

EXECUTIVE SUMMARY

“ Rural America lags behind the rest of the nation in nearly every measure of success – housing, employment, pay, educational opportunity and access to healthcare.”

Dee Davis, President, The Center for Rural Strategies

Access to legal services is one of the most important and often overlooked ways in which rural areas lag behind the rest of the nation. This report is intended to raise awareness about and provide recommendations for increasing legal services to rural Californians to ensure their access to fair and impartial justice.

Legal aid offices throughout California provide civil legal aid without charge for low-income and underserved families. Clients are of all ages, races, and ethnicities, and they include veterans, seniors, juveniles, people with disabilities, and parents on behalf of their children. Legal aid clients face difficulties obtaining services for veterans, and obtaining pension and unemployment benefits. These clients also face domestic violence, child custody battles, evictions, foreclosures, and difficulties getting school services they need and deserve.¹

Each year at least one third of low-income rural people need legal services for basic human needs.² However, the availability of legal aid is extremely sparse in rural areas and legal aid programs often are only able to provide partial assistance. In addition to the paucity of legal services, rural California has more inadequate housing, higher unemployment, lower pay, lower average educational levels, and less access to health care and transportation, compared to urban California. Those problems are compounded by the fact that a larger percentage of rural than urban Californians are impoverished, elderly, or living with disabilities,³ and so more likely to qualify for legal services.

There is a startling resource disparity between urban and rural areas of California, and one of the long-term goals of the California Commission on Access to Justice has been to “increase resources in rural areas [and] establish minimum access guidelines to be used as a baseline for funding considerations”⁴ in order to achieve true access to justice for *all* Californians. Both local and statewide collaboration is needed to improve legal services in rural areas, including the pursuit of the goal of statewide parity in funding. Achieving these goals is a shared responsibility. Since no legal aid program has adequate resources, initiatives to address the severe lack of resources in rural areas should be pursued in a way that does not unnecessarily undermine urban legal programs. However, there should be at least a minimum level of access for every region of the state.

Definition of Rural and Profile of Rural California

California's rural population comprises more than seven percent of the total state population and is scattered through most counties in the state.⁵ The sum of rural California is so large -- a total of 124,800 square miles, or more than 76 percent of the state -- that if it were a separate state, it would be the fourth largest in the union.

STATE	SQUARE MILES
Alaska	663, 267
Texas	268, 581
< California (total area)	163,696 >
Montana	147,042
Rural California	124,800

Rural California looks different today than it did in the early twentieth century. The state's population has shifted from 75 percent living in rural areas in 1900,⁶ to only seven percent living in rural areas today, a twentieth century phenomenon known as "metropolitanization." The work of rural communities has shifted, too, with 96 percent of rural income from non-farm sources, and only 1.1 percent of Californians working on farms or in work closely related to farming.⁷ At the same time, rural towns are no longer miniature cities, and they do not provide their previous range of services.⁸

There are several ways that social scientists and demographers define what constitutes a rural area, among which are sparseness of population, presence of agriculture, and geographic remoteness. California has many large, non-homogeneous counties, so a county-based definition of rural is not appropriate. With a county-based assessment, a county with vast rural areas might not be considered "rural" at all because it also includes a large, densely-populated area.

The most helpful approach to defining "rural" for purposes of this report is the approach developed by the medical community, which uses sub-county areas. Therefore the "rural" areas discussed in this report are areas that meet the definition of "rural" or "frontier" that the medical community uses to analyze the availability of medical services. That analysis is comparable to an analysis of the availability of legal services. A rural Medical Service Study Area (MSSA) as defined by California law^{ix} "...has a population density of less than 250 persons per square mile...and no census defined place within the area with a population in excess of 50,000".¹⁰

Average total funding by county ranges from \$18.56 per poor person annually in California's 28 rural counties to a mean of \$44.83 per poor person in the seven urban counties of the state.

Using this definition, demographers can divide California into sub-county areas, with census tracts aggregated to represent urban, frontier, and rural areas. In this report the term “rural” includes both “rural” and “frontier” areas (frontier areas have fewer than 11 people per square mile), unless otherwise noted.

Wherever recommendations in this report address specific goals, such as establishing minimum access in rural areas, it is intended that an MSSA-based definition of rural be used in implementing that recommendation. However, other urban/rural discussions in this report use the more general urban/rural county descriptions because some solutions can only be implemented at the county level, and also because that is how much of the available research is organized.

