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New Research Findings from *The Justice Index*
on
Gaps & Progress in Civil Access to Justice Policies
in 50 States, DC and Puerto Rico

New York, NY, May 11, 2014 – The National Center for Access to Justice (NCAJ) today uploaded new research findings into *The Justice Index*, www.justiceindex.org. The findings rank the states, including DC and Puerto Rico, on best policies for civil access to justice. The findings make it easy to identify and replicate best policies.

Civil access to justice means courts are available regardless of a person’s economic status, language ability, or physical or mental challenges. It means millions of people – women or men in need of refuge from domestic violence; children in need of protection from abuse, exploitation and neglect; parents struggling with the pain and problems of divorce; families fighting unfair evictions and foreclosures – have the opportunity to protect their rights and interests under the law.

By showing the states that lead and trail on policies for access to justice, and by making the best policies visible, the Justice Index equips state court leaders, executive officials, legislators, and reformers inside and outside of government to push to replicate those policies. Many states are working to increase access to justice. The Justice Index recognizes progress and helps deepen and accelerate it.

Key Findings

- **Fewer than 1 civil legal aid attorney is available per 10,000 poor people across the country:** Even though nearly 110 million Americans are poor enough to qualify for free legal assistance because they can’t afford an attorney (at or below 200% of the federal poverty level), the nation has an average of .64 civil legal aid attorneys per 10,000 poor people. That’s compared with 40

lawyers per 10,000 Americans in the general population. In total, the US has only 6,953 civil legal aid lawyers who serve people who can't afford legal help out of the nearly 1.3M attorneys in the U.S. The result is that millions of Americans who need legal assistance are unable to obtain it.

- **Many States Are Using Technology To Help. Much More Can Be Done:** Technology can assist unrepresented people in being heard and also help courts to get the information and documentation they need to work most efficiently. The Justice Index found that 80% of states list on their websites the required forms for a number of key family law matters (divorce, child support, domestic violence) and 60% also list the supporting materials that a person must file so the court can make a decision. In those states, a person who can't afford a lawyer can still know what forms they need to file and what they need to have with them to be heard in court. The use of technology to support those without a lawyer who need to deal with critical economic matters in court (foreclosure, eviction, debt collection) is lower, ranging from 20% (foreclosure) up to 40% (eviction and debt collection). 100% technology penetration in all these areas would help thousands of people.

The next generation of technology support for self-represented people is often called document assembly programming. These are basically "TurboTax" for court papers: the computer asks questions, the person answers and the program generates the required filings. A few states are leading the way with such programs (California and New York are examples), but fewer than 30% of states have rolled out this technology for matters other than the simplest divorce proceedings (where a couple has no children).

A number of states are working hard to put technology in place to make the courts more accessible. Much more can be done. The technology exists. Many private companies have deep expertise in providing it. It requires some up-front expenditures, but offers long-term benefits.

- **Americans without English proficiency face striking barriers in court:** Even though 25 million people in the United States have limited English proficiency, nearly one half of the states don't require that a certified interpreter be provided for people facing any number of life-changing court cases: domestic violence, custody and child support, foreclosure, public and subsidized housing cases, debt collection, divorce. It should not be possible in America for a person to lose her home or children or to be crushed by creditors without any chance to tell her side of the story because English isn't her first language.
- **Court fees create daunting obstacles for poor Americans:** Across the country, Americans are required to pay fees in order to come to court—putting justice out of reach for many low-income people. But only 12 states require court staff to tell Americans that their fees can be waived if they can't afford to pay—

discouraging many from bringing rightful claims and sometimes barring them from defending against wrongful claims .

- **States lag in providing mental health accommodations:** The vast majority of states fail to help Americans with mental illness navigate the justice system. 45 states do not provide dedicated employees who are trained to assist people in court with mental illness. Even more shockingly, 10 states have not established a right to an attorney in cases involving guardianship due to mental health issues. In Indiana an American can be subject to involuntary commitment without ever speaking to an attorney.

Progress Shown in the Justice Index

Showing Progress and Establishing A Path – The access to justice picture across the country is troubling. But an intensifying focus and the success of a number of states in improving access are inspiring hope and providing a path of experience for other states to follow. This year’s Justice Index shows which states are leading the way in adopting promising new civil legal aid models that can empower people to successfully navigate the justice system.

- **The top performers overall, from the top down, are** Massachusetts, Hawaii, Maryland, Connecticut, Colorado, Minnesota, Tennessee, New Mexico, and Wisconsin.

