

UNIVERSITY OF ARKANSAS AT LITTLE ROCK  
**LAW REVIEW**

**THE BEN J. ALTHEIMER SYMPOSIUM**

ACCESS TO JUSTICE

ARTICLES

A Look at Civil *Gideon*: Is There a Constitutional Right to Counsel in Certain Civil Cases?

**Justice Jess H. Dickinson**

From Market Failure to 100% Access: Toward a Civil Justice Continuum

**John M. Greacen, Amy Dunn Johnson, and Vincent Morris**

Justice in the Hinterlands: Arkansas as a Case Study of the Rural Lawyer Shortage and Evidence-Based Solutions to Alleviate It

**Lisa R. Pruitt, J. Cliff McKinney, II, and Bart Calhoun**

Bridging the Gap: Rethinking Outreach for Greater Access to Justice

**Rebecca L. Sandefur**



JUSTICE IN THE HINTERLANDS: ARKANSAS AS A CASE STUDY  
OF THE RURAL LAWYER SHORTAGE AND EVIDENCE-BASED  
SOLUTIONS TO ALLEVIATE IT<sup>‡</sup>

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ABSTRACT

In recent years, state high courts, legislatures, bar associations, and other justice system stakeholders have become aware that a shortage of lawyers afflicts many rural communities across the nation and that this dearth of lawyers has implications for access to justice. A lack of systematically collected data about precisely where lawyers are—and are not—in any given state is an obstacle to solving the problem. Another impediment is a lack of information about why lawyers are choosing not to practice in rural locales and about the sorts of incentives that might entice them to do so.

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<sup>‡</sup> The authors are grateful to the late Justice Jim Hannah for his invaluable assistance and encouragement regarding our survey of Arkansas lawyers and law students. His contributions to Arkansas's legal community will be greatly missed. Thanks, too, to Amy Dunn Johnson, Executive Director of the Arkansas Access to Justice Commission, for her generous insights and advice on this article and for her dedication to improving justice access for all Arkansans.

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A principal aim of this article and the empirical work that informs it is to begin to develop evidence that will inform solutions to the rural lawyer shortage. In that regard, the article, written for the University of Arkansas at Little Rock William H. Bowen School of Law's "Access to Justice" symposium, makes two significant contributions. The first is to literally map where Arkansas lawyers are and then to look for trends and patterns regarding the least-served communities. The second is to survey law students and attorneys to determine their attitudes toward rural practice and rural living more generally, while also assessing openness to specific opportunities and incentives aimed at attracting lawyers to underserved communities.

We focused our analysis on Arkansas's twenty-five least populous counties, which we refer to as the "Rural Counties." All except one of these counties has a population of less than 15,000. Collectively, the Rural Counties are home to some 255,000 residents but fewer than 200 total lawyers, less than half of whom accept clients for representation, as signified by having an Interest on Lawyers' Trust Account (IOLTA) account. Representing a third of the state's seventy-five counties, the Rural Counties lie in clusters in each of the state's four quadrants, and most are relatively distant from state and regional population centers. Among these counties, we found no clear correlation between high poverty and low ratios of attorneys to population. As a general rule, the Rural Counties that are farthest from a metropolitan area have the most acute attorney shortages, although several counties in the Mississippi Delta stood out as exceptions. Not surprisingly, the attorney population in Arkansas's Rural Counties is an aging one. We also found that many other nonmetropolitan counties—those with populations somewhat larger than the Rural Counties—have poor attorney-to-population ratios, suggesting that attorney shortages are on the horizon there, too.

Meanwhile, Arkansas's attorneys tend to be highly concentrated in the state's population centers, with particular overrepresentation in Pulaski County (the state's most populous county and home to Little Rock, the state capital) and two contiguous central Arkansas counties: 48% of the state's attorneys are a mismatch for just 21% of the state's population in those three counties. The state's second and third most populous counties, Benton and Washington, in the state's booming northwest corridor, have attorney populations more commensurate with their populations.

Our survey of students at the state's two law schools revealed few student respondents who grew up or spent much time in Arkansas's Rural Counties or in similarly low-population counties in other states. Further, only a handful of students indicated that they plan to practice in the state's nonmetropolitan areas, let alone the Rural Counties specifically. Nevertheless, many students—particularly among those who grew up in the Rural Counties—expressed openness to working in these counties if given specific opportunities and incentives to do so. When asked about what deterred them

from pursuing rural practice, the most dominant theme was concern about economic viability; a lack of cultural and other amenities associated with urban living was a close second. Some students also expressed concern about the greater challenge of finding a life partner in rural places. A number of students expressed very negative attitudes toward rural people, places, and practice. Recurring themes included an expectation of rural bias toward racial and sexual minorities and women; concerns about lack of anonymity in the community and lack of professionalism in the justice system; and a shortage of clients able to afford an attorney's services. Still, a critical mass—certainly enough to meet the need in Arkansas's rural communities—indicated willingness to practice in a rural locale if provided fiscal and professional support (e.g., student loan repayment assistance, mentoring, training in law practice management). When the few students who indicated their intent to practice in a rural area were asked about what they found appealing about such a prospect, the most common theme was autonomy—the ability to have one's own practice and to develop and maintain local clientele.

Respondents to the lawyer survey were generally less negative about rural practice than their law student counterparts. On the whole, most attorneys expressed contentment with their practice location, whether rural or urban. One surprise among the lawyer survey results was that employment opportunities for spouses were less important than we anticipated, perhaps because urban lawyers—the vast majority of survey respondents—take these for granted.

We close with suggested reforms for Arkansas's institutional stakeholders. Among other actions, we suggest that Arkansas follow the lead of South Dakota and offer loan repayment assistance to attorneys who are willing to make a multi-year commitment to practice in an underserved rural area. This incentive has proved popular in South Dakota, which has doubled the size of its program in just two years in response to a high degree of attorney interest. Our survey results give us every reason to believe that such a program, as well as other interventions to bolster the rural lawyer population in Arkansas, could be just as successful. In any event, we anticipate that our efforts to document in detail the rural attorney shortage in Arkansas will provide an incentive—and, we hope, a model—for other states wishing to better understand and alleviate their rural access-to-justice deficits.

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## I. INTRODUCTION

Arkansas is popularly thought of as a “rural state,” particularly in the national imagination.<sup>1</sup> In reality, the state’s population became more urban than rural some thirty-five years ago, with the 1980 Census reporting that the state’s population was 51.6% urban, a shift from a population evenly divided between rural and urban a decade earlier.<sup>2</sup> Three decades on, the 2010 Census showed that the pace of urbanization had proceeded relatively slowly, with 56.2% of the state’s population living in urban areas,<sup>3</sup> and 60.2% living in counties that are metropolitan by the U.S. Office of Management and Budget (OMB) definition.<sup>4</sup> Yet in comparison to the nation,

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1. See Lauren Leatherby, *Hillary Clinton Returns to a Very Different Arkansas*, NPR (Jul. 18, 2015), <http://www.npr.org/sections/itsallpolitics/2015/07/18/423890622/hillary-clinton-returns-to-a-very-different-arkansas> (stating that “Arkansas is overwhelmingly white and rural”); Evelyn Nieves, *Love and Loss on the Road to Arkansas*, N.Y. TIMES (Apr. 2, 2015), [http://lens.blogs.nytimes.com/2015/04/02/love-and-loss-on-the-road-to-arkansas/?\\_r=0](http://lens.blogs.nytimes.com/2015/04/02/love-and-loss-on-the-road-to-arkansas/?_r=0) (“I love the peace . . . and how rural [Arkansas] is . . . .”); Adam Nossiter, *Arkansas Proves Its Worth as a Political Testing Ground*, N.Y. TIMES (Jan. 8, 2008), <http://www.nytimes.com/2008/01/08/us/politics/08arkansas.html?scp=1&sq=bearden+arkansas+testing+ground> (reporting that “Arkansas is twice as rural as the national norm . . .” and referring to “rural white voters in Arkansas . . .”); Campbell Robertson, *Democrats’ Fall May Be Deepest in Arkansas*, N.Y. TIMES (Sept. 30, 2010), <http://www.nytimes.com/2010/10/01/us/politics/01arkansas.html> (reporting that “[s]tudents of Arkansas politics point out the state’s long tradition of rural populism . . .”).

2. See U.S. CENSUS BUREAU, 1980 Census of Population. Volume 1—Characteristics of the Population. Chapter A—Number of Inhabitants. Part 5—Arkansas. Page 5. Issued September 1981. (PC80-1-A5). At the 1970 Census, the state’s population had been evenly divided between rural and urban. The national shift from majority rural to majority urban population in the nation came in the 1920 Census. Ken Deavers, *What Is Rural?*, 20 POL’Y STUD. J. 183 (1992) (noting also that, by 1990, half of the country’s residents lived in metropolitan areas with populations in excess of one million).

3. See U.S. CENSUS BUREAU, CENSUS URBAN RURAL CLASSIFICATION AND URBAN AREA CRITERIA (2010), <http://www.census.gov/geo/reference/ua/urban-rural-2010.html> (“The Census Bureau’s urban-rural classification is fundamentally a delineation of geographical areas, identifying both individual urban areas and the rural areas of the nation. The Census Bureau’s urban areas represent densely developed territory, and encompass residential, commercial, and other non-residential, urban land uses. For the 2010 Census, an urban area will comprise a densely settled core of census tracts and/or census blocks that meet minimum population density requirements, along with adjacent territory containing non-residential urban land uses as well as territory with low population density included to link outlying densely settled territory with the densely settled core. To qualify as an urban area, the territory identified according to criteria must encompass at least 2,500 people, at least 1,500 of which reside outside institutional group quarters. The Census Bureau identifies two types of urban areas: [1.] Urbanized Areas (UAs) of 50,000 or more people; [2.] Urban Clusters (UCs) of at least 2,500 and less than 50,000 people. ‘Rural’ encompasses all population, housing, and territory not included within an urban area.”).

4. The Office of Management and Budget, in 2013, outlined the following definition of “metropolitan areas”:

[M]etropolitan (metro) areas [are] broad labor-market areas that include:

whose population is now 83% metropolitan and 80.7% urban, Arkansas is still relatively rural by these ecological measures.

These state and national population shifts from rural to urban in recent decades have been accompanied by a growing disparity between rural and urban environments when it comes to accessing a wide range of services, including those of a local lawyer. The number of Arkansas attorneys who now live in, work in, or serve rural communities is dwindling with each passing year. The vast majority of attorneys graduating from Arkansas law schools, as elsewhere in the United States, settle in metropolitan areas or other more populous counties. Poor access to civil justice is increasingly recognized as a feature of rural life in Arkansas, among a number of other states.<sup>5</sup>

Indeed, inferior access to civil justice is also increasingly associated with being low-income or modest means, wherever one lives. “Access to justice” is the phrase often used to refer to an individual’s ability to secure a

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1. Central counties with one or more urbanized areas; urbanized areas (described in the next section) are densely-settled urban entities with 50,000 or more people.

2. Outlying counties that are economically tied to the core counties as measured by labor-force commuting. Outlying counties are included if 25 percent of workers living in the county commute to the central counties, or if 25 percent of the employment in the county consists of workers coming out from the central counties—the so-called “reverse” commuting pattern.

Nonmetro counties are outside the boundaries of metro areas and are further subdivided into two types:

1. Micropolitan (micro) areas, which are nonmetro labor-market areas centered on urban clusters of 10,000-49,999 persons and defined with the same criteria used to define metro areas.

2. All remaining counties, often labeled “noncore” counties because they are not part of “core-based” metro or micro areas.

*What Is Rural?*, UNITED STATES DEP’T. OF AGRIC. ECONOMIC RESEARCH SERV. (Mar. 16, 2015), <http://www.ers.usda.gov/topics/rural-economy-population/rural-classifications/what-is-rural.aspx>.

5. For more information on the access-to-justice landscape across Arkansas, see REBECCA SANDEFUR & AARON C. SMYTH, FIRST REPORT OF THE CIVIL JUSTICE INFRASTRUCTURE MAPPING PROJECT 37–38 (2011), [http://www.americanbarfoundation.org/uploads/cms/documents/access\\_across\\_america\\_first\\_report\\_of\\_the\\_civil\\_justice\\_infrastructure\\_mapping\\_project.pdf](http://www.americanbarfoundation.org/uploads/cms/documents/access_across_america_first_report_of_the_civil_justice_infrastructure_mapping_project.pdf) (reporting data from 2009). This report also provides information that permits comparisons across states and with national averages. *Id.* at 30–32.

Among the states expressing concern about their rural lawyer shortages by sending members of their state bars to the Project Rural Practice symposium at the University of South Dakota in the spring of 2014 were Maine, Alaska, Montana, Iowa, and Nebraska. Linda A. Klein, past chair of the A.B.A.’s House of Delegates and a member of the Georgia Bar, also attended and provided anecdotal information about the shortage of lawyers in some counties in rural Georgia.

lawyer and resolve in court issues already framed in legal terms.<sup>6</sup> While Arkansas was among the first states to found an Access to Justice Commission and the state boasts many committed legal-aid attorneys and a vibrant pro bono program, the state nevertheless confronts a challenging economic and political landscape, not least because its poverty rate is significantly greater than the national average.<sup>7</sup>

Arkansas has just 1% of the total U.S. population, but 1.3% of the nation's Legal Services Corporation (LSC)-eligible population.<sup>8</sup> The state receives 1.2% of all LSC funds, but just 0.4% of all funds from state legislature appropriations and court fees and fines that fund legal services.<sup>9</sup> The state has no high-volume law school clinical program and no courthouse lawyer-of-the-day programs.<sup>10</sup> Indeed, the list of access-to-justice infrastructure deficits in Arkansas is a long one: no court-based legal aid intake; no court-based self-help computer kiosks; and no court-based, staffed pro se assistance centers.<sup>11</sup> On the positive side of the ledger, Arkansas does have a toll free "Helpline" that geo-routes callers with civil legal issues based on the area code from which the call originates,<sup>12</sup> and the state's first medical-legal partnership was established in 2014.<sup>13</sup>

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6. This might be thought of as a "minimal" conception of access to justice. For a discussion of a "thicker" conception of access to justice, see Lisa R. Pruitt & Bradley E. Showman, *Law Stretched Thin: Access to Justice in Rural America*, 59 S.D. L. REV. 466, 497–502 (2014). See also Gary Blasi, *How Much Access? How Much Justice?*, 73 FORDHAM L. REV. 865, 865 (2004); JULIET BRODIE, CLARE PASTORE, EZRA ROSSER & JEFFREY SELBIN, POVERTY LAW: POLICY AND PRACTICE 587 (2014) (defining access to justice as "a concept used to analyze and evaluate whether people, especially but not exclusively the poor, can effectively use the courts and other fora to resolve disputes or protect rights"). Further, people do not always conceive of their problems as having a legal dimension with which a lawyer could be of assistance, which may cause the need to be understated. See generally Rebecca L. Sandefur, *Accessing Justice in the Contemporary USA: Findings from the Community Needs and Services Study*, AM. BAR FOUND. (2014), <http://ssrn.com/abstract=2478040>.

7. The Arkansas poverty rate for 2009–13 was 19.2%, while the national poverty rate was 15.4%. U.S. CENSUS BUREAU, STATE AND COUNTY QUICKFACTS: ARKANSAS, <http://quickfacts.census.gov/qfd/index.html> (select "Arkansas") [hereinafter U.S. CENSUS BUREAU, STATE AND COUNTY QUICKFACTS: ARKANSAS].

8. SANDEFUR & SMYTH, *supra* note 5, at 37 (reporting data from 2009). Eligibility for LSC-funded services is 150% of the federal poverty line. *Id.* Further, the state has 1.1% of the nation's population of veterans, a vulnerable demographic segment with significant unmet legal needs. *Id.*

9. *Id.*

10. *Id.*

11. *Id.* at 37–38.

12. John M. Greacen, Amy Dunn Johnson & Vincent Morris, *From Market Failure to 100% Access: Toward a Civil Justice Continuum*, 37 U. ARK. LITTLE ROCK L. REV. 551, 565 (2015).

13. *Id.* That partnership is between Arkansas Children's Hospital and Legal Aid of Arkansas, with support from Wal-Mart Corporation and Akin, Gump, Strauss, Hauer & Feld, LLP. Steven H. Schulman, Lori Chumbler, & Ellen Lawton, *An Innovative Model for Col-*

We do not know the extent to which the legal needs of low-income and modest means Arkansans are not met. Given the state's demographic and economic profile, however, we can assume that the unmet need is great, particularly in rural communities with few attorneys to serve the local population.<sup>14</sup> Sadly, we also have ample evidence that lack of an attorney has a significant deleterious impact on case outcomes.<sup>15</sup>

In the past decade or so, state high courts, the American Bar Association (A.B.A.) and its state counterparts, state Access to Justice Commissions, and the media have become aware that a shortage of rural lawyers afflicts many rural communities across the nation, with implications for access to justice in those communities.<sup>16</sup> As these organizations, along with state legislatures, have considered appropriate responses to what is shaping up to be a civil-justice crisis in some rural jurisdictions, several obstacles have become apparent. One is the lack of systematically collected data about exactly where lawyers are practicing within a given state. We generally do not know—except by casual anecdote—how great the rural lawyer shortage

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*laborative Pro Bono*, LAW 360 (May 6, 2014), <https://www.akingump.com/images/content/2/8/v2/28638/An-Innovative-Model-For-Collaborative-Pro-Bono.pdf>.

14. One reason we cannot quantify the unmet need is because people are not always aware that the problem they are facing is one for which a lawyer could provide assistance. One study of the unmet legal need in Montana found that, among “Montana residents reporting a civil legal need in the last year, 77.1% reported doing nothing about that need.” Hillary A. Wandler, *Spreading Justice to Rural Montana: Rurality's Impacts on Supply and Demand for Legal Services in Montana*, 76 MONT. L. REV. 225, 241 (2015).

15. See, e.g., CHANLEY PAINTER, EXPLORING THE PROBLEM OF SELF-REPRESENTED LITIGANTS IN ARKANSAS CIVIL COURTS, ARK. ACCESS TO JUSTICE 25 (2011), <http://www.arkansasjustice.org/sites/default/files/file%20attachments/Capstone%20Report%20-%20AAJC%20Final.pdf> (reporting that 78% of circuit (trial) court judges in Arkansas say that self-representation has a negative impact on the outcome of a given matter); see also Rebecca Sandefur, *Elements of Professional Expertise: Understanding Relational and Substantive Expertise Through Lawyers' Impact*, 80 AM. SOC. REV. 909, 16 (2015) (reporting that impact of lawyer representation, compared to lay attempts at self-representation, is “spectacular”).

16. See Lorelei Laird, *In Rural America, There Are Job Opportunities and a Need for Lawyers*, A.B.A. J. (Oct. 1, 2014), [http://www.abajournal.com/magazine/article/too\\_many\\_lawyers\\_not\\_here\\_in\\_rural\\_america\\_lwyers\\_are\\_few\\_and\\_far\\_between/?utm\\_source=maestro&utm\\_medium=email&utm\\_campaign=weekly\\_email](http://www.abajournal.com/magazine/article/too_many_lawyers_not_here_in_rural_america_lwyers_are_few_and_far_between/?utm_source=maestro&utm_medium=email&utm_campaign=weekly_email); Max Brantley, *Searching for Justice: Arkansas Is Short on Lawyers*, ARK. TIMES (Jul. 24, 2015, 9:11 AM), <http://www.arktimes.com/ArkansasBlog/archives/2015/07/24/searching-for-justice-arkansas-is-short-on-lawyers>; Lisa Hammersly, *More People Acting as Their Own Lawyers, Losing*, ARK. DEMOCRAT-GAZETTE, March 16, 2014, at 1; B.A. Morelli, *Small Communities Struggle to Recruit Lawyers*, THE GAZETTE (Cedar Rapids) (Nov. 26, 2014), <http://thegazette.com/subject/news/business/small-communities-struggle-to-recruit-lawyers-20141126>; Karen Schwartz, *Adventurers Sought in Rural America*, A.B.A. STUDENT LAW., Feb. 2015, [http://www.americanbar.org/publications/student\\_lawyer/2014-15/february/adventurers\\_sought\\_rural\\_america.html](http://www.americanbar.org/publications/student_lawyer/2014-15/february/adventurers_sought_rural_america.html); Ethan Bronner, *No Lawyer for Miles, So One Rural State Offers Pay*, N.Y. TIMES (Apr. 8, 2013), [http://www.nytimes.com/2013/04/09/us/subsidy-seen-as-a-way-to-fill-a-need-for-rural-lawyers.html?\\_r=0](http://www.nytimes.com/2013/04/09/us/subsidy-seen-as-a-way-to-fill-a-need-for-rural-lawyers.html?_r=0).

is within any given state, nor in what counties or regions of a state the greatest deficits are found.<sup>17</sup> Further, those seeking to ameliorate the shortage can only speculate about what sorts of incentives would effectively attract law students and lawyers to practice in these under-served areas.<sup>18</sup>

One of the principle aims of this article and the empirical work that informs it is to begin to develop evidence that will guide solutions to the lawyer shortage. In that regard, the article, produced for the University of Arkansas at Little Rock William H. Bowen School of Law (“UALR/Bowen”) “Access to Justice” symposium, makes two significant contributions. The first is to literally map where Arkansas lawyers are, and the second is to survey law student and attorney attitudes toward rural practice and rural places more generally. We collected data on where the Arkansas lawyer shortage is greatest, and we looked for trends and patterns regarding the least-served communities. We also report here on 2014–15 surveys of the state’s law students and lawyers. We conducted these surveys in an effort to better understand attitudes toward rural practice, but also to determine the likely success of a legislative proposal that would respond to the rural attorney shortage by offering specific opportunities and incentives for rural practice. We report the survey results in great detail in Part IV.

Our methodology focuses on the scale of the county, which may be seen as implying that the county is the most appropriate scale or unit of analysis and that a healthy civil-justice system in a given place requires a lawyer to be practicing where the county courthouse is. By adopting the county as the unit of analysis, we might be seen as suggesting that no role exists for technology<sup>19</sup> and that driving twenty to thirty miles for legal assis-

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17. See, e.g., Simon Rice, *Access to a Lawyer in Rural Australia: Thoughts on the Evidence We Need*, 16 DEAKIN L. REV. 13, 46 (2011) (noting the need for evidence of both “fact and feeling,” asking why lawyers have left rural practice and how those who have stayed are successful, as well as providing a sophisticated analysis of data over an extended period of time on where lawyers are leaving and where they are going).

A recent issue of the *Texas Bar Journal* reported data from a handful of counties, including a ratio of attorneys to population of 1:2,431 in Zavala County, where the poverty rate is 42%. Lindsay Stafford Mader, *Way Out Yonder*, 78 TEX. BAR J. 524, 525 (2015). Further it reports that eight Texas counties had no attorneys, and sixty-seven counties had five attorneys or fewer. *Id.* Among the state’s 254 counties, 121 had attorney-population ratios of 1:1,000 or worse (that is one attorney or less per 1,000 residents). *Id.* Meanwhile, in the 394th Judicial District, along the U.S.-Mexico border, four of the five counties have one or no full-time attorneys who are not county attorneys. *Id.*

18. See Hannah Alsgaard, *Rural Incentive Programs for Legal and Medical Professionals: A Comparative Analysis*, 59 S.D. L. REV. 585 (2014) (surveying recruitment incentive strategies to attract physicians to rural areas and speculating about their utility for attorney recruitment).

19. Clearly, technology has a major role to play in bridging the rural-urban justice gap. See Greacen et. al., *supra* note 12, at 564–71 (discussing at length several specific ways in which technology can be used to improve access to justice, including for pro se litigants). For

tance is too far. We might also be seen as conflating several different issues—specifically, the availability of a local attorney for a low-income family facing a legal problem (the access-to-justice problem) and what a lawyer’s ongoing presence in a community represents in terms of human and social capital.<sup>20</sup> We are aware of these issues, and we understand that the

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example, the Arkansas Legal Services Partnership (“ALSP”), a collaboration of Arkansas’s two legal services programs, uses technology to aid those without access to legal representation. The ALSP website uses Hot Docs and A2J to enable users to complete interviews and transcribes the information given into the proper format to file with a court. *Free Self-Help Forms*, ARK. LEGAL SERVS. PARTNERSHIP, <http://www.arlegalservices.org/interactiveforms> (last visited Jan. 22, 2016). These are Legal Help Interactive (“LHI”) forms. *Id.* One significant limit on the use of technology to meet the legal needs of low-income Arkansans is that 36% of the state’s residents are without Internet access. SANDEFUR & SMYTH, *supra* note 5, at 38 (reporting data from 2009).

In his 2015 article, Brian Lynch discusses at length the pros and cons of using technology-based initiatives to provide access to justice in Montana, Idaho and Wyoming. Brian L. Lynch, *Access to Legal Services in Rural Areas of the Northern Rockies: A Recommendation for Town Legal Centers*, 90 IND. L.J. 1683 (2015). Montana, for example, has used video in courtrooms to allow attorneys to remotely represent their clients, thus reducing costs associated with travel. *Id.* at 1695. Lynch notes, however, that “participants deemed it ‘depersonalizing’ and have concerns about maintaining attorney-client confidentiality during hearings.” *Id.* Furthermore, this technology can only be used to assist clients whose cases involve courtroom litigation “and ignores the vast majority of people who need other types of legal assistance, such as the 61% of LSC-funded cases in 2012 that were closed with just counsel and advice.” *Id.* at 1696.

Lynch also discusses legal hotlines that allow attorneys and paralegals to act as “first responders” to callers by giving legal advice and brief services. *Id.* While Lynch reports that Wyoming has had great success with its hotline program, he also notes the limitations and risks of such hotlines, which “mostly serve as a gatekeeper for vetting potential clients and triaging their needs, the overall design of which can carry certain risks.” *Id.* Finally, Lynch describes the various self-help websites and document-assembly services some states have created, such as Montana’s “HotDocs,” to aid pro se litigants. *Id.* at 1697. He calls these a “transformative tool for legal services” but notes that “creating and maintaining these forms is costly, intensive, and requires continual monitoring,” which can use up considerable legal aid budgets. *Id.* at 1697–98. Further, the documents are rarely useful except in the most simple of cases, “where only one party is appearing[.] many other types of cases remain too complicated for pro se litigants to proceed without legal assistance.” *Id.* at 1697.

20. See DONALD D. LANDON, *COUNTRY LAWYERS: THE IMPACT OF CONTEXT ON PROFESSIONAL PRACTICE* (1990); Pruitt & Showman, *supra* note 6, at 479, 496–504.

Scholarship about the legal profession has long embraced a dichotomy between lawyers who represent entities (“the corporate hemisphere”) and those who represent individuals and small businesses (“the individual hemisphere”). The former have been more elite, in terms of educational credentials and other characteristics, and racially/ethnically homogeneous (white, Anglo-Saxon, protestant men). Historically, little cross-over occurred between the two hemispheres. See generally JOHN P. HEINZ & EDWARD O. LAUMANN, *CHICAGO LAWYERS: THE SOCIAL STRUCTURE OF THE BAR* 319–20 (1982). This hierarchy overlooks the importance of the individual hemisphere lawyer’s role as community member and counselor, including to clients with whom s/he has something in common. Indeed, this hierarchy may short change rural lawyers in particular, who tend to work entirely in the individual hemisphere. Yet these

legal needs of individual and small business clients in rural locales may not be as numerous or as complex as those that occupy many of the lawyers—especially large-firm lawyers—working in metropolitan areas. Yet, rural residents do need assistance with many of the same sorts of disputes that urban residents do, including family law, employment law, estate planning, real property matters, and a range of agriculture-related matters.<sup>21</sup>

To be clear, we see a range of issues implicated what is generally expressed as the rural lawyers shortage, but we do not analyze all of them in a robust fashion in this article. First and foremost, this article collects data and explores some possible solutions for getting more lawyers serving more

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lawyers have long been social actors playing many different roles, as embedded members of their communities. As Eli Wald observes, “rural lawyers[] may be well-positioned to play the role of mentors to kids, their parents and local communities.” Eli Wald, *Serfdom Without Overlords: Lawyers and the Fight Against Class Inequality*, 54 U. OF LOUISVILLE L. REV. 267, 291 (2016).

An excellent Arkansas illustration of this phenomenon, albeit from an earlier era, is former U.S. Senator Dale Bumpers, who wrote extensively of his decade as an attorney in Charleston, Arkansas in his memoir, *The Best Lawyer in a One-Lawyer Town*. DALE L. BUMPERS, *THE BEST LAWYER IN A ONE-LAWYER TOWN* (2003). Beginning in the early 1950s, Bumpers practiced law in Charleston, which at the time had a population of less than a thousand residents. *Id.* At the same time, Bumpers ran the hardware store his late father had co-owned. *Id.* Among other legal work during this period, Bumpers advised the Charleston School Board to integrate following the 1954 U.S. Supreme Court decision in *Brown v. Board of Education*, making it the first public school in the former confederacy to do so. Adam Clymer, *Dale Bumpers, Liberal Stalwart of Arkansas Politics, Dies at 90*, N.Y. TIMES (Jan. 2, 2016), <http://www.nytimes.com/2016/01/03/us/dale-bumpers-liberal-stalwart-of-arkansas-politics-dies-at-90.html>.

Anecdotally, rural lawyers often comment on their multidimensional roles as members of communities, as counselors. In a 2015 story about lawyers in rural Texas, Roy B. Ferguson of the 394th Judicial District is quoted describing his life as a practitioner in Marfa, Texas, before he became a judge:

I typically spent three hours a day, just listening to people who I did not represent as they unloaded their problems and asked for reassurance. It is emotionally taxing on you, but you can and will make a difference in their lives. It was not uncommon to spend an hour with an elderly person who received a spam email telling her that she had won a nonexistent lottery or explaining to someone that bill collector could not have them arrested.

Mader, *supra* note 17, at 526.

21. See Mader, *supra* note 17, at 525 (quoting a lawyer practicing in rural Texas as saying, “People still get divorced out here . . . they still run around”); the lawyer described himself as a general practitioner who handles matters such as “fence line disputes, pesticides and herbicides, and livestock ownership” among other agricultural law issues); Pruitt & Showman, *supra* note 6, at 485–89 (discussing the type of legal services needed in rural areas). See also Lisa R. Pruitt & Linda T. Sobczynski, *Protecting People, Protecting Places: What Environmental Litigation Reveals and Conceals about Rurality*, J. OF RURAL STUDIES (forthcoming 2016) (describing the reluctance of rural residents of Newton County, Arkansas to sue for nuisance associated with an industrial hog farm, that reluctance stemming in part from the lack of a local lawyer whom they knew and trusted).

rural communities—whatever the legal service delivery model(s) might ultimately look like. In this regard, we hope our efforts to collect and publish relevant data will serve as a model—or at least inspiration—for other states facing rural lawyer shortages. We view this data collection as a critical early step, even though we realize that not all of our findings will be transferrable to other jurisdictions. Among the variables that will differ greatly from state to state are the cost of a legal education (which is relatively low in Arkansas) and the extent to which residents (and therefore law students) have past exposure to rural livelihoods.

In the next Part we examine data that quantify the rural lawyer shortage in Arkansas, and we literally map that data. We then in Part III provide an overview of some other states' recent efforts to respond to their rural lawyer shortages. These efforts represent the current baseline as we explore the Arkansas situation and consider possible responses to it. In Part IV we report the findings of our survey, which provides insights into why most lawyers choose urban practice settings, even in a state like Arkansas, whose population has shifted from rural to urban relatively slowly and which still has a substantial rural population. In Part V we make a call to action to the Arkansas General Assembly, the Arkansas Bar, and the Arkansas Supreme Court, providing examples of programs that could foster more spatially equitable distribution of legal services, with specific attention to the state's rural populations. There we discuss a proposal that Amy Dunn Johnson, Executive Director of the Arkansas Access to Justice Commission (AAJC), and co-author Cliff McKinney delivered to the Arkansas legislature, with the endorsement of the State's two law school deans, during the 2015 legislative session.<sup>22</sup>

## II. THE GEOGRAPHIC DISTRIBUTION OF ARKANSAS'S ATTORNEY POPULATION

### A. A Brief Primer on Arkansas Geography

Arkansas's seventy-five counties were home to more than 2.9 million residents according to the 2010 U.S. Decennial Census.<sup>23</sup> More than half of that population is concentrated in just ten counties, and a full third of it is concentrated in just four: Pulaski (home to the capital, Little Rock), and Benton, Washington and Sebastian in the state's booming Northwest corridor.<sup>24</sup> Indeed, among the state's ten most populous counties, only seven are

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22. See attached proposal at Appendix II. As discussed further below, the legislature did not act on this proposal during the 2015 legislative session.

23. U.S. CENSUS BUREAU, STATE AND COUNTY QUICKFACTS: ARKANSAS, *supra* note 7.

24. *Id.* The ten most populous counties in Arkansas are primarily clustered in central Arkansas (Pulaski, Faulkner, Saline, Garland, Jefferson, and White) and in the northwest

metropolitan counties according to the U.S. Office of Management and Budget definition. Each of the remaining three has a population of less than 100,000, with the given county's largest population cluster featuring a population of 50,000 or less. These three counties (Garland: county seat Hot Springs; Jefferson: county seat Pine Bluff; and White: county seat Searcy) are what the OMB calls micropolitan counties, denoting more populous nonmetro counties, with populations approaching the metropolitan threshold.<sup>25</sup>

The vast majority of Arkansas counties are low-population nonmetro counties. Indeed, twenty-four Arkansas counties had populations below 15,000 according to 2014 Census Bureau estimates, and twelve of those had populations below 10,000. Calhoun County is the least populous, with just 5,202 residents.<sup>26</sup> A further twenty-four counties—essentially another third of all Arkansas counties—have populations between 15,000 and 25,000.<sup>27</sup>

Recent attention to the national rural lawyer shortage led us to undertake to determine the number of lawyers living or working in the state's rural areas. This endeavor dates to 2013 when co-author McKinney began an investigation of the geographic distribution of Arkansas's lawyers. Specifically, McKinney used the Arkansas Judiciary database (AJD) of lawyers to determine the number of lawyers per county in each of the state's twenty-five least populous counties.<sup>28</sup> McKinney undertook that survey because, while Chair of the Arkansas Bar Association Young Lawyers Section from 2013–14, he became intrigued by the apparent disconnect between young attorneys who complained about a lack of jobs and older rural attorneys who complained about a shortage of lawyers in their communities. That investigation revealed a dire shortage of lawyers in many parts of rural Arkansas, and the *Arkansas Democrat-Gazette* subsequently wrote a story highlighting McKinney's findings and discussing their implications.<sup>29</sup>

In the spring of 2014, McKinney, AAJC Executive Director Amy Dunn Johnson, and the deans of the state's two law schools—Stacy L. Leeds of the University of Arkansas Fayetteville (“UA Fayetteville”) and Michael Hunter Schwartz of UALR/Bowen—testified before a joint meeting of the Arkansas General Assembly's House and Senate Judiciary Committees. In April 2014, they testified before the Judiciary Committees regarding the

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Arkansas corridor (Benton, Washington, Sebastian). *Id.* The other is Craighead County, whose county seat, Jonesboro, is the largest population center in northeast Arkansas. *Id.*

25. See *supra* note 4 (defining “micropolitan”).

26. U.S. CENSUS BUREAU, STATE AND COUNTY QUICKFACTS: ARKANSAS, *supra* note 7 (select “Calhoun County”).

27. *Id.*

28. See *infra* Part IV (reporting the outcome of that survey).

29. Hammersly, *supra* note 16.

declining number of attorneys serving rural communities.<sup>30</sup> The leadership of the Judiciary Committees responded with an invitation to create a legislative proposal to address the problem. In November 2014, the AAJC and the state's two law schools agreed on such a proposal aimed at closing this rural justice gap. As of the spring of 2015, this proposal had stalled in a political climate marked by reluctance to create new government programs or to make even moderate expenditures.

## B. Defining Rural

“Rural” can be defined in many different ways.<sup>31</sup> The *Merriam-Webster Dictionary* defines rural as “of or relating to the country, country people or life, or agriculture,”<sup>32</sup> but this definition is of marginal utility for our project: deciding which Arkansas counties are “rural” or “the most rural” for purposes of assessing the rural lawyer shortage.<sup>33</sup> We focused on the state's twenty-five least populous counties, which we call the “Rural Counties,” because doing so provided a bright line for purposes of focusing our analysis and because these represent a full third of the state's counties.<sup>34</sup> According to the 2010 Census, these least populous counties were Bradley, Calhoun, Chicot, Cleveland, Dallas, Desha, Fulton, Howard, Izard, Lafayette, Lee, Lincoln, Little River, Madison, Monroe, Montgomery, Nevada,

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30. Email from J. Cliff McKinney II to Lisa R. Pruitt (Mar. 16, 2015) (on file with authors). The date of this testimony was April 17, 2014.

31. See, e.g., 8 U.S.C. § 1153(b)(5)(B)(iii) (2000) (immigration statute defining rural as “any area other than an area within a metropolitan statistical area or within the outer boundary of any city or town having a population of 20,000 or more”); 12 U.S.C. § 2019(b)(3) (2000) (establishing population ceiling of 2,500 for extending loans and discounts for rural housing financing); 42 U.S.C. § 1490 (2000) (defining rural as “any place, town, village, or city which is not . . . part of or associated with an urban area”); U.S. CENSUS BUREAU, GEOGRAPHIC AREAS REFERENCE MANUAL 12-1 (1994), <http://www2.census.gov/geo/pdfs/reference/GARM/Ch12GARM.pdf> (defining “rural” places as “any incorporated place or [census designated place] with fewer than 2,500 inhabitants that is located outside of a urbanized area”).

32. *Rural*, MERRIAM-WEBSTER DICTIONARY 646 (1997).

33. The meaning of “rural” is highly contested in both law and broader society. See Lisa R. Pruitt, *Gender, Geography, and Justice*, 23 BERKELEY J. GENDER L. & JUST. 338, 344–48 (2008) (collecting definitions of “rural” and suggesting a broad concept of “rurality” and focusing on it as a primary dimension of analysis in relation to legal scholarship's initial engagement with “rurality”); Lisa R. Pruitt, *Rural Rhetoric*, 39 CONN. L. REV. 159, 178–84 (2006) (discussing how definitions of “rural” are often general or imprecise concepts or, alternatively, terms of art that are legislatively or judicially defined).

34. Other definitions could be valid, e.g., counties with the largest proportion of the population engaged in agriculture or counties farthest from population centers. Studies using alternate defining characteristics, or perhaps a study of the entire state, would be beneficial for future discussion on this important topic.

Newton, Perry, Pike, Prairie, Scott, Searcy, Stone, and Woodruff.<sup>35</sup> Between the 2010 decennial census and the U.S. Census Bureau's 2014 population estimates, Clay County's population dropped precipitously from 16,083 to 15,118, while Madison County's population rose modestly from 15,717 to 15,740.<sup>36</sup> Thus, in the midst of our analysis, Clay County displaced Madison County as the twenty-fifth least populous county. Nevertheless, because we had begun our analysis with Madison County, we retained it on our list of Rural Counties.

