



**New York State
Legal Services Initiative**

Think Group Report

Strategies for Action: Advancing the Legal Services Initiative's Goals

June 2015

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**New York State
Legal Services Initiative**

TO: Partnership Members
New York State Legal Services Initiative

FROM: 105 members of the Legal Services Initiative's statewide Think Group

We are very pleased to provide the attached *Think Group Report*, which presents the work of the Initiative's 105-member Think Group. The *Report* is not a consensus of the comments and ideas suggested by Think Group members, but is a compilation of all experiences, perceptions, and suggested strategies contributed by the Group's 105 members. The *Think Group Report* provides a resource for the Initiative's partnership to consider steps for improving access to affordable legal assistance in civil matters by New York's older adults, people of all ages with disabilities, and the informal caregivers of these populations. The *Report* is a companion document to the partnership's research project, *Report of Findings: Seven Statewide Surveys*, and both are available as a resource for policymakers, community leaders and organizations, and professionals in various disciplines:
<http://www.aging.ny.gov/livableny/LegalServices/index.cfm>.

The Think Group comprises members from across New York State, including individuals from the legal and judiciary professions; representatives from the aging, disabilities, caregiver, and health communities; law schools; community service providers; advocates; consumers; and state and local government agencies.

The Group, which convened in October, 2014, was charged with drawing upon findings from the Initiative's research project (*Report of Findings: Seven Statewide Surveys*) and with Group members' own expertise and experiences, to suggest strategies, policies, and steps that could advance the Initiative's ultimate goal of "equal access to justice" for the Initiative's three targeted population groups. Such access has a major impact on the quality of life of the State's residents and on the overall well-being of their communities. As noted by the Initiative's partnership, quality of life and community well-being are essential features reflecting a community's level of livability, and the activities of the Legal Services Initiative are carried out as elements of the State's *Livable New York* campaign (<http://www.aging.ny.gov/LivableNY/index.cfm>).

We wish to thank the Initiative's partnership for the opportunity to contribute the suggestions and ideas contained in the *Think Group Report*. We look forward to continued collaboration with the partnership and to participating in developing and implementing activities carried out to improve access to sufficient and affordable legal assistance for New York's residents.



**New York State
Legal Services Initiative**

Think Group Report

Strategies for Action: Advancing the Legal Services Initiative's Goals

The *Think Group Report* is a compilation of the substantial output generated by the Think Group's 10 sub-workgroups, which convened under the auspices of the New York State Legal Services Initiative in October, 2014

The experiences, perceptions, and suggested strategies contained in the *Report* represent those conveyed by individual Think Group members and should not be construed as representative of all Think Group members or as characteristic of all areas of the State.

The compiled *Think Group Report* was prepared by
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New York State Office for the Aging
Albany, New York
June 2015



**Think Group Report
Strategies for Action:
Advancing the
Legal Services Initiative's Goals**

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**New York State
Legal Services Initiative**

Think Group Report

Section I INTRODUCTION

This *Think Group Report* is a compilation of experiences and perceptions reported and strategies suggested by the New York State Legal Services Initiative's 105-member Think Group as a resource for addressing challenges and barriers faced by the State's older adults, people of all ages with disabilities, and informal caregivers when they are seeking legal assistance for civil matters. The *Report* is not a *consensus* of the comments and ideas suggested by Think Group members; *all* experiences, perceptions, and suggested strategies contributed by the Group's 105 members are included in the compiled report.

The *Report* is available for use by policymakers; members of the legal and judiciary communities; law schools; community leaders; service providers and advocates in the fields of aging, disabilities, caregiving, and health; and consumers as a resource for activities that can improve access to sufficient and affordable legal assistance for New York's residents.

New York State Legal Services Initiative

Governor Andrew Cuomo announced the New York State Legal Services Initiative in September, 2012. The Initiative is a public/private effort implemented by a partnership comprising the New York State Office for the Aging, New York State Office of Court Administration, New York State Bar Association, and New York State Office for People With Developmental Disabilities, with facilitation assistance by Robert Abrams, Esq., a private attorney with the law firm of Abrams Fensterman, LLP.

The impetus for the Initiative stems from the increasing anecdotal reports received from service providers, advocates, members of the legal field and judiciary, and consumers about the status of legal assistance for New York's older adults (aged 60 and older), people of all ages with all types of disabilities, and the informal, unpaid caregivers of these populations. The Initiative focuses on civil matters and does not address legal assistance for criminal matters.

The Initiative's goals:

- To better ensure that the Initiative's three targeted population groups have practical access to sufficient available and affordable legal assistance, and
- To better ensure that the three groups have the benefit of equitable and effective access to justice.

The Initiative's major activities:

- Research study: A series of seven statewide exploratory surveys was conducted to better understand the current status of legal assistance for the targeted population groups; identify the limitations and gaps in the availability, affordability, and accessibility of legal services for these groups; and compare the study's findings with the anecdotal reports received. The results of the research project are available in the document, *Report of Findings: Seven Statewide Surveys*, which is available at <http://www.aging.ny.gov/LivableNY/LegalServices/lsireportfindings.cfm>.
- Think Group: A consultative Think Group was convened to suggest strategies, actions, steps, and policies that could address limitations and gaps in legal assistance for the Initiative's population groups. The Think Group's work was compiled into the document, *Think Group Report—Strategies for Action: Advancing the Legal Services Initiative's Goals*.
- The two documents provide a resource for designing and implementing steps, activities, strategies, and policies to advance the Legal Services Initiative's goals.

An element of a livable community:

The Legal Services Initiative is one aspect of the State's Livable New York initiative. A community's level of livability reflects the quality of life and well-being of its residents. As adequate access to sufficient and affordable legal assistance has a significant impact on residents' quality of life and overall community well-being, such access is a necessary element of a livable community.

Think Group

Members:

The Legal Services Initiative's partnership established the consultative Think Group, which consists of 105 individuals from across the State with varied expertise, experience, and backgrounds. The Group includes members of the legal community and judiciary; law schools; service providers; community organizations and leaders; advocates and representatives from aging, disability, caregiving, and health networks; consumers; and state and local governments. A list of Think Group members is available in Appendix A of the *Think Group Report*.

Think Group's Purpose:

The partnership's intent in establishing the Think Group was to gain input from a diverse group of individuals who had extensive experience in directly serving, interacting with, or advocating for consumers in the three targeted population groups.

The 105 Think Group members convened in October, 2014, and were divided into 10 work units. The partnership charged the 10 work units with:

- Drawing from the research results from the Initiative's statewide surveys and from their own knowledge and experience to:
 - Convey issues, gaps, and limitations forming challenges and barriers affecting the ability of older adults, people with disabilities, and caregivers to find, access, afford, and effectively use legal assistance.
 - Propose steps, activities, strategies, and policies that could address the issues, limitations, and gaps and improve residents' ability to gain ready access to affordable legal assistance.

The issues and associated strategies identified and recorded by each of the 10 Think Group work units formed the basis for the *Think Group Report*.

Think Group Report:

The output of the 10 work units was consolidated and organized into Sections, which are presented in this *Think Group Report—Strategies for Action: Advancing the Legal Services Initiative's Goals*. The *Report* is available on the Legal Services Initiative's web site at <http://www.aging.ny.gov/livableny/LegalServices/index.cfm>.

When reading the *Think Group Report*:

- Each of the *Report's* sections is organized by: one or more category of issues, followed by one or more category of strategies related to those issues.
- The issues, gaps, and limitations in legal assistance related in the *Report* represent the experiences and perceptions conveyed by individual Think Group members and should not be construed as representative of all Think Group members' experiences or as characteristic of all areas of the State.
- Some similar or identical issues and strategies were identified by multiple Think Group work units . . . and, sometimes, by all 10 work units. Similar issues and strategies were combined to be presented only once.
- Many issues and strategies apply to more than one population group and to more than one strategy category. Thus, some issues and strategies could very appropriately be placed in several *Report* sections; placement choices were made by the author.
- Unless specifically noted otherwise, any references to "caregivers" refers to individuals of all ages who are providing care on an informal, unpaid basis to older adults and/or to people of all ages with disabilities.

Section II
SYSTEM STRUCTURE
(Social, health, long-term care, housing, court, and legal systems)
Issues

SYSTEM STRUCTURE

Issues:

In Section II, one or multiple Think Group members reported the following experiences related to the *overall* structural system of various disciplines' framework for carrying out their tasks and missions (health, housing, court, legal, long-term care, social systems). Section II also includes Think Group members' experiences related to the general topics of geographic areas, funding, and process issues.

Collaboration:

- There is a lack of a collaborative, multi-disciplinary team approach among a community's diverse service providers (including legal services) when a person has multiple issues or receives services from multiple providers, agencies, or programs.
 - Often, if a client does not meet all criteria for a specific program at initial intake, the case is dismissed.
 - Service providers who frequently interact with older adults, persons with disabilities, or caregivers lack sufficient expertise or training to spot basic legal issues. Conversely, consumers' issues are sometimes poorly identified and addressed and, as a consequence, end up in the legal system.
 - Attorneys' clients often have multiple non-legal issues in addition to their legal issues, with overlapping impacts, and attorneys often do not have the expertise or knowledge to address the non-legal issues.
 - There is a lack of networking among physicians.
 - There is a need for more effective interaction among legal service providers, social/long-term care/health/housing providers, and the Adult Protective Service program—a strengthened coordinated response is needed to appropriately, efficiently, and effectively meet the overall needs of individuals with multiple issues.
- Currently, there is no entity that is creating collaborations among the various legal resources to be able to educate under-served older adults and individuals with various disabilities.
- As an alternative to court proceedings, a voluntary collaborative process for resolving civil disputes among attorney-represented parties can expedite cases, lessen legal expenses, and arrive at outcomes agreeable to both parties. However, there is an insufficient framework governing the process, procedures, and authority when the litigants and their attorneys collaborate to resolve the issues in a case.
 - The national Uniform Collaborative Law Act, which establishes such a framework, has been enacted in more than 10 states across the country but is not yet enacted in New York.

Across all systems,
there is a need
to overcome
resistance to creative
decisions, solutions,
and programming.

Coordination:

- Better statewide coordination is required (hub and spoke model) among the legal assistance community—there is no inter-connected network to share expertise.
- There are no statewide data on the legal services available in different areas of the State, the use of these services, and the gaps and limitations in geographic areas and among various population groups.
- Very often, a legal issue presented by an older litigant occurs within the context of multiple social, health, or other issues faced by that litigant. Greater interaction and communication is needed between the local court systems and both the County Office for the Aging (OFA) and the OFA's Legal Assistance Program (LAP) providers, as a means of increasing the courts' understanding of the types of circumstances surrounding older litigants and the courts' understanding of the services and resources available for these individuals.
 - Often, LAP providers feel that there is an *appearance* of the provider being involved in the process, but they feel they are not actually involved.

Consistency:

- The community services network is a patchwork of programs and services, requiring substantial research for consumers and legal service providers to understand them sufficiently.
- A more uniform approach by the courts would be helpful for: (1) linking people to information, and (2) helping people navigate the court system. Some designated legal resources exist, but there is no formalized mechanism for referrals.
- The State's great diversity (including resident characteristics, population density patterns, concentrations of problem-types, geographic variations, varying volumes of legal issues and cases, availability and accessibility of resources, etc.) has resulted in litigants, clients, and families often perceiving inconsistencies in how services are provided and how rules are applied in the judicial system across the State.

Service networks:

- Too many people do not fit into any program category, so they end up with no access to assistance.
- People want to go to the attorney of their choice, but are typically limited to a specific program or that program's attorney. Can *my* attorney know and access the funding stream—the professionals should know this information and people should not have to go to the agency specified.
- There are varying levels of knowledge and understanding among judges, justices, and courtroom staff and personnel regarding the traits, characteristics, circumstances, and needs of older adults, people with disabilities, and caregivers, and there is an inconsistent level of awareness and knowledge of the community-based health, social services, medical, and long-term care networks and organizations available to assist these individuals resolve issues and problems, many of which have a direct impact on a litigant's or client's legal issue or problem.
- Across all systems (legal community, services networks, courts, health and medical), there is inconsistency among all levels of personnel regarding effective communication (as well as sensitivity in their interactions) with frail older adults, people with disabilities, and individuals with various communication problems, which can often lead to unintended miscommunication, as well as clients', litigants', and family members' feelings of

discrimination, lack of appropriate service and help, an unwelcoming environment, and increased stress.

- Through the federally mandated Legal Assistance Program, each of NY State's 59 Area Agencies on Aging contracts with local attorneys to provide affordable legal consultation for people aged 60 and over, but these consultations do not always result in action.
 - Just giving information does not compel action . . . simply giving information is not sufficient and is not effective.

Policies and regulatory framework:

- Many problems and situations can be prevented before they become legal problems, but, often, rules, regulations, policies, case loads, staff training, and other factors preclude taking practical preventative measures.
 - For example, for someone who is 90 and on Medicaid—shouldn't an agency be allowed to make an intelligent decision that this person will continue to be Medicaid-eligible? If not, there are many places for things to go wrong and people's lives can become unraveled.
- The right to civil counsel—and when that right applies—is too narrowly defined.
- Government agencies are not prepared, or do not have enough resources, to monitor the services that are offered by private vendors (for example, assisted living facilities, scattered-site housing, managed care organizations, home health agencies, adult day care programs, etc.). Issues that arise—and can remain unreported—include behavioral issues; substance abuse; family neglect; abuse by landlords, aides, and other staff; poor quality of care and services; lack of upkeep and repair of the physical housing; stealing; discrimination, etc.
- New York State is the only state that does not mandate reporting for elder abuse.
- Given the State's shifting demographic trends (including strong growth in the number of frail older persons; individuals with Alzheimer's Disease; people with physical, developmental, cognitive and intellectual disabilities; people with limited or no English-speaking skills; and individuals with a variety of speech and other communication problems), and considering the numbers of vulnerable individuals who are away from home for lengthy periods of time (for example, hospitalizations), there will be increasing occasions in which such individuals will be the subject of a civil action, but who will, for legitimate or meritorious reasons, be unable to answer the petition within the required time period and be vulnerable to a default judgment and the serious impact such a judgment can have on the individual's life.
- Families are not assuming fiduciary responsibilities for family members in nursing facilities.
- Ombudsmen (community-based staff and volunteers of the NY State Ombudsman Program) can intercede and provide technical help for access to legal assistance for elderly persons, but cannot provide legal relief/referral to younger-aged people with disabilities.
- There is not enough advocacy acknowledgment from elected and other officials about the value of legal assistance.

There is not a sufficient infrastructure in place to address the needs of older adults, people with disabilities, and caregivers . . . promoting a culture of crisis vs. prevention.

Work environment:

- Too much of legal assistance providers' time is spent doing non-legal work, such as bill payment, social work, ongoing benefits-management, forensics, etc., which has an impact on the overall affordability of legal assistance.
 - For vulnerable populations, the amount of non-legal work to prevent or resolve a legal problem is overwhelming.

Process issues:

- The application processes for caregivers to access forms, surveys, and services are too long and time-consuming; and negotiating the services system is onerous, often resulting in older people and those with disabilities losing services.
- There is no one to help navigate the petition process for kinship care or for referral-outs.
- Hospital discharges can be unsafe when the transition back to the community is not carried out appropriately—for example, when patient hand-off is not effectively completed, identification and integration of community services does not take place, the patient's community-based living environment does not accommodate the patient's condition upon discharge, alternative housing options are not considered, informal care is not assured, etc.

Funding:

- There is a lack of coordinated funding for legal assistance for the various population groups.
- Funding is decentralized county by county, which limits its effectiveness.
- Government funding for older adults and people with disabilities is weighted towards intervention *after* a situation or issue occurs. Funding for these populations favor institutional remedies.
- Attorneys are reluctant to become involved in family dynamics because none of the funding for legal assistance covers the problems/issues/implications that arise because of family dynamics.
- There are no funding lines for specialty law fields—there is often a lack of focus on these areas.

Geographic area:

- New York State is not homogeneous.
 - The State's population is extremely diverse, and its urban, suburban, and rural areas have their own specific issues.
 - There is variation in types and levels of needs, based on geography and county, but programs, resources, and systems do not adequately reflect those variations.
 - Solutions need to be localized . . . one-size-fits-all solutions do not fit all across the State.

All challenges identified through the Legal Services Initiative are heightened in rural areas of the State.

