The State Bar of California

OPEN SESSION
AGENDA ITEM
5.5 APRIL 2026
LEGAL SERVICES TRUST FUND COMMISSION, EXECUTIVE COMMITTEE

DATE: **April 30, 2026**

TO: **Members, Legal Services Trust Fund Commission, Executive Committee**

FROM: **Doan Nguyen, Program Director, Office of Access & Inclusion**
Jennifer Zelnick, Principal Program Analyst, Office of Access & Inclusion

SUBJECT: **Discussion and Potential Action Regarding the Community Justice Workers Proposal and Senate Bill 1129**

EXECUTIVE SUMMARY

In November 2025, the Legal Services Trust Fund Commission (LSTFC) approved a resolution supporting the *Increasing Access to Justice Through Community Justice Workers: A Proposal for California* (*the CJW Proposal*) to establish a statewide community justice worker (CJW) program in California. Shortly thereafter, in December 2025, *the CJW Proposal* authors petitioned the Supreme Court to adopt a proposed Rule of Court establishing a California CJW program. While the Court's decision remains pending, Senator Anna Caballero amended Senate Bill 1129 (SB 1129) in March 2026, which, as amended on April 16, 2026, would direct the State Bar to form a working group to study CJW models in other jurisdictions and issue recommendations to the Legislature and Supreme Court. This memo presents updates regarding *the CJW Proposal* and SB 1129.

RECOMMENDED ACTION

Informational item only.

DISCUSSION

In December 2024, a coalition of legal aid organizations, including several programs funded through the Interest on Lawyers' Trust Accounts (IOLTA) program, led by the Legal Aid Association of California (LAAC), OneJustice, and Legal Link (the authors), published *Increasing Access to Justice Through Community Justice Workers: A Proposal for California* (*the CJW*

Proposal, Attachment A). *The CJW Proposal* seeks to establish a California-specific program for trained nonlawyers—community justice workers (CJWs)—to provide limited legal services to low-income residents of California under attorney supervision within authorized legal services organizations.

On May 21, 2025, State Bar staff (staff) presented a discussion on the national landscape to expand access to justice, including *the CJW Proposal*, to the LSTFC. During the LSTFC's discussion, the LSTFC requested *the CJW Proposal* authors present the proposal in greater detail to the LSTFC Program Development and Impact Committee (PDI Committee) at its June 11, 2025, meeting. After the authors' presentation, the PDI Committee formed a working group to review *the CJW Proposal.* Following several meetings, on October 24, 2025, the working group recommended that the PDI Committee recommend that the LSTFC support the authors' efforts to establish a CJW program in California, and to provide the authors with written feedback to strengthen their proposal. Subsequently, the LSTFC approved these recommendations on November 7, 2025, to help address California's justice gap (Attachment B). On November 14, 2025, staff sent *the CJW Proposal* authors the LSTFC's letter outlining its support for the authors' efforts to establish a statewide CJW program, along with its suggestions and questions. The authors noted they planned to add the LSTFC's letter to its collection of feedback and stated they would keep staff apprised as they continued to advocate for a statewide CJW program.

On December 8, 2025, LAAC, OneJustice, and Legal Link petitioned the California Supreme Court to adopt proposed California Rule of Court 9.45.1 (Case No. S294332, Attachments C and D), which would establish a statewide CJW program and authorize the LSTFC to develop a process by which legal services organizations may apply for approval to participate in a CJW program.

The State Bar filed a response with the Court on March 3, 2026, indicating that it could not take a substantive position on the concept or proposed rule because the proposed rule had not yet been considered by the Board of Trustees (Attachments E, F, and G). The response provided five possible procedural responses for the Court's consideration:

1. Declining to act directly on the Petition and deferring to the State Bar to decide whether to explore the CJW concept on its own timeline, taking into consideration resource constraints and competing priorities;
2. Directing the State Bar to consider the CJW concept, potentially with direction to refer the question to the appropriate subentity or committee (which could include the LSTFC or a new ad hoc committee), and to make a proposal to the Court on whether to implement a CJW program, including proposed rules for doing so if the State Bar recommends implementing a program;
3. Approving the CJW concept and directing the State Bar to evaluate the proposed rule and recommend changes to support the proposed rule's effective implementation;
4. Approving the CJW concept and directing the State Bar to develop its own proposal for a CJW program, possibly directing the State Bar to refer the matter for a recommendation by the LSTFC or an ad hoc body; or

5. Rejecting the CJW concept.

Petitioners filed a reply on March 17, 2026, strongly urging the Court to act quickly to approve the proposed rule and requesting that, if public comment is sought, the Court either issue the rule for comment directly or direct the State Bar to do on an expedited basis (Attachment H). At the time of posting, the Court has not yet responded to Case No. S294332.

On March 23, 2026, Senator Caballero amended SB 1129 (previously a "spot bill" dealing with a different subject matter) to direct the State Bar to form a CJW working group to examine CJW models in other jurisdictions. As further amended on April 16, 2026, the bill would require the State Bar to issue a report and recommendations to the Senate Committee on Judiciary, the Assembly Committee on Judiciary, and the Court by January 1, 2029 (Attachment I). On April 23, 2026, the Senate passed SB 1129, and the bill is now ordered to the Assembly.

A statewide CJW program aligns with the missions and strategic plans of the State Bar and the LSTFC to protect the public by increasing equitable access to and participation in California's legal system, particularly for low-income and underserved communities. For this reason, the LSTFC's November 7, 2025, resolution supports the concept of a statewide CJW program. However, the LSTFC's November 7, 2025, resolution also noted several major concerns which the petitioners have not yet addressed. While the petitioners noted they are revising *the CJW Proposal* to incorporate feedback, the petition does not resolve these concerns or identify specific feedback a revised proposal will incorporate. The LSTFC's questions about CJW discipline and professional obligations, as well as whether CJWs would be subject to the jurisdiction of the State Bar and/or the Court, among other concerns, merit clarification before the LSTFC Executive Committee and the LSTFC consider SB 1129.

The State Bar has not yet taken a position on the concept of a statewide CJW program. To do so while the CJW petition and the State Bar's response remains pending with the Supreme Court would be inconsistent with the State Bar's position in that response.

As support for a CJW program goes beyond the parameters for which the LSTFC is authorized to take a position (which are set forth in the State Bar Legislative Program: Purpose and Guiding Principles), the LSTFC would be limited to asking the Board of Trustees to identify this as a legislative priority of the State Bar. Given the pending petition, the limitations on the LSTFC's ability to take a position on its own, and the likelihood that SB 1129 is not yet in its final form and may be further amended, staff recommends the LSTFC Executive Committee and the LSTFC to await guidance from the Court regarding Case No. S294332 before considering a position for SB 1129. In its current form, SB 1129 appears noncontroversial. However, the bill may undergo substantive changes. As such, the LSTFC should fully defer to the Supreme Court before undertaking a legislative position that may run counter to the Court's authority.

Staff will continue to monitor legislative developments and will notify the LSTFC as soon as a response from the Court is published. Staff will share a similar informational item at the May 29, 2026, LSTFC meeting.

PREVIOUS ACTION

Approval of Recommendation Regarding Letter to the Community Justice Workers Proposal Authors
(PDI Committee, October 24, 2025)

Approval of Recommendation Regarding Letter to the Community Justice Workers Proposal Authors
(LSTFC, November 7, 2025)

FISCAL/PERSONNEL IMPACT

Staff estimates supporting a CJW program—including staffing a working group; developing, reviewing, and administering applications; providing technical assistance to authorized legal services organizations; rulemaking; and monitoring participating programs—will require approximately 2.0 full-time equivalent program analyst and senior-level Office of Access & Inclusion staff, at an estimated annual cost of $497,000. Staff anticipates additional one-time technology costs of approximately $50,000 to develop application and reporting tools and ongoing direct costs of approximately $10,000 per year to cover maintenance. Staff has not substantively contemplated how establishment of the CJW program may impact the State Bar's general funds and the staffing requirements for other State Bar offices.

AMENDMENTS TO RULES

None

AMENDMENTS TO BOARD OF TRUSTEES POLICY MANUAL

None

STRATEGIC PLAN GOALS & IMPLEMENTATION STEPS

Goal 2. Protect the Public by Enhancing Access to and Inclusion in the Legal System

b. 4. Make the State Bar a leader in connecting the public to legal representation by enhancing public awareness of the resources available and continually enhancing those resources.

RESOLUTION

None

ATTACHMENT(S) LIST

A. *Increasing Access to Justice Through Community Justice Workers: A Proposal for California*

B. Approval of Recommendation Regarding Letter to the Community Justice Workers Proposal Authors

C. CJW Petition to the Supreme Court

D. CJW Petition to the Supreme Court Appendix of Exhibits

E. State Bar's Response to the CJW Petition

F. State Bar's Response to the CJW Petition Appendix of Exhibits Volume I

G. State Bar's Response to the CJW Petition Appendix of Exhibits Volume II

H. CJW Petitioners Reply to State Bar Response

I. SB 1129

Increasing Access to Justice THROUGH Community Justice Workers

A Proposal for California



LAAC
Legal Aid Association of California

OneJustice

LEGAL LINK

Increasing Access to Justice THROUGH Community Justice Workers

A Proposal for California

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LAAC Legal Aid Association of California

OneJustice

LEGAL LINK

IN JULY 2024, the Legal Aid Association of California convened a working group of leaders from California's legal aid organizations to explore the potential for a Community Justice Worker (CJW) program. This group was led by Legal Link and OneJustice, with advice and support from Stanford Law School's Deborah L. Rhode Center on the Legal Profession and Frontline Justice. Discussions over the last six months focused on expanding the reach and impact of legal aid organizations by allowing nonlawyer staff and community members, with attorney training and supervision, to independently do discrete legal procedures for which there is a deep and unmet need. This would require authorization to perform a limited range of activities which could fall within the scope of the practice of law.

We are thrilled to share our CJW proposal for California, which would allow legal aid organizations to extend and expand on their work for the lowest-income Californians using a CJW model, as many other states are now doing. The proposal describes a framework for California legal aid organizations seeking to certify individual Community Justice Workers who will serve under the supervision of their attorneys. This is not a proposal for specific projects; rather, it is a proposal for an authorization and oversight framework for a California CJW program in which legal aid organizations across the state can choose to participate. The proposal seeks to streamline the process for groups already under IOLTA review and scrutiny, while allowing other organizations to enter the CJW Program should they meet a set of requirements. Our group is hopeful that our efforts to innovate and provide deeply needed services in a safe and measured way are embraced and carried forward.

Sincerely,

Christian Abasto, Disability Rights California, Legal Advocacy Unit Director
Silvia Argueta, Legal Aid Foundation of Los Angeles, Executive Director
Monique Berlanga, Centro Legal de la Raza, Executive Director
Diego Cartagena, Bet Tzedek Legal Services, President & CEO
Tiela Chalmers, former Alameda County Bar Association, CEO
Leigh Ferrin, OneJustice, Program Director
Heather Hostler, California Indian Legal Services, Executive Director
Jessica Jewell, California Rural Legal Assistance, Executive Director
Zach Newman, Legal Aid Association of California, Directing Attorney
Pablo Ramirez, Legal Aid Society of San Bernardino, Executive Director
Tessie Solorzano, Inland Counties Legal Services, Executive Director
Sacha Steinberger, Legal Link, Founder and Co-Executive Director

Access to justice is a cornerstone of our legal system, encapsulated by the four words inscribed on the façade of the United States Supreme Court building: *equal justice under law*. Unfortunately, these words do not reflect the reality of our American legal system in practice. Most Americans do not have any access to justice at all.

The statistics are shocking.[1] 75 percent of low-income households experienced at least one civil legal problem in the past year, and 40 percent experienced at least five.[2] 92 percent of those people do not receive any or enough legal assistance.[3] In state courts, which handle 98 percent of civil disputes, lawyers represent both sides in only 24 percent of cases on average.[4] In some legal areas, such as family, housing, and debt, 80 to 90 percent of parties have no lawyer at all.[5] These figures only capture those who make it to court—many more struggle with serious legal problems outside the formal judicial process.[6] These individuals often navigate complex and life-altering issues—affecting their family, safety, housing, employment, and finances—without any legal guidance.

California is significantly affected by this crisis. The State Bar's 2019 study of the justice gap revealed that 55 percent of Californians faced at least one civil legal problem in the past year (13 percent experienced six or more), yet 85 percent received insufficient or no legal help.[7] The California justice gap transcends socioeconomic status, with merely 27 percent of low-income and 34 percent of middle-income Californians receiving legal assistance.[8] This study also showed that the most vulnerable among us experience more legal problems than others: those living in a household with a person with disabilities experience an average of three times as many legal problems and survivors of domestic violence or sexual assault expe-

1 Americans experience an estimated at least 150 million new civil justice problems annually. *See* Rebecca L. Sandefur & James Teufel, *Assessing America's Access to Civil Justice Crisis*, 11 U.C. Irvine L. Rev. 753, 765 (2020). At least 120 million of those problems go unresolved. *See* Institute for the Advancement of the American Legal System & Hague Institute for Innovation of Law, Justice Needs and Satisfaction in the United States of America 235 (2021), https://iaals.du.edu/sites/default/files/documents/publications/justice-needs-and-satisfaction-us.pdf.

2 *Justice Gap Research*, Legal Servs. Corp., https://www.lsc.gov/initiatives/justice-gap-research.

3 *Id.*

4 Anna E. Carpenter, Colleen F. Shanahan, Jessica K. Steinberg, & Alyx Mark, *American's Lawyerless Courts: Legal Scholars Work to Recommend Large-Scale Changes in Lawyerless Civil Courts*, No. 4 A.B.A. L. Prac. 48 (2022); Nat'l Ctr. for State Cts., Civil Justice Initiative: The Landscape of Civil Litigation in State Courts 31 (2015), https://www.ncsc.org/__data/assets/pdf_file/0020/13376/civiljusticereport-2015.pdf. Equally significant is the stark disparity in representation rates between plaintiffs and defendants. On average, 92 percent of plaintiffs are represented by counsel, whereas only 26 percent of defendants have legal representation. *Id.*

5 Lucy Ricca and Eric Helland, Conference on Access to Justice in California 1 (2024), https://www.rand.org/content/dam/rand/pubs/conf_proceedings/CFA3400/CFA3411-1-v2/RAND_CFA3411-1-v2.pdf.

6 Rebecca Sandefur, *What We Know, and Need to Know, About the Legal Needs of the Public*, 67 S.C.L. Rev. 443, 447-449 (2015).

7 Rocio Avalos, Erica Carroll, Lisa Chavez, Hellen Hong, Linda Katz, and Eli Wallach, California Justice Gap Study: Executive Report 6 (2019).

8 *Id.*

rience eight times as many legal problems.[9] Millions of Californians, unable to secure the help they need, fall into this justice gap often with lasting impacts for their lives, families, and communities.[10]

A. Traditional Approaches are Insufficient to Address the Immense Need

Traditional approaches to addressing the access to justice crisis—like increasing the overall number of lawyers or mandating pro bono service—have proven ineffective. The number of lawyers has increased in both absolute terms and proportional to the American population and yet the numbers of self-represented people continue to grow.[11] And, while many lawyers are dedicated to pro bono work, only a small portion of hours across the profession are committed to it.[12] Even a significant increase in pro bono efforts would fall short—studies show that if every lawyer in the U.S. provided 100 additional pro bono hours per year, each household with a civil legal issue would still receive only 30 minutes of legal help.[13]

Those who know this problem best, who see the overwhelming need day after day, are the members of California's legal aid community. These lawyers, paralegals, administrative assistants, and other staffers bear the brunt of this ever-worsening issue. Although they offer many services to thousands of Californians in need every single day, they lack the resources to meet the overwhelming demand. Legal Service

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9 *Id.* at 9.

10 Unresolved legal issues often result in severe hardship to individuals and negative consequences to society at large. See Pascoe Pleasence et al., *Mounting Problems: Further Evidence of the Social, Economic and Health Consequences of Civil Justice Problems*, in Transforming Lives: Law and Social Process 67, 79, 83-85 (2006); Sandefur, *supra* note 6, at 457; Deborah L. Rhode & Scott L. Cummings, *Access to Justice: Looking Back, Thinking Ahead*, 30 Geo. J. Leg. Ethics 485, 488 (2017).

For example, eviction can have serious social and health consequences, including interrupted employment, worsened physical health, and increased rates of mental health disorders such as depression and suicide. The associations between eviction and child health have been well documented, including adverse birth outcomes, increased rates of food insecurity among young children, and poor physical and mental health in adolescents and young adults. These consequences create a vicious circle that results in more housing instability and economic challenges. *See Prevalence and Impact of Evictions*, United States Dep't of Hous. and Urb. Dev., https://www.huduser.gov/portal/periodicals/em/summer21/highlight2.html#:~:text=Moreover%2C%20the%20toll%20of%20evictions,housing%20instability%20and%20economic%20challenges. Eviction is also associated with premature death. Simply being threatened with an eviction—even when that case did not result in an eviction judgment—was associated with a 19% increase in mortality. Receiving an eviction judgment was associated with a 40% increase in the risk of death. See Nick Graetz, Carl Gershenson, and Matthew Desmond, *Rising Rents and Evictions Linked to Premature Death*, Eviction Lab, https://evictionlab.org/rising-rents-and-evictions-linked-to-premature-death/.

In the context of family law, failure to address unmet legal needs may put at lives at risk through domestic violence, and result in loss of child custody by deserving parents, children left in physically dangerous, psychologically traumatic, or financially inadequate family settings, and related problems. See Deborah L. Rhode, Access to Justice 3 (2004). Similarly, the long-term effects of domestic abuse can significantly impact a victim's or witness's life. Domestic violence significantly reduces educational achievements, self-assessed health levels, and life satisfaction; and increases mental health risks. *See* Liu Bo and Yating Peng, *Long-Term Impact of Domestic Violence on Individuals-An Empirical Study Based on Education, Health and Life Satisfaction*, Behav. Scis. (2023).

Moreover, legal debt collection practices devastate vulnerable individuals by trapping them in a cycle of mounting fees, wage garnishment, and court judgments. *See They Need Legal Advice on Debts. Should It Have to Come From Lawyers?,* N.Y. Times (2022), https://www.nytimes.com/2022/01/25/nyregion/consumer-debt-legal-advice.html.

11 The population of U.S. lawyers has grown by 400% since 1970. In 1970, the number of lawyers in the United States was 326,842. In 2022, the number is 1,327,010. Am. Bar Assoc., Profile of the Legal Profession 2022, https://www.abalegalprofile.com/demographics.php#anchor1. Furthermore, the United States had one lawyer for every 695 people in 1951 and one lawyer for every 252 people in 2005. *See* Clara N. Carson & Jeeyoon Park, American Bar Foundation, The Lawyer Statistical Report: The U.S. Legal Profession In 2005, 2 (2005).

12 Gillian K. Hadfield and Deborah L. Rhode, *How to Regulate Legal Services to Promote Access, Innovation, and the Quality of Lawyering*, 67 Hastings L. J. 1191, 1193 (2016).

13 *3 ways to meet the "staggering" amount of unmet legal needs*, Am. Bar Ass'n, https://www.americanbar.org/news/abanews/publications/youraba/2018/july-2018/3-ways-to-meet-the-staggering-amount-of-unmet-legal-needs-/.

Corporation-funded organizations turn away nearly half of the requests they receive due to limited resources.[14] Moreover, recent data show that these limited resources prevent California's legal aid attorneys from fully resolving at least one-third of the problems presented to them.[15]

Increasing funding for legal aid will also not close this gap. California would need an estimated 8,961 additional full-time attorneys to address the legal needs of its low-income residents, requiring nearly $900 million in additional annual funding.[16] For comparison, California legal aid organizations cumulatively employ approximately 1,500 attorneys per year and leverage 16,000 pro bono attorneys to provide services.[17]

Recruiting and retaining attorneys has also become a critical challenge for California's legal aid organizations. A 2010 survey by the Legal Aid Association of California (LAAC) revealed that over one-third of legal aid attorneys left within three years of being hired. By 2019, this trend worsened, with one-third of attorneys leaving within just two years.[18] Financial stress due to low salaries is the number one reason legal aid attorneys give for leaving so soon.[19] Low compensation is compounded by California's high cost of living and attorneys' high student loan expenses, which have grown significantly over the years.[20] Law students, facing high costs of living and ever-burgeoning student loans, are turning to careers in government or at private law firms instead of legal aid organizations.[21]

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14 *Justice Gap Research*, *supra* note 2.

15 Avalos et al., *supra* note 7, at 14.

16 *Id.*

17 *Id.*

18 *Id.* The Bay Area and Southern California—the regions with the highest costs of living and the greatest numbers of low-income people—have seen the largest increases in turnover rates and largest decreases in length of employment. The San Joaquin Valley and Central California Region continues to have the highest turnover rates, with more than a fifth of their attorneys leaving each year. *See* Legal Aid Ass'n of Cal., Justice at Risk: More Support Needed for Legal Aid Attorneys 2-3, 39 (2020).

19 The difference in the comments the attorneys made about legal aid salaries between the 2010 Study and the 2019 Study is extraordinary. Whereas in the 2010 Study, the attorneys commented on how hard it was to be in legal aid unless they had a spouse/partner who also had an income, the 2019 Study's attorneys—and some leadership—are now saying it is financially impossible without a spouse/partners' income, particularly in the higher cost areas of the state. Some law students who want to work in legal aid say they will "figure it out," but they are unlikely to be able to do that and will leave when the financial realities set in. Nearly one in five of the legal aid attorneys have taken on second jobs to supplement their salaries. Others will just give up on legal aid entirely and look to start their legal careers elsewhere. *See* Legal Aid Ass'n of Cal., *supra* note 18, at ii, 18, 76.

20 Legal aid attorneys' educational debt has grown significantly since the 2010 Study because of the increase in law school tuition. In addition, the Public Service Loan Forgiveness program's requirement to put loans in "income-based repayment" plans is causing the amount of debt to balloon for many of the legal aid attorneys after they graduate. More than 60 percent of the attorneys currently have educational debt with the median amount in the $125,000 – $149,000 range. More than one-third of these attorneys have $200,000 – $300,000+ in educational debt. *Id.* at 22.

21 *See* Cal. Access to Just. Comm'n, Legal Aid Recruitment, Retention, and Diversity: A Report to the State Bar of California 3, 14-16 (2022). Public defender work is a stark example of the differences in salaries. The median entry-level salary for a legal aid attorney is $57,000. Entry-level salaries range from $46,000 – $78,000. Only three of the 50+ organizations have a starting salary of $70,000 or more. In contrast, an entry level salary for a Deputy Public Defender in Sacramento County is more than $110,000 and in San Francisco is nearly $122,000. These entry level salaries can be more than double the starting salaries in legal aid and are more than the median salaries for all experienced level attorney positions in legal aid organizations, except for senior legal management in some. *See* Legal Aid Ass'n of Cal., *supra* note 18, at 24, 28-29.

B. Community Justice Workers: An Emerging Movement Leveraging an Existing Resource

Recognizing the seriousness of this crisis, jurisdictions across the United States are exploring new avenues to expand access to justice.[22] One such solution is the Community Justice Worker (CJW) program, where trained nonlawyers provide free limited legal services to individuals facing civil legal issues, such as debt collection or eviction. Unlike legal paraprofessionals, who must navigate a lengthy state-run licensure process to avoid violating unauthorized practice of law rules, CJWs receive a waiver that provides a limited exemption to these regulations as long as they operate under the supervision of an approved legal aid organization.

While this approach may seem novel, individuals without law licenses have long been authorized to provide representation in immigration matters, Tribal courts, and for those incarcerated in prisons and jails, as well as before various state and federal administrative agencies.[23] Indeed, as far back as 1960, the United States Supreme Court, in *Sperry v. Florida*, a case concerning a nonlawyer patent practitioner, noted that nonlawyers had practiced before the Patent Office since its establishment in 1836 and the Office had stated that "there is no significant difference between lawyers and nonlawyers, either with respect to their ability to handle the work or with respect to their ethical conduct."[24]

For more than half a century, researchers have studied nonlawyer assistance to gain a better empirical understanding of the benefits and risks. This body of research indicates the following conclusions:

1. Consumers want legal help, including from nonlawyers.[25]
2. Qualified nonlawyers are competent and effective at providing help.[26]

This evidence opens up new pathways to addressing the justice crisis.[27] Lawyers remain the central legal practitioners, but lay advocates can help lawyers to serve more people more efficiently. Community-based

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22 Ricca and Helland, *supra* note 5.

23 Matthew Burnett and Rebecca L. Sandefur, *A People-Centered Approach to Designing and Evaluating Community Justice Worker Programs in the United States*, 51 Fordham Urb. L. J. 1509 (2024). *See also Director Rachel Rossi of the Office for Access to Justice Delivers Keynote Remarks at the Launch of the Alaska Legal Services Corporation's Community Justice Worker Resource Center,* Dep't of Just. Office of Pub. Affs. (Oct. 25, 2023), https://www.justice.gov/opa/speech/director-rachel-rossi-office-access-justice-delivers-keynoteremarks-launch-alaska-legal (articulating how programs similar to CJW programs are being developed for Tribal communities in Oklahoma, Montana, Arizona, and Minnesota).

24 Sperry v. Florida, 373 U.S. 379, 402 (1963).

25 *See, e.g.*, Rebecca L. Sandefur, *Legal Advice from Nonlawyers: Consumer Demand, Provider Quality, and Public Harms*, 16 Stan. J. Civ. Rts. & Civ. Liberties 283, 289–97 (2020), Natalie Anne Knowlton, Inst. for the Advancement of the Am. Legal Sys., Cases Without Counsel: Our Recommendations After Listening to the Litigants 29 (2016); Cayley Balser et al., *Leveraging Unauthorized Practice of Law Reform to Advance Access to Justice*, 18 L. J. for Soc. Justice 66, 97–100 (2024).

26 *See*, *e.g.*, Mary E. McClymont, Geo. Just. Lab, Nonlawyer Navigators in State Courts: An Emerging Consensus (2019); Rebecca L. Sandefur & Thomas M. Clarke, Am. B. Found., Nat'l Ctr. for State Cts. & Pub. Welfare Found., Roles Beyond Lawyers: Evaluation of the New York City Court Navigators Program (2016); David Kraft et al., Five Year Review of Paralegal Regulation: Research Findings. Final Report for the Law Society of Upper Canada 6 (2012); Herbert M. Kritzer, Legal Advocacy: Lawyers and Nonlawyers at Work (1998); Sandefur, *supra* note 26, at 297–308; Jessica K. Steinberg et al., *Judges and the Deregulation of the Lawyer's Monopoly*, 89 Fordham L. Rev. 1315 (2021); Deborah L. Rhode, *What We Know and Need to Know About the Delivery of Legal Services by Nonlawyers*, 67 S.C. L. Rev. 429, (2016); Richard Moorhead et al., *Contesting Professionalism: Legal Aid and Nonlawyers in England and Wales*, 37 Law & Soc'y Rev. 765, 785–87 (2003); Nora Freeman Engstrom, *Effective Deregulation: A Look Under Hood of State Civil Courts*, Jotwell, Oct. 31, 2022.

27 *See* Appendix A for a more detailed discussion of the key studies of nonlawyer-provided legal assistance.

lay helpers can serve as an important part of the legal ecosystem, enabling communities to identify and vindicate their legal rights and prevent avoidable harm from having devastating impacts.

Several states have successfully created and implemented programs allowing limited legal practice by CJWs. The Alaska Supreme Court recently approved a waiver of unauthorized practice of law restrictions, allowing the Alaska Legal Services Corporation to train and supervise community justice workers in Alaska's rural and remote communities, many of which qualify as legal deserts.[28] Delaware recently authorized registered agents to represent both landlords and tenants in eviction cases, correcting a previous inequality where only landlords could employ non-lawyers.[29] In Arizona, Domestic Violence Legal Advocates and Housing Stability Legal Advocates provide general legal information and legal advice regarding housing matters, orders of protection, and family law.[30] In Utah, CJW programs include domestic violence advocates, housing stability advocates, and medical debt advocates. And in June, Texas launched a CJW program through the Texas Access to Justice Foundation Moonshot Grant program, where lay advocates will address unmet legal needs in areas such as consumer debt, credit repair, housing, public benefits, and special education.[31]

Alaska's program, which is the largest and about which we have the most information, has had remarkable success. As of September 30, 2024, 271 CJWs have completed training, and another 143 are progressing.[32] Because part of the training program requires case handling under supervision, all 414 CJW's are handling cases. The CJWs have a 100 percent success rate in the areas in which they have been deployed so far (primarily assisting clients with accessing SNAP benefits and drafting wills). Due to the success of the program, Alaska Legal Services Corporation (the sponsoring legal organization) was able to double the overall number of clients assisted in one year.

Utah's domestic violence advocate program, though smaller in size, has also had a positive impact, particularly in the large rural areas of Utah. From June 2021 through June 2024, advocates helped clients seek 225 protective orders.[33] In those 225 cases, an *ex parte* order was issued in 205 cases and denied in only 20 cases.[34] Timpanogos Legal Center (TLC), the supervising legal aid organization, notes that of the 205 with *ex parte* orders issued, only 17 were denied final orders by the court. 39 clients chose to dismiss their order request at the final hearing, usually because an alternative agreement was reached. 118 clients were

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28 *Community Justice Worker Program*, Alaska Legal Servs. Corp., https://www.alsc-law.org/cjw/.

29 *Delaware to Allow Non-Lawyer Representation for Tenants in Eviction Cases*, Nat'l Low Income Hous. Coal., https://nlihc.org/resource/delaware-allow-non-lawyer-representation-tenants-eviction-cases.

30 *Legal Advocates*, Ariz. Jud. Branch, https://www.azcourts.gov/cld/Legal-Advocates.

31 *Innovative Legal Program To Provide Access to Justice for More Texans*, Texas RioGrande Legal Aid, https://www.trla.org/news-releases/innovative-legal-program-to-provide-access-to-justice-for-more-texans#:~:text=The%20Moonshot%20Grant%20funding%20will,TLSC%2C%20and%20TRLA%20as%20subgrantees. The Texas Supreme Court recently issued an order delaying the effective date of the rule changes related to CJW practice activities.

32 Information provided by Sarah Carver, Co-Director, Alaska Community Justice Worker Resource Center (Nov. 1, 2024).

33 Timpanogos Legal Center, Certified Advocate Partners Program, Our Data, https://www.timplegal.org/legal-services/certified-advocate-partners-program (last visited Nov. 1, 2024).

34 *Id.*

awarded final orders.[35] TLC compared this outcome data with that collected by the Administrative Office of the Utah State Courts and found that clients receiving legal services from an advocate are roughly twice as likely to receive a protective order than the statewide average.[36]

C. Community Justice Workers in California

Community justice workers can be a key part of solving the justice crisis in California. Indeed, many of our legal service organizations already rely on justice workers to provide key connections with communities, legal information, and referrals back to legal aid. For example, Stay Housed LA is a broad partnership between government, legal aid organizations, and community-based organizations in Los Angeles.[37] Volunteers and staffers in the community-based organizations provide legal information and referrals to the legal aid partners for Los Angelenos facing housing insecurity. In Northern California, Legal Link works across a range of community-based organizations, training their staffers and volunteers to provide "legal first aid" by surfacing and identifying legal problems and assisting people with finding legal services.[38]

But the impact could be so much more significant. Legal aid stands ready to train and deploy supervised CJWs to help more people reach just resolutions to their problems. By allowing CJWs to perform activities such as providing simple legal advice to someone who has just received an unlawful detainer complaint or assisting another with answering a debt collection complaint or advising a survivor on how to file for an order of protection, our legal aid organizations can increase their impact in vulnerable communities, drive better outcomes for those we seek to serve, and build trust with our community partners.

As Jessica Jewell, the Executive Director of California Rural Legal Assistance, explains, "In rural areas, California Rural Legal Assistance, Inc. is often the only source of legal assistance for people trying keep their homes, maintain their incomes, and protect their safety. But millions of California residents are priced out of private legal representation, and demand for our services far outpaces our capacity. This proposal would allow for innovative growth of resources to serve communities' legal goals."

The proposal below offers a framework for individual California legal aid organizations to seek approval to develop and deploy programs in their communities that allow supervised CJWs to offer simple legal services, including specific legal advice and assistance, in core areas of need. This proposal recognizes the expertise legal aid organizations have in their communities and their legal needs and seeks to allow each organization the flexibility to develop programs that respond to those needs. In this way, the framework

35 *Id.* 31 clients were awaiting final outcome at the time of reporting.

36 *Id.* The referenced statewide average includes both lawyer represented and self-represented parties. Email from Hayley Cousins (Nov. 7, 2024) (on file with authors).

37 Stay Housed LA, https://www.stayhousedla.org/about (last visited Nov. 13, 2024).

38 *Our Mission and Model,* Legal Link, https://legallink.org/our-mission-model/ (last visited Nov. 13, 2024).

allows for variability among programs, including in legal areas served, status of justice worker (whether internal employee or volunteer from an outside community-based organization), training, and range of activities. CJWs are not independently licensed, can only serve clients of the legal aid organization, and cannot charge any fees for their work. The legal aid organizations themselves are responsible for the work performed by the CJWs and must hold malpractice insurance covering the CJWs.

The proposal is intentionally simple, leveraging already existing regulatory structures and provider organizations to ensure minimal expense and maximal scale and sustainability. We believe this proposal outlines a path for California to move forward to respond to the urgent access to justice crisis, simply by allowing trusted providers to deploy justice workers at scale and in more impactful ways.

We look forward to feedback on this proposal and working with our partners in California to create thoughtful, impactful, and sustainable solutions to the justice crisis.

In the proposed program, **authorized legal services organizations** will be able to deploy **Community Justice Workers** ("CJWs") to provide legal services, including legal advice and other activities that may be defined as the practice of law, to clients who otherwise qualify for free legal services from the organization. Authorization in the program allows these organizations and their certified CJWs to provide these services without violating Cal. Bus. & Prof. Code 6125 *et seq.*, California's prohibition on the unauthorized practice of law by those who are not licensees of the State Bar of California. The ability of nonlawyer CJWs to provide legal services under the umbrella of this program is controlled by and overseen by the authorized legal services organizations and limited to the scope of activities approved by that organization.

1 Definitions

a **Authorized legal services organization** is an organization satisfying the definition set forth in Cal. Bus. & Prof. Code 6159.51 which satisfactorily completes the application process and is authorized by the authorizing body to implement and run a waiver-based CJW program.

b **Community Justice Worker** is a person not licensed by the California State Bar who has satisfied the training and other relevant requirements as certified by an authorized legal services organization and will engage in the limited practice of law exclusively for an authorized legal services organization.

2 Authorization of legal services organizations

a The [authorizing body][39] shall serve as the authorizing body for legal services organizations seeking to certify CJWs under this program. The [authorizing body] shall review each application and ensure that the application sufficiently sets forth the requirements listed below. The authorizing body shall then issue authorization for the legal services organization pursuant to this program. The authorizing body shall immediately submit the organization's authorization to the California State Bar.

b Application requirements:

i. The applicant organization shall attest to status as a legal aid organization under the definition set forth in Cal. Bus. & Prof. Code 6159.51;

ii. The applicant organization shall submit a narrative description of the proposed CJW program;

iii. The applicant organization shall submit its CJW training plan, including any curricular components, testing, and experiential learning

39 The working group suggests that the Legal Services Trust Fund Commission is a possible entity to serve as the authorizing body for this program. The Commission's role in overseeing and administering IOLTA funds to California legal aid organizations makes it well placed to perform the authorizing role for this program. However, we believe that the final determination of the appropriate entity for the authorizing body should be made through additional discussions with the Supreme Court, State Legislature, State Bar, and legal services organizations. We do note that should the Commission be found to be the appropriate entity, it seems likely that Cal. Bus. & Prof. Code § 6210.5 would need to be amended to allow the Commission to perform the authorization function.

1. The training plan shall include training on ethical service provision, including the Rules of Professional Conduct.

iv. The applicant organization shall submit a plan for gaining informed and written client consent to receive CJW-provided services;

v. The applicant organization shall submit a plan for ensuring control and security of the organization's client files;

vi. The applicant organization shall submit proof of malpractice insurance that covers CJWs;

vii. The applicant organization shall attest to the organization's ability to comply with any reporting requirements.

c Organizations which the [authorizing body] has determined currently satisfy the definition of a qualified legal services project under Cal. Bus. & Prof. Code 6213(a)(1) are automatically considered authorized legal services organizations. Such organizations need only submit their intent to launch a qualifying CJW program to the State Bar and must comply with the certification requirements for each CJW as described below.

i. In the case that an organization is no longer a qualified legal services project under Cal. Bus. & Prof. Code 6213(a)(1) but wishes to continue operating as an authorized legal services organization under this program, then the organization shall have [30]days from the date on which it ceased to be a qualified legal services project under Cal. Bus. & Prof. Code 6213(a)(1) to request such continuation from the authorizing body.

3 Requirements for authorized legal services organizations

a Once authorized, the legal services organization must:

i. Certify each individual CJW to the State Bar once that person has satisfactorily completed the organization's relevant training requirements and submit each CJWs scope of practice, including legal service area(s) and scope of activities.

ii. Report any relevant changes in status, either of the organization or any CJW, including:

1. Immediately inform the State Bar if the organization no longer receives IOLTA funding or stops providing approved services.

2. Immediately inform the State Bar when any CJW is no longer eligible for inclusion in this program, whether by resignation, termination, or other reason.

3. Immediately report any known violations of applicable rules by CJWs to the State Bar. Violation may be grounds for termination of CJW status.

iii. Report the following information to the State Bar on an annual basis, to ensure ongoing feedback for continuous program improvement:

1. Number of clients served by CJWs through the waiver;

2. Hours worked by CJWs;

3. Legal / Financial outcomes

4. Post-services survey of clients served by CJWs;

5. Client Complaints and resolution of complaints, if any; and

6. Certain information on organization's active CJWs, including:

a. gender,
b. age,
c. race/ethnicity;
d. income level;
e. highest level of education;
f. language capability;
g. does the CJW identify as a member of the client community.

4 Requirements for CJWs

a A CJW is not permitted to perform any activities constituting the practice of law outside of the scope of certification submitted by the authorized legal services organization to the State Bar. Any activities constituting the practice of law outside the scope of the certification are subject to enforcement under Cal. Bus. & Prof. Code 6125 *et seq*.

b A CJW is not permitted to charge any fees, including fees structured on a contingent or percentage basis, or for a referral, for legal services provided under this program.

c A CJW's authorization to provide the services outlined in the certification is contingent upon affiliation with an authorized legal services organization. Should that affiliation cease for any reason, the CJW is no longer certified to provide the relevant legal services and will be subject to enforcement under Cal. Bus. & Prof. Code 6125 *et seq*. should the CJW continue to provide such services. However, a CJW may transfer affiliation as contemplated in Section 5 below.

d No disbarred or suspended attorney, whether disciplined in California or any other jurisdiction, may be certified as a CJW.

e Each CJW shall be subject to the California Rules of Professional Conduct, California Rules of Court, and other relevant statutes and rules.

5 CJW Transferring Affiliation

a If a CJW wishes to transfer affiliation from one authorized legal services organization to another, the organization to which the CJW is transferring must independently determine that the CJW is qualified to competently provide services within that organization's program and then certify the CJW to the State Bar as described in 3(a)(i).

b The transferring CJW cannot provide services in the transferee legal services organization until that certification has been accepted by the State Bar.

6 State Bar Role

a The State Bar shall maintain a roster of authorized legal services organizations that shall be posted on its website;

b The State Bar shall maintain a roster of each authorized legal services organization's active CJWs, including their scope of practice;

c The State Bar shall develop a simple process by which authorized legal services organizations can certify individual CJWs to the State Bar for inclusion in the organization's roster of CJWs. Such certification should include:

i. The name of the CJW; and
ii. The scope of practice (legal service area(s) and scope of activities of the CJW).

d The State Bar shall develop a process by which it promptly communicates the roster of authorized legal services organizations and their CJWs to any other relevant authorities, including those authorities responsible for enforcement of Cal. Bus. & Prof. Code 6125 *et seq*.

e The State Bar shall report to the Legislature and Supreme Court all complaints received by the State Bar against active and inactive CJWs, the nature of the complaint, and the resolution on an annual basis.

7 Program Evaluation

a The program shall be evaluated after [5] years.[40] The evaluation shall assess:
i. The number of CJW providers and the number of clients served;
ii. The impact on the ability of legal services organizations to serve their communities, including
  1. Legal and financial outcomes - immediate and longer term;
  2. Impacts on access to justice for underserved communities as a result of the CJW program; and
  3. Community trust and engagement.
iii. Cost of implementation within individual legal services organizations;
iv. Cost of implementation of the program.

40 The working group suggests that the California Access to Justice Commission is an appropriate entity to administer the evaluation of the program but defers determination of this question until after there have been additional discussions with the Supreme Court, State Legislature, the Access to Justice Commission, the State Bar, and legal services organizations.

The working group discussed a range of possible policy vehicles by which the proposed program could be enacted. The working group notes that in all other states implementing CJW programs, the enabling policy vehicle is an order from the state supreme court. This may be a possible approach in California. The group concluded that particular outstanding questions, such as the entity serving as the authorizing body, need to be addressed before the appropriate policy vehicle is identified.

The California Supreme Court has the inherent power to determine who is qualified to practice law in this state.[41] The California State Bar serves as the administrative arm of the Court to effectuate that power.[42] However, the California Legislature also plays a significant role in the regulation of legal services and oversight of the State Bar through the State Bar Act.[43]

The California Supreme Court has found that the legislature may enact rules and regulations related to the practice of law, including admission to practice law, but if those rules and regulations conflict with those imposed by the Supreme Court, then "the legislative enactment must give way."[44] The Legislature may not, using an example from the case law, authorize a person disbarred upon conviction of a crime to practice law again through a pardon statute.[45] Thus, the Court and the Legislature work together to dictate the regulation of the practice of law, but ultimate authority rests with the Court.

We can see this relationship expressed through the State Bar Act and the California Rules of Court. Section 6125 of the State Bar Act states:

No person shall practice law in California unless the person is an active licensee of the State Bar.[46]

Section 6126, however, recognizes that certain people may be authorized by other statutes or rules to perform activities constituting the practice of law. The Section, which lays out the consequences for un-authorized practice, states:

Any person advertising or holding himself or herself out as practicing or entitled to practice law or otherwise practicing law who is not an active licensee of the State Bar, *or otherwise*

41 Cal. Rules of Ct. Rule 9.3: Inherent Power of the Supreme Ct. (2024); *see also* Merco Constr. Eng'rs, Inc. v. Mun. Ct., 581 P.2d 636, 638 (1978) (noting that statements of California courts have consistently supported the contention that the judiciary has the inherent power to regulate the practice of law); Eagle Indem. Co. v. Comm'n of Cal., 18 P.2d 341, 342 (1933) ("The Legislature may, in the first instance, prescribe the qualifications for admission to the bar and define what shall constitute the practice of the law, but regulations to that end must stand the test of judicial inquiry as to their propriety and reasonableness.").

42 *Id.*

43 Cal. Bus. & Prof. Code §§ 6000 et seq., https://www.calbar.ca.gov/Portals/0/documents/rules/State_Bar_Act.pdf.

44 *Merco*, 581 P.2d at 638.

45 *In re* Lavine, 41 P.2d 161, 163-64 (1935).

46 Cal. Bus. & Prof. Code § 6125.

***authorized pursuant to statute or court rule to practice law in this state at the time of doing so*, is guilty of a misdemeanor….**[47]

This language provides safe harbor to a range of people authorized to practice law by statute or rule who are not licensees of the bar, including lay representatives who may represent people before state and federal agencies and people authorized by the Supreme Court through its rules.

For example, the California Rules of Court Title 9, Division 4 concerns "Appearances and Practice by Individuals Who Are Not Licensees of the State Bar of California."[48] This section contains language permitting the practice of law for certain groups of people, including military spouses, law students, and out-of-state arbitration counsel, who are not licensees and thus would otherwise be subject to the prescription of Cal. Bus. & Prof. Code § 6125. In this manner, Sections 6125 and 6126 establish legislative authority over who may and may not practice law in California but build in deference to the Court (as well as other state and federal authorities).

Taking this partnership between the Legislature and the Court into consideration, there are several possible pathways for enacting the proposed CJW program in California.

POSSIBLE PATHWAY #1: New section added to Cal. Rule of Court 9.4.

This division of the California Rules of Court contains sections outlining rules for allowing non-licensed or provisionally licensed individuals to practice law in California.

In this approach, the working group would petition the California Supreme Court, either directly or through the California State Bar, to authorize the proposed program through the Rules of Court by adding a new section to Title 9, Division 4 detailing the program. The Rule could be styled as follows:

Rule 9.45.1 Legal Aid Supervised Community Justice Worker Program

(a) Definitions
(b) Application requirements
(c) Eligibility for certification
(d) Supervision
(e) Compliance and reporting
(f) Transferring affiliation
(g) Program evaluation

47 Cal. Bus. & Prof. Code § 6126(a) (emphasis added).
48 Cal. Rule of Ct. 9.4.

Given the language identified above in Cal. Bus. & Prof. Code § 6126, this section could be added without any statutory change needed (see e.g. Rule 9.41.1, Rule 9.42, Rule 9.45).

POSSIBLE PATHWAY #2: New section added to Cal. Rule of Court 9.4 and statutory waiver enacted to Cal. Bus. & Prof. Code § 6125.

In this approach, the working group would both seek a new Rule of Court as outlined above and a statutory amendment to Cal. Bus. & Prof. Code § 6125:

6125.1

An individual who is not an active licensee of the California State Bar shall be exempt from § 6125 if they qualify for the Community Justice Worker Program outlined in Cal. Rule of Court 9.45.1.

POSSIBLE PATHWAY #3: Order issued by the California Supreme Court.

As noted, the California Supreme Court retains the inherent power to determine who may practice law in this state.[49] The Court could issue an administrative or standing order enabling the program and directing the State Bar and any other relevant bodies to develop the processes and procedures needed to carry out the order. In other states which have implemented these programs, the state supreme courts have issued orders authorizing the program.[50]

49 *See* sources cited *supra* note 41.

50 *See* Ala. Sup. Ct. Ord. No. 1994; Ariz. Sup. Ct. Admin. Ord. No. 2024-34; *id.* 2024-35; Del. R. Sup. Ct. R. 57.1; Haw. Sup. Ct. Ord. No. SCMF-23-0000343; Utah Sup. Ct. Standing Ord. No. 15; *id.* No. 16.; Tex. Sup. Ct. Ord. No. 24-9050.

This proposal is for a framework to authorize and oversee legal aid organizations using CJWs to offer legal services to their clients. The framework is intentionally simple and meant to leverage already existing entities and resources to perform the proposed tasks. Specifically, we estimate the following:

Staffing support for application body: Approximately 50% FTE

Staffing support for oversight body: Approximately 50% FTE

Technical support: Approximately 25% FTE

We note that this proposal does not incorporate programmatic development or implementation support for legal aid organizations to stand up CJW programs, either individually or collectively. Such support will be needed and LAAC, Legal Link, and other working group organizations are working toward building this support.

APPENDIX A

Overview of empirical research on nonlawyer provided legal assistance

Over the past fifty years, there have been a range of studies looking at legal assistance provided by nonlawyers, assessing different tribunals, at different times, and using different metrics. The overall conclusion is that trained nonlawyers can perform as well as, or sometimes better than, their J.D.-toting counterparts. A short review of several of the key studies is informative.

In the 1980s, two studies looked at representation across a range of providers in both child abuse and neglect cases (Duquette & Ramsey) and in social security and immigration issues (Hostetler).[51] Professors Duquette and Ramsey, using court data and interviews to evaluate both process and outcome measures, found "[n]onlawyers carefully selected and trained and under lawyer supervision performed as well as trained lawyers in representing children, and certainly performed better than lawyers without special training."[52]

Professor Hostetler conducted interviews with federal officials and legal aid representatives and reported "a high level of satisfaction with nonlawyer representatives, not only at the early stages of assisting with forms and informal conferences, but also at later stages of agency proceedings."[53] Indeed, she concluded that "[t]he overwhelming opinion is that there is little perceived difference in the quality of help between lawyers as a class and nonlawyers as a class."[54] Interestingly, Hostetler's subjects noted that a key factor in the quality of the services provided by the nonlawyers was likely the special training they received in the administrative agency's rules, process, and forms, resulting in specialized expertise.[55]

In the 1990s, political scientist Herb Kritzer studied the work of lay agents across four administrative contexts in Wisconsin: unemployment compensation appeals, tax appeals, Social Security disability appeals, and labor grievance arbitration. Kritzer found that "nonlawyers can be effective advocates and, in some situations, better advocates than licensed attorneys."[56] Specifically, Kritzer concluded:

> [T]he key to effective representation is the combination of three types of expertise: knowledge about the substance of the area, an understanding of the procedures used, and familiarity with the other regular players in the process. The latter can come only with experience, but the first two (substantive and procedural expertise) could be

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51 *See generally* Donald N. Duquette & Sarah H. Ramsey, *Representation of Children in Child Abuse and Neglect Cases: An Empirical Look at What Constitutes Effective Representation*, 20 U. MICH. J.L. REFORM 341 (1987) and Zona Fairbanks Hostetler, *Nonlawyer Assistance to Individuals in Federal Mass Justice Agencies: The Need for Improved Guidelines*, 2 ADMIN. L.J. 86 (1988).

52 Duquett & Ramsey, *supra* note 51, at 390.

53 Hostetler, *supra* note 51, at 103.

54 *Id.*

55 Hostetler, *supra* note 51, at 105.

56 Herbert M. Kritzer, *Viewpoint: Rethinking Barriers to Legal Practice*, 81 JUDICATURE 100, 100 (1997). Krizter used multiple methodologies to perform the study, including observation, interviews, and outcome analysis.

> imparted through one-year, specialized training programs for paralegals, legal technicians, and licensed advocates.[57]

In the 2010s, Professor Rebecca Sandefur conducted a careful meta-analysis to understand the impact of lawyer representation on the outcomes of formal adjudication.[58] She found that lawyers "perform so much better than lay people, but only somewhat better than [nonlawyer advocates]."[59] In a key insight, Professor Sandefur noted that the lawyers' impact seemed to come less from professional expertise and rather from relational expertise in a "rarified interpersonal world."[60]

A 2017 study by Professors Anna Carpenter, Alyx Mark, and Colleen Shanahan, using interviews and case data from more than 5,000 unemployment insurance appeal hearings, found that when nonlawyers and lawyers appear at hearings the case outcomes and procedural behaviors are similar and that the similarity reflected the specialized expertise of the context.[61]

Most recently, the 2023 Report from the White House Legal Aid Interagency Roundtable found that 15 federal agencies permit nonlawyers to provide legal assistance across a wide range of substantive areas, including housing, public benefits, immigration, civil rights, tax, food security, and worker protection.[62] The activities these nonlawyers perform range from "straightforward and procedural" to "highly technical and complex," such as representation in a removal proceeding in the immigration context.[63] Although not an empirical study, the Report notes the potential benefits of nonlawyer assistance, including that it may be the only available form of legal help in a given community, particularly rural or remote areas and that it can lead to increased public engagement with and trust in the justice system by the impacted community.

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57 *Id.* at 101.

58 Rebecca L. Sandefur, *Elements of Professional Expertise: Understanding Relational and Substantive Expertise through Lawyers' Impact*, 80 Am. Socio. Rev. 909, 913 (2015).

59 *Id.* at 924. The studies included in Sandefur's meta-analysis contained an enormous range of nonlawyer providers including law students, labor union staffers, paralegals, social workers, friends, and family members. *Id.* at 915.

60 *Id.* at 926 (citations omitted).

61 Anne E. Carpenter, Alyx Mark & Colleen F. Shanahan, *Trial and Error: Lawyers and Nonlawyer Advocates*, 42 L. Soc. Inquiry 1023, 1038-42 (2017).

62 White House Legal Aid Interagency Roundtable, Access to Justice in Federal Administrative Proceedings 25 (2023), https://www.justice.gov/d9/2023-12/2023%20Legal%20Aid%20Interagency%20Roundtable%20Report-508.pdf.

63 *Id.*

APPENDIX B

Sample Program Concepts

The Working Group identified program concepts that they felt would be a good fit for their organization, including how the CJWs would positively impact their client communities (the need), who the CJWs would be and the work they would do, and how the CJWs would be trained and supervised. Of the program concepts suggested, below are three examples that the working group more fully developed as possibilities. We present these here as examples of programs that could be authorized through the proposal outlined above.

HOUSING STABILITY Unlawful Detainer

NEED: The National Coalition for a Civil Right to Counsel found that approximately 4% of all tenants have representation in unlawful detainer cases, while landlords have representation 83% of the time. Tenants across California are unable to get help on basic housing stability issues, are representing themselves in evictions, and are losing not only their current housing but also their ability to qualify for housing in the future because they don't have basic information or support. There isn't enough legal support to meet the need, and there is very limited upstream support that can help folks address issues before they land in court. Equipping community-based partners to provide information and referrals, and to support on key housing procedures will expand the work of legal aid organizations and courts, especially in counties with limited resources.

WHO: Community Justice Workers would be staff at housing and tenant-focused community-based organizations in counties without a tenant right to counsel. Also possibly in counties where there is a right to counsel and an established network, to support and expand the right to counsel work.

SCOPE OF WORK: Some of the proposed work is work that is currently allowed under California's Unauthorized Practice of Law, but could be expanded and done with reduced levels of supervision by the Organization attorneys.

- Habitability letters and advice
- Security deposit letters and advice
- Source of income discrimination advice and support filing claims with the CRD
- Reviewing notices to terminate tenancy
- Negotiation with opposing counsel/self-represented landlords
- Housing Authority - hearings with PHAs
- Rent Board petitions and hearings
- Reasonable accommodation requests and negotiations/interactive process

TRAINING & SUPERVISION: Clear training on boundaries of work and scope as a CJW, including supervision structure and reporting requirements.

Training to identify housing issues, using tools to advise on and complete each of the identified proce-

dures, understanding how to spot patterns and trends, and effectively utilize the substantive supervision structure.

Supervision by Organization attorneys at key moments for each procedure, with increasing independence with experience.

EMPLOYEE RIGHTS Wage and Hour Claims

NEED: Los Angeles is the wage theft capital of the world. More than $23 million of wages is stolen from workers each week. Legal Services Organization currently offers assistance to low-income workers with wage and hour claims against unscrupulous employers. Organization works with workers' rights organizations to issue-spot and refer clients to Organization.

WHO: Community Justice Workers would be staff at workers' rights centers and other community-based organizations that are on the front lines of working with low-income workers.

SCOPE OF WORK: Much of the proposed work is work that is currently allowed under California's Unauthorized Practice of Law framework, but could be expanded and done with reduced levels of supervision by the Organization attorneys.

- Preparing wage tables
- Coordinate with clients to get documentary evidence and help collate the evidence
- Preparing claims to be filed with the Labor Commissioner's Office
- Attending settlement conferences
- Attending labor commissioner hearings
- Supporting the attorneys in preparing and delivering know your rights trainings to workers and community partners
- Performing intake interviews with prospective clients (at clinic and outside of clinic)
- Assisting in preparing retaliation, discrimination, and harassment claims with administrative agencies

TRAINING & SUPERVISION: Clear training on boundaries of work and scope as a CJW, including supervision structure and reporting requirements.

Substantive training to issue spot wage and hour issues, steps needed to advise on and complete the proposed work, understanding how to spot patterns and trends, and effectively utilize the substantive supervision structure.

Supervision by Organization attorneys at key moments for each procedure, with increasing independence with experience.

CONSUMER LAW Debt Defense

NEED: Debt collection lawsuits are 33% of the state's civil court docket, and only an average of 9% of consumers file an answer in response. Consumers need help early and upstream to understand that they need to respond, that they have rights, and that there are actions they can take. The procedures will help to reduce the default rate and tee cases up for legal aid support when available.

WHO: Community Justice Workers would be staff at community-based organizations, including Family Resource Centers, Sparkpoint (a United Way financial empowerment project), and nonprofit debt management organizations.

SCOPE OF WORK: Some of the proposed work is work that is currently allowed under California's Unauthorized Practice of Law (UPL) framework, but could be expanded. Other pieces of the scope of work will require a waiver of the UPL.

- Debt validation letter and advice
- Complete answer to debt lawsuit and referrals and/or prepare for self-representation
- Claims of Exemption and advice

TRAINING & SUPERVISION: Clear training on boundaries of work and scope as a CJW, including supervision structure and reporting requirements.

Substantive training to issue-spot debt collection defense issues, steps needed to advise on and complete the proposed work, understanding how to spot patterns and trends, and effectively utilize the substantive supervision structure.

Supervision by Organization attorneys at key moments for each procedure, with increasing independence with experience.

The State Bar of California

OPEN SESSION
AGENDA ITEM
6.5 NOVEMBER 2025
LEGAL SERVICES TRUST FUND COMMISSION

DATE: **November 7, 2025**

TO: **Members, Legal Services Trust Fund Commission**

FROM: **Members, Program Development and Impact Committee**

SUBJECT: **Approval of Recommendation Regarding Letter to the Community Justice Workers Proposal Authors**

EXECUTIVE SUMMARY

In December 2024, a group of Interest on Lawyers' Trust Accounts (IOLTA)-funded programs, the Legal Aid Association of California, and others (the authors) published *Increasing Access to Justice Through Community Justice Workers: A Proposal for California* (*the CJW Proposal*). *The CJW Proposal* seeks to establish a program for trained nonlawyers known as community justice workers (CJWs) to provide limited legal services to low-income Californians under the supervision of an attorney at an authorized legal services organization. *The CJW Proposal* aims to develop a California-specific program similar to successful programs in several other jurisdictions, including Alaska and Utah. The Legal Services Trust Fund Commission (LSTFC) Program Development and Impact (PDI) committee formed a working group to provide written feedback to *the CJW Proposal* authors. This memo provides an overview of the PDI committee's recommendations to support establishing a California CJW program, as well as recommendations to strengthen the proposal.

RECOMMENDED ACTION

To help address California's justice gap, the PDI committee recommends that the LSTFC support the authors' efforts to establish a statewide CJW program in California. The PDI committee also recommends that the LSTFC provide written feedback on *the CJW Proposal* (Attachments A and B) to help further strengthen the proposal.

DISCUSSION

POSITION ON THE CJW PROPOSAL

Gideon v. Wainwright (1963) established the right to legal representation in criminal cases. However, over sixty years later, the American legal system still does not guarantee a right to counsel for civil legal matters. This means that many individuals who cannot afford an attorney either do not pursue legal help or choose to represent themselves in court. Across the United States, 74 percent of low-income households experienced at least one civil legal problem in the past year, and low-income Americans did not receive any or enough legal help for 92 percent of their significant civil legal problems.[1] Californians face similar barriers to justice: in 2024, 73 percent of California households reported experiencing at least one civil legal problem in the past year and 86 percent of the lowest-income Californians received no or inadequate help to resolve their civil legal problems.[2]

Several jurisdictions throughout the United States—including Alaska, Arizona, Delaware, Hawai'i, Montana, and Utah—have implemented successful CJW programs to help expand access to justice. Although individual programs vary, broadly, CJWs are trained nonlawyer members of the community who provide limited legal services to low-income individuals. Unlike attorneys, CJWs are not licensed by a State Bar to practice law individually. CJWs may only provide legal services under the supervision of an attorney who is employed by a nonprofit legal services organization.

Data from other jurisdictions demonstrates that CJWs increase access to justice for low-income and underserved communities, especially in rural areas. Alaska's CJW program began in 2019 and as of September 2024, nearly 300 CJWs have been trained. *The CJW Proposal* reports that Alaska's CJWs have a 100 percent success rate in assisting clients with accessing SNAP benefits and drafting wills. The Alaska Legal Services Corporation (ALSC) sponsors Alaska's CJW program. Through CJWs, ALSC doubled the total number of clients served annually (Attachment A). In Arizona, the Supreme Court adopted Code of Judicial Administration (ACJA) section 7-211: Community-Based Justice Work Service Delivery Models, in March 2025. This followed a successful CJW pilot program that began in October 2019. Under ACJA section 7-211, CJWs may provide services in domestic violence, evictions/housing stability, public benefits, debt relief, unemployment law, and consumer issues.[3] Utah's CJW programs are part of a larger regulatory sandbox (a program that allows participants to test new ways of delivering legal services in a controlled environment). Utah's CJW programs currently help low-income Utahns with domestic violence advocacy, housing stability, and medical debt. Between June 2021 and June 2024, its domestic violence CJW program assisted 358 clients, closed 327 cases, and provided 841 unique legal services. 77 percent of clients served live in rural areas of Utah.[4]

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[1] Legal Services Corporation, *The Justice Gap: The Report,* https://justicegap.lsc.gov/resource/executive-summary/.
[2] The State Bar of California, *2024 California Justice Gap Study*, https://publications.calbar.ca.gov/justice-gap-study/.
[3] For more information see https://www.azcourts.gov/Portals/0/0/admcode/pdfcurrentcode/7-211%20Community-Based%20Justice%20Work%20Service%20Delivery%20Models%203-2025.pdf?ver=SNTp9aFWa4X91-hORzoNBA%3d%3d.
[4] For more information see Timpanogos Legal Center, Certified Advocate Partners Program https://www.timplegal.org/legal-services/certified-advocate-partners-program.

In addition to promising data from active CJW programs in other jurisdictions, the American Bar Association (ABA), the Conference of Chief Justices (CCJ), and the Conference of State Court Administrators (COSCA) have passed resolutions in support of exploring CJW programs. Specifically, in August 2025, the ABA passed Resolution 605, which calls on states, courts, and other jurisdictions to explore CJW programs for individuals who cannot afford an attorney, as one means to narrow the justice gap and ensure equitable access to legal help. In July 2025, CCJ/COSCA adopted Resolution 1-2025, which supports exploring "Authorized Justice Practitioner" programs—including CJWs and paraprofessionals—to expand access to justice. These resolutions demonstrate that key legal and judicial stakeholders support efforts to shrink the justice gap by standing up CJW programs.

The PDI committee recommends that the LSTFC support the authors' efforts to establish a statewide CJW program to shrink California's justice gap, especially for underserved and rural Californians and those living in attorney deserts. The successes of other jurisdictions' CJW programs presents an opportunity to build on proven models to create a program tailored to California. *The CJW Proposal* notes that many IOLTA organizations already rely on justice workers to support their work (see Attachment A, page 9). Therefore, supporting a statewide CJW proposal could help the LSTFC scale up legal services that grantees already identify as valuable and necessary.

OVERVIEW OF THE CJW PROPOSAL

The CJW Proposal recommends that IOLTA grantees as well as legal services organizations that are not IOLTA recipients would apply to the LSTFC for authorization to operate a CJW program. IOLTA-funded organizations could complete a streamlined application process because they already undergo extensive yearly vetting through the annual IOLTA application process. *The CJW Proposal* recommends that legal services organizations authorized by the LSTFC (authorized LSOs) be able to train and supervise CJWs to provide legal advice and other limited legal services under attorney supervision to Californians who are eligible for legal aid.

It is unlawful and constitutes the unauthorized practice of law (UPL) for someone who is not a State Bar licensee or "otherwise authorized pursuant to statute or court rule" to practice law in California.[5] Although CJWs would be supervised by attorneys, because they would be able to provide limited legal services, CJWs would most likely be considered to be practicing law. As such, *The CJW Proposal* recommends implementing a waiver-based program to ensure that programs and CJWs do not violate UPL. After approving a legal services organization's application, the LSTFC would authorize the legal services organization to run a waiver-based CJW program. Authorized LSOs would certify individual CJWs who satisfy all requirements and successfully complete all trainings. Because this system would involve permitting CJWs to practice law on a limited basis, the program would need to be authorized by statute, a new California Rule of Court, or both. Any request for such legislative or Rule of Court changes would most likely need to be authorized by the Board of Trustees of the State Bar.

[5] See Business and Professions Code §§ 6125–6126.

As the authorizing body for LSOs, the LSTFC would ensure that applicants met the proposed CJW program requirements, including:

- A training plan for CJWs, including a curriculum, testing, experiential learning, and ethics;
- A plan to ensure that participating clients provide informed consent to working with a CJW;
- A plan to protect the security of clients' files; and
- Proof of malpractice insurance that covers the work of CJWs.

The LSTFC would also need to notify the State Bar when it authorizes legal services organizations to host CJWs.

The CJW Proposal contemplates distinct roles for the LSTFC and the State Bar. The proposed role for the State Bar includes:

- Maintaining and posting a roster of authorized LSOs online;
- Maintaining a roster of each authorized LSO's active CJWs, including their scope of practice;
- Developing a process for authorized LSOs to certify individual CJWs to the State Bar for inclusion in the organization's roster, including:
    - The CJW's name;
    - The CJW's legal service area(s); and
    - The CJW's scope of activities;
- Communicating the roster of authorized LSOs and their CJWs to other relevant authorities, including those who enforce UPL; and
- Reporting to the Legislature and Supreme Court all complaints received against CJWs annually, including:
    - The nature of the complaint; and
    - The complaint resolution.

For more details on *the CJW Proposal's* recommendations, including the proposed roles of the State Bar and the California Access to Justice Commission, see Attachment B.

SUMMARY OF FEEDBACK FOR THE CJW PROPOSAL AUTHORS

The CJW Proposal authors are gathering stakeholder input to incorporate into *the CJW Proposal* ahead of pursuing legislative support during the next bill cycle and requested feedback and support from the LSTFC. During the LSTFC's May 21, 2025, meeting, staff provided an overview of the proposal. The authors presented the proposal in further detail to the PDI committee at its June 11, 2025, meeting. After these presentations, the PDI committee formed a working group to further study *the CJW Proposal* and provide the authors with written comments.

The working group's letter to the authors (Attachment A) outlines eight suggestions to strengthen the proposal. Broadly, the suggestions were related to:

- Foregrounding consumer protection and public harm. This includes suggesting a deeper analysis of research demonstrating the lack of public harm caused by allowing trained nonlawyers to perform the work CJWs are contemplated to do;

- Implementing minimum quality controls to support consumer protection and ensure CJWs satisfy standardized minimum training and supervision criteria;
- Demonstrating community support from the communities that CJWs would serve, community-based organizations, and other stakeholders not already engaging with CJWs;
- Further considering program costs and funding needs. This includes analysis about the State Bar's inability to administer a CJW program for non-IOLTA grantees in the absence of a new funding stream, and suggestions to advocate for dedicated funding to support both grantee and non-grantee organizations to ensure the program serves the most underserved Californians.
- Balancing implementing a rigorous, staged evaluation while keeping costs low. This includes a discussion of the LSTFC's core responsibility to evaluate its grant-funded programs. Since the State Bar would plan to evaluate the program, the LSTFC advocates that the State Bar's Office of Research and Statistics administer the proposed program evaluation. The LSTFC recommends staging the evaluation in years two and five to allow for timely program adjustments as needed. This would likely result in cost savings;
- Recommending the LSTFC explore potential statutory and rule revisions as part of the Rules Committee workplan to ensure the program addresses service disparities for Californians living in rural counties and attorney deserts;
- Updating citations to reflect data from the *2024 California Justice Gap Study* and the State Bar-commissioned 2024 *Legal Market Landscape Report*; and
- Additional recommendations related to the proposed roles for the LSTFC and the State Bar. This includes recommending the LSTFC develop a system to review complaints against authorized LSOs; working with the State Bar to develop a system to roll out communication about the roster of authorized LSOs and CJWs; and clarifying disciplinary obligations and procedures for CJWs.

The working group annotated *the CJW Proposal* to provide more specific edits for some recommendations (Attachment B).

On October 23, 2025, the lead authors of *the CJW Proposal* submitted written public comment in response to the materials posted for the October 24, 2025, PDI committee meeting (Attachment C). During the meeting, the PDI committee discussed clarifying that Comment B, regarding implementing quality control standards to support consumer protection, should focus on standardizing foundational trainings for CJWs such as ethics and rules, as well as baseline minimum training requirements for substantive areas of law. These requirements may include mandating a set number of hours of training in the practice area(s) prior to certification and/or annually to support consumer protection. However, the PDI committee agrees it is prudent to allow authorized LSOs to determine what localized and specialized trainings are necessary for CJWs to provide services. The PDI committee will continue to review and evaluate *the CJW Proposal* as the authors further revise and advance the proposal.

PREVIOUS ACTION

Approval of Recommendation Regarding Letter to the Community Justice Workers Proposal Authors
(Program Development and Impact Committee, October 24, 2025)

FISCAL/PERSONNEL IMPACT

The PDI committee estimates building and reviewing applications, providing technical assistance to authorized LSOs, rulemaking, and monitoring participating programs will require between 0.5 and 1.5 full-time equivalent of senior-level staffing support, or approximately $128,000 to $385,000 annually.

AMENDMENTS TO RULES

None

AMENDMENTS TO BOARD OF TRUSTEES POLICY MANUAL

None

STRATEGIC PLAN GOALS & IMPLEMENTATION STEPS

Goal 2. Protect the Public by Enhancing Access to and Inclusion in the Legal System
b. 4. Make the State Bar a leader in connecting the public to legal representation by enhancing public awareness of the resources available and continually enhancing those resources.

RESOLUTIONS

Should the Legal Services Trust Fund Commission concur, it is:

RESOLVED, that the Legal Services Trust Fund Commission (LSTFC) supports the *Increasing Access to Justice Through Community Justice Workers: A Proposal for California* (*the CJW Proposal*) authors' efforts to establish a statewide community justice worker program in California, especially for underserved and rural Californians and those living in attorney deserts; and it is

FURTHER RESOLVED, that the LSTFC provides the written feedback in Attachments A and B to *the CJW Proposal* authors to help strengthen the proposal.

ATTACHMENTS LIST

A. Letter to the authors of *Increasing Access to Justice Through Community Justice Workers: A Proposal for California*

B. Annotated *Increasing Access to Justice Through Community Justice Workers: A Proposal for California*

C. Public Comment from the Leaders of the CJW Working Group Regarding the October 24, 2025, PDI Committee Meeting Materials

The State Bar of California

November 7, 2025

Community Justice Workers Legal Services Organization Working Group, c/o Leigh Ferrin
100 Bush Street
Suite 508
San Francisco, CA 94104

RE: Comments on *Increasing Access to Justice Through Community Justice Workers: A Proposal for California*

Dear Community Justice Workers Legal Services Organization Working Group:

Thank you for providing the draft *Increasing Access to Justice Through Community Justice Workers: A Proposal for California (the CJW Proposal)* and inviting the Legal Services Trust Fund Commission (LSTFC) to submit comments. The LSTFC supports the authors' efforts to establish a statewide Community Justice Worker (CJW) program in California to help shrink the state's justice gap, especially for low-income, rural, and underserved Californians. We encourage the authors to engage with the high-level comments, suggestions, and questions outlined below and in the attached annotated copy of *the CJW Proposal*.

Comment A: Foreground consumer protection and lack of public harm.

The LSTFC believes the evidence from similar programs in other jurisdictions has demonstrated strong records of public protection and lack of public harm. A more direct conversation of consumer protection and public harm—including evidence of the lack of public harm from trained nonlawyers—would strengthen the authors' case for a statewide CJW program. *The CJW Proposal* notes that the public seeks legal help broadly, not exclusively from lawyers. The authors assert that qualified nonlawyers are capable of providing competent legal help (7).[1] To support these claims, the authors cite several studies on nonlawyer legal services and access to justice projects in footnotes.

For example, Rebecca Sandefur argues that lawyers' current monopoly over legal practice restricts consumer choice and prevents members of the public who cannot afford an attorney from accessing needed help.[2] The authors also reference an article by Cayley Balser et al. that

[1] Parentheticals refer to page numbers of *the CJW Proposal*.
[2] Rebecca L. Sandefur, "Legal Advice from Nonlawyers: Consumer Demand, Provider Quality, and Public Harms," *Stanford Journal of Civil Rights & Civil Liberties* 16 (2020) 283, 289–97.

recommends regulators interested in protecting the public should ask consumers how much risk they are willing to assume in exchange for legal help.[3] Balser et al. further argue that comparing new legal service models like CJWs to lawyers is a flawed methodology, particularly for low-income populations who cannot afford attorneys. More apt comparisons would examine the value of getting help from a nonlawyer advocate versus appearing as a self-represented litigant or perhaps declining to pursue legal action altogether.

Although the sources cited in these footnotes grapple with balancing consumer protection and innovative service delivery models to shrink the justice gap, the text of *the CJW Proposal* does not engage these arguments directly. Additionally, while Appendix A notes that empirical research over the last 50 years has largely demonstrated that "trained nonlawyers can perform as well as, or sometimes better than, their J.D.-touting counterparts" (19), the authors frame Appendix A as a literature review rather than as part of an explicit argument.

When members of the public cannot afford an attorney, they turn to a variety of alternative sources for help, including nonlawyer friends and family; notarios; Internet searches; or all-purpose, publicly available AI chatbots like ChatGPT. Nonlawyer help is not monolithic, and each source of help presents unique risks and benefits. For example, the State Bar warns about the potential for fraud among notarios. Conversely, an example of a regulated, nonlawyer option for individuals who need immigration legal help is to engage an Accredited Representative. The United States Department of Justice's Recognition and Accreditation Program increases the availability of immigration legal services to low-income individuals by authorizing qualified Accredited Representatives at approved nonprofit organizations to represent individuals before the federal government. The Recognition and Accreditation Program demonstrates how accredited nonlaywers can provide quality immigration legal services to individuals who may otherwise not have access to legal help. This program demonstrates that creating a regulatory framework and oversight mechanisms boost public protection.

The CJW Proposal notes that CJWs in Alaska have a 100 percent success rate in assisting clients with accessing SNAP benefits and drafting wills. Including additional quantifiable data on client success could strengthen this claim. For example, at the 2025 Equal Justice Conference, researchers reported that Alaska's CJW program secured over $23.6 million in SNAP benefits for their clients in a 40-month period. Highlighting such data underscores the tangible benefits CJWs provide to legal aid clients. *The CJW Proposal* could argue that vulnerable, underserved Californians may experience more harm—such as lack of access to benefits to which they are legally entitled—in the absence of CJWs. The LSTFC therefore recommends foregrounding this

[3] Cayley Balser, Erin Weaver, Stacy Rupprecht Jane, Gabriela Elizondo-Craig, Tate Richardson, and Antonio Coronado, "Leveraging Unauthorized Practice of Law Reform to Advance Access to Justice," *Law Journal for Social Justice* 18 (2023) 66, 97–100.

analysis in the body of the report to proactively address questions about harm and consumer protection.

Comment B: The LSTFC recommends implementing minimum quality control standards to support consumer protection and ensure a degree of parity for CJWs at different authorized legal service organizations (LSOs).

Establishing a statewide CJW program will likely require support from both the California Supreme Court and Legislature. Both bodies have previously declined to pursue efforts to expand access to legal help, whether by increasing the number of attorneys (the Blue Ribbon Commission on the Future of the Bar Exam (Blue Ribbon Commission)) or by expanding the types of legal services providers (the California Paraprofessional Program Working Group (CPPWG)) in part due to consumer protection concerns.

The Supreme Court declined to adopt the Blue Ribbon Commission's proposed alternative pathway for attorney licensure via a Portfolio Bar Exam (PBE), as explained in Administrative Order 2024-10-10-01. The decision reflected concerns about the PBE's fairness, ethics, and reliability. Specifically, the Supreme Court noted that the variability in supervisors' involvement in portfolio preparation made it difficult—if not impossible—to standardize applicant evaluations and would likely result in admitting attorneys with inconsistent levels of competency. Relatedly, a major critique of the CPPWG's paraprofessional proposal was that paraprofessionals would lack supervision and could become another unregulated, unscrupulous industry akin to notarios. *The CJW Proposal* stipulates that CJWs would "serve under the supervision of… attorneys" (3) and, unlike notarios, would function as employees or supervisees of authorized LSOs rather than being paid directly by clients. However, the authors do not define what supervision would mean in practice for CJWs.

The CJW Proposal envisions a statewide program in which each authorized LSO develops its own training curricula, area(s) of law and scope of practice, and supervision requirements. Programmatic flexibility may encourage broader participation in a statewide CJW program. Conversely, the absence of minimum training and supervision standards risks replicating the very concerns the Supreme Court identified with the PBE: namely, inconsistent competency and uneven quality of services across authorized LSOs.

At a minimum, the LSTFC recommends implementing minimum standards to ensure quality controls and basic parity among CJWs across all authorized LSOs. Standardization would lower administrative burden for individual programs, create opportunities for resource sharing, foster public trust, and further public protection. Some specific suggestions for standardization include establishing a standardized scope of practice for individual areas of law, standardizing a minimum level of training, and standardizing minimum supervision requirements. In addition, the State Bar could create a foundational and mandatory training module for all CJWs covering ethics, professional competency, and relevant rules. This shared training would ensure

minimum competency across authorized LSOs. While authorized LSOs would need to develop the remainder of their training curricula, such a foundational requirement would reduce duplication of efforts and resources.

The LSTFC further recommends that CJWs complete at least four hours of legal ethics training prior to certification, including at least one hour on implicit bias/bias-reducing strategies and at least one additional hour on the elimination of bias more broadly. This recommendation mirrors attorney MCLE ethics requirements per State Bar rule 2.72(C)(2)(c). Requiring the same ethics standards for CJWs as for attorneys would strengthen public trust and ensure that CJWs—whether supervisees or employees of an authorized LSO—demonstrate the integrity essential to client confidence in legal services. Ethics trainings are available to legal aid advocates via the Legal Aid Association of California and the LSTFC can explore other free or low-cost training opportunities.

Additionally, the LSTFC cautions against the use of the term "volunteer" to describe CJWs employed by non-LSO community organizations and supervised by authorized LSOs. "Volunteer" may create confusion about the employment status and employment protections available for CJWs. Instead, the LSTFC recommends referring to CJWs not employed by authorized LSOs as "supervisees," as this term more accurately reflects the employment status of CJWs and the relationship between the CJW and the authorized LSO.

Comment C: Section C: Community Justice Workers in California, should demonstrate broad community support for a statewide CJW program.

The CJW Proposal offers compelling examples of CJWs already operating in California, such as through Stay Housed LA, Legal Link, and California Rural Legal Assistance, Inc. (9). These cases demonstrate community support for individual, grantee-run programs. The authors could further strengthen the proposal by showing evidence of broader community support for and interest in a statewide program that scales up this work. Data from focus groups, surveys, or letters of support would demonstrate that low-income and underserved Californians, community-based organizations (CBOs), and other stakeholders not yet engaged with CJWs see value in a statewide program. Support from additional legal aid organizations not listed as co-authors would also reinforce this point.

The LSTFC also recommends engaging unions representing paralegals and other nonlawyer staff, attorneys, and staff at relevant LSOs and CBOs to further illustrate community support. Union endorsements could preempt questions about labor relations and demonstrate alignment between attorneys and nonlawyer workers in scaling CJWs statewide. Finally, the LSTFC suggests that the authors develop a checklist or memorandum of understanding template for authorized LSOs to share with CBO partners. Such a tool would help authorized LSOs and CBOs proactively identify and address questions related to employment, benefits, workers' compensation, and liability.

Comment D: The Estimated Funding Needs Section notes that the framework is "meant to leverage already existing entities and resources" to implement the proposed program. Further consideration about program costs and how to fund these costs are needed.

The CJW Proposal notes its framework is "meant to leverage already existing entities and resources" but the cost estimates are limited. It projects staffing support of approximately 50 percent Full-Time Equivalent (FTE) each for the application and oversight bodies and 25 percent FTE for technical support but does not account for staffing needed for program development or implementation support for authorized LSOs. Nor does it specify how these positions would be funded (18).

The LSTFC estimates that building and reviewing applications, providing technical assistance to authorized LSOs, rulemaking, and monitoring participating programs would require between 0.5 and 1.5 FTEs of senior-level staffing support, or approximately $128,000 to $385,000 annually. The LSTFC notes the proposed program may require additional funding for authorized LSOs and participating CBOs. Even if all CJWs serve as supervisees of LSOs—employed by CBOs rather than LSOs—authorized LSOs would need resources for curriculum development, training, supervision, administrative support, and other indirect costs. Some authorized LSOs may also need to enter into or amend a contract with CBOs that employ CJWs to offset these expenses. The LSTFC recommends that the authors begin advocating for a dedicated funding stream to support a statewide CJW program as a means of expanding—rather than redistributing—existing resources, which are already constrained. While the LSTFC permits the use of Interest on Lawyers' Trust Accounts (IOLTA), Equal Access Fund (EAF), and all discretionary grants to fund certain qualifying nonlawyer activities, relying on these sources risks straining legal infrastructure further. A statewide CJW program in California would not only provide needed services but could also create workforce development opportunities, particularly for CJWs employed by authorized LSOs in rural communities. The LSTFC would welcome the opportunity to administer such funds.

Additionally, IOLTA funds cannot be used to review applications, provide technical assistance, or monitor authorized LSOs that are not IOLTA grant recipients. IOLTA funds may only be allocated to qualified legal services projects (QLSPs) and support centers, and to the State Bar's actual administrative costs from running that program (Business and Professions Code section 6216).[4] Accordingly, a dedicated funding source is needed to cover administrative costs and support the participation of non-grantee LSOs. The LSTFC recommends securing such a funding source, which would allow the State Bar to oversee non-grantee LSOs and enable the CJW program to expand service areas with maximum flexibility and to reach rural, underserved communities and Californians living in attorney deserts. Of course, any formal request for

[4] See Business and Professions Code section 6213, subdivisions (a)(1) and (2) for the definition of a QLSP, and Business and Professions Code section 6213, subdivision(b) for the definition of a support center.

legislation on these matters would most likely need to be approved by the State Bar's Board of Trustees.

Comment E: Program Evaluation: The LSTFC recommends implementing a rigorous, staged two- and five-year evaluation while keeping evaluation costs low.

The CJW Proposal contemplates evaluating the program after five years. One of the LSTFC's core responsibilities in administering grant funding is program evaluation. Robust evaluations require specialized expertise, early data collection, and sufficient financial resources to support dedicated staff. The State Bar's Office of Research and Statistics (ORS) is staffed by highly trained experts in data collection and evaluation, and regularly conducts rigorous, impartial assessments of the State Bar. It also partners with external evaluators when additional independence is needed. Since the LSTFC would already need to evaluate authorized LSOs as part of its administration of a statewide CJW program, delegating ORS to lead or manage the program evaluation would help ensure rigor while offering cost savings, allowing more funding to support the direct work of CJW programs. The LSTFC recommends that ORS lead or manage the program evaluation to ensure these costs remain low. The LSTFC also recommends implementing a staged evaluation at years two and five to ensure any necessary adjustments to the program can be addressed timely.

Comment F: Possible Policy Vehicles for Implementation of the California CJW Proposal: The LSTFC recommends the authors work with the LSTFC to advance rule changes to ensure the CJW program addresses the needs of underserved and rural Californians and those living in attorney deserts.

The *2024 California Justice Gap Study* shows that rural Californians and residents of attorney deserts face disproportionate barriers to legal help. Only 3 percent of active attorneys live in rural California, though 12 percent of residents do. Moreover, the number of counties that are attorney deserts has grown from 11 to 16 in the last decade.[5]

The CJW Proposal identifies three possible policy vehicles for implementation:

1. Adding a new section to California Rule of Court 9.4;
2. Adding a new section to California Rule of Court 9.4 combined with a statutory waiver to Business and Professions Code section 6125; or
3. Via an order issued by the California Supreme Court.

The LSTFC notes that California Rule of Court 9.4 pertains to the Committee of Bar Examiners, whereas Rule 9.45, which *the CJW Proposal* also references, discusses legal aid. The LSTFC suggests the authors revise page 16 to only reference Rule 9.45.

[5] The State Bar of California: *2024 California Justice Gap Study Report*, p. 4.

The LSTFC also recommends beginning to work with the LSTFC Rules Committee to explore possible statutory and/or rules changes that would allow QLSPs and support centers to deploy CJWs in ways that expand service to rural Californians and individuals residing in attorney deserts.

The primary purpose and function of a QLSP is to provide free civil legal services to statutorily indigent Californians (Business and Professions Code section 6213, subdivision (a)(1)) and must expend 75 percent or more of its funds on the provision of free civil legal services to statutorily indigent persons (State Bar rule 3.671). A QLSP may only use IOLTA funds in the county where the funds were allocated, and county allocations reflect the amount of qualifying work a QLSP completed in the prior year (Business and Professions Code section 6216, subdivision (b)(1)(A)). This creates a negative feedback loop: QLSPs without an allocation in a particular county cannot use IOLTA funds to expand there. This prohibition on out-of-county IOLTA expenditures limits QLSPs' ability to expand their service delivery area as they must do so using non-IOLTA funds. As a result, existing attorney deserts remain entrenched.

Unlike QLSPs, support centers' primary purpose and function is to provide "legal training, legal technical assistance, or advocacy support for civil legal services without charge" (Business and Professions Code section 6213, subdivision (b)). State Bar Rule 3.672(C)(2) provides that "legal support services" may include direct civil legal services to an indigent client of a QLSP only when acting as co-counsel with an attorney "employed or recruited by" a QLSP, or at the request of a QLSP if the QLSP is unable to assist the client. In all other circumstances, support centers may not use grant funds for direct services to individual legal aid clients. A support center is presumed to its meet primary purpose and function if it expends at least 75 percent of its funds on qualifying services (State Bar rule 3.671(B)). Given the geographic restrictions on QLSPs discussed above, these restrictions on support services may hinder support centers from deploying CJWs, even though they still satisfy the primary purpose and function requirement.

The LSTFC recommends exploring statutory and rule revisions during the Rules Committee codification to help ensure that a statewide CJW program can address service disparities in rural counties and attorney deserts. The LSTFC may charge the Rules Committee to explore the below statutory and rule revisions:

- Explore clarifying IOLTA eligibility for CJW work: Amend the State Bar Rules to allow QLSPs to use IOLTA funds for CJW activities (including supervision, administrative, and indirect costs) in counties where grantees do not receive an IOLTA allocation. This could be accomplished either by:
    - Creating a carveout for CJW work that is agnostic to the county in which the work was performed; or
    - Permitting QLSPs to count CJW expenditures toward the county where the client resides, the CJW's home office, or the QLSP's office where the CJW's supervisor is located.

- Consider expanding definitions of qualifying services: Amend the definitions of "training," "technical assistance," and/or "advocacy support services" to permit support centers to supervise CJW supervisees consistent with their primary purpose.
- Examine authorizing statewide supervision: Clarify that support centers may supervise CJWs to provide services in any county.
- Explore permitting IOLTA billing for supervision of CJWs employed at non-grantee LSOs. This may include revising State Bar Rule 3.672(C)(2)(a) and (b) to permit support centers to bill IOLTA for supervising CJWs employed at non-grantee authorized LSOs, provided the support center consults annually with the local QLSP to assess community needs. If the QLSP confirms that it cannot provide or specifically requests these services, a rule change may not be necessary.
- Consider allowing CJW employment by support centers: This may require permitting support centers to use IOLTA funds to employ CJWs as part of their advocacy support services.

Any formal requests for statutory or Rule of Court changes by the State Bar or LSTFC would most likely need to be approved by the State Bar's Board of Trustees. Changes to the State Bar Rules are also subject to Board approval, though the Board must approve LSTFC-recommended State Bar Rules related to grant administration "unless the Board of Trustees of the State Bar makes a finding in writing that a recommendation conflicts with a statutory, fiduciary, or legal obligation of the State Bar." (Business and Professions Code section 6210.5, subdivision (e)(3).)

Comment G: The LSTFC suggests the authors update *The CJW Proposal* to reflect data from the *2024 California Justice Gap Study* and the 2024 *Legal Market Landscape Report*.

The CJW Proposal was published in December 2024, several months before the State Bar released the *2024 California Justice Gap Study.* The LSTFC recommends updating the proposal to include this most recent data. Citing the *2024 California Justice Gap Study* will further demonstrate that California's justice gap not only remains pervasive but, in some areas, has grown since the first study was published in 2019. In addition, in 2024, the State Bar commissioned the *Legal Market Landscape Report*, which analyzes California's legal market finding that the increasing concentration of legal services for organizational clients has further reduced the availability of resources for individuals. Incorporating these findings would strengthen the authors' case for a statewide program.

Comment H: Additional recommendations related to the proposed roles for the authorizing body and the State Bar.

The CJW Proposal recommends the LSTFC for the authorizing body for the program. The LSTFC agrees with this suggestion. The LSTFC recommends that, in addition to the responsibilities outlined in *the CJW Proposal*, the authorizing body should develop a system to review

complaints against authorized LSOs, and, as necessary, cooperate in investigation of complaints to the State Bar.

The CJW Proposal recommends the State Bar regulate the CJW program by maintaining and posting a roster of authorized LSOs and individual CJWs; developing a process for authorized LSOs to certify individual CJWs to the State Bar; communicating the roster of authorized LSOs and CJWs to enforcers of the unauthorized practice of law; and reporting annually to the Legislature and Supreme Court about all complaints received against CJWs. The LSTFC recommends working with the State Bar to explore how to practically roll out communication of the roster of authorized LSOs and their CJWs. The LSTFC seeks clarification about who would regulate CJWs and how CJWs' ethics would be regulated. The LSTFC recommends the authors clarify what professional obligations would be applicable to CJWs and what authority would investigate allegations of CJW misconduct. Additionally, clarification about whether CJWs would be subject to the same obligations as attorneys, and whether CJWs would be subject to the jurisdiction of the State Bar and/or the Supreme Court, would strengthen the proposal. If complaint investigation and prosecution were contemplated through the State Bar, further collaboration with the State Bar would be required.

The attached annotated *CJW Proposal* provides specific suggestions for replacing 2019 data with updated references from the *2024 California Justice Gap Study* and the *Legal Market Landscape Report*.

Please do not hesitate to contact Program Director Doan Nguyen at doan.nguyen@calbar.ca.gov or Principal Program Analyst Jennifer Zelnick at jennifer.zelnick@calbar.ca.gov should you have any questions or concerns.

Sincerely,

Erica Connolly, Co-Chair
Legal Services Trust Fund Commission

Amin H. Al-Sarraf, Co-Chair
Legal Services Trust Fund Commission

Increasing Access to Justice THROUGH Community Justice Workers

A Proposal for California



Legal Aid Association of California

OneJustice

LEGAL LINK

December 2024

Increasing Access to Justice THROUGH Community Justice Workers

A Proposal for California

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LAAC Legal Aid Association of California

OneJustice

LEGAL LINK

IN JULY 2024, the Legal Aid Association of California convened a working group of leaders from California's legal aid organizations to explore the potential for a Community Justice Worker (CJW) program. This group was led by Legal Link and OneJustice, with advice and support from Stanford Law School's Deborah L. Rhode Center on the Legal Profession and Frontline Justice. Discussions over the last six months focused on expanding the reach and impact of legal aid organizations by allowing nonlawyer staff and community members, with attorney training and supervision, to independently do discrete legal procedures for which there is a deep and unmet need. This would require authorization to perform a limited range of activities which could fall within the scope of the practice of law.

We are thrilled to share our CJW proposal for California, which would allow legal aid organizations to extend and expand on their work for the lowest-income Californians using a CJW model, as many other states are now doing. The proposal describes a framework for California legal aid organizations seeking to certify individual Community Justice Workers who will serve under the supervision of their attorneys. This is not a proposal for specific projects; rather, it is a proposal for an authorization and oversight framework for a California CJW program in which legal aid organizations across the state can choose to participate. The proposal seeks to streamline the process for groups already under IOLTA review and scrutiny, while allowing other organizations to enter the CJW Program should they meet a set of requirements. Our group is hopeful that our efforts to innovate and provide deeply needed services in a safe and measured way are embraced and carried forward.

Sincerely,

Christian Abasto, Disability Rights California, Legal Advocacy Unit Director
Silvia Argueta, Legal Aid Foundation of Los Angeles, Executive Director
Monique Berlanga, Centro Legal de la Raza, Executive Director
Diego Cartagena, Bet Tzedek Legal Services, President & CEO
Tiela Chalmers, former Alameda County Bar Association, CEO
Leigh Ferrin, OneJustice, Program Director
Heather Hostler, California Indian Legal Services, Executive Director
Jessica Jewell, California Rural Legal Assistance, Executive Director
Zach Newman, Legal Aid Association of California, Directing Attorney
Pablo Ramirez, Legal Aid Society of San Bernardino, Executive Director
Tessie Solorzano, Inland Counties Legal Services, Executive Director
Sacha Steinberger, Legal Link, Founder and Co-Executive Director

Access to justice is a cornerstone of our legal system, encapsulated by the four words inscribed on the façade of the United States Supreme Court building: *equal justice under law*. Unfortunately, these words do not reflect the reality of our American legal system in practice. Most Americans do not have any access to justice at all.

The statistics are shocking.[1] 75 percent of low-income households experienced at least one civil legal problem in the past year, and 40 percent experienced at least five.[2] 92 percent of those people do not receive any or enough legal assistance.[3] In state courts, which handle 98 percent of civil disputes, lawyers represent both sides in only 24 percent of cases on average.[4] In some legal areas, such as family, housing, and debt, 80 to 90 percent of parties have no lawyer at all.[5] These figures only capture those who make it to court—many more struggle with serious legal problems outside the formal judicial process.[6] These individuals often navigate complex and life-altering issues—affecting their family, safety, housing, employment, and finances—without any legal guidance.

California is significantly affected by this crisis. The State Bar's 2019 study of the justice gap revealed that 55 percent of Californians faced at least one civil legal problem in the past year (13 percent experienced six or more), yet 85 percent received insufficient or no legal help.[7] The California justice gap transcends socioeconomic status, with merely 27 percent of low-income and 34 percent of middle-income Californians receiving legal assistance.[8] This study also showed that the most vulnerable among us experience more legal problems than others: those living in a household with a person with disabilities experience an average of three times as many legal problems and survivors of domestic violence or sexual assault expe-

1 Americans experience an estimated at least 150 million new civil justice problems annually. *See* Rebecca L. Sandefur & James Teufel, *Assessing America's Access to Civil Justice Crisis*, 11 U.C. Irvine L. Rev. 753, 765 (2020). At least 120 million of those problems go unresolved. *See* Institute for the Advancement of the American Legal System & Hague Institute for Innovation of Law, Justice Needs and Satisfaction in the United States of America 235 (2021), https://iaals.du.edu/sites/default/files/documents/publications/justice-needs-and-satisfaction-us.pdf.

2 *Justice Gap Research*, Legal Servs. Corp., https://www.lsc.gov/initiatives/justice-gap-research.

3 *Id.*

4 Anna E. Carpenter, Colleen F. Shanahan, Jessica K. Steinberg, & Alyx Mark, *American's Lawyerless Courts: Legal Scholars Work to Recommend Large-Scale Changes in Lawyerless Civil Courts*, No. 4 A.B.A. L. Prac. 48 (2022); Nat'l Ctr. for State Cts., Civil Justice Initiative: The Landscape of Civil Litigation in State Courts 31 (2015), https://www.ncsc.org/__data/assets/pdf_file/0020/13376/civiljusticereport-2015.pdf. Equally significant is the stark disparity in representation rates between plaintiffs and defendants. On average, 92 percent of plaintiffs are represented by counsel, whereas only 26 percent of defendants have legal representation. *Id.*

5 Lucy Ricca and Eric Helland, Conference on Access to Justice in California 1 (2024), https://www.rand.org/content/dam/rand/pubs/conf_proceedings/CFA3400/CFA3411-1-v2/RAND_CFA3411-1-v2.pdf.

6 Rebecca Sandefur, *What We Know, and Need to Know, About the Legal Needs of the Public*, 67 S.C.L. Rev. 443, 447-449 (2015).

7 Rocio Avalos, Erica Carroll, Lisa Chavez, Hellen Hong, Linda Katz, and Eli Wallach, California Justice Gap Study: Executive Report 6 (2019).

8 *Id.*

rience eight times as many legal problems.[9] Millions of Californians, unable to secure the help they need, fall into this justice gap often with lasting impacts for their lives, families, and communities.[10]

A. Traditional Approaches are Insufficient to Address the Immense Need

Traditional approaches to addressing the access to justice crisis—like increasing the overall number of lawyers or mandating pro bono service—have proven ineffective. The number of lawyers has increased in both absolute terms and proportional to the American population and yet the numbers of self-represented people continue to grow.[11] And, while many lawyers are dedicated to pro bono work, only a small portion of hours across the profession are committed to it.[12] Even a significant increase in pro bono efforts would fall short—studies show that if every lawyer in the U.S. provided 100 additional pro bono hours per year, each household with a civil legal issue would still receive only 30 minutes of legal help.[13]

Those who know this problem best, who see the overwhelming need day after day, are the members of California's legal aid community. These lawyers, paralegals, administrative assistants, and other staffers bear the brunt of this ever-worsening issue. Although they offer many services to thousands of Californians in need every single day, they lack the resources to meet the overwhelming demand. Legal Service

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9 *Id.* at 9.

10 Unresolved legal issues often result in severe hardship to individuals and negative consequences to society at large. See Pascoe Pleasence et al., *Mounting Problems: Further Evidence of the Social, Economic and Health Consequences of Civil Justice Problems*, in Transforming Lives: Law and Social Process 67, 79, 83-85 (2006); Sandefur, *supra* note 6, at 457; Deborah L. Rhode & Scott L. Cummings, *Access to Justice: Looking Back, Thinking Ahead*, 30 Geo. J. Leg. Ethics 485, 488 (2017).

For example, eviction can have serious social and health consequences, including interrupted employment, worsened physical health, and increased rates of mental health disorders such as depression and suicide. The associations between eviction and child health have been well documented, including adverse birth outcomes, increased rates of food insecurity among young children, and poor physical and mental health in adolescents and young adults. These consequences create a vicious circle that results in more housing instability and economic challenges. *See Prevalence and Impact of Evictions*, United States Dep't of Hous. and Urb. Dev., https://www.huduser.gov/portal/periodicals/em/summer21/highlight2.html#:~:text=Moreover%2C%20the%20toll%20of%20evictions,housing%20instability%20and%20economic%20challenges. Eviction is also associated with premature death. Simply being threatened with an eviction—even when that case did not result in an eviction judgment—was associated with a 19% increase in mortality. Receiving an eviction judgment was associated with a 40% increase in the risk of death. See Nick Graetz, Carl Gershenson, and Matthew Desmond, *Rising Rents and Evictions Linked to Premature Death*, Eviction Lab, https://evictionlab.org/rising-rents-and-evictions-linked-to-premature-death/.

In the context of family law, failure to address unmet legal needs may put at lives at risk through domestic violence, and result in loss of child custody by deserving parents, children left in physically dangerous, psychologically traumatic, or financially inadequate family settings, and related problems. See Deborah L. Rhode, Access to Justice 3 (2004). Similarly, the long-term effects of domestic abuse can significantly impact a victim's or witness's life. Domestic violence significantly reduces educational achievements, self-assessed health levels, and life satisfaction; and increases mental health risks. *See* Liu Bo and Yating Peng, *Long-Term Impact of Domestic Violence on Individuals-An Empirical Study Based on Education, Health and Life Satisfaction*, Behav. Scis. (2023).

Moreover, legal debt collection practices devastate vulnerable individuals by trapping them in a cycle of mounting fees, wage garnishment, and court judgments. *See They Need Legal Advice on Debts. Should It Have to Come From Lawyers?,* N.Y. Times (2022), https://www.nytimes.com/2022/01/25/nyregion/consumer-debt-legal-advice.html.

11 The population of U.S. lawyers has grown by 400% since 1970. In 1970, the number of lawyers in the United States was 326,842. In 2022, the number is 1,327,010. Am. Bar Assoc., Profile of the Legal Profession 2022, https://www.abalegalprofile.com/demographics.php#anchor1. Furthermore, the United States had one lawyer for every 695 people in 1951 and one lawyer for every 252 people in 2005. *See* Clara N. Carson & Jeeyoon Park, American Bar Foundation, The Lawyer Statistical Report: The U.S. Legal Profession In 2005, 2 (2005).

12 Gillian K. Hadfield and Deborah L. Rhode, *How to Regulate Legal Services to Promote Access, Innovation, and the Quality of Lawyering*, 67 Hastings L. J. 1191, 1193 (2016).

13 *3 ways to meet the "staggering" amount of unmet legal needs*, Am. Bar Ass'n, https://www.americanbar.org/news/abanews/publications/youraba/2018/july-2018/3-ways-to-meet-the-staggering-amount-of-unmet-legal-needs-/.

Corporation-funded organizations turn away nearly half of the requests they receive due to limited resources.[14] Moreover, recent data show that these limited resources prevent California's legal aid attorneys from fully resolving at least one-third of the problems presented to them.[15]

Increasing funding for legal aid will also not close this gap. California would need an estimated 8,961 additional full-time attorneys to address the legal needs of its low-income residents, requiring nearly $900 million in additional annual funding.[16] For comparison, California legal aid organizations cumulatively employ approximately 1,500 attorneys per year and leverage 16,000 pro bono attorneys to provide services.[17]

Recruiting and retaining attorneys has also become a critical challenge for California's legal aid organizations. A 2010 survey by the Legal Aid Association of California (LAAC) revealed that over one-third of legal aid attorneys left within three years of being hired. By 2019, this trend worsened, with one-third of attorneys leaving within just two years.[18] Financial stress due to low salaries is the number one reason legal aid attorneys give for leaving so soon.[19] Low compensation is compounded by California's high cost of living and attorneys' high student loan expenses, which have grown significantly over the years.[20] Law students, facing high costs of living and ever-burgeoning student loans, are turning to careers in government or at private law firms instead of legal aid organizations.[21]

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14 *Justice Gap Research*, *supra* note 2.

15 Avalos et al., *supra* note 7, at 14.

16 *Id.*

17 *Id.*

18 *Id.* The Bay Area and Southern California—the regions with the highest costs of living and the greatest numbers of low-income people—have seen the largest increases in turnover rates and largest decreases in length of employment. The San Joaquin Valley and Central California Region continues to have the highest turnover rates, with more than a fifth of their attorneys leaving each year. *See* Legal Aid Ass'n of Cal., Justice at Risk: More Support Needed for Legal Aid Attorneys 2-3, 39 (2020).

19 The difference in the comments the attorneys made about legal aid salaries between the 2010 Study and the 2019 Study is extraordinary. Whereas in the 2010 Study, the attorneys commented on how hard it was to be in legal aid unless they had a spouse/partner who also had an income, the 2019 Study's attorneys—and some leadership—are now saying it is financially impossible without a spouse/partners' income, particularly in the higher cost areas of the state. Some law students who want to work in legal aid say they will "figure it out," but they are unlikely to be able to do that and will leave when the financial realities set in. Nearly one in five of the legal aid attorneys have taken on second jobs to supplement their salaries. Others will just give up on legal aid entirely and look to start their legal careers elsewhere. *See* Legal Aid Ass'n of Cal., *supra* note 18, at ii, 18, 76.

20 Legal aid attorneys' educational debt has grown significantly since the 2010 Study because of the increase in law school tuition. In addition, the Public Service Loan Forgiveness program's requirement to put loans in "income-based repayment" plans is causing the amount of debt to balloon for many of the legal aid attorneys after they graduate. More than 60 percent of the attorneys currently have educational debt with the median amount in the $125,000 – $149,000 range. More than one-third of these attorneys have $200,000 – $300,000+ in educational debt. *Id.* at 22.

21 *See* Cal. Access to Just. Comm'n, Legal Aid Recruitment, Retention, and Diversity: A Report to the State Bar of California 3, 14-16 (2022). Public defender work is a stark example of the differences in salaries. The median entry-level salary for a legal aid attorney is $57,000. Entry-level salaries range from $46,000 – $78,000. Only three of the 50+ organizations have a starting salary of $70,000 or more. In contrast, an entry level salary for a Deputy Public Defender in Sacramento County is more than $110,000 and in San Francisco is nearly $122,000. These entry level salaries can be more than double the starting salaries in legal aid and are more than the median salaries for all experienced level attorney positions in legal aid organizations, except for senior legal management in some. *See* Legal Aid Ass'n of Cal., *supra* note 18, at 24, 28-29.

B. Community Justice Workers: An Emerging Movement Leveraging an Existing Resource

Recognizing the seriousness of this crisis, jurisdictions across the United States are exploring new avenues to expand access to justice.[22] One such solution is the Community Justice Worker (CJW) program, where trained nonlawyers provide free limited legal services to individuals facing civil legal issues, such as debt collection or eviction. Unlike legal paraprofessionals, who must navigate a lengthy state-run licensure process to avoid violating unauthorized practice of law rules, CJWs receive a waiver that provides a limited exemption to these regulations as long as they operate under the supervision of an approved legal aid organization.

While this approach may seem novel, individuals without law licenses have long been authorized to provide representation in immigration matters, Tribal courts, and for those incarcerated in prisons and jails, as well as before various state and federal administrative agencies.[23] Indeed, as far back as 1960, the United States Supreme Court, in *Sperry v. Florida*, a case concerning a nonlawyer patent practitioner, noted that nonlawyers had practiced before the Patent Office since its establishment in 1836 and the Office had stated that "there is no significant difference between lawyers and nonlawyers, either with respect to their ability to handle the work or with respect to their ethical conduct."[24]

For more than half a century, researchers have studied nonlawyer assistance to gain a better empirical understanding of the benefits and risks. This body of research indicates the following conclusions:

1. Consumers want legal help, including from nonlawyers.[25]
2. Qualified nonlawyers are competent and effective at providing help.[26]

This evidence opens up new pathways to addressing the justice crisis.[27] Lawyers remain the central legal practitioners, but lay advocates can help lawyers to serve more people more efficiently. Community-based

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22 Ricca and Helland, *supra* note 5.

23 Matthew Burnett and Rebecca L. Sandefur, *A People-Centered Approach to Designing and Evaluating Community Justice Worker Programs in the United States*, 51 Fordham Urb. L. J. 1509 (2024). *See also Director Rachel Rossi of the Office for Access to Justice Delivers Keynote Remarks at the Launch of the Alaska Legal Services Corporation's Community Justice Worker Resource Center,* Dep't of Just. Office of Pub. Affs. (Oct. 25, 2023), https://www.justice.gov/opa/speech/director-rachel-rossi-office-access-justice-delivers-keynoteremarks-launch-alaska-legal (articulating how programs similar to CJW programs are being developed for Tribal communities in Oklahoma, Montana, Arizona, and Minnesota).

24 Sperry v. Florida, 373 U.S. 379, 402 (1963).

25 *See, e.g.*, Rebecca L. Sandefur, *Legal Advice from Nonlawyers: Consumer Demand, Provider Quality, and Public Harms*, 16 Stan. J. Civ. Rts. & Civ. Liberties 283, 289–97 (2020), Natalie Anne Knowlton, Inst. for the Advancement of the Am. Legal Sys., Cases Without Counsel: Our Recommendations After Listening to the Litigants 29 (2016); Cayley Balser et al., *Leveraging Unauthorized Practice of Law Reform to Advance Access to Justice*, 18 L. J. for Soc. Justice 66, 97–100 (2024).

26 *See*, *e.g.*, Mary E. McClymont, Geo. Just. Lab, Nonlawyer Navigators in State Courts: An Emerging Consensus (2019); Rebecca L. Sandefur & Thomas M. Clarke, Am. B. Found., Nat'l Ctr. for State Cts. & Pub. Welfare Found., Roles Beyond Lawyers: Evaluation of the New York City Court Navigators Program (2016); David Kraft et al., Five Year Review of Paralegal Regulation: Research Findings. Final Report for the Law Society of Upper Canada 6 (2012); Herbert M. Kritzer, Legal Advocacy: Lawyers and Nonlawyers at Work (1998); Sandefur, *supra* note 26, at 297–308; Jessica K. Steinberg et al., *Judges and the Deregulation of the Lawyer's Monopoly*, 89 Fordham L. Rev. 1315 (2021); Deborah L. Rhode, *What We Know and Need to Know About the Delivery of Legal Services by Nonlawyers*, 67 S.C. L. Rev. 429, (2016); Richard Moorhead et al., *Contesting Professionalism: Legal Aid and Nonlawyers in England and Wales*, 37 Law & Soc'y Rev. 765, 785–87 (2003); Nora Freeman Engstrom, *Effective Deregulation: A Look Under Hood of State Civil Courts*, Jotwell, Oct. 31, 2022.

27 *See* Appendix A for a more detailed discussion of the key studies of nonlawyer-provided legal assistance.

lay helpers can serve as an important part of the legal ecosystem, enabling communities to identify and vindicate their legal rights and prevent avoidable harm from having devastating impacts.

Several states have successfully created and implemented programs allowing limited legal practice by CJWs. The Alaska Supreme Court recently approved a waiver of unauthorized practice of law restrictions, allowing the Alaska Legal Services Corporation to train and supervise community justice workers in Alaska's rural and remote communities, many of which qualify as legal deserts.[28] Delaware recently authorized registered agents to represent both landlords and tenants in eviction cases, correcting a previous inequality where only landlords could employ non-lawyers.[29] In Arizona, Domestic Violence Legal Advocates and Housing Stability Legal Advocates provide general legal information and legal advice regarding housing matters, orders of protection, and family law.[30] In Utah, CJW programs include domestic violence advocates, housing stability advocates, and medical debt advocates. And in June, Texas launched a CJW program through the Texas Access to Justice Foundation Moonshot Grant program, where lay advocates will address unmet legal needs in areas such as consumer debt, credit repair, housing, public benefits, and special education.[31]

Alaska's program, which is the largest and about which we have the most information, has had remarkable success. As of September 30, 2024, 271 CJWs have completed training, and another 143 are progressing.[32] Because part of the training program requires case handling under supervision, all 414 CJW's are handling cases. The CJWs have a 100 percent success rate in the areas in which they have been deployed so far (primarily assisting clients with accessing SNAP benefits and drafting wills). Due to the success of the program, Alaska Legal Services Corporation (the sponsoring legal organization) was able to double the overall number of clients assisted in one year.

Utah's domestic violence advocate program, though smaller in size, has also had a positive impact, particularly in the large rural areas of Utah. From June 2021 through June 2024, advocates helped clients seek 225 protective orders.[33] In those 225 cases, an *ex parte* order was issued in 205 cases and denied in only 20 cases.[34] Timpanogos Legal Center (TLC), the supervising legal aid organization, notes that of the 205 with *ex parte* orders issued, only 17 were denied final orders by the court. 39 clients chose to dismiss their order request at the final hearing, usually because an alternative agreement was reached. 118 clients were

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28 *Community Justice Worker Program*, Alaska Legal Servs. Corp., https://www.alsc-law.org/cjw/.

29 *Delaware to Allow Non-Lawyer Representation for Tenants in Eviction Cases*, Nat'l Low Income Hous. Coal., https://nlihc.org/resource/delaware-allow-non-lawyer-representation-tenants-eviction-cases.

30 *Legal Advocates*, Ariz. Jud. Branch, https://www.azcourts.gov/cld/Legal-Advocates.

31 *Innovative Legal Program To Provide Access to Justice for More Texans*, Texas RioGrande Legal Aid, https://www.trla.org/news-releases/innovative-legal-program-to-provide-access-to-justice-for-more-texans#:~:text=The%20Moonshot%20Grant%20funding%20will,TLSC%2C%20and%20TRLA%20as%20subgrantees. The Texas Supreme Court recently issued an order delaying the effective date of the rule changes related to CJW practice activities.

32 Information provided by Sarah Carver, Co-Director, Alaska Community Justice Worker Resource Center (Nov. 1, 2024).

33 Timpanogos Legal Center, Certified Advocate Partners Program, Our Data, https://www.timplegal.org/legal-services/certified-advocate-partners-program (last visited Nov. 1, 2024).

34 *Id.*

awarded final orders.[35] TLC compared this outcome data with that collected by the Administrative Office of the Utah State Courts and found that clients receiving legal services from an advocate are roughly twice as likely to receive a protective order than the statewide average.[36]

C. Community Justice Workers in California

Community justice workers can be a key part of solving the justice crisis in California. Indeed, many of our legal service organizations already rely on justice workers to provide key connections with communities, legal information, and referrals back to legal aid. For example, Stay Housed LA is a broad partnership between government, legal aid organizations, and community-based organizations in Los Angeles.[37] Volunteers and staffers in the community-based organizations provide legal information and referrals to the legal aid partners for Los Angelenos facing housing insecurity. In Northern California, Legal Link works across a range of community-based organizations, training their staffers and volunteers to provide "legal first aid" by surfacing and identifying legal problems and assisting people with finding legal services.[38]

But the impact could be so much more significant. Legal aid stands ready to train and deploy supervised CJWs to help more people reach just resolutions to their problems. By allowing CJWs to perform activities such as providing simple legal advice to someone who has just received an unlawful detainer complaint or assisting another with answering a debt collection complaint or advising a survivor on how to file for an order of protection, our legal aid organizations can increase their impact in vulnerable communities, drive better outcomes for those we seek to serve, and build trust with our community partners.

As Jessica Jewell, the Executive Director of California Rural Legal Assistance, explains, "In rural areas, California Rural Legal Assistance, Inc. is often the only source of legal assistance for people trying keep their homes, maintain their incomes, and protect their safety. But millions of California residents are priced out of private legal representation, and demand for our services far outpaces our capacity. This proposal would allow for innovative growth of resources to serve communities' legal goals."

The proposal below offers a framework for individual California legal aid organizations to seek approval to develop and deploy programs in their communities that allow supervised CJWs to offer simple legal services, including specific legal advice and assistance, in core areas of need. This proposal recognizes the expertise legal aid organizations have in their communities and their legal needs and seeks to allow each organization the flexibility to develop programs that respond to those needs. In this way, the framework

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35 *Id.* 31 clients were awaiting final outcome at the time of reporting.

36 *Id.* The referenced statewide average includes both lawyer represented and self-represented parties. Email from Hayley Cousins (Nov. 7, 2024) (on file with authors).

37 Stay Housed LA, https://www.stayhousedla.org/about (last visited Nov. 13, 2024).

38 *Our Mission and Model,* Legal Link, https://legallink.org/our-mission-model/ (last visited Nov. 13, 2024).

allows for variability among programs, including in legal areas served, status of justice worker (whether internal employee or volunteer from an outside community-based organization), training, and range of activities. CJWs are not independently licensed, can only serve clients of the legal aid organization, and cannot charge any fees for their work. The legal aid organizations themselves are responsible for the work performed by the CJWs and must hold malpractice insurance covering the CJWs.

The proposal is intentionally simple, leveraging already existing regulatory structures and provider organizations to ensure minimal expense and maximal scale and sustainability. We believe this proposal outlines a path for California to move forward to respond to the urgent access to justice crisis, simply by allowing trusted providers to deploy justice workers at scale and in more impactful ways.

We look forward to feedback on this proposal and working with our partners in California to create thoughtful, impactful, and sustainable solutions to the justice crisis.

