

AMERICAN BAR ASSOCIATION

**LEGAL ACCESS JOB CORPS TASK FORCE
STANDING COMMITTEE ON THE DELIVERY OF LEGAL SERVICES
STANDING COMMITTEE ON LEGAL AID & INDIGENT DEFENDANTS
THE STANDING COMMITTEE ON PROFESSIONALISM
THE COMMISSION ON IMMIGRATION
THE COMMISSION ON HOMELESSNESS & POVERTY
THE COMMISSION ON IOLTA
THE NATIONAL NATIVE AMERICAN BAR ASSOCIATION**

REPORT TO THE HOUSE OF DELEGATES

RESOLUTION

1 RESOLVED that the American Bar Association urges national, state, local and territorial
2 bar associations and foundations; courts; law schools; legal aid organizations; and law
3 firms to create and advance initiatives that marshal the resources of newly-admitted
4 lawyers to meet the unmet legal needs of underserved populations in sustainable ways.

REPORT

I. Introduction

Our nation is facing an “access to justice” paradox. Our struggle to meet the legal needs of the poor, disenfranchised and even those of moderate incomes has been well-documented over the past several decades. More recently we have seen substantial numbers of newly-admitted lawyers who are not being assimilated into the infrastructure of the legal profession. Stakeholders, including bar associations and foundations at every level, the courts, the law schools, legal aid organizations and even law firms, can and should address the paradox by collaborating to design, implement and advance long-term sustainable solutions.

Initiatives are emerging to support newly-admitted lawyers and marshal their resources in ways that assist the profession’s obligation to meet the needs of low and moderate income households. Some of these initiatives, such as modest means panels of bar-sponsored lawyer referral services and mentoring programs, are well established. Others, such as incubator projects and rural placement initiatives, have emerged recently and are not yet widely in place. Nevertheless, this paradox can only be effectively addressed through a focused effort at every level from among the widest array of stakeholders.

II. The Needs

a. Unmet Legal Needs

Unmet legal needs in America have been well documented for over a generation. In its seminal 1994 research, the ABA’s Comprehensive Legal Needs Study found that only three out of ten low income people and four out of ten moderate income people turned to the legal system when confronted with a legal need. More than 40 percent of low income people and over a quarter of moderate income people did nothing to address their legal problems.

Since then, state studies have shown similar results time and time again. More than a decade after the ABA Legal Needs Study, the Legal Services Corporation synthesized state research and concluded that less than one in five of the legal needs of the poor were addressed by a lawyer either in the private sphere or through legal aid.¹ More recently, the Legal Services Corporation concluded that nearly a million people a year are unable to access their legal services simply because the programs lack sufficient resources to serve them.²

In 2014, the World Justice Project ranked the United States 64th out of 99 countries in the accessibility and affordability of its civil justice system.³ In this regard, the United States ranks behind Albania, Botswana, China, Nigeria and Russia, to name a few.

b. Resources of Newly-Admitted Lawyers

¹ Legal Services Corporation, *Documenting the Justice Gap in America, The Current Unmet Civil Legal Needs of Low-Income American*, (September 2009) at: www.lsc.gov/JusticeGap.pdf.

² Id.

³ The World Justice Project Rule of Law Index 2014 at: <http://worldjusticeproject.org/rule-of-law-index>.

The recession, and perhaps other factors such as the use of technology, has resulted in a high percentage of newly-admitted lawyers in recent years who are not stepping into long-term, full-time positions requiring a law degree after graduation.

According to the ABA Section of Legal Education and Admission to the Bar, the percentage of law school graduates who had long-term, full-time positions requiring a law degree nine months after graduation was 54.9 percent for the class of 2011, 56.2 percent for the class of 2012 and 57.0 percent for the class of 2013. Even though the class of 2013 showed a slight improvement in this metric, at 57.0 percent, unemployment increased in each of these years. The percentage of unemployed lawyers nine months after graduation was 9.7 for the class of 2011, 10.6 percent for the class of 2012 and 11.2 percent for the class of 2013.⁴

According to the Bureau of Labor Statistics, unemployment in the United States was at 6.7 percent while it was 11.2 percent for recent law school graduates.⁵ At the same time unemployment in general dropped from 8.3 percent to 6.7 percent, unemployment of recent law school graduates rose from 9.7 percent to 11.2 percent.