Often with judicial leadership ([see Conference of Chief Justices Resolution](#)), many states are pursuing common-sense and innovative reforms to help poor Americans in civil cases: allowing lawyers to perform discrete legal tasks for clients at lower cost than long-term representation (called “unbundling” of services) (44 states); authorizing judges (23) and court staff (32) to take steps to help people without lawyers effectively represent themselves; encouraging the use of plain English in the courtroom rather than legalese (20); funding the creation of “self-help centers” to aid those representing themselves (20); adopting digital e-filing of court forms (44); grouping together all court forms on a single, easy-to-navigate webpage (44); training judges to work with interpreters (32) and providing translated court forms on court web sites (30).

- **The bottom performers overall, from the bottom up, are** Mississippi, Wyoming, Puerto Rico, Nevada, South Dakota, Indiana, North Dakota, Oklahoma, and Vermont. For each and every state, top, middle and bottom, the Justice Index 2016 also identifies the specific best policies not yet in place., helping to set a reform agenda.

What People are Saying About the Justice Index 2016 Findings

David Udell, Executive Director, National Center for Access to Justice at Cardozo Law School, said: “The Justice Index drives a national conversation about how to deliver on one of the core promises we make to each other as Americans: that everyone must be equal before the law. By relying on data and technology, the Justice Index shows where the best laws, rules and polices are in place. By ranking leading and trailing states, the Justice Index builds in incentives for every state to do better.”

Illinois Supreme Court Justice (Former Chief Justice) Hon. Thomas Kilbride, said: “We value the Justice Index because it highlights practical solutions for the real challenges facing our civil justice system, and helps us identify and prioritize strategies that enable our state justice system to ensure access to justice.”

Hawaii Supreme Court Justice Mark Recktenwald said: “We thank the Justice Index team for their tremendous work. This report not only helps educate the public about the challenges and unmet need for legal assistance that exists in our legal system nationwide, but also raises awareness of the many resources that are available so people know where to get help,” and “Increasing access to justice requires a collaborative effort. We are so grateful to all those who are committed and dedicated to making 100% access a reality for all.”

Connecticut Chief Justice Chase T. Rogers said: “Through the administration of the Justice Index, the National Center for Access to Justice continues to provide the opportunity for states to shine a spotlight on the importance of increasing access to justice, by not only highlighting areas where we may be succeeding, but equally as important, to help identify areas where we may have justice gaps and deficiencies. It is critically important, especially during these difficult economic times, that we maximize our resources and improve efficiencies. The Justice Index allows Connecticut to learn what other states are doing in furtherance of their access to justice goals, and to continue to forge ahead and make improvements in our own ATJ endeavors.”

Bob Glaves, Executive Director, Chicago Bar Foundation, said: “While it’s difficult to fully capture a multifaceted issue like access to justice in any kind of survey instrument, the four areas covered by the Justice Index are integral elements of the more comprehensive strategy necessary to uphold our nation’s fundamental principle of equal access to justice. We’re pleased to see the Index recognizes our state’s recent strides in access to the courts, and also underscores that we still have a lot of work in front of us to accomplish our goal of assuring access to justice for all.”

The Data Sets are Vast – The Justice Index is an unprecedented collection of data on best practices for access to justice in state justice systems:

120 research questions

52 jurisdictions

6,200 data points

3,120 written citations

Four indexed categories ranking states:

- Self-Representation
- Language Access
- Disability Access
- Numbers of Civil Legal Aid Attorneys Poor Person

The Pro Bono Effort Behind the *Justice Index* – Court officials contributed extensive time to responding to a questionnaire distributed by NCAJ. Five law firms donated thousands of hours of time; more than 50 pro bono attorneys from Kirkland & Ellis LLP, Morgan, Lewis & Bockius LLP, O’Melveny & Myers LLP, Patterson Belknap LLP, and Simpson Thacher LLP carried out research and quality assurance review supervised by NCAJ. GE attorneys joined in the effort. Deloitte contributed technical expertise, and support was provided by Pfizer and UBS. *The Justice Index 2016* was made possible only because Skadden Arps LLP, Kirkland & Ellis LLP, with Pfizer, Deloitte and NCAJ, created the original Justice Index in 2014.

About The National Center for Access to Justice

The NCAJ is the academically affiliated non-partisan law and policy organization dedicated exclusively to increasing access to our nation’s civil and criminal justice systems. NCAJ pursues reform from the perspective of the litigant, but works closely with the bar, the judiciary, law schools, the legal aid community, and others, including social services agencies and client groups. NCAJ’s tools include research, public education, conferences, reports, legislative drafting, and tools of data analytics and data visualization. NCAJ is housed at Cardozo School of Law where its staff teach the *Legal Services & Pro Bono Seminar*. The *Justice Index* is a project of NCAJ. For more information about the *Justice Index*, visit www.justiceindex.org. For more about NCAJ, including its mission, staff, board of directors, activities and publications, visit NCAJ’s web site, www.ncforaj.org.

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