

On September 1, 2021, IAALS, the Institute for the Advancement of the American Legal System, and HiiL, The Hague Institute for Innovation of Law, published the results of a nationwide study on access to justice in the United States in a report titled [*Justice Needs and Satisfaction in the United States of America*](#). The *US Justice Needs* study identified multiple goals, including providing nationwide data on access to justice and the justice needs that people in the United States face every day, as well as a greater understanding of how people resolve those needs—all to inform reform efforts. The pandemic has deepened the justice crisis globally and in the United States, making the goals of this study even more important. As noted in the final chapter of the report:

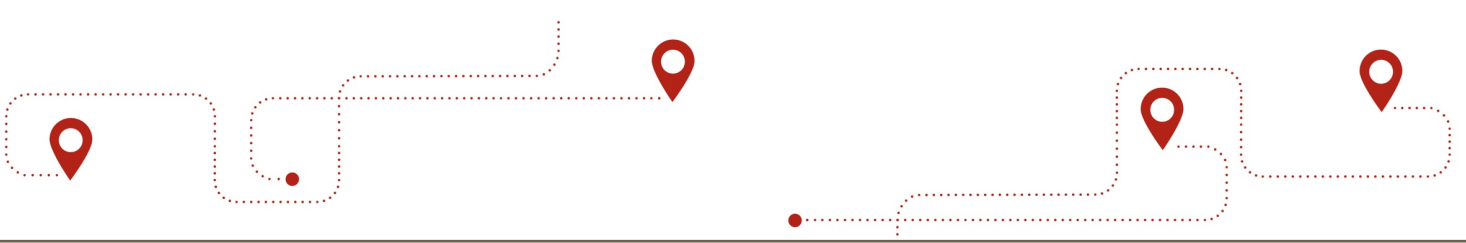
This study informs a deeper understanding of the justice crisis in the United States and provides the foundation for a path forward based on data. We call upon providers of justice services and policymakers to take up this data to inform innovation in the approach to closing this justice gap in the United States.

The next key questions are: How can we best utilize this data to inform action and innovation? What are the key areas of focus moving forward? And how do we broaden interest, engagement, and support in this effort to improve access to justice in the United States?

In October 2021, IAALS held a convening to brainstorm these important questions as part of IAALS' Paths to Justice Summit Series. The goal was to bring together a group of diverse perspectives and partners to engage in a dialogue, identify opportunities for action and broadening engagement, and inspire continued research and collaboration. Just as it was our goal to provide the data necessary for national system reform, we hope the following summary helps to bring focus and clarity to the dialogue and ongoing efforts to improve access to justice in the United States.

From Action to Access

A key opportunity for impact lies in focusing reform efforts rather than treating access to justice as a one-size-fits-all problem. The IAALS and HiiL study confirms that, while access to justice is a problem that impacts people from all walks of life, with serious social, legal, economic, and political consequences, the effects of the justice crisis are not equally distributed.

