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A Survey of Policy Responses to the Rural Attorney Shortage in the United States

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Rural communities in the United States lag behind their urban counterparts with respect to most measures of well-being and quality of life, including access to health care,¹ education,² and digital technology infrastructure.³ Another significant rural deficit—until recently, overlooked—is access to legal services. Rural America suffers a painful shortage of lawyers, a deficit that has grown more acute in recent years. Further, current institutional responses—most in states dominated by urban populaces and urban-centric policymakers—provide little hope for reversing this trend.

This chapter surveys the short history of policymakers' and scholars' attention to the rural lawyer shortage in the United States, discussing this phenomenon as a key aspect of a burgeoning rural access-to-justice (A2J) crisis. A number of initiatives to narrow the rural-urban justice gap are currently afoot in the United States, including the expanded use of paralegals and various interventions based on artificial intelligence and other technologies. These, however, are beyond the scope of this chapter, which focuses on the rural attorney shortage. We categorize policy responses to that problem into several overlapping strands: (1) programs that provide financial incentives and other supports for lawyers to practice in rural locales; (2) programs that channel urban attorney resources to rural areas; and (3) programs focused on cultivating and expanding the pipeline to rural practice. Where possible, we provide status reports on initiatives in an effort to document and publicize their progress, thereby informing future policymaking. Finally, we discuss briefly the medium- to long-term impacts that changes driven by the COVID-19 pandemic may have on the legal profession and delivery of legal services in rural America.

* * *

Even under the miserly definition of the U.S. Census Bureau (population clusters smaller than 2500 or living in open territory), about 14% of the U.S. population—some 46 million residents—live in rural areas.⁴ This is a mismatch for the 2% of small law practices operating there.⁵ The

¹ James D. Reschovsky and Andrea B. Staiti, 'Access and Quality: Does Rural America Lag Behind?', *Health Affairs* 24 no. 4 (2005): 1128-1139.

² Jessica D. Ulrich, 'Education in Chronically Poor Rural Areas Lags Across Generations', *Carsey Institute* 24 (2011): 1-4.

³ Luke Runyon, 'Rural Areas Still Lag Behind in Digital Technology Adoption', *Harvest Public Media*, 26 May 2017. Available online: <https://www.harvestpublicmedia.org/post/rural-areas-still-lag-behind-digital-technology-adoption> (accessed 11 September 2020).

⁴ U.S. Census Bureau Data

⁵ Lisa Pruitt et al., 'Legal Deserts: A Multi-State Perspective on Rural Access to Justice', *Harvard Law & Policy Review* 13 no. 1 (2018): 15-156.

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severity of the crisis varies from state to state and from region to region within many states. Rural California, for example, averages one attorney for every 626 residents, compared to urban areas of the state, where the ratio is one to 175.⁶ The situation is even more dire elsewhere. In rural areas of Arkansas, the ratio can be as low as 1 attorney to 1,562 residents.⁷ In nearly 40% of U.S. counties (1,217 out of 3,141), the ratio is one lawyer to more than 1,000 residents.⁸ Indeed, as of 2020, 54 U.S. counties had no lawyers, and 182 counties were home to just one or two attorneys.⁹

In addition to the paucity of attorneys in many rural areas, most such places are also experiencing a “graying of the bar,” a reference to the higher median age of attorneys practicing in rural areas.¹⁰ Across the country, the average lawyer is five years older (47) than the average American worker (42), and one in seven lawyers is aged 65 or older.¹¹ This trend is more dramatic in rural areas. In Maine, for example, nearly half of the members of the bar in 2016 were over the age of 55, and fewer than 12% were under 35.¹² With many rural lawyers nearing retirement and relatively few younger lawyers coming forward to serve those communities, attorney deserts will likely proliferate in coming years, and the sprawl of those deserts will probably expand.¹³

The alarming dearth of lawyers in rural communities often has dire repercussions for both civil and criminal justice systems. Without access to legal advice and assistance, rural residents may be unaware of their legal rights or potential legal claims.¹⁴ They may struggle to navigate the

⁶ Lisa Pruitt et al., 'Legal Deserts: A Multi-State Perspective on Rural Access to Justice', *Harvard Law & Policy Review* 13 no. 1 (2018): 15-156 (utilizing data mapped by Professor James Meeker of UC Irvine in 2016).

⁷ 'Rural Practice Incubator Project Benefits', *William H. Bowen School of Law*. Available online: <https://ualr.edu/law/clinical-programs/rural-practice-incubator-project/> (accessed 11 September 2020).

⁸ 'Webinar Video: "Legal Deserts in America: A Threat to Justice for All', *ABA* 28 July 2020. Available online: <https://www.americanbar.org/news/abanews/aba-news-archives/2020/07/webinar-video---legal-deserts-in-america--a-threat-to-justice-fo/>(accessed 11 September 2020).

⁹ 'Webinar Video: "Legal Deserts in America: A Threat to Justice for All', *ABA* 28 July 2020. Available online: <https://www.americanbar.org/news/abanews/aba-news-archives/2020/07/webinar-video---legal-deserts-in-america--a-threat-to-justice-fo/>(accessed 11 September 2020).

¹⁰ Wendy Davis, No Country for Rural Lawyers: Small-town Attorneys Still Find It Hard to Thrive, *ABA Journal*, 1 February 2020. Available online: <https://www.abajournal.com/magazine/article/no-country-for-rural-lawyers>; Lisa Pruitt et al., 'Legal Deserts: A Multi-State Perspective on Rural Access to Justice', *Harvard Law & Policy Review* 13 no. 1 (2018): 15-156.

¹¹ 'Webinar Video: "Legal Deserts in America: A Threat to Justice for All', *ABA* 28 July 2020. Available online: <https://www.americanbar.org/news/abanews/aba-news-archives/2020/07/webinar-video---legal-deserts-in-america--a-threat-to-justice-fo/>(accessed 11 September 2020).

¹² Lisa Pruitt et al., 'Legal Deserts: A Multi-State Perspective on Rural Access to Justice', *Harvard Law & Policy Review* 13 no. 1 (2018): 15-156.

¹³ Lisa Pruitt et al., 'Legal Deserts: A Multi-State Perspective on Rural Access to Justice', *Harvard Law & Policy Review* 13 no. 1 (2018): 15-156.

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complex judicial system, which could “lead to the loss of a home, children, job, [and] income.”¹⁵ Indeed, like the availability of housing, food, and safe employment, attorney deserts are themselves a social determinant of health.¹⁶ Beyond identifiable and concrete injustices, “a lack of access to justice can evolve into a greater and entrenched lack of agency in one’s life, effectively snowballing to become a much greater handicap than the original unaddressed legal issue(s).”¹⁷ These challenges exist alongside and are aggravated by other deficits associated with rural life: poor public transit, unreliable cell phone service, inadequate broadband internet, and material distance from institutions of justice.

Given the challenges endemic to rural life—economic marginalization, absence of fundamental infrastructure, and spatial isolation—rural lawyers play an outsized role. When lawyers are absent from rural life, the knowledge gap between (would-be) litigants and institutions of justice is heightened. Indeed, an attorney is not only a “problem solver,” she is also an advocate trained to assist people in times of crisis. Rural A2J scholar Michele Statz frames the attorney’s role as “bear[ing] the burden of the problem—the crisis—so that it may be solved in a dignified and just way.”¹⁸

We do not know much, beyond anecdote, about why recent U.S. law graduates are not choosing rural practice. The only survey of lawyers and law students exploring attitudes toward rural practice, from Arkansas in 2014, suggests a range of reasons.¹⁹ Some of these reasons are professional and fiscal, as discussed further below. Others are social and personal, including the widespread desire to live in places with more cultural amenities (e.g., restaurants, theatre) and better infrastructure (e.g., good schools for children, better health care access). Some express concern about job opportunities for life partners or, for those not already in a committed relationship, the ability to find a life partner in a rural community.

¹⁴Lisa Pruitt et al., ‘Legal Deserts: A Multi-State Perspective on Rural Access to Justice’, *Harvard Law & Policy Review* 13 no. 1 (2018): 15-156; Rebecca Buckwalter-Poza, ‘Making Justice Equal’, *Center for American Progress*, 8 December 2016. Available online: <https://www.americanprogress.org/issues/criminal-justice/reports/2016/12/08/294479/making-justice-equal/> (accessed 11 September 2020).

¹⁵ Leonard Willis, ‘Access to Justice: Mitigating the Justice Gap’, *ABA*, 3 December 2017. Available online: <https://www.americanbar.org/groups/litigation/committees/minority-trial-lawyer/practice/2017/access-to-justice-mitigating-justice-gap/> (accessed 11 September 2020).

¹⁶ ‘California’s Attorney Deserts, Social Determinants of Health, and COVID-19’, *California Access to Justice Commission* 2020. Available online: XXX (accessed XX).

¹⁷ Lisa Pruitt et al., ‘Legal Deserts: A Multi-State Perspective on Rural Access to Justice’, *Harvard Law & Policy Review* 13 no. 1 (2018): 15-156.

¹⁸ Michele Statz, Robert Friday & Jon Bredeson, “‘They Had Access, But They Didn’t Get Justice’: Why Prevailing Access To Justice Initiatives Fail Rural Americans,” *forthcoming*. Pg 56

¹⁹ Lisa R. Pruitt, J. Cliff McKinney & Bart Calhoun, ‘Justice in the Hinterlands: Arkansas as a Case Study for the Rural Lawyer Shortage and Evidence-Based Solutions to Alleviate It’, *University Arkansas Little Rock Law Journal* 37 no. 4 (2015): 573-720.

