

## ARTICLE

### Changing Every Wrong Door into the Right One: Reforming Legal Services Intake to Empower Clients

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#### ABSTRACT

*It's recognized that people affected by poverty often have numerous overlapping legal needs and despite the proliferation of legal services, they are unable to receive full assistance. When a person is faced with a legal emergency, rarely is there an equivalent to a hospital's emergency room wherein they receive an immediate diagnosis for their needs and subsequent assistance. In this paper, I focus on the process a person goes through to find assistance and argue that it is a burdensome, and demoralizing task of navigating varying protocols, procedures, and individuals. While these systems are well intentioned from the lawyer's perspective, they have unintended consequences for the client. These consequences are especially significant when viewed through our poverty law goal of empowering clients.*

*I argue that the process to find an attorney is unintentionally riddled with invisible barriers that more closely resemble red-tape bureaucracy than the client empowerment that poverty law desires. I highlight four flaws in how legal service intakes are implemented. First, legal services organizations are a complicated web of varying agencies and providers making it challenging for a client to find the right office for their needs. Second, conflict rules, while intended to preserve zealous advocacy, often inhibit a client from finding counsel. Third, in legal services there is little transparency around why or if a case is likely to be accepted, leaving a client confused and frustrated. Fourth, a low-income client has no choice in who actually represents them unlike a client with means who can seek out a specific attorney.*

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*I examine the consequences of these flaws in the context of client empowerment. I argue that the combination of these barriers in one process actually disempower clients and prevent them from accessing the services they need. Finally, I highlight one solution: a collaborative intake and triage model that was piloted in Washington, D.C. to service crime victims. I explore how this model addresses some of these barriers and how it may be a blueprint for much-needed legal services delivery reform.*

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*“When you get these jobs that you have been so brilliantly trained for, just remember that your real job is that if you are free, you need to free somebody else. If you have some power, then your job is to empower somebody else.”<sup>1</sup>*

#### INTRODUCTION

Ava<sup>2</sup> was a low income, undocumented Guatemalan woman living with her boyfriend, John, and their 8-month-old baby girl in rural Maryland. The day Ava came home from work and found John molesting her baby girl, Ava was thrust into the middle of a complicated journey to find legal help. Until then, Ava had quietly endured John’s physical and sexual abuse because Ava knew her odds: she risked deportation, hunger, and homelessness if she left him. But when her daughter was hurt and crying, she knew she had to act despite her fears. Little did Ava realize, it was not going to be as easy as calling 911.

From that day forward, Ava was faced with more obstacles than solutions as she tried to navigate the legal system. She was encouraged to file for a civil protection order but fainted during the first hearing when she saw John. The court provided her with a list of phone numbers for legal non-profits in the area, but Ava spoke limited English and dreaded using an interpreter. Finding an attorney didn’t feel like a priority when she was trying to still go to work, get food on the table, and figure out how to keep her child safe.

As the second protective order hearing grew close, Ava called an office that handled protection orders. Ava was not able to walk into that office immediately and consult with an attorney. In order to balance the high demand for services and the limited staff availability, the office had a strict policy to only do intakes over the phone. An attorney would call the client back within twenty-four to seventy-two hours for a brief consultation.<sup>3</sup> Sometimes an exception would be made for emergency cases, *if* an attorney was available. After the consultation, the office would determine if they could offer full representation and on which legal issues. After the client’s initial call, the rest of the process is in the organization’s control.

The intake process required Ava to call from a safe, private place and speak for at least thirty-five minutes. This meant she could not call on a bus ride on the way home, which was her only down time between jobs and her child. She also had to make sure she had enough minutes on her phone so she did not get cut off during the call. When Ava was finally able to call, she was placed on hold so that

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1. Pam Houston, *The Truest Eye*, THE OPRAH MAG. (Nov. 2003), <https://www.oprah.com/omagazine/toni-morrison-talks-love/all>.

2. Ava’s story is based upon a real client I represented as a staff attorney at the Sexual Assault Legal Institute. While her identity has been changed, the overlapping nature of her numerous legal issues is her reality: a reality that is shared by many low-income individuals around the nation. All client names referenced throughout this piece are pseudonyms to protect the confidentiality of each client.

3. See *infra* Section I (discussing the screening protocol and intake procedures).

the legal assistant could run a conflict check.<sup>4</sup> On the other end, she waited in silence hoping that the call would continue. Luckily for Ava, there was no conflict and the intake went on to ask questions about her demographics, income information, and then the details about the assault—all through a Spanish interpreter.<sup>5</sup> Several times during the intake she had to pause to take care of her baby. Then after completing the intake, she would be called back by an attorney to talk about her options. That was one more call she had to make sure she had the space and minutes to take.

Two days before her hearing, Ava was connected with an attorney to help her with a protection order. They obtained the order, and afterwards the attorney talked Ava through several other legal issues she saw on the horizon—immigration, custody, housing, and crime victims' rights, to name a few. Unfortunately, the attorney could not take her on for any of these potential cases but was able to refer Ava to at least two other organizations that might be able to help her. Ava was left confused and demoralized—she thought she had already found an attorney but now she had to go find more?

The thought of going through those steps again was exhausting. Ava had missed enough work already and taking out more time to navigate another two offices was not worth the effort anymore. Each intake would have required Ava to find her way to the phone or an office, take her child with her or find childcare, take time away from work, probably use an interpreter, and explain the details of her assault numerous times. She had a choice to make: do all of that in hopes of getting a lawyer, or make sure she still had a roof over her head and food on the table. She chose the latter.

The intake process Ava went through to find legal representation is not uncommon.<sup>6</sup> If the first provider a client visits cannot represent the client or can

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4. A conflict check ensures that the attorney does not represent another client, past or present, or case that could interfere with the attorney's undivided loyalty. "This assessment ought to be undertaken at the beginning of the representation . . . but the rules make clear that if the conflict arises after the representation has been undertaken, it is the obligation of the lawyer to withdraw from the representation." *Sanford v. Virginia*, 687 F. Supp. 2d 591, 601 (E.D. Va. 2009).

5. If there had been a conflict, Ava would have been given a list of numbers for other offices to contact. This is a common practice by many legal service organizations, or legal assistance adjacent entities per my personal experiences as a direct services attorney and conversations with other direct service attorneys. See Telephone Interview with Karla Barrow Chalif, former Staff Att'y & Managing Att'y, Legal Aid Found. of L.A. (Aug. 2019); Telephone Interview with Megan Challenger, former Att'y, Legal Aid of Md. (Aug. 2019).

6. Ashley Graham-Watanabe, the Brief Managing Services Unit Attorney with Neighborhood Legal Services, explains that for those looking for help, "traditionally it tends to be here are some numbers to call to see if you can get some services." See Video Interview with Ashley Graham-Watanabe, Brief Servs. Unit Managing Att'y, Neighborhood Legal Servs. (July 21, 2021). This is because many legal groups address only some issues. Sarah Hollender, the Associate Director of Tzedek DC, explains, "legal services are really siloed . . . with different eligibility criteria, so an individual D.C. resident in need of help with more than one issue can get stuck in a circle—a loop between all of the non-profits, just struggling back and forth doing intakes." Video Interview with Sarah Hollender, Assoc. Dir., Tzedek DC (July 28, 2021). This lack of communication in legal services makes the intake process more complex for those in need. For example, in Pittsburgh, the Allegheny

only address a portion of her legal needs, the client—like Ava—must continue searching through subsequent organizations. The client is faced with a potentially disempowering process of repetitive intakes, rejections, and inefficient access to resources to sort and locate the appropriate attorney for *their* specific needs. Going to a second organization means going through a different intake process, finding transportation, arranging for child-care, taking time off of work—to name a few challenges. Thus, only those clients with enough stamina or resources can endure and continue the process to find the attorney(s) they need.<sup>7</sup>

Most legal service providers have varying intake hours, requirements, and needs that create confusion about how to access legal help.<sup>8</sup> With one in four low-income households having experienced six or more civil legal problems in the past year, 86% of low-income Americans reported receiving inadequate or no legal help with these problems.<sup>9</sup> One of the top three reasons someone might not seek professional help is because they did not know where to look or what resources might exist.<sup>10</sup> A person in poverty, like Ava, is likely facing numerous overlapping legal issues—not to mention financial, social, mental, and emotional hurdles. Most recently, the COVID-19 pandemic made matters worse as the justice system pivoted to only hearing emergency matters and going online. When

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Association Bar Referral, Christian Legal Aid of Pittsburgh (Oakland and North Side), Neighborhood Legal Services—Allegheny County, and Jewish Family and Legal Services of Pittsburgh: Legal Help for Refugees, all have their own intake process. *See, e.g., Legal Services*, ISLAMIC CTR. OF PITTSBURGH, <https://www.icp-pgh.org/legal-services/> (last visited May 27, 2022).

7. It is important to acknowledge that none of these burdens or hurdles is erected intentionally by the legal services organizations to inhibit the ability of a client to get legal representation. These hurdles have slowly formed through a need to balance the high demand of legal representation for the poor, with the low supply of available free legal representation. Despite no malintent on the organization's part, on the ground, it becomes really hard for a client to maneuver through the system, especially if they have multiple legal and non-legal needs stemming from poverty. *See generally* Paul R. Tremblay, *Acting "A Very Moral Type of God": Triage Among Poor Clients*, 67 *FORDHAM L. REV.* 2475 (1999) (wherein the author premises his analysis of the need to triage clients on the scarcity of legal services for low-income communities).

8. *See* Video Interview with Ashley Graham-Watanabe, *supra* note 6 (explaining some of the challenges faced by clients in her community and how a coordinated referral system alleviates this challenge).

9. LEGAL SERVS. CORP., *THE JUSTICE GAP: MEASURING THE UNMET CIVIL LEGAL NEEDS OF LOW-INCOME AMERICANS* 21–30 (2017), <https://www.lsc.gov/our-impact/publications/other-publications-and-reports/justice-gap-report> [hereinafter *Justice Gap Report*] (reporting that people living in poverty only sought professional help for twenty percent of the civil problems they faced. The most common issues they sought help for were the “plainly legal” ones, such as issues related to children, wills, or estates. What this means is that for more complex issues, or ones that are much more overlapping in nature, low-income Americans did not seek out assistance); *see also* DC ACCESS TO JUST. COMM’N, *DELIVERING JUSTICE: ADDRESSING CIVIL LEGAL NEEDS IN THE DISTRICT OF COLUMBIA* 4 (2019) [hereinafter *DELIVERING JUSTICE*] (showing *pro se* litigants data from the DC Superior Court in 2017: 75% of plaintiffs in Housing Conditions cases in the civil division, 83% of plaintiffs in divorce/custody/miscellaneous cases in Family court, and 88% of respondents in Land Lord Tenant (LLT) court were unrepresented).

10. *Justice Gap Report*, *supra* note 9, at 33–34. Other reasons for low-income individuals not seeking help are because they think they can handle the issue on their own, they do not know where to turn for help, they do not understand their problem is a legal problem, they are worried about the cost, they do not have the time, or they are afraid to pursue legal options.

seeking legal help, an impoverished person will likely be looking for an attorney at more than one non-profit because there are few offices that provide holistic legal representation.<sup>11</sup> The process of finding an attorney is unintentionally riddled with invisible barriers that more closely resemble red-tape bureaucracy rather than the client empowerment poverty law desires.

In this Article, I look at opportunities to reform and improve legal services delivery,<sup>12</sup> specifically the intake process, through a client empowerment lens, one of the two widely agreed upon goals of poverty lawyering. Part I examines the goals of poverty lawyering and explains how scholars have historically viewed legal services delivery reform as an access to justice issue. This lens has resulted in immense quantitative improvements to services that have significant benefits to providers and the litigants. I distinguish and offer how a secondary goal, empowerment, provides a qualitative framework to reform efforts by emphasizing the long-term psychological needs of clients. Typically, empowerment principles are applied to lawyering, either broadly or only after an attorney-client relationship has formed. Part II takes this empowerment framework and applies it to a different temporal part of a client's journey with legal services: the intake and referral structures. I explain the commonly used intake procedures as they exist now, and how disempowerment remains in the existing structures and mechanisms. Part III introduces a collective intake and triage model called the Victim Legal Network of DC (VLNDC), which has the potential to resolve some of the existing barriers in a way that enables clients to enter attorney-client relationships in alignment with empowerment principles. Finally, this paper assesses the VLNDC's shortcomings but illustrates how it may serve as a model for other urban settings where clients are seeking services amongst a collection of possible providers.<sup>13</sup>

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11. See *Get Legal Help*, LEGAL SERVS. CORP., <https://www.lsc.gov/about-lsc/what-legal-aid/get-legal-help> (last visited May 27, 2022). The legal services corporation provides funding to 132 independent non-profit legal aids in each state, the District of Columbia, and the U.S. Territories. Unfortunately, even those organizations come with their host of restrictions. See *infra* Part II(a).

12. In this Article, legal service delivery refers to legal services that are provided free, or at a very reduced cost, to marginalized communities. While the demand for free legal services is also assisted through other structures—*pro bono* programs, self-help centers, etc.—those structures are not the ones examined within the scope of this Article.

13. This piece focuses' primarily on urban settings, as opposed to rural ones. Urban settings, in contrast to rural areas, possess a higher concentration of providers to meet the demands of a densely populated geography. For example, just in the greater Manhattan area, there are over 160 legal service providers whereas the entire state of Montana has twenty. See *Legal Aid Area Directory*, LAWHELPNY.ORG, <https://www.lawhelpny.org/find-legal-help/directory/area?area=ny36061&page=5> (last visited May 27, 2022) (New York [Manhattan] directory); *Legal Aid Directory*, MONTANALAWHELP.ORG, <https://www.montanalawhelp.org/find-legal-help/directory> (last visited May 27, 2022) (Montana directory). In a rural setting, if there aren't any choices available, many of the hurdles discussed in this Article may not apply.



## I. POVERTY LAWYERING GOALS

While there is sometimes a tension in the literature about which goal—empowerment or access to justice—is the driving value behind poverty lawyering, each perspective brings unique value to assessing the quality of what services poverty lawyers are truly providing.<sup>14</sup> The processes and systems that scaffold the delivery of legal services to low-income communities have been driven by a fundamental desire to equalize the discrepancies with which low-income litigants engage in legal relief in comparison to wealthy litigants.<sup>15</sup> Presidents have given speeches about it, law schools hold symposiums, and commissions were created in cities across the country to assess and reform how America could rectify the glaring double standard that exists in the eternal quest for “equal justice under the law.”<sup>16</sup> The idea that we are striving for equal justice has come to define one of two primary goals of poverty lawyering: increasing access to justice for low-income litigants. This goal assumes that more access is better, and the challenge is in finding ways to maximize or increase resources for clients.<sup>17</sup> This approach led to legal services delivery reforms centering on quantitative improvements to the ways in which we define “justice” and how to get litigants who traditionally are unable to reach the system, into the system.

However, only looking at legal services delivery through an access to justice lens has its shortcomings. It fails to analyze the qualitative impact of the structure

14. Paul Tremblay postures that empowerment is the ultimate goal of poverty law. *See* Tremblay, *supra* note 7, at 2477. In a response article by Justine Dunlap, she suggests that providing someone the services that gets them access to the legal system to address their grievances is a sufficient goal. *See* Justine Dunlap, *I Don't want to Play God—A Response to Professor Tremblay*, 67 *FORDHAM L. REV.* 2601, 2606 (1999). Richard Abel argues that there is no consensus about the measures of success for legal services; he continues to evaluate the evolution of the goals of legal services over the ages but does not land upon a particular answer. *See* Richard L. Abel, *Law without Politics: Legal Aid under Advanced Capitalism*, 32 *UCLA L. REV.* 474, 485–498 (1985). In contrast, Alan Houseman reviews the five elements of Legal Services Corporation that not only embody empowerment, but also furthers access to justice in order to rectify historic harm. *See* Alan W. Houseman, *Legal Services: Has it succeeded?*, 1 *UDC L. REV.* 97, 106–108 (1992).

