



JUSTICE CRISIS IN COLORADO 2014

Report on Civil Legal Needs in Colorado





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Justice Crisis in Colorado 2014: Report on Civil Legal Needs in Colorado

EXECUTIVE SUMMARY

In January 2008, a report issued by the Colorado Access to Justice Commission (Commission) concluded that “Colorado faces a serious crisis in civil legal representation of the indigent.” Unfortunately, six years later, the crisis remains no less severe. A convergence of factors — including the Great Recession, high unemployment, high foreclosure rates, low interest rates, and federal budget cuts — has increased the number of indigent persons in this state while reducing funding for Colorado Legal Services (CLS), Colorado’s only statewide legal aid program, by 10 percent between 2009 and 2013.

In the fall of 2013, the Commission held hearings in Boulder, Centennial, Colorado Springs, Denver, Grand Junction, Greeley, and Westminster. Scores of witnesses, including legal services clients, attorneys, judges, self-represented litigant coordinators, and employees of organizations that serve the indigent, provided testimony concerning the civil legal needs of the indigent in Colorado and the limited resources available to meet those needs. The most significant findings from the hearings include:

- **Lack of access to legal services.** Despite a number of initiatives and emergency measures, legal service providers for the indigent must turn down at least one of every two eligible applicants for services because of inadequate staffing and resources.
- **Too many unrepresented litigants.** The increasing numbers of pro se litigants, including both the indigent and those of modest means, place great strain on judicial and other court resources. More than 50 percent of all civil litigants and nearly 76 percent of parties in domestic relations cases are self-represented.
- **Too few legal aid attorneys.** CLS, the primary provider of civil legal aid services in Colorado, has just 47 lawyers to serve an income-eligible indigent population of more than 880,000. By comparison, 420 public defenders serve indigent Coloradans in criminal cases. The number of CLS attorneys has declined significantly since 1980, despite rapid growth of the indigent population.
- **State funding, while improved, remains well below the national average.** Despite an increased appropriation for the Family Violence Justice Fund, Colorado’s funding for civil legal aid per poor person remains a fraction of the national average.

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- **Legal representation is often essential for vulnerable persons.** Numerous witnesses, including legal aid clients, explained the importance of legal representation for the elderly, victims of domestic violence and their children, victims of flooding, and others.
- **Civil legal services for the indigent are cost-effective and provide value.** A recent study of social return on investment demonstrates that each dollar spent on civil legal services for the indigent in Colorado generates a \$6.35 return.

Recommendations

In order to provide more equal access to justice in Colorado, measures must be taken to provide substantial additional funding of civil legal services for indigent Coloradans, to reduce the need for such services, and to mobilize additional private resources to help meet the need. Colorado would need \$2.3 million simply to reach the level of resources that were available for civil legal aid in 2009, which is when the recession-related reductions in funding began to occur. Significantly more resources will be necessary to meet the current and future needs of the growing low-income population.

The Commission accordingly makes the following recommendations.

1. To increase funding for the civil legal aid delivery system:
 - A. Additional legislative funding in the short term in the amount of \$1.73 million, which, together with the amount currently appropriated for the Family Violence Justice Fund and the amounts generated by Recommendations 1.B. and 1.C. below, would return Colorado to its pre-recession 2009 funding level.
 - B. Dedication of \$20 of the attorney registration fees for active attorneys with over three years in practice and \$10 of the registration fees for inactive attorneys under age 65 to support access to civil justice in Colorado. Using the number of lawyers in each category as of September 2013 as an estimate, this would generate approximately \$500,000 in additional funds for civil legal aid.
 - C. Amendment of court rules to require out-of-state attorneys to pay a fee of \$450 (rather than the \$300 currently required) to appear in Colorado courts. The additional \$150 would be dedicated to support access to civil justice in Colorado. Using

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the number of out-of-state attorneys appearing in 2012 as an estimate, this would generate approximately \$70,000 in additional funds for civil legal aid.

- D. Amendment of Rule 23 of the Colorado Rules of Civil Procedure (on “Class Actions”) to require that at least 50 percent of class action “residual funds” be disbursed to the Colorado Lawyer Trust Account Foundation (COLTAF) to support the civil legal aid delivery system. The amount generated by this proposal would be variable.
- E. Approval and adoption of proposed amendments to Rule 1.15 of the Colorado Rules of Professional Conduct that would accomplish “interest rate comparability” for the COLTAF program and thus maximize COLTAF revenues for the civil legal aid delivery system. The amount generated by this proposal would be negligible so long as interest rates remain at current record lows and in the long term would be variable.
- F. Continued dialogue with the Colorado Supreme Court concerning a possible filing fee surcharge for civil legal aid in order to provide a sustainable, long-term solution to the chronic unmet need. The revenue to be generated would be dependent on the amount of the surcharge.
- G. Amendment of the Unclaimed Property Act to require that unclaimed funds in lawyer trust accounts be delivered to COLTAF to support civil legal aid. The amount generated by this proposal would be variable.

2. To enhance the resources for self-represented litigants, thereby reducing the need for legal representation:

- A. Adoption of the State Court Administrator’s Office proposal for legislation to increase the number of self-represented litigant coordinators.
- B. Development and implementation of strategies to further improve the accessibility of technology for self-represented litigants, including electronic filing of online forms with plain-language instructions.

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3. To mobilize additional private resources to help meet the need:
 - A. Additional measures to encourage law firms, solo practitioners, government legal offices, and in-house counsel to provide, or expand their provision of, pro bono services.
 - B. Encouragement and support for innovation that allows for the more cost-effective representation by private lawyers of persons of modest means.

NOTE

1. Recommendations 1.B. through 1.G. are included in a funding plan developed by the Commission, approved by the Board of Governors of the Colorado Bar Association, and presented for action to the Colorado Supreme Court.

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I. Introduction

Access to the civil justice system is a fundamental prerequisite to equal justice under the law, and yet there is a significant “justice gap” in Colorado and around the country.¹ That gap — the difference between the civil legal needs of low-income people and our system’s capacity to meet those needs — remains a considerable barrier to the shared ideal of equality before the law. As one piece of the effort to close this justice gap, Colorado Legal Services (CLS) provides free civil legal advice and representation to eligible low-income persons throughout Colorado. CLS’s work is supplemented by a wide range of other efforts by the courts, non-profit organizations, and private attorneys. The provision of these legal services helps to resolve disputes more efficiently and fairly and helps the low-income households they serve get back on their feet and meet their most basic needs.

In 2007, the Colorado Access to Justice (ATJ) Commission, in cooperation with local access to justice committees around the state, convened a series of 10 hearings to assess the extent of the met and unmet legal needs of the poor in Colorado. These hearings culminated in a 2008 Report that evaluated the information gleaned from the hearings and made a series of recommendations designed to address some of the evident shortcomings of Colorado’s justice system for low-income persons. Several themes emerged from the 2007 hearings: the significant unmet need for legal services, the barriers to using technology to more effectively address that unmet need, and the impact on the entire judicial system of the lack of legal representation in such a significant number of cases. The 2008 Report made several specific recommendations to address these concerns.

"At the very least, we improve lives of children; at the very most, we save lives of children."

– Robin Menschenfreund,
SAFE Exchange Program of
St. Vrain Family Center,
testifying at Boulder hearing

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Six years later, during the fall of 2013, the Commission again held hearings around Colorado to assess the state of access to the civil justice system for low-income persons. The hearings revealed significant improvements in some key areas. Since the 2007 hearings, the legislature, the courts, and CLS have dedicated substantial resources to improving services for pro se litigants. Funding for new full-time self-represented litigant coordinators (known as “Sherlocks”) in courthouses around the state has offered much-needed information and help to low-income persons in some of the state’s most needy areas. As well, through the leadership of the ATJ Commission and the Chief Justice’s Commission on the Legal Profession, law firms around the state have increased their commitment to pro bono service by more than 30,000 hours. And changes to several state court procedural rules have removed barriers that prevented some attorneys from representing pro bono clients.

At the same time, testimony from the 2013 hearings revealed that the crisis in representation and access for low-income Coloradans remains severe.

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Funding for civil legal services is simply insufficient to meet the basic needs of our state’s low-income citizens. CLS funding has declined by 10 percent since 2009, and funding for the organization is not stable. In contrast to the 420 Colorado public defenders working to ensure that low-income criminal defendants are represented, CLS staffs only 47 lawyers in its offices throughout the state. Given estimates

that fewer than 20 percent of the legal needs of low-income people are met,² identifying permanent funding sources for CLS is an urgent priority.

The hearings further revealed significant strain on judicial and other court resources caused by the number of pro se litigants. More than 50 percent of all civil litigants, and nearly 76 percent of parties in domestic cases, are self-represented. County and district court judges testified to the tension between maintaining the necessary impartiality and finding ways to identify precisely what claims are being made so that cases involving pro se parties can move forward efficiently and fairly. The presence of a lawyer for even a limited time in a case helps to clarify the legal issues and speed its resolution.

Another common theme throughout the hearings was that investing in civil legal services for low-income Coloradans provides value. A recent study of social return on investment in civil legal services demonstrates that for every dollar invested in CLS, Colorado receives \$6.35 in financial benefit.³ Legal assistance can help keep families together, preserve housing, ensure access to health care and other basic needs, and reduce domestic violence. Several witnesses at the hearings described as well how CLS assistance with their debt-

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related legal needs helped them to regain personal control of their finances and ultimately find a path forward.

This report documents the findings from the 2013 ATJ Commission hearings. Our hope is that these findings will help policymakers understand both the successes of some of the changes implemented over the past six years and the continuing justice crisis in Colorado and consider and implement changes and strategies necessary to address the crisis.

II. Legal Needs of Low-Income People

The civil legal needs of low-income people are tied to basic human needs for family stability and safety, shelter, and minimal income maintenance. As Anne Tapp, Executive Director of the Safehouse Progressive Alliance for Nonviolence, testified at the Boulder hearing, the number of people needing some kind of basic legal assistance is growing. More than 12 percent of Colorado's population lives at or below the poverty line.⁴ According to data from the 2010 census, approximately 880,000 Coloradans meet the income eligibility guidelines for CLS services.⁵ This is an increase of 27 percent since 2005. Many more do not meet the poverty guidelines to receive assistance from CLS, but nonetheless do not have the resources to hire legal help.

The largest category of CLS cases in recent years — 43 percent — has been family law disputes, including child support and domestic violence.⁶ Reports from pro bono organizations, such as Metro Volunteer Lawyers in the Denver metro area, the Douglas County Pro Bono Project, and the Pikes Peak Pro Bono Project, revealed that family law is similarly the largest area of need among clients their volunteer attorneys serve.⁷ Family law also makes up a significant portion of the pro se litigation around the state. More than 60 percent of domestic relations and adoption cases are handled without either party represented by a lawyer.⁸ In domestic relations cases, in FY 2013, approximately 76 percent of parties had no legal assistance.⁹

From the Centennial hearing: Patricia went through a foreclosure and was drowning in debt. CLS agreed to work with her if she would find stable employment, which she did. After being at the job for a year, she went back to the attorney at CLS, who then helped her resolve her debt issues, including working with a bank that was threatening to garnish her wages. Patricia said that her attorney at CLS was very thorough and worked with her throughout the process.

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For many people, particularly those in abusive relationships, getting out of a bad situation — even a dangerous one — can seem impossible without legal representation. As Amber, a CLS client, testified at the Greeley hearing, before she had a lawyer she “was overwhelmed with fear and helplessness” in her abusive marriage. She feared that she would lose custody of her children if she had to appear pro se when her husband was represented by an attorney. Because Amber obtained legal representation through CLS, she was able to protect both herself and her children. Amber’s story was echoed in other hearings. Kara Clark, an attorney for Bringing Justice Home, a safe house for battered women, testified that many potential clients are terrified to proceed without full legal representation because they are afraid of being in court with their abusers. These stories and many others demonstrate the reality that “[w]ithout the services of a lawyer, low-income people with civil legal problems may have no practical way of protecting their rights and advancing their interests.”¹⁰

Twenty percent of CLS cases are consumer disputes, including bankruptcy. Again, this area of need is one of the most significant among low-income clients across the state.¹¹ With the slow pace of economic recovery over the past few years, many Coloradans have found themselves in a downward

Many potential clients are terrified to proceed without full legal representation because they are afraid of being in court with their abusers.

economic spiral. For many, economic hardship has followed on the heels of other personal tragedies, such as a medical crisis or the death of a spouse. For Nancy Jilar, a former CLS client who testified in Grand Junction, the death of her husband led to bankruptcy and ultimately to foreclosure on her home. She was under the threat of losing her health insurance when a friend suggested that she contact CLS. Ms. Jilar

described how desperate she was when faced with legal circumstances she could not understand, and how efficiently and compassionately the CLS staff “took immediate control and turned [her] situation around.” Moreen Holzberg, who testified at the Denver hearing, had a similar experience when CLS assisted her through the process of filing for bankruptcy and connected her with Medicare and access to necessary health care.

These two witnesses’ stories are among many that demonstrate the inter-relatedness of the legal needs facing low-income persons. Bankruptcy, foreclosure, and the fear of losing basic services such as health care are commonly connected. CLS’s caseload reflects these connections. Another 20 percent of CLS cases are housing related, and the remaining matters that CLS is able to assist clients with include basic income maintenance through benefits such as military and disability benefits, and health care needs.¹²

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When large-scale tragedy hits entire communities, those with lower incomes are often the hardest hit and the least able to recover. The flooding in northern Colorado in the fall of 2013 created enormous need for legal assistance. The kinds of questions that have arisen have revolved around landlord/tenant disputes, eligibility for Federal Emergency Management Agency (FEMA) aid, construction law, and insurance disputes. Some of these problems are short-term, but many will present long-term legal needs. The Colorado Bar Association has established a pro bono effort specifically to support those with flood-related legal needs, and the federal government is also providing some legal support through FEMA. Through January 8, 2014, 282 volunteer lawyers have provided legal information and assistance to persons affected by the floods in 450 cases.¹³ Debora Wagner, Managing Attorney for CLS in Fort Collins and Greeley, testified that the current emergency assistance from FEMA will continue for only six months. At that point, CLS will be the only provider consistently helping with the range of continuing flood-related legal issues for low-income people.

Through January 8, 2014, 282 volunteer lawyers have provided legal information and assistance to persons affected by the 2013 floods in 450 cases.

III. Provision of Legal Services

Colorado Legal Services is the primary provider of legal services to the poor in Colorado. Its efforts are supplemented by numerous court and private programs that facilitate and encourage pro bono representation. Many of the legal needs of low-income Coloradans are also met through technological support and the assistance offered by self-represented litigant coordinators, family court facilitators, and non-lawyer volunteers in courthouses around the state.

CLS has 14 offices throughout the state and employs 47 attorneys, 33 paralegals, and 28 other staff members. Eleven of the offices are staffed with at least one attorney. The other three offices are staffed with paralegals and serve as hubs for referrals to pro bono or low-fee attorneys.¹⁴ In 2012, 10,898 eligible clients were provided legal assistance through CLS. Of this number, 2,273 clients were provided full legal representation in an extended action; 8,625 were provided legal advice or brief services; and an additional 6,798 individuals were provided legal information or materials to help them with their legal problems.¹⁵

CLS is the state's primary resource for legal services for low-income people, but financial and subject matter limitations mean that CLS must turn away more than half of the people who seek CLS assistance. To be eligible for the services provided by CLS, an individual or family must generally have an

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income below 125 percent of the federally calculated poverty line.¹⁶ Under current standards, an individual's gross annual income must be below \$14,363 a year. For a family of four, the maximum eligible income is \$29,438.¹⁷ In addition to these income limitations, CLS is limited by federal law in the types of cases in which it can assist. CLS is prohibited from providing representation in class action suits, most fee-generating cases, cases on behalf of undocumented people (except where the person is a victim of a crime), and most legislative and administrative advocacy.¹⁸

As a result of these income and subject-matter limitations, CLS limits the cases it accepts to: allocation of parental responsibilities and dissolution of marriage cases where, with few exceptions, there is domestic violence (not involving post-decree matters); consumer law; income maintenance; public housing and foreclosure matters; access to health care; and some other limited types of cases. Nonetheless, CLS is not able to handle all the cases involving these issues, and it turns away at least one person for every case it accepts. Even though the need is great, limited resources prevent CLS from providing representation to low-income Coloradans in the following types of cases: most private evictions, divorces or custody actions not involving violence, child support and adoptions/guardianships, and many consumer cases (identity theft, repossessions, sales fraud, and defective goods).

CLS is further limited in the assistance it can provide by the sad reality that, while the number of poor people in the state continues to increase, funding for legal services does not. According to the Commission's 2008 report, the number of Colorado Legal Services attorneys was halved from 82 in 1978 to 41 in 2008. In the past five years, that number has increased only slightly to 47 attorneys. At the same time, the number of Coloradans eligible for service from CLS has skyrocketed. In 1980, 396,775 people in Colorado were at or below 125 percent of the federal poverty level. By 2005, that number had increased to 692,505 and today it is at 880,224. These numbers translate to significantly limited access to legal representation for Colorado's poor. In 1980, there was one legal services lawyer for every 4,839 eligible Coloradans. In 2008, there was one

"There are four main things that the people using the clinic need: (1) someone who will listen, (2) help with forms, (3) help with procedure, and (4) help with finding a lawyer when the pro se services are insufficient."

*- Lucy Denson, Coordinator,
Arapahoe County Pro Se Clinic,
testifying at Centennial hearing*

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legal services lawyer for every 16,890 eligible people. Today, there is one legal services lawyer for every 18,728 Coloradans. (This is a stark contrast with the one lawyer for every 203 people in the state.) To maintain the same ratio of legal services lawyers to eligible Coloradans as existed in 1980, CLS would have to increase its staff to 182 attorneys — a 387 percent increase over its current staffing level.

The cuts in funding have also resulted in holding salaries for legal aid lawyers at the bottom for attorneys in Colorado by practice classification.

The cuts in funding have also resulted in holding salaries for legal aid lawyers at the bottom for attorneys in Colorado by practice classification. According to the CBA's 2012 *Economic Survey Snapshot* (available at www.cobar.org), salaries in 2011 for lawyers with legal aid/legal services agencies averaged only 36 percent of the mean for all attorneys surveyed, 54 percent of the mean salaries for attorneys in city or county government, and 61 percent of attorneys in state government. *Id.* at 5. Testimony at the hearings indicated that the funding uncertainties, which could impact job security and salaries, hinder legal aid attorneys from being able to plan for a career in that field.¹⁹

The work done by CLS is supplemented by pro bono assistance offered by lawyers around the state. The Colorado Supreme Court continues to provide considerable encouragement to law firms and individual lawyers to meet the goal that each licensed attorney should provide 50 hours of pro bono service each year.²⁰ The Chief Justice's Commission on the Legal Profession, working with the ATJ Commission, has actively recruited new firms into the Court's annual pledge program, which recognizes law firms that pledge to contribute 50 hours of pro bono service per attorney. Private attorneys around the state also provide significant pro bono services, often through local pro bono programs. At each of the 2013 hearings, pro bono coordinators from counties around the state testified about the significant pro bono work being done by lawyers in their communities.²¹

The hearings revealed, however, that despite the fact that hundreds of lawyers provide thousands of pro bono hours each year for the indigent and for organizations serving the indigent, the unmet need remains significant. The need for legal services among low-income Coloradans simply outpaces available resources.

In addition to the provision of legal services by attorneys and supervised paralegals through CLS and volunteer attorney efforts, many of the legal needs of low-income Coloradans are met through technological assistance and the help of non-lawyer advisers in courts around the state. The amount of technological assistance has increased dramatically in recent years. CLS Executive Director

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Litigants downloaded self-help materials from the CLS website on more than 18,000 occasions in 2012.

Jonathan Asher testified that CLS uses technology as much as possible, including as a way to point people they cannot directly assist to online legal forms. Litigants downloaded self-help materials from the CLS website on more than 18,000 occasions in 2012.²² The courts also provide self-help materials online, though technology remains of limited utility if the clients are not technologically savvy or the materials are not user-friendly and written in clear language. The increased number of self-represented litigant coordinators around the state (discussed in more detail in Section V) has been an important supplement to online court forms; in-person advice about how to use the forms and navigate the court system provides essential assistance for those low-income persons who are unable to obtain representation from an attorney.

Ultimately, while self-represented litigant coordinator assistance, online resources, and volunteer attorney time are all vital supplements to the work done by CLS, many witnesses testified that these supplements cannot adequately replace a properly funded system of knowledgeable and dedicated legal services lawyers necessary to meet the civil legal needs of poor Coloradans.²³

IV. Financial Resources

The chronic underfunding of Colorado's civil legal aid delivery system has been exacerbated over the last five years by the convergence of a significant decline in its regular long-term funding sources and a rapidly growing indigent population. The Great Recession increased unemployment, Congress slashed federal funding for legal services for the poor, state funding for the Family Violence Justice Fund was temporarily cut, and the funding provided by the interest earned on lawyers' trust accounts ("COLTAF funding") plummeted because of low interest rates. As a result, but for some temporary emergency funding, total annual funding received by CLS would have fallen by approximately \$2.3 million between 2009 and 2013, from \$10,630,000 to \$8,341,000.²⁴ Even with the temporary emergency funding, CLS had \$1 million less in 2013 than in 2009. At the same time, the number of indigent persons eligible for CLS services has grown by 27 percent since 2005.²⁵ As a result, the financial resources available to CLS and other providers fall far short of what is required to meet the current legal needs of Colorado's indigent population, let alone projected future needs.²⁶ Despite a very welcome increase in the general fund appropriation for the Family Violence Justice Fund in 2013, the most current data available from the American Bar Association reveals that state funding for access to justice in Colorado remains well below the national average.²⁷

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Because the most effective response to a life crisis often includes some kind of legal assistance, inadequate funding of legal services for the poor creates a ripple effect. Jon Asher testified that a recent Social Return on Investment Analysis conducted for CLS by Community Services Analysis LLC found that for every dollar invested in CLS, Colorado receives \$6.35 of financial benefit. Studies from other states show similar results.²⁸ Inadequate legal aid funding deprives the indigent and the state of this financial benefit.

Major Sources of Funding

A. Legal Services Corporation (LSC)

LSC is a private, non-profit corporation established by the United States Congress in 1974 with a mandate to ensure equal access to justice by funding grants to civil legal services programs.²⁹ CLS receives a portion of the annual federal appropriation to LSC based on Colorado's share of the national poverty population. Funding from LSC has fallen every year since 2010, although Colorado did receive a slightly larger share of the smaller federal appropriation in 2013 because of an overdue census adjustment reflecting the growth in Colorado's poverty population.³⁰ Even with that adjustment, however, CLS received \$583,000 less from LSC in 2013 than in 2010, despite the growing number of low-income Coloradans.³¹

B. Legal Aid Foundation of Colorado (LAF)

LAF was founded in 1981 to generate private financial support for Colorado's civil legal aid delivery system. It is a private, non-profit corporation that raises money for CLS, primarily from Colorado law firms and attorneys.³² Over the last five years, the funding CLS receives from LAF has held relatively steady in the face of the recession. In 2013, CLS received \$1.26 million from LAF.³³

C. Colorado State Appropriations

The State of Colorado provides funding for the civil legal aid delivery system through the Family Violence Justice Fund. Since Fiscal Year (FY) 2010 (July 1, 2009 through June 30, 2010), the Family Violence Justice Fund has included two components: a general fund appropriation from the General Assembly and a small filing fee surcharge on court filings in domestic relations cases. Funding from this source is restricted to providing legal assistance to victims of domestic violence. As the only agency providing free civil legal services to indigent clients in every Colorado county, CLS typically receives slightly in excess of 80 percent of the monies distributed through the Family Violence Justice Fund in any given year.

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State funding through the Family Violence Justice Fund has fluctuated significantly over the years.³⁴ For example, total funding was maintained at the \$500,000 level in FY 2003 and 2004, but was reduced to zero in 2005. The annual general fund appropriations were restored to \$500,000 for FYs 2006 through 2009, and then increased to \$750,000 for FYs 2009 through 2011. With the addition of the filing fee surcharge, total funding reached \$893,430 in FYs 2010 and 2011. However, the General Assembly reduced the general fund appropriation to \$458,430 for FYs 2012 and 2013, so that total state funding dropped to \$628,430 in FY 2013.

The Commission is gratified that the General Assembly substantially increased the FY 2014 general fund appropriation for the Family Violence Justice Fund to \$1 million (plus a projected \$170,000 from the filing fee surcharge). Nonetheless, Colorado's support for civil legal services remains well below the national average³⁵ and, as the history set forth above indicates, is vulnerable to the vagaries of the economy and the budget process.

D. Colorado Lawyer Trust Account Foundation (COLTAF)

COLTAF was founded in 1981 to provide another source of funding for the civil legal aid delivery system. It is a private, nonprofit corporation that receives the interest earned on lawyers' pooled trust accounts and makes annual grants to CLS, local bar-sponsored pro bono programs, and other justice-related programs in Colorado.

"Without a lot of support and victim services, victims of domestic violence often don't have access to the system; they often don't appear to testify in court. . . . Crime victims . . . should be able to respond to inquiries from both sides without fear of retaliation, and there should be adequate funding so that they receive help with the parallel processes (divorce, protection orders, etc.) that often go along with related criminal cases."

– Judge Doug Miles, El Paso County Court, testifying at El Paso County hearing

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COLTAF revenue reached its peak in early 2008 after a concerted, two-year campaign to encourage banks to increase interest rates paid on COLTAF accounts. Since then, however, interest rates have fallen dramatically, resulting in a sharp decline in revenue. As a result, COLTAF has used a reserve fund, which it built when interest rates were higher for times such as these, to supplement its current income for grants. This reserve is nearly gone now and will be exhausted entirely in 2014. Even with the help of the reserve fund, COLTAF grants have fallen dramatically since 2009 and discretionary grants to law-related organizations have been eliminated. In 2013, CLS received \$978,000 from COLTAF, which is only 40 percent of what it received in 2009.³⁶

COLTAF has proposed, and the Commission supports, amendments to the Rules of Professional Conduct governing attorneys, which would require lawyers to hold their COLTAF accounts in banks that pay the same rate on COLTAF accounts as on other comparable accounts. Historically, banks have treated COLTAF accounts less favorably because of the split in the legal and beneficial ownership of these accounts. As discussed in Recommendation 1.E., a specific proposal to this effect, approved by both the Commission and the CBA Board of Governors, is now pending before the Supreme Court. It has been set for hearing on Thursday, June 5, 2014. However, even if adopted and implemented, these amendments will increase COLTAF revenues only when interest rates rise.

E. Other Funding Sources

CLS received approximately \$1.7 million in 2013 from other funding sources, which is less than the funding received from other sources in each of the prior four years and a 29 percent decrease from 2012. This other funding comes from more than 60 other sources, including local foundations, United Ways, and Area Agencies on Aging. Much of this funding is restricted to certain types of programs or to certain geographic areas. The grants are often one-time or limited-duration contributions, and therefore cannot be relied upon for long-term planning purposes.³⁷

F. Temporary Funding

Cuts in federal and state funding and reductions in COLTAF funding caused by unprecedented low interest rates resulted in revenues for CLS from the sources described above dropping by over \$2.3 million between 2009 and 2013.³⁸ To partially ameliorate the effects of that shortfall, the Colorado Supreme Court, at the request of the Commission and the CBA Board of Governors, authorized grants to CLS of \$750,000 each in 2012 and 2013 from its Attorney Registration Fund. The Colorado Attorney General also authorized grants to CLS of \$500,000 each in 2012, 2013, and 2014, to fund foreclosure-related work.

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These funds were recovered by the Attorney General as part of the multistate foreclosure litigation settlement with five major banks.³⁹ The ATJ Commission expresses its thanks and appreciation to the Supreme Court and the Attorney General for making these funds available for legal services to the indigent.

The Supreme Court emergency funding will be expended entirely by mid-2014.

