CIVIL LEGAL AID IN THE UNITED STATES

AN UPDATE FOR 2019

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This Update is taken from the National Report for the United States prepared for the International Legal Aid Group (ILAG). This report, an update to previous national reports, covers the period from July of 2017 through December of 2019. The report is divided into two parts: civil legal aid and access to justice. A background report that includes more details about the US system see Appendix Http://legalaidresearch.org/pub/4918/civil-legal-aid-in-the-united-states-an-update-for-2017/

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PART ONE

AN UPDATE ON CIVIL LEGAL AID IN THE UNITED STATES

OVERVIEW

Civil legal aid in the United States is provided by a large number (over 750) of separate and independent primarily staff-based service providers funded by a variety of sources. This system is supplemented by over 900 pro bono programs and hundreds of law form pro bono programs. The civil legal aid system is very fragmented and very unequal in funding both across states and within states. Current overall funding is approximately $1.7722 billion. The largest element of the civil legal aid system is comprised of the 133 independent programs with 813 offices that are funded and monitored by the Legal Services Corporation (LSC). LSC is also the largest single funder, but overall, more funds come from states and IOLTA programs than LSC. In addition, there are a variety of other sources, including local governments, other federal government sources, the private bar, United Way, cy press distributions and private foundations.

There is no national data on the number of clients served and the type of cases handled by the 700 civil legal aid programs LSC data is the best available. In 2018[1], of the total number of closed cases of 743,643. 1.8 million people in households were served. Case data were: Family - 31.2%; Housing- 28.9%; Income maintenance -9.9%;Consumer- 9.5%; Individual rights- 4.5%;Health - 4.0%; Employment - 2.4%; Juvenile - 1.8%;Education - 0.7%; Miscellaneous- 7.1%

In2018, 78.9% of legal assistance was for limited representation (counsel and advice and limited action) and 21.1% was for extended representation

State activity on civil legal aid continues to increase. Most states established Access to Justice Commissions and moving forward in creating comprehensive, integrated state systems for the delivery of civil legal assistance. The long term trend toward the development of a state based comprehensive legal aid delivery system is very likely to continue.

An integrated and comprehensive civil legal assistance system should have the capacity to: (1) educate and inform low-income persons of their legal rights and responsibilities and the options and services available to solve their legal problems; and (2) ensure that all low-income persons, including individuals and groups who are

[1] Page 42 https://lsc-live.app.box.com/s/l41xqopkwprqmahb4e24ils3rsu6i1vlhttps://lsc-live.app.box.com/s/l41xqopkwprqmahb4e24ils3rsu6i1vl

politically or socially disfavored, have meaningful access to high-quality legal assistance providers when they require legal advice and representation.

The United States has made considerable progress in meeting the first of these two objectives (See http://legalaidresearch.org/pub/4918/civil-legal-aid-in-the-united-states-an-update-for-2017/ at pages 79-82). However, progress has been slow in meeting the second. In most areas of the United States, there is not enough funding or pro bono assistance available to provide low-income persons who need it with legal advice, brief service, and most particularly extended representation. As a result, many low-income persons who are eligible for civil legal assistance are unable to obtain it.

Country Details: According to a recent study by the American Bar Association[2], as of January 1, 2019, there are 1,352,027 practicing lawyers in the US. The total number of civil legal aid attorneys is 6,953 according to the Justice Index. https://justiceindex.org/2016-findings/attorney-access/#site-navigation Total number of attorneys in LSC funded programs is 4958. See page 135 of LSC By The Numbers (fact book) https://lsc-live.app.box.com/s/z0war4502dbngggwyd8h22ati36c8smr

The total population is 329,780,832.[3] Of the total population, as of 2018, 11.8% lived in poverty or 41,852,315 people in poverty. There were 55,643,386 people below 125% of poverty,[4] the number eligible for civil legal aid.

TRUMP ADMINISTRATION

The first budget submissions for Fiscal 2018, 2019 and 2020 of the Trump Administration called for the elimination of LSC and no further funding.[5] The 2018 proposal was made despite the opposition of the American Bar Association[6] and numerous state and local bar associations,[7] Corporation General Counsels of over 185 corporations,[8] most leading newspaper editorial boards,[9] major national law firms,[10]

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[2] https://www.americanbar.org/content/dam/aba/images/news/2019/08/ProfileOfProfession-total-hi.pdf

[3] http://worldpopulationreview.com/countries/united-states-population/

[4] https://www.census.gov/quickfacts/fact/table/US/IPE120218

[5] https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/budget/fy2018/2018_blueprint.pdf

[6] http://www.americanbar.org/news/abanews/aba-news-archives/2017/03/statement_of_abapre3.html

[7] https://+www.americanbar.org/groups/bar_services/resources/resourcepages/legalservicesfunding.html

[8] http://www.nlada.org/sites/default/files/Corporate%20Counsel%20LSC%20Letter.pdf

[9] https://voicesforciviljustice.org/press-clips/

[10] On March 9, 2017, 157 of the nation's largest law firms sent a letter to the Director of the Office of Management and Budget urging the Trump administration to continue funding LSC. See http://www.nationallawjournal.com/image/nlj/LegalServicesLetter.pdf

over 150 law school deans[11] and the Presidents of the Conference of Chief Justices and the Conference of State Court Administrators.[12]

A similar response occurred in 2018:

- 251 General Counsels from some of the largest American businesses, including American Express, Google, Walmart, Facebook, and Walt Disney
- 180 law firms from all 50 states and the District of Columbia
- The Conference of Chief Justices and the Conference of State Court Administrators
- 39 bipartisan state Attorneys General
- 168 Deans of law schools
- 181 Signatories to the bipartisan House funding letter for LSC
- 44 Signatories to the bipartisan Senate funding letter for LSC

In 2019:

- 209 Signatories to the bipartisan House funding letter for LSC
- 46 Signatories to the bipartisan Senate funding letter for LSC
- The Conference of Chief Justices and the Conference of State Court Administrators (CCJCOSCA Letter)
- 262 General Counsels from some of the largest American businesses, including American Express, Google, Walmart, Facebook, and Walt Disney (General Counsel LSC Letter)
- 180 law firms from all 50 States and the District of Columbia (Law Firm Leaders Letter)
- 42 bipartisan state Attorneys General (State Attorneys General Letter)
- 167 Deans of law schools (Law School Deans Letter)

As LSC said in response to the 2020 Budget submission: "The Budget proposes to eliminate funding for LSC to "put more control in the hands of State and local governments that better understand the needs of their communities." But the legal aid programs that LSC funds are locally controlled and already set their own priorities based on their assessments of their communities' needs. LSC distributes more than 93% of its funding to locally run organizations.

Federal funding for LSC reflects the fundamental national interest in the rule of law. Eliminating LSC funding would effectively eliminate civil legal aid in some states and diminish it in every state, with a resulting loss of confidence in the fairness of the justice

[11] http://www.stthomas.edu/media/schooloflaw/pdf/lawdeanslettertoCongress.pdf
[12] https://lsc-live.app.box.com/s/fsv8qtmyis1zasrnj9zkt3ohhusosmu2

system for those who cannot afford to pay for legal assistance. Today, even with federal funding of LSC, in many jurisdictions 90% or more of family cases and landlord-tenant cases involve unrepresented litigants, and legal aid providers must regularly turn away at least half of the eligible clients seeking their help.
An example of bi-partisan support is the new Congressional Access to Civil Legal Services Caucus launched by Congressman Joseph Kennedy of Massachusetts in December 2015 with Congresswoman Susan Brooks (R-IN5).

The Budget submission of the Administration was just the beginning of a long process.[13] LSC submitted its own budget directly to Congress and asked for $527.8 million for FY 2018.[14] After the passage of three Continuing Resolutions (CR) to keep the federal government functioning through March 24, 2018, the Congress finally agreed on an omnibus appropriation bill that would fund LSC at $410 million.

LSC sought $564,800,000 for FY 2019. The Congress appropriated $415 million for 2019 after resolving the government shutdown. LSC sought $593,000,000 for FY 2020. https://lsc-live.app.box.com/s/vhmgkumcyxr4q6htd7kmgmlfuf7i46ojThe ABA and other supportive entities support the LSC proposal. Congress appropriated $440 million for LSC. This represents an increase of $25 million over last year's appropriation of $415 million and is the largest appropriations in actual dollars in LSC's history.

In addition. In December 2019, LSC announced that it was awarding 12 disaster relief grants totaling $14,250,000 to legal aid organizations in Alaska, Arkansas, California, Florida, Iowa, Micronesia, Nebraska, North Carolina, Ohio, Oklahoma, and Texas. Earlier this year, Congress passed the Additional Supplemental Appropriations for Disaster Relief Act of 2019. The bill provides $19.1 billion in supplemental disaster funds to address damage caused by hurricanes, wildfires, earthquakes, tornadoes, floods, and other natural disasters that occurred from 2017-2019. LSC received $15 million to support the delivery of legal services to individuals affected by disasters. The grants will fund projects that marshal additional legal aid lawyers to assist disaster providers, mobilize pro bono attorneys, and integrate legal aid into other disaster services.

While LSC funding has been slow to return to ad now exceed its high level, state funding has improved. At the state level, more state funds are available for civil legal aid at the beginning of 2019. This is because state budgets have recovered from the great recession although IOLTA revenues continue to be lower than 9 years ago because of interest rates reductions by the Federal Reserve and the substantial slowdown in housing purchases and other business activity.

While the Trump Administration has proposed to eliminate LSC, most of the LSC board appointed by President Obama and the LSC President remain. In August of 2019, the

[13] See Don Saunders, The Fight for LSC – A Look Ahead, and Alan W. Houseman, Lessons from Past Challenges to Civil Legal Aid, MIE Journal, Vol XXXI, Spring 2017
[14]http://www.lsc.gov/media-center/publications/fiscal-year-2018-budget-request

Senate voted to confirm the appointment of eight individuals nominated by President Trump to serve on the LSC board. By statute, no more than six members of one political party can be appointed to serve on the LSC board. Generally, this requirement has been met by a 6-5 majority being appointed, with the party of the president in the majority and the other major party filling the other seats. That ratio is reflected in President Trump's appointments.

The four Democrats appointed and confirmed by the Senate - Robert Grey, John Levi, Julie Reiskin, and Gloria Valencia-Weber - are all current members of the LSC board, originally appointed by President Obama. The fifth Democrat member, who was not reappointed during this process, Laurie Mikva, will continue to serve on the board until replaced by the president. Four new Republican members were confirmed by the Senate - Abby Kuzma, Matthew Keenan, John Malcolm, and Frank Neuner. Two Republican members of the Obama board, Father Pius Pietrzyk and Vic Maddox, were not reappointed during this process, but will continue to serve on the board until replaced by the president.

In addition, the initiative on Access to Justice (ATJ) at the Department of Justice continued through 2017 but has since been transferred to another Justice division and limited in its role within the Department of Justice.[15]

LEGAL SERVICES CORPORATION

In 1974, Congress passed and the President signed the Legal Services Corporation Act. LSC is not a federal agency, nor a government controlled corporation, but a nonprofit corporation established with the powers of a District of Columbia corporation and those provided by the LSC Act. The President of the United States appoints a bipartisan eleven-member board that must be confirmed by the Senate. Board members serve in a volunteer capacity. The board then appoints the LSC President. Unlike many federal agencies or government corporations, the LSC president administers the Corporation, making all grants and contracts. LSC funds 133 grantees that operate local, regional or statewide civil legal assistance programs. Generally, one field program provides legal services in a designated geographic area. In addition, LSC, with Congressional approval, has earmarked funds for migrant and Native American grants for specialized programs that deliver services to these populations. All legal services programs are private, nonprofit entities, independent of LSC. For detailed information about LSC, see www.lsc.gov and the comprehensive Annual Reports and fact books and the excellent Budget Requests to Congress.

Funding

[15] https://www.nytimes.com/2018/02/01/us/politics/office-of-access-to-justice-department-closed.html; http://thehill.com/opinion/criminal-justice/376254-a-quiet-closing-with-resounding-impacts-on-equal-justice

Congress approved funding for LSC at $410 million for 2018, $415 million for 2019 and $440 million in 2020. It was funded at $365 in 2014. Beginning in 2012, Congress, over the objections of LSC and the Administration, reduced funding significantly to $348 million. See Http://legalaidresearch.org/pub/4918/civil-legal-aid-in-the-united-states-an-update-for-2017/ page 88 for details about LSC funding over the years. If LSC funding would have kept up with inflation since its peak in 1980, today LSC would be funded at $936 million.

Clients Served

in 2018[16], of the total number of closed cases of 743,643 case data were: Family - 31.2%; Housing- 28.9%; Income maintenance -9.9%;Consumer- 9.5%; Individual rights- 4.5%;Health - 4.0%; Employment - 2.4%; Juvenile - 1.8%;
Education - 0.7%; Miscellaneous- 7.1%. In2018, 78.9%was for limited representation (counsel and advice and limited action) and 21.1% was for extended representation

Eligibility

LSC-funded programs may only use LSC funds to provide legal assistance to clients who meet specific financial eligibility guidelines. The basic rule is that LSC programs serve clients at or under 125% of the Poverty Guidelines, or $32,188 for a family of 4. LSC programs set their own asset ceilings for individual clients. LSC-funded programs are also permitted to provide legal assistance to organizations of low-income persons, such as welfare rights or tenant organizations. LSC funded programs cannot serve most aliens nor incarcerated prisoners.

Regulations and Restrictions

Congress had added no new restrictions for LSC funded programs. No states added new restrictions on their funding. The current restrictions are described in the Http://legalaidresearch.org/pub/4918/civil-legal-aid-in-the-united-states-an-update-for-2017/ at pages 83-86.

Technology Initiatives

LSC has pioneered the use of technology to expand access to civil legal aid and to the courts. Since 2000, LSC has funded more than 720 projects totaling nearly $65 million in Technology Initiative Grants (TIG). After a Technology Summit in 2014, LSC set as its mission statement to provide some form of assistance to 100% of persons otherwise unable to afford an attorney for dealing with essential legal needs.

2017 TIG Grants: On November 9, 2017, LSC announced 25 TIG grants to 22 legal services organizations in 18 states. “LSC’s Technology Initiative Grants expand access to justice for millions of Americans who cannot afford a lawyer,” explained LSC President Jim Sandman. “The grants make legal information, court forms, video

[16] Page 42 https://lsc-live.app.box.com/s/l41xqopkwprqmahb4e24ils3rsu6i1vlhttps://lsc-live.app.box.com/s/l41xqopkwprqmahb4e24ils3rsu6i1vl

instruction, and practical tips available to people who otherwise would have to navigate the legal system without any help." Among the 25 funded initiatives are projects to create interactive legal forms for self-represented litigants, to enhance an online statewide "access portal" with a chatbot feature and to produce online resources for veterans and military families confronting legal problems. [17]

2018 TIG Grants: In 2018, LSC awarded 26 grants to 24 legal services organizations in 21 states for a total of $3,884,257. The TIG program funds projects that use technology to provide greater access to high-quality legal assistance for low-income Americans. Among the 26 initiatives are projects that enhance online self-help resources, expand services to rural communities, and facilitate clients' ability to seek legal help via text messaging services and voice assistants like Google's Siri and Amazon's Alexa.

2019 TIG Grants: in 2019, LSC awarded to 30 legal services organizations totaling $4,230,718. Among the 30 funded initiatives are several projects that improve online self-help resources. Other projects will increase access to justice for vulnerable populations. For example, American Samoa Legal Aid, Atlanta Legal Aid Society, and Northeast New Jersey Legal Services Corporation will use TIG funding to ensure their services are accessible to individuals with limited English proficiency, while Northwest Justice Project in Washington State will use technology to better reach deaf and hard-of-hearing clients. [18]

2018 Access to Justice Technology Fellows: LSC announced on November 27, 2017 that it has partnered with the 2018 ATJ Tech Fellows program to expand the summer fellows program, designed to equip "the next generation of future lawyers with the skills and competencies to better ensure access to justice." ATJ Tech Fellows, a Seattle University School of Law-affiliated fellows program, was launched in 2017 and connects law students with civil legal services organizations for an immersive, 10-week, full-time, paid project-based placement. Students spend the summer leveraging technology, data, and design as they develop solutions to address barriers that prevent low-income Americans from receiving legal help. The fellows program also provides skills training, mentorship, advising, leadership development, and collaborative virtual teaming activities. The partnership will support funding for 21 positions placed at the recently announced TIG grant recipient organizations to help develop cutting-edge technologies for improving efficiency and providing greater access to high-quality legal assistance for low-income Americans. The TIG program supports legal innovation projects that explore new ways of serving eligible clients, to build the programs' capacities, and to support the efforts of pro bono attorneys. Students will pursue a number of innovative projects through this unique collaboration, such as creating interactive legal forms for self-represented litigants, enhancing an online statewide "access portal" with a chatbot feature, and producing online resources for veterans and military families confronting legal problems.

[17] https://www.lsc.gov/media-center/press-releases/2017/lsc-awards-nearly-4-million-technology-grants-legal-aid
[18] https://lsc-live.app.box.com/s/4pudllw4mwrnjkkk5dnhhe9d24fo5jux

Website Evaluation: The Ford Foundation funded a full evaluation and assessment of the websites network created in part through TIG grants from the past. Beginning in 2000, LSC developed a network of state-specific legal aid websites to serve low-income litigants who are unable to afford an attorney. Statewide websites provide users with a variety of legal tools and resources, including overviews of common poverty law issues and step-by-step guides for individuals representing themselves. They connect users to appropriate legal aid providers, self-help centers, and lawyer referral services in their community. Increasingly, sites host collections of automated court forms, known as interactive interviews, to guide users through simple questions and then deliver the forms necessary to engage in a legal process (e.g. filing for a simple divorce). LSC also supported the development of two statewide website templates (i.e., DLAW and LawHelp). They awarded grants to local legal aid providers to create websites in every state using one of the templates. All 50 states, the District of Columbia, and the U.S. territories have websites, and the majority of these sites still utilize one of the two original templates. This network of 53 websites was the focus of the assessment described in the internal report.

The assessment reviewed criteria in the following focus areas:

- Content: Plain Language, Language Access, Content Presentation
- Access: Accessibility, User Support, Mobile Friendly, Community Engagement
- Design: Ease of Navigation, Visual Design & Iconography

The basic findings of the assessment were:

- Sites that used visual design purposefully to enhance usability performed best.
- Information density and content presentation was a consistent challenge. Most sites across the network were information dense (i.e., contained long lists of onsite and/or offsite links), which made scanning difficult. These experiences would make it hard for users to resolve legal issues on their own. Other sites achieved the right balance of information density by curating a set of guides that provided a limited number of articles. Finding content for a given legal issue on these sites was simple.
- The customization available to Drupal-based sites allowed them to produce more usable experiences. Template providers created templates that were either flexible, but required some development expertise, (i.e., DLAW), or more restricted but came with support from the template providers themselves (i.e., LawHelp). As a result, LawHelp may be easier to use, since many websites managers functioned as content managers and not developers. By comparison, the DLAW template may be more difficult to learn initially, but offered greater flexibility for creating a positive user experience.
- A future system of templates should deliver a streamlined experience for end users, while removing the guess work for website managers about how to implement a great user experience. Templates that provide straightforward

navigation, flat information architecture, and a curated set of articles will establish a strong foundation for statewide sites.

In July of 2017, LSC released a new Toolkit created by Ernst & Young LLP[19] which comes with some design examples. These examples include concepts for pretty much every part of a legal aid website along with all the necessary resources to make them including the exact colors, icons, and fonts used.

Portal Project: In late 2016, LSC released an RFP, with proposals due Jan 19, 2017, for the portal project. On April 25, 2017, LSC, Microsoft Corporation, and Pro Bono Net named Alaska and Hawaii as state partners in a pilot program to develop online, statewide legal portals to direct individuals with civil legal needs to the most appropriate forms of assistance. The goal is to dev*elop* a single, statewide, unified legal access portal which provides information anywhere, any time to every person seeking assistance and to provide assistance from a person – lawyer or otherwise – anywhere, if resources are available. The portal will use methods such as branching logic questions and gamification to assess the capabilities and circumstances of an inquirer, which will be part of the referral logic. The portal will generate information on the legal needs of persons using it and on the results achieved from the referrals provided. The portal will aggregate this information and provide it regularly to all participating entities. The portal will be an integrated system of resources, rules, and recommendations through which users can be matched with available services and applicable resources. The site will analyze users' responses to questions and direct them to the most appropriate resource, considering factors such as case or situations complexity, the user's capacity to use technology, strength and representation of the opponent, the importance of the user's stake in the outcome, and the availability of resources, updated in real time. All access to justice entities in a participating jurisdiction (including legal aid entities, courts, court administrators, the organized bar, interested law firms and lawyers, law schools, libraries, pro bono support entities, and other interested community entities) will have a presence on the portal and will receive appropriate referrals from it. If a referral proves inappropriate, the entity to which the referral was made may make a different referral. The system will preserve the confidentiality of information an inquirer provides. [20]

Recently Microsoft announced the development of what it called Legal Navigator. Legal Navigator can't offer advice, but it will be able to walk a user step-by-step through the red tape of executing, say, a divorce. The tool was originally conceived with more of a hard-coded linear approach in mind. In other words, Question A would automatically trigger a response containing Answer B. But advances such as natural language processing convinced Microsoft that an AI-based approach was the way to go. Users will have the option of browsing the system by clicking on topics like "Family Law" or engaging with a chatbot-inspired interface. The Legal Navigator team worked with lawyers, law students, and court systems to evaluate real legal aid questions and link them to the appropriate responses. For example, if a user says "I'm afraid that my

[19] http://webassessment.lsc.gov/
[20] https://richardzorza.files.wordpress.com/2017/05/introduction-litigant-portal.pdf

boyfriend is going to hurt me and my children," the machine would ideally generate instructions for obtaining a protective order without the phrase "protective order" ever having to be uttered (or typed). "The idea is [the users] don't even have to know that they have a legal problem," said Glenn Rawdon, program counsel for technology at the Legal Services Corporation. Early versions of the Navigator will focus exclusively on family law, housing and consumer issues. According to Rawdon, those three areas comprise about 90 percent of what brings people through the doors of a legal aid center. Hawaii and Alaska will serve as the pilot states for the tool's launch. An official launch date has not been determined. "The idea is for us to run this for a couple of years until we can get Hawaii and Alaska going, maybe onboard a few more states and then figure out where the permanent home of Legal Navigator would be," Rawdon said.

Pro Bono Innovation Fund

At the first LSC 40th Anniversary celebration in 2014, LSC President Jim Sandman presented the first Pro Bono Innovation Fund grants to 11 LSC grantee executive directors.

On September 21, 2017, LSC announced that 15 legal aid organizations will receive 2017 grants to expand pro bono legal services for low-income clients. Many of the projects the grants will fund focus on building new partnerships between legal aid programs and law schools, law firms, and other local service providers. The projects offer effective, replicable solutions to persistent challenges in current pro bono delivery systems. For example, Legal Services NYC will use its grant to support its Military Monday project, which brings together corporations, law firms, and legal services to assist low-income veterans. Through a combination of monthly legal clinics and ongoing representation, pro bono attorneys and Legal Services NYC staff will help veterans with pressing legal issues including disability benefits, safe and affordable housing, and child support.[21]

In 2018, LSC awarded 15 grants to expand pro bono legal services for low-income clients in 12 states. Many of the projects focus on building new partnerships between legal aid programs and law schools, law firms, and other local service providers. The projects will engage more pro bono lawyers and other volunteers to leverage LSC's federal funding and increase the legal resources available to meet civil legal needs of low-income Americans. The projects offer effective, replicable solutions to persistent challenges in current pro bono delivery systems.

On August 15, 2019, LSC announced the 14 legal aid organizations that were awarded Pro Bono Innovation Grants to expand pro bono legal services for low-income clients. The grants total over $4 million dollars cumulatively, and they are designed to help legal aid organizations better engage pro bono lawyers and other volunteers in their critical work. The projects attempt to create replicable solutions to some of the challenges that

[21] https://www.lsc.gov/media-center/press-releases/2017/lsc-awards-fourth-round-pro-bono-innovation-grants-assist-low

repeatedly show up in the pro bono delivery system. You can read more about the Pro Bono Innovation Grants and see a list of this year's grantees on LSC's website.

New Justice Gap Study

In June of 2017, LSC released its new Justice Gape report: Legal Services Corporation. 2017. *The Justice Gap: Measuring the Unmet Civil Legal Needs of Low-income Americans*. Prepared by NORC at the University of Chicago for Legal Services Corporation. Washington, DC.[22]

To update two previous Justice Gap reports, LSC contracted with NORC at the University of Chicago to conduct a survey of more than 2,000 adults living in low-income households. For the purposes of the survey, "low-income households" are households at or below 125% of the Federal Poverty Level (FPL), the income eligibility standard for people seeking assistance from an LSC-funded legal aid program. The survey was administered using telephone and web interview modes to gather detailed information about low-income Americans' civil legal needs at the individual level, household level, and level of specific civil legal problems.

According to the Report, the survey was designed to accomplish the following goals:

"• Measure the prevalence of civil legal problems in low-income households in the past 12 months;
• Assess the degree to which individuals with civil legal problems sought help for those problems;
• Describe the types and sources of help that low-income individuals sought for their civil legal problems;
• Evaluate low-income Americans' attitudes and perceptions about the fairness and efficacy of the civil legal system; and
• Permit analysis of how experiences with civil legal issues, help-seeking behavior, and perceptions vary with demographic characteristics."

This report also presents analysis of data from LSC's 2017 Intake Census. LSC asked Its 133 grantee programs to participate in an "intake census" during a six-week period Spanning March and April 2017. As part of this census, grantees tracked the number of Individuals approaching them for help with a civil legal problem that they were unable To serve, able to serve to some extent (but not fully), and able to serve fully. Grantees recorded the type of assistance individuals received and categorized the reasons individuals were not fully served where applicable.

In 2017, low-income Americans will approach LSC-funded legal aid organizations for help with an estimated 1.7 million civil legal problems. They will receive legal help of some kind for 59% of these problems, but are expected to receive enough help to fully address their legal needs for only 28% to 38% of them. More than half (53% to 70%) of

[22] https://www.lsc.gov/sites/default/files/images/TheJusticeGap-FullReport.pdf

the problems that low-income Americans bring to LSC grantees will receive limited legal help or no legal help at all because of a lack of resources to serve them.

The study found seven of every 10 low-income households have experienced at least one civil legal problem in the past year. A full 70% of low-income Americans with civil legal problems reported that at least one of their problems affected them very much or severely. They seek legal help, however, for only 20% of their civil legal problems. Many who do not seek legal help report concerns about the cost of such help, not being sure if their issues are legal in nature, and not knowing where to look for help.

Based on the analysis presented in this report, LSC found three key findings relating to the magnitude of the justice gap in 2017:

"• Eighty-six percent of the civil legal problems faced by low-income Americans in a given year receive inadequate or no legal help;
• Of the estimated 1.7 million civil legal problems for which low-income Americans seek LSC-funded legal aid, 1.0 to 1.2 million (62% to 72%) receive inadequate or no legal assistance;
• In 2017, low-income Americans will likely not get their legal needs fully met for between 907,000 and 1.2 million civil legal problems that they bring to LSC-funded legal aid programs, due to limited resources among LSC grantees. This represents the vast majority (85% to 97%) of all of the problems receiving limited or no legal assistance from LSC grantees."

