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Access to Justice: Looking Back, Thinking Ahead

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ABSTRACT

This Article seeks to assess our progress and reassess our goals concerning access to justice. It begins in Part I by summarizing the nature of the challenge. Although there is much we do not know about the scope of the problem, the data available suggest a shameful inadequacy of services for the poor and a declining commitment of federal funds to address it. The remainder of the Article explores the most plausible responses. Part II reviews the role of technology, self-help, and nonlawyer services. Part III analyzes the extent of pro bono contributions and what can be done to increase them. Part IV surveys the evolution and contributions of public interest law, and how best to support it. Part V concludes with an agenda for reducing the justice gap. It argues for greater involvement of legal educators and practitioners in expanding understanding of the problem and supporting the most cost-effective solutions.

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INTRODUCTION

For those concerned with legal ethics, the thirtieth anniversary of the *Georgetown Journal of Legal Ethics* suggests much to celebrate. The field has grown dramatically since the Journal was launched, and this publication has helped to jumpstart debates on crucial issues. But for those of us concerned with access to justice, the picture is more sobering. While we know much more about the nature of the problem, we are still a dispiriting distance from solving it. According to the World Justice Project, the United States ranks sixty-seventh (tied with Uganda) of ninety-seven countries in the accessibility and affordability of civil justice.¹ As one of us has repeatedly noted,

[I]t is a shameful irony that the nation with one of the world's highest concentrations of lawyers does so little to make legal services accessible. "Equal justice under law" is one of America's most proudly proclaimed and routinely violated legal principles. It embellishes courthouse doors, but in no way describes what goes on behind them.²

This anniversary offers a useful occasion to look forward by looking back—to assess our progress, reassess our goals, and think critically about what stands in the way of greater access to justice. To that end, the discussion that follows offers a snapshot of our challenges and the most promising solutions. Part I summarizes what we know and do not know about access to justice, and the bar's inadequate response. The remainder of the Article looks at strategies. Part II explores self-help and nonlawyer services, Part III focuses on pro bono assistance, and Part IV surveys public interest law. Part V concludes the discussion with an agenda for change that will make access to justice a professional priority.

I. THE SCOPE OF THE PROBLEM

Perhaps the most striking trend in our understanding of access to justice over the last three decades is the recognition of how little we really know. In 2016, Rebecca Sandefur put it bluntly: "In sum, at present, we have no idea of the actual volume of legal need and no idea of the actual volume of unmet legal need."³ Nor do we have a solid, methodologically sound body of data on the circumstances in which lawyers' assistance improves outcomes. Well-designed studies on the

1. MARK DAVID AGRASST ET AL., THE WORLD JUSTICE PROJECT: RULE OF LAW INDEX 175 (2012–2013).

2. For a recent claim, see DEBORAH L. RHODE, THE TROUBLE WITH LAWYERS 30 (2015) [hereinafter RHODE, TROUBLE WITH LAWYERS]. For research suggesting that the United States ranks first or second among countries with advanced economies concerning the number of lawyers, see Charles N.W. Keckler, *Lawyered Up: A Book Review Essay*, 27 T.M. COOLEY L. REV. 57, 73 (2010); *America's Lawyers: Guilty as Charged*, ECONOMIST, Feb. 2, 2013.

3. Rebecca L. Sandefur, *What We Know and Need to Know About the Legal Needs of the Public*, 67 S.C. L. REV. 443, 453 (2016) [hereinafter Sandefur, *What We Know*].

contributions of lawyers in routine cases are scarce and conflicting.⁴ However, the limited data we do have suggest an unsettling lack of progress in assisting those who need help most.

Our best evidence comes from surveys that ask about “situations” that could raise legal issues. The most recent data is from Sandefur’s American Bar Foundation study of a random sample of Americans in a middle-sized city.⁵ It found that two-thirds of those surveyed reported at least one civil justice situation in the previous eighteen months, almost half of which resulted in significant negative consequences.⁶ However, people described only nine percent of these situations as “legal” and took only eight percent to lawyers.⁷ Interestingly, cost was not the major barrier to seeking legal help; it mattered in only seventeen percent of cases.⁸ Rather, the most common reason for failing to obtain legal assistance was some variant of “I don’t need any.”⁹

Unsurprisingly, poor people are significantly more likely than higher-income individuals to report social justice problems and negative consequences from them.¹⁰ And they are also less likely to resolve their problems through the legal system.¹¹ Based on a number of surveys of low-income individuals, the Legal Services Corporation has estimated that over four-fifths of the legal needs of the poor remain unmet, a figure that has not budged over the last three decades.¹² Of course, as Sandefur points out, just because a problem is not resolved through law

4. For methodological weaknesses and conflicting results, see generally James Greiner & Cassandra Wolos Pattanayak, *Randomized Evaluation in Legal Assistance: What Difference Does Representation (Offer and Actual Use) Make?*, 121 YALE L.J. 2118 (2012) and Laura K. Abel, *Evidence-Based Access to Justice*, 13 U. PA. J.L. & SOC. CHANGE 295 (2010) (describing conflicting outcomes). For different results, compare Greiner & Pattanayak, *supra* (finding that access to representation did not correlate with favorable outcomes), with D. James Greiner, Cassandra Wolos Pattanayak & Jonathan P. Hennessy, *The Limits of Unbundled Legal Assistance: A Randomized Study in a Massachusetts District Court and Prospects for the Future*, 126 HARV. L. REV. 901 (2013) (finding tenants with access to lawyers fared better than those who were randomly assigned to information and self-help).

5. REBECCA L. SANDEFUR, ACCESSING JUSTICE IN THE CONTEMPORARY USA: FINDINGS FROM THE COMMUNITY NEEDS AND SERVICES STUDY 3–4, 7 (2014) [hereinafter SANDEFUR, ACCESSING JUSTICE].

6. *Id.* at 5.

7. *Id.* at 14.

8. *Id.* at 13.

9. Sandefur, *What We Know*, *supra* note 3, at 450.

10. See SANDEFUR, ACCESSING JUSTICE, *supra* note 5, at 8–10.

11. See Sarah Sternberg Greene, *Race, Class and Access to Civil Justice*, 101 IOWA L. REV. 1263, 1266–67 (2016) (citing surveys).

