

# Charting a Path Forward to Create Justice for All

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*If we are willing to search for new ways to solve old problems, if we are willing to put our egos aside and remember that it is not about us, if we are willing to work our tails off, if we are willing to work together, I know that we can build a justice system that will not only dispense fair, sensible, and efficient justice, that will not only help to address the formidable problems faced by so many of the [residents of our communities], we can be a model for the nation and for the world.”*—Chief Justice Ralph D. Gants<sup>1</sup>

It has been an unprecedented year, and the challenges we face are not yet over. Chief among them are the dual crises of coronavirus and racism, challenges which are distinct, yet undeniably intertwined. Existing research indicates that members of poor and minority groups are less likely than their white and higher-income counterparts to seek help when they experience a civil legal problem. Indeed, roughly three-quarters of the members of poor and minority groups do not seek legal help when they experience such problems.<sup>2</sup> Frequently, people’s legal problems are connected to other issues in their lives, including domestic violence, substance abuse, mental health, poverty, or lack of housing or employment.<sup>3</sup> This article showcases the Justice for All Initiative as one way forward for courts and a broad range of partner stakeholders to increase capacity and address the challenges faced by all people—with special emphasis on those traditionally underserved—with unmet civil legal needs. Through grants and engagement in fourteen states and the District of Columbia, the Justice for All Initiative (JFA) has supported systems-oriented strategic planning and systemic collaboration to establish new ways for all people with unmet civil legal issues to get the help they need, in the form they need it, when they need it.<sup>4</sup>

The pandemic has cast a spotlight on systemic inequity and

how those with less education, less money, and fewer resources bear a disproportionate burden of the suffering. Public health officials have long known that systemic racism is a public health issue, and Black, Latinx individuals, and Native and Indigenous Americans have experienced a disproportionate burden of pandemic-related infections and deaths. The killings of George Floyd, Brionna Taylor, and Ahmaud Arbery brought into sharp focus the issue of racial inequity, in terms of not only policing, but also the pervasiveness of systemic racism.

Race affects who can flee from a viral hotspot to a second home and who shares a roof with family members across generations. It affects access to running water, sewage, and sanitation facilities. It affects who is able to work remotely and who has to leave home to work and keep society afloat. It affects who has easy access to testing and who puts off treatment because of the worry about the costs. All of this is to say, race plays a major role in who lives, who dies, and who gets help. And as such, the fracture lines of society have been horribly exposed, with people of color living in underserved communities hardest hit.

Between half and two-thirds of the U.S. population confront at least one civil justice problem each year, commonly affecting health, housing, employment, or money; this includes issues of wage theft, eviction, debt collection, bankruptcy, domestic violence, mortgage foreclosure, immigration, obtainment of public benefits, access to special education services, and the care and custody of children and dependent adults.<sup>5</sup> When these issues are not resolved effectively, it can result in homelessness, poverty, illness, injury, or family instability. Despite their seriousness, most of these civil justice issues receive no legal attention: those who experience them get no legal counsel, and they are not brought to court. Instead, those who experience most of these unmet civil needs—commonly referred to as a justice gap—must figure out how to address these problems on their own. The access-to-justice gap is a crisis of exclusion and inequality. Only some people, and only some kinds of justice problems, receive

## Footnotes

1. This quotation is taken from remarks made by Chief Justice Gants during his installation ceremony to become Chief Justice of the Supreme Judicial Court (July 28, 2014). Before his untimely and tragic death in September 2020, Chief Justice Gants also served as a founding co-chair of the National Justice for All Advisory Committee.
2. See, e.g., R.L. Sandefur, *Accessing Justice in the Contemporary USA: Findings from the Community Needs and Services Study* (2014).
3. Matthew Desmond writes about the importance of residential stability and the “heavy toll” that eviction exacts on families, communities, and children. “Losing your home and possessions and often your job; being stamped with an eviction record and denied govern-

ment housing assistance; relocating to degrading housing in poor and dangerous neighborhoods; and suffering from increased material hardship, homelessness, depression, and illness—this is eviction’s fallout.” M. DESMOND, *EVICTED: POVERTY AND PROFIT IN THE AMERICAN CITY* (2017), at 298.

