



Report of

**The Summit on the
Use of Technology to
Expand Access to Justice**

December 2013

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Background

It has been widely estimated for at least the last generation that all the programs and resources devoted to ensuring access to justice address only 20%¹ of the civil legal needs of low-income people in the United States. This is unacceptable in a nation dedicated to the rule of law and to the principle of justice for all.

The Legal Services Corporation (LSC) has found through its experience with its Technology Initiative Grant program that technology can be a powerful tool in narrowing the justice gap—the difference between the unmet need for civil legal services and the resources available to meet that need. Drawing on this experience, in late 2011, LSC decided to convene a summit of leaders to explore how best to

This report proposes a national vision that must of necessity be achieved locally. The proposal is ambitious. It must overcome challenges not only of technology, but of leadership, funding, and resistance to change. While the Legal Services Corporation has sponsored this process, from its inception the participants have recognized that the leadership necessary to implement the Summit's recommendations must come jointly from a broad spectrum of entities involved in providing access to justice.

A Vision of an Integrated Service-Delivery System

Technology can and must play a vital role in transforming service delivery so that all poor people in the United States with an essential civil legal need obtain some form of effective assistance.

The strategy for implementing this vision has five main components:

1. Creating in each state a unified "legal portal" which, by an automated triage process, directs persons needing legal assistance to the most appropriate form of assistance and guides self-represented litigants through the entire legal process
2. Deploying sophisticated document assembly applications to support the creation of legal documents by service providers and by litigants themselves and linking the document creation process to the delivery of legal information and limited scope legal representation
3. Taking advantage of mobile technologies to reach more persons more effectively
4. Applying business process/analysis to all access-to-justice activities to make them as efficient as practicable
5. Developing "expert systems" to assist lawyers and other services providers

The vision for achieving this is:

- Every state will create a statewide access portal that provides an easy way for a person to obtain assistance with a civil legal issue.
- The portal will use an automated process to refer each requester to the lowest-cost service likely to produce a satisfactory result in her or his case.
- The automated process will ultimately be informed by a sophisticated "triage" algorithm continually updated for each state by feedback data on the outcomes for persons who have previously sought assistance through the portal.⁴
- The portal will support a broad variety of access-to-justice services provided by courts, the private bar, legal aid entities, libraries, and others who collaborate in imple-

- All of the collaborating entities in a jurisdiction will employ the same document assembly application, which will generate plain-language forms through an interview approach. Litigants will use the application themselves, or with lay or legal assistance, to choose a legal form or forms appropriate for their personal objectives and to complete the form by entering all required information through an on-line interview process.
- The document assembly application will employ automated "smart document" tags for the information entered by a requester so that the information can be reused by all access-to-justice entities without requiring re-entry of the information.
- The document assembly application will be linked to:
 - the website for access to detailed information about the legal principles and terms underlying the form
 - legal services providers, court self-help centers, and libraries and other support entities for assistance that does not include legal advice
 - legal aid lawyers or private lawyers providing pro bono services (or private lawyers providing unbundled legal services if the requester is unable or unwilling to receive free legal services) for legal advice on some aspect of the requester's legal situation
 - the court's electronic filing and electronic payment applications
 - the access-to-justice entity's case management application to store all tagged data for reuse
- Forms generated by the document assembly application will be universally accepted by courts in the state.
- All access-to-justice entities will employ a variety of automated and non-automated processes to make the best use of lawyers' time to assist requesters with their cases, including:
 - conducting business process analyses to streamline their internal operations and their interactions with all collaborating entities
 - having clients/litigants perform as much data entry and handle as many of the functions involved in their cases as possible (given the nature of the case and the characteristics of the client/litigant)
 - having lay staff perform a broad range of assistance activities not requiring the expertise of a lawyer
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- Persons seeking more extensive legal services will be linked to legal aid offices, pro bono attorneys, court self-help centers, or lawyer referral services.
- Mobile applications will be deployed to assist requesters/clients/litigants.
- Evaluative information will be generated by automated systems routinely, presented to all collaborating entities regularly, and assessed collaboratively to refine and improve the access-to-justice process.

Components of the Integrated System

This section sets forth a detailed vision and implementation outline for each of the five main components. Many of the strategies will require funding and are therefore contingent on finding the resources to implement them. We have no current commitments to fund any of the strategies suggested. Securing financial support will be part of the hard work needed to make the vision a reality.

1. Statewide Legal Portals

The Vision

Each state now has multiple websites providing information on the courts, legal services, and private bar resources. The variety of choices can be confusing for the user and wasteful of scarce resources when multiple entities are providing information on the same topics. The better approach would be a single, statewide mobile web access portal in each state to which a user will be directed no matter where he/she comes into the system. The portal will support computers, tablets, and smartphones.

