

An Assessment of the Legal Needs of Elders in Montana and the Capacity of Montana's Resources to Meet Those Needs

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We'd also like to express our appreciation to the grant staff who contributed mileage and other expenses travelling to survey seniors.

Executive Summary

In 2013, the Administration on Community Living awarded Montana AAA Legal Services, Inc., a Model Approaches to Statewide Legal Assistance Systems Phase I grant. The project's four primary objectives included:

1. To assess the need for advance planning documents in rural and frontier areas, identify logistical and social barriers that prevent seniors in Montana from completing the documents and assess the capacity of Montana's legal network to meet the need of elders for these documents.
2. Coordinate the Aging Services' two senior helplines with the Montana Legal Services Association's helpline to streamline access to older Montanans to the legal services network.
3. Collaborate with the state's legal network to implement a model legal documents service delivery system.
4. Continuously improve the delivery of legal services to seniors.

A conference call with the Administration on Community Services project directors for the Model Approaches projects and the technical advisors resulted in a revision of the goal for the needs assessment. It was decided to assess a broader understanding of the legal needs of seniors in Montana and the capacity of the Montana's legal network to meet those needs. As a result this report summarizes the key findings and the recommendations generated by the legal needs assessment as it was redefined.

A review of previous Model Approach Needs Assessment reports provided insight into the legal needs of and the barriers faced by elders in other states. To determine whether the needs identified in other states were consistent with the needs of older Montanans, three surveys were conducted. The groups surveyed included: 1) Attorneys and Paralegals, 2) Aging Services Professionals and others working with Older Montanans, and 3) seniors.

This study's findings regarding the legal needs of seniors largely mirror the core findings of the needs assessments conducted by other Model Approaches grant recipients. One unique finding is the recognition of the need for estate planning services for Native American elders specifically addressing trust land issues. Many of the other findings share a common underlying theme with legal needs arising from the impact of declining cognitive abilities and/or the exploitation of seniors. In addition, a need exists to help the elderly with long-term care planning, especially as it relates to the Medicaid planning process.

Key Findings

- ❖ Estate and Disability Planning was identified as the most common category of legal needs for Montana elders with a priority on Powers of Attorney and Advanced Directives.
- ❖ Estate planning services for Native American elders specifically addressing trust land issues is a significant need.
- ❖ The top four categories of legal needs seen by those working with seniors were 1) Estate and Disability Planning, 2) Dealing with Government Benefits, 3) Consumer Protection, and 4) Elder Abuse.
- ❖ Seniors' priorities for legal education and services were: 1) Estate Planning, 2) Health Insurance, 3) Dealing with Government Benefits, and 4) Consumer Protection.
- ❖ The effect of declining cognitive abilities on financial management skills as a trigger for situations that resulted in legal needs permeated the study results.
- ❖ Education and legal services related to long-term care planning, especially as it relates to Medicaid planning is necessary to avoid problems created by asset transfers.
- ❖ Legal needs related to Nursing Homes and Home Care are common.

- ❖ Grandparents raising grandchildren are a growing population with specific legal needs.
- ❖ Forty-seven percent of seniors who faced legal problems in the last five years, who did not use an attorney, did nothing.
- ❖ The greatest barriers to seniors' access to legal services were:
 - They were unable to afford legal assistance,
 - They did not know where to find help,
 - They did not realize that a legal solution to a problem exists,
 - Cognitive impairment.
- ❖ Seniors indicate the most useful services would be:
 - Free estate and disability planning.
 - Low cost attorneys.
 - Free seminars in the county on specific legal topics.
- ❖ Seniors are more likely to seek help from people than from technology. Seniors are best served by face to face interactions and best reached through outreach in the places they know and in which they are comfortable.
- ❖ It is critical to do more to increase the awareness of both of seniors and those working with them of the available social and legal resources.

Recommendations

- ❖ Create a more unified system - a holistic approach best serves seniors and eliminates the false distinction between legal and social service intervention.
- ❖ Educate Elders through ongoing public education on relevant legal issues delivered at places elders gather. Education about Powers of Attorney should be a priority.

- ❖ Educate people working with the elderly both in government, non-profit and private sector not only on the substantive issues but also on how to access services.

Strategize use of volunteer groups such as Senior Corps Programs to educate seniors and others working with elderly populations.
- ❖ Create a reference resource for Aging Services and others who work with seniors on how to get legal help; create a reference resource for attorneys on how to help seniors access other types of help.
- ❖ Strategize the use of grant partners to develop CLEs and educational materials to offer in exchange for pro-bono hours.
- ❖ Use outreach to increase awareness of pro bono opportunities beyond family law.
- ❖ Advertise clinics as opportunities for limited hour pro-bono commitments.
- ❖ Provide training to seniors in the use of computers and the internet.
- ❖ Train helpline staff to take sufficient time to allow elders to express and identify their needs.
- ❖ Participate and support actions taken by the Access to Justice Commission in response to the Justice Gap study.

Introduction

Montana's large, sparsely settled land base creates significant challenges to designing a legal service delivery system that reaches Montana's most vulnerable seniors effectively and efficiently. The rapid growth of Montana's 60 and older population magnifies the demand on resources which the geographic expanse of the state imposes. No matter where services are offered, either residents of Montana's rural and frontier counties, or the services providers, must invest hours of travel time, frequently on poor roads and in poor weather conditions.

Montana is the fourth largest state in geographic terms encompassing over 147,000 square miles.¹ The state includes three regions the Western Mountains (twenty-two counties), the Central Front (fifteen counties) and the Eastern Plains (nineteen counties).² It stretches approximately 630 miles west to east and 255 miles north to south.³ Fifty-two of Montana's individual counties are larger than Rhode Island, thirty three larger than Delaware and seven are larger than Connecticut. Within Montana you can fit the states of Virginia, Maryland, Delaware, Pennsylvania and New York all of whose individual populations exceed Montana's population.

While Montana contains urban, rural and frontier communities⁴ the designated frontier areas of Montana constitute approximately ninety percent of the total area.⁵ Forty-five of Montana's fifty-six counties have population densities characterized as frontier by the census, of the other eleven counties, ten are designated as rural counties and one meets the definition of urban.⁶ Only seven Montana cities and towns have populations above 20,000. These include

¹ www.montanakids.com/facts_and_figures

² Aging Patterns and Impending Growth in Montana's Elderly, Dr. Larry Swanson, Local Gov't Webinar on Wealth Transfer, September, 2012.

³ http://montanakids.com/facts_and_figures

⁴ The US Census Bureau defines a frontier area as having less than 6 people per square mile, a rural area as having less than 50 people per square mile and an urban area as having more than 50 people per square mile.

⁵ http://ceic.mt.gov/Census2010_geography.asp

⁶ The Census Bureau designates counties with less than 6 people per square mile as frontier. A rural designation requires less than 50 people per square mile and urban areas have more than 50. US Census Bureau, Population Density: July 1, 2009, Population Division, Estimates of Population released March 20, 2010.