In the proposed program, **authorized legal services organizations** will be able to deploy **Community Justice Workers** ("CJWs") to provide legal services, including legal advice and other activities that may be defined as the practice of law, to clients who otherwise qualify for free legal services from the organization. Authorization in the program allows these organizations and their certified CJWs to provide these services without violating Cal. Bus. & Prof. Code 6125 *et seq.*, California's prohibition on the unauthorized practice of law by those who are not licensees of the State Bar of California. The ability of nonlawyer CJWs to provide legal services under the umbrella of this program is controlled by and overseen by the authorized legal services organizations and limited to the scope of activities approved by that organization.

1 Definitions

a **Authorized legal services organization** is an organization satisfying the definition set forth in Cal. Bus. & Prof. Code 6159.51 which satisfactorily completes the application process and is authorized by the authorizing body to implement and run a waiver-based CJW program.

b **Community Justice Worker** is a person not licensed by the California State Bar who has satisfied the training and other relevant requirements as certified by an authorized legal services organization and will engage in the limited practice of law exclusively for an authorized legal services organization.

2 Authorization of legal services organizations

a The [authorizing body][39] shall serve as the authorizing body for legal services organizations seeking to certify CJWs under this program. The [authorizing body] shall review each application and ensure that the application sufficiently sets forth the requirements listed below. The authorizing body shall then issue authorization for the legal services organization pursuant to this program. The authorizing body shall immediately submit the organization's authorization to the California State Bar.

b Application requirements:

i. The applicant organization shall attest to status as a legal aid organization under the definition set forth in Cal. Bus. & Prof. Code 6159.51;

ii. The applicant organization shall submit a narrative description of the proposed CJW program;

iii. The applicant organization shall submit its CJW training plan, including any curricular components, testing, and experiential learning

39 The working group suggests that the Legal Services Trust Fund Commission is a possible entity to serve as the authorizing body for this program. The Commission's role in overseeing and administering IOLTA funds to California legal aid organizations makes it well placed to perform the authorizing role for this program. However, we believe that the final determination of the appropriate entity for the authorizing body should be made through additional discussions with the Supreme Court, State Legislature, State Bar, and legal services organizations. We do note that should the Commission be found to be the appropriate entity, it seems likely that Cal. Bus. & Prof. Code § 6210.5 would need to be amended to allow the Commission to perform the authorization function.

1. The training plan shall include training on ethical service provision, including the Rules of Professional Conduct.

iv. The applicant organization shall submit a plan for gaining informed and written client consent to receive CJW-provided services;

v. The applicant organization shall submit a plan for ensuring control and security of the organization's client files;

vi. The applicant organization shall submit proof of malpractice insurance that covers CJWs;

vii. The applicant organization shall attest to the organization's ability to comply with any reporting requirements.

c Organizations which the [authorizing body] has determined currently satisfy the definition of a qualified legal services project under Cal. Bus. & Prof. Code 6213(a)(1) are automatically considered authorized legal services organizations. Such organizations need only submit their intent to launch a qualifying CJW program to the State Bar and must comply with the certification requirements for each CJW as described below.

i. In the case that an organization is no longer a qualified legal services project under Cal. Bus. & Prof. Code 6213(a)(1) but wishes to continue operating as an authorized legal services organization under this program, then the organization shall have [30]days from the date on which it ceased to be a qualified legal services project under Cal. Bus. & Prof. Code 6213(a)(1) to request such continuation from the authorizing body.

Requirements for authorized legal services organizations

a Once authorized, the legal services organization must:

i. Certify each individual CJW to the State Bar once that person has satisfactorily completed the organization's relevant training requirements and submit each CJWs scope of practice, including legal service area(s) and scope of activities.

ii. Report any relevant changes in status, either of the organization or any CJW, including:

1. Immediately inform the State Bar if the organization no longer receives IOLTA funding or stops providing approved services.

2. Immediately inform the State Bar when any CJW is no longer eligible for inclusion in this program, whether by resignation, termination, or other reason.

3. Immediately report any known violations of applicable rules by CJWs to the State Bar. Violation may be grounds for termination of CJW status.

iii. Report the following information to the State Bar on an annual basis, to ensure ongoing feedback for continuous program improvement:

1. Number of clients served by CJWs through the waiver;

2. Hours worked by CJWs;

3. Legal / Financial outcomes

4. Post-services survey of clients served by CJWs;

5. Client Complaints and resolution of complaints, if any; and

6. Certain information on organization's active CJWs, including:

a. gender,
b. age,
c. race/ethnicity;
d. income level;
e. highest level of education;
f. language capability;
g. does the CJW identify as a member of the client community.

4 Requirements for CJWs

a A CJW is not permitted to perform any activities constituting the practice of law outside of the scope of certification submitted by the authorized legal services organization to the State Bar. Any activities constituting the practice of law outside the scope of the certification are subject to enforcement under Cal. Bus. & Prof. Code 6125 *et seq*.

b A CJW is not permitted to charge any fees, including fees structured on a contingent or percentage basis, or for a referral, for legal services provided under this program.

c A CJW's authorization to provide the services outlined in the certification is contingent upon affiliation with an authorized legal services organization. Should that affiliation cease for any reason, the CJW is no longer certified to provide the relevant legal services and will be subject to enforcement under Cal. Bus. & Prof. Code 6125 *et seq*. should the CJW continue to provide such services. However, a CJW may transfer affiliation as contemplated in Section 5 below.

d No disbarred or suspended attorney, whether disciplined in California or any other jurisdiction, may be certified as a CJW.

e Each CJW shall be subject to the California Rules of Professional Conduct, California Rules of Court, and other relevant statutes and rules.

5 CJW Transferring Affiliation

a If a CJW wishes to transfer affiliation from one authorized legal services organization to another, the organization to which the CJW is transferring must independently determine that the CJW is qualified to competently provide services within that organization's program and then certify the CJW to the State Bar as described in 3(a)(i).

b The transferring CJW cannot provide services in the transferee legal services organization until that certification has been accepted by the State Bar.

6 State Bar Role

a The State Bar shall maintain a roster of authorized legal services organizations that shall be posted on its website;

b The State Bar shall maintain a roster of each authorized legal services organization's active CJWs, including their scope of practice;

c The State Bar shall develop a simple process by which authorized legal services organizations can certify individual CJWs to the State Bar for inclusion in the organization's roster of CJWs. Such certification should include:

i. The name of the CJW; and
ii. The scope of practice (legal service area(s) and scope of activities of the CJW).

d The State Bar shall develop a process by which it promptly communicates the roster of authorized legal services organizations and their CJWs to any other relevant authorities, including those authorities responsible for enforcement of Cal. Bus. & Prof. Code 6125 *et seq*.

e The State Bar shall report to the Legislature and Supreme Court all complaints received by the State Bar against active and inactive CJWs, the nature of the complaint, and the resolution on an annual basis.

7 Program Evaluation

a The program shall be evaluated after [5] years.[40] The evaluation shall assess:
i. The number of CJW providers and the number of clients served;
ii. The impact on the ability of legal services organizations to serve their communities, including
  1. Legal and financial outcomes - immediate and longer term;
  2. Impacts on access to justice for underserved communities as a result of the CJW program; and
  3. Community trust and engagement.
iii. Cost of implementation within individual legal services organizations;
iv. Cost of implementation of the program.

40 The working group suggests that the California Access to Justice Commission is an appropriate entity to administer the evaluation of the program but defers determination of this question until after there have been additional discussions with the Supreme Court, State Legislature, the Access to Justice Commission, the State Bar, and legal services organizations.

The working group discussed a range of possible policy vehicles by which the proposed program could be enacted. The working group notes that in all other states implementing CJW programs, the enabling policy vehicle is an order from the state supreme court. This may be a possible approach in California. The group concluded that particular outstanding questions, such as the entity serving as the authorizing body, need to be addressed before the appropriate policy vehicle is identified.

The California Supreme Court has the inherent power to determine who is qualified to practice law in this state.[41] The California State Bar serves as the administrative arm of the Court to effectuate that power.[42] However, the California Legislature also plays a significant role in the regulation of legal services and oversight of the State Bar through the State Bar Act.[43]

The California Supreme Court has found that the legislature may enact rules and regulations related to the practice of law, including admission to practice law, but if those rules and regulations conflict with those imposed by the Supreme Court, then "the legislative enactment must give way."[44] The Legislature may not, using an example from the case law, authorize a person disbarred upon conviction of a crime to practice law again through a pardon statute.[45] Thus, the Court and the Legislature work together to dictate the regulation of the practice of law, but ultimate authority rests with the Court.

We can see this relationship expressed through the State Bar Act and the California Rules of Court. Section 6125 of the State Bar Act states:

No person shall practice law in California unless the person is an active licensee of the State Bar.[46]

Section 6126, however, recognizes that certain people may be authorized by other statutes or rules to perform activities constituting the practice of law. The Section, which lays out the consequences for unauthorized practice, states:

Any person advertising or holding himself or herself out as practicing or entitled to practice law or otherwise practicing law who is not an active licensee of the State Bar, *or otherwise*

41 Cal. Rules of Ct. Rule 9.3: Inherent Power of the Supreme Ct. (2024); *see also* Merco Constr. Eng'rs, Inc. v. Mun. Ct., 581 P.2d 636, 638 (1978) (noting that statements of California courts have consistently supported the contention that the judiciary has the inherent power to regulate the practice of law); Eagle Indem. Co. v. Comm'n of Cal., 18 P.2d 341, 342 (1933) ("The Legislature may, in the first instance, prescribe the qualifications for admission to the bar and define what shall constitute the practice of the law, but regulations to that end must stand the test of judicial inquiry as to their propriety and reasonableness.").

42 *Id.*

43 Cal. Bus. & Prof. Code §§ 6000 et seq., https://www.calbar.ca.gov/Portals/0/documents/rules/State_Bar_Act.pdf.

44 *Merco*, 581 P.2d at 638.

45 *In re* Lavine, 41 P.2d 161, 163-64 (1935).

46 Cal. Bus. & Prof. Code § 6125.

***authorized pursuant to statute or court rule to practice law in this state at the time of doing so*, is guilty of a misdemeanor….**[47]

This language provides safe harbor to a range of people authorized to practice law by statute or rule who are not licensees of the bar, including lay representatives who may represent people before state and federal agencies and people authorized by the Supreme Court through its rules.

For example, the California Rules of Court Title 9, Division 4 concerns "Appearances and Practice by Individuals Who Are Not Licensees of the State Bar of California."[48] This section contains language permitting the practice of law for certain groups of people, including military spouses, law students, and out-of-state arbitration counsel, who are not licensees and thus would otherwise be subject to the prescription of Cal. Bus. & Prof. Code § 6125. In this manner, Sections 6125 and 6126 establish legislative authority over who may and may not practice law in California but build in deference to the Court (as well as other state and federal authorities).

Taking this partnership between the Legislature and the Court into consideration, there are several possible pathways for enacting the proposed CJW program in California.

POSSIBLE PATHWAY #1: New section added to Cal. Rule of Court 9.4.

This division of the California Rules of Court contains sections outlining rules for allowing non-licensed or provisionally licensed individuals to practice law in California.

In this approach, the working group would petition the California Supreme Court, either directly or through the California State Bar, to authorize the proposed program through the Rules of Court by adding a new section to Title 9, Division 4 detailing the program. The Rule could be styled as follows:

Rule 9.45.1 Legal Aid Supervised Community Justice Worker Program

(a) Definitions
(b) Application requirements
(c) Eligibility for certification
(d) Supervision
(e) Compliance and reporting
(f) Transferring affiliation
(g) Program evaluation

47 Cal. Bus. & Prof. Code § 6126(a) (emphasis added).
48 Cal. Rule of Ct. 9.4.

Given the language identified above in Cal. Bus. & Prof. Code § 6126, this section could be added without any statutory change needed (see e.g. Rule 9.41.1, Rule 9.42, Rule 9.45).

POSSIBLE PATHWAY #2: New section added to Cal. Rule of Court 9.4 and statutory waiver enacted to Cal. Bus. & Prof. Code § 6125.

In this approach, the working group would both seek a new Rule of Court as outlined above and a statutory amendment to Cal. Bus. & Prof. Code § 6125:

6125.1

An individual who is not an active licensee of the California State Bar shall be exempt from § 6125 if they qualify for the Community Justice Worker Program outlined in Cal. Rule of Court 9.45.1.

POSSIBLE PATHWAY #3: Order issued by the California Supreme Court.

As noted, the California Supreme Court retains the inherent power to determine who may practice law in this state.[49] The Court could issue an administrative or standing order enabling the program and directing the State Bar and any other relevant bodies to develop the processes and procedures needed to carry out the order. In other states which have implemented these programs, the state supreme courts have issued orders authorizing the program.[50]

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49 *See* sources cited *supra* note 41.

50 *See* Ala. Sup. Ct. Ord. No. 1994; Ariz. Sup. Ct. Admin. Ord. No. 2024-34; *id.* 2024-35; Del. R. Sup. Ct. R. 57.1; Haw. Sup. Ct. Ord. No. SCMF-23-0000343; Utah Sup. Ct. Standing Ord. No. 15; *id.* No. 16.; Tex. Sup. Ct. Ord. No. 24-9050.

ESTIMATED FUNDING NEEDS

This proposal is for a framework to authorize and oversee legal aid organizations using CJWs to offer legal services to their clients. The framework is intentionally simple and meant to leverage already existing entities and resources to perform the proposed tasks. Specifically, we estimate the following:

Staffing support for application body: Approximately 50% FTE

Staffing support for oversight body: Approximately 50% FTE

Technical support: Approximately 25% FTE

We note that this proposal does not incorporate programmatic development or implementation support for legal aid organizations to stand up CJW programs, either individually or collectively. Such support will be needed and LAAC, Legal Link, and other working group organizations are working toward building this support.

APPENDIX A

Overview of empirical research on nonlawyer provided legal assistance

Over the past fifty years, there have been a range of studies looking at legal assistance provided by nonlawyers, assessing different tribunals, at different times, and using different metrics. The overall conclusion is that trained nonlawyers can perform as well as, or sometimes better than, their J.D.-toting counterparts. A short review of several of the key studies is informative.

In the 1980s, two studies looked at representation across a range of providers in both child abuse and neglect cases (Duquette & Ramsey) and in social security and immigration issues (Hostetler).[51] Professors Duquette and Ramsey, using court data and interviews to evaluate both process and outcome measures, found "[n]onlawyers carefully selected and trained and under lawyer supervision performed as well as trained lawyers in representing children, and certainly performed better than lawyers without special training."[52]

Professor Hostetler conducted interviews with federal officials and legal aid representatives and reported "a high level of satisfaction with nonlawyer representatives, not only at the early stages of assisting with forms and informal conferences, but also at later stages of agency proceedings."[53] Indeed, she concluded that "[t]he overwhelming opinion is that there is little perceived difference in the quality of help between lawyers as a class and nonlawyers as a class."[54] Interestingly, Hostetler's subjects noted that a key factor in the quality of the services provided by the nonlawyers was likely the special training they received in the administrative agency's rules, process, and forms, resulting in specialized expertise.[55]

In the 1990s, political scientist Herb Kritzer studied the work of lay agents across four administrative contexts in Wisconsin: unemployment compensation appeals, tax appeals, Social Security disability appeals, and labor grievance arbitration. Kritzer found that "nonlawyers can be effective advocates and, in some situations, better advocates than licensed attorneys."[56] Specifically, Kritzer concluded:

> [T]he key to effective representation is the combination of three types of expertise: knowledge about the substance of the area, an understanding of the procedures used, and familiarity with the other regular players in the process. The latter can come only with experience, but the first two (substantive and procedural expertise) could be

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51 *See generally* Donald N. Duquette & Sarah H. Ramsey, *Representation of Children in Child Abuse and Neglect Cases: An Empirical Look at What Constitutes Effective Representation*, 20 U. MICH. J.L. REFORM 341 (1987) and Zona Fairbanks Hostetler, *Nonlawyer Assistance to Individuals in Federal Mass Justice Agencies: The Need for Improved Guidelines*, 2 ADMIN. L.J. 86 (1988).

52 Duquett & Ramsey, *supra* note 51, at 390.

53 Hostetler, *supra* note 51, at 103.

54 *Id.*

55 Hostetler, *supra* note 51, at 105.

56 Herbert M. Kritzer, *Viewpoint: Rethinking Barriers to Legal Practice*, 81 JUDICATURE 100, 100 (1997). Krizter used multiple methodologies to perform the study, including observation, interviews, and outcome analysis.

imparted through one-year, specialized training programs for paralegals, legal technicians, and licensed advocates.[57]

In the 2010s, Professor Rebecca Sandefur conducted a careful meta-analysis to understand the impact of lawyer representation on the outcomes of formal adjudication.[58] She found that lawyers "perform so much better than lay people, but only somewhat better than [nonlawyer advocates]."[59] In a key insight, Professor Sandefur noted that the lawyers' impact seemed to come less from professional expertise and rather from relational expertise in a "rarified interpersonal world."[60]

A 2017 study by Professors Anna Carpenter, Alyx Mark, and Colleen Shanahan, using interviews and case data from more than 5,000 unemployment insurance appeal hearings, found that when nonlawyers and lawyers appear at hearings the case outcomes and procedural behaviors are similar and that the similarity reflected the specialized expertise of the context.[61]

Most recently, the 2023 Report from the White House Legal Aid Interagency Roundtable found that 15 federal agencies permit nonlawyers to provide legal assistance across a wide range of substantive areas, including housing, public benefits, immigration, civil rights, tax, food security, and worker protection.[62] The activities these nonlawyers perform range from "straightforward and procedural" to "highly technical and complex," such as representation in a removal proceeding in the immigration context.[63] Although not an empirical study, the Report notes the potential benefits of nonlawyer assistance, including that it may be the only available form of legal help in a given community, particularly rural or remote areas and that it can lead to increased public engagement with and trust in the justice system by the impacted community.

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57 *Id.* at 101.

58 Rebecca L. Sandefur, *Elements of Professional Expertise: Understanding Relational and Substantive Expertise through Lawyers' Impact*, 80 Am. Socio. Rev. 909, 913 (2015).

59 *Id.* at 924. The studies included in Sandefur's meta-analysis contained an enormous range of nonlawyer providers including law students, labor union staffers, paralegals, social workers, friends, and family members. *Id.* at 915.

60 *Id.* at 926 (citations omitted).

61 Anne E. Carpenter, Alyx Mark & Colleen F. Shanahan, *Trial and Error: Lawyers and Nonlawyer Advocates*, 42 L. Soc. Inquiry 1023, 1038-42 (2017).

62 White House Legal Aid Interagency Roundtable, Access to Justice in Federal Administrative Proceedings 25 (2023), https://www.justice.gov/d9/2023-12/2023%20Legal%20Aid%20Interagency%20Roundtable%20Report-508.pdf.

63 *Id.*

Sample Program Concepts

The Working Group identified program concepts that they felt would be a good fit for their organization, including how the CJWs would positively impact their client communities (the need), who the CJWs would be and the work they would do, and how the CJWs would be trained and supervised. Of the program concepts suggested, below are three examples that the working group more fully developed as possibilities. We present these here as examples of programs that could be authorized through the proposal outlined above.

HOUSING STABILITY Unlawful Detainer

NEED: The National Coalition for a Civil Right to Counsel found that approximately 4% of all tenants have representation in unlawful detainer cases, while landlords have representation 83% of the time. Tenants across California are unable to get help on basic housing stability issues, are representing themselves in evictions, and are losing not only their current housing but also their ability to qualify for housing in the future because they don't have basic information or support. There isn't enough legal support to meet the need, and there is very limited upstream support that can help folks address issues before they land in court. Equipping community-based partners to provide information and referrals, and to support on key housing procedures will expand the work of legal aid organizations and courts, especially in counties with limited resources.

WHO: Community Justice Workers would be staff at housing and tenant-focused community-based organizations in counties without a tenant right to counsel. Also possibly in counties where there is a right to counsel and an established network, to support and expand the right to counsel work.

SCOPE OF WORK: Some of the proposed work is work that is currently allowed under California's Unauthorized Practice of Law, but could be expanded and done with reduced levels of supervision by the Organization attorneys.

- Habitability letters and advice
- Security deposit letters and advice
- Source of income discrimination advice and support filing claims with the CRD
- Reviewing notices to terminate tenancy
- Negotiation with opposing counsel/self-represented landlords
- Housing Authority - hearings with PHAs
- Rent Board petitions and hearings
- Reasonable accommodation requests and negotiations/interactive process

TRAINING & SUPERVISION: Clear training on boundaries of work and scope as a CJW, including supervision structure and reporting requirements.

Training to identify housing issues, using tools to advise on and complete each of the identified proce-

dures, understanding how to spot patterns and trends, and effectively utilize the substantive supervision structure.

Supervision by Organization attorneys at key moments for each procedure, with increasing independence with experience.

EMPLOYEE RIGHTS Wage and Hour Claims

NEED: Los Angeles is the wage theft capital of the world. More than $23 million of wages is stolen from workers each week. Legal Services Organization currently offers assistance to low-income workers with wage and hour claims against unscrupulous employers. Organization works with workers' rights organizations to issue-spot and refer clients to Organization.

WHO: Community Justice Workers would be staff at workers' rights centers and other community-based organizations that are on the front lines of working with low-income workers.

SCOPE OF WORK: Much of the proposed work is work that is currently allowed under California's Unauthorized Practice of Law framework, but could be expanded and done with reduced levels of supervision by the Organization attorneys.

- Preparing wage tables
- Coordinate with clients to get documentary evidence and help collate the evidence
- Preparing claims to be filed with the Labor Commissioner's Office
- Attending settlement conferences
- Attending labor commissioner hearings
- Supporting the attorneys in preparing and delivering know your rights trainings to workers and community partners
- Performing intake interviews with prospective clients (at clinic and outside of clinic)
- Assisting in preparing retaliation, discrimination, and harassment claims with administrative agencies

TRAINING & SUPERVISION: Clear training on boundaries of work and scope as a CJW, including supervision structure and reporting requirements.

Substantive training to issue spot wage and hour issues, steps needed to advise on and complete the proposed work, understanding how to spot patterns and trends, and effectively utilize the substantive supervision structure.

Supervision by Organization attorneys at key moments for each procedure, with increasing independence with experience.

CONSUMER LAW Debt Defense

NEED: Debt collection lawsuits are 33% of the state's civil court docket, and only an average of 9% of consumers file an answer in response. Consumers need help early and upstream to understand that they need to respond, that they have rights, and that there are actions they can take. The procedures will help to reduce the default rate and tee cases up for legal aid support when available.

WHO: Community Justice Workers would be staff at community-based organizations, including Family Resource Centers, Sparkpoint (a United Way financial empowerment project), and nonprofit debt management organizations.

SCOPE OF WORK: Some of the proposed work is work that is currently allowed under California's Unauthorized Practice of Law (UPL) framework, but could be expanded. Other pieces of the scope of work will require a waiver of the UPL.

- Debt validation letter and advice
- Complete answer to debt lawsuit and referrals and/or prepare for self-representation
- Claims of Exemption and advice

TRAINING & SUPERVISION: Clear training on boundaries of work and scope as a CJW, including supervision structure and reporting requirements.

Substantive training to issue-spot debt collection defense issues, steps needed to advise on and complete the proposed work, understanding how to spot patterns and trends, and effectively utilize the substantive supervision structure.

Supervision by Organization attorneys at key moments for each procedure, with increasing independence with experience.

Comments from the Leaders of the CJW Working Group regarding Item 4.2

To the Members of the LSTFC Program Development & Impact Committee:

We appreciate the time you took to review the CJW proposal and to provide suggested revisions and improvements to the proposal. We have continued to work on the proposal over the past few months, engaging in conversation with stakeholders around the state, and are preparing to release a modified proposal in the near future that hopefully addresses some of your concerns and suggestions.

We will address each suggestion in turn.

Comment A: Foreground Consumer Protection and Lack of Public Harm.

We would consider adding more research to the proposal, but the Working Group has undertaken quite a thorough review of CJW programs in other states to identify and utilize the components that allow a program to be successful and prioritize consumer protection. For a recent thorough review of nonlawyer practice, please see "Unauthorized Practice: Assessing Available Evidence" (https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5390737). This paper is cited in the updated proposal.

Comment B: The LSTFC recommends implementing minimum quality control standards to support consumer protection and ensure a degree of parity for CJWs at different authorized legal services organizations (LSOs).

We believe that the supervision of CJWs is governed by Rule of Professional Responsibility 5.3, which requires all State bar licensees to be responsible for legal work done under their supervision. This is how supervision of all non-attorneys in the legal field is done across the state, and we believe this is sufficient for the CJW program as well.

The proposal does contemplate standardized training on topics including ethics and rules. We specifically did not want to specify standardized training for areas of substantive law as we believe that each LSO would want to customize their project, and tailor their training to the needs of their project. Because the proposal does not limit the CJW program to one area of law, one program might propose a DV restraining order project, and another program might propose a project assisting low-income Californians with dissolution paperwork. Those two programs would both cover family law, but the CJWs in each of those programs would potentially need different substantive law training. Therefore, much like LSOs are able to work with their new staff (attorney and non-attorney) to determine what substantive training is necessary to get them up to speed, we would also trust LSOs to do the same for the CJWs under their supervision.

We also anticipate that training will standardize as more LSOs are authorized to create a CJW program in similar areas of law. For instance, online training platforms like the Pro Bono Training Institute (PBTI) could host a CJW training section that could host the standardized training like

ethics, but also could have a DV restraining order training, a workers rights training, etc. that LSOs could use to ensure their CJWs are up to speed. However, just like with training of pro bono attorneys, some LSOs will want their customized training to be able to discuss the nuances of that practice area in their particular jurisdiction or with their particular client population.

Comment C: Community Justice Workers in California should demonstrate broad community support for a statewide CJW program.

This suggestion is well taken. The working group has been in contact with a number of LSO programs throughout California to understand where they might incorporate CJWs into current programming. In addition, many of the Working Group members already work with community based organizations (CBOs) that have expressed interest. As the effort moves into advocacy, engaging CBOs and other groups that are working with the LSOs will be key to ensuring the support exists within both the potential client and the CBO communities.

Comment D: The Estimated Funding Needs Section notes that the framework is "meant to leverage already existing entities and resources" to implement the proposed program. Further consideration about program costs and how to fund these costs are needed.

After conversations with many stakeholders, the revised proposal will limit the authorized organizations to those that receive IOLTA funding from the State Bar. This will lessen the burden on the Bar of having to authorize non-IOLTA funded organizations.

In addition, the costs in the proposal are estimates, and largely will depend on the number of LSOs that choose to stand up a CJW program, once authorized to do so. The working group also expects that the funding could come from a variety of sources. One option is certainly to request a dedicated stream of funding, but if that is not feasible in the near term, there are other sources that may be able to be tapped for organizations to be able to start their CJW programs.

Comment E: Program Evaluation: The LSTFC recommends implementing a rigorous, staged two- and five-year evaluation while keeping evaluation costs low.

The soon-to-be-released revised proposal provides flexibility for evaluation to occur in years 3-5. It also proposes that the State bar select an outside evaluator, subject to Supreme Court approval. Stakeholders have noted the potential conflict of interest of the State Bar conducting the evaluation internally, when part of the evaluation will be of the State Bar itself as authorizing body.

As noted above, a number of funding sources are being pursued, and the plan is not for the State Bar to self-fund the evaluation.

Comment F: Possible Policy Vehicles for Implementation of the California CJW Proposal: The LSTFC recommends the authors work with the LSTFC to advance rule changes to ensure the

CJW program addresses the needs of underserved and rural Californians and those living in attorney deserts.

We welcome the opportunity to work with the LSTFC to ensure that organizations wanting to stand up a CJW program that may expand beyond their IOLTA-funded service area have a way to scale their programs to better address the justice gap for low-income Californians. While the current proposal is more in the form of a pilot project, we hope that it will be successful and more organizations will be encouraged to participate. As more organizations participate, the opportunities to expand and grow the work that is done by CJWs under the supervision of LSOs will also be expanded.

Comment G: The LSTFC suggests the authors update The CJW Proposal to reflect data from the 2024 California Justice Gap Study and the 2024 Legal Market Landscape Report.

We appreciate this suggestion. In the soon-to-be-released updated proposal, the committee will find that those updates have been made.

Comment H: Additional recommendations related to the proposed roles for the authorizing body and the State Bar.

The proposal does not contemplate a separate complaint process for CJWs, as the individuals will not have a specific license or certification. The working group would love to explore some kind of license or professional certification in the future, where a separate complaint process may be needed.

In the meantime, the CJW would be regulated the way a non-lawyer volunteer or contract staff person would be regulated. As they would be a member of the legal team, the Rules of Professional Responsibility would apply, and any complaints or grievances would proceed through the process set forth by the LSO supervising the CJW. If the complaint or grievance was not resolved by the LSO, the client would have the ability to complain to the State Bar via a complaint against the supervising attorney and/or file a claim against the LSO's malpractice policy. The Bar and other enforcement entities would have the ability to pursue claims such as unauthorized practice of law and insufficient supervision as they do now.

We greatly appreciate the time and energy that the subcommittee spent reviewing the proposal and identifying ways to strengthen the proposal to make it more effective and impactful in lessening the justice gap for low-income Californians. We look forward to continuing the conversation as the proposal and any related advocacy efforts progress.

Sincerely,

Sacha Steinberger, LegalLink
Leigh Ferrin, OneJustice
Lucy Ricca, Neukom Center for the Rule of Law, Stanford Law School

Case No. _____

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

PETITION FOR THE CALIFORNIA SUPREME COURT TO REVIEW AND APPROVE PROPOSED CALIFORNIA RULE OF COURT 9.45.1 TO ESTABLISH A CALIFORNIA COMMUNITY JUSTICE WORKER PROGRAM

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PETITION

1. Petitioners Salena Copeland, Zach Newman, Leigh Ferrin, and Sacha Steinberger are California attorneys in good standing with the State Bar of California. Petitioners have worked within the legal aid community of California for a combined total of more than sixty years.
2. In 2024, Petitioners Copeland and Newman convened the California Community Justice Workers Working Group under the auspices of the Legal Aid Association of California.
3. Petitioners Ferrin and Steinberger served as co-chairs of the Working Group. The Working Group included members from twelve California legal services organizations.
4. The Working Group studied and considered the potential of a community justice worker program to address the access to justice crisis in California by allowing qualified nonlawyers be trained and permitted to offer free legal advice and assistance to clients of California legal services organizations.
5. In January 2025, the Working Group issued a proposal outlining a framework by which California legal services organizations could launch and run community justice worker

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programs without fear of violating the ban on the unauthorized practice of law (Cal. Bus. & Prof. Code § 6125).

6. After receiving feedback and comments from a variety of stakeholders, the Working Group revised the proposal and determined to submit a petition to the California Supreme Court to approve a new California Rule of Court 9.45.1 to authorize community justice workers in California.

7. In a time of great legal need, the proposed rule has the potential to greatly increase the reach and impact of California's legal services organizations. For this reason, Petitioners request that the rule be reviewed and approved as soon as possible by this Court.

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PRAYER

Petitioners respectfully request that the Court review and approve proposed California Rule of Court 9.45.1:

PROPOSED CALIFORNIA RULE OF COURT 9.45.1

(a.) Definitions

(1.) **Authorizing Body** is the entity designated by the California Supreme Court to accept, review, and approve applications from qualified legal services organizations (as defined in subsection (2) below) to implement and run a community justice worker program.

(2.) **Authorized legal services organization** is an organization qualifying either as a "qualified legal services project" or a "qualified support center" under California Business and Professions Code § 6213 (a) or (b) and which satisfactorily completes the application process and is authorized by the Authorizing Body to implement and run a CJW program under this rule.

(3.) **Community Justice Worker ("CJW")** is a person not licensed by the State Bar of California who has satisfied

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the training and other relevant requirements as certified by an authorized legal services organization to the State Bar and will engage in the limited practice of law under this rule exclusively for an authorized legal services organization.

(b.) Authorization of legal services organizations under this Rule.

(1.) The Authorizing Body shall develop a process by which legal services organizations can submit an application for approval of a CJW program.

(2.) Application requirements:

(A) The applicant organization shall attest to status as a qualified legal services project or qualified support center under the definition set forth in Cal. Bus. & Prof. Code § 6213 (a) or (b).

(B) The applicant organization shall submit a narrative description of the proposed CJW program.

(C) The applicant organization shall submit its CJW training plan, detailing any curricular components,

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testing, and experiential learning. The training plan must include the following:

(i.) Training on the California Rules of Professional conduct and ethical legal service provision.

(ii.) Relevant subject matter and experiential training within the proposed CJW practice area(s) as developed and approved by managing attorneys at the applicant organization.

(iii.) The process by which the applicant organization shall assess competency and practice readiness of each CJW.

(D) The applicant organization shall submit a plan for gaining informed and written client consent to receive CJW-provided services.

(E) The applicant organization shall submit a plan for ensuring control and security of the organization's client files.

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(F) The applicant organization shall submit proof of malpractice insurance that covers CJWs.

(G) The applicant organization shall attest to the organization's ability to comply with any reporting requirements.

(3.) The Authorizing Body shall review each application to launch a CJW program under this rule and ensure that the application sufficiently sets forth the requirements listed above. The Authorizing Body shall then issue authorization for the legal services organization pursuant to this program and communicate that authorization to the State Bar of California.

(4.) In the case that an authorized legal services organization under this Rule is no longer qualified under Cal. Bus. & Prof. Code §6213 (a) or (b) but wishes to continue operating as an authorized legal services organization under this Rule, then the Authorizing Body should consider and determine whether the organization's CJW program may continue and what requirements to impose to ensure the ongoing quality of the program.

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(c.) Requirements for authorized legal services organizations.

(1.) Once authorized, the legal services organization must:

(A) Certify each individual CJW to the State Bar once that person has satisfactorily completed the organization's relevant training requirements and submit each CJWs scope of practice, including legal service area(s) and scope of activities.

(B) Ensure ongoing capacity and capability to adequately supervise CJWs according to California Rule of Professional Conduct 5.3.

(C) Report any relevant changes in status, either of the organization or any CJW, including:

(i.) Immediately inform the State Bar if the organization no longer receives IOLTA funding or stops providing approved services.

(ii.) Immediately inform the State Bar when any CJW is no longer eligible for inclusion in this program, whether by resignation, termination, or other reason.

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(iii.) Immediately report any known violations of applicable rules by CJWs to the State Bar. Violation may be grounds for termination of CJW status.

(D) Report the following information to the State Bar on an annual basis, to ensure ongoing feedback for continuous program improvement:

(i.) Number of clients served by CJWs through the waiver.

(ii.) Hours worked by CJWs.

(iii.) CJW case outcomes.

(iv.) Post-services survey of clients served by CJWs. The survey will be developed by the external researcher conducting the CJW program evaluation as described in Section (f).

(v.) Client complaints and resolution of complaints, if any.

(vi.) Certain information on organization's active CJWs, including:

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1. Gender
2. Age
3. Race/ethnicity
4. Income level
5. Highest level of education
6. Language capability
7. Does the CJW identify as a member of the client community.

(vii.) Summary of costs of implementing and maintaining the CJW program.

(E) Failure of the authorized legal services organization to comply with these requirements may result in audit, review, and potential impacts on funding for the organization.

(d.) Requirements for community justice workers.

(1.) CJWs must meet the following minimum requirements:

(A) Be at least eighteen (18) years of age.

(B) Have a high school diploma or the equivalent.

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(C) Meet the authorized legal service organization's requirements for employment or volunteer status as applicable.

(2.) A CJW is not permitted to perform any activities constituting the practice of law outside of the scope of certification submitted by the authorized legal services organization to the State Bar. Any activities constituting the practice of law outside the scope of the certification are subject to enforcement under Cal. Bus. & Prof. Code §§ 6125 *et seq*.

(3.) A CJW is not permitted to charge any fees, including fees structured on a contingent or percentage basis, or for a referral, for legal services provided under this program.

(4.) A CJW's authorization to provide the services outlined in the certification is contingent upon affiliation with an authorized legal services organization. Should that affiliation cease for any reason, the CJW is no longer certified to provide the relevant legal services and will be subject to enforcement under Cal. Bus. & Prof. Code §§ 6125 *et seq*. should the CJW continue to provide such

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services. However, a CJW may transfer affiliation as contemplated in Section (e) below.

(5.) No disbarred or suspended legal practitioner (attorney or person otherwise once authorized to practice law), whether disciplined in California or any other jurisdiction, may be certified as a CJW.

(6.) Each CJW shall be subject to the California Rules of Professional Conduct, California Rules of Court, and all other relevant statutes and rules.

(e.) Requirements for CJWs transferring from one authorized legal services organization to another.

(1.) If a CJW wishes to transfer affiliation from one authorized legal services organization to another, the organization to which the CJW is transferring must independently determine that the CJW is qualified to competently provide services within that organization's program and then certify the CJW to the State Bar as described in Section (c).

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(2.) The transferring CJW cannot provide services in the transferee legal services organization until that certification has been accepted by the State Bar.

(f.) Role of State Bar of California.

(1.) The State Bar shall develop a simple process by which authorized legal services organizations can certify individual CJWs to the State Bar for inclusion in the organization's roster of CJWs. Such certification should include:

(A) The name of the CJW; and

(B) The scope of practice (legal service area(s) and scope of activities of the CJW).

(2.) The State Bar shall maintain a roster of authorized legal services organizations, and their active CJWs, including their scope of practice, that shall be posted on its website;

(3.) The State Bar shall develop a process by which it promptly communicates the roster of authorized legal services organizations and their CJWs to any other relevant authorities, including those authorities

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responsible for enforcement of Cal. Bus. & Prof. Code §§ 6125 *et seq*.

(4.) The State Bar shall report to the Legislature and Supreme Court all complaints received by the State Bar against CJWs, the nature of the complaint, and the resolution on an annual basis.

(g.) Evaluation

(1.) The program shall be evaluated within five years of the first authorization of a legal services organization's CJW program.

(2.) The State Bar will select an outside evaluator to conduct the evaluation, subject to the approval of the Supreme Court.

(3.) The evaluation will seek to understand the impact of the CJW program on access to justice for underserved communities.

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VERIFICATION

I have reviewed the above Petition and declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: December 11, 2025

Salena Copeland

Salena Copeland

Zach Newman

Leigh Ferrin

Sacha Steinberger

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

The California Community Justice Worker Working Group ("CJW Working Group") respectfully requests that the Supreme Court review and approve proposed California Rule of Court 9.45.1 ("Rule 9.45.1") to be included within division 4 of title 9 of the California Rules of Court.

The proposed Rule 9.45.1 establishes a community justice worker ("CJW") program for the State of California. The rule will allow California legal services organizations authorized under the program to train and certify qualified nonlawyer CJWs to provide limited legal services, including legal advice and other activities that may be defined as the practice of law, to clients who otherwise qualify for legal services from the organization.

Authorization in the program allows these organizations and their certified CJWs to provide these services without violating Cal. Bus. & Prof. Code § 6125, California's prohibition on the unauthorized practice of law ("UPL") by those who are not licensees of the State Bar of California. The ability of CJWs to provide legal services under the umbrella of this program is

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controlled by and overseen by the legal services organizations and limited to the scope of activities approved by the supervising organization. Through this simple and limited UPL waiver, participating legal services organizations will be able to extend the reach and impact of their services in their communities.

The proposed rule was developed over the course of the past year, beginning with the establishment of the CJW Working Group by the Legal Aid Association of California ("LAAC") in July 2024. LAAC formed the CJW Working Group in consideration of the rapid growth of CJW programs across the country and in recognition that such a program could increase the reach and impact of legal aid in California. The CJW Working Group considered the issue, learned about other programs in other states, heard from thought leaders, heard from each other about current use of nonlawyer staff and volunteers, and discussed multiple frameworks for launching a CJW program in California. Key questions the CJW Working Group addressed included:

- Is a CJW program that includes a limited waiver of the ban on the unauthorized practice of law by nonlawyers

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possible in California? Is such a program something we feel is necessary and appropriate?

- Considering the urgency of the need for legal help among poor Californians, a need that far outstrips the capacity of California legal services organizations, how can we create a framework for CJWs that can scale—both within and across organizations?
- Considering the size and diversity of California, and the unique local circumstances of particular communities, how can we create a program that is also responsive to local needs, organizations, and customs?
- How can we ensure that CJWs act in good faith and provide quality legal services?
- How can we create a CJW framework efficiently and without significant cost?

The CJW Working Group released an initial proposal in January 2025. (Appendix of Exhibits ("AE"), Ex. 2 [Original CJW Proposal].) The proposal presented a framework through which California legal service organizations could gain approval to develop and launch their own programs to educate and train CJWs

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to provide limited legal services. The Working Group disseminated the proposal to stakeholders across the state, presented to multiple groups, and engaged in many conversations to gather input. The feedback was generally supportive of the proposal. The CJW Working Group considered specific suggestions in revising the proposal for submission to this Court as a Petition.

Accordingly, this Petition seeks this Court's review and approval of proposed Rule 9.45.1.

II. AUTHORITY REQUIRING SUPREME COURT REVIEW AND APPROVAL OF THE PROPOSED RULE

The California Supreme Court holds the inherent power to determine who is qualified to practice law in California. Cal. R. of Ct. 9.3. The State Bar of California serves as the administrative arm of the Court to effectuate that power. *See Merco Constr. Eng'rs, Inc. v. Mun. Ct.*, 21 Cal.3d 724, 728-29 (1978). The California Legislature also plays a significant role in the regulation of legal services and oversight of the State Bar through the State Bar Act. *See* Cal. Bus. & Prof. Code §§ 6000 *et seq.* The California Supreme Court has found that the legislature may enact rules and regulations related to the practice of law, including admission to

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practice law, but if those rules and regulations conflict with those imposed by the Supreme Court, then "the legislative enactment must give way." *Merco Constr. Eng'rs, Inc*., 21 Cal.3d at 729. The Court and the Legislature work together to dictate the regulation of the practice of law, but ultimate authority rests with the Court. *In re Att'y Discipline Sys.*, 19 Cal.4th 582, 598-599, 602 (1998).

This relationship is expressed through the State Bar Act and the California Rules of Court. Section 6125 of the State Bar Act states: "No person shall practice law in California unless the person is an active licensee of the State Bar." Cal. Bus. & Prof. Code § 6125. Section 6126, however, recognizes that certain nonlicensees may be authorized by other statutes or rules to perform activities constituting the practice of law. Cal. Bus. & Prof. Code § 6126 (a) . The Section, which lays out the consequences for unauthorized practice, states:

> "Any person advertising or holding himself or herself out as practicing or entitled to practice law or otherwise practicing law who is not an active licensee of the State Bar, or otherwise authorized pursuant to statute or court rule to practice law in this state at the time of doing so, is guilty of a misdemeanor…." *Id.*

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This language provides safe harbor to a range of people authorized to practice law by statute or rule who are not licensees of the bar, including lay representatives who may represent people before state and federal agencies and people authorized by the Supreme Court through its rules. Title 9, Division 4 of the California Rules of Court concerns "Appearances and Practice by Individuals Who Are Not Licensees of the State Bar of California." Cal. R. of Ct. 9.4. This section contains language permitting the practice of law for certain groups of people, including military spouses, law students, and out-of-state legal aid attorneys and arbitration counsel, who are not licensees of the State Bar and thus would otherwise be subject to the proscription of Cal. Bus. & Prof. Code § 6125. In this manner, Sections 6125 and 6126 establish legislative authority over who may and may not practice law in California but build in deference to the Court (as well as other state and federal authorities).

This Petition seeks Court review and approval for a program that would create a new group of nonlicensees who are permitted to perform limited legal practice activities under the supervision of licensed attorneys and thus falls within the Court's inherent

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authority over the practice of law. The Court's inherent authority to regulate the practice of law also gives the Court the authority to consider this Petition as a direct submission from the California CJW Working Group.

III. BACKGROUND

a. Access to Justice is a Continuing and Critical Challenge in California.

Access to justice is a cornerstone of our legal system, encapsulated by the four words inscribed on the façade of the United States Supreme Court building: equal justice under law. Unfortunately, these words do not reflect the reality of our American legal system in practice. Most Americans do not have any access to justice at all. The statistics are shocking. Americans experience an estimated at least 150 million new civil justice problems annually. *See* Rebecca L. Sandefur & James Teufel, *Assessing America's Access to Civil Justice Crisis*, 11 U.C. Irvine L. Rev. 753, 765 (2020). At least 120 million of those problems go unresolved. *See* Inst. for the Advancement of the Am. Legal Sys. & Hague Inst. for Innovation of L., *Just. Needs and Satisfaction in the U.S. of Am.* 235 (2021). Low-income people do not receive any or enough legal assistance for 92 percent of their legal

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problems. Legal Services Corp., *The Justice Gap: The Unmet Civil Legal Needs of Low-Income Americans* 8 (2022).

In state courts, which handle 98 percent of civil disputes, lawyers are becoming an anomaly. In 75 percent of cases, at least one party is self-represented. Paula Hannaford-Agor, et al., Nat'l Ctr. for State Cts., *Civil Justice Initiative: The Landscape of Civil Litig. in State Cts*. 31 (2015). In fact, the rates of self-representation may be above 90 percent on many dockets. *See* Jessica Steinberg, *Demand Side Reform in the Poor People's Ct.,* 47 Conn. L. Rev. 741, 750 (2015). As one judge told a packed courtroom, "This courtroom is like an emergency room." Anna Carpenter, et al., *America's Lawyerless Cts.: Legal Scholars Work to Recommend Large-Scale Changes in Lawyerless Civil Cts*., 48 No. 4 L. Prac. 48 (Jul./Aug. 2022). Of course, these figures only capture the small fraction who make it to court—many more struggle with serious legal problems outside the formal judicial process. *See* Rebecca Sandefur, *What We Know, and Need to Know, About the Legal Needs of the Public*, 67 S. Carolina L. Rev. 443, 447-449 (2015). These individuals often navigate complex and life-altering issues—affecting their family, safety, housing, employment, and finances—without any legal guidance at all.

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California is significantly impacted by this crisis, despite being the second largest legal economy in the United States worth $57.8 billion and employing over 94,000 lawyers. State Bar of Cal., *2024 Cal. Justice Gap Study* 53 (June 2025) (hereinafter *2024 Cal. Justice Gap Study*). The State Bar's 2024 Justice Gap Study found that Californians do not receive any or enough legal help for 85 percent of their problems. *Id.* at 26. One quarter of all households experienced a civil legal problem in the previous year which substantially affected their lives but only three in 10 sought legal help. *Id*. at 19. Seventy-three percent of low-income California households experienced at least one civil legal problem over the study year and one in five experienced 10 or more. *Id.* at 98. These households receive little or no legal help for the majority of their problems. *Id.* And, unresolved legal issues often result in severe hardship to individuals and negative consequences to society at large.[1]

[1] *See* Pascoe Pleasence et al., *Mounting Problems: Further Evidence of the Social, Economic and Health Consequences of Civil Justice Problems*, in *Transforming Lives: Law and Social Process* 67, 79, 83-85 (2006); Deborah L. Rhode & Scott L. Cummings, *Access to Justice: Looking Back, Thinking Ahead*, 30 Geo. J. Legal Ethics 485, 488 (2017). For example, eviction can have serious social and health consequences, including interrupted employment, worsened physical health, and increased rates of mental health disorders such as

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b. Traditional Approaches to Increasing Access to Justice are Insufficient.

depression and suicide. The associations between eviction and child health have been well documented, including adverse birth outcomes, increased rates of food insecurity among young children, and poor physical and mental health in adolescents and young adults. These consequences create a vicious circle that results in more housing instability and economic challenges. *See* Dana Gopelrud & Craig Pollack, *Prevalence and Impact of Evictions*, Evidence Matters, United States Dep't of Hous. and Urb. Dev. (2021), https://archives.huduser.gov/portal/periodicals/em/Summer21/highlight2.html. Eviction is also associated with premature death. Simply being threatened with an eviction—even when that case did not result in an eviction judgment—was associated with a 19% increase in mortality. Receiving an eviction judgment was associated with a 40% increase in the risk of death. *See* Nick Graetz, *et al*., *Rising Rents and Evictions Linked to Premature Death*, Eviction Lab, https://evictionlab.org/rising-rents-and-evictions-linked-to-premature-death/. In the context of family law, failure to address unmet legal needs may put at lives at risk through domestic violence, and result in loss of child custody by deserving parents, children left in physically dangerous, psychologically traumatic, or financially inadequate family settings, and related problems. *See Deborah L. Rhode, Access to Justice* 3 (2004). Similarly, the long-term effects of domestic abuse can significantly impact a victim's or witness's life. Domestic violence significantly reduces educational achievements, self-assessed health levels, and life satisfaction; and increases mental health risks. *See* Liu Bo and Yating Peng, *Long-Term Impact of Domestic Violence on Individuals-An Empirical Study Based on Education, Health and Life Satisfaction*, Behav. Scis. (2023). Moreover, legal debt collection practices devastate vulnerable individuals by trapping them in a cycle of mounting fees, wage garnishment, and court judgments. *See* Andy Newman, *They Need Legal Advice on Debts. Should It Have to Come From Lawyers?*, N.Y. Times (Jan. 25, 2022).

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Traditional approaches to addressing the access to justice crisis—like increasing the overall number of lawyers or mandating pro bono service—have proven ineffective. The number of lawyers has increased in both absolute terms and proportional to the American population and yet the numbers of self-represented people continue to grow.[2] And, while many lawyers are dedicated to pro bono work, only a small portion of hours across the profession are committed to it. Gillian K. Hadfield and Deborah L. Rhode, *How to Regulate Legal Services to Promote Access, Innovation, and the Quality of Lawyering*, 67 Hastings L. J. 1191, 1193 (2016).

Our primary bulwark against this overwhelming tide of legal need are the legal services organizations, the nonprofits whose mission is to provide legal help to the most vulnerable citizens. California has well over one hundred legal services organizations helping low-income people across the state in an extraordinary diversity of ways and with

[2] The population of U.S. lawyers has grown by 400% since 1970. In 1970, the number of lawyers in the United States was 326,842. In 2022, the number is 1,327,010. Am. Bar Assoc., *Profile of the Legal Profession* (2022). Furthermore, the United States had one lawyer for every 695 people in 1951 and one lawyer for every 252 people in 2005. Clara N. Carson & Jeeyoon Park, Am. Bar Found., *The Lawyer Statistical Rep.: The U.S. Legal Pro. in 2005*, 2 (2005).

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incredible innovation and dedication.[3] Though they offer thousands of hours of free legal services, these organizations are simply unable to meet the need. Legal Services Corporation-funded organizations receive such limited funding that they must turn away almost half of the people who come to them seeking help. Legal Services Corp., *The Justice Gap: The Unmet Civil Legal Needs of Low-Income Americans* 9 (2022). Moreover, limited resources prevent California's legal aid attorneys from fully resolving at least one-third of the problems presented to them. Rocio Avalos, et al., *Cal. Justice Gap Study Exec. Rep*. 14 (2019).

California has worked to address the justice gap. Funding for California legal services organizations increased by over $100 million between 2019 and 2024. *2024 Cal. Justice Gap Study*, at 17, 98. Legal services organizations are working to grow their staff and reach more people, including through self-help clinics and hotlines and increasing

[3] In 2025, there are 115 organizations in California qualified as "IOLTA-funded nonprofits" and receiving funding from the State Bar. *New to Legal Services?*, Legal Aid Association of California, https://www.laaconline.org/coordination/new-to-legal-services/#:~:text=Legal%20aid%20organizations%20in%20California,How%20is%20your%20organization%20funded (last visited Sept. 29, 2025). There are many more organizations which provide legal services but do not qualify for IOLTA funding.

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use of nonlawyers. *Id*. at 99-100. Despite hiring and retention difficulties, the ratio of attorneys to those in need has improved from 1 attorney for 7,466 indigent Californians to one attorney for every 5,338. *Id*. at 98.

But demand continues to outpace capacity. Attorney recruitment and retention is a constant and critical challenge for legal services organizations. A 2010 survey by LAAC revealed that over one-third of legal aid attorneys left within three years of being hired. By 2019, this trend worsened, with one-third of attorneys leaving within just two years. Legal Aid Ass'n of Cal., *Justice at Risk: More Support Needed for Legal Aid Att'ys* 2-3, 39 (2020).

In the current political climate, continued federal support for legal services organizations is uncertain. John Grisham, *Trump's Cuts to Legal Aid Would Hurt Veterans, Children, and Families*, USA Today (Jul. 30, 2025, 5:07am). The Legal Services Corporation currently provides funding to 11 California legal services organizations with a total of over $55 million in grants in 2025. Legal Services Corporation, *California State Profile*, https://www.lsc.gov/grants/our-grantees/california-state-profile (last visited Sept. 5, 2025). Should

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federal funding be reduced or cut, legal services organizations will have to find ways to do more with less.

c. Community Justice Workers: An Emerging Movement to Increase Legal Aid's Impact.

Recognizing the seriousness of the access to justice crisis, jurisdictions across the United States are exploring new avenues to expand access to justice. *See* Lucy Ricca and Eric Helland, RAND Civil Justice Institute, *Conference on Access to Justice in California* 1 (2024); Rebecca L. Sandefur & Lucy Ricca, *Outside the Box: How States Are Increasing Access to Justice Through Evidence-Based Regulation of the Practice of Law*, Vol. 108 Judicature 58 (2024). Specifically, state supreme courts across the country are taking a critical look at the rules which have limited the wide range of activities constituting the practice of law to licensed lawyers. Multiple jurisdictions have moved forward with authorizing new providers of legal help who can work alongside lawyers to serve more people.[4]

[4] Jurisdictions which have implemented a range reforms include Washington, Oregon, Arizona, Utah, Minnesota, New Hampshire, South Carolina, Hawaii, and Alaksa. Other states, including Texas, New Mexico, Virginia, North Carolina, Michigan, New York, Maryland, and Washington, DC, are considering reforms. *See generally* David Freeman Engstrom et al., Deborah L. Rhode Center

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One such solution is the Community Justice Worker program, where trained nonlawyers provide limited legal services to individuals facing civil legal issues, such as debt collection or eviction. Unlike legal paraprofessional programs in other states, which require a lengthy state-run licensure process to avoid violating unauthorized practice of law rules, CJWs receive a simple waiver that provides a limited exemption to these regulations as long as they operate under the supervision of an approved legal aid organization. CJWs might be nonlawyer staff of the legal aid organization or they might be staffers or volunteers with non-legal community-based organizations (CBOs). *See* Cayley Balser & Stacy Rupprecht Jane, Inst. for the Advancement of the Am. Legal Sys., *The Diverse Landscape of Community-Based Just. Workers*, https://iaals.du.edu/blog/diverse-landscape-community-based-justice-workers (Feb. 22, 2024). Generally, CJWs complete a simple certification program offered by the legal aid organization and are then certified to the relevant regulatory authority (state supreme court or state bar) as having passed the relevant requirements. *Id.*

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on the Legal Profession, *Legal Innovation After Reform: Five Years of Data on Regulatory Change* 6 (Jun. 2025).

While this approach may seem novel, individuals without law licenses have long been authorized to provide limited assistance in immigration matters, Tribal courts, and for those incarcerated in prisons and jails, as well as before various state and federal administrative agencies. *See* Matthew Burnett and Rebecca L. Sandefur, *A People-Centered Approach to Designing and Evaluating Community Justice Worker Programs in the United States*, 51 Fordham Urb. L. J. 1509 (2024). Indeed, as far back as 1960, the United States Supreme Court, in *Sperry v. Florida*, a case concerning a nonlawyer patent practitioner, noted that nonlawyers had practiced before the Patent Office since its establishment in 1836 and the Office had stated that "there is no significant difference between lawyers and nonlawyers, either with respect to their ability to handle the work or with respect to their ethical conduct." *Sperry v. Florida*, 373 U.S. 379, 402 (1963).

For more than half a century, researchers have studied nonlawyer assistance to gain a better empirical understanding of the benefits and risks. (AE, Ex. 3 [Overview of empirical research on nonlawyer-provided legal assistance].) This body of research supports the following conclusions:

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1. Consumers want legal help, including from nonlawyers.[5]
2. Qualified nonlawyers are competent and effective at providing help.[6]

[5] *See, e.g.,* Rebecca L. Sandefur, *Legal Advice from Nonlawyers: Consumer Demand, Provider Quality, and Public Harms*, 16 Stan. J. Civ. Rts. & Civ. Liberties 283, 289–97 (2020), Natalie Anne Knowlton, Inst. for the Advancement of the Am. Legal Sys., *Cases Without Counsel: Our Recommendations After Listening to the Litigants* 29 (2016); Cayley Balser et al., *Leveraging Unauthorized Practice of Law Reform to Advance Access to Justice*, 18 L. J. for Soc. Justice 66, 97–100 (2024).

[6] *See* Nora Freeman Engstrom & Natalie Anne Knowlton, *Unauthorized Practice: Assessing Available Evidence*, 67 Bos. Coll. L. Rev. (forthcoming April 2026) (reviewing and summarizing the best evidence on nonlawyer provision of legal services). *See also* Mary E. McClymont, Geo. Just. Lab, *Nonlawyer Navigators in State Courts: An Emerging Consensus* (2019); Rebecca L. Sandefur & Thomas M. Clarke, Am. B. Found., Nat'l Ctr. for State Cts. & Pub. Welfare Found., *Roles Beyond Lawyers: Evaluation of the New York City Court Navigators Program* (2016); David Kraft et al., *Five Year Review of Paralegal Regulation: Research Findings. Final Report for the Law Society of Upper Canada* 6 (2012); Herbert M. Kritzer, *Legal Advocacy: Lawyers and Nonlawyers at Work* (1998); Jessica K. Steinberg et al., *Judges and the Deregulation of the Lawyer's Monopoly*, 89 Fordham L. Rev. 1315 (2021); Deborah L. Rhode, *What We Know and Need to Know About the Delivery of Legal Services by Nonlawyers*, 67 S.C. L. Rev. 429, (2016); Richard Moorhead et al., *Contesting Professionalism: Legal Aid and Nonlawyers in England and Wales*, 37 Law & Soc'y Rev. 765, 785–87 (2003); Nora Freeman Engstrom, *Effective Deregulation: A Look Under Hood of State Civil Courts*, Jotwell, Oct. 31, 2022.

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The evidence should open new pathways to addressing the justice crisis. Lawyers remain the central legal practitioners but trained CJWs can help lawyers to serve more people more efficiently. CJWs can serve as an important part of the legal ecosystem, enabling communities to identify and vindicate their legal rights and prevent avoidable harm from having devastating impacts.

Several states have successfully created and implemented programs allowing limited legal practice by CJWs.[7] In 2022, the Alaska Supreme Court approved a waiver of unauthorized practice of law restrictions, allowing the Alaska Legal Services Corporation to train and supervise community justice workers in Alaska's rural and remote communities, many of which qualify as legal deserts. Alaska S. Ct., Order No. 1994 (2022). Also in 2022, the Delaware Supreme Court approved a rule authorizing "Qualified Tenant Advocates" to represent tenants in eviction cases, correcting a previous inequality where only landlords could employ non-lawyers. Del. S. Ct. R. 57.1

[7] Additional jurisdictions are considering authorizing CJW programs, including Washington D.C. and Illinois. *See District of Columbia Courts Civil Legal Regulatory Reform Task Force, Report* (Jul. 2025); Press Release, Illinois Courts, Illinois Supreme Court Approves Vision for New Community Justice Worker Program (undated).

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(2022). In Arizona, Domestic Violence Legal Advocates and Housing Stability Legal Advocates have been authorized by court order to provide legal advice regarding housing matters, orders of protection, and family law. Ariz. S. Ct., Admin. Order No. 2024-35 (2024); Ariz. S. Ct., Admin. Order No. 2024-24 (2024). The Arizona Supreme Court recently codified CJWs in the Arizona Code of Judicial Administration, expanding the areas in which CJWs may offer services and creating multiple pathways to authorization. Ariz. Code of Jud. Admin. §7-211 (2025). In Utah, CJW programs include domestic violence advocates, housing stability advocates, and medical debt advocates. Utah S. Ct., In re: Application of Comty. Just. Advocs. of Utah, Amend. Order for Authorization to Prac. L. (2025). South Carolina's justice worker program is under the auspices of that state's NAACP and is focused on eviction assistance and defense. *In re: S. Carolina NAACP Hous. Advoc. Program*, 897 S.E.2d 691 (2024). Hawaii's Rural Paternity Advocacy Pilot Project allows in-court assistance in a pilot family court for cases involving issues of paternity, visitation, and child custody. Hawaii S. Ct., Order Establishing a Rural Paternity Advoc. Pilot Project in the Third Cir. (2023). And, in Texas, the Supreme Court has issued preliminary

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approval of rules authorizing CJWs (called Licensed Court-Access Assistants). S. Ct. of Texas, Preliminary Approval of Rules Governing Licensed Legal Paraprofessionals and Licensed Court-Access Assistants, Misc. Docket No. 24-9050 (Aug. 6, 2024).

Although it is still early days for these programs, initial data are promising. Alaska's program, which is the largest and about which we have the most information, has had remarkable success. Indeed, the program enabled Alaska Legal Services Corporation ("ALSC"), the sponsoring legal organization) was able to double the overall number of clients assisted from 2022 to 2023. Email from Sarah Carver, Co-Director, ALSC Community Justice Worker Resource Center to Lucy Ricca (Sept. 3, 2025) (on file with petitioners). As of September 2025, ALSC oversees 214 CJWs. *Id.* Seven of those are staff at ALSC; the remainder are ALSC volunteers who are either volunteers or staff at community-based organizations or government entities or are private citizens. *Id.* Between December 2021 and March 2025, CJWs were involved in 1,848 cases. *Id.* Between 2023 and September 2025, one in five ALSC cases included at least one CJW. *Id.*

Alaska CJWs primarily practice in the areas of public benefits, the highest area of need in that state. CJWs are 100 percent successful

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at resolving delays in public benefits and CJW cases resulted in direct SNAP benefits to clients totaling $23.7 million. *Id.* See also Am. Bar. Found., *Research Brief: Analysis of the Social and Economic Impact of the Alaska Community Justice Worker Program* (2021-2025), at 2 (2025). CJWs are also writing wills for ALSC clients, helping to reduce fractionalization of Restricted Native property in rural Alaska among other benefits. *Id.*

Utah's domestic violence advocate program, although smaller in size, has also had a positive impact. Between 2021 and 2025, the program served 536 unique clients, 76 percent in rural or frontier counties. Email from Hayley Cousins, Executive Director, Community Justice Advocates of Utah, to Lucy Ricca (Sept. 22, 2025) (on file with petitioners). In the closed cases with a known outcome, 68 percent pursued a civil protective order or stalking injunction. *Id.* Of those, 91 percent received an *ex parte* order. *Id.* Of those who received an *ex parte* order and the final outcome is known, 67 percent had the permanent order entered, 10 percent had the permanent order denied, and 23 percent chose to dismiss their order. *Id.* This success

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rate is nearly double the statewide average.[8] Email from Hayley Cousins to Lucy Ricca (Sept. 30, 2024) (on file with petitioners).

Recognizing the potential of these community-driven reforms, both the Conference of Chief Justices / Conference of State Court Administrators and the American Bar Association have passed resolutions encouraging states to study and consider the possibility of implementing justice worker programs to increase access to legal help. Conf. of Chief Justices and Conf. of State Ct. Adm'rs, Res. 1-2025: In Support of Exploring Access to Just. Through Authorized Just. Practitioner Programs (Jul. 30, 2025); Am. Bar. Assoc., Res. 605 (2025).

d. Community Justice Workers in California.

Community justice workers can be a key part of solving the justice crisis in California. Indeed, many of our legal services organizations already rely on justice workers to provide key connections with communities, legal information, and referrals back to legal aid. For example, Stay Housed LA is a broad partnership

[8] The referenced statewide average includes both lawyer represented and self-represented parties. Email from Hayley Cousins to Lucy Ricca (Sept. 30, 2024) (on file with petitioners).

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between government, legal aid organizations, and community-based organizations in Los Angeles. Stay Housed LA, https://www.stayhousedla.org/about (last visited Sept. 2, 2025). Volunteers and staffers in the community-based organizations provide legal information and referrals to the legal aid partners for Los Angelenos facing housing insecurity. California Rural Legal Assistance uses community workers in their Rural Justice Unit to perform intake and triage of clients. *Community Worker, Rural Justice Unit*, California Rural Legal Assistance, https://crla.org/careers/community-worker-rural-justice-unit-rju (last visited Sept. 5, 2025). In Northern California, Legal Link works across a range of community-based organizations, training their staffers and volunteers to provide "Legal First Aid" by surfacing and identifying legal problems and assisting people with finding legal services. *Our Mission and Model*, Legal Link, https://legallink.org/our-mission-model/ (last visited Sept. 2, 2025).

But the impact could be so much more significant. The ban on nonlawyers providing any legal advice or assistance and the severe penalties for the performing of or abetting UPL prevent legal aid organizations from leveraging their nonlawyer staff and volunteers to

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serve more people who need simple legal services. Legal aid stands ready to train and deploy supervised CJWs to help more people reach just resolutions to their problems. By allowing CJWs to perform activities such as providing simple legal advice to someone who has just received an unlawful detainer complaint or assisting another with answering a debt collection complaint or advising a survivor on how to file for an order of protection, our legal aid organizations can increase their impact in vulnerable communities, drive better outcomes for those we seek to serve, and build trust with our community partners.

In 2024, LAAC, with financial support from the State Bar of California, formed the CJW Working Group to consider the CJW programs being rolled out across different jurisdictions and whether and how such a program might be implemented in California. (AE, Ex. 1 [CJW Working Group Roster].) The members of the CJW Working Group were leaders of the legal aid community in California. Meeting over the course of six months, the Group discussed how their organizations work with community-based organizations and how they currently leverage nonlawyer staff, volunteers, and partners to try to help more people. The CJW Working Group discussed how they

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might build a CJW program using a UPL safe harbor, allowing nonlawyers to give legal advice and help people navigate the civil justice system successfully. The CJW Working Group also heard from thought leaders and studied different CJW programs from across the country.

The CJW Working Group released an initial proposal publicly in January 2025. (AE, Ex. 2.) The group then spent the first eight months of 2025 presenting the proposal to many different stakeholder groups across the state. The feedback was generally supportive, and many helpful comments and suggestions were made. The CJW Working Group is drafting a revised proposal incorporating that feedback and has distilled the appropriate elements of the revised proposal into this Petition and Proposed Rule 9.45.1.

Proposed Rule 9.45.1 establishes a framework for individual California legal aid organizations to seek approval to develop and deploy programs in their communities that allow supervised CJWs to offer simple legal services, including specific legal advice and assistance, in core areas of need. The framework recognizes the expertise legal aid organizations have with their communities and their legal needs and seeks to allow each organization the flexibility to

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develop programs that respond to those needs. In this way, the framework allows for variability among programs, including in legal areas served, status of justice worker (whether internal employee or volunteer from an outside community-based organization), training, and range of activities. CJWs are not independently licensed, can only serve clients of the legal aid organization, and cannot charge any fees for their work. The legal aid organizations themselves are responsible for the work performed by the CJWs and must hold malpractice insurance covering the CJWs. Proposed Rule 9.45.1 is intentionally simple, leveraging already existing regulatory structures and provider organizations to ensure minimal expense and maximal scale and sustainability. The CJW Working Group believes this Proposed Rule outlines a path for California to move forward to respond to the urgent access to justice crisis, simply by allowing trusted providers to deploy justice workers at scale and in more impactful ways. The Proposed Rule reflects the legal services community's considered recommendation for CJWs in California.

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IV. PROPOSED CALIFORNIA RULE OF COURT 9.45.1

The proposed rule, set forth in full above, is comprised of seven sections.

Section (a) sets forth the **definitions** applicable to the rule as follows:

(1.) **Authorizing Body** is the entity designated by the California Supreme Court to accept, review, and approve applications from qualified legal services organizations (as defined in subsection (2) below) to implement and run a community justice worker program.

(2.) **Authorized legal services organization** is an organization qualifying either as a "qualified legal services project" or a "qualified support center" under California Business and Professions Code § 6213 (a) or (b) and which satisfactorily completes the application process and is authorized by the Authorizing Body to implement and run a CJW program under this rule.[9]

[9] Cal. Bus & Prof. Code § 6213 (a) and (b) establish the definitions of organizations which may receive IOLTA funds as follows:

(a) "Qualified legal service project" means either of the following:

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(3.) **Community Justice Worker ("CJW")** is a person not licensed by the State Bar of California who has satisfied the training and other relevant requirements as certified by an authorized legal services organization to the State Bar and will engage in the limited practice of law under

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(1) A nonprofit project incorporated and operated exclusively in California that provides as its primary purpose and function civil legal services without charge to indigent persons and that has quality control procedures approved by the State Bar of California.

(2) A program operated exclusively in California by a nonprofit law school accredited by the State Bar of California that meets the requirements of subparagraphs (A) and (B).

(A) The program shall have operated for at least two years at a cost of at least twenty thousand dollars ($20,000) per year as an identifiable law school unit with a primary purpose and function of providing civil legal services without charge to indigent persons.

(B) The program shall have quality control procedures approved by the State Bar of California.

(b) "Qualified support center" means an incorporated nonprofit legal services center that has as its primary purpose and function the provision of legal training, legal technical assistance, or advocacy support for civil legal services without charge and which actually provides through an office in California a significant level of legal training, legal technical assistance, or advocacy support without charge to qualified legal services projects on a statewide basis in California.

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this rule exclusively for an authorized legal services organization.

The CJW Working Group suggests that the Legal Services Trust Fund Commission ("LSTF Commission") is the appropriate entity to serve as the Authorizing Body for the California CJW program. The Legislature created the LSTF Commission to administer funds set aside "to expand the availability and improve the quality of existing free legal services in civil matters to indigent persons, and to initiate new programs that will provide services to them." Cal. Bus. and Prof. Code § 6210. The LSTF Commission includes members from both the judicial and legislative branches in California and administers the significant oversight and monitoring of legal services organizations receiving IOLTA funds. These are the same organizations that will be eligible for approval to launch CJW programs under this rule. Thus, the LSTF Commission is well placed, and well-funded, to also administer the review and approval process for CJW programs, a process which the CJW Working Group has designed as to align as closely as possible with existing IOLTA review and monitoring.

However, it seems likely that a statutory change is required to ensure that the LSTF Commission can serve as the Authorizing Body

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for this program. The CJW Working Group will be moving forward to seek this legislative change alongside this proposed rule change. Should the Legislature fail to authorize the LSTF Commission to perform the proposed role, the Court has the discretion, as the primary regulator of the practice of law, to identify or create another entity to serve as the Authorizing Body.

Authorized legal services organizations are defined by reference to the existing definition in California Business and Professions Code § 6123 and include legal services nonprofits, law school programs, and support centers which have satisfied the LSTF Commission's intensive IOLTA process. This will allow significant scaling of CJW programs while also relying on the existing intensive review and oversight of the IOLTA qualification process.

Section (b) outlines the **application process** for organizations interested in launching CJW programs under this rule.

(1.) The Authorizing Body shall serve as the authorizing body for legal services organizations seeking to certify CJWs under this program. The Authorizing Body shall develop a process by which legal services organizations

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can submit an application for approval of a CJW program.

(2.) Application requirements:

(A) The applicant organization shall attest to status as a qualified legal services project or qualified support center under the definition set forth in Cal. Bus. & Prof. Code § 6213 (a) or (b).

(B) The applicant organization shall submit a narrative description of the proposed CJW program.

(C) The applicant organization shall submit its CJW training plan, detailing any curricular components, testing, and experiential learning. The training plan must include the following:

(i.) Training on the California Rules of Professional conduct and ethical legal service provision.

(ii.) Relevant subject matter and experiential training within the proposed CJW practice area(s) as developed and approved by

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managing attorneys at the applicant organization.

(iii.) The process by which the applicant organization shall assess competency and practice readiness of each CJW.

(D) The applicant organization shall submit a plan for gaining informed and written client consent to receive CJW-provided services.

(E) The applicant organization shall submit a plan for ensuring control and security of the organization's client files.

(F) The applicant organization shall submit proof of malpractice insurance that covers CJWs.

(G) The applicant organization shall attest to the organization's ability to comply with any reporting requirements.

(3.) The Authorizing Body shall review each application to launch a CJW program under this rule and ensure that the application sufficiently sets forth the requirements listed above. The Authorizing Body shall then issue

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authorization for the legal services organization pursuant to this program.

(4.) In the case that an authorized legal services organization under this Rule is no longer qualified under Cal. Bus. & Prof. Code §6213 (a) or (b) but wishes to continue operating as an authorized legal services organization under this Rule, then the Authorizing Body should consider and determine whether the organization's CJW program may continue and what requirements to impose to ensure the ongoing quality of the program.

These application requirements are simple and designed to rely on existing reporting requirements imposed on these organizations through the IOLTA process. The CJW Working Group noted that organizations receiving IOLTA funds already go through a significant application, review, and monitoring process and sought to minimize any additional requirements needed to satisfy oversight goals for the CJW program. This section also establishes a presumption that the Authorizing Body *shall* authorize proposed CJW programs as long as the application sufficiently sets forth the required information.

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Finally, this section gives the Authorizing Body the discretion to allow an organization which is no longer qualified under Cal. Bus. & Prof. Code § 6213 (a) or (b) to continue operating a CJW program.

Section (c) outlines the **requirements for authorized legal services organizations** under this Rule:

(1.) Once authorized, the legal services organization must:

(A) Certify each individual CJW to the State Bar once that person has satisfactorily completed the organization's relevant training requirements and submit each CJWs scope of practice, including legal service area(s) and scope of activities.

(B) Ensure ongoing capacity and capability to adequately supervise CJWs according to California Rule of Professional Conduct 5.3.

(C) Report any relevant changes in status, either of the organization or any CJW, including:

(i.) Immediately inform the State Bar if the organization no longer receives IOLTA funding or stops providing approved services.

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(ii.) Immediately inform the State Bar when any CJW is no longer eligible for inclusion in this program, whether by resignation, termination, or other reason.

(iii.) Immediately report any known violations of applicable rules by CJWs to the State Bar. Violation may be grounds for termination of CJW status.

(D) Report the following information to the State Bar on an annual basis, to ensure ongoing feedback for continuous program improvement:

(i.) Number of clients served by CJWs through the waiver.

(ii.) Hours worked by CJWs.

(iii.) CJW case outcomes, including main and economic benefits.

(iv.) Post-services survey of clients served by CJWs. The survey will be developed by the external researcher conducting the CJW

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program evaluation as described in Section (f).

(v.) Client complaints and resolution of complaints, if any.

(vi.) Certain information on organization's active CJWs, including:

1. Gender
2. Age
3. Race/ethnicity
4. Income level
5. Highest level of education
6. Language capability
7. CJW identification, if any, as a member of the client community

(vii.) Summary of costs of implementing and maintaining the CJW program.

(E) Failure of the authorized legal services organization to comply with these requirements may result in audit, review, and potential impacts on funding for the organization.

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In this framework, the authorized legal services organization is the primary mechanism for oversight and control of individual CJWs. This means that each organization is primarily responsible for ensuring competency and compliance and for responding when a CJW is failing to perform according to the organization's expectations. The organization and the lawyers therein remain subject to California Rule of Professional Conduct 5.3. This also means that the organization and the lawyers therein are responsible, legally, should a CJW fail to perform competently.

Section (d) establishes the requirements for individual CJWs.

(1.) CJWs must meet the following minimum requirements:

(A) Be at least eighteen (18) years of age.

(B) Have a high school diploma or the equivalent.

(C) Meet the authorized legal service organization's requirements for employment or volunteer status as applicable.

(2.) A CJW is not permitted to perform any activities constituting the practice of law outside of the scope of certification submitted by the authorized legal services

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organization to the State Bar. Any activities constituting the practice of law outside the scope of the certification are subject to enforcement under Cal. Bus. & Prof. Code §§ 6125 *et seq*.

(3.) A CJW is not permitted to charge any fees, including fees structured on a contingent or percentage basis, or for a referral, for legal services provided under this program.

(4.) A CJW's authorization to provide the services outlined in the certification is contingent upon affiliation with an authorized legal services organization. Should that affiliation cease for any reason, the CJW is no longer certified to provide the relevant legal services and will be subject to enforcement under Cal. Bus. & Prof. Code §§ 6125 *et seq*. should the CJW continue to provide such services. However, a CJW may transfer affiliation as contemplated in Section (e) below.

(5.) No disbarred or suspended legal practitioner (attorney or person otherwise once authorized to practice law), whether disciplined in California or any other jurisdiction, may be certified as a CJW.

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(6.) Each CJW shall be subject to the California Rules of Professional Conduct, California Rules of Court, and all other relevant statutes and rules.

This section clearly states that a CJW's authorization to offer legal services is entirely contingent upon their affiliation with an authorized legal services organization. CJWs are not independently licensed to practice law and are not allowed to operate independently. Doing so exposes them to prosecution as per Cal. Bus. & Prof. Code §§ 6125 *et seq*.

In addition, this section bars any suspended or disbarred legal practitioner from being certified as a CJW. The language is expansive to capture licensed paraprofessionals and CJWs from other states but would allow retired attorneys to serve as CJWs.

Section (e) outlines the requirements to be met should a CJW wish to **transfer** from one authorized legal services organization to another.

(1.) If a CJW wishes to transfer affiliation from one authorized legal services organization to another, the organization to which the CJW is transferring must

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independently determine that the CJW is qualified to competently provide services within that organization's program and then certify the CJW to the State Bar as described in Section (c).

(2.) The transferring CJW cannot provide services in the transferee legal services organization until that certification has been accepted by the State Bar.

The CJW Working Group recognized that CJWs may move between organizations and sought to ensure that the transferee organization independently determine that the CJW is prepared to offer legal services competently under that organization's program.

Section (f) establishes the role of the State Bar of California in the CJW program.

(1.) The State Bar shall develop a simple process by which authorized legal services organizations can certify individual CJWs to the State Bar for inclusion in the organization's roster of CJWs. Such certification should include:

(A) The name of the CJW; and

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(B) The scope of practice (legal service area(s) and scope of activities of the CJW).

(2.) The State Bar shall maintain a roster of authorized legal services organizations and their active CJWs, including their scope of practice, that shall be posted on its website;

(3.) The State Bar shall develop a process by which it promptly communicates the roster of authorized legal services organizations and their CJWs to any other relevant authorities, including those authorities responsible for enforcement of Cal. Bus. & Prof. Code §§ 6125 *et seq*.

(4.) The State Bar shall report to the Legislature and Supreme Court all complaints received by the State Bar against CJWs, the nature of the complaint, and the resolution on an annual basis.

In this framework, the authorized legal services organizations themselves act as the primary oversight mechanism for CJWs and are responsible for ensuring competency and compliance with rules and standards of conduct. The State Bar's role is primarily that of

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information repository and communicator, both to the public and to other relevant authorities.

Section (g) outlines the requirement for an **evaluation of this CJW program**.

(1.) The program shall be evaluated within five years of the first authorization of a legal services organization's CJW program.

(2.) The State Bar will select an outside evaluator to conduct the evaluation, subject to the approval of the Supreme Court.

(3.) The evaluation will seek to understand the impact of the CJW program on access to justice for underserved communities.

Empirical review and evaluation of any significant policy change is an important part of informed and transparent governance. There are multiple researchers conducting evaluations of CJW programs across the country who are well-placed to assist in this evaluation and who have developed sophisticated methodologies to ensure the highest possible reliability in the data and analysis. It is difficult to say how such an evaluation might look or how much it

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might cost at this stage, as much depends on the number of legal services organizations that launch CJW programs and the extent of those programs, as well as the potential diversity of those programs.

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V. CONCLUSION

The legal aid community of California seeks this Court's approval of Proposed Rule 9.45.1 to allow our staff and community allies to work with us to help more Californians facing legal difficulties. Many legal needs can be resolved by trained and supervised nonlawyers for the ultimate good of the community. We respectfully submit the Proposed Rule 9.45.1 for review and approval of the California Supreme Court.

Respectfully Submitted,

Salena Copeland

Salena Copeland

Zach Newman

Leigh E. Ferrin

Sacha Steinberger

On behalf of parties Legal Aid Association of California, OneJustice, and Legal Link

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CERTIFICATE OF WORD COUNT

Pursuant to California Rules of Court Rule 8.486(a)(1) and (b)(6), the text of this Petition, including footnotes and excluding the tables of contents and authorities and this certificate, consists of 9,544 words in 14-point Times New Roman type as counted by the Microsoft 365 word-processing program used to generate the text.

Respectfully Submitted,

Salena Copeland

Salena Copeland

Zach Newman

Leigh E. Ferrin

Sacha Steinberger

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APPENDIX OF EXHIBITS

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Exhibit 1……California Community Justice Worker Working Group Roster

Exhibit 2…….Original Community Justice Worker Proposal (Jan. 2025)

Exhibit 3…….....Overview of Empirical Research on Nonlawyer Assistance

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EXHIBIT 1

CALIFORNIA COMMUNITY JUSTICE WORKER WORKING GROUP

A group convened by the Legal Aid Association of California in July 2024, the working group includes members from California legal aid organizations.

The group was led by Legal Link and One Justice and advised by the Deborah L. Rhode Center on the Legal Profession at Stanford Law School and by Frontline Justice.

Leigh Ferrin, One Justice (Chair)	Sacha Steinberger, Legal Link (Chair)
Silvia Argueta, Legal Aid Foundation of Los Angeles	Monique Berlanga, Centro Legal de la Raza
Diego Cartagena, Bet Tzedek Legal Services	Tiela Chalmers, former Alameda County Bar Association
Alix Gonzalez Buchanan, Disability Rights California	Heather Hostler, Californian Indian Legal Services
Jessica Jewell, California Rural Legal Assistance	Zach Newman, Legal Aid Association of California
Pablo Ramirez, Legal Aid Society of San Bernardino	Tessie Solorzano, Inland Counties Legal Services

Advisors:

Lucy Ricca, Deborah L. Rhode Center on the Legal Profession, Stanford Law School

Nikole Nelson, Frontline Justice

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EXHIBIT 2

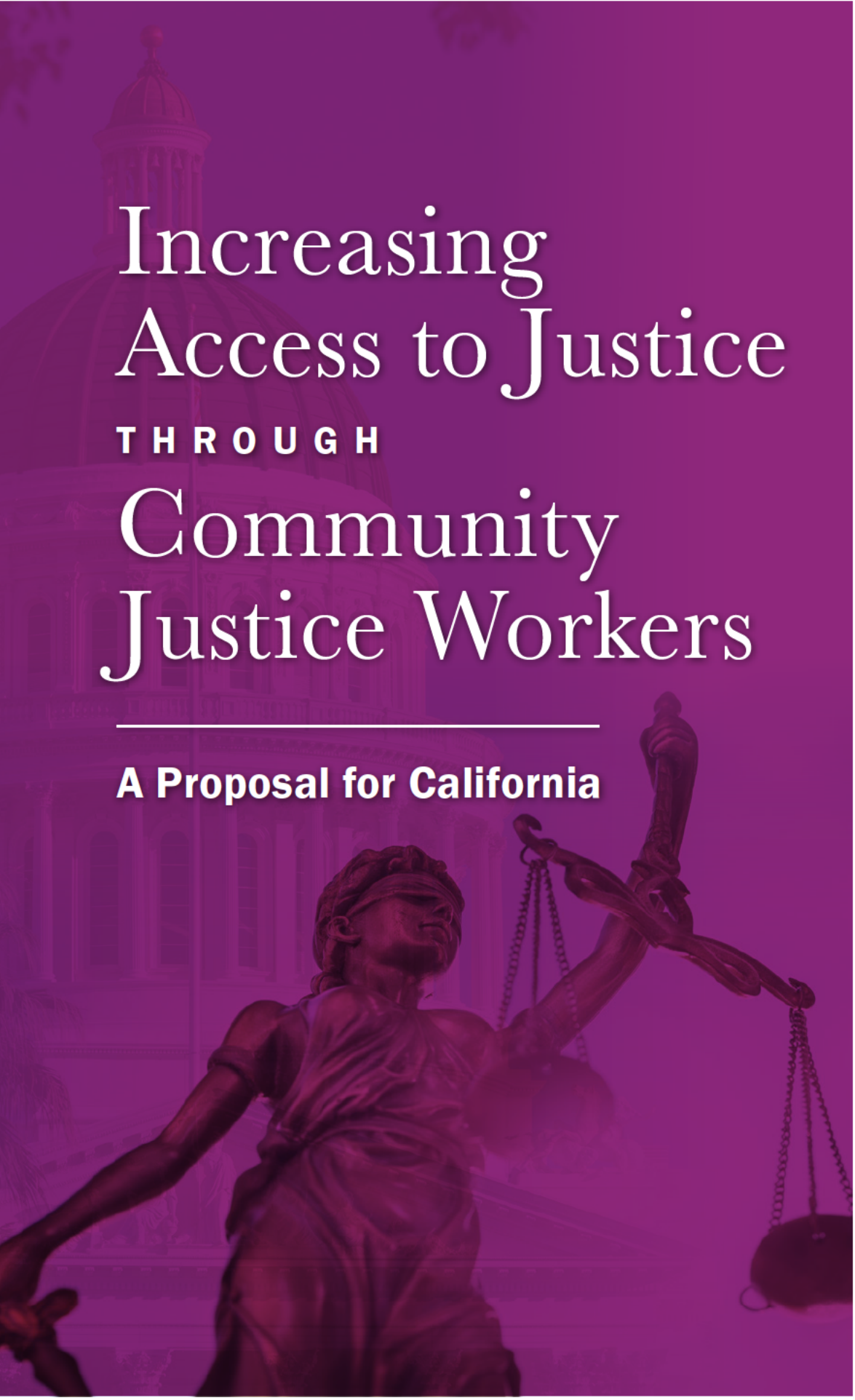
ORIGINAL COMMUNITY JUSTICE WORKER PROPOSAL

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Increasing Access to Justice THROUGH Community Justice Workers

A Proposal for California



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LAAC
Legal Aid Association of California

OneJustice

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December 2024

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IN JULY 2024, the Legal Aid Association of California convened a working group of leaders from California's legal aid organizations to explore the potential for a Community Justice Worker (CJW) program. This group was led by Legal Link and OneJustice, with advice and support from Stanford Law School's Deborah L. Rhode Center on the Legal Profession and Frontline Justice. Discussions over the last six months focused on expanding the reach and impact of legal aid organizations by allowing nonlawyer staff and community members, with attorney training and supervision, to independently do discrete legal procedures for which there is a deep and unmet need. This would require authorization to perform a limited range of activities which could fall within the scope of the practice of law.

We are thrilled to share our CJW proposal for California, which would allow legal aid organizations to extend and expand on their work for the lowest-income Californians using a CJW model, as many other states are now doing. The proposal describes a framework for California legal aid organizations seeking to certify individual Community Justice Workers who will serve under the supervision of their attorneys. This is not a proposal for specific projects; rather, it is a proposal for an authorization and oversight framework for a California CJW program in which legal aid organizations across the state can choose to participate. The proposal seeks to streamline the process for groups already under IOLTA review and scrutiny, while allowing other organizations to enter the CJW Program should they meet a set of requirements. Our group is hopeful that our efforts to innovate and provide deeply needed services in a safe and measured way are embraced and carried forward.

Sincerely,

Christian Abasto, Disability Rights California, Legal Advocacy Unit Director
Silvia Argueta, Legal Aid Foundation of Los Angeles, Executive Director
Monique Berlanga, Centro Legal de la Raza, Executive Director
Diego Cartagena, Bet Tzedek Legal Services, President & CEO
Tiela Chalmers, former Alameda County Bar Association, CEO
Leigh Ferrin, OneJustice, Program Director
Heather Hostler, California Indian Legal Services, Executive Director
Jessica Jewell, California Rural Legal Assistance, Executive Director
Zach Newman, Legal Aid Association of California, Directing Attorney
Pablo Ramirez, Legal Aid Society of San Bernardino, Executive Director
Tessie Solorzano, Inland Counties Legal Services, Executive Director
Sacha Steinberger, Legal Link, Founder and Co-Executive Director

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Access to justice is a cornerstone of our legal system, encapsulated by the four words inscribed on the façade of the United States Supreme Court building: *equal justice under law*. Unfortunately, these words do not reflect the reality of our American legal system in practice. Most Americans do not have any access to justice at all.

The statistics are shocking.[1] 75 percent of low-income households experienced at least one civil legal problem in the past year, and 40 percent experienced at least five.[2] 92 percent of those people do not receive any or enough legal assistance.[3] In state courts, which handle 98 percent of civil disputes, lawyers represent both sides in only 24 percent of cases on average.[4] In some legal areas, such as family, housing, and debt, 80 to 90 percent of parties have no lawyer at all.[5] These figures only capture those who make it to court—many more struggle with serious legal problems outside the formal judicial process.[6] These individuals often navigate complex and life-altering issues—affecting their family, safety, housing, employment, and finances—without any legal guidance.

California is significantly affected by this crisis. The State Bar's 2019 study of the justice gap revealed that 55 percent of Californians faced at least one civil legal problem in the past year (13 percent experienced six or more), yet 85 percent received insufficient or no legal help.[7] The California justice gap transcends socioeconomic status, with merely 27 percent of low-income and 34 percent of middle-income Californians receiving legal assistance.[8] This study also showed that the most vulnerable among us experience more legal problems than others: those living in a household with a person with disabilities experience an average of three times as many legal problems and survivors of domestic violence or sexual assault expe-

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1 Americans experience an estimated at least 150 million new civil justice problems annually. *See* Rebecca L. Sandefur & James Teufel, *Assessing America's Access to Civil Justice Crisis*, 11 U.C. Irvine L. Rev. 753, 765 (2020). At least 120 million of those problems go unresolved. *See* Institute for the Advancement of the American Legal System & Hague Institute for Innovation of Law, Justice Needs and Satisfaction in the United States of America 235 (2021), https://iaals.du.edu/sites/default/files/documents/publications/justice-needs-and-satisfaction-us.pdf.

2 *Justice Gap Research*, Legal Servs. Corp., https://www.lsc.gov/initiatives/justice-gap-research.

3 *Id.*

4 Anna E. Carpenter, Colleen F. Shanahan, Jessica K. Steinberg, & Alyx Mark, *American's Lawyerless Courts: Legal Scholars Work to Recommend Large-Scale Changes in Lawyerless Civil Courts*, No. 4 A.B.A. L. Prac. 48 (2022); Nat'l Ctr. for State Cts., Civil Justice Initiative: The Landscape of Civil Litigation in State Courts 31 (2015), https://www.ncsc.org/__data/assets/pdf_file/0020/13376/civiljusticereport-2015.pdf. Equally significant is the stark disparity in representation rates between plaintiffs and defendants. On average, 92 percent of plaintiffs are represented by counsel, whereas only 26 percent of defendants have legal representation. *Id.*

5 Lucy Ricca and Eric Helland, Conference on Access to Justice in California 1 (2024), https://www.rand.org/content/dam/rand/pubs/conf_proceedings/CFA3400/CFA3411-1-v2/RAND_CFA3411-1-v2.pdf.

6 Rebecca Sandefur, *What We Know, and Need to Know, About the Legal Needs of the Public*, 67 S.C.L. Rev. 443, 447-449 (2015).

7 Rocio Avalos, Erica Carroll, Lisa Chavez, Hellen Hong, Linda Katz, and Eli Wallach, California Justice Gap Study: Executive Report 6 (2019).

8 *Id.*

rience eight times as many legal problems.[9] Millions of Californians, unable to secure the help they need, fall into this justice gap often with lasting impacts for their lives, families, and communities.[10]

A. Traditional Approaches are Insufficient to Address the Immense Need

Traditional approaches to addressing the access to justice crisis—like increasing the overall number of lawyers or mandating pro bono service—have proven ineffective. The number of lawyers has increased in both absolute terms and proportional to the American population and yet the numbers of self-represented people continue to grow.[11] And, while many lawyers are dedicated to pro bono work, only a small portion of hours across the profession are committed to it.[12] Even a significant increase in pro bono efforts would fall short—studies show that if every lawyer in the U.S. provided 100 additional pro bono hours per year, each household with a civil legal issue would still receive only 30 minutes of legal help.[13]

Those who know this problem best, who see the overwhelming need day after day, are the members of California's legal aid community. These lawyers, paralegals, administrative assistants, and other staffers bear the brunt of this ever-worsening issue. Although they offer many services to thousands of Californians in need every single day, they lack the resources to meet the overwhelming demand. Legal Service

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9 *Id.* at 9.

10 Unresolved legal issues often result in severe hardship to individuals and negative consequences to society at large. See Pascoe Pleasence et al., *Mounting Problems: Further Evidence of the Social, Economic and Health Consequences of Civil Justice Problems*, in Transforming Lives: Law and Social Process 67, 79, 83-85 (2006); Sandefur, *supra* note 6, at 457; Deborah L. Rhode & Scott L. Cummings, *Access to Justice: Looking Back, Thinking Ahead*, 30 Geo. J. Leg. Ethics 485, 488 (2017).

For example, eviction can have serious social and health consequences, including interrupted employment, worsened physical health, and increased rates of mental health disorders such as depression and suicide. The associations between eviction and child health have been well documented, including adverse birth outcomes, increased rates of food insecurity among young children, and poor physical and mental health in adolescents and young adults. These consequences create a vicious circle that results in more housing instability and economic challenges. *See Prevalence and Impact of Evictions*, United States Dep't of Hous. and Urb. Dev., https://www.huduser.gov/portal/periodicals/em/summer21/highlight2.html#:~:text=Moreover%2C%20the%20toll%20of%20evictions,housing%20instability%20and%20economic%20challenges. Eviction is also associated with premature death. Simply being threatened with an eviction—even when that case did not result in an eviction judgment—was associated with a 19% increase in mortality. Receiving an eviction judgment was associated with a 40% increase in the risk of death. See Nick Graetz, Carl Gershenson, and Matthew Desmond, *Rising Rents and Evictions Linked to Premature Death*, Eviction Lab, https://evictionlab.org/rising-rents-and-evictions-linked-to-premature-death/.

In the context of family law, failure to address unmet legal needs may put at lives at risk through domestic violence, and result in loss of child custody by deserving parents, children left in physically dangerous, psychologically traumatic, or financially inadequate family settings, and related problems. See Deborah L. Rhode, Access to Justice 3 (2004). Similarly, the long-term effects of domestic abuse can significantly impact a victim's or witness's life. Domestic violence significantly reduces educational achievements, self-assessed health levels, and life satisfaction; and increases mental health risks. *See* Liu Bo and Yating Peng, *Long-Term Impact of Domestic Violence on Individuals-An Empirical Study Based on Education, Health and Life Satisfaction*, Behav. Scis. (2023).

Moreover, legal debt collection practices devastate vulnerable individuals by trapping them in a cycle of mounting fees, wage garnishment, and court judgments. *See They Need Legal Advice on Debts. Should It Have to Come From Lawyers?,* N.Y. Times (2022), https://www.nytimes.com/2022/01/25/nyregion/consumer-debt-legal-advice.html.

11 The population of U.S. lawyers has grown by 400% since 1970. In 1970, the number of lawyers in the United States was 326,842. In 2022, the number is 1,327,010. Am. Bar Assoc., Profile of the Legal Profession 2022, https://www.abalegalprofile.com/demographics.php#anchor1. Furthermore, the United States had one lawyer for every 695 people in 1951 and one lawyer for every 252 people in 2005. *See* Clara N. Carson & Jeeyoon Park, American Bar Foundation, The Lawyer Statistical Report: The U.S. Legal Profession In 2005, 2 (2005).

12 Gillian K. Hadfield and Deborah L. Rhode, *How to Regulate Legal Services to Promote Access, Innovation, and the Quality of Lawyering*, 67 Hastings L. J. 1191, 1193 (2016).

13 *3 ways to meet the "staggering" amount of unmet legal needs*, Am. Bar Ass'n, https://www.americanbar.org/news/abanews/publications/youraba/2018/july-2018/3-ways-to-meet-the-staggering-amount-of-unmet-legal-needs-/.

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Corporation-funded organizations turn away nearly half of the requests they receive due to limited resources.[14] Moreover, recent data show that these limited resources prevent California's legal aid attorneys from fully resolving at least one-third of the problems presented to them.[15]

Increasing funding for legal aid will also not close this gap. California would need an estimated 8,961 additional full-time attorneys to address the legal needs of its low-income residents, requiring nearly $900 million in additional annual funding.[16] For comparison, California legal aid organizations cumulatively employ approximately 1,500 attorneys per year and leverage 16,000 pro bono attorneys to provide services.[17]

Recruiting and retaining attorneys has also become a critical challenge for California's legal aid organizations. A 2010 survey by the Legal Aid Association of California (LAAC) revealed that over one-third of legal aid attorneys left within three years of being hired. By 2019, this trend worsened, with one-third of attorneys leaving within just two years.[18] Financial stress due to low salaries is the number one reason legal aid attorneys give for leaving so soon.[19] Low compensation is compounded by California's high cost of living and attorneys' high student loan expenses, which have grown significantly over the years.[20] Law students, facing high costs of living and ever-burgeoning student loans, are turning to careers in government or at private law firms instead of legal aid organizations.[21]

14 *Justice Gap Research*, *supra* note 2.

15 Avalos et al., *supra* note 7, at 14.

16 *Id.*

17 *Id.*

18 *Id.* The Bay Area and Southern California—the regions with the highest costs of living and the greatest numbers of low-income people—have seen the largest increases in turnover rates and largest decreases in length of employment. The San Joaquin Valley and Central California Region continues to have the highest turnover rates, with more than a fifth of their attorneys leaving each year. *See* Legal Aid Ass'n of Cal., Justice at Risk: More Support Needed for Legal Aid Attorneys 2-3, 39 (2020).

19 The difference in the comments the attorneys made about legal aid salaries between the 2010 Study and the 2019 Study is extraordinary. Whereas in the 2010 Study, the attorneys commented on how hard it was to be in legal aid unless they had a spouse/partner who also had an income, the 2019 Study's attorneys—and some leadership—are now saying it is financially impossible without a spouse/partners' income, particularly in the higher cost areas of the state. Some law students who want to work in legal aid say they will "figure it out," but they are unlikely to be able to do that and will leave when the financial realities set in. Nearly one in five of the legal aid attorneys have taken on second jobs to supplement their salaries. Others will just give up on legal aid entirely and look to start their legal careers elsewhere. *See* Legal Aid Ass'n of Cal., *supra* note 18, at ii, 18, 76.

20 Legal aid attorneys' educational debt has grown significantly since the 2010 Study because of the increase in law school tuition. In addition, the Public Service Loan Forgiveness program's requirement to put loans in "income-based repayment" plans is causing the amount of debt to balloon for many of the legal aid attorneys after they graduate. More than 60 percent of the attorneys currently have educational debt with the median amount in the $125,000 – $149,000 range. More than one-third of these attorneys have $200,000 – $300,000+ in educational debt. *Id.* at 22.

21 *See* Cal. Access to Just. Comm'n, Legal Aid Recruitment, Retention, and Diversity: A Report to the State Bar of California 3, 14-16 (2022). Public defender work is a stark example of the differences in salaries. The median entry-level salary for a legal aid attorney is $57,000. Entry-level salaries range from $46,000 – $78,000. Only three of the 50+ organizations have a starting salary of $70,000 or more. In contrast, an entry level salary for a Deputy Public Defender in Sacramento County is more than $110,000 and in San Francisco is nearly $122,000. These entry level salaries can be more than double the starting salaries in legal aid and are more than the median salaries for all experienced level attorney positions in legal aid organizations, except for senior legal management in some. *See* Legal Aid Ass'n of Cal., *supra* note 18, at 24, 28-29.

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B. Community Justice Workers: An Emerging Movement Leveraging an Existing Resource

Recognizing the seriousness of this crisis, jurisdictions across the United States are exploring new avenues to expand access to justice.[22] One such solution is the Community Justice Worker (CJW) program, where trained nonlawyers provide free limited legal services to individuals facing civil legal issues, such as debt collection or eviction. Unlike legal paraprofessionals, who must navigate a lengthy state-run licensure process to avoid violating unauthorized practice of law rules, CJWs receive a waiver that provides a limited exemption to these regulations as long as they operate under the supervision of an approved legal aid organization.

While this approach may seem novel, individuals without law licenses have long been authorized to provide representation in immigration matters, Tribal courts, and for those incarcerated in prisons and jails, as well as before various state and federal administrative agencies.[23] Indeed, as far back as 1960, the United States Supreme Court, in *Sperry v. Florida*, a case concerning a nonlawyer patent practitioner, noted that nonlawyers had practiced before the Patent Office since its establishment in 1836 and the Office had stated that "there is no significant difference between lawyers and nonlawyers, either with respect to their ability to handle the work or with respect to their ethical conduct."[24]

For more than half a century, researchers have studied nonlawyer assistance to gain a better empirical understanding of the benefits and risks. This body of research indicates the following conclusions:

1. Consumers want legal help, including from nonlawyers.[25]
2. Qualified nonlawyers are competent and effective at providing help.[26]

This evidence opens up new pathways to addressing the justice crisis.[27] Lawyers remain the central legal practitioners, but lay advocates can help lawyers to serve more people more efficiently. Community-based

22 Ricca and Helland, *supra* note 5.

23 Matthew Burnett and Rebecca L. Sandefur, *A People-Centered Approach to Designing and Evaluating Community Justice Worker Programs in the United States*, 51 Fordham Urb. L. J. 1509 (2024). *See also Director Rachel Rossi of the Office for Access to Justice Delivers Keynote Remarks at the Launch of the Alaska Legal Services Corporation's Community Justice Worker Resource Center,* Dep't of Just. Office of Pub. Affs. (Oct. 25, 2023), https://www.justice.gov/opa/speech/director-rachel-rossi-office-access-justice-delivers-keynoteremarks-launch-alaska-legal (articulating how programs similar to CJW programs are being developed for Tribal communities in Oklahoma, Montana, Arizona, and Minnesota).

24 Sperry v. Florida, 373 U.S. 379, 402 (1963).

25 *See, e.g.*, Rebecca L. Sandefur, *Legal Advice from Nonlawyers: Consumer Demand, Provider Quality, and Public Harms*, 16 Stan. J. Civ. Rts. & Civ. Liberties 283, 289–97 (2020), Natalie Anne Knowlton, Inst. for the Advancement of the Am. Legal Sys., Cases Without Counsel: Our Recommendations After Listening to the Litigants 29 (2016); Cayley Balser et al., *Leveraging Unauthorized Practice of Law Reform to Advance Access to Justice*, 18 L. J. for Soc. Justice 66, 97–100 (2024).

26 *See, e.g.*, Mary E. McClymont, Geo. Just. Lab, Nonlawyer Navigators in State Courts: An Emerging Consensus (2019); Rebecca L. Sandefur & Thomas M. Clarke, Am. B. Found., Nat'l Ctr. for State Cts. & Pub. Welfare Found., Roles Beyond Lawyers: Evaluation of the New York City Court Navigators Program (2016); David Kraft et al., Five Year Review of Paralegal Regulation: Research Findings. Final Report for the Law Society of Upper Canada 6 (2012); Herbert M. Kritzer, Legal Advocacy: Lawyers and Nonlawyers at Work (1998); Sandefur, *supra* note 26, at 297–308; Jessica K. Steinberg et al., *Judges and the Deregulation of the Lawyer's Monopoly*, 89 Fordham L. Rev. 1315 (2021); Deborah L. Rhode, *What We Know and Need to Know About the Delivery of Legal Services by Nonlawyers*, 67 S.C. L. Rev. 429, (2016); Richard Moorhead et al., *Contesting Professionalism: Legal Aid and Nonlawyers in England and Wales*, 37 Law & Soc'y Rev. 765, 785–87 (2003); Nora Freeman Engstrom, *Effective Deregulation: A Look Under Hood of State Civil Courts*, Jotwell, Oct. 31, 2022.

27 *See* Appendix A for a more detailed discussion of the key studies of nonlawyer-provided legal assistance.

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lay helpers can serve as an important part of the legal ecosystem, enabling communities to identify and vindicate their legal rights and prevent avoidable harm from having devastating impacts.

Several states have successfully created and implemented programs allowing limited legal practice by CJWs. The Alaska Supreme Court recently approved a waiver of unauthorized practice of law restrictions, allowing the Alaska Legal Services Corporation to train and supervise community justice workers in Alaska's rural and remote communities, many of which qualify as legal deserts.[28] Delaware recently authorized registered agents to represent both landlords and tenants in eviction cases, correcting a previous inequality where only landlords could employ non-lawyers.[29] In Arizona, Domestic Violence Legal Advocates and Housing Stability Legal Advocates provide general legal information and legal advice regarding housing matters, orders of protection, and family law.[30] In Utah, CJW programs include domestic violence advocates, housing stability advocates, and medical debt advocates. And in June, Texas launched a CJW program through the Texas Access to Justice Foundation Moonshot Grant program, where lay advocates will address unmet legal needs in areas such as consumer debt, credit repair, housing, public benefits, and special education.[31]

Alaska's program, which is the largest and about which we have the most information, has had remarkable success. As of September 30, 2024, 271 CJWs have completed training, and another 143 are progressing.[32] Because part of the training program requires case handling under supervision, all 414 CJW's are handling cases. The CJWs have a 100 percent success rate in the areas in which they have been deployed so far (primarily assisting clients with accessing SNAP benefits and drafting wills). Due to the success of the program, Alaska Legal Services Corporation (the sponsoring legal organization) was able to double the overall number of clients assisted in one year.

Utah's domestic violence advocate program, though smaller in size, has also had a positive impact, particularly in the large rural areas of Utah. From June 2021 through June 2024, advocates helped clients seek 225 protective orders.[33] In those 225 cases, an *ex parte* order was issued in 205 cases and denied in only 20 cases.[34] Timpanogos Legal Center (TLC), the supervising legal aid organization, notes that of the 205 with *ex parte* orders issued, only 17 were denied final orders by the court. 39 clients chose to dismiss their order request at the final hearing, usually because an alternative agreement was reached. 118 clients were

28 *Community Justice Worker Program*, Alaska Legal Servs. Corp., https://www.alsc-law.org/cjw/.

29 *Delaware to Allow Non-Lawyer Representation for Tenants in Eviction Cases*, Nat'l Low Income Hous. Coal., https://nlihc.org/resource/delaware-allow-non-lawyer-representation-tenants-eviction-cases.

30 *Legal Advocates*, Ariz. Jud. Branch, https://www.azcourts.gov/cld/Legal-Advocates.

31 *Innovative Legal Program To Provide Access to Justice for More Texans*, Texas RioGrande Legal Aid, https://www.trla.org/news-releases/innovative-legal-program-to-provide-access-to-justice-for-more-texans#:~:text=The%20Moonshot%20Grant%20funding%20will,TLSC%2C%20and%20TRLA%20as%20subgrantees. The Texas Supreme Court recently issued an order delaying the effective date of the rule changes related to CJW practice activities.

32 Information provided by Sarah Carver, Co-Director, Alaska Community Justice Worker Resource Center (Nov. 1, 2024).

33 Timpanogos Legal Center, Certified Advocate Partners Program, Our Data, https://www.timplegal.org/legal-services/certified-advocate-partners-program (last visited Nov. 1, 2024).

34 *Id.*

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awarded final orders.[35] TLC compared this outcome data with that collected by the Administrative Office of the Utah State Courts and found that clients receiving legal services from an advocate are roughly twice as likely to receive a protective order than the statewide average.[36]

C. Community Justice Workers in California

Community justice workers can be a key part of solving the justice crisis in California. Indeed, many of our legal service organizations already rely on justice workers to provide key connections with communities, legal information, and referrals back to legal aid. For example, Stay Housed LA is a broad partnership between government, legal aid organizations, and community-based organizations in Los Angeles.[37] Volunteers and staffers in the community-based organizations provide legal information and referrals to the legal aid partners for Los Angelenos facing housing insecurity. In Northern California, Legal Link works across a range of community-based organizations, training their staffers and volunteers to provide "legal first aid" by surfacing and identifying legal problems and assisting people with finding legal services.[38]

But the impact could be so much more significant. Legal aid stands ready to train and deploy supervised CJWs to help more people reach just resolutions to their problems. By allowing CJWs to perform activities such as providing simple legal advice to someone who has just received an unlawful detainer complaint or assisting another with answering a debt collection complaint or advising a survivor on how to file for an order of protection, our legal aid organizations can increase their impact in vulnerable communities, drive better outcomes for those we seek to serve, and build trust with our community partners.

As Jessica Jewell, the Executive Director of California Rural Legal Assistance, explains, "In rural areas, California Rural Legal Assistance, Inc. is often the only source of legal assistance for people trying keep their homes, maintain their incomes, and protect their safety. But millions of California residents are priced out of private legal representation, and demand for our services far outpaces our capacity. This proposal would allow for innovative growth of resources to serve communities' legal goals."

The proposal below offers a framework for individual California legal aid organizations to seek approval to develop and deploy programs in their communities that allow supervised CJWs to offer simple legal services, including specific legal advice and assistance, in core areas of need. This proposal recognizes the expertise legal aid organizations have in their communities and their legal needs and seeks to allow each organization the flexibility to develop programs that respond to those needs. In this way, the framework

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35 *Id.* 31 clients were awaiting final outcome at the time of reporting.

36 *Id.* The referenced statewide average includes both lawyer represented and self-represented parties. Email from Hayley Cousins (Nov. 7, 2024) (on file with authors).

37 Stay Housed LA, https://www.stayhousedla.org/about (last visited Nov. 13, 2024).

38 *Our Mission and Model,* Legal Link, https://legallink.org/our-mission-model/ (last visited Nov. 13, 2024).

allows for variability among programs, including in legal areas served, status of justice worker (whether internal employee or volunteer from an outside community-based organization), training, and range of activities. CJWs are not independently licensed, can only serve clients of the legal aid organization, and cannot charge any fees for their work. The legal aid organizations themselves are responsible for the work performed by the CJWs and must hold malpractice insurance covering the CJWs.

The proposal is intentionally simple, leveraging already existing regulatory structures and provider organizations to ensure minimal expense and maximal scale and sustainability. We believe this proposal outlines a path for California to move forward to respond to the urgent access to justice crisis, simply by allowing trusted providers to deploy justice workers at scale and in more impactful ways.

We look forward to feedback on this proposal and working with our partners in California to create thoughtful, impactful, and sustainable solutions to the justice crisis.

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In the proposed program, **authorized legal services organizations** will be able to deploy **Community Justice Workers** ("CJWs") to provide legal services, including legal advice and other activities that may be defined as the practice of law, to clients who otherwise qualify for free legal services from the organization. Authorization in the program allows these organizations and their certified CJWs to provide these services without violating Cal. Bus. & Prof. Code 6125 *et seq.*, California's prohibition on the unauthorized practice of law by those who are not licensees of the State Bar of California. The ability of nonlawyer CJWs to provide legal services under the umbrella of this program is controlled by and overseen by the authorized legal services organizations and limited to the scope of activities approved by that organization.

1 Definitions

a **Authorized legal services organization** is an organization satisfying the definition set forth in Cal. Bus. & Prof. Code 6159.51 which satisfactorily completes the application process and is authorized by the authorizing body to implement and run a waiver-based CJW program.

b **Community Justice Worker** is a person not licensed by the California State Bar who has satisfied the training and other relevant requirements as certified by an authorized legal services organization and will engage in the limited practice of law exclusively for an authorized legal services organization.

2 Authorization of legal services organizations

a The [authorizing body][39] shall serve as the authorizing body for legal services organizations seeking to certify CJWs under this program. The [authorizing body] shall review each application and ensure that the application sufficiently sets forth the requirements listed below. The authorizing body shall then issue authorization for the legal services organization pursuant to this program. The authorizing body shall immediately submit the organization's authorization to the California State Bar.

b Application requirements:

i. The applicant organization shall attest to status as a legal aid organization under the definition set forth in Cal. Bus. & Prof. Code 6159.51;

ii. The applicant organization shall submit a narrative description of the proposed CJW program;

iii. The applicant organization shall submit its CJW training plan, including any curricular components, testing, and experiential learning

39 The working group suggests that the Legal Services Trust Fund Commission is a possible entity to serve as the authorizing body for this program. The Commission's role in overseeing and administering IOLTA funds to California legal aid organizations makes it well placed to perform the authorizing role for this program. However, we believe that the final determination of the appropriate entity for the authorizing body should be made through additional discussions with the Supreme Court, State Legislature, State Bar, and legal services organizations. We do note that should the Commission be found to be the appropriate entity, it seems likely that Cal. Bus. & Prof. Code § 6210.5 would need to be amended to allow the Commission to perform the authorization function.

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1. The training plan shall include training on ethical service provision, including the Rules of Professional Conduct.

iv. The applicant organization shall submit a plan for gaining informed and written client consent to receive CJW-provided services;

v. The applicant organization shall submit a plan for ensuring control and security of the organization's client files;

vi. The applicant organization shall submit proof of malpractice insurance that covers CJWs;

vii. The applicant organization shall attest to the organization's ability to comply with any reporting requirements.

c Organizations which the [authorizing body] has determined currently satisfy the definition of a qualified legal services project under Cal. Bus. & Prof. Code 6213(a)(1) are automatically considered authorized legal services organizations. Such organizations need only submit their intent to launch a qualifying CJW program to the State Bar and must comply with the certification requirements for each CJW as described below.

i. In the case that an organization is no longer a qualified legal services project under Cal. Bus. & Prof. Code 6213(a)(1) but wishes to continue operating as an authorized legal services organization under this program, then the organization shall have [30]days from the date on which it ceased to be a qualified legal services project under Cal. Bus. & Prof. Code 6213(a)(1) to request such continuation from the authorizing body.

3 Requirements for authorized legal services organizations

a Once authorized, the legal services organization must:

i. Certify each individual CJW to the State Bar once that person has satisfactorily completed the organization's relevant training requirements and submit each CJWs scope of practice, including legal service area(s) and scope of activities.

ii. Report any relevant changes in status, either of the organization or any CJW, including:

1. Immediately inform the State Bar if the organization no longer receives IOLTA funding or stops providing approved services.

2. Immediately inform the State Bar when any CJW is no longer eligible for inclusion in this program, whether by resignation, termination, or other reason.

3. Immediately report any known violations of applicable rules by CJWs to the State Bar. Violation may be grounds for termination of CJW status.

iii. Report the following information to the State Bar on an annual basis, to ensure ongoing feedback for continuous program improvement:

1. Number of clients served by CJWs through the waiver;

2. Hours worked by CJWs;

3. Legal / Financial outcomes

4. Post-services survey of clients served by CJWs;

5. Client Complaints and resolution of complaints, if any; and

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6. Certain information on organization's active CJWs, including:

a. gender,
b. age,
c. race/ethnicity;
d. income level;
e. highest level of education;
f. language capability;
g. does the CJW identify as a member of the client community.

