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## No Money? No Problem: Legal Aid Lawyers Find Innovative Ways to Serve the Rural Poor

Tim Kerrigan

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# **NO MONEY? NO PROBLEM: LEGAL AID LAWYERS FIND INNOVATIVE WAYS TO SERVE THE RURAL POOR**

*By* **TIM KERRIGAN**

**L**egal aid lawyers concerned about the inadequacy of representation provided to rural clients generally have accepted the fact that relief in the form of additional federal funds isn't coming.<sup>1</sup> As a result, they have begun to experiment with other ways to address this problem.<sup>2</sup>

Historically, the poor have been underrepresented legally in both rural and urban areas due to the cost of hiring lawyers and the low priority of legal aid services on national and state agendas.<sup>3</sup>

But a number of issues have caused the rural poor to be even more severely underrepresented.<sup>4</sup> These issues include poor funding, transportation problems, distance from offices and courthouses, fundraising difficulties, trouble gaining access to courts, and unequal access to *pro bono* representation.<sup>5</sup>

Change is necessary because, as Jim Bamberger, the director of the Office of Civil Legal Aid in Washington State pointed out, “all low income people should have an equitable claim to access [to legal services].”<sup>6</sup>

To remedy this inequity, rural legal service providers have tried a variety of methods including petitioning for more funds, reallocating existing funds, increasing the use of technology in courts and legal aid offices, considering the creation of a National Rural Justice Center (NRJC), and educating the public about the law.<sup>7</sup>

#### SHOW US THE MONEY!

According to Phyllis Holmen, the executive director of Georgia’s Legal Services Program, “what is really needed to better serve rural residents is additional funding from every source – federal, state, local, from foundations and from individuals.”<sup>8</sup>

The legal aid community agrees.<sup>9</sup>

“The bottom line is you [have to] give these programs money to hire lawyers and get out into the rural areas,” said Jim Fitzsimmons, the executive director of Legal Services of North Dakota.<sup>10</sup>

Fitzsimmons, for one, blamed what he sees as the skewed priorities of the federal government.<sup>11</sup>

“Bush keeps sending the money over to [the war in Iraq], [so] we haven’t seen an increase in any size in the last decade,” Fitzsimmons said.<sup>12</sup> “Congress needs to take seriously the idea that equal justice means equal justice.”<sup>13</sup>

But, as Tony Barash, the director of the American Bar Association’s (ABA) Center for Pro Bono work pointed out, “we have to work with the resources we have and meet the needs we can.”<sup>14</sup>

## A SUCCESS STORY IN “THE OTHER” WASHINGTON

Washington state is an example of a place that has made significant strides toward achieving adequate representation of the rural poor despite a lack of federal funds.<sup>15</sup>

First, Washington legal aid attorneys identified what areas of the state were the most severely underrepresented.<sup>16</sup> Using a GIS mapping system, legal aid workers were able to find underserved rural areas by overlaying maps identifying the areas of greatest client need with maps identifying the presence and absence of legal aid attorneys.<sup>17</sup> Only then did they seek additional funding.<sup>18</sup>

The attorneys in Washington’s Office of Civil Legal Aid recognized that federal funds are often insufficient because they are allocated to legal aid programs by the Legal Services Corporation (LSC) on a per capita basis without regard to the geographic size of the area.<sup>19</sup> So, rather than depend on these funds, the Washington legal community petitioned the state legislature directly for money to establish legal aid centers in rural areas.<sup>20</sup>

“It took two decades to lay the foundation and create public will to invest in civil legal aid as a core governmental function,” said Bamberger.<sup>21</sup> “When we started this process, legal aid was seen as a highly partisan social services program. We spent many years working to credential the importance of civil legal aid.”<sup>22</sup>

After securing funding, Bamberger said “we had to choose our priorities, and our highest priority was getting minimum legal aid everywhere in the state.”<sup>23</sup>

Washington legal aid attorneys used the money they received to create three new rural offices in areas where they previously had no presence, and they are in the process of creating a fourth.<sup>24</sup>

In this way, Bamberger said they were at least able to “achieve a thin veneer of presence and put a framework in place that they will be able to build up over time.”<sup>25</sup>

## MAKING THEIR PRESENCE KNOWN

Establishing such a “thin veneer of presence” is important because, as LSC Program Counsel Janet LaBella explained, “people identify with a physical presence.”<sup>26</sup>

One way the LSC is addressing the problem of inadequate rural legal services is to sponsor a rural focus group where legal aid workers from rural areas meet to share methods they have used to reach rural residents.<sup>27</sup>

One of the topics set for discussion at the next national focus group in November 2008 is how to establish that presence, and once that presence is established, how to best use available resources, such as *pro bono* attorneys.<sup>28</sup>