Billings, Missoula, Great Falls, Helena, Bozeman, Butte and Kalispell/Whitefish. The remaining one hundred and twenty-two incorporated communities have populations ranging from a high of 9,310 (Havre) to a low of 19 (Ismay).⁷

The scope and complexity of Montana's landscape contribute to the geographic isolation of the rural and frontier population from the services offered in urban areas. Beyond the distances that must be travelled, severe weather can cause dangerous road conditions from snow, ice, rain, hail, or high winds. As seniors who have lived in Montana know, changes in weather can happen swiftly and unexpectedly. Elders who still drive fear encountering car problems or bad road conditions where there is no one to help.

An impact of living in frontier areas is an increased cost of accessing goods and services. Going to an urban area often requires an overnight stay and the costs of lodging and meals. There may be a loss of work hours either for seniors or for family members who accompany them. Seniors who are caretakers may need to find someone to take over their duties while they are gone. Frontier areas are often characterized by degrees of remoteness in relationship to the impact on high end goods and services. In Montana, access to low end goods and services including grocery stores, gas stations and basic healthcare is limited for many communities.

In addition to being one of the largest geographically, Montana is also the state with the fifth largest population of people 60 years and older. Montana's 60+ population was 219,035 in 2011 (21.9% of the state's total population). Only four states, Florida (23.9%), Maine (23.4%), West Virginia (23.4%) and Vermont (22%), had higher percentages of residents 60 years and older. Montana's status as a state with a large elderly population is projected to continue with a rapidly aging population. Rural areas that have been losing population gradually over time will age much more rapidly than more densely populated areas.⁸

⁷ U.S. Census Bureau, Census 2010.

⁸ Swanson, *supra* note 2.

According to the 2010 census, thirteen of Montana's fifty-six counties had 60 and older populations that exceeded 30% of their total county populations. None of these counties had any of their population living in an "urban" area. By 2015, it is estimated Montana will have twenty three counties with 60 and older populations exceeding 30% while two counties will pass the 40% mark. By 2020, thirty-four counties will exceed the 30% range and four counties will have topped the 40% mark. By the year 2025, only fourteen counties in Montana will have populations of residents 60 and older that constitute less than 30% of their total population; these counties will include reservations or larger cities.⁹

⁹ Montana State Plan on Aging, Montana Dept. of Health and Human Services, June, 2011.

Study Design

The legal needs assessment process began with an examination of current state resources to see if an assessment of older Montanans' legal needs existed already. While a number of legal needs assessments had been conducted in Montana, none had specifically targeted seniors' needs. As a result of a 2010 study, the Montana Access to Justice Commission (AJC) learned that nearly half of all low-income Montanans have at least one civil legal problem each year that they do not address. To find out why so many problems go unaddressed and what can be done to close the justice gap between the legal help that is needed and what is available, the AJC had a study underway when this needs and capacity assessment began. The consultant hired by the AJC issued her report, *The Justice Gap in Montana: As Vast as Big Sky Country* (Justice Gap study), in June, 2014, and it was used as a resource for this study.

Previous legal needs assessments and other types of needs assessments done in Montana, senior legal needs assessments done by other Model Approaches Grant recipients and national data regarding legal services were examined. Demographic data about the states and the relative rankings of elderly populations, rural communities, frontier communities and native elderly populations from the census was reviewed. In addition, data about services provided to Montanans' 60+ through Montana Legal Services Association (MLSA) over the last four years and data from the Legal Services Developer (LSD) about service provided through the LSD program were examined.

To get a sense of how Montana might differ from other states, three surveys were conducted. Two were on-line surveys. One was distributed to attorneys and paralegals working in Montana. The second was distributed to Aging Services professionals and others working with elders. Based on concepts found in other states Model Approaches assessments, these surveys were designed to collect information from people working with seniors on their

observations and experiences of the legal needs seniors encounter and the barriers seniors face to accessing legal services.

The third survey gathered information from seniors. The majority were distributed at senior centers in some of the most remote parts of Montana. The senior centers chosen were in areas that were not within the scope for the Justice Gap study including communities on two reservations that had not been covered.¹⁰ The survey was distributed in person by a staff member who visited with the seniors and could answer questions if they arose while the seniors were filling out the survey. A number of surveys were also distributed to seniors through Meals on Wheels programs and those living in a Veterans home. The surveys of seniors allowed elders to tell us what they saw as their legal needs and provided an avenue to detect differences between the needs identified by those working with seniors from those mentioned by older Montanans. While the survey distribution was not scientific, the findings offer insight into the complexity of providing legal services to seniors in a frontier state like Montana.

The responses to the Attorneys and Paralegals (“Legal Professionals”) survey and to the Aging Services Professionals and Other People Working with the Elderly (“Aging Services respondents”) survey came from across Montana. Eighty-one Legal Professionals and one hundred and sixty-six Aging Services respondents filled out their respective surveys. All of Montana’s twenty-two judicial districts were represented in both groups. Over 40% of the Legal Professionals had twenty or more years of practicing law in Montana. Another 12% fell into the eleven to twenty year range; 15% into the six to ten year range, and over 30% into the five years or less category. Their experience covered a wide selection of subject areas including Alternative Dispute Resolution, Indian Law, Elder Law, Estates and Trusts, Family Law,

¹⁰ The original plan also called to have both tribal senior centers and community senior centers surveyed in each reservation community included but the restrictions of gathering data specifically on Native American elders precluded that approach because of the timeframe involved. However, there was crossover and the survey results included a percentage of Native Americans that is consistent with the population of Montana.

Government and Consumer Law, Health Law, Real and Personal Property, Social Security, Women and the Law, Criminal law, Landlord/Tenant Law, Poverty Law, Natural Resource law, Corporate Law, and Contracts. Immigration law was the most notable subject area missing.

For the survey of Aging Services respondents those with more than twenty years of experience, constituted 24% of the respondents, those with eleven to twenty years of experience 29%, those with six to ten years of experience 24% and those with experience of five years or less were 23%. The Respondents included Aging Services professionals and paraprofessionals, Adult Protective Services, Social Services, Ombudsmen, long-term care providers, home health care providers, and advocates.

The survey addressed to seniors included a number of demographic questions. The results showed the following demographics for the respondents:

- Gender: 69.35% of respondents were female and 30.65% were male.
- Age: Persons 71-80 years old made up 50% of the respondents. The second largest group at 29% included 81-90 year olds followed by those 60-70 years old (17%) and those who were 91 or older (4%).
- Race/Ethnicity: 92% of Respondents identified themselves as Caucasian; 5% as Native American; and 2% as Caucasian and Native American; 1 % as Hispanic/Latino; and 1% as Asian American.
- Marital Status: 44.7% were widowed, 37% were married, 13% were divorced; 4% had never been married, 1% were separated and 1% were not married but living with a partner.
- Household: 55% of Respondents lived by themselves and 35% lived with their spouse or partner, 4 % lived with their adult children; 1% lived with extended family and 1% lived with a friend. Of the 6% who marked “Other” the majority were living in some form of senior housing or retirement complex including residents at a Veteran’s home.

- Education: 40% of respondents were high school graduates while 14% made it to high school but did not graduate. Over a quarter had some college (26%), 14% had a graduate degree and 6% had some form of post high school training but not a degree. 1% had not graduated from 8th grade.

- Current Paid Employment Status: 78% of Respondents were retired; 8% employed part-time; 5% employed full-time; 5% self-employed and 3% were not employed, (looking for work). The staff member who surveyed the foster grandparents noted that they did not consider themselves employed although they work 20 hours a week as foster grandparents.

