

Overview of the Justice Index

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In the United States and around the world, people's lives are compromised in civil legal matters when they do not understand the law, cannot assert their rights, cannot rely on a neutral and unbiased decision-maker, cannot count on the rule of law and cannot enforce the law. When access to justice is denied in these ways, people risk losing their children, their homes, their physical security, their savings, even their freedom. The Justice Index, <https://justiceindex.org>, created by the National Center for Access to Justice at Fordham Law School with the support of pro bono attorneys and data technicians, is an on-line resource that uses data and indicators to rank the states on their adoption of best policies for assuring access to justice. The Justice Index is aligned with Goal 16 of the United Nations Sustainable Development Agenda which calls on all countries to assure access to justice and the rule of law as part of the global effort to end extreme poverty everywhere by 2030. The Justice Index has been helping improve access to justice and the rule of law in the states since 2014. See the video created by the American Bar Association for the presentation of the ABA's Pro Bono Publico Award to the Justice Index pro bono team on August 12, 2017, <https://goo.gl/yRFBvE>.

I. Introduction to the Justice Index

The Justice Index is a website that uses data, indicators and indexing to rank the 50 states, Puerto Rico, and Washington, D.C., on their adoption of selected best policies and practices for assuring access to justice. Its driving idea is that a responsible comparison of the access to justice policies established in the states will promote a conversation and debate about those policies both within and between the states, which will in turn promote policy reforms that expand access to justice in each state. By making selected policy models highly visible, the Justice Index also facilitates their easy replication.

II. The Justice Index four sub-categories

The Justice Index contains four sub-categories (each comprised of multiple indicators) as follows:

- Attorney Access Index – ratio of civil legal aid attorneys per 10,000 poor.
- Self-Represented Index – policies to assist self-represented litigants
- Language Access Index – policies to assist people with limited English proficiency
- Disability Access Index – policies to assist people with disabilities

The Justice Index also contains a Composite Index, which combines the scores from the four sub-index categories by according each category 25% of the composite score.

III. The Justice Index issue areas, indicators, data and findings

The Justice Index contains approximately x issue areas, 112 indicators, and 5,000 data points organized in four sub-index categories. Operating under NCAJ's direction, teams of volunteer attorneys gathered data and also conducted a quality assurance review of data provided by courts, legal aid programs and other stakeholders. Complete indicators, and all data and rankings, are at www.justiceindex.org. Short titles and explanations of indicators are below.

A. Attorney Access – This sub-index offers a count of civil legal aid lawyers in each state, and a total for the country. The Legal Services Corporation provided NCAJ with a count of civil legal aid lawyers in organizations that have LSC funds. To obtain a count of civil legal aid lawyers in organizations that do not have LSC funds, NCAJ relied on diverse sources, including State Bar Associations, State Court Systems, State Access to Justice Commissions and State Interest on Lawyers Trust Account foundations. NCAJ also reached out to civil legal aid leaders to obtain information from their programs. Justice Index indicators include: 1) number of civil legal aid lawyers, by state; 2) number of civil legal aid lawyers per 10,000 residents at or below 200% of federal poverty line, by state (This “ratio indicator” is indexed); 3) number and names of civil legal aid programs, by state; 4) number of attorneys in general population, by state.

B. Self-Represented Access – This sub-index relies on 56 indicators that track the presence or absence of selected best policies for assuring access to justice for people who are self-represented:

Responsible party for unrepresented people

1. Dedicate a Court Employee (34 states)

Guidance for judges

2. Authorize Specific Steps by Judges (23)
3. Train Judges on SRLs (31)

Guidance for court staff

4. Authorize Court Staff on Specific Steps (32)
5. Train Court Staff on SRLs (27)

Provision for legal services; Unbundling

6. Authorize Unbundling (44)
7. Train Judges on Unbundling (9)

Counting SRL cases; Data collection

8. Fund a Self-Help Center (20)
9. Count Self-Represented Cases (9)

Communication with people who have low literacy

10. Require Plain English Written Materials (7)
11. Encourage Plain English in the Courtroom (20)
12. Designate Responsibility for Plain English in Courtroom (1)
13. Publish a Plain English Style Guide (8)
14. Train Judges on Plain English (17)
15. Train Court Staff on Plain English (12)

Access to website; Electronic Filing

16. Make Electronic Filing Accessible (16)

Waiver of court filing fees for poor litigants; Court services fees

17. Waive Civil Filing Fees (52)
18. Simplify Waiver of Civil Filing Fees (26)
19. Require Court Staff to Explain Waiver (12)
20. Describe Filing Fee Waiver on Website (34)

Court Forms

21. Conduct Recent Initiative on Court Forms (43)
22. Fund a Recent Initiative on Court Forms (29)
23. Maintain Single Web Page with Court Forms (48)

Court Forms; Website

- 24A-G. List on Court Web Page Forms for Seven Case Types
- 25A-G. List on Court Web Page Materials for Seven Case Types