We acknowledge that defining "Rural Counties" based solely on population size is not without its limitations and complications. For instance, Perry County borders the state's most populous county, Pulaski County, as well as Faulkner and Saline counties, the fifth and sixth most populous counties, respectively. Similarly, Madison County borders both Benton and Washington counties, which are, respectively, the state's second and third most populous counties. Despite their small populations, then, Perry and Madison counties are arguably not rural given their close proximities to the state's largest population centers; both are part of Metropolitan Statistical Areas.<sup>37</sup> Nevertheless, these counties are "rural" by our definition, and including them in our analysis provided an opportunity to consider how proximity to an urban area may influence the extent of the lawyer shortage.

As we have already noted, focusing on the county as the unit of analysis is also not without its drawbacks. On the one hand, taking the county as the relevant scale makes sense because each county has a circuit court where

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35. U.S. CENSUS BUREAU, STATE AND COUNTY QUICKFACTS: ARKANSAS, *supra* note 7 (select county about which data is sought).

36. *Id.* (select county about which data is sought).

37. Perry County is part of the Little Rock-North Little Rock-Conway Metropolitan Statistical Area, and Madison County is part of the Fayetteville-Springdale-Rogers Metropolitan Statistical Area. *Id.* A Metropolitan Statistical Area is determined not only by population, but also by the extent to which the population of the smaller county is socially and economically integrated with the more populous county. *See* U.S. CENSUS BUREAU, METROPOLITAN AND MICROPOLITAN STATISTICAL AREAS MAIN, <http://www.census.gov/population/metro/>. As defined by the U.S. Census Bureau, metropolitan statistical areas ("metro areas") and micropolitan statistical areas ("micro areas")

are geographic entities delineated by the . . . OMB for use by federal statistical agencies in collecting, tabulating, and publishing federal statistics. The term "Core Based Statistical Area" (CBSA) is a collective term for both metro and micro areas. A metro area contains a core urban area of 50,000 or more population, and a micro area contains an urban core of at least 10,000 (but less than 50,000) population. Each metro or micro area consists of one or more counties and includes the counties containing the core urban area, as well as any adjacent counties that have a high degree of social and economic integration (as measured by commuting to work) with the urban core.

*Id.* In this article, the terms "rural" and "urban" are used to refer more generally to the difference between places with sparse and small populations on the one hand and those with dense and large populations on the other.

litigants bring their disputes.<sup>38</sup> If a court is local at the county level, it is logical to expect—or at least desire—representation to be local, too. However, counties in Arkansas are relatively small in land area, as are the county units within most states in the midwest and eastern United States.<sup>39</sup> Thus, material spatiality will not necessarily impede a client’s ability to travel to consult with a lawyer in a neighboring county or a lawyer’s ability to travel from one county to another to make a court appearance.<sup>40</sup> After all, circuit judges in Arkansas—state judges at the trial level—often work in multi-county circuits, traveling to different courthouses on different days of the week or, in some cases, on alternate weeks.<sup>41</sup>

Nevertheless, if the lawyer shortage extends to clusters of contiguous counties (as our results show they do, see Maps 1A–1D), residents of those underserved clusters are going to encounter greater spatial, economic, and practical obstacles to finding a lawyer to assist or represent them. And, of course, having to pay a lawyer for “windshield time” only increases the cost of representation, which may already be prohibitively high for low-income and modest means clients. Thus, the geographic distribution of lawyers does have an impact on access to justice, and we used the county unit as the most obvious starting point for assessing the situation.

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38. The one exception is that residents of Perry County use the Pulaski County Circuit Court.

39. The average land area of an Arkansas county is 693.81 square miles. U.S. CENSUS BUREAU, STATE AND COUNTY QUICKFACTS: ARKANSAS, *supra* note 7. Counties in western states tend to be much larger in land area because the states are larger and they tend to be divided into fewer county units. Montana, for example, has fifty-six counties, and the average size of each is 2,599 square miles. U.S. CENSUS BUREAU, STATE AND COUNTY QUICKFACTS, [http:// quickfacts.census.gov/qfd/index.html](http://quickfacts.census.gov/qfd/index.html) (select “Montana”). California, the nation’s third largest state, has fifty-eight counties, with an average size of 2,686 square miles, nearly four times the size of an Arkansas county. *Id.* (select “California”). Arizona, the nation’s sixth largest state, is divided into just fifteen counties, each covering an average of 7,573 square miles, more than ten times the size of an Arkansas county. *Id.* (select “Arizona”).

40. See generally Jamie Baxter & Albert Yoon, *No Lawyer for a Hundred Miles: Mapping the New Geography of Access to Justice in Canada*, 52 OSGOODE HALL L.J. 9 (2014) (arguing that the focus on “equal distribution of lawyers” is less appropriate than a focus on territorial justice as an equitable distribution of legal services; observing that family law clients and those receiving advice on wills and estate issues tend to reside closer to their lawyers and have the smallest geographic scope of practice, whereas clients in specialized practice, such as intellectual property and human rights matters, tend to reach across much greater distances, with a majority of clients located more than fifty kilometers from the lawyer’s firm).

41. For example, no circuit judge lives in Newton County, and the circuit court that serves Newton County is not in session every day or even every week. Rather, a judge from a neighboring county in the Fourteenth Judicial District, which includes Boone, Marion, and Baxter counties, travels to Newton County periodically to hold court. See BALLOTEDIA, [http://ballotpedia.org/Arkansas\\_Circuit\\_Courts](http://ballotpedia.org/Arkansas_Circuit_Courts) (last visited Feb. 2, 2013).

Arkansas's twenty-five least populated counties are spatially distributed across the state, including in the northern Ozark Plateau Region, the southeastern Mississippi River Alluvial Plain (the Delta Region), the southwestern Ouachita Mountains Region, and the southwestern West Gulf Coastal Plain.<sup>42</sup> This variety invites speculation about some of the causes and consequences of the shortage of lawyers in a wide array of places with varying economic bases and varying amenities. For example, all counties have agricultural components to their economies, but the Mississippi Delta counties will have very different agricultural bases (row crops) than those of the Ozark Highlands (poultry, cattle, and swine production, in both small and large farms). Both the Mississippi Delta and Ozark Highlands counties are chronically poor, but the Ozark Highlands counties are also rich with natural amenities and have developed ecotourism economies in recent years,<sup>43</sup> thus creating a type of economic opportunity unlikely to be available in southeast Arkansas.

The twenty-five Rural Counties also vary widely in terms of prosperity, with Chicot County having the highest poverty rate at 33% and Little River County featuring the lowest poverty rate at 14%.<sup>44</sup> The highest median household income is in Perry County, at \$42,455, which probably reflects its economic embeddedness with the greater Little Rock job market. The lowest median household income is in Lee County, at \$25,034.<sup>45</sup> For the sake of comparison, we note that the state's most populous counties—Pulaski, Benton, and Washington—have poverty rates of 17.2%, 12.2%, and 20.7%, respectively,<sup>46</sup> and their median household incomes are \$46,013, \$54,515, and \$41,248, respectively.<sup>47</sup>

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42. *Physiographic Regions of Arkansas*, ARKANSAS GEOLOGICAL SURVEY, [http://www.geology.ar.gov/education/physio\\_regions.htm](http://www.geology.ar.gov/education/physio_regions.htm). For a contemporary taxonomy of types of rural counties in terms of political economy and future prospects, see Lawrence Hamilton, Leslie Hamilton, Cynthia Duncan, and Chris Colocousis, *Place Matters: Challenges and Opportunities in Four Rural Americas*, CARSEY INSTITUTE (2008), <http://scholars.unh.edu/cgi/viewcontent.cgi?article=1040&context=carsey> (providing a taxonomy of four types of rural places: amenity-rich, declining resource-dependent, chronically poor, and amenity/decline).

43. See Ed Bethune & Vic Snyder, *Pig Farm Threatens Buffalo River*, THE HILL (Feb. 12, 2014), <http://thehill.com/business-a-lobbying/198266-pig-farm-threatens-buffalo-river> (reporting that ecotourism attracts a million visitors each year and contributes \$38 million to the area economy).

44. See U.S. CENSUS BUREAU, STATE AND COUNTY QUICKFACTS: ARKANSAS, *supra* note 7.

45. *Id.*

46. Washington County's poverty rate is presumably higher than the others because it is home to the University of Arkansas and therefore many students who have minimal or no income.

47. See U.S. CENSUS BUREAU, STATE AND COUNTY QUICKFACTS: ARKANSAS, *supra* note 7.

### C. Methodology

Neither the Arkansas Judiciary nor the Arkansas Bar Association tracks the geographic distribution of attorneys across the state. Nevertheless, three sources of data were available as we undertook this work: the Arkansas Bar Association's membership list, the Arkansas Judiciary's list of licensed attorneys (AJD), and the list of participants in the Arkansas Interest on Lawyers' Trust Accounts (IOLTA) program. We eliminated the Arkansas Bar Association's membership list because membership in that organization is voluntary and therefore does not include all of the state's practicing attorneys. We analyzed data from the other two sources.

#### 1. *The Arkansas Judiciary Data*

The Arkansas Judiciary's website has a searchable directory of Arkansas attorneys,<sup>48</sup> but it does not list lawyers by county. The list provides each lawyer's mailing address, which tells us the city, town, or post office where the lawyer receives mail. We used the website Zipmap<sup>49</sup> to match zip codes with counties in order to determine the number of lawyers per county.

The AJD also does not indicate when an attorney is retired or otherwise not practicing, and it does not identify attorneys not accepting private representations (e.g., full-time judges, in-house counsel, government attorneys, etc.).<sup>50</sup> These latter limitations mean that the number of active private practice attorneys in a given county is likely to be lower than the number receiving mail there. Another limitation of the database is that it does not identify whether the attorney's listed address is a home address or an office address. Some attorneys may have their offices in a more populous county, while living and receiving mail in a rural county, or vice versa. Indeed, our survey, discussed below, confirmed this.<sup>51</sup>

Finally, if a law firm or lawyer keeps an office in more than one county, this fact will not be captured by our methodology because each lawyer will list only one address, and that address may be in the more populous county. Anecdotally, after some of the preliminary data from this report was released by AAJC in March 2015 in a policy brief about the rural lawyer

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48. ARKANSAS JUDICIARY, [https://attorneyinfo.aoc.arkansas.gov/info/attorney\\_search/info/attorney/attorneysearch.aspx](https://attorneyinfo.aoc.arkansas.gov/info/attorney_search/info/attorney/attorneysearch.aspx) (last accessed Aug. 3, 2015).

49. ZIPMAP, <http://www.zipmap.net/Arkansas.htm> (last visited July 11, 2015).

50. This limitation of the data set is illustrated by the fact that Phillips County still has an attorney with a 1939 bar admission year, which would put that attorney at roughly 100 years of age. Because we assume this lawyer is no longer practicing, we removed him from the "oldest bar year" column of our Appendix 1.

51. See *infra* notes 165, 185 and accompanying text.

shortage,<sup>52</sup> an attorney with a Jefferson County address reported to the authors that he also maintains an office in Cleveland County, where the database showed no attorneys. There may be other examples of this, but we had no feasible way to identify them. The data presented in this study is based strictly on the addresses that attorneys have provided to the Arkansas Judiciary and to the Arkansas Access to Justice Foundation, which maintains the IOLTA database.

Another limitation associated with the AJD is that it does not identify an attorney's age; it does, however, list the date when the attorney was first licensed in Arkansas. For purposes of this study, we assume that all attorneys were first licensed in Arkansas at age twenty-five, the youngest likely age for most law school graduates. However, a significant number of the attorneys are presumably older because many people do not graduate from law school at age twenty-five and some attorneys may have been first licensed in other states, even if they did graduate from law school in their mid-twenties.

The AJD features only currently licensed attorneys; historic information is not available. As already noted, co-author McKinney first captured the then-current AJD data on the Rural Counties in August 2013. This permitted our comparison to the July 2015 data, which is the focus of our analysis. As this project evolved, we decided to gather lawyer data for each Arkansas county, and not only for the twenty-five least populous. Thus, in July 2015, we used the same methodology to determine the number of lawyers in the remaining fifty counties. While we do not analyze that third data set as extensively as the Rural County data, we publicize it here for posterity, and we comment on the likely future challenges it portends for access to justice. This AJD data from July 2015—along with 2014 Census Bureau population estimates and the more recent 2009–13 poverty rate estimates—is reflected in Maps 1A–1D, 2A–2D, and 3A–3D.

## 2. *The Arkansas IOLTA Program Data*

The Arkansas Access to Justice Foundation, Inc., which administers the state's IOLTA program, provided the Arkansas IOLTA data after removing any information that could identify an individual attorney. Participation in the IOLTA program is mandatory for any attorney handling client or third-party funds in Arkansas.<sup>53</sup> Because the IOLTA data set includes only attor-

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52. Lisa R. Pruitt, J. Cliff McKinney II, Amy Dunn Johnson & Juliana Fehrenbacher, *Access to Justice in Rural Arkansas*, March 2015, [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2600274](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2600274). This policy brief featured data captured in January 2015 from the AJD. Those data differ somewhat from the July 2015 data we present here.

53. The program was originally voluntary, pursuant to *In the Matter of Interest on Lawyer's Trust Accounts*, 283 Ark. 252, 675 S.W.2d 355 (1984). In 1995, the Arkansas Supreme

neys who are handling client or third-party funds, it excludes retirees, full-time judges, full-time government employees, in-house counsel, and other persons who may be licensed as attorneys but who do not take private representations. The IOLTA data thus appears to be a much more reliable gauge of the shortage of lawyers in the Rural Counties as it correlates strongly to the availability of private legal assistance to meet the needs of these counties' residents.

The IOLTA data suffer from all of the limitations noted regarding the AJD except that historic IOLTA data are available. For purposes of this study, the authors examined the IOLTA rolls from 2010 and again from December 31, 2014, the latter being the most recent available data. The IOLTA data do not include the actual age of any attorney but do indicate the year of bar admission, so we made the same assumptions as to the age of participants regarding the IOLTA data as we did regarding the AJD. The December 2014 IOLTA data are reflected in Maps 1A–1D, 2A–2D, and 3A–3D.

## D. The Results

### 1. Attorneys per Capita

According to the A.B.A., 5,970 attorneys were “resident and active” in Arkansas as of fall 2014.<sup>54</sup> Arkansas’s population in 2014 was 2,966,369,<sup>55</sup> so 2.01 attorneys per 1,000 residents practice in the state.<sup>56</sup> This compares

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Court made this a mandatory program, eventually merging it into the Arkansas Access to Justice Foundation, Inc. in 2014. *See* Petition of Arkansas IOLTA Found., Inc. to Modify Model Rules of Prof’l Conduct 1.15, 885 S.W.2d 846, 846 (Ark. 1994).

54. *A.B.A. National Lawyer Population Survey*, AM. BAR ASS’N, [http://www.americanbar.org/content/dam/A.B.A./administrative/market\\_research/national-lawyer-population-by-state-2005-2015.authcheckdam.pdf](http://www.americanbar.org/content/dam/A.B.A./administrative/market_research/national-lawyer-population-by-state-2005-2015.authcheckdam.pdf) [hereinafter *A.B.A. Population Survey*] (last visited Jan. 22, 2016). According to the AJD, 7,562 attorneys were resident and active as of July 31, 2015. We have not been able to determine definitively what accounts for the significant difference between the A.B.A. figure and the AJD figure. We do note, however, that the data reported by the A.B.A. was supplied by “individual state bar associations or licensing agencies,” which might mean that the Arkansas Bar Association reported its membership number to the A.B.A. Because those licensed to practice law in Arkansas (and therefore listed in the AJD) are not required to be members of the Arkansas Bar Association, this might account for the difference. Thus, the A.B.A. may have reported Arkansas Bar Association membership rather than AJD. If we use the AJD figure of 7,562, the ratio is 2.55 attorneys per 1,000 residents, which puts Arkansas ahead of only Mississippi among its contiguous neighbors.

55. *See* U.S. CENSUS BUREAU, STATE AND COUNTY QUICKFACTS: ARKANSAS, *supra* note 7.

56. As we detail further below, according to the IOLTA database as of December 2014, 2,924 attorneys were engaged in private practice in Arkansas. *See infra* Maps 1A–1D, Appendix 1, and note 71 and accompanying text. While the A.B.A. figure includes judges, in-house counsel, and other attorneys in active practice, the IOLTA database reflects only those

poorly with the national average of 4.08 active attorneys per 1,000 residents.<sup>57</sup> Among states in the mid-South region, Arkansas has the lowest number of attorneys per capita serving its population. In 2014, Missouri had 4.18 attorneys per 1,000 residents;<sup>58</sup> Tennessee, 2.74;<sup>59</sup> Mississippi, 2.36;<sup>60</sup> Louisiana, 4.04;<sup>61</sup> Texas, 3.21;<sup>62</sup> and Oklahoma, 3.47.<sup>63</sup> Thus, the regional average is 3.33 attorneys per 1,000 residents.

While Arkansas appears underserved by attorneys generally, the per capita number of attorneys in the Rural Counties is far below the state average. The average 2014 population of the Rural Counties was 10,208 residents, and their total population was 255,212.<sup>64</sup> The AJD showed a total of 197 attorneys in the Rural Counties in July 2015,<sup>65</sup> and the IOLTA database listed ninety five as of December 2014. Among the Rural Counties, the

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in private practice, available to serve private clients. Based on the IOLTA database, the state average is 0.98 attorneys per 1,000 residents—less than half of what the A.B.A. data suggests.

57. According to the U.S. Census Bureau, the United States had a 2014 population of 318,857,056. U.S. CENSUS BUREAU, STATE AND COUNTY QUICKFACTS, <http://quickfacts.census.gov/qfd/index.html>. According to the A.B.A., the United States has 1,300,705 “resident and active” attorneys. *A.B.A. Population Survey*, *supra* note 54.

58. According to the U.S. Census Bureau, Missouri had a 2014 population of 6,063,589 and a poverty rate of 15.5%. U.S. CENSUS BUREAU, STATE & COUNTY QUICK FACTS: MISSOURI, <http://quickfacts.census.gov/qfd/states/29000.html>. According to the A.B.A., Missouri had 25,337 resident and active attorneys. *A.B.A. Population Survey*, *supra* note 54.

59. According to the U.S. Census Bureau, Tennessee has a population of 6,549,352 and a poverty rate of 17.6% in 2014. U.S. CENSUS BUREAU, STATE & COUNTY QUICK FACTS: TENNESSEE, <http://quickfacts.census.gov/qfd/states/47000.html>. According to the A.B.A., Tennessee has 17,965 resident and active attorneys. *A.B.A. Population Survey*, *supra* note 54.

60. According to the U.S. Census Bureau, Mississippi has a population of 2,994,079 and a poverty rate of 22.7% in 2014. U.S. CENSUS BUREAU, STATE & COUNTY QUICK FACTS: MISSISSIPPI, <http://quickfacts.census.gov/qfd/states/28000.html>. According to the A.B.A., Mississippi has 7,059 resident and active attorneys. *A.B.A. Population Survey*, *supra* note 54.

61. According to the U.S. Census Bureau, Louisiana had a population of 4,649,676 and a poverty rate of 19.1% in 2014. U.S. CENSUS BUREAU, STATE & COUNTY QUICK FACTS: LOUISIANA, <http://quickfacts.census.gov/qfd/states/22000.html>. According to the A.B.A., Louisiana had 18,775 resident and active attorneys as of December 31, 2014. *A.B.A. Population Survey*, *supra* note 54.

62. According to the U.S. Census Bureau, Texas had a population of 26,956,958 and a poverty rate of 17.6% in 2014. U.S. CENSUS BUREAU, STATE & COUNTY QUICK FACTS: TEXAS, <http://quickfacts.census.gov/qfd/states/48000.html>. According to the A.B.A., Texas has 86,494 resident and active attorneys. *A.B.A. Population Survey*, *supra* note 54. *See also* Mader, *supra* note 17, at 525 (reporting a statewide ratio of 1:312, a ratio of 1:288 in metropolitan areas, and a ratio of 1:896 in rural areas).

63. According to the U.S. Census Bureau, Oklahoma had a population of 3,878,051 and a poverty rate of 16.9% in 2014. U.S. CENSUS BUREAU, STATE & COUNTY QUICK FACTS: OKLAHOMA, <http://quickfacts.census.gov/qfd/states/40000.html>. According to the A.B.A., Oklahoma has 13,465 resident and active attorneys. *A.B.A. Population Survey*, *supra* note 54.

64. U.S. CENSUS BUREAU, STATE & COUNTY QUICK FACTS: ARKANSAS, *supra* note 7.

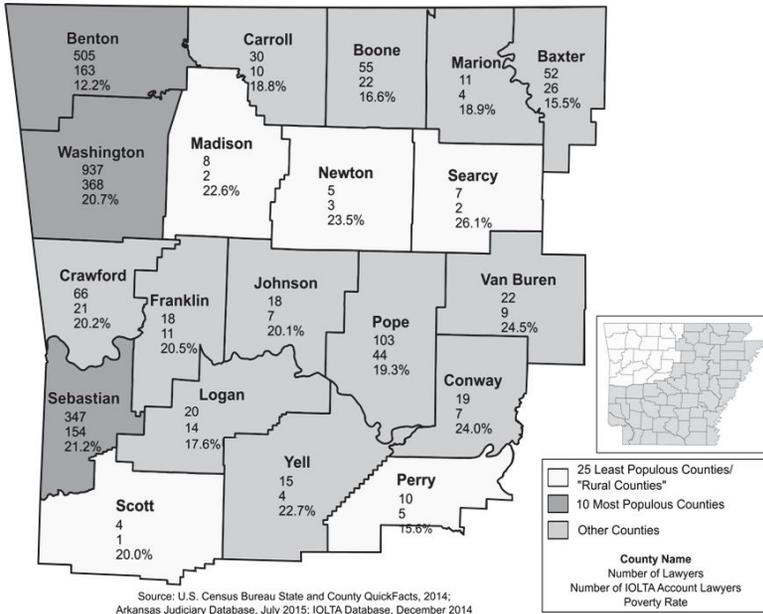
65. *See* Appendix 1 and Maps 1A–1D.

highest per capita number of attorneys in a county is 1.42 per 1,000 residents (Lee County) according to the AJD, while the highest per capita attorney count according to the IOLTA database is 0.79 per 1,000 residents (Monroe County).<sup>66</sup> The lowest per capita number according to the AJD is Cleveland County with no attorneys; Scott County is the second lowest at 0.37 per 1,000 residents. With just one attorney who has an IOLTA account, Scott County is also second to Cleveland County in terms of attorneys with IOLTA accounts per capita, at 0.09 per 1,000 residents. All attorney per capita data, for both AJD and IOLTA, are shown on Maps 2A–2D.

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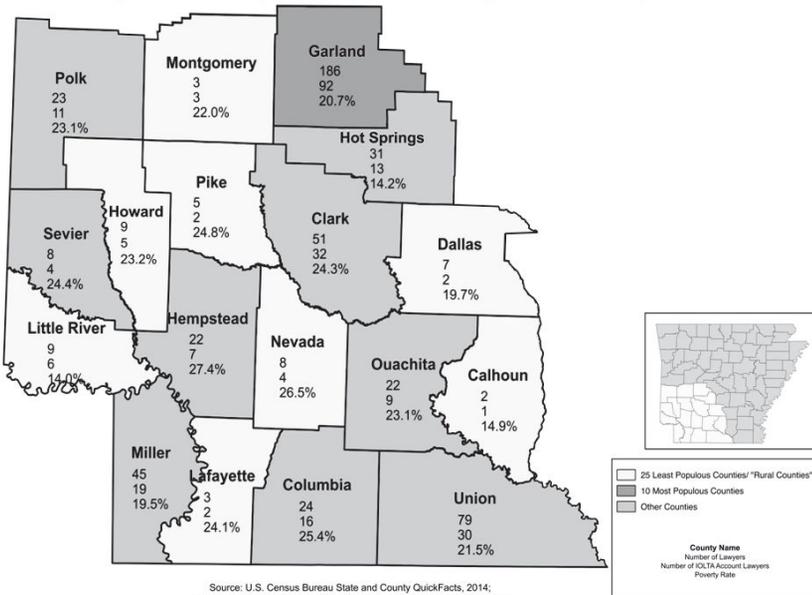
66. Unless otherwise noted, references to the Arkansas Judiciary Database refer to the results from the July 2015 retrieval and references to the IOLTA database refer to the rolls as of December 31, 2014. Later in this article, we compare the July 2015 AJD to the August 2013 data and compare the December 31, 2014 IOLTA data to the 2010 IOLTA data.

**Map 1A**  
**Lawyers Per County Arkansas Judiciary Database (July 2015)**  
**Lawyers Per County with IOLTA Accounts (December 2014)**



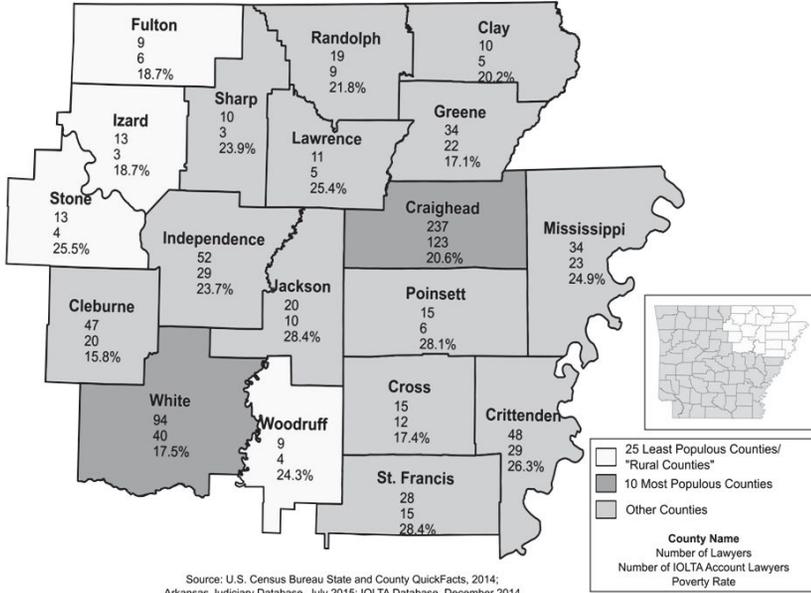
Source: U.S. Census Bureau State and County QuickFacts, 2014; Arkansas Judiciary Database, July 2015; IOLTA Database, December 2014

**Map 1B**  
**Lawyers Per County Arkansas Judiciary Database (July 2015)**  
**Lawyers Per County with IOLTA Accounts (December 2014)**



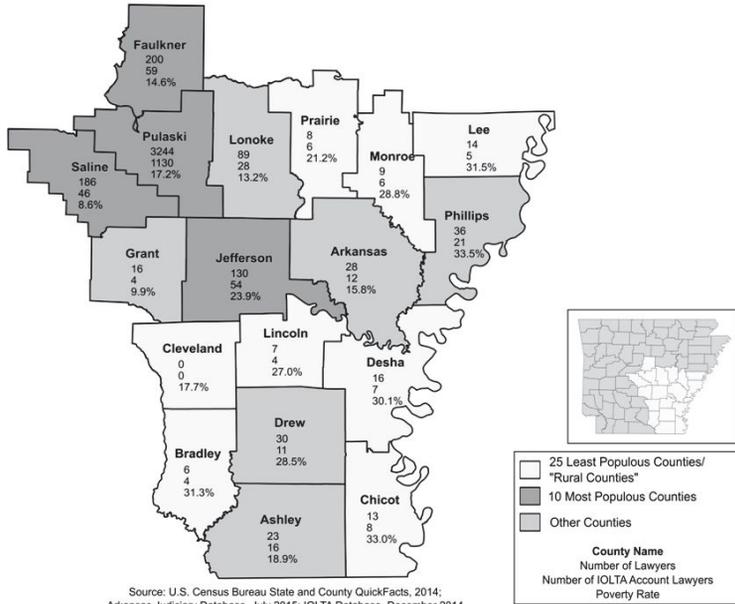
Source: U.S. Census Bureau State and County QuickFacts, 2014; Arkansas Judiciary Database, July 2015; IOLTA Database, December 2014

**Map 1C**  
**Lawyers Per County Arkansas Judiciary Database (July 2015)**  
**Lawyers Per County with IOLTA Accounts (December 2014)**



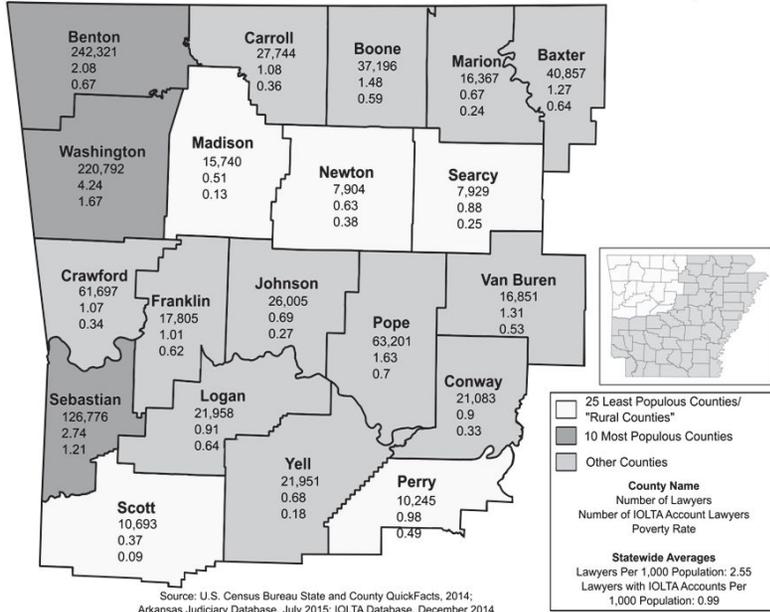
Source: U.S. Census Bureau State and County QuickFacts, 2014; Arkansas Judiciary Database, July 2015; IOLTA Database, December 2014

**Map 1D**  
**Lawyers Per County Arkansas Judiciary Database (July 2015)**  
**Lawyers Per County with IOLTA Accounts (December 2014)**

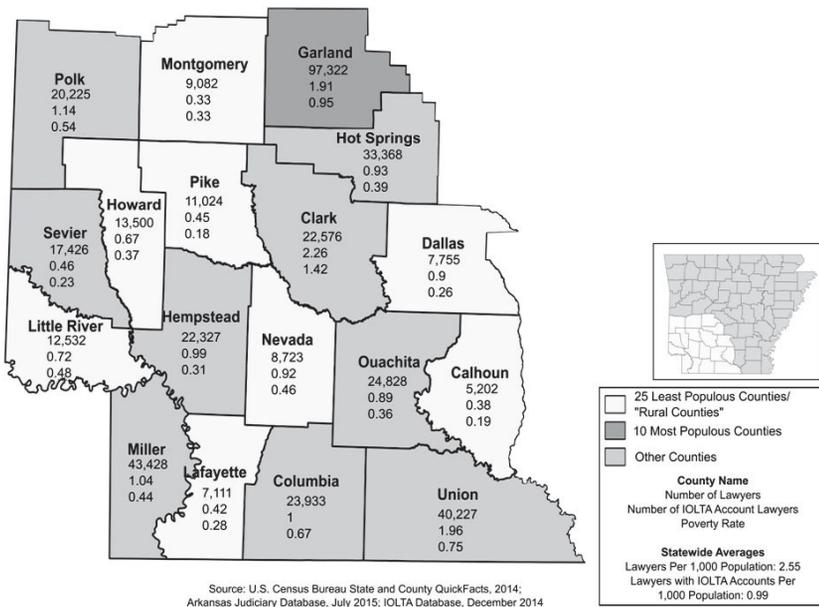


Source: U.S. Census Bureau State and County QuickFacts, 2014; Arkansas Judiciary Database, July 2015; IOLTA Database, December 2014

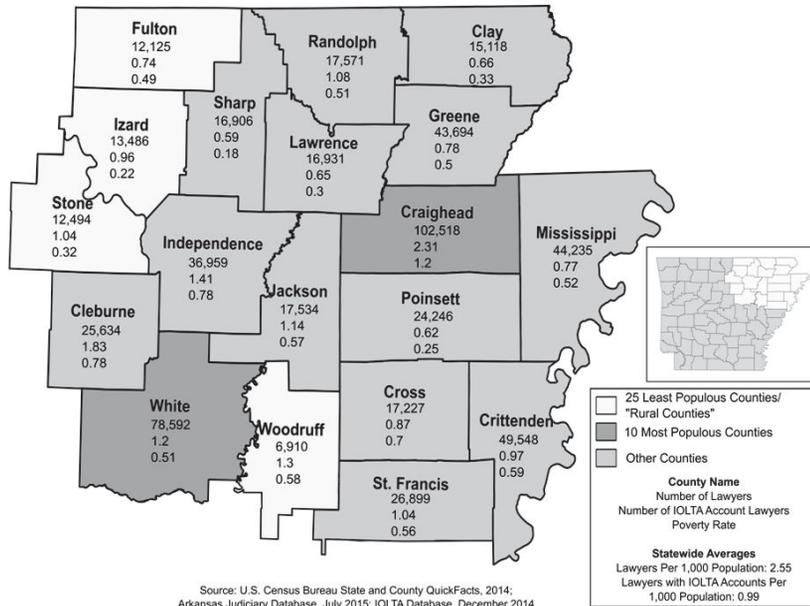
**Map 2A**  
**Number of Lawyers Per 1K Population (July 2015)**  
**Number of Lawyers with IOLTA Account Per 1K Population (December 2014)**



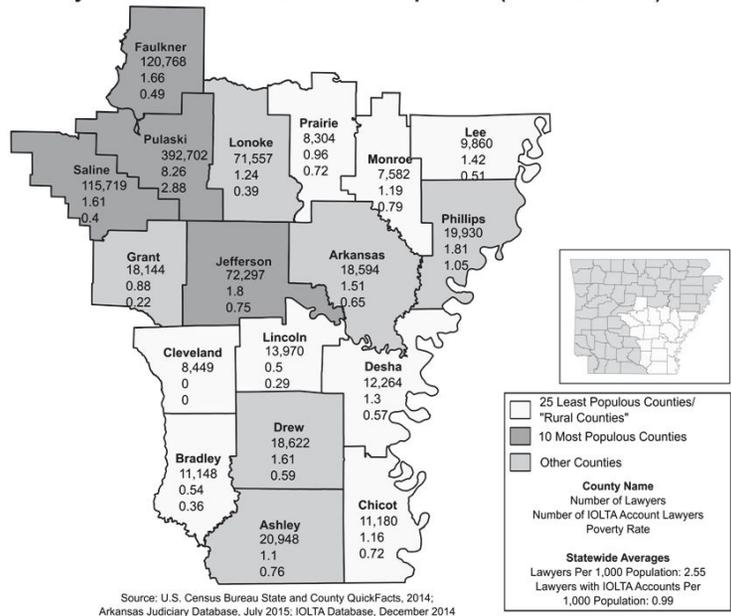
**Map 2B**  
**Number of Lawyers Per 1K Population (July 2015)**  
**Number of Lawyers with IOLTA Account Per 1K Population (December 2014)**



**Map 2C**  
**Number of Lawyers Per 1K Population (July 2015)**  
**Number of Lawyers with IOLTA Account Per 1K Population (December 2014)**



**Map 2D**  
**Number of Lawyers Per 1K Population (July 2015)**  
**Number of Lawyers with IOLTA Account Per 1K Population (December 2014)**



According to the AJD, seven of the Rural Counties (Cleveland, Scott, Montgomery, Calhoun, Lafayette, Pike, and Lincoln) have fewer than 0.5 attorneys per 1,000 residents.<sup>67</sup> According to the IOLTA data, only six of the Rural Counties average more than 0.5 attorneys per 1,000 residents (Monroe, Prairie, Chicot, Woodruff, Desha, and Lee).<sup>68</sup> The AJD shows that six of the Rural Counties have a ratio better than 1.0 attorney per 1,000 residents (Stone, Chicot, Monroe, Woodruff, Desha, and Lee), but the IOLTA data show no county with an attorney-to-population ratio better than 1:1000.<sup>69</sup>

The AJD reveals an overall average attorney ratio for the combined Rural Counties of 0.77 attorneys per 1,000 residents, which is far below the state (2.55), regional (3.28), and national (4.11) averages. According to the IOLTA database, the average attorney ratio for the combined Rural Counties is 0.37 attorneys per 1,000 residents, compared to a state average of 0.99 private practice attorneys per 1,000 residents.<sup>70</sup> Comparable private practice figures are not readily available for the other states in the region because the A.B.A. data include all active attorneys, whether or not in private practice.

These numbers are sobering indeed, but the situation does appear slightly less dire than it was just a few years ago. By July 2015, the total number of attorneys in the Rural Counties had risen modestly to 197, from 188 in October 2013.<sup>71</sup> A comparison of the October 2013 AJD data with the July 2015 AJD data shows the following changes in the Rural Counties' attorney counts:

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67. See Appendix I for all data references.

68. See *infra* Appendix I.

69. See *infra* Appendix I.

70. See *infra* Appendix I. The average per capita attorneys for all non-rural counties—the fifty most populous counties—is 1.43 per 1,000 residents.

71. Interestingly, a study of attorney presence in Texas showed a recent increase in the number of lawyers in the state's rural areas. See Mader, *supra* note 17, at 525. From 2012 to 2013, the number of rural attorneys rose by 2.3%, which was greater than the 2011 to 2012 growth. *Id.* From 2003 to 2013, the growth rate of attorneys in Texas's metro areas was 28%, while it was 17% in rural areas. *Id.* During that decade, Texas's metropolitan population grew 24%, while its rural population grew just 5%. *Id.*

CATEGORY	2013 Results	July 2015 Results	Total Change	Percentage Change
Total Attorneys Among the Rural Counties	188	197	+ 9	+ 4.79%
Highest per Capita Rate of Attorneys Among the Rural Counties	1.38	1.42	+ 0.04	+ 2.90%
Lowest per Capita Rate of Attorneys Among the Rural Counties	0	0	N/A	N/A
Average per Capita Rate of Attorneys Among the Rural Counties	0.72	0.77	+ 0.05	+ 6.94 %

In contrast, the IOLTA database changes between 2010 and 2014 show a steep decline in the number of active private practice attorneys in the Rural Counties:

CATEGORY	2010 Results	2014 Results	Total Change	Percentage Change
Total IOLTA Attor- neys Among the Rural Counties	116	95	-21	-18.10%
Highest Number of IOLTA Attorneys per 1,000 Among the Ru- ral Counties	0.98	0.79	-0.19	-19.39%
Lowest Number of IOLTA Attorneys per 1,000 Among the Ru- ral Counties	0	0	N/A	N/A
Average Number of IOLTA Attorneys per 1,000 Among the Ru- ral Counties	0.44	0.38	-0.06	-13.64%

The raw numbers of attorneys per county also tell a compelling story about the attorney shortage in rural Arkansas. According to the July 2015 AJD search, seven counties (Cleveland, Calhoun, Scott, Lafayette, Montgomery, Pike, and Newton) have five or fewer attorneys, compared to eight counties with five or fewer attorneys in 2013. Two counties, Calhoun and Cleveland, now have two or fewer attorneys. During the roughly twenty-three month period between the August 2013 search and the July 2015 search, the AJD showed that seven Rural Counties experienced net losses of total attorneys. Howard County reported three fewer attorneys, a decrease of 33% of all attorneys in the county in 2013. Lafayette County lost two attorneys, a decrease of 67% for the county. Seven rural counties experienced no change at all. Only Fulton County gained more than two attorneys—and it gained six—during the period.<sup>72</sup>

According to the 2014 IOLTA database, eighteen Rural Counties have five or fewer attorneys taking private representation. Of these counties, eight have two or fewer attorneys. In addition to Cleveland County, which has no listed attorneys, the IOLTA database shows that two Rural Counties have just one attorney each in private practice: Calhoun and Scott.<sup>73</sup> These numbers fell precipitously from 2010 to 2014. The number of Rural Counties with more than five IOLTA attorneys fell to six counties in 2014, a 166% decrease from 2010. The number of Rural Counties with two or fewer attorneys increased to eight counties (including Cleveland) in 2014.