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These concerns remind us that the rural lawyer shortage is a problem that has been decades in the making, as the United States has become increasingly urbanized.²⁰ Rural areas have suffered not only broad population loss, but particularly acute loss of the developed human capital represented by the professional class, including physicians and lawyers. Indeed, the withering of institutions associated with population loss, e.g., hospitals, schools, and even grocery stores, has been in an unfortunate feedback loop with population loss itself. The challenges represented by the rural lawyer shortage thus go beyond those that justice-system stakeholders have within their power to fix. The well-being and viability of broader rural ecosystems is implicated, as is the reality of rural-urban interdependence.

Until about a decade ago, the word “rural” and the phrase “access to justice” rarely appeared in the same publication, let alone the same paragraph or the same sentence. One early publication that addressed rural A2J was published in 1969 by the *Duke Law Journal*. “Legal Problems of the Rural Poor” was collectively authored by the journal under a grant from the American Bar Foundation.²¹ Three decades later, the American Bar Association (ABA), the preeminent professional association of U.S. lawyers, created the Rural Pro Bono Consortium and a few years later published a “Guide to Pro Bono Services in Rural Areas.”²² Then in 2010, the California Commission on Access to Justice released a report titled, “Improving Civil Justice in Rural California.”²³ The next year, the American Bar Foundation published “Access Across America: The First Report of the Civil Infrastructure Mapping Project,” drawing theretofore unprecedented attention to spatial inequalities in A2J, including intrastate and state-to-state variations.²⁴

The first explicit attention to the rural lawyer shortage as a component of rural A2J came two years later. In 2012, the ABA's House of Delegates addressed the issue by calling on governments and bar associations to address the loss of lawyers in rural areas.²⁵ Since then, the

²⁰ Michele Statz and Jon Bredeson 'Concerned about Rural Access to Justice? Start Here First', *Northland Access to Justice*, 2020. Available online: <https://www.northlandproject.org/the-rural-a2j-guide> (accessed 11 September 2020).

²¹ 'Legal Problems of the Rural Poor', *Duke Law Journal* 1969 no. 3 (1969): 495-621

²² Rural Pro Bono Delivery: A Guide to Pro Bono Services in Rural Areas, *The American Bar Association*, 2003. Available online: https://www.americanbar.org/content/dam/aba/administrative/probono_public_service/as/aba_rural_book.pdf (accessed 11 September 2020).

²³ 'Improving Civil Justice in Rural California Executive Summary Edition: A Report of the California Access to Justice', *The State Bar of California* 2010. Available online: <http://www.calbar.ca.gov/Portals/0/documents/accessJustice/2010%20Improving%20Rural%20Report%20Executive%20Summary.pdf> (accessed 11 September 2020).

²⁴ Sandefur, R. L. & Smyth, A. C., “Access across America: First report of the civil justice infrastructure mapping project,” *The American Bar Foundation*, 2011. Available online: http://www.americanbarfoundation.org/uploads/cms/documents/access_across_america_first_report_of_the_civil_justice_infrastructure_mapping_project.pdf.

²⁵ Lorelei Laird, 'In Rural America, There Are Job Opportunities and a Need for Lawyers', *ABA Journal*, 1 October 2014. Available online: https://www.abajournal.com/magazine/article/too_many_lawyers_not_here_in_rural_america_lawyers_are_few_an

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ABA Journal, the organization's national magazine, has provided high-profile attention: two cover stories on the rural lawyer shortage, in October 2014²⁶ and February 2020.²⁷

In July 2020, the ABA's updated Profile of the Legal Profession for the first time highlighted the so-called attorney desert problem and mapped precisely where lawyers are in each U.S. state.²⁸ This was no small feat because it required the ABA to access attorney address data for each state, data held in various forms by the salient body governing the legal profession, e.g., the state supreme court or other institution that admits to the bar and disciplines attorneys, in a given state.²⁹ While the California Commission on Access to Justice and Georgia State University's Center for Access to Justice had already mapped the location of lawyers in their respective states, the ABA project was the first national undertaking to assess the presence of lawyers in relation to geography. That ABA publication threw into sharp relief how widespread the rural lawyer shortage is, as well as how dire it is in particular places. On the occasion of that report's release, the ABA held a national webinar on so-called "legal deserts," a term increasingly³⁰

This ABA report and webinar, to date, represent the apex of attention to the rural lawyer shortage in the United States. What remains to be seen is how state and local stakeholders across the nation will respond to the ABA's call to ameliorate the escalating challenge of attorney deserts. Also unknown is what impact the COVID-19 pandemic will have on the rural lawyer shortage. Given the advanced age of many rural practitioners, it would not be a surprise if the pandemic drives many to retire earlier than they had previously planned, thereby accelerating and aggravating the shortage. This is because limitations on in-person interactions and attendant shift to online communication with courts and clients may prove to have been more than some aging practitioners were willing to do to stay in business.

Even before the ABA's 2020 report, several state bar associations and other professional governing bodies had begun to address the lawyer shortage and its broader implications for

d_far_between (accessed 11 September 2020).

²⁶ Lorelei Laird, 'In Rural America, There Are Job Opportunities and a Need for Lawyers', *ABA Journal*, 1 October 2014. Available online:

https://www.abajournal.com/magazine/article/too_many_lawyers_not_here_in_rural_america_lawyers_are_few_and_far_between (accessed 11 September 2020).

²⁷ See Wendy Davis, No Country for Rural Lawyers: Small-town Attorneys Still Find It Hard to Thrive, *ABA Journal*, 1 February 2020. Available online: <https://www.abajournal.com/magazine/article/no-country-for-rural-lawyers>.

²⁸ Profile of the Legal Profession, *The American Bar Association*, 2020. Available online: <https://www.americanbar.org/content/dam/aba/administrative/news/2020/07/potlp2020.pdf> (last visited May 24, 2021).

²⁹ Lisa R. Pruitt & Andrew Davies, "Investigating Access to Justice, the Rural Lawyer Shortage, and Implications for Civil and Criminal Legal Systems," **forthcoming**.

³⁰ Webinar Video: "Legal Deserts in America: A Threat to Justice for All", *ABA* 28 July 2020. Available online: <https://www.americanbar.org/news/abanews/aba-news-archives/2020/07/webinar-video---legal-deserts-in-america--a-threat-to-justice-fo/>(accessed 11 September 2020).

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access to justice. Rural-focused task forces were already at work in Alaska, California, New York, and South Dakota. Other states, including Michigan,³¹ Indiana,³² and Illinois,³³ had acknowledged the shortage, and some were taking steps to improve rural lawyer placement and retention. Meanwhile, some legal scholars and practitioners had also turned their focus to this issue, through symposia and publications.³⁴ At the same time, the issue was catching the attention of national media outlets, including the *New York Times*,³⁵ National Public Radio,³⁶ The Pew Charitable Trusts,³⁷ and *The Atlantic*.³⁸

A community's status as a "legal desert" or "attorney desert" necessarily influences how all aspects its civil and criminal justice system function and—indeed—on how the entire community functions given the human capital represented by attorney presence. In the following sections, we consider two particular contexts in which the rural lawyer shortage plays out: legal aid and criminal justice. Beyond that, we turn to a discussion of various state-specific initiatives to increase the number of lawyers practicing in rural areas.

Legal Aid Lawyers. Legal aid attorneys are an important piece of the rural A2J puzzle because in 2017 "71% low-income households experienced at least one civil legal problem, including

³¹ Jennifer M. Grieco, 'Addressing Out Aging Population of Lawyers (aka Lawyers Are Mortal)', *Michigan Bar Journal*, July 2019. Available online: <http://www.michbar.org/file/barjournal/article/documents/pdf4article3705.pdf> (accessed 11 September 2020).

³² Marilyn Odendahl, 'Too Few Pro Bono Attorneys in Indiana Rural Communities', *The Indiana Lawyer*, 6 November 2012. Available online: <https://www.theindianalawyer.com/articles/30039-too-few-pro-bono-attorneys-in-rural-communities> (accessed 11 September 2020).

³³ Rhys Saunders, 'ISBA Seeks Input from Attorneys Whose Practices Include Rural Areas and Small Towns', *The Bar News*, 26 August 2020. Available online: <https://www.isba.org/barnews/2020/08/isbaseeksinputfromattorneyswhosepra0> (accessed 11 September 2020).

³⁴ 'Rural Practice Symposium,' *South Dakota Law Review* 59 no. 3 (2014): XX-614; 'Ensuring Equal Access to Justice in Maine's Rural Communities Symposium,' *Maine Law Review* 71 no. 2 (2019): 209-379.

³⁵ Ethan Bronner, 'No Lawyer for Miles, So One Rural State Offers Pay', *New York Times* 8 April 2013. Available online: <https://www.nytimes.com/2013/04/09/us/subsidy-seen-as-a-way-to-fill-a-need-for-rural-lawyers.html> (accessed 11 September 2020).;

³⁶ Grant Gerlock, 'Lawyer Shortage In Some Rural Areas Reaches Epic Proportions,' *NPR*, 26 December 2016. Available online: <https://www.npr.org/2016/12/26/506971630/nebraska-and-other-states-combat-rural-lawyer-shortage/> (accessed 11 September 2020).