12. LEGAL SERVS. CORP., DOCUMENTING THE JUSTICE GAP IN AMERICA: THE CURRENT UNMET CIVIL NEEDS OF LOW INCOME AMERICANS 1–13 (2009), <https://www.americanbar.org/content/dam/aba/migrated/marketresearch/PublicDocuments/JusticeGaInAmerica2009.authcheckdam.pdf> [<https://perma.cc/47NR-N2J2>] [hereinafter DOCUMENTING THE JUSTICE GAP 2009]. One 1989 national survey found that about forty-three percent of low-income households reported experiencing a legal problem in the last year and that for about four-fifths of those problems, no legal assistance was available. AM. BAR ASS’N CONSORTIUM ON LEGAL SERVS. & THE PUBLIC, TWO NATIONWIDE SURVEYS: 1989 PILOT ASSESSMENTS OF THE UNMET LEGAL NEEDS OF THE POOR AND OF THE PUBLIC GENERALLY 3 (1989).

does not automatically mean that it has been unaddressed.¹³ But ample other data indicate that a large number of civil legal problems are not satisfactorily resolved, and the result is enormous hardship to individuals and enormous costs to society generally.¹⁴ The fact that a majority of those who seek help from federally funded civil legal aid programs are turned away due to lack of resources is a national disgrace, and the situation has not been improving.¹⁵ The federal budget for the Legal Services Corporation, which supports civil legal aid offices throughout the nation, has declined almost forty percent in the three decades since the *Georgetown Journal of Legal Ethics* was founded.¹⁶ In effect, understaffed and overextended legal assistance programs are being asked to do more with less. And when they cannot, poor people's most basic needs and fundamental rights are at risk.

The number of lawyers working in legal services organizations has long remained a small fraction of the total bar and is substantially lower than necessary to meet the estimated legal needs of the poor. In 1998, the LSC funded just 3,590 attorneys.¹⁷ By 2015, that number had grown to only 5,000 attorneys, for a nation with over sixty million low-income individuals eligible for assistance.¹⁸ Funding for direct legal services comes out to just \$5.85 per eligible person per year.¹⁹ In 2016, Americans spent more on Halloween costumes for pets than on LSC grants.²⁰ Moreover, the situation is likely to get worse before it gets better. The Trump administration's proposed budget would eliminate all funding for the federal Legal Services Corporation.²¹

13. See Sandefur, *What We Know*, *supra* note 3, at 451.

14. 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 (Pascoe Pleasence et al. eds., 2006); see also Greene, *supra* note 11, at 1267; Sandefur, *What We Know*, *supra* note 3, at 457.

15. See U.S. Dep't of Justice, *Access to Justice: About the Office*, <https://www.justice.gov/atj/about-office> [<https://perma.cc/E563-HYS7>] (last visited Apr. 10, 2017).

16. The 1986 budget for LSC was, in 2014 dollars, \$631,504,080. LEGAL SERVS. CORP., 2014 LEGAL SERVICES CORPORATION BY THE NUMBERS: THE DATA UNDERLYING LEGAL AID PROGRAMS 3 (2014). The 2016 budget was \$385,000,000. LEGAL SERVS. CORP., FY 2017 BUDGET REQUEST (2016).

17. David Luban, *Taking Out the Adversary: The Assault on Progressive Public-Interest Lawyers*, 91 CALIF. L. REV. 209, 220 (2003).

18. LEGAL SERVS. CORP., 2015 ANNUAL REPORT 5 (2015); Legal Servs. Corp., *LSC by the Numbers 2015* (Sept. 2016), <http://www.lsc.gov/media-center/publications/lsc-numbers-2015> [<https://perma.cc/26SJ-BQGZ>]. These LSC-funded organizations are supplemented by roughly 1,000 pro bono organizations. *Directory of Pro Bono Programs*, AM. BAR ASS'N (2016), <https://apps.americanbar.org/legalservices/probono/directory.html> [<https://perma.cc/CHN8-FU4C>].

19. LEGAL SERVS. CORP., FISCAL YEAR 2017 BUDGET REQUEST (2016), <https://lsc-live.app.box.com/LSCFY2017BudRequest> [<https://perma.cc/6QQQ-SHBM>].

20. Robert K. Vischer, *The Trump Budget: Keep Civil Legal Aid Off the Chopping Block*, MINNEAPOLIS STAR TRIB. (Feb. 27, 2017), <http://www.startribune.com/the-trump-budget-keep-civil-legal-aid-off-the-chopping-block/414912594/> [<https://perma.cc/E6DW-FE5Y>].

21. Sharon LaFraniere & Alan Rappoport, *Popular Domestic Programs Face Ax Under First Trump Budget*, N.Y. TIMES (Feb. 17, 2017), https://www.nytimes.com/2017/02/17/us/politics/trump-program-eliminations-white-house-budget-office.html?_r=0 [<https://perma.cc/H2YY-XJTB>].

Even these grossly inadequate resources are not equally distributed. According to a recent report by the American Bar Foundation, “[s]tates differ substantially in the resources available to support civil legal assistance, in the kind of services that are available, and in the groups served by existing programs In this context, geography is destiny”²² From a comparative perspective, America’s commitment is shockingly inadequate. Other developed democracies devote three to ten times more funding to civil legal aid than the United States.²³

The preferred strategy of the American Bar Association (ABA) for increasing access to justice has, unsurprisingly, been increasing access to lawyers. In 2006, the ABA unanimously adopted a resolution urging the provision of “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.”²⁴ Many state and local bar associations have passed comparable resolutions.²⁵ These associations have been far less enthusiastic about other reform initiatives, and have often actively fought self-help publications, nonlawyer providers, and mandatory pro bono obligations.²⁶ The 2016 ABA Commission on the Future of Legal Services acknowledged the existence of “cost-effective and competent legal help from individuals other than lawyers,” but failed to endorse access initiatives that would include them.²⁷ Rather, the Commission recommended only that courts “examine” the issue.²⁸ Only sixteen percent of lawyers give financial support to legal assistance organizations, and only about a third think that the legal community

22. AM. BAR FOUND., ACCESS ACROSS AMERICA: FIRST REPORT OF THE CIVIL JUSTICE INFRASTRUCTURE MAPPING PROJECT, at v (2011).

23. Earl Johnson Jr., *Lifting the “American Exceptionalism” Curtain: Options and Lessons from Abroad*, 67 HASTINGS L.J. 1225, 1225 (2016).

24. AM. BAR ASS’N TASK FORCE ON ACCESS TO CIVIL JUSTICE ET AL., REPORT TO THE HOUSE OF DELEGATES (2006), http://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/lis_slaid_resolution_06a112a.authcheckdam.pdf [https://perma.cc/M3DT-DNS3].

