

JUSTICE FOR ALL: A ROADMAP TO 100% CIVIL ACCESS TO JUSTICE

“When I’m in really good shape, I feel ready for anything.” -Florence Griffith “FloJo” Joyner

Justice for All Background

More than 70% of low-income households experience at least one civil legal problem a year, and 25% of this population experience six or more civil legal problems a year. These civil legal problems often include evictions, mortgage foreclosures, domestic violence, wage theft, child custody, child support, and debt collection. Due to chronic underfunding, civil legal aid providers are unable to assist the majority of people seeking legal help. In three out of every four cases in state courts across the country, one or both parties are unrepresented by counsel. Moreover, the majority of low- and moderate-income Americans and their social-service providers often do not see the issues they encounter are legal problems. So, a family concerned about unsafe housing conditions or harassment from debt collectors often assumes that they have personal problems or bad luck; they miss out on the potential legal solution.

We often talk about the “justice gap” to describe the chasm between legal needs and available legal services in our state courts. The need is undeniably widespread, and the justice gap disproportionately affects low-income households, women, seniors, veterans, and/or people with disabilities. This shortfall between the civil legal needs of those who need legal help and the resources available to address those needs is daunting. Civil legal help—whether delivered by civil legal aid attorneys, pro bono volunteers, self-help resources, court-based services, non-lawyer court navigators, allied legal professionals, or via community education and outreach—can address basic and important human needs. The national Justice for All (JFA) framework has demonstrated that it is a solution, a way forward to meet those needs.

Over the past five years, the JFA movement has engaged with 14 jurisdictions to examine their available resources and opportunities to advance civil access to justice and to pilot innovation and systemic collaboration with both legal stakeholders and the broader community. The goal of JFA is every bit as fundamental as its name suggests: *to help courts and their partners re-imagine what the justice ecosystem must be to assist all those who need civil legal help*. Using the JFA framework as scaffolding, states can build the kind of “institutional muscle” to position their court systems to respond to court users’ needs – both the ones they already know of and those that will present themselves over time and changing circumstance.

This report attempts to synthesize common themes and to share important lessons learned throughout the first five years of the Justice for All work to encourage more jurisdictions to adopt its framework and process to meet the goal of 100% access to justice.

History of Justice for All

The national Justice for All movement formally began with a resolution by the Conference of Chief Justices and the Conference of State Court Administrators in 2015.¹ In response to that resolution, access-to-civil-justice experts launched the JFA initiative by creating a national JFA Advisory Committee of thought leaders from state supreme courts, state court administration, national legal aid organizations, the Self-Represented Litigation Network, bar associations, and access-to-justice commissions. The Advisory Committee developed the JFA framework and guidance and defined the multi-stage process for planning and implementing systemic change in a creative and collaborative fashion.

Twenty-five states applied for the first round of grants funded by the Public Welfare Foundation; seven were chosen.² Each state JFA team engaged with traditional and non-traditional access-to-justice stakeholders in their planning effort, including social and community service organizations, religious leaders, medical professionals, the business community, local government leaders, and others. Convening these diverse stakeholders brought new voices to the table, increased buy-in for interventions across the entire justice ecosystem, and uncovered new resource opportunities.³

Impressed by the momentum of the collaborative planning and work done in the first seven states, three additional national foundations invested in furthering those initial state planning and implementation efforts in additional states. Now, fourteen states have received direct funding under the JFA initiative.⁴ What is more, some jurisdictions have subsequently taken up the JFA framework and guidance using local funding sources.

The JFA two-step process of guided inventory/strategic planning and implementation pilots has resulted in marked and significant reforms and has strengthened the access-to-justice leadership to meet unexpected new challenges as well.

Justice for All Process

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.⁵ JFA takes a wider view: helping *all people with unmet civil legal needs*, including both those who have taken 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 non-legal stakeholders to share resources and, ultimately, build capacity by forming new relationships among diverse partners.

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,⁶ and where people currently turn for help, including to medical professionals, faith leaders, public librarians, or others. This broader approach is required because 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.

