

JUSTICE IN A CHANGING WORLD

2021 | **ANNUAL REPORT**



INSTITUTE *for the* ADVANCEMENT
of the AMERICAN LEGAL SYSTEM



UNIVERSITY of
DENVER

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OUR MISSION

IAALS, the Institute for the Advancement of the American Legal System at the University of Denver, is a national, independent research center dedicated to facilitating continuous improvement and advancing excellence in the American legal system. Our mission is to forge innovative and practical solutions to problems within the American legal system.

FROM THE CEO

Disruptive change is often discussed and predicted, but only rarely actually seen. Yet, we have certainly seen disruptive change over the past two years, in our country and the world at large—and in our justice system in particular. The justice system has raced to keep up with events and disruptions—sometimes successfully and sometimes not—building a renewed momentum for meaningful change.

Now, one of the most important questions is whether this momentum can be maintained and effectively channeled. Expanded use of technologies and broadened services have ensured access to the courts continued during the COVID crisis—but how do we expand access to reach even more people that need it? We've filled many of the justice gaps created by the pandemic, but what about the justice gaps that existed before it? IAALS is committed to ensuring that court services and processes continue to modernize, that equitable entry points and resolutions exist for all, and that justice reaches further in the years to come.

The legal profession must also reckon with the vast unmet public need for legal help and historic lack of diversity within its ranks. Efforts are underway in states across the country to allow more people and organizations to provide high-quality legal services at affordable prices, serving an untapped and abandoned market of those previously unable to get help from a lawyer. IAALS is at the heart of these efforts, as well as efforts to ensure that the pipeline to and through the legal profession trains, licenses, and hires better and more diverse lawyers.

The challenges we face continue to upend our lives. The pandemic and its variants, hyper-partisanship and division, societal shifts and cultural awakenings—together, these have created a sea of change and a longing for normalcy. But, we must recognize that normal was never good enough. We cannot go back, so instead we must forge a better future. That is what IAALS is committed to doing. Our work in 2021, as described in this Annual Report, has moved the needle and opened new doors for those in need of justice.

Our justice system must continue to change and continue to improve. And IAALS is making sure it does.



A handwritten signature in black ink that reads "David Yellen". The signature is written in a cursive, flowing style.



FOR THE PEOPLE

What good is the promise of justice for all if costs, complexity, and inaccessibility make it impossible for so many? And how effective can reform really be if the people who need access to our legal system are left out of the conversation? At IAALS, we bring not only research and analytics to understanding the challenges people face—we also bring the actual people affected to the table. Our system is designed to serve the people, so IAALS places them at the center of all we do.

ASSESSING JUSTICE NEEDS IN THE UNITED STATES

OBJECTIVE

To better understand the nation's justice needs in order to target reform efforts and ensure those needs are met.

PROGRESS

We know the access-to-justice crisis is real and that justice gaps exist, but this year has brought our understanding of these critical issues into much sharper focus. Through the *US Justice Needs* project, IAALS and our partner HiiL—The Hague Institute for Innovation of Law—heard the voices of over 10,000 people who responded to our survey, revealing new data and stark realities of how Americans seek and find justice—or not.

- Access to justice is a broad societal problem that affects everyone—66% of the population experienced at least one legal issue in the past four years, with just 49% of those problems having been completely resolved.
- Certain sociodemographic and racial/ethnic groups are particularly disadvantaged, with the most vulnerable populations being those with lower income, women, multiracial and Black Americans, younger and middle-aged individuals, and those living in urban and rural environments.
- Employment and money-related problems are among the most serious problems Americans will face for years to come and warrant immediate focus by courts and policymakers.

Our findings also provide a timely reminder that efforts to improve the justice system should not assume that justice can only flow from attorney to court to resolution. People are already seeking and using innovative paths to resolve their justice needs, and there is a clear need—and market—for forward-looking models for delivering justice at scale.

When we consider the full extent of the justice crisis, we see that approximately 120 million legal problems are not resolved fairly each year from the perspective of people seeking justice. The crisis is clear, the cumulative negative impacts on people's lives are immense, and increased advocacy and funding for policies and services that expand access broadly across our society is essential.

IAALS is currently conducting a companion study of U.S. businesses—from small to large—to develop a greater understanding of their legal needs, the extent to which those needs are being met, the impacts of legal issues, and the potential for forward-looking models that could help businesses navigate the legal system. As part of this effort, IAALS is interviewing at least 50 businesses, with diversity in size, industry, and geography.

CREATING PATHS TO POST-PANDEMIC ACCESS & RACIAL JUSTICE

OBJECTIVE

To connect national leaders tackling civil and racial justice, foster conversations among stakeholders and across systems, and move the conversation—and innovation—forward.

PROGRESS

The pandemic has been a shared experience for everyone, yet we have all experienced it uniquely. The same is true of our courts, which have taken different paths to the same goal: continuing access to justice and continuity of services—be it virtually or in person. But that focus will inevitably shift to growing case backlogs, reduced funding, increased demand for low-cost legal assistance, inequities in access, and deepening concerns regarding public trust and confidence. Even beyond the pandemic, our justice system must be ready to better serve the people, but how do we create paths forward to achieve justice for all?