- Housing: 63% of Respondents own their own home and have no mortgage; 21% are renting; 8% own their own home and are paying a traditional mortgage; 3% own their own home with a reverse mortgage; 5% are living with others including in senior housing or retirement complex .

- Caring for a child under 18: 4% of respondents care for a child under the age of 18.

- Location: 74% live in town; 26% live out of town. The furthest distance noted was 25 miles although one respondent noted that it was 10 miles to a small town and 40 to a larger town.

- Homebound: Only 3% reported as “homebound.” A number of those who did not consider themselves homebound lived in town and felt they were able to get out and walk even though they had no access to a car. One respondent noted that he was “homebound” in winter because of his disabilities.

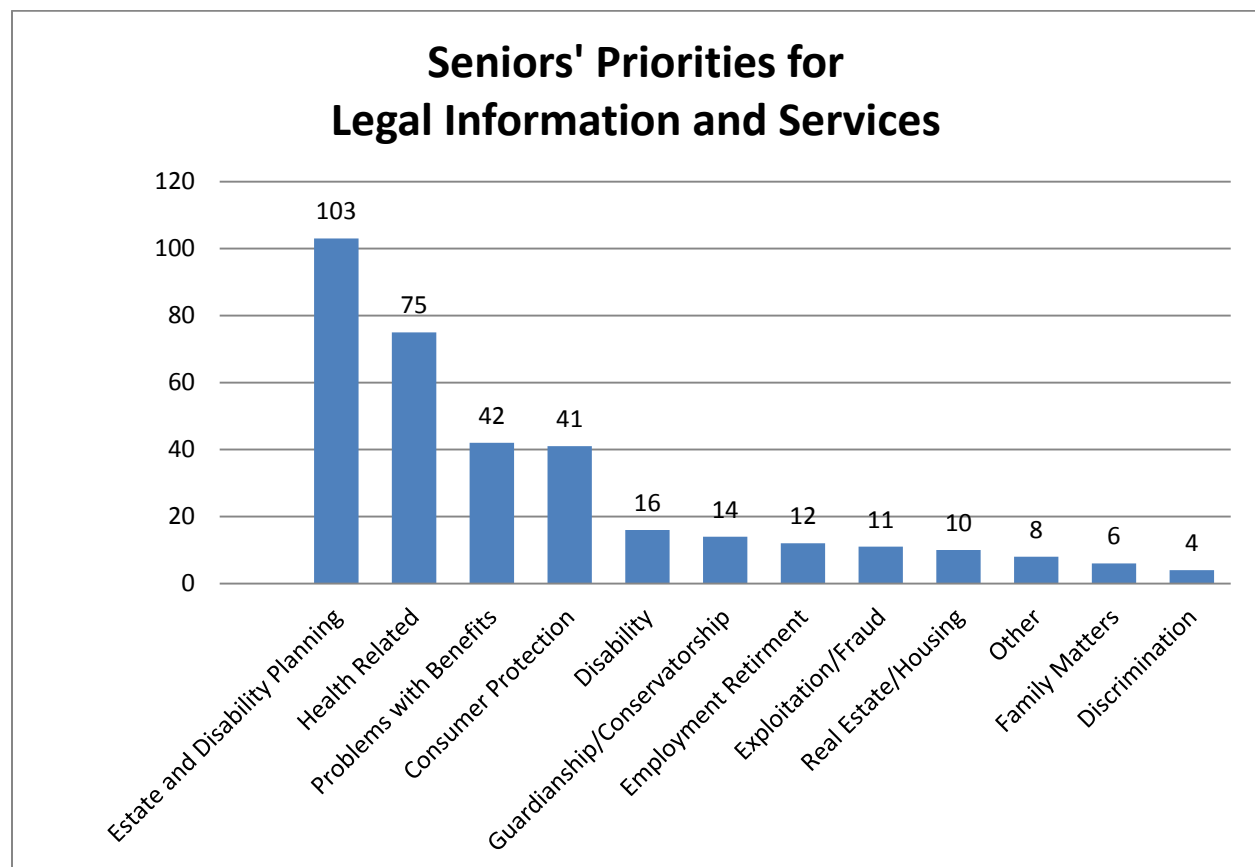
Key Findings

This study's findings about the legal needs of seniors largely mirror the findings of the Model Approaches needs assessments conducted in other states. A unique finding is the recognition of the need for estate planning services for Native American elders specifically addressing trust land issues. A common theme about the effect of declining cognitive abilities and the exploitation of seniors permeated most categories. The need for help or assistance with long term care planning and the Medicaid process also arose repeatedly.

The parallels to other Model Approaches states' needs assessments are not surprising since the needs unique to seniors are a function of their age. Legal needs depend on the characteristics of the population in need. The circumstances any individual over sixty years of age shares with others align their needs with that population. Legal needs that arise as an effect of poverty, geography, cultural issues, or disability are not unique to seniors although age may enhance the impact on seniors or affect their ability to seek solutions. Where seniors' legal needs diverge from others is where age or aging effects their circumstances. Age plays a factor in eligibility for services or programs, the ability to handle finances, status as a target for exploitation and a concern with end of life issues and planning for incapacity. These situations lead to legal needs specific to seniors.

➤ **Estate and Disability Planning was ranked as the most important category of seniors' legal needs by all groups surveyed.**

Rank	Top 4 Categories of Legal Needs identified by Legal Professionals	Top 4 Categories of Legal Needs identified by Aging Services Respondents
1	Estate and Disability Planning	Estate and Disability Planning
2	Consumer Protection	Filing for and Dealing with Government Benefits
3	Filing for and Dealing with Government Benefits	Abuse/Neglect by known and trusted other
4	Abuse/Neglect by known and trusted others	Consumer Protection



All of the surveyed groups prioritized Estate and Disability Planning issues as a legal need of seniors. Aging Services Respondents ranked Estate and Disability Planning issues as the number one category of legal needs of seniors they saw older Montanans face the most frequently. Legal Professionals affirmed this priority. Of the categories identified by seniors as areas of where legal services and information would be helpful, it was chosen by the most seniors (75%).

Of the specific legal needs within Estate and Disability planning, a significant majority of Aging Services respondents prioritized healthcare powers of attorney and financial powers of attorney as very common legal needs followed by living wills and wills. The results from the Legal Professionals echoed these findings although they designated wills as an equally prevalent legal need as financial and health care powers of attorney.

➤ **The need for seniors to have durable Financial Powers of Attorney as a form of protection and to enhance their autonomy is reflected throughout the survey results.**

One Legal Professional noted “a huge demand for guardianships and conservatorships due to a lack of pre-need planning. A durable power of attorney is so much easier and cheaper, but isn’t available once the person lacks capacity.” Comments from both on-line surveys described concerns about problems created when advancing dementia effects seniors’ ability to handle their finances. In regard to legal needs associated with housing multiple Respondents noted seniors’ challenges with managing their bills such as rent, mortgages, property taxes or utilities. Under the consumer protection category, problems with cognition also were noted as leading to legal needs.