There have been many discussions of the justice gap. See for example, "An Unacceptable Justice Gap: The Legal Services Corporation and Its Fight for Civil Legal Aid" by William Roberts[23]and "The Justice Gap: America's Unfulfilled Promise of 'Equal Justice Under Law'" by Lincoln Caplan in the Harvard Magazine.[24]

Outcome and Performance Measures

In 2014, LSC embarked on a major new project to measure results. LSC employs a range of strategies and systems to collect data to document the need for and effect of civil legal aid for low-income Americans; to assess and improve its grantees' operations; and to equip its grantees with tools and resources to better evaluate, improve, and expand the services they provide to their client communities. These systems include LSC's Case Services Report (CSR) system, periodic surveys of grantees, evaluation of Census Bureau data, on-site assessments of grantees, and administration of the grants competition and renewal process.

Working with a data collection consulting firm and an Advisory Committee of legal aid directors, LSC staff and others (the author was a member), the project recently finalized an extensive toolkit to work with LSC program case management systems to produce outcome and other relevant data to help programs measure outcomes and

[23] http://washingtonlawyer.dcbar.org/november2016/
[24] https://today.law.harvard.edu/harvard-magazine-justice-gap

performance. The toolkit can be found at http://clo.lsc.gov/. See also https://www.lsc.gov/grants-grantee-resources/grantee-data

Forums on Access to Justice

LSC has held forums on access to justice at the White House (2012-2016) and in 2017, 2018 and 2019 at Georgetown Law Center. On October 16, 2017 at Harvard Law School, LSC sponsored a forum on access to justice. Welcoming remarks by John G. Levi, chairman of the Legal Services Corporation Board of Directors, and Dean John F. Manning of Harvard Law School preceded several panels of distinguished speakers on current efforts of the judiciary, American businesses, and law schools to improve access to justice and further efforts that could be made.

The most recent forum was held **at Georgetown Law School on April 9, 2019.** Dean William M. Treanor, Georgetown University Law Center and John Levi, LSC Board Chair opened the forum. U.S. Representative Susan W. Brooks (IN-05) and U.S. Representative Joseph P. Kennedy, III (MA-04) gave remarks. Panel: Partnerships to Address the Needs of Low-Income Individuals in Housing Court: Joanna Allison, Executive Director, Volunteer Lawyers Project of the Boston Bar Association; Chief Justice Jeffrey S. Bivins, Tennessee Supreme Court; Dawn Caldart, Director, Pro Bono and Professional Development, Quarles & Brady LLP; Kathleen E. McGrath, Assistant Vice President and Senior Corporate Counsel, Liberty Mutual Insurance Company; Maggie Niebler-Brown, Volunteer Lawyers Project Director, Legal Action of Wisconsin; Moderator: Judge Jonathan J. Lippman, Of Counsel, Latham & Watkins LLP & Former Chief Judge of New York. Panel: Ensuring Access to Justice for Self-Represented Litigants; Margaret Hagan, Director, Legal Design Lab, Stanford Law School; Bonnie Rose Hough, Principal Managing Attorney, Center for Families, Children, and the Courts, Judicial Council of California; Chief Justice Paul L. Reiber, Vermont Supreme Court. Moderator: Father Pius Pietrzyk, Board Member, Legal Services Corporation & Chairman, Department of Pastoral Studies, St. Patrick's Seminary. Rapid Fire Tech Talks: Steven McGarrity, Executive Director, Community Legal Aid Services; Rohan Pavuluri, Chief Executive Officer and Co-Founder, Upsolve and Member, LSC Emerging Leaders Council; and Kristen Sonday, Chief Operating Officer and Co-Founder, Paladin & Co-Chair, LSC Emerging Leaders Council. Panel: Legal Aid Collaborations to Help Survivors of Domestic Violence: Chief Judge Anna Blackburne-Rigsby, District of Columbia Court of Appeals; Nikole Nelson, Executive Director, Alaska Legal Services Corporation; Katherine W. Shank, Deputy Director, LAF Chicago; Senator Daniel S. Sullivan (AK); and Gary Wachtel, Senior Director, Law, Discover Financial Services, Inc.; Moderator: James J. Sandman, President, Legal Services Corporation. Closing Remarks: Robert Carlson, President, American Bar Association & Shareholder, Corette Black Carlson & Mickelson, P.C

LSC 45 Anniversary Luncheon

A luncheon was held on April 9, 2019 to honor LSC's 45th Anniversary. John G. Levi, Board Chairman, Legal Services Corporation & Partner, Sidley Austin LLP and Judge

David S. Tatel, United States Court of Appeals for the District of Columbia Circuit delivered remarks. An Update on LSC's Disaster Task Force was provided by Judge Jonathan J. Lippman, Of Counsel, Latham & Watkins LLP & Former Chief Judge of New York. An Update on LSC's Opioid Task Force was provided by Chief Justice Loretta H. Rush, Indiana Supreme Court. This was followed by a discussion: The Importance of Legal Aid to American Business by Kenneth C. Frazier, Chairman and Chief Executive Officer, Merck & Co., Inc. & Co-Chair, LSC Leaders Council; David M Rubenstein, Co-Founder and Co-Executive Chairman, The Carlyle Group; and David A. Zapolsky, Senior Vice President, General Counsel and Corporate Secretary, Amazon.com. Inc. James J. Sandman, President, Legal Services Corporation, moderated the discussion.

Supreme Court Reception

Following the luncheon and forum, a reception was held at the Supreme Court with **r**emarks by The Honorable Elena Kagan, Associate Justice, Supreme Court of the United States, The Honorable Amul R. Thapar, United States Circuit Judge, Sixth Circuit Court of Appeals and The Honorable Nathan Hecht, Chief Judge of the Texas Supreme Court.

Leaders Council

In May of 2016, LSC formed a new Leaders Council to raise public awareness of the current crisis in legal aid. The Leaders Council consists of high-profile and influential leaders from various industries. They include public figures such as former Major League Baseball player Henry "Hank" Aaron; author John Grisham, University of Michigan head football coach Jim Harbaugh, former Attorney General Eric Holder, Viacom Vice Chair Shari Redstone, and Microsoft Corporation President and Chief Legal Officer Brad Smith. Earl Johnson is a member. A full list of the more than 40 notable individuals joining the Leaders Council is available online at https://lsc40.lsc.gov/leaders-council/. Kenneth C. Frazier, CEO of pharmaceutical company Merck & Co., and Harriet Miers, a partner at Locke Lord and former White House Counsel to President George W. Bush, serve as co-chairs of the Leaders Council.

Emerging Leaders Council

The Legal Services Corporation's Emerging Leaders Council was formed in 2018 and will bring together some of the country's rising leaders to help increase public awareness of the crisis in civil legal aid and the importance of providing equal access to justice to all low-income Americans. Members will lend their voices and expertise to enhancing LSC's message by participating in congressional briefings, speaking publicly about civil legal aid's value, penning op-eds, and undertaking outreach activities. The group's efforts will complement the work of LSC's existing Leaders Council, formed in 2016. Kristen Sonday, founder of Paladin PBC, and Brad Robertson, partner at Bradley Arant Boult Cummings LLP, will serve as co-chairs of the Emerging Leaders Council.

Council members were drawn from business, law, government, academia, and other fields.

Disaster Task Force Report

On Tuesday, September 17, 2019 LSC released the Report of the LSC Disaster Task Force during a special event sponsored by Senator John Cornyn (TX) at the Hart Senate Office Building. LSC Board Chair John G. Levi and ABA President Judy Perry Martinez delivered welcoming remarks, followed by remarks from Father Pius Pietrzyk, LSC board member and co-chair of the task force.

The event also featured a panel on the importance of relationships in disaster response and recovery, moderated by LSC President Jim Sandman, and featuring Will Polk, Assistant General Counsel, North Carolina Department of Public Safety; George Hausen, Executive Director, Legal Aid of North Carolina; Paul Furrh, Attorney and Chief Executive Officer, Lone Star Legal Aid; and Ellyn Josef, Pro Bono Counsel, Vinson & Elkins. Task force co-chairs Judge Jonathan Lippman, Of Counsel, Latham & Watkins, LLP and former Chief Judge of New York and Martha Minow, LSC Board Vice-Chair and 300th Anniversary Professor at Harvard University.

Established in April 2018, LSC's Disaster Task Force is made up of more than 60 emergency management experts, representatives from LSC-funded legal aid programs, members of the judiciary, and other leading stakeholders working to highlight and address the legal aid component of disaster response and recovery. NLADA also is a member of the Task Force.

The Task Force's report presents recommendations in four categories: relationship-building and providing coordinated legal services; training pro bono lawyers, volunteers, and legal services providers; continuity of operations planning for legal services providers and courts and the adoption of model court reforms; and preparing individuals, families, and communities for disaster.

The report is an important tool for communities, providing guidance in preparedness, response, and recovery. It can be found on the LSC website, along with additional information about the LSC Disaster Task Force.

Strengthening the Role of Civil Legal Aid in Responding to the Opioid Epidemic
LSC's Opioid Task Force has been holding a series of events highlighting its recent report, "Strengthening the Role of Civil Legal Services in Response to the Opioid Epidemic." The report was released on June 10 2019 at a special event in the U.S. Capitol Visitor Center, which was sponsored by the House Access to Civil Legal Services Caucus. Caucus co-chairs Representatives Susan Brooks (IN-5), Joseph P. Kennedy III (MA-4), and Fred Upton (MI-6), as well as Representative Brian Fitzpatrick (PA-1), delivered remarks at the launch.

Additionally, the report was highlighted at a June 19 event at the offices of Sidley Austin LLP in Chicago, which featured remarks from ABA President Bob Carlson and University of Michigan Head Football Coach Jim Harbaugh. The report was also l featured on June 27 at the Tennessee Supreme Court in Nashville, featuring Tennessee Chief Justice Jeffrey S. Bivins, Tennessee Courts Director and Task Force member Debi Taylor Tate, and Tennessee Health Commissioner Lisa Piercey, among others; and August 9 at a special event during the ABA Annual Meeting in San Francisco.

LSC's Opioid Task Force is made up of health care and public health experts, judges, community leaders, LSC grantees, and various other stakeholders who seek to explore the ways in which civil legal services can be reinforced as a crucial dimension of the conversations surrounding the opioid epidemic. The report is the end result of eleven months of research and analysis conducted by Task Force members, and includes the Task Force's recommendations to three primary audiences: civil legal aid providers and the Legal Services Corporation; the judiciary and law enforcement; and treatment providers and public health officials. The Task Force recommends and emphasizes increased collaboration via medical-legal partnerships that might begin to attenuate the overlap between health care and legal services. Collaborations with other organizations serving affected families are cited as valuable partnerships that would increase attorney access to those suffering. Additional recommendations include increased education and training opportunities for all aforementioned audiences, and strategic funding suggestions.

Other LSC Initiatives

LSC hosted congressional briefings on important legal matters that LSC grantees handle as well as recent developments in the legal aid community. The briefings were organized in cooperation with Members of Congress:

- The Role of Legal Aid in Disaster Recovery. March 13, 2018. In cooperation with Senator Cornyn (R-TX).

- How Medical-Legal Partnerships Assist Victims of Opioid Addiction. April 11, 2018. In cooperation with t he founding members of the Access to Civil Legal Services Caucus, Representatives Susan Brooks (R-IN-5), Joe Kennedy III (D-MA-4), Fred Upton (R-MI-6) and Debbie Dingell (D-MI-12).

- Legal Aid’s Role in Preventing Evictions. September 6, 2018. In cooperation with Representatives James Clyburn (D-SC-6) and David Price (D-NC-4).

- Legal Aid Protects Domestic Violence Survivors (April 10, 2019) in cooperation with Senator Daniel Sullivan (R-AK).

LSC leveraged the congressional investment in legal services with private support for the following projects:

- The third round of LSC's Rural Summer Legal Corps, which placed 30 law students with 26 LSC grantees in rural areas in 22 states. Since its launch in 2016, the program has placed nearly 90 law students with 66 LSC grantees serving rural clients in 36 states.

- The Midwest Legal Disaster Coordination Project hosted its capstone conference in Minneapolis with legal aid organizations from ten Midwestern states. LSC unveiled the first iteration of a new website that provides users with information about potential changes to FEMA flood maps. It also provides a collection of plain language resources that help users prepare for a flood and aids survivors seeking help following a flood.

- The latest round of G. Duane Vieth Leadership Development grants to nine legal aid organizations to increase entrepreneurial and business acumen among leaders of civil legal aid organizations that LSC funds.

OTHER CIVIL LEGAL AID DEVELOPMENTS

Funding

While LSC remains the single largest funder, funding for civil legal aid is from a variety of sources with state sources being the largest. It is not accurate to say that civil legal aid funding is down, even though LSC funds were reduced between 2011 and 2017 since their previous high in 2010.

In 2017, the last year that data is available[25], the total funding picture for the 50 states was:

State General Revenue	$223,998,000
State Filing Fees	$64,940,000
Other Public Funds	$465,788,000
IOLTA	$167,793,000
Legal Community/Bar	$106,407,000
CY Press[26]	$88,374,000

[25] https://abarray.org/

Foundation/Corp Grants	$171, 292,000
Other Strategies	$135,566,000
Legal Services Corporation	$338,313,000
TOTAL:	**$1,771,684,000**

Among LSC grantees, only 36.8% of their funding comes from LSC. 92 of the 133 grantees have less than 50% of their funding from LSC.

Pro Bono

Pro bono efforts are the primary supplement to the staff attorney system and, in many respects, are an integral and integrated part of that system. Pro bono efforts in the United States continue to expand and engage more private attorneys, providing greater levels of service.

The ABA Standing Committee on Pro Bono and Public Service conducted a new survey in 2017 of lawyer pro bono service in 24 states. See https://www.americanbar.org/content/dam/aba/administrative/probono_public_service/ls_pb_supporting_justice_iv_final.authcheckdam.pdf The participating states represented a spectrum of states in terms of urban/rural distribution, political leaning, pro bono policies, and attorney demographics. The results, which included insights from over 47,000 attorneys, revealed that private lawyers in those states contributed an average of 36.9 hours of pro bono service to individual clients in 2016. By combining the results of this study with the annual reports of private attorney involvement submitted by grantees to LSC, it is estimated that LSC-funded organizations stimulate well over one million hours annually of pro bono service by private lawyers.

[26] Cy Pres awards arise in class actions when leftover or "residual" funds that had been awarded to a plaintiff class either through settlement or a court judgment are granted not to harmed individuals but to nonprofit organizations. Residual funds accumulate if members of the class or their heirs cannot be identified or after all individual claims from class members have been paid. Cy Press awards have been under attack in the courts. In March of 2019, the Supreme Court avoided ruling on the merits of the practice in the case *Frank v. Gaos*. The high court, in an **unsigned opinion**, sent that case, which involved an $8.5 settlement with Google, back to the U.S. Court of Appeals for the Ninth Circuit to determine whether the plaintiffs had suffered the required harm necessary to have standing to sue. For additional background, see http://sillermancenter.brandeis.edu/pdfs/sillermanReportCyPresHi.pdf

A recent survey developed by Robert Half Legal, a premier legal staffing and consulting solutions firm specializing in the placement of lawyers, paralegals and other highly skilled legal professionals found: "Nearly one-third (30 percent) of lawyers said they donate 80-plus hours to pro bono or volunteer service each year, up seven points since the survey was last conducted in 2014. Sixteen percent of survey respondents contribute fewer than 10 pro bono hours annually, up from eight percent in 2014. The average number of annual pro bono hours lawyers reported is 64, an eight-percent increase from 2014, which exceeds the minimum goal of 50 hours recommended by the American Bar Association. Lawyers employed at law firms donated an average of 70 hours to pro bono service each year, while their corporate counterparts logged 36 volunteer hours."

For 12 years, the ABA has sponsored a National Celebration of Pro Bono. The 2017 national celebration ran from October 22-28, the 2018 from October 21-27 and the 2019 from October 23 -30. The National Celebration of Pro Bono is an annual opportunity to shine a spotlight on the amazing pro bono work by lawyers, paralegals, and law students across the country. Each October, we encourage organizations to host events recognizing pro bono volunteers and highlighting opportunities for pro bono. Justice Elena Kagan served as honorary chair of the 2018 national celebration of pro bono.

ABA Free Legal Answers: Sponsored by the ABA Standing Committee on Pro Bono and Public Service, ABAFreeLegalAnswers.org is an on-line virtual legal clinic through which income-eligible clients can post civil legal services questions to be answered by pro bono attorneys from their state.[27] As of May 2019, 41 jurisdictions are committed to participate. Of those jurisdictions, 38 are connected to the site in various stages of access by clients, pro bono attorneys and/or state administrators. Over 73,000 civil legal questions submitted by Client. Over 6,100 volunteer attorneys registered.
Problems addressed:

- Family and children 42%
- Housing and homelessness 14%
- Consumer Finance 12%
- Health and disability 5%
- Work, employment and unemployment 4%
- Income Maintenance 3%

LSC has been a leader in encouraging pro bono. Since 1981, LSC-funded programs have had to provide a portion of their funding for private attorney involvement. Currently, each LSC-funded provider must expend 12.5% of its LSC funding for private attorney involvement.[28] Of the 732,224 cases closed by LSC program in 2018, the most recent figures available, 80,592 were done by private attorneys. Of these cases, 68,013 were done by pro bono attorneys and 12,579 by contract or Judicare attorneys.[29]

[27] file:///C:/Users/a.houseman/Documents/May%202019%20ABA%20FLA%20Report%20(Internal).pdf

[28] The requirement is imposed by LSC through its regulatory authority. See 45 CFR 1614.

[29] https://lsc-live.app.box.com/s/w1p4wvk95r99gbwtj9cjwp3s3oprvxbq

Currently, 18 states have some form of mandatory or voluntary reporting of pro bono hours each year.

APBCo's interactive MAP

NLADA and the **Association of Pro Bono Counsel (APBCo)** and announce **APBCo's interactive MAP**, which tracks firms and civil legal aid programs nationwide, identifying 817 APBCo member firm offices and 1,728 NLADA member civil legal aid offices. The purpose of this map is to facilitate more communication between NLADA and APBCo members in the service of access to justice

MEDICAL LEGAL PARTNERSHIPS (EXAMPLE OF HOLISTIC SERVICES)

Many civil legal aid programs incorporate holistic services in their program's structure. For example, some include social work as part of their program. See, e.g., **Expanding Civil Legal Services to Include Social Work** by Anne K Sweeney and Daniella Lachina of Cleveland Legal Aid.[30]

The National Legal Aid & Defender Association (NLADA) recently began the Project to Advance Civil Legal Aid Collaborations (PACC). Advancing cross-sector collaborations between civil legal aid in conjunction with other critical human services is securing safety, stability, and opportunity for low income and vulnerable individuals and communities across the country. Because legal services are part of a continuum of human services that are critical to individuals' ability to live healthy and fulfilled lives, PACC advances collaborative models that integrate legal services into broad teams of human and social services to ensure individuals can access wraparound services that are efficient and effective. To this end, PACC has developed a cohort of leaders in civil legal aid and partners who are already collaborating to provide a continuum of human services with the intention of scaling this work.

PACC seeks to: Increase collaborations by helping providers identify and access federal funding through trainings and our online database of resources; Increase the receipt of non-Legal Services Corporation (LSC) federal funding through in-person trainings, direct training and technical assistance, and disseminating research throughout the field; Overcome barriers to collaborating with federal agencies through highlighting existing partnerships, seeking new opportunities, and providing research and education on the importance of civil legal aid; and Support a peer-to-peer support network of civil legal aid.

One recent example: At Mary C. Snow West Side Elementary School in Charleston, WV, **Legal Aid of West Virginia** (LAWV) launched its **Lawyer in the School Project**. Through school-based clinics, lawyers provide legal services to children and families, often impacted by the opioid crisis and other forms of substance abuse. In an effort to reduce childhood trauma and promote the conditions essential for educational success and general well-being, the Lawyer in School Project provides school families with

[30] Management Information Exchange Journal, Volume XXXIII No.4 Winter 2018.

assistance on eviction, disrupted income, and especially legal custody for kinship caregivers, particularly grandparents.

The most prevalent form of holistic services in US civil legal Aid is Medical-legal Partnerships (MLP).

MLPs integrate lawyers into the health care setting to help patients navigate the complex legal systems that often hold solutions to many social determinants of health. MLPs are active in 333 hospitals and clinics in 46 states. Over half of LSC-funded civil legal aid programs have a medical-legal partnership. There are 146 legal aid agencies and 53 law schools. MLPs assist low-income and other vulnerable patients with receipt of public benefits, food security concerns, disability issues, housing problems, special education advocacy, employment instability, immigration issues, family law issues and other problems that affect individual and community health and require legal remedies. MLPs also train clinicians and other healthcare team members in the social determinants of health and work to identify both health-harming civil legal needs and their related policy solutions.

MLPs did not evolve as a result of LSC promotion or any LSC earmarked funding. MLPs developed through efforts of the National Center for Medical Legal Partnerships (now at George Washington University). See https://medical-legalpartnership.org/ In 2008, the ABA established a national support center to assist medical-legal partnerships in securing pro bono participation, promoting best practices related to MLP-pro bono practice, and ensuring quality service delivery.

Every year, The National Center convenes a national conference of partnership practioners and legal aid leaders.

Federal Funding: Several years ago the Health Resources and Services Administration of the Department of Health and Human Services awarded the National Center a cooperative agreement to provide training and technical assistance to community health centers to support integration of civil legal aid services into health care delivery at the health centers. Over 98 health care centers now have MLPs.

Research: According to the National Center on Medical legal Partnerships: "Studies show that when legal expertise and services are used to address social needs:

- **People with chronic illnesses are admitted to the hospital less frequently.** Studies showed that legal assistance targeted at improving housing conditions improved the health of asthma patients (*Journal of Asthma* and *Journal of Health Care for the Poor and Underserved*), and another study showed medical-legal partnership's positive impact on the health of sickle cell patients (*Pediatrics*).

- **People more commonly take their medications as prescribed.** (*Journal of Health Care for the Poor and Underserved* and *Journal of Clinical Oncology)*

- **People report less stress and experience improvements in mental health.** (*Journal of Health Care for the Poor and Underserved*, *Behavioral Medicine,* and *Health Affairs)*

- **Less money is spent on health care services for the people who would otherwise frequently go to the hospital, and use of preventative health care increases.**
  A study showed that MLP services reduce health care spending on high-need, high-cost patients (*Health Affairs*), and a randomized control trial found families of healthy newborns increased use of preventive health care after MLP services (*Pediatrics*).

- **Clinical services are more frequently reimbursed by public and private payers.**
  Medical-legal partnerships have been shown to save patients health care costs and recover cash benefits (*Journal of Health Care for the Poor and Underserved* and *Journal of Palliative Medicine)***."**

A recent report - Building Resources to Support Civil Legal Aid Access in HRSA-Funded Health Centers b*y Joanna Theiss, JD, LLM; Sharena Hagins, MPH, CHES; Marsha Regenstein, PhD; and Ellen Lawton, JD*[31]*- discusses* the experiences of six health centers that used expanded services awards from HRS to support legal-related enabling services. The lessons they learned demonstrate the catalyzing force that occurs when health centers and civil legal aid services collaborate, and the opportunity for other health centers to leverage a range of funding opportunities for fostering medical-legal partnerships. This issue brief describes the ways that a supplemental funding opportunity sparked MLP growth in health centers, resulting in expansions in civil legal aid services provided to health center patients by partnering civil legal aid organizations and law school clinics. It shares the experiences of health centers from Hawai'i to New Hampshire that received expanded services awards from HRSA and used them for legal-related enabling services, and extrapolates lessons for other health centers about the impact of collaborations between health centers and civil legal aid services and how to leverage funding opportunities for fostering medical-legal partnerships.

A recent study, Medical-Legal Partnerships At Veterans Affairs Medical Centers Improved Housing And Psychosocial Outcomes For Vets by Jack Tsai; Margaret Middleton; Jennifer Villegas; Cindy Johnson; Randye Retkin; Alison Seidman; Scott Sherman; and Robert A. Rosenheck [32] describes the outcomes of veterans who accessed legal services at four partnership sites in Connecticut and New York in the period 2014–16. Medical-legal partnerships—collaborations between legal professionals and health care providers that help patients address civil legal problems that can affect health and well-being—have been implemented at several Veterans Affairs (VA)

[31] http://medical-legalpartnership.org/building-resources/
[32] HEALTH AFFAIRS, VOL. 36, NO. 12:, DECEMBER 2017

medical centers to serve homeless and low-income veterans with mental illness. The partnerships served 950 veterans, who collectively had 1,384 legal issues; on average, the issues took 5.4 hours' worth of legal services to resolve. The most common problems were related to VA benefits, housing, family issues, and consumer issues. Among a subsample of 148 veterans who were followed for one year, we observed significant improvements in housing, income, and mental health. Veterans who received more partnership services showed greater improvements in housing and mental health than those who received fewer services, and those who achieved their predefined legal goals showed greater improvements in housing status and community integration than those who did not. Medical-legal partnerships represent an opportunity to expand cross-sector, community-based partnerships in the VA health care system to address social determinants of mental health.\

See also: **Medical–Legal Partnerships: 11 Years' Experience Of Providing Acute Legal Advice For Critically Ill Patients And Their Families** by C. Andrew Eynon, Lucy J. Robinson and Kara M. Smith, March 2019, Journal of the Intensive Care Society.

Addressing Social Determinants of Health Through Medical Legal Partnerships, by Marsha Regenstein, Jennifer Trott, Alanna Williamson and Joanna Theiss HEALTH AFFAIRSVOL. 37, NO. 3: MARCH 2918.
https://www.healthaffairs.org/doi/abs/10.1377/hlthaff.2017.1264

ENSURING QUALITY

In the United States efforts are made to ensure the quality of civil legal services, through the use of case management systems, the establishment of standards and performance criteria, and the use of peer review onsite examination of the overall effectiveness of programs—based on the standards and performance criteria. Until recently, outcome measures were not been used extensively, although five state IOLTA/state funding programs require their grantees to report on outcome measures.[33] LSC has now required every LSC funded program to use outcome measures.

In 2006, the ABA Standing Committee on Legal Aid and Indigent Defendants (SCLAID) revised the ABA Standards for Provision of Civil Legal Aid.[34] These revised Standards were presented to and adopted by the ABA House of Delegates at its August 2006 meeting. The revised Standards, for the first time, provide guidance on limited representation, legal advice, brief service, support for pro se activities, and the provision of legal information. The revised Standards also include new standards for diversity, cultural competence, and language competency.

[33] New York, Maryland, Virginia, Texas, and Arizona measure specific outcomes that could be achieved for clients in specific substantive areas, such as housing, and which focus primarily on the immediate result of a particular case or activity (such as "prevented an eviction"). These systems do not capture information on what ultimately happened to the client. All of these states use the information collected to report to their state legislatures and the public about what the grantees have accomplished with IOLTA and state funding.

[34] www.abanet.org/legalservices/sclaid/downloads/civillegalaidstds2006.pdf

After the adoption of the new ABA Standards, SC also completed a revision of the LSC Performance Criteria,[35] which were originally developed in 1992 as a tool to evaluate LSC programs through a peer review system. These criteria have been the framework for much of the program evaluation that has gone on in civil legal aid, both by LSC and by peer reviews conducted by others for the program. Some IOLTA and state funders also use staff and peers from programs to monitor and evaluate their grantees, based on the Standards and Criteria. All LSC-funded providers are required to utilize case management systems, and many non-LSC providers utilize similar systems.

The Performance Criteria is divided into four performance areas:

- Effectiveness in identifying the most pressing civil legal need of low-income people in the service area and targeting resources to address those needs
- Effectiveness in engaging and serving the low-income population throughout the service area
- Effectiveness of legal representation and other program activities intended to benefit the low-income population in the service area
- Effectiveness of governance, leadership, and administration

In 2018, LSC revised the fourth Performance Criteria to take into account the most recent guidance on governance of non-profit boards.

