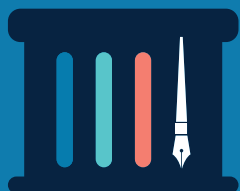




STANDING UP FOR JOURNALISM

Increasing pro bono
legal assistance to benefit
communities and democracy

October 3, 2022



PROJOURN

ABOUT THIS REPORT:

This report was commissioned and funded by the John S. and James L. Knight Foundation. It was written by RCFP staff Bruce Brown, Flavie Fuentes and Josh Moore, with the support of David Cuillier. ProJourn partners — Joanna Plichta Boisen and Thomas R. Burke from Davis Wright Tremaine LLP, and Beth Henderson and Sima Sarrafan from Microsoft — joined in guiding the study. It was edited by Eric Newton, a consultant for the John S. and James L. Knight Foundation.

This study uses the term “newsgathering law” to define the laws that shape the way journalists gather and report the news. Newsgathering law is a subset of both media law, which may include other topics, such as intellectual property and ownership rules, and First Amendment law, which also incorporates other subjects, such as freedom of religion.

Throughout this report, a series of case studies are shown to demonstrate how ProJourn helps journalists and communities. They are representative samples of the dozens assisted by the ProJourn pilot.

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OVERVIEW

A new way to help local journalists tell stories that make a difference

Self-governing societies need journalism, and great journalism often requires lawyers. Journalists need legal assistance to protect their rights as news gatherers and to defend their best truth-telling. That work — the in-depth local reporting communities need to solve problems — is a pillar of democracy, and the journalists who do it should have access to lawyers, regardless of their ability to pay.

As the traditional news industry shrinks, fewer legacy newsrooms can afford the legal help required for investigative journalism. Newer newsrooms are too small to have their own attorneys. As a result, stories that could make a difference are delayed or abandoned because journalists were unable to afford or access lawyers.

Journalists feel vulnerable to attacks from those determined to use the law as a weapon to stymie or silence them.”

Pro bono providers from the nonprofit sector — such as law school clinics, the Reporters Committee for Freedom of the Press (RCFP) and many others — have grown significantly in the past decade. These sources of free legal support have made a difference to newsrooms (and the communities they serve) and have won precedent-setting cases. **These groups, however, often have more work than they can handle.**

Experienced media attorneys at law firms also offer significant pro bono support, but the pool of attorneys is limited — relatively few U.S. lawyers are experienced in newsgathering law — and opportunities are not coordinated across the sector. At the same time, in-house legal teams at major companies have grown in size and have a greater capacity to provide pro bono legal services, but no national effort exists to match those opportunities with journalists’ needs.

This feasibility study, funded by the John S. and James L. Knight Foundation, connects these trends, tracking the critical legal needs of local journalists and the attorneys who can help them. The study does more than just restate the problem; it proposes a new type of solution, an expansion of an innovative pilot project, the Protecting Journalists Pro Bono Program (ProJourn). This program uses the power of pro bono assistance from private firms to help underserved journalists tell their stories.

ProJourn aims to “grow the bench,” to bring more lawyers into this pro bono work, standing up for journalism at this critical time, when local news reporting faces dire challenges and democracy itself is at a crossroads.



Findings on demand, supply

More than 170 journalists across the country were surveyed for this report, and dozens of industry leaders and lawyers were interviewed.



KEY FINDINGS INCLUDE:

- Half of journalists surveyed nationwide say their legal needs are unmet
- Nine out of 10 journalists surveyed nationwide support more pro bono legal assistance

A series of prior surveys on the legal needs of journalists this past decade further support these findings, as do requests for legal help from across the country collected by RCFP when it was launching the Local Legal Initiative.

Expanding the ProJourn pilot

In 2020, two private sector leaders, Microsoft and Davis Wright Tremaine LLP (DWT), launched ProJourn as a pilot project in California and Washington state. **The idea was to try a new way of making private sector pro bono legal services available to local journalists who cannot otherwise afford legal representation.**

Understanding that no single initiative can address the whole universe of journalism's unmet legal needs, the group focused on three workstreams, including pre-publication review and access to public records. Guided by pro bono standards and best practices,¹ ProJourn focuses on local journalists in most need of legal assistance, which tend to be freelancers or smaller newsrooms, often in rural areas or near news deserts. They include ethnic media and newsrooms that engage underserved communities. They may be nonprofit outlets or independently owned for-profits, but one constant remains: they lack equitable access to the legal system.

This report examines ProJourn's unique model. The pilot paired experienced media lawyers at DWT with in-house attorneys at Microsoft, and the teams worked together pro bono on matters on behalf of journalists. This mentorship model expands the number of attorneys and matters they can take on to help journalists.

Looking at the lessons of the pilot's first 18 months, this study argues ProJourn should be expanded to more states, involving dozens more law firms and in-house legal teams.



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CASE STUDY

Vallejo police killed Sean Monterrosa. With legal help, the story comes out.

The Vallejo Police Department has been called [one of the most violent law enforcement agencies](#) in the country. By the spring of 2021, it became clear that the department was withholding information from the public regarding the shooting of 22-year-old Sean Monterrosa.

With the help of ProJourn, lawyers from Microsoft and Davis Wright Tremaine LLP joined forces to represent Open Vallejo, a small nonprofit newsroom, which sued the city in September 2021.



Less than two months later, Vallejo disclosed thousands of pages of records relating to the Monterrosa shooting, as well as hours of video and audio recordings. The disclosures helped Open Vallejo expose misconduct and reconstruct drone footage of the shooting that police said had become “corrupted and unreadable” within hours of the killing.

The released documents and [Open Vallejo story](#) have attracted the attention of officials with the California Department of Justice, which is overseeing a policy review of the Vallejo Police Department; both houses of Congress; and attorneys who allege evidence was deleted in an ongoing death penalty case.

“Detectives kept referring to files I had never seen before, and had not been disclosed,” said Laurence Du Sault (pictured above right), Open Vallejo’s investigative reporter. “Pro bono legal assistance can be the only way to enforce the public’s right to know — especially when you’re a three-person investigative newsroom.”

Following 18 months of reporting by Open Vallejo, Vallejo moved to fire the detective who killed Monterrosa. It was the first known firing of a Vallejo police officer for a fatal shooting in the department’s 121-year history.

The city is still withholding entire case files for some of its most controversial killings by officers. Open Vallejo’s lawsuit is ongoing.

“The community deserves the whole truth,” Du Sault said.



SECTION ONE

More pro bono legal help is needed

Increasingly, local journalists do not have crucial access to lawyers. This section focuses on the demand for and supply of free legal aid to journalists and addresses strategies currently employed to continue to close this gap.

Demand: Growing threats, growing needs

Local news outlets, still in economic crisis, face **increasing legal threats** aimed at stifling their journalists. Half the journalists surveyed nationwide for this study report unmet legal needs. Nine out of 10 support expanded pro bono legal assistance. Freelancers, small outlets and nonprofit newsrooms — all **growing elements** of the news ecosystem and the types of journalists ProJourn aims to serve — have even greater legal needs than legacy outlets, where cuts have been so severe and journalists are **less likely now than before to do stories requiring legal help**.

Supply: Quality resources, limited capacity

Of the **1.33 million attorneys** in the U.S., we estimate no more than 1% have **newsgathering law experience sufficient to help journalists**. Leading firms that do provide pro bono support to newsgatherers logged nearly 11,000 hours in 2021, but there is no systematic way of tracking or growing that help beyond the leading firms. Nonprofits and law school clinics, too, provide help with newsgathering law, often in their specific states or regions (handling up to 500 matters for journalists annually). But the nonprofits say they often have more work than they can handle.

The bottom line is that nationwide, the demand is high and the supply is limited. This is the journalism legal gap that can put local reporters at a tremendous disadvantage.



ANALYSIS OF DEMAND:

Growing threats to local journalism

Sustainable local journalism makes for informed communities and healthy democracies. Strong news organizations produce **tangible impact**, exposing corruption, changing public policy or law, stirring debate and even saving lives.

A telling example: When public policy changed after one local newspaper's expose, **an economic analysis** showed that for **every dollar spent for investigative reporting, society benefited by \$287** — in *just the first year* of the new policy.

People connect more with local journalism. A 2019 **Knight-Gallup study** found that local journalists are nine times more likely than national journalists to be seen as caring (36% vs. 4%, respectively), roughly three times more trustworthy (29% vs. 8%) and accurate (25% vs. 8%). Nearly seven in 10 voters watch local television news and half read the local paper at least weekly. **Few, however, realize that 95% of the local news** they see online is produced by legacy media.

Local news disrupted

Journalism's industrial-age production and business models did not adapt quickly to the digital age. During the past 20 years, newspapers have shriveled. Noted a **2021 International Press Institute report**: "Local news media is the most disrupted sector of the media, the most urgently in need of assistance — and the sector with the greatest potential to form the bedrock for a new, stronger media ecosystem."

Newspaper cuts in recent years have been worse than those in the nation's troubled steel and coal industries. Between 2008 and 2018, newspapers **lost 68% in advertising revenue**, newsroom employment fell by 47%, while newsrooms of all types shrunk an average of 25%. The COVID-19 pandemic accelerated the decline, with **one report** claiming total newsroom job cuts in 2020 reached a record 16,000.

Researchers have tracked 1,800 newspapers closed since 2004, nearly all hyperlocal weeklies. The collapse of the biggest providers of local journalism has led to the growth of **news deserts**, defined by professor Penny Muse Abernathy as "a community, either rural or urban, with limited access to the sort of credible and comprehensive news and information that feeds democracy at the grassroots level."



Scholars link vanishing journalism with decreases in government transparency and civic engagement, with fewer candidates seeking public office and falling voter turnout. Newspaper closures also have been linked to increased risk of corruption; easier spreading of falsehoods² and increased political polarization. **These trends disproportionately harm the nation's most vulnerable underserved communities, the poorest, and the most isolated.**

New models emerge

From the economic turmoil, **nonprofit and hybrid organizational models are emerging.** Nonprofit news organizations launch at an average pace of a dozen a year. More than 20 started in 2020 alone, according to a [2021 Index](#) report from the Institute for Nonprofit News (INN).

Founded in 2009, INN represents more than 350 independent news nonprofits. The institute coordinates [News Match](#), a campaign fueled by national donors who add to local contributions. Since 2016, News Match increased funding for news nonprofits by more than \$223 million. In addition, the American Journalism Project (AJP), founded in 2019, helps some [30 newsrooms](#) across the country grow into larger, more sustainable nonprofits.

The growing nonprofit news model has worked for national newsrooms (such as [ProPublica](#), launched in 2007), for statewide outlets ([The Texas Tribune](#), 2009, and [CalMatters](#), 2015), and for citywide outlets ([The Voice of San Diego](#), 2005).

Every type of new outlet faces typical startup challenges — [as many died as were born from 2018 to 2020](#). Even so, there are now hundreds where once there were only a few. The [Project Oasis](#) database listed more than 740 independent, digitally native news publishers in the U.S. and Canada. More than 400 are members of [LION Publishers](#), which launched in 2012.

Other models gaining ground include **journalist-owned companies, public benefit corporations and cooperatives.** They add to proven models such as [nonprofit institute-owned newspapers](#) (the [Tampa Bay Times](#)) and investigative magazines ([Mother Jones](#)).

Conversions are more frequent now too. In 2016, [The Philadelphia Inquirer](#) became the largest U.S. paper to convert to nonprofit status with the help of the [Lenfest Institute](#). The Salt Lake Tribune also [transitioned in 2019](#) to become a community-funded 501(c)(3) nonprofit.



In 2022, Chicago Public Media, parent of the NPR station WBEZ, raised \$61 million to acquire the Chicago Sun-Times — showing public media’s growing interest in local news. Traditionally, most of the 1,500 U.S. public broadcast outlets³ focused on national news (though the Corporation for Public Broadcasting has funded regional collaborations to grow local reporting).

Hybrid solutions to the local news crisis include the fast-growing Report for America (RFA), launched in 2017, which raises funds to place reporters in local newsrooms. Some 325 reporters are in more than 200 newsrooms of all types. RFA promotes Community News Funds to sustain local news.

Innovative business models can also be built around a single topic or group. In 2022, for example, the Knight Foundation invested \$4 million in a variety of projects to help local publishers of color become more financially sustainable.

Said Andrew Ramsammy (pictured below), chief content and collaboration officer for the Local Media Association:



“As our world becomes inherently complex and disruptive, the need for a strong, free and independent BIPOC (Black, Indigenous and People of Color) press is even more essential to protecting our fragile democracy. Critical to that is access to legal resources that enable journalists of color to expose inequities with the full force of the First Amendment. With pro-bono services, access to quality legal counsel is no longer an impediment to ethnic-owned media.”

Overall, the expansion of America’s nonprofit news sector is encouraging. The millions of dollars in investment, however, do not yet come close to replacing the many billions of lost revenue on the for-profit side.

Legal challenges for local journalism

RCFP got a national picture of local legal needs in 2019 when it asked where it should deploy five lawyers for its Local Legal Initiative. RCFP received 45 requests from more than 30 states, regions and territories — representing 240 news outlets, organizations and individuals, all eager for the help of an attorney.



The requests told a story of financial hardships keeping journalists from fighting back when emboldened local officials hide their actions from the public. RCFP called it a growing “culture of secrecy.”

The government blocks journalists who are seeking public information by delaying requests, charging excessive fees, denying requests for faulty reasons, and releasing heavily censored documents. One study found that state agencies are less likely to fully comply with public record requests, from [51% compliance in 2014 to 37% in 2017](#).

When the government refuses to give journalists public information for an important story, news organizations must sue. But [most top editors surveyed in 2015](#) said newsrooms are no longer prepared to go to court for public records.

Noted one editor:

“Government agencies are well aware that we do not have the money to fight. More and more, their first response to our records request is ‘Sue us if you want to get the records.’”

After a story is published, other legal threats may emerge. Businesses and individuals with deep pockets can drain or destroy a news organization with a single lawsuit, even if the story in question holds up.



CONSIDER:

Reveal from the Center for Investigative Reporting spent [more than \\$1 million to defend itself](#) against a libel suit brought by the subject of one of its investigations. A federal appeals court threw out the lawsuit in 2021, four-and-a-half years after it was filed, **but without the pro bono representation from attorneys at Davis Wright Tremaine LLP and Covington & Burling, Reveal said it would not have survived.** The legal costs vastly exceeded their insurance coverage and, had the libel plaintiff won, it claimed it was due over \$25 million in damages, double Reveal’s annual budget.

ABC News paid more than \$177 million to settle the “[pink slime](#)” libel suit filed by a South Dakota meat producer in 2016 over stories about a controversial beef additive. After the settlement, [reporter Jim Avila said](#), “it’s important to note ... we are not retracting anything and we are not apologizing for anything.”



In an ideal world, all journalists would be able to hire an attorney to vet important stories before publication — such legal vetting would not preclude lawsuits, but it could make them less likely to succeed — and then to defend the stories when necessary. In the absence of such legal help, fears of lawsuits can push journalists away from investigative work.

Wrote Josh Stearns, program director of the Public Square Program at Democracy Fund:

“(O)ne journalist argued that no local newsroom is sustainable if they can’t afford to hire a lawyer. For too many journalists, one lawsuit could bankrupt them or their newsroom.”

Jonathan Kealing, INN’s chief network officer, agreed that more legal help is needed, such as coaching with public records request letters and advice on sensitive stories. “Even relatively benign reporting topics generate lawsuit threats,” he said. “It just keeps growing.”

