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## Riding Circuit: Bringing the Law to Those Who Need It

Susan D. Zago

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# RIDING CIRCUIT: BRINGING THE LAW TO THOSE WHO NEED IT

*Susan Drisko Zago<sup>A</sup>*

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“There can be no equal justice where the kind of trial a man gets depends on the amount of money he has,” U.S. Supreme Court Justice Hugo Black, 1956.<sup>1</sup>

Equal justice under law is not merely a caption on the facade of the Supreme Court building, it is perhaps the most inspiring ideal of our society. It is one of the ends for which our entire legal system exists. . . it is fundamental that justice should be the same, in substance and availability, without regard to economic status.

U.S. Supreme Court Justice Lewis Powell, Jr., 1976.<sup>2</sup>

## INTRODUCTION

Gloria is a divorced single woman in her early sixties. She is facing retirement with a depleted savings account due to several health issues and is now the temporary primary caregiver of her twin five-year-old grandchildren. Her son has left for work out west and her daughter-in-law has just been jailed for non-payment of traffic tickets.<sup>3</sup> Gloria wants to apply for permanent custody of her grandchildren, but cannot access the online forms. The twins are experiencing learning delays and one of the twins has been having trouble sleeping. Gloria has taken advantage of her state bar association’s “Dial a Lawyer” program, but needs more than a short conversation with an attorney on the phone. She wants to hire an attorney but there are no working attorneys in her rural area of the state. She is an hourly employee at the local bank and cannot afford to take time off from work to drive fifty plus miles to the nearest attorney. She needs help to solve her legal problems within her community.<sup>4</sup>

Delivery of civil legal assistance to those who cannot afford it on the private market is not a simple problem for states to solve. Personal

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Noucas for his invaluable research assistance and to the entire UNH Law and Library staff for their support.

1. *Griffin v. Illinois*, 351 U.S. 12, 19 (1956).

2. MARY K. RYAN ET AL., BOS. BAR ASS’N, *GIDEON’S NEW TRUMPET: EXPANDING THE CIVIL RIGHT TO COUNSEL IN MASSACHUSETTS* (2008), [http://www.bostonbar.org/prs/nr\\_0809/GideonsNewTrumpet.pdf](http://www.bostonbar.org/prs/nr_0809/GideonsNewTrumpet.pdf).

3. See generally Matt Zapotosky, *Justice Department Warns Local Courts About Unlawful Fines and Fees*, WASH. POST: NAT’L SECURITY (Mar. 14, 2016), [https://www.washingtonpost.com/world/national-security/justice-department-warns-local-courts-about-unlawful-fines-and-fees/2016/03/13/c475df18-e939-11e5-a6f3-21ccdbc5f74e\\_story.html](https://www.washingtonpost.com/world/national-security/justice-department-warns-local-courts-about-unlawful-fines-and-fees/2016/03/13/c475df18-e939-11e5-a6f3-21ccdbc5f74e_story.html).

4. This fictional vignette is meant to represent a typical person in crisis and faced with unfamiliar circumstances requiring legal information, advice, and support. Unless Gloria qualifies for legal aid or pro bono assistance she must navigate the court system largely on her own.

and state budgets are falling while the need for legal access is rising.<sup>5</sup> Income Guidelines<sup>6</sup> published by the Legal Services Corporation instruct that client income eligibility standards must be 125% of the current poverty level.<sup>7</sup> This roughly equals a yearly income of \$30,750 for a family of four.<sup>8</sup>

Daily expenses such as rent, groceries, child care, and transportation consume a large portion of a family's income.<sup>9</sup> The cost of missing work to see an attorney would throw a budget into a tailspin, especially when considering the actual cost of the attorney's services.<sup>10</sup> "Official poverty thresholds such as the federal poverty line and Supplemental Poverty Measure are incomplete indicators of what it takes for families to live free of economic hardship."<sup>11</sup> The Economic Policy Institutes' Family Budget Calculator provides a framework with which to measure the income families need to attain a secure, yet modest living standard.<sup>12</sup> The institute estimates community-specific costs for housing, food, child care, transportation, health care, other necessities, and taxes for a variety of family sizes.<sup>13</sup> I used this tool to measure the monthly and annual income needed to fund the necessities of a family of four in Concord, New Hampshire.<sup>14</sup> The monthly budget needed for a family of four to cover these costs is \$5,661 and an annual income of \$67,932.<sup>15</sup> "New Hampshire workers earned, on average, \$24.03 per hour in June 2016, according to the latest Occupational Employment Statistics estimates."<sup>16</sup> This amounts to an annual income of \$37,136; a

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5. Rita Price, *Legal-aid Services Limited as Need Rises, Advocates Say*, COLUMBUS DISPATCH (Sept. 10, 2015, 1:24 AM), <http://www.dispatch.com/content/stories/local/2015/09/09/social-justice-discussion.html>.

6. Income Level for Individuals Eligible for Assistance, 81 Fed. Reg. 6183, 6183 (Feb. 5, 2016).

7. 45 C.F.R. § 1611.3(c)(1) (2015).

8. Income Level for Individuals Eligible for Assistance, 45 C.F.R. § 1611.7 app. A (2017).

9. See Elise Gould et al., *What Families Need to Get By: EPI's 2015 Family Budget Calculator*, ECON. POL'Y INST. (Aug. 26, 2015), <http://www.epi.org/publication/what-families-need-to-get-by-epis-2015-family-budget-calculator/>.

10. See generally Michael Zuckerman, *Is There Such a Thing as an Affordable Lawyer?*, THE ATLANTIC (May 30, 2014), <http://www.theatlantic.com/business/archive/2014/05/is-there-such-a-thing-as-an-affordable-lawyer/371746/>.

11. Gould et al., *supra* note 9.

12. *Family Budget Calculator*, ECON. POL'Y INST., <http://www.epi.org/resources/budget/> (last visited Mar. 16, 2017).

13. *Id.*

14. Specifically, Concord, New Hampshire, zip code 03301.

15. *Family Budget Calculator*, *supra* note 12.

16. N.H. EMP'T SEC., ECON., & LABOR MKT. INFO. BUREAU, NEW HAMPSHIRE OCCUPATIONAL EMPLOYMENT & WAGES (2016), <https://www.nhes.nh.gov/elmi/products/documents/wages-intro.pdf>.

substantial difference from what is needed to support a family of four in New Hampshire, but exceeds the price cap of \$30,375 for free legal assistance.<sup>17</sup>

From 2007 to 2009, the United States experienced the most severe economic downturn since the Great Depression. Employment fell by 6.3% and it was estimated that “11 million jobs were needed to restore the unemployment rate to pre-recession levels. Today, that number stands at an improved, but still staggering, [seven] million jobs needed, according to estimates by both the Economic Policy Institute and the Brookings Institution.”<sup>18</sup> While some gains have occurred in job recovery, the economy is still slow to recover from “The Great Recession.”<sup>19</sup> The U.S. Census reports that in 2013, there were 45.3 million people in poverty.<sup>20</sup> For the third consecutive year, the number of people in poverty at the national level was not statistically different from the previous year’s estimate.<sup>21</sup> The newly poor’s changed circumstances are most certainly caused by financial instability due to unemployment, underemployment, and reductions in savings and income as referenced by the reduction in employment numbers from 2008 to 2013.<sup>22</sup> Many Americans are struggling to meet their basic needs, but they are facing another problem that exacerbates their situation:

As breadwinners lose their jobs, families are being thrown into poverty at an alarming rate. In 2008, 53.8 million Americans qualified for LSC-funded legal assistance, up from 49.7 million just two years before. The number of people falling below 125% of the federal poverty line can only be expected to increase further, as unemployment has risen since 2008.<sup>23</sup>

The later months of the Great Recession, and the years following it, saw increased budget cuts to legal services on both national and

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17. See *Income Level for Individuals Eligible for Assistance*, *supra* note 8.

18. Andrew Fieldhouse, *Five Years After the Great Recession, Our Economy Still Far from Recovery*, HUFFINGTON POST (June 6, 2014, 12:38 PM), [http://www.huffingtonpost.com/andrew-fieldhouse/five-years-after-the-grea\\_b\\_5530597.html](http://www.huffingtonpost.com/andrew-fieldhouse/five-years-after-the-grea_b_5530597.html).

19. *Id.*

20. CARMEN DENAVAS-WALT & BERNADETTE PROCTOR, U.S. CENSUS BUREAU, *INCOME AND POVERTY IN THE UNITED STATES: 2013 12* (2014), <https://www.census.gov/content/dam/Census/library/publications/2014/demo/p60-249.pdf>.

21. *Id.*

22. *Id.*

23. BRENNAN CTR. FOR JUSTICE, *CIVIL LEGAL SERVICES: LOW-INCOME CLIENTS HAVE NOWHERE TO TURN AMID THE ECONOMIC CRISIS 1* (2010), <https://www.brennancenter.org/sites/default/files/legacy/Justice/CLS/LSC-%20New%20Need%20Memo.pdf>. LSC is an abbreviation for Legal Services Corporation. *Id.*

states levels.<sup>24</sup> In addition, Interest on Lawyers Trust Accounts (IOLTA), a traditional funding mechanism for legal services organizations, is not seeing the income that they once enjoyed since interest rates have dropped.<sup>25</sup> Legal aid organizations cannot keep up with the demand for their services.<sup>26</sup> It has been estimated that there are millions of Americans who lack crucial legal services.<sup>27</sup> The statistics have been captured in the World Justice Project's *Rule of Law Index*<sup>28</sup> and various other studies.<sup>29</sup> The index has ranked "the United States at 65th for the accessibility and affordability of its civil justice[,] . . . tied with Botswana, Pakistan and Uzbekistan, not far behind Moldavia and Nigeria."<sup>30</sup>

In this article, I will first look at how various state Access to Justice Commissions in the United States are addressing self-represented litigants' ability to access and navigate the civil court system. I review various projects that attempt to make legal forms and processes more understandable to the public. I also discuss the role of law librarians, and how they bring a working understanding of the problems and missteps that self-represented litigants face first-hand. I argue for better inclusion of these information professionals in state commissions and in various outreach programs to improve the quality of the legal

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24. Neeta Pal, *Cut Off & Cut Out: Funding Shortfalls Force More Low-Income Families to Face Critical Legal Needs Alone*, BRENNAN CENTER FOR JUST. (May 19, 2011), <https://www.brennancenter.org/sites/default/files/legacy/New%20needs%20update%20FINAL%20as%20of%205-19-11.pdf>.

25. Legal Services funding is often done piecemeal. New York and seven other states do not provide stable funding for legal aid. Jonathan Lippmann, *Law Day 2010, Law in the 21st Century: Enduring Traditions, Emerging Challenges*, NYCOURTS.GOV (May 3, 2010), <https://www.nycourts.gov/whatsnew/pdf/Law%20Day%202010.pdf> [<http://www.nycourts.gov/whatsnew/archive.shtml#2010>].

26. See generally *Introduction: The Current Crisis in Legal Services*, LEGAL SERVS. CORP., <http://www.lsc.gov/introduction-current-crisis-legal-services> (last visited Jan. 21, 2017).

27. *Id.* (stating that "[A]lthough the United States has one of the best justice systems in the world, millions of Americans cannot access this system because they cannot afford to do so.>").

28. *Rule of Law Index*, WORLD JUST. PROJECT (2015), [https://worldjusticeproject.org/sites/default/files/documents/roli\\_2015\\_0.pdf](https://worldjusticeproject.org/sites/default/files/documents/roli_2015_0.pdf) (This document provides original, impartial information on how the rule of law is experienced in 102 countries).

29. See Roderick B. Matthews & Juan Carlos Botero, *Access to Justice in the United States*, 59 VA. L. 24 (2010); *Documenting the Justice Gap in America*, LEGAL SERVS. CORP. (2009), <https://www.americanbar.org/content/dam/aba/migrated/marketresearch/PublicDocuments/JusticeGaInAmerica2009.authcheckdam.pdf>. See also *Legal Needs and Civil Justice, A Survey of Americans*, AM. BAR ASS'N (1994), [http://www.wisbar.org/aboutus/membership/Documents/WisTAFApp\\_J\\_ABA\\_Legal\\_need\\_study.pdf](http://www.wisbar.org/aboutus/membership/Documents/WisTAFApp_J_ABA_Legal_need_study.pdf) [hereinafter *Civil Justice*].

30. Theresa Amato, *Put Lawyers Where They're Needed*, N.Y. TIMES (June 17, 2015), [https://www.nytimes.com/2015/06/17/opinion/put-lawyers-where-theyre-needed.html?\\_r=0](https://www.nytimes.com/2015/06/17/opinion/put-lawyers-where-theyre-needed.html?_r=0).

information provided to the public for better outcomes both in and outside of a courtroom.

Next, I will review some innovative models of providing access to justice in different jurisdictions that may meet one or more of the needs found in under-served populations. I will also discuss how a radical collaboration of diverse professionals can ride circuit to provide both preventive and just in time legal and social services to people in need.

## I. ACCESS TO JUSTICE AS A HUMAN RIGHT

The United Nations has recognized Access to Justice as a fundamental right [that is] in itself essential for the protection and promotion of all other civil, cultural, economic, political and social rights. Without effective and affordable access to justice, persons living in poverty are denied the opportunity to claim their rights or challenge crimes, abuses or human rights violations committed against them.<sup>31</sup>

Effective and affordable access to justice is essential to the rule of law and crucial to the success, security, and development of nascent governments.<sup>32</sup> The United States falls behind other countries' efforts in providing equal access to justice in civil disputes.<sup>33</sup> "For decades, bar studies have consistently estimated that more than four-fifths of the individual legal needs of the poor and a majority of the needs of middle-income Americans remain unmet."<sup>34</sup> A citizen's failure to learn about the law stems from systematic physical barriers, such as lack of affordable public transportation, that prevent access to employment, school, and medical care.<sup>35</sup> While more education in civics or government workings will help current students, we must educate the

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31. U.N. Secretary-General, *Extreme Poverty and Human Rights*, 2, U.N. Doc. A/67/278 (Aug. 9, 2012), [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/67/278](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/67/278).

32. *E.g. Access to Justice and Rule of Law*, UNITED NATIONS DEV. PROGRAMME, [http://www.undp.org/content/undp/en/home/ourwork/democraticgovernance/focus\\_areas/focus\\_justice\\_law.html](http://www.undp.org/content/undp/en/home/ourwork/democraticgovernance/focus_areas/focus_justice_law.html) (last visited Sept. 24, 2016).

33. *See Amato, supra* note 30.

34. Deborah L. Rhode, *Access to Justice: An Agenda for Legal Education and Research*, 62 J. LEGAL EDUC. 531, 531 (2013).

35. MADELAINE CRIDEN, NAT'L ASS'N FOR STATE CMTY. SERVS. PROGRAMS, *THE STRANDED POOR: RECOGNIZING THE IMPORTANCE OF PUBLIC TRANSPORTATION FOR LOW INCOME HOUSEHOLDS 2* (2008), [http://www.nascsp.org/data/files/csbg\\_publications/issue\\_briefs/issuebrief-benefitsofruralpublictransportation.pdf](http://www.nascsp.org/data/files/csbg_publications/issue_briefs/issuebrief-benefitsofruralpublictransportation.pdf). The majority of those living in poverty are in rural areas or in inner cities. Driving a car is crucial to keeping a job in rural areas, as public transportation is limited and often non-existent which limits people's options. *Id.*

general public differently for them to successfully navigate complex legal processes and procedures.<sup>36</sup>

### A. *Civil Right to Counsel – A Civil Gideon*

Access to Justice is a multi-faceted concept which affects many groups and which often includes *pro se* litigants, or self-represented litigants, requiring competent assistance in navigating the complex pathways of statutes, cases, and regulations and how they work within the criminal and civil court systems. *Gideon v. Wainwright* held that the states have a responsibility under the Fourteenth Amendment to the United States Constitution to provide legal counsel to represent criminal defendants who cannot pay an attorney.<sup>37</sup> In administrative proceedings, and state and federal civil courts, there is no requirement for an attorney to be provided to litigants who cannot pay.<sup>38</sup> Since the late 1990s there has been a cry for a civil right to counsel called “Civil Gideon.”<sup>39</sup> Without the right to free legal counsel in the civil courts, indigent litigants must navigate the legal system without legal representation even in cases where basic human needs are at stake.<sup>40</sup> Civil Gideon is often heralded as the solution because it ensures that all citizens, despite the weight of their pocketbooks, can obtain a fair and equitable way to solve their legal problems. The 2011 Supreme Court decision in *Turner v. Rogers* crushed the hope for Civil Gideon.<sup>41</sup> The court held that “the Fourteenth Amendment’s Due Process Clause does not automatically require the State to provide counsel at civil contempt proceedings to an indigent non-custodial parent who is subject to a child support order, even if that individual faces incarceration.”<sup>42</sup>

### B. *Barriers to Access to Justice*

There are many barriers to people who find themselves embroiled in the civil legal system. One barrier involves geographical

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36. Mark Hansen, *Flunking Civics: Why America’s Kids Know So Little*, ABA J. (May 2011), <http://www.abajournal.com/magazine/article/civics>.

37. *Gideon v. Wainwright*, 372 U.S. 335, 342, 343–344 (1963).

