MEMORANDUM

Date: August 3, 2016

To: All States and Potential RFP Participants

Re: Justice for All Guidance Materials

Enclosed with this memorandum please find the guidance materials referenced in the RFP that were developed by the Justice for All Expert Working Group. These materials are intended to help you when you begin to develop your state-wide inventory and strategic action plan, and are being made available to you now so that you can see the kinds of issues and approaches that are relevant to that process. You will also find a copy of these materials on the Justice for All webpage (http://www.ncsc.org/jfap).

These materials are not intended to guide your preparation of the RFP. For instance, we do not expect you to answer the assessment questions as part of your RFP. We limited the length of the RFP to ten pages for a reason.

Because every state is different, and at different stages of development of their access to justice efforts, the guidance materials might contain steps and information that are not relevant to your anticipated strategic action planning goals and efforts. The guidance materials will also be supplemented over the course of the next year by resource materials. The resource materials will be posted to the Justice for All webpage and include links to on-going research and to best practice documents. It is our hope that all of this will provide a rich resource for your use in developing, and ultimately implementing, your plans to achieve justice for all.
# TABLE OF CONTENTS

Acknowledgements .................................................................................................................................. i

*Introduction to the Justice for All Strategic Planning Effort*

CCJ/COSCA Resolution 5 ......................................................................................................................... 1
Scope of the Effort .................................................................................................................................. 1
Key Aspects of the Planning Effort ......................................................................................................... 3
Conclusion ............................................................................................................................................... 6
Appendix A: Justice for All Components ............................................................................................... 7

*Justice for All Inventory Assessment Guide*

Inventory Assessment Measures and Process ........................................................................................ 1
Appendix A: Component Assessment Sheets ......................................................................................... 4

*Justice for All Strategic Action Planning Guide*

Establish the Planning Process ................................................................................................................ 1
Prioritizing and Staging the Justice for All Components ....................................................................... 3
Individual Justice for All Component Planning ....................................................................................... 7
Conclusion: Moving to Implementation ................................................................................................. 8
Appendix A: Justice for All Strategic Action Planning Action Step Checklist ........................................ 10
Appendix B: Component Assessment Compilation .............................................................................. 12
Appendix C: Individual Component Planning Template ....................................................................... 14
Acknowledgements

The Justice for All guidance materials are a joint effort of the Justice for All Expert Working Group (listed below) and reflect their extensive expertise in the Access to Justice field. The guidance materials could not have been completed without their dedication, guidance, and selfless writing contributions. The leadership of the Justice for All Advisory Committee and external reviewers (listed below) also provided invaluable feedback throughout the drafting process. The Justice for All effort would not be possible without the generous support of the Public Welfare Foundation.

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INTRODUCTION TO THE JUSTICE FOR ALL
STRATEGIC PLANNING EFFORT

CCJ/COSCA RESOLUTION 5

In 2015 the Conference of Chief Justices (CCJ) and Conference of State Court Administrators (COSCA) unanimously passed Resolution 5, *Reaffirming the Commitment to Meaningful Access to Justice for All*. Resolution 5 recognizes the significant advances in the Access to Justice (ATJ) field in the past decade and concludes with a call to action for achieving the aspirational goal of meaningful access to justice for all:

> [. . .] 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.¹

Accepting the challenge of Resolution 5, and recognizing that meeting this goal will require states to break new ground, experts in access to civil justice developed the Justice for All guidance materials to assist states in their strategic planning efforts. In particular, the guidance materials provide:

- Detailed assistance in assessing where a state is in achieving meaningful access to justice for all;
- A strategic planning approach geared towards action, prioritization, and measurement to close the gaps that present barriers to access to justice for all; and
- Sample assessment and action planning materials to help execute the Justice for All planning effort.

The guidance materials are designed to be available for use by all states irrespective of funding decisions through the Justice for All Request for Proposals (RFP).

SCOPE OF THE EFFORT

Resolution 5 identifies the aspirational goal of 100% meaningful access to justice for all. What does this mean? As outlined for this process, meaningful access to justice for all envisions a civil justice system that fulfills America’s promise of justice. This system should provide a well-integrated and coordinated

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supporting infrastructure that permits all persons to have effective assistance to solve their civil legal problems. It should incorporate screening to identify the individual's needs and align them with appropriate resources in a system that provides:

- Access to information through technology like online forms, informational websites and tools;
- Services such as self-help centers and navigators;
- Widely available and adequate referrals, including enhanced coordination with social services;
- Simplified court and administrative rules and processes;
- Assistance with mediation, negotiation, and other ways of resolving issues beyond the courtroom; and
- Legal representation through well-resourced civil legal aid providers, pro bono assistance, discrete task representation, affordable and widely available market-based options, and other appropriate services.

In short, this is a system that enables everyone to get access to the information and effective assistance they need, when they need it, and in a format they can use. The intent is not to reduce any of the existing capabilities and resources that support access to justice. Instead, the goal is to supplement them to fill gaps in service and reach those who are unable to obtain the legal help they need.

Those who need legal help can be separated into two broad subcategories: those who know they have a legal problem but are unable to obtain legal help and those who are unaware they have a legal problem in the first instance. The Justice for All planning effort will ideally lead to gains for both groups. In particular, incorporating meaningful community integration, preventative services, triage, and referrals reinforces the idea that there is “no wrong door” through which to enter the legal system. This is especially important as research shows that in rare situations when those who do not understand they have a legal problem actually seek help, they often go to a wide array of sources for assistance (e.g., churches, social workers, city agencies, and national membership organizations).

Certain solutions may be limited by income requirements (e.g., access to federally funded legal services). Those limits should be considered in designing effective referral systems but should not be viewed as barring implementation of the solution for others.

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2 For an examination of the legal needs of the public, see Rebecca Sandefur, *What we Know and Need to Know About the Legal Needs of the Public*, 67 S.C. L. REV. 442 (2016).
3 *Id.*
4 In establishing action priorities, states may recognize that the most urgent needs are those of low-income persons, and the large numbers of persons who have no options other than self-representation.
KEY ASPECTS OF THE PLANNING EFFORT

Considering the User’s Point of View

CCJ/COSCA Resolution 5 and the Justice for All planning effort recognize that jurisdictions have taken many steps to increase legal assistance and access to justice in the civil legal system.5 A variety of organizations, including courts, legal aid, the bar, librarians, and other non-profit, government, and for profit entities are the ones taking these steps because they are part of an ecosystem through which users address their legal needs.

Although this ecosystem offers a wide array of resources and services, one of the biggest barriers to access is the uncoordinated and unintegrated nature of these resources. Persons with legal needs must work very hard to discover what resources exist, which resource fit their needs and eligibility and how they should use them. Placing most of the burden on the public to figure out how to consume and evaluate the quality and appropriateness of the existing resources is not an effective strategy for achieving access to justice for all.

To the extent possible, planning efforts should center on the perspective of the person with a potential legal problem instead of the viewpoints of the provider organizations like courts, legal aid, the bar, and others.6 Considering the user’s point of view (and the ecosystem through which they address their needs) fosters the integration of resources and efforts. Tam’s story highlights how integrated the user experience might be:

5 “[. . .] these advances include, but are not limited to, expanded self-help services to litigants, new or modified court rules and processes that facilitate access, discrete task representation by counsel, increased pro bono assistance, effective use of technology, increased availability of legal aid services, enhanced language access services, and triage models to match specific needs to the appropriate level of services.” Id.

6 Ideally, users should participate in the planning process to ensure their perspective is built into the process. Surveys and research can also inform how the public views and acts on civil legal problems. See Rebecca Sandefur, Accessing Justice in the Contemporary USA: Findings from the Community Needs and Services Study (2014) available at
This relatively simple story highlights the dynamic ATJ ecosystem. Tam experienced several potential points of entry into the legal system, interactions with community providers, triage, the use of interpreters, online forms, obtained advice on how to navigate the legal system, interactions with court staff, information exchange to facilitate an efficient experience, and judicial interaction and explanations. Each piece of the ecosystem had to fall into place to appropriately address Tam’s immediate legal need. Any weak link in the process may have, and in fact briefly did, result in a dangerously unmet need. Tam and other individuals need the system to work in an integrated manner because that is what their legal needs and situations require to be fully met/resolved. Overall, a user-focused approach facilitates the integrated nature of the civil justice system as well as understanding and measuring where legal needs are unmet, an important factor for assessing closure of the justice gap.

Components of Meaningful Access

The Justice for All planning effort emphasizes the critical importance of efficient and effective decision making in the large, complex universe of ATJ services, strategies, and capabilities. To do this,
Jurisdictions must first understand where they are before deciding where they need to go. The Justice for All approach aims to make assessing current efforts and planning future actions more effective (and manageable) by grouping the above-mentioned services, strategies, and capabilities into key groups, or components. Analysis of Resolution 5, state experiences, and expert research, led to the identification of 16 major components necessary for a viable and comprehensive Justice for All strategy.

Described in greater detail in Appendix A, each component may include a number of individual services, resources, and strategies. For example, the Compliance Assistance component includes: providing written orders immediately after hearings; explanation of orders through self-help centers, clerks, or navigators; informational materials about compliance; explanations by judicial officers during hearings; and reminders prior to deadlines.

