

United States Senate Committee on the Judiciary

**Closing the Justice Gap:
How to Make the Civil Justice System Accessible to All Americans**

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Nikole Nelson, CEO, *Frontline Justice*

Chairman Durbin, Senator Graham and members of the Judiciary Committee, thank you for the opportunity to testify about how we might close our nation's justice gap. I am Nikole Nelson, the Chief Executive Officer of Frontline Justice, a nonprofit organization that is working to empower a new category of legal helper – the community justice worker to address our nation's escalating access to justice crisis. Prior to joining Frontline Justice in November of last year, I was the Executive Director of Alaska Legal Services Corporation, Alaska's only statewide provider of free civil legal aid and a Legal Services Corporation grantee. I have spent the last 25 years working in the field in my home state of Alaska as a legal aid lawyer and Executive Director building community-led, people-centered justice models that meet local needs.

I. America's Civil Justice Crisis

America's crisis of civil justice is deep and long-standing. Every year, Americans experience 120 million unresolved civil legal problems, with consequences including poor health, housing instability, financial precarity, substance abuse, and other threats to basic needs.¹ These are fundamental life issues, affecting people's ability to have a place to live, make a living, and care for those who depend on them.² And these enormous numbers are not just statistics: they are people. These everyday Americans come from all walks of life, with diverse political, religious, and other commitments that our constitution protects. Access to justice is not a partisan issue; we all have a role to play, and we appreciate that this Committee's special obligation to ensure equal access to justice for all Americans.

Some of those needing justice are among the more than 2 million grandparents raising their grandchildren, trying to get them enrolled in school and to allow them to see a doctor.³ Many of these grandparents are among the 70% of low-income senior households facing civil justice problems, which also include problems with income maintenance and health care.⁴ Americans confronting civil justice problems also include the over 9 million adults whose health, safety and security are threatened each year by

¹ IAALS and HiiL, *Justice Needs and Satisfaction in the United States of America*, (2021) <https://iaals.du.edu/sites/default/files/documents/publications/justice-needs-and-satisfaction-us.pdf>; Rebecca L. Sandefur & James Teufel, *Assessing America's Access to Civil Justice Crisis*, 11 UC IRVINE L. REV. 753 (2020)

² Rebecca L. Sandefur "Access to what?." *Daedalus* 148, no. 1 (2019): 49-55.

³ "When Grandparents Are Called to Parent – Again." 2023. AARP. March 2, 2023. <https://www.aarp.org/home-family/friends-family/info-2023/grandparents-become-parents-again.html>. Visited July 5, 2024.

⁴ Legal Services Corporation, *The Justice Gap: Seniors*. <https://justicegap.lsc.gov/resource/seniors/#:~:text=The%202021%20Justice%20Gap%20Measureme nt.health%20care%2C%20and%20income%20maintenance> (2024), visited July 7, 2024.

intimate partner violence.⁵ And they include the millions of veterans denied the benefits to which their service entitles them, and the long and often life-altering delays facing veterans who do finally receive their benefits.⁶

The World Justice Project annually ranks countries on the accessibility and affordability of civil justice. Out of 142 countries, the United States ranks just 115th overall, in the bottom quarter of all countries measured. We are last on accessibility and affordability of civil justice among the 46 wealthiest countries measured.⁷ Americans deserve better from their justice system.

For over half a century, we've tried to solve this problem by getting people more access to lawyers – we've fought to increase funding for legal aid and worked to encourage lawyers to donate their time in pro bono work. These efforts have been and are critical to addressing our nation's civil justice crisis, but even though the number of lawyers in the U.S. has quadrupled since 1970, the access to justice crisis has only gotten worse. Lawyers alone are just not enough to respond to this crisis. The absence of effective legal help means that people are increasingly estranged from the law, their rights, and the bedrock principle of our U.S. Constitution establishing justice and ensuring equal access for all.

Fortunately, it does not have to be this way. Better justice is possible. We can make justice accessible to millions of Americans in need of it by empowering a new category of legal helpers: *community justice workers*. Drawn from trusted roles such as health workers, faith leaders, librarians, law enforcement, counselors, educators, and everyday citizens, these justice workers possess the knowledge and skills to assist people in navigating their legal challenges. It's an approach akin to what frontline community health workers, paramedics and nurse practitioners have done to expand access to basic health needs in the United States.

