

Rural California suffers a painful shortage of lawyers

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Rural America lags behind the rest of the nation in access to health care, broadband, quality of education and nearly every other measure of well-being. On Tuesday, the American Bar Association will host an online program featuring leaders and scholars of the legal profession discussing ways to address another rural deficit: the painful shortage of lawyers.

Although about a fifth of the nation's population lives in rural areas, these places are home to only 2% of small law practices. These so-called legal deserts are significant barriers to justice for their residents.

This access to justice crisis is also playing out in rural California. While the statewide ratio of attorneys to residents is 1:626, just over 3% of lawyers have addresses in "rural" and "frontier" areas as those terms are defined by California's Office of Statewide Health Planning and Development. The ratio of lawyers to residents thus varies dramatically from region to region, county to county, and from city to town to unincorporated area.

The Central Valley is one of the hardest hit regions. Only one attorney is available to serve every 1,282 residents in Merced County, and Kings County has the worst ratio in the state, with one attorney for nearly 1,400 people. These numbers stand in sharp contrast to urban parts of the state, where the ratio is one to 175 residents.

Legal deserts can be found in almost every region of California. Imperial County in the far southeast corner of the state has one attorney for every 1,060 residents. The Gold Country and Sierra Region has similarly poor ratios, with only one attorney for every 1,182 residents in Madera County, which straddles the Valley and the Sierra foothills. Sierra County, population 3,240, had just five lawyers in 2016, when UC Irvine Professor James Meeker mapped the presence of both active and inactive attorneys for the California Commission on Access to Justice. But only one of those Sierra County attorneys was available for private representation, while the others work in various government roles.

Attorney numbers tend to be lower still the farther north one goes in California. Three counties in that region, Glenn, Lassen and Modoc, have ratios worse than 1:1000. Shasta County has a more respectable ratio of one to 403 residents, but the attorneys are concentrated in the county seat, Redding.

A related concern is the "graying of the bar," a reference to the higher median age of rural attorneys. This trend is illustrated by the fact that the sole Sierra County attorney who still has a proverbial shingle hung out was admitted to the bar in 1972. Thus many rural

attorneys are nearing retirement, and we don't know how many have succession plans to pass their business on to a younger attorney.

While the aging of rural lawyers has been a concern for several years, the coronavirus crisis may prove the economic death knell for many a sole practitioner forced to shutter a law practice for months this spring. In March and April, attorneys everywhere scrambled to adjust to new norms. Like courts and larger firms, rural and solo lawyers were compelled to invest in technology to support remote court appearances and client contact. We don't yet know how many successfully made that transition. We would not be surprised if the pandemic prompts many older attorneys to throw in the towel ahead of their anticipated retirement, decisions that will leave some rural communities with even fewer lawyers than before.

It should not be a surprise that attorney deserts often align with poverty; some of the greatest deficits in lawyer presence are in the poorest counties. Madera and Kings Counties have official poverty rates hovering around 22%, nearly ten points higher than the state average, 12.8%.

Rural residents' needs for legal services are broadly similar to those of their urban counterparts, especially among modest-means and low-income households. These include family law, landlord-tenant, mortgage negotiation and other consumer protection matters, small business transactions, and pursuit of services and public benefits.

Defining legal deserts in California is especially challenging because counties tend to cover a great deal of territory. Population densities thus vary not only among counties, but also within them.

Fresno County, for example, is a blend of urban, rural and frontier areas. The city of Fresno is the fifth-largest city in the state, yet just 5% of the county's attorneys practice in the 98% of Fresno County's 6,000 square miles designated rural or frontier. This equates to one attorney for every 48 square miles, compared to 20 attorneys per square mile in urban parts of the county. And even though Fresno County is metropolitan, it is home to 90,000 poor residents who live outside its urban areas -- the greatest number of rural poor in any California county.

The rural attorney shortage is, in large part, a pipeline problem. Relatively few law graduates are from rural areas, and even those who are may not wish to return. Negative perceptions about rural life drive the urban preferences of young lawyers, but structural issues such as a lack of employment opportunities for life partners can be a deterrent, too.

The elephant in the room, however, may be the rising cost of legal education and attendant concerns about the fiscal feasibility of rural practice. In 2016, the average student debt for those graduating from California's ABA-accredited schools was almost \$143,000, nearly

\$30,000 more than the national average. Because rural practice is presumptively less lucrative, many recent graduates feel they simply cannot afford to gamble on rural practice. Higher reimbursement rates for court-appointed work would help alleviate this concern.

While the California Commission on Access to Justice has been a national leader in drawing attention to rural justice concerns, beginning with the 2010 publication of a report on Improving Access to Civil Justice in Rural California and continuing through a series of recent policy papers on rural issues, California policymakers have yet to put their money where their mouth is a meaningful way. We propose several measures that California can and should take to ameliorate the state's legal deserts.

First and foremost, we make a strong plea for California to offer financial incentives to lawyers who commit to practicing in underserved, rural communities. For inspiration, California need look no further than South Dakota's Rural Attorney Recruitment Program. This initiative invests in rural attorneys by offering more than \$13,000 a year to lawyers who make a five-year commitment to practice in a rural area. Since its initiation in 2013, 22 participants have successfully participated in the program. Several of these lawyers have remained in the area upon completion of their contract.

That said, we are mindful of the differences between South Dakota and California. Among them, California bears the additional burden of high legal education costs. In-state tuition for the only law school in South Dakota is \$15,668 per year, about a third of the median annual tuition at an ABA-accredited law school in California, \$48,194.

But financial incentives come in various forms. A loan forgiveness program could be especially attractive to California law graduates. Federal Loan Repayment Assistance Programs, or LRAPs, cover only students engaged in public service, excluding those who join a rural private practice or start their own solo practice.

Students interested in rural practice must therefore rely on state government, state bar or law school-administered LRAPs. The California Bar Association does not currently offer an LRAP, and Stanford is the only California law school with an LRAP that extends to private practice in underserved rural communities.

A tax credit would provide another means of financial assistance to rural attorneys. Legislation of this sort was recently considered in Maine but not enacted. Incubator programs, institutions that provide new attorneys with the training necessary to begin practicing while underwriting some of the business expenses of practice, could also offer support. One early incubator in rural California showed promise, but then shuttered when the parent organization suddenly dissolved.

The broader California legal community also has a role to play. Metropolitan lawyers can help alleviate the justice divide by using technology to connect with clients in remote

places. Attorneys and law students can participate in the Justice Bus Project, which sets up temporary clinics in rural areas.

Law schools, too, have critical roles to play. One is re-defining success. Law students are frequently steered towards high-paying jobs at large law firms, but law schools can also present rural practice as a viable and rewarding career. One cheap and easy way to do this is by publicizing the work of alumni who are already doing the vital work of serving rural communities.

Law schools can also offer more opportunities to expose students to rural practice, including externships, clinics, and courses on topics such as the economics of operating and marketing a solo practice. Among the clinics currently in place are UC Irvine's Community & Economic Development Clinic and the UC Davis Water Justice Clinic. Law schools can draw attention to legal deserts -- and further tap into students' desire to engage in social justice enterprises -- by playing up the rural context in which much of the work is done.

The rural attorney shortage is not a new problem, and there are no easy fixes. In a population behemoth like California, where 40 million people are spread across the nation's third largest state but relatively few live in rural places, urban stakeholders must take seriously the slogan of Tuesday's ABA program, recognizing that our rural legal deserts are "a threat to justice for all."