Even with this much-needed emergency funding, CLS had over \$1 million less in 2013 than it did in 2009 to meet the legal needs of low-income Coloradans. Unfortunately, this funding is limited in duration. The Supreme Court emergency funding will be expended entirely by mid-2014, and the additional funding from the Attorney General for foreclosure-related work will be exhausted by the end of September 2015.⁴⁰

G. Comparing Colorado to the National Average⁴¹

The American Bar Association regularly collects information about funding resources for civil legal aid from all 50 states. It uses this information to calculate the average “dollars per poor person” devoted to legal aid nationally. The most recent year for which the ABA data is available is 2011, and its calculations continue to use the 2000 census figures for purposes of the poverty population.

Despite these limitations, the ABA data clearly illustrates that Colorado’s private sector outperformed the national average in providing financial support for civil legal aid. Colorado’s Interest on Lawyer Trust Account (IOLTA) funding (COLTAF, in Colorado) exceeded the national average (over \$5/poor person compared to less than \$3.50/pp) because of the reserve fund referenced above, which has been used since 2008 to supplement income for grants. (Unfortunately, as mentioned above, COLTAF’s reserve will be entirely exhausted in 2014.) Colorado did better than the national average in funding from lawyers (over \$4/pp compared to \$2.50/pp), in large part because of strong financial support from the private bar through LAF. Colorado also surpassed the national average with foundation funding (\$6/pp compared to about \$3.50/pp).

The record is quite the opposite with respect to Colorado’s funding from the public sector for legal services for indigent persons. Colorado’s funds per poor person from LSC were essentially equal to that provided to other states (roughly \$9/pp), since funds are distributed based on the poverty population in each state. However, Colorado fell below the national average in other areas of public funding. Specifically, in 2011, Colorado received less than a third of the national average in funding from the state (\$1.75/pp⁴² compared to

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\$6.80/pp). This comparison includes state funding provided by direct appropriations and through the collection of court filing fees and fines. Of course, the increase in the appropriation for the Family Violence Justice Fund in 2014 changes this calculus, but so will updated census figures reflecting the increase in Colorado's poverty population. The disparity in state funding results from the fact that most other states have larger state appropriations, more significant court filing fee surcharges, or both.

Colorado also received less than half of the national average in funding from other public sources, which includes non-LSC federal funding, state victim assistance grants, and local grants (\$4/pp compared to \$9/pp). This is partly because of the large number of diversified funding sources and the episodic nature of this funding in Colorado.

V. Measures Implemented Since the 2008 Report

Since the Commission issued the *2008 ATJC Report*, a number of important steps have been taken to improve access to justice for indigent persons and self-represented litigants. The following highlights some of the more significant measures.

A. Increased Appropriation by the General Assembly

As noted above, after cutting its appropriation for the Family Violence Justice Fund by 39 percent in 2012, the General Assembly increased the appropriation to \$1 million for FY 2014. This represents the highest level ever

"The best thing that happens to me is when someone comes in who is about to be sued or is getting evicted — most of these folks are going to have a judgment against them. Simply sitting down and talking to them and explaining the procedure removes a lot of their fear. People are afraid of judges, of lawyers, and they think the legal system is sneaky. . . . Suddenly they have the power to stand up in court and say, 'My lawyer told me . . .' All of a sudden, they have been assisted; they had access to the law."

— Don Campbell, a retired judge and frequent CLS volunteer, testifying at the El Paso County hearing

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for this appropriation, though state financial support in Colorado for legal services for the poor remains a fraction of the national average.

B. Funding for Self-Represented Litigant Coordinators

One of the recommendations in the 2008 ATJC Report called for improving services for self-represented litigants by increasing the number of family court facilitators and self-represented litigant offices. As a result of legislation passed in 2012 and 2013, there are now Self-Represented Litigant Centers in each of Colorado's 22 judicial districts, staffed by self-represented litigant coordinators, popularly known as "Sherlocks." The Sherlocks assist unrepresented individuals, regardless of income, by helping them choose the appropriate jurisdictions in which to file, providing procedural information, locating and printing forms from the Judicial Branch website, and helping them to fill out forms appropriately. Some of the Self-Represented Litigant Centers have instructional videos and conduct informational clinics. Sherlocks can provide information about independent resources in the community to address their problems, such as CLS and Metro Volunteer Lawyers. Sherlocks cannot, however, offer legal advice.⁴³

Sherlocks often collaborate with others in the community. For example, the Adams County Sherlock has trained local librarians to assist the public to use self-help forms located on the Judicial Branch website. In addition, Adams County has partnered with the Denver office of a large national law firm and the legal department in the Denver office of a large national company to develop an on-call legal clinic to assist self-represented litigants. Information from Sherlocks can also be accessed by telephone, e-mail, and court webpages.

Judges have reported that the Sherlocks provide valuable functions in assisting self-represented litigants to prepare their papers and to prepare for hearings. As a result, the correct forms are filed more frequently, the forms filed are more accurate, hearings are more efficient, and the parties are better able to present their cases.

Despite the creation and expansion of the Self-Represented Litigant Centers around the state, there are still significant problems for pro se clients. Greeley described its Sherlocks as "overwhelmed." Sherlocks report that there are simply too many people who cannot afford attorneys and need some form of legal aid. They need not just information, but actual legal assistance and representation by an attorney.

The State Court Administrator's Office (SCAO) is working on developing reliable means to collect data on Sherlock usage. The first year unofficial statistics (2013) reveal that at least 25,000 litigants were served by the

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Sherlocks.⁴⁴ This number is expected to increase substantially in 2014 because, as of September 2013, an additional appropriation allowed the Judicial Branch to staff all 22 judicial districts' Self-Represented Litigant Centers with at least a half-time coordinator. The Sherlocks do not collect data on whether the visitors they assist are eligible for free legal aid.

C. CBA Appellate Pro Bono Program

The CBA Appellate Subcommittee, with the cooperation of the Supreme Court and Court of Appeals, has adopted and implemented a pro bono appellate program to represent indigent parties to state court appeals in most types of civil cases.⁴⁵ Appellants and appellees may be represented in the Court of Appeals, and petitioners for certiorari and in Rule 21 proceedings and respondents may be represented in the Supreme Court both in connection with the petition and on the merits of the appeal. Interested parties apply for representation, and their applications are reviewed by a screening committee. If the case is accepted, it is assigned to one of more than 75 appellate attorneys who have volunteered to take on such cases.

To date, 37 cases have been accepted from throughout Colorado, and several litigants in these cases received favorable decisions.

As of September 2013, an additional appropriation allowed the Judicial Branch to staff all 22 judicial districts' Self-Represented Litigant Centers with at least a half-time coordinator.

D. Procedural Rule Changes

Two rule changes have been adopted by the Supreme Court since 2008 to facilitate pro bono representation of litigants.⁴⁶

First, Rule 121, § 1-1(5) of the Colorado Rules of Civil Procedure was added to permit an attorney providing limited assistance to a self-represented party to file a notice of limited appearance. At the conclusion of the specified limited proceedings for which the attorney appears, he or she may withdraw automatically by filing a notice of completion of limited appearance. This new subsection was adopted in response to concerns expressed by members of the bar that trial courts might not allow them to withdraw from the case after completing their limited-scope representation.

Second, Rule 5(e) of the Colorado Appellate Rules was added to make clear that the concept of limited (or "unbundled") representation applies in the Court of Appeals and Supreme Court. Under this rule, attorneys providing certain limited services, such as filing a notice of appeal in the Court of Appeals, filing or opposing a petition for writ of certiorari in the Supreme Court, or filing

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or opposing a motion in either court, may file a notice of limited appearance. As under C.R.C.P. 121, § 1-1(5), the attorney filing such a notice may automatically withdraw at the conclusion of his or her limited appearance by filing a notice of completion of limited appearance, and the attorney may file a copy of that notice in the trial court so that he or she is not deemed counsel of record on remand.

These rules have been well received by members of the bar. The Office of Attorney Regulation Counsel and members of the Commission provided training at numerous local bar associations regarding these and other rules governing limited-scope representation. It is believed that the new rules may eliminate a barrier to attorneys entering limited appearances on behalf of indigent and other self-represented parties.

E. Changes to the Code of Judicial Conduct

When the Supreme Court issued a revised Code of Judicial Conduct in 2010, it added two provisions that provide judges with greater flexibility in working with pro se litigants. The hearings held in 2007 revealed that many judges felt constrained by the Code from providing any information or otherwise accommodating pro se litigants because Rule 2.2 requires that a judge perform all duties of judicial office fairly and impartially. New Comment [4] to Rule 2.2 clarifies that a judge does not violate the Rule when making reasonable accommodations to ensure that pro se litigants have the opportunity to have their matters fairly heard. New Comment [2] to Rule 2.6 provides specific guidance to judges with regard to what judges may do in this regard:

“The recommendations from 2007 are still important. There is a need for both expanded legal services and expanded ways to assist self-represented litigants. If your own children or own family were at stake, you would want assistance, guidance. It is imperative that the legal community makes the legal system affordable for those with needs and those with reduced functions. It might appear self-evident, but these are the needs of the court and the people it serves.”

– Chief Judge Robert S. Hyatt, Denver District Court, testifying at the Denver hearing

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The steps that are permissible in ensuring a self-represented litigant's right to be heard according to law include but are not limited to liberally construing pleadings; providing brief information about the proceeding and evidentiary and foundational requirements; modifying the traditional order of taking evidence; attempting to make legal concepts understandable; explaining the basis for a ruling; and making referrals to any resources available to assist the litigant in preparation of the case. Self-represented litigants are still required to comply with the same substantive law and procedural requirements as represented litigants.

Several trial judges have reported that the guidance provided by these two comments has significantly improved their ability to manage hearings and trials involving self-represented litigants.

F. Chief Justice Directive Regarding Interpreters

In 2011, the Chief Justice issue an amended Directive CJD 06-03 requiring that each court assign and pay for language interpretation for all parties in interest during or ancillary to a court proceeding. As a result, no civil litigant should have his or her access to the courts impaired by a language barrier.

G. Pro Bono Commitment Program

In 2006, the Supreme Court created the Colorado Supreme Court Pro Bono Recognition Program, which recognized lawyers and law firms that committed to the goal of 50 hours of pro bono legal services per year for persons of limited means. The commitment was codified by Colorado Rule of Professional Conduct 6.1. Annual ceremonies have been conducted under the leadership of Justice Gregory Hobbs acknowledging those firms and solo practitioners who have made the commitment and those that have met the annual commitment.

In 2012, members of Working Group D of the Chief Justice's Commission on the Legal Profession and of the Access to Justice Commission recognized that a number of leading Denver law firms had not yet signed on to the pledge program. A "Walking Group" comprised of Justice Hobbs, Judges Richard Gabriel and Gale Miller, and David Stark, who is the chair of Working Group D and its liaison with the ATJ Commission, met with representatives of 40 law firms, the Association of Corporate Counsel, the U.S. Attorney's Office, and the Attorney General's office. The purpose of these meetings was to engage in discussions about the Program, the great need for and importance of pro bono legal work, and questions and concerns about the Program. At the conclusion

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of these discussions, 37 firms and the office of the Colorado Attorney General had made the commitment. In total, this reflected an increase of 637 lawyers and 31,850 hours of commitments.⁴⁷ Significantly, pro bono coordinators from the firms making the Commitment, which now exceed 270, have formed a committee for sharing ideas about how best to serve persons of limited means, who, without this program, might well be denied access to justice.

H. Clients with Modest Means

In 2012, the CBA established a Modest Means Task Force “to develop tools to assist lawyers in creating a successful and financially viable practice that incorporates representation of moderate income people.”⁴⁸ This Task Force addressed the disconnect between the large number of lawyers unable to find employment and the even larger number of people of modest means in need of legal services but unable to afford them in the present marketplace.

The Task Force responded with a number of initiatives, including the publication of a “tool kit,” *Successful Business Planning: Representing the Moderate Income Client* (available at no cost on the CBA website to members and available for purchase by non-members), development of modest means budgeting software, organization of Continuing Legal Education programs and related presentations, and creation of a listserv for lawyers practicing in this area to exchange information, ideas, and advice and to provide support for those lawyers engaged in this practice.

While the work of the Task Force does not directly affect the needs of the indigent for legal representation, it has made substantial strides in providing affordable access to justice to persons of modest means.

I. Enhanced Technology

The Commission partnered with CLS and the State Court Administrator’s Office in receiving a \$50,000 State Justice Institute grant to enhance the online legal information available to the public. CLS and the State Court Administrator’s Office are working closely to develop effective on-line tools for self-represented litigants.

VI. Conclusion

Despite some positive developments over the past five years, including emergency and temporary funding from the Colorado Supreme Court and the Colorado Attorney General and a recent increase in the state appropriation, CLS

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has fewer financial resources today than it had in 2009 to serve a growing population of low-income Coloradans. Available emergency resources and the COLTAF reserves have been exhausted. Accordingly, it is essential to identify and implement long-term solutions to provide critically needed resources to ensure the delivery of quality legal services to indigent persons.

VII. Recommendations

In order to provide more equal access to justice in Colorado, measures must be taken to provide substantial additional funding of civil legal services for indigent Coloradans, to reduce the need for such services, and to mobilize additional private resources to help meet the need. Colorado would need \$2.3 million simply to reach the level of resources that were available for civil legal aid in 2009, which is when the recession-related reductions in funding began to occur. Significantly more resources will be necessary to meet the current and future needs of the growing low-income population.

The Commission accordingly makes the following recommendations.

1. To increase funding for the civil legal aid delivery system:
 - A. Additional legislative funding in the short term in the amount of \$1.73 million, which, together with the amount currently appropriated for the Family Violence Justice Fund and the amounts generated by Recommendations 1.B. and 1.C., below, would return Colorado to its pre-recession 2009 funding level.
 - B. Dedication of \$20 of the attorney registration fees for active attorneys with over three years in practice and \$10 of the registration fees for inactive attorneys under age 65 to support access to civil justice in Colorado.⁴⁹ Using the number of lawyers in each category as of September 2013 as an estimate, this would generate approximately \$500,000 in additional funds for civil legal aid.
 - C. Amendment of court rules to require out-of-state attorneys to pay a fee of \$450 (rather than the \$300 currently required) to appear in Colorado courts. The additional \$150 would be dedicated to support access to civil justice in Colorado. Using the number of out-of-state attorneys appearing in 2012 as an estimate, this would generate approximately \$70,000 in additional funds for civil legal aid.

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- D. Amendment of Rule 23 of the Colorado Rules of Civil Procedure (on “Class Actions”) to require that at least 50 percent of class action “residual funds” be disbursed to the Colorado Lawyer Trust Account Foundation (COLTAF) to support the civil legal aid delivery system. The amount generated by this proposal would be variable.
- E. Approval and adoption of proposed amendments to Rule 1.15 of the Colorado Rules of Professional Conduct that would accomplish “interest rate comparability” for the COLTAF program and thus maximize COLTAF revenues for the civil legal aid delivery system. The amount generated by this proposal would be negligible so long as interest rates remain at current record lows and, in the long term, would be variable.
- F. Continued dialogue with the Colorado Supreme Court concerning a possible filing fee surcharge for civil legal aid in order to provide a sustainable, long-term solution to the chronic unmet need. The revenue to be generated would be dependent on the amount of the surcharge.
- G. Amendment of the Unclaimed Property Act to require that unclaimed funds in lawyer trust accounts be delivered to COLTAF to support civil legal aid. The amount generated by this proposal would be variable.
2. To enhance the resources for self-represented litigants, thereby reducing the need for legal representation:

From the Greeley hearing: Amber has four children; two have special needs. She and her husband were solid middle class people: they saved for retirement, owned their home, and had a car. But Amber’s husband was abusive. She was overwhelmed with fear and helplessness. . . . The Department of Human Services told Amber that she was responsible for keeping her daughter safe. But Amber didn’t feel like she could do that and stay with her husband. Amber applied to CLS for help with her divorce. . . . Without CLS, Amber would have had to appear pro se against a skilled, experienced attorney. She may have lost custody of her children. . . . Amber believes that CLS literally saved her life.

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- A. Adoption of the State Court Administrator’s Office proposal for legislation to increase the number of self-represented litigant coordinators.
 - B. Development and implementation of strategies to further improve the accessibility of technology for self-represented litigants, including electronic filing of online forms with plain-language instructions.
3. To mobilize additional private resources to help meet the need:
- A. Additional measures to encourage law firms, solo practitioners, government legal offices, and in-house counsel to provide, or expand their provision of, pro bono services.
 - B. Encouragement and support for innovation that allows for the more cost-effective representation by private lawyers of persons of modest means.

NOTES

1. *See generally Documenting the Justice Gap in America: The Current Unmet Civil Legal Needs of Low-Income Americans*, Legal Services Corporation, Washington, D.C. (2009).

2. *Id.* at 16.

3. Colorado Legal Services, Social Return on Investment Analysis for the year ended December 31, 2012, prepared by Community Services Analysis LLC.

4. Presentation by Jon Asher, CLS Executive Director. *See* Appendix A.

5. Colorado Legal Services presentation, *see* Appendix A.

6. *Id.*

7. *See, e.g.*, Presentation by Dianne Van Voorhees, Metro Volunteer Lawyers, Appendix D; presentation by David Rolfe, Douglas County Pro Se Clinic, Arapahoe County hearing, Appendix D; presentation by Erica Fessler, Pro Bono Coordinator for Pikes Peak Pro Bono Project, Colorado Springs hearing, *see* Appendix E.

8. Information provided by Jessica Zender, Court Programs Analyst, on file with the ATJ Commission.

9. *Id.*

10. Alan Houseman, *The Justice Gap: Civil Legal Assistance Today and Tomorrow* (June 2011), page 3.

11. *See, e.g.*, presentation by Dianne Van Voorhees, Appendix D.

12. Colorado Legal Services presentation, Appendix A.

13. CBA Press Release, “Update on Disaster Legal Relief” (Jan. 8, 2014).

14. Colorado Legal Services presentation, Appendix A.

15. *Id.*

16. CLS can, under limited circumstances, assist clients who are living at up to 250 percent of the Federal Poverty Guidelines.

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17. These numbers will be adjusted slightly in 2014, when the federal government releases new Federal Poverty Guidelines.
18. See presentation by Jon Asher, Appendix A.
19. See, e.g., testimony of Jon Asher at Centennial hearing, Appendix D.
20. See Colorado Rule of Professional Conduct 6.1.
21. See Appendices C through I.
22. Presentation of Jon Asher, Appendix A.
23. See, e.g., Presentation of Stan Garnett, Boulder County hearing, Appendix C.
24. See Slide 2 in Appendix B.
25. Compare Colorado Access to Justice Commission, *The Justice Crisis in Colorado* 7 (January 2008) (2008 ATJC Report) with Legal Aid Foundation of Colorado, *Annual Report 2012-2013* 2 (2012-2013 LAF Annual Report).
26. See Slide 2 in Appendix B.
27. See note to Slide 4 in Appendix B.
28. Shelly Dill Combs and Ilene Lin Bloom, "Women's Disproportionate Need to Receive Legal Aid and the Current Funding Crisis," 41 *Colo. Law.* 51, 54 (Oct. 2012) (reporting on results of studies from Texas, Massachusetts, and Nebraska).
29. Legal Services Corporation, *2012 Annual Report* 30 (LSC 2012 Annual Report).
30. Note to Slide 1 in Appendix B.
31. See Slide 1 in Appendix B.
32. See 2012-2013 LAF Annual Report at 2.
33. See Slide 1 in Appendix B.
34. See spreadsheet in Appendix B. Note that the data on this spreadsheet is based on the state government's fiscal year (July 1 through June 30), while the data reflected in the slides in Appendix B is based on calendar years, unless otherwise indicated.
35. See Slide 4 in Appendix B and accompanying notes.
36. See Slide 3 in Appendix B and accompanying notes.
37. See Slide 1 in Appendix B and accompanying notes.
38. *Id.*
39. Slide 2 in Appendix B and accompanying notes.
40. *Id.*
41. This discussion is based on Slide 4 in Appendix B and accompanying notes.
42. The Colorado figure increased somewhat based on the increased appropriation for FY 2013.
43. Chief Justice Directive 13-01 at 4.
44. Information provided by Penny Wagner of SCAO, on file with the Commission.
45. This program is described in Katayoun A. Donnelly and Geoff Klingsporn, "Colorado's New Pro Bono Program for Civil Appeals," 40 *Colo. Law.* 15 (Sept. 2011).
46. These rule changes are discussed in more detail in Gregory J. Hobbs, Jr., "Judicial Support for Pro Bono Legal Services," 89 *U. Denv. L. Rev.* 851 (2012).
47. David W. Stark, "Professionals Answered the Call," 42 *Colo. Law.* 59, 60-61 (Oct. 2013).
48. Daniel M. Taubman and John S. Zakhem, "CBA Modest Means Task Force 2013 Report," 42 *Colo. Law.* 103 (Nov. 2013). Judge Taubman and Mr. Zakhem are members of the Commission.
49. Recommendations 1.B. through 1.G. are included in a funding plan developed by the Commission, approved by the Board of Governors of the Colorado Bar Association, and presented for action to the Colorado Supreme Court.



APPENDIX A

Colorado Access to Justice Commission Slide Presentation by Colorado Legal Services





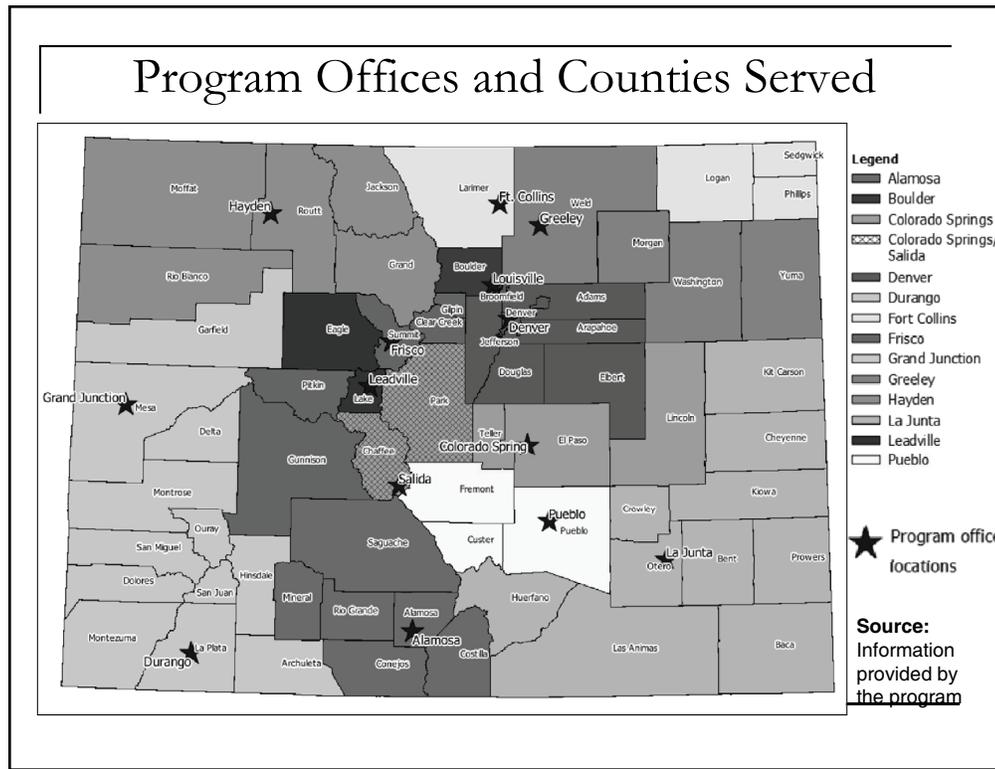
Appendix A

Colorado Legal Services

To provide meaningful access to high quality civil legal services in the pursuit of justice for as many low income persons and members of vulnerable populations throughout Colorado as possible

- CLS Mission Statement

Justice Crisis in Colorado 2014



CLS Offices:

- Colorado Legal Services formed on October 1, 1999, through the consolidation of (1) Legal Aid Society of Metropolitan Denver, (2) Colorado Rural Legal Services, and (3) Pikes Peak Arkansas River Legal Aid
- **14 Offices:** 11 are staffed with at least one attorney, the other three are staffed with paralegals and instead serve as hubs for referrals to pro bono/low fee attorneys
- **107 Employees:** 46 attorneys, 33 paralegals, 28 other
- Service area consists of the entire state of Colorado
 - Eighth largest state in continental U.S.
- **Urban areas include:** Denver metropolitan (six counties — 2 million residents), El Paso (includes Colorado Springs), and smaller urban areas — Boulder, Fort Collins, Grand Junction, Greeley, and Pueblo
- **Rural areas include:** Over 50 counties and counties that attract migrant, agricultural workers

Appendix A

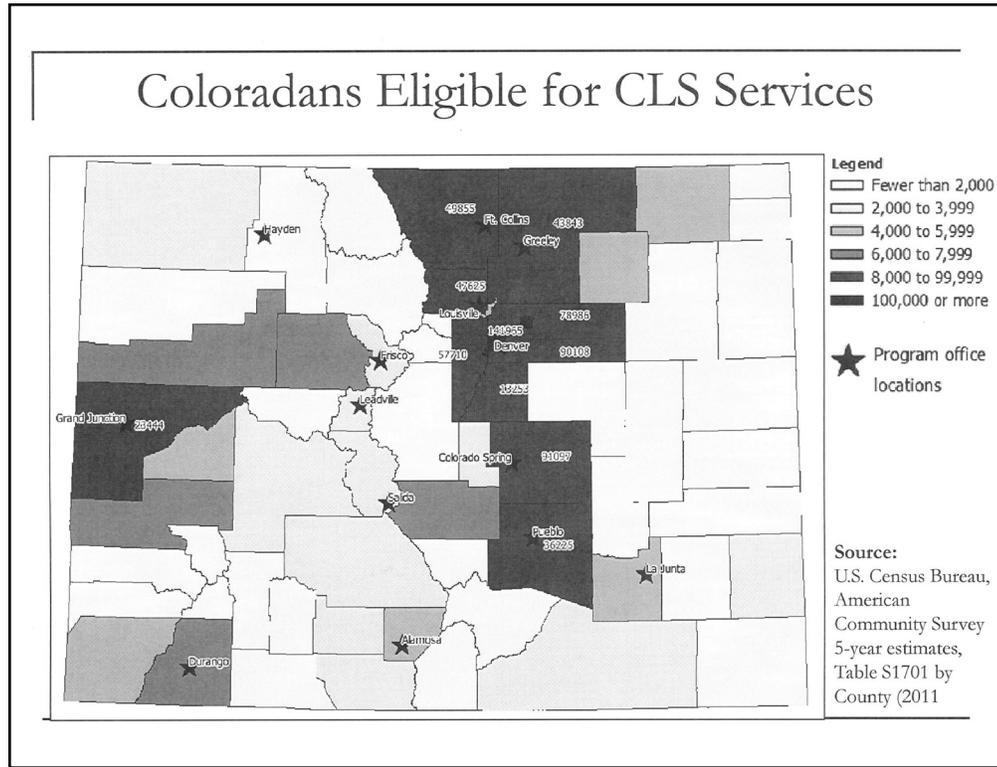
CLS Financial Eligibility Guidelines*

Legal Services Corporation (Federal Mandated) Maximum Income Guidelines

Size of Family	CLS Yearly Income Guidelines 125% of FPG	200% Yearly Calculation
1	14,363	22,980
2	19,388	31,020
3	24,413	39,060
4	29,438	47,100
5	34,463	55,140

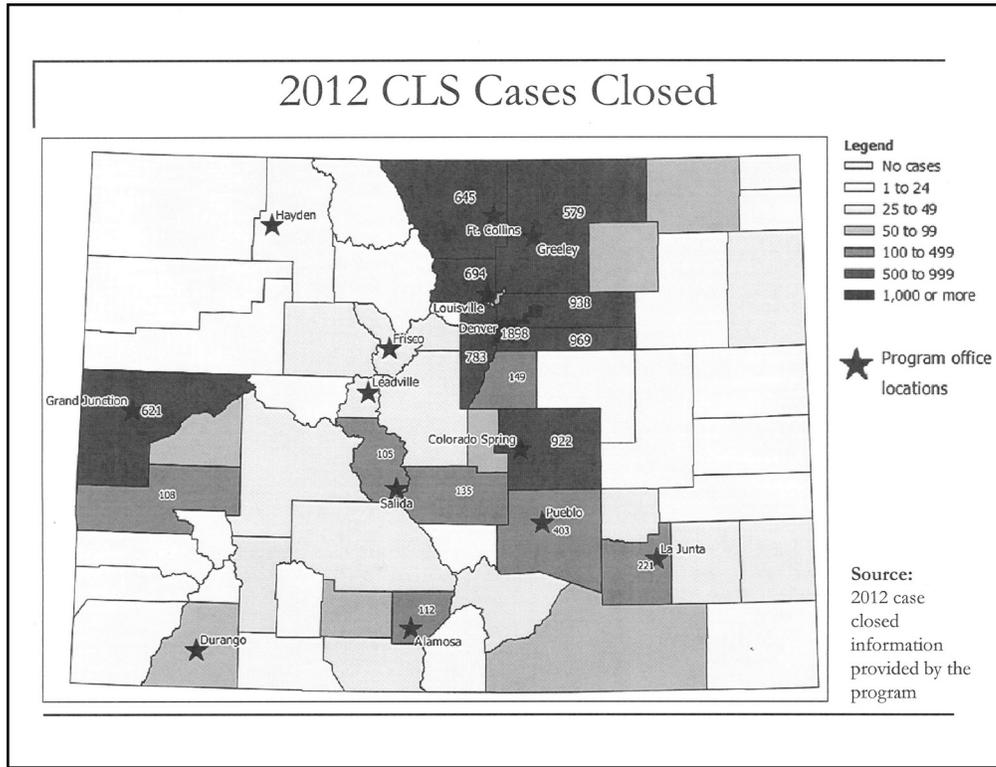
These guidelines are based on gross income.