These components can also be grouped into larger clusters for strategic action planning. This is discussed in more detail in the Strategic Action Planning Guide.

A Planning Team Reflective of the Justice for All Ecosystem

The success of the Justice for All planning effort relies heavily on the leadership and membership of the strategic planning team. Those convening the planning team should have a leadership role in improving ATJ. This might include the statewide Access to Justice Commission, court leadership, or an equivalent statewide group responsible for improving access to justice. The convening group should also identify important stakeholders and partners to participate in the strategic planning team.

To support a fully integrated ecosystem and the Justice for All components, the planning team should include representatives of legal aid, social/human services providers, key community groups, funders, and the public. These nontraditional roles are key not only to integration but to providing fresh perspectives, integrating the user’s viewpoint, and fostering innovative approaches. All planning team

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7 The sixteen components listed above are grouped into clusters that are further discussed in the Strategic Action Planning Guide.
members should use their expertise to identify what is best overall for improving access to justice, not just for their respective organizations. Planning team members should also have the knowledge and ability to identify gaps and missing connections in the current ATJ ecosystem, and facilitate action to follow the strategic planning effort. For example, a community stakeholder from Tam’s story might realize that some organizations (e.g., churches, agencies) have insufficient information about online legal information/services and propose targeted distribution of information and training for community organization employees.

**Understanding State Characteristics and Environments**

Efforts to increase meaningful access to justice do not occur in a vacuum. Political dynamics, resource shortfalls, and demographic and geographic variations make pursuing solutions a challenging and complex process.

States should consider these factors as they undertake their efforts and search for ways to be creative in planning and pursuing integrated solutions to close the ATJ gap. For example, large states might appropriately decide to break planning efforts down by case type. States might also identify and bring new partners to the table to better reach individuals with legal problems. States may find additional components relevant to their efforts. All of these decisions should be justified by the circumstances of the state and, where relevant, both guides note and discuss several different ways this could be done.

**CONCLUSION**

Finally, it should be noted that the guides for the Justice for All planning effort are just that—guides, not a set of definitive instructions. The same expert opinions and extensive experience that provide the foundational concepts and framework for the Justice for All planning recognize that, for maximum effectiveness, a state’s planning process should reflect its own unique ATJ environment and capabilities. As such, states should adapt their planning activities and processes to fit the needs of their state.

The Chiefs’ Resolution stated:

> . . . [T]he promise of equal justice is not realized for individuals and families who have no meaningful access to the justice system

The authors of the guidance materials hope that they provide state judicial systems and their access to justice partners with the concrete tools necessary to make the vision of Resolution 5 a reality for all.
APPENDIX A

JUSTICE FOR ALL COMPONENTS
**Design, Governance & Management**

**Rationale and need.** For many states and stakeholders, a strategy to achieve 100% meaningful access to justice for all represents a major change in legal culture and institutional approach. It will become necessary to involve a far wider range of service providers and services than have previously participated in joint planning. This includes alliances with those stakeholders who have not previously been involved in supporting such initiatives. Finally, and most importantly, a strategy’s quality and success require developing a commitment to, and mechanisms for, full engagement of litigant and user voice. This will foster a departure from an institution-focused approach to one that centers on the people institutions are meant to serve.

**General Approaches.** In some states, this might be done by examining the ATJ commission’s structure, leadership, or general governance practices. Courts may continue to provide direct leadership when appropriate. Other states may find the need to create new working groups reflective of a multiple constituencies and a collaborative process. Regardless of the approach, user input and data should be integrated into strategy design as well as strategy governance and management.

**Additional Comments.** The process of commencing and organizing the strategic planning process will provide a “dry run” for this capacity building component. Ideally the relationships and approach will be one of the first and major products of the Justice for All planning process. However, this component can be constantly self-assessed and improved.

It is important that any strategy to increase ATJ is built so that any delay in finalizing agreement on this component will not delay progress on other components. If the planning process has not produced actual agreement among stakeholders, then the plan should include an interim and accepted mechanism for moving forward on other component development consistent with the overall governance principles and inclusion of users.

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8 Note that this refers to the Design, Governance, & Management of a state’s overall ATJ effort, not the planning effort under the Justice for All project.
Resource Planning

Rationale and need. The major perceived ATJ barrier is lack of resources. Developing a nuanced long term strategy for ensuring sufficient resources is key. Any Justice for All strategy will need to reflect state realities and embrace flexibility and innovation in resource planning. If resource planning is delayed beyond the beginning of the strategic planning process, the result will be an admirable and useless document. Moreover, implementation of the full strategic plan cannot depend on finding the desired money. Rather, it should include contingencies that permit ongoing progress regardless of the availability of externally provided resources.

General Approaches. Resource planning can and should include:

- Identification of existing resources
- The exploration of new financial resources.
- Where appropriate, obtaining resources through reallocation.
- Reasonably projected savings, including of staff time, to support the next stage of innovation.
- Reasonable and practicable volunteer and pro bono elements.

Resource planning is integrated into each component in the Strategic Action Planning Guide. The Component Planning Tool in the Strategic Action Planning Guide includes a Resource section that provides for identification of potential internal and external funding sources. The end result could be an overall resource plan that can illustrate to potential funders how the need for external funds is minimized, and how such resources would be leveraged by the requested funds.

Additional Comments. The critical integration between this component and the Design, Governance & Management component can be achieved by planning and recruiting stakeholders who can help in any number of ways. This does not have to be limited to resource advocacy. In addition to the court and the bar, it can also include planning, financial analysis, and cost/benefit projections.
Technology Capacity

Rationale and need. Technology is an enabler of many existing and new capabilities. Some of these capabilities cannot scale cost effectively without automation. Because technology capacity exists within the organizations of the individual stakeholders, there is often a need for more coordination and integration. There is universal agreement that without technology, there will be no cost effective system of access to justice solutions. We have also seen that building this capacity, and integrating it into innovations, requires developing the capacity right from the start. This takes time and resources. Ultimately the technology will support all sorts of remote and online services. Beyond efficiency, technology potentially offers improved convenience, higher quality, and process simplification.

General Approaches. Because of the complexity of needs and resources that potential users of the legal system face, the overriding objective of technology should be to coordinate, integrate, and simplify the various resources, services, and capabilities offered by providers. Technology solutions should also consistently be designed around the principle of no wrong door in two senses. First, users who first interact with one provider should be able to seamlessly discover and move to another provider when they need to utilize those capabilities. Second, users should be able to access technology capabilities through an array of different channels (websites, phones, chat, email, text, video, etc.) as well as in-person by choice. That approach recognizes that people have different preferences for interaction with providers and want to control the nature of that interaction.

Additional Comments. Because different kinds of technology are diffused across so many of the access to justice capabilities and services, technology capacity should focus on designs that minimize barriers for users and maximize value in reducing existing barriers to access. Above all, it should not create new barriers through bad design, forced consumption, or inappropriate use.
Triage, Referral, & Channel Integration

Rationale and need. States must deploy a component that assesses what services each individual and situation needs, and then makes the appropriate and verified referrals. The idea is to create “no wrong door” through which people with legal problems access the system, whether it be done by a particular referral or channel. This is already done in many self-help centers and community-based legal aid programs, but can be expanded through integration with community partners and other non-traditional stakeholders. This component makes calculating the overall need and the assessment of progress toward meeting that need possible. It also helps guide prioritization by going beyond simply identifying how many people need help to gaining meaningful information about what help they need.

General Approaches. Technology can provide a universal entryway that would provide initial “sorting” services wherever someone comes into the system, often with the assistance of a trained navigator. Connecting to legal aid hotlines (or market-based equivalents for moderate-income users) can help diagnose legal problems and potential solutions to resolve matters through brief advice or services.

Additional Comments. There is agreement that triage protocol logic and branching will vary greatly by case type. However, key factors to be considered in the triage process, such as user capacity and factual complexity, are the same across case type. Any entry point should be designed both with user input and input from experienced advocates, and should include a function to achieve more individualized assessment, if necessary. It must be acknowledged that apart from legal aid hotlines—which several studies have shown to be successful and cost-effective in diagnosing legal issues and resolving them at an early stage—the state of knowledge on this component is lower than almost all of the others. Accordingly, there is no one alternative approach that can be recommended at this time. A number of technology experiments, such as those funded by the Legal Services Corporation (LSC), are helping to identify additional strategies that can be helpful for the initial stage of triage. Triage and referral systems should be designed to avoid referrals to providers who cannot, because of other commitments or restrictions on their use of funds, serve the individual being referred.