38. John Pollock, *It’s All About Justice: Gideon and the Right to Counsel in Civil Cases*, in 39 HUM. RTS. MAG.: GIDEON FIFTY YEARS LATER (4th ed., 2013), [http://www.americanbar.org/publications/human\\_rights\\_magazine\\_home/2013\\_vol\\_39/vol\\_30\\_no\\_4\\_gideon/its\\_all\\_about\\_justice.html](http://www.americanbar.org/publications/human_rights_magazine_home/2013_vol_39/vol_30_no_4_gideon/its_all_about_justice.html).

39. *Id.*

40. RYAN ET AL., *supra* note 2.

41. *See Turner v. Rogers*, 564 U.S. 431 (2011).

42. *Id.* at 432.



location. There are studies investigating why there are too many law school graduates for the number of open legal positions in big firms but there are not enough lawyers in small towns and rural areas.<sup>43</sup> Additionally, public interest lawyers are too few in urban areas because of cuts to legal services and other non-profit legal service agencies. One consideration as to why there is a dearth of attorneys in under-served areas is that lawyers cannot make a living that will allow them to pay their educational debts, form a practice, and pay for insurance and office space.<sup>44</sup> In recent years, law schools and state bar associations have helped to make starting a practice in under-served areas easier with residencies and incubators.<sup>45</sup> Law School Practice Incubators are one way for law schools to connect their recent graduates with under-served areas.<sup>46</sup> Urban law schools provide recent alumni with office space, group support and mentors to help these newly founded firms succeed and provide representation to clients of modest means.<sup>47</sup> These innovative ways marry the need to provide real-world training and support for new alumni with helping those in need, but it is too early to predict their impact.

The once common site of a main street attorney is now a rarity in more rural areas or small towns. Often clients need to travel a significant distance to consult with an attorney. As a result, there is no community attorney to guide or advise community members. The relationship between citizens and lawyers falters due to a lack of familiarity and the public's perception that lawyers are inaccessible, expensive, and untrustworthy.<sup>48</sup> Revitalizing the main street lawyer may repair these relationships. By encouraging new lawyers to set up practice in smaller towns more people can redefine their perception of

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43. Emily Spieler, *The Paradox of Access to Civil Justice: The 'Glut' of New Lawyers and the Persistence of Unmet Need*, 44 U. TOLEDO L. REV. 365, 371 (2013).

44. *Id.* at 381-82.

45. See generally *Lawyer Incubator Profiles*, AM. BAR ASS'N, [https://www.americanbar.org/groups/delivery\\_legal\\_services/initiatives\\_awards/program\\_main/program\\_profiles.html](https://www.americanbar.org/groups/delivery_legal_services/initiatives_awards/program_main/program_profiles.html) (last visited Apr. 28, 2016).

46. See Randy Trick, *Legal Incubators – Helping to Hatch Solo Practices*, LAWYERIST.COM (Oct. 10, 2013), <https://lawyerist.com/70609/legal-incubators-helping-hatch-solo-practices/>. See also *Pitt Legal Services Incubator*, U. OF PITT., <http://law.pitt.edu/incubator> (last visited Jan. 24, 2017).

47. See *Id.*

48. See *Public Esteem for Military Still High*, *Pew Forum on Religion & Public Life*, PEW RES. CTR., (July 11, 2013), <http://www.pewforum.org/2013/07/11/public-esteem-for-military-still-high/>. See also *Public Perception of Lawyers: Consumer Research Findings*, AM. BAR ASS'N SEC. OF LITIG. (2002), [http://www.americanbar.org/content/dam/aba/migrated/marketresearch/PublicDocuments/public\\_perception\\_of\\_lawyers\\_2002.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/migrated/marketresearch/PublicDocuments/public_perception_of_lawyers_2002.authcheckdam.pdf).

the value of attorneys and more attorneys can be geographically situated to provide much needed legal representation.<sup>49</sup>

Most lawyers work in heavy populated areas where there are more clients who can pay for services. Metropolitan areas provide more opportunities to build a client base where as rural areas do not have large businesses and industries. Rural areas are seeing legal services shrink due to state and federal budget cuts.<sup>50</sup> The dearth of attorneys in rural areas means that pro bono services are increasingly relied upon to provide legal representation but pro bono agencies struggle to recruit volunteers to travel to clients in rural areas.<sup>51</sup> Bar associations and Access to Justice Commissions are incentivizing young attorneys to practice in rural areas by partnering with law school clinics.<sup>52</sup>

Legal services organizations are funded with a patchwork of federal grants and private philanthropic funds. This funding comes with strings in the form of income ceilings and subject area limitations.<sup>53</sup> "LSC is a grant-making organization, distributing more than [ninety percent] of its federal appropriation to eligible nonprofits delivering civil legal aid."<sup>54</sup> Legal Services Corporation has statutorily based restrictions on those organizations for which it provides grants. Organizations receiving Legal Services Corporation funds are prevented from providing representation to prisoners or undocumented immigrants.<sup>55</sup> These organizations are also prohibited from using those funds on projects involving school desegregation, labor boycotts, abortion, political redistricting, military service, welfare reform, undocumented aliens, prisoners, and public housing tenants facing eviction because of alleged drug activity, or bringing class actions or seek attorneys' fees otherwise provide for by statute.<sup>56</sup> These restric-

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49. See *Id.* See REBECCA L. SANDEFUR & AARON C. SMYTH, ACCESS ACROSS AMERICA: FIRST REPORT OF THE CIVIL JUSTICE INFRASTRUCTURE MAPPING PROJECT, (2011), [http://www.americanbarfoundation.org/uploads/cms/documents/access\\_across\\_america\\_first\\_report\\_of\\_the\\_civil\\_justice\\_infrastructure\\_mapping\\_project.pdf](http://www.americanbarfoundation.org/uploads/cms/documents/access_across_america_first_report_of_the_civil_justice_infrastructure_mapping_project.pdf).

50. Robin Runge, *Addressing the Access to Justice Crisis in Rural America*, in 40 HUM. RTS. MAG.: THE MANY FACES OF POVERTY IN AM. (3rd ed., 2014), [http://www.americanbar.org/publications/human\\_rights\\_magazine\\_home/2014\\_vol\\_40/vol\\_40\\_no\\_3\\_poverty/access\\_justice\\_rural\\_america.html](http://www.americanbar.org/publications/human_rights_magazine_home/2014_vol_40/vol_40_no_3_poverty/access_justice_rural_america.html).

51. See Brian L. Lynch, *Access to Legal Services in Rural Areas of the Northern Rockies: A Recommendation for Town Legal Centers*, 90 IND. L.J. 1683 (2015).

52. Runge, *supra* note 50.

53. *Laws, Regulations and Guidance*, LEGAL SERVICES CORP., <https://www.lsc.gov/about-lsc/laws-regulations-guidance> (last visited Jan. 27, 2017).

54. *FY 2016 Budget Request*, LEGAL SERVICES CORP. (2016), <https://www.lsc.gov/media-center/publications/fy-2016-budget-request>.

55. See DEBORAH L. RHODE, ACCESS TO JUSTICE 13 (2004).

56. *Id.* at 105.

tions force legal aid providers to make difficult choices on what cases they can take because the purse string-holders often are powerful controllers. In addition, an income ceiling calculation also restricts access to those most in need. In some instances, this ceiling is set too low and closes the door on many working poor and those with modest means. When faced with paying rent, putting food on the table, paying for medical expenses, or hiring an attorney, most people decide that an attorney's services are not essential and either represent themselves or choose to ignore the situation rather than pursuing a legal remedy.

### C. *The Rise of the Self-Represented Litigant*

There has been an influx of self-represented litigants in federal and state courts throughout the country.<sup>57</sup> This is not just limited to states with large urban populations, but occurs in urban, suburban and rural areas.<sup>58</sup> Self-represented litigants in the civil system can be tenants fighting an eviction, a spouse seeking a restraining order or seeking custody of a minor child, a prisoner who is filing for divorce, or any other number of legal issues. Because of a lack of uniform definitions among the 50 states, there has been a lack of solid numbers for self-represented litigants nationwide. The Court Statistics Project, a project of the National Center for State Courts, has in 2013, developed counting rules and definitions for states when gathering uniform statistics on self-represented litigants.<sup>59</sup> Several states have reported an increase in self-represented litigants and while they span demographic lines, often they are financially insecure and struggling with additional insecurities of housing, food, income, and family.<sup>60</sup> With these insecurities there is a greater need for Supplemental Nutrition Assistance Program (SNAP) benefits, help with foreclosure and eviction prevention, and additional reliance on other social welfare programs and unemployment benefits.<sup>61</sup>

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57. Richard Zorza, *Access to Justice: Economic Crisis Challenges, Impacts and Responses*, in *FUTURE TRENDS IN ST. CTS.* 9, 9 (Carol R. Flango et al. eds., 2009), [http://www.ndcrc.org/sites/default/files/future\\_trends\\_2009.pdf](http://www.ndcrc.org/sites/default/files/future_trends_2009.pdf).

58. *Id.*

59. RICHARD Y. SCHAUFFLER ET AL., STATE JUSTICE INST., *DEVELOPING STANDARDIZED DEFINITIONS AND COUNTING RULES FOR CASES WITH SELF-REPRESENTED LITIGANTS* 16 (2013), <http://www.courtstatistics.org/~media/Microsites/Files/CSP/Other%20Pages/SRL%20Project%20%20Final%20Report%20121913.ashx>.

60. *Id.* at 3.

61. See generally Johnathan Lippman, *New York's Template to Address the Crisis in Civil Legal Services*, 7 *HARV. L. & POL'Y REV.* 13 (2012).

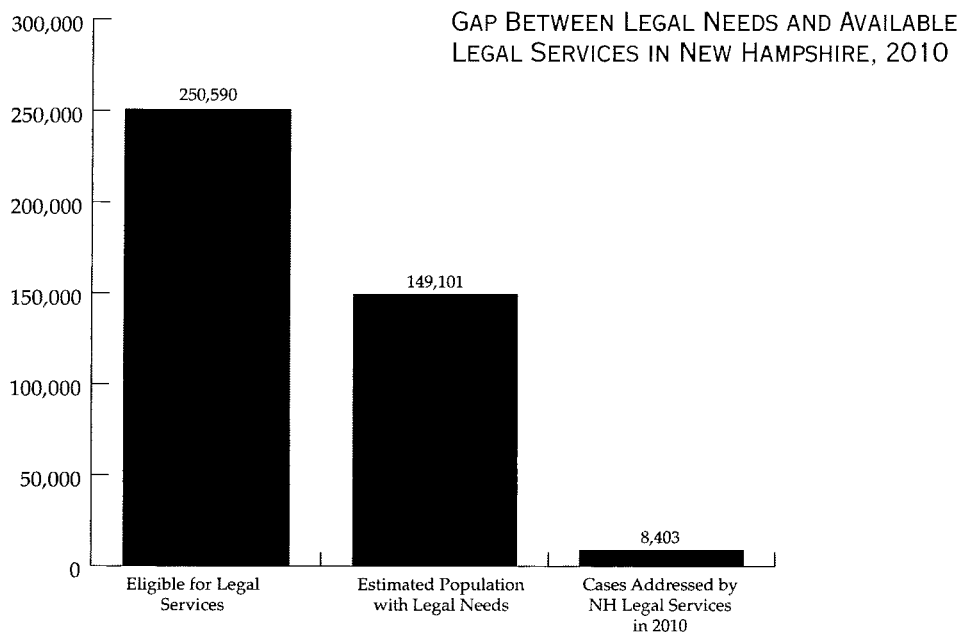
There is at least one self-represented litigant appearing in eighty-five percent of New Hampshire district court civil cases and forty-eight percent appearing in superior court civil cases.<sup>62</sup> There is a demand in New Hampshire for legal assistance and support but legal aid programs can only help a small percentage of residents. “Of the 250,590 people eligible for legal aid in New Hampshire, a very conservative estimate puts 59.5% as having legal needs. By this estimate, in 2010 there were 149,101 legal aid eligible New Hampshire residents with legal needs, yet existing legal services were able to address only 8,403 cases.”<sup>63</sup> “From 2005 to 2010, [New Hampshire Legal Assistance] saw a [forty-three] percent increase in the total number of cases they had to turn away due to lack of resources from 317 cases in 2005, to 453 cases in 2010.”<sup>64</sup>

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62. Nina Ingwer Van Wormer, *Help at your Fingertips: A Twenty-First Century Response to the Pro Se Phenomenon*, 60 VAND. L. REV. 989 (2007). Estimates of self-represented litigants in NH courts in 2011, between sixty-one to seventy percent of all litigants they encountered were self-represented, with the next common estimate of seventy-one to eighty percent (median level is sixty-one to seventy percent across the court system); JOSEPH N. LAPLANTE ET AL., N.H. SUPREME COURT ACCESS TO JUSTICE COMM’N, THE JUSTICE GAP: A STUDY OF THE LEGAL NEEDS OF NEW HAMPSHIRE’S LOW-INCOME RESIDENTS 17 (2013), [https://www.courts.state.nh.us/access/2013\\_report/LEGAL\\_NEEDS\\_STUDY.pdf](https://www.courts.state.nh.us/access/2013_report/LEGAL_NEEDS_STUDY.pdf).

63. JOSEPH N. LAPLANTE ET AL., N.H. SUPREME COURT ACCESS TO JUSTICE COMM’N, THE JUSTICE GAP: A STUDY OF THE LEGAL NEEDS OF NEW HAMPSHIRE’S LOW-INCOME RESIDENTS 8 (2013), [http://www.courts.state.nh.us/access/2013\\_report/LEGAL\\_NEEDS\\_STUDY.pdf](http://www.courts.state.nh.us/access/2013_report/LEGAL_NEEDS_STUDY.pdf).

64. *Id.* at 36.



**Figure 1: Estimated Legal Needs (Author Calculation)**

\*Calculation based on the following sources: (1) "Eligible for Legal Services" is calculated based on the population at or below 200 percent of the Federal Poverty Line (2010 U.S. Census); (2) "Estimated Population with Legal Needs" based on 59.5% of that population having at least one legal need based on averaging findings from 14 legal needs studies;<sup>65</sup> (3) "Cases Addressed by NH Legal Services in 2010" is the combined total of all cases addressed by NH Pro Bono, LARC, and NHLA in 2010.

Figure 1: Estimated Legal Needs – from NH Legal Needs study – page 7.<sup>65</sup>

"Between 2000 and 2011 New Hampshire Legal Assistance turned away at least 2,363 cases due to lack of resources."<sup>66</sup> This is largely due to reductions in state and federal fiscal support for legal aid.<sup>67</sup> There has been much literature about the death of lawyers due to the off-shoring of legal services but there is clearly a need for legal services in the United States,<sup>68</sup> particularly in rural and remote areas.<sup>69</sup> There are many factors contributing to these barriers for women, persons with disabilities, recent immigrants, rural residents, seniors, and people with mental illness. Some of these barriers include: lack of capacity in legal aid organizations to satisfy the demand for legal ser-

65. LAPLANTE ET AL., *supra* note 63, at 7.

66. *Id.* at 36.

67. *Id.*

68. Spieler, *supra* note 43, at 367.

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

vices, lack of affordable legal services for those of modest means, lack of reliable transportation, failure to recognize that a legal remedy exists due to ignorance of the legal system and legal rights, a distrust of lawyers and the legal system, and fear of the repercussions of addressing the problem.<sup>70</sup> Many self-represented litigants have trouble accessing available services because they do not qualify financially, their problem does not fit in a funded program, or legal services cannot take their case due to conflict or other issues.<sup>71</sup> This requires them to represent themselves in court. In simple cases, this may not be a hardship but when things get complex or messy they must struggle with an unfamiliar and often confusing system despite being out of their depth with their basic human needs at risk. They risk losing social security benefits, custody of a child, employment, housing, or transportation.<sup>72</sup>

Many state courts are seeking to improve legal assistance for self-represented litigants. Courts are becoming overwhelmed by inexperienced and unschooled self-represented litigants and, in turn, the self-represented are overwhelmed by the court process, rules, time and energy required to learn the law and advocate for themselves. “No politically sober judge, however, anguished by injustice unfolding before her eyes, could welcome the battles involved in trying to establish some broadly enforceable right to counsel.”<sup>73</sup> Given legislatures’ repeated refusal to fund legal assistance at anything close to realistic levels, courts are understandably wary about stepping into the breach.<sup>74</sup> The legal community is seeking solutions using a variety of measures including state Access to Justice Commissions.

## II. ACCESS TO JUSTICE COMMISSIONS

Over the last decade, there has been an increased push to ensure court systems are more accessible to the public. According to the ABA, the first Access to Justice Commission was launched in 1994 in

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70. LAPLANTE ET AL., *supra* note 63, at 10-14.

71. Alan W. Houseman, *Restrictions by Funders and the Ethical Practice of Law*, 67 *FORDHAM L. REV.* 2187, 2189-90 (1999) (details as to Legal Services Corporation restrictions). See also REBEKAH DILLER & EMILY SAVNER, BRENNAN CTR. FOR JUSTICE, *A CALL TO END FEDERAL RESTRICTIONS ON LEGAL AID FOR THE POOR 5* (2009), <http://www.brennancenter.org/sites/default/files/legacy/Justice/LSCRestrictionsWhitePaper.pdf>.