*To be used until a chart based on the 2014 Federal Poverty Guidelines is published by CLS.

Justice Crisis in Colorado 2014**Coloradans Eligible for CLS Services**

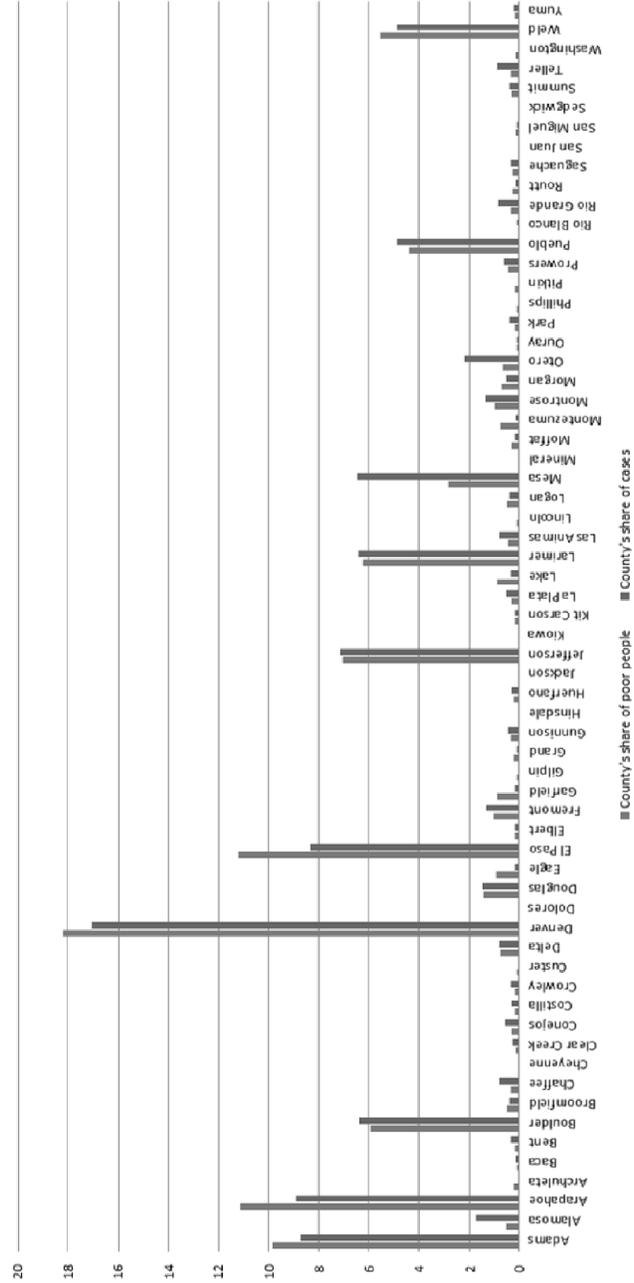
- Demographics of clientele and low-income community served (poverty population map)
- 12.5% of Coloradans are below the poverty line, according to the 2012 Census Bureau:
 - Approximately 880,224 Colorado residents have incomes at or below 125% of the federal poverty level
 - Population of Colorado is 5,187,582
- LEP Coloradans — 800,000
- Disabled individuals — 10% (approximately 510,000)
- Seniors — 11% of Coloradans are 50+ (approximately 550,000)
- Native Americans, concentrated on two reservations in SW Colorado — 80,000
- Migrant workers — Exact number is unclear, many of Colorado's 37,000 farms and ranches employ migrant or seasonal workers

Appendix A



Justice Crisis in Colorado 2014

Share of Poverty Population vs. Share of Closed Cases



Source: U.S. Census Bureau, American Community Survey 5-year estimates, Table S1701 by County (2010), and 2011 case closed data provided by the program.

Appendix A

CLS Services in 2012

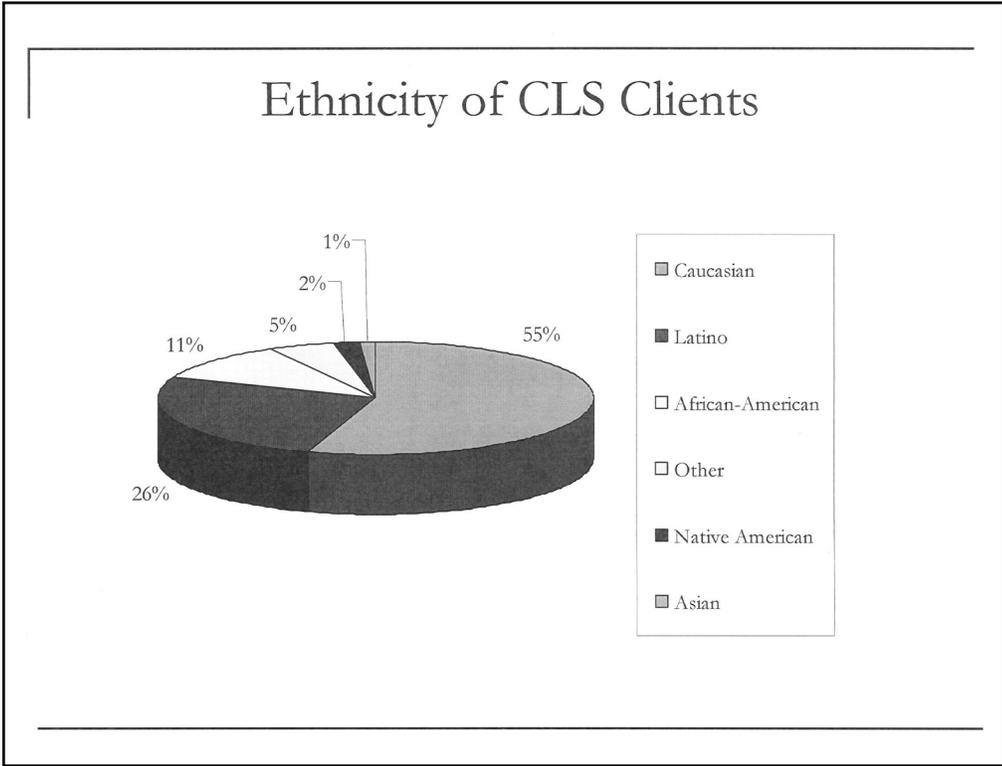
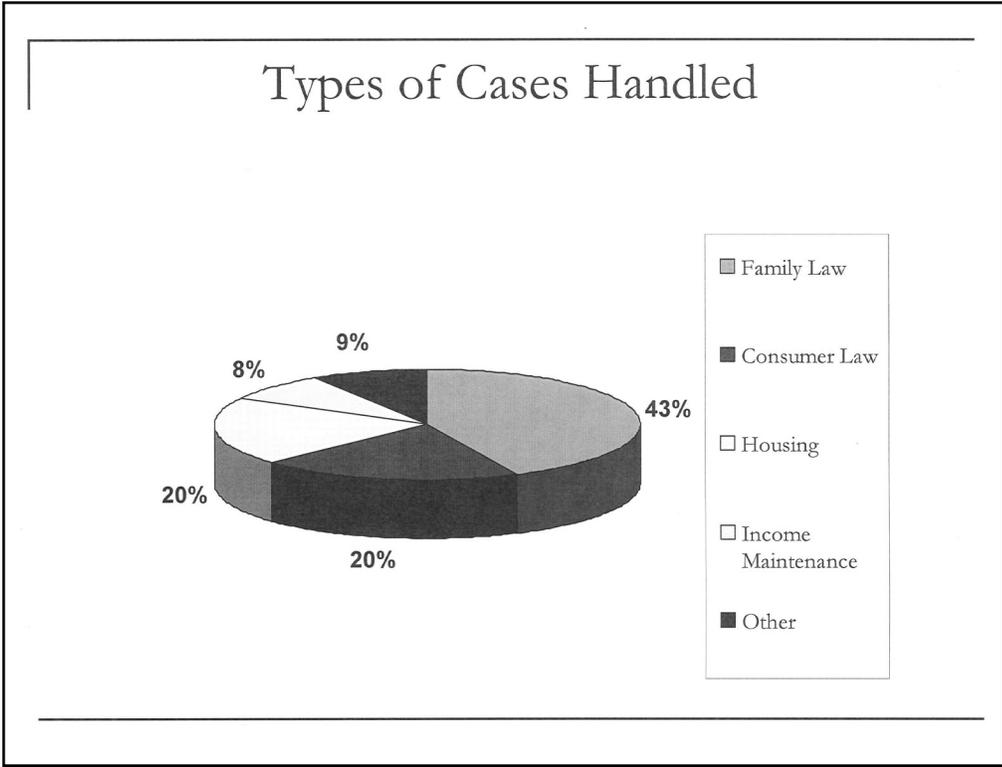
- 10,898 eligible clients were provided **legal assistance**
- 2,273 clients were provided **full legal representation** in an extended action
- 8,625 were provided **legal advice or brief services**
- an additional 6,798 individuals were provided **legal information or material**

CLS Services in 2012

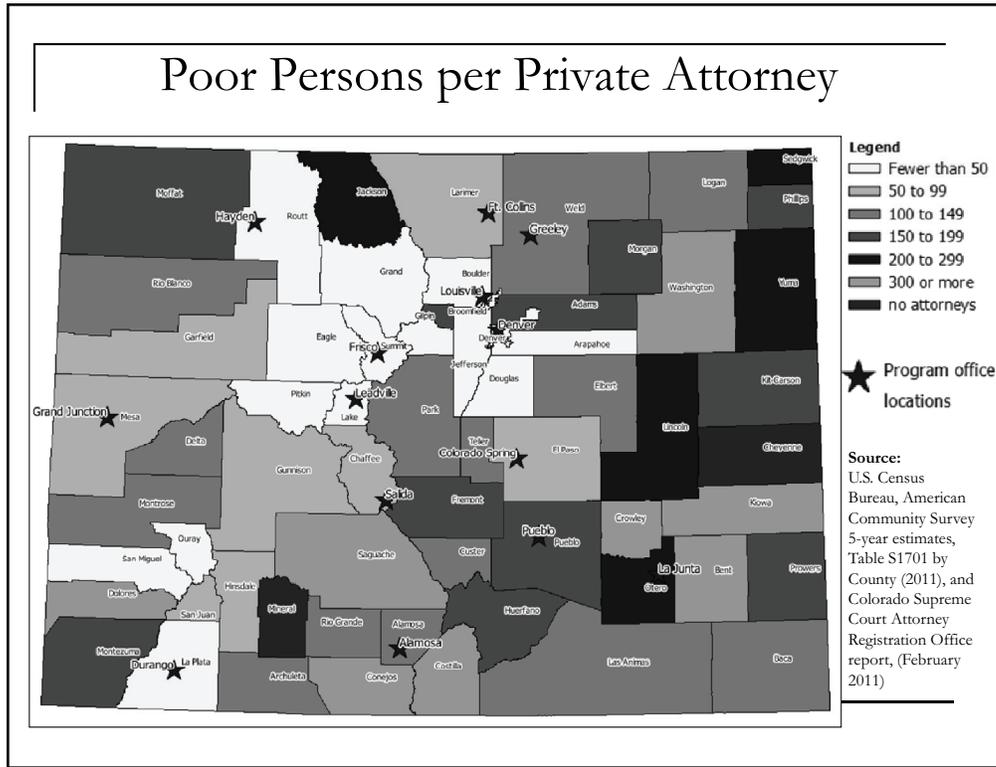
- 10,898 eligible clients were provided assistance
- 2,273 clients were provided full legal representation in an extended action
- 8,625 were provided legal advice or brief services
- An additional 6,798 individuals were provided legal information or materials



Justice Crisis in Colorado 2014



Appendix A



Justice Crisis in Colorado 2014

Collaborations

- Strengths
 - Bar Relationships
 - Private Attorney (pro bono) Programs throughout Colorado
 - Collaborative efforts with the justice system
 - Self Represented Litigant Coordinators

Collaborations

- Bar/justice community relationships:
 - **Bar Relationships:** Two bar-sponsored programs housed within CLS offices
 - **Pro Bono Relationships:** Four pro bono programs are part of CLS itself (Boulder Office, La Junta Office, Pueblo Office, Northwest Colorado Legal Services — which has three offices: Frisco, Hayden and Leadville):
 - 1,837 clients received assistance from pro bono partnerships in 2012
 - These four pro bono programs received 570 pro bono applications in the first six months of 2013 (January-June 2013)
- **There are two CLS offices that house independent pro bono programs:** Denver, Metro Volunteer Lawyers; and Durango, Southwest Bar Volunteer Legal Aid, Inc.
- **Stand-alone pro bono programs:** Alpine Legal Services, Delta County Bar Pro Bono Project, Heart of the Rockies Bar Association, Larimer County Bar Association Pro Bono Program, Mesa County Bar Pro Bono Project, Pikes Peak Pro Bono Project, San Luis Valley Bar Pro Bono Project, Uncompahgre Volunteer Legal Aid, and Weld County Legal Services
- **Challenge:** Maintaining strong relationships

Appendix A

Technology

- www.ColoradoLegalServices.org
 - Legal information for applicants, clients, and self-represented litigants
 - CLS office listings
 - Listing of legal clinics across the state
 - Statistics:
 - January- December 30, 2012
 - 104,604 visits
 - 67,477 unique visits
 - 18,865 self-help or pro se materials downloaded
 - A2J online court forms preparation program
 - Video tutorials on topics such as *How the Colorado Courts Work* and *Child Support Modifications*
- Online Eligibility Screening Tool (OEST)
- Skype Initiative

Technology

- Website is an especially valuable resource — [www.ColoradoLegal Services.org](http://www.ColoradoLegalServices.org):
 - Legal information for applicants, clients, and self-represented litigants
 - CLS office listings
 - Listing of legal clinics across the state
 - Statistics:
 - **January-December 30, 2012:** 104,604 visits, 67,477 unique visits, 18,865 self-help or pro se materials downloaded
 - **January-June 2013:** 89,341, number of visits overall; 76,078 unique visitors; 11,604, self-help or pro se materials downloaded or click-throughs
 - A2J online court forms preparation program
 - Video tutorials on topics such as *How the Colorado Courts Work* and *Child Support Modifications*
- Online Eligibility Screening Tool (OEST)
 - Pat Craig: Skype Initiative
 - Extensive use of listserv

Justice Crisis in Colorado 2014

Funding Challenges

- Challenges
 - Adequate long-term stable funding
 - Annual uncertainty of federal and state funding
 - Complexity of culture of local control – currently 65 funding sources.
 - 64 Counties
 - 22 Judicial Districts
 - 27 Local Bar Associations
 - At least 14 Specialty Bars
 - 16 AAAs
 - 14 United Ways

Funding Challenges

- Long-term stable state funding
- Continued low interest rate
- Continued uncertainty of LSC funding level
- Complexity of culture of local control
 - 64 counties
 - 22 judicial districts
 - 27 local bar associations
 - At least 14 specialty bars
 - 16 AAAs
 - 14 United Ways



APPENDIX B-1

Colorado Access to Justice Commission Slide Presentation on Funding Fall 2013

“Resources for Civil Legal Aid”







Appendix B-1

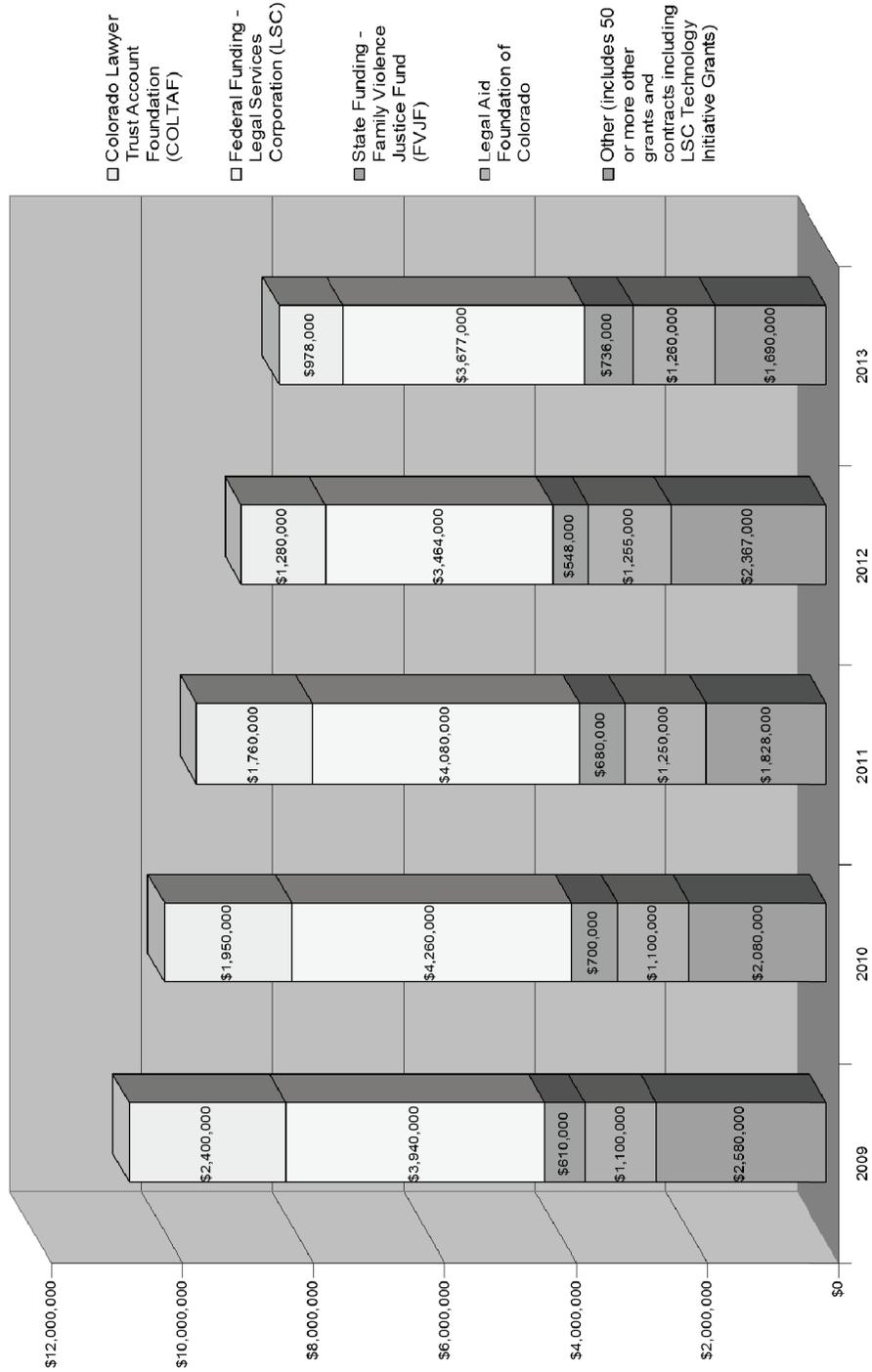
INTRODUCTION

The purpose of the presentation is to provide information about the resources currently available to meet the need for civil legal services among low-income Coloradans, the negative trends over the past few years, and the inadequacy of those resources to meet current, let alone projected, future needs.



Justice Crisis in Colorado 2014

Slide 1 — Colorado Legal Services Funding By Source 2009 - 2013 (projected)
Long-term funding only





Appendix B-1

Slide 1 — Funding by Source 2009-2013 (without emergency and temporary funds)

This chart illustrates all of the major funding sources for Colorado Legal Services (CLS) and how they have fared over the course of the last five years.

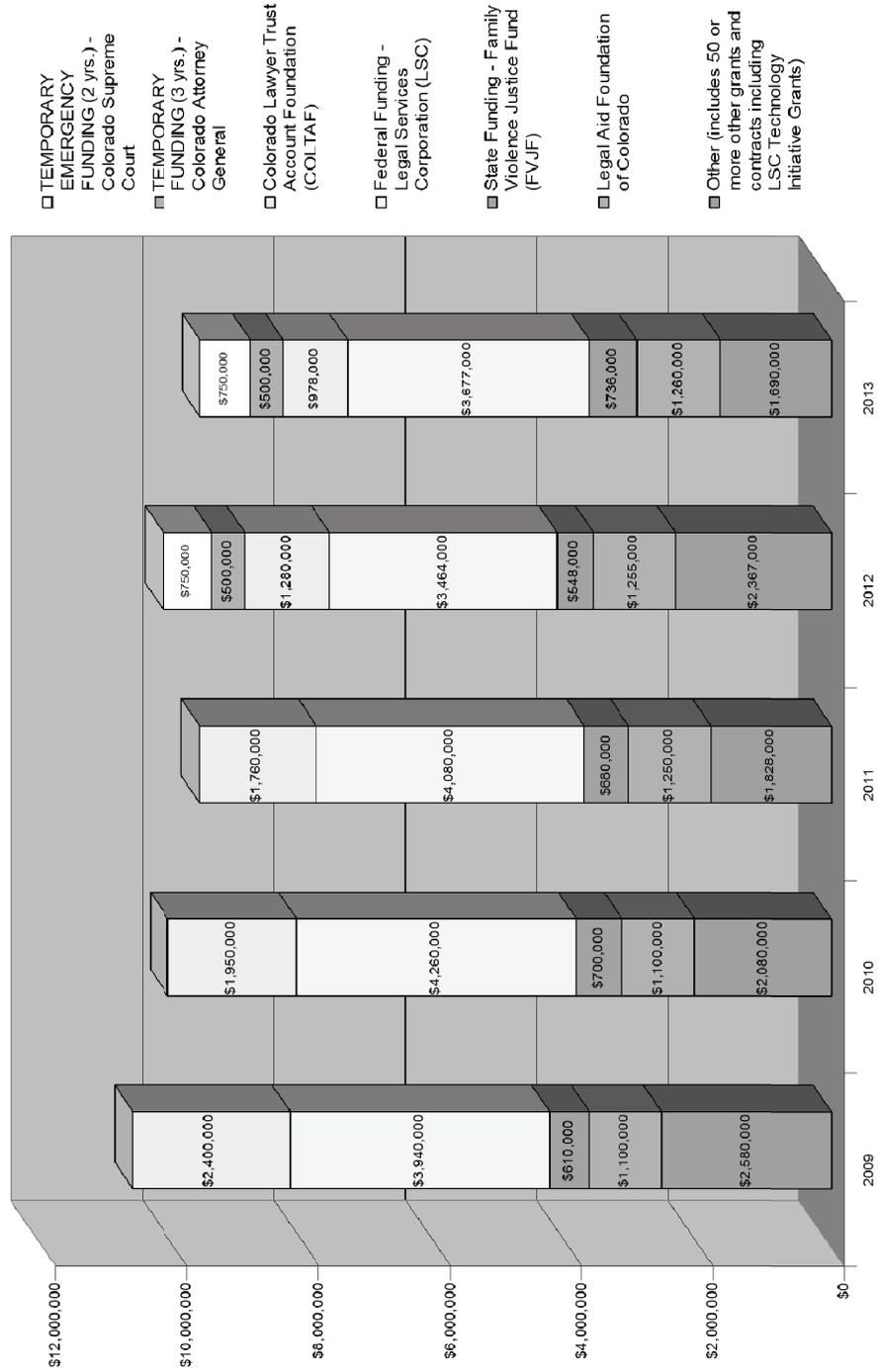
It illustrates the general downward trend.

- CLS has over \$2.3 million less this year than it did in 2009 to meet the legal needs of low income Coloradans.
- COLTAF (Colorado Lawyer Trust Account Foundation) – This is the interest earned on lawyers’ pooled trust accounts. Funding from COLTAF has fallen dramatically because of the extended period of very low interest rates. It would have fallen even further but for a reserve built when interest rates were higher. That reserve will be entirely exhausted in 2014, meaning that the amount available for distribution to CLS will depend entirely upon interest rates generally. (More on COLTAF later.)
- LSC – The federal appropriation has fallen every year since 2010. The only reason CLS received a little more in 2013 than it did in 2012 is because of an overdue census adjustment that reflects Colorado’s increased share of the national poverty population. In other words, because our poverty population increased at a greater rate than that of some other states, we receive a slightly greater percentage of the reduced appropriation from LSC.
- State funding (through the Family Violence Justice Fund) – This includes the state general fund appropriation and a small filing fee surcharge on domestic filings. It is restricted to legal services for victims of domestic violence. It fell for two years, but this past session, there was a very welcome increase in the appropriation (\$540,000), for which we are very grateful.
- Legal Aid Foundation – This is private support primarily from lawyers and law firms. That support has held steady and even increased modestly despite the recession, for which we are very grateful.
- Other funding – This includes 60 or so other funding sources (Older Americans Act funding, VALE grants, United Way grant, local grants, etc.), which are episodic and not reliable. Many are restricted to certain program types and/or locations.