In terms of sheer numbers, 5,229 members of the class of 2013 reported they were unemployed, at the same time that 2,227 members of that class had entered public service positions and 1,068 had begun their own private practices.⁶

Although law schools have reduced enrollments in the past two years and are pursuing other reforms, and the market for legal service may become more robust over time, steps are necessary to address the un- and under-employment of young lawyers today.

III. Current Initiatives

Initiatives to address the paradox are both long-standing and newly emerging. They have been created by a wide variety of stakeholders and some tilt toward one or the other of the dual issues. The more established initiatives include post-graduate fellowships, lawyer referral service modest means panels and mentoring projects. More recent initiatives include incubators to launch practices of recently-admitted lawyers, programs providing rural placement assistance and programs designed to assist lawyers in transition.

a. Post-Graduate Fellowships

⁴ ABA Section of Legal Education and Admission to the Bar, 2012 Law Graduate Employment Data, AM. BAR Ass'N at: http://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/reports/law_grad_employment_data.authcheckdam.pdf; and

ABA Section of Legal Education and Admission to the Bar, 2013 Law Graduate Employment Data, AM. BAR Ass'N at: http://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/statistics/2013_law_graduate_employment_data.authcheckdam.pdf.

⁵ United States Department of Labor Bureau of Labor Statistics, Labor Force Statistics from the Current Population Survey (2004-2014) at: <http://data.bls.gov/timeseries/LNS14000000>.

⁶ Supra note 4.

Law schools, non-profit organizations and, in a few instances, law firms have, for some time, offered newly-admitted lawyers the opportunity for public service through post-graduate fellowships. While scores of law schools provide opportunities for their graduates to participate in public interest work, Harvard and Yale have expansive programs and the University of Miami places more than 60 graduates each year in public service positions across the country. University of California Hastings College of Law is experimenting with a two-year public placement program that begins with the student's last year of law school and continues through the first year of practice.

Outside of the law school fellowships, scores of newly-admitted lawyers are placed into public service opportunities through non-profit organizations such as Equal Justice Works, the Skadden Fellowship Foundation and the ACLU.

These opportunities are generally short-term but give participating lawyers valuable practice experience and exposure while serving underserved populations. In many circumstances, fellows are subsequently hired by their program hosts.

b. Modest Means Programs and Panels

Modest means panels are often an integrated part of a bar-sponsored lawyer referral service and occasionally constitute a separate program. Lawyers participating in these programs typically agree to provide reduced hourly fees and/or capped fees for specific services. The panels often have sliding-fee scales or qualify clients based on household incomes.

The [Modest Means Project](#) of the Arizona Foundation for Legal Services and Education and the State Bar of Arizona enables those of modest means to obtain a lawyer for no more than \$75 per hour.

The [Moderate Means Program](#) of the Washington State Bar Association combines the resources of practitioners with law students to provide low-cost representation to those with incomes of 200 to 400 percent of the Federal Poverty Guidelines.

The Baltimore-based [Civil Justice Inc.](#) maintains a network of practitioners who provide low cost representation on consumer matters such as credit abuse and foreclosure.

c. Mentoring Programs

Bar-supported mentoring projects currently exist in 42 jurisdictions. The purpose of such projects is to facilitate mutually beneficial relationships of personal growth and career development between established attorneys and newly admitted attorneys or law students.

In addition, some programs are highly focused. For example, the ABA Commission on Disability Rights maintains a mentoring program for law students and newly-admitted lawyers with disabilities.