72. HELAINE M. BARNETT ET AL., *LEGAL SERVS. CORP., DOCUMENTING THE JUSTICE GAP IN AMERICA 7* (2005), [http://www.americanbar.org/content/dam/aba/migrated/media/issues/civiljustice/civiljustice\\_lscreport\\_authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/migrated/media/issues/civiljustice/civiljustice_lscreport_authcheckdam.pdf).

73. Geoffrey C. Hazard, Jr., *After Legal Aid is Abolished*, 2 *J. INST. STUDY LEGAL ETHICS* 375, 380 (1999).

74. See *id.*

Washington State.<sup>75</sup> By the year 2000, there were three state Commissions and in 2014, that number grew more than ten-fold to thirty-eight Commissions.<sup>76</sup> Access to Justice Commissions develop and implement solutions toward ensuring that people of limited means have meaningful access to civil justice.<sup>77</sup> Commissions promote pro bono, increased legal aid funding, and resources for self-represented litigants, among other initiatives.<sup>78</sup>

Often, the primary focus of Access to Justice Commissions is to improve access to justice for the impoverished currently embroiled in the court system. While many residents are living in poverty, there are other self-represented litigants who are of modest means that do not qualify for services due to the following reasons: income, immigration status, lack of knowledge of the services offered or are unable to access them due to lack of transportation. Others groups also face barriers to legal services such as: returning veterans, homeless populations, those with mental illness or addiction, those reentering the community after incarceration, and the disabled.

Access to justice efforts must address the lack of civil legal assistance to a diverse segment of the population who are presently embroiled in the court system and eligible for aid. It also must devise means of providing adequate aid to those outside the ability of legal aid to help. Those who are looking to represent themselves find themselves facing problems ranging from being preyed upon by unethical lenders, unfeeling landlords, facing domestic violence, being denied veteran's benefits, or are saving money by representing themselves. Often times when they get to court, the other side is represented, and the scales of power are unequal. Those in the legal community are seeking ways to provide a more equal footing for all litigants. In some instances, this means active representation, but the numbers are too great to provide free legal service to all in need. A proactive approach will prevent a simple problem from growing out of control and reaching the courthouse.

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75. *Access to Justice Commissions*, AM. B. ASS'N, [https://www.americanbar.org/groups/legal\\_aid\\_indigent\\_defendants/initiatives/resource\\_center\\_for\\_access\\_to\\_justice/atj-commissions.html](https://www.americanbar.org/groups/legal_aid_indigent_defendants/initiatives/resource_center_for_access_to_justice/atj-commissions.html) (last visited Oct. 6, 2017).

76. *Directory and Structure*, AM. BAR ASS'N, [http://www.americanbar.org/groups/legal\\_aid\\_indigent\\_defendants/initiatives/resource\\_center\\_for\\_access\\_to\\_justice/atj-commissions/commission-directory.html](http://www.americanbar.org/groups/legal_aid_indigent_defendants/initiatives/resource_center_for_access_to_justice/atj-commissions/commission-directory.html) (last visited Oct. 6, 2017).

77. *See* Resource Center for Access to Justice Commissions, *Definition of Access to Justice Commissions*, AM. BAR ASS'N (July 2011), [http://www.americanbar.org/content/dam/aba/administrative/legal\\_aid\\_indigent\\_defendants/ls\\_sclaid\\_atj\\_definition\\_of\\_a\\_commission.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls_sclaid_atj_definition_of_a_commission.authcheckdam.pdf).

78. *Id.*

The most effective way to help all citizens is to provide education on the rule of law as a societal standard so that any misstep of the law due to misinformation does not cause unnecessary entanglement and that those who find themselves in the court systems can find representation, either wholly or in a limited capacity, or may be able to get support in navigating through the court systems. Recently, the idea of training and regulating non-lawyers to bridge the justice gap in certain practice areas to provide legal information and guidance in discrete areas and, in some instances representing clients, has been gaining traction.<sup>79</sup> Arguments are forming to loosen the stranglehold on non-lawyers engaging in full legal consultation, providing advice and, in some cases, representing clients.<sup>80</sup> New York's Legal Navigators provide an excellent test case from which other states can learn and develop best practices for their own states.

There is more to self-represented litigants than the case they are presenting before a judge. We must view self-represented litigants as individuals rather than as docket numbers. We need to untangle the web of circumstances and decisions that lead them to the courthouse to be able to target the root cause of the influx of self-represented litigants. Our current system of dealing with litigants as they seek help is overwhelming our legal aid organizations. While civil legal aid lawyers<sup>81</sup> and staff can provide some support to self-represented litigants, they are hampered by drastically reduced budgets, limited staff, financial ceilings and practice area limitations, especially if they receive federal money or have other restricted funds.<sup>82</sup> Providing legal aid to

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79. Fern Fisher, *Moving Toward a More Perfect World: Achieving Equal Access to Justice Through a New Definition of Judicial Activism*, 17 CUNY L. Rev. 285, 290 (2015) (describing Chief Judge Lippman's Proposal to use trained non-lawyers called court "Navigators" to assist unrepresented litigants in housing court). See also JOHNATHAN LIPPMAN, THE STATE OF THE JUDICIARY 2014: VISION AND ACTION IN OUR MODERN COURTS 7-9 (2014), <https://www.nycourts.gov/ctapps/soj2014.pdf>. A similar project for senior and the homebound is being developed. This project will be a collaboration between Albany Law School and the SUNY-Albany School of Social Welfare and makes use of existing professionals who visit the homebound.

80. See John M. Greacen, "No Legal Advice from Court Personnel"—What Does That Mean? 34 JUDGES J. 10 (1995); Richard Zorza & David Udell, *New Roles for Non-lawyers to Increase Access to Justice*, 41 FORDHAM URB. L. J. 1259 (2014); Allan G. Rogers & Ernest Winsor, *Non-lawyer Representation in Court and Agency Hearings of Litigants Who Cannot Obtain Lawyers*, 93 Mass L. Rev. 257, 259-60 (2010).

81. New Hampshire legal aid organizations include four main programs: Lawyer Advice and Referral Center (LARC), Disability Rights Center, NH Legal Aid (NHLA), Pro Bono Program of the New Hampshire Bar Association (civil cases), DOVE Project. *Free Legal Services*, N.H. B. ASS'N, <https://www.nhbar.org/for-the-public/free-legal-services.asp> (last visited Oct. 6, 2017).

82. *Id.*; *The Unmet Need for Legal Aid*, LEGAL SERVS. CORP. <http://www.LSC.gov/what-legal-aid/unmet-need-legal-aid> (LAST VISITED OCT. 6, 2017) ("[Fifty percent] of all those who



those who need it will require more “boots on the ground” at an earlier stage where educational programs, legal services, and other social services can reach families and individuals before there is a crisis. Adapting our service model to provide proactive services, leveraging our resources, and treating individuals holistically can provide a better result and be more fiscally responsible.

### III. EXISTING STATE ACCESS TO JUSTICE COMMISSION PROGRAMS

Because there is no requirement in the U.S. Constitution for providing legal assistance for civil matters, there is no systematic federal solution for this access to justice gap.<sup>83</sup> What has resulted is a patchwork of solutions to help self-represented litigants through the justice system. Over the past decade, the American Bar Association and various states have been eager to study and address the justice gap by forming commissions, committees, or ad hoc groups to study, address, and work with the legal community to “expand access to civil justice at all levels for low-income and disadvantaged people in the state (or equivalent jurisdiction) by assessing their civil legal needs, developing strategies to meet them, and evaluating progress. Its charge may also include expanding access for moderate-income people.”<sup>84</sup> Many Access to Justice Commissions fall under the umbrella of the state’s highest court and include leaders from the state’s bar and other partners in the legal arena. The mission is to identify and overcome barriers to civil justice such as the inability to afford counsel as well as other language, cultural, age, or disability barriers. They study how current court-based programs are working and seek to develop other ways to level the legal playing field in the courtroom.

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sought legal assistance from Legal Services Corporation grantees were turned away because of the lack of adequate resources. That means for every client served by Legal Services Corporation programs, another person who seeks help is turned away.”).

83. Magdalena Sepulveda Carmona (Special Rapporteur on extreme poverty and human rights), *Rep. of the Special Rapporteur on Extreme Poverty and Human Rights*, U.N. Doc. A/HRC/23/36 (Mar. 11, 2013), <http://www.un.org/esa/socdev/egms/docs/2013/EmpowermentPolicies/Report%20of%20the%20Special%20Rapporteur%20on%20extreme%20poverty%20and%20human%20rights.pdf>.

84. ABA Resource Center for Access to Justice Commissions, *Definition of Access to Justice Commissions*, AM. BAR ASS’N (July 2011), [https://www.americanbar.org/content/dam/aba/administrative/legal\\_aid\\_indigent\\_defendants/ls\\_sclaid\\_atj\\_definition\\_of\\_a\\_commission.authcheckdam.pdf](https://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls_sclaid_atj_definition_of_a_commission.authcheckdam.pdf).

The ABA has collected a great deal of information on the state Access to Justice Commissions<sup>85</sup> and some of the projects that they are undertaking.<sup>86</sup> The following is a discussion of common projects Access to Justice Commissions prioritizes to improve court communications and support of self-represented litigants.

### A. *Providing Clear Legal Forms and Guides*

Courts inundated by the influx of self-represented litigants are trying to make their services more user-friendly by using technology more effectively, simplifying work flows, and rewriting printed forms to eliminate jargon to be able to be understood by the general public. Maryland has been a leader in revising forms to be more understandable to self-represented litigants and, in 2012, has published a wonderful guide entitled “Writing for Self-Represented Litigants: a Guide for Maryland’s Courts and Civil Legal Providers.”<sup>87</sup> It provides guidance, criteria, tips, and best practices for court personnel and others who are trying to convert existing forms to more readable and approachable forms for self-represented litigants. “Writing for Self-Represented Litigants” provides best practices to reduce legalese and advocates that forms be written in simple language understandable by persons with a third-grade education.<sup>88</sup> Court forms and instructions should also be available in many different languages to mirror state demographics.

Other states have embraced other ways of reaching the public including an increasingly wired public by producing interactive, self-guided forms that are built on a flowchart and respond to the answers given by the litigant. Michigan and several other states provide their forms along with document assembly software, similar to Turbo Tax, which leads the user through a set of questions and collects the information within the software program and reassembles it in the appropriate places on the correct set of forms.<sup>89</sup> Some states are moving beyond “pdf” forms to using interactive, self-guided forms and

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85. *Resource Center for Access to Justice Initiatives*, AM. BAR ASS’N, [http://www.americanbar.org/groups/legal\\_aid\\_indigent\\_defendants/initiatives/resource\\_center\\_for\\_access\\_to\\_justice.html](http://www.americanbar.org/groups/legal_aid_indigent_defendants/initiatives/resource_center_for_access_to_justice.html) (last visited Sept. 22, 2016).

86. *Id.*

87. *See* MD. ACCESS TO JUSTICE COMM’N, *WRITING FOR SELF-REPRESENTED LITIGANTS* (2012), <http://mdcourts.gov/mdatjc/pdfs/writingforsrls.pdf>.

88. JOHN M. GREACEN, *RESOURCES TO ASSIST SELF-REPRESENTED LITIGANTS: A FIFTY STATE REVIEW OF THE “STATE OF THE ART”* 22-23 (2011), <http://www.msbf.org/selfhelp/GreacenReportNationalEdition.pdf>.

89. *Id.* at 22.

guided interview software to help self-represented litigants.<sup>90</sup> LawHelp Interactive, a guided interview software program with forms, was created by nonprofits; it is free to use, but there are other commercial software programs, such as TurboCourt, that require a user fee.<sup>91</sup> The courts that implement guided interview software packages with forms may initially choose a relatively straightforward legal area such as: uncontested divorce without issues of custody, guardianship, small claims, or statute of limitations.<sup>92</sup> In a non-contested divorce, a well-crafted, simply written form can provide the necessary information. In other, more complex areas of the law, a simple form or guided interview may not provide enough assistance. Some states are looking toward video technology for a solution and others are looking to enhance technology with some in person assistance.

### B. *Personal Intervention – Court Based Self-Help Centers*

Expert guidance can often make a world of difference to self-represented litigants and can increasingly be found in self-help centers. There are two main types of self-help centers: court based self-help centers/court service centers, and law library based self-help centers. They both introduce the assistance of a trained person to assist the self-represented litigant but, depending on their qualifications, are limited to providing legal information, not legal advice.

A court based self-help center, or a court service center, functions as a neutral place in or near the courthouse where unrepresented litigants can obtain free information about court procedures and the law from court staff.<sup>93</sup> Through one-on-one consultations, referrals to lawyers, document preparation assistance, and other services, these centers can dramatically improve the court experience of self-repre-

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90. Claudia Johnson, *Document Assembly: An Essential Building Block for the Access to Justice Ecosystem*, SELF-REPRESENTED LITIG. NETWORK (2016), <http://www.srln.org/node/848/document-assembly-essential-building-block-access-justice-ecosystem-news-2016>. A project of ProBono.net, “LawHelp Interactive (LHI) is a national online document assembly platform that allows people representing themselves to prepare their own legal documents and pleadings online for free.” *Id.* See also National Center for State Courts, *SRL Interactive Court Forms by State*, SELF-REPRESENTED LITIGATION NETWORK (2016), <http://www.srln.org/node/850>.

91. *Frequently Asked Questions*, TURBOCOURT, <https://turbocourt.com/support.jsp#> (last visited Feb. 13, 2017). The fee for this service is six dollars. *Id.*

92. FERN A. FISHER & ROCHELLE KLEMPNER, N.Y. STATE COURTS ACCESS TO JUSTICE PROGRAMS, BEST PRACTICES GUIDE 1 (2013), [http://www.nycourts.gov/ip/nya2j/pdfs/BestPractices\\_courtsystemdocument\\_assemblyprograms.pdf](http://www.nycourts.gov/ip/nya2j/pdfs/BestPractices_courtsystemdocument_assemblyprograms.pdf).

93. ROCHELLE KLEMPNER, N.Y. STATE COURTS ACCESS TO JUSTICE PROGRAM, BEST PRACTICES FOR COURT HELP CENTERS 1 (2015), [http://www.nycourts.gov/ip/nya2j/pdfs/NYSA2J\\_BestPracticesHelpCenter.pdf](http://www.nycourts.gov/ip/nya2j/pdfs/NYSA2J_BestPracticesHelpCenter.pdf).

sented litigants.<sup>94</sup> “There are tens of thousands of courts throughout the United States [however], the American Bar Association identified only 500 help centers in the country.”<sup>95</sup> Court service centers have been formed in several states (Massachusetts, New York, Connecticut are just a few examples) and have recently been started in a federal court to support those without an attorney.<sup>96</sup> The mission of these centers is to provide direct access to legal support for self-represented litigants with court forms and instruction on court process and procedures without legalese. The centers are often located in state courthouses within easy access of the public. They provide workspaces, computers with internet and word processing software, printers, and phones. They may have an interpreter on call, rely on telephonic translation services, and/or may have bilingual staff. The centers are staffed with people ready and willing to help. In some states, the staff of these centers is composed of court staff; they are not necessarily legally trained but have excellent customer service skills and get substantial training from the centers’ managers on legal process and procedure.<sup>97</sup> In other states, the managers are full-time staff while volunteer law students and lawyers staff the service desks. These volunteers are heavily supervised and instructed against giving legal advice.<sup>98</sup> In New York, “[a]s of 2015, there [were] twenty-six help centers in the New York state courts and an additional sixty-two public access law libraries.”<sup>99</sup> “In 2014, not including New York City Family Courts, the help centers assisted over 135,000 unrepresented litigants throughout New York.”<sup>100</sup> Each help center provides a safe place for self-represented litigants to find accessible legal and procedural information.<sup>101</sup>

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94. KLEMPNER, *supra* note 93.

95. *Id.*

96. *Pro Se Centers Help Even the Odds for Litigants Without Lawyers*, U.S. CTS (Aug. 20, 2015), <http://www.uscourts.gov/news/2015/08/20/pro-se-centers-help-even-odds-litigants-without-lawyers> (Court Service Center in the U. S. Dist. Ct., Brooklyn, NY called the Pro Se Legal Assistance Project).

97. Telephone Interview with Krista Hess, Manager, Court Serv. Ctrs. (Mar. 25, 2015). *See also Court Service Centers*, CONN. JUDICIAL BRANCH, <http://www.jud.ct.gov/csc/> (last visited Feb. 13, 2017).

98. Telephone Interview with Vanessa Dillen, Manager, Court Serv. Ctrs. (Mar. 24, 2014). *See also Court Service Centers*, MASS. CT. SYS., <http://www.mass.gov/courts/court-info/court-management/plan-initiatives/court-service-centers.html> (last visited Feb. 13, 2017).

99. KLEMPNER, *supra* note 93, at 5.

100. *Id.*

101. *Id.* at 9.