LSC conducts two types of on-site LSC program visits to ensure compliance with the law and regulations and to ensure quality of services. In 2018, LSC's Office of Compliance and Enforcement conducted 24 oversight visits and expected to complete 26 compliance visits in 2019. In 2018, LSC's Office of Program Performance conducted 35 onsite assessment visits and expected to complete 35-40 onsite visits in 2019.

PART TWO

UPDATE ON ACCESS TO JUSTICE DEVELOPMENTS IN THE US

A comprehensive "access-to-justice system" includes a coordinated and integrated civil legal aid system providing a right to counsel in essential civil cases and extensive pro bono initiatives. In addition, technology advances in the practice of law and the delivery of justice are ongoing and expanding. Among the strategies are:

- websites that provide legal information, including how to access civil legal aid and pro bono programs;
- document assembly systems for use by lawyers and litigants that permit a lay person to generate and file accurate court documents;
- hotlines and other means of providing advice and brief service;
- systems, including mobile apps providing universal access to civil legal aid programs, self-help centers and other providers;

[35] http://www.lsc.gov/pdfs/LSCPerformanceCriteriaReferencingABAStandards.pdf

- online dispute resolution forums that permit parties to resolve legal problems themselves with oversight and review by courts; and,
- the use of social media for information, training, and other justice related activities.

States are pursuing a host of strategies to address the access to justice gaps, including:

- Developing triage systems for matching a client's problem with the appropriate level of legal advice and representation. For example, in 2017, *LSC,* Microsoft Corporation, and Pro Bono Net named Alaska and Hawaii as state partners in a pilot program to develop online, statewide legal portals to direct individuals with civil legal needs to the most appropriate forms of assistance. These portals are expected to begin operations in 2019.

- Developing effective referral systems including enhanced collaboration with human services and other relevant entities to ensure that clients with legal problems are referred to the appropriate civil legal assistance providers.

- Educating lawyers about, and specifically encouraging lawyers to undertake, unbundled discrete task representation.

- Pursuing comprehensive and coordinated self-help assistance to unrepresented litigants through court-based self-help centers. The Self-Represented Litigation (SRL) Network brings together courts, bars, legal aid programs, and access to justice organizations in support of innovations in services for the self-represented and has undertaken a number of activities to ensure the justice system works for all including those forced to go to court on their own. See www.srln.org

- Reforming how courts operate to ensure efficient and effective access by implementing: e-filing for all including those who cannot afford fees; changes in judicial codes and practices so that judges make reasonable accommodations for unrepresented litigants to have their matters heard fairly; court-based programs to assist those with special needs including disabilities, limited English proficiency, the elderly, and others; simplification of court procedures and rules to enable unrepresented litigants and lay advocates to better present and advocate before the judge; and new forums to efficiently and effectively resolve routine matters

- In addition to clinical programs that serve indigent clients, states and law schools are expanding the use and education of law students through pro bono requirements, internships with providers, inclusion of access to justice developments in the curricula, and other means.

- Experimenting with and using lay advocates (non-lawyers) in certain administrative proceedings, simple court cases, and as facilitators in courts and community settings.

- Developing comprehensive and enforceable language access services suitable to the communities served to enable all clients to effectively communicate to the court or other adjudicatory personnel and to understand their rights, responsibilities, and adjudicatory processes.

- Developing legal incubators that provide support to young lawyers interested in launching their own practice to serve low-income communities that lack access to legal representations. Incubators foster the lawyers working with them to understand and cultivate the services they wish to provide. They perform market research to determine how to best reach the underserved population. They assist the community in identifying legal needs and create legal packages that are affordable, understandable, and accessible. The end goal is to assist attorneys in establishing successful and sustainable practices.

- Ensuring education and outreach to law libraries and all public libraries to enable their staff to suggest legal resources, information, and referrals to individuals seeking assistance.

There is emerging an ongoing and institutionalized capacity to conduct research on how to improve the delivery of civil legal aid and conduct and evaluate demonstration projects testing new ideas and innovations for possible replication across the system. The United States had such a component, the Research Institute, during the first era of the Legal Services Corporation from 1976 to 1981. During the funding and political crisis of 1981, the Research Institute was closed. Several recent developments are promising. In 2016, Harvard Law School opened an Access to Justice Lab dedicated to transforming adjudicatory administration and engagement with the courts into evidence-based fields. LSC raised private funding for and has recently established an Office of Data Governance and Analysis that now has six analysts. In 2019, Georgetown created a new Justice Lab. Rebecca Sandefur, a professor at the University of Illinois and a researcher at the American Bar Foundation, has actively pursued a legal aid delivery research agenda. Other academics are following her lead.

In addition to these court and delivery focused strategies, state access to justice efforts are pursuing other strategies to expand access to justice including working with legislative bodies and administrative agencies to write statutes and regulations in clear language that can be easily understood by non-lawyers and the public, as well as working with state and federal administrative agencies to incorporate best practices to ensure administrative justice.

California and New York have been leaders in developing comprehensive access to justice initiatives, as the following discussions will illustrate. New York' Permanent Commission on Access to Justice http://ww2.nycourts.gov/accesstojusticecommission/index.shtml and New York Courts Access to Justice Program http://www.nycourts.gov/ip/nya2j/.

California recently developed a framework to guide its work. The California State Bar's mission statement provides that a key component of our public protection mission is the

support of efforts for greater access to, and inclusion in, the legal system. In 2018, specific objectives around access to justice were added to the Strategic Plan. Because access to justice is so broad and encompasses so much, the State Bar is seeking to focus its work in this important area - to recognize where the State Bar can add the most value and may be uniquely situated to act. A DRAFT framework was developed to identify the areas in which the State Bar can and should be most impactful, with the understanding that other, equally important access issues, are being addressed - and can be better addressed - by others. See file:///C:/Users/a.houseman/AppData/Local/Microsoft/Windows/Temporary%20Internet%20Files/Content.Outlook/W1DSTB8E/Adoption%20of%20Parameters%20of%20State%20Bar%20Role%20Re%20Access%20to%20Justice%20_%20Access%20to%20the%20Legal%20System.pdf
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The author's views about this emerging agenda are found in **Civil Legal Aid Programs and Access to Justice**, Volume XXXI No.4, Management Information Exchange Journal, Winter 2017. http://www.nlada.org/sites/default/files/MIE%20ARTICLE%20-%20ATJ.pdf

UN SUSTAINABLE DEVELOPMENT GOAL 16.3

On September 15, 2016, access to justice experts from the academic and nonprofit communities gathered for a Consultation with U.S. government officials to recommend "access to justice indicators" to guide data collection for tracking and promoting access to justice in the United States.

As part of the Civil Society Consultation the academic and nonprofit experts provided government officials with recommended indicators in the following categories:[36]

- Criminal Justice Indicators, focusing on indigent defense, the intersection of the civil & criminal justice systems, and reentry
- Civil Justice Indicators, focusing on
    - Disability
    - disaster response
    - education
    - employment/labor
    - family law and matrimonial matters
    - finance and consumer protection (including credit card debt and home foreclosure)
    - gender-based violence
    - healthcare
    - housing
    - immigration
    - public benefits

[36] https://ncforaj.org/wp-content/uploads/2016/12/Written-Submissions-Rev.-12.1.16-final-correct.pd

- tribes and tribal members
- veterans and service members

Upon the adoption of the UN Sustainable Development Agenda and President Obama's issuance of a Presidential Memorandum formally establishing the White House Legal Aid Interagency Roundtable (LAIR), and charging it with responsibility for assisting the United States in implementing Goal 16. As discussed in my 2017 national report, on November 30, 2016, the U.S. Government issued the First Annual Report of the White House Legal Aid Interagency Roundtable: Expanding Access to Justice, Strengthening Federal Programs. The Report documents the many steps taken by the LAIR agencies to advance agency goals in collaboration with civil legal aid. LAIR's efforts to advance development of indicators for Goal 16 are described in this factsheet released in January 2017.

In 2017, LAIR held three successful meetings with attendance from nearly all 22 federal agencies at each meeting. These meetings, held in April, July, and October, focused on priority areas of the current administration: how civil legal aid supports successful reentry and employment, how civil legal aid helps veterans and service members, and how civil legal aid helps victims of crime. Each meeting included presentations from civil legal aid providers. LAIR also convened listening sessions with the civil legal aid community on the topics of homeless veterans and veterans at-risk of homelessness, faith-based civil legal aid, and civil legal aid's role in responding to the opioid crisis.

In 2018, the Department of Justice closed the Office for Access to Justice, which served as the staff to LAIR. The functions of that office were transferred to the Office of Legal Policy and in April 2019, that office convened its first LAIR meeting to discuss elder abuse, as described in this DOJ posting.

The United States continues to report data for a number of indicators that have been agreed upon through the UN process. The data for Goal 16 can be found here/

In 2019, for the first time since the United Nations adopted the 2030 Agenda for Sustainable Development, the global community came together to focus on Goal 16's call to "ensure equal access to justice for all." On this occasion, NLADA launched an initiative to further connect the U.S. corporate community interested in advancing access to justice with opportunities to strategically collaborate with NLADA's members – civil legal aid offices, public defender offices, and clients across the country – to advance the goal of providing *100% justice for all.* This effort will create opportunities for the U.S. corporate community to display their efforts to close the "justice gap" on the global stage.

NLADA has been guided by its Corporate Advisory Committee (CAC) in launching this work through a number of occasions including a roundtable with its CAC members and other corporate partners on *Access to Justice: U.S. Corporate Leadership on Goal 16* in May 2019 in Louisville, Kentucky during the annual Equal Justice Conference. The

roundtable provided a forum for participants to exchange information and promising practices on corporate-led access to justice activities.

On July 17, 2019, NLADA co-sponsored an event on *How Legal Empowerment Advances Sustainable Development Goals* with the Task Force on Justice, the Bernstein Institute for Human Rights, Namati, and the Open Government Partnership connected to the United Nations High-Level Political Forum on Sustainable Development. At that event, NLADA issued a policy brief entitled *Access to Justice is Good for Business* written by NLADA Senior Fellow Maha Jweied, who formally led the U.S. Department of Justice's Office for Access to Justice and served as the U.S. Government's Goal 16 Subject-Matter Expert. The policy brief identifies the ways in which corporate America advances access to justice and describes three main strategies: (1) Contributing Resources; (2) Advancing Policy and Legal Reform; and (3) Implementing Sound Business Practices. It also includes a call to the business community for increased partnership with NLADA and other public interest organizations to accelerate their efforts to respond to the legal needs of low-income and vulnerable members of our society.

Expanding on this activity, in September 2019, NLADA sponsored a successful United Nations (UN) Sustainable Development Summit side-event: *Corporate America Advances Goal 16*. Hosted by AT&T in Rockefeller Plaza in New York, NY and co-sponsored by AT&T, Hewlett Packard Enterprises, Pathfinders for Peaceful, Just and Inclusive Societies, Namati, and the Justice for All Campaign, the gathering highlighted the ways in which the corporate community advances access to justice. (To read more about the event, please see this article published by Law360.) At the event, NLADA recently launched a new working group of the CAC to advance Goal 16 of the UN Sustainable Development Agenda. The Goal 16 Working Group identifies access to justice policy initiatives that can be advanced through our public-private partnership. The working group was successfully registered as NLADA's commitment to advancing Goal 16 of the Sustainable Development Goals with the United Nations SDG Partnerships Platform. NLADA held the first meeting of this working group during our Annual Conference in Detroit, Michigan in November with three meetings to follow in 2020.

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FEDERAL ACCESS TO JUSTICE ACTIVITY

Launched in 2010 and closed in April 2018, the U.S. Department of Justice's Office for Access to Justice (ATJ) served as the primary office in the Executive Branch focused on legal services for low-income and vulnerable individuals. Under Attorney General Sessions, the U.S. Department of Justice's Office of Legal Policy (OLP) assumed the principal policy and legislative responsibilities of ATJ, including staffing the Legal Aid Interagency Roundtable (LAIR).

LAIR, which includes 22 federal members, works to raise awareness about the profound impact legal aid programs can have in advancing federal efforts to promote access to

health and housing, education and employment, family stability and community well-being. The goal is to maximize federal program effectiveness by integrating legal aid providers as partners, grantees or sub-grantees in federal safety-net programs when doing so can improve outcomes. Since 2012, LAIR has worked to inspire collaborations that increase access to justice and improve outcomes for vulnerable and underserved people. NLADA's Civil Legal Aid Initiative, with support from the Public Welfare Foundation and the Kresge Foundation, has undertaken work to complement the federal activity coming out of LAIR.

A recent issue brief**, Civil Justice Needs Federal Leadership,** By Maha Jweied and Karen A. Lash, Center for American Progress, September 16, 2019, gives a brief history of the nation's civil justice landscape; elaborates with specific examples of how civil legal aid helps individuals obtain health care, avoid evictions, remove barriers to employment for job seekers, find relief from illegal debt collection, and secure immigration status and describes how the federal government has supported or partnered with civil legal aid in these settings in recent years; and concludes by urging leaders at all levels of government—especially the president—to step up to advance civil justice reform. [37]

THE JUSTICE IN GOVERNMENT PROJECT

In 2017, Karen Lash, former Deputy Director of the DOJ Office for Access to Justice and Executive Director of the Legal Aid Interagency Roundtable, became a Practitioner-in-Residence at the American University School of Public Affairs Justice Programs Office and developed the Justice in Government Project (JGP). The goal of JGP is to identify those state and local executive branch programs, policies, and initiatives that would be more effective and efficient by incorporating legal aid alongside other supportive services.

For its first two years, JGP worked closely with an initial cohort of legal profession leaders (e.g., staff or board members of IOLTA Foundations and Access to Justice Commissions) in Arizona, California, Hawaii, Mississippi, Oklahoma, and Wisconsin. Working with state and local government executive branch departments and agencies, these states have identified new resources and partnerships to increase access to health care, housing, employment and education, and improve family stability and public safety. For example, Tulsa, Oklahoma became the first known jurisdiction to use federal workforce development formula funds for legal services to remove barriers to employment, Arizona brought in new federal funds for the courts to better reach rural parts of the state through technology innovations, Hawaii launched a state Legal Aid Interagency Roundtable chaired by the Director of the Department of Human Services, and California incorporated legal services into a new grant program funded by its state cannabis tax. JGP launched an online toolkit to reinforce its individualized training and

[37] https://www.americanprogress.org/issues/democracy/reports/2019/09/16/474354/civil-justice-needs-federal-leadership/

technical assistance and to support these kinds of executive-branch focused activities in other interested states. The Project expects to continue its efforts to identify new dollars for civil legal aid into the future and new and nontraditional allies for civil justice stakeholders.

FINES & FEES JUSTICE CENTER (FFJC)

FEJC is a new national hub for advocacy, information and collaboration committed to ending the unfair and harmful imposition and enforcement of fines and fees in the justice system. See https://finesandfeesjusticecenter.org/. FEJC is co-directed by Lisa Foster former Director of the Access to Justice Initiative at the Department of Justice. FFJC's mission is to eliminate fees from the justice system and to make fines proportionate to the offense and the individual. To accomplish its goals, FFJC aims to catalyze a movement for change by: 1) developing a replicable model for comprehensive reform in states; 2) creating an online clearinghouse; and 3) supporting reform efforts throughout the country.

FFJC has selected Florida and New York as the first states where they will create and test advocacy strategies that can lead to comprehensive reform, and it is already engaged in both states. FFJC's online Clearinghouse launched in December 2018 and serves as a tool for community activists, advocates, judges and court staff, legislators, and media interested in reform, gathering in one place information that will help drive change. https://finesandfeesjusticecenter.org/clearinghouse/?sortByDate=true The Clearinghouse is continuously updated and designed to provide easy access to research and data, litigation, legislation, court-rule changes, pilot projects and programs, personal narratives of affected individuals, media coverage, and tools. FFJC supports reform across the country by providing advice and facilitating connections, by leading or participating several national coalitions and campaigns, and by bringing increased attention to national and local reform efforts in both conventional and social media.

Representation regarding fines and fees involves both indigent criminal defense and civil legal aid, particularly in the collection process. Civil legal aid attorneys funded by LSC can engage in such representation.

COMMISSION ON THE FUTURE OF LEGAL SERVICES

The American Bar Association Commission on the Future of Legal Services conducted a comprehensive examination of issues related to the delivery of, and the public's access to, legal services in the United States. Adopting a cornerstone recommendation from the Commission, the ABA has established a new Center for Innovation to drive innovation in the legal system, serve as a resource for ABA members, maintain an inventory of the ABA's and others' innovation efforts, and offer innovative fellowships to work with other professionals to create models to improve the justice system. The ABA Center for Innovation officially launched on September 1, 2016, with a mission to encourage and accelerate innovations that improve the affordability, effectiveness, efficiency, and accessibility of legal services.

Among recent activities, the Center is assisting with a free, online legal checkup tool that is being created by a working group led by the ABA Standing Committee on the Delivery of Legal Services. The checkup will consist of an expert system of branching questions and answers that helps members of the public to identify legal issues in specific subject areas and refers them to appropriate resources. Center members and staff are in the early stages of developing a social entrepreneurship project, in which legal tech and other companies focus on sharing their technology to legal aid organizations at a discounted rate or pro bono. Further, the Center is establishing a comprehensive Innovations Clearinghouse to catalog ongoing legal services innovations around the world so that we can better understand existing efforts, avoid duplicating current projects, and inform the Center's decisions regarding new initiatives. A prioritized list of areas of focus for the Center will be the basis of a nationwide "Call for Project +Proposals" competition. Selected projects will receive technical support, collaborative resources and, in some cases, small monetary grants to assist in the development and implementation of worthwhile endeavors that advance the Center's mission.

Working with Stanford Law School, Southeast Louisiana Legal Services (SLLS), LSU Law School, and Louisiana Appleseed, the Center created a mobile app to help Louisiana flood victims gather information and documents needed to establish home ownership and complete disaster relief applications. The Center later developed a web-based version of Flood Proof and explored efforts, in cooperation with the ABA Standing Committee on Disaster Response and Preparedness and Louisiana Appleseed, to drive greater awareness and use of these new technology resources. Through a collaborative effort with SLLS, LSU Law School, Southern University Law School, Baton Rouge Bar Association, Louisiana Appleseed, and local and state government, flood victims are being introduced to both the mobile app and web platform to assist in recovery. The overall Flood Proof project, including the mobile app design, was made possible by funding from the W.K. Kellogg Foundation and the Baton Rouge Area Foundation.

The Legal Tech for a Change Project is a partnership between the ABA's Center for Innovation and the Legal Services Corporation. The project's objectives are simple: (1) To get cutting-edge technology into the hands of our nation's legal aid providers so that they can increase their capacity to serve more clients; and (2) To help legal tech companies demonstrate how their products and services can improve the efficiency and effectiveness of legal services. Together, the ABA's Center for Innovation and the Legal Services Corporation seek to facilitate the donation of legal technology.

Within days of a recent executive order regarding immigration that detained scores of immigrants at airports, the ABA Center for Innovation worked with the American Immigration Lawyers Association (AILA) and the ABA Law Practice Division to launch www.immigrationjustice.us, a site that supports pro bono attorneys seeking to engage in immigration law. The site provides necessary resources for organizing pro bono attorneys nationwide. The Center also prepared a toolkit for quickly developing

rapid response websites. This project demonstrated that bar associations can work together with agility and common purpose, particularly when aided by innovation.

The ABA Center for Innovation released an interactive online catalog of state regulatory innovations that relate to access to justice issues and delivery of legal services. Currently, no one-stop resource collects how state regulatory frameworks vary or new approaches to the regulation of legal services. The ABA Center for Innovation has responded to the lack of available information by producing this resource for the legal community and the public.

The Legal Innovation Regulatory Survey covers all 50 states and the District of Columbia and builds on the 2016 report of the ABA Commission on the Future of Legal Services. With regard to rules of professional conduct, every state and the District of Columbia have adopted the American Bar Association's Model Rules of Professional Conduct, at least in part. This survey identifies six Model Rules that have the potential to spur innovative approaches to legal services delivery, depending on the particular formulation of the rule that a jurisdiction adopts. In addition to the rules of professional conduct, which only govern lawyers, states also adopt other provisions that relate to the delivery of legal services more generally, such as statutes governing the unauthorized practice of law and rules authorizing the delivery of law-related services by other professionals (e.g., Limited License Legal Technicians in Washington State). The survey identifies many of these provisions, especially those that have the potential to drive innovation in how legal services are delivered to the public. The survey also identifies jurisdictions that are currently considering similar regulatory reforms.

The new survey provides state-by-state information of known efforts to reform the regulation of legal service delivery while also providing access to relevant case law. The report highlights major efforts underway in Arizona, California, Florida, New Mexico and Utah to determine whether regulations should be revised to more effectively meet the public's legal needs. Among other topics, it identifies several ABA Model Rules of Professional Conduct that are closely connected to legal services innovation and catalogs ways in which state approaches to those rules vary. The survey compares, for instance, state approaches to the unauthorized practice of law and the authorization of other kinds of legal services providers.

An example of what some states are doing is California, where the Chief justice established a Commission on the Future of California's Court System. A 2017 Report from the Commission describes the extensive process that was used and the recommendations that were made in five areas: civil; criminal/traffic; family/ juvenile; fiscal/court administration; and technology. See https://www.courts.ca.gov/documents/futures-commission-final-report.pdf

JUSTICE FOR ALL PROJECT

In November, 2016, the National Conference of State Courts and the Public Welfare Foundation announced that grants were awarded to seven states under the Justice for All project, which is supported by the Public Welfare Foundation and housed at the National Center for State Courts. The grants will support each state grantee in forming partnerships with all relevant stakeholders in the civil justice community and beyond to develop state assessments and strategic action plans in order to implement Resolution 5 referenced above. Mary McClymont, president of the Foundation, stated: "The goal is to build a coordinated and integrated continuum of services with the user in mind — people with essential civil legal needs, especially those who cannot afford lawyers. The grants will help states bring together all civil justice stakeholders to determine the most effective ways to deliver those services." The seven grants are to Alaska, Colorado, Georgia, Hawaii, Massachusetts, Minnesota, and New York. The Justice of All Strategic Planning Guidance, issued in August of 2016, identifies the basic services which need to be available to all if 100% access is to be provided. In April, 2017 all of the JFA grantees completed their reporting for the first quarter. Each state made significant progress in attracting a wide cross section of participants in the process, and all are focused on completing their inventory assessment.

Throughout 2017, the seven Justice for All awardee states (Alaska, Colorado, Georgia, Hawai'i, Massachusetts, Minnesota, and New York) worked with a variety of traditional and non-traditional civil justice stakeholders to develop a strategic action plan for state civil justice systems where everyone can get the legal information and help they need, when they need it, and in a form they can use to protect their families, homes and livelihood. Each state inventory assessment and strategic action plan identified targeted areas of action with the potential to significantly improve the accessibility and fairness of state justice systems. The targeted areas and implementation pilots derived from the planning effort were presented to the Justice for All Advisory Committee for funding decisions. Justice for All Project Goals Reflected in Implementation Awards The Justice for All Advisory Committee awarded implementation efforts reflective of a sustainable commitment to CCJ/COSCA Resolution 5 and the goals of the Justice for All Project. Justice Laurie Zelon, Associate Justice of the California Court of Appeal and Co-Chair of the Justice for All Advisory Committee, notes "The Advisory Committee was moved by the deep commitment of the awardee states to innovative projects designed to move towards the goals of Justice for All, and to cement that progress with sustainable efforts to provide a foundation for the future."

Awarded efforts will embrace new partners with a stake in civil justice reforms and will explore a continuum of meaningful and appropriate services to help people obtain effective assistance. They include: • Creating a housing pilot in a gateway city to achieve housing stability for households facing eviction before eviction complaints are filed in court (Massachusetts); • Integrating libraries as legal resource centers (New York and Georgia); • Developing robust web portal content, design, and supports (Minnesota); • Instituting targeted litigant supports (plain language forms, simplified procedures, etc.) in debt collection cases (Alaska); • Creating a consumer debt pilot in a

large city to help consumers avert financial crisis or navigate successfully through such a crisis before or after debt collection cases are brought (Massachusetts); • Convening and training non-traditional civil justice stakeholders to expand and strengthen justice related capacity and partnerships (Alaska and Hawaii); • Creating an inter-agency roundtable to better identify, align, and leverage existing resources (Hawaii); • Using business process and user design concepts to strengthen referrals and triage, resource integration/alignment, and improved community outreach (Colorado). Awardee states will pursue their implementation pilots throughout 2018 and evaluate how their efforts significantly improved the fairness and accessibility of state civil justice systems

The Conference of Chief Justices passed Resolution 3, Expanding Meaningful Justice for All, at their 2018 mid-year meeting. The Resolution explicitly supports the Justice for All project and encourages all states to undertake a strategic planning process to close their access to justice gaps.

The Nation al Center for State Courts also prepared *Lessons from the Field* document that contains a link to the state plans and summarizes main themes from the plans. W

Recently, seven additional states were added: four more in 2018 (New Mexico, Montana, Florida and Kentucky) and three in 2019 (Illinois, Michigan and Louisiana).

For more information, see https://www.ncsc.org/jfa

STATE ACCESS TO JUSTICE COMMISSIONS

The evolving effort to create in every state a comprehensive, integrated statewide delivery system, often called a state justice community, continues. These delivery systems include LSC and non-LSC providers, pro bono programs and initiatives, other service providers including human service providers, pro se initiatives, law school clinics, and key elements of the private bar and the state judicial system. In theory, these state justice communities seek to ensure easy points of entry for all low-income clients, ensure coordination among all institutional and individual providers and partners, allocate resources among providers to ensure that representation can occur in all forums for all low-income persons, and provide access to a range of services for all eligible clients no matter where they live, the language they speak, or the ethnic or cultural group of which they are a member.

One of the most effective ways to develop, expand, and institutionalize comprehensive, integrated state systems for the delivery of civil legal aid is through the establishment of state Access to Justice Commissions. Today, there are 41 active commissions. They are conceived as having a continuing existence, in contrast to a blue-ribbon body created to issue a report and then sunset. They have a broad charge to engage in ongoing assessment of the civil legal needs of people in the state and to develop, coordinate, and oversee initiatives to respond to those needs. In a few states, Access to Justice Commissions have existed for a decade or more, including the Washington

State Access to Justice Board, the California Access to Justice Commission, and Maine's Justice Action Group.

Access to Justice Commissions carry out a number of activities:

- Funding for civil legal aid: Increasing state legislative funding (appropriations and legislatively enacted filing fees add-ons), funding from changes in court rules/statutes (e.g., pro hac vice fees and cy pres distributions) and private funding from foundations, the bar and the general public. Many states run public relations and public outreach campaigns as part of fund raising initiatives.

- Developmental Activities: Undertaking state legal needs and economic impact studies, convening public forums across a state, developing strategic plans for access to justice and holding access to justice seminars and conferences on general and specific topics (e.g. law schools, technology).

- Self-represented litigation: simplification of court processes and forms; developing court-based self-help centers; producing educational programs, handbooks and materials; changes in the Code of Judicial Conduct; increasing language access; and cultivating partnerships with public libraries as points of access to legal assistance.

- Best practices for administrative agencies, strategic plans and recommendations have also been developed to guide future endeavors.

- Pro bono initiatives: implementation of Supreme Court recognition programs, mentorship and training programs, retiring and retired lawyer programs, specialized pro bono programs, regional committees, and rule and policy changes to support pro bono work.

- Limited scope representation: formulating or amending rules of professional conduct or rules of procedure, and developing and providing educational resources.