Section II
SYSTEM STRUCTURE
(Social, health, long-term care, housing, court, and legal systems)
Strategies

SYSTEM STRUCTURE

Strategies:

Replication of other systems' elements:

- A Bill of Legal Rights (similar to the health system's Patient's Bill of Rights) should be developed that outlines rights and responsibilities of individuals. Require mandatory posting of the Bill of Legal Rights, as is the case with the Patient's Bill of Rights.
- Extend the right to legal representation (as is currently available in criminal matters) to civil matters—relating to fundamental needs, such as housing, benefits, child support, guardianship, and other critical areas.
- Amend the State Department of Health's regulations to require legal assistance for nursing home residents—similar to the Mental Health Legal Service's required notice to clients who are at risk of institutionalization.
- The burden for deeming older adults and individuals with disabilities to be qualified for benefits should rest with the agencies—as the government does with the Supplemental Nutrition Assistance Program (SNAP) and the Low Income Home Energy Assistance Program (LIHEAP).
- In courtroom situations where the volume of proceedings, the types of cases, or other circumstances result in long lines, extended waiting periods, or other conditions that cause onerous physical or mental stress for litigants who are elderly, frail, have various types of medical conditions, disabilities, or vulnerabilities, and who might be compelled to leave the courtroom before their cases are heard:
 - Explore the development of a framework for providing preferential prioritization of these individuals' cases.
- To address the precarious legal positions of elderly individuals or those with physical, developmental, cognitive, or communication disabilities, or other circumstances, and who are unable to respond to civil legal actions/petitions in a timely way:
 - Explore procedural changes that could be implemented to address cases where defendants are unable to respond to a petition or civil action and are at risk for default judgments (for example, consider implementation of a process similar to the current process for individuals who are in active military service, in compliance with the Service Members Civil Relief Act).

Collaboration, coordination, and holistic approach:

- Provide judges with access to community service providers:
 - Strengthen the communication, relationships, and engagement between the Courts and non-legal-services providers, who can then assist when capacity, communication, and protocol issues arise involving vulnerable or unrepresented litigants—for example, social workers; Adult Protective Service; senior housing managers; health care facility management; agencies serving older adults, people

with disabilities, and caregivers; physicians; care managers; family members; and others.

- Encourage models that pair attorneys and legal navigators with social workers, which will: (1) assist both of these professionals in understanding the overall circumstances in which the client's legal, social, or health issue has arisen, and (2) successfully merge the legal and social/health options for helping the client more effectively.
 - Example: A Think Group participant was the managing attorney of an innovative program that ensured that the lawyer could work in tandem with a social worker on difficult cases. Such working relationships can be established as formal or informal arrangements with social service agencies, social work schools, health care and medical organizations, housing facilities, and other community groups.
- Gatekeepers can be used for triaging requests for assistance—for example, a medical/legal partnership for handling cases related to housing conditions, Medicaid, or other insurance denials, needs/requests for advance directives, etc.
- Develop an extended, comprehensive network of service providers and other non-traditional partners to address a consumer's overall needs, including cross-training, listservs, shared best practices and forms, etc., and develop accurate resource directories as a basis for developing relationships among the “point people” at the points of referral.
- Federal level: Leaders and staff from the federal Departments of Justice, Health and Human Services, Labor, and Education should participate in interagency roundtables that include the national Legal Services Corporation (LSC), which provides grants to local legal services programs.
 - Create a similar model at the state level.
- Examples of collaborative and networking models:
 - Family Justice Centers:
 - Expand the State's network of Family Justice Centers, and increase public awareness of these Centers.
 - Require that members of Family Justice Centers who are providing assistance for individuals are to be present in the court room.
 - Increase collaboration between the Family Justice Centers and the Adult Protective Services program.
 - From the national Family Justice Center Alliance web site (<http://www.familyjusticecenter.org/index.php/home.html>): "The Family Justice Center model, which is specifically defined in federal law, refers to the co-location of a multi-disciplinary team of professionals who work together, under one roof, to provide coordinated services to victims of family violence. While a Family Justice Center may house many partners, the basic partners include police officers, prosecutors, civil legal service providers, and community-based advocates. The core concept is to provide one place where victims can go to talk to an advocate, plan for their safety, interview with a police officer, meet with a prosecutor, receive medical assistance, receive information on shelter, and get help with transportation."

All roads lead to networking, coordination, and collaboration. Across all strategies, a multi-disciplinary network or team approach is the most effective and cost-efficient method of achieving successful results.

- The Coalition on Elder Abuse, a program of the Mediation Center of Dutchess County, comprises more than 30 organizations, including government agencies, nonprofit organizations, faith-based institutions, law enforcement entities, financial services providers, and individuals—all working together to protect elders from abuse, neglect, and exploitation, and to preserve the quality of their lives. Together, the partners educate the public and key stakeholders about issues related to elder abuse and neglect—including, now in its seventh year, World Elder Abuse Awareness Day held in Dutchess County and observed internationally on June 15 with the International Network for the Prevention of Elder Abuse (INPEA).
- The Assigned Counsel Project:
 - The NY City Department for the Aging and the City's Civil Court system collaborate for the provision and referral of legal and social services.
- Ulster County Care Transitions Council:
 - A collaborative network of 49 organizations.
- The Elder Abuse Center (virtual):
 - From the New York City Elder Abuse Center web site: "A multi-disciplinary collaborative initiated by Weill Cornell Medical College's Division of Geriatrics and Gerontology, in partnership with the Hebrew Home at Riverdale's Weinberg Center for Elder Abuse Prevention, and the New York City Elder Abuse Network (NYCEAN). The Center comprises social workers, legal providers, medical/health care professionals, and others; and its purpose is to provide a streamlined, rapid response to elder abuse cases. The depth and breadth of expertise and resources of the participating agencies reduces fragmentation of systems and minimizes gaps or overlap of services—improving the way professionals, organizations, and systems respond to elder abuse, neglect, and financial exploitation." <http://nyceac.com/about/>.
- Center for Independence of the Disabled—NY (CIDNY):
 - A non-profit Independent Living Center providing training to community and state professionals and free assistance for individuals with disabilities in many areas,

Often, individuals are narrowly defined or labeled by a specific population characteristic—such as "elderly," "disabled," "poor," "middle class," "minority," "homebound," "LGBTQ," "poorly educated," "caregiver," "immigrant," etc.

Programs, policies and funding resources should acknowledge that, in reality, people are part of more than one population group, which compounds the issues that affect them and makes the strategies and solutions more complex.

Older adults, people with disabilities, and caregivers experience a great many of the same issues and problems associated with family dynamics and the tasks of daily living. All three groups also face many of the same types of barriers, challenges, and discriminations when seeking assistance.

Very often, the same strategies and solutions effectively address each of the three groups.

To enhance community-building and to maximize resource-leveraging: when creating and implementing strategies and solutions, collaborate to apply the strategies and solutions to all three groups.

including advocacy, benefits counseling, information and referral, housing, health, employment, and others through a staff that includes social workers, lawyers, and professionals in a variety of disciplines. <http://www.cidny.org>.

- Beacon Hill Village Movement (an Intentional Community model):
 - A social worker follows the client, providing referral to resources and coordination of services and activities.
- NY State Office of Temporary and Disability Assistance's Disability Advocacy Program (DAP).
- NY State Bar Association's Elder Law and Special Needs Section.
- Train community legal and other service providers on the principles of sustaining effective collaboration. Establish strategies that will ensure continuing relationships among the various disciplines (legal, aging, disabilities, health, caregiving, etc.), which are required for a network to work successfully.
- Improve the procedures around discharge planning, including Interagency coordination (hospital, the community service agencies who should be in charge of the patient's transition and service-provision, and the patient's family members).
- In multi-service organizations that include legal, social, and other types of assistance, train organization leaders to establish a collaborative protocol and team culture among the various service staff to assure more efficient and effective resolution of problems. Buy-in by agencies' leadership is necessary for creating an effective culture of collaboration (at the private, local, and state levels), and staff must be empowered to make new connections.
- As a training ground for collaboration, promote a collaborative/multidisciplinary approach within law school clinics, social work schools, medical schools, nursing schools, business schools, etc. In law schools, make collaboration a focus of the provision of legal assistance.
- Public and private funders should provide incentives for collaboration and a team approach.
- Identify a possible single coordinating agency to bring together multiple agencies (for example, the Justice Center).
 - Establishing a coordinating agency would help sustain the objectives and activities of the Legal Services Initiative.
 - The NY State Office for the Aging could take on a larger role for central coordination of legal services funding across various population groups.
- Sharing data and sharing information:
 - Develop a shared data base for use across the State within the court system and the legal community, with the ability to interface among different computer systems.
 - Create a universal assessment tool (including legal issues and needs) to be shared among agencies/organizations, to provide a one-stop-shop (no wrong door) for legal information and referral.
 - Establish a centralized place to access community services, information about them, and technology.
 - Create a hot line as part of an integrated, coordinated statewide system for information and referral/assistance.

Funding:

- Restructure government funding formulas to be weighted toward preventative measures in order to preempt and assist prior to problems/issues/events emerging or exacerbating.
- Leverage elder-abuse issues to raise support for legal-assistance funding.
- Modify the laws regarding the distribution of funding in order to more efficiently and effectively serve the various population groups.
- Encourage funders to provide funding streams for specialty law fields; for example, serving older adult clients, clients with disabilities, rural clients, guardianship cases, etc.
- Explore the use of cost-sharing.
- An example for funding: The Robin Hood Model, which provides one-stop clinics—often done in the healthcare field.
- Educate funders in both the public and private sectors to understand the damaging impact of restricting legal assistance funding to "direct legal services" only, and that funding should be available to address non-legal services and tasks.
 - For example, gaining non-legal services through a lawyer helps avoid the pitfalls of compartmentalizing the services that a low-income senior or disabled individual might experience or develop, which would lead to more legal work. An illustration of this issue includes the Bill Payer Program, where there are not enough case managers and, often, there are restrictions on accessing case managers due to an individual's diagnosis.

Tracking the status of legal services:

- Do not limit the State's Legal Services Initiative to its three specified target populations, but expand the Initiative's mission to cover "special needs" populations.
- A statewide report on how legal needs are being met should be developed.
 - Explore whether various entities are maintaining data on various aspects of legal needs, legal funding, and legal services (for example, IOLA—Interest on Lawyers Account).
 - State agencies and legal service programs should report regularly on this issue, which should be presented to the Governor and the Legislature.

Tracking social and health service progress and quality:

- Vendors: Advocates for older adults and people with disabilities, as well as government agencies, should develop a means (such as Gatekeeper strategies) for tracking the progress and quality of services provided by private vendors, including assisted living facilities, scattered-site housing, managed care organizations, home health agencies, adult day care programs, etc.
 - A single location or czar should be established to address the issues, abuses, neglect, and other concerns that arise in relation to these vendors' services.
- Applications: For all programs, institute a cap on the length of time agencies are allowed for completing/returning forms and implementing applications.
 - Monitor the processes, establishing clear and reasonable standards and goals.

Section III.a
ACCESSIBILITY:
AVAILABILITY of LEGAL ASSISTANCE
Issues

AVAILABILITY of LEGAL ASSISTANCE

Issues:

System structure:

- There are limited resources (lack of sufficient capacity—both financial and human) for the provision of legal assistance.
 - The supply cannot satisfy the ever-increasing need and demand, which is due to demographic and social trends and shifting public policies regarding long-term care, health, and housing.
- There is a lack of legal representation for people above the poverty line, and there is very spotty representation for those below the poverty line.
- Inconsistent availability:
 - The amount and types of legal services provided, as well as how these services are delivered, are not consistent throughout the State.
 - Depending on geographic locale, there is inconsistent availability of specialized legal funding.
- People without advocates or caregivers have difficulty finding legal services.
 - Many of these individuals are difficult to identify and reach and are underserved, including immigrants, limited-English-proficient, various cultural/ethnic groups, people with Alzheimer's or other dementia, individuals with developmental and/or intellectual disabilities.
- The current network of self-help centers is inadequate and inaccessible.
- Eligibility is too restrictive for many programs, denying services to people who do not meet the eligibility requirements, but who are caring for, or responsible for, individuals who *do* meet eligibility requirements. For example, younger-aged people who are caring for older adults and who are denied access to legal service programs designed for older adults.
- **Rural areas:**
 - In rural areas, there are deficiencies in all aspects of legal assistance, just as there is a lack of cultural events, a lack of services in some North Country counties, and a lack of technology.
 - There is an insufficient number of attorneys located/practicing in rural areas.
 - In many rural areas, there are few "general" attorneys available. For many people, the attorneys who are there do not cover the issue with which the resident needs assistance.

A consistent theme among Think Group members:

- There is insufficient availability of legal assistance.
- It is difficult to connect people with legal services.

Section III.a
ACCESSIBILITY:
AVAILABILITY of LEGAL ASSISTANCE
Strategies

AVAILABILITY of LEGAL ASSISTANCE

Strategies:

System structure—general:

- Use mobile satellite court houses to address availability and accessibility issues.
- Develop mobile Caregiver Resource Centers.
- Embed legal service providers in places, agencies, and organizations where people already get other services and already feel a sense of trust.
- As de-institutionalization policies continue, ensure that the same types of services are available and accessible for everyone, including people with mental health illness, those with developmental and/or intellectual disabilities, those with physical disabilities, those with other types of frailties, those with cognitive disabilities, and those in nursing homes.
- Identify a set of core services that must be provided consistently across all counties.
 - Example: The federally mandated Legal Assistance Program (which is provided by the county-based network of Area Agencies on Aging across the State) has specified requirements.
- Rural and underserved areas: Develop incentive programs for lawyers to relocate to rural areas and other underserved areas to serve older adults and people of all ages with disabilities.
 - Example: Similar to models providing incentives to physicians to serve in rural areas.
- Provide incentives to future attorneys, while they are in law school, to go into the fields of elder law and disability rights law.
 - Incentives can include: law-school debt forgiveness by the State, scholarships, fellowships, post-fellowships, funds for clinics in law schools, etc.
- Increase the number of paralegals and attorneys who make home visits.
- Expand the hours and locations for providing legal assistance.

Examples:

 - The New York City Bar Association provides “Monday Night Law,” a community service program making free consultations (up to 30 minutes) with volunteer lawyers available for people to discuss questions they have about a legal issue or process and an opportunity to have a lawyer help you figure out what to do next.
<http://www.nycbar.org/get-legal-help/legal-clinics>.
 - LGBTQ—“Tuesday Night Law” (free consultation with an attorney).
 - Law schools have incubator projects; an example is the City University of New York (CUNY) Law School's business incubator program, which aims to assist their law

Make recommended strategies available to all persons—not just those who are economically challenged—because *many* people are afraid to come forward for the assistance they need

school graduates develop successful small solo practices, helping the graduates become successful social entrepreneurs who contribute to improving access to justice while enabling them to make a living. The law school provides a low-cost working environment, training, and mentoring; in exchange, the new lawyers commit to give back to the community through *pro-bono* and *low-bono* work for underserved clients. <http://www.idjournal.com/2012/10/17/incubator-law-office-program-expanded-by-cuny-school-of-law/>.

- Pro Bono.Net/NY's Attorney Emeritus Program, which provides an avenue for experienced lawyers to use their expertise on behalf of New Yorkers in need by performing at least 60 hours of *pro bono* service over a two-year registration period. <http://www.probono.net/ny/>.
- Expand the Volunteer Lawyer for a Day Program—a model that works for narrowly defined issues.
- Develop an Elder Justice Center (could be mobile).
 - Example: The Elder Justice Center, Tampa, FL, which is a court program that primarily helps persons aged 60 or older who are involved in the court system because of guardianship, criminal, family, or other civil matters: <http://www.fljud13.org/CourtPrograms/ElderJusticeCenter.aspx>.
- Increase awareness and use of the growing number of smartphone access-to-justice apps that give consumers resources to solve their legal problems.
 - According to Joe Dysart, in quoting Georgetown Law Center professor Tanina Rostain, "Apps in this area not only give everyday people resources to solve their legal problems—they educate people about the law and empower them," and in quoting Richard Granat, CEO of DirectLaw, "Its an important technology for reaching a latent market of consumers who avoid resolving their legal problems for a variety of reasons." (Joe Dysart (April, 2015), "Justice in Your Palm," *ABA Journal*, Vol. 101, No.4).

System structure—greater use of non-attorney legal assistance:

- Increase and publicize the use of mediation as an alternative resource for providing legal assistance.
 - Mediation is particularly effective for issues between family caregivers and health aides or other program staff.
Example:
 - Rural Law Center of New York: (<http://www.rurallawcenter.org/>).
- Community Dispute Resolution Centers (CDRC): Increase and publicize the use of these Centers, which are funded and supervised by the New York State Unified Court System as a means of accessing affordable mediation and conflict-coaching services (<https://www.nycourts.gov/ip/adr/cdrc.shtml>).
 - CDRCs have provided court-referred and community-based conflict resolution services for a wide range of family, consumer-merchant, and housing matters. CDRCs have developed a nationally recognized training curriculum in Elder Adult Dialogue and Mediation.
Examples:
 - Mediation Center of Dutchess County.
 - Community Dispute Resolution Center (Tompkins, Schuyler and Chemung Counties).
 - Dispute Resolution Center (Orange, Putnam, Ulster, and Sullivan Counties), which provides specially trained mediators to assist elders and their families in discussing difficult issues and planning for the future.