Robert Moore, founder of El Paso Matters and an AJP grantee, told us more help is needed with public records lawsuits and pre-publication review:

“Financial pressures make it difficult for El Paso newsrooms — both well-established and start-ups — to aggressively fight for public records. Pre-publication reviews are rare for similar reasons. The El Paso legal community is small, and very few attorneys are well-versed in media or public transparency laws. Some pro bono legal support would greatly benefit El Paso media, but more importantly, the El Paso community.”

If journalists stop using their public access and free expression rights, what happens? The law itself suffers, [writes](#) professor RonNell Andersen Jones (pictured right). Jones calls newspapers the “legal instigators and enforcers” of such laws. When news outlets weaken or die, she wrote, large-scale solutions must replace that role, ranging from tougher public access laws to nonprofit and pro bono efforts.



Photo credit: Austen Diamond



Survey: Journalists want help

For this study, a nationwide online survey was conducted from October 2021 through February 2022, distributed through 14 journalism membership organizations, such as INN and state press associations, resulting in 170 journalists responding from 38 states and Washington, D.C.

Of the journalists who responded: 11% were freelancers, 41% worked for news nonprofits and the rest worked for-profit newsrooms. About 60% were editors or newsroom leaders. Though not a scientific sample, their responses provide insights into legal needs in the field on a national level. The degree of need on the state level will vary depending on several factors, including the availability of pro bono resources in that state. (See [Appendix C](#) for the full results.)

About half (54%) of the journalists surveyed said their legal needs are **unmet**, either “frequently” (24.2%) or “occasionally” (29.5%).⁴



Of the unmet legal needs, journalists most commonly identified the need for attorneys to:

- Support their pursuit of public records (54%)
- Answer their newsgathering questions (45%)
- Provide pre-publication review (43%)

Freelance and independent journalists are the most precarious respondents. Nearly half of them have **frequently unmet legal needs**, twice the overall rate. Documentary filmmakers can be just as precarious as freelancers, another study said, with “[little free support publicly available](#)” to meet legal needs.

Support for more pro bono help is nearly universal, backed even by newsrooms that already use paid firms and/or in-house lawyers. In all, 92% of respondents responded “Yes” to the question, “Do you support an increase in pro bono legal help for journalists?” Not a single respondent checked “No,” and 8% checked “Don’t know.”

About 54% indicated they had legal help in the past 12 months. Among those, 63% had used pro bono assistance, either through a law firm, a law school clinic, a nonprofit such as RCFP, or a combination.



Type of legal assistance received in the last 12 months

(More than one answer is possible)

Law firm (paid assistance)	41%
Law firm (pro bono assistance)	37%
Nonprofit pro bono organization	22%
University pro bono legal clinic	15%
In-house lawyer at your organization	11%

Some are not sure what type of legal help they need. Said one respondent: “We are a nonprofit newsroom that relaunched as a worker-led organization after former management shut us down. As we continue to raise the money we need to get off the ground, we are in limbo between qualifying for pro bono help and needing consistent outside counsel.”

Nearly half (48%) of the respondents said they were unaware of pro bono legal resources for journalists in their states, even when they exist. Many of those who don’t know may think they don’t need lawyers. Others are new to the field or just haven’t heard about resources available to them. Remedies range from better promotion to increased training and mentoring on the role of lawyers and how to connect with them.

Have you used free legal services from any of these groups?⁵

(More than one answer is possible)

None	53%
RCFP	17%
State press association	13%
Institute for Nonprofit News	8%
First Amendment Coalition	5%
Lawyers for Reporters	5%
Media Law Resource Center	1%
TrustLaw (a global program)	0.5%



Greatest unmet needs: access, questions, pre-publication review

Our survey found that fighting for public records was the top unmet legal need, with 54% of journalists saying they want more help in this area. This is consistent with prior surveys.

Had you had quick access to unlimited legal assistance, what type of legal actions or support would you have initiated, but didn't?

(More than one answer is possible)

Access public records or meetings	54%
Answer newsgathering legal questions	45%
Review a story before publication	43%
Challenge statutes that hamper newsgathering	28%
Defend against a libel suit	15%

Government agencies increasingly deny records requests preemptively, “daring us to spend money on lawyers,” [one editor](#) noted during a 2019 meeting of the New York State Bar Association’s Task Force on Free Expression in the Digital Age (p. 30).

The second most cited need was access to a lawyer to answer legal questions related to newsgathering. This need rose to the top when journalists were asked how they worked with a lawyer.

Among those who received legal assistance in the past year, it was to:

(More than one answer is possible)

Answer newsgathering legal questions	57%
Review of a story before publication	53%
Address issues not related to newsgathering	40%
Initiate action for access to public records/meetings	32%
Defend against libel suit	20%



Journalists with newsgathering-related legal questions can contact free hotlines operated by [RCFP](#), the [First Amendment Coalition \(FAC\)](#), the [Student Press Law Center](#), state press/broadcast associations or [state freedom of information coalitions](#). While a valuable resource, these hotlines primarily provide only general legal guidance and the interactions do not create attorney-client relationships, though the organizations' attorneys may decide to represent the journalists in the matter or to help them find attorneys.

Training sessions also offer an opportunity for journalists to ask questions of lawyers, and many of these same organizations offer training to journalists on newsgathering issues. When these free training sessions are offered for journalists, half the respondents said they would want it in every format.

What delivery method of free legal training would you prefer?

(More than one answer is possible)

All of the options	53%
Webinars	44%
Conferences	22%
Newsroom seminars	17%

For decades, national reports have called for more training, [with one](#) finding in 2002 that 72% of journalists thought training on legal issues was very important, but only 39% said it was being provided. Another [survey of journalists](#) and public records requesters said two-thirds believed public records training was an important step.

Journalism training methods are changing in the digital age. This is reflected in the finding that 44% of our survey respondents wanted webinars. Journalists are busy, with little money for conferences and, increasingly, work in virtual newsrooms. Legacy training is giving way to digital training with human coaching that helps journalists immediately apply what they are learning to their work.



Conclusion about demand

Local in-depth reporting requires lawyers, especially amid a growing “culture of secrecy” in government. Nine in 10 journalists — from cash-strapped for-profit newsrooms to emerging nonprofit newsrooms — want more pro bono legal help. Top areas for assistance include access to public information and pre-publication review. Freelancers, independent journalists and modest newsrooms — in the smallest and often unseen corners, at the margins of surviving — have the greatest unmet legal needs. Without pro bono assistance, their voices will go unheard; their stories, untold. Good journalism is valuable to communities and to democracy at large. It is important that journalists and small newsrooms are able to access legal advice and counsel.

ANALYSIS OF SUPPLY:

Quality legal resources, but limited

Private law firms offer pro bono services to journalists, but this work is not organized to maximize participation and impact. Nonprofit organizations providing pro bono legal help to journalists work together to increase impact, but more help is needed to meet the pressing need on a national scale.

Overall, the U.S. legal community appears to be doing more pro bono work. In 2020, the [Pro Bono Institute reported](#) that 123 U.S. firms contributed 5.4 million hours of pro bono assistance on all manner of topics. Some 77.7% of the partners and associates at the firms provided pro bono support, up from 76.3% the year before. Some [attribute the increase to the pandemic, as remote legal services gained steam, and predict this trend will continue.](#)

The amount of pro bono work among those who practice newsgathering law is unknown. Lawyers who help journalists are a relatively small, untracked part of the legal community. Increasing supply, then, will require growing and tracking the number of lawyers trained in the nuances of libel, reporter’s privilege, public records law and other newsgathering issues.



The numbers at hand

The nonprofit Media Law Resource Center (MLRC) has the most comprehensive information regarding media lawyers in the private sector with experience representing journalists. [MLRC's 3,800 U.S. members](#) are primarily attorneys representing 140 media organizations and 180 law firms.⁶ The organization does not collect information about its members' pro bono work for newsgatherers.

Some 1.33 million lawyers practice in the U.S., according to the American Bar Association's 2022 [National Lawyer Population Survey](#). That survey, however, does not identify lawyers who do work for the news media, or who practice First Amendment law.

If the MLRC's 3,800 members were all attorneys for newsgatherers, they would represent **less than 0.29%** of the ABA's total of 1.33 million U.S. lawyers. It seems safe to estimate that no more than 1% of America's lawyers do work for journalists or media companies.

There are issues with gathering data. Attorneys practicing newsgathering law fall under broader categories, such as media law, First Amendment law and litigation. They are usually spread out across different practices at law firms. They may work full-time on newsgathering law, or they might handle just a single matter a year.

One pro bono counsel at a law firm said:

"We would have a hard time identifying who at the firm would be considered a 'media lawyer' with enough focus on media to count."

If identified, newsgathering lawyers could be surveyed, with questions such as "how much pro bono work do you do, and what are the barriers to doing more?" And, "are there constraints within firms, such as policies or workloads that stifle pro bono assistance?" And "would helping journalists cause conflicts with existing clients, such as a government agency?"

Hours spent on pro bono help for journalists, as well as their number and type, can be tracked nationally, no matter what a lawyer's job category. But they aren't. In a [2018 American Bar Association](#) report, the ABA surveyed some 47,000 attorneys in 24 states about their pro bono work. Clients ranged from students to "victims of consumer fraud." Journalists were not listed. Case types included civil rights but not freedom of information or expression.



News work is “horizontal” — it cuts across many categories in almost every field, yet it can be tracked. When philanthropists faced similar data issues in 2016, they launched “[Foundation Maps for Media Funding](#),” an interactive data set going back a dozen years and holding 350,000 journalism and media grants.

A bright spot

Leading firms have their own numbers. In 2021, DWT reported that 73% of the hours its media attorneys dedicated to pro bono work were in support of journalists, freelancers and newsrooms. That year, DWT media attorneys dedicated 5,500 hours to pro bono, for a value of \$3.6 million. The same year, Ballard Spahr reported 2,755 hours on pro bono representations on behalf of journalists, freelancers and newsrooms.

These pro bono hours represent a substantial contribution to journalism. In our survey, 37% of the journalists who had used an attorney in the past 12 months said they used private sector pro bono services. At the same time, however, law firms track pro bono hours using various methodologies and there is no uniform accounting process. Consistent data will be needed to create systemic ways to grow pro bono legal services for journalists. For example, a series of annual surveys disseminated among newsrooms, law firms and legal services providers could procure field-building data.

The nonprofit legal sector

As news organizations’ ability to afford legal support declined in the past decade, the nonprofit legal sector grew to try to fill the legal gap, much in the same way as nonprofit news sites are trying to fill the journalism gap. However, a [2018 Shorenstein Center on Media, Politics and Public Policy report](#), which analyzed 32,422 journalism and media-related grants totaling \$1.8 billion distributed between 2010 and 2015 to U.S. organizations, found that grants for legal support represented only 6% of that funding.

PRIMARY RESOURCES:

The nonprofit legal sector’s pro bono support comes primarily from a handful of organizations and law school clinics that represent journalists through a combination of their own staff attorneys and referrals to or collaborations with private sector attorneys.



Here is a sample of key organizations:

- The **Reporters Committee for Freedom of the Press** provides free legal resources to journalists nationwide, including direct representation. It files amicus briefs on newsgathering issues, publishes legal guides, hosts trainings and operates a hotline. Its attorneys are handling more than 70 active litigation matters at any given time along with dozens more pre-publication vetting and other pre-litigation matters. It is D.C.-based, with additional local attorneys in Colorado, Oklahoma, Oregon, Pennsylvania and Tennessee. In their **first two years**, those local attorneys represented more than 120 journalists and news organizations, liberated some 10,000 pages of public records, and trained 700 journalists and lawyers.
- The **First Amendment Coalition** provides lawyers to answer questions from California-based journalists and the public on access to public records, public meetings and courts. Its **subpoena defense initiative** is a partnership with the Press Freedom Defense Fund. FAC also engages in litigation, as explained in **Appendix F**.
- **Lawyers for Reporters** is a joint project, launched in 2020, of the **Cyrus R. Vance Center** for International Justice and First Look Media's **Press Freedom Defense Fund**, providing pro bono legal assistance to local journalists and media outlets in the U.S. The group helps journalists and news organizations with legal needs ranging from corporate, tax, employment, website terms of service and privacy policies, compliance procedures and takedown threats.
- The **Free Expression Legal Network**, founded in 2019, includes 32 law school clinics offering pro bono support to journalists and others. Roughly half the clinics work exclusively on First Amendment and government transparency; the rest focus on technology, IP, immigration, etc., which can intersect with free speech, free press or transparency. (In a **2021 FELN survey**, most responding clinics said they have had to turn away journalists or news organizations due to a lack of capacity, more than a third with some frequency.) The network's largest clinics focused on serving journalists include **Yale's Media Freedom and Information Access Clinic**, which co-leads FELN with RCFP and hosts conferences and meetings and provides thought leadership in addition to representing journalists pro bono; and **Cornell's First Amendment Clinic**, which represents reporters and news organizations in the Northeast and elsewhere through its Local Journalism Project.



While these organizations have different methods of tracking the work they do for journalists, we estimate that these nonprofits and law school clinics handle roughly **400 to 500 litigation, pre-litigation and pre-publication matters** on behalf of journalists and news organizations each year.

This work makes a major difference. But more is needed. If survey after survey were not enough, the supply-demand imbalance is routinely confirmed by the launch of new organizations, which always seem to find work quickly. Lawyers For Reporters, the Local Legal Initiative and ProJourn all launched in 2020, and more than 10 law school clinics have launched since 2018.

BROADER FIRST AMENDMENT, TRANSPARENCY AND JOURNALISM MISSIONS:

Beyond the primary resources above, other organizations at times help journalists with legal issues within the context of a larger mission, either First Amendment or transparency law and policy issues or supporting journalists generally.



These include:

- **The Knight First Amendment Institute at Columbia University** provides strategic litigation, research and public education around the freedoms of speech and press. The Institute takes on major cases and typically refers individual newsgathering matters to other organizations.
- More than 40 state open government coalitions within the **National Freedom of Information Coalition** (NFOIC) provide varying levels of public records legal support to journalists and the public in their states, as do state press associations and state broadcast associations, which often refer journalists to expert lawyers within their states. A small number of these groups have an attorney on staff to support members directly. Also, the NFOIC covers some court fees through the **Knight FOI Litigation Fund**.
- The **Society of Professional Journalists**, the oldest journalism membership organization, manages a legal defense fund, and its **Freedom of Information Committee** and chapter leaders often volunteer their time to help before matters make it to court
- **American Civil Liberties Union (ACLU)** affiliates across the country focus on cases involving high-impact First Amendment issues, which can at times include journalists. For example, the **ACLU of Oregon** sued on behalf of journalists who were targeted by law enforcement while covering protests in Portland in summer 2020.



- The **Electronic Frontier Foundation** is a nonprofit organization defending civil liberties in the digital world through impact litigation, policy analysis, grassroots activism, and technology development. EFF's mission is to ensure that technology supports freedom, justice, and innovation for all people of the world.

See [Appendix F](#) for more information on these and other organizations.

Ways pro bono makes a difference for journalists

Whether the help comes from nonprofit or for-profit law firms, it is evident that journalists — and the communities they serve — can reap major benefits from pro bono legal assistance.



Examples of recent pro-bono impact:

- RCFP attorneys [obtained police body-worn camera footage](#) for the Eugene Weekly related to the use of significant force against an Oregon man with mental health issues who died in police custody;
- Cornell Law School's First Amendment Clinic helped a citizen journalist in Geneva, New York, [defeat a request for a temporary restraining order](#) filed by a construction company that wanted stories removed concerning its business with local government;
- RCFP attorneys [vetted a multimedia package of stories](#) published by the Kentucky Center for Investigative Reporting and The Marshall Project about the high rate of police shootings in rural areas by Kentucky State Police;
- Yale Law School's Media Freedom and Information Access Clinic [secured the dismissal of a defamation suit](#) against a local news site, the New Canaanite in Connecticut; and
- The First Amendment Coalition, with outside pro bono counsel, forced the California city of Bakersfield [to comply with open meetings laws](#) after the city council met secretly three times to discuss finances.



