

Accessing Justice in Rural Areas

by Curtis A. Sikyta

What are issues with accessing justice in rural areas, especially in light of the pandemic? That is the issue I was asked to address. It is not an issue that is easily explained or resolved, but before getting into that in any detail, I feel compelled to state that practicing in rural Nebraska has its own rewards. It is a place where you get to know your clients, opposing attorneys, court personnel, judges, government officials, and many others well. You develop a relationship that facilitates what you do. It is also a place where you can get away easily. If you enjoy the outdoors, you can access it easily. In our particular area, outdoor activities, such as fishing, golfing, hunting, boating, camping, bird watching, and so on, are readily available. In the time it takes many city attorneys to get from their office to

their home, I can be home, changed, and in or on my way to my hunting spot or the golf course.

There are, however, impediments to access to justice that one may not see in larger cities or that may be accentuated. Many of those are endemic to low population, distance, and economic issues.

Many communities in the more rural areas and the counties they serve have very low population density. Valley County, where our main office is, has approximately 4,200 people. The surrounding counties have fewer: Wheeler about 800, Sherman about 3,000, Greeley about 2,500, Garfield about 2,000, and Loup about 750. That means few people scattered over significant distance. And it gets worse in more remote areas of rural Nebraska, especially as you move northwest.

Because of the low populations and distances, there are many towns that do not have attorneys. Even some of the county seats only have part-time attorney offices. This means travel to another county or city just to find representation. It may also limit the choices a person has as to an attorney. It is important that we keep the attorneys we do have in these areas. We are seeing the aging of many attorneys in the rural area. As these attorneys die or retire, there is a great need to replace them. Our firm has been active in initiatives to bring attorneys to rural areas because of this need. We do not want to see work being done remotely or our clients and acquaintances having to travel even further to get legal advice.

One of the biggest issues is the ability of clients to get to those offices and the courthouses. Unlike the bigger cities, most of these places do not have bus, taxi, or other ride services. Thus, getting to the attorney's office or the courthouse may be difficult for many people. Those with disabilities,

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financial issues, no vehicle, an unreliable vehicle, no driver's license, and like problems are especially affected by this. Many are dependent on friends, family, or others. Those contacts may have similar problems. When you do not have a vehicle operator's license in Lincoln, you may be able to access public transportation to get to work or court. When the same occurs to someone living in many rural areas, that may mean no way to get to work, court, or anywhere else. In many cases, the distance from home to these places is significant.

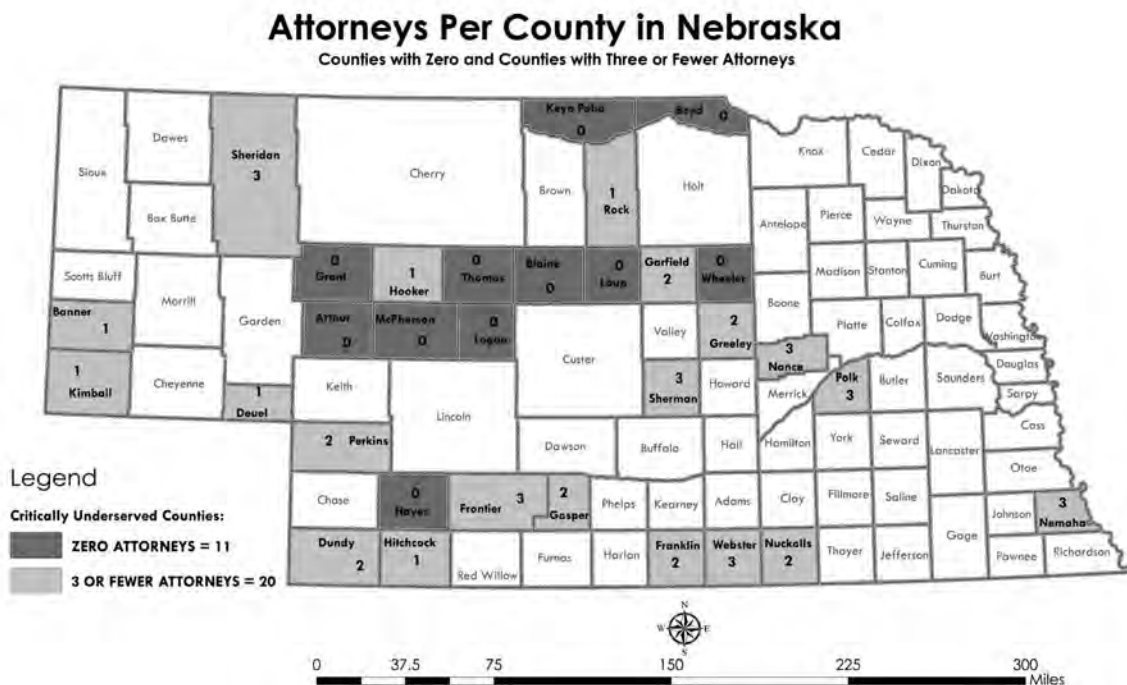
Another consequence of low population is available court dates. Judges in these areas are assigned to several counties in the district. The result is that there may only be one or two days per month that a judge is in a county, whether that be a District Court Judge or a County Court Judge. This often creates scheduling problems. Those, in turn, can cause delays in getting matters resolved. That is an area that was more pronounced with the COVID-19 measures. Because courts were closed and physical access limited, cases were delayed. When there is only one court day a month in a county, those delays can be long.

