

Creating Guidance for Civil Legal Aid Programs & Civil Legal Aid Donors on Best Practices for Using Data to Track Outcomes in New York City

**A Project of the National Center for Access to Justice at Fordham Law School
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Introduction

In New York City, across the country, and around the world, people pass through civil courts and administrative agencies each year in matters that risk their homes, their physical and psychological safety, their rights as parents, their jobs, their savings, even their food and medicine and basic subsistence benefits. Many people in addition to those in the courts and agencies also face legal problems, but never realize the legal dimension of the problems or that legal assistance or courts could make a difference for the good in their lives. Indeed, civil justice problems contribute to people becoming homeless, injured, isolated, hungry, and in greater debt. These and other consequences are also believed to lead many into the criminal justice system.

In fact, the cost of civil legal aid on the private market in the US is substantial. Lawyers may charge \$250 per hour or more for the most basic forms of legal assistance, while a typical family of four has income of only \$1,300 per week. The free civil legal aid bar can be a lifeline for people who are poor, but it only reaches about two million people a year nationally whereas 15 million to 20 million new civil cases are filed each year. New revenue for civil legal aid, made available in New York in recent years by government and other sources, is helping to narrow the "justice gap" especially by reaching more people with civil legal aid in eviction proceedings in New York City. The new funding, however, is not projected to meet the true level of need across legal practice areas, and much work will need to be done to determine its true impact even in the cases in which it is provided.

In response to the justice gap, Chief Justices and Chief Court Administrators in the nation's state courts, including the New York Courts, committed in 2015 to an aspirational goal of "100 percent access to effective assistance for essential civil legal needs." Relatedly, the United Nations in Goal 16 of the UN's "2030 Sustainable Development Agenda" has called on all countries of the world, including the United States, to assure access to justice as a means of ending extreme poverty by 2030. In the U.S., the Legal Services Corporation has urged a vision of access to justice that its leaders have described as covering: "Everyone, Anytime, Anywhere." As New York's former Chief Judge, Jonathan Lippman, has said in urging increased access to justice, "If our New York courts are not assuring access to justice, what's the point of having them."

In the commitment to provide 100% access, assumptions are often made about the nature and level of the need, the effectiveness of the various models of intervention, and the impacts of these models in people's lives and in our larger society. Resources are distributed among the models, which range from uniform automated forms, to navigators and paralegals, to engaged

but neutral judges, to various categories of unbundled advice and assistance on up through and to traditional legal representation from an attorney. Many of the non-attorney models are highly regarded, and some that have been endorsed by experts are tracked and promoted in NCAJ's Justice Index, justiceindex.org. Yet, to date, few of the new models have undergone rigorous evaluative study, including those used by civil legal aid attorneys such as “know your rights trainings,” brief advice and assistance, or even traditional representation.

It is against this backdrop that we see increased enthusiasm for figuring out the difference that legal assistance can make, not only in a person's perspective on the degree to which his or her experience in the justice system is fair, but also in the more concrete kinds of impacts: the actual decisional outcomes of cases, the amount of money that ends up in a person's pocketbook, the consequences for a person's life, or for that person's family and community, as well as for our larger society. What difference does civil legal aid make? That's the question. Practitioners and donors generally share the view that civil legal aid makes a huge difference. Increasingly, however, these stakeholders are also voicing an interest in having more data that more fully illuminates the answers to the question.

The chief justices' call for 100% access to “justice for all” also contains a call for “realistic and measurable outcomes.” Notably, LSC in recent years had urged its grant recipients to track outcomes. The UN in the Sustainable Development Goals, and specifically in Goal 16, has called on all countries to use data to track progress to assure access to justice to their citizens, and its sibling institution, the Organization for Economic and Cooperative Development is pursuing an initiative that is using data to evaluate and make the case for investing in civil legal aid as a response to poverty. Finally, in an era in which “false news” is a common headline, we see in our society an increased appreciation for data and findings that establish facts.

The National Center for Access to Justice (NCAJ) has undertaken this project with an understanding of the role of data, and particularly of outcomes measurement, in producing knowledge that can help to improve the circumstances of people facing civil justice problems.

The NCAJ Project on Outcomes

At a time when everyone sees uses for data, and when civil legal aid programs are adopting strategies and tools to generate findings, analyze them, and report on them, NCAJ has undertaken a project with grant support from New York Community Trust to pull together best practices for the civil legal aid field on using data to track outcomes. The goal of the NCAJ project is to develop ideas for tracking data that will improve the circumstances of clients and communities. The elements of the project include:

- I. *Surveying and interviewing experts* – We will be interviewing civil legal aid leaders, civil legal aid funders (in philanthropy and in government), and leaders of fields other than legal aid (for example, health and education) to learn about best practices for using data to track outcomes. We will also use surveys to obtain views of civil legal aid leaders and funders. We will engage in dialogue and share views with all justice system stakeholders in all settings.

- II. *Reviewing existing models* – We will review reports, web sites, indicator sets, and data sets, containing or resulting from tracking of outcomes in civil legal aid programs and in analogous institutions in other fields.
- III. *Producing guidance* – We will provide civil legal aid programs in New York City with materials on best practices for using data to track outcomes. We will seek to identify practices that: a) reduce the burden of using data to track outcomes while increasing the value of the data tracked, b) help programs learn to better distribute their resources internally in ways that improve service to clients and communities, c) better position programs to demonstrate the value of their work to funders.
- IV. *Partnering with a pro bono law firm* – NCAJ is partnering with attorneys Morgan, Lewis & Bockius on the project. Among other things, the attorneys may carry out interviews, and may also write about issues in using data to track outcomes.
- V. *Advisory committee* – NCAJ has established an advisory committee comprised of the following experts:
 - a) *Christine M. Fecko*, General Counsel, IOLA Fund of the State of New York;
 - b) *Bob Gillett*, Executive Director, Michigan Advocacy Program;
 - c) *Rachel Perry*, Founder and Principal, Strategic Data Analytics;
 - d) *Rebecca L. Sandefur*, Department of Sociology, University of Illinois at Urbana-Champaign; Associate Professor, College of Law, University of Illinois at Urbana-Champaign; Senior Research Social Scientist, American Bar Foundation; and,
 - e) *Jessica Steinberg*, Associate Professor of Clinical Law, George Washington School of Law.

The National Center for Access to Justice at Fordham Law School

The National Center for Access to Justice is the national law and policy organization based at Fordham Law School that relies on data to accomplish policy reforms that help people obtain justice in the courts. NCAJ’s flagship project, the Justice Index, www.justiceindex.org, works by ranking the 50 states on their degree of adoption of selected best policies for assuring access to justice. By raising the profile of these best policies, the Justice Index makes it easy for officials to copy them, creates incentives to do so, establishes a platform for research and advocacy, and ignites a race among the states to be the best at expanding access to justice. The Justice Index helps people appreciate the essential functions of state justice systems. David Udell is Executive Director of NCAJ. Amy Widman is Deputy Director of NCAJ. Sara Ilyas is NCAJ’s Operations and Outreach Coordinator. David Udell is a co-director with Dean Matthew Diller and with former NYS Chief Judge, Jonathan Lippman, of the A2J Initiative at Fordham Law School. More information about the National Center for Access to Justice is available at www.ncforaj.org and at www.justiceindex.org.