15. *See* Roger Crampton, *Delivery of Legal Services to Ordinary Americans*, 44 *CASE W. RES. L. REV.* 531, 534 (quoting Derek Bok, a former dean of Harvard Law describing, “far too much law for those who can afford it and far too little for those who cannot”). Crampton argues that there are two spheres of legal services, one for corporate and the wealthy, and the second for individual clients. His analysis focuses on the latter. *See id.*; *see also* Deborah L. Rhode, *The Rhetoric of Professional Reform*, 45 *MD. L. REV.* 274, 279–83 (1986); Abbe Smith, *For Tom Joad and Tom Robinson: The Moral Obligation to Defend the Poor*, 1997 *ANN. SURV. AM. L.* 869, 889–90 (1997).

16. Deborah L. Rhode, *Access to Justice: Connecting Principles to Practice*, 17 *GEO. J. LEGAL ETHICS* 369, 371 (2004) (highlighting that, as of 1999, the U.S. supplied only 1 lawyer for every 1,400 low-income individuals). In 2015, 1.8 million people were not represented when appearing in the New York State courts. While in 2013, 98% of tenants in eviction cases and 95% of parents in child support cases were unrepresented. Justice Gap Report, *supra* note 9, at 9.

17. Elizabeth L. MacDowell, *Reimagining Access to Justice in the Poor People's Courts*, 22 *GEO. J. ON POVERTY L. & POL'Y* 473, 475–478 (2015) (dissecting the term “access to justice” to imply that there is justice on the other side of ‘access’ to the system and highlighting access to justice programs focused on the presence or absence of attorneys, relaxing rules around unauthorized practice of law, and accessibility of courts).

and process on the clients, especially when those clients have distinct needs. Specifically, for low-income litigants like Ava, they are likely facing additional internal and external barriers that can inhibit the effectiveness of legal assistance if it does not take into account these distinctions.<sup>18</sup>

Client empowerment, as a second prominent goal of poverty lawyering, provides a different framework to assess the qualitative impact of our work and is a framework that has been rarely applied to analyzing the early stages of a client's interactions with legal services. This goal came to fruition in the 1960s when Edgar and Jean Cahn responded to the creation of the Legal Services Corporation and called attention to the lack of client voices in reform methods.<sup>19</sup> Over the next few decades, scholars expanded upon and developed principles of empowerment as they apply to poverty lawyering.<sup>20</sup> This section will describe how the existing literature and practical efforts apply access to justice and client empowerment perspectives, but will distinguish where in the temporary process of legal services delivery the analysis centers.

### A. Access to Justice

Access to justice as a goal of poverty lawyering developed in the early days of legal services when the legal community began to see the dualistic nature of the justice system. There was a recognition that a distinct set of barriers prevented low-income clients from engaging in the legal process; the most prominent one being a lack of funds to pay for counsel.<sup>21</sup> One of the first solutions that was presented was to develop legal services that specifically provided help to these communities. In the earliest forms of legal services from the 1800s, it was a capitalistic response, focused on providing free legal services to low-income communities as a form of charity.<sup>22</sup> If society can increase the number of lawyers

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18. See CIVIL JUSTICE FOR ALL, AMERICAN ACADEMY OF ARTS AND SCIENCES 1 (Cambridge, Mass. 2020) [hereinafter CIVIL JUSTICE FOR ALL] (contextualizing access to justice advocacy by describing the many hardships low-income Americans face: homelessness, unemployment, wage theft, debt, and interrupted healthcare: all issues that may be the result of unlawful practices, but some are collateral consequences of having to navigate complex bureaucracies to obtain assistance).

19. Paul R. Tremblay, *A Tragic View of Poverty Law Practice*, 1 D.C. L. REV. 123, 124–25 (1992) (explaining the Cahns' civilian perspective that intended to bring the voice of clients back into the planning and creation of the very programs that intended to serve them. Tremblay aptly describes the Cahns as opening the debate "about the proper role of professionals in aiding the dependent and the disadvantaged by calling to our attention the propensity of professionals to ignore the perspectives of those whom they seek to help or serve").

20. *Id.* at 125–126. Other contributors to the client empowerment conversation include Anthony Alfieri and Gerald Lopez. See *infra* notes 63, 72.

21. FELICE BATLAN, *WOMEN AND JUSTICE FOR THE POOR: A HISTORY OF LEGAL AID, 1863-1945* 4–13 (2015).

22. See generally S. Edgar & Jean C. Cahn, *The War on Poverty*, 73 YALE L.J. 1317 (1964) (explaining that the general approach to poverty was militaristic and labeled the War on Poverty. This approach sought to target perceived short-comings in society through wide-sweeping programs. However, through time the costs of attempting to change neighborhoods became too much and the focus shifted to working within the neighborhoods to address grievances within the communities); Houseman, *supra* note 14, at 122 (reviewing the history of how legal services came to be). With the passage of the



available to these communities, they can engage in the process and achieve justice, similarly to someone with means. Eventually, this evolved into a national response and the creation of the Legal Services Corporation (LSC), America's iconic organization associated with free legal services.<sup>23</sup> The goal and purpose of LSC is to literally "promote equal access to justice."<sup>24</sup>

Over the years, access to justice has been explored in its many components: access for what, to what, and for whom.<sup>25</sup> Ultimately, there is some consensus that access to justice is about ensuring that all people have the ability to utilize the legal system to find solutions for their grievances.<sup>26</sup> It rests on the principle that it is important that everyone is equally entitled to the legal system—"equal justice under the law" and, as Deborah Rhode notes, there is a dubious sense that social justice may be available through procedural justice.<sup>27</sup> The underlying current in most of the conversations around access to justice initiatives is a desire to equalize power between those who have been marginalized and those who are privileged.<sup>28</sup> One way this power differential is equalized is by providing resources to

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Economic Opportunity Act, legal services were funded for the first time. Many of the early legal programs were viewed as charity work and met opposition from other lawyers and bar associations. Early legal services viewed their work as charity and would decide who was "deserving" of services. Much of the help provided focused on what the assisting lawyers thought the client deserved, and this would often lead to missed court appearances or poor performances since the lawyer viewed providing any help as being an improvement. See Houseman, *supra* note 14, at 122.

23. See *The Founding of LSC*, LEGAL SERVS. CORP., <https://www.lsc.gov/about-lsc/who-we-are/our-history> (last visited May 27, 2022).

24. See *generally About LSC*, LEGAL SERVS. CORP., <https://www.lsc.gov/about-lsc> (last visited May 27, 2022) (delineating, among other things, LSC's mission).

25. See, e.g., Deborah Rhode, *Access to Justice: Connecting Principles Symposium*, 17 GEO. J. OF LEGAL ETHICS 369 (2004); see also Russell Engler, *Reflections on a Civil Right to Counsel and Drawing Lines: When does Access to Justice Mean Full Representation by Counsel, and When Might Less Assistance Suffice*, 9 SEATTLE J. SOC. JUST. 97, 100 (2010) (highlighting the surge in access to justice commissions across states in the early 2000s).

26. Richard L. Abel, *Law without Politics: Legal Aid under Advanced Capitalism*, 32 UCLA L. REV. 474, 489 (1985) (arguing that access "rests on the value premise that it is desirable that everyone is equally entitled to consult a lawyer or to approach a legal institution directly"). See Dunlap, *supra* note 14 (explaining how in a system where disputes are often resolved in court, there is established value in having a lawyer assist a client in navigating the system). Dunlap specifically discusses this in the context of individual representation where providing access to the system can be a significant goal in one individual's life. *Id.*

27. Rhode, *supra* note 25, at 372 (posturing that the assumption that social justice comes through procedural justice ignores the role that money plays in creating the very systems and structures we are striving for access to).

28. See Engler, *supra* note 25, at 110–11 (citing *In re Marriage of King*, 174 P.3d 659 (Wash. 2007), to discuss the imbalance of power referenced by courts in right to counsel actions). See also James Gordley, *The Meaning of Equal Access to Legal Services*, 10 CORNELL INT'L L.J. 220, 220 (1977) (discussing two tasks assigned to legal services, which work to equalize access in two different ways: (1) putting the poor in the same position as the rich and (2) treating the poor differently because they are not in the same position as the rich due to lack of access to the legal system); Deborah L. Rhode, *supra* note 25, at 385 (analyzing the critique that legal aid programs are ill equipped to address the structural sources of poverty and emphasizing that, while litigation can be a catalyst to community organizing efforts, approaches that keep attorneys in a position of power perpetuate the powerlessness of the poor); Houseman, *supra* note 14, at 107 (explaining the principles developed in the early days of the creation of

the marginalized in a way that will allow them to utilize the legal system in a meaningful way.<sup>29</sup> As a result, most reforms have centered on quantitatively increasing access to lawyers and the justice system. Legal services' effectiveness thus has been traditionally viewed as an access to justice quandary.

### *B. When Access to Justice Drives Legal Services Reform*

Despite the development of legal services, the country saw the number of unrepresented litigants growing rather than shrinking.<sup>30</sup> Increasingly, advocates for access recognized the variety of barriers that affect a low-income client's ability to engage in services beyond a lack of finances—trauma, a lack of legal information, and mistrust in the system due to systematic racism, to name a few.<sup>31</sup> As a response, access to justice initiatives began to expand beyond a desire to ensure legal representation for all.<sup>32</sup> One example is seen in the seven recommendations from the American Academy of Arts and Sciences in its *Civil Justice for All* report, which revolve around dedicating resources, increasing available lawyers in several capacities, building self-help resources, fostering inter-disciplinary partnerships, and collecting metrics for data.<sup>33</sup> Nationwide initiatives grew around removing physical barriers to courts and counsel (through increased locations, hours, and technology-facilitated services),<sup>34</sup> eliminating financial barriers (through the growth of legal aid),<sup>35</sup> expanding access to counsel (through the

the LSC, several of which referenced an equalization of power: a client's right to control decisions about their solutions, redressing historic system inadequacies, and a commitment to serving the client community).

29. See Gordley, *supra* note 28, at 227–28 (noting that the purpose of legal aid is not to confer any additional benefit to the clients, but to allow them to access the system they are entitled to already. He continues to make an interesting point of analyzing the dangers of thinking about access to courts as an additional public welfare benefit because doing so reduces private rights to a matter of public trust. This leads to unintended consequences that impact a person's individual rights, such as a reduction in the importance of the right to choose counsel).

30. See Justice Gap Report, *supra* note 9, at 6–7 (finding that, in the year preceding 2017, 71% of low-income households experienced a civil legal problem, with the rate being higher if a household has experienced violence or disability, while 86% of the problems reported received inadequate or no legal help); see also Gary F. Smith, *Poverty Warriors: A Historical Perspective on the Mission of Legal Services*, 45 CLEARINGHOUSE REV. J. POVERTY L. & POL'Y 34, 37–39 (2011); David Luban, *Taking Out the Adversary: The Assault on Progressive Public Interest Lawyers*, 91 CAL. L. REV. 209, 211 (2003) (contextualizing the access to justice problem in terms of how many lawyers are available per low-income resident in America: only 1 lawyer for every 9,000 low-income Americans).

31. See, e.g., Sara Sternberg Greene, *Race, Class, and Access to Civil Justice*, 101 IOWA L. REV. 1263, 1279 (2016) (discussing the mistrust in the system.).

32. See Engler, *supra* note 25, at 99–100 (highlighting the surge in access to justice commissions across states in the early 2000s and listing examples of solutions implemented in various jurisdictions).

33. AM. ACAD. OF ARTS & SCIS., CIVIL JUSTICE FOR ALL 4–5 (2020).

34. See Engler, *supra* note 25, at 99–100.

35. See Bruce A. Green, *Foreword, Rationing Lawyers: Ethical and Professional Issues in the Delivery of Legal Services to Low-Income Clients*, 67 FORDHAM L. REV. 1713, 1721–22 (1999) (summarizing collaborative efforts to consolidate existing resources between lawyers and non-lawyers to serve low-income communities: joint representation efforts, developing non-legal assistance, expanding limited legal assistance, and expanding *pro bono* assistance).

provision of low bono legal services),<sup>36</sup> and increasing knowledge (through outreach and greater dissemination of legal information).<sup>37</sup>

Unfortunately, the reality is that most access to justice initiatives are only as successful as the likelihood the targeted population will utilize the resources. For example, if a legal clinic is offered but the intake hours are scheduled when public transportation and childcare are hard to find, clients are less able to utilize the service. The additional barriers that low-income clients face in navigating resources cause them to fall into a deeper pattern of rejection and disempowerment, as we saw earlier with Ava. As a result, the existence of more resources does not translate to accessibility and increased engagement with the system.

### C. Principles of Client Empowerment

Where the quantitative nature of access to justice initiatives has its strengths and weaknesses, the qualitative principles of client empowerment provide another perspective. Discussions in literature led to the distillation of client empowerment as another goal of poverty lawyering in addition to access to justice.<sup>38</sup> The meaning and application of client empowerment has become just as multifaceted as access to justice. In this Article, the term ‘client empowerment’ means enhancing an individual client’s autonomy—their ability to self-advocate and regain control over their life.<sup>39</sup>

The way in which client empowerment principles evolved through history and literature sheds light on why client empowerment came to take a central place in poverty lawyering. Client empowerment developed as low-income legal services came to be widely viewed not as a form of charity for a helpless set of individuals, but as a means of strengthening community.<sup>40</sup> Anthony Alfieri, in *The Antinomies of Poverty Law and a Theory of Dialogic Empowerment*, describes as a “myth” the perception of isolated and poor individuals inhabiting a

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36. Low bono legal services are low-cost services for individuals who are above the federal poverty level but would still face hardship in paying for legal services and often are choosing between continuing to cover their family’s basic necessities and legal assistance. See *What is Low Bono?*, WASH. STATE BAR ASS’N (Apr. 27, 2022), [wsba.org/legal-community/sections/low-bono-section](https://wsba.org/legal-community/sections/low-bono-section).

37. See D. James Greiner, *What We Know and Need to Know About Outreach and Intake by Legal Services Providers*, 67 S. C. L. REV. 287, 290 (2016).

38. See, e.g., Tremblay, *supra* note 7, at 2477 (arguing that the “telos” of poverty law is empowerment and that other goals, such as access, are just “tokens of power achievement”); see also William H. Simon, *The Dark Secret of Progressive Lawyering: A Comment on Poverty Law Scholarship in the Post-Modern, Post-Reagan Era*, 48 U. MIAMI L. REV. 1099, 1102 (1994) (defining empowerment as “enhancing the autonomy of the client” by “minimizing the lawyer’s own power, or the social power the lawyer would other tend to implement” and “enlarging the client’s capacities for self-assertion”).

39. See Tremblay, *supra* note 7, at 2509 (“Access to lawyers, and by extension to courts, is important because it represents a form of power, a capacity to control one’s life.”). See also Simon, *supra* note 38, at 1102.

40. See JEROLD S. AUERBACH, *UNEQUAL JUSTICE: LAWYERS AND SOCIAL CHANGE IN MODERN AMERICA* 162 (1976) (explaining that, historically, the legal profession’s commitment to social justice and elite capitalistic values has ebbed and flowed with the political times).

culture of poverty.<sup>41</sup> The culture of poverty theory, or myth, claims that the people living in poverty are burdened by feelings of “marginality, helplessness, dependence and of inferiority.”<sup>42</sup> This ideology runs deep in the veins of the very legal institutions that poverty lawyers work within, even though most poverty lawyers would likely not endorse marginalizing views of the people living in poverty.<sup>43</sup> Indeed, the claim that these individuals are helpless, dependent, and require paternalistic guidance was the foundation of early legal service efforts.<sup>44</sup> In the early 1900s, for example, legal service was pitched as a means to maintain order in society.<sup>45</sup> The idea was that if a low-income person is given a sense of justice and inclusion in the system, they may be more invested in the American system and its values.<sup>46</sup> People deprived of legal redress would be more likely to support rebellious voices.<sup>47</sup> Legal services were therefore a charity that would maintain the greater order of society.<sup>48</sup>

In the 1980s, legal services organizations, like the legal profession, started to acknowledge its own role in perpetuating the subjection of the very population it was trying to serve.<sup>49</sup> In the 1980s and 1990s, poverty law scholars dove deep into the ways in which an inherently unbalanced power dynamic existed between poverty lawyers and their clients.<sup>50</sup> The deeply rooted misbalance of power in the legal system prevented poverty lawyers from being able to actually combat poverty, unless they could move to a place where they could empower the impoverished to fight as well.<sup>51</sup>

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41. Anthony V. Alfieri, *The Antinomies of Poverty Law and a Theory of Dialogic Empowerment*, 16 N.Y.U. REV. L. & SOC. CHANGE 659, 673 (1987) (discussing the prejudice and misinformation that accompanies the perspective that the poor are helpless, passive, malleable and in need of saving).

