mediated disputes and performed social work—all in ways that reinforced gendered and racial biases.” *Id.* at 283.

266. One report pointed to Washington’s Limited License Legal Technician program providing “expanded legal job opportunities for women and people of color.” JASON SOLOMON & NOELLE SMITH, *THE SURPRISING SUCCESS OF WASHINGTON STATE’S LIMITED LICENSE LEGAL TECHNICIAN PROGRAM*, STAN. L. SCH. 17 (2021), <https://law.stanford.edu/wp-content/uploads/2021/04/LLLT-White-Paper-Final-5-4-21.pdf> [<https://perma.cc/493M-BP42>].

is an opportunity to interrogate the value a resident attorney brings to rural communities generally and more clearly understand the relationship of that attorney to access to justice. If we are to do so, it is necessary to understand access to justice in a way that better encompasses the needs of rural individuals and rural communities as potentially distinct entities. As a result, it is equally an opportunity to reassess how we measure access to justice and to design new approaches—as we plan to do with indicators of legal vulnerability—that correspond to the range of resources and interventions required to meet these needs. Whether we, as a profession, deem it necessary to preserve or break up our long-held monopoly on legal problem solving, should be a decision predicated on a more concrete and multi-faceted understanding of access to justice, particularly in rural communities.

Law Practice in Rural Communities and Pathways to the Bench

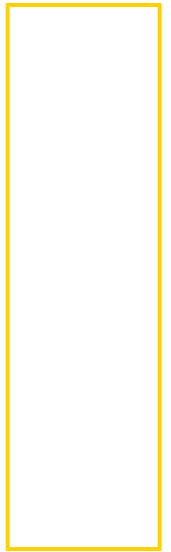
APPLY

GIVE

MYLAW

Trailblazing Judge Salvador Mendoza Jr. '97 appointed to Ninth Circuit Court of Appeals

OCTOBER 18, 2022 | CHRISTINE BYRD



In September, Salvador Mendoza Jr. '97 was sworn in as a Ninth Circuit Court of Appeals judge in Richland, Washington. Geographically, he wasn't far from the orchards where he worked picking apples as a teen, but he was worlds away in other respects.

Mendoza brings 25 years of legal and judicial experience to this new role and joins five other UCLA Law alumni currently serving on the Ninth Circuit.

“I cannot express the amount of gratitude I have for the folks throughout my educational background – all of the teachers, counselors, program staff who made sure that a migrant kid like me, who could have been tossed out or ignored, was instead given an opportunity,” Mendoza says.

While his own trajectory has been remarkable, Mendoza works hard outside of the courtroom to make legal careers more accessible to the next generation of students, in hopes of continuing to diversify the legal field.

Choosing law



Richard Tallman, Senior United States Circuit Judge of the United States Court of Appeals, (left) swearing in Salvador Mendoza Jr.

The middle of five children, Mendoza was born in Los Angeles to parents from Jalisco, Mexico. His father had just one year of formal schooling, and his mother had grown up without running water in a mud hut with a *palapa*, or thatch, roof. In the U.S., they hoped to build a better future.

Although the family moved around a lot, Mendoza grew up primarily in Washington’s Yakima Valley, where he joined his parents and older siblings working on farms, following the cherry harvest to Montana in the summer, and picking apples in Washington during the fall. Thanks to the Washington State Migrant Education Program, Mendoza was able to earn school credit even when he worked in the fields well past the beginning of the academic year.

When an uncle told Mendoza that he was so *litigioso*, or argumentative, that he should become a lawyer, he decided to do

just that – despite never having met an attorney or a law student in his life. Believing he would have a better shot at college if he spent his senior year in school, Mendoza made a deal with his dad that he would earn money working part time at the local pizza joint instead of traveling with the family to work the fields.

Mendoza credits a holistic admissions program at the University of Washington, which considered a host of factors beyond just his grades, as the reason he was accepted to college. Although Mendoza initially followed his counselor's advice to study political science as a precursor to a law degree, Mendoza was captivated by his very first philosophy class.

“Suddenly, like in the movies, the doors swing wide open and in comes this heavy set, bearded man in a coat with a bunch of papers and a coffee mug that he's spilling all over the place. He gets to the front and starts his lecture, and I was hooked. It was the best thing in the world,” Mendoza recalls. “I may have run to the counselor's office and changed my major right after class.”

In 1994, Mendoza chose to enroll at UCLA Law, which he felt offered a welcoming environment for Latino students. The school was then home to one of the largest percentages of Latino law students in the U.S., and ran an active *Chicanx Latinx Law Review*, of which he became co-editor in chief.

Beyond public service, Mendoza had no clear plans for his legal career. Through the Public Interest Law Fund, he spent his first summer working for the United Farm Workers.

“I had this incredible opportunity and skill to help individuals whose plights I totally understood, making sure that they understood what their rights were,” he recalls. “It was a full circle moment for me.”

Entering court

In his second summer, Mendoza interned at the Washington state attorney general's office, and he returned there after finishing law school.

"The wonderful thing about UCLA Law was that even though I went through law school not knowing exactly what kind of law I wanted to do, coming out of it I felt I would be prepared to do anything," he says. "I had a lot of interests then, and I still do."

Those varied interests led Mendoza to trade the attorney general's office for the prosecutor's office to pursue trial law, and then transition to private practice as a defense attorney for 15 years, in municipal, juvenile, and eventually federal courts throughout Washington, Idaho, Montana and Michigan.

In private practice, Mendoza appreciated the freedom to spend time volunteering in the community. In 2002, he leveraged his courtroom experience and connections to establish Eastern Washington's first juvenile drug court, which continues operating today.

"What was appealing to me was not having to throw these kids with severe drug problems in jail – because that's what juvenile detention is," Mendoza says. "So, we built this program from the ground up, giving judges an alternative to incarceration and giving kids an option to not have convictions in their background."

Diversifying the legal system



Judge Richard Tallman (left) and Judge Salvador Mendoza, Jr. '97. For many years, Mendoza served as a judge pro tempore, or substitute, in municipal and juvenile courts in Eastern Washington. But in 2013, he was appointed to the Superior Court for Benton and Franklin counties, and the following year, he was nominated to the U.S. District Court for the Eastern District of Washington.

He was that district's first Latino judge, the significance of which was not lost on him – especially when a Latina in her sixties approached him, crying tears of joy.

“I think it was good for the community as a whole,” Mendoza says. “From an inspirational perspective, it's important for people to see that their kids can grow up to be an attorney or a judge.

“From a practical position, too, it's important to have diversity on the bench to add experiences others may not have had,” he adds. “Especially when developing policies for the court such as having interpreters available to folks in hearings.”

Language and culture emerged as important issues throughout Mendoza's career. More times than he can count, clients told him they preferred to be counseled by someone who understood their

language and culture – even when he told them they could get better legal expertise from someone else.

“Ultimately, a client’s comfort is an important part of representing them,” Mendoza says. “It’s about resolving their legal problems – in my cases, involving criminal matters – but it’s also making them feel at ease in one of the most difficult and important times in their lives.”

Through outreach efforts, Mendoza aims to help inspire diverse students to pursue legal education and careers. He helps put on the annual Tri-Cities Youth and Justice Forum to introduce about 200 underrepresented students each year to careers in law – the type of opportunity he wishes he could have had.

He recalls a hearing where the federal judge, the federal defender, the assistant U.S. attorney, and probation officer were all Latino or Latina. That had never happened in the Eastern District of Washington.

“It was one of those moments where I thought to myself, ‘Why is this such an anomaly?’” he recalls. “It’s wonderful to continue to diversify our profession.”

Believing in the promise

As a district court judge for eight years, Mendoza issued over 9,000 orders and opinions, taking pride in the opportunity to make a positive difference.

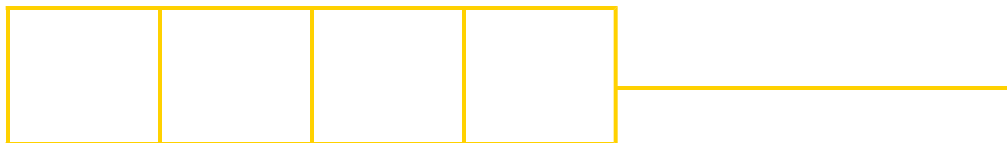
“I enjoy making an impact in the lives of individuals who appear before me,” he says. “It’s about formulating a sentence in a way that helps someone – maybe adding a drug treatment or mental health component to their sentence.”

That practical courtroom experience, both as a judge and an attorney, are perspectives he hopes will benefit the Ninth Circuit Court of Appeals, especially since many of his peers on the bench come from backgrounds in big law or academia.

“I want to be able to impart my real experience to the court of appeals and take this opportunity to look at cases coming before me and think back on how I handled similar issues as a district court trial judge and a trial attorney,” Mendoza says.

As Mendoza raised his right hand to be sworn in on September 16, 2022, he reflected for a moment on how far not only he had come, but also his mother.

“All of her decisions, picking up and leaving her country and coming to the U.S. to create a better future for herself, led to the moment I am now swearing in to become a circuit court judge,” Mendoza says. “Her belief in the promise of America led to this moment.”



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Attracting Lawyers to Rural Practice: How to Find Them, How to Keep Them

California Commission on Access to Justice

California's Attorney Deserts: Access to Justice Implications of the Rural Lawyer Shortage

July 2019

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The California Commission on Access to Justice wishes to thank the Rural Task Force for their many hours of work on this document. The Commission also thanks Zach Newman of the Legal Aid Association of California for research and drafting assistance, along with UC Davis law students Jaclyn Feenstra Kawagoe, Alison Corn, Jacqueline M. Nguyen, Amelia Evard and Diana Flores.

INTRODUCTION

Since its inception in 1996, the California Commission on Access to Justice (CCAJ) has worked to ensure that all Californians are afforded equal access to justice. The California Commission on Access to Justice researched the issue of so-called attorney deserts, places where too few attorneys live and work, leaving unmet legal needs. In this policy brief, we detail the problem and suggest possible solutions.

CALIFORNIA ATTORNEY DESERTS

Key Findings

- Attorneys are more concentrated in urban areas than is the general population.

	Attorneys	Residents
Urban	96.11% (189.5k)	86.99% (33m)
Rural	3.72% (7,333)	12.35% (4.7m)
Frontier	0.17% (324)	0.66% (252k)

- This is also reflected in the number of residents per attorney (RPA). California's average RPA is 193.
 - Urban RPA – 175
 - Rural RPA – 626
 - Frontier RPA – 738
- Highest RPA: City and County of San Francisco, 41
- Lowest RPA: Kings County, 1364
- Areas with high RPA tend to be high poverty.

MSSA Categories

- Urban: 75,000-125,000 residents, reflecting recognized community boundaries that share similar socio-economic and demographic characteristics
- Rural: 50,000 or fewer residents and density of less than 250 residents/square mile
- Frontier: Fewer than 11 residents/square mile
- Only two California counties—San Francisco and Orange—are entirely urban, with no rural or frontier MSSAs.

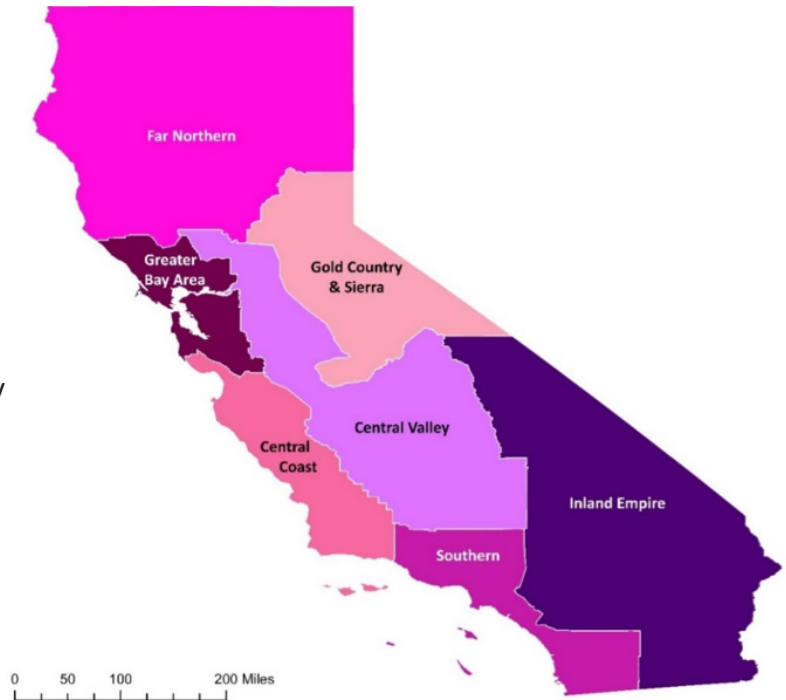
One measure of access to the legal system is access to an attorney. Massive parts of rural California are attorney deserts, where residents must drive many miles to reach an attorney who can represent them. This brief presents the geography of 2016 California attorney data to illustrate where attorney deficits exist throughout the state.

Many parts of California lack sufficient numbers of attorneys to serve their population, a situation that is particularly acute in many rural areas. In this brief, we study those areas using a California classification scheme that divides the state into sub-county geographical units known as Medical Service Study Areas (MSSAs), each of which is categorized as “rural,” “urban,” or “frontier.”¹ MSSAs are clusters of Census tracts, and they are a scale used by the Office of Statewide Health and Development Planning (OSHDP) to determine “areas of unmet priority need for primary care family physicians.” CCAJ believes that the MSSA is an appropriate scale for studying the lawyer shortage because one should need to travel no farther to access legal services than one travels to access medical services.

1 The data in this brief was mapped in 2016 by Professor James W. Meeker of UC Irvine, an ex officio member of the CCAJ, and two graduate students. Meeker's team mapped 2016 attorney address data provided by the State Bar of California. An attorney's address is a matter of public record, available on the State Bar of California's website and is most often an office address rather than a home address. That data set included both active and inactive lawyers.

The MSSA scale is also useful for assessing the rural lawyer shortage and the availability of other justice system services because California's counties tend to be unevenly developed. Population density varies widely within counties and not only among counties. The finer level of detail reflected in MSSAs yields more nuanced information because even highly urbanized counties, e.g., Los Angeles County, are enormous by the standards of other states and feature rural pockets. Other counties are even larger in terms of land area, e.g., Fresno and San Bernardino, and their urban MSSAs are well served by lawyers. These counties' vast rural and frontier MSSAs, however, which are home to many of the state's rural poor, are attorney deserts.

Map 1: Regional Map of California



Given California's size and diversity, the state was divided into seven regions to facilitate analysis. The regions cluster counties based largely on economic and historical affinity, as well as similarities in physical geography. Regional information is presented in the table below, and county-level information is presented on the pages 4–7. (See Table 1 and 2).

Table 1: Attorneys by Region²

Region Name	Total Attorneys	Total Population	Residents per Attorney	Poverty Rate*	Area (in sq. miles)	Attorneys per sq. mile
Greater Bay Area	59,536	7,397,334	124	10.3%	7,620.50	7.81
Southern California	104,270	17,074,498	164	13.7%	11,497.69	9.07
Central Coast	5,145	1,454,757	283	14.4%	11,380.92	0.45
Gold Country & Sierra	2,881	966,828	336	13.3%	16,504.28	0.17
Central Valley	16,182	5,503,641	340	21.9%	26,707.30	0.61
Central Valley w/o Sac	6,553	4,090,211	624	22.4%	25,917.46	0.25
Far Northern	2,294	1,115,467	486	19.2%	42,882.30	0.05
Inland Empire	6,906	4,540,950	658	17.6%	42,116.72	0.16

² Sacramento County is included within the "Central Valley" region. Because Sacramento is the State's capital, it includes a high concentration of attorneys. We thus look at the Central Valley region both with and without the capital's attorneys, a high proportion of which are government employees.

The following Map 2 shows MSSAs by population (the most densely populated areas are darkest), with each pink dot representing a single attorney. County seats are labeled. (See Map 2).

Map 2: Population (by MSSA) and Attorneys (pink dots)

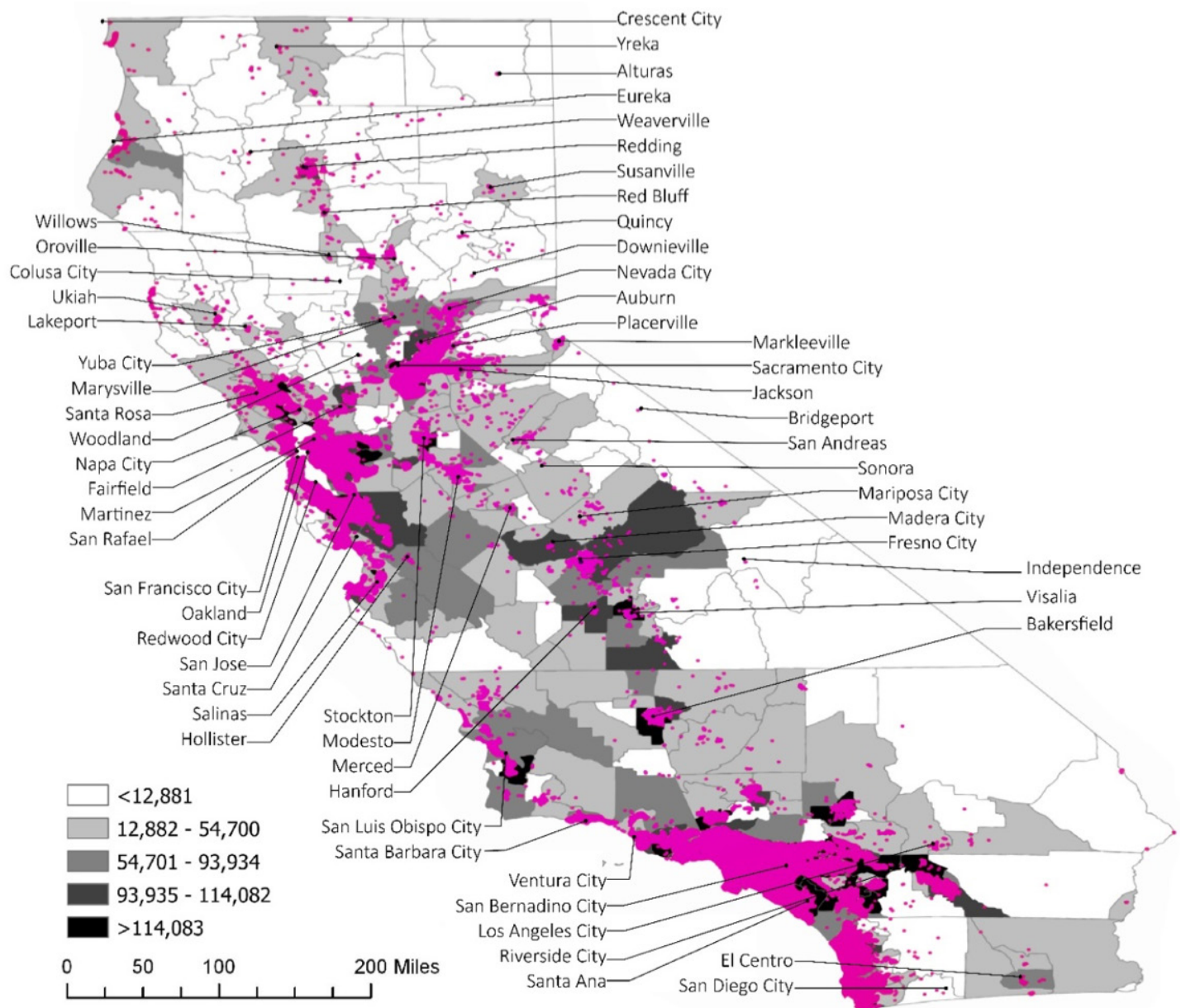


Table 2: Attorneys by County

County Name	Region	Total Attorneys	Total Population	Residents per Attorney	Poverty Rate*	Area (in sq. miles)	Attorneys per sq. mile
Los Angeles	Southern	62,775	9,969,234	159	17.8%	4,546.65	13.8
Orange	Southern	19,406	3,086,331	159	12.5%	811.91	23.9
San Diego	Southern	18,856	3,183,143	169	14.0%	4,271.01	4.4
Ventura	Southern	3,233	835,790	259	10.6%	1,868.12	1.7
Totals and Averages for Region	Southern	104,270	17,074,498	164	13.7%	11,497.69	9.1
Imperial	Inland Empire	167	177,026	1,060	24.1%	4,481.67	0.0
Inyo	Inland Empire	55	18,439	335	10.8%	10,226.88	0.0
Riverside	Inland Empire	3,928	2,266,899	577	16.5%	7,303.05	0.5
San Bernardino	Inland Empire	2,756	2,078,586	754	19.1%	20,105.13	0.1
Totals and Averages for Region	Inland Empire	6,906	4,540,950	658	17.6%	42,116.72	0.2
Alameda	Greater Bay Area	9,357	1,559,308	167	12.0%	767.55	12.2
Contra Costa	Greater Bay Area	5,526	1,118,079	202	10.2%	974.77	5.7
Marin	Greater Bay Area	3,242	256,802	79	8.1%	574.87	5.6
Napa	Greater Bay Area	584	139,253	238	8.8%	788.58	0.7
San Francisco	Greater Bay Area	20,218	829,072	41	12.5%	204.50	98.9
San Mateo	Greater Bay Area	5,896	739,837	125	7.7%	479.22	12.3
Santa Clara	Greater Bay Area	11,785	1,841,569	156	9.3%	1,304.05	9.0
Solano	Greater Bay Area	713	421,624	591	12.7%	906.19	0.8
Sonoma	Greater Bay Area	2,215	491,790	222	11.2%	1,620.78	1.4
Totals and Averages for Region	Greater Bay Area	59,536	7,397,334	124	10.3%	7,620.50	7.8
Alpine	Gold Country & Sierra	3	1,202	401	18.9%	743.19	0.0
Amador	Gold Country & Sierra	100	37,159	372	11.2%	605.95	0.2
Calaveras	Gold Country & Sierra	89	44,921	505	12.7%	1,036.92	0.1
El Dorado	Gold Country & Sierra	533	181,465	340	9.8%	1,734.33	0.3
Madera	Gold Country & Sierra	129	152,452	1,182	22.1%	2,153.28	0.1
Mariposa	Gold Country & Sierra	28	17,946	641	16.3%	1,462.82	0.0
Mono	Gold Country & Sierra	57	14,193	249	8.8%	3,131.87	0.0
Nevada	Gold Country & Sierra	408	98,606	242	12.1%	973.79	0.4
Totals and Averages for Region	Gold Country & Sierra	2,881	966,828	336	13.3%	16,504.28	0.2

County Name	Region	Total Attorneys	Total Population	Residents per Attorney	Poverty Rate*	Area (in sq. miles)	Attorneys per sq. mile
Placer	Gold Country & Sierra	1,432	361,518	252	8.7%	1,425.54	1.0
Sierra	Gold Country & Sierra	5	3,019	604	11.3%	962.16	0.0
Tuolumne	Gold Country & Sierra	97	54,347	560	14.2%	2,274.44	0.0
Totals and Averages for Region	Gold Country & Sierra	2,881	966,828	336	13.3%	16,504.28	0.2
Butte	Far Northern	499	221,578	444	21.3%	1,677.12	0.3
Colusa	Far Northern	25	21,424	857	13.5%	1,156.35	0.0
Del Norte	Far Northern	54	28,066	520	21.7%	1,054.11	0.1
Glenn	Far Northern	26	28,019	1,078	20.3%	1,326.97	0.0
Humboldt	Far Northern	336	134,876	401	21.0%	3,642.26	0.1
Lake	Far Northern	107	64,209	600	24.6%	1,329.42	0.1
Lassen	Far Northern	33	33,356	1,011	16.2%	4,720.10	0.0
Mendocino	Far Northern	276	87,612	317	20.2%	3,542.35	0.1
Modoc	Far Northern	9	9,335	1,037	16.9%	4,203.39	0.0
Plumas	Far Northern	46	19,286	419	12.8%	2,613.43	0.0
Shasta	Far Northern	443	178,520	403	17.5%	3,847.38	0.1
Siskiyou	Far Northern	101	44,261	438	22.0%	6,347.35	0.0
Sutter	Far Northern	133	95,067	715	17.5%	608.49	0.2
Tehama	Far Northern	85	63,284	745	21.5%	2,962.16	0.0
Trinity	Far Northern	32	13,515	422	20.1%	3,207.60	0.0
Yuba	Far Northern	89	73,059	821	20.8%	643.80	0.1
Totals and Averages for Region	Far Northern	2,294	1,115,467	486	19.2%	42,882.30	0.1
Fresno	Central Valley	2,274	948,844	417	26.9%	6,011.05	0.4
Kern	Central Valley	1,035	849,254	821	23.1%	7,733.10	0.1
Kings	Central Valley	111	151,390	1,364	21.6%	1,391.53	0.1
Merced	Central Valley	204	261,609	1,282	24.2%	1,978.50	0.1
Sacramento	Central Valley	9,629	1,413,430	147	17.9%	789.84	12.2
San Joaquin	Central Valley	990	701,050	708	17.8%	1,426.49	0.7
Stanislaus	Central Valley	682	522,794	767	18.2%	1,514.60	0.5
Tulare	Central Valley	455	451,108	991	28.3%	4,838.65	0.1
Yolo	Central Valley	802	204,162	255	19.3%	1,023.53	0.8
Totals and Averages for Region	Central Valley	16,182	5,503,641	340	21.9%	26,707.30	0.6

County Name	Region	Total Attorneys	Total Population	Residents per Attorney	Poverty Rate*	Area (in sq. miles)	Attorneys per sq. mile
Monterey	Central Coast	1,190	424,927	357	16.1%	3,330.41	0.4
San Benito	Central Coast	71	56,888	801	10.8%	1,390.47	0.1
San Louis Obispo	Central Coast	997	274,184	275	14.2%	3,342.78	0.3
Santa Barbara	Central Coast	1,876	431,555	230	15.9%	2,860.11	0.7
Santa Cruz	Central Coast	1,011	267,203	264	15.1%	457.15	2.2
Totals and Averages for Region	Central Coast	5,145	1,454,757	283	14.4%	11,380.92	0.5

*U.S. Census Bureau, Official Poverty Measure, American Fact Finder: 2012-2016 American Community Survey 5-Year Estimate

Regional Highlights³

<p>Central Valley</p> <ul style="list-style-type: none"> • Heavily agricultural • Just over 25% residents live in rural or frontier MSSAs • RPA is heavily skewed by Sacramento, the state capitol • Kings County: highest RPA in the state <p>Central Coast</p> <ul style="list-style-type: none"> • Percentage rural and frontier residents nearly twice the Central Valley, but overall RPA is better • Coastal exposure attracts tourism and wealth • Coastal exposure attracts tourism and wealth, which raises cost of living and deters young lawyers from practice in coastal cities and towns. 	<p>Far North</p> <ul style="list-style-type: none"> • More than 80% population live in rural and frontier MSSAs • Some counties' RPAs are higher than 1000 <p>Gold Country/Sierra Nevada</p> <ul style="list-style-type: none"> • More than 60% population rural or frontier • While regional RPA is good, it deteriorates with distance from metro areas • In Sierra County, for example, only one attorney is available for private representation. The other four attorneys are employed in government or other positions <p>Greater Bay Area</p> <ul style="list-style-type: none"> • San Francisco: lowest RPA in the state and no rural or 	<p>frontier MSSAs</p> <p>Inland Empire</p> <ul style="list-style-type: none"> • Four counties constitute more than a quarter of California's land area, but vast parts of the region are sparsely populated • San Bernardino County is twice the size of Massachusetts • Attorneys in these counties are clustered in their urban MSSAs, leaving vast areas with no attorneys <p>Southern California</p> <ul style="list-style-type: none"> • San Diego, Ventura, and Los Angeles counties all have rural MSSAs, but Orange County is entirely urban
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THE NEED

California is not alone in facing a rural lawyer shortage. Just 2% of small law practices in the United States are located in rural places, even though less than one-fifth of the nation's population lives in rural locales.⁴ Yet the need for legal assistance among rural residents is as great as it is among urban ones. Seventy-five percent of low-income rural households across the United States encounter some type of civil legal problem in a given year, a rate slightly higher

³ See Meeker Data, *supra* note 1; see also Lisa R. Pruitt, Amanda L. Kool, Lauren Sudeall, Michele Statz, Danielle M. Conway & Hannah Haksgaard, *Legal Deserts: A Multi-State Perspective on Rural Access to Justice*, 12 Harv. L. & Policy Rev. 15 (2018) (providing sources for all data and other assertions).

⁴ Lisa R. Pruitt & Bradley E. Showman, *Law Stretched Thin: Access to Justice in Rural America*, 59 South Dakota L. Rev. 466, 469 (2014).

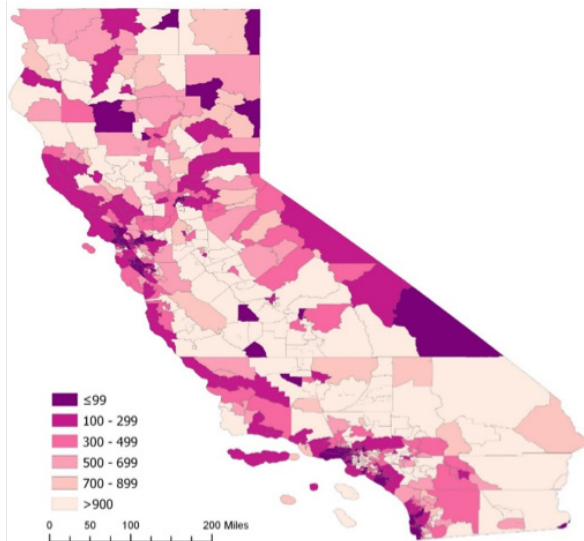
than that of the general low-income population (71%).⁵ These civil legal problems include issues regarding health (43%), consumer or finance (40%), or employment (25%).⁶ Twenty-three percent of rural households face six or more civil legal issues in a year.⁷ The same person or family might face eviction, for example, while also navigating mounting medical debt or an unjustified firing.

A national study conducted in 2017 found that 86% of civil legal problems receive inadequate or no legal assistance.⁸ This is not surprising when you consider that only one legal aid attorney is available to assist about 7,500 Californians at 125% of poverty level, the income at which an individual is eligible for free legal aid.⁹ Aggravating the general lack of access to legal counsel in rural California is the fact that the vast majority of the state's attorneys are based in metropolitan areas, which is consistent with national trends as well.¹⁰ Lawyers—including legal aid lawyers—are generally scarce in rural areas.¹¹

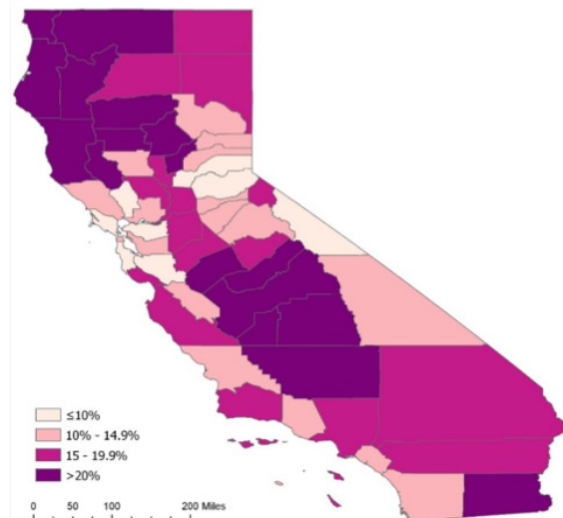
ATTORNEY DESERTS ALIGN WITH POVERTY

Many attorney deserts are high poverty areas, as shown below. In Map 3, the darker the color, the more attorneys there are in that MSSA, relative to population. (See Map 3). In Map 4, the darker the color, the higher the poverty rate. (See Map 4). The lack of attorneys in high poverty

Map 3: Residents per Attorney (MSSA)



Map 4: Poverty Rate by County



5 Legal Services Corp., The Justice Gap 6, 48, 2018, <https://www.lsc.gov/sites/default/files/images/TheJusticeGap-FullReport.pdf>.

6 *Id.*

7 *Id.*

8 *Id.*

9 This number is based on data from the State Bar of California and poverty data from the Census Bureau's American Community Survey. \$32,188 for a family of four is 125% of poverty in 2019. *Federal Poverty Guidelines 2019*, Mass Legal Services (Jan. 11, 2019), <https://www.masslegalservices.org/content/federal-poverty-guidelines-2019>.

10 See Pruitt et al., *supra* note 3.

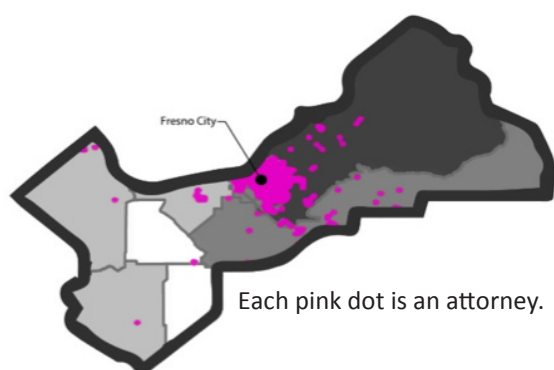
11 The Justice Gap, *supra* note 5, at 48, 2018, <https://www.lsc.gov/sites/default/files/images/TheJusticeGap-FullReport.pdf>; see also Taier Perlman, *Rural Practice in New York State* (Apr. 2019), <https://www.albanylaw.edu/centers/government-law-center/the-rural-law-initiative/Documents/rural-law-practice-in-new-york-state.pdf>.

areas is problematic because legal access enables other poverty-fighting measures to function. For example, one study found that for every \$1 invested in legal aid, the programs secured \$5 in federal benefits for eligible clients who otherwise would not receive them; further, \$1 invested in legal housing defense saved \$2.69 in homeless services.¹² Another study found that availability of legal services significantly lowers the rate of intimate partner violence against women.¹³

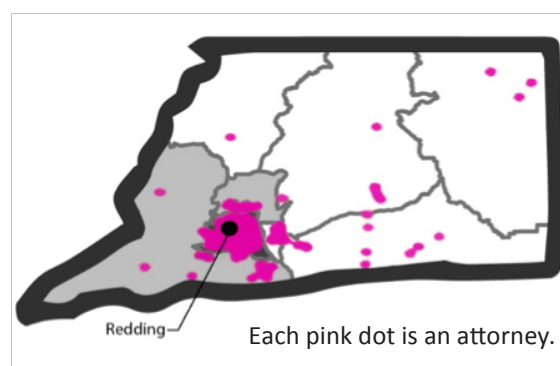
ATTORNEY DISTRIBUTION WITHIN COUNTIES

Some of the disparities in lawyer availability are best revealed not by comparing counties or regions, but by looking at where lawyers are within a particular county. Fresno County makes an interesting case study because it represents a blend of urban, rural, and frontier: Fresno (City), California's fifth largest city, is surrounded by rural areas, with the Sierra Nevada mountains rising to the east and central valley farms stretching south and west from the county seat. The county covers some 6,000 square miles, of which 98% is classified as rural or frontier under the MSSA scheme. While 37% of the population lives in those rural and frontier areas, just 5% of Fresno County attorneys have addresses there. Thus, each lawyer in an urban part of Fresno County serves around 417 people and about 1/20 of a square mile, while each rural lawyer serves around 2,887 people and 48 square miles. The spatial distribution of lawyers in Fresno County—or more precisely their spatial concentration—is depicted in Map 5. (See Map 5). The consequences of this urban concentration of Fresno County attorneys is thrown into even sharper relief when you consider that 35% of those living below the poverty line in Fresno County live in rural or frontier MSSAs. Indeed, the sheer number of rural and frontier poor in Fresno County—90,000 residents—is the greatest of any California county, even though Fresno County is a metropolitan county.

Map 5: Fresno County



Map 6: Shasta County



¹² *Investing in Justice, A Roadmap to Cost-Effective Funding of Civil Legal Aid in Massachusetts*, 2014. www.bostonbar.org/docs/default-document-library/statewide-task-force-to-expand-civil-legal-aid-in-ma---investing-in-justice.pdf, at 4-5.

¹³ *Supporting Survivors: The Economic Benefits of Providing Civil Legal Assistance to Survivors of Domestic Violence*, 2015, <http://legalaidresearch.org/pub/4562/supporting-survivors-the-economic-benefits-of-providing-civil-legal-assistance-to-survivors-of-domestic-violence/>, at 5.

In Far Northern California, Shasta County is the most populous and only metropolitan county; its county seat, Redding, with a population of about 92,000 residents, is the largest California city north of greater Sacramento. Indeed, Redding is the only part of Shasta County that is not rural or frontier, yet the lion's share of Shasta County's attorneys—87%—have addresses in the Redding MSSA. Only 33 of the county's attorneys have addresses in rural parts of Shasta County, while another 23 have frontier addresses. Shasta County covers nearly 4,000 square miles and many of its residents live far from the critical mass of attorneys situated in the Redding metro area. This is depicted in Map 6. (See Map 6). Redding has a respectable 257 RPA, a sharp contrast to a rate less than one-fifth of that in the remainder of Shasta County.

OTHER CONSEQUENCES OF ATTORNEY DESERTS

Low attorney counts have various consequences for local populations and local governments. When the attorney count drops below a certain level, few if any of the attorneys present in a rural or frontier area are actually working in private practice or accepting clients. Most are judges, prosecutors, or in other government positions.¹⁴ Further, attorney shortages can result in higher levels of pre-trial incarceration because attorneys are unavailable to represent those arrested at initial appearance.¹⁵ In addition, conflicts of interest become increasingly common due to the high density of acquaintanceship that marks rural areas. As a consequence, residents must sometimes travel to neighboring counties to access legal counsel, while attorneys must travel from outside a given county to keep the justice system and local government functioning. The time and expense of such travel seriously undermine access to justice, just as it increases the costs of justice systems and other local government functions.

THE PIPELINE PROBLEM: LACK OF INTEREST AND STUDENT DEBT

Few entering the legal profession in California appear interested in rural practice. According to an internal study done by one California legal aid organization, most attorneys who do begin a job in a rural office transfer to a more urban location due to lack of employment opportunities for their partner; social isolation/the desire to be closer to family; or a lack of racial/cultural diversity. Another barrier is the challenge of paying off student debt while employed at a rural job, which presumptively pays less than metropolitan employment.

The State Bar of California is researching the extent to which the cost of law schools and resultant student debt burden shape graduates' decisions about how—and where—they use their law degrees. California has five high-caliber ABA-accredited public law schools, but the cost of attending these institutions is much greater than comparable schools in other states. In 2018, the average annual cost of attending one of California's five public law schools was \$48,759 in tuition and fees.¹⁶

14 E-mail from Herb Whitaker, Manag. Att'y., Legal Servs. of N. Cal., Mother Lode Office, Auburn, Cal., to Lisa R. Pruitt, Professor of Law, Univ. of Cal., Davis (Nov. 27, 2017, 5:27 PM) (on file with Harvard Law School Library); e-mail from Nicole Ogan, Communications/Membership Director, State Bar of South Dakota, to Hannah Haks-gaard, Assistant Professor of Law, University of South Dakota School of Law (March 19, 2018, 11:09 AM) (on file with Harvard Law School Library). See Pruitt et al., *supra* note 3, at 49, 102.

15 Jacob Kang-Brown & Ram Subramanian, *Out of Sight: The Growth of Jails in Rural America* (2017), https://storage.googleapis.com/vera-web-assets/downloads/Publications/out-of-sight-growth-of-jails-rural-america/legacy_downloads/out-of-sight-growth-of-jails-rural-america.pdf.

16 See also, *What Are the Priciest Public Law Schools?*, U.S. NEWS, <https://www.usnews.com/best-graduate-schools/top-law-schools/public-cost-rankings> (averaging the 2018 in-state yearly cost of attendance at University of California, Berkeley, University of California, Davis, University of California, Los Angeles, University of California, Irvine, and University of California, Hastings law schools).

That figure is as much as three times the cost of other states' public law schools with comparable rankings and employment rates.¹⁷ The average annual tuition for all ABA Accredited law schools in California—including both public and private institutions—is only marginally greater, at \$49,558, for a total of \$148,673 over three years.¹⁸ In part as a consequence of such high law school tuition, average student debt among those graduating from California's ABA Accredited institutions in 2016 was nearly \$143,000, some 27% greater than the national average.¹⁹ (See table 3).