Justice Crisis in Colorado 2014

Slide 2 — Colorado Legal Services Funding By Source 2009 - 2013 (projected)
Including emergency, temporary funds





Appendix B-1

Slide 2 — Emergency and Temporary Funding

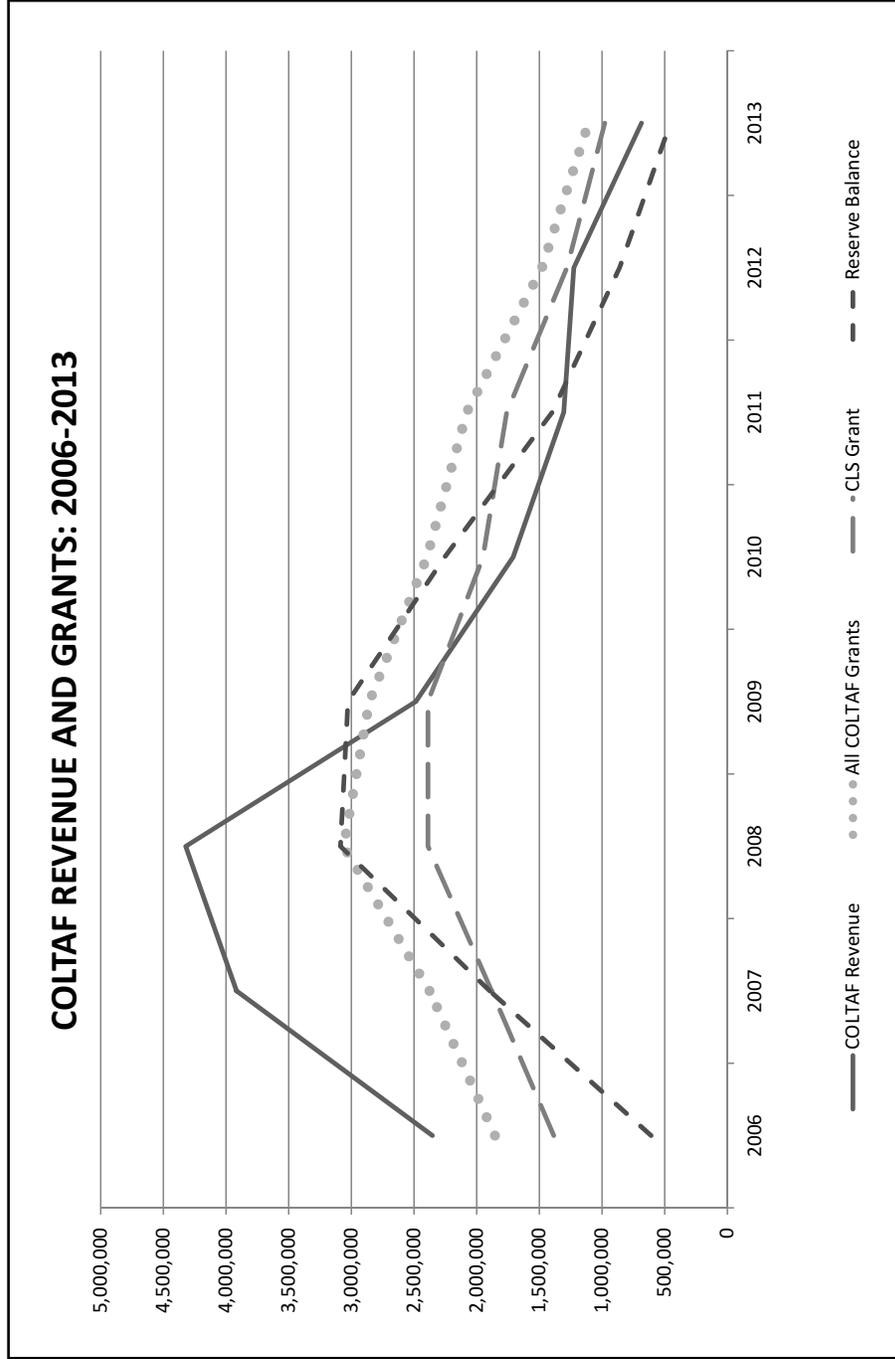
- Colorado Supreme Court \$750,000/year for two years out of its Attorney Registration Fund.
- Colorado Attorney General \$500,000/year for three years for foreclosure-related work.
- The Supreme Court emergency funding from Attorney Registration fees has expired, while there is an additional year of the foreclosure-related funding.
- This temporary emergency funding was extremely welcome in helping to ameliorate the funding crisis, but it did not make up the entire shortfall that resulted from decreases in other sources and it is, by definition, only temporary.
- Even with the temporary emergency funding, CLS has over \$1 million less this year than it did in 2009 to meet the legal needs of low-income Coloradans.





Justice Crisis in Colorado 2014

**Slide 3 — COLTAF Revenue and Grants
2006 – 2013**





Appendix B-1

Slide 3 — COLTAF Revenue and Grants

This chart illustrates the drastic decline in COLTAF revenue and the decline in COLTAF grants.

Solid line is COLTAF revenue, which reached its peak in 2008 after COLTAF devoted significant time and effort over a period of two years to encouraging banks to increase the interest rates paid on COLTAF accounts. You can see the sharp decline in revenue as interest rates fell.

Short dash line is COLTAF's reserve balance, which you can see was built when interest rates were higher for the purpose of stabilizing grants during a typical interest rate cycle. You can see that the reserve is nearly gone and will be exhausted entirely next year.

Long dash line represents the grants made to CLS, and you can see how that has fallen, although not as dramatically as income, thanks to the reserve.

Dotted line represents all COLTAF grants, which have also fallen. COLTAF provides funding not only to CLS, but to all the local bar-sponsored *pro bono* programs that are working to enlist and support private lawyers to help meet the legal needs of low income Coloradans.

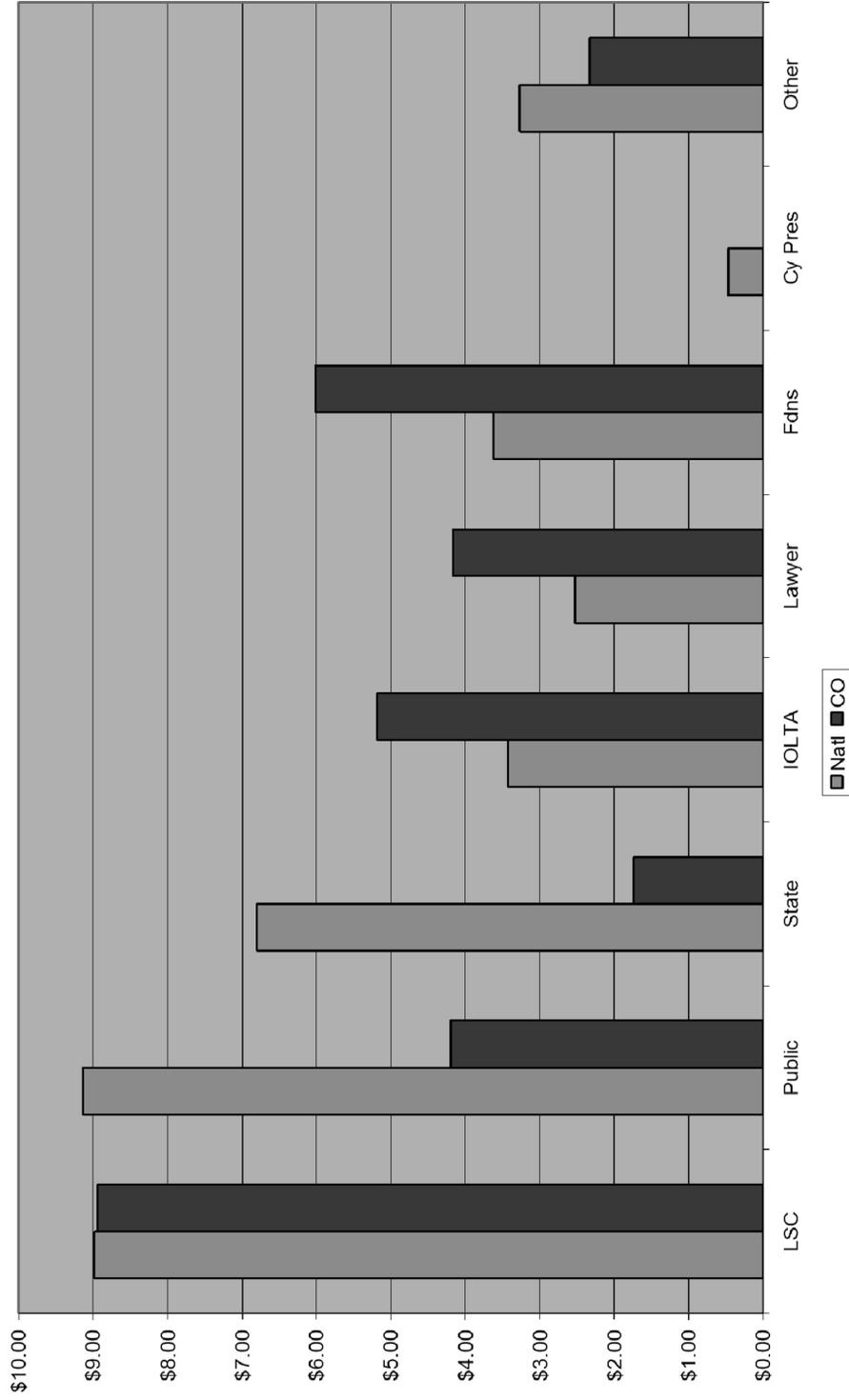
There is an effort underway to revise the rules that govern lawyers' trust accounts so that COLTAF is in the best position to maximize revenue once interest rates start to rise, but when that will occur is entirely out of our control.

- These are the rule changes to accomplish so-called "interest rate comparability," which would require lawyers to hold their trust accounts in financial institutions that pay the same rate on their COLTAF accounts as they do on other accounts of comparable size. This is intended to stop the historical practice of treating COLTAF accounts less favorably because of the split in the legal and beneficial ownership of the account.



Justice Crisis in Colorado 2014

**Slide 4 — Funding Comparison 2011 (except LSC, which is FY 2012)
National Average vs. Colorado**





Appendix B-1

Slide 4 — Colorado Comparison to National Average

The American Bar Association attempts to track how all 50 states and the District of Columbia are doing in terms of funding resources for their civil legal aid delivery systems. It uses as a basis for comparison “dollars per poor person,” which attempts to equalize the amount of funding across the various jurisdictions. This chart is a rough illustration of how Colorado compares to the national average with respect to various funding sources for civil legal aid.

- LSC funding per poor person – This is the same from state to state because LSC funds are distributed based on the poverty population in each state. (Approx. \$9/poor person.)
- IOLTA funding per poor person – Colorado is doing better than the national average primarily because of the reserve that has been used to supplement current income for grants; recall, however, that the reserve will be gone next year. (Over \$5/pp compared to less than \$3.50/pp.)
- Lawyer funding per poor person – Colorado does better than the national average because of the strong financial support we receive from the private bar illustrated by the Legal Aid Foundation’s successful private bar campaign. (Over \$4/pp compared to about \$2.50/pp.)
- Foundation funding per poor person – Colorado does better than the national average. (\$6/pp compared to about \$3.50/pp.)
- Public funding per poor person – This includes non-LSC federal funding, state victim assistance grants, and local grants. Colorado does not do as well in this area because of the large number of diversified funding sources (counties, judicial districts, local United Ways). Also some of the funding in this category is episodic and cannot be relied upon for consistent funding year to year. (\$4/pp compared to \$9/pp.)
- State funding per poor person – This includes state funding provided by direct appropriation or through court filing fees or fines. Colorado does not do as well here compared to other states because most other states have either a larger state appropriation or more significant court filing fee surcharges or both. (\$1.75/pp compared to \$6.80/pp.)
 - Even if we were to include the temporary, emergency funding, the increase in Colorado’s poverty population leaves us well behind other states in state funding per poor person.



*Justice Crisis in Colorado 2014***CONCLUSION**

Despite some positive developments over the past few years, and despite critical emergency funding from the Supreme Court and the Attorney General, we have less money available today to serve more poor Coloradans than we had five years ago.

More importantly, we have exhausted available emergency sources, which suggests the situation will get worse in the future than it is today.

Investing to help low-income Coloradans solve their legal problems is a good investment and saves taxpayer dollars down the road.

- Keeping families together
- Preserving housing
- Ensuring access to health care
- Reducing domestic violence
- Giving people a hand up so they are in control again of their lives and prosperity

The ATJ Commission intends to continue to work with other stakeholders to identify and promote long-term solutions that will provide additional resources for these critical legal services.



Appendix B-2

**Colorado Access to Justice Commission
State of Colorado
Family Violence Justice Fund**





Appendix B-2

Total Funds	Fiscal Year	CLS Funding
\$1,000,000 (\$1,170,000)	2014 Grant Award 7/1/13 – 6/30/14	\$943,684
\$458,430 (\$628,430)	2013 Grant Award 7/1/12 – 6/30/13	\$528,220
\$458,430 (\$675,000)	2012 Grant Award 7/1/11 – 6/30/12	\$568,420
\$750,000 (\$893,430)	2011 Grant Award 7/1/10 – 6/30/11	\$679,081
\$750,000 (\$893,430)	2010 Grant Award 7/1/09 – 6/30/10	\$619,987
\$750,000	2009 Grant Award 7/1/08 – 6/30/09	\$601,035
\$500,000	2008 Grant Award 7/1/07 – 6/30/08	\$423,568
\$500,000	2007 Grant Award 7/1/06 – 6/30/07	\$428,787
\$500,000	2006 Grant Award 7/1/05 – 6/30/06	\$462,982
\$0	2005 No State Grant Funds Available 7/1/04 – 6/30/05	\$0
\$500,000	2004 Grant Award 7/1/03 – 6/30/04	\$450,212.37
\$500,000	2003 Grant Award 7/1/02 – 6/30/03	\$451,557.53
\$426,000	2002 Grant Award 7/1/01 – 6/30/02	\$353,619.26
\$400,000	2001 Grant Award 7/1/00 – 6/30/01	\$358,942.59
\$250,000	2000 Grant Award 7/1/99 – 6/30/00	\$216,098.39





APPENDIX C

**Access to Justice Hearing
Boulder, Colorado
Boulder County Justice Center
October 3, 2013
3:00 p.m.**

Sponsored by

**The Colorado Access to Justice Commission
and the Twentieth Judicial District
Access to Justice Committee**





*Appendix C***Boulder Access to Justice Hearing Panelists**

Judge Gale Miller, Colorado Court of Appeals
Jon Asher, Executive Director, Colorado Legal Services
Joel Hayes, Boulder County Legal Services (BCLS)
Christine Hylbert, Chair, Boulder Access to Justice Committee, Director, Boulder
County Bar Association

Boulder Access to Justice Hearing Witnesses

Jon Asher, Executive Director, Colorado Legal Services
Joel Hayes, Managing Attorney, BCLS
Chris Jeffers, Boulder Attorney
Brandy Turner, BCLS Client
Diana Poole, Executive Director, Legal Aid Foundation of Colorado
Debra Crosser, Clerk of Court
Maria Berkenkotter, Chief Judge, 20th Judicial District
Monica Haenselman, Family Court Facilitator
Elizabeth Brodsky, Magistrate
Stan Garnett, Boulder County District Attorney
Mary Jordan, Immigrant Legal Center of Boulder County
Laurel Herndon, Immigrant Legal Center of Boulder County
Robin Menschenfreund, SAFE Exchange Program of St. Vrain Family Center
Anne Tapp, Safehouse Progressive Alliance for Nonviolence
Susan Spaulding, Community Relations Specialist, City of Longmont
Bob Norris, El Comité



Appendix C

Summary of Panelist and Witness Statements

Attendance: Approximately 50

Judge Gale Miller, Colorado Court of Appeals

Judge Miller, who is a member of the Colorado Access to Justice (ATJ) Commission, explained that there are still too many clients that are being denied legal services for lack of funding. Further, he stated that funding has drastically fallen since the last Commission report in 2008. This demonstrates the great need for increased funding of CLS, more pro bono attorneys, and policy initiatives to expand access to affordable legal services. He commended the efforts of self represented litigant coordinators, but noted that their help is limited to such things as explaining procedures and forms because they cannot offer legal advice. Despite the introduction of these coordinators and the expansion of pro bono programs throughout the state, the legal needs of thousands of prospective clients remain unmet.

Jon Asher, Executive Director, Colorado Legal Services (CLS)

Mr. Asher, a member of the ATJ Commission, presented an overview of CLS, an organization whose purpose is to provide meaningful access to high-quality legal services for the indigent. CLS was formed in 1999, and staffs 46 attorneys in 11 of its 14 offices. For statistics and other information from his presentation, please see Appendix A.

Joel Hayes, Managing Attorney, Boulder County Legal Services (BCLS)

Mr. Hayes explained that BCLS is the Boulder County arm of CLS. He is the only staff attorney in the BCLS offices. He described the need BCLS faces. BCLS represents about 400 people each year, another 200 each year through the pro se family law clinic, and advises about 200 more outside of court.

Some of the areas of need BCLS encounters include family law, housing cases, student loan problems, and consumer collections. The Boulder County Bar Association provides huge support through its pro bono program. However, the type of work that pro bono attorneys can offer is limited because of time

Justice Crisis in Colorado 2014

constraints and lack of expertise in certain fields of law. Despite the effort of BCLS staff, the local bar pro bono program, retired attorneys, and University of Colorado law students, BCLS still cannot meet the need.

Chris Jeffers, Boulder Attorney

Mr. Jeffers is an attorney in Boulder who has volunteered with BCLS since 1989. Mr. Jeffers explained that in the past everyone would get a lawyer if he or she qualified for one, but this policy has changed; the need is too great. As a solution, the pro bono clinic was developed. In the clinic, attorneys can volunteer their time and provide advice to clients without taking cases. Without having to take on a full case, attorneys are more able to provide much-needed legal advice to clients in need.

Mr. Jeffers critiqued the legal system's failure to handle immediate day-to-day issues in a timely manner due to the inadequate staffing of BCLS and the financial and other factors that limit access to legal services when all eligible persons should be entitled to get help.

Brandy Turner, BCLS Client

Ms. Turner, a resident of Boulder, explained her experience working with Mr. Jeffers at BCLS. Ms. Turner dropped her son off for a visitation with his father. The father disappeared with Ms. Turner's son. Without any resources to hire an attorney, she sought help from BCLS. Mr. Jeffers was able to obtain a protective order within a week and ultimately the return of her son from Canada. Ms. Turner expressed her gratitude for Mr. Jeffers's help, an important part of which was the understanding and emotional support he provided throughout the legal process. Ms. Turner concluded that she would never have been reunited with her son without the help of BCLS.

**Diana Poole, Executive Director,
Legal Aid Foundation of Colorado**

Ms. Poole, a member of the ATJ Commission, described the funding of legal aid in Colorado. Funding sources include COLTAF (Colorado Lawyers Trust Account Foundation), federal funding through the Legal Services Corporation (dependent on congressional appropriations), state funding (Family/Violence Justice Fund only), and the Legal Aid Foundation of Colorado. Because of cuts in federal and state funding and drastic reductions in funding

Appendix C

from COLTAF due to greatly reduced interest rates, emergency transfers have come in the last two years from the Supreme Court and the Attorney General's settlement of foreclosure litigation. Additional information from Ms. Poole's presentation is provided in Appendix B.

Chief Judge Maria Berkenkotter, 20th Judicial District

Chief Judge Berkenkotter asked the critical question: How do we deal with all the people who need an attorney but cannot afford one? Many of these individuals end up representing themselves. This causes delays in the court system and injustice; self-represented parties often do not know what is expected of them. In response, Chief Judge Berkenkotter explained that the court has implemented a number of measures, such as holding case management conferences to provide information to pro se parties and other programs through the Family Court Facilitator, as described below.

Debra Crosser, Clerk of Combined Courts, 20th Judicial District

Ms. Crosser provided statistical data concerning the number of divorce cases filed in Boulder District Court involving pro se parties. For example, in 2012, of 1,437 divorce cases filed, both parties were represented by counsel in only 280 cases, the petitioner was represented in 210 cases, and the respondent in 38 cases. In total, 2,066 parties appeared pro se in divorce cases in 2012, which constitutes 72 percent of all litigants in those cases. The percentage increased during the first nine months of 2013 to approximately 80 percent. Ms. Crosser stated that there are similar trends for other types of cases. She concluded that the unmet need for legal services in civil cases "is staggering."

Monica Haenselman, Family Court Facilitator, Boulder District Court

Ms. Haenselman helps pro se parties in the family court. She provides information and guides pro se litigants in such matters as filling out forms and scheduling hearings, but she is not able to provide strategic or legal advice. She also spoke of the Early Neutral Evaluation Program, which has been very successful at helping highly contentious parties settle. The program provides an initial meeting with volunteer attorneys and mental health professionals to give preliminary mediation and feedback. However, the program can only take a limited number of cases. Ms. Haenselman also described a federal grant to fund a program to help parent coordination and decision-making.

*Justice Crisis in Colorado 2014***Elizabeth Brodsky, 20th Judicial District Magistrate**

Magistrate Brodsky, a former CLS attorney, is the Domestic Relations Magistrate at the Boulder District Court. Ms. Brodsky underscored the tremendous need to help pro se parties, as many people are now unrepresented. She stated the need to collaborate and decide how best to use limited resources to help people navigate the legal system and provide them with adequate assistance.

Magistrate Brodsky also spoke of her efforts, with help from BCLS Pro Bono Coordinator Erika Martinez and BCLS Managing Attorney Joel Hayes, to set up a clinic to aid the mountain communities after the 2013 flood. She cited this undertaking as an example of the willingness of BCLS and local attorneys to respond to the need for legal services as well as an example of needed future collaborations.

Stanley Garnett, Boulder County District Attorney

Mr. Garnett described the statutory limits on the District Attorney Office's ability to provide pro bono help in the same manner as private attorneys. As a result, his office has been creative in approaching these problems. Mr. Garnett's main point was the need to help people avoid the legal system in the first place, so that they have no need for legal representation. He identified seniors, college students, the developmentally disabled, members of immigrant communities, and flood victims as groups who are most in need of legal services. In particular, student loan debt and consumer loan debt create problems for seniors and college students. Mr. Garnett's office has therefore started educational initiatives targeting each of these communities. Many people in these groups do not know when they need to use the legal system to solve their problems, or how to use it effectively.

Within the immigrant community, there can be a reluctance to talk to the police or authorities at all when there are problems with immigration status. This is a further barrier to access to justice for this community.

Mr. Garnett also addressed a potential problem in Boulder County of police stopping non-white drivers much more frequently than white drivers for reasons unrelated to bad driving. This problem can be measured through the number of tickets given for no driver's license or no proof of insurance, which is only known after a stop, without a driving-related ticket. When thinking about access to justice, how people enter the justice system and what happens to them once they get there is an important area to monitor and fix where there are problems.

Appendix C

Mary Jordan, Attorney, Immigrant Legal Center of Boulder County

Ms. Jordan is an attorney at the Center, a not-for-profit organization that provides legal services to the immigrant community. Ms. Jordan testified to the barriers the immigrant community faces when accessing the legal system: language, economics, and lack of knowledge about the legal system. She also noted that this group is extremely vulnerable, and can often face repercussions for coming forward and reporting crime. Ms. Jordan testified that although her organization's clients have access to immigration attorneys, there is a need for other legal services, such as family law, and the Center is working to partner with other groups to provide this. Because of restrictions imposed by federal law, undocumented immigrants are ineligible for CLS's services; as a result, their access to legal representation is even more restricted than that of other poor residents.

Laurel Herndon, Immigrant Legal Center of Boulder County

Ms. Herndon is the founder, Executive Director, and Managing Attorney of the Center. She spoke about the efforts of the state and federal systems to work together. She recently attended a roundtable hosted by the Department of Homeland Security office that discussed civil rights and civil liberties, focusing on immigrant communities.

Robin Menschenfreund, SAFE Exchange Program of St. Vrain Family Center (SVFC)

Ms. Menschenfreund is the Executive Director of SVFC, which provides SAFE Exchange Services for children 0-18 years and their parents. The program is the only non-profit agency providing on-site supervised parental visitation and exchanges, called "SAFE services," in Boulder County. These services greatly reduce abduction and domestic violence in high-conflict divorces. The program also often acts as a liaison to the judicial system, providing guidance in this difficult time.

Ms. Menschenfreund testified that SVFC is limited by space concerns, since all the visits and exchanges are on-site. Many of the parents are victims of domestic violence or suffer from substance abuse or mental health issues. Ninety-five percent of its clients are court-ordered to use the services. The fee for these services is determined by a sliding pay scale based on ability to pay, and SVFC works out payment plans with people. The fees range from \$10-\$50 an hour for supervised visits and \$5 for exchanges.

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Ms. Menschenfreund summed up SVFC's work as follows: "At the very least, we improve lives of children; at the very most, we save lives of children."

In response to a question, Ms. Menschenfreund stated that undocumented people may not use SVFC's services because they must provide documentation to determine the fee structure.

Anne Tapp, Safehouse Progressive Alliance for Nonviolence (SPAN)

Ms. Tapp is the Executive Director of SPAN. She testified that the bad news is that the number of people that need some level of legal assistance related to domestic or dating violence has gone up. These people often do not qualify for CLS, do not have the resources they need, or do not know what resources they need. The good news is that there is a large network of services available in the Boulder community.

SPAN provides legal advocacy for clients and helps them know where to turn and whom to trust. Ms. Tapp noted that there are more older women in shelter and in advocacy through the SPAN program than in the past. She noted that older women have different needs than younger women. Most of their resources are used to meet basic needs, and most of these women are impoverished. They are also often victims of domestic violence or sexual assault, or may be disabled. Ms. Tapp testified concerning the gaps that exist for SPAN's clients following issuance of dissolution of marriage decrees, as they continue to be harassed. Also, the legal system can be a tool used against them by their ex-partner.

Ms. Tapp also observed that the legal system as a whole is not finding ways to make services available to undocumented people, and that 30 percent of SPAN's clients are immigrants. Only a small percentage of that community is confident enough to reach out to enforcement agencies or the legal system. Less than 10 percent of SPAN's Latina clients have worked with them to obtain a divorce, because they do not have the legal resources to go through the divorce process and because they are worried about provoking their abusers. In contrast, about 25 percent of SPAN's white clients pursue divorce.

Ms. Tapp commended the District Attorney's office for making itself available to disenfranchised communities in creative ways, which has opened the door for SPAN's services in those communities.

Appendix C

Susan Spaulding, Community Relations Specialist, City of Longmont

Ms. Spaulding coordinates mediation services. She believes that mediation is extremely important because the court system is not necessarily the best place for many disputes. Providing and encouraging more mediation could help eliminate some of the gaps for the poor to access justice.

Ms. Spaulding testified that her office has provided mediation services in the areas of collections, family issues, landlord-tenant disputes, racial or cultural disputes, and neighbor-to-neighbor disputes. These services are available at eviction court each week, and where both parties are pro se, they are automatically referred to her program.

She spoke of the many programs they have created to help prevent disputes and offer access to vulnerable groups, including landlord training, tenant training, immigration information, recognizing housing discrimination, and helping Spanish speakers talk with police officers.

One area of need is mediation in post-divorce decree disputes, which her program does not currently offer.

Robert (Bob) Norris, El Comité

Mr. Norris is a member of the Board of Directors of El Comité, is a non-profit organization that works to improve relations between the Latino community and the community at large within Longmont and Boulder County, advocate for the rights of the Latino community, and address basic needs.

Mr. Norris testified that El Comité provides referrals to a number of pro bono attorneys. Recently it worked to overturn Colorado's version of Senate Bill 90 ("show me your papers"). El Comité is working toward an initiative that would allow undocumented people who meet certain criteria to get a driver's license. It also helped change the bail hearings process to make it less intimidating for the Latino community.

Mr. Norris explained that the Latino community comes from places where the justice system is very different, and people in that community often fear the system and don't know that it can work *for* them here. There is a need for education, particularly to advise them that they may be able to get help obtaining a visa if they assist with a criminal investigation.

Justice Crisis in Colorado 2014

Mr. Norris also spoke to the many legal issues facing this community, including wage and employment issues. An employer often has a lawyer and can speak English, and may take advantage of undocumented workers' inability to make claims that their employer is violating employment laws. The immigration process is also very complex: only attorneys are allowed to help with the process, and only certain attorneys have the needed expertise in this area. It is very important for non-citizens in the Latino community to pursue citizenship as soon as they are able, in order to access all the rights of citizens and have less to worry about when they come into contact with the legal system.

According to Mr. Norris, the attitude of the first person in the legal system whom a member of the Latino community encounters is key. The Boulder County courts' provision of self-help forms, bilingual staff, and information sheets in Spanish are positive steps. Also, the Boulder County legislators support El Comité's efforts to aid the Latino community.

Judge Miller's Closing Comments

Judge Miller thanked the panel and the witnesses, and he stressed the need to find more resources for providing essential legal services to the poor.