42. *Id.* at 674.

43. *Id.*

44. See AUERBACH, *supra* note 40, at 55 (speaking to the purpose of the initial legal service organizations to pick and choose who to serve based upon their ability to avoid social unrest); see also Houseman, *supra* note 14, at 97, 99 (explaining early legal services were treated as a form of charity); Alfieri, *supra* note 41, at 674 (detailing how the culture of poverty thesis were focused on serving chosen clients while not addressing the broader issues).

45. AUERBACH, *supra* note 40, at 54.

46. *Id.*

47. *Id.*

48. *Id.*

49. Alfieri, *supra* note 41, at 671.

50. See Simon, *supra* note 38, at 1099–1100 (citing prominent examples of poverty law scholarship regarding empowerment).

51. Alfieri, *supra* note 41, at 665. See also Tremblay, *supra* note 7, 2509–2511 (1999) (articulating a trusteeship function for poverty lawyers because a poverty lawyer is not only serving a specific client but also potential future clients who may benefit from their work). Tremblay contrasts the trusteeship function with the lawyer’s focus for a paid client. For a paid client, the lawyer’s obligation stems from that specific client and ends when that representation ends. In contrast to a poverty lawyer, the paid lawyer can take on a contrasting representation, as long as it does not impede any ethical responsibility to the former client. See *id.*

Thus, two principles of empowerment emerged in the literature: reducing a lawyer's power in the relationship by involving a client in decision-making and growing a client's ability to self-advocate through meaningful choice.<sup>52</sup> Conversations in literature predominantly focused on dismantling the power-dynamic that exists in an attorney-client relationship, especially for poverty lawyers.<sup>53</sup> In a traditional model, the power dynamic arises from the attorney's dominance over the client through many different forms: imposing the attorney's views on the client, enforcing strict measures over the form and substance of communications, and leaving little room for client narrative and dialogue.<sup>54</sup>

The shift in the attorney-client power dynamic was to further the autonomy of the client through maximizing the client's understanding of their situation and options, while minimizing the attorney's personal views.<sup>55</sup> Clients should be provided with every opportunity to exert control over the processes they are engaging in and to enhance their skills to take ownership over their lives.<sup>56</sup> This is true even if this means a client affirmatively decides to hand over certain decisions to others. For example, empowerment for one client may look like the client deciding to ask their attorney to make a particular decision on their behalf. Whereas for a different client, empowerment may mean that the client makes all of the critical decisions and guides every step of the process.<sup>57</sup> William Simon, in *Lawyer*

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52. See Alfieri, *supra* note 41, at 692, 699 (examining the imbalance in attorney-client relationships where a lawyer dominates the conversation with a client; continuing to highlight ways in which the power imbalance can be addressed through changes in the attorney's initial interactions with the client; the footnotes elaborate on suggested practices that have since been incorporated into client-centered lawyering); William H. Simon, *Lawyer Advice and Client Autonomy: Mrs. Jones's Case*, 50 MD. L. REV. 213, 213 (1991) (discussing client choice); Simon, *supra* note 38, at 1101–02 (arguing that while empowerment includes “enlarging a client’s capacities for self-assertion” even in an attempt to do so, a lawyer inherently passes on some of their values and priorities when guiding a client towards this goal).

53. See Alfieri, *supra* note 41, at 678 (“Although poverty lawyers may not endorse the culture of poverty thesis, they are enmeshed in a social system—the attorney/client relation—consigning the poor to the status of dependent other.”). See also Simon, *supra* note 52, at 213.

54. See Alfieri, *supra* note 41, at 686 (discussing the routinization of legal services wherein services are in such high demand that as a way to efficiently handle a large caseload, clients and their issues are set into patterns of practice that in essence remove the individualization of the client); see also Robert F. Cochran, *Which “Client-Centered Counselors”? A Reply to Professor Freedman*, 40 HOFSTRA L. REV. 355, 358–360 (2011) (discussing tenets of client-centered lawyering and specifically examining whether a lawyer can counsel a client on moral issues within the traditional client centered lawyering model. Cochran highlights the dominant view of client-centered lawyering that focuses on client autonomy and argues that would be at odds with moral counseling because moral counseling might remove the lawyering from being entirely neutral). See also *infra* Part II (explore the power dynamic that exists in the way our system is developed, even before the attorney-client relationship formally begins).

55. Simon, *supra* note 52, at 213 (examining the extent to which an attorney can embody the autonomy view without making some level of judgment calls about the client's best interests but argues that this is not paternalistic).

56. For example, empowerment is a critical component of trauma informed care because trauma affects a person's sense of control over their lives. See Katherine Swanson, *Providing Trauma-Informed Legal Services*, 42 L.A. LAW. 15, 16 (Apr. 2019).

57. See generally Simon, *supra* note 52 (exploring a case example where the client was affirmatively asking the lawyer to make a decision on her behalf. Simon uses this example to illustrate that there may be situations where a client asking a lawyer to make the decision could be considered

*Advice and Client Autonomy*, recognized that the ability to make that decision might be important for a particular client in a given scenario.<sup>58</sup>

Empowerment also inspires poverty law work on a systematic level because of the historically oppressive welfare systems that are the context for poverty in the United States.<sup>59</sup> Maintaining complex intake and screening protocols that closely resemble the bureaucratic nature of America's public welfare system does not help distinguish legal services from any other complicated system.<sup>60</sup> People living in poverty share a common experience of government regulation and surveillance through their necessary reliance upon the welfare system and entirely public services.<sup>61</sup> They are constantly answerable to agencies that dictate their basic necessities—shelter, food, health, and safety.<sup>62</sup> This systematic silencing of the client voice is much more dominating where the social economic differential between the client and the attorney is wider.

One richly discussed approach to lawyering that embodies empowerment on a macro scale is rebellious lawyering, a term coined by Gerald Lopez in the 1990s.<sup>63</sup> Rebellious lawyering focuses on social change through the empowerment of a subordinated group of individuals to gain control of the issues that affect their lives.<sup>64</sup> It is lawyering for social change through the facilitation of information and support to the very communities that are affected.<sup>65</sup> It requires lawyers to leave behind their traditional notions of lawyering and employ grassroots approaches wherein they get to know the communities they are working on behalf

respecting a client's autonomy as well. Otherwise, the lawyer is at risk of imposing their value of "forcing her to be free" upon the client).

58. See *id.* at 213; see also Todd A. Berger, *The Constitutional Limits of Client-Centered Decision Making*, 50 U. RICH. L. REV. 1089, 1092–93 (2016); Cochran, *supra* note 54, at 355, 358; Sameer M. Ashar, *Law Clinics and Collective Mobilization*, 14 CLINICAL L. REV. 355, 367–72 (2008).

59. Alfieri, *supra* note 41, at 665.

60. Sternberg Greene, *supra* note 31, at 1294–96.

61. Alfieri, *supra* note 41, at 667 (explaining how class consciousness illustrates the historical nature of poverty in America and the defining characteristics of the poor experience).

62. Justice Gap Report, *supra* note 9. The majority of low-income American households have civil legal problems including problems related to basic needs such as health care, safety, and housing. Poverty disproportionately affects certain communities: below 125% the federal poverty line includes 6.4 million seniors, 10 million people in rural areas, 1.7 million veterans, and 11.1 million people with a disability. In each of these populations, low-income communities are constantly interfacing with, often, multiple agencies to meet their basic needs. *Id.* at 6.

63. See generally GERALD P. LOPEZ, *REBELLIOUS LAWYERING: ONE CHICANO'S VISION OF PROGRESSIVE LAW PRACTICE* (1992) (examining the challenges of being a lawyer for social change and how a lawyer can move to empower communities for systemic change and advocacy).

64. See *id.*; see also Shauna Marshall, *Mission Impossible?: Ethical Community Lawyering*, 7 CLINICAL L. REV. 147, 159–60 (2000) (explaining the connection between client-centered lawyering and broader social change that comes from the empowerment of the client). Marshall continues to examine the role of a community lawyer in this vein and how a community lawyer can draw connection between individuals with similar problems so that there is power in numbers and group advocacy driven by those directly affected.

65. Marshall, *supra* note 64, at 166 (describing the difference between a "know your rights" event and a workshop aimed at solving individuals' problems as well). Marshall describes a workshop as a hybrid between client intake and "know your rights," in which participants engage in group problem solving and action steps taking during that workshop time. *Id.*



of.<sup>66</sup> A lawyer would take on a different role: one that is focused on providing information and support to their community client in a way that supports long term change, instead of short term “wins.”<sup>67</sup>

Similarly, values of empowerment appear consistently within trauma-informed lawyering practices, another framework increasingly utilized in assessing and improving poverty lawyering.<sup>68</sup> Due to the various environmental stressors that surround living in poverty, trauma is common.<sup>69</sup> The trauma experienced by low-income individuals creates additional barriers by complicating one’s ability to ask for or receive help. Because a common response to trauma is a sense of hopelessness, it can be difficult for low-income individuals to make plans and follow through on them.<sup>70</sup> In addition, economic hardships make it difficult for people to cope with other forms of trauma, and poverty disproportionately affects people of color, women, and the LGBTQA+ community.<sup>71</sup> Developing or improving systems and resources for people living in poverty requires recognizing that empowerment is a critical component of providing trauma-informed care.

#### *D. Empowerment’s Impact on Legal Services Reform*

When looking at where the literature or efforts of client empowerment have been applied, few of the efforts have centered on how empowerment perspectives can reform legal services *prior* to an attorney-client relationship being formed.<sup>72</sup>

66. See E. Tammy Kim, *Lawyers as Resource Allies in Workers’ Struggles for Social Change*, 13 CUNY L. REV. 213, 218–19 (2009) (explaining how rebellious lawyering gave rise to new models of lawyering such as community-based law offices and community development clinics, along with a challenge to the traditional hierarchy of a lawyer-client relationship. This resulted in the development of client-centered lawyering, collaborative lawyering, and critical lawyering).

67. See Milner S. Ball, *Power From the People*, 92 MICH. L. REV. 1725, 1727–28 (1994) (distilling four components of rebellious lawyering: (1) using the stories of ordinary people as a primary means of understanding, (2) collaboration driven with lawyering and non-lawyers who are immersed in the communities; (3) making law accessible to the people, and (4) reorienting law to education in support of self-help); see also Peter Edelman, *Remarks: DC Consortium of Legal Service Providers: Legal Services 2000 Symposium*, 5 UDC L. REV. 257, 260 (challenging DC lawyers to approach lawyering from a public health perspective wherein they add on to individual representation by considering the root issues that are plaguing the community and work to address those as well. Edelman offers examples of community building lawyers can assist with, such as transitional assistance to build up impoverished communities).

68. The application of trauma-informed lawyering principles to the structures and systems of poverty law warrants further discussion. While this Article will not be elaborating further on the ways in which trauma-informed lawyering can and should be applied to the structures of legal services delivery, I do hope to explore that idea in further work.

69. Johannes Haushofer, *The psychological consequences of poverty*, TED TALK (Aug. 15, 2017), <https://www.youtube.com/watch?v=FdR0NqrlRZo> (examining the trauma that results from living in poverty).

70. *Economic Trauma*, FIN. HEALTH INST., <https://financialhealthinstitute.org/learn/economic-trauma/> (last visited May 27, 2022).

71. MEGHAN RESLER, FAM. & CHILD’S TR. FUND OF VA., *SYSTEMS OF TRAUMA: ECONOMIC TRAUMA* 5–6 (2019), <https://www.fact.virginia.gov/wp-content/uploads/2019/11/FACT-Issue-Brief-Economic-Trauma-FINAL-11.19.191.pdf> (exploring how poverty and drastic reduction of income can cause traumatic stress as well as exacerbate trauma caused by other stressors, such as family violence).

72. See Alfieri, *supra* note 41 (establishing the role of empowerment in poverty lawyering and then applying these empowerment principles to suggest reforms to the traditional notions of attorney-

Much of the literature in client empowerment is centered on how to address individual client empowerment through the attorney-client relationship or community empowerment.<sup>73</sup> Scholars and practitioners alike progressed towards enhancing client narratives and client-centered lawyering practices, along with other strategies.<sup>74</sup> Since the 1990s, poverty lawyers have internalized controls to counter-act the power imbalance that is inherent in the social power an attorney has over a client.<sup>75</sup> The clothing an attorney wears, where they sit, and how they address a client all have the potential to further the micro-structures of power that contribute to the subordination that impoverished people face daily.<sup>76</sup> Even in direct service agencies, lawyers are actively engaging in broader social reform, noting trends in their individual client cases, and conducting related advocacy to help facilitate broader advocacy.<sup>77</sup>

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client dialogue); see also Simon, *supra* note 38 (laying the foundation for client-centered lawyering by examining how a lawyer can support a client's autonomy during advice and counsel); Tremblay, *supra* note 19 (summarizing what Tremblay dubs the "critical view" of poverty lawyering wherein he explains empowerment practices or experiences in attorney-client relationships or in the context of community lawyering).

73. See Alfieri *supra* note 41, at 665 (examining both client and community empowerment as tools in the war against poverty); see also LOPEZ, *supra* note 63, at 37–38 (developing rebellious community lawyering); Berger, *supra* note 58, at 1109–19; Laurens Walker et al., *The Relation Between Procedural and Distributive Justice*, 65 VA. L. REV. 1401, 1417 (1979); Cochran, *supra* note 54, at 356–59; Monroe H. Freedom, *Client-Centered Lawyering—What It Isn't*, 40 HOFSTRA L. REV. 349, 353 (2011).

74. See Tremblay, *supra* note 19, at 126 n.11 (citing some of the seminal literature on client empowerment including: Gary Bellow, *Turning Solutions Into Problems: The Legal Aid Experience*, 34 NLADA BRIEFCASE 106 (1977); William H. Simon, *Visions of Practice in Legal Thought*, 36 STAN. L. REV. 469 (1984); Peter Gabel & Paul Harris, *Building Power and Breaking Images: Critical Legal Theory and the Practice of Law*, 11 N.Y.U. REV. L. & SOC. CHANGE 369 (1982-83); Abel, *supra* note 14; Anita Hodgkiss, *Petitioning and the Empowerment Theory of Practice*, 96 YALE L.J. 569 (1987); Austin Sarat, "... The Law Is All Over": Power, Resistance and the Legal Consciousness of the Welfare Poor, 2 YALE J.L. & HUMAN. 343 (1990); Howard Lesnick, *The Wellsprings of Legal Responses to Inequality: A Perspective on Perspectives*, 1991 DUKE L.J. 413 (1991)).

75. This is mostly captured in the term, "client-centered lawyering." See Kate Kruse, *Fortress in the Sand: The Plural Values of Client-Centered Representation*, 12 CLINICAL L. REV. 369, 371 (2006) (citing Paul R. Tremblay, *On Persuasion and Paternalism: Lawyer Decisionmaking and the Questionably Competent Client*, 1987 UTAH L. REV. 515, 523 (summarizing the history and theory of client-centered lawyering, especially as it has become a dominant practice taught in law schools).

76. Simon, *supra* note 38, at 1101–02 (1994) (discussing the representation premise wherein the micro-structures of daily practice are examined and revised in line with empowerment principles).

77. See Jan A. May, *Mapping A Labyrinth to Justice: Lessons and Insights from Innovative Legal Services Delivery Methodologies Implemented in the District of Columbia*, 5 UDC L. REV. 79, 87 (2000) (explaining the formation of the D.C. Consortium of Legal Service Providers as a "catalyst for the development of law reform activity involving legal services programs and the private bar"). During my time practicing in the Washington, D.C. legal services community, I was a member of the DC Consortium of Legal Services Providers, a group formed of over thirty organizations that shared resources and often organized collective advocacy in which clients participate in giving testimony and engaging their communities. The DC Consortium had a policy committee that directly focused on upcoming legislative advocacy before the D.C. Council. See *DC Consortium: Community Listening Project*, DC BAR FOUND. (Nov. 30, 2017), <https://www.dcbarfoundation.org/post/dc-consortium-community-listening-project>.