## 2. *Attorney Age*

Another disturbing trend among the attorney populations of the Rural Counties is that they tend to be older than the state average. The July 2015 look at the AJD reveals that the average year of first licensure of attorneys in the Rural Counties is 1987; the December 2014 IOLTA data also indicate 1987 as the average year of first licensure of private practice attorneys in the Rural Counties. Of course, older attorneys are typically closer to retirement, which means the attorney shortage will soon worsen unless younger attorneys are enticed to serve these areas.

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72. This is an unusually high gain over a short period of time, and we can only speculate that it might be attributable to attorney retirements to Cherokee Village, a planned community that straddles the Fulton and Sharp Counties. Indeed, the variation in attorneys in Fulton County between 2013 and 2015 may be due to inconsistent attribution of Cherokee Village attorneys to either Fulton or Sharp Counties. According to the July 2015 AJD, six attorneys have addresses in Cherokee Village, and according to the December 2014 data, three IOLTA attorneys have addresses in Cherokee Village. We counted those attorneys as Fulton County attorneys rather than Sharp County attorneys.

73. The sole Scott County attorney in the IOLTA database has an address in Mansfield, which straddles the Scott-Sebastian County line. We counted that attorney as practicing in Scott County for purposes of both AJD and IOLTA data sets.

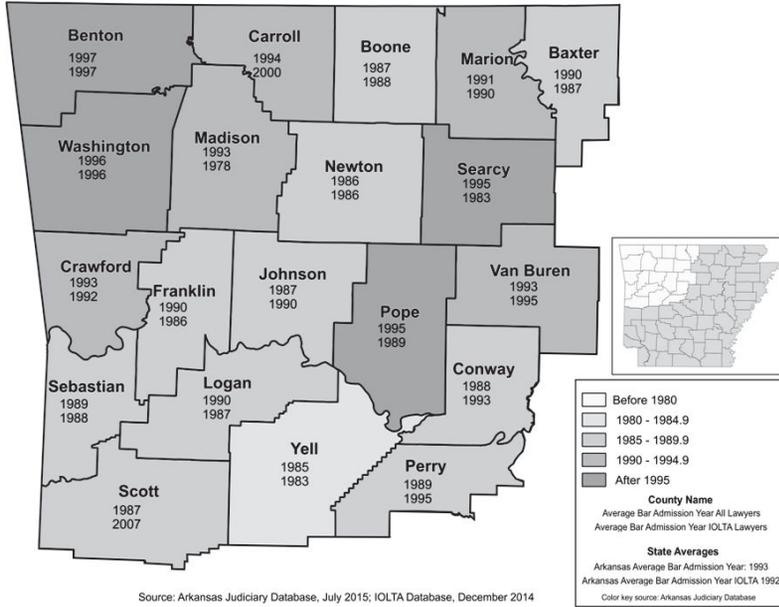
The AJD shows only seven Rural Counties whose attorney(s) have an average bar number in the 1990s.<sup>74</sup> The Rural County with the youngest bar admission year average is Pike County (1997), meaning the presumptive average attorney age there is forty-three. The county with the oldest average is Bradley (1978.2), with a presumptive average attorney age of sixty-two.

The IOLTA database reveals more extremes in terms of attorney age: some Rural Counties have significantly younger populations of attorneys while others have significantly older populations. In the IOLTA database, the average bar number for attorneys in two Rural Counties is in the 2000s, but these counties have only one attorney each. In the IOLTA database, eight Rural Counties have an average bar number in the 1990s, but six Rural Counties have averages in the 1970s (compared to one Rural County in the AJD). Among the Rural Counties, Scott County has the youngest average bar number (2007) which signals a presumptive attorney age of thirty-three, and Woodruff County has the oldest average attorney bar number (1975) which corresponds to a presumptive average attorney age of seventy.

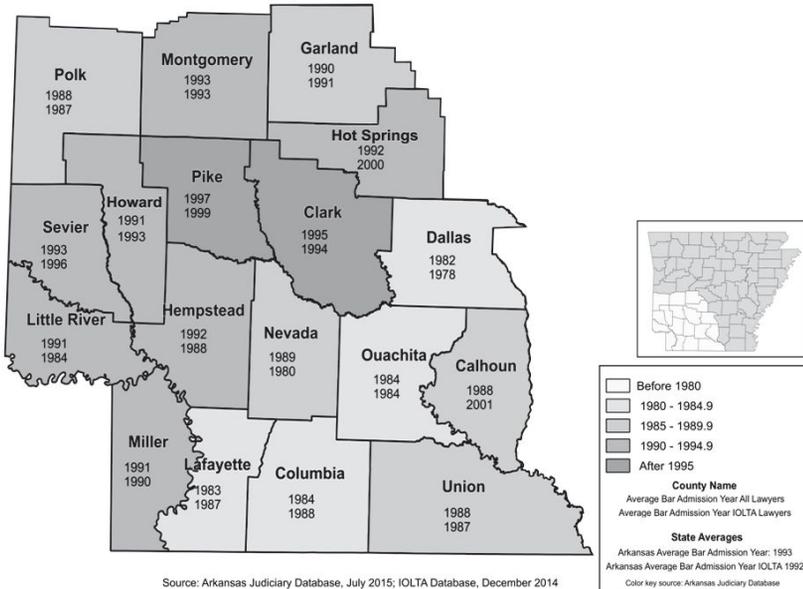
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74. See *infra* Appendix 1 and Maps 3A–3D. These are Little River (1990.7), Izard (1991.4), Howard (1992.7), Montgomery (1992.7), Madison (1992.8), Searcy (1995), and Pike (1996.8) Counties.

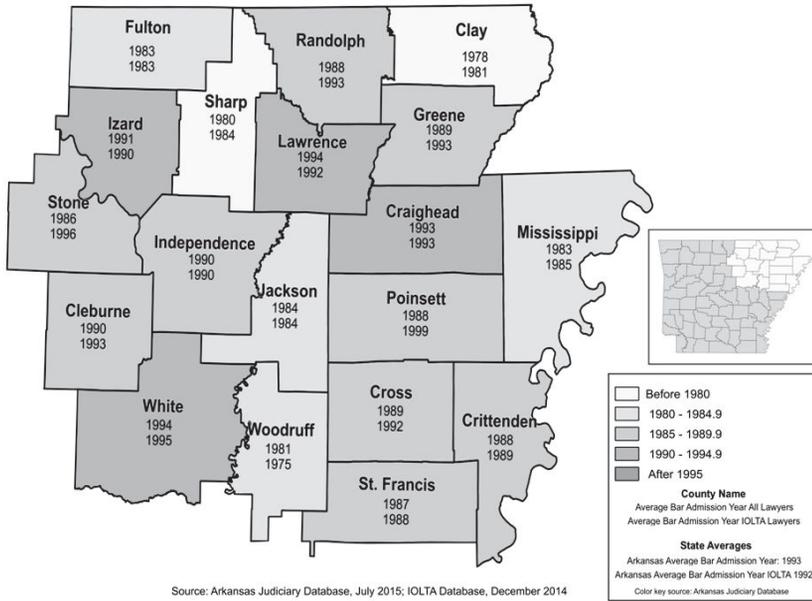
**Map 3A**  
**Average Bar Admission Year of Lawyers By County (July 2015)**  
**Average Bar Admission Year of IOLTA Lawyers By County (December 2014)**



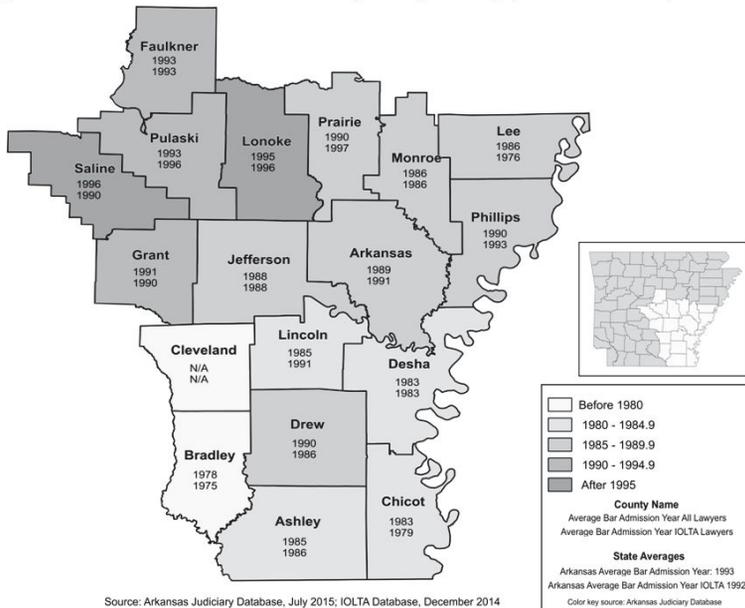
**Map 3B**  
**Average Bar Admission Year of Lawyers By County (July 2015)**  
**Average Bar Admission Year of IOLTA Lawyers By County (December 2014)**



**Map 3C**  
**Average Bar Admission Year of Lawyers By County (July 2015)**  
**Average Bar Admission Year of IOLTA Lawyers By County (December 2014)**



**Map 3D**  
**Average Bar Admission Year of Lawyers By County (July 2015)**  
**Average Bar Admission Year of IOLTA Lawyers By County (December 2014)**



Of particular concern is that very few lawyers recently admitted to the bar are locating in the Rural Counties. According to the AJD, thirty-two attorneys with addresses in the Rural Counties (16.2% of all attorneys in the Rural Counties) have been admitted in the last decade. Just fourteen attorneys who have been admitted in the last five and a half years have located to a Rural County (7.11% of all attorneys in the Rural Counties), and they comprise only 1.3% of the 1,067 attorneys admitted during the January 2010 thru July 2015 period. Twelve Rural Counties have no attorney licensed in the last decade,<sup>75</sup> and sixteen Rural Counties have no attorney licensed in the last five years.<sup>76</sup> Six of twenty-five Rural Counties have no attorney with a bar number dated in this millennium. These are Lafayette (most recent bar licensure 1995), Dallas (1997), Woodruff (1998), Bradley (1998), Fulton (1999), and Cleveland County, which has no attorneys according to the AJD.

The IOLTA database reveals an even bleaker picture. Just fourteen attorneys with an IOLTA account and a Rural County address (14.7% of all IOLTA attorneys in the Rural Counties) have been admitted in the last decade. Of the 362 IOLTA account attorneys who were licensed in the period beginning 2010 and running through December 2014, just five (1.38%) located to one of the Rural Counties. Seventeen Rural Counties have no IOLTA attorney licensed in the last decade.<sup>77</sup> Looking only at attorneys admitted in 2010 or later reveals an even more sobering situation—only five such attorneys with IOLTA accounts are located in any Rural County. These five attorneys are concentrated (if one could use that term under the circumstances) in just three Rural Counties: Newton, Prairie, and Stone. Only twenty attorneys with IOLTA accounts and with bar numbers in this millennium are located in Rural Counties, and they are spread across fifteen counties.

Another way of thinking about attorney age is in terms of the number of attorneys at or beyond retirement age. Anyone with a bar number of 1975 or before would likely be at or beyond age sixty-five. According to the U.S. Census Bureau, 13.7% of the nation's population is over age sixty-five, and

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75. See *infra* Appendix 1 and *supra* Maps 3A–3D. These are Chicot (2005, year of most recent licensure), Perry (2005), Monroe (2005), Montgomery (2005), Lincoln (2004), Calhoun (2001), Fulton (1999), Woodruff (1998), Bradley (1998), Dallas (1997), Lafayette (1995), and Cleveland (N/A).

76. The additional four counties are Pike (2006), Scott (2007), Desha (2008), and Howard (2009). If we included Newton County, where the year of most recent licensure is 2010, the number would be seventeen.

77. See *infra* Appendix 1 and *supra* Maps 3A–3D. These are Cleveland (N/A), Dallas (1979), Woodruff (1984), Madison (1984), Lee (1988), Chicot (1990), Searcy (1995), Lafayette (1995), Fulton (1999), Bradley (2001), Calhoun (2001), Lincoln (2004), Pike (2004), Desha (2005), Perry (2005), Izard (2005), and Monroe (2005).

15.6% of Arkansas's population is over age sixty-five.<sup>78</sup> According to the AJD, forty-five attorneys practicing in the Rural Counties (nearly a quarter of all of them) were admitted in 1975 or earlier, which suggests those attorneys are at least sixty-five years of age. Among the IOLTA account attorneys who are practicing in the Rural Counties, twenty-four (more than a quarter of them) were admitted in 1975 or earlier.

The one bright spot in the age category is the slight improvement in the average age of attorneys in the Rural Counties between the two study periods. The average bar year for the Rural County attorneys remained almost static, creeping up from 1986 to 1987 (signifying younger attorneys), between the October 2013 and July 2015 AJD snapshots. The IOLTA data revealed a slightly stronger improvement between 2010 and 2014: the average bar year rose to 1986 from its 2010 benchmark, 1984.

### 3. *Poverty Data*

Identifying causes of the decline in the number of attorneys working in the Rural Counties is challenging. One possibility we considered was whether a link exists between the lawyer shortage and the local economic milieu, but we found no significant correlation between poverty rates and attorney presence, at least among the Rural Counties on which we focused. Indeed, we were surprised that several Rural Counties with very high poverty rates had the least acute attorney shortages.<sup>79</sup>

Based on the latest U.S. Census Bureau's calculations, Arkansas's poverty rate is 19.2%,<sup>80</sup> while the national poverty rate is 15.4%.<sup>81</sup> The 2010 average poverty rate in the twenty-five Rural Counties was 23.4%, about four percentage points above the state average.<sup>82</sup> However, a few Rural Counties have very low poverty rates, such as Little River County at 14% and Calhoun at 14.9%. At the other end of the spectrum, the most economically distressed county is Chicot, with a 33% poverty rate, followed closely by Lee and Bradley Counties, both with poverty rates in excess of 31%. Nineteen of the Rural Counties—more than three quarters of them—have poverty rates higher than the state's average. Eleven of the counties are "persistent poverty" counties, a designation by the U.S. government to indicate a poverty rate of 20% or higher ("high poverty") in each of the last four

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78. U.S. CENSUS BUREAU, STATE AND COUNTY QUICKFACTS: ARKANSAS, *supra* note 7.

79. *See infra* Appendix 1 and *supra* Maps 1A–1D.

80. *See* U.S. CENSUS BUREAU, STATE AND COUNTY QUICK FACTS: ARKANSAS, *supra* note 7.

81. U.S. CENSUS BUREAU, STATE AND COUNTY QUICK FACTS, <http://quickfacts.census.gov/qfd/index.html>.

82. U.S. CENSUS BUREAU, STATE AND COUNTY QUICK FACTS: ARKANSAS, *supra* note 7.

decennial censuses, i.e., chronic, intergenerational poverty.<sup>83</sup> These counties are Bradley, Chicot, Columbia, Desha, Lafayette, Lee, Monroe, Nevada, Newton, Searcy, and Woodruff.<sup>84</sup> The 2009–13 poverty rates for each Arkansas county are shown on Maps 1A–1D, which also depicts the number of lawyers in the county according to AJD and IOLTA data.

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83. *Persistent Poverty Counties*, U.S.D.A. ECON. RESEARCH SERV., <http://www.ers.usda.gov/data-products/chart-gallery/detail.aspx?chartId=38238> (last visited Jan. 17, 2016).

84. *Geography of Poverty*, U.S.D.A. ECON. RESEARCH SERV., <http://www.ers.usda.gov/topics/rural-economy-population/rural-poverty-well-being/geography-of-poverty.aspx> (last visited Jan. 17, 2016).

The Rural Counties with poverty rates lower than the state average—so with better-than-average economic landscapes by that measure—have the following per capita number of attorneys:

<b>Low Poverty Rural Counties</b>			
COUNTY	Poverty Rate	Arkansas Judiciary Attorneys per 1,000 (Average Bar Year) July 2015	IOLTA Attorneys per 1,000 (Average Bar Year) December 2014
Little River	14.0%	0.72 (1991)	0.48 (1984)
Calhoun	14.9%	0.38 (1988)	0.19 (2001)
Perry	15.6%	0.98 (1988)	0.49 (1995)
Cleveland	17.7%	0.00 (N/A)	0.00 (N/A)
Fulton	18.7%	0.74 (1983)	0.49 (1983)
Izard	18.7%	0.96 (1991)	0.22 (1990)
AVERAGE	16.6%	0.63 (1988)	0.31 (1991)

Surprisingly, the six Rural Counties with the highest poverty rates have significantly higher per capita attorney populations than the six lowest-poverty Rural Counties:

<b>High Poverty Rural Counties</b>			
COUNTY	Poverty Rate	Arkansas Judiciary Attorneys per 1,000 (Average Bar Year) July 2015	IOLTA Attorneys per 1,000 (Average Bar Year) December 2014
Chicot	33.0%	1.16 (1983)	0.72 (1979)
Lee	31.5%	1.42 (1986)	0.51 (1976)
Bradley	31.3%	0.54 (1978)	0.36 (1975)
Desha	30.1%	1.30 (1983)	0.57 (1983)
Monroe	28.8%	1.19 (1986)	0.79 (1986)
Lincoln	27.0%	0.50 (1985)	0.29 (1991)
AVERAGE	30.3%	1.12 (1984)	0.54 (1982)

These findings run counter to the hunch that a significant connection might exist between prevalence of poverty and the decline of rural attorneys in Arkansas. Little River and Calhoun Counties both have poverty rates below both the state and national averages but also very low per capita rates of attorneys,<sup>85</sup> though we might expect the opposite.<sup>86</sup> The two counties with

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85. See *infra* Appendix 1 and *supra* Maps 1A–1D.

the worst per capita attorney ratios in the entire IOLTA database are Cleveland (no attorneys and a poverty rate 17.7%) and Scott (one attorney and a poverty rate 20%),<sup>87</sup> both of which have poverty rates close to the state average (19.2%).<sup>88</sup> On the other hand, Monroe County has the best per capita attorney rate among Rural Counties in the IOLTA database<sup>89</sup> but the state's fifth worst poverty rate.<sup>90</sup> Chicot County has the third best per capita presence of attorneys among Rural Counties in the IOLTA database<sup>91</sup> but the highest poverty rate among those twenty-five counties.<sup>92</sup> In the six poorest counties, the IOLTA database per capita rate is more than 50% higher than that of the six wealthiest counties—the opposite of the expected result if attorneys are shunning Rural Counties due to poor economic climate.

While there is no apparent connection between the attorney population in the Rural Counties and the county-level poverty rate, these two charts indicate that younger attorneys are more likely to go to Rural Counties with lower poverty rates. The average bar year for the wealthiest Rural Counties is significantly more recent than those for the poorest counties, although the sample set is small. Only one Rural County with a poverty rate higher than the state average, Pike County (24.8%), has an average bar year showing attorneys younger than the state average from both the AJD and IOLTA databases.<sup>93</sup> One persistent poverty county, Searcy (poverty rate 26.1%), also has average bar admission years that suggest younger attorneys are moving there, though not necessarily to take private representation.<sup>94</sup>

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86. It is possible that Little River County has sufficient access to attorneys in Miller County, as it is part of the Texarkana, AR-TX Micropolitan Area. Further, Calhoun County is part of the Camden Micropolitan Area, centered in neighboring Ouachita County, but it is also close to Union County, home of the El Dorado, AR Micropolitan Area.

87. See *infra* Appendix 1 and *supra* Maps 2A–2D.

88. See *infra* Appendix 1 and *supra* Maps 1A–1D.

89. See *infra* Appendix 1 and *supra* Maps 2A–2D.

90. See *infra* Appendix 1 and *supra* Maps 1A–1D.

91. See *infra* Appendix 1 and *supra* Maps 2A–2D.

92. See *infra* Appendix 1 and *supra* Maps 1A–1D.

93. The AJD average bar admission year for the state is 1993, while Pike County's average bar admission year is 1997. The IOLTA database average bar admission year for the state is 1993, while the average bar admission year for Pike County's IOLTA attorneys is 1999.

94. The average admission year of a Searcy County AJD attorney is 1995, which suggests two years younger than the stage average, but the average admission year of an IOLTA attorney in Searcy County is 1983, indicating an age significantly older than the state average (1992). See *supra* Maps 3A–3D. We can only speculate about the attractiveness of places like Searcy County to young attorneys. Though it is a persistent poverty county, it is rich in natural amenities and therefore home to an ecotourism economy linked to the Buffalo National River. This may be similar to the rising number of young attorneys in Alpine, Texas in the Big Bend recreational area east of El Paso. See Mader, *supra* note 17, at 525. If recreational amenities are attractive to young attorneys, as we would expect them to be, we would expect Newton County, which is contiguous to Searcy County and with a similar population size and

If a significant connection existed between poverty and the presence or absence of lawyers in the Rural Counties, we would presumably see more attorneys in the wealthier counties and fewer in the poorer counties, but such a correlation is missing. Cleveland County represents perhaps the most telling anecdote: it has no attorneys listed in either database, yet its poverty rate is lower than both the national and state averages. In sum, the data do not suggest a clear correlation—let alone causation—between high incidence of poverty and attorney shortage. It is possible, of course, that poverty rate is not the most salient economic predictor of either supply of or demand for attorney services. That is, a county might have a high poverty rate as well as very high income and/or wealth inequality. If that county nevertheless has a sufficient number of wealthy individuals or prosperous businesses (the upper end of the income inequality continuum), both demand and supply may be relatively high in spite of the disproportionate presence of impoverished residents.

#### 4. *Degree of Remoteness*

Another possible cause of rural lawyer shortage is the distance of the Rural Counties from major population centers, two of which are home to Arkansas's two law schools. For purposes of this discussion, we use "remoteness" to refer specifically to the average distance of each Rural County from its nearest population center. The largest population centers in and around Arkansas are Little Rock, Fayetteville, Fort Smith, and Jonesboro, along with Shreveport, Louisiana and Memphis, Tennessee. We thus calculated each Rural County's distance from the nearest of these regional population centers:<sup>95</sup>

- Bradley County is 1:31 hours (89.1 miles) from Little Rock.
- Calhoun County is 1:31 hours (91.7 miles) from Little Rock.
- Chicot County is 2:03 hours (129 miles) from Little Rock.
- Cleveland County is 1:04 hours (63.4 miles) from Little Rock.
- Dallas County is 1:11 hours (70.6 miles) from Little Rock.
- Desha County is 1:53 hours (118 miles) from Little Rock.
- Fulton County is 1:44 hours (90.4 miles) from Jonesboro.
- Howard County is 1:59 hours (119 miles) from Shreveport.
- Izard County is 1:44 hours (88.8 miles) from Jonesboro.
- Lafayette County is 1:17 hours (71.3 miles) from Shreveport.
- Lee County is 1:01 hours (58.2 miles) from Memphis.

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density, a similar economic base, and a similar poverty profile, to be equally attractive to young lawyers, but that has not proved to be the case.

95. Specifically, we used Google Maps to track the distance from the Rural County's county seat to the county seat of the population center.

- Lincoln County is 1:07 hours (67.6 miles) from Little Rock.
- Little River County is 1:28 hours (93.8 miles) from Shreveport.
- Madison County is 37 minutes (27.7 miles) from Fayetteville.
- Monroe County is 1:16 hours (72.8 miles) from Little Rock.
- Montgomery County is 1:47 hours (92.5 miles) from Fort Smith.
- Nevada County is 1:25 hours (97.7 miles) from Little Rock.
- Newton County is 1:39 hours (74.4 miles) from Fayetteville.
- Perry County is 55 minutes (44.5 miles) from Little Rock.
- Pike County is 1:47 minutes (107 miles) from Little Rock.
- Prairie County (De Valls Bluff) is 53 minutes (54.1 miles) from Little Rock.
- Prairie County (Des Arc) is 1:01 hours (59.4 miles) from Little Rock.
- Scott County is 59 minutes (46.5 miles) from Fort Smith.
- Searcy County is 1:46 hours (98 miles) from Little Rock.
- Stone County is 2:02 hours (104 miles) from Little Rock.
- Woodruff County is 1:22 hours (67.3 miles) from Jonesboro.

The average distance from a Rural County to the nearest population center is just over eighty miles, one and a quarter hours travel time each way. Only three of the Rural Counties (Madison, Perry, and Scott) are within fifty miles of one of these population centers, and we know that proximity to population centers signals a quality-of-life issue for many. That is, compared to their more urban counterparts, those living in the Rural Counties have less access to entertainment, dining, shopping, cultural, and social opportunities associated with larger population centers. As discussed below, this consideration was important to many of the Arkansas attorneys and law students we surveyed.<sup>96</sup>

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96. See *infra* Parts IV.G and IV.I (reporting on survey results, which suggest that this factor is an especially important one to law students, less so to practitioners, when they consider rural living).

The five Rural Counties with the least average distance between population centers (i.e., the least remote counties) are:

COUNTY	<b>Least Remote Rural Counties</b>		
	Miles to a Population Center	Arkansas Judiciary Attorneys per 1,000 (Average Bar Year) July 2015	IOLTA Attorneys per 1,000 (Average Bar Year) December 2014
Madison	27.7	0.51 (1993)	0.13 (1978)
Perry	44.5	0.98 (1989)	0.49 (1995)
Scott	46.5	0.37 (1987)	0.09 (2007)
Prairie	54.1	0.96 (1990)	0.72 (1997)
Lee	58.2	1.42 (1986)	0.51 (1976)
AVERAGE	46.2	0.85 (1989)	0.39 (1990)

The five Rural Counties with the greatest average distance between population centers (i.e., the most remote counties) are:

COUNTY	<b>Most Remote Rural Counties</b>		
	Miles to a Population Center	Arkansas Judiciary Attorneys per 1,000 (Average Bar Year) July 2015	IOLTA Attorneys per 1,000 (Average Bar Year) December 2014
Chicot	129	1.16 (1983)	0.72 (1979)
Howard	119	0.67 (1993)	0.37 (1991)
Desha	118	1.30 (1983)	0.57 (1983)
Pike	107	0.45 (1997)	0.18 (2006)
Stone	104	1.04 (1986)	0.32 (1996)
AVERAGE	115.4	0.93 (1988)	0.43 (1991)

These charts suggest a correlation between the degree of a county's remoteness from a population center and the per capita rate of attorneys. Average attorney age is also stated. The small sample set, however, undermines any definitive conclusion. In both the AJD and IOLTA databases, the least remote Rural Counties have, on average, higher per capita rates of attorneys. Further, the average age of attorneys in those less remote counties is typically lower.

This correlation, however, is not entirely consistent across all counties. Chicot County, for example, is the second most remote Rural County but has the third highest per capita rate of attorneys in the IOLTA database.

Meanwhile, the two Rural Counties with the lowest per capita rates in the IOLTA database are among the least remote counties: Cleveland County (0.0 per capita) is 63.4 miles from Little Rock and Scott County (0.09 per capita) is 46.5 miles from Fort Smith. The third is Madison County (0.13 per capita), which is just 28.0 miles from Fayetteville, the center of one of the state's Standard Metropolitan Statistical Areas (SMSA).<sup>97</sup>

Another way to assess remoteness and its impact on the rural attorney shortage is to examine the distance of the Rural Counties from Arkansas's two law schools,<sup>98</sup> the University of Arkansas at Little Rock William H. Bowen School of Law and the University of Arkansas School of Law, located in Little Rock and in Fayetteville, respectively. Little Rock is at the geographic center of the state, and Fayetteville is in the far northwest corner amidst a high-population growth corridor that became the state's second metropolitan statistical area following the 1980 Census.<sup>99</sup> The distance from Arkansas's law schools could have a particular impact on residents of the Rural Counties who wish to remain employed while attending law school. Further, only the law school in Little Rock offers a part-time program.

The average distance of the Rural Counties from either of Arkansas's law schools is 154 miles, with a two hour and thirty-seven minute drive time. None of the Rural Counties has an average distance of fewer than 100 miles or less than ninety minutes, but Madison County is only twenty-eight miles from Fayetteville,<sup>100</sup> and Perry County is only forty-five miles from Little Rock. These are the only Rural Counties within fifty miles of either

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97. See *supra* note 37 and *infra* note 99.

98. The University of Memphis has a law school, but that is the closest law school to just one of the Rural Counties, Lee County, which is fifty-eight miles from Memphis and ninety-nine miles from Little Rock. Further, the University of Memphis is much more expensive than in-state tuition at one of Arkansas's public law schools.

99. The OMB designated the Fayetteville-Springdale SMSA in April 1973, based on the application of 1971 metropolitan area statistics. This designation appeared for the first time in the 1980 Decennial Census publication. Rogers was added to the SMSA after the 1990 Census. See U.S. CENSUS BUREAU, HISTORICAL STATISTICAL AREA DELINEATIONS, <https://www.census.gov/population/metro/data/pastmetro.html> (last visited Oct. 10, 2015).

100. Fifteen UA Fayetteville students said they live outside Washington County and commute to law school. Eight students said they live in Benton County, two students said they live in Sebastian County, two students said they live in Madison County, and one student reported commuting from each of the following counties: Pulaski, Crawford, and Carroll County. In this section we refer to both the distance to the nearest law school and to the average distance to a law school because some may have a strong preference to attend one school rather than the other. Thus, for a Chicot or Desha County resident, the distance to UA Fayetteville (in the other far distant corner of the state) may be relevant because the would-be lawyer considers that school far more desirable due to its higher ranking and more extensive alumni network, even though UALR/Bowen is much closer. The same might be true of a Newton County resident. Although Newton County is only about seventy miles from UA Fayetteville, if the Newton County resident needed a part-time program, only UALR/Bowen would be an option.

law school. Thirteen of the Rural Counties are within 100 miles of Little Rock, but only two of the Rural Counties (Madison and Newton) are within 100 miles of Fayetteville.

All except three of the Rural Counties are closer to Little Rock than Fayetteville, but the average one-way commute from any of these counties to Little Rock's part-time law school program is one hour forty-six minutes each way, with an average distance of 154.8 miles. This means that, on average, a student from one of the Rural Counties would make a round trip of more than three and a half hours and 300 miles to attend class. Only students from Perry County would be able to attend the part-time program in Little Rock with less than an hour commute each way.<sup>101</sup>

COUNTY	Average Miles to the Closest Law School	Arkansas Judiciary Attorneys per 1,000 (Average Bar Year) July 2015	IOLTA Attorneys per 1,000 (Average Bar Year) December 2014
Perry	45	0.98 (1989)	0.49 (1995)
Madison	28	0.51 (1993)	0.13 (1978)

Compared to other Rural Counties, Perry County has an above-average per capita rate of attorney presence in both the AJD and the IOLTA databases. Perry County's attorneys are also younger than the state average in the IOLTA database. Madison County, on the other hand, has a below-average per capita presence of attorneys in both databases. The average bar admission year for Madison County's attorneys is the same as the AJD's state average, but the average IOLTA bar admission year in Madison County is lower (corresponding to higher ages) than the state average. These data suggest that Madison County's proximity to UA Fayetteville's law school does not prevent it from having a shortage of local attorneys. However, this may simply be a function of Madison County's economic embeddedness with Washington County, a presumption reflected in the OMB's designation of Madison County as part of the Fayetteville-Springdale-Rogers Metropolitan Statistical Area. Madison County residents may thus expect to access legal services from Washington County attorneys, just as they access many other services in Washington County. Perry County, on the other hand, may benefit from its proximity to Little Rock's law school, though it likely bene-

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101. Sixty-one respondents to our survey of UALR/Bowen law students said they live outside Pulaski County and commute to UALR/Bowen. Twenty-two students live in Saline County; nine in Faulkner County; seven in Lonoke County; four in Jefferson County; two each in White, Craighead, Grant, Johnson, and Logan Counties; and one each in Yell, Clark, Pope, and Hot Springs Counties. Many of these commutes are substantial.

fits more in this regard from its proximity to the Little Rock-North Little Rock-Conway Metropolitan Statistical Area generally, and the fact that the Pulaski County Circuit Court serves both Pulaski and Perry Counties.

Excluding Perry and Madison Counties, the five Rural Counties with the closest average distance to an Arkansas law school are:

COUNTY	Average Miles to a City with an Arkansas Law School	Arkansas Judiciary Attorneys per 1,000 (Average Bar Year) July 2015	IOLTA Attorneys per 1,000 (Average Bar Year) December 2014
Searcy	106.5	0.88 (1995)	0.25 (1983)
Newton	107.8	0.63 (1986)	0.38 (1986)
Montgomery	120.5	0.33 (1993)	0.33 (1993)
Scott	120.5	0.37 (1987)	0.09 (2007)
Stone	128	1.04 (1986)	0.32 (1996)
AVERAGE	116.7	0.65 (1989)	0.28 (1993)

The five Rural Counties that are the farthest average distance from an Arkansas law school are:

COUNTY	Average Miles to a City with an Arkansas Law School	Arkansas Judiciary Attorneys per 1,000 (Average Bar Year) July 2015	IOLTA Attorneys per 1,000 (Average Bar Year) December 2014
Chicot	222	1.16 (1983)	0.72 (1979)
Lafayette	201.5	0.42 (1983)	0.28 (1987)
Desha	200	1.30 (1983)	0.57 (1983)
Lee	189	1.42 (1986)	0.51 (1976)
Little River	185	0.72 (1991)	0.48 (1984)
AVERAGE	199.5	1.01 (1985)	0.51 (1982)

Based on this admittedly small sample, the per capita rate of attorneys drops the closer a Rural County is to one of the law schools. No clear explanation exists for this inverse relationship. One possible explanation is that counties closer to the law schools have less need for local attorneys than counties which are farther away because those counties are closer to population centers that have abundant attorneys to serve neighboring counties in the region.<sup>102</sup> On the other hand, attorneys in counties that are farther from

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102. See *infra* notes 165, 185 (discussing statistic regarding number of lawyers who practice in a county other than where they live).

the law schools tend to be older, so perhaps the greater presence of attorneys in places more remote from the law schools (and typically also from population centers) is a vestige of past demographic or economic patterns.

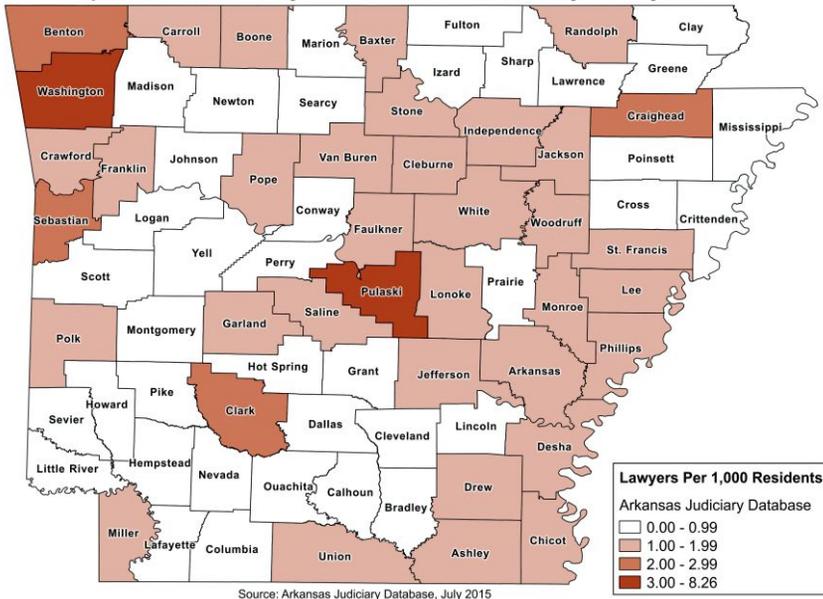
5. *Where the Attorneys Are and Looming Shortages in Other Counties*

Our analysis has thus far focused on where Arkansas lawyers, by and large, are *not* practicing—in the Rural Counties. Implicit in these findings is the question of precisely where the state’s lawyers *are*. We can assume that the vast majority of the state’s lawyers are in more populous counties, but we wanted to know just how concentrated they are in Arkansas’s largest urban areas. We also wanted to know the extent to which the lawyer shortage afflicts counties that are not as acutely rural as the twenty-five least populous ones on which we focused. To answer this question, we performed a survey of the AJD in July 2015, this time gathering data for all counties. The results of this data collection are depicted in Maps 1A–1D, 2A–2D, and 3A–3D, where it is paired with U.S. Census Bureau population estimates for 2014 and, in Maps 1A–1D, juxtaposed against the most recent U.S. Census poverty rate data for 2009–13. Map 4 shows just the ratio of attorneys to residents, depicting a county in a particular color based on that ratio.

This data snapshot reveals 7,562 active attorneys with Arkansas addresses as of July 2015, nearly 1,500 attorneys more than indicated by the A.B.A. The difference between the AJD figure and the A.B.A. figure may be attributable to some A.B.A. assessment of “active” that we were unable to accomplish in our analysis of the AJD. In short, we do not know what accounts for the difference. The December 2014 IOLTA data reveal 2,924 IOLTA attorneys with Arkansas addresses, which means that only 38.7% of Arkansas attorneys take private representation. These data indicate nearly 1 (0.99) IOLTA attorney per 1,000 residents in the state, and 2.55 attorneys per 1,000 residents. That latter figure is somewhat more hopeful than the A.B.A. figure reported earlier, 2.01 “resident and active” attorneys per 1,000 residents.<sup>103</sup>

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103. See *supra* note 56 and accompanying text.

**Map 4: Number of Lawyers Per 1,000 Residents, By County, 2015**

The data also reveal that Arkansas's lawyers are heavily concentrated in central Arkansas, with a particularly high concentration in Pulaski County. While some concentration of lawyers in a state's capital city is to be expected, the extent of the Pulaski County concentration is somewhat surprising. Although the county has just 13.2% of the state's population, 42.9% of the state's lawyers (3,244) practice there. Further, 38.6% (1,130) of lawyers with IOLTA accounts list a Pulaski County address. Thus, 8.26 lawyers per 1,000 residents have an address in Pulaski County, and 2.88 IOLTA account lawyers per 1,000 residents do.<sup>104</sup> The average year of admission of a Pulaski County lawyer is 1993.