4. JFA is housed at the National Center for State Courts in collaboration with the Self-Represented Litigant Network. The fourteen states who have received direct JFA grants as of January 2021 are Alaska, Colorado, Florida, Georgia, Hawai‘i, Illinois, Kentucky, Louisiana, Massachusetts, Michigan, Minnesota, Montana, New Mexico, and New York.
5. See, e.g., Legal Services Corporation, *The Justice Gap: Measuring the Unmet Civil Legal Needs of Low-Income Americans* (2017).

legal resolution. The access-to-justice gap is also systemically unequal: some groups (wealthy people and white people, most often) get more access than other groups (like poor people and racial minorities).

As the nation confronts issues of racial justice and equitable treatment for all, state court leaders are looking at ways to reduce disparities in their operations, and at how efforts to modernize court procedures can help. In statements and guidance, state court leaders have acknowledged that severe racial disparities are not merely an unfortunate byproduct of a race-blind system, but the manifestation of discrimination embedded in the system itself.<sup>6</sup> Many of these state court leaders see racial equity considerations as among the most critical they face as they oversee court operations. Long-standing concerns about racial disparities may be most prevalent in the criminal courts, but they play significant roles in civil courts as well. Among the many huge questions this raises are:

- How do people find out that their problems have a potential legal solution?
- How can an overextended civil legal aid and pro bono system meet the needs of all those with civil legal issues when they are already turning away more people than they are able to serve?
- Have courts developed the necessary self-help resources to educate people—especially those with traditionally unmet civil legal issues—about the substantive and procedural law necessary to engage the legal system?
- How can the processes for dealing with housing disputes or civil debt claims, for example, be changed to ensure fair treatment of litigants, regardless of race?
- Have court reforms made it easier for people to represent themselves, whether in remote, online, or in-person court proceedings?
- How does the digital divide affect people’s access to the courts?

There are many ways that state courts and their partners can and must respond to the challenges of the pandemic and racism. This work has never been more urgent.

As such, it is important to share the JFA framework and early lessons from states that have adopted it so that other jurisdictions can use these tools and benefit from their experiences to help meet the moment. This paper will describe the JFA framework and will offer several tangible examples of how it has been applied by participating state courts and their partners to expand access to justice. While this kind of intentional strategic planning is undeniably resource-intensive and challenging, it has helped to build the “institutional muscle” necessary to address the needs of all people with unmet civil legal needs and will help participating jurisdictions meet these challenges in the months and years ahead.

## WHAT IS JUSTICE FOR ALL?

The aim of JFA is a reframing of the concept of what the justice “system” means. A brief history of JFA begins with national leadership from the Conference of Chief Justices and Conference of State Court Administrators. In 2015 these bodies unanimously passed Resolution 5, Reaffirming the Commitment to Meaningful Access to Justice for All.<sup>7</sup> This resolution recognized the significant advances in the access-to-justice field over the past decade and concluded with a call to action to achieve the aspirational goal of meaningful access to justice for all:

**“Long-standing concerns about racial disparities may be most prevalent in the criminal courts ...”**

... the Conference of Chief Justices and the Conference of State Court Administrators support the aspirational goal of 100 percent access to effective assistance for essential civil legal needs and urge their members to provide leadership in achieving that goal and to work with their Access to Justice Commission or other such entities to develop a strategic plan with realistic and measurable outcomes; and ... the Conferences urge the National Center for State Courts and other national organizations to develop tools and provide assistance to states in achieving the goal of 100 percent access through a continuum of meaningful and appropriate services.