Table 3: Average Annual Law School Tuition

Average Annual Law School Tuition (ABA Accredited Schools)	\$49,558
Average Annual Public Law School Tuition	\$48,759
Average Annual Private Law School Tuition	\$50,345
Average Annual Law School Tuition at Cal-Accredited Law Schools	\$21,903
Average Annual Tuition at Unaccredited Schools: distance learning, fixed facility, and correspondence	\$10,000

STEPS TO AMELIORATE ATTORNEY DESERTS

California stakeholders can and should take steps to address the state's rural attorney shortage. The California Legislature, in cooperation with the State Bar of California, could offer financial incentives for lawyers to practice in under-served rural communities. Several states are doing this in one form or another. This strategy has worked well in South Dakota, where lawyers are paid a stipend of more than \$13,000 a year when they make a five-year commitment to practice in a rural community.²⁰ The state legislature, the state bar, and county governments share the cost of this program.²¹ The initial class of 16 attorneys filled quickly, some with out-of-state law graduates who had no prior link to South Dakota.²² This South Dakota Rural Attorney

17 The University of North Carolina at Chapel Hill School of Law, for example, charged \$23,889 for in-state tuition and fees in 2018, while the University of Georgia School of Law cost \$19,696, the University of Alabama School of Law cost \$23,720, and the William & Mary Law School cost \$32,964.

18 State Bar of Cal., *Admission and Discipline Systems Training* (Jan. 25, 2018), <http://www.calbar.ca.gov/Portals/0/documents/communications/Admissions-and-Discipline-System-Training-Jan2018.pdf> (this data point is at slide 34). The remaining 20 institutions are unaccredited.

19 Spreadsheet of California ABA Accredited Law Schools Debt in 2016, Legal Aid Association of Cal. (Jan. 2018) [hereinafter Legal Aid Spreadsheet] (on file with Harvard Law Library) (based on U.S. News and World Report data).

20 S.D. Codified Laws § 16-23-5 (West, Westlaw through laws of the 2018 Reg. Sess. effective March 23, 2018, and Supreme Court Rule 17-12). This dollar amount was set "in an amount equal to ninety percent" of USD Law's in-state tuition as it was in 2013. *Id.* The reimbursement amount is tied directly to the 2013 tuition, not current tuition. *Id.* Accordingly, even though USD Law's tuition has increased since 2013, the incentive payment has remained the same. See *Tuition and Fees*, Univ. S.D. Sch. of L., <http://www.usd.edu/law/tuition-and-fees>.

21 S.D. Codified Laws § 16-23-11 (West, Westlaw through laws of the 2018 Reg. Sess. effective March 23, 2018, and Supreme Court Rule 17-12).

22 Pruitt et al., *supra* note 3, at 108-09 (citing Telephone Interview with Suzanne Star, Director of the Division of

Recruitment Program is now placing its second group of 16 attorneys, with the prospect of further expansion on the horizon.²³ If attorneys are willing to practice in rural South Dakota given financial supports, we have every reason to believe that adequate incentives would draw them into rural California, too.

Alternatively, funds could support a loan forgiveness program or other form of financial relief for those who commit to practice in a rural area. Loan Repayment Assistance Programs (LRAP) are run by many law schools, but most are limited to graduates performing public interest work. In California, only Stanford Law School's LRAP program extends to those engaged in private practice in an underserved community, like many of the state's rural areas.²⁴ Nevertheless, a strong argument can be made that private practice in an underserved community is a form of public interest law practice and should qualify for the sorts of financial supports that California physicians receive when practicing in such locales.²⁵

Another way to provide financial support to rural attorneys is through a tax credit. This policy intervention was recently considered, but ultimately rejected, by Maine's legislature.²⁶ Financial support of incubators, institutions that train attorneys to market themselves and serve low-income and modest-means clients, is yet another way to meet rural legal needs. Such incubators have been successful in urban California, and we anticipate that rural-focused incubators could also help ameliorate the attorney shortage in rural California.²⁷

California stakeholders could also take other constructive actions, including gathering additional data to better inform policy interventions. With detailed information about lawyers' practices and sources of income in rural California, for example, stakeholders could better assess the feasibility of rural practice and the needs of rural lawyers.²⁸ How much do rural lawyers rely, for example, on court appointed work, and are the fees paid for such work adequate to sustain rural practices? Such information is critical to the design of policies that will best entice newly licensed lawyers to attorney deserts and help keep them there.

Policy and Legal Services of the South Dakota Unified Judicial System (Dec. 1, 2017)).

23 *Id.*

24 Pruitt et al., *supra* note 3, at 60 (discussing *Miles and Nancy Rubin Loan Repayment Assistance Program*, Stanford Law Sch. 1–3 (Oct. 2017), <https://law.stanford.edu/wp-content/uploads/2015/03/LRAP-2018-Pro-gram-Terms-1.pdf>).

25 See Hannah Haksgaard, *Rural Practice as Public Interest Work*, 71 Maine L. Rev. 209 (2019); Hannah Alsgaard, *Rural Incentive Programs for Legal and Medical Professionals: A Comparative Analysis*, 59 S. D. L. Rev. 585 (2014); see also Office of Statewide Health Planning and Development, Health Professions Education Foundation, <https://oshpd.ca.gov/loans-scholarships-grants/hpef/#loan-repayments> (detailing scholarship and loan repayment programs that support medical professionals in California's underserved communities, including rural ones) (last visited May 12, 2019).

26 H.R. 128-1680, 2018 Leg., 2d Reg. Sess. (Me. 2017).

27 For example, the Los Angeles Incubator Consortium (LAIC) is a successful example of an attorney incubator program that has helped local attorneys and law school graduates successfully adjust to serving modest-means clients. The LAIC is a partnership between Southwestern Law School, UCLA School of Law, Loyola Law School, Los Angeles, local legal aid organizations and the Los Angeles County Law Library, which trains new attorneys in Los Angeles. See Los Angeles Incubator Consortium, <https://www.laincubatorconsortium.com/>; Pruitt et al., *supra* note 3, at 55-56 (discussing past attempts to establish rural-focused incubators in California).

28 See Lindsay Stafford Mader, *Way Out Yonder*, 78 Tex. Bar J. 524, 526 (2015) (finding that the median salary for rural attorneys in Texas exceeded the median salaries for Austin, Dallas, Houston, and San Antonio).

The Supreme Court could also reconsider lowering the “cut score” on the California Bar Exam. A higher pass rate would likely bolster the number of rural practitioners, while also presumably resulting in a more diverse profession.²⁹ This prospect is supported by the fact that many graduates of Cal-accredited schools, especially those located in rural areas, tend to stay and practice in those locales.³⁰

California law schools also have a critically important role to play in ameliorating the rural lawyer shortage. Legal educators should treat rural practice as a legitimate and rewarding career option, and they should prepare their students for rural practice. Consider that, in South Dakota, the state’s Chief Justice speaks to entering students at the University of South Dakota Law School each fall, encouraging them to consider rural practice and touting its rewards.³¹ While this is not feasible in California given the size and complexity of the state’s legal education market, California law schools do have opportunities to legitimate and promote rural practice to their students.

First, law school curricula should go beyond the occasional offering of a course in food and agricultural law to include discussions of rural justice systems and the rural socio-spatial milieu. Law schools should also ensure they are preparing graduates for general practice, often a necessity in rural areas. Legal educators should also think about their student pipeline, in particular applicants who hail from rural areas.

Indeed, law schools should consider recruiting at rural high schools and colleges or prioritize admission of applicants from rural places. This would be helpful because those who grew up in rural places are generally more likely to return there.³² Nebraska has even implemented a program where students from rural areas who attend one of the state’s public rural universities are *guaranteed* admission to the state’s flagship law school if they maintain a certain grade point average.³³

29 Cal. Assembly Comm. On Judiciary, Hearing Background Paper, Declining Passage Rates On The California Bar Exam: Possible Explanations And Impacts, 28 (Feb. 14, 2017), <http://ajud.assembly.ca.gov/sites/ajud.assembly.ca.gov/files/Back%20ground%20Paper%202.14.17.pdf>.

30 See E-mail from Mitch Winick, President and Dean, Monterey Coll. of Law, to Lisa R. Pruitt, Professor of Law, Univ. of Cal., Davis (Mar. 20, 2018, 8:28 AM) (on file with Harvard Law School Library). See also Christopher Chavis, *Location, Location, Location: Rural Law Schools and Their Roles in the Rural Lawyer Shortage*, Legal Ruralism Blog (July 14, 2017, 5:29 PM), <http://legalruralism.blogspot.com/2017/07/location-location-location-rurallaw.html>.

31 See David Gilbertson, *Reflections on the Rural Practice of Law in South Dakota: Past, Present, and Future*, 59 S. D. L. Rev. 433, 441 (2014) (discussing Chief Justice Gilbertson’s efforts to promote rural practice every year during 1L orientation week at the University of South Dakota).

32 See *supra* note 29.

33 Nebraska boasts the Rural Law Opportunities Program (LROP), a pipeline program aimed at recruiting rural students who commit to returning to rural areas to practice law. See E-mail from Anthony Schutz, Assoc. Professor, Univ. of Neb. Coll. of Law, to Lisa R. Pruitt, Professor of Law, Univ. of Cal., Davis (Sept. 4, 2018, 11:22 PDT) (on file with Harvard Law School Library). In Nebraska, the Rural Law Opportunity Program provides undergraduate scholarships to high school students from rural Nebraska communities; those students are guaranteed admission to the University of Nebraska College of Law if they meet minimum GPA and LSAT requirements. *Id.* The program also provides participating students with an LSAT prep course, educational programming, and mentorship from law students and rural practitioners. *Id.* See also Karen Sloan, *How to Lure Lawyers to Small Town USA? Start There*, Law.Com, Nov. 1, 2016, <https://www.law.com/sites/almstaff/2016/11/01/how-to-lure-lawyers-to-small-town-usa-start-there/?sreturn=20171017072523>; Lorelei Laird, *University of Nebraska launches program encouraging more attorneys in state’s rural areas*, ABA Journal, Oct. 27, 2016, http://www.abajournal.com/news/article/university_of_nebraska_launches_program_encouraging_more_attorneys_in_rural.

California law schools could facilitate the formation of student groups promoting rural practice.³⁴ Maine Law's chapter of the Finch Society, for example, connects law students with rural practitioners, provides a space for students to learn more about rural and small-town practice. The student group also advocates for the interests of rural attorneys before the Maine Legislature.³⁵

Law schools should also create clinical opportunities and summer or post-graduate fellowships that give students a sense of rural practice. California law students currently can get exposure to rural practice via a range of clinical opportunities, through OneJustice's Justice Bus, or through the Practice 99 program, a joint endeavor of UC Berkeley, UC Davis and the San Joaquin College of Law.³⁶

But law schools and other stakeholders have the opportunity to do so much more. Maine Law School, for example, offers a rural practice workshop for attorneys and law students.³⁷ Maine Law, University of Georgia Law School, and several midwestern law schools operate summer programs that pair law students with rural practitioners; some of these are specifically aimed at facilitating succession planning for aging rural practitioners.³⁸ The University of South Dakota Law School funds up to half the wages of a student's summer work with a rural practitioner.³⁹

34 The Finch Society was founded at the University of Arkansas, Little Rock, William H. Bowen School of Law in 2015. Named after Atticus Finch, the small-town lawyer in Harper Lee's *To Kill a Mockingbird*, "the society's mission is to expand legal representation in modest communities through recruitment, mentorship, and patronage[;] [t]he goal is to provide access to justice across the country at large until legal counsel is within close reach of all who are touched by the law." *Law society at Bowen focuses on expanding rural justice*, Univ. Ark. William H. Bowen Sch. of L. (June 10, 2016), <http://ualr.edu/law/2016/06/10/lawsociety-at-bowen-focuses-on-expanding-rural-justice/>.

35 See Student Organizations, Univ. Me. Sch. of L., <https://mainelaw.maine.edu/student-life/student-organizations/>; Renee Cordes, *Maine Law tackles the need for more young lawyers in state's rural communities*, Mainebiz (Nov. 13, 2017), <http://www.mainebiz.biz/article/20171113/CURRENTEDITION/311099996/maine-lawtackles-the-need-for-more-young-lawyers-in-state%27s-rural-communities>.

36 *Justice Bus Project*, OneJustice, <https://onejustice.org/probonojjustice/justice-bus-project/>. This project was made possible by a grant from the California Bar Foundation Diversity Pipeline Program. Grant Agreement Between the State Bar of Cal. Office of Legal Services, Ctr. on Access to Justice and San Joaquin Coll. of Law (Aug. 21, 2017) (on file with Harvard Law School Library).

37 See *Preparing for Rural Practice*, Univ. Me. Sch. of L., <https://www.minelawcommunity.org/s/184/16/interior.aspx?sid=184&gid=1&pgid=1049&cid=1924&ecid=1924>.

38 See, e.g., *Rural Clerkship Program introducing law students to small towns like RAGBRAI stop Garner*, IOWA NOW, July 25, 2017, 8:53 AM, <https://now.uiowa.edu/2017/07/ragbrai-2017-day-three-garner-rural-clerkship-program>; *America's Civil Courts: Whom Do We Serve?*, Self-Represented Litig. Network 6, <https://srln.maps.arcgis.com/apps/MapJournal/resources/tpl/viewer/print/print> (using 5-year estimates from the Census Bureau's American Community Survey from 2014); *Maine Law to launch Rural Practice Fellowship during workshop on April 8th*, Univ. Of Me. Sch. of L. (Apr. 5, 2017), <https://mainelaw.maine.edu/news/rural-practice-fellowship-workshop-april-8th/> [<https://perma.cc/NJB3-ANAZ>].

39 Interview by Hannah Haksgaard with Devra Hermosilla, Dir. of Career Serv. at the Univ. of S. D. Sch. of Law, in Vermillion, South Dakota (Nov. 14, 2017). Although the director of career services at USD Law manages the program, the program is available to first- and second-year students from other law schools who attended high school or college in South Dakota. *Id.*

These programs have been well received by the communities they seek to serve; far more Maine rural attorneys signed up to host a student than the number of spots in the program.⁴⁰ The principal reason given for wanting to participate: “We need attorneys here!”⁴¹ California law schools would do well to help their graduates capitalize on opportunities associated with rural legal markets, where the need for lawyers is enormous and growing and where entrepreneurial opportunities abound.

In short, California’s rural attorney shortage won’t be alleviated unless a range of stakeholders take seriously rural people and places, along with the opportunities those people and places represent. The State Bar of California, the California Legislature, and California’s legal educators are among the actors who can and must play critical roles in order to ensure access to justice for rural residents of the Golden State.

40 *See supra* note 37.

41 Internal administrative selection documents on file in the Career Services Office at the University of Maine School of Law

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An Established Alternative Pathway: Washington's Law Clerk Program

BY CHRISTELL CASEY AND BENJAMIN PHILLABAUM

LAW CLERK BOARD MEMBERS

The Law Clerk Program is Washington's affordable alternative to a traditional law school education, in which the classroom is replaced by on-the-job legal education and training. This four-year program is available anywhere in the state and allows tutors—lawyers or judicial officers with at least 10 years of experience—to open career pathways to aspiring lawyers and potentially train a future law firm successor.

Under Washington Supreme Court Admission and Practice Rule (APR) 6, those who successfully complete the program are eligible to sit for Washington's bar exam. To qualify for the program, applicants must have a bachelor's degree and regular, paid, full-time (at least 32 hours per week) employment with a primary tutor who regularly practices within the state of Washington.¹

With the help of their tutor, law clerks follow a course of study comparable to any Washington law school curriculum, in combination with employment. Each year, law clerks are required to study six subjects, pass 12 exams, and submit three reports on books related to any of the following topics: legal history, philosophy and theory, biography, policy, and procedure. The tutor develops, administers, and grades the exams; provides at least three hours each week of personal supervision, which includes the recitation and discussion of pertinent cases and critical analysis of the law clerk's written assignments; and evaluates the law clerk's progress.

In recent years, much attention has been paid to equal access to the legal profession, the rising costs of law school education, and how to address the attorney shortage in ru-

ral and underserved counties of Washington state. The APR 6 Law Clerk program is uniquely situated to address these issues.

The Law Clerk Program costs a fraction of a traditional law school education. In addition, because it requires paid employment, it is accessible to populations who do not have the privilege to stop working to attend law school. Single parents who need an income to support their family can still train as an attorney and work at the same time. Peo-

Christell Casey has been a resident of Spokane since 1984 and has a long history of community service. She completed the APR 6 Law Clerk Program in 2014 and has served on its board since 2017. She currently practices family law at The Law Office of Julie C. Watts, PLLC, and was honored to receive the 2021 Attorney Partner Award from the Spokane County Volunteer Lawyers Program.



Benjamin Phillabaum was born and raised in Eastern Washington. He received his B.A. from Washington State University in 2001. After working as a commercial lender at various banking institutions, he successfully completed the APR 6 Law Clerk Program. As a partner with Phillabaum, Ledlin, Matthews & Sheldon in Spokane, Phillabaum's practice now specializes in consumer and commercial collections, as well as business formation, real estate, contracts, estate planning, and probate. He has been a member of the Law Clerk Board for seven years and served as its chair for four.




ple from lower socio-economic situations or marginalized communities who think that the price tag of a legal education is out of reach for them may more easily be able to afford the cost of the APR 6 Law Clerk Program: \$2,000 a year, plus materials that they can source from a variety of different places, including other law clerks.

Completing the Law Clerk Program with little to no debt also allows those attorneys who feel called to public service or pro bono work the freedom to follow their passion and permits them to accept an offer from a non-profit, because they are not faced with paying off law school debt.

Law clerks do not have to leave their community to participate in the program. Because a law clerk does not study in a brick-and-mortar university law school, the law clerk can reside anywhere in the state, from Othello to Omak. Law clerks who study under experienced attorneys in these rural areas know their communities, work with the people who reside there, and are positioned to continue to serve these areas when they become practicing attorneys. We won't need to lure attorneys to these areas; they already live and work there with their families.

It has been reported several times in this publication that we have an aging attorney population and a significant lack of mentorship. The law clerk has a built-in mentor in their employer/tutor. Law clerks are trained in the traditional subjects of the law, but also the *practice* of law. Law clerks routinely are ready to handle their own cases immediately upon receiving their license, because they have already been working in a supervised position for four years. In addition, many law clerks are trained to take over the solo practices their tutor/employers have built, and our retiring attorneys feel confident transitioning their practice to an attorney they trained themselves.

The Law Clerk Program is rigorous and demanding. It takes self-discipline and sacrifice, but it is highly rewarding. If you, or someone you know, is interested in accessing this alternative pathway as a law clerk, want to serve as a tutor guiding someone through the program, or just want more information, please contact lawclerks@wsba.org. 

NOTE

1. Please see APR 6 and Regulations for more information.

Access to Justice Board
c/o Washington State Bar Association
1325 4th Ave, Ste 600
Seattle WA, 98101-2539

Members of the Access to Justice Board,

Upon review of the “Undocumented Community Needs Assessment for the Yakima Valley” (Needs Assessment), our workgroup is bringing forward five primary recommendations for the ATJ Board. These include:

- (1) alternatives to lawyers in providing general education and direct legal services;
- (2) strengthening the Washington Supreme Court Admissions and Practice Rule 6 (hereinafter APR Rule 6 Law Clerk Program) and creating access to a Law School in Central Washington to grow the number of attorneys of color in these communities,
- (3) revision of statute RCW 2.53.030;
- (4) removing restrictions on areas of law for which funding can be used; and
- (5) reforming the statewide model for centralized intake and coordination of services through technology innovation and regional localization of access points.

We do so after noting some high-level findings as well as the limitations of the Needs Assessment itself. It is imperative to this workgroup that the results of the Needs Assessment, as well as the recommendations made within it be used as one of many tools in evaluating how to better serve the undocumented community of Washington state. Undocumented folks are as richly diverse in circumstance and needs as documented folks. We therefore urge the ATJ board to reflect on these findings but not consider them wholly representative of an entire population.

I. Overview of the Study

The Yakima Valley

As part of the Needs Assessment, the researchers examined the demographics of the Yakima Valley as a whole, in addition to those of individual interviewees. The high-level takeaways reflect a population that predominantly works in agriculture, is lower income, and with most undocumented folks residing in the Yakima Valley for over 10 years. This is a community with roots and families, who despite the migratory reputation of agriculture work, are entrenched members of the Yakima Valley community.

Legal Needs

Despite how long undocumented people have resided in the Yakima Valley, most of the 37 interviewees in the Needs Assessment reported they did not feel equipped to identify civil legal issues when they encounter them nor to seek assistance when they do. They also emphasized how important it is to receive services from people in-person, face-to-face by someone who speaks their language (as opposed to by phone or virtually). Regarding the legal community, Yakima county sees a 1:667 (attorney:resident) ratio as opposed to the statewide ratio of 1:294. The ratio is much lower if we are looking at the number of Latinx attorney's which is 5.8% in the U.S. and only 2.6% for the entire State of Washington. The insufficient number of attorneys paired with a prioritization of in-person assistance, a desire of this population to be able to speak with someone in their own language, and the need for legal rights education is ripe for further investigation.

When provided examples of types of civil legal problems, interviewees identified immigration, employment, debt and personal injury as their primary legal needs.

Needs Assessment Methodology & Data

Though rich in opportunity for further investigation, and with an incredible amount of data about the Yakima Valley that can be used for future service delivery, we must note some limitations of the methodology of the Needs Assessment itself.

Sample Size

We must first call out that the methodology of data collection, 37 individual interviews, is limited and in no way should be used to fully reflect the legal needs of the Yakima Valley or the state as a whole. Rather, these results offer crucial insight into the "why" when investigating barriers to access and legal needs identification for the undocumented community.

Interview Venue

This Needs Assessment began in the midst of the pandemic, and with that it was not feasible for the researchers to travel to the Yakima Valley to conduct their interviews. Therefore, all interviews were conducted by phone or Zoom. As this form of communication is counter to the preferred method of service delivery identified in the interviews (in-person), there may have been an element of mistrust when engaging in the Needs Assessment and being transparent with responses.

Legal Needs Identified

We would like to point out that no one interviewed through this needs assessment identified family law as a legal concern of theirs. We are unsure why family law was not identified in

one-on-one interviews, but we know from data from CLEAR, Alliance providers and community organizations, and from the Civil Legal Needs Study, that family law is one of the most in-demand yet under-resourced areas of civil legal aid.

II. Committee Recommendations

A. Summary

The ATJ board must, as its top priority, examine and embrace alternatives to attorneys for delivery of legal services in the state of Washington. We should start working on this now. A severe dearth of attorneys exists and we do not believe there are any mitigating actions we can take that will ever provide a sufficient supply of lawyers. We recommend directing more resources to exploring alternatives to lawyers such as Community Justice Workers. We also support changes to the APR Rule 6 Law Clerk Program that will make it possible for underrepresented communities of color to become lawyers and a way for underrepresented communities to have access to law school in Central Washington.

Additionally, there is severe segmenting in access and service delivery to people with immigration-specific legal issues. Primarily rooted in funding restrictions, but also in availability of trained professionals to advise and support these individuals, legislative and systemic change must occur for this disparity to be addressed. We recommend revising the statutory prohibition¹ on utilizing state funding for immigration legal services. Finally, based on the findings of the Needs Assessment, we recommend prioritizing innovative technology solutions to intakes and service delivery. Our centralized intake (CLEAR Hotline) suffers from its own technological limitations as well as those of the communities it aims to serve. There are nationwide models^{2,3} for improved access to intake and legal services, and we support a unified effort to examine these models, and fund technological innovation in this space.

B. Specific Recommendations

1. *Embrace alternatives to attorneys for delivery of legal services in the state of Washington*

Unfortunately, we know that the existing legal resources (legal aid organizations using attorneys to deliver legal services) is gravely insufficient to meet the existing demand, let alone that which we hope to see increase upon improved engagement. It is therefore this committee's assertion

¹ <https://apps.leg.wa.gov/rcw/default.aspx?cite=2.53.030>

² <https://lasnem.org/>

³ <https://direct.lc.chat/7460061/2>

that we must transform how we think about legal aid, inclusive of considering alternatives to attorneys.

A key finding of the Needs Assessment was that undocumented people in Yakima are largely unaware of all the issues legal services providers could address, and additionally where to access these services. Given past results of the Office of Civil Legal Aid's [Civil Legal Needs Study](#) (2015), we were not surprised by this data. Most low income people in Washington state have difficulty accessing services, through a combination of awareness and availability, and this is only exacerbated within the undocumented community. Because of the community's ongoing experiences with the court system, a lack of trust has persisted, and this only contributes to reticence in access.

Acknowledging our position, as part of the legal system, and the inherent mistrust of us that accompanies that, frees us up to engage with people and partners who *are* trusted by the undocumented community. For this reason, we recommend directing resources to train and support non-legal service organizations, promotores, farm workers, and trusted individuals already embedded in undocumented communities. Providing these groups with the tools to “triage” legal issues and then know how to direct people to the appropriate legal resources will reduce the disparity in initial issue identification and access.

There are models in place around the country that have found successful and sustainable ways to utilize non-attorneys to deliver legal advice and representation. When provided the proper support, training, and endorsement of that state's legal community, these models have proven to be as successful as, if not more than, direct attorney assistance. There are many areas of law in which non-attorneys may provide legal advice, and where community members are well positioned to take on this role. Between administrative law, public benefits, and immigration law, there are mechanisms by which non-attorneys can be leveraged to assist clients with these issues. There are also successful models of training, oversight^{4,5,6}, and accreditation, which are also not prohibitive for community members to pursue, and we encourage the ATJ Board to examine these as a next step.

a. Community Justice Workers

We are encouraged by the innovation of service delivery demonstrated by states such as Alaska⁷, Montana⁸, and Oklahoma⁹. Through a variety of models, these states have

⁴ <https://www.trla.org/public-benefits#state&fed>

⁵ <https://www.lonestarlegal.org/news/2022/08/lone-star-legal-aids-financial-assistance-and-public-benefits-unit-overview/>

⁶ <https://www.trla.org/labor-employment>

⁷ <https://www.alsc-law.org/community-justice-worker-program/>

⁸ <https://www.mtlsa.org/tribal-advocate-incubator-project/>

⁹ <https://oilsonline.org/>

demonstrated the ability to implement alternatives to attorneys as an integral part of their service delivery.

Who we are terming ‘Community Justice Workers’ are often people embedded in communities, and who are established as the ‘doers’ for other resources. We fully believe empowering these people to offer advice, assist with paperwork, and appear with others in court can be done safely and effectively with the appropriate support. We advise the ATJ board to examine these modes of service delivery in greater depth, and determine how we may implement our own alternative model in Washington.

b. Accredited Representatives Process

Our committee believes the oversights in the Accredited Representative process are necessary to ensure Accredited Representatives are trained properly to avoid mistakes that can be detrimental to our immigrant communities. For this reason, it is important that there are quality control measures in place and that Accredited Representatives be supervised by an attorney. Additional resources to support the backlog of pending applications might be helpful, but it is important to keep the quality control measures that exist in place to prevent mistakes that could be detrimental to immigrant communities.

2. Changes to APR 6 Law Clerk Program/Access to Law School for people in Central Washington

Our committee believes the APR Rule 6 Law Clerk Program can be strengthened to provide an opportunity for underrepresented communities of color such as the Latinx community in Yakima County to have a path towards becoming a lawyer. However, changes need to be implemented to increase those opportunities. We have the following recommendations:

- (1) The legal writing component of the program should be strengthened to make sure those who are completing the program have the foundation needed to be lawyers and resources for the tutors should be developed to assist with teaching legal writing. Instead of having this component in the first two months of the program, there should be an additional one to two months as memorandums and brief writing to the court are a big part of practicing law.
- (2) The cap on the number of assistant tutors that can assist per year should be eliminated or at least increased. A repository or listing of volunteer assistant tutors should be created and made available to the law clerks because most tutors practice in very few of the courses that the program courses (Eg. Law clerks for a practicing civil attorney may not have much expertise in criminal law or procedure and vice versa).

- (3) An exception for legal aid providers to allow mentors employed by a legal services organization to teach more than one mentee at a time.
- (4) As the program currently exists, it works best when a student and the tutor work for the same employer, but changes should be made to make it easier for students and tutors that do not work for the same employer. For example, right now when a student and a tutor work for different employers and the student changes jobs there can be months of delay in processing the paperwork for the new employer and the student cannot continue their studies until the new employer is approved even though their tutor could continue teaching their course.
- (5) There are likely many attorneys who would consider being a tutor or assistant tutor later in their career, and many students who are looking for tutors to mentor them through the law clerk program. However, currently there is no formal way to track these individuals or to connect them to each other. A way of tracking and making these connections would be very useful.
- (6) A committee that is dedicated to examining how to increase the diversity of the program and create more access for communities of color that work to promote the law clerk program to communities in Eastern and Central Washington.

In addition to these recommendations, our committee supports any efforts that would promote access to law school for people in Central Washington without requiring them to leave their community.

3. Elimination of the State prohibition on funding for immigration related work

Our committee supports the recommendation to remove the State restriction that prohibits Office of Civil Legal Aid (OCLA) funding for immigration work under RCW 2.53.030(2). It is important to remove obstacles to funding, and we should be working towards making funding as unrestricted as possible to ensure funding is available for all the legal needs of our communities.

4. Funding recommendations

Our committee does not endorse seeking funding for a particular area, such as the suggestion that more funding be available for immigration-related needs. We believe that we should be working towards making funding as unrestricted as possible so that it can be available for the most pressing needs of the communities that we serve, including undocumented communities. We should aspire towards a vision that provides unrestricted funding and a system of allocation

of that funding that is based on actual community needs. We envision a system that prioritizes vulnerable communities such as undocumented immigrants, and a system of reporting that does not unduly burden the work being done.

5. *Technological Reform in Intake and Delivery*

The Needs Assessment identified several barriers to accessing the CLEAR (Coordinated Legal Education, Advice and Referral) Hotline, a toll-free legal hotline and intake system for people with low incomes. The short-term recommendations include funding for online legal intake screening and investments in CLEAR Line Legal Screening. We support a deeper investigation into what additional funding may yield. There are multiple opportunities that the Access to Justice Board could explore to expand access to undocumented communities through coordinated intake. The following considerations should be weighed:

- (1) The CLEAR intake system is operated by two teams; the Screening Unit and the CLEAR attorney team. The Screening Unit determines eligibility for legal services, and the CLEAR attorney team provides legal advice and brief services remotely. The Screening Unit receives applications for services from the CLEAR, CLEAR Sr., and Eviction Defense Screening Line hotlines, online intake, and partner referrals.
- (2) The CLEAR intake system has continued to evolve in recent years. The CLEAR and CLEAR Sr. Hotlines continue to be open for limited hours with no opportunity for callback. Clients must continue calling during these hours until they reach someone. The Eviction Defense Screening Line on the other hand is open for live calls from 9:15 AM- 4:30 PM and does have the ability to leave messages when the lines are not open. This was made possible by the additional investment in staffing to facilitate a more accessible intake system.
- (3) The online application hosted by Northwest Justice Project (NJP) refers applicants to the Screening Unit, but also facilitates direct referrals to Alliance for Equal Justice partners across the state. The online application is currently available in Spanish, but could be translated into other languages with additional investment. This application facilitates asynchronous requests for assistance, and for some legal issues offers the option to receive a call (a “callback”) from CLEAR. Even in these instances though, an applicant does not know when they can expect a call from CLEAR, though the Screening Unit does contact the client based on the windows of time the applicant indicates are best to call.
- (4) Once a client is screened and determined to be eligible for advice from CLEAR attorneys, the client is scheduled for an appointment window available in the morning or afternoon.

We recommend expanding the instances where clients are connected directly to the best source of assistance from online triage. We should also explore the feasibility of scheduling callback appointments from the online application to provide predictability in when the Screening Unit will reach out to a potential client. We also recommend exploring the feasibility of integrating WhatsApp and other forms of communication into intake.

NJP's ability to serve undocumented clients is limited due to the impact of Legal Services Corporation (LSC) restrictions on services to undocumented people. NJP is taking steps to create a new corporate structure to isolate state funded services from the LSC restrictions to the extent possible now that the state funds no longer have mirroring restrictions on services to undocumented people. This is a necessary step to build trust in the community toward NJP hosted coordinated intake systems.

Sincerely,

Blanca Rodriguez
Co-Chair

Elizabeth Fitzgearld
Co-Chair

The Undocumented Communities Subcommittee
Delivery Systems Committee (DSCo)

Undocumented Communities Subcommittee membership

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REPORT & RECOMMENDATIONS OF THE TASK FORCE ON RURAL JUSTICE



**INTERVENTIONS TO AMELIORATE THE
ACCESS-TO-JUSTICE CRISIS
IN RURAL NEW YORK**

APRIL 2020

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INTRODUCTION

Despite New York State having more licensed attorneys than any other jurisdiction in the United States, many New Yorkers do not have access to attorneys to assist with their legal problems. This lack of access is acutely felt within New York's rural communities, where the delivery of legal services presents both distinctive challenges and rewards that are largely uninvestigated by our metro-centric bar.

This metro-centrism is a symptom of the following reality: the great majority of New York's licensed attorneys practice in or around urban centers. According to the data, roughly 96% of attorneys practice in metropolitan areas, with the remaining 4% presumably serving New York's mostly rural geography. Compounding this inequitable distribution of attorneys, recent research has brought to light that nearly 75% of current rural practitioners will be retiring from practice in the next 10–30 years, with little to no new attorneys taking their stead. This alarming legal trend is exacerbating the access-to-justice gaps already faced by rural communities.

The Task Force on Rural Justice was formed to investigate these legal trends and to propose creative interventions to combat this imminent crisis.¹ We have taken insight from the other jurisdictions that have already been addressing their rural access-to-justice challenges, and now, as a united Task Force, endeavor to advance solutions crafted for New York's own unique jurisdictional needs. The report and recommendations that follow are the culmination of our collective effort to spotlight alarming legal trends, ameliorate the plight of New York's rural attorneys, encourage new attorneys to consider rural practice, and ensure greater access-to-justice for all New Yorkers.

We hope this Report inspires all invested stakeholders to take the necessary action required to avert the rural access-to-justice crisis upon us.

Co-Chairs

Honorable Stan L. Pritzker
Supreme Court, Appellate Division
Third Judicial Department

Taier Perlman, Esq.
Staff Attorney
Legal Services of the Hudson Valley

¹ A detailed description and background on the Task Force can be found in Appendix A.

ACKNOWLEDGEMENTS

The Task Force on Rural Justice acknowledges Hank Greenberg, President of the New York State Bar Association (NYSBA), for his vision in spearheading the creation of this Task Force and assembling its diverse and knowledgeable members. Staying true to NYSBA's commitment to ensure access-to-justice for all New Yorkers, he created this task force to respond to the shrinking pool of attorneys serving rural communities across the state. Further, our work would not have been possible without our NYSBA Liaisons—Katherine Suchocki and Tom Richards—who supported us with great dedication to the cause, from start to finish. We would also like to thank the Honorable Elizabeth Garry, the Presiding Justice of the New York State Supreme Court, Appellate Division, Third Department, for her support of this initiative, and for championing the rural-justice cause long before this Task Force formed.

This report builds on an empirical study of lawyers in rural New York spearheaded by Taier Perlman for the Government Law Center at Albany Law School. The Task Force thanks the Government Law Center for sharing the underlying data on which its published study, [*Rural Law Practice in New York State*](#), was based.

The Rural Justice Task Force also acknowledges the many invested stakeholders across the state who graciously and generously shared their time and insights. Special thanks goes to David Kay and Robin Blakely-Armitage from the [Cornell Community & Regional Development Institute](#) (CaRDI) who offered expertise in data science, rural demographic trends, and preliminary map-making. The Task Force also thanks [ZevRoss Spatial Analysis](#) for creation of the maps, infographics, and tables.

Finally, we acknowledge the many hard-working and dedicated rural practitioners from across the state that reached out to share their stories, comments, and proposals to support the Task Force. Without their tireless self-sacrifice, rural access to justice would just be a concept. These rural practitioners creatively maneuver through myriad challenges to deliver urgently needed legal services. They are justice warriors at the frontlines of the accelerating access-to-justice crisis affecting rural New York.

CONCEPTUAL FRAMEWORK—A PACKAGE OF PROPOSALS

It must be clarified at the onset, that the rural access-to-justice challenges this Task Force was formed to address are largely due to forces beyond the scope of our work. The social, economic, and political circumstances that have brought about the decline of rural communities in New York and other states will not be addressed herein. Further, given that the diverse and complex challenges rural communities face implicate multiple stakeholders, including local and state governments, the Task Force had to take a creative approach when developing our recommendations.

Our recommended interventions fall under five categories—Rural Law Practice, Funding, Broadband and Technology, Law Schools and New Attorneys, and Law and Policy—which in totality make up a package of targeted proposals. These category specific interventions address the diverse and complex challenges rural communities face. Only through such a diversified approach can we meaningfully avert the justice gap crisis that will occur when nearly 75% of present-day rural practitioners retire.

This package of proposals is an invitation to any and all stakeholders invested in rural well-being and access to justice. Our diverse interventions call on the State Bar, the State Legislature, the New York Unified Court System, law schools, and others to take action where action is due. The interventions we discuss in this Report are not mutually exclusive. They each make up a piece of the bigger rural justice puzzle, and advancement of any one of them will make a difference for the rural access-to-justice problems our Task Force set out to address. In laying out these diverse recommendations, we invite the full panoply of stakeholders to help bring them to fruition. It will take the proverbial village to activate all of our recommendations. The more recommendations we can advance, the better for all.

BACKGROUND & RESEARCH

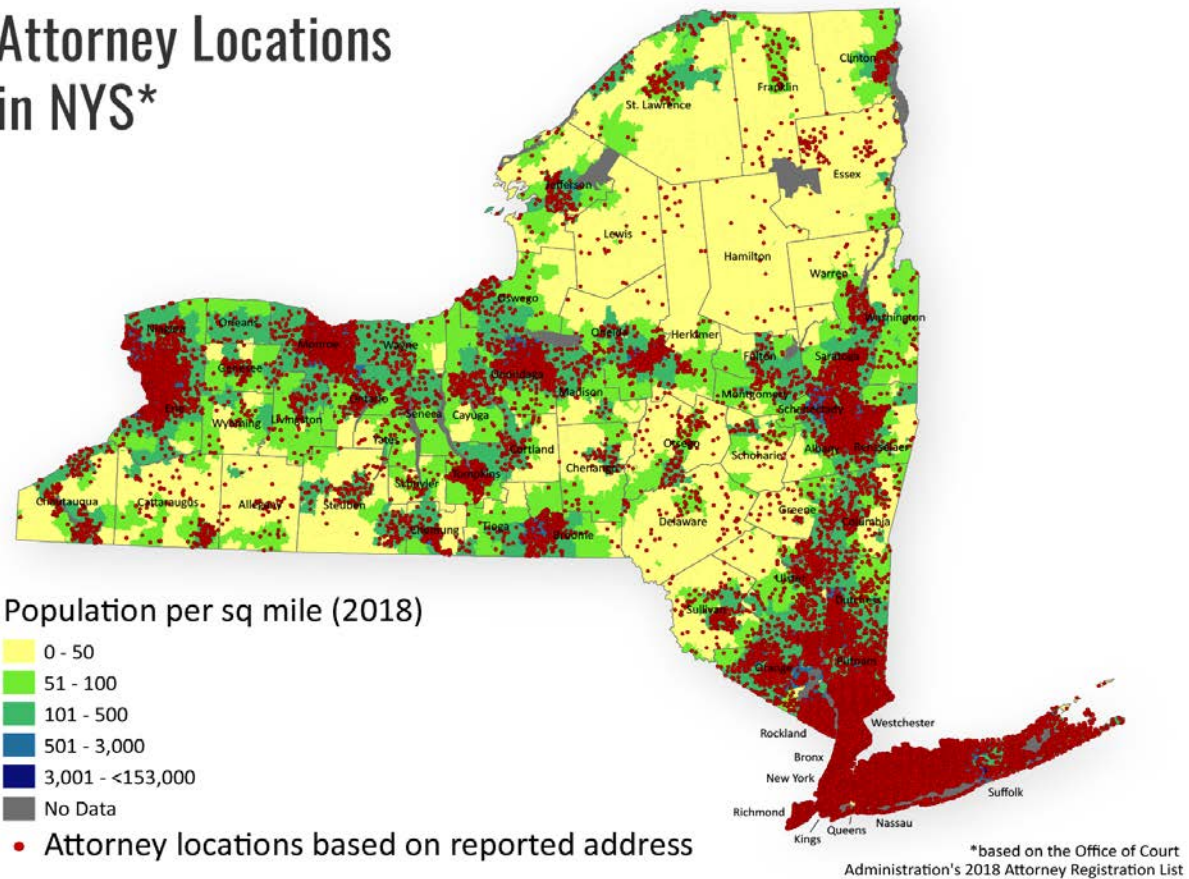
Readers familiar with the access-to-justice challenges experienced in rural New York may wish to skip this section and begin reading the Task Force recommendations which start at page 15.