To answer this question, IAALS launched a virtual summit series, Paths to Justice, which paired invite-only virtual convenings with a series of webinars—attended by over 500 people—focused on the paths before us: the paths of the pandemic, the paths to access, and the paths to racial justice.

Over six months, IAALS explored these paths with key stakeholders representing diverse perspectives—including the public—covering topics like reducing costs and delays, improving access in high-volume cases like landlord/tenant and debt collection matters, utilizing our *US Justice Needs* data to drive action and targeted reforms, and identifying and overcoming barriers to equity and racial justice. These conversations then inspired several issue papers outlining recommendations for courts, the legal profession, and other stakeholders to consider when prioritizing and enacting reforms.

The past two years have emphasized that our system falls short of the promise of equal justice, and there is much work to be done to realize justice for all. It is clear that now, more than ever, we need transformative change on a broad scale—and IAALS is mapping the paths forward.

“IT IS IMPERATIVE THAT WE USE THESE DATA AND CONVERSATIONS TO PROPEL OUR JUSTICE SYSTEM FORWARD. WE NEED ACTION ON INEQUITIES AND IMPROVEMENTS TO ACCESS, AND IAALS IS CHARTING THE PATHS TO GET THERE.”

– Katherine Altenecker,
Consulting Senior Strategic Advisor,
Self-Represented Litigation Network

OVER 10,000 PEOPLE SURVEYED, REVEALING THEIR PERSPECTIVES ON JUSTICE

66%

EXPERIENCED AT LEAST ONE LEGAL ISSUE IN THE PAST 4 YEARS

49%

OF THEIR LEGAL ISSUES WERE COMPLETELY RESOLVED

120 M

LEGAL PROBLEMS NOT RESOLVED FAIRLY EACH YEAR



THROUGH THE COURTS

Courts designed hundreds of years ago don't work today. Litigants who have a choice often opt out of using our courts altogether—and those who do go to court often do so without a lawyer. At IAALS, we're identifying innovations that make the court system easier to navigate for everyone, from individuals to families to businesses, while also helping courts increase efficiency, reduce procedural complexity, retain high-caliber judges, and make the most of the often-limited resources they have.

TRANSFORMING STATE COURTS FOR THE PUBLIC GOOD

OBJECTIVE

To develop guidelines and recommendations for improving civil litigation—including case management—in our state courts, and support implementation nationwide.

PROGRESS

State courts handle the vast majority of all cases filed across the United States, and they are on the front lines of the most difficult legal matters people face in their lives. The public depends on state courts to keep the gears of justice turning, and to do so, courts must innovate and adapt to better meet the public's needs. The Civil Justice Initiative's 13 recommendations for civil justice reform aim to help courts do just that, and take on even greater importance in these difficult times. In partnership with the National Center for State Courts (NCSC) and with funding from the State Justice Institute, IAALS continues to lead efforts to transform our state courts by helping them adopt right-sized case management and tailored pathways to resolution based on the needs of each case, while strategically deploying court personnel and technology to provide superior access for all.

Over the past year, IAALS has worked closely with Texas to support the state's efforts to implement the recommendations. Together with the NCSC and the Texas Office of Court Administration, we hosted a three-day virtual strategic planning workshop for judges and court staff to discuss best practices when managing expedited actions, a team approach to case management, and an array of tools to ensure success. We are also studying the impact of Texas' expansion of expedited action rules, which will inform policymakers about what further assistance courts might need and whether rules reform has decreased cost and delay. We hope that Texas will continue to be a blueprint and inspiration for other states to embrace change and improve for the public good.

“THE PAST TWO YEARS OF THE PANDEMIC DEMONSTRATED THE REAL-TIME VALUE OF IAALS’ USER-CENTERED APPROACH TO JUSTICE ISSUES. AS A RESULT, THE CIVIL JUSTICE INITIATIVE WORK EMPOWERED COURTS TO USE THE RESEARCH AND RESULTS TO IMPROVE AND INNOVATE FOR A NEW NORMAL THAT DELIVERS BETTER JUSTICE TO THE PEOPLE WE SERVE.”