### C. Law Library Based Self-help Centers

Law Libraries have long been the hub for lawyers, judges, clerks, and the public seeking legal information. Librarians are natural providers of self-help services and libraries are the logical place for a self-help center. Several states have partnered with their public law library to leverage their skills and create law library based self-help centers.<sup>102</sup>

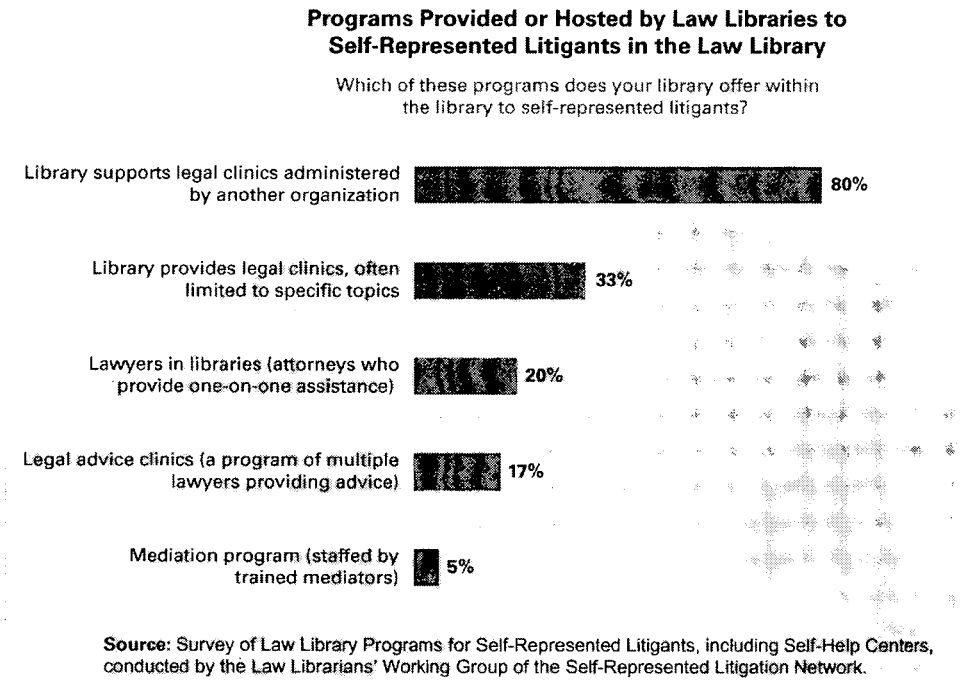


Figure 2 – Information from the Survey of Law Library Programs for Self-Represented Litigants<sup>103</sup>

102. Self-Representation—State Links, *Self-Help/Information Resource and Centers*, NAT'L CTR. FOR ST. CTS. <http://www.ncsc.org/Topics/Access-and-Fairness/Self-Representation/State-Links.aspx> (last visited Oct. 6, 2017).

103. CHI HYON SONG, JOAN BELLISTRI, & SARA GALLIGAN, LAW LIBRARIES SERVING SELF-REPRESENTED LITIGANTS TRENDS IN STATE COURTS 79 (2015), [http://www.ncsc.org/~media/Microsites/Files/Trends%202015/LawLibrariesServing\\_Song\\_Bellistri\\_Galligan.ashx](http://www.ncsc.org/~media/Microsites/Files/Trends%202015/LawLibrariesServing_Song_Bellistri_Galligan.ashx). See also *Survey: SRLN Library Working Group National Self-Help in Libraries Survey*, SELF-REPRESENTED LITIGATION NETWORK (2013), <http://www.srln.org/node/551/survey-srln-library-working-group-national-self-help-libraries-survey-srln-2013>. The Law Librarians' Working Group of the Self-Represented Litigation Network surveyed 153 libraries from 33 states, Canada and Guam in the summer of 2013 about their services, including self-help programs. *Id.*

Law library based self-help centers provide access to computers, printers, scanners, telephones, and workspace. Trained volunteers triage a self-represented litigant's question, answer procedural questions, and provide basic document review while law librarians can provide research assistance and answer complex questions. In some states, public law libraries have hired their own attorney to provide additional assistance to self-represented litigants within the library. These states have found a budget-friendly way to expand public access to legal information by harnessing their existing public law library infrastructure and expertise.

Budget reductions and outdated perception of law libraries as warehouses for unused print are causing some states to defund or dismantle their law libraries.<sup>104</sup> This shortsighted action disregards the services of law librarians and robs the populace of valuable resources. Public law librarians serve as a bridge between the lawyer and the public, and for decades, they have been providing income-blind, one-on-one services to all members of the public. They provide access and instruction in legal information as well as publish guides, provide technology, and act as a resource to the workings of the court in that jurisdiction.<sup>105</sup> States without an existing public law library infrastructure are using court-based self-help centers to provide public access to legal information.<sup>106</sup> States with a healthy network of publicly accessible law libraries, in or near county courthouses, should leverage their physical and human resources to create a self-help center within their walls. Partnering with the library ensures that trained staff can help with forms, educate on court processes, and instruct on legal research both in print and online. Law librarians write topical guides and create web sites and portals to legal resources. Investing in new infrastructure and creating another department is inefficient and wasteful.<sup>107</sup> States should re-evaluate their law libraries and view them as partners in creating court self-help service centers or other services to help the public. Partnerships between law librarians, court staff and local volunteer attorneys can and have flourished to provide the optimal ser-

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104. *See generally* LAURIE SELWYN & VIRGINIA ELDRIDGE, PUBLIC LAW LIBRARIANSHIP: OBJECTIVES, CHALLENGES AND SOLUTIONS (2012). West Virginia, Maine, Tennessee, Georgia, Vermont have lost public law libraries in the past seven years. *Id.*

105. *Id.*

106. GREACEN, *supra* note 88, at 44. The New Hampshire legislature consolidated the district, probate, and family courts in 2011 into a single circuit court, *id.* and the circuit court uses a central call center to provide information to callers, *id.*

107. *See* THE PEOPLE'S LAW LIBRARY OF MARYLAND, <http://www.peoples-law.org> (last visited Oct. 6, 2017), for a good example of a legal portal.

vice center for the public.<sup>108</sup> Law Library based self-help service centers provide a neutral place for the public to learn about court processes and procedures, get assistance with court forms, but can also provide expert research assistance for complex legal topics and secondary and primary legal materials.

#### D. *Lawyers in The Library*

One way to develop the relationship between the lawyer and her community is to provide more opportunities for interaction within the community. Public libraries are becoming today's community centers with events and programs for all ages. In addition, they serve a diverse population including families with children, young adults, the elderly, the small business owner and others. Public libraries see a microcosm of the community coming through their doors. As a result, public libraries are the perfect partner for introducing or reintroducing a community to the legal system in a non-threatening, non-aggressive, and welcoming manner. There are many states that have started this partnership, including one organized by Maine Justice Action Group, Collaboration on Innovation, Technology and Equal Access to Justice.<sup>109</sup> Lawyers in Libraries provide Mainers with access to legal workshops on Law Day each year.<sup>110</sup> Maine lawyers are "guest speakers" in a public library on topics of interest with a Question and Answer period following the talk.<sup>111</sup> This educational programing provides the audience an opportunity to learn more about a particular area of the law that affects them or someone that they know and will provide an opportunity for question and answers following the presentation. In addition, selected presentations are videotaped and uploaded to online for later viewing.<sup>112</sup> While this program has been met with success in the community, expansion beyond an annual event has been recommended to serve more people and encourage participation.<sup>113</sup>

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108. SONG, BELLISTRI, & GALLIGAN, *supra* note 103.

109. LAWYERS IN LIBRARIES, <http://lawyersinlibraries.org/> (last visited Oct. 5, 2016).

110. See Caroline Wilshusen, *Lawyers in Libraries: Bringing Access to Justice into the Community*, 28 ME. B.J. 126 (2013) (discussing the Lawyers in Libraries program). Lawyer Day occurs on May first. *Id.*

111. See *id.*

112. See Maine - "Lawyers in Libraries Project," AM. BAR ASS'N, [http://www.americanbar.org/groups/legal\\_aid\\_indigent\\_defendants/initiatives/resource\\_center\\_for\\_access\\_to\\_justice/resources—information-on-key-atj-issues/grants/maine\\_lawyers\\_in\\_libraries.html](http://www.americanbar.org/groups/legal_aid_indigent_defendants/initiatives/resource_center_for_access_to_justice/resources—information-on-key-atj-issues/grants/maine_lawyers_in_libraries.html) (last visited Feb. 13, 2017).

113. *Id.*

Maine's Lawyers in the Libraries program provides a model to engage with the public and educate them on the complexities of the legal system. It provides opportunities for lawyers to educate their communities about "hot button" legal issues and allows them to connect with their communities, thus demonstrating their value to individuals and the community at large. California,<sup>114</sup> Maryland,<sup>115</sup> and Nevada<sup>116</sup> are starting their own Lawyers in the Library Programs. These states are developing best practices and creating lasting relationships with public librarians who are available to the public after the lawyers have gone home.

Expanding this annual program to a more regular event would require a very strong partnership with dedicated volunteers and a coordinator to help schedule the times and events, and to ensure commitments were kept.<sup>117</sup> Requirements for program expansion and regularization seemed to center around a coordinator to foster close working relationships between lawyers and public librarians for legal information programming. The coordinator could provide attendees with information on attorney referral services, describe unbundled services or flat fees or explain bar sponsored or legal aid services. The coordinator would train public librarians on state based legal services, basic legal research and advise on developing local legal collections to support their patrons' legal inquiries. He or she would also work with pro bono coordinators to foster a robust attorney volunteer program to reach a wide expanse of citizens. State ethics rules would need to support this type of program and would need to be communicated to the participating attorneys to gain acceptance.<sup>118</sup> Incentives such as CLE credit or a competition by area firms on number of hours donated to pro bono by the firm were used to fuel attorney participation and law firm librarians were also tapped as valuable participants.<sup>119</sup> These one-time events are the first steps of a multifaceted plan to increase the public's access to attorneys. More opportunities for relationship building are needed to foster favorable working relationship between attorneys and a community to gain their trust.

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114. *Lawyers in the Library*, PROBONOPROJECT, <http://www.probonoproject.org/other-services/> (last visited Feb. 13, 2017).

115. *Ask a Lawyer in the Library*, CIR. CT. FOR ANNE ARUNDEL COUNTY, <http://www.circuitcourt.org/legal-help/lawyer-in-the-library> (last visited Feb. 13, 2017).

116. *Lawyer in the Library Program - Washoe County Law Library*, WASHOE COUNTY L. LIBR., <https://www.washoecourts.com/library/Guide.cfm> (last visited Feb. 13, 2017).

117. A. B. A. Access to Just. Commission Chairs Conf. Call, *Partnership and Programming with Loc. Libr. (e.g. "Law in Library" programs)* (Oct. 17, 2013).

118. *Id.*

119. *Id.*



Non-lawyers in courts and Library self-help centers are restricted to only providing legal information to the public, not legal advice. Some states are incorporating non-lawyers into their Access to Justice solutions by and regulating and licensing non-lawyers to provide legal services at more affordable rates avoiding ethical barriers.

#### IV. LAW LIBRARIANS AS ALLIES AND PART OF A HOLISTIC SOLUTION

An essential element in the quest to level the legal playing field is to provide equal access to legal information such as cases, statutes, regulations and court rules as well as an understanding of legal rights and how the legal system works.<sup>120</sup> Law librarians in both public and academic law libraries have been providing access to the law to all comers for decades. The carefully curated collections of these libraries, both in print and electronic formats, provide information vital to those with a legal problem in any subject area. Law librarians can, and do, use these collections and their legal reference experience to guide and educate all of their patrons in the law; from experienced litigators to the resident who has a question about easements. Librarians are the ones who often guide the bewildered and overwhelmed members of the public through the often complex alleyways of the American legal system.

Access to legal information supports the ideal of the informed citizen, a cornerstone of the democratic vision. Access is more than being presented with a URL to click on or a book to open. Workable access is, not only having the information available, but knowing how the process works and how the different types of documents work together. A librarian is the guide that can identify the information needed, recognize what is missing and can help determine the best strategy to ensure citizens have the most current, authentic and accurate information possible. Librarians are the secret weapon in providing access to justice. Equal access to information is in several of their professional association's code of ethics including the American Library Association<sup>121</sup> and the American Association of Law Librarians.<sup>122</sup> Many states collaborate with librarians to harness their talents and their libraries' infrastructure. Other states have ignored the law

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120. KLEMPNER, *supra* note 93.

121. Kathy Garner, *Lawyer-Librarians in Public Schools: The Ethical Conundrums of Pro Bono Activities*, 84 LAW LIBR. J. 31, 36 (1985).

122. "A law librarian . . . has a duty actively to promote free and effective access to legal information." *Am. Ass'n of Law Libraries Code of Ethics*, in INTRODUCING THE AMERICAN ASSOCIATION OF LAW LIBRARIES 48 (Frank G. Houdek ed., 2d ed. 1986).

libraries' importance in helping self-represented litigants and have shuttered libraries or removed the librarian from the law library.<sup>123</sup> By doing so, they are depriving lawyers and government employees from receiving much needed tools and support, but more importantly, are limiting public access to crucial legal information. Finding and understanding legal information is often difficult for a layperson, and they need an experienced law librarian to help "navigate the complicated terrain of such government documents."<sup>124</sup> Law librarians should be looked to as crucial partners in providing outreach to communities by working collaboratively to treat the client and perhaps the whole community.

The chilling effect of the current rules on unauthorized practice of law serves as a barrier to more librarian involvement. The specter of practicing law without a license has intimidated many public librarians and law librarians from working through legal questions with self-represented litigants. Working with self-represented litigants can be akin to walking a proverbial tight rope between providing legal information and giving legal advice.<sup>125</sup> With care and training, this tight rope can be navigated so as not to fall into the murky area of unauthorized practice of law.<sup>126</sup> The unauthorized practice of law is enforced to prevent unscrupulous individuals from misrepresenting clients.<sup>127</sup> The rules currently in force can also be seen as an unfair barrier to less expensive means of providing legal information and provide an unfair monopoly to attorneys.<sup>128</sup> There has been no litigation accusing a librarian of overstepping the boundary between legal information and legal advice,<sup>129</sup> but there is a perception that legal questions are dangerous

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123. D.M. Moehrle, *Librarians in the 21st Century: Why Law Libraries are More Important than Ever*, LITERARY HUB (Feb. 22, 2017), <http://lithub.com/librarians-in-the-21st-century-why-law-libraries-are-more-important-than-ever/>.

124. Tammy R. Pettinato, *Legal Info, the Informed Citizen, & the FDLP: The Role of Academic Law Librarians in Promoting Democracy*, 99 LAW LIBR. J., 695, 696 (2007).

125. JUNE KIM ET AL., S. CAL. ASS'N OF LAW LIBRARIES, *LOCATING THE LAW: A HANDBOOK FOR NON-LAW LIBRARIANS* 49 (5th ed., rev. 2011), [http://scallnet.org/wp-content/uploads/2016/03/complete\\_5th\\_edition.pdf](http://scallnet.org/wp-content/uploads/2016/03/complete_5th_edition.pdf).

126. *Id.*

127. Derek A. Denckla, *Nonlawyers and the Unauthorized Practice of Law: An Overview of the Legal and Ethical Parameters*, 67 FORDHAM L. REV. 2581, 2593-94 (1999) (discussing the Ethical Considerations of the A.B.A. Model Code of Professional Responsibility).

128. See George C. Leef, *Lawyer Fees Too High? The Case for Repealing Unauthorized Practice of Law Statutes*, CATO INST. (1991), <http://www.cato.org/sites/cato.org/files/serials/files/regulation/1991/1/reg20n1c.html>; Clifford Winston, *Deregulate the Lawyers*, BROOKINGS (Apr. 30, 2012), <http://www.brookings.edu/research/opinions/2012/04/deregulate-lawyers-winston>.

129. Paul D. Healey, *Pro Se Users, Reference Liability, & the Unauthorized Practice of Law: Twenty-Five Selected Readings*, 94 L. LIBR. J., 133, 135 (2002). See also Paul D. Hea-

and should be avoided so as not to cross the invisible line into legal advice as the personal consequences are too great.<sup>130</sup>

## V. METHODS OF IMPROVING ACCESS TO JUSTICE

Many states have tried to improve court accessibility by revisiting and updating workflows; simplifying forms and informational brochures; adopting targeted representation or unbundled representation by licensed attorneys; starting court service centers or using technology to better support self-represented litigants.<sup>131</sup>

Technology can be a valuable tool and is being harnessed to provide better support systems for self-represented litigants.<sup>132</sup> While technology can be used to ease the path of self-represented litigants in court, it cannot be a panacea for all situations. YouTube videos, automated forms, mobile apps, and Skype meetings can provide greater public access to legal services. However, there are many segments of the under-served population for which technological tools make legal information less approachable.<sup>133</sup> Approaches that do not rely on technology alone may yield greater fruit for those needing legal services, legal services providers and for the courts.<sup>134</sup> One of these approaches includes a team of professionals offering and promoting a legal wellness program that includes training on these technological programs.

Often, the best way to solve any problem is to try to prevent the problem in the first place. We need to look at ways to provide information and support for people to understand the law and their rights to avoid litigation or other contact with the courts.

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ley, *Chicken Little at the Reference Desk: The Myth of Librarian Liability*, 87 L. LIBR. J. 515 (1995); Paul D. Healey, *In Search of the Delicate Balance: Legal and Ethical Questions in Assisting the Pro Se Patron*, 90 L. LIBR. J. 129 (1998); Brandi Scardilli, *Avoiding the Unauthorized Practice of Law*, 31 INFO. TODAY 1 (2014).