II. Alaska's Innovation: Community Justice Workers

In my home state of Alaska, our access to justice community recently broke new ground with a model that harnesses legal aid expertise and marries it with critical community assets and local knowledge in an attempt to transform our legal aid delivery system into one that has the capacity to meet the magnitude of the access to justice crisis in our

⁵ R.W. Leemis, Friar N., Khatiwada S., Chen M.S., Kresnow M., Smith S.G., Caslin, S., & Basile, K.C. The National Intimate Partner and Sexual Violence Survey: 2016/2017 Report on Intimate Partner Violence. Atlanta, GA: National Center for Injury Prevention and Control, Centers for Disease Control and Prevention (2022)

⁶ US Department of Veterans Affairs, Claims inventory, https://www.benefits.va.gov/reports/mmwr_va_claims_inventory.asp , visited August 23, 2023.

⁷ World Justice Project, <https://worldjusticeproject.org/rule-of-law-index/country/2023/United%20States/Civil%20Justice/>, visited July 5, 2024.

state. As many as twenty other diverse states, including Texas, Arizona, and California, are actively considering how they might adopt and adapt some variation of Alaska’s model to meet the unique needs of their local communities.

This model was the outgrowth of a civil access to justice committee convened by the Alaska Supreme Court. The committee was comprised of people that shared varying perspectives but all agreed on the foundational principle that the evidence was clear, addressing our justice crisis required us to move beyond lawyer-only solutions – we could not do it alone. With this foundational commitment we began to imagine our systems anew.⁸

Alaska Legal Services Corporation, the only statewide provider of comprehensive legal aid in our state, spearheaded the development of Alaska’s community justice worker program. We developed the program in partnership and with inspiration from Alaska’s tribally operated healthcare system and with support from many other community stakeholders. Alaska’s community justice worker program trains local community members to provide legal assistance within their communities. Community justice workers are recruited widely and then trained using on-demand virtual programs designed by low-barrier adult education specialists. Critically, these training programs are precisely targeted to address specific legal problems, providing legal procedure-specific training in a clearly defined scope of practice. Community justice workers are supervised by the legal aid organization and work in a team-based fashion with attorneys and other legal aid staff. Their community-based nature is critical to their impact: they are not siloed in courts or at legal aid offices, destinations that research shows us serve a bare minority of justice issues. Instead, legal help is infused across trusted community actors from whom people already seek help with their “life” problems; in this way community justice workers are able to get at the problems that people do not yet understand to be legal problems. The community justice workers provide relatively simple legal help that can prevent problems from escalating to more complex and destabilizing matters. Most community justice workers are volunteers for the legal aid organization, compensated by their employing organization (e.g., a social worker may take the justice worker training and provide this legal assistance as part of their job at the social service organization where they work). However, the legal aid organization also employs full-time community justice workers to build more broad-based expertise and to serve as peer mentors. This model builds on local knowledge and trust, as well as language and cultural expertise.

⁸ “Expanding access to justice requires innovation and moving past the idea that an attorney or a courtroom is the best or only solution for Alaskans.” *Alaska Court System’s Justice for All Statewide Action Plan*.

Alaska's community justice workers can exist because Alaska provides an enabling regulatory environment for them. One critical element of that environment is Alaska's unauthorized practice of law (UPL) restrictions, which are already limited, crafted mainly around preventing fraud. The rules prohibit people from holding themselves out as attorneys when they are not and charging for services, and from representing people in court.⁹ Unlike most states, legal advice from community justice workers was already possible without an UPL carve out or waiver. But the second critical element in enabling Alaska's community justice workers is a waiver from the Alaska Supreme Court that allows the legal aid organization to train and support justice workers to take on more complex matters like providing assistance in court proceedings.¹⁰ The model is showing promising results: over 500 community justice workers have been recruited and have either completed or are currently taking the training courses; they are in 47 different communities (most of which are off the road system and would otherwise be "legal deserts"); and they have successfully handled hundreds of cases.

Alaska's community justice worker program is not only bold and innovative, it enjoys wide professional and political support across the state. Supporters include leaders of the legal profession in the state bar, in the Alaska Supreme Court, political representatives on both sides of the aisle, and the statewide legal aid provider. Support also comes from members of Alaska's many rural and remote communities who use and appreciate community justice workers' help and who invest their time to train for justice work so that they can expand their skills to help their neighbors.