– Judge Jennifer D. Bailey, 11th Judicial Circuit of Florida, Circuit Civil Division

IMPROVING COURTS' UNDERSTANDING OF CASE-FILING TRENDS

OBJECTIVE

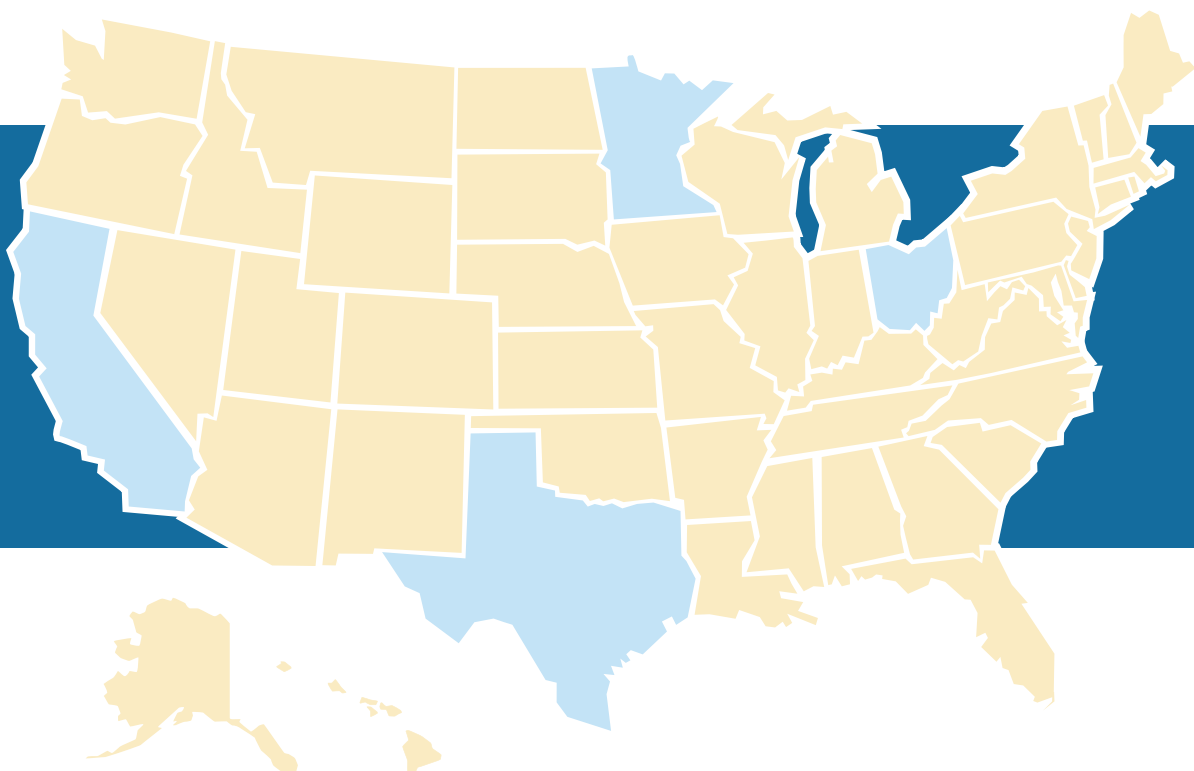
To help state courts and policymakers understand a broader picture of civil case filing trends, so that more targeted strategic planning and reform efforts can be made.

PROGRESS

Historically, it's been accepted that state court case filings climb over time in step with population growth, which has informed court planning for buildings, staff, judges, and other resources. More recently, courts saw a decline, now followed by fluctuation brought on by the pandemic. Courts need a better understanding of current filings and their trajectory so that planning and policymaking can respond to the needs of the public.

To bring more clarity to the situation, IAALS completed a multifaceted study to explore civil case filings over a long timeframe—16 to 41 years—in four states: California, Minnesota, Ohio, and Texas. Our forthcoming report, *The Past and Future of State Court Civil Filings*, provides important new insights into long-term filing trends and areas for additional focus, including the decline in tort and small claims cases, and overall economic impacts. Building off a review of historical events, IAALS also developed a framework around the numerous factors that may influence filings, which can further guide analysis.

Additionally, our study shines a light on opportunities in this critical moment—and for the future. The ways in which courts collect and aggregate data often obscure the full picture of their dockets and hinder research efforts. However, new technologies make consistent and granular data collection easier than ever, and what we can track and learn is only limited by our own thinking and the quality of the data. The pandemic has also brought a renewed focus on filing trends, which we hope will continue to reorient our thinking across the legal system, including a deeper understanding of the cases brought to the courts by the public.