When an access-to-justice portal is implemented:

- Information will be available anywhere, any time to every person seeking assistance.
- Assistance from a person—lawyer or otherwise—will be available anywhere, if resources are available.
- The portal will use methods such as branching logic questions and gamification⁶ to generate information on the capabilities of an inquirer, which will be part of the referral logic.
- The portal will generate information on the legal needs of persons within the state, aggregate it, and provide it regularly to all participating entities.

The key to this portal will be an integrated system of resources, rules, and recommendations through which users can be matched with available services. The site will apply branching logic to users' responses to questions and direct them to the most appropriate resource, considering factors such as case complexity, litigant capacity, strength and representation of the opponent, the importance of the litigant's stake in the case, and the availability of the resource (updated in real time).

All access-to-justice entities in a state (including legal aid entities, courts, the organized bar, interested law firms and lawyers, law schools, libraries, pro bono legal services support entities, and other interested community entities) will develop the portal and will receive appropriate referrals from it. If a referral proves inappropriate, the entity to which the referral was made may make a different referral. The confidentiality of information provided by an inquirer will be preserved.

Service options will include:

- Link to a specific section of a website for substantive and procedural information and access to document assembly forms
- Connection to a legal services, court, or library staff person for information and navigation assistance (including a personal assessment of the capability of the service requester)
- Connection to a self-help center or legal services attorney
- Connection to a lawyer providing unbundled services on a pro bono or compensated basis (if the client is able to pay)

If the inquirer is connected to a person, that person will have the capability to change the referral. Responses from a person will take the initial form of an email, text message, or live chat. Escalation can take the form of a phone call or video conference.

An essential function of the portal will be the accumulation of data on how cases progress and, based on outcome data, the relative efficacy of various service delivery mechanisms. The goal is to employ technology that is smart enough to refine referrals based on the data collected, but human review will be essential to the evaluation process.

It is unrealistic to propose that every referral be reviewed, but the system designers will build in a statistically valid system of review that will spot-check referrals and help to improve their efficacy. After the initial portal implementations are evaluated, the model will be modified as necessary, and the template will be provided for other states interested in replicating the process.

Implementation Plan

LSC will work with others to secure funding to develop portals in up to three pilot jurisdictions, selected competitively. The pilot portals will be designed for maximum potential reuse in other states. Although LSC currently requires its grantees to have a statewide website for each state, and although many court websites have good information for self-represented litigants, the portal will be a new site that (1) aggregates the resources already available, (2) delivers new resources to fill any gaps that exist, and (3) provides the new functionality envisioned by the triage and expert systems.

To compete for the pilot program, jurisdictions should demonstrate that the portal will be created and supported as a collaborative effort of the major access-to-justice entities within the state and that they are committed to sustaining funding for the portal after the grant.

2. Document Assembly

The Vision

Plain language forms will be produced through plain language interviews for all frequently used court and legal forms (e.g., a consumer letter). Users will answer questions regarding their legal matter, and the intelligent forms system will use the information to generate the appropriate form and display it for review. The forms will be translated into all locally appropriate languages (but produce English language forms for filing). The systems will employ “smart form” XML tagging⁷ to deliver information in the form for recording and reuse in court and other entity case management systems. The document assembly system will provide “just in time” legal information (such as the definition of legal terms used

It should be possible to reuse interviews and forms developed in one state or jurisdiction by adapting them to the laws and requirements of other jurisdictions.

Much of the information needed to evaluate the effectiveness of a document assembly application should be built into the system itself—obtaining evaluative information from users and as a by-product of system operations, such as assessing the understandability of particular parts of an interview based on the likelihood that users change the information they enter, take longer than usual to complete an interview part, activate help functions, or seek in-person staff assistance.

3. Mobile Technologies

The Vision

Access-to-justice services will be location-independent and accessible using smartphones, tablets, and other mobile devices. Because the US population is becoming accustomed to remote delivery of banking, shopping, information retrieval, and support services, access-to-justice service providers may also need to adopt remote service delivery approaches. Use of computers, tablets and, increasingly, smartphones is becoming the expected medium for accessing services of all kinds. Eighty-six percent of adults earning less than \$30,000 per year own cell phones, and 43 percent own smartphones.⁸

Implementation Plan

Information websites will be redesigned for easy access by, and interaction with, mobile devices by providing information in smaller, simplified sections that are readable on a smartphone screen. The

- Increase understanding of, engagement with, and adoption of best practices and technology through the analysis process itself, which is inherently collaborative across staff and stakeholders
- Reduce costs, handle more cases, and meet the needs of more clients/litigants by ensuring that each case is handled efficiently

When the business process analysis is conducted with participants from multiple entities (such as courts, legal services providers, private lawyers, libraries, etc.), the benefits expand to include:

- Analyzing the optimal roles that each entity can perform in providing access-to-justice services (in particular, identifying where and how private lawyers can make the best contribution on both volunteer and fee-generating models and how to create incentives for the increased participation of the private bar)
- Maximizing the systemic impact of process improvements, rather than confining the improvements to a single entity
- Minimizing the duplication of effort across entities
- Expanding provider knowledge of others' processes

Process analysis can be conducted on a statewide basis to maximize the return on the participants' involvement. For instance, all of the legal services providers within a state could analyze the process for a particular case type, because the laws governing the process are the same (although how cases are handled by the courts may vary from county to county).