LaBella explained that once “[legal aid attorneys] build that connection by intensely serving [an] area,” the local people maintain that connection with the legal aid office.<sup>29</sup> Then, LaBella continued, legal aid attorneys can move on to another area and establish a presence there without sacrificing the bonds created in the previous area.<sup>30</sup>

North Dakota also has successfully experimented with reorganizing its legal aid offices to better use resources.<sup>31</sup> The state government consolidated its legal aid offices under one administration with Fitzsimmons as the executive director.<sup>32</sup>

Although Fitzsimmons admitted, “you lose some local control,” he also noted “you’re probably stretching your dollars more.”<sup>33</sup>

## TECHNOLOGY, TECHNOLOGY, AND MORE TECHNOLOGY

Although Fitzsimmons echoed the need for more funding, he also highlighted the need for greater use of technology to help fix the inadequacy of legal services provided to the rural poor.<sup>34</sup>

Fitzsimmons pointed out that North Dakota residents not only have a problem gaining access to lawyers, but also gaining access to judges.<sup>35</sup> Since much of North Dakota’s population has been moving into cities recently, the state is

relocating rural judges to urban areas.<sup>36</sup> In some cases, rural people end up hundreds of miles from the nearest sitting judge.<sup>37</sup>

One way in which Fitzsimmons thinks this problem can be addressed is by establishing video courtrooms, a method which has been successful in Montana.<sup>38</sup> If a judge is in a city hundreds of miles away from a client who is unable to travel, the client can appear in court via a video camera.<sup>39</sup>

“In order to have proceedings, you have to be able to communicate,” Fitzsimmons explained.<sup>40</sup> “If you could develop ways to communicate from [rural communities] to [courts located in urban areas], that’s the direction we should be moving.”<sup>41</sup>

Barash agreed that “technology can enable clients in rural areas to have access. . . [but] each community has its own particular circumstances that need to be addressed to deal with clients in that community.”<sup>42</sup>

Other ways technological advancements can “overcome or make great strides in overcoming challenges of distances,” according to LaBella, is by allowing courts to use electronic filings, conduct virtual hearings and rely on centralized telephone and web-based intake to make offices more accessible.<sup>43</sup>

As positive as these developments may seem, Fitzsimmons pointed out that “everything costs so much,” and “the decision to use technology has to come from the [state] Supreme Court.”<sup>44</sup> So although Montana’s rural poor have benefitted from programs using technology, residents of other states such as North Dakota are still waiting.<sup>45</sup>

#### A NATIONAL RURAL JUSTICE CENTER?

With technological advancements being implemented at a slow pace, and little help coming from the federal government, a group of concerned legal service providers put together a proposal in 2000 to establish an NRJC to advocate on behalf of the rural poor.<sup>46</sup>

Linda Zazove, one of the providers who worked on the NRJC proposal, and currently the Director of Development for Land of Lincoln Legal Services, now has “mixed feelings” about the creation of a national center.<sup>47</sup>

While she contends there are issues that need to be addressed at a national level, Zazove is “not sure whether there [is] enough [work] to have someone involved nationally full-time.”<sup>48</sup> She thinks the group could achieve more by functioning as a coalition of volunteer activities coordinators.<sup>49</sup> Zazove envisions a part-time consulting service that would provide representatives to share ideas and propose solutions in areas that are encountering difficulties adequately representing the rural poor.<sup>50</sup>

Other legal aid attorneys share Zazove’s ambivalence about the NRJC proposal.<sup>51</sup> Fitzsimmons conceded, “[a NRJC] might not be a bad idea,” but insisted, “it still comes down to dollars.”<sup>52</sup>

Fitzsimmons urged that “[members of the NRJC could] brainstorm and have conferences and talk about how to help, but unless you have soldiers in the field, it isn’t going to do any good.”<sup>53</sup>

Ultimately, the group failed to secure funding for the NRJC, and as Zazove’s comments indicate, it is questionable whether there is enough interest in the legal aid community to revive the proposal.<sup>54</sup>

#### EDUCATION IS FUNDAMENTAL

Despite the strategies to help increase access to legal services in rural areas, the bottom line is that funding simply does not exist for legal aid offices to help every person in need.<sup>55</sup> Thus, the focus of many concerned attorneys has shifted to the thousands of potential clients who may not receive full representation from legal aid offices, but who could still benefit from some sort of legal advice.<sup>56</sup>

Some offices, including the Galesburg Office of Prairie State Legal Services in Illinois, have responded by providing more resources to *pro se* litigants.<sup>57</sup> Galesburg legal aid attorneys, for example, have developed resources for *pro se* litigants in child custody hearings, and distributed the information to potential clients.<sup>58</sup> This helped achieve higher rates of representation by teaching more people to represent themselves.<sup>59</sup>

