RESOLVED, That the American Bar Association urges Congress and the Administration to enact legislation and/or strengthen and develop initiatives to establish and support technology-based access to justice in underserved communities.

FURTHER RESOLVED, That the American Bar Association urges Congress, the Administration, and other appropriate entities to enact legislation and/or strengthen and develop initiatives to bridge the "digital divide," the gap between those who have access to technology and/or the requisite skills to use such technology effectively and those who do not, by increasing access to technology and technology skills for underserved communities.

FURTHER RESOLVED, That the American Bar Association urges state, local and territorial bars to establish and support initiatives to bridge the "digital divide" by increasing access to technology and technology skills for underserved communities.
"The digital divide is arguably the single most important social issue arising from the digital revolution."


**Background**

As our nation makes significant technological advancements, it is important for each of our communities to have both the access and the skills necessary to make use of such technology. According to former Secretary of Commerce, Norman Y. Mineta, "The Internet is becoming a vital tool in our daily lives, from international business transactions to keeping in touch with family members. Each year, being connected becomes more critical to economic and educational advancement and to community participation."

Technology, specifically the Internet, has become an integral part of education, training, commerce, entertainment, politics, business and communications. It has reached global proportions and is used for a variety of activities ranging from tracking the latest news coverage to submitting employment applications to receiving legal assistance. As a result, the number of Internet users worldwide is increasing steadily. There are approximately 679 million users in Asia; 136 million in North America; 83 million in Europe; and 2.5 million users in Africa.

Over the past few years, the Internet has made a significant impact on the legal community. Many law firms have utilized technology by developing Web sites or listing themselves in online directories. Both the Web sites and the online directories are perused routinely by people searching for legal representation or information. In addition, organizations that provide legal services, such as the Legal Services Corporation (LSC), are online and provide increased accessibility to those in underserved communities. Support for the LSC has been one of the American Bar Association’s legislative priorities for several years. In addition, many court opinions can be found online. The federal government also provides information online regarding its agencies, programs and services (e.g. public assistance, public housing, and food and nutrition services for the underprivileged).

2<www.lsc.gov>.
4See supra note 2.
While technology has been important to the legal community, by far the most popular use of the Internet is for electronic mail (email). Email allows messages to be transmitted electronically via telecommunication links within seconds. It is estimated that there are 96.6 million email users aged 14 and older in the U.S. alone. And email volume is approximately 536.3 billion—which marks a 142.3 billion increase since 1992. As a result, anyone who is (1) without access to online communications at home or work and/or (2) not at least literate in technology will be at a serious disadvantage in the 21st century economy. In today’s competitive society, the ability to navigate the Internet has become a necessity rather than a luxury.

However the stark reality is that there is a significant gap between Internet access and technology skills for the “information-rich” and the “information-poor.” This gap was termed the “digital divide” by the U.S. Department of Commerce in 1995. The digital divide is based largely on socioeconomic status and primarily affects those in underserved populations. If deployment was left to market forces alone, the following consumer groups would be particularly vulnerable to not having access to advanced technology services: (1) rural, including Indian country, including, but not limited to reservations and dependent Indian communities; (2) inner-city; (3) low-income; (4) minority; (5) elderly; and (6) disabled. These consumer groups constitute underserved communities, because they are less likely to have access to technology and/or the skills necessary to use technology effectively.

The Impact of the Digital Divide on Underserved Communities

As former President Bill Clinton stated in his last State of the Union address, “Opportunity for all requires something else today—having access to a computer and knowing how to use it. That means we must close the digital divide between those who’ve got the tools and those who don’t.” This statement reflects the reality that in today’s society, it is necessary to have both access to technology as well as technology skills, in order to be competitive. For example, nearly one

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10For purposes of this report, the “underserved populations” include low-income people, racial or ethnic minorities, the disabled, the elderly and those who live in rural areas. See The Children’s Partnership, Online Content for Low-Income and Underserved Americans: The Digital Divide’s New Frontier, April 2000, p. 1.

11For purposes of this report, “low-income” is defined as having an annual family income of less than $14,150 for a family of three, the level used by the federal government to define poverty. Id. at 11.