I. New York State Attorneys: Where Are They?

According to the *ABA National Lawyer Population Survey: Lawyer Population by State*, New York is home to the largest concentration of registered attorneys of any jurisdiction in the United States. As of 2018, New York had 179,600 registered attorneys, 155,369 of whom had in-state addresses. The majority of these registered attorneys are based in non-rural counties, so naturally, the organized bar focuses on meeting the needs of this great majority of practitioners. Accordingly, the needs of rural attorneys and access-to-justice challenges are not prioritized. This is documented across all jurisdictions.

The urban clustering of New York attorneys is readily apparent when projected on a map:

Attorney Locations in NYS*



Each dot represents a single attorney based on addresses reported to the Office of Court Administration.² The vast majority of New York State attorneys are located in urban centers of the state—Buffalo, Rochester, Syracuse, Utica, Albany (Capital Region), and the New York City metropolitan areas. Geographically, however, New York is primarily rural. Of the state's 62 counties, 44 are considered rural under [New York State Executive Law § 481](#).

It should be briefly noted that defining “rural” is no simple task.³ The definition shifts depending on the specific data sets being used, and what demographic factors or data units are being analyzed. State and federal agencies define rural differently from each other, and which definition of rural to use in a particular study depends on the context and purpose of the research. In a presentation to the Task Force, Robin Blakely-Armitage, Senior Extension Associate and Program Manager at

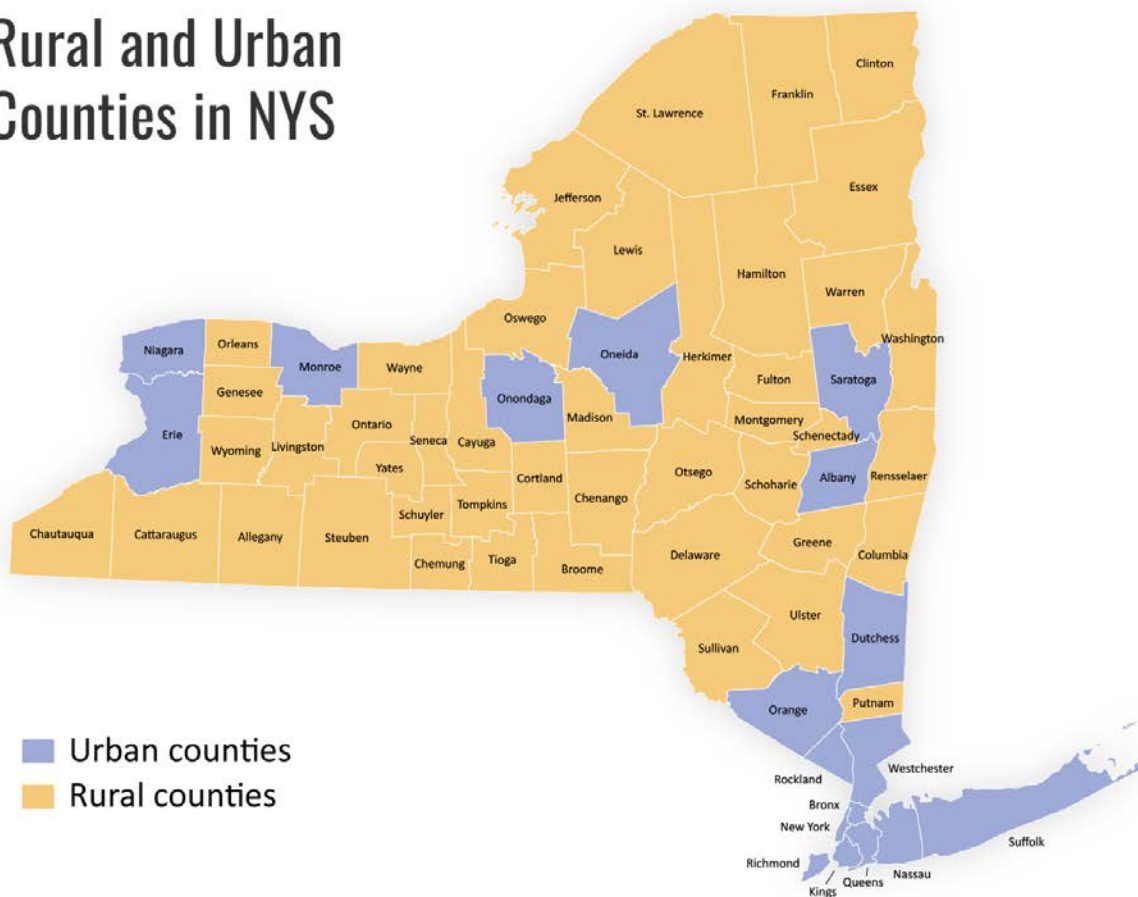
² The attorney registration list maintained by the Office of Court Administration's Attorney Registration Unit only publicly releases an attorney's work addresses, not their home addresses. Accordingly, attorneys that only report a home address, without including a work address, are not projected on this map. Additionally, attorneys in suspended status are not shown on this map.

³ See Ruth Igielnik Wieder, Pew Research Center, “Evaluating what makes a U.S. community urban, suburban or rural” (Nov. 22, 2019), <https://medium.com/pew-research-center-decoded/evaluating-what-makes-a-u-s-community-urban-suburban-or-rural-159f9d082842>.

Cornell’s Community and Regional Development Institute, explained that defining rural is largely contextual, and shifts depending on what you are studying. She said that the best general definition of rural is lower population density and limited proximity to a population center.

The Task Force deliberately decided not to get bogged down by the nuance involved in crafting a specific definition of “rural.” For our purposes, we relied on the definition of “rural” in [Executive Law § 481](#), which identifies a county as rural if its population is below 200,000 people. Relying on this definition, the following map visualizes just how rural New York State is:

Rural and Urban Counties in NYS



Rural New York makes up approximately 80% of New York’s land mass, and is home to approximately 17% of New Yorkers, or 3,260,008 people.⁴ According to attorney-registration data, there are only 6,176 attorneys serving these vast rural territories. In reality, the number of rural attorneys that actually offer legal services to individual members of the public is much smaller than that statistic indicates, since it is unrealistic to presume that all 6,176 attorneys work in private law practices or legal services organizations. A sizable proportion of these attorneys are district attorneys, government lawyers, members of the judiciary, or employees of private

⁴ This statistic was computed from the population data contained in the Table found in Appendix [\[redacted\]](#). This Table, created by [ZevRoss Spatial Analysis](#), used 2018 US Census population estimates.

businesses, government or public institutions, none of which offer legal services to the general public. This is corroborated by data from rural county bars. For example, the Delaware County Bar Association has a total of 71 members. However only 26 of them maintain a primary solo practice office in the county. Seventeen members are employed by the government, and the other 28 members are not offering legal services to the general public.⁵ It is safe to conclude that less than 4% of New York licensed attorneys actually serve the access-to-justice gaps that exist in rural communities.⁶

Without a doubt, there are far fewer attorneys serving rural counties than urban ones. But are there too few? The uneven distribution of attorneys across New York State does not necessarily demonstrate an attorney shortage, particularly when we would expect there to be less attorneys in areas where there are less people. The question is whether there are enough attorneys per resident to meet the need, and in rural New York, there usually are not, as the following section shows.

II. Evidence of Rural Attorney Shortages

Not Just a New York Problem

Research across jurisdictions documents the growing shortage of attorneys throughout rural America. For instance, a recent publication titled *Legal Deserts: A Multi-State Perspective on Rural Access to Justice* summarized research on rural attorney shortages across five states—California, Georgia, Maine, Minnesota, South Dakota, and Wisconsin.⁷ Data studies of rural attorney shortages have also been done in other jurisdictions including Arkansas, Montana, and Utah.⁸

⁵ The Delaware County Bar Association statistics were shared with us by Task Force Member Gary A. Rosa on August 2, 2019. Similar figures come from other rural county bar associations. For example, the Madison County Bar Association has 86 members. 27 are court staff, agency attorneys, or lawyers who are members but do not practice law in the county. Of the 59 remaining, 5 are employed half time as government attorneys. Also, only 3 attorneys are under the age of 40. These figures were reported to us by Gemma Rossi Corbin on July 22, 2019. Corbin served as Madison County Bar Association President from 2016 to 2017.

⁶ The facial inadequacy of the numbers in illuminating just how many rural practitioners actually serve rural legal needs was demonstrated in a rural practitioner survey that was conducted from August to October 2018 by Albany Law School's Government Law Center. Hundreds of survey responses had to be dropped from the analyzed data set because they were completed by rural practitioners who did not offer legal services to the general public. See Taier Perlman, *Rural Law Practice in New York State*, endnote 5 (Gov't Law Center, Apr. 16, 2019), available at <https://www.albanylaw.edu/centers/government-law-center/the-rural-law-initiative/Documents/rural-law-practice-in-new-york-state.pdf>.

⁷ Lisa R. Pruitt, et al., *Legal Deserts: A Multi-State Perspective on Rural Access to Justice*, 13 Harv. L. & Pol'y Rev. 15 (2018). <https://harvardlpr.com/wp-content/uploads/sites/20/2019/04/4.-Legal-Deserts.pdf>.

⁸ Arkansas study: Lisa R. Pruitt, et al., *Justice in the Hinterlands: Arkansas as a Case Study of the Rural Lawyer Shortage and Evidence Based Solutions to Alleviate It*, 37 U. Ark. Little Rock L. Rev. 573 (2015); Montana study: Hilary A. Wandler, *Spreading Justice to Rural Montana: Expanding Local Legal Services in Underserved Rural Communities*, 77 Mont. L. Rev. 235 (Summer 2016); Utah study: David McNeill, *Measuring the Legal Services Market in Utah*, Vol. 30 No. 5 Utah Bar J. 22 (Sept/Oct 2017).

The California studies are especially relevant, because California is similar to New York. It has the largest population of any state; it has the second highest count of registered attorneys; and its attorneys practice mostly in large metro-areas, even though the state is predominately rural. The California Commission on Access to Justice published a report in July 2019 spotlighting attorney shortages in California’s rural territories.⁹ That study documented the same attorney distribution trends as New York, including the problematic attorney deserts that exist in rural communities.

The New York Problem

While many studies have been done examining workforce shortages across rural New York, no one entity has specifically studied legal workforce shortages until the Government Law Center at Albany Law School published its seminal *Rural Law Practice in New York State Report* in April 2019.¹⁰ This detailed report, based on a three-month survey of rural practitioners, revealed a number of telling legal trends affecting rural communities. The report provided qualitative and quantitative data about what rural practice is like as well as the rewards and challenges of rural practice. Most significantly, it documented the growing shortage of rural attorneys based on several indicators—difficulties rural attorneys have making referrals in their geographic region, feeling overwhelmed by the volume of cases they are handling, and the greying of the rural bar due to a shortage of new attorneys. The below section focuses on the later indicator, which is what has prompted many jurisdictions to action.

A. The Greying Rural Bar

The Government Law Center’s survey reported an alarming figure: 74.3% of respondents were 45 years or older, with 54% at or near retirement age. This means that within 10 to 30 years, the majority of current rural attorneys will be fully retired. The gravity of these figures was colored by comments from the respondents:

“I am the only lawyer handling complex business transactions. I am 69 years old and cannot retire because too many people rely on me.”

“While there are currently enough attorneys to go around, most are in their 60s, which means many will probably retire in 10-20 years. There may be a crisis in the future, just look at the age of the attorneys.”

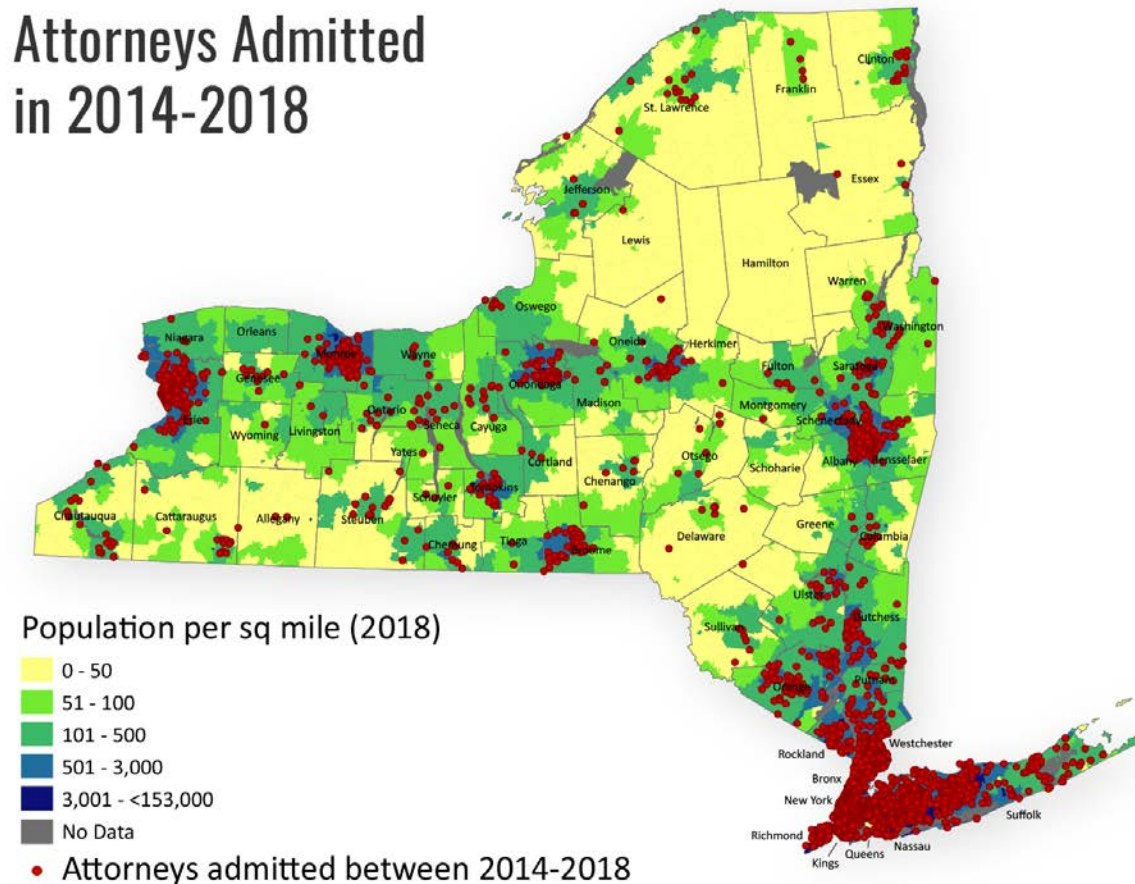
“We are running out of lawyers! Something needs to be done to attract young attorneys to the rural areas . . . Our county is literally running out of lawyers.”

⁹ CA Commission on Access to Justice, CALIFORNIA’S ATTORNEY DESERTS: ACCESS TO JUSTICE IMPLICATIONS OF THE RURAL LAWYER SHORTAGE (July 2019).

¹⁰ See Perlman, *Rural Law Practice*, at <https://www.albanylaw.edu/centers/government-law-center/the-rural-law-initiative/Documents/rural-law-practice-in-new-york-state.pdf>.

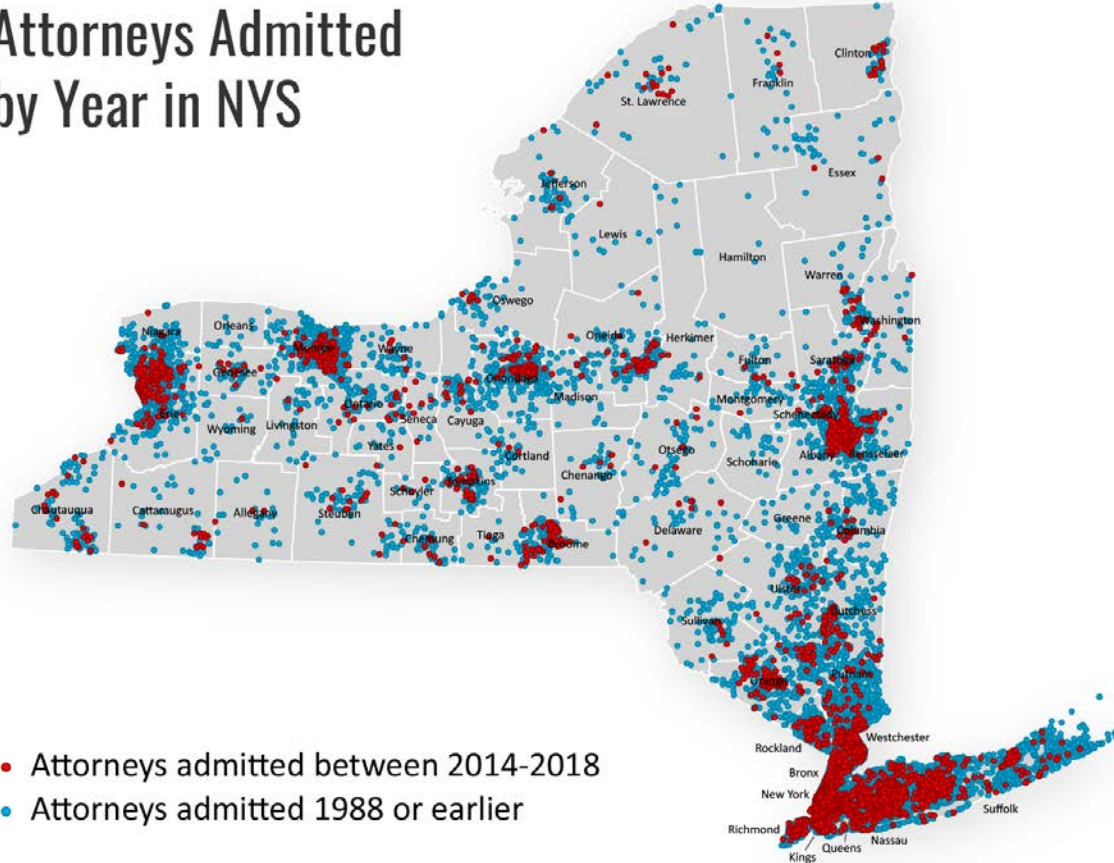
Based on these findings, the Task Force took a deeper look at the composition of rural practitioners. Using attorney registration data, we worked with data scientists to compare how many rural attorneys are newly admitted compared to those that have been in practice for quite some time.

The following map shows each attorney that was admitted to the bar between 2014 and 2018:



Like attorneys generally, newly admitted attorneys are heavily concentrated in New York's urban counties. An overlay of attorneys that have been admitted since 1988 or before—representing attorneys that have been in practice for 30 plus years—shows a remarkable effect:

Attorneys Admitted by Year in NYS



The older generation of attorneys are much more numerous and spread out across New York’s rural territories. They also clearly outnumber the newly admitted attorneys that are settling in rural areas. This attorney age imbalance was also documented in the Government Law Center’s survey, albeit qualitatively:

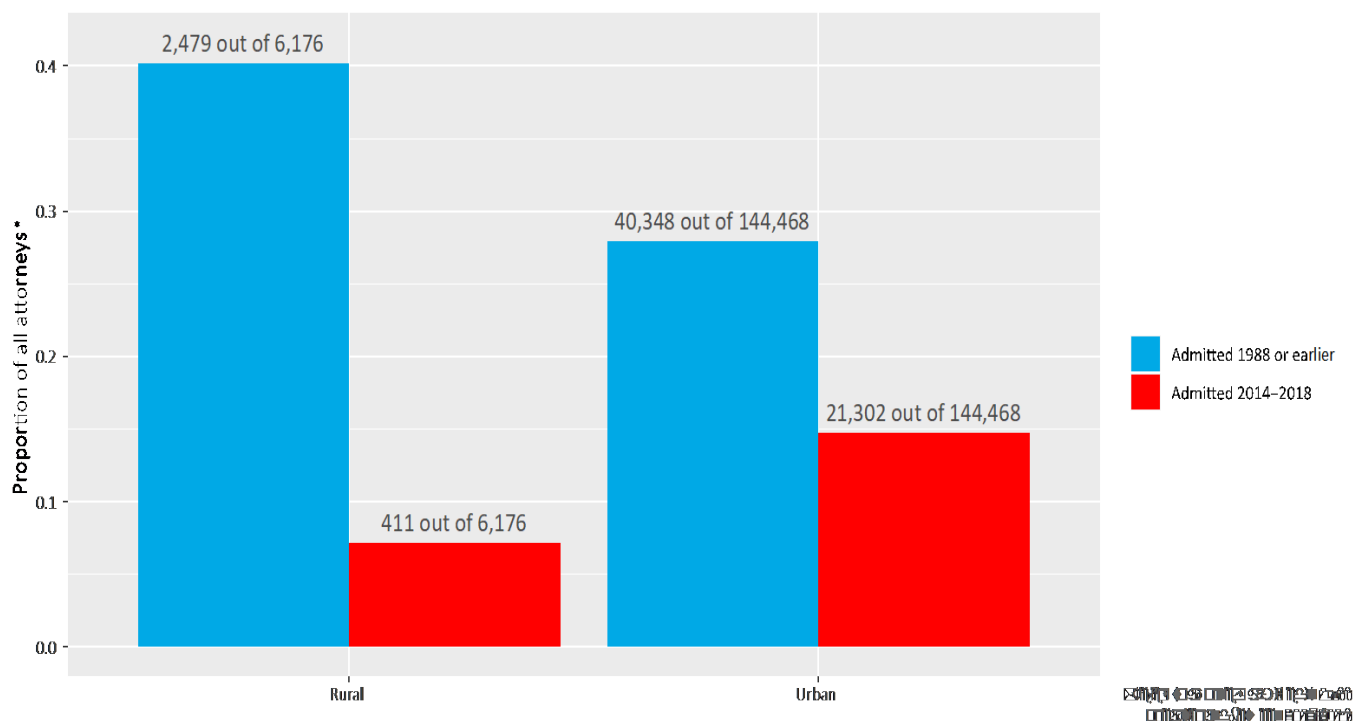
“This county has no public defender office; all indigent legal defense is 18-b. We are running out of defense attorneys who are willing/able to take cases because more attorneys are retiring or leaving the area than those coming in to replace them.”

“I get the impression sometimes that young attorneys are coming out of law school with so much debt that they do not feel they can come to our small villages.”

“Attracting and retaining young lawyers to work in rural areas is one of the biggest challenges I face as a rural practitioner.”

Many more commenters likewise expressed concern about the shortage of newer attorneys and the dim prospects once currently practicing attorneys retire.

The following graph compares the proportions of older and newer attorneys in urban and rural counties and corroborates the anecdotal knowledge:

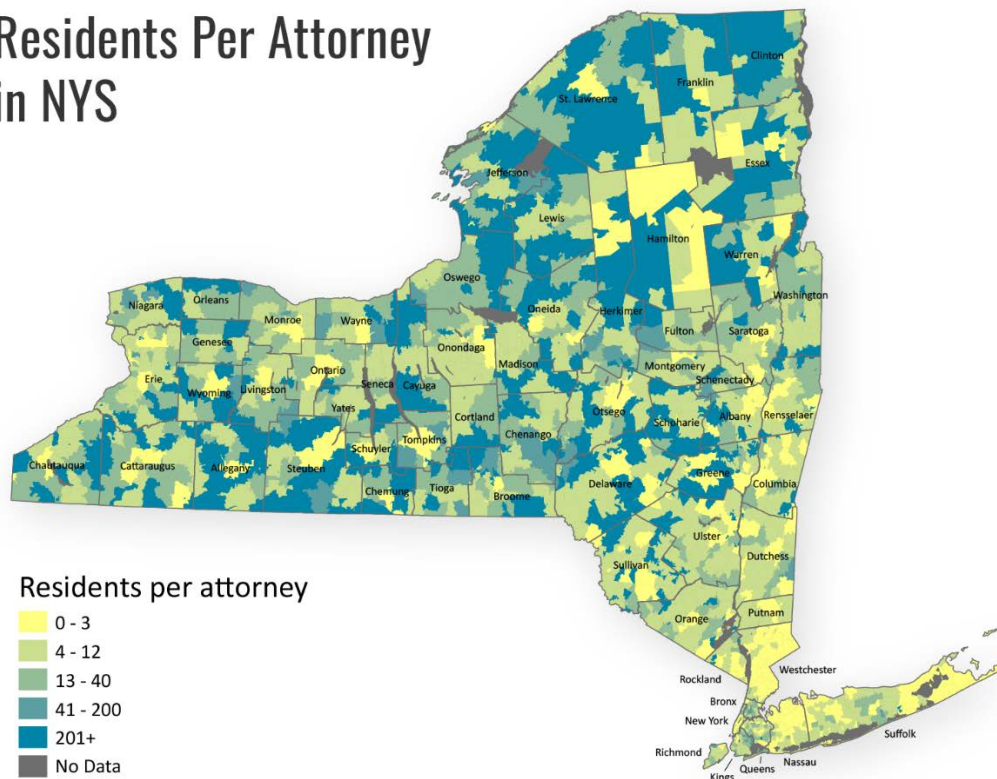


As the chart make clear, newer attorneys in rural areas are much more heavily outnumbered by late-career attorneys than newer attorneys in urban areas.

B. Attorney-to-Resident Ratios

When we compare resident-to-attorney ratios across the state, we see a significant imbalance of attorneys in rural areas compared to urban or suburban areas as measured on a per capita basis. The below map uses population data and attorney-registration data to compute the resident-to-attorney ratio, giving an average of how many people there are for each attorney in that area. The darker areas are where there are more residents per attorney.

Residents Per Attorney in NYS



As the map shows, rural areas across the state have higher resident-per-attorney ratios. This is in stark contrast to more urban areas of the state which have much better ratios—for each attorney there are 1 to 40 residents. In many rural areas, however, for each attorney there are 201+ residents. This explains the challenges rural practitioners reported from overwhelming volume of cases and difficulties making referrals to legal experts in their geographic region.¹¹

C. Challenges in Rural Practice

As noted above, rural law practice presents unique challenges (and rewards).¹² The rural-practitioner survey conducted by the Government Law Center at Albany Law School illuminated the following eight themes which make rural law practice difficult¹³:

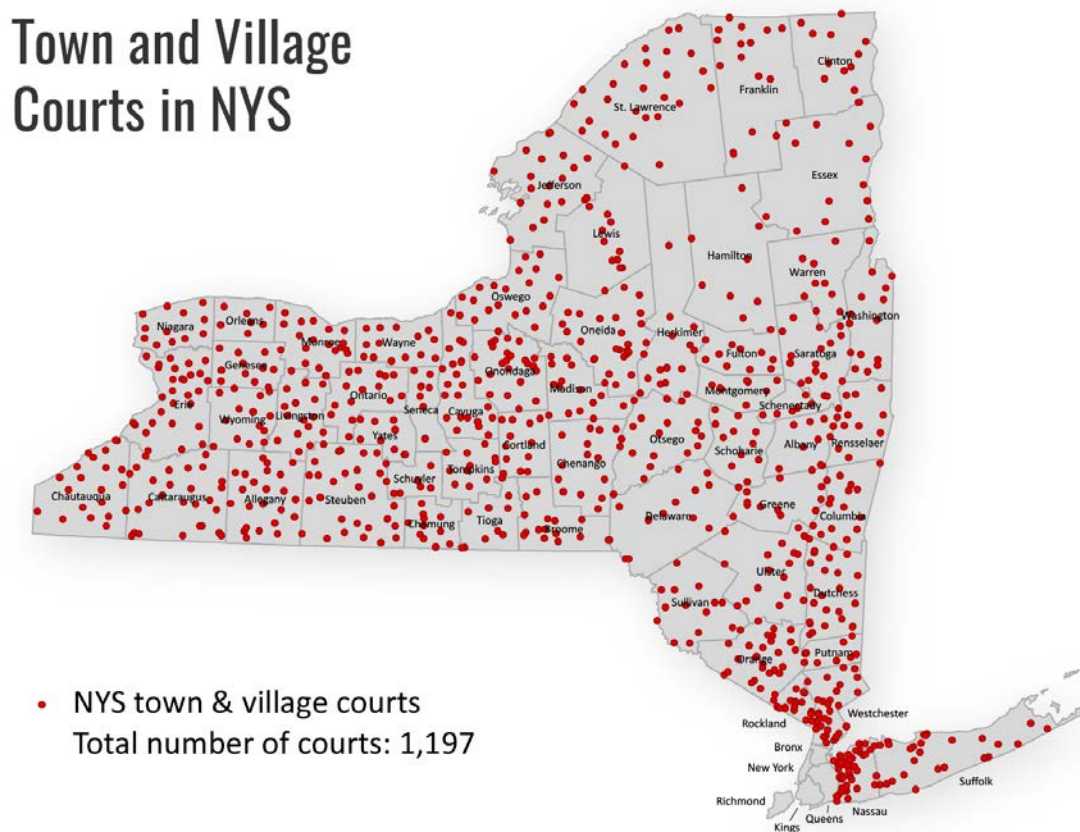
¹¹ The disparity in the rural and urban attorney-to-resident ratios is perhaps more clearly visualized by the infographic in Appendix [\[link\]](#), which plots the attorney-to-resident ratios by county.

¹² The Government Law Center's survey also revealed a number of rewards to rural practice, which are important to appreciate for full understanding of rural law practice. The rewards survey respondents discussed include: love for an impact on their community; reward of helping their clients in meaningful ways; reward of helping underserved poor clients; quality of life in rural communities; and appreciation for type of practice, the local bar community, and relationships with the courts.

¹³ *Id.* at 6. Readers are encouraged to refer to Government Law Center's report, which is available at <https://www.albanylaw.edu/centers/government-law-center/the-rural-law-initiative>, for more details.

1. Prevalence of indigent clients
2. Financial stress on lawyers
3. Professional isolation
4. Overwhelming caseload/not enough attorneys to assist
5. Systemic inefficiencies
6. Distance burdens
7. Technology issues
8. Conflicts of interest/known too many people in small communities

The Task Force considered these difficulties in devising its interventions, and several of our recommendations address these difficulties from multiple angles. For instance, one of the bigger challenges faced by rural practitioners relates to the non-uniform and scattered nature of the town and village court system in New York State, also known as justice courts. There are presently 1,197 active justice courts in New York State:¹⁴



¹⁴ Data provided by the New York State Office of Justice Court Support. The Office of Justice Court Support was formed in 2007 as part of an initiative to improve the efficiency and quality of local town and village courts. The Office supports the work of the justice courts by delivering legal assistance, training, equipment, and services to the justices and court clerks.

Active rural practitioners have to travel tremendous distances to appear in these scattered courts, which typically only hold court during night hours one-to-several times a month. Steuben County in western New York, for example, has 34 justice courts, and Franklin County in northern New York has 20. *See* maps in Appendix [\[redacted\]](#). The tally of justice courts in Steuben County does not account for the county's five state-run courts, which sit in three different cities, or the federal district court that has jurisdiction over Steuben County, which has its courthouse two counties away, in Rochester.¹⁵ This overwhelming tapestry of courts, no doubt adds to the challenges that rural practitioners experience.

The Rural Justice Task Force did not go further in studying justice courts, especially since several NYSBA task forces have already done so.¹⁶ However, the impact of this court system on rural practice could not be ignored, and accordingly, several of the proposed interventions address the challenges of practicing in these courts.

We now move on to the recommended interventions of the Task Force which begins on the following page.

¹⁵ For a list of courts in Steuben County run by the state, see New York State Unified Court System, "Steuben County," <http://ww2.nycourts.gov/courts/7jd/steuben/index.shtml>. For information on the jurisdiction of the United States District Court for the Western District of New York, see <https://www.nywd.uscourts.gov/accessing-court>.

¹⁶ Town & Village Courts Report, Report & Recommendations of the NYSBA Criminal Justice Section (2018), <https://www.nysba.org/tvcourtsreport/>.

RECOMMENDATIONS OF THE NYSBA TASK FORCE ON RURAL JUSTICE

I. FUNDING-RELATED INTERVENTIONS

A. Funding Is Crucial to Attract Rural Practitioners

As this report shows, the serious shortage of lawyers in rural New York is amply demonstrated not only through metrics, but also anecdotally. Therefore, one focus of this Task Force has been on ways to incentivize new attorneys to practice their skills in these underserved areas.

One concrete approach involves providing financial assistance in exchange for a certain time commitment to practice in a targeted rural area. There are a number of possible models, discussed below, to achieve this. The student-debt crisis is not only real, but growing. “Economists project an accumulated student loan debt of \$2 trillion by 2021, and, at a growth rate of 7% a year, as much as \$3 trillion or more by the end of the next decade.”¹⁷ Of course, this crisis has caused a wide range of pernicious impacts. “Studies show that many of those struggling to repay these mountainous student loans are also experiencing serious mental health problems, caused in large part by the crushing weight of these loans.”¹⁸ Indeed, this crisis has profoundly impacted the choice of where one chooses to practice law, as the benefits of rural practice are often far outweighed by financial concerns as urban practice is often far more lucrative. It is within this vexing context that we have considered and now recommend the following ameliorative economic strategies.

We turn first to loan forgiveness. Here, the Task Force considered several different programs before endorsing the following approaches, ranked in order from most to least preferred.

B. Establish a Direct Pay Model

Our first proposal is that New York State adopt a program similar to the South Dakota Legal Education for Public Service and Rural Practice Loan Repayment Assistance Program.¹⁹ The general idea of this model is to provide money to certain attorneys, making rural practice feasible and more appealing by removing, or at least diminishing, the specter of student-loan debt when establishing a practice or entering into governmental service in a rural area.

Direct-pay models are a preferred method to incentivize rural practice because, compared to other interventions such as tax relief and law school scholarships, the direct pay model affords the following benefits:

- By allowing flexibility, it is scalable and provides a tangible benefit.

¹⁷ See Daniel Johnson, *What Will It Take to Solve the Student Loan Crisis?*, Harvard Business Review (Sept. 23, 2019).

¹⁸ *Id.*

¹⁹ See *Rural Attorney Recruitment Program*, <https://ujls.sd.gov/uploads/RuralAttorneyRecruitmentProgram.pdf>

- The ability to operate as a pilot program for a limited number of years.
- The ability to direct the benefit to the rural areas that are the focus of this report.
- Avoiding the criticism that tax policy is not the best place to implement social policy.

The South Dakota program provides direct payment to attorneys in certain defined rural communities. The attorneys are paid \$12,500 per year for 5 years. The funding is provided as follows: 50% from the court system, 35% from the county (or the county and city combined) and 15% from the South Dakota Bar Association (a mandatory bar association).

The following proposals are based upon the South Dakota model but are somewhat different as the demographic landscape in New York differs significantly from South Dakota. Thus, the Task Force has modified the South Dakota model in significant ways to fit our needs in New York. Some of the details of our plan, which are highly flexible, are as follows:

1. New York State Direct Pay Model

Eligible Areas: Counties with population densities less than 100 per square mile and outside of the corporate boundaries of a city.²⁰

This would include the following counties, listed in order of decreasing population density: Cortland, Tioga, Columbia, Oswego, Cayuga, Seneca, Chautauqua, Sullivan, Washington, Greene, Clinton, Steuben, Warren, Wyoming, Yates, Wayne, Jefferson, Otsego, Cattaraugus, Chenango, Schuyler, Orleans, Schoharie, Allegany, Herkimer, St. Lawrence, Delaware, Franklin, Lewis, Essex, and Hamilton.

Alternate Eligible Areas: Counties with lawyer densities less than two lawyers per 1,000 population and outside the corporate boundaries of a city.²¹

This would include all of the counties described above, with the exception of Hamilton, Warren, Columbia, and Sullivan counties, and adding Oneida, Ontario, Genesee, Chemung, Montgomery, Livingston, Madison, and Fulton counties.

Amount of annual benefit: An amount equal to the average published annual in-state tuition rate and mandatory fees for the accredited SUNY law schools, CUNY School of Law, and School of Law at the University at Buffalo. Currently, that average is \$22,148.

Benefit Period: We recommend a five-year benefit period and justify that period, as it is longer than a traditional three-year law school program, because this time period allows the attorney to:

- Become firmly established in the community.
- Helps to repay tuition of more expensive schools.

²⁰ *New York Population Density County Rank*, <http://www.usa.com/rank/new-york-state--population-density--county-rank.htm>.

²¹ *New York Lawyer Report: How many lawyers per resident in each county in New York State?*, Press Connects (May 14, 2018), <https://www.pressconnects.com/story/news/local/2018/05/14/new-york-lawyer-report-how-many-lawyers-per-resident-each-county-new-york-state/545197002/>.

- Helps to repay room and board.
- Helps to repay interest.

Eligible Applicant: We propose an Eligible Applicant would be any person not currently employed in an Eligible Area, who has not previously participated in the Direct Pay Model Program and who:

- Is admitted to practice law in the State of New York.
- Has never been disbarred, suspended, or publicly censured from the practice of law in any jurisdiction.
- Is willing to sign a contract to practice in the selected Eligible Area for the length of the Benefit Period.
- Will carry malpractice insurance during their involvement in the program and provide proof thereof.
- Has in excess of \$100,000 in combined debt, including debt incurred in undergraduate and graduate programs.

Method of Selection: The application process will be designed, coordinated, and overseen by the New York State Bar Association (NYSBA). Applicants are to apply based upon their intended Eligible Area and selections per Eligible Area are to be made by way of a lottery. Final selections will be limited to the number of authorized awards each year. These awards will be made in rolling order from lowest population density/lawyer density (depending on definition of Eligible Area) to highest.

Number of Annual Awards: Seven awards annually over five years would potentially put 35 attorneys into the underserved rural counties, which we believe is enough to begin to make a significant difference.

Funding: State funding. To be made annually in a lump sum after the completion of each contract year.

2. Direct Pay Loan Repayment Assistance for the Rural Lawyer

We recommend this program as an alternative to the above, which is similar in scope and eligibility to the Direct Pay Model, but differs in that assistance would be directed to the attorneys' student loan payments, which would either be abated in whole or in part during the award period.

C. Student Loan Repayment Programs

We recommend that NYSBA promote existing loan-repayment-assistance programs. First, the College Cost Reduction Act of 2007 created a federal program, administered by the U.S. Department of Education through subcontractors, which was designated to benefit both attorneys and non-attorneys in urban and rural areas. It provides for income-based repayment plans. And, for those with high debts and low incomes, federal loans qualifying for income-based repayments are structured so that payments are capped at a certain percentage of the borrower's income, with the remainder forgiven after 25 years.

The same Act created a program known as Public Service Loan Forgiveness, a more accelerated loan-forgiveness program for those who work in public service for a cumulative ten-year period. At the end of ten years, or after having made 120 qualifying payments while working in public service, the remainder of a federal direct-consolidation loan is forgiven.

There are significant problems with the administration of this program, and upwards of 90% of those applying for loan forgiveness following the ten-year period have had their applications for loan forgiveness denied. On April 3, 2019, six U.S. senators wrote to the Consumer Financial Protection Bureau and outlined problematic areas regarding the administration of the program. On October 28, 2019, 22 U.S. senators wrote to the Consumer Financial Protection Bureau requesting that it immediately open an enforcement investigation into the Pennsylvania Higher Education Assistance Agency's management of this program. The Pennsylvania agency is a U.S. Department of Education subcontractor.

In addition, in July 2019, the American Federation of Teachers (AFT) and individual plaintiffs filed a lawsuit in the United States District Court for the District of Columbia, *Weingarten v DeVos*, which challenges practices by the United States Department of Education that are contributing to the low rates of forgiveness currently being granted. These include claims of due process violations including the lack of notice regarding denials and processes for appealing denials.

Given this scenario, we further recommend that NYSBA engage in advocacy efforts to ensure proper administration of this program. NYSBA should do so through its Committee on Legal Aid and President's Committee on Access to Justice, both of which have subcommittees working on loan repayment issues and both of which have in the past recommended that this program be a federal legislative priority for NYSBA.

Second, the New York State District Attorney and Indigent Legal Services Attorney Loan Forgiveness Program is administered by the New York State Higher Education Services Corporation and is designed to retain experienced attorneys employed as district attorneys, assistant district attorneys, or indigent legal services attorneys throughout New York State. Again, attorneys may apply for this program from both urban and rural areas of the state. This is a retention program designed to keep people in these positions longer term. To be eligible, attorneys must have worked in these positions for at least four years, but no more than nine years. Awards are in the amount of \$3,400 each year with a cap of \$20,400 for each attorney. We recommend that the amount of the award be raised to \$5,500 per year and that the wait time to access this program be decreased from three years to two years, and that NYSBA advocate for pending bills on topic.²² We further recommend that the program be more widely publicized by NYSBA.