Pro bono legal help empowered these news organizations to provide independent local journalism. Without that reporting, how would these communities know the facts behind police shootings, or that their city council was not meeting in public, or how their local government conducts its business dealings? And without pro bono legal assistance, how else was this independent local journalism supposed to happen?

Pro bono legal help can also extend to prominent cases on behalf of for-profit entities. For example, RCFP attorneys [successfully represented](#) Dow Jones, the Boston Globe and Reuters in an effort to unseal thousands of pages of court records filed in the high-profile bankruptcy proceedings involving Purdue Pharma, the maker of OxyContin hit with billions of dollars in criminal and civil penalties for its role in the nation's opioid addiction crisis. The unsealed pages showed the inner workings of the company [when it started to worry about lawsuits](#) and the transfer of assets overseas.

On the whole, the supply of, and demand for, pro bono support in newsgathering law can be seen as a story of [field-building, a topic well-documented](#) in the philanthropic community.

One key component of field-building is including and supporting existing projects and groups such as those mentioned above. Together, they provide knowledge, court victories, new jobs and education for the next generation of attorneys, journalists and the public. Other components of field-building include welcoming new ideas and creating common goals and standards. All of these create conditions that help increase the number of pro bono attorneys helping journalists.

Conclusion about demand

Only a small fraction of attorneys in the U.S. has media and First Amendment expertise. Despite their small numbers, the lawyers who help journalists are effective, unsung heroes. They stand up for good journalism and protect, with quality legal work, the historic role of the Fourth Estate as democracy's watchdog. They help free public information from the shadows so reporters can share it and communities can act on it. Millions of Americans live better lives because of their work.



Summing up Section One

The nation's local news crisis is so large, and its threat to democracy so odious, that it's imperative we face a hard truth: The legal system is not doing enough to support journalists and local newsrooms. Numerous surveys show that this constituency has difficulty paying for legal advice — in newsroom parlance, many journalists are either too broke or too new or too busy to know that help exists. The legal support system for journalists should organize to grow every existing group and try new approaches to bring more lawyers into pro bono work.



CASE STUDY

ProJourn volunteer helps reporter sue city for records to expose homeless arrests

Krishna Sood (pictured right), a data and intellectual property attorney at Microsoft, wasn't new to media law. For nearly five years, she served as counsel for the British Broadcasting Corporation (BBC).



But this was the first time she ever sued a city for public records, and the experience was rewarding.

In 2020 and 2021, Melissa Lewis, a reporter for Reveal from the Center for Investigative Reporting, was investigating the disproportionate arrests of homeless people by cities on the West Coast. She wanted records from Oakland, and the city failed to comply with her request in a timely manner.

With Reveal's full-time attorney pressed on other matters, they decided to try ProJourn, which paired Sood, acting in a pro bono capacity, with experienced California media law attorney Thomas R. Burke, from Davis Wright Tremaine LLP.

With their help, Reveal filed suit, forcing the city to eventually disclose the records Lewis needed for her story, "[Handcuffed and Unhoused](#)," published in December 2021.

Sood said she plans to help more journalists fight for public records pro bono.

"ProJourn was a really wonderful opportunity for me to support the vital work of local and regional journalists and newsgathering organizations," Sood said. "The two-in-a-box model, partnering with an attorney from DWT, provided me with the legal support and guidance I needed to assist the client. Knowing that I played even a small part in bringing an important story to light is extremely satisfying."



SECTION TWO

The ProJourn pilot: A new approach

The [Protecting Journalists Pro Bono Program](#) (ProJourn) is an innovative approach to delivering legal services, created in January 2020 by Sima Sarrafan, Microsoft Assistant General Counsel, and Thomas R. Burke, partner at Davis Wright Tremaine LLP. The program launched its initial training in June 2020 and started accepting matters in August 2020.

ProJourn's goal is to **strengthen local and diverse journalism** through a “two-in-a-box” model that aims to increase the pool of lawyers who can provide pro bono legal assistance to newsrooms and freelancers. In the program's first 18 months, DWT and Microsoft volunteer lawyers dedicated more than 300 hours of pro bono legal assistance valued at more than \$200,000 in the following high-demand areas:

Pre-publication review. Volunteer attorneys review submissions (e.g., articles, podcast episodes, videos) identified by journalists as high risk, either because of the subject matter or the individuals covered in the piece, and provide legal guidance to mitigate legal liability.

Access to public records. Volunteer attorneys support journalists in writing clear and effective public records request letters and provide legal support in pursuing the request, thereafter, including in court.

Currently, for public records requests, ProJourn only accepts matters in Washington state and California, while it considers pre-publication review requests from across the nation. During its pilot phase, ProJourn also considered requests for help from journalists in defending against subpoenas for confidential information. However, for reasons addressed in subsequent sections of this report, ProJourn will not include this workstream in the future as it expands.

A unique ‘two-in-a-box’ approach

ProJourn deploys a “two-in-a-box” model, where an in-house lawyer is paired with an experienced media lawyer. The media lawyer serves as a mentor and helps the in-house lawyer gain the requisite competence and confidence to take matters on their own in the future, thereby deepening the volunteer bench.



In-house legal teams are eager to learn and help in this space. They have also become central actors in the pro bono landscape for reasons expressed by [authors from the Stanford Center on the Legal Profession](#): “As these offices have increased in size and stature, they have had more resources available for pro bono work.”

ProJourn leverages this resource, and with the invaluable support of media lawyers, in-house lawyers can learn to meaningfully support local journalism with their time and talent. During ProJourn’s first 18 months, 14 non-media attorneys were trained on ProJourn’s workstreams, aided by a dozen subject matter experts. The “two-in-a-box” concept is what makes ProJourn unique and powerful.

Says DWT’s Thomas R. Burke (pictured below):



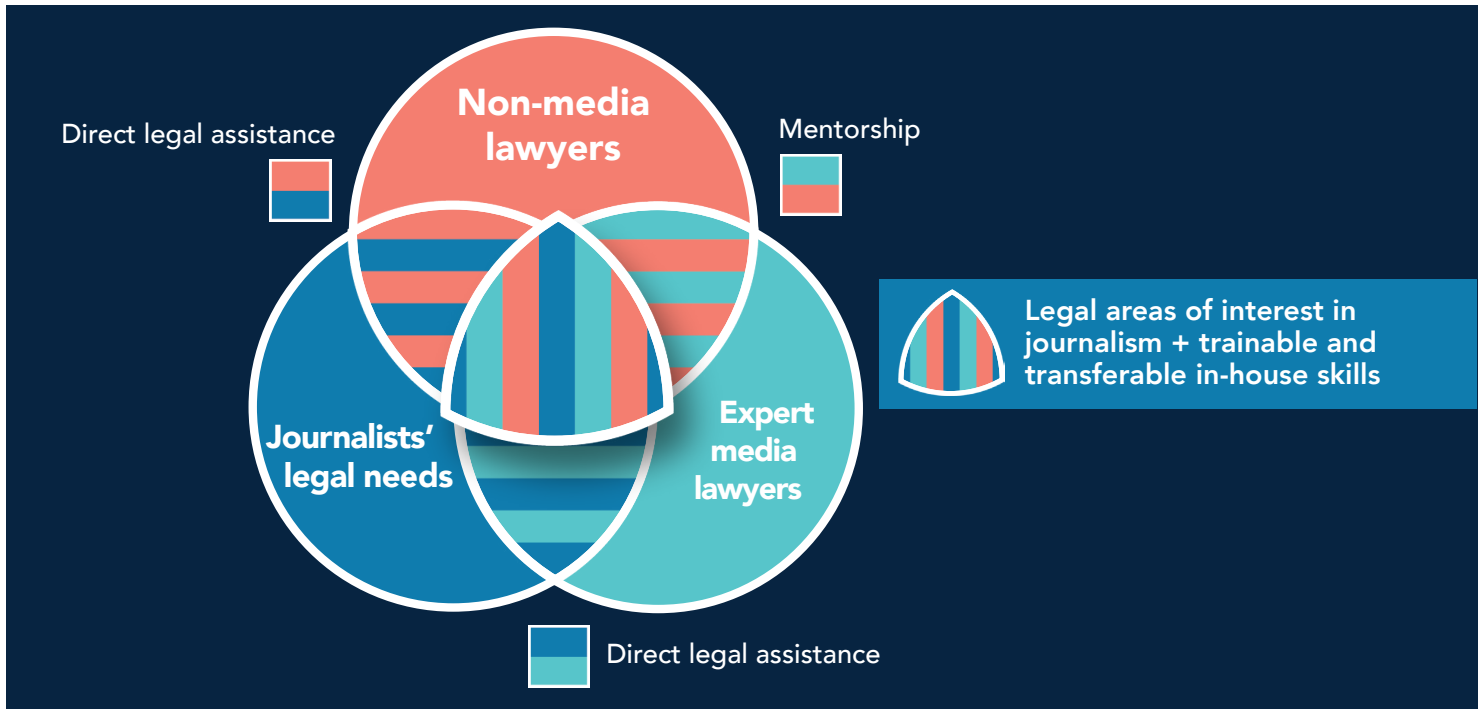
“The uniqueness of (ProJourn) is the intentional building of the bench of lawyers who voluntarily work on vetting and public records matters. No other pro bono program is built this way and hopefully, it will scale so that these free legal resources can be available across the many news deserts of the nation.”

In its pilot phase, ProJourn received potential matters through partnerships with RCFP, the FAC and the Washington Coalition for Open Government (WCOG). As of May 1, 2022, ProJourn had received 24 referrals from RCFP, three from FAC and none from WCOG. ProJourn received 18 requests by reaching out to the following news organizations: Investigate West, South Seattle Emerald, Open Vallejo, Reveal from the Center for Investigative Reporting and Newspark.

In mid-August 2021, RCFP hired a pro bono director to manage ProJourn, thanks to a one-year grant from the Knight Foundation. The director collaborated with the founding partners and RCFP staff to survey the journalism community’s legal needs through a survey and interviews with stakeholders. She also worked on the technology for a more robust intake process, changed the eligibility criteria and created legal workshops led by DWT, Microsoft and RCFP lawyers.



Why ProJourn Is Unique



To ensure its limited resources were focused on journalists' greatest pro bono needs, ProJourn adopted DWT's pro bono policies to screen applicants during the pilot phase. For the pilot, only income-eligible nonprofit organizations were accepted to the program for legal assistance.

When evaluating potential organizations to assist through ProJourn, DWT looks to the Association of Pro Bono Counsel (APBCo) "Mission, Matter, Means" test, which helps establish whether an organization is eligible for pro bono services. Under this test, an organization may qualify one of three ways, via its **mission-critical** work (e.g., alleviating poverty or protecting civil or public rights), or by requesting help with a specific **matter** that protects civil or public rights and liberties (e.g., litigation on behalf of a marginalized constituency or an amicus focused on a specific cause), or through not having the **means** to afford a lawyer (here the question becomes, would paying for legal services make it difficult or impossible for the organization to move forward with mission-critical work? If yes, then it qualifies).

For individual journalists seeking help, DWT applied the [income level test for individuals eligible for legal assistance](#) as established by the Legal Services Corporation. This criterion follows prescribed income caps not exceeding 200% of the federal poverty level, which equates, for example, to no more than \$55,500 for a family of four in the continental United States.



TESTIMONIAL

‘Like learning painting from a master’

“Our two-in-a-box model allows lawyers to do more than assist,” says Sima Sarrafan (pictured right), co-founder of ProJourn and Microsoft Assistant General Counsel.

“It allows for growth and development beyond the traditional avenues of formal training and supporting materials. It enables real-time, side-by-side training of in-house lawyers who learn from true experts in First Amendment law, and it enables us to support journalists to get their stories reviewed and public records requests advanced.



“It’s like learning painting from a master, one who hands the paint brush back and forth to you as you paint together vs. hoping to learn by watching them from afar, or painting by numbers. There’s just no comparison. For the pro bono volunteers, the upside is not only the development of a new area of law and the expansion of the bench of lawyers, but the opportunity to forge substantive working relationships between law firm and in-house lawyers.”



ProJourn's early outcomes

As of May 1, 2022, of the initial 49 legal inquiries submitted to ProJourn, the majority involved pre-publication review.



In all:

- 23 pre-publication review matters (20 completed, 3 in progress)
- 7 public records matters (2 completed, 5 in progress)
- 9 did not proceed because of clients' unresponsiveness or because they found assistance elsewhere
- 7 declined due to conflicts of interest
- 3 declined due to not meeting eligibility criteria

Helping on even one legal matter can make the difference between an important story being published or never seeing the light of day, between the public learning of societal problems, or being left in the dark.



Here are a few examples of the journalists served by pro bono attorneys through ProJourn:

- Independent documentarian Jennifer Huang received pro bono pre-publication review assistance from attorneys through ProJourn for her film "[This Adventure Called California](#)," about a labor trafficking survivor. "Without this program, I don't know if I would have been able to get the thorough and thoughtful assistance that I did receive, and I may have released a version of my film that would have unwittingly made me, and possibly my protagonist, legally vulnerable," Huang said.
- [Reveal](#) from the Center for Investigative Reporting, with the help of ProJourn's volunteer attorneys, sued Oakland for public records about the arrest of homeless people, resulting in the December 2021 story, "[Handcuffed and Unhoused](#)."
- [Open Vallejo](#) exposed police misconduct in the shooting of a 22-year-old Latino man after ProJourn pro bono volunteer attorneys sued and won access to thousands of pages of records and body cam video.
- [The Vallejo Sun](#), started in 2021, obtained pre-publication review to strengthen a story to withstand any legal challenge.



Interviews with journalists and lawyers from Microsoft and DWT who have participated in ProJourn indicate that ProJourn effectively serves journalists.



As of May 1, 2022, the matters completed or in progress represented a total of:

- 386 pro bono hours
- \$242,975 in value

The number of pro bono hours performed by DWT attorneys is listed on the chart below. As is standard practice at companies, Microsoft does not track its lawyers' pro bono hours. To calculate a conservative hourly and monetary estimate of their contributions, Microsoft divided DWT hours by two and then used DWT's first-year associate billable rate. **As a result, in 2020 and 2021 combined, Microsoft volunteers donated 132 hours to ProJourn matters. The corresponding monetary value for these hours totals \$50,331. Microsoft also provided ProJourn with \$49,475 in technological support for website creation and administration.**

Davis Wright Tremaine LLP Lawyers' ProJourn Pro Bono Hours and Dollar Values						
	Totals		Pre-Publication Matters		FOIA Requests	
	Hours	Value	Hours	Value	Hours	Value
2020	52	\$36,541	27	\$20,761	25	\$15,780
2021	219	\$133,551	118	\$62,578	102	\$70,972
2022 ⁷	114	\$72,882	25	\$20,387	89	\$52,495
Lifetime	386	\$242,975	170	\$103,727	216	\$139,248

With these figures, it is possible to calculate a return on investment in two primary ways.

First is the return on the investment in terms of pro bono hours. If an attorney wins a public records case for a local journalist, then that lawyer is now part of the total investment in the story. An investigation that hits home can produce significant social value, **as much as \$287** for each dollar invested in just one year. The impact of pre-publication review that saves a news outlet from being sued over a true story is tremendous.



Second, the return on investing in ProJourn itself is tremendous. A funder considering granting a hypothetical \$1.5 million to expand the program will ask how many pro bono hours are to be expected. Based on the finances of the ProJourn pilot, the first wave expansion outlined in this report would generate about \$3 million in pro bono value over the next three years. Without counting the social return of journalism, the funder would easily double its investment.