APPENDIX D

**Access to Justice Hearing
Centennial, Colorado
Arapahoe County Justice Center
September 24, 2013
6:00 p.m.**

**Sponsored by
The Colorado Access to Justice Commission**





Appendix D

Panelists at Centennial Hearing

Natalie Chase, Chair, 18th Judicial District Access to Justice Committee
Judge Charles M. Pratt, District Court, 18th Judicial District
Jonathan Asher, Executive Director, Colorado Legal Services
Robert Rowland, Chairman, Elbert County Board of County Commissioners
Deputy Sheriff David Walcher
Pat Steadman, State Senator (S-31)
Rhonda Fields, State Representative (HD-42)
Justice Gregory J. Hobbs, Jr., Colorado Supreme Court
Frank McNulty, State Representative (HD-43)
Su Ryden, State Representative (HD-36)
Mark Scheffel, State Senator (S-4)

Arapahoe County Access to Justice Hearing Witnesses

Fred Baumann, Chair, Colorado Access to Justice Commission
Dianne A. Van Voorhees, Executive Director, Metro Volunteer Lawyers
Patricia Trujillo, Metro Volunteer Lawyers, Legal Services Coordinator
Kevin Murphy, Metro Volunteer Lawyers, Family Law Court Program
Coordinator
Brandy Tulley, Metro Volunteer Lawyers, Program Coordinator
Mekela Goehring, Director, Rocky Mountain Immigrant Advocacy Network
(RMIAN)
David Rolfe, Coordinator, Douglas County Pro Se Clinic
Lucy Denson, Coordinator, Arapahoe County Pro Se Clinic
Lindsey Adams, Self-Represented Litigant Coordinator, Arapahoe County

Natalie Chase, Chair, 18th Judicial District Access to Justice Committee

Ms. Chase explained that the purpose of the Committee is to help pro se litigants navigate through the court system. The Committee has accomplished the following: it has presented 12 clinics a month for Arapahoe, Douglas, Lincoln and Elbert counties; started a veteran's court for the 18th Judicial District; started a mediation clinic for small claims court cases; and established an online resource center for all types of civil cases.

She reported that in Colorado, 60 to 65 percent of cases filed involve pro se litigants, many of whom are indigent and cannot afford an attorney. The trend is shifting from hiring an attorney to self-representation. The purposes of the

Justice Crisis in Colorado 2014

hearing are, first, to gather information, identify gaps, and identify specific needs in the 18th Judicial District and, second, to develop solutions to help the constituents of the 18th Judicial District.

Judge Charles M. Pratt, District Court, 18th Judicial District¹

Judge Pratt stated that one of the key issues important to Chief Judge William Sylvester is helping the disadvantaged and those struggling to protect their rights. Judge Pratt described a car wreck case with a pro se litigant to illustrate the problem that although a judge can help a pro se litigant along, a judge cannot give the pro se litigant legal advice.

Judge Pratt used statistics to demonstrate that the strain on judicial resources will increase as the population in the 18th Judicial District and the number of civil cases increase. The 18th Judicial District's objectives are to make courts more accessible to the public and determine what the court system can do to move cases along. He expressed concern that without improving the court system, the system may lose the public's confidence because the public cannot navigate, afford, or understand it.

Through various services, the 18th Judicial District is trying to simplify and realign the court process in order to streamline the court system and to save money and time. The challenges ahead include: sustaining efforts to rely on partnerships as the number of pro se litigants increases; helping pro se litigants who are having difficulty navigating the system even though the cases are factually and legally uncomplicated; and assisting the many litigants, including individuals and small businesses, who cannot afford an attorney.

**Jonathan Asher, Executive Director,
Colorado Legal Services (CLS)**

Mr. Asher, a member of the ATJ Commission, presented an overview of CLS, an organization whose purpose is to provide meaningful access to high-quality legal services for the indigent. CLS was formed in 1999, and staffs 46 attorneys in 11 of its 14 offices. For statistics and other information from his presentation, please see Appendix A.

Senator Mark Scheffel: Sen. Scheffel asked whether state funding had increased to about \$1 million.

Appendix D

Mr. Asher: In the last year, general fund appropriations increased from \$628,000 to \$1 million. In addition, \$170,000 has been appropriated based on a small surcharge on domestic relations filings.²

Senator Pat Steadman: Is there still an unmet need just within family violence services, which is the specific initiative by which the legislature has provided funding for legal services? You provide a much more broad scope of services, but is there specific money in the state budget on the family violence issue and are those dollars adequate?

Mr. Asher: Yes, and it's not adequate. People are potentially more sympathetic toward victims of family violence than toward people facing foreclosures and evictions. The general fund appropriation for family violence services limits whom CLS represents, but not with respect to the services provided. For example, a victim of family violence may face eviction or need food stamps. CLS can use the family violence appropriation to handle those civil legal problems for this individual, as long as she is a victim of family violence. There is greater need than what CLS is currently meeting.

Robert Rowland: Sixty-eight percent of the cases involve unrepresented litigants. Are there any statistics about how many of those cases either end up dissolving or might be frivolous, unfounded, or ill-advised to begin with? Is there any way that those cases can be vetted up front to avoid those mistakes?

Mr. Asher: There are two parts to that. One is that the state's effort to provide self-represented litigant coordinators will try to weed out meritless cases. Also, those litigants who proceed to court will be better prepared and the papers will be prepared in a way that the court can really rule on the matter. No doubt, some pro se litigants bring meritless cases. There are times when people cannot get a lawyer because they do not have the resources or they do not like lawyers and chose to go on their own. There are some situations where no reasonable lawyer would take the case. Some of those people get the message, and others might file cases on their own.

Judge Pratt: The courts very frequently get pro se filings that take an incredible amount of time for the judge to understand what the claim really is and whether the claim has any merit. Dealing with these cases is very inefficient and requires a huge use of judicial resources that could be better utilized.

Justice Crisis in Colorado 2014

Representative Frank McNulty: What is currently allocated to family violence services, and what's your estimate of the current unmet need?

Mr. Asher: We could probably use twice the current funding and still not meet all of the needs. Moreover, victims of family violence are not the only needy category of clients, but . that is the only category that receives state funding.

Patricia Crowe, CLS Client

Ms. Crowe contacted CLS for assistance with debt issues and was very pleased with the service it provided. She went through a foreclosure and was drowning in debt. CLS agreed to work with her if she would find stable employment, which she did. After being at the job for a year, she went back to the attorney at CLS, who then helped her resolve her debt issues, including working with a bank, which was threatening to garnish her wages. Ms. Crowe was very happy with her attorney at CLS. She said that he was very thorough and worked with her throughout the process.

**Fred Baumann, Chair,
Colorado Access to Justice Commission**

Mr. Baumann described the purpose of the Commission and then thoroughly discussed the sources of funding for CLS, including the federal Legal Services Corporation, Legal Aid Foundation of Colorado, Colorado Lawyers Trust Account Foundation (COLTAF), state funding, and other sources such as the legal community. Mr. Bauman explained that one of the major funding sources, COLTAF, has decreased dramatically over the past several years as it is dependent upon interest rates, which continue to be very low currently and are expected to continue to cause reduced funding in the future. Additional details of this presentation are included in Appendix B.

Judge Pratt: Is it a problem retaining dedicated lawyers at CLS?

Mr. Asher: The potential for budget cuts year over year hinders people from being able to plan for their career and make decisions.

*Appendix D***Dianne Van Voorhees, Executive Director,
Metro Volunteer Lawyers (MVL)³**

Ms. Van Voorhees explained that MVL matches volunteer attorneys with pro bono clients in the 18th Judicial District and other metro-Denver counties. Additionally, it recruits volunteer attorneys and coordinates law clinics.

Ms. Van Voorhees cited several areas of limitation in her work at MVL. First, there is a serious staffing issue. MVL only has four full-time staff to coordinate everything MLV does. Second, funding is limited. MLV receives no federal or state funding. All of its funding comes from the Denver Bar Association, the Arapahoe County Bar Association, and Colorado Bar Foundation, as well as COLTAF, grants, and individual donations. Funding constraints limit the amount of people that can be helped by its services. Last year, the MVL office managed 1,450 cases with help of 455 volunteer attorneys, but she feels they could do more with additional funding.

Courts rely heavily on MVL's services. Judges value MVL's work, as evidenced by the calls from individuals in chambers asking for referrals to pro bono attorneys. MVL attempts to help as many people as possible, but it is impossible to provide an adequate level of assistance without further funds and resources. Ms. Van Voorhees noted that everyone could help MLV by volunteering, supporting increased funding for CLS, donating, encouraging others to donate, and educating others about MVL.

Ms. Van Voorhees also showed a video clip about an MVL client's story. The client, Maria Nunez, is a single mother with two children, ages nine and fifteen. She was not receiving child support. Ms. Nunez heard about MVL from a friend and contacted it. MVL put her in contact with attorney Stephen Cook, who agreed to represent her. With Mr. Cook's assistance, Ms. Nunez was able to work out an acceptable agreement with the father. Ms. Nunez mentioned that she "felt like she was in the middle of a big support group." She also noted that MVL "has the ability to help people with real problems that can make a difference between success and failure in their lives."

Representative Rhonda Fields: In the 1,450 cases, are there any trends showing up?

Ms. Van Voorhees: MVL's numbers are similar to those of CLS. Family law is on top, but also bankruptcy, consumer issues, and probate.

Undersheriff David Walcher: Does MVL represent individuals incarcerated already? What are special obstacles to working with them?

Justice Crisis in Colorado 2014

Ms. Van Voorhees: Some clients end up incarcerated after referral. MVL works with clerks to get cases set over so attorneys can work with them.

Mekela Goehring, Director, Rocky Mountain Immigrant Advocacy Network (RMIAN)⁴

Ms. Goehring explained that RMIAN is a non-profit organization with eight full-time office staff. It provides free immigration services to those in removal (also known as deportation) proceedings, as well as to children with immigration issues. Ms. Goehring pointed out that immigration is a civil matter and that federal courts have held that only criminal defendants are entitled to counsel paid for by the government. Ms. Goehring elaborated that it has been 50 years since the U.S. Supreme Court decided *Gideon v. Wainwright*, which established the constitutional right of government-paid counsel for criminal defendants facing incarceration, and that she hopes we are approaching the day where there will be civil representation for those that need it. She explained that 84 percent of persons in detention are unrepresented, and more than half of the individuals in immigration proceedings are unrepresented. Typically, parties in these circumstances face opposing counsel from the Department of Homeland Security. Her presentation noted that immigrants with lawyers are five times more likely to win their cases.

RMIAN has two programs: a detention program and a children's program. Its detention program consists of "know your rights" presentations at the immigration detention center in Aurora, where there are 525 inmates at any given time. The detention program also refers cases to pro bono attorneys and conducts pro se workshops.

RMIAN's children's program represents children in immigration cases. The children's program conducts screening and assessment of immigrant youth; refers cases to pro bono attorneys; and provides education, training, and outreach services. Ms. Goehring informed the panel that 23,000 immigrant children will be placed in United States custody in 2013. She continued by stating that often children end up in immigration courts unaccompanied and unrepresented and that this is an injustice. Locally, 40 children per month are on the Denver Immigration Court Docket.

In addition to the detention and children's programs, RMIAN runs the "Human Trafficking Project," which screens potential survivors of human trafficking. This project works in collaboration with CLS.

Appendix D

David Rolfe, Coordinator, Douglas County Pro Se Clinic

The Douglas County Pro Se Clinic receives no funding from the state, and all involved with the clinic are pro bono volunteers. Most of the cases that come to the clinic are family law cases. The clinic has helped 420 people so far this year. Mr. Rolfe would like to organize classes for pro se clients on how the mechanics of litigation work. He pointed out that pro se litigants do not understand the process of courts and, as a result, they make errors. These errors cost the court valuable time. Mr. Rolfe elaborated further that it usually takes judges 30 minutes to instruct pro se litigants. He concluded by saying that he felt a classroom resource for instructing pro se litigants would be simple to set up and that he would like some funding to do so.

Lucy Denson, Coordinator, Arapahoe County Pro Se Clinic

The Arapahoe clinic is an informal network that has been in existence for approximately 16 years. Each Friday, volunteers help pro se litigants. Ms. Denson listed four main things people using the clinic need: (1) someone who will listen, (2) help with forms, (3) help with procedure, and (4) help with finding a lawyer when the pro se services are insufficient. The clinic provides a good screen for identifying when clients are in trouble and advising them to get help from a lawyer. She concluded her presentation by stating that “[lawyers] are the keys to the courthouse.”

Lindsey Adams, Self-Represented Litigant Coordinator (SRLC), Arapahoe County

Ms. Adams explained that the resource center opened in November 2012 and features five public computers, a printer, and a selection of pamphlets. It is open 7:30 a.m. - 4:30 p.m. Ms. Adams has seen over 1,300 people, but counting those who only use the resources, this number would probably double. The center is also accessible by telephone and e-mail, which provides assistance for those with limited mobility.

Ms. Adams sees all case types, but mostly domestic relations cases, which make up over 75 percent of her contacts. The average wait time to talk to her is roughly one minute, and the average amount of time she spends with pro se litigants is 11 minutes. There are 20 SRLCs throughout the state who are working together to develop frequently asked questions, a glossary of terms, and informational videos.

Justice Crisis in Colorado 2014

Overall, Ms. Adams thinks this has been a very rewarding and exciting experience.

Justice Hobbs: Is this making a difference to the judges?

Audience answer from Magistrate: Absolutely, yes. It saves a tremendous amount of judicial resources.

Judge Pratt: When I get pro se Rule 120 Foreclosures, I send them out the door and down to Lindsey.

Rep. McNulty: The bulk of these cases are in domestic relations. In the short time you have, are you able to understand any of the underlying reasons or do you see any consistency for why they are pro se?

Ms. Adams: There are a lot of emotional factors. The packet is so overwhelming; a lot of what I do is just telling people how to get started. Going over this with someone helps calm him or her.

Rep. McNulty: Do you ever have the experience where they decide that this is not the route they want to take?

Ms. Adams: A very common question is, "What if I change my mind?"

Justice Hobbs: Isn't it part of your job to direct them to other resources?

Ms. Adams: Absolutely. We have developed lots of resources, and often I just refer them to pamphlets and explain the services.

Rep. McNulty: Are you able to refer these types of matters to counselors or only legal services?

Ms. Adams: I can suggest CLS, Metro Volunteer Lawyers, or clinics, and some referral services online, but I cannot refer them to a specific group or person.

Mr. Rowland: What is your experience? Are you an attorney?

Ms. Adams: No.

Follow-up Question: Are there any criteria for those who can come to your window?

Appendix D

Ms. Adams: Absolutely not. Anyone can come. I see a whole range of people.

Justice Hobbs: Don't we need resources like mediation included?

Mr. Rolfe: Elbert has a mediation clinic each month with voluntary attorney mediators. Their settlement rate is about 50 percent.

Mr. Rowland: All attorneys as mediators?

Mr. Rolfe: Yes, both are.

Mr. Rowland: Could you increase the pool by allowing non-lawyers?

Mr. Rolfe: We take anyone who volunteers.

Public Questions/Comments

Nancy Jackson (Arapahoe County Commissioner): There are a number of really excellent programs here tonight, and one of the issues mentioned frequently is the funding problem. Can the panel address how can we make this sustainable and not just a patchwork of grants?

Sen. Steadman: We are proud of the work we did to increase funding. One thing to understand is that we approved the budget request for creating the SRLCs, which was entirely funded through judicial branch funding. The problem is if we use filing fees to fund these initiatives, if we keep adding surcharges to access the justice system it will increase the barriers. Right now, the taxpayers are not paying; the users are paying.

Judge Pratt: It is not infrequent to have someone come in who wants to fight a lawsuit but who does not qualify for help and who does not have a couple hundred dollars to pay filing fees.

Natalie Chase Closing Comments:

Ms. Chase thanked the audience for attending. She stated that she hoped the audience learned something new, and that the audience leaves learning how to better help the constituents of the 18th Judicial District.



Justice Crisis in Colorado 2014

NOTES

1. Judge Pratt's slides are at the end of this Appendix D.
2. For a comparison of state funding in prior years, see Appendix B-2.
3. Dianne Van Voorhees' slides are at the end of this Appendix D.
4. Mekela Goehring's slides are at the end of this Appendix D.

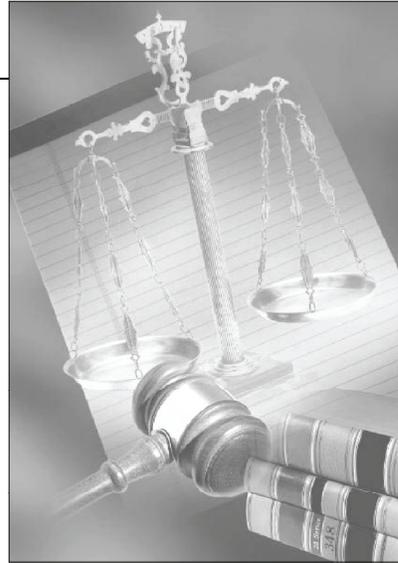


Appendix D

**ACCESS TO JUSTICE
HEARING**

**JUDGE
CHARLES M. PRATT**

**DISTRICT JUDGE
18TH JUDICIAL DISTRICT**



18th Judicial District

Arapahoe, Douglas, Elbert & Lincoln Counties

**ACCESS TO JUSTICE
HEARING**

In 2013, about 85,000 persons
in the 18th Judicial District
are living at, or below the poverty line

US Census Bureau data 2007 – 2011
<http://quickfacts.census.gov/>

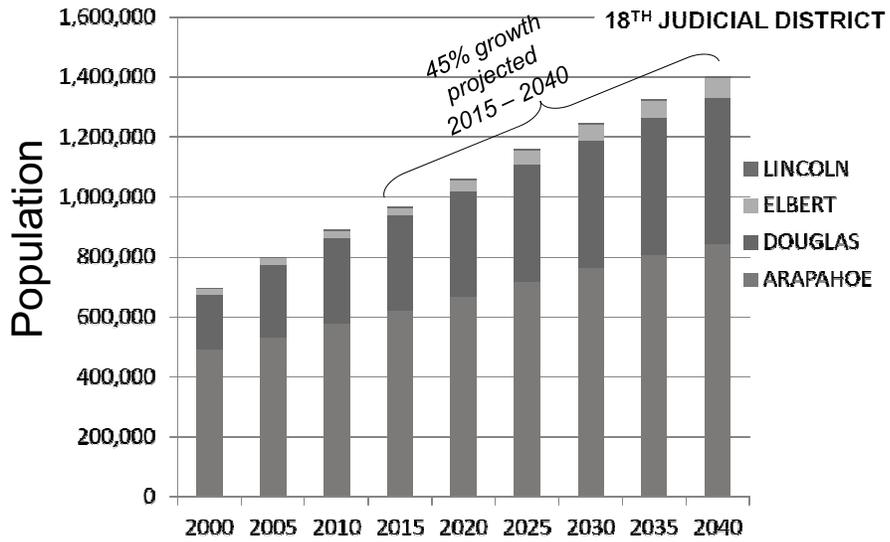
For one person, that's **\$1,164/mo** or **\$13,968/yr**
For a family of four, that's **\$2,401/mo** or **\$28,812/yr**

Chief Justice Directive 04-06 March 2013
Income Guidelines Amended Jan 2013
See: Federal Register (78FR5182, 01/24/2013)



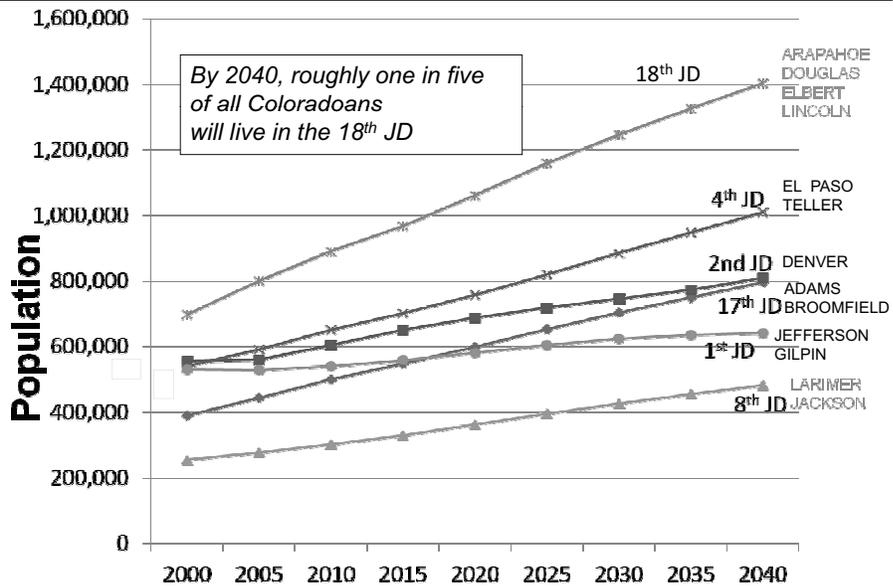
Justice Crisis in Colorado 2014

ACCESS TO JUSTICE HEARING



Data from Office of the State Demographer
2012 Population Estimates; State of Colorado

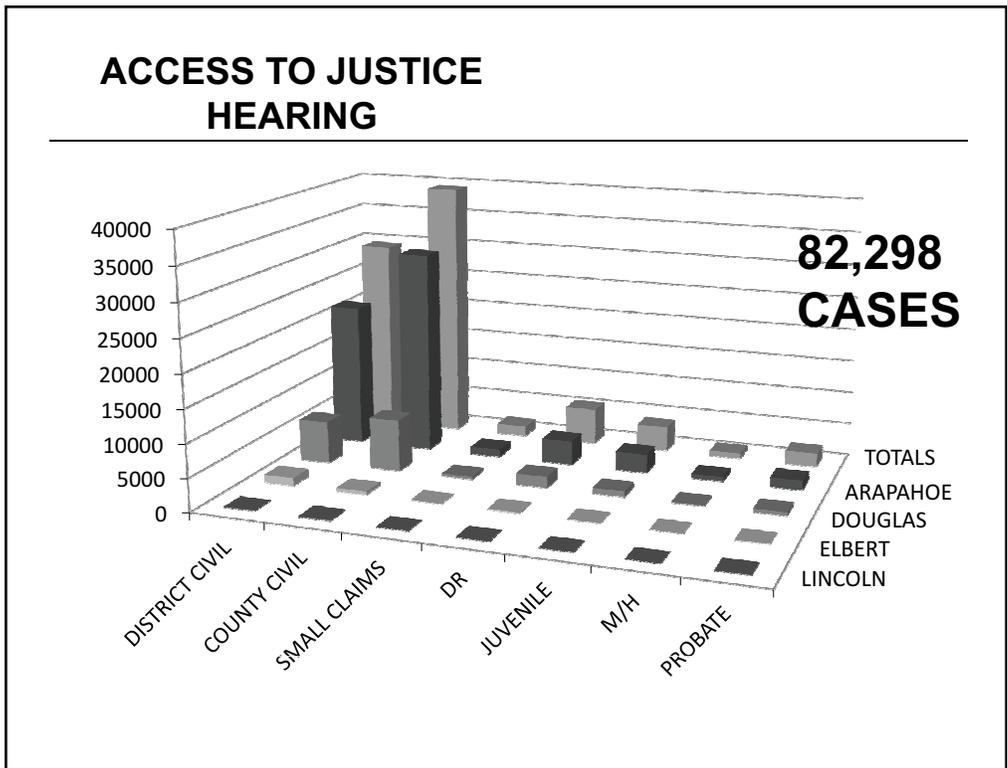
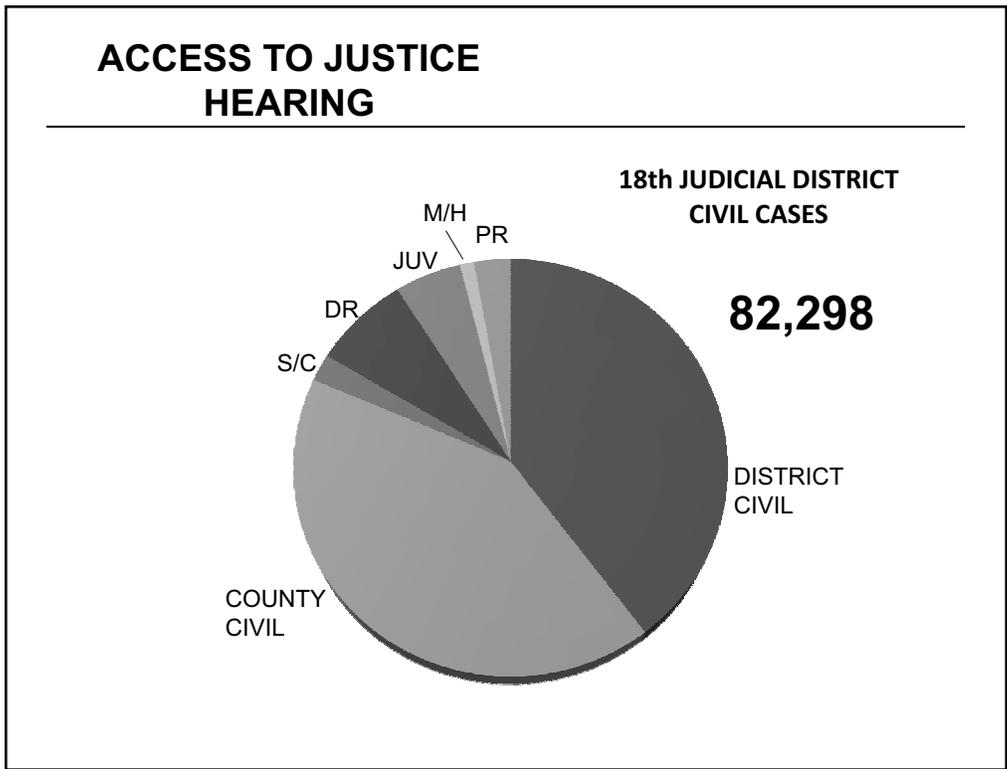
ACCESS TO JUSTICE HEARING



Data from Office of the State Demographer
2012 Population Estimates; State of Colorado



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Justice Crisis in Colorado 2014

**ACCESS TO JUSTICE
HEARING**

- PRACTICAL EFFECT OF HAVING NO REPRESENTATION

- OBJECTIVE: ACCESS TO JUSTICE
+
FACILITATION OF
CASE MANAGEMENT PROCESS

**ACCESS TO JUSTICE
HEARING**

WHY IS THIS IMPORTANT

“the public will not long entrust its confidence to a system of justice it often cannot navigate, afford or understand”

Chief Justice Broderick, NH Supreme Court 2008

Self-represented litigants are a permanent and growing portion of the court’s user base



Appendix D

**ACCESS TO JUSTICE
HEARING**

WHAT IS THE 18TH JUDICIAL DISTRICT DOING ABOUT IT?

- COORDINATED EFFORT TO REMOVE BARRIERS TO CIVIL JUSTICE WITH A CORE RELIANCE ON COURT-BASED, STAFFED, SELF-HELP CENTERS
- COLLABORATIVE RELIANCE ON PARTNERSHIPS AMONG THE COURTS, LEGAL SERVICES PROGRAMS, LOCAL BAR ASSOCIATIONS, AND OTHER AGENCIES TO PROVIDE A COMPREHENSIVE RANGE OF SERVICES

**ACCESS TO JUSTICE
HEARING**

WHAT IS THE 18TH JUDICIAL DISTRICT DOING ABOUT IT?

- COORDINATED EFFORT TO REMOVE BARRIERS TO CIVIL JUSTICE WITH A CORE RELIANCE ON COURT-BASED, STAFFED, SELF-HELP CENTERS
- COLLABORATIVE RELIANCE ON PARTNERSHIPS AMONG THE COURTS, LEGAL AID, LOCAL BAR ASSOCIATIONS, AND OTHER AGENCIES TO PROVIDE A COMPREHENSIVE RANGE OF SERVICES

Justice Crisis in Colorado 2014

**ACCESS TO JUSTICE
HEARING**

WHAT IS THE 18TH JUDICIAL DISTRICT DOING ABOUT IT?