KEY ELEMENTS
- Identified, consistent triage and referral protocols & practices
- Initial triage/assessment and referral by any existing resource (e.g., self-help centers, lawyers, social service agencies)
- Effective referrals (i.e. entity can take matter without time, income, or subject matter restrictions precluding service)
- Central legal aid hotlines, and market-based equivalents for moderate income people, to diagnose legal issues and potential solutions and resolve less complex issues at an early stage
- Triage supported by technology (self-help portals and case management systems)
- All stakeholders, including non-traditional ones, aware of referral information

JUSTICE FOR ALL COMPONENTS
- Design, Governance & Management
- Resource Planning
- Technology Capacity
- Triage, Referral & Channel Integration
- Community Integration & Prevention
- Judicial & Court Staff Education
- Broad Self-Help Informational Services
- Plain Language Forms
- Language Services Integration
- Alternative Dispute Resolution Integration
- Compliance Assistance
- Courtroom Assistance Services
- Expansion & Efficiency Improvements of Full Service Representation
- Unbundled (Discrete Task) Legal Assistance
- Simplification
- Role Flexibility for Other Professionals
Community Integration & Prevention

**Rationale and need.** Access to justice is not court-centric. Adopting a user’s point of view and addressing civil legal issues **before** they worsen can save time, money, and avoid what can be a burdensome court process. Sandefur’s research shows that most civil legal issues never make it to the court system. Instead, those with legal issues often first interact with community stakeholders such as churches, social organizations, and health care providers. Maintaining an open gateway between these stakeholders and legal information/services is critical to reaching individuals and achieving meaningful access to justice. This is true whether an issue is resolved within or outside the court system.

**General Approaches.** Facilitating relationships with community stakeholders and integrating them into the ATJ response can dramatically impact the scope of outreach for legal information and services. It also furthers the “no wrong door” system entry concept by facilitating triage to get users to the right resources/services at the right time. These concepts are most often seen in collaborative partnerships where there is a robust triage and referral system across partners. Community organizations may also perform “legal-checkups” and provide legal services to head off any legal issues clients may have. Even when legal issues do come to the courts, programs can identify and troubleshoot other issues at the periphery of the case.

**Additional Comments.** Integrating community stakeholders through referrals does not mean driving everyone to court. Instead, it is about getting individuals the help they need, when they need it. Prevention and community integration can be beneficial for both traditional and non-traditional stakeholders. Through training and education, those that interface with individuals on the legal side might be more capable of assessing issues and making referrals to community stakeholders, increasing the reach and effectiveness of each community stakeholder.

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**KEY ELEMENTS**

- Robust information exchange between organizations, including cross training
- Community resources integrated into provider services
- Collecting and sharing information on user experience across providers
- Collaborative partnerships, including social services providers
- Community outreach, enabled by a robust communication strategy
- Early issue identification and proactive, robust referrals in a range of areas
- Education about dispute resolution without legal action
- Cross-training between organizations

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**Justice for All Components**

- Design, Governance & Management
- Resource Planning
- Technology Capacity
- Triage, Referral & Channel Integration
- Community Integration & Prevention
- Judicial & Court Staff Education
- Broad Self-Help Informational Services
- Plain Language Forms
- Language Services Integration
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- Role Flexibility for Other Professionals
Judicial & Court Staff Education

**Rationale and need.** A judiciary willing to lead and inspire not just the courts, but also the many ATJ constituencies and partners, is key to achieving meaningful access to justice for all. Equally important is an access-friendly courtroom environment, presided over by a judge who knows how to handle every kind of case, from the heavily-lawyered to the entirely self-represented. Court staff provide another critical support role as they are often “on the front lines” interacting with litigants. Meaningful engagement can save resources in the system as a whole. No amount of supportive access services will produce a system that actually provides access to justice if judges and court staff are not on board. Educational programs are a highly cost-effective way of supporting judges and court staff as they take on these important roles.

**General Approaches.** Most states have already found it very helpful to integrate the access and self-represented litigant perspectives into judicial and court staff education programs, both through initial launch initiatives, and then through continued emphasis on the issue in continuing education programming. Educational programs appear to have been most effective when they are co-taught by respected local leaders and state or national experts, when they include demonstrations in person or by video, when the participant’s role play the suggested techniques, and when participants get an opportunity to view video of, and be critiqued, upon their role plays.

**Additional Comments.** Extensive customizable materials have been developed for the design of such educational programs (including demonstration videos). Model Code Comment language, including technique listings, is also available for judges. It is important that the approaches promoted by judicial and staff education should be understood as proper, rather than as “leaning over the bench.”
**Broad Self-Help Informational Services**

**Rationale and need.** Those familiar with the legal system can sometimes forget how complex and confusing the system can appear to those with no legal training and who are being exposed to it for the first time. Demystifying the system and explaining it to self-represented litigants in plain language is critical to achieving ATJ. The better the job done on this, the more successful will be the self-represented litigant and the less strain it will put on resources to help them succeed in the process.

**General Approaches.** Legal aid programs have created a system of statewide websites across the country such as those on the LawHelp network. Most courts have their own websites or sites specifically directed at self-represented litigants. The sites provide general information about the courts, legal subject matter specific materials, and instructions on how to prosecute a case. These are provided as web content, PDF documents, and videos. Some jurisdictions are experimenting with SMS (text messaging) as a means of delivering self-help information. Since a much larger part of the population has a cell or smart phone than a computer, this is an approach that has a broad reach. It can be particularly effective in preventing legal problems by providing users information immediately at any location, such as before they sign legal documents. E-mail can also be an effective means of delivering “just in time” information to persons with either computers or smartphones.

Staffed self-help centers with the ability to provide in person information, seminars on the process, and other tools and guidance, have played a critical role in many states. Working closely with the court staff and bench officers, they have played a role through the life of the process for litigants in presenting the necessary information, understanding the rules and procedures, and getting judgments finalized.

**Additional Comments.** Instead of displaying the information on websites in “buckets” by topic, the better approach is to build a system of guided pathways so that users of the site are directed to the information most material to their situation based on their plain language description of their problem. These concepts should also be incorporated for the distribution of information on site.
Plain Language Forms

**Rationale and need.** Twenty years of experience have taught us that it is almost impossible to deploy any innovation for court users without getting standardized forms in place. It has also taught us that the language and design of the forms are critical. Without such forms, self-help centers are only marginally useful, judges cannot know what questions to ask, and all but the most educated and confident litigants are effectively prevented from generating the documents that the rules require them to use.

**General Approaches.** The four approaches to forms, which are of increasing sophistication, usefulness and cost, are: 1) printed forms, 2) pdf-type forms that allow the user to “fill in the gaps” online, prior to printing, 3) intelligent Turbo-Tax-type programs with sophisticated branching and time saving logic, and calculations built in, when needed, and, 4) programs that are designed to directly gather information from Turbo-Tax-Type programs for the court’s information system.

**Additional Comments.** If there is not an existing authority with the power to promulgate such forms and require courts throughout the state to accept them, the process of establishing it, with all its political pitfalls, must be commenced immediately. Plain language usage is important for all system-user interactions.

Providing forms (and, for that matter, court orders) in plain English is an ongoing challenge. There are numerous tools available to measure the readability and comprehensibility of a document. Numerous experts are also available to assist in creating forms that are easily understood and used by lay persons. Lawyers and judges, however, will often insist that legal terms, especially those contained in statutes, be used in forms even though the result is decreased comprehension for system users. The best solution is to use ordinary language rather than legal jargon. The second best solution is to include in forms the ordinary language definitions of all legal terms. It is important to keep in mind that the forms should be understandable for the persons completing them and also for other parties in the case (particularly self-represented defendants). Assigning the responsibility for forms development to self-help staff, or including their expertise in the development process, has proved to be an effective way to enhance the usability of court forms.
Language Services Integration

Rationale and Need. Over 25.6 million people (8.5%) in the U.S. are limited-English proficient (LEP). Most, if not all, states are experiencing increasing numbers of LEP court and legal system users. Title VI of the Civil Rights Act, accompanying regulations, and Department of Justice guidance documents state that courts and other recipients of federal funds must provide meaningful language access to all users.

General Approaches. Several state courts have undertaken comprehensive language access plans that address the provision of qualified interpreters in all court proceedings and language access strategies such as multilingual signage and translation of written materials, recruitment of bilingual staff, interpreter provision for all key points of contact with the court, and the use of technologies such as video-remote interpreting and multilingual videos. Similarly, legal services offices have developed language access plans to ensure services for LEP clients.

The lack of resources, including limitations on available funds and the number of qualified interpreters and bilingual staff, as well as other challenges, have made implementation of access goals difficult. The need to address language access services integration throughout the system requires a commitment to meaningful access, creativity, appropriate uses of technology, training and recruitment of qualified professionals to provide language access services, education of all stakeholders, and awareness and education on the need to integrate services throughout the system and communicate the availability of those services to LEP users.

Additional Comments. LEP persons interact with the legal system at myriad points of contact, from hotlines and help lines, to legal aid offices, private bar and lawyer referral services, court clerk offices, alternative dispute resolution services, courtrooms, and post-judgment programs and services. It is critical that language access services be integrated throughout these systems to ensure meaningful access, full participation, understanding and ability to comply with court orders, and meaningful redress. Additionally, there is a shortage of qualified interpreters nationally, especially in languages other than Spanish and in rural areas. Recruitment of language service providers, together with training of existing providers and the use of technologies to bridge the existing gaps in services must be explored, to ensure the effort to increase access does not in turn create barriers to access or lower the quality of language access services.