4 Requirements for CJWs

a A CJW is not permitted to perform any activities constituting the practice of law outside of the scope of certification submitted by the authorized legal services organization to the State Bar. Any activities constituting the practice of law outside the scope of the certification are subject to enforcement under Cal. Bus. & Prof. Code 6125 *et seq.*

b A CJW is not permitted to charge any fees, including fees structured on a contingent or percentage basis, or for a referral, for legal services provided under this program.

c A CJW's authorization to provide the services outlined in the certification is contingent upon affiliation with an authorized legal services organization. Should that affiliation cease for any reason, the CJW is no longer certified to provide the relevant legal services and will be subject to enforcement under Cal. Bus. & Prof. Code 6125 *et seq.* should the CJW continue to provide such services. However, a CJW may transfer affiliation as contemplated in Section 5 below.

d No disbarred or suspended attorney, whether disciplined in California or any other jurisdiction, may be certified as a CJW.

e Each CJW shall be subject to the California Rules of Professional Conduct, California Rules of Court, and other relevant statutes and rules.

5 CJW Transferring Affiliation

a If a CJW wishes to transfer affiliation from one authorized legal services organization to another, the organization to which the CJW is transferring must independently determine that the CJW is qualified to competently provide services within that organization's program and then certify the CJW to the State Bar as described in 3(a)(i).

b The transferring CJW cannot provide services in the transferee legal services organization until that certification has been accepted by the State Bar.

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6 State Bar Role

a The State Bar shall maintain a roster of authorized legal services organizations that shall be posted on its website;

b The State Bar shall maintain a roster of each authorized legal services organization's active CJWs, including their scope of practice;

c The State Bar shall develop a simple process by which authorized legal services organizations can certify individual CJWs to the State Bar for inclusion in the organization's roster of CJWs. Such certification should include:

i. The name of the CJW; and
ii. The scope of practice (legal service area(s) and scope of activities of the CJW).

d The State Bar shall develop a process by which it promptly communicates the roster of authorized legal services organizations and their CJWs to any other relevant authorities, including those authorities responsible for enforcement of Cal. Bus. & Prof. Code 6125 *et seq.*

e The State Bar shall report to the Legislature and Supreme Court all complaints received by the State Bar against active and inactive CJWs, the nature of the complaint, and the resolution on an annual basis.

7 Program Evaluation

a The program shall be evaluated after [5] years.[40] The evaluation shall assess:
i. The number of CJW providers and the number of clients served;
ii. The impact on the ability of legal services organizations to serve their communities, including
  1. Legal and financial outcomes - immediate and longer term;
  2. Impacts on access to justice for underserved communities as a result of the CJW program; and
  3. Community trust and engagement.
iii. Cost of implementation within individual legal services organizations;
iv. Cost of implementation of the program.

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40 The working group suggests that the California Access to Justice Commission is an appropriate entity to administer the evaluation of the program but defers determination of this question until after there have been additional discussions with the Supreme Court, State Legislature, the Access to Justice Commission, the State Bar, and legal services organizations.

ATTACHMENT D

The working group discussed a range of possible policy vehicles by which the proposed program could be enacted. The working group notes that in all other states implementing CJW programs, the enabling policy vehicle is an order from the state supreme court. This may be a possible approach in California. The group concluded that particular outstanding questions, such as the entity serving as the authorizing body, need to be addressed before the appropriate policy vehicle is identified.

The California Supreme Court has the inherent power to determine who is qualified to practice law in this state.[41] The California State Bar serves as the administrative arm of the Court to effectuate that power.[42] However, the California Legislature also plays a significant role in the regulation of legal services and oversight of the State Bar through the State Bar Act.[43]

The California Supreme Court has found that the legislature may enact rules and regulations related to the practice of law, including admission to practice law, but if those rules and regulations conflict with those imposed by the Supreme Court, then "the legislative enactment must give way."[44] The Legislature may not, using an example from the case law, authorize a person disbarred upon conviction of a crime to practice law again through a pardon statute.[45] Thus, the Court and the Legislature work together to dictate the regulation of the practice of law, but ultimate authority rests with the Court.

We can see this relationship expressed through the State Bar Act and the California Rules of Court. Section 6125 of the State Bar Act states:

No person shall practice law in California unless the person is an active licensee of the State Bar.[46]

Section 6126, however, recognizes that certain people may be authorized by other statutes or rules to perform activities constituting the practice of law. The Section, which lays out the consequences for unauthorized practice, states:

Any person advertising or holding himself or herself out as practicing or entitled to practice law or otherwise practicing law who is not an active licensee of the State Bar, *or otherwise*

41 Cal. Rules of Ct. Rule 9.3: Inherent Power of the Supreme Ct. (2024); *see also* Merco Constr. Eng'rs, Inc. v. Mun. Ct., 581 P.2d 636, 638 (1978) (noting that statements of California courts have consistently supported the contention that the judiciary has the inherent power to regulate the practice of law); Eagle Indem. Co. v. Comm'n of Cal., 18 P.2d 341, 342 (1933) ("The Legislature may, in the first instance, prescribe the qualifications for admission to the bar and define what shall constitute the practice of the law, but regulations to that end must stand the test of judicial inquiry as to their propriety and reasonableness.").

42 *Id.*

43 Cal. Bus. & Prof. Code §§ 6000 et seq., https://www.calbar.ca.gov/Portals/0/documents/rules/State_Bar_Act.pdf.

44 *Merco*, 581 P.2d at 638.

45 *In re* Lavine, 41 P.2d 161, 163-64 (1935).

46 Cal. Bus. & Prof. Code § 6125.

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***authorized pursuant to statute or court rule to practice law in this state at the time of doing so*, is guilty of a misdemeanor....**[47]

This language provides safe harbor to a range of people authorized to practice law by statute or rule who are not licensees of the bar, including lay representatives who may represent people before state and federal agencies and people authorized by the Supreme Court through its rules.

For example, the California Rules of Court Title 9, Division 4 concerns "Appearances and Practice by Individuals Who Are Not Licensees of the State Bar of California."[48] This section contains language permitting the practice of law for certain groups of people, including military spouses, law students, and out-of-state arbitration counsel, who are not licensees and thus would otherwise be subject to the prescription of Cal. Bus. & Prof. Code § 6125. In this manner, Sections 6125 and 6126 establish legislative authority over who may and may not practice law in California but build in deference to the Court (as well as other state and federal authorities).

Taking this partnership between the Legislature and the Court into consideration, there are several possible pathways for enacting the proposed CJW program in California.

POSSIBLE PATHWAY #1: New section added to Cal. Rule of Court 9.4.

This division of the California Rules of Court contains sections outlining rules for allowing non-licensed or provisionally licensed individuals to practice law in California.

In this approach, the working group would petition the California Supreme Court, either directly or through the California State Bar, to authorize the proposed program through the Rules of Court by adding a new section to Title 9, Division 4 detailing the program. The Rule could be styled as follows:

Rule 9.45.1 Legal Aid Supervised Community Justice Worker Program

(a) Definitions
(b) Application requirements
(c) Eligibility for certification
(d) Supervision
(e) Compliance and reporting
(f) Transferring affiliation
(g) Program evaluation

47 Cal. Bus. & Prof. Code § 6126(a) (emphasis added).
48 Cal. Rule of Ct. 9.4.

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Given the language identified above in Cal. Bus. & Prof. Code § 6126, this section could be added without any statutory change needed (see e.g. Rule 9.41.1, Rule 9.42, Rule 9.45).

POSSIBLE PATHWAY #2: New section added to Cal. Rule of Court 9.4 and statutory waiver enacted to Cal. Bus. & Prof. Code § 6125.

In this approach, the working group would both seek a new Rule of Court as outlined above and a statutory amendment to Cal. Bus. & Prof. Code § 6125:

6125.1

An individual who is not an active licensee of the California State Bar shall be exempt from § 6125 if they qualify for the Community Justice Worker Program outlined in Cal. Rule of Court 9.45.1.

POSSIBLE PATHWAY #3: Order issued by the California Supreme Court.

As noted, the California Supreme Court retains the inherent power to determine who may practice law in this state.[49] The Court could issue an administrative or standing order enabling the program and directing the State Bar and any other relevant bodies to develop the processes and procedures needed to carry out the order. In other states which have implemented these programs, the state supreme courts have issued orders authorizing the program.[50]

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49 *See* sources cited *supra* note 41.

50 *See* Ala. Sup. Ct. Ord. No. 1994; Ariz. Sup. Ct. Admin. Ord. No. 2024-34; *id.* 2024-35; Del. R. Sup. Ct. R. 57.1; Haw. Sup. Ct. Ord. No. SCMF-23-0000343; Utah Sup. Ct. Standing Ord. No. 15; *id.* No. 16.; Tex. Sup. Ct. Ord. No. 24-9050.

This proposal is for a framework to authorize and oversee legal aid organizations using CJWs to offer legal services to their clients. The framework is intentionally simple and meant to leverage already existing entities and resources to perform the proposed tasks. Specifically, we estimate the following:

Staffing support for application body: Approximately 50% FTE

Staffing support for oversight body: Approximately 50% FTE

Technical support: Approximately 25% FTE

We note that this proposal does not incorporate programmatic development or implementation support for legal aid organizations to stand up CJW programs, either individually or collectively. Such support will be needed and LAAC, Legal Link, and other working group organizations are working toward building this support.

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APPENDIX A

Overview of empirical research on nonlawyer provided legal assistance

Over the past fifty years, there have been a range of studies looking at legal assistance provided by nonlawyers, assessing different tribunals, at different times, and using different metrics. The overall conclusion is that trained nonlawyers can perform as well as, or sometimes better than, their J.D.-toting counterparts. A short review of several of the key studies is informative.

In the 1980s, two studies looked at representation across a range of providers in both child abuse and neglect cases (Duquette & Ramsey) and in social security and immigration issues (Hostetler).[51] Professors Duquette and Ramsey, using court data and interviews to evaluate both process and outcome measures, found "[n]onlawyers carefully selected and trained and under lawyer supervision performed as well as trained lawyers in representing children, and certainly performed better than lawyers without special training."[52]

Professor Hostetler conducted interviews with federal officials and legal aid representatives and reported "a high level of satisfaction with nonlawyer representatives, not only at the early stages of assisting with forms and informal conferences, but also at later stages of agency proceedings."[53] Indeed, she concluded that "[t]he overwhelming opinion is that there is little perceived difference in the quality of help between lawyers as a class and nonlawyers as a class."[54] Interestingly, Hostetler's subjects noted that a key factor in the quality of the services provided by the nonlawyers was likely the special training they received in the administrative agency's rules, process, and forms, resulting in specialized expertise.[55]

In the 1990s, political scientist Herb Kritzer studied the work of lay agents across four administrative contexts in Wisconsin: unemployment compensation appeals, tax appeals, Social Security disability appeals, and labor grievance arbitration. Kritzer found that "nonlawyers can be effective advocates and, in some situations, better advocates than licensed attorneys."[56] Specifically, Kritzer concluded:

> [T]he key to effective representation is the combination of three types of expertise: knowledge about the substance of the area, an understanding of the procedures used, and familiarity with the other regular players in the process. The latter can come only with experience, but the first two (substantive and procedural expertise) could be

51 *See generally* Donald N. Duquette & Sarah H. Ramsey, *Representation of Children in Child Abuse and Neglect Cases: An Empirical Look at What Constitutes Effective Representation*, 20 U. MICH. J.L. REFORM 341 (1987) and Zona Fairbanks Hostetler, *Nonlawyer Assistance to Individuals in Federal Mass Justice Agencies: The Need for Improved Guidelines*, 2 ADMIN. L.J. 86 (1988).

52 Duquett & Ramsey, *supra* note 51, at 390.

53 Hostetler, *supra* note 51, at 103.

54 *Id.*

55 Hostetler, *supra* note 51, at 105.

56 Herbert M. Kritzer, *Viewpoint: Rethinking Barriers to Legal Practice*, 81 JUDICATURE 100, 100 (1997). Krizter used multiple methodologies to perform the study, including observation, interviews, and outcome analysis.

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imparted through one-year, specialized training programs for paralegals, legal technicians, and licensed advocates.[57]

In the 2010s, Professor Rebecca Sandefur conducted a careful meta-analysis to understand the impact of lawyer representation on the outcomes of formal adjudication.[58] She found that lawyers "perform so much better than lay people, but only somewhat better than [nonlawyer advocates]."[59] In a key insight, Professor Sandefur noted that the lawyers' impact seemed to come less from professional expertise and rather from relational expertise in a "rarified interpersonal world."[60]

A 2017 study by Professors Anna Carpenter, Alyx Mark, and Colleen Shanahan, using interviews and case data from more than 5,000 unemployment insurance appeal hearings, found that when nonlawyers and lawyers appear at hearings the case outcomes and procedural behaviors are similar and that the similarity reflected the specialized expertise of the context.[61]

Most recently, the 2023 Report from the White House Legal Aid Interagency Roundtable found that 15 federal agencies permit nonlawyers to provide legal assistance across a wide range of substantive areas, including housing, public benefits, immigration, civil rights, tax, food security, and worker protection.[62] The activities these nonlawyers perform range from "straightforward and procedural" to "highly technical and complex," such as representation in a removal proceeding in the immigration context.[63] Although not an empirical study, the Report notes the potential benefits of nonlawyer assistance, including that it may be the only available form of legal help in a given community, particularly rural or remote areas and that it can lead to increased public engagement with and trust in the justice system by the impacted community.

57 *Id.* at 101.

58 Rebecca L. Sandefur, *Elements of Professional Expertise: Understanding Relational and Substantive Expertise through Lawyers' Impact*, 80 Am. Socio. Rev. 909, 913 (2015).

59 *Id.* at 924. The studies included in Sandefur's meta-analysis contained an enormous range of nonlawyer providers including law students, labor union staffers, paralegals, social workers, friends, and family members. *Id.* at 915.

60 *Id.* at 926 (citations omitted).

61 Anne E. Carpenter, Alyx Mark & Colleen F. Shanahan, *Trial and Error: Lawyers and Nonlawyer Advocates*, 42 L. Soc. Inquiry 1023, 1038-42 (2017).

62 White House Legal Aid Interagency Roundtable, Access to Justice in Federal Administrative Proceedings 25 (2023), https://www.justice.gov/d9/2023-12/2023%20Legal%20Aid%20Interagency%20Roundtable%20Report-508.pdf.

63 *Id.*

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APPENDIX B

Sample Program Concepts

The Working Group identified program concepts that they felt would be a good fit for their organization, including how the CJWs would positively impact their client communities (the need), who the CJWs would be and the work they would do, and how the CJWs would be trained and supervised. Of the program concepts suggested, below are three examples that the working group more fully developed as possibilities. We present these here as examples of programs that could be authorized through the proposal outlined above.

HOUSING STABILITY Unlawful Detainer

NEED: The National Coalition for a Civil Right to Counsel found that approximately 4% of all tenants have representation in unlawful detainer cases, while landlords have representation 83% of the time. Tenants across California are unable to get help on basic housing stability issues, are representing themselves in evictions, and are losing not only their current housing but also their ability to qualify for housing in the future because they don't have basic information or support. There isn't enough legal support to meet the need, and there is very limited upstream support that can help folks address issues before they land in court. Equipping community-based partners to provide information and referrals, and to support on key housing procedures will expand the work of legal aid organizations and courts, especially in counties with limited resources.

WHO: Community Justice Workers would be staff at housing and tenant-focused community-based organizations in counties without a tenant right to counsel. Also possibly in counties where there is a right to counsel and an established network, to support and expand the right to counsel work.

SCOPE OF WORK: Some of the proposed work is work that is currently allowed under California's Unauthorized Practice of Law, but could be expanded and done with reduced levels of supervision by the Organization attorneys.

- Habitability letters and advice
- Security deposit letters and advice
- Source of income discrimination advice and support filing claims with the CRD
- Reviewing notices to terminate tenancy
- Negotiation with opposing counsel/self-represented landlords
- Housing Authority - hearings with PHAs
- Rent Board petitions and hearings
- Reasonable accommodation requests and negotiations/interactive process

TRAINING & SUPERVISION: Clear training on boundaries of work and scope as a CJW, including supervision structure and reporting requirements.

Training to identify housing issues, using tools to advise on and complete each of the identified proce-

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dures, understanding how to spot patterns and trends, and effectively utilize the substantive supervision structure.

Supervision by Organization attorneys at key moments for each procedure, with increasing independence with experience.

EMPLOYEE RIGHTS Wage and Hour Claims

NEED: Los Angeles is the wage theft capital of the world. More than $23 million of wages is stolen from workers each week. Legal Services Organization currently offers assistance to low-income workers with wage and hour claims against unscrupulous employers. Organization works with workers' rights organizations to issue-spot and refer clients to Organization.

WHO: Community Justice Workers would be staff at workers' rights centers and other community-based organizations that are on the front lines of working with low-income workers.

SCOPE OF WORK: Much of the proposed work is work that is currently allowed under California's Unauthorized Practice of Law framework, but could be expanded and done with reduced levels of supervision by the Organization attorneys.

- Preparing wage tables
- Coordinate with clients to get documentary evidence and help collate the evidence
- Preparing claims to be filed with the Labor Commissioner's Office
- Attending settlement conferences
- Attending labor commissioner hearings
- Supporting the attorneys in preparing and delivering know your rights trainings to workers and community partners
- Performing intake interviews with prospective clients (at clinic and outside of clinic)
- Assisting in preparing retaliation, discrimination, and harassment claims with administrative agencies

TRAINING & SUPERVISION: Clear training on boundaries of work and scope as a CJW, including supervision structure and reporting requirements.

Substantive training to issue spot wage and hour issues, steps needed to advise on and complete the proposed work, understanding how to spot patterns and trends, and effectively utilize the substantive supervision structure.

Supervision by Organization attorneys at key moments for each procedure, with increasing independence with experience.

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CONSUMER LAW Debt Defense

NEED: Debt collection lawsuits are 33% of the state's civil court docket, and only an average of 9% of consumers file an answer in response. Consumers need help early and upstream to understand that they need to respond, that they have rights, and that there are actions they can take. The procedures will help to reduce the default rate and tee cases up for legal aid support when available.

WHO: Community Justice Workers would be staff at community-based organizations, including Family Resource Centers, Sparkpoint (a United Way financial empowerment project), and nonprofit debt management organizations.

SCOPE OF WORK: Some of the proposed work is work that is currently allowed under California's Unauthorized Practice of Law (UPL) framework, but could be expanded. Other pieces of the scope of work will require a waiver of the UPL.

- Debt validation letter and advice
- Complete answer to debt lawsuit and referrals and/or prepare for self-representation
- Claims of Exemption and advice

TRAINING & SUPERVISION: Clear training on boundaries of work and scope as a CJW, including supervision structure and reporting requirements.

Substantive training to issue-spot debt collection defense issues, steps needed to advise on and complete the proposed work, understanding how to spot patterns and trends, and effectively utilize the substantive supervision structure.

Supervision by Organization attorneys at key moments for each procedure, with increasing independence with experience.

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EXHIBIT 3

OVERVIEW OF EMPIRICAL RESEARCH ON NONLAWYER PROVIDED LEGAL ASSISTANCE

Prepared by the Deborah L. Rhode Center on the Legal Profession, Stanford Law School

Over the past fifty years, there have been a range of studies looking at legal assistance provided by nonlawyers, assessing different tribunals, at different times, and using different metrics. The overall conclusion is that trained nonlawyers can perform as well as, or sometimes better than, their J.D.-toting counterparts. A short review of several of the key studies is informative.

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[2] Duquett & Ramsey, *supra* note 1, at 390.

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[10] *White House Legal Aid Interagency Roundtable, Access to Justice in Federal Admin. Proceedings* 25 (2023).
[11] *Id*.

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Case No. S294332

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

THE STATE BAR OF CALIFORNIA'S RESPONSE TO THE PETITION FOR THE CALIFORNIA SUPREME COURT TO REVIEW AND APPROVE PROPOSED CALIFORNIA RULE OF COURT 9.45.1 TO ESTABLISH A CALIFORNIA COMMUNITY JUSTICE WORKER PROGRAM

PREPARED BY
THE STATE BAR OF CALIFORNIA

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I. INTRODUCTION

On December 11, 2025, attorneys for the Legal Aid Association of California ("LAAC"), OneJustice, and Legal Link filed the Petition for the California Supreme Court to Review and Approve Proposed California Rule of Court 9.45.1 to Establish a California Community Justice Worker Program ("Petition") (Case No. S294332).

The State Bar of California ("State Bar") submits this response to provide background information on the State Bar's involvement to date in the consideration of the community justice worker ("CJW") concept, as well as procedural next steps the Court may wish to consider.

The State Bar cannot take a substantive position with respect to the CJW concept as articulated in the Petition at this time as the Board of Trustees has not considered or taken action with respect to the CJW concept in general or the specific rule proposed by the Petition.

II. BACKGROUND AND PROCEDURAL HISTORY

The State Bar first became involved in discussions regarding the concept and development of a CJW program in California approximately two years ago when State Bar staff

members attended the January 26, 2024, Conference on Access to Justice in California: Challenges and Policy Innovations ("Conference"). The Conference—co-sponsored by the RAND Institute for Civil Justice, Deborah L. Rhode Center on the Legal Profession at Stanford Law, the Program on Legal Ethics and the Profession at the UCLA School of Law, and the Civil Research Initiative at Berkeley Law—brought together national and California leaders to discuss reducing the access to justice gap in California by reforming the regulation of legal services. (1AE6–84.)[1] One panel, "Expanding the Impact: Justice Workers in Local Communities," discussed the potential role of CJWs. (1AE30–34.)

In response to interest from legal aid organizations following the Conference, the State Bar initially planned to co-host an information and discussion session regarding different CJW models for Interest on Lawyers' Trust Accounts ("IOLTA") grantees. (1AE85–91.) In preparation for that session, the State Bar hosted a series of five planning meetings with various legal aid organizations—including LAAC, Frontline Justice, Legal

[1] References to exhibits in the Appendix of Exhibits (AE) in this response are in the following format: [Volume]AE[Pages]. For example, the citation 1AE94 refers to page 94 of the AE, located in Volume 1 of the AE.

Link, and the Deborah L. Rhode Center on the Legal Profession at Stanford Law—between February 23 and March 11, 2024. (1AE85–97.) The session for IOLTA grantees was ultimately held on March 21, 2024, hosted by LAAC (and not the State Bar). (1AE89–90.)

In July 2024, LAAC, Legal Link, and OneJustice convened a CJW working group to consider potential models for a CJW program in California, existing structures that could support a CJW program in California, policy and legal changes that would be necessary to ensure the success of a CJW program, and entities that would need to be involved in effectuating any necessary changes. (1AE98–101.) This legal service organization-led working group planned to meet five times over four months and invited State Bar staff from the Office of Access & Inclusion ("OAI") to attend the initial meeting on July 10, 2024. (1AE102–110.) OAI staff attended the initial meeting but did not attend subsequent meetings. (1AE102–110.) State Bar staff received occasional updates from the working group on their progress. (1AE113–115.) In October 2024, representatives of the working group informed OAI staff that the group had developed a rough proposal for a CJW program in California. (1AE112.) On October

28, 2024, the CJW working group hosted a meeting to present its proposal on a CJW program, which OAI Staff members Doan Nguyen and Jennifer Zelnick attended. (1AE125–126.)

In January 2025, the legal service organization-led working group publicly released its initial proposal, "Increasing Access to Justice Through Community Justice Workers – A Proposal for California" ("CJW Proposal"), and began presenting it to stakeholders. (1AE127–161.) The proposal outlined a framework for a CJW program in California and explored several pathways to enact the program, including: (1) the group filing a petition with this Court seeking a new section of California Rule of Court, rule 9.4; (2) the group filing a petition with this Court seeking a new section of California Rule of Court, rule 9.4 and seeking a statutory amendment to California Business and Professions Code section 6125; or (3) issuance of an order by this Court enabling the program. (1AE138–161.)

In February 2025, OAI staff and members of the working group met to discuss presenting the CJW Proposal to the State Bar's Board of Trustees at its May 2025 meeting. (1AE162–167.) On March 26, 2025, LAAC hosted a webinar to provide an overview of the CJW Proposal to IOLTA grantees. (1AE171.) OAI

staff attended the webinar and continued to discuss planning a presentation of the CJW Proposal to the Legal Services Trust Fund Commission ("LSTFC") and the Board of Trustees with the working group. (1AE169–170, 172–192.)

On May 21, 2025, OAI staff delivered a presentation to the LSTFC on regulatory reform utilized in other states to expand access to legal services.[2] (1AE193–215.) The presentation included examples of legal service programs offered in other jurisdictions, including Alaska, Minnesota, and Utah. (1AE204–206.) OAI staff also presented on the CJW Proposal recommendations advanced by the working group, but the LSTFC did not make any recommendations or take any action at that time. (1AE208–213.) State Bar staff also presented this information to the Board of Trustees at its May 22–23, 2025, meeting as part of a discussion of the 2024 California Justice Gap Study and state-level approaches to expanding legal services.

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[2] Pursuant to Cal. Bus. & Prof. Code, § 6210.5, the LSTFC administers grant programs that fund qualified legal services projects and support centers to advance its mission, including IOLTA. (The State Bar of California, Legal Service Trust Fund Commission at <https://www.calbar.ca.gov/about-us/who-we-are/committees/legal-services-trust-commission> [as of Mar. 3, 2026].)

(1AE216–278.) The Board of Trustees did not take any action because it was not agendized to do so. The agenda item was limited to a presentation that discussed ways other states were exploring reforms to address the justice gap. (1AE216–278.)

LAAC, Legal Link, and OneJustice presented their CJW Proposal to the LSTFC Program Development and Impact ("PDI")[3] Committee at its June 11, 2025, meeting. (2AE284–296.) Following that meeting, the PDI Committee formed its own working group to review the CJW Proposal and make recommendations to the LSTFC. (2AE304–332.) The PDI Committee working group met on August 1, 14, and 29, 2025. (2AE304–418.) At the Board of Trustees' September 18–19, 2025, meeting, OAI staff presented on the CJW Proposal, the formation of the PDI Committee working group, and recommendations the PDI Committee working group proposed to make to the authors of the CJW Proposal. (2AE406–418.) OAI staff also advised the Board of Trustees that the PDI Committee working group's

[3] The PDI Committee's purpose is "to advance LSTFC's support for legal aid through new initiatives, innovations, and stakeholder engagement while ensuring effective evaluation and communication of program impacts." (2AE302–303.)

recommendations would be presented to the PDI Committee and the LSTFC at their respective October and November 2025 meetings. (2AE415.)

On September 29, 2025, the PDI Committee working group drafted a letter to the legal service organization-led working group providing feedback on the CJW Proposal. (2AE419–443.) On October 24, 2025, the PDI Committee considered and approved resolutions recommending that the LSTFC (1) support the CJW Proposal authors' efforts to establish a statewide CJW program and (2) provide the PDI Committee working group's draft feedback to the authors of the CJW Proposal. (2AE444–501.) On November 7, 2025, the LSTFC, on recommendation from the PDI Committee, passed resolutions supporting the CJW concept and recommending that the feedback be provided to the CJW Proposal authors. (2AE502–562.)

On November 14, 2025, pursuant to the adopted resolutions, the LSTFC sent the written feedback to the CJW Proposal authors, which included recommendations to: (1) incorporate a more direct conversation of consumer protection and public harm; (2) implement minimum quality control standards to support consumer protection and ensure a degree of

parity for CJWs across the authorized legal service organizations; (3) demonstrate broader community support for a statewide CJW program; (4) provide more information about program costs and a funding source; (5) implement a staged two-year and five-year evaluation; and (6) update the CJW Proposal to reflect data from the *2024 California Justice Gap Study* and the *2024 Legal Market Landscape Report*. (2AE510–518, 563–565.) The letter also noted that the LSTFC agreed with the authors' recommendation that the LSTFC serve as the authorizing body for the program, but suggested that further clarification regarding regulation of participants in the CJW program would help strengthen the proposal. (2AE520–521.) The letter recommended the authors work with the LSTFC Rules Committee to explore required statutory and/or rule changes (the CJW Proposal did not include a draft Rule of Court or draft statute, although some language from the proposal was ultimately incorporated into the Rule of Court proposed in the Petition). (2AE515–517, 1AE149–152.) The letter also noted that any formal requests by the State Bar or LSTFC for changes to statues or Rules of Court would most likely need to be approved by the Board of Trustees. (2AE517.)

On December 11, 2025, Leigh Ferrin, chair of the legal service organization-led CJW working group, notified the State Bar by email that LAAC, OneJustice, and Legal Link had filed a petition with this Court to amend the California Rules of Court to allow CJWs to provide legal assistance under the supervision of IOLTA-funded legal service organizations. (2AE566–567.) The State Bar was not given an opportunity to review the proposed rule before the Petition was filed, and was not notified in advance that the Petition would be filed. The Petition was filed before this matter was agendized or brought to the Board of Trustees for consideration, including whether or not to support the CJW concept generally.

III. BECAUSE THE PROPOSED RULE OF COURT HAS NOT BEEN CONSIDERED BY THE BOARD OF TRUSTEES, THE STATE BAR CANNOT TAKE A SUBSTANTIVE POSITION ON IT

California Business and Professions Code section 6010, subdivision (a), provides that the State Bar is governed by the Board of Trustees which "has the powers and duties conferred by this chapter." The Board of Trustees "reserves authority over all matters pertaining to the State Bar, including whether actions or positions taken by a State Bar officer, agent, committee,

commission, or other entity are consistent with State Bar policies." (Rules of the State Bar, rule 6.20.) As set forth in the Board of Trustees Policy Manual, "[t]he Board is the State Bar's governing body, responsible for developing the guiding policies and principles underpinning its mission." (The State Bar of California <https://www.calbar.ca.gov/sites/default/files/portals/0/documents/bog/Board-of-Trustees-Policy-Manual.pdf> [as of Mar. 3, 2026].)

Because the Board of Trustees is the State Bar's policymaking body and the Board of Trustees has not made any decisions regarding the CJW concept including any proposed rules establishing a CJW program, the State Bar cannot, in this response, take a substantive position on the CJW concept or the proposed rule. Due consideration and approval by the Board of Trustees is especially important in this instance where the Petition proposes an exception to the general rule that only licensed attorneys can engage in the practice of law—a major policy change that may have significant impacts on public protection as well as access to legal services.

Further, pursuant to Rules of the State Bar, rule 1.10, the State Bar circulates its proposals for changes to the California

Rules of Court, subject to exceptions not applicable here (such as when a rule change is required to conform to specific changes in a law), for public comment prior to seeking Supreme Court approval. The State Bar has not had the opportunity to circulate the proposed CJW Rule of Court for public comment.

Indeed, whenever the State Bar proposes a new or amended Rule of Court or Rule of Professional Conduct to this Court, it does so only after the proposal has been approved by the Board of Trustees (and often the Board of Trustees' consideration occurs only after consideration by the State Bar subcommittee or subcommittees with applicable expertise). (See, e.g., Request that the Supreme Court of California Review and Approve Proposed Amendments to California Rules of Court, Rule 9.41.1 (Case No. S292292), filed, August 5, 2025 [approved by the Board of Trustees after consideration by the Committee of Bar Examiners]; Request that the California Supreme Court Review and Approve Recommended Changes to the Court's Proposed Amendments to Title Nine of the California Rules of Court (Case No. S292805), filed, September 4, 2025 [approved by the Board of Trustees after consideration by the Committee of Bar Examiners]; Request that the Supreme Court of California

Approve Proposed Amended Rule 9.7 of the California Rules of Court, and Proposed Amended Rules 1.2 and 8.4 and Proposed New Rule 8.4.2 of the California Rules of Professional Conduct (Case No. S281631), filed, August 28, 2023 [approved by the Board of Trustees after consideration by the Committee on Professional Responsibility and Conduct].)

The Petition was filed before the CJW concept was agendized for the Board of Trustees to take a position on; the presentations to the Board in May and September 2025 were for discussion only. The LSTFC voted to support the CJW concept based on the framework presented in the CJW Proposal, the May 2025 presentation, and the LSTFC PDI Committee's recommendation, but the Petition was filed before the Board of Trustees, LSTFC, or any other subentity (or State Bar staff) had the opportunity to review the proposed rule. Therefore, the State Bar has not been able to solicit public comment on the proposed rule nor has the Board of Trustees had an opportunity to consider it. As such, the State Bar cannot take a substantive position on the proposed rule at this time.

Notwithstanding the above, the State Bar offers, for this Court's consideration, several possible procedural next steps.

This Court may consider actions including: (1) declining to act directly on the Petition, deferring to the State Bar to decide whether to explore the CJW concept on its own timeline taking into consideration resource constraints and competing priorities; (2) directing the State Bar to consider the CJW concept, potentially with direction to refer the question to the appropriate subentity or committee (which could include the LSTFC or a new ad hoc committee), and to make a proposal to the Supreme Court on whether to implement a CJW proposal, including proposed rules for doing so if the State Bar recommends implementing a program; (3) approving the CJW concept and directing the State Bar to evaluate the proposed rule and recommend changes to make the proposed rule workable; (4) approving the CJW concept and directing the State Bar to develop its own proposal for a CJW program, possibly directing the State Bar to refer the matter for a recommendation by the LSTC or an ad hoc body; or (5) rejecting the CJW concept.

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The State Bar looks forward to the Court's action on the petition and/or other direction it may provide.

Dated: March 3, 2026 Respectfully submitted,

ELLIN DAVTYAN
KIRSTEN GALLER
BRADY R. DEWAR
MALISSA BLAKE MOLLBERG

By: */s/ Malissa Blake Mollberg*
MALISSA BLAKE MOLLBERG

Assistant General Counsel
Office of General Counsel
The State Bar of California

DECLARATION OF SERVICE

I, Ryan Sullivan, hereby certify that I electronically filed and served the attached **THE STATE BAR OF CALIFORNIA'S RESPONSE TO THE PETITION FOR THE CALIFORNIA SUPREME COURT TO REVIEW AND APPROVE PROPOSED CALIFORNIA RULE OF COURT 9.45.1 TO ESTABLISH A CALIFORNIA COMMUNITY JUSTICE WORKER PROGRAM** with the Clerk of the California Supreme Court and Petitioners through their counsel listed on this Court's TrueFiling system.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at San Francisco, California, this 3rd day of March, 2026.

/s/ Ryan Sullivan
Ryan Sullivan

Supreme Court of California
Jorge E. Navarrete, Clerk and Executive Officer of the Court
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Supreme Court of California
Jorge E. Navarrete, Clerk and Executive Officer of the Court
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Case No. S294332

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

APPENDIX OF EXHIBITS IN SUPPORT OF THE STATE BAR OF CALIFORNIA'S RESPONSE TO THE PETITION FOR THE CALIFORNIA SUPREME COURT TO REVIEW AND APPROVE PROPOSED CALIFORNIA RULE OF COURT 9.45.1 TO ESTABLISH A CALIFORNIA COMMUNITY JUSTICE WORKER PROGRAM

(Vol. I of II)

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EXHIBIT 1



Conference Proceedings

LUCY RICCA, ERIC HELLAND

Conference on Access to Justice in California

Challenges and Policy Innovations

For more information on this publication, visit **www.rand.org/t/CFA3411 1**.

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About These Conference Proceedings

On January 26, 2024, approximately 75 national and California leaders gathered in Santa Monica, California, for a day-long conference titled Access to Justice in California: Challenges and Policy Innovations. Co-sponsored by the RAND Institute for Civil Justice, the Deborah L. Rhode Center on the Legal Profession at Stanford Law School, the Program on Legal Ethics and the Profession at the UCLA School of Law, and the Civil Justice Research Initiative at Berkeley Law, this conference sought to engage California leaders to consider the breadth and depth of the access to justice crisis, possible avenues to increase access, and concrete steps leaders can take to promote meaningful access to California's courts.

This publication is co-sponsored by the RAND Institute for Civil Justice and Stanford Law School. The publication aims to summarize the proceedings, but the views expressed herein do not necessarily reflect the viewpoints of the conference sponsors.

RAND Institute for Civil Justice

The RAND Institute for Civil Justice (ICJ) is dedicated to improving the civil justice system by supplying policymakers and the public with rigorous and nonpartisan research. Its studies identify trends in litigation and inform policy choices concerning liability, compensation, regulation, risk management, and insurance. The Institute builds on a long tradition of RAND research characterized by an interdisciplinary, empirical approach to public policy issues and rigorous standards of quality, objectivity, and independence. ICJ research is supported by pooled grants from a range of sources, including corporations, trade and professional associations, individuals, government agencies, and private foundations. All its reports are subject to peer review and disseminated widely to policymakers, practitioners in law and business, other researchers, and the public. The ICJ is part of the Justice Policy Program within RAND Social and Economic Well-Being. The program focuses on such topics as access to justice, policing, corrections, drug policy, and court system reform, as well as other policy concerns pertaining to public safety and criminal and civil justice. For more information, email justicepolicy@rand.org.

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Berkeley Law Civil Justice Research Initiative

The Berkeley Law Civil Justice Research Initiative explores through interdisciplinary, academically based, and independent research how the civil justice system can be made more available to everyone seeking relief.

Acknowledgments

The Access to Justice in California: Challenges and Policy Innovations conference was funded by the RAND Institute for Civil Justice, the Deborah L. Rhode Center on the Legal Profession at Stanford Law School, and the UCLA School of Law Program on Legal Ethics and the Profession. We are grateful for the assistance of several people who were instrumental in pulling off a remarkably well-executed conference: authors Lucy Ricca, the executive director of the Rhode Center, and Eric Helland, a senior economist at RAND and the William F. Podlich Professor of Economics at Claremont McKenna, as well as Jamie Morikawa, associate director of the RAND Institute for Civil Justice, Bethany Saunders-Medina, RAND senior policy analyst, and Catherine Cruz, Institute for Civil Justice operations associate.

Summary

Every day, millions of Americans experience civil legal problems. Between 2017 and 2020, 66 percent of Americans faced one or more legal problems. Low-income Americans are particularly prone to experience such problems. In 2021, 74 percent of low-income households grappled with at least one legal problem. Most commonly, the problems such Americans confront relate to housing, domestic violence, debt, and health care issues, from which shelter, safety, and security are at stake.

When confronted with these serious problems, most people do not get the help they need and are instead caught in the yawning justice gap, muddling through a system that was designed for lawyers, not self-represented litigants, and that, too often, prevents them from reaching a just resolution.

Against this backdrop, approximately 75 national and California leaders gathered in Santa Monica, California, on January 26, 2024, for a day-long conference titled Access to Justice in California: Challenges and Policy Innovations. The conference was structured to walk attendees through the different, but related, avenues of legal services regulation reform that have emerged across the United States. Panels 1, 2, and 3 walked participants through particular approaches to reforming legal services regulation that have been deployed in recent years in the United States. Panel 4 explored legal challenges to the traditional regulation of legal services on First Amendment and antitrust grounds. Panel 5 featured representatives of the executive and legislative branches of the California government, grounding the conversations in the unique and complex political and economic structures of this state.

These proceedings summarize key themes from these discussions and provide select and specific examples to deepen the understanding of the issues discussed. These proceedings present what was discussed by panelists and participants; they do not necessarily represent the views and opinions of the conference sponsors, and they do not reference external sources, other than where necessary to ensure comprehension. This summary was circulated to participants for review in advance of publication.

Throughout the conference discussions, there was broad consensus among participants that the access to justice gap in the United States is real, wide, and deep.

Such a significant problem requires many solutions across multiple institutions. Rethinking regulation is one approach, alongside increased funding for direct legal services and the simplification, standardization, and modernization of court process and procedure. Even within the regulation category, there are multiple options to consider to increase the supply, affordability, and accessibility of legal help for individuals and small businesses.

Some regulatory reform options raise more concern than others. Allowing nonlawyer ownership of legal practices faces considerable opposition. During conference discussions of nonlawyer ownership, multiple participants commented that the evidence with which they are familiar indicates that nonlawyer ownership can drive innovation and that there is currently little to no empirical evidence showing that nonlawyer ownership increases consumer harm.

Participants agreed that steps to address the justice gap must be balanced with efforts to promote consumer protection. It was frequently noted during the conference that as the legal profession moves forward to consider reforms, safeguarding vulnerable communities must be paramount. There was also broad consensus among panelists that, currently, the vast majority of individuals have no help at all for their legal problems—a status quo that exposes millions to serious harm. Several panelists reiterated that the need to protect consumers should not prevent action.

There were many opinions among panelists on how to improve the status quo. Conservative approaches would leave the current regulatory structure in place and focus instead on increasing consumer education, fully funding legal aid, and promoting lawyers' commitment to work pro bono. Critics of this approach noted that it is unclear how such approaches would successfully address a problem of the scale of the justice gap. Other participants argued for more progressive approaches that seek to reduce regulatory restrictions to varying degrees to increase competition, diversity, and affordability in the supply of legal services, while acknowledging that the data vary on the potential impact of these solutions.

Part of the discussion focused on the multiple roles nonlawyers have played, and do play, in the provision of legal services. Panelists discussed evidence showing that consumers like having access to nonlawyers and receiving high-quality services.

Many participants expressed distrust of the capacity and ability of existing regulators to handle any expansion of regulated providers.

There emerged the beginning of a consensus that the community justice worker model, as has been rolled out in such states as Alaska and Utah, may hold potential in California. But many more conversations with existing stakeholders, particularly direct legal services organizations and community-based organizations, will have to occur before a proposal could move forward.

There was also a consensus among panelists that data and measurement are both key to advancing any effort. Any state seeking to modify the status quo will need to assess the impact of their efforts on a variety of metrics, including client incomes, the courts and legal deserts, demographic data, and feedback from the bar and the bench.

The penultimate panel examined the potential impact of current First Amendment litigation in federal courts and antitrust action by the federal government and concluded that their impact is unclear. If the First Amendment challenges to the ban on the unauthorized practice of law are successful, regulators may be forced to grapple with how to regulate nonlawyer practice more carefully and thoughtfully.

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Chapter 1

Background and Opening Remarks

Background

Every day, millions of Americans experience civil legal problems. Between 2017 and 2020, 66 percent of Americans faced one or more legal problems. Low-income Americans are particularly prone to experience such problems. In 2021, 74 percent of low-income households grappled with at least one legal problem. Most commonly, the problems such Americans confront relate to housing, domestic violence, debt, and health care issues, from which shelter, safety, and security are at stake.

When confronted with these serious problems, most people do not get the help they need and are instead caught in the yawning justice gap, muddling through a system that was designed for lawyers, not self-represented litigants, and that, too often, prevents them from reaching a just resolution.

In three-quarters of the more than 20 million state court cases filed each year, one party, usually the defendant, is unrepresented. In some areas of law, as many as 80 to 90 percent of litigants do not have a lawyer. These statistics represent only those individuals who show up to court; the many more individuals navigating problems outside the formal court process are harder to observe.

Individuals are forced to go it alone, in part, because the supply of lawyers who serve middle- and low-income Americans is limited. Although the number of lawyers in the United States has grown fourfold since the 1970s, the size of the justice gap has only increased. Lawyers are costly and often inaccessible, with the majority of their services going to corporations and businesses, rather than to individuals. Although legal aid organizations offer services to those in need, such organizations lack the resources to serve all who seek their assistance. Every year, organizations funded by the Legal Services Corporation receive 1.9 million requests for legal assistance and must deny almost half of them. Low-income Americans receive insufficient legal help or none at all for approximately 92 percent of their problems.

Some solutions mentioned during the conference included finding methods of increasing lawyers' commitment to pro bono legal representation, redoubling the financial commitment to legal aid, and increasing the number of lawyers who provide free or low-cost services in areas of high need. Unfortunately, the evidence suggests that these steps alone will not solve the problem. One study found that, even if every lawyer in the United States did 100 more hours of pro bono work every year, there would be only 30 minutes of legal help per dispute-related civil legal problem per household. Furthermore, even if $40 billion more were allocated to legal aid, that would still only mean one hour of attorney legal assistance for every household experiencing a legal problem.[1]

Another possible solution mentioned during the conference was simplifying and standardizing court process and procedure so that individuals could navigate the system without needing as much help from

[1] American Bar Association, "3 Ways to Meet the 'Staggering' Amount of Unmet Legal Needs," July 2018; Rebecca L. Sandefur, "Access to What?" *Dædalus*, Vol. 148, No. 1, Winter 2019.

attorneys. There is broad agreement among scholars that, to the extent that the law can be simplified or standardized without compromising its flexibility, transparency, or the accuracy of adjudications, such steps are likely salutary. But conference panelists largely agreed that, taken alone, simplification and standardization will make only a small dent in the access to justice crisis.

In recent years, many of those studying the access to justice problem have come to assert that, in order to ameliorate the crisis, increasing the supply of legal services is necessary. Toward this end, both scholars and policymakers have begun to investigate the role of restrictions on the practice of law in the United States and how these restrictions affect the ability of individuals and small businesses to get affordable legal help for their problems. In particular, scholars and policymakers have started to zero in on two rules that give lawyers control over the provision of legal services: (1) the ban on the unauthorized practice of law (UPL), which limits who may practice law; and (2) the ban on lawyers sharing fees with nonlawyers, which limits how legal services may be financed. Regarding the first rule, one key question for conference participants was how reducing UPL restrictions could allow for more types of legal service providers, such as legal paraprofessionals, to offer services at lower price points to people in need of assistance. With respect to the second rule, conference participants considered how loosening the rules might allow for more (nonlawyer) capital to be invested in innovative ways of delivering legal services, including technologically driven services. In recent years, two states—Arizona and Utah—have relaxed both rules, with the Utah order asserting that, by fostering "market-based, far-reaching reform focused on opening up the legal market to new providers, business models, and service options," they would promote access to justice in their states.[2] Other states have relaxed only the ban on UPL, either licensing paraprofessionals to provide limited scope services or giving "safe harbor" to community justice workers affiliated with legal aid and community-based organizations.

These reforms are controversial within the legal profession generally and within California in particular. Many individuals and groups worry that these reforms are untested, and if these steps are taken too far and too fast, they could harm consumers and consign some Californians to a system of second-class justice, in which the wealthy are furnished with lawyers but the non-wealthy make do with those without J.D.'s.

In 2018, the State Bar of California launched the Task Force on Access Through Innovation of Legal Services (ATILS) to study online legal service delivery models and assess whether regulatory changes were needed to increase access to justice. After two years of study, ATILS recommended that the State Bar of California conduct further study on the potential of licensed paraprofessionals and a regulatory sandbox model.[3] Accordingly, in 2020, the state bar authorized two working groups: the California Paraprofessional Program Working Group and the Closing the Justice Gap Working Group. Each group was chartered to study and produce a report and recommendation to go to the bar's board of trustees, which would then undertake the public comment process and its own deliberations before advancing any policy recommendations to the California Supreme Court and Legislature. However, in 2022, these State Bar of California working groups were shuttered by legislators with "grave concerns that [nonlawyer ownership] could undermine consumer protection by creating conflicts of interests [sic] that are difficult

[2] Utah Supreme Court Standing Order No. 15, August 14, 2020, p. 2; Arizona Rule Supreme Court 31.1, Authorized Practice of Law, August 27, 2020.

[3] State Bar of California, *State Bar of California Task Force on Access Through Innovation of Legal Services: Final Report and Recommendations*, March 6, 2020.

to overcome and fundamentally infringe on the basic and paramount obligations of attorneys to their clients."[4]

In the years since the State Bar of California working groups shut down, an increasing number of other states have moved forward with a variety of reforms (as described later in these proceedings), and new reform approaches have been implemented.

There is an urgent need for research, scholarship, reflection, and conscientious debate as California considers how to best ensure the public can access and afford legal help without increasing consumer vulnerability and potential harm. The strategy that California adopts could potentially shape nationwide practices.

This conference was organized against this backdrop, and conference participants brought and shared a diversity of views and an interest in discussion and debate. Overall, there appeared to be consensus that the scale and scope of the justice crisis demands new policy responses and, potentially, the provision of authorized legal assistance beyond lawyers. The challenge rests in the "how" of that overall concept: how to expand authorized sources of legal help and how to ensure that such reforms do not increase the vulnerability of Californians to exploitation and harm. Although there remains much to debate, policy innovations are emerging across the country that provide potentially viable options for California. In particular, conference participants demonstrated significant positive interest in the concept of *community justice workers* (i.e., trained lay providers who work within direct legal services or community-based organizations and can help the neediest individuals identify and respond to their legal needs).

The material in this publication summarizes and expands on these themes. These proceedings provide a summary of the conference. Appendix A contains the conference agenda, and Appendixes B–F present five policy briefs written by Rhode Center staff that were provided as read-aheads to the conference participants. The conclusions and momentum generated from this conference have already produced important new initiatives, and we expect to publish follow-up reports and proceedings. Because the conference was held under Chatham House Rules, this summary will not include any attributed comments or quotations unless we have received authorization from the participant.

Opening Remarks

James M. Anderson, director of the RAND Institute for Civil Justice, welcomed participants and outlined the historical role of RAND in performing in-depth policy research and analysis to inform governmental decisionmaking. He noted that the RAND Institute for Civil Justice was formed in 1979 with the explicit objective to inform policymakers about the civil justice system and assist in making it more efficient, effective, and equitable. He noted that this event builds on the large body of work that the RAND Institute for Civil Justice has been conducting on access to justice issues.

Professor David Freeman Engstrom, LSVF Professor of Law and co-director of the Deborah L. Rhode Center on the Legal Profession at Stanford Law School, continued the opening remarks. The following reflects Engstrom's remarks as given by him. They are presented verbatim and unedited.

[4] Mark Stone and Tom Umberg, "Re: Legislative Concerns Regarding the Closing the Justice Gap Working Group," letter to Ruben Duran, California Legislature, December 7, 2021.

Remarks by Professor David Freeman Engstrom

The first thing to note is the reason that most—and perhaps all—of us are here today: The American civil justice system is in the throes of an access crisis that is both wide and deep. Many—maybe even most—Americans do not get help for the civil legal problems they face over their lives. The best evidence is that, in something like three-quarters of filed civil cases, at least one side lacks a lawyer. And many of these are consequential matters for people, families, and communities: They're evictions, debt collections, mortgage foreclosures, and family law matters, such as child support actions or domestic violence restraining order petitions. Many of them pit a lawyered-up institutional plaintiff, such as a debt collection agency, against an unrepresented individual.

Such large, systemic gaps in access to legal services limit who can defend their rights, magnifying disparities based on income, education, race, ethnicity, and gender. They're unfair and undemocratic. And they threaten democracy itself by fueling resentment and civic distrust.

There are, of course, many causes of the justice gap. Stagnating wages mean more Americans are "poverty-eligible"—in fact, most Americans report that they can't weather even a $1000 hit to their finances. A frayed social safety net doesn't help—and leaves too many people exposed to shocks to their income, especially from unexpected health care costs. Then there's the problem of one-sided technologies: Institutional plaintiffs, whether debt collection companies, corporate landlords or the government, have used technology to develop ever more efficient ways to file cases, but the system affords unrepresented defendants dramatically less access to technology that might assist them. And courts could surely be more innovative—and here, I'm especially proud to have announced this week what we believe will be a significant collaboration between Stanford and LASC [the Los Angeles Superior Court]—with Presiding Judge Samantha Jessner and her team, including court Chief Executive Officer David Slayton—to think about how the largest trial court in the country can serve court users better.

Most agree, however, that the way we regulate legal services also plays a significant role. Unauthorized practice of law rules say only lawyers can practice law—and then define that term broadly—and circularly—to include virtually anything lawyers do. Model Rule of Professional Conduct 5.4 and its state-level equivalents, which say only lawyers can own or finance law firms, has cut off law from the investment and the knowledge and skillsets that have driven innovation virtually everywhere else in the economy. The result is what my Co-Director at the Rhode Center, Professor Nora Freeman Engstrom, calls the two-door problem: Door Number One is Cadillac counsel, and most Americans, even well-off ones, can't afford to walk through it. Door Number Two is little to no help at all—maybe some self-help services, or Google, or ChatGPT.

All of this is fueling a growing recognition that we need to do things differently, and that we need to at least consider new ways of providing legal services—with new people, new business models, and new uses of technology. We should be trying to open a third door.

Multiple states, including Washington, Oregon, Utah, Arizona, Colorado, New Hampshire, Alaska, and Minnesota, have done just that, and you'll hear about some of their efforts today. You'll also hear about new federal litigation challenging lawyer rules under the First Amendment of the United States Constitution and new ways of thinking about the role of antitrust in regulating state bars and their oversight of the legal profession.

To be sure, these efforts are controversial: Many people are concerned about what changes to the regulation of legal services might mean—for lawyers, for clients, for the poor, for our legal system. I am a

longtime litigator, and I believe that lawyers have a unique ethical sense that is drilled into them—inculcated is the fancy word—starting in law school. Like many, I worry about techno-optimism and the unreflective adoption of technology. I believe that, just as there are grave risks if we resist adoption and bury our heads in the technological sand, there are also risks if we swing too far in the other direction and rely too heavily on technology that's untested and fully displaces human judgment. I even worry that litigation—including cases brought by lawyers in this room—will be too successful in challenging UPL rules. If the pendulum swings against regulation too abruptly, change will come—but it will come haphazardly, and it won't reflect careful, pragmatic design.

The challenge, then, is how to work together to navigate all of these things: the heartbreaking crush of unmet civil legal need, a growing menu of reform ideas and reform pressures, and legitimate concerns about how to responsibly usher the civil justice system into its next chapter.

Today we will learn from a wide range of people who are involved in these efforts. Some are reforming the system through top-down efforts, and some are working in their communities to achieve reforms bottom-up. Some are litigators who are litigating those free speech cases. And some occupy key court and government positions at the federal and state levels.

It is an exciting time. Today we have a unique opportunity to learn from the rich variety of efforts across the country, understand more about the opportunities and challenges they present, and engage in a deep discussion about what new thinking could look like here in California.

Thanks to each of you for coming, for spending a day of your life with us, and for engaging in the conversations to come.

Chapter 2

Panel on Expanding the Supply: Allied Legal Professionals

Moderator:

- The Honorable Bridget Mary McCormack, President and Chief Executive Officer, American Arbitration Association-International Centre for Dispute Resolution

Panelists:

- Silvia Argueta, Executive Director, Legal Aid Foundation of Los Angeles
- Christy Carpenter, Limited License Legal Technician, Washington state
- Alicia Mitchell-Mercer, Director of Strategic Projects, North Carolina Justice for All Project
- The Honorable Ioana Petrou, Justice, California First District Court of Appeal

The opening panel, panel 1, covered a reform that is rapidly gaining traction across the country and from which legal regulators have effectively created *licensed paraprofessionals*, a new tier of authorized legal professionals who offer a limited menu of legal services. Licensed paraprofessionals are similar to nurse practitioners or physician assistants in the medical field; they have fewer educational and training requirements compared with lawyers, and they are permitted to perform a more-limited set of activities compared with lawyers. This reform approach is centralized and top-down with many similarities to and overlap with the licensing and regulation of lawyers.

Washington state led the way in licensing paraprofessionals in 2012, and multiple states have followed suit in recent years, including Arizona, Minnesota, New Hampshire, Oregon, and Utah.[5] The details of each state's licensing program differ across educational and training requirements, permitted scope of practice, and supervision requirements. For example, Arizona allows licensed paraprofessionals to qualify to practice either by satisfying educational requirements or experiential requirements. Arizona also permits paraprofessionals to independently perform a wide variety of activities,

> "What we have is like saying there might be a right to transportation, but the only option is a Cadillac. Then there is no right to transportation. We need to allow people options like a Ford. Or a bicycle. And that is where I think the market is going in the future."
>
> —Participant

[5] Michael Houlberg and Janet Drobinske, *The Landscape of Allied Legal Professional Programs in the United States*, Institute for the Advancement of the American Legal System, November 2022.

including providing legal advice, preparing and signing legal documents, and appearing in certain courts in areas that include family law, state administrative law, limited criminal and civil matters, and juvenile matters.[6] New Hampshire's pilot program requires paraprofessionals to be supervised by an attorney, limits them to serving clients who earn up to 300 percent of the federal poverty line, and limits them to providing case preparation services only in landlord and tenant matters and certain family matters.[7]

This approach is addressed in the Rhode Center policy brief in Appendix C.

Key Themes

- Most panelists argued that creating a new tier of licensed legal professional, such as a licensed independent paraprofessional, is likely to make more legal services available at an affordable price for those who earn too much income to qualify for free legal services but too little to afford a lawyer. These include the working poor and middle-class consumers.
- Several panelists noted that legal paraprofessionals may be more likely to reflect the communities they serve and may be more likely to be women and persons of color.
- A panelist also commented that one of the challenges of developing a successful and sustainable paraprofessional licensing regime is balancing the need to reduce the expense and burden of attaining licensure with the need for consumer protection.
- There was a broad consensus among panelists that moving forward with reform requires trust—trust in the community, trust in providers, and trust in regulators.
- Several participants raised concerns about potential consumer harm that could result from exposing already vulnerable communities to more exploitation and injury. In particular, these concerns exist along the following lines:
  - fear that the licensing and regulatory framework will be inadequate to ensure that paraprofessionals are sufficiently knowledgeable, competent, and ethical
  - fear that the creation of a new tier of provider will enable existing bad actors to exploit more people and that regulators will be unwilling or unable to adequately respond (This worry is particularly related to known problems with *notarios* and immigration fraud in certain communities.)[8]
  - fear that people will go to paraprofessionals and pay for legal help that they could have received for free from legal aid or other direct legal services providers.
- The panel also highlighted that the profession can benefit from a growing body of evidence from other jurisdictions that are moving forward with licensing paraprofessionals. Participants noted that current data show high rates of consumer satisfaction and little to no evidence of consumer harm, but more high-quality data would be useful.

[6] Arizona Supreme Court, "Legal Paraprofessionals (LP) Questions & Answers," webpage, undated.

[7] Tom Jarvis, "Newly Enacted Paraprofessional Pilot Program Helps Promote Access to Justice," New Hampshire Bar Association, undated.

[8] *Notarios* and *notario* fraud are thought to be prevalent in Latinx communities, where actors leverage the fact that in many Latin, South American, and European countries, a *notario publico* is a very similar license to that of a lawyer. See American Bar Association, "About Notario Fraud," webpage, November 28, 2023.

- One area of differing opinion among conference participants was how to address these concerns. Some recommended requiring attorney supervision of paraprofessionals, requiring community education and engagement, and increasing funding to legal aid in recognition of the potentially increased role paraprofessionals will have in helping people who have been harmed by poor-quality legal services. Yet, others noted that requiring attorney supervision may undermine the impact and sustainability of paraprofessional licensing as a way to increase affordable and accessible legal services.

Below we highlight several examples from the discussion on paraprofessional licensing.

A Limited License Legal Technician's Story

In 2012, Washington state approved a license for independent paraprofessionals titled limited license legal technicians (LLLTs). One LLLT agreed to share her own path and practice with the audience. She explained that, prior to becoming an LLLT, she had been a paralegal for 20 years and found it disheartening to see how difficult it was for people to afford the lawyers she worked with. She felt badly for the people who cashed out their retirement accounts or took out loans on their houses to pay for their legal fees and for those who faced withdrawal of their counsel when they could no longer afford the legal fees. She gained licensure as an LLLT, first working on her own and now with a firm. She noted that it was of high importance to her to be able to charge sliding scale fees, adjusting rates for clients who cannot afford to pay full freight. In Washington, the going rate for an attorney averages $350 per hour; the average LLLT rate is about $225 to $250 per hour. The maximum rate she charges is $200 per hour, and the lowest rate is $100 per hour; her average rate for 2022 was $130 per hour. She primarily works in family law, providing out-of-court and pre-trial services. She cannot sit at counsel table during trial, but she can assist the litigant throughout the trial.

North Carolina's Proposal: North Carolina Justice for All Project

The North Carolina Justice for All Project (JFAP), a nonprofit advocacy association committed to expanding access to justice across North Carolina, has explored reforms involving licensed paraprofessionals. As part of those efforts, JFAP reached out to legal aid organizations to better understand their capacity and limitations and learned that legal aid organizations were limited to serving people who earn up to 200 percent of the federal poverty line and operate under substantive limitations. Ultimately, JFAP found that legal aid was turning away nine of ten people who came to them seeking help. These existing constraints would also apply to community justice workers affiliated with legal aid. JFAP concluded that licensed paraprofessionals could serve people who are asset limited, income constrained, and employed—what the United Way calls the ALICE population. These are people who have jobs but cannot afford to retain lawyers when they have legal needs. For these reasons, JFAP elected to propose reforms that incorporate the licensing of paraprofessionals and authorize legal aid–based justice workers.[9]

[9] Alicia Mitchell-Mercer, *Looking Beyond Lawyers to Bridge the Civil Access to Justice Gap: Petition for Redress of Grievances Pursuant to N.C. Const. Art. I, § 12, Policy Analysis & Legislative Proposal*, North Carolina Justice for All Project, February 2023.

The proposal, which is before the North Carolina legislature, prioritizes areas of extreme legal need: family law, probate work, and some administrative proceedings.

The Paraprofessional Program Working Group of the State Bar of California

The Paraprofessional Program Working Group of the State Bar of California was a diverse gathering of 18 members, including judicial officers with extensive experience overseeing litigation involving unrepresented litigants.[10] There were 24 meetings of the working group with considerable public comment. Additionally, 17 subcommittees held 120 meetings. The working group started with the understanding that there was a great need for more-affordable legal help across the country, and in California, there were 21 million people who did not qualify for legal aid but could not afford a market-rate attorney. For example, the average annual salary for a firefighter is $75,000; that firefighter would have to work ten hours to afford just one hour of an attorney's time in California. The group's final report, which reflected the majority view of the group's members, provided the following recommendations:

- Start a paraprofessional licensing pilot program in ten pilot counties.
- The pilot program would focus on the areas of greatest need based on court case management systems and judicial systems data, such as
  - family law
  - collateral criminal (expungements and reclassifications)
  - consumer debt and general civil
  - housing.
- The scope of representation would allow for paraprofessionals to be in court and assist the client, but paraprofessionals would not be permitted to represent the client before the court in trial.
- The working group tried to develop licensing requirements that would ensure sufficient education and training to protect consumers but not be so onerous and expensive as to obviate the potential for such services to be less expensive than those of lawyers.
  - The working group settled on a focused licensing scheme in specifically identified areas instead of a one-size-fits-all paraprofessional license. Licensure would require specific education and training in the particular subject matter (e.g., family law).
  - The proposed qualifications would consist of five components: eligibility, experience, education, testing, and moral character.
  - Required training would include training on trauma-informed representation.
  - The experience requirement would demand 1,000 hours over at least six months, with 500 of those hours in the specific legal area.
- The working group also considered what mechanisms should be deployed to ensure competency and consumer protection.

[10] State Bar of California, *California Paraprofessional Program Working Group: Report and Recommendations*, September 23, 2021.

  - In particular, the working group wanted to include a financial responsibility requirement, something that is not required for California lawyers. Ultimately, the group did not recommend requiring malpractice insurance, but it did require licensed paraprofessionals to provide a $100,000 surety bond.
  - The group also recommended rules of professional conduct that are very similar to those of lawyers but differ by having extremely explicit informed consent requirements, including requiring the paraprofessional to inform clients that free legal services could be available to them.
  - The paraprofessional would be subject to discipline by the state bar, similar to California lawyers, but licensing and oversight would be overseen by a newly created Paraprofessional Licensing and Oversight Committee of the State Bar of California.
- The working group recommended allowing paraprofessionals to own firms alongside lawyers, but it limited the percentage of paraprofessional ownership to 49 percent.

Chapter 3

Panel on Harnessing Capital and Innovation: Entity Licensing

Moderator:

- Eric Helland, Senior Economist, RAND; and William F. Podlich Professor of Economics, Claremont McKenna College

Panelists:

- Danny Abir, Managing Partner, ACTS Law
- Don Bivens, Chair, Arizona Board of Non-Legal Service Providers
- Andrea Donahue, Program Director, Office of Legal Services Innovation
- Erin Levine, Esq., Chief Executive Officer and Founder, Hello Divorce
- Jack L. Rives, President, Rocket Legal Professional Services, Rocket Lawyer

Panel 2 addressed the potential and challenges of licensing and regulating entities, both for-profit and nonprofit, to provide legal services. Traditional regulation not only prevents nonlawyers from performing any of the activities that could be defined as the practice of law, but also it prevents nonlawyers from owning or financing organizations that provide legal services.

> "Can we really call our system an adversarial system if such a large proportion of litigants are not represented by an attorney? We can make legal services more available to people. This should be like ordering a pizza. That is what we want."
>
> —Participant

The ban on nonlawyer ownership or financing is effectuated through the American Bar Association's Model Rule of Professional Conduct 5.4 and its state-based equivalents.[11] That rule states that lawyers may not share fees with a nonlawyer or form a partnership with a nonlawyer if any of the activities of the partnership constitute the practice of law. The rule has been interpreted as barring lawyers from working as salaried employees of nonlawyer-owned businesses, including (for-profit) corporations. The theory behind the rule is that it is necessary to ensure the independent judgment of lawyers and protect that judgment from corporate pressure. Advocates for reform argue that the rule cuts lawyers off from competition and potentially transformative interdisciplinary partnerships. Furthermore, reform advocates argue that the rule forces lawyers to bear the entire risk and burden of financing their legal business. Indeed, the panel moderator noted that a debate on these issues was recently published in the

[11] American Bar Association, "Rule 5.4: Professional Independence of a Lawyer," webpage, undated.

Yale Law Journal Forum.[12] As described above, the state supreme courts of Arizona and Utah have moved forward to allow nonlawyer ownership of legal service entities while also requiring those entities to become licensed and regulated to ensure certain objectives are met.

This approach is addressed in the Rhode Center policy brief in Appendix E.

Key Themes

- Several panelists noted that closing the justice gap requires numerous solutions, and for-profit entities are likely to be part of that mix. Indeed, for-profit entities already exist in the legal industry.
- Multiple panelists described how Rule 5.4's ban on nonlawyer ownership, along with UPL restrictions, have real impacts on those who wish to build an innovative, affordable, and consumer-focused legal technology company. In California, it means separating the lawyers and legal services from the technology company, which results in a less seamless experience for consumers. It also means incurring significantly higher expenses, which may make reducing the price of legal services difficult.

> "We are not able to test innovative legal services products lawfully. We don't know what might work because we can't even begin to explore it."
>
> —Participant

- The discussion also highlighted that, although Arizona and Utah's reforms both authorize and regulate entities with nonlawyer ownership, the reforms are different in form and substance. Each state, therefore, provides a unique model for entity regulation and each model may have different outcomes and impacts.
- The panelists noted that the reforms in Arizona and Utah appear to be successful in that legal service entities are actively seeking to become regulated providers, and there is very little evidence of consumer harm.
- The panelists discussed the fact that entities in both states appear to see a consumer benefit in having lawyers on staff and in being able to offer an end-to-end, seamless consumer experience.
- The fact that consumer protection is a significant concern because of the potential for owners and managers of for-profit legal entities to undermine the lawyer's independent legal judgment, which could result in substandard legal services and bad outcomes for consumers, was discussed by the panelists. Some panelists noted that data from Utah and Arizona thus far show very low rates of consumer complaints against entities in those states.
- It was argued that certain areas of law that rely on idiosyncratic business models may not raise the same access to justice issues that others do. In particular, areas of law that rely on a contingency fee model may not raise the same access to justice concerns as other areas because consumers pay nothing up front. But the contingency fee is not necessarily a panacea. Many individuals with

[12] Stephen P. Younger, "The Pitfalls and False Promises of Nonlawyer Ownership of Law Firms," *Yale Law Journal Forum*, Vol. 132, October 19, 2022; Ralph Baxter, "Dereliction of Duty: State-Bar Inaction in Response to America's Access-to-Justice Crisis," *Yale Law Journal Forum*, Vol. 132, October 19, 2022.

consumer and even some personal injury claims cannot find representation because their claims are too small to be economically feasible.

- Finally, the panel discussion concluded by noting that it is unclear whether and how this reform approach will affect access to justice. It may be impossible to make a profit serving the areas of greatest legal need because those needing help simply cannot pay enough to make a business model work. However, we do not know whether it is actually impossible. The current rules prohibit individuals and entities from trying, testing, and iterating models that involve financing, nonlawyers, and technology, so attempts to find meaningful solutions have been limited.

> "Once California goes, all the other states will do it. What will the impact be?"
>
> —Participant

Below we highlight several examples from the discussion of entity licensing.

Arizona: Allowing Nonlawyer Ownership of Law Firms

In 2019, the Arizona Supreme Court formed a task force to look at how regulatory innovation could affect the justice gap.[13] The task force recommended that the court repeal Rule 5.4 in Arizona and, at the same time, stand up a system of entity licensing and regulation to oversee legal service entities owned in whole or in part by nonlawyers. The entity regulation system followed the system implemented in England and Wales, in which regulated entities are referred to as alternative business structures (ABS). The Arizona ABS licensing system is a creature of judicial code that does not rely on state legislative action.[14] Within ABS, lawyers and nonlawyers can work together and put money into the legal business together.

To receive an ABS license in Arizona, the entity must apply to the court and explain what it is, who owns it, and what the entity proposes to do. The application requires the identification of any person holding more than a 10 percent economic interest in the entity, as well as any individual who holds the legal right to exercise decisionmaking authority on behalf of the entity—individuals known as *authorized persons*. The entity must also have an identified compliance lawyer, an Arizona-licensed lawyer who is responsible for ensuring that the entity, its owners, and its employees comply with all relevant requirements, including all ethical and conduct codes. Court staff review the application and make a recommendation to the court, which then makes the final decision.

The program has been popular, with approximately 55–60 entities receiving ABS licenses, many of which have joined the state's first ABS association. ABS are engaged in a variety of activities. For instance, LZ Legal Services, the Arizona subsidiary of LegalZoom, is the largest provider of patent and trademark services in the state, and it provides those services at a much lower cost than traditional law firms. Other ABS are offering criminal record expungement, trusts and estate, mass torts, and immigration services.

Information on consumer complaints against ABS in Arizona has not been made publicly available.

[13] Legal Services Task Force, *Task Force on the Delivery of Legal Services: Report and Recommendations*, Arizona Supreme Court, October 4, 2019.

[14] Arizona Code of Judicial Administration, Part 7, Administrative Office of the Courts; Chapter 2, Certification and Licensing Programs; Section 7-209, Alternative Business Structures.

Utah: Using a Regulatory Sandbox to Authorize Nontraditional Legal Service Entities

The Utah legal regulatory sandbox is a pilot program launched in 2020 that allows for the relaxation or waiver of certain regulatory restrictions, including those related to UPL and Rule 5.4, to allow for more new models of legal service provision.[15] The regulatory objective of the sandbox is "to ensure that consumers have access to a well-developed, high-quality, innovative, affordable, and competitive market for legal services."[16] Access is defined broadly by the Utah Supreme Court and includes market-based solutions and for-profit models.

The *sandbox* is an entity regulation model, in which a legal services entity can obtain authorization to operate with nonlawyer ownership and can also obtain authorization for nonlawyer legal practice. Although the program is not limited to entities with nonlawyer ownership, approximately 75 percent of the entities involved in the sandbox can be categorized as ABS, which have only obtained authorization for nonlawyer ownership. The remaining percentage includes entities that have received both authorization for nonlawyer ownership and for nonlawyer legal practice, either through people or technology.

The sandbox has completed the launch phase and is moving into the stabilization phase. As part of that process, the Utah Supreme Court moved administration of the sandbox into the state bar, while retaining the policy and regulatory authority in the court and the Legal Services Innovation Committee of the court.

The sandbox is set up to collect and monitor data on consumer harm using a proactive, empirical approach to regulation. Consumer complaints are collected from the regulated entities and the public. The complaints are reviewed for whether their substance qualifies as a legal service–specific consumer harm as identified by the court: The consumer purchased an unnecessary legal service, the consumer failed to exercise a right, or the consumer received a poor result. The sandbox approach is one with a strong focus on back-end monitoring and oversight of authorized entities. Across the services provided, less than 1 percent of reports have indicated consumer harm.[17]

Hello Divorce

Hello Divorce is a legal technology company offering legal and other tools to people seeking to dissolve their marriages.[18] It is a California company but operates in multiple states. Hello Divorce is authorized in the Utah sandbox.

The people who come to Hello Divorce for assistance include truck drivers, warehouse workers, and teachers—people who cannot afford the $15,000 (on average) that it costs to be represented by an attorney in divorce proceedings. People use Hello Divorce's technology and educational content to obtain

[15] Utah Supreme Court Standing Order No. 15, 2020; Utah Office of Legal Services Innovation, *Narrowing the Access-to-Justice Gap by Reimagining Regulation: Report and Recommendations from the Utah Work Group on Regulatory Reform*, August 2019.

[16] Utah Supreme Court Standing Order No. 15, 2020, p. 7.

[17] Utah Office of Legal Services Innovation, *Activity Report: December 2023*, January 30, 2024.

[18] Hello Divorce, homepage, undated.

the information necessary to understand their rights and navigate an extremely complex legal system. Often, they do not actually need a lawyer, but they do need the navigational help. People often come to the company after trying to figure out divorce proceedings on their own and having their do-it-yourself documents rejected multiple times by court clerks.

In California, current regulations require Hello Divorce to operate two separate entities—the law firm and the legal technology company. Hello Divorce's customers can use the legal technology company to handle divorce proceedings on their own, but, if they need legal help or even need a simple legal question answered, they are referred either to the Hello Divorce law firm or another firm. Panelists contended that this structure is unhelpful, if not harmful, to those Hello Divorce is trying to assist because it cuts lawyers out of being part of the complete solution. This structure also keeps the cost of those lawyer services at a higher level than they otherwise would be given that California attorneys often charge $300 per hour for their services—a prohibitively expensive cost for Hello Divorce's target customer demographic of individuals making $40,000–$100,000 per year. The costs of this dual model are also increased because of having to operate two separate entities (two insurance policies, dual administration systems, etc.).

Things are different in Utah, where Hello Divorce is an authorized entity in the sandbox. In Utah, Hello Divorce offers its customers a seamless experience because all of its services are contained in one company. Because it is an authorized entity, it can offer comprehensive assistance to people facing the difficulty of divorce by providing a variety of services, including legal forms, wellness coaching, and financial guidance. Critically, lawyers are a part of the solution because Hello Divorce can directly employ Utah lawyers, offering them longer-term, equity-based compensation and benefits. Those incentives drive down attorney hourly rates because many people will take less salary up front if they can see longer-term benefits as the company grows. There are more opportunities for professional growth for both lawyers and paralegals in the Utah context.

Chapter 4

Panel on Expanding the Impact: Justice Workers in Local Communities

Moderator:

- Sacha Steinberger, Founder and Co-Executive Director, Legal Link

Panelists:

- Hayley Cousin, Certified Advocate Partners Program Director, Timpanogos Legal Center
- Leigh Ferrin, Program Director, OneJustice
- Nikole Nelson, Chief Executive Officer, Frontline Justice
- Devin Shakespear, Certified Victim Advocate, Certified Advocate Partners Program, and Attorney, Kane County Utah

Panel 3 focused on community justice workers (CJWs). CJWs are community members who seek to provide assistance in a variety of fields, such as housing or debt relief, through community-based organizations or other institutions (e.g., religious institutions). These helpers are trained in specific and adjacent legal work that is incorporated into the work they are already doing for community members, which may include victim advocacy, financial advising, social work, or community health care. CJWs are not typically working on the full scope of a legal matter but instead assist individuals with discrete and necessary legal tasks.

> "Everyone deserves to have right size, on-demand legal help in their communities, starting with the most vulnerable."
>
> —Participant

This approach is addressed in the Rhode Center policy brief in Appendix D.

Key Themes

- The panelists agreed that helping the most vulnerable people means working closely with community-based organizations and other trusted institutions and individual members of the community.
- Several panelists working in this area noted that UPL restrictions limit the ability of direct legal services organizations to deploy CJWs to help people in their communities.

- Panelists with experience with the CJW model argued that CJWs can have a real impact in vulnerable communities and leverage existing community-oriented, trust-based relationships. CJWs combine relevant legal knowledge with community knowledge.
- There was broad agreement among the panelists that in developing a program, it is important to make the barrier to entry as low as possible and consider modular education, training, and certification. Doing so will make it easy for potential CJWs and other stakeholders to engage and support rapid program scaling.
- Several panelists noted that lay assistance and advocacy is not a new idea in California or nationally. Within legal aid, there is a history of legal help from such roles as case managers, paralegals, social workers, and investigators. There are also current major partnerships—such as with Stay Housed LA—between community-based organizations and legal services organizations, which are effectively informal CJW programs.
- During the discussion panel, members noted the following potential benefits:
  - for clients: expanded services from trusted members of the community
  - for the community: legal help grounded in the real experience and needs of the community
  - for the organization and staff: increased professional development and impact.

> "The current system forces legal aid to ration justice."
>
> —Participant

- The panel discussed the fact that there are outstanding questions around scope, supervision, regulation, and funding. Finding solutions may be particularly challenging in a state as large, diverse, and complex as California.
- Finally, the panel concluded with a discussion of the extended conversations with direct legal services organizations that would be required before moving a program like this forward in California.

Below we highlight several examples from the panel discussion.

Legal Link

Legal Link is a California nonprofit with the mission to grow the ecosystem of support for low-income people.[19] The organization's north star is poverty reduction. As part of that mission, Legal Link trains community workers to provide "legal first aid" or "legal triage" within the bounds of California's unauthorized practice limitations. That can mean supporting individuals facing legal issues, providing translation services, and directing people to the courts and legal aid. Legal Link is in the process of developing a CJW program within current UPL rules that will focus on consumer debt. Panelists indicated that the organization and its partners could do far more to help people if the current UPL restrictions were reduced.

[19] Legal Link, homepage, undated.

Alaska Community Justice Workers

Alaska Legal Services Corporation (ALSC) is the only legal services corporation-funded legal aid organization in Alaska. ALSC developed a CJW program to better scale its services across Alaska, especially given that ALSC has historically had to turn one person away for each person that it assists. Alaska faces unique challenges in the provision of legal services: It is enormous geographically (larger than the next three largest states combined), and although most of its population lives in Anchorage, there are many rural and isolated communities that are not connected via roadways and highways. Lawyers are located in Anchorage and in easily accessible communities; however, many people needing legal help are not. Although these problems are particularly acute in Alaska, the panelists mentioned that the problem of rural legal deserts and communities—rural or not—without legal expertise, is endemic.

In 2016, the Alaska Supreme Court's Access to Justice Committee developed a statewide action plan to address the state's legal access challenges.[20] The committee found that the tribally operated health care system had the broadest network across the state. It then began to build a medical-legal partnership—one that proved to be transformative and changed the court's way of thinking about how to improve access to legal services. The committee learned that Alaska's health care system had struggled with some of the same issues, including highly credentialed professionals being available only in limited areas. The health care response was to start training community health aides. The committee recognized that in health care, there is an entire spectrum of providers who are trained, supervised, and providing services. Furthermore, the committee realized that there might not be enough work for a full-time justice worker in numerous communities, so it sought to overlay legal knowledge with existing community partners to permit those partners to address legal needs.

In 2019, ALSC started developing asynchronous distance training modules in five practice areas: public benefits, the Supplemental Nutrition Assistance Program (SNAP), wills, the Indian Child Welfare Act, and domestic violence. Those legal areas were identified, and the curricula designed, in partnership with the community, and the modules were developed by workforce development specialists with the advice of lawyers. Each training module takes eight to ten hours to complete, including a hands-on training component. There are multiple modules that build on each other, which allows CJWs to develop significant knowledge bases. Recognizing the reality of burnout, the relative brevity of each training allows ALSC to cast a wide recruiting net. If one person or multiple people do not stick with the program, ALSC can continue to operate without significant operational difficulty.

In December 2022, the Alaska Supreme Court approved a waiver from the UPL ban for CJWs working with ALSC.[21] The waiver, which provides a safe harbor for CJWs working with ALSC, gives certainty and clarity to allow ALSC to expand its work.

Today, ALSC has more than 400 CJWs who are proceeding through the training for SNAP benefits or have completed the training. The CJWs are mostly volunteers who work with ALSC on legal issues, but they also have day jobs with existing community organizations. Their ties to the community allow CJWs to better represent the individuals they serve.

[20] Stacey Marz, Mara Kimmel, and Miguel Willis, *Alaska's Justice Ecosystem: Building a Partnership of Providers*, Alaska Court System Access to Justice Committee, December 22, 2017.

[21] Supreme Court of Alaska Order No. 1994, November 29, 2022.

The CJWs have had overwhelming success in securing benefits for low-income Alaskans. CJWs were able to draw down $5.5 million in SNAP benefits for the people they serve. With the aid of CJWs, ALSC has seen a 100 percent increase in the number of cases closed in one year.

The relative ease of mapping the provision of legal services onto existing community-based services is the key to scale. However, the discussion at the conference highlighted that the current system cannot scale to what is needed, leaving open the question of how legal knowledge and capacity can be infused across other providers.

Certified Advocate Partners Program in Utah

The Certified Advocate Partners Program (CAPP) at the Timpanogos Legal Center (TLC) in Utah is a CJW program focused on victims of domestic violence and stalking.[22] Over the years, TLC, a legal services nonprofit, has collaborated extensively with the communities it serves to ensure that its clients were connected with housing, health care, and similar supportive resources. During the course of that work, TLC frequently worked with domestic violence victim advocates. Victim advocates are often the first people to engage with domestic violence victims, helping victims escape their situations and navigate the legal system. Navigating Utah's legal system can be particularly difficult for victims without specialized knowledge: Utah has seven civil protective orders, and it is often unclear which one a victim qualifies for. Because victims often lack time and money, they fail to obtain legal services and often receive inaccurate information, including from victim advocates.

In February 2021, CAPP became authorized in the Utah sandbox and started offering services in June the same year. In CAPP's system, advocates are employed at shelters, community-based organizations, prosecutors' offices, and police departments. They are required to have at least two years of victim advocacy experience prior to providing services, and their training curriculum assumes some knowledge and experience with the civil protective order process. The training curriculum spans roughly 50–60 hours and culminates in a final exam. Advocates triage cases, determine whether there are grounds for legal action, complete forms on behalf of victims, and assist victims in preparing for court, including by helping victims prepare their testimony, evidence, and legal arguments. If advocates have questions, they have access to the program director and other TLC staff attorneys.

Currently, there are 17 active advocates. They have been especially impactful in rural areas, and 81 percent of CAPP clients have been located in rural areas; some of those areas have not had a legal aid attorney presence in years. The program has a 92 percent success rate in securing protective orders and stalking injunctions. The majority of the remaining 8 percent of clients were informed that their cases may not be successful, but the clients wanted to proceed. The program has not received any complaints.

The discussion by the panel suggested that CAPP has been very well received and that advocates, agencies, and clients love it. Moreover, it was pointed out by one panelist that absent the program, most of the clients would not have any access to legal services. The program's success has been buoyed by victims' trust of advocates who already work within their community.

A panelist familiar with the Utah experience suggested that the relaxation of Utah's UPL regulations allowed CAPP to participate in the Utah sandbox, which has further spurred the program's success. As

[22] Certified Advocate Partners Program, homepage, undated.

the panelist explained, before CAPP, if a victim came to an advocate and wanted to get a protective order, advocates could not ask questions or give advice regarding the necessary information to include in the proposed order, nor could advocates help victims ensure that they were applying for the appropriate protective order. CAPP enabled advocates to streamline the process for victims and the court.

However, as a panelist suggested, in-court assistance is still a significant barrier for people. Many victims of domestic violence do not want to come to a courtroom to question the perpetrator of that violence or respond to a judge. CAPP has asked for an amendment to its sandbox authorization that would allow advocates to sit at counsel table with the victim but not address the court directly. Another challenge is the burnout rate of advocates; this is an issue in the CJW space more generally.

Chapter 5

Panel on the Doctrinal Horizon: The Unauthorized Practice of Law, the First Amendment, and Antitrust

Moderator:

- Nora Freeman Engstrom, Ernest W. McFarland Professor of Law; and Co-Director, Deborah L. Rhode Center on the Legal Profession, Stanford Law School

Panelists:

- Maggie Goodlander, Deputy Assistant Attorney General, U.S. Department of Justice, Antitrust Division
- Brenda Murphy, President, South Carolina State Conference of the NAACP
- Daniel B. Rodriguez, Harold Washington Professor of Law, Northwestern University Pritzker School of Law
- Joe Schottenfeld, Assistant General Counsel, National Association for the Advancement of Colored People

Today, the bans on UPL and nonlawyer ownership impose broad constraints on legal practice. Some argue that these bans are susceptible to challenges under the First Amendment and the Sherman Antitrust Act.

At the time this conference convened, three First Amendment cases had recently been filed challenging UPL in New York, South Carolina, and North Carolina.[23] The cases bring applied challenges to the UPL ban in the relevant jurisdictions, claiming that the legal advice the plaintiffs wish to provide is protected speech and any restrictions must survive strict scrutiny. The cases also bring freedom of association claims. After the conference, the South Carolina case was voluntarily dismissed due to a settlement (see the detailed discussion below); at the time of this writing, the New York and North Carolina cases continue. The New York and South Carolina cases were narrowly tailored to free legal advice. The North Carolina case is broader and includes both free and paid legal advice. In the New York

[23] *Upsolve, Inc. v. James*, No. 22-cv-627, S.D.N.Y; *South Carolina State Conference of the NAACP v. Wilson*, 2:23-cv-01121-DCN 2023; *Black Polaski et al. v. Stein*, No. 7:2024cv4, D.N.C.

case, *Upsolve, Inc. v. James*, the court granted a preliminary injunction prohibiting the enforcement of New York's UPL rule against a free legal service provider.[24]

There are no active antitrust challenges to UPL rules or bans on nonlawyer ownership in U.S. courts. However, the Antitrust Division of the U.S. Department of Justice recently submitted a letter in support of the North Carolina JFAP's legislative proposals for both licensed paraprofessionals and CJWs.[25]

Panelists highlighted that the broad architecture of legal services regulation is under pressure and may change because of thoughtful regulatory reform. Or the architecture may change at the stroke of a federal judge's pen.

This approach is addressed in the Rhode Center policy brief in Appendix F.

Key Themes

- It was noted that, historically, First Amendment litigation played a significant role in reforming restrictions on the business and practice of law. But previous U.S. Supreme Court cases addressing the topic concerned restrictions that protected incumbent lawyers against outsider lawyers.[26] The panel discussion suggested that it is unclear how the Supreme Court would react to the three currently pending cases (at the time the conference took place), which claim that nonlawyer speech (i.e., legal advice) is protected by the First Amendment. What could happen when the Supreme Court, for the first time, has to grapple with the question of how to deal with a long history of deference to state courts to regulate the practice of law?

> "The Supreme Court's jurisprudence on speech and the professional regulation of lawyers can be characterized, at best, as a jurisprudence of ambivalence."
>
> —Participant

- The panelists highlighted that the First Amendment cases are being brought because people need help, and the litigants believe that nonlawyers can provide the help that is needed and should not be barred from providing it. The pending cases sit at the fulcrum of the need to simplify the law for those who use it.
- The panel discussion centered on two First Amendment claims at issue in these cases:
  - The freedom of speech claims begin with the premise that the provision of legal advice is all speech, regardless of how the regulatory regime tries to define UPL restrictions. The argument in opposition states is that this is speech that is only incidental to the underlying conduct—the practice of law—which can be regulated by the state. The Supreme Court's recent

[24] *Upsolve, Inc. v. James*.

[25] Maggie Goodlander, letter to the North Carolina General Assembly, U.S. Department of Justice, Antitrust Division, February 14, 2023.

[26] See *In re Primus*, 436 U.S. 412, 1978, discussing solicitation activities by a lawyer working with a nonprofit political advocacy organization; *Bates v. State Bar of Arizona*, 433 U.S. 350, 1977, addressing lawyer advertisements; *Goldfarb v. Virginia State Bar*, 421 U.S. 773, 792–93, 1975; *United Transportation Union v. State Bar of Michigan*, 401 U.S. 576, 578, 1971, discussing the services of the Brotherhood of Railroad Trainmen, a union that, in 1930, began linking injured workers and their families with "attorneys designated by the Union as 'Legal Counsel'"; *United Mine Workers of America, District 12 v. Illinois State Bar Association*, 389 U.S. 217, 219, 1967, discussing the activities of the United Mine Workers, a union that established a legal department to help members assert workers' compensation claims in 1913; and *National Association for the Advancement of Colored People v. Button*, 371 U.S. 415, 439, 1963, addressing solicitation and referral activities by the NAACP of Virginia and associated lawyers.

jurisprudence has found that determining the line between speech versus conduct requires looking at what the speaker is trying to do. Here, the plaintiffs argue that what triggers the UPL regulation—the provision of legal advice—is speech, not conduct.[27]

  - The freedom of association claim argues that people in groups can gather together to try to promote meaningful access to the courts. By this argument, the state should have to satisfy the heavy burden of First Amendment strict scrutiny.

- It was the consensus of the panel that there will be more challenges to the broad bans on UPL in additional states. Some panelists observed that this issue is nonpartisan and brings together public interest organizations on the left and the right.
- Several panelists noted that litigation is probably not a panacea and has certain risks: If the lawyer regulatory architecture is simply toppled, will consumers be furnished with adequate protection?
- Finally, the discussion concluded by focusing on the role antitrust has to play in reforming the market for legal services, in part because there may be viable legal challenges under the Sherman Act's prohibition on unreasonable restraints on trade and its prohibition on monopoly power.

Below we highlight an example discussed by the panelists.

South Carolina

The NAACP brought a First Amendment challenge to South Carolina's ban on UPL in federal court in March 2022. In South Carolina, the state supreme court decides what constitutes UPL on a case-by-case basis. Those individualized determinations create difficulties in determining which nonlawyer legal services are permissible. But the court has left no doubt that any form of legal advice, free or paid and regardless of the simplicity of the advice, qualifies as the practice of law. Indeed, the court has indicated that the fact that legal advice is free may only increase UPL concerns.

The South Carolina chapter of the NAACP was motivated to bring its First Amendment challenge as a result of its work during the coronavirus disease 2019 pandemic, when the NAACP began to see many more challenges to housing. South Carolina is probably first or second in the country in terms of rates of housing instability or eviction. Thus, beginning in 2020, the NAACP began holding pop-up clinics and bringing computers to rural areas to help provide necessary legal housing services. Ultimately, it helped numerous individuals obtain housing and rental assistance. Its efforts started with a pilot in Columbia, South Carolina, that expanded throughout the state. Ultimately, the NAACP helped 3,000 people with legal issues related to housing.

[27] *Holder v. Humanitarian L. Project*, 561 U.S. 1, 27-28, 2010, finding that government regulations of "expert advice and assistance" were content-based regulations of speech that triggered strict scrutiny under the First Amendment.

> "Lawyers do not have a monopoly on lawmaking in America. Legislators are not required to be lawyers. Chief executives are not required to be lawyers. Judges are not even required to be lawyers. We rely on juries every day. We rely on those who are not lawyers to make important judgments of significant bearing. There should not be a monopoly by lawyers on the practice of law."
>
> —Participant

Those experiences led the NAACP to seek to offer free legal advice to individuals with housing issues, including helping individuals prepare and file answers in eviction proceedings. The NAACP sees its First Amendment challenge as major civil rights litigation for two reasons. First, the litigation could positively affect the rights of poor people to obtain housing. And second, the litigation could allow the NAACP to provide necessary legal advice to help such people. The NAACP asserted that South Carolina's UPL regulations prevent the NAACP from providing legal advice without an attorney, but the NCAAP lacks the attorneys necessary to meet the needs of individuals across the state, particularly in rural areas.

The NAACP recognizes that access to housing is a particular challenge that it cannot tackle alone. Other stakeholders and individuals are necessary to provide the legal advice necessary to lead to better housing outcomes for South Carolina residents.

Note: Shortly after this conference, the South Carolina Supreme Court approved the NAACP program on a provisional basis for three years.[28] *On approval of the program, the NAACP voluntarily dismissed the federal case.*[29]

[28] *In re: South Carolina NAACP Housing Advocate Program*, Supreme Court of South Carolina, February 8, 2024.

[29] Notice of Dismissal, *South Carolina State Conference NAACP et al. v. Wilson*.

Chapter 6

Panel on Access to Justice and Consumer Protection: Perspectives from the Executive and Legislative Branches

Moderator:

- David Freeman Engstrom, LSVF Professor of Law; and Co-Director, Deborah L. Rhode Center on the Legal Profession

Panelists:

- Francesca Gessner, Chief of Policy, Office of the Attorney General Rob Bonta, California Department of Justice
- The Honorable Rick Zbur, Democratic Caucus Chair, California Assembly

Panel 5 participants discussed concerns from California legislative and executive branch representatives regarding reforms to UPL and nonlawyer funding regulations. Paramount among those concerns is the potential for increased consumer harm resulting from the relaxation of those regulations.

Key Themes

- The panelists highlighted that there remain significant concerns from both the legislative and executive branches of the California government on the potential for increased consumer harm. These concerns are grounded in experience with *notarios* and brokers in immigrant communities.
- There remains strong opposition to reforms that would allow nonlawyer practice or ownership and/or would not include lawyer supervision of all services provided.
- The legislative and executive branches are interested in legal service delivery innovations, but only if adequate guardrails can be maintained. There is concern about pushing too hard against restrictions and swinging too far toward a deregulated market.
- There is qualified and tentative interest in a navigator or CJW model.

There is a desire for more data and engagement between policymakers and experts on this issue to drive informed policymaking.

Chapter 7

Keynote Speaker: The Honorable Kelli M. Evans, Associate Justice, California Supreme Court

The following reflects Justice Kelli Evans's remarks as they were given by her. They are presented verbatim and unedited.

Remarks by the Honorable Kelli M. Evans

I want to challenge everyone in this room to close your eyes and try to visualize the answer to this question: What would California look like and feel like if everyone needing legal help got the help that they needed?

Maybe we would see more green space, maybe a huge reduction in poverty. For me, I think there could be a transformation. Increased economic security. Increased family security. Increased employment security. Increased educational opportunity. When I think about the ripple effects of that, I get chills. It is not hyperbole to say that. I think that if everyone who needed legal help got the legal help they needed in the places where they are, in the languages they need it, we would see a complete transformation of our society. The status quo has not been working. To quote *Friday Night Lights*, we need clear eyes, warm hearts, and to talk about these issues head on.

In our modern world, there are a million legal issues people face. The law touches our lives all the time. We live in a "law-thick world," to quote legal scholar Professor Gillian Hadfield. I think of that as molasses. So many parts of our daily lived experiences involve legal issues. You have a dispute with your neighbor and are being harassed. You worked overtime last week, and your boss did not pay you. There is a diagnostic test you really need, but your doctor refuses to give it to you. These are all legal issues. Too often, people do not have these legal issues addressed.

Professor Rebecca Sandefur calls these problems *justiciable* events, events with civil legal aspects, having civil legal issues, and having consequences shaped by civil law. Research shows that a lot of these justiciable events are not resolved at all. What can happen when we have legal issues this consequential unaddressed or addressed insufficiently? The results can be catastrophic.

We see some of the symptoms of this in our trial courts. The crisis comes into the trial courts every single day. Retired New York Court of Appeals Chief Judge Jonathan Lippmann once said that state courts are the emergency rooms for society's ailments. As a former trial court judge, I think that is a pretty apt description. He accurately observed that almost all of society's problems and challenges trickle into the courtroom.

Despite the fact that there are all these potential crisis-level issues, in roughly three-quarters of the 20 million civil cases filed every year, one side or the other does not have representation. Some folks may say, well what is the big deal? These people have made their way to court, and it is your job to make a fair decision. But it does matter; it really does matter. There have been a range of studies one in a variety of areas of law. And they all reach the same conclusion that having representation matters; it leads to better outcomes.

Just last week, we heard an update about the Shriver pilot project, which provides counsel to folks in a lot of critical civil areas when they otherwise would not have had counsel.[30] Most of the representation is in housing cases. The report found that when you compare folks represented in Shriver cases, they had better outcomes, particularly with respect to eviction issues.[31] They were significantly more likely to retain possession of their homes. And significantly more likely to avoid lock out and critically avoid having an eviction on their record. So, representation matters.

These "lawyerless courts" are the tip of the iceberg. Beyond them, there are millions of people who never make their way into court, yet, who have serious legal issues that need to be resolved. The California justice gap survey found that 55 percent of people faced at least one legal issue per year.[32] The rate is higher the poorer you are, but 85 percent of all Californians received no help or inadequate help. Not having any legal help is a problem across income levels. It increases disparities and crosses income levels. Most middle-income people in our state cannot afford to pay market rates in our state, period.

Professor David Freeman Engstrom opened the conference this morning by talking about the problem this poses for our democracy. If you think about certain rights that we are presumed to have, if we do not have any way to vindicate those rights, how meaningful are those rights to begin with? This is an existential problem, hence, why we need to take steps to address it.

One of the silver linings of the pandemic was that many courts were allowed to improve their technology in the courtroom. What this meant in my courtroom was that I was able to pull up the Judicial Council forms. I showed folks how to pursue their claims. I would often do that at the beginning of court sessions, where I knew there was an issue with service. We are fortunate to have self-help centers as well to help people with these forms.

There is no debate that lawyers are a key part of representing people and helping people vindicate their rights. I grew up with my grandmother. She realized that I should be enrolled in school. She took me to the local elementary school. She put two pigtails in my hair and a middle part. We got to the school there and they asked my grandmother if she was my legal guardian. Because she was not my legal guardian, she could not enroll me in school. I was crestfallen. Somehow, my grandmother made her way to a legal aid office and the attorney there prepared a simple power of attorney document for her. That document was like a magic wand. I probably would not be a Justice on the California Supreme Court if he did not do that work for me and my grandmother.

My family was fortunate that day. We found legal help. But it is quite clear that the number of people who need legal help far surpasses the number of professionals who are allowed to provide it.

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[30] Sargent Shriver Civil Counsel Act, 2009 California Legislative Service, Ch. 457, 2009.

[31] Judicial Council of California, "Shriver Projects Produce Better Results for Many Low-Income Californians in Eviction Cases," June 2020.

[32] State Bar of California, *The California Justice Gap: Measuring the Unmet Civil Legal Needs of Californians*, November 2019.

We have countless examples from the federal and state levels where people who are not lawyers are providing legal services. These are people who are not lawyers but are helpers. We heard about the community justice model. We heard about the medical-legal partnerships here in California. I don't think any of these are a silver bullet, and it is going to take all of us, and many more people, coming together to make a real dent. Notwithstanding the complicated politics, the lobbying, the administrative structure. In California we have a very different structure. Our state supreme court, for example, is not able to create a new structure, so we need to work in partnership.

Technology also has to be a part of this work. We heard some examples this morning of technology tools helping us reach people and scale the work. I am really excited about some of the work our legal aid programs are doing. Example: Inner City Law Center. Technology allows us to reach people in other parts of our state we would not otherwise be able to reach. Again, another reason why we are excited about technology.

What will it take to move us closer to this goal? I think it will take leadership, including from the bench, the bar, communities, legal services agencies, academia. So, we need leadership. But we also need good faith, innovation, collaboration and partnerships, and robust legal aid funding. We also need everyone to be proactive in the pursuit of justice. We cannot wait. I want to leave you with one of my favorite quotes: "Those who say it can't be done are usually interrupted by others doing it." James Baldwin, *Notes from a Native Son*. I want to thank you all for being interrupters. Let's interrupt this justice gap!

Chapter 8

Conclusion

The largest overarching theme of the conference discussions was the need for more research and scholarship devoted to the understanding of the justice gap and the potential and actual impacts of emerging policy reforms meant to address that gap. The discussions also clarified the importance of stakeholder engagement as California considers potential policy reforms for legal services regulation.

Appendix A

Conference Agenda

The conference agenda is presented here in its entirety and unedited.

Stanford Law School | Deborah L. Rhode Center on the Legal Profession

RAND Institute for Civil Justice

UCLA School of Law

Berkeley Law | Civil Justice Research Initiative

Access to Justice in California: Challenges and Policy Innovations

RAND Corporation, Santa Monica, California
Friday, January 26, 2024

7:45 a.m. *Continental Breakfast and Networking*

8:00 a.m. **Welcome and Opening Remarks**
Access to Justice: Foundational Insights

James M. Anderson, Director, RAND Institute for Civil Justice
David Freeman Engstrom, LSVF Professor in Law; Co-Director, Deborah L. Rhode Center on the Legal Profession, Stanford Law School

8:30 a.m. **Panel 1: Expanding the Supply: Allied Legal Professionals**

Moderator: Hon. Bridget Mary McCormack, President and CEO, American Arbitration Association-International Centre for Dispute Resolution
Panelists:
Silvia Argueta, Executive Director, Legal Aid Foundation of Los Angeles
Christy Carpenter, Limited License Legal Technician, WA
Alicia Mitchell-Mercer, Director of Strategic Projects, North Carolina Justice for All Project
Hon. Ioana Petrou, Justice, California First District Court of Appeal

9:45 a.m. *Break*

10:00 a.m. **Panel 2: Harnessing Capital and Innovation: Entity Licensing**

Moderator: Eric Helland, Senior Economist, RAND Corporation; William F. Podlich Professor of Economics, Claremont McKenna College
Panelists:
Danny Abir, Managing Partner, ACTS Law
Don Bivens, Chair, Arizona Board of Non-Legal Service Providers
Andrea Donahue, Program Director, Office of Legal Services Innovation
Erin Levine, Esq., CEO and Founder, Hello Divorce
Jack L. Rives, President, Rocket Legal Professional Services, Rocket Lawyer

11:15 a.m. *Break*

11:30 a.m. **Panel 3: Expanding the Impact: Justice Workers in Local Communities**

Moderator: Sacha Steinberger, Founder and Co-Executive Director, Legal Link
Panelists:
Hayley Cousin, CAPP Program Director, Timpanogos Legal Center
Leigh Ferrin, Program Director, OneJustice
Nikole Nelson, CEO, Frontline Justice
Devin Shakespear, CAPP Certified Victim Advocate, Kane County Utah Attorney

12:45 p.m. *Lunch*

Keynote: Hon. Kelli M. Evans, Associate Justice, California Supreme Court

2:00 p.m. **Panel 4: The Doctrinal Horizon: UPL, First Amendment, and Antitrust**

Moderator: Nora Freeman Engstrom, Ernest W. McFarland Professor of Law; Co-Director, Deborah L. Rhode Center on the Legal Profession, Stanford Law School
Panelists:
Maggie Goodlander, Deputy Assistant Attorney General, U.S. Department of Justice Antitrust Division
Brenda Murphy, President, NAACP South Carolina State Conference
Daniel B. Rodriguez, Harold Washington Professor of Law, Northwestern University Pritzker School of Law
Joe Schottenfeld, Assistant General Counsel, NAACP

3:15 p.m. *Break*

3:30 p.m. **Panel 5: Access to Justice and Consumer Protection: Perspectives from the Executive and Legislative Branches**

Moderator: David Freeman Engstrom, LSVF Professor of Law; Co-Director, Deborah L. Rhode Center on the Legal Profession
Panelists:
Francesca Gessner, Chief of Policy, Office of the Attorney General Rob Bonta, California Department of Justice
Hon. Rick Zbur, Democratic Caucus Chair, California Assembly

4:45 p.m. **Closing Remarks**
David Freeman Engstrom

5:00 p.m. *Closing Reception*

Appendix B

Rhode Center Policy Brief, Rethinking Regulation of Legal Services: How the Status Quo Contributes to the Access to Justice Crisis

Stanford Law School's Deborah L. Rhode Center on the Legal Profession provided five policy briefs as read-ahead material for the conference. The policy briefs do not necessarily represent the views and opinions of all conference sponsors.

We have reprinted these briefs in their entirety and unedited in Appendixes B through F with the permission of the Deborah L. Rhode Center on the Legal Profession.

POLICY BRIEF | JANUARY 2024

Stanford LawSchool | Deborah L. Rhode Center on the Legal Profession

RETHINKING REGULATION OF LEGAL SERVICES:

How the Status Quo Contributes to the Access to Justice Crisis

AT A GLANCE:

- The **demand** for legal services in the United States far exceeds the supply of lawyers.
- As a result, a large percentage of civil litigants —particularly indigent individuals—are **left without representation or legal advice**, causing many to refrain from pursuing their legal claims altogether.
- The justice gap is partly attributable to **regulations that prohibit non-lawyers from giving legal advice and ban fee-sharing** between lawyers and non-lawyers.

The Landscape of Legal Services

Every day, millions of Americans experience civil legal problems.[1] Between 2017 and 2020, 66 percent of Americans faced one or more legal problems.[2] Among low-income Americans, the numbers are even more staggering. In 2021, 74 percent of low-income households grappled with at least one legal problem.[3] Most commonly, these are housing, domestic violence, debt, and healthcare issues, where safety and shelter are at stake.[4]

Because the supply of lawyers to meet this need for legal services is limited, the justice gap is wide.[5] Lawyers are costly and often inaccessible, with the majority of their services going to corporations and businesses, rather than ordinary citizens.[6] Meanwhile, legal aid organizations lack the resources to serve all who seek their assistance. Every year, organizations funded by the Legal Services Corporation receive 1.9 million requests for legal assistance and must deny almost half.[7] As a result, low-income Americans receive insufficient legal help, or none at all, for 92 percent of their problems.[8]

1 Legal Servs. Corp., The Justice Gap: The Unmet Civil Legal Needs of Low-Income Americans 13 (2022).

2 Inst. for the Advancement of the Am. Legal Sys. & The Hague Inst. for Innovation of Law, Justice Needs and Satisfaction in the United States of America 29 (2021).

3 Legal Servs. Corp., *supra* note 1, at 8.

4 Inst. for the Advancement of the Am. Legal Sys. & The Hague Inst. for Innovation of Law, *supra* note 2, at 35; Legal Servs. Corp., *supra* note 1, at 8.

5 The Legal Services Corporation defines the justice gap as "the difference between the civil legal needs of low-income Americans and the resources available to meet those needs." Legal Servs. Corp., *supra* note 1, at 14.

6 Gillian K. Hadfield & Jamie Heine, *Life in the Law-Thick World: The Legal Resource Landscape for Ordinary Americans*, *in* Beyond Elite Law 21, 22 (Gillian K. Hadfield & Jamie Heine eds., 2016).

7 Legal Servs. Corp., *supra* note 1, at 9.

8 *Id.* at 19.

Faced with this bleak legal services landscape, many choose to do nothing about their legal issues—a course of inaction that some scholars have called "lumping it."[9] Alternatively, many litigants in the civil system proceed unrepresented. A 2012 study of state courts found that 76 percent of cases had at least one self-represented party, typically the defendant.[10] In some states, as many as 80 or 90 percent of litigants do not have a lawyer.[11] Meanwhile, plaintiffs in some of the most common types of cases—debt collection and eviction—are often corporations and repeat players, giving them a significant advantage in the proceedings.[12]

The consequences of self-representation are significant. Legal advice about basic procedural requirements could mean that a judge reaches the merits of a case, rather than dismissing it outright.[13] And in housing and debt collection lawsuits, legal advice about potential defenses could be the difference between someone keeping or losing their salary or home.[14]

The justice gap runs deeper than the scarcity of lawyers supplying affordable services or insufficient legal aid funding. One study reported that, even if every lawyer in the United States did 100 more hours of pro bono work every year, there would be only 30 minutes of legal help per dispute-related civil legal problem per household.[15] Further, even if $40 billion more were allocated to legal aid, that would still only mean an hour of attorney legal assistance for every household experiencing a legal problem.[16] Recognizing that this crisis cannot be solved by increasing access to lawyers alone, access-to-justice advocates have begun to take a closer look at regulations of the legal profession.

The Role of Regulation

Notable contributors to the justice gap include underfunded state civil justice systems, the lack of affordable lawyers, the complexity of legal proceedings, and decreased public investment in legal aid.[17] Each of these issues is exacerbated by the regulations that govern the legal profession, which decrease competition in the legal services arena, drive up prices, and block access to basic legal assistance for unrepresented litigants. Two such rules ban the unauthorized practice of law and fee sharing with nonlawyers. The contours and consequences of both are discussed below.

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9 Marc Galanter, *Why the "Haves" Come out Ahead: Speculations on the Limit of Legal Change*, 9 L. & Soc'y Rev. 95, 124 (1974); *see also* Rebecca L. Sandefur, *The Importance of Doing Nothing: Everyday Problems and Responses of Inaction*, *in* Transforming Lives: Law and Social Process 112, 114-17 (Pascoe Pleasence et al. eds., 2007).

10 Nat'l Center for State Cts., Civil Justice Initiative: The Landscape of Civil Litigation in State Courts iv (2015).

11 Jessica K. Steinberg, *Demand Side Reform in the Poor People's Court*, 47 Conn. L. Rev. 741, 749-50 (2015).

12 Nat'l Center for State Cts., *supra* note 10, at 35.

13 Steinberg, *supra* note 11, at 744.

14 Nat'l Center for State Cts., *supra* note 10, at v, vi.

15 Hadfield & Heine, *supra* note 6, at 50.

16 Gillian K. Hadfield & Deborah L. Rhode, *How to Regulate Legal Services to Promote Access, Innovation, and the Quality of Lawyering*, 67 Hastings L.J. 1191, 1193 (2016).

17 *See generally* Deborah L. Rhode, *Access to Justice: A Roadmap for Reform*, 41 Fordham Urb. L.J. 1227 (2014) (describing causes of the justice gap).

Unauthorized Practice of Law Statutes

Unauthorized practice of law (UPL) statutes prohibit non-lawyers from practicing law. Though the language of these prohibitions vary by state, they have widely been interpreted to prevent non-lawyers from performing tasks such as giving legal advice, advocating on behalf of clients in court, or assisting with the preparation of legal documents.[18]

Supporters of UPL statutes primarily argue that such regulations are necessary for consumer protection, citing concerns about the provision of incorrect legal advice.[19] Opponents counter that a review of UPL cases reveals this critique is not grounded in reality.[20] Far from protecting consumers, they view UPL statutes as protectionist measures based on an unfounded assumption that lawyers alone can provide competent legal services.[21] They point to other countries with no comparable regulations, where non-lawyers achieve case outcomes and client satisfaction at the same level as, if not better than, lawyers.[22] And they also note that, in the limited areas where, currently, non-lawyers in the United States are permitted to offer legal representation, the quality of these services appears comparable to that provided by lawyers.[23]

Model Rule 5.4

State laws based on Model Rule of Professional Conduct 5.4 ban fee sharing between lawyers and non-lawyers. This in effect means that law firms cannot partner with, nor receive funding from, individuals who are not licensed to practice law.[24] Supporters of this ban argue that fee-sharing arrangements would inhibit "the lawyer's professional independence of judgment" by making lawyers beholden to individuals other than their clients.[25] They fear that lawyers would sacrifice the interests of their clients for those of their non-lawyer partners or funders. Opponents counter that these concerns are overblown and can be mitigated by putting proper safeguards in place for de-regulation.[26] They argue that non-traditional partnerships between lawyers and non-lawyers could

18 Lauren Sudeall, *The Overreach of Limits on "Legal Advice,"* 131 YALE L.J.F. 637, 640 (2022); *see also* KY. SUP. CT. R. 3.020 (1978) ("The practice of law is any service rendered involving legal knowledge or legal advice."); TEX. GOV'T. CODE § 81.101 (1999) (defining the practice of law as "the giving of advice or the rendering of any service requiring the use of legal skill or knowledge"); MONT. CODE ANN. § 37-61-201 (2009) (defining the practice of law as engaging "in the business and duties and performs acts, matters, and things that are usually done or performed by an attorney at law in the practice of that profession").

19 *See, e.g.*, F.M. Apicella, John A. Hallbauer & Robert H. Gillespy II, *Keeping Standards High Protects the Public*, 77 A.B.A. J. 37, 37 (arguing that the provision of legal services by non-lawyers "would result in the most unwary, guileless members of the public being incompetently represented and advised, if not victimized and defrauded").

20 *See* Deborah L. Rhode & Lucy Buford Ricca, *Protecting the Profession or the Public? Rethinking Unauthorized Practice Enforcement*, 82 FORDHAM L. REV. 2587, 2604 (2014) (finding that fewer than a quarter of UPL cases mention specific instances of harm that resulted from the incorrect advice or exploitative practices of a non-lawyer).

21 *See, e.g.*, Bruce A. Green & David Udell, *What's Wrong With Getting a Little Free Legal Advice?*, N.Y. TIMES (March 17, 2023), https://www.nytimes.com/2023/03/17/opinion/lawyers-debt-monopoly-advice.html; David Freeman Engstrom & Nora Freeman Engstrom, *Why Do Blue States Keep Prioritizing Lawyers Over Low-Income Americans?*, SLATE (Nov. 17, 2022), https://slate.com/news-and-politics/2022/10/blue-states-legal-services-lawyers-fail.html.

22 Rhode, *supra* note 17, at 1232; Rebecca L. Sandefur, *Legal Advice from Nonlawyers: Consumer Demand, Provider Quality, and Public Harms*, 16 STAN. J. C.R. & C.L. 283, 294-95, 304 (2020).

23 Nora Freeman Engstrom, *Effective Deregulation: A Look Under the Hood of State Civil Courts*, JOTWELL (Oct. 31, 2022) (reviewing Jessica K. Steinberg, Anna E. Carpenter, Colleen F. Shanahan & Alyx Mark, *Judges and the Deregulation of the Lawyer's Monopoly*, 89 FORDHAM L. REV. 1315 (2021)), https://legalpro.jotwell.com/effective-deregulation-a-look-under-the-hood-of-state-civil-courts/.

24 MODEL RULES OF PRO. CONDUCT r. 5.4 (AM. BAR ASS'N 2023).

25 MODEL RULES OF PRO. CONDUCT r. 5.4 CMT. (AM. BAR ASS'N 2023).

26 Hadfield & Rhode, *supra* note 16, at 1195, 1216.

increase access to legal services by promoting innovation in the legal profession (through support from a wider range of investors) and making legal services more affordable.[27]

Revisiting Regulation as a Solution to the Justice Gap

In recent years, state courts and legislatures concerned by the justice gap have sought to increase access to legal services by loosening restrictions on non-lawyers qualified to provide legal advice. While some states are still in the early stages of considering and advancing such proposals, others have implemented them in various forms. The accompanying policy papers, previewed below, provide an overview of these policies, offer case studies of their implementation, and step through the challenges and benefits they present:

1. **Legal Paraprofessionals:** Since 2012, non-lawyers in some states have been able to earn their license to provide legal services. Widely known as legal paraprofessionals, these advocates assist clients with a limited number of legal issues, offering advice and performing tasks such as in-court representation and document preparation. Today, seven states—Arizona, Colorado, Utah, Minnesota, New Hampshire, Oregon, and Washington—have launched paraprofessional programs and many others are considering similar proposals.

