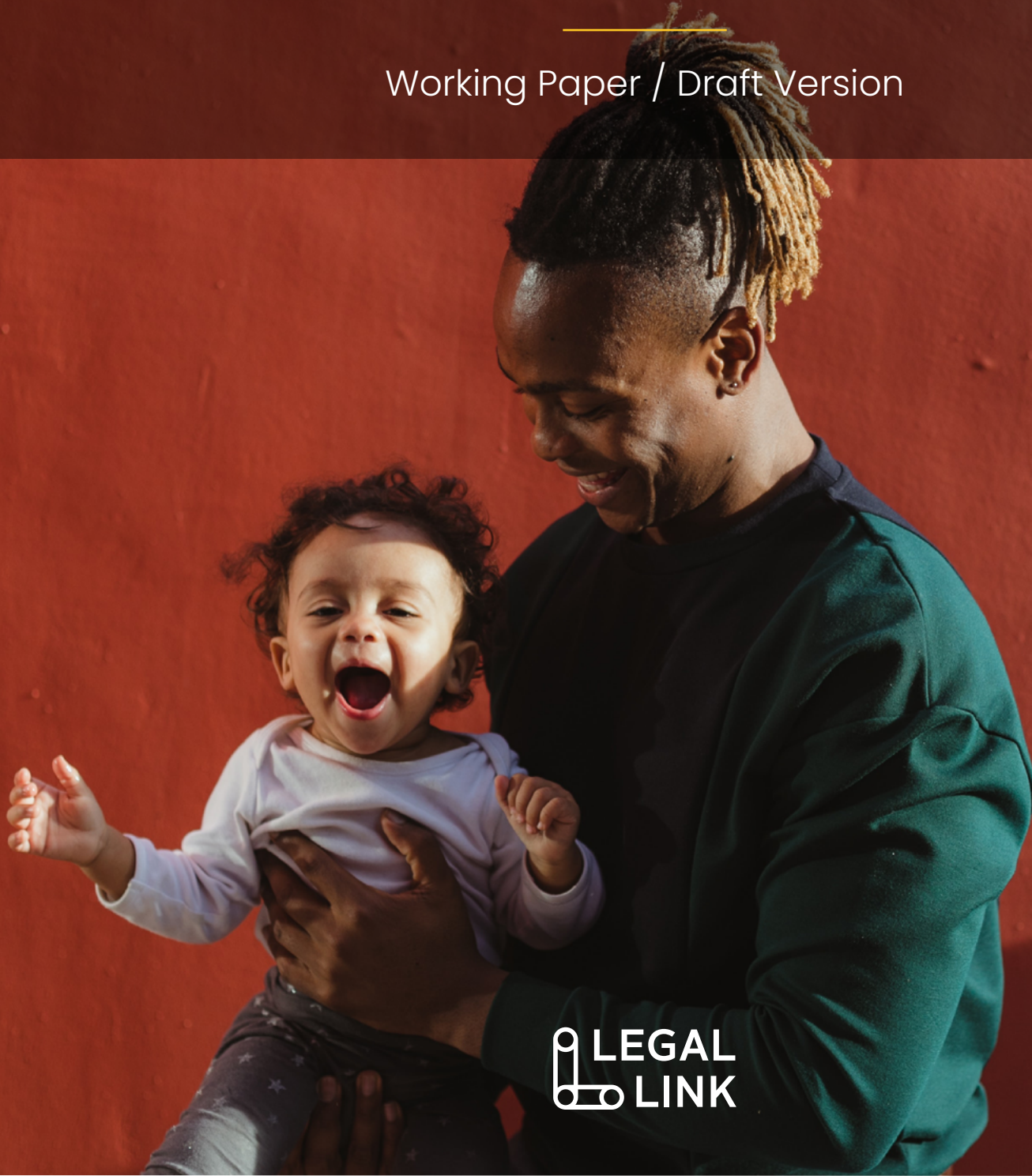


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COMMUNITY NAVIGATORS

The Role of Community Navigators
to Reduce Poverty and Expand Access to Justice

Working Paper / Draft Version



 LEGAL
LINK

ACKNOWLEDGEMENTS



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ABOUT LEGAL LINK

Legal Link is a California nonprofit organization whose mission is to remove legal barriers that prolong poverty by adding critically needed capacity to the legal ecosystem. Founded in 2015, Legal Link embeds legal navigation support in community-based settings by training and supporting frontline partners to identify legal issues, surface unmet legal needs, and access legal protections. Legal Link partners with organizations that are deeply integrated into, and trusted by, the communities they serve.

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EXECUTIVE SUMMARY

When a person has a legal problem, they often seek help from people other than lawyers. Frontline service providers helping people with housing, employment, health care, early childhood, and other issues interface with their clients' legal issues regularly. They might see a family facing an eviction notice, a child impacted by substandard housing conditions, a teen going to immigration court, or a parent whose car was towed. With the right training and support, these providers can act as "Community Navigators." As navigators, these service providers can play an essential role in the legal ecosystem by identifying their clients' legal issues, helping them to access assistance, and ultimately removing barriers to poverty alleviation.