- Legal aid delivery initiatives: expanded uses of information technology, remote video conferencing, triage approaches, portal projects, legal incubator programs, disability access initiatives, addressing racial disparities, mediation and ADR initiatives, legal answers websites, court based vacillators/navigators and limited licenses for non-lawyers and legal technicians.

- Law school and legal profession efforts: new law school initiatives, pro bono admission requirements for graduation, implicit bias training, poverty simulations, and proposals to add questions about access and poverty law to bar exams.

For more detailed information about the activities of Access to Justice Commissions, see

file:///C:/Users/a.houseman/AppData/Local/Microsoft/Windows/Temporary%20Internet%20Files/Content.Outlook/W1DSTB8E/ABA%20Commission%20Initiatives%20August%202017.pdf

The ABA Resource Center for Access to Justice Initiatives produced a new report released in August of 2018, entitled Access to Justice Commissions: Increasing Effectiveness Through Adequate Staffing and Funding by Mary Flynn (https://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls_sclaid_atj_commission_report_exec_summ.pdf) which is a comprehensive review of the 40 Access to Justice Commission, their funding, creation, structure, activities and staffing. The report finds that: broad, active stakeholder involvement increasers the impact of access to justice commissions; professional staff plays a key role with effective commissions; the Conferences of Chief Justices and individual justices have played a key role in expanding access to justice commissions; the support of the legal aid community is extremely valuable for successful commissions; and private philanthropy has strategically nurtured the expansion of commissions. It also includes best practices recomm3endations including: seeking out a diverse set of funding sources and have a minimum staffing level.

With generous support from the Public Welfare Foundation, the ABA Resource Center for Access to Justice Initiatives is s collaborating with Voices for Civil Justice and the Self Represented Litigation Network to provide capacity building support to Access to Justice Commissions in the three priority areas. In collaboration with Voices for Civil Justice, capacity-building support is being provided to enable Commissions to develop their communications and media capabilities. Voices has been working very closely with the following ATJ Commissions to develop statewide plans: Arkansas, Maryland, New Mexico, Tennessee, Virginia and Washington. In collaboration with the Self Represented Litigation Network (SRLN) (described below), capacity-building support is being provided to enable Commissions to develop innovations to address challenges presented by the influx of self-represented litigants. SRLN has developed monthly presentations by experts which address a range of topics that have been identified as most useful to the Commissions. SRLN is working with twenty-seven Commissions on this topic. Capacity-building support is being provided by ABA consultant to enable Commissions to develop their campaigns and plans to expand funding for civil legal aid. This capacity-building group is focusing on two topics: 1) state legislative funding and 2) private funding from the legal community.

A recent example of what one of the innovators is doing is the Washington State Access to Justice Board which completed a new state plan in May of 2017. The State Plan sets forth five goals intended to reflect the universal commitment for an equitable legal system: (1) Promote and foster **race equity; (2)** Provide clients with **legal education** to understand when their problem is legal in nature; (3) **Increase access** for underserved and underrepresented communities; (4) Develop and increase **holistic client-centered services; and (5)** Engage in **systemic advocacy.**

Through a subcommittee of the ATJ Board's Delivery Systems Committee, systemic efforts have been undertaken to encourage, monitor, and support strategies to

implement these goals at the programmatic level and on statewide basis. In addition, significant new investment was made to develop trainings, tools, and related resources to help all programs understand and effectively address the race equity challenges and commitments set forth in Goal 1 of the State Plan (goals that infuse all other goals in the Plan), the Equity and Justice Community Leadership Academy, and the related Race Equity and Justice Initiative the latter two of which are coordinated principally through a new state support organization – JustLead Washington. Through the Washington State Office of Civil Legal Aid, significant state funding has been invested in JustLeadWA's development of a Race Equity Organizational Toolkit and race equity training curricula.

A second example, is the Permanent Commission on Access to Justice in New York which has undertaken a number of initiatives, including supporting the allocation of $100 million each year for civil legal aid in New York State. See http://ww2.nycourts.gov/accesstojusticecommission/index.shtml The Commission advocated to the Legislature that the State adopt the policy that in matters affecting the essentials of life all low income New Yorkers have effective assistance, a concept defined as encompassing the entire spectrum of help ranging from informational assistance to full representation. The Legislature announced that policy in a Joint Resolution in 2015. As the Permanent Commission sought to effectuate the State policy, it became evident that a formal strategic action plan would help them move, efficiently and effectively, to begin building statewide and local initiatives toward the goal of 100% access to effective assistance for essential civil legal needs for all New Yorkers in need. The Commission envisioned an integrated system in which local communities are empowered, courts participate in and support access to justice initiatives, and legal service providers continue to be dedicated to serving those in need. The Commission committed to a strategic planning process in 2016, developed a strategic action plan in 2017, and began implementing the plan this year on both the statewide and local levels.

Statewide efforts included supporting: full-service legal representation; plain language court materials; additional court Help Centers; educational programming for judges and court staff on the barriers faced by unrepresented litigants; additional Legal Hand neighborhood storefront centers; and limited-scope representation. On the local level, the Commission established a pilot project in Suffolk County for the development of a local strategic action plan, led by the Administrative Judge and a team of community stakeholders. One of its initiatives already making an impact is the Community Legal Help Project, a unique collaboration between seven legal services providers and a public library, which has begun providing legal assistance and which we expect to become a model for replication in other locations. Building on the success in Suffolk County, the Commission helped launch a second pilot in Monroe County.

Another example is the DC Access to justice Commission. In 2019, the Commission released *Delivering Justice: Addressing Civil Legal Needs in the District of Columbia*. The report documented the evolution of civil legal needs and services in the District over the 10 years since the publication of the Commission's 2008 report, *Justice for All? An Examination of the Civil Legal Needs of the District of Columbia's Low-Income*

Community, and included strategies for increasing access to justice in the future.[38] For more information see the D.C. Access to Justice Commission's website, www.dcaccesstojustice.org. You can download the full report, the Executive Summary, and also review several fact sheets: one a 2-page summary of the report and the other a snapshot of *pro se* representation. The website also features a gallery of client stories, and the Commission hopes to add more content from the report in the future.

CIVIL RIGHT TO COUNSEL

Background

In the United States, there is no general right to state-funded counsel in civil proceedings. See *Lassiter v. Department of Social Services*, 452 U.S. 18 (1981) and *Turner v, Rogers*, 131 S.Ct. 2507 (2011).

However, state courts and state statutes or court rules, as well as some federal statutes, have provided the right to counsel in several categories of cases including termination of parental rights, adoption, and other areas. In 2014, the ABA completed the ABA Directory of Law Governing Appointment of Counsel in State Civil Proceedings. This project, done in collaboration with the National Coalition for a Civil Right to Counsel (NCCRC) over the course of several years, transformed the NCCRC's research memos on the right to counsel in each state into a format suitable for state trial court judges. Each state's entry is organized by subject matter, and within that, by the source of law that requires, permits, or does not permit appointment of counsel. Thanks to a 2-year effort, all 50 state entries in the Directory were brought up to date over the course of 2017-2018.

The NCCRC[39] has an interactive map which gives a 50-state view of the latest civil right to counsel activities, the status of civil right to counsel law by type of case (child welfare, paternity, guardianship, etc.), the efforts in which the NCCRC is involved, and the states where NCCRC has a presence. http://civilrighttocounsel.org/map. The map is updated daily and has much of the information provided in this report.

Recently, several cities have adopted a right to counsel in eviction proceedings including New York City, San Francisco, Cleveland, Los Angeles, Santa Monica and Philadelphia. Newark adopted a right to counsel law but has not yet funded it.[40] DC has an extensive and well-funded program to represent low-income tenants. In response to organizing efforts by the Los Angeles Renters Right to Coalition, the Los Angeles City Council voted to add $9 million to its eviction defense fund, bringing the total in the fund to $23.5 million. In October 2019, Cleveland passed an ordinance establishing a right to

[38] https://www.dcaccesstojustice.org/assets/pdf/Delivering_Justice_2019.pdf
[39] I thank John Pollock, Coordinator of the National Coalition for a Civil Right to +Counsel for providing information for this report.
[40] https://www.stout.com/en/insights/commentary/right-to-counsel-eviction-matters-gaining-groundLos Angeles

counsel to tenants facing eviction who are at or below 100% of the federal poverty level and have children. Coverage is in cleveland.com, Crain's Cleveland Business, and WZAK, and there are press releases from the Legal Aid Society of Cleveland (the service provider) and the United Way (the implementer). A Case Western study commissioned by the Legal Aid Society of Cleveland found, among other things, that evicted children are at higher risk of lead exposure and negative educational outcomes, and that low-income black women are evicted at a disproportionate rate.

Headlines in the Wall Street Journal, Next City, and CityLab tell the story:

Is Tenants' Right to Counsel On Its Way to Becoming Standard Practice?, Jared Brey in Next City, December 10, 2019.

The Right to Eviction Counsel Is Gaining Momentum, Kriston Capps in CityLab, December 13, 2019.

As Rents Rise, Cities Strengthen Tenants' Ability to Fight Eviction, Laura Kusisto in The Wall Street Journal, December 26, 2019.

Recent state litigation developments of particular significance:[41]

- A Pennsylvania Superior Court held that there is a constitutional right to counsel in proceedings where individuals face incarceration for inability to pay court-imposed fees and fines.
- The Supreme Court of Vermont held that parents facing incarceration for inability to pay child support have a right to appointed counsel. This reaffirmed its jurisprudence that preceded the U.S. Supreme court's decision *Turner v. Rogers* (declining to recognize a federal right to counsel in such proceedings).
- A New Jersey state trial court held that the state may not automatically suspend drivers' licenses for inability to pay child support, but rather must provide a hearing with appointed counsel.
- After litigation was initiated in Utah to challenge the legislature's decision to create exceptions to the right to counsel in adult guardianship cases, the state narrowed the exceptions significantly and agreed to a settlement that will ensure virtually all prospective wards are provided counsel.
- The Supreme Court of Wyoming held that parents are entitled to appointed counsel in abuse/neglect cases even when they are not the subject of allegations.
- In *In re C.J.L.G.*, a panel of the Ninth Circuit declined to recognize a right to counsel for children in immigration proceedings, but the court subsequently granted en banc review. The case has been argued and is awaiting a decision.
- After a panel of the Fourth Circuit ruled that Virginia residents who are "interdicted" as "habitual drunkards" have no right to appointed counsel, the court granted en banc review. The interdiction proceeding is a civil one, and once a

[41] This summary does not include cases, however significant, that did not receive a ruling on the merits due to procedural reasons.

person is determined to be habitual drunkard, they are subject to criminal penalties if they are in possession or even potentially near alcohol. After holding that a state may criminalize behavior even when it's compelled by addiction, the panel held that there was no due process right to counsel because the interdiction proceeding itself does not implicate physical liberty but rather only the right to possess/use alcohol, and that while there might be a reputational interest in not being labeled a drunkard, "the Supreme Court has been careful to leave redress of reputational injuries to state law."

- The Supreme Court of Washington declined to recognize a categorical right to counsel for children in dependency proceedings.
- The Supreme Court of Texas found that failure to advise parents of right to counsel in child welfare cases is fatal error. In *In the Interest of B.C.*, 2019 Tex. LEXIS 1268 (Tex. 2019
- In *Smith v. Ogbuehi*, 2019 Cal. App. LEXIS 721 (2019), a California Court of Appeals court held that the trial court had abused its discretion by responding to a prisoner's request for appointed counsel by claiming it lacked the authority. The *Smith* court pointed out that such discretion was vested as part of the right of access to the courts outlined in prior decisions by the California Court of Appeals (two cases called *Wantuch* and *Apollo*).
- A New Jersey appellate court has recognized a right to counsel in an administrative context, holding that parents facing an administrative finding of abuse/neglect are entitled to appointed counsel.
  See http://civilrighttocounsel.org/major_developments/1378.

State legislative developments:

- Overall, nearly 150 state bills were filed in 2018 to expand or improve the right to counsel in various kinds of civil cases, and nearly 100 bills have already been filed in 2019.
- Following New York City's enactment of a right to counsel for eviction cases in 2017, San Francisco and Newark followed suit in 2018, with San Francisco's law having no income limit. Statewide legislation has been filed in 2019 in Massachusetts, Minnesota, and Connecticut. There have also been convenings in Cleveland and Detroit that have brought together city officials, advocates, tenant organizers, and other stakeholders to talk about the right to counsel in eviction cases.
- Calls to reform civil forfeiture proceedings have come from both Democrats and Republicans, with legislation filed in 2018 at both the federal and state level. While some of this reform would abolish civil forfeiture altogether and ensure counsel is provided for the forfeiture portion of a criminal proceeding, other bills would improve the due process provided, including guaranteeing counsel for indigent defendants.

Other significant legislative advancements in 2018 included creating a right to counsel for Utah parents in adoption proceedings, the removal of the indigency requirement for

appointed counsel in Louisiana involuntary outpatient proceedings, a right to counsel for Massachusetts defendants facing incarceration for inability to pay court-ordered fees and fines, the creation of a pilot project in Wisconsin to provide counsel for parents in child welfare cases, a right to counsel for a respondent in an extreme risk protection order proceeding in Colorado and a right to counsel for parents in private child guardianship cases in North Dakota .

In 2919, other right to counsel bills: required appointment of counsel for defendant when law enforcement officer seeks temporary extreme risk protection order to require person to surrender firearms; required court to appoint counsel for minor seeking emancipation; Required court to appoint counsel for objecting parent, and permitted court to appoint counsel for minor, in private guardianship proceedings; Required court to appoint attorney when minor petitions for emancipation; Permitted court to appoint attorney for person taken into protective custody by law enforcement in hearing to determine if person must surrender weapons; permitted court to appoint counsel for adult or minor subjected to conservatorship; Clarified that parents have right to counsel when unruly or delinquent child is placed in DSS custody; Permitted court to appoint counsel for child when visitation or custody by nonparent is being considered; Put child guardianships under the jurisdiction of the juvenile court instead of the probate court, requires court to appoint counsel for birth parents, and permits court to appoint counsel for child; and required court to appoint counsel for youth-turned adult still in voluntary foster care. Iowa followed North Dakota in adding right to counsel for private child guardianships. In 2019, Iowa enacted the Iowa Minor Guardianship Proceedings Act. Iowa Code § 232D.303. [42]

Efforts at the federal level

The Administration for Child and Families Children's Bureau has altered its policy around Social Security Title IV-E entitlement money to permit it to be used for representation of children and parents in child welfare proceedings.

The U.S. Senate's Special Committee on Aging held a hearing called "Ensuring Trust: Strengthening State Efforts to Overhaul the Guardianship Process and Protect Older Americans." The Committee is chaired by Senators Susan Collins and Bob Casey. Advocates from Legal Aid Center of Southern Nevada and the Senior Law Center in Philadelphia testified about the need for a right to counsel in such cases.

The Tennessee Advisory Committee to the U.S. Commission on Civil Rights released its report on Tennessee civil forfeiture practices. The report observes that the lack of a right to counsel makes such proceedings "especially prone to abuse when the value of seized assets is low." The report recommends that the state "require that all property owners be afforded the right to court-appointed counsel in civil forfeiture cases where basic needs are at risk, such as shelter, sustenance, safety, health, transportation, or child custody."

[42] http://civilrighttocounsel.org/legislative_developments/2019_civil_right_to_counsel_bills#enacted

Pilot projects

District of Columbia: In 2013, the D.C. Access to Justice Commission and the D.C. Bar Pro Bono Center brought together legal services providers and other community stakeholders to develop the D.C. Right to Housing Initiative, an effort to address the housing needs of low-income District residents. One element of the Initiative is a strategic effort to preserve affordable housing, eliminate barriers to housing, and increase the amount of affordable housing in the District. Representatives from legal and non-legal organizations, led by staff at Neighborhood Legal Services Program, come together regularly to learn about each other's housing-related advocacy efforts and to discuss issues of common interest.

The Housing Right to Counsel Project is yet another related collaborative effort, with a focus on eviction defense. Bread for the City, the D.C. Bar Pro Bono Center, the Legal Aid Society of the District of Columbia, and Legal Counsel for the Elderly together designed the Project. The Project has a strong pro bono partnership, with a growing list of major District law firms (now at 17) and the Federal Government Pro Bono Program. Since its launch in 2015 through June 2018, the Project partners provided direct representation to 731 tenants and pro bono referrals to 315 tenants. The Project is focused on serving tenants who are at risk of eviction from subsidized housing, a group that comprises about 20-25% of all eviction cases. Providers randomly select approximately 1 out of every 5 eviction cases involving subsidized housing to receive an outreach letter advising the tenant of the project and offering guaranteed, free representation if the tenant contacts the project. That representation is provided through the legal services providers or pro bono attorneys. The Project has found that tenants with counsel are substantially more likely to contest the case and/or raise legitimate defenses such as housing code violations; less likely to ultimately have a writ of eviction lodged against them; have more time to remedy past due payments or negotiate a payment plan or other arrangement with the landlord that will avoid eviction; more likely to enter into a settlement agreement that they are able to abide by; and less likely to enter into consent judgments.

In fiscal year 2018, the D.C. Council created the Civil Legal Counsel Projects Program and offered $4.5 million in public funding to support eviction defense. (The program continued in fiscal year 2019 at that same funding level and a similar level is proposed for fiscal year 2020.) The D.C. Bar Foundation is the grants administrator for that program, which involves a variety of legal services organizations. There is an evaluative component of the program which will offer information about the reach and impact of the program.

Philadelphia: In 2018, Stout Risius Ross, LLC, a global advisory firm, produced a report entitled Economic Return on Investment of Providing Counsel in Philadelphia Eviction Cases for Low-Income Tenants**,** which was prepared for the Philadelphia Bar Association's Civil Gideon and Access to Justice Task Force.[43] The report concludes:

[43] https://www.philadelphiabar.org/WebObjects/PBA.woa/Contents/WebServerResources/CMSResources/PhiladelphiaEvictionsReport.pdf

"With an annual investment of approximately $3.5 million, the City of Philadelphia could provide legal assistance to all tenants unable to afford representation, avoiding $45.2 million in costs to the City annually." Furthermore, "Stout's estimate of $45.2 million in annual costs that could be avoided by the City of Philadelphia is likely significantly understated." In November 2019, the Philadelphia City Council passed a bill creating a right to counsel for low-income tenants.

Hennepin County (Minnesota): Since 2016, Mid-Minnesota Legal Aid (MMLA) and the Volunteer Lawyers Network (VLN) have been running a county-funded Housing Court Pilot Project. In 2018, the project reported that fully represented tenants won or settled their cases 96% of the time, compared to 62% of pro se tenants, and that represented tenants in settled cases were nearly twice as likely to stay in their homes and received twice as much time to move. Moreover, 80% of represented tenants did not have an eviction placed on their record, compared to just 6% of pro se tenants, and utilized shelters at only one-quarter of the rate of pro se tenants. Pro se tenants were also 4-5 times more likely to face an abrupt, forced departure by a sheriff's deputy.

Connecticut: In 2017, the legislature passed SB 364, which established a pilot to study the effectiveness of counsel in domestic violence cases. The bill came out of a prior legislative task force report recommending a right to counsel in this area. In 2018, the pilot began operating in Waterbury County, with services being provided by Connecticut Legal Services. It will run from July 2018 through June 2019 and expects to represent 400-500 people.

Wisconsin: In 2018, the legislature passed AB 253, which created a 5-county pilot project to provide representation for parents in abuse/neglect proceedings. The pilot is operating in Brown, Outagamie, Racine, Kenosha, and Winnebago County, and is funded by $739,600 in state funds.

Counsel in deportation proceedings

Vera Institute's Safety and Fairness for Everyone (SAFE) Network has worked towards universal representation in deportation proceedings in 12 cities and counties: Atlanta, Austin, Baltimore, Chicago, Columbus (Ohio), Dane County (Wisconsin), Denver, Oakland/Alameda County (California), Prince George's County (Maryland), Sacramento, San Antonio, and Santa Ana (California).

Additionally, 26 cities, counties, and states around the country have created immigration representation funds ranging from hundreds of thousands to millions of dollars.

ABA resolutions and standards

At its 2018 midyear meeting, the American Bar Association adopted Resolution 114, which supports a right to counsel "in all proceedings that may result in a loss of physical liberty regardless of whether the proceedings are: a) criminal or civil; or b) initiated or prosecuted by a government entity." It also urges that courts do not accept in-court

waivers unless the person has had an opportunity to consult with a lawyer about the waiver, and that the person waiving counsel is offered appointed counsel at all subsequent stages of the proceedings.

The ABA also released a revised version of its Standards for the Custody, Placement and Care; Legal Representation; and Adjudication of Unaccompanied Alien Children in the United States. The relevant language states, "The Child has the right to have an Attorney represent him in any formal proceedings or other matter in which a decision will be made that will affect his Custody, placement, or immigration status. When otherwise unrepresented, an Attorney shall be appointed for the Child at public expense. Where a Child lacks representation, immigration courts should refrain from conducting any hearings involving the taking of pleadings, admissions, or the presentation of evidence before an Unaccompanied Child has had a meaningful opportunity to consult with counsel about the Child's specific legal options. Following apprehension and while in Custody, the Child shall receive a timely legal rights presentation that includes an opportunity for individual consultation with an Attorney."

Right to Counsel Studies and Reports

- Housing:
    - A policy brief by the Furman Center took a look at how implementation of New York City's eviction right to counsel is going in order to provide useful information to other jurisdictions considering a similar right to counsel. Additionally, the City's Office of Civil Justice released a report finding that 84% of tenants represented by counsel were able to stay in their homes and that evictions dropped 27% over 4 years.
    - A report by HealthSpark Foundation and Your Way Home Montgomery County (PA) addresses the best methods for eviction and homelessness prevention. The lead author is Barbara Poppe, former Executive Director of the U.S. Interagency Council on Homelessness. The report notes that "Legal representation for tenants reduces the number of evictions and can delay loss of housing" and that "Local and statewide advocacy can also focus on increasing legal representation for low- income tenants. New York City recently guaranteed a legal right to representation for every low-income tenant facing eviction." As part of its "court-based eviction prevention" approach, it recommends a pilot project that would "increase renters' access to legal information, assistance at court, mediation and/or legal representation paired with a supportive services provider to work with households on immediate financial needs and longer-term financial viability to prevent future recurrence of eviction."
    - The Legal Aid Society of Columbus released a report analyzing the results of their Tenant Advocacy Project (TAP). They found, among other things, that tenants assisted by TAP received an adverse judgment only 1.1% of the time, compared to over 50% of the time when unrepresented.
    - The Center for Social Innovation's new report, Supporting Partnerships for Anti-Racist Communities, has some startling statistics on how people of

color represent a disproportionate percentage of the homeless population, even when accounting for income. One of their solutions is that "All individuals facing eviction in housing court should have appropriate representation."

- A report out of Concord, California, points to skyrocketing rents, hazardous conditions, and unjust evictions in the city, finding that rents increased over 60% in a seven-year period, half the residents dealt with health issues in their rentals, and 75% lived with a constant fear of eviction. The report recommends a right to counsel as one of its policy solutions.
- A California statewide report on eviction rates by Tenants Together (the same group that drove the San Francisco housing right to counsel ballot initiative) found that nearly 1.5 million individuals in California faced eviction from 2014-2016, and that 60% of the evictions took less than 30 days to complete. The report notes the growing right to counsel movement as well as the Shriver Civil Counsel Act pilots in California, and calls for a statewide eviction right to counsel.
- A report, Losing Home: The Human Cost of Eviction in Seattle, was released by the Seattle Women's Commission and the Housing Justice Project of the King County Bar Association. It found that a disproportionate number of people of color are evicted and that "Nearly 90 percent of the report's interviewees experienced homelessness after being evicted, which can be a life-or-death matter." The report then found that:
  - Tenants with counsel were nearly twice as likely to retain possession (although even the represented group only succeeded 23.4% of the time);
  - More than half of the represented tenants received a positive settlement or stipulation, compared to 14.3% of the pro se tenants.
  - Represented tenants were two to three times more likely to obtain a payment plan, and where such a plan was established, tenants were able to follow through on terms of payment and remained housed 63.5% of the time. This stat shows how lawyers can do really important things other than simply get the eviction dismissed.
  - Over 80% of all of the orders of limited dissemination (which controls whether the eviction shows up in landlord background searches) were obtained by tenants who had counsel.
- Poverty Solutions, an initiative of the University of Michigan, has released a policy brief called Stopping the Eviction Machine in Detroit. It documents a "process of foreclosure, speculation, eviction, and eventual demolition exacerbated blight and instability in many of Detroit's neighborhoods." Among the policy solutions it recommends is a right to counsel for tenants facing eviction.

- A new study, The Limits of Good Law: A Study of Housing Court Outcomes, examined meritorious breach of warranty of habitability claims in New York City and found, among other things, that "legal representation

substantially affected tenants' ability to benefit from the warranty of habitability. Represented tenants with meritorious warranty of habitability claims were at least nine times more likely than unrepresented tenants with meritorious claims to receive a rent abatement." However, it also found that "while rent abatements were much more frequent where tenants had legal counsel, rent abatements were not the norm in meritorious claim cases even among cases in which the tenant was represented. Most represented tenants--approximately three-quarters--with meritorious warranty of habitability claims did not receive rent abatements, even when they had open code violations in their units. These findings suggest that factors beyond the lack of access to counsel are also responsible for the operationalization gap." The study also found that substantive barriers such as rent escrow or formal notice were not responsible for the problem either (since New York City, the site of the study, does not have these restrictive doctrines), and says further study is needed to determine what is actually to blame.

- A new issue brief from the Center for American Progress addresses 5 Principles for Civil Justice Reform and flags the increasing efforts to expand the right to counsel in civil cases.

- A 2018 study by the University of Wisconsin found representation of Wisconsin DV victims saved the State 2x as much as it cost and led to greater financial independence (including a 31% increase in employment).

- A 2017 study of South Carolina child support proceedings examined what effect *Turner v. Rogers* had on the way such proceedings were conducted. The most key finding: close to 70% of indigent obligors who had a hearing were still sentenced to contempt and incarcerated even after *Turner* (this rate was pretty much the same as the pre-*Turner* rate). The rate of appointed counsel also didn't change after *Turner.* The study concluded that "the direct effects of the *Turner* holding were minimal … the Court provided states that were so inclined with a minimalist way to comply with its ruling that fell short of assuring an accurate 'ability to pay' determination. South Carolina took this approach, and the study found no evidence that compliance with these 'alternative procedures' resulted in more accurate decision-making concerning ability to pay." The study acknowledges that *Turner* did have indirect positive effects, in that the state child support agency screened out more cases prior to a judicial hearing being conducted as the result of federal guidance from OCSE encouraging such additional screening.