2. **Community Justice Workers:** In several states, including Alaska and Delaware, trained non-lawyers supervised by community organizations can provide limited legal services to indigent individuals. Though they are not licensed like paraprofessionals, their work is possible due to waivers to UPL rules approved by states' supreme courts. Known in some places as Community Justice Workers, they help clients with pleadings, court appearances, and settlement negotiations.

3. **Entity Regulation:** In Arizona and Utah, the state supreme courts have established the authorization and regulation of legal service entities owned in whole or in part by nonlawyers (Arizona and Utah) and/or offering services provided by nonlawyers and/or technology (Utah only). Known as entity regulation, this reform approach seeks to spur innovation and the scaled provision of legal services through the authorization of entities deploying new (to legal services, at least) corporate forms and financing and interdisciplinary leadership and expertise. In Utah, the additional option of deploying technology and nonlawyer providers within regulated entities seeks to allow increased innovation and diversity of service options.

4. **First Amendment, Antitrust, and the Unauthorized Practice of Law:** Legal services providers and non-lawyer advocates have challenged the enforcement of unauthorized practice of law on legal grounds. Non-lawyers have argued that UPL rules violate their First Amendment freedoms of speech and association. Other groups—most prominently, the Department of Justice—argue that UPL rules violate antitrust principles, preserving a lawyers' monopoly that prevents competition and undermines access to affordable legal services.

27 Gillian K. Hadfield, *Legal Markets*, 60 J. Econ. Literature 1264, 1279-81 (2022).

Appendix C

Rhode Center Policy Brief, Rethinking Regulation of Legal Services: Authorizing Allied Legal Professionals

Stanford Law School's Deborah L. Rhode Center on the Legal Profession provided five policy briefs as read-ahead material for the conference. The policy briefs do not necessarily represent the views and opinions of all conference sponsors. The briefs are presented here in their entirety and unedited with the permission of the Deborah L. Rhode Center on the Legal Profession.

POLICY BRIEF | JANUARY 2024

Stanford LawSchool | Deborah L. Rhode Center on the Legal Profession

RETHINKING REGULATION OF LEGAL SERVICES: Authorizing Allied Legal Professionals

AT A GLANCE:

- **Unauthorized practice of law statutes** in many states prevent qualified non-lawyers from offering legal assistance.
- Revised restrictions on the practice of law have led to the rise of legal paraprofessional programs—known as the "**legal system's equivalent of a nurse practitioner**."
- **Seven states** have launched paraprofessional programs and multiple other states are considering reforms. In Ontario, Canada, where a similar program was established in 2006, there are over 10,000 paraprofessionals.
- Legal paraprofessional programs have likely **increased access to legal services** for civil litigants who cannot afford the high cost of lawyers, but such programs have struggled to attract applicants and maintain political support.

Executive Summary

In response to the widespread shortage of legal services, states have begun loosening restrictions on who can practice law.[1] Such reforms allow non-lawyers who meet certain educational and training requirements to assist individuals, many of whom would otherwise go unrepresented and thus navigate a complex legal system alone, or not pursue their legal claims at all.[2] Known in some states as legal paraprofessionals, these non-lawyers have been called the "legal system's equivalent of a nurse practitioner."[3] Whereas Community Justice Workers are exempted from unauthorized practice of law rules, paraprofessionals are licensed to practice law.

States with paraprofessional programs have significant protections in place to ensure the non-lawyers are competent and well-versed in the relevant law. In addition to rigorous qualifications for licensure, the duties and domain of paraprofessionals are carefully circumscribed. States permit paraprofessionals to assume a limited set of responsibilities, ranging from reviewing and filing documents and providing legal advice to representing clients at depositions and settlement conferences.[4] Some states also allow paraprofessionals to appear in court, either by fully representing their clients or by providing them limited support during proceedings.[5] Paraprofessionals can only perform such tasks in certain cases—most commonly family, housing,

1 Gillian K. Hadfield & Jamie Heine, USC Gould Center for Law and Social Science, Life in the Law-Thick World: The Legal Resource Landscape for Ordinary Americans 37 (2015).

2 David Freeman Engstrom, Lucy Ricca, Graham Ambrose & Maddie Walsh, Legal Innovation After Reform: Evidence From Regulatory Change 12 (2022).

3 News Release, Arizona Sup. Ct., Arizona Supreme Court Makes Generational Advance in Access to Justice (Aug. 27, 2020).

4 *See, e.g.*, Ariz. Jud. Code § 7-210 (2023); H.B. 1343, 2022 Reg Sess. (N.H. 2022).

5 *See, e.g.*, Minn. Ct. R. 12.01 (2021).

and consumer debt disputes.[6] States regulate paraprofessionals as much as—or more than—lawyers, imposing clear ethical guidelines and requirements such as continuing legal education, attorney supervision, and pro bono hours.[7]

As of December 2023, seven states—including Arizona, Colorado, Utah, Minnesota, New Hampshire, Oregon, and Washington—and Ontario, Canada have launched paraprofessional programs.[8] Multiple other states—including Michigan, North Carolina, and Texas—are considering similar reforms.[9] The California State Bar working group on paraprofessional licensing produced a report and recommendations on advancing a pilot program in May of 2022; in September of 2022, however, ASB 2958 was signed into law and suspended the State Bar's work in this area until 2025.[10]

Early reports show that paraprofessional programs may help improve access to legal services, particularly for middle class Americans who cannot afford attorneys but can afford paraprofessionals.[11] However, states have struggled with the low number of non-lawyer applicants, the cost of the programs, and political resistance from state bar associations.[12] State implementation of paraprofessional programs highlights the promise of non-lawyer reforms and reveals crucial lessons for their success going forward.

The sections below contain case studies from Arizona, Minnesota, Washington, and Ontario, which have implemented non-lawyer practitioner programs (at least for a time), and then summarizes some of the successes and challenges identified thus far.

Case Studies

ARIZONA

The high cost of legal services and limited number of lawyers contribute to a significant justice gap in Arizona, where there are an average of 2.1 lawyers per 1,000 residents—among the fewest lawyers per capita of any state in the country and roughly half the

6 Inst. for the Advancement of the Am. Legal Sys., The Landscape of Allied Legal Paraprofessional Programs in the United States 20 (2022).

7 *Id.* at 80.

8 *See, e.g.*, Oregon State Bar, Paraprofessional Licensing Implementation Committee: Final Report (2022); Order Implementing Legal Paraprofessional Project, ADM19-8002 (Minn. S. Ct. 2020); Arizona Sup. Ct., *supra* note 3, at 1; H.B. 1343, 2022 Reg Sess. (N.H. 2022); In the Matter of the Adoption of New APR 28—Limited Practice Rules for Limited License Legal Technicians, No. 25700-A-1005 (Wash. S. Ct. 2012); Colo. Ct. R. 207.1 (2023); Utah Code Jud. Admin 14-802 (2023).

9 *See, e.g.*, *Accessible Legal Services Initiative*, N.C. Justice for All Project, https://www.ncjfap.org/2023-legislative-proposal-to-ncga; Creation of the Justice For All Commission, ADM File No. 2020-32 (Mich. S. Ct. 2021); Tex. Access to Legal Servs. Working Grp., Report and Recommendations (2023); Hon. Elizabeth A. Bozzuto, Patrick T. Clendenen, Hon Ndidi N. Moses & Kyle LaBuff, *Task Force Final Report,* 32 Conn. Law. 20, 21-23 (2022); Ad Hoc Licensed Legal Technicians Workgroup, Innovation to Address the Access to Justice Gap (2019); Regul. Innovation Working Grp. of the Comm'n to Reimagine the Future of New York's Courts, Report and Recommendations of the Working Group on Regulatory Innovation (2020).

10 California State Bar, California Paraprofessional Program Working Group: Report and Recommendations (2021); California State Bar, Open Session Agenda Item: Proposed Amendments to Final California Paraprofessional Program Working Group Recommendations and Rules (2022).

11 *See, e.g.*, Thomas M. Clarke & Rebecca L. Sandefur, Am. Bar Found. & Nat'l Ctr For State Courts, Preliminary Evaluation of the Washington State Limited License Legal Technician Program 15 (2017); Standing Comm. for Legal Paraprofessional Pilot Project, Interim Report and Recommendations to the Minnesota Supreme Court 6 (2023).

12 Jason Solomon & Noelle Smith, The Surprising Success of Washington State's Limited License Legal Technician Program 2 (2021).

national average.[13] In response to this access crisis, in 2018 the Arizona Supreme Court established the Task Force on Delivery of Legal Services to consider whether non-lawyers should be allowed to provide legal services.[14] After careful and diligent study, the Task Force recommended the development of a "tier of nonlawyer legal service providers."[15] In 2020, the Court voted unanimously in favor of the proposal, modifying the rules regulating the practice of law and allowing qualifying non-lawyers in Arizona to provide limited legal services.[16] In a public opinion survey conducted by the Court, 80.3 percent of responding members of the public supported the reform.[17]

To qualify to be a legal paraprofessional (LP), non-lawyers can pursue an experiential track, which requires that they have completed seven years of full-time substantive law-related experience within the decade preceding the application, or an educational track, which requires they have a combination of a degree from an accredited institution and specialized coursework.[18] Applicants must also pass examinations, which were specially designed by a human resource management firm to evaluate paraprofessional candidates, in each area of law they seek to practice.[19] Possible practice areas include family law, juvenile court, state administrative law, and criminal law matters where incarceration is not at risk.[20] Once licensed, LPs can assist with tasks including preparing and signing legal documents, providing specific advice, and appearing before a court on behalf of a party.[21] As of July 2023, there were 43 licensed paraprofessionals in Arizona.[22] There have been two reported complaints against paraprofessionals since the program began.[23]

MINNESOTA

In 2020, the Minnesota Supreme Court authorized the Legal Paraprofessional Pilot Project, permitting non-lawyers to provide legal services under the supervision of licensed attorneys.[24] Applicants for the Pilot Project must meet certain education and work experience requirements and enter into agreements with licensed attorneys who will supervise their legal services.[25] Once certified, paraprofessionals are

13 Am. Bar Ass'n, Profile of the Legal Profession 20-21 (2023).

14 Arizona Sup. Ct. Task Force on the Delivery of Legal Servs., Report and Recommendations 1 (2019).

15 *Id.* at 39.

16 News Release, Arizona Sup. Ct., *supra* note 3, at 1; *Access to Legal Services*, Azcourts.gov, https://www.azcourts.gov/accesstolegalservices (last visited Dec. 22, 2023).

17 Arizona Sup. Ct. Task Force on the Delivery of Legal Servs., State of Arizona Public Opinion Survey 13 (2020).

18 Ariz. Jud. Code § 7-210 (2023).

19 Bd. of Nonlawyer Legal Servs. Providers, Annual Report to the Arizona Supreme Court 4 (2021).

20 *Legal Paraprofessionals Questions & Answers*, Azcourts.gov, https://www.azcourts.gov/accesstolegalservices/Questions-and-Answers/lp.

21 Ariz. Jud. Code § 7-210 (2023).

22 Arizona Jud. Branch, Legal Paraprofessional Program Directory (2023).

23 Bd. of Nonlawyer Legal Servs. Providers, Annual Report on the Status of the Legal Paraprofessional Program 6 (2022); Bd. of Nonlawyer Legal Servs. Providers, Annual Report on the Status of the Legal Paraprofessional Program 6 (2023).

24 Order Implementing Legal Paraprofessional Project, ADM19-8002 (Minn. S. Ct. 2020).

25 *Id.*

permitted to assist clients with select housing and family matters.[26] As of September 2023, there were 30 licensed paraprofessionals in the state.[27]

An interim report by the Legal Paraprofessional Pilot Project Standing Committee found the project has started off strong, delivering quality legal services and increasing access to justice. The eight supervising attorneys who responded to the Committee's survey reported that their legal professionals were "careful, serious, and excellent."[28] Further, information gathered from the paraprofessionals showed half of their clients would have otherwise gone unrepresented.[29] Given the small sample size of the report (it was completed when there were only 13 certified paraprofessionals), more in-depth study is necessary.[30] The Pilot Project is set to end on March 31, 2024, when the Judicial Branch will conduct an evaluation and determine whether to implement it in the long-term.[31]

WASHINGTON

A 2003 study in Washington State found that low-income residents faced more than 85 percent of their legal problems without a lawyer.[32] Cognizant of this reality, the Washington State Supreme Court in 2012 approved the Practice of Law Board's rule permitting the provision of legal assistance by non-lawyers after nearly a decade of proposals and revisions.[33] Washington became the first state to license independent legal paraprofessionals.[34] Limited License Legal Technicians (LLLTs) were permitted to assist clients in family law cases by conducting tasks such as preparing and reviewing legal documents, locating necessary records, and responding to direct questions in court.[35]

The State required applicants to qualify by education, including both an associate degree and a designated number of credits of legal coursework.[36] In addition, every candidate was required to complete courses in family law, pass three examinations, and complete 3,000 hours of substantive legal work supervised by an attorney.[37] This experiential requirement was later modified to 1,500 hours.[38]

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26 *Id.*

27 Minn. Jud. Branch, Roster of Approved Legal Paraprofessionals (2023).

28 Standing Comm. for Legal Paraprofessional Pilot Project, *supra* note 11, at 6.

29 *Id.*

30 *Id.* at 5.

31 *Legal Paraprofessional Pilot Project*, Minn. Jud. Branch, https://www.mncourts.gov/Help-Topics/Legal-Paraprofessional-Pilot-Project.aspx (last visited Dec. 22, 2023).

32 Civil Legal Needs Study Update Comm., Civil Legal Needs Study Update 15 (2015).

33 Lacy Ashworth, *Nonlawyers in the Legal Profession: Lessons from the Sunsetting of Washington's LLLT Program*, 74 Ark. L. Rev. 689, 699 (2022).

34 Katherine Long, *In Washington, There's a Low-Cost Alternative to Hiring (or Becoming) a Lawyer,* Seattle Times (Mar. 5, 2018), https://www.seattletimes.com/education-lab/in-washington-theres-a-low-cost-alternative-to-hiring-or-becoming-a-lawyer/.

35 In the Matter of the Adoption of New APR 28—Limited Practice Rules for Limited License Legal Technicians, No. 25700-A-1005 (Wash. S. Ct. 2012).

36 *Id.*

37 *Id.*; Washington State Bar Ass'n Regul. Servs. Dep't, LLLT Application for Licensing.

38 Letter from Debra L. Stephens, C.J., Wash. St. S. Ct., to Stephen R. Crossland, Chair, Ltd. License Legal Technician Bd., Rajeev Majumdar, President, Wash. State Bar Ass'n & Terra Nevitt, Executive Director, Wash. St. Bar Ass'n (July 9, 2020).

A preliminary evaluation of the program conducted by the National Center on State Courts found that the LLLTs "offer[ed] an innovative way to extend affordable legal services to a potentially large segment of the public that cannot afford traditional lawyers."[39] Yet the Washington Supreme Court voted to sunset the program in 2020, citing "the overall costs of sustaining the program and the small number of interested individuals."[40] Studies analyzing the LLLTs have attributed this outcome to political and structural problems, discussed below. There are currently 81 active licensed LLLTs, who have been allowed to continue their work despite the program's termination.[41]

ONTARIO

In 2006, the Law Society Act tasked the Law Society of Ontario, the province's equivalent of a bar association, with regulation of the paralegal profession.[42] Although there were already paralegals in Ontario prior to regulation, there was no standard of competence, raising concerns about harm to clients and undermining the reputation of those paralegals who were hard-working and knowledgeable.[43] A Paralegal Standing Committee in the organization proposed a regulatory model to ensure all paralegals would be qualified.[44]

To become licensed, applicants are required to meet certain educational requirements and complete an examination.[45] Those who were already providing paralegal services prior to regulation were able to opt for a grandparenting process so long as they applied within six months of the scheme's establishment.[46] They were subject to all the same application components, except for the educational requirements.[47]

Today, there are over 10,000 paralegals providing legal services.[48] They are permitted to assist on matters such as landlord/tenant disputes, small claims court issues, and traffic offenses.[49] An early survey of 1,000 paralegal clients revealed a high degree of satisfaction with their services, with 74 percent of clients stating that they were satisfied or very satisfied with the services they had received, 87 percent stating that they would use the paralegal service again, and 68 percent stating that the paralegal services were of

39 Clarke & Sandefur, *supra* note 11, at 15.

40 Letter from Debra L. Stephens, C.J., Wash. St. S. Ct., to Stephen R. Crossland, Chair, Ltd. License Legal Technician Bd., Rajeev Majumdar, President, Wash. State Bar Ass'n & Terra Nevitt, Executive Director, Wash. St. Bar Ass'n (June 5, 2020).

41 *Legal Directory*, Wash. St. Bar Ass'n, https://www.mywsba.org/PersonifyEbusiness/LegalDirectory.aspx?ShowSearchResults=TRUE&LicenseType=LLLT&Page=1 (last visited Dec. 22, 2023).

42 *Paralegal Regulation Resources*, Law Soc'y of Ontario, https://lso.ca/paralegals/about-your-licence/paralegal-regulation-resources (last visited Dec. 22, 2023).

43 Law Soc'y of Upper Canada, Report to the Attorney General of Ontario Pursuant to Section 63.1 of the Law Society Act 10 (2012).

44 *Id.*

45 *Paralegal Licensing Process*, Law Soc'y of Ontario, https://lso.ca/Becoming-Licensed/Paralegal-Licensing-Process#paralegal-licensing-examination-4 (last visited Dec. 22, 2023).

46 Law Soc'y of Upper Canada, *supra* note 43.

47 *Id.*

48 Law Soc'y of Ontario, 2022 Annual Report 1 (2022).

49 Law Soc'y of Upper Canada, *supra* note 43, at 2.

good value.[50]

Success & Challenges

SUCCESSES

Low Cost. The legal services of paraprofessionals are overall more affordable than those of lawyers. In Washington, the average cost of a legal paraprofessional was $140 less per hour than a lawyer.[51] As a result, paraprofessionals may have provided legal services to those who would otherwise have gone without representation or assistance.[52] In research conducted as part of the Ontario government's five-year review of its paralegal program, almost half (46 percent) of survey respondents cited the lower cost of services as a reason for using a paralegal.[53]

Competent and Effective. Lawyers and clients who work with paraprofessionals report a high level of competence and knowledge.[54] Paraprofessionals not only enable clients to navigate the legal system but also may make court proceedings more efficient than if parties were unrepresented, ensuring that clients are prepared and limiting the introduction of irrelevant material.[55] Further, states with such programs have reported few, if any, complaints filed against the

50 *Id.* at 25.

51 Inst. for the Advancement of the Am. Legal Sys., *supra* note 6, at 54.

52 Solomon & Smith, *supra* note 12, at 1.

53 Law Soc'y of Upper Canada, *supra* note 43, at 25, 35 (2012).

54 *See, e.g.*, Standing Comm. for Legal Paraprofessional Pilot Project, *supra* note 11, at 6; Solomon & Smith, *supra* note 12, at 13; Clarke & Sandefur, *supra* note 11, at 9.

55 Solomon & Smith, *supra* note 12, at 14.

paraprofessionals. In Minnesota, for example, there have been no complaints since the program was established in 2021.[56] Meanwhile, Washington saw a total of two complaints in the seven years the program was in effect, and both were dismissed.[57] A representative from the Law Society of Ontario also reported that the percentage of complaints against paralegals and lawyers is the same each year.[58]

Expanding Opportunities. Legal technicians who taught courses to paraprofessionals in Washington State reported that students in such programs were more racially and socioeconomically diverse than most law school student populations.[59] This not only served to uplift underserved communities but also meant that non-lawyer representatives had experienced many of the problems that their clients faced.[60] They were therefore well positioned to connect with clients.

CHALLENGES

Low Licensee Numbers. There are currently fewer than 50 licensed paraprofessionals in each of the U.S. states that have implemented and maintained paraprofessional programs.[61] Studies have attributed the low numbers of applicants and licensees to the significant experiential and educational requirements imposed by paraprofessional programs and the expense of the licensure process, which can cost as much as $15,000.[62]

Lack of Lawyer Support. Lawyers' opposition to paraprofessional programs has stood in the way of the development or success of non-lawyer legal services. An assessment of Washington State's LLLTs revealed that one of the program's most fundamental issues was political. The program was funded by the Washington State Bar Association, which had many members that were hostile to the program.[63]

Limited Legal Arguments. Given the less comprehensive training of paraprofessionals in comparison to lawyers, they are likely not as capable of making sophisticated arguments in court filings or appearances. This may harm clients whose cases are more procedurally or legally complex than the routine claims that paraprofessionals often handle. And, while, ideally paraprofessionals will be able to seek advice or assistance from lawyers when unforeseen complications emerge, it is not clear whether such advice and assistance is consistently obtained.

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56 Standing Comm. for Legal Paraprofessional Pilot Project, *supra* note 11, at 3.

57 Solomon & Smith, *supra* note 12, at 9.

58 Inst. for the Advancement of the Am. Legal Sys., IAALS Comment Re: The California Paraprofessional Program Proposal.

59 Solomon & Smith, *supra* note 12, at 17-18.

60 *Id.*

61 *See, e.g.*, *Licensed Paralegal Practitioners*, Licensed Lawyer, https://www.licensedlawyer.org/Find-a-Lawyer/Licensed-Paralegal-Practitioners (last visited Dec. 22, 2023); Standing Comm. for Legal Paraprofessional Pilot Project, *supra* note 11, at 3; Arizona Jud. Branch, *supra* note 22.

62 Ashworth, *supra* note 33, at 702.

63 Solomon & Smith, *supra* note 12, at 23-24.

Appendix D

Rhode Center Policy Brief, Rethinking Regulation of Legal Services: Authorizing Community Justice Workers

Stanford Law School's Deborah L. Rhode Center on the Legal Profession provided five policy briefs as read-ahead material for the conference. The policy briefs do not necessarily represent the views and opinions of all conference sponsors. The briefs are presented here in their entirety and are unedited with the permission of the Deborah L. Rhode Center on the Legal Profession.

POLICY BRIEF | JANUARY 2024

Stanford LawSchool | Deborah L. Rhode Center on the Legal Profession

RETHINKING REGULATION OF LEGAL SERVICES:

Authorizing Community Justice Workers

AT A GLANCE:

- **In marginalized communities**, lawyers are often inaccessible due to financial, geographical, and cultural barriers.
- Community Justice Workers (CJWs) are **trained non-lawyers who provide limited legal services** under the supervision of community-based organizations. State law exempts them from unauthorized practice of law statutes.
- **Four states**, Alaska, Delaware, Utah, and Arizona, have implemented variations of CJW programs.
- Although empirical research on the impact of such programs is underway, early reports from legal aid organizations show that **CJWs have achieved positive outcomes** for their clients.

Executive Summary

Community Justice Workers (CJWs) have emerged as a grassroots solution to large amounts of unmet civil legal need. In four states, trained non-lawyers provide limited legal services to individuals facing civil legal issues, such as debt collection or eviction.[1] Whereas legal paraprofessionals must undergo a lengthy state-run licensure process in order to provide services without violating unauthorized practice of law rules, CJWs are issued a waiver that exempts them from enforcement of such rules so long as they operate under the supervision of an approved community-based or legal aid organization.[2] Their scope of practice is more limited than paraprofessionals and they must obtain the informed consent of clients, who agree to representation from a non-lawyer.[3]

Currently, Alaska, Delaware, Arizona, and Utah are the only states with laws that allow CJWs—or their equivalent—to provide legal services. However, such programs are being developed for Tribal communities in Oklahoma, Montana, Arizona and Minnesota.[4] Additionally, access to justice leaders from Alaska and the Legal Services Corporation have joined forces to establish Frontline Justice, an organization that seeks to support the creation and implementation of CJW programs across the country.[5]

1 Order Adopting Bar Rule 43.5, No. 1994 (Alaska 1994); Del. R. Sup. Ct. 57.1 (2023); In re: Application of Timpanogos Legal Center Certified Advocate Partners Program (Utah 2021); Authorizing a Housing Stability Legal Advocate Pilot Program, No. 2023-19 (Ariz. 2023).

2 *Id.*

3 *Id.*

4 *Director Rachel Rossi of the Office for Access to Justice Delivers Keynote Remarks at the Launch of the Alaska Legal Services Corporation's Community Justice Worker Resource Center*, Dep't of Just. Office of Pub. Affs. (Oct. 25, 2023), https://www.justice.gov/opa/speech/director-rachel-rossi-office-access-justice-delivers-keynote-remarks-launch-alaska-legal.

5 Frontline Justice, https://www.frontlinejustice.org/ (last visited Dec. 18, 2023).

As resources are directed to researching and implementing this solution, its efficacy and impact will become more known. For now, it is one promising way that states are seeking to serve low-income individuals in the civil legal system.

Case Studies

ALASKA

In addition to many of the access to justice challenges faced by other states, Alaska must contend with its vast geography (it is the size, in land mass, of the next three largest states combined) and the many barriers to legal services that brings.[6] These include sparsely populated areas, some of which are not accessible by road, and internet connectivity issues.[7] Alaska also boasts great diversity, with the highest proportion of indigenous population of any state in the country, adding another layer of complexity to the provision of legal services.[8] Exacerbating these challenges, there are only 1.13 legal aid attorneys per 10,000 Alaskans in poverty.[9]

In response in 2019, the Alaska Legal Services Corporation (ALSC) partnered with medical workers at Alaska Pacific University and Alaska Native Tribal Health Consortium to incorporate legal services into their community-based provision of healthcare services.[10] In 2019, they developed asynchronous training modules for volunteers on issues such as debt collection avoidance, estate planning, and domestic violence, working with local communities to ensure that the materials were culturally competent.[11] Known as Community Justice Workers, the volunteers assisted clients on cases specific to the practice area in which they were trained, working under the supervision of ALSC staff.[12] The CJW program showed early success, with over 100 trained non-lawyers achieving positive outcomes for clients in 74 of the 88 cases they handled.[13] Because the CJWs were not licensed to practice law, however, they could only help with a limited set of tasks, such as providing information for clients in court proceedings and advocating in administrative proceedings.[14]

Given the promise and popularity of the CJW program, ALSC sought a waiver from the Alaska Supreme Court that would allow CJWs to provide expanded legal services without violating unauthorized practice of law rules.[15] In November 2022, the Alaska Supreme Court issued the waiver as Alaska Bar Rule 43.5.[16] CJWs are permitted to work in the same legal areas as before the waiver and the program is

6 Stacey Marz, Mara Kimmel & Miguel Willis, Alaska's Justice Ecosystem: Building a Partnership of Providers 1 (2017).

7 *Id.* at 15.

8 Talk Justice Podcast, *Using Supervised Non-lawyers to Provide Limited-Scope Legal Assistance*, Legal Servs. Corp., at 4:09 (Jan. 17, 2023), https://legaltalknetwork.com/podcasts/talk-justice/2023/01/using-supervised-non-lawyers-to-provide-limited-scope-legal-assistance/.

9 Alaska Legal Servs. Corp., Introduction to Proposed Alaska Bar Rule 43.5, at 1 (2022).

10 *Id.*

11 Talk Justice Podcast, *supra* note 8, at 11:30.

12 Alaska Legal Servs. Corp., *supra* note 9.

13 *Id.* at 2.

14 *Id.*

15 *Id.*

16 Order Adopting Bar Rule 43.5, No. 1994 (Alaska 1994).

expanding into eviction defense and additional family law matters.[17] They are required to obtain their client's informed consent and have the supervision of an attorney.[18]

The program has already grown to over 325 volunteers and continues to expand.[19] So far, 100% of cases have resulted in outcomes that the client viewed as successful, such as restoring food stamps or drafting a will.[20] Though it is too early to judge their success, ALSC is currently partnering with the National Science Foundation on research to study the impact of CJWs.[21]

DELAWARE

A 2021 study of Delaware eviction proceedings found that approximately 2% of tenants had representation, compared to 86% of landlords.[22] This vast disparity was in large part due to the state's rules allowing landlords—but not tenants—to be represented by non-lawyers.[23] In response to this inequity, in 2021 the Delaware Supreme Court established the Committee to Examine Amendment of the Supreme Court Rules to Permit Non-Attorney Representation of Tenants in Residential Eviction Proceedings.[24] The Committee recommended a rule permitting non-lawyers to represent tenants in court, which the Delaware Supreme Court adopted in January 2022.[25] In November 2023, the state legislature also passed a law establishing a right to representation for renters facing eviction, which differs from a right to counsel in that it guarantees representation by a lawyer or qualified non-lawyer.[26]

In order to be eligible to become a tenant advocate, one must be an employee or independent contractor of one of the state's legal aid organizations.[27] After completing a training from a supervising legal aid agency, advocates are permitted to support tenants throughout eviction and related proceedings, including providing advice regarding defenses, engaging in settlement negotiations, filing pleadings, and appearing before the court.[28] They must, however, obtain the informed consent of the client first, and they may not ask for any compensation from the tenant.[29]

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17 Telephone Interview with Nikole Nelson, Executive Director, Alaska Legal Servs. Corp. (Nov. 1, 2023).

18 Order Adopting Bar Rule 43.5, No. 1994 (Alaska 1994).

19 *Director Rachel Rossi of the Office for Access to Justice Delivers Keynote Remarks*, *supra* note 4.

20 Telephone Interview with Nikole Nelson, *supra* note 17.

21 *Director Rachel Rossi of the Office for Access to Justice Delivers Keynote Remarks*, *supra* note 4.

22 Stout, The Economic Impact of an Eviction Right to Counsel in Delaware 11 (2021).

23 *Id.*

24 *Delaware to Allow Non-Lawyer Representation for Tenants in Eviction Cases*, Nat'l Low Income Hous. Coal. (Feb. 14, 2022), https://nlihc.org/resource/delaware-allow-non-lawyer-representation-tenants-eviction-cases.

25 Del. R. Sup. Ct. 57.1 (2023).

26 84 Del. Laws 112 (2023).

27 Del. R. Sup. Ct. 57.1 (2023).

28 *Id.*

29 *Id.*

Though the program is still in its early stages, there are currently 10 trained tenant advocates, who have assisted in whole or in part on roughly 700-1000 cases, taking the lead (instead of their supervisors) on 400-500 of them.[30] Early reports from clients indicate that tenant advocates provide more timely and consistent communication than lawyers.[31]

UTAH & ARIZONA

Utah and Arizona have both reformed their unauthorized practice of law rules to permit licensed paraprofessionals to provide legal services. However, such programs have high barriers to entry, requiring rigorous training and education. In 2022, Innovation for Justice (i4J)—an organization working to propose and implement solutions to the justice gap—recommended establishing a training certificate for employees of community-based non-profit organizations (CBOs) to provide limited-scope legal advice related to housing issues.[32] In 2023, both Utah and Arizona approved the Housing Stability Legal Advocates pilot program.[33]

Though it is too early to assess the success of the program, i4J's research on the model provides insight into the expected benefits. By embedding such services in CBOs, i4J predicts that more advocates will become certified to provide legal services than under the more costly and time-intensive paraprofessionals licensing scheme.[34] Additionally, individuals facing housing issues will benefit from a one-stop shop where they can receive support, rather than having to navigate both legal and non-legal housing services organizations.[35] Finally, research shows that tenants experiencing housing instability are more comfortable working with non-lawyers, whom they have an easier time trusting, making CBOs well-positioned to provide wrap-around assistance.[36]

i4J is also working on several related initiatives, including an approved program that allows community healthcare workers to give limited-scope legal advice to individuals at risk of medical debt collection and a proposal to embed CJWs in community-based medical services in West Valley City, Utah.[37]

Utah has also recently approved the Timpanogos Legal Center's Certified Advocate Partners Program (CAPP) as part of its regulatory sandbox. Nonlawyers with at least two years of victim advocacy experience are now permitted to assist victims of domestic violence, sexual assault, child abuse, and related crimes

30 Email from James Teufel, Principal, Help Justice LLC, to Molly Shapiro, Civil Justice Fellow, Deborah L. Rhode Center on the Legal Profession (Oct. 31, 2023, 8:11 PM PST) (on file with author).

31 *Id.*

32 Innovation for Just., Report to Arizona and Utah Supreme Courts: Expanding Arizona's LP and Utah's LPP Program to Advance Housing Stability 46 (2022).

33 Authorizing a Housing Stability Legal Advocate Pilot Program, No. 16 (Utah 2023); Authorizing a Housing Stability Legal Advocate Pilot Program, No. 2023-19 (Ariz. 2023).

34 Innovation for Just., *supra* note 33, at 43.

35 *Id.*

36 *Id.* at 45.

37 *Medical Debt Legal Advocate Initiatives*, Innovation for Just., https://www.innovation4justice.org/mdla (last visited Dec. 18, 2023); *Community Justice Workers & Health*, Innovation for Just., https://www.innovation4justice.org/work/cjws-health (last visited Dec. 18, 2023).

in seeking protective orders and stalking injunctions.[38] This includes giving legal advice about which protective order is most appropriate for clients, preparing clients for hearings, and drafting civil relief orders on behalf of clients.[39]

CAPP, which was established in 2021, has now trained 13 advocates.[40] In the program's first two years, advocates have assisted 199 clients, provided 491 services, and helped with 153 protective orders.[41] In part because the protective order process can be complex (there are 13 different types of protective orders in Utah), receiving legal advice throughout makes a difference.[42] Early data shows that clients, many of whom live in rural areas, have more success when represented by CAPP advocates than those in the state who do not have CAPP representation.[43]

Success & Challenges

SUCCESSES

Affordable. The services of CJWs are typically free for their clients.[44] Thus, unlike legal paraprofessionals, these services are affordable for indigent individuals navigating the civil legal system.

Community-Based. CJWs are members of the community who have similar backgrounds to, and might have experienced the same legal issues as, the people they are assisting. In Alaska, for example, many of the CJWs are tribal employees and village health aides.[45] These commonalties help build relationships of trust and ensure that legal services are accessible for clients.

Legal Aid and CBO Led. CJW programs are designed and supervised by legal aid or community-based organizations, ensuring that the services are integrated into the state's existing legal aid structure and insulating them from the resistance of state bar associations.

38 In re: Application of Timpanogos Legal Center Certified Advocate Partners Program (Utah 2021).

39 Certified Advocate Partners Program, 2023 Call for Applicants 1 (2023).

40 *Certified Advocate Partners Program*, Timpanogos Legal Ctr., https://www.timplegal.org/legal-services/certified-advocate-partners-program (last visited Dec. 18, 2023).

41 *Id.*

42 Kristi Eaton, *Legal Assistance Pilot Program Helps Rural Victims of Domestic Violence and Abuse in Utah*, Daily Yonder (Jan. 6, 2022), https://dailyyonder.com/legal-assistance-pilot-program-helps-rural-victims-of-domestic-violence-and-abuse-in-utah/2022/01/06/.

43 *Certified Advocate Partners Program*, *supra* note 40.

44 Order Adopting Bar Rule 43.5, No. 1994 (Alaska 1994); Del. R. Sup. Ct. 57.1 (2023).

45 Alaska Legal Servs. Corp., *supra* note 9.

CHALLENGES

Time-Intensive to Launch. The community-based nature of CJWs—which is one of the program's greatest strengths—also can lead to such programs being slow to launch. In Alaska, the program was developed over the course of four years, in part because ALSC sought input from community members across the state.[46] However, this time could be drastically shortened now that there is a model that other states can use.

Retention Through Training. Though there is a lower barrier to entry for CJWs than paraprofessionals, extensive training is still required. Both Alaska and Delaware have seen individuals start the training process but not complete it, raising questions about how such programs can support prospective CJWs throughout their certification.[47]

State Funding. So far, funding for CJW programs comes from grants from government, private donations, and non-profits. An ongoing challenge will be maintaining and expanding funding sources to support the growth of CJWs. This is already a concern in Delaware, given federal emergency rental assistance funding has decreased since the pandemic.[48]

46 Telephone Interview with Nikole Nelson, *supra* note 17.

47 *Id.*; Email from James Teufel, *supra* note 30.

48 Email from James Teufel, *supra* note 30.

Appendix E

Rhode Center Policy Brief, Rethinking Regulation of Legal Services: New Possibilities for Entity Regulation

Stanford Law School's Deborah L. Rhode Center on the Legal Profession provided five policy briefs as read-ahead material for the conference. The policy briefs do not necessarily represent the views and opinions of all conference sponsors. The briefs are presented here in their entirety and are unedited with the permission of the Deborah L. Rhode Center on the Legal Profession.

POLICY BRIEF | JANUARY 2024

Stanford Law School | Deborah L. Rhode Center on the Legal Profession

RETHINKING REGULATION OF LEGAL SERVICES:

New Possibilities for Entity Regulation

AT A GLANCE:

- Jurisdictions pursuing **entity regulation** authorize and oversee legal service providers that are owned by non-lawyers and/or practice law, including provision of legal advice, using non-lawyers or technology.
- Currently, **Arizona and Utah** have implemented **major reforms to Rule of Professional Conduct 5.4**, allowing non-lawyers to have ownership interests in regulated legal service entities. These are generally known as Alternative Business Structures ("ABS").
- **Utah's reform also allows entities to deploy non-lawyers and technology** to provide legal services, relaxing the prohibition on unauthorized practice of law ("UPL").
- Over **100 entities** are authorized to provide legal services in the two jurisdictions. Most are **primarily serving consumers and small businesses**.
- There is **little evidence of harm to consumers** in either jurisdiction.
- **Opposition** to this reform approach is significant among lawyers.

Executive Summary

Traditional regulation of the practice of law limits not only *who* may provide legal services, but also how legal entities may be *owned and financed*. Section 6125 of the California Business & Professions Code states, for instance, that no person may practice law in California unless that person is an active licensee of the California State Bar (generally known as the ban on the unauthorized practice of law ("UPL").[1] Then, California Rule of Professional Conduct 5.4 prohibits lawyers from sharing fees with non-lawyers, forming a partnership or other organization with a non-lawyer if any of the activities of the business constitute the practice of law, or practicing law with an entity owned in any part by non-lawyers.[2] The theory behind each of these proscriptions is that they are necessary to protect the public by preventing unqualified people from providing legal services and by protecting lawyers' independent professional judgement from those outside the profession.[3]

Reforming the ban on UPL and Rule 5.4 to allow corporate organizations, including those owned by non-lawyers or using technology or non-lawyers, to practice law is highly controversial within the organized bar.[4] Champions of reform argue that ownership and fee-splitting restrictions insulate lawyers from competition, cut lawyers off from modern forms of capital financing,

1 CAL. BUS. & PRO. CODE § 6125.

2 CAL. R. PRO. CONDUCT R. 5.4 (2021). California promulgates its own ethical rules which, generally, track those found in the American Bar Association's Model Rules of Professional Conduct.

3 Model Rule of Professional Conduct 5.4 is titled "Professional Independence of a Lawyer." MODEL RULES OF PRO. CONDUCT r. 5.4 (AM. BAR ASS'N 2020); *see also* Nick Robinson, *When Lawyers Don't Get All the Profits: Nonlawyer Ownership, Access, and Professionalism*, 29 GEO. J. LEGAL ETHICS 1, 47 (2016). *But see* Nora Freeman Engstrom & James Stone, *Auto Clubs and the Lost Origins of the Access to Justice Crisis* (on file with authors) (finding "compelling new proof that today's UPL [and Rule 5.4] bans—which continue to stymie the delivery of affordable legal services—have fundamentally rotten roots").

4 *See* Sam Skolnik, *Firm Ownership Debate Rages Amid ABA Innovation Leader Change-Up*, BLOOMBERG L. (Aug. 25, 2023), https://news.bloomberglaw.com/business-and-practice/firm-ownership-debate-rages-amid-aba-innovation-leader-change-up.

and prevent lawyers from partnering with experts across fields to build new kinds of services, thus impeding needed innovation in legal services, particularly for services targeting individuals and small businesses.[5] The justice gap is so large, they assert, that traditional legal service provision, particularly the one-to-one representation model, will never be sufficient to serve all consumers.[6] Consumer-facing businesses like LegalZoom and Rocket Lawyer are already trying to do this but are prevented from employing lawyers to provide comprehensive legal services and from leveraging increasingly sophisticated technology, including generative artificial intelligence, to best serve consumer need.[7]

Opponents to reform counter that permitting any non-lawyer ownership will allow a profit motive to enter the legal profession, undermining the independent legal judgement of lawyers and the quality of legal services.[8] They further argue that allowing non-lawyers into legal businesses will not impact the gap in access to justice.[9] The debates around this issue have not, until recently, been informed by empirical evidence and even present available data remains thin.[10]

In the midst of these debates, two states, Arizona and Utah, have moved forward to allow non-lawyer financing and ownership of legal service entities while regulating those entities to ensure the independence and quality of the legal work provided.[11] Called "entity regulation," this reform approach seeks to spur innovation and the scaled provision of legal services through the authorization of entities deploying new (to legal services, at least) corporate forms and financing and interdisciplinary leadership and expertise.[12] In Arizona and Utah, entity-level reforms have been deployed alongside other reforms, including paraprofessional licensing and authorizing community justice worker models. Efforts have been shut down or delayed in other states, including California.[13]

5 *See* David Freeman Engstrom, et al., Legal Innovation After Reform: Evidence from Regulatory Change 13-14 (2022); *see also* Gillian K. Hadfield & Deborah L. Rhode, *How to Regulate Legal Services to Promote Access, Innovation, and the Quality of Lawyering*, 67 Hastings L.J. 1191, 1193-94 (2016); Gillian K. Hadfield, *The Cost of Law: Promoting Access to Justice through the (Un)Corporate Practice of Law*, 38 Int'l Rev. L. & Econ. 43, 48 (2014).

6 Hadfield, *supra* note 5, at 45-46 ("Meeting demand will require a massive shift in the production technology for legal services to dramatically reduce costs."). They note the lack of engagement by American consumers and the declining productivity of the "PeopleLaw" market. *See* William D. Henderson, Legal Market Landscape Report (2018).

7 Benjamin H. Barton, *The Lawyers' Monopoly: What Goes and What Stays*, 82 Fordham L. Rev. 3067, 3072-73 (2014).

8 *See* Stephen P. Younger, *The Pitfalls and False Promises of Nonlawyer Ownership of Law Firms*, 132 Yale L.J.F. 259, 267-74 (2022).

9 *Id.* at 275-83.

10 Hadfield, *supra* note 5, at 44; Engstrom, et al., *supra* note 5, at 47 (noting that it is still very early into reforms to the regulation of the practice of law to draw major conclusions from available data).

11 *See* Arthur J. Lachman & Jan. L. Jacobowitz, *Arizona and Utah Jumpstart Legal Regulatory Reform*, A.B.A. L. Prac. Today (Nov. 13, 2020), https://www.lawpracticetoday.org/article/arizona-utah-jumpstart-legal-regulatory-reform/. The District of Columbia has allowed a very limited model of non-lawyer ownership, permitting an individual non-lawyer owner in a firm with the sole purpose of providing legal services and if the non-lawyer agrees to abide by the Rules of Professional Conduct. D.C. Rules of Pro. Conduct, R. 5.4.

12 *See* Hadfield & Rhode, *supra* note 5, at 1215.

13 Stephanie Francis Ward, *California Bill Signed into Law Restricts State Bar Sandbox Proposals*, A.B.A. J. (Sept. 21, 2022), https://www.abajournal.com/news/article/california-bill-signed-into-law-restricts-state-bar-sandbox-proposals; Conrad J. Jacoby, *Practice Innovations: Nonlawyer Ownership of Law Firms–Are Winds of Change Coming for Rule 5.4?*, Thomson Reuters (Mar. 29, 2022), https://www.thomsonreuters.com/en-us/posts/legal/practice-innovations-april-2022-non-lawyer-ownership/. The United States remains one of the most restrictive regulatory environments for legal services. Entity regulation allowing full non-lawyer ownership was authorized in Australia (2001) and England and Wales (2007) and many other jurisdictions allow for some form of business engagement between lawyers and non-lawyers. Steven Mark & Georgina Cowdroy, *Incorporated Legal Practices - A New Era in the Provision of Legal Services in the State of New South Wales*, 22 Penn St. Int'l L. Rev. 671, 673 (2004); Legal Services Act 2007, c. 29 (UK). Other jurisdictions permit non-lawyer participation in legal practice entities in some form,

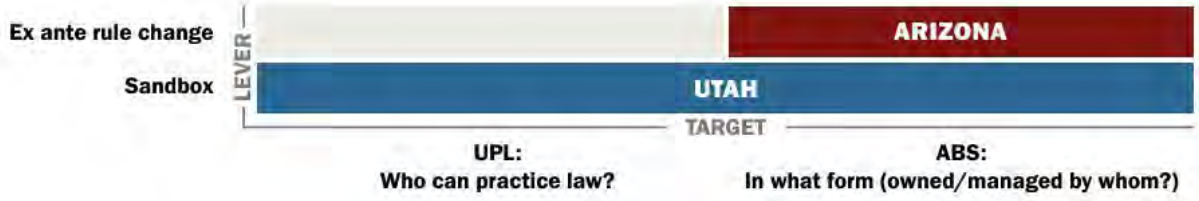
Case Studies

Arizona and Utah have taken different approaches to entity regulation. As illustrated in Figure 1 below, they differ in terms of the rules that have been relaxed and also the mechanism used to relax those rules.[14] Arizona made a permanent rule change, targeting the ban on non-lawyer ownership only. By contrast, Utah created a "regulatory sandbox," an experimental space within which entities can seek authorization to deliver services in ways that normally be prohibited, and it allows entities to seek waiver of rules prohibiting UPL, non-lawyer ownership, or both.

ARIZONA

In 2020, the Arizona Supreme Court repealed Rule 5.4 and established a licensing regime for Alternative Business Structures ("ABS"), entities owned in whole or in part by non-lawyers in which lawyers are practicing law.[15] The task force recommending this course of action relied specifically on the high cost of legal services to the public and the economic challenges facing lawyers who tried to serve regular people.[16] The task force agreed with scholars who have identified Rule 5.4, among other rules, as significant barriers to innovation, noting that during the "great recession" many lawyers expressed the desire to partner with other professionals to serve more consumers with more efficiency."[17] Further, the task force concluded that "no compelling reason exists for maintaining [Rule] 5.4 because its twin goals of protecting a lawyer's independent professional judgment and protecting the public are reflected in other ethical rules which can be strengthened."[18] The task force recommended the court establish a system of entity regulation to solidify the protection of lawyer independence within non-lawyer owned entities.[19]

Figure 1



including New Zealand and Singapore, which permit non-lawyer ownership of law firms; and several European countries where non-lawyer minority ownership is allowed up to a certain point, including Scotland (up to 49% non-lawyer ownership), Italy (33%), Spain (25%), and Denmark (10%). *See generally* Memorandum from the Am. Bar Ass'n Comm. on the Future of Legal Servs. to the Am. Bar Ass'ns et al. (Apr. 8, 2016).

14 The figures used in this brief are taken from the report produced in September 2022 by the Deborah L. Rhode Center on the Legal Profession. ENGSTROM, ET AL., *supra* note 5.

15 Order Amending the Ariz. Rules of the Sup. Ct. and the Ariz. Rules of Evid. (Aug. 27, 2020); TASK FORCE ON THE DELIVERY OF LEGAL SERVS., REPORT AND RECOMMENDATIONS (2019).

16 TASK FORCE ON THE DELIVERY OF LEGAL SERVS., *supra* note 15, at 8 (finding that the average small firm lawyer earns $422 per day before paying overhead costs).

17 *Id.* at 10, 16.

18 *Id.* at 13.

19 *Id.* at 16.

Arizona's ABS licensing regime focuses on licensing and regulating legal service entities owned in whole or in part by non-lawyers and in which only lawyers are providing legal services to the public. Applications are reviewed by a committee of the supreme court and the court itself votes on each application.[20] Regulatory requirements include identification and background checks of all entities or persons holding a controlling financial interest in the company or a role which may control the company, requiring entities to have an Arizona lawyer in a compliance officer role, compliance with a code of conduct, and subjection to disciplinary action through the state bar, possibly resulting in loss of license and/or fines.[21] ABS are required to, among other things, maintain client confidentiality, protect against conflict of interests, ensure that lawyers' professional judgement remains inviolate, and develop managerial systems to ensure compliance with all requirements.[22]

UTAH

In 2020, the Utah Supreme Court approved the launch of a legal regulatory sandbox in which entities either with non-lawyer ownership and/or nonlaywer providers, including technology-based providers, are authorized to provide legal services.[23] A regulatory sandbox is a policy space in which new kinds of businesses or services can seek regulatory waivers to enable their proposed model and data is gathered by the regulatory authority on the outcomes to inform future policy making.[24] As noted by the work group's recommendations to the court, the goal of Utah's reforms was to "provide[] for broad-based investment and participation in business entities that provide legal services to the public."[25] The reforms sought to achieve this by substantially loosening the restrictions on both who can provide legal services and how they may be financed and by establishing a new regulatory body using a "risk-based, empirically-grounded" regulatory approach.[26] The court has noted specifically that these reforms are meant to address a broad definition of the access to justice gap, "unmet legal needs of all kinds and across all sociodemographic groups."[27]

Similarly to Arizona, entities are required to identify financial and managerial controlling persons and those entities/individuals are required to undergo background checks and entities conform with a similarly structured code of conduct, including protection of confidential information and against conflicts of interest and preservation of independent legal judgement.[28] The primary focus of the Utah model's regulatory approach, however, is the regular

20 Ariz. Sup. Ct. R. 33.1(a).

21 Ariz. Code of Jud. Admin. § 7-209 (2022).

22 *Id.* § 7-209(K).

23 Utah Sup. Ct. Standing Order No. 15 (Aug. 14, 2020); Utah Working Grp. on Regul. Reform, Narrowing The Access-to-Justice Gap by Reimagining Regulation (2019).

24 Regulatory sandboxes developed in response to the rapid development of technology, particularly in the fintech space. *See generally* World Bank Grp., Global Experiences from Regulatory Sandboxes (2020).

25 Utah Working Grp. on Regul. Reform, *supra* note 23, at 2.

26 *Id.*

27 Letter from the Utah Sup. Ct. to the Kirsten K. Woods, President, Utah State Bar (Mar. 28, 2023), https://utahinnovationoffice.org/wp-content/uploads/2023/07/Letter-to-Utah-State-Bar-3.28.23.pdf.

28 *Id.* at 15-16.

data reported by regulated entities to the Office of Legal Services Innovation, the body tasked with overseeing authorized entities.[29] Entities are required to report detailed data on the legal services provided, including what kind of provider was used, how long the service took, what was paid, and whether the consumer complained.[30] Even without any other regulatory violation, sufficient evidence that the services provided are harming consumers can result in suspension or termination of authorization.

Emerging Data

While it is still early to discern the impact of non-lawyer ownership reforms recently implemented in two relatively small states, the available data indicates certain trends in these emerging markets.[31] As of December 2023, there are 69 Arizona ABS entities and 50 entities authorized in Utah.[32] Entities fall into five general categories as outlined in Figure 2 below.

Many entities retain a structure close to that of a traditional law firm. Although it can be difficult to discern from the available materials, some of the reasons for firms to take on non-lawyer investment include increasing marketing and litigation capacity, retention of non-lawyer staff/partners, and investing in technology.[33] A growing number of entities in both Arizona and Utah are better characterized as law companies or new entrants into the legal market. These entities are hiring lawyers to provide direct legal services

Figure 2



29 Office of Legal Servs. Innovation, Innovation Office Manual, 23-29.

30 *Id.* at 23.

31 *See* Engstrom, et al., *supra* note 5, at 36-48; *see also Legal Innovation Clearinghouse*, Deborah L. Rhode Center on the Legal Pro., https://clp.law.stanford.edu/legal-innovation-clearinghouse/ (last visited Jan. 3, 2024) (gathering and coding the available public information on entities authorized in Arizona and Utah). Please note: The publicly available materials differ across jurisdictions; Arizona releases ABS applications redacted to remove personal information only in response to public records requests. Utah publishes the recommendation and court order authorizing the Sandbox entities on its website. However, across both jurisdictions, the publicly available information may not match up exactly with the actual authorized entities.

32 *See Legal Innovation Clearinghouse*, *supra* note 31.

33 *See e.g.*, Case Partners LLC, Arizona ABS Application (authorized Aug. 24, 2022), https://drive.google.com/file/d/1kzsfxy700pIqFYg3Dfzir4xsU719QJkg/view (leveraging increased marketing expertise and capacity); Arizona Redwood Partners, Arizona ABS Application (authorized Sept. 20, 2022), ://drive.google.com/file/d/19EaSHRmI5rtbnUrIQau_tPOfKwO97u4i/view (describing increased capacity for litigation and retention of staff); Hive Legal, Arizona ABS Application (authorized Nov. 30, 2021), https://drive.google.com/file/d/1SpT_i4u5PzJLe1GQxeeKxEOT2kNrMx-K/view (describing strategy to serve consumers' estate planning needs through technology platform).

(e.g. LegalZoom, RocketLawyer, and Hello Divorce), building legal verticals into pre-existing businesses (e.g. Law on Call, Trajector Legal), or offering one-stop-shop professional services (e.g. Affinex Legal, Heritage Family).[34]

Almost all entities across both jurisdictions are primarily serving individual consumers and small businesses; only a very few are focused on corporate clients (e.g. Elevate, Axiom).[35] Entities across both jurisdictions have identified technology as a part of their strategy for serving their target market.[36] A significant number of Arizona's ABS entities are in the personal injury and mass tort area of law.[37] The following legal areas are also well-represented across both jurisdictions: end of life planning, small business legal needs, and immigration.[38]

In what appears to be a key difference between Arizona and Utah, the only nonprofit entities are authorized in Utah. This is primarily because Utah's entity regulation is structured to authorize not only entities with non-lawyer ownership, but also those entities seeking to deploy nonlaywer providers to perform limited legal tasks.[39] The nonprofits in Utah, including Timpanogos Legal Center and Innovation 4 Justice, are building community justice worker models within the regulatory sandbox. For profit entities are also taking advantage of this Utah-specific reform and incorporating differentiated tiers of legal services, tech-based DIY, limited nonlaywer assistance, lawyer assistance, within a single entity.[40]

Available data do not show that consumers have been harmed by the reforms deployed in Arizona and Utah. Arizona does not publicly release disciplinary information but it does not appear that any ABS has lost its license to offer services. Utah, which proactively seeks consumer complaint information both from regulated entities and the public and reports the aggregated information out monthly, has observed 1 complaint related to consumer harm per 7441 legal services provided.[41] Although we lack specifically comparable data on harms caused by lawyers, back-of-the-envelope calculations suggest that this is a significantly lower incidence rate.[42]

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34 *Legal Innovation Clearinghouse*, *supra* note 31.

35 *Id.*

36 As of December 2023, according to available data, approximately 56 entities specifically identified the development and deployment of technology as part of their business strategy. *Id.*

37 As of December 2023, according to available data, approximately 25 of Arizona ABS entities are involved in personal injury and/or mass tort litigation. *Id.*

38 *Id*; *see also* Office of Legal Servs. Innovation, Sandbox Activity Report (2023).

39 *See* Engstrom, et al., *supra* note 5, at 40.

40 *Id.* at 38; *see also* Office of Legal Servs. Innovation, Utah Sup. Ct., Sandbox Authorization Packet: Lawgeex (2021).

41 The Office of Legal Services Innovation reviews complaints received and categorizes them as related to consumer harm caused by legal service provision or not. The regulatory oversight is focused on consumer harm. *See* Office of Legal Servs. Innovation, *supra* note 38, at 7.

42 *See* Engstrom, et al., *supra* note 5, at 46 (calculating a rate of 1 complaint for every 2,150 lawyer-provided services).

Success & Challenges

SUCCESSES

Increased Innovation in Consumer-Focused Services. Most entities in Arizona and Utah are serving individual consumers and small businesses and many are using technology to facilitate consumer access. In both Arizona and Utah, entities are using technology to augment lawyers or increase their reach both in terms of marketing and efficiency. In Utah, where waiver of both UPL reform and non-lawyer rules is available, entities are using both non-lawyers and technology to deliver legal services directly to consumers.

Central Role of Lawyers. In innovative entities across both Utah and Arizona, lawyers remain central to the development and delivery of services—whether as employee practitioners, through oversight and compliance roles, or through entity ownership and leadership. In Utah, innovation also takes the form of services delivered via non-lawyers and software. Even here, traditional law firms are driving innovation by seeking authorization to offer tiered services at different price points, such as DIY services via technology at the bottom price tier, with higher tiers of service that progressively mix in non-lawyer and lawyer guidance.

Little Evidence of Consumer Harm. Reform efforts to this point do not appear to pose a substantial risk of consumer harm. Data and information reported by Utah and Arizona regulators indicate that authorized entities do not appear to draw a substantially higher number of consumer complaints, as compared to their lawyer counterparts.

CHALLENGES

Unclear Impact on Access for Lowest Income Populations. While the existing body of evidence indicates that authorizing non-lawyer owned entities may contribute to an increase in the number and kind of legal products and services available for middle income consumers, it is much less clear whether and how such legal service entities will impact low-income consumers. This challenge may be particularly relevant in jurisdictions which do not incorporate UPL reform alongside Rule 5.4 reform, thereby potentially preventing the development of significantly lower cost services provided through technology and non-lawyers.

Scalability. The promise of entity authorization and regulation to meaningfully address the justice gap is that organizational providers can achieve economies of scale and serve more people at lower cost. However, scale is difficult to achieve given state-by-state regulation of legal services in the United States and almost impossible when only two relatively small states permit such entities.

Funding and Capacity to Regulate. Building new regulatory systems requires substantial financial investment and operational capacity. Utah, which sought to drive innovation by reducing barriers to entry (including fees) as much as possible, has faced funding and staffing difficulties. The Office of Legal Services Innovation is now housed, for operational purposes, with the Utah State Bar.[43] Arizona, which imposed relatively robust licensing fees from the start and has a regulatory history within its state supreme court, has faced fewer fiscal and capacity barriers but has also found the operational demands of entity regulation challenging.

43 *See* Letter from the Utah Sup. Ct. to the Kirsten K. Woods, *supra* note 27.

Opposition From the Organized Bar. While lawyers have not been supportive of any regulatory reform options, there is particularly strong opposition to allowing non-lawyer financial participation in legal businesses. Lawyer opposition has stymied efforts in California and Florida and presents a significant political challenge to state supreme courts considering reform.[44]

44 *See supra* note 13; *see also* Texas Access to Legal Servs. Working Group, Report and Recommendations 95-250 (2023) (incorporating the many comments related to the proposed reforms including entity regulation).

Appendix F

Rhode Center Policy Brief, Rethinking Regulation of Legal Services: First Amendment and Antitrust Challenges to the Status Quo

Stanford Law School's Deborah L. Rhode Center on the Legal Profession provided five policy briefs as read-ahead material for the conference. The policy briefs do not necessarily represent the views and opinions of all conference sponsors. The briefs are presented here in their entirety and are unedited with the permission of the Deborah L. Rhode Center on the Legal Profession.

POLICY BRIEF | JANUARY 2024

Stanford Law School | Deborah L. Rhode Center on the Legal Profession

RETHINKING REGULATION OF LEGAL SERVICES:

First Amendment and Antitrust Challenges to the Status Quo

AT A GLANCE:

- **Unauthorized Practice of Law statutes sweep broadly,** prohibiting a range of activities by non-lawyers such as providing basic information about legal rights and court proceedings.
- Access-to-justice advocates have challenged these statutes on the grounds that they violate **First Amendment rights**—an argument that recently has had some success in federal court.
- The Department of Justice Antitrust Division and Federal Trade Commission have also argued that broad UPL statutes **violate antitrust principles** by preventing competition and consumer choice.
- Because federal courts—rather than bar associations—have been at the forefront of legal regulatory reform in the past, the **law is central** to conversations about the future of legal services.

Executive Summary

Unauthorized practice of law statutes define the practice of law broadly. Some definitions are circular, stating that the practice of law is "any service rendered involving legal knowledge or legal advice" or the "doing of any act for another person usually done by attorneys in the course of their profession."[1] Other states don't define the practice of law at all, simply declaring that it is a violation of UPL when one practices law without a license.[2] Such broad definitions have consequences, as they prohibit even knowledgeable non-lawyers from providing information about legal rights and court proceedings to those consigned to navigate courts without counsel.[3] They also dissuade knowledgeable non-lawyers, such as court clerks, from providing even basic legal information out of fear that they will violate state ethics laws that criminalize such conduct.[4]

In response, access to justice advocates have sought to challenge UPL rules on legal grounds. They argue that UPL rules violate the First Amendment by abridging non-lawyers' freedom of speech and freedom of association. They also urge state legislatures and courts to reevaluate UPL rules on the basis that they violate antitrust principles, preventing fair competition and consumer choice in the legal services arena. This paper previews these arguments and how they have fared before judges and lawmakers.

1 Ky. Sup. Ct. R. 3.020 (2021); R.I. Gen. Laws § 11-27-2 (1956).

2 *See, e.g.*, Nev. Rev. Stat. § 7.285 (2022); Cal. Bus. & Pro. Code § 6125 (2022).

3 Lauren Sudeall, *The Overreach of Limits on "Legal Advice,"* 131 Yale L.J.F. 637, 647-48 (2022).

4 John M. Greacen, Legal Information vs. Legal Advice 49 (2022).

The First Amendment Arguments

Non-lawyers and legal services organizations have mounted First Amendment challenges to the enforcement of UPL statutes against their activities for decades. Their arguments typically fall into one or both of two doctrinal buckets. First, non-lawyers argue that the First Amendment's freedom of association protects the right of common interest groups, such as unions or advocacy organizations, to organize around the provision of legal advice.[5] Second, advocates challenge UPL statutes on the basis that they infringe on the free speech of non-lawyers who seek to provide legal advice through verbal communication or written materials.[6]

Courts assessing First Amendment challenges consider whether there is a compelling government interest for a regulation of speech and if the restriction is narrowly tailored to achieve that interest. In the context of UPL statutes, the Supreme Court has recognized that the governmental interest in regulation of the legal profession is not sufficiently compelling to justify sweeping prohibitions of speech.[7] Nevertheless, First Amendment arguments against the enforcement of UPL statutes have largely been rejected by lower courts, which have tended to look at the provision of legal advice primarily as conduct rather than speech. Two such recent cases, however, were met with some success at the district court level, suggesting increased skepticism about the need for broad UPL regulations today.

In Upsolve v. James, a nonprofit legal technology company planning to launch a non-lawyer debt collection assistance program providing free legal advice filed suit.[8] Upsolve sought an injunction against the state's attorney general to prevent the enforcement of UPL rules against the organization's planned activities.[9] It based this challenge on both of the First Amendment grounds outlined above. The district court found for Upsolve, stating that the statute's sweeping prohibition of the non-lawyers' advice could not be justified based on New York's interest in regulating legal services.[10] It therefore prevented New York's Attorney General from enforcing the UPL statute against Upsolve, permitting the non-lawyers to proceed with their provision of limited legal support to low-income New Yorkers.[11]

A similar non-lawyer legal advice case followed Upsolve in South Carolina. At issue in South Carolina State Conference of the NAACP v. Wilson were the legal services of trained non-lawyers who sought to provide assistance to low-income tenants facing eviction.[12] As in Upsolve, the NAACP brought the case to enjoin the enforcement of UPL statutes against the organization's program.[13]

5 *See* Nat'l Ass'n for Advancement of Colored People v. Button, 371 U.S. 415 (1963).

6 *See, e.g.*, Dacey v. New York Cnty. Lawyers' Ass'n, 423 F.2d 188, 190 (2d Cir. 1969); People v. Shell, 148 P.3d 162, 173 (Colo. 2006).

7 *See, e.g., Button,* 371 U.S. at 444 ("[T]he State has failed to advance any substantial regulatory interest, in the form of substantive evils flowing from petitioner's activities, which can justify the broad prohibitions which it has imposed."); In re Primus, 436 U.S. 412, 438 (1978) ("The State's special interest in regulating members of a profession it licenses . . . justifies the application of narrowly drawn rules.")

8 Upsolve, Inc. v. James, 604 F. Supp. 3d 97, 104 (S.D.N.Y. 2022).

9 *Id.* at 109.

10 *Id.* at 119 ("Aside from its less-than-compelling interests, the State has failed to narrowly tailor the statute. In fact, the UPL rules could barely be broader: New York could implement less restrictive alternatives to blanket ban on all unauthorized legal advice.").

11 *Id.* at 120-21.

12 S.C. State Conference of NAACP v. Wilson, No. 2:23-CV-01121-DCN, 2023 WL 5207978, at *1 (D.S.C. Aug. 14, 2023).

13 *Id.* at 2.

Although the district court determined that the plaintiffs had standing to bring their case, it declined to rule on the legal issue because it found that state law was not clear as to whether the NAACP's activities would constitute the unauthorized practice of law.[14] Applying a longstanding doctrine called abstention, it reasoned that any decision would constitute an unnecessary federal intervention into state affairs.[15] But the district court encouraged the NAACP to bring its case in state supreme court, signaling that such a challenge could potentially be successful there.[16]

These recent district court cases might encourage similar First Amendment challenges to UPL rules in other states. On January 4, 2024, the Institute for Justice and North Carolina Justice for All Project filed a federal lawsuit along the same lines as those discussed above, arguing that North Carolina's UPL rules violated the plaintiffs' First Amendment right to provide legal advice about court-created forms.[17] This case differs in that it concerns non-lawyers seeking to offer paid as well as free legal advice.

Although the outcome of even successful cases is somewhat limited—the prohibition of enforcement of UPL rules against one organization's activities—their implications are still significant. For example, the restriction of UPL rules can inspire other non-lawyer organizations to provide similar services, modeled on those that were deemed protected. It could also deter the state from enforcing UPL rules so widely and spur state legislatures to reconsider their states' capacious definitions of the practice of law.

The Antitrust Arguments

The Department of Justice (DOJ) Antitrust Division and Federal Trade Commission (FTC) have long sounded the alarm about UPL statutes. They have expressed concern that such broad professional regulations "unduly restrict non-lawyers from competing with lawyers to the detriment of consumers."[18] The agencies have consequently conducted investigations of, and filed lawsuits against, local coalitions of lawyers and state bar associations for monopolistic practices, such as anti-competitive boycotts and the restriction of competing non-lawyer services like title insurance companies or corporate fiduciaries in the trusts and estates context.[19]

As these comments and cases highlight, federal antitrust law arguably applies to the legal profession and is a tool for increasing access to legal services.[20] This

14 *Id.* at 6.

15 *Id.* at 8.

16 *Id.* at 9.

17 *North Carolina Legal Advice*, Inst. for Just., https://ij.org/case/north-carolina-upl/ (last visited Jan 5, 2024).

18 Letter from Jon Leibowitz et. al., Chairman, FTC, to Sup. Ct. of Hawaii (Apr. 20, 2009), https://www.ftc.gov/sites/default/files/documents/advocacy_documents/ftc-and-department-justice-comment-supreme-court-hawaii-concerning-proposed-definition-practice-law/v080004hiunauthorizedpracticeoflaw.pdf; Letter from Thomas O. Barnett et. al., Assistant Attorney General, Dep't of Just., to Judiciary Pub. Aff. Office (Jan. 25, 2008), https://www.justice.gov/sites/default/files/atr/legacy/2008/02/07/229962.pdf; Letter from Hewitt Pate et. al., Acting Assistant Attorney General, to Task Force on the Model Definition of the Prac. of Law (Dec. 20, 2002), https://www.justice.gov/sites/default/files/atr/legacy/2008/03/26/200604.pdf; Letter from Margaret Goodlander,et al., Deputy Assistant Attorney General, U.S. Dep't of Just., Antitrust Div., to Hon. Phillip Chen, Assembly Member, 59th District (June 13, 2023), https://www.justice.gov/atr/page/file/1587441/download.

19 *See, e.g.*, United States v. N.Y. Cnty. Laws.' Ass'n, 1981 WL 2150 (S.D.N.Y. 1981); United States v. Allen Cnty. Ind. Bar Ass'n, Inc., 1980 WL 1937 (N.D. Ind. 1980); FTC v. Superior Ct. Trial Laws. Ass'n, 493 U.S. 411 (1990).

20 *See* Goldfarb v. Va. State Bar, 421 U.S. 773, 791 (1975) ("The fact that the State Bar is a state agency for some limited purposes does not create an antitrust shield that allows it to foster anticompetitive practices for the benefit of its members.").

is further evidenced by a 2015 case in North Carolina, where legal technology company LegalZoom, which provides services such as legal document assistance, filed a federal antitrust lawsuit against the state bar for its refusal to register the company's legal services.[21] The resulting consent agreement allowed LegalZoom to continue operating so long as a licensed attorney reviewed the blank templates offered to consumers and the company communicated that the forms are not a substitute for legal advice from an attorney.[22] Soon after, the DOJ and FTC filed a joint letter supporting legislation, which ultimately passed, that exempts technology companies that generate legal documents from UPL statutes.[23]

Most recently, the DOJ authored a letter to the North Carolina General Assembly in support of an amendment that would narrow the reach of the state's UPL statute.[24] The DOJ noted that current UPL statutes are justified by consumer protection but do not actually protect consumers, instead actually working to their detriment by erecting barriers to basic legal services that many otherwise cannot afford.[25] The DOJ argued that UPL reform would "benefit consumers and workers alike, including by securing lower costs, enabling more choice in the delivery of legal-related services, and lifting barriers to employment."[26]

First, it would decrease the cost of legal services for litigants who utilize non-lawyers and for those who receive assistance from lawyers. In Washington State, where the first U.S. paraprofessional program was implemented, the services of non-lawyers were on average over $100 less than those of lawyers.[27] And in Kentucky, the state's supreme court found that the cost of retaining a lawyer for a real estate closing decreased with the rise of non-lawyer competition.[28] Second, narrowing UPL restrictions would create jobs by expanding the pool of people who can enter the legal profession. In Ontario, for example, the paraprofessional program has already created over 10,000 jobs for Canadian workers.[29] Third, these reforms would protect self-represented litigants who otherwise are left to go it alone, ensuring that they have the resources necessary to make informed decisions and participate in their legal proceedings.[30]

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21 LegalZoom.com, Inc. v. N.C. State Bar, 2015 WL 6441853, at *1 (N.C. Super. Ct. 2015).

22 *Id.*

23 Letter from Marina Lao et. al., Director, Office of Policy Planning, FTC, to Hon. Bill Cook, Senator, 1st District (June 10, 2016), https://www.ftc.gov/system/files/documents/advocacy_documents/comment-federal-trade-commission-staff-antitrust-division-addressing-north-carolina-house-bill-436/160610commentncbill.pdf; *see also House Bill 436/SL 2016-60*, N.C. Gen. Assembly, https://www.ncleg.gov/BillLookUp/2015/H436 (last visited Dec. 20, 2023).

24 Letter from Maggie Goodlander, Deputy Assistant Attorney General, U.S. Dep't of Just., Antitrust Div., to North Carolina Gen. Assembly (Feb. 14, 2023), https://www.ncjfap.org/_files/ugd/8a3baf_dd75e7277d134fd4b5b632fdbe41f089.pdf.

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Abbreviations

ABS	alternative business structures
ALSC	Alaska Legal Services Corporation
CAPP	Certified Advocate Partners Program
CJW	community justice worker
JFAP	Justice for All Project
LLLT	limited license legal technician
NAACP	National Association for the Advancement of Colored People
SNAP	Supplemental Nutrition Assistance Program
TLC	Timpanogos Legal Center
UPL	unauthorized practice of law

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EXHIBIT 2

From: Sacha Steinberger
To: Zach Newman
Cc: Zelnick, Jennifer
Subject: Re: Lucy Ricca/Stanford for CJW Panel in March
Date: Friday, February 9, 2024 1:32:56 PM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Zach and Jennifer:

Great to hear from you. I'm happy to give you an intro to Lucy. I will connect you by email in a moment.

About the convening, as you may know I facilitated a panel on community justice workers at the RAND Access to Justice conference a couple weeks ago (with Nikole and others on the panel). Legal Link, as a justice worker organization, is working hard to build out our programming (to include some issue-specific programs like Alaska's) and we have a call with Doan and Elizabeth from the State Bar on Monday to talk about possible funding for expanding our work to provide statewide justice worker programming. Big picture, we'd love to be on the panel and are not aware of others in California working closely on this issue. If you want names of folks working on justice worker programs across the country, there are quite a few and I'm happy to chat with you further and make introductions. Let me know!

Thanks much,
Sacha

Sacha Steinberger, *she/her*
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On Thu, Feb 8, 2024 at 4:50 PM Zach Newman <znewman@laaconline.org> wrote:

> Hi Sacha!
>
> The Bar and LAAC are working to put together a convening in March around Community Justice Workers. We were thinking of inviting Lucy Ricca or someone from Stanford to

participate on a panel. Would you be able to help Jennifer (cc'd) and I make that connection?

Nikole Nelson will be invited, along with a legal aid speaker, for the panel. The date is set for late March, but it won't be solidified until we can confirm Nikole can make it.

And you'd of course be invited to attend and join the conversation. Any other ideas for panelists would be great, too.

Best,
Zach

Zach Newman | Directing Attorney
Legal Aid Association of California (LAAC)
znewman@laaconline.org
Pronouns: he/him/his

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EXHIBIT 3

From: Zelnick, Jennifer
To: Zach Newman; Salena Copeland; Nguyen, Doan
Subject: FW: Intro re CJW convening
Date: Monday, February 12, 2024 5:00:00 PM

Hi all,

Thanks to Zach for starting the conversation with Lucy, it looks like she's happy to participate in the CJW panel. I can follow up with her tomorrow about the audience being IOLTA grantees, the framing being under discussion still, but focusing on Alaska as a model to discuss grantees' interest in a similar program, within the confines of B&P 6034.1. I'm happy to share that we haven't yet hammered out the details about a moderator, too. Perhaps we should schedule a call with Lucy for a few days after we meet with Nikole. Please let me know if that sounds good to you all.

Thanks!

Sincerely,
Jennifer

Jennifer Zelnick (she/her/hers)
Senior Program Analyst, Office of Access & Inclusion
The State Bar of California | 845 South Figueroa Street | Los Angeles, CA 90017
213-765-1210 | jennifer.zelnick@calbar.ca.gov

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From: Lucy Ricca <lricca@law.stanford.edu>
Sent: Monday, February 12, 2024 1:55 PM
To: Zelnick, Jennifer <Jennifer.Zelnick@calbar.ca.gov>
Cc: Zach Newman <znewman@laaconline.org>
Subject: Re: Intro re CJW convening

I would be happy to participate - I'd be curious to know more about who this will be marketed to and what the framing is. Will there be a moderator? How do you see my role?

On Mon, Feb 12, 2024 at 1:51 PM Zelnick, Jennifer <Jennifer.Zelnick@calbar.ca.gov> wrote:

> Dear Lucy,
>
> Thanks so much for your willingness to discuss. While the details of the event are still being finalized, we are confirmed for March 21, 2024, from 11:00 a.m. – 1:00 p.m. on zoom, as is Nikole. The event will center on a panel about Alaska's CJW program, as well as exploring it as a model beyond Alaska. It would be great to be able to confirm if you or someone else from Stanford can

participate. Please let us know if you have any questions about that, and if we can confirm you or someone else from your team, I can set up a time for us to discuss more.

Thanks also for flagging the conference at ASU. I'm unable to attend in person but was happy to learn last week that there will be an option to attend some sessions remotely, so I will be there online.

Sincerely,
Jennifer

Jennifer Zelnick (she/her/hers)
Senior Program Analyst, Office of Access & Inclusion
The State Bar of California | 845 South Figueroa Street | Los Angeles, CA 90017
213-765-1210 | jennifer.zelnick@calbar.ca.gov

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From: Lucy Ricca <lricca@law.stanford.edu>
Sent: Friday, February 9, 2024 11:42 AM
To: Zach Newman <znewman@laaconline.org>
Cc: Zelnick, Jennifer <Jennifer.Zelnick@calbar.ca.gov>
Subject: Re: Intro re CJW convening

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Moving Sacha to bcc - thanks so much!

Hi all - would be happy to discuss what you are planning. I assume you are both aware of the upcoming large conference on this topic at ASU?

On Fri, Feb 9, 2024 at 11:32 AM Zach Newman <znewman@laaconline.org> wrote:

> Thanks so much Sacha! And looking forward to hearing from you Lucy.
>
> **Zach Newman | Directing Attorney**
> Legal Aid Association of California (LAAC)
> znewman@laaconline.org
> *Pronouns: he/him/his*
>
> Donate to LAAC now! Sign up for our monthly newsletter, LAAC in Action.

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Berkeley, CA 94710
www.LAAConline.org

On Thu, Feb 8, 2024 at 8:44 PM Sacha Steinberger <sacha@legallink.org> wrote:

> Hi Lucy:
>
> Hope you are well!
>
> Zach Newman from LAAC and Jennifer Zelnick from the State Bar (cc'd) reached out to say that the Bar and LAAC are working to put together a convening in March around Community Justice Workers and they are interested in having you or someone from Stanford participate. They are also hoping to have Nikole Nelson attend.
>
> I'll let you all take it from here.
>
> Best,
> Sacha
>
> _____
> **Sacha Steinberger**, *she/her*
> Founder + Co-Executive Director, Legal Link
> o: 415.851.1755 | c: 415.321.9199
> 1721 Broadway, Ste 201 | Oakland, CA 94612
> sacha@legallink.org
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--
Lucy Buford Ricca
Executive Director
Deborah L. Rhode Center on the Legal Profession
lricca@law.stanford.edu

--
Lucy Buford Ricca
Executive Director
Deborah L. Rhode Center on the Legal Profession
lricca@law.stanford.edu

EXHIBIT 4

From: Zelnick, Jennifer
To: Salena Copeland
Cc: Nguyen, Doan; Zach Newman; Hom, Elizabeth
Subject: RE: Scheduling a Planning Call for the March 21 CJW Panel
Date: Thursday, February 15, 2024 9:29:00 AM

Thanks all! I'll update the invitation now.

Sincerely,
Jennifer

Jennifer Zelnick (she/her/hers)
Senior Program Analyst, Office of Access & Inclusion
The State Bar of California | 845 South Figueroa Street | Los Angeles, CA 90017
213-765-1210 | jennifer.zelnick@calbar.ca.gov

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From: Salena Copeland <scopeland@laaconline.org>
Sent: Thursday, February 15, 2024 9:07 AM
To: Zelnick, Jennifer <Jennifer.Zelnick@calbar.ca.gov>
Cc: Nguyen, Doan <Doan.Nguyen@calbar.ca.gov>; Zach Newman <znewman@laaconline.org>; Hom, Elizabeth <Elizabeth.Hom@calbar.ca.gov>
Subject: Re: Scheduling a Planning Call for the March 21 CJW Panel

I'm out all day on vacation, so the change doesn't impact me. Zach's calendar still shows him as free at 3:00.

_____

Salena Copeland (pronouns she/her) (hear me say my name)
Executive Director
Legal Aid Association of California
Legal Aid fights for justice. We fight for them.
510-893-3000 x 106

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Why include pronouns? I include pronouns in an effort to share my personal and professional commitment to transgender inclusivity and visibility. Through sharing my pronouns, I hope to support a safer and braver space for transgender professionals to share their pronouns.

On Thu, Feb 15, 2024 at 8:50 AM Zelnick, Jennifer <Jennifer.Zelnick@calbar.ca.gov> wrote:

> Hi everyone,
>
> This time works for me, what about for others? I'll be happy to respond to Nikole once we know about the time.
>
> Sincerely,
> Jennifer
>
> Jennifer Zelnick (she/her/hers)
> Senior Program Analyst, Office of Access & Inclusion
> The State Bar of California | 845 South Figueroa Street | Los Angeles, CA 90017
> 213-765-1210 | jennifer.zelnick@calbar.ca.gov
>
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> ---
>
> **From:** Nikole Nelson <nikole@frontlinejustice.org>
> **Sent:** Thursday, February 15, 2024 8:47 AM
> **To:** Zelnick, Jennifer <Jennifer.Zelnick@calbar.ca.gov>
> **Cc:** scopeland@laaconline.org; Zach Newman <znewman@laaconline.org>; Nguyen, Doan <Doan.Nguyen@calbar.ca.gov>
> **Subject:** Re: Scheduling a Planning Call for the March 21 CJW Panel
>
> Hi all!
>
> I just realized I did my time zone math wrong and have a conflict at 12-1 that I can't change. Could we please switch to the 3pm-4pm (PST) slot?
>
> I am so sorry!
>
> -nn
>
> On Mon, Feb 12, 2024 at 3:34 PM Zelnick, Jennifer <Jennifer.Zelnick@calbar.ca.gov> wrote:
>
>> Hi everyone,
>>
>> Thank you all for sharing your availability. While we'll be sorry to miss you Salena, I appreciate

your flexibility. I'll send an invitation for February 23 soon.

Sincerely,
Jennifer

Jennifer Zelnick (she/her/hers)
Senior Program Analyst, Office of Access & Inclusion
The State Bar of California | 845 South Figueroa Street | Los Angeles, CA 90017
213-765-1210 | jennifer.zelnick@calbar.ca.gov

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From: Salena Copeland <scopeland@laaconline.org>
Sent: Monday, February 12, 2024 10:15 AM
To: Zach Newman <znewman@laaconline.org>
Cc: Nikole Nelson <nikole@frontlinejustice.org>; Zelnick, Jennifer <Jennifer.Zelnick@calbar.ca.gov>; Nguyen, Doan <Doan.Nguyen@calbar.ca.gov>
Subject: Re: Scheduling a Planning Call for the March 21 CJW Panel

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I am on vacation that day (with no internet access in the snow), but I trust Zach to fill me in!

Salena Copeland (pronouns she/her) (hear me say my name)
Executive Director
Legal Aid Association of California
Legal Aid fights for justice. We fight for them.
510-893-3000 x 106

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Why include pronouns? I include pronouns in an effort to share my personal and professional commitment to transgender inclusivity and visibility. Through sharing my pronouns, I hope to support a safer and braver space for transgender professionals to share their pronouns.

On Mon, Feb 12, 2024 at 9:52 AM Zach Newman <znewman@laaconline.org> wrote:

> Hi all - 1:00 p.m. – 2:00 p.m. and 3:00 p.m. – 4:00 p.m. work for me. Salena may be out on vacation that day, but I can fill her in if she can't make it.
>
> Best,
> Zach
>
> **Zach Newman | Directing Attorney**
> Legal Aid Association of California (LAAC)
> znewman@laaconline.org
> *Pronouns: he/him/his*
>
> Donate to LAAC now! Sign up for our monthly newsletter, LAAC in Action.
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> Berkeley, CA 94710
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>
> On Mon, Feb 12, 2024 at 9:37 AM Nikole Nelson <nikole@frontlinejustice.org> wrote:
>
> > Those times all work for me at this point!
> >
> > On Mon, Feb 12, 2024 at 8:28 AM Zelnick, Jennifer <Jennifer.Zelnick@calbar.ca.gov> wrote:
> >
> > > Hi all,
> > >
> > > I hope everyone had a good weekend!
> > >
> > > Unfortunately, meeting on February 14 no longer works for our office. May I please ask everyone to respond to me with their availability to meet during the below times (in PST)?:
> > >
> > > Friday, February 23:
> > > 10:00 a.m. – noon
> > > 1:00 p.m. – 2:00 p.m.
> > > 3:00 p.m. – 4:00 p.m.
> > >
> > > Thank you for sending your availability. I will share a zoom link once everyone responds.
> > >
> > > Sincerely,
> > > Jennifer

Jennifer Zelnick (she/her/hers)
Senior Program Analyst, Office of Access & Inclusion
The State Bar of California | 845 South Figueroa Street | Los Angeles, CA 90017
213-765-1210 | jennifer.zelnick@calbar.ca.gov

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EXHIBIT 5

From: Zelnick, Jennifer
To: Zach Newman; Nguyen, Doan
Subject: RE: Community Justice Worker Working Group - first meeting 7/10
Date: Monday, July 8, 2024 3:34:00 PM

Dear Zach,

Thanks so much for sharing this email. Looking forward to Wednesday!

Sincerely,
Jennifer

Jennifer Zelnick (she/her/hers)
Lead Program Analyst, Office of Access & Inclusion
The State Bar of California | 845 South Figueroa Street | Los Angeles, CA 90017
213-765-1210 | jennifer.zelnick@calbar.ca.gov

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From: Zach Newman <znewman@laaconline.org>
Sent: Monday, July 8, 2024 3:30 PM
To: Zelnick, Jennifer <Jennifer.Zelnick@calbar.ca.gov>; Nguyen, Doan <Doan.Nguyen@calbar.ca.gov>
Subject: Fwd: Community Justice Worker Working Group - first meeting 7/10

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Hello! I wanted to share Sacha's email with you both about the CJW kickoff call on Wednesday. See you then!

Thanks,
Zach

Zach Newman | Directing Attorney
Legal Aid Association of California (LAAC)
znewman@laaconline.org
Pronouns: he/him/his

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---------- Forwarded message ---------
From: **Sacha Steinberger** <sacha@legallink.org>
Date: Mon, Jul 8, 2024 at 3:13 PM
Subject: Community Justice Worker Working Group - first meeting 7/10
To: Leigh Ferrin <lferrin@one-justice.org>
Cc: Zach Newman <znewman@laaconline.org>, Salena Copeland <scopeland@laaconline.org>

Community Justice Worker Working Group:

We are excited to kick off our first meeting together this **Wednesday, 7/10 from 12-2** (zoom link HERE and in your calendar). Please confirm if you will be attending.

As you know, this working group, convened by the Legal Aid Association of California, and led by Legal Link and OneJustice, will meet 5 times over the next 4 months to think about what a Community Justice Worker program might look like, what structure exists currently, what would need to change to make the program successful, and, on a broader level, who needs to be involved to make the needed changes.

For those of you who can't make the first meeting, we will share information afterward.

Agenda for our first meeting:

1. Welcome + Introductions
2. The Working Group's charge
3. Agenda + scheduling the remaining meetings
4. Presentations from existing community justice worker programs outside of California:
    a. Nikole Nelson, Frontline Justice / Alaska Legal Services
    b. Hayley Cousin, Timpanogos Legal Center
5. Feedback session
6. Wrap-up + next steps

Below are a couple of articles about community justice work, if you'd like more background:

1. Deborah L. Rhode Center on the Legal Profession, Policy Brief: Rethinking Regulation of Legal Services: Authorizing Community Justice Workers (attached)
2. IAALS, Stacy Rupprecht Jane and Cayley Balser: The Diverse Landscape of Community-Based Justice Workers.

We look forward to working with all of you and diving into this important conversation!

Sincerely,
Sacha + Leigh

Sacha Steinberger
Founder + Co-Executive Director, Legal Link

Leigh Ferrin
Program Director, OneJustice

EXHIBIT 6

From:	Leigh Ferrin
To:	Nguyen, Doan
Cc:	Zach Newman; Zelnick, Jennifer; Sacha Steinberger; scopeland@laaconline.org
Subject:	Re: CJW Meeting This Week?
Date:	Wednesday, August 28, 2024 3:48:59 PM

Hi Doan,
Definitely did not mean to give Jennifer the run around - I think it's a failure of group leadership; we were all trying to be too kind to each other and defer to each other.

I think we'll have a good sense in the next couple of weeks, but certainly by the September meeting, what the October meeting will look like. And we'll communicate it ASAP to all of you.

I appreciate the desire to support, and obviously that will be important moving forward, and we definitely don't want you all to be left in the dark. Let me circle up with Zach and Sacha, but maybe there's a way we can provide an interim update, as we're working through some of these things - so you're not waiting until October for the next update. That seems doable to me. After Sacha, Zach, and I reconnect, we can figure out a way to share info with you all - does that sound okay?

--Leigh

On Wed, Aug 28, 2024 at 3:26 PM Nguyen, Doan <Doan.Nguyen@calbar.ca.gov> wrote:

> Hi Leigh, thanks for getting back to us. It was originally communicated that we'd be able to attend most of the meetings, mainly so that we could better support the direction the what the legal aid community wants, but we appreciate the sensitivities and happy to just get an update on the back end so you can have unfiltered discussions. Since Jennifer's time is valuable, we'd appreciate a heads up so she can better plan. It felt a little like she was getting the run around, but now we understand and hope that we can maintain an open line of communication. Thank you and don't hesitate to reach out if we can help with anything.
>
> --
>
> **Doan T. Nguyen** (she/her/hers)
>
> Program Director | Office of Access & Inclusion
>
> The State Bar of California | 180 Howard Street | San Francisco, CA 94105
>
> 415.538.2545 | Doan.Nguyen@calbar.ca.gov
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From: Leigh Ferrin <lferrin@one-justice.org>
Sent: Wednesday, August 28, 2024 3:08 PM
To: Zach Newman <znewman@laaconline.org>
Cc: Nguyen, Doan <Doan.Nguyen@calbar.ca.gov>; Zelnick, Jennifer <Jennifer.Zelnick@calbar.ca.gov>; Salena Copeland <salenacopeland@gmail.com>; Sacha Steinberger <sacha@legallink.org>
Subject: Re: CJW Meeting This Week?

Hi All,

I'm sorry for not replying earlier!

Yes, our preference would be to not have State Bar staff at the next meeting in September, and possibly not at the October meeting, mostly depending how far we get at the September meeting.

We are hoping to really get into the nitty gritty of the program structure over the next 2 meetings, and we'd like the working group members to feel comfortable freely sharing their thoughts, concerns, hopes, and expectations. We do imagine that the State Bar will come up, as a potential regulator, and as a key stakeholder (and it did today in the meeting!). And the State Bar also funds most of the working group members' organizations. We could definitely see that even the presence of State Bar staff in the zoom could chill members' speech. We are taking copious notes, and all of the discussions will be reflected in the report that we are putting together.

Happy to discuss this more, if it's helpful. Thanks for your patience with this!

Sincerely,

Leigh

On Tue, Aug 27, 2024 at 4:18 PM Zach Newman <znewman@laaconline.org> wrote:

> Thanks Doan. I'm looping in Leigh and Sacha to discuss directly to get on the same page.
>
> **Zach Newman | Directing Attorney**
>
> Legal Aid Association of California (LAAC)
>
> znewman@laaconline.org
>
> *Pronouns: he/him/his*
>
> Donate to LAAC now! Sign up for our monthly newsletter, LAAC in Action.
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> Legal Aid Association of California
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> 1832 2nd Street, Suite 105
>
> Berkeley, CA 94710
>
> www.LAAConline.org
>
> On Tue, Aug 27, 2024 at 3:09 PM Nguyen, Doan <Doan.Nguyen@calbar.ca.gov> wrote:
>
> > So we won't be able to come to potentially all the remaining meetings?
> >
> > --
> >
> > **Doan T. Nguyen** (she/her/hers)
> >
> > Program Director | Office of Access & Inclusion
> >
> > The State Bar of California | 180 Howard Street | San Francisco, CA 94105
> >
> > 415.538.2545 | Doan.Nguyen@calbar.ca.gov
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From: Zach Newman <znewman@laaconline.org>
Sent: Tuesday, August 27, 2024 3:08 PM
To: Nguyen, Doan <Doan.Nguyen@calbar.ca.gov>
Cc: Zelnick, Jennifer <Jennifer.Zelnick@calbar.ca.gov>; Salena Copeland <salenacopeland@gmail.com>
Subject: Re: CJW Meeting This Week?

Thanks for your patience! The group (Sacha and Leigh) discussed and decided the next two meetings (August and September) both have regulatory components that they feel not having Bar staff in the room would inspire more candid conversations regarding regulatory systems and bodies. The final fifth meeting, on getting ready to prepare the report (October), could be a space for Jennifer to attend, but they both agreed we won't know the content of that meeting until later on.

Best,

Zach

Zach Newman | Directing Attorney

Legal Aid Association of California (LAAC)

znewman@laaconline.org

Pronouns: he/him/his

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On Tue, Aug 27, 2024 at 9:16 AM Zach Newman <znewman@laaconline.org> wrote:

> Sure - I can let them know you'd prefer to understand which of the remaining sessions you're welcome to attend. The consensus was to decide on a meeting-by-meeting basis, but I get that's not conducive to planning on your end. I'll run this by them today and hopefully be able to say which of the remaining sessions the Bar is welcome to attend all at once.
>
> Thanks,
>
> Zach

Zach Newman | Directing Attorney

Legal Aid Association of California (LAAC)

znewman@laaconline.org

Pronouns: he/him/his

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On Tue, Aug 27, 2024 at 9:02 AM Nguyen, Doan <Doan.Nguyen@calbar.ca.gov> wrote:

> Hi Zach, can you please ask the organizers to provide the full schedules of meetings the State Bar is welcome to attend as it is very hard for Jennifer to plan in advance if she does not know which meetings are open to us? Thank you.
>
> --

Doan T. Nguyen (she/her/hers)

Program Director | Office of Access & Inclusion

The State Bar of California | 180 Howard Street | San Francisco, CA 94105

415.538.2545 | Doan.Nguyen@calbar.ca.gov

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From: Zach Newman <znewman@laaconline.org>
Sent: Tuesday, August 27, 2024 8:48 AM
To: Zelnick, Jennifer <Jennifer.Zelnick@calbar.ca.gov>
Cc: Nguyen, Doan <Doan.Nguyen@calbar.ca.gov>
Subject: Re: CJW Meeting This Week?

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Thanks for checking in Jennifer. Our team is meeting this afternoon so will have an answer for you later today.

Best,

Zach

Zach Newman | Directing Attorney

Legal Aid Association of California (LAAC)

znewman@laaconline.org

Pronouns: he/him/his

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On Tue, Aug 27, 2024 at 8:41 AM Zelnick, Jennifer <Jennifer.Zelnick@calbar.ca.gov> wrote:

> Dear Zach,
>
> I hope you are having a great morning!
>
> I wrote in my notes from the first CJW working group meeting that there might be a meeting this week. May I please ask you if that's still the case, and if so, if this is a meeting Doan and I might be able to attend?
>
> Thanks so much for your help.
>
> Sincerely,
>
> Jennifer
>
> Jennifer Zelnick (she/her/hers)
>
> Lead Program Analyst, Office of Access & Inclusion
>
> The State Bar of California | 845 South Figueroa Street | Los Angeles, CA 90017
>
> 213-765-1210 | jennifer.zelnick@calbar.ca.gov

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EXHIBIT 7

From: Leigh Ferrin
To: Nguyen, Doan
Cc: Zelnick, Jennifer; Zach Newman; Sacha Steinberger; scopeland@laaconline.org
Subject: Re: CJW Meeting This Week?
Date: Thursday, October 3, 2024 11:42:07 AM

Hi Doan and Jennifer,

We are checking back in with you about the progress on the Community Justice Workers working group. We have a very rough proposal, and we'd love to check in with you about the content of the proposal, as well as a few logistics. Would you be willing to meet with us sometime in the next couple of weeks?

Here's a doodle to try to schedule. I think we may only need 30-45 minutes, but I scheduled hour slots just to be safe, and to be able to provide more opportunities for meetings!

Thanks so much!
Sincerely,
Leigh

On Fri, Sep 6, 2024 at 2:49 PM Nguyen, Doan <Doan.Nguyen@calbar.ca.gov> wrote:

> Thanks so much for the update, looks like you've made a lot of progress!
>
> --
>
> **Doan T. Nguyen** (she/her/hers)
>
> Program Director | Office of Access & Inclusion
>
> The State Bar of California | 180 Howard Street | San Francisco, CA 94105
>
> 415.538.2545 | Doan.Nguyen@calbar.ca.gov
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From: Leigh Ferrin <lferrin@one-justice.org>
Sent: Friday, September 6, 2024 1:14 PM
To: Zelnick, Jennifer <Jennifer.Zelnick@calbar.ca.gov>
Cc: Zach Newman <znewman@laaconline.org>; Nguyen, Doan <Doan.Nguyen@calbar.ca.gov>; Sacha Steinberger <sacha@legallink.org>; scopeland@laaconline.org
Subject: Re: CJW Meeting This Week?

Of course, whatever we can do. The conversations are ongoing, but here is a brief summary of where we are and what we are working on now/next. Let us know what questions you have.

Thanks!

Leigh

Accomplished so far:

- Reviewed the structure of Community Justice Worker (CJW) programs in other states, including Alaska, Utah, Arizona, Delaware, Hawaii, and South Carolina
- Explored what legal services organizations are currently doing in California to work with non-lawyer advocates both internally at their organization and externally with community partners
- Discussed what more the organizations might want to be able to do with non-lawyer advocates
- Identified the structures and components that we would likely need to consider for a proposal in California, including
    - the status of CJWs;
    - what prerequisites might be required, as well as specific education, training, and testing requirements;
    - supervision requirements;
    - the scope of permitted activities;
    - any limitations;
    - a code of conduct or professional responsibility;
    - disclosures and informed consent; and

- any data and reporting requirements

- Began to gauge interest from working group orgs in being part of a pilot project
- Asked working group members to weigh in on proposed substantive areas
  - Asset preservation
  - CalFresh
  - Child Support Arrears
  - Consumer debt collection defense
  - Custody
  - DVROs
  - Fines & Fees
  - Housing Preservation
  - Labor Commissioner Hearings
  - Unemployment Insurance
  - Voucher Disc
  - Limited Conservatorship
- Developed outreach list of stakeholders

What is next:

- Identifying the components that are big picture (and not dependent on substantive areas of law) and beginning to craft a proposal for those components that would work in California
- Identifying substantive areas of law that could be approved for a pilot
- Review and recommend possible regulatory changes, implementation mechanisms, and potential funding sources

On Thu, Aug 29, 2024 at 12:27 PM Zelnick, Jennifer <Jennifer.Zelnick@calbar.ca.gov> wrote:

> Dear Leigh,
>
> I wanted to echo Doan's thanks. Please don't feel rushed to share an interim update. We

appreciate this update, and please do let us know how we can support.

Sincerely,

Jennifer

Jennifer Zelnick (she/her/hers)

Lead Program Analyst, Office of Access & Inclusion

The State Bar of California | 845 South Figueroa Street | Los Angeles, CA 90017

213-765-1210 | jennifer.zelnick@calbar.ca.gov

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From: Nguyen, Doan <Doan.Nguyen@calbar.ca.gov>
Sent: Wednesday, August 28, 2024 4:11 PM
To: Leigh Ferrin <lferrin@one-justice.org>
Cc: Zach Newman <znewman@laaconline.org>; Zelnick, Jennifer <Jennifer.Zelnick@calbar.ca.gov>; Sacha Steinberger <sacha@legallink.org>; scopeland@laaconline.org
Subject: RE: CJW Meeting This Week?

Don’t sweat it Leigh, thanks for understanding. Thank you, and take care everyone!

--

Doan T. Nguyen (she/her/hers)

Program Director | Office of Access & Inclusion

The State Bar of California | 180 Howard Street | San Francisco, CA 94105

415.538.2545 | Doan.Nguyen@calbar.ca.gov

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From: Leigh Ferrin <lferrin@one-justice.org>
Sent: Wednesday, August 28, 2024 3:49 PM
To: Nguyen, Doan <Doan.Nguyen@calbar.ca.gov>
Cc: Zach Newman <znewman@laaconline.org>; Zelnick, Jennifer <Jennifer.Zelnick@calbar.ca.gov>; Sacha Steinberger <sacha@legallink.org>; scopeland@laaconline.org
Subject: Re: CJW Meeting This Week?

Hi Doan,

Definitely did not mean to give Jennifer the run around - I think it's a failure of group leadership; we were all trying to be too kind to each other and defer to each other.

I think we'll have a good sense in the next couple of weeks, but certainly by the September meeting, what the October meeting will look like. And we'll communicate it ASAP to all of you.

I appreciate the desire to support, and obviously that will be important moving forward, and we definitely don't want you all to be left in the dark. Let me circle up with Zach and Sacha, but maybe there's a way we can provide an interim update, as we're working through some of these things - so you're not waiting until October for the next update. That seems doable to me. After Sacha, Zach, and I reconnect, we can figure out a way to share info with you all - does that sound okay?

--Leigh

On Wed, Aug 28, 2024 at 3:26 PM Nguyen, Doan <Doan.Nguyen@calbar.ca.gov> wrote:

> Hi Leigh, thanks for getting back to us. It was originally communicated that we'd be able to attend most of the meetings, mainly so that we could better support the direction the what the legal aid community wants, but we appreciate the sensitivities and happy to just get an update on the back end so you can have unfiltered discussions. Since Jennifer's time is valuable, we'd appreciate a heads up so she can better plan. It felt a little like she was getting the run around, but now we understand and hope that we can maintain an open line of communication. Thank you and don't hesitate to reach out if we can help with anything.

--

Doan T. Nguyen (she/her/hers)

Program Director | Office of Access & Inclusion

The State Bar of California | 180 Howard Street | San Francisco, CA 94105

415.538.2545 | Doan.Nguyen@calbar.ca.gov

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From: Leigh Ferrin <lferrin@one-justice.org>
Sent: Wednesday, August 28, 2024 3:08 PM
To: Zach Newman <znewman@laaconline.org>
Cc: Nguyen, Doan <Doan.Nguyen@calbar.ca.gov>; Zelnick, Jennifer <Jennifer.Zelnick@calbar.ca.gov>; Salena Copeland <salenacopeland@gmail.com>; Sacha Steinberger <sacha@legallink.org>
Subject: Re: CJW Meeting This Week?

Hi All,

I'm sorry for not replying earlier!

Yes, our preference would be to not have State Bar staff at the next meeting in September, and possibly not at the October meeting, mostly depending how far we get at the September meeting.

We are hoping to really get into the nitty gritty of the program structure over the next 2 meetings, and we'd like the working group members to feel comfortable freely sharing their thoughts, concerns, hopes, and expectations. We do imagine that the State Bar will come up, as a potential regulator, and as a key stakeholder (and it did today in the meeting!). And the State Bar also funds most of the working group members' organizations. We could definitely see that even the presence of State Bar staff in the zoom could chill members' speech. We are taking copious notes, and all of the discussions will be reflected in the report that we are putting together.

Happy to discuss this more, if it's helpful. Thanks for your patience with this!

Sincerely,

Leigh

On Tue, Aug 27, 2024 at 4:18 PM Zach Newman <znewman@laaconline.org> wrote:

> Thanks Doan. I'm looping in Leigh and Sacha to discuss directly to get on the same page.
>
> **Zach Newman | Directing Attorney**
>
> Legal Aid Association of California (LAAC)
>
> znewman@laaconline.org
>
> *Pronouns: he/him/his*

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Legal Aid Association of California

1832 2nd Street, Suite 105

Berkeley, CA 94710

www.LAAConline.org

On Tue, Aug 27, 2024 at 3:09 PM Nguyen, Doan <Doan.Nguyen@calbar.ca.gov> wrote:

> So we won't be able to come to potentially all the remaining meetings?
>
> --
>
> **Doan T. Nguyen** (she/her/hers)
>
> Program Director | Office of Access & Inclusion
>
> The State Bar of California | 180 Howard Street | San Francisco, CA 94105
>
> 415.538.2545 | Doan.Nguyen@calbar.ca.gov
>
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From: Zach Newman <znewman@laaconline.org>
Sent: Tuesday, August 27, 2024 3:08 PM
To: Nguyen, Doan <Doan.Nguyen@calbar.ca.gov>
Cc: Zelnick, Jennifer <Jennifer.Zelnick@calbar.ca.gov>; Salena Copeland

<salenacopeland@gmail.com>
Subject: Re: CJW Meeting This Week?

Thanks for your patience! The group (Sacha and Leigh) discussed and decided the next two meetings (August and September) both have regulatory components that they feel not having Bar staff in the room would inspire more candid conversations regarding regulatory systems and bodies. The final fifth meeting, on getting ready to prepare the report (October), could be a space for Jennifer to attend, but they both agreed we won't know the content of that meeting until later on.

Best,

Zach

Zach Newman | Directing Attorney

Legal Aid Association of California (LAAC)

znewman@laaconline.org

Pronouns: he/him/his

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On Tue, Aug 27, 2024 at 9:16 AM Zach Newman <znewman@laaconline.org> wrote:

> Sure - I can let them know you'd prefer to understand which of the remaining sessions you're welcome to attend. The consensus was to decide on a meeting-by-meeting basis, but I get that's not conducive to planning on your end. I'll run this by them today and hopefully be able to say which of the remaining sessions the Bar is welcome to attend all at once.

Thanks,

Zach

Zach Newman | Directing Attorney

Legal Aid Association of California (LAAC)

znewman@laaconline.org

Pronouns: he/him/his

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On Tue, Aug 27, 2024 at 9:02 AM Nguyen, Doan <Doan.Nguyen@calbar.ca.gov> wrote:

> Hi Zach, can you please ask the organizers to provide the full schedules of meetings the State Bar is welcome to attend as it is very hard for Jennifer to plan in advance if she does not know which meetings are open to us? Thank you.
>
> --
>
> **Doan T. Nguyen** (she/her/hers)
>
> Program Director | Office of Access & Inclusion
>
> The State Bar of California | 180 Howard Street | San Francisco, CA 94105
>
> 415.538.2545 | Doan.Nguyen@calbar.ca.gov
>
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California.

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From: Zach Newman <znewman@laaconline.org>
Sent: Tuesday, August 27, 2024 8:48 AM
To: Zelnick, Jennifer <Jennifer.Zelnick@calbar.ca.gov>
Cc: Nguyen, Doan <Doan.Nguyen@calbar.ca.gov>
Subject: Re: CJW Meeting This Week?

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Thanks for checking in Jennifer. Our team is meeting this afternoon so will have an answer for you later today.

Best,

Zach

Zach Newman | Directing Attorney

Legal Aid Association of California (LAAC)

znewman@laaconline.org

Pronouns: he/him/his

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On Tue, Aug 27, 2024 at 8:41 AM Zelnick, Jennifer <Jennifer.Zelnick@calbar.ca.gov> wrote:

> Dear Zach,
>
> I hope you are having a great morning!
>
> I wrote in my notes from the first CJW working group meeting that there might be a meeting this week. May I please ask you if that's still the case, and if so, if this is a meeting Doan and I might be able to attend?
>
> Thanks so much for your help.
>
> Sincerely,
>
> Jennifer

Jennifer Zelnick (she/her/hers)

Lead Program Analyst, Office of Access & Inclusion

The State Bar of California | 845 South Figueroa Street | Los Angeles, CA 90017

213-765-1210 | jennifer.zelnick@calbar.ca.gov

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EXHIBIT 8

From: Sacha Steinberger
To: Leigh Ferrin
Subject: Reminder: Community Justice Worker presentation TODAY
Date: Monday, October 28, 2024 9:01:24 AM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi all:

We look forward to seeing you later today for a report-out from the California Community Justice Worker Working Group. You should have a calendar invite and the information is below.

1. **Date + Time**: Monday, October 28th, 4pm program with Director Rossi, with drinks, snacks and time to mingle after.
2. **Location**: UC Law SF, Deb Colloquium Room, 333 Golden Gate Ave., 5th floor, SF 94102
3. **Background**: Convened by the Legal Aid Association of California and led by Legal Link and OneJustice, the Community Justice Worker Working Group, made up of legal aid leaders from across the state, has drafted a recommended proposal that will chart a path forward for community justice work in California.
4. **Event**: The event is made possible by UC Law SF and Legal Link Board Member Shashi Deb, and is generously hosted by the Deborah L. Rhode Center on the Legal Profession at Stanford Law.

Best,
Sacha, Leigh + team

Sacha Steinberger, *she/her*
Founder + Co-Executive Director, Legal Link
o: 415.851.1755 | c: 415.321.9199
1721 Broadway, Ste 201 | Oakland, CA 94612
sacha@legallink.org

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EXHIBIT 9

From: Leigh Ferrin
To: Zelnick, Jennifer
Cc: scopeland@laaconline.org; Nguyen, Doan
Subject: Re: Meet about CJWs (and Potentially the Upcoming Grantee Convenings)
Date: Monday, January 13, 2025 3:21:24 PM

Glad to hear it!

You can thank Lucy and her team at Stanford for the incredible amount of information that was included. We were/are very lucky to be working with them.

Leigh

On Mon, Jan 13, 2025 at 2:48 PM Zelnick, Jennifer <Jennifer.Zelnick@calbar.ca.gov> wrote:

> Dear Leigh,
>
> Thank you so much for sharing the final report, and a big congratulations! I look forward to reading it later today. We will be on the lookout for messages from the various organizations.
>
> Let's see if next Tuesday, January 21, at 4:00 p.m. works for Salena and go from there.
>
> I'm glad to know that you will be presenting the proposal at the February BOT meeting. I will be presenting about the national regulatory reform landscape, so having your report on hand is a huge help!
>
> Sincerely,
>
> Jennifer
>
> Jennifer Zelnick (she/her/hers)
>
> Lead Program Analyst, Office of Access & Inclusion
>
> The State Bar of California | 845 South Figueroa Street | Los Angeles, CA 90017
>
> 213-765-1210 | jennifer.zelnick@calbar.ca.gov
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From: Leigh Ferrin <lferrin@one-justice.org>
Sent: Monday, January 13, 2025 2:14 PM
To: Zelnick, Jennifer <Jennifer.Zelnick@calbar.ca.gov>
Cc: scopeland@laaconline.org; Nguyen, Doan <Doan.Nguyen@calbar.ca.gov>
Subject: Re: Meet about CJWs (and Potentially the Upcoming Grantee Convenings)

Hi Jennifer, Salena and Doan,

Attached is the final report. It'll be posted on LAAC's website shortly, and you'll probably see messages from the various orgs in the near future as well!

Next Tuesday at 4 would work. I could do Wednesday 10:30-11, if that happened to work for you?

I'm guessing you might be in touch, but I've also been talking to Donna about presenting this proposal at the February board strategic meeting.

Sincerely,

Leigh

On Mon, Jan 13, 2025 at 12:39 PM Zelnick, Jennifer <Jennifer.Zelnick@calbar.ca.gov> wrote:

> Dear Leigh and Salena,

Thank you both for your emails. Salena, I hope you enjoy ITC! I had intended to go but was unable to do so due to the fires (but Sylvia is there). Leigh, I am so glad that you are not impacted by the fires!

Thanks also for this great update about the report, that's very exciting. We look forward to seeing the final product!

Unfortunately, Doan is not able to meet this week. However, I can meet on Thursday from 1:00 – 3:00 p.m., or I believe that Doan and I can meet next week on Tuesday at 4:00 p.m. or Wednesday at 10:00 a.m. Please let me know your preference and I will send a calendar invitation.

Sincerely,

Jennifer

Jennifer Zelnick (she/her/hers)

Lead Program Analyst, Office of Access & Inclusion

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From: Leigh Ferrin <lferrin@one-justice.org>
Sent: Monday, January 13, 2025 9:04 AM

To: scopeland@laaconline.org
Cc: Zelnick, Jennifer <Jennifer.Zelnick@calbar.ca.gov>; Nguyen, Doan <Doan.Nguyen@calbar.ca.gov>
Subject: Re: Meet about CJWs (and Potentially the Upcoming Grantee Convenings)

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Hi All,

I can meet this week - and later in the week is fine. I am lucky enough to be far enough south that I am not personally impacted by the fires, thank goodness.

The report needs two small changes and then it is final. I should have those within the next day or two. We have all the sign-offs (a miracle!) and we are planning our outreach policy. We are so close!

Sincerely,

Leigh

On Fri, Jan 10, 2025 at 7:51 PM Salena Copeland <scopeland@laaconline.org> wrote:

> Hi Jennifer - I'm going to be at ITC on Tuesday, so I can't meet until later in the week. These times are open for me. That said, Leigh will be the best person to tell you if the report will be complete. I know they were wanting to get a formal sign-off from all the working group members, and I'm not sure how many of the stragglers are the LA representatives.
>
> Wednesday 12-2 and 3-4
>
> Thursday 12-4

Salena Copeland (pronouns she/her) (hear me say my name)
Executive Director
Legal Aid Association of California

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Why include pronouns? I include pronouns in an effort to share my personal and professional commitment to transgender inclusivity and visibility. Through sharing my pronouns, I hope to support a safer and braver space for transgender professionals to share their pronouns.

On Fri, Jan 10, 2025 at 5:36 PM Zelnick, Jennifer <Jennifer.Zelnick@calbar.ca.gov> wrote:

> Dear Leigh and Salena,
>
> I hope that you are both doing well and that you and any loved ones in LA are safe.
>
> Doan and I wanted to follow up about the CJW project status and touch base about potentially including it in the upcoming convenings. Might Tuesday, January 14 at 4:00 p.m. work? We realize that things are particularly hectic now, so if this time or next week might not work, please let us know and we will find another time to meet.

Thank you.

Sincerely,

Jennifer

Jennifer Zelnick (she/her/hers)

Lead Program Analyst, Office of Access & Inclusion

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213-765-1210 | jennifer.zelnick@calbar.ca.gov

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EXHIBIT 10

From: Zelnick, Jennifer
To: Sacha Steinberger; Nguyen, Doan
Cc: Leigh Ferrin; scopeland@laaconline.org
Subject: RE: CJW Working Group Proposal - final and ready to share!
Date: Thursday, January 23, 2025 8:09:00 PM

Dear Sacha,

Thank you, and likewise! I hope the sabbatical was restful.

Thanks so much for sharing the message and attachment. Doan and I had a productive chat with Leigh and Salena earlier in the week and are excited to hear about next steps. We're happy to support and help in any way we can.

Sincerely,
Jennifer

Jennifer Zelnick (she/her/hers)
Lead Program Analyst, Office of Access & Inclusion
The State Bar of California | 845 South Figueroa Street | Los Angeles, CA 90017
213-765-1210 | jennifer.zelnick@calbar.ca.gov

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From: Sacha Steinberger <sacha@legallink.org>
Sent: Wednesday, January 22, 2025 12:08 PM
To: Nguyen, Doan <Doan.Nguyen@calbar.ca.gov>; Zelnick, Jennifer <Jennifer.Zelnick@calbar.ca.gov>
Cc: Leigh Ferrin <lferrin@one-justice.org>; scopeland@laaconline.org
Subject: Fwd: CJW Working Group Proposal - final and ready to share!

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Hi Doan and Jennifer:

I hope you are well! I returned from sabbatical after the New Year (!) and am back in the swing of things. We just sent out the message, below, to the working group members and will be sharing the proposal with our networks and key stakeholders soon. We look forward to further discussions. Thank you for your support with this work!