Moving forward: Pre-publication review and public records

Based on the findings of the pilot phase, two of the original three workstreams — pre-publication review and public records cases — are critical for continued focus. The third workstream — subpoena defense — will no longer be included in ProJourn’s expansion plans.

Pre-publication review: Microsoft lawyers who volunteered with ProJourn reported that pre-publication review was great for training lawyers. They also mentioned their lawyers feel more comfortable handling these matters on their own after a short period of time. Pre-publication review is compatible with ProJourn as the workstream is easily trainable, a good fit for the two-in-a-box model, and is expandable across state boundaries.

Access to public records: Public records help, including litigation assistance, fits squarely in ProJourn’s model. One California-based law firm mentioned that lawyers who were former journalists (and this includes the majority of the firm’s media lawyers) express strong interest in this type of pro bono work. In the short term, as ProJourn expands, non-litigation matters may be easier to place at first, but as more law firms onboard and training for in-house lawyers increases, litigation support should be able to grow as well.

Subpoena defense: To date, ProJourn has not accepted any subpoena defense matters. As reflected in the survey, the need for this work is not as prevalent as for the two other streams listed above. A law firm with a First Amendment law practice also reported that subpoena defense matters would be difficult to place with volunteer attorneys because they are “seen as a high-stake(s) matter with confidentiality issues.” For these reasons, this workstream will be offloaded and no longer part of ProJourn’s offerings. The project’s philosophy going forward is to continue to test assumptions and pivot as necessary, and as we learn.



Summing up Section Two

ProJourn's pilot proves that its unique 'two-in-a-box' model works, providing an important service to an underserved constituency. Corporate attorneys interested in providing pro bono help to local journalists and newsrooms learned to be effective advocates by partnering on matters with seasoned media lawyers. This success opens up a new way to provide and expand pro bono services to the journalism community. The matters ProJourn will take on — access to public information and pre-publication review — are in great demand. ProJourn demonstrated that, with help, even the smallest newsrooms and neediest journalists can do major stories benefitting entire communities, and, at times reaching far beyond that. At the same time, ProJourn offers major law firms and companies with strong corporate social responsibility principles the opportunity to stand up for journalism during this time of crisis for local news and democracy.



TESTIMONIAL

Lawyers are critical to investigative journalism

“Whether it is called investigative or accountability reporting, one of the most important roles for journalists in our democracy is reporting that exposes wrongdoing and holds power accountable,” said Leonard Downie Jr. (pictured right), former executive editor of The Washington Post and Weil Family Professor of Journalism at Arizona State University’s Walter Cronkite School of Journalism and Mass Communication.



“Access to public records and pre-publication review are essential to much of that journalism to ensure accuracy and avoid legal repercussions. That can require the assistance of a lawyer trained in and familiar with media and public records law.

“Large news organizations have such lawyers on staff or retainer, or both. During my 44 years as an editor and investigative reporter at The Washington Post, they were essential in helping us to overcome resistance to public records requests and to publish impactful accountability stories. Today, too many news organizations and freelancer journalists cannot afford this needed legal assistance. This is especially true of smaller newspapers and new non-profit newsrooms around the country essential to the survival of local journalism.

“I believe this (ProJourn) to be a very important investment in the future of journalism that performs a vital public service by holding the powerful accountable and righting wrongs in our democracy.”



SECTION THREE

How ProJourn can grow

Outlined below is ProJourn's growth strategy and expansion plan. The program's overarching goal is to serve thousands of journalists, build on valuable partnerships, and use its field-expanding "two-in-a-box" model to exponentially increase the number of attorneys who are aiding journalists.

Clarifying eligibility criteria

One of the most important components of running a pro bono program includes establishing and enforcing eligibility criteria. Not only should the program help in-need and at-risk communities access the justice system meaningfully, but also it is important not to cannibalize law firms' paid work by accepting clients to the program that otherwise would have the funds to pay for legal advice.

For this reason, in its pilot phase, ProJourn accepted only nonprofit newsrooms that could not pay for attorney time, which meant choosing organizations with annual revenue of \$1 million or less, or those that met APBCo's "Mission, Matter, Means" test.⁸

However, as this study explains, important journalism is being done in a wide variety of business models and expanding ProJourn to include small for-profit newsrooms as well as nonprofits that exceed these criteria makes sense, especially as new law firms and in-house legal departments onboard.

In addition, when it comes to pro bono work, the dichotomy between for-profit and not-for-profit entities has lost some of its relevance with the emergence of hybrid models (e.g., social enterprises setting up nonprofit arms or nonprofit organizations setting up a for-profit arm to ensure financial sustainability), and more law firms providing pro bono legal assistance to for-profit and hybrid entities, especially [in the context of the pandemic](#), when many businesses were threatened.



As Steve Waldman (pictured below) put it in a [2021 Seattle Times interview](#), “the emphasis should be more on community-based versus mega-chains more than nonprofit versus for-profit.”

Waldman [articulated the need](#) for Report for America journalists to enhance BIPOC newsrooms, even those for-profit:



“About 20 of our newsrooms are owned or founded by Black and Hispanic journalistic leaders, and almost all of them are for-profit. Historically, the founders of Black newspapers believed that the only way they could maintain independence and clout would be as self-sustaining commercial enterprises.”

This last point is important, as ProJourn’s operating framework sets out proactive outreach to journalists and newsrooms whose audience includes underserved communities, such as BIPOC and constituencies whose first language is not English. For these constituencies, access to information can be difficult, with relatively few outlets covering their issues and even fewer in their native languages.

The legal sector signaled its intention to dedicate more resources (both in-kind in the form of pro bono assistance and financial) to racial equity in the aftermath of the Black Lives Matter protests, including with the creation of the [Law Firm Antiracism Alliance](#) (LFAA). Like the LFAA, ProJourn recognizes and embraces the role that law firms, particularly when acting collectively, can play to help bring about systemic change and racial equity in the law. Facilitating pro bono work is the primary mechanism by which it, like ProJourn, pursues this goal.

RCFP’s pro bono director has put forward the following operating framework and set of eligibility criteria, which were drawn from the best practices from the pro bono community and from ProJourn’s experience, as well as from standards established by journalism membership organizations, such as LION Publishers, the Institute for Nonprofit News and the [Trust Project Indicators](#).



ProJourn operating framework

- ProJourn provides pro bono legal assistance to local news organizations, newsroom journalists, editors, newsroom managers, freelance journalists, documentary filmmakers and podcast creators, with an affirmative reach to BIPOC led-newsrooms and journalists; newsrooms located in rural areas and/or surrounded by news deserts, as well as newsrooms whose audience includes underserved communities, such as BIPOC and constituencies whose first language is not English.
- ProJourn strives to provide support regardless of the content of the stories involved and are agnostic on the topics covered.
- ProJourn operates in accordance with Rule 6.1: Voluntary Pro Bono Public Service of the Model Rules of Professional Conduct for attorneys, meaning providing legal service to individuals and entities that cannot afford access to justice or legal advice.

ProJourn’s current eligibility criteria encourage inquiries from newsrooms that are independently owned, community-focused, located near news deserts and can’t afford to pay legal fees, and include in their coverage underserved communities.

To determine financial need, ProJourn will ask for financial information and will confirm news organizations haven’t paid significant fees for similar services in the past 12 months. (If they did, ProJourn will assess whether these news outlets’ circumstances have dramatically changed.)

ProJourn’s eligibility criteria are similar for nonprofit and for-profit entities. Both types will have to demonstrate they comply with a recognized code of ethics or their own code, which must be publicly available.

ProJourn will use this framework of criteria, and eligibility will be decided on a case-by-case basis, with participating law firms also screening cases according to their own policies and hitting against their conflicts database.

ProJourn’s advisory committee (as described below) will also advise whether it is necessary to revise these criteria, depending on experience, new opportunities and partners.



PROJOURN ELIGIBILITY CRITERIA AT A GLANCE

News outlets must:

- ✓ **Be legally incorporated in the U.S. or fiscally sponsored** by a U.S. nonprofit organization for at least one year, and be willing to share financial information with ProJourn as part of the application and screening process.
- ✓ **Be community-focused**
Report local news.
- ✓ **Use a recognized code of ethics or create their own**
Stand for accuracy, independence, fairness, transparency, truthfulness.⁹
- ✓ **Demonstrate that the payment of standard legal fees** makes it difficult to move forward with mission-critical work. Show they haven't paid significant fees for similar legal services in the past 12 months (or that their circumstances have changed so they can't pay now).
- ✓ **Nonprofit news outlets must comply with 501(c)(3) requirements**, such as governance standards and lobbying restrictions. They must reveal big donors.
- ✓ **For-profit news outlets must be independently owned**, i.e., not primarily or majority-owned by a publicly-traded company, newspaper chain, hedge fund, or private equity firm and/or political or religious institution.

Individual journalists must:

- ✓ **Be based in the U.S.**
- ✓ **Use a recognized code of ethics or create their own**
Stand for accuracy, independence, fairness, transparency, truthfulness.
- ✓ **Demonstrate that the payment of standard legal fees** makes it difficult to move forward with their critical work or would significantly deplete their economic resources.
- ✓ **Have a proven track record** (e.g., links to previous publications or awards)



ARE WE ELIGIBLE FOR PROJOURN?

These hypothetical examples may help potential clients better understand ProJourn's qualification requirements:



I am the executive editor of a small news organization in Georgia. There is only one newspaper in our county. Our digital news outlet is an LLC owned by a local investor. We focus on issues in the Black community such as housing discrimination and police violence. We are a team of three local reporters, supported by volunteers. We follow the SPJ code of ethics and post it on our website. Last year, our budget was less than \$1 million. Our primary sources of revenue are subscriptions and sponsors (also posted on our website). Recently, we had to hire a lawyer to help draft template employment contracts. But we need a lawyer now for accessing police body camera videos.

This news organization qualifies for pro bono legal assistance through ProJourn on the following grounds. It:

- Is independently owned and operated
- Covers local news relevant to a historically underrepresented community
- Has a limited legal budget not for similar legal services to ProJourn's
- Complies with donor transparency ethical standard.



Our 501(c)(3) news organization exclusively deals with national political news for an elite audience. Our annual budget is above \$10 million thanks to large donations from anonymous lobbying groups and political parties. We do not make public our revenue sources and donors, regardless of the amount, because our donors wish to remain anonymous. We retain editorial independence. We have received journalism awards and have a diverse staff. We'd like help with public records act requests.

This news organization does not qualify for pro bono legal assistance through ProJourn on the following grounds:

- Is not a local news outlet (only covers national news)
- Does not comply with the donor transparency ethical standard (does not make the names of their donors public)
- Raises a nonpartisan issue: does this activist outlet "lobby for any policies or legislation beyond freedom of the press and First Amendment rights?"
- Has ample resources to cover the costs of paying for legal help.



Expanding geographically

ProJourn's plan for the next years is a test expansion based on geography.



Our rationale is threefold:

- Targeting jurisdictions where both demand (newsrooms) and supply (law firms and corporate partners) have been identified and assessed will allow us to focus on a timely, effective case flow. We would like to see local attorneys be among those helping local journalists.
- Public records laws are bound by states, requiring attorneys to develop specialized expertise in state statutes and case law.
- We can make the biggest impact by working alongside local non-legal initiatives that support local journalism (e.g., [North Carolina Local News Workshop](#)). We also will complement and work with existing state-based legal resources (e.g., law clinics and RCFP's [Local Legal Initiative](#)).

The lessons learned from ProJourn's first stage of expansion will apply to further stages. While initially we will expand state-by-state, the program will be flexible enough to explore new regions and cross-state initiatives when opportunities arise, particularly for pre-publication review.

We also expect to learn more about the types of states where ProJourn's model works best, where RCFP's [Local Legal Initiative](#) model works best and where they can work together to support the most journalists. The aim is to grow both programs as part of a national support system, with attorneys across the country ready to help journalists with their legal needs.



State selection criteria

Here are factors we drew in part from RCFP's Local Legal Initiative, to examine legal needs and legal supply in potential expansion states:



Demand for pro bono legal assistance:

1. Number and size of private and nonprofit news outlets;
2. Legal needs, as identified by past surveys and the 2021 survey for this study, and any new information as it becomes available;
3. Prevalence of underserved BIPOC communities and BIPOC led-newsrooms/journalists that could benefit from this program;
4. Prevalence of communities, often rural and poorer within or surrounded by news deserts, in need of strong viable local news; and
5. Geographic diversity in different regions of the nation.



Supply of legal help for journalists:

1. Breadth and size of the public and private attorney pool in media and First Amendment law as well as non-media lawyers seeking experience;
2. Network of nonprofit partners, including coalitions for open government, press associations and law clinics;
3. Corporate partners with a strong commitment to pro bono; and
4. Whether the state has attorney fee-shifting provisions in their public records law, so attorneys could be compensated, to some degree, if they prevail in court. (Fee-shifting provisions vary by state but can incentivize local attorneys with limited resources to participate.)

ProJourn's unique model has its own needs. It operates best in a state that has at least some media law attorneys to serve as initial mentors in the program, in contrast with RCFP, which intentionally chose some states for the Local Legal Initiative where the media law bar was too small to fill a void.

Our current plan is to grow into Georgia, New York, North Carolina and Texas in stage one of the expansion.

We are mindful of the locations where ProJourn partner Microsoft is operating its [local journalism pilot programs](#): Fresno, California; Yakima, Washington; El Paso, Texas; Juarez, Mexico; Jackson, Mississippi; and Northeast Wisconsin. Also, potential synergies might be realized with current and future initiatives by RCFP, DWT, the Knight Foundation and other potential partners.



In [Appendix D](#), we address in detail the strengths of each state, taking into account the demand from journalists for help and the supply of resources to make the initiative a success.

Selected law firms for stage one of expansion

The initial reaction from law firms is promising. In 2022, ProJourn will be supported by the following law firms in the different states (new law firms are bolded):

State	Law Firms
California	Davis Wright Tremaine LLP Gibson, Dunn & Crutcher LLP
Georgia	BakerHostetler Kilpatrick Townsend & Stockton LLP
North Carolina	McGuireWoods LLP
New York	Ballard Spahr LLP Davis Wright Tremaine LLP Covington & Burling LLP
Texas	Gibson, Dunn & Crutcher LLP Jackson Walker LLP
Washington	Davis Wright Tremaine LLP

Each law firm has agreed to onboard ProJourn along with a corporate partner. As discussed below, ProJourn will provide new law firms and in-house legal teams with an induction training.

Strengthening partnerships

ProJourn will continue to build on the strength of its current partners, expand to develop new collaborators, and create an advisory committee to help coordinate efforts.

The four initial partners

This collaboration between Davis Wright Tremaine LLP, Microsoft, the John S. and James L. Knight Foundation and RCFP is a first-of-its-kind approach to providing free and quality legal assistance to journalists and newsrooms.



This partnership will also help raise awareness of the crisis in local journalism, and in doing so aims to not just help journalism in the courtroom, but also in the court of public opinion. This is an ambitious effort to unite for-profit and nonprofit sectors and to enlist good lawyers as credible champions of local journalism, to join others who aren't journalists but who will stand up for good journalism; people who could help shift the balance in this unprecedented national political maelstrom, where, more than ever before, some of the best journalism is attacked by major political figures as fake and where fiction is embraced as real. The business sector has [more credibility](#) with the public today than journalism does, which means that private law firms and corporate lawyers who help journalism will through their work be sending the message that it is important.