Empowerment was embodied in the Legal Services Corporation's founding by including as one of its defining elements a priority on involving clients from the community in governing positions in legal service organizations.<sup>78</sup> The act of involving clients in governing positions translated the theory of client empowerment into a tangible practice.<sup>79</sup> For example, the Washington Legal Clinic for the Homeless has active community representation through a board seat as well as collaborative community initiatives.<sup>80</sup> Unfortunately, due to a variety of practice considerations, active client involvement is not as common a practice as one would hope amongst legal providers.<sup>81</sup> Houseman accurately noted that even though this was dictated as a policy, it was never clearly specified what role clients would serve and instead it led to considerable practical problems for staff.<sup>82</sup> As such, the idea of involving clients in leadership is, on the surface, a step towards placing them in seats of power but the value is lost if there is faulty execution of the policy. The underlying principle of client leadership and engagement in legal service organizations is one manifestation of empowerment that extends beyond the traditional conversations of empowerment within attorney-client relationships.<sup>83</sup>

Empowerment matters in all stages of the process a client engages in to find an attorney and has yet to be applied as a lens to analyzing the success of legal services intakes. The interactions a client may have with a potential attorney prior to their first meeting can often be powerful in setting the tone of the relationship and can be just as impactful as the relationship itself. On one end of the spectrum, it can unnecessarily deter a client from seeking assistance. This is similar to the emphasis we place on procedural due process. We do not like the notion of ignoring someone's rights prior to them entering the courtroom, so we should be equally uncomfortable with a disempowering process preceding the commencement of the attorney-client relationship.

## II. THE UNINTENTIONAL DISEMPOWERMENT OF CLIENTS DURING INTAKE

The current intake process turns a resource (free legal services) that is intended to empower clients, into one that reinforces the deep-rooted power

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78. 42 U.S.C.A. 2996c (Westlaw through P.L. 117-102) (stating that "the membership of the Board shall be appointed so as to include **eligible clients**, and to be generally representative of the organized bar, attorneys providing legal assistance to eligible clients, and the general public") (emphasis added).

79. Houseman, *supra* note 14, at 117.

80. Washington Legal Clinic for the Homeless has several community board members and homelessness advocates involved in leadership. See *About Us*, WASH. LEGAL CLINIC FOR THE HOMELESS, <https://www.legalclinic.org/about/> (last visited May 27, 2022). This structure might be the kind of experimentation that Houseman suggested: "programs must experiment with new approaches and mechanisms to improve client involvement and participation." See Houseman, *supra* note 14, at 120.

81. See Houseman, *supra* note 14, at 118–20 (talking more at length about the history of client involvement and explaining that LSC insisted on this without any recognition of the reality of what this would entail).

82. *Id.* at 119.

83. See *id.* at 118–20.

dynamics it is seeking to break. Even in the most efficient and well-intentioned system, the current structure of organization-specific intakes creates invisible barriers that inhibit the client's growth even before they see a lawyer. First, the independent and differing intake procedures at each legal service organization create a complicated web of organizations the client must navigate. Second, the conflict check that is conducted after a client arrives for intake can become a barrier if they fail the check and are forced to begin the process again at another organization. For a low-income individual who does not have access to the entire universe of legal representation, this can close doors to finding an attorney. Third, each organization has unique screening requirements and is not often completely transparent about their requirements. And fourth, the client does not have the choice of counsel when they seek representation from a legal services organization; they are assigned an attorney *if* they are accepted for services. In this next section, I will explore each barrier in turn.

#### A. *A Complicated Web of Organizations*

Despite the existence of Legal Services Corporation (LSC), the mainstay of free legal services in the country, truly generalist free legal services rarely exist. LSC's federal funding limits what types of cases and who they can serve.<sup>84</sup> For example, LSC-funded organizations are unable to accept clients raising controversial political issues such as abortion.<sup>85</sup> Slowly, legislation expanded these restrictions. In 1996, Congress restricted LSC's ability to serve undocumented individuals or to represent incarcerated individuals, even if the case did not have anything to do with the crime.<sup>86</sup> The federal support ultimately came with a heavy price: if a LSC office was engaged in any of these restricted activities, even with other funding, they were no longer eligible for federal funds.<sup>87</sup> What resulted was a bifurcation of the services once provided by LSC. At the expense of preserving the federal funding, organizations established physical and financially separate offices to serve the clients and cases that LSC was unable to.<sup>88</sup> Ultimately, diversity of funding and more nuanced client needs created the slow development of specialized legal services organizations through the country.<sup>89</sup>

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84. Luban, *supra* note 30, at 221 (describing the ever-tightening restrictions on the legal services corporation and the impact it had); Houseman, *supra* note 14, at 105–06 (highlighting the presidential statements favoring the creation of LSC as a part of our justice system, but also simultaneously restricting how it would advocate for justice. Some of the initial restrictions included a prohibition on lobbying, organizing, and political activities of staff attorneys).

85. Luban, *supra* note 30, at 221.

86. ALAN HOUSEMAN & LINDA E. PERLE, SECURING EQUAL JUSTICE FOR ALL: A BRIEF HISTORY OF CIVIL LEGAL ASSISTANCE IN THE UNITED STATES 37 (2018), [https://www.clasp.org/sites/default/files/publications/2018/05/2018\\_securingequaljustice.pdf](https://www.clasp.org/sites/default/files/publications/2018/05/2018_securingequaljustice.pdf) (describing the successive legislation beginning in the 1970s that began to restrict the types of services LSC funded organizations could provide. Much of this legislation was a response to the anti-immigration sentiment sweeping through the country).

87. Luban, *supra* note 30, at 222.

88. *Id.* at 222–27 (describing the creation of IOLTA funds as the secondary alternative source of legal aid funding nationwide, generating more than \$125 million a year as of 2001).

89. Houseman, *supra* note 14, at 97, 121.

This overarching structural issue creates the first barrier that clients face when seeking free legal services. In most urban areas a multiplicity of legal service providers leads to the inadvertent creation of a web of offices a client has to sift through.<sup>90</sup> Prospective clients, like Ava, must go through numerous steps and through a similarly, cumbersome process, each time, again without any guarantee of representation.<sup>91</sup> Sometimes a referral would either be slightly facilitated by a client's current counsel—what's often called a warm handoff—or she may just be given a number to call—a cold referral. In either scenario there are numerous areas where a client may fall through the cracks and not obtain legal representation.<sup>92</sup>

With a cold referral, the client receiving the lists of services is responsible for working their way through the list and finding another office to visit.<sup>93</sup> This would require another set of forms, at least another hour of their time, time off from work, arranging childcare, and any other accessibility issues they may face. Often it takes a significant amount of effort for someone to walk into a provider's office the first time; the pure logistics of having to do it again may prevent them from doing it a second, or third time.<sup>94</sup> Thus, the burden is ultimately returned to the client to find services.

In a warm handoff, a client fares a bit better because the initial provider does the groundwork of finding another legal resource for the client and facilitates the connection through a call, or email. It happens less frequently, but usually in situations where a client presents a particularly sympathetic case and a provider is willing to invest their time in helping the individual secure representation.<sup>95</sup> A warm handoff is more common in scenarios where a client is being represented by an organization on at least one matter, thus the attorney already has the client's

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90. See *Legal Aid Directory*, LAWHELP.ORG/DC, <https://www.lawhelp.org/dc/find-legal-help/directory> (last visited May 27, 2022) (DC has 87 legal service options listed); *Legal Aid Area Directory*, LAWHELP.NY.ORG, <https://www.lawhelpny.org/find-legal-help/directory/area?area=ny36061&page=5> (last visited May 27, 2022) (Manhattan has over 160); *Legal Aid*, LAWHELP.CA.ORG, [http://www.lawhelpca.org/legal-directory?field\\_area\\_target\\_id=326](http://www.lawhelpca.org/legal-directory?field_area_target_id=326) (last visited May 27, 2022) (Los Angeles has over 25 distinct organizations, some with multiple offices). See also CIVIL JUSTICE FOR ALL, *supra* note 18, at 26 (“The mosaic of efforts in each state and locality—courts; legal services organizations; volunteer, or *pro bono*, efforts by lawyers; and other facets—must be much more visible, accessible, and capable of serving many more people.”).

91. May, *supra* note 77, at 96 (explaining that the concept of a legal hotline was to alleviate clients having to go through an elaborate intake process, and waiting for assistance just to be rejected if they only want brief advice or a referral); Justice Gap Report, *supra* note 9, at 29–35 (finding that low-income Americans receive inadequate or no professional legal help for eighty-six percent of the civil legal problems they face in a given year. Out of the possible reasons for not seeking assistance, twenty-two percent cited not knowing where to look).

92. Edelman, *supra* note 67, at 297 (illustrating in a graphic the nature in which clients get passed through a funnel effect of civil legal services. The graphic shows the various ways in which clients are sorted and only one may obtain services at the end).

93. See *supra* note 5 and accompanying text.

94. Houseman, *supra* note 14, at 97, 121.

95. See generally Paul R. Tremblay, *Toward a Community-Based Ethic for Legal Services Practice*, 37 UCLA L. REV. 1101 (1990) (examining and challenging the value judgments that practitioners make determining how to allocate the scarce resources of legal services).

information and can easily reach out to other organizations to see who can assist the client. For example, at the Georgetown Domestic Violence Clinic, a client receiving representation for a civil protection order could need assistance with a related custody case. With the client's permission, we would send a short synopsis of the client's needs to a local listserv and seek out representation opportunities for the client. This way, we greatly facilitated the process by which a client was connected to an available legal service provider.

However, even a warm handoff is severely limited by the awareness of the referring organization. It requires each referring source to maintain an updated knowledge of the other resources available in the area and have the time and ability to access other referral partners and organizations.<sup>96</sup> Even in the example above, the process works less smoothly for more obscure legal issues or ones that are not commonly seen as related to a civil protection order matter. In contrast with a legal clinic where a student may have the bandwidth to conduct a warm handoff, this is not common for the typical limited-capacity legal services attorney.<sup>97</sup> In the reality of legal services practice where time is often a rarity, even the time each warm handoff takes can significantly add up and cases can fall through the cracks.

### *B. Conflict Checks - Delays and Hurdles*

If a legal issue arises between two individuals who are eligible for low-income services, they are likely to seek help from the same organization particularly when only one organization in the area provides help in multiple legal areas. Low-income clients are usually seeking representation less out of choice and more out of necessity. Unlike a wealthier individual who can seek counsel elsewhere if a conflict arises, conflicted impoverished clients are more likely to go without full legal assistance because their options are limited.<sup>98</sup>

The conflict-of-interest rule presents a unique barrier for low-income clients. Conflicts of interest can arise prior to, during, or after representation. The purpose of these rules is to further an attorney's loyalty and independent judgment when representing or advising a client.<sup>99</sup>

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96. An incredible amount of connections are also made via subject or geography specific listserv wherein attorneys will post looking for referrals for a particular type of a case. For example, in DC, the DC Consortium, or the Domestic Violence advocates group served as significant sources of referrals and connections.

97. See Tremblay, *supra* note 95 (examining the tension between the role of poverty lawyers and the realities of legal services practice). See also Telephone Interview with Karla Barrow Chalif, former Staff Att'y & Managing Att'y, Legal Aid Found. of L.A. (Aug. 2019); Telephone Interview with Megan Challenger, former Att'y, Legal Aid of Md. (Aug. 2019) (sharing their practice of having a referral sheet on hand for clients they could not serve. Clients would then have to call the individual organizations to see who could assist them further. Attorney's responsibility would be focused on ensuring that the information was current on the sheet).

98. See *supra* notes 7–11 and accompanying text. See also *supra* notes 13–16 and accompanying text.

99. MODEL RULES OF PRO. CONDUCT 1.7—1.10 (AM. BAR ASS'N 2020) 1.7—1.10.



Such a conflict may result from a variety of places, such as a competing personal or financial interest or where the lawyer previously provided some type of legal service to an adverse party.<sup>100</sup> The conflict-of-interest rule serves as an important gatekeeping function to ensure an attorney can represent a client's interest to the fullest extent possible. However, if conflict-of-interest rules were read extremely rigidly, they would unreasonably affect the client and the attorney's mobility.<sup>101</sup> In the legal aid context, the consequences of reading the conflict rule rigidly spars with empowerment.

John's case is an example.<sup>102</sup> John was in an intimate relationship with Andrew for several years. Over time, Andrew became increasingly abusive and subjected John to consistent physical and mental anguish. John tried to break away twice, but both times Andrew—who had previously gained access to John's social security number—threatened to ruin John's credit if he left. Finally, when John did leave, Andrew went through with his threat and John was faced with a case of identity theft and financial fraud. He had little to no money available and sought out services at the local legal aid. Unbeknownst to John, Andrew had previously been represented by the legal aid in a prior unemployment dispute. The legal aid read the conflict rule rigidly and it thus created a conflict of interest when John sought out help. The only other legal services agency did not provide assistance with financial crimes, and John was left without any options other than seeking a *pro bono* attorney from the local bar. It is worth noting that if John had the means to afford private counsel, he would be better situated to find alternative legal services and discuss representation. However, as someone with little means, the conflict rule that was supposed to protect his interest manifested as an insurmountable barrier.

Evaluating ethical dilemmas is very context-specific, and poverty law presents its own unique set of circumstances.<sup>103</sup> Poverty lawyering requires a distinct evaluation from scenarios where an attorney is serving a paying client, or a corporation.<sup>104</sup> One consideration that makes serving a low-income community distinct from serving those with means is that impoverished people usually cannot afford attorneys and are more likely to access services at an organization funded

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100. *See id.*

101. *See* Marshall J. Breger, *Disqualification for Conflicts of Interest and the Legal Aid Attorney*, 62 B.U. L. REV. 1115, 1119 (1982) (explaining that conflict of interest rules allow for an exception to continue representation if the attorney believes they can provide competent and diligent representation, representation is not prohibited by law, the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal, and each affected client gives informed consent, confirmed in writing).

102. John and Andrew are pseudonyms used to protect client confidences.

103. *See* Green, *supra* note 35, at 1716–18 (discussing the distinct challenges faced by legal services lawyers due to the unique circumstances of their clients).

104. *See* Richard P. Weishaupt, *Ethics and Legal Aid: The Beginning of a Discussion*, 42 CLEARINGHOUSE REV. 173, 173–74 (2008).

by third parties.<sup>105</sup> Due to the need for external financing, there is naturally a higher demand for services than supply, thus leading to scarcity and difficult decisions for the providers to determine where to utilize resources.<sup>106</sup> This distinction from client paid services leads to different ethical issues arising for poverty lawyers, or common issues playing out differently for poverty lawyers.<sup>107</sup> These issues have been discussed at length and resulted in national organizations releasing guidance specifically tailored for legal services attorneys.<sup>108</sup> However, we should not only think about how we interpret and apply the rules. We should also consider how our application of the rules may have other unintended consequences for our clients.<sup>109</sup>

I am not suggesting that we create an exception that removes conducting conflict checks in an effort to facilitate more representation. Doing so would deprive poor people the benefits of counsel's loyalty that arises from the enforcement of conflict check policies. Additionally, it would result in the sacrifice of quality of representation and services for perceived greater quantity of representation. Loyalty, confidentiality, and zealous representation are all important benefits of having legal counsel.<sup>110</sup> It would only further reinforce the power imbalances with low-income clients if the profession were intentionally providing less complete services to this population, and thus sacrifice the rights of the clients the profession is looking to enforce.<sup>111</sup>

Furthermore, opening up a method to increase the amount of clients receiving services at the sacrifice of the quality of representation would feed into the incorrect bias that a free attorney is less than a paid attorney.<sup>112</sup> More than in other

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105. See Green, *supra* note 35, at 1716; see also Breger, *supra* note 101, at 1123 (describing legal services lawyers as the lawyers of "last resort" for most of the clients seeking their services).

106. See Green, *supra* note 35, at 1717 (mentioning some of those tensions that arise from "lawyers may be influenced in conscious or unconscious ways by the expectations [if not legal constraints] of public and private funders. They may also be affected by competing philosophical or ideological understandings of the ideal role of lawyers and law offices serving low-income clients").