The purpose of business process analysis is not to identify one "best way" for handling a type of case. Rather, it provides a method by which individual programs, jurisdictions, and states can identify the process that will best meet the needs of the stakeholders in that place and time, given the existing legal and organizational structures and resources available. Knowledge about process, represented as process map templates in standard formats, can be shared across the access-to-justice community. It takes less time to modify an existing map to reflect local practices than to create one from scratch. Reusability can be maximized by:

- Using a single technical standard, such as Business Process Modeling Language, for documenting business process analyses
- Documenting the legal and organizational context for each analysis
- Recording the identities and contact information of the authors of such analyses to facilitate reuse of expertise

expert support available at little or no cost to each program. These experts will not only examine existing practices but also endeavor to identify new capabilities that would benefit the systems.

The expectation is that the pilot projects will clearly demonstrate the benefits of business process analysis, both with increased access and a positive return on investment, so that other states join in these efforts. The National Center for State Courts is already working with state court systems and individual courts to conduct similar analyses. The leaders of the initiative will strive to encourage collaborative process analysis efforts at the state and local level.

LSC will create a website to collect completed process maps and to organize them for review by other entities beginning their analysis of a process.

5. Expert Systems and Intelligent Checklists

The Vision

Expert systems use information provided by a client to create personalized legal information tailored for her or him or the advocate/assistant. Such systems can be envisioned for a wide variety of topics, including benefits eligibility, identification of necessary forms and procedures, alternative approaches to problem solutions, and preventive law.

Intelligent checklists guide clients and advocates through the steps in processes, such as initiating or responding to court actions and dealing with government agencies.

Implementation Plan

The strategy to achieve the vision should include the development of a generic tool or tools that use the alternative types of logic needed for effective expert systems and checklists.

- A more detailed action plan and timeline for the initiative revised on at least an annual basis
- A plan for generating and dispensing the funding that will be necessary to implement the initiative

Develop an Ongoing Outreach Process

It will be essential for the steering committee to communicate with the national organizations that represent access-to-justice stakeholders. The committee must reach out to, and obtain the support of, Access to Justice Commissions in every state in which they exist. These entities are natural allies, because they invariably have cross-organizational memberships and missions.

The steering committee must inform the trial court community of the vision to develop a general level of acceptance and to prepare a receptive environment for overtures from local legal services programs and bar associations to participate in pilot program activities. The Steering Committee must also engage with representatives of the joint committees on Access, Fairness and Public Trust of the Conference of Chief Justices and the Conference of State Court Administrators, with the National Center for State Courts, and with the National Association for Court Management to develop a strategy for reaching a significant part of the courts community.

This vision calls on legal services organizations to rethink a service delivery model that has been in place for more than a generation. LSC will need to reach out to and work closely with legal services leaders to obtain their input and assistance.

Develop a Funding Strategy

The steering committee will conduct an analysis of the costs associated with developing, deploying, and maintaining the pilot projects proposed. This analysis will produce an estimate sufficient to provide the basis for developing a funding strategy.

The committee will develop a funding strategy to seek financial support from multiple sources with the goal of leveraging congressional appropriations through additional private funding, including:

- LSC's Technology Initiative Grant program for essential initial activities, provided TIG funds are within the framework of the TIG program and awarded using the existing competitive process
- The State Justice Institute
- State legislatures and courts
- IOLTA programs
- Private foundations
- Corporate sponsors
- Individual donors
- Private venture capital investment in supportive applications that involve lawyers in the provision of unbundled legal services.

The strategy should include periodic meetings of all entities that supply financial support for the initiative to provide them with progress reports.

Develop a Replication Strategy

Even if all of the pilot projects prove successful, the initiative might fail unless the pilots are replicated in other jurisdictions. It is unrealistic to expect any funding strategy to find enough new money to do this replication. The pilots should be able to demonstrate not only that they improve access to justice, but that they are cost-neutral or result in savings. Therefore, a component of each pilot's evaluation needs to be a study of the return on investment for the project. To be most effective, these pilots will need an evaluation strategy that establishes the business case for their replication with hard data.