Armed with this JFA-guided inventory and analysis of the existing environment, court leaders and their collaborators can then develop a continuum of targeted resources, services, programs, educational systems, triage processes, referral networks, and more to realize a justice ecosystem that is strong enough to meet court users' needs in any circumstances.⁷

Lessons Learned and Initial Successes

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 allows early detection, diagnosis, and intervention to empower people to solve their problems before they find themselves in the legal system. Partnerships with non-traditional parts of the community are vital to extend the reach of existing legal help.

JFA is an approach that recognizes the power of listening to new voices and partnering with diverse stakeholders. It reframes the vision as a continuum of interconnected services provided by both legal and non-legal service providers that address the real issues that people encounter.

Surveys, focus groups, and community listening sessions exposed barriers invisible to traditional access-to-justice partners, and 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 examples include:

- After the Michigan JFA team 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 500 stakeholders, they found that the majority of court clerks and staff did not engage in any kind of triage or make any legal help referral and did not know what activities are permissible. The Michigan JFA team is working to develop clear policies and resources to enable court staff to make helpful legal connections between unrepresented court patrons and available legal resources.
- Georgia's JFA team found strong partnerships in public and law libraries to serve traditionally underserved communities in rural and suburban communities. They launched the Southwest Georgia Legal Self-Help Center, which has served more than 28,000 individual patrons and engaged with community events across rural communities across southern Georgia over the past three years. During the pandemic, the Center was able to offer remote assistance in order to serve clients with legal information and assistance with court operations.
- Kentucky began to train legal navigators in drug recovery centers to serve the often-unmet civil legal needs of those living in recovery who did not think their legal issues like landlord/tenant disputes or child support arrears were part of the court system.

Several states found partners in the business community, organizations like the AARP, faith-based coalitions, medical providers, and many others. The 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.

Identification of Barriers to 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. All of the states 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.

Armed with this information and these collaborative relationships, the JFA framework allows 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. The JFA team is considering whether process improvements, including informal domestic relations trials, can be made to make it easier for people to address their family law needs.⁸
- 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.⁹
- The New York JFA team held multiple listening sessions around the state, getting multi-day, 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.¹⁰
- The Alaska JFA team used GIS mapping¹¹ 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.¹² 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, based on this targeted data analysis, the JFA team and their partners and stakeholders have a precise idea of where to begin their outreach and collaboration efforts.

Technology Can Be a Strong Multiplier of Human Efforts, But Requires Solutions to Address the Digital Divide

Until recently, in most states, court users had no choice about whether to visit a courthouse to resolve their cases; they were required to appear in person. The COVID-19 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. Oftentimes, 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, find childcare, or deal with transit issues or parking. The exploration and adoption of new technologies is a vital part of JFA and all access-to-justice work.

At the same time, justice systems must acknowledge that there is a gulf between court users who have ready access to computers and internet and those who do not: the "digital divide". JFA teams have been critical voices in advocating that any adoption of technologies also considers the needs of court users who cannot use such innovations because of lack of resources or technological know-how.

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.¹³ 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 automatically update each other with any new or expiring resources.¹⁴ The JFA team and their partners worked to build an online portal at which a user simply answers some 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.¹⁵

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 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 because of lack of access to courthouses and other public spaces. Still, some promising advances in addressing the digital divide through JFA work include:

- 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 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.¹⁶

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 remain, and that those who need in-person help are able to still get it.

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; and, as the framework iterates, evolves, and improves, it may be compelled to name the racialized justice gap and the goal of eliminating it more explicitly. Still, when implemented correctly, each of the concepts that make up JFA should have the effect of improving access to civil justice for all, but especially for Black, Indigenous, and other 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:

- When New Mexico, for instance, conducted their self-inventory while racial equity protests were dominating the public's attention, they observed that their commission itself was not properly representative of the people it aims to serve. In response, they 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 six islands. They held meetings with government directors and managers, healthcare leaders, labor unions, and service partners related to immigration. As a result, 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.¹⁷ From that baseline, they supplemented the information with telephone interviews. The Illinois team found that the number of Latinx self-represented litigants analyzed for the existing research did not match up with the state Latinx population, 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.

The JFA Framework Can Support Revolutionary Change Outside of the Initial Funding Mechanism

The funds granted to the fourteen states allowed the JFA teams the opportunity to spend time, energy, and resources on following the JFA guidance in ways they would not have been able to do under their traditional budget structures. Nonetheless, the spirit of sharing resources and collaborating is a keystone component of JFA, and other states can use the lessons learned from the JFA states' existing work.