MODERNIZING THE WAY WE EVALUATE OUR JUDGES

OBJECTIVE

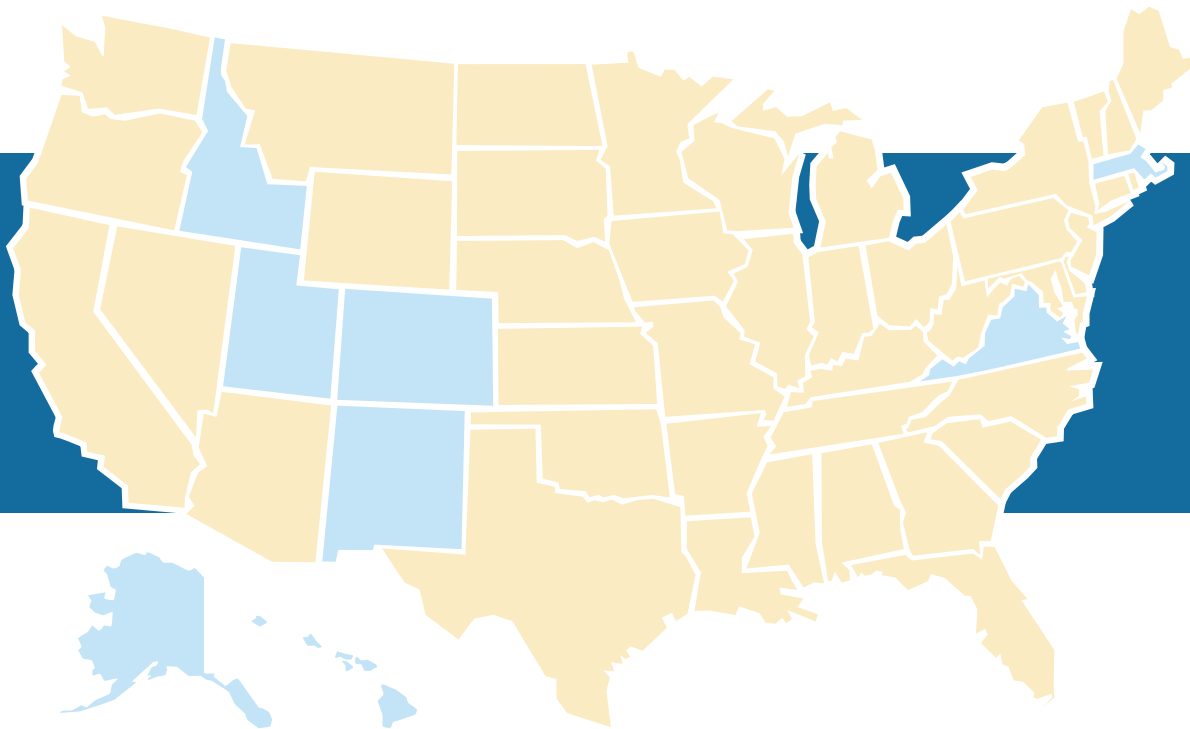
To ensure the goals of judicial performance evaluation programs are fulfilled, modernized, and meet the needs of judges, the courts, and the public.

PROGRESS

The foundations of most judicial performance evaluation (JPE) programs were first developed in the 1980s. Today, JPE programs continue to focus on the right goals—politically neutral qualities of judging like impartiality, transparency, and consistency, and accountability for job performance instead of the specific decisions a judge makes—but updating their evaluation methods is essential. Current JPE processes no longer fully capture the experience of modern court users, the needs of modern judges, or the expectations of modern voters.

IAALS launched our JPE 2.0 project to help JPE programs update their approaches to reflect modern realities, while remaining accurate, trusted, and relevant. Our JPE 2.0 Task Force, comprised of program leaders from across the country, met throughout 2021 to discuss and collaborate on current issues and challenges facing state JPE programs. How can we utilize new technologies to improve outreach to and surveys of litigants, jurors, attorneys, voters, and court staff? How can we ensure the process provides appropriate, constructive, and timely information for every audience—for judges to improve their performance, for courts to maintain a quality and trusted bench, and for the public to inform their votes?

To help answer these questions and to create a new, empirically based foundation for JPE 2.0, IAALS surveyed state judges in eight states about their experiences with and perceptions of the JPE process. We also collected information on current evaluation processes, whether they are effective, and potential areas for improvement. From this data, IAALS will work with our task force and additional stakeholders to create new recommendations and procedures—ushering judicial performance evaluation programs into the modern world.



“IN RECENT YEARS, JPE PROGRAMS NATIONWIDE HAVE FACED SCRUTINY AND A LOSS OF ENTHUSIASM. RECOGNIZING THE INHERENT VALUE OF JPE TO THE COURTS AND THE PUBLIC, IAALS CREATED THE JPE 2.0 PROJECT TO REINVIGORATE AND STRENGTHEN THIS VITAL WORK FOR THE 2020s AND BEYOND.”

– Jordan M. Singer, Professor of Law, New England Law | Boston

“HOW CAN JUDICIAL PERFORMANCE EVALUATION BE UPGRADED TO STRENGTHEN STATE JUDICIARIES AND PROVIDE RELEVANT INFORMATION TO TODAY’S SKEPTICAL VOTER, WHO OFTEN HAS A CURSORY UNDERSTANDING OF THE THIRD BRANCH OF GOVERNMENT AND IS INCREASINGLY PARTISAN-MINDED? IT IS NO SMALL ASK, TO BE SURE. BUT WITH JPE 2.0, A MODEL JPE UPGRADE IS FINALLY ON THE HORIZON!”

– Jennifer Yim, Executive Director, Utah Judicial Performance Evaluation Commission



WITH THE LEGAL PROFESSION



Fostering justice for all is possible only if the legal profession evolves to put client and consumer needs at the center of its work. That begins with rethinking how we train and license lawyers, but also extends to how we regulate legal services. At IAALS, we're helping law schools to better educate the lawyers of tomorrow while also rethinking the way legal services can and should be delivered so they are more available and responsive to all.