➤ **Education regarding the need for advanced planning including the uses of a power of attorney, how it functions and how to revoke one is essential.**

Powers of attorney have the potential both to prevent elder financial exploitation and other forms of elder abuse and to be a source of exploitation. Under questions about abuse a Legal Professional noted the abuse by powers of attorney and other fiduciaries and the systematic problem of a lack of legal standing for a third party to assist. An Aging Services professional commented that “Institutionalized elders feel powerless to make their own decisions. Even when they have capacity if they have a power of attorney they feel they have given away all of their decision making ability.”

➤ **A need exists for education about the specific aspects of estate planning and administration.**

Aging Services respondents articulated the need for education about the pros and cons of non-probate transfers, the mechanics of non-probate transfers, probate for small estates and changing vehicle titles.

➤ **The need for wills for Native Americans with trust land was identified.**

The surveys did not specifically ask about the trust land issue; the issue arose organically when specified by Legal Professionals under “other” as a common estate and disability planning concern. Open-ended questions of whether certain legal needs are more prevalent in any underserved population also identified the need. It was noted “[t]he lack of practitioners who can assist with Indian wills becomes a huge issue for a lot of families.”

The need for wills specifically addressing trust land distribution has not risen in Model Approaches Needs Assessments previously. It is a function of Montana’s demographics and

land-ownership patterns. Montana has a greater percentage of Native Americans than the other Model Approaches states. Perhaps more significantly, a number of Model approaches states for which needs assessments are available do not have trust land.¹¹ Trust land is found across Montana both within and outside the boundaries of six of the reservations. The seventh reservation, the Rocky Boy reservation, was not allotted but tribal members may own trust interests in other areas. In addition, there is off reservation trust land in Montana that was allotted to members of the Turtle Mountain Band of Chippewa Indians in North Dakota.

The pattern of legal services provided by Montana Legal Services Association (MLSA) to persons sixty plus in the last four years also supports this finding. A large percentage of the services provided were to Native Americans with extensive service in the Wills and Estates category.¹² It is interesting to note that a 1990 Legal Needs Assessment of American Indian Elders found that 70% of legal service providers and 69% of other agencies reported that probate, estate planning and wills frequently created problems for Native American Elders.

➤ **Dealing with Government Benefits is a prevalent legal need.**

Government Benefits was the third most commonly picked category which seniors believed education and services would be helpful. 75% of the Aging Services respondents and 74% of the Legal Professionals indicated that they had encountered filing for and dealing with

¹¹ While individual Indians hold beneficial title to trust lands, the federal government holds legal title. Federal law restricts when, where, and how trust lands can be transferred, leased, mortgaged or otherwise alienated or encumbered and has created a progressive fractionation of ownership of land. As a result many tracts are held by so many owners that it is difficult for them to make effective use of their property. Fractionation has a huge economic impact for both individual Indians and tribes. Fractionation of allotted lands is an obstacle to effective use of the land including using land as collateral to secure financing or having enough interest in the land base to support agricultural operations.

The American Indian Probate Reform Act of 2004 (AIPRA) is a federal statute which governs the testamentary and intestate descent and distribution of an individual's trust land. It also creates purchase options at probate and partitioning through forced sales outside of probate. AIPRA has specific provisions that make will drafting for individuals important.

¹² Until recently, MLSA has had an Indian Wills Fellowship funded by Equal Justice Works. The fellow provided services related to AIPRA including preparing wills and recruited pro-bono attorneys. Due to cuts in Equal Justice Works funding, MLSA no longer has funding for the fellowship.

government benefits as a legal need for seniors; both groups of respondents included it in the top four areas of legal need. In addition to problems with the specific benefits the survey identified (Social Security, Medicare, Medicaid, and Veterans Benefits), respondents noted problems with SNAP; TANF; and Social Security Disability benefits. A Legal Professional noted that “often older individuals do not realize they are eligible or that if they are over 60 and receiving SNAP they can report medical bills to OPA and increase the SNAP amount.” The lack of awareness regarding eligibility is consistent with the findings of the Montana Food Bank network where over 30% of the recipients are seniors.¹³

The majority of the Respondents among seniors who had had problems with their government benefits in the last five years had problems applying for benefits or having benefits reduced. When asked specifically about Medicare and Medicaid, payment disputes were also common.

➤ **Elder abuse is a significant concern.**

Abuse/Neglect by known and trusted others was identified by 70% of the Aging Services respondents as an area where older Montanans need help. It was the third most prevalent subject area seen by Aging Services respondents. 65% of the Legal Professionals identified it as a legal need for older Montanans; 37% of the responding Legal Professionals had encountered it in their practice. An Aging Services respondent voiced the belief that criminal prosecution of senior exploitation would help reduce the problem of people taking advantage of elders. The need for advice as to what to do about children or spouses who intimidate and financially abuse elders was pinpointed.

¹³ Hungry in Montana: Factors Contributing to Emergency Food Needs 2012 Client Hunger Survey, Montana Food Bank Network.

Financial abuse was identified as a legal need generally more prevalent in underserved populations. Concerns about elder abuse in specific populations included elders on the reservations, those living alone or outside an assisted housing arrangement.¹⁴

Elder abuse was identified under consumer problems through a question about scams, identity theft, financial exploitation which respondents described as very common legal needs. Respondents also explained that consumer problems result from exploitation by caregivers and family members. Financial exploitation involving real estate was the most commonly cited specific issue for homeowners in regard to housing issues.

2% of the seniors responding to the question “has anyone you know ever pressured you to give them money or other assets?” answered yes. 3% indicated someone had used their money without their permission. 1% indicated someone had pressured them to change their wills and 1% indicated someone had pressured them to transfer property.

➤ **A need exists for community education regarding Elder Abuse.**

An Aging Services professional raised the issue of the complexity of elder abuse issues and talked about the need for education of the public regarding elder abuse. She described financial exploitation by family members and known others as a significant problem but she had encountered bank employees and others who lacked an understanding of the nuances related to a senior’s gifts to family members. On a national level, the Center for Elders and the Courts found their greatest need for training lies in the areas of elder abuse and neglect followed by financial exploitation.¹⁵ The need for education is a result of the complexity of abuse, neglect and

¹⁴ Elder Abuse in Indian Country is an issue that is receiving increasing attention. See Preventing and Responding to the Abuse of Elders in Indian Country, a report by the National Indian Council on Aging, June 2004; Elder Abuse in American Indian and Alaska Native Communities, a fact sheet by the National Resource Center on Native American Aging as part of the National Indigenous Elder Justice Initiative.

¹⁵ Elders and the Courts: Results from a Needs Assessment, National Center for State Courts, 2009.

exploitation and the way these issues intersect a variety of criminal, civil, family and probate cases.¹⁶

Some of the complexity of elder abuse is a function of the relationship between the abuser and an elder. Many psychological barriers that impact seniors' access to legal services such as confusion and shame are prevalent in elder abuse situations. Fear is common. Elderly victims who are financially exploited by family members often keep silent. They may not want create trouble for their family or they believe they should help the abuser. They do not believe reporting will benefit them.¹⁷

➤ **Legal interventions related to Elder Abuse issues such as Protection from Abuse Orders and Guardianships/Conservatorships also indicate elder abuse is a concern.**

When asked about Protection from Abuse Orders, twenty-eight percent of both Aging Services respondents and Legal Professionals have had experience with a Protection from Abuse order. Only 2% of Aging Services respondents and 6% of Legal Professionals would rate it as one of the top four most frequent legal needs for seniors.