All the best,
Sacha

_____

Sacha Steinberger, *she/her*
Founder + Co-Executive Director, Legal Link
o: 415.851.1755 | c: 415.321.9199
1721 Broadway, Ste 201 | Oakland, CA 94612
sacha@legallink.org

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---------- Forwarded message ---------
From: **Sacha Steinberger** <sacha@legallink.org>
Date: Wed, Jan 22, 2025 at 11:05 AM
Subject: CJW Working Group Proposal - final and ready to share!
To: Leigh Ferrin <lferrin@one-justice.org>
Cc: Zach Newman <znewman@laaconline.org>, Lucy Ricca <lricca@law.stanford.edu>, Dana Christine Alpert <dcalpert@stanford.edu>, Nikole Nelson <nikole@frontlinejustice.org>, Salena Copeland <scopeland@laaconline.org>

Hello all:

Hope folks are holding up, and sending many good thoughts to our friends in LA. Despite a lot of other things going on, we are writing with an update on the CJW Working Group proposal, which we hope is welcome news.

We are excited to share our finished proposal and accompanying FAQ. Many thanks to each of you for your contributions, to the Stanford Rhode Center for the heavy lifting on drafting and formatting, and to LAAC, OneJustice and Legal Link for lending staff and expertise to make this happen.

As for what is next, we hope you will share this proposal with your community (see resources below). We have posted the materials on each of our websites and will be sharing with our lists. We are also doing outreach to key stakeholders and welcome you to do the same. Please

fill us in on any promising conversations and leads, as well as any feedback you receive.

Resources for sharing:

- Proposal and FAQ (on LAAC page)
- Toolkit - attached with sample language to use in emails and social media
- See example posts on OneJustice and Legal Link sites

Thank you for your support throughout this process - we are excited to move this forward! Stay tuned as we gather feedback and determine next steps.

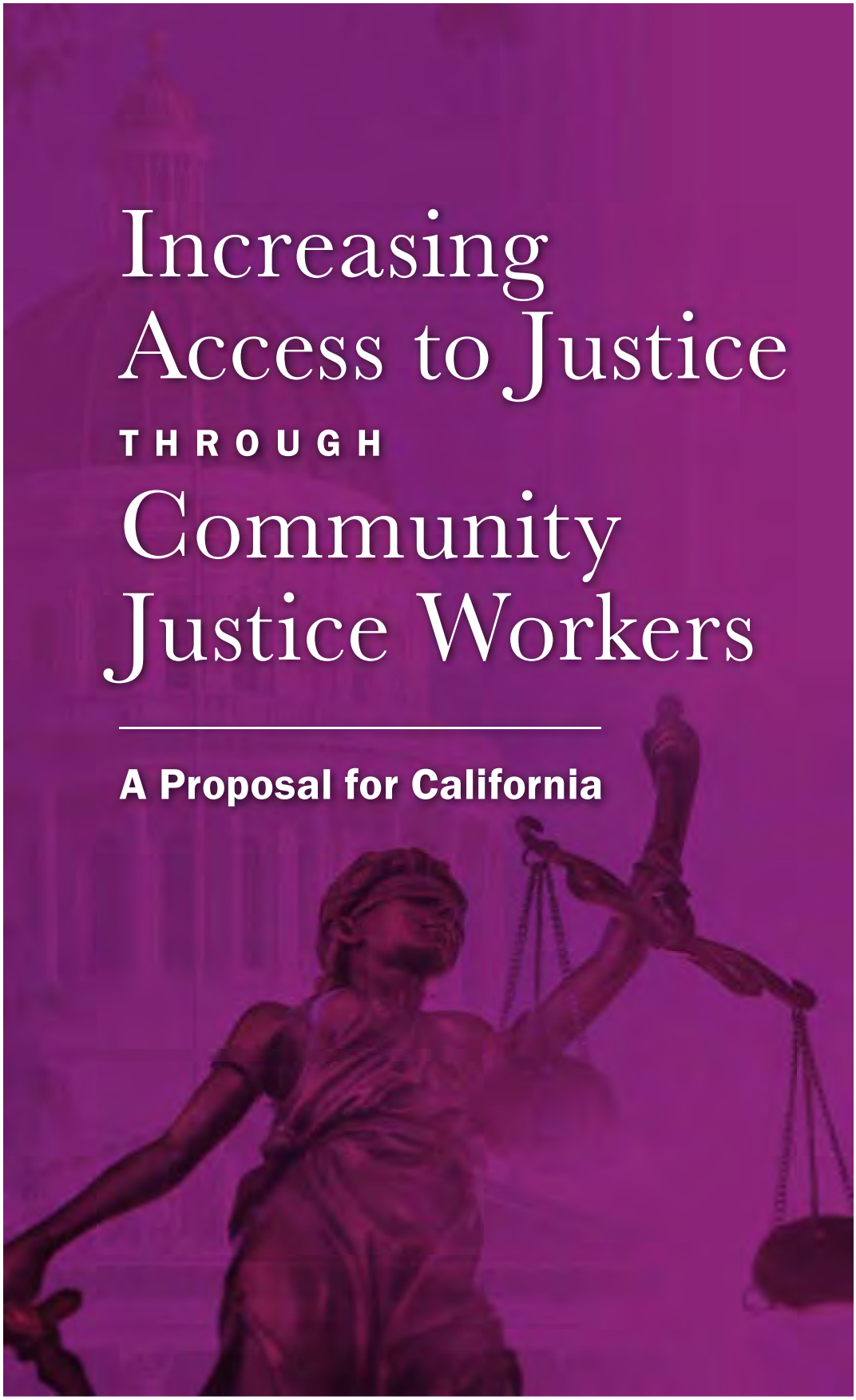
All the best,
Sacha + Leigh

Sacha Steinberger, *she/her*
Founder + Co-Executive Director, Legal Link
o: 415.851.1755 | c: 415.321.9199
1721 Broadway, Ste 201 | Oakland, CA 94612
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EXHIBIT 11



Increasing Access to Justice THROUGH Community Justice Workers

A Proposal for California

December 2024

LAAC
Legal Aid Association of California

OneJustice

LEGAL LINK

Increasing Access to Justice THROUGH Community Justice Workers

A Proposal for California

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Overview of empirical research on nonlawyer provided legal assistance 19

APPENDIX B
Sample Program Concepts 21

LAAC Legal Aid Association of California

OneJustice

LEGAL LINK

IN JULY 2024, the Legal Aid Association of California convened a working group of leaders from California's legal aid organizations to explore the potential for a Community Justice Worker (CJW) program. This group was led by Legal Link and OneJustice, with advice and support from Stanford Law School's Deborah L. Rhode Center on the Legal Profession and Frontline Justice. Discussions over the last six months focused on expanding the reach and impact of legal aid organizations by allowing nonlawyer staff and community members, with attorney training and supervision, to independently do discrete legal procedures for which there is a deep and unmet need. This would require authorization to perform a limited range of activities which could fall within the scope of the practice of law.

We are thrilled to share our CJW proposal for California, which would allow legal aid organizations to extend and expand on their work for the lowest-income Californians using a CJW model, as many other states are now doing. The proposal describes a framework for California legal aid organizations seeking to certify individual Community Justice Workers who will serve under the supervision of their attorneys. This is not a proposal for specific projects; rather, it is a proposal for an authorization and oversight framework for a California CJW program in which legal aid organizations across the state can choose to participate. The proposal seeks to streamline the process for groups already under IOLTA review and scrutiny, while allowing other organizations to enter the CJW Program should they meet a set of requirements. Our group is hopeful that our efforts to innovate and provide deeply needed services in a safe and measured way are embraced and carried forward.

Sincerely,

Christian Abasto, Disability Rights California, Legal Advocacy Unit Director
Silvia Argueta, Legal Aid Foundation of Los Angeles, Executive Director
Monique Berlanga, Centro Legal de la Raza, Executive Director
Diego Cartagena, Bet Tzedek Legal Services, President & CEO
Tiela Chalmers, former Alameda County Bar Association, CEO
Leigh Ferrin, OneJustice, Program Director
Heather Hostler, California Indian Legal Services, Executive Director
Jessica Jewell, California Rural Legal Assistance, Executive Director
Zach Newman, Legal Aid Association of California, Directing Attorney
Pablo Ramirez, Legal Aid Society of San Bernardino, Executive Director
Tessie Solorzano, Inland Counties Legal Services, Executive Director
Sacha Steinberger, Legal Link, Founder and Co-Executive Director

INTRODUCTION

Access to justice is a cornerstone of our legal system, encapsulated by the four words inscribed on the façade of the United States Supreme Court building: *equal justice under law*. Unfortunately, these words do not reflect the reality of our American legal system in practice. Most Americans do not have any access to justice at all.

The statistics are shocking.[1] 75 percent of low-income households experienced at least one civil legal problem in the past year, and 40 percent experienced at least five.[2] 92 percent of those people do not receive any or enough legal assistance.[3] In state courts, which handle 98 percent of civil disputes, lawyers represent both sides in only 24 percent of cases on average.[4] In some legal areas, such as family, housing, and debt, 80 to 90 percent of parties have no lawyer at all.[5] These figures only capture those who make it to court—many more struggle with serious legal problems outside the formal judicial process.[6] These individuals often navigate complex and life-altering issues—affecting their family, safety, housing, employment, and finances—without any legal guidance.

California is significantly affected by this crisis. The State Bar's 2019 study of the justice gap revealed that 55 percent of Californians faced at least one civil legal problem in the past year (13 percent experienced six or more), yet 85 percent received insufficient or no legal help.[7] The California justice gap transcends socioeconomic status, with merely 27 percent of low-income and 34 percent of middle-income Californians receiving legal assistance.[8] This study also showed that the most vulnerable among us experience more legal problems than others: those living in a household with a person with disabilities experience an average of three times as many legal problems and survivors of domestic violence or sexual assault expe-

1 Americans experience an estimated at least 150 million new civil justice problems annually. *See* Rebecca L. Sandefur & James Teufel, *Assessing America's Access to Civil Justice Crisis*, 11 U.C. Irvine L. Rev. 753, 765 (2020). At least 120 million of those problems go unresolved. *See* Institute for the Advancement of the American Legal System & Hague Institute for Innovation of Law, Justice Needs and Satisfaction in the United States of America 235 (2021), https://iaals.du.edu/sites/default/files/documents/publications/justice-needs-and-satisfaction-us.pdf.

2 *Justice Gap Research*, Legal Servs. Corp., https://www.lsc.gov/initiatives/justice-gap-research.

3 *Id.*

4 Anna E. Carpenter, Colleen F. Shanahan, Jessica K. Steinberg, & Alyx Mark, *American's Lawyerless Courts: Legal Scholars Work to Recommend Large-Scale Changes in Lawyerless Civil Courts*, No. 4 A.B.A. L. Prac. 48 (2022); Nat'l Ctr. for State Cts., Civil Justice Initiative: The Landscape of Civil Litigation in State Courts 31 (2015), https://www.ncsc.org/__data/assets/pdf_file/0020/13376/civiljusticereport-2015.pdf. Equally significant is the stark disparity in representation rates between plaintiffs and defendants. On average, 92 percent of plaintiffs are represented by counsel, whereas only 26 percent of defendants have legal representation. *Id.*

5 Lucy Ricca and Eric Helland, Conference on Access to Justice in California 1 (2024), https://www.rand.org/content/dam/rand/pubs/conf_proceedings/CFA3400/CFA3411-1-v2/RAND_CFA3411-1-v2.pdf.

6 Rebecca Sandefur, *What We Know, and Need to Know, About the Legal Needs of the Public*, 67 S.C.L. Rev. 443, 447-449 (2015).

7 Rocio Avalos, Erica Carroll, Lisa Chavez, Hellen Hong, Linda Katz, and Eli Wallach, California Justice Gap Study: Executive Report 6 (2019).

8 *Id.*

rience eight times as many legal problems.[9] Millions of Californians, unable to secure the help they need, fall into this justice gap often with lasting impacts for their lives, families, and communities.[10]

A. Traditional Approaches are Insufficient to Address the Immense Need

Traditional approaches to addressing the access to justice crisis—like increasing the overall number of lawyers or mandating pro bono service—have proven ineffective. The number of lawyers has increased in both absolute terms and proportional to the American population and yet the numbers of self-represented people continue to grow.[11] And, while many lawyers are dedicated to pro bono work, only a small portion of hours across the profession are committed to it.[12] Even a significant increase in pro bono efforts would fall short—studies show that if every lawyer in the U.S. provided 100 additional pro bono hours per year, each household with a civil legal issue would still receive only 30 minutes of legal help.[13]

Those who know this problem best, who see the overwhelming need day after day, are the members of California's legal aid community. These lawyers, paralegals, administrative assistants, and other staffers bear the brunt of this ever-worsening issue. Although they offer many services to thousands of Californians in need every single day, they lack the resources to meet the overwhelming demand. Legal Service

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9 *Id.* at 9.

10 Unresolved legal issues often result in severe hardship to individuals and negative consequences to society at large. See Pascoe Pleasence et al., *Mounting Problems: Further Evidence of the Social, Economic and Health Consequences of Civil Justice Problems*, in Transforming Lives: Law and Social Process 67, 79, 83-85 (2006); Sandefur, *supra* note 6, at 457; Deborah L. Rhode & Scott L. Cummings, *Access to Justice: Looking Back, Thinking Ahead*, 30 Geo. J. Leg. Ethics 485, 488 (2017).

For example, eviction can have serious social and health consequences, including interrupted employment, worsened physical health, and increased rates of mental health disorders such as depression and suicide. The associations between eviction and child health have been well documented, including adverse birth outcomes, increased rates of food insecurity among young children, and poor physical and mental health in adolescents and young adults. These consequences create a vicious circle that results in more housing instability and economic challenges. *See Prevalence and Impact of Evictions*, United States Dep't of Hous. and Urb. Dev., https://www.huduser.gov/portal/periodicals/em/Summer21/highlight2.html#:~:text=Moreover%2C%20the%20toll%20of%20evictions,housing%20instability%20and%20economic%20challenges. Eviction is also associated with premature death. Simply being threatened with an eviction—even when that case did not result in an eviction judgment—was associated with a 19% increase in mortality. Receiving an eviction judgment was associated with a 40% increase in the risk of death. See Nick Graetz, Carl Gershenson, and Matthew Desmond, *Rising Rents and Evictions Linked to Premature Death*, Eviction Lab, https://evictionlab.org/rising-rents-and-evictions-linked-to-premature-death/.

In the context of family law, failure to address unmet legal needs may put at lives at risk through domestic violence, and result in loss of child custody by deserving parents, children left in physically dangerous, psychologically traumatic, or financially inadequate family settings, and related problems. See Deborah L. Rhode, Access to Justice 3 (2004). Similarly, the long-term effects of domestic abuse can significantly impact a victim's or witness's life. Domestic violence significantly reduces educational achievements, self-assessed health levels, and life satisfaction; and increases mental health risks. *See* Liu Bo and Yating Peng, *Long-Term Impact of Domestic Violence on Individuals-An Empirical Study Based on Education, Health and Life Satisfaction*, Behav. Scis. (2023).

Moreover, legal debt collection practices devastate vulnerable individuals by trapping them in a cycle of mounting fees, wage garnishment, and court judgments. *See They Need Legal Advice on Debts. Should It Have to Come From Lawyers?,* N.Y. Times (2022), https://www.nytimes.com/2022/01/25/nyregion/consumer-debt-legal-advice.html.

11 The population of U.S. lawyers has grown by 400% since 1970. In 1970, the number of lawyers in the United States was 326,842. In 2022, the number is 1,327,010. Am. Bar Assoc., Profile of the Legal Profession 2022, https://www.abalegalprofile.com/demographics.php#anchor1. Furthermore, the United States had one lawyer for every 695 people in 1951 and one lawyer for every 252 people in 2005. *See* Clara N. Carson & Jeeyoon Park, American Bar Foundation, The Lawyer Statistical Report: The U.S. Legal Profession In 2005, 2 (2005).

12 Gillian K. Hadfield and Deborah L. Rhode, *How to Regulate Legal Services to Promote Access, Innovation, and the Quality of Lawyering*, 67 Hastings L. J. 1191, 1193 (2016).

13 *3 ways to meet the "staggering" amount of unmet legal needs*, Am. Bar Ass'n, https://www.americanbar.org/news/abanews/publications/youraba/2018/july-2018/3-ways-to-meet-the-staggering-amount-of-unmet-legal-needs-/.

Corporation-funded organizations turn away nearly half of the requests they receive due to limited resources.[14] Moreover, recent data show that these limited resources prevent California's legal aid attorneys from fully resolving at least one-third of the problems presented to them.[15]

Increasing funding for legal aid will also not close this gap. California would need an estimated 8,961 additional full-time attorneys to address the legal needs of its low-income residents, requiring nearly $900 million in additional annual funding.[16] For comparison, California legal aid organizations cumulatively employ approximately 1,500 attorneys per year and leverage 16,000 pro bono attorneys to provide services.[17]

Recruiting and retaining attorneys has also become a critical challenge for California's legal aid organizations. A 2010 survey by the Legal Aid Association of California (LAAC) revealed that over one-third of legal aid attorneys left within three years of being hired. By 2019, this trend worsened, with one-third of attorneys leaving within just two years.[18] Financial stress due to low salaries is the number one reason legal aid attorneys give for leaving so soon.[19] Low compensation is compounded by California's high cost of living and attorneys' high student loan expenses, which have grown significantly over the years.[20] Law students, facing high costs of living and ever-burgeoning student loans, are turning to careers in government or at private law firms instead of legal aid organizations.[21]

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14 *Justice Gap Research*, *supra* note 2.

15 Avalos et al., *supra* note 7, at 14.

16 *Id.*

17 *Id.*

18 *Id.* The Bay Area and Southern California—the regions with the highest costs of living and the greatest numbers of low-income people—have seen the largest increases in turnover rates and largest decreases in length of employment. The San Joaquin Valley and Central California Region continues to have the highest turnover rates, with more than a fifth of their attorneys leaving each year. *See* Legal Aid Ass'n of Cal., Justice at Risk: More Support Needed for Legal Aid Attorneys 2-3, 39 (2020).

19 The difference in the comments the attorneys made about legal aid salaries between the 2010 Study and the 2019 Study is extraordinary. Whereas in the 2010 Study, the attorneys commented on how hard it was to be in legal aid unless they had a spouse/partner who also had an income, the 2019 Study's attorneys—and some leadership—are now saying it is financially impossible without a spouse/partners' income, particularly in the higher cost areas of the state. Some law students who want to work in legal aid say they will "figure it out," but they are unlikely to be able to do that and will leave when the financial realities set in. Nearly one in five of the legal aid attorneys have taken on second jobs to supplement their salaries. Others will just give up on legal aid entirely and look to start their legal careers elsewhere. *See* Legal Aid Ass'n of Cal., *supra* note 18, at ii, 18, 76.

20 Legal aid attorneys' educational debt has grown significantly since the 2010 Study because of the increase in law school tuition. In addition, the Public Service Loan Forgiveness program's requirement to put loans in "income-based repayment" plans is causing the amount of debt to balloon for many of the legal aid attorneys after they graduate. More than 60 percent of the attorneys currently have educational debt with the median amount in the $125,000 – $149,000 range. More than one-third of these attorneys have $200,000 – $300,000+ in educational debt. *Id.* at 22.

21 *See* Cal. Access to Just. Comm'n, Legal Aid Recruitment, Retention, and Diversity: A Report to the State Bar of California 3, 14-16 (2022). Public defender work is a stark example of the differences in salaries. The median entry-level salary for a legal aid attorney is $57,000. Entry-level salaries range from $46,000 – $78,000. Only three of the 50+ organizations have a starting salary of $70,000 or more. In contrast, an entry level salary for a Deputy Public Defender in Sacramento County is more than $110,000 and in San Francisco is nearly $122,000. These entry level salaries can be more than double the starting salaries in legal aid and are more than the median salaries for all experienced level attorney positions in legal aid organizations, except for senior legal management in some. *See* Legal Aid Ass'n of Cal., *supra* note 18, at 24, 28-29.

Recognizing the seriousness of this crisis, jurisdictions across the United States are exploring new avenues to expand access to justice.[22] One such solution is the Community Justice Worker (CJW) program, where trained nonlawyers provide free limited legal services to individuals facing civil legal issues, such as debt collection or eviction. Unlike legal paraprofessionals, who must navigate a lengthy state-run licensure process to avoid violating unauthorized practice of law rules, CJWs receive a waiver that provides a limited exemption to these regulations as long as they operate under the supervision of an approved legal aid organization.

While this approach may seem novel, individuals without law licenses have long been authorized to provide representation in immigration matters, Tribal courts, and for those incarcerated in prisons and jails, as well as before various state and federal administrative agencies.[23] Indeed, as far back as 1960, the United States Supreme Court, in *Sperry v. Florida*, a case concerning a nonlawyer patent practitioner, noted that nonlawyers had practiced before the Patent Office since its establishment in 1836 and the Office had stated that "there is no significant difference between lawyers and nonlawyers, either with respect to their ability to handle the work or with respect to their ethical conduct."[24]

For more than half a century, researchers have studied nonlawyer assistance to gain a better empirical understanding of the benefits and risks. This body of research indicates the following conclusions:

1. Consumers want legal help, including from nonlawyers.[25]
2. Qualified nonlawyers are competent and effective at providing help.[26]

This evidence opens up new pathways to addressing the justice crisis.[27] Lawyers remain the central legal practitioners, but lay advocates can help lawyers to serve more people more efficiently. Community-based

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22 Ricca and Helland, *supra* note 5.

23 Matthew Burnett and Rebecca L. Sandefur, *A People-Centered Approach to Designing and Evaluating Community Justice Worker Programs in the United States*, 51 Fordham Urb. L. J. 1509 (2024). *See also Director Rachel Rossi of the Office for Access to Justice Delivers Keynote Remarks at the Launch of the Alaska Legal Services Corporation's Community Justice Worker Resource Center,* Dep't of Just. Office of Pub. Affs. (Oct. 25, 2023), https://www.justice.gov/opa/speech/director-rachel-rossi-office-access-justice-delivers-keynoteremarks-launch-alaska-legal (articulating how programs similar to CJW programs are being developed for Tribal communities in Oklahoma, Montana, Arizona, and Minnesota).

24 Sperry v. Florida, 373 U.S. 379, 402 (1963).

25 *See, e.g.*, Rebecca L. Sandefur, *Legal Advice from Nonlawyers: Consumer Demand, Provider Quality, and Public Harms*, 16 Stan. J. Civ. Rts. & Civ. Liberties 283, 289–97 (2020), Natalie Anne Knowlton, Inst. for the Advancement of the Am. Legal Sys., Cases Without Counsel: Our Recommendations After Listening to the Litigants 29 (2016); Cayley Balser et al., *Leveraging Unauthorized Practice of Law Reform to Advance Access to Justice*, 18 L. J. for Soc. Justice 66, 97–100 (2024).

26 *See*, *e.g.*, Mary E. McClymont, Geo. Just. Lab, Nonlawyer Navigators in State Courts: An Emerging Consensus (2019); Rebecca L. Sandefur & Thomas M. Clarke, Am. B. Found., Nat'l Ctr. for State Cts. & Pub. Welfare Found., Roles Beyond Lawyers: Evaluation of the New York City Court Navigators Program (2016); David Kraft et al., Five Year Review of Paralegal Regulation: Research Findings. Final Report for the Law Society of Upper Canada 6 (2012); Herbert M. Kritzer, Legal Advocacy: Lawyers and Nonlawyers at Work (1998); Sandefur, *supra* note 26, at 297–308; Jessica K. Steinberg et al., *Judges and the Deregulation of the Lawyer's Monopoly*, 89 Fordham L. Rev. 1315 (2021); Deborah L. Rhode, *What We Know and Need to Know About the Delivery of Legal Services by Nonlawyers*, 67 S.C. L. Rev. 429, (2016); Richard Moorhead et al., *Contesting Professionalism: Legal Aid and Nonlawyers in England and Wales*, 37 Law & Soc'y Rev. 765, 785–87 (2003); Nora Freeman Engstrom, *Effective Deregulation: A Look Under Hood of State Civil Courts*, Jotwell, Oct. 31, 2022.

27 *See* Appendix A for a more detailed discussion of the key studies of nonlawyer-provided legal assistance.

lay helpers can serve as an important part of the legal ecosystem, enabling communities to identify and vindicate their legal rights and prevent avoidable harm from having devastating impacts.

Several states have successfully created and implemented programs allowing limited legal practice by CJWs. The Alaska Supreme Court recently approved a waiver of unauthorized practice of law restrictions, allowing the Alaska Legal Services Corporation to train and supervise community justice workers in Alaska's rural and remote communities, many of which qualify as legal deserts.[28] Delaware recently authorized registered agents to represent both landlords and tenants in eviction cases, correcting a previous inequality where only landlords could employ non-lawyers.[29] In Arizona, Domestic Violence Legal Advocates and Housing Stability Legal Advocates provide general legal information and legal advice regarding housing matters, orders of protection, and family law.[30] In Utah, CJW programs include domestic violence advocates, housing stability advocates, and medical debt advocates. And in June, Texas launched a CJW program through the Texas Access to Justice Foundation Moonshot Grant program, where lay advocates will address unmet legal needs in areas such as consumer debt, credit repair, housing, public benefits, and special education.[31]

Alaska's program, which is the largest and about which we have the most information, has had remarkable success. As of September 30, 2024, 271 CJWs have completed training, and another 143 are progressing.[32] Because part of the training program requires case handling under supervision, all 414 CJW's are handling cases. The CJWs have a 100 percent success rate in the areas in which they have been deployed so far (primarily assisting clients with accessing SNAP benefits and drafting wills). Due to the success of the program, Alaska Legal Services Corporation (the sponsoring legal organization) was able to double the overall number of clients assisted in one year.

Utah's domestic violence advocate program, though smaller in size, has also had a positive impact, particularly in the large rural areas of Utah. From June 2021 through June 2024, advocates helped clients seek 225 protective orders.[33] In those 225 cases, an *ex parte* order was issued in 205 cases and denied in only 20 cases.[34] Timpanogos Legal Center (TLC), the supervising legal aid organization, notes that of the 205 with *ex parte* orders issued, only 17 were denied final orders by the court. 39 clients chose to dismiss their order request at the final hearing, usually because an alternative agreement was reached. 118 clients were

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28 *Community Justice Worker Program*, Alaska Legal Servs. Corp., https://www.alsc-law.org/cjw/.

29 *Delaware to Allow Non-Lawyer Representation for Tenants in Eviction Cases*, Nat'l Low Income Hous. Coal., https://nlihc.org/resource/delaware-allow-non-lawyer-representation-tenants-eviction-cases.

30 *Legal Advocates*, Ariz. Jud. Branch, https://www.azcourts.gov/cld/Legal-Advocates.

31 *Innovative Legal Program To Provide Access to Justice for More Texans*, Texas RioGrande Legal Aid, https://www.trla.org/news-releases/innovative-legal-program-to-provide-access-to-justice-for-more-texans#:~:text=The%20Moonshot%20Grant%20funding%20will,TLSC%2C%20and%20TRLA%20as%20subgrantees. The Texas Supreme Court recently issued an order delaying the effective date of the rule changes related to CJW practice activities.

32 Information provided by Sarah Carver, Co-Director, Alaska Community Justice Worker Resource Center (Nov. 1, 2024).

33 Timpanogos Legal Center, Certified Advocate Partners Program, Our Data, https://www.timplegal.org/legal-services/certified-advocate-partners-program (last visited Nov. 1, 2024).

34 *Id.*

awarded final orders.[35] TLC compared this outcome data with that collected by the Administrative Office of the Utah State Courts and found that clients receiving legal services from an advocate are roughly twice as likely to receive a protective order than the statewide average.[36]

C. Community Justice Workers in California

Community justice workers can be a key part of solving the justice crisis in California. Indeed, many of our legal service organizations already rely on justice workers to provide key connections with communities, legal information, and referrals back to legal aid. For example, Stay Housed LA is a broad partnership between government, legal aid organizations, and community-based organizations in Los Angeles.[37] Volunteers and staffers in the community-based organizations provide legal information and referrals to the legal aid partners for Los Angelenos facing housing insecurity. In Northern California, Legal Link works across a range of community-based organizations, training their staffers and volunteers to provide "legal first aid" by surfacing and identifying legal problems and assisting people with finding legal services.[38]

But the impact could be so much more significant. Legal aid stands ready to train and deploy supervised CJWs to help more people reach just resolutions to their problems. By allowing CJWs to perform activities such as providing simple legal advice to someone who has just received an unlawful detainer complaint or assisting another with answering a debt collection complaint or advising a survivor on how to file for an order of protection, our legal aid organizations can increase their impact in vulnerable communities, drive better outcomes for those we seek to serve, and build trust with our community partners.

As Jessica Jewell, the Executive Director of California Rural Legal Assistance, explains, "In rural areas, California Rural Legal Assistance, Inc. is often the only source of legal assistance for people trying keep their homes, maintain their incomes, and protect their safety. But millions of California residents are priced out of private legal representation, and demand for our services far outpaces our capacity. This proposal would allow for innovative growth of resources to serve communities' legal goals."

The proposal below offers a framework for individual California legal aid organizations to seek approval to develop and deploy programs in their communities that allow supervised CJWs to offer simple legal services, including specific legal advice and assistance, in core areas of need. This proposal recognizes the expertise legal aid organizations have in their communities and their legal needs and seeks to allow each organization the flexibility to develop programs that respond to those needs. In this way, the framework

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35 *Id.* 31 clients were awaiting final outcome at the time of reporting.

36 *Id.* The referenced statewide average includes both lawyer represented and self-represented parties. Email from Hayley Cousins (Nov. 7, 2024) (on file with authors).

37 Stay Housed LA, https://www.stayhousedla.org/about (last visited Nov. 13, 2024).

38 *Our Mission and Model,* Legal Link, https://legallink.org/our-mission-model/ (last visited Nov. 13, 2024).

allows for variability among programs, including in legal areas served, status of justice workers (whether internal employee or volunteer from an outside community-based organization), training, and range of activities. CJWs are not independently licensed, can only serve clients of the legal aid organization, and cannot charge any fees for their work. The legal aid organizations themselves are responsible for the work performed by the CJWs and must hold malpractice insurance covering the CJWs.

The proposal is intentionally simple, leveraging already existing regulatory structures and provider organizations to ensure minimal expense and maximal scale and sustainability. We believe this proposal outlines a path for California to move forward to respond to the urgent access to justice crisis, simply by allowing trusted providers to deploy justice workers at scale and in more impactful ways.

We look forward to feedback on this proposal and working with our partners in California to create thoughtful, impactful, and sustainable solutions to the justice crisis.

PROPOSAL: Community Justice Workers in California

In the proposed program, **authorized legal services organizations** will be able to deploy **Community Justice Workers** ("CJWs") to provide legal services, including legal advice and other activities that may be defined as the practice of law, to clients who otherwise qualify for free legal services from the organization. Authorization in the program allows these organizations and their certified CJWs to provide these services without violating Cal. Bus. & Prof. Code 6125 *et seq.*, California's prohibition on the unauthorized practice of law by those who are not licensees of the State Bar of California. The ability of nonlawyer CJWs to provide legal services under the umbrella of this program is controlled by and overseen by the authorized legal services organizations and limited to the scope of activities approved by that organization.

1 Definitions

a **Authorized legal services organization** is an organization satisfying the definition set forth in Cal. Bus. & Prof. Code 6159.51 which satisfactorily completes the application process and is authorized by the authorizing body to implement and run a waiver-based CJW program.

b **Community Justice Worker** is a person not licensed by the California State Bar who has satisfied the training and other relevant requirements as certified by an authorized legal services organization and will engage in the limited practice of law exclusively for an authorized legal services organization.

2 Authorization of legal services organizations

a The [authorizing body][39] shall serve as the authorizing body for legal services organizations seeking to certify CJWs under this program. The [authorizing body] shall review each application and ensure that the application sufficiently sets forth the requirements listed below. The authorizing body shall then issue authorization for the legal services organization pursuant to this program. The authorizing body shall immediately submit the organization's authorization to the California State Bar.

b Application requirements:

i. The applicant organization shall attest to status as a legal aid organization under the definition set forth in Cal. Bus. & Prof. Code 6159.51;

ii. The applicant organization shall submit a narrative description of the proposed CJW program;

iii. The applicant organization shall submit its CJW training plan, including any curricular components, testing, and experiential learning

39 The working group suggests that the Legal Services Trust Fund Commission is a possible entity to serve as the authorizing body for this program. The Commission's role in overseeing and administering IOLTA funds to California legal aid organizations makes it well placed to perform the authorizing role for this program. However, we believe that the final determination of the appropriate entity for the authorizing body should be made through additional discussions with the Supreme Court, State Legislature, State Bar, and legal services organizations. We do note that should the Commission be found to be the appropriate entity, it seems likely that Cal. Bus. & Prof. Code § 6210.5 would need to be amended to allow the Commission to perform the authorization function.

1. The training plan shall include training on ethical service provision, including the Rules of Professional Conduct.

iv. The applicant organization shall submit a plan for gaining informed and written client consent to receive CJW-provided services;

v. The applicant organization shall submit a plan for ensuring control and security of the organization's client files;

vi. The applicant organization shall submit proof of malpractice insurance that covers CJWs;

vii. The applicant organization shall attest to the organization's ability to comply with any reporting requirements.

c Organizations which the [authorizing body] has determined currently satisfy the definition of a qualified legal services project under Cal. Bus. & Prof. Code 6213(a)(1) are automatically considered authorized legal services organizations. Such organizations need only submit their intent to launch a qualifying CJW program to the State Bar and must comply with the certification requirements for each CJW as described below.

i. In the case that an organization is no longer a qualified legal services project under Cal. Bus. & Prof. Code 6213(a)(1) but wishes to continue operating as an authorized legal services organization under this program, then the organization shall have [30]days from the date on which it ceased to be a qualified legal services project under Cal. Bus. & Prof. Code 6213(a)(1) to request such continuation from the authorizing body.

3 Requirements for authorized legal services organizations

a Once authorized, the legal services organization must:

i. Certify each individual CJW to the State Bar once that person has satisfactorily completed the organization's relevant training requirements and submit each CJWs scope of practice, including legal service area(s) and scope of activities.

ii. Report any relevant changes in status, either of the organization or any CJW, including:

1. Immediately inform the State Bar if the organization no longer receives IOLTA funding or stops providing approved services.

2. Immediately inform the State Bar when any CJW is no longer eligible for inclusion in this program, whether by resignation, termination, or other reason.

3. Immediately report any known violations of applicable rules by CJWs to the State Bar. Violation may be grounds for termination of CJW status.

iii. Report the following information to the State Bar on an annual basis, to ensure ongoing feedback for continuous program improvement:

1. Number of clients served by CJWs through the waiver;

2. Hours worked by CJWs;

3. Legal / Financial outcomes

4. Post-services survey of clients served by CJWs;

5. Client Complaints and resolution of complaints, if any; and

6. Certain information on organization's active CJWs, including:

a. gender,
b. age,
c. race/ethnicity;
d. income level;
e. highest level of education;
f. language capability;
g. does the CJW identify as a member of the client community.

4 Requirements for CJWs

a A CJW is not permitted to perform any activities constituting the practice of law outside of the scope of certification submitted by the authorized legal services organization to the State Bar. Any activities constituting the practice of law outside the scope of the certification are subject to enforcement under Cal. Bus. & Prof. Code 6125 *et seq*.

b A CJW is not permitted to charge any fees, including fees structured on a contingent or percentage basis, or for a referral, for legal services provided under this program.

c A CJW's authorization to provide the services outlined in the certification is contingent upon affiliation with an authorized legal services organization. Should that affiliation cease for any reason, the CJW is no longer certified to provide the relevant legal services and will be subject to enforcement under Cal. Bus. & Prof. Code 6125 *et seq*. should the CJW continue to provide such services. However, a CJW may transfer affiliation as contemplated in Section 5 below.

d No disbarred or suspended attorney, whether disciplined in California or any other jurisdiction, may be certified as a CJW.

e Each CJW shall be subject to the California Rules of Professional Conduct, California Rules of Court, and other relevant statutes and rules.

5 CJW Transferring Affiliation

a If a CJW wishes to transfer affiliation from one authorized legal services organization to another, the organization to which the CJW is transferring must independently determine that the CJW is qualified to competently provide services within that organization's program and then certify the CJW to the State Bar as described in 3(a)(i).

b The transferring CJW cannot provide services in the transferee legal services organization until that certification has been accepted by the State Bar.

6 State Bar Role

a The State Bar shall maintain a roster of authorized legal services organizations that shall be posted on its website;

b The State Bar shall maintain a roster of each authorized legal services organization's active CJWs, including their scope of practice;

c The State Bar shall develop a simple process by which authorized legal services organizations can certify individual CJWs to the State Bar for inclusion in the organization's roster of CJWs. Such certification should include:

i. The name of the CJW; and
ii. The scope of practice (legal service area(s) and scope of activities of the CJW).

d The State Bar shall develop a process by which it promptly communicates the roster of authorized legal services organizations and their CJWs to any other relevant authorities, including those authorities responsible for enforcement of Cal. Bus. & Prof. Code 6125 *et seq*.

e The State Bar shall report to the Legislature and Supreme Court all complaints received by the State Bar against active and inactive CJWs, the nature of the complaint, and the resolution on an annual basis.

7 Program Evaluation

a The program shall be evaluated after [5] years.[40] The evaluation shall assess:
i. The number of CJW providers and the number of clients served;
ii. The impact on the ability of legal services organizations to serve their communities, including
  1. Legal and financial outcomes - immediate and longer term;
  2. Impacts on access to justice for underserved communities as a result of the CJW program; and
  3. Community trust and engagement.
iii. Cost of implementation within individual legal services organizations;
iv. Cost of implementation of the program.

40 The working group suggests that the California Access to Justice Commission is an appropriate entity to administer the evaluation of the program but defers determination of this question until after there have been additional discussions with the Supreme Court, State Legislature, the Access to Justice Commission, the State Bar, and legal services organizations.

POSSIBLE POLICY VEHICLES for Implementation of the California CJW Proposal

The working group discussed a range of possible policy vehicles by which the proposed program could be enacted. The working group notes that in all other states implementing CJW programs, the enabling policy vehicle is an order from the state supreme court. This may be a possible approach in California. The group concluded that particular outstanding questions, such as the entity serving as the authorizing body, need to be addressed before the appropriate policy vehicle is identified.

The California Supreme Court has the inherent power to determine who is qualified to practice law in this state.[41] The California State Bar serves as the administrative arm of the Court to effectuate that power.[42] However, the California Legislature also plays a significant role in the regulation of legal services and oversight of the State Bar through the State Bar Act.[43]

The California Supreme Court has found that the legislature may enact rules and regulations related to the practice of law, including admission to practice law, but if those rules and regulations conflict with those imposed by the Supreme Court, then "the legislative enactment must give way."[44] The Legislature may not, using an example from the case law, authorize a person disbarred upon conviction of a crime to practice law again through a pardon statute.[45] Thus, the Court and the Legislature work together to dictate the regulation of the practice of law, but ultimate authority rests with the Court.

We can see this relationship expressed through the State Bar Act and the California Rules of Court. Section 6125 of the State Bar Act states:

No person shall practice law in California unless the person is an active licensee of the State Bar.[46]

Section 6126, however, recognizes that certain people may be authorized by other statutes or rules to perform activities constituting the practice of law. The Section, which lays out the consequences for unauthorized practice, states:

Any person advertising or holding himself or herself out as practicing or entitled to practice law or otherwise practicing law who is not an active licensee of the State Bar, *or otherwise*

41 Cal. Rules of Ct. Rule 9.3: Inherent Power of the Supreme Ct. (2024); *see also* Merco Constr. Eng'rs, Inc. v. Mun. Ct., 581 P.2d 636, 638 (1978) (noting that statements of California courts have consistently supported the contention that the judiciary has the inherent power to regulate the practice of law); Eagle Indem. Co. v. Comm'n of Cal., 18 P.2d 341, 342 (1933) ("The Legislature may, in the first instance, prescribe the qualifications for admission to the bar and define what shall constitute the practice of the law, but regulations to that end must stand the test of judicial inquiry as to their propriety and reasonableness.").

42 *Id.*

43 Cal. Bus. & Prof. Code §§ 6000 et seq., https://www.calbar.ca.gov/Portals/0/documents/rules/State_Bar_Act.pdf.

44 *Merco*, 581 P.2d at 638.

45 *In re* Lavine, 41 P.2d 161, 163-64 (1935).

46 Cal. Bus. & Prof. Code § 6125.

***authorized pursuant to statute or court rule to practice law in this state at the time of doing so*, is guilty of a misdemeanor….**[47]

This language provides safe harbor to a range of people authorized to practice law by statute or rule who are not licensees of the bar, including lay representatives who may represent people before state and federal agencies and people authorized by the Supreme Court through its rules.

For example, the California Rules of Court Title 9, Division 4 concerns "Appearances and Practice by Individuals Who Are Not Licensees of the State Bar of California."[48] This section contains language permitting the practice of law for certain groups of people, including military spouses, law students, and out-of-state arbitration counsel, who are not licensees and thus would otherwise be subject to the prescription of Cal. Bus. & Prof. Code § 6125. In this manner, Sections 6125 and 6126 establish legislative authority over who may and may not practice law in California but build in deference to the Court (as well as other state and federal authorities).

Taking this partnership between the Legislature and the Court into consideration, there are several possible pathways for enacting the proposed CJW program in California.

POSSIBLE PATHWAY #1: New section added to Cal. Rule of Court 9.4.

This division of the California Rules of Court contains sections outlining rules for allowing non-licensed or provisionally licensed individuals to practice law in California.

In this approach, the working group would petition the California Supreme Court, either directly or through the California State Bar, to authorize the proposed program through the Rules of Court by adding a new section to Title 9, Division 4 detailing the program. The Rule could be styled as follows:

Rule 9.45.1 Legal Aid Supervised Community Justice Worker Program

(a) Definitions
(b) Application requirements
(c) Eligibility for certification
(d) Supervision
(e) Compliance and reporting
(f) Transferring affiliation
(g) Program evaluation

47 Cal. Bus. & Prof. Code § 6126(a) (emphasis added).
48 Cal. Rule of Ct. 9.4.

Given the language identified above in Cal. Bus. & Prof. Code § 6126, this section could be added without any statutory change needed (see e.g. Rule 9.41.1, Rule 9.42, Rule 9.45).

POSSIBLE PATHWAY #2: New section added to Cal. Rule of Court 9.4 and statutory waiver enacted to Cal. Bus. & Prof. Code § 6125.

In this approach, the working group would both seek a new Rule of Court as outlined above and a statutory amendment to Cal. Bus. & Prof. Code § 6125:

6125.1

An individual who is not an active licensee of the California State Bar shall be exempt from § 6125 if they qualify for the Community Justice Worker Program outlined in Cal. Rule of Court 9.45.1.

POSSIBLE PATHWAY #3: Order issued by the California Supreme Court.

As noted, the California Supreme Court retains the inherent power to determine who may practice law in this state.[49] The Court could issue an administrative or standing order enabling the program and directing the State Bar and any other relevant bodies to develop the processes and procedures needed to carry out the order. In other states which have implemented these programs, the state supreme courts have issued orders authorizing the program.[50]

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49 *See* sources cited *supra* note 41.

50 *See* Ala. Sup. Ct. Ord. No. 1994; Ariz. Sup. Ct. Admin. Ord. No. 2024-34; *id.* 2024-35; Del. R. Sup. Ct. R. 57.1; Haw. Sup. Ct. Ord. No. SCMF-23-0000343; Utah Sup. Ct. Standing Ord. No. 15; *id.* No. 16.; Tex. Sup. Ct. Ord. No. 24-9050.

ESTIMATED FUNDING NEEDS

This proposal is for a framework to authorize and oversee legal aid organizations using CJWs to offer legal services to their clients. The framework is intentionally simple and meant to leverage already existing entities and resources to perform the proposed tasks. Specifically, we estimate the following:

Staffing support for application body: Approximately 50% FTE

Staffing support for oversight body: Approximately 50% FTE

Technical support: Approximately 25% FTE

We note that this proposal does not incorporate programmatic development or implementation support for legal aid organizations to stand up CJW programs, either individually or collectively. Such support will be needed and LAAC, Legal Link, and other working group organizations are working toward building this support.

APPENDIX A

Overview of empirical research on nonlawyer provided legal assistance

Over the past fifty years, there have been a range of studies looking at legal assistance provided by nonlawyers, assessing different tribunals, at different times, and using different metrics. The overall conclusion is that trained nonlawyers can perform as well as, or sometimes better than, their J.D.-toting counterparts. A short review of several of the key studies is informative.

In the 1980s, two studies looked at representation across a range of providers in both child abuse and neglect cases (Duquette & Ramsey) and in social security and immigration issues (Hostetler).[51] Professors Duquette and Ramsey, using court data and interviews to evaluate both process and outcome measures, found "[n]onlawyers carefully selected and trained and under lawyer supervision performed as well as trained lawyers in representing children, and certainly performed better than lawyers without special training."[52]

Professor Hostetler conducted interviews with federal officials and legal aid representatives and reported "a high level of satisfaction with nonlawyer representatives, not only at the early stages of assisting with forms and informal conferences, but also at later stages of agency proceedings."[53] Indeed, she concluded that "[t]he overwhelming opinion is that there is little perceived difference in the quality of help between lawyers as a class and nonlawyers as a class."[54] Interestingly, Hostetler's subjects noted that a key factor in the quality of the services provided by the nonlawyers was likely the special training they received in the administrative agency's rules, process, and forms, resulting in specialized expertise.[55]

In the 1990s, political scientist Herb Kritzer studied the work of lay agents across four administrative contexts in Wisconsin: unemployment compensation appeals, tax appeals, Social Security disability appeals, and labor grievance arbitration. Kritzer found that "nonlawyers can be effective advocates and, in some situations, better advocates than licensed attorneys."[56] Specifically, Kritzer concluded:

> [T]he key to effective representation is the combination of three types of expertise: knowledge about the substance of the area, an understanding of the procedures used, and familiarity with the other regular players in the process. The latter can come only with experience, but the first two (substantive and procedural expertise) could be

---

51 *See generally* Donald N. Duquette & Sarah H. Ramsey, *Representation of Children in Child Abuse and Neglect Cases: An Empirical Look at What Constitutes Effective Representation*, 20 U. MICH. J.L. REFORM 341 (1987) and Zona Fairbanks Hostetler, *Nonlawyer Assistance to Individuals in Federal Mass Justice Agencies: The Need for Improved Guidelines*, 2 ADMIN. L.J. 86 (1988).

52 Duquett & Ramsey, *supra* note 51, at 390.

53 Hostetler, *supra* note 51, at 103.

54 *Id.*

55 Hostetler, *supra* note 51, at 105.

56 Herbert M. Kritzer, *Viewpoint: Rethinking Barriers to Legal Practice*, 81 JUDICATURE 100, 100 (1997). Krizter used multiple methodologies to perform the study, including observation, interviews, and outcome analysis.

imparted through one-year, specialized training programs for paralegals, legal technicians, and licensed advocates.[57]

In the 2010s, Professor Rebecca Sandefur conducted a careful meta-analysis to understand the impact of lawyer representation on the outcomes of formal adjudication.[58] She found that lawyers "perform so much better than lay people, but only somewhat better than [nonlawyer advocates]."[59] In a key insight, Professor Sandefur noted that the lawyers' impact seemed to come less from professional expertise and rather from relational expertise in a "rarified interpersonal world."[60]

A 2017 study by Professors Anna Carpenter, Alyx Mark, and Colleen Shanahan, using interviews and case data from more than 5,000 unemployment insurance appeal hearings, found that when nonlawyers and lawyers appear at hearings the case outcomes and procedural behaviors are similar and that the similarity reflected the specialized expertise of the context.[61]

Most recently, the 2023 Report from the White House Legal Aid Interagency Roundtable found that 15 federal agencies permit nonlawyers to provide legal assistance across a wide range of substantive areas, including housing, public benefits, immigration, civil rights, tax, food security, and worker protection.[62] The activities these nonlawyers perform range from "straightforward and procedural" to "highly technical and complex," such as representation in a removal proceeding in the immigration context.[63] Although not an empirical study, the Report notes the potential benefits of nonlawyer assistance, including that it may be the only available form of legal help in a given community, particularly rural or remote areas and that it can lead to increased public engagement with and trust in the justice system by the impacted community.

---

57 *Id.* at 101.

58 Rebecca L. Sandefur, *Elements of Professional Expertise: Understanding Relational and Substantive Expertise through Lawyers' Impact*, 80 Am. Socio. Rev. 909, 913 (2015).

59 *Id.* at 924. The studies included in Sandefur's meta-analysis contained an enormous range of nonlawyer providers including law students, labor union staffers, paralegals, social workers, friends, and family members. *Id.* at 915.

60 *Id.* at 926 (citations omitted).

61 Anne E. Carpenter, Alyx Mark & Colleen F. Shanahan, *Trial and Error: Lawyers and Nonlawyer Advocates*, 42 L. Soc. Inquiry 1023, 1038-42 (2017).

62 White House Legal Aid Interagency Roundtable, Access to Justice in Federal Administrative Proceedings 25 (2023), https://www.justice.gov/d9/2023-12/2023%20Legal%20Aid%20Interagency%20Roundtable%20Report-508.pdf.

63 *Id.*

APPENDIX B

Sample Program Concepts

The Working Group identified program concepts that they felt would be a good fit for their organization, including how the CJWs would positively impact their client communities (the need), who the CJWs would be and the work they would do, and how the CJWs would be trained and supervised. Of the program concepts suggested, below are three examples that the working group more fully developed as possibilities. We present these here as examples of programs that could be authorized through the proposal outlined above.

HOUSING STABILITY Unlawful Detainer

NEED: The National Coalition for a Civil Right to Counsel found that approximately 4% of all tenants have representation in unlawful detainer cases, while landlords have representation 83% of the time. Tenants across California are unable to get help on basic housing stability issues, are representing themselves in evictions, and are losing not only their current housing but also their ability to qualify for housing in the future because they don't have basic information or support. There isn't enough legal support to meet the need, and there is very limited upstream support that can help folks address issues before they land in court. Equipping community-based partners to provide information and referrals, and to support on key housing procedures will expand the work of legal aid organizations and courts, especially in counties with limited resources.

WHO: Community Justice Workers would be staff at housing and tenant-focused community-based organizations in counties without a tenant right to counsel. Also possibly in counties where there is a right to counsel and an established network, to support and expand the right to counsel work.

SCOPE OF WORK: Some of the proposed work is work that is currently allowed under California's Unauthorized Practice of Law, but could be expanded and done with reduced levels of supervision by the Organization attorneys.

- Habitability letters and advice
- Security deposit letters and advice
- Source of income discrimination advice and support filing claims with the CRD
- Reviewing notices to terminate tenancy
- Negotiation with opposing counsel/self-represented landlords
- Housing Authority - hearings with PHAs
- Rent Board petitions and hearings
- Reasonable accommodation requests and negotiations/interactive process

TRAINING & SUPERVISION: Clear training on boundaries of work and scope as a CJW, including supervision structure and reporting requirements.

Training to identify housing issues, using tools to advise on and complete each of the identified proce-

dures, understanding how to spot patterns and trends, and effectively utilize the substantive supervision structure.

Supervision by Organization attorneys at key moments for each procedure, with increasing independence with experience.

EMPLOYEE RIGHTS Wage and Hour Claims

NEED: Los Angeles is the wage theft capital of the world. More than $23 million of wages is stolen from workers each week. Legal Services Organization currently offers assistance to low-income workers with wage and hour claims against unscrupulous employers. Organization works with workers' rights organizations to issue-spot and refer clients to Organization.

WHO: Community Justice Workers would be staff at workers' rights centers and other community-based organizations that are on the front lines of working with low-income workers.

SCOPE OF WORK: Much of the proposed work is work that is currently allowed under California's Unauthorized Practice of Law framework, but could be expanded and done with reduced levels of supervision by the Organization attorneys.

- Preparing wage tables
- Coordinate with clients to get documentary evidence and help collate the evidence
- Preparing claims to be filed with the Labor Commissioner's Office
- Attending settlement conferences
- Attending labor commissioner hearings
- Supporting the attorneys in preparing and delivering know your rights trainings to workers and community partners
- Performing intake interviews with prospective clients (at clinic and outside of clinic)
- Assisting in preparing retaliation, discrimination, and harassment claims with administrative agencies

TRAINING & SUPERVISION: Clear training on boundaries of work and scope as a CJW, including supervision structure and reporting requirements.

Substantive training to issue spot wage and hour issues, steps needed to advise on and complete the proposed work, understanding how to spot patterns and trends, and effectively utilize the substantive supervision structure.

Supervision by Organization attorneys at key moments for each procedure, with increasing independence with experience.

NEED: Debt collection lawsuits are 33% of the state's civil court docket, and only an average of 9% of consumers file an answer in response. Consumers need help early and upstream to understand that they need to respond, that they have rights, and that there are actions they can take. The procedures will help to reduce the default rate and tee cases up for legal aid support when available.

WHO: Community Justice Workers would be staff at community-based organizations, including Family Resource Centers, Sparkpoint (a United Way financial empowerment project), and nonprofit debt management organizations.

SCOPE OF WORK: Some of the proposed work is work that is currently allowed under California's Unauthorized Practice of Law (UPL) framework, but could be expanded. Other pieces of the scope of work will require a waiver of the UPL.

- Debt validation letter and advice
- Complete answer to debt lawsuit and referrals and/or prepare for self-representation
- Claims of Exemption and advice

TRAINING & SUPERVISION: Clear training on boundaries of work and scope as a CJW, including supervision structure and reporting requirements.

Substantive training to issue-spot debt collection defense issues, steps needed to advise on and complete the proposed work, understanding how to spot patterns and trends, and effectively utilize the substantive supervision structure.

Supervision by Organization attorneys at key moments for each procedure, with increasing independence with experience.

EXHIBIT 12

From: Leigh Ferrin
To: Zelnick, Jennifer
Cc: Sacha Steinberger; Nguyen, Doan
Subject: Re: Meeting to Discuss the CJW Proposal and Board of Trustees
Date: Thursday, February 6, 2025 12:56:04 PM

Thank you Jennifer! We'll be sharing updates as we get them.

Sincerely,
Leigh

On Thu, Feb 6, 2025 at 12:35 PM Zelnick, Jennifer <Jennifer.Zelnick@calbar.ca.gov> wrote:

> Dear Leigh and Sacha (moving Donna and Bridget to bcc),
>
> Thank you again for meeting with us on Monday. To follow up, we will move the Access Panel (including both the CJW proposal and the landscape analysis of regulatory reform) to the May Board of Trustees meeting (May 22–23), which will work well with the presentation of the Justice Gap Study.
>
> Please let us know how your meetings with the Legislative staff went, as we are happy to meet again to discuss next steps.
>
> Thanks again, and please don't hesitate to reach out with questions or if we can be of help.
>
> Sincerely,
>
> Jennifer
>
> Jennifer Zelnick (she/her/hers)
>
> Lead Program Analyst, Office of Access & Inclusion
>
> The State Bar of California | 845 South Figueroa Street | Los Angeles, CA 90017
>
> 213-765-1210 | jennifer.zelnick@calbar.ca.gov
>
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From: Zelnick, Jennifer
Sent: Wednesday, January 29, 2025 10:13 AM
To: Leigh Ferrin <lferrin@one-justice.org>; Sacha Steinberger <sacha@legallink.org>
Cc: Nguyen, Doan <Doan.Nguyen@calbar.ca.gov>; Hershkowitz, Donna <Donna.Hershkowitz@calbar.ca.gov>; Gramme, Bridget <Bridget.Gramme@calbar.ca.gov>
Subject: RE: Meeting to Discuss the CJW Proposal and Board of Trustees

Dear Leigh and Sacha,

Thank you very much for sharing your availability. It looks like Monday at 2:30 works best for everyone. I will send a zoom invitation momentarily, and look forward to seeing you both soon.

Sincerely,

Jennifer

Jennifer Zelnick (she/her/hers)

Lead Program Analyst, Office of Access & Inclusion

The State Bar of California | 845 South Figueroa Street | Los Angeles, CA 90017

213-765-1210 | jennifer.zelnick@calbar.ca.gov

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From: Leigh Ferrin <lferrin@one-justice.org>
Sent: Wednesday, January 29, 2025 10:07 AM
To: Sacha Steinberger <sacha@legallink.org>
Cc: Zelnick, Jennifer <Jennifer.Zelnick@calbar.ca.gov>; Nguyen, Doan <Doan.Nguyen@calbar.ca.gov>; Hershkowitz, Donna <Donna.Hershkowitz@calbar.ca.gov>; Gramme, Bridget <Bridget.Gramme@calbar.ca.gov>
Subject: Re: Meeting to Discuss the CJW Proposal and Board of Trustees

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Hi there,

I have a conflicting meeting today. 2:30-3 is usually not a good time for me, but I can make it work either tomorrow or Monday.

Sincerely,

Leigh

On Wed, Jan 29, 2025 at 9:12 AM Sacha Steinberger <sacha@legallink.org> wrote:

> Hi Jennifer and I look forward to connecting! Of those windows, I can do 3:30-4 today, Thursday 2:30-3, or Monday 2:30-3.
>
> Thanks,
>
> Sacha
>
> _____
> **Sacha Steinberger**, *she/her*
> Founder + Co-Executive Director, Legal Link
> o: 415.851.1755 | c: 415.321.9199

1721 Broadway, Ste 201 | Oakland, CA 94612
sacha@legallink.org

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On Tue, Jan 28, 2025 at 5:52 PM Zelnick, Jennifer <Jennifer.Zelnick@calbar.ca.gov> wrote:

> Dear Sacha and Leigh,
>
> I hope you are both having a nice evening.
>
> I am emailing because Bridget and Donna wanted to see if we can all meet to discuss the CJW proposal and the Board of Trustees meeting. Please let me know about your availability for the below dates and times:
>
> Tomorrow, Wednesday, January 29:
>
> 3:30 – 4:00 p.m.
>
> Thursday, January 30:
>
> 2:00 – 3:00 p.m.
>
> Monday, February 3:
>
> 2:30 – 3:30 p.m.

Thank you for letting me know and I will send a calendar invitation. We look forward to seeing you soon.

Sincerely,

Jennifer

Jennifer Zelnick (she/her/hers)

Lead Program Analyst, Office of Access & Inclusion

The State Bar of California | 845 South Figueroa Street | Los Angeles, CA 90017

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EXHIBIT 13

From: Zelnick, Jennifer
To: Zach Newman
Cc: Nguyen, Doan
Subject: RE: Community Justice Worker (CJW) Proposal Webinar
Date: Friday, March 7, 2025 2:40:00 PM

Thanks Zach, we look forward to it and appreciate you sharing the link.

Sincerely,
Jennifer

Jennifer Zelnick (she/her/hers)
Lead Program Analyst, Office of Access & Inclusion
The State Bar of California | 845 South Figueroa Street | Los Angeles, CA 90017
213-765-1210 | jennifer.zelnick@calbar.ca.gov

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From: Zach Newman <znewman@laaconline.org>
Sent: Friday, March 7, 2025 11:57 AM
To: Zelnick, Jennifer <Jennifer.Zelnick@calbar.ca.gov>
Cc: Nguyen, Doan <Doan.Nguyen@calbar.ca.gov>
Subject: Re: Community Justice Worker (CJW) Proposal Webinar

Wonderful! Here's the link to register.

Zach Newman | Directing Attorney
Legal Aid Association of California (LAAC)
znewman@laaconline.org
Pronouns: he/him/his

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1832 2nd Street, Suite 105
Berkeley, CA 94710
www.LAAConline.org

On Tue, Mar 4, 2025 at 1:29 PM Zelnick, Jennifer <Jennifer.Zelnick@calbar.ca.gov> wrote:

> Hi Zach,
>
> Thank you for letting us know. I have marked my calendar and look forward to attending.

Sincerely,
Jennifer

Jennifer Zelnick (she/her/hers)
Lead Program Analyst, Office of Access & Inclusion
The State Bar of California | 845 South Figueroa Street | Los Angeles, CA 90017
213-765-1210 | jennifer.zelnick@calbar.ca.gov

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From: Zach Newman <znewman@laaconline.org>
Sent: Tuesday, March 4, 2025 1:18 PM
To: Nguyen, Doan <Doan.Nguyen@calbar.ca.gov>; Zelnick, Jennifer <Jennifer.Zelnick@calbar.ca.gov>
Subject: Fwd: Community Justice Worker (CJW) Proposal Webinar

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi there - We're planning to host a webinar later this month (details below) on the CJW proposal for the legal aid community. I'll be sure to share the Zoom link, but, for now, please save the date!

Zach Newman | Directing Attorney
Legal Aid Association of California (LAAC)
znewman@laaconline.org
Pronouns: he/him/his

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---------- Forwarded message ---------
From: **Zach Newman** <znewman@laaconline.org>
Date: Mon, Mar 3, 2025 at 12:28 PM

Subject: Community Justice Worker (CJW) Proposal Webinar
To: Directors of Litigation and Advocacy <dola@laaconline.org>, Support Centers <supportcenters@laaconline.org>

Hi all -

We are organizing a one-hour webinar on the recently released CJW proposal (and FAQ). LAAC will host and OneJustice and Legal Link will provide an overview of the proposal. We will have a couple of working group members there to share their thoughts about the potential role of CJWs in legal aid. We hope you can join!

Date: March 26th, 12:00 to 1:00 PM

Zoom link: Please contact me for the Google Calendar invite and the Zoom link for the webinar.

We will be recording the session for those who cannot attend.

Best,
Zach

Zach Newman | Directing Attorney
Legal Aid Association of California (LAAC)
znewman@laaconline.org
Pronouns: he/him/his

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EXHIBIT 14

From: Zelnick, Jennifer
To: Leigh Ferrin
Cc: Sacha Steinberger; Nguyen, Doan
Subject: RE: Following Up About the CJW Proposal Presentation to the BOT
Date: Friday, April 4, 2025 1:00:00 PM

Dear Leigh,

Thanks so much for your understanding. I agree that presenting a legislative proposal likely makes more sense, and that it will be great to discuss with the LSTFC before the BOT. Thanks also for your well wishes.

Looking forward to discussing more with the LSTFC leadership soon!

Sincerely,
Jennifer

Jennifer Zelnick (she/her/hers)
Lead Program Analyst, Office of Access & Inclusion
The State Bar of California | 845 South Figueroa Street | Los Angeles, CA 90017
213-765-1210 | jennifer.zelnick@calbar.ca.gov

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From: Leigh Ferrin <lferrin@one-justice.org>
Sent: Friday, April 4, 2025 12:20 PM
To: Zelnick, Jennifer <Jennifer.Zelnick@calbar.ca.gov>
Cc: Sacha Steinberger <sacha@legallink.org>; Nguyen, Doan <Doan.Nguyen@calbar.ca.gov>
Subject: Re: Following Up About the CJW Proposal Presentation to the BOT

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Hi Jennifer,

Thank you so much for the update. I completely understand the concern/thought behind holding off at the moment.

I actually think that's fine, because I think it might make more sense for us to present once we actually have a legislative proposal in our hands. And, the discussions with the LSTFC and

other stakeholders will get us closer to that point, I think. Depending on how everything goes (fingers crossed for all of you!), maybe a presentation in the fall would be appropriate, especially if we have more fleshed out language and maybe even a potential author or two by then.

Sincerely,
Leigh

On Fri, Apr 4, 2025 at 11:49 AM Zelnick, Jennifer <Jennifer.Zelnick@calbar.ca.gov> wrote:

> Dear Sacha and Leigh,
>
> I hope you are both having a wonderful Friday!
>
> I wanted to provide a quick update about the BOT presentation. As I'm sure you know, there has been a lot going on with the State Bar lately. For this reason, and since our understanding is that there has not been significant legislative movement on the CJW proposal, executive leadership asks that we hold back the presentation for now. However, Doan and I are very excited about meeting with you and the Legal Services Trust Fund Commission leadership to discuss next steps.
>
> Please let me know if you have any questions, and we look forward to speaking more soon.
>
> Sincerely,
> Jennifer
>
> Jennifer Zelnick (she/her/hers)
> Lead Program Analyst, Office of Access & Inclusion
> The State Bar of California | 845 South Figueroa Street | Los Angeles, CA 90017
> 213-765-1210 | jennifer.zelnick@calbar.ca.gov
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EXHIBIT 15

From:	Zelnick, Jennifer
To:	Nguyen, Doan; Sacha Steinberger
Cc:	Erica Connolly; Leigh Ferrin; Lucy Ricca
Subject:	RE: CJW Proposal Intro
Date:	Wednesday, April 16, 2025 1:14:00 PM

Of course, my apologies. I'll update the agenda item accordingly.

Sincerely,
Jennifer

Jennifer Zelnick (she/her/hers)
Lead Program Analyst, Office of Access & Inclusion
The State Bar of California | 845 South Figueroa Street | Los Angeles, CA 90017
213-765-1210 | jennifer.zelnick@calbar.ca.gov

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From: Nguyen, Doan <Doan.Nguyen@calbar.ca.gov>
Sent: Wednesday, April 16, 2025 1:04 PM
To: Zelnick, Jennifer <Jennifer.Zelnick@calbar.ca.gov>; Sacha Steinberger <sacha@legallink.org>
Cc: Erica Connolly <erica.connolly@doj.ca.gov>; Leigh Ferrin <lferrin@one-justice.org>; Lucy Ricca <lricca@law.stanford.edu>
Subject: RE: CJW Proposal Intro

Jennifer, I think we need a motion for this item. How about, "Discuss and Approve Recommendation Regarding Community Justice Workers Proposal."

--

Doan T. Nguyen (she/her/hers)
Program Director | Office of Access & Inclusion
The State Bar of California | 180 Howard Street | San Francisco, CA 94105
415.538.2545 | Doan.Nguyen@calbar.ca.gov

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From: Zelnick, Jennifer <Jennifer.Zelnick@calbar.ca.gov>

Sent: Wednesday, April 16, 2025 12:36 PM
To: Sacha Steinberger <sacha@legallink.org>; Nguyen, Doan <Doan.Nguyen@calbar.ca.gov>
Cc: Erica Connolly <erica.connolly@doj.ca.gov>; Leigh Ferrin <lferrin@one-justice.org>; Lucy Ricca <lricca@law.stanford.edu>
Subject: RE: CJW Proposal Intro

Dear Sacha,

Likewise, thanks for an interesting conversation yesterday.

30 minutes for the presentation and approximately 15 minutes for questions (and flexibility for more time if needed) sounds good to us. As a note, the meeting will be on May 6th (currently from noon to 4:00 p.m.). Does that date work for your group? For the agenda title, how does "Discussion Regarding the Increasing Access to Justice Through Community Justice Workers Proposal for California" sound?

Thank you for letting me know. We look forward to your presentation and next steps.

Sincerely,
Jennifer

Jennifer Zelnick (she/her/hers)
Lead Program Analyst, Office of Access & Inclusion
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From: Sacha Steinberger <sacha@legallink.org>
Sent: Wednesday, April 16, 2025 11:26 AM
To: Nguyen, Doan <Doan.Nguyen@calbar.ca.gov>
Cc: Erica Connolly <erica.connolly@doj.ca.gov>; Leigh Ferrin <lferrin@one-justice.org>; Lucy Ricca <lricca@law.stanford.edu>; Zelnick, Jennifer <Jennifer.Zelnick@calbar.ca.gov>
Subject: Re: CJW Proposal Intro

Hi all -

Thanks for the conversation yesterday! For the May 5th meeting, we think 45 minutes would be a good amount of time (30 for presentation, 15 for questions). Happy to extend the question

time if you think more discussion is needed.

Let us know how that sounds, and thanks in advance.

Best,
Sacha

Sacha Steinberger, *she/her*
Founder + Co-Executive Director, Legal Link
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sacha@legallink.org

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On Fri, Apr 4, 2025 at 2:54 PM Nguyen, Doan <Doan.Nguyen@calbar.ca.gov> wrote:

> Excellent, I just sent a calendar invite with zoom link.
>
> --
>
> **Doan T. Nguyen** (she/her/hers)
> Program Director | Office of Access & Inclusion
> The State Bar of California | 180 Howard Street | San Francisco, CA 94105
> 415.538.2545 | Doan.Nguyen@calbar.ca.gov
>
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> ---
>
> **From:** Erica Connolly <Erica.Connolly@doj.ca.gov>
> **Sent:** Friday, April 4, 2025 12:46 PM
> **To:** Leigh Ferrin <lferrin@one-justice.org>; Sacha Steinberger <sacha@legallink.org>
> **Cc:** Nguyen, Doan <Doan.Nguyen@calbar.ca.gov>; Lucy Ricca <lricca@law.stanford.edu>
> **Subject:** RE: CJW Proposal Intro
>
> Both of those times work for me – look forward to discussing further!

Thanks all!

From: Leigh Ferrin <lferrin@one-justice.org>
Sent: Friday, April 4, 2025 12:16 PM
To: Sacha Steinberger <sacha@legallink.org>
Cc: Nguyen, Doan <Doan.Nguyen@calbar.ca.gov>; Lucy Ricca <lricca@law.stanford.edu>; Erica Connolly <Erica.Connolly@doj.ca.gov>
Subject: Re: CJW Proposal Intro

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Hi All,

I could chat at 4 pm on Tuesday, 4/15, or at 2 pm on Wednesday 4/16.

Thanks!
Leigh

On Thu, Apr 3, 2025 at 2:52 PM Sacha Steinberger <sacha@legallink.org> wrote:

> Thanks so much, Doan, and great to be connected,Erica!
>
> We'd love to talk. Of those times, I can do:
>
> - Tuesday, April 15 after 3pm
> - Wednesday, April 16 12-1, 2-3
>
> All the best,
> Sacha
>
> _____
> **Sacha Steinberger**, *she/her*
> Founder + Co-Executive Director, Legal Link
> o: 415.851.1755 | c: 415.321.9199
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On Wed, Apr 2, 2025 at 2:43 PM Nguyen, Doan <Doan.Nguyen@calbar.ca.gov> wrote:

> Hi Sacha, thanks for reaching out. I am copying Erica on this email and I think now would be a great time to start chatting. I am out of the office next week for spring break with my kids but maybe we can find a time the following week. Let me know if any of the times below work for everyone.
>
> - Monday, April 14 between 2pm and 4pm
> - Tuesday, April 15 after 3pm
> - Wednesday, April 16 between 12pm and 3pm
>
> --
>
> **Doan T. Nguyen** (she/her/hers)
> Program Director | Office of Access & Inclusion
> The State Bar of California | 180 Howard Street | San Francisco, CA 94105
> 415.538.2545 | Doan.Nguyen@calbar.ca.gov
>
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>
> **From:** Sacha Steinberger <sacha@legallink.org>
> **Sent:** Wednesday, April 2, 2025 2:30 PM
> **To:** Nguyen, Doan <Doan.Nguyen@calbar.ca.gov>
> **Cc:** Leigh Ferrin <lferrin@one-justice.org>; Lucy Ricca <lricca@law.stanford.edu>
> **Subject:** CJW Proposal Intro
>
> CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.
>
> Hi Doan:
>
> Hope you are well! We would love to share our CJW proposal with Erica Connolly from the Legal Services Trust Fund Commission, and hear her thoughts and feedback. We'd also be curious to hear her thoughts on the possible role of the Commission in the proposal. I know we discussed this intro when we talked last - is now a good time to move that informal conversation forward?
>
> For what it's worth, I'll be out of office Fri - Tues, but otherwise am around.

All the best,
Sacha

_____

Sacha Steinberger, *she/her*
Founder + Co-Executive Director, Legal Link
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sacha@legallink.org

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EXHIBIT 16

From: Sacha Steinberger
To: Zelnick, Jennifer
Cc: Leigh Ferrin
Subject: Re: Quick Chat Regarding the Presentation to the LSTFC"s PDI Committee
Date: Thursday, May 1, 2025 2:57:55 PM

Thanks so much, Jennifer. We really appreciate your communication and updates, and your commitment to the work!

Look forward to hearing more.

Best,
Sacha

Sacha Steinberger, *she/her*
Founder + Co-Executive Director, Legal Link
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sacha@legallink.org

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On Thu, May 1, 2025 at 2:52 PM Zelnick, Jennifer <Jennifer.Zelnick@calbar.ca.gov> wrote:

> Dear Leigh and Sacha,
>
> I hope you are both having a nice start to May!
>
> Thank you again for meeting with me last week and for your understanding about the change to the PDI Committee agenda. I spoke with Doan and wanted to provide a few updates:
>
> Regarding the ordering of presenting to the PDI Committee/LSTFC and Board of Trustees: this is still to be determined, but may end up with a presentation to the Board first. We hope to have an update on this soon, and will share that with you as soon as possible.
>
> Regarding funding: please give us a few weeks to look into this. We are trying to unlock some

funds, and a few things are up in the air. We can't make any promises, but are continuing to work on this.

I realize that this email is mostly asking for you to sit tight, so with that in mind, I also wanted to reiterate our excitement for the CJW proposal. As always, if there is anything I can do to help with this or anything else State Bar-related, please don't hesitate to let me know and we can find a time to chat.

Sincerely,

Jennifer

Jennifer Zelnick (she/her/hers)

Lead Program Analyst, Office of Access & Inclusion

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213-765-1210 | jennifer.zelnick@calbar.ca.gov

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From: Zelnick, Jennifer
Sent: Tuesday, April 22, 2025 5:23 PM
To: Leigh Ferrin <lferrin@one-justice.org>
Cc: Sacha Steinberger <sacha@legallink.org>
Subject: RE: Quick Chat Regarding the Presentation to the LSTFC's PDI Committee

Dear Leigh,

Thanks for sharing your availability.

No worries about tomorrow. Let's plan for a 9:30 a.m. call on Thursday morning. I'll send an invitation to you both in case Sacha wants/is able to join.

Sincerely,

Jennifer

Jennifer Zelnick (she/her/hers)

Lead Program Analyst, Office of Access & Inclusion

The State Bar of California | 845 South Figueroa Street | Los Angeles, CA 90017

213-765-1210 | jennifer.zelnick@calbar.ca.gov

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From: Leigh Ferrin <lferrin@one-justice.org>
Sent: Tuesday, April 22, 2025 2:19 PM
To: Zelnick, Jennifer <Jennifer.Zelnick@calbar.ca.gov>
Cc: Sacha Steinberger <sacha@legallink.org>
Subject: Re: Quick Chat Regarding the Presentation to the LSTFC's PDI Committee

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Hi Jennifer,

Happy to check in!

My day tomorrow is completely packed, I'm so sorry. On Thursday I am traveling to San Francisco, but I land a little before 9. I could talk between 9 and 11. I fly home that same night, so I could also chat between 3 and 4:30 or so.

Sincerely,

Leigh

On Tue, Apr 22, 2025 at 1:57 PM Zelnick, Jennifer <Jennifer.Zelnick@calbar.ca.gov> wrote:

> Dear Leigh and Sacha,
>
> I hope you are both having a nice day. I have an update from Executive leadership about your presentation to the PDI Committee. Might you have time for a quick 15 minute call in the next few days? Here are some times that work for me:
>
> Wednesday April 23:
>
> 9:00 – 11:00 a.m.
>
> 2:00 p.m. onward
>
> Thursday April 24:
>
> 9:00 – 11:15 a.m.
>
> 1:30 – 3:00 p.m.
>
> 4:00 – 5:00 p.m.
>
> Thank you for letting me know what works for one or both of you, and I will send a

meeting invitation.

Sincerely,

Jennifer

Jennifer Zelnick (she/her/hers)

Lead Program Analyst, Office of Access & Inclusion

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EXHIBIT 17

From: Sacha Steinberger
To: Zelnick, Jennifer
Cc: Nguyen, Doan; Leigh Ferrin
Subject: Re: Update and Next Steps for the CJW Proposal
Date: Tuesday, May 13, 2025 11:25:59 AM

Thanks much - that all works for me. And I appreciate you looking into the funding - maybe next year!

Sacha Steinberger, *she/her*
Founder + Co-Executive Director, Legal Link
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1721 Broadway, Ste 201 | Oakland, CA 94612
sacha@legallink.org

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On Tue, May 13, 2025 at 8:18 AM Zelnick, Jennifer <Jennifer.Zelnick@calbar.ca.gov> wrote:

> Hi Leigh,
>
> Echoing thanks. You're right, the link in my below email will take you to the agenda where my presentation will be uploaded, but I can also email you a more direct link once the presentation goes live (likely only a day or two before the LSTFC meeting).
>
> Sincerely,
>
> Jennifer
>
> Jennifer Zelnick (she/her/hers)
>
> Lead Program Analyst, Office of Access & Inclusion
>
> The State Bar of California | 845 South Figueroa Street | Los Angeles, CA 90017
>
> 213-765-1210 | jennifer.zelnick@calbar.ca.gov

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From: Nguyen, Doan <Doan.Nguyen@calbar.ca.gov>
Sent: Monday, May 12, 2025 11:27 PM
To: Leigh Ferrin <lferrin@one-justice.org>; Zelnick, Jennifer <Jennifer.Zelnick@calbar.ca.gov>
Cc: Sacha Steinberger <sacha@legallink.org>
Subject: Re: Update and Next Steps for the CJW Proposal

Thanks Leigh, we can front end the presentation for the June 11 PDI Committee meeting so you'll be able to get off well before 3:30. Thanks again for your flexibility!

Get Outlook for iOS

From: Leigh Ferrin <lferrin@one-justice.org>
Sent: Monday, May 12, 2025 10:40 PM
To: Zelnick, Jennifer <Jennifer.Zelnick@calbar.ca.gov>
Cc: Sacha Steinberger <sacha@legallink.org>; Nguyen, Doan <Doan.Nguyen@calbar.ca.gov>
Subject: Re: Update and Next Steps for the CJW Proposal

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Thanks Jennifer,

For June 11, I can be on from 2 until about 3:30. I can stay on until 4, but will likely be in a

car. If Sacha can make it for the whole meeting, you'll be fine without me at the end!

For next week's meeting, I know the materials will be shared through the public agenda, but when you have the presentation, it would be great if we could take a look. I think we both plan to be on the call and one of us will make a brief public comment.

Sincerely,

Leigh

On Mon, May 12, 2025 at 5:12 PM Zelnick, Jennifer <Jennifer.Zelnick@calbar.ca.gov> wrote:

> Dear Sacha and Leigh,
>
> I hope you both had a nice weekend!
>
> I wanted to provide an update about the CJW proposal as it pertains to the May 21 LSTFC meeting as well as the next Program Development and Impact Committee meeting. For the May LSTFC meeting, we were given the green light for State Bar staff to share information and answer questions about the CJW proposal. Additionally, we were also given the green light for you to present the CJW proposal to the PDI Committee at its June 11 meeting. The meeting is scheduled from 2:00 – 4:00 p.m. Does that date and time work for both of you?
>
> Finally, we wanted to share that we checked with our Finance team and unfortunately, the discretionary funds we had hoped to be able to use to support this work is not sufficient at this time. We will continue to monitor these funds and will let you know if we may have funding later this year or early next, but we cannot promise any at this time.
>
> Please let me know if you have any questions, and I will look forward to setting up a prep call closer to the PDI Committee meeting.
>
> Sincerely,

Jennifer

Jennifer Zelnick (she/her/hers)

Lead Program Analyst, Office of Access & Inclusion

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EXHIBIT 18

6.4 Discussion Regarding Mapping the National Landscape to Expand Access to Legal Services

Jennifer Zelnick, Lead Program Analyst, Office of Access & Inclusion

Legal Services Trust Fund Commission Meeting | May 21, 2025

Agenda

1. Defining Licensure Reform
2. Licensure Reform by Jurisdiction
3. Examples of Programs in Operation
4. Timeline of the State Bar's Efforts to Reduce the Justice Gap through Licensure Reform
5. A Legal Aid-Led California Community Justice Workers Proposal
6. Discussion

Licensure reform involves changing how the practice of law is regulated to increase the public's access to legal help.

Types of Licensure Reform

1. Alternative Business Structure (ABS)
2. Alternative Pathways to Licensure (APL)
3. Community Justice Workers (CJW)
4. Paraprofessionals
5. Regulatory Sandbox

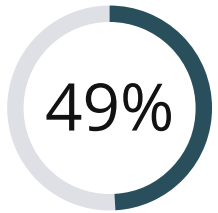
Licensure Reform by Jurisdiction

Mapping U.S. Licensure Reform

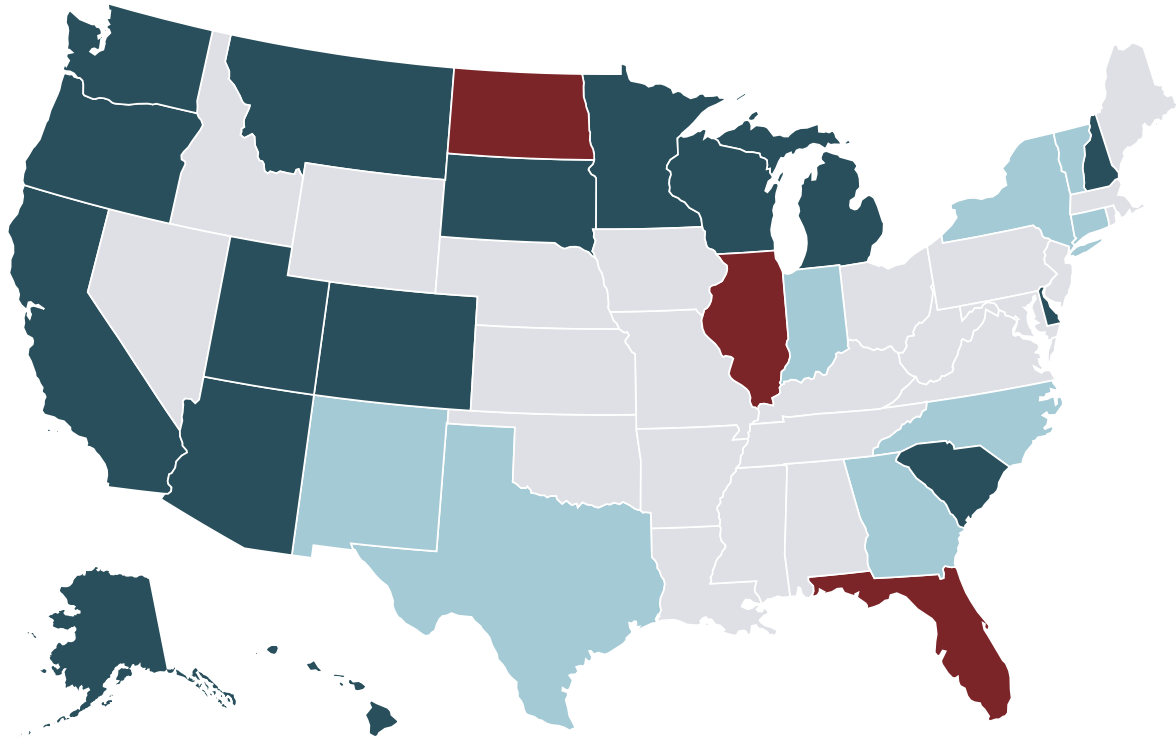
Active licensure reform programs (including permanent programs, pilots, and programs that have sunset).[1]

Licensure reform programs under consideration or development.

Licensure reform programs that are inactive, deferred, or no longer under consideration.



Nearly half of U.S. states (and D.C.) have licensure reform programs that are either active, under consideration, or in development.



[1]Although Washington's paraprofessional program sunset, those with active licenses may still practice.

Licensure Reform by Jurisdiction

Jurisdiction	Type of Licensure Reform	Status
Alaska	CJW	Active
Arizona	ABS APL CJW Paraprofessionals	Active (all)
California	APL Paraprofessionals CJW	Active No longer under consideration Under consideration
Colorado	Paraprofessionals	Active
Connecticut	Paraprofessionals	Under consideration
Delaware	APL CJW	Under consideration Active
District of Columbia	ABS	Active
Florida	Paraprofessionals	No longer under consideration
Georgia	Type(s) to be determined	Under consideration
Hawai'i	CJW	Active
Illinois	Paraprofessionals	Deferred

Licensure Reform by Jurisdiction

Jurisdiction	Type of Licensure Reform	Status
Indiana	Paraprofessionals Regulatory Sandbox	Under development (both)
Montana	CJW	Active
Michigan	Paraprofessionals	Under consideration
Minnesota	Paraprofessionals Regulatory Sandbox	Active Under development
New Hampshire	APL Paraprofessionals	Active (both)
New Mexico	Paraprofessionals	Under consideration
New York	CJW	Under consideration
North Carolina	Paraprofessionals	Under consideration
North Dakota	APL	No longer under consideration
Oregon	APL Paraprofessionals	Active (both)
South Carolina	CJW	Active

Licensure Reform by Jurisdiction

Jurisdiction	Type of Licensure Reform	Status
South Dakota	APL	Active
Texas	ABS APL CJW Paraprofessionals	Rejected Under consideration Delayed Delayed (Supreme Court) and under consideration (Legislature)
Utah	ABS Paraprofessionals Regulatory Sandbox (includes CJWs)	Active (all)
Vermont	CJW	Under consideration
Washington	APL Paraprofessionals Regulatory Sandbox (includes ABS)	Active Sunset Active
Wisconsin	APL	Active

Examples of Programs in Operation

Alaska's Community Justice Workers (CJWs)

Background

- Trusted community members who work or volunteer in their communities
- Trained and supervised by the Alaska Legal Services Corporation
- Over 200 CJWs have been trained
- CJWs have secured approximately $23.7 million in SNAP benefits for clients
- Clients report a 100 percent satisfaction and success rate

Education, Experience, and Training Requirements

- Complete free, online, self-paced training in one or more practice areas; and
- Some options for in-person training

Practice Areas

- Primarily SNAP advocacy and drafting wills
- Also debt collection, Indian Child Welfare Act, and domestic violence

Scope

- Limited scope legal advice, supervised by an attorney from Alaska Legal Services Corporation
- May expand due to the passage of Rule 43.5 (UPL waiver)

Minnesota's Legal Practitioners (LPs)

Background

- Began as a pilot in 2020, permanent as of January 1, 2025
- LPs are supervised by attorneys
- Currently 30 LPs; no complaints have been received
- LP custody matters took an average of 50 days less to resolution compared to those with lawyer representation

Education, Experience, and Training Requirements

- Associate's or Bachelor's Degree in paralegal studies;
- Paralegal certificate in addition to an Associate's or Bachelor's Degree;
- Law degree from an ABA-accredited school; or
- Highschool diploma and five years of substantive paralegal experience

Practice Areas

- Family and housing law

Scope

- Appear in court on behalf of clients in some family law cases, provide advice in other family law cases, and appear with a client in family law mediations in some cases
- Advice and appear in court for housing disputes (eviction and eviction expungement)

Utah's Certified Advocate Partners Program (CAPP)



Background

- Authorized by the Utah Supreme Court in February 2021 under the Utah Regulatory Sandbox
- Advocates are supervised by an attorney from Timpanogos Legal Center
- Empowers victim advocates to provide legal advice to pro se survivors
- Advocates have assisted 358 clients, closed 327 cases, and provided 841 unique services in 3 years
- 77 percent of clients served through CAPP live in rural Utah
- 16 active CAPP advocates

Education, Experience, and Training Requirements

- 50 to 60 hours of training over three months;
- Asynchronous and synchronous including a practice manual, assignments, one-on-one feedback, and an exam;
- 7 units, including ethics, legal writing, and rules of evidence; and
- Advocates must have 2 or more years of victim advocacy, including experience with civil protective orders

Practice Areas

- Family law

Scope

- Legal advice on civil protective orders and stalking injunctions

Timeline of the State Bar's Efforts to Reduce the Justice Gap through Licensure Reform



JULY 2018

The Board of Trustees commissioned a Legal Market Landscape Report, leading to the formation of the Task Force on Access Through Innovation of Legal Services (ATILS)

MARCH 2020



The Board of Trustees formed the California Paraprofessional Working Group (CPPWG)



MARCH 2022

The Board of Trustees formed the Closing the Justice Gap Working Group (CJGWG) to explore the creation of a regulatory sandbox

MAY 2022



The Board of Trustees approves the CPPWG Recommendations and Rules



SEPTEMBER 2022

AB 2958 passes, prohibiting the State Bar from advocating for a paraprofessional program and limiting its exploration of a regulatory sandbox

AB 2958 sunset on January 1

JANUARY 2025



A Legal Aid-Led California Community Justice Workers Proposal

Background: Working Group Recommendations

Scope of Program

- Recommends a statewide CJW program for legal aid
- Proposes authorized legal services organizations (LSOs) could:
  - Certify individual CJWs
  - Provide legal advice and other activities that may be defined as the practice of law
  - Serve clients who qualify for free legal services
  - Operate without violating California's prohibition on UPL
- Recommends streamlining the process for IOLTA-funded organizations
- Suggests pathway to authorization for non-IOLTA organizations

Role of the Legal Services Trust Fund Commission (LSTFC)

- The LSTFC would review applications, including:
  - CJW training plan;
  - Informed consent plan;
  - Client files security plan; and
  - Proof of malpractice insurance
- LSTFC to issue authorization for the LSO and notify the State Bar

Working Group Proposed Requirements for Authorized Legal Services Organizations

Certify each individual CJW to the State Bar once an individual satisfies all training requirements.

- Submit each CJW's scope of practice

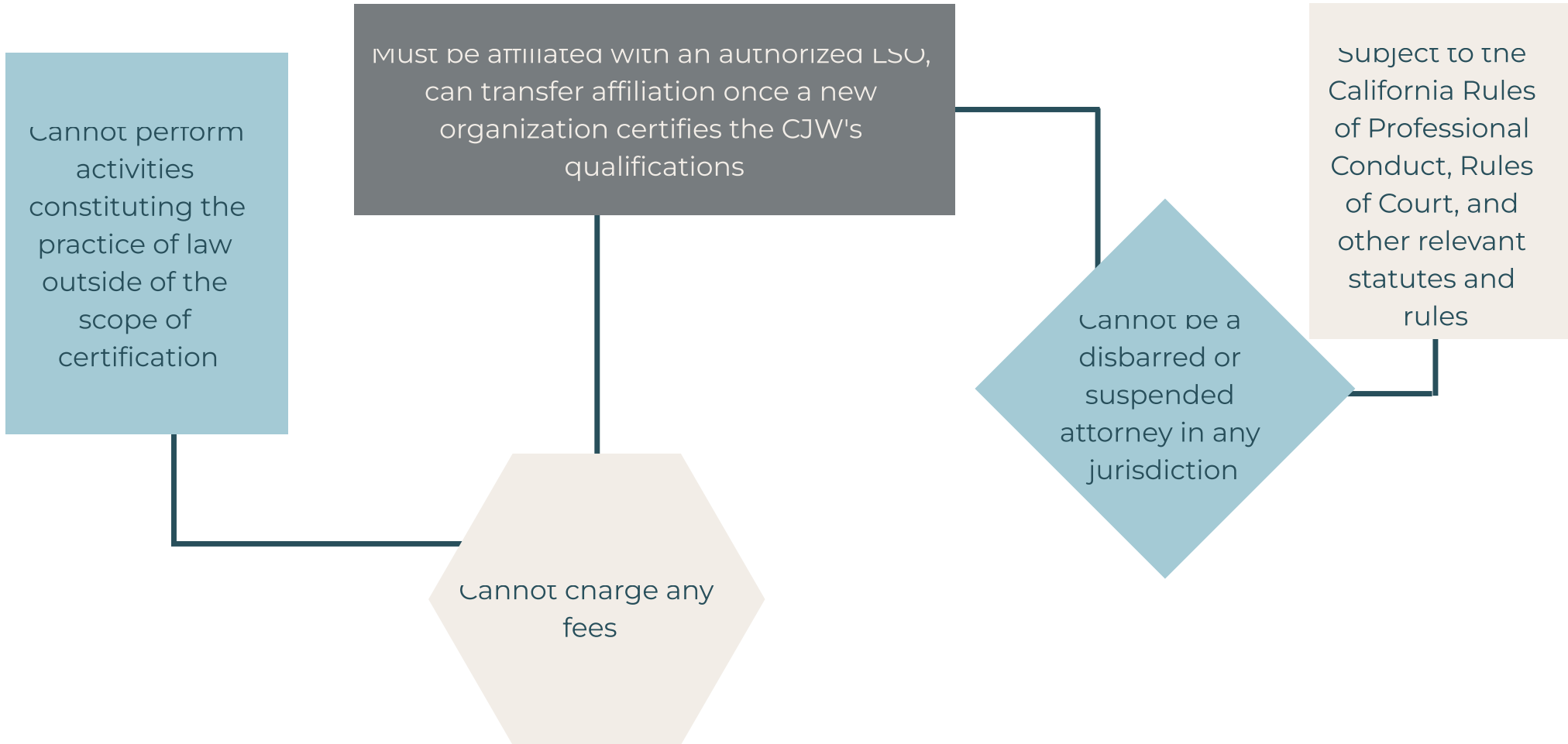
Report any relevant changes in status, either of the organization or any CJW, including:

- IOLTA status or loss of services;
- CJW loss of eligibility; and
- Violations of rules

To ensure ongoing feedback for continuous program improvement, report to the State Bar on an annual basis:

- Number of clients served by CJWs;
- Hours worked by CJWs;
- Legal/financial outcomes;
- Post-services survey of CJW clients;
- Client complaints and resolution; and
- CJW demographics

Working Group Proposed Requirements for CJWs



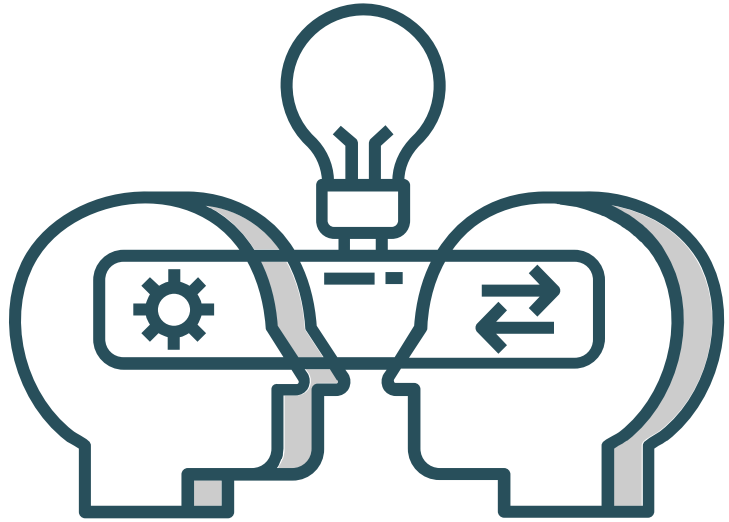
Working Group Proposed Role for the State Bar

- Post a roster of authorized LSOs on its website
- Develop a process for authorized LSOs to certify individual CJWs
- Communicate the roster of authorized LSOs and their CJWs to other relevant authorities, including those who enforce UPL
- Report to the Legislature and Supreme Court all complaints received against CJWs annually, including:
    - The nature of the complaint; and
    - The resolution of the complaint

Working Group Proposed Program Evaluation Plan

After five years, assess:

- The number of CJW providers
- The number of clients served
- The impact on the ability of LSOs to serve their communities, including:
    - Legal and financial outcomes (immediate and longer term);
    - Impacts on access to justice for underserved communities as a result of the CJW program; and
    - Community trust and engagement
- Cost of implementation within individual LSOs
- Cost of implementation of the program



Discussion

Thank you!

For questions, please contact:
Jennifer Zelnick, Lead Program Analyst,
at jennifer.zelnick@calbar.ca.gov



EXHIBIT 19

7.2 Discussion Regarding the 2024 California Justice Gap Study and State-Level Approaches to Expanding Legal Services

Lisa Chavez, Program Director, Office of Research & Statistics
Elizabeth Hom, Program Director, Office of Access & Inclusion
Jennifer Zelnick, Lead Program Analyst, Office of Access & Inclusion

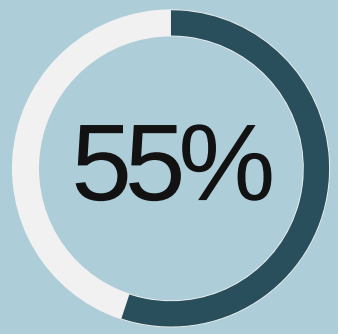
Board of Trustees Meeting | May 22–23, 2025

Agenda

1. The 2019 Justice Gap Study Key Findings and Recommendations
2. The 2024 California Justice Gap Study
3. State-Level Approaches to Expanding Legal Services
4. Discussion

The 2019 Justice Gap Study: Key Findings and Recommendations

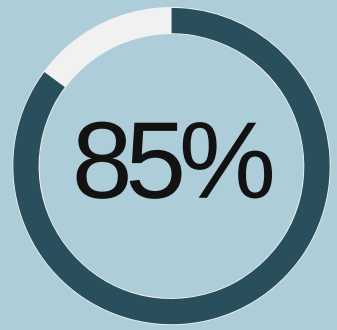
The Services Gap



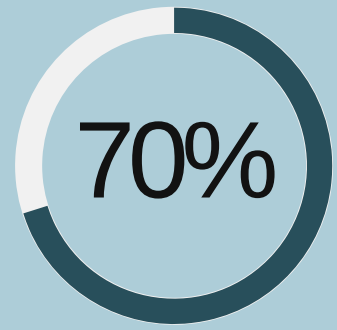
of Californians at all income levels experienced at least one civil legal problem in their household within the past year



of low-income Californians sought legal assistance, and only 32% of Californians above 125% sought legal assistance

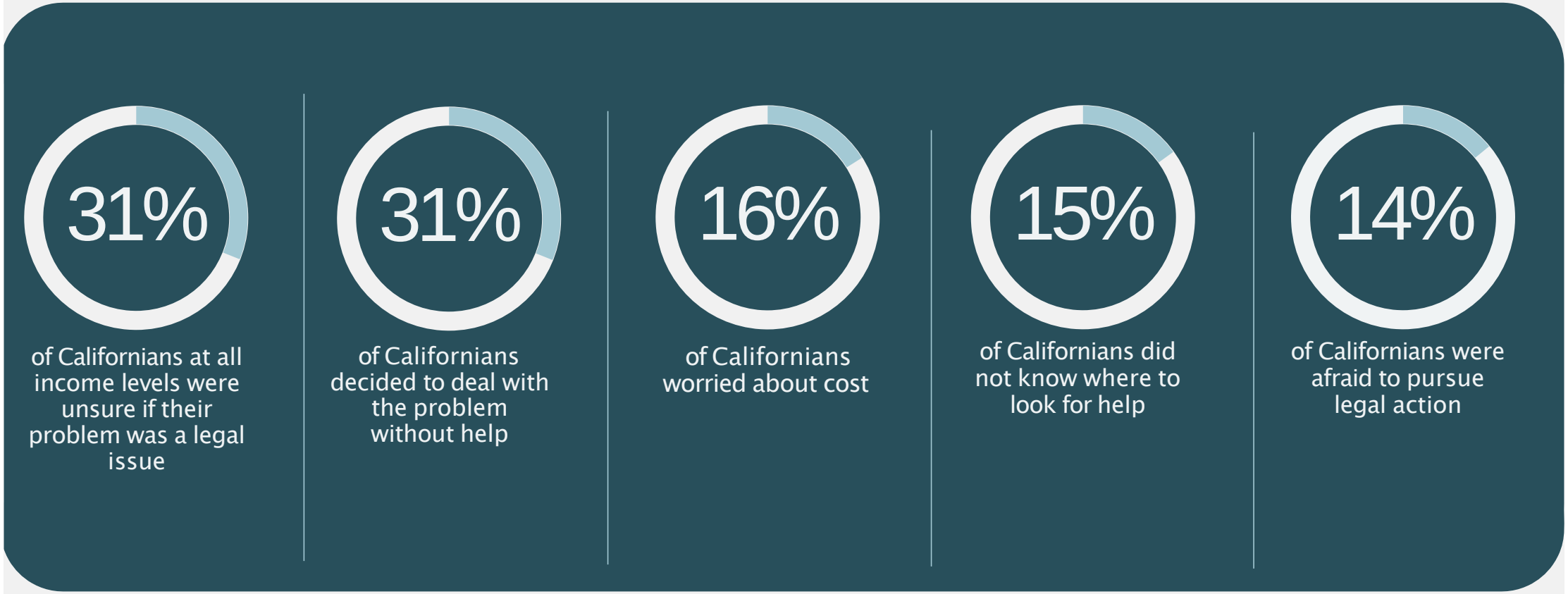


of Californians' legal problems received no or inadequate legal help



of legal problems presented to legal aid went unresolved or were only partially resolved

The Knowledge Gap



2019 JGS Recommendations

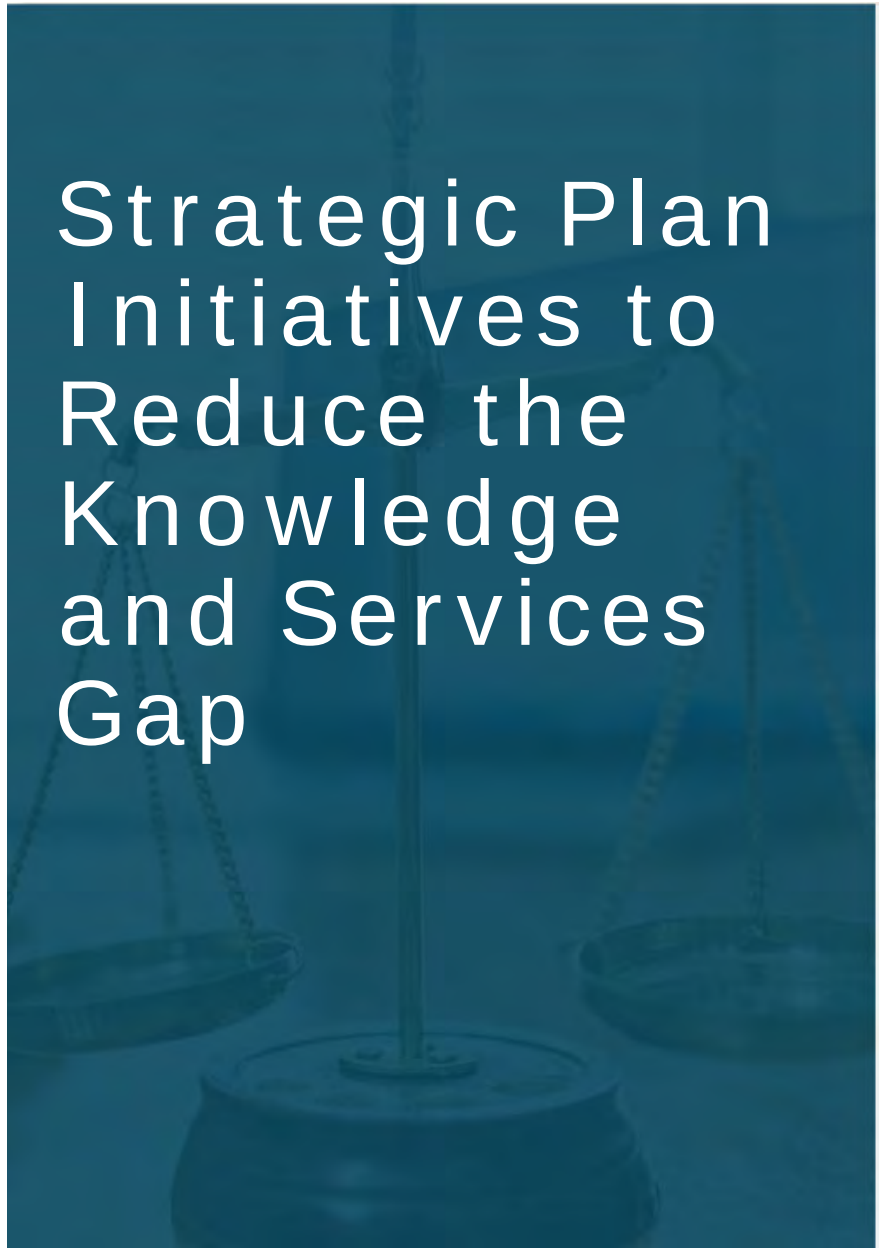
Knowledge Gap

- Increase the availability of accessible, engaging, and reliable legal information and tools to help diagnose legal problems.

Services Gap

- Increase the availability of legal services and address the areas of greatest legal needs.
- Modify legal aid funding requirements to improve organizational efficiency and sustainability.
- Remove barriers to legal aid recruitment and retention.





Strategic Plan Initiatives to Reduce the Knowledge and Services Gap

2017–2022 Strategic Plan was updated to include new items under Goal 4 to:

- Support public education about key problems not recognized as legal issues; and
- Support efforts to attract and retain lawyers in legal aid organizations.

2022–2027 Strategic Plan, Goal 2 implementation steps developed based on the 2019 Justice Gap Study.

Actions Taken to Reduce Knowledge and Services Gap

ATTACHMENT F

Benefiting low-income Californians

- Piloted communications campaigns to address the knowledge gap
- Recruitment and retention in legal aid initiatives
- Statutory change to expand eligibility requirements for IOLTA funded work
- Administrative changes and funding preferences for legal aid grants
- Technology initiatives to increase access to justice



Actions Taken to Reduce the Service Gap

Benefiting modest means Californians

- The Board of Trustees commissioned a Legal Market Landscape Report, leading to the formation of:
  - The Task Force on Access Through Innovation of Legal Services;
  - The California Paraprofessional Working Group; and
  - The Closing the Justice Gap Working Group
- AB 2958 passes, prohibiting the State Bar from advocating for a paraprofessional program and limiting its exploration of a regulatory sandbox
  - AB 2958 sunset on January 1, 2025



Strategies to Increase Supply of Attorneys

Legal Aid Leaders Fellowship (result of 2019 CA Justice Gap Study)

- Summer fellowships at legal aid organizations for law students, funded through portion of $45 voluntary contribution to legal aid via annual fees
- Goal: strengthen pipeline of lawyers who work in legal aid/public interest careers.

Legal Incubators

- 12-18 month programs designed to cultivate a workforce of private practice attorneys dedicated to providing affordable legal services
- Receive office space, mentorship, training, practice management software subscriptions and other resources.

Lawyer Referral Services

- State Bar-certified services connect the public with private attorneys and by law are required to support efforts to increase access to the justice system by including services to serve persons of limited means

The 2024 California Justice Gap Study



Report Content

Demand for Civil Legal Help

- Measuring unmet civil legal needs: findings from NORC Survey of 6K Californians
- The need for immigration legal services
- Civil legal needs of criminal defendants
- Legal needs of small business owners

Supply of Attorneys and Legal Services Available to Meet Needs

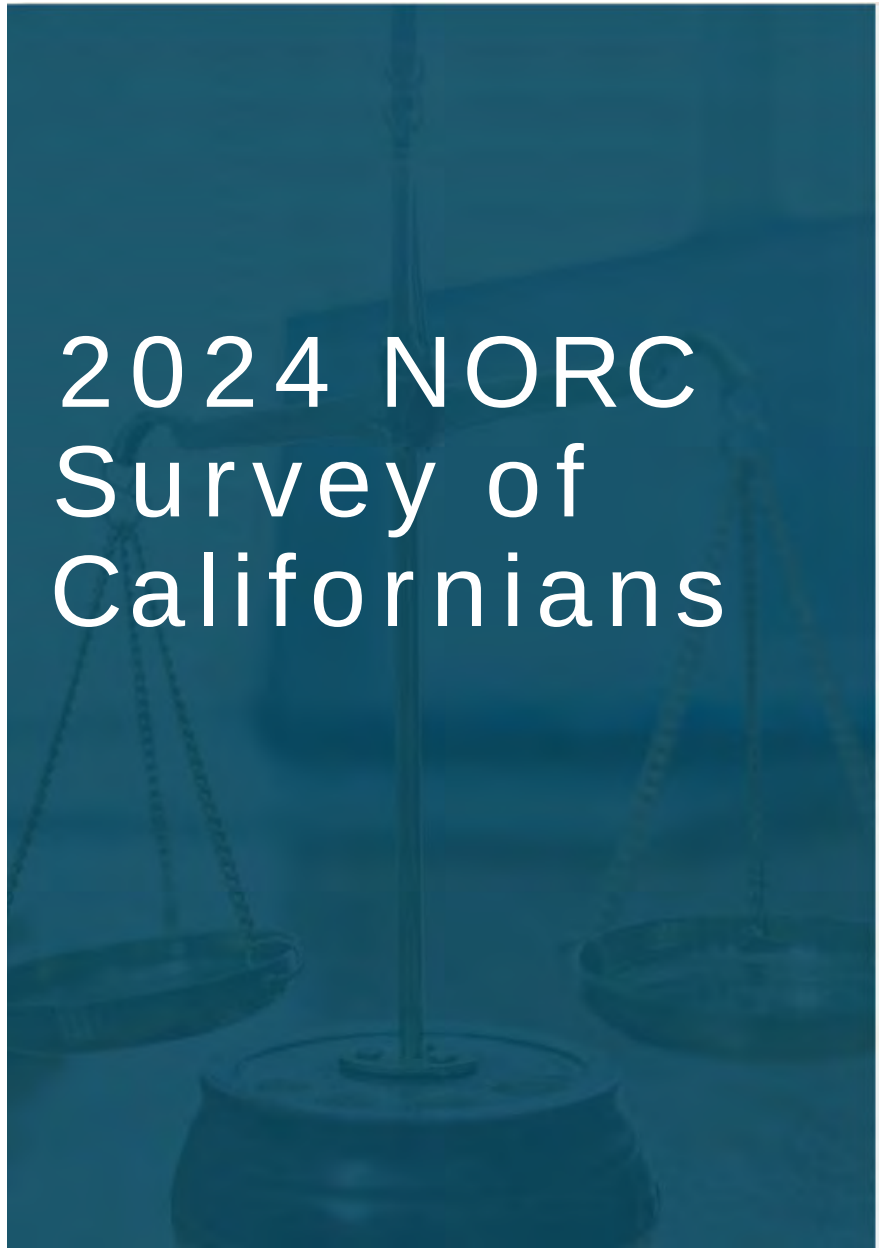
- California's legal market
- Attorney deserts
- Pro bono service
- Funding for legal aid organizations
- Strategies to increase supply of attorneys and legal services

Policy Recommendations

- Policy recommendations developed by the LSTFC



The Demand for Civil Legal Help



2024 NORC Survey of Californians

Background: a 2019 NORC survey was the centerpiece of the 2019 California Justice Gap Study

Key findings: the justice gap was widespread, pervasive, and multifaceted, characterized by two dimensions: gaps in knowledge about how to access legal help and in service

Purpose of 2024 survey: to assess what has changed since 2019

Key survey details:

- Informed by stakeholder feedback
- Administered to over 6,000 Californians in summer 2024 (with a short re-ask survey conducted in early 2025)
- Survey asked whether respondents or anyone in their households experienced one of over 80+ legal problems
- Sampled to ensure representation across four income groups

Income category	Definition	Survey respondents
Lowest-income	< = 200 percent of the FPL, regardless of county	1,576
Low-income	> 200 percent of the FPL and < 80 percent AMI	1,495
Middle-income	80 percent–120 percent AMI	1,501
High-income	> 120 percent AMI	1,758

Stakeholder Engagement

Focus Groups / Surveys

- Focus groups: representatives from the Consumer Attorneys of California (CAOC), California Employment Lawyers Association (CELA), and legal aid grantees
- Facilitated by the California Access to Justice Commission
- Survey of solo and attorneys in small law firms

Goal: solicit feedback on 2019 Justice Gap Study and hear suggestions for 2024 study.

Impact:

✓ Updated NORC survey questions

Summer 2024

Preliminary results shared

What we learned:

✓ "Personal injury" was not one of the 80+ legal problems asked about on the survey.

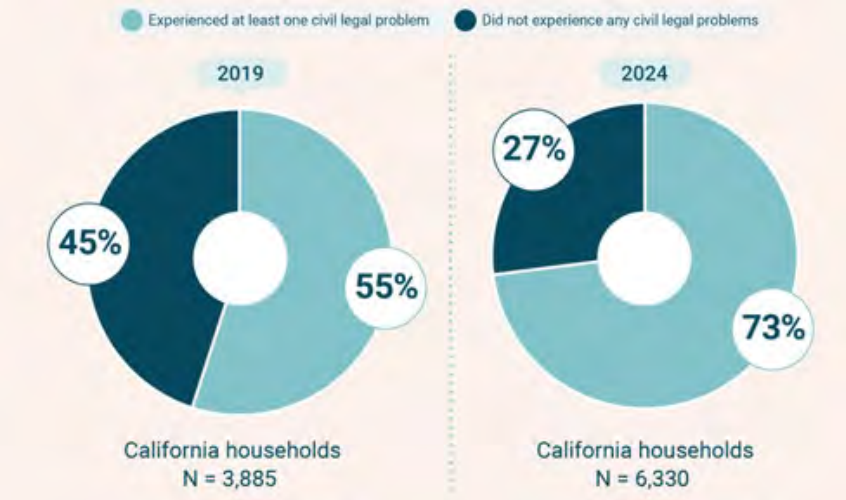
December 2024

NORC Survey Re-Administered

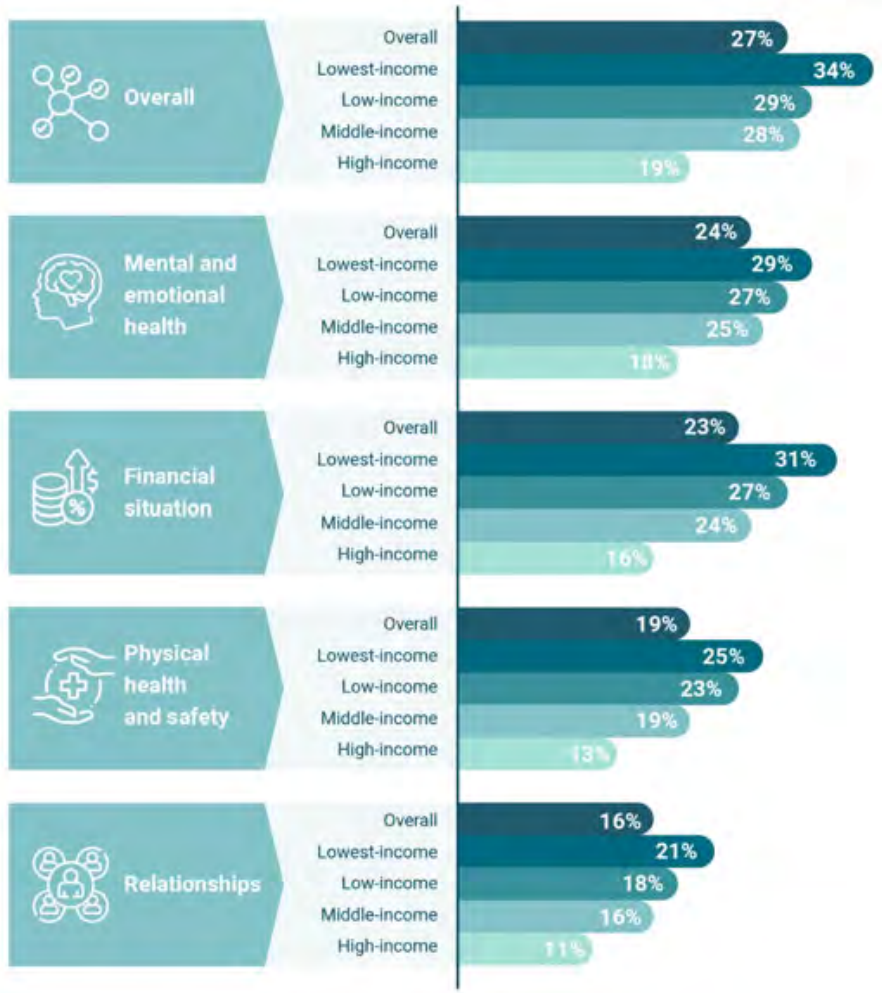
✓ Added personal injury, compromised personal information, and contracts to list of problems

Early 2025

Californians' civil legal needs are growing.