By accepting the challenge of Resolution 5, access-to-civil-justice experts launched the JFA Initiative. To begin, a national JFA Advisory Committee of incredible national thought leaders was formed to develop the JFA framework and guidance and to determine the multistage process for how state teams could plan and then achieve systemic access-to-justice change. This national JFA Advisory Committee—including leaders within state supreme courts and state court administration, national legal aid organizations, the Self-Represented Litigation Network, bar associations, and access-to-justice commissions—were propelled by the desire to solve the access-to-justice gap creatively and collaboratively. Significantly, the Public Welfare Foundation, the Kresge Foundation, the Open Society Foundations, and the JPB Foundation have each provided generous support to fund this work nationally and locally.

The goal of JFA is every bit as fundamental as its name suggests: to help courts and their partners reimagine what the justice ecosystem must be to assist all those who need civil legal help. At its most basic, JFA has four main objectives:

1. Identify the existing spectrum of legal services, from self-help legal information, to unbundled legal services, to full legal representation;

6. CCJ/COSCA, Resolution 1: In Support of Racial Equality and Justice for All (proposed July 2020), [https://ccj.ncsc.org/\\_\\_data/assets/pdf\\_file/0029/42869/07302020-Racial-Equality-and-Justice-for-All.pdf](https://ccj.ncsc.org/__data/assets/pdf_file/0029/42869/07302020-Racial-Equality-and-Justice-for-All.pdf).

7. CCJ/COSCA, Resolution 5: Reaffirming the Commitment to Meaningful Access to Justice for All (adopted as proposed, 2015), [https://ccj.ncsc.org/\\_\\_data/assets/pdf\\_file/0013/23602/07252015-reaffirming-commitment-meaningful-access-to-justice-for-all.pdf](https://ccj.ncsc.org/__data/assets/pdf_file/0013/23602/07252015-reaffirming-commitment-meaningful-access-to-justice-for-all.pdf).

**“As with any thoughtful reform, the process starts with inventory, reflection, and analysis.”**

2. Analyze gaps in service to understand what is missing from the civil justice ecosystem;
3. Create an action plan to fill those gaps; and
4. Identify the ways that the JFA team will sustain momentum and measure progress toward providing 100% access to justice for all.

Traditionally, courts and the legal community focus their efforts on serving the people turned away by civil legal aid providers and those who end up representing themselves in court.<sup>8</sup> To be clear, it is hugely important that courts and the legal community provide the resources to address the needs of those who seek free or low-cost legal representation and cannot find it, as well as those who must handle their civil court cases on their own, without legal representation. And yet, JFA demands a wider scope: helping *all people with unmet civil legal needs*, including both those who take action on their legal needs as well as those who do not realize that their problems have a legal component.

JFA guides state teams to collaborate with a wide range of legal and nonlegal stakeholders to work together, share resources, and, ultimately, build capacity so that all people get the appropriate help to address their civil legal needs. As a vital part of this work, state teams must form new collaborations among diverse partners, including nonlegal stakeholders such as

direct human services providers, libraries, schools, community organizations, faith communities, law enforcement, and other state and local branches of government.

As with any thoughtful reform, the process starts with inventory, reflection, and analysis. JFA calls for state teams to conduct a careful inventory of their existing processes, partners, self-help services, and anything that will influence the court users' experience and ability to get their legal needs met. At a conceptual level, JFA teams use this period to better understand what kinds of legal problems people face, where legal information and legal representation is currently available,<sup>9</sup> and where people currently turn for help, including to medical professionals, faith leaders, public librarians, or others. Taking this broader approach is not the conventional instinct within the legal community. After all, our system of state courts was designed by and for trained legal advocates, but this lawyer-centric approach is not meeting the needs of the majority of those who need assistance within the courts.

This JFA analysis includes looking at fifteen different components of the access-to-justice system, which includes:

- Stakeholder Capacity and Governance of Traditional Stakeholders;<sup>10</sup>
- Emerging Practices and Innovations;<sup>11</sup>
- Judicial and Court Staff Education;<sup>12</sup>
- Consumer Needs and Experience;<sup>13</sup>
- Self-Help Centers and Plain Language Forms;<sup>14</sup>
- Triage and Referral;<sup>15</sup>
- Non-lawyer Services;<sup>16</sup>
- Limited Scope Representation;<sup>17</sup>