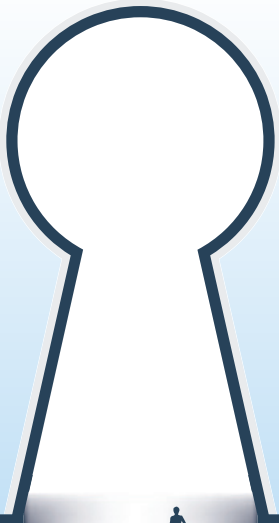
UNLOCKING LEGAL REGULATION AROUND THE COUNTRY

OBJECTIVE

To support, facilitate, and evaluate efforts to improve the regulation of legal services and expand access to those services.

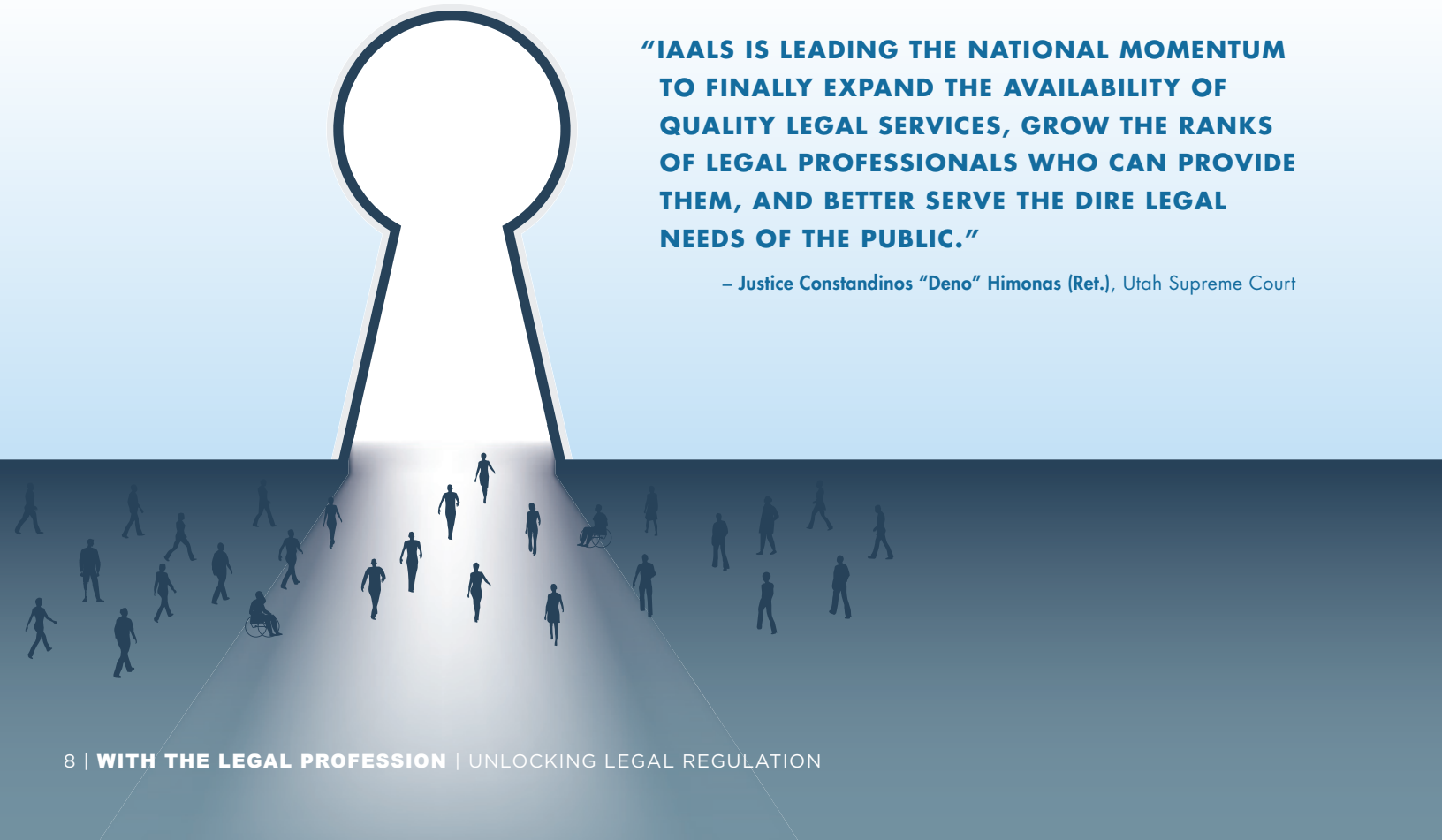
PROGRESS

Too many people cannot access the legal help they need to protect their rights and resolve their disputes, creating a vast unmet need for legal services. Legal aid and pro bono services, while admirable, have not and cannot erase this crisis. IAALS' *Unlocking Legal Regulation* project has begun opening doors nationally for a better regulatory structure that puts consumers first and expands the market for high-quality, cost-effective legal services. Our expertise, advice, and collaboration are frequently sought by state court officers, state task forces, and other organizations exploring new regulatory innovations, and we curate updates from around the country in our online Knowledge Center.