A Population in Need

Low-income people in California's rural areas face the same kinds of legal problems that low-income people across the country face – problems that threaten their health and safety, undermine their family structure, and put at risk their housing and employment. Both urban and rural low-income communities face language barriers, low literacy, and cultural differences. However, rural residents also have needs that are distinct from residents of urban areas. For example, migrant workers, reservation residents, and rural battered women present far different issues of access and legal need than are usually seen in urban areas. The additional challenges of living in rural areas make these critical legal issues even more difficult to address. (See the description of legal issues facing low income Californians in sidebars on pages 8 and 9)

Low-income Californians throughout the state have difficulty accessing legal services, but those in rural areas face additional challenges. There are fewer legal aid lawyers in rural areas than in urban areas and few private lawyers to fill the gaps. Inadequate or unavailable public transportation makes it difficult to access legal services, especially with the large distances between legal aid offices that are typical of rural areas.

Because of low wages and limited employment opportunities, rural communities have higher rates of poverty than their urban counterparts. In part due to fewer educational institutions and a “brain drain” to urban areas, rural areas lag far behind urban areas in the average educational level of their population.¹¹

Over 5 million Californians live in rural areas, and approximately 1.6 million of them are eligible for legal aid services.¹² Legal aid guidelines allow services to most seniors and persons with disabilities, as well as to individuals whose income is below 125 percent of the poverty line. Federally defined poverty levels are quite low, as the federal guideline poverty chart below indicates. For example, \$22,050 is the maximum annual income for a family of four to be classified as impoverished.¹³

SCARCITY OF LEGAL SERVICES IN RURAL AREAS

Legal aid nonprofit providers in rural areas form the cornerstone of a coordinated – but understaffed and underfunded – legal service delivery system. The network of services also includes court-based self-help centers, county law libraries, volunteers from the private bar, and community organizations. Coordination among all of these entities is particularly important because resources are so scarce and the geographic areas to be covered are so vast.

Legal Issues for Low Income Rural Californians

The following examples provide an overview of some legal issues that are important to low-income people in California's rural areas:

Housing

The housing issues faced by rural Californians living in poverty differ in some ways from housing issues faced by impoverished people in urban areas: there is a greater percentage of manufactured housing, there are a significant number of seasonal workers who need temporary housing, and more living units are in disrepair. Two problems stand out with which rural legal services can help:

Foreclosures

There have been many recent foreclosures on rural homes, in part because lenders issued a greater percentage of subprime loans in rural areas than in urban areas between 2005 and 2008.ⁱ Statistics on rural home foreclosures do not reflect all of the homes that were lost, because they do not include foreclosures on manufactured housing,ⁱⁱ which comprises a significant percentage of rural housing. Low-income homeowners who are in danger of losing their homes need legal assistance for loan modifications and to inform them of their rights in the foreclosure process. Low-income renters also need legal assistance because they are affected by foreclosures when lenders evict them, and there is anecdotal evidence that many lenders are not complying with the federal and state laws that protect tenants.ⁱⁱⁱ

Migrant Housing

Migrant agricultural workers often live in substandard housing: 44 percent of mobile homes inhabited by farm

workers are substandard, as are 33 percent of other farm worker housing units,^{iv} because of housing and safety code violations. Many are now settling in “colonias” surrounding California's farms without access to running water, sewer systems or other modern amenities. According to HUD, 85 percent of colonias residents are U.S. citizens.^v

Labor Violations

There is great need for education about and enforcement of labor laws and health and safety laws in rural areas. Many seasonal agricultural and food processing workers are unaware of their rights or unable to enforce them without assistance. Regulatory agencies such as CalOSHA, the Department of Pesticide Regulation, the Agricultural Labor Relations Board, and the Department of Labor have limited resources, so that the enforcement of safety and wage and hour regulations is limited. Workplace injuries are more common in rural than in urban areas^{vi} and minimum wage violations are common in seasonal workplaces.

Domestic Violence

Domestic violence is exacerbated during times of economic uncertainty, and rural areas are subject to higher unemployment rates and lower wages than are urban areas. Rural domestic violence victims are more often seriously injured,^{vii} yet have fewer services available, and the few resources that exist are physically hard to reach because of geographic and transportation barriers. Rural communities are often less aware of the victims among them because of geographic isolation and the

Legal aid programs face particular challenges serving large numbers of clients because they have few local resources. There are no large law firms that can be a source of pro bono services, as well as fewer law schools, corporate headquarters, and foundations.