Over 1 in 4 California households experienced a civil legal problem that substantially impacted their lives, taking the greatest toll on lower-income households.

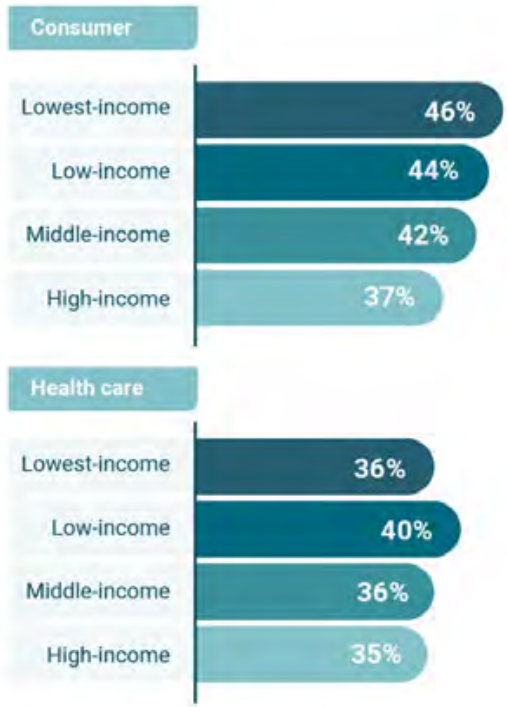


The two most common types of civil legal problems in California households across all income groups are related to consumer and health care issues.

Percent of California Households that Experienced Civil Legal Problems by Type of Problem



Percent of California Households that Experienced Consumer and Health Care Problems by Income



Top 3 consumer problems

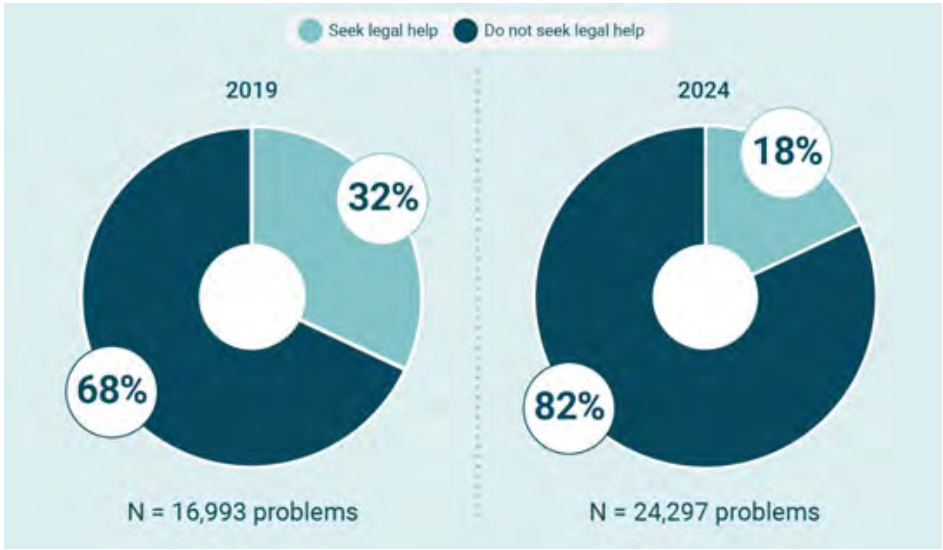
- Compromised personal information
- Contracts
- Personal injury

Top 3 health care problems

- Health insurance not covering services
- Billed incorrectly for medical services
- Having unpaid medical debt

Californians continue to rarely seek legal help for their civil legal problems, even for those that substantially impact their lives.

Percent of Problems for Which Californians Seek Legal Help: 2019 and 2024



Percent of Problems for Which Californians Seek Legal Help by Income: 2024



Problems with substantial impact are problems impacting respondents "very much" or "severely."

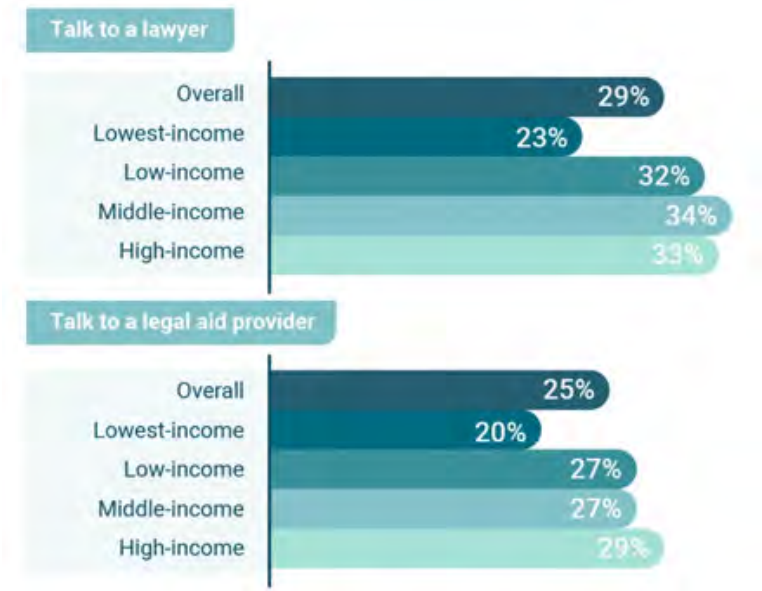
Californians seek legal assistance for only a small fraction—**approximately one in 10—of consumer and health care** problems.

The State Bar of California

- Californians seek help from a lawyer for only three in 10 civil legal problems that substantially impact them.
- Lowest-income Californians are less likely to speak to a lawyer than all other groups and they seek help from a legal aid provider for just one in five problems that substantially impact them.

- When Californians consult a lawyer the most common response is their case is valid and legal action is recommended.
- For 1 in 4 problems: they are offered contingence fee arrangements
- For 1 in 5 problems: they are told their case is valid but would not win enough money for case to be worthwhile for lawyer

Percent of Substantial Problems for Which Californians Seek Legal Help by Type of Legal Professional



Substantial problems are problems impacting respondents "very much" or "severely."

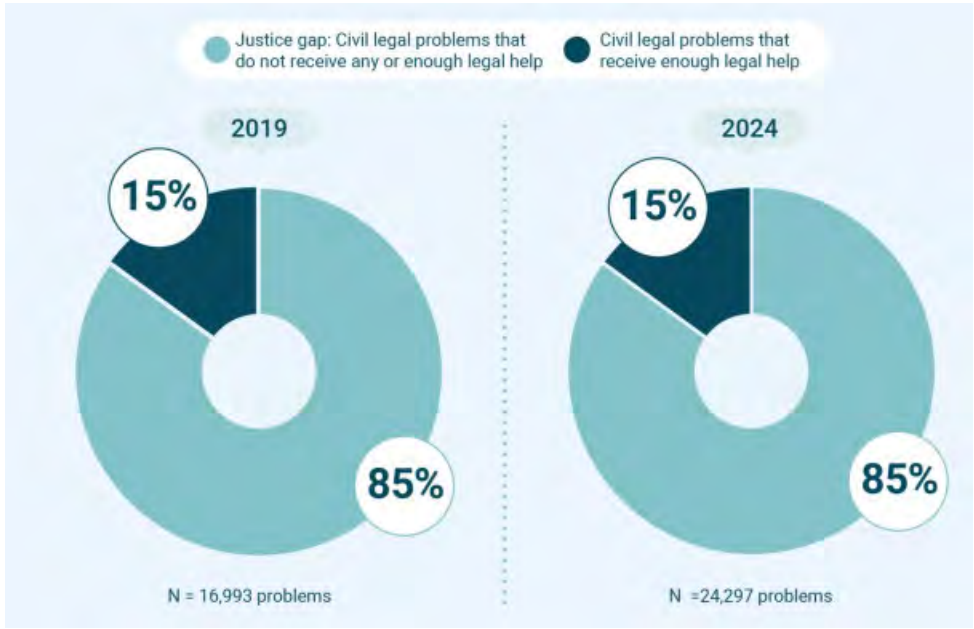
What Californians Hear from Lawyers About Their Civil Legal Problems



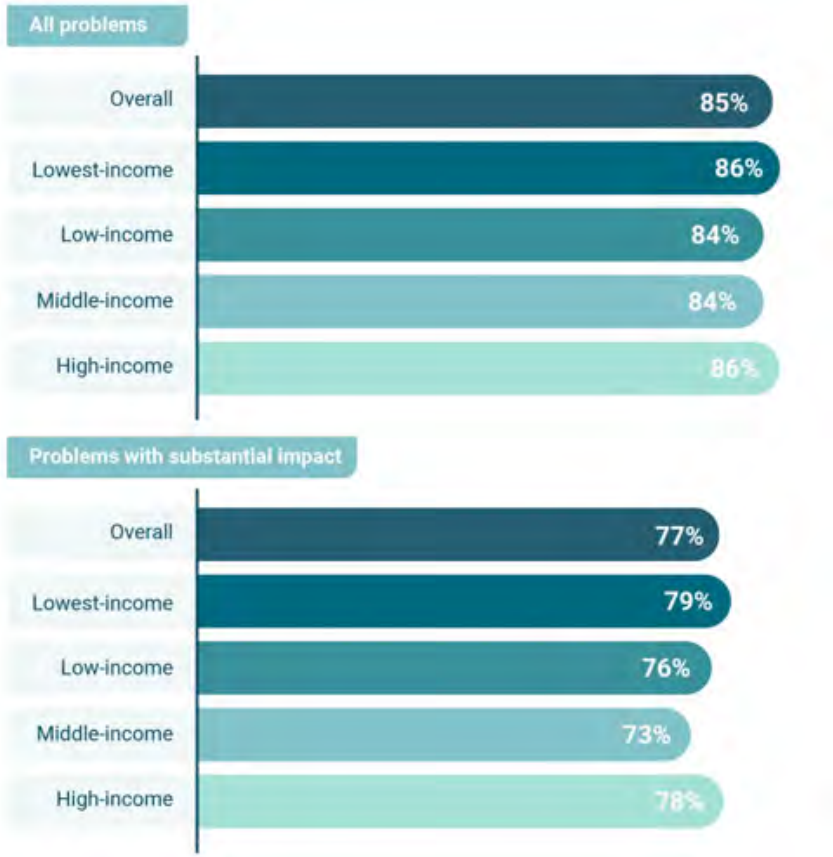
$$\text{Justice gap} = \frac{\text{(Problems not receiving any legal help)} + \text{(Problems not receiving enough legal help)}}{\text{all problems experienced}}$$

» Californians across the income distribution do not receive any or enough legal help for the vast majority of their civil legal problems, including problems that substantially impact them.

» The justice gap remains unchanged



The Justice Gap: Percent of Problems for Which Californians Do Not Receive Any or Enough Legal Help



Knowledge barrier

» Most Californians are unaware that lawyers or other legal professionals can help resolve many of the everyday civil legal problems they face.

Percent of Problems Californians Believe a Lawyer or Other Legal Professional Could Help Resolve



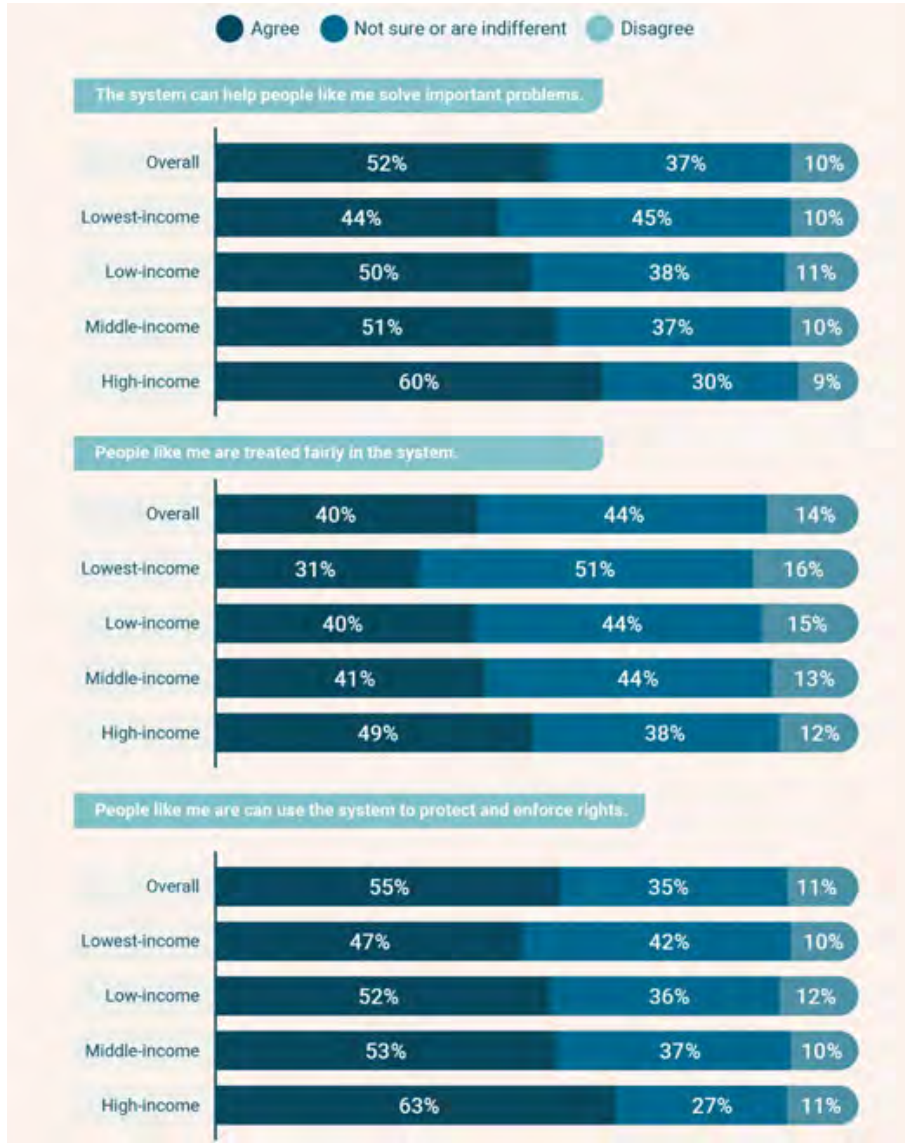
Survey question: "In your opinion, is this a type of problem that a lawyer or other legal professional could help resolve?"

Attitudinal barrier

» Lowest-income Californians are more likely to have uncertain or negative perceptions of the civil legal system than Californians in higher income categories.

- 44% believe the civil legal system can help people like them solve important legal problems, compared to about half of low- and middle-income Californians and 60% of high-income Californians.
- 31% think the system treats people like them fairly. In contrast, about 4 in 10 of low- and middle-income Californians and nearly half of high-income Californians think the same.
- Less than half agree that people like them can use the system to protect and enforce rights compared to 63% of high-income Californians.

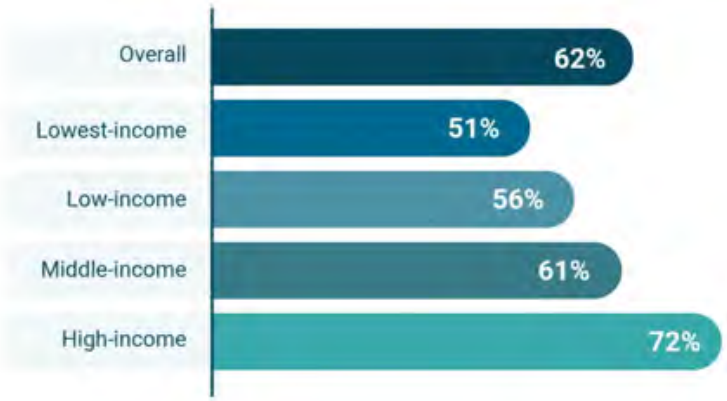
Californians' Beliefs about the U.S. Civil Legal System



Cost barriers: real or perceived cost of receiving legal help.

- Just 6 in 10 Californians are confident they could find an affordable lawyer or legal professional if they needed help with a serious legal problem.
- Lowest-income Californians are least confident.

Percent of Californians Who Are Confident in Their Ability to Find a Lawyer or Legal Professional They Can Afford



"Why haven't you talked with a lawyer or legal professional about this problem?"

30% decided to deal with problem on their own

27% worried about the cost

26% didn't think the problem was serious enough

"Why haven't you gotten all the legal help you wanted?

22% report that ongoing costs are too expensive to get any or more help

"How much would you have been willing to pay to speak to a lawyer (if this was the lowest rate you could find) for one hour to learn about your options **for solving your problem?"**

Nearly 1 in 2 problems: **"don't know"**
4 in 10 problems: "would only speak to a lawyer I **they didn't have to pay anything upfront"**

Average amount willing to pay: $153

Legal Needs of Small Business Owners

Methodology: survey of over 100 small business owners administered in partnership with the California Office of Small Business Advocate (CalOSBA).

Purpose: learn about the challenges faced by the state's 4.1m small business owners, many of whom lack affordable legal help when running their businesses.

- 40% reported having at least one legal need in previous 12 months.
- 50% needed help related to drafting, reviewing, and negotiating contracts.
- 40% needed help related to tax law and financial legal advice
- 38% needed help with compliance, governance, and licensing/permits



When seeking help, small business owners were more likely to look for information online than talk to a lawyer.

Over two-thirds (67%) of those who did not speak to a lawyer reported they were worried about the cost involved.

Among business owners whose most recent legal needs were not met, 85% reported being impacted financially through lost business or revenue and the prevention of business growth.

Civil Legal Needs of Criminal Defendants

Methodology: survey of all public defenders (and their staff); 37 out of 58 counties, 80 completed surveys

Purpose: learn about the civil legal needs of public defender clients whose socioeconomic realities often mean they are greater risk of experience a justice gap.

- Nearly 90% of public defenders reported that their clients experienced civil legal issues that substantially impacted their lives or the lives of others in their households.
- 59% estimated that only a few of their clients sought help from a lawyer or legal professional for their civil legal problems.

"What reasons do your clients give about why they don't seek help from a lawyer or legal professional for their civil legal problems?"



The Demand for Immigration Services

Over a quarter of Californians—approximately 11 million—are foreign born, with nearly 5 million (45 percent) without U.S. citizenship.

The 2024 NORC survey showed:

- 9% of California households experienced a problem related to immigration.
- Californians sought legal help for more than 50% of their immigration-related problems yet received legal help for just 40%, underscoring potential challenges in accessing services even among those who actively pursue assistance.

- Over 8 in 10 State Bar-funded legal aid organizations report an increase in requests for immigration legal services since the 2024 national election.
- Just 2% of active attorneys in California self-report practicing immigration law.





The Supply of Attorneys and Legal Services Available to Meet Demand

California's Legal Market

Background: in 2019, the State Bar commissioned a report from Professor William Henderson of Maurer School of Law at Indiana University on the national legal market.

Key finding: nationwide: the majority of the legal market served organizations rather than individuals ("PeopleLaw Sector")

2024 commissioned report methodology: Professor Henderson updated the study and explored California's $57.8 billion legal market.

Key findings:

- California's legal market mostly serves the organizational market; **just 24% serves individual clients ("PeopleLaw");** this is also a nationwide finding
- Between 2016 and 2023: 45% increase in the number of California lawyers working as **"in-house" lawyers.**
- Reasons relate to both supply and demand for legal services: salaries, drop in consumer spending on legal services costs of hiring a lawyer





California's Attorney Deserts

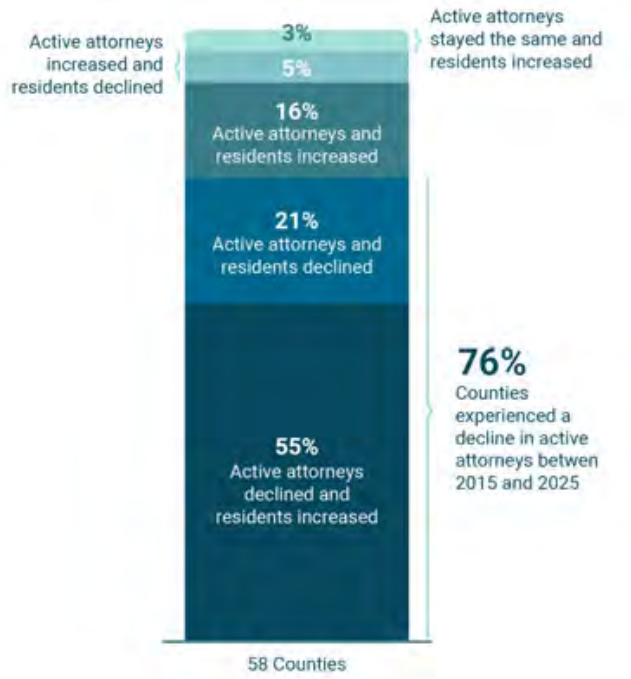
Methodology:

- Utilized American Bar Association definition of "attorney desert"
- Explored trends in the number of California active licensees who live in-state vs. out of state.
- Explored population trends across counties.
- Identified counties and both urban and rural areas within counties that are attorney deserts or at risk of becoming a desert.

Key findings About California Licensees and Overall Population

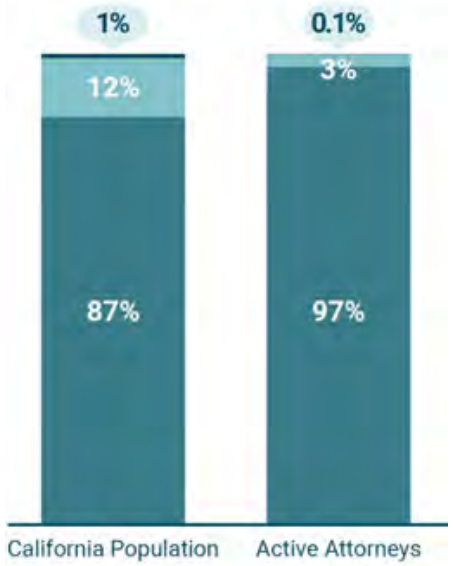
- Of the 196,600+ active California licensees, 13% live out of state, up from 11% in 2015.
- The number of active attorneys residing in California grew by just **3%, falling short of the state's 4% population growth**.
- In contrast, the number of inactive attorneys living in state increased by 59%.

- 76% of counties have experienced a decline in the number of active attorneys in the last 10 years.
- 55% of counties experienced a decline in active attorneys while simultaneously experiencing an increase in residents.



- Just **3% of California's active attorneys live in rural areas**, compared to 12% of California's residents.

Where California's Residents and
Active Attorneys Live: 2025



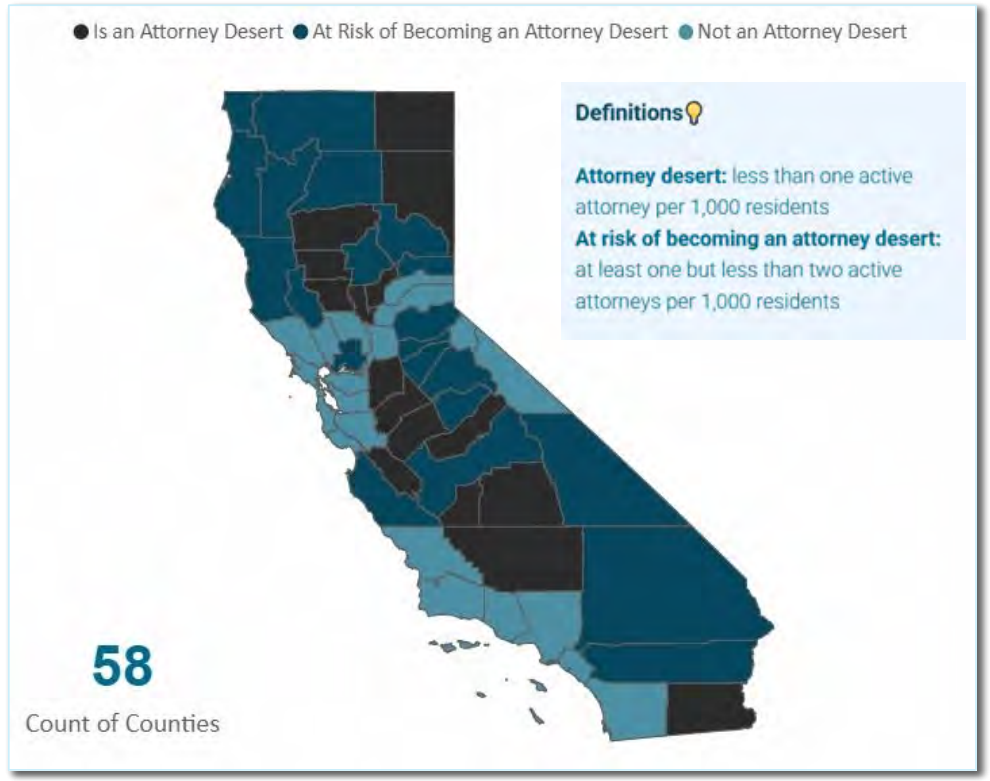
- Some counties have extreme mismatches between active attorneys' and residents' locations.



The combined effect of these trends—shifts in the overall active attorney population and the persistent scarcity of attorneys in rural regions—has led to increasing and widespread attorney deserts.

	Number of Counties		2025 County Characteristics		
	2015	2025	Average Population	Average Number of Active Attorneys	Average Poverty Rate
Attorney Deserts	11	16	244,149	200	15%
At Risk of Becoming an Attorney Desert	18	21	366,725	510	13%
Not an Attorney Desert	29	21	1,315,961	7,441	10%

- The number of counties that are attorney deserts has increased from 11 to 16 over the last 10 years.
- Most California counties are attorney deserts or at risk of becoming one.
- In general counties that are attorney deserts or at risk of becoming one are poorer and less populous than counties that are not attorney deserts.
- 10 counties do not have enough attorneys in both rural and urban areas
- Drawing upon the inactive attorney population to offer pro bono through Pro Bono Practice program will not alleviate deserts due to few inactive attorneys living in areas that are attorney deserts.





Pro Bono Service

- Pro bono policy landscape
- **State Bar's efforts to promote pro bono service**

  State Bar Pro Bono Resolution: encourages at least 50 hours of pro bono legal service.

  Pro Bono Practice Program: a program that waives license fees for attorneys who would otherwise be inactive to maintain active status and provide pro bono service to legal service organizations

  - ✓ Average participation over last 6 years: 111 attorneys

  Pro bono grant allocations to legal aid organizations: for organizations that rely primarily on pro bono attorneys to provide representation

  - ✓ In 2023: over 14,000 attorneys participated, providing over 333,000 hours of service. Equivalent to 160+ full-time attorneys

- Analysis of over 3,000 California responses to an American Bar Association survey on pro bono service. The survey captures pro bono hours, type of pro bono service, attitudes about and barriers to providing service.

Just 45% of California attorneys engaged in pro bono service in 2022.

- 55% of California attorneys provided no pro bono services in 2022, similar to 2016. This is higher than what attorneys report nationwide (43%).
- 23% California attorneys provided 50 or more hours of pro bono service in 2022, up from 20% in 2016.
- On average, attorneys engaged in pro bono services provided 116 hours in 2022, a 47% increase compared with the 2016 average of 79 service hours offered in 2016.
- Another notable change is the share of attorneys who provided 80 hours or more of pro bono service: 15% of attorneys reported doing so in 2022 compared with 12% in 2016.

Top Legal Tasks Performed During Pro Bono Service

1. Providing advice
2. Reviewing and/or drafting documents
3. Interviewing clients

Top Practice Areas Performed During Pro Bono Service

1. Family law
2. Contract law
3. Immigration law
4. Estate planning/ probate/wills
5. Criminal law

Hours of Pro Bono Service California Attorneys Provided in 2016 and 2022



75% of California attorneys have provided pro bono services at some point in their careers

Attorneys who have not yet provided pro bono services reported lack of time as the top discouraging factor when it comes to providing pro bono service.

Nearly half of attorneys who have not yet provided pro bono reported that their employers do not allow pro bono during regular business hours.

California Attorneys' Ratings of Factors as "Very Discouraging" in Doing Pro Bono by Previous Pro Bono Experience



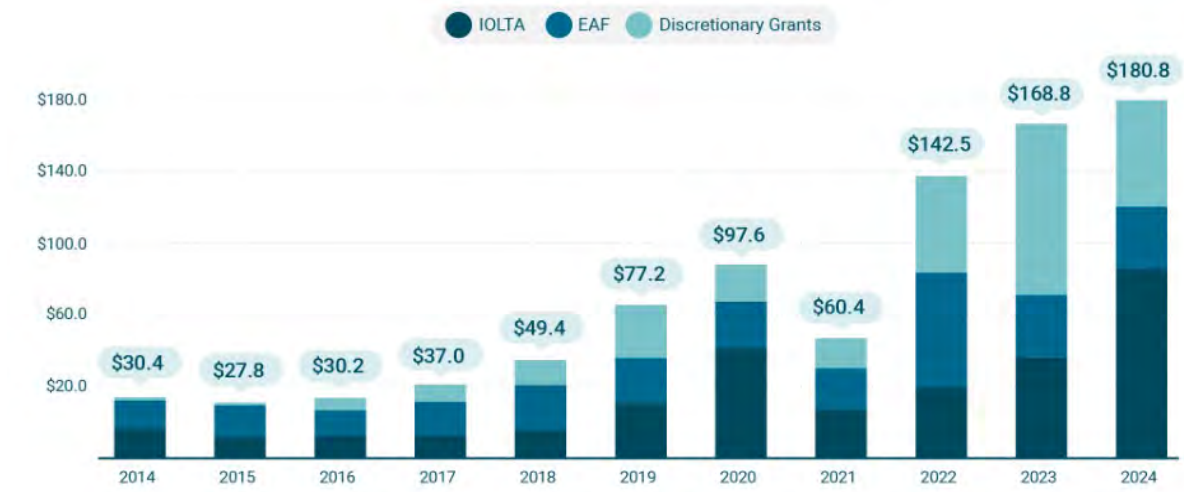
Ways Employers Discouraged or Encouraged Pro Bono According to California Attorneys by Previous Pro Bono Experience



Funding for Legal Aid

- Overview of funding for legal aid organizations that receive State Bar funding: trends and funding from all sources
  - Staffing changes since 2019
    - 24% increase in attorney staffing; 49% increase in nonattorney staff
- Challenges faced by legal aid organizations
  - Pro bono hours has not recovered from pre-pandemic levels
  - Legal aid recruitment and retention remain a challenge
- Outcomes achieved over the last 5 years
  - More than 656,000 legal outcomes achieved; additional 764,861 people served through self-help clinics and 571,629 served through hotline calls
  - Recovered nearly $544M on behalf of clients and obtained almost $315M in reduction amounts (such as elimination or reduction of unpaid rent or medical debt).

Total Amount of Legal Aid Grant Funding Disbursed by the State Bar, 2014-2024 (in millions)



Conclusion

- The state's justice gap remains persistent, widespread, and deeply entrenched across all income groups.
- The fundamental barriers identified five years ago—knowledge gaps and service gaps—continue to leave the majority of Californians without the legal help they need when facing significant civil legal problems.
- The supply of attorneys and legal services available to meet Californians' civil legal needs remains constrained by many factors including:
  - a legal market that primarily serves organizations;
  - increasing attorney deserts;
  - limited pro bono service, with most not meeting recommended service levels; and
  - and strategies to increase supply of attorneys are promising but operate at a limited scale.

ATTACHMENT F

2024 JGS Recommendations*

- Support grantees' use of artificial intelligence to enhance service delivery
- Address immigration legal needs: accredited representatives
- Develop pro bono attorney outreach and engagement plan
- Support and expand the Legal Aid Leaders Fellowship grant
- Explore outreach opportunities and partnerships among legal aid, pro bono, and Lawyer Referral Services (LRS) partnerships; public defenders and LRS; small businesses and LRS
- Conduct further data collection and analyses: immigration legal needs, pro bono attorney hours, and attorney deserts; LRS and Legal Incubator programs; State Bar grantee intake census

*Recommendations developed in collaboration with the Legal Services Trust Fund Commission



State-Level Approaches to Expanding Legal Services

State-Level Approaches

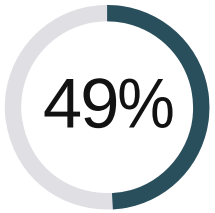
1. Alternative Business Structure (ABS)
2. Alternative Pathways to Licensure (APL)
3. Community Justice Workers (CJW)
4. Paraprofessionals
5. Regulatory Sandbox

Mapping State-Level Licensure Reform

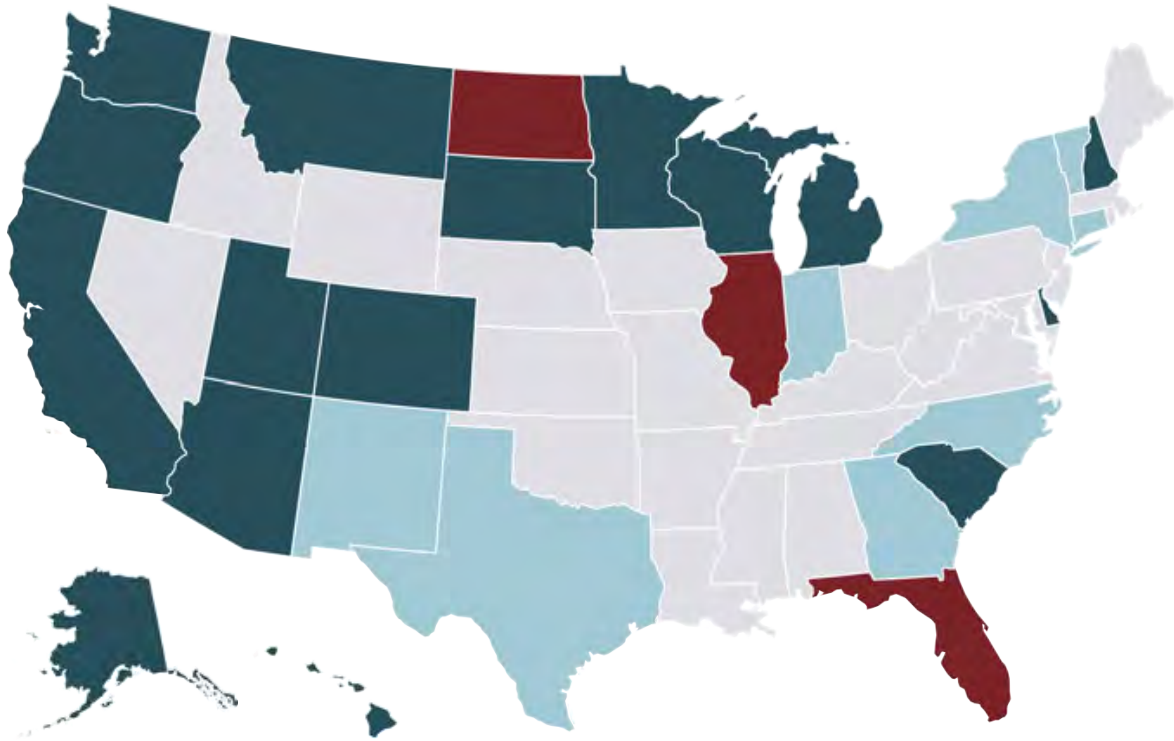
Active licensure reform programs (including permanent programs, pilots, and programs that have sunset).[1]

Licensure reform programs under consideration or development.

Licensure reform programs that are inactive, deferred, or no longer under consideration.



Nearly half of U.S. states (and D.C.) have licensure reform programs that are either active, under consideration, or in development.



[1]Although Washington's paraprofessional program sunset, those with active licenses may still practice.

Licensure Reform by Jurisdiction

Jurisdiction	Type of Licensure Reform	Status
Alaska	CJW	Active
Arizona	ABS APL CJW Paraprofessionals	Active (all)
California	APL Paraprofessionals CJW	Active No longer under consideration Under consideration
Colorado	Paraprofessionals	Active
Connecticut	Paraprofessionals	Under consideration
Delaware	APL CJW	Under consideration Active
District of Columbia	ABS	Active
Florida	Paraprofessionals	No longer under consideration
Georgia	Type(s) to be determined	Under consideration
Hawai'i	CJW	Active
Illinois	Paraprofessionals	Deferred

Licensure Reform by Jurisdiction

Jurisdiction	Type of Licensure Reform	Status
Indiana	Paraprofessionals Regulatory Sandbox	Under development (both)
Montana	CJW	Active
Michigan	Paraprofessionals	Under consideration
Minnesota	Paraprofessionals Regulatory Sandbox	Active Under development
New Hampshire	APL Paraprofessionals	Active (both)
New Mexico	Paraprofessionals	Under consideration
New York	CJW	Under consideration
North Carolina	Paraprofessionals	Under consideration
North Dakota	APL	No longer under consideration
Oregon	APL Paraprofessionals	Active (both)
South Carolina	CJW	Active

Licensure Reform by Jurisdiction

Jurisdiction	Type of Licensure Reform	Status
South Dakota	APL	Active
Texas	ABS APL CJW Paraprofessionals	Rejected Under consideration Delayed Delayed (Supreme Court); under consideration (Legislature)
Utah	ABS Paraprofessionals Regulatory Sandbox (includes CJWs)	Active (all)
Vermont	CJW	Under consideration
Washington	APL Paraprofessionals Regulatory Sandbox (includes ABS)	Active Sunset Active
Wisconsin	APL	Active

Examples of Programs in Operation

Alaska's Community Justice Workers (CJWs)

Background

- Trusted community members who work or volunteer in their communities
- Trained and supervised by the Alaska Legal Services Corporation
- Over 200 fully trained CJWs
- CJWs have secured approximately $23.7 million in SNAP benefits
- Clients report a 100 percent satisfaction and success rate
- Education, Experience, and Training Requirements
- Complete free, online, self-paced training in one or more practice areas; and
- Some options for in-person training

Practice Areas

- Primarily SNAP advocacy and drafting wills
- Also debt collection, Indian Child Welfare Act, and domestic violence

Scope

- Limited scope legal advice, supervised by an attorney from Alaska Legal Services Corporation
- May expand due to the passage of Rule 43.5 (UPL waiver)

Arizona's Elimination of Rule 5.4



Background

- Arizona Supreme Court abolished rule 5.4 in 2020
  - Allows nonlawyers to own law firms and manage lawyers
- First ABS approved in 2022
- Over 110active ABSs in Arizona

ABS Requirements

- Must be licensed;
- Must pay licensing fees; and
- Must have at least one lawyer licensed to practice in Arizona to serve as its compliance lawyer

Example Practice Areas

- Civil litigation
- Class action
- Mass tort
- Mass arbitration
- Immigration
- Estate planning
- Personal injury

Arizona's Certified Community Legal Advocates (LAs)



Background

- LAs provide services to clients free of charge
- Permanent as of March 2025 through an Arizona Supreme Court Administrative Order

Education, Experience, and Training Requirements

- High school diploma or GED;
- Employed by or volunteer with an approved organization;
- Successfully complete the relevant course of study through i4J; and
- Pass the subject matter-specific substantive law and court forms examination

Practice Areas

- Family and housing

Scope

- Domestic violence: limited scope legal advice on some matters; attend court with a survivor to provide quiet advice and answer direct questions from the court
- Housing: limited scope legal advice on some matters; attend court with a tenant to provide quiet advice and answer direct questions from the court; limited scope legal advice to tenants with common post-eviction legal problems

Arizona's Lawyer Apprentice Program (ALAP)

Background

- Established in July 2024 to help increase the number of attorneys in public offices (e.g., prosecution and defense agencies as well as legal services organizations) and rural Arizona
- A pathway to licensure for those scoring below Arizona's minimum score on the Uniform Bar Exam (UBE)

Education, Experience, and Training Requirements

- Graduate from an ABA-accredited law school;
- Score 260–269 on a UBE administered after July 1, 2023;
- Meet all other Arizona law practice requirements; and
- Obtain a qualifying job under the supervision of a qualified Arizona attorney in rural Arizona or in public law for at least two years

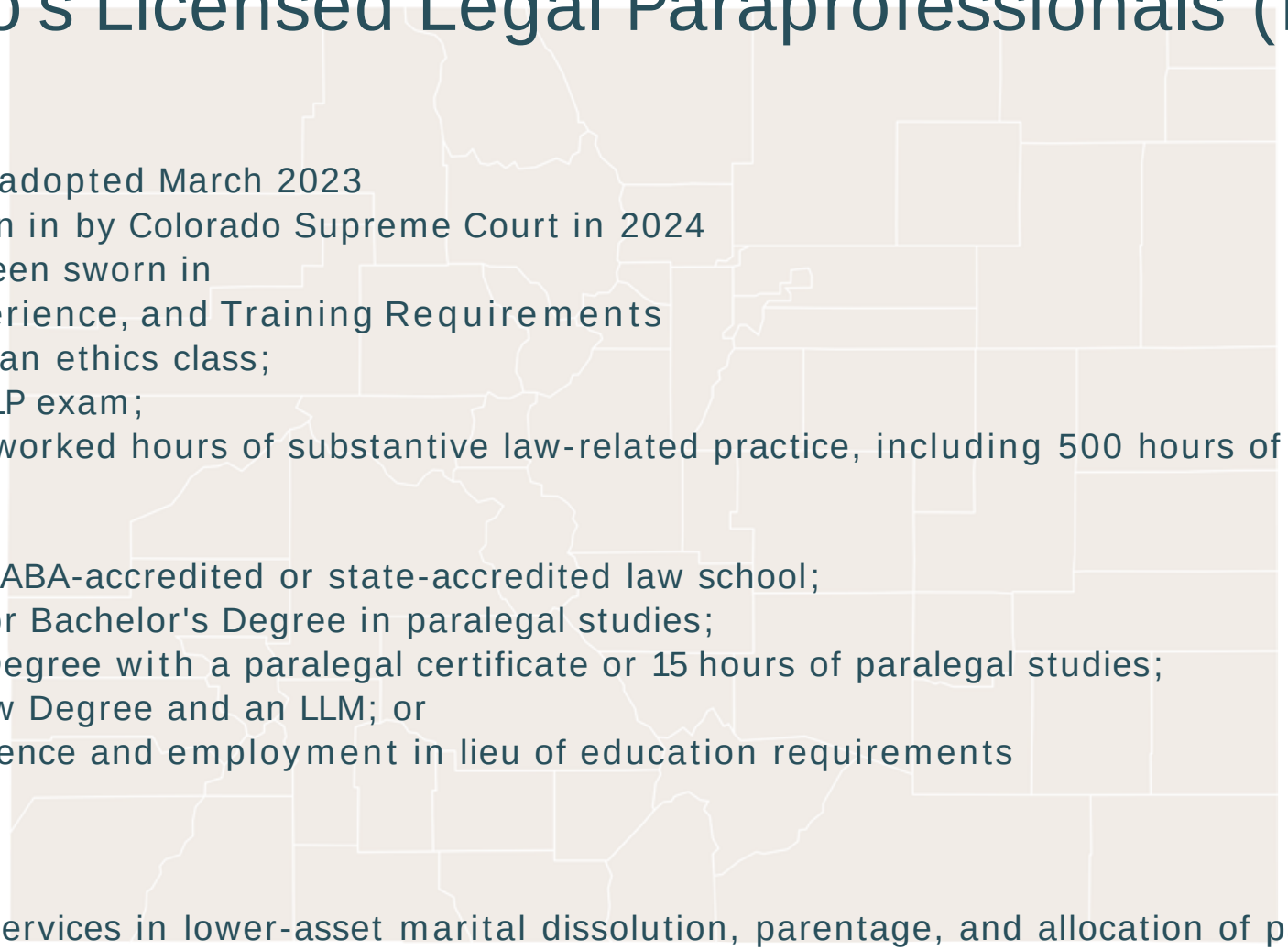
Practice Areas

- All

Scope

- All, under the supervision and discretion of the apprentice's supervising attorney

Colorado's Licensed Legal Paraprofessionals (LLPs)



Background

- Final LLP rules adopted March 2023
- First LLPs sworn in by Colorado Supreme Court in 2024
- 91 LLPs have been sworn in

Education, Experience, and Training Requirements

- Completion of an ethics class;
- Passing the LLLP exam;
- At least 1,500 worked hours of substantive law-related practice, including 500 hours of Colorado family law; and
- Either:
  - JD from an ABA-accredited or state-accredited law school;
  - Associate's or Bachelor's Degree in paralegal studies;
  - Bachelor's Degree with a paralegal certificate or 15 hours of paralegal studies;
  - Non-U.S. Law Degree and an LLM; or
  - Work experience and employment in lieu of education requirements

Practice Area

- Family Law

Scope

- Limited legal services in lower-asset marital dissolution, parentage, and allocation of parental responsibility cases

Delaware's Qualified Tenant Advocates (QTAs)

Background

- QTAs authorized by the Delaware Supreme Court in January 2022 via Rule 57.1
- Rule 57.1 enabled Delaware's Right to Representation in eviction proceedings

Education, Experience, and Training Requirements

- Must be trained by one of Delaware's legal aid organizations; and
- Must be supervised by an attorney who is employed at one of Delaware's legal aid organizations

Practice Area

- Housing

Scope

- May represent tenants below the 200 percent Federal Poverty Level to:
  - Prosecute or defend in eviction proceedings
  - Engage in settlement negotiations
  - File pleadings and other documents
  - Appear in the Justice of the Peace Court on behalf of tenants

Hawai'i's Rural Paternity Advocates (RPAs)

Background

- Authorized by the Hawai'i Supreme Court as a pilot
- Provide representation under the supervision of a Hawai'i-licensed attorney
- Must be employed by the Legal Aid Society of Hawai'i
- May represent low-income, pro se litigants
- The first RPA was certified in 2023

Education, Experience, and Training Requirements

- 14 classroom hours;
- 5 courtroom observations hours;
- 20 to 50 hours shadowing an attorney working paternity cases; and
- Either:
  - A Bachelor's Degree
  - An ABA-approved paralegal certificate or degree, or
  - 7 years of relevant experience

Practice Area

- Family law

Scope

- May appear in family court for some matters related to paternity, child custody, and visitation under the supervision of a licensed attorney

Minnesota's Legal Practitioners (LPs)

Background

- Began as a pilot in 2020, permanent as of January 1, 2025
- LPs are supervised by attorneys
- Currently 30 LPs; no complaints have been received
- LP custody matters took an average of 50 days less to resolution compared to those with lawyer representation

Education, Experience, and Training Requirements

- Associate's or Bachelor's Degree in paralegal studies;
- Paralegal certificate in addition to an Associate's or Bachelor's Degree;
- Law degree from an ABA-accredited school; or
- Highschool diploma and five years of substantive paralegal experience

Practice Areas

- Family and housing law

Scope

- Appear in court on behalf of clients in some family law cases, provide advice in other family law cases, and appear with a client in family law mediations in some cases
- Advice and appear in court for housing disputes (eviction and eviction expungement)

Utah's Regulatory Sandbox



Background

- Pilot authorized by the Utah Supreme Court from September 2020 to August 2027
- Participants may only provide services in specific legal service categories, using specific service models
- As of January 2024: 51 entities authorized, over 75,000 services provided to approximately 24,000 consumers
- Only 14 complaints received

Legal Service Category Examples

- Business law services
- Immigration
- Veterans' benefits
- End-of-life planning

Service Model Examples

- ABS
- Software provider with lawyer involvement
- Nonlawyer provider (e.g., CJWs) with lawyer involvement

Sandbox Phase 2

- Utah Innovation Requirement: participants must demonstrate that sandbox authorization benefits underserved Utah consumers

Utah's Certified Advocate Partners Program (CAPP)



Background

- Authorized by the Utah Supreme Court under the Utah Regulatory Sandbox
- Advocates are supervised by an attorney
- Victim advocates provide legal advice to pro se survivors
- Assisted 358 clients, closed 327 cases, and provided 841 unique services in 3 years
- 77 percent of clients served live in rural Utah
- 16 active CAPP advocates

Education, Experience, and Training Requirements

- 50 to 60 hours of training over three months;
- Asynchronous and synchronous including a practice manual, assignments, one-on-one feedback, and an exam;
- 7 units, including ethics, legal writing, and rules of evidence; and
- Advocates must have 2 or more years of victim advocacy, including experience with civil protective orders

Practice Area

- Family law

Scope

- Legal advice on civil protective orders and stalking injunctions

Washington's Entity Regulation Pilot

Background

- Pilot authorized in 2024 by the Washington Supreme Court
- Authorized for 10 years
- Collaboration between the Washington State Bar Association (WSBA) and the Practice of Law Board (POLB)
- Allows entities with innovative business models to offer legal services without violating rules on UPL
- The WSBA and POLB will develop the application, review process, and data collection requirements
- At the end of the pilot, the WSBA and POLB will make recommendations to the Washington Supreme Court based on data collected
- The Washington Supreme Court will determine whether to make the program permanent

A Legal Aid-Led California Community Justice Workers Proposal

Background: Working Group Recommendations

Scope of Program

- Recommends a statewide CJW program
- Proposes authorized legal services organizations (LSOs) could:
  - Certify individual CJWs
  - Provide legal advice
  - Serve clients who qualify for legal aid
  - Operate without violating California's prohibition on UPL
- Recommends streamlining the process for IOLTA-funded organizations
- Suggests pathway to authorization for non-IOLTA organizations

Role of LSTFC

- The LSTFC would review applications, including:
  - CJW training plan;
  - Informed consent plan;
  - Client files security plan; and
  - Proof of malpractice insurance
- The LSTFC would issue authorization for the LSO and notify the State Bar

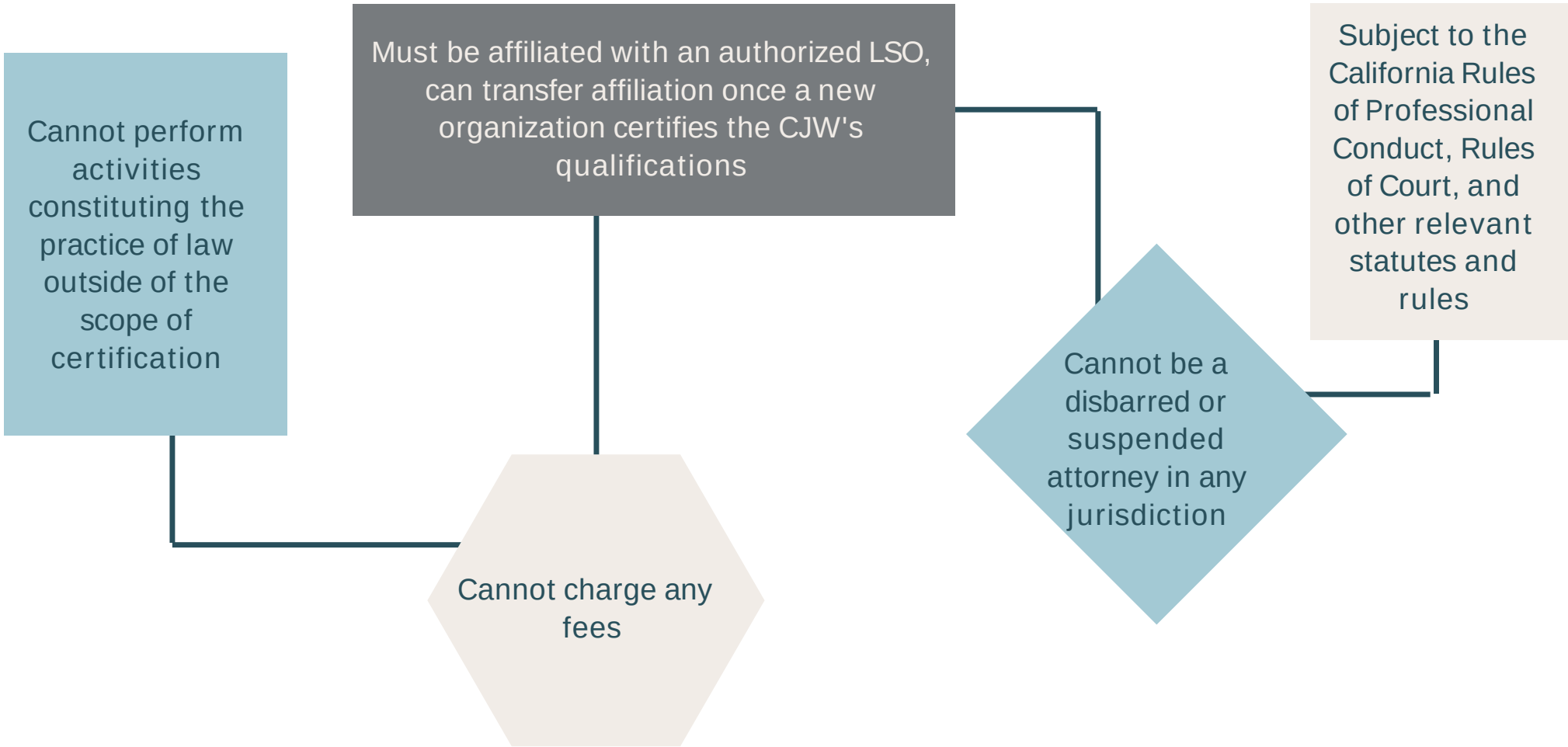
Working Group Proposed Requirements for Authorized Legal Services Organizations

Certify each individual CJW to the State Bar.
- Submit each CJW's scope of practice

Report any relevant changes in status, either of the organization or any CJW, including:
- IOLTA status or loss of services
- CJW loss of eligibility, and
- Violations of rules

Annually report to the State Bar:
- Number of clients served by CJWs
- Hours worked by CJWs
- Legal/financial outcomes
- Post-services survey of CJW clients
- Client complaints and resolution, and
- CJW demographics

Working Group Proposed Requirements for CJWs



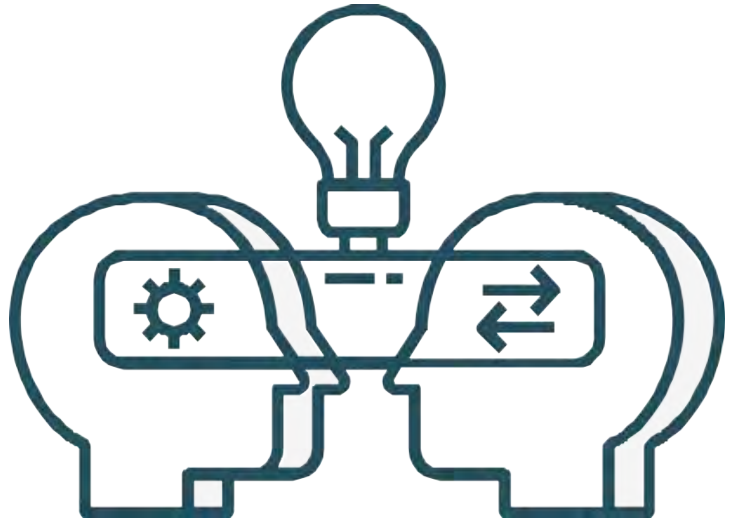
Working Group Proposed Role for the State Bar

- Post a roster of authorized LSOs online
- Develop a process for authorized LSOs to certify individual CJWs
- Communicate the roster of authorized LSOs and their CJWs to other relevant authorities, including those who enforce UPL
- Report to the Legislature and Supreme Court all complaints received against CJWs annually, including:
    - The nature of the complaint; and
    - The resolution of the complaint

Working Group Proposed Program Evaluation Plan

After five years, assess:

- The number of CJW providers
- The number of clients served
- The impact on LSOs to serve their communities, including:
  - Legal and financial outcomes
  - Impacts on access to justice for underserved communities
  - Community trust and engagement
- Cost of implementation within individual LSOs
- Cost of program implementation



Summary and Discussion

- California's justice gap continues to grow
- 2022–2027 Strategic Plan, Goal 2 implementation steps were developed to address the 2019 Justice Gap Study
- Other jurisdictions demonstrate that licensure reform can expand access to justice
- In addition to its current work plans to address the justice gap, what other steps —if any—would the Board like the State Bar to take?

DECLARATION OF SERVICE

I, Ryan Sullivan, hereby certify that I electronically filed and served the attached **APPENDIX OF EXHIBITS IN SUPPORT OF THE STATE BAR OF CALIFORNIA'S RESPONSE TO THE PETITION FOR THE CALIFORNIA SUPREME COURT TO REVIEW AND APPROVE PROPOSED CALIFORNIA RULE OF COURT 9.45.1 TO ESTABLISH A CALIFORNIA COMMUNITY JUSTICE WORKER PROGRAM (Vol. I of II)** with the Clerk of the California Supreme Court and Petitioners through their counsel listed on this Court's TrueFiling system.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at San Francisco, California, this 3rd day of March, 2026.

/s/ Ryan Sullivan
Ryan Sullivan

Supreme Court of California
Jorge E. Navarrete, Clerk and Executive Officer of the Court
Electronically RECEIVED on 3/3/2026 4:05:45 PM

Supreme Court of California
Jorge E. Navarrete, Clerk and Executive Officer of the Court
Electronically LODGED on 3/3/2026 by LaNae Brooks, Deputy Clerk

Case No. S294332

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

APPENDIX OF EXHIBITS IN SUPPORT OF THE STATE BAR OF CALIFORNIA'S RESPONSE TO THE PETITION FOR THE CALIFORNIA SUPREME COURT TO REVIEW AND APPROVE PROPOSED CALIFORNIA RULE OF COURT 9.45.1 TO ESTABLISH A CALIFORNIA COMMUNITY JUSTICE WORKER PROGRAM

(Vol. II of II)

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I	14	Email exchange between Leigh Ferrin, Sacha Steinberger, and OAI Staff dated April 4, 2025 (Subject: RE: Following Up About the CJW Proposal Presentation to the BOT)	172-174
I	15	Email exchange between OAI Staff, Sacha Steinberger, Erica Connolly, Leigh Ferrin, and Lucy Ricca dated April 16, 2025 (Subject: RE: CJW Proposal Into)	175-181
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II	25	September 18-19, 2025 – Board of Trustees Meeting Agenda Item 6.7: Discussion Regarding the 2024 California Justice Gap Study, the Legal Aid Justice Technology Collaborative, and a Legal Aid Proposal to Create a California Community Justice Worker Program	406-418
II	26	September 29, 2025 – Community Justice Worker (CJW) Working Group Fourth Meeting	419-443

II	27	October 24, 2025 – Legal Services Trust Fund Commission Program and Development Impact Committee Meeting Agenda Item 4.2: Approval of Recommendation Regarding Letter to the Community Justice Workers Proposal Authors	444-499
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II	29	November 7, 2025 – Legal Services Trust Fund Commission Meeting Agenda Item 6.5: Approval of Recommendation Regarding Letter to the Community Justice Workers Proposal Authors	502-560
II	30	Certified Resolution for Agenda Item 6.5 of the November 7, 2025 Legal Services Trust Fund Commission Meet	561-562
II	31	Email exchange between Leigh Ferrin, Sacha Steinberger, Lucy Ricca, and OAI Staff dated November 14, 2025 (Subject: RE: [EXT]: Letter to the CJW Proposal Authors)	563-565
II	32	Email from Leigh Ferrin to State Bar Staff dated December 11, 2025 (Subject: CJW Petition filed in CA Supreme Court today!)	566-567

EXHIBIT 20

Community Justice Workers

Proposal Overview

Legal Services Trust Fund Commission

Program Development & Impact Committee

June 11, 2025

Sacha Steinberger, Legal Link

Leigh Ferrin, OneJustice



Components of the Proposal

Status and placement of CJWs

- Community Justice Worker: a person not licensed by the State Bar of California who has satisfied the training and other relevant requirements as certified by an authorized legal services organization and will engage in the limited practice of law exclusively for an authorized legal services organization.
- Host Legal Services Organizations: Streamlined process for IOLTA orgs; more robust application for non-IOLTA funded organizations

Components of the Proposal

Education and training requirements

- Legal Services Organizations will be responsible for developing a CJW training plan, including specific curricular components and experiential learning. Training should include ethical provision of services.
- Goal is to create broadly applicable training so that topics like ethical provision of services would be consistent and available to all organizations interested in supervising CJWs
- Legal Services Organizations will also be responsible for ensuring client consent, control over client files, malpractice insurance, etc. – just like they do with their staff and volunteers

Components of the Proposal

Permitted Activities

- Legal Services Organizations will submit a proposed scope of work, including substantive topic and tasks, allowed by the Community Justice Worker.
- Goal is to allow Legal Services Organizations flexibility in substantive legal area, and in tasks within that substantive legal area
- Could consider identifying broad tasks that would be prohibited (i.e., court appearances).

Components of the Proposal

Data, reporting & evaluation

- Annual reporting by legal services organizations with some identified data points
- More robust evaluation after a period of years to determine the effectiveness and impact of the CJW program. Would identify data points for evaluation in advance.

Role of the Legal Services Trust Fund Commission

- Authorize IOLTA organizations and non-IOLTA organizations to implement a CJW program
- Coordinate/distribute any funding sources related to CJW programs
- Collect annual data from CJW host organizations

Supervision of CJWs

- Rule 5.3 still applies
- CJWs are not independently licensed
- CJW host organizations must identify a supervising attorney and must have a supervision structure in place

Paralegals v CJWs

- CJWs are most often going to be employed by community-based organization partners and considered volunteers with the legal services organization.
- CJWs will be authorized and trained to do discrete legal procedures under their CJW scope of work.
- Paralegals are always employed and supervised by attorneys and are allowed to do a wide range of work, as assigned.

Complaints and Enforcement

- All CJW work is supervised by a lawyer and that relationship must be disclosed by the CJW when undertaking any work
- Complaints about specific CJWs would go through the (host) legal services organization, and/or the supervising lawyer
- The host legal services organization must also report any violations, as well as any terminations to the State Bar

Privilege

- Attorney/Client Privilege and Work Product would still apply since all of the legal work is supervised by the LSO
- Conflicting Privileges – especially Mandated Reporting – will need to develop materials to support CJWs and LSOs

Next Steps

- Implementation Plan - Mix of legislation and regulatory change
- LSTFC Role – Support as the program moves forward; Engaged conversation about LSTFC role and authorization process

Feedback/Questions

Sacha Steinberger, Legal Link, sacha@legallink.org

Leigh Ferrin, OneJustice, lferrin@one-justice.org

EXHIBIT 21

Legal Services Trust Fund Commission
EXECUTIVE COMMITTEE CHARTER

I. Purpose and Role

The purpose and role of the Executive Committee is to provide strategic oversight and leadership for the Legal Services Trust Fund Commission (LSTFC) through governance, communication, and leadership development initiatives.

II. Organization

Membership Information

The Executive Committee members shall consist of the LSTFC Chair(s), Vice-Chair(s), and the three subcommittee Chairs. Members shall serve terms concurrent with their LSTFC/Subcommittee Chair appointments. Business and Professions Code Section 6210.5(c) provides that the Chief Justice, as Chair of Judicial Council, appoints the LSTFC Chair(s) and Vice-Chair(s). An Advisory Panel consisting of emeritus commissioners shall assist the Executive Committee. Advisory Panel members shall be appointed by the LSTFC Chair(s).

Meetings

The Executive Committee will meet approximately four-to-six times per year, or at a frequency deemed appropriate by the Executive Committee Chair. The Executive Committee is subject to meeting rules under the Bagley-Keene Open Meeting Act. The Executive Committee will report on its actions and activities at each regular meeting of the LSTFC. Emergency action delegated to the Executive Committee, and in coordination with the LSTFC Chair or Co-Chairs, will be reported to the full LSTFC.

III. Authority and Responsibilities

The authority and responsibilities of the Executive Committee are as follows:

- Provide strategic leadership and direction for the LSTFC;
- Oversee governance issues and communication strategy;
- Manage commissioner appointments and onboarding processes;
- Plan educational opportunities for the LSTFC;
- Monitor compliance and audit reports of the LSTFC itself;
- Formulate recommendations for annual IOLTA distribution amounts;
- Act on urgent matters when delegated authority by the LSTFC; and,
- Coordinate activities and priorities among the various subcommittees.

Legal Services Trust Fund Commission
RULES COMMITTEE CHARTER

I. Purpose and Role

The purpose and role of the Rules Committee is to develop and maintain a comprehensive framework of rules governing grant administration—including eligibility and fiscal and programmatic requirements—to ensure transparency, efficiency, and clarity for all participants.

II. Organization

Membership Information

The Rules Committee shall consist of a number of commissioners to be determined by the LSTFC Chair or Co-Chairs. The committee shall be led by a Committee Chair, and all committee members must be current LSTFC commissioners. The Rules Committee Chair shall be selected from among the committee members by the LSTFC Chair or Co-Chairs.

Meetings

The Rules Committee will meet four-to-six times per year, or at a frequency deemed appropriate by the Rules Committee Chair. The Rules Committee is subject to meeting rules under the Bagley-Keene Open Meeting Act. The Rules Committee will report on its actions and activities at each regular meeting of the LSTFC. Emergency action delegated to the Rules Committee, and in coordination with the LSTFC Chair or Co-Chairs, will be reported to the full LSTFC.

III. Authority and Responsibilities

The authority and responsibilities of the Rules Committee are as follows:

- Develop recommendations to codify grant requirements and administration processes;
- Review and recommend revision of existing rules as necessary;
- Ensure transparency, clarity and consistency in the application of grant requirements and grant administration processes;
- Delegate to staff to maintain documentation of all rules and processes;
- Coordinate with other committees as appropriate to ensure rule alignment with strategic goals; and,
- Consider stakeholder feedback regarding current and proposed rules and processes.

Legal Services Trust Fund Commission
GRANT ELIGIBILITY AND SUPPORT COMMITTEE CHARTER

I. Purpose and Role

The purpose and role of the Grant Eligibility and Support Committee is to ensure comprehensive oversight and support of grantee compliance across all grant programs while maintaining consistent standards and promoting accountability.

II. Organization

Membership Information

The Grant Eligibility and Support Committee shall consist of a number of commissioners to be determined by the LSTFC Chair or Co-Chairs. The committee shall be led by a Committee Chair, and all committee members must be current LSTFC commissioners. The Grant Eligibility and Support Committee Chair shall be selected from among the committee members by the LSTFC Chair or Co-Chairs.

Meetings

The Grant Eligibility and Support Committee will meet four to six times per year, or at a frequency deemed appropriate by the Grant Eligibility and Support Committee Chair. The Grant Eligibility and Support Committee is subject to meeting rules under the Bagley-Keene Open Meeting Act. The Grant Eligibility and Support Committee will report on its actions and activities at each regular meeting of the LSTFC. Emergency action delegated to the Grant Eligibility and Support Committee, and in coordination with the LSTFC Chair or Co-Chairs, will be reported to the full LSTFC.

III. Authority and Responsibilities

The authority and responsibilities of the Grant Eligibility and Support Committee are as follows:

- Ensure consistent compliance standards across all grant programs;[1]
- Recommends to the LSTFC annual approval of IOLTA and EAF eligibility for grant funding;
- Recommends to the LSTFC eligibility and grant amounts for existing grants such as Partnership Grants;

[1] The LSTFC delegates authority to State Bar staff to exhaust all corrective actions available under the forthcoming State Bar rule 3.661 where a grantee's grant award amount; eligibility for grant funding; or frequency of grant payment would not be negatively impacted. State Bar staff has authority to take corrective actions such as: (1) informing and/or meeting with a grant recipient's Board of Directors; (2) requiring a grant recipient to obtain technical and/or management assistance to address compliance concerns as necessary; or (3) requiring additional reporting and/or monitoring for noncompliance issues.

- Create working groups, when necessary, to provide a more in-depth review of applicant eligibility or grantee compliance issues;
- Approve proposed grant budgets for all grant programs;
- Approve budget modification and carryover requests exceeding 25 percent of the grant award amount for all grant programs;
- Approve late submitted or incomplete grant budgets, budget modifications, and carryover requests;
- Approve, when necessary, close out issues for all grant programs;
- Review grantee compliance issues raised by staff and elevate to LSTFC when necessary; and,
- Approve conversions of grant payments from annual or quarterly payments to monthly payments for serious noncompliance concerns.[2]

[2] As described by the forthcoming State Bar rule 3.661 which establishes the duties of the LSTFC, the LSTFC itself maintains the ultimate authority to disallow costs because of noncompliance concerns; suspend a grant; or initiate suspension or debarment of a grant recipient. The LSTFC may also terminate a grant for noncompliance or take other action in accordance with Article 4 of Title 3, Division 5, Chapter 2 of the State Bar Rules.

Legal Services Trust Fund Commission
PROGRAM DEVELOPMENT AND IMPACT COMMITTEE CHARTER

I. Purpose and Role

The purpose and role of the Program Development and Impact Committee is to advance the LSTFC's support for legal aid through new initiatives, innovations, and stakeholder engagement while ensuring effective evaluation and communication of program impacts.

II. Organization

Membership Information

The Program Development and Impact Committee shall consist of a number of commissioners to be determined by the LSTFC Chair or Co-Chairs. The committee shall be led by a Committee Chair, and all committee members must be current LSTFC commissioners. The Program Development and Impact Committee Chair shall be selected from among the committee members by the LSTFC Chair or Co-Chairs.

Meetings

The Program Development and Impact Committee will meet four-to-six times per year, or at a frequency deemed appropriate by the Program Development and Impact Committee Chair. The Program Development and Impact Committee is subject to meeting rules under the Bagley-Keene Open Meeting Act. The Program Development and Impact Committee will report on its actions and activities at each regular meeting of the LSTFC. Emergency action delegated to the Program Development and Impact Committee, and in coordination with the LSTFC Chair or Co-Chairs, will be reported to the full LSTFC.

III. Authority and Responsibilities

The authority and responsibilities of the Program Development and Impact Committee are as follows:

- Approve requests for proposals (RFPs) and recommend awards for new types of funding;[3]

[3] RFPs generally identify grant timelines, eligibility criteria, scoring rubrics, reporting requirements, and similar parameters. The committee may approve awards for new types of funding if the LSTFC delegates that authority—e.g., to address an urgent need.

- Approve significant changes to RFPs for recurring types of funding;[4]
- Help score proposals for new types of funding;
- Explore ways to refine the LSTFC's reporting framework to reduce burdens on grantees, support transparency and mutual accountability, promote impactful communications with stakeholders, and reflect meaningful program evaluation;
- Encourage innovations in legal aid delivery;
- Engage and foster partnerships with other agencies, funders, and stakeholders;
- Support the communication of results and community needs to external stakeholders; and,
- Pursue opportunities to support grantees in increasing access to civil justice in California.

[4] Technical updates to RFPs that are solely to allow for the next cycle of a recurring grant and/or that are necessary to comply with a governing statute, regulation, or LSTFC resolution would not need committee or LSTFC approval.

EXHIBIT 22

The State Bar of California

Community Justice Worker (CJW) Working Group Kickoff Meeting

Jennifer Zelnick, Lead Program Analyst, Office of Access & Inclusion

August 1, 2025

Agenda

- Review Legal Aid's *Increasing Access to Justice Through Community Justice Workers: A Proposal for California (CJW Proposal for California)*
- Working Group Goals
- Questions and Feedback from the LSTFC and PDI Committee Meetings
- Staff Questions and Suggestions
- Discussion: Additional Questions/Comments
- Next Steps

The State Bar of California

Review Legal Aid's *CJW Proposal for California*

The State Bar *of California*

Key Terms

- A Community Justice Worker (CJW) is a person not licensed by the State Bar of California who has satisfied the training and other relevant requirements as certified by an authorized legal services organization and will engage in the limited practice of law exclusive for an authorized legal services organization.
- An authorized legal services organization (LSO) is an organization that meets the definition set forth in Business & Professions Code section 6159.51: a "'legal aid organization' [that is] a nonprofit organization that provides civil legal services for the poor without charge."

Proposed Scope of Program

- Recommends a statewide CJW program for legal aid;
- Proposes authorized LSOs could certify individual CJWs;
- Proposes CJWs could:
  - Provide legal advice and other activities that may be defined as the practice of law;
  - Serve clients who qualify for free legal services; and
  - Operate without violating (or the LSO violating) California's prohibition on UPL.
- Recommends streamlining the application process for IOLTA-funded organizations to become authorized LSOs;
- Suggests a pathway for non-IOLTA organizations to become authorized LSOs; and
- Outlines roles for the LSTFC and the State Bar.

Proposed Role of the LSTFC

- The LSTFC would review applications, including:
  - CJW training plan;
  - Informed consent plan;
  - Client files security plan; and
  - Proof of malpractice insurance.
- Issue authorization for the LSO and notify the State Bar;
- Coordinate and distribute any funding sources related to the CJW program; and
- Collect annual data from CJW host organizations.

Proposed Role of the State Bar

- The State Bar would:
  - Post a roster of authorized LSOs on its website;
  - Develop a process for authorized LSOs to certify individual CJWs;
  - Communicate the roster of authorized LSOs and their CJWs to other relevant authorities, including those who enforce UPL; and
  - Report to the Legislature and Supreme Court all complaints received against CJWs annually, including:
    - The nature of the complaint; and
    - The resolution of the complaint.

Proposed Program Evaluation Plan

- After five years, the California Access to Justice Commission (CalATJ) will assess:
  - The number of CJW providers;
  - The number of clients served;
  - The impact on the ability of LSOs to serve their communities, including:
    - Legal and financial outcomes (immediate and longer term);
    - Impacts on access to justice for underserved communities as a result of the CJW program; and
    - Community trust and engagement.
  - The cost of implementation within individual LSOs; and
  - The cost of implementation of the program.

Proposed Requirements for CJWs

- CJWs cannot perform activities constituting the practice of law outside of the scope of their certification;
- CJWs cannot charge any fees;
- CJWs must be affiliated with an authorized LSO;
- CJWs can transfer affiliation once a new organization certifies the CJW's qualifications (no automatic transfer of affiliation);
- CJWs cannot be a disbarred or suspended attorney in any jurisdiction; and
- CJWs are subject to the California Rules of Professional Conduct, Rules of Court, and other relevant statues and rules.

Proposed Requirements for Authorized LSOs

- Develop a CJW training plan, including:
  - Specific curricular components;
  - Experiential learning; and
  - Ethical provision of services.
- Submit a proposed scope of work for CJWs;
- Certify each individual CJW to the State Bar once an individual satisfies all training requirements, including submitting each CJW's scope of practice;
- Ensure client consent, control over client files, and malpractice insurance;

The State Bar *of California*

Proposed Requirements for Authorized LSOs

- Develop materials to support CJWs with conflicting privileges—especially for Mandated Reporting;
- Identify a supervising attorney and have a supervision structure in place;
- Uphold Attorney/Client and Work Product Privilege since the legal work is supervised by the LSO;
- Report any relevant changes in status, either of the organization or any CJW, including:
  - IOLTA status or loss of services;
  - CJW loss of eligibility; and
  - Violation of rules.

Proposed Requirements for Authorized LSOs

- Report to the State Bar on an annual basis:
  - Number of clients served by CJWs;
  - Hours worked by CJWs;
  - Legal/financial outcomes;
  - Post-services survey of CJW clients;
  - Client complaints and resolution; and
  - CJW demographics.

Working Group Goals

- Provide written feedback to the authors of the *CJW Proposal for California:*
  - Present to the PDI committee at its October 24, 2025, meeting; and
  - Present to the LSTFC at its November 7, 2025, meeting.

Questions and Feedback from the LSTFC and PDI Committee Meetings

The State Bar of California

LSTFC Meeting Questions and Feedback

- Will the LSTFC or the State Bar handle UPL complaints?
  - Staff hypothesizes that complaints about LSOs would go to the LSTFC, and UPL complaints about individual CJWs would go to the State Bar (both of these avenues for redress would follow current practice).
- What is the difference between a paralegal and a CJW?
  - Key differences between paralegals and CJWs:
    - The authors believe that CJWs will mostly be employed by community-based organization (CBO) partners and considered volunteers with the LSO;
    - CJWs will be authorized and trained to do discrete legal procedures under their CJW scope of work; and
    - Paralegals are always employed and supervised by attorneys and are allowed to do a wide range of assigned work.

LSTFC Meeting Questions and Feedback

- Will paralegals be upset about the responsibilities CJWs will have?
  - This is an open question that was not addressed in the proposal. However, staff hypothesizes that authorized LSOs could provide paralegals opportunities to become CJWs, therefore potentially negating this concern.
- What will supervision look like? Will it follow Alaska's model (one attorney to 200 CJWs) or look like something else?
  - The Rules of Professional Conduct, specifically Rule 5.3 (Responsibilities Regarding Nonlawyer Assistants), still apply;
  - LSOs must identify a supervising attorney and must have a supervision structure in place;
  - It is unclear what the scale of supervision would be, however, without a waiver in place, it is unlikely that assigning one attorney to supervise 200 CJWs or similar would satisfy Rule 5.3.

LSTFC Meeting Questions and Feedback

- How will programs pay CJWs?
  - The *CJW Proposal for California* authors predict that most CJWs will be employed at partner CBOs and will volunteer for authorized LSOs. These individuals would therefore not need to be paid by LSOs.
  - The proposal does not contemplate how CJWs would be paid if they were employed by LSOs directly. However, current practice permits IOLTA grantees to pay non-attorneys—including paralegals, social workers, and other support staff—with IOLTA, EAF, and all discretionary grants.
    - For more information about how permissible civil legal services work (that may be performed by non-lawyers with attorney supervision), see the State Bar Rules for the Legal Services Trust Fund Program, Rule 3.672(B).

LSTFC Meeting Questions and Feedback

- Does the proposal contemplate programs would divert funds (from IOLTA/EAF or otherwise) to pay CJWs?
  - The authors have not directly addressed this, other than to note that they assume most CJWs will be volunteers.
  - Staff notes that many grantees already use grant funds to support the work of non-attorneys.
- Can the LSTFC advocate for a modest amount of CJW funds in addition to allowing grantees to use IOLTA/EAF to fund them?
  - The proposal does not address this.

PDI Committee Meeting Questions and Feedback

- Will CJWs be certified so they can have a transferrable credential?
  - CJWs will be certified, however, their certification will be tied to an individual LSO. To transfer affiliation to a second LSO, that organization must first certify the CJW's qualifications. In other words, the certification will not be automatically transferrable. The second LSO may determine that the CJW needs more training before re-certifying them.
- The proposal mentions that CJWs would need to provide services in the host LSO's subject areas. Is there a way to loosen the geography of legal aid through CJWs so that an organization in one county that has expertise in a certain area of law can supervise a CJW in a county that is an attorney desert or rural, to fill unmet needs?
  - The authors did not contemplate this. However, they noted that one concern is how to fund out-of-county work. The authors noted that another idea—not included in the proposal—is to designate a support center to help with supervision and training to facilitate such service expansions.

PDI Committee Meeting Questions and Feedback

- Why does the proposal recommend CalATJ to evaluate the program—and not the State Bar—when the State Bar has an office dedicated to research and evaluation and the LSTFC already evaluates the IOLTA LSOs?
  - The authors noted this is still a proposal (i.e., this component may change). However, they also stated:
    - If the State Bar and the LSTFC authorize and fund CJWs, the State Bar should also be evaluated as part of the project;
    - A third-party evaluator may be appropriate;
    - Funding for this evaluation poses a challenge;
    - The State Bar may be an appropriate evaluator, if it can maintain objectivity and independence; and
    - Independent evaluations provide additional expertise and collect robust data that benefit both individual interventions and the advancement of CJWs nationally.

PDI Committee Meeting Questions and Feedback

- What lessons learned from the sunset of Washington's Limited Licensed Legal Technicians (LLLT) program can help inform the CJW proposal?
  - LLLTs are licensed paraprofessionals (different than CJWs—LLLTs do not need to be supervised by an attorney);
  - The program was designed as for-profit (LLLTs can hang their own shingle and charge for their services);
  - The barriers to entry were too high (e.g., requiring 3,000 hours of supervision before licensure) which kept the number of individuals interested in pursuing the license low.

PDI Committee Meeting Questions and Feedback

- What is the sequence for administrative rule changes, legislative changes, etc. prior to implementation?
  - The authors plan to introduce the proposal during the upcoming legislative session.
  - The regulatory framework could go through the California Supreme Court or via rule changes.
  - The timeline is unknown, although the authors have been in touch with the legislature already.
- Have there been previous attempts at legislation for a program like this in California?
  - The only prior attempt at legislation for a similar program was the State Bar's paraprofessional proposal (approved by the Board of Trustees in May 2022).
  - The State Bar's paraprofessional proposal was prohibited through AB 2958 (passed September 2022), until AB 2958 sunset on January 1, 2025.

PDI Committee Meeting Questions and Feedback

- SB-1159 (2013–2014) Professions and vocations: license applicants: individual tax identification number, permits access to professional licenses to individuals who do not have a social security number. We want to ensure that all Californians—regardless of citizenship status—can become CJWs.
  - Business and Professions Code Section 30(e)(2) defines "license" as "a certificate, registration, or any other authorization needed to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600."
  - CJWs are not independently licensed, however, the host LSO must certify individual CJWs to the State Bar. Staff will confirm with OGC whether SB 1159 applies to this certification.
  - The authors acknowledge that perhaps the legislation should specifically allow all Californians, regardless of citizenship, to become CJWs. They agree this is particularly important to ensure that some of the primary benefits of CJWs—their cultural competency, trauma-informed approach, and community embeddedness—remain a focus of the program.

Staff Questions and Suggestions

The State Bar of California

Staff Questions and Suggestions

- The proposal does not address administrative funding for non-IOLTA programs. How do the authors propose to fund application review for non-IOLTA organizations who wish to become authorized LSOs, monitoring of non-IOLTA LSOs, etc.?
- We recommend the authors update the proposal to reflect data from *the 2024 California Justice Gap Study.* It may also be prudent to include analysis from the State Bar's 2024 Legal Market Landscape Report.
- The proposal does not adequately address the potential for public harm (from CJWs, attorneys, other non-lawyers like notarios, or lack of legal help). Including a conversation about this as well as data that addresses lack of public harm from similar programs would strengthen the proposal.
- The proposal may benefit from including a brief discussion about the ways the public seeks legal help when they cannot afford an attorney nor access legal aid, including technology and from lay friends and family. This helps shift the conversation away from the false lawyer versus CJW binary and demonstrates that the public already seeks legal help from a range of (better and worse) non-attorney sources.



Discussion: Additional Questions/ Comments

- What other questions or comments should we provide to the *CJW Proposal for California* authors?
- Which—if any—of the questions or comments from the LSTFC or PDI committee meetings are sufficiently resolved (e.g., not necessary to include in a letter)?

The State Bar *of California*

Next Steps

Date	Activity	Purpose
August 1, 2025	Working group meeting	Review the *CJW Proposal for California* and feedback from the LSTFC and PDI Committee meetings; identify additional feedback.
August 11–15	Working group meeting	Discuss additional feedback for the letter.
September 2–5, 2025	Working group meeting	Review the first draft of the feedback letter.
October 1–3, 2025	Working group meeting	Review the final draft of the feedback letter.
October 7–14, 2025	Internal review	Leadership and OGC provide final review ahead of the PDI Committee posting deadline.
October 24, 2025	PDI Committee meeting	Present the draft feedback letter to the PDI Committee for its approval to recommend to the LSTFC.
November 7, 2025	LSTFC meeting	Present the draft feedback letter to the LSTFC for its approval to send to the *CJW Proposal for California* authors.

Thank You!



If you have questions, ideas, or want to discuss the *CJW Proposal for California* before the next working group meeting, please email Jennifer Zelnick, Lead Program Analyst, at jennifer.zelnick@calbar.ca.gov.

The State Bar *of California*

EXHIBIT 23

The State Bar of California

Community Justice Worker (CJW) Working Group Mid-August Meeting

Jennifer Zelnick, Lead Program Analyst, Office of Access & Inclusion

August 14, 2025

Agenda

- Working Group Goals
- Update from the ABA Annual House of Delegates Meeting
- Feedback from the Working Group Kickoff Meeting
- Previously Discussed Feedback Topics
- Discussion: Additional Questions/Feedback
- Next Steps

The State Bar of California

Working Group Goals

- Provide written feedback to the authors of the *CJW Proposal for California:*
  - Present to the PDI committee at its October 24, 2025, meeting; and
  - Present to the LSTFC at its November 7, 2025, meeting.

Update from the ABA Annual House of Delegates Meeting

- At its 2025 annual meeting, the ABA adopted Resolution 605, which calls on states, courts, and other jurisdictions to explore CJW programs to expand access to affordable, quality civil legal services for individuals who cannot afford an attorney, as one way to narrow the justice gap and ensure equitable access to legal help.

Feedback from the Working Group Kickoff Meeting

The State Bar of California

Feedback from the Working Group Kickoff Meeting

- Suggestions about the proposed five-year evaluation:
  - The proposal names the California Access to Justice Commission as the evaluator. Evaluations require staff with specific expertise, and funding to pay those staff.
  - Data from a California CJW program would be of interest nationally.
  - The working group understands the value of independent evaluation, but it urges the authors to balance this against the real costs and expertise needed to ensure the evaluation yields robust and reliable data. The State Bar is home to the Office of Research and Statistics (ORS), whose staff routinely evaluate the State Bar with a high degree of rigor and impartiality. Additionally, ORS regularly works with external evaluators in instances where an additional degree of independence is required. Enlisting the services of ORS would provide a low-cost solution and negate the need to seek external funding for an evaluation (or, in the absence of external funding, siphon funds away from grantees).

Feedback from the Working Group Kickoff Meeting

- Questions about the employment law implications of CJWs:
  - The working group raised concerns about the majority of CJWs being employed by CBOs, and volunteering with the LSOs. It asked, how will volunteer CJWs be compensated for their work?
  - From an equity standpoint, all legal work should be compensated.
  - Will the CJW's CBO unions—and the LSO unions for paralegals and other non-attorneys—support CJWs, or will CJWs be seen as encroaching on the employment of paralegals?
  - Will CJW's volunteer status create issues related to worker's compensation if the CJWs are tasked with performing work outside the scope of their contracts?
  - The working group recommends that the authors meet with the relevant bargaining units to understand the impact of CJWs on these unions.

Feedback from the Working Group Kickoff Meeting

- Staff supports the recommendation to engage with relevant unions and to seek clarification about worker's compensation.
- Staff notes that other jurisdictions have rolled out CJW programs with similar volunteer structures that have not raised concerns about compensation, equity, and liability:
  - CJWs in other jurisdictions report that they became CJWs to expand the work they could do in their current role(s) (e.g., a domestic violence counselor became a CJW to help survivors file DVROs, which is a task adjacent to the counselor's job description). Non-attorneys in California who may be interested in becoming CJWs (or participating in a formalized CJW program) may feel similarly.
  - CJWs who volunteer at authorized LSOs are already compensated by their employers—much like pro bono attorneys are compensated by their employers. CBOs may choose to participate, and potentially pay their CJWs more, if they feel it is in the best interest of the organization and the community.

Feedback from the Working Group Kickoff Meeting

- Concerns about quality controls and the pros/cons of standardization:
  - The proposal suggests that, rather than standardizing criteria for CJWs, each authorized legal services organization (LSO) would certify individual CJWs.
  - The Blue Ribbon Commission on the Future of the Bar Exam explored an alternative to the Bar Exam that would have similarly resulted in a decentralized certification process. However, quality control concerns due to the lack of standardization prevented such an option from moving forward, as the Supreme Court did not feel comfortable in the absence of standardizing the process or criteria for bar admission. The working group has shared similar concerns and raised questions about ensuring equity in the certification process.

Feedback from the Working Group Kickoff Meeting

- Staff understands the working group's concerns about quality controls but wants to balance ensuring the program is flexible enough to make sense for California's distributed legal aid landscape.
- The working group has discussed how Washington's LLLT program may have sunset in part due to overly demanding program requirements. Staff cautions against over-regulation for CJWs who will be supervised by an attorney and perform only limited, discrete, legal tasks.
- Since programs will determine CJW's practice areas and scopes of work, standardizing certification might not make sense. As a compromise, perhaps the working group can suggest that LSOs hold CJWs to some minimum standards or requirements that would work across practice areas.

Feedback from the Working Group Kickoff Meeting

- Questions about potential legislative pushback:
  - Will the legislature respond to this proposal differently than it did to the State Bar's paraprofessional recommendations? Does the CJW proposal address the concerns it raised about the paraprofessional proposal?
    - Some of the major concerns from the paraprofessional proposal were:
      - The potential for increased incidences of UPL;
      - The potential of a two-tiered justice system;
      - Unregulated fees;
      - Clients may receive unneeded services;
      - Potential for incompetence; and
      - Risk of legal aid-eligible clients paying for services they are entitled to receive for free.

Feedback from the Working Group Kickoff Meeting

- Staff agrees it is prudent to ensure a CJW proposal addresses the concerns raised about the paraprofessional proposal:
  - Some of these concerns (e.g., the risk of legal aid-eligible clients paying for services and concerns about unregulated fees) are easily addressed because CJWs will not charge for services.
  - The other major concerns related to supervision (the potential for incompetence, clients receiving unneeded services, potential for increases in UPL, and the potential creation of a two-tiered justice system) merit further discussion. Slide 17 offers suggestions regarding adding into the proposal a more robust conversation on public harms—or lack thereof—from paraprofessionals, lawyers, and other ways the public accesses help for legal problems.
- If legal aid unions express concerns, this could pose an additional legislative hurdle—similar to how the legislature took up the concerns of the private bar and legal aid who spoke out against the paraprofessional proposal.

Feedback from the Working Group Kickoff Meeting

- Concerns about funding:
  - The proposed program will require funding, as the proposal indicates. Even if all CJWs are volunteers, IOLTA grantees will need to fund appropriate supervision, administrative time, and other indirect costs. The working group previously discussed funding concerns related to non-IOLTA programs.
  - In the absence of a dedicated funding stream, grantees may look to flexible funding sources like IOLTA and EAF to fund CJWs. While the LSTFC already permits the use of IOLTA, EAF, and all discretionary grants to fund qualifying activities performed by non-attorneys, doing so risks further straining these limited resources. At a time when these grants function as stopgaps to replace other funding streams, it would be prudent for the authors to contemplate ways to acquire additional funding or a new grant to support the CJW program. The LSTFC would welcome the opportunity to administer dedicated CJW funding.

Feedback from the Working Group Kickoff Meeting

- Suggestions for statutory changes and rules to ensure the program can reach the most underserved Californians:
  - The working group recognizes the CJW program's potential to help address California's entrenched justice gap. One way the program could expand its impact would be to identify rulemaking, regulatory, or legislative pathways to ensure greater flexibility for CJWs to serve clients in attorney deserts. This may require out-of-the box funding that does not tie CJWs to the counties in which IOLTA grantees are based, the provision of remote services, or other creative solutions.
  - A creative solution could be statutory or rule changes that enable support centers—which are typically considered statewide organizations and do not receive IOLTA funding based on county allocations—to supervise CJWs. This could be accomplished by expanding the definition of "legal training [or] legal technical assistance" (Business & Professions Code section 6213(b)) or by otherwise expanding support centers' primary purpose and function.

Previously Discussed Feedback Topics

The State Bar of California

Previously Discussed Feedback Topics

- Will the LSTFC or the State Bar handle UPL complaints?
- What are the differences between a paralegal and a CJW?
- Will paralegals be upset about the responsibilities CJWs will have?
- What will supervision look like? Will it follow Alaska's model (one attorney to 200 CJWs) or something else?
- How will programs pay CJWs?
- Will programs divert funds (from IOLTA/EAF or discretionary grants) to pay CJWs or pay for the program?
- Can the LSTFC advocate for a modest amount of CJW funding in addition to allowing grantees to use IOLTA/EAF to fund them?

Previously Discussed Feedback Topics

- Will CJWs be certified so they can have a transferrable credential?
- What lessons learned from the sunset of Washington's Limited Licensed Legal Technicians (LLLT) program can help inform the CJW proposal?
- What is the sequence for administrative rule changes, legislative changes, etc. prior to program implementation?
- How can we ensure that all Californians, regardless of citizenship status, can become CJWs?
- How do the authors propose to fund administrative costs for non-IOLTA programs (e.g., application review, monitoring, etc.)?
- We recommend that the authors update the proposal to reflect data from the *2024 California Justice Gap Study.* It may also be prudent to include analysis from the State Bar's 2024 Legal Market Landscape Report.

The State Bar *of California*

Previously Discussed Feedback Topics

- The proposal does not fully address the potential for public harm—from CJWs, attorneys, other non-lawyers including notaries, or from a lack of legal help. Including a conversation about this, as well as data that addresses the lack of public harm from similar programs in other states, would strengthen the proposal.
- The proposal may benefit from including a brief discussion about the ways the public seeks legal help when individuals cannot afford an attorney nor access legal aid. This may include technology and from lay friends and family. This helps shift the conversation away from the false lawyer-versus-CJW binary and demonstrates that the public already seeks help from a variety of (better and worse) non-attorney sources.



Discussion: Additional Questions/ Comments

- What other questions or comments should we provide to the *CJW Proposal for California* authors?
- Which—if any—of the questions or comments from the LSTFC or PDI committee meetings are sufficiently resolved (e.g., not necessary to include in a letter)?

The State Bar *of California*

Next Steps

Date	Activity	Purpose
August 14	Working group meeting	Discuss additional feedback for the letter.
September 15–25, 2025	Working group meeting	Review the first draft of the feedback letter.
October 1–3, 2025	Working group meeting	Review the final draft of the feedback letter.
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November 7, 2025	LSTFC meeting	Present the draft feedback letter to the LSTFC for its approval to send to the *CJW Proposal for California* authors.

Thank You!

If you have questions, ideas, or want to discuss the *CJW Proposal for California* before the next working group meeting, please email Jennifer Zelnick, Lead Program Analyst, at jennifer.zelnick@calbar.ca.gov.



The State Bar of California

Review Legal Aid's *CJW Proposal for California*

The State Bar *of California*

Key Terms

- A Community Justice Worker (CJW) is a person not licensed by the State Bar of California who has satisfied the training and other relevant requirements as certified by an authorized legal services organization and will engage in the limited practice of law exclusive for an authorized legal services organization.
- An authorized legal services organization (LSO) is an organization that meets the definition set forth in Business & Professions Code section 6159.51: a "'legal aid organization' [that is] a nonprofit organization that provides civil legal services for the poor without charge."

Proposed Scope of Program

- Recommends a statewide CJW program for legal aid;
- Proposes authorized LSOs could certify individual CJWs;
- Proposes CJWs could:
  - Provide legal advice and other activities that may be defined as the practice of law;
  - Serve clients who qualify for free legal services; and
  - Operate without violating (or the LSO violating) California's prohibition on UPL.
- Recommends streamlining the application process for IOLTA-funded organizations to become authorized LSOs;
- Suggests a pathway for non-IOLTA organizations to become authorized LSOs; and
- Outlines roles for the LSTFC and the State Bar.

Proposed Role of the LSTFC

- The LSTFC would review applications, including:
  - CJW training plan;
  - Informed consent plan;
  - Client files security plan; and
  - Proof of malpractice insurance.
- Issue authorization for the LSO and notify the State Bar;
- Coordinate and distribute any funding sources related to the CJW program; and
- Collect annual data from CJW host organizations.

Proposed Role of the State Bar

- The State Bar would:
  - Post a roster of authorized LSOs on its website;
  - Develop a process for authorized LSOs to certify individual CJWs;
  - Communicate the roster of authorized LSOs and their CJWs to other relevant authorities, including those who enforce UPL; and
  - Report to the Legislature and Supreme Court all complaints received against CJWs annually, including:
    - The nature of the complaint; and
    - The resolution of the complaint.

Proposed Program Evaluation Plan

- After five years, the California Access to Justice Commission (CalATJ) will assess:
  - The number of CJW providers;
  - The number of clients served;
  - The impact on the ability of LSOs to serve their communities, including:
    - Legal and financial outcomes (immediate and longer term);
    - Impacts on access to justice for underserved communities as a result of the CJW program; and
    - Community trust and engagement.
  - The cost of implementation within individual LSOs; and
  - The cost of implementation of the program.

Proposed Requirements for CJWs

- CJWs cannot perform activities constituting the practice of law outside of the scope of their certification;
- CJWs cannot charge any fees;
- CJWs must be affiliated with an authorized LSO;
- CJWs can transfer affiliation once a new organization certifies the CJW's qualifications (no automatic transfer of affiliation);
- CJWs cannot be a disbarred or suspended attorney in any jurisdiction; and
- CJWs are subject to the California Rules of Professional Conduct, Rules of Court, and other relevant statues and rules.

Proposed Requirements for Authorized LSOs

- Develop a CJW training plan, including:
  - Specific curricular components;
  - Experiential learning; and
  - Ethical provision of services.
- Submit a proposed scope of work for CJWs;
- Certify each individual CJW to the State Bar once an individual satisfies all training requirements, including submitting each CJW's scope of practice;
- Ensure client consent, control over client files, and malpractice insurance;

Proposed Requirements for Authorized LSOs

- Develop materials to support CJWs with conflicting privileges—especially for Mandated Reporting;
- Identify a supervising attorney and have a supervision structure in place;
- Uphold Attorney/Client and Work Product Privilege since the legal work is supervised by the LSO;
- Report any relevant changes in status, either of the organization or any CJW, including:
  - IOLTA status or loss of services;
  - CJW loss of eligibility; and
  - Violation of rules.

Proposed Requirements for Authorized LSOs

- Report to the State Bar on an annual basis:
  - Number of clients served by CJWs;
  - Hours worked by CJWs;
  - Legal/financial outcomes;
  - Post-services survey of CJW clients;
  - Client complaints and resolution; and
  - CJW demographics.

EXHIBIT 24

The State Bar of California

Community Justice Worker (CJW) Working Group Third Meeting

Jennifer Zelnick, Lead Program Analyst, Office of Access & Inclusion

August 29, 2025

Agenda

- Working Group Goals
- Update from the ABA and CCJ/COSCA
- Feedback from the Working Group Kickoff Meeting
- Additional Topics and Ideas
- Previously Discussed Feedback Topics
- Discussion: Additional Questions/Feedback
- Next Steps

The State Bar of California

Working Group Goals

- Provide written feedback to the authors of the *CJW Proposal for California:*
  - Present to the PDI committee at its October 24, 2025, meeting; and
  - Present to the LSTFC at its November 7, 2025, meeting.

Update from the ABA and CCJ/COSCA

- At its 2025 annual meeting, the ABA passed Resolution 605, which calls on states, courts, and other jurisdictions to explore CJW programs for individuals who cannot afford an attorney, as one means to narrow the justice gap and ensure equitable access to legal help.
- Similarly, the Conference of Chief Justices (CCJ), and the Conference of State Court Administrators (COSCA) adopted Resolution 1-2025, which supports exploring "Authorized Justice Practitioner" programs—including CJWs and paraprofessionals—to expand access to justice.
- These resolutions demonstrate that key legal and judicial stakeholders support efforts to shrink the justice gap by standing up CJW programs.

Feedback from the Working Group Kickoff Meeting

The State Bar of California

Feedback from the Working Group Kickoff Meeting

- Suggestions about the proposed five-year evaluation:
  - The proposal names the California Access to Justice Commission as the evaluator. Evaluations require staff with specific expertise, and funding to pay those staff.
  - Data from a California CJW program would be of interest nationally.
  - The working group understands the value of independent evaluation, but it urges the authors to balance this against the real costs and expertise needed to ensure the evaluation yields robust and reliable data. The State Bar is home to the Office of Research and Statistics (ORS), whose staff routinely evaluate the State Bar with a high degree of rigor and impartiality. Additionally, ORS regularly works with external evaluators in instances where an additional degree of independence is required. Enlisting the services of ORS would provide a low-cost solution and negate the need to seek external funding for an evaluation (or, in the absence of external funding, siphon funds away from grantees).

Feedback from the Working Group Kickoff Meeting

- Questions about the employment law implications of CJWs:
  - The working group raised concerns about the majority of CJWs being employed by CBOs, and volunteering with the LSOs. It asked, how will volunteer CJWs be compensated for their work?
  - From an equity standpoint, all legal work should be compensated.
  - Will the CJW's CBO unions—and the LSO unions for paralegals and other non-attorneys—support CJWs, or will CJWs be seen as encroaching on the employment of paralegals?
  - Will CJW's volunteer status create issues related to worker's compensation if the CJWs are tasked with performing work outside the scope of their contracts?
  - The working group recommends that the authors meet with the relevant bargaining units to understand the impact of CJWs on these unions.

Feedback from the Working Group Kickoff Meeting

- Staff supports the recommendation to engage with relevant unions and to seek clarification about worker's compensation.
- Staff notes that other jurisdictions have rolled out CJW programs with similar volunteer structures that have not raised concerns about compensation, equity, and liability:
  - CJWs in other jurisdictions report that they became CJWs to expand the work they could do in their current role(s) (e.g., a domestic violence counselor became a CJW to help survivors file DVROs, which is a task adjacent to the counselor's job description). Non-attorneys in California who may be interested in becoming CJWs (or participating in a formalized CJW program) may feel similarly.
  - CJWs who volunteer at authorized LSOs are already compensated by their employers—much like pro bono attorneys are compensated by their employers. CBOs may choose to participate, and potentially pay their CJWs more, if they feel it is in the best interest of the organization and the community.

Feedback from the Working Group Kickoff Meeting

- Concerns about quality controls and the pros/cons of standardization:
  - The proposal suggests that, rather than standardizing criteria for CJWs, each authorized legal services organization (LSO) would certify individual CJWs.
  - The Blue Ribbon Commission on the Future of the Bar Exam explored an alternative to the Bar Exam that would have similarly resulted in a decentralized certification process. However, quality control concerns due to the lack of standardization prevented such an option from moving forward, as the Supreme Court did not feel comfortable in the absence of standardizing the process or criteria for bar admission. The working group has shared similar concerns and raised questions about ensuring equity in the certification process.

Feedback from the Working Group Kickoff Meeting

- Staff understands the working group's concerns about quality controls but wants to balance ensuring the program is flexible enough to make sense for California's distributed legal aid landscape.
- The working group has discussed how Washington's LLLT program may have sunset in part due to overly demanding program requirements. Staff cautions against over-regulation for CJWs who will be supervised by an attorney and perform only limited, discrete, legal tasks.
- Since programs will determine CJW's practice areas and scopes of work, standardizing certification might not make sense. As a compromise, perhaps the working group can suggest that LSOs hold CJWs to some minimum standards or requirements that would work across practice areas.

Feedback from the Working Group Kickoff Meeting

- Questions about potential legislative pushback:
  - Will the legislature respond to this proposal differently than it did to the State Bar's paraprofessional recommendations? Does the CJW proposal address the concerns it raised about the paraprofessional proposal?
    - Some of the major concerns from the paraprofessional proposal were:
      - The potential for increased incidences of UPL;
      - The potential of a two-tiered justice system;
      - Unregulated fees;
      - Clients may receive unneeded services;
      - Potential for incompetence; and
      - Risk of legal aid-eligible clients paying for services they are entitled to receive for free.

Feedback from the Working Group Kickoff Meeting

- Staff agrees it is prudent to ensure a CJW proposal addresses the concerns raised about the paraprofessional proposal:
  - Some of these concerns (e.g., the risk of legal aid-eligible clients paying for services and concerns about unregulated fees) are easily addressed because CJWs will not charge for services.
  - The other major concerns related to supervision (the potential for incompetence, clients receiving unneeded services, potential for increases in UPL, and the potential creation of a two-tiered justice system) merit further discussion. Slide 17 offers suggestions regarding adding into the proposal a more robust conversation on public harms—or lack thereof—from paraprofessionals, lawyers, and other ways the public accesses help for legal problems.
- If legal aid unions express concerns, this could pose an additional legislative hurdle—similar to how the legislature took up the concerns of the private bar and legal aid who spoke out against the paraprofessional proposal.

Feedback from the Working Group Kickoff Meeting

- Concerns about funding:
  - The proposed program will require funding, as the proposal indicates. Even if all CJWs are volunteers, IOLTA grantees will need to fund appropriate supervision, administrative time, and other indirect costs. The working group previously discussed funding concerns related to non-IOLTA programs.
  - In the absence of a dedicated funding stream, grantees may look to flexible funding sources like IOLTA and EAF to fund CJWs. While the LSTFC already permits the use of IOLTA, EAF, and all discretionary grants to fund qualifying activities performed by non-attorneys, doing so risks further straining these limited resources. At a time when these grants function as stopgaps to replace other funding streams, it would be prudent for the authors to contemplate ways to acquire additional funding or a new grant to support the CJW program. The LSTFC would welcome the opportunity to administer dedicated CJW funding.

Feedback from the Working Group Kickoff Meeting

- Suggestions for statutory changes and rules to ensure the program can reach the most underserved Californians:
  - The working group recognizes the CJW program's potential to help address California's entrenched justice gap. One way the program could expand its impact would be to identify rulemaking, regulatory, or legislative pathways to ensure greater flexibility for CJWs to serve clients in attorney deserts. This may require out-of-the box funding that does not tie CJWs to the counties in which IOLTA grantees are based, the provision of remote services, or other creative solutions.
  - A creative solution could be statutory or rule changes that enable support centers—which are typically considered statewide organizations and do not receive IOLTA funding based on county allocations—to supervise CJWs. This could be accomplished by expanding the definition of "legal training [or] legal technical assistance" (Business & Professions Code section 6213(b)) or by otherwise expanding support centers' primary purpose and function.

Feedback from the Working Group Kickoff Meeting

- Erin's suggestions for this topic:
  - Alter or clarify IOLTA/EAF funding parameters to allow programs to use IOLTA/EAF for CJWs in counties other than where their primary office (or county allocations) are.
  - Are there any existing State Bar or other funding streams that provide a model for funding remote services? This is really just an idea for remote services to people who are not currently reached by our in-person legal aid network (and/or a remote supervision relationship between the CJW and the LSO). Can we draw on post-pandemic remote services funding structures for this purpose?
  - Allowing for remote client services and/or remote CJW supervision supports the goals of public protection, high-quality supervision, and client service because it retains the requirement that the supervising LSO provides the supervision in its area of expertise. While this makes sense to ensure public protection and high quality, it would also have the effect of replicating existing legal deserts absent geographic flexibility.

Feedback from the Working Group Kickoff Meeting

- Erin's suggestions for QLSPs:
  - Clarify that the county where the organization is already funded may be used as the county of service even if the CJW and/or the client are in a different county.
  - Allow QLSPs to allocate funding specifically to the county of the CJW's or client's location if they wish, but do not require this to avoid the administrative burden of organizations needing multiple new budgets for potentially very small service areas, and to avoid impacts on other organizations funded in those counties.
  - Clarify that CJW-related funds, including funds to supervise or employ CJWs and any payments to CBOs to compensate them for CJW salaries and benefits county as qualified expenditures (also applies to support centers).

Feedback from the Working Group Kickoff Meeting

- Erin's suggestions for support centers:
  - Slide 14 suggests changing or clarifying the definition of "training" and/or "technical assistance" to cover supervision of CJWs. That could work, and the definition of "advocacy support services" could be a logical fit for CJW supervision within the support center role. In other words, clarify that supervising a CJW in any county, and providing services to a client in any county, counts as advocacy support, TA, or training within the meaning of primary purpose.
  - Allow IOLTA/EAF funds to be used to supervise a CJW employed not at a QLSP, since the CJW proposal contemplates that non-State Bar funded organizations may apply for the CJW program. If accompanied by a requirement that the Support Center consult with the QLSP serving the CJW's county at least annually about the services needed by the community, either to confirm that the QLSP cannot offer these services or specifically requests that the support center supervise the CJW for a specific client, it may not require a substantial change as it would be similar to the current rule that direct services referred by QLSPs are qualifying.

Feedback from the Working Group Kickoff Meeting

- Erin's suggestions for support centers (continued):
  - Allow IOLTA/EAF money to be used to employ a CJW as an advocacy support service, in the event a support center wishes to do this instead of supervising a CJW employed at another organization.
  - Allow support centers to choose which county to count the serve for the purposes of the "statewide" requirement—the supervisor's county, the CJW's county, or the client's county.

- Erin's suggestion about non-IOLTA LSOs:
  - Allow them to provide services from and to any county in California. Track the data for the three geographic data points (supervisor's county, the CJW's county, and the client's county) to understand how the program is being used.

Feedback from the Working Group Kickoff Meeting

- The Supreme Court's response to the Blue Ribbon Commission:
  - Legal barriers (e.g., not approved by the Committee of Bar Examiners; and California law prohibits different exam pathways based on the type of law school attended, but the PBE would only be for graduates of accredited law schools).
  - Fairness issues (e.g., those with better supervisors will have better portfolios, few safeguards against portfolios containing materials created by individuals other than the applicant, and potential for inconsistent scoring due to different levels of supervisor involvement).
  - Validity problems (e.g., difficult for graders to assess applicants' issue-spotting skills; limitations of skills testing as graders would not directly observe client interviews and negotiations and would need to rely on biased self-assessments and supervisor reports).
  - Reliability concerns and ethical tensions (e.g., supervisor bias, and potential that the portfolios more accurately reflect supervisors rather than applicants).

Additional Topics and Ideas from Staff

The State Bar of California

Additional Topics and Ideas

- Supervision:
  - Each jurisdiction with an active CJW program structures supervision differently, depending on the complexity of the CJW's work.
  - Some allow for progressively less supervision as CJWs demonstrate competency, while others have more fixed structures.
  - Other jurisdictions recommend matching the level of supervision to the risk of harm.
  - A constant is that the authorizing LSO takes responsibility for the case (this may include the client being or becoming a client of the LSO) It is therefore incumbent on the LSO to determine and provide the appropriate level of supervision.

Additional Topics and Ideas

- Community-based organization (CBO) and partnership support:
  - Some other jurisdictions—particularly those where CJWs are volunteers who are not employed by authorized LSOs—note the success of their programs depends on support from CBOs and other partner organizations. The proposal would be strengthened by demonstrating support from these organizations and from the larger community, in addition to support from legal aid providers.
- Funding:
  - Frame CJWs as a workforce development strategy, with opportunities that attract individuals in rural communities. This may help unlock additional funding streams.
- Return on Investment (ROI) Argument:
  - Alaska has demonstrated a high ROI. In a 40-month period, CJWs secured approximately $23.7 million in direct SNAP benefits for clients. Including this figure further strengthens claims about the value of CJWs.

Additional Topics and Ideas

- Balancing Quality Controls and Standardization with Flexibility:
  - A standardized scope of practice—which is more conducive to standardization in training and supervision—can bolster public trust.
  - Additional benefits of standardization may include lower administrative burden and opportunities for resource sharing.
  - A centralized agency that oversees quality controls and programming is one way to operationalize this at scale (a potential role for a support center).
- Update: SB-1159 (regarding access to professional licenses for individuals without social security numbers)
  - General Counsel advised that we do not call attention to citizenship status as none of our programs have a citizenship requirement.

Previously Discussed Feedback Topics

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Previously Discussed Feedback Topics

- Will the LSTFC or the State Bar handle UPL complaints?
- What are the differences between a paralegal and a CJW?
- Will paralegals be upset about the responsibilities CJWs will have?
- What will supervision look like? Will it follow Alaska's model (one attorney to 200 CJWs) or something else?
- How will programs pay CJWs?
- Will programs divert funds (from IOLTA/EAF or discretionary grants) to pay CJWs or pay for the program?
- Can the LSTFC advocate for a modest amount of CJW funding in addition to allowing grantees to use IOLTA/EAF to fund them?

Previously Discussed Feedback Topics

- Will CJWs be certified so they can have a transferrable credential?
- What lessons learned from the sunset of Washington's Limited Licensed Legal Technicians (LLLT) program can help inform the CJW proposal?
- What is the sequence for administrative rule changes, legislative changes, etc. prior to program implementation?
- How can we ensure that all Californians, regardless of citizenship status, can become CJWs?
- How do the authors propose to fund administrative costs for non-IOLTA programs (e.g., application review, monitoring, etc.)?
- We recommend that the authors update the proposal to reflect data from the *2024 California Justice Gap Study.* It may also be prudent to include analysis from the State Bar's 2024 Legal Market Landscape Report.

Previously Discussed Feedback Topics

- The proposal does not fully address the potential for public harm—from CJWs, attorneys, other non-lawyers including notaries, or from a lack of legal help. Including a conversation about this, as well as data that addresses the lack of public harm from similar programs in other states, would strengthen the proposal.
- The proposal may benefit from including a brief discussion about the ways the public seeks legal help when individuals cannot afford an attorney nor access legal aid. This may include technology and from lay friends and family. This helps shift the conversation away from the false lawyer-versus-CJW binary and demonstrates that the public already seeks help from a variety of (better and worse) non-attorney sources.



Discussion: Additional Questions/ Comments

- What other questions or comments should we provide to the *CJW Proposal for California* authors?
- Which—if any—of the questions or comments are sufficiently resolved (e.g., not necessary to include in a letter)? For example, do we wish to comment on the five-year evaluation? If so, perhaps we should focus our comments on funding concerns.
- Staff will reach out to the authors regarding unions. Are there any other recommendations we would like to foreground to the authors at this time?

The State Bar *of California*

Next Steps

Date	Activity	Purpose
August 29	Working group meeting	Discuss additional feedback for the letter.
September 26, 2025*	Working group meeting	Review the first draft of the feedback letter.
October 1–3, 2025	Working group meeting	Review the final draft of the feedback letter.
October 7–14, 2025	Internal review	Leadership and OGC provide final review ahead of the PDI Committee posting deadline.
October 24, 2025	PDI Committee meeting	Present the draft feedback letter to the PDI Committee for its approval to recommend to the LSTFC.
November 7, 2025	LSTFC meeting	Present the draft feedback letter to the LSTFC for its approval to send to the *CJW Proposal for California* authors.

Thank You!

If you have questions, ideas, or want to discuss the *CJW Proposal for California* before the next working group meeting, please email Jennifer Zelnick, Lead Program Analyst, at jennifer.zelnick@calbar.ca.gov.