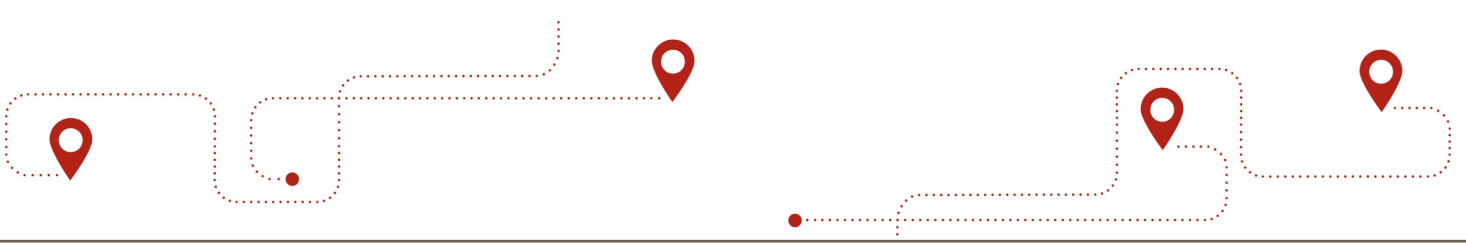


- There are some legal problems in people’s lives that are more burdensome than others. In terms of seriousness and impact time and money spent, rate of resolution, and problem types that are most often assessed as the most serious problem Americans have faced as a result of the COVID-19 pandemic, these include domestic violence and abuse, family problems, work and employment problems, housing, and money-related problems. *We must focus in on these core justice problems, which are prevalent and severe, as this is where the opportunity exists for the greatest impact.* The problems that are the most intractable—the ones that are most complex, with multiple factors—need integrated solutions.
- The *US Justice Needs* study highlights a national access to justice crisis. At the same time, the American legal infrastructure—the laws, rules, and practices that contribute to how people experience the justice system as fair or unfair, effective or ineffective—vary depending on where people live. This needs to be taken into account when crafting solutions.
- The study also includes powerful findings regarding inequity in our system. *We must view the system through this lens of inequity to find solutions.* The nature, seriousness, and resolution rates of the problems Americans experience are shaped in meaningful ways by their income, gender, race and ethnicity, age, and living environment. We need to recognize and focus in on these inequities so as to ensure they are addressed.

Another way to approach system reform is to focus in on different justice system actors.

There are many different paths into the justice system, with a web of different actors. We need to map out this ecosystem and create an integrated and cohesive approach to justice delivery. We also need to engage each of these different actors, as the one-size-fits-all approach also does not work in terms of how we engage with others across the justice ecosystem.

- We recognize that courts have defined roles in the justice system. Yet courts have demonstrated that it is possible to use their instrumental role in our justice system to address access to justice needs in less traditional ways. Judges are often thought of as adjudicators; however, judges and the courts also play an important administrative function. The Conference of Chief Justices (CCJ) and the Conference of State Court Administrators’ (COSCA) [*Call to Action*](#) in 2016 recognized the critical role that courts play in achieving civil justice for all, including a list of recommendations to ensure improved access for litigants. *Courts have been forced to be innovative in the pandemic in terms of partnerships and approaches to meet justice needs, and we need to continue*



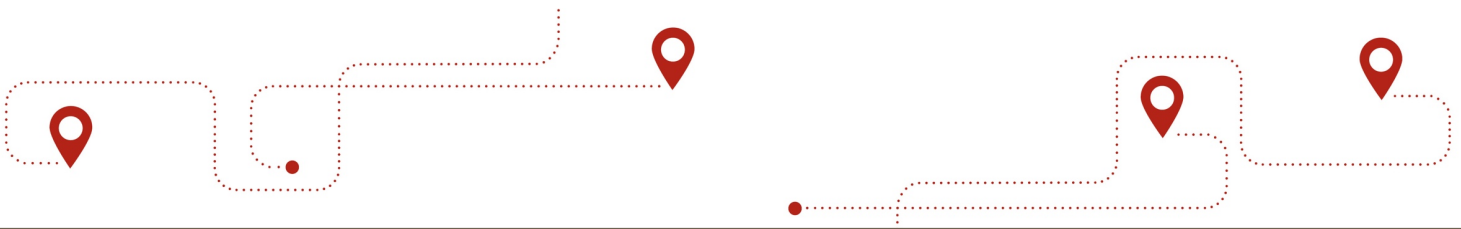
to build on this momentum. One suggestion that was shared during the convening was the development of community councils for courts.

- Judges are an equally important system actor. As Michigan Chief Justice Bridget Mary McCormack recently noted, “many judges directly interact with members of the public trying to navigate the legal system on a daily basis. This experience provides judges with an informed perspective on what policies are working well and what policies are working *less* well. As direct witnesses to the daily experiences of people navigating legal problems, judges have critical information about what reforms are needed, as well as ideas on how such reforms can be implemented.”¹ Judges bring this experience, as well as critical leadership. “As first-hand observers of the flaws in our legal system, judges are uniquely positioned to help fix them.”²
- For similar reasons, lawyers are essential system actors to engage as well. Just like judges, attorneys play a critical role as observers of justice needs and barriers in the system, as well as leaders and advocates for reform. Even within the bar, however, there will be very different experiences and understanding of the extent of the justice crisis. While some—particularly legal aid lawyers—will have first hand knowledge of the unmet legal needs in communities, other attorneys who practice primarily complex litigation may not have a full understanding of the extent of the justice crisis.
- We also need to think outside the box of traditional approaches and traditional justice system actors. The *US Justice Needs* study confirms the extent of the justice crisis in the United States, and the extent to which this is a broad societal problem that touches all aspects of peoples’ daily lives. *We need to think broadly regarding the extent of the crisis, the impact, and the actors throughout society who interact with people as they struggle with this crisis.* We need to fully engage all of these different actors to address this challenge.