Mentoring programs need not be exclusively set within bar associations. For example, ALPS, a professional liability carrier, has recently launched a multi-state project called ALPS Attorney Match. The project not only facilitates matches of mentors with mentees, but also enables the transition of law practices from retiring lawyers to those interested in assuming established practices.

d. Incubators

Law practice incubators have emerged as a model to foster the development of new practices, much like business incubators foster new businesses. The first incubator was launched by the City University of New York (CUNY) in 2007. Since then, the economic downturn has stimulated the development of similar projects in 22 communities, with others being planned. Most incubators are housed in or sponsored by law schools, although some are projects advanced by other stakeholders, including bar associations, bar foundations, legal aid programs and, in at least one instance, a law firm.

There is no perfect template for incubators and no two are alike. However, the various programs provide a variety of resources, including free or low-cost office space, office amenities, continuing legal education programming, practice management assistance, mentoring, opportunities for pro bono to develop and enhance substantive skills and, perhaps most importantly, an environment of collegiality that enable practitioners who otherwise tend to be isolated to have a system of support. Almost without exception the goal of the incubators is to use these resources and implement practice innovations in order to better serve underserved populations. Although particular programs have limited numbers of lawyers participating, over time, they should have a substantial impact on access to legal services as the incubator participants launch their practices using tools designed for long-term sustainability.

Profiles of incubators are maintained at

http://www.americanbar.org/groups/delivery_legal_services/initiatives_awards/program_main.html.

e. Rural Support Programs

Most states have substantial rural areas and some of them have an aging lawyer population. As a result, many communities are now without lawyers. For example, in one South Dakota community, the nearest lawyer is 120 miles away. State bars faced with this challenge are creating rural placement projects designed to encourage and give incentives for recently admitted lawyers to set up or assume practices in these communities.

The State Bar of South Dakota has been a leader in rural initiatives, advancing legislation that gives lawyers financial incentives, with support divided among the state, the local communities and the bar. The State Bar of North Dakota is following a similar track, while the state bar associations in Iowa and Nebraska are encouraging rural placements through law student summer internships.

f. Additional Efforts

A variety of other initiatives have been advanced and are emerging. Bar associations at all levels are active in the support of solo and small firm practitioners, with designated committees and high-quality conferences. Some bars provide practice management assistance staffed by experts in these areas that present CLE programming, as well as hands on consultations. A few bar associations have now established committees for lawyers in transition, providing tools and support for those lawyers who are facing transitions in their practice settings as a result of economic conditions.

A few bar associations, including the New York City Bar, the State Bar of Wisconsin and the Colorado Bar Association, have comprehensively examined the paradox and issued concrete recommendations and sometimes proposed bold action. For example, the New York City Bar Association Task Force on New Lawyers in a Changing Profession plans to launch a pilot program “to design and test a mission-driven, commercial business model to deliver a defined set of legal services to people who can afford to pay something, but do not have practical access at the present time to such services at an affordable rate.”⁷

These initiatives are not the exclusive domain of bar associations. For example, the Immigrant Justice Corps has emerged in the past year and will sponsor recent law school graduates as fellows providing legal services for the poor and immigrants. As noted, the professional liability company, ALPS, has created a platform to provide mentors and introduce new lawyers to retiring practitioners in order to transitions those practices.

IV. ABA Legal Access Job Corps

The ABA launched its Legal Access Job Corps at the 2013 Annual Meeting. ABA President Silkenat appointed a Task Force, which has advanced the initiative’s mission of marshalling the resources of newly-admitted lawyers to expand access to underserved populations in three ways:

1. The initiative has advanced *outreach* efforts designed to stimulate the focus of the dual issues within the mission among the array of stakeholders within the legal community. To this end, the Task Force has created a video entitled “Be the Change,” illustrating the wide variety of models that support better opportunities for participating lawyers while encouraging all stakeholders to become more active.
2. The initiative has collected a wealth of *resources* that demonstrate both well-established and emerging projects designed to advance the mission. This information is updated on the project website as soon as new information becomes available and is designed to enable those interested in new programs to turn to those who have similar models in place.
3. The initiative has fostered the development and growth of projects around the country through a series of *catalyst grants*, intended to stimulate innovations.

