

October 27, 2025

Executive Office of the D.C. Courts
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Submitted via Email: CLRRTaskForce@dccsystem.gov

RE: Public Comment on the DC Courts Civil Legal Regulatory Reform Task Force Report

Thank you for the opportunity to provide public comment in response to the District of Columbia Courts Civil Legal Regulatory Reform Task Force Report.¹ The recommendations below relate specifically to the proposed Community Justice Worker (CJW) Program outlined in the Report. We submit this comment as empirical researchers who use the tools of social science to investigate access to justice and the effectiveness of both new and established ways of responding to America's persistent access to justice crisis.² We commend the District of Columbia Courts and the Task Force for their leadership in moving this work forward, and for their commitment to eliminating barriers for authorized justice workers to provide safe and effective legal advice and representation to their neighbors.

The United States' crisis of access to civil justice is so well documented at this point that its facts require little rehearsal. Whichever measure of the *lack* of access to justice one chooses as a standard, the crisis has only deepened, at the same time that the number of American lawyers has grown, both in absolute terms³ and relative to the size of the population.⁴ More civil justice problems go unserved and unresolved than ever.⁵ US courts have seen rising numbers of people

¹ <https://www.dccourts.gov/sites/default/files/CLRRTT-Final-Report-and-Appendices-7-31-2025.pdf>

² The authors of this public comment are Rebecca Sandefur, Professor in the School of Social and Family Dynamics at Arizona State University and Faculty Fellow at the American Bar Foundation, and Matthew Burnett, Director of Research and Programs for the Access to Justice Research Initiative at the American Bar Foundation and Adjunct Professor of Law at Georgetown University Law Center. Together they are co-founders of Frontline Justice and the Justice Worker Lab.

³ The population of U.S. lawyers has grown by 400% since 1970. See *Demographics*, A.B.A. PROFILE OF THE LEGAL PRO. 2023, <https://www.abalegalprofile.com/demographics.html>.

⁴ To illustrate, the U.S. had one lawyer for every 695 people in 1951 and one lawyer for every 252 people in 2005. See CLARA N. CARSON WITH JEEYOON PARK, AM. BAR FOUND., THE LAWYER STATISTICAL REPORT: THE U.S. LEGAL PROFESSION IN 2005 2 (2012).

⁵ Americans experience an estimated at least 150 million new civil justice problems annually. See Rebecca L. Sandefur & James Teufel, *Assessing America's Access to Civil Justice Crisis*, 11 U.C. IRVINE L. REV. 753, 765 (2021). At least 120 million of those go unresolved. See THE HAGUE INST. FOR INNOVATION OF LAW & THE INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS., JUSTICE NEEDS AND SATISFACTION IN THE UNITED STATES OF AMERICA 235 (2021), <https://iaals.du.edu/sites/default/files/documents/publications/justice-needs-and-satisfaction-us.pdf>. The Legal Services Corporation's 2022 study of the legal needs of the low-income population finds an increase in the proportion of the civil justice issues of the poor that receive no or inadequate service, from 86% in 2017 to 92% in 2022. *Justice Gap Research*, LEGAL SERVS. CORP., <https://www.lsc.gov/initiatives/justice-gap-research>.

appearing without representation.⁶ Civil legal aid offices routinely turn away as many eligible people as they serve for lack of resources.⁷

Washington DC is relatively well-resourced in terms of civil legal aid lawyers, with 12.22 per 10,000 poor people, above the aspirational standard of 10 per 10,000.⁸ Despite this, as the Task Force notes, Washington DC faces an access to justice crisis of “gravity and magnitude.... [that] has persisted for decades.”⁹

With the proposed rules governing CJWs, Washington DC is among more than 20 jurisdictions considering regulatory reforms to tackle this crisis. We applaud these efforts, and make the following recommendations based on empirical evidence and our insights from regulatory reform proposals in other states. While other areas of professional practice, such as medicine, have a robust history of using empirical evidence to inform providers’ work and practice, law has been less engaged with empirical evidence about the design and impact of legal services to the public. Systematic empirical evidence goes beyond anecdote or personal experience to offer insight into “what works” and reveal consistent patterns of effectiveness, sustainability, and scalability in models for providing people access to justice, illuminating promising opportunities and showing when traditional approaches are less effective than desired.