12See supra note 6.
million technical jobs in the U.S. go unfilled for lack of trained American workers.¹³ Yet in the
U.S., only 51% of all households have computers and just 41.5% of households have Internet
access.¹⁴

According to studies conducted by the U.S. Department of Commerce, Internet access tends to
correlate closely with income. For example, Internet access among households earning $35,000
to $49,000 was 46.1% in August 2000. During that same period, Internet access was 60.9% for
households earning $50,000 to $74,999 and the number increased to 77.7% for households
earning above $75,000.¹⁵ However, just 10% of U.S. households with annual incomes of less
than $25,000 owned a computer in August 2000. Coincidentally, those who are eligible for legal
assistance from the LSC tend to fall into the low-income category. According to the Center for
Political and Economic Studies, households with incomes above $70,000 were 20 times more
likely to have Internet access and nine times more likely to have a personal computer than the
average American household.¹⁶

The level of one’s education, which usually affects income, is another factor that impacts upon
one’s ability to access technology. According to a study conducted by the U.S. Department of
Commerce, 69.9% of households headed by someone with post-college education had Internet
access. The rate was 64% for those with a college degree, 49% for those with some college
experience, 29.9% for those educated beyond high school with no college degree, and a mere
11.7% for those with less than a high school degree.¹⁷

Minority groups are also disproportionately impacted by the digital divide. While 55.7% of
White households had personal computers in August 2000, that figure was just 32.6% for
African-American households and 25.5% for Hispanic households. In addition, while 46.1% of
Whites have Internet access at home, just 23.5% of African-American households have such
access. The rate is slightly higher for Hispanics at 23.6%.¹⁸

<www.mfotodav.com/lu/iul00/cophaim.htm>.
¹⁵Ibid. at xvi.
¹⁶Bandwith as Money: Broadband Access and the Digital Divide, EMARKETER.COM, November 7, 2000;
¹⁷See supra note 10, at 11.
¹⁸The Diminishing Digital Divide, EMARKETER.COM, October 19, 2000;
<http://www.business2.com/content/research/numbers/200010/19/21370>.
Such disparities between the information-rich and the information-poor also are evident in the rural areas. In the year 2000, 38.9% of the households in U.S. rural areas had Internet access. The figure plummets to just 19.9% for rural African-American households. Rural areas lag far behind urban areas in broadband or high speed Internet access availability such as digital subscriber lines (DSL) or cable modem service. As a result, broadband deployment in rural towns (populations of fewer than 2,500) is more likely to occur than in remote areas outside of towns. While 65% of all cities with populations over 250,000 have cable modem service, less than five percent of towns of 10,000 or less have such service. And while more than 50% of all cities with populations exceeding 100,000 had DSL available, less than 5% of cities with populations less than 10,000 had such service.

In addition, the disabled are often at a disadvantage when it comes to Internet access and the skills to use such technology effectively. There are more than 34 million blind, visually impaired, deaf, hard-of-hearing, and otherwise disabled Americans. As a result, it is important that to ensure that technology does not create a greater gap between the information-rich and the information-poor. Currently, the disabled are only half as likely to have access to the Internet as those without a disability—21.0% compared to 42.1%. As further evidence of the disparity, 60% of people with a disability have never used a computer.

Legal Services and the Digital Divide

Often, people living in the underserved communities are disadvantaged when procuring legal services. Low-income people may not have the finances to secure legal representation or information. In addition, legal representation in rural communities may not be as accessible as it would be in metropolitan areas. As a result, a significant segment of the population may be “left behind” and may not have adequate access to experts in the legal field. The Internet helps alleviate this disparity by providing tools for those in underserved communities, to conduct legal research, search for an attorney, and pursue the services provided by the LSC and other providers of pro bono or reduced fee legal services. The Internet is also a means for lawyers living in such communities to avail themselves to the same information and assistance that other lawyers in other communities are able to use as well.