- Train and certify attorneys and non-attorneys as mediators, and assign cases through the courts.
- Expand the Ombudsperson (or similar) concept across systems, which would utilize a neutral third party who would investigate complaints and deal with problems fairly.
- Hold periodic, scheduled meetings between case managers, ombudsman staff, and legal services providers to review cases handled by the case managers and ombudsman staff to determine whether they present legal issues and to determine whether the case manager or ombudsman staff can handle the case with advice or whether the case should be “hard transferred” to the legal service provider.
 - Benefits: low cost, high value, increased knowledge, and relationship-building among the professionals—which allows staff and providers to pick up the phone and call someone they have gotten to know.
- Utilize trained non-attorneys, who work under the supervision of an attorney, to handle tasks, actions, and items where an attorney is not necessary.
 - For example: healthcare proxies, advance directives, simple wills, appeals for Medicaid denials, social security appeals, unemployment hearings, etc.
 - Use of trained non-attorneys can free up the time of the attorneys and other legal professionals and can provide the services at a more affordable rate.
 - Replicate a model from the health system: Permit trained non-attorneys, who are supervised by an attorney, to provide limited legal advice and representation to litigants . . . modeling the physician's assistant structure.
 - Non-attorney resources include: professional paralegals, paralegal students from community colleges, law school students in internships and externships, law school students who are required to complete *pro bono* hours for graduation, trained health care navigators, trained service-organization staff and counselors, and trained advocates.
- Train "gatekeepers" (first points of contact) to be able to identify and refer people to the right agency or organization.
- Develop a curriculum for general practitioners, neurologists, social workers, and providers—to raise legal issues with the clients/patients they diagnose, and including referral resources.

System structure—free and *pro bono* legal services:

- Continue and expand the *Pro Bono Scholars Program*, which was established in 2014 and which "allows law school students to devote their last semester to performing *pro bono* service for low-income individuals through an approved externship program, law school clinic, legal services provider, law firm, or corporation." <http://www.nycourts.gov/attorneys/probonoscholars/index.shtml>.
- Expand and publicize the State's Attorney Emeritus Program, in which "Emeritus Attorneys, under the auspices of qualified legal services providers, bar associations, and court-sponsored volunteer lawyer programs, volunteer 30 hours or more annually of *pro bono* legal assistance to assist in meeting the needs of New Yorkers who cannot afford counsel." <http://www.nycourts.gov/attorneys/volunteer/emeritus/rsaa/>.
- Establish an AmeriCorps Vista Program within legal service offices or not-for-profit organizations that provide legal assistance.
 - An AmeriCorps Vista Program can serve as a bridge (and improve efficiency in legal services or social/health offices) by providing, particularly in underserved areas,

volunteers with the necessary education, experience, or license to fill gaps in demand between agencies that provide free legal services and those that provide paid resources.

- Example: Volunteer Lawyers Project of Onondaga County, which addresses the unmet civil legal services needs of low income people in Onondaga County through increasing the *pro bono* participation of the legal community. <http://www.onbar.org/volunteer-lawyers-project/>.
- As a way to engage attorneys and get them more involved, have *pro bono* attorneys provide limited scope legal advice in courts, community centers, hospitals, etc.
- Develop a virtual *pro bono* law office, which can increase availability for consumers, as well as promote greater cooperation and sharing of knowledge among professionals.
- Fund the coordination of *pro bono* services.

Section III.b

ACCESSIBILITY: AFFORDABILITY of LEGAL ASSISTANCE *Issues*

AFFORDABILITY of LEGAL ASSISTANCE

Issues:

- The cost of legal services is a barrier to access for those who do not qualify for free, *pro bono*, discounted, or subsidized legal assistance programs.
- Many people who are *not* poor also find legal services to be unaffordable.
- There is a lack of affordable legal services.
 - There is a lack of funding—combined with high case loads—for attorneys representing children and older adults.
 - There is no state-funded legal services provider network for older adults.
 - There is a much greater need for *pro bono* legal assistance and *pro bono* attorneys.
- Caregivers:
 - In a law suit, there is a lack of affordable legal representation for caregivers who may be eligible for Legal Aid because the services of Legal Aid are limited to one party.
 - It is too expensive for many caregivers to go to a private attorney.

Among consumers, there is a general fear regarding the cost of attorneys and legal help.

This fear keeps many people from even considering legal assistance as an option for their issue or problem.

- Rural areas:
 - Many people in rural areas have limited access to legal services because they cannot afford a private attorney and they have limited or no access to legal assistance options that are free, *pro bono*, discounted, or subsidized.
- Some issues/cases are very time-consuming to investigate and resolve (for example, financial exploitation, which is rampant, or cases involving mental or physical impairments, or cases requiring representation), which results in access issues:
 - For legal programs with limited funding, some time-consuming cases are turned away because they use up too great a proportion of the provider's limited resources.
 - Or, if those issues/cases are taken on, program resources are exhausted prior to the end of the program year, leaving additional requests for assistance unserved.
 - Or, to avoid exhausting program resources, the provider will limit the amount or type of service provided to all clients, which eliminates those clients whose needs fall outside the defined amount/type of service available, or which causes those clients to consult multiple providers in order to gain the total services necessary for a comprehensive solution.

Section III.b
ACCESSIBILITY:
AFFORDABILITY of LEGAL ASSISTANCE
Strategies

AFFORDABILITY of LEGAL ASSISTANCE

Strategies:

System structure—general:

- Tie federal and state service funding to achieve consistent requirements.
- Create statewide, targeted funding streams that are population-based for all civil legal service needs.
 - Use a statewide network model that delivers services locally.
 - Have a statewide network of legal providers who share information and advocate for an expansion of funding for the program. Examples include:
 - OTDA's (State Office of Temporary and Disability Assistance) Disability Advocacy Program (DAP), in which grant funds are set aside at the state level to provide support to the frontline provider (for list servs, monthly meetings, phone consultations, co-counseling on significant cases, newsletter to discuss new developments). The program provides statistics via reporting to OTDA and the legislature, to justify future funding.
 - Statewide foreclosure prevention programs, such as HOPP—the Attorney General's Homeowner Protection Program.
 - Ensure that statewide funding for aging and disability legal services are funded sufficiently to ensure that each county provides comparable services.

- Work with the NY State Developmental Disabilities Planning Council to provide grants to improve awareness, sensitivity, and skills among lawyers regarding the Initiative's targeted populations.
- For affordability, explore the concept of legal service insurance.
- Develop a county-paid incentive program for providing legal assistance for specific populations or issues (for example, for incarcerated youth).
- Shift economic eligibility for legal services from the caregiver to the care recipient (child, person with disabilities, older adult).
- Increase income-eligibility levels for income-based programs in order to increase the number of clients who will have access to affordable legal assistance.

System structure—*pro bono* and reduced rates:

- Increase the amount of "Low *Bono*" services.
 - Provide incentives to encourage more lawyers who would agree to take "moderate means" clients on a limited-pay scale—matching middle-income individuals to specialty lawyers.
- Legal Centers, Bar Associations, law schools, etc., could establish *pro bono* coordinators/panels of specialty lawyers.
 - Increase funding for more existing community-based legal services to do more specialty areas of law.
- Identify and provide diverse incentives and opportunities for *pro bono* work by legal services providers. For example:
 - Allow *pro bono* legal assistance to satisfy Continuing Legal Education requirements.
 - Allow an attorney's *pro bono* provision of education/training at community events to satisfy Continuing Legal Education requirements.
 - Recruit "retired" attorneys (establish an Attorney Emeritus program) to provide their services *pro bono* in consideration for a waiver of any attorney registration fees, or for free Continuing Legal Education (CLE) courses, or CLE credit for time spent in *pro bono* work.

System structure—other suggestions:

- Raise the income-eligibility level for free and discounted legal assistance programs to help with affordability.
- Subcontract with legal firms to provide legal services when all parties require affordable assistance.
- Develop creative incentives to address unaffordability; for example:
 - Provide incentives to encourage public/private partnerships.
 - Provide loan forgiveness for public service.
 - Provide incentives to induce more non-profits to offer legal services.

Section III.c
ACCESSIBILITY:
MOBILITY and TRANSPORTATION
Issues

MOBILITY and TRANSPORTATION

Issues:

- Many older adults and people with disabilities have mobility issues, are homebound, cannot afford transportation, or have limited/no access to transportation. As a result, these individuals have difficulty getting to legal assistance appointments or to the court or hearings, or they are unable to get to the appointments in a timely way.

Section III.c
ACCESSIBILITY:
MOBILITY and TRANSPORTATION
Strategies

MOBILITY and TRANSPORTATION

Strategies:

- Provide transportation to the places where legal services are provided.
- Bring legal services to the people:
 - Identify community locations where people who need transportation assistance can be identified and reached—for example, Independent Living Centers, veterans' centers, hospitals, etc.
 - Examples::
 - "Access-A-Ride": New York City's paratransit system, operated by MTA New York City Transit. Provides discounted fares for individuals aged 65 and older and individuals who have a qualifying disability. Also provides information and a list of transit options for individuals with disabilities, are wheelchair-bound, or are accompanied by an aide. <http://web.mta.info/nyct/pratran/guide.htm>. New York City Mayor's Office for People with Disabilities: http://www.nyc.gov/html/mopd/html/resources/trans_aar.shtml.
 - Rural: Fulton/Montgomery/Schoharie Counties—"Locally Developed, Coordinated Public Transit-Human Services Transportation Plan": identifies the transport needs of people with disabilities, older adults, and people with low income; provides strategies for meeting those local needs; and prioritizes transportation services for funding purposes and program implementation.

- Develop community volunteer-based transportation programs:
 - Expand these programs statewide.
 - Examples:
 - Westchester County's *WestFair Rides*: www.westfairrides.org.
 - Altamont, NY's all-volunteer Community Caregivers free transportation program.
- Example: Mobile Legal Help Center (MLHC), which is the country's first legal services office and courtroom on wheels.
 - From the MLHC web site: The Center "was created through a partnership between NYLAG (NY Legal Assistance Group) and the NY State Courts' Access to Justice Program. Attorneys provide clients with counseling, advice, and representation on comprehensive matters directly on-board the vehicle. A video link with the courts enables access to judges for emergency hearings.

"The Center contains four private meeting areas for attorneys and clients, and is equipped with high-speed Internet and state-of-the-art technology. The vehicle visits isolated neighborhoods throughout NY City, Long Island, Westchester, and Rockland Counties, reaching clients who otherwise could not access free legal services due to disabilities, travel barriers, child care concerns, fears of revealing their immigration status, or because their neighborhood's community-based organizations cannot accommodate legal intake onsite." (<http://www.lawhelpny.org/organization/new-york-legal-assistance-group-nylag-the-mob/housing/rent-stabilization-and-other-rent-laws>).
- Expand the availability and use of technology, such as Skype, Go-To-Meeting, tele-video hearings, or various telephonic means to hold discussions or provide information to people who are homebound or who cannot, for mobility or other reasons, get to an appointment for in-person meetings with the legal assistance provider or cannot physically be in attendance in the court or hearing room.

Section III.d
ACCESSIBILITY:
ADVOCACY and NAVIGATION
Issues

ADVOCACY and NAVIGATION

Issues:

System structure:

- When in law school, students have insufficient opportunities to experientially learn about the needs and characteristics of the Initiative's targeted populations, the skills needed to appropriately serve these populations, nor about the extent to which these populations are increasing the market for legal services.
- There is no one to help the targeted populations navigate the petition process for:
 - Article 81—guardianship of incapacitated persons.
 - Article 6—disability rights.
 - Article 6—Family Court for custody, guardianship, and visitation.

- Article 4—discrimination rights.
- Article 17a—guardianship of persons with developmental disabilities.

Advocacy:

- Difficult-to-reach populations:
 - It is difficult to reach the most isolated of older adults and people with disabilities, including those who are homebound, those living in rural and other isolated areas, those who are victims of abuse, those who live alone with limited/no access to family members or friends, those in various institutional settings, etc.
 - It is difficult to reach population subgroups, including members of the LGBTQ community, immigrants, non-English-speaking populations, etc.
 - People without an advocate or caregiver have a more difficult time accessing legal services.
- Limited capacity:
 - Advocacy is a necessity when the litigant has capacity issues, but such litigants often have no one helping them or advocating on their behalf.
 - In cases where it is determined that an individual needs a guardian, it can be difficult to find a person who is both willing and appropriate to serve as a guardian. Often, an alternative that is less restrictive than guardianship (such as an advocate program) can be a more appropriate solution, but such alternatives are generally unavailable for adults.

Section III.d
ACCESSIBILITY:
ADVOCACY and NAVIGATION
Strategies

ADVOCACY and NAVIGATION

Strategies:

System structure:

- Law schools should establish relationships with community-based social, health, and housing agencies and organizations and should increase students' participation in legal clinics, internships, and externships that are located in these venues—as clinical opportunities for students to understand the needs and characteristics of the Initiative's targeted populations and to better interact with them when serving them professionally.
- Create a court-appointed special advocate program for adult litigants—an adult version of "Attorneys for the Child."
- One-stop-shop:
 - Create a toll-free hotline that is staffed by people with legal expertise so that a coordinator could get quick insight/advice on addressing the problems of older adults or people with disabilities—a hard transfer to an attorney is not always necessary.

- Develop *one* web site—one spot for consumers to go to—to find information about their specific problem or issue and to find referrals to resources for assistance.

Advocacy, awareness, and knowledge:

- Create a peer/mentor/advocacy program to help people navigate the legal system and understand forms and documents.
- Create a program to train volunteer advocates.
- Increase the use of legal-assistance-based lay advocates programs, which provide information, assistance, and representation in school-related matters.
Examples include:
 - Volunteer Lay Advocacy: <http://www.advocacycenter.com/volunteer-lay-advocacy>.
 - The Advocacy Center: <http://www.advocacycenter.com/events/lay-advocacy-training-rochester-ny> and <http://www.advocacycenter.com/events/lay-advocacy-series-wellsville-ny>.
 - Family Leadership Training in Lay Advocacy: <http://www.theliac.org/lay-advocacy-sign-up.html>.
- Educate the legal community and the judiciary about other resources available for clients.
 - Example: Erie County has a kiosk at Family Court that has information about other types of resources.
- Station kiosks in other locations, such as libraries, community centers, senior centers, residential facilities, etc., where people can find information about legal issues.
- To educate as a first point of contact, conduct workshops and other types of training for faith communities, developmental disability organizations, mental health organizations, other community-based disabilities organizations, and senior centers.
- Provide education about legal resources to primary care social workers, occupational health clinic staff, Employee Assistance Programs, law enforcement personnel, emergency room workers, first responders, discharge planners, adult protective service staff.
 - Educational and referral resources include: LawHelp.org; local, regional, and state Bar Associations; NYCourthelp.gov.
- Establish workgroups under the Legal Services Initiative to identify and address the unique legal needs of population subgroups.
- For legal assistance, replicate model Navigator Programs that are available in other service networks—which provide advocacy, help in accessing programs and services, and assistance with forms and other required tasks for gaining eligibility for services.
Examples include:
 - New York State Kinship Navigator, which provides individual assistance to grandparents, relatives, and family friends who are full time caregivers of grandchildren or children of family members or friends—through professional resources, training for attorneys and other professionals, technical assistance in building partnerships and coalitions, etc. <http://www.nysnavigator.org>.
 - Centers for Medicare and Medicaid Services (CMS)—from the CMS web site: "Navigators play a vital role in helping consumers prepare electronic and paper applications to establish eligibility and enroll in coverage through the Marketplaces and potentially qualify for insurance affordability programs. They also provide outreach and education to raise awareness about the Marketplace, and refer consumers to

health insurance ombudsman and consumer assistance programs when necessary. Navigators are funded through federal grant funds and must complete comprehensive federal Navigator training, criminal background checks, and state training and registration (when applicable) prior to assisting consumers."

<http://www.cms.gov/CCIIO/Programs-and-Initiatives/Health-Insurance-Marketplaces/assistance.html>.

- NY State Department of Health (DOH)—from the DOH web site: "IPA/Navigators provide education on the Affordable Care Act and the insurance products available through the NY State Department of Health. Through DOH's online portal and Navigators' own personalized user accounts, they are able to provide valuable services to individual consumers and families and small businesses and their employees seeking to obtain health insurance through the NY State Department of Health. IPA/Navigators also provide in-person application assistance to individuals, families, and small businesses and their employees at initial enrollment and when renewing coverage. IPA/Navigators remove barriers to the application process by providing assistance in multiple languages, in community-based settings during non-traditional hours such as evenings and weekends."
<https://nystateofhealth.ny.gov/agent/navigators>.
- New York State Health Insurance Information, Counseling, and Assistance Program (HIICAP)—from the HIICAP web site: The State Office for the Aging's program, which utilizes trained volunteers to provide free, accurate and objective information, counseling, assistance, and advocacy on Medicare, private health insurance, and related health coverage plans. <http://www.aging.ny.gov/healthbenefits/>.
- Legal Services Project: Working with law schools, the NY State Department of Health developed a legal services project for people with HIV, which was then expanded for people with cancer. A program was instituted at Albany Medical Center.