107. See *id.* at 1716. See generally Breger, *supra* note 101 (exploring the implications of applying conflict of interest rules to legal services in the same way it is applied to other legal professionals); Adam J. Espinosa, *Ethical Considerations When Providing Unbundled Legal Services*, 40 COLO. LAW. 75 (2011) (applying Colorado Rules of Professional Conduct to legal assistance that is limited in scope and examining how they are implicated); Green, *supra* note 35 (citing *Recommendations of the Conference on the Delivery of Legal Services to Low-Income Persons*, 67 FORDHAM L. REV. 1751 (1999) (noting the group addressed distinct ethical issues that arise for poverty lawyers)).

108. Most jurisdictions have adopted exceptions to the rules governing conflicts in limited scope representation situations. This is commonly associated with brief advice, referral, or hotline services. See, e.g., MD. CODE ANN. § 19-306.5 (West 2016) (providing narrowly tailored exceptions to the conflict rules for situations where lawyers are providing limited legal services with no expectation of ongoing representation).

109. See generally Breger, *supra* note 101 (arguing that if the lawyers have created conflict rules, then it is our responsibility to fix the problems they create).

110. MODEL RULES OF PRO. CONDUCT Preamble, r. 1.3, 1.6 (AM. BAR ASS'N 2020).

111. See Breger, *supra* note 101, at 1129 (arguing against diminishing the quality of legal services in order to assist more clients).

112. See FAITH MULLEN & ENRIQUE PUMAR, THE COMMUNITY LISTENING PROJECT 30 (The DC Consortium of Legal Service Providers, Apr. 2016), <https://www.lawhelp.org/files/7C92C43F-9283-A7E0-5931-E57134E903FB/attachments/A4B5C44F-8B88-4B76-97A9-FF648F7C7EB9/clp-final-april->

settings, due to the inherent imbalance of power between a poor person and the system, the adherence to fiduciary responsibilities is even more important to make sure that clients are treated fairly and keep their confidence in the system.<sup>113</sup> In *Disqualifications for Conflicts of Interest and the Legal Aid Attorney*, Marshall Breger suggests revisiting the boundaries of conflicts of interest as they exist in poverty lawyering, and proposed several measures to find practical solutions to ensure that conflicted parties find representation.<sup>114</sup> However, his proposals are very similar in nature to proposals made to generally solve the lack of supply and demand for full legal representation—access to justice responses.<sup>115</sup> Ultimately, the approach is the same: find a way to increase the number of attorneys available.<sup>116</sup>

Breger's solutions, without an enhanced mechanism to actively reduce the amount of time and effort it takes on a client's part to find an available attorney, are only part of the answer. In areas where a variety of legal service providers exist, working through conflicts of interests is still a barrier to services even if there are other options available. Breger touches upon the benefit to referrals amongst legal service providers, but implementing these referrals is sometimes still a challenge. Even in an area where numerous legal providers exist, as discussed above, navigating other resources is often an inefficient and burdensome process.<sup>117</sup> As a result, the legal services office remains as the lawyer of last resort.<sup>118</sup>

In order to navigate these rules, most legal aid offices have built in different practices to allow for attorneys to take appropriate steps to avoid or address a conflict as it arises. They have adopted a combination of two of Breger's approaches: the Social Utility Approach and Temporal Priority Approach.<sup>119</sup> It is worth

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2016.pdf (illustrating a bias that you pay for what you get so if you are not paying for an attorney, you are somehow receiving less services than if you had hired a private attorney); see also Movement Matters, DC Consortium of Legal Service Providers, Community Listening Project Recommendations 1 (Oct. 2017) (unpublished manuscript) (on file with author) [hereinafter Movement Matters] (one of the three reasons why people do not seek out lawyers included skepticism around the quality of free legal services).

113. See Breger, *supra* note 101, at 1130.

114. *Id.* at 1116. Breger first evaluates and confirms the impact that conflicts have on legal services delivery; he ultimately postures that there is some responsibility on the government's part to provide representation to parties that are conflicted out of representation. He also concludes that more private sector involvement is necessary to alleviate the likelihood of *pro se* parties. He also explores the screening option, but notes the practical hurdles faced by a legal services organization in erecting such a screen within their offices. *Id.*

115. See *supra* Section B, at 14 (discussing access to justice initiatives).

116. See, e.g., Breger, *supra* note 101, at 1151–59.

117. See *supra* Section II(A).

118. Breger, *supra* note 101, at 1123.

119. *Id.* at 1137–38. The Social Utility Approach is a utilitarian approach, noting that the goal of legal services is to serve as “general counsel to the poor”; this way, cases are selected based on their propensity to maximize the collective good; on the other hand, the Temporal Priority Approach is an access rights position wherein a client has a right to engage with state courts and prohibits selection of clients based upon the moral or social worth of the client's case. *Id.*

noting, if a client does not fit within the stated priorities or subject matter of the legal services office, they will most likely be rejected. However, if their needs align with the priorities of the organization, the office will run a conflict check. This is where the temporal prioritization takes place and creates a first-come, first-served basis for representation.<sup>120</sup> Prior to beginning legal representation, an attorney will verify that they have not represented or advised the opposing party in a matter. For most offices, this involves searching in a database of prior clients whether either party's name appears.<sup>121</sup> If the name appears, then the office may inquire further into the nature of the case to see if there would be a conflict of interest in representing or assisting both parties, but more often than not, the client is informed that there is a conflict of interest that prevents representation. If this is the case, the client is provided with other possible offices they can consult with for potential representation, but the burden is back on the client to seek out other services.<sup>122</sup> For a low-income client that is grappling with various decisions, like John or Ava, they may decide not to continue looking for assistance and just handle the issue on their own, or not at all.<sup>123</sup> We cannot ignore the steps a client has to take before even getting to the stage of conducting a conflict check. Like Ava, who had to make arrangements to even be able to take a phone call, having to go through all of those steps while facing the prospects of being rejected for services, regardless of the nature of your case, is incredibly discouraging. It becomes a time-consuming process for both the client and provider.

### C. Lack of Screening Transparency

Legal services delivery has become transparent in a lot of positive ways. Most offices will be up front about their intake process, what steps are required, and how long it might take.<sup>124</sup> The client is given a choice on engaging in the process or not with a simple question, "would you like to proceed with our process?" These are important steps in making sure the potential client has all of the information possible to make an informed decision. Dignity and empowerment flow from this open access to information.<sup>125</sup> Where transparency becomes more

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120. *Id.* at 1138–39 (summarizing temporal priority as whomever comes through the door first is served first. Thus, the second client may be conflicted out).

121. See, e.g., Willie Peacock, *How to Conduct a Conflict Check*, CLIO, <https://www.clio.com/blog/conflict-check-how-to/> (last visited May 27, 2022) (explaining how a database may be created with key information to conduct conflict checks).

122. See *supra* note 5 and accompanying text. This was my experience working in multiple different legal services organizations during my direct services career.

123. See Movement Matters, *supra* note 112, at 1 (finding three general reasons why people did not seek out assistance for legal issues: lack of knowledge about services, skepticism that free or reduced cost legal services are high quality, and not having easy access to legal service organizations).

124. See, e.g., *Client Access & Intake*, LEGAL SERVS. CORP., <https://www.lsc.gov/i-am-grantee/model-practices-innovations/provide-legal-services/client-access-intake> (last visited May 27, 2022) (suggesting best practices in intake for legal service organizations and highlighting existing examples of accessible practices from LSC funded organizations). For example, LSC advocates for "multiple port access" so a client can do an intake online, over the phone, or in person. *Id.*

125. See *supra* Section D (discussing empowerment).

challenging is around why a client may be rejected for services. Most organizations employ some level of a case-by-case analysis to determine if a case is appropriate for their legal representation or not. Paul Tremblay describes this process as triage.

Triage is a natural response to an organization's inability to assist everyone seeking services.<sup>126</sup> Most legal service offices operate under a premise of scarcity—they are usually under-resourced to fully represent every individual seeking services and are burdened by external restrictions that impact their ability to meet a client's holistic legal or social needs.<sup>127</sup> While ideally legal services offices are reducing the distance between available services and the need for legal help, the reality remains that current legal services organizations are still turning clients away.<sup>128</sup> This scarcity leads providers to implement an internal screening process—triage—to determine which clients they can assist, and in what capacity.<sup>129</sup>

In organizations that focus primarily on individual representation, a typical triage process begins after a client completes an intake.<sup>130</sup> The first level of triage is a more objective pre-screen. Usually, the assigned staff will review the intake information to determine if the client meets any preliminary restrictions to services: income, geography, demographics such as age or national origin, or legal issue. Most organizations have a clear or articulated set of legal issues they are able to assist a client with. In practice, generally, if a client does not meet one of these restrictions, that is communicated to the client prior to continuing an intake and investing more of either the client or the provider's time. The pre-screen is the most transparent part of the process because the pre-screening categories (legal services, demographics, etc.) have probably already been shared with the client through promotional materials, websites, or other media.<sup>131</sup> They are

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126. See generally Tremblay, *supra* note 7 (examining the ethics and strategy of case selection and prioritization at a legal services organization. Tremblay refers to this as triage).

127. *Id.* at 2479–82 (explaining the phenomenon of scarcity in contemporary poverty law practice). This phenomena still exists today almost twenty years since he wrote the article. See Justice Gap Report, *supra* note 9 (highlighting the immense need for legal services). Triage is almost always used in existing non-profits. See also Glenn Cohen, *Rationing Legal Services*, 5 J. LEGAL ANALYSIS 221, 245 (2013) (examining various rationing principles drawn from bioethics to ration limited legal services).

128. DELIVERING JUSTICE, *supra* note 9, at 4–5 (sharing the Community Listening Project finding that only 59.6% of people who sought legal assistance reported receiving it and the Legal Services Corporation's report that that 71% of all low-income households experience at least one civil legal need in the past year).

129. See Tremblay, *supra* note 7, at 2500–01 (acknowledging that this happens in most individual case representation matters and definitely happens in focused case representation settings; he defines individual case representation as cases done merely because it is beneficial to the client, whereas focused case representation is chosen not only for the benefit of the client, but also to confront a broader social or legal concern).

130. See generally Greiner, *supra* note 37 at 290–91 (arguing that with limited resources available, some culling and rationing of clients and cases is inevitable).

131. See Tremblay, *supra* note 7, at 2485 (explaining the rigorous and non-subjective nature of the pre-screen process that may be based upon a client's location or finances). See, e.g., *Crime Victim Service Directory*, COLO. ORG. VICTIM ASSISTANCE, <https://cova.civicore.com/directory> (last visited May 27, 2022) (organizing crime victim service providers throughout the state with filters for specific counties, services offered, types of victims served, etc.); see also LAWHELP.ORG, <https://www.lawhelp.org/> (last visited May

usually objective eligibility requirements that can feel less personal to a client when she is denied services.<sup>132</sup>

If a client moves past the pre-screen, the staff then moves on to the more subjective portion of triage where the organization assesses the particulars of the case and client. The ways in which the organization conducts triage can vary.<sup>133</sup> Some organizations have directors or supervisors who assess the cases and evaluate, based upon some pre-existing principles, what cases can be accepted for full representation. In other places, the person conducting the intake and the assessment are often one in the same. On a practical level, this will include seeing which departments or attorneys are also available to handle such a matter. For example, if an organization has a waitlist for deportation relief cases, staff may categorically know that those cases cannot be accepted, or if all of the protective order attorneys are unavailable the day of a hearing, they may not take the case.

In this kind of situation, the organization is effectively making a valued-based assessment—weighted triage<sup>134</sup>—to see if it is a case they will contribute limited resources towards assisting. Few, if any, organizations operate at a capacity to represent every individual who walks into their doors, so they exercise a form of subjective decision-making at this stage.<sup>135</sup> However, even in those situations the organization is still going to exert some level of a value judgment based on the client's specific scenario to determine what, if any next steps, to present to the client. They may encourage a client to sign up on a waitlist if the case may be of a smaller nature and can reasonably fit into an attorney's caseload soon. Or, they may encourage a client to request a continuance and revisit the office for representation at a future date. So, fundamentally, the organization is still assessing the value of accepting the case when they have very limited resources. In some ways this is maximizing the use of existing resources while meeting the needs of the client in a more flexible manner.

The challenges that organizations face in making decisions about who to represent can place the organization in a difficult position of navigating how to explain to the client why the organization cannot offer representation. When an

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27, 2022) (compiling the most comprehensive site of civil legal service providers in the country; individuals can search by geography or subject matter).

132. See Tremblay, *supra* note 7, at 2485 n.42 (summarizing the philosophical, bioethical, and legal issues present when deciding to use any substantive criteria to determine if a case can move past a pre-screen).

133. In my experience in direct services, the exact process of how cases are triaged varies depending on the size of the staff, amount of intakes, experience of staff members, and other resources. Some organizations utilize shared decision making where multiple staff members come together to screen requests for services.

134. See Tremblay, *supra* note 7, at 2485 (defining weighted triage as the "selection of clients based on some assessment of the nature of the legal problem the client presents").

135. See *id.* at 2487 (explaining that after that pre-screen, there is some level of assessment of the nature of the client's case to determine if the staff can offer services). Tremblay briefly analyzes and argues that even scholars that promote equal access do include an acknowledgement that there still may situations where emergencies arise and require diverting resources. Thus, there's some level of assessment still being made about the nature of the case which Tremblay refers to as weighted triage. *Id.*



organization cannot be transparent about why they denied legal representation to a potential client because the client (or the client's case) does not meet their internal screening requirements, it can create another moment of disempowerment for the client. The client is left at the mercy of each organization's value judgments.

Not all of the value judgments regarding someone's case are comfortably relayed to a client. A provider may see some credibility concerns with a client arising from mental health issues or a lengthy prior legal history that gives an attorney reason for concern.<sup>136</sup> On the other hand, an organization may prioritize a particular ethnic group or be looking for a specific type of case for their limited openings.<sup>137</sup> The provider will often be restricted to explaining that they have low capacity, external limitations, or other practical barriers to assisting someone with further services.<sup>138</sup> Or they may presume, based on how competently the client appears during intake, that the client may be able to proceed *pro se* and thus not offer the client their services.<sup>139</sup> While the reality of triage is a common shared understanding amongst providers, it is often the most difficult premise for rejection to explain to a client. As a result, this has the potential to leave a client disoriented and unsure about why they were rejected for services.<sup>140</sup>

Rejection reduces someone's trust in the process, especially if the rejection is not entirely transparent.<sup>141</sup> When service providers are engaging in triage and

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136. In my early days of practice, I represented a survivor of extensive sexual violence who was navigating immense trauma. While we were able to successfully obtain a protection order for her safety, the trauma impacted her ability to engage with the criminal investigation. The effects of her trauma unfortunately worsened, and we reached a point where diligent, zealous legal representation was unfeasible. In this situation we were faced with informing the client representation could not continue but doing so in a respectful and trauma-informed manner. In another scenario, a client was interested in representation, but we declined representation because of the lack of a meritorious claim. This client had a lengthy litigation history in which the court had considered and repeatedly denied her requests. The legal team consulted that taking this case would not be appropriate and thus had to deny providing legal assistance. See Tremblay, *supra* note 7 (defining the "principle of success" as a permissible factor in determining if an organization will take a case. Principle of success means looking at whether or not the case is likely to succeed before dedicating organizational resources towards it).

137. See *id.* (examining the principle of collective benefit that prioritizes cases that affect the lives of the greatest number of people over just that specific client). This may implicate an organization's positional preference to assisting a subset of an underserved community, or in furtherance of a policy objective.

138. It is rare to find legal services offices that will offer services for all legal need that a client may have. This stems in part from external funding restrictions. The merits and restrictions associated with government funding has been the topic of debate since the early days of the Legal Services Corporation. As a result, most organizations strive for diversified funding. While diversified funding leads to other operational hurdles for their staff, it can accomplish the goal of increasing the types of cases an organization can take on. See HOUSEMAN & PERLE, *supra* note 86 and accompanying text.

139. See, e.g., Telephone interview with Karla Barrow Chalif, *supra* note 5 (noting that organizations would identify clients who they believed could self-represent and if so, that client may be a candidate for brief advice vs. full representation).

140. Mark R. Leary, *Emotional Responses to Interpersonal Rejection*, 17 DIALOGUES IN CLINICAL NEUROSCIENCE 435, 435–41 (2015).