In recent years two models for authorized nonlawyer practice have emerged in the United States: 1) licensed paraprofessional programs, and 2) authorized community justice worker programs. Licensed paraprofessionals (alternately called licensed paralegals, licensed legal technicians, and licensed legal professionals) are *licensed* by a state regulatory body, typically enabling these practitioners to independently provide legal advice and/or representation in specific areas of law. Community justice workers are *authorized* and typically trained to provide legal advice and/or representation as part of a community-based organization's existing work, usually under the supervision or mentorship of a licensed attorney. In its July 30, 2025 Resolution 1-2025, the Conference on Chief Justices (CCJ)/Conference of State Court Administrators (COSCA) also makes this distinction.¹⁰ We focus our comments only on the Task Force’s recommendations for the Community Justice Worker Program (D.C. App. R. 49(c)(14)).

⁶ See, e.g., Stephan Landsman, *The Growing Challenge of Pro Se Litigation*, 13 LEWIS & CLARK L. REV. 439, 440–41 (2009).

⁷ *Justice Gap Research*, *supra* note 5.

⁸ National Center for Access to Justice, Justice Index: Attorney Access, at <https://ncaj.org/state-rankings/justice-index/attorney-access>.

⁹ Task Force Report, *supra* note 1, p. 4.

¹⁰ CCJ/COSCA Resolution 1-2025 In Support of Exploring Access to Justice Through Authorized Justice Practitioner Programs, available at https://www.ncsc.org/sites/default/files/media/document/Resolution%201_Authorized%20Justice%20Practitioner_8-6_25_Fnl.pdf.

RECOMMENDATIONS

1) Permitted Activities

Subject Matter Areas

The Task Force recommends that there be no “specific subject matter-limits on CJW programs, beyond the limitation to civil matters.”¹¹ We commend this openness to a wide range of matters, as this openness is supported by the body of empirical evidence.

Legal needs studies suggest that Americans, and particularly those with low incomes and people of color, experience a wide range of legal problems and that those problems often cluster (i.e., they are not experienced in isolation from each other).¹² Consumer debt and housing are among the most common legal problems, particularly among disadvantaged groups.¹³ Other states, such as Alaska, Utah, and Arizona, have chosen not to restrict their rules by subject matter, and consequently have seen enormous creativity and responsiveness to emerging needs. For example, Alaska justice workers can currently train to represent clients in a wide variety of areas, including public benefits, consumer debt, wills, Indian Child Welfare Act (ICWA) matters, housing, and domestic violence, with additional areas open for development. In Utah, the state’s legal services regulatory sandbox supports an even wider variety of entrants; and, as in Alaska, there are no restrictions on subject matter. Services in Utah include programs focused on intimate partner violence, consumer debt, housing, veterans’ issues and expungements. We are not aware of any evidence that suggests opening programs to diverse areas of practice has any impact on either the potential for consumer harm or program quality. Even an area as complex as immigration law is practiced by accredited nonlawyer nonprofit immigration representatives; no studies we are aware of suggest harm.¹⁴

Based on these facts and other state and federal authorization of nonlawyer advocates, we commend the Task Force for its openness to a wide range of subject matter areas.

Tasks Community Justice Workers Would Be Authorized to Perform

The Task Force recommends authorizations that would permit legal advice, participation in mediation, preparation of documents and agreements, and some kinds of in-court representation.¹⁵ The Task Force also recommends that CJWs not be permitted to “conduct an

¹¹ Task Force Report, *supra* note 1, p. 32.

¹² See Sandefur and Teufel, IAALS and HiiL, *supra* note 5.

¹³ *Id*

¹⁴ See US Department of Justice Executive Office for Immigration Review, Recognition and Accreditation Program at <https://www.justice.gov/eoir/recognition-and-accreditation-program>.

¹⁵ Task Force Report, *supra* note 1, pp. 33-34.

*evidentiary hearing or trial.*¹⁶ We encourage the Courts to consider expanding the authorization to permit the conduct of evidentiary hearings or trials.

Limiting such representation is unusual among both approved and proposed rules regarding practice by both authorized community justice workers and licensed paraprofessionals. For example, the Alaska Community Justice Worker rule includes no explicit prohibitions on in-court representation.¹⁷ In Delaware, Licensed Tenant Advocates (LTAs) are permitted to engage in settlement negotiations, file pleadings or other documents with the Justice of the Peace Court, and appear before the court (with written consent, signed by a supervising attorney).¹⁸ Further, the proposed Texas rule on Licensed Court Access Assistants (LCAAs) explicitly permits representation before Justice Courts, which include evidentiary proceedings regarding debt, evictions, and other issues.¹⁹

Available empirical studies in the US and abroad reveal that nonlawyer practitioners can and do represent clients in courts and other fora without evidence of consumer harm or poor quality. In US jurisdictions, this work takes place in tribal courts, in immigration proceedings, in some state tax courts, and across a range of federal benefits.²⁰ Evidence shows that nonlawyer advocates can perform as well or better than lawyers in social security appeals, state tax courts, and unemployment compensation appeals in the United States, and in a range of government tribunals in the United Kingdom.²¹

The general finding is that nonlawyer advocates appearing before courts or hearing bodies perform as well or better than lawyers when the nonlawyers are specialized and experienced. A U.S. study comparing the performance of lawyer and nonlawyer advocates in unemployment compensation appeals, state tax appeals, social security disability appeals, and labor grievance arbitration concluded that specialized expertise in a given area of practice was more important than general legal training in explaining the effectiveness of different types of advocates across these diverse

¹⁶ *Id.*, p. 34.