The State Bar of California

Review Legal Aid's *CJW Proposal for California*

The State Bar *of California*

Key Terms

- A Community Justice Worker (CJW) is a person not licensed by the State Bar of California who has satisfied the training and other relevant requirements as certified by an authorized legal services organization and will engage in the limited practice of law exclusive for an authorized legal services organization.
- An authorized legal services organization (LSO) is an organization that meets the definition set forth in Business & Professions Code section 6159.51: a "'legal aid organization' [that is] a nonprofit organization that provides civil legal services for the poor without charge."

Proposed Scope of Program

- Recommends a statewide CJW program for legal aid;
- Proposes authorized LSOs could certify individual CJWs;
- Proposes CJWs could:
  - Provide legal advice and other activities that may be defined as the practice of law;
  - Serve clients who qualify for free legal services; and
  - Operate without violating (or the LSO violating) California's prohibition on UPL.
- Recommends streamlining the application process for IOLTA-funded organizations to become authorized LSOs;
- Suggests a pathway for non-IOLTA organizations to become authorized LSOs; and
- Outlines roles for the LSTFC and the State Bar.

Proposed Role of the LSTFC

- The LSTFC would review applications, including:
  - CJW training plan;
  - Informed consent plan;
  - Client files security plan; and
  - Proof of malpractice insurance.
- Issue authorization for the LSO and notify the State Bar;
- Coordinate and distribute any funding sources related to the CJW program; and
- Collect annual data from CJW host organizations.

Proposed Role of the State Bar

- The State Bar would:
  - Post a roster of authorized LSOs on its website;
  - Develop a process for authorized LSOs to certify individual CJWs;
  - Communicate the roster of authorized LSOs and their CJWs to other relevant authorities, including those who enforce UPL; and
  - Report to the Legislature and Supreme Court all complaints received against CJWs annually, including:
    - The nature of the complaint; and
    - The resolution of the complaint.

Proposed Program Evaluation Plan

- After five years, the California Access to Justice Commission (CalATJ) will assess:
  - The number of CJW providers;
  - The number of clients served;
  - The impact on the ability of LSOs to serve their communities, including:
    - Legal and financial outcomes (immediate and longer term);
    - Impacts on access to justice for underserved communities as a result of the CJW program; and
    - Community trust and engagement.
  - The cost of implementation within individual LSOs; and
  - The cost of implementation of the program.

Proposed Requirements for CJWs

- CJWs cannot perform activities constituting the practice of law outside of the scope of their certification;
- CJWs cannot charge any fees;
- CJWs must be affiliated with an authorized LSO;
- CJWs can transfer affiliation once a new organization certifies the CJW's qualifications (no automatic transfer of affiliation);
- CJWs cannot be a disbarred or suspended attorney in any jurisdiction; and
- CJWs are subject to the California Rules of Professional Conduct, Rules of Court, and other relevant statues and rules.

Proposed Requirements for Authorized LSOs

- Develop a CJW training plan, including:
  - Specific curricular components;
  - Experiential learning; and
  - Ethical provision of services.
- Submit a proposed scope of work for CJWs;
- Certify each individual CJW to the State Bar once an individual satisfies all training requirements, including submitting each CJW's scope of practice;
- Ensure client consent, control over client files, and malpractice insurance;

Proposed Requirements for Authorized LSOs

- Develop materials to support CJWs with conflicting privileges—especially for Mandated Reporting;
- Identify a supervising attorney and have a supervision structure in place;
- Uphold Attorney/Client and Work Product Privilege since the legal work is supervised by the LSO;
- Report any relevant changes in status, either of the organization or any CJW, including:
  - IOLTA status or loss of services;
  - CJW loss of eligibility; and
  - Violation of rules.

Proposed Requirements for Authorized LSOs

- Report to the State Bar on an annual basis:
  - Number of clients served by CJWs;
  - Hours worked by CJWs;
  - Legal/financial outcomes;
  - Post-services survey of CJW clients;
  - Client complaints and resolution; and
  - CJW demographics.

EXHIBIT 25

The State Bar *of California*

Discussion Regarding the *2024 California Justice Gap Study*, the Legal Aid Justice Technology Collaborative, and a Legal Aid Proposal to Create a California Community Justice Worker Program

Elizabeth Hom, Program Director, Office of Access & Inclusion
Jennifer Zelnick, Lead Program Analyst, Office of Access & Inclusion

Board of Trustees Meeting, September 18 –19, 2025

Access to Justice Initiatives

Agenda

- *2024 California Justice Gap Study* (JGS) Recommendations and Planned Activities
- Legal Aid Justice Technology Collaborative (LAJTC)
- Update on the National CJW Landscape
- Legal Aid's Proposal for a California Community Justice Worker (CJW) Program
- CJW Working Group Feedback
- Discussion

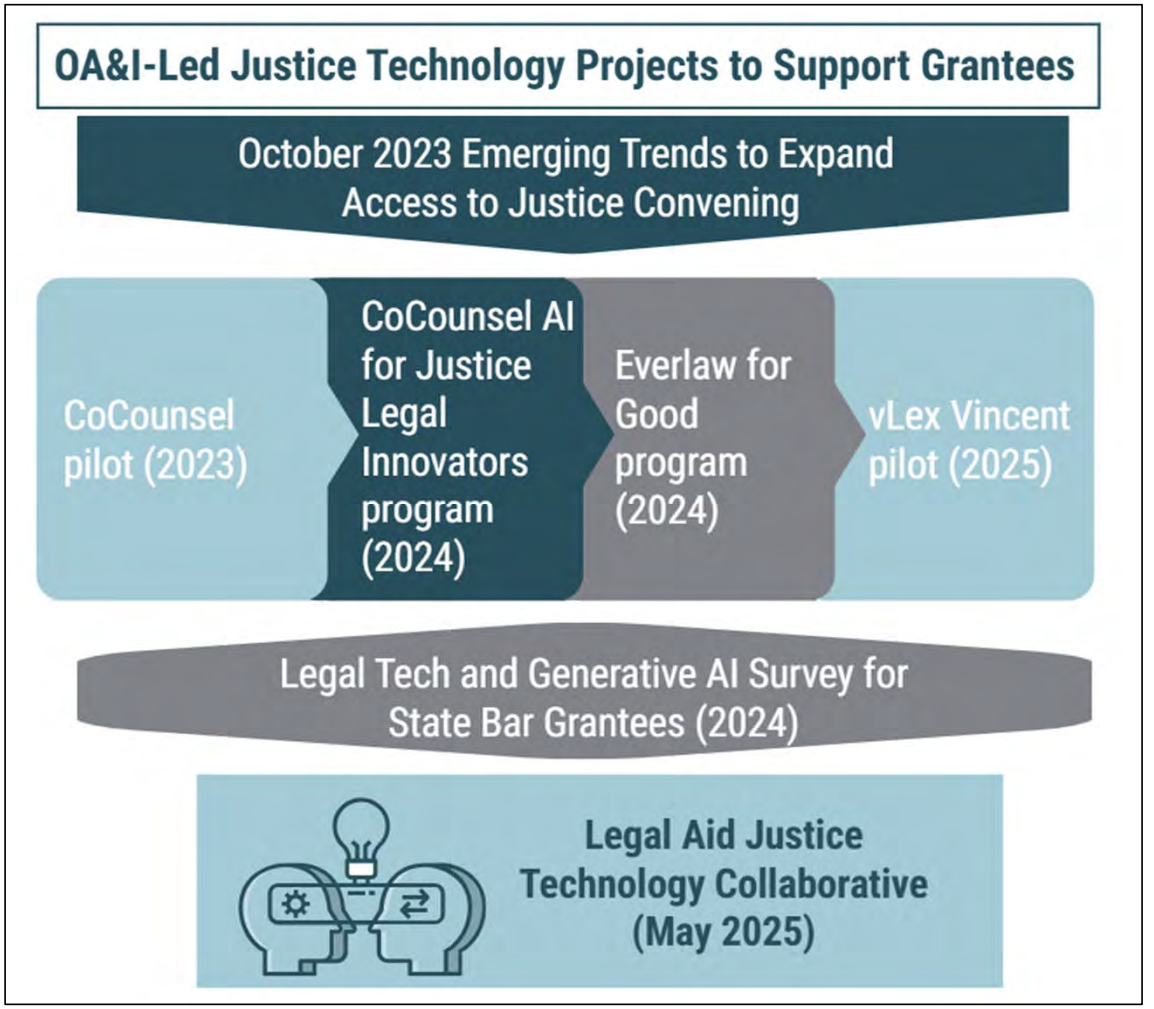
2024 CA JGS Recommendations and Planned Activities

2024 CA JGS Recommendations	Current/Planned Activities	Possible Additional Recommendations
Support legal aid grantees' use of artificial intelligence to enhance service delivery	Continue working with legal aid grantees on the LAJTC, a project of OA&I	
Address immigration legal needs, specifically related to accredited representatives	Incorporate work related to accredited reps into existing immigration legal services work	Explore other means to increase availability of immigration legal services, including funding
Develop pro bono attorney outreach and engagement plan	Engage stakeholders, develop communications plan, update resources and website	

2024 CA JGS Recommendations and Planned Activities (continued)

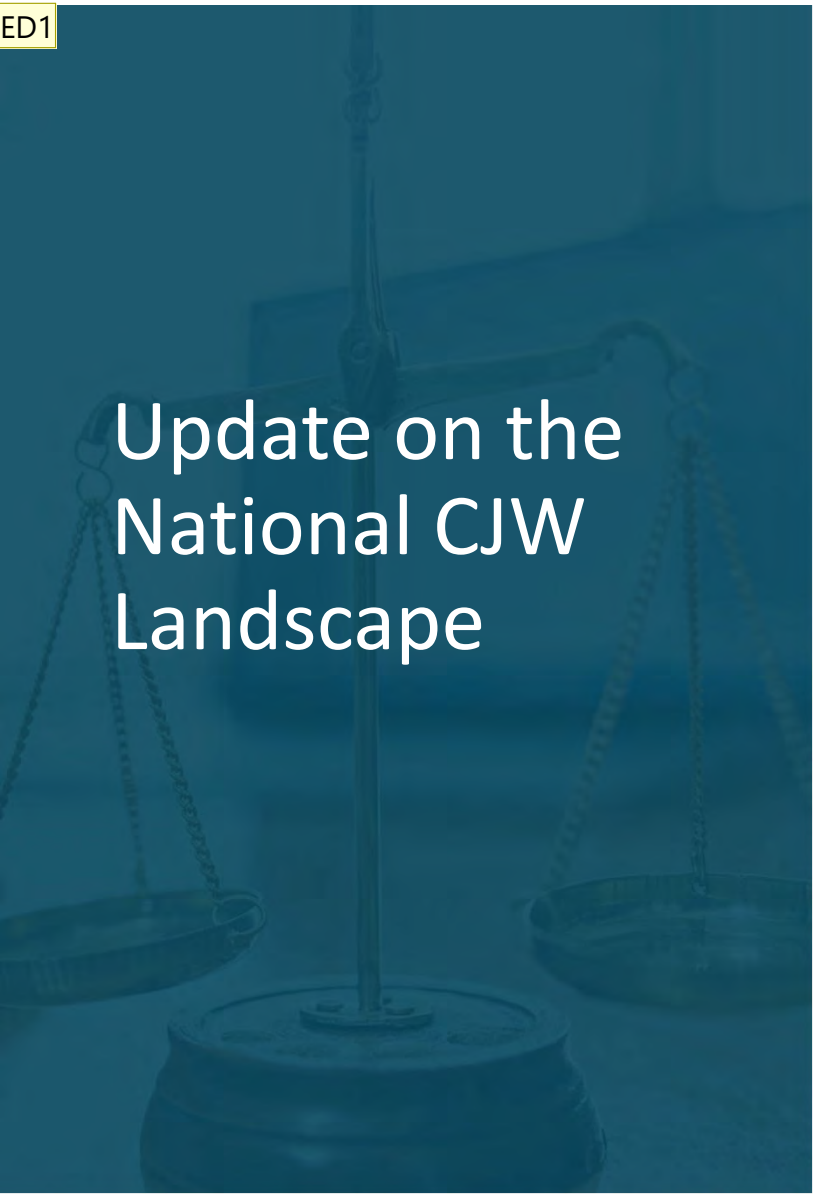
2024 CA JGS Recommendations	Current/Planned Activities	Possible Additional Recommendations
Support and expand the Legal Aid Leaders Fellowship (LALF) grant	Administer current LALF grants; develop post-graduate fellowship opportunity tied to new discretionary grant funding	Explore additional opportunities for funding for law student and post-graduate fellowships in legal aid
Explore outreach opportunities and partnerships among legal aid, pro bono, and Lawyer Referral Services (LRS) partnerships; public defenders and LRS; small businesses and LRS	State Bar rules revision proposal related to LRS; develop outreach and engagement plan	
Conduct further data collection and analyses: immigration legal needs, pro bono attorney hours, and attorney deserts; LRS and Legal Incubator programs; State Bar grantee intake census	Develop plan for data collection and analyses	

Legal Aid Justice Technology Collaborative



The State Bar of California

ED1



Update on the National CJW Landscape

- The American Bar Association adopted Resolution 605, which calls on states, courts, and other jurisdictions to explore CJW programs for individuals who cannot afford an attorney, as one way to narrow the justice gap and ensure equitable access to legal help.
- The Conference of Chief Justices and the Conference of State Court Administrators adopted Resolution 1-2025, which supports exploring "Authorized Justice Practitioner" programs—including CJWs and paraprofessionals—to expand access to justice.

The State Bar *of California*

Slide 6

ED1 [@Zelnick, Jennifer] What do you think about moving this between slides 5 and 6?
Doherty, Erika, 2025-09-08T19:58:42.980

ZJ1 0 Great, idea, done!
Zelnick, Jennifer, 2025-09-08T20:19:14.103

Legal Aid's Proposal for a California CJW Program

- The proposal would establish a statewide program where trained nonlawyers (CJWs) provide limited scope legal services to low-income Californians under the supervision of an attorney at an authorized legal services organization (LSO).
- The LSTFC would review applications and authorize LSOs (both State Bar grantees and non-grantee organizations).
- Authorized LSOs would certify individual CJWs to the State Bar and annually report data to the State Bar. The authorized LSO would develop its own training curricula, area(s) of law and scope of practice, and supervision requirements.
- The State Bar would develop a process for authorized LSOs to certify individual CJWs, post the roster of authorized LSOs online, and report to the Legislature and Supreme Court all complaints against CJWs annually.
- The program would be evaluated after five years to assess the impact of the program, community trust and engagement, and costs.

Legal Aid's Proposal for a California CJW Program

State Bar staff and the authors presented the proposal to the Legal Services Trust Fund Commission (LSTFC) and the Program Development and Impact (PDI) committee.

The PDI committee formed a working group to further review the proposal and draft a letter to the authors with additional feedback. The letter will express support to develop a statewide program and recommend the authors consider several suggestions.

The working group will present its recommendations to the PDI committee at its October 24, 2025, meeting, and again to the LSTFC at its November 7, 2025, meeting for approval.

The State Bar *of California*

CJW Working Group Feedback

Labor Implications

The working group recommends that the proposal authors proactively work with relevant legal aid and community-based organization unions. This will ensure the authors can address any concerns unions may have about the implementation of a CJW program.

Ensuring Quality Controls

- The proposal would allow legal services organizations to determine their own CJW certification criteria and process.
- The working group will recommend minimum ethics training requirements as a compromise between flexibility and standardized quality controls.

Ensuring Quality Supervision

- The proposal does not mandate the degree and quality of supervision.
- The working group seeks to balance permitting authorized LSOs to determine their supervision structure with ensuring public protection.

Funding Questions

In the absence of dedicated funding:

- How will State Bar grantees pay for the program?
- How will the State Bar expense program administration for non-grantees?
- How will the five-year evaluation be funded?

The State Bar of California

CJW Working Group Feedback (continued)

Expanding Access in Attorney Deserts

- The proposed CJW program offers an opportunity to expand access to justice in California's attorney deserts.
- Questions remain about whether the use of Interest on Lawyers' Trust Accounts funds can support out-of-county work without statutory and/or rule changes.

Inclusion of the 2024 CA JGS

- The proposal was published in December 2024, several months before the release of the 2024 CA JGS. It cites data from the 2019 JGS.
- The working group recommends the authors update relevant data points with figures from the 2024 CA JGS.

Supreme Court and Legislative Support

- How will the authors ensure Supreme Court and legislative buy-in?
- The working group recommends the authors engage in outreach with legal aid, community-based organizations, and the private bar preemptively to demonstrate community support.

Addressing Public Harm

- The proposal includes a literature review of nonlawyer legal help in the past 50 years.
- More explicit discussion of public harm/lack of harm, and how the public gets legal help without an attorney would strengthen the proposal.

Discussion

- California's justice gap continues to grow.
- The 2022–2027 Strategic Plan, Goal 2 implementation steps were developed to address the 2019 Justice Gap Study findings.
- Other jurisdictions demonstrate that licensure reform—including CJW programs—can expand access to justice.
- In addition to its current work plans to address the justice gap, what additional steps—if any—would the Board like the State Bar to take?

EXHIBIT 26

The State Bar of California

Community Justice Worker (CJW) Working Group Fourth Meeting

Jennifer Zelnick, Principal Program Analyst, Office of Access & Inclusion

September 29, 2025

Agenda

- Working Group Goals
- Draft Letter to *the CJW Proposal* Authors
- Draft Memo to the Program Development and Impact Committee
- Draft Annotated *CJW Proposal*
- Feedback on Union Suggestion
- Discussion: Edits and Additional Questions/ Feedback
- Next Steps

The State Bar *of California*

Working Group Goals

- Provide written feedback to the authors of the *CJW Proposal for California:*
  - Present to the PDI committee at its October 24, 2025, meeting; and
  - Present to the LSTFC at its November 7, 2025, meeting.

Draft Letter to *the CJW Proposal* Authors

The State Bar *of California*

Overview

- Supports establishing a statewide CJW program, especially to help shrink the justice gap for low-income, rural, and underserved Californians;
- Encourages the authors to engage with feedback in the letter and the annotated copy of *the CJW Proposal*; and
- Provides eight major suggestions.

Comment A: Foreground Consumer Protection and Lack of Public Harm

- *The CJW Proposal* would benefit from a more direct conversation of consumer protection and public harm—including evidence of the lack of public harm from trained nonlawyers.
- The authors already cite relevant studies to this effect, but do not make an argument. These sources are cited in footnotes or explained (without asserting a position) in an appendix.
- The letter recommends foregrounding that nonlawyer help is not monolithic, and that the public already pursues various types of nonlawyer help for legal problems. Each source of help presents unique risks and benefits.
- The letter suggests adding additional data points to demonstrate the positive impact of CJWs—such as CJWs securing over $23.6 million in SNAP benefits for clients in Alaska. This data can help the authors argue that Californians may experience more harm—such as lack of access to benefits to which they are legally entitled—in the absence of CJWs.

Comment B: Implement Quality Control Standards to Support Consumer Protection

- Acknowledges one reason the Supreme Court declined the Blue Ribbon Commission's proposal for a Portfolio Bar Exam (PBE) was related to concerns about quality controls.
- Similarly addresses a major critique of the Paraprofessional Proposal was the lack of supervision and regulation.
- The letter acknowledges that, while programmatic flexibility may encourage more organizations to participate, the absence of minimum training and supervision standards risks replicating the concerns the Supreme Court identified about the PBE: inconsistent competency and uneven quality of services across authorized LSOs.
- The CJW Proposal also stipulates that CJWs may only transfer their credential to another authorized LSO once the new organization certifies the CJW's qualifications. Nontransferable credentialing could deter potential CJWs from participating as tying an individual's credential to an organization may limit career mobility.

Comment B: Implement Quality Control Standards to Support Consumer Protection

- The LSTFC recommends implementing minimum quality control standards to ensure basic parity among CJWs across all authorized LSOs. This will lower administrative burdens for LSOs, create opportunities for resource sharing, and foster public trust.
- The LSTFC recommends establishing a standardized scope of practice for individual areas of law, standardizing training, and standardizing supervision requirements.
- The State Bar could create a foundational and mandatory training module for all CJWs covering ethics, professional competency, and relevant rules to ensure minimum competency across LSOs.
- The LSTFC recommends CJWs complete a minimum of four hours of legal ethics training prior to certification, including at least one hour on implicit bias/bias-reducing strategies and at least one additional hour on the elimination of bias. This recommendation mirrors attorney MCLE ethics requirements and will strengthen public trust by ensuring all CJWs demonstrate the integrity essential to client confidence in legal aid.

Comment C: Demonstrate Broader Support for a Statewide CJW Program

- Demonstrating broader community support (e.g., with data from focus groups, surveys, or letters of support) would support developing a statewide CJW program.
- Support from low-income and underserved Californians, community-based organizations (CBOs), and other stakeholders not listed as co-authors would strengthen the proposal.
- The letter recommends engaging unions representing paralegals and other nonlawyer staff, attorneys, and staff at relevant CBOs to preempt questions about labor relations and demonstrate support for scaling CJWs statewide.
- Developing a checklist or MOU template for authorized LSOs to share with CBO partners would help proactive identify and address relevant labor relations questions about employment, benefits, workers' compensation, and liability.

Comment D: Further Consider Program Costs and How to Fund the Program

- The LSTFC estimates staffing to support the proposed LSTFC role will require between 0.5 to 1.5 FTEs of senior-level support (approximately $128,000 to $385,000 annually). This is likely more than *the CJW Proposal* estimates. *The CJW Proposal* also does not estimate staffing needs for authorized LSOs, or how these positions will be funded.
- While the LSTFC permits the use of IOLTA, EAF, and discretionary grants to fund certain qualifying nonlawyer activities, relying on these funding sources risks straining already limited resources.
- The LSTFC would welcome the opportunity to administer dedicated CJW funding to support a statewide program and foster workforce development for CJWs employed by authorized LSOs in rural counties.
- IOLTA funds cannot be used to review applications, provide technical assistance, or monitor authorized LSOs that are not IOLTA grantees. A dedicated funding source could support administrative costs to support the participation of non-grantee LSOs.

Comment E: Balance Rigorous, Skilled Program Evaluation with Low Costs

- The Board of Trustees noted that evaluating the program after five years may delay necessary course-correction. The letter proposes a staged evaluation at years two and five to timely adjust the program as needed.
- The letter notes that one of the LSTFC's core responsibilities as a grant administrator is program evaluation. Noting that robust evaluation requires specialized expertise, early data collection, and staffing support, the LSTFC proposes the State Bar's Office of Research and Statistics (ORS) to lead or manage program evaluation. Delegating program evaluation to ORS would help balance rigorous evaluation with keeping costs low.

Comment F: Work with the LSTFC to Advance Necessary Rule Changes

- *The CJW Proposal* references California Rule of Court 9.4, which pertains to the Committee of Bar Examiners. Rule 9.45, which the authors also reference, discusses legal aid. The LSTFC suggests the authors revise references to Rule of Court 9.4 to reference Rule 9.45 instead.
- The LSTFC recommends that it begins to work with the LSTFC Rules Committee to explore possible statutory and/or rule changes necessary to implement a statewide CJW program. Some potential statutory and rule revisions may include:
  - Clarifying IOLTA eligibility for CJW work to allow QLSPs to use IOLTA funds for CJW activities, including creating mechanisms to do out-of-county CJW work;
  - Expanding the definitions of qualifying services for support centers so they may supervise CJW volunteers;
  - Enabling support centers to supervise CJWs to provide services in any county;

Comment F: Work with the LSTFC to Advance Necessary Rule Changes

  - Explore permitting IOLTA billing for supervision of non-grantee LSOs, such as allowing support centers to bill IOLTA to supervise CJWs employed at non-grantee authorized LSOs if the support center consults annually with the local QLSP to assess community needs; and
  - Consider allowing support centers to use IOLTA funds to employ CJWs as part of their advocacy support services.
- The letter notes that statutory or Rule of Court changes would likely need approval from the Board of Trustees. Statutory or Rule changes related to grant administration must be approved by the Board unless the Board finds that the recommendation conflicts with the State Bar's statutory, fiduciary, or legal obligations (Business and Professions Code section 6210.5, subdivision (e)(3)).

Comment G: Update the Proposal with Data from 2024

- *The CJW Proposal* was written in December 2024, several months before *the 2024 California Justice Gap Study* was published. The authors should consider updating the proposal to include data from *the 2024 Justice Gap Study*, as well as *the 2024 Legal Market Landscape Report.*
- The annotated proposal includes specific suggestions about data points that could be updated, as well as others that were not included in the 2024 study.

Comment H: Further Clarification Needed for the Roles of the LSTFC and State Bar

- The LSTFC supports *the CJW Proposal's* suggestion that the LSTFC serve as the authorizing body for the program. It recommends that the LSTFC, as the authorizing body, should develop a system to review complaints against LSOs and, as necessary, cooperate in investigation of complaints to the State Bar.
- The LSTFC seeks clarification about how CJW ethics will be regulated, and by whom.
- The LSTFC recommends the authors clarify what CJWs professional obligations would be and what authority would investigate allegations of CJW misconduct.
- Clarifying whether CJWs will be subject to the same obligations as attorneys, and whether CJWs would be subject to the jurisdiction of the Office of Chief Trial Counsel (OCTC) and/or the Supreme Court would strengthen the proposal.
- Further collaboration with the State Bar would be necessary if complaint investigation and prosecution were contemplated through OCTC.

Draft Memo to the Program Development and Impact Committee

The State Bar of California

Overview

- Provides background on the access to justice crisis, U.S. jurisdictions with successful CJW programs, and recent resolutions in favor of CJW programs passed by the ABA (in August 2025) and the Conference of Chief Justices and the Conference of State Court Administrators (in July 2025);
- Recommends that the PDI committee and the LSTFC support the establishment of a statewide CJW program to shrink California's justice gap, especially for underserved and rural Californians and those living in attorney deserts.
- Reviews *the CJW Proposal*, including the recommended roles for the LSTFC and the State Bar; and
- Summarizes the eight areas of feedback provided in the letter.

Resolutions

RESOLVED, that the Legal Services Trust Fund Commission (LSTFC) Program Development and Impact committee (PDI committee) recommends that the LSTFC support the *Increasing Access to Justice through Community Justice Workers: A Proposal for California* (*the CJW Proposal*) authors' efforts to establish a statewide community justice worker program in California, especially for underserved and rural Californians and those living in attorney deserts; and it is

FURTHER RESOLVED, that the PDI committee recommends that the LSTFC provide the written feedback in Attachment B to *the CJW Proposal* authors to help strengthen the proposal.

Draft Annotated *CJW Proposal*

The State Bar *of California*

Annotations Overview

- Highlights data points from *the 2019 Justice Gap Study* and identifies new data from *the 2024 California Justice Gap Study* and *the 2024 Legal Market Landscape Report*.
- Notes where *the CJW Proposal* references Rule of Court 9.4 instead of 9.45.
- Other recommendations described in the letter.

Feedback on Union Suggestion

- The authors were open to this suggestion and have spoken informally to some groups.
- They are researching what groups they should approach for these questions about labor and unions.
- Does the working group have specific organizations or contacts it recommends the authors contact?





Discussion: Edits and Additional Questions/ Feedback

- Would the working group like to make any edits to the three documents, ahead of submitting them for the PDI Committee meeting on October 24?
- Which—if any—of the questions or comments are sufficiently resolved (e.g., not necessary to include in a letter)? For example, do we wish to comment on the five-year evaluation? If so, perhaps we should focus our comments on funding concerns.

The State Bar of California

Next Steps

Date	Activity	Purpose
September 29, 2025	Working group meeting	Review the first draft of the feedback letter.
October 7–8, 2025	Working group meeting	Review the final draft of the feedback letter (if needed) and prepare the PDI Committee presentation.
October 24, 2025	PDI Committee meeting	Present the draft feedback letter to the PDI Committee for its approval to recommend to the LSTFC.
November 7, 2025	LSTFC meeting	Present the draft feedback letter to the LSTFC for its approval to send to the *CJW Proposal for California* authors.

Thank You!

If you have questions, ideas, or want to discuss the *CJW Proposal for California* before the next working group meeting, please email Jennifer Zelnick, Principal Program Analyst, at jennifer.zelnick@calbar.ca.gov.



The State Bar *of California*

EXHIBIT 27

The State Bar of California

OPEN SESSION
AGENDA ITEM
4.2 OCTOBER 2025
LEGAL SERVICES TRUST FUND COMMISSION PROGRAM DEVELOPMENT AND IMPACT COMMITTEE

DATE: **October 24, 2025**

TO: **Members, Legal Services Trust Fund Commission Program Development and Impact Committee**

FROM: **Judge Kristin Rosi, Chair, Legal Services Trust Fund Commission Program Development and Impact Committee**
Erin Smith, Member, Legal Services Trust Fund Commission Program Development and Impact Committee
Judge Bryant Yang, Advisor, Legal Services Trust Fund Commission Program Development and Impact Committee
Jennifer Zelnick, Principal Program Analyst, Office of Access & Inclusion

SUBJECT: **Approval of Recommendation Regarding Letter to the Community Justice Workers Proposal Authors**

EXECUTIVE SUMMARY

In December 2024, a group of Interest on Lawyers' Trust Accounts (IOLTA)-funded programs, the Legal Aid Association of California, and others (the authors) published *Increasing Access to Justice Through Community Justice Workers: A Proposal for California* (*the CJW Proposal*). *The CJW Proposal* seeks to establish a program for trained nonlawyers known as community justice workers (CJWs) to provide limited legal services to low-income Californians under the supervision of an attorney at an authorized legal services organization. *The CJW Proposal* aims to develop a California-specific program similar to successful programs in several other jurisdictions, including Alaska and Utah. The Legal Services Trust Fund Commission (LSTFC) Program Development and Impact (PDI) committee formed a working group to provide written feedback to *the CJW Proposal* authors. This memo provides an overview of the working group's recommendations to support establishing a California CJW program, as well as recommendations to strengthen the proposal.

RECOMMENDED ACTION

To help address California's justice gap, the working group recommends that the PDI committee and the LSTFC support the authors' efforts to establish a statewide CJW program in California. The working group also recommends that the PDI committee and the LSTFC provide written feedback on *the CJW Proposal* (Attachments A and B) to help further strengthen the proposal.

DISCUSSION

POSITION ON THE CJW PROPOSAL

Gideon v. Wainwright (1963) established the right to legal representation in criminal cases. However, over sixty years later, the American legal system still does not guarantee a right to counsel for civil legal matters. This means that many individuals who cannot afford an attorney either do not pursue legal help or choose to represent themselves in court. Across the United States, 74 percent of low-income households experienced at least one civil legal problem in the past year, and low-income Americans did not receive any or enough legal help for 92 percent of their significant civil legal problems.[1] Californians face similar barriers to justice: in 2024, 73 percent of California households reported experiencing at least one civil legal problem in the past year and 86 percent of the lowest-income Californians received no or inadequate help to resolve their civil legal problems.[2]

Several jurisdictions throughout the United States—including Alaska, Arizona, Delaware, Hawai'i, Montana, and Utah—have implemented successful CJW programs to help expand access to justice. Although individual programs vary, broadly, CJWs are trained nonlawyer members of the community who provide limited legal services to low-income individuals. Unlike attorneys, CJWs are not licensed by a State Bar to practice law individually. CJWs may only provide legal services under the supervision of an attorney who is employed by a nonprofit legal services organization.

Data from other jurisdictions demonstrates that CJWs increase access to justice for low-income and underserved communities, especially in rural areas. Alaska's CJW program began in 2019 and as of September 2024, nearly 300 CJWs have been trained. *The CJW Proposal* reports that Alaska's CJWs have a 100 percent success rate in assisting clients with accessing SNAP benefits and drafting wills. The Alaska Legal Services Corporation (ALSC) sponsors Alaska's CJW program. Through CJWs, ALSC doubled the total number of clients served annually (Attachment A). In Arizona, the Supreme Court adopted Code of Judicial Administration (ACJA) section 7-211: Community-Based Justice Work Service Delivery Models, in March 2025. This followed a successful CJW pilot program that began in October 2019. Under ACJA section 7-211, CJWs may provide services in domestic violence, evictions/housing stability, public benefits, debt relief, unemployment law, and consumer issues.[3] Utah's CJW programs are part of a larger regulatory

[1] Legal Services Corporation, *The Justice Gap: The Report,* https://justicegap.lsc.gov/resource/executive-summary/.
[2] The State Bar of California, *2024 California Justice Gap Study*, https://publications.calbar.ca.gov/justice-gap-study/.
[3] For more information see https://www.azcourts.gov/Portals/0/0/admcode/pdfcurrentcode/7-211%20Community-Based%20Justice%20Work%20Service%20Delivery%20Models%203-2025.pdf?ver=SNTp9aFWa4X91-hORzoNBA%3d%3d.

sandbox (a program that allows participants to test new ways of delivering legal services in a controlled environment). Utah's CJW programs currently help low-income Utahns with domestic violence advocacy, housing stability, and medical debt. Between June 2021 and June 2024, its domestic violence CJW program assisted 358 clients, closed 327 cases, and provided 841 unique legal services. 77 percent of clients served live in rural areas of Utah.[4]

In addition to promising data from active CJW programs in other jurisdictions, the American Bar Association (ABA), the Conference of Chief Justices (CCJ), and the Conference of State Court Administrators (COSCA) have passed resolutions in support of exploring CJW programs. Specifically, in August 2025, the ABA passed Resolution 605, which calls on states, courts, and other jurisdictions to explore CJW programs for individuals who cannot afford an attorney, as one means to narrow the justice gap and ensure equitable access to legal help. In July 2025, CCJ/COSCA adopted Resolution 1-2025, which supports exploring "Authorized Justice Practitioner" programs—including CJWs and paraprofessionals—to expand access to justice. These resolutions demonstrate that key legal and judicial stakeholders support efforts to shrink the justice gap by standing up CJW programs.

The working group recommends that the PDI committee and the LSTFC support the authors' efforts to establish a statewide CJW program to shrink California's justice gap, especially for underserved and rural Californians and those living in attorney deserts. The successes of other jurisdictions' CJW programs presents an opportunity to build on proven models to create a program tailored to California. *The CJW Proposal* notes that many IOLTA organizations already rely on justice workers to support their work (see Attachment A, page 9). Therefore, supporting a statewide CJW proposal could help the LSTFC scale up legal services that grantees already identify as valuable and necessary.

OVERVIEW OF THE CJW PROPOSAL

The CJW Proposal recommends that IOLTA grantees as well as legal services organizations that are not IOLTA recipients would apply to the LSTFC for authorization to operate a CJW program. IOLTA-funded organizations could complete a streamlined application process because they already undergo extensive yearly vetting through the annual IOLTA application process. *The CJW Proposal* recommends that legal services organizations authorized by the LSTFC (authorized LSOs) be able to train and supervise CJWs to provide legal advice and other limited legal services under attorney supervision to Californians who are eligible for legal aid.

It is unlawful and constitutes the unauthorized practice of law (UPL) for someone who is not a State Bar licensee or "otherwise authorized pursuant to statute or court rule" to practice law in California.[5] Although CJWs would be supervised by attorneys, because they would be able to provide limited legal services, CJWs would most likely be considered to be practicing law. As such, *The CJW Proposal* recommends implementing a waiver-based program to ensure that programs and CJWs do not violate UPL. After approving a legal services organization's application, the LSTFC would authorize the legal services organization to run a waiver-based

[4] For more information see Timpanogos Legal Center, Certified Advocate Partners Program https://www.timplegal.org/legal-services/certified-advocate-partners-program.

[5] See Business and Professions Code §§ 6125–6126.

CJW program. Authorized LSOs would certify individual CJWs who satisfy all requirements and successfully complete all trainings. Because this system would involve permitting CJWs to practice law on a limited basis, the program would need to be authorized by statute, a new California Rule of Court, or both. Any request for such legislative or Rule of Court changes would most likely need to be authorized by the Board of Trustees of the State Bar.

As the authorizing body for LSOs, the LSTFC would ensure that applicants met the proposed CJW program requirements, including:

- A training plan for CJWs, including a curriculum, testing, experiential learning, and ethics;
- A plan to ensure that participating clients provide informed consent to working with a CJW;
- A plan to protect the security of clients' files; and
- Proof of malpractice insurance that covers the work of CJWs.

The LSTFC would also need to notify the State Bar when it authorizes legal services organizations to host CJWs.

The CJW Proposal contemplates distinct roles for the LSTFC and the State Bar. The proposed role for the State Bar includes:

- Maintaining and posting a roster of authorized LSOs online;
- Maintaining a roster of each authorized LSO's active CJWs, including their scope of practice;
- Developing a process for authorized LSOs to certify individual CJWs to the State Bar for inclusion in the organization's roster, including:
    - The CJW's name;
    - The CJW's legal service area(s); and
    - The CJW's scope of activities;
- Communicating the roster of authorized LSOs and their CJWs to other relevant authorities, including those who enforce UPL; and
- Reporting to the Legislature and Supreme Court all complaints received against CJWs annually, including:
    - The nature of the complaint; and
    - The complaint resolution.

For more details on *the CJW Proposal's* recommendations, including the proposed roles of the State Bar and the California Access to Justice Commission, see Attachment B.

SUMMARY OF FEEDBACK FOR THE CJW PROPOSAL AUTHORS

The CJW Proposal authors are gathering stakeholder input to incorporate into *the CJW Proposal* ahead of pursuing legislative support during the next bill cycle and requested feedback and support from the LSTFC. During the LSTFC's May 21, 2025, meeting, staff provided an overview of the proposal. The authors presented the proposal in further detail to the PDI committee at its June 11, 2025, meeting. After these presentations, the PDI committee formed a working group to further study *the CJW Proposal* and provide the authors with written comments.

The working group's letter to the authors (Attachment A) outlines eight suggestions to strengthen the proposal. Broadly, the suggestions were related to:

- Foregrounding consumer protection and public harm. This includes suggesting a deeper analysis of research demonstrating the lack of public harm caused by allowing trained nonlawyers to perform the work CJWs are contemplated to do;
- Implementing minimum quality controls to support consumer protection and ensure CJWs satisfy standardized minimum training and supervision criteria;
- Demonstrating community support from the communities that CJWs would serve, community-based organizations, and other stakeholders not already engaging with CJWs;
- Further considering program costs and funding needs. This includes analysis about the State Bar's inability to administer a CJW program for non-IOLTA grantees in the absence of a new funding stream, and suggestions to advocate for dedicated funding to support both grantee and non-grantee organizations to ensure the program serves the most underserved Californians.
- Balancing implementing a rigorous, staged evaluation while keeping costs low. This includes a discussion of the LSTFC's core responsibility to evaluate its grant-funded programs. Since the State Bar would plan to evaluate the program, the LSTFC advocates that the State Bar's Office of Research and Statistics administer the proposed program evaluation. The LSTFC recommends staging the evaluation in years two and five to allow for timely program adjustments as needed. This would likely result in cost savings;
- Recommending the LSTFC explore potential statutory and rule revisions as part of the Rules Committee workplan to ensure the program addresses service disparities for Californians living in rural counties and attorney deserts;
- Updating citations to reflect data from the *2024 California Justice Gap Study* and the State Bar-commissioned 2024 *Legal Market Landscape Report*; and
- Additional recommendations related to the proposed roles for the LSTFC and the State Bar. This includes recommending the LSTFC develop a system to review complaints against authorized LSOs; working with the State Bar to develop a system to roll out communication about the roster of authorized LSOs and CJWs; and clarifying disciplinary obligations and procedures for CJWs.

The working group annotated *the CJW Proposal* to provide more specific edits for some recommendations (Attachment B).

PREVIOUS ACTION

None

FISCAL/PERSONNEL IMPACT

The working group estimates building and reviewing applications, providing technical assistance to authorized LSOs, rulemaking, and monitoring participating programs will require between

0.5 and 1.5 full-time equivalent of senior-level staffing support, or approximately $128,000 to $385,000 annually.

AMENDMENTS TO RULES

None

AMENDMENTS TO BOARD OF TRUSTEES POLICY MANUAL

None

STRATEGIC PLAN GOALS & IMPLEMENTATION STEPS

Goal 2. Protect the Public by Enhancing Access to and Inclusion in the Legal System

b. 4. Make the State Bar a leader in connecting the public to legal representation by enhancing public awareness of the resources available and continually enhancing those resources.

RESOLUTIONS

Should the Legal Services Trust Fund Commission Program Development and Impact committee concur, it is:

RESOLVED, that the Legal Services Trust Fund Commission (LSTFC) Program Development and Impact committee (PDI committee) recommends that the LSTFC support the *Increasing Access to Justice through Community Justice Workers: A Proposal for California* (*the CJW Proposal*) authors' efforts to establish a statewide community justice worker program in California, especially for underserved and rural Californians and those living in attorney deserts; and it is

FURTHER RESOLVED, that the PDI committee recommends that the LSTFC provide the written feedback in Attachments A and B to *the CJW Proposal* authors to help strengthen the proposal.

ATTACHMENT(S) LIST

A. Letter to the authors of *Increasing Access to Justice through Community Justice Workers: A Proposal for California*

B. Annotated *Increasing Access to Justice through Community Justice Workers: A Proposal for California*

The State Bar of California

November 7, 2025

Community Justice Workers Legal Services Organization Working Group, c/o Leigh Ferrin
100 Bush Street
Suite 508
San Francisco, CA 94104

RE: Comments on *Increasing Access to Justice Through Community Justice Workers: A Proposal for California*

Dear Community Justice Workers Legal Services Organization Working Group:

Thank you for providing the draft *Increasing Access to Justice Through Community Justice Workers: A Proposal for California (the CJW Proposal)* and inviting the Legal Services Trust Fund Commission (LSTFC) to submit comments. The LSTFC supports the authors' efforts to establish a statewide Community Justice Worker (CJW) program in California to help shrink the state's justice gap, especially for low-income, rural, and underserved Californians. We encourage the authors to engage with the high-level comments, suggestions, and questions outlined below and in the attached annotated copy of *the CJW Proposal*.

Comment A: Foreground consumer protection and lack of public harm.

The LSTFC believes the evidence from similar programs in other jurisdictions has demonstrated strong records of public protection and lack of public harm. A more direct conversation of consumer protection and public harm—including evidence of the lack of public harm from trained nonlawyers—would strengthen the authors' case for a statewide CJW program. *The CJW Proposal* notes that the public seeks legal help broadly, not exclusively from lawyers. The authors assert that qualified nonlawyers are capable of providing competent legal help (7).[1] To support these claims, the authors cite several studies on nonlawyer legal services and access to justice projects in footnotes.

For example, Rebecca Sandefur argues that lawyers' current monopoly over legal practice restricts consumer choice and prevents members of the public who cannot afford an attorney from accessing needed help.[2] The authors also reference an article by Cayley Balser et al. that

[1] Parentheticals refer to page numbers of *the CJW Proposal*.
[2] Rebecca L. Sandefur, "Legal Advice from Nonlawyers: Consumer Demand, Provider Quality, and Public Harms," *Stanford Journal of Civil Rights & Civil Liberties* 16 (2020) 283, 289–97.

recommends regulators interested in protecting the public should ask consumers how much risk they are willing to assume in exchange for legal help.[3] Balser et al. further argue that comparing new legal service models like CJWs to lawyers is a flawed methodology, particularly for low-income populations who cannot afford attorneys. More apt comparisons would examine the value of getting help from a nonlawyer advocate versus appearing as a self-represented litigant or perhaps declining to pursue legal action altogether.

Although the sources cited in these footnotes grapple with balancing consumer protection and innovative service delivery models to shrink the justice gap, the text of *the CJW Proposal* does not engage these arguments directly. Additionally, while Appendix A notes that empirical research over the last 50 years has largely demonstrated that "trained nonlawyers can perform as well as, or sometimes better than, their J.D.-touting counterparts" (19), the authors frame Appendix A as a literature review rather than as part of an explicit argument.

When members of the public cannot afford an attorney, they turn to a variety of alternative sources for help, including nonlawyer friends and family; notarios; Internet searches; or all-purpose, publicly available AI chatbots like ChatGPT. Nonlawyer help is not monolithic, and each source of help presents unique risks and benefits. For example, the State Bar warns about the potential for fraud among notarios. Conversely, an example of a regulated, nonlawyer option for individuals who need immigration legal help is to engage an Accredited Representative. The United States Department of Justice's Recognition and Accreditation Program increases the availability of immigration legal services to low-income individuals by authorizing qualified Accredited Representatives at approved nonprofit organizations to represent individuals before the federal government. The Recognition and Accreditation Program demonstrates how accredited nonlaywers can provide quality immigration legal services to individuals who may otherwise not have access to legal help. This program demonstrates that creating a regulatory framework and oversight mechanisms boost public protection.

The CJW Proposal notes that CJWs in Alaska have a 100 percent success rate in assisting clients with accessing SNAP benefits and drafting wills. Including additional quantifiable data on client success could strengthen this claim. For example, at the 2025 Equal Justice Conference, researchers reported that Alaska's CJW program secured over $23.6 million in SNAP benefits for their clients in a 40-month period. Highlighting such data underscores the tangible benefits CJWs provide to legal aid clients. *The CJW Proposal* could argue that vulnerable, underserved Californians may experience more harm—such as lack of access to benefits to which they are legally entitled—in the absence of CJWs. The LSTFC therefore recommends foregrounding this

[3] Cayley Balser, Erin Weaver, Stacy Rupprecht Jane, Gabriela Elizondo-Craig, Tate Richardson, and Antonio Coronado, "Leveraging Unauthorized Practice of Law Reform to Advance Access to Justice," *Law Journal for Social Justice* 18 (2023) 66, 97–100.

analysis in the body of the report to proactively address questions about harm and consumer protection.

Comment B: The LSTFC recommends implementing minimum quality control standards to support consumer protection and ensure a degree of parity for CJWs at different authorized legal service organizations (LSOs).

Establishing a statewide CJW program will likely require support from both the California Supreme Court and Legislature. Both bodies have previously declined to pursue efforts to expand access to legal help, whether by increasing the number of attorneys (the Blue Ribbon Commission on the Future of the Bar Exam (Blue Ribbon Commission)) or by expanding the types of legal services providers (the California Paraprofessional Program Working Group (CPPWG)) in part due to consumer protection concerns.

The Supreme Court declined to adopt the Blue Ribbon Commission's proposed alternative pathway for attorney licensure via a Portfolio Bar Exam (PBE), as explained in Administrative Order 2024-10-10-01. The decision reflected concerns about the PBE's fairness, ethics, and reliability. Specifically, the Supreme Court noted that the variability in supervisors' involvement in portfolio preparation made it difficult—if not impossible—to standardize applicant evaluations and would likely result in admitting attorneys with inconsistent levels of competency. Relatedly, a major critique of the CPPWG's paraprofessional proposal was that paraprofessionals would lack supervision and could become another unregulated, unscrupulous industry akin to notarios. *The CJW Proposal* stipulates that CJWs would "serve under the supervision of… attorneys" (3) and, unlike notarios, would function as employees or supervisees of authorized LSOs rather than being paid directly by clients. However, the authors do not define what supervision would mean in practice for CJWs.

The CJW Proposal envisions a statewide program in which each authorized LSO develops its own training curricula, area(s) of law and scope of practice, and supervision requirements. Programmatic flexibility may encourage broader participation in a statewide CJW program. Conversely, the absence of minimum training and supervision standards risks replicating the very concerns the Supreme Court identified with the PBE: namely, inconsistent competency and uneven quality of services across authorized LSOs.

At a minimum, the LSTFC recommends implementing minimum standards to ensure quality controls and basic parity among CJWs across all authorized LSOs. Standardization would lower administrative burden for individual programs, create opportunities for resource sharing, foster public trust, and further public protection. Some specific suggestions for standardization include establishing a standardized scope of practice for individual areas of law, standardizing a minimum level of training, and standardizing minimum supervision requirements. In addition, the State Bar could create a foundational and mandatory training module for all CJWs covering ethics, professional competency, and relevant rules. This shared training would ensure

minimum competency across authorized LSOs. While authorized LSOs would need to develop the remainder of their training curricula, such a foundational requirement would reduce duplication of efforts and resources.

The LSTFC further recommends that CJWs complete at least four hours of legal ethics training prior to certification, including at least one hour on implicit bias/bias-reducing strategies and at least one additional hour on the elimination of bias more broadly. This recommendation mirrors attorney MCLE ethics requirements per State Bar rule 2.72(C)(2)(c). Requiring the same ethics standards for CJWs as for attorneys would strengthen public trust and ensure that CJWs—whether supervisees or employees of an authorized LSO—demonstrate the integrity essential to client confidence in legal services. Ethics trainings are available to legal aid advocates via the Legal Aid Association of California and the LSTFC can explore other free or low-cost training opportunities.

Additionally, the LSTFC cautions against the use of the term "volunteer" to describe CJWs employed by non-LSO community organizations and supervised by authorized LSOs. "Volunteer" may create confusion about the employment status and employment protections available for CJWs. Instead, the LSTFC recommends referring to CJWs not employed by authorized LSOs as "supervisees," as this term more accurately reflects the employment status of CJWs and the relationship between the CJW and the authorized LSO.

Comment C: Section C: Community Justice Workers in California, should demonstrate broad community support for a statewide CJW program.

The CJW Proposal offers compelling examples of CJWs already operating in California, such as through Stay Housed LA, Legal Link, and California Rural Legal Assistance, Inc. (9). These cases demonstrate community support for individual, grantee-run programs. The authors could further strengthen the proposal by showing evidence of broader community support for and interest in a statewide program that scales up this work. Data from focus groups, surveys, or letters of support would demonstrate that low-income and underserved Californians, community-based organizations (CBOs), and other stakeholders not yet engaged with CJWs see value in a statewide program. Support from additional legal aid organizations not listed as co-authors would also reinforce this point.

The LSTFC also recommends engaging unions representing paralegals and other nonlawyer staff, attorneys, and staff at relevant LSOs and CBOs to further illustrate community support. Union endorsements could preempt questions about labor relations and demonstrate alignment between attorneys and nonlawyer workers in scaling CJWs statewide. Finally, the LSTFC suggests that the authors develop a checklist or memorandum of understanding template for authorized LSOs to share with CBO partners. Such a tool would help authorized LSOs and CBOs proactively identify and address questions related to employment, benefits, workers' compensation, and liability.

Comment D: The Estimated Funding Needs Section notes that the framework is "meant to leverage already existing entities and resources" to implement the proposed program. Further consideration about program costs and how to fund these costs are needed.

The CJW Proposal notes its framework is "meant to leverage already existing entities and resources" but the cost estimates are limited. It projects staffing support of approximately 50 percent Full-Time Equivalent (FTE) each for the application and oversight bodies and 25 percent FTE for technical support but does not account for staffing needed for program development or implementation support for authorized LSOs. Nor does it specify how these positions would be funded (18).

The LSTFC estimates that building and reviewing applications, providing technical assistance to authorized LSOs, rulemaking, and monitoring participating programs would require between 0.5 and 1.5 FTEs of senior-level staffing support, or approximately $128,000 to $385,000 annually. The LSTFC notes the proposed program may require additional funding for authorized LSOs and participating CBOs. Even if all CJWs serve as supervisees of LSOs—employed by CBOs rather than LSOs—authorized LSOs would need resources for curriculum development, training, supervision, administrative support, and other indirect costs. Some authorized LSOs may also need to enter into or amend a contract with CBOs that employ CJWs to offset these expenses. The LSTFC recommends that the authors begin advocating for a dedicated funding stream to support a statewide CJW program as a means of expanding—rather than redistributing—existing resources, which are already constrained. While the LSTFC permits the use of Interest on Lawyers' Trust Accounts (IOLTA), Equal Access Fund (EAF), and all discretionary grants to fund certain qualifying nonlawyer activities, relying on these sources risks straining legal infrastructure further. A statewide CJW program in California would not only provide needed services but could also create workforce development opportunities, particularly for CJWs employed by authorized LSOs in rural communities. The LSTFC would welcome the opportunity to administer such funds.

Additionally, IOLTA funds cannot be used to review applications, provide technical assistance, or monitor authorized LSOs that are not IOLTA grant recipients. IOLTA funds may only be allocated to qualified legal services projects (QLSPs) and support centers, and to the State Bar's actual administrative costs from running that program (Business and Professions Code section 6216).[4] Accordingly, a dedicated funding source is needed to cover administrative costs and support the participation of non-grantee LSOs. The LSTFC recommends securing such a funding source, which would allow the State Bar to oversee non-grantee LSOs and enable the CJW program to expand service areas with maximum flexibility and to reach rural, underserved communities and Californians living in attorney deserts. Of course, any formal request for

[4] See Business and Professions Code section 6213, subdivisions (a)(1) and (2) for the definition of a QLSP, and Business and Professions Code section 6213, subdivision(b) for the definition of a support center.

legislation on these matters would most likely need to be approved by the State Bar's Board of Trustees.

Comment E: Program Evaluation: The LSTFC recommends implementing a rigorous, staged two- and five-year evaluation while keeping evaluation costs low.

The CJW Proposal contemplates evaluating the program after five years. One of the LSTFC's core responsibilities in administering grant funding is program evaluation. Robust evaluations require specialized expertise, early data collection, and sufficient financial resources to support dedicated staff. The State Bar's Office of Research and Statistics (ORS) is staffed by highly trained experts in data collection and evaluation, and regularly conducts rigorous, impartial assessments of the State Bar. It also partners with external evaluators when additional independence is needed. Since the LSTFC would already need to evaluate authorized LSOs as part of its administration of a statewide CJW program, delegating ORS to lead or manage the program evaluation would help ensure rigor while offering cost savings, allowing more funding to support the direct work of CJW programs. The LSTFC recommends that ORS lead or manage the program evaluation to ensure these costs remain low. The LSTFC also recommends implementing a staged evaluation at years two and five to ensure any necessary adjustments to the program can be addressed timely.

Comment F: Possible Policy Vehicles for Implementation of the California CJW Proposal: The LSTFC recommends the authors work with the LSTFC to advance rule changes to ensure the CJW program addresses the needs of underserved and rural Californians and those living in attorney deserts.

The *2024 California Justice Gap Study* shows that rural Californians and residents of attorney deserts face disproportionate barriers to legal help. Only 3 percent of active attorneys live in rural California, though 12 percent of residents do. Moreover, the number of counties that are attorney deserts has grown from 11 to 16 in the last decade.[5]

The CJW Proposal identifies three possible policy vehicles for implementation:

1. Adding a new section to California Rule of Court 9.4;
2. Adding a new section to California Rule of Court 9.4 combined with a statutory waiver to Business and Professions Code section 6125; or
3. Via an order issued by the California Supreme Court.

The LSTFC notes that California Rule of Court 9.4 pertains to the Committee of Bar Examiners, whereas Rule 9.45, which *the CJW Proposal* also references, discusses legal aid. The LSTFC suggests the authors revise page 16 to only reference Rule 9.45.

[5] The State Bar of California: *2024 California Justice Gap Study Report*, p. 4.

The LSTFC also recommends beginning to work with the LSTFC Rules Committee to explore possible statutory and/or rules changes that would allow QLSPs and support centers to deploy CJWs in ways that expand service to rural Californians and individuals residing in attorney deserts.

The primary purpose and function of a QLSP is to provide free civil legal services to statutorily indigent Californians (Business and Professions Code section 6213, subdivision (a)(1)) and must expend 75 percent or more of its funds on the provision of free civil legal services to statutorily indigent persons (State Bar rule 3.671). A QLSP may only use IOLTA funds in the county where the funds were allocated, and county allocations reflect the amount of qualifying work a QLSP completed in the prior year (Business and Professions Code section 6216, subdivision (b)(1)(A)). This creates a negative feedback loop: QLSPs without an allocation in a particular county cannot use IOLTA funds to expand there. This prohibition on out-of-county IOLTA expenditures limits QLSPs' ability to expand their service delivery area as they must do so using non-IOLTA funds. As a result, existing attorney deserts remain entrenched.

Unlike QLSPs, support centers' primary purpose and function is to provide "legal training, legal technical assistance, or advocacy support for civil legal services without charge" (Business and Professions Code section 6213, subdivision (b)). State Bar Rule 3.672(C)(2) provides that "legal support services" may include direct civil legal services to an indigent client of a QLSP only when acting as co-counsel with an attorney "employed or recruited by" a QLSP, or at the request of a QLSP if the QLSP is unable to assist the client. In all other circumstances, support centers may not use grant funds for direct services to individual legal aid clients. A support center is presumed to its meet primary purpose and function if it expends at least 75 percent of its funds on qualifying services (State Bar rule 3.671(B)). Given the geographic restrictions on QLSPs discussed above, these restrictions on support services may hinder support centers from deploying CJWs, even though they still satisfy the primary purpose and function requirement.

The LSTFC recommends exploring statutory and rule revisions during the Rules Committee codification to help ensure that a statewide CJW program can address service disparities in rural counties and attorney deserts. The LSTFC may charge the Rules Committee to explore the below statutory and rule revisions:

- Explore clarifying IOLTA eligibility for CJW work: Amend the State Bar Rules to allow QLSPs to use IOLTA funds for CJW activities (including supervision, administrative, and indirect costs) in counties where grantees do not receive an IOLTA allocation. This could be accomplished either by:
    - Creating a carveout for CJW work that is agnostic to the county in which the work was performed; or
    - Permitting QLSPs to count CJW expenditures toward the county where the client resides, the CJW's home office, or the QLSP's office where the CJW's supervisor is located.

- Consider expanding definitions of qualifying services: Amend the definitions of "training," "technical assistance," and/or "advocacy support services" to permit support centers to supervise CJW supervisees consistent with their primary purpose.
- Examine authorizing statewide supervision: Clarify that support centers may supervise CJWs to provide services in any county.
- Explore permitting IOLTA billing for supervision of CJWs employed at non-grantee LSOs. This may include revising State Bar Rule 3.672(C)(2)(a) and (b) to permit support centers to bill IOLTA for supervising CJWs employed at non-grantee authorized LSOs, provided the support center consults annually with the local QLSP to assess community needs. If the QLSP confirms that it cannot provide or specifically requests these services, a rule change may not be necessary.
- Consider allowing CJW employment by support centers: This may require permitting support centers to use IOLTA funds to employ CJWs as part of their advocacy support services.

Any formal requests for statutory or Rule of Court changes by the State Bar or LSTFC would most likely need to be approved by the State Bar's Board of Trustees. Changes to the State Bar Rules are also subject to Board approval, though the Board must approve LSTFC-recommended State Bar Rules related to grant administration "unless the Board of Trustees of the State Bar makes a finding in writing that a recommendation conflicts with a statutory, fiduciary, or legal obligation of the State Bar." (Business and Professions Code section 6210.5, subdivision (e)(3).)

Comment G: The LSTFC suggests the authors update *The CJW Proposal* to reflect data from the *2024 California Justice Gap Study* and the 2024 *Legal Market Landscape Report*.

The CJW Proposal was published in December 2024, several months before the State Bar released the *2024 California Justice Gap Study.* The LSTFC recommends updating the proposal to include this most recent data. Citing the *2024 California Justice Gap Study* will further demonstrate that California's justice gap not only remains pervasive but, in some areas, has grown since the first study was published in 2019. In addition, in 2024, the State Bar commissioned the *Legal Market Landscape Report*, which analyzes California's legal market finding that the increasing concentration of legal services for organizational clients has further reduced the availability of resources for individuals. Incorporating these findings would strengthen the authors' case for a statewide program.

Comment H: Additional recommendations related to the proposed roles for the authorizing body and the State Bar.

The CJW Proposal recommends the LSTFC for the authorizing body for the program. The LSTFC agrees with this suggestion. The LSTFC recommends that, in addition to the responsibilities outlined in *the CJW Proposal*, the authorizing body should develop a system to review

complaints against authorized LSOs, and, as necessary, cooperate in investigation of complaints to the State Bar.

The CJW Proposal recommends the State Bar regulate the CJW program by maintaining and posting a roster of authorized LSOs and individual CJWs; developing a process for authorized LSOs to certify individual CJWs to the State Bar; communicating the roster of authorized LSOs and CJWs to enforcers of the unauthorized practice of law; and reporting annually to the Legislature and Supreme Court about all complaints received against CJWs. The LSTFC recommends working with the State Bar to explore how to practically roll out communication of the roster of authorized LSOs and their CJWs. The LSTFC seeks clarification about who would regulate CJWs and how CJWs' ethics would be regulated. The LSTFC recommends the authors clarify what professional obligations would be applicable to CJWs and what authority would investigate allegations of CJW misconduct. Additionally, clarification about whether CJWs would be subject to the same obligations as attorneys, and whether CJWs would be subject to the jurisdiction of the State Bar and/or the Supreme Court, would strengthen the proposal. If complaint investigation and prosecution were contemplated through the State Bar, further collaboration with the State Bar would be required.

The attached annotated *CJW Proposal* provides specific suggestions for replacing 2019 data with updated references from the *2024 California Justice Gap Study* and the *Legal Market Landscape Report*.

Please do not hesitate to contact Program Director Doan Nguyen at doan.nguyen@calbar.ca.gov or Principal Program Analyst Jennifer Zelnick at jennifer.zelnick@calbar.ca.gov should you have any questions or concerns.

Sincerely,

Erica Connolly, Co-Chair
Legal Services Trust Fund Commission

Amin H. Al-Sarraf, Co-Chair
Legal Services Trust Fund Commission

ATTACHMENT B

ATTACHMENT G

Increasing Access to Justice THROUGH Community Justice Workers

A Proposal for California



LAAC
Legal Aid Association of California

OneJustice

LEGAL LINK

December 2024

Increasing Access to Justice THROUGH Community Justice Workers

A Proposal for California

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LAAC Legal Aid Association of California

OneJustice

LEGAL LINK

IN JULY 2024, the Legal Aid Association of California convened a working group of leaders from California's legal aid organizations to explore the potential for a Community Justice Worker (CJW) program. This group was led by Legal Link and OneJustice, with advice and support from Stanford Law School's Deborah L. Rhode Center on the Legal Profession and Frontline Justice. Discussions over the last six months focused on expanding the reach and impact of legal aid organizations by allowing nonlawyer staff and community members, with attorney training and supervision, to independently do discrete legal procedures for which there is a deep and unmet need. This would require authorization to perform a limited range of activities which could fall within the scope of the practice of law.

We are thrilled to share our CJW proposal for California, which would allow legal aid organizations to extend and expand on their work for the lowest-income Californians using a CJW model, as many other states are now doing. The proposal describes a framework for California legal aid organizations seeking to certify individual Community Justice Workers who will serve under the supervision of their attorneys. This is not a proposal for specific projects; rather, it is a proposal for an authorization and oversight framework for a California CJW program in which legal aid organizations across the state can choose to participate. The proposal seeks to streamline the process for groups already under IOLTA review and scrutiny, while allowing other organizations to enter the CJW Program should they meet a set of requirements. Our group is hopeful that our efforts to innovate and provide deeply needed services in a safe and measured way are embraced and carried forward.

Sincerely,

Christian Abasto, Disability Rights California, Legal Advocacy Unit Director
Silvia Argueta, Legal Aid Foundation of Los Angeles, Executive Director
Monique Berlanga, Centro Legal de la Raza, Executive Director
Diego Cartagena, Bet Tzedek Legal Services, President & CEO
Tiela Chalmers, former Alameda County Bar Association, CEO
Leigh Ferrin, OneJustice, Program Director
Heather Hostler, California Indian Legal Services, Executive Director
Jessica Jewell, California Rural Legal Assistance, Executive Director
Zach Newman, Legal Aid Association of California, Directing Attorney
Pablo Ramirez, Legal Aid Society of San Bernardino, Executive Director
Tessie Solorzano, Inland Counties Legal Services, Executive Director
Sacha Steinberger, Legal Link, Founder and Co-Executive Director

Access to justice is a cornerstone of our legal system, encapsulated by the four words inscribed on the façade of the United States Supreme Court building: *equal justice under law*. Unfortunately, these words do not reflect the reality of our American legal system in practice. Most Americans do not have any access to justice at all.

The statistics are shocking.[1] 75 percent of low-income households experienced at least one civil legal problem in the past year, and 40 percent experienced at least five.[2] 92 percent of those people do not receive any or enough legal assistance.[3] In state courts, which handle 98 percent of civil disputes, lawyers represent both sides in only 24 percent of cases on average.[4] In some legal areas, such as family, housing, and debt, 80 to 90 percent of parties have no lawyer at all.[5] These figures only capture those who make it to court—many more struggle with serious legal problems outside the formal judicial process.[6] These individuals often navigate complex and life-altering issues—affecting their family, safety, housing, employment, and finances—without any legal guidance.

California is significantly affected by this crisis. The State Bar's 2019 study of the justice gap revealed that 55 percent of Californians faced at least one civil legal problem in the past year (13 percent experienced six or more), yet 85 percent received insufficient or no legal help.[7] The California justice gap transcends socioeconomic status, with merely 27 percent of low-income and 34 percent of middle-income Californians receiving legal assistance.[8] This study also showed that the most vulnerable among us experience more legal problems than others: those living in a household with a person with disabilities experience an average of three times as many legal problems and survivors of domestic violence or sexual assault expe-

1 Americans experience an estimated at least 150 million new civil justice problems annually. *See* Rebecca L. Sandefur & James Teufel, *Assessing America's Access to Civil Justice Crisis*, 11 U.C. Irvine L. Rev. 753, 765 (2020). At least 120 million of those problems go unresolved. *See* Institute for the Advancement of the American Legal System & Hague Institute for Innovation of Law, Justice Needs and Satisfaction in the United States of America 235 (2021), https://iaals.du.edu/sites/default/files/documents/publications/justice-needs-and-satisfaction-us.pdf.

2 *Justice Gap Research*, Legal Servs. Corp., https://www.lsc.gov/initiatives/justice-gap-research.

3 *Id.*

4 Anna E. Carpenter, Colleen F. Shanahan, Jessica K. Steinberg, & Alyx Mark, *American's Lawyerless Courts: Legal Scholars Work to Recommend Large-Scale Changes in Lawyerless Civil Courts*, No. 4 A.B.A. L. Prac. 48 (2022); Nat'l Ctr. for State Cts., Civil Justice Initiative: The Landscape of Civil Litigation in State Courts 31 (2015), https://www.ncsc.org/__data/assets/pdf_file/0020/13376/civiljusticereport-2015.pdf. Equally significant is the stark disparity in representation rates between plaintiffs and defendants. On average, 92 percent of plaintiffs are represented by counsel, whereas only 26 percent of defendants have legal representation. *Id.*

5 Lucy Ricca and Eric Helland, Conference on Access to Justice in California 1 (2024), https://www.rand.org/content/dam/rand/pubs/conf_proceedings/CFA3400/CFA3411-1-v2/RAND_CFA3411-1-v2.pdf.

6 Rebecca Sandefur, *What We Know, and Need to Know, About the Legal Needs of the Public*, 67 S.C.L. Rev. 443, 447-449 (2015).

7 Rocio Avalos, Erica Carroll, Lisa Chavez, Hellen Hong, Linda Katz, and Eli Wallach, California Justice Gap Study: Executive Report 6 (2019).

8 *Id.*

rience eight times as many legal problems.[9] Millions of Californians, unable to secure the help they need, fall into this justice gap often with lasting impacts for their lives, families, and communities.[10]

A. Traditional Approaches are Insufficient to Address the Immense Need

Traditional approaches to addressing the access to justice crisis—like increasing the overall number of lawyers or mandating pro bono service—have proven ineffective. The number of lawyers has increased in both absolute terms and proportional to the American population and yet the numbers of self-represented people continue to grow.[11] And, while many lawyers are dedicated to pro bono work, only a small portion of hours across the profession are committed to it.[12] Even a significant increase in pro bono efforts would fall short—studies show that if every lawyer in the U.S. provided 100 additional pro bono hours per year, each household with a civil legal issue would still receive only 30 minutes of legal help.[13]

Those who know this problem best, who see the overwhelming need day after day, are the members of California's legal aid community. These lawyers, paralegals, administrative assistants, and other staffers bear the brunt of this ever-worsening issue. Although they offer many services to thousands of Californians in need every single day, they lack the resources to meet the overwhelming demand. Legal Service

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9 *Id.* at 9.

10 Unresolved legal issues often result in severe hardship to individuals and negative consequences to society at large. See Pascoe Pleasence et al., *Mounting Problems: Further Evidence of the Social, Economic and Health Consequences of Civil Justice Problems*, in Transforming Lives: Law and Social Process 67, 79, 83-85 (2006); Sandefur, *supra* note 6, at 457; Deborah L. Rhode & Scott L. Cummings, *Access to Justice: Looking Back, Thinking Ahead*, 30 Geo. J. Leg. Ethics 485, 488 (2017).

For example, eviction can have serious social and health consequences, including interrupted employment, worsened physical health, and increased rates of mental health disorders such as depression and suicide. The associations between eviction and child health have been well documented, including adverse birth outcomes, increased rates of food insecurity among young children, and poor physical and mental health in adolescents and young adults. These consequences create a vicious circle that results in more housing instability and economic challenges. *See Prevalence and Impact of Evictions*, United States Dep't of Hous. and Urb. Dev., https://www.huduser.gov/portal/periodicals/em/summer21/highlight2.html#:~:text=Moreover%2C%20the%20toll%20of%20evictions,housing%20instability%20and%20economic%20challenges. Eviction is also associated with premature death. Simply being threatened with an eviction—even when that case did not result in an eviction judgment—was associated with a 19% increase in mortality. Receiving an eviction judgment was associated with a 40% increase in the risk of death. See Nick Graetz, Carl Gershenson, and Matthew Desmond, *Rising Rents and Evictions Linked to Premature Death*, Eviction Lab, https://evictionlab.org/rising-rents-and-evictions-linked-to-premature-death/.

In the context of family law, failure to address unmet legal needs may put at lives at risk through domestic violence, and result in loss of child custody by deserving parents, children left in physically dangerous, psychologically traumatic, or financially inadequate family settings, and related problems. See Deborah L. Rhode, Access to Justice 3 (2004). Similarly, the long-term effects of domestic abuse can significantly impact a victim's or witness's life. Domestic violence significantly reduces educational achievements, self-assessed health levels, and life satisfaction; and increases mental health risks. *See* Liu Bo and Yating Peng, *Long-Term Impact of Domestic Violence on Individuals-An Empirical Study Based on Education, Health and Life Satisfaction*, Behav. Scis. (2023).

Moreover, legal debt collection practices devastate vulnerable individuals by trapping them in a cycle of mounting fees, wage garnishment, and court judgments. *See They Need Legal Advice on Debts. Should It Have to Come From Lawyers?,* N.Y. Times (2022), https://www.nytimes.com/2022/01/25/nyregion/consumer-debt-legal-advice.html.

11 The population of U.S. lawyers has grown by 400% since 1970. In 1970, the number of lawyers in the United States was 326,842. In 2022, the number is 1,327,010. Am. Bar Assoc., Profile of the Legal Profession 2022, https://www.abalegalprofile.com/demographics.php#anchor1. Furthermore, the United States had one lawyer for every 695 people in 1951 and one lawyer for every 252 people in 2005. *See* Clara N. Carson & Jeeyoon Park, American Bar Foundation, The Lawyer Statistical Report: The U.S. Legal Profession In 2005, 2 (2005).

12 Gillian K. Hadfield and Deborah L. Rhode, *How to Regulate Legal Services to Promote Access, Innovation, and the Quality of Lawyering*, 67 Hastings L. J. 1191, 1193 (2016).

13 *3 ways to meet the "staggering" amount of unmet legal needs*, Am. Bar Ass'n, https://www.americanbar.org/news/abanews/publications/youraba/2018/july-2018/3-ways-to-meet-the-staggering-amount-of-unmet-legal-needs-/.

Corporation-funded organizations turn away nearly half of the requests they receive due to limited resources.[14] Moreover, recent data show that these limited resources prevent California's legal aid attorneys from fully resolving at least one-third of the problems presented to them.[15]

Increasing funding for legal aid will also not close this gap. California would need an estimated 8,961 additional full-time attorneys to address the legal needs of its low-income residents, requiring nearly $900 million in additional annual funding.[16] For comparison, California legal aid organizations cumulatively employ approximately 1,500 attorneys per year and leverage 16,000 pro bono attorneys to provide services.[17]

Recruiting and retaining attorneys has also become a critical challenge for California's legal aid organizations. A 2010 survey by the Legal Aid Association of California (LAAC) revealed that over one-third of legal aid attorneys left within three years of being hired. By 2019, this trend worsened, with one-third of attorneys leaving within just two years.[18] Financial stress due to low salaries is the number one reason legal aid attorneys give for leaving so soon.[19] Low compensation is compounded by California's high cost of living and attorneys' high student loan expenses, which have grown significantly over the years.[20] Law students, facing high costs of living and ever-burgeoning student loans, are turning to careers in government or at private law firms instead of legal aid organizations.[21]

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14 *Justice Gap Research*, *supra* note 2.

15 Avalos et al., *supra* note 7, at 14.

16 *Id.*

17 *Id.*

18 *Id.* The Bay Area and Southern California—the regions with the highest costs of living and the greatest numbers of low-income people—have seen the largest increases in turnover rates and largest decreases in length of employment. The San Joaquin Valley and Central California Region continues to have the highest turnover rates, with more than a fifth of their attorneys leaving each year. *See* Legal Aid Ass'n of Cal., Justice at Risk: More Support Needed for Legal Aid Attorneys 2-3, 39 (2020).

19 The difference in the comments the attorneys made about legal aid salaries between the 2010 Study and the 2019 Study is extraordinary. Whereas in the 2010 Study, the attorneys commented on how hard it was to be in legal aid unless they had a spouse/partner who also had an income, the 2019 Study's attorneys—and some leadership—are now saying it is financially impossible without a spouse/partners' income, particularly in the higher cost areas of the state. Some law students who want to work in legal aid say they will "figure it out," but they are unlikely to be able to do that and will leave when the financial realities set in. Nearly one in five of the legal aid attorneys have taken on second jobs to supplement their salaries. Others will just give up on legal aid entirely and look to start their legal careers elsewhere. *See* Legal Aid Ass'n of Cal., *supra* note 18, at ii, 18, 76.

20 Legal aid attorneys' educational debt has grown significantly since the 2010 Study because of the increase in law school tuition. In addition, the Public Service Loan Forgiveness program's requirement to put loans in "income-based repayment" plans is causing the amount of debt to balloon for many of the legal aid attorneys after they graduate. More than 60 percent of the attorneys currently have educational debt with the median amount in the $125,000 – $149,000 range. More than one-third of these attorneys have $200,000 – $300,000+ in educational debt. *Id.* at 22.

21 *See* Cal. Access to Just. Comm'n, Legal Aid Recruitment, Retention, and Diversity: A Report to the State Bar of California 3, 14-16 (2022). Public defender work is a stark example of the differences in salaries. The median entry-level salary for a legal aid attorney is $57,000. Entry-level salaries range from $46,000 – $78,000. Only three of the 50+ organizations have a starting salary of $70,000 or more. In contrast, an entry level salary for a Deputy Public Defender in Sacramento County is more than $110,000 and in San Francisco is nearly $122,000. These entry level salaries can be more than double the starting salaries in legal aid and are more than the median salaries for all experienced level attorney positions in legal aid organizations, except for senior legal management in some. *See* Legal Aid Ass'n of Cal., *supra* note 18, at 24, 28-29.

B. Community Justice Workers: An Emerging Movement Leveraging an Existing Resource

Recognizing the seriousness of this crisis, jurisdictions across the United States are exploring new avenues to expand access to justice.[22] One such solution is the Community Justice Worker (CJW) program, where trained nonlawyers provide free limited legal services to individuals facing civil legal issues, such as debt collection or eviction. Unlike legal paraprofessionals, who must navigate a lengthy state-run licensure process to avoid violating unauthorized practice of law rules, CJWs receive a waiver that provides a limited exemption to these regulations as long as they operate under the supervision of an approved legal aid organization.

While this approach may seem novel, individuals without law licenses have long been authorized to provide representation in immigration matters, Tribal courts, and for those incarcerated in prisons and jails, as well as before various state and federal administrative agencies.[23] Indeed, as far back as 1960, the United States Supreme Court, in *Sperry v. Florida*, a case concerning a nonlawyer patent practitioner, noted that nonlawyers had practiced before the Patent Office since its establishment in 1836 and the Office had stated that "there is no significant difference between lawyers and nonlawyers, either with respect to their ability to handle the work or with respect to their ethical conduct."[24]

For more than half a century, researchers have studied nonlawyer assistance to gain a better empirical understanding of the benefits and risks. This body of research indicates the following conclusions:

1. Consumers want legal help, including from nonlawyers.[25]
2. Qualified nonlawyers are competent and effective at providing help.[26]

This evidence opens up new pathways to addressing the justice crisis.[27] Lawyers remain the central legal practitioners, but lay advocates can help lawyers to serve more people more efficiently. Community-based

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22 Ricca and Helland, *supra* note 5.

23 Matthew Burnett and Rebecca L. Sandefur, *A People-Centered Approach to Designing and Evaluating Community Justice Worker Programs in the United States*, 51 Fordham Urb. L. J. 1509 (2024). *See also Director Rachel Rossi of the Office for Access to Justice Delivers Keynote Remarks at the Launch of the Alaska Legal Services Corporation's Community Justice Worker Resource Center,* Dep't of Just. Office of Pub. Affs. (Oct. 25, 2023), https://www.justice.gov/opa/speech/director-rachel-rossi-office-access-justice-delivers-keynoteremarks-launch-alaska-legal (articulating how programs similar to CJW programs are being developed for Tribal communities in Oklahoma, Montana, Arizona, and Minnesota).

24 Sperry v. Florida, 373 U.S. 379, 402 (1963).

25 *See, e.g.*, Rebecca L. Sandefur, *Legal Advice from Nonlawyers: Consumer Demand, Provider Quality, and Public Harms*, 16 Stan. J. Civ. Rts. & Civ. Liberties 283, 289–97 (2020), Natalie Anne Knowlton, Inst. for the Advancement of the Am. Legal Sys., Cases Without Counsel: Our Recommendations After Listening to the Litigants 29 (2016); Cayley Balser et al., *Leveraging Unauthorized Practice of Law Reform to Advance Access to Justice*, 18 L. J. for Soc. Justice 66, 97–100 (2024).

26 *See*, *e.g.*, Mary E. McClymont, Geo. Just. Lab, Nonlawyer Navigators in State Courts: An Emerging Consensus (2019); Rebecca L. Sandefur & Thomas M. Clarke, Am. B. Found., Nat'l Ctr. for State Cts. & Pub. Welfare Found., Roles Beyond Lawyers: Evaluation of the New York City Court Navigators Program (2016); David Kraft et al., Five Year Review of Paralegal Regulation: Research Findings. Final Report for the Law Society of Upper Canada 6 (2012); Herbert M. Kritzer, Legal Advocacy: Lawyers and Nonlawyers at Work (1998); Sandefur, *supra* note 26, at 297–308; Jessica K. Steinberg et al., *Judges and the Deregulation of the Lawyer's Monopoly*, 89 Fordham L. Rev. 1315 (2021); Deborah L. Rhode, *What We Know and Need to Know About the Delivery of Legal Services by Nonlawyers*, 67 S.C. L. Rev. 429, (2016); Richard Moorhead et al., *Contesting Professionalism: Legal Aid and Nonlawyers in England and Wales*, 37 Law & Soc'y Rev. 765, 785–87 (2003); Nora Freeman Engstrom, *Effective Deregulation: A Look Under Hood of State Civil Courts*, Jotwell, Oct. 31, 2022.

27 *See* Appendix A for a more detailed discussion of the key studies of nonlawyer-provided legal assistance.

lay helpers can serve as an important part of the legal ecosystem, enabling communities to identify and vindicate their legal rights and prevent avoidable harm from having devastating impacts.

Several states have successfully created and implemented programs allowing limited legal practice by CJWs. The Alaska Supreme Court recently approved a waiver of unauthorized practice of law restrictions, allowing the Alaska Legal Services Corporation to train and supervise community justice workers in Alaska's rural and remote communities, many of which qualify as legal deserts.[28] Delaware recently authorized registered agents to represent both landlords and tenants in eviction cases, correcting a previous inequality where only landlords could employ non-lawyers.[29] In Arizona, Domestic Violence Legal Advocates and Housing Stability Legal Advocates provide general legal information and legal advice regarding housing matters, orders of protection, and family law.[30] In Utah, CJW programs include domestic violence advocates, housing stability advocates, and medical debt advocates. And in June, Texas launched a CJW program through the Texas Access to Justice Foundation Moonshot Grant program, where lay advocates will address unmet legal needs in areas such as consumer debt, credit repair, housing, public benefits, and special education.[31]

Alaska's program, which is the largest and about which we have the most information, has had remarkable success. As of September 30, 2024, 271 CJWs have completed training, and another 143 are progressing.[32] Because part of the training program requires case handling under supervision, all 414 CJW's are handling cases. The CJWs have a 100 percent success rate in the areas in which they have been deployed so far (primarily assisting clients with accessing SNAP benefits and drafting wills). Due to the success of the program, Alaska Legal Services Corporation (the sponsoring legal organization) was able to double the overall number of clients assisted in one year.

Utah's domestic violence advocate program, though smaller in size, has also had a positive impact, particularly in the large rural areas of Utah. From June 2021 through June 2024, advocates helped clients seek 225 protective orders.[33] In those 225 cases, an *ex parte* order was issued in 205 cases and denied in only 20 cases.[34] Timpanogos Legal Center (TLC), the supervising legal aid organization, notes that of the 205 with *ex parte* orders issued, only 17 were denied final orders by the court. 39 clients chose to dismiss their order request at the final hearing, usually because an alternative agreement was reached. 118 clients were

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28 *Community Justice Worker Program*, Alaska Legal Servs. Corp., https://www.alsc-law.org/cjw/.

29 *Delaware to Allow Non-Lawyer Representation for Tenants in Eviction Cases*, Nat'l Low Income Hous. Coal., https://nlihc.org/resource/delaware-allow-non-lawyer-representation-tenants-eviction-cases.

30 *Legal Advocates*, Ariz. Jud. Branch, https://www.azcourts.gov/cld/Legal-Advocates.

31 *Innovative Legal Program To Provide Access to Justice for More Texans*, Texas RioGrande Legal Aid, https://www.trla.org/news-releases/innovative-legal-program-to-provide-access-to-justice-for-more-texans#:~:text=The%20Moonshot%20Grant%20funding%20will,TLSC%2C%20and%20TRLA%20as%20subgrantees. The Texas Supreme Court recently issued an order delaying the effective date of the rule changes related to CJW practice activities.

32 Information provided by Sarah Carver, Co-Director, Alaska Community Justice Worker Resource Center (Nov. 1, 2024).

33 Timpanogos Legal Center, Certified Advocate Partners Program, Our Data, https://www.timplegal.org/legal-services/certified-advocate-partners-program (last visited Nov. 1, 2024).

34 *Id.*

awarded final orders.[35] TLC compared this outcome data with that collected by the Administrative Office of the Utah State Courts and found that clients receiving legal services from an advocate are roughly twice as likely to receive a protective order than the statewide average.[36]

C. Community Justice Workers in California

Community justice workers can be a key part of solving the justice crisis in California. Indeed, many of our legal service organizations already rely on justice workers to provide key connections with communities, legal information, and referrals back to legal aid. For example, Stay Housed LA is a broad partnership between government, legal aid organizations, and community-based organizations in Los Angeles.[37] Volunteers and staffers in the community-based organizations provide legal information and referrals to the legal aid partners for Los Angelenos facing housing insecurity. In Northern California, Legal Link works across a range of community-based organizations, training their staffers and volunteers to provide "legal first aid" by surfacing and identifying legal problems and assisting people with finding legal services.[38]

But the impact could be so much more significant. Legal aid stands ready to train and deploy supervised CJWs to help more people reach just resolutions to their problems. By allowing CJWs to perform activities such as providing simple legal advice to someone who has just received an unlawful detainer complaint or assisting another with answering a debt collection complaint or advising a survivor on how to file for an order of protection, our legal aid organizations can increase their impact in vulnerable communities, drive better outcomes for those we seek to serve, and build trust with our community partners.

As Jessica Jewell, the Executive Director of California Rural Legal Assistance, explains, "In rural areas, California Rural Legal Assistance, Inc. is often the only source of legal assistance for people trying keep their homes, maintain their incomes, and protect their safety. But millions of California residents are priced out of private legal representation, and demand for our services far outpaces our capacity. This proposal would allow for innovative growth of resources to serve communities' legal goals."

The proposal below offers a framework for individual California legal aid organizations to seek approval to develop and deploy programs in their communities that allow supervised CJWs to offer simple legal services, including specific legal advice and assistance, in core areas of need. This proposal recognizes the expertise legal aid organizations have in their communities and their legal needs and seeks to allow each organization the flexibility to develop programs that respond to those needs. In this way, the framework

35 *Id.* 31 clients were awaiting final outcome at the time of reporting.

36 *Id.* The referenced statewide average includes both lawyer represented and self-represented parties. Email from Hayley Cousins (Nov. 7, 2024) (on file with authors).

37 Stay Housed LA, https://www.stayhousedla.org/about (last visited Nov. 13, 2024).

38 *Our Mission and Model,* Legal Link, https://legallink.org/our-mission-model/ (last visited Nov. 13, 2024).

allows for variability among programs, including in legal areas served, status of justice worker (whether internal employee or volunteer from an outside community-based organization), training, and range of activities. CJWs are not independently licensed, can only serve clients of the legal aid organization, and cannot charge any fees for their work. The legal aid organizations themselves are responsible for the work performed by the CJWs and must hold malpractice insurance covering the CJWs.

The proposal is intentionally simple, leveraging already existing regulatory structures and provider organizations to ensure minimal expense and maximal scale and sustainability. We believe this proposal outlines a path for California to move forward to respond to the urgent access to justice crisis, simply by allowing trusted providers to deploy justice workers at scale and in more impactful ways.

We look forward to feedback on this proposal and working with our partners in California to create thoughtful, impactful, and sustainable solutions to the justice crisis.

In the proposed program, **authorized legal services organizations** will be able to deploy **Community Justice Workers** ("CJWs") to provide legal services, including legal advice and other activities that may be defined as the practice of law, to clients who otherwise qualify for free legal services from the organization. Authorization in the program allows these organizations and their certified CJWs to provide these services without violating Cal. Bus. & Prof. Code 6125 *et seq*., California's prohibition on the unauthorized practice of law by those who are not licensees of the State Bar of California. The ability of nonlawyer CJWs to provide legal services under the umbrella of this program is controlled by and overseen by the authorized legal services organizations and limited to the scope of activities approved by that organization.

1 Definitions

a **Authorized legal services organization** is an organization satisfying the definition set forth in Cal. Bus. & Prof. Code 6159.51 which satisfactorily completes the application process and is authorized by the authorizing body to implement and run a waiver-based CJW program.

b **Community Justice Worker** is a person not licensed by the California State Bar who has satisfied the training and other relevant requirements as certified by an authorized legal services organization and will engage in the limited practice of law exclusively for an authorized legal services organization.

2 Authorization of legal services organizations

a The [authorizing body][39] shall serve as the authorizing body for legal services organizations seeking to certify CJWs under this program. The [authorizing body] shall review each application and ensure that the application sufficiently sets forth the requirements listed below. The authorizing body shall then issue authorization for the legal services organization pursuant to this program. The authorizing body shall immediately submit the organization's authorization to the California State Bar.

b Application requirements:

i. The applicant organization shall attest to status as a legal aid organization under the definition set forth in Cal. Bus. & Prof. Code 6159.51;

ii. The applicant organization shall submit a narrative description of the proposed CJW program;

iii. The applicant organization shall submit its CJW training plan, including any curricular components, testing, and experiential learning

39 The working group suggests that the Legal Services Trust Fund Commission is a possible entity to serve as the authorizing body for this program. The Commission's role in overseeing and administering IOLTA funds to California legal aid organizations makes it well placed to perform the authorizing role for this program. However, we believe that the final determination of the appropriate entity for the authorizing body should be made through additional discussions with the Supreme Court, State Legislature, State Bar, and legal services organizations. We do note that should the Commission be found to be the appropriate entity, it seems likely that Cal. Bus. & Prof. Code § 6210.5 would need to be amended to allow the Commission to perform the authorization function.

1. The training plan shall include training on ethical service provision, including the Rules of Professional Conduct.

iv. The applicant organization shall submit a plan for gaining informed and written client consent to receive CJW-provided services;

v. The applicant organization shall submit a plan for ensuring control and security of the organization's client files;

vi. The applicant organization shall submit proof of malpractice insurance that covers CJWs;

vii. The applicant organization shall attest to the organization's ability to comply with any reporting requirements.

c Organizations which the [authorizing body] has determined currently satisfy the definition of a qualified legal services project under Cal. Bus. & Prof. Code 6213(a)(1) are automatically considered authorized legal services organizations. Such organizations need only submit their intent to launch a qualifying CJW program to the State Bar and must comply with the certification requirements for each CJW as described below.

i. In the case that an organization is no longer a qualified legal services project under Cal. Bus. & Prof. Code 6213(a)(1) but wishes to continue operating as an authorized legal services organization under this program, then the organization shall have [30]days from the date on which it ceased to be a qualified legal services project under Cal. Bus. & Prof. Code 6213(a)(1) to request such continuation from the authorizing body.

Requirements for authorized legal services organizations

a Once authorized, the legal services organization must:

i. Certify each individual CJW to the State Bar once that person has satisfactorily completed the organization's relevant training requirements and submit each CJWs scope of practice, including legal service area(s) and scope of activities.

ii. Report any relevant changes in status, either of the organization or any CJW, including:

1. Immediately inform the State Bar if the organization no longer receives IOLTA funding or stops providing approved services.

2. Immediately inform the State Bar when any CJW is no longer eligible for inclusion in this program, whether by resignation, termination, or other reason.

3. Immediately report any known violations of applicable rules by CJWs to the State Bar. Violation may be grounds for termination of CJW status.

iii. Report the following information to the State Bar on an annual basis, to ensure ongoing feedback for continuous program improvement:

1. Number of clients served by CJWs through the waiver;

2. Hours worked by CJWs;

3. Legal / Financial outcomes

4. Post-services survey of clients served by CJWs;

5. Client Complaints and resolution of complaints, if any; and

6. Certain information on organization's active CJWs, including:

a. gender,
b. age,
c. race/ethnicity;
d. income level;
e. highest level of education;
f. language capability;
g. does the CJW identify as a member of the client community.

4 Requirements for CJWs

a A CJW is not permitted to perform any activities constituting the practice of law outside of the scope of certification submitted by the authorized legal services organization to the State Bar. Any activities constituting the practice of law outside the scope of the certification are subject to enforcement under Cal. Bus. & Prof. Code 6125 *et seq*.

b A CJW is not permitted to charge any fees, including fees structured on a contingent or percentage basis, or for a referral, for legal services provided under this program.

c A CJW's authorization to provide the services outlined in the certification is contingent upon affiliation with an authorized legal services organization. Should that affiliation cease for any reason, the CJW is no longer certified to provide the relevant legal services and will be subject to enforcement under Cal. Bus. & Prof. Code 6125 *et seq*. should the CJW continue to provide such services. However, a CJW may transfer affiliation as contemplated in Section 5 below.

d No disbarred or suspended attorney, whether disciplined in California or any other jurisdiction, may be certified as a CJW.

e Each CJW shall be subject to the California Rules of Professional Conduct, California Rules of Court, and other relevant statutes and rules.

5 CJW Transferring Affiliation

a If a CJW wishes to transfer affiliation from one authorized legal services organization to another, the organization to which the CJW is transferring must independently determine that the CJW is qualified to competently provide services within that organization's program and then certify the CJW to the State Bar as described in 3(a)(i).

b The transferring CJW cannot provide services in the transferee legal services organization until that certification has been accepted by the State Bar.

6 State Bar Role

a The State Bar shall maintain a roster of authorized legal services organizations that shall be posted on its website;

b The State Bar shall maintain a roster of each authorized legal services organization's active CJWs, including their scope of practice;

c The State Bar shall develop a simple process by which authorized legal services organizations can certify individual CJWs to the State Bar for inclusion in the organization's roster of CJWs. Such certification should include:

i. The name of the CJW; and
ii. The scope of practice (legal service area(s) and scope of activities of the CJW).

d The State Bar shall develop a process by which it promptly communicates the roster of authorized legal services organizations and their CJWs to any other relevant authorities, including those authorities responsible for enforcement of Cal. Bus. & Prof. Code 6125 *et seq*.

e The State Bar shall report to the Legislature and Supreme Court all complaints received by the State Bar against active and inactive CJWs, the nature of the complaint, and the resolution on an annual basis.

7 Program Evaluation

a The program shall be evaluated after [5] years.[40] The evaluation shall assess:
i. The number of CJW providers and the number of clients served;
ii. The impact on the ability of legal services organizations to serve their communities, including
  1. Legal and financial outcomes - immediate and longer term;
  2. Impacts on access to justice for underserved communities as a result of the CJW program; and
  3. Community trust and engagement.
iii. Cost of implementation within individual legal services organizations;
iv. Cost of implementation of the program.

40 The working group suggests that the California Access to Justice Commission is an appropriate entity to administer the evaluation of the program but defers determination of this question until after there have been additional discussions with the Supreme Court, State Legislature, the Access to Justice Commission, the State Bar, and legal services organizations.

The working group discussed a range of possible policy vehicles by which the proposed program could be enacted. The working group notes that in all other states implementing CJW programs, the enabling policy vehicle is an order from the state supreme court. This may be a possible approach in California. The group concluded that particular outstanding questions, such as the entity serving as the authorizing body, need to be addressed before the appropriate policy vehicle is identified.

The California Supreme Court has the inherent power to determine who is qualified to practice law in this state.[41] The California State Bar serves as the administrative arm of the Court to effectuate that power.[42] However, the California Legislature also plays a significant role in the regulation of legal services and oversight of the State Bar through the State Bar Act.[43]

The California Supreme Court has found that the legislature may enact rules and regulations related to the practice of law, including admission to practice law, but if those rules and regulations conflict with those imposed by the Supreme Court, then "the legislative enactment must give way."[44] The Legislature may not, using an example from the case law, authorize a person disbarred upon conviction of a crime to practice law again through a pardon statute.[45] Thus, the Court and the Legislature work together to dictate the regulation of the practice of law, but ultimate authority rests with the Court.

We can see this relationship expressed through the State Bar Act and the California Rules of Court. Section 6125 of the State Bar Act states:

No person shall practice law in California unless the person is an active licensee of the State Bar.[46]

Section 6126, however, recognizes that certain people may be authorized by other statutes or rules to perform activities constituting the practice of law. The Section, which lays out the consequences for unauthorized practice, states:

Any person advertising or holding himself or herself out as practicing or entitled to practice law or otherwise practicing law who is not an active licensee of the State Bar, *or otherwise*

41 Cal. Rules of Ct. Rule 9.3: Inherent Power of the Supreme Ct. (2024); *see also* Merco Constr. Eng'rs, Inc. v. Mun. Ct., 581 P.2d 636, 638 (1978) (noting that statements of California courts have consistently supported the contention that the judiciary has the inherent power to regulate the practice of law); Eagle Indem. Co. v. Comm'n of Cal., 18 P.2d 341, 342 (1933) ("The Legislature may, in the first instance, prescribe the qualifications for admission to the bar and define what shall constitute the practice of the law, but regulations to that end must stand the test of judicial inquiry as to their propriety and reasonableness.").

42 *Id.*

43 Cal. Bus. & Prof. Code §§ 6000 et seq., https://www.calbar.ca.gov/Portals/0/documents/rules/State_Bar_Act.pdf.

44 *Merco*, 581 P.2d at 638.

45 *In re* Lavine, 41 P.2d 161, 163-64 (1935).

46 Cal. Bus. & Prof. Code § 6125.

***authorized pursuant to statute or court rule to practice law in this state at the time of doing so*, is guilty of a misdemeanor….**[47]

This language provides safe harbor to a range of people authorized to practice law by statute or rule who are not licensees of the bar, including lay representatives who may represent people before state and federal agencies and people authorized by the Supreme Court through its rules.

For example, the California Rules of Court Title 9, Division 4 concerns "Appearances and Practice by Individuals Who Are Not Licensees of the State Bar of California."[48] This section contains language permitting the practice of law for certain groups of people, including military spouses, law students, and out-of-state arbitration counsel, who are not licensees and thus would otherwise be subject to the prescription of Cal. Bus. & Prof. Code § 6125. In this manner, Sections 6125 and 6126 establish legislative authority over who may and may not practice law in California but build in deference to the Court (as well as other state and federal authorities).

Taking this partnership between the Legislature and the Court into consideration, there are several possible pathways for enacting the proposed CJW program in California.

POSSIBLE PATHWAY #1: New section added to Cal. Rule of Court 9.4.

This division of the California Rules of Court contains sections outlining rules for allowing non-licensed or provisionally licensed individuals to practice law in California.

In this approach, the working group would petition the California Supreme Court, either directly or through the California State Bar, to authorize the proposed program through the Rules of Court by adding a new section to Title 9, Division 4 detailing the program. The Rule could be styled as follows:

Rule 9.45.1 Legal Aid Supervised Community Justice Worker Program

(a) Definitions
(b) Application requirements
(c) Eligibility for certification
(d) Supervision
(e) Compliance and reporting
(f) Transferring affiliation
(g) Program evaluation

47 Cal. Bus. & Prof. Code § 6126(a) (emphasis added).
48 Cal. Rule of Ct. 9.4.

Given the language identified above in Cal. Bus. & Prof. Code § 6126, this section could be added without any statutory change needed (see e.g. Rule 9.41.1, Rule 9.42, Rule 9.45).

POSSIBLE PATHWAY #2: New section added to Cal. Rule of Court 9.4 and statutory waiver enacted to Cal. Bus. & Prof. Code § 6125.

In this approach, the working group would both seek a new Rule of Court as outlined above and a statutory amendment to Cal. Bus. & Prof. Code § 6125:

6125.1

An individual who is not an active licensee of the California State Bar shall be exempt from § 6125 if they qualify for the Community Justice Worker Program outlined in Cal. Rule of Court 9.45.1.

POSSIBLE PATHWAY #3: Order issued by the California Supreme Court.

As noted, the California Supreme Court retains the inherent power to determine who may practice law in this state.[49] The Court could issue an administrative or standing order enabling the program and directing the State Bar and any other relevant bodies to develop the processes and procedures needed to carry out the order. In other states which have implemented these programs, the state supreme courts have issued orders authorizing the program.[50]

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49 *See* sources cited *supra* note 41.

50 *See* Ala. Sup. Ct. Ord. No. 1994; Ariz. Sup. Ct. Admin. Ord. No. 2024-34; *id.* 2024-35; Del. R. Sup. Ct. R. 57.1; Haw. Sup. Ct. Ord. No. SCMF-23-0000343; Utah Sup. Ct. Standing Ord. No. 15; *id.* No. 16.; Tex. Sup. Ct. Ord. No. 24-9050.

This proposal is for a framework to authorize and oversee legal aid organizations using CJWs to offer legal services to their clients. The framework is intentionally simple and meant to leverage already existing entities and resources to perform the proposed tasks. Specifically, we estimate the following:

Staffing support for application body: Approximately 50% FTE

Staffing support for oversight body: Approximately 50% FTE

Technical support: Approximately 25% FTE

We note that this proposal does not incorporate programmatic development or implementation support for legal aid organizations to stand up CJW programs, either individually or collectively. Such support will be needed and LAAC, Legal Link, and other working group organizations are working toward building this support.

APPENDIX A

Overview of empirical research on nonlawyer provided legal assistance

Over the past fifty years, there have been a range of studies looking at legal assistance provided by nonlawyers, assessing different tribunals, at different times, and using different metrics. The overall conclusion is that trained nonlawyers can perform as well as, or sometimes better than, their J.D.-toting counterparts. A short review of several of the key studies is informative.

In the 1980s, two studies looked at representation across a range of providers in both child abuse and neglect cases (Duquette & Ramsey) and in social security and immigration issues (Hostetler).[51] Professors Duquette and Ramsey, using court data and interviews to evaluate both process and outcome measures, found "[n]onlawyers carefully selected and trained and under lawyer supervision performed as well as trained lawyers in representing children, and certainly performed better than lawyers without special training."[52]

Professor Hostetler conducted interviews with federal officials and legal aid representatives and reported "a high level of satisfaction with nonlawyer representatives, not only at the early stages of assisting with forms and informal conferences, but also at later stages of agency proceedings."[53] Indeed, she concluded that "[t]he overwhelming opinion is that there is little perceived difference in the quality of help between lawyers as a class and nonlawyers as a class."[54] Interestingly, Hostetler's subjects noted that a key factor in the quality of the services provided by the nonlawyers was likely the special training they received in the administrative agency's rules, process, and forms, resulting in specialized expertise.[55]

In the 1990s, political scientist Herb Kritzer studied the work of lay agents across four administrative contexts in Wisconsin: unemployment compensation appeals, tax appeals, Social Security disability appeals, and labor grievance arbitration. Kritzer found that "nonlawyers can be effective advocates and, in some situations, better advocates than licensed attorneys."[56] Specifically, Kritzer concluded:

> [T]he key to effective representation is the combination of three types of expertise: knowledge about the substance of the area, an understanding of the procedures used, and familiarity with the other regular players in the process. The latter can come only with experience, but the first two (substantive and procedural expertise) could be

51 *See generally* Donald N. Duquette & Sarah H. Ramsey, *Representation of Children in Child Abuse and Neglect Cases: An Empirical Look at What Constitutes Effective Representation*, 20 U. MICH. J.L. REFORM 341 (1987) and Zona Fairbanks Hostetler, *Nonlawyer Assistance to Individuals in Federal Mass Justice Agencies: The Need for Improved Guidelines*, 2 ADMIN. L.J. 86 (1988).

52 Duquett & Ramsey, *supra* note 51, at 390.

53 Hostetler, *supra* note 51, at 103.

54 *Id.*

55 Hostetler, *supra* note 51, at 105.

56 Herbert M. Kritzer, *Viewpoint: Rethinking Barriers to Legal Practice*, 81 JUDICATURE 100, 100 (1997). Krizter used multiple methodologies to perform the study, including observation, interviews, and outcome analysis.

> imparted through one-year, specialized training programs for paralegals, legal technicians, and licensed advocates.[57]

In the 2010s, Professor Rebecca Sandefur conducted a careful meta-analysis to understand the impact of lawyer representation on the outcomes of formal adjudication.[58] She found that lawyers "perform so much better than lay people, but only somewhat better than [nonlawyer advocates]."[59] In a key insight, Professor Sandefur noted that the lawyers' impact seemed to come less from professional expertise and rather from relational expertise in a "rarified interpersonal world."[60]

A 2017 study by Professors Anna Carpenter, Alyx Mark, and Colleen Shanahan, using interviews and case data from more than 5,000 unemployment insurance appeal hearings, found that when nonlawyers and lawyers appear at hearings the case outcomes and procedural behaviors are similar and that the similarity reflected the specialized expertise of the context.[61]

Most recently, the 2023 Report from the White House Legal Aid Interagency Roundtable found that 15 federal agencies permit nonlawyers to provide legal assistance across a wide range of substantive areas, including housing, public benefits, immigration, civil rights, tax, food security, and worker protection.[62] The activities these nonlawyers perform range from "straightforward and procedural" to "highly technical and complex," such as representation in a removal proceeding in the immigration context.[63] Although not an empirical study, the Report notes the potential benefits of nonlawyer assistance, including that it may be the only available form of legal help in a given community, particularly rural or remote areas and that it can lead to increased public engagement with and trust in the justice system by the impacted community.

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57 *Id.* at 101.

58 Rebecca L. Sandefur, *Elements of Professional Expertise: Understanding Relational and Substantive Expertise through Lawyers' Impact*, 80 Am. Socio. Rev. 909, 913 (2015).

59 *Id.* at 924. The studies included in Sandefur's meta-analysis contained an enormous range of nonlawyer providers including law students, labor union staffers, paralegals, social workers, friends, and family members. *Id.* at 915.

60 *Id.* at 926 (citations omitted).

61 Anne E. Carpenter, Alyx Mark & Colleen F. Shanahan, *Trial and Error: Lawyers and Nonlawyer Advocates*, 42 L. Soc. Inquiry 1023, 1038-42 (2017).

62 White House Legal Aid Interagency Roundtable, Access to Justice in Federal Administrative Proceedings 25 (2023), https://www.justice.gov/d9/2023-12/2023%20Legal%20Aid%20Interagency%20Roundtable%20Report-508.pdf.

63 *Id.*

APPENDIX B

Sample Program Concepts

The Working Group identified program concepts that they felt would be a good fit for their organization, including how the CJWs would positively impact their client communities (the need), who the CJWs would be and the work they would do, and how the CJWs would be trained and supervised. Of the program concepts suggested, below are three examples that the working group more fully developed as possibilities. We present these here as examples of programs that could be authorized through the proposal outlined above.

HOUSING STABILITY Unlawful Detainer

NEED: The National Coalition for a Civil Right to Counsel found that approximately 4% of all tenants have representation in unlawful detainer cases, while landlords have representation 83% of the time. Tenants across California are unable to get help on basic housing stability issues, are representing themselves in evictions, and are losing not only their current housing but also their ability to qualify for housing in the future because they don't have basic information or support. There isn't enough legal support to meet the need, and there is very limited upstream support that can help folks address issues before they land in court. Equipping community-based partners to provide information and referrals, and to support on key housing procedures will expand the work of legal aid organizations and courts, especially in counties with limited resources.

WHO: Community Justice Workers would be staff at housing and tenant-focused community-based organizations in counties without a tenant right to counsel. Also possibly in counties where there is a right to counsel and an established network, to support and expand the right to counsel work.

SCOPE OF WORK: Some of the proposed work is work that is currently allowed under California's Unauthorized Practice of Law, but could be expanded and done with reduced levels of supervision by the Organization attorneys.

- Habitability letters and advice
- Security deposit letters and advice
- Source of income discrimination advice and support filing claims with the CRD
- Reviewing notices to terminate tenancy
- Negotiation with opposing counsel/self-represented landlords
- Housing Authority - hearings with PHAs
- Rent Board petitions and hearings
- Reasonable accommodation requests and negotiations/interactive process

TRAINING & SUPERVISION: Clear training on boundaries of work and scope as a CJW, including supervision structure and reporting requirements.

Training to identify housing issues, using tools to advise on and complete each of the identified proce-

dures, understanding how to spot patterns and trends, and effectively utilize the substantive supervision structure.

Supervision by Organization attorneys at key moments for each procedure, with increasing independence with experience.

EMPLOYEE RIGHTS Wage and Hour Claims

NEED: Los Angeles is the wage theft capital of the world. More than $23 million of wages is stolen from workers each week. Legal Services Organization currently offers assistance to low-income workers with wage and hour claims against unscrupulous employers. Organization works with workers' rights organizations to issue-spot and refer clients to Organization.

WHO: Community Justice Workers would be staff at workers' rights centers and other community-based organizations that are on the front lines of working with low-income workers.

SCOPE OF WORK: Much of the proposed work is work that is currently allowed under California's Unauthorized Practice of Law framework, but could be expanded and done with reduced levels of supervision by the Organization attorneys.

- Preparing wage tables
- Coordinate with clients to get documentary evidence and help collate the evidence
- Preparing claims to be filed with the Labor Commissioner's Office
- Attending settlement conferences
- Attending labor commissioner hearings
- Supporting the attorneys in preparing and delivering know your rights trainings to workers and community partners
- Performing intake interviews with prospective clients (at clinic and outside of clinic)
- Assisting in preparing retaliation, discrimination, and harassment claims with administrative agencies

TRAINING & SUPERVISION: Clear training on boundaries of work and scope as a CJW, including supervision structure and reporting requirements.

Substantive training to issue spot wage and hour issues, steps needed to advise on and complete the proposed work, understanding how to spot patterns and trends, and effectively utilize the substantive supervision structure.

Supervision by Organization attorneys at key moments for each procedure, with increasing independence with experience.

CONSUMER LAW Debt Defense

NEED: Debt collection lawsuits are 33% of the state's civil court docket, and only an average of 9% of consumers file an answer in response. Consumers need help early and upstream to understand that they need to respond, that they have rights, and that there are actions they can take. The procedures will help to reduce the default rate and tee cases up for legal aid support when available.

WHO: Community Justice Workers would be staff at community-based organizations, including Family Resource Centers, Sparkpoint (a United Way financial empowerment project), and nonprofit debt management organizations.

SCOPE OF WORK: Some of the proposed work is work that is currently allowed under California's Unauthorized Practice of Law (UPL) framework, but could be expanded. Other pieces of the scope of work will require a waiver of the UPL.

- Debt validation letter and advice
- Complete answer to debt lawsuit and referrals and/or prepare for self-representation
- Claims of Exemption and advice

TRAINING & SUPERVISION: Clear training on boundaries of work and scope as a CJW, including supervision structure and reporting requirements.

Substantive training to issue-spot debt collection defense issues, steps needed to advise on and complete the proposed work, understanding how to spot patterns and trends, and effectively utilize the substantive supervision structure.

Supervision by Organization attorneys at key moments for each procedure, with increasing independence with experience.

The State Bar of California

4.2 Approval of Recommendation Regarding Letter to the Community Justice Worker Proposal Authors

Working Group:
Judge Kristin Rosi, Chair, LSTFC PDI Committee
Erin Smith, Member, LSTFC PDI Committee
Judge Bryant Yang, Advisor, LSTFC PDI Committee
Jennifer Zelnick, Principal Program Analyst, Office of Access & Inclusion

LSTFC PDI Committee Meeting, October 24, 2025

Agenda

- Background
- Letter to *the CJW Proposal* Authors
- Discussion
- Proposed Resolution

Background

Background

- Over sixty years after *Gideon v. Wainwright* (1963), the United States does not guarantee a right to counsel for civil matters. Many individuals who cannot afford legal representation either do not pursue legal help or choose to represent themselves in court.
- Several jurisdictions in the United States have implemented successful CJW programs to help expand access to justice.
- Data from these jurisdictions demonstrates that CJWs increase access to justice, especially in rural areas.
- Some grantees already rely on justice workers to support their work, suggesting a statewide program could help the LSTFC scale up legal services that grantees already identify as valuable and necessary.

Background

- A group of Interest on Lawyers' Trust Accounts (IOLTA) grantees, the Legal Aid Association of California, and others published *Increasing Access to Justice through Community Justice Workers: A Proposal for California* (*the CJW Proposal*) in December 2024.
- *The CJW Proposal* seeks to establish a statewide program for community justice workers (CJWs) to provide limited legal services to low-income Californians under attorney supervision.
- *The CJW Proposal* suggests implementing a waiver-based program to ensure that legal services organizations (LSOs) and CJWs do not violate the unauthorized practice of law.
- The authors recommend that IOLTA grantees as well as legal services organizations that are not IOLTA grant recipients would apply to the Legal Services Trust Fund Commission (LSTFC) for authorization to operate a CJW program.

Background

- As the authorizing body for LSOs, the LSTFC would ensure that applicants met the proposed CJW program requirements, including:
  - A training plan for CJWs (including a curriculum, testing, experiential learning, and ethics);
  - A plan to ensure that participating clients provide informed consent;
  - A plan to protect the security of clients' files; and
  - Proof of malpractice insurance that covers the work of CJWs.
- The LSTFC would also need to notify the State Bar when it authorizes LSOs to host CJWs.
- The proposal recommends an external evaluator to review the program after five years.

Background

- *The CJW Proposal* contemplates distinct roles for the LSTFC and the State Bar. The proposed role for the State Bar would include:
  - Maintaining and posting a roster of authorized LSOs online;
  - Maintaining a roster of each authorized LSO's active CJWs, including their scope of practice;
  - Developing a process for authorized LSOs to certify individual CJWs to the State Bar;
  - Communicating the roster of authorized LSOs and their CJWs to other relevant authorities, including those who enforce UPL; and
  - Reporting to the Legislature and Supreme Court annually all complaints received against CJWs, including the nature of the complaint and its resolution.

Background

- The LSTFC Program Development and Impact committee (PDI committee) formed a working group to provide written feedback to *the CJW Proposal* authors.
- The working group recommends that the PDI committee and the LSTFC support the authors' efforts to establish a statewide CJW program in California to help address California's justice gap. The working group recommends providing written feedback on *the CJW Proposal* to further strengthen the proposal.

Letter to *the CJW Proposal* Authors

Letter to *the CJW Proposal* Authors

ATTACHMENT G

Comment	Brief Summary
A. Foreground consumer protection and lack of public harm.	• *The CJW Proposal* would benefit from a more direct conversation of consumer protection and public harm—including evidence of the lack of public harm from trained nonlawyers. • Nonlawyer help is not monolithic. The public already pursues various types of nonlawyer help for legal problems. Each source of help presents unique risks and benefits.
B. Implement quality control standards to support consumer protection.	• Implement minimum quality controls to support consumer protection and ensure CJWs satisfy standardized minimum training and supervision criteria. • Standardization would lower administrative burden for individual programs, create opportunities for resource sharing, foster public trust, and further public protection.

Letter to *the CJW Proposal* Authors

ATTACHMENT G

Comment	Brief Summary
C. Demonstrate broad support for a statewide CJW program.	• Demonstrate support (e.g., with data from focus groups, surveys, or letters of support) from the communities that CJWs would serve, community-based organizations, and other stakeholders. • The authors should consider engaging unions to preempt questions about labor relations and demonstrate support for scaling CJWs statewide.
D. Further consider program costs and how to fund the program.	• The State Bar cannot administer a CJW program for non-IOLTA grantees in the absence of a new funding stream. • The letter suggests advocating for dedicated funding to support both grantee and non-grantee organizations to ensure the program serves the most underserved Californians.

Letter to *the CJW Proposal* Authors

Comment	Brief Summary
E. Balance rigorous, skilled program evaluation with low costs.	• Evaluating the program after five years may delay necessary course-correction. The letter proposes a staged evaluation at years two and five to timely adjust the program as needed. • One of the LSTFC's core responsibilities as a grant administrator is program evaluation. • The LSTFC proposes the Office of Research and Statistics (ORS) to lead or manage program evaluation. Delegating program evaluation to ORS would help balance rigorous evaluation with keeping costs low.

Letter to *the CJW Proposal* Authors

ATTACHMENT G

Comment	Brief Summary
F. Work with the LSTFC to advance necessary rule changes.	• The LSTFC recommends that it begins to work with the LSTFC Rules Committee to explore possible statutory and/or rule changes necessary to implement a statewide CJW program. • Possible statutory and/or rule changes should ensure the program addresses service disparities for Californians living in rural counties and attorney deserts.
G. Update *the CJW Proposal* with data from 2024.	• Update citations to include data from *the 2024 Justice Gap Study*, as well as *the 2024 Legal Market Landscape Report.*

Letter to *the CJW Proposal* Authors

Comment	Brief Summary

H. Further clarification needed for the roles of the LSTFC and the State Bar.	• Additional recommendations related to the proposed roles for the LSTFC and the State Bar. This includes:
	  • Recommending the LSTFC develop a system to review complaints against authorized LSOs;
	  • Working with the State Bar to develop a system to roll out communication about the roster of authorized LSOs and CJWs; and
	  • Clarifying disciplinary obligations and procedures for CJWs.