130. Paul D. Healey, *In Search of the Delicate Balance: Legal and Ethical Questions in Assisting the Pro Se Patron*, 90 L. LIBR. J. 129, 129-30 (1998).

131. Forty-seven states have adopted the A.B.A. Model Rules, see Stephanie L. Kimbro, *Law a la Carte: The Case for Unbundling Legal Services*, GPSOLO, Sept./Oct. 2012 at 30, 32-33, [http://www.americanbar.org/publications/gp\\_solo/2012/september\\_october/law\\_a\\_la\\_carte\\_case\\_unbundling\\_legal\\_services.html](http://www.americanbar.org/publications/gp_solo/2012/september_october/law_a_la_carte_case_unbundling_legal_services.html).

132. See *id.* at 32.

133. James E. Cabral et al., *Using Technology to Enhance Access to Justice*, 26 HARV. J.L. & TECH. 243, 256-66 (2012).

134. *Id.*

### A. *Regulating Non-Lawyers*

Using non-lawyers to assist self-represented litigants has been discussed as a way to make larger steps toward fulfilling the need for Civil Gideon. Pressure against this idea has come from bar associations and the ABA arguing that non-lawyers would be less than effective, take work from new attorneys, defraud the public and make a two-class legal system. Another argument against non-lawyers representing client interests is that it would violate the existing unauthorized practice of law or UPL. The UPL<sup>135</sup> has been adopted in various forms in all fifty states and the District of Columbia.<sup>136</sup> “Whatever the definition of UPL, however, the states almost universally limit the practice of law to those who have been licensed by the government and admitted to the state’s bar association after meeting certain requirements of education, examination, and moral character.”<sup>137</sup> Licensure is a practical way for bar associations to ensure their members are competent in the law of that state. However, this licensure and the “states’ proscription of UPL has created a ‘lawyer monopoly’ over a great deal of activity outside of the courts.”<sup>138</sup> The repercussions to non-lawyers violating the UPL has sent a chilling effect toward innovations involving non-lawyers. Some states are regulating non-lawyers to provide basic legal services at an affordable price and avoiding the dangers of UPL.

Washington State has side-stepped the dangers of UPL by providing licensure to different kinds of legal professionals. Washington State adopted a new rule<sup>139</sup> in 2012 which has established a type of paralegal practitioners called Limited License Legal Technicians;<sup>140</sup> this is a special category of legal professional that works exclusively with a very specific area of law, often within a regulatory scheme. These new practitioners are licensed by the state of Washington after

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135. *Rule 5.5: Unauthorized Practice of Law; Multijurisdictional Practice of Law*, AM. BAR ASS’N, [http://www.americanbar.org/groups/professional\\_responsibility/publications/model\\_rules\\_of\\_professional\\_conduct/rule\\_5\\_5\\_unauthorized\\_practice\\_of\\_law\\_multijurisdictional\\_practice\\_of\\_law.html](http://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/rule_5_5_unauthorized_practice_of_law_multijurisdictional_practice_of_law.html) (last visited Feb. 13, 2017).

136. *State Adoption of the A.B.A. Model Rules of Professional Conduct*, AM. BAR ASS’N, [http://www.americanbar.org/groups/professional\\_responsibility/publications/model\\_rules\\_of\\_professional\\_conduct/alpha\\_list\\_state\\_adopting\\_model\\_rules.html](http://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/alpha_list_state_adopting_model_rules.html) (last visited Feb. 13, 2017).

137. Denckla, *supra* note 127.

138. *Id.*

139. *Limited Practice Rule for Limited License Legal Technician*, WASH. CTS., [https://www.courts.wa.gov/court\\_rules/?fa=court\\_rules.display&group=ga&set=APR&ruleid=gaa-pr28](https://www.courts.wa.gov/court_rules/?fa=court_rules.display&group=ga&set=APR&ruleid=gaa-pr28) (last visited Feb. 13, 2017).

140. *Id.*

receiving specialized training in specified areas of law.<sup>141</sup> The first specialized area authorized for Limited License Legal Technicians practice is family law.<sup>142</sup> “While they cannot represent clients in court, Legal Technicians are able to consult, provide advice, complete and file necessary court documents, help with court scheduling and support a client in navigating the often confusing maze of the legal system.”<sup>143</sup> The application and licensure requirements are substantial and each eligible candidate must have an associate level degree or higher and complete 45 credit hours at an ABA-approved law school or paralegal program.<sup>144</sup> The candidate must then take practice area courses with curriculum developed by an ABA-approved law school. They must then pass a qualifying exam and earn 3,000 hours of experience under the supervision of a licensed attorney.<sup>145</sup> “The experience requirement shall be completed no more than three years before and 40 months after the date of the LLLT practice area examination that the applicant passed.”<sup>146</sup> License retention requires annual continuing education credits.<sup>147</sup>

Limited Licensed Legal Technicians may open their own office and set their own fees. Their lower rates may benefit clients caught up in the affordability gap but do not qualify for legal assistance. Because these licensed non-lawyers do not carry the vast debt of new attorneys, their fees are more in scale for their limited scope of representation. As this program is so new, time will tell if the goals set out by Washington State are met when the first graduates set up their own practices. The class of 2014 sat for their qualifying exam and then must complete 3,000 hours of apprenticeship with a licensed attorney before being licensed.<sup>148</sup> There are questions and concerns to work through before declaring this a realistic solution to the justice gap. Will lawyers lose business to these non-lawyer practitioners as theorized by its opponents? Will the scope of practice allowed by the Limited License Legal Technicians be expanded over time? Will there be enough clients who

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141. *Limited Practice Rule for Limited License Legal Technician*, *supra* note 139.

142. *Limited License Legal Technician Board*, WASH. ST. B. ASS'N, <http://www.wsba.org/Legal-Community/Committees-Boards-and-Other-Groups/Limited-License-Legal-Technician-Board> (last visited Feb. 13, 2017).

143. *Legal Technicians: A New Option for Affordable Legal Services*, WASH. ST. B. ASS'N, <http://www.wsba.org/Licensing-and-Lawyer-Conduct/Limited-Licenses/Legal-Technicians> (last visited Feb. 13, 2017).

144. WASH. SUP. CT. ADMISSION TO PRAC. R. 28 App. Reg. 3, A(1) (2016), [http://www.courts.wa.gov/court\\_rules/Word/gaapr28.doc](http://www.courts.wa.gov/court_rules/Word/gaapr28.doc).

145. *Id.*

146. *Id.*

147. *Id.*

148. *Id.*

can pay even a reduced fee or would these new practitioners also have trouble finding clients who can pay or would there be another paying scheme? Will the state employ Limited License Legal Technicians in administrative agencies to provide additional support and mentoring? Will apprenticeship programs be developed? While it is unclear what the future holds for these Limited License Legal Technicians, it illustrates non-lawyers effectively practicing law and shows the importance of providing personal guidance to the law for self-represented litigants and other members of the public with legal problems.

Self-represented litigants in Utah can now seek help from non-lawyers to navigate the court system.<sup>149</sup> These Limited Paralegal Practitioners help the public with tasks outside the courtroom such as “filling out forms, representing clients in mediated negotiations or preparing settlements.”<sup>150</sup> As in Washington State’s Limited License Legal Technicians, the Limited Paralegal Practitioners will be trained, licensed and regulated by the Utah Bar Association.<sup>151</sup> A full description of the program has been published in the 2015 report by the Utah Supreme Court’s Task Force on Limited Legal Licensing.<sup>152</sup> The Utah program aims to relieve the pressure on the court system by allowing cheaper non-lawyers to provide the public with affordable legal assistance in limited subject areas. The report examines other jurisdictions that are offering different limited licensure opportunities for non-lawyers.<sup>153</sup> The assistance of non-lawyers has been used in some narrow areas of the law with much success. Some administrative agencies allow non-lawyers to represent clients and get remunerated for their services. Social Security, Immigration and Unemployment and Workers’ Compensation proceedings all allow for non-lawyers to represent clients. They regulate by insisting on “minimum requirements of education, training, and experience; a showing of good moral character; insurance or bonding requirements; disciplinary procedures; and fee limitations.”<sup>154</sup>

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149. Jessica Miller, *A New Kind of Paralegal is Coming to Help Utahns Navigate the Court System*, THE SALT LAKE TRIB., (Dec. 14, 2015, 10:04 AM), <http://archive.sltrib.com/article.php?id=3307300&itype=CMSID>.

150. *Id.*

151. *Id.*

152. *See* UTAH STATE COURTS, SUPREME COURT TASK FORCE TO EXAMINE LIMITED LEGAL LICENSING (2015), [http://www.utcourts.gov/committees/limited\\_legal/Supreme%20Court%20Task%20Force%20to%20Examine%20Limited%20Legal%20Licensing.pdf](http://www.utcourts.gov/committees/limited_legal/Supreme%20Court%20Task%20Force%20to%20Examine%20Limited%20Legal%20Licensing.pdf).

153. *Id.* at 50-58.

154. DAVID LEWIS ET AL., N.Y. CITY BAR, NARROWING THE “JUSTICE GAP”: ROLES FOR NONLAWYER PRACTITIONERS 17 (2013), <http://www2.nycbar.org/pdf/report/uploads/20072450-RolesforNonlawyerPractitioners.pdf>.

Non-lawyers can be critical in providing assistance to those who are unrepresented within the immigration adjudication system.<sup>155</sup> One way is to provide immigration assistance services in a location where people feel safe and without a stigma such as public libraries. Public libraries are used by all members of the community and many already offer educational classes. Some urban public libraries are offering programs designed to welcome immigrants and to provide them with services such as English as a second language and citizenship classes. Some public libraries, such as the Hartford Public Library in Connecticut, are “recognized by the U.S. Department of Justice, Board of Immigration Appeals to provide legal advice and representation by accredited staff in matters before United States Citizenship and Immigration Services.”<sup>156</sup>

The Limited License Legal Technicians and Limited Paralegal Practitioners are demonstrating to bar associations that non-lawyers can provide needed advice to clients of limited means. They are breaking the UPL barrier and easing the way for law librarians and court personnel to take a more active role in helping self-represented litigants. Professor Denckla states that:

UPL restrictions appear to be the main barrier blocking the development of affordable legal services options for the public. Thus, UPL laws, rules, and rulings should be eased or undone in order to make way for greater public access to legal services and, hopefully, as a result, greater access to justice for all.<sup>157</sup>

Many in the legal community feel that technology, now ubiquitous in modern lives, is the way to connect with Self-Represented Litigants. In some instances, technology has been a great equalizer and has proven an effective tool in delivering legal information. Technology has its shortcomings and is not yet the panacea to providing access to justice to all citizens.

### *B. Using Technology to Provide Access to Justice*

Technology has been used to great effect in many states to provide legal information, assistance, and to consult with an attorney. States have adopted e-courts, created videos, set up virtual representa-

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155. See Erin B. Corcoran, *Bypassing Civil Gideon: A Legislative Proposal*, 115 W. VA. L. REV. 643 (2012).

156. *Immigration & Citizenship*, HARTFORD PUB. LIBR. (Jan. 19, 2016), <http://www.hplct.org/library-services/immigration-citizenship>.

157. Denckla, *supra* note 127, at 2599.

tion with Skype,<sup>158</sup> developed video games to instruct litigants on court processes and simulate the court experience,<sup>159</sup> and have developed a form assembly application.<sup>160</sup> There is also a video game to help young children learn how government works.<sup>161</sup> While technology can be a boon it can also be a barrier. Technology can be seen as a panacea to provide wide access with limited resources in order to level the playing field between the rich and the poor. However, as libraries have been saying for years, technology, carelessly implemented, can be just as much a barrier as a bridge. Successful broad implementation of technologically based projects must include universal access for those with disabilities, adequate connectivity and speed, affordable and accessible hardware, and effective computer and legal information literacy training.

### 1. Technology Guidelines

Realizing that technology is not always a bridge, but can be a barrier to justice, some states ensured their technology implementations were successful in providing services to the public and prevented, rather than perpetuated, barriers, disparities, and exclusions to underserved populations.<sup>162</sup> Washington State's Access to Justice Board created the "Access to Justice Technology Principles."<sup>163</sup> This public policy initiative serves as a road map to provide guidance to state government agencies and departments to ensure that technology is implemented with best practices and for the benefit of the people.<sup>164</sup> The committee has created guides to help managers and developers use these principles and provided concrete pathways for successful technology roll outs. In 2012, California also adopted guiding principles for leaders and decision makers, and implemented technology projects around issues of fairness and access while "pursuing moderni-

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158. LAPLANTE ET AL., *supra* note 63, at 31.

159. Elaine Griffin, *Virtual Court: Video Game Could Help Litigants Who Don't Have a Lawyer*, HARTFORD COURANT (Sept. 15, 2014), <http://www.courant.com/news/connecticut/hc-video-gaming-for-self-represented-parties-0916-20140915-story.html#page=1>.

160. Susan O'Brien, *Access to Justice on a Smartphone*, CHI.-KENT C. L. (May 14, 2012), <https://www.kentlaw.iit.edu/news/2012/access-to-justice-on-a-smartphone>.

161. *Our Story*, ICIVICS, <https://www.icivics.org/our-story> (last visited Feb. 14, 2017).

162. Donald J. Horowitz, *Technology, Values, and the Justice System: The Evolution of the Access to Justice Technology Bill of Rights*, 79 WASH. L. REV. 77, 78 (2004).

163. *Read the Principles*, ATJWEB (Apr. 24, 2016), <http://www.atjweb.org/read-the-principles/>.

164. *Id.*



zation of court practices through technology.”<sup>165</sup> Those principles serve as a statement of values to better serve the public in establishing technology initiatives in the courts.<sup>166</sup>

## 2. Problems with Connectivity

A wealth of information from the mundane to the scholarly is available on the Internet, providing more access than ever to the average citizen. However, Internet access is not something that all members of society have easy access to at home. “There are still about [forty-seven] million people in the United States who don’t have an Internet connection.”<sup>167</sup> Rural Americans are twice as likely as those who live in urban or suburban settings to never use the Internet.<sup>168</sup> Racial and ethnic differences are also evident. “One in five blacks and [eighteen] percent of Hispanics do not use the Internet, compared with [fourteen] percent of whites and only [five] percent of English-speaking Asian-Americans—the racial or ethnic group least likely to be offline.”<sup>169</sup> Convenient access to information over the Internet requires a family have the requisite hardware, software and the ability to pay for home installation or to have access to a smartphone and a wireless plan.<sup>170</sup> For many segments of the population, such as the lower class, children, immigrants, and the elderly, public libraries are a free way to access the Internet.<sup>171</sup> Libraries provide anyone in the community with access to a computer and also provide computer training to access e-government, conduct job searches, or reconnect with family and friends. They also offer classes on digital information, literacy, and provide computer advice. Even for those with laptops or mobile devices, the national connectivity infrastructure has been relatively slow to develop into a consistent robust network.<sup>172</sup> In less populated areas of the

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165. JAMEL JONES ET AL., JUDICIAL COUNCIL OF CAL., ADVANCING ACCESS TO JUSTICE THROUGH TECHNOLOGY 2 (2012), <http://www.courts.ca.gov/documents/ITAC-Advancing-Access-through-Technology-Guiding-Principles.pdf>.

166. *Id.*

167. Adrienne LaFrance, *America Offline*, THE ATLANTIC (July 28, 2015), <http://www.theatlantic.com/technology/archive/2015/07/america-offline/399830/>.

168. *Id.*

169. LaFrance, *supra* note 167.

170. Aaron Smith, *U.S. Smartphone Use in 2015*, PEW RES. CTR., (Apr. 1, 2015), <http://www.pewInternet.org/2015/04/01/us-smartphone-use-in-2015/>.

171. PAUL T JAEGER, NATALIE GREENE TAYLOR & URSULA GORHAM, INTRODUCTION TO LIBRARIES, HUMAN RIGHTS, AND SOCIAL JUSTICE: ENABLING ACCESS AND PROMOTING INCLUSION (2015).

172. Lee Rainie & D’Vera Cohn, *Census: Computer Ownership, Internet Connection Varies Widely Across U.S.*, PEW RES. CTR. (Sept. 19, 2014), <http://www.pewresearch.org/fact-tank/2014/09/19/census-computer-ownership-Internet-connection-varies-widely-across-u-s/>.

country, wireless networks are not widespread and wireless signals are not robust.<sup>173</sup> Even with a robust Wi-Fi signal, some tasks are difficult to perform on a wireless device. Mobile apps and mobile designed web pages are a boon to this population of smartphone users, and some states have embraced the technology.<sup>174</sup> However, some states lag behind in optimizing web content for mobile devices.<sup>175</sup> A recent study examined how technology affected learning in lower income families with children.<sup>176</sup> In households with annual incomes less than \$20,000, most do not have Internet access to a computer, cell phone, or other device that they may otherwise own, although they can get online “at a local library or elsewhere.”<sup>177</sup> Census data from 2014 indicates “that nearly 25 million households . . . have no regular Internet access at all, either at home or elsewhere.”<sup>178</sup> As a result, many seek alternative means of Internet access such as their public library. Broadband and wireless services, as with traditional telephone service, are being recognized as a type of public utility, and programs have been developed to expand affordable access to broadband in underserved areas.