Third, we also recommend that NYSBA publicize the Legal Services Corporation's Herbert S. Garten Loan Repayment Assistance Program which provides loan repayment assistance to select attorneys who work full time for Legal Services Corporation (hereinafter LSC) grantees

²² See pending Senate Bill S6668, which expands the eligibility period for indigent legal service attorneys to receive certain loan forgiveness and increases loan reimbursement for certain attorneys who work in legal services with indigent clients. <https://www.nysenate.gov/legislation/bills/2019/s6668>

throughout the United States, regardless of whether a program serves urban or rural areas. Six LSC grantees serve the counties outside of the five New York City boroughs and are headquartered in Albany, Buffalo, Geneva, Hempstead, Utica, and White Plains. Selected attorneys receive up to \$5,600 annually for a maximum period of three years.

C. Tuition Assistance Programs

The Task Force also recommends that the Excelsior Program administered by the Higher Education Services Corporation be expanded to cover eligible students who wish to practice law in rural areas.

The Excelsior program, in combination with other student-financial-aid programs, allows students to attend a SUNY or CUNY college tuition-free, if they agree to work in New York State upon graduation. We recommend that consideration be given to establishing a similar program to develop a pipeline from high school to college to law school for rural high-school students who commit to return to their rural locations to work upon graduation from law school.

A model similar to this one has been established in Nebraska. In that program, students from certain Nebraska areas study at one of three Nebraska state colleges or universities, obtain their legal education at Nebraska College of Law, and then practice in rural areas throughout the state. Program benefits include full-tuition scholarships for undergraduate education, automatic acceptance into the law school, and eligibility for loan forgiveness after completion of law school. The high-school students must come from a rural section of Nebraska and must agree to return to that same rural area to practice law. Additionally, academic requirements must be met and maintained throughout college and law school. We envision that the establishment of a model such as this in New York would require partnership with University at Buffalo Law School and/or CUNY School of Law.

II. LAW SCHOOLS AND NEW ATTORNEYS INTERVENTIONS

Law schools play an important role in ensuring access to legal services in rural communities. This section of the report identifies several strategies for law schools seeking to do more.

Law schools help rural communities obtain access to justice in two ways: directly, when law-school students, faculty, and staff provide legal services to people in rural communities; and indirectly, when law schools train the attorneys who will serve those communities. This section of the report recommends that law schools assess their programs in both areas in terms of their impact on rural justice.

A. Assessment of Existing and Potential Programs

The first strategy available to law schools is to undertake an assessment of existing and potential programs in terms of their prospects for helping to promote rural access to justice. We recommend that law schools assess how their current programs serve the interests of people in rural communities and students who might choose to practice in rural communities.

Such assessment could be done on a schoolwide basis, but could also be done program-by-program. For example, a specific clinic could assess how many of their clients live in rural communities and whether a future expansion could make more services available to those communities. A law-school office that hosts panel discussions about careers could assess how many of its guest speakers practice in rural communities.

Assessments of this kind could be built into other strategic-planning processes. For example, if a school is undertaking an institution-wide strategic-planning process, one committee or planning group could be tasked with focusing on rural justice. The same task could be assigned within a department that is undertaking a strategic-planning process. Law schools or departments within law schools can identify specific goals for programs that serve rural communities and/or students who are interested in rural practice.

There are also less formal opportunities to incorporate rural justice into strategic planning. For example, job vacancies can be an opportunity for thinking about priorities; hiring a new admissions director is an opportunity to ask candidates about how they would reach out to prospective students from rural communities.

It should be emphasized that assessments of this kind should not be aimed at ensuring “balance” between rural communities and urban or suburban communities. Some law schools, depending on factors like whether they are located near rural communities, have good reason to emphasize rural practice to a greater extent than other schools. Moreover, all communities have access-to-justice needs, and every law school has students who have the potential to do great things in rural, urban, and suburban communities. The goal of assessment and strategic planning, then, should be to identify opportunities for growing schools’ capacity to serve rural communities and the students who might wish to serve them, not to take focus away from the needs of other communities.

Assessments of the kind recommended above depend on information, but at this point little information is available about the impact of law-school programs on rural communities and students who might wish to serve them. Thus, gathering data is an important part of the assessment process.

Again, departments within law schools can gather data separately or together: admissions offices can collect data about their own recruitment efforts in rural areas, and the outcome of those efforts; careers offices can collect data about employers and students to learn more about where jobs are located and how attitudes toward rural practice affect students’ career choices; alumni offices can survey alums in rural communities about the skills needed to prepare for practice in those areas and schools’ outreach to people in their communities; and so on. Gathering information about the impact of programs on rural communities and students who are interested in serving them is an important precursor to meaningful strategic planning.

B. Law Schools’ Role in Providing Services

The simplest way for law schools to address the shortage of legal services—although not necessarily the most effective in the long term—is for the law schools to provide legal services

themselves. Every law school supports numerous programs in which students, sometimes with the help of significant faculty and school resources, directly provide services to people in their communities. These services fall into a number of overlapping categories.

One major category is services that students receive academic credit for providing. The rise in experiential education over the last few decades has created numerous ways for law students to provide services to their communities, including clinics, externships, internships, and other curricular options. One example of a rural-focused program of this kind is the Drake Agricultural Law Center.²³

In addition, students participate in pro bono programs. Albany Law School students, for example, provided a total of 42,000 hours of pro bono work in 2018, with some students providing more than 750 hours, or nearly 19 weeks of full-time service.²⁴ (No data is available on how much of that service was provided to rural communities.)

Pro bono work is not optional in New York; the state court system requires that all students complete 50 hours of pro bono service before they are admitted to the bar.²⁵ The regulation defines “pro bono service” as “assist[ing] in the provision of legal services without charge,” which allows students to count work for which they receive academic credit (such as clinical work) as pro bono service. Work that counts as pro bono service can thus be provided either as part of a curricular program, like a clinic, or as an extracurricular activity or part of an outside job.

Direct-services programs take many forms. Many law schools provide institutional support for students’ pro bono work. Not all student pro bono work involves direct services; a different kind of service is provided by the Legislative Research Service of the Rural Law Center at the University of Wyoming College of Law, which involves student volunteers providing free legislative research and drafting services.

Another creative program is the Justice Bus program in Buffalo. This program is an initiative of Neighborhood Legal Services, joined by community partners including Volunteer Lawyers Project, the Western New York Law Center, and the University at Buffalo School of Law. The project is a 12-passenger van that transports lawyers and law students to rural areas of Western New York to provide services to poor and disabled people.²⁶

²³ See Drake University, *Agricultural Law Center*, <https://www.drake.edu/law/clinics-centers/aglaw/>.

²⁴ Albany Law School, *Students Commit to Pro Bono Work, Exceed 42,000 Hours* (Apr. 26, 2018), <https://www.albanylaw.edu/about/news/2018/Pages/Graduating-Class-Drives-Public-Interest-Work-Far-Beyond-the-States-50-Hour-Requirement.aspx>.

²⁵ Rule 520.16 of the Rules of the Court of Appeals, available at <http://www.nycourts.gov/ctapps/520rules10.htm#B16>. FAQs make clear that qualifying work includes clinical work, work under the supervision of a faculty member, and externships and internships. See http://ww2.nycourts.gov/sites/default/files/document/files/2018-07/FAQsBarAdmission_0.pdf, page 9.

²⁶ See UBNow, *Justice Bus to offer on-site legal help to poor, disabled*, (Aug. 21, 2019), <http://www.buffalo.edu/ubnow/stories/2019/08/justice-bus.html>; see also Neighborhood Legal Services, *Beep Beep! The Justice Bus Is Coming to Western New York*, <https://nls.org/justicebus/>.

While some programs are supervised by law school staff and faculty—which is costly for the law schools—others involve outside placement of students. These programs are variously known as internships, externships, or field placements, and all of them involve primary supervision of the students providing services by attorneys in practice, rather than law school faculty or staff. There appear to be more programs of this kind supporting rural areas than faculty or staff-run programs.

Are law schools' direct-services programs an important way to address the shortage of legal services in rural communities? It is clear that service providers within law schools can become important resources within their communities. For example, the Farmworkers Clinic at Cornell and the Immigration Law Clinic at Albany Law School serve not only as significant providers of legal services but as hubs through which people in need of legal services are put in contact with attorneys who can provide those services. But their scope is limited in several ways: students spend longer on cases than experienced attorneys, and require supervision; clinics generally pick one kind of case (like immigration) and serve only clients with needs relating to that subject; and clinics are geographically limited because there are only four law schools in upstate New York (above Westchester County): Albany, Buffalo, Cornell, and Syracuse. Also, clinics are by far the most expensive educational program run by law schools, which makes it challenging to expand them.

One potential benefit of law students' direct-service work is that, in addition to helping the recipients of the services, it also exposes students to practice in rural communities. But there is good reason to be skeptical of experiential education's potential for motivating students to work in rural communities. Students' experiences in clinics involve working with very specific clienteles in narrow legal areas. This is very different from most rural law practice, in which a majority of lawyers are general practitioners working in solo practice or small firms. A farmworkers' clinic may give students excellent exposure to the life of farmworkers, but it will give them little insight into the life of rural lawyers. In this sense, direct-services programs' primary benefit is the services themselves.

One important consideration for programs that provide direct services is their relationship to other service providers. Ideally, the programs will complement and cooperate with existing service providers, rather than displacing them or competing for funding.

In sum, it is important for law schools to assess their direct-services programs with an open mind. While they have the potential to contribute significantly to the needs of their communities, law schools' role in producing future lawyers affects rural communities on a much greater scale.

C. Law Schools' Role in Providing Attorneys

Although law schools can usefully serve their communities by providing direct services, their greater impact is training the lawyers who will go on to serve rural communities.

Without wading into complex questions of curriculum design, the Task Force recommends that schools assess their curricula with an eye towards the needs of lawyers who will practice in rural communities. In the substantive legal training that law schools provide—that is, the courses they teach—the schools can (and many do) make an effort to give students the skills and training they need to succeed in rural practice. This includes both substantive courses and skills-based courses

like practice management. And although there is much debate within law schools about the idea that graduates should be “practice-ready”—given the diversity of legal practices—there is a growing movement to teach classes on practice management and other classes that will be particularly useful for rural lawyers.²⁷

It is also worth noting that law schools nationally are expanding online education.²⁸ This presents a potential opportunity for students who might consider rural practice, because prospective students in rural communities, especially those with limited resources, might find distance learning more manageable. Law schools considering such programs should assess their capacity for making law school more accessible to people in rural areas.

Outside of the curriculum training law schools provide, there are several important strategies for supporting students who might wish to practice in rural communities. Three of them include: increasing students’ access to information about rural practice; working to challenge the prestige hierarchy which devalues rural practice; and growing the pipeline to rural practice by recruiting more students from rural communities.

1. Increasing students’ access to information about rural practice

One important way law schools can support students who might wish to practice in rural communities is by helping them learn more about rural practice through mentoring, informational, and connection-building programs. Lack of information should not be a barrier to serving communities that need legal services.

Ideally, law students would never miss out on a possible career choice because they are unable to obtain information about it. But information about rural careers can be scarce. Every law school has an office responsible for helping students learn about careers, and those offices are increasingly conceiving of their function in a broader way—hence the phrase “professional development” increasingly being incorporated into the names of those offices. As these offices help students build their professional identity and their career goals, they have an opportunity to introduce them to the significant opportunities that may exist in rural communities—or to reinforce the unfortunate message that such opportunities are not worth pursuing.

Professional Development offices can bring in guest speakers or organize informational sessions to help students learn about rural practice. They can engage in outreach to rural employers, who (lacking large human-resources offices) may be less knowledgeable about how to make their job openings known to law schools. One innovative program is the [Iroquois “Take a Look” program](#)

²⁷ See Robert J. Condlin, “Practice Ready Graduates”: A Millennialist Fantasy, 31 *Touro L. Rev.* 75 (2014); Martha Kanter and Grace Dodie, *Discarding the Fiction of The Practice-Ready Law Graduate to Reclaim Law As A Profession*, 17 *W. Mich. Cooley J. Prac. & Clinical L.* 265 (2015); Jason G. Dykstra, *Beyond The “Practice Ready” Buzz: Sifting Through The Disruption Of The Legal Industry To Divine The Skills Needed By New Attorneys*, 11 *Drexel L. Rev.* 149 (2018).

²⁸ See Mark Lieberman, *States Limit Spread of Online Legal Education*, *Inside Higher Ed* (Jan. 23, 2019), <https://www.insidehighered.com/digital-learning/article/2019/01/23/new-york-maintains-restrictions-around-online-programs-amid>

—a healthcare-related program which takes downstate doctors on tours of upstate areas to entice them to move and work upstate.²⁹ To the extent that lack of information about upstate living is an obstacle to choosing rural practice, simple exposure can be very powerful.

Professional Development offices can also encourage students, during mentoring sessions, to consider rural options. Of course, many offices do just this; the Task Force’s recommendation is simply that such offices assess their work to see whether their students are missing opportunities.

Professional Development offices are not the only offices within a law school that can help students learn more about rural practice. Alumni offices, for example, may sponsor mentoring programs that connect law students to attorneys in practice, and those offices can make sure to reach out to attorneys in rural communities for mentoring programs. Likewise, student-services offices can encourage students to form affinity groups on campus. Every office that works directly with students can assess their programs to determine whether they are serving students who might wish to practice in rural communities.

For each program in this category, questions for assessment should include:

- ☐ Whether the program helps eliminate informational barriers to rural practice (in other words, make sure that students do not eschew rural practice because of a lack of accurate information);
- ☐ Whether it makes it easier for students interested in rural practice to overcome the cultural devaluing of rural practice within law schools;
- ☐ Whether it helps students make connections with attorneys in rural practice who can help them establish a practice there.

2. Perceived Prestige of Rural Jobs

One important way law schools can make a long-term difference is by working to change the way rural practice is perceived by students. There is a perceived prestige hierarchy of jobs in law schools, and rural practice, because it involves small towns and small firms, can be seen as low in that hierarchy. Law schools could do more to change the cultural perception of rural work, to spread the understanding that—as Professor Hannah Haksgaard has written—“Private practice legal work in rural areas is public interest work.”³⁰

Law professors and law-school staff frequently send implicit messages about the legal profession when they talk about successful lawyers (and identify certain lawyers as successful); when they talk about jobs (and identify certain jobs as desirable); and when they talk about the rewards they themselves find in their own work.

²⁹ It is not clear there will be continued funding for this program.

³⁰ Hannah Haksgaard, *Rural Practice as Public Interest Work*, 71 Me. L. Rev. 209, 210 (2019).

As many scholars have noted, prestige in the legal profession tends to be associated with urban practice, large firms, male lawyers, and representation of institutions rather than individuals.³¹ It is important for professors and staff at law schools to challenge this prestige hierarchy and speak about the value of small-town and small-firm practice. The Government Law Center's data clearly shows that many lawyers thrive in rural practice because of benefits that are simply unavailable in large firms and large metropolitan practices, such as deep connections with close-knit communities. Professors and staff should endeavor to make clear to students that practice of this kind has more value than traditional prestige hierarchies acknowledge.

3. Growing the Pipeline to Rural Communities

Finally, one of the most important ways law schools can help rural communities is by recruiting applicants from those communities. As the Task Force spoke to rural lawyers, we heard a strong consensus that the new lawyers most likely to stay in rural communities were those who had connections to those communities, particularly those who had grown up in them. That being the case, it is extremely important to make sure that college students in rural communities—and even high-school students—are fully aware of the availability of legal careers.

One exemplary program in this regard is Washburn School of Law's Rural Legal Practice Initiative, a partnership with undergraduate schools that helps pre-law students learn about legal career opportunities in rural communities.³² Albany Law School, too, is reaching out to undergraduate students in rural communities through its partnership with SUNY Cobleskill. Many students who attend rural schools do not have family members who practice law and may never consider law school unless they encounter outreach or role models.

While there is no doubt that law schools in today's climate are aggressively recruiting students from all geographic regions, admissions offices can nonetheless usefully assess their own outreach efforts in rural communities. Faculty, too, can contribute to awareness of the possibility of legal careers by guest-teaching classes at rural schools, including high schools. Students in rural communities should not miss out on the possibility of a legal career simply because they are not exposed to that possibility.

³¹ See, e.g., John Heinz & Edward Laumann, *CHICAGO LAWYERS: THE SOCIAL STRUCTURE OF THE BAR* (rev. ed. 1994).

³² Washburn School of Law, *Rural Legal Practice Initiative*, <http://washburnlaw.edu/news/2016/10/RuralInitiative.html>.

III. RURAL-LAW-PRACTICE INTERVENTIONS

A. Introduction

The great majority of rural lawyers in New York are solo practitioners or members of small firms, are over age 45, and serve clients of modest means, and there are not nearly enough lawyers in rural areas to meet residents' needs.³³ To achieve rural justice, the bar must find creative ways to lure lawyers and judges to come to, or remain in, rural communities. To this end, the Task Force makes six recommendations: (1) to relax residency requirements that compromise the ability of rural employers to find talent and of rural lawyers to thrive; (2) to increase rates for assigned counsel to fairly compensate attorneys; (3) to raise the low jurisdictional limits in small claims court, which can undermine the ability of rural New Yorkers to achieve justice; (4) to consider law school loan forgiveness programs that could enable more attorneys to settle in rural communities; (5) to eliminate will filing fees; and (6) for NYSBA to offer discounted CLE rates to rural attorneys and free consultations and/or expanded programming to support lawyers in transition.

B. Legislative Action

1. Raise 18-B rates

Extensive advocacy has occurred around stagnant hourly rates paid to assigned counsel in criminal and Family Court cases. The Task Force does not recommend further study, but instead discusses the particular impact of the assigned counsel rates on rural attorneys, rural New Yorkers entitled to mandated representation, and rural justice. In 2018, the State Bar embraced a report of the Criminal Justice Section and Committee on Mandated Representation, calling for a rate increase. Most recently, this goal has been declared a 2020 legislative priority of the Association.³⁴

An Interim Report to Chief Judge Janet DiFiore, issued by the Commission on Parental Legal Representation in February 2019, recommended that the rates for parental representation increase to \$150 an hour.³⁵ In her State of the Judiciary Message in 2019, the Chief Judge advocated for an increase in assigned counsel rates for criminal defendants, parents, and children, and stated that she had transmitted a letter to Governor Cuomo and leaders of the Legislature urging action. She further explained:

New York State has made great progress to strengthen its criminal indigent defense system thanks to the creation of the Office of Indigent Legal Services...and to increased state funding...However, our state continues to rely on the hundreds of

³³ Taier Perlman, *Rural Law Practice in New York State*, Albany Law School Gov't Law Center (April 2019), at 2, 4, 6, 8.

³⁴ The last increase in assigned counsel rates was in 2004, when rates went to \$75 per hour regarding felonies and \$60 per hour for representation of a person charged with a misdemeanor or lesser offense. After 16 years, these rates should be increased to prevent the further exodus of practitioners from the assigned counsel program across the state.

³⁵ See http://ww2.nycourts.gov/sites/default/files/document/files/2019-02/PLR_Commission-Report.pdf.

private attorneys or assigned counsel who provide legal representation to indigent criminal defendants and family court litigants in many areas of the state. Without fair and adequate compensation for these attorneys, a vital component of the system is at risk.³⁶

The success of the criminal defense reforms contemplated by the Legislature depends on the availability of enough qualified attorneys. A survey of assigned counsel plan administrators conducted by the Committee on Mandated Representation revealed that a significant number of programs do not have enough attorneys because the fees are too low. The impact of inadequate rates—and a resulting shortage of qualified private attorneys willing to accept assigned cases—is felt acutely in rural counties. In such areas, fewer institutional offices exist to handle mandated representation cases. Thus, assigned counsel attorneys play a particularly significant role in protecting the rights of New Yorkers accused of crimes, as well as Family Court litigants and children. Increased rates are vital to sustaining such representation. The key role played by assigned counsel in rural criminal defense was underscored by a report of the NYSBA Criminal Justice Section on Town and Village Justice Courts.³⁷

A survey of rural attorneys revealed the importance of raising rates, as exemplified by these comments:

“My clients cannot afford my services, and I cannot sustain a practice on only 18-B representation, as those fees are too low.”

“Clients cannot afford lawyers for the criminal and family cases...and therefore lawyers often take on assigned cases to supplement income, but assigned cases do not pay well, and it is easy to become overloaded with assignments. We need to encourage more young people to move into rural counties, and mentors in diverse areas of law to dedicate time to teaching [these young lawyers]... We also need to increase pay for assigned counsel and allow practitioners to decline assignments once they’ve maxed out their caseload.”

“Clients are very poor, as this is an economically depressed area. It is rare to have private-pay clients, and unless attorneys are being appropriately compensated, we will not be able to attract qualified attorneys to serve our needs. I made my money doing other types of cases and can only afford to represent indigent clients because I am toward the end of my career and don’t have the financial obligations most young lawyers do...[T]he hourly rate for assigned counsel needs to be increased in order to have attorneys available to handle these matters.”

³⁶ http://ww2.nycourts.gov/sites/default/files/document/files/2019-02/19_SOJ-Speech.pdf.

³⁷ See <https://www.nysba.org/tvcourtsreport/>.

2. Relax residency requirements for public positions

Attorneys

The idea that public employees who live where they work are more invested in the community appears to underlie residency requirements set forth in State law. *See Matter of Dehond v Nyquist*, 65 Misc 2d 526 (Sup Ct, Albany Co 1971) (residency requirement aims to hire public officials who are knowledgeable and concerned about affairs of unit of government they seek to serve). Since 1829, New York has required public officers to be residents of the State, and local governments have required public officials to be residents of the locality by which they are employed. *See Winkler v Spinnato*, 72 NY2d 402, 405 (1988), *cert denied* 490 US 1005 (1989). Many things have changed in the last two centuries. Workers commute significant distances, and many work remotely. The notion that public officials will be less dedicated to their jobs absent residency mandates seems outdated and questionable.

Instead, rural communities are hurt by residency provisions. Rural justice is eroded by residency requirements, as communities cannot attract qualified talent due to such restrictions. The pool of attorneys to draw from locally is far too small in rural areas of the State. The vast majority (96% according to data from the Office of Court Administration) of New York attorneys live and/or work in urban areas. For all these reasons, to advance rural justice, the concept of “community” should be broadened to encompass rural regions, and residency requirements found in State law and other relevant laws should be relaxed.

The primary residency statute for “public officers,” is found in Public Officers Law § 3 (1), which provides that “[n]o person shall be capable of holding a civil office who shall not***[be] a resident of the political subdivision***of the state for which he shall be chosen.” Section 30 (1) (d) further provides that “[e]very office shall be vacant upon***[the incumbent’s] ceasing to be an inhabitant***of the political subdivision***of which he is required to be a resident when chosen.” The terms “resident” and “inhabitant” are understood to be synonymous with “domicile.” *See Matter of Hosley v Curry*, 85 NY2d 447, 451 (1995).

Section 3 contains a patchwork of numerous special laws that provide for more flexible residency requirements as to certain attorney or judge positions in individual villages, towns, cities, or counties. *See e.g.* subdivisions (37), (38), (40), (44), (46), (64), (69). Typical exceptions declare that a specified town or city official need only reside in the county in which the city is located, or the specified county official may reside in an adjoining county. Specific positions covered include Town and Village Court Justices, City Court Judges, Assistant District Attorneys, Assistant Public Defenders, Deputy County Attorneys, and City Attorneys. Some exceptions are broad, such as subdivision (28), providing that all public officers employed in Westchester County may reside anywhere in the State of New York. Other State laws that impose residency mandates on officials, and thus are implicated by this analysis and recommendation, include Town Law § 23 (1) and Village Law § 3-300.

Insight into why some localities sought special residency laws can be gleaned from one Memorandum of Support of an Assembly bill that resulted in such a special law—Public Officers

Law § 3 (64) (Wyoming County Assistant District Attorneys, except the Chief or First ADA, may reside in adjoining county). The justification in the memo explained:

The Assistant District Attorney position requires a set of unique skills and specialized experiences...This bill has been introduced at the request of the Wyoming County District Attorney. It is essential that predominantly rural counties...have the same ability as...[other] counties with a higher population to recruit practitioners with the necessary skills and experience...Exceptions for the residency requirement...have typically been granted to counties with smaller populations...Adoption of this legislation will provide the Wyoming District Attorney with a more flexible recruiting process by allowing the District Attorney to hire from adjoining rural counties...[that] share many of the same characteristics as Wyoming County, ensuring that the interests of Wyoming County are adequately represented.

As the memo indicates, strict residency requirements work against localities' ability to find skilled attorneys to fill public positions; and since adjoining rural counties share many of the same characteristics, nothing is lost by imposing a less parochial approach to hiring talent.

In addition to the state law, some local laws impose residency mandates. As to some positions, localities have the authority to enact local laws providing for stricter or more liberal residency requirements than Public Officers Law § 3, and many have exercised that authority. *See generally Matter of Ricket v Mahan*, 97 AD3d 1062 (3rd Dept 2012) (discussing Public Officers Law residency provisions and localities' home-rule powers). The result of the current State requirements and exemptions and the local laws is an inconsistent mélange of residency provisions that do not serve New York well and that undermine the consistent administration of rural justice. To overcome the challenges faced by under-resourced municipalities and to attract qualified employees, the State law on residency requirements should be reformed. Further, rural localities should be discouraged from enacting local provisions providing for stricter requirements.

Relaxing state law residency requirements for the public positions set forth above, as well as for attorney officials at County Departments of Social Services, would make it more practicable for a larger pool of attorneys to work in rural areas. Opportunities regarding where attorneys may hold public office, while also engaging in private practice, would be broadened. The desired flexibility could be achieved as to county positions by removing any residency requirement, except for requiring New York state residence, or by providing that the officials could reside in a county adjacent to the county in which the positions are held.

In the area of public defense, flexibility as to residency could have a particularly profound impact. The case of *Hurrell-Harring v State of NY* brought attention to the State's failure to provide for effective representation to criminal defendants. A settlement in that case resulted in significant State funding to the five named counties to improve the quality of criminal defense by public defenders and assigned private attorneys.³⁸ The reforms embodied in the settlement are now being

³⁸ See New York State Office of Indigent Legal Services, *Hurrell-Harring Settlement and Implementation Information*, <https://www.ils.ny.gov/content/hurrell-harring-settlement-and-implementation-information>.

implemented throughout the State, pursuant to Executive Law § 832 (4) and State Legislature budget plans for incremental implementation of the State funding of public defense.

Hundreds of public defense positions have been added in rural counties across New York. Moreover, assigned counsel programs are expanding, becoming more structured,³⁹ and receiving significant resources. To recruit qualified applicants to serve in rural public defender offices and as administrators and supervising attorneys at assigned counsel programs, greater flexibility in State laws as to the county of residence will be needed. Further, by allowing private attorneys from adjoining counties to participate on assigned counsel panels, counties will be able to attract more talent. These attorneys can help deliver quality representation to criminal defendants and Family Court litigants, while achieving professional growth via the mentoring, second-chair, training, and other resources that are being provided, or will soon be provided, to such programs via State funding. The importance of also increasing assigned counsel rates to achieve the public defense reforms contemplated by the Legislature was already discussed above.

3. Raise small-claims-court caps

Small-claims courts are special parts in justice, city, and district courts where litigants can sue for money damages. Uniform Justice Court Act § 202 provides that, where justice courts handle small claims actions for money damages, the amount sought to be recovered, or the value of the property at issue, must not exceed \$3,000. The statute was last amended more than four decades ago (L 1977, ch 685, § 2). Uniform City Court Act § 1801 and Uniform District Court Act § 1801 have a cap of \$5,000—an amount set in 2003 (L 2003, ch 601, § 3).⁴⁰

The decades-old jurisdictional limits are too low, and the RLP Committee recommends that they be raised to a uniform amount of at least \$7,500 for all Town, Village, City, and District Courts. This change could close a justice gap and allow for proper representation of rural clients, while bolstering the practices of rural attorneys and advancing judicial economy. Often litigants with disputes involving relatively small matters cannot afford the attorney fees and court expenses, multiple appearances, and delays associated with initiating a civil case in Supreme Court. In contrast, small claims in rural areas can be brought in front of an appropriate Town or Village Court.⁴¹ While litigants can represent themselves in these small claims courts, many are reluctant to do so and, in fact, cannot do so effectively. Increasing the monetary maximum will mean that more cases could be handled in small claims courts, where the filing fees are nominal. Rural practitioners could potentially expand their practice by obtaining fees in a large volume of such matters, while helping their neighbors favorably resolve their disputes.

³⁹ See <https://www.ils.ny.gov/files/ACP/ACP%20Standards%20with%20Commentary%20070119.pdf>.

⁴⁰ Under Chief Judge Janet DiFiore's proposal to consolidate New York's trial courts, District Courts and upstate City Courts would be abolished and would become part of a new statewide municipal court. See https://ww2.nycourts.gov/sites/default/files/document/files/2019-09/PR19_22.pdf.

⁴¹ <http://www.rurallawcenter.org/docs/Guide%20to%20Small%20Claims%20Court.pdf>.

4. Eliminate will-filing fees

SCPA 2402 (9) (v) regarding Surrogate's Court filing fees states that a \$45 fee applies as to "a will for safekeeping pursuant to section 2507 of this act except that the court in any county may reduce or dispense with such fee." The fees are discretionary, but should be eliminated entirely. This could benefit rural solo lawyers whose practices includes estate planning and administration and the filing of a large volume of wills. Such an amendment would also benefit the estates by encouraging the best practice of filing of wills with the court. Given the prevalence of indigent clients in rural communities and the tremendous amount of pro bono or low bono services offered by rural lawyers, this filing fee is unnecessarily cost-prohibitive.

C. NYSBA Action

Offer assistance and consultation for lawyers in transition

NYSBA's 2020 legislative priorities declare that a core mission of the Association is to represent the interests of the legal profession, and that the Association thus works to ensure that attorneys are able to protect their clients' interests and effectively engage in the practice of law.⁴² The creation of the Rural Justice Task Force was an important step toward helping attorneys to engage in the practice of law in rural New York.

In this regard, the NYSBA Law Practice Management Committee has published an invaluable Planning Ahead Guide, including information regarding succession planning and the sale of a law practice. Further, the State Bar's Committee on Lawyers in Transition provides excellent, free programs to members regarding transitioning or retiring.⁴³ The RLP Committee suggests that an additional service be offered by the State Bar: free, individualized consultations on succession planning and the sale of a law practice. Such a service is provided by the North Carolina Bar Association Transitioning Lawyers Commission.⁴⁴ As many rural New York attorneys are approaching retirement age, they could benefit greatly from particularized, expert guidance and assistance regarding transition plans.

Further, services could be expanded to include a mentoring program to connect transitioning attorneys with new attorneys interested in taking over an established practice. Also, rural attorneys could be encouraged to use www.lawyerexchange.com to post announcements regarding the sale of their practices. This could serve two purposes: first, it could facilitate the sale of the practices to the advantage of the selling attorneys; and second, it could help draw more attorneys to rural communities by making them aware of the attractive opportunities that exist.

⁴² See n 2, *supra*.

⁴³ See <https://www.nysba.org/SellingYourPractice/>.

⁴⁴ See <https://www.ncbar.org/members/committees/transitioning-lawyers-commission/>.

IV. BROADBAND & TECHNOLOGY INTERVENTIONS

The practice of law has transformed over time, given the rise in technology. Many solo and small-firm practitioners adopt technology in order to streamline their practice, as well as to handle firm business outside of a standard office space. However, such technology adoption is reliant on the infrastructure available in their office, home, business, or courthouse. A number of rural attorneys who responded to the Government Law Center's survey complained about technological shortcomings.⁴⁵ We have discovered in our research that such technological shortcomings arise from the lack of technology infrastructure in many instances. In fact, the American Bar Association has recognized that lack of access to highspeed broadband is a hurdle for access-to-justice efforts. Recognizing this, the American Bar Association passed a resolution in August 2019 urging "federal, state, local, territorial, and tribal legislatures to enact legislation and appropriate adequate funding to ensure equal access to justice for Americans living in rural communities by deploying, to at least 98% of the population, broadband infrastructure with a download speed of at least 100 megabits per second [Mbps], and an upload speed of at least 30 Mbps."⁴⁶

To that end, New York State has a program in place presently called "Broadband for All"⁴⁷ which calls for investment in the state's broadband capacity with the ultimate goal of 99.9 percent of New Yorkers having access to broadband. This plan was created in 2015, to be handled in three phases. The last phase, "Round III," awarded 43 projects \$209.7 million dollars to handle "last mile" connectivity.⁴⁸ However, that last round was announced on January 31, 2018, with the effect of it being the end of this multi-year program. As is well understood, such connectivity is hindered by geography, distances between connection points, tower placements, as well as costs involved with laying miles of cabling, whether fiber optic or otherwise. To put it in perspective, one CEO of a broadband company that we spoke with quoted a basic cost of \$20,000-\$25,000 per mile for infrastructure. This does not include the cost to connect from the pole to the individual home(s), which is dependent upon pole location. Depending on the distance from the closest pole, that cost may double. So, by whom should the costs be borne, and will the end users be able to afford the service if finally made available?

Satellite internet is often the only other option you have available should you be too far away from a pole for broadband to be economically feasible. There are only two residential satellite internet providers available in the entire United States, Viasat and HughesNet.⁴⁹ HughesNet download speeds top out at 25Mbps⁵⁰, or a quarter of what's considered standard broadband speeds, and

⁴⁵ Taier Perlman, *Rural Law Practice in New York State*, Albany Law School Gov't Law Center (April 2019), at 11.

⁴⁶ ABA House of Delegates Resolution 10B, Adopted August 12–13, 2019.

⁴⁷ <https://www.ny.gov/programs/broadband-all>.

⁴⁸ <https://www.governor.ny.gov/news/governor-cuomo-announces-round-iii-nation-leading-new-ny-broadband-program-bring-high-speed>.

⁴⁹ <https://www.satelliteinternet.com/>.

⁵⁰ <https://www.satelliteinternet.com/providers/hughesnet/internet/>.

Viasat offers speeds of “up to 25Mbps.”⁵¹ In the case of HughesNet, they throttle the speed once users reach 50GB of usage in a month, meaning that it will be considerably slower for the remainder of the period. Both plans cost between \$60 and \$150 a month. By comparison, nationwide average download speed of a Verizon cellphone on their LTE network is 53.3 Mbps.⁵²

In effect you have two issues, not just one. If you have broadband service at your home or office, you may be able to do work and service clients. But if you leave your home or office, what then? The instant always-on connectivity that so many of us take for granted may end once you are out of the radius of your router. That is because your cellphone, probably the most important article in an attorney’s bag, becomes a worthless brick without a cell phone signal to back it up. Travel through upstate New York with some of your colleagues to find out how important that fickle signal can be.

“Providing colleagues or family members with name and address of court along with the route you will be traveling in the event something was to happen to you i.e. car breaking down or getting lost because you are traveling in areas where there is no cell phone reception and often times the GPS signal on direction apps gets lost.”

“Serving process on someone in the middle of nowhere with no ability to access public safety without reception.”

“Trying to broker a stipulation when you are trying and failing to get a signal in a courthouse to call an out-of-area client, and hoping you don’t have to ask for the judge’s landline in order to do so.”

At the same time, technology has changed and will continue to change during the rollout of these plans. In the newest iteration of cellular technology, 5G, the fastest signals are created with many small cell sites, which need to be much closer together than today’s standard technologies. Even so, each cell site must be connected to a network backbone, whether through a wired or wireless connection.⁵³ That implies that a network backbone is present, which in many rural areas it is not.

While this is certainly problematic for legal providers, it is also troublesome for legal clients. Trying to contact and do work with clients who also live rurally can be abnormally challenging. Distance and technology combine to be a strong issue when it comes to getting documents to and from clients, getting those documents filed with courts, and service of process are just some of the challenges faced by rural practitioners. Many upstate county courts, not including town and village courts, have been slow to implement e-filing, if they have at all. As of December 2019, 52 of 62

⁵¹ <https://www.viasatspecials.com/lp/internet>.

⁵² <https://www.tomsguide.com/us/best-mobile-network.review-2942.html>.

⁵³ <https://www.pcmag.com/news/what-is-5g>.

counties have some sort of e-filing, but current legislation does not authorize town and village courts to do so. If you have no internet, you cannot e-file or implement any technology at all into the court system. Given the distances involved in the larger counties, it makes sense to offer such opportunities to file even at the basic county level. Some of these counties have no cities, which makes the county courthouse the only point of service for purposes of any civil actions. To that end, the lack of scanned documents in real time can make for additional travel for practitioners. By either e-filing or at least providing real time access to non-electronic documents would allow attorneys to access the documents without bothering the court staff and not have to rely upon clients to transport copies of these documents to them. Many of these clients have lack of transportation issues, lack of access to scanners or fax machines, forcing actual paper copies to become the only viable record available for review.

Currently, Monroe County has a Justice for All Initiative which is present in Monroe County Village and Justice Courts, where they are collecting data on the number of filings, defaults, representations, and dispositions as well as surveying litigants about their experiences. Part of the initiative may be further expanded into working on transportation issues. Litigants have been found to have a lack of transportation in far-flung areas, making physical access to justice an ongoing issue, given the requirements for in-person appearances and lack of telephonic/video conference opportunities.

To this end, we make the following recommendations:

1. NYSBA should adopt a resolution that urges New York State to enact further legislation and adequate funding to expand and continue the Broadband for All program with a Phase 4 round of funding. The goal of Phase 4 should be further deployment of reliable broadband infrastructure with a download speed of at least 100 megabits per second and an upload speed of at least 30 megabits per second for 100% of New Yorkers with a specific focus on the rural areas that were not served by Phase 3 of the program. We recommend the following steps:
 - a. New York State should require the creation of a granular database of all broadband serviceable locations at the completion of Phase 3 to “map the gap” which will allow policymakers to target where funds should be allocated. (Using the same methods as was used in the US Telecom broadband initiative pilot project in Virginia and Missouri or those suggested by the FCC granular mapping initiative).
 - b. Specifically target additional funding to those “gap” areas where the Broadband for All program did not extend access to broadband at speeds of 100/30.
2. Monitor and track the Monroe County Justice for All pilot project. This project includes initiatives around real-time access to filings in civil matters, transportation to court in civil matters, uniform data collection and a court monitoring project in the town and village justice courts. Assuming that this program will be successful in breaking down these

particular barriers to accessing justice, NYSBA should advocate for its expansion throughout the state.

3. The Office of Court Administration should promulgate guidelines to encourage and promote remote video conference appearances in town and village justice courts (and across all New York courts) by attorneys and litigants for civil matters using the available SKYPE technology already provided to town and village courts, or other similar technology.
4. The Office of Court Administration should continue to expand e-filing initiatives across the state as these important initiatives provide easier access to the courts for both practitioners and litigants alike. Legislation should be passed to authorize e-filing expansion into town and village justice courts.
5. NYSBA should again recommend the repeal of Judiciary Law §470 requiring a physical office in New York State. (This recommendation was previously adopted by the NYSBA Working Group on Judiciary Law §470, October 8, 2018.)

V. LAW AND POLICY INTERVENTION

The Committee on Law and Policy examined other laws and rules that affected rural practice. In particular, the Committee examined New York Court Rule §100.6(B)(2), which provides:

(B) Part-Time Judge. A part-time judge:

(2) shall not practice law in the court on which the judge serves, or in any other court in the county in which his or her court is located, before a judge who is permitted to practice law, and shall not act as a lawyer in a proceeding in which the judge has served as a judge or in any other proceeding related thereto;

The Committee examined this rule particularly in light of the longstanding NYSBA policy against non-lawyer judges. In 2009, the House of Delegates adopted the Report of the Committee on Court Structure and Judicial Selection, which was charged with reviewing the 2008 Report of the Chief Judge's Commission on the Future of the State Courts. The Commission Report had concluded that lawyer judges were desirable, but because of claims of feasibility, it had stopped short of seeking a constitutional amendment to require that all justices be lawyers. The NYSBA report in response reiterated the NYSBA position that all justices should be lawyers. The report also included the history of the NYSBA position, noting that such a position had been taken on numerous occasions going back to 1979.

The part-time judge rule in §100.6(B)(2) has been in effect for many decades, previously as Rule 100.5(f), and before that as Rule 33.5(f). There are three different extra-judicial activities prohibited: (1) The practice of law by the part-time judge in his/her own court, (2) the practice of law by the part-time judge in another court within the same county, if that judge is also permitted to practice law, and (3) the participation as a lawyer in any proceeding in which the judge has acted

as a judge, or in any proceeding related to one in which the judge acted as judge. The Committee recommends maintaining the first and third of these prohibitions in their current form, and removing the second prohibition.

