



REDESIGNING DIVORCE

USER-DRIVEN DESIGN FOR A BETTER PROCESS



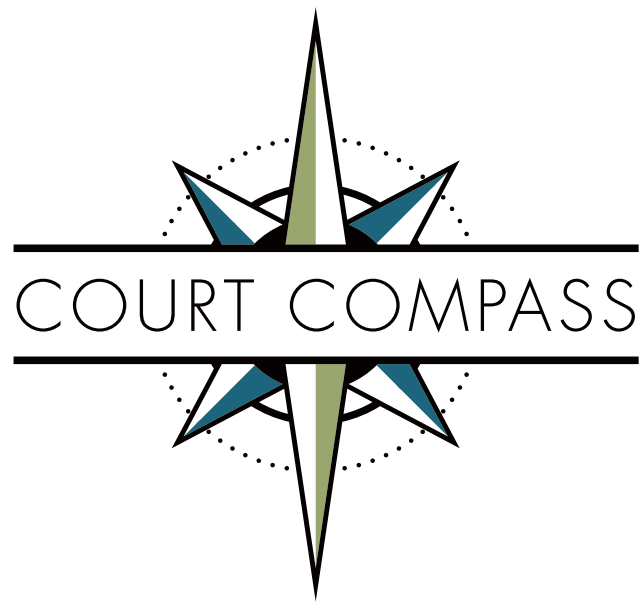
INSTITUTE *for the* ADVANCEMENT
of the AMERICAN LEGAL SYSTEM



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DENVER

Justice we can believe in





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USER-DRIVEN DESIGN
FOR A BETTER PROCESS

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EXECUTIVE SUMMARY

Myriad reform efforts are underway in family courts around the country. A widespread recognition that the default adversarial process is not suitable for many families is sparking the development of non-adversarial, problem-solving approaches. Additionally, with nearly three in four family court litigants navigating the process without an attorney, state courts are exploring a variety of approaches designed to simplify the process and provide self-represented litigants with the information and resources they need to navigate the court system without an attorney.

In 2016, IAALS released the results of a first-of-its-kind national empirical research study, *Cases Without Counsel*, that explored the firsthand experience of self-represented litigants in family court. The narratives that emerged highlighted the invaluable perspective that litigants themselves have on the process and potential improvements to the process. IAALS' *Court Compass* project launched from this work, with the goal of moving from litigant input in identifying problems to user engagement on solutions.

The *Court Compass* project consisted of a series of interactive design sprint workshops, in a diverse set of locations across the country, that brought self-represented litigants and other legal system stakeholders together to develop potential solutions in the divorce and separation process. Through these workshops, we gained a deeper understanding of the problems and issues that self-represented litigants experience in the family court process as well as engaged this important user group in prototyping and testing solutions that address critical issues for court users.

The problems and challenges related to the current family court process that design sprint participants identified echo many of the narratives IAALS and others have gathered through direct engagement with self-represented litigants. Issues around accessibility were the most commonly discussed across our sprints, including cost concerns, difficulty finding information and resources, lack of available guidance about the legal process, and language barriers to obtaining information, including legal jargon. Court paperwork also featured prominently in self-represented litigant discussions around challenges in the current process. Finally, and not surprisingly, the emotional impact of self-representation, including the underlying emotional challenges accompanying divorce and separation cases, came through in litigant narratives.

When given an opportunity to brainstorm solutions around the problems identified, participants centered on several broad categories:

NAVIGATING THE LEGAL PROCESS

Because the process poses many obstacles for litigants, it is not surprising that the most common of the solutions focused on providing litigants with general guidance on the process and help with forms and documents, as well as offering possible alternatives to in-person court appearances.

HELP WITH PERSONAL ISSUES

Given the inherently emotional nature of divorce and separation cases, sprint participants offered thoughts on how courts can help alleviate some of the personal challenges associated with navigating the legal process, including more flexible hours and mental health services and related types of personal support.

LEGAL ASSISTANCE AND REPRESENTATION

In large part, sprint participants wanted legal help but could not access it for one reason or another (with affordability being the most commonly referenced). Participants suggested many low- or no-cost programs that would provide litigants with legal help.

STREAMLINING THE LEGAL PROCESS

Self-represented litigant participants acknowledged simpler cases require less court intervention and a more straightforward legal process.

COURT ENVIRONMENT

It was a common refrain among self-represented litigants that the courthouse is an intimidating place, and some of the brainstormed solutions centered on making it a more welcoming and accessible environment.

JUDICIAL AND COURT STAFF CONSIDERATIONS

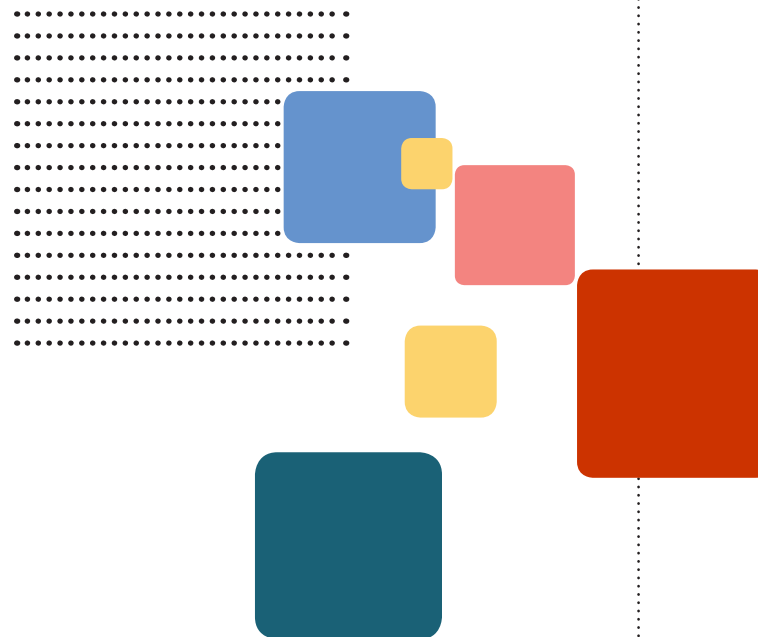
The need for more court funding, particularly to update court technologies, came up across the sprint groups, and participants also brainstormed around the more easily implementable improvements in how court staff and judges interact with self-represented litigants that could improve the user experience.

Across the sprints, workshop groups developed a total of 20 solutions to prototype, representing a wide array of ideas to improve the legal process and the litigant experience. Some were technology-based; others involved in-person services. Each brings insight and value to the discussion of improving the family court process.

Broadly, these prototypes bring new support to court and legal community efforts to triage cases and provide litigants and cases with tailored processes and services. The design sprint conversations echo those around the country that are focused on helping courts better match cases to services and resources. The *Court Compass* sprint prototypes also provide conceptual support for the growing number of technological solutions in development by courts and legal professional organizations to more easily diagnose legal problems and tailor information and resources to the need of the individual(s).