We must be proactive in our focus and identify what interventions can be put in place to avoid justice problems before they occur. 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 the users of our system. The cumulative adverse effects are immense. Negative impacts on peoples’ lives include the practical and financial, as well as emotional and

¹ Bridget Mary McCormack, *Staying Off the Sidelines: Judges as Agents for Justice System Reform*, 131 YALE L.J. 179 (Oct. 24, 2021).

² *Id.* at 189.



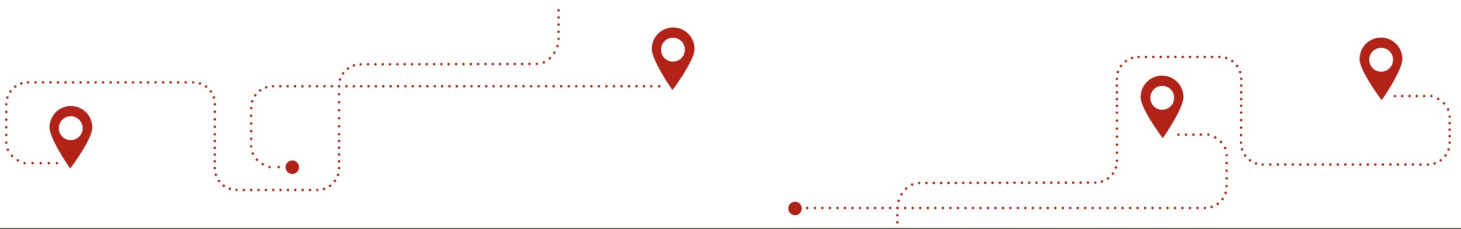
psychological. *While we need to focus on how to achieve fair resolutions in the problems that occur, the sheer magnitude of this problem also underscores the need for a focus on upstream solutions to prevent these justice problems in the first place.* Where we can focus in on specific interventions that can be put in place to avoid problems altogether, we can eliminate these negative impacts—on people’s lives and the system—all together.

Partnership can play a critical role in developing solutions. Given the broad extent of the crisis and its impact on society, this crisis has not—and will not—be addressed through the usual actions and policies. We know that along with “traditional” providers, we are already seeing numerous “new” providers of justice including financial institutions, health care professionals, insurance companies, and public authorities. There are many actors across society who intersect with this crisis. *One critical opportunity for intervention is to think about how people can work together, as coordination across these different actors can lead to impact.* “Medical-legal partnerships integrate the unique expertise of lawyers into health care settings to help clinicians, case managers, and social workers address structural problems at the root of so many health inequities.”³ We need to think about how we can likewise integrate the expertise of those outside the legal system to address the structural problems at the root of legal inequities.

Action requires funding, and for increased impact we need to engage funders around these issues. The clear evidence of an access to justice crisis in the United States highlights the importance of the above opportunities for action, but it also highlights the urgent need for increased funding. *While it is understandable that funders have been invested in criminal justice reform, the widespread negative impacts on people with unmet civil justice needs demands funding to address the civil justice crisis in the United States as well.* There are a few key opportunities for engaging funders on these issues:

- Civil and criminal problems in people’s daily lives are intertwined, as are our civil and criminal systems. Emphasizing this important interconnection, and opportunity for a system-wide approach, may attract funders historically focused on criminal justice reform.
- We must also focus on activities that funders are already keen to fund. With proper guidance, funders will see the long-term value of funding civil justice reform, starting

³ National Center for Medical Legal Partnership, Milken Institute School of Public Health, The George Washington University, <https://medical-legalpartnership.org/>.



with current areas of interest in, for example, homes and community stability, income and asset growth, family well-being, and employment.

Expanding Engagement and Support

How do we broaden interest, engagement, and support in this effort to improve access to justice in the United States?