If we add Faulkner and Saline Counties to Pulaski, thus expanding the analysis to the three most populous counties in central Arkansas, the results are similar in terms of the degree to which the lawyer population is lopsided, heavily skewed to the more populous areas in the geographic center of the state. These three counties are home to 21.2% of the state's population but nearly half of the state's lawyers, at 48% (3,630) and 42.2% (1,235) of Arkansas lawyers with IOLTA accounts. This means that 5.77 lawyers

104. Texas attorneys are similarly concentrated in metropolitan areas of that state. "As of 2013, 83 percent of all active, in-state attorneys were located in the state's four largest metropolitan areas (the Houston, Dallas-Fort Worth, Austin and San Antonio MSAs)." Mader, *supra* note 17, at 525.

per 1,000 residents practice in one of these three counties, and 1.96 IOLTA account lawyers per 1,000 residents do so.

As noted earlier, six of the state's ten most populous counties are in central Arkansas, including those already listed plus Jefferson, White, and Garland. Together, these six counties are the practice venue of 53.4% (4,040) of the state's attorneys, 48.6% (1,421) of the attorneys with IOLTA accounts, but only about 29.6% of Arkansas's population. The average number of attorneys per 1,000 residents is 4.60 in these counties, while it is 1.62 per 1,000 residents for attorneys with IOLTA accounts.

Not surprisingly, another large contingent of the state's lawyers practice in northwest Arkansas, although attorneys are not nearly as over-represented there as in central Arkansas. Benton and Washington Counties are the second and third most populous counties, with 8.2% and 7.4% of the state's population, respectively. Their percentages of all Arkansas attorneys are 6.7% (505) and 12.4% (937), respectively; 5.6% (163) and 12.6% (368) of Arkansas's IOLTA account attorneys. The steep over-representation of attorneys in Washington County, home to the land grant University of Arkansas's flagship campus and the state's oldest law school, is not surprising. The county has long been rich in both cultural and natural amenities, and two Fortune 500 companies, Tyson Foods, Inc., and J.B. Hunt Trucking, have been based there for several decades. The relatively low number of attorneys in neighboring Benton County, location of Wal-Mart Corporation's home office, is somewhat surprising given how quickly the county has grown in recent decades. On the other hand, the low number of IOLTA account holders in Benton County is to be expected given the likelihood that many lawyers working there are in-house counsel or in similar roles. If we consider Benton, Washington, and Sebastian Counties collectively, they are home to nearly 20% of Arkansas's population, 23.7% (1,789) of Arkansas's attorneys, and 23.4% (685) of attorneys with IOLTA accounts.

What this more complete July 2015 data snapshot reveals is a rather extreme concentration of the state's attorney population in central Arkansas's most populous counties, particularly in Pulaski County, home of the Arkansas State government. We also see a somewhat less pronounced overrepresentation of attorneys in Washington County, but that concentration is greatly diluted when Washington County is considered in the context of the northwest Arkansas region. Overall, the number of lawyers in the region seems commensurate with its population.

If we look at Arkansas's ten most populous counties collectively, we see that they are home to 52.9% of the state's population but 80.2% of the state's lawyers and 76.2% of Arkansas lawyers with IOLTA accounts. Needless to say, this compares very poorly to the totals for the twenty-five Rural Counties. Just 3.25% of IOLTA account lawyers and 2.61% of all lawyers serve the 8.6% of the population living in those counties.

Finally, the July 2015 AJD and December 2014 IOLTA snapshots reveal some looming problems in other counties. Many Arkansas counties that did not meet our definition of “Rural County” are nevertheless nonmetropolitan, with populations between 15,000 and 25,000. The number of IOLTA account lawyers is in the single digits for several of these, including Clay (five), Conway (seven), Grant (four), Hempstead (seven), Lawrence (five), Marion (four), Ouachita (nine), Poinsett (six), Randolph (nine), Sevier (four), Sharp (three), Van Buren (nine), and Yell (four). Some of these counties may already be facing attorney shortages, as depicted in Map 4. Further, many of these attorneys are aging, as depicted in Maps 3A–3D, which suggests more acute problems in coming years if their attorney populations are not replenished with younger lawyers.

### III. OTHER STATES’ APPROACHES TO THE RURAL LAWYER SHORTAGE

#### A. South Dakota

As Chief Justice David Gilbertson of South Dakota observed a few years ago, “[a] hospital will not last long with no doctors, and a courthouse and judicial system with no lawyers faces the same grim future.”<sup>105</sup> In 2013, South Dakota took a major step to close the rural “justice gap” by funding the Rural Attorney Recruitment Program (popularly known as Project Rural Practice), a pilot program that offers annual subsidies to lawyers who move to and practice in rural counties.<sup>106</sup> The goal of the program is to alleviate three interrelated problems: (1) the shortage of lawyers in rural South Dakota; (2) the oversupply of lawyers in urban South Dakota; and (3) high unemployment rates among graduating law students.<sup>107</sup>

To be eligible for the program, a county must have a population of 10,000 persons or fewer and provide a portion of the incentive subsidy.<sup>108</sup> In determining eligibility, the South Dakota Unified Judicial System Commission considers eight factors: (1) demographics of the county; (2) age and

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105. Bronner, *supra* note 16; Chief Justice David Gilbertson, *South Dakota State of the Judiciary Message* (2013), available at <https://ujs.sd.gov/media/annual/fy2012/2013StateofJudiciaryMessageFinal.pdf> (noting an “overall decline of all facets of rural life in the state”).

106. Bronner, *supra* note 16. This is similar to the national program for medical personnel through the National Health Service Corps. *Id.*

107. *Id.*

108. S.D. CODIFIED LAWS § 16-23-2 (2015). Further, “[a]ny agreement for the payment of recruitment assistance pursuant to this chapter shall obligate the rural county served by the attorney to provide thirty-five percent of the total amount of the incentive payment in five equal and annual installments,” and the Unified Judicial System Commission must also make an eligibility determination. *Id.* § 16-23-6 (2015). The specific annual subsidy for attorneys participating in the program is \$12,513.60. Telephone interview between Olivia Filbrandt and Suzanne Starr-Dardis, South Dakota Rural Attorney Recruitment Program (Oct. 8, 2015).

number of the current membership of the county's bar; (3) recommendation of the county's presiding circuit judge; (4) programs of economic development in the county; (5) proximity to other counties receiving assistance; (6) evaluation of the attorney seeking assistance under the program; (7) the applicant's previous ties to the county; and (8) prior participation by the county in the pilot program.<sup>109</sup>

The Rural Attorney Recruitment Program requires a five-year commitment of the applicant, who receives an annual subsidy of \$12,513.60.<sup>110</sup> If the participant breaches the agreement, she must "repay all sums received," at risk of discipline by the State Bar of South Dakota and the Supreme Court of South Dakota.<sup>111</sup> Initially, the program authorized sixteen attorneys per year to participate, but due to a high degree of interest among lawyers, the statute was amended to double the size of the program to thirty-two lawyers, as of July 1, 2015.<sup>112</sup> As of January 2016, fifteen attorney applicants have been placed in fourteen counties.<sup>113</sup> Additionally, three other counties have submitted a notice of intent for eligibility to participate in the program.<sup>114</sup>

## B. Nebraska

The Nebraska legislature passed a law in 2008 which, like South Dakota's, focuses on assisting lawyers working in rural communities with repayment of educational loans.<sup>115</sup> The legislature observed that a need exists for competent representation in rural areas and that programs providing educational loan repayment assistance will encourage law students and other attorneys to provide legal services in "designated legal profession shortage areas in rural Nebraska . . . ."<sup>116</sup> Nebraska created the Legal Education for Public Service and Rural Practice Loan Repayment Assistance Board to oversee rules and regulations regarding student loan refinancing. Beneficiar-

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109. S.D. CODIFIED LAWS § 16-23-3 (2015).

110. *Id.*; see also *id.* § 16-23-4 (2015).

111. S.D. CODIFIED LAWS § 16-23-6.

112. *Id.*; *Rural Attorney Recruitment Program*, S.D. UNIFIED JUD. SYS., <http://ujs.sd.gov/Information/rarprogram.aspx> (last visited Oct. 15, 2015).

113. See *Contracts Obtained*, S.D. UNIFIED JUD. SYS., <http://ujs.sd.gov/Information/contracts.aspx> (last visited Jan. 22, 2016). Specifically, one lawyer has been placed in each of Bennett, Charles, Douglas, Grant, Haakon, Hand, Harding, Lyman, Marshall, McPherson, Miner, Perkins, and Spink Counties, and two have been placed in Tripp County. *Id.*

114. *Counties Which Have Submitted a Notice of Intent*, S.D. UNIFIED JUD. SYS., <http://ujs.sd.gov/Information/eligiblecounties.aspx> (last visited Jan. 22, 2016). Those counties are Dewey, Mellette, and Sanborn. *Id.*

115. NEB. REV. STAT. § 7-209 (2012), <http://www.nebraskalegislature.gov/laws/statutes.php?statute=7-209&print=true>.

116. *Id.*

ies of this refinancing are required to practice at least three years full-time in “public legal service”<sup>117</sup> or in a designated legal profession shortage area.<sup>118</sup> The maximum loan amount, which may not “exceed six thousand dollars per year per recipient,” “shall be an amount which is sufficient to fulfill the purposes of recruiting and retaining public legal service attorneys in occupations and areas with unmet needs . . . .”<sup>119</sup> The State of Nebraska provides primary funding for the program, which is also supported by donations.<sup>120</sup>

### C. Iowa

The Iowa State Bar Association initiated a program in 2012 to match law students with rural attorneys seeking summer clerks and, potentially, new associates. The bar association’s Rural Practice Committee implements the program, which seeks to entice students to come into rural areas and experience them firsthand. The Rural Practice Committee’s chairman, Phil Garland, has explained, “[t]hey need to come and see what we’re doing is real law and get used to the community.”<sup>121</sup>

The program uses a job website called Simplicity, which is used by many law schools for career placement functions. Second and third-year law students can submit resumes and indicate geographical preferences through Simplicity, which also provides them access to the resumes of lawyers participating in the program. Attorneys can contact students to arrange interviews or invite a student to spend a day at the attorney’s office.

The Iowa initiative, which is principally for students at the University of Iowa, Drake University in Des Moines, and Creighton University in Omaha, Nebraska, has proved attractive to both students and practitioners. Law students are able to engage in legal work that may be more meaningful and challenging than that available to summer associates at large firms. Students are also able to get to know a rural community and benefit from a close mentoring relationship. The program gives rural lawyers a trial run with a temporary employee who might eventually be asked to return as an associate, thus facilitating succession planning.

In Part V, we return to reference these programs as we discuss our proposal for Arkansas. In the next Part, we report on our survey of Arkansas

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117. *Id.* § 7-203(4) (2014), [http://www.nebraskalegislature.gov/laws/display\\_html.php?begin\\_section=7-201&end\\_section=7-209](http://www.nebraskalegislature.gov/laws/display_html.php?begin_section=7-201&end_section=7-209) (“Public legal service means providing legal service to indigent persons while employed by a tax-exempt charitable organization.”).

118. NEB. REV. STAT. §§ 7-204, -206 (2012). The board is responsible for developing and recommending to the Nebraska Commission on Public Advocacy the rules and regulations that will govern this program. *Id.*

119. *Id.* § 7-206(3).

120. *Id.* § 7-208 (2012).

121. Laird, *supra* note 16.

lawyers and law students. This survey sought information to help us understand attitudes toward rural practice and rural living, and thus to gauge the likely effectiveness of interventions, some of which are modeled in part on those of South Dakota, Nebraska, and Iowa.

#### IV. SEEKING DATA TO INFORM EVIDENCE-BASED SOLUTIONS: SURVEYS OF ARKANSAS'S LAW STUDENTS AND LAWYERS

##### A. Survey Design

In order to probe the likely effectiveness of programs to increase the presence of lawyers in rural communities, we designed and executed a set of surveys of Arkansas's law students and lawyers. One was administered to members of the Arkansas State Bar, and two were administered to students at Arkansas's two law schools. One critical aim of the surveys was to determine attitudes toward practicing law in rural areas. Respondents were also asked directly about their level of interest in particular programs that would place law students and lawyers in rural practice settings. In addition, the survey sought information on respondents' geographic backgrounds to determine exposure to rural living, and it sought to determine what factors encourage or discourage a respondent from working in a rural location.

The survey also gathered data on general career interests, demographics, and attorney mobility, among other matters. Indeed, the data set the survey produced provides many opportunities for analysis not featured in this article, including regressions to tease out possible correlations between respondent characteristics (e.g., gender, race, socioeconomic class of family or origin, rural upbringing or past exposure to rural living, student debt levels) and, for example, law practice choices and the extent of pro bono contributions. For purposes of this article, we also did not assess the statistical significance of any of our findings. We simply report here the raw survey data most closely linked to the rural lawyer shortage.

Each of the surveys used skip logic, which channeled respondents to certain questions based on their prior responses. For instance, if a respondent indicated that she had grown up in Arkansas, she was asked in what county. If a respondent said he did not grow up in Arkansas, he was asked to name his home state and then to indicate the approximate size of the county where he grew up. If a student's answers indicated she did not grow up in a rural county, she was asked, "Have you ever lived for at least one year in a county with a population of fewer than 50,000?" If the student answered "yes" to that question, she was asked, "Have you ever lived for at least one year in a county with a population of fewer than 15,000?" In this way, we were able to gauge past exposure to rural living, which we speculated would influence a respondent's openness to rural practice.

The law student surveys featured questions regarding future employment, including an inquiry regarding the county in which the student planned to practice law. The student surveys also probed how open the student would be to rural practice. For example, specific questions asked how interested respondents would be in a legal fellowship program that included a loan forgiveness component and took place in a Rural County, as well as how interested they would be in a rural practice inheritance program, where the recent graduate would be groomed to eventually take over a practice in a rural county, with a transition process facilitated by a retiring attorney.

The lawyer survey included questions about where each attorney practices, currently lives, and grew up. It featured questions on each attorneys' type of employment, the size of the market where they currently practice, and what enticed them to work in their current market. The survey asked what encouraged or discouraged attorneys from working in a rural market. Attorneys were also asked questions about their willingness to mentor and hire young lawyers and about the amount of pro bono work they do.

The law student survey consisted of forty-five questions, and the lawyer survey featured fifty-six questions. Because of the operation of skip logic, a given respondent would not necessarily answer all of the survey questions. Certain portions of each survey permitted respondents to provide written feedback. For example, one of the questions asked law students: "When you think about practicing law in a rural county, one with a population of 15,000 or less, what factors discourage you from practicing in such a place?"<sup>122</sup> The answer options included a number of factors, e.g., "perception that rural communities are more traditional," "perception that I would earn a lower income," and "other." Selecting "other" allowed a student to elaborate in her own words regarding her attitudes toward and perceptions of rurality. Each survey featured the "other" option for several questions.

## B. Survey Administration and Student Participation

The surveys were administered through a surveying website, SurveyMonkey.<sup>123</sup> The survey of law students at UA Fayetteville ran first,

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122. See *infra* Appendix III, Question 14.

123. E-mail from Jim Hannah, Chief Justice of the Arkansas State Supreme Court, to students of the University of Arkansas at Little Rock, William H. Bowen School of Law (Jan. 25, 2015, 01:10 CST) (on file with author). The deans of each law school arranged for a link to the survey to be sent to law students through law school listservs. In order to advertise and encourage law students to participate in the survey, the deans of respective law schools encouraged students to respond to the surveys, and we also engaged student groups to the extent possible to garner their support for publicizing the survey. Additionally, the Chief Justice of the Arkansas State Supreme Court, Jim Hannah, sent out the following message to students at both UALR/Bowen and UA Fayetteville through the respective law school listservs:

between November 18, 2014, and December 2, 2014. One hundred and forty-six students, or about 38.5% of the 370 UA Fayetteville law students, responded to the survey. In order to collect the most meaningful and nuanced information about student attitudes toward rural life and rural practice, we slightly altered the questions and answer options before administering the survey to students at the UALR/Bowen.<sup>124</sup> The UALR/Bowen survey ran from January 20, 2015, until January 30, 2015; the response rate was 58%, or 232 of 400 students.

### C. Demographics of Law Student Respondents

The demographics of the two law schools' respondents varied somewhat by gender, race/ethnicity, age, family status, parental education level, and other variables, as summarized below.<sup>125</sup> A high percentage of students at both schools reported that they are from Arkansas, 68% of UA Fayetteville respondents and 70% of UALR/Bowen respondents. Only eight students (5.5% of respondents) at UA Fayetteville and just thirteen respondents (5.6%) at UALR/Bowen reported that their "home county" was one with a population of 15,000 or less,<sup>126</sup> a cut-off that corresponds closely to our twenty-five Rural Counties.<sup>127</sup>

Among UA Fayetteville students, 58% were under the age of twenty-five, and 18% were between twenty-five and thirty years old. UALR students tended to be slightly older. Only 32% of UALR/Bowen respondents were younger than 25, and 40% were between the ages of twenty-five and

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As many of you may have seen, a survey went out last week to request your input regarding the shortage of lawyers in rural communities in Arkansas and possible solutions to this problem. If you have already responded to the survey, thank you. If you have not, I would encourage you to take a few minutes to do so now: <http://svy.mk/1yNB4OT>. The deadline for responding is midnight on Friday, January 30. The shortage of lawyers in rural communities is an issue that has attracted national attention, with a cover story in the October issue of the *A.B.A. Journal*. It is a problem that poses a real threat to the administration of justice in rural Arkansas. If swift action is not taken to address this disparity, the accident of where in Arkansas someone lives will likely determine their ability to access essential legal services. Your input will help shape possible solutions.

124. See *infra* Appendix VI (summarizing changes).

125. See *infra* Appendices III and IV, Questions 37–42.

126. In Arkansas, these counties include Lincoln, Howard, Izard, Little River, Stone, Desha, Fulton, Chicot, Bradley, Pike, Scott, Perry, Lee, Montgomery, Nevada, Cleveland, Prairie, Newton, Searcy, Dallas, Monroe, Lafayette, Woodruff, and Calhoun County.

127. Only one county with a population in excess of 15,000 is included on our list of Rural Counties, Madison, which has a population only marginally greater than that threshold. One other Arkansas county has a population in that range, Clay County with a 2014 population of 15,118, down nearly 1,000 residents since 2010. See *supra* Part II.A.3 (explaining methodology for the counties on which we focused).

thirty—more than twice the UA Fayetteville percentage in that older age range. Forty-seven percent of UA Fayetteville law students are married or in a committed relationship, and 11% have minor children. Among UALR/Bowen students, 64% are married or in a committed relationship. Twenty-three percent of UALR/Bowen students have minor children—more than double the UA Fayetteville figure. We asked about age, as well as marital and parenting status, so that we could ultimately assess whether these variables have an impact on willingness to relocate to a rural area. We assumed that many respondents would have preconceived notions about whether they will be able to find a life partner in a rural place. Further, we assumed that many would have preconceived notions about whether or not children benefit from growing up in a rural community. These assumptions were borne out in the survey results.

We also asked about gender and race/ethnicity, in part because of the commonly held belief that rural places are more traditional and might not be hospitable to women, racial/ethnic minorities, and sexual minorities.<sup>128</sup> Fifty-seven percent of UA Fayetteville respondents identified as male, while 41% identified as female, and 2% declined to answer. At UALR/Bowen, 47% identified as female, 52% identified as male, and 1.4% declined to answer.

Among respondents at UA Fayetteville, 87% identified as Caucasian, 4% Hispanic, and 3% American Indian. Respondents at UALR/Bowen represented greater racial/ethnic diversity overall. Eighty-five percent of UALR/Bowen respondents identified as Caucasian, while 7% identified as African-American, and 1% identified as Hispanic. The racial demographic of respondents roughly matched the racial demographics of the respective student bodies. While UA Fayetteville reports a higher percentage of “total minorities” (18.8%, compared to UALR’s 15.8%) for the 2014–15 academic year, it appears that the schools are roughly on par in terms of student racial/ethnic diversity.<sup>129</sup> Based on comparisons with the student demographic data at each law school, it appears that those who responded to the survey were largely representative of their respective student bodies in terms of race/ethnicity.

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128. We were also interested in race/ethnicity and gender because “[j]ustice advocates are far more likely to be out-siders: racial and ethnoreligious minorities, working class, and women.” Richard L. Abel, *Just Law?*, in *THE PARADOX OF PROFESSIONALISM: LAWYERS AND THE POSSIBILITY OF JUSTICE* 296, 309–10 (Scott L. Cummings ed., 2011).

129. See University of Arkansas, *2014 Standard 509 Information Report for Robert A. Leflar Law Center* (2014), [http://law.uark.edu/documents/2012/06/UAlaw\\_A.B.A.509\\_2014-201412011.pdf](http://law.uark.edu/documents/2012/06/UAlaw_A.B.A.509_2014-201412011.pdf); University of Arkansas at Little Rock 2014 Standard 509 Information Report, A.B.A. SECTION OF LEGAL EDUCATION AND ADMISSION TO THE BAR, <http://www.abarequireddisclosures.org/> (select “Arkansas, Little Rock, University of” in “School” query and select “2014” in the “Year” query).

We were also interested in the extent to which being a first-generation college graduate or first-generation professional might influence a law student's willingness to go to a rural area. One might anticipate that first-generation graduates and law students would be more flexible regarding their practice expectations because they would have fewer preconceived notions about the practice of law. That is, they might be more open to being legal entrepreneurs, less likely to see themselves strictly as tall-building lawyers in Little Rock or in the northwest Arkansas metropolitan corridor. A quarter of UA Fayetteville law students identified as first-generation college graduates, and 36% identified as first generation to attend professional or graduate school. Higher percentages of first-generation college students (54%) and first-generation graduate or professional school (51%) students responded to the UALR/Bowen survey.

Overall, then, UALR/Bowen respondents tended to be older, more likely to be in a committed relationship, more likely to have children, and slightly more diverse in terms of gender and ethnicity than their UA Fayetteville counterparts. The families of origin of UALR/Bowen students also tended to be less educated. This suggests that UA Fayetteville attracts a slightly more privileged student population than UALR/Bowen. That distinction between the schools is also borne out in the student debt data, which is reported in the next section.

#### D. Law Student Debt

The survey asked students about the amount of debt they would have upon completion of law school. Among UA Fayetteville students, the greatest number (25.76%) indicated that they would have between \$0 and \$4,999 in debt; 15.91% (twenty-one students) reported that they would have between \$50,000 and \$59,999 in debt; and the same number reported that their student debt would be between \$70,000 and \$79,999. At the high end of the debt scale, just two UA Fayetteville students (1.52%) reported total debt between \$150,000 and \$249,999.

The debt loads of UALR/Bowen students tend to be higher than those of UA Fayetteville students. A similar percentage of UALR/Bowen students, forty-four students (20.56%) reported that they would have between \$0 and \$4,999 in debt. Beyond that data point, the debt picture at UALR/Bowen was much more sobering. Forty-six students (21.5%) said they would finish law school with between \$75,000 and \$99,999 in debt, and another forty-one (19.16%) indicated debt loads between \$100,000 and \$124,999. Compared to UA Fayetteville's two students in the \$150,000 to \$249,999 debt bracket, four UALR/Bowen students (1.87%) reported that debt level, while another six (2.8%) indicated that they would owe between

\$125,000 and \$149,999. As discussed further below, debt levels loomed large in influencing the career options of a number of respondents.

#### E. Law Student Exposure to Rural Life

In order to determine whether law students' attitudes were informed by experience, the survey explored whether respondents had lived in a rural place. While only 5.5% of UA Fayetteville respondents and 5.6% of UALR/Bowen respondents identified as having grown up in a county with a population of less than 15,000,<sup>130</sup> the survey also elicited information on whether students had spent at least a year in a county with a population of less than 50,000 and, if so, whether they had spent time in a county with a population as small as 15,000.<sup>131</sup>

UALR/Bowen students were slightly more likely to have been exposed to rural life than UA Fayetteville students, especially when it came to time spent in a county as small as the Rural Counties. At UA Fayetteville, 26.32% (twenty-five respondents) said they had lived in a county with a population of fewer than 50,000; and of those twenty-five respondents, eighteen said they had lived for at least one year in a county with fewer than 15,000 residents. Similar percentages of UALR/Bowen respondents, 28.83% (forty-seven respondents), said they had spent at least one year in a county with a population of fewer than 50,000, but a much higher percentage—forty-six of those forty-seven respondents—said they had lived for at least a year in a county with fewer than 15,000 residents. In the next section, we discuss in more detail the views on rural practice of those who either grew up in a Rural County or who had spent at least a year living in a county the size of one of Arkansas's Rural Counties.

#### F. Post-Grad Plans and Interest in Proposed Rural Practice Incentives

The majority of students from both UALR/Bowen and UA Fayetteville plan to practice in Arkansas after graduation.<sup>132</sup> Among UA Fayetteville students, 60.56% plan to remain in Arkansas to work. A full three quarters (74.55%) of UALR/Bowen students expect to do so.

The survey also probed student reactions to the legislative proposals (Appendix II) to draw students into rural practice training and opportunities in order to assess the attractiveness of those proposed programs. Students were asked how interested they would be in a program to fund a Legal Aid Fellowship, which would require a Fellow to make a two-year commitment

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130. See *infra* Appendices III and IV, Question 4.

131. See *infra* Appendices III and IV, Questions 6–7.

132. See *infra* Appendices III and IV, Question 10.

of at least 50% of her time providing services in a rural county where the attorney population is sparse and/or aging.<sup>133</sup> Respondents were informed that each Fellow would work under supervision and mentorship of senior staff of an Arkansas legal aid provider. The Fellows would be guaranteed part-time income while also having the flexibility to spend time cultivating a base of clients able to pay for their services.

Among UA Fayetteville students, 28.21% said such a proposal would be very attractive, 35.90% said it would be moderately attractive, 30.77% said it would be somewhat attractive, and only 5.13% rejected it as not attractive at all. The UALR/Bowen student response to the proposal similarly ran the gamut, with only 28.57% rating it as very attractive. Most responded tepidly, with 29.59% seeing it as moderately attractive, 23.47% finding it somewhat attractive, 9.18% finding it not attractive at all, and another 9.18% saying they would need more information (an option not available on the UA Fayetteville survey). While the response was not terribly enthusiastic, it does suggest openness among a sufficient number of students which—if tapped—would make a big dent in the need in rural Arkansas.

The survey also asked students to respond to the legislative proposal regarding loan repayment assistance: “If Arkansas were to implement a loan repayment program whereby an attorney participating in an underserved rural county would receive some tuition reimbursement, what would be the minimum amount of loan repayment (per year) that you would seriously consider as an incentive for working in such a rural area?”<sup>134</sup> The majority of students from both schools selected \$5,000 to \$9,999 as the minimum annual loan repayment assistance they would consider per year. “At least \$10,000” was the second most common response by both groups of students as the minimum annual loan repayment assistance, followed by \$2,500 to \$4,999 per year. “Less than \$2,499” ranked last, with less than 5% of respondents considering that sum an adequate incentive. Interestingly, this suggests that most students would be satisfied with a lesser amount of loan repayment assistance than the \$10,000/year featured in the legislative proposal.<sup>135</sup>

The surveys also asked law students about their degree of interest in other programs aimed at increasing the attorney population in underserved rural counties. Students were asked, “How interested would you be in working as a summer intern at a law practice in a rural county (one with a population of 15,000 or less), if the internship were paid?”<sup>136</sup> Among UALR/Bowen students, 43.27% indicated they were “very interested,” and

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133. See *infra* Appendix III, Question 29; Appendix IV, Question 28.

134. See *infra* Appendix III, Question 30; Appendix IV, Question 29.

135. See *infra* Appendix II.

136. See *infra* Appendix III, Question 34; Appendix IV, Question 31.

47.44% of UA Fayetteville students indicated that level of interest. Only 6.41% of UALR/Bowen students and 14.42% of UA Fayetteville students said they were “not interested at all.”

When asked how seriously they would consider “practicing law in a county with a population of less than 30,000 if there were no financial incentive to do so,”<sup>137</sup> 45.10% of UALR/Bowen students said “yes.” UA Fayetteville students were asked to indicate how seriously they would consider practicing law in a county with a population of less than 30,000,<sup>138</sup> and 13.33% said they would consider it very seriously, 20.74% said they would consider it seriously, and only 5.19% said they would not consider it at all. When asked if they would “seriously consider practicing in a county with a population of less than 15,000 if there were no financial incentive to do so,”<sup>139</sup> nearly three quarters of UALR/Bowen students who responded indicated they would seriously consider it. UA Fayetteville students were asked how seriously they would consider practicing law in a county with a population of less than 15,000, with no mention of financial incentives.<sup>140</sup> Nearly a tenth indicated they would “seriously consider” it, and another 15% indicated they would consider it “seriously.” Just 12.6% indicated they would not consider it at all.

Finally, the survey probed the degree of interest in rural practice inheritance. A question on each survey asked, “How interested would you be in taking over a retiring lawyer’s practice in a rural county (one with a population of 15,000 or less) if the retiring lawyer provided training/mentoring during a transition process?”<sup>141</sup> At UALR/Bowen, nearly a third of students indicated they would be “very interested,” and another third indicated they would be “moderately interested.” Only about a tenth indicated they would not be interested at all. The level of interest was somewhat more tepid at UA Fayetteville with more than a fifth of students indicating they were “very interested,” more than a third responding that they were “moderately interested,” and just about an eighth indicating they were “not interested at all.”

We were particularly interested in the extent to which growing up in a Rural County made a law student more or less open to practicing in a Rural County. While thirteen UALR/Bowen students indicated they grew up in a Rural County, not all of those students answered all of the questions about degree of interest in the rural practice incentives. Generally, however, those

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137. See *infra* Appendix IV, Question 32.

138. See *infra* Appendix III, Question 33.

139. See *infra* Appendix IV, Question 33. Only ninety-one students answered this question, while 141 skipped it as a consequence of skip logic, which put this question only to those who had indicated a degree of interest in practicing in a county with a population of 30,000 or less.

140. See *infra* Appendix III, Question 34.

141. See *infra* Appendix III, Question 35; Appendix IV, Question 34.

who grew up in a Rural County were more interested than the average student in, for example, taking over a retiring lawyer's practice in a Rural County. Four students indicated they were "very interested," and six indicated they were "moderately interested." Only one such student indicated s/he was "not interested at all," one indicated s/he was "somewhat interested," and one skipped that question. Thus, compared to the two-thirds of all UALR/Bowen students who were either very or moderately interested in rural practice inheritance, more than three-quarters of students who grew up in a Rural County expressed that degree of interest. Among the eight UA Fayetteville student respondents who had grown up in Rural Counties, five (62.5%) indicated they were "moderately interested" in taking over a rural practice, while one was "very interested," one was "somewhat interested," and one skipped that question. Thus, among those who grew up in a Rural County, the percentage of students either very or moderately interested in rural practice inheritance (87.5%) was higher than that among all UA Fayetteville students (55%).

When UALR/Bowen students who had grown up in a Rural County were asked if they would seriously consider practicing law in a county with a population of less than 30,000, eight of twelve who responded (67%) said "yes" while four said "no"; one skipped the question. When asked if they would seriously consider practicing law in a county with a population of less than 15,000, seven said "yes" and only one said "no"; the four who had answered "no" to the prior question were not asked this question. Thus, of the eight who would seriously consider practicing in a county of 30,000 or less, seven were willing to practice in a county of the size in which they had grown up—15,000 or less.

The survey asked the UA Fayetteville students this question in a slightly different form: "How seriously would you consider practicing law in a county with a population of 30,000 or less?"<sup>142</sup> Among the eight UA Fayetteville students who identified as having grown up in a Rural County, one said s/he would consider it "very seriously," two said they would consider it "seriously," and three said they would consider it "somewhat seriously." One skipped the question. When asked the same question but with a population threshold of 15,000 or less, one said s/he would consider it "very seriously," one said s/he would consider it "seriously," three would consider it "somewhat seriously," one would consider it "in passing," and one would "not consider it at all." One UA Fayetteville student skipped the question. In sum, the level of openness to rural practice dropped among UA Fayetteville students when the population threshold fell to the Rural County level.

Among students who did not grow up in a Rural County but who identified as having spent at least a year in a county the size of a Rural County,

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142. See *infra* Appendix III, Question 33.

openness to rural practice was generally lower than among those with stronger rural ties. More than half (55%) of these forty-four students at UALR/Bowen said they would not seriously consider practicing in a county with a population of less than 30,000 if there were no financial incentive to do so.<sup>143</sup> Among the twenty who said they would seriously consider such a practice opportunity, seventeen said they would also seriously consider it in a community with a population of less than 15,000. Further, among these students, 70% of the forty-four UALR/Bowen students were either very or moderately interested in rural practice inheritance in a county with a population of 15,000 or less.

Among the eighteen UA Fayetteville students who did not grow up in a Rural County but who had spent at least a year in a county with a population of 15,000 or less, all sixteen who answered the question said they would consider practicing in a county of 30,000 or less: five “very seriously,” five “seriously,” and six “somewhat seriously.” Those UA Fayetteville students showed somewhat less interest in practicing in a county with a population of 15,000 or less, but five of them still said they would consider such an opportunity “very seriously.” None said they would “not consider it at all.” When asked about interest in rural practice inheritance in a county with a population of 15,000 or less, thirteen (72.22%) said they were either very or moderately interested.

While the degree of interest in rural practice is not dramatically different between UA Fayetteville and UALR/Bowen students, it is interesting to contemplate what might account for the slightly greater degree of openness to rural practice among UALR/Bowen students. It is possible that UALR/Bowen students perceive they have fewer opportunities than UA Fayetteville students because their law school is not as highly ranked as UA Fayetteville and may have a less robust alumni network given UALR/Bowen’s younger age.<sup>144</sup> It is also possible that UALR/Bowen does a better job of inculcating a public service mentality in its students or that they are more oriented to public service because they are a less elite institution. Indeed, when students were asked, “To what extent is pro bono service work (work undertaken without expectation of compensation) encouraged by your law school?,”<sup>145</sup> a much higher percentage of UALR/Bowen students indicated that it was “highly encouraged”—68.84% at UALR/Bowen compared to just 21.37% at UA Fayetteville.

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143. Two of forty-six UALR/Bowen students who said they had lived for at least a year in a county with a population of 15,000 or less skipped this question.

144. In March 2015, UALR/Bowen was ranked 135th in the nation, and UA FAYETTEVILLE was ranked 75th by U.S. News and World Report. See *Best Law Schools*, U.S. NEWS AND WORLD REPORT, <http://grad-schools.usnews.rankingsandreviews.com/best-graduate-schools/top-law-schools/law-rankings/page+4> (last visited Jan. 20, 2016).

145. See *infra* Appendix III, Question 38; Appendix IV, Question 45.

The responses to all of these questions indicate that a significant number of students are somewhat open to practicing in rural areas—even without financial incentives—and that those who have grown up in the Rural Counties are especially open to rural practice. This is somewhat at odds with the next section, however, which strongly suggests that fiscal concerns deter students from rural practice. Such concerns could be allayed, however, by some of the programs we support, as further outlined in Part V and Appendix II.

#### G. Law Student Attitudes Toward Rural Practice and Rural Living

The survey asked students about their future law practice plans. The UA Fayetteville student survey queried, “Do you plan to practice in a rural county (one with a population of 15,000 or less)?”<sup>146</sup> Among UA Fayetteville students, only six respondents (4.23%) answered that question in the affirmative, while eighty-seven (61.27%) said “no,” and forty-six (34.5%) answered “don’t know.” The survey format changed for the UALR/Bowen students. Those who said they planned to practice in Arkansas were asked in which county they planned to practice.<sup>147</sup> Among the 165 who answered this question, 14.5% (twenty-four students) said “don’t know” and just 3% (five students) said they planned to practice in a Rural County. Specifically, two planned to practice in Chicot County, and one each in Desha, Nevada, and Searcy Counties. Among those UALR/Bowen respondents, 54.55% (ninety respondents) indicated their intent to practice in Pulaski County, while another eleven (6.7%) planned to practice in Faulkner and Saline Counties. An additional five student respondents planned to practice in Jefferson and Garland Counties. Only six students (3.64%) planned to practice in Washington, Benton, and Sebastian Counties, but that was still one more than planned to practice in all twenty-five Rural Counties combined.

Next, the survey asked students to weigh a variety of factors with regard to how encouraging they are in relation to practicing in a rural area.<sup>148</sup>

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146. See *infra* Appendix III, Question 13.

147. See *infra* Appendix IV, Question 13.

148. The UALR/Bowen survey asked, “When you think about practicing law in a rural county, one with a population of 15,000 or less, what factors encourage you to practice in such a place?” See *infra* Appendix IV, Question 16. Students were asked to rank each factor as “very encouraging,” “moderately encouraging,” “somewhat encouraging,” or “not encouraging at all.” For students who responded with “other,” through skip logic, Question 17 allowed students to provide a written response. See *infra* Appendix IV, Question 17. The UA Fayetteville survey asked, “What encourages you to practice in a rural area (one with a population of 15,000 or less)? Rank factors in order of most important to least important, with 1 being most important and 10 being least important.” See *infra* Appendix III, Question 16. For students who responded with “other,” through skip logic, Question 17 allowed students to provide a written response. See *infra* Appendix III, Question 17.

Skip logic operated to put this question to just the six UA Fayetteville student respondents who had indicated their intent to practice in a rural county. Among those six students, the most encouraging factors were: “ability to have one’s own practice and be one’s own boss” (83% ranked this in their top three factors); “ability to develop and maintain localized clientele” (83% ranked this as their second or third most encouraging factor); and “perception of greater job stability” (half of respondents ranked this in their top five factors). Along with “ability to have one’s own practice and be one’s own boss,” “proximity to extended family and friends” was the top ranked answer by the greatest number of respondents, two each (one-third of the six total). This suggests that pre-existing links to a rural place are significant among those who choose rural practice.

The UALR/Bowen survey asked all students, “When you think about practicing law in a rural county, one with a population of 15,000 or less, what factors encourage you to practice in such a place?”<sup>149</sup> The most encouraging factors for UALR/Bowen students were “perception that legal need is greater in rural areas” (71% ranked this as “very” or “moderately encouraging”); “greater opportunity to become a community leader” (63% ranked this as “very” or “moderately encouraging”); and “ability to have one’s own practice and maintain localized clientele” (67% ranked this as “very” or “moderately encouraging”). The factor that garnered the greatest number (thirty respondents, 39%) of “very encouraging” ratings, however, was “greater opportunity to be elected or appointed to a public office, e.g., prosecuting attorney or judicial office,” which another quarter of respondents ranked as “moderately encouraging.” Professional autonomy was thus attractive to both groups of students, with the “big fish in a small pond” factor attractive to UALR/Bowen students in particular.