The District of Columbia is an example of an access-to-justice commission that leveraged the JFA framework to secure local funding to develop its own strategic action plan and implementation projects. The D.C. Access to Justice Commission used funding from the local bar foundation and private foundations to use the JFA guidance materials and adopt their own version of JFA, adapted to the particular needs of D.C.

National JFA staff and leadership continue to learn from the successes of JFA work in the last five years and are eager to work with any interested jurisdictions to connect interested parties with resources, experts, guidance to securing funding, and any other support.

The Upshot

The JFA approach is a solution based on process and network capacity-building; it can guide states toward creating a continuum of services that address civil legal needs now and in the future. Creating that continuum of linked, meaningful, and appropriate services is key to expanding access to justice. The legal system alone cannot solve the problem of unmet civil legal problems. Expanding services and partnerships will 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 a person walks through, it is the right one to get where they need to go.

¹ Resolution 5, *Reaffirming the Commitment to Meaningful Access to Justice for All*, which: (1) envisions state systems in which everyone has access to effective assistance for their essential civil legal needs through a comprehensive approach that provides a continuum of meaningful and appropriate services; (2) calls for courts, Access to Justice Commissions or other such entities, and other essential partners, including civil legal aid organizations and the bar, to work together and develop in each state a strategic plan with realistic and measurable outcomes to reach the goal of effective assistance for all; and (3) urges the National Center for State Courts (NCSC) and other national organizations to develop tools and provide assistance to states in achieving the goal. See, https://ccj.ncsc.org/data/assets/pdf_file/0013/23602/07252015-reaffirming-commitment-meaningful-access-to-justice-for-all.pdf

² The first JFA grants were initially funded by the Public Welfare Foundation. The seven states chosen for the first JFA grants were Alaska, Colorado, Georgia, Hawai'i, Massachusetts, Minnesota, and New York.

³ The JFA initiative is overseen by an Advisory Committee and managed by NCSC in partnership with the Self Represented Litigation Network.

⁴ The foundations who advanced JFA work along with the Public Welfare Foundation are the Kresge Foundation, the Open Society Foundations, and the JPB Foundation.

Four additional states—Kentucky, New Mexico, Montana, and Florida—were added in 2018, and their strategic plans were completed shortly before the COVID-19 pandemic hit in the spring of 2020. The final three states—Illinois, Michigan, and Louisiana—were added in 2019; they were in the inventory and assessment phase of their planning efforts when the pandemic struck. Despite disruptions like court closures, infirm court staff, travel restrictions, and more, these seven states are at the beginning of implementing their JFA plans in early 2021.

⁵ By “legal community,” we mean to include state access-to-justice committees, taskforces 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.

⁶ This must include both 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 non-legal 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.

⁷ <https://www.ncsc.org/jfa/guidance-and-tools/guidance-materials>

⁸ 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.

Montana received motivation and resources about IDRTs from fellow JFA state Alaska. Alaska courts have offered the option of IDRTs since the Alaska Supreme Court adopted Civil Rule 16.2 in 2015.

⁹ Massachusetts Justice for All Strategic Action Plan, December 2017. https://www.ncsc.org/_data/assets/pdf_file/0017/25532/ma-jfa-plan.pdf

¹⁰ See, e.g., <https://www.legalhand.org/>; New York Justice for All Strategic Plan at 20. December 2017.

¹¹ 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.

¹² See Alaska JFA team’s story map, “Alaska’s Justice Ecosystem: Building a Partnership of Providers”, <https://is.gd/gguSRT>. 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.” Alaska Justice for All Strategic Action Plan, December 2017, <https://www.ncsc.org/jfa/lessons-learned/alaska>.

¹³ <https://www.coloradoresourcenetwork.com/>

¹⁴ “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.” Minnesota’s Justice For All Strategic Action Plan, December 2017, <https://www.ncsc.org/jfa/lessons-learned/minnesota>

¹⁵ <https://www.lawhelpmn.org/>

¹⁶ <https://histatelawlibrary.com/hawaii-free-wi-fi-hotspots/>

¹⁷ See Institute for the Advancement of the American Legal System “Cases Without Counsel” project at <https://iaals.du.edu/projects/cases-without-counsel>.