70% of Legal Professionals and 64% of Aging Services respondents had encountered legal needs related to guardianships/conservatorships in their practices. 10% of seniors identified it as an area where legal information and services would be helpful while 54% of the Legal Professionals and 36% of the Aging Services respondents identified it as one of the four most frequent needs encountered. Concerns raised included: the expense and stress of the guardianship/conservatorship process is unnecessary when powers of attorney and advanced directives have been established while an individual is still competent; the problems of finding a

¹⁶ *Id.*

¹⁷ *Scamming the Elderly: An Increased Susceptibility to Financial Exploitation Within and Outside of the Family* Jessica Coombs 7 ALBANY GOV'T L. REV. 243, 248 (2014).

trustworthy and affordable guardian/conservator other than a family member, and the need for monitoring of fiduciaries.

➤ **All groups surveyed identified Consumer Protection as a significant concern.**

For aging services respondents, consumer protection issues were the fourth most common area identified as legal needs for seniors with 68% identifying it as an area of legal need although it was not one of the top four most frequent areas seen. Legal Professionals rated it as the second most common issue encountered, with 77% finding it an area where older Montanans needed legal help and was one of the top four areas they encountered the most frequently. Both Legal Professionals and Aging Services respondents ranked specific consumer protection issues as very common or somewhat common in the following order: 1) Scams, fraud, identity theft; telemarketer problems; 2) Bill collection; 3) credit card issues; 4) contractor issues; and 5) bankruptcy. Many Legal Professionals noted the relationship between consumer protection issues and either financial abuse by relatives/caregivers or memory/dementia issues. Other issues generated included: cell phone plans; unsuitable sales of products including extended warranties on vehicles; unnecessary health insurance; mail solicitations; and aggressive debt collection with creditors attempting to garnish exempt income from seniors.

➤ **Help with Medicaid planning is needed.**

Seniors frequently asked questions about eligibility for Medicaid. The need for accurate information about Medicaid programs and processes, especially the spend-down rules to avoid problems created by wrongful asset transfer was identified throughout survey answers. Under estate planning, Medicaid planning and the impact of resources and assets on Medicaid eligibility was commonly mentioned by both Legal Professionals and Aging Services respondents. An elder abuse problem noted was “exploitation by caregivers/family members resulting in credit

problems or denial of Medicaid.” The devastating impact on the senior who does not qualify for Medicaid after exploitation and the need for legal help for the senior at that point was also described.

➤ **Education about Medicaid eligibility is important for Veterans.**

A fraud related to the Veterans Pension Program which is perpetuated against Veterans Program has reached Montana. The fraud has impacted eligibility for Medicaid for some victims.¹⁸ In 2010, Montana officials, then Attorney General Steve Bullock, DPHHS Department Director Anna Whiting Sorrell and Brigadier General John Walsh (Military Affairs) convened a task force to address financial scams targeting veterans. In addition to community presentations regarding possible financial scams, the task force alerted licensed health care facilities (nursing homes, assisted living facilities and retirement homes) about issues facing Montana seniors and veterans in a joint letter dated November 4, 2011.

➤ **Seniors rated legal education and services about health related problems (insurance, Medicaid, Medicare, Long term care or home care issues, etc.) as a top priority.**

Health related problems including insurance, Medicaid, Medicare, Long term care and home care issues) are one of seniors’ top concerns. 55% of seniors identified it as a legal category that would be the most helpful making it the second most commonly chosen category after estate planning.

In addition to encountering problems with government benefits including Medicare and Medicaid, sixty-three percent of Aging Services respondents and 56% of Legal Professionals have encountered seniors with legal needs related to health insurance. 25% of Aging Services respondents and 24% of Legal Professionals identified it as one of the four most frequent areas

¹⁸ Winning Veterans’ Trust and Profiting From It, Jessica Silver-Greenberg, N.Y. Times December 24, 2013.

older Montanans need legal help. Legal needs related to nursing homes and home care have been encountered by 68% of Legal Professionals and 67% of Aging Services respondents. 54% of Legal Professionals and 36% of Aging Services respondents saw it as one of the four most frequent areas of need.

➤ **Housing issues for homeowners and renters were somewhat frequent but not prioritized as a legal need for old Montanans.**

Real estate and housing issues were not a priority for most seniors nor was it an area that was frequently encountered by Aging Services respondents or Legal Professionals in their work with elders. 7% of seniors identified real estate/housing issues as an area in which legal information and services would be helpful.

While 43% of Aging Services respondents saw real estate and housing as an area where older Montanans need legal help, less than 8% listed it as one of the four most frequent areas where they saw older Montanans have legal needs. For renters, landlord disputes, lack of utilities and repair problems were all similarly rated as very common. Also noted, were accessibility needs, understanding leases, rent increases, snow removal in common areas and unwanted people living in their homes. In regard to homeowners, financial exploitation involving real estate was the most commonly cited specific issue for homeowners. Respondents identified problems with reverse mortgages, with contractors and foreclosure or tax disputes as very or somewhat common.

Similarly, 48% of Legal Professionals identified real estate and housing issues as an area where older Montanans need legal help but less than 10% identified as one of four legal areas they saw most frequently for older Montanans. For renters, 77% of the Legal Professionals who identified areas specific to renters rated repair problems as very or somewhat common; 69% identified problems related to the provisions of utilities and 64% identified landlord disputes as

very or somewhat common. The inability to manage bills was a frequent theme in the comments. For homeowners, Legal Professionals rated the issues in the following order: 1) financial exploitation; 2) issues with reverse mortgages; 3) foreclosure in those categories; and 4) tax disputes. The specific comments again included issues related to paying bills. One identified as “very common” the problem of foreclosure of tax liens resulting in loss of homes. The potential abuse inherent in reverse mortgages was noted.

➤ **While many seniors own their own home, both Aging Services respondents and Legal Professionals have worked with seniors in need of emergency housing.**

43% of Aging Services respondents saw the need for emergency housing often and another forty-three percent saw the need sometimes. For Legal Professionals, 3% saw it often and 45% had encountered it sometimes.

➤ **Issues related to Employment/Retirement, Discrimination, Disability and Divorce/Custody are concerns for some but generally not considered significant needs.**

23% of Aging Services respondents had encountered issues related to employment/retirement but only 3% saw it with any kind of frequency. None of the Legal Professionals had encountered it as a legal need, although 5% encountered it as one of the top legal needs of seniors. 9% of seniors saw it as an area that legal information and services would be helpful.

13% of both Aging Services respondents and Legal Professionals had encountered seniors with legal needs related to discrimination. 3% of both groups identified it as one of the four most frequent legal needs encountered and 3% of seniors identified as an area in which legal information and services would be useful. While seniors did not report frequent discrimination, the most commonly reported kind was age discrimination.

While only 13% of the Aging Services respondents and none of the legal professionals categorized disability as a common area of legal need, 39% of Aging Services respondents and 13% of Legal Professionals had referred seniors to Disability Rights Montana, a statewide organization that assists with advocacy and/or legal problems related to a cognitive, mental, sensory or physical disability. The results suggest that the respondents feel there is a resource to help seniors who have legal needs related to disabilities. Only 15% of seniors surveyed had heard of Disability Rights Montana.