The *Court Compass* sprint prototypes also highlight the balance between providing users with technology solutions and maintaining a level of in-person support. While it is clear that litigants have expectations around engaging with digital tools, no discernable preference came through across sprints for technological solutions over in-person or non-tech process solutions. Additionally, the prototypes remind us of the importance of creating new physical spaces for court service delivery alongside the digital spaces that are the focus of many self-help and process simplification efforts.

Court users are at the heart of the family and civil justice systems, and it is imperative that we, as a court and legal community, engage this user group in developing process improvements. Design sprint workshops with users—self-represented litigant or otherwise—are an important and productive means through which to solicit user feedback on existing problems and potential solutions. The *Court Compass* project highlights the value of these perspectives and sets a model for continued user engagement in reform.



INTRODUCTION

“There needs to be a revolution, and it needs to be user-centered.”—Margaret Hagan¹

Family courts, like their civil and criminal counterparts, are facing substantial obstacles in delivering justice. The adversarial process, which is still the default method of processing divorce cases in most courts, can exacerbate tensions between spouses and negatively impact children.² Court processes are particularly cumbersome and complicated for litigants who represent themselves. These self-represented litigants constitute the majority of users in many state family courts; national figures show that in 72 percent of family cases at least one party is self-represented.³ This reality has created an increasing need for courts to support litigants through the process.

To a great degree, family courts are working to answer this call. Some of these improvement efforts have focused on providing information and resources to self-represented litigants. For instance, many courts have implemented self-help centers where litigants can obtain information to help them navigate the legal process. Others have created lawyer-for-a-day programs, through which litigants can speak with an attorney for a limited amount of time at low or no cost. Other efforts have focused on streamlining the divorce process for self-represented litigants, facilitating early resolution, or creating simplified trial procedures. Some groups, including IAALS, have developed programs to allow divorcing couples to complete the legal process in an out-of-court or nontraditional court setting.⁴

Most recently, in April 2019, the Conference of Chief Justices approved a set of guiding Principles for Family Justice Reform (Principles) that respond both to the need for a focus on non-adversarial processes for divorcing and separating families and to the reality that many family court users do not have legal help navigating the process.⁵ The Principles also acknowledge the need for family courts to solicit and internalize the input of litigants themselves (self-represented or otherwise). Historically, many court self-help and simplification efforts have been developed and implemented without the input of litigants themselves, and the growing movement among court stakeholders reflects a recognition that change is needed.

To address this gap in our collective understanding and to bring litigants into the conversation, IAALS has adopted a user-centered approach that focuses on the experience of self-represented litigants. In 2016, we released the results of a first-of-its-kind national empirical research study, *Cases Without Counsel*, that explored the firsthand experiences of self-represented litigants in family court.⁶ That work engaged this core

1 MARGARET HAGAN, *LAW BY DESIGN* (2017).

2 Paul R. Amato, *Research on Divorce: Continuing Trends and New Developments*, 72 J. OF MARRIAGE AND FAM. 650 (2010) [hereinafter *Research on Divorce*]; Paul R. Amato & Bruce Keith, *Parental Divorce and Well-Being: A Meta-Analysis*, 53 PSYCHOL. BULL. 43 (1991) [hereinafter *Parental Divorce and Well-Being*]; Jennifer E. Lansford, *Parental Divorce and Children's Adjustment*, 4 PERSP. ON PSYCHOL. SCI. 140 (2009) [hereinafter *Parental Divorce and Children's Adjustment*].

3 NAT'L CTR. FOR STATE CTS, FAMILY JUSTICE INITIATIVE: THE LANDSCAPE OF DOMESTIC RELATIONS CASES IN STATE COURTS 20 (2018), <https://iaals.du.edu/sites/default/files/documents/publications/fji-landscape-report.pdf>.

4 LOGAN CORNETT, INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS., *DIVORCING TOGETHER: REPORT ON AN INTERDISCIPLINARY OUT-OF-COURT APPROACH TO SEPARATION AND DIVORCE* (2019), [hereinafter *DIVORCING TOGETHER*].

5 NAT'L CTR. FOR STATE CTS., INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS. & NAT'L COUNCIL OF JUV. AND FAM. CT. JUDGES, FAMILY JUSTICE INITIATIVE: PRINCIPLES FOR FAMILY JUSTICE REFORM (2019), [hereinafter *PRINCIPLES*]. The resolution for the Family Justice Initiative can be found at <https://ccj.ncsc.org/~media/Microsites/Files/CCJ/Resolutions/02132019-Family-Justice-Initiative-Principals.ashx>.

6 NATALIE KNOWLTON, LOGAN CORNETT, CORINA D. GERETY & JANET DROBINSKE, INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS., *CASES WITHOUT COUNSEL: RESEARCH ON EXPERIENCES OF SELF-REPRESENTATION IN U.S. FAMILY COURT* (2016), [hereinafter *CASES WITHOUT COUNSEL*].

user group in one-on-one interviews aimed at collecting narratives to more fully understand the challenges and opportunities they encountered in navigating the divorce process without an attorney. From that study, IAALS launched the *Court Compass* project with the goal of moving from litigant input in identifying problems to user engagement on solutions. The project consisted of a series of interactive workshops that convened self-represented litigants and other legal system stakeholders together to develop potential solutions in the divorce and separation process. The design sprint process employed in these *Court Compass* workshops was a user-focused process for prototyping and testing solutions that address critical issues for court users.⁷ Through these design sprint workshops, we aimed to develop a set of solutions—some conventional and some novel—that could be implemented to improve the litigant experience in navigating the divorce process.

Our design sprint workshops were full-day or half-day sessions and the process consisted of seven distinct phases:⁸

1. **Discover:** Explore what court users perceive to be challenges and opportunities with the current system.
2. **Identify the Problems:** Define the contours of the problems and those who are involved in the process at issue.
3. **Brainstorm:** Engage in structured, creative thinking about potential service, product, and process solutions.
4. **Build:** Develop low-fidelity concept prototypes around the highest-impact solutions.
5. **Test:** Solicit feedback through interactive, real-time testing of developed concept prototypes.
6. **Refine:** Revise the prototyped solutions based on feedback received during testing.
7. **Debrief:** Share feedback on the process and ideas that were not already covered.