Court Forms

- 26A-F. Require Courts to Accept Common Form for Seven Case Types

Court Forms; Self-Help Programs

- 27A-G. Maintain Document Assembly Program for Seven Case Types

Access to Justice Commission

28. Maintain Access to Justice Commission (41)

Right to counsel; Data Collection

29. Collect Data on Frequency of Right to Counsel Appointments (7)
30. Collect Data on Quality of Right to Counsel Representation (7)
31. Collect Data on Frequency of Discretionary Appointments of Counsel (0)

Right to counsel; Funding

32. Recognize a Right to Counsel in Housing Cases (0)

Guidance for judges; Right to counsel

33. Recognize a Right to Counsel in Abuse/Neglect Cases (41)

C. Language Access – This sub-index relies on 39 indicators that track the presence or absence of selected best policies for assuring access to justice for people with limited English proficiency:

Certification of interpreters in the courtroom

1. Certify Court Interpreters (43 states)
2. Require Use of Certified Interpreters (33)

Guidance for judges

3. Train Judges on Working with Interpreters (32)

Guidance for court staff

4. Train Court Staff on Working with Interpreters (28)

Website

5. Offer Free Interpreter on Website (21)
6. Use Other Languages to Offer Free Interpreter on Website (13)

Communication outside the courtroom

7. Require Interpreters at Clerks' Counters (7)

State plan; Communication outside the courtroom

8. Include Clerk Counter Interpreters in Language Access Plan (31)

Self Help Centers; Communication outside the courtroom

9. Requires Interpreters at Self-Help Centers (3)

10. Include Self-Help Centers in Language Access Plan (13)

Court Forms

11. Translate Website Instructions for Self-Represented Parties (26)

Website

12. Translate on Website when Interpreters are Provided (17)
13. Translate on Website How to File Interpreter Complaint (10)

Certification of interpreters in the courtroom

- 14A1-12. Require Certified Interpreters for 12 Case Types

Prohibition on payment; Court services fees

- 14B1-12. Require Interpreters be Free-Of-Charge for 12 Case Types

Court Forms; Website

15. Translate on Website Availability of Court Forms (23)
16. Post Translated Court Forms on Website (30)

D. Disability Access – This sub-index relies on 13 indicators that track the presence or absence of selected best policies for assuring access to justice for people with disabilities:

Fees for sign language interpreters

1. Require Sign Language Interpreters be Free-Of-Charge (46 states)

Certified sign language interpreters

2. Require Sign Language Interpreters be Certified (28)
3. Prefer Interpreters with Courtroom Training (27)

Website

4. Say on Website How To Request Accommodation (30)
5. Name on Website the Person for Accommodations (32)
6. Say on Website How To File Disability Access Complaint (27)
7. Name on Website the Person for Disability Access Complaints (29)

Service Animals

8. Require Access for Service Animals (45)

Mental Disability; Website

9. Refer to Mental Disability on Website (15)

Mental Disability

10. Dedicate Court Employee with Mental Health Training (7)

Right to counsel

11. Provide for Appointment of Counsel as Accommodation (3)
12. Recognize a Right to Counsel in Involuntary Commitment (51)
13. Recognize a Right to Counsel in Guardianship (42)

IV. Impacts – Whether the focus is family, housing, security, food, family, debt, veterans, or other areas of direct concern to courts, executive agencies, legislatures, the bar, the press, the academy, and the public, the Justice Index encourages adoption of best policies, creates a platform for social science research on the policies, and introduces the policies to reformers and officials for replication. News of the Justice Index findings draws attention to concerns over fairness in our society, deepens the public’s understanding of the courts, and provides support to reformers in their ongoing efforts to expand access to justice. Consider an example of the power of the Justice Index: when the latest Justice Index findings caused a drop in one state’s rankings because the state failed to prohibit its judges from billing litigants for the cost of free interpreters, the state took immediate action to modify its rule by adding the clause “at no expense”. For Justice Index media clips, see <http://justiceindex.org/category/news/>.

V. Next Steps –We are strengthening the Justice Index in a variety of ways, including:

- **Support** – We are providing technical support to officials who are relying on the Justice Index findings to urge adoption of policies that expand access to justice in their states.
- **Next Indicators** – We are considering adding indicators and modifying the tech design to track best policies for: i) civil right to counsel, ii) fees and fines, and iii) pro bono.
- **Implementation** – We are considering design options for posting findings on whether access to justice policies are implemented on the ground.
- **Research** – We are inviting social scientists to examine correlations between Justice Index data sets and other data sets. We are considering design options for adding to the Justice Index the arguments and research findings in favor of, and also against, our treatment of included policies as best policies. The Justice Index data set is fully downloadable here, <http://justiceindex.org/wp-content/uploads/2016/06/Justice-Index-Data-Workbook-Summary.xlsx>.
- **Individualized state reports** – We are developing and intending to post the Justice Index findings for each state in the form of an access to justice reform agenda individualized and made easily downloadable for each state.

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