Discussion

Proposed Resolution

Should the PDI committee concur, it is:

RESOLVED, that the Legal Services Trust Fund Commission (LSTFC) Program Development and Impact committee (PDI committee) recommends that the LSTFC support the *Increasing Access to Justice through Community Justice Workers: A Proposal for California (the CJW Proposal)* authors' efforts to establish a statewide community justice worker program in California, especially for underserved and rural Californians and those living in attorney deserts; and it is

FURTHER RESOLVED, that the PDI committee recommends that the LSTFC provide the written feedback in Attachments A and B to *the CJW Proposal* authors to help strengthen the proposal.

Thank You!

If you have questions about the *CJW Proposal for California*, please contact Jennifer Zelnick, Principal Program Analyst, at jennifer.zelnick@calbar.ca.gov.

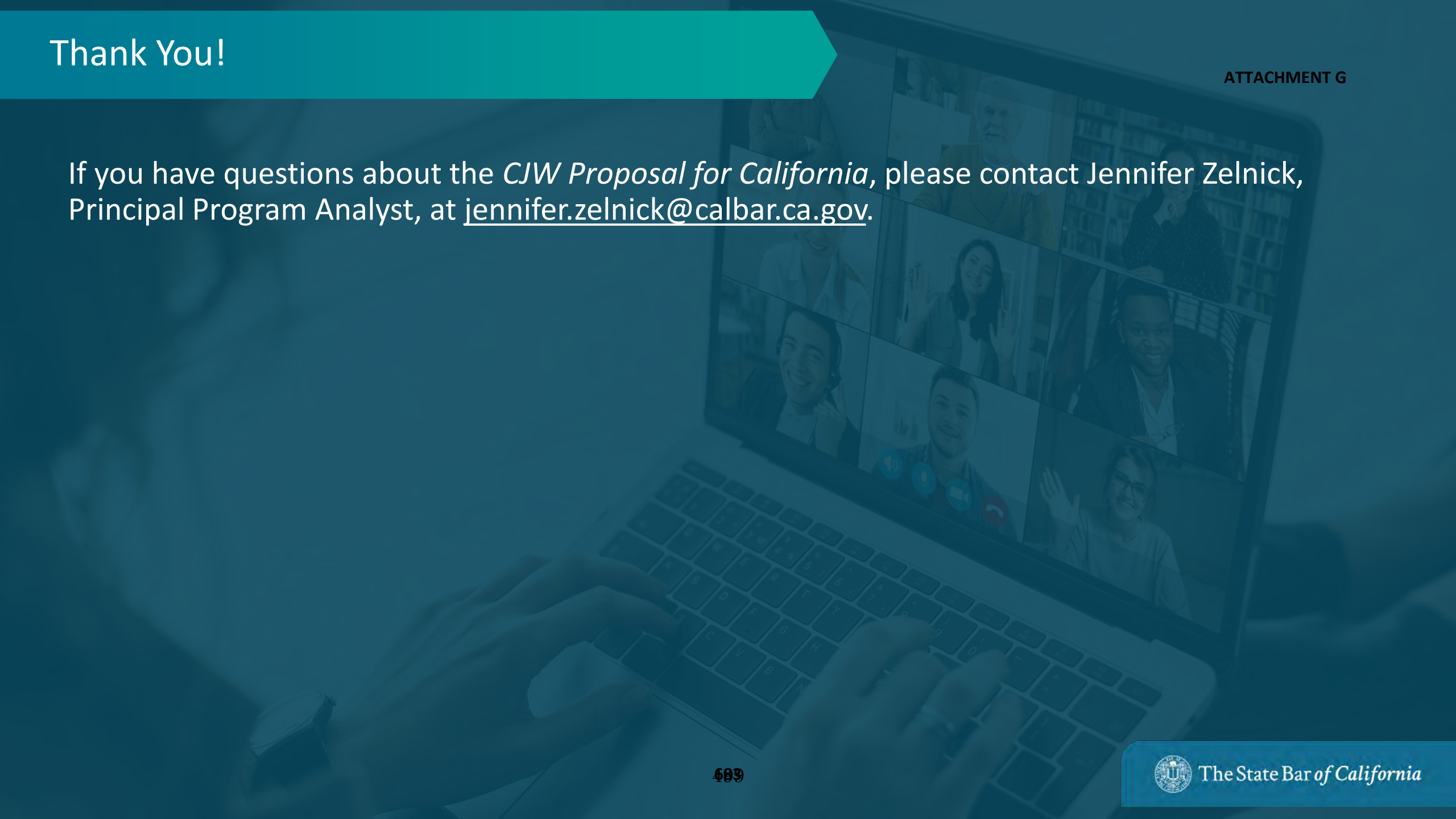


EXHIBIT 28

The State Bar of California

RESOLUTION ADOPTED BY THE LEGAL SERVICES TRUST FUND COMMISSION PROGRAM DEVELOPMENT AND IMPACT COMMITTE

AGENDA ITEM 4.2: Approval of Recommendation Regarding Letter to the Community Justice Workers Proposal Authors

RESOLVED, that the Legal Services Trust Fund Commission (LSTFC) Program Development and Impact committee (PDI Committee) recommends that the LSTFC support the *Increasing Access to Justice through Community Justice Workers: A Proposal for California (the CJW Proposal)* authors' efforts to establish a statewide community justice worker program in California, especially for underserved and rural Californians and those living in attorney deserts; and it is

FURTHER RESOLVED, that the PDI Committee recommends that the LSTFC provide the written feedback in Attachments A and B to *the CJW Proposal* authors to help strengthen the proposal.

I hereby certify that the foregoing is full, true and correct copy of the resolution adopted by the Legal Services Trust Fund Commission Program Development and Impact Committee, at its meeting held on October 24, 2025, by teleconference on Zoom.

Danielle MacRae

Danielle MacRae, Program Development and Impact Committee Coordinator

VOTE

Moved by Escobedo, seconded by Babcock

Ayes – (5) Alikhaani, Babcock, Escobedo, Smith, Rosi

Nays – (0)
Abstain – (0)
Absent – (2) Campbell, Morales
Motion carries.

EXHIBIT 29

The State Bar of California

OPEN SESSION
AGENDA ITEM
6.5 NOVEMBER 2025
LEGAL SERVICES TRUST FUND COMMISSION

DATE: **November 7, 2025**

TO: **Members, Legal Services Trust Fund Commission**

FROM: **Members, Program Development and Impact Committee**

SUBJECT: **Approval of Recommendation Regarding Letter to the Community Justice Workers Proposal Authors**

EXECUTIVE SUMMARY

In December 2024, a group of Interest on Lawyers' Trust Accounts (IOLTA)-funded programs, the Legal Aid Association of California, and others (the authors) published *Increasing Access to Justice Through Community Justice Workers: A Proposal for California* (*the CJW Proposal*). *The CJW Proposal* seeks to establish a program for trained nonlawyers known as community justice workers (CJWs) to provide limited legal services to low-income Californians under the supervision of an attorney at an authorized legal services organization. *The CJW Proposal* aims to develop a California-specific program similar to successful programs in several other jurisdictions, including Alaska and Utah. The Legal Services Trust Fund Commission (LSTFC) Program Development and Impact (PDI) committee formed a working group to provide written feedback to *the CJW Proposal* authors. This memo provides an overview of the PDI committee's recommendations to support establishing a California CJW program, as well as recommendations to strengthen the proposal.

RECOMMENDED ACTION

To help address California's justice gap, the PDI committee recommends that the LSTFC support the authors' efforts to establish a statewide CJW program in California. The PDI committee also recommends that the LSTFC provide written feedback on *the CJW Proposal* (Attachments A and B) to help further strengthen the proposal.

DISCUSSION

POSITION ON THE CJW PROPOSAL

Gideon v. Wainwright (1963) established the right to legal representation in criminal cases. However, over sixty years later, the American legal system still does not guarantee a right to counsel for civil legal matters. This means that many individuals who cannot afford an attorney either do not pursue legal help or choose to represent themselves in court. Across the United States, 74 percent of low-income households experienced at least one civil legal problem in the past year, and low-income Americans did not receive any or enough legal help for 92 percent of their significant civil legal problems.[1] Californians face similar barriers to justice: in 2024, 73 percent of California households reported experiencing at least one civil legal problem in the past year and 86 percent of the lowest-income Californians received no or inadequate help to resolve their civil legal problems.[2]

Several jurisdictions throughout the United States—including Alaska, Arizona, Delaware, Hawai'i, Montana, and Utah—have implemented successful CJW programs to help expand access to justice. Although individual programs vary, broadly, CJWs are trained nonlawyer members of the community who provide limited legal services to low-income individuals. Unlike attorneys, CJWs are not licensed by a State Bar to practice law individually. CJWs may only provide legal services under the supervision of an attorney who is employed by a nonprofit legal services organization.

Data from other jurisdictions demonstrates that CJWs increase access to justice for low-income and underserved communities, especially in rural areas. Alaska's CJW program began in 2019 and as of September 2024, nearly 300 CJWs have been trained. *The CJW Proposal* reports that Alaska's CJWs have a 100 percent success rate in assisting clients with accessing SNAP benefits and drafting wills. The Alaska Legal Services Corporation (ALSC) sponsors Alaska's CJW program. Through CJWs, ALSC doubled the total number of clients served annually (Attachment A). In Arizona, the Supreme Court adopted Code of Judicial Administration (ACJA) section 7-211: Community-Based Justice Work Service Delivery Models, in March 2025. This followed a successful CJW pilot program that began in October 2019. Under ACJA section 7-211, CJWs may provide services in domestic violence, evictions/housing stability, public benefits, debt relief, unemployment law, and consumer issues.[3] Utah's CJW programs are part of a larger regulatory sandbox (a program that allows participants to test new ways of delivering legal services in a controlled environment). Utah's CJW programs currently help low-income Utahns with domestic violence advocacy, housing stability, and medical debt. Between June 2021 and June 2024, its domestic violence CJW program assisted 358 clients, closed 327 cases, and provided 841 unique legal services. 77 percent of clients served live in rural areas of Utah.[4]

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[1] Legal Services Corporation, *The Justice Gap: The Report,* https://justicegap.lsc.gov/resource/executive-summary/.
[2] The State Bar of California, *2024 California Justice Gap Study*, https://publications.calbar.ca.gov/justice-gap-study/.
[3] For more information see https://www.azcourts.gov/Portals/0/0/admcode/pdfcurrentcode/7-211%20Community-Based%20Justice%20Work%20Service%20Delivery%20Models%203-2025.pdf?ver=SNTp9aFWa4X91-hORzoNBA%3d%3d.
[4] For more information see Timpanogos Legal Center, Certified Advocate Partners Program https://www.timplegal.org/legal-services/certified-advocate-partners-program.

In addition to promising data from active CJW programs in other jurisdictions, the American Bar Association (ABA), the Conference of Chief Justices (CCJ), and the Conference of State Court Administrators (COSCA) have passed resolutions in support of exploring CJW programs. Specifically, in August 2025, the ABA passed Resolution 605, which calls on states, courts, and other jurisdictions to explore CJW programs for individuals who cannot afford an attorney, as one means to narrow the justice gap and ensure equitable access to legal help. In July 2025, CCJ/COSCA adopted Resolution 1-2025, which supports exploring "Authorized Justice Practitioner" programs—including CJWs and paraprofessionals—to expand access to justice. These resolutions demonstrate that key legal and judicial stakeholders support efforts to shrink the justice gap by standing up CJW programs.

The PDI committee recommends that the LSTFC support the authors' efforts to establish a statewide CJW program to shrink California's justice gap, especially for underserved and rural Californians and those living in attorney deserts. The successes of other jurisdictions' CJW programs presents an opportunity to build on proven models to create a program tailored to California. *The CJW Proposal* notes that many IOLTA organizations already rely on justice workers to support their work (see Attachment A, page 9). Therefore, supporting a statewide CJW proposal could help the LSTFC scale up legal services that grantees already identify as valuable and necessary.

OVERVIEW OF THE CJW PROPOSAL

The CJW Proposal recommends that IOLTA grantees as well as legal services organizations that are not IOLTA recipients would apply to the LSTFC for authorization to operate a CJW program. IOLTA-funded organizations could complete a streamlined application process because they already undergo extensive yearly vetting through the annual IOLTA application process. *The CJW Proposal* recommends that legal services organizations authorized by the LSTFC (authorized LSOs) be able to train and supervise CJWs to provide legal advice and other limited legal services under attorney supervision to Californians who are eligible for legal aid.

It is unlawful and constitutes the unauthorized practice of law (UPL) for someone who is not a State Bar licensee or "otherwise authorized pursuant to statute or court rule" to practice law in California.[5] Although CJWs would be supervised by attorneys, because they would be able to provide limited legal services, CJWs would most likely be considered to be practicing law. As such, *The CJW Proposal* recommends implementing a waiver-based program to ensure that programs and CJWs do not violate UPL. After approving a legal services organization's application, the LSTFC would authorize the legal services organization to run a waiver-based CJW program. Authorized LSOs would certify individual CJWs who satisfy all requirements and successfully complete all trainings. Because this system would involve permitting CJWs to practice law on a limited basis, the program would need to be authorized by statute, a new California Rule of Court, or both. Any request for such legislative or Rule of Court changes would most likely need to be authorized by the Board of Trustees of the State Bar.

[5] See Business and Professions Code §§ 6125–6126.

As the authorizing body for LSOs, the LSTFC would ensure that applicants met the proposed CJW program requirements, including:

- A training plan for CJWs, including a curriculum, testing, experiential learning, and ethics;
- A plan to ensure that participating clients provide informed consent to working with a CJW;
- A plan to protect the security of clients' files; and
- Proof of malpractice insurance that covers the work of CJWs.

The LSTFC would also need to notify the State Bar when it authorizes legal services organizations to host CJWs.

The CJW Proposal contemplates distinct roles for the LSTFC and the State Bar. The proposed role for the State Bar includes:

- Maintaining and posting a roster of authorized LSOs online;
- Maintaining a roster of each authorized LSO's active CJWs, including their scope of practice;
- Developing a process for authorized LSOs to certify individual CJWs to the State Bar for inclusion in the organization's roster, including:
    - The CJW's name;
    - The CJW's legal service area(s); and
    - The CJW's scope of activities;
- Communicating the roster of authorized LSOs and their CJWs to other relevant authorities, including those who enforce UPL; and
- Reporting to the Legislature and Supreme Court all complaints received against CJWs annually, including:
    - The nature of the complaint; and
    - The complaint resolution.

For more details on *the CJW Proposal's* recommendations, including the proposed roles of the State Bar and the California Access to Justice Commission, see Attachment B.

SUMMARY OF FEEDBACK FOR THE CJW PROPOSAL AUTHORS

The CJW Proposal authors are gathering stakeholder input to incorporate into *the CJW Proposal* ahead of pursuing legislative support during the next bill cycle and requested feedback and support from the LSTFC. During the LSTFC's May 21, 2025, meeting, staff provided an overview of the proposal. The authors presented the proposal in further detail to the PDI committee at its June 11, 2025, meeting. After these presentations, the PDI committee formed a working group to further study *the CJW Proposal* and provide the authors with written comments.

The working group's letter to the authors (Attachment A) outlines eight suggestions to strengthen the proposal. Broadly, the suggestions were related to:

- Foregrounding consumer protection and public harm. This includes suggesting a deeper analysis of research demonstrating the lack of public harm caused by allowing trained nonlawyers to perform the work CJWs are contemplated to do;

- Implementing minimum quality controls to support consumer protection and ensure CJWs satisfy standardized minimum training and supervision criteria;
- Demonstrating community support from the communities that CJWs would serve, community-based organizations, and other stakeholders not already engaging with CJWs;
- Further considering program costs and funding needs. This includes analysis about the State Bar's inability to administer a CJW program for non-IOLTA grantees in the absence of a new funding stream, and suggestions to advocate for dedicated funding to support both grantee and non-grantee organizations to ensure the program serves the most underserved Californians.
- Balancing implementing a rigorous, staged evaluation while keeping costs low. This includes a discussion of the LSTFC's core responsibility to evaluate its grant-funded programs. Since the State Bar would plan to evaluate the program, the LSTFC advocates that the State Bar's Office of Research and Statistics administer the proposed program evaluation. The LSTFC recommends staging the evaluation in years two and five to allow for timely program adjustments as needed. This would likely result in cost savings;
- Recommending the LSTFC explore potential statutory and rule revisions as part of the Rules Committee workplan to ensure the program addresses service disparities for Californians living in rural counties and attorney deserts;
- Updating citations to reflect data from the *2024 California Justice Gap Study* and the State Bar-commissioned 2024 *Legal Market Landscape Report*; and
- Additional recommendations related to the proposed roles for the LSTFC and the State Bar. This includes recommending the LSTFC develop a system to review complaints against authorized LSOs; working with the State Bar to develop a system to roll out communication about the roster of authorized LSOs and CJWs; and clarifying disciplinary obligations and procedures for CJWs.

The working group annotated *the CJW Proposal* to provide more specific edits for some recommendations (Attachment B).

On October 23, 2025, the lead authors of *the CJW Proposal* submitted written public comment in response to the materials posted for the October 24, 2025, PDI committee meeting (Attachment C). During the meeting, the PDI committee discussed clarifying that Comment B, regarding implementing quality control standards to support consumer protection, should focus on standardizing foundational trainings for CJWs such as ethics and rules, as well as baseline minimum training requirements for substantive areas of law. These requirements may include mandating a set number of hours of training in the practice area(s) prior to certification and/or annually to support consumer protection. However, the PDI committee agrees it is prudent to allow authorized LSOs to determine what localized and specialized trainings are necessary for CJWs to provide services. The PDI committee will continue to review and evaluate *the CJW Proposal* as the authors further revise and advance the proposal.

PREVIOUS ACTION

Approval of Recommendation Regarding Letter to the Community Justice Workers Proposal Authors
(Program Development and Impact Committee, October 24, 2025)

FISCAL/PERSONNEL IMPACT

The PDI committee estimates building and reviewing applications, providing technical assistance to authorized LSOs, rulemaking, and monitoring participating programs will require between 0.5 and 1.5 full-time equivalent of senior-level staffing support, or approximately $128,000 to $385,000 annually.

AMENDMENTS TO RULES

None

AMENDMENTS TO BOARD OF TRUSTEES POLICY MANUAL

None

STRATEGIC PLAN GOALS & IMPLEMENTATION STEPS

Goal 2. Protect the Public by Enhancing Access to and Inclusion in the Legal System
b. 4. Make the State Bar a leader in connecting the public to legal representation by enhancing public awareness of the resources available and continually enhancing those resources.

RESOLUTIONS

Should the Legal Services Trust Fund Commission concur, it is:

RESOLVED, that the Legal Services Trust Fund Commission (LSTFC) supports the *Increasing Access to Justice Through Community Justice Workers: A Proposal for California* (*the CJW Proposal*) authors' efforts to establish a statewide community justice worker program in California, especially for underserved and rural Californians and those living in attorney deserts; and it is

FURTHER RESOLVED, that the LSTFC provides the written feedback in Attachments A and B to *the CJW Proposal* authors to help strengthen the proposal.

ATTACHMENTS LIST

A. Letter to the authors of *Increasing Access to Justice Through Community Justice Workers: A Proposal for California*

B. Annotated *Increasing Access to Justice Through Community Justice Workers: A Proposal for California*

C. Public Comment from the Leaders of the CJW Working Group Regarding the October 24, 2025, PDI Committee Meeting Materials

The State Bar of California

November 7, 2025

Community Justice Workers Legal Services Organization Working Group, c/o Leigh Ferrin
100 Bush Street
Suite 508
San Francisco, CA 94104

RE: Comments on *Increasing Access to Justice Through Community Justice Workers: A Proposal for California*

Dear Community Justice Workers Legal Services Organization Working Group:

Thank you for providing the draft *Increasing Access to Justice Through Community Justice Workers: A Proposal for California (the CJW Proposal)* and inviting the Legal Services Trust Fund Commission (LSTFC) to submit comments. The LSTFC supports the authors' efforts to establish a statewide Community Justice Worker (CJW) program in California to help shrink the state's justice gap, especially for low-income, rural, and underserved Californians. We encourage the authors to engage with the high-level comments, suggestions, and questions outlined below and in the attached annotated copy of *the CJW Proposal*.

Comment A: Foreground consumer protection and lack of public harm.

The LSTFC believes the evidence from similar programs in other jurisdictions has demonstrated strong records of public protection and lack of public harm. A more direct conversation of consumer protection and public harm—including evidence of the lack of public harm from trained nonlawyers—would strengthen the authors' case for a statewide CJW program. *The CJW Proposal* notes that the public seeks legal help broadly, not exclusively from lawyers. The authors assert that qualified nonlawyers are capable of providing competent legal help (7).[1] To support these claims, the authors cite several studies on nonlawyer legal services and access to justice projects in footnotes.

For example, Rebecca Sandefur argues that lawyers' current monopoly over legal practice restricts consumer choice and prevents members of the public who cannot afford an attorney from accessing needed help.[2] The authors also reference an article by Cayley Balser et al. that

[1] Parentheticals refer to page numbers of *the CJW Proposal*.
[2] Rebecca L. Sandefur, "Legal Advice from Nonlawyers: Consumer Demand, Provider Quality, and Public Harms," *Stanford Journal of Civil Rights & Civil Liberties* 16 (2020) 283, 289–97.

recommends regulators interested in protecting the public should ask consumers how much risk they are willing to assume in exchange for legal help.[3] Balser et al. further argue that comparing new legal service models like CJWs to lawyers is a flawed methodology, particularly for low-income populations who cannot afford attorneys. More apt comparisons would examine the value of getting help from a nonlawyer advocate versus appearing as a self-represented litigant or perhaps declining to pursue legal action altogether.

Although the sources cited in these footnotes grapple with balancing consumer protection and innovative service delivery models to shrink the justice gap, the text of *the CJW Proposal* does not engage these arguments directly. Additionally, while Appendix A notes that empirical research over the last 50 years has largely demonstrated that "trained nonlawyers can perform as well as, or sometimes better than, their J.D.-touting counterparts" (19), the authors frame Appendix A as a literature review rather than as part of an explicit argument.

When members of the public cannot afford an attorney, they turn to a variety of alternative sources for help, including nonlawyer friends and family; notarios; Internet searches; or all-purpose, publicly available AI chatbots like ChatGPT. Nonlawyer help is not monolithic, and each source of help presents unique risks and benefits. For example, the State Bar warns about the potential for fraud among notarios. Conversely, an example of a regulated, nonlawyer option for individuals who need immigration legal help is to engage an Accredited Representative. The United States Department of Justice's Recognition and Accreditation Program increases the availability of immigration legal services to low-income individuals by authorizing qualified Accredited Representatives at approved nonprofit organizations to represent individuals before the federal government. The Recognition and Accreditation Program demonstrates how accredited nonlaywers can provide quality immigration legal services to individuals who may otherwise not have access to legal help. This program demonstrates that creating a regulatory framework and oversight mechanisms boost public protection.

The CJW Proposal notes that CJWs in Alaska have a 100 percent success rate in assisting clients with accessing SNAP benefits and drafting wills. Including additional quantifiable data on client success could strengthen this claim. For example, at the 2025 Equal Justice Conference, researchers reported that Alaska's CJW program secured over $23.6 million in SNAP benefits for their clients in a 40-month period. Highlighting such data underscores the tangible benefits CJWs provide to legal aid clients. *The CJW Proposal* could argue that vulnerable, underserved Californians may experience more harm—such as lack of access to benefits to which they are legally entitled—in the absence of CJWs. The LSTFC therefore recommends foregrounding this

[3] Cayley Balser, Erin Weaver, Stacy Rupprecht Jane, Gabriela Elizondo-Craig, Tate Richardson, and Antonio Coronado, "Leveraging Unauthorized Practice of Law Reform to Advance Access to Justice," *Law Journal for Social Justice* 18 (2023) 66, 97–100.

analysis in the body of the report to proactively address questions about harm and consumer protection.

Comment B: The LSTFC recommends implementing minimum quality control standards to support consumer protection and ensure a degree of parity for CJWs at different authorized legal service organizations (LSOs).

Establishing a statewide CJW program will likely require support from both the California Supreme Court and Legislature. Both bodies have previously declined to pursue efforts to expand access to legal help, whether by increasing the number of attorneys (the Blue Ribbon Commission on the Future of the Bar Exam (Blue Ribbon Commission)) or by expanding the types of legal services providers (the California Paraprofessional Program Working Group (CPPWG)) in part due to consumer protection concerns.

The Supreme Court declined to adopt the Blue Ribbon Commission's proposed alternative pathway for attorney licensure via a Portfolio Bar Exam (PBE), as explained in Administrative Order 2024-10-10-01. The decision reflected concerns about the PBE's fairness, ethics, and reliability. Specifically, the Supreme Court noted that the variability in supervisors' involvement in portfolio preparation made it difficult—if not impossible—to standardize applicant evaluations and would likely result in admitting attorneys with inconsistent levels of competency. Relatedly, a major critique of the CPPWG's paraprofessional proposal was that paraprofessionals would lack supervision and could become another unregulated, unscrupulous industry akin to notarios. *The CJW Proposal* stipulates that CJWs would "serve under the supervision of… attorneys" (3) and, unlike notarios, would function as employees or supervisees of authorized LSOs rather than being paid directly by clients. However, the authors do not define what supervision would mean in practice for CJWs.

The CJW Proposal envisions a statewide program in which each authorized LSO develops its own training curricula, area(s) of law and scope of practice, and supervision requirements. Programmatic flexibility may encourage broader participation in a statewide CJW program. Conversely, the absence of minimum training and supervision standards risks replicating the very concerns the Supreme Court identified with the PBE: namely, inconsistent competency and uneven quality of services across authorized LSOs.

At a minimum, the LSTFC recommends implementing minimum standards to ensure quality controls and basic parity among CJWs across all authorized LSOs. Standardization would lower administrative burden for individual programs, create opportunities for resource sharing, foster public trust, and further public protection. Some specific suggestions for standardization include establishing a standardized scope of practice for individual areas of law, standardizing a minimum level of training, and standardizing minimum supervision requirements. In addition, the State Bar could create a foundational and mandatory training module for all CJWs covering ethics, professional competency, and relevant rules. This shared training would ensure

minimum competency across authorized LSOs. While authorized LSOs would need to develop the remainder of their training curricula, such a foundational requirement would reduce duplication of efforts and resources.

The LSTFC further recommends that CJWs complete at least four hours of legal ethics training prior to certification, including at least one hour on implicit bias/bias-reducing strategies and at least one additional hour on the elimination of bias more broadly. This recommendation mirrors attorney MCLE ethics requirements per State Bar rule 2.72(C)(2)(c). Requiring the same ethics standards for CJWs as for attorneys would strengthen public trust and ensure that CJWs—whether supervisees or employees of an authorized LSO—demonstrate the integrity essential to client confidence in legal services. Ethics trainings are available to legal aid advocates via the Legal Aid Association of California and the LSTFC can explore other free or low-cost training opportunities.

Additionally, the LSTFC cautions against the use of the term "volunteer" to describe CJWs employed by non-LSO community organizations and supervised by authorized LSOs. "Volunteer" may create confusion about the employment status and employment protections available for CJWs. Instead, the LSTFC recommends referring to CJWs not employed by authorized LSOs as "supervisees," as this term more accurately reflects the employment status of CJWs and the relationship between the CJW and the authorized LSO.

Comment C: Section C: Community Justice Workers in California, should demonstrate broad community support for a statewide CJW program.

The CJW Proposal offers compelling examples of CJWs already operating in California, such as through Stay Housed LA, Legal Link, and California Rural Legal Assistance, Inc. (9). These cases demonstrate community support for individual, grantee-run programs. The authors could further strengthen the proposal by showing evidence of broader community support for and interest in a statewide program that scales up this work. Data from focus groups, surveys, or letters of support would demonstrate that low-income and underserved Californians, community-based organizations (CBOs), and other stakeholders not yet engaged with CJWs see value in a statewide program. Support from additional legal aid organizations not listed as co-authors would also reinforce this point.

The LSTFC also recommends engaging unions representing paralegals and other nonlawyer staff, attorneys, and staff at relevant LSOs and CBOs to further illustrate community support. Union endorsements could preempt questions about labor relations and demonstrate alignment between attorneys and nonlawyer workers in scaling CJWs statewide. Finally, the LSTFC suggests that the authors develop a checklist or memorandum of understanding template for authorized LSOs to share with CBO partners. Such a tool would help authorized LSOs and CBOs proactively identify and address questions related to employment, benefits, workers' compensation, and liability.

Comment D: The Estimated Funding Needs Section notes that the framework is "meant to leverage already existing entities and resources" to implement the proposed program. Further consideration about program costs and how to fund these costs are needed.

The CJW Proposal notes its framework is "meant to leverage already existing entities and resources" but the cost estimates are limited. It projects staffing support of approximately 50 percent Full-Time Equivalent (FTE) each for the application and oversight bodies and 25 percent FTE for technical support but does not account for staffing needed for program development or implementation support for authorized LSOs. Nor does it specify how these positions would be funded (18).

The LSTFC estimates that building and reviewing applications, providing technical assistance to authorized LSOs, rulemaking, and monitoring participating programs would require between 0.5 and 1.5 FTEs of senior-level staffing support, or approximately $128,000 to $385,000 annually. The LSTFC notes the proposed program may require additional funding for authorized LSOs and participating CBOs. Even if all CJWs serve as supervisees of LSOs—employed by CBOs rather than LSOs—authorized LSOs would need resources for curriculum development, training, supervision, administrative support, and other indirect costs. Some authorized LSOs may also need to enter into or amend a contract with CBOs that employ CJWs to offset these expenses. The LSTFC recommends that the authors begin advocating for a dedicated funding stream to support a statewide CJW program as a means of expanding—rather than redistributing—existing resources, which are already constrained. While the LSTFC permits the use of Interest on Lawyers' Trust Accounts (IOLTA), Equal Access Fund (EAF), and all discretionary grants to fund certain qualifying nonlawyer activities, relying on these sources risks straining legal infrastructure further. A statewide CJW program in California would not only provide needed services but could also create workforce development opportunities, particularly for CJWs employed by authorized LSOs in rural communities. The LSTFC would welcome the opportunity to administer such funds.

Additionally, IOLTA funds cannot be used to review applications, provide technical assistance, or monitor authorized LSOs that are not IOLTA grant recipients. IOLTA funds may only be allocated to qualified legal services projects (QLSPs) and support centers, and to the State Bar's actual administrative costs from running that program (Business and Professions Code section 6216).[4] Accordingly, a dedicated funding source is needed to cover administrative costs and support the participation of non-grantee LSOs. The LSTFC recommends securing such a funding source, which would allow the State Bar to oversee non-grantee LSOs and enable the CJW program to expand service areas with maximum flexibility and to reach rural, underserved communities and Californians living in attorney deserts. Of course, any formal request for

[4] See Business and Professions Code section 6213, subdivisions (a)(1) and (2) for the definition of a QLSP, and Business and Professions Code section 6213, subdivision(b) for the definition of a support center.

legislation on these matters would most likely need to be approved by the State Bar's Board of Trustees.

Comment E: Program Evaluation: The LSTFC recommends implementing a rigorous, staged two- and five-year evaluation while keeping evaluation costs low.

The CJW Proposal contemplates evaluating the program after five years. One of the LSTFC's core responsibilities in administering grant funding is program evaluation. Robust evaluations require specialized expertise, early data collection, and sufficient financial resources to support dedicated staff. The State Bar's Office of Research and Statistics (ORS) is staffed by highly trained experts in data collection and evaluation, and regularly conducts rigorous, impartial assessments of the State Bar. It also partners with external evaluators when additional independence is needed. Since the LSTFC would already need to evaluate authorized LSOs as part of its administration of a statewide CJW program, delegating ORS to lead or manage the program evaluation would help ensure rigor while offering cost savings, allowing more funding to support the direct work of CJW programs. The LSTFC recommends that ORS lead or manage the program evaluation to ensure these costs remain low. The LSTFC also recommends implementing a staged evaluation at years two and five to ensure any necessary adjustments to the program can be addressed timely.

Comment F: Possible Policy Vehicles for Implementation of the California CJW Proposal: The LSTFC recommends the authors work with the LSTFC to advance rule changes to ensure the CJW program addresses the needs of underserved and rural Californians and those living in attorney deserts.

The *2024 California Justice Gap Study* shows that rural Californians and residents of attorney deserts face disproportionate barriers to legal help. Only 3 percent of active attorneys live in rural California, though 12 percent of residents do. Moreover, the number of counties that are attorney deserts has grown from 11 to 16 in the last decade.[5]

The CJW Proposal identifies three possible policy vehicles for implementation:

1. Adding a new section to California Rule of Court 9.4;
2. Adding a new section to California Rule of Court 9.4 combined with a statutory waiver to Business and Professions Code section 6125; or
3. Via an order issued by the California Supreme Court.

The LSTFC notes that California Rule of Court 9.4 pertains to the Committee of Bar Examiners, whereas Rule 9.45, which *the CJW Proposal* also references, discusses legal aid. The LSTFC suggests the authors revise page 16 to only reference Rule 9.45.

[5] The State Bar of California: *2024 California Justice Gap Study Report*, p. 4.

The LSTFC also recommends beginning to work with the LSTFC Rules Committee to explore possible statutory and/or rules changes that would allow QLSPs and support centers to deploy CJWs in ways that expand service to rural Californians and individuals residing in attorney deserts.

The primary purpose and function of a QLSP is to provide free civil legal services to statutorily indigent Californians (Business and Professions Code section 6213, subdivision (a)(1)) and must expend 75 percent or more of its funds on the provision of free civil legal services to statutorily indigent persons (State Bar rule 3.671). A QLSP may only use IOLTA funds in the county where the funds were allocated, and county allocations reflect the amount of qualifying work a QLSP completed in the prior year (Business and Professions Code section 6216, subdivision (b)(1)(A)). This creates a negative feedback loop: QLSPs without an allocation in a particular county cannot use IOLTA funds to expand there. This prohibition on out-of-county IOLTA expenditures limits QLSPs' ability to expand their service delivery area as they must do so using non-IOLTA funds. As a result, existing attorney deserts remain entrenched.

Unlike QLSPs, support centers' primary purpose and function is to provide "legal training, legal technical assistance, or advocacy support for civil legal services without charge" (Business and Professions Code section 6213, subdivision (b)). State Bar Rule 3.672(C)(2) provides that "legal support services" may include direct civil legal services to an indigent client of a QLSP only when acting as co-counsel with an attorney "employed or recruited by" a QLSP, or at the request of a QLSP if the QLSP is unable to assist the client. In all other circumstances, support centers may not use grant funds for direct services to individual legal aid clients. A support center is presumed to its meet primary purpose and function if it expends at least 75 percent of its funds on qualifying services (State Bar rule 3.671(B)). Given the geographic restrictions on QLSPs discussed above, these restrictions on support services may hinder support centers from deploying CJWs, even though they still satisfy the primary purpose and function requirement.

The LSTFC recommends exploring statutory and rule revisions during the Rules Committee codification to help ensure that a statewide CJW program can address service disparities in rural counties and attorney deserts. The LSTFC may charge the Rules Committee to explore the below statutory and rule revisions:

- Explore clarifying IOLTA eligibility for CJW work: Amend the State Bar Rules to allow QLSPs to use IOLTA funds for CJW activities (including supervision, administrative, and indirect costs) in counties where grantees do not receive an IOLTA allocation. This could be accomplished either by:
    - Creating a carveout for CJW work that is agnostic to the county in which the work was performed; or
    - Permitting QLSPs to count CJW expenditures toward the county where the client resides, the CJW's home office, or the QLSP's office where the CJW's supervisor is located.

- Consider expanding definitions of qualifying services: Amend the definitions of "training," "technical assistance," and/or "advocacy support services" to permit support centers to supervise CJW supervisees consistent with their primary purpose.
- Examine authorizing statewide supervision: Clarify that support centers may supervise CJWs to provide services in any county.
- Explore permitting IOLTA billing for supervision of CJWs employed at non-grantee LSOs. This may include revising State Bar Rule 3.672(C)(2)(a) and (b) to permit support centers to bill IOLTA for supervising CJWs employed at non-grantee authorized LSOs, provided the support center consults annually with the local QLSP to assess community needs. If the QLSP confirms that it cannot provide or specifically requests these services, a rule change may not be necessary.
- Consider allowing CJW employment by support centers: This may require permitting support centers to use IOLTA funds to employ CJWs as part of their advocacy support services.

Any formal requests for statutory or Rule of Court changes by the State Bar or LSTFC would most likely need to be approved by the State Bar's Board of Trustees. Changes to the State Bar Rules are also subject to Board approval, though the Board must approve LSTFC-recommended State Bar Rules related to grant administration "unless the Board of Trustees of the State Bar makes a finding in writing that a recommendation conflicts with a statutory, fiduciary, or legal obligation of the State Bar." (Business and Professions Code section 6210.5, subdivision (e)(3).)

Comment G: The LSTFC suggests the authors update *The CJW Proposal* to reflect data from the *2024 California Justice Gap Study* and the 2024 *Legal Market Landscape Report*.

The CJW Proposal was published in December 2024, several months before the State Bar released the *2024 California Justice Gap Study.* The LSTFC recommends updating the proposal to include this most recent data. Citing the *2024 California Justice Gap Study* will further demonstrate that California's justice gap not only remains pervasive but, in some areas, has grown since the first study was published in 2019. In addition, in 2024, the State Bar commissioned the *Legal Market Landscape Report*, which analyzes California's legal market finding that the increasing concentration of legal services for organizational clients has further reduced the availability of resources for individuals. Incorporating these findings would strengthen the authors' case for a statewide program.

Comment H: Additional recommendations related to the proposed roles for the authorizing body and the State Bar.

The CJW Proposal recommends the LSTFC for the authorizing body for the program. The LSTFC agrees with this suggestion. The LSTFC recommends that, in addition to the responsibilities outlined in *the CJW Proposal*, the authorizing body should develop a system to review

complaints against authorized LSOs, and, as necessary, cooperate in investigation of complaints to the State Bar.

The CJW Proposal recommends the State Bar regulate the CJW program by maintaining and posting a roster of authorized LSOs and individual CJWs; developing a process for authorized LSOs to certify individual CJWs to the State Bar; communicating the roster of authorized LSOs and CJWs to enforcers of the unauthorized practice of law; and reporting annually to the Legislature and Supreme Court about all complaints received against CJWs. The LSTFC recommends working with the State Bar to explore how to practically roll out communication of the roster of authorized LSOs and their CJWs. The LSTFC seeks clarification about who would regulate CJWs and how CJWs' ethics would be regulated. The LSTFC recommends the authors clarify what professional obligations would be applicable to CJWs and what authority would investigate allegations of CJW misconduct. Additionally, clarification about whether CJWs would be subject to the same obligations as attorneys, and whether CJWs would be subject to the jurisdiction of the State Bar and/or the Supreme Court, would strengthen the proposal. If complaint investigation and prosecution were contemplated through the State Bar, further collaboration with the State Bar would be required.

The attached annotated *CJW Proposal* provides specific suggestions for replacing 2019 data with updated references from the *2024 California Justice Gap Study* and the *Legal Market Landscape Report*.

Please do not hesitate to contact Program Director Doan Nguyen at doan.nguyen@calbar.ca.gov or Principal Program Analyst Jennifer Zelnick at jennifer.zelnick@calbar.ca.gov should you have any questions or concerns.

Sincerely,

Erica Connolly, Co-Chair
Legal Services Trust Fund Commission

Amin H. Al-Sarraf, Co-Chair
Legal Services Trust Fund Commission

ATTACHMENT B

ATTACHMENT G

Increasing Access to Justice THROUGH Community Justice Workers

A Proposal for California



LAAC
Legal Aid Association of California

OneJustice

LEGAL LINK

December 2024

Increasing Access to Justice THROUGH Community Justice Workers

A Proposal for California

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LAAC Legal Aid Association of California

OneJustice

LEGAL LINK

IN JULY 2024, the Legal Aid Association of California convened a working group of leaders from California's legal aid organizations to explore the potential for a Community Justice Worker (CJW) program. This group was led by Legal Link and OneJustice, with advice and support from Stanford Law School's Deborah L. Rhode Center on the Legal Profession and Frontline Justice. Discussions over the last six months focused on expanding the reach and impact of legal aid organizations by allowing nonlawyer staff and community members, with attorney training and supervision, to independently do discrete legal procedures for which there is a deep and unmet need. This would require authorization to perform a limited range of activities which could fall within the scope of the practice of law.

We are thrilled to share our CJW proposal for California, which would allow legal aid organizations to extend and expand on their work for the lowest-income Californians using a CJW model, as many other states are now doing. The proposal describes a framework for California legal aid organizations seeking to certify individual Community Justice Workers who will serve under the supervision of their attorneys. This is not a proposal for specific projects; rather, it is a proposal for an authorization and oversight framework for a California CJW program in which legal aid organizations across the state can choose to participate. The proposal seeks to streamline the process for groups already under IOLTA review and scrutiny, while allowing other organizations to enter the CJW Program should they meet a set of requirements. Our group is hopeful that our efforts to innovate and provide deeply needed services in a safe and measured way are embraced and carried forward.

Sincerely,

Christian Abasto, Disability Rights California, Legal Advocacy Unit Director
Silvia Argueta, Legal Aid Foundation of Los Angeles, Executive Director
Monique Berlanga, Centro Legal de la Raza, Executive Director
Diego Cartagena, Bet Tzedek Legal Services, President & CEO
Tiela Chalmers, former Alameda County Bar Association, CEO
Leigh Ferrin, OneJustice, Program Director
Heather Hostler, California Indian Legal Services, Executive Director
Jessica Jewell, California Rural Legal Assistance, Executive Director
Zach Newman, Legal Aid Association of California, Directing Attorney
Pablo Ramirez, Legal Aid Society of San Bernardino, Executive Director
Tessie Solorzano, Inland Counties Legal Services, Executive Director
Sacha Steinberger, Legal Link, Founder and Co-Executive Director

Access to justice is a cornerstone of our legal system, encapsulated by the four words inscribed on the façade of the United States Supreme Court building: *equal justice under law*. Unfortunately, these words do not reflect the reality of our American legal system in practice. Most Americans do not have any access to justice at all.

The statistics are shocking.[1] 75 percent of low-income households experienced at least one civil legal problem in the past year, and 40 percent experienced at least five.[2] 92 percent of those people do not receive any or enough legal assistance.[3] In state courts, which handle 98 percent of civil disputes, lawyers represent both sides in only 24 percent of cases on average.[4] In some legal areas, such as family, housing, and debt, 80 to 90 percent of parties have no lawyer at all.[5] These figures only capture those who make it to court—many more struggle with serious legal problems outside the formal judicial process.[6] These individuals often navigate complex and life-altering issues—affecting their family, safety, housing, employment, and finances—without any legal guidance.

California is significantly affected by this crisis. The State Bar's 2019 study of the justice gap revealed that 55 percent of Californians faced at least one civil legal problem in the past year (13 percent experienced six or more), yet 85 percent received insufficient or no legal help.[7] The California justice gap transcends socioeconomic status, with merely 27 percent of low-income and 34 percent of middle-income Californians receiving legal assistance.[8] This study also showed that the most vulnerable among us experience more legal problems than others: those living in a household with a person with disabilities experience an average of three times as many legal problems and survivors of domestic violence or sexual assault expe-

1 Americans experience an estimated at least 150 million new civil justice problems annually. *See* Rebecca L. Sandefur & James Teufel, *Assessing America's Access to Civil Justice Crisis*, 11 U.C. Irvine L. Rev. 753, 765 (2020). At least 120 million of those problems go unresolved. *See* Institute for the Advancement of the American Legal System & Hague Institute for Innovation of Law, Justice Needs and Satisfaction in the United States of America 235 (2021), https://iaals.du.edu/sites/default/files/documents/publications/justice-needs-and-satisfaction-us.pdf.

2 *Justice Gap Research*, Legal Servs. Corp., https://www.lsc.gov/initiatives/justice-gap-research.

3 *Id.*

4 Anna E. Carpenter, Colleen F. Shanahan, Jessica K. Steinberg, & Alyx Mark, *American's Lawyerless Courts: Legal Scholars Work to Recommend Large-Scale Changes in Lawyerless Civil Courts*, No. 4 A.B.A. L. Prac. 48 (2022); Nat'l Ctr. for State Cts., Civil Justice Initiative: The Landscape of Civil Litigation in State Courts 31 (2015), https://www.ncsc.org/__data/assets/pdf_file/0020/13376/civiljusticereport-2015.pdf. Equally significant is the stark disparity in representation rates between plaintiffs and defendants. On average, 92 percent of plaintiffs are represented by counsel, whereas only 26 percent of defendants have legal representation. *Id.*

5 Lucy Ricca and Eric Helland, Conference on Access to Justice in California 1 (2024), https://www.rand.org/content/dam/rand/pubs/conf_proceedings/CFA3400/CFA3411-1-v2/RAND_CFA3411-1-v2.pdf.

6 Rebecca Sandefur, *What We Know, and Need to Know, About the Legal Needs of the Public*, 67 S.C.L. Rev. 443, 447-449 (2015).

7 Rocio Avalos, Erica Carroll, Lisa Chavez, Hellen Hong, Linda Katz, and Eli Wallach, California Justice Gap Study: Executive Report 6 (2019).

8 *Id.*

rience eight times as many legal problems.[9] Millions of Californians, unable to secure the help they need, fall into this justice gap often with lasting impacts for their lives, families, and communities.[10]

A. Traditional Approaches are Insufficient to Address the Immense Need

Traditional approaches to addressing the access to justice crisis—like increasing the overall number of lawyers or mandating pro bono service—have proven ineffective. The number of lawyers has increased in both absolute terms and proportional to the American population and yet the numbers of self-represented people continue to grow.[11] And, while many lawyers are dedicated to pro bono work, only a small portion of hours across the profession are committed to it.[12] Even a significant increase in pro bono efforts would fall short—studies show that if every lawyer in the U.S. provided 100 additional pro bono hours per year, each household with a civil legal issue would still receive only 30 minutes of legal help.[13]

Those who know this problem best, who see the overwhelming need day after day, are the members of California's legal aid community. These lawyers, paralegals, administrative assistants, and other staffers bear the brunt of this ever-worsening issue. Although they offer many services to thousands of Californians in need every single day, they lack the resources to meet the overwhelming demand. Legal Service

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9 *Id.* at 9.

10 Unresolved legal issues often result in severe hardship to individuals and negative consequences to society at large. See Pascoe Pleasence et al., *Mounting Problems: Further Evidence of the Social, Economic and Health Consequences of Civil Justice Problems*, in Transforming Lives: Law and Social Process 67, 79, 83-85 (2006); Sandefur, *supra* note 6, at 457; Deborah L. Rhode & Scott L. Cummings, *Access to Justice: Looking Back, Thinking Ahead*, 30 Geo. J. Leg. Ethics 485, 488 (2017).

For example, eviction can have serious social and health consequences, including interrupted employment, worsened physical health, and increased rates of mental health disorders such as depression and suicide. The associations between eviction and child health have been well documented, including adverse birth outcomes, increased rates of food insecurity among young children, and poor physical and mental health in adolescents and young adults. These consequences create a vicious circle that results in more housing instability and economic challenges. *See Prevalence and Impact of Evictions*, United States Dep't of Hous. and Urb. Dev., https://www.huduser.gov/portal/periodicals/em/Summer21/highlight2.html#:~:text=Moreover%2C%20the%20toll%20of%20evictions,housing%20instability%20and%20economic%20challenges. Eviction is also associated with premature death. Simply being threatened with an eviction—even when that case did not result in an eviction judgment—was associated with a 19% increase in mortality. Receiving an eviction judgment was associated with a 40% increase in the risk of death. See Nick Graetz, Carl Gershenson, and Matthew Desmond, *Rising Rents and Evictions Linked to Premature Death*, Eviction Lab, https://evictionlab.org/rising-rents-and-evictions-linked-to-premature-death/.

In the context of family law, failure to address unmet legal needs may put at lives at risk through domestic violence, and result in loss of child custody by deserving parents, children left in physically dangerous, psychologically traumatic, or financially inadequate family settings, and related problems. See Deborah L. Rhode, Access to Justice 3 (2004). Similarly, the long-term effects of domestic abuse can significantly impact a victim's or witness's life. Domestic violence significantly reduces educational achievements, self-assessed health levels, and life satisfaction; and increases mental health risks. *See* Liu Bo and Yating Peng, *Long-Term Impact of Domestic Violence on Individuals-An Empirical Study Based on Education, Health and Life Satisfaction*, Behav. Scis. (2023).

Moreover, legal debt collection practices devastate vulnerable individuals by trapping them in a cycle of mounting fees, wage garnishment, and court judgments. *See They Need Legal Advice on Debts. Should It Have to Come From Lawyers?,* N.Y. Times (2022), https://www.nytimes.com/2022/01/25/nyregion/consumer-debt-legal-advice.html.

11 The population of U.S. lawyers has grown by 400% since 1970. In 1970, the number of lawyers in the United States was 326,842. In 2022, the number is 1,327,010. Am. Bar Assoc., Profile of the Legal Profession 2022, https://www.abalegalprofile.com/demographics.php#anchor1. Furthermore, the United States had one lawyer for every 695 people in 1951 and one lawyer for every 252 people in 2005. *See* Clara N. Carson & Jeeyoon Park, American Bar Foundation, The Lawyer Statistical Report: The U.S. Legal Profession In 2005, 2 (2005).

12 Gillian K. Hadfield and Deborah L. Rhode, *How to Regulate Legal Services to Promote Access, Innovation, and the Quality of Lawyering*, 67 Hastings L. J. 1191, 1193 (2016).

13 *3 ways to meet the "staggering" amount of unmet legal needs*, Am. Bar Ass'n, https://www.americanbar.org/news/abanews/publications/youraba/2018/july-2018/3-ways-to-meet-the-staggering-amount-of-unmet-legal-needs-/.

Corporation-funded organizations turn away nearly half of the requests they receive due to limited resources.[14] Moreover, recent data show that these limited resources prevent California's legal aid attorneys from fully resolving at least one-third of the problems presented to them.[15]

Increasing funding for legal aid will also not close this gap. California would need an estimated 8,961 additional full-time attorneys to address the legal needs of its low-income residents, requiring nearly $900 million in additional annual funding.[16] For comparison, California legal aid organizations cumulatively employ approximately 1,500 attorneys per year and leverage 16,000 pro bono attorneys to provide services.[17]

Recruiting and retaining attorneys has also become a critical challenge for California's legal aid organizations. A 2010 survey by the Legal Aid Association of California (LAAC) revealed that over one-third of legal aid attorneys left within three years of being hired. By 2019, this trend worsened, with one-third of attorneys leaving within just two years.[18] Financial stress due to low salaries is the number one reason legal aid attorneys give for leaving so soon.[19] Low compensation is compounded by California's high cost of living and attorneys' high student loan expenses, which have grown significantly over the years.[20] Law students, facing high costs of living and ever-burgeoning student loans, are turning to careers in government or at private law firms instead of legal aid organizations.[21]

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14 *Justice Gap Research*, *supra* note 2.

15 Avalos et al., *supra* note 7, at 14.

16 *Id.*

17 *Id.*

18 *Id.* The Bay Area and Southern California—the regions with the highest costs of living and the greatest numbers of low-income people—have seen the largest increases in turnover rates and largest decreases in length of employment. The San Joaquin Valley and Central California Region continues to have the highest turnover rates, with more than a fifth of their attorneys leaving each year. *See* Legal Aid Ass'n of Cal., Justice at Risk: More Support Needed for Legal Aid Attorneys 2-3, 39 (2020).

19 The difference in the comments the attorneys made about legal aid salaries between the 2010 Study and the 2019 Study is extraordinary. Whereas in the 2010 Study, the attorneys commented on how hard it was to be in legal aid unless they had a spouse/partner who also had an income, the 2019 Study's attorneys—and some leadership—are now saying it is financially impossible without a spouse/partners' income, particularly in the higher cost areas of the state. Some law students who want to work in legal aid say they will "figure it out," but they are unlikely to be able to do that and will leave when the financial realities set in. Nearly one in five of the legal aid attorneys have taken on second jobs to supplement their salaries. Others will just give up on legal aid entirely and look to start their legal careers elsewhere. *See* Legal Aid Ass'n of Cal., *supra* note 18, at ii, 18, 76.

20 Legal aid attorneys' educational debt has grown significantly since the 2010 Study because of the increase in law school tuition. In addition, the Public Service Loan Forgiveness program's requirement to put loans in "income-based repayment" plans is causing the amount of debt to balloon for many of the legal aid attorneys after they graduate. More than 60 percent of the attorneys currently have educational debt with the median amount in the $125,000 – $149,000 range. More than one-third of these attorneys have $200,000 – $300,000+ in educational debt. *Id.* at 22.

21 *See* Cal. Access to Just. Comm'n, Legal Aid Recruitment, Retention, and Diversity: A Report to the State Bar of California 3, 14-16 (2022). Public defender work is a stark example of the differences in salaries. The median entry-level salary for a legal aid attorney is $57,000. Entry-level salaries range from $46,000 – $78,000. Only three of the 50+ organizations have a starting salary of $70,000 or more. In contrast, an entry level salary for a Deputy Public Defender in Sacramento County is more than $110,000 and in San Francisco is nearly $122,000. These entry level salaries can be more than double the starting salaries in legal aid and are more than the median salaries for all experienced level attorney positions in legal aid organizations, except for senior legal management in some. *See* Legal Aid Ass'n of Cal., *supra* note 18, at 24, 28-29.

B. Community Justice Workers: An Emerging Movement Leveraging an Existing Resource

Recognizing the seriousness of this crisis, jurisdictions across the United States are exploring new avenues to expand access to justice.[22] One such solution is the Community Justice Worker (CJW) program, where trained nonlawyers provide free limited legal services to individuals facing civil legal issues, such as debt collection or eviction. Unlike legal paraprofessionals, who must navigate a lengthy state-run licensure process to avoid violating unauthorized practice of law rules, CJWs receive a waiver that provides a limited exemption to these regulations as long as they operate under the supervision of an approved legal aid organization.

While this approach may seem novel, individuals without law licenses have long been authorized to provide representation in immigration matters, Tribal courts, and for those incarcerated in prisons and jails, as well as before various state and federal administrative agencies.[23] Indeed, as far back as 1960, the United States Supreme Court, in *Sperry v. Florida*, a case concerning a nonlawyer patent practitioner, noted that nonlawyers had practiced before the Patent Office since its establishment in 1836 and the Office had stated that "there is no significant difference between lawyers and nonlawyers, either with respect to their ability to handle the work or with respect to their ethical conduct."[24]

For more than half a century, researchers have studied nonlawyer assistance to gain a better empirical understanding of the benefits and risks. This body of research indicates the following conclusions:

1. Consumers want legal help, including from nonlawyers.[25]
2. Qualified nonlawyers are competent and effective at providing help.[26]

This evidence opens up new pathways to addressing the justice crisis.[27] Lawyers remain the central legal practitioners, but lay advocates can help lawyers to serve more people more efficiently. Community-based

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22 Ricca and Helland, *supra* note 5.

23 Matthew Burnett and Rebecca L. Sandefur, *A People-Centered Approach to Designing and Evaluating Community Justice Worker Programs in the United States*, 51 Fordham Urb. L. J. 1509 (2024). *See also Director Rachel Rossi of the Office for Access to Justice Delivers Keynote Remarks at the Launch of the Alaska Legal Services Corporation's Community Justice Worker Resource Center,* Dep't of Just. Office of Pub. Affs. (Oct. 25, 2023), https://www.justice.gov/opa/speech/director-rachel-rossi-office-access-justice-delivers-keynoteremarks-launch-alaska-legal (articulating how programs similar to CJW programs are being developed for Tribal communities in Oklahoma, Montana, Arizona, and Minnesota).

24 Sperry v. Florida, 373 U.S. 379, 402 (1963).

25 *See, e.g.*, Rebecca L. Sandefur, *Legal Advice from Nonlawyers: Consumer Demand, Provider Quality, and Public Harms*, 16 Stan. J. Civ. Rts. & Civ. Liberties 283, 289–97 (2020), Natalie Anne Knowlton, Inst. for the Advancement of the Am. Legal Sys., Cases Without Counsel: Our Recommendations After Listening to the Litigants 29 (2016); Cayley Balser et al., *Leveraging Unauthorized Practice of Law Reform to Advance Access to Justice*, 18 L. J. for Soc. Justice 66, 97–100 (2024).

26 *See*, *e.g.*, Mary E. McClymont, Geo. Just. Lab, Nonlawyer Navigators in State Courts: An Emerging Consensus (2019); Rebecca L. Sandefur & Thomas M. Clarke, Am. B. Found., Nat'l Ctr. for State Cts. & Pub. Welfare Found., Roles Beyond Lawyers: Evaluation of the New York City Court Navigators Program (2016); David Kraft et al., Five Year Review of Paralegal Regulation: Research Findings. Final Report for the Law Society of Upper Canada 6 (2012); Herbert M. Kritzer, Legal Advocacy: Lawyers and Nonlawyers at Work (1998); Sandefur, *supra* note 26, at 297–308; Jessica K. Steinberg et al., *Judges and the Deregulation of the Lawyer's Monopoly*, 89 Fordham L. Rev. 1315 (2021); Deborah L. Rhode, *What We Know and Need to Know About the Delivery of Legal Services by Nonlawyers*, 67 S.C. L. Rev. 429, (2016); Richard Moorhead et al., *Contesting Professionalism: Legal Aid and Nonlawyers in England and Wales*, 37 Law & Soc'y Rev. 765, 785–87 (2003); Nora Freeman Engstrom, *Effective Deregulation: A Look Under Hood of State Civil Courts*, Jotwell, Oct. 31, 2022.

27 *See* Appendix A for a more detailed discussion of the key studies of nonlawyer-provided legal assistance.

lay helpers can serve as an important part of the legal ecosystem, enabling communities to identify and vindicate their legal rights and prevent avoidable harm from having devastating impacts.

Several states have successfully created and implemented programs allowing limited legal practice by CJWs. The Alaska Supreme Court recently approved a waiver of unauthorized practice of law restrictions, allowing the Alaska Legal Services Corporation to train and supervise community justice workers in Alaska's rural and remote communities, many of which qualify as legal deserts.[28] Delaware recently authorized registered agents to represent both landlords and tenants in eviction cases, correcting a previous inequality where only landlords could employ non-lawyers.[29] In Arizona, Domestic Violence Legal Advocates and Housing Stability Legal Advocates provide general legal information and legal advice regarding housing matters, orders of protection, and family law.[30] In Utah, CJW programs include domestic violence advocates, housing stability advocates, and medical debt advocates. And in June, Texas launched a CJW program through the Texas Access to Justice Foundation Moonshot Grant program, where lay advocates will address unmet legal needs in areas such as consumer debt, credit repair, housing, public benefits, and special education.[31]

Alaska's program, which is the largest and about which we have the most information, has had remarkable success. As of September 30, 2024, 271 CJWs have completed training, and another 143 are progressing.[32] Because part of the training program requires case handling under supervision, all 414 CJW's are handling cases. The CJWs have a 100 percent success rate in the areas in which they have been deployed so far (primarily assisting clients with accessing SNAP benefits and drafting wills). Due to the success of the program, Alaska Legal Services Corporation (the sponsoring legal organization) was able to double the overall number of clients assisted in one year.

Utah's domestic violence advocate program, though smaller in size, has also had a positive impact, particularly in the large rural areas of Utah. From June 2021 through June 2024, advocates helped clients seek 225 protective orders.[33] In those 225 cases, an *ex parte* order was issued in 205 cases and denied in only 20 cases.[34] Timpanogos Legal Center (TLC), the supervising legal aid organization, notes that of the 205 with *ex parte* orders issued, only 17 were denied final orders by the court. 39 clients chose to dismiss their order request at the final hearing, usually because an alternative agreement was reached. 118 clients were

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28 *Community Justice Worker Program*, Alaska Legal Servs. Corp., https://www.alsc-law.org/cjw/.

29 *Delaware to Allow Non-Lawyer Representation for Tenants in Eviction Cases*, Nat'l Low Income Hous. Coal., https://nlihc.org/resource/delaware-allow-non-lawyer-representation-tenants-eviction-cases.

30 *Legal Advocates*, Ariz. Jud. Branch, https://www.azcourts.gov/cld/Legal-Advocates.

31 *Innovative Legal Program To Provide Access to Justice for More Texans*, Texas RioGrande Legal Aid, https://www.trla.org/news-releases/innovative-legal-program-to-provide-access-to-justice-for-more-texans#:~:text=The%20Moonshot%20Grant%20funding%20will,TLSC%2C%20and%20TRLA%20as%20subgrantees. The Texas Supreme Court recently issued an order delaying the effective date of the rule changes related to CJW practice activities.

32 Information provided by Sarah Carver, Co-Director, Alaska Community Justice Worker Resource Center (Nov. 1, 2024).

33 Timpanogos Legal Center, Certified Advocate Partners Program, Our Data, https://www.timplegal.org/legal-services/certified-advocate-partners-program (last visited Nov. 1, 2024).

34 *Id.*

awarded final orders.[35] TLC compared this outcome data with that collected by the Administrative Office of the Utah State Courts and found that clients receiving legal services from an advocate are roughly twice as likely to receive a protective order than the statewide average.[36]

C. Community Justice Workers in California

Community justice workers can be a key part of solving the justice crisis in California. Indeed, many of our legal service organizations already rely on justice workers to provide key connections with communities, legal information, and referrals back to legal aid. For example, Stay Housed LA is a broad partnership between government, legal aid organizations, and community-based organizations in Los Angeles.[37] Volunteers and staffers in the community-based organizations provide legal information and referrals to the legal aid partners for Los Angelenos facing housing insecurity. In Northern California, Legal Link works across a range of community-based organizations, training their staffers and volunteers to provide "legal first aid" by surfacing and identifying legal problems and assisting people with finding legal services.[38]

But the impact could be so much more significant. Legal aid stands ready to train and deploy supervised CJWs to help more people reach just resolutions to their problems. By allowing CJWs to perform activities such as providing simple legal advice to someone who has just received an unlawful detainer complaint or assisting another with answering a debt collection complaint or advising a survivor on how to file for an order of protection, our legal aid organizations can increase their impact in vulnerable communities, drive better outcomes for those we seek to serve, and build trust with our community partners.

As Jessica Jewell, the Executive Director of California Rural Legal Assistance, explains, "In rural areas, California Rural Legal Assistance, Inc. is often the only source of legal assistance for people trying keep their homes, maintain their incomes, and protect their safety. But millions of California residents are priced out of private legal representation, and demand for our services far outpaces our capacity. This proposal would allow for innovative growth of resources to serve communities' legal goals."

The proposal below offers a framework for individual California legal aid organizations to seek approval to develop and deploy programs in their communities that allow supervised CJWs to offer simple legal services, including specific legal advice and assistance, in core areas of need. This proposal recognizes the expertise legal aid organizations have in their communities and their legal needs and seeks to allow each organization the flexibility to develop programs that respond to those needs. In this way, the framework

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35 *Id.* 31 clients were awaiting final outcome at the time of reporting.

36 *Id.* The referenced statewide average includes both lawyer represented and self-represented parties. Email from Hayley Cousins (Nov. 7, 2024) (on file with authors).

37 Stay Housed LA, https://www.stayhousedla.org/about (last visited Nov. 13, 2024).

38 *Our Mission and Model,* Legal Link, https://legallink.org/our-mission-model/ (last visited Nov. 13, 2024).

allows for variability among programs, including in legal areas served, status of justice worker (whether internal employee or volunteer from an outside community-based organization), training, and range of activities. CJWs are not independently licensed, can only serve clients of the legal aid organization, and cannot charge any fees for their work. The legal aid organizations themselves are responsible for the work performed by the CJWs and must hold malpractice insurance covering the CJWs.

The proposal is intentionally simple, leveraging already existing regulatory structures and provider organizations to ensure minimal expense and maximal scale and sustainability. We believe this proposal outlines a path for California to move forward to respond to the urgent access to justice crisis, simply by allowing trusted providers to deploy justice workers at scale and in more impactful ways.

We look forward to feedback on this proposal and working with our partners in California to create thoughtful, impactful, and sustainable solutions to the justice crisis.

In the proposed program, **authorized legal services organizations** will be able to deploy **Community Justice Workers** ("CJWs") to provide legal services, including legal advice and other activities that may be defined as the practice of law, to clients who otherwise qualify for free legal services from the organization. Authorization in the program allows these organizations and their certified CJWs to provide these services without violating Cal. Bus. & Prof. Code 6125 *et seq.*, California's prohibition on the unauthorized practice of law by those who are not licensees of the State Bar of California. The ability of nonlawyer CJWs to provide legal services under the umbrella of this program is controlled by and overseen by the authorized legal services organizations and limited to the scope of activities approved by that organization.

1 Definitions

a **Authorized legal services organization** is an organization satisfying the definition set forth in Cal. Bus. & Prof. Code 6159.51 which satisfactorily completes the application process and is authorized by the authorizing body to implement and run a waiver-based CJW program.

b **Community Justice Worker** is a person not licensed by the California State Bar who has satisfied the training and other relevant requirements as certified by an authorized legal services organization and will engage in the limited practice of law exclusively for an authorized legal services organization.

2 Authorization of legal services organizations

a The [authorizing body][39] shall serve as the authorizing body for legal services organizations seeking to certify CJWs under this program. The [authorizing body] shall review each application and ensure that the application sufficiently sets forth the requirements listed below. The authorizing body shall then issue authorization for the legal services organization pursuant to this program. The authorizing body shall immediately submit the organization's authorization to the California State Bar.

b Application requirements:

i. The applicant organization shall attest to status as a legal aid organization under the definition set forth in Cal. Bus. & Prof. Code 6159.51;

ii. The applicant organization shall submit a narrative description of the proposed CJW program;

iii. The applicant organization shall submit its CJW training plan, including any curricular components, testing, and experiential learning

39 The working group suggests that the Legal Services Trust Fund Commission is a possible entity to serve as the authorizing body for this program. The Commission's role in overseeing and administering IOLTA funds to California legal aid organizations makes it well placed to perform the authorizing role for this program. However, we believe that the final determination of the appropriate entity for the authorizing body should be made through additional discussions with the Supreme Court, State Legislature, State Bar, and legal services organizations. We do note that should the Commission be found to be the appropriate entity, it seems likely that Cal. Bus. & Prof. Code § 6210.5 would need to be amended to allow the Commission to perform the authorization function.

1. The training plan shall include training on ethical service provision, including the Rules of Professional Conduct.

iv. The applicant organization shall submit a plan for gaining informed and written client consent to receive CJW-provided services;

v. The applicant organization shall submit a plan for ensuring control and security of the organization's client files;

vi. The applicant organization shall submit proof of malpractice insurance that covers CJWs;

vii. The applicant organization shall attest to the organization's ability to comply with any reporting requirements.

c Organizations which the [authorizing body] has determined currently satisfy the definition of a qualified legal services project under Cal. Bus. & Prof. Code 6213(a)(1) are automatically considered authorized legal services organizations. Such organizations need only submit their intent to launch a qualifying CJW program to the State Bar and must comply with the certification requirements for each CJW as described below.

i. In the case that an organization is no longer a qualified legal services project under Cal. Bus. & Prof. Code 6213(a)(1) but wishes to continue operating as an authorized legal services organization under this program, then the organization shall have [30]days from the date on which it ceased to be a qualified legal services project under Cal. Bus. & Prof. Code 6213(a)(1) to request such continuation from the authorizing body.

Requirements for authorized legal services organizations

a Once authorized, the legal services organization must:

i. Certify each individual CJW to the State Bar once that person has satisfactorily completed the organization's relevant training requirements and submit each CJWs scope of practice, including legal service area(s) and scope of activities.

ii. Report any relevant changes in status, either of the organization or any CJW, including:

1. Immediately inform the State Bar if the organization no longer receives IOLTA funding or stops providing approved services.

2. Immediately inform the State Bar when any CJW is no longer eligible for inclusion in this program, whether by resignation, termination, or other reason.

3. Immediately report any known violations of applicable rules by CJWs to the State Bar. Violation may be grounds for termination of CJW status.

iii. Report the following information to the State Bar on an annual basis, to ensure ongoing feedback for continuous program improvement:

1. Number of clients served by CJWs through the waiver;

2. Hours worked by CJWs;

3. Legal / Financial outcomes

4. Post-services survey of clients served by CJWs;

5. Client Complaints and resolution of complaints, if any; and

6. Certain information on organization's active CJWs, including:

a. gender,
b. age,
c. race/ethnicity;
d. income level;
e. highest level of education;
f. language capability;
g. does the CJW identify as a member of the client community.

4 Requirements for CJWs

a A CJW is not permitted to perform any activities constituting the practice of law outside of the scope of certification submitted by the authorized legal services organization to the State Bar. Any activities constituting the practice of law outside the scope of the certification are subject to enforcement under Cal. Bus. & Prof. Code 6125 *et seq*.

b A CJW is not permitted to charge any fees, including fees structured on a contingent or percentage basis, or for a referral, for legal services provided under this program.

c A CJW's authorization to provide the services outlined in the certification is contingent upon affiliation with an authorized legal services organization. Should that affiliation cease for any reason, the CJW is no longer certified to provide the relevant legal services and will be subject to enforcement under Cal. Bus. & Prof. Code 6125 *et seq*. should the CJW continue to provide such services. However, a CJW may transfer affiliation as contemplated in Section 5 below.

d No disbarred or suspended attorney, whether disciplined in California or any other jurisdiction, may be certified as a CJW.

e Each CJW shall be subject to the California Rules of Professional Conduct, California Rules of Court, and other relevant statutes and rules.

5 CJW Transferring Affiliation

a If a CJW wishes to transfer affiliation from one authorized legal services organization to another, the organization to which the CJW is transferring must independently determine that the CJW is qualified to competently provide services within that organization's program and then certify the CJW to the State Bar as described in 3(a)(i).

b The transferring CJW cannot provide services in the transferee legal services organization until that certification has been accepted by the State Bar.

6 State Bar Role

a The State Bar shall maintain a roster of authorized legal services organizations that shall be posted on its website;

b The State Bar shall maintain a roster of each authorized legal services organization's active CJWs, including their scope of practice;

c The State Bar shall develop a simple process by which authorized legal services organizations can certify individual CJWs to the State Bar for inclusion in the organization's roster of CJWs. Such certification should include:

i. The name of the CJW; and
ii. The scope of practice (legal service area(s) and scope of activities of the CJW).

d The State Bar shall develop a process by which it promptly communicates the roster of authorized legal services organizations and their CJWs to any other relevant authorities, including those authorities responsible for enforcement of Cal. Bus. & Prof. Code 6125 *et seq*.

e The State Bar shall report to the Legislature and Supreme Court all complaints received by the State Bar against active and inactive CJWs, the nature of the complaint, and the resolution on an annual basis.

7 Program Evaluation

a The program shall be evaluated after [5] years.[40] The evaluation shall assess:
i. The number of CJW providers and the number of clients served;
ii. The impact on the ability of legal services organizations to serve their communities, including
  1. Legal and financial outcomes - immediate and longer term;
  2. Impacts on access to justice for underserved communities as a result of the CJW program; and
  3. Community trust and engagement.
iii. Cost of implementation within individual legal services organizations;
iv. Cost of implementation of the program.

40 The working group suggests that the California Access to Justice Commission is an appropriate entity to administer the evaluation of the program but defers determination of this question until after there have been additional discussions with the Supreme Court, State Legislature, the Access to Justice Commission, the State Bar, and legal services organizations.

The working group discussed a range of possible policy vehicles by which the proposed program could be enacted. The working group notes that in all other states implementing CJW programs, the enabling policy vehicle is an order from the state supreme court. This may be a possible approach in California. The group concluded that particular outstanding questions, such as the entity serving as the authorizing body, need to be addressed before the appropriate policy vehicle is identified.

The California Supreme Court has the inherent power to determine who is qualified to practice law in this state.[41] The California State Bar serves as the administrative arm of the Court to effectuate that power.[42] However, the California Legislature also plays a significant role in the regulation of legal services and oversight of the State Bar through the State Bar Act.[43]

The California Supreme Court has found that the legislature may enact rules and regulations related to the practice of law, including admission to practice law, but if those rules and regulations conflict with those imposed by the Supreme Court, then "the legislative enactment must give way."[44] The Legislature may not, using an example from the case law, authorize a person disbarred upon conviction of a crime to practice law again through a pardon statute.[45] Thus, the Court and the Legislature work together to dictate the regulation of the practice of law, but ultimate authority rests with the Court.

We can see this relationship expressed through the State Bar Act and the California Rules of Court. Section 6125 of the State Bar Act states:

No person shall practice law in California unless the person is an active licensee of the State Bar.[46]

Section 6126, however, recognizes that certain people may be authorized by other statutes or rules to perform activities constituting the practice of law. The Section, which lays out the consequences for unauthorized practice, states:

Any person advertising or holding himself or herself out as practicing or entitled to practice law or otherwise practicing law who is not an active licensee of the State Bar, *or otherwise*

41 Cal. Rules of Ct. Rule 9.3: Inherent Power of the Supreme Ct. (2024); *see also* Merco Constr. Eng'rs, Inc. v. Mun. Ct., 581 P.2d 636, 638 (1978) (noting that statements of California courts have consistently supported the contention that the judiciary has the inherent power to regulate the practice of law); Eagle Indem. Co. v. Comm'n of Cal., 18 P.2d 341, 342 (1933) ("The Legislature may, in the first instance, prescribe the qualifications for admission to the bar and define what shall constitute the practice of the law, but regulations to that end must stand the test of judicial inquiry as to their propriety and reasonableness.").

42 *Id.*

43 Cal. Bus. & Prof. Code §§ 6000 et seq., https://www.calbar.ca.gov/Portals/0/documents/rules/State_Bar_Act.pdf.

44 *Merco*, 581 P.2d at 638.

45 *In re* Lavine, 41 P.2d 161, 163-64 (1935).

46 Cal. Bus. & Prof. Code § 6125.

***authorized pursuant to statute or court rule to practice law in this state at the time of doing so*, is guilty of a misdemeanor….**[47]

This language provides safe harbor to a range of people authorized to practice law by statute or rule who are not licensees of the bar, including lay representatives who may represent people before state and federal agencies and people authorized by the Supreme Court through its rules.

For example, the California Rules of Court Title 9, Division 4 concerns "Appearances and Practice by Individuals Who Are Not Licensees of the State Bar of California."[48] This section contains language permitting the practice of law for certain groups of people, including military spouses, law students, and out-of-state arbitration counsel, who are not licensees and thus would otherwise be subject to the prescription of Cal. Bus. & Prof. Code § 6125. In this manner, Sections 6125 and 6126 establish legislative authority over who may and may not practice law in California but build in deference to the Court (as well as other state and federal authorities).

Taking this partnership between the Legislature and the Court into consideration, there are several possible pathways for enacting the proposed CJW program in California.

POSSIBLE PATHWAY #1: New section added to Cal. Rule of Court 9.4.

This division of the California Rules of Court contains sections outlining rules for allowing non-licensed or provisionally licensed individuals to practice law in California.

In this approach, the working group would petition the California Supreme Court, either directly or through the California State Bar, to authorize the proposed program through the Rules of Court by adding a new section to Title 9, Division 4 detailing the program. The Rule could be styled as follows:

Rule 9.45.1 Legal Aid Supervised Community Justice Worker Program

(a) Definitions
(b) Application requirements
(c) Eligibility for certification
(d) Supervision
(e) Compliance and reporting
(f) Transferring affiliation
(g) Program evaluation

47 Cal. Bus. & Prof. Code § 6126(a) (emphasis added).
48 Cal. Rule of Ct. 9.4.

Given the language identified above in Cal. Bus. & Prof. Code § 6126, this section could be added without any statutory change needed (see e.g. Rule 9.41.1, Rule 9.42, Rule 9.45).

POSSIBLE PATHWAY #2: New section added to Cal. Rule of Court 9.4 and statutory waiver enacted to Cal. Bus. & Prof. Code § 6125.

In this approach, the working group would both seek a new Rule of Court as outlined above and a statutory amendment to Cal. Bus. & Prof. Code § 6125:

6125.1

An individual who is not an active licensee of the California State Bar shall be exempt from § 6125 if they qualify for the Community Justice Worker Program outlined in Cal. Rule of Court 9.45.1.

POSSIBLE PATHWAY #3: Order issued by the California Supreme Court.

As noted, the California Supreme Court retains the inherent power to determine who may practice law in this state.[49] The Court could issue an administrative or standing order enabling the program and directing the State Bar and any other relevant bodies to develop the processes and procedures needed to carry out the order. In other states which have implemented these programs, the state supreme courts have issued orders authorizing the program.[50]

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49 *See* sources cited *supra* note 41.

50 *See* Ala. Sup. Ct. Ord. No. 1994; Ariz. Sup. Ct. Admin. Ord. No. 2024-34; *id.* 2024-35; Del. R. Sup. Ct. R. 57.1; Haw. Sup. Ct. Ord. No. SCMF-23-0000343; Utah Sup. Ct. Standing Ord. No. 15; *id.* No. 16.; Tex. Sup. Ct. Ord. No. 24-9050.

This proposal is for a framework to authorize and oversee legal aid organizations using CJWs to offer legal services to their clients. The framework is intentionally simple and meant to leverage already existing entities and resources to perform the proposed tasks. Specifically, we estimate the following:

Staffing support for application body: Approximately 50% FTE

Staffing support for oversight body: Approximately 50% FTE

Technical support: Approximately 25% FTE

We note that this proposal does not incorporate programmatic development or implementation support for legal aid organizations to stand up CJW programs, either individually or collectively. Such support will be needed and LAAC, Legal Link, and other working group organizations are working toward building this support.

APPENDIX A

Overview of empirical research on nonlawyer provided legal assistance

Over the past fifty years, there have been a range of studies looking at legal assistance provided by nonlawyers, assessing different tribunals, at different times, and using different metrics. The overall conclusion is that trained nonlawyers can perform as well as, or sometimes better than, their J.D.-toting counterparts. A short review of several of the key studies is informative.

In the 1980s, two studies looked at representation across a range of providers in both child abuse and neglect cases (Duquette & Ramsey) and in social security and immigration issues (Hostetler).[51] Professors Duquette and Ramsey, using court data and interviews to evaluate both process and outcome measures, found "[n]onlawyers carefully selected and trained and under lawyer supervision performed as well as trained lawyers in representing children, and certainly performed better than lawyers without special training."[52]

Professor Hostetler conducted interviews with federal officials and legal aid representatives and reported "a high level of satisfaction with nonlawyer representatives, not only at the early stages of assisting with forms and informal conferences, but also at later stages of agency proceedings."[53] Indeed, she concluded that "[t]he overwhelming opinion is that there is little perceived difference in the quality of help between lawyers as a class and nonlawyers as a class."[54] Interestingly, Hostetler's subjects noted that a key factor in the quality of the services provided by the nonlawyers was likely the special training they received in the administrative agency's rules, process, and forms, resulting in specialized expertise.[55]

In the 1990s, political scientist Herb Kritzer studied the work of lay agents across four administrative contexts in Wisconsin: unemployment compensation appeals, tax appeals, Social Security disability appeals, and labor grievance arbitration. Kritzer found that "nonlawyers can be effective advocates and, in some situations, better advocates than licensed attorneys."[56] Specifically, Kritzer concluded:

> [T]he key to effective representation is the combination of three types of expertise: knowledge about the substance of the area, an understanding of the procedures used, and familiarity with the other regular players in the process. The latter can come only with experience, but the first two (substantive and procedural expertise) could be

51 *See generally* Donald N. Duquette & Sarah H. Ramsey, *Representation of Children in Child Abuse and Neglect Cases: An Empirical Look at What Constitutes Effective Representation*, 20 U. MICH. J.L. REFORM 341 (1987) and Zona Fairbanks Hostetler, *Nonlawyer Assistance to Individuals in Federal Mass Justice Agencies: The Need for Improved Guidelines*, 2 ADMIN. L.J. 86 (1988).

52 Duquett & Ramsey, *supra* note 51, at 390.

53 Hostetler, *supra* note 51, at 103.

54 *Id.*

55 Hostetler, *supra* note 51, at 105.

56 Herbert M. Kritzer, *Viewpoint: Rethinking Barriers to Legal Practice*, 81 JUDICATURE 100, 100 (1997). Krizter used multiple methodologies to perform the study, including observation, interviews, and outcome analysis.

> imparted through one-year, specialized training programs for paralegals, legal technicians, and licensed advocates.[57]

In the 2010s, Professor Rebecca Sandefur conducted a careful meta-analysis to understand the impact of lawyer representation on the outcomes of formal adjudication.[58] She found that lawyers "perform so much better than lay people, but only somewhat better than [nonlawyer advocates]."[59] In a key insight, Professor Sandefur noted that the lawyers' impact seemed to come less from professional expertise and rather from relational expertise in a "rarified interpersonal world."[60]

A 2017 study by Professors Anna Carpenter, Alyx Mark, and Colleen Shanahan, using interviews and case data from more than 5,000 unemployment insurance appeal hearings, found that when nonlawyers and lawyers appear at hearings the case outcomes and procedural behaviors are similar and that the similarity reflected the specialized expertise of the context.[61]

Most recently, the 2023 Report from the White House Legal Aid Interagency Roundtable found that 15 federal agencies permit nonlawyers to provide legal assistance across a wide range of substantive areas, including housing, public benefits, immigration, civil rights, tax, food security, and worker protection.[62] The activities these nonlawyers perform range from "straightforward and procedural" to "highly technical and complex," such as representation in a removal proceeding in the immigration context.[63] Although not an empirical study, the Report notes the potential benefits of nonlawyer assistance, including that it may be the only available form of legal help in a given community, particularly rural or remote areas and that it can lead to increased public engagement with and trust in the justice system by the impacted community.

---

57 *Id.* at 101.

58 Rebecca L. Sandefur, *Elements of Professional Expertise: Understanding Relational and Substantive Expertise through Lawyers' Impact*, 80 Am. Socio. Rev. 909, 913 (2015).

59 *Id.* at 924. The studies included in Sandefur's meta-analysis contained an enormous range of nonlawyer providers including law students, labor union staffers, paralegals, social workers, friends, and family members. *Id.* at 915.

60 *Id.* at 926 (citations omitted).

61 Anne E. Carpenter, Alyx Mark & Colleen F. Shanahan, *Trial and Error: Lawyers and Nonlawyer Advocates*, 42 L. Soc. Inquiry 1023, 1038-42 (2017).

62 White House Legal Aid Interagency Roundtable, Access to Justice in Federal Administrative Proceedings 25 (2023), https://www.justice.gov/d9/2023-12/2023%20Legal%20Aid%20Interagency%20Roundtable%20Report-508.pdf.

63 *Id.*

APPENDIX B

Sample Program Concepts

The Working Group identified program concepts that they felt would be a good fit for their organization, including how the CJWs would positively impact their client communities (the need), who the CJWs would be and the work they would do, and how the CJWs would be trained and supervised. Of the program concepts suggested, below are three examples that the working group more fully developed as possibilities. We present these here as examples of programs that could be authorized through the proposal outlined above.

HOUSING STABILITY Unlawful Detainer

NEED: The National Coalition for a Civil Right to Counsel found that approximately 4% of all tenants have representation in unlawful detainer cases, while landlords have representation 83% of the time. Tenants across California are unable to get help on basic housing stability issues, are representing themselves in evictions, and are losing not only their current housing but also their ability to qualify for housing in the future because they don't have basic information or support. There isn't enough legal support to meet the need, and there is very limited upstream support that can help folks address issues before they land in court. Equipping community-based partners to provide information and referrals, and to support on key housing procedures will expand the work of legal aid organizations and courts, especially in counties with limited resources.

WHO: Community Justice Workers would be staff at housing and tenant-focused community-based organizations in counties without a tenant right to counsel. Also possibly in counties where there is a right to counsel and an established network, to support and expand the right to counsel work.

SCOPE OF WORK: Some of the proposed work is work that is currently allowed under California's Unauthorized Practice of Law, but could be expanded and done with reduced levels of supervision by the Organization attorneys.

- Habitability letters and advice
- Security deposit letters and advice
- Source of income discrimination advice and support filing claims with the CRD
- Reviewing notices to terminate tenancy
- Negotiation with opposing counsel/self-represented landlords
- Housing Authority - hearings with PHAs
- Rent Board petitions and hearings
- Reasonable accommodation requests and negotiations/interactive process

TRAINING & SUPERVISION: Clear training on boundaries of work and scope as a CJW, including supervision structure and reporting requirements.

Training to identify housing issues, using tools to advise on and complete each of the identified proce-

dures, understanding how to spot patterns and trends, and effectively utilize the substantive supervision structure.

Supervision by Organization attorneys at key moments for each procedure, with increasing independence with experience.

EMPLOYEE RIGHTS Wage and Hour Claims

NEED: Los Angeles is the wage theft capital of the world. More than $23 million of wages is stolen from workers each week. Legal Services Organization currently offers assistance to low-income workers with wage and hour claims against unscrupulous employers. Organization works with workers' rights organizations to issue-spot and refer clients to Organization.

WHO: Community Justice Workers would be staff at workers' rights centers and other community-based organizations that are on the front lines of working with low-income workers.

SCOPE OF WORK: Much of the proposed work is work that is currently allowed under California's Unauthorized Practice of Law framework, but could be expanded and done with reduced levels of supervision by the Organization attorneys.

- Preparing wage tables
- Coordinate with clients to get documentary evidence and help collate the evidence
- Preparing claims to be filed with the Labor Commissioner's Office
- Attending settlement conferences
- Attending labor commissioner hearings
- Supporting the attorneys in preparing and delivering know your rights trainings to workers and community partners
- Performing intake interviews with prospective clients (at clinic and outside of clinic)
- Assisting in preparing retaliation, discrimination, and harassment claims with administrative agencies

TRAINING & SUPERVISION: Clear training on boundaries of work and scope as a CJW, including supervision structure and reporting requirements.

Substantive training to issue spot wage and hour issues, steps needed to advise on and complete the proposed work, understanding how to spot patterns and trends, and effectively utilize the substantive supervision structure.

Supervision by Organization attorneys at key moments for each procedure, with increasing independence with experience.

CONSUMER LAW Debt Defense

NEED: Debt collection lawsuits are 33% of the state's civil court docket, and only an average of 9% of consumers file an answer in response. Consumers need help early and upstream to understand that they need to respond, that they have rights, and that there are actions they can take. The procedures will help to reduce the default rate and tee cases up for legal aid support when available.

WHO: Community Justice Workers would be staff at community-based organizations, including Family Resource Centers, Sparkpoint (a United Way financial empowerment project), and nonprofit debt management organizations.

SCOPE OF WORK: Some of the proposed work is work that is currently allowed under California's Unauthorized Practice of Law (UPL) framework, but could be expanded. Other pieces of the scope of work will require a waiver of the UPL.

- Debt validation letter and advice
- Complete answer to debt lawsuit and referrals and/or prepare for self-representation
- Claims of Exemption and advice

TRAINING & SUPERVISION: Clear training on boundaries of work and scope as a CJW, including supervision structure and reporting requirements.

Substantive training to issue-spot debt collection defense issues, steps needed to advise on and complete the proposed work, understanding how to spot patterns and trends, and effectively utilize the substantive supervision structure.

Supervision by Organization attorneys at key moments for each procedure, with increasing independence with experience.

Comments from the Leaders of the CJW Working Group regarding Item 4.2

To the Members of the LSTFC Program Development & Impact Committee:

We appreciate the time you took to review the CJW proposal and to provide suggested revisions and improvements to the proposal. We have continued to work on the proposal over the past few months, engaging in conversation with stakeholders around the state, and are preparing to release a modified proposal in the near future that hopefully addresses some of your concerns and suggestions.

We will address each suggestion in turn.

Comment A: Foreground Consumer Protection and Lack of Public Harm.

We would consider adding more research to the proposal, but the Working Group has undertaken quite a thorough review of CJW programs in other states to identify and utilize the components that allow a program to be successful and prioritize consumer protection. For a recent thorough review of nonlawyer practice, please see "Unauthorized Practice: Assessing Available Evidence" (https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5390737). This paper is cited in the updated proposal.

Comment B: The LSTFC recommends implementing minimum quality control standards to support consumer protection and ensure a degree of parity for CJWs at different authorized legal services organizations (LSOs).

We believe that the supervision of CJWs is governed by Rule of Professional Responsibility 5.3, which requires all State bar licensees to be responsible for legal work done under their supervision. This is how supervision of all non-attorneys in the legal field is done across the state, and we believe this is sufficient for the CJW program as well.

The proposal does contemplate standardized training on topics including ethics and rules. We specifically did not want to specify standardized training for areas of substantive law as we believe that each LSO would want to customize their project, and tailor their training to the needs of their project. Because the proposal does not limit the CJW program to one area of law, one program might propose a DV restraining order project, and another program might propose a project assisting low-income Californians with dissolution paperwork. Those two programs would both cover family law, but the CJWs in each of those programs would potentially need different substantive law training. Therefore, much like LSOs are able to work with their new staff (attorney and non-attorney) to determine what substantive training is necessary to get them up to speed, we would also trust LSOs to do the same for the CJWs under their supervision.

We also anticipate that training will standardize as more LSOs are authorized to create a CJW program in similar areas of law. For instance, online training platforms like the Pro Bono Training Institute (PBTI) could host a CJW training section that could host the standardized training like

ethics, but also could have a DV restraining order training, a workers rights training, etc. that LSOs could use to ensure their CJWs are up to speed. However, just like with training of pro bono attorneys, some LSOs will want their customized training to be able to discuss the nuances of that practice area in their particular jurisdiction or with their particular client population.

Comment C: Community Justice Workers in California should demonstrate broad community support for a statewide CJW program.

This suggestion is well taken. The working group has been in contact with a number of LSO programs throughout California to understand where they might incorporate CJWs into current programming. In addition, many of the Working Group members already work with community based organizations (CBOs) that have expressed interest. As the effort moves into advocacy, engaging CBOs and other groups that are working with the LSOs will be key to ensuring the support exists within both the potential client and the CBO communities.

Comment D: The Estimated Funding Needs Section notes that the framework is “meant to leverage already existing entities and resources” to implement the proposed program. Further consideration about program costs and how to fund these costs are needed.

After conversations with many stakeholders, the revised proposal will limit the authorized organizations to those that receive IOLTA funding from the State Bar. This will lessen the burden on the Bar of having to authorize non-IOLTA funded organizations.

In addition, the costs in the proposal are estimates, and largely will depend on the number of LSOs that choose to stand up a CJW program, once authorized to do so. The working group also expects that the funding could come from a variety of sources. One option is certainly to request a dedicated stream of funding, but if that is not feasible in the near term, there are other sources that may be able to be tapped for organizations to be able to start their CJW programs.

Comment E: Program Evaluation: The LSTFC recommends implementing a rigorous, staged two- and five-year evaluation while keeping evaluation costs low.

The soon-to-be-released revised proposal provides flexibility for evaluation to occur in years 3-5. It also proposes that the State bar select an outside evaluator, subject to Supreme Court approval. Stakeholders have noted the potential conflict of interest of the State Bar conducting the evaluation internally, when part of the evaluation will be of the State Bar itself as authorizing body.

As noted above, a number of funding sources are being pursued, and the plan is not for the State Bar to self-fund the evaluation.

Comment F: Possible Policy Vehicles for Implementation of the California CJW Proposal: The LSTFC recommends the authors work with the LSTFC to advance rule changes to ensure the

CJW program addresses the needs of underserved and rural Californians and those living in attorney deserts.

We welcome the opportunity to work with the LSTFC to ensure that organizations wanting to stand up a CJW program that may expand beyond their IOLTA-funded service area have a way to scale their programs to better address the justice gap for low-income Californians. While the current proposal is more in the form of a pilot project, we hope that it will be successful and more organizations will be encouraged to participate. As more organizations participate, the opportunities to expand and grow the work that is done by CJWs under the supervision of LSOs will also be expanded.

Comment G: The LSTFC suggests the authors update The CJW Proposal to reflect data from the 2024 California Justice Gap Study and the 2024 Legal Market Landscape Report.

We appreciate this suggestion. In the soon-to-be-released updated proposal, the committee will find that those updates have been made.

Comment H: Additional recommendations related to the proposed roles for the authorizing body and the State Bar.

The proposal does not contemplate a separate complaint process for CJWs, as the individuals will not have a specific license or certification. The working group would love to explore some kind of license or professional certification in the future, where a separate complaint process may be needed.

In the meantime, the CJW would be regulated the way a non-lawyer volunteer or contract staff person would be regulated. As they would be a member of the legal team, the Rules of Professional Responsibility would apply, and any complaints or grievances would proceed through the process set forth by the LSO supervising the CJW. If the complaint or grievance was not resolved by the LSO, the client would have the ability to complain to the State Bar via a complaint against the supervising attorney and/or file a claim against the LSO's malpractice policy. The Bar and other enforcement entities would have the ability to pursue claims such as unauthorized practice of law and insufficient supervision as they do now.

We greatly appreciate the time and energy that the subcommittee spent reviewing the proposal and identifying ways to strengthen the proposal to make it more effective and impactful in lessening the justice gap for low-income Californians. We look forward to continuing the conversation as the proposal and any related advocacy efforts progress.

Sincerely,

Sacha Steinberger, LegalLink
Leigh Ferrin, OneJustice
Lucy Ricca, Neukom Center for the Rule of Law, Stanford Law School

The State Bar of California

6.5 Approval of Recommendation Regarding Letter to the Community Justice Worker Proposal Authors

Jennifer Zelnick, Principal Program Analyst, Office of Access & Inclusion

Legal Services Trust Fund Commission, November 7, 2025

Agenda

- Background
- Letter to *the CJW Proposal* Authors
- Discussion
- Proposed Resolution

Background

Background

- A group of Interest on Lawyers' Trust Accounts (IOLTA) grantees, the Legal Aid Association of California, and others published *Increasing Access to Justice through Community Justice Workers: A Proposal for California* (*the CJW Proposal*) in December 2024.
- *The CJW Proposal* seeks to establish a statewide program for community justice workers (CJWs) to provide limited legal services to low-income Californians under attorney supervision.
- *The CJW Proposal* suggests implementing a waiver-based program to ensure that legal services organizations (LSOs) and CJWs do not violate the unauthorized practice of law.
- The authors recommend that IOLTA grantees as well as legal services organizations that are not IOLTA grant recipients would apply to the Legal Services Trust Fund Commission (LSTFC) for authorization to operate a CJW program.

Background

- As the authorizing body for LSOs, the LSTFC would ensure that applicants met the proposed CJW program requirements, including:
  - A training plan for CJWs (including a curriculum, testing, experiential learning, and ethics);
  - A plan to ensure that participating clients provide informed consent;
  - A plan to protect the security of clients' files; and
  - Proof of malpractice insurance that covers the work of CJWs.
- The LSTFC would also need to notify the State Bar when it authorizes LSOs to host CJWs.
- The proposal recommends an external evaluator to review the program after five years.

Background

- *The CJW Proposal* contemplates distinct roles for the LSTFC and the State Bar. The proposed role for the State Bar would include:
  - Maintaining and posting a roster of authorized LSOs online;
  - Maintaining a roster of each authorized LSO's active CJWs, including their scope of practice;
  - Developing a process for authorized LSOs to certify individual CJWs to the State Bar;
  - Communicating the roster of authorized LSOs and their CJWs to other relevant authorities, including those who enforce UPL; and
  - Reporting to the Legislature and Supreme Court annually all complaints received against CJWs, including the nature of the complaint and its resolution.

Background

- The LSTFC Program Development and Impact committee (PDI committee) formed a working group to provide written feedback to *the CJW Proposal* authors.
- The PDI committee recommends that the LSTFC support the authors' efforts to establish a statewide CJW program in California to help address California's justice gap. The PDI committee recommends providing written feedback on *the CJW Proposal* to further strengthen the proposal.

Letter to *the CJW Proposal* Authors

Letter to *the CJW Proposal* Authors

ATTACHMENT G

Comment	Brief Summary
A. Foreground consumer protection and lack of public harm.	• *The CJW Proposal* would benefit from a more direct conversation of consumer protection and public harm—including evidence of the lack of public harm from trained nonlawyers. • Nonlawyer help is not monolithic. The public already pursues various types of nonlawyer help for legal problems. Each source of help presents unique risks and benefits.
B. Implement quality control standards to support consumer protection.	• Implement minimum quality controls to support consumer protection and ensure CJWs satisfy standardized minimum training and supervision criteria (e.g., minimum ethics and rules training). • Standardization would lower administrative burden for individual programs, create opportunities for resource sharing, foster public trust, and further public protection.

Letter to *the CJW Proposal* Authors

ATTACHMENT G

Comment	Brief Summary
C. Demonstrate broad support for a statewide CJW program.	• Demonstrate support (e.g., with data from focus groups, surveys, or letters of support) from the communities that CJWs would serve, community-based organizations, and other stakeholders. • The authors should consider engaging unions to preempt questions about labor relations and demonstrate support for scaling CJWs statewide.
D. Further consider program costs and how to fund the program.	• The State Bar cannot administer a CJW program for non-IOLTA grantees in the absence of a new funding stream. • The letter suggests advocating for dedicated funding to support both grantee and non-grantee organizations to ensure the program serves the most underserved Californians.

Letter to *the CJW Proposal* Authors

ATTACHMENT G

Comment	Brief Summary
E. Balance rigorous, skilled program evaluation with low costs.	• Evaluating the program after five years may delay necessary course-correction. The letter proposes a staged evaluation at years two and five to timely adjust the program as needed. • One of the LSTFC's core responsibilities as a grant administrator is program evaluation. • The LSTFC proposes the Office of Research and Statistics (ORS) to lead or manage program evaluation. Delegating program evaluation to ORS would help balance rigorous evaluation with keeping costs low.

Letter to *the CJW Proposal* Authors

ATTACHMENT G

Comment	Brief Summary
F. Work with the LSTFC to advance necessary rule changes.	• The LSTFC recommends that it begins to work with the LSTFC Rules Committee to explore possible statutory and/or rule changes necessary to implement a statewide CJW program. • Possible statutory and/or rule changes should ensure the program addresses service disparities for Californians living in rural counties and attorney deserts.
G. Update *the CJW Proposal* with data from 2024.	• Update citations to include data from *the 2024 Justice Gap Study*, as well as *the 2024 Legal Market Landscape Report.*

Letter to *the CJW Proposal* Authors

Comment	Brief Summary

H. Further clarification needed for the roles of the LSTFC and the State Bar.	• Additional recommendations related to the proposed roles for the LSTFC and the State Bar. This includes:
	  • Recommending the LSTFC develop a system to review complaints against authorized LSOs;
	  • Working with the State Bar to develop a system to roll out communication about the roster of authorized LSOs and CJWs; and
	  • Clarifying disciplinary obligations and procedures for CJWs.

Discussion

Proposed Resolution

Should the Legal Services Trust Fund Commission concur, it is:

RESOLVED, that the Legal Services Trust Fund Commission (LSTFC) supports the *Increasing Access to Justice Through Community Justice Workers: A Proposal for California (the CJW Proposal)* authors' efforts to establish a statewide community justice worker program in California, especially for underserved and rural Californians and those living in attorney deserts; and it is

FURTHER RESOLVED, that the LSTFC provides the written feedback in Attachments A and B to *the CJW Proposal* authors to help strengthen the proposal.

Thank You!

If you have questions about the *CJW Proposal for California*, please contact Jennifer Zelnick, Principal Program Analyst, at jennifer.zelnick@calbar.ca.gov.

EXHIBIT 30

The State Bar of California

RESOLUTION ADOPTED BY THE LEGAL SERVICES TRUST FUND COMMISSION

AGENDA ITEM 6.5: Approval of Recommendation Regarding Letter to the Community Justice Worker Proposal Authors

RESOLVED, that the Legal Services Trust Fund Commission (LSTFC) supports the *Increasing Access to Justice Through Community Justice Workers: A Proposal for California (the CJW Proposal)* authors' efforts to establish a statewide community justice worker program in California, especially for underserved and rural Californians and those living in attorney deserts; and it is

FURTHER RESOLVED, that the LSTFC provides the written feedback in Attachments A and B to *the CJW Proposal* authors to help strengthen the proposal.

I hereby certify that the foregoing is full, true and correct copy of the resolution adopted by the Legal Services Trust Fund Commission, at its meeting held on November 7, 2025, by teleconference on Zoom.

Doan Nguyen, Legal Services Trust Fund Commission Coordinator

VOTE

Moved by Milrod, seconded by Connolly

Ayes – (14) Alikhaani, Babcock, Campbell, Galkin, Hoang, King, Klein, Mahoney, Prior, Rosi, Escobedo, Milrod, Al-Sarraf, Connolly
Nays – (0)
Abstain – (0)
Absent – (6) Blakemore, Gonzalez, Morales, Sandville, Smith, Stalker

Motion carries.

EXHIBIT 31

From: Zelnick, Jennifer
To: "Leigh Ferrin"
Cc: Sacha Steinberger; Lucy Ricca; Nguyen, Doan
Subject: RE: [EXT] Letter to the CJW Proposal Authors
Date: Friday, November 14, 2025 2:36:00 PM

Dear Leigh,

No problem, we were glad to review and help. Thanks for this update. We look forward to updates.

Have a great weekend,
Jennifer

Jennifer Zelnick (she/her/hers)
Principal Program Analyst, Office of Access & Inclusion
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_____

Working to protect the public in support of the mission of the State Bar of California.
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From: Leigh Ferrin <lferrin@one-justice.org>
Sent: Friday, November 14, 2025 11:16 AM
To: Zelnick, Jennifer <Jennifer.Zelnick@calbar.ca.gov>
Cc: Sacha Steinberger <sacha@legallink.org>; Lucy Ricca <lricca@law.stanford.edu>; Nguyen, Doan <Doan.Nguyen@calbar.ca.gov>
Subject: Re: [EXT] Letter to the CJW Proposal Authors

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Thank you Jennifer!

We're still engaged in conversations with stakeholders, so we'll add the letter to our feedback/input collection and be in touch as we move forward. We really appreciate the time that you, Doan, and the committee members spent on reviewing and discussing.
Sincerely,

Leigh

On Fri, Nov 14, 2025 at 9:56 AM Zelnick, Jennifer <Jennifer.Zelnick@calbar.ca.gov> wrote:

> Dear Leigh, Sacha, and Lucy,
>
> I hope you are all having a pleasant Friday morning.
>
> Thank you, Leigh, for giving public comment at last week's LSTFC meeting in support of the PDI committee's recommendation.
>
> Attached, please find the signed letter from the LSTFC to the CJW Proposal authors for your records. As always, Doan and I, as well as the LSTFC, look forward to continuing to work together to support this important project. Please feel welcome to contact us at any time with questions or if we may be of help, and we look forward to hearing about progress and next steps.
>
> Sincerely,
> Jennifer
>
> Jennifer Zelnick (she/her/hers)
> Principal Program Analyst, Office of Access & Inclusion
> The State Bar of California | 845 South Figueroa Street | Los Angeles, CA 90017
> 213-765-1210 | jennifer.zelnick@calbar.ca.gov
>
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>
> ---
>
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EXHIBIT 32

ATTACHMENT G

From: Leigh Ferrin
To: Zelnick, Jennifer; Nguyen, Doan
Cc: Doherty, Erika; scopeland@laaconline.org; Zach Newman; Sacha Steinberger; Lucy Ricca
Subject: CJW Petition filed in CA Supreme Court today!
Date: Thursday, December 11, 2025 4:52:30 PM
Attachments: LOGO FOR EMAIL.png

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Jennifer, Doan, and Erika,

Today Legal Aid Association of California, OneJustice, and Legal Link filed a petition in the CA Supreme Court to amend the rules of court to allow CJWs to provide legal assistance under the supervision of IOLTA funded legal services organizations.

The petition was filed as a writ, but when I spoke to the clerk, I was told they'll recategorize it appropriately. The Bar is listed as an adverse party, but only because the Bar would play a role in the rule change proposal (and the filing system was not set up to accommodate administrative petitions - a better categorization would have been an interested party or something similar, but that wasn't an option). Once the court has assigned a case number and reclassified the petition, I will send along an update (and the Bar will likely get served via TrueFiling as well).

If you have any questions or want to chat about any of this, let me know!
Sincerely,
Leigh

Leigh Ferrin (she/hers)
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DECLARATION OF SERVICE

I, Ryan Sullivan, hereby certify that I electronically filed and served the attached **APPENDIX OF EXHIBITS IN SUPPORT OF THE STATE BAR OF CALIFORNIA'S RESPONSE TO THE PETITION FOR THE CALIFORNIA SUPREME COURT TO REVIEW AND APPROVE PROPOSED CALIFORNIA RULE OF COURT 9.45.1 TO ESTABLISH A CALIFORNIA COMMUNITY JUSTICE WORKER PROGRAM (Vol. II of II)** with the Clerk of the California Supreme Court and Petitioners through their counsel listed on this Court's TrueFiling system.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at San Francisco, California, this 3rd day of March, 2026.

/s/ Ryan Sullivan
Ryan Sullivan

Case No. S294332

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

PETITIONERS' REPLY TO THE RESPONSE OF THE STATE BAR OF CALIFORNIA'S RESPONSE TO THE PETITION FOR THE CALIFORNIA SUPREME COURT TO REVIEW AND APPROVE PROPOSED CALIFORNIA RULE OF COURT 9.45.1 TO ESTABLISH A CALIFORNIA COMMUNITY JUSTICE WORKER PROGRAM

Submitted by

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March 17, 2026

Document received by the CA Supreme Court.

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I. INTRODUCTION

On December 11, 2025, attorneys for the Legal Aid Association of California ("LAAC"), One Justice, and Legal Link filed a Petition for the California Supreme Court to Review and Approve Proposed California Rule of Court 9.45.1 to Establish a California Community Justice Worker Program ("Petition"). On March 3, 2026, the State Bar of California ("State Bar") filed a Response to the Petition ("Response").1

Petitioners submit this response to address certain issues raised by the State Bar and respectfully submit additional recommendations on next steps for the Court's consideration.

II. THE CALIFORNIA SUPREME COURT HAS THE DIRECT AUTHORITY TO REVIEW AND APPROVE THE PROPOSED RULE AS REQUESTED BY PETITIONERS

The Petition requested that the California Supreme Court review and approve proposed California Rule of Court 9.45.[1] to establish a California Community Justice Worker ("CJW") Program. As noted in the Petition, the California Supreme Court holds the inherent authority over the practice of law in California. Cal. Const. Art. IV, § 1; Cal. R.

1 The State Bar of California is not a named party in this matter.

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of Court 9.3. *See also In re Attorney Discipline System*, 19 Cal. 4th 582, 592 (1998) ("In California, the power to regulate the practice of law…has long been recognized to be among the inherent powers of the article VI courts.") The State Bar acts as the administrative arm of the Court in admissions matters and serves "under the authority and at the direction" of the Court. Cal. R. of Court 9.3.

This Court is well within its authority to act directly on the Petition, including approving the proposed rule and directing the bar to move forward with implementation of the rule.[2] Cal. Bus. & Prof. Code § 6087 ("Notwithstanding any other law, the Supreme Court may by rule authorize the State Bar to take any action otherwise reserved to the Supreme Court in any matter arising under this chapter or initiated by the Supreme Court; provided, that any such action by

2 Multiple other jurisdictions have authorized community justice worker programs via court order, including Alaska (Alaska S. Ct., Order No. 1994 (2022), Arizona (Ariz. S. Ct., Admin. Order No. 2024-35 (2024) and Ariz. S. Ct., Admin. Order No. 2024-24 (2024), Delaware (Del. S. Ct. R. 57.1 (2022), Hawaii (Hawaii S. Ct., Order Establishing a Rural Paternity Advoc. Pilot Project in the Third Cir. (2023), South Carolina (. *In re: S. Carolina NAACP Hous. Advoc. Program*, 897 S.E.2d 691 (2024), and Washington, D.C. (District of Columbia Court of Appeals, Order M293-26 (Feb. 5, 2026).

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the State Bar shall be reviewable by the Supreme Court pursuant to such rules as the Supreme Court may prescribe.")

The proposed rule was drafted based on research and discussion conducted by the California Community Justice Worker Working Group, made up of multiple leaders of California's legal services community, over the course of six months, followed by a full year of consulting and discussion by the leaders of the Working Group with various stakeholder groups around California, including the State Bar.[3] The Petition makes a clear case for the need for more legal help for vulnerable Californians, presents the Court with the emerging

3 As the State Bar's Response makes clear, the State Bar staff was a key stakeholder group involved in these discussions from the genesis of the Working Group. Indeed, the State Bar's Office of Access and Inclusion, which also staffs the independent Legal Services Trust Fund Commission, provided the funds to LAAC to launch the Working Group and presented on the proposal, as well as comments from the Program Development and Impact Committee of the Legal Services Trust Fund Commission, to the Board of Trustees on September 18, 2025. It is unclear to Petitioners why the State Bar's Board of Trustees never formally agendized the issue, generally or in response to the Working Group's January 2025 Proposal or after the Petition was filed. Since the filing of the petition on December 11, 2025, the Board of Trustees has met on January 22, 2026, through a joint meeting with the Committee on Bar Examiners on January 23, 2026, and again on a regularly scheduled meeting on February 26-27, 2026.

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evidence from other jurisdictions on the impact of these programs, and sets forth a simple and workable approach for creating a program that can harness the great power and diversity of California's legal services organizations to increase the public's access to legal help. The Court has more than sufficient grounds for deploying its inherent power over the practice of law to immediately and directly approve this rule.

III. SHOULD THE COURT SEEK PUBLIC COMMENT, THE COURT SHOULD ISSUE THE RULE FOR COMMENT ITSELF OR DIRECT THE STATE BAR TO MOVE RAPIDLY TO OPEN A COMMENT PERIOD.

It is Petitioners' position that the Court is not required to issue the proposed rule for public comment when it acts directly to authorize a rule related to who may practice law. Although the Court has traditionally relied on the State Bar's rulemaking process for the development of practice rules, which does require public comment, the Court's inherent authority does not require it to do so. Cal. Bus. & Prof. Code § 6026.7(d).

However, Petitioners understand the importance of public participation and government accountability in this process and recognize that the Court may wish to hear from the public on this issue. To that end, Petitioners recommend that the Court act directly to

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issue the rule for public comment on its own action for a period of 45 days. *See In re Attorney Discipline System*, 19 Cal. 4th at 587 (stating that the court issued an order soliciting public comment on).

In the alternative, Petitioners recommend the Court direct the State Bar to immediately act to issue the proposed rule for public comment. If the Court prefers this approach, Petitioners request that the Court direct the State Bar to call a special meeting of the Board of Trustees as soon as possible to issue the rule for public comment for 45 days, as the next regularly scheduled Board of Trustees meeting is not until May 14-15, 2026. The Board should then meet again at the close of the comment period, by special meeting if necessary, to make its recommendation to the Court. Petitioners stress that in its directive to the State Bar, the Court should make clear that the Board of Trustees should not start this process from the ground up but should consider the rule as proposed in the Petition, or as modified by the Court, making its recommendation to the Court on those grounds.

IV. CONCLUSION

The rule proposed in the Petition is a simple and straightforward approach to increasing the supply of qualified legal help for the most vulnerable Californians. Multiple other state

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supreme courts have acted to launch similar justice worker programs. Additional help is urgently needed and it is supported by stakeholders across California. California legal services organizations stand ready to move forward with needed programs.

Contrary to the implication of the State Bar's Response, this Court can, and should, act quickly and directly to approve the rule as proposed in the Petition. In the alternative, the Court should issue the proposed rule for public comment for 45 days or direct the State Bar to call a special meeting of the Board of Trustees, issue the proposed rule for public comment for 45 days, and then quickly move to make a recommendation to the Court. Petitioners note that with the Court's quick action, and Legislative support, Petitioners believe that it will be possible for the Legal Services Trust Fund Commission, if authorized,[4] to finalize the parameters for eligible and interested legal services organizations by September 2026, with applications to open

4 Senator Anna Caballero, herself a former legal aid attorney with California Rural Legal Assistance, has introduced a bill, SB 1129, to show her support for the creation of a Community Justice Worker program. The bill, if passed, and upon the approval of the Community Justice Worker model by the Court, would expressly authorize the Legal Services Trust Fund Commission to oversee the grantee organizations that would sponsor individual CJWs working under their attorney supervision.

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soon after, and recruitment and training of Community Justice Workers to begin in January 2027.[5]

Dated: March 17, 2026 Respectfully submitted,

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By: /s/ Salena Copeland

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5 Petitioners recognize that the first year of the program, if authorized, will include a substantial investment of nonprofit staff time and resources to design training hubs and curriculum that meets minimum standards. Legal services organizations will need time to recruit and begin training of Community Justice Workers before people receive legal advice from those workers.

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AMENDED IN SENATE APRIL 16, 2026

AMENDED IN SENATE MARCH 23, 2026

SENATE BILL No. 1129

Introduced by Senator Caballero

February 17, 2026

An act to add Section 6229 to the Business and Professions Code, relating to ~~professions and vocations.~~ *attorneys.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1129, as amended, Caballero. ~~Consumer affairs.~~ *State Bar of California: community justice worker models.*

The State Bar Act establishes the State Bar of California (State Bar) as a public corporation and assigns to the State Bar various duties with respect to the licensing and regulations of attorneys in the state.

This bill would require the State Bar to create a working group to examine the results of community justice worker models in other states and jurisdictions and *to examine* the impact of *community justice worker models in* providing *legal* services ~~to~~ *to, among others,* people who otherwise would not have received legal services. The bill would also require the ~~working group~~ *State Bar* to submit, as specified, a report with findings and recommendations ~~to the Legislature~~ before January 1, 2029.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 6229 is added to the Business and Professions Code, immediately following Section 6228, to read:

6229. (a) The State Bar shall create a working group to examine the results of community justice worker models in other states and ~~jurisdictions and the impact of providing services to people who otherwise would not have received legal services.~~ *jurisdictions.*

(b) The working group shall examine the impact of community justice worker models in providing legal services to those who qualify for legal assistance from legal services organizations, to low-income individuals, and to people who otherwise would not have received legal services.

~~(b)~~

(c) The ~~working group~~ *State Bar* shall submit, pursuant to Section 9795 of the Government Code, a report with findings and recommendations to the ~~Legislature~~ *Senate Committee on Judiciary, the Assembly Committee on Judiciary, and the California Supreme Court* before January 1, 2029.

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