Develop a Communications Process

The initiative will need a communications program to provide progress reports on projects and to keep the access-to-justice community (both IT specialists and legal practitioners) informed concerning emerging best-of-breed applications, technology trends and developments, and strategic analyses of the implications of larger technology trends for the initiative and for the access-to-justice community more broadly.

Conclusion

The Summit resulted in a blueprint for using technology to provide some form of effective assistance to 100% of persons otherwise unable to afford an attorney for dealing with essential civil legal needs. We look forward to working with the broader legal services community to implement the Summit's vision for an unprecedented expansion of access to justice in the United States.

Endnotes

¹Legal Services Corporation, *Documenting the Justice Gap in America: The Current Unmet Civil Legal Needs of Low Income Americans*

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Karen Lash	Senior Counsel	US Department of Justice	Washington	DC
Marc Lauritsen	President	Capstone Practice Systems	Harvard	MA
Susan Ledray	Pro Se Services Manager	4th Judicial District Court, MN	Minneapolis	MN
Lora Livingston	District Judge	Travis County	Austin	TX
Andrea Loney	Executive Director	South Carolina Legal Services	Columbia	SC
David Maddox	Assist. IG for Management & Evaluation	LSC/OIG	Washington	DC
Phil Malone	Clinical Professor of Law	Harvard Law School	Cambridge	MA
Ed Marks	Executive Director	New Mexico Legal Aid	Albuquerque	NM
Michael Mills	CEO	Neota Logic	New York	NY
Mark O'Brien	Executive Director	Pro Bono Net	New York	NY
Snorri Ogata	Chief Technology Officer	Orange County Superior Court	Santa Ana	CA
David Otte	CIO	Sidley Austin LLP	Chicago	IL
Alison Paul	Executive Director	Montana Legal Services Association	Helena	MT
James Pierson	Director Center for Innovation, PeaceHealth	PeaceHealth	Bellingham	WA
Laura Quinn	Executive Director	Idealware	Portland	ME
Glenn Rawdon	Program Counsel for Technology	Legal Services Corporation	Washington	DC
Linda Rexer	Executive Director	Michigan State Bar Foundation	Lansing	MI
Jane Ribadeneyra	Program Analyst	Legal Services Corporation	Washington	DC
James Sandman	President	Legal Services Corporation	Washington	DC
Maria Soto	Sr. VP Operations	NLADA	Washington	DC
David Tait	Professor	University of Western Sydney	Picnic Point	-
David Tevelin	-	Tevelin Consulting Group	Arlington	VA
James Waldron	Clerk of Court	United States Bankruptcy Court	Newark	NJ
Paul Wieser	-	Nunc Software LLC	Boardman	OH
Richard Zorza	Founder	Self-Represented Litigation Network	Washington	DC

Attendees from the Second Session of the Summit

Name	Title	Company	City	State
IV Ashton	President & General Counsel	LegalServer	Chicago	IL
David Bonebrake	Program Counsel	Legal Services Corporation	Washington	DC
Kevin Bowling	Court Administrator	20th Circuit Court	West Olive	MI
Kevin Burke	District Court Judge	Hennepin County District Court	Minneapolis	MN
Peter Campbell	CIO	Legal Services Corporation	Washington	DC
Alan Carlson	CEO	Orange County (CA) Superior Court	Santa Ana	CA
Thomas Clarke	Vice President Research & Technology	National Center for State Courts	Williamsburg	VA
Lisa Colpoys	Executive Director	Illinois Legal Aid Online	Chicago	IL
Jane Curran	Executive Director	The Florida Bar Foundation	Orlando	FL
Dina Fein	Judge	Massachusetts Trial Court	Springfield	MA
John Greacen	Principal	Greacen Associates, LLC	Regina	NM
Pieter Gunst	Founder and COO	LawGives	San Francisco	CA
Jeff Hogue	Supervising Attorney	LawNY	Geneva	NY
Will Hornsby	Staff Counsel	American Bar Association	Chicago	IL
Bonnie Hough	Managing Attorney	Administrative Office of the Courts	San Francisco	CA
Ronke' Hughes	Intake Managing Attorney	LSNV	Fairfax	VA
Bill Jones	Technology, Information & Content Coordinator	American Bar Association	Chicago	IL
Mark Juhas	Judge	Los Angeles Superior Court	Los Angeles	CA
Stephanie Kimbro	-	Burton Law LLC	Wilmington	NC
Karen Lash	Senior Counsel	US Department of Justice	Washington	DC
Marc Lauritsen	President	Capstone Practice Systems	Harvard	MA
Susan Ledray	Pro Se Services Manager	4th Judicial District Court, MN	Minneapolis	MN
Jon Levy	Justice	Maine Supreme Judicial Court	Portland	ME
Phil Malone	Clinical Professor of Law	Harvard Law School	Cambridge	MA

Name	Title	Company	City	State
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