KEY ELEMENTS

- Language access services at all points of contact between LEP users and all legal system components (e.g., provision of qualified interpreters and translators, multilingual staff, written and audio-visual tools in languages other than English, and the use of technology to provide access to LEP users in their primary language)
- Quality of language access services and providers
- Language access planning and monitoring
- Increased availability of multilingual information and education for LEP users
- Effective use of multi-lingual outreach and court and community agency staff

JUSTICE FOR ALL COMPONENTS

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- Role Flexibility for Other Professionals
**Alternative Dispute Resolution Integration**

**Rationale and need.** Alternative Dispute Resolution (ADR) includes a broad range of non-judicial modes ranging from mandatory arbitration to voluntary joint counseling with attorneys. There is little disagreement that *some* modes of ADR are appropriate and helpful in *some* contexts and situations. However, there is currently no consensus on where the benefits apply, where these lines are best drawn, or what processes should be used to draw and apply such lines. A civil justice system will likely include ADR in some way and it is important that any ADR program be appropriately integrated into the system and be conducted in a way that aligns with access to justice principles.

**General Approaches.** This component will need to be highly integrated with the triage and referral component to make sure users are directed to the appropriate process. These programs can also impact issue prevention (e.g., use of mediation programs in housing cases). Providing information that demystifies ADR is another approach to making it seem accessible and integrating it into the user experience.

**Additional Comments.** As a general matter, traditional pre-judicial processes are designed to identify/highlight differences in interest between the parties, while modes of ADR are designed to minimize them, or at least minimize their impact. Keeping this dynamic in mind will be helpful in constructing integration schemes. Automated dispute resolution processes ("online dispute resolution" or "ODR"), with or without access to a human dispute resolver, have been used to resolve virtually all disputes related to EBay sales and are in use in several foreign countries for more typical court cases; ODR will undoubtedly become more prevalent in the United States in the near future.

### KEY ELEMENTS
- Provision of information about ADR modes and processes, substantive ADR law, and consequences
- ADR information available online and integrated into portal
- Clear codes of ethics for the non-judicial neutrals
- Access to ADR modes provided within procedural context, possibly through self-help
- Ethically appropriate collaborations between ATJ stakeholders and ADR providers

### JUSTICE FOR ALL COMPONENTS

- Design, Governance & Management
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- Technology Capacity
- Triage, Referral & Channel Integration
- Community Integration & Prevention
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- Broad Self-Help Informational Services
- Plain Language Forms
- Language Services Integration
- **Alternative Dispute Resolution Integration**
  - Compliance Assistance
  - Courtroom Assistance Services
  - Expansion & Efficiency Improvements of Full Service Representation
  - Unbundled (Discrete Task) Legal Assistance
- Simplification
- Role Flexibility for Other Professionals
Compliance Assistance

Rationale and need. A lack of comprehension about legal processes can lead to non-compliance and costly continuances for users and courts during the process and even more costly enforcement actions after a judgment has been rendered. This component directly addresses strategies for increasing comprehension of and compliance with legal processes and court orders.

General Approaches. This component focuses on providing both timely information and explanations of information. This can be done by a variety of court stakeholders (e.g., judge, self-help center, clerk) and through various media including proactive court text or e-mail messages about next steps and upcoming events. Common problems with enforcement can be identified and solutions built into standard orders.

Additional Comments. Although seemingly court-focused, the compliance assistance component is also relevant in the preventative and legal aid contexts. Compliance can often eliminate the need for legal issues to escalate to the courts in the first instance, or to return after resolution.

KEY ELEMENTS

- Written orders and compliance information available immediately after hearing
- Use of plain language orders and judgments
- Explanations provided by judges and other court staff
- Reminders prior to deadlines
- Online tools to assist with compliance and enforcement
- Collaboration with stakeholders and users to identify common problems and ways to address them

justice for all components

- Design, Governance & Management
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Courtroom Assistance Services

Rationale and need. Much of the effort around self-help has been to provide information and forms to get people into court, and this is a good thing. However, assistance in court is also important. Many self-represented litigants have never been to court before and have no idea what to do inside the courtroom. They don’t know how to introduce evidence or what key elements they must present as testimony to get the relief they are requesting. Not only is it helpful to the self-represented litigants to prepare them for court, but a well-prepared self-represented litigant will move through the process more quickly, saving the court’s time and that of other litigants.

General Approaches. Many courts and legal aid programs are posting instructional videos online to acquaint self-represented litigants with what to expect when they appear in court. Some courts are providing personal assistance for self-represented litigants with programs such as the New York Court Navigator Program or the California JusticeCorps. Such programs provide lay-person assistants who help self-represented litigants by answering general questions on court locations and procedures, helping with paperwork, explaining what self-represented litigants should expect in the courtroom, and even accompanying them in court.

Additional Comments. Every self-represented litigant who cannot resolve a problem outside of court will come before a judge in the courtroom and so courtroom assistance should start with judicial education on how to deal with self-represented litigants and on the difference between “neutrality” and “passivity.” It is more effective to train one judge on how to assist a self-represented litigant than to teach hundreds of self-represented litigants how to be lawyers.

KEY ELEMENTS

- Instructional videos on logistics and procedures
- In-person assistance
- Technology tools to support work of assistants, such as automated forms
- Technology tools for the judges to prepare final orders in the court room.
- Training tools for personal assistants and court staff

JUSTICE FOR ALL COMPONENTS

- Design, Governance & Management
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Expansion & Efficiency Improvements of Full Service Representation

**Rationale and need.** Even with the most efficient triage and self-help systems in place, there will be many people who need full-scale representation in order to navigate the legal system and resolve their problems. This may be the case where a legal issue is particularly complex, where the stakes are particularly high (such as where a person is at risk of becoming homeless), or where mental health, age, or other capacity issues impede the person’s ability to fend for himself or herself.

**General Approaches.** Planning should include some thought about how, through improved triage and screening, to flag the most urgent or critical cases for full-representation so that those providing full representation are using their limited resources most efficiently. Planning also should include consideration of impact-type cases or appellate projects that may create efficiencies in the system. While both low-income and moderate-income people need full representation, the assessment of current capacity, strategies for expansion, and areas of potential improvement are significantly different for each group of people. States will need to take that into account and incorporate both free legal services for low-income individuals and affordable market-based models for moderate-income people into their planning.

**Free Legal Services for Low-Income People**

- Effective triage of low-income persons with simple cases and adequate personal capacity directly to information and forms can reduce the legal services resources currently devoted to hot lines and brief services, allowing those resources to be devoted to full representation. But this efficiency improvement may not result in sufficient legal services resources for full representation for all low-income persons with complex cases and/or
limited personal capacity. Therefore, planning should include some education, outreach and advocacy strategies to secure additional public and private funding to expand full-representation legal aid and pro bono services.

- Maximize technology and process improvements to improve efficiency of full representation and ensure lawyers providing extended representation have the necessary technological resources to be effective.
- Ensure legal aid lawyers have access to high quality training and professional development.
- Expand availability of pro bono services by building on successful models and adopting new strategies where pro bono is a viable strategy to address gaps and emerging issues. This should include innovative models, such as using clinic type models to train lawyers and walk them through the first steps of a full-scale representation.
- Consider adapting properly funded assigned counsel approaches from the criminal justice system or launching “civil Gideon” programs for people facing certain critical civil issues.
- Consider ways to make courts more welcoming and accessible to pro bono volunteers who may be going outside of their comfort zones to provide full-scale representation.
- Identify and support full representation for strategic, systemic intervention, including impact litigation and policy work.

**Market-based Solutions for Moderate-Income People**

- There have been a number of studies around the country about legal needs of for low-income people that can help form the basis for assessing the expansion and improvement of legal aid and pro bono solutions. There is, however, a relative dearth of research available about the legal needs of moderate-income people who need full representation, the capacity of the current legal market to serve them, and how effectively people are able to connect to existing affordable representation options. Assessing the current landscape for affordable options is therefore an important step.
- Expand availability of affordable representation from the organized bar and law schools by offering robust law practice management assistance, training and resources to the private bar.
- Consider expansion of incubators, nonprofit law firms, and other models that provide hubs for testing innovative strategies for making legal assistance more accessible and affordable to moderate income people who need it. This should include some consideration of models whereby lawyers may be compensated through attorney’s fees – for example, by bringing damages actions in housing cases for habitability issues or other violations of tenants’ rights.
Unbundled (Discrete Task) Legal Assistance

**Rationale and Need.** The availability of lawyers to perform discrete task representation (also referred to as limited scope or unbundled law practice) can significantly increase the capacity of an access to justice system to effectively meet user need. Clients who cannot afford to retain a lawyer to handle their case can benefit directly from the expertise of a lawyer for those services they most need and can afford, such as an overall assessment of the strengths and weaknesses of their legal situation and advice on the most effective strategy for resolution. Discrete task representation leaves the client with responsibility for moving the case forward, relying on the lawyer to help with specific issues or tasks at the client’s request. Discrete task representation, when integrated rationally with self-help tools, can provide an ideal blend of services that marshal scarce resources to achieve more successful outcomes for clients.