¹⁷ See Alaska Bar Rule 43.5 at <https://courts.alaska.gov/rules/docs/bar.pdf>.

¹⁸ Rules of the Supreme Court of the State of Delaware, Rule 57.1. Representation of Residential Tenant by Qualified Tenant Advocate in the Justice of the Peace Court, at <https://courts.delaware.gov/forms/download.aspx?id=174928>.

¹⁹ Supreme Court of Texas, Preliminary Approval of Rules Governing Licensed Legal Paraprofessionals and Licensed Court-Access Assistants, at <https://www.txcourts.gov/media/1458990/249050.pdf>.

²⁰ Burnett, Matthew and Sandefur, Rebecca L., A People-Centered Approach to Designing and Evaluating Community Justice Worker Programs in the United States (September 03, 2024). Fordham Urban Law Journal, Vol. LI, 2024, Available at SSRN: <https://ssrn.com/abstract=4946163> or <http://dx.doi.org/10.2139/ssrn.4946163>; Herbert M. Kritzer. 1998. *Legal advocacy: Lawyers and nonlawyers at work*. University of Michigan Press.

²¹ Kritzer, *supra* note 15; Hazel Genn & Yvette Genn, The Effectiveness of Representation at Tribunals 243-44 (Lord Chancellors Department and Queen Mary College, University of London 1989). The U.K. study explored the impact of lawyer and nonlawyer representation in four types of tribunals through analysis of hundreds of tribunal files, observation of hundreds of hearings, and interviews with tribunal staff, representatives, appellants and applicants. Most interviewees believed that specialization and experience, rather than a legal degree, were the most important qualifications for good representation. *Id.* at 245-46.

fora.²² A U.K. study exploring the impact of lawyer and nonlawyer representatives in social security appeal tribunals, immigration adjudication hearings, and mental health review tribunals found that nonlawyers were as positively impactful or more impactful than lawyers across those fora. The authors concluded that “[i]n all tribunals, representatives who specialize and are experienced in presenting tribunal cases provide the greatest assistance to their clients and to the tribunals before whom they appear.”²³

Because such a narrow view of permitted activity is unusual among both existing and proposed rules, and because the evidence does not suggest resulting harm or reductions in quality, we recommend against narrowing permitted activities in this way.

2) Organizations that may operate justice worker programs

The Task Force recommends that “non-profit organizations providing free or low-cost legal services to residents of the District of Columbia... be eligible to apply... for authorization to operate a CJW program.”²⁴ We applaud the Committee’s decision to not set income eligibility limits for clients of CJW programs. Income is only one factor of vulnerability in people’s experience of civil justice problems, which also includes indicators such as veteran status, crime victimization, and disability status.²⁵

It is not clear whether the proposed rule intends to restrict the operation of justice worker programs to only those organizations whose principal activity is legal services provision (e.g., law firms, legal aid offices, etc.). Rising to meet the scale of Washington DC’s access to justice crisis necessitates an open authorization process that permits a wide range of kinds of community-serving organizations to operate justice worker programs. We accordingly encourage the committee to consider broad authorization. We recommend that authorized legal assistance organizations be defined as any tax-exempt, nonprofit, charitable, or social service organization with appropriate in-house (staff), volunteer, or contracted attorney supervision. In Arizona for example, “Community Legal Advocates” may be sponsored by “approved community-based organization[s],” which need not be legal services organizations.²⁶

²² Kritzer, *supra* note 15, at 194-97, 201.

²³ Genn & Genn, *supra* note 16, at 243-46 (discussing the relative impact of different types of representatives in different types of tribunals).

²⁴ Task Force report, *supra* note 1, p. 33.

²⁵ See THE HAGUE INST. FOR INNOVATION OF LAW & The INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS., JUSTICE NEEDS AND SATISFACTION IN THE UNITED STATES OF AMERICA 235 (2021), <https://iaals.du.edu/sites/default/files/documents/publications/justice-needs-and-satisfaction-us.pdf>.