The problems with our current legal system are many. Recent studies show that nearly 9 out of 10 families do not get the legal help they need to resolve everyday issues such as housing, family, and work. This dynamic is exacerbated for those with low incomes and a lack of resources. Even

when legal issues have a significant impact on peoples' lives, they often don't seek legal help. There are many reasons why: they do not view their civil legal problems as legal, they don't know where to look for help, or they decide to deal with the problem on their own. In addition, the legal system is severely under-resourced, inherently complex, and was built by and for lawyers, who are the sole providers of legal advice. **People's trust in the legal system is low, which prevents them from understanding their legal rights and accessing the legal protections to which they are entitled.** Unidentified and unaddressed legal challenges such as evictions, custody disputes, debt lawsuits, and warrants can not only lead to court judgments against a person, they can also act as barriers to future employment, housing, credit, and stability.

Research shows that what people need is not always a lawyer, but a trusted person with an ability to navigate procedures and rules. Trusted community members already exist,



9 Out of 10 Families

Do not get the legal help they need to resolve everyday issues

and with the proper training and support, they can act as Community Navigators. This new Community Navigator position can fill justice gaps, especially when people are unable to reach lawyers, can't afford lawyers, are reluctant to engage lawyers, or are unsure about their need for lawyers. To this end, Legal Link works to support community-based organizations' frontline staff to become Community Navigators who help to identify their clients' legal issues and access assistance. **Community Navigators hold the potential to broaden and deepen our legal ecosystem.** As demonstrated by Legal Link's programs, Community Navigators can make the law transparent and accessible to more people, empower communities to know and access critical legal protections, and remove barriers to poverty alleviation.

We hope that our current and future partners in all concerned sectors, including social, legal, government, technology, and philanthropy, will recognize the potential that community partners hold to broaden and deepen our legal ecosystem, and join us in our calls to action:

- **For social and legal service providers:** See the connections between your work and connect the dots. Contact Legal Link if you want assistance in building out your partnerships, Navigator model, or training programs.
- **For lawyers:** Do the hard work to simplify processes and information. Make legal resources clear, usable, and available to community partners.

- **For funders, public and private:** Fund non-legal organizations so they can pay for the training, legal support, and partnerships they need, and fund legal navigation work generally.
- **For policymakers:** Follow the leads of Utah and Arizona to innovate in the area of non-lawyer services, carve out specific "good samaritan" or "safe harbor" exemptions to UPL for non-profits that use community navigators to help vulnerable populations, and make clear that the day-to-day work of navigators is acceptable in order to avoid the chilling effect of UPL.

Problem 	Solution 
Legal issue identification and trust in the legal system are low	Community Navigators proactively identify legal issues in trusted community settings
The legal system is complex and hard to navigate	Community Navigators' support is accessible, holistic, and makes complex systems simpler
There will never be enough lawyers and current efforts don't meet the need	The untapped potential of community partners is vast



INTRODUCTION

Legal Link¹ strives to make the law transparent and accessible while empowering communities to know and access legal protections, with poverty reduction as our ultimate goal. We do this by supporting frontline staff at community-based organizations to become navigators who help to identify their clients' legal issues and access assistance.

These frontline staff are upstream from people's engagement with courts or attorneys. They work in housing, employment, health care, early childhood, and other settings. They know when someone is entering a housing search with a prior eviction on their record, when a young person has an upcoming immigration court date, when an employer denies someone a job based on a background check, when a family is experiencing domestic violence, or when child protective services involvement is likely. If a person does not act in these situations, and does not engage in the legal system, these issues can lead to disastrous consequences - becoming unhoused, receiving an order of deportation, experiencing prolonged unemployment, or losing custody of your children. For numerous reasons, trust in the legal system is low, and people with limited resources may very well choose not to engage, or may not know how to. Armed with the right tools and training, frontline staff can act as "Community Navigators," who provide actionable, timely knowledge that brings

legal information, engagement, empowerment and support to bear.

To date, Legal Link has trained more than 1,000 frontline staff in legal navigation using our Legal First Aid curriculum and provided over 4,000 legal consultations to these "Community Navigators" and their clients. The outcomes are very positive: 98% of Legal Link-trained Community Navigators report an increase in their legal capability, an emerging concept that refers to the knowledge, skills, and attitudes that a person needs to deal effectively with the law, and equips them to, at a minimum, determine whether or not the justice system offers a potential solution to a problem.²

Our work is built on the premise that lawyers are not the only people who can help with justice problems. American sociologist and MacArthur Fellow Rebecca Sandefur has found that lawyers are not always necessary to resolve justice problems; in fact, "[e]vidence shows that only some of the justice problems experienced by the public benefit from lawyers' services or other

legal interventions, while others do not.”³ She further observed that, “[t]he United States does not have a functioning legal services ‘system’ for any group in the population: there is no integrated network of coordinated providers and institutions. If such a system did exist, one highly desirable feature of it would be the capacity to connect people to the least expensive and intrusive service necessary to meet their actual legal needs. This service would not always be an attorney.”⁴ As Supreme Court Justice Neil Gorsuch noted on the topic of gatekeeping in the legal world, “[j]ust imagine if only the surgeon were allowed to diagnose your sore throat.”⁵

In this paper, we

- 1) provide a brief summary of the problem and related research on the barriers to access to justice;
- 2) offer Community Navigators as one integral component of the solution;
- 3) discuss how Community Navigators help modernize the civil legal system; and
- 4) call for the broader community to join us in recognizing and supporting the work of Community Navigators.