25. These are collected on the website of the Coalition for a Civil Right to Counsel. See Nat’l Coal. for a Civil Right to Counsel, *Other NCCR Work* (Mar. 3, 2017), http://civilrighttocounsel.org/highlighted_work/other_work#OtherWork [https://perma.cc/8KAG-BB8G].

26. For examples of opposition to nonlawyer providers, see generally Deborah L. Rhode, *Professionalism in Perspective: Alternative Approaches to Nonlawyer Practice*, 22 N.Y.U. REV. L. & SOC. CHANGE 701, 705 (1996). For the bar’s current opposition and enforcement efforts, see Deborah L. Rhode, *What We Know and Need to Know About the Delivery of Legal Services By Nonlawyers*, 67 S.C. L. REV. 434 n.54 (2016); Deborah L. Rhode & Lucy Ricca, *Protecting the Profession or the Public? Rethinking Unauthorized-Practice Enforcement*, 82 FORDHAM L. REV. 2587, 2588 (2014); Richard Zorza & David Udelf, *New Roles for Non-Lawyers to Increase Access to Justice*, 41 FORDHAM URB. L.J. 1259, 1278 (2014). For the Washington Bar’s opposition to licensing of legal technicians, see Brooks Holland, *The Washington State Limited License Legal Technician Practice Rule: A National First in Access to Justice*, 82 MISS. L.J. 75, 106 (2013). For opposition to mandatory pro bono proposals, see DEBORAH L. RHODE, PRO BONO IN PRINCIPLE AND IN PRACTICE 15–17 (2005) [hereinafter RHODE, PRO BONO IN PRINCIPLE].

27. AM. BAR ASS’N COMM’N ON THE FUTURE OF LEGAL SERVS., REPORT ON THE FUTURE OF LEGAL SERVICES IN THE UNITED STATES 16 (2016) [hereinafter ABA COMM’N ON THE FUTURE OF LEGAL SERVS.].

28. *Id.* at 40.

should bear more of the cost of civil legal aid.²⁹ As Stephen Gillers sums up the situation, it is not “the bar’s finest hour.”³⁰

Nor is the profession’s preferred response remotely realistic. Fewer than half of surveyed voters support increased government funding for civil legal aid, and the issue has been notable for its absence in recent political campaigns.³¹ Given that most Americans prefer to solve their legal needs without lawyers’ assistance, and large numbers of low-income individuals distrust the lawyers supplied by government programs, other responses are clearly necessary.³²

II. SELF-HELP AND NONLAWYER SERVICE PROVIDERS

The public wants more access to justice, not necessarily more access to lawyers, and the profession needs to do more to support options apart from lawyers. The discussion that follows explores strategies including user-friendly self-help courts, services from qualified and/or licensed nonlawyers, and technological innovations.

In courts that handle housing, bankruptcy, small claims, and family matters, parties without attorneys are often now the rule rather than the exception.³³ Estimates suggest that as many as two-thirds of the litigants in state courts are proceeding pro se.³⁴ In more than three-fourths of all civil trial cases in the United States, at least one party does not have a lawyer.³⁵ Yet these individuals must cope with procedures designed by and for lawyers. Pro se litigants need rather what Richard Zorza has termed, “The Self-Help Friendly Court,” which would reduce complexity, take greater advantage of technology, and train judges and staff in aiding unrepresented parties.³⁶ Pro se clerks, centers, hotlines, and citizen advice programs are part of the solution.³⁷

29. LAKE RESEARCH PARTNERS & THE TARRANCE GRP., COMMUNICATING WITH LAWYERS ABOUT CIVIL LEGAL AID: HIGHLIGHTS OF 2014 RESEARCH AMONG LAWYERS (2014).

30. Stephen Gillers, *A Profession, If You Can Keep It: How Information Technology and Fading Borders Are Reshaping the Law Marketplace and What We Should Do About It*, 63 HASTINGS L.J. 953, 979 (2012).

31. LAKE RESEARCH PARTNERS & THE TARRANCE GRP., *supra* note 29 (noting that only forty-eight percent of voters support increased funding and only thirty-two percent support it strongly). For the lack of attention in the 2016 presidential campaign, see Martha Bergmark, *It’s Time for Candidates to Address the Justice Gap*, NAT’L L.J., Oct. 10, 2016, at 22.

32. For preferences, see ABA COMM’N ON THE FUTURE OF LEGAL SERVS., *supra* note 27, at 15; SANDEFUR, ACCESSING JUSTICE, *supra* note 5, at 5. For distrust, see Greene, *supra* note 11, at 1290–92.

33. See, e.g., Russell Engler, *Connecting Self-Representation to Civil Gideon: What Existing Data Reveal About When Counsel Is Most Needed*, 37 FORDHAM URB. L.J. 37, 41–43 (2010).

34. Jed S. Rakoff, *Why You Won’t Get Your Day in Court*, N.Y. REV. BOOKS, Nov. 24, 2016, at 4.

35. NAT’L CTR. FOR STATE COURTS, THE LANDSCAPE OF CIVIL LITIGATION IN STATE COURTS, at iv (2015), <http://www.ncsc.org/media/Files/PDF/Research/CivilJusticeReport-2015.ashx> [<https://perma.cc/LZ7Z-C3NT>].

36. RICHARD ZORZA, NAT’L CTR. FOR STATE COURTS, THE SELF-HELP FRIENDLY COURT: DESIGNED FROM THE GROUND UP TO WORK FOR PEOPLE WITHOUT LAWYERS (2002); Russell Engler, *Turner v. Rogers and the Essential Role of the Courts in Delivering Access to Justice*, 7 HARV. L. & POL’Y REV. 31, 58 (2013) [hereinafter Engler, *Essential Role of Courts*].