²⁶ Arizona Code of Judicial Administration, Section 7-211: Community-Based Justice Work Service Delivery Models, p. 4.

3) Justice Worker Eligibility, Training, and Supervision

We commend the Task Force for recommending a process for applying to operate justice worker programs that allows applicant organizations flexibility in designing training, eligibility, and post-authorization support models for justice workers. Rather than prescribing program design, the Task Force recommends that “[a]pplications to operate a CJW program would detail program requirements, including eligibility criteria, training, areas of practice, and the nature of supervision.”²⁷ This openness to a diversity of models, combined with the targeted collection of evidence about impact (see below), holds promise to allow learning about what training, eligibility, and post-authorization support models are effective at creating justice worker programs that are effective in connecting people to the legal help they need when they need it, sustainable for communities served, justice worker programs, and justice workers themselves, and scalable to meet America’s vast crisis of unmet legal need. However, this promise can only be met if the process for reviewing applications is both evidence-based and open to experimentation.

The Task Force recommends that applications be reviewed by the “Chief Judge or the District of Columbia Court of Appeals, or a judicial officer designated by the Chief Judge.”²⁸ We recommend that the review process take care not to restrict eligibility unnecessarily or to impose unnecessary training requirements. Research evidence indicates that some elements of existing justice worker program design are likely unnecessary to ensure competent and effective service and run the risk of limiting the growth and impact of authorized programs. These elements can include degree or experience requirements, character and fitness assessments, and criminal background checks. Part of the reason past limited license practitioner models have failed to grow has been the imposition of high bars to admission. For example, Washington State’s now sunset Limited License Legal Technician (LLLT) program’s requirements for admission included multiple examinations, education requirements, thousands of hours of supervised practice, and the purchase of malpractice insurance.²⁹ These structural factors of program design contributed to the LLLT model’s failure to scale up.³⁰ We recommend removing barriers to participation as Justice Workers that evidence does not support as effective means of ensuring competence and quality, because they are unnecessarily restrictive and likely to limit the model’s ability to scale up to meet the vast unmet civil legal needs of Washington DC residents.

Specifically, we recommend that the review process **NOT REQUIRE:**

- Applications to specify that CJW candidates meet educational requirements (such as a J.D., paralegal degree, or paralegal’s certificate) or experience requirements (such as work as a clerk or paralegal, or experience with people who need legal services).

²⁷ Task Force report, *supra* note 1, p. 33, elaborated on p. 38.

²⁸ *Id*

²⁹ Thomas M. Clarke and Rebecca L. Sandefur. 2017. “Preliminary Evaluation of the Washington State Limited License Legal Technician Program.” American Bar Foundation and National Center for State Courts.

³⁰ *Id*. See also Jason Solomon and Noelle Smith. 2021. “The Surprising Success of Washington’s Limited License Legal Technician Program.” Stanford Center on the Legal Profession.

Other states that have authorized justice workers have approached meeting this need in flexible and accessible ways. For example, Alaska’s community justice worker program does not include degree or experience requirements. Instead, the designers of Alaska’s program worked with adult education specialists to design effective, competence- based trainings.³¹ Initial training is reinforced and supported by giving justice workers access to “an online portal... which provides resources such as templates, forms, and legal guides as well as a forum for collaboration and support among CJW volunteers and [supervising] staff.”³² They are also supported by a Community Justice Worker Resource Center.³³ Utah, in its legal services regulatory sandbox authorizes entities to develop their own models for training and deploying justice workers, and then requires those entities to report data on client outcomes, complaints, and other elements of service on a regular basis in an active, evidence-based model for monitoring competence of service.³⁴ We encourage the review process to be open to these and other alternate routes for supporting the competence of CJWs, while at the same time keeping access to the role open.

- Character and fitness evaluations

Such a requirement is not supported by existing empirical evidence. Little research explores the effectiveness of these requirements in preventing attorneys’ bad behavior, and what does exist suggests that these screens are not effective. For example, a study using data from Connecticut explored relationships between information collected at the time of bar entry and later disciplinary action. The authors reviewed the applications and disciplinary records of over 1,300 Connecticut lawyers. Of these, 145 who applied and were admitted were eventually disciplined. The authors find that “[t]here is no significant group of high-risk applicants who stand out from the rest of their peers.”³⁵ And, “many of the variables that are associated with increased discipline risk are demographic variables rather than measures of ‘character’”; for example: gender, with men more likely to be objects of discipline.³⁶ The data collected by Connecticut’s character and fitness assessment permitted the correct prediction of only 2 of the 145 lawyers later disciplined. The authors conclude that “[t]he

³¹ See Joy Anderson and Sarah Carver. 2024. “Community Justice Workers – Alaska’s Response to the Access to Justice Crisis.” MIE JOURNAL 38(1):33-36.