The State Bar's Legal Services Trust Fund Program (LSTFP) funds nearly 100 legal aid programs and support centers. These programs cover the entire state, but their resources are stretched thin. And while there are not enough resources to provide assistance to eligible urban clients, resources are even scarcer in the rural regions of California. For example, while Los Angeles County has about

paucity of services that could observe and report likely victims.^{viii}

Access to Health Care and Services

Low-income rural residents need assistance with and enforcement of rights to state and federal benefits, Food Stamps, and General Assistance. A lower percentage of rural poor receive Food Stamps, State Children's Health Insurance Program (SCHIP), and Temporary Assistance to Needy Families (TANF) than their urban counterparts.^{ix} Healthcare services are sparser in rural than in urban areas: there are fewer specialists, including pediatricians, per rural resident, despite the fact that rural children have health insurance at nearly the same rate as urban children.^x

Legal Problems Facing the Elderly and Persons with Disabilities

California's rural poor are more likely to be elderly or to be living with disabilities than are the urban poor: 28 percent of the rural poor are retired, compared to 23 percent of urban poor, and 31 percent of the nonworking rural poor have disabilities, compared to 26 percent of the urban poor.^{xi} Despite these numbers, there are fewer services accessible to the elderly and people with disabilities in rural communities. Geographic isolation, language barriers, and lack of legal aid services make it much more difficult for rural seniors and persons with disabilities to receive the services they need, including services to avoid consumer fraud and to maintain their independence.

Language Assistance

The growing number of languages spoken in rural California has significantly increased the need for language assistance both in legal aid offices and

in court, where there is no established right to an interpreter in a civil proceeding. Some adults ask their children to translate, but since they have neither legal vocabulary nor an understanding of legal concepts, children do not provide adequate assistance. Language barriers also complicate the already difficult process of outreach and delivery of legal services in rural areas. Interpreters of some languages are scarce and they must spend part of their workdays traveling to remote areas, but there is neither adequate funding nor training available to increase the number of interpreters.

Tribal Peoples

More Native Americans live in the state of California than live in any other state in the union. There are 109 federally recognized tribes, 20 tribes that are awaiting recognition, and several other tribes that do not have official federal status. Most California reservations are in rural areas and there are more than 63,000^{xii} Natives in residence, many in the most remote rural areas of the state, and several reservations straddle state or national borders.

^{xiii} While several reservations have tribal courts, reservation residents are still subject to and protected by state and federal laws, so residents must also interact with state courts.^{xiv} Rural legal aid offices and self-help centers encounter many challenges in serving tribal peoples because lawyers must know how state and tribal laws impact and intersect with regard to people's rights and responsibilities. The remoteness of some reservations presents another challenge: for example, in Inyo County one reservation is a four-hour drive from the nearest court self-help center.

22 programs and the City and County of San Francisco has approximately 13, one legal aid program – Legal Services of Northern California (LSNC) – is the general legal services provider serving 23 counties in the northern part of the state, an area larger than the state of Ohio. (A handful of other programs provide some assistance in those counties: clients with specific legal needs get long-distance help from Disability Rights California, California Indian Legal Services and California Advocates for Nursing Home Reform [CANHR], as well as a few programs not funded by IOLTA.)¹⁴

There is a large disparity in legal aid funding per poor person between urban and rural areas. In 2008, legal aid funding per poor person by county ranged from a mean of \$18.56 per poor person in California's 28 rural counties to a mean of \$44.83 per poor person in the seven urban counties of the state, nearly two and one half times the rural rate. (See Appendix A for list of counties included in each category.)

The two main legal aid funding sources, the federal Legal Services Corporation (LSC) and the State Bar's Trust Fund Program, use funding distribution mechanisms that are prescribed by statute. LSC's funding for local legal aid programs is allocated evenly based on the number of poor people in the service area. Similarly, State Bar Trust Fund monies are allocated to the counties based on the number of indigent people in each county; within the county, the funds are distributed based on the amount each program has spent during the prior year providing free civil legal services to the indigent. (See Appendix D for a more detailed explanation of this distribution mechanism).

While intended to be a fair system, for rural programs the sparse population results in their receiving inadequate funding to staff the immense geographic areas they need to serve. When the lack of funding is coupled with the challenges of serving a rural population, these programs are particularly hard-pressed to offer the level of services that they know their clients need.