"IAALS IS LEADING THE NATIONAL MOMENTUM TO FINALLY EXPAND THE AVAILABILITY OF QUALITY LEGAL SERVICES, GROW THE RANKS OF LEGAL PROFESSIONALS WHO CAN PROVIDE THEM, AND BETTER SERVE THE DIRE LEGAL NEEDS OF THE PUBLIC."

– Justice Constandinos "Deno" Himonas (Ret.), Utah Supreme Court



UTAH SANDBOX:

IAALS is serving as an independent evaluator for Utah's historic regulatory sandbox, which allows new, creative ways for lawyers and other professionals to practice law together and reach more clients. We are collecting and assessing data on the types of new services offered, the quality of those services, and consumer experiences with them.

VOICES OF INJUSTICE:

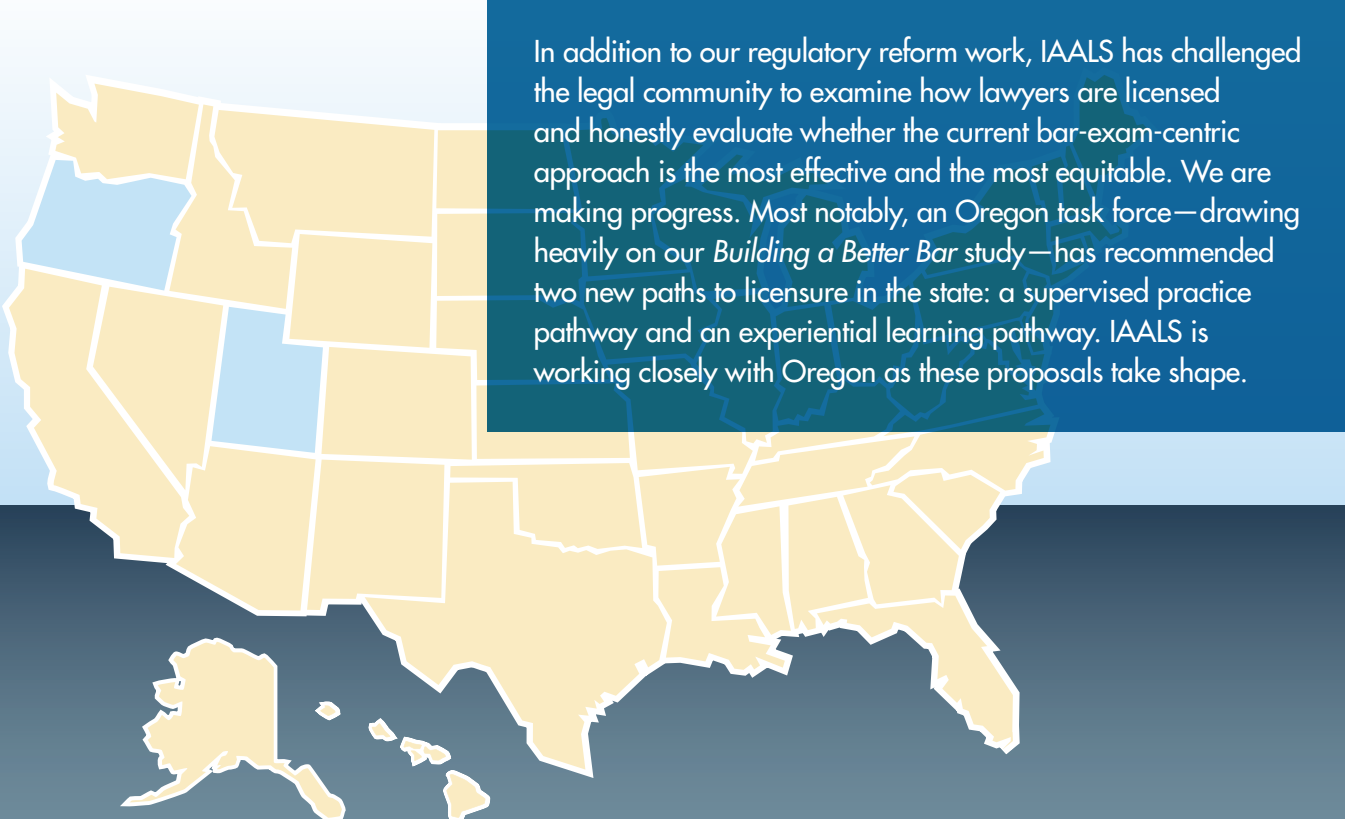
The public rarely has an easy way to directly and substantively participate in the regulatory processes that are designed to protect them. It is critical to connect directly with people, given that so many in today's system are self-represented and lawyers' perspectives are influenced by their own interests in the legal services market. IAALS is working on storytelling projects and a public awareness campaign to engage consumers and make their voices a fundamental part of the solution—because reforming the way we regulate legal services affects people's everyday lives.