8. By “legal community,” we mean to include state access-to-justice committees, task forces or commissions, state and local bar associations and bar foundations, civil legal aid and pro bono organizations, law school clinics and pro bono programs, IOLTA and other legal aid funders, and modest means incubators.
9. This must include information about available legal programs, including the scope of the services, target populations for services, service priorities, service restrictions, geographic reach, service-delivery numbers, and which, if any, legal and nonlegal entities with whom they partner. And this must also include allied professionals that people access, including as it relates to housing, employment, education, safety and security, food security, health care, and public benefits.
10. The “Stakeholder Capacity and Governance of Traditional Stakeholders” component offers insight into the structure of all stakeholders engaging in the JFA process to inform what roles different players can take in access-to-justice activities. For example, courts cannot undertake substantive law reform, although community groups can. Likewise, legal aid providers funded by the Legal Services Corporation (LSC) cannot handle class-action litigation, but private attorneys or non-LSC-funded legal aid providers can.
11. The “Emerging Practices and Innovations” component asks the project team to mark the frontier of innovation today. This component is often changing and will depend on the jurisdiction and the stakeholder.
12. The “Judicial and Court Staff Education” component focuses on the investment state and local courts make in educating judges and court staff about how to engage with people without lawyers ethically and effectively. For judges, these education efforts typically focus on the procedural and substantive rules that govern their

work, while court staff education can be framed in terms of offering the highest level of customer service possible as neutral and impartial public servants.

13. The “Consumer Needs and Experience” component is designed to help inventory how stakeholders learn about the public's needs and experiences in and outcomes from the civil justice system, with a focus on the individual court user's experience. The JFA project team is encouraged to collect data on how various stakeholders incorporate user experience in their work.
14. The “Self-Help Centers and Plain Language Forms” components focus on the delivery of assisted and unassisted legal self-help to the public, which can also be provided in-person, remotely, or as posted on a website, as well as the promulgation and maintenance of standardized, plain-language forms that address common areas of need.
15. The “Triage and Referral” component focuses on how courts, civil legal aid, and pro bono providers assess and sort inquiries for legal help. The gold standard is for a robust and integrated triage that assesses what services an individual and situation need and then is followed by appropriate, connected, and verified referrals.
16. The “Non-lawyer Services” component assesses the development of non-lawyer services, that is, people and things (e.g., computer and smartphone applications, fixed-choice forms, books, do-it-yourself kits, human beings) that are not lawyers but can help people with legal and procedural information.
17. Most jurisdictions have amended their rules of ethics and procedure to allow for limited scope representation, otherwise referred to as unbundled or discrete task legal assistance. The “Limited Scope Representation” component measures the acceptance by the courts and adoption of limited scope representation by the bar.

- Full Representation;<sup>18</sup> and
- Community Integration and Prevention.<sup>19</sup>

This framework offers sample survey questions for court users and nontraditional partners, topics to inventory and consider, and other resources to allow an interested jurisdiction to analyze its progress as it relates to each component. The JFA framework is adaptable, allowing for modification to account for unique needs and resources of each participating jurisdiction. JFA state teams have approached the challenges of this project and the current events of the past year in different ways, and as such, each jurisdiction must customize the strategic planning/inventorying in a way that makes sense for its needs.

## LESSONS LEARNED AND INITIAL SUCCESSES OF THE JFA PROJECT

JFA was designed as the scaffolding to support states working to better understand the existing capabilities and resources that support access to justice and to identify ways to fill in gaps of service to reach those who have been unable to obtain the legal help they need. As the many examples below will demonstrate, JFA has begun to change each participating state's access-to-justice landscape in a sustainable way as part of building a more integrated and more interconnected system to accomplish a common vision of meaningful access to justice for all. Put another way, JFA offers new thinking and new approaches that have helped participating states to focus their vision and chart a path forward to fulfill that vision.