**General Approaches.** Triage and screening systems should incorporate discrete task representation as the preferred referral option for persons with complex cases (i.e., drafting or reviewing complex documents; certain business transactional services; issues with potential statutory fee shifting; matters in which difficult, strategic decision-making is critical to successful outcomes; or limited

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<td>• Training and resources to support participating lawyers</td>
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<td>• Screening, triage and referral components to connect these lawyers with persons seeking their services</td>
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<td>• Processes for conclusion of limited scope representation, (i.e. client is aware of any remaining legal needs and how to do that through self-help or other resources)</td>
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<td>• Adoption of rules (e.g., ghostwriting, conflicts, limited appearance) that facilitate limited scope representation and ease in entering and exiting a matter for an attorney</td>
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<td>• Full acceptance by the judiciary of the practice</td>
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<td>• Good lines of communication between the limited scope attorney and the client</td>
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The American Bar Association has recognized this form of representation as an opportunity to expand dramatically the market for legal services and to create lucrative forms of practice for lawyers who are unable to find employment with firms offering traditional legal services. This is also the niche that commercial online legal service providers are targeting. Legal services organizations have long used this approach in their hotline and brief services practices. Unbundled assistance can also be a valuable tool in assisting self-represented litigants who are unable to fully use self-help tools due to a variety of limitations, such as language, mental illness, or educational levels, to better participate in a state’s access to justice system.

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<td>• Simplification</td>
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appearance in the tribunal on certain legal issues). Unbundled services from the private bar should always be presented as an available legal services option for persons using a triaging process or accessing online legal information and forms. Self-help centers can suggest the utility of consulting a discrete task lawyer whenever the complexity of the matter warrants such help.

Under ABA Model Rules, lawyers providing unbundled services in a court or non-profit setting are relieved of the obligation to perform conflicts checks. Court- or legal service-based clinics using pro bono lawyers can supplement court-based self help services (which are constrained to offering only legal information) by providing an opportunity for self-represented litigants to obtain free brief legal advice. These are attractive opportunities for lawyers seeking to meet their pro bono obligation without assuming onerous ongoing representation responsibilities.

**Additional comments.** Effective incorporation of discrete task representation into the access to justice environment requires the organized bar to create and maintain a separate list of lawyers willing to provide unbundled services, or a section of its lawyer referral service dedicated to referrals for this form of representation.
Rationale and need. Full access to justice at reasonable cost will only be achieved by an ATJ approach that simplifies processes where possible, makes innovative forms of assistance more appropriate, and increases public trust and confidence in the legal system. From easing physical access issues, to decreasing litigation time and cost, undertaking simplification can have a significant impact on system users.

General Approaches. The general approaches to simplification often include focusing on a general area of law, an experiment in a particular court, or a pilot in a particular kind of process (e.g., uncontested divorces). Approaches are generally aimed at streamlining processes (internal or external) and user experiences. Whatever approach is taken, appropriate involvement of stakeholders is critical to the political agreements required.

Additional Comments. Additional complexity is often an unintentional result of well-intentioned substantive or procedural changes. Completing an “access impact statement” when undergoing rule/statutory change processes can help reduce such an impact and can help ensure that “complexity creep” does not recur.

KEY ELEMENTS

- One-stop shopping used to simplify user experience
- Streamlined internal court operations, including automated generation of orders and judgments
- Online dispute resolution
- Forms, legal documents and oral communications, face to face conversations use plain language.
- Review of courtroom procedures to determine more effective ways of providing information, helping parties come to resolution
- Simplified court rules to eliminate unnecessary appearances and filings

Justice for All Components

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Role Flexibility For Other Professionals

Rationale and need. It is likely that states will need to develop a coordinated set of new roles that provide legal services in addition to lawyers. Much as healthcare created new roles to supplement doctors and nurses in a responsible and cost effective way, the justice system may design new roles that provide valuable niche services for less cost than a traditional lawyer. Current examples include navigators, court facilitators, document preparers, and legal technicians or practitioner paralegals. The guiding rationale is to provide focused forms of legal assistance in areas known to be barriers to access and do so in ways that are either free or more affordable to the public.

General Approaches. To date all of these new roles have been sponsored directly or indirectly by state supreme courts and mostly implemented by either state bar associations or local courts. The scope of these roles is usually limited to information and advice about use of forms, completion of forms, and support in navigating and conforming with required legal processes. So far none of these roles has been granted an active role in legal negotiations or court appearances, although that might change in the future. Document preparers in well-defined areas like real estate transactions have a long and successful history. Most of the other roles are much newer and still in pilot stages where we have much to learn about program design and effectiveness. Still, without such roles it will be very difficult to reduce the documented unmet legal need when process barriers hamper progress. An excellent example of simplification that benefits judges, lawyers, and self-represented litigants is the elimination of rules of evidence in family law hearings and trials, unless both parties have chosen for them to apply.

Additional Comments. These new roles are a mix of subsidized and market-based approaches. Document preparers and practitioner paralegals/legal technicians follow a market-based approach with fees that are well below those of lawyers for comparable tasks. Navigators and facilitators are usually subsidized by the court or other appropriate government entities. It is likely that market-based approaches will scale better and be more sustainable, but subsidized approaches are still necessary for roles that do not have an economically viable business model or for which the target customer cannot afford to pay a fee to use.
Achieving meaningful access to justice for all can, understandably, feel daunting. This Inventory Assessment Guide provides that first, crucial step in the Justice for All planning process. In particular, it provides a framework for states to assess where they are in with respect to each of the Justice for All components. The Introduction to the Justice for All Strategic Planning Effort (the “Introduction”) contains information about the component approach and, if possible, should be reviewed before undertaking the inventory assessment. Action steps are also identified throughout this guide.

As mentioned in the Introduction, there are a number of ways states can tailor the assessment and strategic action planning process to their specific needs and demographics. These approaches should be discussed and planning strategy should be agreed to before beginning the assessment.

**ACTION STEP 1: Identify the inventory assessment strategy.**

**INVENTORY ASSESSMENT MEASURES AND PROCESS**

The inventory assessment process is the foundation upon which states will build their Justice for All planning and implementation efforts. Similar to building a house, a strong foundation is key to moving forward. Taking a qualitative approach to assessment provides this foundation. Qualitative assessment provides a dynamic picture of component deployment and goes beyond a simplistic yes/no analysis that can easily oversimplify and distort implementation realities.

This guide proposes using qualitative assessment indicators for the Justice for All components. In particular, each assessment aims to provide insight on:

- The breadth of component deployment (does the component reach people throughout the state)
- The sufficiency of component deployment (e.g., meaningfulness—does it meet the needs of the persons it serves?)
- The depth of component deployment (e.g., usage—what proportion of the people who need the component services where they currently exist is served?)

---

1 The Justice for All components simply break the universe of ATJ solutions into simple, manageable categories (e.g., Language Access Services, Triage, and Non-Lawyer Role Flexibility).
2 For example, states may choose to approach this assessment on a case type basis due to perceived variations in deployment or to focus on case types that are particularly dominated by self-represented litigants (e.g., debt collection, and family case-types).
• The scalability of component deployment (existing and future)

Assessment questions might vary slightly by component and reflect the unique nature of the inquiry required for that component. States should also feel free to add questions that might be particularly relevant to their qualitative assessment if they are not already captured on a component’s assessment sheet. The end goal is an assessment that sufficiently and meaningfully captures where a state is in deploying a certain component.

These assessment indicators are important for initial component assessment and can also be used to track component progress as ATJ efforts are implemented. In fact, using the same questions provides a standard baseline for ongoing assessment and measuring outcomes as called for in the CCJ Resolution.

**ACTION STEP 2: Tailor qualitative assessment indicators to your state.**

Appendix A of this guide contains an assessment sheet for each component. Each component assessment sheet begins with a brief description of the component and identifies default assessment indicators and key elements associated with that component.³

States should review the key element descriptions and tailor them as they did the qualitative assessment indicators to recognize the dynamics of the state.

**ACTION STEP 3: Tailor the key elements to your state.**

As shown in Appendix A, a chart that captures the qualitative assessment of each component follows the key elements. The assessment response options are broken down into four levels:

- No: Does not exist.
- Baseline only: Inconsistent and at minimum levels.
- Sufficient Levels: Basic and meets current ecosystem only.
- Yes, Self-Sustaining Levels: Robust, highly-developed, and fully responsive to changes in the ecosystem

States should respond to the assessment questions in the table based on their current efforts. When considering these questions, use the right-most column to record where there are existing gaps in 1) the component as a whole or 2) key elements to the component.

³ Descriptive materials for the various components will be made available on the Justice for All project website, [http://www.ncsc.org/jfap](http://www.ncsc.org/jfap).
A section for general notes is included at the end of each component assessment sheet.

**ACTION STEP 4: Complete component assessment sheets for every Justice for All component.**

The information on the assessment sheets will be used to complete the required documents for the strategic action planning process.
APPENDIX A

COMPONENT ASSESSMENT SHEETS
**Design, Governance & Management Component Assessment**

**Description:** This component contemplates ensuring continuing, effective governance and management processes/structures are in place to address ATJ in a state. Included in this is a commitment to user-focused design and full engagement of the user voice.