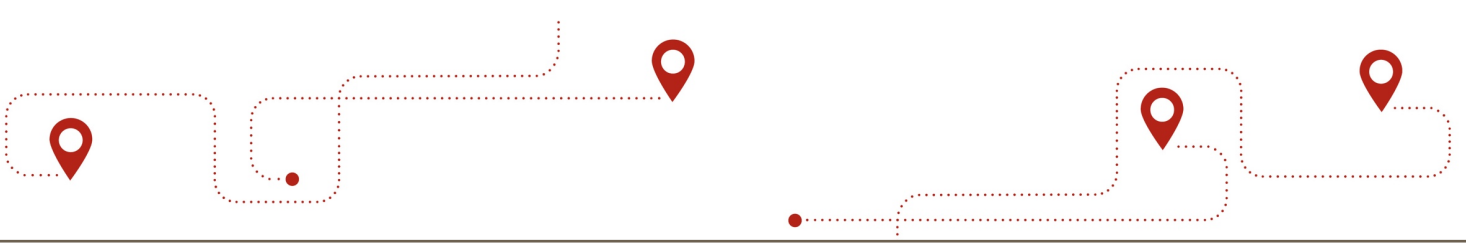
We should think broadly about different stakeholders that should be engaged in this effort.

This was emphasized above in terms of how to have impact, but it is worth noting here as well in terms of broadening engagement. *Because the problem is not just a legal system problem, it will take a broad coalition of stakeholders in and outside the justice system to fully solve the problem.* This includes the executive and legislative branches, employers, the medical and business communities, and academics.

We need to look to other complex movements to see what has been successful in getting engagement and broad support. For example, what has worked in the criminal justice reform and in the environmental movement? How has criminal justice reform made progress? We need to look to other examples of complex society-wide challenges where progress has been made, and look at what has been successful in terms of messaging and broadening engagement and support.

Vision and messaging go hand in hand. We need to shift from a message of “this is what is wrong” to a message of “this is the change that we are working toward.” Engaging others in system reform requires more than highlighting the problems. It requires positive messaging around a reform agenda, including a vision for what the system could look like when the problem is solved.

- We need to highlight our goals for reform, which include deepening the public’s understanding of their rights and legal needs; greater ability for people to assert those rights and resolve those needs in a neutral, fair, and equitable way; and greater accountability across all system actors in their role in ensuring and enforcing such outcomes.
- Funders may need guidance to see that the modern civil justice reform movement is increasingly coordinating activism, pointing toward definite and clear policy goals, and



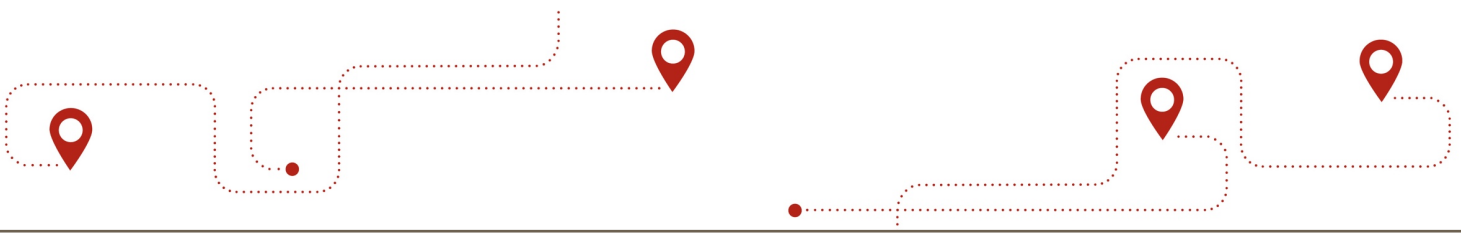
creating opportunities for philanthropic interventions that can improve home and community stability, income and asset growth, family well-being, and employment.

Storytelling and narratives are critical. We need to answer the societal question of “what is in it for me?” We can do this by focusing in on the impacts on people’s lives. This was a key goal of the *US Justice Needs* study. We need to take that one step further and look to how storytelling and narratives can support engagement. *Looking to the experiences of people, we can find compelling stories of how access to justice has changed lives.* People respond to compassionate accounts of how lives have been improved, communities stabilized, and societal costs and other harms reduced.

Just as we need multiple focused approaches to solutions, there is no one-size-fits-all approach to outreach and engagement. We reach different audiences by addressing needs that are important to them. Those needs will be unique, and we have to be clear to each different group how access to justice responds to their specific concerns.