“[t]he United States does not have a functioning legal services ‘system’ for any group in the population: there is no integrated network of coordinated providers and institutions.”

Rebecca Sandefur
American Sociologist
MacArthur Fellow



THE PROBLEM

A central problem of our current legal system is that it is designed by and for attorneys. It is a highly specialized, complicated system that is nearly impossible for non-lawyers to understand and navigate. As a result, most people do not get the help they need to resolve legal issues. A 2021 report from Institute for the Advancement of the American Legal System (“IAALS Report”), found that “[a]ccess to justice is a broad societal problem that exists across the spectrum of American society. No one age, income, or racial/ethnic group is unaffected by it.”⁶ In all, “every year in the US 120 million legal problems are unresolved or resolved unfairly according to the people involved.”⁷

This dynamic is exacerbated for those with low incomes and a lack of resources. The IAALS Report found that lower-income Americans, women, and certain racial groups experienced more serious legal problems on average and resolved their legal problems at lower rates.⁸ Other measures have estimated that 71% of low-income households have experienced a civil legal problem in the past year, one in four low-income households has experienced six or more civil legal problems in the past year, and nearly 9 out of 10 families do not get the legal help they need⁹. This leaves the vast majority of low-income Americans without the legal protections and resources they need to become - and remain - housed, employed, healthy, and stable.

Identification and Trust Are Low

Even when legal issues have a significant impact on peoples’ lives, people don’t often seek legal

help. In one study, 70% of respondents reported that one of their legal problems affected them significantly or severely, yet a significant portion of the individuals took little or no action toward resolution.¹⁰ In fact, Americans who are experiencing poverty do not seek professional legal help for 80% of the civil legal problems they face.¹¹ They may, however, seek help from family, medical or mental health professionals, or others, which shows that “a system that accommodates and facilitates many different paths may serve low-income Americans and women in particular better.”¹²

Recent studies show that the primary reasons people fail to seek legal help is because they do not view their civil legal problems as legal, they don’t know where to look for help, and they decide to deal with the problem on their own.¹³ In fact, “people do not consider law as a solution

for their justice problems; they do not think of their problems as being 'legal,' even when the legal system could help solve them. They think of them simply as problems: problems in relationships, problems at work, or problems with neighbors."¹⁴

In addition, people don't trust that the legal system can help them. In our Legal First Aid trainings, we ask participants for one word that describes the justice system. Every time, without fail, the words offered are: complicated, racist, unfair, unjust, intimidating, and complex. It is no surprise, then, that people would choose to not engage where possible, and instead, turn to trusted community members and non-legal organizations for help.¹⁵

The lack of diversity in the legal field exacerbates the lack of trust for many communities disproportionately affected by poverty and housing instability. For example, while the profession has seen growth faster than the national population, 86% of lawyers identify as white, with just 5% of all lawyers identifying as Black or African American, 5% identifying as Latinx, 2% identifying as Asian, and 0.4% identifying as Native American or American Indian.¹⁶ California sees a modest improvement compared to national statistics, with 68% of its attorneys identifying as white and 32% as people of color, with far more diversity among lawyers in the non-profit sector, where 56% of attorneys identify as white and 44% identify as people of color.¹⁷ No matter which numbers are consulted,

they are in stark contrast to the demographics of the low-income clients served by legal aid organizations. In Legal Link's work with housing insecure families in the Bay Area, just 10% of our clients identify as white. This contrast - between the client population and the attorneys they interface with - attenuates the already low trust for many BIPOC communities disproportionately negatively impacted by the justice system across the United States.¹⁸ The data exposes a system that is not working at a basic level, particularly for those who need it most.

The Legal System is Complex and Difficult to Navigate

Even when an individual identifies their issue as legal and seeks legal help, they are met with a legal system that is inherently complex and hard to navigate. The on-the-ground reality is that navigating the legal system to find available, timely resources can be an impossible challenge. Access to accurate information about how and when to seek legal help, and from whom, is not readily available.

Unlike our health system, our legal system does not offer diverse access points - there are no services akin to consulting nurses, community health workers, or emergency rooms, and very few general practitioners. While our health system is flawed in many ways, the array of people and places that can provide medical support is vast. On the legal side, specialized lawyers and courts are our primary venues for

support, so the burden falls on the client in crisis to identify their life problem as having a legal component, accurately self-diagnose the type of legal issue they are experiencing, and find relevant, timely legal resources. Those who are low-income face additional burdens – they often have to complete numerous intake processes in order to find a legal services provider for whom they meet the eligibility requirements, and whose staff has capacity to take on new cases. As a result, many people are unable to access support.

There Will Never Be Enough Lawyers to Solve This Problem and Current Efforts Do Not Meet the Need

Those who seek legal services to help resolve issues are met with severely limited resources. Legal aid attorneys perform an invaluable role, however there is one legal aid attorney per 6,861 qualifying low-income people in the United States.¹⁹ In California, there are approximately 1,500 legal aid attorneys, and legal aid organizations leveraged 430,000 hours of pro bono assistance, which is the equivalent of another 1,500 full-time attorneys.²⁰ However, a “conservative estimate” is that we would need nearly 9,000 additional full-time legal aid attorneys to serve Californians living in poverty alone.²¹ While the field inarguably needs more sustained public funding and a right to counsel in key areas, such as eviction and deportation, the strategies of funding more civil legal aid

attorneys, or increasing pro bono hours donated, will not meet the need.