Section III.e

ACCESSIBILITY: ENVIRONMENTAL ELEMENTS

(Reasonable accommodations, universal design features, & accessibility)

Issues

ENVIRONMENTAL ELEMENTS

Issues:

System structure:

- Due to a variety of factors (including lack of resources; inadequate training or knowledge; lack of concern or awareness; misinterpretation of policies; design elements that cannot be modified; situational circumstances, etc.) there is inconsistent application of reasonable accommodations in many venues across the State, as well as variation in the ease-of-use of the accommodations provided.
- There is a lack of universal environmental design features that assure safe mobility; access to buildings, places, and spaces; and effective participation in activities of daily life

by people of all ages and functional abilities. Lack of appropriate environmental features include:

- No sidewalks or broken sidewalks; inadequate snow and ice removal; busy, congested roadways; lack of appropriate signage indoors, outdoors, and on streets and roadways; inadequate lighting; confusing interior pathways; unsafe street crossings; improper or no curb cuts; ill-timed traffic-lights; stairways, walkways, and entrances with no ramps; doors too heavy to open without assistance; non-working or no elevators; no nearby parking; lack of accessible, nearby transportation; lack of acoustical devices; bathrooms that cannot be easily used by people with physical and mobility impairments; dirt, debris, and unclean facilities in public buildings; and other environmental elements.
- The barriers posed by a lack of accommodating elements and universal design features (in both the external environment and the interior of buildings) can prevent or inhibit individuals' safe mobility; timely access to needed service, health, legal, court, and other appointments, meetings, and locations; and effective interaction with and understanding of the procedures and discussions in which they are to participate.
 - The impact of these situations often lead to missed or delayed appointments; disrupted service schedules; court or hearing adjournments; and individuals required to repeatedly face and address the same accessibility issues.
- Rental properties: There are issues related to absentee landlords and a building's inadequate physical accessibility elements (both external and internal elements).
 - While there is an existing body of law regarding accessibility and habitability of housing, there is insufficient legal representation to assist residents when issues arise.

The issue of environmental access includes physical abilities, including hearing, vision, cognitive, language, and communication limitations—all of which impinge upon an individual's ability to find, access, and effectively use legal assistance, health and social services, the court system, public places, and private spaces, as well as to easily participate in activities of daily life.

Awareness and knowledge:

- Correctional facilities and justice programs: There is insufficient awareness regarding inmates', detainees', and residents' access to and provision of reasonable accommodations.

Section III.e
ACCESSIBILITY:
ENVIRONMENTAL ELEMENTS
(Reasonable accommodations, universal design features, & accessibility)
Strategies

ENVIRONMENTAL ELEMENTS
Strategies:
System structure:

- Across all service, legal, and court venues:
 - Explore, and implement, various alternative strategies that have been effectively employed by organizations, agencies, and courts across the country to improve access to meetings, appointments, and court/hearing dates by clients who are completely unable to travel to these engagements or to travel in a timely way because of physical, mental, or medical conditions, frailties, or disabilities.
 - Establish policies that actively provide and monitor adequate accessibility and accommodations for clients and other individuals who have various frailties, impairments, and disabilities that inhibit their ability to effectively use public and private spaces and effectively participate in required activities.
 - For systems that have existing policies, review and strengthen the uniform implementation of these policies.
 - Expand and strengthen training for all staff and personnel regarding both the requirements and the intent of the Americans with Disabilities Act.
- Regarding reasonable accommodations, fair-housing testing should be greatly increased to identify discriminatory housing situations.
 - Affordable strategies for conducting this testing:
 - Use students in law school clinics, class projects, and internships.
 - Train volunteer advocates to conduct testing and report results to the U. S. Department of Housing and Urban Development.
 - Utilize retired attorneys on a *pro bono* basis.

Insufficient accessibility (physical structure, accommodations for hearing, vision, language, signage, communication, etc.) exists all across the State, among all types of buildings, spaces, places, public and private organizations, court buildings, and transportation.

Awareness and knowledge:

- Educate landlords and realtor associations about housing-related legal issues and rights regarding reasonable accommodations, including:
 - What constitutes a reasonable accommodation.
 - When and where people are entitled to reasonable accommodations.
 - How and where a person can obtain reasonable accommodations.
 - How to apply for reasonable accommodations.
 - What a company/landlord/developer needs to know in order to meet responsibilities when providing reasonable accommodations in a building, apartment, workplace, lobby, etc.
- For the procedure for responding to someone who needs a reasonable accommodation:
 - Explore ways to simplify access to information on reasonable accommodations; for example: create a technical assistance toolkit (for consumers and professionals) that explains in clear, simplified language all aspects of understanding, requesting, and providing reasonable accommodations, including consumers' resources for obtaining legal recourse.
- Educate developers and builders about incorporating universal design features (many of which are no or low additional cost) in buildings, housing, and homes, as well as the benefits of such designs for people of all ages and functional levels and the financial benefits for the owners/managers of buildings and housing developments.

- For prisons, jails, courts, juvenile justice programs, and other similar programs:
 - Provide greater education and training to administrators and staff, as well as policymakers to raise their awareness and understanding of:
 - Environmental accessibility features, the elements comprising reasonable accommodations in diverse situations, and how to effectively incorporate and provide these features and elements.
 - The impact of the changing demographic profile of inmates (aging and disabilities) on the need for environmental modifications in jails, prisons, and criminal justice programs.
 - Require administrators to develop environmental modification plans to demonstrate that they have an understanding of the laws regarding Title II of the Americans with Disability Act, which prohibits discrimination on the basis of disability by public entities.

Section III.f
ACCESSIBILITY:
LANGUAGE and COMMUNICATION
Issues

NOTE regarding the use of interpreters:

Federal and State laws require that licensed/certified interpreters be made available to civil litigants in the State's Unified Court System, and New York State Executive Order 26 requires that "Executive State agencies that provide direct public services shall translate vital and essential public documents provided to or completed by program beneficiaries or participants into the six most common non-English languages spoken by individuals in New York State with limited English proficiency . . . and that interpretation services shall be provided for these individuals." However, there are not such requirements for other venues across the State. Both the comments made by Think Group members and findings from the Initiative's statewide surveys indicate that, in many venues, there is insufficient availability of interpreters and a sizeable use of non-professional (non-licensed and/or untrained) individuals filling this role. The following quote reflects a growing trend in the use of non-professionals across many countries (including the U.S.):

"Translation studies finds itself today at a stage where its traditional focus on translator and interpreter training and on the advancement of the status of translators and interpreters as professionals is no longer sufficient to address the complexity of real-life situations of translating and interpreting. As increasing numbers of non-professionals translate and interpret in a wider range of contexts and in more diversified forms, their work emerges not only as an alternative to established professional practice, but also as a distinctive phenomenon" (Luis Perez-Gonzalez and Sebnem Susam-Saraeva (2012), "Non-professionals Translating and Interpreting," *The Translator*, Vol. 18, #2).

A scan of the literature reveals both the complexity of this issue, and, in response to current trends, an increasing worldwide interest among researchers, academics, interpreters, and translators to better understand and clarify the use of both professional and non-professional interpreters.

LANGUAGE and COMMUNICATION

Issues:

System structure:

- For many languages, information is not translated in forms and documents, resulting in many people who have never sought legal assistance because the advertisements and communications are not in their language.
- Interpreters:
 - At the point of legal consultation, there is no legal requirement for an interpreter for individuals with language/communication barriers or hearing impairment.
 - There is insufficient availability of interpreters in many places, including medical settings, residential hospitals, schools, legal and other service programs, and court room settings.
 - For migrant workers, the employer manages communication for his employees, which is a less-than-ideal alternative.
 - Affordability of interpreters is an issue for both clients and for program administrators.

Awareness and knowledge:

- Due to linguistic and cultural barriers, there is a lack of effective communication between many consumers and members of the legal field, and in the materials and trainings provided regarding legal issues and rights.
 - Insufficient attention is paid to Limited-English-Proficiency (LEP) clients.
 - There is insufficient understanding by LEP residents of their access rights for legal assistance.
- Due to cultural and language differences and barriers, there are portions of the population (veterans, immigrants, residents who lack proficiency in English, etc.) who:
 - Do not seek legal and other services.
 - Have ineffective or negative experiences when interacting with legal providers or members of the court system.

Section III.f

ACCESSIBILITY: LANGUAGE and COMMUNICATION *Strategies*

LANGUAGE and COMMUNICATION

Strategies:

System structure:

- As is now required in the court system, require licensure/education for interpreters in all venues in order to ensure correct interpretation in all legal and other services.

- Explore an appropriate role for non-professional interpreters across all venues as an alternative resource where or when licensed interpreters are unavailable.
- Require skill-level standards for all interpreters, which are now only required for courtroom interpreters.
- Expand the availability and accessibility of Language Line.
- Mandate that state agencies and community organizations widely publicize that consumers can choose from among alternative venues for receiving services and materials.
 - Encourage agencies to increase the transparency of their mandated English Language Proficiency plans.
 - Provide education to people regarding their language-access rights.
- Develop a language-access plan at the county and city levels.

Awareness and knowledge:

- Provide information, educational events, materials, and client discussions in multiple formats, languages, and venues.
 - Expand strategies such as "Language Access Day"—where legal and service providers have available staff to translate for individuals with limited or no proficiency in English.
 - An example: Family Court and Social Services in Erie County.
 - Build a language bank among legal resources, and make connections with existing resources in non-legal fields.
- Provide training for legal and other service providers on:
 - Cultural sensitivity.
 - How to communicate effectively with those who speak a different language.
- Interpreter service:
 - Employ bilingual law students to help limited-English-proficiency clients navigate the search for legal assistance and the court room processes and system.
 - Collaborate with universities and high schools to create a program of training and using volunteers (students; faculty; community residents) to translate and advocate.
 - Engage with interpreter schools to provide interpreters for clients.
 - Establish relationships with community organizations that provide interpreter services.
 - An example of an interpreter resource: Catholic Family Center's interpreter services.

Section III.g
ACCESSIBILITY:
TECHNOLOGY and COMMUNICATION
Issues

TECHNOLOGY and COMMUNICATION

Issues:

System structure:

- Some courts have good web-based educational/informational forums, but they are not uniformly available across the State.
 - Examples include: NY City's "Housing Court Answers" web site and the NY City Civil Court's "Answering a Debt Collection Case" web site are good, but Upstate New York does not have these same resources.
 - Individuals who lack access to computers or other devices lack access to and use of web-based resources.
- For consumers' convenience and program efficiency, many agencies, programs, organizations, and statewide systems provide "Do-It-Yourself" materials and forms for educational, instructional, informational, application, and communication purposes. However, the clarity and ease-of-use of these materials and forms varies both within and across agencies, programs, organizations, and systems.
- Government documents are too wordy and, often, too complex. As one example, FIDA's (Fully Integrated Duals Advantage demonstration program) Notice of Enrollment is very complex and does not clearly say that if your provider is "out of network" you will not be able to use that provider after 90 days.
- The use of technology is growing for:
 - Education and training activities and venues.
 - Communicating with individuals and groups.
 - Disseminating information.
 - Providing treatments.
 - Carrying out tasks.
 - Delivering services.
 - However, many individuals do not necessarily have access to computers and other technological devices, including: elderly people, people with disabilities, those with limited language or communication skills, those with socio-economic or educational limitations, those with different cultural norms, those with cognitive limitations, and others.
 - They may not know how to use computers, the Internet, or other technology, or have a low comfort level with using these devices and techniques.
 - They may have difficulty getting to the public library or other places that provide access to computers and technical assistance for using them.
 - For those who do have access, they may not have screen readers or other devices, or may have vision, hearing, or other disabilities that interfere with the use of various computer programs or applications, such as "Go To Meeting," on-line training videos, webinars, etc.

- Rural: Limited access to technology and limited understanding of how to use these elements is especially true for many individuals in rural communities.
- Too often, technology is not user-friendly.

Awareness and knowledge:

- Notifications to inform individuals that a service will be denied (for example, utility shut-off) are not clear enough to prompt the individual to understand and take action.

Section III.g
ACCESSIBILITY:
TECHNOLOGY and COMMUNICATION
Strategies

TECHNOLOGY and COMMUNICATION

Strategies

System structure—general:

- Expand the use of technological resources for providing legal and other services.
 - For example, increase awareness and use of the growing number of smartphone access-to-justice apps that give consumers resources to solve their legal problems.
- Ensure that policymakers, providers, organizations, and communication entities understand and implement the requirements of the new 21st Century Communications and Video Accessibility Act. <http://www.fcc.gov/guides/21st-century-communications-and-video-accessibility-act-2010>.
- Utilize technological strategies as additional tools to reach all residents in all long-term care facilities.
- Lacking access to technology: Use a variety of methods and venues for providing information, training, materials, and discussions in order to effectively reach consumers who have no access to computers or other technology or who are unable or unwilling to use various technological mechanisms.
 - Involve libraries to increase the availability of technology and for available assistance in using technology.
- **System structure: communication—telephone:**
 - Expand telephone-based resource systems, including:
 - NY CONNECTS.
 - 211 helplines.
 - The Medicaid phone access system
 - In civil court, model the telephonic process that is used in Family Court.
 - Increase the use of digital phones.

- Develop a statewide 1-800 telephone model for statewide access to legal information and referral.
- Hot lines:
 - Have a knowledgeable human voice on the line to interact effectively with callers.
- Develop a Tele-legal model similar to Telemedicine models:
 - Use a social worker to visit homebound older adults and people with disabilities, and develop/employ an IT (information technology) system or tool that will enable the client to be assessed to determine if there is a need for legal assistance. A legal assistance provider can communicate with the client to aid in the assessment, provide information and guidance, and, when needed, provide legal services.
 - Using a Tele-legal model to assess and bring services to homebound individuals provides early intervention to identify and prevent legal problems at an earlier stage.
- **System structure: communication—web site:**
 - Expand and increase awareness of web sites that provide legal information, resources, and assistance, including:
 - Mybenefits.gov.
 - NYCourthelp.gov.
 - Expand awareness of NY Courthelp's Do-It-Yourself software.
 - Expand and clarify the section for custody/visitation.
 - Expand the description of "extraordinary circumstances."
 - Probono.net.
 - LawHelpNY.
 - Improve the Developmental and/or Intellectual Disabilities website.
 - Tie these and other web resources together—develop a single New York State legal services webpage where consumers can type in a question to search and get the needed information or be redirected to an expert or the appropriate informational site.
 - Web design:
 - Use uncomplicated formatting for easier access and understanding and so that screen readers can be used by individuals with visual impairments.
 - Use a "do you have this" decision tree as an on-line tool, with drop-down choices.
 - Create wider availability of closed captioning (displaying text on a television, video screen, or other visual-display venues).
 - Use web technologies, such as Skype, Go-To-Meeting, and other convening tools in order to provide legal information and to interact with clients who are unable to get to appointments with a legal assistance provider or with the Court.
- **System structure: communication—written materials:**
 - Written materials—common standards for all communications . . . and for all people:
 - Based on research findings and what we know about people's ability to read and take in information, appropriate standards and guidelines should be established for consistent use by everyone—for example, keep in mind: white space, font type and size, size of margins, line spacing, document length, sentence length, formatting for ease of reading. Do not use acronyms or jargon. Use plain language.

- Common standards should not be viewed as "accommodations" for special-needs populations, but should be used for all communications—especially when it comes to notices and documents regarding benefits.
- For legal providers and other community service agencies, require approval and verification that documents are written at a 6th grade reading level, which the research literature considers an appropriate level for the general population.
- The Bar Association Committees should work with the State Office of Court Administration to update documents.
- Institute a cap on the length of time agencies are allowed for completing/returning forms and implementing applications. Monitor the processes, establishing clear and reasonable standards and goals.
- **System structure: communication—miscellaneous:**
 - Service-denial notifications:
 - Make notifications clear, written in simple, plain language.
 - Clearly explain the consequences if appropriate action is not taken.
 - When service-denial is imminent, the notification should include referrals to other resources and contacts for assistance, including referrals to legal assistance.
 - Preventative strategies:
 - Establish an option for an individual to list another person/entity to receive notification of any service-denial notification that is sent in order to provide an intervention before the individual's service is terminated.
 - Highly publicize this option to increase awareness.
 - Routinely announce this option on all customers' bills.
 - Collaborate with community aging, disability, and other service agencies to identify and contact clients who are at risk of service-denial in order to increase use of the "other person/entity" option.
 - Resource centers, agencies, etc.:
 - Provide knowledgeable navigators physically on-site to help seniors and people with disabilities who are requesting legal assistance or information to effectively access the materials and understand/use them appropriately.
 - Do-It-Yourself-type forms:
 - Provide effective technical assistance for filling out these forms.
 - Use trained non-attorneys to provide this assistance. An example: Jewish Association Serving the Aging (JASA) model, Queens, NY.
 - Make instructions much clearer and organized logically.

Section IV

AWARENESS and KNOWLEDGE

Issues

A consistent theme among all 10 Think Group work groups (and reflected in findings from the Initiative's statewide survey project—*Report of Findings: Six Statewide Surveys*) is the striking lack of awareness, knowledge, and understanding regarding the needs and traits of population groups, community-based legal and service program networks, legal and judicial systems, legal rights, and legal issues that exists among all entities (older adults, people of all ages with disabilities, caregivers, attorneys, non-attorney legal assistance providers, service providers in many different disciplines, judges, justices, law students, and policymakers).