These four partners have worked together in various ways in the past and have established a strong and working relationship built upon trust, mutual respect and collaboration. For example, DWT and the RCFP have [collaborated on several legal matters](#) in the past outside of ProJourn. Similarly, DWT and Microsoft's in-house legal teams have been working on immigration-based pro bono matters together for several years. RCFP has also written amicus briefs in support of Microsoft in key surveillance cases, including in [2018](#) and [2020](#). Finally, the Knight Foundation has been a long-standing supporter of RCFP's work, and that of nearly every major organization in the nation providing pro bono help for journalists.

Each founding partner brings much to the table:

Microsoft: Microsoft is a pioneer in the pro bono space. Kids In Need of Defense (KIND), co-founded by Microsoft President and Co-Chair Brad Smith and Angelina Jolie in 2008, is the most powerful evidence of the company's leadership in the pro bono space. KIND has supported children from 74 countries and added 24 new pro bono partners in 2020, bringing their partnerships to more than 680 law firms, corporate legal departments, bar associations and law schools. KIND has assisted [more than 20,000 unaccompanied immigrant children](#).

Under its [Journalism Initiative](#) and through [a holistic approach](#) that combines direct funding, tech support, knowledge of the pro bono landscape, experience building new pro bono initiatives, and providing high quality legal assistance, Microsoft is working to help local news. We hope Microsoft's involvement will inspire other large companies to mobilize resources to safeguard local journalism.



Beth Henderson (pictured left), associate general counsel, pro bono at Microsoft, has been recognized as a leader in the pro bono space. Along with Microsoft's Sima Sarrafan, she has been



key in the design of ProJourn’s processes, using experience and knowledge about how to structure and scale corporate partnerships and flagship pro bono programs. Beth has been leading Microsoft’s pro bono practice since 2018. [As the last Microsoft Pro Bono report shows](#), pro bono work has steadily increased under Beth’s leadership. In addition, the portfolio has dramatically diversified, with work in immigration, children’s rights, voting rights and digital transformation.

Davis Wright Tremaine LLP: Long recognized as [the national leader](#) in First Amendment law, DWT’s media lawyers have played a central role in many of the most important, precedent-setting cases affecting rights of free expression, content ownership, access to public records and other vital issues.

Thomas R. Burke, formerly the chair of DWT’s award-winning nationally recognized media practice, is one of the co-founders of ProJourn. He has over 30 years of experience defending speech and content across all mediums and represents just one of many DWT media attorneys who are volunteering their time and talent on ProJourn matters, whether through direct representation, vetting articles or providing educational programming to mobilize more pro bono volunteers.

Joanna Boisen (pictured below), chief pro bono and social impact officer at DWT, directs and oversees all aspects of DWT’s nationwide pro bono and social impact department work and high-level initiatives. She also serves as outside counsel to in-house legal departments interested in building out and developing sophisticated pro bono core priorities and programs. She helped structure and scale ProJourn and continues to advise on logistics, administration and growth strategy.

DWT’s Pro Bono and Social Impact department has been instrumental in helping establish and launch ProJourn and will continue to serve as a strategic partner to the program as it expands nationwide.



Boisen said:

“When law firms and in-house legal departments come together to do good, it’s impactful and helps make access to legal services a reality for everyone, not just those who can afford it.”¹⁰

Reporters Committee for Freedom of the Press: RCFP acts as a central hub in the First Amendment and journalism worlds, not just because of its longevity and its reliable partnerships but also because of its unparalleled in-house expertise and litigation capacities, particularly in the [Local Legal Initiative](#) already in five states. It is a well-known thought leader in the area of pro bono legal services for journalists.



In his 2020 report “[Mapping the Civic Data Universe](#),” professor David Cuillier found that the majority of organizations (“planets” in his universe analogy) and types of organizations (“galaxy clusters,” such as journalism or universities) “tend to stay to themselves.” However, Cuillier highlighted some key players as instrumental in fostering true collaborations.

As he wrote:

“Some planets serve as a hub or center of communication and activity within their respective galaxies, such as the Reporters Committee for Freedom of the Press within the journalism cluster (...) A planet can also serve as a connector between galaxies, such as Reporters Committee connecting First Amendment law clinics at universities with nonprofit online news organizations.”

Our survey respondents identified RCFP as their most commonly used pro bono legal resource.

The John S. and James L. Knight Foundation: The [Knight Foundation](#), one of the leading foundations in American journalism, is a social investor that supports a more effective democracy through funding impactful grants advancing free expression and journalism in the digital age. It is a national foundation with local roots, including arts and cultural grants in support of informed and engaged communities, making local grants in American cities and towns where the Knight brothers once published newspapers. The foundation’s journalism program invests in four impact areas: First Amendment, Local Media, Talent and Leadership, and Technology Innovation. Through innovative programs and partnerships, such as the [Community Listening and Engagement Fund](#), Knight is a prominent supporter of diverse local journalism in the country and the freedoms that power it.

Knight journalism initiatives over the decades include many programs still active today: the journalism funders group, the leading major journalism fellowship programs, the Knight chairs in journalism, News 21, News Train, News University, News Match, the Local Legal Initiative and Sunshine Week. In addition to legal help for journalists, foundation initiatives have included fielding a major commission on local information needs, encouraging community foundation funding of news and information, growing investigative reporting, fueling the emerging nonprofit news sector and its support systems, developing a major news innovation contest, and helping legacy news operations find the tools and techniques they need to reinvent themselves and support journalistic excellence in the digital age.



CASE STUDY

ProJourn pre-publication review helps filmmaker expose labor trafficking

Jennifer Huang (pictured right) of Oakland, California, was working on her first short film for Treeclimber Media, “[This Adventure Called California](#),” about a labor trafficking survivor.



In the initial version of the 2021 film, she named a trafficker, thinking it was safe to do so because he had been convicted. However, by the end of filming, his sentence had been vacated and he was released.

“I was uncertain if this opened me up to claims of defamation,” said Huang, who produced the film entirely on a \$500 stipend from Re-Present Media’s Re-Take Oakland mentorship program for filmmakers of color. “I simply lacked any additional funding.”

Fortunately, she accessed pro bono legal help through ProJourn, and attorneys at DWT and Microsoft noted additional legal questions that needed to be addressed.

“The legal team made me aware of issues and questions that I hadn’t even considered,” she said. “This all allowed me to release the film with confidence. I’ve had a successful premiere and even won a jury award.

“So I’m very, very grateful for the help.”



Establish an advisory committee

RCFP's pro bono director administers ProJourn's operations in collaboration with the other initial partners. RCFP plans to create an advisory committee to help set strategy, policies and procedures for ProJourn. In addition to having representation from the partners, the advisory committee may include leaders from the legal, journalism, tech and academic fields who could help with outreach to newsrooms, scaling of services, decision-making around eligibility criteria, identification of new funding sources, etc. RCFP, which is incubating the project, is the official grantee for funding of the project and will retain legal responsibility for those funds.

Forging new collaborations

We expect to continue receiving ProJourn matters from RCFP, the First Amendment Coalition and the Washington Coalition for Open Government — and from the newsrooms and journalists who have benefited from ProJourn and are now familiar with its scope and process.



The goal is to forge additional partnerships with organizations that:

- have a strategic presence in the ecosystem;
- focus on local journalism that covers underserved communities; and
- have deep experience in the field, and/or offer innovative approaches.

MuckRock, a U.S.-based 501(c)(3) non-profit, which assists with filing governmental requests for information through the Freedom of Information Act and other public record laws, has aided more than 100,000 individuals, a third of those journalists, with public record requests. It has a strong, pre-existing relationship with RCFP and could connect qualifying journalists with ProJourn.

With these collaborators, ProJourn will develop attorney training programs and communications efforts that will help increase both supply of and demand for pro bono help for journalists.

Training attorneys and reaching journalists

One of ProJourn's most important goals is to expand knowledge of newsgathering law among attorneys through the "two-in-a-box" process, education, training and strategic outreach.



Attorney mentorship

Training and mentoring are key elements of any pro bono program to ensure quality and sustainability. As noted by the [2012 report](#) of the Legal Services Corporation's Pro Bono Task Force, "the top three barriers to doing pro bono were: lack of time, commitment to family or other personal obligations, and lack of skills or experience in the practice areas needed by pro bono clients." Regarding in-house legal teams, this finding was echoed by a [2020 Stanford survey](#).

The recommended training and mentoring plan will allow lawyers without First Amendment expertise to gain the necessary skills to help journalists with pre-publication review and access to public records, with the ultimate goal of growing the bench of pro bono First Amendment lawyers.

One structure could include incoming volunteer in-house and junior lawyers being mentored by senior lawyers from a partnering law firm. In addition to providing a strong foundation for law firm and corporate partnerships, this mentorship scheme encourages collaboration among in-house legal teams and benefits junior lawyers who want to develop or strengthen their expertise in First Amendment law. These junior attorneys could eventually become mentors themselves and train other volunteers.

ProJourn will also enable law firms and companies to involve non-lawyer staff more readily in ProJourn. For example, paralegals could support an attorney's work with public records requests. Paralegals could also benefit from mentorship as part of their professional development.

Journalist outreach

Journalism's transformation in the digital age is accompanied by changes in the workforce. New reporters often don't recognize their legal needs immediately and don't know about the current organizations serving journalists. The digital age also has upended the way training is done in journalism. Place-based training is giving way to a combination of online training and coaching.

At times, journalism-related projects can overproduce and underpromote. To avoid this fate, ProJourn will collaborate with peer organizations to better reach targeted journalist communities and news outlets, seeking additional opportunities and funding to further experiment, along with those partners, with training and mentorship models for journalists.



Summing up this report

This is a make-or-break moment for local news and a reckoning for new economic and editorial models. If powerful investigative reporting is to be a significant part of what survives — and our communities depend on it being so — there must be substantial pro bono legal assistance to support it.

New models of news must be met with new models of support. ProJourn is an extraordinarily cost-effective new model. It will add a resource to the field, leverage the pro bono capacity of in-house legal teams, and grow the number of lawyers helping this underserved constituency.

ProJourn will focus on journalists with the greatest needs. A relatively small amount of pro bono work can facilitate the kind of reporting that saves entire communities money and even lives.

Addressing the legal needs of all journalists will require a multi-faceted strategy incorporating complementary, innovative approaches. The existing initiatives and organizations that do tremendous work must expand. New ideas must be embraced. But in the end, reinventing the public service journalism that enables self-government will require more than a utopian vision. It will happen in towns and cities across the nation — one story, one journalist and one lawyer at a time.



APPENDICES

- A. Acknowledgments
- B. Abbreviations
- C. Journalists survey results
- D. ProJourn expansion
- E. Metrics and impact assessment
- F. Existing pro bono resources
- G. Endnotes



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In addition, we want to thank several law school clinic members of the Free Expression Legal Network for sharing our survey.

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B. Abbreviations

APBCo — Association of Pro Bono Counsel

AJP — American Journalism Project

ASNE — American Society of News Editors

BIPOC — Black, Indigenous and other People Of Color

DWT — Davis Wright Tremaine LLP

FAC — First Amendment Coalition

FELN — Free Expression Legal Network

FOIA — Freedom of Information Act

ICFJ — International Center for Journalists

INN — Institute for Nonprofit News

IPI — International Press Institute

L4R — Lawyers For Reporters

LION — Local Independent Online News Publishers

LMA — Local Media Association

Knight Foundation — John S. and James L. Knight Foundation

MLRC — Media Law Resource Center

MMCA — Multicultural Media and Correspondents Association

NAHJ — National Association of Hispanic Journalists

NFOIC — National Freedom of Information Coalition

OMLN — Online Media Legal Network

ProJourn — Protecting Journalists Pro Bono Program

WCOG — Washington Coalition for Open Government



C. Journalist survey results

Methodology

The online survey was conducted from October 2021 through February 2022 and distributed through major journalism membership organizations, resulting in 170 journalists responding from 38 states and Washington, D.C.

A significant portion of the respondents (68%) came from membership organizations serving local journalists, including INN (21%), LION (6%) and state press associations (26%). The sample is skewed toward local journalists and nonprofit news organizations, which is particularly helpful for this study since that is a key subset of journalists of interest in this program. Here were the responses by organizations (each organization was provided a different survey link to track the affiliation of respondents):

Organization	Count	Percent
Newspaper Association Managers	44	26%
Institute for Nonprofit News	35	21%
Gumshoe Group	19	11%
Free Expression Legal Network (law clinics)	12	7%
Local Independent Online News Publishers	10	6%
Society of Professional Journalists	8	5%
RCFP's Local Legal Initiative	7	4%
American Journalism Project	7	4%
Newspack	6	4%
Reporters Committee for Freedom of the Press	6	4%
Native American Journalists Association	4	2%
Borealis Racial Equity in Journalism Fund	4	2%
CalMatters	3	2%
National Association of Black Journalists	1	1%
Chalkbeat	1	1%
Radio Television Digital News Association	1	1%
MuckRock	1	1%
Report for America	1	1%



Of those who responded to this study, 11% were freelancers and 41% worked for nonprofit news organizations. More than 70% of our survey respondents indicated that they are affiliated with a newsroom. More than 60% of respondents are editors or newsroom leaders, who tend to have a broad overview of newsrooms' legal needs, but do not necessarily reflect all journalists, particularly freelancers and other reporters. The category "other" includes, but is not limited to: publisher, CEO of a digital news publication, retired newspaper editor, CFO, development and operations director, nonprofit news organization executive director, etc. **This sample is skewed toward those in charge, which is suitable for this study since they know their organizations' legal needs the best.**

A convenience sample such as this does not allow for a calculation of a response rate, since the survey was distributed through listservs, and at times forwarded to individuals off the listservs, so the overall potential population eligible to be surveyed is unknown. Use of a convenience sample through association membership lists and email listservs has been used in prior surveys of journalists, including a 2017 [Knight-commissioned survey](#) of 228 journalists and FOI advocates (61% were journalists), a 2016 survey of [crime reporters](#) through the Society of Professional Journalists' membership list, a 2013 survey of [education writers](#) through the Education Writers Association, a 2017 survey of [Norwegian news executives](#), and a 2019 survey of [Investigative Reporters and Editors members](#). Convenience samples — on the increase as comprehensive catalogs of news workers are harder to come by — allow for an exploratory examination of views and have their limitations, usually skewing results toward those who are most engaged in the subject. Future research could employ stratified random sampling to develop a probability sample more generalizable to the entire journalism community. It is important, therefore, in a study employing a convenience study, to understand the composition of the respondents and interpret the results accordingly. See an examination of this topic, by Logan Molyneux and Rodrigo Zamith, "[Surveying Journalists in the 'New Normal'](#): Considerations and Recommendations," *Journalism*, 1-18 (2020). Those considerations were applied in interpreting these results.

The survey consisted of 24 questions, including questions about the respondent's role, news organization, location and contact information. No incentives were provided to take and complete the survey. Results were compiled through Google Sheets and analyzed in Microsoft Excel and SPSS.



Survey questions and results

Answers to the survey questions below are listed in order of greatest response, not by how they were ordered on the survey form (except for scale questions). Here is the survey introduction, followed by the questions with the answer counts out of 170 respondents, and percentages (might not add up to 170 because of missing cases, or 100% because of remainders and rounding).

Protecting Journalists Pro Bono Program

Thanks for participating in this survey! Microsoft, Davis Wright Tremaine LLP, and the Reporters Committee for Freedom of the Press, are joining forces to develop a national pro bono network to support local journalists and news organizations with pre-publication review, access to public records, and subpoena defense.¹¹ This survey will help us better understand and respond to your legal needs through this program.