Current efforts at integrating lawyers into non-legal settings are critical, but also expose the pervasiveness and volume of the many gaps in the system. Legal aid providers across the country have partnerships with community-based organizations, provide outreach at community events, and participate in collaborations. However, their efforts are often underfunded and time-limited. As a result, they lack consistency and longevity. Moreover, even the most effective outreach efforts often fail to reach the vast majority of people who do not realize that the issues they are facing are legal in nature. As a result, more often than not, legal aid organizations default to serving the most persistent and capable clients – those who identify their own issues as legal and make it to the right organization at the right time.

Medical-Legal Partnerships (“MLPs”) are an important form of integrated legal programming in the United States. MLPs have had great success, and there are more than 300 partnerships operating nationally.²² In a typical MLP, legal providers partner with medical settings to provide training to medical providers, who then triage the legal issues to lawyers for support. MLPs have been very successful at showing the critical impact that legal support can have on Social Determinants of Health, and have been pioneers in looking beyond legal

settings to provide legal aid.²³ MLPs offer a critical, alternative intake point into the legal system, and show the power of meaningful partnerships between medical and legal professionals working toward the same goal. However, dissemination of legal information and support beyond the health setting is necessary to bridge the justice gap.

During Legal Link's incubation period, we spent a year engaging in a human centered design process with experts in the field to learn more deeply about the need and refine our model. Our team conducted extensive research, created a landscape analysis, and held group report-outs and design sessions. We prototyped improvements in our navigator training curriculum, Legal First Aid, and built and tested new tools.

Key learnings, which highlight that current efforts do not meet the need, are:

- Community partners view legal support as critical to their work - they see clients with legal issues frequently, and these issues are barriers to their work of getting clients housed, employed, and stable. Community partners regularly try to help clients navigate the legal system, with or without attorney support, and are a vital part of the ecosystem.

- Clients' legal issues are multi-faceted and overlapping, and there is significant fear of engaging with the legal system. The issues clients face often cut across the divisions the legal community has built - criminal, civil, immigration. They also do not conform to the silos and expertise that most attorneys practice in.
- Community partners do not always know who to ask for help and do not always have the confidence or knowledge to help clients navigate the system. Even with training and support, their time is limited. They need tailored, clear resources, as well as partners with whom they can build trusted relationships.
- Tech tools are critical to the work, but they alone will not provide the confidence and competence that non-lawyers need to engage with legal issues; these tools must be paired with real relationships and live support.

These findings informed Legal Link's current model and strengthened our commitment to hold up the tireless work of community partners and support a movement to intentionally include them in the legal ecosystem in an authentic way.



THE SOLUTION: COMMUNITY NAVIGATORS

When we envision a thriving legal ecosystem that supports our communities' justice needs, lawyers are undoubtedly an integral component to that system, but not the totality of it. Our legal system, full of specialists and few generalists, and with very tight rules on who can provide legal services, all but ensures that resources are limited and not triaged efficiently. Community Navigators are one solution.

Community Navigators Proactively Identify Legal Issues in Trusted Community Settings

Community-based organizations work tirelessly to house, employ, stabilize, and educate families and have gained the trust of those they support, many of whom are low-income and face legal issues that they don't realize are barriers to these goals until it is too late. Lawyers are not involved in the human services work of housing low-income residents or providing job training programs. It is in these human service settings, and at these key moments, that identifying a legal issue and supporting someone to obtain help is not only an access to justice issue, but also holds increased potential to remove barriers to poverty alleviation.

There are significant community education and trust-building components that are necessary to successfully unearth legal issues embedded in overlapping life problems. Trained and supported Community Navigators can help with that outreach and identification.

Community Navigators' Support is Accessible, Holistic and Makes Complex Systems Simpler

Frontline staff at community-based organizations can be trained and supported to provide the legal navigation support that is so deeply needed. This support is available at trusted, community settings and is holistic - it covers areas as diverse as immigration, housing, criminal, and family law. This work, organized in three tiers of intensity, makes complicated systems understandable and navigable.

In our tiered approach, the first level equips Community Navigators to primarily spot issues and refer clients, with the added benefit of the Navigator's emotional and logistical support. The referrals are not just to the right legal aid organizations, but also to the plethora of resources that exist outside of legal aid, such as administrative bodies, rent boards, self-help centers, streamlined tech tools, public defender offices, state-provided dependency attorneys, child support assistance, and others.

Over the last seven years, Legal Link has developed a Legal First Aid training approach that does just this. In this training we:

- Teach about critical components and principles of the legal system;
- Provide a methodology for providers to use with any legal issue that is presented;
- Offer a framework to better understand the most common legal areas affecting low-income families;
- Teach and practice with our technology tools that support providers' work; and
- Outline the scope of Community Navigators' permitted work and empower them within their sphere.

After the training, we provide ongoing support to our network of Community Navigators, including regular newsletters containing legal tips and tools and one-on-one consultations for complex navigation issues.