REDESIGNING LEGAL SPEAKER SERIES:

Throughout the past year, IAALS, the American Bar Association (ABA) Center for Innovation, the ABA Center for Professional Responsibility, the ABA Standing Committee on the Delivery of Legal Services, and Legal Hackers co-hosted a virtual Redesigning Legal webinar series—attended by over 600 people. Industry leaders and experts offered a variety of perspectives on regulatory changes underway and the opportunities they provide. This popular series is continuing in 2022.

ALLIED LEGAL PROFESSIONALS:

IAALS is working to develop best practices and a national model for allied legal professional programs that train people other than lawyers to give legal advice in certain cases, like those involving family issues. To create this framework, we are analyzing existing and proposed programs (both in the United States and abroad), existing empirical research, and similar programs from other professions (like nurse practitioners).



In addition to our regulatory reform work, IAALS has challenged the legal community to examine how lawyers are licensed and honestly evaluate whether the current bar-exam-centric approach is the most effective and the most equitable. We are making progress. Most notably, an Oregon task force—drawing heavily on our *Building a Better Bar* study—has recommended two new paths to licensure in the state: a supervised practice pathway and an experiential learning pathway. IAALS is working closely with Oregon as these proposals take shape.

PROMOTING UNBUNDLED LEGAL SERVICES IN THE NEW NORMAL

OBJECTIVE

To encourage legal practitioners to offer unbundled legal services and facilitate other justice system stakeholders in supporting their widespread implementation nationwide.

PROGRESS

People need help with their legal problems, but they aren't getting it. More and more people are navigating the minefields of our legal system without the help of a lawyer. The pandemic has further widened the divide between the public and accessible legal services, upping the stakes for self-represented individuals facing life-changing issues like child custody, eviction, and debt collection. Broader legal regulation needs to be “unlocked,” but to increase access right now with very few or no changes to court rules or statutes, the legal profession can promote “unbundling.”

Whether you call it unbundled legal services or limited scope representation, this innovative business model allows people to hire a lawyer for only certain legal tasks instead of the entire case. This approach creates a more cost-effective way for people to get legal help targeted to where they need it most, and allows lawyers to grow a broader client base with people who would not (or could not) otherwise hire them.

In 2021, IAALS co-hosted a national, virtual conference—Unbundled Legal Services in the New Normal—to explore how we take this model to the next level at this critical time, along with our partners at The Chicago Bar Foundation, the ABA Standing Committee on the Delivery of Legal Services, and the Self-Represented Litigation Network. Joined by over 200 participants nationwide, the conference explored topics like the role of unbundling in the broader justice ecosystem, best practices of state and local entities that are encouraging unbundling, and the role of technology. IAALS provided participants with strategic plans, a directory of experts and supporting materials, and recommendations for starting an unbundled practice. IAALS is now developing an online toolkit where lawyers, courts, and regulators can go to get guidance and resources on building robust, sustainable, and accessible limited scope legal services to serve their communities wherever they are.

BOLSTERING RACIAL EQUITY IN THE LEGAL PROFESSION

In 2020, the five largest Denver-based law firms—Brownstein Hyatt Farber Schreck, Davis Graham & Stubbs, Holland & Hart, Sherman & Howard, and Wheeler Trigg O'Donnell—joined forces to form the Denver Law Firm Coalition for Racial Equity with the goal of advancing racial equity within its member firms and the greater Denver legal community. IAALS partnered with the Coalition to help ensure accountability toward its mission and to serve as an honest broker of these conversations. Going far beyond simply recruiting diverse attorneys, the Coalition envisions making the legal community a desirable place for attorneys of color—with an initial focus on Black and African American attorneys—from across the country to build a lifelong legal practice and reach the highest levels of the profession.



SOLIDIFYING THE FOUNDATIONS FOR PRACTICE IN LAW SCHOOL AND LEGAL HIRING

OBJECTIVE

To build successful lawyer foundations into the core of the legal profession through improved law school learning outcomes and better hiring practices.

PROGRESS

Legal education does not sufficiently prepare students for practice, and legal employers continue to base hiring decisions on outdated and flawed hiring criteria like law school attended or class rank, which often reflect socioeconomic background and access to elite opportunities rather than the ability to effectively practice law. IAALS' *Foundations for Practice* project aims to align legal education and legal hiring with empirical data on the measurable knowledge, skills, and abilities that actually lead to success. The project is taking a multi-pronged approach to fundamentally reform how we educate and hire new lawyers.

In 2021, IAALS published Model Learning Outcomes for legal education as well as an Instructional Design Guide that provide professors and schools with step-by-step tools to improve curricula and produce practice-ready lawyers. These efforts were paired with a Hiring Guide to equip employers with proven tools to hire and retain successful lawyers and increase diversity metrics. Based on the popularity of *Foundations* and these tools, we have begun consulting with faculty, law schools, and legal employers to put them into practice.