AWARENESS and KNOWLEDGE

Issues:

General:

- Consumers make poor planning choices . . . often because the effectiveness of how information is provided/transmitted is poor.
 - Families have difficulties trying to make end-of-life decisions.
- There is a lack of information about the consequences of seemingly basic decisions, such as hiring a contractor, co-signing a loan, etc.
- There is a lack of immediate access to information and training about legal services.
- There is insufficient guidance for consumers on what attorneys can do for them and the prices of legal assistance.
- Consumers and service providers do not know *where* or *how* to contact an attorney or find appropriate legal assistance—it is a complicated process.
- There is insufficient funding for training and education about legal topics and legal assistance.
- People are unaware of their legal rights and responsibilities, and do not know about their rights to appeal legal decisions.
- There is a lack of awareness of specialty law services across the State.

There is a pronounced need for education and training among all entities:

Older adults
People of all ages with disabilities
Caregivers
Other population groups
Attorneys
Non-attorney legal assistance providers
Service providers in many different disciplines
Judges and justices
Law students
Policymakers

- There is a lack of awareness of available affordable legal services, beyond that provided by Legal Aid.
- All population groups struggle to learn about and understand rules and regulations.

When is a problem a legal issue:

- Both residents and service providers are unaware or do not realize *when* a problem is a legal issue or has legal implications.
 - They are not clear about what is a legal issue . . . and what is not—what constitutes a legal issue.
 - They are not aware that a problem/issue may have a legal underpinning (for example, employment, housing, family dynamics) and often do not even consider legal assistance as an avenue for the problem's resolution.
- People do not self-identify that they have legal needs or that they are seeking legal help.
 - They struggle to recognize/identify that they have a problem; for example, elderly persons may not realize that they are the victim of a crime.
 - In particular, people in rural areas do not self-identify as having legal needs.
- Something might be labeled an "issue" and the family steps in prematurely, and the professionals (legal, social, health, medical) discuss the "issue" with the family and not the individual.

Overall, people feel a stigma associated with receiving services.

Waiting too long to seek assistance:

- People do not seek help early on; they wait too long before asking for assistance.
 - They do not look for help until they are already in trouble. When they do ask for help, it is often too late to take successful remedial action.
 - People do not recognize that issues need attention until they become critical.
 - In particular, the current generation of older adults has a generational reluctance to ask for help until a crisis presents itself.
- Individuals and families do very little or no planning in advance (for housing, caregiving, nursing home placement, dementia, out-of-state issues, etc.).
 - Professionals get calls for assistance too late. Issues develop into crisis situations that are more difficult, or impossible, to resolve.
- Clients experience fear and abuse—which has an impact on their willingness or ability to reach out for legal assistance.

Section IV

AWARENESS and KNOWLEDGE Strategies

AWARENESS and KNOWLEDGE

Strategies:

General Education, Training, and Outreach:

- Provide broad community-wide education about the types of issues and problems people (regardless of age and ability) face when living in the community.
- For both individuals and for first-point-of-contact organizations:
 - Use more alternative educational venues and increase the amount and type of outreach to increase the "preventative" ability to:
 - Avoid problems before they emerge.
 - Recognize problems when they do arise.
 - Keep problems from exacerbating due to lack of awareness or knowledge.
 - Increase "preventative information" events and materials to increase awareness, familiarity, and understanding of:
 - Available legal assistance resources.
 - What is provided through legal services.
 - The benefits of planning ahead.
 - The use of mediation to assist in the planning process and as an early-intervention option before disputes escalate.
 - When and how to use the various planning instruments, such as health care proxy, power of attorney, advance directive, will, living will, estate planning, etc.
 - The critical importance and benefits of asking for help early on when faced with a problem or issue.
 - For individuals who are transitioning back into the community from another type of living environment (hospitals, facilities, prisons, shelters, nursing homes, certified homes, etc.):
 - Use a preventative approach by providing more education about legal issues and resources before they are integrated back into the community.
- To raise awareness and knowledge, explore creative marketing solutions; for example:
 - Rural areas:
 - Use multiple, diverse methods and venues to raise awareness among residents in rural areas.
 - Provide education and outreach in venues where rural residents congregate, which may differ from venues frequented by residents in more urbanized and suburban areas.
 - Market one-stop events (fun, collaborative events with food, etc.) to reach out and discuss legal issues in nontraditional ways (for example, "Death over Dinner" as a conversation project).

The Think Group placed stress on initiating measures that will change the overall system's culture from one of "crisis management" to a more efficient and cost-effective one of "prevention."

- Engage corporate offices to provide informational sessions for workers (for example, "lunch and learn") on different issues (similar to workplace sessions on various aspects of caregiving for working caregivers).
- Enlist municipalities to include information in the materials they distribute to residents.
- Create a comprehensive list (statewide and by county) of legal services resources and legal service providers. An example: LAWHELPNY.
 - Embed these lists in the NY CONNECTS Directory.
 - Add questions to the NYCONNECTS screening tool that would help determine legal issues for referral.
 - Publicize phone #311 in New York City, which is a one-stop place for answers.
- Reach out and engage creative and nontraditional access points and venues that the targeted populations frequent; for example:
 - Health fairs, street fairs, food pantries, libraries.
 - Multiunit housing developments, group residences, NORCS (naturally occurring retirement communities), Intentional Village programs.
 - Health care facilities, clinics, service clubs, gyms, religious organizations.
 - Independent Living Centers, sheltered work shops, senior centers, congregate meal sites.
- Place articles in free publications that are widely distributed and that seniors, people with disabilities, and caregivers might read—for example, Penny Savers.
- Provide a variety of training/education resources, such as on-line training videos, and a video bank.
- Create and distribute a guide of basic legal topics, which would be available on-line and in paper format.
- Enhance the effectiveness of how information is provided—in order to improve preventative efforts, to increase residents' empowerment, and to increase collaboration in educational efforts and service provision:
 - Collect good statistics and other data (which can inform policy and programs) and quantify the information to show the return on investment gained by providing legal assistance to clients. Use the information and data to market the benefits of legal services.
 - Co-locate legal services at community-based organizations that provide other types of services, which will encourage collaboration for an holistic approach to client's situation; for example:
 - Area Agencies on Aging and Independent Living Centers.
 - Social services and health care agencies.
 - Medical providers' offices.
- Institute "law help days" on-site where people congregate, as a means of increasing access.
- Design community Continuing Legal Education courses around the topic of knowing when an issue has a legal basis.
- Create a model or decision tree that will allow case workers to get people to the right services, with an expectation to follow up and confirm that the issue(s) was resolved.
- Provide staff training—when a client has multiple issues—on how to effectively and efficiently prioritize the issues and make a plan for helping the individual.

- Cross-train experts in various disciplines, who would help and reach out to provide education and assistance to more people across the community.
- Make use of frontline staff and individuals from various resources (beyond Area Agencies on Aging (AAA) and Independent Living Centers (ILC) staff) who could recognize when a consumer needs help and who could make referrals to the AAA or ILC; for example:
 - Ombudsmen, Visiting Nursing Association and other home health aide agencies, physical therapists, Department of Education licensees, hospital discharge planners, libraries, clergy, postal carriers, meals on wheels staff, Early Intervention Program coordinators, advocacy organizations, paralegals, lay advocates, community service agencies and service clubs, professional membership organizations, etc.
- In training events, increase awareness of the fact that a person does not have to be an expert in elder or disability law in order to assist an older client, a client with disabilities, or a caregiver.
- Unbundling legal services: Educate on how an attorney, firm, or other professional can handle one piece of a consumer's legal issue, and other pieces can be handled by other attorneys, legal firms, non-attorney legal assistance providers, or other types of professionals.

Section V.a
POPULATION GROUP:
OLDER ADULTS and PEOPLE WITH DISABILITIES
Issues

OLDER ADULTS and PEOPLE WITH DISABILITIES

Issues:

System structure:

- *Pro se:*
 - A significant proportion of older adults, people with disabilities, and caregivers appear in court and hearings with no representation by legal counsel.
- Employment—discrimination:
 - Older adults and people with disabilities experience discrimination across all sectors of employment.
 - On-line applications force self-identification as to age and disability, and the hiring/interview process, itself, further results in self-identification as to age and disability.
 - Information from the Think Group: The unemployment rate among individuals with disabilities is 80%. In comparison, according to the U. S. Bureau of Labor Statistics (<http://data.bls.gov/timeseries/LNS14000000>) the unemployment rate for the general population aged 16 and older for January through November, 2014, ranged from 5.8% – 6.7%.
- Often, there is an assumption that if a person has a disability of any kind, he/she is not intelligent or capable.

- Other discrimination—Think Group members reported experiences such as:
 - Individuals/families who have a child with a disability facing discrimination in the Child Protective Service system.
 - Parents who, themselves, have a disability facing discrimination in Family Court regarding their ability to parent appropriately because of their disability.
 - Individuals with developmental/intellectual disabilities experiencing discrimination by hospitals.
- Civil rights:
 - When someone has a diagnosis, services may be contingent upon their taking their medications, which is a possible civil rights issue.
- Child-education issues:
 - For parents of children with disabilities, there is a lack of sufficient and affordable access to legal assistance regarding education issues.
 - There is a lack of attorneys who specialize in education issues for children with disabilities.
 - Quality of education for children with disabilities is not high enough, and insufficient legal attention is paid to compliance issues.
 - There is a lack of funding for legal advocacy for special education.
- LGBTQ older adults (Lesbian, Gay, Bi-sexual, Transgender, and Questioning):
 - LGBTQ elders experience higher levels of poverty, housing insecurity, vulnerability to abuse, inadequate access to health care, homelessness, fewer family and peer support mechanisms, and a number of explicitly discriminatory laws that prevent access to a partner's benefits and care through private and public insurance programs, social security, and other programs.
 - They have systematically underutilized the important legal and social services that they need to age safely, particularly in the areas of housing, public benefits, and healthcare—for several key reasons:
 - Legal service providers do not have the necessary resources to conduct outreach that would assuage the fears of this vulnerable population, nor the funding to create uniquely targeted legal programs.
 - Compared to their non-LGBTQ peers, LGBTQ elders experience a number of formal and informal roadblocks to gaining access to programs and public benefits.
 - Most legal service providers are not sufficiently culturally competent or knowledgeable about the many LGBTQ-specific laws and policies that uniquely affect LGBTQ elders.

There is
discrimination related
to disabilities . . .
and a *stigma*
attached to a person
with a disability . . .
regardless of age.

There is
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and a *stigma*
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regardless of age.

Awareness and knowledge:

- Older adults and adults with disabilities lack awareness and a basic understanding of various decision-making planning tools, including wills, living wills, powers of attorney, advance directives, health care proxies, guardianships, and estate planning.
 - They lack knowledge about elder law and disability law.
- Due to cognitive loss, people of all ages with dementia have a limited window to address legal issues.
- In general, the older adult generation retains stereotypical views related to the unaffordability of legal services.
- Some older adults *do* have the financial means for the help they need, but they have no one to help them or advocate for them when seeking help or navigating the system.
- Parents who, themselves, have disabilities are unaware of their rights when they are charged with parenting incompetency, child neglect, etc.
 - They are not educated about Fair Hearing rights, do not know where to locate legal services, and do not know how to pay for legal services or for the Fair Hearing process.
- Neither disabled children nor their families know what a child's rights are when he/she reaches adulthood, and families do not know what their options are.
- People in stigmatized groups (for example, HIV, LGBTQ, disabilities, race/cultural groups, limited- or non-English-speaking, religious sects, lower socio-economic, etc.) do not always know if they are getting good quality legal services.
- Older adults and people with disabilities are vulnerable targets of scams and financial exploitation.

There is a general lack of trust of the legal field among the general public—which must be broken down and overcome, as this has a negative impact on the use of legal assistance by many people.

Section V.a

POPULATION GROUP: OLDER ADULTS and PEOPLE WITH DISABILITIES *Strategies*

OLDER ADULTS and PERSONS WITH DISABILITIES

Strategies:

System structure:

- Designated Parts:
 - In the court system, Parts should be designated for cases involving older adults, people with disabilities, and caregivers—with specially trained judges and staff.

- Such designated Parts should also be staffed with social workers to assist on cases, or provided access to a social work clinic of supervised social work students.
- Designated legal services should be available so that judges from the designated Part can make effective referrals and receive referrals from other judges.
- A formal mechanism for referrals by judges is necessary and should be established.
- Elder Court:
 - An Elder Court should be established, which could address the issue of prioritizing an older litigant's multiple issues.
- Develop problem-solving courts that focus on older adults and persons with disabilities, and provide a resource coordinator in the court.

Examples:

 - Suffolk County (Supreme Court Judge Patrick Leis)—model guardianship Part, which includes post-determination referrals to mediation services to support family relationships.
 - California's Collaborative Justice Courts—building a Problem-Solving Judiciary: http://www.courts.ca.gov/documents/California_Story.pdf.
- As an activity under the Legal Services Initiative, the NY State Office for the Aging, Office of Mental Health, Office for People With Developmental Disabilities, Department of Health, and major community disability organizations should collaborate to publicize the availability and responsibilities of the designated disabilities liaison—which is currently assigned to each court—as well as information on how to easily contact that individual in each court.
- For parents who, themselves, have a mental illness or other disability, modify the Mental Hygiene Law to appropriately address situations where the parent's competency to perform the parenting role is in question.
- Increase availability of representation for individuals or families who have children with disabilities when they are involved with Child Protective Services.
- For families, develop intervention models that will assist the families when a child with disabilities reaches adulthood.
- Explore the civil rights implications (and render a legal opinion by a neutral non-government entity) in cases where someone with a diagnosis and prescribed medications finds that receiving services is contingent upon their taking their medications.
- Law to accommodate the impact of disabilities:
 - A statutorily recognized extension for "good cause" should be provided for a disability-related lateness for Article 78 proceedings . . . as well as for other proceedings in which a litigant's disability has a negative impact on his ability to appear in court or hearing on time.
- Permit judges to have discretion, based on "good cause" shown, to extend the filing deadline in appropriate cases, which would ameliorate devastating consequences.
- Modify court policies and procedures regarding court room "wait time" and other issues related to the implications of various types of disabilities.

A consistent and comprehensive definition of accessibility should be used to cover all disability groups.

Awareness and knowledge:

- Resource Center:
 - A Resource Center should be developed to address the needs of the Initiative's three targeted populations. Examples include:
 - NY State Success: Connecting Systems of Care with Children and Families: <http://ccf.ny.gov/council-initiatives/nys-success-connecting-systems-care-children-and-families/>.
 - National LGBT Aging Resource Center in New York City: <http://www.lgbtagingcenter.org/resources/resources.cfm?st=NY>.
 - NY State Kinship Navigator: <http://www.nysnavigator.org/>.

Section V.b

**POPULATION GROUP:
CAREGIVERS (all types) and KINSHIP CAREGIVERS
*Issues***

CAREGIVERS (all types) and KINSHIP CAREGIVERS

Issues:

System structure:

- There is a lack of caregiver support services:
 - It is difficult for caregivers to know who to turn to for help with family dynamics and service provider interactions . . . and who could help mediate with, hire, and fire aides.
 - Caregivers do not have anyone to talk to about differences between the way things are supposed to work and how they really work.
 - Caregivers have a significant need for respite, which can lead to situations that have a legal underpinning.
- Caregivers:
 - They have difficulty finding services and benefits and difficulty applying for them.
 - There is a lack of available information about options for caregivers.
 - There is a lack of help for caregivers who do not have advocates.

New York's over three million informal (unpaid) caregivers are a significant component of the State's long-term care and health systems, and the support and care they provide to frail and disabled individuals saves the State substantial public resources.

- Program eligibility:
 - Instances have occurred where caregivers, especially young caregivers, are often deemed age-ineligible for programs and could not get help for 50-year-old and 90-year-old family members they are caring for.
- Youth caregivers (under the age of 18):
 - Caregivers under the age of 18 remain invisible and are often deemed age-ineligible for caregiver support programs.
 - Youth caregivers have complex and unique legal issues, which, too often, remain unrecognized and unidentified.
- Caregivers for people with disabilities:
 - It is difficult to find a lawyer who is sensitive to, and understands, the experience of caregiving for minor and adult children with disabilities, and who has the skills to represent someone with disabilities.
- Kinship care:
 - Anecdotal evidence indicates that the number of kinship caregivers continues to increase.
 - However, there is a lack of comprehensive and accurate data measuring the number of kin care families in New York, the children they have assumed responsibility for, and the issues and challenges they face.
 - There is a lack of accurate data measuring the number of kinship Article 6 proceedings.
 - Grandparents raising grandchildren and other non-parent kin caregivers have unique legal issues. For example:
 - Caregiver grandparents whose families with disabled children are experiencing issues such as substance abuse.
 - Kin caregivers who encounter difficulties with the school system regarding their decision-making authority, the Committee on Special Education, or guardianship-related matters.
 - There is insufficient coordination between kinship programs/services and the legal system.