141. See *supra* notes 68–71 and accompanying text (explaining the link between poverty and trauma). See also Sara E. Gold, *Trauma: What Lurks Beneath the Surface*, 24 CLINICAL L. REV. 201, 204 n.5–6 (2018). People in poverty are particularly vulnerable to an erosion of trust because they have

subjective decision-making about their ability to provide full representation, they may not be able to fully explain to a client why they are unable to represent them. This can happen in situations where there are questions regarding the credibility of a client or suspected mental health barriers.<sup>142</sup> In these situations, it is challenging to be fully transparent with an individual. There is a natural tension of not wanting to make the client feel discouraged, but also needing to be honest.

Triage has significant implications for the movement's ability to empower clients. Client empowerment principles encourage transparency by ensuring that a client is not treated in a way that is driven by protective paternalism.<sup>143</sup> Paternalism assumes that a client requires shielding from the truths or some level of protection instead of allowing a client to be treated as an autonomous adult. While some may believe that it is a lawyer's responsibility to approach a client with some level of care, empowerment requires us to tread a line between compassion and paternalism.

If a client feels like the process is not transparent, or it intentionally is not because a provider cannot disclose information to the client (like when representation is rejected because of a party conflict), it can inadvertently erode the client's trust in the process.<sup>144</sup> Often times, there's a misconception that legal services attorneys are a form of government services, even if they are independent non-profits.<sup>145</sup> While direct services attorneys are positioned to be representatives of our clients, we are seen as members of the legal system at large. If impoverished clients mistrust legal services, this can greatly influence how they see the legal system as a whole. Ironically, it could reduce their willingness to engage with the very systems that are developed to assist them in seeking justice. When

experienced trauma. Poverty and trauma are linked—behavioral health scholarship demonstrates that “an overwhelming majority of clients experiencing urban poverty have endured trauma during their lifetime.” Trauma affects the way in which people approach possibly helpful relationships. They may approach those situations with skepticism and are more likely to drop out or away from seeking help. See Gold, *supra* note 141.

142. See Tremblay, *supra* note 7 and accompanying text.

143. See Paul R. Tremblay, *supra* note 75, at 523 (describing “client-centeredness” as the “conviction that the client, and not the lawyer, should remain the primary decisionmaker”).

144. Both theories and data show that having clients participate in the decision-making process by giving them agency and informing them of what is occurring will lead clients to believe the legal process is fairer, regardless of the outcome. See Walker et al., *supra* note 73, at 1404. See generally Roger D. Fallot & Maxine Harris, *Creating Cultures of Trauma-Informed Care (CCTIC): A Self-Assessment and Planning Protocol*, CMTY. CONNECTIONS (Apr. 2009), <https://www.theannainstitute.org/CCTICSELFASSPP.pdf> (including many steps an organization can take to increase the trust of their clients such as providing clarity throughout the process, developing a consistent system clients can rely on, and setting interpersonal boundaries so clients and staff know what to expect).

145. I often found myself explaining that we do not work for the government or the state. While we are funded by several different entities, our loyalties lie with the client and not with any other external body. This was often a revelation to some of the clients I represented. This confusion translates to other settings as well. Another common misconception is that prosecutors work for the victims. Through my experience representing victims of crime in criminal proceedings, prosecutors and I worked closely to ensure that the client knew that I was their attorney (which meant I had responsibilities of loyalty and confidentiality), whereas the prosecutor has a broader responsibility to the community.

there is an erosion of trust, even in the process it takes to find an attorney, it unintentionally perpetuates the dualist nature of legal services—impoverished people get a different level of services and ability to access services than someone with means.<sup>146</sup>

#### *D. Lack of Choice of Counsel*

When searching for legal counsel, there is a significant difference in the level of choice a low-income client exercises in comparison to a client with means.<sup>147</sup> The legal services industry has taken significant steps in moving along from being a charitable way of offering services to one that equalizes the justice system.<sup>148</sup> However, high-income and low-income clients are rarely presented with services in the same ways. This subtle marketing difference between private firms and non-profits encapsulates the discrepancy between the kinds of legal service systems that people with means and those historically closed off to those who do not.<sup>149</sup> Whereas a paid client can selectively screen and choose a particular attorney to hire, a low-income client is approaching an organization for assistance and is often assigned an attorney.<sup>150</sup> The low-income client may be actively choosing to approach that organization, but it is rarely up to them to decide which specific attorney they will work with. During the intake process, the client becomes a passive participant where their role is limited to providing information and then waiting for the organization to decide who is best suited to represent them.

On one hand, this may seem like the organization is taking a significant burden off of the client. The organization is taking the time to determine which attorney is best suited for the client either due to availability of time, or expertise. This approach is premised on equalizing access to services by providing services that are different based on the income level of the clients.<sup>151</sup> However, when

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146. During family law court observations, my clinical students have reflected upon why *pro se* litigants are resistant to engaging with the system. Most recently, during an observation in the Fall of 2021, students observed a *pro se* litigant in a facilitated mediation with a represented opposing party. The *pro se* litigant was openly resistant to engaging in mediations facilitated by the hearing officer and expressed frustration that the hearing officer was biased in favor of the represented party. In addition to this experience, the public interest field has a history as being approached as charity work and not treated with the same rigor lawyers put into their other legal practice. See Houseman, *supra* note 14, at 98. See also Lore Rutz-Burri, *Courtroom Players: Judges and Court Staff*, OR. OPEN, <https://openoregon.pressbooks.pub/ccj230/chapter/7-8-federal-court-oversight-over-state-cases/> (last visited May 27, 2022) (describing the legal process as a court room work group theory in which, instead of being adversarial, the prosecutor, defense, and judge work together to reach a consensus on how to handle a case to keep the system running smoother).

147. See Green, *supra* note 35, at 1717 (summarizing class differences that affect low-income communities when exercising similar choice as high-income clients).

148. See Tremblay, *supra* note 19, at 125–26.

149. See Garrick F. Cole, *Freedom of Choice and Group Legal Services*, 9 SUFFOLK U. L. REV. 671, 676 (1975) (examining how a client can only actually choose an attorney if they know who is available and if they can evaluate their alternatives).

150. See Crampton, *supra* note 15, at 557–58.

151. See Gordley, *supra* note 28, at 220 (evaluating the differences in legal aid services in European systems and the United States). Gordley argues that this is due to two different approaches to

considering the disempowerment and disenfranchisement low-income clients face in many interactions with service systems, this becomes one more moment where a client is unintentionally disempowered. Providing legal services without offering choices similar to those of wealthy clients brings legal services delivery closer to another form of welfare, rather than an equalization of power.<sup>152</sup> This sets the tone for the entire relationship and requires counsel to work harder to return the power of choice to the client.

The freedom to exercise choice is a valuable piece of client empowerment that affects the quality of the legal services received and sets the tone for the client's ownership in the legal process.<sup>153</sup> Client-centered lawyering, a principle that drives much of legal services practice, is fundamentally about ensuring that the client is in the driver's seat of major case decisions being made.<sup>154</sup> It furthers a respect for a client's decision-making autonomy and affirms that a client has a set of circumstances, values, and experiences that guide their decision-making process. However, if we do not allow a client to choose their own counsel, we are sending the message that client autonomy is only honored after a client is already bound in an attorney-client relationship. There is dignity inherent in providing someone with the power to make a choice from several alternatives versus feeling like one is subjected to another's power to choose for them. Thus, in order for a client to be able to exercise choice, they must begin with an awareness of what their options are.<sup>155</sup>

Choice is irrelevant if you either do not know what your options are, do not feel like you can actually choose, or are not informed enough about your choices.<sup>156</sup> In the context of low or free legal representation, the first step is understanding what services and lawyers are available. Many efforts have already been made to consolidate information on websites, brochures, or flyers.<sup>157</sup> However, again, this information is limited to the surface level of what services the organization provides, their mission and intake logistics. It rarely provides

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creating access to the legal system: (1) access can be achieved by providing the *same* services to both rich and low-income clients, or (2) providing specialized services to low-income clients assuming these clients need extra accommodations to meet their specific needs. *Id.*

152. *See id.* at 227–28 (examining the way in which legal aid funding and budgets are handled similarly to other necessary public interest, although what legal services is about is protecting the rights people already have—not giving them something they do not).

153. *See id.* at 228–29 (touching upon the normative judgement that needs to be made regarding the important of choice of counsel in legal services delivery. If we decide that it is important, then we can revise legal services accordingly. Gordley argues that the impact is not easy to measure). *See also* Simon, *supra* note 38, at 1104 (recognizing that mainstream poverty law scholarship treats client autonomy and client centered lawyering as unwavering principles).

154. *See* David Binder, Paul Bergman & Susan Price, *Lawyers as Counselors: A Client-Centered Approach*, 35 N.Y.U. L. REV. 29, 33 (1990).

155. *See* Cole, *supra* note 149, at 676 (“To choose an attorney, a client must first know which attorneys are available for selection.”).

156. *See* Alfieri, *supra* note 41, at 699 (noting that choice is a fundamental aspect of client-centered lawyering wherein a lawyer is facilitating informed decision making. The lawyer's role as a counselor is to ensure that a client is aware of their options and guided through a decision-making process that keeps the client in control).

157. *See* LAWHELP.ORG, *supra* note 131.

context or profiles of individual attorneys.<sup>158</sup> Similarly, unlike a law firm, non-profits vary on how much, if any, information is provided on their website regarding specific attorney profiles.<sup>159</sup> The emphasis is not on the specific attorney you are working with, but on the organization. This preemptively shifts the client's ability to choose their own counsel in contrast to a client with means.<sup>160</sup>

It is worth noting that the American Bar Association's Model Rules of Professional Conduct are premised upon a specific attorney-client relationship. Robert Hillman, in *Client Choice, Contractual Restraints, and the Market for Legal Services*, highlights that the attorney-client relationship is personal in nature and built upon trust in the lawyer.<sup>161</sup> Our model rules put the power in the hands of the client to discharge that lawyer and seek out a new one, thus giving a client the power of choice of who represents them.<sup>162</sup> Not honoring and respecting this choice on the front end of the relationship misses one key opportunity to ensure that our process of providing legal services is empowering and not disenfranchising.

### III. BRINGING EMPOWERMENT TO THE FRONT END: EXPLORING A COLLECTIVE INTAKE AND TRIAGE MODEL

A hybrid collective intake and triage model has the potential to reform the intake process, so a client is closer to autonomy and self-realization, even prior to the formation of an attorney-client relationship. The efficiencies associated with a centralized system can incentivize collaboration among existing legal service organizations, while avoiding a significant overhaul of how services are currently organized. This section examines how various elements of an existing model in Washington, D.C.—the Victim Legal Network of DC (VLNDC)—facilitates

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158. Clients would have to visit individual non-profit websites to see the lawyers. *See, e.g., Staff, Legal Aid Soc'y of the D.C.*, <https://www.legalaiddc.org/who-we-are/staff/> (last visited May 27, 2022) (using the Legal Aid Society of the District of Columbia as an example showing de minimis information on the attorneys that make up the organization's staff).

159. *Compare, e.g., Attorneys, ARENFOX SCHIFF*, <https://www.afslaw.com/attorneys> (last visited May 27, 2022) with *NVRDC Team, NVDRC*, <https://www.nvrdc.org/team> (last visited May 27, 2022) (listing all of the staff members and brief bios), and *Staff & Board, MCASA*, <https://mcasa.org/who-we-are/staff-board> (last visited May 27, 2022) (listing only the names of staff attorneys).

160. When I worked at a sexual assault legal services office, if we had a male intern conducting intakes, we often prepared the intern to handle clients who may not be comfortable talking about their abuse in an intake with a member of a different gender. This has also arisen when I have worked in a non-profit with a male lawyer. It was important to recognize that a client may have gender preferences—and to see if we could find the most comfortable fit for the client. However, it was rare that a client would come to the office asking for a specific lawyer, but instead were asking generally, “for a lawyer.”

161. *See generally* Robert Hillman, *Client Choice, Contractual Restraints, and the Market for Legal Services*, 36 HOFSTRA L. REV. 65 (2007) (examining client choice as it relates to market freedom and noting that client choice is inherent in the Model Rules of Professional Conduct because the rules allow for the client to affirmatively discharge the attorney if they choose, whereas it is much harder to discharge a client).

162. *Id.*

client empowerment in its structure and mechanisms. While the premise for VLNDC was to address the barriers faced by victims of crime in particular, due to the significant overlap between victimization and poverty, the network's structure is applicable to low-income legal needs as well.<sup>163</sup>

#### A. *What is the Victim Legal Network of DC?*

In 2012, the Department of Justice, Office of Victims of Crime, completed a lengthy study evaluating the current state of victim services across the country. The final report, *Vision 21: Transforming Victim Services*, was the first step in accomplishing a lofty goal: permanently altering the way in which we treat victims of crime in the United States.<sup>164</sup> The report concluded with a list of recommendations to be implemented through jurisdiction-specific demonstration projects.<sup>165</sup> With federal funding, in 2014, the D.C. Mayor's Office of Victim Services and Justice Grants (OVSJG) was one of ten areas in the country that embarked on finding a new way to ensure that victims of crime accessed legal services for all of their legal needs.<sup>166</sup> The goal of the federal program was to support demonstration projects,<sup>167</sup> with an eye towards successful projects securing local endorsements and being sustained into the future.<sup>168</sup> Under the leadership of OVSJG's community partner, the Network for Victim Recovery of D.C., a few years of planning led to the creation of VLNDC.<sup>169</sup> Beginning in 2019, VLNDC

163. See DELIVERING JUSTICE, *supra* note 9, at 17 (finding that 3 out of 10 participants were victims of crime).

164. See generally ERIC HOLDER ET AL., U.S. DEP'T. OF JUST. OFF. FOR VICTIMS OF CRIME, VISION 21: TRANSFORMING VICTIM SERVICES FINAL REPORT (2013) [hereinafter VISION 21].

165. *Id.* at vii (noting recommendations that include "support[ing] . . . research to build . . . evidence-based knowledge of . . . victimization . . . trends . . . and behavior . . . ensur[ing] the statutory, policy, and programmatic flexibility to address enduring and emerging crime victim issues . . . build and institutionalize capacity through an infusion of technology, training, and innovation to ensure that the field is equipped to meet the demands of the 21<sup>st</sup> century").

166. See *About Us*, VICTIM LEGAL NETWORK OF DC, <https://vln dc.org/about-us/what-is-vln dc/> (last visited May 27, 2022).

167. A demonstration project is typically a small-scaled investment or project with the sole purpose of demonstrating the value of a novel approach to an issue. Demonstration projects measure and test an approach in real time. The Office of Victims of Crime funded four wrap-around victim assistance network demonstrations project in 2012 and then another six in a second solicitation in 2013. See VISION 21, *supra* note 164, at 14.

168. See *id.*

169. See generally VICTIM LEGAL NETWORK OF DC, <https://vln dc.org/> (last visited May 27, 2022) [hereinafter VLNDC] (providing information about VLNDC and its program). I was the project coordinator for VLNDC from 2014–2018. During that time, we took the project through a needs assessment phase, then planning, pilot and full launch in April 2018. The planning of VLNDC prioritized collaboration and efficiency amongst legal service providers, with an eye towards removing the barriers victims face when seeking legal help. Knowing that the network could only be as strong as the participants, we ensured that local partners were invested in its creation. For example, the needs assessment was created in consultation with a steering committee comprised of local legal and social service providers. Later on, the initial hub-and-spoke model was created through planning conversation with four local providers, Legal Aid Society of DC, Amara Legal Center, NVRDC, and Ayuda.



became a locally funded network and a cornerstone of the D.C. legal services community.<sup>170</sup>

VLNDC's mission is to remove barriers to justice and recovery for victims of crime in D.C.<sup>171</sup> It is a network of pre-existing legal service providers arranged through a centralized intake and referral hub that provides victims access to numerous legal services providers from one intake.<sup>172</sup> This hub is both a physical and a virtual space. It is an online portal managed by project staff responsible for navigating victims towards the most appropriate and available provider.<sup>173</sup> The key staff person is a "Navigator", someone charged with conducting intakes with clients, providing brief legal information, and matching clients with appropriate members.<sup>174</sup> With the premise that a crime victim can have a variety of legal needs arising from a crime, the network consists of more than just victim-focused legal providers and includes entities such as the D.C. Pro Bono Center and Legal Aid Society of D.C.<sup>175</sup> Currently, VLNDC includes twenty-seven of the existing thirty-five providers in D.C. and is continuing to steadily expand.<sup>176</sup>

VLNDC was designed to increase the likelihood that a victim would be connected to an attorney to meet their needs, in the least amount of time possible.<sup>177</sup> For example, in the early days of implementation, a victim was screened through four

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170. See *DELIVERING JUSTICE*, *supra* note 9, at 46 (summarizing how VLDNC was created in DC and sharing how VLNDC relieves organizations from the burden of navigating referrals, and expedites the ways in which a client can find appropriate legal help); Interview with Colleen Gallopin, Dir. of P'ships and Collaboration, NVRDC (May 2021) (notes on file with author).