³⁷ April Simpson, 'Wanted: Lawyers for Rural America', *PEW*, 26 June 2019. Available online: <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2019/06/26/wanted-lawyers-for-rural-america> (accessed 11 September 2020).

³⁸ Jessica Pishko, 'The Shocking Lack of Lawyers in Rural America,' *The Atlantic*, 18 July 2019. Available online: <https://www.theatlantic.com/politics/archive/2019/07/man-who-had-no-lawyer/593470/> (accessed 11 September 2020).

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problems with domestic violence, veterans' benefits, disability access, housing conditions, and health care."³⁹ Of these civil legal problems reported, 86% received inadequate or no legal help.⁴⁰

The Legal Services Corporation (LSC), an agency of the U.S. government, provides some funding for legal aid organizations across the nation, including in rural areas. LSC-funded organizations are limited, however, in various ways, including the restriction that they can provide services only to residents who meet a miserly income threshold, 125% of the federal poverty line.⁴¹ For a family of four, this equals just \$32,188 in the 48 contiguous United States and the District of Columbia, slightly more in Alaska and Hawai'i.⁴² Thus, many who need legal assistance do not qualify for legal aid and must get the help they need elsewhere, as from a private practice attorney. Alternatively, they must navigate their legal problems with no professional assistance, which has increasingly become the norm.⁴³

When LSC-funded organizations are charged with serving rural populations, they face practical, economic, and spatial obstacles to doing so. One barrier is the recruitment and retention of attorneys, as discussed above. Another barrier is that the organizations typically use a hub-and-spoke model of service delivery, with lawyers based in a small city hub. Legal aid attorneys thus typically do not live or regularly work "on the ground" in the spokes, the most rural counties and communities surrounding the regional center.⁴⁴ This spatial challenge prevents legal aid attorneys from being part of the communities they serve, which further undermines the ability of these organizations to meet the needs of rural residents who qualify for their assistance.

The Criminal Justice System. While the phrase "access to justice" typically refers to the civil justice system, it is important to acknowledge that the rural attorney shortage has significant negative implications for criminal defendants and the state and local government entities

³⁹ 'The Justice Gap: Measuring the Unmet Civil Legal Needs of Low-Income Americans,' *Legal Services Corporation*, June 2017. Available online: <https://www.lsc.gov/sites/default/files/images/TheJusticeGap-FullReport.pdf>.

⁴⁰ 'The Justice Gap: Measuring the Unmet Civil Legal Needs of Low-Income Americans,' *Legal Services Corporation*, June 2017. Available online: <https://www.lsc.gov/sites/default/files/images/TheJusticeGap-FullReport.pdf>.

⁴¹ Income Level for Individuals Eligible for Assistance, 84 Fed. Reg. 1408, 1408 (Feb. 4, 2019) (to be codified at 45 C.F.R. pt. 1611).

⁴² Income Level for Individuals Eligible for Assistance, 84 Fed. Reg. 1408, 1408 (Feb. 4, 2019) (to be codified at 45 C.F.R. pt. 1611).

⁴³ Legal Services of California, 'The Justice Gap: Measuring the Unmet Civil Legal Needs of Low-Income Americans', 2017. Available at www.lsc.gov/sites/default/files/images/TheJusticeGap-FullReport.pdf. Judicial Council of California, "Handling Cases Involving Self-Represented Litigants", 2019. Available at: www.courts.ca.gov/documents/benchmark_self_rep_litigants.pdf > accessed 18 April 2021.

⁴⁴ Lisa R. Pruitt, 'The Affordable Care Act in Rural California: A Report on Barriers to Health Care Access and Enrollment in Path2Health, with Proposed Solutions', *UC Davis Legal Research Paper Series* (June 2013); How to Contact Us, *Legal Services of Northern California*, 2016. Available online: <https://lsnc.net/how-contact-us> (accessed October 22, 2020).

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responsible for trying them.⁴⁵ Since 2013, rural jail populations have climbed 27%, more steeply than in urban areas.⁴⁶ Additionally, those in rural jails can expect longer stays than those cited for the same crime in urban areas.⁴⁷ The shortage of lawyers is a key factor in these rising rural jail incarceration rates.⁴⁸ This is because a person arrested in a rural area can wait for days or even weeks for an attorney to appear before a judge to negotiate the detainee's release.⁴⁹ Residency requirements that compel prosecutors or public defenders to live within the county that employs them can aggravate the problem when attorneys are uninterested in residing in a rural place.⁵⁰

When state and local governments cannot employ local lawyers because none are present or those who are present have conflicts of interest, those government entities incur greater costs because of the rural lawyer shortage. This is partly because of the government's duty under the U.S. Constitution to provide speedy trials and other aspects of due process, as well as to pay for counsel for indigent defendants. Government entities must therefore pay attorneys to travel from neighboring jurisdictions, thus increasing the costs that are ultimately born by taxpayers.⁵¹ Indeed, this practical, fiscal concern was a significant consideration for South Dakota when it became the first state to pay lawyers to move to and work in rural areas under the auspices of its Rural Attorney Recruitment Program,⁵² which we discuss further in the next section.

Financial Incentives to Rural Practice. The perception that rural practice may not be fiscally viable deters lawyers from undertaking it. In a 2014 survey of law students at the two law schools in Arkansas, the two most commonly cited disadvantages to rural practice were “the perception of earning a lower income” and “the perception that rural locations have fewer career

⁴⁵ 'Greening the Desert Strategies and Innovations to Recruit, Train, and Retain Criminal Law Practitioners for STAR Communities', *SMU Deason Criminal Justice Reform Center* 2020. Available online: <https://cpb-us-w2.wpmucdn.com/blog.smu.edu/dist/9/350/files/2020/09/SMU-Greening-The-Desert-Online-v1.2.pdf>.

⁴⁶ 'People in Jail in 2019', *Vera Institute of Justice*, December 2019. Available online: <https://www.vera.org/publications/people-in-jail-in-2019> (accessed 11 September 2020).

⁴⁷ Richard A. Oppel, Jr., "'A Cesspool of a Dungeon': The Surging Population in Rural Jails", *The New York Times*, 13 December 2019. Available online: <https://www.nytimes.com/2019/12/13/us/rural-jails.html?action=click&module=News&pgtype=Homepage> (accessed 11 September 2020).

⁴⁸ Pamela Metzger, 'Rural Justice Systems Low on Pretrial Resources Leave Some to Languish, Die', *USA TODAY*, 13 December 2019. Available online: <https://www.usatoday.com/story/opinion/policing/spotlight/2019/12/13/rural-justice-systems-low-pretrial-resources-leave-some-languish/4415770002/>(accessed 11 September 2020).

⁴⁹ Pamela Metzger, 'Rural Justice Systems Low on Pretrial Resources Leave Some to Languish, Die', *USA TODAY*, 13 December 2019. Available online: <https://www.usatoday.com/story/opinion/policing/spotlight/2019/12/13/rural-justice-systems-low-pretrial-resources-leave-some-languish/4415770002/>(accessed 11 September 2020).

⁵⁰ 'Greening the Desert Strategies and Innovations to Recruit, Train, and Retain Criminal Law Practitioners for STAR Communities', *SMU Deason Criminal Justice Reform Center* 2020. Available online: <https://cpb-us-w2.wpmucdn.com/blog.smu.edu/dist/9/350/files/2020/09/SMU-Greening-The-Desert-Online-v1.2.pdf>.

⁵¹ Andrew Davies and Alyssa Clark, 'Gideon in the Desert: An Empirical Study of Providing Counsel to Criminal Defendants in Rural Places' (2018) 71 *Maine Law Review* 245; Lisa R. Pruitt and Beth A. Colgan, 'Justice Deserts: Spatial Inequality and Local Funding of Indigent Defense', *Arizona Law Review* 52 no. 2 (2010): 219, 316.

⁵² Lisa Pruitt et al., 'Legal Deserts: A Multi-State Perspective on Rural Access to Justice', *Harvard Law & Policy Review* 13 no. 1 (2018): 15-156

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and economic opportunities.”⁵³ It is thus not surprising that a few states have considered offering financial initiatives to get lawyers to “go rural.” To date, the only success story among these is South Dakota's Rural Attorney Recruitment Program.⁵⁴

Pursuant to that program, South Dakota began investing in rural communities’ justice infrastructure in 2013 by providing stipends to attorneys in exchange for five years of continuous practice in an eligible rural county.⁵⁵ Recognizing the financial burden associated with legal education, the stipend is \$13,288 a year, which represents 90% of the annual tuition at the University of South Dakota School of Law.⁵⁶ The program also has a robust mentorship component; of the fifteen initial participants, ten joined existing law firms, and the five who started solo practices were matched with mentors, sometimes in another county.⁵⁷ The wider community provided assistance and networking, too: participants were connected with clerks and courts, and at least two counties provided free office space in their courthouse for lawyer participants.⁵⁸

The South Dakota program was initially limited to 16 participants but has since expanded to accommodate a total of 32 attorneys.⁵⁹ As of 2019, the program had contracted with 24 lawyers.⁶⁰ Among them, around half are in rural solo practices while the other half are working for small law firms or with lawyers who will be retiring soon.⁶¹ Only two attorneys have failed to fulfill

⁵³ Lisa R. Pruitt, J. Cliff McKinney II, Juliana Fehrenbacher & Amy Dunn Johnson, 'Access to Justice in Rural Arkansas', *Arkansas Access to Justice*, March 2015. Available online: <https://arkansasjustice.org/wp-content/uploads/2017/04/AATJPolicyBrief2015-0420.pdf> (accessed 11 September 2020). *But see* Lisa R. Pruitt, J. Cliff McKinney & Bart Calhoun, 'Justice in the Hinterlands: Arkansas as a Case Study for the Rural Lawyer Shortage and Evidence-Based Solutions to Alleviate It', *University Arkansas Little Rock Law Journal* 37 no. 4 (2015): 573-720.