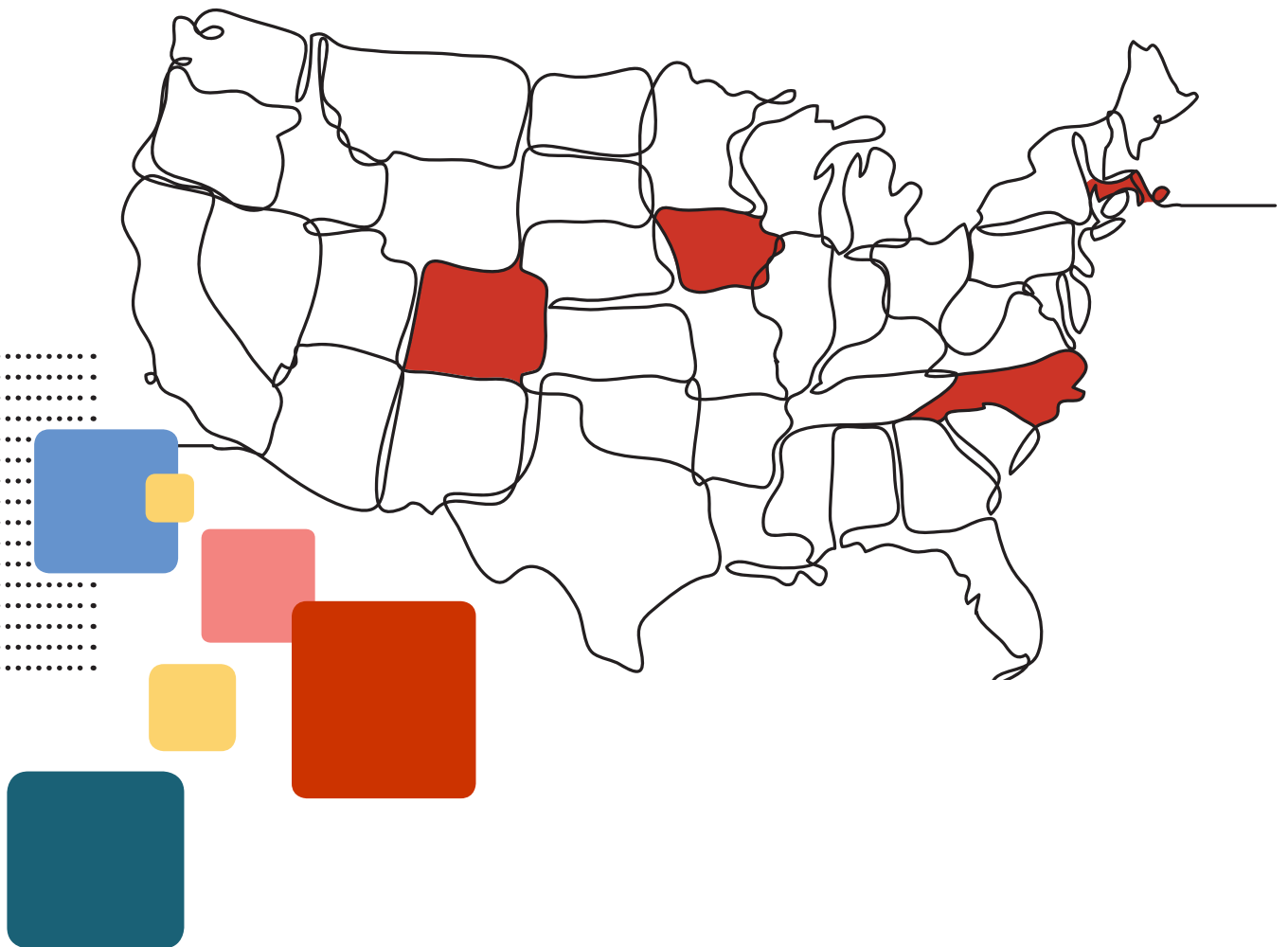
DESIGN SPRINT:
a user-focused
process for
prototyping and
testing solutions
to address critical
issues for users

7 JAKE KNAPP, JOHN ZERATSKY & BRADEN KOWITZ, *SPRINT: HOW TO SOLVE BIG PROBLEMS AND TEST NEW IDEAS IN JUST FIVE DAYS* 9 (2016).

8 NATALIE ANNE KNOWLTON, MICHAEL HOULBERG, JANET DROBINSKE & LOGAN CORNETT, *LISTEN>LEARN>LEAD: A GUIDE TO IMPROVING COURT SERVICES THROUGH USER-CENTERED DESIGN* (2019) (a how-to guide on conducting design sprints in the legal space), <https://iaals.du.edu/publications/listen-learn-lead>.

IAALS partnered with a group of experts who specialize in user-centered design in the legal field to help shape and refine our approach for this project. Margaret Hagan, Director of the Legal Design Lab and a lecturer at Stanford Institute of Design at Stanford University, worked with us to develop our design sprint process. Dan Jackson, Executive Director of NuLawLab at Northeastern University School of Law, and Lois Lupica, Maine Law Foundation Professor of Law and an affiliated faculty member of the Harvard Law School Access to Justice Lab, assisted in developing and refining our workshop protocol. Jackson and Hagan co-facilitated the various design sprint workshops.

Between January and November 2018, we held five design sprint workshops in locations across the country, which included a total of 60 self-represented litigant participants and 43 court and legal professional stakeholder participants. This report details the findings and outcomes of these workshops—the problems identified, the solutions proposed, and the prototypes tested.



METHODS

Design Sprint Locations

We sought to hold our design sprints in a diverse set of locations across the country. Together, IAALS and project partners proactively identified potential locations and also heard from courts expressing interest in response to project announcements. Ultimately, we held design sprint workshops in four states, one in each of the four U.S. Census regions: Colorado, Iowa, North Carolina, and Massachusetts.⁹ We held one design sprint workshop in each selected state, except for Massachusetts, where we held two.¹⁰ In each location, the IAALS team worked with volunteers—including individuals within the courts and members of the local legal communities—to organize and conduct the design sprint workshop. The table below presents details for each location.

	CENSUS REGION	DESIGN SPRINT LOCATION	COMMUNITY VOLUNTEERS
COLORADO	West	Denver: Courtyard by Marriot	<ul style="list-style-type: none">• Colorado Judicial Branch• Law students at University of Colorado Law School
IOWA	Midwest	Des Moines: Iowa State Bar Association	<ul style="list-style-type: none">• Iowa Judicial Branch• Iowa Accountability Program¹¹• Iowa Law Firm Incubator¹²• Iowa Legal Aid• Local family law practitioner
NORTH CAROLINA	South	Raleigh: North Carolina Judicial Center	<ul style="list-style-type: none">• North Carolina Judicial Branch• North Carolina Equal Access to Justice Commission• Law Students at University of North Carolina School of Law and Campbell University Norman Adrian Wiggins School of Law
MASSACHUSETTS	Northeast	Boston: Double Tree by Hilton Andover: Northeastern University School of Law	<ul style="list-style-type: none">• Law students in the NuLawLab at Northeastern University School of Law

⁹ Colorado in the West, Iowa in the Midwest, North Carolina in the South, and Massachusetts in the Northeast.

¹⁰ The initial sprint in Andover, Massachusetts was intended to pilot test our design sprint workshop protocol.

¹¹ The Iowa Accountability Program builds and enhances relationships between the African American community and the legal community to help guarantee equal access to justice for all.

¹² The Iowa Law Firm Incubator works with new lawyers who are creating their own community-based small law firms by mentoring them on how best to increase access to legal services.