13% of Aging Services respondents and 23% of Legal Professionals had encountered divorce/custody issues as a legal need for seniors. Only 1% of Aging Services respondents saw it as one of the four top legal needs while 3% of Legal Professionals identified as one of the top four. 12% of seniors identified it as a category where legal information and services would be helpful.

➤ **Legal issues related to insurance other than health insurance were infrequent.**

20% of Aging Services respondents and 22% of Legal Professionals had encountered legal issues related to insurance other than health insurance. 3% of Aging Services respondents saw the issues as one of top four needs while none of the Legal Professionals rated it as a top need.

➤ **Other legal needs identified included guardianship of grandchildren, veterans' issues and tax help.**

Responses to the surveys and conversations with Aging Services respondents indicate the increased prevalence of grandparents raising grandchildren creating a need for information about grandparents' rights and help with the guardianship of grandchildren.¹⁹ Tax help and Veterans issues were also identified. The recent news about the Veterans Administration system suggests there may be an underreported problem. In an article on the Veterans Pension Program fraud, it was noted that a large population of Veterans who are "older Americans vulnerable to financial players who hold out the VA benefit as an answer to myriad economic woes"²⁰ exists.

➤ **47% of seniors surveyed who faced legal problems in the last five years and who did not use an attorney, did nothing.**

In Montana, this statistic is not unique to seniors. The 2010 legal needs assessment commissioned by the Montana Justice Foundation found that of 50% of low income Montanans nearly three-fourths had experienced civil legal problems in the previous year and did nothing in response to at least one of their civil legal problems.²¹ Of the people interviewed in the Justice Gap study about four out of ten had a problem where a lawyer may have been helpful, but they did not seek legal help.²²

➤ **Seniors are more likely to seek help from people than from technology.**

¹⁹ The AARP has an information sheet that lists MT statistics related to grandparents raising grandchildren from the 2010 census and provides an extensive resource list of help for the multitude of issues grandparents face. It can be found at: www.aarp.org/content/dam/aarp/.../grandfacts-montana.pdf

²⁰ Silver-Greenberg, *supra*, note 17.

²¹ 2010 Montana Legal Needs Survey Final Report, The Bureau of Business and Economic Research, March 3, 2011.

²² The Justice Gap in Montana: As Vast As Big Sky Country, Carmody and Associates, June, 2014.

The majority of Montana seniors who do seek help look for help from a face to face interaction. The internet and the toll-free helpline are not common avenues for seniors to access legal help.

Even though 47% of the seniors surveyed use the internet, it is not a significant source of legal information. 17% either searched the internet themselves or someone helped them search the internet to research a legal problem. None of the respondents who searched had been able to solve their legal problem with the information they found, although 35% found an attorney who could help them and 6% found an organization providing free legal aid.

The relationship of seniors to technology is not consistent and the percentage of seniors comfortable with technology is likely to increase over time. A Pew Research Center report on Older Americans and Technology found that there are two different groups of older Americans when it comes to seniors and their relationship to technology.²³ “The first group (which leans toward younger, more highly educated, or more affluent seniors) has relatively substantial technology assets, and also has a positive view toward the benefits of online platforms. The other (which tends to be older and less affluent, often with significant challenges with health or disability) is largely disconnected from the world of digital tools and services, both physically and psychologically.”²⁴ The report advised that “many seniors have physical conditions or health issues that make it difficult to use new technologies.”²⁵

Another factor for parts of rural and frontier Montana is limited or non-existent internet service. The Justice Gap study outlined a number of barriers to the use of the internet for legal assistance among low and moderate income Montanans. They included: individuals do not have a computer (especially the elderly); do not know how to use computers; the web is not used as much in some smaller communities; a lack of internet service at home; some individuals do not

²³ Pew Research Center, April 2014, “Older Adults and Technology Use”

²⁴ *Id.*

²⁵ *Id.*

have a safe computer; and some people access the web only by smart phone. While recognizing that most of the public libraries have computers the study pointed out a number of barriers to the use of library computers including: some websites are blocked and email can be difficult to use; and some individuals are uncomfortable with searching or providing private information on a computer in a public place.²⁶

Seniors are either unaware of helplines or uncomfortable with the toll free helpline. Only 5% of respondents had ever used or considered using a toll-free helpline for legal help. However, in response to a question about legal services that would be the most helpful, 35% chose a toll-free helpline with a live person as one of their top picks. Of those who called in, the most frequently used number was the Area Agencies on Aging/ADRC help-line. 25% of helpline users indicated they got the help they needed. One person wrote “person was not helpful on line.” An advocate’s comments regarding how to best help elders access legal services, reported both the Montana Legal Services helpline and the Area Agency on Aging referral line are difficult to get through on at times and especially hard for the frail elderly with few supports. It is important to remember that for seniors even call distribution menus can be barriers.

While 2% used a toll-free helpline, many seniors who sought to solve their problems without an attorney looked to family or friends while others sought help from a variety of agencies including an Area Agency on Aging, a County Council on Aging, Adult Protective Services, the Veterans Affairs Office, the Attorney General’s office or a local community organization. Specifically in relation to problems with government benefits, seniors who received help resolving their problem got help from a family member (30%); from an attorney (27%); through a senior center (27%). Other sources of help included a County Council on

²⁶ Carmody and Associates, *supra*, note 22.

Aging, physician's office and hospital staff, community members with experience in Aging Services and the veteran's administration staff.

➤ **1) Free Estate and Disability planning, 2) Low cost attorneys, and 3) Free seminars in my county on specific legal topics were identified by seniors as the most helpful services.**

Seniors were asked to indicate the top three legal services types that would be the most helpful from a list of options. The top three rated as most helpful (or potentially helpful) by survey respondents included: 1) free estate planning and disability planning services (wills, non-probate transfers, financial powers of attorney, health care power of attorney, living will) (49%); 2) low cost attorneys (49%); and 3) free seminars held in the county on specific legal issues (41%). Around a third of the Respondents selected a free legal hotline that would help me talk to a person and get information and referrals (35%) and a "free handbook on common legal questions and self-representation issues" (31%). Services receiving the lowest rankings included: websites with legal information (14%), a "free legal hotline with automated information on legal subjects" or a "website with simple legal forms so I can file my own actions" (9%).

➤ **Senior centers are a vital place for seniors to get information.**

As a way to provide information to seniors about available legal services, senior centers were identified by 68% of seniors responding and with an Area Agency on Aging identified by 35%. Less frequently chosen avenues included: brochures (19%), newspaper advertising (19%), churches or other religious gathering places (15.28%), radio (11%) and internet (10%). Legal Professionals indicated that television and senior centers were the best vehicles to make seniors aware of legal resources followed by the newspaper and radio.

Although the average ranking for faith based communities and the County Council on Aging or Area Agency on Aging was lower 47% chose them as one of the “best” four. One Legal Survey respondent chose faith based locations over senior centers because senior centers are not available everywhere. Aging Services respondents emphasized using senior centers, television and the County or Area Agency on Aging.