- Fees and fines:

- A report from Alabama Appleseed, UAB-TASC, Greater Birmingham Ministries, and Legal Services Alabama addresses the problems created by fees and fines collections in Alabama, especially through a racial lens. It features surveys with nearly 1,000 affected people that outline the shocking facts about how people wind up paying off their court debt (payday loans or turning to crime). The report recommends, among other +++++++++things, that the state "create a mechanism for appeal and settlement of unpaid debt, and ensure that justice-involved individuals have access to counsel throughout the post-conviction period during which they continue to owe court debt [and] appoint counsel any time a justice-involved individual faces loss of liberty." It also recommends that the state "docket hearings on ability to pay within 90 days of a missed payment, and appoint counsel at ability- to-pay hearings." The report also notes the ABA's recent approval of 10 guidelines on court fines and fees, as it includes a right to counsel guideline, as well as the settlement of litigation in Biloxi, Mississippi, that created a public defender's office to represent people when facing jail or probation for failure to pay fees or fines.
- The ACLU released a report entitled A Pound of Flesh: the Criminalization of Private Debt. It discusses the arrest and jailing of people for debts both small and large, and argues for the debtors' right to counsel when their physical liberty is at stake.
- A report from Policy Link in 2017 entitled Ending the Debt Trap: Strategies to Stop the Abuse of Court-Imposed Fines and Fees notes that those facing incarceration for failure to pay fees and fines often do not have a lawyer despite the fact that studies show roughly 80-90% of the defendants in these situations would be eligible for one. The report calls for such a right and notes the establishment of a right to counsel in Montgomery, AL, and Biloxi, MS, due to the litigation there by the Southern Poverty Law Center and the ACLU.
- The Job Opportunities Task Force (JOTF), a Maryland-based nonprofit that works to promote policies that assist "low-skill, low-income workers and job seekers in Maryland", issued a report called "The Criminalization of Poverty: How to Break the Cycle through Policy Reform in Maryland." Among other things, the report addresses the scourge of civil forfeiture as a route to criminalization of the poor, and then states, "The fact that only individuals who can afford an attorney are able to secure the help of a lawyer in challenging civil asset forfeiture sets up a two-tiered system of justice based on income. Legislation should be enacted requiring that the government provide lawyers to property owners who cannot afford an attorney."

- Immigration:
  - A study, Representing Immigrants: The Role of Lawyers in Bond Hearings, notes the rise of city and state funds to provide representation to immigrants, as well as the right to counsel litigation that has occurred (*Franco-Gonzalez*, regarding the right to counsel for noncitizens with

mental disabilities, and *J.E.F.M/C.J.L.G.*, the cases involving children) and the prior studies showing the positive impact of counsel in immigration court in terms of both case outcomes and court efficiency. The author then reviewed about 430 hearings and found that 71% of represented detainees obtained bond, compared to 48% of unrepresented detainees. This translated to represented detainees being three times more likely to be granted bond. The study found that represented detainees were more likely to make legally relevant arguments (social ties, nature of criminal history, etc.) and submit documents, while unrepresented detainees were more likely to argue for mercy and fairness. Yet the study also found that this difference was not actually the explanation as to why represented detainees did better, and suggests the causal reason might be the lawyers' ability to better navigate human relationships (i.e., the relationships with clerks, judges, opposing counsel, etc.) or their repeat player status. The study also found that representation did not slow the cases at all; they proceeded with the same efficiency as pro se cases.

- A study from the New Jersey Policy Perspective showed some powerful effects from representation of immigrants in New Jersey. Here are some key points (taken from the website):
  - In New Jersey, individuals detained for civil immigration violations are three times as likely to prevail in their cases when they have legal representation. With legal representation, they are also twice as likely to be released prior to the end of their removal proceedings.
  - New Jersey employers pay $5.9 million in turnover-related costs annually as they are forced to replace detained or deported employees.
  - New Jersey's economy would lose $18 million in wages and $1.6 million in total tax revenue annually from detained immigrants.
  - Annually, detentions and deportations cost New Jersey approximately $732,000 in child health insurance and $203,000 in foster care for children of detained or deported parents. This total annual cost of nearly $1 million does not include the long-term costs associated with child trauma, development, and health conditions from deporting their parents.

There' is precious little data about the exact impact of evictions on communities of color, but the ACLU has put out: "Black female renters were filed against for eviction at double the rate of white renters or higher in 17 of 36 states." [44]

[44] https://www.aclu.org/news/racial-justice/clearing-the-record-how-eviction-sealing-laws-can-advance-housing-access-for-women-of-color/?.

The Center for American Progress (CAP) has released an issue brief on the importance of a right to counsel for tenants facing eviction. See https://www.americanprogress.org/issues/poverty/reports/2019/10/02/475263/right-counsel-right-fighting-chance/

Governing Magazine, the primary publication for those in state and local government, has an article profiling the civil right to counsel movement, and why the provision of counsel is so critical. While it focuses on eviction, it touches on the right to counsel in other areas too, such as education.

An article in The Regulatory Review (a publication of the Penn Program on Regulation takes a look at the recently-enacted tenant right to counsel in Philadelphia and places the Philly victory in context of the larger national movement. It notes that "Existing municipal housing regulations rely on tenant enforcement to function effectively", and describes the push in Philly to have stronger landlord/tenant laws such as a just cause ordinance that applies to leased tenants (as opposed to month-to-month tenants) and rent control. It also links to the NCCRC website for examples of the movement's goals and activities.

Right to Counsel Law Review Articles

- A new law review article about a child's right to counsel makes the argument as to why children should always have counsel whenever significant interests are at stake, and specifically makes the case for immigration proceedings.
- An article in the Albany Law Review made the case for a right to appointed counsel in New York school discipline cases. It argued that "education is a fundamental right and that the dangers presented by the loss of education, even a temporary loss, are so great that New York must adopt a constitutional amendment providing for a right to appointed counsel when students face the loss of their education interest."
- Kathryn A. Sabbeth *Housing Defense as the New* Gideon, 41 Harv. J. L. & Gender 55 (2018), Social Science Research Network (SSRN) discusses the potential for appointed civil counsel to advance substantive justice for poor litigants.
- Sarah Holman Loy**, *Reputation & Fair Results*: *The Case for School-Funded Counsel in College Sexual Assault Disciplinary Proc**eedings***, 48 J.L. & Educ. 349 (Summer 2019) makes the case for right to counsel for both accusers and accused in sexual assault cases in the school context. The article notes that some states don't even permit students to bring retained counsel to these proceedings, and no state (as well as no federal law) provides for appointed counsel, but it then makes the case for why the law should be different.

Justice Index: The Justice Index, justiceindex.org (see below for more information), online since 2014, is a tool that promotes reform by ranking all states on their adoption of selected best policies and practices for assuring access to justice. Metrics include the sufficient provision of free legal aid attorneys to assist poor people, language access services, resources to help self-represented litigants, and systems to support access for people with disabilities. In 2016, the Index added (among other changes) some right to counsel questions, and presently offers findings on whether specific states, through a statewide, statute, rule, regulation, appropriation or other written guidance:

- Collect data on frequency of right to counsel appointments.
- Collect data on quality of right to counsel representation.
- Collect data on frequency of discretionary appointments of Counsel.
- Recognize a right to counsel in housing cases.
- Recognize a right to counsel in abuse/neglect cases.
- Provide for appointment of counsel as accommodation.
- Recognize a right to counsel in involuntary commitment.
- Recognize a right to counsel in guardianship.

California Pilot Project: Under a 2009 law, the California Judicial Council oversees ten pilot projects in seven counties for appointment of counsel in civil cases including housing, domestic violence, child custody, and probate guardianship. The projects started in fiscal year 2011-2012 and were authorized for a three-year period subject to renewal. In September 2010, then-Chief Justice Ron George appointed a 16-member committee to oversee implementation of the program, chaired by retired Court of Appeal Justice Earl Johnson, Jr. Seven projects were funded initially in San Francisco, Bakersfield, San Diego, Santa Barbara, Northern California, and Los Angeles (2 projects).[45] Evaluation of the pilots was designed with a national advisory committee. The legislation also required data collection and evaluation of both the civil representation and court-innovation components in order to provide a basis to revise and extend the legislation. In June 2016 the Governor signed legislation making the Shriver pilots permanent. In addition to Earl Johnson, Bonnie Hough is substantially involved in these pilots.

In July of 2017**,** The Judicial Council of California released the Evaluation of the Sargent Shriver Civil Counsel Act (AB590) prepared by NPC Research of Portland Oregon. Also released were the recommendations of the Shriver Civil Council Act Implementation Committee headed by Jon. Earl Johnson, JR. [46]

In the first five years, the 10 pilot projects served nearly 27,000 individuals facing the loss of their homes, child custody disputes, or the urgent need for a family guardianship or conservatorship. The housing services alone affected over 73,000 household members.

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[45] For a thorough discussion of the pilots see Clare Pastore, "California's Sargent Shriver Civil Counsel Act Tests Impact of More Assistance for Low-Income Litigants," 47 Clearinghouse Review 97 (July-August 2013).

[46]https://jcc.legistar.com/View.ashx?M=F&ID=5319197&GUID=A7E82A2C-C90F-41BF-AA2B-1EC3E5825C4C

Housing/unlawful detainers. Six of the programs provided assistance with housing and unlawful detainers. Among cases that received full representation by Shriver counsel, the study found that:
• Significantly fewer Shriver cases ended by default.
• Representation by Shriver counsel helped tenants avoid evictions.
• Most cases settled, providing more certainty for both landlords and tenants.
• Shriver services supported longer-term housing stability. The higher rate of settlement agreements among Shriver clients, and the terms of those agreements, helped families in the process of securing replacement housing.

Child custody. Three programs provided Shriver services to help parents who were otherwise self-represented and facing opposing parties represented by attorneys in cases where sole custody was at issue. Roughly half of these cases had intertwined issues of domestic violence. The study found that:
• A higher proportion of Shriver cases reached settlement.
• Judicial involvement in settlement conferences increases the rate of settlement.
• Attorneys increased collaboration between the parties.
• Significantly fewer Shriver cases involved subsequent requests to modify orders.

Guardianships and conservatorships. Improving family stability through the establishment of guardianships and conservatorships was the goal of the one pilot probate project, particularly where there were significant risk factors for the children or disabled persons involved. The study found that:
• Court proceedings in Shriver cases were more efficient and translated into cost savings for the court. The combined benefits of Shriver representation and assistance from the probate facilitator reduced the court costs to process a case by an average of 25 percent.
• Guardianship petitions were successfully filed.
• The project helped prevent the need for additional governmental services.

Impact of legal assistance. The following findings were true across all three case types, unless otherwise indicated. The evaluation clearly supported the important role of attorneys in representing their clients, in reaching settlements, and in helping ensure more efficient use of judicial resources:
• Attorneys help settle cases, positively impacting all parties involved and freeing up limited judicial resources. Shriver counsel help individuals have more reasonable expectations regarding what can be accomplished and what is beyond the scope of the case. The random assignment study of three projects found that, among cases with Shriver representation, 67 percent were settled, 3 percent resolved via trial, and 8 percent ended by default. In contrast, among non-Shriver comparison cases, 34 percent were settled, 14 percent resolved via trial, and 26 percent ended by default.
• Balanced representation facilitates settlement of cases that should settle and trial of those that should be tried. This both improves litigant satisfaction and enhances court efficiency.

• Shriver cases involve more efficient court proceedings, including fewer continuances, fewer trials, and more settlements across all three case types. The provision of Shriver services made notable contributions to court efficiency and improved the quality of information available to the court. Cases with a Shriver attorney were resolved more efficiently than were cases without Shriver services, and courts received more comprehensive and relevant information on which to base decisions.
• Attorney involvement improves the durability of court orders.
• Attorney resources are used most effectively with well-designed triage systems. Such systems are critical to the smooth functioning of the continuum of service.

Findings concerning court innovations:
• Court-based opportunities for settlement discussion, including mediation and settlement masters, are an effective way to resolve cases before trial, benefiting all parties.
• The improved use of technology, including expansion of e-filing, helps facilitate the efficient handling of cases.
• In housing cases, the masking of the court files from public view is a key component to encourage settlements.
• Expanded court-based self-help centers are a critical piece of the continuum of service.

For recent one page fact sheets about the Shriver findings, see:
file:///C:/Users/a.houseman/AppData/Local/Microsoft/Windows/Temporary%20Internet%20Files/Content.Outlook/W1DSTB8E/Shriver%20Guardianship%20Project%20Fact%20Sheet.pdf

file:///C:/Users/a.houseman/AppData/Local/Microsoft/Windows/Temporary%20Internet%20Files/Content.Outlook/W1DSTB8E/Shriver%20Housing%20Projects%20Fact%20Sheet.pdf

file:///C:/Users/a.houseman/AppData/Local/Microsoft/Windows/Temporary%20Internet%20Files/Content.Outlook/W1DSTB8E/Shriver%20Custody%20Projects%20Fact%20Sheet%20(2).pdf

California AB 330 was introduced in 2019 to increase court filing fees that fund the Shriver Civil Counsel Act. The bill did pass and was signed by the Governor, and it may more than double the amount of funding currently available. The funding will nearly triple to about $21 million, and the current discussion is whether to expand to additional sites vs. address other kinds of civil cases beyond child custody, housing, and probate guardianship.

Child welfare and Interdisciplinary team

A new study, published in *Children and Youth Services Review*, was conducted by New York University School of Law and Action Research.[47] The immediate focus of the study was to determine whether a new kind of representation for parents in child welfare cases, in which families are represented by an interdisciplinary team, makes any difference in the length of foster care stays for children and termination of parental rights. The study showed that using this new kind of legal representation greatly reduces the time children spend in foster care. This was accomplished with no change in child safety outcomes. That means many children are kept in foster care because parents are not provided with this kind of legal representation.

The study was made possible because in 2007, New York City awarded contracts to three public interest law offices – the **Bronx Defenders**, **Brooklyn Defender Services** and the **Center for Family Representation** – to supplement parental representation in New York City Family Courts. These offices give families a team made up of a lawyer, a social worker and, often a parent advocate who has been through the system herself or himself

. A few key findings include:

● Multidisciplinary representation reduced children's time in foster care by nearly 4 fewer months during the 48 months following the petition filing, through faster early reunification outcomes, as compared to Panel representation. This amounts to up to nearly $40 million annual savings in foster care board rates for NYC.

● Children were just as safe with multidisciplinary representation. Representation type did not impact whether children experienced a subsequent substantiated report of child maltreatment during the 24 months following the petition filing.

● The interdisciplinary family defense offices were able to secure the safe return of children to their families approximately 43% more often in the first year than the solo lawyers and 25% more often in the second year. Giving parents the right kind of legal team means families are reunited significantly sooner than would otherwise happen. The family defense offices allowed children to be permanently released to relatives more than twice as often in the first year of a case and 67% more often in the second year. These families may otherwise have been permanently dissolved or the children may have spent their childhood separated from their family and aged out.

● 27 percent more children would be reunified with their families within six months if

[47] https://www.law.nyu.edu/martin-guggenheim-interdisciplinary-parental-representation-child-welfare

their parents had multidisciplinary representation than if their parents had been assigned panel attorneys.

● Of those children who could not be returned to their families, 40% more children ended up with a permanent disposition of guardianships when their parents had multidisciplinary representation than children whose parents were represented by panel lawyers.

● If New York City still provided all children's parents with panel attorneys, children would have spent approximately 470,000 extra days in foster care each year than if all parents were given family defense office representation.

SELF-HELP LITIGANTS AND PRO SE DEVELOPMENTS

A significant development in civil legal aid in the United States is the rapid expansion of efforts to help people who are attempting to represent themselves in courts. These are described as "pro se," "self-help," or "self-represented" litigants. Historically, parties in high-volume courts such as traffic, housing, and small claims courts consisted primarily of pro se litigants. However, more recently, pro se litigants have also begun to dominate family law dockets across the country. There are also significant increases in pro se representation in probate and other civil matters as well.

California has the most extensive network of self-help centers with 80. Each year, $11.2 million of state court funds are provided to support court-based, attorney-supervised, self-help centers in the state. This supplements the family law facilitator program which provides over $16 million for these services in cases involving child support and parentage. Filing fee revenue helps to support small claims advisors who are increasingly included in self-help center operations. These funds have been supplemented with local court funding. Some county governments, including Los Angeles and San Francisco, also provide funding for self-help services at courts to help address the needs of their constituents. There are additional specialized grant funds including partnership grant funds which provide $1.6 million for legal services agencies to provide self help services at local courts. Many courts also provide additional funding from their general court budget for their self help centers. Starting July 1, 2018, the Judicial Council received an additional $19.1 million per year from the state general fund to distribute to the courts for self-help services. This is combined with the prior $11.2 million for a total of $30.3 million of state funding for court based general self-help services. It also builds on the existing family law facilitator funding of $14 million per year for assistance with child support related matters. California also received about $4.3 million for expanding on-line self-help assistance. Most of that is one-time funding for technology, but California also have 4 IT related positions and one attorney to support those efforts.

California recently developed The California Self-Help Centers' Self Assessment Tool for Quality Programs. This tool was developed as a strategic and tactical planning

template to promote quality Self-Help Center Programs across California. The tool is designed to connect a wide range of initiatives within the Judicial Branch, and to intentionally develop systems to interconnect the larger court system with self-help programs. See http://sharpcourts.org/wp-content/uploads/2018/08/Self-Assessment-Tool-for-Quality-Self-Help-Programs-8.18.pdf

New York also has a vibrant program of 27 self help centers around the state and assisted nearly 215,000 unrepresented litigants. [48]

Though reported on previously, it is worth noting a 2016 report of a study of the civil court system, Civil Justice initiative, The Landscape of Civil Litigation in State Courts, http://www.ncsc.org/~/media/Files/PDF/Research/CivilJusticeReport-2015.ashx found a relatively large proportion of cases (76%) in which at least one party was self-represented, usually the defendant. Tort cases were the only ones in which a majority (64%) of cases had both parties represented by attorneys. Small claims dockets had an unexpectedly high proportion (76%) of plaintiffs who were represented by attorneys, which suggests that small claims courts, which were originally developed as a forum for self-represented litigants to obtain access to courts through simplified procedures, have become the forum of choice for attorney-represented plaintiffs in lower-value debt collection cases.

Virginia Self-Represented Litigant Study: The study was undertaken by the National Center for State Courts (NCSC) with funding from a Technology Initiative grant from the LSC to Blue Ridge Legal Services (BRLS). See at http://brls.org/the-virginia-self-representedlitigant-study/. The outcomes report found:

- The vast majority of civil cases include at least one unrepresented party. The traditional adversarial model of the court, in which both parties have legal representation, occurs in only • 1 percent of General District Court cases, • 6 percent of Adult Juvenile & Domestic Relations Court cases, and • 38 percent of Circuit Court cases. Even if all default judgments and “not founds”, etc., are excluded, both parties have representation in only 2% of the cases in General District Court.
- Poverty is associated with not being represented in court by a lawyer. The greater the extent of poverty in a locality, the less likely it is that parties will have an attorney.
- Plaintiffs prevail in the overwhelming majority of cases where the court enters judgment for one party or the other, no matter the court. However, if viewed through the prism of whether the plaintiff obtained a judgment, compared to cases where the plaintiff did not obtain a judgment, a different picture emerges,

[48] See art page 12 http://www.nycourts.gov/ip/nya2j/pdfs/NYA2J_2016report.pdf

where plaintiffs recover judgments in just slightly over half of the cases closed during the year.

- Both plaintiffs and defendants have substantially higher success rates when represented than when they are unrepresented. The representation status of the parties, and the resulting potential for imbalance of power when only one is represented, is significant. Plaintiffs obtain judgment in over 60% of the cases where plaintiffs are represented, and defendants are not. In contrast, Plaintiffs obtain judgment in less than 20% of the cases where defendants are represented, and plaintiffs are not.

Self-Represented Litigation (SRL) Network: The rise of the self-represented litigant (SRL) has created an unprecedented disruption in the practice of law and the management of courts. Beginning in 2005, the SRLN, a leading voice in the national movement for 100% access to civil justice, supports justice system professionals focused on the question of how best to reform ALL aspects of the legal system (courts, legal aid, the bar and non-legal partners) so that SRLs experience the courts (and indeed the legal system) as a consumer oriented environment guided by the principles of equal protection and due process. SRLN is a resource center that provides toolkits, evaluation, implementation guidance and thought leadership; we are a network that connects and supports reform minded leaders throughout the country; and offer a geospatial data and analysis hub for the civil justice space. See www.srln.org

Recent developments include:

SRLN Launches GIS for Justice Google Group: Spatial thinking has the power to inform decision making, to influence public opinion, and to communicate complicated data more simply. To encourage spatial thinking for justice, SRLN has launched a GIS Google Group to help foster innovation and collaboration among justice system professionals in using geographic information systems (GIS), mapping technology, and data for improving access to justice. The list is community-based resource for professionals working together and includes techies, civil legal aid professionals, court administrators, attorneys, researchers, and students in this space. See. http://www.srln.org/node/1200

SRLN Online Tool: SRLN launched a national, but highly granulated online tool for looking at national county by county level statistics for fourteen critical driving factors in understanding need and developing the strategies for meeting them. Those factors are: Population density; Children; Young Adults; Adults (30-44); Midlife Adults (45-99); Seniors (60 +); High school graduates; Rentals; Vehicle access; Active Duty Military; Veterans; Racial Diversity; Foreign Born; Language Other Than English Spoken at Home; Poverty; Where Is Mobile Broadband Available?; How Fast Is Mobile Broadband?; Where Are Homes Connected to High-Speed Internet?

Recently SRLN created an SRLN Brief on Design Thinking 101 to share with colleagues and stakeholders who may not be familiar with the terms or the power of the approach.

The *SRLN Brief* introduces three commonly used terms: design thinking, legal design and agile, includes an example of applying these concepts to forms development and provides an introductory reading list. See https://www.srln.org/node/1311/srln-intro-design-thinking-srln-2017.

DOCUMENT ASSEMBLY[49]

Document Assembly technology is not new. It has been around for over 20 years. Since 2008, after the "Great Recession" Pro Bono Net was successful in recruiting and training legal non profits across the US to learn how to use and create online forms through LawHelp Interactive (LawHelpinteractive.org) to respond to the emerging crisis. In addition, document assembly is a used in civil legal aid nonprofit firms by their staff attorneys, and also by Pro Bono Projects, looking to make the creation of complex pleadings and legal forms easier and more efficient for their attorneys and/or volunteers. Document assembly software asks questions and then puts the answers to these questions into the appropriate places on forms. The interview provides guidance and definitions at it goes along. The software also often provides an easy way to integrate definitions and explanations of basic legal terms and concepts. At the end of the interview the person receives complete documents with printed instructions on what they need to do with the forms. In the past 5 years, output from document assembly platforms can also be integrated into legal aid Case Management Systems (CMS) like Legal Server and Salesforce, court Efilings systems, and other lighter and less complex integrations like fax and file approaches and the like.

LawHelp Interactive (or LHI and formerly known as NPADO) is a platforms that lets people create legal documents for free. LHI is also a training center and a best practices resource for those in the nonprofit sector interested in learning how to create and improve their online form projects. LawHelp Interactive was developed to make implementing document assembly initiatives easier and less costly for legal aid organizations as well as pro bono and court-based access-to-justice programs. It has a robust training component and it shares best practices on how to build on solid forms to meet unmet needs and bring in new capacities to legal aid and courts. Participating programs use HotDocs Corporation's authoring software and optionally the Center for Access to Justice and Technology's A2J Author, to create online forms and documents. Templates are created primarily by courts and legal nonprofit staff and uploaded to the LawHelp Interactive server and made available to advocates, pro bono volunteers, and self-represented litigants through legal aid and court websites. LHI does not charge fees to create documents. Other similar platforms do charge per document assembly fees ranging from $14.99 to $349.00.

A project of Pro Bono Net in partnership with Ohio Legal Services Association (OSLSA), a national nonprofit organization that works with courts, legal-aid organizations, and pro bono programs to increase access to justice through innovative uses of technology, LHI offers the technical infrastructure necessary for online document assembly, as well as

[49] Claudia Johnson, LawHelp Interactive Program Manager, provided essential assistance in developing this section.

programmatic and technical support for local projects. This project started in 2001 when, through its TIG program, LSC funded a pilot project to learn more about the potential of document assembly. LHI's national infrastructure developed from this initial funding, as well as from a generous LexisNexis donation of a HotDocs Server license. Initial participants were legal-aid organizations and pro bono programs that wanted to provide document-assembly content for legal advocates. This goal expanded to include assisting self-represented litigants with the launch of A2J Author, a tool that creates customer-friendly interfaces for data collection and document assembly. For a few states, this expanded focus provided an opportunity for legal-aid programs and courts to collaborate. Together, they could create tools to improve access to justice and to increase court efficiency.

From 2013 to 2014, the LHI technical infrastructure was updated to bring up to date with modern technology. This additional investment has allowed LHI to provide more options for those using LHI to support attorneys doing remote document co-production with their clients. In 2016, LHI started to work to move the platform to be mobile compatible, so that end users can do their work on hand held devices. In 2017, the LHI site will be redesigned with mobile users in mind and the site will be refreshed to better meet the needs of the multiple user communities it serves.

In some states, LHI integrated into case management systems used by both courts and legal aid groups. For example, since 2012, in New York, the NY Courts have a project that enables victims of violence to create a document and then e-file with the support of trained lay advocates. This project efiles approximately 8000 protection orders across New York state each year. LHI is now integrated into the Los Angeles Superior Court housing efiling project with Journal Technologies in the area of eviction and eviction defense.

LHI's efiling approach is to create an integration that is easy for a low income persons and those without lawyers to efile. It takes into account the fee waiver process and works closely with self help center staff in the design. LHI has been e-filing since 2012 and was the first and remains the only nonprofit e-filing platform in the US.

In 2018, there were 982,090 interviews generated by A2J Author and HotDocs and 584, 437 free documents created from those interviews by advocates, court staff, self helpers, and users who prefer not to create accounts in LHI. Since 2005, LHI has provided 8 Million interviews and assembled over 4.6 Million free documents.

According to the LHI statistics, for the seventh consecutive year, the New York State courts lead LHI in the number of assemblies. The DIY forms by the Access to Justice Programs in NYcontinue to grow in use.
https://www.nycourts.gov/courthelp/diy/index.shtml

In 2018, 263,069 interviews were accessed in LHI leading to 156,727 free documents being created. They comprised almost 49% of all Access to Justice Program DIY assemblies.

Michigan is another high volume state in terms of free online forms created by LHI with 182, 600 interviews shared and 96,721 free documents created. Other states with similar high volumes include California and Illinois. States that create more than 10,000 free documents a year and less than 15,000 include Arkansas, Maine,

In 2018, LHI did an end user survey to gather a better understanding of who the end users are. The survey was posted in the LHI platform in early in 2019, and was done as LHI's annual evaluation. In terms of age, LHI users are mostly 35 to 54 year old (43%). Users who are over 65 years old are now 11% and those 55-64 22%. Those under 34 years old are 23%. As the US population continues to age, we expect online forms will more and more be used by older cohorts across multiple areas of law, including in wills, probate, guardianship and areas of elder law where forms meet a need.

Almost half end users of LHI are high school graduates or have 1-2 years of college (44%). One out of five LHI users are college grads, and 16% have graduate school degrees. Only 21% of LHI users were below High school or GED. LHI is a platform used by attorneys, court staff, and legal aid staff, thus the use by staff and volunteers from these groups, as well as social service organizations like shelters impact these educational statistics. In terms of a trade or technical certificate holders, a third of LHI users reporting having one.

In terms of income, almost one half all LHI users reported making less than $39,000 per year, 43%) with 16% making less than $12,000 per year. A quarter of users reported earning from $60,000 to $80,000 per year. The fact that legal aid lawyers and pro bono lawyers as well as many professionals use LHI routinely play a role on this income distribution. One of five refused to share income information. And 14% reported earning from $40,000 to $59,000 per year.

LHI reported residing mostly in urban areas (61%) with one third residing in rural areas (38%). Most LHI users connect to LHI via a desktop (40%) and only 5% connected from a public terminal. Mobile phone and table users were 25% of all users.