Expanding high speed broadband to all Americans is one of the Obama Administration’s goals. To fulfill this, President Obama and Julian Castro, the U.S. Department of Housing and Urban Development Secretary, announced the program ConnectHome to provide affordable broadband access to families living in HUD-assisted housing.<sup>179</sup> “Through ConnectHome, Internet service providers, non-profits and the private sector will offer broadband access, technical training, digital literacy programs and devices for residents in assisted housing units in twenty-eight communities across the nation.”<sup>180</sup> This public-

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173. Matt Hamblen, *Why Some U.S. Homes and Businesses Still Don't Have Cellular Service*, COMPUTERWORLD (Apr. 3, 2013, 7:00 AM), <http://www.computerworld.com/article/2495956/wireless-carriers/why-some-u-s—homes-and-businesses-still-don-t-have-cellular-service.html>.

174. Cabral et al., *supra* note 133, at 271.

175. *Id.* at 273.

176. See VICTORIA RIDEOUT & VIKKI S. KATZ, OPPORTUNITY FOR ALL? TECH. Y AND LEARNING IN LOWER-INCOME FAMILIES (2016), <http://joanganzcooneycenter.org/publication/opportunity-for-all-technology-and-learning-in-lower-income-families/>.

177. Rainie & Cohn, *supra* note 172.

178. *Id.* Twenty-five million households make up twenty-one percent of total households in the United States.

179. Heather Fluit, *Comcast and the U.S. Department of Housing and Urban Development Collaborate to Close the Digital Divide for up to 2 Million HUD-Assisted Households in Major Internet Essentials Program Expansion*, HUD.gov (July 15, 2016), [http://portal.hud.gov/hudportal/HUD?src=/press/press\\_releases\\_media\\_advisories/2016/HUDNo\\_16-108](http://portal.hud.gov/hudportal/HUD?src=/press/press_releases_media_advisories/2016/HUDNo_16-108).

180. Press Release, President Obama and Sec’y Casto Announce Initiative to Extend High Speed Broadband Access for Students in HUD-Assisted Housing (July 15, 2015), <https://archives.hud.gov/news/2015/pr15-090.cfm>.

private partnership program's goal is to connect children and to try to reduce the technological gap that restricts many educational providers in low-income areas and denies low-income students the opportunities afforded to more wealthy students.<sup>181</sup> Austin, Texas benefits from this program and is a mentor city for all twenty-eight ConnectHome communities.<sup>182</sup>

New Hampshire ranks twenty-third in the nation with seventy percent of residents' access to high-speed Broadband.<sup>183</sup> "But access to high-speed broadband (> 100 Mbps) in rural New Hampshire is lower than in the state's urban areas.<sup>184</sup> Fewer than half of households in rural New Hampshire have access to high-speed broadband."<sup>185</sup> Barriers to better broadband access in rural areas are high prices due to lack of ISP competition and a lack of user training.<sup>186</sup> A public private partnership is aiming to reduce those barriers to Broadband access by offering deep discounts on computer hardware and provide training to customers.<sup>187</sup> Internet Essentials is offered in New Hampshire and many markets across the U.S. through Comcast.<sup>188</sup> Eligibility for the \$9.95 per month program is based on income guidelines for the National School Lunch Program, requires no outstanding debt to Comcast less than a year old and residence in a Comcast Internet Service area.<sup>189</sup> Families must not have subscribed to Comcast Internet within the last 90 days.<sup>190</sup> Pilot programs are in Colorado and Illinois for college students while the elderly<sup>191</sup> are a focus in Boston, Palm Beach

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181. Press Release, *supra* note 180.

182. *Id.* The Housing Authority of the City of Austin has created a "transformational series of public-private-partnerships to narrow the digital divide in its communities and will serve as a mentor city for all twenty-eight ConnectHome communities." See Associated Press, *Google to Help Provide Free Internet in Austin Public Housing*, MERCURY NEWS (Nov. 21, 2014, 3:15 AM), [http://www.mercurynews.com/business/ci\\_26985432/google-help-provide-free-Internet-austin-public-housing](http://www.mercurynews.com/business/ci_26985432/google-help-provide-free-Internet-austin-public-housing).

183. UNIV. OF N.H., BROADBAND 2015: THE CONNECTION TO NEW HAMPSHIRE'S FUTURE 11 (2015), <https://www.unh.edu/broadband/new-hampshire-broadband-mapping-planning-program>.

184. *Id.*

185. *Id.*

186. *Id.*

187. David Brooks, *Comcast Launches Low Cost Internet for Poor Families*, THE TELEGRAPH (Sept. 23, 2011), <http://www.nashuatelegraph.com/news/local-news/2011/09/23/comcast-releases-low-cost-internet-plan-for-poor-families-in-nh/>.

188. *What is Internet Essentials from Comcast?*, XFINITY, <https://www.xfinity.com/support/articles/comcast-broadband-opportunity-program> (last visited Dec. 18, 2017).

189. See *Housing Assistance Program*, INTERNET ESSENTIALS, <https://www.internetessentials.com/HousingAssistance> (last visited Dec. 18, 2017).

190. *Id.*

191. *Housing Assistance Program*, *supra* note 189.

County, San Francisco County and Seattle.<sup>192</sup> While this charitable program targets underserved populations it overlooks rural families and individuals with past debt or just over the income guidelines. According to the FCC's 2016 Broadband Report, more than thirty-nine percent of Americans living in rural areas and approximately forty-one percent of Americans living on Tribal lands [are] lacking access to advanced telecommunications capability, as compared to four percent of Americans living in urban areas.<sup>193</sup> "The disparity between advanced telecommunications capabilities available to rural and urban Americans persists."<sup>194</sup> An expansion and upgrade of existing Broadband networks is necessary to ensure widespread access in rural communities to these low-cost Internet programs.

### 3. Wireless Networks

Smartphone use is growing and being used by more and more low-income populations as their primary way to access the Internet.<sup>195</sup> Smartphones are used to look up a wide variety of daily essential information such as housing, submitting job applications, online banking, health and government information. The 2015 Pew Research Study on US Smartphone Use in 2015 reported that "[forty percent] used their Smartphone to look up government services or information."<sup>196</sup> As a result of these usage patterns, smartphones and tablets are viewed as exclusive tools to improve access to legal materials and narrow the technological, educational and justice gaps.<sup>197</sup> However, there are substantial barriers to using only technological means to improve access to justice. One significant barrier is that wireless speed and access is not as widespread in all areas of the country. Access for low income and rural residents to mobile networks is expensive, unreliable or non-existent.<sup>198</sup> Another barrier is that existing self-help materials, forms and software platforms are not designed for mobile devices.<sup>199</sup> We must consider additional ways of providing access to justice besides techno-

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192. *Housing Assistance Program*, *supra* note 189.

193. *In re Inquiry Concerning the Deployment of Advanced Telecommunications Capability*, 31 FCC Rcd. 699, 700.

194. *Id.*

195. Casey Williams, *The Depressing Truth About Bad Cell Phone Service*, HUFFINGTON POST (May 3, 2016, 1:10 PM), [http://www.huffingtonpost.com/entry/truth-about-bad-cell-phone-service\\_us\\_5727a5f7e4b01a5ebde648f7](http://www.huffingtonpost.com/entry/truth-about-bad-cell-phone-service_us_5727a5f7e4b01a5ebde648f7).

196. Smith, *supra* note 170.

197. *Civil Justice*, *supra* note 29, at 273.

198. Williams, *supra* note 195.

199. *Id.*

logical to sidestep the existing barriers affecting those populations most in need of legal services.

### C. *Revitalizing the Small Town Lawyer*

A small town practice, though often overlooked for the flash and excitement of the “big city,” is often a good location to start a practice for new attorneys, provided there is appropriate support. In a small town general practice, there can be a variety of experiences from criminal law to family law to estate planning.<sup>200</sup> Many small town lawyers are retiring and shuttering their practices, creating an urgent need for lawyers in these communities.<sup>201</sup> Bar Associations are encouraging more attorneys to practice in rural areas.<sup>202</sup> Recruitment efforts include offering incentives such as stipends,<sup>203</sup> clerkships,<sup>204</sup> and summer clerkships for law students and new graduates.<sup>205</sup> New lawyers need mentoring and support, but have another barrier that older rural attorneys do not; law school debt.<sup>206</sup> Law school debt is a huge burden to new graduates and is a significant barrier to starting rural practices.<sup>207</sup> Law schools are also collaborating with bar associations in various states to introduce law students to rural areas with the hope that they will stay. Iowa’s Rural Practice Program committee matches law students—mostly from the University of Iowa, Drake University in Des Moines and Creighton University in Omaha, Nebraska—with rural lawyers who are looking for summer clerks or new associates.<sup>208</sup> “If

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200. Debra Cassens Weiss, *Why New Lawyers Should Consider Rural Practice*, ABA J., (Sept. 7, 2010, 4:15 PM), [http://www.abajournal.com/news/article/why\\_new\\_lawyers\\_should\\_consider\\_rural\\_practice/](http://www.abajournal.com/news/article/why_new_lawyers_should_consider_rural_practice/).

201. SONG, BELLISTRI, & GALLIGAN, *supra* note 103, at 15.

202. Lisa R. Pruitt & Bradley E. Showman, *Law Stretched Thin: Access to Justice in Rural America*, 59 S.D. L. REV. 466, 468 (2014).

203. *Rural Attorney Recruitment Program*, S.D. UNIFIED JUD. SYS., <http://uj.s.sd.gov/Information/rarprogram.aspx> (last visited Feb. 16, 2017). “This program provides qualifying attorneys an incentive payment in return for five (5) continuous years of practice in an eligible rural county.” *Id.*

204. *ISBA Rural Practice Committee*, IOWA ST. B. ASS’N, <http://www.iowabar.org/group/RuralPractice> (last visited Feb. 16, 2017); *Rural Practice Initiative*, NEB. ST. B. ASS’N, <http://www.nebar.com/?page=RPI> (last visited, May 4, 2016).

205. *Rural Attorney Recruitment Program*, *supra* note 203.

206. Lorelei Laird, *In Rural America, There Are Job Opportunities and a Need for Lawyers*, ABA J., (Oct. 1, 2014, 5:40 AM), [http://www.abajournal.com/magazine/article/too\\_many\\_lawyers\\_not\\_here\\_in\\_rural\\_america\\_lawyers\\_are\\_few\\_and\\_far\\_between](http://www.abajournal.com/magazine/article/too_many_lawyers_not_here_in_rural_america_lawyers_are_few_and_far_between).

207. See *Law School Debt Crisis*, N.Y. TIMES, Oct. 24, 2015, <https://www.nytimes.com/2015/10/25/opinion/sunday/the-law-school-debt-crisis.html>. The average law graduate’s debt was \$140,000 in 2012. *Id.*

208. *ISBA Rural Practice Committee*, *supra* note 204.

it is a good match, the established lawyer may be able to offer a higher starting salary to account for the fact that the student already knows the office.”<sup>209</sup> Nebraska Law students and lawyers with fewer than two full years of practice can apply for the Rural Practice Initiative’s bus tours sponsored by the Nebraska State Bar Association; this program brings young lawyers to two small town each year to meet local attorneys, tour the area and then do “speed dating type interviews” for summer clerkships.<sup>210</sup> While there are loan forgiveness programs for new lawyers working for qualified non-profit organizations,<sup>211</sup> there is not a national loan forgiveness program for young lawyers opening a for-profit practice in under-served rural areas. Debt forgiveness for law students should be expanded to bolster these rural attorney recruitment programs as the medical profession provides effective debt relief for doctors practicing in underserved areas.<sup>212</sup> To combat the high debt load of law students, the legal community could also expand some of their economic incentive programs and revise them to be more attractive to new lawyers practicing in rural areas. There are already some private programs through law schools that help reduce the debt burden for those working in the public interest.<sup>213</sup> There is also the federal statute, College Cost Reduction and Access Act (CCRAA) to incentivize law students to make a career of serving the public interest.<sup>214</sup> Since becoming law in September 2007, CCRAA allows many law school graduates, who plan to maintain a career serving the public, pay a reduced monthly amount on federal loans.<sup>215</sup> If the student makes public service a career and has made 120 months of on-time payments, their loans may be forgiven, tax-free. There is no comparable program for those who choose to serve a community as a small town lawyer working in a small, for-profit, practice.<sup>216</sup> A small town practice can provide a rich life but very often without a rich salary.

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209. *Law School Debt Crisis*, *supra* note 207.

210. *Rural Practice Initiative*, *supra* note 204.

211. *Public Service Loan Forgiveness*, FED. STUDENT AID, <https://studentaid.ed.gov/sa/repay-loans/forgiveness-cancellation/public-service> (last visited Feb. 16, 2017).

212. *Loan Repayment*, NAT’L HEALTH SERV. CORPS., <https://nhsc.hrsa.gov/loanrepayment/index.html> (last visited May 4, 2016). Medical providers who commit to practicing in under-served regions for a period of two years may apply for a \$50,000 award towards loan repayment. *Id.*

213. *Law School Loan Repayment Assistance Programs*, EQUAL JUST. WORKS, <http://www.equaljusticeworks.org/resources/student-debt-relief/law-school-loan-repayment-assistance-programs> (last visited Feb. 10, 2016). Over 100 law schools have their own Law School Loan Repayment Assistance Program. *Id.*

214. College Cost Reduction and Access Act, Pub. L. No. 110-84, 121 Stat. 784 (2007).

215. *Id.*

216. *Id.*

Rural areas are home to diverse economic populations, with well-to-do land owners, middle-class workers, and those who are living at or near poverty. Each person often has a commonplace legal need, but often must travel long distances to the closest attorney. For those with a comfortable income, this may not be a barrier, but for those who are of modest means, travel prevents access to legal services. “Nearly 20 percent of Americans live in rural areas, but . . . just 2 percent of small law practices are in those areas.”<sup>217</sup> While we would like to support efforts to place attorneys in rural areas on a permanent basis, that will take time and may not work for every rural area. It will also take time for the local community to learn about these multidisciplinary outreach services, and it will take time for the service providers to acclimate to the area and community. Mobile outreach can help meet the needs of under-served people in all geographic locations from rural backroads to inner city streets.

#### *D. Providing Legal Services to the Community as a Community*

Law librarians for decades have been a vital resource for those interested in learning about the law, trying to understand how the law works, and for those who are working within the legal system. Public law librarians provide an essential service to the public by developing collections that ensure people can access the law and instructing in their use. Law librarians train citizens on how to find the law and on how the law is structured. They develop helpful guides and materials to aid the researcher. They answer all manner of questions from the most basic task of finding a case by citation to the more complex task of researching the legislative history of a state statute. As more citizens are eschewing the services of a lawyer, the law librarians are trying to fill the gap. Because many law libraries are only in one location, librarians are trying to expand their reach by educating public librarians on the services of law libraries and providing basic training in how to find legal information. Partnerships between law librarians and public librarians are starting to gain traction in many communities and regions to provide public librarians with authoritative tools and knowledge and support to assist with legal questions.<sup>218</sup>

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217. Laird, *supra* note 206.

218. AM. ASS'N OF LAW LIBRARIES, LAW LIBRARIES AND ACCESS TO JUSTICE 8 (2014), <http://www.aallnet.org/mm/Publications/products/atjwhitepaper.pdf> [hereinafter *Association of Law Libraries*] (discussing core legal collections for public libraries); LLNE Legal-Link, LAW LIBR. OF NEW ENG., <http://llne.org/legal-link> (last visited May 10, 2016).

Public librarians know and are trusted by their communities. They have developed relationships with community groups and already are skilled at outreach to rural areas and providing services to the disabled and homebound. While law librarians and public librarians often move in separate circles, a stronger link between law librarians and public librarians is currently being forged. Law librarians are running workshops for public librarians. There are local and regional efforts to put both primary and secondary legal resources in the collections of public libraries.<sup>219</sup> New Hampshire House Bill 1488 was passed in 2008 to “establish a committee to study the feasibility of establishing pro se law libraries” around the state. The goal was to form a network of twenty public libraries statewide to provide access to reliable and accurate legal resources for their community and their larger geographical area. Law librarians would train the staffs of these anchor libraries in the use of legal resources and helping to provide legal materials in print and/or electronic format. While this Bill passed and the study was completed, a formal network was not established. Informal public library networks are being established in New Hampshire and across New England. Law librarians are offering workshops to teach public librarians about legal reference and how to avoid the unauthorized practice of law.<sup>220</sup> Public access to legal information has been a primary goal for many state funded law libraries and is an important part of the law librarian’s mindset. Massachusetts’ Trial Court Law Libraries have for many years had a wonderful website where the librarians create legal research guides on all subjects. These guides are entitled “Massachusetts Law About” and provide both an introduction to various legal topics as well as great research starting points to start investigating various legal issues.<sup>221</sup> The librarians at

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219. The N.H. State Law Librarian, Mary Searles, donates sets of the New Hampshire Revised Statutes Annotated (RSA) to public libraries throughout the state. Telephone Interview with Mary Searles, Director, N.H. Law Library, (Feb. 10, 2016). In 2014, the LLNE’s Serv. Comm. created “Outreach to Public Libraries” a legal book drive to benefit public libraries throughout New England. They have developed a wish list of reference-type law books to assemble complete mini-collections of these legal books and donate one collection to a public library in each of the New England states that do not regularly have such material as part of their collection. Michelle Pearse, *Update on Book Drive (LLNE Serv. Comm.)*, LAW LIBR. OF NEW ENGLAND (July 9, 2014), <http://llne.org/update-on-book-drive-llne-service-committee/>; The AALL, Special Comm. on Access to Justice report, “Law Libraries and Access to Justice,” provides core legal materials for public libraries. See *Association of Law Libraries*, *supra* note 218, at 48.