On the second tier, we have Legal Link's Community Navigator Fellowship Program, a more intensive year-long training and support program, which provides deeper practice, confidence and capacity-building to allow for a higher level of navigation. This work includes issue spotting and referrals, but also includes triage, information provision, follow-up support, document collection, accompaniment, and interaction with other providers.

This critical navigation support proactively identifies legal rights that were previously

unknown, resolves issues before they need attorney support, preserves resources, reduces referral fatigue for clients, streamlines referrals for legal organizations, and helps cut through the maze of complex intake processes and eligibility requirements. Our findings corroborate that Community Navigators' upstream interventions also prevent downstream strain on court dockets and valuable legal aid resources alike.

In our Community Navigator Fellowship Program, we employ rigorous data collection and analysis and our first year of the program resulted in the following:

- 100% of Fellows saw an improvement in their legal capability;²⁴
- 97% of Fellows' legal navigation cases had a successful outcome (legal win, non-legal win, neutral win²⁵); and
- 84% of Fellows' legal navigation cases had a positive impact on clients' economic, family, or housing stability.

A few examples of Community Navigator Fellows' successes, which had the dual effect of providing critical legal support for clients while saving attorney resources, include:

- The Navigator who proactively identified a landlord-tenant nuisance issue and supported their tenant client to work with local community conflict intervention mediators to resolve the issue before rising to a notice of eviction.

- The Navigator who identified a fines and fees issue as a barrier to future stability and assisted the client in obtaining a copy of the police report needed to prove the tickets were the result of a stolen vehicle, which resulted in the tickets being dropped.
- The Navigator who helped their client, a domestic violence survivor, to identify that child support was her primary need and got her to the right government agency to apply. The navigator also supported her while the case evolved, which resulted in a child support order providing an additional \$300 per month for the client's family.
- The Navigator who identified a client's habitability issues and potential exposure for unpaid rent and proceeded to inform the landlord on habitability and the eviction moratorium in California. The navigator also found the client new housing, which she successfully moved into without the landlord seeking back rent payments.

The third and final tier of legal navigation work includes specific training on targeted interventions that Community Navigators could carry out. Some, but not all, of this work would require regulatory shifts that lift the rules on non-lawyers in certain, measured, situations. Legal Link plans to take on targeted poverty-alleviation strategies in this tier in the near future.

The Untapped Potential of Social Service Providers is Vast

As there will never be enough lawyers to address all of the access to justice needs, Community

Navigators play a key role in bridging and leveraging assets in the legal and human service systems to extend the continuum of supports. Non-legal non-profit organizations already play an important, albeit largely unrecognized, role in the legal system. On one end of the continuum there are organizations who are already actively involved in the legal ecosystem. They include housing counselors, domestic violence counselors, immigration advocates, tenants union volunteers, and credit counselors, among others. They do not resolve legal issues as a lawyer would, but they regularly interface with legal issues and navigate clients through and around them to reach a resolution. They are oftentimes engaged in this work without the legal community's support, which, if provided, would benefit their work and our mutual clients.

On the other end of the continuum are nearly 20 million²⁶ frontline social service, health care, and other community partners across the country who are not specifically tasked with providing legal navigation support, but for whom this work surfaces in their daily interactions with clients and is essential to the health and well-being of their communities. They include case managers working to house families, job training staff trying to place their clients in paying jobs, and medical staff trying to keep their patients healthy. These providers routinely support their clients through life crises that have legal components such as custody issues, immigration status, domestic violence, and prior convictions – all of which make their job of finding stable housing, employment, and health more difficult.



COMMUNITY NAVIGATORS ADVANCE EFFORTS TO MODERNIZE THE CIVIL LEGAL SYSTEM

The Justice for All Initiative found that “[e]xpanding access to justice requires innovation and moving past the idea that an attorney or a courtroom is the best or only solution for meeting legal needs” and many institutions and programs have called for the increased adoption of Community Navigator strategies.²⁷

A 2020 University of Chicago report, Perspectives on Transforming Civil Justice in the United States (the “NORC” report), found that there is agreement amongst practitioners that “non-lawyer paraprofessionals [are] critical to establishing a continuum of services that meaningfully achieve access to justice. Non-lawyer paraprofessionals help individuals access the complex civil justice system and needed resources and services.”²⁸ California Supreme Court Justice Mariano-Florentino Cuéllar recently argued for three strategies to modernize the courts, one of which was addressing the justice gap through, among other things, the “certification of professionals who lack a traditional law degree but could nonetheless help the public navigate the courts or negotiate settlements, so that the choice isn’t between having a fully certified lawyer or nothing.”²⁹

Our vision is that Community Navigators, civil legal aid lawyers, and all the other critical justice system actors (public defenders, courthouses, rent boards, consumer counselors and others)

will perform complementary roles that together strengthen our legal ecosystem and make it more effective. Navigators can fill critical gaps by empowering individuals and strengthening communities, especially when people are not yet in need of lawyers, unable to reach lawyers, reluctant to engage lawyers, or unsure about their need for lawyers. Lawyers likewise can also fill critical gaps, providing training to navigators, taking on complex matters, and handling the kinds of challenges for which legal expertise is essential. With a more coordinated and unified approach, all of the actors can work at the top of their licenses and better meet the needs of those who we are all striving to serve.