These developments are set out on the initiative’s website, at www.ambar.org/legalaccessjobcorps.

⁷ New York City Bar Task Force on New Lawyers in a Changing Profession, *Developing Legal Careers and Delivering Justice in the 21st Century*, (Fall 2013) at: <http://bit.ly/1a4Juo4>.

V. Conclusion

The ABA has a long-standing and unparalleled commitment to improving access to legal services. It has historically advocated for models that serve both those of low and moderate incomes through public service and within the legal marketplace. We continue here to be that advocate for lawyers in all stages of their careers, from the beginning through, and into, retirement. Without, in any way, undermining the responsibility of lawyers in all settings to contribute services to expand access, this resolution specifically advocates for those models that turn to the resources of newly-admitted lawyers.

As we address the “access to justice” paradox, we see that much has been done, much is in development and much remains to be done. The ABA has a special role in both recognizing and advancing the extent to which these problems exist and in fostering the development of initiatives that contribute to the solutions. No single over-arching solution will solve either of the problems within the paradox, let alone both of them. We must, however, recognize the value of each solution, encourage their replication and urge all stakeholders to rise to the challenges now faced as we marshal the resources of newly-admitted lawyers to better address the legal needs of underserved populations.

Respectfully Submitted,

Allan J. Tanenbaum
Dean Patricia White
Judge Eric Washington
Co-chairs,
Legal Access Job Corps Task Force

August 2014

GENERAL INFORMATION FORM

Submitting Entity: Legal Access Job Corps Task Force

Submitted By: Allan J. Tanenbaum, Dean Patricia White and Judge Eric Washington, Co-Chairs

1. Summary of Resolution(s).

This Resolution proposes that the American Bar Association urge national, state, local and territorial bar associations and foundations; courts; law schools; legal aid organizations; and law firms to create and advance initiatives that marshal the resources of newly-admitted lawyers to meet the unmet legal needs of underserved populations in sustainable ways.

2. Approval by Submitting Entity.

Approved by the Legal Access Job Corps Task Force on May 5, 2014.

3. Has this or a similar resolution been submitted to the House or Board previously?

While the House of Delegates has passed resolutions advancing better access to legal services for underserved populations, neither the House nor the Board has taken previous action advocating the development of models that marshal the resources of newly-admitted lawyers to expand access to legal services.

4. What existing Association policies are relevant to this resolution and how would they be affected by its adoption?

The following resolutions have been adopted by the House of Delegates in support of increased access to justice in various ways. To the extent this resolution supports access to justice, it supports each resolution:

1. Resolution Endorsing a Civil Right to Counsel

Submitting Entity: Task Force on Access to Civil Justice

Adopted by the House of Delegates: August 2006

RESOLVED, That the American Bar Association urges federal, state, and territorial governments to provide legal counsel as a matter of right at public expense to low income persons in those categories of adversarial proceedings where basic human needs are at stake, such as those involving shelter, sustenance, safety, health or child custody as determined by each jurisdiction.

2. ABA Principles of a State System for the Delivery of Civil Justice

Adopted by the House of Delegates: August 2006

The Goal: A state's system for the delivery of civil legal aid provides a full range of high quality, coordinated and uniformly available civil law-related services to the state's low-income and other vulnerable populations who cannot afford counsel, in sufficient quantity to meet their civil legal needs.

3. Basic Principles of a Civil Right to Counsel

Submitting Entity: STANDING COMMITTEE ON LEGAL AID AND INDIGENT DEFENDANTS, SECTION OF LITIGATION...