37. Engler, *Essential Role of Courts*, *supra* note 36, at 42; Greene, *supra* note 11, at 1315.

Equally important are reforms in unauthorized practice of law (UPL) rules. These rules prevent even well-trained nonlawyers from providing personalized legal assistance irrespective of its quality and cost-effectiveness.³⁸ In a recent review of ten years of reported UPL cases, only a quarter analyzed whether actual harm occurred or could occur from the unauthorized practice in question.³⁹ That should change. Unauthorized practice should only be prohibited in cases of demonstrated consumer injury. Judges should follow the lead of courts that have weighed the public interest in determining whether to ban nonlawyer assistance.⁴⁰

Courts should also develop or permit licensing systems that allow qualified nonlawyers to offer personalized assistance on routine matters. These systems could include consumer protections concerning qualifications, disclaimers, ethical standards, malpractice insurance, and discipline.⁴¹ Many administrative agencies already allow nonlawyers to appear and no evidence suggests that their performance has been inadequate.⁴² The same is true in other nations that permit nonlawyers to provide legal advice and assist with routine documents.⁴³ In one United Kingdom study, nonlawyers generally outperformed lawyers in terms of concrete results and client satisfaction.⁴⁴ That and other research suggests that “it is specialization, not professional status, which appears to be the best predictor of quality.”⁴⁵

Washington and New York have already taken steps in this direction, and other states are considering licensing schemes.⁴⁶ Over the bar’s objection, the Washington Supreme Court has allowed limited license legal technicians

38. For the broad scope of current prohibitions, see RHODE, *TROUBLE WITH LAWYERS*, *supra* note 2, at 40–42 and Sandefur, *What We Know*, *supra* note 3, at 431–32 nn.26–33.

39. Rhode & Ricca, *supra* note 26, at 2604.

40. Supreme Court of Colo. v. Emp’rs Unity, Inc., 716 P.2d 460, 463 (Colo. 1986); *Cultum v. Heritage House Realtors*, 694 P.2d 630, 633 (Wash. 1985) (allowing real estate brokers to fill in standard form agreements).

41. Stephen Gillers, *How to Make Rules for Lawyers: The Professional Responsibility of the Legal Profession*, 40 *PEPP. L. REV.* 365, 417 (2013).

42. Herbert M. Kritzer, *Rethinking Barriers to Legal Practice: Instead of Being Prohibited from Providing Legal Services, Nonlawyers Should Be Regulated and Controlled Just Like Lawyers*, 81 *JUDICATURE* 100, 101 (1997); *see also* RHODE, *TROUBLE WITH LAWYERS*, *supra* note 2, at 42–43.

43. Julian Lonbay, *Assessing the European Market for Legal Services: Developments in the Free Movement of Lawyers in the European Union*, 33 *FORDHAM INT’L L.J.* 1629, 1636 (2010) (discussing Swedish legal advice providers); *see also* Kritzer, *supra* note 42, at 100.

44. Richard Moorhead et al., *Contesting Professionalism: Legal Aid and Nonlawyers in England and Wales*, 37 *LAW & SOC’Y REV.* 765, 785–87 (2003). For discussion, *see* Deborah J. Cantrell, *The Obligation of Legal Aid Lawyers to Champion Practice by Nonlawyers*, 73 *FORDHAM L. REV.* 883, 890 (2004).

45. DAVID B. MORRIS, *REPORT OF APPOINTEE’S FIVE-YEAR REVIEW OF PARALEGAL REGULATION IN ONTARIO* 12 (Nov. 2012); Moorhead et al., *supra* note 44, at 795.

46. *See* Comm. on Nonlawyers & the Justice Gap, N.Y. State Court Navigator Program, *Navigator Snapshot Report* (Dec. 2014), <http://nylawyer.nylj.com/adgifs/decisions15/022415report.pdf> [<https://perma.cc/JA5D-UVY7>] (report on New York pilot program training nonlawyers demonstrating measurable benefits); WASH. CT. ADMISSION & PRACTICE R. 28 (2015) (licenses authorizing the limited practice of law for nonlawyers in Washington). For other states, *see* ABA COMM’N ON THE FUTURE OF LEGAL SERVS., *supra* note 27, at 24.

(LLLTs) to handle out-of-court family matters without a lawyer's supervision.⁴⁷ New York's Supreme Court has adopted a pilot program that allows trained nonlawyer "navigators" in specific housing and civil court locations to assist pro se litigants.⁴⁸ The Washington plan, however, illustrates the pitfalls of allowing the bar to control the licensing process; the result has been excessively restrictive educational qualifications that work against creating an affordable alternative to attorneys.⁴⁹ If the objective is to protect clients from incompetence, rather than lawyers from competition, then an independent entity should administer the regulatory system for lay providers.

The legal profession's approach with respect to technology has been similarly troubling. The development of online self-help platforms, such as LegalZoom, has been met with resistance from state bar associations around the country, which have claimed that these providers are engaging in unauthorized practice of law.⁵⁰ Instead of fighting these efforts, the organized bar should be learning from them; it should be collaborating with the creators of "disruptive technologies" to ensure that quality services reach people who can benefit most. This same logic also applies to the growth of access to justice "apps" that seek to help individuals of limited means navigate legal proceedings and connect users with free or low-cost lawyers. As one observer noted, developing the technology for these services is the easy part: "Usually it is politics, turf, funding and other barriers that are the hard part to developing solutions."⁵¹ The bar should be doing its part to foster those solutions or at least get out of the way.

III. PRO BONO SERVICE

American lawyers' pro bono programs have improved substantially over the last three decades, but are still a dispiriting distance from where they need to be. Bar associations, legal employers, and law schools all must make such programs a higher priority.

47. Stephen R. Crossland & Paula Littlewood, *The Washington State Limited License Legal Technician Program: Enhancing Access to Justice and Ensuring the Integrity of the Legal Profession*, 65 S.C. L. REV. 611, 612 (2014); Holland, *supra* note 26, at 90–92.

48. JONATHAN LIPPMAN, *THE STATE OF THE JUDICIARY 2014: VISION AND ACTION IN OUR MODERN COURTS*, N.Y. STATE UNIFIED COURT SYSTEM 8 (2014), <http://www.nycourts.gov/ctapps/soj2014.pdf> [<https://perma.cc/3FZQ-8WFN>]. For discussion, see ABA COMM'N ON THE FUTURE OF LEGAL SERVS., *supra* note 27, at 20.

49. For the stringent requirements, see ABA COMM'N ON THE FUTURE OF LEGAL SERVS., *supra* note 27, at 23; for a critique, see Gillian K. Hadfield & Deborah L. Rhode, *How to Regulate Legal Services to Promote Access, Innovation, and the Quality of Lawyering*, 67 HASTINGS L.J. 1191, 1221–22 (2016).