New Apps and developments: As technology gets further commoditized and is better understood, other non profits are now creating apps and tools that meet needs for those facing online problems. One of such apps, in the immigration context is Immi. Immi is a platform and tool that helps people identify immigration options. It is developed by PBN, and is used across the country. I includes tools, educational materials, and self-screening tools. https://www.immi.org/

Other emerging tools include phone apps that let tenants take pictures and document habitability problems through phone apps. https://www.justfix.nyc/ or the Debt and Eviction Defense navigator (DEN). Tools like these enable social workers and others perform quick legal screens, in this case for home bound elderly, to connect them with nonprofit attorneys when legal emergencies are spotted. This adoption of mobile technology and use by non legal groups is likely to continue as a way to leverage other networks and partnership outside of the legal services community.

http://www.connectingjusticecommunities.com/jasa-and-pbn-team-up-to-relax-in-the-den/2014/11/

Other document assembly technologies are emerging: Now that in the legal nonprofit sectors online forms are well known and understood for their capacity to level the playing field and increase the capacity of courts and no profit providers—new groups are coming into this space. https://www.nytimes.com/2016/06/01/opinion/legal-aid-with-a-digital-twist.html These are new platform that are creating new open source tools to create easy to use forms. Three are emerging include Doc Assemble, created by Jonathan Pyle of Philadelphia Legal Assistance, which is a Python based tool https://docassemble.org/ that developers can use to create interviews and use other features. Doc Assemble is being used by multiple other form creators in a for profit or nonprofit space, including new tools focusing on specific areas of the law like Upsolve (in bankruptcy) https://upsolve.org/. Another group that is now creating online forms is Code for America mostly out of California. The other one is a CALI tool knows as DAT (Document assembly Tool) that bring innate document assembly capacity to A2J Author, their well known avatar based interviewing tool. Prior to +DAT, all the A2J Author interviews hosted in LHI needed a HotDocs template to create a document. With DAT, A2J Author interviews can now produce simple forms on their own. In addition CALI is now offering hosting of A2J Author guided interviews on its own server. https://www.a2jauthor.org/content/hosting-your-own-a2j-guided-interviews

Technology Innovations to Address Elder Abuse and Financial Exploitation: According to the National Council on Aging, approximately 1 in 10 Americans age 60 or over has experienced some form of elder abuse. Under a two-year project funded through a cooperative agreement with the U.S. Department of Justice, Office for Victims of Crime (OVC), Pro Bono Net is working on a two-year project to create online tools that enable innovative partnership and outreach models to comprehensively identify, respond to and remedy elder abuse and financial exploitation. This project is one of eight innovative field generated projects funded by OVC in 2017 in close collaboration with the Justice Department's Elder Justice Initiative, in an effort to propel national progress in identifying and remedying elder abuse and financial exploitation. Under this project, Pro Bono Net is working with the Center for Elder Law & Justice (CELJ), to refine and scaling two existing technologies: 1) The Legal Risk Detector, a web-based legal health "check-up" tool that allows medical personnel, social workers and other allied professionals to screen elderly individuals, including the homebound elderly, for common legal issues, including abuse and financial exploitation, and refer to them legal services; and 2) online legal forms, powered by LawHelp Interactive (www.lawhelpinteractive.org), that help mitigate and protect against common forms of elder abuse and financial exploitation.

The Risk Detector was originally developed by Pro Bono Net in partnership with JASA / Legal Services for the Elderly in New York City and Georgetown University Law Center, and expanded in 2017 in collaboration with CELJ. LawHelp Interactive is an award-winning online document assembly platform operated by Pro Bono Net and used by

nonprofit civil legal services, courts and their community partners throughout the country, including in elder justice and victims services contexts. Through the Risk Detector, case-workers, professionals in aging, court staff and others can proactively identify and immediately refer elderly individuals to legal services to address any indication of abuse or financial exploitation. Through LawHelp Interactive, these same professionals, as well elderly persons, will be to be able to create high quality legal documents that they can use to avail themselves of legal remedies and laws that protect them and exist without having to hire an attorney, or travel to a legal aid office to see if they might qualify for assistance from legal aid.

A recent project ion Oklahoma demonstrated how technology can be used to create trauma informed approaches to helping victims of violence obtain orders of protection. In this project, victims came into Justice Centers in multiple locations in Oklahoma and were helped by staff of the Justice Center (non attorney navigators) and then referred those who needed a protection order to attorneys at Legal Aid of Oklahoma (LAS0). LASO worked with LHI to adapt online forms to create a trauma informed approach through the use of document assembly powered by LHI and using a powerful capacity of LHI called LHI Connect to integrate into the database of the Justice Center (Salesforce) The evaluation showed this approach reduced the number of times the victim has to repeat her story and the amount of time it takes to create a protection order, thus reducing trauma and stress. See https://www.lexblog.com/

COURT-BASED DOCUMENT ASSEMBLY DEVELOPMENTS

The last update reported on the New York State (NYS) court system Internet-based document assembly programs using available technology specifically designed to address the barriers to justice that litigants face when they create their court papers. The NYS court system has been extremely successful with its programs, known as DIY (Do-It- Yourself) Forms, which create court papers and instructions for unrepresented litigants employing A2J Author and HotDocs software. Completed programs are hosted on Pro Bono Net's national online document assembly project, LawHelp Interactive (LHI).

The latest data shows how effective the NY system is. In 2016, DIY User Surveys provided the following findings:

• 95% of litigants found that the DIY Form program saved them time. This percentage has stayed steady from year to year.

• 77% of litigants were referred to the DIY Form program by a court employee, an increase of 12% from 2015.

• 80% of litigants use the DIY Form program in a court facility such as a Clerk's Office or Help Center. This is a significant increase of 19% from 2015. • 36% of litigants had an income of less than $19,999.

• 75% of litigants are between the ages of 25 and 44.

• 85% of litigants have internet in their home.

• 18% of DIY users have used a DIY Form program before. In 2015, this was 16%.[50]

The most recent publication from New York is a revision of their Document Assembly Guide. See Rochelle Klempner, Document Assembly Programs Best Practices Guide for Court System Development and Implementation Using A2J Author, New York State Courts Access to Justice Program (Updated May 2017)

In addition to New York, only the California, Arkansas, Minnesota, and New Mexico state court systems presently contract with Pro Bono Net to utilize LHI on their own. The majority of document assembly programs hosted on LHI are produced by legal service organizations. Over forty territories produce A2J Author programs, some in partnership with state courts. Yet the most successful authors of A2J Author programs on LHI are the New York and California court systems.[51] For a thorough discussion of the New York program, see Rochelle Klempner, "The Case for Court-Based Document Assembly Programs: A Review of New York State Court System's "DIY" Forms." http://www.nyourts.gov/ip/nya2j/pdfs/RochelleKlempner_Court-BasedDIYForms.pdf

Bankruptcy App: *Upsolve, a nonprofit that helps low-income families file bankruptcy for free using an online web app. The idea for Upsolve grew out of the founder's work as a research assistant at the Access to Justice Lab. The* bankruptcy web app, users enter information about what they earn, spend, own, and owe, and our software populates the bankruptcy forms that they can take to the court to file. The questions are written in plain language with motivational messages and cartoons sprinkled in between. We also have content that explains the different types of bankruptcy, such as Chapter 7, Chapter 11, and Chapter 13. In 2019, Upsolve relieved $130 million in debt for over 2,500 low-income families. Upsolve is the largest nonprofit for bankruptcy in America and one of the largest legal aid nonprofits launched in the last two decades, measured by cases filed per year.

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[50] See at page 34 http://www.nycourts.gov/ip/nya2j/pdfs/NYA2J_2016report.pdf

[51] One of the main providers of technical assistance on online forms recently provided advice on how to proceed: Guest Blogger Claudia Johnson: What I've learned in the past 9 years of helping legal aid, courts, and other non-profits create online forms to promote Access for All

PORTALS FOR ACCESS

As noted above, LSC partnered with Microsoft Corporation and Pro Bono Net to develop portals in Alaska and Hawaii pilots intended to demonstrate how this approach can be replicated as widely as possible in an economic fashion.

The 2015 Update discussed the evaluation of Michigan Legal Help. In 2016, MLH continued work on a project to develop and integrate a triage system that will help guide all litigants to the most appropriate resources available to them along the continuum of services available in Michigan, from assisted self-help to unbundled assistance to full representation by a legal services attorney, pro bono attorney or private attorney. The triage system will use advanced logic trees to help identify what a user's legal problem is and what services the user likely qualifies for, then directs the user to the most appropriate resources to resolve his or her problem given what is available in the community. MLH's Director worked with State Bar of Michigan staff to integrate triage into their online lawyer referral. MLH also worked with legal services program directors to fully integrate online intake for legal services programs as a part of triage, which was launched in September, 2017.

LANGUAGE ACCESS

Effective access to justice requires that courts design, implement, and enforce a comprehensive system of language access services that is suited to the needs of the communities they serve. Many individuals come into contact with the court system to gather information about their legal rights and responsibilities, to protect important rights, to participate in court-mandated or court-offered programs, to benefit from mediation and other dispute resolution court-based programs, and to seek out assistance from pro bono or self-help centers operated by the court. Meaningful access at each of these points of contact is critical to achieving justice. The full spectrum of language services available to provide meaningful access to the programs and services for LEP persons, includes, but is not limited to, in-person interpreter services, telephonic and video remote interpreter services, translation of written materials, and bilingual staff services.

The American Bar Association (ABA), the Department of Justice (DOJ) and the National Center for State Courts (NSCS) and State Justice Institute (SJI) have developed comprehensive guidance on what courts and court systems need to do.

The ABA developed 10 Standards for Language Access in Courts. The first Standard on Fundamental Principles provides: As a fundamental principle of law, fairness, and access to justice, and to promote the integrity and accuracy of judicial proceedings, courts should develop and implement an enforceable system of language access services, so that persons needing to access the court are able to do so in a language they understand, and are able to be understood by the court.[52]

[52] See ***American Bar Association Standards for Language Access in Courts***

NCSC and SJI issued “A National Call to Action: Access to Justice for Limited English Proficient Litigants, Creating Solutions to Language Barriers in State Courts” which reports on a 2012 National Summit on Language Access in the Courts, a survey and assessment on language access and a 9 step roadmap for a successful language access program.

California provides an example of how a state has responded. More than 200 languages and dialects are spoken in California, with nearly 7 million Californians (19%) reporting that they speak English “less than very well.” As reported in my 2017 national report, on January 22, 2015, the Judicial Council adopted the Strategic Plan for Language Access in the California Courts, which provides a consistent statewide approach to ensure language access for all limited English proficient (LEP) court users in all 58 superior courts. In March 2015, the Chief Justice formed the Language Access Plan Implementation Task Force—chaired by Supreme Court Justice Mariano-Florentino-Cuéllar—to advise the council on implementing the recommendations contained in the Strategic Plan. These recommendations address the needs of LEP court users both in court (access to interpreters) and out of court (multilingual signage, translated resources and in-language assistance), with the goal of full language access to the courts and to the legal system for all Californians.

Highlights of Task Force Achievements (2018). Since 2015, the task force has made considerable progress toward implementing the 75 recommendations contained in the Strategic Plan, including the following 2018 achievements:

- Language Access Plan (LAP) Implementation. As of December 2018, the California judiciary has completed implementation of 39 of 75 LAP recommendations, and an additional 25 LAP recommendations are currently in progress. The remaining recommendations require ongoing work for the branch (for example, judicial branch education and development of funding requests).
- Civil Expansion. As of December 2017, a survey conducted in 2018 indicated that 51 of 58 courts are now able to provide court interpreters in all eight civil priority levels dictated by statute. Code, § 756). Information gathered by the task force regarding each court’s estimated coverage will help the council with funding and other targeted efforts designed to help all 58 courts reach full expansion.
- Funding. Since 2015, the court interpreter reimbursement fund has grown from $95.8 million to $108.9 million. The 2018 Budget Act included a one-time $4 million augmentation to the fund, and an additional $4 million ongoing for expansion of other language access items. This funding includes monies for signage, training, Judicial Council staffing, and non-VRI language access technology.
- Complaint Process. Rule 2.851 became effective January 1, 2018. Under the provisions of the rule, each superior court must establish a language access

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http://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls_sclaid_standards_for_language_access_proposal.authcheckdam.pdf

services complaint form and related procedures to respond to language access services complaints that relate to staff or court interpreters, or to local translations. Language Access in the California Courts – Implementation Update January 2019 2

- Survey of Trial Courts. In March 2018, as a follow-up to the 2016 and 2017 surveys, the Language Access Services staff surveyed all 58 superior courts regarding language access services (a survey report was published in December 2018).
- Language Access Metrics Report. In July 2018, the task force and Language Access Services staff prepared a Language Access Metrics Report to show current language access data and ongoing progress being made by the courts with LAP implementation.
- Video Remote Interpreting (VRI). In 2018, the task force completed a VRI Pilot Project in three courts (the Superior Courts of Merced, Sacramento, and Ventura Counties) to determine, among other objectives, whether appropriate use of VRI will increase court user access to qualified (certified and registered) interpreters. The VRI Pilot was evaluated by San Diego State University Research Foundation, a third-party, independent evaluator. The task force anticipates that it will develop a Judicial Council report for the March 2019 meeting with VRI findings and recommendations.
- Draft Rule 1.300. The task force developed a draft rule of court and related forms that will provide clear guidance on the provision of language assistance in court-ordered programs and services. Following approval by RUPRO to circulate, the draft rule and related forms are now out for public comment until February 12, 2019.
- Community Outreach. In April 2018, the task force held its fourth community outreach meeting in Sacramento. Language access stakeholders—including judicial officers, court interpreters, court staff, and Language Access Representatives—attended and discussed the status of civil expansion, strategies to recruit and retain qualified court interpreters and bilingual staff, and the VRI pilot project.
- Recruitment and Professional Development of Court Interpreters. The task force and staff are working closely with the Court Interpreters Program to identify regional language needs, develop a more robust statewide recruitment initiative, and support trainings to help “near passers” of the interpreting exam. Recruitment of qualified court interpreters and bilingual staff will be an ongoing responsibility for the judicial branch.
- Next Steps: On December 17, 2018, the task force approved a resolution supporting the formation of a Language Access Subcommittee under the Advisory Committee on Providing Access and Fairness. The new subcommittee will be tasked with implementing the remaining and ongoing LAP recommendations after the task force sunsets on March 1, 2019. If approved by the council, the subcommittee will work to ensure the continuation of efforts to achieve and maintain access to justice for California’s LEP court users.

VOICES FOR CIVIL JUSTICE (VOICES)

At the end of 2018, Voices for Civil Justice marked its fifth anniversary as the national communications and media resource for advocates of civil legal aid and civil justice reform. Voices' mission is to drive a drumbeat of media coverage that educates policy makers and the engaged public about what civil legal aid is, why it matters, and why it deserves support. Voices garners media coverage that builds awareness and support for reforming the civil justice system so that it works for everyone, not just for the wealthy and powerful.

Voices is directed by Martha Bergmark, former Executive Vice President and President of LSC. Its three-person staff taps a 1,500-member, 50-state network of advocates and spokespeople to generate media coverage. Averaging about two media placements per week, Voices has had a hand in more than 500 news stories, opinion pieces, editorials and columns that illuminate how civil legal aid is a lifeline for people who must navigate the civil justice system to protect their families, homes and livelihoods. These pieces have appeared in some 200 media outlets, including prominent legacy outlets like The New York Times, Washington Post, Wall Street Journal, USA Today, Los Angeles Times, The Atlantic, The New Yorker, Associated Press and Bloomberg News; national broadcast and digital outlets like NPR, CBS Evening News, PBS News Hour, CNN, FoxNews.com, and NBCNews.com; and outlets for specialized audiences like the Chronicle of Philanthropy, Governing, National Law Journal, American Lawyer Magazine, Law360, and even Sports Illustrated.

Voices' advocate network is its essential resource for soliciting story ideas and media placement opportunities. Through an email discussion list open to everyone in the civil justice sector, Voices solicits the network at least weekly for help with stories. The staff works intensively with individual network members to develop media strategies and pitches and to place opinion pieces. Voices has built the communications capacity of network members with opinion research, media toolkits, searchable press clips, training events, e-newsletters and discussion list, and individual coaching. To date, Voices has delivered more than 130 presentations and training session across the country to audiences totaling about 10,000. This capacity building has paid off with network members who respond effectively to requests from journalists and use social media to amplify the impact of each media hit.

In early 2019, Voices achieved a long-sought goal: to create a digital stories website and campaign that conveys a common narrative about reforming the civil justice system so it works for everyone, not just those with lawyers. There has long been a need for a unified narrative about the crisis in the civil justice system, and it was Voices' 2017 opinion research by Lake Research Partners that made this possible. The research confirmed the voting public's strong support for reforming the civil justice system to make it more accessible, with key findings as follows:

- Overwhelming majorities of voters believe it is important to ensure that everyone has access to the civil justice system.
- Voters believe equal justice under the law is a right, not a privilege.

- Voters want civil justice reform, and they strongly support a wide range of services to enable everyone to get access to the information and assistance they need, when they need it, and in a form they can use.
- Strong majorities of voters support increasing state funding to build a more accessible civil justice system, and surprisingly that support remains robust even when tied to the notion of raising taxes to do so.
    -

The new messaging resource, called "All Rise for Civil Justice," defines and conveys the urgency of the crisis; explains how it affects people's ability to protect their families, homes and livelihoods; and spotlights practical solutions available to address the crisis. The website uses easy-to-share mediums like video, photos, animations and mapping to tell the stories of people suffering the consequences of a civil justice system that fails ordinary Americans. It is intended to be a one-stop shop for resources to better tell the stories of affected people, families and communities. It is intended to promote message discipline to advocate more consistently and persuasively for system-wide change.

JUSTICE INDEX

In 2014, the National Center for Access to Justice at Cardozo Law School (NCAJ), https://ncforaj.org, launched the Justice Index, justiceindex.org. The Justice Index was updated in 2016, and the 2014 version remains online for comparison purposes at justiceindex2014.org. NCAJ relocated to Fordham Law School in 2016 where its executive director co-chairs a school-wide A2J Initiative with Dean Matthew Diller and former NYS Chief Judge Jonathan Lippman).

The Justice Index is a website that uses data, indicators and indexing to rank the 50 states, Puerto Rico, and Washington, D.C., on their adoption of selected best policies and practices for access to justice. Its driving idea is that a transparent and responsible comparison of the access to justice policies established in the states will promote a dialogue about those policies within and between the states which, in turn, will promote reforms that expand access to justice. By making selected policy models highly visible, the Justice Index makes it easy to understand what is important in state justice systems, easy to see which states are doing the best at it, and easy for everyone to replicate the best policies. Because the policies improve lives, the Justice Index is an important resource for low income and of color individuals and communities, and for activists, advocates, officials and all who work to reform the civil justice system.

The Justice Index ranks states in four sub-indexes comprised of multiple indicators, each weighted 1, 5 or 10 points, as follows:

- Attorney Access Index – ratio of civil legal aid attorneys per 10,000 poor
- Self-Represented Index – policies to assist self-represented litigants (including civil rights to counsel)
- Language Access Index – policies to assist people with limited English proficiency
- Disability Access Index – policies to assist people with disabilities

The Justice Index also ranks each state in a Composite Index by according each state's score in each sub-index a weight of 25% of the state's composite score, and then comparing those composite scores.

The Justice Index contains 28 issue areas, 112 indicators, and 5,000 data points organized in four sub-index categories. The Justice Index was created by NCAJ with teams of volunteer attorneys and law students gathering data from courts, legal aid programs and other sources, and carrying out a quality review process under NCAJ's guidance. NCAJ is updating and expanding the Justice Index indicator set, with next findings scheduled to be posted online in winter 2019.
Complete indicators, and all data and rankings, are at www.justiceindex.org.

LIMITED SCOPE REPRESENTATION

The American Bar Association has set out the circumstances under which lawyers may limit the scope of their representation in Rule 1.2(c) of the Model Rules of Professional Conduct. This Rule requires lawyers who limit the scope of their representation to do so only in those cases where the limitation is reasonable under the circumstances and the client gives informed consent to the limitation.

Forty-one states have now adopted Rule 1.2(c) or a substantially similar rule. Most of those states that have varied from the Model Rule require the client's consent to be in writing. A few have set out a checklist of tasks to be assumed when the lawyer provides a limited scope of representation.

The American Bar Association issued a new ethics opinion, Formal Opinion 472, on November 39, 2015 which set out recommendations on how lawyers should communicate with persons receiving limited-scope legal services, including the lawyer providing the service and the lawyer representing the other side of the dispute.

A recent law review article discusses the merits of limited-scope representation:

James G. Mandilk, **Attorney for the Day: Measuring the Efficacy of In-Court Limited-Scope Representation**, 127 Yale Law Review 1742-2203 (May 2018).Limited-scope representation is on the rise. But the efficacy of helping a client for only part of a case has been called into question. This Note is the first published work to find that limited-scope clients receive significantly better outcomes than those without counsel. The focus of the study is the Attorney for Short Calendar program ("ASC") run by the Mortgage Foreclosure Litigation Clinic (now known as the Housing Clinic) at Yale Law School. To evaluate the ASC program, the author studied case files for more than twelve hundred foreclosure-related motions from October 2015 through January 2017. The study includes all such motions in New Haven Superior Court at which defendants appeared pro se or with limited-scope counsel. To measure the efficacy of ASC, the author compared outcomes for ASC's limited-scope clients against outcomes obtained by pro se homeowners—both rulings on that day's motions and the eventual resolution of each case. The benefits of ASC were profound. ASC clients received about forty-

eight more days of lawful possession than did pro se homeowners. Indeed, the effects of ASC were significant enough that the author could control for selection bias: regardless of whether a homeowner interacted with ASC, coming to court on a day when ASC occurred correlated with a significantly better outcome on that day's motion. Furthermore, the beneficial effects of limited-scope representation persisted: at a case's end, even after ASC's involvement had long passed, ASC clients were more likely to keep their homes than those who came to court on non-ASC days. Based on this evidence, this Note recommends that all states permit attorneys to appear in court on a limited-scope basis in a manner consistent with existing ethical requirements. Furthermore, this Note proposes that legal aid clinics, law school clinics, and law firm pro bono departments consider implementing limited-scope representation programs, including in-court programs, to meaningfully assist litigants who would otherwise lack counsel.

NON-LAWYER ADVOCATES

A recent study of nonlawyers highlights their use in the US: **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** by Mary E. McClymont The Justice Lab at Georgetown Law Center assisted by Katherine R. Alteneder, Tanina Rostain, & Rebecca L. Sandefur.[53]
According to the study;

> This survey of the current national landscape identified and analyzed 23 programs in 15 states and the District of Columbia. The report describes program features and offers practical considerations for creating and implementing such programs. The programs use nonlawyer navigators who are not court staff, operate physically within a court, and provide direct "person to person" assistance to SRLs. Navigators in the study are defined as individuals who do not have full, formal legal credentials and training (i.e., a law degree), who assist SRLs with basic civil legal problems. They do not act or operate under an attorney/client relationship and they are part of a formal program and institutional auspices that provides specialized training.
>
> Navigators work on a range of case types such as family, housing, debt collection, domestic violence, conservatorship, and elder abuse.
>
> Programs demonstrate that well-trained and appropriately supervised navigators can perform a wide array of tasks. For example, they help SRLs find their way around the court; get practical information and referrals to other sources of assistance; or complete their court paperwork. Navigators also accompany SRLs to court to provide emotional back-up, help answer the judge's factual questions, or resolve a matter with opposing counsel.

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Program managers are mindful of admonitions against nonlawyers providing legal advice and take the need for quality assurance measures seriously. Navigators come from a range of backgrounds, including paid staff, AmeriCorps members, and volunteers, among them college and graduate students, recent graduates, and retirees. The diversity of backgrounds and skill sets show the potential for using many more of these individuals, as well as for recruiting new types of community actors as navigators.

The Limited License Legal Technician (LLLT) certification program in Washington State allows certified persons to provide a range of legal services with areas defined by a 13 member Limited License Legal Technical Board. These technicians set up legal practices, establish fees, operate independently and provide individualized information regarding court procedures, reviewing documents and completing forms, performing legal research, drafting letters and pleadings, advising clients as to necessary documents and explaining how such documents or pleading may affect the client's case. However, the technicians could not represent a client in legal negotiations, in court, in formal administrative proceedings or in other formal dispute resolution process unless specifically permitted. [54] Technicians must complete an associate level college degree, 45 credit hours in an ABA approved program and training in a practice area. They must also pass a core education exam, professional responsibility exam and a practice area exam. Finally, they must obtain 3,000 hours of substantive law-related experience, supervised by a lawyer and within 3 years before or after passing the examination.

The only practice area now available is family law including child support modification, dissolution and separation, domestic violence, parenting and support actions, paternity and relocation. Washington may expand in the future to Health care and Estate in 2019. There are now 39 LLLTs licensed to practice in Washington State but only 35 are active. Of these, 8 work in law firms; 26 own independent firms (out of the 26, one also works for a legal service provider and as a courthouse facilitator); and 1 jointly owns a law firm with an attorney. In addition, 44 are now eligible to take the LLLT exam and 16 have completed the core curriculum and now in then practicum program. Over 200 are taking then core curriculum in various community colleges.[55]

Law by Non-Lawyers: The Limit to Limited License Legal Technicians Increasing Access to Justice by Rebecca M. Donaldson, 42 Seattle University Law Review 1 (2018). This article reviews the Washington Limited License Legal Technicians (LLLT) Model during the first several years of its development. The article describes the background of the program as the first time in the American legal profession, non-lawyers can openly, independently, ethically, and legally engage in activities recognized by bar associations as the practice of law. In 2012, the Washington Supreme Court passed Admission and Practice Rule 28 (APR 28), establishing the profession's first paraprofessional licensing scheme that allows non-lawyers to give legal advice. The

[54] See Brooks Holland, "The Washington State Limited License Legal Technician Practice Rule: A National First in Access to Justice," 82 SUPRA 75 (2013).
[55] These data are based on conversations with Steve Crossland, Paula Littlewood and Renata Garcia.

process authorizes qualified non-lawyers to provide legal advice without the supervision of a lawyer. Washington's Supreme Court intends for LLLTs to increase access to justice by responding to the unmet civil leganeeds of Washington residents, mirroring a broader call in the legal profession for service delivery models that triage the simpler cases from the complex. This Article finds that the LLLT model is not designed to increase access to justice for those from low-income populations. This conclusion is based on first-hand interviews with the architects of the model as well as on original surveys and interviews conducted with the first two cohorts of LLLTs and LLLT Candidates. LLLTs and Candidates expect to keep their pricing schemes high enough to bring in a sustainable revenue stream, intend to work primarily through traditional legal service delivery models at law firms and as solo practitioners, and overall do not report highly salient motivation to target low-income clientele relative to their other motivations for becoming an LLLT. From all of this, we do not have reason to believe that low-income legal consumers will better access justice through the current LLLT model.

Washington's Limited License Legal Technician Rule and Pathway to Expanded Access for Consumers by Stephen R. Crossland and Paula C. Littlewood, Volume 122, Issue 3 *Dickinson Law Review* 859 *(*Spring 2018).
https://ideas.dickinsonlaw.psu.edu/cgi/viewcontent.cgi?article=1043&context=dlr

Washington's 2012 adoption of a Limited License Legal Technician (LLLT) rule has been a topic of great interest throughout the United States and elsewhere. This Article is co-written by Steve Crossland, who is the Chair of the Washington Supreme Court's Limited License Legal Technician Board, which is responsible for implementing the rule, and Paula Littlewood, who is the Executive Director of the Washington State Bar Association, which is the unified bar association charged, *inter alia*, with lawyer and LLLT regulation. This Article builds on the authors' previous articles about Washington's LLLT program by providing previously unpublished information about the LLLT program's implementation and by offering reflections about the program that are informed by the authors' five-year involvement with the rule (and multi-year involvement with the concept). The LLLT Board is entering its sixth year of implementing and feels that much has been accomplished in that period of time. It essentially took more than two years to develop the framework for the rule as set forth above before applicants could be accepted into the educational training program. It was a process of breaking new ground as there was no template for how to implement the rule. The focus now turns to implementing new practice areas and making both consumers and potential applicants for the license aware of the LLLT pathway. The LLLT Board and the Washington State Bar Association are increasing communication to the public about the services available through LLLTs as well as increasing outreach to high school and community college students who may be interested in becoming LLLTs. There is no expectation that this license will solve the access to justice problem, but it is believed that it will have a significant impact on addressing the problem.