	COUNT	PERCENT
1. First, can you please tell us about yourself?		
You are a:		
a. Editor or other newsroom leader	104	61%
b. Freelance journalist, author or blogger	18	11%
c. Journalist or other newsroom worker	14	8%
d. Documentary or filmmaker	8	5%
e. Journalism educator	0	0%
f. Other	26	15%
(Most "Other" responses (18) were publishers or newsroom managers)		
2. If you indicated that you work for a news organization, is it a:		
a. For-profit news organization	80	47%
b. Nonprofit news organization	69	41%
c. BIPOC founded and/or led news organization	7	4%
d. Documentary film company	4	2%
e. Other	18	11%



3. Do you have libel insurance or other forms of media liability insurance?

a. No	86	51%
b. Yes	83	49%

4. What state are you based in?

New York	25	15%
California	19	11%
Georgia	11	6%
Indiana	9	5%
Tennessee	8	5%
Texas	8	5%
Louisiana	7	4%
Illinois	7	4%
Mississippi	6	4%
Oklahoma	5	3%
North Dakota	4	2%
Wisconsin	4	2%
Kentucky	4	2%
Pennsylvania	3	2%
Minnesota	3	2%
Arizona	2	1%
Washington	2	1%
Virginia	2	1%
Nevada	2	1%
Massachusetts	2	1%
West Virginia	2	1%
New Jersey	2	1%
Maryland	2	1%
Ohio	2	1%
Utah	2	1%



Connecticut	2	1%
Delaware	2	1%
Oregon	2	1%
Arkansas	1	1%
Colorado	1	1%
Iowa	1	1%
Maine	1	1%
Montana	1	1%
New Hampshire	1	1%
South Dakota	1	1%
Florida	1	1%
North Carolina	1	1%
Rhode Island	1	1%
District of Columbia	1	1%
Kansas	1	1%

5. Now, could you tell us whether you (or your organization, if you are a newsroom leader) have had legal help to do research or journalism or to defend your journalism in the past 12 months?

a. Yes	92	54%
b. No	78	46%

Just freelancers (20):

a. Yes	8	38%
b. No	13	62%

Just non-profit newsrooms (70):

a. Yes	51	73%
b. No	19	27%



6. If YES (to the above question), can you please tell us what you (or if you are a news leader, your news organization) used a lawyer for? (can check multiple items)

a. To help answer legal questions related to newsgathering (e.g., right to record, cover a protest, attend a court hearing, scrape website data)	52	57%
b. To review a story before publication	49	53%
c. To help with legal issues not related to newsgathering or reporting, such as employment, intellectual property, governance, tax, etc.	37	40%
d. To initiate a legal action to get access to information, public meetings or courts	29	32%
e. To defend against a libel/defamation/ invasion of privacy suit or to respond to a demand letter threatening such a suit	18	20%
f. To initiate legal action to challenge statutes or policies that hamper newsgathering	9	10%
g. To defend against another type of lawsuit meant to punish or silence reporting	5	6%
h. To provide support with online abuse (e.g., doxing, trolling, harassment, impersonation)	4	4%
i. To defend against a subpoena or government demand for information	4	4%
j. To help with a "friend of the court" brief	3	3%



7. If YES (to the legal assistance question, No. 5), what kind of legal assistance was it? (can check multiple items)

a. Pro bono	58	63%
b. From a paid law firm	28	41%
c. From a law firm, pro bono (free legal services)	34	37%
d. From a nonprofit organization, pro bono	20	22%
e. From a university legal clinic, pro bono	14	15%
f. From an in-house legal lawyer at your org	10	11%
g. Don't know	4	4%

8. If you received legal assistance from a law firm (paid or pro bono) can you please provide us with the name of the firm(s)?

A total of 47 individual firms and organizations noted, including the following (non-exhaustive list):

- Loevy & Loevy
- Davis Wright Tremaine LLP
- SNW Law
- Ballard Spahr
- Barrett McNagny LLP
- Doerner, Saunders, Daniel & Anderson, LLP
- Lawyers for Reporters
- Vance Center
- First Amendment Coalition
- Mayer Brown
- Sheppard Mullin
- University of Georgia Law First Amendment Clinic
- Paul Hastings
- Jones Day
- SMU Dedman School of Law's First Amendment Clinic
- Pro Bono Partnership



- Nixon Peabody LLP
- Lawyers Alliance for New York
- Reporters Committee for Freedom of the Press
- University of Illinois Chicago School of Law
- Chicago Lawyers' Committee for Civil Rights
- Northwestern Law
- Karlene Goller
- Kaplan Johnson Abate & Bird LLP
- Focus Media Law Group
- SmithDehn LLP

9. Had you quick access to unlimited assistance, what type of legal actions or support would you have initiated, but didn't?

a. To initiate a legal action to get access to information, public meetings or court	53	58%
b. To review a story before publication	40	43%
c. To help answer legal questions related to newsgathering (e.g., the right to record, cover a protest, attend a court hearing, scrape website data)	38	41%
d. To initiate a legal action to challenge statutes or policies that hamper newsgathering	32	35%
e. To help with legal issues not related to newsgathering or reporting, such as employment, intellectual property, governance, tax, etc.	22	24%
f. To defend against a libel/defamation/ invasion of privacy suit or to respond to a demand letter threatening such a suit	15	16%
g. To defend against another type of lawsuit meant to punish or silence reporting	15	16%
h. To provide support with online abuse (e.g., doxing, trolling, harassment)	14	15%



i. To defend against a subpoena or gov. demand for information	7	8%
j. To help with a "Friend of the Court" brief	5	5%
k. None of the above	14	15%

10. How would you rank the following legal needs by order or priority? First priority:

a. Access to public records	105	62%
b. Pre-Publication review	60	35%
c. Defense against subpoenas	21	12%

Nonprofits only (76):

a. Access to public records	36	51%
b. Pre-Publication review	35	50%
c. Defense against subpoenas	5	7%

Freelancers only (24):

a. Access to public records	17	81%
b. Pre-Publication review	6	29%
c. Defense against subpoenas	1	5%

11. Outside of these three areas, what is the largest unmet legal need in your newsroom? (Of those that answered and didn't repeat 3 areas)

a. General	13	27%
b. Intellectual property	9	19%
c. Employment	7	15%
d. Contract	6	13%
e. Threats	5	10%
f. Newsgathering	3	6%
g. Libel	3	6%
h. Immigration	2	4%



12. What is the main reason you or your news organization didn't use a lawyer in the past 12 months?

a. Did not have any legal needs	54	69%
b. Lack of financial resources to pay a lawyer	19	24%
c. No quick way to figure out what to do	13	17%
d. Lack of time needed to pursue legal action	11	14%
e. Couldn't find a pro bono lawyer	7	9%

13. Overall, how often would you say you or your news organization's legal needs are unmet?

a. Frequently	40	4%
b. Occasionally	52	31%
c. Rarely	57	34%
d. Never	21	12%

Freelancers only (21)

a. Frequently	10	48%
b. Occasionally	8	38%
c. Rarely	2	10%
d. Never	1	5%

14. How would you rate your ability to pursue "defensive" cases, such as defending against a libel lawsuit, a lawsuit charging invasion of privacy, government subpoenas, etc.? Compared to 10 years ago, you are:

a. Much less able	17	10%
b. Somewhat less able	8	5%
c. About the same	47	28%
d. Somewhat more able	23	14%
e. Much more able	25	15%
f. Don't know	50	29%



15. Overall, how would you rate your ability to pursue “offensive” cases, such as seeking access to information, public meetings or court proceedings, challenging statutes or policies that hamper newsgathering, etc.? Compared to 10 years ago, you are:		
a. Much less able	16	9%
b. Somewhat less able	20	12%
c. About the same	60	35%
d. Somewhat more able	26	15%
e. Much more able	18	11%
f. Don’t know	30	18%
16. Where do legal needs sit within your priority list?		
a. At the top — we know them all and act on them	17	10%
b. In the middle — we try to deal with them case by case	109	64%
c. Toward the bottom — these matters are not my decision, it’s up to the news organization	27	16%
d. At the bottom — there are too many other pressing problems	15	9%
17. When you need a lawyer, how quickly do you think you should be able to find one?		
a. That day	80	47%
b. Within a week	77	45%
c. Within a month	9	5%
d. Within three months	4	2%



18. Generally speaking, would you say the payment of standard legal fees make it difficult to move forward with your organization's mission critical work or significantly deplete your economic resources?

a. Yes	107	63%
b. No	23	14%
c. I don't know/not sure	40	23%

19. Are you aware of any pro bono legal services available to journalists and newsrooms in your state?

a. Yes	89	52%
b. No	81	48%

20. Have you used free legal services from any of these groups?

a. None of them	90	53%
b. Reporters Committee for Freedom of the Press	29	17%
c. State press association hotline	22	13%
d. Institute for Nonprofit News	14	8%
e. First Amendment Coalition	8	5%
f. Lawyers for Reporters	8	5%
g. Media Law Resource Center	2	1%
h. TrustLaw	1	1%

Other (entered by respondents):

- a. Local attorneys and legal aid groups (7)
- b. Gumshoe Group (5)
- c. Newspaper association (4)
- d. State coalition for open government (4)
- e. Law clinic at a university (3)



21. Do you support an increase in pro bono legal help for journalists?

a. Yes	156	92%
b. No	0	0%
c. Don't know	14	8%

23. If more free training in understanding legal issues and accessing free legal help were available, what would be the best ways to deliver it?

a. Through webinars	75	44%
b. At conferences, in person or virtual	38	22%
c. Short seminars in newsrooms	29	17%
d. All of the above	90	53%
e. None of the above	3	2%

24. Contact information

25. Is there anything we didn't ask you need to tell us?

In all, 27 people responded with further comments, including:

- Please prioritize freelancers in this work! They need the most help.
- I write about criminal justice. Defamation insurance is either unavailable or ridiculously priced relative to my income. So I go without and pray. I also wish I had more help in negotiating indemnification clauses out of standard publisher contracts. They're everywhere and insidious. Most writers don't know enough to worry about them, but if you understand their meaning, it's enough to make you want to quit the business or just write fluff.
- Our state press association exec. director is an attorney and is incredibly helpful.
- Having been the object of only one subpoena in 35 years, immediate needs are rare. There are issues that come up sometimes, like law enforcement withholding reports, that I could use help with — making sure, at least, that they understand the law before we would consider a legal action.



- e. It would be great if some organization created small grants to freelancers to cover filing fees for public-records access cases.
- f. Just because there is pro bono services does not mean that there is local counsel willing to do the work for no cost. Often there are also long delays in agreeing to take action on public records because there is a fear of cost.
- g. It would be great to have a resource for simple letters from attorneys stating — this is the law, you have to cough up these records because they're public information, hand it over. Sometimes it's that simple and it doesn't go any further. We just need an attorney to sign the letter and they comply.
- h. For the question that asked about the priority — it IS a high priority and we know it, but we just can't act on it from a resource perspective. So its not at the bottom of the list because we don't recognize it as high priority, we just don't have the resources to act.
- i. We are losing first amendment lawyers because they can't work for nothing. Without in-house counsel reporters aren't being trained on legal issues increasing the chance for libel suits and also limiting what reporters will take on fearing legal retribution a sort of self censoring.
- j. In Georgia, too much of this assistance is related to or provided through establishment organizations that will not aggressively challenge unjust laws and governments, and which too often view problems like open records failures and unlawful arrests of reporters as a rite of passage rather than a gross injustice.
- k. Would love help to initiate lawsuits over FOIL refusals
- l. My husband is a lawyer and he provides his services to our organization free of charge. Obviously that's not a great permanent strategy so we are interested in making sure there are free legal services available.
- m. Training is less an issue than affording access to attorneys. I have a good grasp of FOIA and media liability issues, but I'm not an attorney. Sometimes you just need a professional.
- n. Before Legal Aid + Lawyers for Reporters, we had no representation for 2 years when we first started. We are currently without insurance due to cost burden, so very interested in reduced rate programs as well.
- o. How to use the legal defense in our newsrooms to protect the information and sources. I am immigrant journalist and I need to research a lot to understand the legal process in USA. The most hispanic/latino media need this kind of the training.
- p. I want to share that the support of RCFP has been extremely valuable for my work as an independent filmmaker and journalist, and I likely would have not been able to do the same amount of in-depth investigative



research and information-gathering without their legal help, which included litigating FOIA requests and filing court motions. If RCFP can expand services to independent filmmakers and freelance journalists, for example to include agreements reviews, it would be great support for our journalism and documentary work.

- q. Legal fees are not affordable for independent filmmakers or grassroots newsrooms who are necessary for journalism ecosystem.
- r. Our biggest need that is currently not being met is offensive legal work (i.e. pursuing legal action to gain access to documents that should be made public).



D. ProJourn expansion

Below, we provide additional information about the considerations for the first slate of states in ProJourn’s expansion.

At a glance: Journalists & News Organizations in Existing and Future ProJourn States						
State	Employed Journalists (ranking) ¹²	Community newspapers ¹³	Radio and TV stations ¹⁴	INN members ¹⁵	LION members ¹⁶	Digital news publications ¹⁷
CA	4,100 (2nd)	366 (3rd)	759 (2nd)	41 (1st)	53 (1st)	69 (1st)
WA	800 (15th)	127 (23rd)	252 (20th)	8 (14th)	12 (14th)	26 (7th)
GA	1,440 (8th)	166 (15th)	384 (6th)	12 (5th)	16 (8th)	14 (18th)
NY	5,790 (1st)	303 (4th)	440 (4th)	36 (2nd)	32 (2nd)	57 (3rd)
NC	1,020 (10th)	155 (19th)	337 (7th)	9 (11th)	22 (3rd)	26 (6th)
TX	2,420 (3rd)	440 (1st)	942 (1st)	19 (3rd)	20 (4th)	24 (8th)



GEORGIA

Demand

1. **Number of journalists:** Georgia has the country's eighth largest journalism community, as indicated by the table above.
2. **Online news:** Georgia has the eighth greatest number of LION members and the 18th most total news digital startups, as measured by Project Oasis, making it relatively ripe for assistance in the emerging nonprofit news sector. Such organizations include The Current Georgia, Investigative Editing Corps, Georgia News Lab and the Center for Sustainable Journalism.
3. **Legal needs:** In our survey, half of the journalists and news organizations in Georgia said they had used a lawyer in the past 12 months, and the majority of those reached out to a lawyer to help answer newsgathering questions. The other half mentioned that had they had access to free legal services, they would have used a lawyer to initiate a legal action to get access to information, public meetings or court proceedings, and to help answer newsgathering questions. Only two of the respondents had used a paid law firm. In addition to the three workstreams, respondents mentioned that they would need help with "education for staff about open meetings laws" and "advice on social media." Only one respondent said they never had unmet legal needs. In addition, the pro bono counsel of a law firm with headquarters in Georgia mentioned that access work has become dramatically important in the context of the recent elections and the wave of disinformation that resulted.
4. **BIPOC communities:** Georgia is one of the most racially diverse states in the nation, with the fourth-highest percentage of nonwhite residents (41%) and third-highest percentage of African Americans (32%). The state is rich with journalists of color and newsrooms serving BIPOC communities, such as the [Atlanta Voice](#), a grantee of the Borealis Racial Equity in Journalism Fund, and the newly launched [Capital B](#), a Black-led, nonprofit local and national news organization reporting for Black communities across the country.
5. **Geography:** Georgia would represent the Southeast United States.

Supply

1. **Attorney pool:** Some of the law firms in Georgia prime for inclusion in the initiative include Bryan Cave Leighton Paisner LLP, Jones Day, King & Spalding LLP and Kilpatrick Townsend & Stockton LLP.