“If there is disproportionate access, even in states with very few resources, that works against those in rural communities,” Bamberger explained.<sup>60</sup> “The bur-

den shifts to [the] legal aid system to find ways to provide meaningful and effective service.”<sup>61</sup>

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## NOTES

1 Telephone Interview with Jane Kretzmann, Senior Program Officer, Bush Foundation, in St. Paul, Minn. (March 7, 2007).

2 *Id.*

3 Telephone Interview with Tony Barash, Director, ABA Center for Pro Bono, in Chicago, Ill. (March 10, 2008).

4 Telephone Interview with Jane Kretzman, *supra* note 1.

5 *Id.*

6 Telephone Interview with Jim Bamberger, Director, (Washington) Office of Civil Legal Aid, in Olympia, Wash. (March 13, 2008).

7 Telephone Interview with Jane Kretzman, *supra* note 1.

8 Email from Phyllis Holmen, Executive Director, Georgia Legal Services Program, to Tim Kerrigan, author, Loyola University Chicago School of Law (March 11, 2008, 1:55 CST) (on file with author).

9 Telephone Interview with Jane Kretzmann, *supra* note 1; Email from Cris Stainbrook, President, Indian Land Tenure Foundation, to Tim Kerrigan, author, Loyola University Chicago School of Law (March 24, 2007, 10:26 CST) (on file with author); Email from Phyllis Holman, *supra* note 8; Telephone Interview with Tony Barash, *supra* note 3; Telephone Interview with Jim Fitzsimmons, Executive Director, Legal Services of North Dakota, in Bismarck, N.D. (March 11, 2008); Telephone Interview with Linda Zazove, Director of Development, Land of Lincoln Legal Services, in East St. Louis, Ill. (March 10, 2008); Telephone Interview with Janet LaBella, Program Counsel, Legal Services Corporation, in Washington D.C. (March 13, 2008); Telephone Interview with Jim Bamberger, *supra* note 6.

10 Telephone Interview with Jim Fitzsimmons, Executive Director, Legal Services of North Dakota, in Bismarck, N.D. (March 11, 2008).

11 *Id.*

12 *Id.*

13 *Id.*

14 Telephone Interview with Tony Barash, *supra* note 3.

15 Telephone Interview with Jim Bamberger, *supra* note 6.

16 *Id.*

17 *Id.*

18 *Id.*

19 Telephone Interview with Jim Bamberger, *supra* note 6; *A Proposal to Establish the National Rural Justice Center*, [http://www.lri.lsc.gov/pdf/other/NRLS\\_plan03.pdf](http://www.lri.lsc.gov/pdf/other/NRLS_plan03.pdf) (March 13, 2008)

20 *Id.*

21 Telephone Interview with Jim Bamberger, *supra* note 6.

22 *Id.*

23 *Id.*

24 *Id.*

25 *Id.*

26 Telephone Interview with Janet LaBella, Program Counsel, Legal Services Corporation, in Washington D.C. (March 13, 2008).

27 *Id.*

28 *Id.*

29 *Id.*

30 *Id.*

31 Telephone Interview with Jim Fitzsimmons, *supra* note 10.

32 *Id.*

33 *Id.*

34 *Id.*

35 *Id.*

36 *Id.*

37 *Id.*

38 *Id.*

39 *Id.*

40 *Id.*

41 *Id.*

42 Telephone Interview with Tony Barash, *supra* note 3.

43 Telephone Interview with Janet LaBella, *supra* note 26.

44 Telephone Interview with Jim Fitzsimmons, *supra* note 10.

45 *Id.*

46 *A Proposal to Establish the National Rural Justice Center*, [http://www.lri.lsc.gov/pdf/other/NRLS\\_plan03.pdf](http://www.lri.lsc.gov/pdf/other/NRLS_plan03.pdf) (March 13, 2008).

47 Telephone Interview with Linda Zazove, Director of Development, Land of Lincoln Legal Services, in East St. Louis, Ill. (March 10, 2008).

48 *Id.*

49 *Id.*

50 *Id.*

51 Telephone Interview with Jim Fitzsimmons, *supra* note 10.

52 *Id.*

53 *Id.*

54 Telephone Interview with Linda Zazove, *supra* note 47.

55 *Id.*

56 Jaime Levy Pessin, *Lawyers Struggle to Meet Legal Needs of Rural Poor*, CHICAGO LAWYER, April, 2005 at 71.

57 *Id.*

58 *Id.*

59 *Id.*

60 *Id.*

61 *Id.*