³² Sarah Carver and Joy Anderson, Community Justice Workers: Part of the Solution to Alaska’s Legal Deserts, ALASKA LAW REVIEW.

³³ <https://www.alsc-law.org/leadership/>

³⁴ Rebecca L. Sandefur and Lucy Ricca. 2024. “Outside the Box: How States are Increasing Access to Justice through Evidence-Based Regulation of the Practice of Law.” JUDICATURE 108(1) <https://judicature.duke.edu/articles/outside-the-boxhow-states-are-increasing-access-to-justice-through-evidence-based-regulation-of-the-practice-of-law/>

³⁵ Levin, Leslie C., Christine Zozula, and Peter Siegelman. “The questionable character of the bar’s character and fitness inquiry.” Law & Social Inquiry 40, no. 1 (2015) at 69.

³⁶ *Id* at 75.

information collected during the character and fitness inquiry does not appear to be very useful in predicting lawyer discipline.”³⁷

- Criminal background checks for community justice worker aspirants

Empirical research does not show a clear relationship between prior justice system involvement and the ability to safely and effectively provide help to individuals with their civil justice problems.³⁸ Indeed, as justice workers, people who have had experience with the criminal justice system are arguably more familiar with the law and courts.³⁹

Empirical research into criminal background checks indicates that these are very often unreliable and inaccurate.⁴⁰ This research finds that “[c]ommon errors include incorrect social security numbers, inaccurate names, incorrect or ‘illogical’ birth dates, mismatched identities, and the reporting of sealed or expunged records.”⁴¹ Consequently, a recent study found that criminal records searches produced false-positive errors in at least half of cases.⁴² This occurred because of errors in both public and private sources of background information. Background checks through private services typically used for these purposes often returned one or more “incident[s] that [did] not appear in official government record[s],” while official records also reported incorrect information.⁴³ Research suggests that background checks are not only frequently inaccurate, but also discriminatory, as many communities with the greatest civil justice needs also experience over-policing.⁴⁴

4) Evidence-based Assessment of Impact

We commend the Task Force for recommending that the Courts “designate a person or entity to assist the Courts with oversight of CJW programs,” a “monitor” who could collect, analyze and report on data about CJW programs, CWJs and their work.⁴⁵ This monitoring function can provide critical information about not only the impact and function of CJWs and CJW programs, but also which models of recruiting, training, screening, and supervising justice workers are effective at

³⁷ *Id* at 78.

³⁸ Shawn D. Bushway (2024) Resetting the Record: The Facts on Hiring People with Criminal Histories. Santa Monica, CA: RAND Corporation. https://www.rand.org/pubs/research_briefs/RBA2968-1.html.

³⁹ See, e.g., Carrie Johnson (2024), “‘Cheat code to life’: Jailhouse lawyers help incarcerated people and themselves, too,” National Public Radio, October 16. https://www.npr.org/2024/10/14/nx-s1-5075170/jailhouse-lawyers-initiative-prisonlegal_

⁴⁰ See, e.g. Lageson, S., & Stewart, R. (2024). The problem with criminal records: Discrepancies between state reports and private-sector background checks, CRIMINOLOGY, 62, 5–34. <https://doi.org/10.1111/1745-9125.12359>.

⁴¹ *Id*, p. 10.

⁴² *Id*, p. 5.

⁴³ *Id*, p.17.

⁴⁴ See Rachel M. Kleinman and Sandhya Kajeepeta (2023), BARRED FROM WORK: The Discriminatory Impacts of Criminal Background Checks in Employment. New York, NY: Thurgood Marshall Institute. <https://tminstituteldf.org/wpcontent/uploads/2023/07/Barred-from-Work.pdf>.

⁴⁵ Task Force Report, *supra* note 1, p. 34.

producing effective, sustainable, scalable legal services for residents of Washington DC, providing insights that can guide programs around the nation.

We encourage the Courts to embed reasonable data collection into the reporting of authorized organizations supporting CJWs. We further encourage the Courts to ensure that adequate resources are invested in staffing and supporting the monitor function so that its incumbents are experienced empirical researchers and sophisticated consumers of data who are well-equipped for the work. This investment will help to ensure that the Courts, the Access to Justice Commission, local service providers, legislators, researchers, and other residents of the District of Columbia can learn in real-time about the impact of these programs and how they may be made more effective.

Kind regards,

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