50. For an overview of the bar's proceedings against LegalZoom, see Deborah L. Rhode & Benjamin H. Barton, *Rethinking Self-Regulation: Antitrust Perspectives on Bar Governance Activity*, CHAPMAN L. REV. (forthcoming 2017); see also Ben Barton, *LegalZoom Fought the North Carolina Bar and LegalZoom Won*, BLOOMBERG L. (Nov. 13, 2015), bol.bna.com/legalzoom-fought-the-north-carolina-bar-and-legalzoom-won/ [<https://perma.cc/6TM8-X9WG>].

51. Joe Dysart, *20 Apps to Help Provide Easier Access to Legal Help*, A.B.A. J., Apr. 1, 2015.

Although the legal profession has a long history of rhetorical support for pro bono assistance, its concrete contributions have been less impressive. Studies in the late 1980s found that although most lawyers donated some free services, little of their aid went to those most in need.⁵² Fewer than seventeen percent of practitioners participated in organized pro bono programs for the poor.⁵³ The richest firms were among the worst performers. In ninety-two of the 100 largest firms, a majority of attorneys had contributed fewer than twenty hours of service in the preceding year.⁵⁴ No law schools had mandatory programs and the voluntary ones were of uneven quality.⁵⁵

Today, according to the most recent ABA survey, only about a third of the lawyers reported meeting the aspirational standard of the *Model Rules of Professional Conduct*: more than fifty hours of service to persons of limited means (or organizations that support them) per year.⁵⁶ A fifth of the survey respondents reported doing no pro bono work at all.⁵⁷ Given that the response rate for the survey was less than one percent and probably overrepresented those who made some contribution, the actual national figures are doubtless lower.⁵⁸ In the nation's largest firms, fewer than half of lawyers contributed more than twenty hours.⁵⁹

Our profession can and must do better. Fifty hours a year, the current aspirational standard, should be mandatory, with a financial buyout option for those who lack the time or inclination for service. Buyout contributions should go to support designated legal aid providers. The rationale for such a pro bono requirement is straightforward. As courts and bar ethical codes have long noted, the state grants lawyers special monopoly privileges that impose special obligations.⁶⁰ As officers of the court, lawyers bear some responsibility for ensuring fundamental fairness in its processes. Because lawyers occupy such a central role in our justice system, there is also particular value in exposing them to how that system functions, or fails to function for the have-nots. Pro bono work

52. See John R. de Steiguer, *Mandatory Pro Bono: The Path to Equal Justice*, 16 PEPPERDINE L. REV. 355, 360 (1989); see also AM. BAR ASS'N CONSORTIUM ON LEGAL SERVS. & THE PUBLIC, 1989 DIRECTORY OF PRIVATE BAR INVOLVEMENT PROGRAMS 182–83 (1989) [hereinafter 1989 DIRECTORY].

53. 1989 DIRECTORY, *supra* note 52, at 182–83.

54. Cameron Barr, *Doers and Talkers*, AM. LAW., July/Aug. 1990, at 51, 52–53.

55. In 1987, Tulane instituted the first requirement of twenty hours. For discussion of the evolution and quality of these programs, see ASS'N AM. LAW SCHS., COMM'N ON PRO BONO & PUBLIC SERV. OPPORTUNITY IN LAW SCH., LEARNING TO SERVE: THE FINDINGS AND PROPOSALS OF THE AALS COMMISSION ON PRO BONO AND PUBLIC SERVICE OPPORTUNITIES IN LAW SCHOOLS (Oct. 1999) [hereinafter AALS COMMISSION]. See also RHODE, PRO BONO IN PRINCIPLE, *supra* note 26, at 56–65.

56. AM. BAR ASS'N STANDING COMM. ON PRO BONO & PUB. SERV., SUPPORTING JUSTICE III: A REPORT ON THE PRO BONO WORK OF AMERICA'S LAWYERS, at vi (2013) [hereinafter SUPPORTING JUSTICE III] (quoting MODEL RULES OF PROF'L CONDUCT R. 6.1 (2016) [hereinafter MODEL RULES]).

57. SUPPORTING JUSTICE III, *supra* note 56, at vi.

58. *Id.* at 2.

59. Neil Gluckman, *Exclusive: Best Firms for Pro Bono*, AM. LAW., June 27, 2016.

60. See RHODE, PRO BONO IN PRINCIPLE, *supra* note 26, at 28.

offers many attorneys their only direct contact with what passes for justice among the poor. Giving lawyers some experience with poverty-related problems and public interest causes can lay crucial foundations for change.

If a requirement for pro bono service proves politically implausible, greater efforts should focus on encouraging voluntary contributions. More courts, legislatures, and bar associations should require lawyers to report their pro bono assistance, and more clients should consider lawyers' involvement when selecting counsel.⁶¹ More law schools should require meaningful amounts of pro bono service or provide well-supported voluntary programs in which the vast majority of students volunteer.⁶² Schools should also increase opportunities for clinics, which can offer more sustained involvement in legal aid and public interest work.⁶³ Organizations such as the ABA Standing Committee on Pro Bono and Public Service should develop best practices and publish directories with information concerning employers' pro bono policies and contributions.

Those best practices should include adequate evaluation. As we have noted elsewhere, too many programs seem to operate on the assumption that any unpaid service is a good in itself.⁶⁴ In our survey of law firm initiatives, none made any formal efforts to assess the social impact of their work or the satisfaction of clients and nonprofit partners that referred cases.⁶⁵ Many firms operate with a "spray and pray" approach: they spread services widely and hope that something good will come of them.⁶⁶ Something usually does, but it is not necessarily the best use of resources. Nor do good intentions always ensure good results. On one of the rare occasions when someone asked, almost half of public interest legal organizations reported problems with the quality of pro bono work that they obtained from outside firms.⁶⁷ That needs to change, and to ensure that it does, providers need to make efforts to assess the social impact, client satisfaction, and cost effectiveness of their efforts.

61. For example, California legislation requires pro bono contributions as a condition of any state contract for legal services exceeding \$50,000. CAL. BUS. & PROF. CODE § 6072 (West 2013). The California legislature considered a bill requiring lawyers to report their pro bono contributions, but subsequently amended the proposed statute to mandate disclosure only to the state bar, not to the public on their websites. Lyle Moran, *Bill Amended to Make Pro Bono Disclosure Optional*, L.A. DAILY J., Apr. 19, 2017.

62. See AALS COMMISSION, *supra* note 55.

63. Currently, "[o]nly 3 percent of schools require clinical training, and a majority of students graduate without it." RHODE, TROUBLE WITH LAWYERS, *supra* note 2, at 130.