⁵⁴ Rural Recruitment Program, *South Dakota Unified Judicial System*, 2020. Available online: <https://ujls.sd.gov/Attorneys/RuralRecruitment.aspx> (accessed 11 September 2020).

⁵⁵ Wendy Davis, No Country for Rural Lawyers: Small-town Attorneys Still Find It Hard to Thrive, *ABA Journal*, 1 February 2020. Available online: <https://www.abajournal.com/magazine/article/no-country-for-rural-lawyers> (accessed 11 September 2020).

⁵⁶ 'Rural Attorney Recruitment Program', *South Dakota Legal Self-Help*, 2020. Available online: <https://ujslawhelp.sd.gov/rarprogram.aspx> (accessed 11 September 2020).

⁵⁷ Lisa Pruitt et al., 'Legal Deserts: A Multi-State Perspective on Rural Access to Justice', *Harvard Law & Policy Review* 13 no. 1 (2018): 15-156.

⁵⁸ Lisa Pruitt et al., 'Legal Deserts: A Multi-State Perspective on Rural Access to Justice', *Harvard Law & Policy Review* 13 no. 1 (2018): 15-156.

⁵⁹ 'Rural Attorney Recruitment Program', *South Dakota Legal Self-Help*, 2020. Available online: <https://ujslawhelp.sd.gov/rarprogram.aspx> (accessed 11 September 2020).

⁶⁰ April Simpson, 'Wanted: Lawyers for Rural America', *PEW*, 26 June 2019. Available online: <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2019/06/26/wanted-lawyers-for-rural-america> (accessed 11 September 2020).

⁶¹ April Simpson, 'Wanted: Lawyers for Rural America', *PEW*, 26 June 2019. Available online: <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2019/06/26/wanted-lawyers-for-rural-america> (accessed 11 September 2020).

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their five-year commitment.⁶² It is too early to tell whether South Dakota's efforts will produce a long-term net gain of rural lawyers. Among participants who have completed the program, some have stayed in the rural county while others have moved to metropolitan areas.⁶³

While South Dakota is the only state that pays attorneys to engage in rural practice, other states have taken up legislation that would provide some form of financial incentive. The Maine legislature considered, but ultimately rejected, bills that would have provided tax breaks to rural practicing attorneys.⁶⁴ Legislators in Georgia⁶⁵ and Wisconsin⁶⁶ have also tried and failed to pass legislation that would assist with tuition reimbursement to lighten the load of law school debt. Similar Loan Repayment Assistance Programs (LRAPs), which are often sponsored by law schools, are discussed in further detail below.

Incubators. A legal incubator is typically a one- to two-year program that provides new attorneys with the knowledge and skills necessary to successfully launch a law practice, anticipating that the lawyers will do so in underserved communities.⁶⁷ One of these skills is how to successfully market legal services to low-income and modest means clients, including how to “unbundle” legal services so that the attorney prepares clients to do some of the work themselves.⁶⁸ Incubators thus respond to attorneys' concern about the fiscal viability of rural practice, specifically the fear that too few residents in a sparsely populated, economically depressed area will be able to afford legal assistance. Incubators thus empower lawyers to optimize their chances of success as solo practitioners or in small practices.

⁶² Wendy Davis, No Country for Rural Lawyers: Small-town Attorneys Still Find It Hard to Thrive, *ABA Journal*, 1 February 2020. Available online: <https://www.abajournal.com/magazine/article/no-country-for-rural-lawyers> (accessed 11 September 2020).

⁶³ Wendy Davis, No Country for Rural Lawyers: Small-town Attorneys Still Find It Hard to Thrive, *ABA Journal*, 1 February 2020. Available online: <https://www.abajournal.com/magazine/article/no-country-for-rural-lawyers> (accessed 11 September 2020).

⁶⁴ Lisa Pruitt et al., 'Legal Deserts: A Multi-State Perspective on Rural Access to Justice', *Harvard Law & Policy Review* 13 no. 1 (2018): 15-156.

⁶⁵ Lisa Pruitt et al., 'Legal Deserts: A Multi-State Perspective on Rural Access to Justice', *Harvard Law & Policy Review* 13 no. 1 (2018): 15-156.

⁶⁶ . 'Senate Bill 461', *Wisconsin State Legislature*, 2019 Available online: <https://docs.legis.wisconsin.gov/2019/proposals/sb461> (accessed 11 September 2020); Lisa Pruitt et al., 'Legal Deserts: A Multi-State Perspective on Rural Access to Justice' *Harvard Law & Policy Review* 13 no. 1 (2018): 15-156.

⁶⁷ Dawn Young, 'Musings from an Incubator Director: Do Legal Incubators Really Work?', *ABA for Law Students*, 3 October 2019. Available online: <https://abaforlawstudents.com/2019/10/03/do-legal-incubators-really-work/> (accessed 11 September 2020).

⁶⁸ 'Incubator Guide', *California Commission on Access to Justice*, October 2014. Available online: <http://www.calbar.ca.gov/Portals/0/documents/accessJustice/2014%20Incubator%20Guide.pdf>. (accessed 11 September 2020).

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While all incubators are different, many underwrite some business costs by offering free legal research software and bar memberships.⁶⁹ Ongoing mentorship and support are also typical features of incubators. The first incubator program was established in New York City in 2002,⁷⁰ and the vast majority of the 60 incubators in 32 states, as of mid-2020,⁷¹ are in metropolitan areas.⁷² A handful, however, aim to train and support rural lawyers in Arkansas, Iowa, Montana, Nebraska, New Mexico, North Dakota, and Vermont.⁷³ Although most rural incubators are too new to evaluate their success, early reports provide some reason for optimism.

The Arkansas Rural Practice Incubator Project, for example, an eighteen-month program housed at the University of Arkansas at Little Rock Bowen School of Law, was founded in 2018 with five participants. Though the program is based in the state's largest city and state capital, it targets for service the impoverished and rural Mississippi Delta region. Among the first five participants, each has remained involved in rural practice since finishing their term with the incubator. Their practices vary significantly, however, with only one working fulltime in private practice. In addition to some civil work for clients, the others wear myriad hats, e.g., running other businesses, serving as a part-time prosecutor. These other roles ease pressure on law practice finances and may also come with employment benefits that come with government jobs.

All of the program's initial participants were from rural areas and came to law school with aspirations to return home. Only one applicant sought to participate in the incubator's second cohort, and two, both from rural areas, applied for the third cohort. Acknowledging the significance of budgetary pressures on these rural entrepreneurs, the incubator recently decreased the cohort size and doubled the one-time stipend for participants from \$3000 to \$6000.

⁶⁹ 'Incubator Guide', *California Commission on Access to Justice*, October 2014. Available online: <http://www.calbar.ca.gov/Portals/0/documents/accessJustice/2014%20Incubator%20Guide.pdf>. (accessed 11 September 2020).

⁷⁰ 'Lawyer Incubator Directory', *ABA* 2020. Available online: https://www.americanbar.org/groups/delivery_legal_services/initiatives_awards/program_main/program_directory/ (accessed 11 September 2020).

⁷¹ 'Lawyer Incubator Directory', *ABA* 2020. Available online: https://www.americanbar.org/groups/delivery_legal_services/initiatives_awards/program_main/program_directory/ (accessed 11 September 2020).

⁷² 'Lawyer Incubator Directory', *ABA* 2020. Available online: https://www.americanbar.org/groups/delivery_legal_services/initiatives_awards/program_main/program_directory/ (accessed 11 September 2020).

⁷³ 'Lawyer Incubator Directory', *ABA* 2020. Available online: https://www.americanbar.org/groups/delivery_legal_services/initiatives_awards/program_main/program_directory/ (accessed 11 September 2020); 'Greening the Desert Strategies and Innovations to Recruit, Train, and Retain Criminal Law Practitioners for STAR Communities', *SMU Deason Criminal Justice Reform Center* 2020. Available online: <https://cpb-us-w2.wpmucdn.com/blog.smu.edu/dist/9/350/files/2020/09/SMU-Greening-The-Desert-Online-v1.2.pdf>.

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Succession Planning. Other programs are designed to foster relationships similar to those facilitated by incubators, but the focus is more explicitly on assisting aging rural attorneys to pass their practices onto the next generation. The State Bar of Georgia’s Succession Planning Pilot Program, for example, “connects retiring solo practitioners with new law graduates, facilitating the eventual succession in the management, and potentially ownership, of the practice.”⁷⁴ Another program with similar aims, this one created by the Colorado Attorney Mentoring Program and the Colorado Bar Association’s Modern Law Practice Initiative, connects rural lawyers with recent law graduates. Colorado’s Rural Virtual Practice Program is incubator-like, with a curriculum focused on developing business strategies. Participants experience rural practice by connecting with their mentor, both virtually and through in-person visits.⁷⁵ The relationship allows the mentee to become known in the rural community while the mentor assesses whether to include the mentee in succession plans.