The Justice Gap and the Rise of Nonlawyer Legal Providers by John Murph, Washington Lawyer (September 2019) at p .19 describes the Washington LLT program and the evolving role of nonlawyers and alternatives to the LLT program.[56]

Utah is currently designing its Paralegal Practitioner program along the lines of the Washington State program. A Task Force appointed by the Utah Supreme Court recommended in November of 2015 that the Supreme Court should exercise its constitutional authority to govern the practice of law to create a subset of discrete legal services that can be provided by a licensed paralegal practitioner (LLP) in three practice areas: temporary separation, divorce, paternity, cohabitant abuse and civil stalking, custody and support, and name change; eviction; and debt collection.[57] The Court promulgated rules to govern LLPs and the program went into effect on November 1, 2018. The program is modeled after the Washington program. Licensing of the first LLPs is scheduled to occur in 2019.

In addition, an independent legal research center will work with Utah officials to test what could be groundbreaking regulations on allowing nonlawyers to provide legal services. The Institute for the Advancement of the American Legal System announced Oct. 31 that its new "Unlocking Legal Regulation" project was devised in part to advance Utah's plans to loosen restrictions on nonlawyers in the state's legal system. A recent report from the Utah Work Group on Regulatory Reform suggested changes intended to improve access to justice for residents unable to afford private attorneys in civil and family court cases. Panels in California and Arizona have made similar recommendations, using similar rationale. The Utah report urged an increased role for nonlawyers in legal services, including tech companies, and mandated creation of a regulatory agency to determine how they could help.

California; The California task force aiming to broaden access to legal services now has a few more months to make its final recommendations, as debate continues about whether nonlaywers should be allowed to assist consumers with legal matters. The changes would broaden the range of those who can provide legal services in the state, to potentially include tech companies and the Big Four accountancies, which some in the industry see as threat. Proponents of the changes say they would help bring much needed access to justice. The State Bar of California's Board of Trustees granted a motion to delay the final recommendations of the Access through Innovation of Legal Services (ATILS) panel from Dec. 31 to March 31 of 2020. The board recognized that the panel needs more time to "synthesize" the more than 2,800 comments it received in response to proposals.

Arizona; An Arizona task force urged the state's supreme court to end restrictions on nonlawyer co-ownership of law firms to close the "access to justice gap," which could crack open the door to the Big Four accountancies. The Arizona Task Force on the

[56] http://washingtonlawyer.dcbar.org/september2019/index.php#/24

[57] http://www.utcourts.gov/committees/limited_legal/Supreme%20Court%20Task%20Force%20to%20Examine%20Limited%20Legal%20Licensing.pdf

Delivery of Legal Services in an Oct. 4 report requested the removal of state bar Rule 5.4, the "explicit barrier" to lawyers and nonlawyers co-owning businesses that engage in the practice of law. "A sentiment that resounded within the workgroup was that lawyers have the ethical obligation to assure legal services are available to the public," the 157-page report concluded, "and that if the rules of professional conduct stand in the way of making those services available, then the rules should be changed."
In August, the panel voted to loosen the rules that currently restrict legal document preparers from assisting court litigants. The report codified those recommendations, and took several additional steps to make sure court litigants get legal assistance even if they cannot afford an attorney. That includes the creation of a new tier of legal service provider specifically designed to assist domestic violence victims, and the separate development of another tier of nonlawyer legal service providers, "qualified by education, training, and examination," to provide limited legal services.

Oregon: In a June 2017 report, the Oregon State Bar's Futures Task Force recommended the "licensure of paraprofessionals who would be authorized to provide limited legal services, without attorney supervision, to self-represent3ed litigants in (1) family law and (2) landlord-tenant proceedings." The report tracks other parameters in Washington and Utah. [58]

New York Navigators Program: The New York pilot program permits trained non-lawyers to provide out-of-court assistance in housing and consumer credit. The role of the Navigators includes the provision of the following types of assistance, free of charge, to litigants:

- Preliminary discussions with litigants to listen and explain the process
- Review of the papers litigants have received and assembled to explain their relevance to the process
- Provision of information to litigants about appropriate or available court services (including interpreters)
- Description for litigants of the individuals they will see in court and their roles (e.g. judge, court clerk, law clerk), as well as likely discussion topics and the best manner of response to each
- Assistance to litigants in filling out court-approved DIY forms and help in identifying additional resources available on the Internet
- Court accompaniment, including giving notes or reminders to litigants where and when necessary
- Statements of fact to the judge, but only if asked a direct factual question by the judge
- Taking notes during any conference or hearing to discuss with litigants afterwards so that the litigants are clear about what has been said or decided and what the litigants must do to comply with any directions they may have been given

[58] See Oregon State Bar Futures Task Force Executive Summary (June 2017) http://www.osbar.org/_docs/resources/taskforces/futures/FuturesTF_Summary.pdf

- Some Navigators in the Housing Court, in addition, provide more in-depth service and remain with litigants to help provide needed social services, including benefits to cover rent arrears where available (see full description in Overview of program below).

The Access to Justice Program of the NY State Courts also facilitated another study of the CNP conducted by Pro Bono Net, funded by a Legal Services Corporation Technology Initiative Grant awarded to LAWNY (Legal Assistance of Western New York), to assess and create technology to assist the Court Navigators. As a result of this study, Pro Bono Net working with Legal Services NYC and Georgetown University Law Center's Technology Innovation and Law Practicum class, created an app for the CNP called the "Navigator's Compass." The Navigator's Compass, using Neota Logic, is designed to help Court Navigators issue spot and connect litigants with appropriate referrals, resources and court services, like interpreters, Help Centers, DIY Forms and other key resources described in the 200+ page Navigator training manual. The Access to Justice Program is in the process of fine tuning and correcting the app.

In November of 2015, Chief Judge Lippman announced a network of walk-in storefronts will be first of its kind in New York and the nation to bring basic legal information, assistance and support to residents in low -income communities. The new program will bring a corps of trained community volunteers to storefront locations in our most vulnerable neighborhoods, offering free legal information, assistance and referrals to residents grappling with legal problems relating to the very basics of life. *The storefronts will be called "Legal Hand," the program will be operated by the* Center for Court Innovation *and local community-based legal aid providers. One center is already open with two more to come soon.* Each Legal Hand will be managed by a volunteer coordinator and staffed with trained volunteers to provide information and guidance to low-income individuals on how to navigate the court and social services system and how to protect and represent themselves in a legal matter. A legal services attorney will also be on-site to help train and aid volunteers. The Legal Hand volunteers will receive substantive training focusing on areas where emergencies commonly arise, such as housing, physical safety, immigration, family matters and benefits. Training will also cover cultural competency, interviewing skills, the limits on the advice non-lawyer volunteers are legally permitted to provide and the availability of referrals to other services, including full legal representation. Periodic training will continue throughout each volunteer's tenure. Volunteers come from a wide spectrum of backgrounds including retirees, college students, long-time residents and individuals new to the community. 5 In 2018, two additional Legal Hand neighborhood storefront centers were opened in the Bronx, with another center planned to open in upper Manhattan in 2019.

NEW LAWYER INITIATIVES

The ABA Task Force on the Legal Access Job Corps recently invited state and local bar associations, bar foundations, law schools, courts, government agencies, and other similar organizations to apply for an ABA catalyst grant available to support the implementation of innovative programs to enlist recently-admitted lawyers in providing legal services to persons of modest means. A number of programs have been

developed in various locations to utilize recently-admitted lawyers in better serving the legal needs of poor and moderate income persons. The Task Force seeks to foster further innovative initiatives that achieve similar objectives.

LEGAL INCUBATORS

A relatively new development in access to justice is the legal incubator. The first legal incubator began in 2007, the Community Legal Resource Network at the City University of New York School of Law. Its mission is to provide support to their graduates interested in launching their own practice to serve low-income communities that lack access to legal representations. Since then, more than 60 legal incubators are up and running, with 75% of them having been formed since 2014. American Bar Association, ABA Standing Commission on the Delivery of Legal Services, *2016 Comprehensive Survey of Lawyer Incubators*, 2016. Though their missions vary, most incubators embrace the importance of innovation and technology in the legal field and focus on the delivery of legal services to the un- and under-represented.

Incubators foster the lawyers working with them to understand and cultivate the services they wish to provide. They perform market research to determine how to best reach the underserved population. They assist the community in identifying legal needs, and create legal packages that are affordable, understandable, and accessible. The end goal is to assist attorney is establishing successful and sustainable practices.[59]

Incubators are an excellent trial ground for legal technology. Incubator attorneys explore innovative means to deliver legal services in a controlled environment. The implementation of technological tools is essential to create the successful small firms of the future. Automating intakes, implementing e-discovery, utilizing special software, building online legal resource centers, and other processes are in the pipeline to improve the delivery of legal services. With the majority of programs still in their infancy, few of these firms operate independently, but this is likely to change with new classes graduating from more than 60 programs across the nation annually.

Though much of the rapid growth in the incubator movement is attributed to the recent graduate's placement challenges, the result has opened opportunities for new attorneys to gain experience and build responsive practices to assist unmet needs in their areas of interest. In addition to family law, small businesses need counsel to assist with licensing and liability protection; tenants need assistance in protecting their rights; and employees need help identifying issues. Some incubators have performed market research and focus on the practice areas where there is the most need, but a common goal is to assist attorneys in creating projects that will lead to successful lawyers.

Most incubators embrace the idea of community lawyering. An important aspect of community lawyering is assisting non-lawyers in the identification of legal issues. Many incubators are hosting community meetings and presenting to groups on hot topics,

[59] See Luz E. Herrera, **Law Firm Incubator Programs**, MIE Journal, Volume XXXI, Fall 2017

creating online content and other innovative educational resources to assist potential clients in learning more about their rights or an issue they or a family member/ friend may have. Using thoughtful language, posting through social media and creating digestible content are some of the many ways incubator participants are collaborating with their colleagues to create shared message for the non-lawyer.

LAW SCHOOLS

Law schools and law school clinical programs also supplement the staff attorney system. Virtually every ABA-accredited law school operates a clinical law teaching program. Some operate a number of clinics that actually service individual or group clients. In some areas, such as the District of Columbia, the law school clinics are an integral part of the civil legal aid system. In other areas, law school may work closely with legal aid programs and send law students to the programs for part of their clinical training. In some areas, law school clinics are small programs that operate totally independent of civil legal aid programs. Overall, law school clinical programs are a very small component of the delivery system, accounting for less than 2% of the clients served.

Law Schools also encourage and conduct pro Bono programs. According to the Association of American Law Schools, The average number of pro bono hours performed by graduating law students rose from 211 in 2018 to 221 in 2019. The most recent class of law school graduates performed 4.38 million hours of pro bono work as students.[60]

New York Developments; Under the leadership of Chief Justice Lippman, New York became the first state in the nation to promulgate a rule requiring law students to complete 50 hours of pro bono service before gaining admission to the New York bar. New Jersey, California, and Montana among others are considering similar rules to the one developed in New York.

New York's new Pro Bono Scholars Program, introduced in New York in February of 2014 gives law students an incentive to devote their last semester of law school to pro bono work, making a significant contribution to addressing the access to justice gap. New York's Poverty Justice Solutions is a new program launched in 2015 that is designed to extend the reach of the Pro Bono Scholars program. Each year, Poverty Justice Solutions will take 20 exceptional Pro Bono Scholars and place them after graduation and admission in two-year fellowships with civil legal service providers in New York.

National Center for Access to Justice Support for the A2J Initiative at Fordham Law School: In the fall of 2016 Fordham Law School began its A2J Initiative, https://www.fordham.edu/info/26060/a2j_initiative_at_fordham_law. The effort aims to serve as a national model for legal education in accordance with the law school's credo, "In the Service of Others." Fordham Law aspires to bring the importance of adequate

[60] https://www.law.com/2019/12/18/2019-law-grad-pro-bono-efforts-valued-at-111-million/

representation to the fore throughout its curriculum, educating students about the justice gap and opportunities for reform. The initiative will focus the law school's direct-service efforts as students and faculty provide legal help in communities direly in need. Finally, Fordham will bring to bear its research capacity, informing lawyers, policymakers and the public about access to justice. As a capstone to this commitment, the National Center for Access to Justice relocated to Fordham Law in fall 2016 to infuse the initiative with cutting-edge research and analytical techniques. See https://ncforaj.org/ The center created the data-driven Justice Index, https://justiceindex.org, which ranks state justice systems to help promote adoption of selected best policies for assuring access to justice for all.

In addition, the National Center for Access to Justice developed **TRACKING OUTCOMES: A Guide for Civil Legal Aid Providers & Funders** (JUNE 20, 2018). See https://ncforaj.org/wp-content/uploads/2018/06/NCAJ-Outcomes-Guide-complete-for-6-20-18.pdf In Tracking Outcomes, NCAJ built on a series of interviews with leaders in the provider and funder communities to offer a snapshot of current perspectives on working with outcomes data. They also relied on insights provided by a panel of expert advisors (researchers, legal aid providers, experts in the use of data) and a review of the literature. They describe the conversations that are happening on the ground today about the leading issues in outcomes tracking, including the arguments for and against certain models and strategies, and the opportunities for moving forward with best practices.

In The A2J Summit Collection, NCAJ gathered and published in the Fordham Law Review On line a set of writings by access to justice activists describing the leading edge and future promise of the civil justice reform movement. The A2J Summit Collection was an outgrowth of a path breaking Fall 2018 national convening — the A2J Summit — that brought more than 85 activists and leaders together at Fordham Law School for a strategic reconsideration of the place, purpose, and importance of civil justice reform. The pieces in the A2J Summit Collection make the case for the crucial importance of a civil justice reform movement to address the national crisis in which people face the loss of their homes, their children, their savings, their physical and emotional well-being, even their liberty, because of challenges posed by the civil justice system. NCAJ's executive director (in the Foreword to the Collection), and several authors in their respective pieces, urge consideration of the civil justice reform movement as a next step in the criminal justice reform movement. The authors and their subjects are:

PDF

Building the Access to Justice Movement
David Udell

PDF

A Perspective from the Judiciary on Access to Justice
Jonathan Lippman

PDF

"What Do We Want!"?
Rebecca L. Sandefur

PDF

Striking a Match, Not a Pose, for Access to Justice
Gillian K. Hadfield

PDF

Access to Legal Help is a Human Service
Jo-Ann Wallace

PDF

Don't Go It Alone
Ariel Simon and Sandra Ambrozy

PDF

Self-Representation is Becoming the Norm and Driving Reform
Katherine Alteneder

PDF

Integrating the Access to Justice Movement
Lauren Sudeall

PDF

Building a Movement: The Lessons of Fines and Fees
Lisa Foster

PDF

A National Movement for Access to Justice Must Be Holistic
Justine Olderman and Runa Rajagopal

PDF

The Legal Empowerment Movement and its Implications
Peter Chapman

PDF

A Few Interventions and Offerings from Five Movement Lawyers to the Access to Justice Movement
Jennifer Ching, Thomas B. Harvey, Meena Jagannath, Purvi Shah, and Blake Strode

PDF

The Role of Data in Organizing an Access to Justice Movement
James Gamble and Amy Widman

PDF

All Rise for Civil Justice
Martha Bergmark

LegalRnD, the Center for Legal Services Innovation, at Michigan State University Law School, seeks to improve legal-service delivery and access across the legal industry. They accomplish this mission through research and development of efficient, high-quality legal-service delivery tools and systems. LegalRnD brings together professionals from a broad range of disciplines. Contributors start with well-established concepts—such as lean thinking—and use them to improve legal-service delivery. They train their students in these concepts and study them with our partners, including: legal aid

organizations, solo practitioners, corporate legal departments, law firms, courts, and entire justice systems.[61]

The Law School Admission Council 's Justice Innovation Challenge will provide up to $15,000 in seed money from LSAC to work with nonprofit legal services groups about legal access issues involving domestic violence, foreclosures and business formations, according to a June 19 news release. There will be three awards—for $5,000, $10,000 and $15,000—and the competition is open to individuals and teams of up to four members.

ONLINE DISPUTE RESOLUTION

Unlike the Dutch and British Columbia, the US has not yet fully developed an online dispute resolution forum.[62] Several states, including California, Connecticut, Utah, Michigan, Ohio and New York, are beginning to develop such forums. For example, the New York Access to Justice Program is working on the Permanent Access to Justice Commission's committee to develop an Online Dispute Resolution (ODR) pilot program to evaluate the feasibility, cost and effectiveness of ODR in consumer credit cases and its use as a component in improving access to justice. Ultimately, this program allowed parties to consumer debt cases to try to settle their disputes online between themselves. If a resolution cannot be reached, the parties would work online with an assigned trained mediator through the Community Dispute Resolution Centers to settle their case. Development and implementation of the ODR pilot program will continue in 2019.

Connecticut Online Dispute Resolution: Starting Jan. 2, 2019, the Connecticut Judicial Branch will offer online dispute resolutions for people in the New Haven and Hartford judicial districts who want to resolve contract collections. "The program is intended to help parties resolve contract collection cases and minimize, if not eliminate, the necessity of them appearing in court," according to an announcement of the pilot program by the Judicial Branch. The program is voluntary, meaning that both parties must agree to use this resolution process. The online dispute resolutions can be used only for contract collection cases, which are disputes based on one party claiming the

[61] https://www.legaltechlever.com/2017/07/law-schools-as-labs-for-legal-services-innovation-and-research-development-examples-at-legalrnd/

[62] The Dutch Legal Aid Board developed a legal advice site known as Rechtwijzer, variously translated as 'conflict resolution guide' or 'interactive platform to justice'. The Web-based Rechtwijzer used an intelligent questionnaire format, and provides problem diagnosis, triage, information, guidance and self-help tools for non-lawyer users. The Dutch discontinued the original online conflict resolution platform Rechtwijzer in March of 2017, but developed a new online platform that began in September of 2017. British Columbia is also establishing a Civil Resolution Tribunal (CRT) an online tribunal handling small claims (up to $25,000 CAD) and strata (condominium) disputes in British Columbia. To date, the most developed portion of the CRT's end-to-end platform continues to be the Solution Explorer, an online expert system designed to support problem diagnosis, information, self-resolution and streaming processes.

other failed to pay money that was owed. More information is available through www.jud.ct.gov/ODR or email ODR@jud.ct.gov.

The SRL Network recently produced a brief about online dispute resolution which discusses some developments in the US. See https://docs.google.com/document/d/1YxmEhdyE7Om_TAYSXxh9CcNtNguUFtGh22iYwepXY5g/edit?ts=5c93ed70# The National Center for State Courts prepared Case Studies in ODR for Courts: A View from the From Lines, provides case studies of implementation of court-based ODR in courts in 9 jurisdictions including locations in the United States, Canada and the Netherlands. The US jurisdictions included Franklin County, Ohio Small Claims; Washtenaw County, Michigan Online Traffic Pleading; Ottawa County, Michigan Family Court Compliance; Utah Courts Small Claims; and New York State Unified Court System Consumer Debt.

DELIVERY RESEARCH

The US now recognizes that its system should have an ongoing and institutionalized capacity to conduct research on how to improve the delivery of civil legal aid and conduct and evaluate demonstration projects testing new ideas and innovations for possible replication across the system. [63] NLADA received funding for and has developed a resource library of prior and ongoing delivery research. See www.legalaidresearch.org.

The United States had such a component, the Research Institute, during the first era of the Legal Services Corporation from 1976 – 1981. During the funding and political crisis of 1981, the Research Institute was closed. It is not yet clear that the US will be able to find government funding for such an entity.

LSC raised private funding for and has recently established an Office of Data Governance and Analysis which now has six analysts. During its first year, the Office e worked on a range of projects which focused on cleaning up and posting LSC administrative data. They also set up a data users group made up of program staff from different legal services across the country to help build capacity in the field. They were involved in the release of a new Justice Gap report and are also preparing to release a catalogue of maps related to civil legal issues. They are in the process of building a new data access page on the website, so that researchers have easy access to GAR data, Justice Gap data and other resources.

In the summer of 2019 ***Just Research*** began. It is a monthly legal aid newsletter that compiles research, resources, and tools for organizations, practitioners, and

[63] How an Evidence-Based Delivery System Can Improve Legal Aid for Low- and Moderate-Income Americans by Jeffrey Selbin, Josh Rosenthal, and Jeanne Charn (Center for American Progress) June 2011 http://www.americanprogress.org/issues/open-government/report/2011/06/22/9707/access-to-evidence/ See also, Laura K. Abel, *Evidence Based Access to Justice*, University of Pennsylvania Journal of Law and Social Change, Volume 13 No.3, (2009-2010) at p, 295 and *Designing Access: Using Institutional Design to Improve Decision Making About the Distribution of Free Civil Legal Aid*,7 Harvard Law & Policy Review 61 (2013).

policymakers. It is co-produced by The Justice in Government Project (JGP) at American University and National Legal Aid & Defender Association (NLADA). Find previous editions of Just Research on topics including reentry, veterans, opioids, and foster care here. **Just Research's** November newsletter focused on how legal aid assists children in foster care and helps stabilize families. The most recent in January of 2020 focused on data and studies that explain how legal aid can help survivors of human trafficking for National Slavery and Human Trafficking Prevention month.

President Obama's budget requests in 2015, 2016 and 2017 included $2.7 million for civil legal research to be managed by the National Institute of Justice in cooperation with Department of Justice's Access to Justice Office. That would have been the first time that the federal government invested in delivery research on civil legal aid since the demise in 1981 of the Research Institute at LSC. Congress did not fund these requests.

On July 23, 2018, the National Science Foundation (NSF) announced a new award to promote AtJ scholarship, naming Rebecca Sandefur principal investigator, and Alyx Mark & David Udell co-principal investigators. According to NSF, "This project will consist of a census-style survey of academic disciplines engaged in access to justice scholarship and an intensive workshop. It is designed to build a research field and an evidence base by identifying emerging access to justice researchers, coordinating collaboration across academic disciplines, and producing a research agenda and original scholarship to give access to justice research the vigor and definition of a field." See the NSF's announcement.

Access to Justice Scholars Program: The American Bar Foundation (ABF), in partnership with The JPB Foundation, is building the field of access to justice research and creating a network of access to justice scholars. In December 2019, the ABF/JPB Foundation Access to Justice Scholars Program announced that it will bring together cohorts of scholars in order to support their research, mentor their progress, and build intellectual relationships needed to grow the access to justice field. By facilitating the translation of research into practice, the program will generate more effective approaches to improve justice for all. The program expands empirical access to justice scholarship by encouraging scholars to engage with this bourgeoning research field. The program will bring together two cohorts of five Faculty Scholars serving overlapping 15-month terms and one two-year Postdoctoral Scholar. The Director of The ABF/JPB Foundation Access to Justice Scholars Program is ABF Faculty Fellow Rebecca Sandefur. Professor Sandefur founded the ABF's Access to Justice Research

THE JUSTICE LAB

The Justice Lab is a new center created by Mary McClymont at Georgetown University Law Center to address in a variety of ways the access crisis in our civil justice system. The Centers and Institutes at Georgetown University Law Center generate ideas through research and scholarship, engage students with real-world learning opportunities, and build bridges to the city, nation and world. The Justice Lab works to:

- Provide strategic planning and other technical assistance to access to justice commissions, courts, and other entities committed to addressing the civil justice gap;

- Promote the growing role of digital and other technologies to support legal aid agencies and provide self-help legal resources to unrepresented people;

- Undertake empirical research to produce actionable data on unmet legal needs and approaches to address them;

- Design and test new approaches for expanding access to justice services; and

- Serve as resource for legal aid agencies and courts seeking to build access to justice technologies.

The Lab has undertaken pioneering work on, among other things, the creation of an affordable law firm model; the development of technology apps; and research on the use of lay/nonlawyer navigators in the state courts to provide legal help to unrepresented litigants. All are innovations to address the civil justice crisis. The Justice Lab is co-directed by Tanina Rostain, Professor, and Sheldon Krantz, Adjunct Professor. Mary McClymont is Senior Fellow and Adjunct Professor.

National Science Foundation Grant: David Udell, Executive Director of the National Center for Access to Justice, political scientist Alyx Mark and MacArthur fellow Rebecca Sandefur won a $50,000 National Science Foundation grant to help "give access to justice research the vigor and definition of a field."

Access to Justice Lab: The Access to Justice Lab was founded in July 2016 thanks to the generous support of the Laura and John Arnold Foundation. The Arnold Foundation's core objective "is to address our nation's most pressing and persistent challenges using evidence-based, multi-disciplinary approaches." The Lab is housed within the Center on the Legal Profession (CLP) at Harvard Law School, which seeks to make a substantial contribution to the modern practice of law by increasing understanding of the structures, norms and dynamics of the global legal profession.

The Access to Justice (A2J) Lab's vision is that lawyers, judges, and legal policymakers have access to and use credible data to make the justice system better serve individuals and families who cannot afford to hire lawyers.[64] By demonstrating to legal professionals the value of using rigorous data about how the justice system works, we can transform law into an evidence-based field to improve outcomes for everyone.

A research center at Harvard Law School, the A2J Lab designs and implements randomized control trials (RCTs) to create gold-standard research to provide answers to

[64] Thanks to Sandy North, Associate Director for Administration, Access to Justice Lab for the updated information in this report.

critical questions in access to justice. This approach generates the data that legal professionals and policymakers require to evaluate proposed solutions and shows them the value of utilizing empirical research. The A2J Lab:

- *Builds coalitions to ask hard questions, identifies barriers to access, and proposes solutions.* The A2J Lab creates diverse research coalitions with a particular emphasis on including judges and lawyers. With a national focus, the team is currently exploring, developing, and implementing studies in over twenty states.

- *Designs and fields randomized experiments to learn which interventions succeed.* Every one of the A2J Lab's studies includes a field RCT as its backbone. Using a ten-step process, the A2J Lab's staff collaborate with field partners to design and implement RCTs in the justice system from conception to launch.

- *Shares data transparently and creates actionable lessons about how to make the justice system work better for everyone.* The A2J Lab generalizes data into actionable lessons and best practices to allow field partners and their peers to make adjustments on the ground. By training legal professionals in quantitative research methods and partnering with law schools to integrate field research into legal education, the A2J Lab equips scholars and the next generation of practitioners to transform law into an evidence-based profession.

Civil Justice Evaluations in the Field: *The Financial Distress Research Project* tests the impact of a variety of self-help materials on the outcomes of debt collection cases in Connecticut. As of 2014, more than 77 million people in the U.S. had at least one account reported as "in collection" on their credit reports, owing an average of $5,178 (median $1,349). Distressed debt results in collection lawsuits, a messy and error-prone credit report, and a potential need for bankruptcy. In other words, debt problems are legal problems, and an inability to resolve debt problems leads to legal consequences. What proposals are out there to address the legal aspects distressed debt? How would we know whether those proposals work?

By testing professional and self-help versions of both legal and financial counseling, the Financial Distress Research Project will provide rigorous evidence about which if any of several currently proposed solutions makes a difference. The evaluation provides participants with one of four sets of materials and/or services (all self-help, all professional help, legal professional help/financial self-help, legal self-help/financial professional help). Participant outcomes are then tracked to determine what if any differences the services and materials make to a variety of outcomes, including credit cores, perceived stress levels, and other wellness indicators.