## CONVENING DIVERSE PARTICIPANTS CREATES A ROBUST OPPORTUNITY FOR CHANGE

Expanding access to justice requires innovation and moving past the idea that an attorney or a courtroom is the best or only solution for meeting legal needs. Partnering across legal, social services, medical, and information providers to address the array of justice needs that people face may be critical to early detection, diagnosis, and intervention to empower people to solve their problems before they find themselves in the legal system. Partnerships with nontraditional partners are vital to extend the reach of existing legal help.

A core component of JFA is a recognition of the power of listening to new voices and partnering with diverse stakeholders. By reframing justice as more than the traditional legal system, it freed up JFA teams to think of this as an ecosystem of interconnected services provided by both legal and nonlegal service providers who address the myriad of issues that people encounter. Unless justice needs are addressed together, individual problems will persist.

18. The "Full Representation" component addresses how full legal representation fits into the full picture. Because there is such unmet need, full representation should be reserved for people with circumstances so complex or for whom a negative outcome is so devastating that full representation is the only way to address the issue.
19. The "Community Integration and Prevention" component contemplates collaborative partnerships with robust information exchange, early issue identification, cross-training between organizations and stakeholders, and all associations and practices that can integrate community resources into provider and court services to intercede

Surveys, focus groups, and community-listening sessions exposed barriers invisible to traditional access-to-justice partners, and they also highlighted existing resources that were not being exploited. Many states found that the act of meeting created a knowledge base of resources that had previously been siloed, unknown to all but those who had created or regularly used them.

JFA states engaged with diverse partners in ways that fit their unique geographies and communities. Some of the many examples include:

- Alaska used a social-network-analysis tool to identify the nontraditional legal partners to join in maximizing human capacity to solve legal problems.
- Michigan completed a thorough assessment of its civil justice system through town hall meetings, stakeholder surveys, virtual focus groups, and work group summits with more than 100 stakeholders, including members of the public, court administrators, judges, civil-legal-aid agencies, community organizations, public libraries, and domestic-violence-shelter advocates.
- Minnesota partnered with United Way and thus had access to a large and robust net of human-services providers.
- Georgia and New York found strong partnerships in public and law libraries to serve traditionally underserved communities in rural and suburban communities.
- Kentucky began to train legal navigators in drug recovery centers to serve the often-unmet legal needs of those living in recovery.

Several states found partners in the business community, organizations like the AARP, faith-based coalitions, medical providers, and so many others. When applied correctly, JFA information gathering identifies the networks where people with unmet civil legal needs have been and are currently going to look for legal information, especially when they might not yet realize that their problem is a legal one.

Interestingly, several JFA teams discovered that rural communities were often more connected and coordinated than their urban counterparts.<sup>20</sup> These existing rural networks have served as models for larger communities in maximizing the human capacity to solve problems.

20. For example, the Alaska JFA team concluded that "Rural community hubs show a higher density of collaboration and great number of connections between partner organizations than larger communities." Alaska JFA Report, [https://www.ncsc.org/\\_\\_data/assets/pdf\\_file/0022/25519/ak-jfa-plan.pdf](https://www.ncsc.org/__data/assets/pdf_file/0022/25519/ak-jfa-plan.pdf), at 20. This study revealed that a high number of organizations located in rural hub communities have strong ties and relationships with Anchorage- and Fairbanks-based organizations.

**"A core component of JFA is a recognition of the power of listening to new voices ..."**

**“The cataloging of previously hidden barriers and resources marks the first step...”**

From our initial experience, JFA underscores that legal providers and courts must partner with providers in the medical field, social services, and information organizations such as libraries and local governments to fill the justice gap. Partnering across sectors illuminates new ways of problem solving, and may be the key to the early detection, diagnosis, and intervention necessary to

help people solve their problems before they find themselves in the court system.

### **IDENTIFICATION OF GAPS IN EXISTING SERVICES MAPS A DIRECTION FORWARD**

All JFA states have used the inventory process outlined in the guidance materials as a tool to identify gaps. Despite all of the great work being done across these JFA states, all states have found areas in which essential services were lacking and where people continue to face obstacles to secure the services and information they need. This identification process provided critical information for prioritization and planning. The cataloging of previously hidden barriers and resources marks the first step; next, the challenge is to create mechanisms to fill identified gaps by utilizing existing resources and/or creating new ones.