**Key Elements:**
- An established body and processes to address ATJ issues
- ATJ body includes all relevant stakeholders
- Collection of user data and information (through surveys, focus groups, etc.)
- User membership on ATJ body

**Additional Elements:**

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<tr>
<th>Assessment Questions</th>
<th>Response (Check Box)</th>
<th>Notes on Component and Element Gaps</th>
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<tbody>
<tr>
<td>Has the state developed this component anywhere?</td>
<td>No</td>
<td>Baseline Only</td>
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<tr>
<td>Are you satisfied with the current programming around this component—does it meet all the needs of the persons it serves?</td>
<td>No</td>
<td>Baseline Only</td>
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<tr>
<td>Does the current component reach people throughout the state?</td>
<td>No</td>
<td>Baseline Only</td>
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<tr>
<td>What proportion of the people who need these services where they currently exist is served by the program?</td>
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<td>Baseline Only</td>
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<tr>
<td>Are the programs/services in this component scalable to serve the needs of all the people where it currently exists?</td>
<td>No</td>
<td>Baseline Only</td>
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<td>Baseline Only</td>
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**General Notes:**

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**Resource Planning Component Assessment**

**Description:** This component contemplates robust and continued resource planning, including the identification of existing resources, new resources, reallocating current resources, and identifying savings opportunities.

**Key Elements:**
- Staffing position dedicated to resource planning
- Existence of an updated resource budget

**Additional Elements:**

**Assessment Questions** | **Response (Check Box)** | **Notes on Component and Element Gaps**
--- | --- | ---
Has the state developed this component anywhere? | No | Baseline Only | Sufficient Levels | Yes, Self-Sustaining Levels | Gaps
Are you satisfied with the current programming around this component—does it meet all the needs of the persons it serves? | | | |
Does the current component reach people throughout the state? | | | |
What proportion of the people who need these services where they currently exist is served by the program? | | | |
Are the programs/services in this component scalable to serve the needs of all the people where it currently exists? | | | |
Are the programs/services in this component scalable to serve the needs of all the people in the state? | | | |

**General Notes:**
**Technology Capacity Component Assessment**

**Description:** This component refers to creating the capacity to use technology to automate and scale ATJ solutions in a cost-effect and appropriate manner.

**Key Elements:**
- User experience and multimedia design expertise
- Application integration expertise
- Process simplification expertise
- Facilitates remote access and resolution

**Additional Elements:**
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**General Notes:** ______________________________________________________________________________________________________
Triage, Referral & Channel Integration Component Assessment

Description: This component contemplates creating “no wrong door” to enter the legal system through referrals or channels. A robust and continued triage that assesses what services each individual and situation needs, followed by appropriate and verified referrals.

Key Elements:
• Triage/assessment and referral by any existing resource
• Identified, consistent triage and referral protocols & practices
• Triage supported by technology (i.e., portal)
• All stakeholders, including non-traditional ones, aware of referral information
• Effective referrals (i.e. entity can take matter without time, income, or subject matter restrictions precluding service)
• Central legal aid hotlines and market-based equivalents for moderate income people to diagnose legal issues/potential solutions and resolve less complex issues at an early stage

Additional Elements:_________________________________________________________________________________________

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<td>Sufficient Levels</td>
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<td>Yes, Self-Sustaining Levels</td>
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General Notes:________________________________________________________________________________________________
Community Integration & Prevention Component Assessment

**Description:** This component contemplates integrating the ATJ response to include system access through community stakeholders and more effective responses to user’s legal issues on the front end.

**Key Elements:**
- Robust information exchange, including cross training
- Community resources integrated into provider services
- Collecting and sharing information on user experience across providers
- Collaborative partnerships, including social services providers
- Community outreach, enabled by a robust communication strategy
- Cross-training between organizations
- Early issue identification and proactive, robust referrals in a range of areas (e.g., achieving access through partners)
- Education about dispute resolution without legal action

**Additional Elements:**

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**General Notes:** ______________________________________________________________________________________
Judicial & Court Staff Education Component Assessment

**Description:** This component contemplates the existence of a judicial education program that engages judges and promotes leaderships on ATJ issues within and without the courts. A court staff education program will adapt many of the same principles tailored to their interaction with users.

**Key Elements:** Education programs should follow adult learning principles, be dynamic and interactive, and address the following topics
- Engagement with self-represented litigants
- Availability of community resources and other referral opportunities
- Change leadership for judges
- Language access requirements and procedures
- Procedural fairness
- Cultural sensitivity

**Additional Elements:**

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Broad Self-Help Informational Services Component Assessment

**Description:** This component contemplates broad self-help informational services being accessible to system-users. This can be through information provided in-person or online.

**Key Elements:**
- All information provided in plain language
- Instructions on legal processes, applicable law, and how to prepare for and present a case
- Links to information and forms on other specific subject matters, including out-of-court resolution
- Materials optimized for mobile viewing
- Information on which courts hear what cases and court access (e.g., transportation)
- Staffed self-help centers in/near courthouse or accessible in community
- Multiple channels of providing information (e.g., workshops, online)

**Additional Elements:**

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Language Services Integration Component Assessment

**Description:** This component contemplates integrating meaningful language access services into all points of the civil justice system.

**Key Elements:**
- Language access services at all points of contact between Limited English Proficiency (LEP) users and all legal system components (e.g., forms, interpreters)
- Quality of language access services and providers
- Language access planning and monitoring
- Effective use of multi-lingual outreach and court staff
- Increased availability of multi-lingual information and educations for LEP users

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Plain Language Forms Component Assessment

**Description:** This component contemplates implementing standardized, plain language forms that are also user-friendly.

**Key Elements:**
- Implementation of standardized plain language forms
- Testing for comprehensibility and usability
- Form data integration with the court information system
- Protocols for assessing and updating forms

**Additional Elements:**

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Alternative Dispute Resolution Integration Component Assessment

**Description:** This component addresses providing information about ADR and ensuring ADR is appropriately integrated into the civil justice system.

**Key Elements:**
- Provision of information about ADR modes and processes, substantive ADR law, and consequences
- ADR information available online and integrated into portal
- Clear codes of ethics for the non-judicial neutrals
- Access to ADR modes provided within procedural context, possibly through self-help
- Ethically appropriate collaborations between ATJ stakeholders and ADR providers

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Compliance Assistance Component Assessment

**Description:** This component addresses strategies for increasing comprehension of and compliance with legal processes and court orders.

**Key Elements:**
- Written orders and compliance information available immediately after hearing
- Use of plain language orders and judgments
- Explanations provided by judges and other court staff
- Reminders prior to deadlines
- Online tools to assist with compliance and enforcement
- Collaboration with stakeholders and users to identify common problems and ways to address them.

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**Courtroom Assistance Services Component Assessment**

**Description:** This component involves a more dynamic provision of information to system users through technology and in-person assistance. Judges and court staff are also central to providing courtroom assistance.

**Key Elements:**
- Instructional videos on logistics and procedures
- In-person assistants
- Technology tools to support work of assistants, such as automated forms
- Technology tools for the judges to prepare and explain final orders in the courtroom.
- Training tools for personal assistants and court staff

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Expansion & Efficiency Improvement of Full-Service Representation Component Assessment

**Description:** This component contemplates ensuring sufficient levels of full-service legal representation across income levels.

**Key Elements:**
- Assessment of existing service capacity in the state, factoring in geographic differences.
- Identification of effective service pro bono, legal aid and market-based delivery strategies with potential for replication/scaling.
- Training & assistance with implementation of best practices for utilizing technology and process improvement; identification of potential support to make this possible.
- Incorporation of litigation strategies that have the potential to impact many people and decrease the need for full representation in the future.
- Training and mentoring for pro bono volunteers, both on substantive issues and on how to work with low-income clients.

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Unbundled (Discrete Task) Legal Assistance Component Assessment

**Description:** This component contemplates achieving sufficient levels of discrete task legal assistance deployed at strategic points for the highest possible impact for users.

**Key Elements:**
- Lawyers willing to provide legal services on a discrete task basis
- Processes for conclusion of limited scope representation, (i.e. client is aware of any remaining legal needs and how to do that through self-help or other resources)
- Training and resources to support participating lawyers
- Adoption of rules that facilitate limited scope representation and ease in entering/exiting a matter
- Good lines of communication between the limited scope attorney and the client
- Screening, triage and referral components to connect these lawyers with persons seeking their services
- Full acceptance by the judiciary of the practice

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Simplification Component Assessment

**Description**: This component contemplates simplification of legal processes and the user’s legal experience.

**Key Elements**:
- One-stop shopping used to simplify user experience
- Streamlined internal court operations, including automated generation of orders and judgments
- Online dispute resolution
- Forms, legal documents and oral communications, face to face conversations use plain language.
- Review of courtroom procedures to determine more effective ways of providing information, helping parties come to resolution
- Simplified court rules to eliminate unnecessary appearances and filings

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Role Flexibility for Other Professionals Component Assessment

**Description:** This component contemplates a new set of roles that provides legal services by professionals who are not lawyers.