Students were also given the opportunity to include feedback on “other” factors that encouraged them to work in a rural community. Two of the few responses that students typed in referred specifically to the rural-urban justice gap, and one of those mentioned a desire to serve his/her home community. One UA Fayetteville student wrote: “The people in rural areas are underserved and need competent legal counsel. While they are mostly ignored when it comes to state resources, they should not be ignored when it comes to the justice system.” Another UA Fayetteville student specifically noted the rural lawyer shortage in relation to his/her motivation: “The main reason I want to practice in a rural county is because, after living in many rural Arkansas counties, I know that many Arkansans miss out on legal representation simply because there are no lawyers around and it is often too

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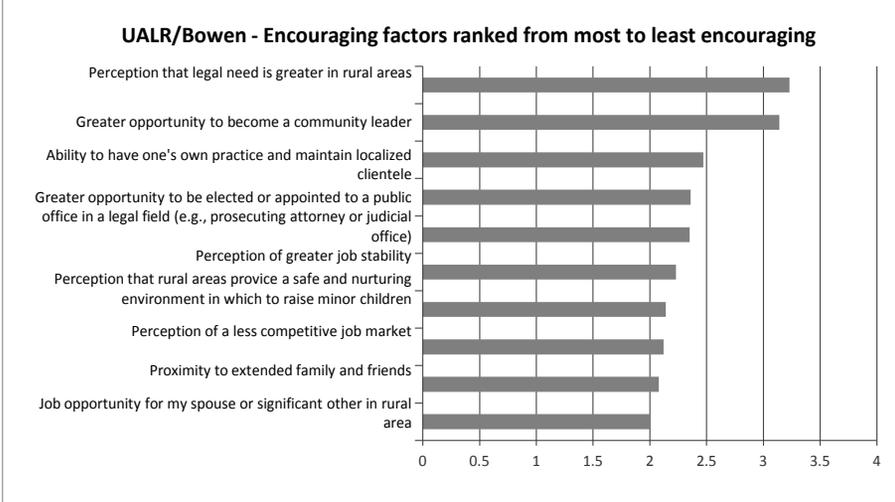
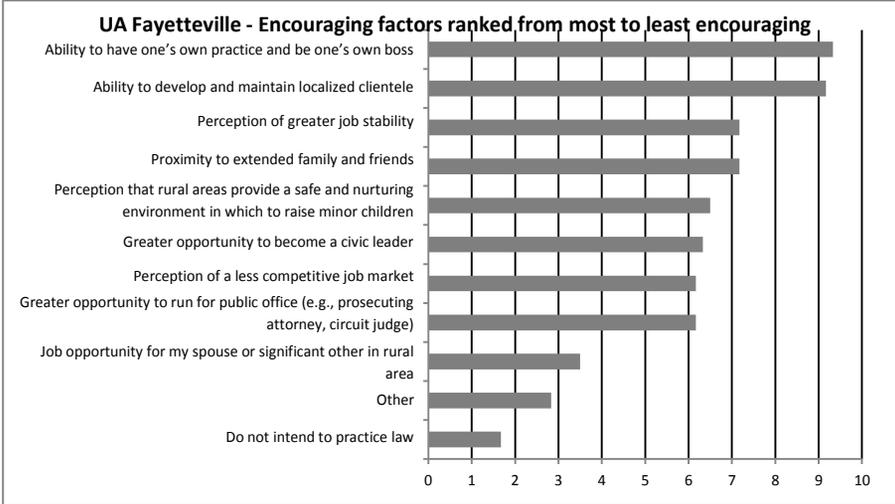
149. See *infra* Appendix IV, Question 16. Seventy-eight students answered this question.

expensive to travel for legal advice.”<sup>150</sup> A UALR/Bowen student wrote, “I already live in the rural community in which I will practice. My motivation is the community need.”<sup>151</sup> Other comments expressed less weighty motivations that were more about lifestyle, such as “[w]ould like to own a larger property with gardens, animals, etc.”

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150. Research on rural legal practice in Australia shows results consistent with such responses. One study found that practicing law in rural areas can be advantageous in that it provides more opportunities for work/life balance, greater breadth of experience, and greater control over one’s own professional work. Trish Mundy, *Engendering Rural Practice: Women’s Lived and Imagined Experience of Legal Practice in Regional, Rural and Remote Communities in Queensland*, 22 GRIFFITH L. REV. 481, 500–01 (2014).

151. This comment suggests that an opportunity exists, at least among some students, to resist the rural “brain drain.” See generally PATRICK J. CARR AND MARIA J. KAFALAS, *HOLLOWING OUT THE MIDDLE: THE RURAL BRAIN DRAIN AND WHAT IT MEANS FOR RURAL AMERICA* (2010).



Students who indicated they were not interested in practicing in a rural county were asked to weigh a variety of factors in terms of how discouraging they are in relation to practicing in a county with a population of less than 15,000.<sup>152</sup> At UA Fayetteville, 128 students answered this question from among those who had answered “no” or “don’t know” to the question whether they planned to practice in a Rural County. The most discouraging factors among these students were: (1) “perception that I would earn a lower income” (60% ranked this in their top three factors); (2) “perception that rural areas offer fewer career and economic opportunities” (52% ranked this in their top three factors); and (3) “distance from nearest city” (45% ranked this in their top three factors). The single factor ranked as most influential by the greatest number of respondents (25%) was “spouse’s job or other commitments in a non-rural place.”

Based on responses that UA Fayetteville students wrote into the survey, many of which focused on the perceived lack of restaurants, entertainment, and cultural amenities in rural areas, we provided three additional answer options for the UALR/Bowen survey. Specifically, we added “relative lack of entertainment, restaurant, and other similar amenities associated with cities,” “perceived inability to specialize in a particular legal field,” and “perceived difficulty in finding a romantic/life partner amidst a smaller population.” Further, while we had asked UA Fayetteville students to rank the various factors on the list we provided, we instead asked UALR/Bowen students to *rate* each item on a scale of one to ten in terms of influence or importance. The UALR/Bowen results, then, gave us weighted averages for each item. Among the 221 UALR/Bowen students who answered this question, the respondents rated as most discouraging: (1) “perception that I would earn a lower income,” (2) “perceived inability to find clients/perceived lack of career and economic opportunities,” and (3) “relative lack of entertainment, restaurant, and other similar amenities associated with cities.”

Students at both law schools, then, indicated that financial considerations (e.g., a lower income, lesser career opportunities) were their greatest

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152. The UALR/Bowen survey asked, “When you think about practicing law in a rural county, one with a population of 15,000 or less, what factors discourage you to practice in such a place?” See *infra* Appendix IV, Question 14. For students who responded with “other,” through skip logic, Question 15 allowed students to provide a written response. See *infra* Appendix IV, Question 15. The UA Fayetteville survey asked, “What would discourage you from practicing in a rural county (one with a population of 15,000 or less)? Rank factors in order of most important to least important, with 1 being most important and 10 being least important.” See *infra* Appendix III, Question 14. For students who responded with “other,” through skip logic, Question 15 allowed students to provide a written response. See *infra* Appendix III, Question 15.

concerns.<sup>153</sup> Among both groups of students, urban amenities were important, but less important than income and related fiscal and career considerations. Concern about the financial viability of rural practice was also a topic that many student respondents mentioned when given the opportunity to type in their own comments regarding factors that most discouraged them from rural practice. A number of students mentioned practical, economic concerns, including a perception that many small legal markets were saturated already. One wrote, “Lack of clients available. There seems to be enough attorneys to cover the legal needs in my home county.” Another commented, “Just a general fear of how much legal assistance is needed in some of the rural communities that may already have 1-2 attorneys.” Yet another wrote, “Other attorneys already established in the community will make it difficult to start a practice and earn enough to support a family, because they already have a large portion of the market’s business.” One was quite specific about his or her home county, “Would love to practice in [county with population between 15,000 and 25,000] but see too many other law offices and too little employment in area to support paying clients needing legal services.” Other students also mentioned the perceived lack of paying clients to support a rural practice, with one noting inability to afford malpractice insurance if “most of my clients were indigent.”<sup>154</sup>

Some mentioned these economic factors specifically in relation to their student debt load. One wrote: “Earning less wouldn’t be such a hindrance and deciding factor if it weren’t for the debt one gathers when obtaining a JD. One of my goals once graduating and passing the bar is to pay off all of my educational debt and this would be hard to do practicing in a rural area.” Another articulated “fear that the beginning of the legal career will not take

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153. See generally Wandler, *supra* note 14, at 243 (discussing features of rurality that would be off-putting for young attorneys, including “professional isolation—a lack of networking, mentoring and professional development opportunities”); Caroline Hart, *The Prevalence and Nature of Sustainable Regional, Rural and Remote Legal Practice* (2014) (unpublished Ph.D. dissertation, University of Queensland Australia) (on file with author) (noting the challenge of recruiting and retraining legal staff in rural areas of the State of Queensland and discussing challenges that both lawyers and clients may face in these places).

154. See Wandler, *supra* note 14, at 244. Even though greater legal needs often exist among a rural population, a rural community might not be able to sustain a new practice as these communities might favor resolving conflicts informally. See generally Lisa R. Pruitt, *The Rural Landscape: Space Takes Law Takes Space*, *THE EXPANDING SPACES OF LAW: A TIMELY LEGAL GEOGRAPHY* (Irus Braverman et al. eds., 2014) (citing ROBERT ELLICKSON, *ORDER WITHOUT LAW: HOW NEIGHBORS SETTLE DISPUTES* (1994); David M. Engel, *The Oven Bird’s Song: Insiders, Outsiders, and Personal Injuries in an American Community*, 18 *L. & SOC’Y REV.* 551 (1984)) (documenting rural residents’ reluctance to engage the legal system, especially to resolve civil disputes, and thus suggesting rurality’s association with informal order). This, in turn, then “feeds the perception that rural practice is not as lucrative or comfortable as practice in urban areas” and can “lead students to perceive rural practice as more service-oriented.” Wandler, *supra* note 14, at 244.

off and allow a feeling of success” in a rural area. That student continued, “I foresee a mediocre career and dissatisfaction with my job practicing in a rural area.”

These concerns highlight the need for data about relative earnings of rural versus urban practitioners. While many assume that rural practice is less lucrative, a recent study of attorney earnings in Texas revealed a more nuanced picture of law practice economics across the rural-urban axis. A March 2014 income survey of members of the Texas Bar showed that the median income of metropolitan Texas attorneys in 2013 was \$112,448, while the median income for rural attorneys was only moderately lower, at \$106,250.<sup>155</sup> Further, compared to 2011 earnings, rural practitioners had seen a steeper hike—a 26.6% rise—compared to an increase of just 7.6% for metropolitan attorneys over that two-year period.<sup>156</sup> Further, rural attorneys in several practice areas, e.g., family law, estate planning and probate, had higher median incomes than attorneys practicing in those fields in metropolitan areas.<sup>157</sup> The median income for lawyers practicing criminal law in rural Texas (\$98,333) exceeded those of their urban counterparts in a number of major markets, from El Paso to Houston to Beaumont.<sup>158</sup> Personal injury attorneys in rural Texas also fared well, with a median income of \$210,714, which exceeded the median income of personal injury attorneys in all major metropolitan regions in the state.<sup>159</sup> Finally—and perhaps most saliently—rural solo practitioners in Texas had a median income of \$114,204, greater than the median solo incomes in several metro regions, including Austin, Dallas, Houston, and San Antonio.<sup>160</sup> If similar data were collected regarding Arkansas, it could be used to help attorneys make better-informed decisions about the economic opportunity associated with rural practice.<sup>161</sup>

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155. *Id.* at 526. The Texas survey defined “rural” as “attorneys practicing in counties that are not part of a metropolitan statistical area.” *Id.* at 529 n.1.

156. Mader, *supra* note 17, at 526.

157. *Id.*

158. *Id.*

159. *Id.*

160. *Id.*

161. Our survey of Arkansas attorneys did ask respondents to indicate their income bracket. Among practitioners in the twenty-five Rural Counties, the greatest number (21.95%, nine attorneys) earns between \$50,000 and \$64,999. Five attorneys reported being in each of the following income brackets: \$85,000 to \$99,999; \$100,000 to \$149,999; and \$150,000 to \$249,999. Six attorneys reported earning between \$65,000 and \$74,999, and one reported earning between \$75,000 and \$84,999. At the opposite ends of the scale, seven attorneys reported earning less than \$50,000, and two reported an annual income in excess of \$250,000. One rural attorney respondent declined to state his/her income. While our survey gathered data on the incomes of non-rural lawyers too, we have not yet fully analyzed that data in relation to geography and other factors, e.g., practice type, field of specialization, for purposes of this article.

Other students mentioned concerns arising from rural lack of anonymity, including the following: "Perception that others will know, track, and gossip everywhere I visit, whether for work or personal reasons. Fear that the gossip would be even more prevalent if I went back to [her/his rural community of origin] as a lawyer." Three different students used the phrase "good ole boy" to describe a downside to rural areas, with one opining: "Small communities abuse legal system with good ole boy system where real due process is not always afforded the poor client." One of those students, who was not from a Rural County, speculated about a "lack of connections overall," a concern articulated by other respondents. One student respondent referred to lack of anonymity in relation to increased ethics conflicts "between prospective and current clients in a smaller community."

Other students focused on the desirability of urban amenities and the corresponding lack of rural amenities. One commented on "the lack of [rural] access to art exhibits, museums, theatre productions, musical performances, and different cultures in general." Another wrote of being "more attracted to a thriving, vibrant city atmosphere than a rural one . . . . Later in life is when I might want to 'get away.' Currently, I want to be in the middle of things." A third wrote, "Lack of entertainment activities and extracurricular activities for children." Two mentioned the poor quality of rural health care. One summed up his/her view of rurality and rural practice thusly:

The only issues I have with rural practice are 1) Money 2) relative scarcity of positions 3) distance from a city. In short, I don't hunt, I prefer to be able to get to the store in a few minutes, and would like access to some sort of nightlife and quality restaurants.

A number of students who self-identified as racial or sexual minorities expressed concern about traditional attitudes in rural places, which made them fear that they would not be accepted there. One student mentioned his/her sexual orientation in relation to rural areas "being close minded," and one stated that "being a minority" was the reason s/he was discouraged from rural practice. Several respondents noted their association of rural places with "lack of diversity," "traditional" values, and "perceived conservative political views." One simply wrote: "political differences."

Other students also expressed very negative views of rural people and the rural milieu. One UALR/Bowen student who had grown up in a micropolitan county viewed rural Arkansas as very undesirable and indicated that s/he wished specifically to escape the problems associated with that milieu: "Rural Arkansas is poverty stricken with minimal education and maximum ignorance, no thank you, I had enough of that growing up in Ar-

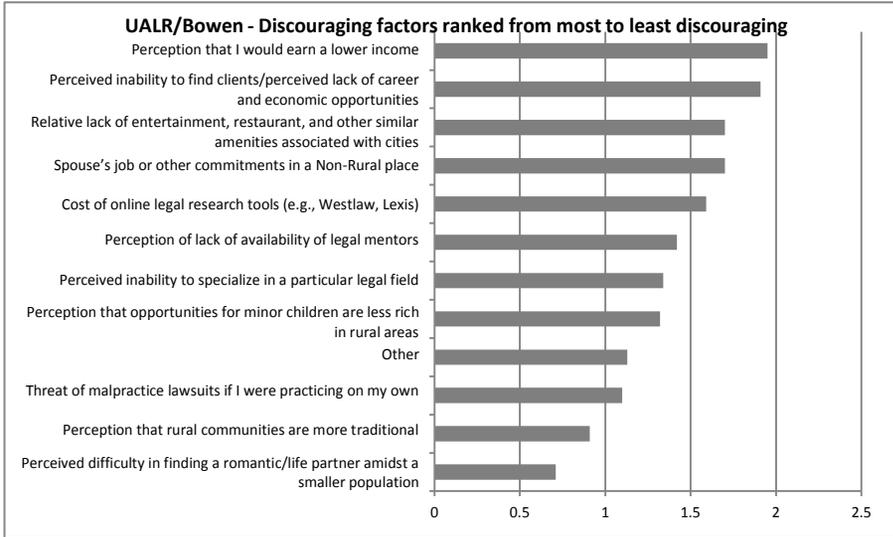
kansas.”<sup>162</sup> Another said, “Finding people who have been well-educated is very difficult outside of larger cities. Bigotry often corresponds with a lack of education, and I would be so far away from all my friends and an ability to continue learning from being around other intellectual people.” Another respondent wrote an equally damning missive:

Low population infers low education, low education infers the population is not [sic] poor, the population being poor infers clients cannot afford an attorney, which infers I will be poor. Additionally, entering a small tight knit community as an outsider would be next to impossible to do. Also, I am a minority, therefore I would likely be looked down upon by the southern whites who see me as an enemy. . . .

One wrote that s/he was discouraged from practicing in a rural area because “I might be stuck there the rest of my life.” Overall, then, students who indicated a lack of interest in rural practice expressed very negative attitudes toward rural living and rural practice. This faction did not appear at all open minded about the prospect of living and working in rural Arkansas.

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162. The wariness of conservative cultures expressed by some Arkansas law students is similar to the findings of a study of Australian female solicitors’ attitudes toward rural practice. See Mundy, *supra* note 150. The most significant factor considered by women when deciding to leave rural practice in Australia was their experience being adversely and materially shaped by “‘old-fashioned’, ‘out-dated’ and conservative attitudes and practices.” *Id.* at 482. For Australian women in particular, this included the gendered effects of small town living. *Id.* at 486.



## H. Lawyer Demographics

Five hundred and ninety-five Arkansas attorneys responded to the lawyer survey, about 7.9% of the state's 7,562 actively licensed lawyers who reside in Arkansas.<sup>163</sup> Ninety-two percent of the attorney respondents (535) live in the state of Arkansas,<sup>164</sup> but only seventeen (3.12%) live in a county with a population of 15,000 or less. Despite very few respondent attorneys living in rural areas, slightly more respondents—7.69% or forty-one respondents—practice in rural areas.<sup>165</sup> Nearly 60% of respondents who practice in a Rural County commute from a more populous county. That significantly more lawyers work in Rural Counties than live in them may suggest that rural living is not attractive, but that rural practice is sufficiently appealing to draw lawyers from neighboring counties to meet some of the need. For such commuting attorneys to meet a rural county's needs, however, requires an adequate lawyer population in reasonably close proximity to a given rural county.

The majority of attorney respondents were over the age of thirty-four, and 21% were under the age of 34. More specifically, 22% were between thirty-five and forty-four years of age, 19% were between forty-five and fifty-four years of age, and 15% were over the age of sixty-five. Among lawyer respondents, 87% are in married or committed relationships, and 39% have minor children. The majority of respondents were non-Hispanic white males. Sixty-four percent of respondents identified as male, 35% identified as female, and 1% declined to state. Ninety percent of respondents were White (Caucasian, non-Hispanic), 4% were African American, and 4% declined to state; 1% each identified as Hispanic/Latino, Native American, Asian, and bi-racial.<sup>166</sup> While the majority (56%) of respondents were the first to attend graduate school, only 31% were first-generation college graduates. Finally, 28% of respondents receive an income that is unrelated to law (most commonly through investments, including real estate); however, 41% of those respondents' outside income comprises less than 10% of their annual income.<sup>167</sup>

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163. According to our July 2015 analysis of the Arkansas Judiciary Database, the number of lawyers licensed and living in Arkansas was 7,562.

164. See *infra* Appendix V, Question 2.

165. See *infra* Appendix V, Question 31.

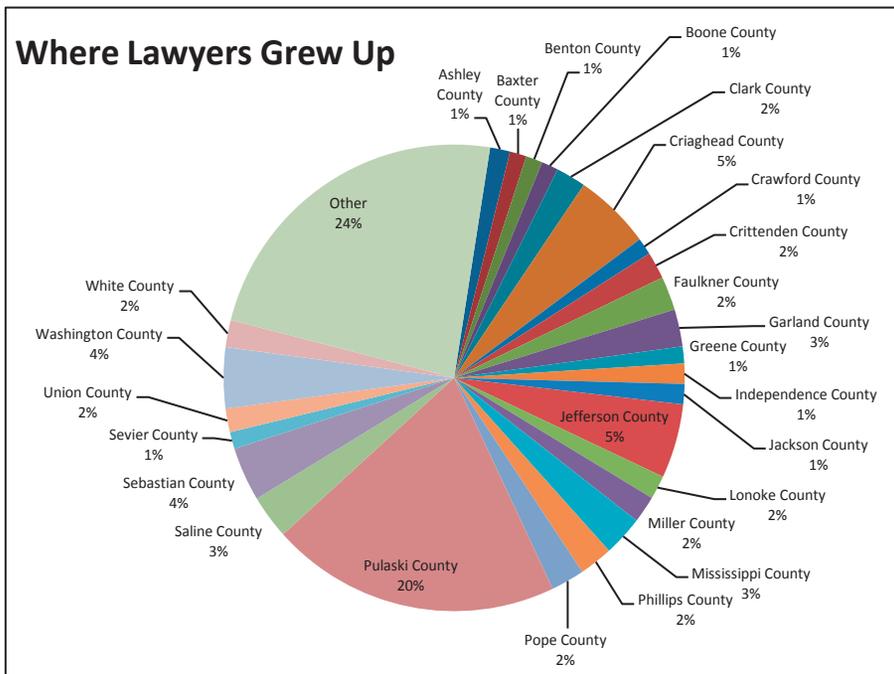
166. We are unable to compare respondent demographics to the racial demographics of the entire Arkansas Bar because, according to a September 1, 2015, phone conversation with Stacey Pectol, a clerk at the Supreme Court Clerk's Office, the Arkansas Supreme Court does not keep information on the race or ethnicity of the state's attorneys.

167. See *infra* Appendix V, Questions 22–23.

## I. Rural versus Non-Rural Practitioners

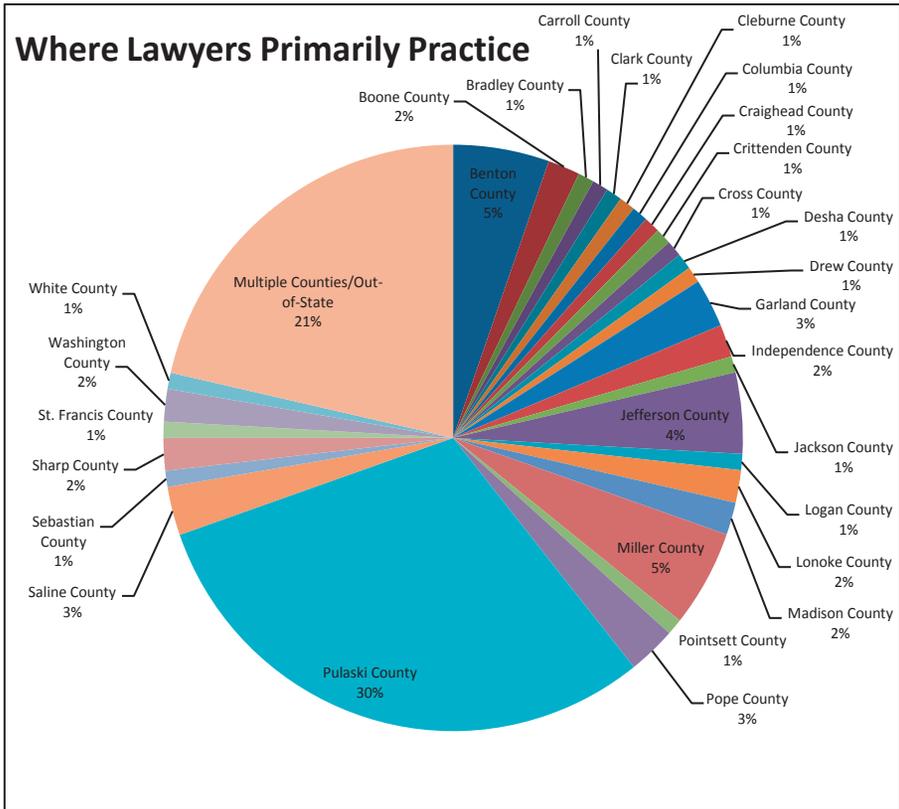
According to the AJD, about 43% of Arkansas's attorneys practice in Pulaski County,<sup>168</sup> which is roughly commensurate with the percentage of survey respondents who practice there. Among the 535 survey respondents who practice in Arkansas, 208 respondents (38.88%) live in Pulaski County, and 194 of those (93.3%) also practice there. Nevertheless, a total of 216 survey respondents (36.3%) practice in Pulaski County, because twenty-two respondents live outside the county but work there.

A substantially smaller number of respondents, eighty-seven (16.26%), grew up in Pulaski County.<sup>169</sup> This suggests a high rate of migration from the more rural reaches of the state to the state's largest metropolitan area, presumably following law school. This phenomenon is well illustrated in the two figures below, one showing the county of origin of respondents (where the attorney said s/he grew up) and one showing where in Arkansas attorneys now practice.



168. See *supra* Part II.D.5.

169. See *infra* Appendix V, Question 9.



Of the eighty-seven respondents who grew up in Pulaski County, sixty-two respondents (71.26%) still live there. Among the twenty-five respondents who grew up in Pulaski County but now live in another county, eight still practice in Pulaski County.

J. Lawyer Mobility Among Geographic Markets and Factors Encouraging or Discouraging Rural Practice

The survey gave attorneys more than one opportunity to offer their opinions about where they live and practice and why they have chosen those places. First, all respondents, regardless of the county where they said they practiced, were asked how important a number of factors were in influencing their decision to work in their current market. Those practicing in a county with a population of 15,000 or less indicated that the three most important were “ability to work in a law firm/legal employer of a certain size,”

“length of commute to work,” and “ability to find a life/romantic partner.”<sup>170</sup> The least important factors influencing rural lawyers’ decisions to practice in their current job market were “ability to specialize,” “a specific job opportunity,” and “ability to practice in the field of law most interesting to me.”<sup>171</sup>

When non-rural lawyers were asked the same question, “How important were the following factors in influencing your decision to work in your current market?”<sup>172</sup> the three most important factors were “ability to work in a law firm/legal employer of a certain size” (weighted average of 9.19), “length of commute to work” (8.74), and “availability of legal mentors” (8.36).<sup>173</sup> Interestingly, all attorneys—regardless of location—indicated the importance of commute times and ability to work for an employer of a certain size. This would suggest that people who choose rural practice prefer smaller employment settings, and perhaps that non-rural lawyers prefer larger employment settings, although non-rural places will offer a wider range of practice settings, both small and large. Indeed, several attorneys in their comments to this range of questions about practice locale noted the absence of certain types of employers from rural areas, e.g., federal defender offices, U.S. Attorney offices.

Other common responses that non-rural practitioners wrote in as being important to determining their current job market included “retirement/health benefits,” “employment opportunity was available upon graduation,” and “opportunity to serve my hometown.” The least important factors influencing non-rural lawyers to practice in their current market were “ability to specialize,” “a specific job opportunity,” and “employment opportunity for my spouse or significant other in that job market.”<sup>174</sup> We found it somewhat surprising that non-rural lawyers tended not to be influenced by the employment needs of their spouses or significant others because non-

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170. See *infra* Appendix V, Question 25. The question asked respondents to rank thirteen factors on a scale of one to thirteen with “1” being least important and “13” being most important.

171. *Id.*

172. *Id.*

173. Although these factors were weighted most heavily overall, the greatest number of respondents rated them a “5,” “6,” or “7.” *Id.* The factor that drew the greatest number of top (“13”) rankings was “ability to find a life/romantic partner,” which was ranked at the top by 26% of respondents. Another fifth of respondents, however, ranked “ability to find a life/romantic partner” as the least influential factor, a “1.” This suggests that respondents were confused about the scale, with some thinking “1” signified the most influential. Alternatively, it may suggest that this is a highly important factor to some respondents—perhaps those who do not yet have a life partner—and not at all important to others, presumably those who already have a life partner. Cf. *supra* Part IV.G (regarding student attitudes on this issue).

174. See *infra* Appendix V, Question 25.

rural areas will necessarily offer more such options as a general rule. However, the lack of import attributed to spousal employment may reflect the fact that two-career couples are more common among more recent generations, including current law students, than among older practitioners. Alternatively, non-rural attorneys may simply take for granted ease of spousal employment in larger markets. Yet this low ranking of “employment opportunity for my spouse or significant other in that job market” runs counter to the high importance attributed to familial issues when attorneys took the opportunity to comment on what mattered most to them in choosing a location, as illustrated in the next paragraph.

If an attorney ranked “other” highly on this question, s/he was asked to specify that other factor. To this query, many attorneys mentioned family considerations, including spouse’s job or spouse’s preference. Even more respondents referenced children, including their educational opportunities. Responses included “quality of life for children” (attorney practicing in large metropolitan county) and “good place to raise children” (attorney practicing in nonmetropolitan county with population under 20,000). Others referenced the draw of one’s home town, including comments such as “going home to family and family business unrelated to law,” “return to hometown and relatives,” “opportunity to serve my hometown,” “default; it’s where I grew up, where parents are; where jobs are,” and “coming home to Arkansas, away from big city practice.” Four of five of those comments came from lawyers practicing in one of the state’s two Standard Metropolitan Statistical Areas, and the other was from one of the state’s ten most populous counties. One who practices in a nonmetropolitan county not small enough to qualify as a Rural County wrote, “I live and practice in the place where I was born 76 years ago.” Others wrote “home town” (attorney from large metropolitan county) and “It was home!” (attorney from micropolitan county). Clearly, attachment to place—a phenomenon often associated with rurality<sup>175</sup>—is alive and well among some Arkansas practitioners, both rural and urban.

A number of those who specified an “other” in response to this question mentioned financial considerations, from “[n]ot having the financial ability to start a business in a smaller market or resources to know how to start a solo practice” to “employment opportunities/options” to “pension and

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175. See generally Lisa R. Pruitt & Janet L. Wallace, *Judging Parents, Judging Place: Poverty, Rurality and Termination of Parental Rights*, 77 MO. L. REV. 95, 138–39 (2011) (discussing attachment to place in relation to termination of parental rights); Lisa R. Pruitt, *Place Matters: Domestic Violence and Rural Difference*, 23 WIS. J. OF L., GENDER & SOC’Y 347, 399–400 (2008) (discussing attachment to place in relation to victims’ responses to domestic violence); Pruitt, *Rural Rhetoric*, *supra* note 33, at 182–83 (finding that courts have recognized connection to “a certain way of life” like relation to community and culture as features of rural livelihoods).

benefits.” As with the students, a few practitioners mentioned the importance of access to structural amenities associated with more metropolitan settings, the most common among practitioners being medical facilities.

With respect to this question about factors influencing the decision to practice in a particular market, some expressed positive views of rural places, others negative ones. For example, one said s/he was motivated to “escape urban life” while another said, “My wife did not want to live in a rural community.” Probably the most pejorative comment that any respondent made about a rural community was:

Local lawyers and circuit judge were too prone to disregard civil procedure rules which unreasonably delayed resolution of cases. Found the experience of working in the environment frustrating and unprofessional especially after having worked most of my career in large cities, large law firms, with other highly trained and competent lawyers and judges on complex cases.

This practitioner had moved to a micropolitan county in Arkansas after practicing in a major metropolitan market in another state.

The survey asked respondents if they were practicing in the same county in which they had begun their legal careers. Sixty-one percent of respondents reported that they were practicing in the same county where they began, while 39% have changed at least once the county in which they practice.<sup>176</sup> Those who had changed counties were asked if the market in which they practiced now was larger or smaller than the one in which they began practicing.<sup>177</sup> Fifty-five percent said they had gone from a larger market to a smaller one, leaving 45% who had gone from a smaller market to a larger one. No respondent indicated that s/he had moved between markets of roughly equal size.

The fact that more attorneys were moving from larger markets to smaller ones—and not the other way around—is somewhat surprising given the shortage of attorneys in Arkansas’s most rural counties (and thus the smallest markets) and the general population shift toward the state’s urban areas in recent decades. However, this data point does not necessarily mean that attorneys are moving to small markets, just that many are moving to markets that are to some degree smaller than where they started. Thus, a typical move might have been from Pulaski County to Saline County or Craighead County, but the survey instrument did not permit us to assess findings at that level of detail.

Attorneys who indicated they now work in a larger market as compared to a smaller one had the opportunity to select the top three reasons they pre-

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176. See *infra* Appendix V, Question 27.

177. See *infra* Appendix V, Question 28.

ferred the larger market.<sup>178</sup> The most common answers were “specific job opportunity for myself in the market” (69.37%) and “higher income” (38.74%), with a tie for third place (at 23.42% each) for “availability of mentor(s)” and “ability to practice in the field(s) of law most interesting to me.” The least important considerations were “perceived ability to meet a romantic/life partner in a more populous place” (5.41%), “ability to specialize” (8.1%), and “other” (10.81%).

If an attorney selected “other,” s/he was invited to write in comments explaining that answer. Here, several mentioned a number of similar factors: life partnerships, including spouse’s study or job opportunities, and specific job opportunities for the attorney. One was even more specific about a life-style consideration: “better grocery store selections including organic foods.”

Attorneys who indicated they worked in a smaller market were similarly invited to specify the top three reasons they preferred a smaller market.<sup>179</sup> As with those in larger markets, the most common answer was “specific job opportunity for myself in the market” (75.56%). Other common responses were “proximity to extended family and friends” (35.56%) and “quality of life considerations (please specify below)” (24.44%). Interestingly, the least important consideration was “ability to find a romantic/life partner,” which no respondent selected. As we noted in regard to Question 25, this may suggest that earlier generations of attorneys were already married or in life partnerships when they moved to rural areas. Alternatively, it may suggest that even “smaller” markets—which are not necessarily the same as rural ones—are large enough to facilitate such life partnerships. The other two least important considerations were “ability to specialize” (4.44%) and “higher income” (6.67%).

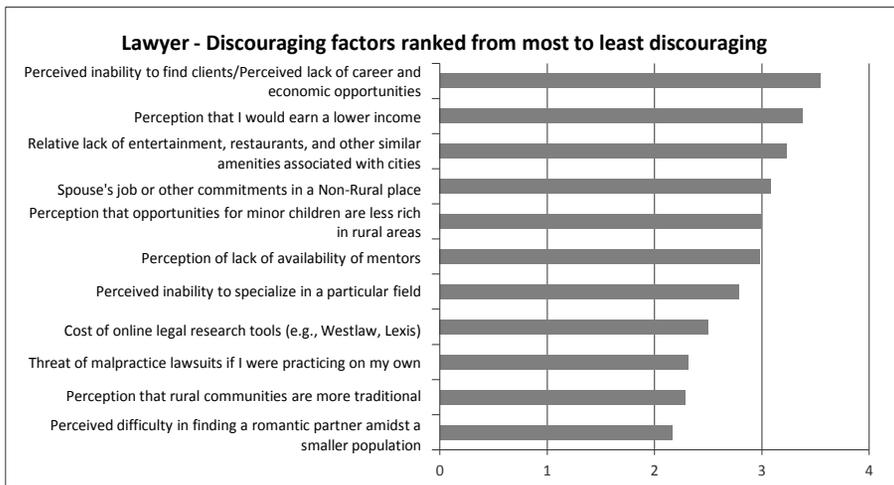
When given an opportunity to type in other reasons or to expand on “quality of life considerations,” attorneys who had moved to smaller markets again expressed many of the same reasons expressed by attorneys who worked in larger markets, from specific opportunities for self or for significant other to extended family attachments. Among the specific comments were “small firm, small community close to larger cities, overall convenience of location” (from an attorney practicing in a smaller county in the Little Rock-North Little Rock-Conway Metropolitan Area), “geographic location, cultural opportunities, social activities,” “preferred raising family in rural area,” and “short travel time to/from work, small town quality of life.”

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178. See *infra* Appendix V, Question 29.

179. See *infra* Appendix V, Question 30.

Another question asked attorneys if they currently practice in a county with a population of less than 15,000.<sup>180</sup> Just 7.69% of attorneys said they did, which means that the survey captured responses from only forty-one attorneys who practice primarily in one of our Rural Counties. Those who do not practice in such a county were then asked, “How much did the following factors discourage you from practicing in a rural county (one with a population of less than 15,000)?”<sup>181</sup> Respondents were asked to rate each of eleven factors as “very discouraging,” “moderately discouraging,” “somewhat discouraging,” or “not discouraging at all.” The most discouraging factor was “perceived inability to find clients/perceived lack of career and economic opportunities” (63.36% of respondents rated this as very discouraging or moderately discouraging) followed by “perception that I would earn a lower income” (57.68% found this very or moderately discouraging), “relative lack of entertainment, restaurants, and other similar amenities associated with cities (59.64% found this very or moderately discouraging), and “spouse’s job or other commitments in a non-rural place” (52.03% found this very or moderately discouraging). Interestingly, the highest percentage of “not discouraging at all” rankings went to “perceived difficulty in finding a romantic partner among a smaller population.”



As among law students, several attorneys expressed concern about economic challenges if they undertook rural practice. A few also expressed fear of failure if they attempted to establish a rural solo practice due to “lack of capital and resources to establish solo practice in rural community.” Another wrote, “Too much risk to set up an office for a newly licensed attor-

180. See *infra* Appendix V, Question 31.

181. See *infra* Appendix V, Question 32.

ney. I didn't know what the hell I was doing." A third wrote, "[V]ery fearful of having to spend resources collecting fees from people that cannot afford them." A fourth commented, "[T]he lack of business, particularly with lawyer advertising (often violating our own ethical rules) and runners from large population areas and other states dominating the personal injury field." Some commented that they wished to specialize, something they could not do in a rural area where they would be expected to "take a wide variety of case types."

Several attorneys indicated that at one time they had a particular interest in rural practice but that they were unable to get employment in a rural area. One wrote, "I tried, I interviewed, no one would hire me. There was not a single firm that thought a kid from a big city really wanted to live in a rural community. They were wrong, but no opportunities were given." Another wrote, "I would have happily practiced in a rural community if the right opportunity had presented itself."

Others mentioned "proximity to extended family" as channeling them toward urban locations. One wrote, "My husband and I chose to live where we both grew up" (attorney living in a county with a population of about 25,000). As with the law students surveyed, some practitioners also commented on cultural amenities such as "educational/intellectual lectures, interaction and resources" associated with larger population centers. Attorneys also mentioned some of the same socio-cultural stereotypes that students mentioned: "prejudice toward same-sex relationships and LGBT individuals," "more closed society," and "perception of boredom and a lack of privacy." One wrote, "Discrimination against women lawyers in rural areas or small towns was the number 1 reason for localing [sic] in the state capitol." All of these latter comments came from Pulaski County attorneys.