- **SIMPLIFICATION & RE-ALIGNMENT
OF COURT PROCESSES**
*Efficiencies in court process produce
derivative efficiencies in the cost of counsel*
- **CHANGES IN HOW CLERKS INTERACT
WITH SELF-REPRESENTED LITIGANTS**
- **COURTHOUSE TRAINING TO ASSIST
SELF-REPRESENTED LITIGANTS**

**ACCESS TO JUSTICE
HEARING**

WHAT IS THE 18TH JUDICIAL DISTRICT DOING ABOUT IT?

- SELF-HELP CENTERS
- LOCAL BAR ASSOCIATION ONE-ON-ONE CLINICS
- SELF-REPRESENTED LITIGANTS COORDINATORS (SRLC)

ARAPAHOE	DOUGLAS	ELBERT	LINCOLN
<u>SRLC + SELF HELP CENTER</u> <i>IN THE COURTHOUSE FIVE DAYS A WEEK</i>	<u>SRLC + SELF HELP CENTER</u> <i>IN THE COURTHOUSE FIVE DAYS A WEEK</i>	<u>Pro Se Clinics</u> Monthly	<u>Pro Se Clinics</u> Monthly
<u>Pro Se Clinics</u> Every Friday	<u>Pro Se Clinics</u> Every Friday	<u>Lawyers at the Library</u> Monthly	<u>Lawyers at the Library</u> Monthly
<u>Family Law Court Program</u> Monthly	<u>Family Law Court Program</u> Monthly		

Appendix D

**ACCESS TO JUSTICE
HEARING**

WHAT IS THE 18TH JUDICIAL DISTRICT DOING ABOUT IT?

- EDUCATIONAL TOOLS TO ASSIST BETTER ACCESS
 - PLAIN-LANGUAGE BROCHURES
 - ON-LINE COURT FORMS

- LANGUAGE ASSISTANCE IN THE COURT ROOM

- SPECIALTY COURTS
 - *SPECIALTY COURTS ARE A MODEL OF INTER-AGENCY COLLABORATION, WHICH ALSO FACTORS PROMINENTLY IN CIVIL JUSTICE ISSUES*

**ACCESS TO JUSTICE
HEARING**

WHAT ARE THE CHALLENGES AHEAD?

“Meeting the civil justice needs of poor and vulnerable people is a joint responsibility of both the public and private sectors. Civil justice needs must be met by a mix of individuals, institutions, and organizations working together”

Chief Justice Ronald Moon, Hawaii Supreme Court, 2005

**There is broad consensus
on the need for a comprehensive solution**



Justice Crisis in Colorado 2014

**ACCESS TO JUSTICE
HEARING**

WHAT ARE THE CHALLENGES AHEAD?

- A SUSTAINED EFFORT, RELYING ON PARTNERSHIPS

Court rooms are experiencing a steady increase in numbers of self-represented litigants, and that trend will continue

“The great majority of cases involving self-represented litigants are factually and legally uncomplicated, yet many litigants in these simple cases struggle to navigate through an unfamiliar and procedurally complex system.”

Access to Justice Report; Owen et al; 2001

**ACCESS TO JUSTICE
HEARING**

**DIANNE VAN VOORHEES
EXECUTIVE DIRECTOR**

**METRO VOLUNTEER
LAWYERS**



18th Judicial District

Arapahoe, Douglas, Elbert & Lincoln Counties





Appendix D



Metro Volunteer Lawyers

A Department of the Denver Bar Association
supported in conjunction with the
Adams/Broomfield, Arapahoe, Douglas/Elbert,
and 1st Judicial Bar Associations



History

- MVL was established in 1966 by a group of young Denver Bar Association lawyers. It was known then as the "Thursday Night Bar Program," because the founding volunteer attorneys met with clients each Thursday evening at Legal Aid offices in northwest Denver or in the Five Points neighborhood.
- Approximately twenty attorneys volunteered in the first year. The efforts of these original lawyer participants continued and strengthened a long tradition of volunteerism and public service by lawyers all across Colorado. TNB. was renamed Metro Volunteer Lawyers in 1998, to reflect the program's growth and expansion.



Justice Crisis in Colorado 2014

MVL Staff



- Patricia Trujillo, Legal Services Coordinator
- Dianne A. Van Voorhees, Executive Director
- Kevin Murphy, Family Law Court Program Coordinator
 - Brandy Tulley, Program Coordinator



Our Partners

- Colorado Legal Services
- Volunteer Attorneys and Paralegals
- Post-Decree Clinic Partner/Sponsors:
 - Holland & Hart
 - Faegre, Baker, Daniels
 - Pelegrin Radeff & Frazer-Abel
 - Polidori, Franklin & Monahan, L.L.C.
 - Office of the Attorney General
- Denver Bar Association, Adams/Broomfield Bar Association, 1st Judicial Bar Association, Douglas/Elbert Bar Association, Arapahoe Bar Association
- Colorado Bar Association and Colorado Continuing Legal Education
- Our donors and supporters



Appendix D

HOW DO WE SERVE?

- **WE CONNECT ELIGIBLE CLIENTS WITH VOLUNTEER ATTORNEYS.**
- **WE RECRUIT VOLUNTEER ATTORNEYS.**
- **WE COORDINATE AND MANAGE LAW CLINICS.**
- **WE COLLABORATE WITH COMMUNITY PARTNERS TO PROVIDE PRO BONO LEGAL SERVICES TO THE NEEDY.**

WHO WE SERVE

- **PEOPLE WITH LOW OR NO INCOME WHO NEED LEGAL ASSISTANCE FOR:**
 - **FAMILY LAW MATTERS**
 - **DEBTS, BANKRUPTCY, CONSUMER ISSUES**
 - **ESTATE PLANNING, PROBATE**
 - **IMMIGRATION**
 - **TORT DEFENSE**
 - **LANDLORD/ TENANT**
 - **AND TAX ISSUES**
- **JUDGES, MAGISTRATES, AND COURT STAFF**
- **ATTORNEYS**
- **PARALEGALS**
- **STUDENTS AND OTHERS WHO WANT TO GAIN HANDS-ON EXPERIENCE WHILE SERVING THE COMMUNITY**



*Justice Crisis in Colorado 2014***FUNDING Differences****– Colorado Legal Services**

- Federal (Legal Services Corp)
- State
- Legal Aid Foundation
- Grants
- Individual Donations

– Metro Volunteer Lawyers

- Denver Bar Assoc/Foundation
- IN KIND (CLS)
- Local Bar Assns
- COLTAF
- Grants
- Individual Donations

Eligibility Guidelines for MVL Clients

Applicants are screened based on income:

- Gross family income within 125% of federal poverty guidelines (200% with exceptions).
 - For an individual: **\$14,363** annually.
 - For a family of four, gross annual income cannot exceed **\$29,438**.

Perspective: Colorado minimum wage is \$7.78/hour. An hourly rate of \$7.78 equates to a weekly pay of \$311, monthly pay of \$1,349, and an annual salary of \$16,182.

Appendix D

How Do People Apply?

If you live in Adams, Arapahoe, Broomfield, Denver, Douglas, Elbert, Gilpin, and Jefferson counties,

you MUST first call the Denver office of Colorado Legal Services (CLS) at 303-837-1313 to get help.

- Members of the CLS staff will conduct a telephone intake interview with you to determine whether you are financially eligible, and whether your case is the kind we can take.
- If you are eligible for our assistance, CLS will send us the information you provide in the intake process. Then, one of our staff members will work to find you a volunteer lawyer to represent you, and you will be contacted by our staff or that lawyer.

Client Examples

- Maria is a mother of two, ages 15 and 9. In the end, her parenting plan and child support issues were settled and made an order of the court. She credits MVL and her volunteer attorneys with making that possible.

[a metro volunteer lawyers client success story 6 40x360.mp4](#)

Justice Crisis in Colorado 2014

- Tyrone Cheeks
 - After his father passed away, he and his brothers got behind on the mortgage. Real estate “investors” conspired to take the family home and all of its equity. Tyrone’s MVL volunteer lawyers defended him against eviction and won the return of the home’s title to the estate.

Volunteer Attorneys

- **455** Volunteer Attorneys took cases in 2012
- **1450** Cases handled through MVL Programs



Appendix D



Volunteers get into Court and help people in need.

**That's 455 attorneys
for 1450 clients.**

Justice Crisis in Colorado 2014

We cannot help everyone who comes to us.

- The demand for our help is HUGE. We must assist clients on a first come first served basis.
- We limit the types of cases that we will accept.
- We do not always have enough volunteer attorneys to take cases *when clients need them*. (i.e. evictions)
- We do not always have volunteer attorneys who will take specific types of cases, even if our program accepts those types of cases. (probate contests, non-English speaking, guardianship contests, etc. are examples of cases that are tough to place)

How You Can Help

- Volunteer
- Donate
- Support funding for CLS and the courts
- Encourage others to volunteer
- Educate others about MVL and what we do
- Recognize and thank our volunteers



Appendix D

Please contact us:

Dianne A. Van Voorhees, Esq.

Executive Director

(303) 866-9378

Diannev@denbar.org

Brandy Tulley
Program Coordinator

(303) 866-9311

Btulley@denbar.org

Kevin D. Murphy, Esq.
**Family Law Court Program
Coordinator**

(303) 866-9375

Kevin@denbar.org

**ACCESS TO JUSTICE
HEARING**

MEKELA GOEHRING

**DIRECTOR,
ROCKY MOUNTAIN
IMMIGRANT ADVOCACY
NETWORK
(RMIAN)**



18th Judicial District

Arapahoe, Douglas, Elbert & Lincoln Counties

*Justice Crisis in Colorado 2014***RMIAN'S WORK**

- RMIAN is a non-profit organization that offers free immigration-related legal services to individuals in immigration detention in Colorado and to children who have been victims of abuse, abandonment, or other violence.
- **Contact information:**
(303) 433-2812
www.rmian.org

**NO RIGHT TO APPOINTED COUNSEL IN
IMMIGRATION PROCEEDINGS**

- Generally, federal courts have held that only criminal defendants are entitled to appointed counsel
- An immigration case, even if it involves detention, is a civil matter
- As a result, the vast majority of individuals, including children, are forced to represent themselves
- More than half of individuals in immigration proceedings are unrepresented, including 84% of those in detention
- However, a recent case from the U.S. District Court for the Central District of CA, *Franco-Gonzalez v. Holder*, ordered ICE, the AG, and EOIR to provide legal representation to immigrant detainees with mental disabilities who are facing deportation and unable to adequately represent themselves in immigration hearings.

Appendix D

IMPORTANCE OF COUNSEL

- 2011 study found that immigrants with lawyers are five times more likely to win their cases than those without
- Deportation or removal proceedings have grave consequences, including removal to a country where an individual may face harm or even death; separation and banishment from family, friends, and community; loss of livelihood, property, or “all that makes life worth living.”
Ng Fung Ho v. White, 259 U.S. 276 (1922)
- Complexity of immigration law

IRMIAN'S DETENTION PROGRAM

- Gives know your-rights presentations to everyone at the immigration detention center in Aurora before their first hearings with the immigration court
- Conducts individual intakes for those who are unrepresented and want information specific to their cases
- Refers cases to pro bono attorneys
- Provides pro se workshops and individual pro se support



Justice Crisis in Colorado 2014

DETENTION PROGRAM CONT'D

Removal Proceedings

- Removal proceedings are the primary mechanism the government can seek to effect the removal, or deportation, of a noncitizen
- Non-citizens may be detained pending a removal proceeding
- ICE/GEO detention facility in Aurora, CO holds over 525 men & women at any given time
- Isolation, detention conditions, and lack of access to family, documents, attorneys create often insurmountable barriers for individuals, even if they are eligible for relief
- The U.S. government detained and deported approximately 380,000 people in immigration custody in FY 2011 in a hodgepodge of about 350 facilities at an annual cost of more than \$2.5 billion.
- Detention Watch Network: <http://www.detentionwatchnetwork.org/>

DETENTION PROGRAM:

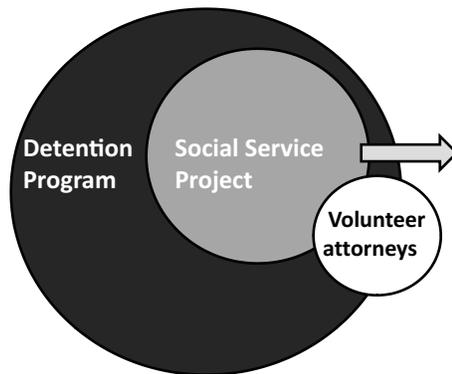
Who can be detained by ICE and placed in removal proceedings?

- Person with a student visa?
- Person with asylum or refugee status?
- Lawful Permanent Resident (person with a “green card”)?
- Victims of domestic violence?
- Victims of human trafficking?
- Undocumented person?
- U.S. citizen?

- Common claims for relief:
 - Challenging removability
 - Cancellation of removal
 - U.S. citizenship claims
 - Protection under the Violence Against Women Act
 - Family-based adjustment of status
 - Refugee adjustment of status and waivers
 - Asylum, withholding of removal, convention against torture
 - U & T Visas

Appendix D

RMIAN'S SOCIAL SERVICE PROJECT



- Mission: Provide holistic support to particularly vulnerable immigrant adults (history of mental illness or trauma, disability, etc.)
- Visit detained clients every 1-2 weeks; non-detained as needed
- Support legal cases: gather documents; prepare declarations, testimony; arrange psychological and medical evaluations
- Reduce re-traumatization
- Address mental health needs
- Plan post-release services
- Monitor detention conditions

RMIAN'S CHILDREN'S PROGRAM

- Provides case screening & assessment to immigrant youth
- Directly represents children in their immigration cases
- Refers children's cases to pro bono attorneys
- Provides education, training, & outreach throughout Colorado on immigration law and its importance for youth

CHILDREN'S PROGRAM: Types of cases

- Affirmative applications vs. applications in removal proceedings
- Most common types of cases
 - Special Immigrant Juvenile Status
 - U Visas
 - Asylum
 - Adjustment of Status
 - Deferred Action for Childh



INCREASING NUMBERS OF UNACCOMPANIED CHILDREN

- U.S. government officials estimate that 23,000 unaccompanied minors will be placed in U.S. custody in fiscal year 2013
- Nearly 14,000 unaccompanied minors were placed in U.S. custody in 2012
- Huge increases in Denver Immigration Court's Children's Docket (now 40 children every month)



Appendix D

HUMAN TRAFFICKING PROJECT

RMIAN screens potential survivors of human trafficking through the Detention Program and Children's Program, provides outreach about human trafficking to service providers, and coordinates legal assistance for trafficking survivors.

Statewide 24/7 Trafficking Hotline: 1-866-455-5075

National 24/7 Trafficking Hotline: 1-888-3737-888







APPENDIX E

**Access to Justice Hearing
Colorado Springs, Colorado
El Paso County Justice Center
October 10, 2013
2:00 p.m.**

Sponsored by

**The Colorado Access to Justice Commission
and the Pikes Peak Pro Bono Project**





Appendix E

Colorado Springs Access to Justice Hearing Panelists

Justice Gregory Hobbs, Colorado Supreme Court
 Gilbert Martinez, Chief Judge, El Paso County District Court
 Yolanda Fennick, President, El Paso County Bar Association
 Melissa Hart, Professor, University of Colorado School of Law and member,
 Colorado Access to Justice Commission
 Mark Waller, State Representative (HD-15)
 Tony Exum, State Representative (HD-17)
 Pete Lee, State Representative (HD-18)

Colorado Springs Access to Justice Hearing Witnesses

Jon Asher, Executive Director, Colorado Legal Services
 Theresa Kilgore, Managing Attorney, Colorado Legal Services, Colorado
 Springs
 Lucy Lawson, CLS client
 Fred Baumann, Chair, Colorado Access to Justice Commission
 Judge Doug Miles, County Court, El Paso County
 Judge Tim Schutz, District Court, 4th Judicial District
 Lisa Younger-Anderson and Eric Burton, Self-Represented Litigant
 Coordinators, 4th Judicial District
 Don Campbell, CLS volunteer attorney and retired district judge, 4th Judicial
 District
 Erica Fessler, Pro Bono Coordinator, Pikes Peak Pro Bono Project

Jon Asher, Executive Director of Colorado Legal Services (CLS)

Mr. Asher discussed the current state of CLS. Compared with 1980, CLS now has half as many paid staff members. For details, see Appendix A.

Question: Where do people go whom you turn away?

Response: The CLS website or the self-represented litigant coordinators.

Question: How do you decide which potential clients to represent?

Response: The maximum annual income to be eligible for services is \$29,500 for a family of four. Many more people fit this requirement and need help than CLS can provide with services, so it becomes a triage

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scenario: CLS takes those people who are in an immediate physical threat, those facing eviction from subsidized housing, and those who have an immediate need for disability benefits. Those who can wait for a pro bono attorney are referred to pro bono programs. But these resources vary greatly by area, and many eligible clients just end up getting handed a pamphlet.

Question: With limited funds, what should the legislature do?

Response: A combination of public and private resources, reducing need, increasing pro bono assistance and looking at a variety of things that Fred Baumann will address, but it has to be a combination of public and private resources. We've lost a lot of funding, and last year we got more state funding, which we're grateful for.

Theresa Kilgore, the managing attorney at the CLS Colorado Springs office, related the history of the office. In April 1954, the Legal Aid Society of the El Paso County Bar hired its first attorney at \$200/week. So, next year will be the 60th anniversary of free legal services for the indigent in El Paso County. Although El Paso County has the largest population in the state, the CLS office has a small staff consisting of 3.6 attorneys, 2 paralegals, and 3 support staff. It receives an average of 45 applications per week. Out of these, approximately 24 new cases are opened each week. As a result, it is a struggle to decide who can be helped. "The emergency list is now the regular list," Ms. Kilgore explained. The dedicated and experienced staff is amazing at working under these conditions, she said. Ms. Kilgore ended by quoting Justice Powell: "Equal justice under law is not merely a caption on the façade of the Supreme Court building; it is perhaps the most inspiring ideal of our society. It is one of the ends for which our entire legal system exists . . . it is fundamental that justice should be the same, in substance and availability, without regard to economic status."

Lucy Lawson, a Colorado Springs CLS client, spoke about her experience going through a divorce and the indispensable help that she received from CLS. When her husband of 20 years started hitting her and her nine-year-old son, she called the police. She was first referred to TESSA, a community nonprofit organization that assists victims of domestic violence, and then to CLS. They helped her to get a temporary restraining order. As she waited to get a permanent restraining order, CLS enabled her to return home (her husband had changed the locks on the doors). She continued, "If it wasn't for legal services, I don't know where I'd be today. They helped me with everything. If people knew what their options were, many people in my situation would get out

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sooner or know that there is help out there, 'cause I was stuck for 20 years. I'm just thankful where I am at right now and it's been four months since this incident happened and it's a lot different. It's easier than I thought it was going to be."

Fred Baumann, a private attorney in Denver and chair of the Access to Justice Commission, spoke about the Commission's accomplishments over the past five years, the distribution of funding sources, the immediate threat of underfunding, and how Colorado compares with other states in this area. See Appendix B for details.

Judge Doug Miles, a county court judge for El Paso County and former career district attorney, spoke about the need for systemic changes rather than just financial ones. He explained that day after day he reviews heartfelt answers written by pro se litigants. They're heartfelt, they're clear, but they are not legally sufficient. The court's response is often to enter a judgment on the pleadings against the pro se litigants. He mentioned that it would be helpful if the CLS website could better explain what is important to say in a legal response, and explain the difference between a legal response and a more informal letter. Judges can only help in very limited ways.

Judge Miles went on to talk about his experience as a national consultant on domestic violence. This gave him insight into how other states fund and manage resources in this area. He thinks there should be a family violence fund established in Colorado. Many states have implemented surcharges on domestic cases, protection orders, and criminal cases which are funneled into a fund to provide victim services in the state. Without a lot of support and victim services, victims of domestic violence often don't have access to the system; they often don't appear to testify in court. He concluded by mentioning his belief that crime victims should be able to make an informed independent judgment about whether they want to participate in the system. They should be able to respond to inquiries from both sides without fear of retaliation, and there should be adequate funding so that they receive help with the parallel processes (divorce, protection orders, etc.) that often go along with related criminal cases.

Judge Tim Schutz, a 4th Judicial District judge, spoke briefly about the extraordinary job that the El Paso County Bar Association has done to try to meet the need for legal services and increased funding. He said he was proud of the private bar's very engaged spirit in Colorado. It's remarkable how the private bar recognizes its responsibility on the fiscal side of things. He is also proud that the El Paso County Bar is one of the

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few that has established a separate pro bono coordinator position, in part to assist moderate income people who don't qualify for CLS assistance.

Erica Fessler, the pro bono coordinator for the Pikes Peak Pro Bono Project, spoke about the things she has noticed in her first month in that position. Her job entails reviewing applications for pro bono services and the bar association's Modest Means Program. The Modest Means Program pairs clients of limited means with attorneys willing to work at a reduced rate for a wide variety of legal matters. The bar association also runs Ask-A-Lawyer and Call-A-Lawyer programs. These clinics help some people who wouldn't otherwise be eligible for pro bono services. As for the pro bono program, Ms. Fessler has received 114 applications in the month that she has worked in the coordinator position. She has successfully placed 15 of these with attorneys. Sixty percent of the cases are family law issues. The second highest type is bankruptcies. She suggested thinking outside of the box to get attorneys to take on pro bono cases and offered a few ideas: recent bar members should be recruited (young attorneys could be helped to find their passion through pro bono work); there could be a mentorship program pairing young attorneys with more established attorneys, and there could be more emphasis on administrative support through volunteer paralegals and assistants.

Don Campbell, a retired judge and frequent CLS volunteer, gave an on-the-ground perspective of what pro se clients need when they come to him. He explained why he doesn't like to think of it as "access to justice," but rather, "access to the law." Justice is ephemeral, and this is a question merely of accessing the legal system. Providing folks with access to the law requires sophistication, integrity, and experience. Most clients are poor, disabled, or elderly. They are often at risk, many haven't graduated from high school, and they frequently have difficulty understanding legal procedure.

Mr. Campbell also warned against relying too much on technological fixes to social problems. The great strides taken in providing forms on the Internet do not help the kind of people who look at the words, "file a case," and have no idea what this means or where to begin. Thus, just putting the information out there doesn't solve the problem. Another reason it is a question of "access to the law" is that anyone who appears pro se in court against a lawyer is at a severe disadvantage. A judge can do his or her best to erase this disadvantage, but he or she is supposed to be impartial and can't become counsel for the unrepresented client. As a volunteer, you are often helping people dealing with a lot of debt. They don't know what their rights are under the law. They are abused

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and taken advantage of by creditors and others. It is important just to have people available to explain to low-income litigants their legal rights.

Colorado Springs is lucky to have some volunteers, but they can't provide the certainty and continuity of advice that clients need. He stressed the need for experienced and competent paralegals and other support staff, who can interact daily with clients and make things run consistently and efficiently.

Mr. Campbell closed with an anecdote: "The best thing that happens to me is when someone comes in who is about to be sued or get evicted — most of these folks are going to have a judgment against them. Simply sitting down and talking to them and explaining the procedure removes a lot of their fear. People are afraid of judges, of lawyers, and they think the legal system is sneaky. They just need someone to sit down and explain it to them. Suddenly they have the power to stand up in court and say, 'My lawyer told me . . .' All of a sudden, they have been assisted; they had access to the law."

Lisa Younger-Anderson and **Eric Burton**, self-represented litigant coordinators in El Paso County, discussed the challenges they have faced since their office opened in January 2013. In short, they have been overwhelmed. In the first nine months, they have met in person with 1,759 pro se litigants, more than 10 per day. The people who meet with them have no idea what to do. They need help understanding the court process and filling out paperwork.

The coordinators described a normal day. When they arrive at 8 a.m., there are people waiting outside the door. Before they even power up their computers, they are already working with pro se parties. The simplest help can go a long way. They've seen that once they start to break down the barrier for pro se litigants, educating them about their role in the process, helping them put their name and case number on the forms, the pro se parties are elated that someone has sat down and listened to them. Sometimes they are angry and hostile, but that's because they don't know what they're doing and have often been burned by the impersonal nature of the judicial system. The coordinators can take more time than the rest of the clerks in going through paperwork and explaining legal jargon, even though they can't provide legal advice. They tackle any kind of case, but 44 percent of the cases they've seen this year have been domestic relations cases. Besides that, they mostly see small claims and sealing of records cases and handle a lot of general courthouse questions. In addition to their in-person help, they staff a phone line, which has received over 2,500 calls so far in 2013. These again

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are largely domestic relations cases, most with post-decree issues. They also get a lot of small claims, money demand, and records sealing questions via the phone. Even though people often don't get the best outcome, they are so grateful for the help from the pro se coordinators and that someone is there to provide personalized service to them. A better service experience also makes people nicer to the judges. Ensuring that people know the correct motion to file is invaluable for judges, who get frustrated when pro se litigants don't file the proper papers.

Justice Greg Hobbs wrapped up the hearing with a motivational talk. He started by saying how tremendously excited he was to be there and hear what was said. His speech focused on the special legacy in Colorado, which was formed as a territory at the outset of the Civil War. This is reflected in the names of the streets in downtown Denver: Lincoln, Sherman, Grant. Colorado is the Centennial State, formed 100 years after the country became independent based on the idea that all persons are created equal. With that as our history, equal access to justice should be our highest calling. Justice Hobbs said that what he heard at the hearing had confirmed this to be the case. He reminded those in attendance that the ethical rules of professional conduct allow judges to ask lawyers whether they've made a pro bono commitment. He recommended that law firms "adopt" districts that are in the most need of help and place lawyers at the desks with the pro se coordinators to answer legal questions.



APPENDIX F

**Access to Justice Hearing
Denver, Colorado
Ralph L. Carr Colorado Judicial Center
October 4, 2013
5:30 p.m.**

Sponsored by

**The Colorado Access to Justice Commission
and the Denver Bar Association (2nd Judicial District)
Access to Justice Committee**





Appendix F

Denver Access to Justice Hearing Panelists

Chief Justice Michael Bender, Colorado Supreme Court
Charles Garcia, Colorado Access to Justice Commission, and President-Elect,
Colorado Bar Association
John Vaught, President-Elect, Denver Bar Association
Pat Steadman, State Senator (SD-31)
Daniel Kagan, State Representative (HD-3)
Crisanta Duran, State Representative (HD-5)
Angela Williams, State Representative (HD-7)
Beth McCann, State Representative (HD-8)
Irene Aguilar, State Senator (S-32)
Lucia Guzman, State Senator (S-34), President Pro Tempore

Denver Access to Justice Hearing Witnesses

John M. Marcucci, Presiding Judge, Denver County Court
Moreen Holzberg, Client, CLS
Jonathan Asher, Executive Director, Colorado Legal Services
Fred Baumann, Chair, Colorado Access to Justice Commission
Dianne Van Voorhees, Executive Director, Metro Volunteer Lawyers
Robert S. Hyatt, Chief Judge, Denver District Court
Sarah Zoellner, Self-Represented Litigant Coordinator, Denver
Alison Daniels, Denver Access to Justice Committee, and attorney, King and
Griesen
Jennifer Levin, Denver Access to Justice Committee, and attorney, Legal
Center for People with Disabilities and Older People

Attendance – Approximately 50

Opening remarks from Chief Justice Michael Bender

There is an enormous need for legal services for the poor. The democratic system is designed for lawyers, and there are serious gaps in services and funding. In 2007, ten hearings were held by the Access to Justice Commission and a report was issued. The biggest problem at that time was domestic violence. We have made strides in the last six years, but the system is in crisis. The number and percentage of pro se parties continue to rise. In domestic relations cases in Colorado, 74 percent of the parties were unrepresented in 2012, and more than 50 percent of parties were unrepresented in civil cases overall.