Senior's sole income saved by legal aid

Dan, a senior living in the rural Sierra foothills, was unable to respond timely to a notice of levy on his bank account because of inclement weather. He had to drive to another county to make his case to the bank. He had an automatic right to exemption from the claim because his Social Security retirement payments were his only income, but his bank was going to process the claim because it did not have proof that his income was protected. After being referred to legal services by his senior center, he filed a claim of exemption. His bank now has proof of his right to automatic exemption in order to avoid this problem in the future.

Other Rural Challenges for Legal Aid Providers

In addition to the lack of resources, rural legal aid providers have an increased likelihood of conflicts of interest because the legal aid office is often the sole legal services provider in the area, leaving no other legal representation for a second party in a legal action.¹⁵ Moreover, local pro bono attorneys often have conflicts that keep them from volunteering.

In order to provide needed services to underserved rural residents, legal aid advocates sometimes must overcome both a lack of awareness of legal aid and a reluctance to seek legal assistance because of rural culture, distrust of newcomers to the community, or concerns about immigration status.

Greater travel requirements for assistance and representation mean either longer days for staff and volunteers, or fewer clients who are able to receive services. Technology to bridge the distance is both limited in availability and more expensive than it is in urban areas.

Managers of rural legal aid programs identify attorney recruitment and retention as their biggest challenge. It can be difficult to recruit both recent graduates and experienced practitioners to move to isolated areas, where there is little professional support and few urban amenities.¹⁶ Attorney turnover generally is high for legal aid organizations, but turnover is higher in counties that are predominantly rural.¹⁷ Low pay is the most common reason that attorneys give for leaving legal aid jobs.¹⁸

Courts, Self-Help Centers, and the Private Bar are Key Justice System Partners

Because rural courts are often the first place individuals go when they encounter legal problems and do not know where else to turn, it is vitally important that all rural courts and their self help centers be considered part of the broader delivery system. Appropriate referrals can be made from those self help centers to leverage resources and help individuals receive the assistance they need.

The Judicial Council's support for access to justice and its commitment to the network of Self-Help Centers across the state have made the Council an invaluable partner to the legal services community in working to provide access to justice for the poor. There are now 110 court-based Self-Help Centers in California, covering each of California's 58 counties,¹⁹ and many of those centers are located in rural areas. These centers are located in or near courthouses, and are staffed by attorneys who direct non-attorney staff members and volunteers. Self-help centers often provide assistance to people whom legal aid cannot help. Since more than half of those appearing in California courts do not have an attorney, the California Court Self-Help Centers and on-line self-help resources are a critical component of the delivery system.²⁰

The private bar is also a key partner, providing support to underfunded legal aid providers, offering pro bono support, and representing moderate income clients through a sliding-fee scale, so that representation is affordable. However, it is critical that urban law firms and bar associations, and the state's law schools, partner with their rural colleagues to help address the need. There are a limited number of attorneys in rural areas, and many of them are solo practitioners who

already provide some free or low-cost services, while struggling to maintain a profitable practice.²¹ Also, many rural attorneys work for government entities and so may be precluded or perceived as being precluded from representing clients,²² although there are many other ways for them to help otherwise unrepresented individuals. The solution to this attorney shortage must be a coordinated statewide effort to match some urban resources with rural clients who would otherwise go unrepresented.

Launching a Coordinated Effort to Achieve Parity

The California Commission on Access to Justice hopes that this report helps to launch a major coordinated effort to address the many challenges that legal aid organizations and rural courts encounter when they seek to provide access to justice for rural Californians. It is the Commission's intention that implementation of the recommendations in this report will achieve much of what is needed in terms of increased funding and volunteer support, as well as improved collaboration between urban and rural areas of the state. At the same time, the Commission recognizes that local stakeholders are in the best position to set local priorities and develop local action plans that are designed to truly improve access to justice. The Commission stands ready to help in any way that it can to achieve these important goals.



Disabled man's social security reinstated

Bob, a disabled man living in a remote area of the American River Canyon without mail service, learned of his termination from Social Security when he tried to buy groceries. He "hitched" a one hour ride into town, and found that his sole income, had been terminated because he was deemed "over resource." Bob held title to a mobile home that he had abandoned when he could not afford to fix it. Social Security Administration (SSA) determined that since he did not live in his mobile home, it was a non exempt resource worth over \$20,000, and alleged that the client received rental income from a tenant living in the mobile home.