Iowa founded one of the first such match-making programs in 2012, when Phil Garland, chair of the Iowa State Bar Association’s Rural Practice Committee, began to connect law students with aging solo practitioners and rural firms for summer placements.⁷⁶ Garland met his own successor, Carrie Rodriguez, through this program. Critically, Garland decided not to require Rodriguez to buy out his practice; he plans simply to give her his “book of business” when he retires.⁷⁷ Many aging practitioners, however, are unwilling to forego such compensation when transitioning to retirement, thus leaving in place another fiscal barrier to the young lawyer who might otherwise find rural practice to be viable.

Like the Iowa program that facilitates summer placements by law students, several summer externship programs provide opportunities for law students to be immersed in rural life. One University of Nebraska program brings students to rural areas for “speed date” interviews with local attorneys,⁷⁸ and another, the Rural Practice Initiative, places law students with solo or small rural practitioners for five weeks during the summer.⁷⁹ Similar programs exist in Kansas,⁸⁰

⁷⁴ Lisa Pruitt et al., 'Legal Deserts: A Multi-State Perspective on Rural Access to Justice', *Harvard Law & Policy Review* 13 no. 1 (2018): 15-156.

⁷⁵ Jack Karp, 'No Country for Old Lawyers: Rural U.S. Faces A Legal Desert', *Law 360* 27 January 2019. Available online: <https://www.law360.com/articles/1121543/no-country-for-old-lawyers-rural-u-s-faces-a-legal-desert> (accessed 11 September 2020).

⁷⁶ Sarah McCammon, 'For Jobs, Some Young Lawyers Are Keepin' It Rural', 16 July 2012. Available online: <https://www.npr.org/2012/07/16/156863177/for-jobs-some-young-lawyers-are-keepin-it-rural> (accessed 11 September 2020).

⁷⁷ Jack Karp, 'No Country For Old Lawyers: Rural U.S. Faces A Legal Desert', *Law 360* 27 January 2019. Available online: <https://www.law360.com/articles/1121543/no-country-for-old-lawyers-rural-u-s-faces-a-legal-desert> (accessed 11 September 2020).

⁷⁸ Lorelei Laird, 'In Rural America, There Are Job Opportunities and a Need for Lawyers', *ABA Journal*, 1 October 2014. Available online: https://www.abajournal.com/magazine/article/too_many_lawyers_not_here_in_rural_america_lawyers_are_few_and_far_between (accessed 11 September 2020).

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Maine,⁸¹ North Dakota, Ohio,⁸² Oregon,⁸³ South Dakota, Vermont,⁸⁴ and Wisconsin,⁸⁵ while Georgia⁸⁶ and New Mexico⁸⁷ appear to be moving toward them, too. Law schools sometimes pay the students a stipend to supplement their compensation from the employer.⁸⁸ The Illinois State Bar Association's Rural Practice Institute and the Fellowship Program is the newest addition to this list.⁸⁹ The program seeks to use clearinghouses to pair both law students and recent graduates with established rural lawyers.⁹⁰ Program participants receive a \$5000 relocation and expense stipend, and young attorneys receive an additional \$5000 upon the completion of their first year as a rural practitioner. National programs also exist, including Equal Justice Works and Legal Services Corporation's Rural Summer Legal Corps, which supports 35 law students in rural summer externships each year.⁹¹

⁷⁹ Hillary A. Wandler, 'Spreading Justice to Rural Montana: Rurality's Impacts on Supply and Demand for Legal Services in Montana', *Montana Law Review* 77 no. 2 (2015): 235-280.

⁸⁰ 'Greening the Desert Strategies and Innovations to Recruit, Train, and Retain Criminal Law Practitioners for STAR Communities', *SMU Deason Criminal Justice Reform Center* 2020. Available online: <https://cpb-us-w2.wpmucdn.com/blog.smu.edu/dist/9/350/files/2020/09/SMU-Greening-The-Desert-Online-v1.2.pdf>; Washburn University School of Law, Rural Law, <https://www.washburnlaw.edu/practicalexperience/rural/index.html>.

⁸¹ Lisa Pruitt et al., 'Legal Deserts: A Multi-State Perspective on Rural Access to Justice', *Harvard Law & Policy Review* 13 no. 1 (2018): 15-156; Liz Woodbury, 'Tackling the Rural Law Crisis', *Maine Law Magazine* 15 (Winter 2018-2019). Available online: <https://mainelaw.maine.edu/news/wp-content/uploads/sites/10/rural-law-magazine.pdf> (accessed 11 September 2020).

⁸² 'Greening the Desert Strategies and Innovations to Recruit, Train, and Retain Criminal Law Practitioners for STAR Communities', *SMU Deason Criminal Justice Reform Center* 2020. Available online: <https://cpb-us-w2.wpmucdn.com/blog.smu.edu/dist/9/350/files/2020/09/SMU-Greening-The-Desert-Online-v1.2.pdf>.

⁸³ 'Courts Need to Enhance Access to Justice in Rural America', *Conference of State Court Administrators*, 2018. Available online: https://cosca.ncsc.org/__data/assets/pdf_file/0026/23399/policy-paper-1-28-2019.pdf (accessed 11 September 2020).

⁸⁴ Noel K. Gallagher, 'Maine School Moves To Reverse Shortage Of Rural Lawyers', *Portland Press Herald*, 22 October 2017. Available online: <https://www.pressherald.com/2017/10/22/maine-school-moves-to-reverse-shortage-of-rural-lawyers/#> (accessed 11 September 2020).

⁸⁵ Hillary A. Wandler, 'Spreading Justice to Rural Montana: Rurality's Impacts on Supply and Demand for Legal Services in Montana', *Montana Law Review* 77 no. 2 (2015): 235-280.

⁸⁶ Lisa Pruitt et al., 'Legal Deserts: A Multi-State Perspective on Rural Access to Justice', *Harvard Law & Policy Review* 13 no. 1 (2018): 15-156.

⁸⁷ Carol A. Clark, 'State Supreme Court Endorses Proposals To Help New Mexicans Obtain Civil Legal Services', *Los Alamos Daily Post*, 26 January 2020. Available online: <https://ladailypost.com/state-supreme-court-endorses-proposals-to-help-new-mexicans-obtain-civil-legal-services/> (accessed 11 September 2020).

⁸⁸ Hillary A. Wandler, 'Spreading Justice to Rural Montana: Rurality's Impacts on Supply and Demand for Legal Services in Montana', *Montana Law Review* 77 no. 2 (2015): 235-280.

⁸⁹ Ed Finkel, 'ISBA's Rural Practice Initiative Encourages Law Students, Recent Graduates to Settle Down in a Small Town', *Illinois Bar Journal*, February 2021. Available online: <https://www.isba.org/ibj/2021/02/smalltownlaw>.

⁹⁰ Daniel R. Thies and Lois J. Wood, 'Rural Practice Fellowship Program', *Illinois State Bar Association*, January 2021. Available online: <https://www.isba.org/committees/lawrelatededucation/newsletter/2021/01/isbalaunchesruralpracticefellowship>.

⁹¹ 'Rural Summer Legal Corps', *Equal Justice Works*, 2019. Available online: <https://www.equaljusticeworks.org/law-students/part-time-summer/rural-summer-legal-corps/> (accessed 11

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These programs have been successful in placing law students in rural areas after graduation, at least for the short term. The Rural Justice Program, a funded summer program in North Dakota, reports that “at least eight of the couple dozen scholarship recipients since 2015 who have graduated, including those who received support for rural placements, are working in rural parts of the state.”⁹² Half of the summer externs from the first year of South Dakota's program committed to the Rural Attorney Recruitment Program,⁹³ and at least one student from Maine's program accepted a post-graduation position with a rural firm.⁹⁴ While private firm placement is the primary focus of these programs, the State Bar Association of North Dakota facilitates rural exposure by funding law student externships with rural judges.⁹⁵ We return below to a further discussion of the role of law schools in alleviating the rural attorney shortage.

Channeling Urban Resources to Rural Areas. When too few attorneys live in a rural area to meet the needs of residents, justice system stakeholders have sometimes responded with technology-based interventions. Telephonic and videoconferencing technologies have allowed rural residents to connect with attorneys outside of their community, though rural broadband deficits continue to undermine these efforts. As the COVID-19 pandemic drives both courts and attorneys to invest in technology, the post-pandemic landscape may see more remote work by urban lawyers for rural clients.

The Arizona State Bar, for example, has a client matching service that functions independent of the client's location.⁹⁶ These sorts of interactions may be better suited to some needs than to others. A Canadian study found “that the geographic reach of lawyers is not...strictly confined to their immediate locale but instead extends over different ranges of geographic space, depending on the service being delivered and the characteristics of lawyers and their clients.”⁹⁷ In

September 2020).

⁹² April Simpson, 'Wanted: Lawyers for Rural America', *PEW*, 26 June 2019. Available online: <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2019/06/26/wanted-lawyers-for-rural-america> (accessed 11 September 2020).

⁹³ Lisa Pruitt et al., 'Legal Deserts: A Multi-State Perspective on Rural Access to Justice', *Harvard Law & Policy Review* 13 no. 1 (2018): 15-156.

⁹⁴ Liz Woodbury, 'Tackling the Rural Law Crisis', *Maine Law Magazine* 15 (Winter 2018-2019). Available online: <https://mainelaw.maine.edu/news/wp-content/uploads/sites/10/rural-law-magazine.pdf> (accessed 11 September 2020).