171. See VLNDC, *supra* note 169 (VLNDC's focus was only on providing services to victims of crime due to restricted funding through the Department of Justice, Office of Victims of Crime); see also Interview with Colleen Gallopin, *supra* note 170. The model was so successful however that local funders have sought to adopt the model for broader legal services delivery. *Id.*

172. See *About Us*, VICTIM LEGAL NETWORK OF DC (VLNDC), <https://vlndc.org/> (last visited May 27, 2022).

173. See *Get Legal Help*, VICTIM LEGAL NETWORK OF DC (VLNDC), <https://vlndc.org/for-victims-of-crime/get-help/> (last visited May 27, 2022).

174. *Frequently Asked Questions*, VICTIM LEGAL NETWORK OF DC (VLNDC), <https://vlndc.org/for-service-providers/common-questions/> (last visited May 27, 2022) (explaining how the network processes intakes and connects clients with referrals); see also ICF, VICTIM LEGAL NETWORK OF DC, EVALUATION REPORT 6 (September 30, 2019) (defining the Navigator as: "VLNDC staff member available to conduct Network intakes and connect clients to the appropriate member organization(s) for services").

175. See *Directory of Network Members*, VICTIM LEGAL NETWORK OF DC (VLNDC), <https://vlndc.org/about-us/directory-of-network-members/> (last visited May 27, 2022).

176. See *id.* Members include Amara Legal Center, Ayuda, Legal Aid Society of the District of Columbia, Tzedek DC, Whitman-Walker Health, and Georgetown Health Justice Alliance. See also Letter from the DC Consortium of Legal Services Providers, to Honorable Anna Blackburne-Rigsby, Chief Judge, District of Columbia Court of Appeals (Aug. 12, 2020), <https://www.washlaw.org/wp-content/uploads/2020/08/DC-Consortium-DC-Diploma-Letter-Final-8.12.20-1.pdf>.

177. During the planning phase, we recognized that in D.C., the multiplicity of service providers could also present as a barrier for a victim. While it provides a victim with options, navigating those options could become cumbersome and result in the victim not obtaining counsel in a timely fashion. See also ICF, *supra* note 174.

organizations and ultimately connected to a fifth—all within forty-eight hours.<sup>178</sup> This efficiency would not have been possible in a traditional intake process. Traditionally, it could take at least twenty-four hours to be screened through one organization alone. Then it would be incumbent upon the victim to seek out other organizations and look for help.

In addition, VLNDC proves especially useful for clients who are not local to the area. In 2020, VLNDC assisted a Pennsylvania resident, Jane, who had not seen her four-year-old daughter in months.<sup>179</sup> After giving birth to a new baby, Jane had sent her older daughter to live with her father, Henry, in D.C.<sup>180</sup> At the end of the two weeks however, Henry proceeded to file for custody for the child and refused to return her to Jane. Jane contacted Christian Legal Aid, but they were at capacity. Using the portal and a Navigator, Jane was connected and accepted by another organization, The Safe Sisters Circle, and able to receive representation in an unfamiliar city.<sup>181</sup>

This speed was accomplished through two key design elements: increasing the number of access points for the network and using a secure online portal to share client information amongst legal service providers. A victim has the opportunity to contact the hub directly to conduct an intake, be screened for any of the services provided by the existing members, and receive brief legal information from a Navigator.<sup>182</sup> Alternatively, if the victim is already at a member organization and does an intake, they can opt into the network services at that time through a signed consent form.<sup>183</sup> Thus, either way the victim should only have to do one initial intake for potentially numerous organizations.

Secondly, the central hub utilizes a password-protected online portal that is only accessed by the organizations and project staff. The portal serves as a referral information source for the project staff, and also a means for quickly—but securely—sharing client information.<sup>184</sup> In this portal, organizations complete

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178. In early 2018 VLNDC piloted its services with a small group of legal service organizations to assess and fine tune the network features. In that time, we observed that the user-friendly, custom technology, plus deep collaborative trust between organizations and the network, allowed for faster assessments of cases. Less time was spent in repetitive communications and instead a facilitator could swiftly conduct conflict checks and send results to the Navigator so a client would continue in the process seamlessly. This example was one such illustrative case shared across many of VLNDC's grant reports, outreach and recruitment materials.

179. A VLNDC STORY, NETWORK FOR VICTIM RECOVERY OF DC (NVRDC) (June 2021) (on file with author).

180. This is a pseudonym used to protect client confidences.

181. VLNDC Client Success Stories for Jabeen, Story #8.

182. Gallopin, *supra* note 170 (explaining that the Navigator has been providing brief legal advice and almost acts as a legal system translator for incoming victims. The Navigator is able to explain why a client may or may not be able to receive legal services, translate their legal issues and walk clients through options for obtaining legal assistance. The Navigators have also proved helpful to organizations by distilling client legal needs and explaining those to potential assisting attorneys).

183. See ICF, *supra* note 174, at Appendix A.

184. There were extensive planning conversations about how to securely, but efficiently, share client information. Ultimately the group landed upon utilizing a private, secure portal drawing upon elements of cyber security used by financial institutions but with some adjustments. First, this portal

and regularly update a profile that contains (1) the legal and non-legal services provided, (2) case intake requirements—both overt requirements as well as case selection preferences—capacity updates (if they have a waitlist, are short staffed, or closed), and any other information relevant to referring a victim for services. This way, when a victim seeks network services, the project staff can refer to these organizational profiles to determine who is the best fit for the victim's needs. If a victim is referred to a particular organization, the victim's information can be shared through the portal for the purpose of conflict checks, and subsequently further representation. Finally, if for any reason a victim cannot be represented by a particular organization, the portal facilitates the referral to go back to project staff for a subsequent referral.

VLNDC's program has implications reaching much further than the sixty-eight square miles of the city. Over the past two years, VLNDC calls for services have doubled.<sup>185</sup> The Network served 206 clients in 2018, 336 in 2019, and 396 in 2020.<sup>186</sup> VLNDC's impact has been recognized and observed both locally and nationally. Locally, the D.C. Bar Foundation, a private foundation financially supporting VLNDC and other D.C. civil legal service providers, has begun the steps to replicate VLNDC for broader civil legal services.<sup>187</sup> Nationally, the Oregon Department of Justice reached out to VLNDC to learn about their operations, in hopes of replicating VLNDC's unique model for the entire state of Oregon.<sup>188</sup>

### *B. How VLNDC Reduces Moments of Disempowerment*

The VLNDC model enhances the qualitative nature of legal services assistance through the removal of moments of disempowerment for clients. It does this in four ways: (1) existing organizations are connected through a hub-and-wheel model that creates a more efficient and trauma-informed way for clients to locate legal services, (2) the thoughtful creation of a collective intake that reduces how many times a client repeats basic information, and provides client education through a conversation with live Navigators, creating a level of trust between the network and the client, (3) increased efficiency in conflict checks shortens the length of the process for a client, and (4) VLNDC still maintaining some level of agency within the client.

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does not operate like a database—all personal identifying information is removed from the portal within one year of it being created. This ensures that no client information is retained in the system and that it cannot be accessed by anyone logging in. The only data remaining is non-identifying case information used for evaluation and grant reporting purposes. Secondly, a two-step process is utilized when making a referral. First, only the conflict check information is shared with the receiving organization. If the conflict clears, then the rest of the intake is shared. This way, the number of individuals accessing the information is limited. *See* ICF, *supra* note 174 (explaining the “internal communication that is facilitated through the closed, password-protected VLNDC Member Portal”).

185. Gallopin, *supra* note 170.

186. *Id.*

187. *Id.*

188. *Id.*

### 1. Transforming the Web into a Hub-and-Wheel

VLNDC's unique hub-and-wheel model maximizes the efficiency, or quantitative value, of legal services by reducing the time and effort it takes for lawyers and service providers to connect a client to appropriate available legal assistance.<sup>189</sup> Through the design, all of the organizations are connecting and communicating with one another through the centralized Navigator.<sup>190</sup> In this structure, if a lawyer is looking for a referral for a client, instead of calling each organization individually or sending the information over an unsecure listserv, the lawyer can contact the central Navigator and access information about all of the potential member organizations.<sup>191</sup> The Navigator then takes over the task of contacting different member organizations determining who is available and facilitating a conflict check.<sup>192</sup> If this process is unsuccessful then the Navigator can contact the client and direct them to any remaining options.<sup>193</sup> However, during this whole process, the lawyer and Navigator may be in ongoing communication to ensure that this client is not falling through the cracks. Thus, the lawyer does not have to invest their limited time in sorting through various organizations since that work is done by the Navigator.<sup>194</sup>

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189. See ICF, *supra* note 174 at 60 (citing that in the majority of cases conflict checks were conducted within two business days of a case referral, and 52% of those conflict checks were conducted the same day as the referral being sent to the organization). Typically, if a case cleared conflicts it meant that the organization was going to accept the case for further consideration and potential full representation.

190. *Id.* at Appendix A (showing the VLNDC referral flowchart).

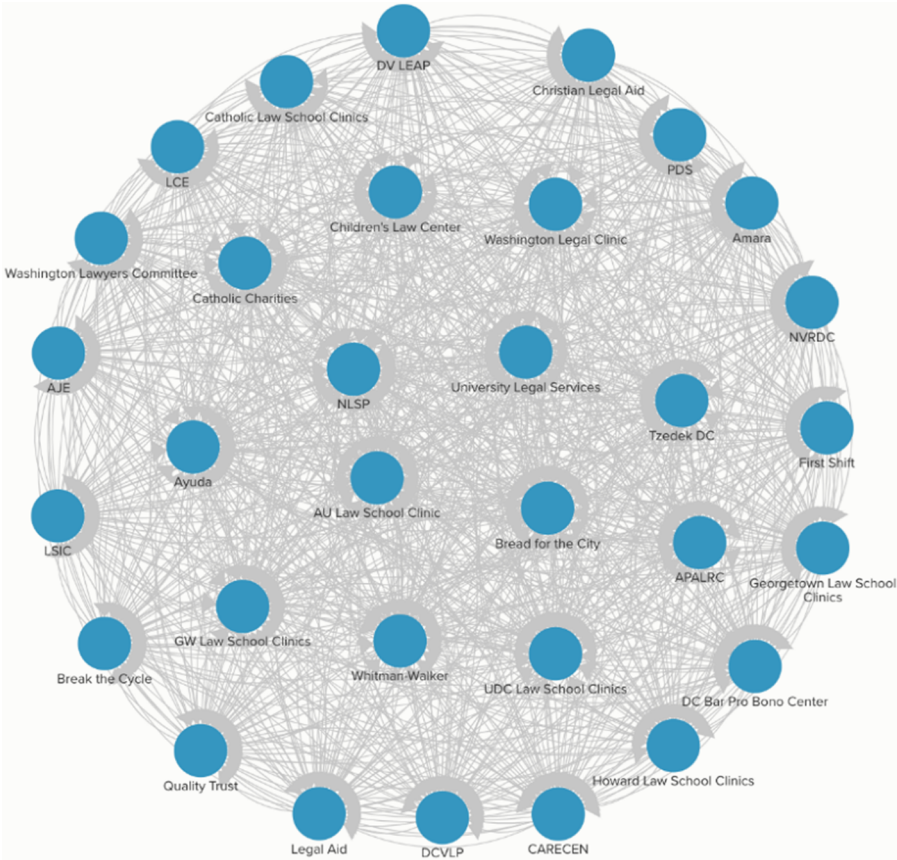
191. *Id.* at 29 (quoting a participating staff person from a VLNDC member organization, "I think [VLNDC] is so much better than handing someone a list of phone numbers to call, that they have to call on their own. It feels very much like when the person goes into the Network, that they are going to get help versus 'here's a bunch of numbers, call all of these'").

192. *Id.* at Appendix A.

193. *Id.*

194. *Id.* at 28 (sharing feedback from focus groups).

FIGURE 1. Showing how non-profit organizations were connected to one another creating a web of legal services to navigate.<sup>195</sup>



195. Graphic created by the Network of Victim Recovery of DC and provided for reproduction in this paper via email on June 21, 2021 (email on file with author).

FIGURE 2. Showing how VLNDC provides a central connection point for non-profits.<sup>196</sup>



196. Graphic created by the Network of Victim Recovery of DC and provided for reproduction in this paper via email on June 21, 2021 (email on file with author).



The same hub-and-wheel model also increases the number of access points to legal service organizations for a client. This “No Wrong Door”<sup>197</sup> approach has multiple benefits to the client and to the legal service providers. In this model, if a client comes to one member and consents to using VLNDC services, they can have access to a multiplicity of organizations.<sup>198</sup> This reduces the times a client interacts with each individual organization in order to figure out if they are at the right place and potentially reduces the amount of effort an organization may spend in fielding misplaced requests for assistance.<sup>199</sup>

VLNDC’s centralized structure provides a greater level of efficiency that removes moments of potential rejection a client would have experienced while visiting each organization individually. This makes the overall process of looking for counsel less burdensome and more positive. Removing the likelihood of direct rejection, creating a more time efficient process, and reducing repetition, all move legal services in the direction of being more empowering and affirming.

VLNDC recognized that most of the legal service intakes often ask for similar pieces of information, such as client and opposing party demographics. By creating the VLNDC intake to include those areas of overlap, valuable time and energy is saved for the client and the provider.<sup>200</sup> When a provider sees a client who wants VLNDC services, the provider can work with the client to collect VLNDC intake information. The client consents to this information being shared with the network.<sup>201</sup> Then, as a client is referred, the next organization can begin where the intake left off, thus not requiring the client to repeat the same steps.<sup>202</sup> This collaborative intake and referral process incorporates elements of trauma-informed lawyering for individuals living in poverty.<sup>203</sup> It greatly reduces the times that a client has to reiterate their circumstances, even the basic facts necessary for all intakes, thus reducing the likelihood of re-traumatization for a client.<sup>204</sup> Furthermore, by drawing from the existing intakes of organizations, the VLNDC intake procedure saves the provider from investing time in asking for that information again.

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197. See VICTIM LEGAL NETWORK OF DC (VLNDC), <https://vln dc.org/> (last visited May 27, 2022) (sharing the VLNDC motto: “Creating no wrong doors to justice and recovery for victims of crime in Washington, D.C.”).

198. *Id.* at Appendix A, 3 (documenting member organization quotes sharing how providing referrals has become easier because when the lawyer doesn’t provide that particular service, or doesn’t know who to send the client to, VLNDC can assist the client in finding a suitable resource).

199. *Id.*

200. See, e.g., *Get Legal Help*, *supra* note 173 (showing the pieces of information requested to begin the intake process for a person seeking VLNDC referral services).