- Even for lawyers and judges, there is not a one-size-fits-all approach. Many lawyers do not realize that there are millions of people who do not have access to lawyers or to other resources for resolving legal disputes. Others are deeply entrenched in these challenges.
- For funders, it is important to show how “investment” in civil justice makes a difference.
- Strategies for outreach and engagement also need to look different based on whether they are local or national efforts.

Education is essential and should broadly engage both those within the justice system and those outside the system. The key to wider engagement is a better understanding of the crisis, needed solutions, and the vision of a system that achieves access to justice for all. This education must include leaders amongst the bench and bar, such as the Conference of Chief Justices and bar associations, those on the ground who are tirelessly working toward access to justice including trial courts and Access to Justice Commissions, and new audiences both within the justice system and outside it, such as the medical community, businesses, and educators. Lawyers are a key necessary audience for education because many don’t understand the scale of the crisis. Law school education suggests a traditional adversarial system with lawyers on both sides of a case that goes through a lengthy process ending in trial. *Justice needs, and the journeys people take to resolve those needs, often vary greatly from these more traditional views of the justice system, however.* Providing a full view of the how justice is delivered, including the



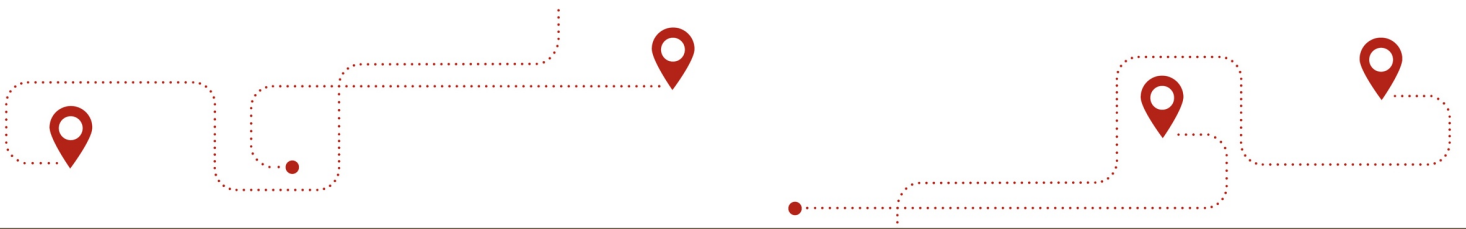
journeys people take to resolve their legal problems, is essential to designing better and more responsive justice systems.

Need for Continued Dialogue, Research, and Education

The US Justice Needs data reflects that there is much work to be done to ensure our justice system in the United States meets its promise of equal justice for all. The many pathways that people take to meet their legal needs, and the sheer numbers of justice needs that exist, serve as a reminder that we have not yet been able to deliver effective solutions at scale. In working to advance access to justice, we need a change in mindset to meet these needs. It is not necessarily a bad thing when people don't go to court for every justice problem they have. *Our ultimate goal is fair resolution of justice problems, and the prevention of justice problems in the first place.* We need to change both minds and processes to achieve this goal. We also need to move past focusing in on the problem to strategizing and mobilizing for system-wide change. The traditional approaches are working as they were created and intended to work—for a different time and different needs in society.

We should think about impact on a national scale, in terms of economic impact, impact on poverty, and impact on physical and mental health. If we have a better understanding of the societal impacts stemming from unresolved justice needs, we will have a better focus on solutions and broaden engagement.

The unmet need for justice in the United States remains a critical challenge in our society. Cross-system engagement and collaboration is essential. We need to continue to identify barriers to these challenges and address them in a focused way, with broad engagement both within and outside the justice system.



IAALS, the Institute for the Advancement of the American Legal System, is a national, independent research center at the University of Denver dedicated to facilitating continuous improvement and advancing excellence in the American legal system.

This issue paper is from IAALS' Paths to Justice Summit Series, comprised of multiple invite-only virtual convenings and public webinars—and corresponding issue papers—focused on the unique challenges facing our justice system in this time. Themes include the paths of the pandemic, the paths to access, and the paths to racial justice that our system must walk. Our goal is to connect with other stakeholders tackling these issues, foster conversations among stakeholders and across systems, and move the conversation—and innovation—forward.

Thank you to the attendees of IAALS' October 2021 convening on this topic who generously gave of their time and expertise to brainstorm around these important questions.

For more on the Paths to Justice Summit Series, including additional white papers as they are published, please visit <https://iaals.du.edu/paths-justice-summit-series>.

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