The rationale for the second prohibition has been stated in several opinions and disciplinary proceedings as to avoid the appearance of impropriety in the nature of a quid pro quo between part-time lawyer judges. Interestingly, where discipline is sought for violation of 100.6(B)(2), there are usually other provisions violated, particularly where the judge has participated in a case that truly creates a conflict or other improper activity. In the one reported case where the lawyer judge was subject to the disciplinary commission, the commission unanimously imposed an admonition only.⁵⁴

The rule has produced several opinions allowing the part-time lawyer judge to appear before an OCA employee who is a part-time judge,⁵⁵ a lawyer licensed to practice only in another state,⁵⁶ and a lawyer who is retired from the practice of law.⁵⁷ There have also been opinions regarding engineering the part-time judge's client cases before full-time, rather than part-time, judges in city, town and village courts. This is not permitted by transferring cases assigned to part-time judges to full-time judges⁵⁸, but it is permitted in a prospective way by an administrative judge,⁵⁹ and is permitted upon transfer down from Supreme Court by CPLR 325.⁶⁰ In addition, because Rule 100.6(B)(3) provides that the prohibition of practice of a part-time judge before other part-time judges does not extend to the judge's associates and partners (although the prohibition of practice in the judge's own court does extend to any lawyer associated in any way with the judge), there have also been opinions allowing the associates to use a letterhead which includes the lawyer/judge's name as long as there is no indication on the letterhead that the lawyer is a judge.⁶¹

The Committee concluded that the rule has a limited benefit. This is because the lawyer judge is governed by both the Rules of Judicial Conduct and the Rules of Professional Conduct which would otherwise prohibit any sort of quid pro quo between part-time lawyer judges. In addition, where an associate of a part-time judge appears before a part-time judge of another court in the same county, that associate may use a law firm name and stationery which uses the name of the part-time judge. Thus, the judge who the associate appears before may know full well that the associate has a relationship with the part-time judge. It should be noted that non-lawyer judges are not subject to Rules of Professional Conduct and have no specific rule regarding conflicts akin to

⁵⁴ *In re Brian D. Mercy* (N.Y.S. Comm'n on Jud. Conduct, June 22, 2012), 2012 WL 2786179, available at <http://cjc.ny.gov/Determinations/M/Mercy.Brian.D.2012.06.22.DET.pdf>.

⁵⁵ NY Jud. Adv. Op. 10-73, 10-167.

⁵⁶ NY Jud Adv. Op. 10-100.

⁵⁷ NY Jud. Adv. Op. 90-199.

⁵⁸ NY Jud. Adv. Op. 02-87 and opinions cited therein.

⁵⁹ NY Jud. Adv. Op. 08-132.

⁶⁰ NY Jud. Adv. Op. 08-96.

⁶¹ NY Jud. Adv. Op 08-210.

Rule 100.6(B)(2). Accordingly, this rule effects only attorney part-time judges, and creates an unfair chilling effect on them, while part-time non-attorney judges continue to serve on the bench freely, even where appearances of impropriety exist. For instance, where a non-attorney part-time judge works in law enforcement within the county, but presides over criminal cases with county prosecutors appearing before them.

The presence of the rule is a considerable deterrent to lawyers in rural areas to seek positions as part-time judges. While there may be a substantial number of part-time judges who are lawyers in suburban settings, there are relatively few in rural areas. For example, in the 20 justice courts in Franklin County there is only one practicing lawyer and one retired lawyer; all of the rest are non-lawyers.

The Task Force believes that the elimination of this rule will result in more lawyer judges, in furtherance of the longstanding NYSBA policy that justices should be lawyers, and recommends that the Chief Administrative Judge amend the rule to eliminate the second prohibition as follows:

(B) Part-Time Judge. A part-time judge:

(2) shall not practice law in the court on which the judge serves, ~~or in any other court in the county in which his or her court is located, before a judge who is permitted to practice law,~~ and shall not act as a lawyer in a proceeding in which the judge has served as a judge or in any other proceeding related thereto;

A minority of the Task Force did not support the amendment, concluding that lawyer judges often have substantial practices and can appear before full-time judges and part-time non-lawyer judges. This is true only because presently there are so few part-time lawyer judges in rural settings. If NYSBA's policy to have all attorney justices were to come to fruition, this rule would have a significant effect on a lawyer judge's practice, and is, in fact, a deterrent to fulfilling this NYSBA policy.

CONCLUSION

As amply demonstrated in this Report, we face formidable challenges in ensuring that rural legal services are adequately delivered and administered with a fair and even hand. To be sure, a great society - a just society - is judged not on the success of the successful, but upon its response to those in need. The time has come to recognize that those in need include the many families and individuals who reside in rural New York. We hope that our diverse proposed interventions ameliorate some of these critical issues and that the full panoply of stakeholders who need to be involved to initiate these interventions step up, as we must do something about the imminent crisis before us. Thank you for your careful consideration.

Success on the horizon? New efforts to increase rural access to justice

By Dan Kittay

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When the federal government started offering grants to communities to help them deal with the opioid crisis, Tara Kunkel, who at the time worked for the [U.S. Department of Justice](#), noticed that rural communities were not submitting as many grant applications as their suburban and urban counterparts. This, despite the fact that rural communities were "being disproportionately impacted by the opioid epidemic," Kunkel says.

"We were having trouble getting money to where we needed to get it to," she recalls.

Around the same time, Kristina Bryant and her colleagues at the [National Center for State Courts](#) were having an increasing number of conversations about what kinds of federal resources rural justice systems can access, and making sure they were aware of them.

When Kunkel left DOJ in March 2020 and formed [Rulo Strategies](#), her firm connected with the NCSC, and they embarked on an effort to learn as much as they could about what obstacles officials in rural areas face, and what kinds of solutions could be effective. Rulo and the NCSC formed the [Rural Justice Collaborative](#), which focuses on educating people about which solutions they might be able to adopt, and also on encouraging the development of new solutions.

The problem with the lack of grant submissions stemmed from rural communities not having enough people to devote the time to prepare and submit the applications, Kunkel says. "They didn't have the luxury of having grant writers on staff the way that larger communities often do," she explains. "They didn't have the same capacity in terms of staffing."

The lack of enough people also affects how rural communities can implement programs when they do receive grants, says Bryant, principal court management consultant at the NCSC. "In a suburban or urban community, the work that goes along with actually using that money is typically spread out among multiple departments and people," she says. "Rural communities don't have that depth of resources available to them. There are some barriers beyond just being successful in getting the money."

The RJC has conducted numerous interviews with officials from rural communities to get a sense of what their biggest concerns are. The group's work is "strength based," Bryant notes. "We often talk about rural communities from a place of, what they do not have available to them? One of the pillars of the work we're trying to do is identifying

programming or implementations of work that is being done in rural communities that appear to be working.

“Let's start shining a spotlight on that work and sharing that from community to community.”

Toward that end, in October 2021, the RJC identified nine noteworthy innovation sites; one of these is South Dakota's well-known [Rural Attorney Recruitment Program](#), a partnership between the [State Bar of South Dakota](#) and the [South Dakota Unified Judicial System](#). The RJC's [goals for 2022](#) include identifying more innovation sites, helping leaders in rural justice efforts connect with each other, and developing a research agenda.

The problem of access to justice in rural areas is not new, but some see it as becoming more serious in recent years. Interviews with bars and other organizations reveal a range of efforts designed to get a greater handle on how big the problem is, and also how to help solve or reduce it.

Identifying and eliminating barriers

The [Legal Services Corporation](#) created a Rural Justice Task Force in December 2021, with the aim of developing an overview of why there is a shortage of access to justice in rural areas, and promoting solutions, says Ron Flagg, LSC president.

The task force divides the issue into three broad categories, Flagg says. The first category is identifying the barriers to having more legal representation available in rural areas. These include a dispersed population, relatively few lawyers, more poverty in rural areas in general than in suburban and urban areas, and inconsistent availability of broadband internet.

Whether lawyers are based in rural areas or are remotely assisting clients who live there, a lack of fast, reliable internet access presents challenges. It also can prevent people in rural areas from using self-help portals and other online tools. One bit of good news: With the passage of the federal Infrastructure Investment and Jobs Act in 2021, those interviewed for this article believe the issue is likely to be significantly reduced, if not eliminated as a barrier. (The ABA lobbied on this issue at its 2020 ABA Day; for more information, see [“Faced with pandemic, ABA Day in Washington goes digital,” Bar Leader](#), May-June 2020.)

The second category is identifying successful service delivery models that address those barriers. One approach could be to persuade pro bono lawyers in urban areas to provide virtual service to rural areas, Flagg says. Other possibilities include partnerships between lawyers and local entities such as medical facilities or libraries, where an attorney has a physical presence in an established institution that is already visited often by people who need legal information and help.

The third category is increasing the pipeline of lawyers to live and work in rural areas. The LSC has had a successful summer fellowship program where law students work in LSC-funded entities in rural areas, Flagg says. The LSC will look at expanding that program, and also at bringing in other stakeholders who might be willing to be part of a local effort.

Fellowships bring success

Bars and other groups around the country that are grappling with rural access to justice have been experimenting with some of the approaches outlined by the LSC and the RJC, as well as exploring others.

The [Illinois State Bar Association](#) has established the [Committee on the Rural Practice Initiative](#) to focus on attracting more lawyers to set up practice in the state's rural areas, says Daniel Thies, committee chair. The committee has looked at what other bars have done and studied the results of various surveys, including the [2020 ABA Profile of the Legal Profession report](#), which highlighted information about legal deserts in the United States, Thies says.

The committee also listened to complaints from members in rural areas, including those who wanted to sell their practices and retire but could not find lawyers interested in moving to their communities and buying the practices. Data shows that not only do some Illinois counties have only a few lawyers in private practice, but many of those lawyers are 55 years or older and are likely to retire soon.

"That all added up to a real crisis," Thies says. "What's going to happen in the next 10 years if we don't find some new ways to get attorneys into rural areas? There are going to be so few lawyers that access to justice is really going to be affected."

Effects of the shortage include clients having to travel greater distances to find a lawyer, which in some cases could mean they won't get a lawyer at all, Thies says. Real estate transactions, trusts and estates matters, family law, and business legal issues are all at risk because of the lack of lawyers.

A key group of people whom the ISBA is concerned about is those whose income level is just high enough to prevent them from qualifying for legal aid. "The problem that we've heard about from the legal aid agencies is that as there are fewer private attorneys able to handle those kinds of things, people turn more often to legal aid," Thies notes. "The burden on the legal aid agencies has increased."

The committee has created two programs designed to match rural firms seeking lawyers with graduating law students and new lawyers who might be interested in moving to those areas. The Rural Practice Summer Fellows program connects law students with firms in rural areas. Students receive a \$5,000 stipend and mentoring geared toward how to practice in rural areas. There is also the Rural Practice Associate Fellows program, which sets up one-year arrangements where firms pay a salary to the new lawyer, and the ISBA

pays a stipend of \$5,000 at the beginning of the year and an additional \$5,000 at the end of the year. Mentoring is also provided.

In 2021, the first year for both programs, 10 associates were hired, and four summer clerks. For 2022, the committee has approved eight associates and five summer clerks, Thies says.

For Blinn Bates, the fellows program was exactly what his firm needed. The firm of three attorneys, based in Lincoln, Ill., was looking to hire an associate and not having luck in finding candidates. Bates heard about the program at a small firm conference and applied. His firm was sent information about six candidates and interviewed four of them. They ended up hiring one, who has worked out well, Bates says.

"That stipend is really helpful," he notes. "One of the things we ran into was a lot of people coming out of law school wanted these higher salaries [that firms in places like Chicago and St. Louis can offer]. It helped us to be a little more competitive."

Staci Vazquez is a lawyer who entered the fellows program and found a job in Morris, Ill. Vazquez had been a paralegal for 21 years, commuting from rural La Salle County to Chicago or Wheaton for work. When she became a lawyer, she decided she wanted to live and work in a rural area, and not have to make the commute to a larger city.

The stipend allowed her to stay local and earn enough to cover her financial obligations, Vazquez says. Through the program, she attends webinars on legal and networking topics. She has learned a lot through her work at the firm and is glad she was able to participate in the program.

Encouraging diverse lawyers toward rural practice

Many rural areas are suffering from a shortage of lawyers overall; some leaders are also concerned about a lack of diverse lawyers in particular.

"There's a huge gap of diverse attorneys in the central Washington [state] area," says Diana Lopez, coordinator/attorney with the [Washington Law Schools Collaborative](#).

The collaborative, which is funded by a grant from the [Law School Admission Council](#), connects [Heritage University](#)—a small university in the central Washington town of Toppenish—with the state's three law schools: [Seattle University School of Law](#), [University of Washington School of Law](#), and [Gonzaga University School of Law](#).

Heritage's student population is 70 percent Latino and 10 percent Native American, Lopez notes. In the past five years, while many Heritage students have gone on to other types of graduate programs, none have been admitted to any of the state law schools. Lopez says one of the reasons is that most of the students have not learned what is involved in being

successful in law school, and why a career in the law can be rewarding and still allow the lawyer to remain in their home community after graduation from law school.

The collaborative aims to change that by providing an intensive, three-week summer program on Heritage's campus, beginning in June. Students will meet state Supreme Court justices, participate in a mock trial, and receive mentoring from community lawyers and judges. Students who complete the program receive a \$1,000 stipend. There is no cost to participate in the program. Heritage hopes to have 30 students attend, Lopez says.

This collaborative is focused on encouraging students of color to become lawyers and then practice in the rural areas where they are already at home; for ideas on how bars can help lawyers of color feel comfortable living and working in areas that are not as diverse, please see [“What if the bar matches the community ... and neither is diverse in race and ethnicity?”](#) *Bar Leader*, January-February 2021.

While most of the work discussed in this article addresses civil access to justice, a report released in 2021 by [Vera Institute of Justice](#) noted that criminal justice is an intersectional issue in many rural areas. “Black people are incarcerated at higher rates than white people across the rural-urban spectrum,” Vera’s [Incarceration Trends report](#) states. “Although urban areas still have the biggest racial disparities, they have made larger strides in reducing racial disparities over the past three decades than have rural counties and smaller cities, where total incarceration rates today are the highest.”

‘I never knew it was an option for me’

On the other side of the country, the [Maine State Bar Association](#) Rural Practice Committee has been focused on bringing together rural firms that want to hire attorneys with recent law school graduates and others who may not be aware of the benefits to living and working in a rural area, says committee Chair Zachary McNally. It starts with making people in rural areas aware that they can have a successful career in the law.

“I’m from a rural area. I never thought about the practice of law because I never knew it was an option for me,” McNally says. He ended up working at a law firm after graduate school, and his experience there sparked an interest in attending law school. After earning his JD, McNally moved back to where his family lives; he has been practicing there for six years.

The committee had planned a career fair in a rural area, with local firms getting a chance to meet law school students and recent graduates. The pandemic forced a cancellation, but the MSBA plans to make it an annual event.

One issue that comes up for most rural firms is whether the salary they can offer will allow law school grads to live comfortably and pay off what for many is a sizable amount of law school loan debt.

McNally says that while most new attorneys should be able to make ends meet, there is a caveat: "There is a period, maybe two to four years, where a new attorney is going to be financially vulnerable while they establish themselves in the community and develop their practice." The committee has also focused on supporting legislation that provides tax credits for lawyers practicing in rural areas.

A desert or a land of opportunity?

What's in a name? A lot, says Emy López, director of local bar relations and access to justice at the [Colorado Bar Association](#). Many groups and studies refer to rural areas without enough lawyers as "legal deserts," López says. What's the problem? "If you call it a desert, no one will want to move there," she believes. The group that is most closely studying the issue, Legal Opportunities in Greater Colorado, refers not to legal deserts but to places outside of the Denver metro area.

One focus for the group is determining what programs are successfully helping to increase access to justice, and then promoting those programs and connecting those who run them with others who may want to emulate them.

"There are a lot of good things going on out there. Not everyone is connected to each other," López says, and the lack of connection can limit the spread of those good ideas.

In Nebraska, there are 12 counties that have no lawyers in private practice, says Sam Clinch, associate executive director of the [Nebraska State Bar Association](#), which has run the Rural Practice Initiative since 2013. The program matches firms in rural areas with lawyers and law students who want to either become an associate or be a law clerk for the summer. The NSBA has placed 32 associates and 31 summer clerks through the program, Clinch says.

Clinch agrees with López that marketing is part of the equation when encouraging rural practice. "It's really hard to get people who have grown up in a big city to go to rural Nebraska," he says. "What we tell them is the quality of life is very good. Housing is affordable. If you want to litigate, and you go to a big firm in Lincoln or Omaha, you might see the inside of a courtroom in two or three years.

"If you go out to Burwell [a small town and county seat], you'll probably be second chairing a trial the first couple of weeks you're in town."

ENTITY:

Serving the Underserved: Innovative Solutions Needed to Solve the Rural America's Lawyer Drought

By Stephen Embry on March 19, 2024

POSTED IN [UNCATEGORIZED](#)

The lack of lawyers in rural areas has attracted much attention lately. Rural pockets with few or no lawyers living there, the so-called legal deserts, are on the upswing.

According to some surveys, 14% of the population lives in rural areas, but only 2% of lawyers do. A [2020 ABA study](#) found that 40% of all counties in the

US have fewer than one lawyer for every 1000 residents. Fifty-two counties have no lawyers, and another 182 have only one or two.

There are multiple reasons for the dearth of rural lawyers. Many young lawyers simply want to live in more urban areas. They value the quality of life, cultural opportunities, and better access to health care that urban areas offer. Many have professional spouses who also want and need to work. Instead of one job, deciding to be a rural lawyer requires finding two jobs in areas where job opportunities may not be as plentiful as in urban areas.

Lawyers also fear they will be unable to make as much money working in rural areas. It's not just greed: most young lawyers have significant student loans that must be paid. Young lawyers worry about a lack of training and mentorships that would be available to them if they choose to practice in a legal desert.

Add to this the fact that many older rural lawyers are reaching retirement age. This reduces the number of lawyers serving rural populations. And it also means fewer opportunities for younger lawyers to work with older lawyers in those areas and gain experience.

These declining numbers are bad for the profession and society for many reasons. First and foremost, it means that people living in rural areas will be deprived of access to lawyers, the court system, and justice itself. The legal problems these folks face are not much different from the problems everyone faces when it comes to law. Property transactions, wills, divorce, lower-level criminal issues. Like people everywhere, rural folks find the cost of legal services for most things is simply prohibitive. But people living in rural areas face another big problem: they can't find a lawyer even if they could afford one.

Asking people to live someplace they aren't interested in for money will likely not work. At best, it's a temporary fix

Most of the proposed solutions focus on incentivizing younger lawyers to move to and practice in rural areas. As if short-term financial incentives will entice them to move there and live there long term.

I talked to [Cat Moon](#), the Director of Innovation Design Program in Law and Innovation at Vanderbilt University and a leading thinker on problems like the

legal desert. Cat is a fifth generation lawyer who grew up in small town where her father practiced law. Despite this, she never considered going back to her hometown for many of the reasons mentioned above. Says Cat, “If I, someone with a strong connection to the rural community and with no substantial debt to repay would not chose [the rural] path, its stretching the collective imaginationn to think that any program to incentivize lawyers to move to rural communities is going t have any kind of measurable impact.”

Most solutions miss the point of why lawyers aren’t interested in moving to rural areas in the first place. Financial incentives don’t really address the issues that are holding people back. Issues like jobs, lifestyle, gaining experience, health and even childcare. Asking people to live someplace they aren’t interested in for money will likely not work. At best, it’s a temporary fix.

Using financial incentives to draw lawyers, especially younger lawyers, to move someplace to address the lawyer desert problem is trying to solve a new problem with an old way of thinking. If we can get lawyers to move to rural areas, the needs of rural people will be served.

How can we as a profession deliver services and outcomes in the rural desert in new and different ways?

But that’s focusing on the lawyers, not serving the people that need help. In other words, if we are going to solve the rural legal service gap, we need to ask different questions. How can we as a profession deliver services and outcomes in the rural desert in new and different ways, for example? How can we try to solve the legal desert problem differently than we have traditionally solved problems like this? In ways other than trying to convince lawyers to move to where the clients with the needs are?

We can begin to focus on providing the service in new ways. The pandemic, for example, has taught us that a lot of legal work can be done without everyone being in the same room. It has shown us that court proceedings need not always be held in person.

Applying these lessons to the legal desert problem lets us think about how lawyers might serve clients in rural areas without necessarily living in those areas. We can think about remotely linking young lawyers in urban areas with older lawyers in rural areas for mentorship and learning experiences. We can think about financial incentives not based on moving but on serving. So, a

younger lawyer could get a stipend in return for committing a defined period serving rural clients in diverse locations, for example.

We can ask judges to look for ways to get younger lawyers from urban areas more involved in their courtrooms. We can ask the judiciary to welcome these lawyers and ensure that proceedings are conducted remotely whenever possible. We can seek funds to improve internet service in rural areas instead of renovating courthouses. We can encourage the use of technology to bridge some of the gaps in service to those in rural areas and reduce the overall access to justice gap.

Cat thinks we can also look to the medical profession for service ideas. “Imagine if we had well trained legal experts (not lawyers) in the kinds of issues that folks in rural communities most need help with—just as nurse practitioners help with common medical issues. We can train and authorize...helpers to provide the help where it’s needed, in ways that are accessible and at a cost more folks can afford.”

It sure beats no service at all

Of course, the argument is that servicing people in new ways that do not require lawyers at all or with lawyers living elsewhere somehow diminishes the quality of legal service. But the traditional model isn’t working. People aren’t getting the legal services they need. Having those needs met by someone who may not be a lawyer or by a lawyer who lives elsewhere sure beats no service at all..

So let’s start asking the right question: how can the legal needs of those in rural areas be best served in today’s world?

REFRAMING RURAL PRIVATE PRACTICE WORK

Aug 7, 2020 [Aiden Park3 comments](#)

Hannah Haksgaard, *Rural Practice as Public Interest Work*, 71 Maine L. Rev. 209 (2019).



Aiden Park

The splendors of rural America outnumber the stalks of wheat that spill down the Great Plains, the time-worn, sleepy peaks of Appalachia, the saguaro cacti whose sunbaked resolve outlasts generations of western settlers. Indeed, approximately 97 percent of U.S. land is within rural counties, capturing wonders throughout this nation's countryside. But while a large swatch of America preserves the pastoral, one aspect is noticeably absent from this bucolic ideal: lawyers. In *Rural Practice as Public Interest Work*, Hannah Haksgaard first establishes that there is a profound lack of rural lawyers, especially when compared to the "glut of lawyers in urban areas." (P. 213.) Such a dearth exacerbates rural residents' inability to access justice and to satisfy crucial legal needs. Essentially, Haksgaard asserts, there is a need for every type of attorney in rural areas: prosecutors, public defenders, immigration attorneys, divorce lawyers, bankruptcy lawyers, trusts and estate lawyers, and many more.

In order to combat this shortage of attorneys, Haksgaard suggests we change our conception of public interest lawyering. In particular, Haksgaard challenges us to think about rural legal practice as a form of public interest service rather than mere private practice work because rural attorneys engage in "mixed practice" work, serving part-time as prosecutors or court-appointed defense counsel in addition to their roles in private practice. Haksgaard further posits that institutions should provide incentives to encourage recent law school graduates to move to and serve rural communities as public interest lawyers in this "mixed practice" capacity. In so doing, Haksgaard pushes against the assumption that private practice work is homogenous, especially when such work takes place in rural locales.

An ABA publication defines "public interest" as providing services for historically underrepresented persons in the legal system, which necessarily includes those living in remote areas who are oft-secluded from legal resources. Thus, Haksgaard makes a compelling and straightforward argument: rural private lawyers serve historically underrepresented persons and therefore should fall under the public interest attorney umbrella.

Being considered a public interest lawyer is not merely a symbolic moniker. It carries important implications, which directly affect eligibility for loan forgiveness programs. As it stands, the federal government's Public Service Loan Forgiveness Program (PSLF) does not allow any private practice attorneys to participate, regardless of geography. ¹ Haksgaard posits three arguments for why excluding rural lawyers from PSLF is a mistake. First and most obviously, the PSLF exclusion disincentivizes lawyers from serving rural communities.

Second, and as mentioned above, many rural private practice attorneys engage in "mixed practice" by performing the same functions traditional public interest lawyers perform, including situations in which private practice attorneys take on a part-time basis criminal cases as either prosecutors or public defenders. To be sure, Haksgaard advocates for PLSF to cover *all* rural attorneys, regardless of whether they engage in this mixed practice work. Afterall, Haksgaard reasons, many of the folks rural lawyers serve are routinely considered disadvantaged and underprivileged.

Third, Haksgaard compellingly shows that the PSLF's current loan forgiveness line-drawing doesn't make sense, as rural private practice attorneys serve the same interests but often earn *lower* salaries than government or traditional public interest lawyers. Indeed, at least in some parts of the U.S., rural private practice attorneys earn approximately 45 percent of the national mean salary urban private practice attorneys earn, as reported by the National Association for Law Placement in 2018. Haksgaard makes a common-sense argument that the PSLF's definition is currently under-inclusive and should be expanded to incorporate rural

private practice into its definition of “public interest,” as it would incentivize the growth of rural lawyers, as well as justly compensate these lawyers for the public interest work they so often perform.

Haksgaard then moves into a less tangible implication for expanding our definition of “public interest.” She cites a 2018 survey conducted by the Association of American Law Schools, which reports that aspiring law students’ primary motivation for attending law school is a sense of service and desire to help others. (P. 223.) She uses several, self-branded “public interest” law schools such as the University of the District of Columbia to illustrate how institutions that characterize themselves as “public-interest focused” can attract individuals eager to serve underserved populations, and how this logic can easily extend to describe rural private practice. Thus, Haksgaard asserts, labeling rural private practice as a form of public interest work would better represent the nature of rural legal work and excite and draw more students to serve rural communities.

Further, in order to promote access to justice in rural communities, law schools can do more than expand access to the PSLF and help to recharacterize rural legal work as public interest work; they can facilitate programs that are designed to specifically support students interested in opening rural private practices. Constituting my favorite point, Haksgaard focuses on Drake Law School as an exciting example of such assistance, as it recently launched a [Rural Access to Justice Initiative](#). This new initiative encourages and supports law students who wish to practice in rural Iowa by offering donated or discounted office space to set up a solo practice, alumni mentoring, assistance in obtaining initial clients and a start-up stipend in exchange for dedicated pro bono hours.

Finally, Haksgaard calls for Congress to subsidize rural attorneys. Specifically, Haksgaard advocates for governmental assistance through programs such as “judicare,” or through a system in which a court compensates lawyers who perform civil services traditionally reserved for legal aid attorneys in locales that do not have access to such services. After all, Haksgaard says, these attorneys often perform varied work in addition to their private practice work, sometimes the same kind of work government-funded legal aid lawyers perform. Relatedly, Haksgaard points out that attorneys *do* receive government compensation when they participate in certain types of cases, such as court-appointed criminal cases. However, the earnings from these types of cases are often so low that some attorneys end up losing money working on them and forgo participating in court appointments altogether. Thus, in places without nonprofits or legal aid offices, rural residents are hurt by a lack of lawyers able to assist them in seeking justice, an inability fostered by governmental neglect. To address these gaps, Haksgaard argues for increased governmental assistance, or at the very least, increased compensation that would better reflect the integral work that so many rural attorneys perform. Haksgaard’s article is attractive for its relatively straightforward solutions to a persistent problem. By tweaking how we think about legal practice in rural America, we may be able to stimulate legal growth in underserved areas. Even if increased funding seems untenable, providing specialized information on how law students can operate successfully in rural locales and revising law school culture to be less stigmatizing and more inclusive of rural practice as public interest may be an important step in addressing the dearth of rural lawyers. Haksgaard’s points are appealingly common-sensical, bringing to light the fact that, instead of merely worrying about the rural, we could be doing so much more to support it.

WSBA SMALL TOWN AND RURAL (STAR) PRACTICE INAUGURAL SUMMIT June 7, 2024

Mirta Laura Contreras, Directing Attorney Granger NWIRP
laura@nwirp.org

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1

Attracting Lawyers to Rural Practice: How to Find Them, How to Keep Them

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Northwest Immigrant Rights Project

Statewide nonprofit law firm whose mission is to promote justice by defending and advancing the rights of immigrants through direct legal services, systemic advocacy, and community education.

Offices in Granger, Seattle, Tacoma, and Wenatchee

Challenges in recruiting and retaining staff in Granger and Wenatchee.

<https://www.nwirp.org/get-help/>

2

Attracting Lawyers to Rural Practice: How to Find Them, How to Keep Them



- **Start Recruitment Early**

- **Middle & High School**
 - opportunities: Tri-Cities Youth and Justice Forum, Friday, October 25, 2024, Richland Federal District Court. For more information re the Tri-Cities Youth and Justice Forum, email planning committee chair Eddie Morfin, Eddie@MorfinLawFirm.com
- **Undergraduate externs**
 - Social work, criminal justice, business, political science are all potential volunteers and future lawyers
 - Innovative programs, e.g. Heritage University pipeline project <https://www.heritage.edu/deadline-approaching-to-apply-for-law-school-pipeline-program-at-heritage-university/>
 - Mentor a cohort and develop a relationship (year long Gonzaga volunteer)
- **Law school**
 - Laurel Rubin Fellowship provides funding which help recruit interns to E.Wa and get a taste of the work we are doing
 - NWIRP has also funded E.WA internship positions

3

Attracting Lawyers to Rural Practice: How to Find Them, How to Keep Them



Finding Them:

- Externships
 - Undergraduates -> Legal Advocate /Accredited Rep Positions
- Fellowship applicants include many qualified applicants
- Your Staff
 - Paralegals, secretaries, and others on your staff
 - WSBA Law Clerk Program - commitment to the program, but changes needed. Ratio of lawyers to community in Yakima County 1/667
- Host a Webinar
 - <https://vimeo.com/754362040>

4

Attracting Lawyers to Rural Practice: How to Find Them, How to Keep Them



Offer Benefits!!

- Early hiring of 3L's - offering FT staff position in the beginning of their 3rd year
- Relocation assistance
- Mentoring/training for supervisory opportunities
- Housing costs
- Loan repayment assistance

5

Attracting Lawyers to Rural Practice: How to Find Them, How to Keep Them



Showcase the advantages to rural living:

- lower costs of living
- no parking and traffic hassles
- wines, fruits, vegetables in abundance
- Judicial opportunities, e.g. Elisabeth Tutsch and Sonia Rodriguez True, both from the West side, moved to Eastern Washington to practice, and are Yakima County Superior Court

6

QUESTIONS/COMMENTS

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Bridging Diversity: Navigating Intersectionality in Rural Practice

MCLE Notes and Materials

Bridging Diversity: Navigating Intersectionality in Rural Practice 75 Minutes, 1.25 Ethics

Notes from 5/21/24 Planning Meeting with Panelists

Ethical Discussion Points to Raise During Panel (Ethical concerns seen most frequently in their practice)

- RPC 5.5 (Unauthorized Practice of Law) Violations
 - o Specifically touching on the prevalence and impact of Notario Fraud
 - o ABA Article discussing Notario Fraud can be found here:
https://www.americanbar.org/groups/public_interest/immigration/projects_initiatives/fightnotariofraud/about_notario_fraud/?login
- Evidence Rules and Immigration Status
 - o Common issues that arise.

DEI Discussion Points to Raise During Panel

- Issues when attorneys are not from the communities they serve and the impact that has on the attorney / client relationship and the clients themselves. This highlights why it's so important to have diversity within the legal profession.
- Attorney experiences (homophobia, transphobia, and xenophobia) in the rural community. The barriers to increasing diversity in practice specifically in rural areas and any potential solutions.

Undocumented Community Needs Assessment for the Yakima Valley Discussion

- Pointing out the barriers the community is facing Yakima is helpful as it highlights issues seen in most rural communities. Really highlights the lack of resources which ties into the discussion of the violations of RCP 5.5 and additional reasons why clients feel they have no other alternatives when looking for help. Will likely be referenced throughout panel discussion.
- Full survey provided to Panelists and WSBA as background, will inform attendees of where they can find the survey or potentially send a follow-up email to attendees with the link to the survey if possible.

List of Materials for WSBA

- Notes from discussion (internal use)
- Draft of questions for panelist (internal use)
- [ABA Article on Notario Fraud](#) (internal use)
- Attached PDF of the Undocumented Community Needs Assessment for the Yakima Valley (will be referenced, email PDF or link to attendees if possible)

DRAFT WSBA Small Town and Rural (STAR) Practice Inaugural Summit Panel Format & Questions

Panel Information:

1:00 p.m. – 2:15 p.m., Friday, June 7, 2024

Panel Title:

Bridging Diversity: Navigating Intersectionality in Rural Practice 75 Minutes, 1.25 Ethics – DEI

Panel Description:

Explore the nuanced and multifaceted challenges and ethical considerations of practicing law and fostering inclusivity in rural areas. Join us for a conversation on insights and strategies for creating equitable and supportive environments in rural practice areas that not only enhance the services provided to clients but also supports diversity within the legal profession.

Panelists:


Vanessa Arno Martinez – Attorney & Co-Founder, Arno Martinez Law, PLLC, Wenatchee, WA
Paula Arno Martinez – Attorney & Co-Founder, Arno Martinez Law, PLLC, Wenatchee, WA
Blanca Rodriguez – Deputy Director of Advocacy, Columbia Legal Services, Seattle, WA
Panel Moderator: Zaida Rivera – Visiting Assistant Professor of Law, Seattle University School of Law, Seattle, WA

Panel Format:

- Give roadmap of panel discussion
- Introductions of panelists
 - Would you like Zaida to read your bios or let you share your journey?
- Questions for panelists (popcorn style)
- Question & Answers

Panel Questions:

- Tell us a little about your work/office
- Can you share a bit about your career path to your current position and location?
- What do you see as the biggest challenge our community faces where you live and practice?
- What are possible solutions to these issues?
- What barriers do you face in your practice?
- How does Immigration status impact your work? Evidence rules (Blanca)
- Can you explain a Notario and how it impacts our community? (Vanessa)
- What other problematic practices do you see? (All)
 - Shady attorneys (extortion) in immigration
 - Employment based (quick settlements)
 - Attorneys not being from the community
- What personal challenges have you endured in your location? Intersectionality (Paula)
 - Homophobia, transphobia, xenophobia
- What are perks to practicing in a small town/rural community?
- What keeps you motivated to do your work?
- What advice would you give to attorneys thinking working in rural/small town communities?



UNDOCUMENTED COMMUNITY NEEDS ASSESSMENT FOR THE YAKIMA VALLEY

A report for the Access to Justice Board,
Washington State Bar Association

February 20, 2023

by
Victoria Breckwich Vásquez, DrPH, MPH, MA
& Isabel Reyes-Paz

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Context of Project

This report is delivered in response to a Request for Proposals in June 2022 by the WSBA Access to Justice Board's Delivery System Committee to undertake a needs assessment of the undocumented community in Yakima Valley, Washington.

The scope of work was to use quantitative and qualitative data to complete each of these study aims:

Study Aim 1: Gather historic, demographic, and economic information about the Yakima Valley for the last 5 years.

Study Aim 2: Determine what legal services exist that do not require legal status throughout the Yakima Valley.

Study Aim 3: Determine what legal and structural inequalities exist throughout the Yakima Valley for undocumented immigrants.

Study Aim 4: Identify which delivery models might best address the barriers that are experienced by undocumented immigrants.

Study Aim 5: Identify some short-term and long-term solutions based upon the information collected, including funding to support them.

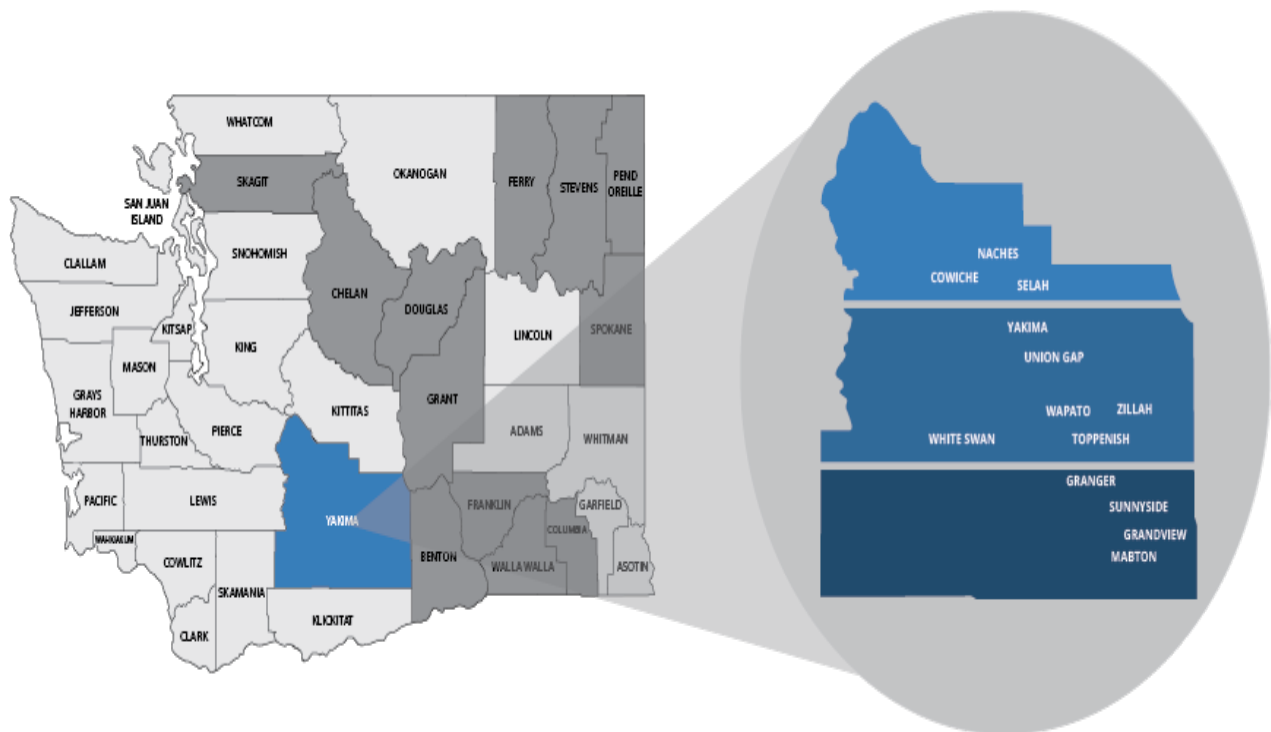
This report is the result of research conducted from July 2022 to January 2023, and contains our findings for each of these study aims.

Study Aim 1

Yakima Valley Historic, Demographic and Economic Information

The Region

Yakima Valley comprises both metropolitan and rural areas and is largely encompassed by Yakima County, the second largest county in Washington state, by area.¹ Named after the Yakama Nation, Yakima County is located in south-central Washington and includes the cities and towns of Grandview, Granger, Selah, Sunnyside, Toppenish, Union Gap, Wapato, Yakima, and Zillah.² There are several parts that make up Yakima County: the city of Yakima, Upper Yakima valley, Middle Yakima valley, Lower Yakima valley, the area belonging to the Yakama Nation (39%), and other entities that own another portion of the County: the U.S. Forest Service (18.3%) and the Yakima Training Center (the U.S. military's main training site in the Pacific Northwest) (6%). See Map below.