Access to the Internet at home, school, work or community technology centers would provide underserved communities with increased access to the legal services offered by the LSC and others. Several valuable Web sites have been launched to improve access to legal services. A California legal services Web site allows browsers to download and complete forms from the

105A
Internet on domestic violence, paternity suits, and small claims cases. It even provides virtual tours of the courts, in order to make people feel more comfortable with the judicial system.\(^1\)

New York has an Online Domestic Violence Protection Project that allows one to: (1) seek a family order of protection against an abuser; (2) plan for safety; (3) learn more about shelters and other domestic violence services; and (4) find out how to obtain an attorney. The site also provides a hyperlink to the Legal Services for New York City.\(^2\)

Pine Tree Legal Assistance in Maine is another popular site that provides online information on legal services. The site addresses a variety of issues including: landlord/tenant; housing; family law; employment law; health care; education; public benefits; consumer law; disability rights; and others. It even provides a hyperlink to the ABA’s Legal Help Center.\(^3\) The site provides an invaluable service to those who need legal help and may not be able to afford an attorney. For example, a person living in a rural area without ready access to an attorney could use the site to determine the eligibility requirements for a food stamp program. A low-income person who recently lost his or her job could learn how to avoid eviction. And a disabled person can learn how to preserve his or her rights in the workplace. Yet in order to take advantage of such information, the person would need both access to the Internet and the skills to use such technology effectively.

The Washington State Bar Association (WSBA) has taken an innovative role in the effort of providing legal services to underserved communities. WSBA established an Access to Justice Board that is in the process of drafting an “Access to Justice Technology Bill of Rights,” based on the premise that technology can provide increased pathways for access to justice for everyone. The objective of the committee is to use technology and its applications to optimize access to justice.\(^4\)

Proposed Solutions to Bridging the Digital Divide

Several solutions have been proposed by the Administration, Congress, the private sector and other entities for bridging the digital divide through access to technology and technology skills. The most oft-cited proposals include:

(1) preparing students and teachers to use technology in the classroom;

(2) creating new community technology centers; and

\(^1\) <http://i-can.legal-aid.com>.

\(^2\) <http://www.fcnv.orp>.

\(^3\) <http://www.ptla.org>.

(3) providing incentives for the private sector to help increase technological literacy (e.g. donating computers and funds; creating internships; and developing job placement programs for those in underserved communities).^*

One of the first major hurdles to getting Internet access into the homes of underserved communities is to lower the initial cost of purchasing a personal computer (PC). At present, a computer can be purchased for well under $1,000 and that figure is expected to drop even further. As the cost of purchasing PCs continues to decline, they will become more affordable for low-income people to purchase.

Another proposal for bridging the digital divide includes increasing Internet access for students. Amidst reports that students with Internet access fare better academically than students who lack such access, the Clinton Administration launched a Digital Divide Initiative to wire all schools by the end of the year 2000. At last count, the Clinton Administration wired at least 98% of schools. While this is a significant achievement, there is concern that even though a school may be wired for Internet access, there is no guarantee that the school actually has any computers to take advantage of such access. And even if a school does have computers, it may not have a sufficient number to service all of the students and teachers who would like to use them. For example, a single computer realistically could not provide adequate access for 500 individual student users, individual staff members, and anyone else who would like access to it. As a result, most students only spend an hour or less per week on the Internet at school.^7

Most government digital divide policy has focused on the access gap based on the rationale that it is a prerequisite to addressing technology skills. However, while it is important to have access to the Internet, access alone will not help close the experience gap. One concern is that a significant number of teachers are not familiar with computers and are not technologically literate. According to a recent study, individuals 50 years of age and older are among the least likely to be Internet users. As a result, some teachers lack the necessary skills to teach technology to their students. In response, organizations such as the U.S. Chamber of Commerce have facilitated discussions on technology "boot camps" for teachers. The boot camps would help familiarize teachers with computers and instruct them on how to use such technology, so they can assist in narrowing the digital divide.

While some progress has been made, more computers are needed in libraries and community technology centers, so that the gap between the information-rich and the information-poor truly has a chance of being closed. Organizations such as Potential Unlimited, Inc., which is located in the D.C. metropolitan area, focus on bridging the digital divide. The organization provides

^See supra note 9.

^Id. at 44.

28See supra note 20 at 44.

29See supra note 10 at xvii.
technology training in low-income and minority communities, in order to help them achieve technological literacy. Potential Unlimited recognizes that technology training can help to empower those in underserved communities. It has formed partnerships with technology corporations, in order to place underserved individuals in internships and permanent jobs.