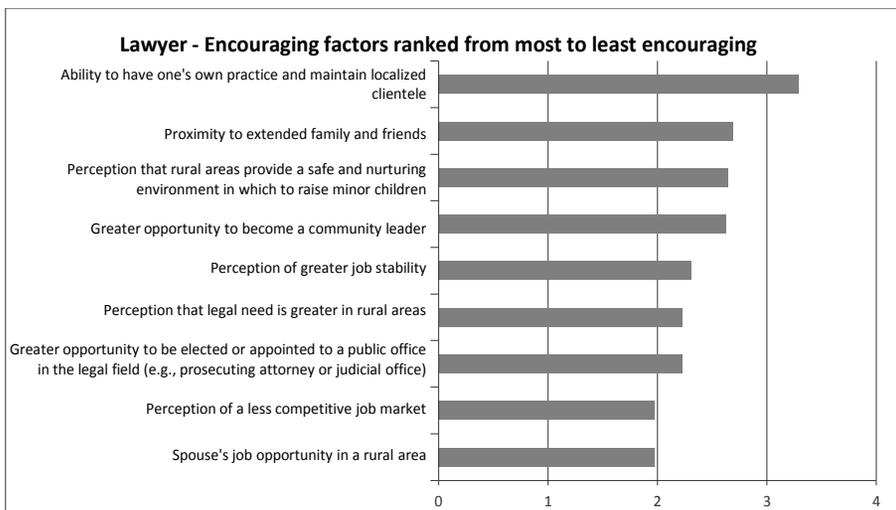
One attorney was very negative about the rural justice system and rural lawyers, writing, "Judicial system moved too slowly; other professionals were too unskilled and unsophisticated." Another attorney expressed explicit disgruntlement with how pro se representation is being facilitated and promoted by the Arkansas Access to Justice Commission, which that attorney said was "the biggest reason not to work in rural areas."

Among the forty-one attorney respondents who indicated they practice in a county with a population of 15,000 or less, thirty-seven answered the question: "How much did the following factors encourage you to practice in a rural county (one with a population of less than 15,000)?"<sup>182</sup> The options for each of eleven factors were "very encouraging," "moderately encouraging," "somewhat encouraging," and "not encouraging at all." The most influential factors were "proximity to extended family and friends" (72.22% of respondents rated this as very or moderately encouraging); "ability to

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182. See *infra* Appendix V, Question 33.

have one's own practice and maintain localized clientele" and "greater opportunity to become a community leader" (each with 66.67% of respondents rating these as very or moderately encouraging); and "perception that rural areas provide a safe and nurturing environment in which to raise minor children" (58.33% rated as very or moderately encouraging).<sup>183</sup> The least heavily weighted were "spouse's job opportunity in a rural area" (65.71% of respondents rated this not encouraging at all), "perception of a less competitive job market" (half of respondents ranked this as somewhat encouraging or not encouraging at all), "greater opportunity to be elected or appointed to a public office in the legal field, i.e., prosecuting attorney or judicial office" (about half of respondents ranked this as somewhat encouraging or not encouraging at all), and "perception that legal need is greater in rural areas" (equal numbers of respondents ranked this very encouraging and not encouraging at all).<sup>184</sup> Very few attorneys wrote comments in relation to this question, but the few who did said, "[P]roximity to location I wanted to retire"; "Need is great for type of law we practice, immigration"; and "There seems to be a great need for public interest attorneys in rural areas."



183. See *id.* Australian research on rural legal practice found results consistent with many of these responses. Mundy's 2014 study found that practicing law in rural areas has the following advantages: it provides more opportunities for work/life balance, greater breadth of experience, and greater control over one's own professional work. Mundy, *supra* note 150, at 21.

184. Compare this to the perception of the law student respondents. Among UALR/Bowen respondents, 63% ranked "greater opportunity to become a community leader" as "very encouraging" or "moderately encouraging." See *supra* Part IV.G and accompanying footnotes.

Finally, the survey indicated a certain fluidity or mobility regarding practice locale in relation to residence. Nearly one-fifth of attorneys (19.3%) reported that their primary practice location was in a county different from the one in which they reside.<sup>185</sup> One wrote, for example, “My practice takes me into smaller counties with populations smaller than 15,000, though I primarily practice in a county with a population higher than 15,000. I grew up in this area and know the items listed on the survey are inaccurate.”<sup>186</sup>

Compared to law students, then, Arkansas’s practicing attorneys tended to have more neutral views of rural living and rural practice. Even when attorney respondents expressed negative views of rural people and places, they typically used less strong and polarizing language to articulate their perceptions. In general, lawyers seemed to be more settled and accepting of where they are, whether rural or urban, and less negative or highly opinionated about other places.

Some of the survey answers reflect the authors’ thinking about the benefits attorneys might experience from living and working in rural places. Rural areas feature more leadership roles per capita than do urban areas. For example, rural counties have the same number of elected county officials (e.g., county judge, county clerk, county assessor) as their urban counterparts. In addition, with fewer attorneys per capita in rural areas, those attorneys are more likely to be sought after to serve on city councils, school boards, and other local governing bodies—as well as to run for seats in the state legislature. Rural practitioners did identify rural leadership opportunities as attractive, but they nevertheless ranked very low “greater opportunity to be elected or appointed to a public office in the legal field, i.e., prosecuting attorney or judicial office.”<sup>187</sup> This suggests that the greater interest of rural attorneys is in other forms of community leadership. Law student respondents, on the other hand—especially those already interested in rural practice—found both types of public service opportunities attractive.

But the benefits of rural practice may also be economic. Those practicing in rural places may find many potential clients—grocery stores, family farms, restaurants, and other small businesses—who prefer to engage a local lawyer. While some law student and attorney respondents articulated concerns about earning lower incomes, few seemed to factor in the lower cost of living typically associated with rural places. Further, none seemed to realize that rural practice can be quite lucrative.<sup>188</sup> Whatever the specifics of

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185. See *infra* Appendix V, Question 6.

186. The items listed on the survey suggest negative stereotypes about rural places. See *infra* Appendix V, Question 32.

187. See *supra* notes 183–84 and accompanying text.

188. See *supra* notes 155–61 and accompanying text.

their responses to various questions, the rural practitioners who responded to the survey did seem content.

#### K. Willingness to Mentor an Attorney and Perception of Market

Those who answered the lawyer survey were asked if they “would be willing to mentor a young lawyer practicing in [their] community” and if they “would be willing to hire a young lawyer to practice in [their] law firm or to work part time for [them] while allowing the young lawyer to seek other work on his or her own time.”<sup>189</sup> Rural practitioners (82.9%) tended to be more willing than their urban counterparts (71.7%) to mentor a young lawyer in their community. Nevertheless, only 43.59% of rural lawyers (those practicing in a county of 15,000 or less) said they would be willing to hire a young lawyer to practice in their law firm or to work part time while the junior lawyer sought other work on his or her own time. Non-rural lawyers were even less likely than their rural counterparts to be willing to hire a young lawyer to practice in their firm or to work part time while the young lawyer sought other work on his or her own time; only 33.26% said they would do so.<sup>190</sup> Nevertheless, most attorneys, whether rural (61.54%) or urban (66.67%), opined that their market has good practice opportunities for young lawyers.<sup>191</sup>

#### L. Pro Bono Contributions

The survey asked practicing attorney respondents about no-fee and reduced-fee pro bono (the latter sometimes called “low bono”) contributions they had made in the past year. No striking difference emerged between the amount of pro bono work done by rural and non-rural lawyers.<sup>192</sup> When rural lawyers were asked how many hours of no-fee pro bono work they do, the top three responses were ten to twenty-four hours/year (25.64% of respondents) in 2014; fifty to seventy-four hours/year (17.95%) in 2014; and no hours (15.38%) in 2014. Similar percentages of non-rural lawyers completed ten to twenty-four hours/year (20.63%), twenty-five to forty-nine hours/year (19.53%), and no hours/year (19.58%) in 2014. This suggests that, even though large firms are known to have a greater capacity for the provision of pro bono,<sup>193</sup> Arkansas’s rural lawyers—who are necessarily in solo or small-firm practice<sup>194</sup>—are also making substantial pro bono contributions.

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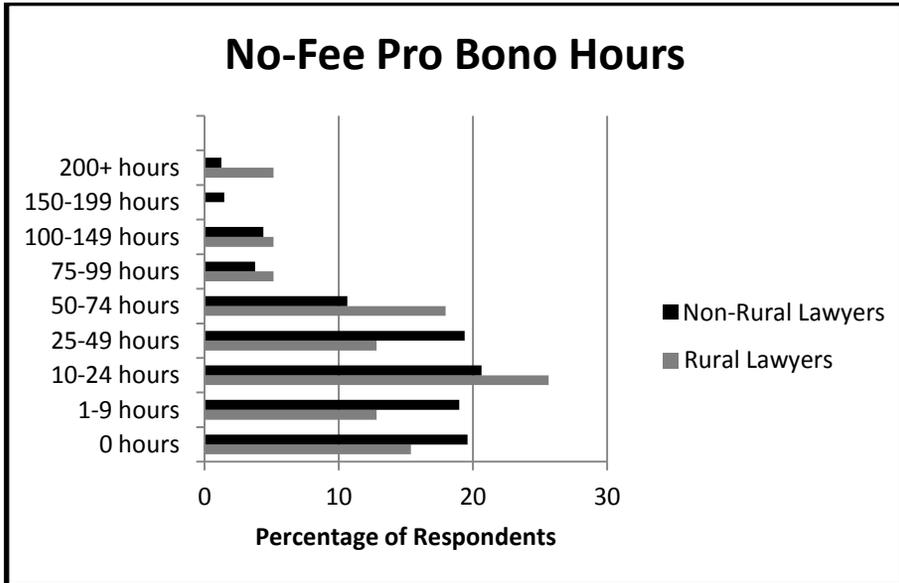
189. See *infra* Appendix V, Question 44.

190. See *infra* Appendix V, Question 45.

191. See *infra* Appendix V, Question 43.

192. See *infra* Appendix V, Questions 34–35.

193. See generally Scott L. Cummings & Rebecca L. Sandefur, *Beyond the Numbers: What We Know—and Should Know—About American Pro Bono*, 7 HARV. L. & POL’Y REV.



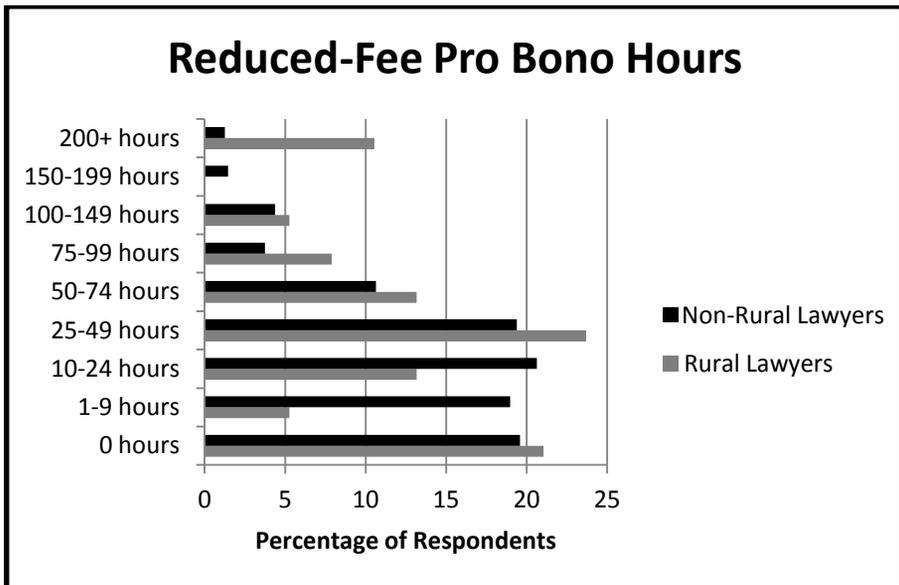
Similarly, no significant distinction emerged between rural and non-rural lawyers in the number of reduced-fee pro bono hours performed in 2014. Rural lawyers reported the following provision of reduced-fee pro bono work: 23.68% completed twenty-five to forty-nine hours, 21.05% completed no hours, and 13.16% completed ten to twenty-four hours, and that same percentage contributed fifty to seventy-four hours. Non-rural lawyers completed somewhat less reduced-fee work with roughly equal numbers of lawyers completing ten to twenty-four hours (20.63%), twenty-five to forty-nine hours (19.38%), and no hours (19.58%). The somewhat greater provision of reduced-fee pro bono work by rural lawyers may support the theory that rural lawyers know their clients better than non-rural lawyers—and may have multi-dimensional relationships with those clients in the community. Such relationships may put rural lawyers in a better position to gauge what those clients are able to pay.<sup>195</sup> Rural lawyers may also lower their fees for local clients who are less able to pay because of a greater sense of connection and responsibility to individuals in their community.<sup>196</sup>

83 (2013) (discussing the institutionalization of pro bono services at private firms and the changing motivations for pro bono programs); *see also* Pruitt & Showman, *supra* note 20, at 515.

194. Pruitt & Showman, *supra* note 20, at 518–19.

195. *Id.* at 511–12.

196. *Id.*



#### V. A KITCHEN SINK PROPOSAL

In this Part, we draw on what we have learned from our data collection and survey to inform proposals for Arkansas. We also consider the efforts of states that have already confronted their own rural lawyer shortages, along with novel strategies some states have adopted in response to broader access-to-justice challenges, to devise a multi-faceted solution for Arkansas. This proposal, which would require action from several Arkansas institutions, is intended to respond both to the shortage of lawyers in some parts of rural Arkansas and to access-to-justice challenges facing low-income and modest means rural residents in particular.

##### A. Call for Legislative Action

The proposal by the two Arkansas law schools and the Arkansas Access to Justice Commission for alleviating the rural attorney shortage is outlined in Appendix II. We endorse that proposal and discuss here in more detail a core component of it—loan repayment assistance. Some other components of it that would require legislative funding are discussed in Part V.B. In addition, we suggest in this Part the granting of income tax breaks in exchange for pro bono service, a proposal that would also require legislative action.

### *I. Loan Repayment Assistance*

The State of Arkansas should follow the lead of South Dakota and Nebraska and provide financial incentives in the form of student-loan repayment subsidies to those willing to practice in under-served rural areas. Even though tuition is relatively low at Arkansas's two law schools,<sup>197</sup> many recent law graduates are saddled with substantial student debt.<sup>198</sup> Further, a number of students who responded to our survey specifically noted their concerns about the economics of rural practice in relation to that debt.<sup>199</sup> Student loan subsidies could therefore entice recent law graduates to practice in rural areas by mitigating that debt burden.<sup>200</sup>

Like South Dakota under the Rural Attorney Recruitment Program, the Arkansas General Assembly should set rules and guidelines regarding eligibility for such subsidies, including a determination of which Arkansas counties are underserved and therefore qualify for the program. The Arkansas Access to Justice Foundation could oversee the program and vet applicants for qualification. We suggest that Arkansas's rural county governments should not be required to share the funding burden, which would distinguish the program from the South Dakota one. The budgets of Arkansas's rural counties tend to be small and strained because relatively poor tax bases must meet many demands, not least of which is the maintenance of county roads and facilities. A great deal of property tax revenue raised at the county level goes directly to public schools. It is thus not feasible to expect these counties to finance an attorney's presence.

The legislative proposal we endorse, which is also detailed in Appendix II, is simple and features the following requirements for those receiving subsidies: 1) the participating attorney must have an office in a county that meets the guideline definitions of an underserved rural county; 2) the attorney must dedicate a majority of her practice to clients in underserved rural

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197. For the 2014–15 academic year, in-state tuition at UA Fayetteville was \$14,507.70; out-of-state tuition was \$30,027.90. Telephone Interview by Katharine Holzheimer with Rachelle Souheaver, Admissions Administrative Specialist, University of Arkansas Fayetteville School of Law (Aug. 26, 2015). For UALR/Bowen, in-state tuition for a full-time student was \$13,955.50 in 2014–15; for a part-time student, tuition was \$9,334.40. An out-of-state, full-time law student at UALR/Bowen paid \$28,301.50 for the 2014–15 academic year; an out-of-state, part-time student paid \$18,420.20. Telephone Interview by Katharine Holzheimer with Stephanie Shepard, Admissions Office Representative, University of Arkansas at Little Rock William H. Bowen School of Law (Aug. 26, 2015).

198. *See supra* Part IV.D (discussing student debt among UALR/Bowen and UA Fayetteville law students).

199. *Id.*

200. Even if the State chooses not to implement a program as extensive and generous as South Dakota's, Arkansas should at the very least implement the Nebraska plan. *See supra* Part III.B and accompanying footnotes.

communities;<sup>201</sup> 3) the attorney may receive a maximum of \$12,000 per year or the amount of her annual student loan debt, whichever is less, and those funds must be used for loan repayment; 4) an attorney must be enrolled in the program for a minimum of five years; and 5) the pilot program would initially be limited to five recently admitted attorneys.<sup>202</sup>

## 2. *State Income Tax Breaks*

Although Arkansas attorneys provide many hours of pro bono legal services each year,<sup>203</sup> the State should provide incentives, such as tax breaks, to increase the volume of this sort of work. The legislature could decide to create greater incentives for pro bono work performed for clients in underserved rural areas, or the legislature could even restrict the tax breaks to rural pro bono work. Such incentives, if so restricted, could help channel surplus urban legal resources to underserved rural residents.<sup>204</sup>

The legislature could set the value of pro bono hours (perhaps \$150/hour) and place a limit on the number of pro bono legal hours that can be claimed each year as deductions. For instance, if an attorney provides

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201. "Rural client" might be defined as an individual residing in an underserved rural county.

202. Funding for this program could be provided by the legislature through the Arkansas Rural Services Department, possibly with General Improvement Funds. For more information on the Arkansas Rural Services Department, see ARK. RURAL SERVS. DEPT., <http://ruralservices.arkansas.gov/> (last visited Oct. 19, 2015).

203. In 2013, 1,440 Arkansas attorneys provided pro bono legal services, and sixty attorneys provided alternative/limited scope services. Arkansas attorneys provided a total of more than \$1.7 million worth of pro bono legal services. See CTR. FOR ARK. LEGAL SERVS. ET AL., TIME FOR JUSTICE: 2013 ANNUAL JUSTICE PARTNERS REPORT, [http://www.arkansasjustice.org/sites/default/files/file%20attachments/2013%20Annual%20Report\\_final%20combined%20low%20res.pdf](http://www.arkansasjustice.org/sites/default/files/file%20attachments/2013%20Annual%20Report_final%20combined%20low%20res.pdf) (this publication is published by the Center for Arkansas Legal Services, Legal Aid of Arkansas, the Arkansas Access to Justice Commission, the Arkansas IOLTA Program, the Arkansas Pro Bono Partnership, and the Arkansas Access to Justice Foundation).

204. Indeed, this is reflective of one of the recommendations of *Improving Civil Justice in Rural California*, a 2010 report of California's Commission on Access to Justice: "Fulfill Pro Bono Responsibility by Helping Rural Californians":

California lawyers should consider ways to include service for under-served rural Californians when they are fulfilling their 50-hour pro bono responsibility. Because rural areas have fewer lawyers, law schools, and economic resources, urban bar associations and lawyers should consider partnering with rural organizations, being mindful that impoverished urban Californians are also underrepresented and need pro bono help as well. Attorneys who are precluded by ethics rules from representing some individuals should be made aware of all of the options for meeting the recommendation, such as devoting time or money to legal aid programs or otherwise furthering access to justice.

THE CAL. COMM'N ON ACCESS TO JUSTICE, IMPROVING CIVIL JUSTICE IN RURAL CALIFORNIA 15 (2010), [http://cc.calbar.ca.gov/Portals/11/documents/accessJustice/CAAJ\\_201009.pdf](http://cc.calbar.ca.gov/Portals/11/documents/accessJustice/CAAJ_201009.pdf).

fifty hours of pro bono work in 2015,<sup>205</sup> the attorney could deduct \$150 per hour from his/her state income tax (\$7,500.00).<sup>206</sup> The definition of pro bono work would be as provided by the Arkansas Rules of Professional Conduct, and guidelines could specify other criteria for purposes of claiming such tax deductions.

B. Call for Action from the Arkansas Supreme Court and the Arkansas Bar

1. *Continuing Legal Education (CLE) Credits in Exchange for Pro Bono Legal Services*

Attorneys living in rural areas typically have less convenient access to CLE classes than do their metropolitan counterparts. One living an hour or two from a metropolitan area usually has to take off an entire day to participate in a CLE program that could cost hundreds of dollars, not to mention travel costs and lost income associated with absence from the office. The Arkansas Supreme Court could ease the burden on rural practitioners by offering pro bono-linked incentives similar to the ones established recently by Ohio authorities and setting guidelines regarding who qualifies for those incentives.

Ohio permits all attorneys to obtain CLE credits by providing pro bono services. Rule X, Section 5 of the Supreme Court Rules for the Government of the Bar of Ohio states that the Commission for Continuing Legal Education “may allow one credit hour for every six hours of pro bono legal service performed, with a maximum of six credit hours for service performed during a biennial compliance period.”<sup>207</sup> The Rules define “pro bono” as a legal service provided to an individual with limited means or to specific types of organizations.<sup>208</sup>

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205. Fifty hours is the suggested amount of pro bono legal services per year pursuant to Arkansas Rules of Professional Conduct 6.1. Rule 6.1 defines pro bono legal services as legal services provided at no fee or a substantially reduced fee to or for the following: those with limited means; “charitable, religious, civic, community, governmental and educational organizations in matters that are designed primarily to address the needs of persons of limited means”; organizations seeking to protect civil rights; and participation in activities to improve the legal system. ARK. RULES OF PROF’L CONDUCT 6.1(a)(2) (2005).

206. See Tonya Moreno, *State Income Tax Rates*, ABOUT.COM, <http://taxes.about.com/od/statetaxes/a/highest-state-income-tax-rates.htm> (last visited Feb. 2, 2016). Arkansas’ state income tax rate is 7% for those earning more than \$32,600. *Id.*

207. SUP. CT. RULES FOR THE GOV’T OF THE BAR OF OHIO, RULE X, SECTION 5(H) (2015), <http://www.supremecourt.ohio.gov/LegalResources/Rules/govbar/govbar.pdf>.

208. *Id.* These eligible organizations include: (1) an organization receiving funding for pro bono programs or services from the Legal Services Corporation or the Ohio Legal Assistance Foundation; (2) the Ohio Bar Association or an Ohio metropolitan or county bar asso-

Arkansas could adopt regulations similar to those in Ohio. The regulations could specify, for example, that: 1) every four hours of pro bono work will constitute one CLE credit; 2) an attorney may accrue up to six hours of CLE credit per year by performing pro bono work; and 3) the client for whom pro bono legal work is performed must be a resident in one of the underserved rural counties. A civil pro bono program is already in operation in Arkansas,<sup>209</sup> and that program could help connect attorneys with clients in need. Such CLE-linked incentives could increase pro bono legal work, ease the CLE burden on rural attorneys, and enhance access to justice in rural Arkansas.

## 2. *Encouraging Unbundled Legal Services*

Unbundled legal services (also known as limited scope representation) are a type of legal representation where an attorney and client agree to limit the scope of the attorney's responsibility for a legal issue, leaving the client with responsibility for the remainder of the case.<sup>210</sup> As AAJC executive director Amy Dunn Johnson has observed, "[t]he growth in the number of low- to moderate-income Americans means that standard, full-service representation for routine matters is increasingly beyond what average citizens can afford."<sup>211</sup> Self-representation can have dire, adverse consequences.<sup>212</sup> Unbundled legal services can be a critical part of the solution. Such limited services are important and helpful alternatives everywhere, but the shortage of lawyers in rural communities gives this option particular potential for meeting the legal needs of rural Arkansans.<sup>213</sup>

Unfortunately, few Arkansas attorneys have incorporated unbundled legal services into their practice's business model.<sup>214</sup> Arkansas Rule of Professional Conduct 1.2(c) states that an attorney may engage in this form of representation if the limitation is reasonable and if the client gives informed

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ciation; (3) the Ohio Legal Assistance Foundation; and (4) "[a]ny other organization recognized by the Commission as providing pro bono programs or services in Ohio." *Id.*

209. SANDEFUR & SMYTH, *supra* note 5, at 37.

210. *See generally* STEPHANIE KIMBRO, PRACTICING LAW ONLINE: CREATING A VIRTUAL LAW OFFICE 7–10 (2nd ed. 2015), <http://ssrn.com/abstract=2578109> (discussing the benefits of unbundled legal services for small firms, especially via online engagement).

211. Amy Dunn Johnson, *Unbundled Legal Services: A Revolution Whose Time Has Come*, THE ARK. LAW., Summer 2014, at 28.

212. Hammersly, *supra* note 16; PAINTER, *supra* note 15.

213. *See* Scott L. Cummings & Jeffrey Selbin, *Poverty Law: United States*, INT'L ENCYCLOPEDIA OF SOC. AND BEHAVIORAL SCI. (2nd ed.) (forthcoming 2015) <http://ssrn.com/abstract=2242275> (observing that unbundled legal services are increasingly being utilized in places with scarce resources, including rural areas, although the practice has drawn criticism).

214. Johnson, *supra* note 211, at 30.

consent.<sup>215</sup> Nevertheless, many attorneys are wary of providing such services for a number of reasons, including whether a certain case is appropriate for the type of representation, the extent to which a case may lead to malpractice liability, the extent to which ghostwriting (attorney drafting of a document or pleading on behalf of a client without formally entering an appearance with the court) is allowed, and whether judges will honor limited representation.<sup>216</sup>

The Arkansas Access to Justice Commission is currently developing proposed amendments to the Arkansas Rules of Professional Conduct and the Arkansas Rules of Civil Procedure in an attempt to provide clearer directives on such limited representation.<sup>217</sup> The Rule could, for example, set out types of cases where limited representation is specifically not allowed. Unbundled legal services should not, for example, be permitted in complex child custody cases and criminal cases.<sup>218</sup> More detailed guidelines from the Arkansas Supreme Court and from the Committee on Professional Conduct could effectively encourage attorneys to offer unbundled legal services.<sup>219</sup>

### 3. *What Other Institutions Can Do*

#### a. Judicial clerkships in rural counties

Various other programs could also ameliorate Arkansas's looming rural justice crisis. One featured in the legislative proposal we support (Appendix II) is a program that creates judicial clerkships in rural areas. These clerkships would presumably be staffed by recent law school graduates, thus drawing them into rural settings. Arkansas has twenty-eight judicial circuits serving the seventy-five counties, but Pulaski County is the only county whose budget provides its judges with law clerks. Judges in rural areas are not only without law clerks, they are without adequate resources of other types too, in spite of significant case loads. Many do not have a law library, and they often must travel extensive distances over the course of a week.<sup>220</sup>

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215. ARK RULE OF PROF'L CONDUCT 1.2(c) (2005).

216. Johnson, *supra* note 211, at 30.

217. *Id.*; see also Greacen et al., *supra* note 12.

218. Johnson, *supra* note 211, at 30.

219. Wyoming is among states that have taken steps to facilitate the unbundling of legal services. The Wyoming Legal Center, in cooperation with the Wyoming Access to Justice Commission and its state bar, has provided training and CLE's on unbundled legal services to Wyoming attorneys throughout the state and at the state bar association meeting. See generally Angie Dorsch, *Wyoming Center for Legal Aid, Access to Justice Initiatives Continue to Expand Services to New Areas of the State*, THE WYO. LAW., August 2013.

220. BALLOTPEdia, [http://ballotpedia.org/Arkansas\\_Circuit\\_Courts](http://ballotpedia.org/Arkansas_Circuit_Courts) (last visited Aug. 23, 2015). For example, Arkansas's First Circuit Judicial District covers a wide swath of east-central Arkansas, including Cross, Lee, Monroe, Phillips, St. Francis, and Woodruff Coun-

Funding clerks to assist these judges would help the judges, while giving budding attorneys an opportunity to engage the rural justice system and experience rural living. According to the National Health Service Corps, those trained in rural areas are two to three times more likely to stay in those areas, and the same might prove true of lawyers.<sup>221</sup>

b. Legal aid fellowships

Second, a legal aid fellowship program should be created to help attract new lawyers to rural Arkansas. Arkansas's two nonprofit civil legal aid organizations provide representation to Arkansans facing critical civil legal issues, including domestic violence, mortgage foreclosures, and child custody. With a combined sixteen offices statewide, these organizations have a significant opportunity to train attorneys interested in rural practice.

The fellowship program that we support would provide funding for these nonprofit legal aid providers to hire newly licensed attorneys who would make a two-year commitment to spend at least 50% of their time providing legal services to individuals in rural Arkansas. Each fellow would work under the direct supervision of senior legal aid staff, with a guaranteed source of part-time income and support. The fellow would also have the flexibility to spend the other half of her time establishing a practice and developing a base of paying clients in her rural locale.

Recall that when asked about the attractiveness of such a program, more than a quarter of the student respondents at both UALR/Bowen and UA Fayetteville assessed the program as "very attractive."<sup>222</sup> Less than 10% of students at each school deemed it "not attractive at all." Thus, many more students found the program attractive than could possibly be accommodated in terms of sheer numbers. This seems a promising sort of program for enticing willing law graduates into underserved rural areas, providing them fiscal support as well as training while they establish a paying client base.

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ties. *Id.* (showing three of these six counties are Rural Counties: Lee, Monroe and Woodruff). The Thirteenth Circuit Judicial District includes Calhoun, Cleveland, Columbia, Dallas, Ouachita, and Union Counties, three of which are Rural Counties: Cleveland, Calhoun, and Dallas). *Id.* (showing the Tenth Circuit Judicial District is also quite large, encompassing Ashley, Bradley, Chicot, Desha, and Drew Counties). *See infra* Appendix I and *supra* Maps 1A–1D (listing Chicot, Desha, and Bradley as Rural Counties with some of the highest poverty rates in the state).

221. *See* Bronner, *supra* note 16; Alsgaard, *supra* note 18, at 609 (projecting that success in recruiting doctors to rural areas by placing them in residencies in rural areas will translate to success in recruiting lawyers to rural areas by placing them in rural clerkship positions).

222. *See supra* Part IV.F.

c. Distance incubator programs

Next, we support a distance legal incubator program that would prepare recent law student graduates for practicing law, presumably in small or solo practices, in underserved communities.<sup>223</sup> The program would offer support and structure including, but not limited to, access to an experienced lawyer for mentoring, training in skills such as client development and law office management, and introductions to the legal community. Participants would conduct legal clinics in underserved areas of Arkansas. Incubator participants who choose to reside in and serve qualifying rural counties would have access to online legal research, legal malpractice insurance, and other professional amenities, the expense of which would otherwise increase their overhead cost and possibly deter them from rural practice. Recall the significant number of student respondents who indicated that their reluctance to enter rural practice stemmed from concern about its economic viability.<sup>224</sup> An incubator program could help allay those concerns.

Incubator program offices could be set up at each of the state's law schools, with those institutions covering the overhead cost for office space and supplies. The state should fund personnel costs, including two experienced attorneys who could work part-time to mentor those engaging in start-up rural practices. Law schools have great incentives to foster and support the incubator program because it could serve their recent graduates, thus bolstering employment data and enhancing rankings.<sup>225</sup>

Indeed, one or both of the state's law schools might take the additional step of establishing a non-profit law firm to employ their recent graduates while the newly licensed attorneys take advantage of the incubator training opportunity. Given the non-profit status of such a firm, these junior lawyers could devote their time to providing low-cost legal services, perhaps on a

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223. See generally Luz E. Herrera, *Training Lawyer-Entrepreneurs*, 89 DENV. U. L. REV. 88 (2013) (discussing the need for law schools to assist thousands of lawyers who are self employed due to the recession to become lawyer-entrepreneurs and potentially develop their own law practices targeting segments of the population with little legal access).

224. See *supra* Part IV.D–G; see also Hart, *supra* note 153.

225. In California, which has developed a robust incubator program in recent years, virtually every major law school is supporting an incubator program. These include Thomas Jefferson School of Law's Center for Solo Practitioners (San Diego) and California Western School of Law's Access to Law Initiative. Among the law schools supporting the Bay Area Legal Incubator are University of California, Berkeley School of Law, University of California Hastings College of Law, University of San Francisco Law School, Golden Gate University School of Law, and Santa Clara University School of Law. The Legal Entrepreneur Assistance Program (LEAP) in Orange County is supported by the University of California, Irvine, Chapman University's Dale Fowler School of Law, Whittier Law School, and Western State College of Law. The Los Angeles Incubator Consortium is supported by UCLA, Pepperdine and Southwestern Law Schools.

sliding scale.<sup>226</sup> Of course, such a non-profit firm based in Little Rock or Fayetteville would do little to meet the needs of rural residents, given the spatial dispersion across Arkansas of the Rural Counties. Nevertheless, with proper funding and marketing, small satellite offices of the non-profit law firm could be established in the state's regional centers to enable rural Arkansans to access services at the regional level, if not the county level. Rural residents could be given priority for receipt of services.

Incubator programs in other states have become self-sufficient after a few years of operation. Further, these programs have proved attractive to recent law graduates, even in states with populations that are more heavily urban than Arkansas's. For example, an incubator program serving twenty counties in northern California was launched in 2015.<sup>227</sup> Some thirty attorneys expressed interest in the program during its first year of operation, "because they would like to live in the area but do not know how to set up a practice."<sup>228</sup> The first group of four attorneys enrolled in the year-long program beginning 2015, and a further eight—all just out of law school—began in January 2016.<sup>229</sup> If an incubator program can be so immediately successful in a heavily metropolitan state like California, we have every reason to expect an incubator program would be at least as attractive to recent law

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226. Arizona State University College of Law founded such a program in 2014, employing thirty graduates providing low-cost legal service in Phoenix. See Ethan Bronner, *To Place Graduates, Law Schools Are Opening Firms*, N.Y. TIMES (Mar. 7, 2013), [http://www.nytimes.com/2013/03/08/education/law-schools-look-to-medical-education-model.html?\\_r=0](http://www.nytimes.com/2013/03/08/education/law-schools-look-to-medical-education-model.html?_r=0); see also Luz Herrera, *Encouraging the Development of "Low Bono" Law Practices*, 14 U. MD. L.J. RACE, RELIGION, GENDER & CLASS 1 (2014) (advocating "low bono" legal services that will increase access to legal services for those who cannot afford typical lawyer fees but who do not qualify for legal aid).

227. The Northern California Lawyer Access (NCLA) was founded in 2015 with a grant from the California Bar Association and is based in Nevada City, California. It aims to serve dual goals of "training new lawyers in effective and ethical law practice management" and the delivery of "legal services to moderate and low income residents in rural California." Press Release, NCLA Academy (May 27, 2015) (on file with author). NCLA offers a "Law Practice Academy" that requires a year-long commitment combining an "eight-week study of law practice management and substantive law, with the hands-on provision of pro bono, moderate and low cost legal services. Experienced instructors and mentors assist attorneys in case management and procedural issues." *Id.* Other California incubator programs are located in the state's major metropolitan areas, including San Diego, Orange County, Los Angeles, and the Bay Area. *Id.*

228. Email from Theresa Mesa, Program Developer, Office of Legal Services, State Bar of California, to Professor Lisa Pruitt (Oct. 14, 2015) (on file with author). The "challenge is covering an area the size of Ohio, where broadband is a luxury, and many roads are not direct or not well-paved. They plan to have remote, dedicated terminals that clients can use to communicate with their lawyers and to send and receive documents so that travel is minimized." *Id.*

229. *Id.* The inaugural group at the Academy is four attorneys, with one to three years of experience under their belts.

graduates in Arkansas. Indeed, the student survey results support that expectation.

d. A role for law schools

Housing an incubator program and establishing a non-profit law firm to help train and launch attorneys into small practices in the state's rural areas are just two roles that Arkansas's law schools can play in alleviating the rural-urban justice gap. Both types of programs highlight the potential of law schools in achieving the goal of 100% access.<sup>230</sup> That is, if law schools gave students exposure to rural practice and rural issues, as through clinical experiences,<sup>231</sup> substantive teaching,<sup>232</sup> and public service or pro bono opportunities, some students might discover that rural practice is more attractive than they thought.<sup>233</sup> Attending to applicants' county of origin in the admissions process would also be a good idea. While there is no guarantee that a student from an underserved county will return to the home county to practice, our survey results suggest that some law graduates from rural counties will be more open to doing so than their counterparts raised in cities.

The survey results establish that significant numbers of students are willing—some even eager—to take practice opportunities in rural places. Most of these students must be convinced, however, that they can make the economics of rural practice work. Student exposure to rural work done by attorneys—both mentors and mentees who are part of a distance incubator program or non-profit law firm associated with Arkansas's law schools, for example—could help allay fiscal and other practical concerns of graduating students who are open minded about rural practice. Such exposure could prove to be effective marketing about the promise and potential of such legal entrepreneurship in rural places.

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230. See Greacen et al., *supra* note 12.

231. See generally Robin Runge & Chrystine J. Vachon, *Planting the Seeds and Getting into the Field: The Role of Law Schools in Ensuring Access to Justice in Rural Communities*, 59 S.D. L. REV. 616 (2014).

232. See generally Pruitt, *Rural Rhetoric*, *supra* note 33.

233. See Wandler, *supra* note 14, at 243 (asserting that law schools should do more to inculcate an ethic of service); see also Bret Schulte, *Down in the Delta, Outsiders Who Arrived to Teach Find a Home*, N.Y. TIMES (July 2013), <http://www.nytimes.com/2013/07/22/us/down-in-the-delta-outsiders-who-arrived-to-teach-now-find-a-home.html> (suggesting that rural living can attract young urbanites in reporting that many Teach for America alumni who moved to the Mississippi Delta from other parts of the country have chosen to stay there; estimating that, in the twenty years since TFA began sending corps members to the Delta, 250 have stayed).

e. Increased funding for legal aid

Finally, although civil legal aid in Arkansas has produced excellent results for many Arkansans, it is badly underfunded and unable to serve adequately all rural parts of the state.<sup>234</sup> The 2015 proposal to the Arkansas General Assembly suggests that the State provide funding for an additional four to six staff attorneys for Arkansas's Legal Aid organizations. Those positions should be ear-marked for underserved rural regions.

## VI. CONCLUSION

The disparity between rural and urban Arkansas in per capita attorney population is striking, and the consequences of that disparity for access to justice in the state's rural reaches are alarming. Nearly half of the state's lawyers practice in Pulaski County and neighboring Saline and Faulkner Counties,<sup>235</sup> though just more than a fifth of the state's population lives in that cluster of central Arkansas counties.<sup>236</sup> Meanwhile, the state's twenty-five least populous counties are home to more than 250,000 residents,<sup>237</sup> but fewer than 200 lawyers serve them.<sup>238</sup> Indeed, the situation is even more dire when we consider the paltry number of attorneys—just ninety-five—accepting private representation in the Rural Counties.<sup>239</sup> Further, many of these least populous and underserved counties are clustered together in certain regions of the state,<sup>240</sup> suggesting that some geographic segments of Arkansas are, in their entirety, without a sufficient lawyer population.

Rural Arkansas has a lot to offer entrepreneurial lawyers, including low cost of living, short commutes, easy access to civic leadership, variety of practice, and little local competition for clients.<sup>241</sup> But these attractions are perhaps not apparent to Generation X and the Millennials now entering the legal profession. Alternatively, young lawyers may be aware of these bene-

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234. SANDEFUR & SMYTH, *supra* note 5, at 37 (noting that Arkansas has 1% of the nation's population, but 1.3% of the nation's LSC-eligible population; also, Arkansas receives just 0.4% of all funds from state legislature appropriations and court fees and fines that fund legal services).