Map of Yakima County Divided Into Upper, Middle and Lower Yakima Valley. (Source: Yakima Valley Trends: <http://yakimavalleytrends.org/>)

¹ Yakima County is its own Core-Based Statistical Area and Metropolitan Statistical Area, and Census data is organized and available both by County and by these statistical areas, which are one and the same. Source: U.S. Department of Commerce, Economics and Statistical Administration, US Census Bureau (2012). Available at: https://www2.census.gov/geo/maps/econ/ec2012/cbsa/EC2012_310M200US49420M.pdf

² Don Meseck. Yakima County Profile, Employment Security Department. Available at: <https://esd.wa.gov/labormarketinfo/county-profiles/yakima> (2022)

Yakima County's development was shaped largely by the Northern Pacific Railroad and the Yakima River. Most of the county's population is concentrated along this river, largely because irrigation was critical to the success of the communities and the farmers who settled in this area and commercial fruit production took off.³ The County is home to over 100 food processing and packaging companies including Smucker's, Tree Top, Fruit Smart, Seneca and Del Monte.⁴ Yakima's wine and beer industries are major parts of the agricultural industry, as are forestry and livestock, dairies and storage/shipping of tree fruits.⁵

General Population Characteristics

In 2020 across the United States, Latinx people accounted for 18.7% of the total U.S. population, growing to 62.1 million.⁶ However, on March 10, 2022, the U.S. Census announced that two analyses of its data revealed that the Latino population was undercounted by nearly 5%.⁷

Washington state's Latinx population has more than quadrupled since 1980, climbing from 2.9% to 13.4% presently.⁸ By comparison, Yakima County is the state's largest majority Latinx County (50.6% Latinx) as of 2020.⁹ In addition, 18.4% of Yakima County's population is foreign born, whereas in Washington state, 14.5% are foreign born.¹⁰ And of the foreign born in Yakima, 31.8% are naturalized U.S. citizens and 68.2% are not U.S. citizens.¹¹

Undocumented Population in WA state and Yakima County

Undocumented people without access to work permits like Deferred Action for Childhood Arrivals (DACA) or Temporary Protected Status (TPS) are often unable to get access to living-wage jobs because of their lack of a work permit and minimal access to meaningful public education. Undocumented people are actively exploited by employers (experiencing wage theft, violence, and retaliation) and risk their lives as essential workers during the COVID-19 pandemic to support the local and state economy. Undocumented individuals are kitchen workers in our local restaurants, caretakers of elders and children in our various communities,

³ Don Meseck. Yakima County Profile, Employment Security Department. Available at: <https://esd.wa.gov/labormarketinfo/county-profiles/yakima> (2022)

⁴ Yakima Valley Trends, Welcome to the Yakima Valley. Available at: <http://yakimavalleytrends.org/ourHome.cfm>

⁵ Don Meseck. Yakima County Profile, Employment Security Department. Available at: <https://esd.wa.gov/labormarketinfo/county-profiles/yakima> (2022)

⁶ Nicholas Jones et al., *2020 Census Illuminates Racial and Ethnic Composition of the Country*, U.S. CENSUS BUREAU (August 12, 2021): <https://www.census.gov/library/stories/2021/08/improved-race-ethnicity-measures-reveal-united-states-population-much-more-multiracial.html>

⁷ *Census Bureau Releases Estimates of Undercount and Overcount in the 2020 Census*, U.S. CENSUS BUREAU (Mar. 10, 2022), <https://www.census.gov/newsroom/press-releases/2022/2020-census-estimates-of-undercount-and-overcount.html>

⁸ Washington Office of Financial Management Population Estimates (2021). <https://ofm.wa.gov/washington-data-research/statewide-data/washington-trends/population-changes/population-hispaniclatino-origin>

⁹ P2: Hispanic or Latino, and No Hispanic or Latino by Race. 2020 Census. United States Census Bureau. Retrieved July 9, 2022; using this data source, Yakima County's population is 256,728 and 130,049 identified as Latinx. These percentages are also found in US Census population estimates as of July 1, 2021.

¹⁰ 2020 American Community Survey 5-year estimates

¹¹ 2020 American Community Survey 5-Year estimates - Data Profiles

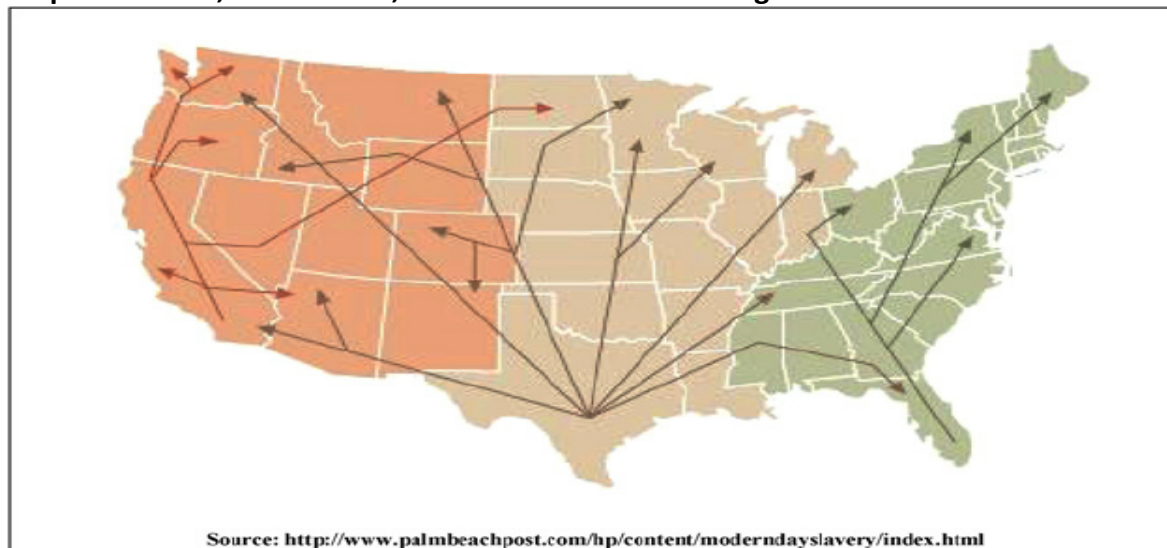
farmworkers who plant, maintain, and harvest our food, office cleaners and workers who maintain our hospitals and public spaces.¹²

It is estimated that between 240,000-246,000 undocumented immigrants live in Washington state.¹³

Further, the Migration Policy Institute estimates that Washington state's undocumented population is largely from Mexico and Central America (65%), and 2% from South America, is about 45% female, and has varying years of U.S. residence (23% less than 5 years, 16% 5-9 years, 20% 10-14 years, 21% 15-19 years, and 20% living 20 years or more). The Undocumented immigrant population is poor (46% are below the 200% Federal Poverty Level) and 46% are uninsured. They also estimate that 64% of undocumented individuals speak Spanish at home.¹⁴

The Yakima Valley has long appealed to migrant workers, documented and undocumented.¹⁵ Most migrant workers come from Mexico and form a critical backbone of Yakima's agricultural economy as part of the Western Migrant Stream that attracts migrant labor to the many fields and warehouses offering temporary, seasonal work throughout California, Oregon, and Washington.¹⁶ See Map below.

Map of western, midwestern, and eastern streams of migrant labor movement.



¹² Washington Dream Coalition, Community Provides: Undocumented Communities in Washington State During the COVID-19 Pandemic. Available at: https://assets.website-files.com/61959efc2f5d2186f9a2f09e/61a717bc848a3c6c7820423e_CommunityProvides.pdf

¹³ This is based on two different Census models on estimating undocumented populations by state, as discussed in a Census Bureau memo and the Migration Policy Institute estimates. U.S. Census Bureau memo is available at: <https://www2.census.gov/about/policies/foia/records/2020-census-and-acs/20200327-memo-on-undocumented.pdf> and the Migration Policy Institute, Profile of the Unauthorized Population: Washington (2019) report is available here: <https://www.migrationpolicy.org/data/undocumented-immigrant-population/state/WA>

¹⁴ Migration Policy Institute, Profile of the Unauthorized Population: Washington (2019). Report available here: <https://www.migrationpolicy.org/data/undocumented-immigrant-population/state/WA>

¹⁵ James N. Gregory, *Toward a History of Farm Workers in Washington State*. Seattle Civil Rights & Labor History Project. University of Washington. Available at: https://depts.washington.edu/civilr/farmwk_ch1.htm; Nella Letizia, *Couple's Ancestry Search Leads to Nash Photos of Yakima Valley Farm Workers*, Washington State University News/Events (2020). Available at: <https://libraries.wsu.edu/blog/2020/09/15/couples-ancestry-search-leads-to-nash-photos-of-yakima-valley-farm-workers/>

¹⁶ Jamie E. Bloss, Catherine E. LePrevost, Abdul G. Zahra, Gina C. Firnhaber, Leslie E. Cofie, Ramon Zepeda, and Joseph G.L. Lee. Advancing the Health of Migrant and Seasonal Farmworkers in the United States: Identifying Gaps in the Existing Literature, 2021. *Health Promotion Practice* 23(3), 432-444 (2022)

It is estimated that anywhere between 15,000-25,000 (with strong evidence for 24,000) undocumented/ unauthorized individuals live in Yakima County.¹⁷ Interesting to note is that while numbers of undocumented immigrants decreased across the U.S. from 2007-2016 (1.5 million fewer), Yakima County maintained its same rank, 70, out of 182 metro areas with high % undocumented immigrants.¹⁸ Another distinguishing characteristic of Yakima County's undocumented population as compared to other metro area's undocumented populations, is the large percentage of undocumented immigrants as a % of total foreign-born (43%). Finally, Yakima has a high % of undocumented immigrants as a % of the total population (8.5%) – only 2 metropolitan statistical areas in Texas, 2 in California and 1 in Georgia exceeded it.¹⁹

Specific Population Characteristics: Language, Age, Education, Employment, Income

Family Profile: Many consider undocumented individuals to be recent arrivals. However, in Yakima County that does not fit the profile. More than 75% have lived in the U.S. for more than 10 years, with many residing in the U.S. for over 20 years.²⁰ Half of the undocumented individuals in Yakima County are estimated to reside with at least one U.S.-citizen child under 18,²¹ suggesting the importance of legal assistance for immigration issues faced by Yakima's mixed-status households.

Language Profile: In Yakima County, Census data on languages spoken at home indicates that 59% speak English only, 39.5% speak Spanish, and 1.7% speak other languages.²² Among undocumented individuals in Yakima, English proficiency is more tenuous: 67% do not speak English well/at all, and 97% speak Spanish at home.²³

Age Profile: Yakima Valley has a relatively young population compared to the state. About 29.5 % of the County's residents are under 18 years old, compared to 21.8% statewide. However, among undocumented individuals in Yakima, 91% are over 16 years old, with most of them (73%) between 25-54 years.²⁴ Also, there are fewer older people in Yakima County as a

¹⁷ Profile of the Unauthorized Population: Yakima County, WA estimates 24,000 undocumented individuals based upon 5-year American Community Survey estimates and weighted population estimates provided by Pennsylvania State University's Jennifer Van Hook (2019). Available here: <https://www.migrationpolicy.org/data/unauthorized-immigrant-population/county/53077> ; Another 2019 report, *Estimates of U.S. unauthorized immigrant population, by metro area, 2016 and 2007* by Pew Research Center estimates 20,000 (+/- 5000) unauthorized immigrants in Yakima, WA MSA. Available at: <https://www.pewresearch.org/hispanic/interactives/unauthorized-immigrants-by-metro-area-table/>

¹⁸ *Estimates of U.S. unauthorized immigrant population, by metro area, 2016 and 2007* by Pew Research Center (2019). Available at: <https://www.pewresearch.org/hispanic/interactives/unauthorized-immigrants-by-metro-area-table/>

¹⁹ *Estimates of U.S. unauthorized immigrant population, by metro area, 2016 and 2007* by Pew Research Center (2019). Available at: <https://www.pewresearch.org/hispanic/interactives/unauthorized-immigrants-by-metro-area-table/>

²⁰ Migration Policy Institute, Profile of the Unauthorized Population: Yakima County, WA (2019). Available at: <https://www.migrationpolicy.org/data/unauthorized-immigrant-population/county/53077>

²¹ Migration Policy Institute, Profile of the Unauthorized Population: Yakima County, WA (2019). Available at: <https://www.migrationpolicy.org/data/unauthorized-immigrant-population/county/53077>

²² 2020 ACS 5-Year Estimates

²³ Migration Policy Institute, Profile of the Unauthorized Population: Yakima County, WA (2019). Available at: <https://www.migrationpolicy.org/data/unauthorized-immigrant-population/county/53077>

²⁴ Migration Policy Institute, Profile of the Unauthorized Population: Yakima County, WA (2019). Available at: <https://www.migrationpolicy.org/data/unauthorized-immigrant-population/county/53077>

percentage of the total population, as compared to Washington state (14% vs. 16%), and the same holds true for undocumented individuals.²⁵

Educational Profile: Educational attainment in Yakima Valley falls behind that of Washington state. Only 74.3% of the Yakima County's population 25 years and older were high school graduates or higher. This is lower than the Washington state average of 91.7% and the U.S. national average of 88.5%.²⁶ Overall educational attainment for undocumented individuals 25 and older in Yakima County is much lower; only 19% are estimated to have a high school diploma or equivalent.²⁷

Employment Profile: The Yakima Valley has a mixed economy that boasts a strong agricultural base of employment for the area's population, documented and undocumented. Compared to other sectors in the County, agriculture has the largest share of jobs provided (*see Table 1*). Among those undocumented individuals who participate in the labor force, agriculture is a top employer (54%) for undocumented individuals in Yakima.²⁸ In their report about COVID relief funds for undocumented individuals in Washington state, the Washington Dream Coalition reports that 75% of their Yakima applicants held agricultural jobs, vastly different from the King County applicants who mostly held restaurant/food industry employment.²⁹

Two other local industries come in second and third in terms of employment overall, health services and local government. Specifically, on an average annual basis in 2020, agricultural employers provided 30,767 jobs, or 27.8% of total covered employment countywide. Health services provided 16,543 jobs, or 14.9%; and local government averaged 13,079 jobs, or 11.8% of total employment. Together, these three sectors accounted for over half (54.5%) of total employment in Yakima County in 2020. Moreover, agriculture added the most jobs over the last 10 years (29% more) with much of the hiring occurring in marijuana production and among farm labor contractors related to the H-2A program.³⁰

²⁵ Migration Policy Institute, Profile of the Unauthorized Population: Yakima County, WA (2019). Available at: <https://www.migrationpolicy.org/data/unauthorized-immigrant-population/county/53077> ; Migration Policy Institute, Profile of the Unauthorized Population: Washington (2019). Report available here: <https://www.migrationpolicy.org/data/unauthorized-immigrant-population/state/WA>

²⁶ 2020 American Community Survey; U.S Census Bureau Quickfacts.

²⁷ Migration Policy Institute, Profile of the Unauthorized Population: Yakima County, WA (2019). Available at: <https://www.migrationpolicy.org/data/unauthorized-immigrant-population/county/53077>

²⁸ Migration Policy Institute, Profile of the Unauthorized Population: Yakima County, WA (2019). Available at: <https://www.migrationpolicy.org/data/unauthorized-immigrant-population/county/53077>

²⁹ Washington Dream Coalition, *Community Provides: Undocumented Communities in Washington State During the COVID-19 Pandemic*. Available at: https://assets.website-files.com/61959efc2f5d2186f9a2f09e/61a717bc848a3c6c7820423e_CommunityProvides.pdf

³⁰ Don Meseck, Yakima County Profile. WA Employment Security Department (2022). Available at: <https://esd.wa.gov/labormarketinfo/county-profiles/yakima>

Table 1. Key employment sectors by number of jobs and share of employment in Yakima, WA

Sector	Number of jobs	Share of employment
1. Agriculture, forestry and fishing	30,767	27.8%
2. Health services	16,543	14.9%
3. Local government	13,079	11.8%
4. Retail trade	10,623	9.6%
5. Manufacturing	8,010	7.2%
All other industries	31,778	28.7%
Total covered payrolls	110,800	100%

Source: Don Meseck, Yakima County Profile. WA Employment Security Department (2022). Available at: <https://esd.wa.gov/labormarketinfo/county-profiles/yakima>

Yakima is on the 2021 list of distressed areas, with a 3-year average unemployment rate of 7.8%.³¹ The latest unemployment figures from 2020 indicate a high unemployment rate in Yakima (9.7%) as compared to Washington state (8.4%) and the nation as a whole (8.1%).³²

Income & Poverty Profile: The median household (HH) income in Yakima County (\$56,233) is 28.5% lower than the median HH income in Washington state (\$78,687), and is 39.6% lower in Middle Yakima Valley (\$47,499) and 42% lower in Lower Yakima Valley (\$45,623).³³ Poverty, as defined by Census Bureau,³⁴ in Yakima County is 16.5% of the population versus a 10.2% poverty rate throughout Washington state.³⁵ However, poverty rates dip depending on where one lives in Yakima: poverty increases to 22.4% in Middle Yakima Valley and 19.5% in Lower Yakima Valley. Throughout Yakima, poverty is particularly concentrated in those under 18 years: 26.1% in the County overall, 37.5% in Middle Yakima Valley, and 28% in Lower Yakima Valley. The poverty rate for adults 18-64 years is 14.8% and for those 65 or older, it is at 9.4%.³⁶ The share of K-12 students enrolled in Free/Reduced Lunch Programs in Yakima County is much higher (84.5%) than in Washington state overall (45.8%) and has been increasing consistently since 2000. The Lower Yakima Valley shows nearly 94.4% of K-12 students enrolled in Free/Reduced lunch programs.³⁷

Homelessness Profile: In the 2021 point in time count, 663 individuals were identified as experiencing homelessness in Yakima County. While this was not an increase in the previous year's count, there was a shift in where people experiencing homelessness were sleeping – more than 1 in 3 (39%) were unsheltered- sleeping outdoors or in an encampment or in a vehicle. This represents an increase of 81 individuals compared to 2020.³⁸

³¹ This is compiled by averaging the employment and unemployment numbers for the 3 prior years. Source: WA State Employment Security Department, Distressed Areas List. (2022). Prepared in cooperation with the Bureau of Labor Statistics:

<https://esd.wa.gov/labormarketinfo/distressed-areas>

³² Yakima Valley Trends: <http://yakimavalleytrends.org/>

³³ 2020 American Community Survey 5-year Estimates; Yakima Valley Trends: <http://yakimavalleytrends.org/>

³⁴ Poverty threshold as used by the U.S. Census Bureau for 2020 is available here: <https://www.census.gov/data/tables/time-series/demo/income-poverty/historical-poverty-thresholds.html>

³⁵ 2020 American Community Survey 5-year Estimates

³⁶ 2020 American Community Survey 5-year Estimates; Yakima Valley Trends: <http://yakimavalleytrends.org/>

³⁷ Yakima Valley Trends: <http://yakimavalleytrends.org/>

³⁸ Yakima County Annual Point in Time Community Report 2021. Yakima County Department of Human Services/Homeless Network of Yakima County. Available at: <https://www.yakimacounty.us/DocumentCenter/View/29749/Yakima-County-2021-PIT-Final?bidId=>

Chronic homelessness is defined as frequent or extended bouts of homelessness experienced by people with a disability. Struggles with mental health or addiction issues make them unable to stay in housing without intense treatment or other supports. While the rate of chronic homelessness nationwide increased by 15%, Yakima County saw its chronic homeless population double (from 47 to 97 people). The numbers reflected the community’s housing shortage and were driven by increased numbers of people living outside.³⁹ In 2019, Yakima County had a 1.2% rental vacancy rate (and a known shortage of farmworker housing), much lower than Seattle’s 4.4% rental vacancy rate at the time. Less housing construction due to the 2008 housing crisis combined with a growing population and a small tax base for road and infrastructure development, meant demand for housing outpaced supply and people were left without adequate housing. This likely contributes to point in time and chronic homelessness among the most vulnerable in Yakima Valley, undocumented communities.⁴⁰

Attorney Ratio in Yakima Valley vs. Washington State

The Yakima Valley faces lower than the Washington state average ratio of lawyers to population (*see Table 2*). In Yakima County, there are 390 active attorneys, comprising 1.5 lawyers per 1000 persons – or 1 lawyer for every 667 people. In comparison, Washington state’s ratio is 1 lawyer for every 294 people.⁴¹

Table 2: Population, Attorney Population and Ratios, 2022

(Sources: 2020 Census; WA State Bar Association)

	2020 Population	Number of attorneys (active)	Ratio of Attorneys to Population
Yakima County	256,728	390	1:667
Washington state	7,705,281	26,319	1:294

The low ratio of attorneys in the Yakima Valley may be attributed to Latinx underrepresentation in the legal profession. The American Bar Association reports that only 5.8% of all attorneys in the U.S. are Latinx, and this contrasts with the U.S. population is 18.7% Latinx. Further, Latinx attorneys in WA comprise only 2.6% of attorneys in the WA State Bar Association.⁴²

³⁹ Yakima County Annual Point in Time Community Report 2021. Yakima County Department of Human Services/Homeless Network of Yakima County. Available at: <https://www.yakimacounty.us/DocumentCenter/View/29749/Yakima-County-2021-PIT-Final?bidId=> ; Sydney Brownstone. Washington state’s rise in homelessness outpaced the nation’s, according to report. Seattle Times. (2021). Available at:

<https://www.seattletimes.com/seattle-news/homeless/washington-states-rise-in-homelessness-outpaced-the-nations-according-to-report/>

⁴⁰ Meghan Henry, Tanya de Sousa, Caroline Roddey, Swati Gayen, and Thomas Joe Bednar. 2020 Annual Homeless Assessment Report to Congress. U.S. Department of Housing and Urban Development (2021). Available at:

<https://www.huduser.gov/portal/sites/default/files/pdf/2020-AHAR-Part-1.pdf>

⁴¹ Calculated using active attorneys currently registered with the Washington State Bar Association Legal Directory, available at <https://www.mywsba.org/PersonifyEbusiness/Default.aspx?TabID=1536> together with 2020 Census data for Washington and Yakima County. These figures were compared to those in the 2020 report by Americanbar.org: ABA Profile of the Legal Profession 2020. American Bar Association. Available at: <https://www.americanbar.org/content/dam/aba/administrative/news/2020/07/potlp2020.pdf> However, their numbers were inflated throughout, as they included inactive and deceased attorneys, and figures are at least 2 years old.

⁴² David Morales, Yakima-Based Attorney. Personal Communication (7/29/22); AM. BAR ASS’N, ABA NATIONAL LAWYER POPULATION SURVEY, 10-YEAR TREND IN LAWYER POPULATION BY STATE (2022), https://www.americanbar.org/content/dam/aba/administrative/market_research/2022-national-lawyer-population-survey.pdf

Study Aim 2

Legal Service Providers Serving Undocumented Communities in the Yakima Valley

Summary

In July-December 2022, we conducted interviews (see **Appendix A** for interview guide) with 14 legal service providers that serve undocumented communities in the Yakima Valley. The interviews were held largely by phone (8) and over Zoom (5) and lasted from 30 minutes to 90 minutes. Questions reviewed the types of services being provided, language access strategies, time availability, transportation and other barriers, culturally competent practices, how trust is created and maintained, and needs/gaps and solutions.

Overall Findings

There were similar findings across legal service providers, especially about availability and resources and language access for undocumented communities in Yakima Valley. Despite having regular office hours, most organizations have flexible hours and meet the needs of the undocumented communities they are serving. Transportation barriers are seldom an issue because organizations adapt to telephonic meetings, visit clients in their homes or neutral places, and some offer bus passes and taxi vouchers to clients for court appearances. Most also hire bilingual staff and focus on employing individuals who represent the community they serve. Other strategies these organizations use to serve clients in a culturally competent manner include active community outreach, flexibility, and adaptability, being available for in-person contact, understanding and integrating Latinx culture, celebrating Latinx cultural traditions, offering services in a holistic manner, and recognizing and attempting to mitigate the many systemic barriers that Yakima Valley's undocumented communities face.

A complete summary table of findings from the interviews is available in **Appendix B**.

Study Aim #3

Legal and Structural Inequalities in Yakima Valley

Methods

Phone interviews were conducted with community members who identified as Undocumented individuals to understand legal and structural barriers experienced by community members (see **Appendices C and D** for instruments used). A total of 37 individuals were interviewed, interviews averaged 30 minutes in length and participants were mailed a \$25 gift card as compensation for their time. To make participation in an interview as accessible as possible, interviews were scheduled according to participants' availability, typically during evening and weekend hours. To protect participant identity and confidentiality, interviews were not recorded, instead detailed notes were transcribed throughout the duration of the phone call. Detailed notes were then reviewed to identify and analyze key themes emerging from these discussions.

Participant Demographics

All participants were Spanish speaking community members, and all identified Spanish as the primary language spoken in the home. All but one participant completed the interview in Spanish. All participants identified as Hispanic or Latino and the majority identified as agricultural workers. Most participants reported low levels of education ranging from 3 - 8 years of primary education and the majority reported an average annual income of \$20 - \$50,000. Participants reported living in areas throughout Yakima Valley, and the most reported place of residence was Yakima, followed by Sunnyside, then Wapato. Additional demographic data is included in **Appendix E**.

Key Themes

The most common theme emerging from interviews was an overall lack of knowledge and information relating to legal resources in the area and how to obtain aid. While there are several organizations providing legal aid in the Yakima Valley, when asked where they would turn to first if they experienced any legal need, most participants stated they weren't sure where to turn to or where they could obtain aid. Often participants stated they would inquire with their social networks first to identify community organizations to seek help from or they would seek help from organizations they already know and trust. Several participants named La Casa Hogar, Nuestra Casa, and Radio KDNA as community organizations they trust. All participants were provided contact information for Yakima County Volunteer Attorney Services, Northwest Justice Project, Northwest Immigrant Rights Project, and Fair Work Center.

“I’m sure there are organizations out there that can help me, but I don’t know where to find them or how to ask for help.”

“I would ask organizations I am already familiar with first because they know us and know more about resources that can help us, even if I don’t personally know of an organization that I can turn to for something legal, I know I can ask the organizations I trust first.”

In addition to experiencing an overall lack of knowledge and information relating to legal resources, participants stated that trust was a key factor in ensuring that their legal needs are met and that services are accessible. Participants expressed a fear and concern over sharing their personal information over the phone without knowing and having an established relationship with the person or entity they’re seeking help from.

“I need to know who to trust, I’m scared to give out my personal information. Trust is very important, and they need to gain the trust of Latinos.”

To understand the extent of legal needs the community is experiencing, a legal needs checklist was also included in the interview questionnaire. Participants identified their legal needs during the phone interviews, the most stated needs were for assistance with immigration (54%), employment (29.7%), debt (27%) and personal injury (24.3%). Those participants experiencing debt noted having unpaid medical bills and utility bills. When asked if they had ever sought help to address debt, participants expressed stigma and shame related to seeking civil legal aid for debt or assistance with state benefits. While the specific cause of stigma and shame was not explored further during interviews, participants often stated they would rather ask family and friends to borrow money instead of seeking aid.

“I have many unpaid light bills, but I am ashamed to ask for help, I don’t think it’s worth the trouble to go and seek help with the debt.”

Recommendation

Based on key findings from interviews with Undocumented community members, we recommend that organizations should continue to conduct legal clinics to increase community awareness of legal providers and resources available for them to seek help from. In doing so, this can also help foster trust between community members and service providers which was something that several individuals indicated was needed to meet the needs of the community.

In addition to identifying key themes throughout interviews, several barriers to access were also identified and are listed below.

Barriers to Access

Communication & Language Barriers

The most commonly stated barrier to accessing legal aid by individuals was communication and language barriers. Participants who shared previous experiences with seeking legal services stated that the language barriers made it difficult to communicate with their lawyer and in

some instances, participants never had any direct contact with their provider, instead any communication was done via legal assistants who spoke Spanish or with use of interpreters.

“Obtaining help even with the use of an interpreter is not the same, I want to be able to talk directly to the lawyer, we need more lawyers that can speak Spanish.”

While the use of interpreters can increase access to legal services, it is evident that the community needs more Spanish speaking providers. Several community members made similar comments about their experiences and expressed the need to speak directly to their service providers.

Availability of Resources

Participants also stated that availability of resources made it difficult to seek help, calling out specifically operating hours of legal providers and how services were only available during regular working hours which often put them in situations of deciding to risk getting fired and losing income or to maintain their source of income but forgo seeking legal help. In addition, some participants stated they had difficulty reaching organizations by phone, recalling they would call several times, leave voicemails, and receive no callback, or they would be told to call a different number and felt it was too difficult to reach anyone that could help. During these instances individuals stated they resorted to seeking help outside of their immediate area, 2 individuals specifically stated they secured aid from the Tri-Cities area and from an out of state organization in Oregon.

“I don’t think services are currently accessible, I called and got no answer, I went twice in person and was given a different number to call but again never received an answer or call back. I went back in person again and was given more numbers to call and was told to keep trying until I got a hold of someone. I was never able to reach anyone and finally found help from an organization outside of the area.”

Several participants expressed similar commentary stating it would help to have providers offer evening service hours to meet their needs even if it was just 1-2 days a week. Participants indicated this would allow them to seek help and not miss work hours. Additionally, the difficulty some individuals have had with reaching organizations by phone can serve as an opportunity to evaluate telephonic access to increase efficiency and access for the community.

Cost of Services

Many participants mentioned cost was a barrier in seeking help, noting that the fees they were asked to pay were too expensive and unattainable. Participants also stated that fees were usually due upfront, and it was difficult to secure large sums of money with their low income. One participant shared a positive experience with her current lawyer and stated he was flexible with receiving monthly payments which was the only way she could afford any services.

“They ask for too much money, they’re asking me for \$10,000 to \$15,000 to help me with my case, I don’t have that kind of money, I work in the fields, that’s too much.”

To address cost as a barrier it would be beneficial to consider flexibility with payments or sliding scale fees based on an individual's income. Because many individuals were also unaware of the legal resources in the community it would be beneficial to increase awareness of legal aid organizations to ensure individuals understand where they can seek help from and whether they can seek low or no cost aid.

Study Aim 4

Delivery Models that Best Address Barriers Experienced by Undocumented Immigrants in Yakima Valley

We conducted online and phone interviews with 14 **Community Stakeholders** (individuals who have jobs as managers or directors in the private or public sectors), an online Zoom discussion with 3 additional stakeholders, and interviewed 37 **Community Members** (people with lived experiences of being undocumented) about their perspectives including delivery models for legal assistance and support. Although we didn't follow a live community-centered design process detailed by <https://www.creativereactionlab.com/our-approach> and <https://theprospertyagenda.org/design/our-design-process/>, we heard from multiple sectors of the affected community and complemented this with a review of literature and programs. Data was gathered from July - December 2022.

Our literature review, interviews and discussions with community stakeholders revealed several delivery model recommendations. These are divided into two main categories: A) Improving the existing system to reach undocumented communities; and B) Addressing huge gaps in Yakima Valley through new initiatives.

A. Improving the existing legal system to reach undocumented communities

Promoting Basic Legal Aid Information, Outreach & Resources

A discussion with key community stakeholders and community member interviews yielded the vital importance of general education about legal issues. Much can be learned and accomplished without an attorney, and people's needs can be met by being more aware of their rights and responsibilities. There are movements and networks that believe in redistributing power back to communities, who after all, know their needs best. This promotes a fair and just judicial system that gives people an opportunity to help themselves and access the rights they are entitled to under US law.

Legal Aid Information via Workshops & Radio

Many legal aid programs provide educational workshops and radio shows about legal issues. It is a best practice (and most cost-effective) in rural legal aid to attend a meeting already set up for another purpose (meeting of Head Start parents), telling them in advance that information will be provided about a range of problems that may affect them and their children, and having people who can interview them in depth during the meeting time.⁴³ Several Washington-based legal aid organizations share information in Spanish via radio shows hosted by Radio KDNA in the Yakima Valley whose reach specifically targets Hispanic/Latino, farmworker and other

⁴³ A Report on Rural Issues and Delivery and the LSC-Sponsored Symposium. 2003. Nebraska City, NE (Oct 31-Nov 2): <https://www.lsc.gov/i-am-grantee/model-practices-innovations/provide-legal-services/diverse-populations>

disadvantaged communities. During the shows, guest attorneys take questions from callers about various legal topics.

Legal Clinics in the Yakima Valley community

At their core, legal clinics are dedicated to educating and empowering the community and reduce the cultural and linguistic barriers faced by members of the undocumented community in their efforts to participate in and access the legal protections of the American justice system. Clinics are currently held in the Yakima Valley monthly and provide pro bono legal consultation sessions with volunteer attorneys, interpreters and legal workshops particularly chosen for this community. As an example of this type of work, the Fair Work Center partners with Volunteer Attorney Services and Washington Immigrant Solidarity Network on these legal clinics. They cover the gamut of legal issues, not solely employment or immigration law, they use non-lawyers for outreach, advocacy, and education, and have better outcomes. This model reduces the need for lawyers, especially around employment law ([Community Stakeholder Interviewee](#)).

At these clinics, 30-minute consultations are provided free of charge. People are asked to call to schedule an appointment, but walk-ins are welcome. Interpreters are provided free of charge but staff and lawyers at these clinics commonly speak Spanish. People are encouraged to bring all the paperwork that relates to their case or legal question, including all contracts, letters, court papers etc. The legal clinics are often co-located with other community services, in partnership with community-based organizations, and in locations often frequented by undocumented communities.

According to best practice for legal clinics, reaching underserved populations is best practiced by offering legal education and clinics at locations they typically access the most (churches, community centers, etc.), and hosting outreach events, posting on social media and providing information online through a website.⁴⁴

In rural Georgia, two lawyers with laptops set up Mobile Law Units where they provide legal information and help to the elderly, residents with limited English proficiency and low-income groups.⁴⁵ Staff help clients find legal information and documents on Georgia legal aid's statewide website. If the client requires extended services, staff conduct intake on site and refer the individual to an attorney at the nearest legal aid office.

Benefits of this legal clinic model are that they are open later in the day (during evenings) and on weekends for greater community accessibility, especially for agricultural workers and others who have little flexibility in their work schedules. They offer materials in English and Spanish, and there is a higher need in lower Yakima Valley than in Yakima city.

⁴⁴ Legal Services Corporation: America's Partner for Equal Justice. Model Practices & Innovations. <https://www.lsc.gov/i-am-grantee/model-practices-innovations/provide-legal-services>

⁴⁵ Legal Services Corporation: America's Partner for Equal Justice. Model Practices & Innovations. <https://www.lsc.gov/i-am-grantee/model-practices-innovations/provide-legal-services>

The challenges with recruiting pro-bono lawyers for these events is that most of them don't speak Spanish (less than 5/64 volunteer attorneys spoke Spanish in 2021, and out of 214 cases so far in 2022, 24% clients spoke Spanish and 24% are non-citizens and likely undocumented). (Community Stakeholder Interviewee)

The Latino State Bar Association of WA has co-sponsored legal clinics throughout the state for years. Currently the Latino Bar Association is in partnership with Fair Work Center to recruit Latino attorney members for future clinics, emphasizing immigration law since that is the most requested service.

Legal Navigators/Promotores

Community navigators/promotores educate members of the public about their rights and their eligibility for assistance when needed, and navigators dispel and counteract misinformation. They have been used for many years in the public health field, where their value is recognized by the American Public Health Association and the U.S. Centers for Disease Control. In the Latinx community, the use of *promotores de salud* is well known. In the legal arena, community navigators/promotores are individuals trained in basic aspects of law and policy that serve to link people to important resources, make appointments on their behalf, answer basic questions, and note more complex questions for a legal professional, and can help someone gather materials and documents in preparation for an appointment. For example, navigators can be trained to help people navigate systems common in family law and may help to facilitate adult guardian matters. They are especially helpful for undocumented people and those who are non-native English speakers. They are often located within non-legal community organizations but work in partnership with legal organizations. However, there are some legal organizations hiring navigators/promotores as part of their staff mix to conduct community outreach, scheduling and other administrative tasks.

One person noted that paying them a living wage is important, as navigators have expertise in community outreach and have in-depth knowledge of the community - these are not typically entry-level positions. Another added that undocumented individuals will be even less familiar with the legal process, so they will need additional guidance. One comment was that these non-lawyers may have unfamiliarity and lack of information about the whole range of situations that involve legal processes and so should be supervised by attorneys to make sure they are not missing key pieces of information in their work with community members/clients.

New Technologies

There are new technologies surfacing that help immigrants with legal services using digital tools. There are recent reviews of online legal information and assistance tools and portals in helping people find valuable assistance which can help if they do not have access to a lawyer.⁴⁶ One such example is Citizenshipworks, which has an online naturalization platform available in Spanish that screens for eligibility, has a person complete all naturalization paperwork, and

⁴⁶ See resources here: <https://www.pewtrusts.org/en/research-and-analysis/fact-sheets/2019/01/interactive-online-portals-offer-targeted-legal-resources-on-demand> ; and https://www.americanbarfoundation.org/uploads/cms/documents/report_us_digital_legal_tech_for_nonlawyers.pdf

connect to virtual or in-person legal assistance. See <https://www.citizenshipworks.org/es>. See a list of additional digital projects at: <https://www.justicialab.org/#technology>.

Self-Represented Litigation Network (SRLN)

People need to understand the proceedings in which they are participating so that every person can get some form of effective assistance with their civil legal needs. SRLN (<https://www.srln.org>) is a movement to orient all aspects of the legal system so that self-represented litigants experience it as a consumer-oriented environment founded on principles of equal protection and due process. It is estimated that about 75% of cases handled in courts (divorce, custody, housing, consumer) have at least one self-represented litigant. The SRLN serves as a communications resource hub containing manuals, toolkits, events, working groups, scholarly research and thought leadership. It is a helpful resource for paralegals or legal navigators to support undocumented clients that wish to represent themselves by sharing key resources on the website. However, the website is inaccessible to non-English speakers, and all publications are only in English. There is a section of publications that highlight programs and states that have redoubled their efforts to make the courts more linguistically accessible and that work specifically on these issues.

Washington Law Help

Washington Law Help (<https://www.washingtonlawhelp.org>) is an online website maintained by Northwest Justice Project that is a guide to free civil legal services for low-income and senior populations. Legal materials and tools are available, and the site also provides information on free legal aid programs. The site is available in Spanish, however, many of the forms are not yet in Spanish. General legal information can reach undocumented communities if a trusted messenger who knows the context and background on a legal problem someone is having, and can send that person a link to that section of the website. The information may help someone narrow the types of questions they can ask an attorney. The average person doesn't know this resource exists, nor was it mentioned by our community interviewees.

Charitable Legal Organizations in Yakima Valley

Here in Washington, there are several legal organizations that provide needed legal services to the undocumented community in Yakima Valley. They accommodate immense amounts of legal work on a day-to-day basis, and the COVID-19 pandemic has led them to provide more services virtually. These developments have the potential to expand undocumented communities' access to services, while reducing their time away from other significant commitments, such as work and school. A **Community Stakeholder** we spoke to about virtual services added that Zoom added increased access to lawyers, however due to local rules, it is difficult to give advice on navigating a court system a lawyer is not familiar with. Many of these legal organizations also provide reliable information and services such as educational workshops and Know Your Rights presentations. However, legal organizations that receive federal funding cannot serve undocumented individuals and multiple Community Stakeholders highlighted the ramifications of these limitations for those communities most in need.

Although the impact of legal representation specifically on immigration communities has received little scholarly attention, it is the major way that applications are completed and analysis by national groups finds this representation is both urgent and necessary.⁴⁷

A national study about Immigrant legal service providers found that over 1.5 million low-income immigrants did not live within 12 miles of an office and urged the addition of these service providers to underserved locations and the rearranging of existing offices to optimize access to no and low-cost legal services.⁴⁸ This and other studies acknowledge the vital role of already overtaxed charitable immigrant legal programs and other organizations in application assistance, public education, and as trusted sources of services and information in undocumented communities.

- **Columbia Legal Services (CLS)** advances social, economic, and racial equity for people living in poverty in Washington State. CLS has a community /movement lawyering focus. CLS focuses on class action litigation, using cutting edge legal theories, engages in policy advocacy, and supports communities in building their own power. CLS has a special responsibility to serve people whose access to free legal services is restricted, due to institutionalized or immigration status. CLS does not do individual representation. CLS has flexibility in meeting community needs and staff/attorneys regularly attend evening meetings. They recruit and hire bilingual staff from the community they serve and invite impacted communities to serve on their board and hiring processes. CLS prioritizes limited resources by targeting work that is systemic in nature.
- **Latino Bar Association of Washington (LBAW)** co-sponsors legal clinics in areas of Washington including Yakima Valley where legal resources are not as accessible. At these, volunteer attorneys provide free, 30-minutes legal consultations on various legal issues including worker's rights/wage claims, family law, immigration, criminal law, and property/landlord-tenant law. Most of the members who volunteer at their clinics speak Spanish. LBAW finds the most requested legal questions are about immigration.
- **Legal Counsel for Youth and Children (LCYC)** protects the interests and safety of youth in Washington by providing direct legal representation to youth and young adults in the areas of child welfare, juvenile court, immigrant youth and families and youth homelessness. LCYC empowers youth by helping them understand and assess legal issues, opportunities, and consequences before moving forward. They respond to youth in need wherever they are and use a comprehensive method to help youth navigate multiple systems to receive assistance, particularly LGBTQ+ and BIPOC youth.