Armed with this information and these collaborative relationships, the JFA framework asks state teams to look at the data they have gathered in a new way. Some examples include:

- After absorbing the needs assessments and strategic planning done through JFA, Montana’s JFA team confronted the reality of a family law court system that is too often overwhelmed by—and overwhelming to—self-represented litigants, and as such, the JFA team has considered whether process improvements, including informal domestic relations trials (IDRTs), can be made to make it easier for people to address their family law needs.<sup>21</sup>
- Among the Massachusetts JFA team’s *many* improvements to the state justice ecosystem was something very simple: they piloted a plan to have expanded hours in three individual courthouses. They used the feedback and data from those pilots to recommend that expanded hours can lead to easier access to many people, especially those who work during conventional court hours.<sup>22</sup>
- The New York JFA team held multiple listening sessions around the state, getting multiday, in-depth feedback from more than 200 community members. The sessions

confirmed that “legal issues faced by community members do not always require representation,” and so the JFA team focused some of their efforts on expanding the role of non-lawyer navigators who can spot legal issues and give information, hopefully before the matters escalate to needing the court.<sup>23</sup>

Geographic Information Systems (GIS) mapping is designed to capture, manage, analyze, and display all forms of geographically referenced information, and this is an emerging tool for justice-related work. Many different types of data can be integrated into GIS and represented as a map layer, including communities, roads, records, locations of legal services and courthouses, available broadband services, or languages spoken at home. When these maps are layered on top of one another, it reveals insights into the relevant characteristics of a community that may be important for strengthening justice infrastructure.

- The Alaska JFA team used GIS mapping to show, among other things, that there is a sizable gap between the number of filed cases and the projected legal needs, which demonstrated that Alaskans were not going to court to address all of their legal needs.<sup>24</sup> The Alaska research showed the power imbalance in who is most often represented in court versus who represents themselves. For instance, “Close to 99% of debt cases involved a lawyer, but 92% of those cases had only the debt collector represented and less than 1% had a lawyer representing just the debtor. Only 6% of the cases involved both sides having representation.”<sup>25</sup> Moreover, mapping was a particularly appropriate way to assess unmet legal needs in Alaska, because many communities are not connected to each other by roads and are accessible only by airplane, boat, or snow machine.
- Through their GIS work, the Louisiana JFA team discovered that nearly 15% of the state’s population living at or below 200% of the federal poverty line live in “civil legal resource deserts,” that is, areas that are not within driving distance of legal aid centers, self-help centers, or legal libraries. Now, the JFA team and their partners and stakeholders have a precise idea of where they ought to focus their efforts.

Whether it is through GIS mapping or a more traditional form of inventory and analysis, JFA has revealed which areas of a jurisdiction have the weakest ties with nonlegal service providers and which areas of law have the most need and the lowest density of available resources.

21. Family, or domestic relations, cases represent one of the largest categories of civil law. A formidable fraction of those cases involves at least one party without a lawyer. To even the playing field for self-represented litigants, in IDRTs, the formal rules of evidence do not apply, and there are no objections or cross-examinations. The parties speak directly to the judge—with or without guidance from a lawyer—and do not have to worry about whether the information is admissible. IDRTs provide a more affordable, accessible, and less intimidating forum than the formal court procedure. Alaska courts have offered the option of IDRTs since the Alaska Supreme Court

adopted Civil Rule 16.2 in 2015.

22. Massachusetts Justice for All Strategic Action Plan (December 2017), [https://www.ncsc.org/\\_\\_\\_data/assets/pdf\\_file/0017/25532/ma-jfa-plan.pdf](https://www.ncsc.org/___data/assets/pdf_file/0017/25532/ma-jfa-plan.pdf).

23. See, e.g., <https://www.legalhand.org/>; New York Justice for All Strategic Plan (December 2017), at 20.

24. See Alaska JFA team’s story map, Alaska’s Justice Ecosystem: Building a Partnership of Providers, <https://is.gd/qguSRT>.