Adopted by the House of Delegates: August 2010

RESOLVED, That the American Bar Association adopts the black letter and commentary ABA Basic Principles of a Right to Counsel in Civil Legal Proceedings, dated August 2010

4. Limited Scope Representation

Submitting Entity: Standing Committee on the Delivery of Legal Services

Adopted by the House of Delegates: February 2013

RESOLVED, That the American Bar Association encourages practitioners, when appropriate, to consider limiting the scope of their representation, including the unbundling of legal services as a means of increasing access to legal services.

FURTHER RESOLVED, That the American Bar Association encourages and supports the efforts of national, state, tribal, local and territorial bar associations, the judiciary and court administrations, and CLE providers to take measures to assure that practitioners who limit the scope of their representation do so with full understanding and recognition of their professional obligations.

FURTHER RESOLVED, That the American Bar Association encourages and supports the efforts of national, state, tribal, local and territorial bar associations, the judiciary and court administrations, and those providing legal services to increase public awareness of the availability of limited scope representation as an option to help meet the legal needs of the public.

5. Prepaid Legal Service Plans

Submitting Entity: Standing Committee on Group & Prepaid Legal Services

Adopted by the House of Delegates: February 1983

Encourage development of prepaid legal service plans designed to make legal services available at reasonable cost.

6. GPSolo Delivery of Legal Services

Submitting Entity: General Practice, Solo and Small Firm Division

Adopted by the House of Delegates: February 2012

RESOLVED, That the American Bar Association supports and encourages the continued efforts of solo, small firm, and general practice lawyers to provide access to justice by delivery of legal services to those in need.

5. What urgency exists which requires action at this meeting of the House?

In recent years, fewer than 60 percent of law school graduates obtained full-time, long-term employment requiring a law degree within nine months of graduation. Unemployment of law school graduates has risen (and is now about 11 percent) at the same time unemployment in the nation as a whole has seen a dramatic reduction. Unmet legal needs have been documented for decades. In recent years, models have emerged and advanced that assist newly-admitted lawyers address unmet needs, but they are insufficient, need to be fostered and need to expand.

6. Status of Legislation. (If applicable)

Not applicable

7. Brief explanation regarding plans for implementation of the policy, if adopted by the House of Delegates.

The Task Force will continue to advocate the advancement of programs that address the paradox set out in the resolution. It will work more closely with those in other ABA entities as well as stakeholders, to critique, expand and replicate models that advance the Task Force mission.

8. Cost to the Association. (Both direct and indirect costs)

None

9. Disclosure of Interest. (If applicable)

Not applicable

10. Referrals.

This Resolution has been sent to the following ABA entities requesting support or co-sponsorship:

Standing Committee on the Delivery of Legal Services
Standing Committee on Legal Aid and Indigent Defendants
Standing Committee on Pro Bono & Public Service

11. Contact Person. (Prior to the meeting)

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12. Contact Person. (Who will present the report to the House)

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EXECUTIVE SUMMARY

1. Summary of the Resolution

This Resolution proposes that the American Bar Association urge national, state, local and territorial bar associations and foundations; courts; law schools; legal aid organizations; and law firms to create and advance initiatives that marshal the resources of newly-admitted lawyers to meet the unmet legal needs of underserved populations in sustainable ways.

2. Summary of the Issue the Resolution

An alarming number of poor, disenfranchised and moderate-incomes individuals have unmet legal needs; only three out of ten low income people and four out of ten moderate income people turned to the legal system when confronted with a legal need; more than 40 percent of low income people and over a quarter of moderate income people did nothing to address their legal problems. At the same time, a substantial number of newly-admitted lawyers are not being assimilated into the infrastructure of the legal profession and in recent years a high percentage of newly-admitted lawyers are not stepping into long-term, full-time positions requiring a law degree after graduation.

3. Please Explain How the Proposed Policy Will Address the Issue

This resolution would better position the ABA to recognize and advance the extent to which these problems exist and to foster the development of initiatives that contribute to the solutions.

4. Summary of Minority Views

No minority views have arisen at the time of filing.