Expansion of Court-Based Navigator Programs to Community Settings is Critical

Court-based navigator programs, as distinct from community-based ones, are becoming more common, and the efficacy and potential of these navigator programs are compelling. A recently published study, Nonlawyer Navigators

in State Courts, examined 23 programs across 15 states and found that these navigator programs “enhance the effectiveness of, and build public trust in, the courts; facilitate access to justice for self-represented litigants by helping them understand and navigate their cases; provide an additional way for justice advocates to supplement their own client services and allow lawyers to operate ‘at the top of their licenses’; and enable an array of community actors to better understand the plight of [self-represented litigants] and help them manage the often unfamiliar and daunting court process.”³⁰

There is general support for the expansion of navigator programs into community settings. In Rebecca Sandefur’s call to look beyond lawyers, she comments that “[f]ocusing on existing programs that deliver legal services and on court cases will never provide a picture of all of the other civil justice activity that never makes it to the justice system – and that is the majority of civil justice activity.”³¹ As the IAALS Report explains, “[o]ur survey results demonstrate that access to justice must be understood more broadly than access to courts and lawyers. Thinking about the problem in purely legal terms and processes limits our ability to understand what people need to address their most pressing justice needs.”³²

That said, with the exception of MLPs, very few programs in the United States have focused in a concerted way on how to actually bring legal information and resources out into the community – beyond our courthouses, beyond lawyers, and beyond traditional legal

aid – to reach people in settings in which they are experiencing legal issues. Internationally, the legal empowerment movement and less restrictive rules regarding the delivery of legal information and advice have produced more robust models and momentum. In Canada, Community Legal Education Ontario published a report in 2020 outlining the critical role of trusted non-profit frontline workers in the legal ecosystem and setting out a framework to measure and support quality community justice help.³³ In England, researchers with support from the Legal Education Foundation laid out a standardized measure of legal confidence and attitudes toward law, called legal capability, which is a helpful framework to measure the abilities of non-lawyers in the legal ecosystem.³⁴ Namati, a leading global legal empowerment organization, uses a “community paralegal” approach that recognizes the important role of non-lawyer community members in achieving justice while convening the Legal Empowerment Network, the world’s largest community of grassroots justice defenders.³⁵

Like these international groups, Legal Link views community-based organizations and their frontline staff not as an afterthought or outreach tool, but instead as the key to meaningful access to justice for communities experiencing poverty.

Community Navigators’ Work is Not the Practice of Law

The work that Community Navigators do to surface legal issues, connect people to

resources, and support them through the legal process is well within the bounds of non-lawyer work. Navigators do not provide legal advice or complete legal paperwork, and their work does not violate existing Unauthorized Practice of Law (UPL) regulations. In fact, the Nonlawyer Navigators in State Court report concluded that “[n]onlawyer navigators in the courts are performing a variety of roles without raising concerns of unauthorized practice of law.”³⁶ Further, informants in the study reported no official charges or complaints of unauthorized practice of law (“UPL”) were filed with the relevant disciplinary bodies.³⁷ A senior judge involved in the study reported “[i]t is very clear the navigators are not practicing law. They are providing education to [self-represented litigants].”³⁸

While current navigator programs are operating within the bounds of existing UPL regulation, there is also national momentum from the legal community that recognizes the need for UPL restrictions to be modernized to account for the widening barriers to access to justice and allow non-lawyers to provide additional support. Among other things, the UPL rules have a chilling effect on any non-lawyer trying to help a person with a justice issue and they operate to deny people without lawyers valuable information about their justice problems. Professor Lauren Sudeall argues, “[l]awyers may have a monopoly on traditional legal services. But lawyers do not—and should not—have a monopoly over the law itself or legal information that is in the public

sphere. Thus, providing information on what the law is, or when it applies generally, should never be prohibited. I would go further to suggest that efforts to simplify legal information and provide explanations about when it might apply should not be prohibited either—they should perhaps even be required.”³⁹ Non-lawyers, while rarely included in discussions about regulatory shifts, have extensive thoughts about the various ways they could support people moving to and through the legal system.⁴⁰

A recently released report by the Regulatory Innovation Working Group of the Commission to Reimagine the Future of New York’s Courts found that “[t]he provision of certain legal services and advocacy by non-lawyers is an idea whose time has come” and recommended that trained and certified social workers should be permitted to provide limited legal services and advocacy. States like Utah, Washington, Arizona, and California are at various stages of experimenting with limited expansion of non-lawyer interventions, some through the creation of regulatory sandboxes. These regulatory changes have the potential to foster real innovation that marries legal knowledge with technology and non-lawyer support, while collecting data on the impacts of these programs on consumers and on access to justice.⁴¹

We welcome the thoughtful, careful expansion of the work non-lawyers can do to help people with their justice problems, and know that with the right training and support, the Community

Navigators we work with are ready and able to help with some of our most intractable justice issues. In the meantime, there is much work to be done even without major regulatory shifts. Community partners are already doing the hard work of supporting community members who have legal issues. They need additional support and training, not a chilling effect and avoidance of their already-critical role.



CALLS TO ACTION

We hope that our current and future partners in all concerned sectors, including social, legal, government, technology, and philanthropy, will recognize the potential that community partners hold to broaden and deepen our legal ecosystem. We envision a world with trained legal navigators at all non-profit organizations serving low-income communities.