Participant Recruitment

The design sprint workshops included two types of participants—those who had represented themselves in a divorce case and those who work closely with litigants in the divorce process.¹³ This diversity in stakeholder perspectives allowed us to capture ideas and feedback both from those who had personal experience navigating the process without an attorney and those who help people navigate it. The project team undertook different recruitment approaches for each of these groups.

SELF-REPRESENTED LITIGANT PARTICIPANT RECRUITMENT

Given the challenges associated with identifying and recruiting self-represented litigants for participation,¹⁴ our recruitment process varied across the design sprint workshops. In each instance, we sought to identify litigants in divorce cases that either had recently closed or were currently open, but where a substantial portion of the process was complete (such that a litigant would be able to provide meaningful feedback about the legal process). The table below outlines the self-represented litigant outreach process for each sprint.

COLORADO		<ul style="list-style-type: none">Obtained a list of cases from the court, including litigant contact information. Recruitment letters sent via postal mail.
IOWA		<ul style="list-style-type: none">Iowa courts conducted email outreach to litigants.
NORTH CAROLINA		<ul style="list-style-type: none">Obtained a list of cases from the court, including litigant contact information. Recruitment letters sent via postal mail.
MASSACHUSETTS	ANDOVER	<ul style="list-style-type: none">Obtained a list of cases from the court, including litigant contact information. Recruitment letters sent via postal mail.In-person recruitment at the court self-help center.Legal aid conducted outreach to current and previous clients.
	BOSTON	<ul style="list-style-type: none">Obtained a list of cases from the court, including litigant contact information. Recruitment letters sent via postal mail.

As instructed in the initial outreach materials, litigants who were interested in participating in a design sprint completed an online registration form to confirm that they met the inclusion criteria—1) that they represented themselves for at least part of their case, 2) that their case was filed in the relevant state, and 3) that their case was either recently completed or that a substantial portion of the process was complete, if still ongoing. In instances where we received more eligible registrants than seats available at the design sprint workshop, we engaged in a selection process to identify the final participant group. In general, we selected participants on a first-come, first-served basis. However, diversity—both in terms of demographic characteristics and experience with the process—was a strong consideration that guided participant selection to help ensure well-rounded results.

COURT AND LEGAL PROFESSIONAL PARTICIPANT RECRUITMENT

To facilitate court and legal professional participant recruitment, our court and community volunteers identified individuals who they determined would be interested in participating in a workshop. We then coordinated with our court and community volunteers to invite those individuals to participate.

¹³ There was one exception. The Boston, MA sprint was a much smaller event and included only self-represented litigants.

¹⁴ For example, in some courts, it is difficult to identify self-represented litigants from court case management records.

Participants

Across all five design sprint workshops, 103 stakeholders participated, including 60 self-represented litigants and 43 legal professionals. The table below presents a breakdown of participants for each design sprint workshop.

		SELF-REPRESENTED LITIGANTS	LEGAL PROFESSIONALS					TOTAL
			COURT STAFF	JUDICIAL OFFICERS	ATTORNEYS	LEGAL AID	OTHER ¹⁵	
COLORADO		16	3	4	2	0	1	26
IOWA		15	4	2	2	1	2	26
NORTH CAROLINA		16	3	2	0	2	2	25
MASSACHUSETTS	ANDOVER	3	5	1	4	2	1	16
	BOSTON	10	0	0	0	0	0	10
TOTAL		60	15	9	8	5	6	103

During each design sprint workshop, participants were assigned to small groups consisting of some self-represented litigants and some legal professional participants—except in Boston, where the only participants were self-represented litigants.

Design Sprint Process

Broadly speaking, our design sprint process allows participants to first identify what is and is not working well with the current legal process for divorce, then to brainstorm possible solutions to those problems, and, finally, to create and test a prototype for one of those solutions. There are a few hallmarks of the design sprint process that make it a unique venue for fostering creative ideas. One is the *no bad ideas* mentality that participants are encouraged to embrace—during the design sprint, no problem or solution is too small or too silly to mention. Another is the opportunity to create low-fidelity prototypes—that is, low-cost, easily and quickly created mock-ups—of solutions and test them with other participants; thus, participants can test inexpensive versions of their ideas to evaluate their feasibility as real-world solutions. For instance, a group developing a website could use construction paper to design each page of the website, including appropriate content markers and buttons, to allow other participants to interact with the proposed flow of the website.

While each of our design sprints followed these basic principles, there was some variation in the process for each. The figure below outlines the activities that were included under each design sprint phase (Appendix A details the protocol used in each workshop).¹⁶

One hallmark of the design sprint process is the *no bad ideas* mentality that participants are encouraged to embrace—during the design sprint, no problem or solution is too small or too silly to mention.

¹⁵ Domestic violence legal advocate, judicial specialist, community service provider, court management specialist, and two technologists.

¹⁶ See Appendix at http://iaals.du.edu/sites/default/files/documents/publications/redesigning_divorce_appendix.pdf

DESIGN SPRINT WORKSHOP PHASES

DISCOVER

Create a matrix that describes current positives, current negatives, future positives, and future negatives.



IDENTIFY THE PROBLEMS

Map out the legal process; identify emotional highs and lows, time and money issues, and points of confusion or frustration.

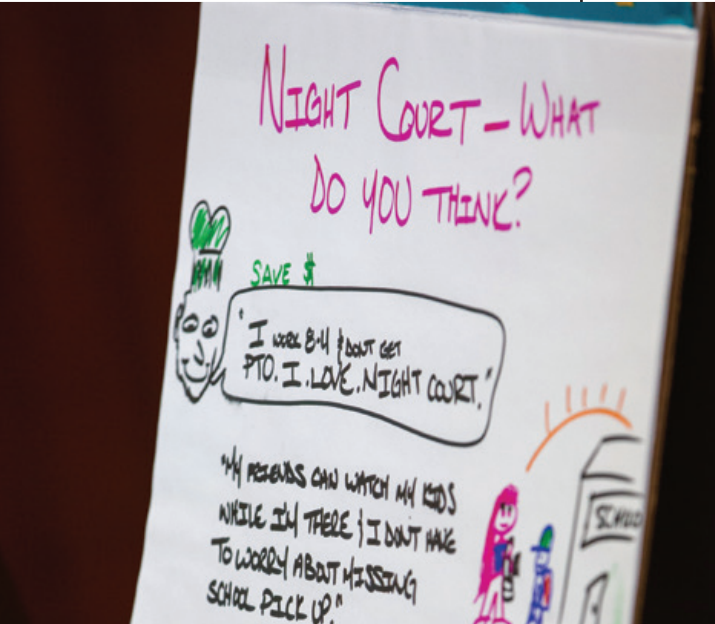
BRAINSTORM

Create a persona around which to design solutions, be specific about who the person is, including problems, needs, wants, values, and goals.

Brainstorm products, services, policies, and wildcard solutions to the identified problems.

Place brainstormed solutions on a matrix with importance on one axis and feasibility on the other.