64. See Scott L. Cummings & Deborah L. Rhode, *Managing Pro Bono: Doing Well By Doing Better*, 78 FORDHAM L. REV. 2357, 2378–79 (2010).

65. *Id.* at 2401–03.

66. Deborah L. Rhode, *Rethinking the Public in Lawyers' Public Service: Pro Bono, Strategic Philanthropy, and the Bottom Line*, 77 FORDHAM L. REV. 1435, 1446 (2009).

67. Deborah L. Rhode, *Public Interest Law: The Movement at Midlife*, 60 STAN. L. REV. 2027, 2071 (2008) [hereinafter Rhode, *Public Interest Law*].

IV. PUBLIC INTEREST LAW

Public interest law in the United States developed nearly a half-century ago as a way to advance social justice and compensate for the limitations of individual service by pro bono and legal aid lawyers. In the vision advanced by groups like the NAACP, Sierra Club, and NOW Legal Defense Funds, public interest lawyers would use their legal expertise to address collective problems of underrepresented groups. The emphasis was on promoting substantive “justice” not simply “access.” Much has changed over the past thirty years, yet many of the problems have stayed the same.

It should be a source of professional pride that public interest legal organizations constitute a stable and strongly supported constituency within the American legal profession. In 1969, there were only fifteen public interest law groups in the United States and they employed fewer than fifty full-time lawyers.⁶⁸ In 1978, there were still only 576 lawyer positions in eighty-six public interest law organizations nationwide—an average of approximately seven attorneys per group.⁶⁹ When combined with federally funded legal aid lawyers, these social justice advocates constituted only about 0.7% of the total bar.⁷⁰

According to the most recent comprehensive data, there are slightly more than 1,000 public interest law organizations (including legal aid organizations) with an average of thirteen lawyers per group, for an estimated total of 13,715 attorneys in the field—approximately 1.3% of the total bar.⁷¹ That total, while small, still represents a rough doubling of the public interest sector relative to the total bar over roughly the last three decades. Moreover, these figures do not include lawyers working on public interest issues in other sites, such as government agencies, clinics, pro bono programs, and private firms that focus on public interest cases (such as employment and housing discrimination, or police

68. COUNCIL FOR PUB. INTEREST LAW, *BALANCING THE SCALES OF JUSTICE: FINANCING PUBLIC INTEREST LAW IN AMERICA* 79 (1976).

69. Joel F. Handler, Betsy Ginsberg & Arthur Snow, *The Public Interest Law Industry*, in *PUBLIC INTEREST LAW: AN ECONOMIC AND INSTITUTIONAL ANALYSIS* 42, 51 (Burton A. Weisbrod et al. eds., 1978). Only four existed prior to 1965, and there were only nineteen by 1969. *See id.* at 50. The Handler study also found that from 1972 to 1975, foundation grants constituted just more than forty percent of the total budget of these organizations. *Id.* at tbl.4.4.

70. To arrive at this figure, we estimated the total size of the bar as of 1975 by averaging the total lawyer population size in 1971 and 1980, which resulted in a total of 448,724 lawyers. *See* CLARA N. CARSON, *THE LAWYER STATISTICAL REPORT: THE U.S. LEGAL PROFESSION IN 1995*, at 1 (1999). We then divided the number of public interest lawyers by the total bar: $(576 + 2,660)/448,724 = .007$ (0.7%).

71. Laura Beth Nielsen & Catherine Albiston, *The Organization of Public Interest Practice, 1975–2004*, 84 N.C. L. REV. 1591, 1618 n.85 (2006). The Legal Services Corporation reported that in 2002, there were 3,845 lawyers in LSC-funded programs and an estimated 2,736 lawyers in non-LSC-funded legal aid programs. DOCUMENTING THE JUSTICE GAP 2009, *supra* note 12, at 21. Figures for the total lawyer population come from *Total National Lawyer Counts 1878–2013*, AM. BAR ASS'N (2013), https://www.americanbar.org/content/dam/aba/administrative/market_research/total_national_lawyer_counts_1878_2013.authcheckdam.pdf [https://perma.cc/A3MU-YV25] (reporting 1,058,662 total lawyers).

abuse). In Cummings' estimate, the number of lawyer-hours devoted to public interest oriented legal work in U.S. law school clinics was equivalent to the work of nearly 300 full-time attorneys per year.⁷² In addition, there were roughly 670 private firms working on public interest issues (employment, civil rights, labor, consumer, housing, and environmental protection, among others), contributing an estimated 2,500 full-time lawyers to public interest law practice from the private sector.⁷³

At the beginning of the new millennium, changing politics shifted the substantive focus of public interest groups, although most were still working in areas associated with the liberal orientation of the initial public interest law movement. Rhode's survey of prominent public interest organizations, for example, identified only sixteen percent as conservative.⁷⁴ However, the kinds of work changed. According to Nielsen and Albiston, more attention went to education, research, and outreach, and less to traditional legal work.⁷⁵ With a conservative majority on the Supreme Court and many appellate panels, liberal organizations sought to build new types of coalitions that could promote policy reform. That was particularly effective where state and local governments were sympathetic to public interest causes. By 2008, Rhode's study of prominent public interest groups found that nearly all reported significant collaboration with grassroots organizational partners; the consensus was that "[a]lmost never will a single organization have the capacity to achieve major policy change."⁷⁶ These groups also emphasized the strategic use of litigation to gain tactical advantage within social movement campaigns and the importance of media strategies to build popular support.⁷⁷ Although public interest groups continued to file lawsuits, they did so with "a more realistic vision of how [litigation] will serve long-term goals."⁷⁸ These groups also devoted increased attention to legislative work.⁷⁹

72. Scott L. Cummings, *The Pursuit of Legal Rights—And Beyond*, 59 UCLAL. REV. 506, 521 (2012).

73. *Id.* at 541–42.

74. See Rhode, *Public Interest Law*, *supra* note 67, at 2031; see also Nielsen & Albiston, *supra* note 71.

75. *Id.*; Nielsen & Albiston, *supra* note 71, at 1611, tbl.3 (explaining that, although the mean percentage of legal activity remained relatively constant, at around sixty percent, there were signs of shifts: the amount of effort devoted to other research, education, and outreach increased from fourteen percent to nineteen percent, while there were far more groups that reported devoting less than twenty percent of effort to traditional legal work (from one percent in 1975, to ten percent in 2004) and fewer that devoted 100% of their effort to legal work (from three percent to one percent)).