235. *See supra* Part II.D.5.

236. *See* U.S. CENSUS BUREAU, STATE AND COUNTY QUICKFACTS: ARKANSAS, *supra* note 7.

237. *Id.*

238. *See supra* Part II.D (citing both Appendix I and Maps 1A–1D).

239. *See id.*

240. *See supra* Maps 1A–1D.

241. *See* Mader, *supra* note 17; Roy S. Ginsburg, *Go Rural, Get a Job: Be a Small-Town Lawyer*, ATTORNEY AT WORK (Feb. 5, 2014), <http://www.attorneyatwork.com/be-a-small-town-lawyer>.

fits but nevertheless believe they are outweighed by downsides like those enumerated by many of the law students who responded to our survey.

Yet, even as many students articulated negative views of rural places, significant numbers of students also expressed openness to rural practice, particularly if they had adequate fiscal support, e.g., loan repayment assistance, and training in skills and practice management.<sup>242</sup> Indeed, the survey data strongly indicate that financial incentives will be necessary to attract sufficient attorneys to Arkansas's underserved rural areas.<sup>243</sup> Detailed salary data like that recently gathered in Texas might also prove useful,<sup>244</sup> especially if it served to establish the economic viability—perhaps even the entrepreneurial potential—of rural practice in Arkansas.

Our data suggest that providing incentives and resources for those interested in practicing law in Arkansas's rural reaches—or at least open to doing so—would be effective at getting more lawyers to where their services are needed. We hope that the data we have gathered to substantiate in detail the nature of this problem, as well as our exploration of the likely success of possible interventions, will inform policy-maker action in Arkansas. We make no claim to offering an exhaustive list of possible interventions, but we hope we have helped raise awareness among attorneys and the public at large regarding the looming access-to-justice crisis in rural Arkansas. It is within the power of Arkansas's governing institutions—with strategic partnerships and investments in new institutions and programs—to close the rural-urban justice gap. Doing so, in turn, can level the justice playing field and profoundly improve the quality of life for rural Arkansans.

Apart from the import of our findings for the access-to-justice landscape in Arkansas, we hope that our empirical work may also inform other states with concerns about their own rural lawyer shortages. Most states do not keep systematic records that permit them easily to see where and how great their rural lawyer shortages are. This data deficit makes it difficult to convince stakeholder institutions that government intervention is necessary. We therefore encourage other states to do what we have done for and in Arkansas—map where the lawyers are and seek to identify trends that may shed light on the causes of shortages in particular places.

Second, states need data about why recent law graduates and other lawyers are generally reluctant to practice in rural places. If we do not know why graduates are rejecting rural practice, we will not know if those wishing to ameliorate the rural lawyer shortage are able to respond to their concerns. No state can lower or eliminate all structural roadblocks to rural practice, e.g., the relative shortage of potential life partners. Institutional stakeholders

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242. *See supra* Part IV.F.

243. *See supra* Part IV.F.

244. *See supra* notes 155–61 and accompanying text.

can respond, however, to the sort of economic and practical concerns that loom large for many young attorneys who are otherwise open to rural practice. In this regard, Arkansas may face fewer challenges than many other states because Arkansas's two public law schools are among the best legal education bargains in the nation.

It is harder to say what role Arkansas's slow pace of urbanization plays in the rural lawyer shortage. At first blush, the existence of significant pockets of rurality in each region of the state suggests that a high percentage of Arkansans have experienced some significant brush with rurality—if only visiting grandparents in the countryside or enjoying ecotourism in the “Natural State.” But these typically limited experiences with rurality will not necessarily cause young lawyers to want to live in rural places and take up rural legal practice. It is possible that the old adage—familiarity breeds contempt—holds true in this context, as the comments of some student respondents suggest. On the other hand, law students who had grown up in Rural Counties seemed more open overall to practicing in such sparsely populated places. We will have a greater understanding of the impact of Arkansas's significant rural population on the state's rural lawyer shortage only after more urbanized states have explored the issues we have examined here.



**Appendix I**

County	Population (2014)	Arkansas Judiciary Data (AJD) Attorneys (July 2015)	AJD Attorneys per 1K (July 2015)	IOLTA Attorneys (Dec. 2014)	IOLTA Attorneys per 1K Population (Dec. 2014)	AJD Average Bar Year (July 2015)	AJD Median Bar Year (July 2015)	AJD Oldest Bar Year (July 2015)
Arkansas	18,594	28	1.51	12	0.65	1989	1993	1964
Ashley	20,948	23	1.10	16	0.76	1985	1983	1957
Baxter	40,857	52	1.27	26	0.64	1990	1993	1961
Benton	242,321	505	2.08	163	0.67	1997	2000	1950
Boone	37,196	55	1.48	22	0.59	1987	1984	1956
Bradley	11,148	6	0.54	4	0.36	1978	1980	1957
Calhoun	5,202	2	0.38	1	0.19	1988	1988	1975
Carroll	27,744	30	1.08	10	0.36	1994	1996	1969
Chicot	11,180	13	1.16	8	0.72	1983	1980	1963
Clark	22,576	51	2.26	32	1.42	1995	1997	1968
Clay	15,118	10	0.66	5	0.33	1978	1976	1959
Cleburne	25,634	47	1.83	20	0.78	1990	1991	1950
Cleveland	8,449	0	N/A	N/A	N/A	N/A	N/A	N/A
Columbia	23,933	24	1.00	16	0.67	1984	1983	1952
Conway	21,083	19	0.90	7	0.33	1988	1987	1958
Craighead	102,518	237	2.31	123	1.20	1993	1995	1951
Crawford	61,697	66	1.07	21	0.34	1993	1996	1950
Crittenden	49,548	48	0.97	29	0.59	1988	1987	1961

County	AJD Newest Bar Year (July 2015)	IOLTA Average Bar Year (Dec. 2014)	IOLTA Median Bar Year (Dec. 2014)	IOLTA Oldest Bar Year (Dec. 2014)	IOLTA Newest Bar Year (Dec. 2014)	Poverty Rate (2009–2013)	Median Household Income (2009–2013)
Arkansas	2013	1991	1995	1969	2013	15.8%	\$ 39,633
Ashley	2012	1986	1985	1957	2012	18.9%	\$ 35,683
Baxter	2014	1987	1988	1941	2011	15.5%	\$ 35,343
Benton	2015	1997	1988	1967	2013	12.2%	\$ 54,515
Boone	2015	1988	1984	1967	2009	16.6%	\$ 38,506
Bradley	1998	1975	1980	1957	2001	31.3%	\$ 30,409
Calhoun	2001	2001	2001	2001	2001	14.9%	\$ 30,980
Carroll	2014	2000	2002	1989	2013	18.8%	\$ 36,584
Chicot	2005	1979	1980	1963	1990	33.0%	\$ 26,201
Clark	2013	1994	1997	1968	2013	24.3%	\$ 32,721
Clay	2001	1981	1990	1959	1997	20.2%	\$ 31,502
Cleburne	2014	1993	1993	1961	2012	15.8%	\$ 40,246
Cleveland	N/A	N/A	N/A	N/A	N/A	17.7%	\$ 39,420
Columbia	2013	1988	1983	1966	2013	25.4%	\$ 35,128
Conway	2013	1993	1995	1976	2013	24.0%	\$ 35,225
Craighead	2015	1993	1995	1964	2013	20.6%	\$ 41,393
Crawford	2015	1992	1996	1950	2007	20.2%	\$ 39,479
Crittenden	2014	1989	1992	1963	2013	26.3%	\$ 37,751

County	Population (2014)	Arkansas Judiciary Data (AJD) Attorneys (July 2015)	AJD Attorneys per 1K (July 2015)	IOLTA Attorneys (Dec. 2014)	IOLTA Attorneys per 1K Population (Dec. 2014)	AJD Average Bar Year (July 2015)	AJD Median Bar Year (July 2015)	AJD Oldest Bar Year (July 2015)
Cross	17,227	15	0.87	12	0.70	1989	1996	1951
Dallas	7,755	7	0.90	2	0.26	1982	1979	1972
Desha	12,264	16	1.30	7	0.57	1983	1980	1960
Drew	18,622	30	1.61	11	0.59	1990	1990	1962
Faulkner	120,768	200	1.66	59	0.49	1993	1994	1953
Franklin	17,805	18	1.01	11	0.62	1990	1992	1971
Fulton	12,125	9	0.74	6	0.49	1983	1979	1976
Garland	97,322	186	1.91	92	0.95	1990	1991	1957
Grant	18,144	16	0.88	4	0.22	1991	1994	1967
Greene	43,694	34	0.78	22	0.50	1989	1991	1957
Hempstead	22,327	22	0.99	7	0.31	1992	1986	1973
Hot Springs	33,368	31	0.93	13	0.39	1992	1997	1957
Howard	13,500	9	0.67	5	0.37	1993	1991	1974
Independence	36,959	52	1.41	29	0.78	1990	1988	1965
Izard	13,486	13	0.96	3	0.22	1991	1989	1969
Jackson	17,534	20	1.14	10	0.57	1984	1980	1949
Jefferson	72,297	130	1.80	54	0.75	1988	1989	1948
Johnson	26,005	18	0.69	7	0.27	1987	1984	1970
Lafayette	7,111	3	0.42	2	0.28	1983	1978	1975
Lawrence	16,931	11	0.65	5	0.30	1994	1994	1968
Lee	9,860	14	1.42	5	0.51	1986	1985	1968

County	AJD Newest Bar Year (July 2015)	IOLTA Average Bar Year (Dec. 2014)	IOLTA Median Bar Year (Dec. 2014)	IOLTA Oldest Bar Year (Dec. 2014)	IOLTA Newest Bar Year (Dec. 2014)	Poverty Rate (2009–2013)	Median Household Income (2009–2013)
<b>Cross</b>	2012	1992	1996	1966	2012	17.4%	\$ 38,085
<b>Dallas</b>	1997	1978	1978	1976	1979	19.7%	\$ 28,931
<b>Desha</b>	2008	1983	1983	1960	2005	30.1%	\$ 28,680
<b>Drew</b>	2014	1986	1989	1962	2005	28.5%	\$ 31,171
<b>Faulkner</b>	2015	1993	1994	1953	2011	14.6%	\$ 50,314
<b>Franklin</b>	2009	1986	1991	1971	2005	20.5%	\$ 36,766
<b>Fulton</b>	1999	1983	1982	1976	1999	18.7%	\$ 35,522
<b>Garland</b>	2014	1991	1992	1964	2013	20.7%	\$ 39,162
<b>Grant</b>	2008	1990	1994	1971	1999	9.9%	\$ 49,004
<b>Greene</b>	2011	1993	1996	1967	2011	17.1%	\$ 38,413
<b>Hempstead</b>	2015	1988	1984	1973	2008	27.4%	\$ 32,056
<b>Hot Springs</b>	2013	2000	1999	1982	2006	14.2%	\$ 41,193
<b>Howard</b>	2009	1991	1989	1984	2009	23.2%	\$ 35,879
<b>Independence</b>	2013	1990	1990	1965	2013	23.7%	\$ 35,026
<b>Izard</b>	2011	1990	1996	1969	2005	18.7%	\$ 30,661
<b>Jackson</b>	2013	1984	1980	1967	2011	28.4%	\$ 30,284
<b>Jefferson</b>	2009	1988	1990	1951	2013	23.9%	\$ 37,140
<b>Johnson</b>	2009	1990	1995	1974	2004	20.1%	\$ 31,003
<b>Lafayette</b>	1995	1987	1987	1978	1995	24.1%	\$ 29,732
<b>Lawrence</b>	2015	1992	1994	1969	2011	25.4%	\$ 32,239
<b>Lee</b>	2015	1976	1971	1968	1988	31.5%	\$ 25,034

County	Population (2014)	Arkansas Judiciary Data (AJD) Attorneys (July 2015)	AJD Attorneys per 1K (July 2015)	IOLTA Attorneys (Dec. 2014)	IOLTA Attorneys per 1K Population (Dec. 2014)	AJD Average Bar Year (July 2015)	AJD Median Bar Year (July 2015)	AJD Oldest Bar Year (July 2015)
<b>Lincoln</b>	13,970	7	0.50	4	0.29	1985	1984	1963
<b>Little River</b>	12,532	9	0.72	6	0.48	1991	1988	1970
<b>Logan</b>	21,958	20	0.91	14	0.64	1990	1983	1963
<b>Lonoke</b>	71,557	89	1.24	28	0.39	1995	2000	1958
<b>Madison</b>	15,740	8	0.51	2	0.13	1993	1995	1957
<b>Marion</b>	16,367	11	0.67	4	0.24	1991	1990	1963
<b>Miller</b>	43,428	45	1.04	19	0.44	1991	1990	1959
<b>Mississippi</b>	44,235	34	0.77	23	0.52	1983	1984	1954
<b>Monroe</b>	7,582	9	1.19	6	0.79	1986	1982	1970
<b>Montgomery</b>	9,082	3	0.33	3	0.33	1993	1995	1978
<b>Nevada</b>	8,723	8	0.92	4	0.46	1989	1985	1963
<b>Newton</b>	7,904	5	0.63	3	0.38	1986	1985	1973
<b>Ouachita</b>	24,828	22	0.89	9	0.36	1984	1979	1960
<b>Perry</b>	10,245	10	0.98	5	0.49	1989	1992	1967
<b>Phillips</b>	19,930	36	1.81	21	1.05	1990	1993	1954
<b>Pike</b>	11,024	5	0.45	2	0.18	1997	2004	1976
<b>Poinsett</b>	24,246	15	0.62	6	0.25	1988	1986	1960
<b>Polk</b>	20,225	23	1.14	11	0.54	1988	1987	1964
<b>Pope</b>	63,201	103	1.63	44	0.70	1995	1997	1965
<b>Prairie</b>	8,304	8	0.96	6	0.72	1990	1985	1965
<b>Pulaski</b>	392,702	3244	8.26	1130	2.88	1993	1995	1947

County	AJD Newest Bar Year (July 2015)	IOLTA Average Bar Year (Dec. 2014)	IOLTA Median Bar Year (Dec. 2014)	IOLTA Oldest Bar Year (Dec. 2014)	IOLTA Newest Bar Year (Dec. 2014)	Poverty Rate (2009–2013)	Median Household Income (2009–2013)
Lincoln	2004	1991	1991	1979	2004	27.0%	\$ 32,697
Little River	2015	1984	1980	1970	2009	14.0%	\$ 39,673
Logan	2014	1987	1982	1963	2012	17.6%	\$ 34,996
Lonoke	2015	1996	1998	1967	2013	13.2%	\$ 52,582
Madison	2013	1978	1978	1972	1984	22.6%	\$ 35,771
Marion	2014	1990	1994	1971	2000	18.9%	\$ 34,494
Miller	2015	1990	1990	1973	2011	19.5%	\$ 41,319
Mississippi	2013	1985	1983	1957	2012	24.9%	\$ 36,428
Monroe	2005	1986	1984	1970	2005	28.8%	\$ 27,263
Montgomery	2005	1993	1995	1978	2009	22.0%	\$ 31,345
Nevada	2012	1980	1974	1963	2009	26.5%	\$ 33,694
Newton	2010	1986	1974	1973	2010	23.5%	\$ 30,038
Ouachita	2013	1984	1978	1964	2006	23.1%	\$ 32,015
Perry	2005	1995	2003	1967	2005	15.6%	\$ 42,455
Phillips	2015	1993	1994	1973	2011	33.5%	\$ 26,737
Pike	2006	1999	1999	1993	2004	24.8%	\$ 32,206
Poinsett	2012	1999	1982	1993	2004	28.1%	\$ 32,089
Polk	2013	1987	1986	1960	2011	23.1%	\$ 32,835
Pope	2015	1989	2001	1972	2013	19.3%	\$ 40,453
Prairie	2013	1997	1996	1965	2013	21.2%	\$ 34,855
Pulaski	2015	1996	1971	1977	2013	17.2%	\$ 46,013

County	Population (2014)	Arkansas Judiciary Data (AJD) Attorneys (July 2015)	AJD Attorneys per 1K (July 2015)	IOLTA Attorneys (Dec. 2014)	IOLTA Attorneys per 1K Population (Dec. 2014)	AJD Average Bar Year (July 2015)	AJD Median Bar Year (July 2015)	AJD Oldest Bar Year (July 2015)
<b>Randolph</b>	17,571	19	1.08	9	0.51	1988	1980	1967
<b>Saline</b>	115,719	186	1.61	46	0.40	1996	1998	1951
<b>Scott</b>	10,693	4	0.37	1	0.09	1987	1986	1968
<b>Searcy</b>	7,929	7	0.88	2	0.25	1995	1995	1970
<b>Sebastian</b>	126,776	347	2.74	154	1.21	1989	1989	1947
<b>Sevier</b>	17,426	8	0.46	4	0.23	1993	1996	1967
<b>Sharp</b>	16,906	10	0.59	3	0.18	1980	1980	1964
<b>St. Francis</b>	26,899	28	1.04	15	0.56	1987	1990	1960
<b>Stone</b>	12,494	13	1.04	4	0.32	1986	1982	1960
<b>Union</b>	40,227	79	1.96	30	0.75	1988	1988	1953
<b>Van Buren</b>	16,851	22	1.31	9	0.53	1993	1994	1962
<b>Washington</b>	220,792	937	4.24	368	1.67	1996	1998	1951
<b>White</b>	78,592	94	1.20	40	0.51	1994	1996	1958
<b>Woodruff</b>	6,910	9	1.30	4	0.58	1981	1979	1969
<b>Yell</b>	21,951	15	0.68	4	0.18	1985	1983	1962
<b>AVERAGE:</b>	39,552	100.83	2.55	40	0.99	1993		1962
<b>TOTALS:</b>	2,966,369	7,562		2,924				

County	AJD Newest Bar Year (July 2015)	IOLTA Average Bar Year (Dec. 2014)	IOLTA Median Bar Year (Dec. 2014)	IOLTA Oldest Bar Year (Dec. 2014)	IOLTA Newest Bar Year (Dec. 2014)	Poverty Rate (2009–2013)	Median Household Income (2009–2013)
<b>Randolph</b>	2012	1993	1985	1953	2013	21.8%	\$ 34,418
<b>Saline</b>	2015	1990	1997	1970	2012	8.6%	\$ 55,348
<b>Scott</b>	2007	2007	2007	2007	2007	20.0%	\$ 37,448
<b>Searcy</b>	2015	1983	1983	1970	1995	26.1%	\$ 30,779
<b>Sebastian</b>	2015	1988	1988	1967	2013	21.2%	\$ 40,471
<b>Sevier</b>	2010	1996	1995	1982	2010	24.4%	\$ 35,153
<b>Sharp</b>	2005	1984	1982	1964	2005	23.9%	\$ 30,861
<b>St. Francis</b>	2011	1988	1991	1966	2010	28.4%	\$ 30,873
<b>Stone</b>	2011	1996	1997	1981	2011	25.5%	\$ 29,832
<b>Union</b>	2014	1987	1982	1963	2013	21.5%	\$ 37,435
<b>Van Buren</b>	2012	1995	1999	1973	2010	24.5%	\$ 32,517
<b>Washington</b>	2015	1996	1997	1959	2013	20.7%	\$ 41,248
<b>White</b>	2015	1995	1997	1969	2013	17.5%	\$ 42,487
<b>Woodruff</b>	1998	1975	1973	1969	1984	24.3%	\$ 28,259
<b>Yell</b>	2012	1983	1984	1967	1997	22.7%	\$ 35,535
<b>AVERAGE:</b>	2011	1992		1969	2007	19.2%	\$ 40,149
<b>TOTALS:</b>							

## **Appendix II**

### **PROPOSAL TO INCREASE LEGAL ACCESS IN RURAL ARKANSAS**

Arkansas Access to Justice Commission | University of Arkansas School of Law | University of Arkansas at Little Rock William H. Bowen School of Law

Residents of rural Arkansas are facing a looming crisis when it comes to access to legal representation. Without the help of a lawyer, families with critical legal problems—even ones affecting basic human needs—are left to flounder on their own. The national per capita average of attorneys is 4.11 per 1,000 residents. Among the states surrounding Arkansas, the average is 3.28 per 1,000. Arkansas's average is 2.04 per 1,000. Among the twenty-five most sparsely populated counties in Arkansas (the "Rural Counties"), the average is only 0.72 per 1,000. At least one Arkansas county has no lawyers at all.

On average, the attorneys in the Rural Counties are older than the general population, and they also tend to be older than the average Arkansas attorney. The rate of new attorneys locating in the Rural Counties is very low, with only fourteen attorneys locating in any of the Rural Counties between 2008 and 2013. Twenty-eight percent (28%) of the Rural Counties have no attorneys who were licensed in this millennium.

If swift action is not taken to address this disparity, the accident of where in Arkansas someone lives will likely determine his or her ability to access essential legal services. This proposal outlines five complementary programs that will work together to increase the presence of lawyers in rural Arkansas: (1) a loan repayment program for attorneys who locate in Rural Counties; (2) a judicial clerkship program to benefit circuit judges and courts in Rural Counties; (3) a fellowship program for Legal Aid attorneys in Rural Counties; (4) a distance incubator program that emphasizes skills needed to successfully establish practices in Rural Counties; and (5) the addition of two Legal Aid staff attorney positions in Rural Counties.

These programs are proposed on a pilot basis. The Arkansas Access to Justice Commission, University of Arkansas School of Law, and University of Arkansas at Little Rock William H. Bowen School of Law will jointly report to the General Assembly at the conclusion of Year 5 on the effectiveness of these programs in recruiting new attorneys to provide services in the Rural

Counties and on the need for continued legislative funding for one or more of the programs.

#### Loan Repayment

Programs exist in Arkansas to encourage doctors, dentists, teachers, and veterinarians to serve disadvantaged communities. The proposed Loan Repayment Assistance Program (LRAP) would create a similar program for attorneys. By helping to repay student loans, attorneys will be encouraged to locate in Rural Counties, and those who do will be better able to establish a practice in such areas.

An attorney in the program must establish an office in a Rural County and dedicate the significant majority of his or her practice to clients in a Rural County. For each year that the attorney completes in the Rural County, the attorney will receive up to \$12,000 to repay student loans. The attorney would be permitted to remain in the program for a maximum of five years, receiving a maximum student loan reimbursement of \$60,000. A pilot program of five attorneys would cost a grand total of \$300,000, which could be spread out over a period of up to nine years, if needed in order to ramp up the program and then to taper off if the program is discontinued or other sources of funding are identified. If the program is sustained, it would cost \$60,000 per year. The program would be administered by the Arkansas Access to Justice Foundation, which would select the most qualified applicants for participation in the program and ensure compliance with the program requirements.

#### Judicial Clerkship Program

Arkansas circuit courts are the state's courts of general jurisdiction, which means that they handle a wide variety of civil and criminal matters. The courts are organized into a system of twenty-eight judicial circuits that serve all seventy-five counties of the state. Only in Pulaski County are all circuit judges provided with a law clerk funded through the county budget. Many of the judges who hear cases in the Rural Counties regularly travel to several different courthouses in a judicial circuit, and they operate under strict deadlines for hearing certain matters. They typically travel to the Rural Counties without the assistance of staff and, in many locations, have no access to even basic law library materials. The availability of a law clerk would greatly enhance the ability of judges in Rural Counties to manage their caseloads in each county of their respective circuits, benefiting the judge, the attorneys, and the public.

In addition, the declining number of attorneys locating practices in Rural Counties impacts the availability of future judges to serve in these areas. A number of judicial circuits will, upon a sitting judge's retirement, have few attorneys in the circuit who can run for election to take the place of the retiring judge. Statewide, the average age of sitting trial court judges is 58.7. In 2013, the average retirement age was 65.7, suggesting that many judges are within just a few years of retirement. Without a way to develop potential successor judges in these rural areas, our state risks depriving rural citizens—particularly those without the means to travel significant distances—meaningful access to the court system.

This program will offer a mechanism for attracting new attorneys to underserved areas of the state, while meeting a need for assistance to sitting judges and fostering the tutelage of potential successors. Law clerks will be responsible for conducting legal research, drafting memoranda, and preparing court opinions. Participating clerks will also be available to supervise law students through externship programs, leveraging law student participation that will provide additional judicial support at no cost and introduce law students to rural communities.

#### Legal Aid Fellowship Program

Arkansas's two nonprofit civil legal aid providers, the Center for Arkansas Legal Services (CALs) and Legal Aid of Arkansas (LAA), provide high-quality legal representation in all seventy-five counties to low-income Arkansans facing critical civil legal problems, such as domestic violence, mortgage foreclosures, and child custody. With sixteen offices statewide, these organizations are ideal sources of infrastructure and support for new attorneys wishing to establish practices in rural areas of the state. A Legal Aid Fellowship program would provide funding for CALs and LAA to each hire a recently licensed attorney who would be expected to make a two-year commitment of at least 50% of his or her time providing services in Rural Counties where the attorney population is sparse and aging. The fellows will work under the direct supervision of senior staff who work in those areas of the state and who will provide mentoring and links to the local community. The fellow will have a guaranteed source of part-time income and support and have the flexibility to spend time outside of the legal aid commitment, but primarily within a Rural County, establishing a practice and developing a base of paying clients.

### Distance Legal Incubator

A legal incubator is a mechanism for providing structured and professional support to new law school graduates interested in creating solo or small-firm practices in underserved communities. The first incubator was created at the City University of New York School of Law in 1998, and the website of the American Bar Association reports approximately twenty-five legal incubators around the country. Incubator programs benefit law school graduates by creating jobs and allowing them to serve the communities in which they grew up, contrary to the frequent expectation that they would have to abandon those communities to make a living. Incubator graduates receive supervision and training that they would not have otherwise received had they established practices on their own. This support includes:

- Having an experienced, highly-regarded lawyer to serve as a sounding board for brainstorming
- Training in basic lawyering skills if needed
- Feedback on projects
- Training on client development
- Training on uses of technology to minimize operating costs
- Other law office management training
- Introductions to the legal community
- Inculcation of professional values

Individuals in underserved communities benefit from incubators because they not only have access to legal services they would not otherwise have had, but because the legal services they do receive are more likely to be competently performed.

The program would include a component designed to support and assist graduates who desire to practice in rural parts of the state. Graduates who participate will act as “legal circuit riders” in one or more underserved judicial districts by conducting periodic legal clinics in those areas. In addition, those who relocate to Rural Counties during their incubator tenure will have virtual access to such services and tools as online legal research, video-conferencing capability, and malpractice insurance coverage that would otherwise create significant overhead costs for them as newly established attorneys trying to build a practice. Once the program is well established, incubator participants will have access to incubator alumni across the state who will be available as mentors and who could provide space for incubator participants to meet with clients around the state.

We are therefore proposing the creation of a legal Distance Incubator, with offices in each of the two state law schools. Both law schools are willing to incur the costs of providing the necessary office space and supplies for the Distance Incubator program through a mix of private funding and redirecting existing resources. However, both law schools lack the economic resources and personnel to staff the proposed Distance Incubator program. We believe that a half-time employee at each law school can adequately staff each location. For example, at the Bowen School of Law, a person who currently works at Bowen as a half-time clinical professor would become a full-time employee. The law schools estimate this extra cost at \$35,000 per year for years one through three. Thereafter, if things go well, the Distance Incubator program will be able to cover this extra salary expense through incubator revenue. Most incubators operate practices that are able to break even after a few years.

#### Expansion of Legal Aid in Rural Counties

Arkansas is one of only seventeen states in the country that provide no general revenue funding to support the provision of civil legal aid. A 2014 study by the Arkansas Access to Justice Commission in partnership with the Clinton School of Public Service concluded that civil legal aid in Arkansas has a substantial positive economic benefit at the individual level by increasing household income, decreasing household debt, keeping families in their homes, and protecting victims of domestic violence. Our state's two legal aid programs annually produce a combined total of more than \$11.7 million in financial recoveries and avoidance of financial loss for legal aid clients and generate a total of more than \$32 million in economic activity in the state each year. They accomplish this at a cost that is \$2.4 million less than the equivalent cost of such services in the private legal market. State funding for the addition of staff attorneys dedicated to providing services in the Rural Counties will not only improve access to legal help for low-income rural Arkansans facing life-altering civil legal crises, it will create an economic stimulus effect within those communities and for the state as a whole. A total of \$500,000 is requested for four to six staff attorneys who will be dedicated to delivering services in the Rural Counties. This funding could increase the capacity of CALS and LAA to serve as many as 1,300 more clients annually. CALS and LAA presently turn away about half of the 30,000 eligible Arkansans who contact them each year for help due to resource constraints.

### Cost Summary

The Distance Incubator program would cost \$70,000 per year for three years for both locations combined. The Judicial Clerkship and Legal Aid Fellowship programs would cost \$60,000 per year each if fully funded. Finally, the proposed allocation of funds to increase legal aid staffing in Rural Counties would cost \$500,000 per year over the five year pilot period. These projections also assume cash and in-kind support from the law schools, legal aid programs, and Arkansas Access to Justice Foundation.

The Loan Repayment program would likely have a ramp-up period, so the program would need flexibility to distribute funds over a period of time that may exceed the five-year pilot period. The Arkansas Access to Justice Foundation is also committed to identifying alternative sources of funding for the program once the pilot program is established and has a demonstrated track record of success. The following cost illustration assumes that four of the five programs will be fully funded for five years, except for the Distance Incubator, which is projected to become self-sustaining after Year 3.

	LRAP	Incubator	Clerkship	Fellowship	Rural Legal Aid	Totals by Year
<b>Year 1</b>	\$60,000	\$70,000	\$60,000	\$60,000	\$500,000	<b>\$750,000</b>
<b>Year 2</b>	\$60,000	\$70,000	\$60,000	\$60,000	\$500,000	<b>\$750,000</b>
<b>Year 3</b>	\$60,000	\$70,000	\$60,000	\$60,000	\$500,000	<b>\$750,000</b>
<b>Year 4</b>	\$60,000	\$0	\$60,000	\$60,000	\$500,000	<b>\$680,000</b>
<b>Year 5</b>	\$60,000	\$0	\$60,000	\$60,000	\$500,000	<b>\$680,000</b>
<b>Totals by Program</b>	<b>\$300,000</b>	<b>\$210,000</b>	<b>\$300,000</b>	<b>\$300,000</b>	<b>\$2,500,000</b>	<b>\$3,610,000</b>

### Appendix III

#### **Access to Justice in Rural Arkansas – UA Fayetteville**

The shortage of lawyers in the rural United States has recently attracted national attention, including as the cover story of the October, 2014, A.B.A. Journal Magazine. Preliminary assessments suggest that Arkansas is among states suffering a shortage of rural lawyers. This survey is designed to investigate the extent of such a shortage in rural Arkansas, as well as the likely success of proposed solutions to that shortage. Several proposed solutions will be considered during the upcoming session of the Arkansas General Assembly.

This survey is commissioned by the Arkansas Access to Justice Commission. Created in 2003 by the Arkansas Supreme Court, the Commission coordinates statewide efforts to provide equal access to civil justice for all Arkansans. Learn more at [www.arkansasjustice.org](http://www.arkansasjustice.org) or contact Amy Dunn Johnson, Executive Director of the Arkansas Access to Justice Commission, at [adjohnson@arkansasjustice.org](mailto:adjohnson@arkansasjustice.org).

Professor Lisa R. Pruitt of the University of California, Davis, along with a team of undergraduate honors students at that university, are conducting this research for the Arkansas Access to Justice Commission. Pruitt is a graduate of the University of Arkansas School of Law and a member of the Arkansas Bar.

Your participation in this research study is voluntary. If you decide not to participate in this research survey or if you decide to withdraw from participating at any time, you will not be penalized.

The information you provide will be confidential. To help protect your confidentiality, the survey responses will not contain information that will personally identify you. The results of this study will be used for scholarly purposes and to inform solutions to the current lawyer shortage in rural Arkansas.

Survey participants at the University of Arkansas School of Law will be entered into a drawing for one of six gift certificates for \$25 each at [amazon.com](http://amazon.com).

**This survey will close on December 2nd, 2014.**

If you have any questions about the research study, please contact the prin-

principal investigator with the information provided below. This survey has been reviewed and approved by the University of California, Davis, Institutional Review Board (IRB) as consistent with procedures for research involving human subjects.

Principal Investigator:

Lisa R. Pruitt

Professor of Law

University of California, Davis

Phone: (530) 752-2750

E-mail: lrpruitt@ucdavis.edu

**Electronic Consent: Please select your choice below.**

Clicking on the “agree” button indicates that:

- You are a law student at the University of Arkansas, Fayetteville
  - You have read the above information
  - You voluntarily agree to participate
  - You are at least 18 years of age
1. If you do not wish to participate in the research study, please decline participation by clicking on the “disagree” button. If you agree to participate in this research study, please click on the “agree” button.
    - Agree
    - Disagree
  2. Are you from Arkansas?
    - Yes
    - No
  3. [If “no” to prior question] What State are you from? (**drop down menu listing all states and the District of Columbia**)
  4. [If “no” to question 2] What is the approximate population of the county you are from? (**comment box below labeled “Don’t know – please state name of county”**)
    - 19,999 or less
    - 20,000 to 49,999
    - 50,000 to 99,999
    - 100,000 to 499,999
    - 500,000 or greater
  5. [If “yes” to question 2] What county do you consider your “home” county (i.e., where you have lived the longest)? (**drop down menu listing all Arkansas counties**)

6. [If a county with a population greater than 50,000 is selected for prior question] Have you ever lived for at least one year in a county with a population of fewer than 50,000?
  - Yes
  - No
  - Don't know
7. [If "yes" to question 6, or if county with population between 15,000 and 49,999 selected for question 5] Have you ever lived for at least one year in a county with a population of fewer than 15,000?
  - Yes
  - No
  - Don't know
8. Do you currently live in Washington County?
  - Yes
  - No
9. [If "no" to prior question] In what county do you currently live while attending law school? (**drop down menu listing all Arkansas counties**)
10. [If "yes" to question 8] Do you plan to practice in Arkansas after law school graduation?
  - Yes
  - No
  - Don't know
11. [If "no" to prior question] In which state do you plan to practice? (**drop down menu listing all states and District of Columbia, except Arkansas**)
12. [If "yes" to question 10] In which county do you plan to practice? (**drop down menu listing all Arkansas counties, and "Don't know"**)
13. Do you plan to practice in a rural county (one with a population of 15,000 or less)?
  - Yes
  - No
  - Don't know
14. [If "no" or "don't know" to prior question] What would discourage you from practicing in a rural county (one with a population of 15,000 or less)? Rank factors in order of most important to least important, with 1 being most important and 10 being least important.
  - Spouse's job or other commitments in a non-rural place
  - Perception that opportunities for minor children are less rich in rural areas
  - Distance from nearest city
  - Perception that I would earn a lower income

- Perception of lack of availability of legal mentors
  - Threat of malpractice lawsuits if I were practicing on my own
  - Cost of online legal research tools (e.g., Westlaw, Lexis)
  - Perception that rural workforces and communities are more traditional
  - Perception that rural areas offer fewer career and economic opportunities
  - Do not intend to practice law
  - Other
15. [If “Other” to prior question] Please explain “Other” (**comment box**)
16. [If “yes” to question 13] What encourages you to practice in a rural area (one with a population of 15,000 or less)? Rank factors in order of most important to least important, with 1 being most important and 10 being least important.
- Ability to have one’s own practice and be one’s own boss
  - Ability to develop and maintain localized clientele
  - Perception of a less competitive job market
  - Perception of greater job stability
  - Proximity to extended family and friends
  - Greater opportunity to become a civic leader
  - Greater opportunity to run for public office, e.g., prosecuting attorney, circuit judge
  - Job opportunity for my spouse or significant other in rural area
  - Perception that rural areas provide a safe and nurturing environment in which to raise minor children
  - Do not intend to practice law
  - Other
17. [If “Other” to prior question] Please explain “Other” (**comment box**)
18. What field of law do you wish to be your primary practice field? (**drop down menu**)
- Criminal Law
  - Family Law
  - Civil Litigation
  - Transactional
  - Trusts, Wills and Estates
  - Public Interest
  - Environmental Law
  - Food and Agricultural Law
  - Tax Law
  - General Practice
  - Other

- Do not intend to practice law
19. [If “other” to prior question] What field of law do you wish to be your primary practice field? *Other – please specify* **(comment box)**
20. If you plan to be in private practice, what do you believe is the ideal size firm for you?
- Solo practitioner
  - 2-4 attorneys
  - 5-9 attorneys
  - 10-24 attorneys
  - 25-49 attorneys
  - More than 50 attorneys
  - Don’t plan to be in private practice
21. What year in your legal studies are you?
- One L
  - Two L
  - Three L
  - LLM
22. [If “Three L” to prior question] Have you secured employment post-law school?
- Yes
  - No
23. [If “yes” to prior question] Is that employment in Arkansas?
- Yes
  - No
24. [If “yes to prior question] In what county is the employment you have secured in after graduating law school? **(drop down menu listing all Arkansas counties, and comment box for counties not in Arkansas)**
25. What type of employment? **(drop down menu with a comment box for “Other [please specify]”)**
- Law firm or law partnership
  - Government agency (state)
  - Government agency (federal)
  - Legal aid or other non-profit
  - Judicial clerkship
  - In-house counsel
26. In what size office will you be practicing?
- Solo practitioner
  - 2-4 attorneys
  - 5-9 attorneys
  - 10-24 attorneys
  - 25-49 attorneys

- More than 50 attorneys
27. What will be your approximate income from this initial job out of law school?
- \$29,999 or less
  - \$30,000-\$39,999
  - \$40,000-\$49,000
  - \$50,000-\$59,000
  - \$60,000-\$69,000
  - \$70,000-\$79,000
  - \$80,000-\$89,000
  - \$90,000-\$99,999
  - \$100,000 or higher
  - Decline to state
28. What is the smallest job salary you would consider accepting for your first job out of law school, assuming no loan repayment assistance?
- \$29,999 or less
  - \$30,000-\$39,999
  - \$40,000-\$49,000
  - \$50,000-\$59,000
  - \$60,000-\$69,000
  - \$70,000-\$79,000
  - \$80,000-\$89,000
  - \$90,000-\$99,999
  - \$100,000 or higher is my minimum
29. [If “LLM” to question 21] A proposal before the Arkansas General Assembly would fund a Legal Aid Fellowship, which would require a Fellow to make a two-year commitment of at least 50% of his/her time providing services in a rural county where the attorney population is sparse and/or aging. Each Fellow would work under supervision and mentorship of senior staff member of an Arkansas legal aid provider. The Fellows would be guaranteed part-time income and flexibility to spend time creating a paying client base. How attractive would this Fellowship be to you?
- Very Attractive
  - Moderately attractive
  - Somewhat attractive
  - Not attractive at all
30. [If LLM to question 21] If Arkansas were to implement a loan repayment program whereby an attorney practicing in an underserved rural county would receive some tuition reimbursement, what would be the

minimum amount of loan repayment (per year) that you would seriously consider as an incentive for working in such a rural area?