BUILD

Identify one solution and detail the components or features the solution must have, those it must not have, and those that would be nice to have.

Storyboard how the identified solution should work.

Create a low-fidelity prototype of the solution using readily available, low-cost materials.

TEST

Test the prototype with other groups. Gather feedback about the most likely fail points.

REFINE

Improve the prototype design based upon feedback gathered during the testing phase.

DEBRIEF

In a plenary discussion, identify user requirements, highest priority ideas, and final insights.



Data Analysis

There was a designated notetaker for each group within each of the design sprints. These notes constitute the data analyzed for purposes of this report. We began the qualitative analysis process by creating a set of codes to use in categorizing the data. This coding scheme included both substantive codes (e.g., feeling heard, complexity of process) and process description codes (e.g., final debrief, prototype). The project team then reviewed the notes for each group and assigned codes as appropriate.¹⁷ The qualitative data analysis process is necessarily iterative; thus, we completed multiple coding sweeps of the data, refining the codes as we went to facilitate greater levels of specificity within the analysis.¹⁸

FINDINGS

Discover and Identify the Problems

During the Discover phase and the Identify the Problems phase, participants identified a broad array of problems and challenges related to the current family court process. Our self-represented litigant participants were encouraged to lead these discussions. We categorized their problems and challenges into four groups: accessibility, court forms and documents, emotions, and other issues.

ACCESSIBILITY

By a wide margin, issues around accessibility were the most commonly discussed. Such issues included, for purpose of this report, cost, information and resources, lack of guidance about the legal process, and language barriers.

Cost Issues. Unsurprisingly, issues around process-related costs were among the most frequently discussed. Many participants expressed concern and frustration about the cost of hiring legal representation; often, the hiring of an attorney is cost-prohibitive and this can result in a considerable disadvantage for the self-represented party. Participants related that lawyers can be important to a litigant's success in a case because lawyers have procedural and substantive knowledge required to navigate the process—knowledge which can impact case outcomes, such as receiving maintenance (e.g., spousal support) and reaching equitable

DISCOVER:

explore what court users perceive to be challenges and opportunities with the current system

IDENTIFY THE PROBLEMS:

define the contours of the problems and those who are involved in the process at issue

¹⁷ The qualitative analysis software used for this project was QSR NVivo 10.

¹⁸ Consistency in coding is an important consideration in qualitative analysis, especially when multiple people are coding the data. To ensure such consistency, the team met on a weekly basis to review the coded data, discuss new avenues for exploring the data, and address coding-related questions.

child custody arrangements. Participants also discussed other cost-related issues, including costs associated with court and filing fees and those incidental to appearing in court, such as transportation, missing work, and childcare.

Information and Resources. Another frequently discussed issue was accessibility of information and resources. Some groups noted that the information found online—often on the court’s own website—can be incomplete, inconsistent, or misleading, resulting in litigants making mistakes and delaying the process. Others discussed the fact that information is sometimes difficult to find and is not always available in one place, which creates confusion. In terms of access to resources, several groups reported that legal aid and other resources designed to provide low- or no-cost legal representation are often difficult to locate or not available due to demand.

Lack of Guidance about the Legal Process. Many participants noted the lack of guidance—the fact that there is nowhere litigants can go to get a complete, step-by-step layout of the legal process. Participants reported that self-represented litigants often do not know what they need to do to initiate the process, nor do they know what is required of them at each step throughout the process. The complexity of the process combined with the lack of resources for guidance create a great deal of uncertainty, overwhelm the litigants, and result in cost and delay.

Language Barriers. Participants discussed two issues related to language and accessibility. First was the frequent use of legal jargon in forms, court documents, and other case materials. Participants related that the use of such jargon creates unnecessary barriers for self-represented litigants. The second language-related issue revolved around the lack of resources available for litigants who do not speak English. Participant groups noted the lack of translators, requirements that forms be completed in English, and that information available online and elsewhere is often only available in English.

COURT FORMS AND DOCUMENTS

Another frequently cited source of difficulty for self-represented litigants navigating the divorce process was court paperwork. The first hurdle litigants must clear is identifying and locating the correct forms for their case. Self-represented litigants are then faced with complexity of the forms: they are often long and time-consuming to complete, full of legal jargon, ask for more information than is needed for the case, and are unclear as to what information is required. Further, many forms ask for the same information as other forms, thus creating redundancy and confusion. Participants noted that when self-represented litigants make mistakes in completing their paperwork, which they often do, the result is cost and delay for the litigant.

EMOTIONS

Although we focused on the process, there is no doubt that, for litigants, the process and the associated emotions are inextricable from one another. Indeed, participants often discussed the emotional aspects of divorce—and the ways in which the legal process contributes to the emotional difficulties. More specifically, participants noted the stress, fear, and intimidation associated with going through the process; a couple of participants described the process as traumatic.

OTHER ISSUES

There were a few additional issues that, while not among the most frequently discussed, are noteworthy.

Treatment. One such issue is that litigants care how they are treated in the court process. Considerate treatment by court staff and judges can make a considerable difference in how litigants view their experience.¹⁹

Time. Another issue is the length of the process; many participants noted that the process drags on too long. Additionally, several participants viewed waiting periods as unnecessary and confusing. Interestingly, although there was some variation in waiting periods imposed in each state, even participants in places where the waiting period was the shortest—Colorado and Iowa—were vocal about shortening or removing them altogether.²⁰

Power Imbalances. Finally, several groups discussed issues that can arise when there is a power imbalance in the divorcing couple. For instance, the court may need to pay special attention to cases where domestic violence is a concern or where one party is represented and the other is not.

Brainstorm Solutions

During the Brainstorm phase, participants conceived of a great many potential solutions to the identified problems. We have grouped these solutions into six broad categories: navigating the legal process, help with personal issues, legal assistance and representation, changes to the legal process, court environment, and judicial and court staff strategies.

NAVIGATING THE LEGAL PROCESS

About half of the solutions our workshop participants brainstormed focused on ways courts could help litigants—particularly those who are self-represented—navigate the legal process. The prevalence of such solutions is unsurprising: the process itself poses many obstacles for litigants, and much of the current dialogue among legal stakeholders working on access issues centers on identifying ways to guide litigants through the process.²¹

19 CASES WITHOUT COUNSEL, *supra* note 6; Kevin Burke & Steve Leben, *Procedural Fairness: A Key Ingredient in Public Satisfaction*, 44 CT. REV. 4-24.

20 Colorado: 90 days; Iowa: 90 days; Massachusetts: if uncontested, 120 days after the judge approves the separation agreement; if contested, 90 days after the judge approves the separation agreement (so long as six months have passed from the date the Complaint was filed); North Carolina: one year.

21 See, e.g., J. David Greiner, Dalie Jimenez & Lois R. Lupica, *Self-Help, Reimagined*, 92 IND. L.J. 1119 (2017), <https://www.repository.law.indiana.edu/cgi/viewcontent.cgi?article=11255&context=ilj>.