76. Rhode, *Public Interest Law*, *supra* note 67, at 2064 (quoting Marcia Greenberger, co-president of the National Women's Law Center).

77. See *id.* at 2064–65.

78. *Id.* at 2046.

79. *Id.* at 2047–48.

Another trend in public interest work has been the increasing influence of conservative organizations.⁸⁰ Beginning in the 1970s, conservative leaders increasingly recognized the usefulness of rights-claiming strategies, despite the ideological tension they created with the movement's general disavowal of judicial activism.⁸¹ These leaders sought both to build their own legal infrastructure on the right and undercut initiatives on the left. First-wave efforts in the 1980s created regional groups on the model of the Pacific Legal Foundation. These efforts were, however, limited by close alliances with corporate sponsors that undermined groups' claims to serve the public good.⁸² The next wave of organizations, such as the Institute for Justice, publicly distanced themselves from corporate backers and represented some traditionally liberal clients, on the assumption that it would gain conservatives a hearing on a wider range of issues.⁸³ By claiming the mantle of public interest law and embracing its tactics, conservative groups scored significant legal victories.⁸⁴

Organizationally, conservatives also challenged public interest organizations on the left. Among the most successful efforts has been the restriction of advocacy available to underrepresented constituencies. For example, the Supreme Court's 2001 decision in *Buckhannon v. West Virginia*, which repealed the "catalyst theory" for attorney's fee awards, has discouraged public interest groups from undertaking civil rights enforcement actions, particularly when the remedies are limited to injunctive relief.⁸⁵ So too, conservative organizations have challenged the claim of progressive organizations to speak for "the public interest" on a wide range of contentious social issues. Liberal groups fighting for consumer regulation, redistributive social welfare, the separation of church and state, the rights of criminal defendants, and protections for racial minorities have encountered conservative counterparts advocating a mirror-image agenda: free markets, small government, a prominent role for religion in public life, law and order, and an end to affirmative action. That is not to suggest that either side is monolithic. Particularly significant ideological fault lines exist between business/free enterprise conservatives and social conservatives motivated by religious belief—fault lines that track differences in socioeconomic and educational

80. See generally ANN SOUTHWORTH, *LAWYERS OF THE RIGHT: PROFESSIONALIZING THE CONSERVATIVE COALITION* (2008).

81. See STEVEN M. TELES, *THE RISE OF THE CONSERVATIVE LEGAL MOVEMENT: THE BATTLE FOR CONTROL OF THE LAW* 88 (2008).

82. See *id.* at 68–69.

83. See *id.* at 239.

84. See generally SOUTHWORTH, *supra* note 80, at 149–67 (examining the role of lawyers and litigation in conservative and libertarian activism as powerful tools for institutional change, and perspectives on their usefulness to conservative public interest causes, such as the 2002 Supreme Court case *Zelman v. Simmons-Harris*, expanding school choice, a cornerstone of conservative activism).

85. See 532 U.S. 598 (2001), discussed in Catherine R. Albiston & Laura Beth Nielsen, *The Procedural Attack on Civil Rights: The Empirical Reality of Buckhannon for the Private Attorney General*, 54 *UCLA L. REV.* 1087, 1129–30 (2007).

backgrounds.⁸⁶

For public interest law groups on both the left and right, fighting for justice in this environment has required coalitions with social movement organizations that are coordinating legal and political responses to systemic problems. For instance, in the aftermath of the protests against police shootings in Ferguson, attorneys formed the Black Movement-Law Project. It provides “legal support to local communities throughout the country as they demonstrate against police brutality and systemic racism.”⁸⁷ Another example is the deep partnership between LGBT rights lawyers and political advocacy organizations such as Equality Now in pursuit of marriage equality for same-sex couples. That strategy recently culminated in the sweeping Supreme Court decision in *Obergefell v. Hodges*.⁸⁸

These examples highlight the critical importance of ongoing support for career paths in public interest law, which serves constituencies lacking a strong political voice. A major issue affecting those career paths is quality of life. Today’s public interest lawyers are relatively happy with their job settings, the substance of their work, and their engagement with social issues, but they also report sharply lower satisfaction levels when it comes to salary and opportunities for professional mobility.⁸⁹ The most recent data available show average entry-level salaries of only \$44,600 for public interest lawyers, compared with \$160,000 for large-firm lawyers.⁹⁰ Of course, average salaries for recent graduates are lower, but it bears note that the disparity between the best and worst paid new lawyers has grown substantially since the 1970s.⁹¹ This disparity is an important factor deterring students from taking public interest jobs.⁹² Although law school and federal loan

86. See generally SOUTHWORTH, *supra* note 80.

87. Black Movement-Law Project, *About Page*, FACEBOOK, https://www.facebook.com/pg/blackmovementlawproject/about/?ref=page_internal [<https://perma.cc/GV59-YM5F>] (last visited Mar. 3, 2017).

88. See generally 135 S. Ct. 2584 (2015) (holding that the Due Process Clause of the Fourteenth Amendment guarantees freedom to marry an individual of one’s same sex). For early efforts, see generally Scott L. Cummings & Douglas NeJaime, *Lawyering for Marriage Equality*, 57 UCLA L. REV. 1235 (2010).

89. See GABRIELE PLICKERT, *AFTER THE JD III: THIRD RESULTS FROM A NATIONAL STUDY OF LEGAL CAREERS* 53–55 (2014).

90. Elizabeth Olson, *Welcome to Your First Year as a Lawyer: Your Salary is \$160,000*, N.Y. TIMES (Apr. 16, 2015), <https://www.nytimes.com/2015/04/17/business/dealbook/welcome-to-your-first-year-as-a-lawyer-your-salary-is-160000-a-year.html> [<https://perma.cc/5H76-GV7D>] (reporting big law first-year salary as of 2015); *NALP’s Public Sector and Public Interest Salary Report Turns Ten*, NALP BULLETIN (July 2014), <http://www.nalp.org/july14research?printY> [<https://perma.cc/GG5A-879K>] (reporting average public interest lawyer salary as of 2014).

91. In the early 1970s, the ratio of private firm to public interest salaries was 1.69:1. See Neil K. Komesar & Burton A. Weisbrod, *The Public Interest Law Firm: A Behavioral Analysis*, in *PUBLIC INTEREST LAW: AN ECONOMIC AND INSTITUTIONAL ANALYSIS* 80, 83 (1978). In 2004, the ratio of private firm (21–250 lawyers) to public interest salaries was 2.88:1; the ratio of big firm (over 250) to public interest salaries was 3.6:1. RONIT DINOVIETZ ET AL., *AFTER THE JD: FIRST RESULTS OF A NATIONAL STUDY OF LEGAL CAREERS* 43 (2004), <http://www.americanbarfoundation.org/uploads/cms/documents/ajd.pdf> [<https://perma.cc/45YM-5CKP>].