2. **Potential nonprofit partners:** Georgia has a relatively strong foundation of partners to build a critical mass of strong pro bono assistance, including the [Georgia First Amendment Foundation](#), the [First Amendment Clinic at the University of Georgia School of Law](#) and the Grady College of Journalism & Mass Communication.
3. **Potential corporate partners:** Coca Cola Co., Home Depot, UPS and Delta Airlines are all headquartered in Georgia.
4. **Fee-shifting provisions:** Yes, but it is discretionary.¹⁸

NEW YORK

New York is a logical place to expand the program as well, because three of the four founders operate from there: Davis Wright Tremaine LLP, Microsoft and RCFP.

Demand

1. **Number of journalists:** New York has the country's largest journalism community. More than 850 community newspapers serve the state — the most of any state in the nation.
2. **Online news:** New York has the second most LION members in the nation (32), after California (53), and the third most digital news publications (57) tracked by Project Oasis. They include Documented, Economic Hardship Reporting Project, Radio Ambulante and Solutions Journalism Network.
3. **Legal needs:** A New York-based respondent to RCFP [Local Legal Initiative](#) RFP said, "While large papers such as The New York Times and New York Post have the resources to mount challenges, local newspapers are essentially powerless. That is increasingly making it easy for local governmental entities — school districts, town boards, village boards, county legislatures and a host of others — to keep public information secret" and "small local newspapers struggling to keep reporters on staff simply can't afford to hire an attorney to pursue court appeals of rejected requests. They also can't afford to pay for attorneys to draft letters threatening legal action when even an initial decision on a FOIL request stretches into weeks and months." In our 2021 survey, we received 24 answers from journalists and news organizations in New York. Pre-publication review, access to public records and defense against defamation/libel suits were the top three legal needs expressed by these respondents. The additional legal needs expressed by respondents were "libel defense," "governance," "intellectual property," and "immigration law for employees."



4. **BIPOC communities:** New York has the seventh largest percentage of residents of color in the nation (36%) and the 12th largest percentage of Black residents in the country (16%). It also has the fifth largest percentage of Asian-American residents (8%). Hispanic and Latino residents represent more than 25% of the total population. The New York Press Association's membership includes 144 non-English newspapers that serve immigrant communities in New York City. New York hosts several news organizations that focus on either BIPOC or immigrant communities. For example, [Documented](#) is a news site that covers immigration issues, and [Radio Ambulante](#), a 501(c)(3) incorporated in New York, is an NPR-distributed podcast that tells uniquely Latin American stories in Spanish.
5. **Geography:** New York would represent the Northeast United States.

Supply

1. **Attorney pool:** Key firms in New York include Ballard Spahr LLP, Covington & Burling LLP, Davis Wright Tremaine LLP, and Paul, Weiss, Rifkind, Wharton & Garrison LLP.
2. **Potential nonprofit partners:** [New York Coalition for Open Government](#), Knight First Amendment Institute at Columbia University, [First Amendment Clinic at Cornell University](#), and Buffalo's Civil Rights and Transparency Clinic.
3. **Potential corporate partners:** J.P. Morgan, AIG, American Express and BlackRock.
4. **Fee-shifting provisions:** Yes, but it is discretionary unless the agency had "no reasonable basis" for denying access to the records.¹⁹

NORTH CAROLINA

Demand

1. **Number of journalists:** North Carolina has the country's 10th largest journalism community, as indicated by the table above.
2. **Online news:** North Carolina has the third most LION members in the nation (22), and the sixth most digital news publications (26) tracked by Project Oasis. They include Enlace Latino, Scalawag and the Foundation for Financial Journalism.
3. **Legal needs:** A respondent to RCFP's 2019 RFP said: "Reporters in North



Carolina often struggle to gain access to information retained by the government because many exemptions long codified in the North Carolina Public Records Law, and some that have passed only recently, have yet to be tested in court.” The same respondent added: “In North Carolina, the political volatility affects every beat, from sports to the arts to local government. And the tentacles of the powerful and secretive education system reach into nearly every aspect of our local and state coverage. The chilling effect on coverage is unquestionable: These powerful institutions are fully aware of the vulnerable state of journalism, and their actions to thwart the free flow of information is based on the knowledge that we are extremely limited in our ability to launch legal challenges.”

4. **BIPOC communities:** North Carolina has the 14th highest percentage of residents of color, at 31%, and the eighth highest percentage of Black residents (21%). As highlighted by [Que Pasa Media](#), a Knight grantee: “North Carolina’s Hispanic population represents over 1 million individuals and is currently growing at a rate nearly 10% higher than the national average.” The state hosts several news organizations that focus on either BIPOC or immigrant communities. For example, [Scalawag](#) “works in solidarity with oppressed communities in the South to disrupt and shift the narratives that keep power and wealth in the hands of the few,” and [Enlace Latino](#) is the first Spanish-language nonprofit digital news outlet on politics, immigration and public affairs for Latino immigrants in North Carolina.
5. **Geography:** North Carolina would further represent the East Coast and the South. While a Midwest state might provide more geographic diversity for this initial phase, the state’s other strengths, particularly its rich ecosystem of nonprofits, justify its inclusion.

Supply

1. **Attorney pool:** Bryan Cave Leighton Paisner LLP, McGuire Woods LLP, Brooks, Pierce, McLendon and Humphrey & Leonard, LLP.
2. **Potential nonprofit partners:** Sunshine Center of the North Carolina Open Government Coalition, and Duke University First Amendment Clinic. In North Carolina, some interesting initiatives aimed at revitalizing local journalism have emerged these past years, such as News Voices: North Carolina and the North Carolina Local News Lab Fund, which is supported by the Democracy Fund’s Public Square program in partnership with the Knight Foundation. In addition, North Carolina hosts the Center for Innovation and Sustainability in Local Media, at the UNC Hussman School of Journalism and Media, and the North Carolina Local News Workshop at the School of Communications, Elon University.



3. **Potential corporate partners:** Compass, Bank of America and Honeywell.
4. **Fee-shifting provisions:** Yes, except in narrow circumstances.²⁰ The same respondent to RCFP’s RFP mentioned: “As newsrooms and newsroom budgets have correspondingly shrunk, fewer news organizations are able to hire attorneys to handle the many potential violations of North Carolina access laws except on a contingency fee basis. This often means that a plaintiff relies on North Carolina’s fee-shifting statute and a judge’s discretion to shift the costs of litigation to the public agency found in violation of the law. This is a precarious situation. Few news organizations can afford litigation costs upfront and few attorneys are able and willing to take on contingency matters under these circumstances.”

TEXAS

Demand

1. **Number of journalists:** Texas has the country’s third-largest journalism community, as indicated by the table above. However, about 60% of counties in Texas have one or zero newspapers, [according to the Washington Post](#), meaning the news ecosystem needs support. Some innovative independent news organizations are trying to fill that void.
2. **Online news:** Texas has the fourth most LION members in the nation (20), and the eighth-most digital news publications (24) tracked by Project Oasis. They include the Texas Observer, El Paso Matters, Dallas Free Press and The 19th.
3. **Legal needs:** A respondent to the 2019 RCFP RFP said: “Texas is fortunate to have a talented group of First Amendment and open government attorneys. However, this is a huge state, and news organizations’ need for legal assistance exceeds current capacity.” The respondent provided several examples of how pro bono legal assistance would be used by the different stakeholders, including academics: “They would benefit from legal assistance, whether through FOI requests, pre-publication review or general hotline questions.” These legal needs correspond to ProJourn’s scope. In our 2021 survey, the majority of our respondents from Texas said they **frequently** have unmet legal needs and confirmed that pre-publication review and access to public records are their two most pressing legal needs.
4. **BIPOC communities:** Texas has the 18th highest percentage of nonwhite residents in the nation and is tied with California for the second highest



percentage of Hispanic residents (39%) in the nation, after New Mexico. One of the investigative topics that could greatly benefit from First Amendment lawyers is **immigration**. The same respondent gave the example of El Paso Matters, which “would also benefit, as it engages in public records access requests in coverage of the ongoing immigration crisis on the Texas-Mexico border.” Also: “Texas has a longer border with Mexico than any other state, and so much of the immigration process in the region is shrouded in darkness. News organizations covering the border have encountered federal policies that prevent journalists and attorneys from fully observing makeshift court proceedings in tent cities near the Texas-Mexico border. This blocking of access to court proceedings is happening exclusively in tent cities in Texas — namely in Laredo and Brownsville. Immigration news coverage is of particular importance in communities such as El Paso, Harlingen, Brownsville, McAllen, Laredo and San Antonio, where a large portion of the population is Latino and has close ties with Mexico.” Supporting newsrooms that primarily serve Mexican immigrants aligns with ProJourn’s strategic priority to reach newsrooms serving audiences whose English is not their primary language.

5. **Geography:** Texas would represent the Central South/Southwest.

Supply

1. **Attorney pool:** Gibson, Dunn & Crutcher LLP and Jackson Walker LLP.
2. **Potential nonprofit partners:** [SMU Dedman School of Law’s First Amendment Clinic](#), Freedom of Information Foundation of Texas and Texas Center for Community Journalism.
3. **Potential corporate partners:** Salesforce, Kimberly Clark, AT&T and Toyota.
4. **Fee-shifting provisions:** Yes, except in narrow circumstances.²¹



E. Metrics and impact assessment

A central component of a pro bono program geared toward providing legal services to journalists includes assessing its impact and success against a predetermined set of metrics. Such metrics could include:

1. Impact of pro bono legal assistance on democracy i.e., demonstrated changes in society that occur as a result of the supported reporting
2. Number of pro bono hours contributed
3. Financial value of those pro bono hours
4. Number of legal matters (broken down by type of matter, jurisdiction and client type)
5. Resolution of matters, including court decisions
6. Number of pro bono attorneys (both at law firms and corporate in-house legal teams) involved in ProJourn matters

Additional metrics may include:

1. Number of public records requests submitted and percentage denied, broken down by jurisdiction and local vs. national, as currently measured by MuckRock.com.
2. Number of public record lawsuits filed by state (broken down by subject matter, profile of ProJourn participant and jurisdiction)
3. Numbers of participants in training sessions and number of FOI requests or pre-publication review matters directly attributable to these training sessions (broken down by jurisdiction)
4. Number of new pro bono attorneys trained (broken down by jurisdiction and type of attorney)
5. Number of pre-publication review matters. broken down by jurisdiction, type of attorney, and type of project vetted (articles, podcasts, documentary film projects, etc.)
6. Percentage of BIPOC members of communities benefiting from ProJourn (broken down by jurisdiction)



An important component of field-building is to organize and create or adopt common goals and standards — not the least of which are uniform measurements, which allow benefactors to see the field and track its growth.

RCFP continues to increase its internal data-keeping about the legal services it provides and growing the organization's capacity could leverage that experience to better measure the legal needs and services for the entire news ecosystem. For example, annual surveys of news organizations and lawyers would enable the entire industry to better understand how much legal capacity is put to the service of journalism, in the same way the philanthropic sector tells us how much funding is directed to these purposes. In addition, this survey would better inform stakeholders on the impact legal assistance can have on the sector, encouraging even more lawyers to participate in the program.



F. Existing pro bono resources

Available metrics

Some measuring projects come close to being helpful. Examples:

- The 2020 [Pro Bono Institute’s Report on the Law Firm Pro Bono Challenge Initiative](#) is broad in scope but does not provide any information related to First Amendment or media law.
- The Thomson Reuters Foundation [2020 Pro Bono Index](#) shows that 15% of respondent law firms indicated that they offered pro bono legal assistance in support of “freedom of the media and expression.” But it’s a global study.
- The [Transactional Records Access Clearinghouse at Syracuse University](#) has identified 174 federal FOIA lawsuits filed in 2020 on behalf of reporters and news organizations. This list, however, does not parse that data into the number of matters taken on a pro bono basis.
- Even subgroups such as the [ABA’s Forum on Communications Law](#) or the [First Amendment Lawyers Association](#) have trouble tracking membership details. And memberships from those groups can’t be tallied because they overlap.

Law firms (non-exhaustive list)

1. Davis Wright Tremaine LLP

Practice Area	Year	Pro Bono Hours	In-Kind Value	% Done to Support Journalists, Freelance & Newsrooms
Media	2020	5,148	\$3,380,100	48%
	2021	5,500	\$3,595,645	73%



2. Ballard Spahr

In 2020, Ballard Spahr reported **1,740 hours on pro bono representations on behalf of journalists, freelance and newsrooms**. This number includes media law matters only and does not include, for example, governance, employment, or non-media contract or IP matters. It does not include all pro bono media law and First Amendment representations, for example, representations on behalf of filmmakers. The same year, **4,278 pro bono hours were performed by media lawyers**.

In 2021, Ballard Spahr reported **2,755 hours on pro bono representations on behalf of journalists, freelance and newsrooms**. The same year, **5,413 pro bono hours were performed by media lawyers**.

Ballard Spahr did not provide the monetary value of their pro bono hours.

Nonprofit organizations (non-exhaustive list)

1. Reporters Committee for Freedom of the Press

RCFP, founded in 1970, has long provided free legal resources to journalists across the country. In 2014, it started a litigation program, and, in 2020, it launched the [Local Legal Initiative](#), which provides direct support to local journalists by employing attorneys in five states across the country. In its [first two years](#), the initiative represented more than 120 journalists and news organizations, pried loose about 10,000 pages of public records, and trained more than 700 journalists and lawyers. Including those five local attorneys, RCFP currently has a legal staff of 14 attorneys, eight legal fellows and one paralegal. These attorneys litigate more than 70 matters per year, which does not include additional advising they provide to journalists that does not lead to litigation. At any given time, RCFP attorneys also provide pre-publication vetting for about 20 reporting projects. Each year, they file or send more than 60 amicus briefs or letters, and assist with more than 550 requests for help through a free legal hotline.

Regarding ProJourn, RCFP is very well placed to act as a connector due to its long-standing expertise and presence in the legal and journalism spaces. An example is its coordination of the [Free Expression Legal Network](#), a coalition of law school clinicians and academic non-clinicians who provide pro bono legal support for public interest journalism. It was launched in 2019 by RCFP and Yale Law School's Media Freedom and Information Access Clinic. Since then, this [network](#) has grown to 32 clinic members.



Furthermore, RCFP has long maintained relationships with First Amendment attorneys and journalists across the country. It frequently connects journalists in need of assistance to local attorneys through its legal hotline and relies on volunteer attorneys to write many of its legal guides. The organization also has relationships with newsrooms, media companies and journalism groups, almost 200 of which joined RCFP amicus briefs or letters and roughly 40 of which hosted or co-hosted RCFP attorneys for trainings or speaking engagements in 2021.

2. Lawyers for Reporters

Lawyers for Reporters (L4R) is a joint project of the Cyrus R. [Vance Center](#) for International Justice and the [Press Freedom Defense Fund](#), providing pro bono legal assistance to local journalists and media organizations in the United States.

Their beneficiaries are “print and online publishers, radio, television, and Internet content providers, freelance writers, photographers, documentarians, and videographers as well as investigative, advocacy, and academic publishers of public interest content.”

L4R can help with the following legal matters:

- Conversion to nonprofit status
- Fiscal sponsorship or tax-exempt status
- Insurance
- Compliance
- Data protection and privacy
- Real estate
- Pre-publication review
- Defense against lawsuits and help respond to litigation threats
- Copyright and licensing
- Employment
- Independent contractor issues
- Nonprofit governance

Whenever they are unable to help journalists, Lawyers for Reporters refers them to partner organizations [Reporters Committee for Freedom of the Press](#), [Committee to Protect Journalists](#) and [Reporters Without Borders](#).



3. First Amendment Coalition

The [First Amendment Coalition](#) (FAC) is a California-based nonprofit public interest organization dedicated to advancing free speech, more open and accountable government, and public participation in civic affairs. It focuses primarily on California and [is one of 40 state coalitions for open government](#).