**Key Elements:**
- Assist litigants in navigating court processes on-site.
- Assist litigants in selecting and filling out forms.
- Assist litigants in complying with legal processes for case actions with large numbers of self-represented litigants.

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JUSTICE FOR ALL
STRATEGIC ACTION PLANNING GUIDE

This Strategic Action Planning Guide helps states move from assessment to action in achieving meaningful access to justice for all. It is designed to be used in conjunction with the Justice for All Inventory Assessment Guide (the “Inventory Assessment Guide”). Another companion document, the Introduction to the Justice for All Strategic Planning Effort (the “Introduction”), provides additional information on the Justice for All Components¹ and the overall approach to the strategic planning effort. If possible, states should review the Introduction and complete the Inventory Assessment Guide before completing this guide.

The goal of this guide is to make the planning process approachable and practical. It breaks down the strategic action planning process into three main segments:

1. **Establishing the planning process**: Discusses considerations for the strategic action planning team and process.

2. **Prioritizing and staging the Justice for All components**: Outlines a framework for and important factors to consider when prioritizing components.

3. **Undertaking individual Justice for All component planning**: Overviews specific areas planning should cover and provides a detailed outline and sample template for planning.

Each segment contains proposed action steps to complete a unified strategic action plan that addresses all of the components. Appendix A contains a checklist of these proposed action steps. Planning principles are also noted throughout this guide.

**ESTABLISHING THE PLANNING PROCESS**

**The Planning Team**

The Introduction highlighted the importance of the planning team’s diversity and leadership, so that it includes the legal aid bar, the private bar, the courts, the Access to Justice Commission, and non-traditional justice stakeholders. It is equally important to build a team of action-oriented individuals. Discussion is always necessary, but the planning team should efficiently make decisions about what actions are needed to improve access to justice in their state and provide a solid foundation for undertaking those actions. It is ideal to make important decisions on member roles and logistics (e.g., setting agendas and staging the planning process) early in the process.

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¹ The Justice for All components break the universe of ATJ solutions into discrete categories (e.g., Language Access Services, Triage, Non-Lawyer Role Flexibility). So, discussions about component prioritizing and deployment refer to focusing and implementing a group of related solutions.
Completing an inventory assessment might also highlight “holes” in the planning team membership. For example, it might become apparent that certain community stakeholders should be added to the planning team after assessing the Community Integration & Prevention component. If this is the case, it is best to integrate these members into the planning team at an early stage to ensure effective planning and maximize buy-in during implementation.

**PLANNING PRINCIPLE**

Ensure planning team membership is integrated and reflects traditional and non-traditional civil justice stakeholders, including social service providers, key community groups, funders and the public.

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**ACTION STEP 1: Identify planning team membership, member roles, and planning logistics.**

**Action Planning Considerations**

Every state can and should approach strategic action planning with their own state’s unique characteristics in mind and tailor its plan accordingly. The population characteristics of each state differ significantly, as do the allocation of resources in regions within a state. Recognizing these differences makes it possible to tailor planning more effectively. While the Justice for All planning effort provides a general approach to planning, the following discussion recognizes two factors states might think about in determining their strategic action planning approach.

**Case Type Focus.** The goal of the Justice for All planning effort is to increase meaningful access across the entire civil system. Dividing focus among case types could lead to a disjointed effort to prioritize and address particular components that becomes unwieldy to manage. However, states may desire to focus on certain case types in the strategic action planning process to make the changes needed in each type to reach the overall goal. This might especially be true where existing efforts have increased access only in certain case types (e.g., the existence of robust self-help in family law cases but little in debt collection cases) that becomes apparent during the assessment process.

Acknowledging these differences is important in the planning process. Deficiencies in the deployment of a particular component can be noted and considered when thinking about implementation; similarly, advances in one area may call for different action steps there than in areas where no foundational efforts have yet been made. Explicit focus on one case type might be more appropriate in the context of implementing a pilot effort that will then be applied to all case types. Any decision a state makes with respect to case-type focus should be fully discussed prior to adoption.

**Regional Focus.** Some states may choose to tackle the component planning process on a regional basis and create different component plans according to a regional breakdown they think appropriate. On one end of the spectrum, this might lead to an intense pilot focusing only on one court or county, in
order to test, demonstrate, and build support for implementing that component. While such an approach might have the short term advantage of being politically palatable, it may well have the long term disadvantage of making it harder to get to true access to justice for all on a statewide level because certain areas might become further isolated or underserved.

A hybrid strategy might be to immediately create a statewide plan for certain components and a regionally-focused plans for other components. In this situation, the overall Justice for All strategy would need to include a clear step on transitioning the regionally-focused components to a statewide focus. Moreover, the regionally focused plans should involve components that would maximize the chances that the innovations and integration in the initial region will eventually be deployed statewide. Examples include protections to ensure that technology developed in one region could be rolled out statewide without modification, and full statewide agreement on outcome measures and triage protocols.

**ACTION STEP 2: Decide on parameters and approach to strategic action plan.**

**PRIORITIZING AND STAGING THE JUSTICE FOR ALL COMPONENTS**

The *Inventory Assessment Guide* allows you to know where you are before deciding where you want to go. Prioritizing the Justice for All components tackles that second crucial piece—deciding where you want to go. In particular, it introduces a framework and other important factors to consider in component planning and deployment. Under this structure, no component is ignored; an action plan should be developed for each component before prioritization is finalized under the Justice for All effort. Instead, this section is intended to help focus individual planning to maximize efficiency and effectiveness.

**Prioritization and the Cluster Framework**

Simultaneously undertaking robust implementation action on each Justice for All component is not financially realistic or strategically effective for many, if not all, states. Using a framework to structure the approach to planning embraces the reality of ATJ implementation efforts and can help organize component planning and implementation efforts. This guide proposes a “cluster framework,” in which components are sorted into four different clusters. The four clusters are defined as follows:

- **Foundational Capacities.** Institutional capacities that need to be developed early for the system as a whole to work well and efficiently.
- **Foundational Services.** Services that must be put in place early in order for other broader services to be deployed later.
• **Enhancement Services.** Services, often using foundational capacities and enhancing foundational services, which enable many more people to be served throughout the system.

• **System Completion Innovations.** Innovations that allow the system to get to meaningful access to justice for all at reasonable cost, primarily building on and depending on the prior components.

Because of their characteristics and relationship to other clusters, foundational clusters should be prioritized first, and the other clusters prioritized in descending order. Diagram A shows how the cluster framework can be conceptualized.

Diagram A. Cluster Framework

Diagram B shows how the Justice for All effort assigns components within the cluster framework.

Diagram B. Cluster Framework with Components
It is important to note several characteristics of the cluster framework. **The framework does not assume that components in one cluster have to be fully developed before deploying components in other clusters.** For example, states may be able to enhance and develop the Technology Capacity component even as work on the Discrete Task Legal Representation component moves forward. This applies across components and cluster levels. In addition, states may be able to begin deployment of non-foundational components earlier in the process than the cluster framework might suggest if they have the resources to do so.

Despite these caveats, viewing component deployment within the cluster framework can be a helpful starting point for deciding how to target planning and implementation efforts. The Component Assessment Sheets from the *Inventory Assessment Guide* provide a snapshot of each component’s level of deployment, referred to as maturity. Appendix B allows states to view every component’s maturity status in the context of the cluster framework. Maturity levels can be viewed relative to all other components and to components within the same cluster level.

**ACTION STEP 3:** Fill out the Component Assessment Compilation (Appendix B) to view the deployment status for all components.

After recording component deployment levels, gaps in component maturity should become relatively obvious. These gaps can provide a starting point for focusing planning and implementation efforts. Identifying maturity gaps in the cluster framework is meant to provide a starting point for prioritizing and staging components.

There are times when identifying maturity gaps might be entirely determinative of prioritization but, where appropriate, planning priorities might be modified to reflect state needs and realities. Additional considerations for prioritizing components after individual component planning efforts are discussed below.

**ACTION STEP 4:** Identify component maturity gaps to provide a basis for prioritization.

### PLANNING PRINCIPLE

While the framework provides a tool for prioritization, component deployment is a concurrent effort.
Other Prioritization Factors

A number of additional factors\(^2\) can help states focus their planning efforts. This section addresses a few of these factors in detail and highlights others. Prioritizing components requires balancing many interests, with the goal of identifying efforts that can do the most to move the needle on meaningful access to justice for all. Regardless of the factors used, any prioritization choices should be analyzed and justified prior to adoption.

### Demographic Characteristics

A state’s demographic information provides a portrait of its civil justice system users (and non-users). It can also provide a window into the potential “reach” of certain components. Urban/rural concentrations, technological proficiency, and language usage can be particularly instructive. When these and other demographic indicators are taken into consideration, it may impact component focus independent of assessed maturity levels. For example, a state with a very large percentage of non-English speakers and a low percentage of individuals with access to technology may have an inventory assessment that shows the Language Services Integration component at a “Sufficient” maturity level and the Technology Capacity component at a “Baseline” maturity level. Considering the demographics, focusing on building technology solutions may be premature if potential users are unable to access them. While it is certainly very important to build Technology Capacity, early focus on Language Services Integration may have the greater impact despite a higher maturity level.