The same problem extends to court personnel. Often, one clerk magistrate handles several counties. The result is that on any day they may be in any one of those counties. They keep a schedule, but that still means that they are not available in an office on a daily basis for such things as paying fines, answering questions, receiving filings, etc. The clerk magistrates are very good at taking and returning email and telephone messages, but that does not help those who are looking for a place to

leave items or who have limited access to telephone or internet services. This lack of access also throws some extra burden on the other offices in the courthouses due to people coming to them when they find the county court closed. The present move by the Supreme Court to consolidate the Clerk of the District Court and the Clerk Magistrate's office and legislation to do the same may help this. Many local concerns are raised about that, however, because of fear of losing jobs and courts. Loss of a local court could also accentuate the access concerns.

And what of internet service? Many of the rural communities do have reliable internet service, but when you get into the smaller towns and much of the areas outside the towns, that service may be spotty and even nonexistent. Even cell phone service is often unreliable. One lady tells me that her rural home service goes in and out, depending on the room you are in. Many of my friends and clients have boosters in their homes but no service when they are in their fields. That is something somewhat accentuated by the pandemic measures. As courthouses closed and more hearings were set by internet access, the lack of internet availability was apparent for many who still had to go where they could get access. This becomes an issue to communications, accessing hearings remotely, and other remote access.

Many sparsely populated counties are also poor counties. The average income of many of these counties is much lower than more populated areas. The census data and like sources indicate the counties with the lowest per capita and median family income are also the ones with low populations. The



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counties I mentioned above rank between 62nd and 86th of the 93 Nebraska counties. This means less money to pay the necessary travel expenses for the client, as well as the costs, fees, and expenses of attorneys. The latter are also increased because of the travel costs to distant courthouses.


The low incomes do not only affect the individuals with the low incomes. It also makes it more difficult to provide services. Lower incomes mean less ability to own expensive homes, vehicles, and other taxable items. Therefore, less tax revenue is available to pay for courthouse personnel and other services. The result is fewer personnel occupying more offices. It also means part time prosecutors and public defenders or appointed attorneys. That, in turn, may reduce the number of attorneys available for those positions. I have seen cases where judges have had to appoint attorneys from some distance away just to have someone capable of doing the work.

Less money for counties also means doing away with some services. One of those that greatly affects rural areas is jails. In many rural counties, there is no jail. Instead, prisoners are taken to jails in other counties. In our area, jails are about 50 to 80 miles apart. This, in turn, creates problems for transportation to court, visitation, work release, and attorney contacts. Besides the cost paid to the other county, law enforcement has to take these people to court and return them to jail, and attor-

neys have to conference with their clients. I have been involved in cases where my client was housed over 60 miles from my office and over 50 miles from the court. Both law enforcement and I had to deal with this, increasing our time and the cost to the county. I am certain that in some cases this has led to less interactions between the client and the attorney. Many jails have specified visitation hours. When that is combined with distance and economics, visitation is more difficult for families.

And what of work release? Many counties have rules which require the work to be within the county. Thus, if you are jailed in one county and your normal place of employment is another, you may not qualify for work release. If you do get an order or relaxation of the rules, you still have to deal with transportation availability and costs and travel time.

With courthouses closed, access was limited, and other measures were taken, such as some law offices closing or also with limited access. We could not get into hospitals or nursing homes to see clients. Travel was restricted. Each of these added to the effect of the items discussed above.

As the pandemic lifts, there may be some easing of the problems. The real problems for access to justice, however, are much harder to tackle. They will be with us as long as the underlying issues exist. 



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