⁹⁵ Lorelei Laird, 'In Rural America, There Are Job Opportunities and a Need for Lawyers', *ABA Journal*, 1 October 2014. Available online: https://www.abajournal.com/magazine/article/too_many_lawyers_not_here_in_rural_america_lawyers_are_few_and_far_between (accessed 11 September 2020).

⁹⁶ 'Courts Need to Enhance Access to Justice in Rural America', *Conference of State Court Administrators*, 2018. Available online: https://cosca.ncsc.org/__data/assets/pdf_file/0026/23399/policy-paper-1-28-2019.pdf (accessed 11 September 2020).

⁹⁷ Jamie Baxter & Albert Yoon, 'No Lawyer for a Hundred Miles? New Geography of Access of Justice in Canada,' *Osgoode Hall Law Journal* 52 no. 1 (2014): 9-58.

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other words, for some types of routine legal work, it is more important to have a local lawyer. For more specialized work, it is reasonable to expect the work to be done by specialists typically found in metropolitan areas, and technology is critical to facilitating that representation.

The COVID-19 pandemic has created incentives for attorneys, courts, and other justice system stakeholders to make massive investments in technology. Those investments may prove critical to better serving rural clients whose spatial isolation creates material barriers to their access to justice. On the other hand, the rural-urban justice gap may be aggravated rather than ameliorated if courts continue to use “virtual” appearances and other tech-facilitated interactions even after the pandemic ends. This is because the lack of reliable broadband will effectively deny access to many rural residents, even as technology facilitates easier access for others.

Further, while it is tempting to expect technology to alleviate legal deserts and related rural A2J challenges, technology should not be treated as a panacea to solve either.⁹⁸ Having lawyers residing and working in rural areas, functioning as integral parts of the community, should remain the goal. Nevertheless, temporarily mobilizing lawyers to work in rural communities—either via technology or in person—can be part of the solution, and a few good models exist. The Bay Area Rural Justice Collaborative is a group of legal services non-profits and law firms that bring free legal clinics to exurban and isolated communities on the far periphery of the San Francisco metropolitan area.⁹⁹ The Government Law Center at Albany Law School formed the Rural Law Initiative, which provides legal assistance to small businesses and start-ups in rural upstate New York.¹⁰⁰ Another way to channel the surfeit of urban legal capital to rural legal deserts is to create incentives for urban lawyers to provide pro bono assistance there. Ohio¹⁰¹ and Tennessee¹⁰² are two states that do so by awarding continuing legal education (CLE) credit for such work.

We have already discussed the strategy of getting law students into rural communities for purposes of rural practitioners’ succession planning, but even shorter forays by law students and lawyers into rural areas can yield significant impact. California,¹⁰³ Nebraska,¹⁰⁴ New York,¹⁰⁵

⁹⁸ Michele Statz, Robert Friday & and Jon Bredeson, “‘They Had Access, But They Didn’t Get Justice’: Why Prevailing Access to Justice Initiatives Fail Rural Americans” *Georgetown Journal on Poverty Law Policy* (forthcoming).

⁹⁹ ‘Rural Justice Initiative’, *OneJustice*. Available online: <https://onejustice.org/probonojustice/rural-justice-initiative/> (accessed 11 September 2020).

¹⁰⁰ Taier Perlman, ‘The Rural Law Initiative’, *Albany Law School Government Law Center*, 16 April 2019. Available online: <https://www.albanylaw.edu/centers/government-law-center/rural-law> (accessed 11 September 2020).

¹⁰¹ ‘Courts Need to Enhance Access to Justice in Rural America’, *Conference of State Court Administrators*, 2018. Available online: https://cosca.ncsc.org/__data/assets/pdf_file/0026/23399/policy-paper-1-28-2019.pdf (accessed 11 September 2020).

¹⁰² James E. Cabral, ‘Using Technology to Enhance Access To Justice’, *Harvard Journal of Law & Technology* 26 no. 1 (2012): 241-324.

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South Carolina,¹⁰⁶ and Wisconsin¹⁰⁷ all have programs that bus attorney and law students into rural areas for pro bono clinics. These trips provide brief opportunities to engage with and experience rural life. So-called alternative spring breaks to rural areas similarly give students a brief but meaningful glance into rural communities, while also helping meet those communities' legal needs.¹⁰⁸ The Greater Wisconsin Initiative Bus Tour program has been particularly successful, with one-third of participants subsequently securing legal positions in non-urban parts of the state.¹⁰⁹ Many of these initiatives are joint efforts among law schools,¹¹⁰ bar associations,¹¹¹ and non-profits,¹¹² a fact that underscores the value of building coalitions among stakeholders with the shared goal of ameliorating the rural lawyer shortage and associated rural justice challenges.

¹⁰³ Lisa Pruitt et al., 'Legal Deserts: A Multi-State Perspective on Rural Access to Justice', *Harvard Law & Policy Review* 13 no. 1 (2018): 15-156. 'Rural Justice Initiative', *OneJustice*. Available online: <https://onejustice.org/probonojustice/rural-justice-initiative/> (accessed 11 September 2020).

¹⁰⁴ Lorelei Laird, 'In Rural America, There Are Job Opportunities and a Need for Lawyers', *ABA Journal*, 1 October 2014. Available online: https://www.abajournal.com/magazine/article/too_many_lawyers_not_here_in_rural_america_lawyers_are_few_and_far_between (accessed 11 September 2020).

¹⁰⁵ Lorelei Laird, 'In Rural America, There Are Job Opportunities and a Need for Lawyers', *ABA Journal*, 1 October 2014. Available online: https://www.abajournal.com/magazine/article/too_many_lawyers_not_here_in_rural_america_lawyers_are_few_and_far_between (accessed 11 September 2020).

¹⁰⁶ Mike Fitts, 'Rolling Office Will Help USC Bring Legal Services To SC's Remote Areas', *The Post and Courier*, 21 October 2019. Available online https://www.postandcourier.com/columbia/rolling-office-will-help-usc-bring-legal-services-to-scs-remote-areas/article_3c008da4-f11e-11e9-8817-bfbf737b325a.html (accessed 11 September 2020).

¹⁰⁷ Lisa Pruitt et al., 'Legal Deserts: A Multi-State Perspective on Rural Access to Justice', *Harvard Law & Policy Review* 13 no. 1 (2018): 15-156.

¹⁰⁸ 'Courts Need to Enhance Access to Justice in Rural America', *Conference of State Court Administrators*, 2018. Available online: https://cosca.ncsc.org/__data/assets/pdf_file/0026/23399/policy-paper-1-28-2019.pdf (accessed 11 September 2020); Lisa Pruitt et al., 'Legal Deserts: A Multi-State Perspective on Rural Access to Justice', *Harvard Law & Policy Review* 13 no. 1 (2018): 15-156.

¹⁰⁹ Jack Karp, 'No Country For Old Lawyers: Rural U.S. Faces A Legal Desert', *Law 360* 27 January 2019. Available online: <https://www.law360.com/articles/1121543/no-country-for-old-lawyers-rural-u-s-faces-a-legal-desert> (accessed 11 September 2020).

¹¹⁰ Lisa Pruitt et al., 'Legal Deserts: A Multi-State Perspective on Rural Access to Justice', *Harvard Law & Policy Review* 13 no. 1 (2018): 15-156.

¹¹¹ Lorelei Laird, 'In Rural America, There Are Job Opportunities and a Need for Lawyers', *ABA Journal*, 1 October 2014. Available online: https://www.abajournal.com/magazine/article/too_many_lawyers_not_here_in_rural_america_lawyers_are_few_and_far_between (accessed 11 September 2020); Lisa Pruitt et al., 'Legal Deserts: A Multi-State Perspective on Rural Access to Justice', *HARVARD LAW & POLICY REVIEW* 13 no. 1 (2018): 15-156.

¹¹² Taier Perlman, 'The Rural Law Initiative', *Albany Law School Government Law Center*, 16 April 2019. Available online: <https://www.albanylaw.edu/centers/government-law-center/rural-law> (accessed 11 September 2020).

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Expanding the Pipeline to Rural Practice. Beyond these programs that provide exposure to rural practice as a means to increase the pool of candidates interested in it, other programs look deeper into the prospective rural attorney pipeline, to college (undergraduate) and even high school students. In this section, we discuss some of these programs, with special attention to initiatives within legal education.

The Role of Legal Education. As already suggested by the discussion of rural opportunities for law students, co-curricular activities in law school, particularly experiential opportunities such as clinics, externships, and internships, can play important roles in exposing students to rural career trajectories and rural clients. Penn State, for example, has a Rural Economic Development Clinic that focuses primarily on serving agricultural, food, and energy clients on business matters.¹¹³ Stanford Law School's Organizations and Transactions Clinic performs similar work in the greater San Francisco Bay Area. The University of Minnesota Law School's Rural Immigrant Access Clinic assists non-citizens in rural areas.¹¹⁴ Other programs may offer interactions with rural denizens and the issues facing them and their communities, including UC Irvine's Community and Economic Development Clinic and the UC Davis Law School's Tribal Justice Project and Water Justice Clinic.¹¹⁵

Student groups that promote rural practice have been formed at a handful of law schools. The University of Arkansas Little Rock Bowen School of Law and Maine Law are the first in the nation to form chapters of the Finch Society, an organization through which students can connect with rural and small-town practitioners and learn about rural practice.¹¹⁶ These organizations also advocate for the interests of rural attorneys. Maine's Law Finch Society, for example, drafted the bill that proposed tax credits for rural practicing attorneys.¹¹⁷

While this survey of rural and rural-adjacent programs shows some promise, law schools could do more to draw attention to rural issues and validate rural practice. While many schools sporadically offer food and agricultural law courses, only a few schools, such as UC Davis

¹¹³ 'Rural Economic Development Clinic', *Penn State Law*. Available online: <https://pennstatelaw.psu.edu/practice-skills/clinics/rural-economic-development-clinic> (accessed 11 September 2020).