BRAINSTORM:
engage in structured,
creative thinking
about potential
service, product, and
process solutions

General Guidance. Many of the solutions in this category related to general assistance for litigants. Some were relatively simple, such as process checklists and instructional videos. Others would be much more involved in terms of technology and implementation—online portals or apps that would guide litigants through the process and provide a platform for various functions, including completing and filing forms and documents, building and mediating agreements with the other party, and scheduling court appearances. A related suggestion that arose in almost every workshop was sending text or email notifications to litigants about case events and court appearances. Another set of solutions suggested a more hands-on approach to guidance: these included workshops or engagement with others who have experienced the process, courthouse concierges, and helplines or online chats to answer litigant questions.

Forms and Documents. Workshop participants also consistently noted litigant needs regarding forms. Often, these solutions centered around interactive or smart forms that would assist litigants in completing the forms on their own. Participants also frequently suggested facilitating broader access to forms, creating simplified forms, and making forms available in languages other than English.

Alternatives to the Courtroom. Several groups suggested that courts accommodate alternatives to in-person court appearances. Specifically, these participants thought courts should allow telephonic and video conferencing. Some workshop groups proposed that the divorce process be taken out of the courthouse altogether. Indeed, there is evidence that out-of-court models can effectively meet legal needs while producing positive outcomes for the litigants.²² Some suggestions for court alternatives were along traditional lines, such as virtual courts or online dispute resolution resources. Some groups, embracing the *no bad ideas* mantra of this portion of the workshop, offered more inventive solutions: among these were neighborhood divorce shops, divorce resorts where couples could divorce in a relaxing environment, and drive-through divorces.

HELP WITH PERSONAL ISSUES

Divorce cases, and legal cases in general, can create substantial personal issues for the parties.²³ Our participants acknowledged this reality and thought that family court litigants deserve more than just legal support as they navigate the process.

Alleviating Personal Challenges. Among the most frequently cited solutions were those related to court-provided assistance to alleviate some of the personal challenges associated with navigating the legal process. A relatively common solution participants offered was to implement more flexible court hours. That is, participants thought that courts should be open on nights and weekends to better accommodate litigant schedules and reduce the financial burdens associated with taking time off work to come to court. Additionally, several groups across multiple workshop locations suggested that courts offer childcare in the courthouse. Another solution that arose often was to provide or fund transportation to the courthouse. Access to affordable housing came up often, as did the need for access to education and job training resources.

²² DIVORCING TOGETHER, *supra* note 4.

²³ CASES WITHOUT COUNSEL, *supra* note 6, at 45; *Research on Divorce*, *supra* note 2; *Parental Divorce and Well-Being*, *supra* note 2; *Parental Divorce and Children's Adjustment* note 2.

Mental Health and Personal Support. Another area where participants recognized litigant needs are not currently being met was in the realm of mental health and other types of personal support. Most prominently, participants called for access to counseling—individual, family, co-parenting, and domestic violence counseling were all discussed. Participants also frequently mentioned solutions related to providing moral support for litigants. Examples include programs in which a person who has gone through the process mentors a current litigant and encouraging litigants to bring friends and family to court appearances. Finally, some participant groups offered solutions for helping litigants work with the other party, such as creating a code of civility between the parties and, for cases in which the parties would be best served by not interacting (such as where there are domestic violence concerns), arranging the courthouse so that litigants never have to be in the same room with the other party.

LEGAL ASSISTANCE AND REPRESENTATION

Our workshop participants recognized that, for many litigants, legal representation or other kinds of legal assistance is desirable or even necessary, but not always accessible. Many workshop groups suggested low- or no-cost legal representation as a solution, though participants did not elaborate on how this could be accomplished. Participants did, however, offer alternative approaches to traditional legal representation, including:

- Allowing law students to represent litigants for internship credits;
- Allowing court clerks to provide advice on forms and answer other questions; and
- Providing family law navigators who are trained in law and permitted to give legal advice.

More broadly, some workshop groups proposed solutions to make lawyers more easily accessible. For instance, some participants suggested that lawyers should make themselves available to clients in public places such as supermarkets or even at bars. Another group suggested that the courthouse should provide a list of local lawyers. Yet another recommended an Uber-like app to help litigants find lawyers.

STREAMLINING THE LEGAL PROCESS

While our workshop participants generally did not provide a great deal of specificity with respect to revising or streamlining legal processes, they clearly acknowledged the need for such action. The solutions proposed in this area related primarily to two ideas. First, participants suggested that the process could be streamlined such that the process matches the needs of the case—an approach commonly known among legal system stakeholders as triage. In other words, simpler cases require less court intervention and a more straightforward legal process, thus freeing up the courts to devote more time and resources to more complex cases. There was one area in which participants called for a specific solution for streamlining the legal process: several groups across multiple workshop locations suggested removing mandatory waiting periods. A second, but less frequently noted, suggestion was to standardize the process across jurisdictions.

COURT ENVIRONMENT

Our workshop participants proposed a variety of solutions for making the court environment more welcoming. Some focused on providing amenities in the courthouse. Among these were relatively mundane suggestions such as providing food and coffee. Others were less conventional—such as fitness facilities, yoga classes, chair massages, and therapy animals. Similarly, some solutions related to creating a less oppressive and intimidating atmosphere. These included creating comfortable spaces (e.g., areas with couches), playing music, and having the judge sit at a table with the parties and lawyers during court appearances.

JUDICIAL AND COURT STAFF CONSIDERATIONS

Some of our workshop participants raised solutions focused on court staff and judges, including allocating more funding for court operations. Several groups noted that courts needed improved technologies, ranging from better case management systems to updated computers and printers. With respect to interactions between litigants and court staff and judges, another set of solutions centered on clarifying or improving the court's role with litigants. Specifically, participants discussed making the line between legal advice and information more explicit and ensuring court staff are engaged, friendly, and empathetic when interacting with litigants. Finally, workshop participants suggested that judges and court staff would benefit from various types of training to increase cultural awareness and other ways of empathizing with litigants, as well as familiarity and comfort with technology.

Build, Test, and Refine a Prototype

Across all design sprints, workshop groups devised a total of 20 solutions to prototype during the Build, Test, and Refine phases. The full set of prototypes represents a wide array of ideas to improve the legal process and the litigant experience. There were technology-based and in-person ideas, expensive- and inexpensive-to-implement ideas, practical and off-the-wall ideas—each of which brought insight and value to the discussion. Below is a set of prototypes we have chosen to highlight for this report (a complete list of prototypes can be found in Appendix B).²⁴

BUILD:
develop low-fidelity
concept prototypes
around the highest-
impact solutions

TEST:
solicit feedback
through interactive,
real-time testing of
developed concept
prototypes

REFINE:
share feedback on
the process and
ideas that were not
already covered

²⁴ See Appendix, *supra* note 16.