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Over the last two years, self-represented litigant coordinators have been added to help unrepresented parties (though the coordinators cannot give legal advice). Pro se cases take longer, and are therefore less efficient for the court system. We have adopted changes to the Colorado Rules of Civil Procedure that allow retired lawyers to take on pro bono cases.

The federal government has reduced its funding provided to Colorado Legal Services (CLS). Interest from COLTAF (attorney trust accounts), which goes to the court system and CLS, has been reduced dramatically with the recession and resultant low interest rates. Fortunately, the number of law firms agreeing to take on pro bono cases has gone from 45 to over 200. This is helping to fill in the current funding gap.

Presiding Judge John M. Marcucci, Denver County Court

Judge Marcucci presented some statistics regarding court usage and funding in the City and County of Denver. Denver County Court is not part of the regular state funding system. It holds over 44,000 contested hearings per year and functions seven days per week.

At the time of initiating proceedings, less than one percent of all parties in Denver County Court are represented by counsel in criminal matters, though many get representation later in the case. In civil cases, the number is closer to 50 percent. The “great majority” of protection order cases are between unrepresented parties.

The Denver County Court website has been very well trafficked since coming online, showing that when people are given access to the justice system, they will take advantage of that opportunity. The money for the creation and maintenance of the website comes from the City and County of Denver, not the federal government. But there is still a need to provide this information to those without Internet access.

Judge Marcucci described the Front End User Project, a partnership with the University of Denver, MHCD, and the Colorado Coalition for the Homeless. This project deals with those who are chronic recidivists. In the past five years, 500 people have been arrested 17,000 times. For these people, it is less important to get them representation than it is to get them counseling to help break the cycle of recidivism.

Chief Justice Bender: How are you doing on evidence-based sentencing?

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Judge Marcucci: Denver is trying to reduce the need for money bonds, while continuing to keep victims safe. We are attempting to implement evidence-based practices to work on rehabilitation. The County has been understaffed for probation officers, but the City Council has voted to provide more resources for that purpose.

Senator Irene Aguilar: What is the overlap between repeat offenders and people returning to hospitals? Are these similar populations?

Judge Marcucci: Return on investment is significant for various programs, including the detox center. We can save money in the Human Services budget, but we need more beds for housing.

Representative Crisanta Duran: How does the legal clinic process work and how is it funded in Denver?

Judge Marcucci: Much of it is pro bono. A self-help coordinator costs about \$80,000 per year. We think they are successful. We want more clinics for specific issues, such as veterans and American Indians. We do not spend a lot of money on these clinics because pro bono lawyers provide the bulk of the services.

Representative Beth McCann: How many specialty courts do you have?

Judge Marcucci: We have a one-year-old sobriety court, a court for community, a homeless docket once per month and the Chrysalis Project, a program for drug-addicted prostitutes.

Moreen Holzberg, CLS Client

Ms. Holzberg sought legal help to declare bankruptcy. She was widowed at a young age and used an equity loan to cover the costs of raising two sons and putting them through college. Eventually, the money ran out. Loan offers began to come in, and she fell into borrowing more and more until the day came when she could not pay the bills. Her house was in foreclosure, and her sons sold their cars to get her out of foreclosure. At that point, she decided the only thing to do was to file for bankruptcy.

She initially tried to hire an attorney, but the attorneys wanted \$500 to \$1,600 up front, which she did not have. She then looked up pro bono legal work online, where she found CLS. The first time she called, she was turned away, but told to try again in a couple of weeks. She did call again, and this time they took the case. Before she met with CLS, she felt humiliated about her situation,

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but her CLS lawyer helped to humanize her situation. He explained to her all of the information she would need to collect to file for bankruptcy. He was always there to answer her questions, and if he was not available, a CLS paralegal answered them. They also connected her with Medicare.

Most importantly to her, CLS treated her with kindness and understanding, and she does not know how she would have survived without them. If anybody has to go through this and has no money to obtain other legal help, she hopes he or she would have a place like CLS to go to.

Representative Daniel Kagan: How did you know that CLS was an option?

Ms. Holzberg: I went online. I am not good at computers (“technology handicapped”), but I came across something that said Colorado Legal Services, and read through its website. First time I called, they did say no. I called back in a week or so, and they found time for me.

Jonathan Asher, Executive Director of CLS and Member of the Colorado Access to Justice Commission (CATJC)

Mr. Asher explained that the mission of CLS is to provide meaningful access to civil justice to as many people in vulnerable populations as possible. CLS serves people in 14 offices, 11 of which have at least one attorney on staff. There is a total staff of 107 people, including 46 attorneys and 33 paralegals. To keep costs down, CLS uses paralegals for as much of the work as possible. Additional information and data concerning CLS are provided in Appendix A.

John Vaught: Do you track statistics of veteran clients?

Mr. Asher: Yes, and it is on the rise. CLS does a weekly four-hour live chat with veterans to answer questions, particularly about military benefits.

Senator Pat Steadman: You said you’ve provided services to flood victims — what is the nature of those services? What are the legal needs, and are there difficulties qualifying those folks?

Mr. Asher: The Colorado Bar Association has a website up, and there is a flood assistance hotline. The first calls were landlord/tenant issues, in part because the flooding happened at the end of a month, leading to questions and disputes regarding payment of rent for October. There were also questions about eligibility for FEMA claims. The CBA

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provided a cadre of lawyers to answer questions, but for actual CLS representation, people will still need to qualify. Currently, CLS does not have a lot of experience with FEMA issues, and we are looking for seminars and other training in areas such as FEMA, insurance, and construction to better serve clients with these problems.

Charles Garcia: Please explain the economic and social impact of underfunded legal services.

Mr. Asher: People need lawyers to get medical care, to get out of domestic violence situations, and to get off drugs. Someday, a lawyer may not be necessary for those things, but at this point all too often those issues produce cost. If a person remains in housing and employed, the result not only has a social benefit of allowing people to feel they have been treated justly, but tangible costs are also reduced. A study on social return on investment was conducted, and we can determine that for every \$1 spent on CLS, there is a reduction of costs of services of \$6.35 to the state.

Chief Justice Bender: We owe you a debt of gratitude.

Fred Baumann, Chair, Colorado Access to Justice Commission

Mr. Baumann described the purpose of the Commission and then thoroughly discussed the sources of funding for CLS, including the federal Legal Services Corporation, Legal Aid Foundation of Colorado, Colorado Lawyers Trust Account Foundation (COLTAF), state funding, and other sources such as the legal community. Mr. Baumann explained that one of the major funding sources, COLTAF, has declined dramatically over the past several years as it is dependent upon interest rates, which continue to be very low currently and are expected to continue to cause reduced funding in the future. Additional details of this presentation are included in Appendix B.

Rep. Duran: Are there any creative solutions from other states other than funding just a lump sum? Any incentive programs?

Mr. Baumann: There are states that dedicate a portion of fines for certain infractions for legal services. For example, Tennessee has a Speeding for Justice program, pursuant to which a portion of every speeding ticket goes to legal services. In Texas, a portion of licensing fees for adult entertainment are diverted to legal services (pole tax). Most other states that provide more public funding do have a larger amount of general

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funds appropriated to legal services (NY, TX) or have increased filing fees for certain types of cases, so that \$2-\$5 goes to legal services. However, there is no panacea out there. Some people thought that COLTAF would be the answer, but the extremely low interest rates in recent years have shown that reliance on COLTAF is not sufficient. Some states use a portion of the attorney registration fees to fund legal services, but that results in a lot of the burden being placed on the bar. It is a systemic problem. We need to make our courts work. We need to address this issue as a system rather than to find little pieces.

Mr. Vaught: Who or what is responsible for the grants from the public?

Mr. Baumann: A lot of that depends on circumstances outside of CLS's control, such as United Way funding, or county funding or local bar associations. There is little CLS can do to try to raise that number. When there is an opportunity in a particular jurisdiction, they jump on it.

**Dianne Van Voorhees, Executive Director,
Metro Volunteer Lawyers (MVL)**

Ms. Van Voorhees explained that MVL is the pro bono provider for the Denver metro area. Its mission is to bridge the gap for people who cannot afford legal services. MVL is a small office that partners with CLS for many of its critical functions, including intake and office space. MVL works through partners such as volunteer pro bono attorneys, law firms who conduct post-decree clinics, the Denver Bar Association, and private donors.

MVL connects eligible clients with attorneys, coordinates clinics, and recruits attorneys. There are six programs: direct referrals; the Family Law Court Program; post-decree clinics; Rovira scholar projects; legal clinic at the Denver Indian Center (one of the greatest gaps in services is for Native Americans); and the kinship adoption program. MVL provides services in family law, bankruptcy, estate planning, immigration and landlord/tenant issues.

MVL's funding is different from that of CLS. MVL gets no state or federal funding. MVL receives funds from private sources, especially the Barrister's Ball, a Denver Bar Association fundraiser that provides a substantial percentage of MVL's overall funds. Private donations from attorneys are another large percentage. Funding from COLTAF has declined considerably, so the organization is not relying on that source as much as it once did.

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MVL's client eligibility is also different from that of CLS. Because there is no federal funding, MVL can take clients with slightly more income than CLS. However, CLS provides the intake function for MVL, so clients actually apply to CLS before going to MVL.

Ms. Van Voorhees highlighted a particular MVL case in which a volunteer attorney took on a pro bono eviction case, which got much more complicated because of property issues. Without an attorney, the client would have been taken advantage of, but with the help of MVL, he was able to get a fair price for his house and avoid foreclosure.

In 2012, MVL utilized 455 volunteer attorneys for 1,450 total cases. Because of limited resources, MVL cannot help everyone who walks in the door. It is first-come, first-served, and MVL has to limit the types of cases it takes because volunteers do not always have the availability or knowledge to take every kind of case. With more resources, MVL could help more people. People can help by volunteering, donating, or simply thanking volunteers.

Chief Judge Robert S. Hyatt, Denver District Court

Denver District Court's greatest need is in the area of family law (domestic relations). There were 3,438 family cases in our domestic division in last fiscal year, and of those 65.4 percent had no attorney on either side. Many of these cases include dissolutions of marriage with children. Moreover, this is probably an undercount of the need for legal representation. It is unknown how many cases include entry of an attorney at some point, cases where only one side is not represented, or cases where counsel disappeared. Of all cases heard by the Denver District Court, 75 percent involve both sides appearing in court without representation of counsel. Ordinarily, these are people coming in with financial or educational deficits, sometimes physical or emotional disorders.

The self-represented litigant coordinators have been very helpful. They assisted nearly 1,500 people in some way. Less than 100 involved non-divorce civil cases, and the bulk were pre-decree matters. Several (53) were filed in the wrong court or district. Several required interpreters. The program was designed to assist these folks and judges, and it has been enormously helpful. They re-direct many to non-adversarial systems and deal daily with self-represented litigants who are uneducated and may need language help.

Chief Judge Hyatt found it instructive to compare Denver's experience to the research in the field on why one represents oneself in court. Reasons mentioned in the research include: distrust of the legal system, psychological or social reasons, belief lawyers are not helpful, belief that litigation is

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straightforward, court-based reality shows, and growing availability of Internet assistance and other sources. However, a lot of this research is deceptive. The first and foremost reason is the cost of legal representation. Those who sit in family court know the cost of hiring an attorney is prohibitive for most people. There are too many cases where people who marginally can hire an attorney go into debt to do so rather than spending money on other needs.

The pro se office has been open for two decades now. There is a substantial benefit to family law courts: hearings that actually proceed without confusion or delay, resolution without meaningless acrimony, and parties feeling like they have been heard. There is a need for more talented, trained pro se representatives. There is also a need to do more to train judicial officers in handling these cases, to improve and simplify forms, to increase the availability of video instructions on how to do things, to provide low-cost legal services for litigants, and, necessarily, additional funding for all of that.

Self-representation is not always the best alternative, especially in domestic violence cases. Low-cost legal services need to be funded by the public or there needs to be more pro bono representation. Many would rather rely on an attorney or be able to check in with an attorney than enter into family court alone and unassisted.

The recommendations from 2007 are still important. There is a need for both expanded legal services and expanded ways to assist self-represented litigants. If your own children or own family were at stake, you would want assistance, guidance. It is imperative that the legal community makes the legal system affordable for those with needs and those with reduced functions. It might appear self-evident, but these are the needs of the court and the people it serves.

**Sarah Zoellner, Self-Represented Litigant Coordinator,
Denver**

Ms. Zoellner has served as a self-represented litigant coordinator since January, 2013. In July, over 4,000 people were assisted by such coordinators. Denver has more unrepresented parties than any other district. The office of the coordinator is walk-in, so most of the day is spent face-to-face with pro se litigants, answering basic questions and handing out forms. Coordinators can help fill out some parts of the forms and help explain court orders, but they cannot give legal advice — only information. The coordinators make community connections and can sometimes refer litigants to other resources, such as Colorado Legal Services.

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Chief Justice Bender: Do you deal with probate matters?

Ms. Zoellner: Not me personally, but our office does.

Alison Daniels, Denver Access to Justice Committee

Ms. Daniels is an attorney with King & Griesen, and heads the Access to Justice Committee of the Denver Bar Association. The DBA is a voluntary organization, and committee participation is also voluntary. It sponsors several programs where community members can access legal information from pro bono attorneys. It provides clinics, where a voluntary attorney provides legal information to members of the community on various topics, such as small claims, family law, and bankruptcy. Through this program, the DBA provides legal information to 100 individuals monthly. The DBA provides staff attorneys for Law Line 9, where callers can ask legal questions through television call-in. The DBA also staffs two legal nights in the community per month at different locations, where pro bono lawyers directly talk with people with legal questions and provide information, referral services, and legal advice.

Additionally, the DBA staffs Stand Down, where homeless veterans can resolve their legal issues with a magistrate judge and volunteer attorneys. The DBA also hosts Pro Bono Week, which supports and honors pro bono lawyers for the work they do. Finally, the DBA provides free CLE programs to those attorneys who provide pro bono work. It created a referral directory that helps lawyers working in an unfamiliar area to refer people to lawyers knowledgeable in particular areas of legal need.

The DBA is constantly looking for new ways to do things. It was just awarded a grant from the Denver Public Schools to provide legal nights four times a year to students and parents. Generally, the DBA encourages lawyers to provide support, understanding there is a limitation because people have full-time jobs. Sometimes, volunteers can only provide temporary assistance. More often than not, they refer individuals to CLS. CLS and Metro Volunteers also help them direct where resources are needed.

Jennifer Levin, Attorney, Legal Center for People with Disabilities and Older People

Ms. Levin explained that the Center is a protection and advocacy system federally mandated in the 1970s. It now offers representation in housing discrimination and civil rights cases. There are eight attorneys in the office. They have limited resources and count on CLS, DBA clinics, and MVL for referrals.

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The Center works with CLS on eviction cases, as those cases are often extremely time-sensitive, and they can handle them faster than CLS can. But the Center would lose people to homelessness were it not for CLS. The Center supports increased funding for legal services.

Closing remarks from Chief Justice Bender

We have heard about serious, unmet legal needs in the state. It is important for a branch of the government to hear these people. If people lose their chance to be heard, our system has faltered. Judicial resources are a core constitutional function.



APPENDIX G

**Access to Justice Hearing
Grand Junction, Colorado
Two Rivers Convention Center
September 6, 2013
8:30 a.m.**

Sponsored by

**The Colorado Access to Justice Commission
and the 21st Judicial District
Access to Justice Committee**





Appendix G

Summary of Witness Statements

John Eckelberry, private attorney, Denver

Mr. Eckelberry is on the board of the Metro Volunteer Lawyers (MVL) in the Denver Metropolitan Area. He described MVL as a Denver pro bono program that works with Colorado Legal Services (CLS) to connect those who need assistance with volunteer attorneys.

Mr. Eckelberry noted that the main challenge is insufficient funding and volunteers. In 2012, MVL had 1,200 cases and only 300 attorneys, so training and recruiting additional volunteers is a major focus. Mr. Eckelberry further noted that 51 percent of all civil cases and 75 percent of all family matters are now pro se. He said that if people cannot afford a lawyer or choose to be pro se, lawyers aren't doing their jobs. He mentioned the Colorado Bar Association (CBA) Modest Means Tool Kit as a way to provide representation to those with limited resources.

Question: Is this a problem where one side is pro se, or when both sides are pro se?

Response: When both are pro se. Even one lawyer in a case can speed things up a lot. Even just having an attorney to explain things helps tremendously.

Question/Comment: This is all against a background of the state cutting back on judicial resources. More people are avoiding hiring lawyers, and judges have to spend more time on cases with pro se litigant cases, plus watch for ethical problems. This is a perfect storm, and something has to give.

Response: People do not want to hire a lawyer because of the cost, and because they fear it will escalate their situation. We need to educate the public that we are not evil people and are actually there to help.

Question/Comment: I spend a lot of time talking clients out of hiring me or into firing me. This seems to be a western Colorado thing, where people think if you are lawyering up, then you are getting ready for a fight.

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Response: We need to educate the public that it is okay to hire an attorney to help fill out the paperwork, and then decide if you need help before the judge.

Question: In cases with one represented and one pro se litigant, how does that impact the court?

Response: This raises the question of when it stops helping and starts hurting. Lawyers tend to make things more complicated because we see things others don't. Judges look to the lawyer in such cases to treat the pro se opponents with respect and not steamroller them.

Velvet Johnson, Self-Represented Litigant Coordinator, Mesa County

Velvet Johnson is the self-represented litigant coordinator (SRLC) for Mesa County. She is a judicial employee, whose job is to help speed things up for the courts. The self-help center opened in June 2013, and in the first 90 days she assisted 1,129 people in person and 276 by telephone. It is a smaller center, with only two clerks, but they have created video tutorials to help first-time pro se litigants, with the opportunity to ask questions after watching them. Currently, there are videos only on evictions, protection orders, and small claims court.

Ms. Johnson said that the directive creating the SRLCs gives her the leeway to answer questions and be more involved in the personal side. Those she cannot help she refers to CLS, rather than just saying, "I can't help you."

For future plans, there are topics for 25 additional videos, as well as Spanish-language versions of the existing videos. There is also the potential for creating a Mesa County law line manned by volunteers lawyers like that in Denver.

Question: Does anyone there speak Spanish?

Response: Yes, but anything they do must go through a state translator. There is one full-time interpreter, plus a few clerks who speak Spanish. If none of them is available, they can schedule a time to come back and see someone. One video is already translated into Spanish, and the other two will hopefully be translated by the end of the year.

Question: Are you available by telephone?

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Response: Yes, and by e-mail.

Question: What are your hours?

Response: 8:00 a.m. - 4:30 p.m. every day.

Judge Craig Henderson, Mesa County Court

As a county court judge, Judge Henderson hears small cases that have big impacts on people's lives. He brought examples of the books, forms, and texts that pro se litigants must read and understand in the cases he sees.

He has always known that there were those who were in the "doughnut hole": those who don't qualify for CLS but who cannot afford a private attorney. This raises questions of due process, and whether pro se litigants get a fair day in court. To improve this situation, he said, we might need a civil version of *Gideon v. Wainright*, in which the U.S. Supreme Court held that indigent criminal defendants are entitled to an attorney at state expense. Funding for such a system is hard to obtain, but is it part of our right to life, liberty, and property?

There are options that don't require more funding: making the pro bono annual aspiration of 50 hours a requirement like CLEs; providing unbundled services that are more affordable; establishing more attorney's fees provisions in state laws; or authorizing limited license legal technicians, as in the state of Washington.

Question: What would you think of court being held on a Friday or Saturday evening, outside a courthouse?

Response: This was tried two decades ago, and no one came. Judges do try to accommodate schedules, but they still have to balance moving the case forward.

Jon Asher, Executive Director, Colorado Legal Services (CLS)

Mr. Asher provided an overview of what CLS is and the challenges it faces. See Appendix A for details.

Question: After 42 years, you must have a long perspective. What is the single most important thing to know about poverty and legal aid?

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Response: The most important thing is knowing our responsibility to take our founding documents and their aspirations seriously. It might be emptying the ocean with a teaspoon, but it is still the right thing to do. This is not just the responsibility of the bar or of lawyers. Justice is a public responsibility, not just a professional obligation.

Nancy Jilar, former CLS client

Ms. Jilar went through a bankruptcy and eventual foreclosure after the death of her husband. A friend guided her to CLS when she was under the threat of losing her health insurance and felt desperate. The CLS staff eased her fear and apprehension. She was overwhelmed by the empathy, professionalism, expertise, and efficiency with which the CLS staff resolved her case.

Question: What did you think of the process?

Response: It was very well organized: they took immediate control, and turned my situation around very efficiently.

Question: How did you hear about CLS?

Response: From a friend of mine. I was originally from California, but had never used any assistance in either state.

Ed Ruland, Retired Judge, Colorado Court of Appeals

Judge Ruland noted that there are a lot of interesting and helpful things going on. There is a new family law center in the courthouse in Denver with electronics even someone of his ability can use. Judge Ruland noted that this procedural help is wonderful, but judges still need help deciding cases, so pro bono work is essential. Judges need help to control the emotions in the courtroom, and need a process to help pro se litigants present admissible evidence. He concluded that if you would like training in appellate practice, it is probably available.

Judge Betty Strobel, District Court, 19th Judicial District

Judge Strobel, a district court judge in Weld County and member of the Access to Justice Commission, concluded by discussing the CLS funding situation. See Appendix B for details.

*Appendix G***Final questions and comments:**

Comment: We are the choir here. We are all on the same team. But in the current political climate, we won't be able to get funding through fees or taxes unless someone plays up the economic side of the argument.

Response: A Colorado study found that for every dollar invested in CLS the state gets back \$6.35 in savings.

Counter Response: We need to get an appropriation to have a study done by one of the "name brand" schools, in order to get more traction. If we can show actual numbers, it goes much farther in getting change.

Comment: That's why we have representatives.

Response: They were invited. The problem is that the burden has shifted to the courts and the legal profession. We need to shift part of it back to society in general. But I don't believe the political process will produce this change.

Response: We need to persuade people, both ideologically and economically. We need the choir to go out and preach to other people.





APPENDIX H

**Access to Justice Hearing
Greeley, Colorado
Centennial Center Plaza West
October 3, 2013
6:30 p.m.**

Sponsored by

**The Colorado Access to Justice Commission
and the 8th and 19th Judicial District
Local Access to Justice Committees**





Appendix H

Greeley Access to Justice Hearing Panelists

Terry Fox, Judge, Colorado Court of Appeals
Reenie Terjak, Colorado Legal Services
Dave Young, Representative House District 50
Perry Buck, Representative House District 49

Greeley Access to Justice Hearing Witnesses

Judge Betty Strobel, 19th Judicial District
Debora Wagner, Managing Attorney, Colorado Legal Services, Fort Collins
and Greeley
Charity, CLS client
Amber, CLS client
Judge James Hartmann, Chief Judge, 19th Judicial District
Judge Stephen Schapanski, Chief Judge, 8th Judicial District
Ryan Kamada, Grant, Hoffman & Kamada, LLC & President, Weld County
Legal Services
Mary Athey, 19th Judicial District Self-Represented Litigant Coordinator,
Court Information Center Operator
Kara Clark, Bringing Justice Home
Alma Acquino, Legal Advocate, A Woman's Place
John Zakhem, Chair Resource Committee, Colorado Access to Justice
Commission

Judge Betty Strobel, District Court, 19th Judicial District

Low-income litigants are turned away from Colorado Legal Services (CLS) because there are not enough attorneys available to help everyone who is eligible. Both the Colorado Supreme Court and the Colorado Bar Association have been working to expand and enhance civil access to justice. The 2008 Colorado Access to Justice Commission Report revealed a shortage of attorneys and funding to meet the civil legal needs of low-income Coloradans, even with pro bono participation by the private bar. The Report also revealed that litigants without attorneys pose unique problems for judges that may impair the quality of justice they receive.

Access to Justice Commission hearings that have taken place this year suggest that the situation is slowly improving. New self-represented litigant coordinators, while overwhelmed, are helping low-income people navigate the court system. Expanded pro bono recognition has encouraged private firms and

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practitioners to dedicate more hours to providing civil legal services. A relatively new Colorado Supreme Court rule has removed barriers that discouraged retired attorneys from helping low-income litigants.

However, access to legal services is still a major problem for low income people. They can't pay for their own attorneys and they do not know how to access the legal system alone.

**Debora Wagner, Managing Attorney,
Colorado Legal Services, Fort Collins and Greeley**

The Fort Collins and Greeley CLS offices employ six attorneys and provide services to low-income people in eight counties. In 2012, 10,898 eligible low-income people were provided legal services through CLS statewide. Of those, 2,273 received full legal representation, 8,673 received legal advice or brief services, and 6,798 low-income people were provided legal information or material. There are simply not enough attorneys to serve everyone who is eligible for services through CLS.

Despite the limitations imposed by limited staff and funding, there is a large social return on investment in civil representation for low income people. A statewide survey revealed that the State of Colorado saves \$6.35 for every \$1 invested in legal services.

Colorado Legal Services has attempted to provide more services through collaborations throughout the community, including Disaster Legal Services, Legal Night in Greeley, and Project Homeless Connect.

Representative Dave Young

How is the recent flooding affecting CLS?

Debora Wagner

After hurricane Sandy, legal services programs on the East Coast were able to hire 35 attorneys to handle Sandy-related claims. Emergency staffing like this is not possible in northern Colorado, even though the recent flooding will create long-term legal problems for low-income people. CLS does have partnerships with FEMA and the Young Lawyers Committee, but these partnerships are only short term. In six months, CLS will be the only provider left.

Appendix H

Representative Young

Is technology being used by CLS to help assist more people?

Debora Wagner

Along with continuing strategic partnerships, CLS has increased its use of technology to expand the services it can provide to low-income people. The CLS website provides a variety of instructive videos and interactive tools for completing common legal forms. CLS has also established a number of Rural Assistance Centers where long-distance interviews can take place. In this way, some assistance can be provided even in cases where face-to-face representation is not possible.

Charity, CLS Client

Charity and her husband both worked full time. After her husband was laid off, bills began to pile up and they fell behind on their house payments. They tried to hire a private attorney, but they couldn't afford the retainer. Charity was frustrated; if she had \$1,000, she would have used it to pay her bills. She couldn't cut anything out of the budget and couldn't get ahead to save. CLS walked her through a bankruptcy and home loan modification. At the beginning, Charity was overwhelmed by the stress of the situation, but CLS relieved the pressure and stress. CLS gave her reassurance and made sure she knew the steps she needed to take.

Now, Charity likely wouldn't qualify for CLS because both she and her husband are working again. They still do not have a lot of room in their budget. But they are able to manage because of the assistance that they received from CLS.

Amber, CLS Client

Amber has four children; two have special needs. Her husband had a great job, and she was a stay-at-home mom. They were solid middle class people: they saved for retirement, owned their home, and had a car. But Amber's husband was abusive. She was overwhelmed with fear and helplessness. Amber didn't feel like she could leave. The Department of Human Services told Amber that she was responsible for keeping her daughter safe. But Amber didn't feel like she could do that and stay with her husband.

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Amber applied to CLS for help with her divorce. She felt empowered. CLS's representation prevented the continuance of her husband's manipulation. Without CLS, Amber would have had to appear pro se against a skilled, experienced attorney. She may have lost custody of her children. But Amber believes that CLS literally saved her life.

Amber advocates for increasing funding for legal aid to stop the cycle of abuse, crime, and truancy. She felt that the legal services CLS provided were the key to unlocking the freedom that she wanted and needed.

**Chief Judge James Hartmann,
19th Judicial District and
Chief Judge Stephen Schapanski,
8th Judicial District**

Judge Hartmann

The difference between having a lawyer and not having a lawyer is obvious in court every day. The numbers of self-represented litigants in the Nineteenth District were astounding.