Kinship care describes individuals who assume long-term responsibility and care for infants, children, and teens—in place of parents who are unable or unwilling to provide parenting and other care for their children. Increasing numbers of kin caregivers are grandparents, who have assumed full time care and responsibility for their grandchildren.

Awareness and knowledge:

- Exploitation:
 - A sense of entitlement can grow among very-long-term caregivers who feel they deserve to take advantage of their care recipients . . . how can these care recipients be protected . . . and the caregivers supported to reduce the possibility of exploitation?
- For injuries or other issues stemming from their caregiving responsibilities, caregivers and guardians do not know their legal rights vs. their liabilities.
 - For example, can they be held liable for a care recipient's medical bills, etc.
 - This lack of knowledge can scare people away from assuming the critical caregiver role.

- Fear of liability can also be felt by care recipients—in incidences where the caregiver or guardian is injured or experiences other issues related to their caregiving roles.
- Working caregivers:
 - They do not know their rights regarding employment and about the environment and protocols of the work place.
 - For example, use of sick time for caregiving; paid time-off for caregiving; flextime employment; shared-job arrangements; on-the-job access to training, travel, promotions, Family Medical Leave, etc.
- Caregivers are unfamiliar with programs and systems—for example, MOLST (Medical Orders for Life-Sustaining Treatment) and hospital systems, and have difficulty helping the people they care for with end-of-life decision-making.
- Kinship Care:
 - Grandparents raising their grandchildren are not sufficiently aware of their legal issues and needs, their rights, their options, or the diverse resources available to help them and to help the children they are caring for.
 - Guardianship:
 - Kinship caregivers do not know how or where to get legal guardianship.
 - *Pro se*:
 - Kin caregivers who go to court for issues related to the children they care for typically appear in court without representation by legal counsel.

Section V.b

POPULATION GROUP: CAREGIVERS (all types) and KINSHIP CAREGIVERS *Strategies*

CAREGIVERS (all types) and KINSHIP CAREGIVERS

Strategies:

System structure:

- Respite—as a strategy for countering the impact of "caregiver burden and burnout":
 - Provide vacation coverage for caregivers.
- Financial assistance:
 - Provide greater tax deductions for individuals who provide on-going caregiving duties.
 - Provide Social Security credits to caregivers.
 - Create financial supports for family caregivers who are in crisis.
 - Develop "Good Samaritan" insurance coverage for caregivers.
- Develop programs to train lay advocates to help parents/families of children with disabilities.
 - Explore whether volunteers lessen the potential for legal liability.

- Kinship care:
 - Expand the Kinship Navigator Program as the number of kinship care families increases.
 - Coordinate kinship legal assistance with the NY State Kinship Navigator and its recent federal demonstration model project for legal assistance.
 - In all counties: increase access to attorneys who have "kinship" as their focus/expertise.
 - Provide permanent funding for legal services (consultations and representation) as part of OCFS' (NY State Office of Children and Family Services) kinship program funding.
 - Promote development of *pro bono* and low *bono* networks that support kinship legal issues by producing webinars and Continuing Legal Education courses in coordination with the Kinship Navigator, local kinship services, local court projects, and legal services.
 - The Bar Association can recruit and train more people to do elder law and kinship care issues under Articles 81, 17-A, and 6.

Awareness and knowledge:

- Working caregivers:
 - Provide education and outreach for working caregivers of older adults and people of all ages with disabilities.
 - Example (now discontinued due to local budget cuts): Under contract with Clinton County, Behavioral Health Services North, Inc., provided the Employee Assistance Service (EAS) program (short-term counseling—one-to-four sessions—on all types of life issues) for older adults and their caregivers who were residents of Clinton County.
- Provide caregivers with greater education and training on:
 - Their legal rights and liability issues when carrying out caregiving tasks and responsibilities.
 - Understanding the tasks and responsibilities involved in caring for elderly Individuals or individuals with disabilities, especially those with Alzheimer's Disease, other dementia, developmental and/or intellectual disabilities, or other cognitive or communication impairments.
 - Understanding the physical, emotional, and financial burdens associated with long-term caregiving.
 - Understanding the resources available for caregivers.
 - Understanding how and when the courts will provide assigned counsel in situations where caregivers appear in court *pro se* (unrepresented).
- Kinship care:
 - Expand kin care families' awareness of the Kinship Navigator Program and how to access its services and benefits.
 - Educate kinship caregivers on how and when the courts will provide assigned counsel in situations where they appear in court *pro se* (unrepresented).
 - Expand kin care families' awareness of the Community Dispute Resolution Centers and their services, such as PINS-diversion, parent-child issues, truancy-prevention, and special education mediation.

- Train judges, court clerks and attorneys for the children of kin caregivers on the rights of these caregivers.
- Explore ways to widely distribute the kinship publications developed by the NY State Office of Children and Family Services (OCFS).

Section V.c

PROFESSIONAL GROUPS

**(Legal community, judiciary, social service and health providers,
community organizations, advocates, and policymakers)**

Issues

PROFESSIONAL GROUPS

Issues:

System structure:

- Value of legal assistance:
 - Among agency administration, policy folks, and grant makers, there is a lack of understanding of the utility/value of legal services.
- Competency areas:
 - There is a shortage of experienced attorneys who are knowledgeable in geriatrics (diseases and medical treatments of older individuals) and gerontology (characteristics of older adults and the aging process).
 - There is a shortage of experienced attorneys who are knowledgeable about the various types of physical, mental, developmental, intellectual, cognitive, and emotional disabilities.
 - Families lack sufficient access to legal service providers who have in-depth knowledge of educational matters for children with disabilities.
 - Attorneys and others may not understand the new statewide vocational rehabilitation system.
 - Among judges and court personnel/staff across the court system, there is substantial variation in the level of understanding regarding the traits, characteristics, coping abilities for carrying out daily tasks, and circumstances of individuals with mental illness, as well as variation in the level of awareness of the civil rights, housing options, and community services for which these individuals are eligible.
 - There is insufficient awareness of how protocols and procedures can be modified to effectively respond to the issues presented by individuals with mental illnesses.

Due to New York's demographic and public policy trends, the issues currently presented to case managers, program administrators, and legal service providers have become more complex, requiring interventions based on greater, more sophisticated levels of knowledge and professional expertise.

- Recent shifts in public policy have resulted in increasing numbers of older adults, frail elderly persons, and people with disabilities residing in community-based conventional housing alternatives in place of institutional alternatives.
 - Legal and other providers are unsure of how to best serve these growing populations.
 - Many laws affecting frail elderly individuals and people with disabilities are complex, and professionals across venues (social service and health providers, fiscal intermediaries, attorneys, administrative law judges, advocates, etc.) are not sufficiently knowledgeable about them.

Awareness and knowledge:

- Placing legal issues within a client's larger context:
 - When clients have multiple issues, there is lack of knowledge on how they should be prioritized in order to make a plan for helping the client.
 - If a client does not meet all criteria for a program at initial intake, oftentimes the case is dismissed.
 - Consumers' issues can be poorly identified and addressed and, as a consequence, they end up in the legal or court system.
 - Across systems, professionals can be unaware of the personal, familial, and external circumstances affecting the client or litigant.
 - When an individual presents a legal issue, it is often not understood within the context of an individual's larger situation or circumstances; but the legal issue is very often associated with larger issues that also need to be addressed.
 - There is a tendency to focus only on the legal aspects and to not involve other disciplines and resources that could assist with the individual's more global circumstances.
 - Problems seldom occur as discrete, isolated issues, but are affected by—and affect—the individual's overall situation.
 - In addition, because issues/problems are dynamic, not static, understanding issues/problems/circumstances is complex. For example—there are stages of dementia, or, many physical disabilities progress over time—changing the characteristics and implications of any one condition as the condition changes.
 - When a collaborative, holistic approach is not employed, a community's entire resources are not maximized to their full potential, which can affect the individual's overall situation, as well as affect the outcome of the legal aspect presented.
- Professionals—legal, social service, health care, and others:
 - There is lack of clarity about the legal needs of older adults and individuals with disabilities in New York State.
 - Adults whose cognitive abilities fluctuate: when those individuals are *not* deemed to be incompetent, it is difficult to provide appropriate supportive services; and it is difficult to balance the client's autonomy as his cognitive abilities vary.
 - When a caregiver is involved in a litigant's issue, it is difficult to determine *who* is the client.
 - There is complexity and ambiguity in understanding cases as a result of competing and differing rights and interests.

A legal issue presented is often not understood within the context of an individual's larger situation or set of circumstances. However, problems seldom occur as discrete, isolated issues, but are affected by—and affect—the individual's overall situation.

- In addition, confidentiality issues arise, as well as potential conflicts of interest.
- In order to make the best judgments, judges need specific training on understanding what it means to live with chronic disabilities, the aging process, and the characteristics and traits of older adults and of people with disabilities.
- Sensitivity:
 - There is a lack of adequate sensitivity regarding different age groups, different abilities and levels of functioning, cultural norms, language skills, diverse lifestyle orientations, and educational levels.
- Communication:
 - Attorneys, other legal assistance providers, judges, and other professionals do not communicate or interact effectively with individuals who have speech or other communication impairments (physical, cognitive, developmental, educational), non-English-speaking proficiency; hearing impairment, etc.
 - There is insufficient training for these professionals to learn how to interact/communicate effectively.
 - There is a lack of training for professionals to know how to identify the communication competency or speech pathologies of individuals seeking legal assistance or those receiving legal materials.
 - Too often, lawyers, judges, etc., use language that is too complex and filled with legal jargon.
- Legal community and judicial members:
 - They lack sufficient awareness of:
 - Community-based social, housing, health, and medical service resources that are available, as well as lack knowledge about the Adult Protective Services program.
 - How to deal with complex family dynamics.
 - The needs and functioning of people with diminished capacity (developmental and/or intellectual disabilities, Alzheimer's Disease, other dementia, and other cognitive impairments stemming from various physical diseases and illnesses, etc.).
 - Kinship and caregiver issues.
 - Often, members of the legal and judicial fields have pre-conceived notions regarding aging and the pervasive "lack of empowerment" felt by older adults.
 - Ageism (preferential or discriminatory attitudes or treatment based on age):
 - There is a tendency to make the assumption that someone has dementia because they are old and happen to be very upset.
 - An example—from a Think Group member: A credibility finding against a 75-year-old (unrepresented by legal counsel)—essentially because she had trouble remembering while in the court room—resulted in her almost losing her apartment of over 30 years. An alternative explanation, which was not considered, was that she was faltering in the courtroom situation due to stress, fear, and lack of confidence while in the courtroom environment. The Appellate Term stayed the eviction and permitted her to keep the apartment.

When someone is not treated appropriately or is previously discriminated against, they will choose to not access the service . . . including legal services and the court system.

Advertising by legal service providers may result in hesitancy by consumers to get involved—because of fear of what is involved with contacting an attorney.

- Social service and health providers and staff:
 - They lack sufficient education on legal issues and are not equipped to spot basic legal issues.
 - They are not sufficiently knowledgeable about *available* legal resources—including legal resources in surrounding counties. They do not know which entities to reach out to when presented with issues.

Section V.c

PROFESSIONAL GROUPS: (Legal community, judiciary, social service and health providers, community organizations, advocates, and policymakers) *Strategies*

PROFESSIONAL GROUPS

Strategies:

System structure:

- Develop mentoring programs for small/sole legal practitioners.
- Incorporate into law school curricula and Continuing Legal Education (CLE) courses:
 - The impact of bias on the justice system and on the community.
 - Professional responsibilities for providing fair, just, and high-quality assistance.
- Use a multi-disciplinary approach when training and when developing CLE course work—for a more comprehensive training for lawyers, judges, and justices.
- Require CLE units for serving at-risk populations, using a variety of training methods, including workshops, videos, webinars, internet resource materials, as well as experiential training.
 - A good resource: Andrew Solomon, speaker and author of "Far From the Tree," a book about understanding differences in people—focusing on children who are deaf, dwarfs, gay or transgender, autistic, prodigies, have Down syndrome, schizophrenia, disabilities, were conceived during a rape, become criminals, etc.
- Develop a resource manual for judges to connect petitioners to services.

Awareness and knowledge:

- Mediation and dispute resolution: Educate service and legal providers about New York's statewide network of Community Dispute Resolution Centers (CDRC), which cover all 62 counties and are funded and supervised by the State's Unified Court System as a means of accessing affordable mediation and conflict-coaching services. CDRCs have provided court-referred and community-based conflict resolution, mediation, facilitation, early-intervention, etc., involving a wide range of issues, including family matters and dynamics, housing and tenant/landlord disputes, special education issues, and other civil matters.
- For social and health service providers, attorneys and other legal assistance providers, judiciary staff and judges, front-line staff, law school students, and guardians ad litem:

- Provide training on the necessity of providing face-to-face meetings with clients, even if those clients have assigned Power of Attorney to other family members.
- Increase on-going education and training to heighten understanding of:
 - Ageism, the older population, and the aging process.
 - Individuals with diminished capacity and the rights of people with diminished capacity.
Example:
 - The American Bar Association's webinar on becoming a dementia-capable attorney.
 - Types and characteristics of disabilities, living with a disability, impact of discriminatory attitudes and behaviors regarding disabilities, self-awareness of one's own biases regarding people with disabilities, and effective interaction and communication with non-cooperative clients.
 - The new vocational rehabilitation system that is in place through Disability Rights of New York State (include the public in this education effort).
 - The Americans with Disabilities Act and compliance guidelines.
 - Parenting by parents who have disabilities.
 - The use of creative-thinking and innovative models on how to keep families together.
 - Cultural, language, ethnic, and LGBTQ differences among population groups and age groups.
 - Effective communication:
 - How to use communication that is tailored to the audience.
 - The benefits of using simple language.
 - Understanding communication differences, impairments, and issues.
- Increase interaction and cross-training between the legal and judicial communities and the Interagency Council for the Deaf, Deaf/Blind, and Hearing-Impaired.
- Law enforcement personnel and local elected officials:
 - Mandate training on different cultural, ethnic, age, disability, and language groups, and on communication differences and issues.
- LawHelpNY:
 - Add social services to its resources.
- High school:
 - Incorporate a "legal subject" into life skills training in high school education.
 - Incorporate diversity training into the educational system for all individuals.
- Continuing education class for adults:
 - Offer "legal education" for residents, including how to recognize when an issue is a legal one, available legal resources, and how to access legal assistance.
- Private sector business community:
 - Provide more information and education to small businesses about their rights and responsibilities regarding the hiring of individuals with disabilities.

Financial seminars provided by financial planners often get a zero community response because perception is that they are trying to sell something to you.

- Provide more education to financial institutions, utility companies, landlords, and others on how to identify and safeguard against potential financial exploitation of consumers.
- County Offices for the Aging (OFA):
 - Reach out to local and county courts to educate them regarding who the OFA is, whom they serve, what they do, and who they collaborate with on aging and caregiver issues—as a means of encouraging referrals from the courts for older litigants' non-legal matters.
- Independent Living Centers (ILC):
 - Reach out to local and county courts to educate them regarding who the ILC is, whom they serve, what they do, and whom they collaborate with on disability and caregiver issues—as a means of encouraging referrals from the courts for the non-legal matters of litigants with disabilities.
- Housing and care facilities:
 - Educate tenants and residents to know and understand their rights.
 - Provide easier access to information so that tenants do not have to go to HUD (U. S. Department of Housing and Urban Development) for answers.
- Educate New York State agency leaders and staff on:
 - Legal and court systems.
 - Issues experienced by caregivers, older adults, and individuals with disabilities.
 - Available community-based legal assistance resources.
 - Successful models for community-based collaboration and cooperation.
 - Impact of demographics on the need and demand for legal assistance.

Section V.d

POPULATION GROUP: LGBTQ COMMUNITY (Lesbian, gay, bi-sexual, transgender, and questioning) *Issues*

LGBTQ COMMUNITY

Issues:

System structure:

- Across the State and across age groups, members of LGBTQ communities have unique needs and vulnerabilities, particularly while in hospitals, assisted living facilities, nursing homes, health programs, and housing developments.
 - LGBTQ individuals who are elderly, frail, or have various disabilities are often in the very vulnerable position of having to rely on workers who may not understand them or their bodies when providing basic daily functions and healthcare.
 - Transgender and gender-non-conforming people face significant vulnerabilities in these settings.