Bob contacted legal aid and they discovered that he abandoned his home because he could neither heat it nor repair it. He had moved into an old trailer in an isolated area, reachable only by 4 wheel drive vehicle and on foot, with no phone service. Legal aid learned that someone was living in Bob's abandoned mobile home, with tarps on the roof and water diverted from a mobile home park connection. The "tenant" was afraid of losing his housing but was willing to declare that he did not pay rent to Bob. SSA reinstated his SSI.

Overview of Recommendations and Strategies for Achieving Adequate Resources for Rural Legal Services

This Report is intended to assist all key institutions and stakeholders concerned about the administration of justice in California in both urban and rural areas – the State Bar, local bar associations, and individual attorneys and law firms; the Judicial Council, local courts and individual judges; legal services programs; other “justice partners” such as county law libraries, other service providers, and the Access to Justice Commission itself. While the focus of the report is on “rural California” in general, the Commission understands that each of the state’s rural communities is unique and each has unique needs and priorities. The Commission intends that implementation of these recommendations will be tailored so that local solutions are developed, where appropriate, but that all justice system stakeholders across the state become involved in achieving these important goals.

1. Pursue Geographic Equality

All Californians should have access to justice, and the amount and type of legal assistance available to low and moderate income Californians should not depend on where those individuals reside.

2. Expand Funding for Rural Legal Services

The significant lack of funding for California’s rural legal aid programs must be addressed. All legal aid programs face the challenge of inadequate resources, including programs in urban as well as in rural areas; therefore any initiative to address the severe lack of resources in rural areas should not be developed in a way that unnecessarily undermines urban programs. The goal is to increase the total resources available for all legal services programs across the state, not merely to reallocate existing resources.

3. Develop Minimum Access Guidelines

Minimum access guidelines should be developed as a baseline for funding considerations so that, wherever feasible, funding can be allocated with the goal of moving toward parity across the state. These guidelines are particularly appropriate for the allocation of new funding because all legal aid programs, whether urban or rural, face the challenge of inadequate resources. The California Commission on Access to Justice should develop these minimum access guidelines in coordination with the State Bar’s Legal Services Trust Fund Program, Legal Aid Association of California (LAAC), legal service providers, and other stakeholders.

4. Establish Statewide “Friends of Rural Legal Aid” Committee

A statewide rural legal services Support Committee should be established to support the work of nonprofit rural legal aid providers. The Support Committee should work to ensure adequate resources and improve pro bono services. The committee should include key rural leaders as well as representatives of urban law firms, corporate counsel, and other community leaders from urban areas. The California Commission on Access to Justice should work with rural legal services programs to establish this Support Committee.

5. Fulfill Pro Bono Responsibility by Helping Rural Californians

California lawyers should consider ways to include service for underserved rural Californians when they are fulfilling their 50-hour pro bono responsibility. Because rural areas have fewer lawyers, law schools, and economic resources, urban bar associations and lawyers should consider partnering with rural organizations, being mindful that impoverished urban Californians are also underrepresented and need pro bono help as well. Attorneys who are precluded by ethics rules from representing some individuals should be made aware of all of the options for meeting the recommendation, such as devoting time or money to legal aid programs or otherwise furthering access to justice.

6. Develop Innovative Ways to Use Technology to Bridge the Urban/Rural Divide

Effective use of technology can help address many of the barriers experienced by those serving the legal needs of low-income rural Californians. While technology alone is not a panacea, online resources can significantly help self-represented litigants; video-conferencing can connect a rural resident with an urban volunteer lawyer; and telephonic appearances and e-filing can help legal aid lawyers and volunteers to avoid unnecessary travel.

7. Convene Local Rural Access Task Forces to Coordinate and Strengthen All Components of Rural Legal Services Delivery System

Local stakeholders in rural communities throughout the state should be encouraged to convene local Rural Access Task Forces to evaluate and begin addressing the priorities unique to each community to increase access to civil justice. These local task forces might include representatives from legal aid providers, self-help centers, the local bar associations, and county law libraries, as well as other partners who also assist impoverished clients. One of the first projects for these Task Forces should be to identify gaps and target services for isolated, underserved groups, and to expand the availability of legal aid services locally. It is also important to improve language access and develop methods to effectively use urban resources, including pro bono attorneys and interpreters, and to use innovative technological solutions where appropriate.