⁴⁷ American Immigration Council. 2016. "Immigrants' Access to Legal Representation is Unequal and the Consequences are Serious." Available here: <https://immigrationimpact.com/2016/09/28/immigrants-access-legal-representation-unequal-consequences-serious/>; American Immigration Council. 2011. "Another Study Highlights Need for Legal Representation in Immigration Court." Available here: <https://immigrationimpact.com/2011/05/12/another-study-highlights-need-for-legal-representation-in-immigration-court/>; American Immigration Council. 2022. "What Does Legal Representation Look Like in Immigration Courts Across the Country?" Available here: <https://immigrationimpact.com/2022/08/23/legal-representation-immigration-courts-across-country/>; New York Immigration Coalition. 2020. No Safe Harbor: The Landscape of Immigration Legal Services in New York." Available here: https://www.nyic.org/wp-content/uploads/2020/02/NoSafeHarbor_Final2020.pdf

⁴⁸ Yassenov, Vasil, David Hausmana, Michael Hotarda, Duncan Lawrence, Alexandra Siegela, Jessica S. Wolff, David D. Laitina, and Jens Hainmueller. 2020. "Identifying Opportunities to Improve the Network of Immigration Legal Services Providers." Working Paper No. 20-07. Immigration Policy Lab. Stanford University. <https://immigrationlab.org/working-paper-series/identifying-opportunities-to-improve-the-network-of-immigration-legal-services-providers>

- **Northwest Immigrant Rights Project (NWIRP)** promotes justice by defending and advancing the rights of immigrants through direct legal services and representation, systemic advocacy, and community education. They have a flexible model to meet clients after hours and by phone or in-person. NWIRP conducts Spanish language radio outreach, and they prioritize recruiting staff who look like their clients and speak their language but they noted the challenge to recruit bilingual attorneys. They educate clients using materials with pictures and brief narratives. Legal services are at capacity, and they have a long waiting list. Clients generally must be income-eligible (200% poverty).
- **Northwest Justice Project (NJP)** provides free legal assistance to address fundamental human needs such as housing, family safety, income security, health care, education and more. Potential clients must call CLEAR for intake and undocumented individuals only qualify for representation as victims of crime and housing for mixed status households. NJP has bilingual staff in their Yakima office and language interpretation is available via language line. They also translate key legal documents for their clients. They value the focus on in-person contact for connection and trust-building. Legal services are often at capacity and service gaps are worse in Yakima compared to other regions of the state.
- **Q Law Foundation of Washington** promotes the dignity and respect of LGBTQ2S+ Washingtonians within the legal system through advocacy, education, and legal assistance. They offer a wide range of services to LGBTQ2S+ communities in Washington, including direct legal services, trainings, consulting, advocacy, litigation support, amicus work, and impact litigation. They provide free phone consultations (available in Spanish) twice monthly with a volunteer attorney through their LGBTQ+ Legal Clinic, and full representation for legal parentage orders.
- **Yakima County Volunteer Attorney Services** provides referrals to volunteer attorneys for qualified indigent clients in designated civil cases. They are also licensed to provide clients with pro-bono attorneys. VAS hires bilingual coordinators, uses a language interpretation telephonic service, has mandatory cultural competency training for their staff, and works with volunteer lawyers to be responsive to people without access to reliable phones and internet. They co-partner on evening legal clinics held in Yakima and provide materials in Spanish.

Community-Based Organizations Offering Legal Services

- **Aspen Victim Advocacy Services (AVAS)** offers services for individuals who are survivors of violent crimes. They offer advocacy and support to individuals navigating legal, medical, and criminal justice systems. AVAS assists in preparing for court and actively monitors the case to inform the victim. Advocates are largely bilingual and are first generation immigrants that understand their client's cultures. AVAS notes a key concern is labor and sex trafficking that victimizes undocumented communities.
- **Entre Hermanos (EH)** promotes the well-being of the Latino, Gay, Lesbian, Bisexual, Transgender and Questioning community in a culturally appropriate environment through direct representation specifically in immigration cases (detention support). They offer free telephonic consultations for individuals throughout Washington. Their

staff is fluent in Spanish (with access to interpreters for Indigenous languages) and they have a Spanish language radio program. They use apps to send texts with close-ended questions to complete declarations and are considering using WhatsApp to reach clients.

- **Fair Work Center (FWC)** is a Seattle-based organization that opened a Yakima office January 2022 in partnership with local organizations that meet multiple community needs. They are committed to serving undocumented workers and believe in building worker power through worker education, organizing, policy advocacy and legal services. They offer direct representation on labor and employment issues and have 1 attorney located in Yakima. FWC brings together groups of workers for cases that involve multiple claimants (ex/retaliation cases). They co-host legal clinics in partnership with Volunteer Attorney Services and WAISN during community outreach events at their community center (closed for new intakes, reopening in Spring 2023). Legal staffing in Yakima is a challenge. They are looking into hiring paralegal assistance from the community to help with intake and sending a Seattle lawyer to Yakima on a monthly basis.
- **Lighthouse** exists to advocate for, educate and support those affected by domestic violence and sexual assault. They also have a 24-hour crisis line and provide crisis intervention. Lighthouse has bilingual staff and advocates who have lived and worked in the community for a long time.
- **Team Child (TC)** upholds the rights of youth at risk of or currently involved in the juvenile justice system and helps them secure education, health care, housing, and other support they need. They conduct direct civil legal representation and litigation for youth 12-24 in addition to policy advocacy, education, and resource provision. Housing instability and other emergent issues need to be met as legal issues are addressed. TC has longtime, bilingual staff in their Yakima office to meet the needs of undocumented youth and are not restricted by federal funding to serve moderately low-income youth and families. TC maintains close community partnerships and centers its values of listening with humility and openness to build trust and rapport with youth. They aspire to recruit bilingual attorneys in Yakima.
- **Washington Immigrant Solidarity Network (WAISN)** has as its mission to empower immigrant and refugee communities, mobilize statewide resistance to anti-immigrant/refugee activities, and galvanize communities to bring collective action across the state. WAISN is led by queer, trans, and undocumented people and they hire people who have the lived experience of those they serve. They operate a hotline 7 days/week that offers resources and referrals to civil legal aid, and staff is trained to gather documents and apply for programs for clients. WAISN also does policy advocacy and has videos/materials on related topics on their social media platforms. They partner with other organizations to host in-person legal clinics. They require fluency in Spanish for staff and hold their meetings in Spanish (with English translation).
- **Yakima Dept of Assigned Counsel** provides constitutionally guaranteed legal defense services for indigent persons charged with crimes or threatened with the loss of personal liberty in the District and Superior Courts of Yakima County. They offer public defense representation for those charged with felonies, misdemeanors, and sex offenses. They use interpreters and contract with court-certified interpreters for

documents that need to be translated. They prioritize immigration-safe results for their Spanish-speaking clients despite a conservative Court system that disincentivizes this. They have difficulty recruiting bilingual public defenders to Yakima.

- **YWCA (Yakima)** provides legal advocacy, education, case management and resource/service navigation for victims of domestic violence. They are staffed 24 hours/day and legal advocates are available during the days. They prioritize hiring bilingual advocates, they host Spanavision PSAs about DV on all TV stations in Washington. Part of their mission is to eliminate racism, so they have embedded a culture that actively accommodates cultural and linguistic needs and offer regular Diversity, Equity and Inclusion training for their staff.

Telephone Triage System for Legal Screening

It is a known best practice and regarded as most efficient if organizations use an online or telephone triage system to direct persons who are not eligible for services to another service provider early in the process.⁴⁹ Clear priorities and case acceptance guidelines are essential to a well-functioning and accessible system. Effective use of technology is essential for an efficient intake system. For example, online intake can offer opportunities for low-income people to seek or apply for help outside of office hours and during holidays and save them valuable time in finding out whether they even qualify for free legal aid.

Studies have identified legal screening of the undocumented as a crucial step in implementing special legal status programs.⁵⁰ They found that between 14-25% of the undocumented are potentially eligible for permanent residence. One study that screened over 4000 undocumented immigrants in 12 states was able to identify more than 2 dozen people that were likely to be able to prove they are US citizens.⁵¹ Another study based on a survey of 67 immigrant-serving organizations found a statistically significant relationship between the capacity of these organizations (defined by # paid staff) and the efficacy of their legal screening (measured by the number of screened immigrants found eligible for DACA and some other immigration benefit or relief).⁵² In another study by Immigrants Rising, 3000 online legal intakes for undocumented immigrants (through the Immigrant Legal Intake Service) over 10 years yielded findings regarding barriers to immigration relief and opportunities for DACA, family sponsorship, U visas, and additional forms of relief.⁵³ These underline the importance of

⁴⁹ Legal Services Corporation: America's Partner for Equal Justice. Model Practices & Innovations. <https://www.lsc.gov/i-am-grantee/model-practices-innovations/provide-legal-services>

⁵⁰ Atkinson, Jeanne M., and Tom K. Wong. 2018. "The Case for a National Legalization Program Without Legislation or Executive Action: Results from Screening for Immigration Legal Options." *Journal on Migration and Human Security* 6(2):161–6.

<https://journals.sagepub.com/doi/10.1177/2331502418771915>; Kerwin, Donald, Roberto Suro, Tess Thorman, and Daniela Alulema. 2017. *The DACA Era and the Continuous Legalization Work of the US Immigrant Serving Community*. New York: Center for Migration Studies of New York. <https://cmsny.org/wp-content/uploads/2017/02/CMS-Legalization-Report-FINAL.pdf>; Wong, Tom K., Donald Kerwin, Jeanne M. Atkinson, and Mary Meg McCarthy. 2014. "Paths to Lawful Immigration Status: Results and Implications from the PERSON Survey." *Journal on Migration and Human Security* 2(4):287–304. <https://journals.sagepub.com/doi/10.1177/233150241400200402>.

⁵¹ Atkinson, Jeanne M., and Tom K. Wong. 2018. "The Case for a National Legalization Program Without Legislation or Executive Action: Results from Screening for Immigration Legal Options." *Journal on Migration and Human Security* 6(2):161–6. <https://journals.sagepub.com/doi/10.1177/2331502418771915>

⁵² Wong, Tom K., Donald Kerwin, Jeanne M. Atkinson, and Mary Meg McCarthy. 2014. "Paths to Lawful Immigration Status: Results and Implications from the PERSON Survey." *Journal on Migration and Human Security* 2(4):287–304. <https://journals.sagepub.com/doi/10.1177/233150241400200402>.

⁵³ See report: https://immigrantsrising.org/wp-content/uploads/Immigrants-Rising_How-Can-I-Get-My-Papers.pdf

supporting legal screenings (and integrating holistic services - such as mental health services) in communities like Yakima Valley with large % undocumented populations.

Northwest Justice Project hosts the CLEAR (Coordinated Legal Education, Advice and Referral) Hotline, a toll-free legal hotline and intake system for people with low incomes that many legal services organizations we spoke with use to screen for eligibility. However, several **Community Stakeholders** we spoke with mentioned the lack of access that undocumented communities have with CLEAR telephonic intake system. This is due to limited hours (M-F 9:10am-12:15pm) for client calls from Washington areas outside King County. Also, this phone number fields calls from across Washington state, and there is no way to leave a message so callers must call repeatedly until the line is available. Interviews with **Community Members** revealed that undocumented individuals and their families distrust most general phone lines unless they can speak to a trusted person in particular.

In 2020 to address pandemic-related hardships in many immigrant & undocumented communities, the Washington Immigrant Solidarity Network added a community resource and referral function to their existing deportation defense hotline. The original line was well-known among undocumented community members to report Immigration & Customs Enforcement activities in neighborhoods so that people could be warned. This line is staffed 7 days/week with operators who are bilingual in Spanish and English and receives funding to promote civil legal aid clinics and refer people directly to civil legal aid organizations they qualify for. The hotline is well established and continues to expand its services into application assistance and other areas identified by the needs of directly impacted immigrant community members. Referrals are being tracked for details (numbers offered) to better understand follow-up needed.

Accredited Representational Status for Immigration Cases

The federal recognition and accreditation process began in 1958 and had a goal to increase the availability of competent immigration legal representation for low-income and indigent persons.⁵⁴ Like attorneys, fully accredited representatives can represent immigrants in removal proceedings during this time of significant stress on the immigration court system.⁵⁵ Given they also handle a combination of USCIS petitions, applications and requests for immigration benefits, their numbers are modest in comparison to the immense backlog of pending court cases estimated at over 2 million as of December 2022.⁵⁶ A **Community Stakeholder** noted that it is important that non-profit organizations provide good support for people in this role because of the potential to cause harm due to inadequate support.

There are only 3 organizations, including La Casa Hogar, that have accredited representatives in the Yakima Valley (11 total). **La Casa Hogar** - offers representation for citizenship-related cases

⁵⁴ EOIR (Executive Office for Immigration Review of the US Department of Justice). 2021. Recognition and Accreditation (R & P) Program. Falls Church, VA: EOIR. <https://www.justice.gov/eoir/recognition-and-accreditation-program>.

⁵⁵ LaSusa, Mike. 2022. "Nonlawyers Fill Void at Overwhelmed Immigration Courts." Law360. March 11. <https://www.law360.com/articles/1469550/nonlawyersfill-void-at-overwhelmed-immigration-courts>.

⁵⁶ TRAC (Transactional Records Access Clearinghouse). 2022. "Immigration Court Backlog Tool." https://trac.syr.edu/phptools/immigration/court_backlog/.

from intake to swearing in. Their entire team is bilingual and 60% were former clients of the organization so they have valuable experience navigating the same systems as the clients.

Legal Organizations Utilizing Paralegals

General consensus is that given the legal system and restrictions around who can practice law and provide representation, most people need representation but not everyone has access. In those cases, paralegals can either provide services as an extension of attorneys or offer limited services independent of attorneys.⁵⁷ Paralegals use different titles because there is no specific license, certification, or registry of paralegals in Washington.⁵⁸ An attorney who has paralegals can expand their reach by having paralegals training under the supervision of the attorney – they are getting a lot more traction currently. For instance, Colectiva Legal del Pueblo is a non-hierarchical collective organization in Washington founded in 2012 for and by undocumented immigrants working to build community leadership and power for migrant justice through legal advocacy and education. Colectiva Legal works with several paralegals that carry out legal duties under attorney supervision on cases for naturalization, U-visas, Asylum, family petitions and representing clients in detained and non-detained removal proceedings.⁵⁹ Northwest Immigration Rights Project also employs legal advocates who regularly work under attorney supervision to provide similar services.

In Washington state, there is a program for Limited License Legal Technicians.⁶⁰ While it doesn't cover all legal areas, this may be a more affordable option for people that need family law assistance or help navigating the system.

Increasing Cultural, Language and Social Supports for Undocumented Communities

Legal services providers need to be aware of the immense need among undocumented immigrants for mental health services, as they can support those dealing with trauma, loss, persecution, abuse who may be fleeing their home countries, separated from their support systems, and adapting to new lives.⁶¹ Legal services providers are also encouraged to share information about ESL and citizenship classes, which help to reduce language barriers and create more opportunities for education, employment, and community participation.

“VAS [Volunteer Attorney Services] needs support staff, not lawyers. We need a social worker since lawyers are not trained to do it all.”
(Community Stakeholder Interviewee)

Best practice in serving diverse populations, including undocumented communities, is to be known to and have the trust of the community in its service area by engaging with all segments of the community; to offer legal services in a culturally competent manner; to learn about cultural competency; to understand your own culture and explore other cultures (language,

⁵⁷ State of Washington Classified Job Specification, Paralegal 1. Available at the WA Office of Financial Management: <https://ofm.wa.gov/state-human-resources/compensation-job-classes/ClassifiedJobListing/Specifications/112>

⁵⁸ Washington State Paralegal Association. Requirements to become a Paralegal in Washington State. Available at: <https://wsponline.org/The-Profession>

⁵⁹ For more information about Colectiva Legal del Pueblo, see: <https://colectivalegal.org>

⁶⁰ See: <https://www.wsba.org/for-legal-professionals/join-the-legal-profession-in-wa/limited-license-legal-technicians>

⁶¹ Ornelas, I.J., Yamanis, T.J., and R.A. Ruiz. 2020. The Health of Undocumented Latinx Immigrants: What We Know and Future Directions. *Annu Rev Public Health*. April 2; 41: 289-308.

food, music, dress, holidays, customs, etc.); and to be open and respectful to new and different cultures than your own.

“There’s a way that farmworkers speak about what they do that others wouldn’t understand. Immigration experiences are not understood by others walking off the street. Cultural competence is to be able to fully understand the client, provide them assistance within that context. You have to have a lot of experience in a particular community - experience to understand what they are trying to tell you. It can be months before you might get to understand.” (Community Stakeholder Interviewee)

Attorneys should at minimum offer interpretation and translation services and many legal aid organizations have access to phone interpreter services from Voiance, a statewide interpreting company, as funded by the Legal Foundation of Washington. This helps ensure information regarding their rights and responsibilities is understood accurately and prevents miscommunication and misunderstanding that could be costly, time-consuming, and/or detrimental to their case. Additional Washington state resources include Northwest Translators and Interpreters Society (<https://www.notisnet.org/>) - of which there are 11 that live in Yakima and speak Spanish; and Washington Court Certified Interpreters and Translators (https://www.courts.wa.gov/programs_orgs/pos_interpret/) - of which there are only 7 in Yakima.

Legal aid organizations may wish to use a language access checklist developed by Community Legal Services of Philadelphia to reflect on their own policies, practices and staff training that are up to date and reflective of language accessible legal aid practice.⁶² There are several videos on the Language Access and Limited English Proficient Advocacy YouTube channel posted by Northwest Justice Project that serve as a resource for advocates working with interpreters and LEP clients.⁶³

Court administrative orders should produce plain language and accessible forms and several Community Stakeholders noted the immense need for the court system to be more accessible to non-English speakers. SRLN notes, “Self-help and access to justice staff must prioritize providing clear and accessible guidance to the public, updating relevant court websites, existing form packages, and self-help materials. All materials should be easy to find through courts’ homepages in addition to any active social media accounts.”⁶⁴ In California, the Court’s self-help page features an easy to access, plain language overview of court administrative orders in English, Spanish, Chinese, Korean and Vietnamese, especially helpful during the pandemic.⁶⁵ The American Bar Association’s report, *Standards for Language Access in Courts* is a tool to

⁶² Legal Services Corporation, Language Access & Cultural Sensitivity. <https://www.lsc.gov/i-am-grantee/model-practices-innovations/language-access-cultural-sensitivity>

⁶³ See YouTube channel: <https://youtube.com/playlist?list=PLEDBA3D39A7D52DBD>

⁶⁴ See website here: <https://www.srln.org/node/1436>

⁶⁵ See CA court website, at <https://www.courts.ca.gov/selfhelp-languages.htm>

assist courts, court administrators, policymakers and others in creating systems for language access services that make the system of justice more fair and accessible to all in our country.⁶⁶

Law Apprentices from the Immigrant Community

WSBA Law Clerk Program⁶⁷ is an alternative to law school in WA State for those with a bachelor's degree. It's a minimum 4-year program designed to provide educational and practical experience through a combination of work and study with an experienced lawyer or judge. Completion of the program qualifies a person to take the Washington State lawyer bar examination. It is open to immigrants and DACA recipients. The program as currently set up allows practitioners to train/mentor one student at a time and has other limitations (example: a subject can only be taught to one student at a time).

Transactional Records Access Clearinghouse (TRAC) Tool

TRAC's purpose is to provide comprehensive information about staffing, spending and enforcement activities of the federal government. TRAC-Immigration reports on how our nation's immigration laws are enforced in administrative and criminal courts by several agencies. This tool shows the representation status for people in various regions who have cases before the immigration courts. It currently shows that only 45% of people in Yakima County (4th highest number of immigration cases in Washington) have representation in their cases.⁶⁸ Though this is not the lowest for the state, it is concerning that less than ½ with pending immigration cases have no attorneys assisting them.

B. Addressing huge gaps in Yakima Valley through new initiatives

This section explores the question: What would have to change here in Washington for undocumented communities in Yakima Valley to get the legal support they need?

Yakima Valley is a Lawyer-Desert Which Attracts Unscrupulous Notarios

The Legal Services Corporation positions rural Americans as a specifically vulnerable population. Studies demonstrate that shortages of lawyers in many regions create challenges for rural residents seeking legal support, and they call these legal deserts.⁶⁹ Distances between residents' homes can make it difficult to offer services and accessible locations, not to mention transportation challenges in rural parts of the Yakima Valley.

Immigration law is one of the most complicated areas in the legal field and is a central need for most undocumented immigrants. Thousands of Washington consumers require immigration-related legal services each year, but unfortunately many individuals, due to a shortage of funds

⁶⁶ See report here:

https://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls_sclaid_standards_for_language_access_proposal.authcheckdam.pdf

⁶⁷ For more information about WSBA Law Clerk Program (Rule 6), see:

<https://www.wsba.org/for-legal-professionals/join-the-legal-profession-in-wa/law-clerk>

⁶⁸ See TRAC dataset, Individuals in Immigration Court by Their Address (through Dec 2022):

<https://trac.syr.edu/phptools/immigration/addressrep/>

⁶⁹ Lisa R. Pruitt, et al. Legal Deserts: A Multi-State Perspective on Rural Access to Justice, 13 HARV. L & POL'Y REV. 15, 131 (2018); Larry R. Spain, The Opportunities and Challenges of Providing Equal Access to Justice in Rural Communities, 28 WM. MITCHELL L. REV. 367, 367 (2001);

and unable to afford a lawyer, rely on referrals from family and friends and are unknowingly defrauded by people claiming to be experts. The consequences can be devastating for those seeking the opportunity to live and work in the United States. In Washington and around the country, people advertising immigration services use the title *notario público* on business cards and in their business dealings to deceive consumers into thinking that they have special legal training in immigration affairs.⁷⁰ However, a *notario público* is not a lawyer and is not authorized under state or federal law to provide legal assistance in an immigration case. In several Latin American countries, the term *notario público* refers to an individual who is an attorney and has received extensive legal training over the course of several years. In the United States, a “notary public” is an individual who has the authority to administer an oath or affirmation or witness the signing of papers. The title is relatively simple to obtain. Many people use this linguistic confusion to deceive Spanish-speaking communities into thinking that they are experts in immigration law.

Promoting the Study of Law in the Yakima Valley

Legal education plays a key role in access to justice for undocumented communities. Recruitment and retention programs for students from under-represented communities of color is important because studies show that these students are more likely to provide services within communities of color with access to justice concerns.⁷¹ Some scholars argue that access to rural justice requires accessible legal education in rural areas and they recommend that institutions of legal education be responsive to emerging rural needs.⁷² The Yakima Valley encompasses rural areas and has a majority Latinx population, both indicators of barriers in access to justice.⁷³

Law school clinics provide free legal assistance to tens of thousands of clients, most of whom would otherwise not have access to the justice system.⁷⁴ Law school clinic students alone provide tens of millions of dollars in pro bono legal services each year.⁷⁵ If located in Yakima Valley, a law school would create enormous opportunities for undocumented communities living there. Establishing a law school in the Yakima Valley - and specifically at Heritage University (HU), located in Toppenish on the Yakama Nation (one of two universities in the nation to be designated as both a Hispanic Serving Institution (HSI) and a Native American Serving Non-Tribal Institution (NASNTI)), was identified by legal aid leaders as an important goal to remove barriers to the legal profession to a marginalized community and student body to increase legally appropriate resources. In mid-2021 the three law school deans in WA were engaged and expressed support for the concept and began initial steps in collaboration with HU and legal aid leadership to undertake what would be a complex, multi-year process.

⁷⁰ Check out this resource, Stop Notario Fraud: <https://stopnotariofraud.org/>

⁷¹ See Rachelle Veikune, Access to Legal Education for Minorities Increases Access to Justice for Underserved Populations, 85 J. KAN. B. ASS'N 14, 14 (2016).

⁷² Lisa R. Pruitt & Bradley E. Showman, Law Stretched Thin: Access to Justice in Rural America, 59 S.D. L. REV. 466, 467–68 (2014)

⁷³ Rebecca L. Sandefur, Accessing Justice in Contemporary USA: Findings from the Community Needs and Services Study 8-9 (2014) (explaining that Blacks and Hispanics were more likely to report civil justice issues); Lisa R. Pruitt & Bradley E. Showman, Law Stretched Thin: Access to Justice in Rural America, 59 S.D. L. REV. 466, 467–68 (2014)

⁷⁴ Peter A. Joy, Government Interference with Law School Clinics and Access to Justice: When is There a Legal Remedy?, 61 CASE W. RES. L. REV. 1087 (2011); Stephen Wizner & Jane Aiken, Teaching and Doing: The Role of Law School Clinics in Enhancing Access to Justice, 73 FORDHAM L. REV. 997 (2004).

⁷⁵ Robert Kuehn, The Economic Value of Law Clinic Legal Assistance. 2022. Best Practices for Legal Education. <https://bestpracticeslegaled.com/category/best-practices-and-clinics/>

Little progress has been made on the law school project, first - due to the group shifting its focus to take advantage of a Law School Admission Council funding opportunity to establish an on-site law school pipeline program directed to increasing Latinx and Native student communities in partnership with HSI and NASNTI institutions. The Law Schools-Heritage U. Collaborative secured the funding and recently concluded a highly successful inaugural pipeline program that registered more than 50% more students than originally planned - reflecting tremendous appetite for programs that support this student community's interest in pursuing legal careers. The pipeline funding is being renewed in 2023, with the expectation the program becomes self-sufficient in 2024 and beyond. Secondly, one of the law schools has floated the possibility of opening a remote campus at Heritage University, which will be the focus of discussions both at the law school internally, and among the Collaborative starting in early 2023.

A similar rural area, the Rio Grande Valley, once located a law school there and the Mexican American students who attended were all first-generation college students, were from low socioeconomic backgrounds and grew up as migrant farmworkers. They attended evening classes and worked full-time jobs during the day and in the short time it was open, 41 graduates passed the Texas State Bar.⁷⁶

There is much interest in supporting undocumented students to go to law school to meet the growing legal needs within the undocumented community. A resource guide has been developed to help undocumented students prepare for this decision.⁷⁷ In a UC Irvine Law Review article about training undocumented lawyers, Stephen Lee proposes that public universities must ensure that educational opportunities remain open to undocumented students and that partnership with surrounding communities is essential, among other recommendations.⁷⁸

Offering Financial Incentives for Lawyers to Practice in Rural Communities

Based upon a report on law school debt, the average law student graduates with over \$100,000 in law school debt.⁷⁹ There are several negative consequences that burden high-need communities including undocumented communities. Among the report's findings are that small law firms have trouble hiring and retaining competent attorneys, few lawyers can work in public interest positions offering lower salaries, new attorneys have too much debt to provide affordable legal services to poor and middle-class families and individuals, they are less likely to engage in pro bono work and take positions in rural areas, and diversity of the law profession decreases.

⁷⁶ Luz E. Herrera, Amber Baylor, Nandita Chaudhuri and Felipe Hinojosa. Evaluating Legal Needs, 36 Notre Dame J.L. Ethics & Pub. Pol'y 175 (2022).

⁷⁷ See resource guide here: https://immigrantsrising.org/wp-content/uploads/Immigrants-Rising_Law-School-Resource-Guide-for-Undocumented-Students.pdf

⁷⁸ Stephen Lee, *Training Undocumented Lawyers*, 10 U.C. Irvine L. Rev. 453 (2020). Available at: <https://scholarship.law.uci.edu/ucilr/vol10/iss0/8>

⁷⁹ Illinois State Bar Association, Final Report, Findings and Recommendations on the Impact of Law School Debt on the Delivery of Legal Services. (2013)

The recently (October 2022) amended Higher Education Act of 1965 to continue to offer loan repayment for civil legal assistance attorneys that are employed for at least 3 years.⁸⁰ Attorneys who work for a non-profit 501(c)(3) organization, the government, or a few other qualified employers may be eligible for forgiveness of their federal direct loans after making 120 payments and meeting other qualifications. This option can make the financial situation of a public interest attorney much more manageable.

In a 2019 article titled Rural Practice as Public Interest Work, Haksgaard argues that rural lawyers provide critical services to rural communities and frequently engage in mixed practice and therefore may not qualify for loan forgiveness programs because they are not full-time public interest or government lawyers.⁸¹ Immigrant communities are often caught in the middle of the rural lawyer shortage, unable to afford staying in the cities where legal aid is concentrated.⁸² Haksgaard recommends that we should borrow from popular program models to recruit medical professionals to rural areas⁸³ by encouraging federal, state, and tribal governments to establish and fund a Rural Lawyering Debt Assistance program and/or a Rural Lawyering Tuition Replacement program.⁸⁴

In one state program, the Unified Judicial System worked with the State Bar of South Dakota and the legislature in that state to create the Rural Attorney Recruitment Program, to address the real and projected shortages of lawyers practicing in small communities and rural areas of the state. The program provides attorneys an incentive payment in return for 5 continuous years of practice in an eligible rural county.⁸⁵

Need for New Legislation: WA State Loan Repayment Assistance

In Washington, SB6744 introduced in the 2004 session would have created a loan repayment endowment program for attorneys who provide legal services in public interest areas of the law.

Other feedback/recommendations from interviews with undocumented individuals.

Community Members we interviewed did not know how to access legal services. Outreach and engagement about legal services, clinics, online intake/screening platforms can be shared with undocumented individuals and families through radio spots, social media, sharing flyers in broad community outreach.

One **Community Member** indicated that the community needs a center dedicated to the legal needs of undocumented community that would help to build trust with legal providers. This would address their fear of sharing personal information over the phone/Zoom.

⁸⁰ See Section 428L: <https://www.govinfo.gov/content/pkg/COMPS-765/pdf/COMPS-765.pdf>

⁸¹ Hannah Haksgaard, Rural Practice as Public Interest Work, 71 Me. L. Rev. 209 (2019). Available at: <https://digitalcommons.maine.edu/mlr/vol71/iss2/3>

⁸² Chad Davis & ST. LOUIS PUB. RADIO, *Immigrants, Migrants Caught in the Middle of Rural Lawyer Shortage*, HARVEST PUB. MEDIA (Sept. 24, 2018), <http://www.harvestpublicmedia.org/post/immigrants-migrants-caught-middle-rural-lawyer-shortage> [<https://perma.cc/N6PU-7LAY>]; David Wagner, KPCC, *California Housing Costs Push Migrants Away from Areas Providing the Most Help*, CALMATTERS (Dec. 19, 2018), <https://calmatters.org/articles/california-housing-costs-push-migrants-from-help/> [<https://perma.cc/YCD8-P7AX>]

⁸³ See for instance, <https://nhsc.hrsa.gov/loan-repayment/nhsc-rural-community-loan-repayment-program>

⁸⁴ For more information about how these programs might work, see:

<https://abaforlawstudents.com/wp-content/uploads/2020/07/lrd-2008-03-rural-loan-forgiveness.pdf>

⁸⁵ For more information, visit: <https://ujs.sd.gov/uploads/RuralAttorneyRecruitmentProgram.pdf>

Study Aim 5

Short-term and Long-Term Solutions & Funding Opportunities

After conducting a literature review, interviews and discussions with community stakeholders and community members, the following short- and long-term solutions are proposed to address the legal needs of the Undocumented community in the Yakima Valley.

Short-Term Solutions

1) (Legal Service Providers/Networks)

Legal Promotores Training Development

To address the shortage of Spanish speaking service providers in the Yakima Valley, efforts should be made to develop a Legal Promotores Training and promotores workforce development. Incorporating Legal Promotores into the community could help increase the public's understanding of their rights and could help provide assistance in navigating the legal system. Initial efforts to create a Legal Promotores Training could be started by the Access to Justice Board of the WSBA by creating a training development committee that includes community stakeholders and can work towards identifying a core curriculum of training topics and activities that a Legal Promotor should be competent in, in order to effectively serve the community. This should be done with the inclusion of Paralegals that serve the community in the Yakima Valley as they likely have extensive familiarity with understanding what services the community needs and requests help with the most. Information from a report done by the Justice Lab at Georgetown Law Center on Nonlawyer Navigators in State Courts could also be helpful in developing a curriculum and standard practices for Legal Promotores.⁸⁶ In order to make the training as low-cost and efficient as possible it could be done via recorded webinar or online training module similar to what the WA State Department of Health has created as part of their Community Health Worker Training.⁸⁷ Creating a Legal Promotor training and workforce development could be especially helpful for undocumented people and those who are non-native English speakers. They could work with and provide support within non-legal community organizations but work in partnership with legal organizations. They could also be integrated into legal organizations as part of their staff mix to conduct community outreach, scheduling and other administrative tasks.

2) (Legal Service Providers/Networks)

Increased understanding of immigrant population in the Yakima Valley

Ensuring that legal service providers have the most up to date understanding of the population they serve can help support the development of funding requests that are successful and support the needs of the community. To obtain information about the undocumented

⁸⁶ See report, "Nonlawyer Navigators in State Courts: An Emerging Consensus
A survey of the national landscape of nonlawyer navigator programs in state courts assisting self-represented litigants"
<https://legalaidresearchnlada.files.wordpress.com/2020/01/justice-lab-navigator-report-6.11.19.pdf>

⁸⁷ WA State Community Health Worker Training <https://doh.wa.gov/public-health-healthcare-providers/public-health-system-resources-and-services/local-health-resources-and-tools/community-health-worker-training-program>

immigrant population in Yakima Valley to assess local capacity and develop timely funding requests, there is a Center for Migration Studies program that offers customized data to immigrant-serving public agencies and community-based organizations. See the form here: <https://cmsny.org/research-and-policy/data/>

3) (WA State Legislature)

Funding allocation by the state for legal services for immigrants

Dedicating general funding from the state to support the following across the spectrum of legal services for immigrants, ranging from community navigators and outreach workers, through accredited representatives to attorneys:

- Online legal intake screening - conducted during mobile clinics and legal clinics that do outreach to undocumented populations.
- CLEAR line legal screening - expanded hours (open in afternoons and evening hours) for legal screenings so that underserved communities in the Yakima Valley can better access assistance for various legal needs.
- Legal Clinics - fund monthly legal clinics that are conducted in partnership with Yakima Valley community organizations and consider providing holistic social and mental health services and referrals.
- Training and capacity building - investment should be directed to training and capacity building needs for 1) Community navigators and outreach workers who need constant training and updating on the state of public policy, and 2) Attorneys need funding at a wage that is competitive with the private sector and organizations that provide professional development need support.
- Increasing accredited representatives - recognized charitable immigration agencies should expand their numbers of accredited representatives and invest in training to allow partially accredited representatives to become fully accredited.⁸⁸
- Funding trauma-related therapeutic services - these services need to be made available to legal providers. More than many other areas of law, legal providers serving undocumented immigrant communities experience secondary trauma from their work with clients who have been in desperate situations. A **Community Stakeholder** noted, “this work feels heavy, so I tell my staff to get up and go, turn the work off, and that they can’t help anyone if they are burned out. We need to invest in self-care. We decided as a team to add monthly outings to our policy handbook.”

Long-Term Solutions

(Legal Service Providers)

1. Evaluation Efforts - Legal Aid Clinics & Telephonic Intake Lines

To successfully address the legal needs of the community, an in-depth evaluation of these existing efforts should be conducted. A robust evaluation of existing Legal Aid Clinics and Telephonic Intake Lines can help gather data needed to determine if these are meeting the

⁸⁸See report, “Assessing Capacity to Provide Legal Services to Undocumented Immigrants in Illinois.” by Rob Paral & Associates/The Resurrection Project: <https://resurrectionproject.org/wp-content/uploads/2022/08/Assessing-Capacity-to-Provide-Legal-Services-to-Undocumented-Immigrants-in-Illinois.pdf>

needs of the community or if improvements should be made. Data should be gathered to understand the impact that both have on the community. A mixed methods evaluation could be conducted in collaboration with key stakeholders to gather both quantitative and qualitative data. Conducting an evaluation can also help provide data that supports long-term funding to continue providing these resources. For example, the Washington Immigrant Solidarity Network is currently conducting efforts to track impacts of legal advice that is given via their hotline.

(Federal)

2. Improving Accredited Representative process

Fully accredited representatives can represent immigrants in removal proceedings during this time of significant stress on the immigration court system.⁸⁹ Given they also handle a combination of USCIS petitions, applications and requests for immigration benefits, their numbers are modest in comparison to the immense backlog of pending court cases estimated at 2 million at the end of December 2022.⁹⁰ Due to extraordinarily high legal immigration needs, Congress and DOJ/EOIR should commit to reducing the time it takes to adjudicate recognition and accreditation applications for regional representatives. Congress should appropriate sufficient monies to DOJ/EOIR for this purpose. There are currently only 3 organizations in Yakima Valley that hire accredited representatives in the Yakima Valley (11 total representatives), so increasing the number of accredited representatives could help provide more support for the community.

(State)

3. Expanding Access to the WSBA Law Clerk Program

This program has the potential to be restructured to allow more under-represented individuals in rural communities such as Yakima County access to the program, but as of right now it is not set up in a way that can be maximized by legal services organizations that serve immigrants. To maximize the use of the program, an exception for legal services organizations that would allow them to develop joint training and serve more than one individual at a time would increase the capacity of this program and help build a pipeline. Also, providing financial support to legal organizations that wish to pursue this path would increase its uptake and ultimately benefit undocumented communities.

(State)

4. Supporting a Law School for the Yakima Valley

Legal education can play a crucial role in access to justice for undocumented communities. Law school clinics provide free legal assistance to tens of thousands of clients, most of whom would

⁸⁹ LaSusa, Mike. 2022. "Nonlawyers Fill Void at Overwhelmed Immigration Courts." Law360. March 11. <https://www.law360.com/articles/1469550/nonlawyersfill-void-at-overwhelmed-immigration-courts>.

⁹⁰ TRAC (Transactional Records Access Clearinghouse). 2022. "Immigration Court Backlog Tool." https://trac.syr.edu/phptools/immigration/court_backlog/.

otherwise not have access to the justice system.⁹¹ Law school clinic students alone provide tens of millions of dollars in pro bono legal services each year.⁹² If located in Yakima Valley, a law school would increase access to legal services for undocumented communities living there.

Establishing a law school in the Yakima Valley was identified by legal aid leaders as an important goal to remove barriers to the legal profession to a marginalized community and student body to increase legally appropriate resources. Opening a law school at Heritage University in the Yakima Valley would address the need to train local lawyers who will be more likely to serve in their community of heritage and will address the undocumented community's immediate needs for attorney services through legal clinics hosted by the school. During community interviews several individuals identified trust as a crucial component to addressing their legal needs, in addition to stressing the importance of having Spanish speaking legal providers. A law school could help meet the needs of the community by fostering trust as a recognized entity in the Yakima Valley and would likely increase the number of Spanish speaking providers who learn and serve within their own community.

Funding Opportunities

(Yakima County & WA State)

Jurisdictions around the country should support their immigrant residents by allocating public funding for legal services.⁹³ In 2016, states and cities across the country developed their own initiatives both in preparation for additional enforcement and in defiance of the incoming Trump administration. There are various programs highlighted in which local jurisdictions secured matching funding from private donors to support representation for immigrants in detention and removal proceedings.⁹⁴

Investment should be directed to multiple service models including:

- Community-based legal services that are situated close to or within immigrant residential areas. These service providers offer highly accessible and culturally appropriate services.
- Centralized, regional services with specialists who can serve complex cases.

Dependence on annual appropriations from local, state, and federal government have left legal services programs uncertain and subject to budget cuts, changing politics, and needing to lobby to maintain funding levels considering pandemic-related budget shortfalls.⁹⁵

⁹¹ Peter A. Joy, Government Interference with Law School Clinics and Access to Justice: When is There a Legal Remedy?, 61 CASE W. RES. L. REV. 1087 (2011); Stephen Wizner & Jane Aiken, Teaching and Doing: The Role of Law School Clinics in Enhancing Access to Justice, 73 FORDHAM L. REV. 997 (2004).

⁹² Robert Kuehn, The Economic Value of Law Clinic Legal Assistance. 2022. Best Practices for Legal Education. <https://bestpracticeslegaled.com/category/best-practices-and-clinics/>

⁹³ See article: <https://immigrationforum.org/article/public-funding-for-immigration-legal-services/>

⁹⁴ See Vera Institute of Justice's Advancing Universal Representation Initiative here: <https://www.vera.org/ending-mass-incarceration/reducing-incarceration/detention-of-immigrants/advancing-universal-representation-initiative>

⁹⁵ Fleskes, Austin. 2020. "Shortfall in City Legal Aid Fund Could Lead to More Denver Immigrants Facing Deportation with No Lawyer." *Colorado Politics*. Available at: https://www.coloradopolitics.com/denver/report-shortfall-in-city-legal-aid-fund-could-lead-to-more-denver-immigrants-facing-deportation/article_eb16be9c-e332-11ea-a0dd-cbde03901aa8.html; Grench, Eileen. 2020. "State Stiffs Immigration Lawyer Fund Cuomo Once Lauded as 'Beacon of Hope.'" *The City*. New York City. Available at: <https://www.thecity.nyc/2020/8/3/21353609/state-stiffs-immigration-lawyer-fund-cuomo-once-lauded>

However, as a rural county, Yakima is less affluent and more conservative than many other Washington jurisdictions. These political realities mean that there is a smaller likelihood of investment in legal services at the County level. Therefore, **state policymakers and stakeholders should consider robust and sustainable funding vehicles for legal assistance programs**, such as multi-year grants or grants calculated based on the number of clients served in a specified period.⁹⁶

Moreover, **Washington State should eliminate the restriction in state funding that prohibits funding for immigration work** under RCW 2.53.030(2). This would make it possible for legal services providers to serve more legally underserved people living in Yakima County with multiple legal needs including immigration.