Following our successful partnership with Wheeler Trigg O'Donnell, which resulted in improved hiring practices, better retention, and increased diversity, IAALS has now partnered with two additional law firms—Davis Graham & Stubbs and Sherman & Howard—to pilot these innovations in both lateral and law school hiring. Data and experience from these partnerships will result in a scalable model for IAALS to consult with more firms, no matter their size or location. The time for change is now, and IAALS is poised to break new ground for legal education and legal hiring, and help increase diversity in the profession nationwide.



In 2021, IAALS published a report summarizing the analysis and recommendations that emerged from the Coalition's 2020 convening of lawyers from across law firms, the judiciary, government, in-house counsel, law schools, and other DEI leaders. The report details best practices and recommendations to recruit, retain, and advance racially diverse attorneys and represents a blueprint for advancing these efforts in a meaningful way. Our work with the Coalition is only just beginning, but it already holds enormous promise for reshaping the local legal community—and beyond.

"IAALS' PARTNERSHIP IS INTEGRAL TO ENSURING THE COALITION IS SUCCESSFUL, AND THE SUCCESS OF OUR MISSION IS MORE IMPORTANT THAN EVER."

– Kathryn A. Reilly, Partner, Wheeler Trigg O'Donnell LLP

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ALLI GERKMAN LEGAL VISIONARY AWARD



In 2020, IAALS launched the Alli Gerkman Legal Visionary Award to encourage and showcase innovators, risk takers, visionaries, and emerging leaders who bring a different perspective and a reform-minded approach to the improvement of our legal system, and who are early in their legal careers.

Anna E. Carpenter, Professor of Law and Director of Clinical Programs at the University of Utah S.J. Quinney College of Law, was named the inaugural award recipient in 2021, in recognition of her work to innovate legal education, legal services, and civil justice research.

The award is made in honor of Alli Gerkman—a leader at IAALS and in national legal education and legal profession reform—who transformed the way our nation thinks about legal education and the role lawyers play in our society. A true visionary, Gerkman helped open the door to a fundamental reframing of how lawyers enter the profession of law and how the profession itself is regulated. After she passed away from cancer in 2019, IAALS created the award to honor her—and those visionaries who follow in her footsteps, like Anna Carpenter.

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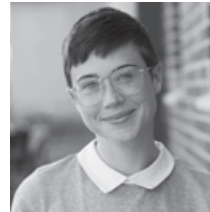
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*IAALS would like to thank Andrew Arruda for partnering with us in 2021 as our first entrepreneur-in-residence. We are deeply grateful to Arruda for his tireless work and invaluable expertise over the past year—and for everything he's done to move our mission forward.



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IAALS BY THE NUMBERS IN 2021

28

EVENTS, CONVENINGS
& WEBINARS

3K+

ATTENDEES

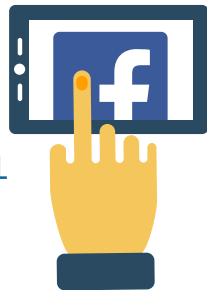
35

SPEAKING ENGAGEMENTS
BY IAALS EXPERTS



17%

INCREASE IN SOCIAL
MEDIA SUBSCRIBERS



21%

INCREASE
ON TWITTER



110%

INCREASE
ON LINKEDIN



5

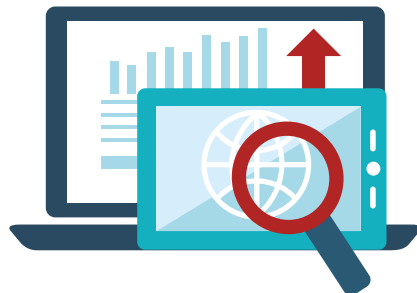
NEW
PUBLICATIONS

62

EXPERT OPINIONS
AND BLOGS

113

MEDIA HITS

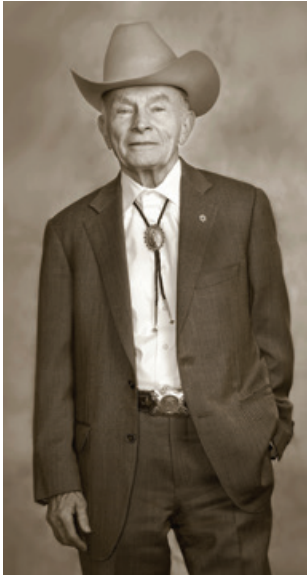


23%

INCREASE IN WEBSITE VISITORS

HISTORY

Located on the campus of the University of Denver, IAALS opened its doors on January 17, 2006, and was founded by the University's Chancellor Emeritus Daniel L. Ritchie, Denver attorney and bar leader John E. Moye, business leader and philanthropist Charles C. Gates, and Founding Executive Director Rebecca Love Kourlis.



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