

Overview of the Justice Index

David Udell, Executive Director

August 25, 2017

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 indicators, data and findings

The Justice Index contains approximately 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:

- | | |
|---|--|
| 1. Dedicate a Court Employee (34 states) | 22. Fund a Recent Initiative on Court Forms (29) |
| 2. Authorize Specific Steps by Judges (23) | 23. Maintain Single Web Page with Court Forms (48) |
| 3. Train Judges on SRLs (31) | 24A-G. List on Court Web Page Forms for Seven Case Types |
| 4. Authorize Court Staff on Specific Steps (32) | 25A-G. List on Court Web Page Materials for Seven Case Types |
| 5. Train Court Staff on SRLs (27) | 26A-F. Require Courts to Accept Common Form for Seven Case Types |
| 6. Authorize Unbundling (44) | 27A-G. Maintain Document Assembly Program for Seven Case Types |
| 7. Train Judges on Unbundling (9) | 28. Maintain Access to Justice Commission (41) |
| 8. Fund a Self-Help Center (20) | 29. Collect Data on Frequency of Right to Counsel Appointments (7) |
| 9. Count Self-Represented Cases (9) | 30. Collect Data on Quality of Right to Counsel Representation (7) |
| 10. Require Plain English Written Materials (7) | 31. Collect Data on Frequency of Discretionary Appointments of Counsel (0) |
| 11. Encourage Plain English in the Courtroom (20) | 32. Recognize a Right to Counsel in Housing Cases (0) |
| 12. Designate Responsibility for Plain English in Courtroom (1) | 33. Recognize a Right to Counsel in Abuse/Neglect Cases (41) |
| 13. Publish a Plain English Style Guide (8) | |
| 14. Train Judges on Plain English (17) | |
| 15. Train Court Staff on Plain English (12) | |
| 16. Make Electronic Filing Accessible (16) | |
| 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) | |
| 21. Conduct Recent Initiative on Court Forms (43) | |

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:

- | | |
|--|--|
| 1. Certify Court Interpreters (43 states) | 11. Translate Website Instructions for Self-Represented Parties (26) |
| 2. Require Use of Certified Interpreters (33) | 12. Translate on Website when Interpreters are Provided (17) |
| 3. Train Judges on Working with Interpreters (32) | 13. Translate on Website How to File Interpreter Complaint (10) |
| 4. Train Court Staff on Working with Interpreters (28) | 14A1-12. Require Certified Interpreters for 12 Case Types |
| 5. Offer Free Interpreter on Website (21) | 14B1-12. Require Interpreters be Free-Of-Charge for 12 Case Types |
| 6. Use Other Languages to Offer Free Interpreter on Website (13) | 15. Translate on Website Availability of Court Forms (23) |
| 7. Require Interpreters at Clerks’ Counters (7) | 16. Post Translated Court Forms on Website (30) |
| 8. Include Clerk Counter Interpreters in Language Access Plan (31) | |
| 9. Requires Interpreters at Self-Help Centers (3) | |
| 10. Include Self-Help Centers in Language Access Plan (13) | |

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:

1. Require Sign Language Interpreters be Free-Of-Charge (46 states)
2. Require Sign Language Interpreters be Certified (28)
3. Prefer Interpreters with Courtroom Training (27)
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)
8. Require Access for Service Animals (45)
9. Refer to Mental Disability on Website (15)
10. Dedicate Court Employee with Mental Health Training (7)
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.

[Contact David Udell, dudell@fordham.edu; August 25, 2017]