



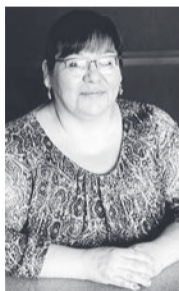
Managing Legal Incubators in a Rural State: Examining Two Montana Programs

By Gillian Ellison, Rural Incubator Project for Lawyers Coordinator;¹ Valerie Falls Down, Tribal Advocacy Coordinator;² Montana Legal Services Association

The State of Montana is a vast swath of land with only 1.1 million people spread across 56 counties and seven reservation-based communities. The chal-



Gillian Ellison (left); Valerie Falls Down (right).



lenges facing Montana are endemic to many rural and reservation-based communities and create unique roadblocks for connecting people in need with

legal service providers. With demographic changes, economic challenges, and the lack of infrastructure development, many towns struggle to attract attorneys, and many residents do not have the financial means to retain an attorney. The Montana Legal Services Association (MLSA) is pursuing creative solutions to fill this gap between the people in need and access to pro bono and reduced-rate services. MLSA developed two innovative programs aimed at building available resources in rural and reservation-based communities. This article will provide an overview of both projects as well as key takeaways.

The Unique Nature and Needs Facing Montana

Montana is home to seven reservation-based communities. The majority of Montana's reservation-based communities are in the very rural eastern part of the state, where access to legal services is already difficult. Further exacerbating the problem, relatively few attorneys are licensed to practice law in tribal courts. Tribal courts may have less than ten attorneys licensed in their court system.³ The need for legal services in

tribal communities is evident by the number of cases handled by MLSA's Tribal Law Practice Group each year⁴ and input from current tribal court judges and staff. MLSA's services in Indian Country are limited to one full time attorney, and one part time domestic violence attorney. With the heavy travel burden that comes along with serving tribal court clients, MLSA does not meet the need at this staffing level.

MLSA faces similar issues in rural communities across the state. Of Montana's 56 counties, half are defined as "frontier" communities by the US Census, meaning that there are fewer than two persons per square mile. MLSA's staff attorneys cannot meet the demand for services in many of the rural and frontier counties across the state, in part, because covering the distance between towns requires a great deal of staff resources and time. Similar to Montana's reservation-based communities, many of these rural communities have very few or no attorneys within the county. If an attorney lives and practices in the area, they are often the county attorney and unable to assist residents with their civil legal issues.

The system is different in Montana's reservation-based communities, however the issue of access to attorneys is the same. While all tribal courts authorize representation by lay advocates, MLSA's partners have reported that there are not enough advocates to meet the growing need for civil legal aid on Montana's reservations. In addition, there is a serious need for formal training and support for lay advocates to ensure high quality legal services are provided. The remote nature of Montana's seven reservations, and the lack of locally available educational programs for lay advocates contribute to the shortage of qualified lay advocates in Montana's tribal communities. Travel limitations during disasters such as the COVID-19 pandemic, blizzard events,⁵ flood events,⁶ and fire events⁷ have

highlighted the need for trained lay advocates in these communities.

Solutions to the Problem

Rural Incubator Project for Lawyers

To address the shortage of attorneys and services for low to moderate income people in Montana's state courts, MLSA developed the RIPL. Launched in 2018 by MLSA and in partnership with the Montana State Bar, the Montana Justice Foundation, the Montana Supreme Court, and the Alexander Blewett III School of Law, RIPL seeks attorneys dedicated to establishing sustainable law practices serving the legal needs of limited-income individuals in under-served and rural communities across Montana. In exchange for 25 pro bono hours and 225 reduced-rate service hours from a RIPL fellow, MLSA provides fellows with training and assistance with business and practice development.

RIPL began with two fellows, has since seen five more fellows complete the program, and currently has one active fellow for 2023. These are not high numbers of participants, and yet over the past three years, RIPL fellows and alumni have provided over 4,218 hours of pro bono and reduced-rate services on more than 1,018 unique cases across 43 counties.

MLSA refers clients to the RIPL program if they are not eligible for pro bono services and cannot afford a full priced attorney. Once referred to the program, the program coordinator assesses the cases and seeks out the best fitting RIPL fellow for the referral. The RIPL program is designed to reflect the desired practice areas of the participating attorneys, their skills, and schedule. The program is then better able to serve clients by matching clients with attorneys with the needed skills and interest to offer services.