If either set of self-help materials is effective, they could provide a cost-effective way for legal services providers to offer help to a greater number of people.

The Guardianship Service of Process Study evaluates whether self-help materials can make a difference for court users seeking guardianship over incapacitated adults or minors. In September 2017, the A2J Lab began an evaluation of guardianship service of process with the Boston Court Service Center (CSC) and the Volunteer Lawyers Project (VLP) of the Boston Bar Association.

CSC and VLP reported high rates of return visits from users they assisted with filling out petitions. Those petitioners often got stuck trying to navigate the often-labyrinthine service of process requirements. Because the process is complicated and the constituencies served have limited access to legal resources, the development and promotion of self-help materials seemed like a natural response. The associated study will lead to randomized provision of printed materials for both adult or minor guardianship cases and in English or Spanish. In addition, minor guardianship petitioners randomized to receive the hard copy booklets will also gain access to an online tool. The site walks users through their unique legal needs, much like the software pioneered by TurboTax and other online service providers. The RCT will compare rates of successful service, among other outcomes, between the treatment and control groups.

If self-help packets or a new tech tool can help people file for guardianship and then correctly complete service of process, legal services providers will know what types of resources to invest in and how best to allocate their limited resources. If the self-help materials aren't at all effective, perhaps the A2J Lab can learn something about the procedural hurdles and have a better understanding of how these hurdles themselves may need to change.

The Federal Court Mediation Study evaluates rigorously the dimensions Alternative Dispute Resolution (ADR) that proponents cite in advocating such programs. Almost every court system in the nation has an ADR program, and for most courts, at least some classes of litigants are compelled to use it before or during formal litigation.

Proponents of ADR clam that it furthers social welfare on at least four separate dimensions: conserving judicial resources, conserving party resources, increasing party satisfaction, and increasing party compliance with the decision or outcome.

Opponents, meanwhile, claim that direct negotiation can achieve these same benefits, and that the high cost of litigation provides a strong incentive for parties to settle on their own. The question, therefore, is whether the presence of the ADR neutral (a mediator, a judge) is really necessary to help the parties do what they could do on their own via direct negotiation.

The A2J Lab is conducting a randomized control trial in one setting: civil rights cases brought by inmates in one federal correctional facility in Nevada. After a thorough screening and intake process, consenting individuals were randomized into one of two groups: mediation or a strong suggestion to negotiate. Randomization has closed, and A2J Lab staff are in the process of analyzing federal court case records, case

outcomes, and other data. The A2J Lab anticipates having results of this evaluation in late 2019.

The Social Security Disability Study examines whether a law student clinic can deliver effective results to those seeking disability benefits. To be eligible for the study, an individual must be an adult seeking to appeal an adverse decision regarding eligibility for disability benefits to an administrative law judge (ALJ). The decision might have been either a denial of a request for reconsideration (under the traditional Social Security Administration (SSA) system) or an adverse ruling from a federal reviewing officer (under the new Disability Service Improvement (DSI) process). The applicant might be seeking benefits under either the Social Security Disability Insurance (SSDI) program or the Supplemental Security Income (SSI) program.

After a thorough screening and intake process, consenting individuals are randomized into one of two groups: representation by student advocate in a law school clinic or receipt of a self-help packet on disability appeals, a referral to other legal services providers, and a copy of their own intake information (to streamline the information-gathering that another legal services provider would need).

When the field operation is over, the A2J Lab will analyze the following outcomes for both groups:

- Were benefits awarded or denied?
- If awarded, what amount?
- Did individuals in the control group obtain representation elsewhere?
- Did individuals in the treatment group continue with their representation?

The A2J Lab anticipates having results of this evaluation in late 2019.

The Problem of Default Study (Part II) evaluates how effective different types of reminders are in improving court appearance rates in debt collection cases. In the modern United States, too many lawsuits are decided by default. This is especially true in debt collection cases, where reported default rates frequently range from 60% to 95%. Default is certainly bad for defendants, but perhaps more importantly, default engenders a system in which the state publicly declares a winner to a dispute without any opportunity to assess relevant facts and apply the law. What steps can legal services providers take to facilitate defendant attendance in court?

This study builds on the smaller pilot study in Boston, and includes multiple legal service providers and court locations. The research team sends one of several notification options to participants. By randomly varying the format and content of the package, the team will learn what is necessary and cost effective to reduce default rates. Areas of exploration include the appearance of the external envelope; the text of the letter; whether the letter includes cartoons and/or other illustrations; and the contents of the package. This evaluation will be completed in 2019.

The Philadelphia Divorce Study[65]was completed in late 2018 after six years of work with partners in Philadelphia VIP, an organization that matches low-income people with volunteer pro bono lawyers, and the Philadelphia Family Court. The study evaluated the effectiveness of pro bono representation in divorce cases in Philadelphia County.

The randomized evaluation showed that people who received legal representation were 87% more likely to achieve a divorce than people without it. If you can't afford an attorney and if you're one of the people for whom free legal help isn't available, you could find yourself trapped in your marriage.

In Philadelphia County, where state venue laws "required" study participants and their opposing spouses to file, and where filing should have been most convenient for our study participants (who were all Philadelphia County residents), the evaluation observed the following:

- Eighteen months after randomization, 54.1% of the treated group, as opposed to 13.9% of the control group, had a divorce case on record.
- Three years after randomization, 45.9% of treated group, as opposed to 8.9% of the control group, had achieved a termination of a marriage.
- The p-values for these differences (representing the probabilities that one would observe the numbers we observed, or numbers more extreme, if there were in fact no true difference between treated and control groups) were so low as to make them almost impossible to estimate; effectively, we observed instances of $p = 0$.
- If one expands one's focus to other Pennsylvania counties, and thus considers filings by Philadelphia County residents who risked a dismissal due to improper venue and who abandoned the system they support as taxpayers, results remain statistically and substantively significant: 60.8% of the treated group, versus 36.3% of the control group, had a divorce case on file after 18 months, $p < .00002$; 50.0% of the treated group, versus 25.3% of the control group, succeeded in terminating the marriage in 36 months, $p < .00002$. When accounting for the block randomization scheme the research team deployed, estimated effect sizes are a few percentage points larger than the numbers above would suggest.

The study's modeling to determine the effect of having a lawyer for divorce-seekers as a way of measuring the pro se accessibility of the divorce system found large effects, suggesting that the system is not accessible to pro se litigants.

Launched in early 2019, the *AmeriCorps in Legal Aid Study* evaluates whether utilizing non-lawyer (in this case AmeriCorps) support improves outcomes relative to self-help materials alone in parental plan modification cases in Montana. Individuals who contact Montana Legal Services Association requesting assistance with an eligible issue will be entered into a lottery to receive either self-help materials or to receive self-help

[65] https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3277900

materials plus assistance from an AmeriCorps member. After a participant has received services, whether materials or materials plus help from an AmeriCorps member, the study team will follow up with both the participant and with the courts to determine how successful the participant has been in addressing their legal problem. Specifically, we are interested in knowing if and in what cases assistance from AmeriCorps members facilitates better legal and family outcomes.

Civil Justice Evaluations in Development: The A2J Lab is likely to launch several additional civil justice research initiatives in 2019, including evaluations of the impact of:

- Representation in eviction cases;
- Text and print reminders in debt collection cases;
- Plain language in court forms;
- Non-lawyer support in SNAP benefits cases; and
- Virtual reality training for pro bono attorneys and pro se defendants for issues such as eviction and debt collection.

In addition, Kansas Legal Services, Inc., Neighborhood Legal Services (NLS), the Duquesne University School of Law Civil Rights clinical program, and students and professors at the University of Pittsburgh School of Law are joining forces with the Access to Justice Lab at Harvard Law School (A2J Lab) for a project to expunge and seal criminal records. KLS, NLS, the Duquesne clinic, and students and professors at Pitt Law currently provide legal services to help people get criminal records expunged. However, very few people who are eligible seek assistance. Research shows that only about 1 in 20 people eligible for clearing of criminal records actually pursue it.

Renee Danser, Associate Director of Research and Strategic Partnerships for the A2J Lab, said, “The forms you need to file an expungement case in court are complex. And it can be hard to find the information you need to fill them out. A lot of people who try to do it without any kind of legal help or guidance just give up. Current funding for civil legal aid and free legal help for expungement and record- clearing services only meets a fraction of the need.”

This project seeks to change that by increasing the availability of record-clearing legal services and self- help resources. The program collaborators have planned events across Kansas and western Pennsylvania to inform people about record-clearing, how it works, and what resources are available. The project will connect people with attorneys and provide access to self-help materials to guide them through the expungement process. The Pennsylvania materials were developed by students and professors at Pitt, Duquesne, and Harvard Law Schools. Additionally, program participants will contribute to a gold- standard randomized evaluation that will create evidence about the results of these legal services and record-clearing. Every eligible participant will receive some sort of legal help, along with the knowledge of what they are entitled to under the law.

By starting the project now, the Pennsylvania team has the opportunity to inform people about a major change in criminal record-clearing. Pennsylvania's Clean Slate Act, passed last year by overwhelming margins in the General Assembly and signed by Governor Tom Wolf, provides for automatic sealing of some criminal records without the need for a court case. "The idea is that if we remove these out-of-date or irrelevant records from the public eye, individuals might obtain the jobs and housing they need to resume their lives as contributing members of society," said Danser.

Other Recent studies and reports include:

As discussed in The Anti-Poverty Impact of Civil Legal Aid, [66] many states have done studies that assess the financial impact of civil legal aid.[67] There are 85 such studies.[68] There are new studies (New York,[69] Florida, Maine, Mississippi and Minnesota Indiana[70] assessing the financial impact of civil legal aid. These studies use various methodologies but reach similar conclusions. For example, the Minnesota study finds "that for every dollar spent on civil legal aid, the economic return is $3.94…Minnesota civil legal aid programs generated $133 million in revenue." The Mississippi study found that for every $1 dollar invested there were $12.05 in impacts.[71] See also Ohio (Cleveland) study on long-term impacts of civil legal aid: https://www.legalaidimpact.org/

Vermont Economic Benefits Study; The Access to Justice Coalition, a joint venture between the Vermont Supreme Court, the Vermont Bar Association and the primary providers and funders of low-income legal services in the State released a recently completed Economic Impact Study on Wednesday, November 6, 2019.The Report documents the benefits low income legal services bring to the Vermont economy. The Report highlights the fact that for every $1 of spending on low income legal services brings $11 of benefit to the Vermont economy. See www.vtbarfoundation.org.

Indiana Cost Benefit Study: January 2019 Community Services Analysis LLC examined 12 separate legal services agencies around Indiana and calculated the organizations' social return on investment. The group dug into the financials for the year 2017 and concluded that for every $1 invested in Indiana legal aid that year, the state received $6.70 in immediate and long-term financial benefits. SROI measures both the value of the service delivered and the long-term value of the results of the services.

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[66] The paper can be found at http://www.internationallegalaidgroup.org/index.php/papers-publications/conference-papers-reports/category/5-edinburgh-2015-conference-papers

[67] The ABA did a chart on impact studies and state legal needs studies at http://www.americanbar.org/groups/legal_aid_indigent_defendants/initiatives/resource_center_for_access_to_justice/atj_commission_self-assessment_materials1/studies.html

[68] See **http://legalaidresearch.org/search-filter/#!/topic=223**.

[69] http://ww2.nycourts.gov/sites/default/files/document/files/2018-12/18_ATJ-Comission_Report.pdf

[70] https://www.theindianalawyer.com/articles/49106-study-indiana-legal-aid-agencies-return-670-for-every-dollar-invested#.XDbBjbRdYPg.twitter

[71] MS - Mississippi Access to Justice Commission Releases Study Showing Significant Economic Impact of Legal Aid

Community Services found a total of 19,353 services were provided by legal aid organizations in Indiana in 2017. These services had a net direct value of $12.9 million and a long-term consequential value of $83.6 million. In all, the net value of the services was $96.5 million. Calculated against the $14.4 million in tax-based funding for Indiana civil legal aid organizations, the social impact return on investment was 670 percent.

Cleveland Legal Aid and Community Legal Aid teamed up to hire The Center for Community Solutions (CCS) to survey former clients of the two non-profit law firms. Of the 1,250 individuals who responded, more than half reported improved stability in at least one of five main areas: financial, family, health, housing and education.

- 54 percent of the clients reported they were more stable in at least one area.
- 15 percent of clients reported an improvement in family stability, regardless of the problem they sought legal help for.
- 13 percent of clients reported improved stability with their health.

The report, the first of its kind measuring the impact of civil legal services, bolsters anecdotal evidence that removing even a single legal obstacle can be transformational for a client. [72]

The ABA recently released its **Profile of the Legal Profession,** which examines the state of the legal profession in August of 2019. This report examines demographics, pay, legal education, federal judges, pro bono, legal technology, and lawyer well-being and lawyer discipline.[73]

Casey Chiappetta, Senior program Associate at the National legal Aid and Defender Association, wrote **Reducing Domestic Violence and Improving Outcomes for Children: Funding Civil Legal Aid to Maximize Impact**, which was published in *Family Court Review,* the leading peer-reviewed academic journal for family law professionals. The article reviews the research and data about how legal aid can improve outcomes for domestic violence survivors and their children. it also discusses how several state-administered federal funding opportunities – namely Victims of Crime Act (VOCA) Victim Assistance Formula Grant Program, Title IV-D child support funds, and Temporary Assistance for Needy Families (TANF) basic block grants – can fund the needed civil legal help.

IAALS, the Institute for the Advancement of the American Legal System, is partnering with Netherlands-based The Hague Institute for Innovation of Law (HiiL) to assess the justice needs of people and businesses in the United States. Funded by the Bohemian Foundation, the two-year *US Justice Needs* study launched in October, 2019."This study is focused on justice for all in the United States. The issue of access to justice is broader and deeper in our society than has historically been recognized**.** *US Justice*

[72] www.LegalAidImpact.org.

[73] https://www.americanbar.org/content/dam/aba/images/news/2019/08/ProfileOfProfession-total-hi.pdf

Needs will help us to understand the problems people in our society face in their everyday lives and how they seek to solve them," says Brittany Kauffman, Senior Director at IAALS. **"**We do not have a current, national survey that provides this important data. What we learn will provide the insight we need to reform the American legal system and tailor services to actually meet the needs of *all* users.**"** The scope of the survey is a major next step in the research in this field, which has been heavily focused on identifying the unmet legal needs among those with low income, or has been limited in geographical scope. *US Justice Needs* will survey people across all regions of the United States, including urban and rural areas, and people and entities who have not historically been included, including small and mid-size business owners and large companies.

Disasters in Rural California; Impact on Access to Justice, California Commission on Access to Justice, July 1, 2019 This report analyzes how disasters have disproportionately struck rural parts of California. These areas often have higher poverty rates than urban ones, and are typically the slowest to recover from disasters. During disaster and recovery, low-and modest-means communities often do not have access to legal remedies, meaning that recovery is often uneven. This report outlines how legal aid and pro bono assistance help residents in areas of housing, consumer issues, employment, insurance, public benefits, replacing vital records and documents, and accessing FEMA benefits.

California's Attorney Deserts: Access to justice Implications of the Rural Shortage, California Commission on Access to Justice, July 1, 2019. In this study, the California Commission on Access to Justice reports on attorney deserts -- places where there are too few attorneys and high numbers of unmet legal needs. They find that attorney deserts are an acute problem in rural areas. This is not a problem concentrated in California -- in the US, approximately 2 percent of small law practices are in rural places, serving approximately 20 percent of the US population.

Needs of Homeless Veterans: 5 Years of the CHALENG Survey 2012-16, March 2019, Journal of Public Health, By Jack Tsai, Jessica Blue-Howells, and John Nakashima.[74] National surveys of homeless veterans have been conducted for over a decade, but there has been no examination of changes in the needs of homeless veterans. Across years, the majority of respondents were males, white, 45-60 years old, Army veterans, lived in urban areas, had no dependent children, and were enrolled in VA healthcare. Over time, the proportion of respondents who were over 60, female, and white increased. There was little change in reported unmet needs with the highest rated unmet needs related to credit counseling, utility assistance, furniture and housewares, dental care and disability income. Among subsamples of veterans with specialized

[74] https://www.ncbi.nlm.nih.gov/pubmed/29727001

needs, the top three reported unmet needs were housing for registered sex offenders, legal assistance for evictions/foreclosures, and legal assistance for child support.

Recently the World Justice Project issued a report based on a legal needs study it conducted: Global Insights on Access to Justice.[75]

ACCESS TO JUSTICE ARTICLES

DÆDALUS,

A major new publication **"Access to Justice,"** is in the Winter 2019 issue of *Dædalus*, the Journal of the American Academy of Arts and Sciences. This journal is a multidisciplinary examination of this crisis, from the challenges of providing quality legal assistance to more people, to the social and economic costs of an often unresponsive legal system, to the opportunities for improvement offered by new technologies, professional innovations, and fresh ways of thinking about the crisis.[i] Guest editors were **Lincoln Caplan** (journalist and author; Yale Law School), **Lance Liebman** (Columbia Law School; Academy Member), and **Rebecca L. Sandefur** (University of Illinois at Urbana-Champaign; American Bar Foundation; 2018 MacArthur Fellow).

This issue of *Dædalus* is part of a larger, ongoing effort of the American Academy to gather information about the national need for improved legal access, study innovations piloted around the country to fill this need, and advance a set of clear, national recommendations for closing the justice gap — between supply and demand for services provided by lawyers and other problem-solvers. **Access to Justice"** features the following essays:

Introduction
John G. Levi (Legal Services Corporation; Sidley Austin; Academy Member) & David M. Rubenstein (The Carlyle Group; Academy Member)

How Rising Income Inequality Threatens Access to the Legal System
Robert H. Frank (Cornell University)

The Invisible Justice Problem
Lincoln Caplan (journalist and author; Yale Law School)

Reclaiming the Role of Lawyers as Community Connectors
David F. Levi (Duke University School of Law; Academy Member), Dana Remus (legal scholar) & Abigail Frisch (*Duke Law Journal*)

[75] https://worldjusticeproject.org/our-work/research-and-data/global-insights-access-justice-2019

More Markets, More Justice
Gillian K. Hadfield (University of Toronto; University of California, Berkeley; OpenAI)

Access to What?
Rebecca L. Sandefur (University of Illinois at Urbana-Champaign; American Bar Foundation; MacArthur Fellow)

The Right to Civil Counsel
Tonya L. Brito (University of Wisconsin Law School)

The New Legal Empiricism & Its Application to Access-to-Justice Inquiries
D. James Greiner (Harvard Law School)

The Public's Unmet Need for Legal Services & What Law Schools Can Do about It
Andrew M. Perlman (Suffolk University Law School)

Access to Power
Sameer Ashar (UCLA School of Law) & Annie Lai (University of California, Irvine School of Law)

The Center on Children and Families
Shani M. King (University of Florida Levin College of Law)

Techno-Optimism & Access to the Legal System
Tanina Rostain (Georgetown University Law Center)

Marketing Legal Assistance
Elizabeth Chambliss (University of South Carolina School of Law)

Community Law Practice
Luz E. Herrera (Texas A&M University School of Law)

The Role of the Legal Services Corporation in Improving Access to Justice
James J. Sandman (Legal Services Corporation)

Participatory Design for Innovation in Access to Justice
Margaret Hagan (Stanford Law School)

Simplified Courts Can't Solve Inequality
Colleen F. Shanahan (Columbia Law School) & Anna E. Carpenter (The University of Tulsa College of Law)

Corporate Support for Legal Services
Jo-Ann Wallace (National Legal Aid and Defender Association)

Justice & the Capability to Function in Society
Pascoe Pleasence (University College London) & Nigel J. Balmer (University College London)

Why Big Business Should Support Legal Aid
Kenneth C. Frazier (Merck & Co.; Academy Member)

Executive Branch Support for Civil Legal Aid
Karen A. Lash (American University)

Why Judges Support Civil Legal Aid
Fern A. Fisher (Maurice A. Deanne School of Law at Hofstra University)

Lawyers, the Legal Profession & Access to Justice in the United States: A Brief History
Robert W. Gordon (Stanford Law School; Yale Law School)

The Twilight Zone
Nathan L. Hecht (Supreme Court of Texas)

All of the essays are freely available online at:
https://www.amacad.org/daedalus/access-to-justice.

After publication, there was a Congressional Briefing: ***The Hidden Crisis in Civil Legal Services*** held ***o***n Tuesday, May 21, 11:30 - 12:30 | Longworth House Bldg., Room B-208

Among articles that do not fit within prior categories are:

Securing Equal Justice: A Brief History of Civil Legal Assistance in the United States by Alan W. Houseman and Linda Perle, revised in 2018.
http://www.nlada.org/sites/default/files/2018_securingequaljusticepaper%20%282%29.pdf

PUBLIC SERVICE LOAN FORGIVENESS

Many civil legal aid programs rely upon the federal Public Service Loan Forgiveness (PSLF) program, established by the College Cost Reduction and Access Act of 2007, to recruit and retain staff lawyers. . The intent of the program is "to encourage individuals to enter and continue in full-time public service employment"[76] by making it financially viable for individuals with high student loan debt to commit to taking and remaining in lower-paying jobs that serve their communities, including civil legal aid and other legal

[76] Public Service Loan Forgiveness Program, 34 CFR § 685.219, 2008

services. In order to qualify for the program, a borrower must be enrolled in an income-based repayment program, which requires them to make monthly student loan payments of ten percent of their discretionary income. After making 120 of these payments while working for a qualifying employer, which includes all government employment and organizations that are nonprofit 5013(c)(3) under the Internal Revenue Code, the borrower can submit an application to the Department of Education to have the remaining balance on certain federal student loans forgiven.

Since 2014, concerted attention has been paid to the potential cost of the program by advocates of reduced government spending,[77] and in 2015 the Obama administration proposed a cap of $57,000 on the amount a borrower can have forgiven. At that time Congress chose not to make any changes to the program, but the 2016 election precipitated a renewed focus on PSLF and the first budget proposal from the Trump administration, released March 2017, included the elimination of PSLF. The White House projected that this would save $859 million in FY2018 and $27.5 billion over ten years.[78] In December of that year Rep. Virginia Foxx (R-NC) introduced the PROSPER Act, a comprehensive package of legislation related to higher education. This package included a restructuring of the student loan system that would have made it functionally impossible for any future borrowers to meet the eligibility requirements of PSLF. The bill was approved by the U.S. House Committee on Education and the Workforce but it was never brought to the House floor.

PROSPER drew strong opposition from education access organizations and from individuals and employers that would be affected by the elimination of PSLF,[79] who described the impact on communities of the investment in PSLF. The results of a 2017 survey[80] of 3,369 individuals working in civil legal aid, public defense and other legal services occupations published by the National Legal Aid & Defender Association (NLADA) suggest that the program is achieving its recruitment and retention objectives and creating improved outcomes for clients of civil legal aid. 54 percent of respondents said that without PSLF, they would be very likely or certain to leave their jobs, and 51 percent said that without the initial incentive of PSLF, they were either not likely to have taken their current job or that they certainly would not have taken it. A portion of the survey was aimed at legal services program leadership, and a large majority of those

Individuals indicated that PSLF improved, to a large or very large extent, their ability to recruit (64 percent) and retain (71 percent) qualified employees.

Supporters of PSLF also criticized methodologies that have been used to project the future cost of the program, highlighting problems with the reliability of estimates that had

[77] Jason Delisle and Alexander Holt, *Zero Marginal Cost: Measuring Subsidies for Graduate Education in the Public Service Loan Forgiveness Program,* New America, September 2014
[78] Budget of the U.S. Government: A New Foundation For American Greatness Fiscal Year 2018, *White House Office of Management and Budget,* March 2017
[79] "Letter to Members of Congress", *Coalition to Preserve PSLF*, March 23, 2018 https://docs.wixstatic.com/ugd/632d9a_4ac787a24c964dad8a8a555325f90725.pdf
[80] Public Service Loan Forgiveness and the Justice System: How eliminating PSLF would harm American Communities, *National Legal Aid & Defender Association*, March 2018

been raised in a 2016 Government Accountability Office report.[81] There is no accurate data on either the number of individuals likely to apply for forgiveness or the size of their student loan balances, and therefore cost estimates based on assumptions about this data should therefore not be considered reliable. In October 2017, which marked the first time it would have been possible for an individual to have made the required ten years of monthly payments, the Department of Education began accepting applications for forgiveness. Data released by the Department of Education suggests that the cost of forgiveness for this cohort had been significantly overestimated. In FY2018, the total value of loans discharged under PSLF was $12 million,[82] far lower than the estimate included in the Trump administration's budget for FY2018 and lower also than the $425 million in savings projected by the Congressional Budget Office.[83]

The disparity between the estimated and actual cost is in part because only a very small number of applications for forgiveness have been approved. As of September 30, 2018, the Department of Education had approved the loans of just 206 borrowers out of 32,409 total applicants. Roughly one-third of denials were due to incomplete information on the application itself. The reminder were denied for not meeting the program requirements, such as by being enrolled in an ineligible payment plan, having an ineligible loan type, or not working for a qualifying employer for the required number of months. In order to help address these issues, the Consolidated Appropriations Act, 2018 included $350 million to expand eligibility for PSLF to individuals who had been enrolled in an ineligible repayment plan but who otherwise met the program requirements, and to improve communication between the Department and borrowers around the program requirements and application process. As a result, the Department established the Temporary Expanded Public Service Loan Forgiveness (TEPSLF) program and implemented a new online tool to assist applicants. As of March 2019, 262 borrowers had been approved for TEPSLF, representing 2 percent of applicants.[84]

CONCLUSION

The trends in US civil legal aid over the last twenty years continued through 2019. So far the election in 2016 has not changed the picture. The new Administration proposed in its budget submissions for 2018, 2019 and 2020 the elimination of funding for LSC. Since then, Congress has not followed but, instead, appropriated $410 million for 2018, $415 million for 2019 and $440 million for 2020. Through 2019, there were increases in state funding as well as from other funding sources. The decreases in IOLTA funding have slowed although IOLTA funding remains lower than before the Great Recession.

There has developed a robust access to justice activity beyond civil legal aid. There are more Access to Justice Commissions and increased attention to civil legal aid at the

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[81] *GAO-17-22, "FEDERAL STUDENT LOANS, Education Needs to Improve Its Income-Driven Repayment Plan Budget Estimates," United States Government Accountability Office Report to the Chairman, Committee on the Budget, U.S. Senate, Nov. 2016*

[82] Public Service Loan Forgiveness (PSLF) Program Data, *U.S. Department of Education,* 2019 (https://studentaid.ed.gov/sa/about/data-center/student/loan-forgiveness/pslf-data)

[83] "Proposals for Education--CBO's Estimate of the President's Fiscal Year 2018 Budget", *Congressional Budget Office,* 2017

[84] "Letter to Tim Kaine", *U.S. Department of Education, Office of the Under Secretary,* March 25, 2019

state level. The notion of a right to counsel in civil matters has gained renewed attention. Self-help efforts have expanded. New innovations for non-lawyers are evolving. Law schools are expanding their access to justice efforts and delivery research is increasing.

Yet, the basic civil legal aid system has not closed the "justice gap." Efforts to expand access through technology and self-help representation activities continued and have expanded, but the fundamental problem remains: there are not enough actual staff lawyers, paralegals, lay advocates, law students and private attorneys available to meet the huge needs of low-income persons for advice, brief service and full representation. With the Obama Administration came the possibility that there would be increased efforts to expand the civil legal aid system to address significantly more of the legal needs of low-income persons in the United States through increased federal funding and supportive reauthorization legislation and an effort to rebuild the legal aid infrastructure. This did not happen. However, there were new initiatives still ongoing that are moving the access to justice agenda forward.