¹¹⁴ 'Rural Immigrant Access Clinic', *University of Minnesota Law School*, 2020. Available online: <https://www.mndaily.com/article/2019/02/n-law-school-opens-clinic-for-rural-immigrants> (accessed 11 September 2020).

¹¹⁵ Lisa Pruitt et al., 'Legal Deserts: A Multi-State Perspective on Rural Access to Justice', *Harvard Law & Policy Review* 13 no. 1 (2018): 15-156.

¹¹⁶ Lisa Pruitt et al., 'Legal Deserts: A Multi-State Perspective on Rural Access to Justice', *Harvard Law & Policy Review* 13 no. 1 (2018): 15-156.

¹¹⁷ Lisa Pruitt et al., 'Legal Deserts: A Multi-State Perspective on Rural Access to Justice', *Harvard Law & Policy Review* 13 no. 1 (2018): 15-156.

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School of Law,¹¹⁸ the University of South Carolina, University of Michigan Law,¹¹⁹ and Harvard,¹²⁰ have classes dedicated to rural justice systems and issues.¹²¹ Validation can also come in other forms, such as featuring alumni doing rural work in monthly news updates and alumni profiles and inviting them back to campus to share their experiences with students.

Beyond including rural issues in the curriculum, law schools can bring flexibility and creativity to the delivery of legal education.¹²² Notably, the COVID-19 pandemic has potentially catalyzed a new era of legal education as law schools have been compelled to grapple with the transition to online education. This forced experiment with remote learning may lead the legal academy to be more open to such enterprises in the future. Indeed, even before COVID-19 struck, a handful of law schools offered combined on-campus/online programs to deliver legal education to rural residents who otherwise might be deterred from undertaking legal studies because of the time, expense, and other opportunity costs associated with moving to a law school.¹²³ Seattle University has a unique program that allows its students to attend their third year of law school in Alaska, the only state without a law school.¹²⁴ Among the 170 students who have participated in that program over the years, 60% have returned to Alaska to work.¹²⁵

After Law School. The law student debt crisis—primarily a function of steep rises in law school tuition over the past two decades—undoubtedly contributes to the rural lawyer shortage. The average law school graduate has about \$145,000 in student debt.¹²⁶ For graduates of some

¹¹⁸ Lisa Pruitt et al., 'Legal Deserts: A Multi-State Perspective on Rural Access to Justice', *Harvard Law & Policy Review* 13 no. 1 (2018): 15-156.

¹¹⁹ Emily Prifogle, 'Law in Rural America Seminar', *Emily Prifogle, JD/PHD*. Available online: <https://www.emilyprifogle.com/law-in-rural-america.html> (accessed 11 September 2020).

¹²⁰ 'Harvard Law School Course Catalog', *Harvard Law School*, 10 September 2020. Available online: <https://helios.law.harvard.edu/CourseCatalogs/hls-course-catalog-2019-2020.pdf> (accessed 11 September 2020).

¹²¹ 'California's Attorney Deserts: Access to Justice Implications of the Rural Lawyer Shortage', **California Commission on Access to Justice**, July 2019. Available online: <http://www.calbar.ca.gov/Portals/0/documents/accessJustice/Attorney-Desert-Policy-Brief.pdf> (accessed 11 September 2020).

¹²² Lisa Pruitt et al., 'Legal Deserts: A Multi-State Perspective on Rural Access to Justice', *Harvard Law & Policy Review* 13 no. 1 (2018): 15-156.

¹²³ 'The ABA-Approved Online Hybrid J.D. Program From the University of Dayton', *University of Dayton School of Law*. Available online: <https://onlinelaw.udayton.edu/online-jd/>; <https://mitchellhamline.edu/academics/j-d-enrollment-options/> (accessed 11 September 2020).

¹²⁴ 'What's the Latest on the School of Law's Plan to Open a Satellite Campus in Alaska', *The Newsroom* 14 July 2014. Available online: <https://www.seattleu.edu/newsroom/stories/whats-the-latest-on-the-school-of-laws-plan-to-open-a-satellite-campus-in-alaska.html> (accessed 11 September 2020).

¹²⁵ 'What's the Latest on the School of Law's Plan to Open a Satellite Campus in Alaska', *The Newsroom* 14 July 2014. Available online: <https://www.seattleu.edu/newsroom/stories/whats-the-latest-on-the-school-of-laws-plan-to-open-a-satellite-campus-in-alaska.html> (accessed 11 September 2020).

¹²⁶ 'Trends in Graduate Student Loan Debt', *National Center for Education Statistics Blog*, 2 August 2018. Available online: <https://nces.ed.gov/blogs/nces/post/trends-in-graduate-student-loan-debt> (accessed 11 September 2020).

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schools, the average is closer to \$200,000.¹²⁷ With the exception of the University of California at Berkeley, annual tuition at every law school ranked in the top ten by *U.S. News and World Report* was more than \$60,000, with Columbia University the highest at \$72,465. Indeed, the schools with the greatest average student debt are four of these top ten schools, debt that may be compounded by the higher costs of living in the cities where top-ranked law schools are typically located.

Student debt trends aggravate concerns about the financial viability of rural practice, but loan repayment programs can alleviate financial concerns and reduce barriers for new lawyers. Traditional Loan Repayment Assistance Programs (LRAPs) forgive student debt if the attorney commits to a certain period of qualifying work, typically public interest work or employment in the public sector, depending on the program. Excluded from “qualifying work” as defined by most programs is private sector work, including that in a rural area.¹²⁸

Law schools frequently have their own LRAPs, but only a handful apply to rural private practice. Among them, Yale Law School’s program is income-based, regardless of whether the job is in the public or private sector.¹²⁹ Stanford Law School’s LRAP will also cover private or solo work, but only if “at least fifty percent involves providing legal services on a pro bono, reduced, or court-awarded fee basis.”¹³⁰ Harvard Law School’s program covers some private firm opportunities “outside of major cities.”¹³¹ Only the University of Michigan Law School’s loan forgiveness program explicitly references rural practice.¹³² Michigan Law explains that it wishes to encourage students to pursue the job of their choice, including “working for a small law firm in a lightly populated area.”¹³³

Since 2015, the state of Nebraska has funded an LRAP for those who agree to practice at least three years in “public legal service” or in a “designated legal professional shortage area.” Kansas

¹²⁷ ‘Which Law School Graduates Have the Most Debt?’, *U.S. News & World Report*, 2020. Available online: https://www.usnews.com/best-graduate-schools/top-law-schools/grad-debt-rankings?_sort=indebt-desc debt (accessed 11 September 2020).

¹²⁸ Hannah Haksgaard, Rural Practice as Public Interest Work’, *Maine Law Review* 71 no. 2 (2019): 209-226. (arguing that federal loan forgiveness programs should be expanded to cover rural lawyers because “[r]ural lawyers provide public interest lawyering through pro bono cases, mixed practices, community service, and even through providing fee-paid services in rural communities”)

¹²⁹ Hannah Haksgaard, Rural Practice as Public Interest Work’, *Maine Law Review* 71 no. 2 (2019): 209-226.

¹³⁰ See ‘Miles and Nancy Rubin Loan Repayment Assistance Program,’ *Stanford Law School*, October 2017. Available online: <https://law.stanford.edu/wp-content/uploads/2015/03/LRAP-2018-Program-Terms-1.pdf> [<https://perma.cc/77YQ-D2JF>] (accessed 11 September 2020).

¹³¹ Hannah Haksgaard, Rural Practice as Public Interest Work’, *Maine Law Review* 71 no. 2 (2019): 209-226.

¹³² ‘Frequently Asked Questions: Loan Repayment’, *Michigan Law*. Available online: <https://www.law.umich.edu/financialaid/FAQ/Pages/loanrepayment.aspx> (accessed 11 September 2020).

¹³³ ‘Frequently Asked Questions: Loan Repayment’, *Michigan Law*. Available online: <https://www.law.umich.edu/financialaid/FAQ/Pages/loanrepayment.aspx> (accessed 11 September 2020).