Jessica Wiles started her RIPL Fellowship in October 2019 and said this of her experience: "As an attorney whose background was focused on administrative

and environmental law, I always felt nervous about getting involved in pro bono and modest means legal work because I did not feel I had even basic legal knowledge in the areas of the law affecting the everyday lives of low and modest means Montanans. Now, after only a year in the RIPL program, I feel confident that I am able to provide competent and high-quality legal advice and services to individuals in need across our state."

Tribal Advocacy Incubator Project

In response to the reported need for advocates from tribal court judges and staff, and following the success of MLSA's Rural Incubator Project for Lawyers (RIPL) Program, MLSA partnered with six tribal courts, the Alexander Blewett III School of Law, and the Montana State Bar Indian Law Section to launch the Tribal Advocacy Incubator Project (TAIP) in July 2021. The TAIP program provides a twelve-week training on topics rated as most necessary by tribal courts, including jurisdiction, evidence, civil procedure, family law, and trauma-informed advocacy. The participants also receive business plan training, an in-person mock trial training, and peer-to-peer support through monthly round-table discussions with other participants. MLSA also provides training and funding to take a tribal bar exam, as well as a \$1,000 grant to each participant who successfully completes the course to assist with business startup costs. The first cohort of participants began the course in May 2022. The goal of the project is to provide tribal lay advocates with the skills and support needed to run their own legal practice so that they can increase access to justice within their own community.

In exchange for this no-cost training program, the participants agree to accept client referrals from MLSA for two years. Participants will provide 150 hours of services to MLSA clients at either pro bono, or no more than a Modest Means rate.⁸ The participants are also able to accept cases outside of their Modest Means practice as they grow their business.

MLSA's TAIP participants are all tribal members who are currently working, or have previously worked in tribal communities in Montana. We have participants who are recent graduates, as well as participants who are looking for a later-in-life career shift. Most of our participants have connections to Tribal Courts, through prior advocacy work, administrative work, or personal experiences going through Tribal Court systems. All of the TAIP participants are committed to completing the course, passing a tribal bar exam, and

"The lay advocates in tribal courts are overworked. There is also a need for good training for lay advocates."

—Interviewee in MLSA's Native American Needs Assessment from Northern Cheyenne.

KEY TAKEAWAYS

1. Community Partners Provide Invaluable Guidance.

Both TAIP and RIPL focused on building the program in partnership with stakeholders. This proved to be invaluable to both.

A key component in the development of the RIPL program has been collaboration with MLSA community partners. RIPL partners continue to support the program by providing funding, expert trainers, recruitment opportunities, and help with event organizing. Every year RIPL and the state bar partner to offer a Continuing Legal Education Boot Camp for any attorney, not just RIPL fellows, that want to start a solo or small law firm.

Prior to launching the course, MLSA's TAIP Coordinator and TLPG Attorney conducted extensive outreach and surveyed tribal communities to obtain input on course development.⁹ Outreach included traveling to each tribal community at least once, meeting with court staff, tribal college staff and other service providers, and surveying 22 stakeholders.

While working within the framework of RIPL, we needed to ensure that TAIP was not simply a cut and paste of RIPL. Surveys and outreach provided information that we used to more closely tailor our program to tribal community needs. A key community insight was to offer the course as a twelve-week summer course, to allow community college graduates to complete their coursework and then begin the program.

Finally, we surveyed and incorporated community partner feedback on training topics, which lead to the inclusion of topics like trauma-informed advocacy, to best prepare our advocates for the realities of their work. All of the pre-launch feedback helped us ensure that TAIP is aligned with community values, rather than resting on assumptions of what the community needs.

2. Flexibility is Key.

Both programs have learned the importance of building a program that adapts to the needs of participants, the changing needs of clients, and the changing structure of a legal services organization. In addition, unlike RIPL, the TAIP trainings are offered entirely remotely and after work hours to minimize conflicts with participants' full-time jobs. Because participants are not currently practicing attorneys, they all maintain full time employment or school enrollment outside of the course.

RIPL is dedicated to a flexible service delivery approach and supporting the RIPL fellows develop innovative ways to offer legal services. RIPL continuously looks for creative solutions to overcome access barriers posed by the location of participating attorneys' law practices by increasing technological competency and accessibility. RIPL fellows often work with clients on a limited-scope basis and over Zoom and telephone. RIPL fellows also offer non-traditional working hours to accommodate their clientele.