Legal Services and Resources in Montana

The Justice Gap Study commissioned by the Montana Access to Justice Commission provides a comprehensive though disheartening assessment of the legal resources available for low and moderate income Montanans. In a review of the services available (which included the Legal Services Developer program), the study's conclusion was "that despite vigorous effort by numerous organizations, in reality, Montana has a thin layer of free and reduced fee civil legal services for low and moderate income individuals." "All types of legal problems that affect an individual's safety, shelter, finances and health are in need of additional free legal assistance." Less than one in ten Montanans with low or moderate income who likely need legal help receive it.²⁷ The study also found that the effect of gaps and barriers in Montana's legal services system may be more intense for certain populations including older Montanans.

Senior citizens are one of the population groups for which federal funds support legal services. States are required in both Title III and Title VII to have a legal assistance developer for the state. [Pub. L. No, 109-365] as well as other personnel to ensure State leadership and capacity—in securing and maintaining the legal rights of older individuals; for coordinating the provision of legal assistance; to provide technical assistance, training, and other supportive functions to area agencies on aging, legal assistance providers, ombudsmen, and other persons, as appropriate; to promote financial management services to older individuals at risk of conservatorship; to assist older individuals in understanding their rights, exercising choices, benefitting from services and opportunities authorized by law, and maintaining the rights of older individuals at risk of guardianship; and to improve the quality and quantity of legal services provided to older individuals.

²⁷ *Id.*

For elders 60 and over in Montana, two main resources of general civil legal services exist. They are the Legal Services Developer (LSD) program and the Montana Legal Services Association (MLSA). The LSD program is part of the Aging Services Bureau in the Senior and Long Term Care Division of the Department of Public Health and Human Services. There are no income or asset limitations to accessing services through the LSD program. For MLSA, an individual must have income below 125% of the poverty level to be eligible.

For seniors, the LSD program offers multiple legal services including the Attorney-Paralegal Program, Legal Document Clinics²⁸, and legal education. Legal education is provided through Legal Advice Clinics as well as written materials including single topic pamphlets on legal issues and a Guide to Long-Term Care Planning. Although the LSD can offer advice, the LSD does not represent seniors with legal issues related to family law, Medicare, Medicaid, Workers Compensation or medical malpractice.

MLSA has the expertise to provide assistance in an array of legal areas, including consumer, education, employment, family, health, housing, individual rights, and public benefits. Funding cuts however have limited MLSA's ability to serve all eligible Montanans.²⁹ In the year 2013, less than 45% of eligible individuals who contacted MLSA received help. One of the many areas in which MLSA has been a leader is Indian Wills. Unfortunately a loss of funding forced MLSA to suspend its program to prepare wills and provide other services related to the American Indian Probate Reform Act (AIPRA).

The Montana State Bar offers two outreach programs that constitute important resources for seniors. These include the State Bar Lawyer Referral and Information Service (LRIS) and the State Bar Modest Means program. Staffed by a paralegal and other trained staff, LRIS provides referrals to Montana attorneys and information regarding other resources in the State for

²⁸ Seventy nine attorneys reported pro bono work at a Legal Document Clinic in 2013.

²⁹ Carmody and Associates, *supra*, note 22.

people who call. The Modest Means program is a reduced-fee civil representation program for individuals who MLSPA is unable to serve or who have income above 125% but less than 200% of federal poverty guidelines. The Modest Means program includes incentives to attorneys to participate including malpractice insurance coverage and a free CLE for 50 hours or more of Modest Means or pro-bono work. As of March, 2014, no Modest Means attorneys were available in Area One, Area Three or Area Ten of the Area Agencies on Aging.

A number of organizations provide specialized services. Disability Rights Montana provides advocates and attorneys for disability related legal issues. Most Domestic Violence Programs in Montana have advocates who provide legal information to victims of domestic violence and assist them with obtaining orders of protection, including accompanying them to court. Some of the programs also offer legal representation. The University of Montana, School of Law Indian Law Clinic largely represents members of the Confederated Salish & Kootenai Tribes in criminal cases although other areas have been addressed.

The People's Law Center represents individuals on a contingency basis who are attempting to obtain or keep Social Security Disability benefits. All other Social Security cases, including overpayments and cessations, are handled on a pro bono basis, as are counsel and advice cases in the legal areas of bankruptcy, consumer, family and landlord/tenant. The legal staff includes four attorneys and two paralegals in offices in Billings, Bozeman, Great Falls and Helena.

There are also resources available through the private attorneys who do pro bono work or offer unbundled services. On the State Bar's pro bono report for 2013, categories of pro bono work of interest to seniors included elder law (11.5%), Estate Planning (17%), Guardianship (10.6%), End of Life Planning (9.8%) and Conservatorship (5.5%). Montana Legal Justice, PLLC offers unbundled and sliding scale legal services for clients who do not qualify for free legal services but who cannot afford full priced legal fees.

State offices help citizens with legal issues related to their area of expertise. The Consumer Protection Office investigates consumer complaints against businesses and enforces Montana's consumer protection laws; Montana Human Rights Bureau investigates complaints of discrimination, including housing and employment discrimination. Public Service Commission assists with complaints against utility companies and the Montana Citizens Advocate Office helps with complaints problems/complaints against state agencies.

Montana Law Help – a website that provides legal information on a wide-range of civil legal areas, offers self-help forms including access to interactive legal forms that the user can complete, information on how to contact a court or legal services office and “live chat” help. It is maintained by MLSA. The Self Help Law Centers and the Montana State Law Library also provide information and resources.

The Justice Gap study provides a comprehensive description of the traditional areas of legal services in Montana; however, there are some resources that seniors in Montana can take advantage of that did not fit the parameters of the study. These include:

- Some County Councils on Aging contract with a local attorney, often the County Attorney, to provide limited legal services to seniors including powers of attorney and wills.
- The Montana State Extension Service provides legal information that serves as a resource for seniors and their families. Among other things, the Extension Service has information on AIPRA, Estate Planning and an active Montana Grandparents Raising Grandchild Project. The Extension Service has both a website and local offices in each county. Although the Extension Service does not offer legal services, the information available and the fact that many Montana seniors have experience with the Extension Service through other projects makes it an important resource for seniors.

- AARP tax program

Of the avenues to access legal services, Montana Legal Services Association and the Area Agencies on Aging are the most common places Legal Professionals and Aging Services Respondents refer seniors with legal issues.

Organization	% of Attorneys who refer to	% of Aging Professionals who refer to
MT Legal Services Assn	69%	66%
Area Agency on Aging	46%	82%
State Bar Referral and Information Service	44%	8%
Self Help Law Center	42%	27%
Montana Office of Consumer Protection	42%	39%
A Local Pro-Bono Program	35%	26%
Domestic Violence Program	21%	34%
Legal Services Developer	21%	39%
Montana Human Rights	21%	15%
Montana Fair Housing	17%	41%
Montana State Law Library	15%	5%
Montana State Extension	13%	13%
Disability Rights	13%	38%
Other	13% *People's Law Center*; APS; State's Ombudsmen; Western Montana Chapter for the Prevention of Elder Abuse; Church	3% APS; local lawyer
Montana Citizens Advocates	12%	25%
ADRC	8%	27%

Barriers to Legal Services

The barriers to accessing legal services faced by Montana's seniors include a spectrum of factors. Some are environmental; some relate to the capacity of Montana's legal system and some are a function of a senior's personal situation whether physical or psychological.