25. Alaska Justice for All Strategic Action Plan (December 2017), <https://www.ncsc.org/jfa/lessons-learned/alaska>.

## THE PANDEMIC HAS BEEN A MASSIVE DISRUPTION, AND TECHNOLOGY CAN BE A STRONG MULTIPLIER OF HUMAN EFFORTS

Before the pandemic, in the majority of states, court users had no choice about whether to visit a courthouse to resolve their cases—they were required to appear in person. The pandemic has forced state courts to figure out how to maintain access to justice while keeping court users, the public, and court employees safe. The pandemic has led state courts to embrace online platforms like never before. Often, the introduction of innovations like the option to appear remotely in court proceedings by telephone or video or e-filing systems that sync automatically with the courts' digital case files make it easier and less intimidating (especially for self-represented litigants) to participate meaningfully in the court process without having to take off work or find childcare. The exploration and adoption of new technologies are a vital part of JFA and all access-to-justice work, and JFA teams have been critical voices in advocating that any adoption of technologies also considers the needs of court users related to the digital divide.

One innovation that several JFA teams have worked on has been the development of statewide legal information and referral portals.

- Colorado has had success with a specialized online portal designed to conduct triage and provide seniors, vulnerable adults, and their caregivers with information and direct access to legal and community resources.<sup>26</sup> The portal guides a user through basic questions to direct her to the proper resource, and it also has opened up communications between the organizations and stakeholders who were already involved in the civil justice system.
- The Minnesota JFA team spotted the inefficiencies in the state courts, bar association, and civil legal aid each maintaining their own legal information web pages and referral lists. Each site linked to each other, but they did not share user data nor did they automatically update each other with any new or expiring resources. "This means that there is staff time spent at each civil legal aid program, the statewide self-help center, law libraries, and bar associations creating and maintaining referral lists. When new services are created or existing services end, there is no easy way to inform all stakeholders."<sup>27</sup> The JFA team and their partners worked to build an online portal at which a user answers directed questions about herself and her legal issue, gets self-help results (e.g., fact sheets, articles, links to and info on the appropriate free or low-cost services available), and can apply for a lawyer (if the user qualifies and one is available) online.<sup>28</sup>

Of course, an online portal or even a smartphone app is limited in its ability to serve unmet legal needs of vulnerable people if those people happen to lack access to the technology the portal requires. Some promising JFA pilot projects designed to mitigate

the digital divide have faced setbacks since the pandemic's onset. For example, many state JFA teams have worked to install court service kiosks in courthouses, community centers, libraries, or any other public place.

**"The pandemic has led state courts to embrace online platforms like never before."**

- In New Mexico, the JFA team noted how court closures and the fast move to online court and legal services ran the risk of shutting out people from the court process because of the digital divide. Working with legal services providers and courts, the JFA team supported telephone legal clinics to advance the number of community members who could provide telephone or in-person (but distanced) legal information to those who could not find it online. Also, the JFA team launched a project to identify and publicize Wi-Fi hotspots to enable court users without Internet access or adequate data to benefit from the court and community resources that are easier to find and use online.
- In Hawai'i, JFA work sensitized the courts to the digital divide challenges facing many of its state's residents, especially on neighboring islands. As such, when court operations went online in spring 2021 in response to public health needs due to the pandemic, the JFA team developed vital resources, including tips for getting online and assembling a state free-WiFi map that were shared widely, including throughout public library networks.<sup>29</sup>

The move to online court services is likely beneficial for most court users. JFA state teams will play increasingly important roles to ensure that the best innovations to go remote necessitated by the pandemic remain, and that those who need in-person help are able to still get it when we are on the other side.