PROTOTYPE 1: FAMILY LAW RESOURCE AGENCY

PROTOTYPE DESCRIPTION	In-person assistance with various aspects of the divorce process—legal, financial, and counseling—in a location outside the court.
PROTOTYPE MUST HAVE/BE	<ul style="list-style-type: none"> • Must include an attorney for people that want them, appointed by the court. • Must be staffed with lawyers, financial experts, and counselors. • Must have a hotline available for procedural issues. • Must include public domestic relations attorneys who are a free or low-cost alternative to a private attorney and, while not required, are an option that people feel confident in choosing. • Must charge on a sliding scale capped at less than the cost of a private attorney. • Must partner with the court, informing people about the resource agency.
PROTOTYPE MUST NOT HAVE/BE	<ul style="list-style-type: none"> • Must not have a financial need requirement. • Must not be mandatory.
FEEDBACK DURING TESTING	<ul style="list-style-type: none"> • Funding sources uncertain. • Concerns that an overload of cases could force the agency to start turning people away.

PROTOTYPE 2: COURT CONCIERGE

PROTOTYPE DESCRIPTION	In-person legal advice and assistance for going through the process.
PROTOTYPE MUST HAVE/BE	<ul style="list-style-type: none"> • Must prevent injustice and improper property divisions. • Must clearly explain options and legal rights. • Must review forms. • Must address both parties. • Must ensure all forms and components of the process are completed correctly in the appropriate order. • Must allow fee waivers for indigent individuals.
PROTOTYPE MUST NOT HAVE/BE	<ul style="list-style-type: none"> • Must not use legal jargon. • Must not be a member of the clerk's office (due to neutrality concerns). • Must not be mandatory.
FEEDBACK DURING TESTING	<ul style="list-style-type: none"> • Should eliminate repetitiveness in forms. • Preference is that individuals can access attorneys for quick advice. • Funding sources uncertain. • Both information and advice would be important to provide.

PROTOTYPE 3: INDIVIDUALIZED DIVORCE PLAN AND EVALUATION

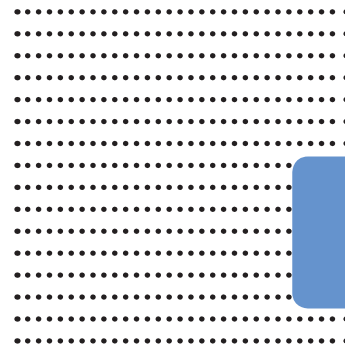
PROTOTYPE DESCRIPTION	A tech-based process to efficiently identify appropriate processes and resources based on the complexity of the case.
PROTOTYPE MUST HAVE/BE	<ul style="list-style-type: none"> • Must be tailored to case complexity (program will be able to determine which questions are/are not relevant to different cases). • Must be accessible online or at courthouse. • Must be accessible in a variety of languages. • Must include contact information for a real person to ask questions or discuss concerns. • Must be uniform across the state/nation; standardized practice. • Must offer resources to take care of additional concerns (e.g., name change). • Must allow amendments.
PROTOTYPE MUST NOT HAVE/BE	<ul style="list-style-type: none"> • Must not use legal jargon. • Must not be confusing. • Must not be expensive. • Must not be time-consuming.
FEEDBACK DURING TESTING	<ul style="list-style-type: none"> • Concern regarding where the resource would be available (e.g., at Clerk's office). • Concern regarding who would review the system's proposed pathways. • Funding sources uncertain.

PROTOTYPE 4: THE DIVORCE VAN

PROTOTYPE DESCRIPTION	Legal services van that travels to different areas, with a website that lists where it will be each day. People utilize it between filing and presenting to the judge. This would be once a case number is obtained (with petition and agreement). Instead of people going to the courthouse for appointments, a van would come to their neighborhood.
PROTOTYPE MUST HAVE/BE	<ul style="list-style-type: none"> • Must have scheduling approved by the court. • Must involve experts to review agreements. • Must remind litigants about scheduled appointments.
PROTOTYPE MUST NOT HAVE/BE	<ul style="list-style-type: none"> • Must not use legal jargon.
FEEDBACK DURING TESTING	<ul style="list-style-type: none"> • Potential for long wait times. • Concern about potential for fraud and ability to ensure the litigants are who they say they are.

PROTOTYPE 5: DIVORCE MOBILE APP

PROTOTYPE DESCRIPTION	A mobile app for helping litigants work through multiple aspects of the legal process.
PROTOTYPE MUST HAVE/BE	<ul style="list-style-type: none"> • Must tailor advice and resources based on a profile. • Must provide a descriptive overview of the process. • Must include a document repository. • Must include a resource page. • Must make the process accessible and present information in lay terms.
PROTOTYPE MUST NOT HAVE/BE	<ul style="list-style-type: none"> • Must not have so many entities involved in development that the result is a failure to have a cohesive vision.
FEEDBACK DURING TESTING	<ul style="list-style-type: none"> • Difficulty providing customized and appropriate resources. • Concerns about obtaining agreement from courts, bar associations, and various stakeholders to give self-represented litigants this degree of unsupervised control over their cases (e.g., filling out their own forms online).



DISCUSSION

Our *Court Compass* design sprint workshops yielded an abundance of creative ideas for improving litigant experiences in the family court process. Interestingly, we find common themes across these ideas, many of which are reflected in existing research and efforts underway across the country—and around the world. These existing efforts demonstrate engagement from the legal system and profession around the core issues identified; however, we still have much work to do to make the system responsive to litigants’ needs.

TAILORING INFORMATION, SERVICES, AND PROCESSES TO LITIGANT NEEDS

Issues around a lack of information and resources, and a need for more guidance about the process, dominated the litigant narratives in our *Cases Without Counsel* project,²⁵ and we find many of these themes echoed in the *Court Compass* prototypes. Most of the prototypes centered on the delivery of information and assistance in one way or another. An interesting nuance that emerged from these information-delivery prototypes is that workshop participants frequently indicated a need for more than just information; people need direction on finding information that is relevant to their specific circumstances and legal needs. Nearly half of all the prototypes were developed with features that envision *individualized* help, *personal* service and referrals, and *tailored* guidance. The term and concept of a *concierge* appeared in numerous prototypes, across sprint locations.

This is not surprising. After all, it is the tailored advice about how to handle a particular legal matter that makes attorney representation invaluable. Nevertheless, these prototypes suggest an important self-represented litigant perspective on a growing trend in state courts: case triage. Triage—the matching of parties and cases to appropriate resources, services, and processes—is a central component of the national recommendations approved by the Conference of Chief Justices and Conference of State Court Administrators for family and civil justice reform.²⁶ The most recent of the two sets of recommendations, the Family Justice Initiative Principles for Family Justice Reform, calls on courts to “establish a flexible pathway approach to triage domestic relations cases that matches parties and cases to resources and services.”²⁷ The fact that our *Court Compass* participants commonly focused on this function underscores the importance of effective court management of cases and parties.