➤ **The Justice Gap Study found a significant lack of services delivered locally.**

The Justice Gap study identified four populations specifically as having a particular need for in-person connections or services from a live person in order to address their barriers to services, older Montanans, Native Americans on reservations, victims of domestic violence, and persons with mental health disorders. The distribution of Montana's Bar membership also contributes to the lack of services in rural and frontier counties especially in North Central and Eastern Montana.

➤ **The greatest barriers to seniors' access to legal services were: 1) they were unable to afford legal assistance; 2) they did not know where to find help; 3) they did not realize that a legal solution to a problem exists; and 4) cognitive impairment.**

The top barriers identified by Legal Professionals and Aging Services respondents largely focus on seniors' situations. They include: inability to afford legal assistance, lack of knowledge of where to find legal assistance or that it is available, an unawareness that a legal solution to a problem exists and cognitive impairment. Also cited as a frequent impediment was seniors' belief that they can handle a problem without a lawyer. Transportation issues and disability issues were less commonly cited and the language and discrimination were the least cited. Written comments included reminders that seniors may not even recognize they have a problem,

the impact of pride or shame on seniors' willingness to seek help and the effect of fear when seniors believe an exploiter will harm or abandon them.

Seniors' top reason for not using a lawyer when they thought they might use one in the last five years was they were worried about the cost (53%). 30% thought they could solve the problem themselves and 25% did not know where to find legal services. 6% cited transportation as the reason they did not get a lawyer. Other barriers identified were poor health, forgetting to contact a lawyer and a lack of confidence in lawyers ("no help to be gotten there").

The Justice Gap study confirmed that finding that for low and moderate income Montanans cost was the number one barrier to accessing legal assistance exacerbated by an insufficient supply of free legal assistance.³⁰ The Justice Gap study included a separate section addressing problems in accessing legal assistance that may affect seniors disproportionately. In addition to transportation barriers, pride, shame and technological challenges, particularly the use of computers, "older adults are likely one of the groups of people, like Native Americans, that most need to see someone face-to-face to trust them."³¹ The study explained "the complications of representing yourself are intensified for those who have cognitive difficulties due to aging."³²

The Justice Gap study also confirmed the finding about the lack of knowledge of available resources. It noted that "many of the individuals and the service providers who were interviewed did not know free legal help was available."³³ The study noted that "Service providers in Eastern Montana seem to have the least knowledge of MLSA, which is to be expected given that MLSA has no offices there."³⁴

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

³³ *Id.*

³⁴ *Id.*

➤ **Seniors' Lack of Awareness of Organizations Providing Legal information and Services is a Key Barrier**

45% of the seniors surveyed did not identify any of the organizations which have legal education and services available. Of the organizations that were identified by seniors, the top four most commonly recognized were: Montana Legal Services Association (58%); Montana State Extension (47%); Montana Office of Consumer Protection (46%); and the Area Agency on Aging and Aging and Disability Resource Centers (43%). Less than a quarter of the seniors recognized the Montana Human Rights Bureau (24%). The Legal Services Developer Program was identified by 19%, followed by the Montana State Law Library at 18% and Disability Rights Montana at 15%. The Montana State Bar Lawyer Referral and Information Service was identified by 7%; the Indian Law Clinic at the University of Montana, School of Law was identified by 5% and the Self-Help Law Centers (Montana Supreme Court Help Program) by 4%.

➤ **Avenues to provide increased legal services include further recruiting of pro-bono attorneys (including law students and retired attorneys) and increased funding of Montana Legal Services.**

While some Legal Professionals believe legal professionals are already doing a lot of pro-bono work, an insufficient awareness of pro-bono opportunities was identified. There was a suggestion that there are attorneys who would serve elders with non-family law issues who have not been asked to serve. In addition, Legal Professionals prefer one day volunteering opportunities like the Legal Document Clinics which is easier to commit to than an uncertain amount of time. Supervised Law Students and retired attorneys were identified as possible sources of help.

It was pointed out that if MLSA had the funding, it is well set up to deal with low income and Native American populations.

➤ **Suggestions from Survey Respondents for improving Access to Legal Services**

The suggestions from the on-line surveys as how to help elders access legal surveys fell into three categories including 1) improving the system, 2) outreach, and 3) resources.

➤ **Systematic improvements**

There was a common theme that increased integration of legal services in the Aging Services network would improve access. The need to create a more unified system so that seniors' do not get confused or lost as they are directed to get legal help was identified by a Legal Professional.

A specific suggestion about integrating legal services with other services involved educating and training Area Agencies on Aging staff and then advertising their availability.

Many respondents advocated for more free legal advice including legal advice clinics, free legal presentations at senior centers and churches, and legal assistance at senior centers on a regular basis. The importance of being consistently available in places where seniors are comfortable was a common theme. The other systematic improvement included having a MLSA representative for rural areas and seniors only and also to advertise what services are available from MLSA.

One systematic suggestion that focused on improving seniors' ability to help themselves was increasing internet access and basic training in the use of the internet.

➤ **Outreach**

The reality of Montana's rural and frontier nature means that outreach, including legal education and legal information, must be a component of any legal services program.

Workshops on specific topics or to specific target groups provide avenues to identify seniors in need. Another strategy is to provide legal information in places people already frequent and through the people and services they trust. Aging Services respondents and Legal Professionals emphasized going where seniors are including community events such as health fairs, faith based organizations, county fairs as well as senior centers. Advertising through television, radio and newspapers was identified and a specific suggestion was to use elders as spokespeople regarding how to get help and speaking to the issue of embarrassment.

A key strategy is to enhance the capacity of non-legal contacts to act as trusted intermediaries between seniors and legal providers. Aging Services respondents advocated for educating gateway providers including medical professionals, Meals on Wheels providers, commodity program staff and volunteers, Extension agents, and Aging Services professionals about legal issues and services so they would be able to refer seniors.

➤ **Resources**

There was also a recurrent request for information on what is available for those who want to refer. Aging Services respondents would like a resource list of pro-bono attorneys. While the practicalities of having such a list and the potential negative systematic impact (including attorneys' reaction to having such a list distributed) may make such a list unfeasible, the desire for the list should be noted as a reflection of the frustration Aging Services respondents feel at not being able to connect seniors with legal services. A resource list that would be feasible and helpful, although it was not identified, would be a guide for attorneys and other advocates to the resources available for seniors.

Recommendations

- ❖ Create a more unified system- a holistic approach best serves seniors and eliminates the false distinction between legal and social service intervention.
- ❖ Educate Elders –Ongoing, regular, public education on relevant legal issues delivered at places elders gather.
- ❖ Educate people working with the elderly both in government, non-profit and private sector on the substantive issues and on the resources available to eliminate a referral gap. Strategize use of volunteer groups such as Senior Corps Programs to educate seniors and others working with elderly populations. Create a reference resource for Aging Services and others who work with seniors.
- ❖ Create a reference resource for attorneys and paralegals about the programs available for seniors.
- ❖ Strategize use of grant partners to develop CLEs to offer in exchange for pro-bono hours.
- ❖ Use outreach to increase awareness of pro bono needs beyond family law.
- ❖ Advertise clinics as opportunities for limited hour pro-bono commitments.
- ❖ Provide training to seniors in the use of computers and the internet.
- ❖ Train helpline staff to take time to allow elders to express their needs.
- ❖ Participate and support actions taken by the Access to Justice Commission in response to the Justice Gap study.