(Federal)

There are many in the undocumented community who prioritize legal services and/or intervention for those at imminent risk of deportation facing permanent separation from their families and their communities and sometimes life-threatening risks in their countries of origin.⁹⁷ These emergent and timely cases deserve our attention and highlight the need to address our national immigration law policies of exclusion and international policies and politics that impact migration's root causes and push factors.

Universal representation is rooted in the principle that every person deserves due process of law, regardless of immigration status. There is not yet a constitutionally recognized right to appointed counsel for people facing deportation. Whether they are lawful permanent residents, unaccompanied children, asylum seekers, or victims of gender violence, they are almost guaranteed to lose their cases and face exile from the United States without legal representation.⁹⁸ There are 2 levels of Universal Representation in which to focus resources: 1) To provide representation to those eligible to stay in the U.S. This would ensure that those eligible for relief have the best opportunity to apply for and secure that relief and it injects fairness into the system by giving immigrants the opportunity to access the rights they are entitled to under US law; and 2) To provide universal representation regardless of whether the person is eligible to stay in the U.S. In the final analysis, legal service providers that directly serve undocumented populations need to decide which level they will prioritize directing their services given local circumstances and politics and national policy discussions.

⁹⁶ See article: https://immigrationforum.org/article/public-funding-for-immigration-legal-services/#_ftnref23

⁹⁷ National Immigration Law Center/Vera Institute of Justice/The Center for Popular Democracy. Advancing Universal Representation: A Toolkit for Advocates, Organizers, Legal Service Providers, and Policymakers: <https://www.vera.org/advancing-universal-representation-toolkit>

⁹⁸ See Universal Representation: Filling the Due Process Gap for People in Immigration Court, available here: <https://localprogress.org/wp-content/uploads/2019/01/Universal-Representation.pdf>

Appendix A

Survey of Legal Services Available in Yakima Valley

Methods:

Snowball method starting with Yakima Volunteer Attorney Services, and with assistance from members of the WSBA Access to Justice Committee.

A. Questions for Key Informants

- 1) What is your name and organization?
- 2) What legal services organization do you think is accessible to people regardless of their legal status throughout the Yakima Valley?
 - a. Organization Name:
 - b. Contact Person:
 - c. Contact Phone number:
- 3) Do you think members of the undocumented community here in Yakima Valley trust this organization? Why/Why not?

B. Questions for Legal Service Providers

Introduction:

Hello, I'm _____ and I'm a consultant for the Access to Justice Committee, which is part of the WA State Board Association. We are examining legal services and needs in the Yakima Valley, specifically for Undocumented populations. It was recommended that we speak with you because of the work you are doing. I'd like to talk with you for 20-30 minutes about the legal services your organization provides to individuals in the Yakima Valley. [Do you have a few minutes available in the next couple of weeks for a phone call?]

- 1) What is your name and role/position/title?
- 2) How long have you worked in this organization?
- 3) How many years have you worked in the Yakima Valley as a whole?
- 4) Please tell me about the services you offer for people regardless of legal status. Do the services include direct representation? Brief advice? Or resources? Or other?
- 5) For each service, can you tell me if any type of interpretation is provided? What type?
- 6) Are these services available when clients are available?

- a. Why or why not?
- 7) Are there any limitations to people utilizing these services? Are these services limited and if so how?
- 8) Is transportation a barrier to people accessing these services?
- a. If the clients cannot physically get to the services, are there alternative options (i.e., virtual, phone, etc.)?
- 9) How do you define cultural competency in terms of legal services for undocumented populations?
- 10) Are your legal services provided in a culturally competent manner?
- a. Please tell me how/why you think these services are culturally competent.
 - b. Is there something your organization has tried or could do to increase the cultural competency of these services?
- 11) Do you think your organization is trusted by the undocumented community to provide legal services? Yes / Somewhat / No
- a. Please explain more why or why not.
 - b. Is there something your organization has tried or could do to gain the trust of the undocumented community?
- 12) Do you have any recommendations for other people/organizations, services that we should contact to find out about legal services accessible to people regardless of their legal status in the Yakima Valley?
- a. Organization Name:
 - b. Contact Person:
 - c. Contact Phone number:
- 13) We recognize that often researchers come into a community that they are not from to collect information and you never hear back from them. On the contrary, we would like to report back to you. Is there something that you would like to see or do in terms of our research that would be helpful to you or this community?

Appendix B

Legal Services Providers (14) Serving Undocumented Communities in Yakima Valley

Organization Name	Mission	Legal Services/ Supports	Availability & Resources	Language Access	Cultural Comp. Strategies	Limitation in Serving Undoc	Notes
Aspen Victim Advocacy Services	A safe space for individuals who are survivors of violent crimes such as sexual assault to come and receive services. Also, here to serve those who have been harmed as a result of crimes.	Advocacy/ Support: through the legal, medical, and criminal justice systems. Assistance in preparing for court. Active monitoring of case to inform victim. Information. Referrals.	Hotline. Flexible hours (evenings/ weekends) to meet client needs. Assistance (financial, therapy, housing).	Staff (advocates) are largely bilingual (Eng./Span). Interpreters available through Comprehensive Health Care or telephonic language line.	Providing services in client's primary language. Advocates are first generation immigrants that understand client cultures. Celebrate and incorporate cultural traditions (Día de los Muertos). Participate in trainings. Close partnerships with trusted organizations.	None.	Labor/sex trafficking is key concern victimizing undocumented community.
Columbia Legal Services	Provides civil (not criminal) legal services to people who are low-income or have special legal needs throughout WA State. Examples include domestic violence, family law, housing, welfare, Medicaid, and social security.	Representation for Impact Litigation: for issues affecting a larger group. Policy Advocacy & Reform.	Flexible hours to meet community needs. Regularly attend evening meetings. Does not charge eligible clients for services.	Priority to hire bilingual staff, attorneys. Have budget for interpreter services.	Recruits staff from the community they serve. Invite impacted community to be on hiring committee. Takes direction from clients. Practices values of respect and dignity. Recognizes systemic barriers of undocu community. Partners with undocu-serving orgs.	Does not represent individuals. Responsiveness may take more time due to process.	N/A

Entre Hermanos	To promote the health and well-being of the Latino Gay, Lesbian, Bisexual, Transgender, and questioning community in a culturally appropriate environment through disease prevention, education, support services, legal representation and advocacy, and community building.	Direct representation: immigration cases. Detention support. Information. Free immigration telephonic consultations for individuals throughout WA.	Respond to FB messages to increase access. While most consults are between 10-6pm, they flex hours as necessary to accommodate clients. Accompaniment services and bus tickets to facilitate transportation.	Radio program in Spanish. Staff fluent in Spanish. Access to interpreters for Indigenous languages like Purepecha. Provide interpretation for other languages.	Cultural humility practices/trainings that increase awareness of own/other's cultures. Hire community members as staff. Schedule workdays based on agricultural seasons for farmworker clients. Frequent phone check-ins. Using apps to send texts with close-ended questions to complete declarations. Considering smartphone with WhatsApp to reach clients. Make greetings obvious (flags on t-shirts) to reach LGBTQ+ detained clients.	Immigration application fees are a barrier. Communication methods change i.e. people's phones are frequently disconnected.	Informing people about sanctuary cities/ areas can ease fear. Lingering uncertainty is merited due to changing political climate.
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Fair Work Center	To build power through education, organizing, and enforcement. Works to raise and uphold standards in the workplace. Fights for economic and racial justice in our communities.	Direct representation. Legal clinic. Grant from OVA to provide more legal services to undocu people. Community outreach events, attach lawyers from VAS and our org to give brief consultation and follow-up, cross-referring from VAS (family law + getting last paycheck). Organizing workers. Also engaging federal & state enforcement agencies in our work.	Been in Yakima for 9 months. Ramp up in Jan 2022, got office there, part of a center and share space with WAISN, One America, and WSLC.	Law in YV is white & male enclave with little secondary language. A struggle to provide. Prioritizes an attorney that speaks Spanish fluently. On the organizing side, has native Span speaker that understands issues and barriers and meets workers where they are.	Young enough, space for us to expand to try new things. Models - trying to hire paralegal assistants from the community (intake). Organizing model is working, well attended, a lot of people coming. Recruiting lawyers to be in person. Challenge is legal staffing in Yakima, current lawyer is on fellowship.	Various funding sources, but no restrictions on serving undocumented communities.	WA has a law to allow people to form a union. Would love to see WA have Farm labor relations board like CA that supports farm labor activities. Requires legislative undertaking. LNI should prioritize people in ag. communities- would be positive for YV undocumented people.
La Casa Hogar	Connects and educates Latina families, to transform lives and our Yakima Valley.	Representation for citizenship-related cases from intake to swearing in. Referrals. Education- civic engagement. Policy Advocacy. DOJ-accredited to offer basic immigration legal services.	Trained receptionist to provide direct contact with community and appropriate referrals. Flexible times for programs based on client's work schedules and ag seasons. Holistic: classes, services, and education.	Entire team is bilingual Eng./Spanish to respond to language needs for most of their clients.	Hiring bilingual community members. 60% of staff were clients of the organization, so have valuable experience navigating the same systems as clients. Work with people where they are, according to their needs. Trauma-informed programs that consider community experiences with oppressive systems. Practice self-awareness and empathy.	None.	Need equity in state funding; more assistance for rural orgs to access funding and broaden criteria for success.

Latino Bar Association of WA	With the mission of providing access to justice, LBAW co-sponsors legal clinics in areas where legal resources are not as accessible, at which volunteer attorneys provide free, limited legal advice on various legal issues	Legal Advice through 30 min. consults on personal injury, medical negligence, worker's rights/wage claims, family law, immigration, criminal law, and property/ landlord-tenant law.	Legal clinics offered in partnership with trusted community organizations at their locations during evenings/ weekends. Virtual clinics (telephonic) also offered.	Most volunteer lawyers at clinics speak Spanish. Collaborating orgs offer additional interpretation.	Cultural understand between Latinx lawyers and clients helps to connect. Ability to fully understand the client and know about their lived experiences as undocumented, farmworkers, etc. Need to have a lot of experience in the community to understand what the client is trying to tell you.	Most requested is immigration but there are few volunteer immigration lawyers. Clinics depend on all volunteer staff.	N/A
The Lighthouse	Exists to advocate for, educate, and support those affected by domestic violence and sexual assault.	Advocacy/Support accompaniment. 24-hour crisis line. Crisis intervention. Referrals. Support groups, outreach, and training.	Staff flexible and have bilingual volunteers after hours to respond to crisis line. Transportation provided.	Bilingual staff/ advocates work with clients. Court-certified interpreter assigned when clients appear in court. Bilingual materials.	40+ years in Yakima Valley. Several bilingual advocates have lived and worked in community for a long time. Welcoming demeanor, identifying holidays, and integrating cultural pieces, sharing food, and ongoing training helps. Listening before assuming, remaining open. Partner with community orgs.	Fears that undocumented people have are barriers to their ability to seek assistance they are eligible for.	More funding for mental health. Need bilingual court staff, signage, and forms-instructions.
Northwest Immigrant Rights Project	Promotes justice by defending and advancing the rights of immigrants through direct legal services, systemic advocacy, and community education.	Direct legal representation for people living in south-central WA: immigration, crime victims. Referrals. Education.	Staff meet clients by phone and in-person when necessary. Flexibility to meet clients after hours. Spanish language radio outreach.	Bilingual attorneys. Language interpretation provided (Voiance).	Finding staff who look like clients, meet them face-to-face and speak their language is a priority. Educate clients using materials with pictures, brief narratives. Flexibility, adaptability in working with this population.	At capacity. Wait list is long. Clients must be income eligible: 125% of poverty	Challenge to find bilingual attorneys.

Northwest Justice Project	Provides free legal assistance to address fundamental human needs such as housing, family safety, income security, health care, education, and more. Their work challenges structural and racial inequities to promote the long-term well-being of low-income individuals, families, and communities across WA.	Representation in civil legal problems facing low-income people due to lack of income. Referrals to partner agencies. Resource Information: WALawHelp. Education: materials, presentations.	M-F 9-4 office hours, but flexible hours depending upon client needs.	Bilingual staff in Yakima office and language interpretation available via telephone language line. Translate key legal documents for clients.	For Latino community, in-person contact is valuable for connection and trust-building. Using social media for outreach and connection, do presentations and meeting people in person is important.	Clients must call CLEAR (only during certain times) for intake. Undocumented only qualify for representation as victims of crime & housing for mixed status households.	Legal services are at capacity. Service gaps are worse in Yakima as compared to other regions.
TeamChild	Upholds the rights of youth involved, or at risk of being involved, in the juvenile justice system to help them secure the education, healthcare, housing and other supports they need to achieve positive outcomes in their lives.	Direct civil legal representation and litigation for youth and young adults 12-24. Education: presentations. Policy advocacy with youth. Resources: able to provide phones, bus passes, Ubers, gas.	Accessible to meet clients after hours and neutral location if office hours are a barrier. Not restricted by federal funding that would limit serving moderately low-income youth, families.	Longtime, bilingual (Spanish) staff. Use language line. Obtain court-certified interpreter for material translations and in-person representation.	With youth, must be willing to listen with humility and openness. Centering cultural values to build trust and rapport. Showing appreciation. Maintain close community partnerships. Youth need flexibility.	Aspiration to recruit bilingual attorneys willing to work in Yakima Valley. Unstable WIFI in lower valley.	Housing stability and other emergent/ immediate issues need to be met while legal issues are being addressed.

Washington Immigrant Solidarity Network (WAISN)	WAISN's mission is to empower immigrant and refugee communities, establish statewide mobilization and resistance to anti-immigrant and anti-refugee activities, and galvanize communities to begin collective action across the state.	Hotline 7 days/week. Resources. Referrals to agencies including direct referral system to civil legal aid. Policy Advocacy. Education: FB videos and materials on various topics.	There is always someone on hotline to respond to reported raids, etc. Respond to FB messages. Able to gather and upload documents for relief funding applications. New Yakima office is way to increase trust. Partnering on 10-12 in-person legal clinics.	Language justice is core value. Required fluency in Spanish. All meetings in Spanish with English translation. Telephonic language line for other languages.	Organization is led by queer, trans, undocumented people. Hire people that have the lived experience of those they serve. Work with 25 undocumented serving partners statewide. Following leadership of impacted community members. FB Live videos where community members alongside trusted experts deliver messages. Social media graphics that get to the point are better for this community. Inclusivity beyond Latinx populations.	Capacity issue with calling people back who leave messages on hotline.	Access to low & pro bono legal services, especially for immigration issues, is a huge gap in Yakima.
Yakima Dept of Assigned Counsel	Provides constitutionally guaranteed legal defense services for indigent persons charged with crimes or brought into proceedings threatening the loss of personal liberty in the District and Superior Courts of Yakima County.	Public defense representation delivery system in Yakima County for all those presumed indigent. Includes felonies, misdemeanors, sex offenses (DV).	M-F 8:30-4, but trial lawyers work all hours required by the case.	Use interpreters in office, contract court-certified interpreters for documents.	We know that finding an immigration-safe result is what clients want, so we prioritize this in our work. Not practiced in the court system and prosecuting authority, and largely disincentivized due to time and legal culture. Follow facts, law, and evidence to address the high need. Yakima County very conservative & don't prioritize or care about this.	Very few bilingual public defenders willing to relocate to Yakima.	Holistic representation (social workers, investigators, support) needed to meet WSBA standards of indigent defense.

Yakima Volunteer Attorney Services	To provide referrals to volunteer attorneys for qualified indigent clients in designated civil cases. We are recognized as a non-profit company and licensed to provide clients with pro-bono attorneys.	Representation, litigation: criminal, civil, employment, family law. Depends on recruitment of volunteers. Education: YouTube Channel	M-F 9-4, but volunteer lawyers try to be responsive to people without phones, internet. Zoom court. Bus passes for court access. Legal clinics in evenings, materials in Spanish.	Hired bilingual coordinators. Use telephonic language line. Certified interpreter to translate court documents. Paid advertising in Spanish.	Understanding culture that people are coming from. Accommodate time, language barriers for undocumented clients when they often hear "no". Staff need breaks to take care of themselves in doing this work to avoid burnout. Staff aware of systemic barriers clients face. Mandatory CC training for staff.	Services depend on volunteer base of lawyers. Clients must call CLEAR for eligibility and intake.	Need bilingual staff, forms, and signs in courthouse.
YMCA (Yakima)	On a mission to eliminate racism, empower women, stand up for social justice, help families, and strengthen our community.	Legal advocacy, case management and resource/service navigation for victims of DV. Education.	Staffed and people can call 24 hours/day, though legal advocate is during day. Flexibility with services. Outreach in community sites to connect and build trust.	Prioritize hiring bilingual advocates and staff. Materials translated. Arrange court-certified interpreters. Spanavision PSAs on all TV stations about DV	Embedded within mission is to eliminate racism, so culture is to have education and understanding of different communities and actively accommodate language, food, medication, and other cultural needs. Resources/info to not be biased and judgmental. Trainings and DEI institutes for staff.	Some think we don't serve undocumented people, so we aim to inform partners. Fear of reaching out esp. DV	N/A

Appendix C

Demographic Survey of Undocumented Community Members

1. Which area of the Yakima Valley do you live in?
 - a. Yakima
 - b. Wapato
 - c. Toppenish
 - d. Zillah
 - e. Granger
 - f. Sunnyside
 - g. Other
2. To which gender identity do you identify yourself?
 - a. Male
 - b. Female
 - c. Transgender Male
 - d. Transgender Female
 - e. Gender Variant/Nonconforming
 - f. Other
 - g. Prefer not to answer
3. Which racial/ethnic groups do you identify with?
 - Afro - Caribbean
 - Afro - Latino/a/x
 - American Indian, Alaska Native or First Nations
 - Asian
 - Asian - East Asian
 - Asian - South Asian
 - Asian - Southeast Asian
 - Black or African American
 - Hispanic or Latino/a/x
 - Indigenous to Mexico, Central America, or South America
 - Middle Eastern, Southwest Asian, or North African
 - Native Hawaiian or Other Pacific Islander
 - Slavic / Eastern European
 - White
 - More than one race or ethnicity / multiracial
 - Another race, ethnicity, or origin
 - Prefer not to answer
 - Unknown
4. In which of the following age ranges do you belong?
 - a. Under 18 years of age
 - b. 18-34 years

- c. 35 to 44 years
 - d. 45 to 54 years
 - e. 55-64 years
 - f. 65 or more years
5. What is the highest level of education you have completed?
- a. 0-3 years primary education
 - b. 3-5 years primary education
 - c. 5-8 years primary education
 - d. 8-12 years, no high school diploma or GED
 - e. High school diploma or completed GED
 - f. Other _____
6. What is the primary language you speak at home?
- a. Spanish
 - b. English
 - c. Spanish and English
 - d. Indigenous Language (ex. Triqui, Mixteco)
 - e. Other (please specify) _____
7. What is your household size?

**a household can be defined as all people who occupy a single housing unit regardless of their relationship to one another.*

8. What is your annual income?
- a. Less than \$20,000
 - b. \$20,000 - \$50,000
 - c. More than \$50,000
 - d. I don't know / Not Sure
9. What are the sources of your income?
- a. Employment
 - i. Type of Employment
 - 1. Agriculture
 - 2. Retail
 - 3. Hospitality
 - 4. Landscaping
 - 5. Construction
 - 6. Caretaker
 - 7. Other
 - b. Other:
10. Does anyone else in your household have an income? a. Yes; b. No

Appendix D

Undocumented Community Member Legal Needs Interview Guide

1. Have you previously experienced a need for legal services?
 - a. What type of legal services did you need?
 - b. What organization did you seek services from?
 - i. Are there any organizations that you have heard you cannot seek legal services from?
 - c. Can you describe your experience?
 - d. Did you feel like these services were accessible to you?
 - e. Did you experience any barriers?
 - i. Has your legal status ever been a barrier in you personally seeking out legal services?
 - ii. Have you ever been told that your legal status could be a barrier in seeking out legal services?
 - iii. Have you ever experienced a need for legal services but did not seek help due to fear because of your legal status?

if no previous experience or need, ask questions 1.i, and e.i.ii.iii, then proceed to question 2

2. There might be other situations where you could potentially need legal services and might not have been aware of it, I will read through a couple of scenarios, and you can tell me whether these might apply to you:
 - **Benefits** - For example needing help attaining benefits from the state or experiencing changes in benefits and you're not sure why there was a change.
 - **Contracts/Insurance** - For example being in an accident but not having insurance.
 - **Crimes/Fines** - For example having unpaid court fines or tickets, a suspended license or experiencing difficulty obtaining housing or employment due to a criminal record.
 - **Debt** - For example owing taxes that you are not able to pay back, having unpaid medical bills or utility bills.
 - **Discrimination / Civil Rights** - For example being treated differently or unfairly based on how you look or how you personally identify.
 - **Domestic Violence** - For example experiencing physical harm, bodily injury, assault, or inflicting the fear of physical harm, bodily injury, or assault, between members of the same household or family.
 - **Education/School** - For example experiencing a need for additional support for your child to be successful in school or being a victim of hate or discrimination at school.
 - **Employment** - For example being harassed or discriminated against while at work or being fired unfairly.

- **Family** - For example if you are going through a divorce or separation, or having issues with child support or spousal support.
 - **Housing** - For example experiencing or being at risk of homelessness, renting an unsafe home, or experiencing harassment/retaliation from your landlord.
 - **Immigration** - For example understanding your rights during ICE raids, receiving a removal or deportation order, or having a visa request denied.
 - **Personal Injury** - For example experiencing an injury at your workplace or in a car accident.
 - **Safety Planning** - For example needing help planning for your children or family if you are detained or deported.
 - **Wills/ Estates** - For example needing help with will planning for your children or property.
 - **Other** - Is there any other situation you can think of that you have experienced or are currently experiencing where having legal assistance would help?
3. If you were to experience a legal need, where would you turn to first?
 - a. Can you describe why?
 4. In your opinion, what types of legal services do you think are most needed for the undocumented community in the Yakima Valley?
 - a. Are these services accessible?
 - b. Are there any services that are not accessible?
 - c. How could the legal needs of the community be better met?
 - d. What do you think is needed to improve access to legal services?
 5. What do you think are the biggest barriers experienced by the undocumented community in accessing legal services?

Appendix E

Undocumented Community Member Demographic Data

37 individuals participated in phone interviews; the following provides a breakdown of participant demographics.

Race & Ethnicity

All 37 participants identified as Hispanic or Latino.

Gender

20 participants identified as Female and 17 identified as Male.

Annual Income

Annual Income	Frequency	Percentage
Less than \$20,000	7	18.9%
\$20,000 - \$50,000	30	81.1%
More than \$50,000	-	-

Primary Language

All 37 participants identified Spanish as their primary language.

Education

<u>Education</u>	<u>Frequency</u>	<u>Percentage</u>
0-3 years primary education	1	2.7%
3-5 years primary education	14	37.8%
5-8 years primary education	17	45.9%
8-12 years, no high school diploma or GED	2	5.4%
High school diploma or completed GED	3	8.2%

Workforce Sector

<u>Workforce Sector</u>	<u>Frequency</u>	<u>Percentage</u>
Agriculture	33	89.2%
Retail	-	-
Hospitality	-	-
Landscaping	-	-
Construction	2	5.4%
Caretaker	1	2.7%
Other	1	2.7%

Place of Residence

<u>Place of Residence</u>	<u>Frequency</u>	<u>Percentage</u>
Yakima	18	48.6%
Wapato	5	13.5%
Toppenish	3	8.2%
Zillah	-	-
Granger	2	5.4%
Sunnyside	7	18.9%
Other	2	5.4%

** * Other: 2 participants identified Grandview as their place of residence * **

Legal Services Needed

The following is a breakdown of legal services identified by participants during phone interviews, participants were asked to identify all services that applied to them.

Type of Service	Frequency	Percentage
Benefits	2	5.4%
Contracts/Insurance	1	2.7%
Crimes/Fines	3	8.2%
Debt	10	27%
Discrimination / Civil Rights	-	-
Domestic Violence	-	-
Education/School	3	8.2%
Employment	11	29.7%
Family	-	-
Housing	-	-
Immigration	20	54%
Personal Injury	9	24.3%
Safety Planning	2	5.4%
Wills/ Estates	-	-

References

- American Bar Association. ABA Profile of the Legal Profession 2020. Available at: <https://www.americanbar.org/content/dam/aba/administrative/news/2020/07/potlp2020.pdf>
- AM. BAR ASS'N, ABA NATIONAL LAWYER POPULATION SURVEY, 10-YEAR TREND IN LAWYER POPULATION BY STATE (2022), https://www.americanbar.org/content/dam/aba/administrative/market_research/2022-national-lawyer-population-survey.pdf
- American Community Survey, 5-year Estimates (2020).
- Jamie E. Bloss, Catherine E. LePrevost, Abdul G. Zahra, Gina C. Firnhaber, Leslie E. Cofie, Ramon Zepeda, and Joseph G.L. Lee. *Advancing the Health of Migrant and Seasonal Farmworkers in the United States: Identifying Gaps in the Existing Literature*, 2021. *Health Promotion Practice* 23(3), 432-444 (2022)
- Sydney Brownstone. Washington state's rise in homelessness outpaced the nation's, according to report. Seattle Times. (2021). Available at: <https://www.seattletimes.com/seattle-news/homeless/washington-states-rise-in-homelessness-outpaced-the-nations-according-to-report/>
- James N. Gregory, *Toward a History of Farm Workers in Washington State*. Seattle Civil Rights & Labor History Project. University of Washington. Available at: https://depts.washington.edu/civilr/farmwk_ch1.htm ;
- Meghan Henry, Tanya de Sousa, Caroline Roddey, Swati Gayen, and Thomas Joe Bednar. 2020 Annual Homeless Assessment Report to Congress. U.S. Department of Housing and Urban Development (2021). Available at: <https://www.huduser.gov/portal/sites/default/files/pdf/2020-AHAR-Part-1.pdf>
- Luz E. Herrera, Amber Baylor, Nandita Chaudhuri & Felipe Hinojosa, Evaluating Legal Needs, 36 Notre Dame J.L. Ethics & Pub. Pol'y 175 (2022). Available at: <https://scholarship.law.tamu.edu/facscholar/1543>
- Nicholas Jones et al., *2020 Census Illuminates Racial and Ethnic Composition of the Country*, U.S. CENSUS BUREAU (August 12, 2021). Available at: <https://www.census.gov/library/stories/2021/08/improved-race-ethnicity-measures-reveal-united-states-population-much-more-multiracial.html>
- Nella Letizia, *Couple's Ancestry Search Leads to Nash Photos of Yakima Valley Farm Workers*, Washington State University News/Events (2020). Available at: <https://libraries.wsu.edu/blog/2020/09/15/couples-ancestry-search-leads-to-nash-photos-of-yakima-valley-farm-workers/>

Don Meseck, Yakima County Profile. WA Employment Security Department (2022). Available at: <https://esd.wa.gov/labormarketinfo/county-profiles/yakima>

Migration Policy Institute, *Profile of the Unauthorized Population: Washington* (2019). Available here: <https://www.migrationpolicy.org/data/unauthorized-immigrant-population/state/WA>

Migration Policy Institute, *Profile of the Unauthorized Population: Yakima County, WA* (2019). Available at: <https://www.migrationpolicy.org/data/unauthorized-immigrant-population/county/53077>

David Morales, Yakima-Based Attorney. Personal Communication (7/29/22)

Pew Research Center, *Estimates of U.S. unauthorized immigrant population, by metro area, 2016 and 2007* (2019). Available at: <https://www.pewresearch.org/hispanic/interactives/unauthorized-immigrants-by-metro-area-table/>

U.S. Census Bureau. Memo about Undocumented Status estimates. Available at: <https://www2.census.gov/about/policies/foia/records/2020-census-and-ac/20200327-memo-on-undocumented.pdf>

U.S. Census Bureau. Poverty Thresholds (2020). Available here: <https://www.census.gov/data/tables/time-series/demo/income-poverty/historical-poverty-thresholds.html>

U.S. Census Bureau, P2: Hispanic or Latino, and No Hispanic or Latino by Race. 2020 Census. Retrieved July 9, 2022

U.S. Census Bureau, *Census Bureau Releases Estimates of Undercount and Overcount in the 2020 Census* (Mar. 10, 2022). Available at: <https://www.census.gov/newsroom/press-releases/2022/2020-census-estimates-of-undercount-and-overcount.html>

U.S. Department of Commerce, Economics and Statistical Administration, US Census Bureau (2012). Available at: https://www2.census.gov/geo/maps/econ/ec2012/cbsa/EC2012_310M200US49420M.pdf

Washington Dream Coalition, *Community Provides: Undocumented Communities in Washington State During the COVID-19 Pandemic*. N.D. Available at: https://assets.website-files.com/61959efc2f5d2186f9a2f09e/61a717bc848a3c6c7820423e_CommunityProvides.pdf

Washington Office of Financial Management Population Estimates (2021). Available at: <https://ofm.wa.gov/washington-data-research/statewide-data/washington-trends/population-changes/population-hispaniclatino-origin>

Washington State Bar Association. WSBA Legal Directory. Available at: <https://www.mywsba.org/PersonifyEbusiness/Default.aspx?TabID=1536>

WA State Employment Security Department, Distressed Areas List. (2022). Prepared in collaboration with U.S. Bureau of Labor Statistics:

<https://esd.wa.gov/labormarketinfo/distressed-areas>

Yakima County Department of Human Services/Homeless Network of Yakima County. Yakima County Annual Point in Time Community Report 2021. Available at:


<https://www.yakimacounty.us/DocumentCenter/View/29749/Yakima-County-2021-PIT-Final?bidId=>

Yakima Valley Trends. Available at: <http://yakimavalleytrends.org/>

Yakima Valley Trends, *Welcome to the Yakima Valley*. Available at:

<http://yakimavalleytrends.org/ourHome.cfm>

Effectively Onboarding and Supervising Legal Interns and New Lawyers



Effectively Onboarding and Supervising Legal Interns and New Lawyers

Presented at the WSBA Small
Town and Rural Practice
Summit on June 7, 2024
Spokane, WA

1

First, vocabulary

Legal intern: paid (required for firms) or volunteer law student position during any time of the year;

Extern: has been approved by their law school to receive **academic credit** for their experiential learning at an approved externship site. Students are paying tuition for the experience and must comply with ABA guidelines.

Law clerk: usually reserved for students working for judges; sometimes pre-licensed law graduates

Summer associate: law student 1L or 2L summer position usually leading to post-grad offer

Associate attorney: entry-level attorney position at firm

2

SESSION AGENDA

✓ Best Practices For:

- Onboarding
- Day One
- Ongoing Engagement
 - Communication
 - Assignments & Experiences
 - Observation
 - Feedback
 - Building Community
- Expectations
 - Timekeeping
 - Professionalism

✓ Experiences in the Field

✓ Q & A



3

3

Onboarding – Make a Plan

- ✓ Start date
- ✓ Discuss expectations and preferences
- ✓ Ask about tech set up and workspace
- ✓ Discuss resources you will provide:
 - Research databases, training materials, access to files, file storage services, team communication services, professional e-mail account
- ✓ Set up a supervision plan
- ✓ Get to know them
- ✓ Welcome them



4



Day 1 – Orientation Meeting

- ✓ Introductions
- ✓ Policies/Procedures
 - Explain the assignment process
- ✓ Broader Context
 - Talk about your work, what your days look like
 - Assure them that it's okay to take breaks

For law students:

- ✓ Provide substantive ethics training – discuss conflicts, confidentiality, competence, the unauthorized practice of law, diligence and any other ethical issues that commonly arise in your practice
- ✓ Remember: they are likely very nervous. Keep it positive and interactive!

5

Ongoing Engagement: Communication



✓Who

- Primary supervisor
- Back-up supervisor if not available
- Mentor for additional support

✓How

- Weekly meetings, check-ins
- Gauge workload, priority of assignments
- Encourage questions
- End of week status updates

6

6

Ongoing Engagement: Assignments & Experiences



✓ Provide diversity of assignments

✓ Sample assignments for law students:

- Research & writing
- Information gathering & summarizing
- Correspondence & connection
- One long-term assignment to work on if/when there is a lull
- Discuss broader context of assignments –knowing how their work matters to your case/project improves outcomes

7

7

Supervisor's Assignment Checklist

AKA “things to remember when giving an assignment to a law student or new attorney”

- ___ **Deadline** – When is the project due? (date and time)
- ___ **Priority** – What is the priority of the assignment?
- ___ **Audience** – Who is the assignment for? (you? the file? the client?)
- ___ **Context** – How does this assignment fit into the larger picture?
- ___ **Starting Point** – Where should the student/new attorney start with research? (treatise? internal file? case? statute? regulation?) Which jurisdiction(s)?
- ___ **Samples** – Do you have samples of the memo/brief/comment/etc. that the student/new attorney can use?
- ___ **Progress Updates** – When and how do you want the student/new attorney to check in with you? Set a date or time to address their questions.
- ___ **Format** – What format and length do you expect or anticipate? Do you want copies of authority?
- ___ **Summary** – Have the student/new attorney sum up the assignment.

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Ongoing Engagement: Observation



✓How

- In-person when possible
- Conference calls
- Video conference

✓What

- Meetings: clients, staff, opposing counsel
- Case review, strategy sessions
- Hearings, mediations, depositions
- Debrief –especially if virtual, need to be intentional about having time to debrief with them especially because many things are “firsts” for them.

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Ongoing Engagement: Feedback



✓Make it FAST

- Frequent
- Accurate
- Specific
- Timely

✓Use AID for needed correction

- Actions: specific observations
- Impact: result of the actions
- Do: mutually agree on alternative approaches for the future

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Ongoing Engagement: Feedback (cont'd)

✓ Share feedback in multiple ways

- Use a form
- Provide edits
- In person & via video conference

✓ Explain a final product

✓ Encourage self-evaluation/student/associate-led feedback – ask them how they think they did

✓ Again, don't wait



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Weekly Check-In Agenda

A regular, weekly check-in is always recommended and beneficial. Some students/new attorneys are too intimidated to reach out (in person or virtually), so this gives a designated space to raise their questions and concerns.

The weekly check-ins should be flexible depending on what is happening. A standard set of items should include:

- ✓ An update on current assignments
- ✓ Feedback on prior assignments (Was it received? Was it understood?)
- ✓ Goals the student/new attorney has and hopes to achieve and progress on those goals
- ✓ A personal check-in. This allows the student/new attorney to raise other issues or concerns (e.g. family, health, etc.) that might not otherwise come up, but which could be affecting their work.

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Ongoing Engagement: Building Community

- Brown bags & coffee chats
- Local bar events
- Collaboration on projects
- Presentations & virtual trainings
- Informational Interviews
- Courtroom tour and introductions
- Organize fun: monthly pizza or restaurant meal, hiking, community events



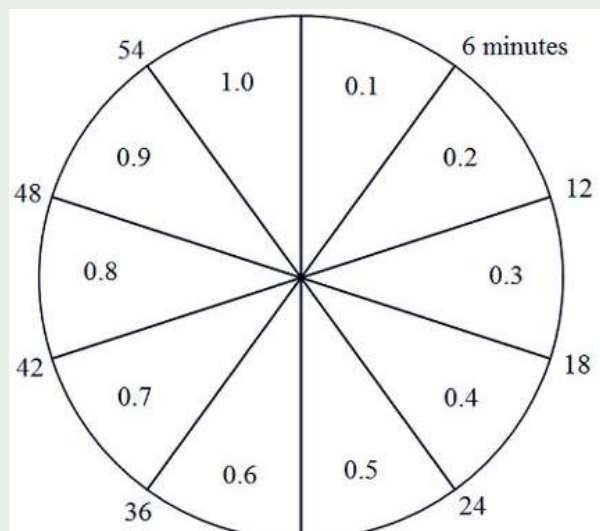
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Expectations

Timekeeping:

- Explain how/if you do it
- Concept of six-minute intervals (1/10 of an hour)
- Importance of keeping up with it
- What is/isn't billable
- What you do/do not want tracked beyond what is billable



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Expectations

Professionalism:

- What are the professionalism standards in your office?
- What are concerns raised by this definition of professionalism:

“Professionalism is commonly understood as an individual’s adherence to a set of standards, code of conduct or collection of qualities that characterize accepted practice within a particular area of activity”



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✓ Perspectives from the Field – Ethan Jones

✓ Open Discussion – Q & A



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Thank you

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Myths and Stereotypes About Rural Practice

MCLE Notes and Materials

Myths & Stereotypes About Rural Practice 75 Minutes, 1.25 Other

Planning Notes from Moderator

Discussion Topics:

- **Myths / Myth-Busting**
 - Open ended question addressing / dispelling common misconceptions about rural legal practice. Common myths v. actual experiences and any personal stories panelists may have as anecdotal evidence. Feel free to highlight common stereotypes / myths in your answers to all questions.
- **Big City vs. Small Town**
 - Explore the differences and adjustments between urban and rural practice, any initial challenges and adaptations required for a successful transition?
- **Client Relationships**
 - Understanding the nature of attorney-client relationships in rural areas. How do close-knit communities affect professional interactions, client trust, boundaries, etc. or do they?
- **Work / Life Balance**
 - Tying into discussion on establishing boundaries with clients while living in tight-knit communities. Discuss any unique work-life dynamics in rural legal practice. Offer any insights into the lifestyle benefits and challenges specific to practicing law in rural settings.
- **Technology Impact**
 - Examining how technology is transforming rural legal practice. What roles could it play? Specific uses in rural practice? Is it helping increase access? Making the job market more competitive by allowing rural attorneys to compete with “urban” attorneys?
- **Professional Resources / Networking**
 - Networking and ensuring access to professional resources are important for attorneys. Discuss networking opportunities in rural settings and strategies the panelists have used to maintaining professional connections and growth.
- **Career Growth**
 - Discuss what career advancement opportunities are available to attorneys in rural practice, is there anything specific or different compared to urban practice? Looking to highlight how career growth is viable and often unique in rural settings.

DRAFT WSBA Small Town and Rural (STAR) Practice Inaugural Summit

Panel Format & Questions

Panel Information:

2:30 p.m. – 3:45 p.m., Friday, June 7, 2024

Panel Title:

Myths & Stereotypes About Rural Practice, 75 Minutes, 1.25 Other

Panel Description:

Learn from attorneys who have always practiced in rural communities and from those who relocated from the “big city” about what the day in the life of a small town and rural lawyer really is like—and how technology is changing the landscape.

Panelists:

Rachel Cortez – Attorney, Law Office of Rachel Cortez, Walla Walla, WA

Sarah Glorian – Managing Attorney, Northwest Justice Project, Aberdeen, WA

Tony Gonzalez – Deputy Director of Advocacy, Columbia Legal Services, Wenatchee, WA

Panel Moderator: Ashley Cummins – Associate Director Access to Justice Institute and Center for Professional Development, Seattle University School of Law, Seattle, WA

Panel Format:

- Welcome and Introduction to Panel (5 min)
- Questions for Panelists (60 min)
- Audience Question & Answers (10 min)

Panel Questions:

- Can each of you briefly introduce yourselves, and share a bit about your background and how you came to practice law in a rural community?
- What are some of the most common myths or stereotypes you’ve encountered about practicing law in rural areas, and how do they compare to your actual experiences?
- For those who relocated from a “big city”, what were the biggest surprises or adjustments you had to make when transitioning to rural practice?
- Can you talk about the nature of attorney-client relationships in rural areas? Does the close-knit community impact these relationships?
- How does work-life balance in rural practice compare to that in a big city? Are there any unique challenges or benefits?
- How has technology changed the practice of law in rural communities? Are there specific tools or innovations that have been particularly transformative?
- What are the opportunities and challenges for professional networking in a rural setting? How do you stay connected with the broader legal community?
- What opportunities for career growth and specialization are available in rural practice? How do these compare to those in urban areas?
- Before we open the questions up to the audience, what is one piece of advice or “heads up” you wish someone gave you before you started practicing in a rural area?