## ACCESS-TO-JUSTICE PROJECTS MUST ENGAGE WITH UNDERSERVED VOICES TO FULLY UNDERSTAND WHAT IS EXPERIENCED AND HOW TO WORK TOGETHER TO CRAFT LASTING SOLUTIONS

Some of the projects and components of a JFA-informed justice ecosystem may not seem, on their face, to further racial equity. As the framework iterates, evolves, and improves, the JFA framework may be modified to explicitly name the racialized justice gap and the goal of eliminating it. Still, when implemented correctly, each of the blended concepts that make up JFA should have the effect of improving access to civil justice for all, but especially for Black, Indigenous, and people of color whose voices have not traditionally informed the way court processes are built.

A few examples of JFA work that has expressly looked at racial equity issues are as follows:

26. See <https://www.coloradosourcenetwork.com/>.

27. Minnesota's Justice for All Strategic Action Plan (December 2017), <https://www.ncsc.org/jfa/lessons-learned/minnesota>.

28. See <https://www.lawhelpmn.org/>.

29. See <https://hstatelawlibrary.com/hawaii-free-wi-fi-hotspots/> and also Tips to Get Online (paper handout on file with authors).

- When New Mexico, for instance, conducted their self-inventory while racial equity protests were dominating the public's attention, the JFA team was able to admit that their commission itself was not properly representative of the people it aims to serve. Put simply, the demographics of their access-to-justice commission and subcommittees did not look like the demographics of the state. Recognizing the value in knowing when you need help, they have engaged a race equity expert to assess the commission structure, how it recruits and engages participants, and how its processes and participation methods could better reflect equity principles.
- The Hawai'i JFA team, for example, held community meetings hosted by trusted and established diverse and often indigenous community organizations on O'ahu, Maui, Moloka'i, Lāna'i, the Hawai'i Island, and Kaua'i. They held meetings with government directors and managers, healthcare leaders, labor unions, and service partners related to immigration to discuss unmet civil legal needs for their constituencies. Instead of tackling whatever issues the court leaders thought were most urgent, their assessment was informed by a wide variety of stakeholders, including their most vulnerable residents.
- The Illinois JFA team used existing research and information on self-representation in family court as a foundation for understanding self-represented litigants.<sup>30</sup> From that baseline, they supplemented the information with telephone interviews. The Illinois team found that the state population of Latinx self-represented litigants did not match up with the baseline research, and so the JFA team targeted their phone interviews to members of the Latinx community to fill that gap in community input. They utilized their wide net of community resources and offered to conduct interviews in English and Spanish to capture input from a diverse group of participants using data that had shown the access gaps in their system.

## WHERE DO WE GO FROM HERE?

The JFA framework is exactly the tool court leaders can use to learn from other jurisdictions who may have already done more work to wrestle with the racial disparities baked into the traditional justice system. Time will tell if this will be a sustainable shift toward a more equal society.

In theory, the kind of systemic collaboration the JFA process compels is both fashionable and uncontroversial. In practice, it is hard and time-consuming work that requires sustained attention to adapt to ever-changing needs. The work inventorying, strategizing, partnership building, and implementing the components of JFA is like fitness training and building muscle. If your justice system is in fit shape and is thoughtfully maintained and advanced, you can be ready for anything.

Creating a continuum of linked, meaningful, and appropriate services is key to expanding access to justice. In addition to

building and maintaining partnerships with faith leaders, human service providers, information service providers, and other government agencies and units, access-to-justice teams must also develop and share legal information and leverage technological and human capacity to expand the reach of legal assistance and to educate people about their options and empower them to successfully access the legal system.

Solving civil legal problems will not be achieved by the legal system alone. The JFA approach is one of integration and collaboration to create an expansive ecosystem of services to make sure that no matter where a person goes for help or information, they can find the help they need for their unique issues. The goal must be that whatever proverbial door clients, patients, or customers walk through, it is the right one to get where they need to go.<sup>31</sup>



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30. See Institute for the Advancement of the American Legal System, Cases Without Counsel project, at <https://iaals.du.edu/projects/cases-without-counsel>.

31. Information about the state teams' work, guidance materials about the JFA process, and more can be found at [www.ncsc.org/jfa](http://www.ncsc.org/jfa). Anyone interested in speaking with us more about JFA should contact the authors at [justiceforall@ncsc.org](mailto:justiceforall@ncsc.org)