### Natural Fit

It is unrealistic to assume states will not consider implementation in their initial planning efforts. When thinking about implementation flow, obvious “natural fits” may become apparent because many of the components are interrelated. Action may be logical even if an area has not been explicitly identified as a gap based on the inventory assessment. For example, a state with an initial focus on plain language forms may already have a sufficient number of plain language forms in English. The natural next step could be to focus on making the forms available in other languages (Language Services Integration) or making them technology-enabled (Technology Capacity). Design/Governance and Resource Planning components provide another example in the other direction. These components need not be fully developed when Broad Self-Help Informational Services are implemented, but self-help will be much stronger if there is already a strong resource planning and design/governance effort in the state.

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2 Although this discussion focuses on prioritization, these factors are also important when approaching implementation. Using demographic data can avoid implementing ineffective solutions. By understanding there is a large degree of cellphone usage in an area, Compliance Assistance component solutions can target cellphones for reminders/notifications in lieu of traditional mailings to increase compliance. The Justice for All website contains links to detailed demographic information that may be helpful in this analysis.
**Pure Gap Analysis.** The inventory assessment states perform are functionally a gap analysis. The more a state closes a component deployment “gap,” the closer they will be to access to justice for all. For this reason, a state may choose to focus solely on those components that have the biggest gaps based on the inventory assessment process.

**Return on Investment.** This gets at the heart of components that might present early action items for planning and deployment. Lack of, or a particularly strong, return on investment drives this calculus. For example, a state might want to give priority to the Simplification component because it has the coalition necessary to do so and simplified processes may enhance the ability to create technology systems for users.

**Miscellaneous Factors.** There are also other factors that can impact decisions to focus on certain components. These include:

- Lack of, or particularly strong, political support for a component;
- Fundraising expectations;
- Stakeholder will or lack of will; and
- Lack of, or presence of a clearly appropriate institution to provide component leadership.

The specific weight a state should give to any of the above factors depends on the individual state and its planning team.

**INDIVIDUAL JUSTICE FOR ALL COMPONENT PLANNING**

Tentatively identifying certain components as priorities is not a substitute for completing the planning process for all components. While it may be tempting to complete planning only for those components identified as priorities in the first instance, doing so would ignore important solutions that can increase meaningful access to justice for all. In fact, thoroughly assessing prioritization factors like return on investment depends on completing the planning process for every component. The following discussion addresses key considerations for individual component planning.

**Action-Oriented.** The goal of individual component planning is a robust and practical action plan that will allow states to take concrete action and move a component forward. As such, the component planning template (See Appendix C) focuses on identifying:

- Key stakeholders and roles;
- Milestones necessary for deployment;
- Costs and internal resources that may be required for deployment;
- Outcome measures for tracking component progress; and
- Timelines for deployment.

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^3 A gap analysis involves assessing the gaps between actual performance and ideal performance.
**Outcome Measures.** Individual component planning includes developing outcome measures, something that can be challenging for a number of reasons (i.e. lack of established data collection and tracking capabilities). While states are encouraged to develop their own measures, the questions provided for each component in the *Inventory Assessment Guide* can provide a good starting point for measurement. Developing measures around these questions will also provide continuity with the state’s inventory assessment.

**Key Elements.** Most Justice for All components clearly involve a number of individual “solutions.” These have been identified as Key Elements in the *Inventory Assessment Guide*. Planning should occur with the overall component in mind, but a state might appropriately target a key element if that element has been identified as under-developed or particularly important during the inventory assessment process. At a minimum, identifying key elements may provide a good basis for breaking down costs and resources.

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**ACTION STEP 5: Complete steps 1-4 of the action planning template for each Justice for All component.**

The information needed in steps 1-4 of the action planning template identify what implementation would require for each component. Taken together with the prioritization factors, this information allows states to finalize their implementation focus.

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**ACTION STEP 6: Finalize component implementation focus based on individual component plans and prioritization factors.**

**Timeline for deployment.** Determining timelines for deployment is the last piece of strategic action planning. Finalizing priorities before assigning component timelines allows states to generate meaningful timelines that reflect their priorities and take other components into consideration. Timeline information can be registered in step 5 of each component planning template.

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**ACTION STEP 7: Record timelines for Justice for All component implementation.**

**CONCLUSION: MOVING TO IMPLEMENTATION**

What happens to the components not flagged for immediate implementation? Their plans should not be left to gather dust. A state might pursue implementation from those stakeholders not immediately involved in the prioritized components. In addition, states can discuss and decide on definitive timelines to approach implementation at a later date.
Despite the strategic action plan or method used to create it, movement is key. States should *move* to achieve a self-sustaining maturity level for every component. Subsequent efforts should *move* the needle on providing meaningful access to justice for all. Movement and measurement is the only way to ensure an adequate and dynamic response to the ATJ universe and achieve the vision expressed in Resolution 5.
APPENDIX A

JUSTICE FOR ALL STRATEGIC ACTION PLANNING

ACTION STEP CHECKLIST
# JUSTICE FOR ALL STRATEGIC ACTION PLANNING

## ACTION STEP CHECKLIST

Use the checklist below to track your progress on the Justice for All strategic action plan.

<table>
<thead>
<tr>
<th>Action Step</th>
<th>Complete?</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Identify planning team membership, member roles, and planning logistics.</td>
<td></td>
</tr>
<tr>
<td>2. Decided on parameters and approach to strategic action plan.</td>
<td></td>
</tr>
<tr>
<td>3. Fill out the Component Assessment Compilation (Appendix B) to view the deployment status for all components.</td>
<td></td>
</tr>
<tr>
<td>4. Identify component maturity gaps to provide a basis for prioritization.</td>
<td></td>
</tr>
<tr>
<td>5. Complete steps 1-4 of the action planning template for each Justice for All component.</td>
<td></td>
</tr>
<tr>
<td>6. Finalize component implementation focus based on individual component plans and prioritization factors.</td>
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<tr>
<td>7. Record timelines for Justice for All component implementation.</td>
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</tbody>
</table>
APPENDIX B

COMPONENT ASSESSMENT COMPILATION
Use the Component Assessment Sheet responses from the *Inventory Assessment Guide* to identify the level of component deployment in the chart below. The Level of Deployment categories are explained as follows.

No Deployment = Majority of Component Assessment responses are “No”
Baseline Deployment = Component Assessment responses are primarily “Baseline Only”
Mixed-level Deployment = No clear pattern in Component Assessment responses
Sufficient Deployment = Component Assessment responses are primarily “Sufficient”
Self-Sustaining Deployment = Component Assessment responses are primarily “Yes, Self-Sustaining”

<table>
<thead>
<tr>
<th>Components in the Cluster Framework</th>
<th>None</th>
<th>Baseline</th>
<th>Mixed</th>
<th>Sufficient</th>
<th>Self-Sustaining</th>
</tr>
</thead>
<tbody>
<tr>
<td>Foundational Capacities</td>
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<tr>
<td><em>Community Integration &amp; Prevention</em></td>
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<tr>
<td><em>Design, Governance &amp; Management</em></td>
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<td><em>Judicial Education Program</em></td>
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<td><em>Resource Planning</em></td>
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<td><em>Technology Capacity</em></td>
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<td><em>Triage, Referral &amp; Channel Integration</em></td>
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<td>Foundational Services</td>
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<td><em>Broad Self-Help Informational Services</em></td>
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<td><em>Language Services Integration</em></td>
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<td><em>Plain Language Forms</em></td>
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<td>Enhancement Services</td>
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<tr>
<td><em>Alternative Dispute Resolution Integration</em></td>
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<td><em>Compliance Assistance</em></td>
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<td><em>Courtroom Assistance Services</em></td>
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<td><em>Expansion &amp; Efficiency Improvement of Full Service Representation</em></td>
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<tr>
<td><em>Unbundled (Discrete Task) Legal Assistance</em></td>
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<tr>
<td>System Completion Services</td>
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<td><em>Simplification</em></td>
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<td><em>Role Flexibility for Other Professionals</em></td>
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</table>

*A self-sustaining item does not imply that work in that area is complete, but rather that there is a basis for continuing progress and improvement in that area.*
APPENDIX C

INDIVIDUAL COMPONENT PLANNING TEMPLATE
1. Identify Key Stakeholders and Responsibilities (*add lines as necessary*)

<table>
<thead>
<tr>
<th>Stakeholder</th>
<th>Responsibilities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ex: Local Bar Foundation</td>
<td></td>
</tr>
</tbody>
</table>

2. Identify Milestones for Deployment (*add lines as necessary*)

<table>
<thead>
<tr>
<th>Milestone</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Milestone 1:</td>
<td></td>
</tr>
</tbody>
</table>

3. Costs and Resources Associated with Deployment

4. Identified Outcome Measures to Track
5. Timelines for deployment

<table>
<thead>
<tr>
<th>Milestone</th>
<th>Description</th>
<th>Timeline</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Milestone 1:</strong></td>
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</table>

6. Other considerations