The organization's legal hotline gives users free access to FAC's lawyers for questions about access to public records; the right to attend government meetings; access to court documents and proceedings; and First Amendment protections for freedom of speech and freedom of the press. In 2021, FAC received 849 hotline queries, 501 of which were handled by FAC staff on behalf of journalists on deadline and 348 of which were handled by outside counsel via online written submission forms.

The organization's [Subpoena Defense Initiative](#) is rolled out in partnership with the Press Freedom Defense Fund. The SDI program provides legal support for journalists who are subpoenaed for their confidential sources and notes. In 2021, FAC provided advocacy and amicus legal support to a freelance journalist whose equipment was improperly seized and searched, and provided two training sessions for lawyers on journalist subpoena defense.

FAC also organized nine customized training sessions for journalists and others on open-government or First Amendment issues.

In 2021, FAC had 10 pending lawsuits, which included lawsuits that concluded during the calendar year. This number also includes three motions — two to unseal records in the California Supreme Court and one to unseal records in Los Angeles Superior Court.

Five of the organization's six public records lawsuits (CPRA, FOIA) resulted in the disclosure of records that were previously unavailable. FAC's other four actions involved arguing for access to court proceedings, or access to court records. Its motion to ensure open court proceedings was mooted when the movant withdrew their motion. One of their motions to ensure court records were not improperly sealed was mooted when the proposed sealing was dropped. One of their motions forced the disclosure of previously redacted records. Finally, their lawsuit to ensure remote public access to proceedings settled — after the court at issue, Kern County Superior Court, agreed to provide free telephonic access to the public.



4. Knight First Amendment Institute at Columbia University

The Knight First Amendment Institute at Columbia University, established in 2016, is a nonprofit organization that defends the freedoms of speech and the press in the digital age through strategic litigation, research and public education. Its programs focus on new manifestations of longstanding threats to freedom of speech and the press, and the many novel challenges arising from evolving technologies. The privatization of the public square, the expansion of the surveillance state, the steady creep of government secrecy, the demonization of the media by the nation's most senior officials, the aggregation of massive amounts of personal data in the hands of private corporations, machine-amplified distortions of public discourse — these are just some of the challenges to the free expression system on which our democracy depends, and the kind of challenges the Institute is working to understand and address.

The Institute's litigation docket of roughly 20 matters focuses on "impact" litigation that has the potential to establish important new law relating to the freedoms of speech and the press, or that has the potential to change significant government policies or practices relating to those freedoms. For individual newsgathering matters that do not fit that framework, it typically refers journalists to other organizations.

5. Freedom of Expression Legal Network (FELN)

[The Freedom of Expression Legal Network](#) is a nationwide coalition of law school clinics, academics and practitioners focused on promoting and protecting free speech, free press, and the free flow of information to an informed and engaged citizenry. Roughly half of its clinic members work exclusively on First Amendment and government transparency; the rest focus on technology, IP, immigration, etc., which can intersect with free speech, free press or transparency.

The coalition currently includes these 32 law school clinics or similar organizations, as identified on its website:

- Arizona
 - [ASU First Amendment Clinic](#)
- California
 - [California Western New Media Rights](#)
 - [UC-Berkeley Samuelson Law, Technology & Public Policy Clinic](#)
 - [UCI Intellectual Property, Arts, and Technology Clinic](#)
 - [UCLA Documentary Film Legal Clinic](#)
 - [UCLA First Amendment Amicus Clinic](#)



- Colorado
 - [Colorado Law Samuelson-Glushko Technology Law & Policy Clinic](#)
- Connecticut
 - [Yale Media Freedom & Information Access Clinic](#)
- Georgia
 - [UGA First Amendment Clinic](#)
- Louisiana
 - [Tulane First Amendment Law Clinic](#)
- Massachusetts
 - [BU/MIT Technology Law Clinic](#)
 - [Harvard Cyberlaw Clinic](#)
- Michigan
 - [Michigan State University First Amendment Law Clinic](#)
- Missouri
 - [Washington University First Amendment Clinic](#)
- New York
 - [Albany Family Violence Litigation Clinic](#)
 - [Albany Health Law Clinic](#)
 - [Albany Immigration Law Clinic](#)
 - [Brooklyn Law Incubator & Policy Clinic](#)
 - [Cardozo Filmmakers Legal Clinic](#)
 - [Columbia Law School Science, Health, and Information Clinic](#)
 - [Cornell First Amendment Clinic](#)
 - [Buffalo Civil Rights & Transparency Clinic](#)
 - [NYU Technology Law & Policy Clinic](#)
- North Carolina
 - [Duke First Amendment Clinic](#)
- Ohio
 - [Case Western Reserve First Amendment Clinic](#)
- Tennessee
 - [Vanderbilt First Amendment Clinic](#)
- Texas
 - [Southern Methodist University First Amendment Clinic](#)
- Virginia
 - [Scalia Law School Free Speech Clinic](#)
 - [University of Virginia First Amendment Clinic](#)
- Washington, D.C.
 - [American University Glushko-Samuelson IP Law Clinic](#)
 - [Georgetown Institute for Constitutional Advocacy & Protection Practicum](#)



6. Faculty Legal Defense Fund

The Foundation for Individual Rights in Education (FIRE) recently launched a new initiative focused on providing faculty with free legal help when their rights are violated in ways beyond what FIRE's longstanding Legal Network has provided. The new [Faculty Legal Defense Fund \(FLDF\)](#), funded by the Stanton Foundation, is a program tailored to offering "first responder" assistance in protecting the freedom of expression and academic freedom held by faculty members at public colleges and universities. This narrower focus seeks to provide legal help — at no cost to faculty members — by connecting them, where needed and appropriate, to experienced counsel in their area who are in their network of pre-screened and pre-selected participating attorneys.

Public college and university faculty who face a threat of sanction by their institution or have been punished for expressive activity — whether it's instruction, scholarship or speaking on issues of public concern — can submit matters for FLDF consideration. They can do so through FLDF's dedicated 24-hour Hotline at 254-500-FLDF (3533), or submit a case online. Their staff quickly review the matter and, if it falls within FLDF's mandate, connect the faculty member with one of the experienced nearby lawyers in the FLDF network for assistance.

The attorney will engage the faculty member directly as a client, then work with them through initial legal efforts such as advising on possible courses of action and trying to help resolve disputes with the institution or administrators. Funds from FLDF pay the legal fees for these initial steps.

If substantial further legal work appears warranted, including that the matter may require resolution in court, the attorney may apply on the faculty member's behalf to FLDF's Litigation Committee for further funding. If the matter is approved, FLDF may pay the legal fees for the litigation (or other further dispute resolution) needed to seek a positive outcome for the faculty member.

7. Legal funds

In addition to pro bono legal services providers, several legal funds support journalists with legal fees and costs, including:

- The National Freedom of Information Coalition's [Knight FOI Litigation Fund](#) aims to pay for court costs, filing fees, depositions and related expenses, typically \$2,000-\$3,000 per case.



- [The Society of Professional Journalists' Legal Defense Fund](#) aims to “initiate and support litigation that enforces public access to government records and proceedings.” Via the Knight FOI Litigation Fund, court fees may also be covered. The committee can provide grants of up to \$5,000, and larger amounts are considered by the SPJ Board of Directors up to twice per year.
- [The Society of Professional Journalists' First Amendment Forever Fund](#) endowment for press advocacy. The committee can provide grants of up to \$5,000, and larger amounts are considered by the SPJ Board of Directors. This fund focuses on “broad impact on preserving press freedom beyond just one individual or organization; long-term impact on preserving press freedom; increased public awareness, support and trust in an independent watchdog press; and focused attention on the fund that could attract additional support, either direct financial contributions or in partnerships and collaborations.”
- The [Free Press Unlimited Legal Defense Fund for Journalists](#) covers lawyers' legal fees. Despite its worldwide coverage, Free Press Unlimited is based in the Netherlands with a heavy focus on Europe.
- The [Press Freedom Defense Fund](#) provides grants to defend a variety of local and international cases. The fund's website does not provide details as to what types of expenses are covered or what are the amounts typically awarded to journalists.
- The [Substack Defender program](#) helps cover legal fees of up to \$1 million per case. This program supports only independent journalists who are Substack users, with help including pre-publication legal review of individual stories and responses to cease-and-desist letters.
- A 2018 survey of state press associations by RCFP found that six associations — of the 35 that responded — offered some kind of legal fund. The majority of these funds were designated for access-related issues or for responding to subpoenas or demand letters, and all of them were limited to members of the association.

At the international level, the [Legal Network for Journalists At Risk](#), a consortium of organizations that aim to support journalists across the globe through diverse forms of legal support, from strategic litigation to trial monitoring, will start operating in June 2022. Its focus, however, will not be on the U.S.



G. Endnotes

¹ See the American Bar Association’s Rule 6.1 of its Model Rules of Public Comment, focusing on voluntary pro bono public service: https://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/rule_6_1_voluntary_pro_bono_publico_service/. ProJourn’s eligibility criteria are similar for nonprofit and for-profit entities, with an additional requirement related to ownership for for-profit entities.

² According to Steve Waldman and Lauren McKown (Feb. 1, 2022): “Researchers have found the same problems with [Facebook groups](#); some 75% of Americans said they encountered misinformation on Facebook, while only 16% said they did in their local newspaper.”

³ Page 35: “Like private media, public broadcasting in the United States has a mixed history of providing local news and information. On the one hand, a 2007 Roper opinion poll found that nearly half of all Americans trust the Public Broadcasting Service “a great deal,” higher than the numbers rating commercial television and newspapers. On the other hand, with some notable exceptions, public broadcasting in America has been widely criticized as being insufficiently local or diverse. Public stations do not have a strong record of spearheading local investigative journalism, and most public radio broadcasters have little or no local news reporting staff. Finally, again with some promising exceptions, local public stations have failed to embrace digital innovations as a way to better connect with their communities.”

⁴ This survey asked broadly about “legal needs,” to capture a larger list of legal matters, such as pre-publication review. A [2015 survey](#) by the Knight Foundation, mostly of traditional media, found that 61% of newsrooms’ top editors said they “did not fail to pursue a single case because of a lack of resources.” But “legal actions” and “cases” make up only the tip of the “legal needs” iceberg.

⁵ We acknowledge that because RCFP coordinated this survey, there likely is some selection bias at play. To minimize that, the survey was circulated among several membership groups representing different types of journalists; only 10% of responses came from outreach to RCFP’s clients and contacts directly, compared to, for example, 26% of responses that came through state press associations.

⁶ The Media Law Resource Center, a membership organization of media organizations and the lawyers that represent them, provided us their most recent count of members, as of Feb. 28, 2022, which included 3,812 individuals. Of those, 69 (2%) were associate members in non-U.S. law firms, 1,686 (44%) were defense counsel at 183 U.S. law firms, and 2,057 (54%) were lawyers working in-house for 143 media companies. Not every attorney with MLRC’s member companies is individually listed, nor is every private practice attorney who has handled media-related matters a member of MLRC. Notably, MLRC does not accept as members law firms that represent plaintiffs in defamation litigation matters against the media. The membership list also does not delineate between attorneys specializing in First Amendment law versus those specializing in intellectual property matters or the business side of media. Still, it is likely the closest accounting of the number of media lawyers who have significant experience in representing the interests of journalists and media organizations.

⁷ As of March 25, 2022.

⁸ APBCo “[Mission, Matter, Means](#)” policy focuses on whether an organization serves a nonprofit mission, such as promoting civil rights, whether the applicant’s matter would promote a human rights cause, or whether a nonprofit does not have the means to hire an attorney, based on a review of the organization’s finances, previous use of paid legal services, extent of help needed, and the nature of the constituency served. See <https://apbco.org/wp-content/uploads/2020/02/Mission-Matter-Means-2.0.pdf>

⁹ These ethical standards are directly inspired by the INN’s standards (<https://inn.org/resources/ethics-governance/>), SPJ’s Code of Ethics (<https://www.spj.org/ethicscode.asp>), the American Press Institute’s guidance on philanthropic funding of news (<https://www.americanpressinstitute.org/publications/nonprofit-funding-guidance/>) and those of The Trust Project (<https://thetrustproject.org/>).



¹⁰ Groundbreaking partnership to develop national pro bono media law network,” Reporters Committee for Freedom of the Press, <https://www.rcfp.org/pro-bono-media-law-network-release/>

¹¹ The survey was administered before subpoena defense was decided to be omitted from future ProJournal activity. Responses in the survey regarding subpoena defense informed that decision.

¹² Bureau of Labor Statistics employment figures for “News Analysts, Reporters, and Journalists” are as of May 2020 and do not include those who are self-employed, such as freelancers. The Pew Research Center used the same data source for its 2021 report on newsroom employment, though it also included the Bureau’s categories for photojournalists, camera operators and editors. There is no way to further segregate the data to exclude “News Analysts.” We assume there are more in New York than in the other states. The national rankings provide context, demonstrating a relatively large concentration of journalists within these states.

¹³ Community newspapers, including weeklies and daily newspapers, 2019 data, from the University of North Carolina at Chapel Hill News Deserts project, <https://www.usnewsdeserts.com/>.

¹⁴ Broadcast association membership numbers obtained from the National Association of Broadcasters, including commercial radio and television stations, <https://www.wearebroadcasters.com/ourImpact/default.asp>.

¹⁵ Institute for Nonprofit News membership numbers obtained from INN on March 4, 2022.

¹⁶ Local Independent Online News publishers membership directory available at <https://www.lionpublishers.com/members/>.

¹⁷ Digital news publications as collected by Project Oasis, a database of “locally focused digital news publications,” built in a collaboration between UNC Hussman School of Journalism and Media, LION Publishers, Douglas K. Smith, and the Google News Initiative. <http://hussman.unc.edu/news/introducing-project-oasis-new-research-and-strategies-digital-news-startups>

¹⁸ “In any enforcement action in which the court determines that a person or entity acted without substantial justification in not complying with the Act (or in instituting the litigation), the court may assess reasonable attorney’s fees.” Georgia Chapter, RCFP’s Open Government Guide, <https://www.rcfp.org/open-government-guide/georgia/#a-attorney-fees> (citing O.C.G.A. § 50-18-73(b)).

¹⁹ New York courts have discretion to award attorney’s fees in cases where “a requestor is denied access, has substantially prevailed, and the agency failed to respond to a request or appeal within the statutory time.” But the court is required “to award attorney’s fees where the requestor is denied access, has substantially prevailed, and the court finds that the agency had ‘no reasonable basis’ for denying the request.” New York Amends FOIL Provisions on Attorney’s Fees, Davis Wright Tremaine LLP, <https://www.dwt.com/insights/2017/12/new-york-amends-foil-provisions-on-attorneys-fees> (citing N.Y. Pub. Off. Law § 89).

²⁰ “A requestor who prevails in a civil suit brought pursuant to the Public records law may seek an award of attorney fees. The statute was amended to make an award of attorney fees to a party winning access virtually mandatory. The court ‘shall’ award fees unless the noncompliant public agency was following a judgment or order of a court, a published appellate opinion, or a written opinion from the Attorney General.” Georgia Chapter, RCFP’s Open Government Guide, <https://www.rcfp.org/open-government-guide/north-carolina/#a-attorney-fees> (citing G.S. § 132-9(c)).

²¹ “Attorney’s fees are recoverable for the party who substantially prevails. ... However, fees may not be assessed if the court finds that the governmental body acted in reasonable reliance on a judgment or an order of a court, the published opinion of an appellate court, or a written decision of the Attorney General.” Texas Chapter, RCFP’s Open Government Guide, <https://www.rcfp.org/open-government-guide/texas/#a-attorney-fees> (citing Tex. Gov’t Code § 552.323(a)).