



## Access to Justice

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# What is the Justice Gap?

### People's Problems:

- **Safety** – domestic violence
- **Family** – divorce, child support, custody, neglect
- **Savings** – debt, consumer credit, court fees and fines
- **Housing** – evictions, foreclosures
- **Food & benefits** – public assistance, health, disaster
- **Jobs** – wages, conditions, terminations
- **More** – discrimination, education, torts, contracts, wills, guardianship, commitment, motor vehicle, court fees and fines, veterans, immigrants, gentrification, policy impacts

### Many in Need:

- Millions lumping it, without knowledge of legal remedy
- Millions defaulting in court
- Millions tackling problems in court, *without lawyers*
- Millions tackling problems *outside of courts*

### Some Helped:

- One to two million served by LSC programs
- Millions served by non-LSC Programs
- 3.7 Million in court self-help centers

# What are the Barriers to Access to Justice?

## The key barriers include:

- Lack of knowledge of rights (people assume problems are their fate)
- Lack of affordable or free counsel (private market is expensive; free programs have limited capacity)
- Language limitations (many people have limited proficiency in English; interpreting and translating services are limited)
- Disabilities (emotional and physical limitations present challenges; courts are bound by ADA but offer accommodation is limited)
- Doctrinal barriers (pleading, exhaustion, statutes of limitations, attorneys fees prohibition, filing fees, and other requirements pose obstacles to access)
- Complexity (technical language, excessive procedural steps, tasks designed for lawyers, pose additional obstacles to access)
- Powerful opponents (intimidation, privilege, bureaucracy, dishonesty)

# What is Access to Justice?

## The key elements of AtJ are the following:

- individuals and groups
- can learn about their rights
- can protect their interests (home, family, food, safety, savings, more)
- before a neutral and non-discriminatory decision-maker
- in a formal or informal process
- that determines the facts
- applies, interprets and shapes the law
- and enforces the result.

-- Source: Justice Index 2016, [www.justiceindex.org](http://www.justiceindex.org)  
National Center for Access to Justice at Fordham Law

# What is Civil Legal Aid?

## Key Structures:

- Legal Services Corp. grantee programs
- Legal aid societies and other non-LSC non-profit providers
- Law schools
- Private firms (for fee and pro bono; lawyers and non-lawyers)
- Court based civil legal assistance
- Library based civil legal assistance
- Internet firms

## Key Forms of Assistance

- Know your rights classes
- Brief advice and assistance (unbundled assistance)
- Full representation (for fee and pro bono), of individuals and groups
- Civil right to counsel laws
- Court-based civil legal aid (triage, proactive judges, unbundled lawyers, technology, self help)
- Policy advocacy

# Ideas Driving Legal Aid Programs Today

### 1. Access to justice

- due process
- representation
- rights

### 2. Anti-poverty

- protect interests
- reduce poverty

### 3. Human Rights

### 4. Community power ("legal empowerment")

- paralegals
- group representation

### 5. Client-centered service

### 6. Good government

### 7. Social justice

### 8. Professional (law firm) standards

#### How do these 8 goals intersect with the following visions?

- racial justice
- women's justice
- economic justice
- environmental justice
- disability justice
- criminal justice
- LGBT rights
- immigrants & language rights

# What is the Justice Index?

[www.justiceindex.org](http://www.justiceindex.org)

## The Justice Index, [justiceindex.org](http://justiceindex.org):

- ranks states, since 2014, based on their uptake of selected best policies for access to justice
- creates incentives for reform
- displays policies to make replication easy
- provides a map to plan research, offers data sets to researchers
- incorporates research findings on models of legal assistance.

## Five Index Categories – 112 indicators, 52 jurisdictions, 5000 data points

- attorney access index – ratio of civil legal aid attorneys per 10,000 poor
- self-represented index – systems for self-represented litigants
- language access index – systems for people with limited English proficiency
- disability access index – systems for people with disabilities
- composite index – scaled scores combine the four indexes, each contributes 25%

## Indicator Weights – 1, 5 or 10 points

**Sources** – relies on authorities in the field; but incorporates evaluation research over time

**Research** – Five law firms, 55 attorneys, quality assurance tiered review, huge support in courts and civil legal aid programs.



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