County Court Civil Cases in 2012: 9,712
244 both sides represented by an attorney
8,062 one side represented by an attorney
1,406 no attorney on either side

District Court Civil Cases in 2012: 7,223
1,582 both sides represented by an attorney
817 one side represented by an attorney
4,824 no attorney on either side

Domestic Relations Cases in 2012: 1,714
576 both sides represented by an attorney
271 one side represented by an attorney
867 no attorney on either side

These numbers do not reflect cases that have been reopened for motions to modify child support or parenting time. In domestic relations cases, a party might have had a lawyer to start, but must return as self-represented later on.

Appendix H

Not having a lawyer impacts four main groups:

1. The Self-Represented Litigant

If you don't understand the law or don't know how to present facts in court, you will likely lose. Judges are limited in the amount of assistance they can provide to self-represented litigants. There have been cases in Judge Hartmann's courtroom that would have turned out differently if there had been a lawyer.

2. The Represented Party

If one party is represented, he or she might have to spend more in fees and time for his or her lawyer to respond to the self-represented litigant's motions. It is harder to make a self-represented litigant pay attorney fees if he or she loses the case.

3. The Court

The court may have to spend a whole day on a case that could have taken only a few hours if both sides were represented by lawyers.

4. Other Parties

Cases get delayed when even one of the parties is self-represented. Judges are obligated to spend more time on self-represented cases because they have a duty to try to make a fair ruling based on the facts.

Judge Schapanski

In the Eighth Judicial District, 95 percent of protection and restraining orders have self-represented litigants on both sides. Judges and magistrates do the best they can to protect both parties.

Judges wonder: are we seeing everything we should? Are we seeing things we shouldn't? When you have an attorney, the attorney helps you determine if you have a case, what the claims are, what other options might be available to you, and what first steps should be taken. Attorneys know the law and facts that are needed to present a case, and lay people just aren't good at that. For a judge, it is very difficult when you know or think there might be evidence out there that could support a self-represented litigant's case. But you can't direct a litigant's case for him or her. Some things, especially the rules of

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evidence, are virtually impossible for a pro se litigant to understand. A hearing involving two pro se litigants might take less time for the court, but sometimes the result isn't right because the parties didn't know how to present their case, the evidence wasn't there, or it wasn't presented to the court.

Self-represented coordinators are helpful to the court, but they can't give legal advice, even when they are attorneys. They are guided by a Chief Justice Directive that limits the help they can give.

Pro bono is also not a great solution. It is hard to match a lawyer's expertise with the problems that clients face. Compare this to Colorado Legal Services. CLS attorneys know their clients and their particular issues. However, Colorado Legal Services is not well funded. Unlike our state Public Defender system, which is doing great, we are abysmally falling short on the civil side.

Judge Hartmann

There is some crossover between the civil and criminal sides. For example, under the Victim Rights Amendment, the District Attorney is required to notify a crime victim that legal services might be available for divorce, restraining orders, or similar situations. They can refer victims to Colorado Legal Services. As a practical matter, that referral is empty; Colorado Legal Services is not able to provide assistance to all crime victims; they do not have enough funding or attorneys.

Reenie Terjak

Is money the solution? There is a huge amount of money spent on funding the public defender/district attorney system. Can we reallocate those resources?

Judge Schapanski

Attorneys in criminal cases are guaranteed to indigent defendants under the Constitution because courts cannot jail people who qualify for free attorneys and don't have them. Those Constitutional requirements have not been extended to civil cases. In civil cases, the focus to meet the needs has been to try to persuade private lawyers to provide free legal services to poor people in civil cases.

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Judge Hartmann

This is not to say that consequences in civil cases are not as severe as in criminal cases. I have seen people lose their children because they were not represented, not given a voice in their trials. These results are profoundly powerful, even more than incarceration for some.

Ryan Kamada, Grant, Hoffman & Kamada, LLC and President, Weld County Legal Services

The private bar is working as hard as it can to fill the gap, but it is not meeting the need. Stories like the ones you've been hearing tonight fuel the need for access to justice, and they need to be heard.

I'd like to address a few of the effects that self-represented litigants have on family law, adoption, and dependency and neglect cases.

First, we can't get into court for matters that need to be tried. Not every matter needs to be tried. With two attorneys, many issues are able to be resolved outside of court and as a result, do not need to be tried. Justice for children needs to happen quickly. But the docket is often full. Full dockets affect children in dependency and neglect cases waiting for permanency. One month is a big difference for a child. One month can mean the difference between a child having a home for Christmas and being in an out-of-home placement.

I would also like to address perceptions of the private bar. People might think that members of the private bar are rich, that what we bill is what we get paid; that we need to do more free legal work. But the truth is, we do a lot. I wish we could do more. Members of the private bar volunteer for many things and offer free consults when we can. But we have to pay our business expenses and our employees. We have to support our families. We can't do all the free legal work that needs to be done. It is not possible.

What is the solution? Continued partnership with the private bar, of course. Mandates for service. Investment in CLS. I watch these judges struggle with pro se litigants every day. We need more attorneys representing low-income people.

*Justice Crisis in Colorado 2014***Mary Athey, 19th Judicial District Self-Represented Litigant Coordinator, Court Information Center, Greeley**

Ms. Athey is an attorney; she works with court staff to help self-represented litigants, but she can't give legal advice; court employees cannot take sides or offer legal advice. She describes the center as working like an emergency room. People are scared when they come in. It is the worst day of their lives, to be in court. They need so much more than what center staff can give them. The Court Information Center is only part of the equation that they really need. They are not bleeding when they leave, but they often need after-care.

There are many situations where Ms. Athey can see that if certain pro se litigants just made a particular legal argument, they could obtain relief, but she can't tell them what she knows. She can help them start the process, but can't represent them.

Representative Young

When is your center open?

Mary Athey

Walk-in hours are Monday, Wednesday, and Friday, 9:00 a.m. – 4:00 p.m. On Thursdays she does brief appointments. On Tuesdays she runs pro se orientation. She used to make people aware of other resources that might be available to them, like CLS. But she stopped when someone returned to the Center and told her, "I did. I called. They can't help me." So she stopped telling them they could get help from CLS. There are classes taught on some limited topics by private lawyers. There are not enough resources to help everyone.

Judge Strobel

CLS can help victims of domestic violence. In Colorado, changes to the parental responsibility and parenting-time statute make the safety of the child a priority. But victims of domestic violence don't know that statute exists. They don't know the criteria. Often, for many reasons, they don't tell the judge that there has been domestic violence. If they don't tell her, then she can't apply the statute.

Appendix H

Kara Clark, Bringing Justice Home

Bringing Justice Home is a free legal services program for indigent survivors of domestic violence or sexual assault operated by the Crossroads Safehouse in Fort Collins, Colorado. It has two attorneys on staff and serves six counties in Colorado. It currently receives funding under a federal grant, which will end in June 2014.

In 2012, 261 women applied for legal services through Bringing Justice Home. Twenty-one percent of these women received full services, generally representation in court. Five percent received partial services, fifteen percent were turned away with no services, and five percent resulted in other outcomes (generally reconciliation with their partners). Many women will not proceed without full legal services. Fear is a primary factor — they do not want to be in court with an abuser.

Bringing Justice Home also assists with post-decree modifications. There are many bad outcomes in domestic relations cases when one of the parties is self-represented. The dynamics of the relationship, paired with a lack of understanding of the legal system, work against women representing themselves. Self-represented litigants don't know if threats made by their spouses will be carried out, and they are afraid of losing their kids. Many women have persuasive evidence that they didn't present to the court because they didn't know it would help. Women seeking post-decree modifications are often in a worse position than others whom Bringing Justice Home assists. If these women had had attorneys to start, they would have obtained better outcomes.

There are also problems when criminal and domestic relations cases overlap. There are automatic protections that go into effect when there is domestic violence. However, self-represented litigants often are not aware of these protections and do not notify the court of a pending or past domestic violence case.

Alma Acquino, Legal Advocate, A Woman's Place, domestic violence agency in Weld County

Many women who come to A Woman's Place would like to obtain a temporary restraining order against their abuser. However, these clients don't know where to start or how to explain their situations. The process of going before the court is devastating to some clients. They may fear their abuser or be unable to miss work to go to court. Many clients feel limited in what they can do and go back to their abuser because they feel there is no other option.

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There is some legal help available for victims of domestic violence, but more is needed. There is especially a lack of bilingual help. Victims in the Latino community may feel especially limited. Many Latina victims are threatened with deportation or losing custody of their children.

Judge Strobel

A battered spouse can get amnesty from deportation under the immigration code. These people don't know that and she can't advise them.

John Zakhem, Access to Justice Resource Committee

Mr. Zakhem, a private attorney in Denver and member of the Colorado Access to Justice Commission, reported that CLS receives funding from the federal Legal Services Corporation, the Legal Aid Foundation, state funding through the Family Violence Justice Fund, the Colorado Lawyer Trust Account Foundation (COLTAF), temporary emergency funding from the Colorado Supreme Court, and other sources. Less money is available today than was available five years ago. For details see Appendix B.



APPENDIX I

**Access to Justice Hearing
Westminster, Colorado
Westminster City Hall
September 19, 2013
4:00 p.m.**

Sponsored by

**The Colorado Access to Justice Commission
and the 1st and 17th Judicial Districts
Local Access to Justice Support Committees**





*Appendix I***Westminster Access to Justice Hearing Panelists**

Justice Brian Boatright, Colorado Supreme Court
Judge Chris Zenisek, District Court, 1st Judicial District
Judge Daniel Taubman, Colorado Court of Appeals, Member, Colorado
Access to Justice Commission
Judge Craig Welling, District Court, 17th Judicial District
Cherylin Peniston, Representative (HD-35)
Lois Tochtrop, Senator (SD-24)
Joe Salazar, Representative (HD-31)

Westminster Access to Justice Hearing Witnesses

Jon Asher, Executive Director, Colorado Legal Services
Karen Green, Client, Colorado Legal Services
Dianne Van Voorhees, Executive Director, Metro Volunteer Lawyers
Judge Randy Arp, District Court, 1st Judicial District
April Bernard and Brigitte Smith, Self-Represented Litigant Coordinators,
Jefferson County
Barbara Inman, Self-Represented Litigant Coordinator, Adams County
Deb Bittner, Division Director of Domestic Violence Services, Family Tree
Heidi Dobbins, Project Safeguard
Diana Poole, Vice-Chair, Colorado Access to Justice Commission, and
Executive Director, Legal Aid Foundation of Colorado

Opening

Judge Daniel Taubman from the Colorado Court of Appeals delivered the opening to the meeting. He discussed the need for legal services for people of low income in civil matters. He focused on the inadequate and decreased funding for these services. He also stated the mission of the Access to Justice Commission, which is basically to develop, coordinate, and implement policy initiatives to expand access to justice. He also presented a brief overview of the Commission's 2008 report. In the past six years, there have been significant improvements made in addressing the needs of low-income legal services. The Colorado Supreme Court has allotted funding for pro se coordinators to be present in all judicial districts to assist pro se litigants with forms and court procedures. These coordinators are not able to give legal advice. The Colorado Supreme Court's ethics rules recommend that lawyers complete at least 50 hours of pro bono work per year. The Colorado Attorney General has implemented a pro bono program, and many corporate lawyers and in house lawyers have

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begun doing pro bono work. The Colorado Supreme Court has allowed retired attorneys to continue to do pro bono work. Colorado Legal Services (CLS) is the main provider of legal services for poor people in civil cases, and its funding has experienced a drastic decrease in the past few years.

Jon Asher, Executive Director, Colorado Legal Services

Mr. Asher discussed the mission of CLS. He described how CLS is organized with 14 offices around the state of Colorado, 11 of which are staffed with at least one attorney. CLS is made up of 107 staff members, including 46 lawyers and 33 paralegals. In order to demonstrate how few legal services lawyers there are, Mr. Asher contrasted the number of public defenders in Colorado — 430 — with the number of CLS lawyers, 46. In Colorado Springs, there are 53 public defenders and only 3.6 legal aid attorneys. For details see Appendix A.

Questions:

Representative Salazar asked for a copy of Mr. Asher's presentation, and he agreed to provide it.

Judge Zenisek: What is the process to determine who is in and who is out?

Answer: We try to triage the clients who call in. The most critical cases are the ones that involve domestic violence, foreclosures, evictions, medical services, and Medicaid issues. We will give clients self-help advice if that will be sufficient to fit their needs. If people are able to wait a little bit to resolve their issues, we will refer them to pro bono lawyers. An example of this would be an uncontested divorce case.

Karen Green, Client, Colorado Legal Services

Ms. Green was in need of legal services to assist her in-laws. Her father-in-law was in a nursing home and was without Medicaid. Her mother-in-law had to sell her home in order to pay for her husband's care. CLS was able to help with the Medicaid appeal and was able to get her a refund. A paralegal from CLS assisted with this case. Mr. Asher stepped in to inform the group that paralegals often help with administrative law cases such as child support, unemployment compensation, Medicaid, etc. This is done in order to make the best use of CLS's resources.

Appendix I

Questions:

Representative Peniston: Did the social worker at the nursing home help with Medicaid because that is their responsibility?

Answer: No.

Representative Peniston: You should let the Department of Health Care Policy and Financing know that you didn't receive the support at the nursing home that you should have.

Clarification from Mr. Asher: The nursing home did help with the initial steps, but the client's application was denied. CLS stepped in during the appeal process.

Dianne Van Voorhees, Executive Director, Metro Volunteer Lawyers

Ms. Van Voorhees began her presentation discussing the mission of MVL, which was established in 1966, and was formerly known as the Thursday Night Bar Program. MVL has a full-time staff of four and one part-time staff member. MVL is a department of the Denver Bar Association and is located in the CLS offices. The partners of MVL include: CLS, volunteers, post-decree clinics, the Denver Bar Association, the Adams and Broomfield Bar Association, the 1st Judicial District Bar Association, the Douglas and Elbert Bar Association, the Arapahoe County Bar Association, the Colorado Bar Association, Colorado Continuing Legal Education, donors, and sponsors.

MVL connects eligible clients with attorneys who are able to assist at little or no cost to the client. MVL obtains clients through the CLS intake. Additionally, MVL coordinates law clinics and collaborates with the legal community. MVL assists with only the civil legal needs of low-income individuals. MVL helps the courts in assisting these clients. It also helps attorneys, paralegals, and law students gain valuable experience by enabling them to provide pro bono service.

Funding of MVL differs from the funding of CLS. There are no federal or state funds contributed to MVL, other than the space and supplies that are supplied through CLS. Funding sources include: the Denver Bar Association, the Colorado Lawyer Trust Account Foundation (COLTAF), individual donors, and in-kind grants. Clients are eligible for MVL services up if their income is up to 125 percent of the federal poverty line. If clients are over that threshold, but

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still cannot afford legal services, they may be referred to an attorney who can work for discounted rates or be sent to clinics that may be able to offer legal advice.

There are six programs within MVL. The first is the core program, the pro bono referral program. Clients are referred to individual attorneys for direct representation. The second program is the Family Law Court Program. Through this program, clients receive assistance in preparing paperwork and scheduling their final hearings, which are all scheduled on the same day through the program. An attorney may be able to represent all the MVL clients for hearings on a particular date. The third program is the Post Decree Clinic. This clinic assists clients in enforcing child support orders or separation agreements. MVL can also assist with modification of parenting plans. The fourth program is the Rovira Scholars program, which allows MVL to take cases that it would otherwise not be able to take, such as cases that have an immediate court date. Through this program, Rovira Scholars can assist in settlement efforts, seek a continuance, or possibly attend court. The fifth program is Legal Clinics at the Denver Indian Center. At these clinics, attorneys answer questions and assist in filling out intake applications for CLS. The last program offered through MVL is the Kinship Adoption Program, which assists extended family members in adopting children. Examples of this would include grandparents who are raising their grandchildren.

Ms. Van Voorhees then shared the story of a former MVL client. A YouTube clip of the client was played. Maria Nunez went to MVL with issues surrounding a parenting plan and child support for her 15-year-old and 9-year-old. Ms. Nunez stated that she felt as though she was in more of a support group with MVL. She also said that MVL is “a benefit that should never disappear because it provides so much for the community.”

In 2012, MVL had 455 volunteer lawyers who handled 1,450 cases. Everyone is encouraged to help by volunteering, donating, encouraging others to volunteer, educating others about MVL and what it does, and recognizing and thanking current volunteers.

Questions:

Judge Welling: (Expressed concern about the fact that CLS has to turn someone away for every person that CLS is able to help.) What is your rate to match the need?

Answer: Because our intake is through CLS, we don't get many clients that we have to turn away. If we do, it is usually because they are over

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income, or because they are a tough case to place. Cases in Adams County involving non-English speakers are very hard to find attorneys for.

Judge Welling: What is your ability to accommodate non-English speakers?

Answer: There are no worries about language access within the courthouses. It gets tough when you have to meet with clients in the office. Usually, these clients require double the time because of the translating needs.

Judge Welling: The cases MVL handles are the more acute cases in need, and it is an intimidating process to come to the courthouse. I appreciate the work of MVL and its lawyers.

Judge Randy Arp, 1st Judicial District

Judge Arp, who has served as a district court judge in Jefferson County for seven years, presented the perspective of a judge who sees low-income people in the courtroom. He handles a mixed docket of criminal, civil, and domestic cases. From 2008-2010, he had a dedicated domestic docket. In Jefferson County in 2012 (Adams County and Arapahoe County are similar), there were over 24,000 civil cases filed. Ninety percent of these were pro se on at least one side. Eighty percent of them went to court with at least one side pro se. Within the district court, there were over 4,700 cases filed, about 50 percent of which were pro se on at least one side. This figure includes foreclosure filings. On the criminal side, there were over 6,500 misdemeanor cases filed, and about half of them did not qualify for a public defender and went pro se. Judge Arp emphasized that 125 percent of the federal poverty line is really not that much money and reiterated that a family of four making \$30,000 annually would not qualify for a public defender. These individuals also could not afford to hire a private attorney. This can be a very scary process. In the district court, there were over 3,400 felonies filed last year. There is a huge discrepancy between qualifying for a public defender and actually being able to afford a private attorney. Often, a defendant will take whatever deal is offered to him or her and does not know what he or she can or should do. Some defendants in custody refuse to post bond so that they will qualify for a public defender.

The largest need for low-income legal services is in domestic cases. There were over 3,500 cases filed last year. Seventy percent of these cases were pro se on at least one side and 50 percent of them were pro se on both sides. Many of these people are in over their heads, and even though there are post-decree

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clinics and pro se coordinators to offer assistance, these services do not reach everyone who needs them. Thousands of people don't even realize that CLS exists and don't apply for assistance.

From the court's perspective, pro se cases are the "bane of the court's existence." The parties do not understand what is expected of them when they show up in court. If both sides are pro se, it is easier to work with, but if one side is pro se and one side is represented, it is harder. It is also unfortunate because judges cannot counsel pro se litigants, who generally do not know the rules of evidence or civil procedure. If parties are represented on both sides, or if the parties at least received some guidance, the cases can be handled with more effectiveness, and it saves the court a lot of time.

Judge Arp also presented several ideas on how to improve the courts and how to better serve the low-income individuals with legal needs. First, he said that more funding is obviously needed all around and there are areas that need to be addressed that do not automatically require more funding.

Second, the threshold for small claims court should be increased, possibly up to \$30,000. The small claims court is a more informal arena where there are no rules of evidence or civil procedure. There should also be a provision to allow parties to opt into small claims court if at least one side is pro se.

Judge Arp also suggested a revision of Colorado Rule of Civil Procedure 16.1, which allows for a simple process for claims under \$100,000. In this rule, there is a provision to opt out of the simple process. Judge Arp suggests getting rid of the opt out provision unless it can be demonstrated that the case is more complex and requires use of the more complex and formal system.

He also suggested that there should be a simpler process for the domestic relations court. There are cases that do not need the extensive resources and attention that other cases need. Examples of such cases are short-term marriages with no children or assets. These cases can be handled without the confusion of the standard procedure.

While there is already a recommendation from the Colorado Supreme Court that lawyers perform at least 50 hours of pro bono work annually, Judge Arp believes that this should be a requirement. Currently, only a small percentage of lawyers carries the load. Making this mandatory with a policing effort would assist the low-income community greatly. He also suggests, if the funding is available, raising the threshold above 125 percent of the federal poverty guideline. With this additional assistance from lawyers, more people would have access to justice. Many people living above the 125 percent threshold

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still cannot afford lawyers, especially in domestic relations cases. Most domestic lawyers charge \$175-450 per hour, he noted.

Judge Arp emphasized the importance of continuing current programs and providing them with additional funding and assistance.

Additionally, he suggested making better use of the Internet. He stated that all the district courts should have links and resources on their webpages similar to CLS's website. Most people do have access to computers and the Internet, even if it is at the public library.

Questions:

Representative Tochtrop: Where would the mandate of pro bono hours come from? The Bar Association?

Answer: The Colorado Supreme Court.

Representative Tochtrop: Lawyers would not be happy, but if you mandated pro bono hours, then you could raise the threshold because there would be more people available to provide services. And the small claims idea is also a good idea.

Answer: The small claims idea would have to be implemented through a legislative move by adjusting the small claims limit.

April Bernard and Brigitte Smith, Self-Represented Litigant Coordinators, Jefferson County

Ms. Bernard and Ms. Smith help bridge the gap between the experience a party is having and the resolution of his or her case. When people come to the Self-Help Center, they are not at their best and are usually crying. They are dealing with difficult issues, such as divorce, custody, and visitation. The Self-Help Center is able to provide them with information about the court, forms, and community resources. Additionally, they assist people in completing forms in divorce and eviction cases. They are also often able to refer individuals to outside resources.

The Self-Help Center is open Monday through Friday 8:00 a.m. - 4:00 p.m. It has seating for eight people and one computer for people to use. Forms are available online, and the Self-Help Center also offers e-mail and telephone assistance. In addition, the Self-Help Center currently offers three legal clinics.

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The first is the Pre-Decree, Post-Decree and Collections Clinic. The second, which started in January 2013, is the Probate and Elder Law Clinic held twice a month. Last, there is a guardianship training where attorneys answer questions of pro se litigants. The Self-Help Center is hoping that a Small Claims clinic will be opening soon. There is also an Ask an Attorney event that is held twice a year. At the last one, over 100 citizens came to ask questions.

On a statewide level, the self-represented litigant coordinators are collaborating with the Supreme Court. They have assisted with the creation of civil union forms and are in the process of producing tutorials on evidence and procedure to post on their websites. They are also working to train librarians at public libraries about where to find legal resources and how to fill out forms.

The Self-Help Center serves a large number of clients who have modest means. Last month (August), this particular center served 842 clients in person, through e-mail, on the phone, and in clinics. It is expecting to serve up to 50 people per day. As of September 19, 2013, this center has served 3,672 clients. Many of the clients that they serve are repeat clients, who return for further assistance as their cases progress.

The Self-Help Center needs more computer stations for clients to use to complete online forms, conduct research, and view the tutorials. It also wants to set up a Skype station where attorneys can volunteer to answer questions without having to leave their office. They also would like to be able to utilize Skype as needed to provide interpreter services. The center would also benefit from more staff members.

Questions:

Justice Boatright: Are the clinics on YouTube? (He handled delinquency and neglect cases and knows that getting places is often difficult for these clients.)

Answer: The tutorials are currently on Adobe and in PDF form. There are discussions about filming the clinics, but they have not done so yet. There is concern about the length of tutorials and being able to keep the client's interest and attention.

Representative Salazar: What are your funding sources?

Answer: The judicial branch decided on the allocation of money based on the need and population within each district.

*Appendix I***Barbara Inman, Self-Represented Litigant Coordinator,
Adams County**

People come to court for help and to obtain justice. Often, the clerk's office does not have the time to hear people's stories or even to fully inform people of their available options. This is where the Self-Help Center steps in. The Center assists people with their forms and information regarding options, which allows the clerk's office to be more efficient. The Clerk of Court has informed the Center that he can often tell when someone has received assistance from the Center.

One client who was assisted at the Self-Help Center was Mary. Mary came in every day to work on her case. When she first started coming in, she was disorganized and needy. After a few weeks, she came in and got right to work. She had lost custody of her daughter in a dependency and neglect case. Her daughter went to live with her father. Mary eventually was able to receive parenting time. When the father left the state with the daughter without permission, Mary was able to find them and obtained an order for her daughter's return.

"You need more help" is something that is heard a lot at the Center. Between February 1 and August 30, the Center had assisted 5,412 people through walk-ins, phone, e-mail, and Skype for remote locations. There is also a hotline with two attorneys and a paralegal to assist with more complex issues.

Ms. Inman concluded, "We have only scratched the surface of what is needed; we need to get digging."

**Deb Bittner, Division Director of Domestic Violence
Services, Family Tree**

Family Tree offers an overall approach to homelessness, child abuse, and domestic violence. It offers a domestic violence shelter for women, a parenting time program, which offers safe exchanges of children, supervised visitation and therapeutic visitation, and legal advocacy and outreach. There is also a team located at the Jefferson County Courthouse, where one morning it had 13 walk-ins for civil protection orders (CPOs) and help with cases.

Imagine being a victim of domestic violence and then having to come to court not knowing how to file, having no money, having no idea what to do, and having no comprehension of the law.

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Family Tree offers clinics where attorneys answer questions. Only 25 percent of its clients actually obtain legal representation. Imagine the devastation that can occur, Bittner explained, when the victim has no representation, but the offender does.

In fiscal year 2012, Family Tree had over 2,000 clients and responded to over 4,500 phone calls. Ninety percent of its clients are below the poverty line.

Difficulties facing Family Tree include: courts do not understand the trauma of domestic violence and how it may affect a victim testifying in court, especially with the abuser in the courtroom; there is a lack of child care available to allow the victims to attend court; and limited knowledge of domestic violence throughout the court. More access to justice for these victims could mean that the perpetrator would no longer have power and control of the situation in court.

Ms. Bittner quoted various clients expressing their trepidation about testifying in domestic violence cases. These included things such as: "I have to testify in court in front of him"; "He said he hates me. Why won't he just agree?"; "He threatened to kill me if I told anyone. I can't testify in front of him"; "I don't know what happened. I just couldn't get the words out with him next to me"; and "He said that he would get full custody of our kids."

In 2012, in Jefferson County, 170 temporary CPO requests were filed. Out of those, 143 were granted. Out of those, 94 filed for a permanent CPO. Out of those, 66 were granted. Many do not file for a permanent CPO because they feel that they cannot do it on their own.

Heidi Dobbins, Project Safeguard

Project Safeguard is an organization providing dependency and neglect (D&N) legal advocates. They assist with CPOs and assist respondent parents in D&N cases. Their clients are often victims of sexual assault, domestic violence, and stalking. Project Safeguard assists in all these matters in the civil court. It often assists with safety plans, crisis interventions, and parenting issues. It has offices in Adams, Broomfield, Denver, and Arapahoe Counties.

Project Safeguard had some concern about the Self-Help Centers at first, because its staff believed that they would no longer be needed, but the opposite has been true. The staff have a good relationship with the Self-Help Centers, and the Center staff will often walk women to the Project office. This also works the opposite way in certain situations. Collaboration has made it easier for the

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community to access the civil courts, and it makes the process less traumatic for victims of domestic violence. Project Safeguard also offers a resource to domestic violence victims within the courthouse.

Diana Poole, Vice-Chair, Colorado Access to Justice Commission, and Executive Director, Legal Aid Foundation of Colorado

Ms. Poole reviewed the funding resources for CLS. She then compared Colorado's funding numbers to the national Legal Services Corporation numbers. Colorado compared favorably with other states in terms of Interest on Lawyer Trust Account (IOLTA) programs (Colorado's is COLTAF), but its relative position will worsen in 2014 once its reserve is depleted. Colorado also compared favorably in lawyer support and in private foundation donations. Colorado compared negatively, however, in public funding, which changes year to year, and in state funding, which doesn't include the increase this past year, the emergency/temporary funding, or the census adjustments. The reasoning for this is that Colorado provides lower funding per poor person than many other states.

The overall point is that there is less money to serve low-income clients today than there was five years ago when services were already inadequate. And today, the need for these services is even greater. For details see Appendix B.