To that end, we have four calls to action:

For Social & Legal Service Providers

See the connections between your work and connect the dots. Contact Legal Link if you want assistance in building out your partnerships, Navigator model, or training programs.

For Lawyers

Do the hard work to simplify processes and information. Make legal resources clear, usable, and available to community partners. For inspiration, see the work done by the Legal Design Labs at law schools around the country and groups like the Graphic Advocacy Project.⁴²

For Funders: Public & Private

Fund non-legal organizations so they can pay for the training, legal support, and partnerships they need, and fund legal navigation work generally. For inspiration, see the San Francisco Mayor's Office of Housing and Community Development's "Community Legal Navigator" funding strategy (of which Legal Link is a recipient).

For Policymakers

Follow the leads of Utah and Arizona to innovate in the area of non-lawyer services, carve out specific "good samaritan" or "safe harbor" exemptions to UPL for non-profits that use community navigators to help vulnerable populations, and make clear that the day-to-day work of navigators is acceptable in order to avoid the chilling effect of UPL. For inspiration, see the Arizona's Alternative Business Structure Program,⁴³ Utah's Regulatory Sandbox Entities,⁴⁴ and the Illinois Supreme Court Safe Harbor policy.⁴⁵



CONCLUSION

After Legal Link's seven years of providing education and support to Community Navigators and connecting with those engaged in similar work, we are aware of the urgent need for expansion of the Community Navigator model. While the pace of progress has been slow, we are heartened to see the increasing recognition within the legal community of the value of the model, and are excited about the potential for expansion. We hope you will join us.