220. *Association of Law Libraries*, *supra* note 218, at 11 (discussing training of public librarians on legal sources).

221. See *Massachusetts Law About*, MASS.GOV, <http://www.mass.gov/courts/case-legal-res/lib/laws-by-subj/about/> (last visited Sept. 29, 2016) (providing a set of research guides on legal topics).



the State of Connecticut Judicial Branch's Law Library Services produce and publish web accessible practical legal research guides.<sup>222</sup> New Hampshire also provides a similar web resource focused on educating and supporting public librarians to be a valuable first stop for their patrons with legal problems.<sup>223</sup> In addition, Mary Searles, the New Hampshire law librarian, and Kathy Fletcher, an academic law librarian, travel to local public library groups giving practical legal reference workshops.<sup>224</sup>

Vermont has another approach to provide legal information to its citizens. The Vermont State Law Library was closed due to budget cuts in early 2015.<sup>225</sup> Vermont Law School, a private institution, has assumed a limited role of the public law library and is providing services and reference help through Community Legal Information Corner (CLIC), which provides telephone, email and in person reference services and print and electronic legal collections.<sup>226</sup> Vermont Law School has hired an Access to Justice Librarian to staff CLIC and provide outreach to the community to increase services to the public in a rural state.

These programs are effective, but we also need a program that interweaves personal outreach, instructional skills, and expert advice by forming a collaborative team of experts, lawyers, and non-lawyers to advise and educate the public living in inner cities and on country roads. While technology can be an asset to this initiative, it is not the focus. A major goal is to form relationships and rebuild trust in lawyers by working within existing physical infrastructure and capitalizing on existing human resources to assist the underserved.

### 1. A Team Practice Approach

Those who need legal assistance also need other types of community services. Best practices in providing services and education can be learned by examining existing medico-legal partnerships that in-

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222. *Research Guides*, CONN. JUD. BRANCH L. LIBR. SERVS., <http://www.jud.ct.gov/lawlib/selfguides.htm> (last visited Sept. 29, 2016) (covering subjects in civil research guides, family law, juvenile law, property law).

223. *See NH Law About*, N.H. PUBLAW.ORG, <http://www.nhpublaw.org/> (last visited Sept. 29, 2016).

224. *NH Law Library to Offer Course for Public Librarians*, N.H. B. ASS'N, <https://www.nhbar.org/publications/archives/display-news-issue.asp?id=3367> (last visited Sept. 29, 2016).

225. Anne Galloway, *State Phases Out Law Library*, VTDIGGER (June 16, 2015, 4:28 AM), <http://vtdigger.org/2015/06/16/state-phases-out-law-library/>.

226. *Library*, VT. L. SCH., <http://www.vermontlaw.edu/academics/library> (last visited Sept. 29, 2016).

clude team members from other professions and allied health professionals.<sup>227</sup> Medico-legal partnerships are not a new invention, and have been in existence since the 1990s.<sup>228</sup> Thirty-nine states can claim at least one medico-legal partnership and “48 federally-funded civil legal aid agencies that have formally partnered with healthcare institutions.”<sup>229</sup> Medico-legal partnerships work well because they treat the whole client who is in crisis and is seeking help.<sup>230</sup> “No single profession, including medicine and law, has the answer to these dilemmas.”<sup>231</sup> Social workers have been very effective as partners in these collaborations. Other professionals, such as librarians, should also be included to provide a holistic approach. Very often if there is a legal issue that has bubbled up to the surface, there is another series of problems, such as food insecurity, unemployment, domestic violence, untreated medical issues, child custody, labor and employment problems, and illiteracy or lack of education to name a few.<sup>232</sup>

“Legal, social, and health issues are all intersecting forces, that when collectively addressed and implemented in the form of narrowly-tailored policy, will ultimately create a holistic sense of justice for both individuals and communities.”<sup>233</sup> A collaborative practice staffed by a team of multidisciplinary professionals is an effective way to create such a holistic approach. While there are multiple ethical issues<sup>234</sup> to

227. *Partnerships Across the U.S.*, NAT'L CTR. FOR MED. LEGAL PARTNERSHIPS, <http://medical-legalpartnership.org/partnerships/> (last visited Sept. 29, 2016).

228. JEFFREY D. COLVIN ET AL., INTEGRATING SOCIAL WORKERS INTO MEDICAL-LEGAL PARTNERSHIPS: COMPREHENSIVE PROBLEM SOLVING FOR PATIENTS 1 (2012), <http://medical-legalpartnership.org/wp-content/uploads/2014/03/Integrating-Social-Workers-into-Medical-%E2%80%93Legal-Partnerships-Comprehensive-Problem-Solving-for-Patients.pdf>.

229. Jim Sandman, *Five Things the Civil Legal Aid Community Can Learn from Medical-Legal Partnership*, LEGAL SERVS. CORP. (Dec. 8, 2014), <http://www.lsc.gov/media/news-items/2014/five-things-civil-legal-aid-community-can-learn-medical-legal-partnership-jim-sandman>.

230. Marsha M. Mansfield & Louise G. Trubek, *New Roles to Solve Old Problems: Lawyering for Ordinary People in Today's Context*, 56 N.Y.L. SCH. L. REV. 367, 372 (2011).

231. Colvin et al., *supra* note 228, at 3 (citing V. Pualani Enos & Lois H. Kanter, *Problem Solving in Clinical Education: Who's Listening? Introducing Students to Client-Centered, Client-Empowering, and Multidisciplinary Problem-Solving in a Clinical Setting*, 9 CLINICAL L. REV. 83 (2002), and Annie G. Steinberg et al., *Child-Centered, Vertically Structured, and Interdisciplinary: An Integrative Approach to Children's Policy, Practice, and Research*, 40 FAM. CT. REV. 116 (2002)).

232. JoNel Newman, *Miami's Medical-Legal Partnership: Preparing Lawyers and Physicians for Holistic Practice*, 9 IND. HEALTH L. REV. 471, 475 (2012).

233. Linda L. Chezem, *Public Health Law & Equal Access to Justice in Rural America*, 59 S.D. L. REV. 529, 532 (2014).

234. MODEL RULES OF PROF'L CONDUCT r 5.4, r.1.6, r.1.7, r.1.8(a) (AM. BAR ASS'N 1983); *Status of Multidisciplinary Practice Studies by State*, AM. BAR ASS'N, [http://www.americanbar.org/groups/professional\\_responsibility/commission\\_multidisciplinary\\_practice/mdp\\_](http://www.americanbar.org/groups/professional_responsibility/commission_multidisciplinary_practice/mdp_)

be considered before forming a multidisciplinary practice, it is not impossible.<sup>235</sup> “Although the multidisciplinary team approach to problem-solving shows great promise for application in a wide variety of human problems, including those faced by children at risk of abuse and neglect,” assistance with business transaction clients have “garnered the lion’s share of the interest surrounding MDPs within the legal profession.”<sup>236</sup> While much of the concern over multidisciplinary partnerships stemmed from accounting firms offering tax practice, there are additional concerns that non-lawyers would hinder an attorney’s practice of law and professional ethics.<sup>237</sup> “Notwithstanding the ABA’s reluctance to alter the Model Rules, the multidisciplinary practice movement remains strong, and lawyers continue to explore means through which they can engage in Multidisciplinary Practices without violating their ethical duties.”<sup>238</sup>

To help bridge the justice gap, “[t]hese constraints on non-lawyer financing of legal services should be reconsidered.”<sup>239</sup> Social justice collaboratives have been successful in working with a team of professionals to solve their clients’ legal, health, and social issues while maintaining their ethical obligations.<sup>240</sup> Social justice collaboratives can vary in the subject matter that they cover and in their service models.<sup>241</sup> The “relationship to the client and among collaborators ranges from short-term service provision to a deeply integrated relationship.”<sup>242</sup> “These relationships are characterized by frequent, ongoing interaction, commitment to the relationship and trust.”<sup>243</sup> I will explore such a social justice collaborative organization that would take this type of collaborative legal services and introduce a mobile out-

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state\_action.html (last visited Sept. 29, 2016) (providing a status list of states considering multidisciplinary partnerships).

235. See *Multidisciplinary Practice*, THE BOSTON L. COLLABORATIVE, LLC, <https://blc.law/about-blc/> (last visited Sept. 29, 2016) (showing a multidisciplinary practice that includes affiliate staff of specialized professions).

236. J. Michael Norwood & Alan Paterson, *Problem-Solving in a Multidisciplinary Environment? Must Ethics Get in the Way of Holistic Services?* 9 CLINICAL L. REV. 337, 340 (2002).

237. *Id.* at 346.

238. *Id.* at 341.

239. DEBORAH L. RHODE, ACCESS TO JUSTICE 74 (2004).

240. Louise G. Trubek & Jennifer J. Farnham, *Social Justice Collaboratives: Multidisciplinary Practices for People*, 7 CLINICAL L. REV. 227, 229 (2000).

241. *Id.*

242. *Id.*

243. *Id.*

reach model<sup>244</sup> with aspects of preventive law<sup>245</sup> and holistic<sup>246</sup> lawyering.

## 2. Preventive Lawyering to Self-Represented Litigants and Underserved Populations

Often the most effective prescriptions to improve justice is to provide legal consultations to clients at the early stages of a dispute; to travel upstream and discover the root of the problem.<sup>247</sup> Lawyers not only represent people in court but help them in every day decision making; should they sign a contract, purchase a used car, talk to their landlord about repairs, etc.<sup>248</sup> These types of legal transactions are not usually handled by legal services.<sup>249</sup> “Traditional notions of access to justice entertained by the majority in the profession narrowly embrace only helping the poor to have a voice in court.”<sup>250</sup>

Good advice during this early stage can help someone rethink a transaction, make a better decision, diffuse a charged situation, or pro-

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244. See *Beyond ‘Unbundling’ - Alternatives in Legal Services*, N.H. BAR NEWS (Apr. 8, 2005), <https://www.nhbar.org/publications/archives/display-news-issue.asp?id=2262> [hereinafter *Beyond Unbundling*] “Outreach models - [bring] legal services to the places where middle class clients [are], rather than requiring the potential clients to come to [a] firm’s office.” *Id.*

245. See *Welcome to the NCPL*, NAT’L CTR. FOR PREVENTIVE L., <http://www.preventive-lawyer.org> (last visited Sept. 29, 2016) (providing risk management, legal audits and legal check-ups for individuals).

246. See *Id.* “Holistic lawyering is analogous to holistic medicine . . . a holistic lawyer addresses the whole person and not just a client’s particular legal issue.” *Id.* See also Robin G. Steinberg, *Beyond Lawyering: How Holistic Representation Makes for Good Policy, Better Lawyers, and More Satisfied Clients*, 30 N.Y.U. REV. L. & SOC. CHANGE 625, 629 (2006). Although this examines public defenders representing criminal clients, the idea can be expanded to include civil legal clients. Those in legal need should be viewed as a person rather than as a case and the whole person should be treated; Int’l Alliance of Holistic Lawyers [IAHL], *The International Alliance of Holistic Lawyers Resolution* (May 15, 2011), [www.iahl.org](http://www.iahl.org) (this organization was dissolved in 2011); *Resources*, MINDFUL LAWYERS ASS’N, <http://www.holisticlawyers.org/resources/> (last visited Sept. 29, 2016); *Beyond ‘Unbundling’*, *supra* note 244.

247. Steven H. Hobbs, *Shout from Taller Rooftops: A Response to Deborah L. Rhode’s Access to Justice*, 73 FORDHAM L. REV. 935, 950 (2004). Hobbs uses an analogy of two people rescuing babies floating down a river. While one person continues to rescue the babies the other person heads upstream to investigate why the babies are being sent down stream. “Similarly, we need to walk upriver and discover why so many of our fellow citizens are floating in rivers of injustice because there are too few lawyers to rescue them or to keep them out of the river in the first place.” *Id.* at 951.

248. *Id.* at 939-40.

249. *Id.*

250. Michelle S. Jacobs, *Pro Bono Work and Access to Justice for the Poor: Real Change or Imagined Change?* 48 FLA. L. REV. 509, 514 (1996).

vide an alternative method to resolve the conflict.<sup>251</sup> Louis M. Brown developed a different way of looking at legal problems in the 1940's which eschews looking at clients as "rights holders" and encourages looking at them as people.<sup>252</sup> Preventive lawyering urges the lawyer to look beyond the problem presented to consider their client's life and circumstances.<sup>253</sup> Thomas D. Barton, in the book *Preventive Law and Problem Solving: Lawyering for the Future*<sup>254</sup> outlines the following elements as the foundation of thought for preventive lawyering to understand the root causes of problems that generate needs:

[R]egardless of how effectively the immediate symptoms of a problem are addressed, attempts to uncover the broader contexts or connections in which needs arise; and lawyers should work proactively toward legal or non-legal interventions that disrupt pathological tendencies, or that strengthen resiliency, within the systems in which the client operates . . . .<sup>255</sup>

Considering these elements, attorneys can uncover a current legal problem and prevent it from repeating. Barton refers to Brown's analogy of a "legal checkup" which can help develop a legal wellness plan for both individuals<sup>256</sup> and businesses.<sup>257</sup> Using this type of legal audit technique, central to preventive law, we have a tool to help the client both as an individual and as part of his/her community. Preventive law concepts have recently been recommended for access to justice projects by New York's Permanent Commission on Access to

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251. Lisa M. Horvath, *The Legal Checkup for the Elderly: Diagnosing and Preventing Common Legal Illnesses*, 2 T.M. COOLEY J. PRAC. & CLINICAL L. 41, 43-44 (1998).

252. *Id.* at 44. See LOUIS M. BROWN, *LAWYERING THROUGH LIFE: THE ORIGIN OF PREVENTIVE LAW* 1 (1986). "I first used the term (preventive law) in the late 1940s, after observing that many of my clients could have avoided their legal difficulties. Because of ignorance or lack of proper professional guidance, they didn't take advantage of their legal rights or benefits. I decided that the legal profession needed an entirely new area of specialization. Hence, preventive law." *Id.*

253. See THOMAS D. BARTON, *PREVENTIVE LAW AND PROBLEM SOLVING: LAWYERING FOR THE FUTURE* (2009).

254. *Id.*

255. *Id.* at 346 ("[T]o neglect the antecedents of those symptoms risks a recurrence of the problem in identical or disguised forms; . . . . [I]deally, the interventions will not only preempt problems, but also contribute positively toward achieving the client's goals.").

256. Lisa M. Horvath, *The Legal Checkup for the Elderly: Diagnosing and Preventing Common Legal Illnesses*, 2 T.M. COOLEY J. PRAC. & CLINICAL L. 41, 43 (1998) (discussing the "Legal Checkup for the Elderly" developed by The National Center for Preventive Law which assists senior citizens uncover hidden legal problems and addresses them by "[d]iagnosing problems before the point of desperation preserves the greatest number of options and provides flexibility to address them.>").

257. BARTON, *supra* note 253, at 346.

Justice.<sup>258</sup> One of the Commission's recommendations for 2016 is to "focus on preventive legal assistance that can avert or reduce the need for litigation."<sup>259</sup> Preventive legal assistance has not only been supported by the ABA, but has been tested in a Medico-Legal Partnerships Project that develops medical-legal partnerships involving the private bar through pro bono.<sup>260</sup>

"Since 1993, medical-legal partnerships have sprouted up in over 80 sites (serving more than 160 hospitals and health centers) around the United States and Canada, with a presence in 37 states."<sup>261</sup> The National Center for Medical-Legal Partnerships (The Center) has generated a vibrant array of medical-legal partnership models, featuring a variety of clinical and legal partners: urban academic hospitals and rural Federally Qualified Health Centers, legal aid offices, law schools, and private law firms.<sup>262</sup> The Center provides substantial technical assistance to those emerging sites and cultivates the development of nationwide best practices through working groups, conferences, and a national research agenda.<sup>263</sup> Partnerships have adapted The Center's pediatric practice model to serve vulnerable adult populations in family medicine, internal medicine, oncology, and geriatrics.<sup>264</sup>

The idiom, an ounce of prevention is better than a pound of cure, is the thought behind many health care wellness programs to reduce health care spending.<sup>265</sup> Using preventive legal techniques to treat the root of a legal problem would be best for the client, reduce the

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258. See PERMANENT COMMISSION ON ACCESS TO JUSTICE, REPORT TO THE CHIEF JUDGE OF THE STATE OF NEW YORK (2015), [http://www.nycourts.gov/accesstojusticecommission/PDF/2015\\_Access\\_to\\_Justice-Report-V5.pdf](http://www.nycourts.gov/accesstojusticecommission/PDF/2015_Access_to_Justice-Report-V5.pdf).