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will similarly make loan payments of \$15,000 over five years to professionals, including attorneys, who live and provide services in a designated “Rural Opportunity Zone,” which encompasses dozens of the state’s counties.¹³⁴ Loan forgiveness programs for rural lawyers have been considered, but not funded, in several other states, including North Dakota,¹³⁵ Wisconsin,¹³⁶ New York,¹³⁷ and Georgia.¹³⁸

Before Law School. While studies have shown that law students who grew up in rural areas are more willing to consider rural practice post-graduation,¹³⁹ only one initiative addresses the pipeline to rural practice by seeking to tap the nascent human capital within rural communities. Nebraska's Rural Law Opportunities Program (RLOP) helps rural students make it to and through college and law school with the expectation that they will return to rural places to practice.¹⁴⁰ Beginning in 2016, three regional public universities in Nebraska began recruiting youth from the state’s rural reaches to pursue legal careers. Each year since, five high school students have been awarded free college tuition to a regional university. If they maintain a 3.5 GPA and otherwise meet requirements, the students are guaranteed admission to the University of Nebraska College of Law.¹⁴¹

RLOP seeks to emulate a similar program at the University of Nebraska Medical school, which boasts a rural return rate of 60%. Before RLOP, 17-20 graduates (about 15%) of the University of Nebraska College of Law gained employment in rural areas each year. The law school is

¹³⁴ 'Rural Opportunity Zones', *Kansas Department of Commerce*. Available online:

<https://www.kansascommerce.gov/program/taxes-and-financing/roz/> (accessed 12 November 2020).

¹³⁵ Lisa Pruitt et al., 'Legal Deserts: A Multi-State Perspective on Rural Access to Justice', *Harvard Law & Policy Review* 13 no. 1 (2018): 15-156.

¹³⁶ . 'Senate Bill 461', *Wisconsin State Legislature*, 2019. Available online:

<https://docs.legis.wisconsin.gov/2019/proposals/sb461> (accessed 11 September 2020).

¹³⁷ 'Report and Recommendations of the Task Force on Rural Justice', *New York State Bar Association's The Task Force on Rural Justice*, April 2020. Available online: <https://nysba.org/app/uploads/2020/03/Report-and-Recommendations-of-the-Task-Force-on-Rural-Justice-as-of-3.18.2020.pdf> (accessed 11 September 2020).

¹³⁸ Lisa Pruitt et al., 'Legal Deserts: A Multi-State Perspective on Rural Access to Justice', *Harvard Law & Policy Review* 13 no. 1 (2018): 15-156.

¹³⁹ Lisa R. Pruitt, J. Cliff McKinney & Bart Calhoun, 'Justice in the Hinterlands: Arkansas as a Case Study for the Rural Lawyer Shortage and Evidence-Based Solutions to Alleviate It', *University Arkansas Little Rock Law Journal* 37 no. 4 (2015): 573-720; Lisa Pruitt et al., 'Legal Deserts: A Multi-State Perspective on Rural Access to Justice', *Harvard Law & Policy Review* 13 no. 1 (2018): 15-156.

¹⁴⁰ Leslie Reed, 'Nebraska Law Tackles State's Rural Legal Needs', *Nebraska Today*, 26 October 2016. Available online: <https://news.unl.edu/newsrooms/today/article/nebraska-law-tackles-states-rural-legal-needs/> (accessed 11 September 2020).

¹⁴¹ April Simpson, 'Wanted: Lawyers for Rural America', *PEW*, 26 June 2019. Available online:

<https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2019/06/26/wanted-lawyers-for-rural-america> (accessed 11 September 2020).

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aiming to channel an additional ten students per year into rural careers,¹⁴² a goal driven by fact that 11% of Nebraska counties have no lawyers.¹⁴³

So far, three RLOP students have matriculated to law school at the University of Nebraska. The program's first law graduate is expected in May 2021, and two others will graduate the following year. The program welcomed three more students in the fall of 2020, though several others in that cohort have delayed entering law school. The program appears to be picking up steam, however, and is approaching its goal of fifteen new law students each year. Fourteen are expected in the fall of 2021, nine in fall of 2022.

Conclusion. In spite of increasing attention to the rural lawyer shortage and associated A2J challenges over the last decade, few rural communities and their residents have reason to expect that their justice system landscape is likely to improve soon. Only a handful of states have been willing to spend money to alleviate a problem that has been a predictable consequence of the past century's rural depopulation trend. South Dakota put its money where its mouth is nearly a decade ago, and its early investments are paying dividends for a number of rural communities. Nebraska, its neighbor to the south, has directed investments more toward the pipeline to the profession, and the outcome of those front-end investments is not yet clear.

Most states' responses have been much less bold. Some programs tinker around the edges with incentives that may entice a few lawyers to a few rural communities. Others facilitate the diversion of urban legal services, which are plentiful, to rural clients and needs. The latter may be accomplished by increasingly high-tech digital means or by the decidedly low-tech means of bus trips—literally transporting lawyers and law students into rural areas to staff short-term legal clinics. A few state bars have invested in succession planning for aging lawyers, sometimes with law school collaborators. Attorney incubators play a similar role in the relatively few rural places they serve. These, along with other efforts within legal education, aim to get lawyers and law students short-term exposure to rural practice. At best, though, these efforts constitute a mere patchwork that leaves the vast majority of rural communities underserved and some entirely unserved.

One reason for the relative lack of significant action and expenditure to ameliorate rural attorney deserts may be the desire to back only evidence-based solutions. Such solutions cannot be identified, however, without complete and nuanced data, which is still largely lacking. We know

¹⁴² Nick Hytrek, 'New Program Encourages Lawyer Practice in Rural Nebraska', *Sioux City Journal*, 18 September 2020. Available online: https://siouxcityjournal.com/news/local/new-program-encourages-lawyers-to-practice-in-rural-nebraska/article_ca1df9d7-3a9c-5057-828d-8af4e2d9b594.html (accessed 11 September 2020).

¹⁴³ Christopher Chavis, 'The Past, Present, and Future of Rural Northern New England: A Study of the Demographics Crisis and How It Affects the Rural Lawyer Shortage', *Maine Law Review* 71 no. 2 (2019) 273-292; Wendy Davis, 'No Country for Rural Lawyers: Small-town Attorneys Still Find It Hard to Thrive', *ABA Journal*, 1 February 2020. Available online: <https://www.abajournal.com/magazine/article/no-country-for-rural-lawyers>.

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where attorney deserts are as of 2019, thanks to the ABA’s recent work, but we do not know, for example, how severe the problem associated with an aging profession is in any given state or region. We also do not know what impact COVID-19 has had on rural practitioners. Some have presumably been driven out of business during the economic interruptions associated with the pandemic, while others have probably chosen not to make the investments in technology that became necessary to liaise with clients and courts. Thus, a census and mapping of the profession that updates the ABA’s 2020 Profile of the Legal Profession will be needed sooner rather than later. That census would ideally track not only age, but also the type of substantive work each attorney does, e.g., estate planning, family law, criminal law. It would also note whether the attorney is available to accept clients or is, instead, in a role, e.g., prosecutor, judge, in-house counsel, that precludes such representation.

We also do not have a good sense of the economics or substantive composition of the typical rural practice—if there is such a thing as “typical.” Do rural lawyers tend to do a mix of civil and criminal work? How many work part-time for a government entity, e.g., as prosecutor, public defender, or judge? What proportion of the income of a typical rural practice comes from court-appointed work?¹⁴⁴ Answers to these questions and others could inform policy interventions. It is thus incumbent on the ABA and other high-level stakeholders, along with scholars, to investigate these issues and continue to develop a clearer picture of the economics of rural practice.

With more information about rural lawyers’ practices, including that regarding sources of income in rural communities, stakeholders can better develop initiatives most likely to draw lawyers to rural areas and to help them succeed once there.¹⁴⁵ Policymakers should also continue to evaluate the impact of existing initiatives, including the broader economic impacts of having more lawyers in previously underserved rural community. Complimentary private sector initiatives, such as lower-cost malpractice insurance for solo practitioners earning below a certain income cap, could also help.

Metro-based policymakers will be setting themselves up for failure, however, if they do not also address the gaps in their understanding of rural A2J challenges and how these are experienced on the ground.¹⁴⁶ As the authors of a recent article parsing the difference between “access” to rural

¹⁴⁴ Hannah Haksgaard, ‘Court-Appointment Compensation and Rural Access to Justice’, 2020, 14 *U. St. Thomas J. L. & Pub. Pol’y* 14: 88-129.

¹⁴⁵ ‘California’s Attorney Deserts: Access to Justice Implications of the Rural Lawyer Shortage,’ *California Commission on Access to Justice*, July 2019. Available online: <http://www.calbar.ca.gov/Portals/0/documents/accessJustice/Attorney-Desert-Policy-Brief.pdf> (accessed 11 September 2020).

¹⁴⁶ Michele Statz, Robert Friday & Jon Bredeson, “‘They Had Access, But They Didn’t Get Justice’: Why Prevailing Access to Justice Initiatives Fail Rural Americans,” *forthcoming*. **Pg 15.**

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courts on the one hand and, on the other, “justice,” commented, well-funded efforts will likely not succeed if metro-based advocates “fail to incorporate the lived expertise of pro se litigants, meaningfully acknowledge rural individuals’ unique and complex socio-spatial needs, or focus on experiences of justice as much as they do access.”¹⁴⁷

The rural attorney shortage will not be alleviated without collaboration among a range of institutions, including the judiciary, state bars, legislatures, and legal educators. Other sectors can also be part of the solution, as we have seen in South Dakota, where a wide range of community stakeholders got in on the action of ensuring that new rural attorneys succeed. Further, stakeholders across the nation should remember that a “one size fits all” solution is unlikely to be identified for the rural lawyer shortage. Rather, the most successful interventions will be tailored to meet the needs of individual states and the underserved areas within them.

¹⁴⁷ Michele Statz, Robert Friday & Jon Bredeson, “‘They Had Access, But They Didn’t Get Justice’: Why Prevailing Access to Justice Initiatives Fail Rural Americans,” **forthcoming**, Pg 15.