- Less than \$2,499
  - \$2,500-\$4,999
  - \$5,000-\$9,999
  - At least \$10,000
31. [If “One L” or “Two L” to question 21] How interested would you be in working as an unpaid summer intern at a law practice in a rural county (a county with a population of 15,000 or less)?
- Very Interested
  - Moderately interested
  - Somewhat interested
  - Not interested at all
32. How interested would you be in working as a summer intern at a law practice in a rural county (a county with a population of 15,000 or less), if the internship were paid?
- Very interested
  - Moderately interested
  - Somewhat interested
  - Not interested at all
33. How seriously would you consider practicing law in a county with a population of less than 30,000?
- Very seriously
  - Seriously
  - Somewhat seriously
  - I would consider it in passing
  - I would not consider it at all
34. How seriously would you consider practicing law in a county with a population of less than 15,000?
- Very seriously
  - Seriously
  - Somewhat seriously
  - I would consider it in passing
  - I would not consider it at all
35. How interested would you be in taking over a retiring lawyer’s practice in a rural county (one with a population of 15,000 or less) if the retiring lawyer provided training/mentoring during a transition process?
- Very interested
  - Moderately interested
  - Somewhat interested
  - Not interested at all

36. When you contemplate your ideal law job, how important is each of these factors to you? **Rank each with Not important at all; Not very important; Neutral; Important; or Extremely important.**
- Proximity to extended family
  - Proximity to friends
  - Income
  - Ability to work in a law firm or legal employer of a certain size
  - Availability of legal mentors
  - Ability to find clients
  - Quality of life
  - Diversity of practice
  - Ability to practice the field(s) of law most interesting to me
  - Ability to specialize
  - Other (please specify) (**comment box**)
37. How much student loan debt do you anticipate having when you graduate?
- \$0-\$4,999
  - \$5,000-\$14,999
  - \$15,000-\$24,999
  - \$25,000-\$34,999
  - \$35,000-\$44,999
  - \$45,000-\$54,999
  - \$55,000-\$64,999
  - \$65,000-\$74,999
  - \$75,000-\$99,999
  - \$100,000-\$124,999
  - \$150,000-\$249,000
  - \$250,000 or more
38. To what extent is pro bono service work (work undertaken without expectation of compensation) encouraged by your law school?
- Highly encouraged
  - Somewhat encouraged
  - Hardly encouraged
  - Not encouraged at all
39. How old are you?
- Under 25
  - 25-30
  - 31-35
  - 36-40
  - 41 or older
40. Are you married or in a committed relationship?

- Yes
  - No
41. Do you have minor children?
- Yes
  - No
42. What is your gender?
- Male
  - Female
  - Decline to state
43. What is your race/ethnicity?
- White (Caucasian, non-Hispanic)
  - African-American/Black American
  - Hispanic/Latino
  - Asian
  - Pacific Islander
  - American Indian
  - Bi-racial/multi-racial
  - Decline to state
  - Other (please specify) (**comment box**)
44. Are you in the first generation in your immediate family to graduate from college?
- Yes
  - No
45. [If “no” to prior question] Are you in the first generation in your immediate family to attend graduate or professional school?
- Yes
  - No

**Thank you for your participation!**

If you wish to participate in the drawing for the **\$25 Amazon gift card**, please follow the link below to provide your University of Arkansas email address. (Note that responses will not be linked to your email address; nor will your email be sold or used for any purpose other than sending you the gift card if your email address is selected as a winner).

<https://www.surveymonkey.com/s/ZFPYZJR=ft>

### Appendix IV

#### **Geographic Disparities in Access to Justice in Arkansas – UA Little Rock Survey**

The shortage of lawyers in the rural United States has recently attracted national attention, including as the cover story of the October, 2014, A.B.A. Journal Magazine. Preliminary assessments suggest that Arkansas is among states suffering a shortage of rural lawyers. This survey is designed to investigate the extent of such a shortage in rural Arkansas, as well as the likely success of proposed solutions to that shortage. Several proposed solutions will be considered during the upcoming session of the Arkansas General Assembly.

This survey is commissioned by the Arkansas Access to Justice Commission. Created in 2003 by the Arkansas Supreme Court, the Commission coordinates statewide efforts to provide equal access to civil justice for all Arkansans. Learn more at [www.arkansasjustice.org](http://www.arkansasjustice.org) or contact Amy Dunn Johnson, Executive Director of the Arkansas Access to Justice Commission, at [adjohnson@arkansasjustice.org](mailto:adjohnson@arkansasjustice.org). Questions about the survey may be addressed to Lisa Pruitt, Professor of Law and Principal Investigator for the survey, at [lrpruitt@ucdavis.edu](mailto:lrpruitt@ucdavis.edu).

*This survey is completely confidential and does not seek any identifying information. The data will be used and analyzed by the Arkansas Access to Justice Commission and its representatives.*

*Your participation in this research study is voluntary. You are free to answer any, all, or none of the questions presented.*

The information you provide will be confidential. To help protect your confidentiality, the survey responses will not contain information that will personally identify you. The results of this study will be used for scholarly purposes and to inform solutions to the current lawyer shortage in rural Arkansas.

Survey participants at the University of Arkansas Little Rock William H. Bowen School of Law will be entered into a drawing for one of six gift certificates for \$25 each at [amazon.com](http://amazon.com).

Thank you in advance for completing this survey, which will take 10-15 minutes.

**This survey will close at midnight on January 30, 2015.**

If you have any questions about the research study, please contact the principal investigator with the information provided below. This survey has been reviewed and approved by the University of California, Davis and the University of Arkansas Little Rock Institutional Review Boards (IRB) as consistent with procedures for research involving human subjects.

Principal Investigator:

Lisa R. Pruitt

Professor of Law

University of California, Davis

Phone: (530) 752-2750

E-mail: lrpuitt@ucdavis.edu

**Electronic Consent: Please select your choice below.**

Clicking on the “agree” button indicates that:

- You are a law student at the University of Arkansas, Little Rock, William H. Bowen School of Law
  - You have read the above information
  - You voluntarily agree to participate
  - You are at least 18 years of age
1. If you do not wish to participate in the research study, please decline participation by clicking on the “disagree” button. If you agree to participate in this research study, please click on the “agree” button.
    - Agree
    - Disagree
  2. Are you from Arkansas?
    - Yes
    - No
  3. [If “no” to prior question] What state are you from? (**drop down menu listing all states and the District of Columbia, except Arkansas**)
  4. [If “no” to question 2] What is the approximate population of the county you are from? (**comment box below labeled “Don’t know – please state name of county”**)
    - 19,999 or less
    - 20,000 to 49,999
    - 50,000 to 99,999
    - 100,000 to 499,999
    - 500,000 or greater

5. [If “yes” to question 2] What county do you consider your “home” county? (i.e., where you have lived the longest) **(drop down menu listing all Arkansas counties)**
6. Have you ever lived for at least one year in a county with a population of fewer than 50,000?
  - Yes
  - No
  - Don’t know
7. [If “yes” to prior question] Have you ever lived for at least one year in a county with a population of fewer than 15,000?
  - Yes
  - No
  - Don’t know
8. Do you currently live in Pulaski County?
  - Yes
  - No
9. [If “no” to prior question] In what county do you currently live while attending law school? **(drop down menu)**
10. Do you plan to practice in Arkansas after law school graduation?
  - Yes
  - No
  - Don’t know
11. [If “no” to prior question] In what state do you plan to practice law? **(drop down menu listing all states and the District of Columbia)**
12. [If “no” to question 10] Do you plan to practice in a rural area (one with a population of 15,000 or less) of another state?
  - Yes
  - No
13. In which county do you plan to practice? **(drop down menu listing all Arkansas counties with a comment box)**
14. When you think about practicing law in a rural county, one with a population of 15,000 or less, what factors discourage you from practicing in such a place? **(asked to rate each option as either: “Very Discouraging,” “Moderately Discouraging,” “Somewhat Discouraging,” or “Not Discouraging At All”)**
  - Spouse’s job or other commitments in a non-rural place
  - Perception that opportunities for minor children are less rich in rural areas
  - Relative lack of entertainment, restaurant, and other similar amenities associated with cities
  - Perceived inability to specialize in a particular legal field

- Perceived inability to find clients/perceived lack of career and economic opportunities
  - Perception that I would earn a lower income
  - Perception of lack of availability of legal mentors
  - Threat of malpractice lawsuits if I were practicing on my own
  - Cost of online legal research tools (e.g., Westlaw, Lexis)
  - Perception that rural communities are more traditional
  - Perceived difficulty in finding a romantic/life partner amidst a smaller population
  - Other
15. Please explain “Other” (**comment box below**)
16. When you think about practicing law in a rural county, one with a population of 15,000 or less, what factors encourage you to practice in such a place? (**asked to rate each option as “Very Encouraging,” “Moderately Encouraging,” “Somewhat Encouraging,” or “Not Encouraging At All”**)
- Ability to have one’s own practice and maintain localized clientele
  - Perception that legal need is greater in rural areas
  - Perception of a less competitive job market
  - Perception of greater job stability
  - Proximity to extended family and friends
  - Greater opportunity to become a community leader
  - Greater opportunity to be elected or appointed to a public office in the legal field, e.g., prosecuting attorney or judicial office
  - Job opportunity for my spouse or significant other in rural area
  - Perception that rural areas provide a safe and nurturing environment in which to raise minor children
  - Other
17. Please explain “Other” (**comment box below**)
18. What field of law do you wish to be your primary practice field?
- Criminal Law
  - Family Law
  - Civil Litigation
  - Transactional/Corporate Law
  - Trusts, Wills and Estates
  - Public Interest Law
  - Environmental Law
  - Food and Agricultural Law
  - Tax Law

- Immigration Law
  - Oil and Gas Law
  - Health Law
  - International Human Rights Law
  - General Practice
  - Do not intend to practice law – please describe in the text box below
  - Other – please describe in the text box below
19. If you plan to be in private practice, what do you believe is the ideal size firm for you?
- Solo practitioner
  - 2-4 attorneys
  - 5-9 attorneys
  - 10-24 attorneys
  - 25-49 attorneys
  - More than 50 attorneys
  - Don't plan to be in private practice
20. What year in your legal studies are you?
- First year full-time student
  - Second year full-time student
  - Third year full-time student
  - First year part-time student
  - Second year part-time student
  - Third year part-time student
  - Fourth year part-time student
21. Have you secured employment post-law school?
- Yes
  - No
22. [If “yes” to prior question] Is that employment in Arkansas?
- Yes
  - No
23. [If “yes” to prior question] In what county is your secured employment located? (**drop down menu listing all Arkansas counties and “don't know”**)
24. [If “yes” to Question 21] What type of employment? (**drop down menu with a comment box labeled “Other (please explain)”**)
- Solo practitioner
  - Attorney in a firm or partnership with at least two lawyers
  - In-house counsel
  - Prosecuting attorney
  - Public defender

- Judge
  - Government employment (other than one of the more specific options listed above)
  - Education/Professor
25. [If “yes” to Question 21] In what size firm (or if not working in a firm, what size department) will you be practicing?
- Solo practitioner
  - 2-4 attorneys
  - 5-9 attorneys
  - 10-24 attorneys
  - 25-49 attorneys
  - More than 50 attorneys
26. What will be your approximate income from this initial job out of law school? **(drop down menu)**
- \$29,999 or less
  - \$30,000- \$39,999
  - \$40,000- \$49,999
  - \$50,000- \$59,999
  - \$60,000- \$69,999
  - \$70,000- \$79,999
  - \$80,000- \$89,999
  - \$90,000- \$99,999
  - \$100,000 or higher
  - Decline to state
27. What is the smallest job salary you would consider accepting for your first job out of law school, assuming no loan repayment assistance?
- \$29,999 or less
  - \$30,000- \$39,999
  - \$40,000- \$49,999
  - \$50,000- \$59,999
  - \$60,000- \$69,999
  - \$70,000- \$79,999
  - \$80,000- \$89,999
  - \$90,000- \$99,999
  - \$100,000 or higher
28. A proposal before the Arkansas General Assembly would fund a Legal Aid Fellowship, which would require a Fellow to make a two-year commitment of at least 50% of his/her time providing services in a rural county where the attorney population is sparse and/or aging. Each Fellow would work under supervision and mentorship of senior staff member of an Arkansas legal aid provider. The Fellows would be guaranteed

part-time income and flexibility to spend time creating a paying client base. How attractive would this Fellowship be to you?

- Very attractive
  - Moderately attractive
  - Somewhat attractive
  - Not attractive at all
  - I would need more information
29. If Arkansas were to implement a loan repayment program whereby an attorney practicing in an underserved rural county would receive some tuition reimbursement, what would be the minimum amount of loan repayment (per year) that you would seriously consider as an incentive for working in such a rural area?
- Less than \$2,499
  - \$2,500-\$4,999
  - \$5,000-\$9,999
  - At least \$10,000
30. How interested would you be in working as an unpaid summer intern at a law practice in a rural county (one with a population of 15,000 or less)?
- Very interested
  - Moderately interested
  - Somewhat interested
  - Not interested at all
31. How interested would you be in working as a summer intern at a law practice in a rural county (one with a population of 15,000 or less), if the internships were paid?
- Very interested
  - Moderately interested
  - Somewhat interested
  - Not interested at all
32. Would you seriously consider practicing law in a county with a population of less than 30,000 if there were no financial incentive to do so?
- Yes
  - No
33. [If “yes” to prior question] Would you seriously consider practicing law in a county with a population of less than 15,000 if there were no financial incentive to do so?
- Yes
  - No

34. How interested would you be in taking over a retiring lawyer's practice in a rural county (one with a population of 15,000 or less) if the retiring lawyer provided training/mentoring during the transition process?
- Very interested
  - Moderately interested
  - Somewhat interested
  - Not interested at all
35. When you contemplate your ideal law job, how important is each of these factors to you? **(asked to rank each option as either: "Not important at all," "Not very important," "Neutral," "Important," or "Extremely Important"; comment box below labeled "Other (please specify)"**)
- Proximity to extended family
  - Proximity to friends
  - Income
  - Ability to work in a law firm or legal employer of a certain size
  - Availability of legal mentors
  - Ability to find clients
  - Quality of life
  - Diversity of practice
  - Ability to practice the field(s) of law most interesting to me
  - Ability to specialize
36. How much student loan debt do you anticipate having when you graduate?
- \$0- \$4,999
  - \$5,000- \$14,999
  - \$15,000- \$24,999
  - \$25,000- \$34,999
  - \$35,000- \$44,999
  - \$45,000-\$54,999
  - \$55,000-\$64,999
  - \$65,000-\$74,999
  - \$75,000 -\$99,999
  - \$100,000 -\$124,999
  - \$125,000-\$149,999
  - \$150,000-\$249,999
  - \$250,000 or more
37. How old are you?
- Under 25
  - 25-30
  - 31-35

- 36-40
  - 41 or older
38. Are you married or in a committed relationship?
- Yes
  - No
39. Do you have minor children?
- Yes
  - No
40. What is your gender?
- Male
  - Female
  - Decline to state
41. What is your race/ethnicity? (**comment box below labeled “Other (please specify)”**)
- White (Caucasian, non-Hispanic)
  - African-American/Black American
  - Hispanic/Latino
  - Asian
  - Pacific Islander
  - American Indian
  - Bi-racial/multi-racial
  - Decline to state
42. Are you the first generation of your family to attend graduate or professional school?
- Yes
  - No
  - Unsure
43. [If “yes” to prior question] Are you the first generation in your family to graduate from college?
- Yes
  - No
  - Unsure
44. What is the highest level of education completed by your parent or guardian?
- Some high school
  - High school graduate or equivalent
  - Some college courses (without obtaining a degree)
  - Associate degree
  - Bachelor’s degree
  - Some graduate or professional school
  - Graduate or professional degree

45. To what extent is pro bono service work (work undertaken without expectation of compensation) encouraged by your law school? (**drop down menu**)

- Highly encouraged
- Somewhat encouraged
- Hardly encouraged
- Not encouraged at all

**Thank you for your participation!**

If you wish to participate in the drawing for the **\$25 Amazon gift card**, please follow the link below to provide your University of Arkansas email address. (Note that responses will not be linked to your email address; nor will your email be sold or used for any purpose other than sending you the gift card if your email address is selected as a winner).

<https://www.surveymonkey.com/s/ZFPYZJR=ft>

## **Appendix V**

### **Geographic Disparities in Access to Justice in Arkansas – Lawyer Survey**

The shortage of lawyers in the rural United States has recently attracted national attention, including as the cover story of the October, 2014, A.B.A. Journal Magazine. Preliminary assessments suggest that Arkansas is among states suffering a shortage of rural lawyers. This survey is designed to investigate the extent of such a shortage in rural Arkansas, as well as the likely success of proposed solutions to that shortage. Several proposed solutions will be considered during the upcoming session of the Arkansas General Assembly.

This survey is commissioned by the Arkansas Access to Justice Commission. Created in 2003 by the Arkansas Supreme Court, the Commission coordinates statewide efforts to provide equal access to civil justice for all Arkansans. Learn more at [www.arkansasjustice.org](http://www.arkansasjustice.org) or contact Amy Dunn Johnson, Executive Director of the Arkansas Access to Justice Commission, at [adjohnson@arkansasjustice.org](mailto:adjohnson@arkansasjustice.org). Questions about the survey may be addressed to Lisa Pruitt, Professor of Law and Principal Investigator for the survey, at [lrpruitt@ucdavis.edu](mailto:lrpruitt@ucdavis.edu).

This survey is completely confidential and does not seek any identifying information. The data will be used and analyzed by the Arkansas Access to Justice Commission and its representatives.

Your participation in this research study is voluntary. You are free to answer any, all, or none of the questions presented.

The information you provide will be confidential. To help protect your confidentiality, the survey responses will not contain information that will personally identify you. The results of this study will be used for scholarly purposes and to inform solutions to the current lawyer shortage in rural Arkansas.

Survey participants among attorneys licensed to practice in Arkansas will be entered into a drawing for one of six gift certificates for \$25 each at [amazon.com](http://amazon.com).

Thank you in advance for completing this survey, which will take 10-15 minutes.

This survey will close at midnight on January 30, 2015.

If you have any questions about the research study, please contact the principal investigator with the information provided below. This survey has been reviewed and approved by the University of California, Davis and the University of Arkansas Little Rock Institutional Review Boards (IRB) as consistent with procedures for research involving human subjects.

Principal Investigator:

Lisa R. Pruitt

Professor of Law

University of California, Davis

Phone: (530) 752-2750

E-mail: lrpuitt@ucdavis.edu

Electronic Consent: Please select your choice below.

Clicking on the “agree” button indicates that:

You are licensed to practice in the State of Arkansas

You have read the above information

You voluntarily agree to participate

You are at least 18 years of age

1. If you do not wish to participate in the research study, please decline participation by clicking on the “disagree” button. If you agree to participate in this research study, please click on the “agree” button.
  - a. Agree
  - b. Disagree
2. Do you live in Arkansas?
  - Yes
  - No
3. [If “no” to prior question] In what state do you live? (**drop down menu listing all states and the District of Columbia, except Arkansas**)
4. [If “no” to question 2] What is the approximate population of the county where you live?
  - 19,999 or less
  - 20,000 to 49,999
  - 50,000 to 99,999
  - 100,000 to 499,999
  - 500,000 or greater
5. [If “yes” to question 2] In what county do you live? (**drop down menu listing all Arkansas counties**)

6. Do you primarily practice law in a county that is different than the county in which you live?
  - Yes
  - No
7. [If “yes” to prior question] In what county do you primarily practice law? **(drop down menu listing all Arkansas counties with comment box in which respondent could designate state and county outside Arkansas)**
8. Did you grow up in Arkansas?
  - Yes
  - No
9. [If “yes” to prior question] In what county did you grow up? **(drop down menu listing all Arkansas counties)**
10. [If “no” to question 8] In what state did you grow up? **(drop down menu listing all states and the District of Columbia)**
11. [If “no” to question 8] What is the approximate population of the county where you are from?
  - 19,999 or less
  - 20,000 to 49,999
  - 50,000 to 99,999
  - 100,000 to 499,999
  - 500,000 or greater
  - Don’t know (please provide the county name in comment box provided)
12. Have you ever lived for at least one year in a county with a population of fewer than 50,000?
  - Yes
  - No
  - Don’t know
13. [If “yes” to prior question] Have you ever lived for at least one year in a county with a population of fewer than 10,000?
  - Yes
  - No
  - Don’t know
14. How long have you been licensed to practice law?
  - 0-3 years
  - 3-7 years
  - 7-10 years
  - 10-20 years
  - 20-30 years
  - 30-40 years

- More than 40 years
15. Which of the following best describes your current legal job?
- Solo practitioner
  - Attorney in a firm or partnership with at least two lawyers
  - In-house counsel
  - Prosecuting attorney
  - Public defenders
  - Judge
  - Government employment (other than one of the more specific options listed above)
  - Education/Professor
  - I do not currently have a job related to law
  - Other (please explain in comment box provided)
16. How many lawyers work in your firm or partnership?
- 2-4 lawyers
  - 5-9 lawyers
  - 10-19 lawyers
  - 20-35 lawyers
  - 36-49 lawyers
  - 50 or more lawyers
17. What field of law is your primary practice field?
- Criminal Law
  - Family Law
  - Civil Litigation
  - Transactional/Corporate Law
  - Trusts, Wills and Estates
  - Public Interest Law
  - Environmental Law
  - Food and Agriculture Law
  - Tax Law
  - Immigration Law
  - Oil and Gas Law
  - Health Law
  - International Human Rights Law
  - General Practice
  - Other (please specify in comment box)
18. How many lawyers work in your legal department?
- I am the only lawyer in the department
  - 2-4 lawyers
  - 5-9 lawyers

- 10-19 lawyers
  - 20-35 lawyers
  - 36-49 lawyers
  - 50 or more lawyers
19. How many firms/employers have you had since graduation from law school?
- 0-3 employers
  - 4-6 employers
  - 7-9 employers
  - 10 or more employers
20. How many years have you practiced law at your current law firm/employment setting?
- 0-3 years
  - 3-7 years
  - 7-10 years
  - 10-20 years
  - 20-30 years
  - 30 or more years
21. What is your average annual income?
- Less than \$50,000
  - \$50,000-\$64,999
  - \$65,000-\$74,999
  - \$75,000-\$84,999
  - \$85,000-\$99,999
  - \$100,000-\$149,999
  - \$150,000-\$249,999
  - \$250,000 and above
22. Do you receive income from sources other than work related to your legal expertise, e.g., ownership of a small business unrelated to law?
- Yes
  - No
23. [If “yes” to prior question] What percentage of your annual income comes work unrelated to your legal expertise?
- 10% or less
  - 11%-25%
  - 26%-50%
  - 51%-75%
  - More than 75%
24. What are those other sources of income? (**comment box**)

25. How important were the following factors in influencing your decision to work in your current market? [Rank the factors on a scale of 1 to 13 with 1 being the least important and 13 being the most important.]
- Length of commute to work
  - Proximity to extended family and friends
  - Income
  - Ability to work in a law firm/legal employer of a certain size
  - Availability of legal mentors
  - Ability to find clients
  - Quality of life
  - Diversity of practice
  - Ability to practice in the field(s) of law most interesting to me
  - Ability to specialize
  - A specific job opportunity
  - Employment opportunity for my spouse or significant other in that market
  - Ability to find a romantic/life partner
  - Other
26. If “other” was rated highly, please specify what that factor is. (**comment box**)
27. Did you begin practicing law in the same county as you currently practice?
- Yes
  - No
28. [If “no” to prior question] Did you begin practicing law in a market that was larger or smaller than the market in which you currently practice?
- Larger
  - Smaller
29. [If answered “larger” to prior question] What enticed you to work in a larger market as compared to a smaller market? (please select up to 3 choices) (**comment box below labeled “Please specify if you selected ‘other,’ ‘quality of life,’ or ‘Specific job opportunity in the market for my spouse or significant other’”**)
- Availability of mentor(s)
  - Specific job opportunity for myself in the market
  - Financial security of working for a firm or other larger employer
  - Higher income
  - Ability to practice in the field(s) of law most interesting to me
  - Ability to specialize
  - Proximity to extended family and friends

- Quality of life considerations (please specify below)
  - Perceived ability to meet a romantic/life partner in a more populous place
  - Specific job opportunity in the market for my spouse or significant other (please specify below)
  - Other (please specify below)
30. [If answered “smaller” to question 28] What enticed you to work in a smaller market as compared to a larger market? (please select up to 3 choices) (**comment box below labeled “Please specify if you selected ‘other,’ ‘quality of life,’ or ‘Specific job opportunity in the market for my spouse or significant other’”**)
- Availability of mentor(s)
  - Specific job opportunity for myself in the market
  - Financial security of working for a firm or other larger employer
  - Higher income
  - Ability to practice in the field(s) of law most interesting to me
  - Ability to specialize
  - Proximity to extended family and friends
  - Quality of life considerations (please specify below)
  - Specific job opportunity in the market for my spouse or significant other (please specify below)
  - Perceived difficulty in finding a romantic/life partner
  - Other (please specify below)
31. Do you currently practice in a county with a population of less than 15,000?
- Yes
  - No
32. [If “no” to prior question] How much did the following factors discourage you from practicing in a rural county (one with a population of less than 15,000)? (**asked to rate each option as either: “very discouraging,” “moderately discouraging,” “somewhat discouraging,” or “not discouraging at all”; comment box below labeled “Other (please explain)”**)
- Spouse’s job or other commitments in a non-rural place
  - Perception that opportunities for minor children are less rich in rural areas
  - Relative lack of entertainment, restaurants, and other similar amenities associated with cities
  - Perceived inability to find clients/Perceived lack of career and economic opportunities

- Perception that I would earn a lower income
  - Perception of lack of availability of mentors
  - Threat of malpractice lawsuits if I were practicing on my own
  - Cost of online legal research tools (e.g., Westlaw, Lexis)
  - Perception that rural communities are more traditional
  - Perceived inability to specialize in a particular field
  - Perceived difficulty in finding a romantic partner amidst a smaller population
  - Other (please explain)
33. [If “yes” to question 31] How much did the following factors encourage you to practice in a rural county (One with a population of less than 15,000)? **(asked to rate each option as either: “very encouraging,” “moderately encouraging,” “somewhat encouraging,” or “not encouraging at all”;** comment box below labeled **“Other (please explain)”**)
- Ability to have one’s own practice and maintain localized clientele
  - Perception that rural areas provide a safe and nurturing environment in which to raise minor children
  - Perception that legal need is greater in rural areas
  - Perception of a less competitive job market
  - Perception of greater job stability
  - Proximity to extended family and friends
  - Greater opportunity to become a community leader
  - Greater opportunity to be elected or appointed to a public office in the legal field, i.e. prosecuting attorney or judicial office
  - Spouse’s job opportunity in a rural area
  - Other (please specify)
34. How many hours of no-fee pro bono work (work undertaken without expectation of compensation) did you provide in 2014?
- 0 hours
  - 1-9 hours
  - 10-24 hours
  - 25-49 hours
  - 50-74 hours
  - 75-99 hours
  - 100-149 hours
  - 150-199 hours
  - 200 or more hours
35. How many hours of reduced-fee work (so-called “low bono”) did you provide in 2014?

- 0 hours
  - 1-9 hours
  - 10-24 hours
  - 25-49 hours
  - 50-74 hours
  - 75-99 hours
  - 100-149 hours
  - 150-199 hours
  - 200 or more hours
36. When thinking about your current job, how happy are you in the following regards? (with 1 being the least happy and 5 being the most happy) **(asked to rate each option)**
- Professionally
  - Personally
  - Financially
37. How happy are you with the market in which you currently practice? (with 1 being the least happy and 5 being the most happy)
- 1
  - 2
  - 3
  - 4
  - 5
38. What factors led to your happiness with the market in which your currently practice? (Choose up to THREE options) **(comment box below)**
- Proximity to extended family
  - Proximity to friends
  - Income
  - Ability to work in a law firm or employment setting of a certain size
  - Availability of legal mentors
  - Ability to find clients
  - Quality of life
  - Diversity of practice
  - Ability to practice the field(s) of law most interesting to me
  - Ability to specialize
  - Ability to be involved in my community as a leader
  - Opportunity to work toward becoming a candidate for prosecuting attorney
  - Opportunity to work toward becoming a candidate for judicial office
  - Other (please specify)

39. What factors led to your unhappiness with market in which you currently practice? (Choose up to THREE options) (**comment box below**)
- Proximity to extended family
  - Proximity to friends
  - Income
  - Inability to work in a law firm or employment setting of a certain size
  - Lack of availability of legal mentors
  - Inability to find clients
  - Quality of life
  - Diversity of practice
  - Lack of diversity of practice
  - Inability to practice the field(s) of law most interesting to me
  - Inability to specialize
  - Inability to be involved in my community as a leader
  - Lack of opportunity to work toward becoming a candidate for prosecuting attorney
  - Lack of opportunity to work toward becoming a candidate for judicial office
  - Other (please specify)
40. How happy are you with the geographic location (city, town or county) where you currently live? (with 1 being the least happy and 5 being the most happy)
- 1
  - 2
  - 3
  - 4
  - 5
41. What factors led to your happiness with the geographic location where you currently live? (Choose up to TWO options)
- High quality of life
  - Ease of commute
  - Good schools
  - Food cultural amenities, e.g., museums, restaurants, theatre, cinema
  - Good civic life
  - Good recreational amenities
  - Proximity to extended family
  - Proximity to friends
  - Good economic and employment opportunities
  - Good opportunities for finding a romantic/life partner

- Other (please specify in comment box below)
42. What factors led to your unhappiness with the geographic location where you currently live? (Choose up to TWO options)
- Poor quality of life overall
  - Difficulty of commute
  - Poor schools
  - Poor cultural amenities, e.g., museums, restaurants, theatre, cinema
  - Poor civic life
  - Poor outdoor recreational amenities
  - Proximity to extended family
  - Proximity to friends
  - Poor economic and employment opportunities
  - Poor opportunities for finding a romantic/life partner
  - Other (please specify in comment box provided)
43. Do you believe that your market (town, city or county) has good practice opportunities for young lawyers?
- Yes
  - No
44. Would you be willing to mentor a young lawyer practicing in your community?
- Yes
  - No
45. Would you be willing to hire a young lawyer to practice in your law firm or to work part time for you while allowing the young lawyer to seek other work on his or her own time?
- Yes
  - No
46. How do you assess charges for your legal services? Please select as many as apply.
- Flat fee
  - Hourly rate
  - Alternative fee arrangements (please explain in comment box)
47. How old are you?
- 34 or younger
  - 35-44
  - 45-54
  - 55-64
  - 65 or older
48. Are you married or in a committed relationship?
- Yes

- No
49. Were you married or in a committed relationship when you moved to your current location?
- Yes
  - No
50. Do you have minor children?
- Yes
  - No
51. What is your gender?
- Male
  - Female
  - Decline to state
52. What is your race/ethnicity?
- White (Caucasian, non-Hispanic)
  - African-American/Black American
  - Hispanic/Latino
  - Asian
  - Pacific Islander
  - American Indian
  - Bi-racial/multi-racial
  - Decline to state
  - Other (please specify in comment box)
53. Are you in the first generation in your immediate family to attend graduate or professional school?
- Yes
  - No
  - Unsure
54. [If “yes” to prior question] Are you in the first generation in your immediate family to graduate from college?
- Yes
  - No
  - Unsure
55. What is the highest level of education completed by your parent or guardian?
- Some high school
  - High school graduate or equivalent
  - Some college courses (without obtaining a degree)
  - Associate degree
  - Bachelor’s degree
  - Some graduate or professional school
  - Graduate or professional degree

56. To what extent is pro bono service work (work undertaken without expectation of compensation) encouraged by your employer? (**drop down menu**)

- Highly encouraged
- Somewhat encouraged
- Hardly encouraged
- Not encouraged at all

**Thank you for your participation!**

If you wish to participate in the drawing for the **\$25 Amazon gift card**, please follow the link below to provide your email address. (Note that responses will not be linked to your email address; nor will your email be sold or used for any purpose other than sending you the gift card if your email address is selected as a winner).

<https://www.surveymonkey.com/s/ZFPYZJR=ft>

## Appendix VI

### **Summary of Differences Between UA Fayetteville and UALR/Bowen Student Surveys**

The phrasing of some questions changed and additional answer choices altered from the original UA Fayetteville survey to make the UALR/Bowen survey more clear and precise.

On Question 11, the UALR/Bowen survey demanded more specificity, “In what state do you plan to practice law?” (“In which state do you plan to practice?” in the UA Fayetteville survey).

The UA Fayetteville survey asked respondents, “Do you plan to practice in a rural county (one with a population of 15,000 or less)?,” with a “yes,” “no,” or “don’t know” answer option; however, the UALR/Bowen survey asked, “Do you plan to practice in a rural area . . . of another state?,” with a simple “yes” or “no” answer option.

For Question 12 on the UA Fayetteville survey, which was Question 13 on the UALR/Bowen survey, respondents from UA Fayetteville were able to select “don’t know” as an option in the dropdown menu when asked, “In which county do you plan to practice?”; for the UALR/Bowen survey, respondents were given an “other” comment field.

The phrasing, question type, and answer choices for Question 14 on both surveys changed. In the UA Fayetteville survey, respondents were asked, “What would discourage you from practicing in a rural county (one with a population of 15,000 or less)?” and were instructed to rank the eleven provided factors in order of importance. For the UALR/Bowen survey, respondents were instead asked, “When you think about practicing law in a rural county, one with a population of 15,000 or less, what factors discourage you from practicing in such a place?” and ranked each of the factors as either “very discouraging,” “moderately discouraging,” “somewhat discouraging,” or “not discouraging at all.” With regards to the answer choices, the UA Fayetteville survey included two factors the UALR/Bowen survey did not: “distance from nearest city” and “do not intend to practice law.” Conversely, three factors were added to the UALR/Bowen survey that did not appear in the UA Fayetteville survey: “relative lack of entertainment, restaurant, and other similar amenities associated with cities,” “perceived inability to specialize in a particular legal field,” and “perceived difficulty in finding a romantic/life partner amidst a smaller population.” Further, the phrasing of one of the answer choices shifted from the UA Fayetteville survey (“percep-

tion that rural areas offer fewer career and economic opportunities”) to the UALR/Bowen survey (“perceived inability to find clients/perceived lack of career and economic opportunities”).

Similarly, the phrasing, question type, and answer choices for Question 16 changed; this question addressed the opposite of question fourteen, the factors that encouraged respondents to practice in a rural area. The UA Fayetteville survey again asked for respondents to rank the eleven factors in order of importance, while the UALR/Bowen survey asked respondents to place each factor on a scale of “very encouraging” to “not encouraging at all.” With regards to the answer choices, the UALR/Bowen survey combined two different factors from the UA Fayetteville survey (“ability to have one’s own practice and be one’s own boss” and “ability to develop and maintain localized clientele”) into one response: “ability to have one’s own practice and maintain localized clientele.” The UA Fayetteville survey also featured a “do not intend to practice law” option that the UALR/Bowen survey did not; conversely, the UALR/Bowen survey had a “perception that legal need is greater in rural areas” option that the UA Fayetteville survey did not. Lastly, the phrasing for two of the answer options shifted from the UA Fayetteville survey to the UALR/Bowen survey. These were: “greater opportunity to become a civic leader” (UA Fayetteville) to “greater opportunity to become a community leader” (UALR/Bowen); and “greater opportunity to run for public office, e.g., prosecuting attorney, circuit judge” (UA Fayetteville) to “greater opportunity to be elected or appointed to a public office in the legal field, e.g., prosecuting attorney or judicial office” (UALR/Bowen).

For Question 18, “What field of law do you wish to be your primary practice field?” the UALR/Bowen survey combined “transactional/corporate law” (this was just listed as “transactional law” on the UA Fayetteville survey) and added “immigration law,” “oil and gas law,” “health law,” and “international human rights law” to the menu options. While both surveys offered an “other” and “do not intend to practice law” option, the UALR/Bowen survey asked respondents to “please describe in the text box below”; UA Fayetteville had an additional question (nineteen) for respondents who selected “other” for Question 18.

As UA Fayetteville only has full-time students, the UALR/Bowen survey included full-time and part-time options for each year in law school for Question 20 (Question 21 on UA Fayetteville survey) regarding “what year in your legal studies are you?”

For Question 23 on the UALR/Bowen survey (Question 24 on the UA Fayetteville survey), respondents who indicated they had found employment after law school graduation were asked, "In what county is your secured employment located?"; for the UA Fayetteville survey, this same demographic of respondents were asked, "In what county is the employment you have secured in after graduating law school?," and a "not in Arkansas (please specify)" option was provided.

Question 25 on the UA Fayetteville survey (Question 24 on the UALR/Bowen survey) asked, "What type of employment?" to respondents who indicated they had found a job for after graduation. UA Fayetteville students were able to select either "law firm or partnership," "government agency (state)," "government agency (federal)," "legal aid or other non-profit," "judicial clerkship," or "in-house counsel." UALR/Bowen respondents were able to select "solo practitioner," "attorney in a firm or partnership with at least two lawyers," "in-house counsel," "prosecuting attorney," "public defender," "judge," "government employment (other than one of the more specific options listed above)," or "education/professor."

The phrasing changed for Question 26 on the UA Fayetteville survey before it became Question 25 on the UALR/Bowen survey. The UA Fayetteville survey asked, "In what size office will you be practicing?," while the UALR/Bowen survey asked, "In what size firm (or if not working in a firm, what size department) will you be practicing?"

For Question 28 on the UALR/Bowen survey, respondents were given an "I would need more information" option that did not appear on the UA Fayetteville survey.

Question 33 on the UA Fayetteville survey asked respondents to answer "very seriously," "seriously," "somewhat seriously," "I would consider it in passing," or "I would not consider it at all" to the question "how seriously would you consider practicing law in a county with a population of less than 30,000?" The UALR/Bowen survey (Question 32), however, asked respondents, "Would you seriously consider practicing law in a county with a population of less than 30,000 if there were no financial incentive to do so?," with a "yes" or "no" answer option. Question 34 of the UA Fayetteville survey (Question 33 of the UALR/Bowen survey) was similarly changed, though this question dealt with a county with a population of less than 15,000.

The UALR/Bowen survey featured an "unsure" option to Question 42 regarding a respondent's first generation status as a "graduate school or pro-

fessional school” attendee and Question 43 regarding a respondent’s first generation status as a “graduate from college.” The UA Fayetteville survey (Questions 44 and 45) narrowed respondents’ answers to their “immediate” family members and only had a “yes” or “no” option. Furthermore, the UALR/Bowen survey asked a follow-up question that was not featured in the UA Fayetteville survey: “What is the highest level of education completed by your parent or guardian?,” with “some high school,” “high school graduate or equivalent,” “some college courses (without obtaining a degree),” “associate degree,” “bachelor’s degree,” “some graduate or professional school,” or “graduate or professional degree” options.