NOTES & REFERENCES CITED

- [1] Legal Link, a California nonprofit organization dedicated to removing legal barriers that prolong poverty by expanding the legal ecosystem, was founded and is led by lawyers. Founded in 2015, we now work regionally across six Northern California Bay Area counties, partnering with over 50 leading Bay Area community-based organizations.
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- [3] Rebecca L. Sandefur, *Access to What?*, 148 (1) *Daedalus* 49, 51 (2019), https://www.amacad.org/sites/default/files/publication/downloads/19_Winter_Daedalus_Sandefur.pdf.
- [4] Rebecca L. Sandefur, *White Paper: What We Know and Need to Know about the Legal Needs of the Public*, 67 *S.C. L. Rev.* 443, 452-53 (2016).
- [5] Rebecca Love Kourlis & Neil M. Gorsuch, *Legal Advice is Often Unaffordable. Here's How More People Can Get Help: Kourlis and Gorsuch*, *U.S.A. Today*, Sept. 17, 2020, <https://www.usatoday.com/story/opinion/2020/09/17/lawyers-expensive-competition-innovation-increase-access-gorsuch-column/5817467002/>.
- [6] Brittany Kauffman & Logan Cornett, *Inst. for the Advancement of the Am. Legal Sys. & The Hague Inst. for Innovation of L., Justice Needs and Satisfaction in the United States of America 2021, Legal Problems in Everyday Life* 33 (2021), <https://iaals.du.edu/publications/justice-needs-and-satisfaction-united-states-america>.
- [7] *Id.* at 65.
- [8] *Id.* at 60.
- [9] Legal Servs. Corp., *The Justice Gap: Measuring the Unmet Civil Legal Needs of Low-income Americans* 7, 10 (June 2017), <https://www.lsc.gov/sites/default/files/images/TheJusticeGap-FullReport.pdf>.
- [10] *Id.* at 26.
- [11] *Id.* at 7.
- [12] Kauffman & Cornett, *supra* note 6, at 131.
- [13] *Id.*; see also Rebecca L. Sandefur, *Bridging the Gap: Rethinking Outreach for Greater Access to Justice*, 37 *Univ. Of Ark. Little Rock L. Rev.* 721, 723 (2015), <https://lawrepository.uarl.edu/lawreview/vol37/iss4/4/>.
- [14] Sandefur, *supra* note 3, at 51.
- [15] See, e.g., Sandefur, *supra* note 4, at 443, 448 (“When Americans do connect with assistance, they go to a wide range of sources, including churches, housing counselors, social workers, city agencies, national membership organizations, the Better Business Bureau, and their elected representatives.”); see also Julie Mathews & David Wiseman, *Community Legal Education Ontario, Community Justice Help: Advancing Community-Based Access to Justice* 12 (2020) https://www.srln.org/system/files/attachments/Community%20Justice%20Help%20Advancing%20Community-Based-Access%20to%20Justice_2020.pdf (“In taking action to resolve their legal problems, people often seek assistance from non-legal organizations in their community.”).
- [16] Am. Bar Ass’n, 2020 ABA Profile of the Legal Profession 33 (July 2020), <https://www.americanbar.org/content/dam/aba/administrative/news/2020/07/potlp2020.pdf>.
- [17] Cal. Bar Ass’n, *First Annual Report on the Diversity of California’s Lawyers* 11 (2020), <https://www.calbar.ca.gov/Portals/0/documents/reports/State-Bar-Annual-Diversity-Report.pdf>.
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- [20] State Bar of Cal., The California Justice Gap Study, (2020), <http://www.calbar.ca.gov/Portals/0/documents/accessJustice/Justice-Gap-Fact-Sheet-Service-Gap.pdf>; see also Am. Bar Ass'n, *3 Ways to Meet the "Staggering" Amount of Unmet Legal Needs* (July 2018), <https://www.americanbar.org/news/abanews/publications/youraba/2018/july-2018/3-ways-to-meet-the-staggering-amount-of-unmet-legal-needs/> (quoting California Supreme Court Justice Goodwin Liu as saying "Even if we asked every lawyer in America to do 100 more hours of pro bono work a year, all of that additional work would be enough to secure only 30 minutes per problem per household in America.").
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- [22] See Marsha Regenstein, Jennifer Trott & Alanna Williamson, Nat'l Ctr. for Med. Legal P'ship, Report: Findings from the 2016 NCMLP National Survey on MLP Activities and Trends (2017), <https://medical-legalpartnership.org/wp-content/uploads/2017/07/2016-MLP-Survey-Report.pdf>.
- [23] See Nat'l Ctr. for Med. Legal P'ship, *Impact*, <https://medical-legalpartnership.org/impact/> (last visited Mar. 23, 2022).
- [24] Anecdotal data also supports the fact that legal navigation skills increased Fellows' professional confidence in their current role. One 2021 Fellow noted, "This fellowship is one of the best things to come out of my time at [my organization]. I feel more confident, calmer, and more knowledgeable. When I work with my clients I am listening in a different way, looking out for anything that might be a legal issue. I am better about asking questions and diving deeper, making sure to focus on the whole picture rather than just housing. I did not realize how many things fall under legal issues, and I am so happy to be able to support my clients through a system that can be very hard to navigate."
- [25] Legal Link defines a "legal win" as a successful outcome that involves a lawyer or court, a "non-legal win" as when the client averted the problem or resolved the issue without the use of courts or an attorney, and a "neutral win" as the provision of information and support without a change in legal circumstances.
- [26] Hye Jin Rho, Hayley Brown, and Shawn Fremstad, Ctr. for Econ. & Pol'y Res., *A Basic Demographic Profile of Workers in Frontline Industries 7* (2020), <https://cepr.net/wp-content/uploads/2020/04/2020-04-Frontline-Workers.pdf>.
- [27] Nat'l Ctr. for State Ct.'s Just. for All Initiative, *Justice for All: A Roadmap to 100% Civil Access to Justice 3* (2021), https://www.ncsc.org/_data/assets/pdf_file/0031/64975/5-year-report.pdf; see also Katherine Altener & Eduardo Gonzalez, Fla. Comm'n on Access to Civ. Just., *Voices in the Civil Justice System: Learning from Self-Represented Litigants and Their Trusted Intermediaries 4*, (2020) <https://www.flcourts.org/content/download/633407/file/voices-in-the-civil-justice-system-final.pdf> (recommending that we increase the number of non-lawyer legal helpers in the field); Just. in Gov't Project, *Civil Legal System Modernization Case Study 2: AmeriCorps Court-Based Navigator Programs 1* (2020), https://www.srln.org/system/files/attachments/AmeriCorps%20Court%20Based%20Navigator%20Programs_Study%2C%20Justice%20in%20Government%20Project_2020.pdf (encouraging use of non-lawyer navigators through the AmeriCorps program); NORC at the Univ. of Chi., *Perspectives on Transforming Civil Justice in the United States 18-19* (2020), <https://www.norc.org/PDFs/Perspectives%20on%20Transforming%20Civil%20Justice%20in%20the%20United%20States/NORC1924%20Civil%20Justice%20Report%20final%2030January.2020%20V3.pdf>.
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- [32] Kauffman & Cornett, *supra* note 6, at 65.
- [33] Mathews & Wiseman, *supra* note 15, at 12 (recognizing the important role that non-profit community workers play in the legal ecosystem and offering a framework to understand whether quality metrics are obtained).
- [34] Pascoe Pleasence & Nigel Balmer, *Legal Confidence & Attitudes to Law. Developing Standardised Measures of Legal Capability* (2018), <https://research.thelegaleducationfoundation.org/wp-content/uploads/2019/02/Legal-Confidence-and-Attitudes-to-Law-Developing-Standardised-Measures-of-Legal-Capability-web-version-1.pdf>.

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[36] McClymont, *supra* note 30, at 38.

[37] *Id.* at 17.

[38] *Id.*

[39] Lauren Sudeall, *The Overreach of Limits on “Legal Advice”*, 131 Yale L.J. 637, 653 (2022).

[40] Nat’l Ctr. for Access to Justice, “Working With Your Hands Tied Behind Your Back” Non-Lawyer Perspectives on Legal Empowerment 4-5 (June 2021), <https://ncaj.org/sites/default/files/2021-06/NCAJ%20Working%20With%20Your%20Hands%20Tied%20Behind%20Your%20Back.pdf>.

[41] Upsolve, a non-profit that provides a technological tool to help people file for bankruptcy, filed suit in New York State in January 2022 challenging UPL restrictions based on the First Amendment. The challenge was on behalf of community members who want to provide assistance with debt collection actions using Upsolve tools. The suit, and perhaps others to follow, also have the potential to re-cast the UPL landscape. See Andy Newman, *They Need Legal Advice on Debts. Should It Have to Come From Lawyers?*, N.Y. Times, Jan. 25, 2022, <https://www.nytimes.com/2022/01/25/nyregion/consumer-debt-legal-advice.html>.

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