3. It Won't Always be Easy.

Programs that seek to train and recruit private individuals to help with the gap in civil legal services need to know that it will not always be easy. Bringing together new partners, building a new program, and serving clients through a new model presents numerous challenges. However, MLSA has found that the time spent cultivating those relationships paid off. Not only are more clients served, but MLSA trains attorneys and advocates within rural communities about the importance of civil legal aid, pro bono, and their role in addressing the access to justice crisis. MLSA is a small organization that covers a big state but programs like TAIP and RIPL bring in new voices and create new advocates in the ongoing fight to ensure equal access to justice for all.

then opening their own small business maintaining a lay advocacy practice either part time, or full time.

1 Gillian Ellison has worked for Montana Legal Services Association for two years and coordinated the Rural

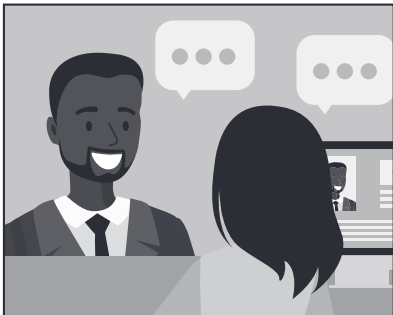
© MANAGING LEGAL INCUBATORS IN A RURAL STATE,
Continued from page 41

Incubator Project for Lawyers (RIPL) for most of that time. Gillian loves her work and strives to empower RIPL Fellows to be community leaders, run socially conscious law firms, and maintain sustainable businesses. Outside of the office Gillian enjoys spending time in the wide open spaces of Montana. Gillian may be reached at gellison@mtlsa.org.

- 2 Valerie Falls Down joined Montana Legal Services Association in July 2021 as a Tribal Advocacy Coordinator for the Tribal Advocacy Incubator Project. Valerie was appointed to the Montana Supreme Court — Access to Justice Commission to develop, coordinate, and implement initiatives to expand access to and enhance the quality of justice in civil legal matters. Valerie currently holds a license to practice in the Crow Tribal Court. Her prior work experience includes fifteen years working within the Crow Tribal community in different capacities as a Youth Empowerment Coordinator, Youth Counselor, Addiction Counselor, Domestic Violence Director and Victim Advocate. She has also worked for the Little Big Horn College serving as an Adjunct Instructor in the areas of Legal, Ethical, Professional Issues in Counseling and Multi-Cultural Counseling. Valerie has served on boards for several different organizations including the Native Women's Society of the Great Plains, Native Women's Coalition, Montana Missing Indigenous Persons Task Force, and the Montana

Domestic Violence Fatality Review Team. Through her work and board member experience, she has assisted in the areas of strategic planning, policy development, program management, forming and linking collaborative networks, as well as strengthening and fostering community partnerships. Valerie may be reached at vfallsdo@mtlsa.org.

- 3 <https://fptc.org/licensed-advocates>; <https://www.crow-tribalcourts.org/advocate-list.html>.
- 4 161 cases handled in 2020; 214 cases handled in 2021; 223 cases handled in 2022.
- 5 <https://www.mtpr.org/montana-news/2019-09-30/black-feet-reservation-digging-out-after-record-breaking-snowstorm>.
- 6 <https://www.kpax.com/news/montana-news/2019/03/26/crow-reservation-reeling-from-flooding-and-road-closures/>.
- 7 <https://ictnews.org/news/montana-tribes-banded-together-during-fire-season>.
- 8 A Modest Means rate is between \$60–\$120 an hour. Many participants in MLSA's Native American Needs Assessment noted that even for moderate income tribal members who can afford to pay for legal services, there is a lack of available attorneys and advocates to be hired.
- 9 MLSA's TAIP Coordinator alone traveled 7,958 miles in a one-year period to do outreach in Montana's Indian Country. The extensive travel necessary to serve Indian Country highlights the need for locally available resources.



MIE Listservs

Connect with your colleagues through MIE's listservs for executive directors, fundraisers, administrators, managers, and DEI officers. Use these networks to have robust discussions about common issues, informally share information, documents, and policies, and ask questions and receive candid answers from peers. Email helpdesk@mielegalaid.org to join one of these active forums where you can share tips, brag about your successes, and provoke discussion among your colleagues in the legal aid community.