25 CASES WITHOUT COUNSEL, *supra* note 6.

26 NAT’L CTR. FOR STATE CTS. & INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS., CALL TO ACTION: ACHIEVING CIVIL JUSTICE FOR ALL, RECOMMENDATIONS TO THE CONFERENCE OF CHIEF JUSTICES BY THE CIVIL JUSTICE IMPROVEMENTS COMMITTEE (2016), <https://www.ncsc.org/~media/Microsites/Files/Civil-Justice/NCSC-CJI-Report-Web.ashx>.

27 PRINCIPLES, *supra* note 5, at 9.

CREATING DIGITAL SPACES AND ONLINE TOOLS

Court systems are far from operating at the cutting edge of technology, and even seemingly simple tech tools and practices have not seen widespread use in state courts.²⁸ Nevertheless, litigants have expectations around engaging with digital tools from their experiences using other services and engaging with technology in daily life. These expectations come through strongly in the numerous *Court Compass* prototypes that leveraged technology, and these prototypes reflect some of the actual tools being developed and implemented by courts and others.

Of the prototypes with a digital component, many centered on the collection of information and resources online. Some prototypes included other functionalities, like scheduling, document repositories, event notifications, individualized profiles, and connections to court e-filing systems. A number of these tech-centered prototypes also involved a TurboTax[®]-like functionality to guide litigants through a particular form or through the divorce process more broadly. The phrase “TurboTax[®] for divorce” was heard across multiple design sprint workshop groups. These suggestions again express a desire for a proactive—in this case, automatic—court triaging that produces tailored resources and individualized action plans for litigants.

Recent work from Rebecca Sandefur, a leading academic researcher in the legal field, on the landscape of legal technologies for non-lawyers provides additional insight into the importance to litigants of having technology tools that empower users to do more than simply access information.²⁹ This study, which entailed a survey of the legal technologies currently available to litigants, demonstrated that a vast majority of these tools provide limited services, such as information about the law or attorney referrals.³⁰ Sandefur’s research and the *Court Compass* participants who developed these TurboTax[®]-like prototypes also provide support—conceptually, at least—for the various efforts underway around the country to develop one-stop online portals through which users can identify legal problems and be routed to assistance (legal and otherwise) available in their area.³¹ These efforts endeavor to supplement the court process-based triage programs that are being implemented in state courts around the country.

Although technology-based solutions were frequently prototyped in the design sprint workshops, there was no discernable preference for technological solutions over in-person or non-tech process solutions. Indeed, nearly half of the ideas prototyped did not incorporate a technological component at all, and many of the tech-enabled ideas still required the ability to directly connect with a live person.

28 See, e.g., JOHN GREACEN, INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS., EIGHTEEN WAYS COURTS SHOULD USE TECHNOLOGY TO BETTER SERVE THEIR CUSTOMERS 5 (2018), https://iaals.du.edu/sites/default/files/documents/publications/eighteen_ways_courts_should_use_technology.pdf.

29 REBECCA L. SANDEFUR, LEGAL TECH FOR NON-LAWYERS: REPORT OF THE SURVEY OF US LEGAL TECHNOLOGIES (2019), http://www.americanbarfoundation.org/uploads/cms/documents/report_us_digital_legal_tech_for_nonlawyers.pdf.

30 *Id.* at 14.

31 For example, Microsoft developed, in partnership with the Legal Services Corporation, Pro Bono Net, and Pew Charitable Trusts, the Legal Navigator Portal that is being pilot tested in Alaska and Hawaii. <https://simplifyinglegalhelp.org/>. Other states are working to develop their own solutions. See, e.g., <https://floridajusticetechnologycenter.org/testing-statewide-triage-the-results-of-user-research/>.

EXPANDING PHYSICAL SPACES FOR COURT SERVICE DELIVERY

An important and often problematic aspect of navigating the process without an attorney is getting to the courthouse during daytime operating hours. The impact of this disruption can extend across many facets of litigants' personal lives: childcare, time off work, and transportation costs are among the most frequently cited. Avoiding the need for people to physically go to court is of course a key feature of those prototypes that would digitally deliver information and services. Apart from the prototypes rooted in technology, however, several of the prototyped ideas endeavored to create new *physical* space options for service delivery outside of the courthouse.

The divorce van concept proposed in the first Massachusetts workshop offered a forum that could travel to areas where the user needs are greatest. One sprint group jokingly discussed the possibility of a divorce airline, which takes this mobile courthouse idea to a far more extreme level. While they may seem far-fetched, these ideas may not be too far off the mark, given some of the private providers operating in the divorce space. For instance, DivorceHotel, a company launched in the Netherlands and now operating in other countries, brings couples in for a weekend of mediation and non-legal expert advice with the goal of resolving disputes before they check out.³²

Further, the notion of increasing the court's reach by creating physical partnerships in the community is an increasingly popular approach. For example, in Bend, Oregon, the Deschutes Public Library hosts a Lawyer in the Library program one day a week, providing self-represented litigants a free 30-minute consultation; the program is a partnership with the Deschutes County Access to Justice Committee.³³ As another example, the Alaska State Court System, as part of the state's Justice for All action plan, mapped the justice ecosystem across the state to identify physical spaces in the community, and the providers operating therein, to inform the successful implementation of future justice interventions.³⁴ Finally, IAALS' out-of-court divorce model shared a similar premise, providing divorcing and separating families the opportunity to engage in a comprehensive set of legal services—such that they never had to go to the courthouse—along with mental health services for the whole family.³⁵ The model as implemented in Denver, Colorado, was a formal partnership with the local courts. While the Denver Center is no longer in operation, similar models—some based directly upon the IAALS model—are thriving.³⁶

32 DIVORCEHOTEL: A POSITIVE NEW START, <https://www.divorcehotel.com/concept-and-divorcehotel-procedures/> (last visited 11/12/2019).

33 DESCHUTES PUBLIC LIBRARY, <https://www.deschuteslibrary.org/services/lawyerinthelibrary> (last visited 11/12/2019).

34 STACEY MARZ, MARA KIMMEL & MIGUEL WILLIS, ALASKA'S JUSTICE ECOSYSTEM: BUILDING A PARTNERSHIP OF PROVIDERS (2017), <https://public.courts.alaska.gov/web/jfa/docs/plan.pdf>.

35 DIVORCING TOGETHER, *supra* note 4.

36 For example, the Family Resolutions Specialty Court (FRSC) in Hampshire County, Massachusetts is a problem-solving court at the Hampshire Probate and Family court. Based on the IAALS model, the FRSC provides an interdisciplinary approach to child-centered problem-solving throughout the divorce process. ht

CONCLUSION

A focus on user-centered design is critical as the legal community moves forward in developing solutions to the myriad obstacles we face. Of course, legal experts provide valuable insights into the issues and can offer innovative solutions. But users of the system can offer perspectives that legal experts often do not possess—and if we seek to improve the system for the litigants, we must continue to engage them in the dialogue around developing real and viable solutions.





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