Another proposal includes providing tax incentives to entice corporations to participate in efforts to help bridge the digital divide. Several corporations already have launched exemplary digital divide initiatives such as America Online, Cisco Systems, and Hewlett Packard. For example, Cisco has sponsored Cisco Networking Academies at high schools in underserved communities, in order to teach students about technology and to offer them the opportunity to intern with a technology company. Their objective is to provide students with both the access and skills to be competitive in a world that is increasingly influenced by technology. Other companies such as Ford Motor Co. and Delta Airlines have offered home PCs and Internet access to their employees for minimal amounts.30

Conclusion

During the 106th Congress, several legislative proposals to bridge the digital divide were introduced by both Democrats and Republicans alike in both the House and the Senate. And the debate promises to receive significant attention in both the Administration and Congress. Leaders such as President George W. Bush, House Energy and Commerce Committee Chairman, Rep. W.J. “Billy” Tauzin (R-LA), and Congressional Black Caucus Chair, Rep. Eddie Bernice Johnson, have vowed to make the digital divide a priority during the upcoming years.

As technology advances and the Internet becomes a more common form of communication, it is vital that our communities have both: (1) access to technology as well as (2) the skills to use technology effectively. Considering the impact that technology has made on the legal field and its ability to increase access to legal services for underserved communities, it is important for the American Bar Association to lend a powerful voice to the digital divide debate.

Respectfully Submitted,

Josephine A. McNeil
Chair, Commission on Homelessness and Poverty

David Jackson DeVries
Chair, Government and Public Sector Lawyers Division

August 2001

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GENERAL INFORMATION FORM

To Be Appended to Reports with Recommendations

Submitting Entity: Commission on Homelessness and Poverty

Submitted By: Josephine A. McNeil, Chair

1. Summary of Recommendation(s):
   This recommendation recognizes the significant role of technology in providing legal assistance and information to underserved communities and the lawyers that serve them and urges Congress, the Administration, and other appropriate entities to enact legislation and/or strengthen and develop initiatives to bridge the digital divide and establish and support technology-based access to justice by increasing access to technology and technology skills for underserved communities. The recommendation also urges state, local, and territorial bar associations to establish and support initiatives that increase access to technology and technology skills for underserved communities.

2. Approval by Submitting Entity:
   Approved by the Commission on Homelessness and Poverty on 28 April 2001.
   Approved by the Government and Public Sector Lawyers Division on 19 May 2001.

3. Has this or a similar recommendation been submitted to the House or Board previously?
   No.

4. What existing Association policies are relevant to this recommendation and how would they be affected by its adoption?
   The proposed recommendation does not affect existing Association policies.

5. What urgency exists which requires action at this meeting of the House?
   Issues related to the digital divide are currently being addressed by the Administration and the first session of the 107th Congress. It is likely that the second session of the 107th Congress will also see the introduction of similar legislation. Action at this meeting of the House will allow the Association to participate in the ongoing and subsequent debates on the digital divide in Congress and the Administration.

6. Status of Legislation: (If applicable.)
   There is currently legislation pending in both the Senate and the House that addresses the digital divide -- the Education Technology Equity Act of 2001 (H.R. 1323); the Productivity, Opportunity, and Prosperity Act of 2001 (S. 798); the NTIA Digital Network Technology Program Act (H.R. 1054); the 21st Century Teacher Training Act of 2001 (H.R. 1188); and the Broadband Expansion Grant
105A

Initiative of 2001 (H.R.1416). These or similar bills will likely be re-introduced in the next session of Congress if no action is taken in the current session.

7. Cost to the Association. (Both direct and indirect costs.)
   n/a

8. Disclosure of Interest. (If applicable.)
   n/a

9. Referrals
   In late May 2001, this Report and Recommendation was referred to the Chairs and staff of all ABA Sections, Divisions, and Committees.

10. Contact Person. (Prior to the meeting.)
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11. Contact Person. (Who will present the report to the House.)
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12. Contact Person Regarding Amendments to This Recommendation.
    There are no known proposed amendments at this time.