92. See Christa McGill, *Educational Debt and Law Student Failure to Enter Public Service Careers: Bringing Empirical Data to Bear*, 31 LAW & SOC. INQUIRY 677, 704–05 (2006) (arguing that closing the salary gap would increase interest in public interest jobs); Debra Cassens Weiss, *Are Public Interest, Public*

forgiveness programs have helped graduates cope with otherwise crippling student debt burdens, these initiatives have not adequately addressed the other financial challenges for public interest lawyers, particularly in urban areas with high costs of living.⁹³ Nor has the profession done nearly enough to support the creation of new entry-level positions and fellowships to meet student demand for public interest careers. Legal educators need to do much more in partnership with other funders to support the next generation of lawyers who will fight for access to justice.

V. LOOKING FORWARD

As we look ahead to the next thirty years of social justice advocacy what then, should be our agenda? Our first concern should be to make access to justice a political and professional priority. Part of the problem is that the public fails to recognize that there *is* a serious problem. Although the vast majority of Americans support provision of legal services to those who cannot afford it, four-fifths also incorrectly believe that the poor are entitled to counsel in civil cases.⁹⁴ Two-thirds think that low-income individuals would have no difficulty finding legal assistance, a perception wildly out of touch with reality.⁹⁵ Even lawyers may lack a full appreciation of the problem because the topic has long been missing or marginal in the traditional law school curriculum.⁹⁶ Legal education can and must do better at integrating access to justice into core courses as well as programmatic activities such as lectures, panels, workshops, and conferences.

Legal academics can do more to educate the public, the media, and each other about the extent of unmet needs and the most cost-effective responses.⁹⁷ Voters need to know that providing attorneys in areas such as housing, health care, and

Sector Careers Worth Law School Cost? NALP Sees "Economic Disincentives," A.B.A. J. (Oct. 18, 2012), http://www.abajournal.com/news/article/are_public_interest_and_public_sector_careers_worth_the_cost_of_law_school/ [<https://perma.cc/F3BS-HDBP>].

93. Philip G. Schrag & Charles W. Pruett, *Coordinating Loan Repayment Assistance Programs with New Federal Legislation*, 60 J. LEGAL EDUC. 583, 586–88 (2011).

94. In a survey commissioned by the American Bar Association, fifty-five percent strongly agreed that it was essential that legal services be available; thirty-three percent somewhat agreed. See Am. Bar Ass'n, *Survey Summary—Economic Downturn and Access to Legal Resources* (Apr. 2009), https://www.americanbar.org/content/dam/aba/publishing/abanews/1268261059_20_1_1_7_upload_file.authcheckdam.pdf [<https://perma.cc/RE86-3CQR>]. For the public's belief about the right to counsel, see Earl Johnson Jr., *Justice For America's Poor in the Year 2020: Some Possibilities Based on Experiences Here and Abroad*, 58 DEPAUL L. REV. 393, 393 (2008) (stating that between seven or eight in ten Americans believe that the poor are entitled to counsel in civil cases). See generally AM. BAR ASS'N, PERCEPTIONS OF THE U.S. JUSTICE SYSTEM (1999) [hereinafter ABA PERCEPTIONS OF THE JUSTICE SYSTEM].

95. See ABA PERCEPTIONS OF THE JUSTICE SYSTEM, *supra* note 94.

96. See Deborah L. Rhode, *Access to Justice: An Agenda for Legal Education and Research*, 62 J. LEGAL EDUC. 531, 545–46 (2013).

97. For a research agenda, see generally *id.*

domestic violence saves taxpayer dollars in the long run as well as alleviates individual hardships.⁹⁸ More research should focus on understanding the dimensions and dynamics of the justice gap. More legal and policy work should focus on encouraging innovation in the delivery of services through technology, court reform, and qualified nonlawyer providers. More law school resources should support clinics, pro bono programs, and public interest initiatives that will support the next generation of advocates for access to justice.

So too, lawyers in all areas of practice need to increase their commitment to initiatives that will make the legal system fairer and more accessible. The failure of many practitioners to give time and dollars to pro bono programs is a missed opportunity for them and the public. ABA surveys find that young lawyers' greatest source of dissatisfaction is their lack of connection to the public good.⁹⁹ Pro bono work can restore that connection and often provides practitioners with their greatest sense of professional achievement.¹⁰⁰

Almost four decades ago, then President Jimmy Carter noted that the United States had "the heaviest concentration of lawyers on earth . . . but no resource of talent and training . . . is more wastefully or unfairly distributed than legal skills. Ninety percent of our lawyers serve ten percent of our people. We are overlawyered and underrepresented."¹⁰¹ The situation has not improved. And the bar bears part of the responsibility. Our rules on unauthorized practice of law, our inadequate support for pro bono services and public interest law, and our lack of attention to these issues in legal education call out for reform. If we are truly committed to equal justice under law, then we must do more to make that commitment a professional priority.

98. See Laura K. Abel & Susan Vignola, *Economic and Other Benefits Associated with the Provision of Civil Legal Aid*, 9 SEATTLE J. SOC. JUST. 139 (2010). In New York, every dollar spent on civil legal aid creates ten dollars worth of benefits to the recipients of assistance, their communities, and the state. N.Y. PERMANENT COMM'N ON ACCESS TO JUSTICE, REPORT TO THE CHIEF JUDGE OF THE STATE OF NEW YORK 21 (Nov. 2015), http://www.nycourts.gov/accessjusticecommission/PDF/2015_Access_to_Justice-Report-V5.pdf [https://perma.cc/T2W5-7C82].

99. AM. BAR ASS'N YOUNG LAWYERS DIV., CAREER SATISFACTION SURVEY 19–20 (2000).

100. See RHODE, PRO BONO IN PRINCIPLE, *supra* note 26, at 30.

101. James Carter, *Remarks at the 100th Anniversary Luncheon of the Los Angeles County Bar Association* (May 4, 1978), printed in 64 A.B.A. J. 840, 842 (1978), <http://www.presidency.ucsb.edu/ws/?pid=30750> [https://perma.cc/5R4W-SD68].