201. See ICF, *supra* note 174, at Appendix A.

202. Graham-Watanabe, *supra* note 6.

203. *Id.*

204. See *supra* notes 68–70 and accompanying text.

## 2. Increasing Trust

VLNDC's transparent structure and efficient process, facilitated by live Navigators, creates trust and rapport for clients seeking legal services. First, the high level of collaboration demonstrates that the legal organizations are sharing information as necessary in service of the client. This is accomplished through the collective intake allowing a client to access numerous resources through the effort it would take to contact one. This intentional design element conveys a sense of respect for the client's time and energy. In Jane's situation, navigating an out-of-state system, the support from the network helped her "stay calm during the process and get the outcome [she] was looking for in [her] case."<sup>205</sup>

Secondly, the use of live Navigators introduces a human element to a system that could easily be automated. The use of Navigators has actually shown a shift in the way in which members are utilizing the network. Over the last two years, while the member referrals have remained fairly consistent, the number of intakes done by the Navigators has increased.<sup>206</sup> The increased use can be inferred to demonstrate an increase in community and provider trust in the system. The Navigators act as legal translators: they help the client understand how legal services work, what conflicts are, and what the client's options are.<sup>207</sup> They take on the burden of educating the client and can take the time to answer the client's questions at a very early stage in the legal-help-seeking process.<sup>208</sup> Furthermore, the Navigator can often identify additional legal needs for the client and help a client navigate barriers.<sup>209</sup> This additional level of client education assists the client in understanding the system, thereby increasing their trust in the potential attorney-client relationship.<sup>210</sup>

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205. A VLNDC STORY, *supra* note 179.

206. Gallopin, *supra* note 170.

207. *Id.*

208. *Id.*

209. Client Story #4, VLNDC Client Success Stories (June 2021) (on file with author) ("Recently, VLN Navigators assisted a client who was seeking legal help following her adult daughter's murder in December 2019. The client reached out to a VLN member organization for representation with her custody case—she was seeking custody of her grandchild following his mother's death. The organization that the client contacted was unable to take the case and placed the case in the VLN portal for referral to another member. During the intake, the VLN Navigator learned more about the client's situation and identified additional legal needs that the client had not identified herself, including the need for crime victim's rights representation. The client had been in touch with the detectives investigating her daughter's homicide initially but had not heard any updates in a while. She attempted to get more information and was told that they could not share anything with her while the case was under investigation. The client speaks only Spanish and identified language as a barrier when trying to obtain answers about her daughter's case. The Bilingual Navigator was able to conduct the intake in Spanish, educate the client about her options, and place both the custody case and the crime victim's rights case in the network for representation.").

210. Gallopin, *supra* note 170.

### 3. Preserving Responsibility and Saving Time

The VLNDC model also balances the legal profession's responsibility to avoid conflicts of interest in a way that reduces the disempowerment that a client may experience while enduring conflict checks. This is especially valuable when a client is in crisis and seeking immediate legal representation. For example, a member organization conducted an intake for Amy,<sup>211</sup> who was seeking a protection order as well as help with a retaliatory child custody case filed by her abuser.<sup>212</sup> The office immediately saw that they did not have capacity and sent her intake through VLNDC.<sup>213</sup> Within two business days, both of her cases—the protection order and the custody case—were considered by several organizations and accepted for representation.<sup>214</sup> This was especially critical given that she had only three days until her protection order hearing where she needed representation.<sup>215</sup>

### 4. Preserving the Power to Choose

During VLNDC's planning phase, members considered whether to ask clients to sign a blanket permission for all organizations in the network or allow clients to choose the organizations to work with. While a blanket permission would have been the most convenient, for both organization and client, and streamlined the process, it initially seemed unfair to expect a client to share information with a large number of organizations and people. VLNDC wanted to ensure that at every step along the process a client felt in control of what their options were and what they were engaging in. This would only be possible through fully informed consent.

Another vehicle of empowerment comes from the freedom to exercise choice.<sup>216</sup> Exercising choice can come in many different forms. In the VLNDC program, even if you are interested in the network services, you are still given the choice to affirmatively decide which organization(s) you want VLNDC to consider.<sup>217</sup> When deciding to engage in VLNDC services, the client is provided with a release form that lists every member organization and allows the client to affirmatively choose which organizations they want the Navigator to explore for them.<sup>218</sup> The release form is intentionally blank, and the client must affirmatively select each organization. This small nuance engages the client in an active choice. If the form preselected all organizations by default, the client may be inclined to sign without consideration. While often a client opts to select all of the organizations to maximize their chances of representation, other clients choose to select only some organizations.

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211. This is a pseudonym used to protect client confidences.

212. Client Story #6, VLNDC Client Success Stories (June 2021) (on file with author).

213. *Id.*

214. *Id.*

215. *Id.*

216. *See supra* Section D, at 44.

217. *See* Revised VLNDC Consent Form 3.18.21., at 2.

218. *Id.*

The active consent required of the client results in a level of ownership and choice, starting from the first few steps of interacting with the service, that brings back a semblance of control to the client. It sends a subconscious message to the client that we, as their lawyers, are not going to assume that we know what is best for them but respect their autonomy to decide wherever there is a decision that they can make themselves.<sup>219</sup> While this seems like a small decision-making point, it can be instrumental in setting the tone of the attorney-client relationship.

### 5. Built in Data Collection

For any legal non-profit, grant reporting and data collection is one of the last ways an attorney wants to spend their time. Rarely did anyone graduate law school excited to spend a portion of their time tracking statistics related to the services they have provided that week. However, the reality of legal services is that grant funding, and even private donations, are driven heavily by quantitative data documenting the success of the services funded. Who did you serve? What ethnicities? Where do they live? How many people received no services? Brief advice? Full representation? All of these questions and more are frequently included in grant reports and require providers to establish protocols to track this information consistently or frantically collect the information at the annual, bi-annual, or monthly reporting times.<sup>220</sup>

Data collection becomes a tedious chore that takes away from an attorney's ability to provide the critical legal services that are the core of their work. Few non-profits are able to hire and staff a grant manager to coordinate this burden, thus leaving it to the senior attorneys in the office to ensure data collection practices are sustained through individual accountability for each attorney working on cases in the office.

VLNDC recognized the burden data collection imposed on attorneys and responded by creating built-in evaluation and collection tools. Through the use of a centralized hub and an electronic database, VLNDC streamlined data-collection efforts and reduced the time an individual attorney spends reporting on their work. When information is collected and entered into the system during intake, the responses are categorized and stored in a database that removes any personal identifying information. This way, the network manager and Navigators are able to easily watch the quantitative data evolution and identify trends and gaps in services. This built-in data collection reduces the time attorneys spend on solely gathering and inputting quantitative data about their work.

Finally, while VLNDC is responsible for reporting statistics to their funder, OVSJG, member participation is not data driven. The members are not required to meet pre-determined statistics of client representation, assistance, or referrals.

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219. Binder, Bergman & Price, *supra* note 154, at 31–34.

220. Gallopin, *supra* note 170 (explaining the frequency of requests for data she received from member organizations to assist with funding-related reporting).

This is a departure from outcome-driven participation in grant-funded projects.<sup>221</sup> VLNDC was intentional in removing this hurdle that often inhibits an organization's participation in a project. The intent was to reduce the requirements and maximize the benefits the organizations received to further drive voluntary participation. As a result, VLNDC has member organizations whose accepted cases vary from one to twenty cases a quarter.<sup>222</sup> This allows member organizations to participate at their own pace and acknowledge the natural ebbs and flows of capacity at legal non-profits. This also removes any intentional or unintentional "meeting of numbers" motivation that may drive screening decisions at organizations.<sup>223</sup>

### C. Areas for Growth

#### 1. Stopping Short of a Full Realization of Choice

While a centralized intake could alleviate some of the barriers in our current structure, it does not create a full realization of choice of counsel for VLNDC clients. At this stage, the clients are still only choosing between organizations and not choosing specific counsel. As discussed earlier, broader perspective reform will be required to move legal services to a model where a client is able to choose their specific counsel. VLNDC works within existing frameworks and strives to make sure the choices that the clients do have are meaningful. This requires ensuring that the person facilitating the client's consent form is equipped to educate the client about the organizations presented.

As VLNDC has grown to twenty-four organizations, this model of centralized intake has faced a significant issue in ensuring that all of the front-line intake staff is well equipped to explain the breadth of services offered by the network organizations.<sup>224</sup> As a result, the member organizations have shifted how they are bringing clients into the network. If a prospective client would not be served by that organization, they are redirecting the clients to the Navigators to conduct VLNDC intakes.<sup>225</sup> The Navigator, with their specialized knowledge about the entire network of organizations, can educate the client on the system and facilitate the process with increased accuracy. Thus, instead of relying heavily upon an office's intake staff, the Navigators have increasingly been shouldering intakes. This shift has resulted in a better preservation of a client's meaningful choice.

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221. Carol Carrie, *What are Restricted Grants?*, NONPROFIT ACCT. AGENCY, <https://nonprofitaccountingacademy.com/what-are-restricted-grants/> (last visited May 27, 2022) (explaining that restricted grants limit how, and even when, organizations can use the funds they are disbursed, and highlighting some of the frustrations associated with grant funding).

222. Gallopin, *supra* note 170 (describing regular check-in conversations she would have with VLNDC member organizations, both low and high-volume partners, that shared positive feedback about participation in the network).

223. See Green, *supra* note 35, at 1732 (listing various factors that may influence how organizations determine priorities regarding case types and clients including funding restrictions).

224. Gallopin, *supra* note 170.

225. *Id.*

## 2. Sustainability Requires Funding

It has become clear over the past few years of VLNDC's existence that the key value in the network lies in the physical hub; Navigators and custom technology that facilitate referrals in an efficient and reliable fashion. The human element of having someone who can not only skillfully interview a client to distill their legal needs, but also provide key information is the most sought-after feature of the network.<sup>226</sup> However, with any service comes very real cost implications. Paying for technology is cheaper than paying for salaries. VLNDC's annual budget for salary and fringe is approximately \$232,000 to cover three full time staff members: a Network Manager, a Navigator, and an Attorney Navigator, while for the technology, VLNDC allocates anywhere from \$5,000–\$19,000 for the hosting and maintenance of the secure online portal.<sup>227</sup> There are plenty of areas in the country that offer hotlines, online legal hubs, or other consolidated sources of information.<sup>228</sup> What makes VLNDC stand apart is the addition of human triage and the personalized attention afforded to clients. This is only possible if ongoing financial support is available and the project is sustained by a host legal organization.

Out of the ten demonstration projects that were funded alongside VLNDC, only two others are currently sustained by local funders.<sup>229</sup> The rest did not remain in their demonstration project forms and either evolved to access to information models or did not continue at all after the demonstration project ended in 2019.<sup>230</sup> The reality is that the sustainability of an innovative project requires

226. *Id.* (sharing that member organizations are increasingly sending clients to conduct an intake process directly with the Navigators due to the ways in which the Navigators are equipped to issue spot and provide legal information to the clients directly. This efficiency and competency has been significantly appreciated by members and clients alike).

227. E-mail from Bridgette Stumpf, Executive Director, NVRDC, to Jabeen Adawi, Assistant Clinical Professor, University of Pittsburgh Sch. of L. (May 26, 2022) (VLNDC's annual budget) (on file with author) (articulating that the high quality of the network stems from being hosted by a legal services organization. VLNDC is a project hosted and managed by NVRDC, a legal services organization that provided not only the physical space and overhead, but also subject matter expertise).

228. See, e.g., *Telephone Legal Advice Hotline*, PROBONO.NET, [https://www.probono.net/oppsguide/organization.107173-Telephone\\_Legal\\_Advice\\_Hotline](https://www.probono.net/oppsguide/organization.107173-Telephone_Legal_Advice_Hotline) (documenting *pro bono* opportunities for lawyers to engage in by geographical location) (last visited May 27, 2022); LAWHELP.ORG, *supra* note 131 (documenting local service providers by subject area or geographic area).

229. Interview with Meg Garvin, Exec. Dir. at the Nat'l Crime Victims L. Inst. (Aug. 2021) (NCVLI was the technical assistance provider on the Vision 21 grant that funded the pilot project. Ms. Garvin explained that only two other demonstration projects were locally sustained—in Denver and Houston); see *Legal Info. for Victims*, LINC, <http://www.coloradolinc.org/> (last visited May 27, 2022); *Texas. Crime Victim Legal Assistance Network*, TCVLAN, <https://www.texasvictimnetwork.org/> (last visited May 27, 2022).

230. In addition to the Denver and the Houston sites, two other jurisdictions evolved to increasing access to information focused resources. Georgia moved away from the live Navigators model and prioritized providing self-help resources to victims of crime. See *Know Your Rights*, GA. VICTIM LEGAL ASSISTANCE NETWORK, <https://georgiavictimnetwork.org/rights/> (last visited May 27, 2022). New York State also invested more of their efforts in the creation of an online help system. See also *Know Your Rights*, N.Y. CRIME VICTIMS LEGAL HELP, <https://crimevictimshelpny.org/rights/> (last visited May 27, 2022).



immense buy-in from government funders and donors alike. Funding seekers are required to make a case for why their requests should be funded by providing qualitative or quantitative data.<sup>231</sup> VLNDC encountered hurdles in justifying the value in funding a service that is focused solely on intake and referrals. Historically, prioritization has been placed on funding legal advice and representation, and not necessarily only the systems that facilitate access to that very advice and representation or infrastructure support for the legal services.<sup>232</sup> For example, VLNDC obtained foundation support only for the Navigator's advice services, not the Navigator's time in facilitating the referrals.<sup>233</sup> Thus, only half of one Navigator's time was covered.<sup>234</sup>

### 3. Candidly Sharing Criteria and Updates

VLNDC intentionally addresses the disempowerment that comes from screening rejections by incorporating individual organizational screening criteria into their referral process.<sup>235</sup> However, this solution can only be as productive as the buy-in and collaboration from members since it requires transparency between members and VLNDC staff. Thus far, VLNDC has had success with members candidly sharing internal priorities they have for certain case types and upcoming capacity issues. However, organizations are more likely to proactively share when they are not available to take cases, but less so when they are available to assist.<sup>236</sup> Organizations are always willing to share when they were unable to take a case, so this also provides critical information for the Navigator to consider when sending along a subsequent referral.<sup>237</sup>

While the members are not engaging in proactive updates anymore, ongoing communication between members and VLNDC staff ensures that screenings are still done as accurately as possible.<sup>238</sup> If organizations were not transparently sharing screening criteria with VLNDC staff, it would make the referral process much more challenging. Then, the Navigators are fielding rejections from organizations that could have been avoided if the Navigator was aware of an organization's limitations.

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231. See *supra* Section B(5) (regarding data collection for providers).

232. In my experiences in legal services, it was built into the culture that a legal services lawyer will not have the support (paralegal, legal assistant, etc.) that is customary in a law firm. Legal services lawyers were often responsible for the majority of their client contact and often the majority of their own administrative work. This is still a common practice, unless an organization has a reasonable selection of unrestricted funds available for the hiring of support staff.

233. Gallopin, *supra* note 170 (noting that the DC Bar foundation funds fifty percent of a Navigator's time; this is often a reflection of the prioritization of funding legal services over funding the support structures needed to enable quality services).

234. *Id.*

235. See *supra* Section C (regarding lack of transparency in screening process).

236. Interview with Gallopin, *supra* note 170.

237. *Id.*

238. *Id.*

#### IV. CONCLUSION

Legal services reform is forever-evolving phenomena. With any system—especially one designed to benefit large portions of society—no level of planning and intentionality in design can circumvent the need for ongoing reform. This Article touches upon one small, but significantly impactful, area of such need in legal services delivery: how a low-income client finds a lawyer. It unpacked the barriers and the often-unseen harm caused to clients that are navigating the process of intake and referrals to seeking necessary legal assistance. It examined these barriers in the context of their impact on the empowerment goal of low-income legal assistance. Currently, the way in which legal services are organized and delivered leaves much to be desired.

By examining one innovative solution based in the nation's capital, VLNDC, this Article explored what an option for reform looks like in an urban scenario. Through a truly collaborative hub-and-wheel model, the legal community has an opportunity to maintain the value of autonomous legal services organizations, while improving the quality of a client's experience in searching for services. VLNDC also demonstrates how the quantity of legal services can be increased by better utilizing the scarcest resource of legal service providers: time. By freeing up the time it takes a client and a lawyer to find each other, both are available to work on their legal issues and personal lives, instead.

Fundamentally, lawyers are providers of a very personalized service—a service helping individuals navigate a complex legal system to seek whatever ends they desire. For poverty lawyers, we knowingly do this for clients coming to us after facing hardships and barriers that we sometimes could not even imagine. We take that in, and strive, as best as we can, to leave the client in a better position than when they first met us. Ultimately, poverty will still exist as a significant, multi-dimensional barrier for many, but with ongoing, thoughtful reform, we may move the needle one step closer to our goal: client empowerment.