



The State Bar of California

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AGENDA ITEM
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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

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 nonlawyers 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 meet its 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



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A Proposal for California

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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

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

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](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

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

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 Balsler 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

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 CJW's 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

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.

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). Kritzer 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.*

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