259. *Id.* at 23 "[T]he Permanent Commission continues to find that well-trained and seasoned experts are necessary to address the complex legal problems that low-income clients frequently face and continues to recommend that prevention and early intervention efforts take first priority." *Id.*

260. See *Medical-Legal Partnerships Pro Bono Project*, AM. BAR ASS'N, [http://www.americanbar.org/groups/probono\\_public\\_service/projects\\_awards/medical\\_legal\\_partnerships\\_pro\\_bono\\_project.html](http://www.americanbar.org/groups/probono_public_service/projects_awards/medical_legal_partnerships_pro_bono_project.html) (last visited Sept. 29, 2016) (a joint project of the ABA Standing Committee on Pro Bono and Public Service, the Health Law Section, the AIDS Coordinating Committee, and the ABA Center on Children and the Law, funded by the ABA Enterprise Fund).

261. BARTON, *supra* note 253, at 346.

262. *Id.*

263. *Id.*

264. *Id.* at 358.

265. See Don R. Powell, *Characteristics of Successful Wellness Programs*, AM. INSTITUTION FOR PREVENTIVE HEALTH, <https://www.healthylife.com/template.asp?pageID=41> (last visited Feb. 17, 2017).

wear and tear on the court system, and reduce the numbers of self-represented litigants.<sup>266</sup>

### 3. Outreach in Action

The lawyer can “be a part of a more complex, more helpful system that could avert problems from arising, and that could help client better achieve their personal, business or organizational goals.”<sup>267</sup> Legal problems should be viewed within the context of the client’s life. The collaborative team, as described above, would be a way to not only recognize other problems causing or contributing to these legal issues, but would also help address those problems immediately, without waiting for additional appointments or relying on the individual to reach out and travel to the medical practitioner or social worker. Lack of transportation, especially outside of inner city areas, is a major barrier for clients who wish to seek and receive care. Providing a “one stop” mobile shop could help ease these barriers.

Lawyers alone cannot provide long-term, sustainable solutions to the systemic problems in our nation’s communities. They must work effectively with others in order to help individuals and bring about systematic change. To do this, they need to not only collaborate with others, but they need to see individual clients and their communities through a holistic lens; a person with a legal problem should be looked at as a whole person. Where legal problems exist, often other social issues need to be addressed, such as housing or food instability, unemployment or underemployment, health challenges, etc. Solving an individual’s legal problem may require addressing community needs and librarians, as information experts, can be part of providing change in the community.

#### *E. Going Mobile – Look to the Libraries*

Effective access to justice cannot be solved by one program, but must be provided through a variety of methods. The solutions to our access to justice problem cannot be neat and fit in a box. Access to justice affects every segment of our diverse population, and there needs to be many different approaches, including increasing funding for legal services, providing legal clinic opportunities for law students, creating

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266. Julia Huston, *Remedy for an Ailing Civil Justice System: Preventive Legal Care*, THE AM. PROSPECT (Jan. 14, 2015), <http://prospect.org/article/remedy-ailing-civil-justice-system-preventive-legal-care>.

267. BARTON, *supra* note 253, at 10.

technological solutions such as e-court or self-service forms, and providing pro bono services.

However, there are a large number of people for whom these resources are not effective, available, or efficient. I propose another model to add to the pantheon of ways to provide quality legal services to those who need them that combines the “just in time” model (treating those who are already embroiled in the justice system, i.e. currently in or facing litigation) with a preventive component or legal wellness program. This model is based on a holistic and collaborative approach that attempts to provide services within a community that include educational, preventative, and “just in time” legal aid. It is a mobile, multi-practice clinic offering legal aid, educational legal outreach, medical, and social services within a community and within a place of trust. This proposal is based upon the ideas of collaboration, proactive outreach, and holistic treatment that borrows from the concept of a bookmobile or mobile medical clinic.

A bookmobile is a mobile library that travels through its community providing books, access to the Internet, and other services.<sup>268</sup> Bookmobiles have been used in the United States since the early years of the 20th century and continue operating today.<sup>269</sup> In 2012, “six percent of public libraries had one or more bookmobile outlets, with a total of 683 bookmobiles delivering library services in the U.S.”<sup>270</sup> Bookmobiles are an important part of providing library services to a wide range of communities in the United States and around the world. Bookmobiles have served rural, urban, suburban, and tribal areas, providing entertainment, information, and life-long learning to all classes and communities.<sup>271</sup> Through mobile services, librarians provide books, DVDs, Internet access, video games, and e-readers.<sup>272</sup> They also offer story-times for children, job searching and resume help, and English-language classes to those not able to physically access a library building.<sup>273</sup>

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268. See Kathryn Zickuhr et al., *Library Services in the Digital Age*, PEW INTERNET (Jan. 22, 2013), <http://libraries.pewinternet.org/2013/01/22/library-services/> (listing activities bookmobile patrons engage in).

269. *Mobile Libraries*, AM. LIBR. ASS'N, <http://www.ala.org/tools/mobile-libraries> (last visited Feb. 17, 2017).

270. *Id.*

271. *Id.*

272. Zickuhr et al., *supra* note 268.

273. John Amundsen, *Bookmobiles: A Proud History, a Promising Future*, *American Libraries*, AM. LIBRS. (Apr. 11, 2012), <http://americanlibrariesmagazine.org/2012/04/11/bookmobiles-a-proud-history-a-promising-future/>.



This mobile outreach is also used in other legal projects<sup>274</sup> and professions<sup>275</sup> providing services to underserved populations. One such project involved community outreach to educate and sign people up for the Affordable Care Act in rural areas in 2014.<sup>276</sup> The Federal Office of Rural Health Policy developed a road map of best practices and lessons learned in providing effective outreach in the community.<sup>277</sup> Many of these obstacles mirror those that would face a mobile legal clinic traveling to rural areas throughout the United States and the best practices developed would help foresee and avoid some common hurdles.<sup>278</sup>

An effective outreach service needs to be able to reach the people close to their homes, see and understand their community, and become a known entity, in order to create an ongoing relationship with their community.<sup>279</sup> I propose creating a mobile outreach bus, known as the “Access to Justice Bus,” to improve access to legal information and advice, as well as other social services, to underserved communities. The Access to Justice Bus should be self-contained and able to set up shop in any location. This bus would serve as an environmentally friendly “base camp” that would be frugal to operate, but distinctive and welcoming.<sup>280</sup> A diverse team of professionals can use the bus to “ride circuit,” or follow a planned route to provide societal outreach,

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274. *Justice on Wheels in New York and California*, CAL. AUTO INS. (Feb. 13, 2013), <http://www.californiaautoinsurance.in/2013/02/justice-on-wheels-in-new-york-and-california/> (describing New York Legal Services mobile services directly supporting low income clients and OneJustice supporting nonprofit legal services and pro-bono lawyers).

275. *Mobile Food Pantries*, FEEDING AM., <http://www.feedingamerica.org/about-us/helping-families-in-need/mobile-food-pantry-program/?referrer=https://www.google.com/> (last visited Sept. 28, 2016) (providing food directly to clients by removing barriers that prevent access to underserved areas, and allows for fast and flexible delivery of rescued food and grocery products including meat, produce, and baked goods).

276. See HEALTH INS. MARKETPLACE, AFFORDABLE CARE ACT HEALTH INSURANCE MARKETPLACE OUTREACH AND ENROLLMENT TOOLKIT FOR ELECTED OFFICIALS (2013), <http://www.ncsl.org/documents/summit/summit2013/online-resources/ACAHealthInsMarketplacetoolkit.pdf>; FED. OFFICE OF RURAL HEALTH POLICY, BEST PRACTICES GUIDE IN RURAL OUTREACH AND ENROLLMENT FEDERAL OFFICE OF RURAL HEALTH POLICY (2014), <http://docplayer.net/6055039-Best-practices-guides-in-rural-outreach-and%20enrollment.html>.

277. See FED. OFF. OF RURAL HEALTH POL., BEST PRACTICES GUIDE IN RURAL OUTREACH AND ENROLLMENT FEDERAL OFFICE OF RURAL HEALTH POLICY (2014), <http://docplayer.net/6055039-Best-practices-guides-in-rural-outreach-and%20enrollment.html>.

278. *Id.*

279. *Id.* at 7.

280. IAN STRINGER, INT’L FED’N OF LIBRARY ASS’NS & INSTS., MOBILE LIBRARY GUIDELINES 29 (2010) (recommending use of green technology for bookmobile construction and suggests using solar panels to supplement batteries). See also DRIVE BIODIESEL, <http://www.drivebiodiesel.net/State/NewHampshireBiodiesel.html> (last visited Sept. 28, 2016) (explaining how alternative fuels would power the bus, currently New Hampshire has six biodiesel gas stations).

including legal services and information, to underserved communities. It would be essential for the team to involve several types of agencies or organizations. Some of these agencies or organizations might include state/academic law libraries, legal services organizations, community action programs, retired or pro bono attorneys, medical clinics, nursing programs, social work organizations, and training programs. This mobile outreach bus could also serve as a teaching clinic for all manner of students as well as new professionals and apprentices. The most efficient and economical way to implement this program would be to seek out community organizations that already perform mobile outreach programs in order to take advantage of their experience in workflows, staffing, and facilities.

The professionals on the bus would consist of a lawyer, librarian, social worker, translator, nurse, and other types of professionals needed for the community or circumstance. The team members would follow a bus route with scheduled stops and meet with clients or they would do community outreach visits that would include educational programs, initial legal intake interviews, assistance with forms, or meet for more intensive sessions over several visits. To reach the greatest amount of people and to be a true community resource, it would be important for this mobile office to be on a regular schedule where they could be counted on to arrive timely and to provide reliable services. In many rural communities, the process of establishing your reputation in a close-knit community can be challenging.<sup>281</sup> In order to combat this problem, the legal outreach team could partner with local organizations such as the public library. Members of the team could meet with potential clients in the bus itself for private meetings. Otherwise, they could park the bus at a public library, community center, church, or other community-centered building “where they work, play, and pray.”<sup>282</sup> They could take advantage of the host organizations’ facilities, electricity, parking, bathrooms, Wi-Fi, or Internet hot spot.<sup>283</sup>

The bus’s resident attorney should be a supervising attorney, licensed in that state and of good standing. The licensed attorney should be a general practitioner or experienced in many areas of law and have previously worked as a supervising attorney. This attorney, if supervising law students as a clinic experience, must be a faculty

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281. Laird, *supra* note 206.

282. *Id.*

283. MICHAEL YORK, N.H. ST. LIBR., LIBRARY SERVICES AND TECHNOLOGY ACT: FIVE-YEAR PLAN FOR NEW HAMPSHIRE STATE LIBRARY 8 (2013) “There remain libraries in the North Country that still do not provide Internet access to the public. New Hampshire ranks 49th in the country for Internet usages per 5,000 capita.” *Id.*

member or clinical instructor at an ABA accredited law school and the clinical experience must comply with ABA Standard 304.<sup>284</sup> The clinical attorney might partner with a pro bono organization to provide experts as needed. Alternatively, pro bono attorneys could join the bus's staff to gain more experience and expand their area of legal practice. Additionally, the retired attorneys could join the bus to mentor younger attorneys. Another idea would be that the bus could provide an opportunity for those attorneys who are indigent or underemployed as a way to gain legal experience in a supervised setting. The bus could serve as a training ground for newer attorneys who are interested in either taking over a law practice and feel they need additional experience and support before they do so or are interested in trying out the rural practice. It could also serve as a mobile teaching tool where students of law, medicine, social work, etc. could gain experience in their related fields while being closely supervised by licensed, experienced professionals.

The lawyers would provide general assistance to individuals with questions and would help with more specific transactional needs, such as writing contracts or wills. They could meet with clients and have repeated visits scheduled to represent clients at hearings and in court and would be available to help with risk assessment, business form preparation, tax help, and more for small businesses. They might provide subject-specific workshops that would be relevant to the community, such as relating to foreclosure, business incorporation, and estate planning basics or other "hot topics."

The team would include a law librarian for research support who would connect with the public librarians on reference and collection development wherever possible. The librarian would also conduct educational workshops on legal research and provide information on privacy and other topics. Having law librarians working with public librarians would solidify the bus's mission with the community.

Legal counseling provided by the bus would solve an immediate legal problem, but would also serve as preventive advice to help the client avoid court. This model could benefit many populations, including those below or near the poverty line, the middle class, and other under-served populations in a variety of locales throughout the state. Bus lawyers could serve as interim legal providers while a community is in transition or without a lawyer. Retired lawyers on the bus could also provide a mentoring opportunity for newly licensed lawyers or

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284. AM. BAR ASS'N, STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 17 (2016–2017).

those providing pro bono services in an area of law that they would not normally practice. Massachusetts, and other states have created statutory incentives to encourage retired volunteers of all professions.<sup>285</sup>

### 1. The Route

Public, inner city bus routes operate on a consistent schedule to get riders from home to work and back again. The Access to Justice Bus route would be adjustable so that it would be able to travel to wherever it is most needed. While a regular route should be maintained, additional service could be expanded or contracted based on real time needs. The bus route could visit the same core locations, but also include other under-served areas including suburban and inner city neighborhoods as needed.

Event and meeting space could be provided by public libraries and community centers within a state. Additional stops may include health centers, nursing homes, and special service to individuals who are home bound. Public librarians would provide local logistical information, such as the availability of broadband service to access electronic materials, the need for Continuing Legal Education publications, or practice guides to bolster the various guides created by legal services groups. Public librarians could also request additional pamphlets or how-to guides authored by area attorneys to restock their supplies. Law librarians would work with public librarians along the bus route to develop legal, health, or other specialty collections and serve as resources for the team and the public. The law librarians would also be a resource for individuals and other public libraries that are not located on or near the regular bus route.

### 2. Funding

Because of the variety of restrictions on programs funded in whole or in part by the Legal Services Corporation,<sup>286</sup> I suggest looking for other, more flexible funding from non-legal sources such as health care, public health or human rights organizations interested in working with a legal collaborator. These cross-sector or interdisciplinary partnerships can provide multiple types of support to vulnerable popu-

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285. MASS. ANN. LAWS ch. 59, § 5K (2016) Any Massachusetts town may establish a program to allow persons over the age of sixty to volunteer to provide services to such city or town, and in exchange the town shall reduce the real property tax no more than \$1,000. *Id.* See also H.R. 448, 159th Gen. Assemb., Reg. Sess. (N.H. 2009).

286. MD. ACCESS TO JUSTICE COMMISSION, *supra* note 87.

lations.<sup>287</sup> The initial funding could come from startup grants<sup>288</sup> and perhaps be sustained later by sponsorships or other non-legal advertising<sup>289</sup> rather than from limited federal government legal services funding. In some states, government funding, as part of legal services, may also be an option.<sup>290</sup> The bus program is meant to be an additive program, not a substitute for more traditional legal services, and therefore not funded from the same grantors. The benefit of seeking non-governmental funding ensures that the bus is not restrained from serving all areas of legal need, regardless of federal financial caps or case restrictions.

### CONCLUSION

Gloria, our grandmother who wanted to seek permanent custody of her grandchildren, needs not only legal assistance to gain custody of her grandchildren, but also needs help planning for retirement, getting the twins tested and treated for any learning delay, and medical care to determine the cause for the sleeping difficulty. She is unable to travel to seek services on an ongoing basis. Gloria needs a lawyer and other professionals that can understand her situation and can provide her with immediate as well as long-term assistance by using the resources in her community. The multidisciplinary team on the Access to Justice Bus would be able to assist her with her legal problems, provide legal advice, and treat her family's other medical problems as well.

The definition of Access to Justice must expand to reach beyond the walls of the courthouse into the community for there to be a real benefit to the public at large. While traditional legal aid is crucial for providing civil legal advocacy, alternative ideas should be added to provide not only "just in time" services, but also preventive legal services and educational programs. In reviewing different states' models, I believe that a collaborative approach involving a diverse team of

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287. Sandman, *supra* note 229.

288. *ATJ Innovation and Expansion Grant Resources*, AM. BAR ASS'N, [http://www.americanbar.org/groups/legal\\_aid\\_indigent\\_defendants/initiatives/resource\\_center\\_for\\_access\\_to\\_justice/resources—information-on-key-atj-issues/grants.html](http://www.americanbar.org/groups/legal_aid_indigent_defendants/initiatives/resource_center_for_access_to_justice/resources—information-on-key-atj-issues/grants.html) (last visited Mar. 16, 2017).

289. Such as vehicle wrapping use for law firm advertisements. Deborah L. Cohen, *Solos Make a Splash with Mobile Ads*, ABA J. (May 2011), [http://www.abajournal.com/magazine/article/solos\\_make\\_a\\_splash\\_with\\_mobile\\_ads](http://www.abajournal.com/magazine/article/solos_make_a_splash_with_mobile_ads).

290. Funding for the Access to Justice bus cannot be absorbed by state budgets without depleting much needed dollars from existing legal aid programs. The bus is not meant to replace traditional legal aid but would be a supplemental program that could be a state or regional collaboration among legal services, law schools and medical providers.

professionals providing systematic outreach in the communities can provide effective access to justice to the individual and to the whole community, whether rural or in the inner city. Law librarians are essential team members whose talents can network and link the members of the Access to Justice Bus to the community.