In Alaska, we developed a justice worker program that both fits our communities' needs and leverages our communities' strengths. We chose this route because we saw strong evidence that it could be effective and sustainable, and could scale up to meet the needs of our state's people. Experience and solid empirical research show the safety, effectiveness, and positive impact of justice workers.

Already in a range of federal civil justice issues, justice worker models are established. These include the decades of federal practice – including in social security and Veterans' benefits – where people who are not lawyers provide effective representation in a vast range of administrative hearings.¹¹ They also include community justice workers already at work in tribal courts and other contexts.¹² Years of research show us that people who

⁹ Alaska Statute 08.08.230

¹⁰ Alaska Bar Rule 43.5

¹¹ Legal Aid Interagency Roundtable, 2023, *Access to Justice in Federal Administrative Proceedings: Nonlawyer Assistance and Other Strategies*, <https://www.justice.gov/atj/media/1327481/dl?inline>, visited July 5, 2024.

¹² Lauren van Schilfgaarde, "The Statutory Influence of Tribal Lay Advocates." In *Rethinking the Lawyer's Monopoly: Access to Justice and the Future of Legal Services*, edited by David Engstrom and Nora Freeman Engstrom. (Forthcoming, 2024).

are trained but not licensed attorneys can provide critical, effective assistance to people facing justice problems, demonstrating the current effectiveness and future promise of this approach.¹³

To be clear, community justice workers are not an alternative to legal aid, but a compliment to it. As mentioned earlier, Alaska’s community justice worker model was developed by Alaska’s Legal Services Corporation-funded legal aid provider. Also, with funding and support from the Legal Services Corporation the model has expanded to four other states: Arizona, Montana, Minnesota and Oklahoma to serve tribal communities who have experienced recent natural disasters. As community justice worker reforms are considered across the nation, it is essential that legal aid organizations are at the table and sharing their deep expertise in poverty law and addressing the civil legal needs of those living without the resources to hire legal help. Quite simply, the Alaska model would not be possible without the critical funding Alaska Legal Services Corporation receives from the Legal Services Corporation.

We are also grateful to the DOJ Access to Justice Office for its efforts to uplift this work, including through its role to direct and staff the Legal Aid Interagency Roundtable (LAIR), highlighting Legal Services Corporation’s funding of the Alaska community justice worker program in LAIR’s 2023 report, and encouraging federal agencies to utilize funding sources to support diverse legal assistance models and programs. Last year, the Office for Access to Justice traveled to Anchorage and Bethel to meet with and hear from access to justice stakeholders, legal aid providers, Tribal leaders and community justice workers in the state and Director Rossi delivered keynote remarks at the launch event for our community justice worker resource center.

III. Frontline Justice

It was the success our work in Alaska and of these models in other contexts that inspired me to work to expand this innovative and transformative activity around the nation. I now serve as the CEO of *Frontline Justice*, an initiative whose founders and advisors have tapped the ingenuity of top leaders across expertise, sectors, politics, and geography. Chief Justice Hecht, who is also providing testimony today, is a member of our National Leadership Council and has helped to lead the transformative efforts in Texas to expand community justice workers. Our ambitious, but achievable goal is meaningful access to justice for all Americans through right-sized, on-demand civil legal help from a trusted source in the next 10 years.

¹³ Rebecca L. Sandefur, “Legal Advice from Nonlawyers: Consumer Demand, Provider Quality, and Public Harms.” *Stan. J. C.R. & C.L.* 16 (2): 283 (2020); Herbert M. Kritzer, *Legal advocacy: Lawyers and nonlawyers at work*. University of Michigan Press (1998).

Frontline Justice is a moonshot. Its goal is to give every day Americans access to their own law through help by trained individuals in their community. Frontline Justice uses evidence-based practices and new technologies to equip Americans with the tools, information, and help they need to resolve their justice problems. Its mission is to transform what is available to people when they need help and to do this at a scale that is commensurate with the magnitude of the problem.

We work by encouraging policy reforms that empower community justice workers, aligning these activities around core principles that help to ensure that solutions can scale to meet the needs of our vast nation of many different communities and needs. We build support among the public and policy makers for community justice workers and their work. We work to open up space that gives communities the freedom to craft local solutions appropriate to and effective for their needs, across our nation's many different kinds of places, to make justice real and accessible to everyone, so that all Americans may have equal justice under the law.

Thank you for the opportunity to provide this testimony. We look forward to working with you to ensure equal access to justice for all Americans.