- Front line workers need greater cultural understanding and competency, which would have a significant impact on ensuring that LGBTQ individuals are afforded their full legal rights and treated with dignity and respect.
 - This need is urgent among LGBTQ *aging* communities (and particularly true in the New York City metropolitan area, where approximately 65,000 LGBTQ elders reside).
 - With the expansion of Medicaid through the Affordable Care Act—and the corresponding bans on LGBTQ discrimination in healthcare that are developing in the areas of public benefits, healthcare, housing, and relationship-recognition—there is an increased need for information and guidance to help legal and social service providers navigate these new systems in a way that appropriately considers the needs of LGBTQ individuals, including elders and those with disabilities.
- Legal assistance: As with social, health, and medical services, there is a need for LGBTQ-competent legal services for LGBTQ individuals.
 - Despite state and federal laws that protect the rights of LGBTQ individuals to visit their partners in hospitals and nursing home facilities, a lack of understanding and competency by nurses or other facility workers who regulate visitation on a daily basis creates frustration, tension, and discomfort, and can be a violation of an LGBTQ person's legal rights.
 - Despite laws protecting LGBTQ individuals from harassment, discrimination, and mistreatment—as a result of having been marginalized for most of their lives, LGBTQ individuals (particularly those who are elderly) have legitimate concerns about seeking out legal services from lawyers whom they perceive as non-LGBTQ competent.
 - Regular LGBTQ-specific education and training is needed for attorneys across the State to understand the specific needs of these individuals.

Awareness and knowledge:

- Consumer education and training activities/events regarding access to legal services:
 - Too often, do not incorporate the particular needs and issues of LGBTQ persons and other marginalized populations.
 - Too often, do not integrate LGBTQ needs and issues into the types of trainings and programs that are likely to draw a large audience of people who may not otherwise seek out training that is specific to the LGBTQ community or other marginalized populations.

Section V.d

**POPULATION GROUP: LGBTQ COMMUNITY
(Lesbian, gay, bi-sexual, transgender, and questioning)
*Strategies***

LGBTQ COMMUNITY

Strategies:

System structure:

- **LGBTQ Task Force:** Create an LGBTQ Legal Services Task Force within the Office for the Aging (to be jointly coordinated by the aging and disabilities networks), which would create an important institutional space for continued discussion and policy implementation that will have a positive impact for LGBTQ individuals who have disabilities and those who are aging.
 - Although the Legal Services Initiative's Think Group is an important first step in exploring the legal needs of the LGBTQ community, an ongoing Task Force would help ensure that LGBTQ competency and access will remain at the forefront of new initiatives within the Office as they come up.
 - The LGBTQ Task Force would be able to: (1) make policy recommendations on a consistent basis and institutionalize the recommendations developed by the Think Group, and (2) help create new statewide policy and programming initiatives that have a specific LGBTQ focus and incorporate LGBTQ competency into non-LGBTQ specific policies and programs.
 - The Task Force could explore ways to increase data collection on the specific legal needs of these populations, as current data is lacking.
 - Having an institutional-based group focused on increasing access to legal services for LGBTQ aging communities would create an important point of contact for legal and social services providers to share their experiences with LGBTQ communities for programming and policy initiatives.

Section V.e

OTHER POPULATION GROUPS

Issues and/or Strategies

DOMESTIC PARTNERS

Issues:

Awareness and knowledge:

- There is a lack of planning by domestic partners in advance of a crisis.

VETERANS

Issues:

System structure:

- The veteran status of individuals is not always known, and they are not identified as veterans when they are in court.

Awareness and knowledge:

- Veterans of all ages also struggle with non-legal problems (including mental health issues) and with not knowing where they can get assistance and social or health-related services.
 - Veterans may not want to go through the Veterans Administration (VA).

VETERANS

Strategies:

Awareness and knowledge:

- Establish a one-stop-shop for information and resources.
Example:
 - Network of Care for Veterans, Service Members, and Their Families:
From the Network of Care's web site: In 17 locations across the country, the Network was developed in cooperation with the National Association of Counties in partnership with the National Association of State Mental Health Program Directors, the National Association of County Behavioral Health & Developmental Disability Directors, Mental Health America, National Association of State Directors of Veterans Affairs, and many others. The Network provides a comprehensive, easy-to-use search engine of all services—including crisis intervention, federal and state military programs, local and grass-roots services, a searchable employment data bases, an ad-free Social Networking platform, forums, message boards, support groups, community calendars, Vets4Warriors Peer support, local announcements, interactive tools for PTSD, TBI and benefits, and information, articles, and fact sheets.
(<http://www.veterans.networkofcare.org>).

MENTAL HEALTH

Issues:

System structure:

- There is a community impact (in both rural and urban areas) when issues are not appropriately resolved that involve the many people with mental health issues who exist in the gray area between personal rights/autonomy and community safety . . . as well as in the gray area between personal rights/autonomy and a service or legal agency's responsibilities.

Awareness and knowledge:

- People with mental health issues do not understand the legal issues they face and are often resistant to solutions.

RESIDENTS of LONG-TERM CARE FACILITIES

Issues:

Awareness and knowledge:

- There are residents of long-term care facilities who *do* need legal assistance, but many people assume that this is not the case, which leads to a lack of access by these residents.

EMPLOYERS

Issues:

System structure:

- There is a lack of viable employment opportunities for older people and people with disabilities, due to various types of discriminatory attitudes, policies, and practices.
- The workplace:
 - Employers are not always following Americans with Disabilities Act requirements, both in hiring practices and in the workplace regarding existing employees with disabilities.
 - There is a tendency to dismiss employees with mental health issues or those with communication issues.
 - There is New-York-State-based employee discrimination.

Awareness and knowledge:

- Employers are not providing *effective* training for employees and staff regarding discriminatory attitudes or the laws and requirements related to disabilities in all aspects of the workplace.

EMPLOYERS

Strategies:

System structure:

- New York State government, as well as attorneys and other entities, should review all their practices and incorporate/employ an "Employment First" approach.
 - Employment First: From the U. S. Department of Labor web site: "Employment First is a concept to facilitate the full inclusion of people with the most significant disabilities in the workplace and community. Under the Employment First approach, community-based, integrated employment is the first option for employment services for youth and adults with significant disabilities."
<http://www.dol.gov/odep/topics/EmploymentFirst.htm>,
 - Following the Employment First approach, look at practices within the system and implement a more integrated statewide policy related to employment and vocational rehabilitation.
- Implement strategies that will increase the number of attorneys who specialize in disabilities, vocational rehabilitation systems, mental health, and developmental disabilities.
- Strengthen the vocational training that must be provided during intake and orientation to individuals in rehabilitation.

Awareness and knowledge:

- Educate people with disabilities about their rights, using materials and methods that are easy to understand and absorb—at the individual's level of comprehension.
- Enhance and increase employee and employer training regarding manifestations and laws regarding disabilities.
- Work with the vocational rehabilitation and orientation systems for implementing appropriate and effective training activities.

MIDDLE CLASS

Issues:

System structure:

- Long-term care is unaffordable for the middle class, which can result in legal issues regarding health, housing, caregiving, family dynamics, etc.

Awareness and knowledge:

- Middle-class and middle-income families have difficulty finding a lawyer.

MIDDLE CLASS

Strategies:

System structure:

- Pay family caregivers.
- Explore, adopt, and expand the use of non-traditional options that can address long-term care needs, such as:
 - Boommates.
 - Match-up home sharing programs.
 - Group living; shared living residences or apartments.
 - Village Movement; NORCs Program; co-housing.
 - Supportive senior housing; Family Type Home.

UNDOCUMENTED INDIVIDUALS

Issues:

System structure:

- There is a lack of legal services and funding for the many issues faced by undocumented individuals.
- The differences that characterize undocumented individuals (ethnicity, cultural norms, language skills, educational level, developmental and other disabilities, age, gender, sexual orientation, socio-economic) have an impact on all aspects of service delivery and on access to services.

Awareness and knowledge:

- Regarding undocumented individuals: Legal, social service, and health providers are not sufficiently aware of what is legal or not legal (laws and regulations) regarding these individuals.
- Inaccurate assumptions are often made that undocumented individuals have computers, have access to computers, or are computer-literate.

INMATES

Issues:

System structure:

- Many people with mental health issues and cognitive issues end up in jail because mental health facilities are closing.
- The overall inmate population is aging and has special needs related to legal issues.

Awareness and knowledge:

- In addition to the ordinary challenges faced by inmates released from correctional facilities, these individuals are often low-income and often mentally ill.
 - These individuals apply for Supplemental Security Income, Social Security Disability, and other services and assistance; but they have great difficulty understanding the process for accessing services, gathering and processing all the necessary documentation, navigating the services system, and seeing the process through to completion.

INMATES

Strategies:

System structure:

- Increase the availability of advocacy for creating a balance between treatment and incarceration.
- Provide inmates with greater access to legal services when their mental illness causes them to do something that lands them in Security Housing Units (SHU—also known as Super-Maximum Security Housing Units or Special Handling Units, all of which are often combined with solitary confinement).
- A process (preferably developed by a cross-disciplinary team of state agencies) is needed that will facilitate the efficient and effective movement of seriously and persistently mentally ill individuals released from correctional institutions through the "outside" services system.
 - Such a team could coordinate agencies, programs, and activities that would individually assist (hand-hold) released inmates in navigating the services system and successfully applying for eligible services and help.

The extent to which released inmates can be connected to eligible services and help has a critical impact on the extent to which they decompensate or return to custody.

Section VI.a
PROGRAM: GUARDIANSHIP
Issues

GUARDIANSHIP

Issues:

System structure:

- As the number of people with dementia and Alzheimer's increases and as individuals with disabilities live longer lives, more guardians may be needed to care for these individuals.
 - There is a lack of clarity concerning the ethical responsibilities of guardians for people with diminished capacity.
 - Government intervention can result in the violation of the rights of people in the adult guardianship system. For example, people can get caught up in the Adult Protective Service system and can lose their autonomy.
 - Guardians who are appointed for individuals living in their own home or in rental housing often assume caregiver responsibilities and subsequently make decisions that are not in the best interest of the person they are caring for—for instance, prematurely placing the individual in a care facility and not exhausting all efforts to keep or relocate the individual back into the community with an appropriate level of services to maintain their independence in the community.

Awareness and knowledge:

- Individuals, families, and caregivers:
 - They do not understand the guardianship concept, the process for getting guardianship for an incapacitated person, the responsibilities involved and the ethical issues surrounding these responsibilities, the on-going process for periodically determining if guardianship supervision continues to be warranted, etc.
 - They do not know how to navigate an Article 81 court proceeding.
 - The person deemed to need a guardian often does not know how to identify someone to be their guardian . . . or lacks the capacity to make an appropriate choice. Often, there is no one to take on the guardianship responsibility.
 - Too often, neither individuals (before they become incapacitated) nor caregivers adequately explore, preplan, or understand the various less restrictive alternatives available that can avoid guardianship and can effectively assist when frail or disabled people can no longer care for themselves—such as power of attorney and trusts.
- Families:
 - They often cannot afford the legal costs of getting guardianship for someone.
 - They are often unaware of free assistance available for getting guardianship.
 - Some older adults *do* have the financial means for the help they need, but they have no one to help them or advocate for them.

Families, individuals,
and caregivers are
intimidated by the
Article 81
(guardianship) process
and are intimidated
by the legal system.

- Caregivers:
 - They may need to become guardians, but there is no funding to cover the costs of the Article 81 process, and they do not have the financial means to obtain legal representation.

Section VI.a

PROGRAM: GUARDIANSHIP *Strategies*

GUARDIANSHIP

Strategies:

System structure:

- Additional resources are needed for guardianship proceedings.
 - Develop a public guardianship program.
 - Contract with an independent non-profit organization to provide guardianship services.

Example:

 - The Vera Institute of Justice's Guardianship Project in New York City:
From the Institute's web site: The Project "provides guardianship services for older adults and people with disabilities who have been determined by a judge to be unable to care for themselves. Project staff include lawyers, social workers, and bookkeepers, who oversee an array of services (including health care, home care, and money management) and help clients to remain independent and engaged in their communities." <http://www.vera.org/project/guardianship-project>.
 - Create guardianship panels involving volunteer not-for-profit agencies and organizations (aside from public agencies that provide guardianship assistance for very low-income individuals) that would:
 - Act as the client's guardian and representative in guardianship proceedings.
 - Collaborate to share in the responsibilities of acting on behalf of the client.
 - Oversee the activities and decisions of the client's guardian.
 - Make strategies available to all persons—not just those who are economically challenged.
 - Institute a "third party" alternative—similar to the Family Healthcare Decision Making Act—with safeguards to prevent abuse.
 - The Bar Association and/or law schools could provide "front end" preventative legal services regarding guardianship.
- Expedite legal help for guardianship cases.
- The State Office of Court Administration should expand efforts to collect data on guardianship proceedings.
- Create a "supportive decision-making" mechanism to keep from forcing people into courts to perform simple transactions (example, a lease) by allowing a third party to assist a

cognitively impaired person perform such transactions without the need to be appointed by a court or operate under a Power of Attorney.

- Talk with funders to expand the Federal age-based definition of "client" to include both the older person needing a representative/guardian and the person applying to become a representative or guardian for the older person.

Awareness, knowledge, and access:

- Educate individuals, families, and service providers about the guardianship *process*—including what is involved in getting guardianship for someone and what to do if you cannot afford an attorney for gaining guardianship.
 - Walk people through the guardianship process.
- Identify, or establish, a *pro bono* location for referring individuals who need information or assistance with the guardianship process.

Section VI.b

PROGRAM: GUARDIAN AD LITEM (GAL) *Issues*

GUARDIAN AD LITEM (GAL)

NOTE: A guardian ad litem is an individual who is appointed by the court for an adult when the court determines the adult is incapable of adequately prosecuting or defending his/her rights.

Issues:

System Structure:

- There is insufficient funding to compensate individuals who are appointed as GALS, which leaves judges with limited—and sometimes no—access to guardians ad litem to appoint.
 - The overwhelming number of cases in Housing Court; the hectic and confusing environment of Housing Court proceedings and time-limited procedures; the proportion of litigants appearing *pro se*; and the numbers of litigants with mental health issues, aging frailties, or other incapacities all increase the need for available GALS to represent individuals.
 - Supreme Court Justices often get Article 78 petitions, in which the petitioner is seeking to overturn a Housing Authority decision to terminate her/his housing benefits, where there is a mental disability alleged. Appointing a GAL may be a way to avoid homelessness for these litigants.
 - The law is inflexible in applying the statute of limitations for filing Article 78 proceedings, which is a very short time frame. For those with disabilities (which affect their ability to cope with tasks of daily living), the extra burden of filing a timely appearance of an administrative action—such as termination of Housing Authority residence or welfare benefits—has devastating consequences.
 - There are many other instances in which a GAL could be helpful to assist a disabled or elderly litigant, such as when there is a termination of a public-program service.

- In civil court, lay persons can serve as GALs; however, there is an insufficient number of lay persons available to voluntarily serve in this capacity.

Section VI.b

PROGRAM: GUARDIAN AD LITEM (GAL) *Strategies*

GUARDIAN AD LITEM (GAL)

Strategies:

System Structure:

- Provide judges with greater access to trained GALs, with access to a funding stream or a list of volunteers willing to serve as GALs.
- To address the issue of GALs not being sufficiently applicable for housing court, low-income clients, or incapacitated individuals, change the statute to create specialized Court Parts that would appropriately respond to the needs of different clients.
- To increase the availability of GALs (paid and volunteer) for individuals with mental health issues, develop a multidisciplinary team model in which the GAL has collaborative support from the team of social service and health professionals to address the litigant's non-legal issues.
- Modify the environment in which GALs are recruited and used:
 - GALs should be trained.
 - Establish a funding stream to pay the GAL.
 - An alternative to payment:
 - Provide incentives to recruit retired attorneys to provide their services *pro bono* as GALs. Incentives can include: waiver of any attorney registration fees, provide the GAL with free Continuing Legal Education (CLE), provide the GAL with CLE credit for time devoted to GAL duties.
 - Provide GALs with immunity from legal suits stemming from their duties—as GALs have been sued by their clients.
 - Prior to someone filing suit against a GAL, that individual should be moved by order to show cause and seek permission to sue, in order to reduce frivolous suits and mitigate strain on the volunteer GAL.

Section VI.c
OTHER PROGRAMS
Issues and Strategies

ADULT PROTECTIVE SERVICE (APS)

Issues:

System structure:

- Older adults and people with disabilities:
 - For cases of exploitation and abuse, APS lacks the power to address the issues.
- Often, Adult Protective Service cannot help consumers with the Guardianship process as its work load is so large.

- APS services are inconsistent from county to county.
- Criteria for accepting people as APS clients are too stringent, and the cases fall back on the Office for the Aging.

ADULT PROTECTIVE SERVICE (APS)

Strategies:

System structure:

- Strengthen the APS program to allow for removal of the person from the environment.
- Review the statutory mandates of the Adult Protective Service (APS) program to allow program staff to intervene in long-term care facilities.
- To provide better protective oversight: increase the number of APS workers and make appropriate changes in the program's law and regulations.
- Improve and increase collaboration between APS and other agencies, such as the State Office for the Aging, other State agencies, the Area Agencies on Aging, Independent Living Centers, other service and health provider agencies, and legal service providers.
- For the Victim Services Program, which is available in each county:
 - Increase the number of relevant stakeholders who should be involved in this program, and improve collaboration among these parties, as well as provide clarification about the program's responsibilities and tasks.

OLMSTEAD

Issues:

System structure:

- Often, if there are no family members available, the person may have to go to a nursing home.

Awareness and knowledge:

- Due process related to Olmstead is not clearly understood.

OLMSTEAD

Strategies:

System structure:

- The entity responsible for due process should not be the same entity that is providing the service.
- When determining court-ordered interventions under Article 81 (guardianship), the "least restrictive" standard and intent of the Olmstead Act should be applied and enforced.
 - The requirement to keep people in the community in least-restrictive settings is already there, it just needs to be enforced.
- Have someone similar to a guardian ad litem (GAL) available for administrative hearings.

Awareness and knowledge:

- Any decisions made to provide or not provide an individual with services should be presented clearly.
- Educate people about: what due process applies to, when due process applies, when due process is in effect, and what recourse is possible if you do not agree with the decisions made.

NURSING HOMES, OTHER LONG-TERM CARE FACILITIES, and HOSPITALS

Issues:

System structure:

- For individuals who wish to relocate out of nursing homes, there is insufficient access to legal services.
 - For people who wish to leave the nursing home, their rights to continued rehabilitation services to enable them to leave are not being respected/heeded.
- In long-term care facilities, there is discrimination in admission, in residing, and in discharge against residents who are members of: religious groups, the LGBTQ community, different cultures, wheelchair-users, and those who have limited or no English-language proficiency.
- Medicaid clients are not treated the same as non-Medicaid clients within medical settings, and they do not receive the same services or get offered the same options.

Awareness and knowledge:

- Observation status:
 - People are not aware of the "observation status" practice in hospitals, which creates legal and financial issues for patients and family members.
- Residents are overwhelmed on admission to health care facilities, and ombudsmen do not always know or have the opportunity to help at that point.

NURSING HOMES and OTHER LONG-TERM CARE FACILITIES

Strategies:

System structure:

- Provide funding for legal advocates and lawyers who are independent of the nursing home.

- The residential care plan must be written in a way that is understandable, and must be done within 30 days.
- Use social workers to do one-month follow-up to discuss and review lowering admission rights pertaining to admission to a residence.
- To ensure residents' rights for continued rehabilitation services when leaving a long-term care facility, better define and clarify the definition of "accessibility" under the Americans with Disabilities Act.
- Increase enforcement from the state agencies that are charged with enforcing regulations.

Awareness and knowledge:

- Information regarding admission, services, discharge, and the assistance of the Ombudsman needs to be delivered via a means that the applicant/resident can clearly and easily understand.
- Require greater training for staff in the long-term care community regarding the rights of residents and the rights of individuals seeking admittance.
- Raise awareness among nursing home providers and other long-term care facilities about the Dispute Resolution Centers and their services to assist in interpersonal issues and disputes between residents, between residents and staff, and between residents/families and administrators.

MANAGED CARE

Issues:

System structure:

- Regarding FIDA (Fully Integrated Duals Advantage) in managed care:
 - There is a loss of critical benefits because there is insufficient time to appeal a decision.
 - FIDA's proposed 10-day Notice for appeals is not sufficient, and the "10-day" date is not stated on the Notice to Consumers.
 - With consolidation under FIDA (capitated cost approach for dual-eligible individuals), individuals are at risk of losing all benefits due to an inability to advocate for themselves or retain someone to represent them at a fair hearing.
- Individuals with limited capacity face hurdles when exercising their due process rights during termination or reduction of benefits at fair hearings. This is particularly the case with third party vendors. For example:
 - There is no protection for individuals at fair hearings if they do not have the ability to give consent or do not have a guardianship, health care proxy, power of attorney, or someone else to appear on their behalf.
 - Due to HIPAA (Health Insurance Portability and Accountability Act), managed long-term care providers are not able to send evidence information, which is needed for fair hearings.
 - Most Managed Long-Term Care providers are not ensuring administrative rights.

Awareness and knowledge:

- As the Medicaid service system has moved to managed care:

- Families, older adults, and people with disabilities have difficulty understanding how to successfully navigate this new system, understand due process and the fair hearing process, and ensure that their aid will continue and that they have access to care coordination.
- Consumers, service providers, and other professionals do not understand managed long-term care (MLTC), transitioning to MLTC, the process for bringing services to people under MLTC, or funding under this system.
- Many people and providers are not even sure what "managed long-term care" actually means.
- Vendors are not knowledgeable about the due process rights of the people to whom they provide benefits.

Managed Care

Strategies:

System structure:

- Increase the amount of available legal assistance that is offered by providers who have in-depth knowledge of the new Medicaid service system.
- For Fully Integrated Duals Advantage (FIDA) plans:
 - Replicate the "auto enrolling" feature of FIDA.
 - Provide a longer time period for consumers to launch an appeal for Aid Continuing situations—especially for older adults, people with disabilities, and those who have difficulties communicating.
 - Institute ways to waive the 10-day requirement for these cases.
- Provide reasonable accommodations (per the Americans with Disabilities Act) and state them clearly on the Notice for Denial of Services, as well as *how* to get needed reasonable accommodations.
- Provide a standard form on the NY State Office of Temporary and Disability Assistance (OTDA) website that a medical provider could sign to indicate dementia or limited capacity so that an individual can get a reasonable accommodation, especially at hearings.

Awareness and knowledge:

- Employ various strategies to assist people in understanding and navigating managed long-term care, which can also provide long-term savings to government. For example:
 - Create transition programs to educate older adults, people with disabilities, caregivers, and providers on their rights under managed long-term care and on the fair hearing process.
 - Expand volunteer-based Navigator Programs.
 - Train legal service providers and other community-based service agencies to work together closely to educate regarding options for the FIDA (Fully Integrated Duals Advantage) program in managed care.
- Provide better notices—showing phone numbers of ombudsmen, how they can be reached, and where to reach them.

PERSON-DIRECTED PROGRAMS

Issues:

System structure:

- Hiring staff:
 - Programs do not provide payment for overtime.
 - This is not just a Medicaid issue—for example, EISEP (aging network's Expanded In-Home Services for the Elderly Program).
- It is not clear how due process works for person-directed programs.
- With person-directed care, the primary goal for private agencies is to contain costs, which has implications:
 - Caregiver's Involvement in decision-making: Caregivers try to maintain control over the help they are providing and arranging for their loved one, but cannot because they are being told to back off and give control to others . . . while, at the same time, the caregiver is doing all the work. This situation leads to resentment.

PERSON-DIRECTED PROGRAMS

Strategies:

System structure:

- Re-consider and clarify how due process works under person-directed programs.
- Make changes in these programs to accommodate payment for overtime.
- These programs should clarify and define what is "support"—support should mean "what I need, when I need it, how I need it, and with me directing it."
- Programs should not just rely on the services as they are defined and provided in the law or regulations . . . but take the initiative to expand how consumers and providers define it in order to best serve the client and best achieve the goals of the service.

Awareness and knowledge:

- Educate service provider agencies to:
 - Affirm the consumer-focused principles, norms, intent, and goals of person-directed care.
 - Strengthen how those principles are followed in the design and implementation of person-directed programs and service delivery.

LOCAL or COUNTY-BASED PUBLIC DEFENSE SYSTEM

Issues:

System structure:

- This system is broken.
- Case loads are too large.
- As counties control the funding, control the policies, and control the procedures regarding requirements for providing legal representation, there is a lack of uniform, consistent standards across the State.

LOCAL or COUNTY-BASED PUBLIC DEFENSE SYSTEM

Strategies:

System structure:

- Establish a statewide public defense system, with consistent enforceable statewide standards.
- For a public defense system—institute a shift away from county funding to one of state funding.

DISABILITY RIGHTS NY (DRNY)

Issues:

System structure:

- DRNY is understaffed.
 - There are too few staff who have expertise specific to discrimination-related issues.
 - They may not be able to handle the extent of employment discrimination.

DISABILITY RIGHTS NY (DRNY)

Strategies:

System structure:

- Increase resources for DRNY.
- Explore ways to increase the number of attorneys from employment law practices who will provide representation for low-income individuals.

LEGAL ASSISTANCE PROGRAM

Issues:

System structure:

- The Area Agencies on Aging's federally mandated Legal Assistance Program is inadequately funded and developed.

LEGAL ASSISTANCE PROGRAM

Strategies:

System structure:

- National Legal Services Corporation (LSC) grantees should be surveyed to understand their picture of the status of legal assistance for low-income residents.
 - Bring LSC into the discussions around increasing the availability and affordability of legal assistance, as well as the benefits of a community-based legal service provider becoming an LSC grantee.
- The New York State Office for the Aging should:
 - Review its policies and priorities regarding the provision of legal assistance.
 - Advocate for changes in the Older Americans Act's level of funding for the Legal Assistance Program.

- Include the provision of legal assistance in the Annual Implementation Plans developed by Area Agencies on Aging.
- As the federally mandated Legal Assistance Program is inadequately funded and developed: increase funding/resources for the Program.
- Merge several county funding resources to leverage opportunities.
- Require a local match for the Legal Assistance Program.
- **Disabilities Community:**
 - Create a program for people with disabilities that is similar to the aging network's Legal Assistance Program.

Nursing Home Diversion

Issues:

System structure:

- Often, people are discharged to the community before services are in place.

Awareness and knowledge:

- People do not understand the diversion process.

Balanced Incentive Program

Issue:

Awareness and knowledge:

- Many service providers and other professionals do not understand this program.

Community Dispute Resolution Centers Program (CDRC), which is funded and supervised by the NY State Unified Court System (<https://www.nycourts.gov/ip/adr/cdrc.shtml>)

Issue:

System Structure:

- The current level of funding for the statewide network of CDRCs is insufficient to meet the full range of needs in their communities.

Community Dispute Resolution Centers Program (CDRC)

Strategies:

System structure:

- Expand funding for this program—which provides a more affordable alternative to court proceedings.
- Increase training for the State's network of Dispute Resolution Centers in order to strengthen the consistency of availability and service provision across the network of Centers.

New York State Legal Services Initiative (LSI)

Strategies:

System structure:

- For a more comprehensive picture of the status of legal assistance in New York State:
 - Extend the LSI statewide research project to survey a cross-section of the various disabilities populations (including those living in community-based housing, family, and other settings) in order to gain a more representative sample of the non-elderly disabilities population.

Elder Justice Act

Issues:

System structure:

- There is no funding for the Elder Justice Act or for elder abuse.

Elder Justice Act

Strategies:

System structure:

- Expand the "Elder" Justice Act to a more encompassing "Vulnerable Person" Justice Act.

EISEP— Expanded In-Home Services for the Elderly Program;

CSE— Community Services for the Elderly Program (Both are administered by the New York State Office for the Aging through the State's network of 59 Area Agencies on Aging)

Strategies:

System structure:

- Increase funding for EISEP, CSE, and other community-based service programs that have felt the impact of the 2% tax hike cap.
- Uncouple EISEP from county-match regulations.

DAP (Disability Advocacy Program), administered by the NY State Office of Temporary and Disability Assistance

Strategies:

System structure:

- To help people with disabilities who cannot access benefits:
 - Expand DAP (beyond the current representation of clients at the appeals stage of the Social Security Disability and Supplemental Security Income (SSI) determination processes) to also provide representation and assistance in the initial eligibility process, including help with the application process, gathering documents, etc.

MHLS (Mental Hygiene Legal Service), administered by the NY State Unified Court System.

Strategies:

System structure:

- Institute a pilot project through MHLS—to expand its mission and the populations served.
- Building on the MHLS survey results—increase the effectiveness of services to individuals with disabilities.

Section VI.d
OTHER TOPICS
Issues and Strategies

EXPLOITATION

Issues:

System structure:

- Vulnerable individuals, particularly those with cognitive limitations, are victims of financial scams.
 - Increased attention is needed regarding debt-related issues, which are often the target of scammers and the target of harassment by landlords and lawyers.
- There is increasing financial exploitation of vulnerable individuals by aides, family members, adult children, and organizations; and the impact on the community is understated.
- There is financial exploitation of disabled minor children's social security benefits, TANF benefits, and other public benefits.
- Some attorneys take advantage of older adults and people with disabilities; for example, ads to help pay off and/or consolidate debt; or fake attorneys filling out applications for citizenship.
- A conflict of interest arises in "preservation of assets" cases when the legal service provider has an interest in NOT providing guidance that is in the best interest of the client.
- The person assuming a Power of Attorney for an individual who can no longer independently carry out tasks and responsibilities does not always represent that individual's point of view.
- There are bad actors in people's lives who are a contributing factor to the problem; for example, an abusive representative payee, caregiver, or guardian.

EXPLOITATION

Strategies:

System structure:

- Utilize retired financial professionals and retired attorneys to gather evidence or data to “stop the bleeding” quickly.
 - These retired professionals can work under the supervision of a professional who is well-versed in the issue area of exploitation.
 - This model is a formal team approach, with team coordinators and with team members available to each other on complex cases.
 - Examples of this model include:
 - FAST Team (Financial Abuse Specialist Team).
 - EMDT (Enhanced Multi-Disciplinary Team)—the enhancement is the inclusion of a forensic accountant for complex exploitation cases. New York is using an EMDT model for the federal Elder Abuse Prevention Intervention grant program.
- Work with service providers to establish policies and boundaries for staff regarding financial abuse matters.
- Create clearer protocols for dealing with powers of attorney.
- The NY State Bar Association can help legitimate/honest attorneys with outreach regarding their services.
- Ethics rules governing the legal profession should be expanded to clarify and further cover interactions with vulnerable populations.

Awareness and knowledge:

- Provide greater education to District Attorneys' offices on how to prosecute cases of financial exploitation and about the legal and non-legal resources available—as a means of getting District Attorneys' offices to take on more cases.
- Provide more education to the banking community about their responsibility for providing information on financial exploitation in an official investigation or a legal case.

HOUSING

Issues:

System structure:

- There is a lack of affordable housing for low-income people and people with disabilities.

Awareness and knowledge:

- People lack sufficient understanding of their legal rights about:
 - Inability to get repairs, bad repairs, repair scams
 - Reverse mortgages
 - Homelessness
 - Eviction; foreclosure
 - Homeowners renting out rooms
 - Accessory apartments
 - Rent subsidies

- Problems with public housing; unavailability of housing
- Utilities and other housing affordability issues
- Landlord/tenant issues
- Habitability; landlords who run down the properties
- Security deposits
- Reasonable accommodations
- HUD's standards and rulings regarding tenant issues
- Consumer credit card and other debt issues
- Debt management and relief
- Credit counseling

HOUSING

Strategies:

System structure:

- Increase the number of attorneys available who are trained and experienced in housing to assist with housing issues (both rental and homeownership).
- Raise filing fees to make it harder for landlords to file cases against vulnerable populations.

Awareness and knowledge:

- Educate tenants, landlords, housing-development funders, homeowners, planning and zoning officials, and service providers on housing-related issues, including:
 - Tenants rights; eligibility requirements; subsidy issues.
 - Housing court.
 - Eviction and foreclosure.
 - Homelessness; housing options; reasonable accommodations; universal design.
 - Repairs; contractors; loans; mortgages; deed transfers.

OBSERVATION STATUS in HOSPITALS

Issues:

Awareness and knowledge:

- Residents are not familiar with hospital-admittance rules regarding a patient's classification as being in "observation status," and they are unaware of the implications of discharge from the hospital while in observation status.

OBSERVATION STATUS in HOSPITALS

Strategies:

Awareness and knowledge:

- Expand public education about this issue so that consumers are aware of this practice before needing hospitalization, and so that people get the right lawyer for fair hearings around this issue.

GRIEVANCE PROCESS for LICENSED and/or CERTIFIED HOSPITALS, CARE FACILITIES, and RESIDENCES

Issues:

Awareness and knowledge:

- Complaint process: Residents, patients, and family members are not knowledgeable about:
 - Their rights regarding hospitals, nursing homes, assisted living, and other licensed or certified long-term care facilities that fall under the State Department of Health's oversight, nor are they familiar with the Department's grievance process, or legal resources available to assist in resolving problems.
 - Their rights regarding psychiatric hospitals, licensed group homes, and certified residences that fall under the State Office of Mental Health's or the State Office for People With Developmental Disabilities' oversight, nor are they familiar with those Departments' grievance processes, or legal resources available to assist in resolving problems.

GRIEVANCE PROCESS for LICENSED and/or CERTIFIED HOSPITALS, CARE FACILITIES, and RESIDENCES

Strategies:

Awareness and knowledge:

- Educate consumers, service providers, and members of the legal and judicial communities to raise awareness and understanding of:
 - The purpose and procedures of the grievance processes regarding patients' and residents' rights in general hospitals and psychiatric hospitals; nursing homes, assisted living, and other long-term care facilities; group homes; and other residences.
 - The process for appealing a grievance-process decision.
 - Available legal resources for help in instituting a grievance or an appeal.
 - The discharge process in hospitals and other facilities and residences.
 - The purpose, eligibility, and services of the NY State Mental Hygiene Legal Service.

Appendix A

LEGAL SERVICES INITIATIVE THINK GROUP MEMBERS



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Legal Services Initiative

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