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TRENDS

in State Courts

2023 Review Board & Trends Committee

Trends in State Courts 2023 articles have been through a rigorous review process. The members of the 2023 Review Board and Trends Committee have provided valuable feedback on this edition. The patience and commitment of the Review Board and Trends Committee are greatly appreciated.

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Call for Article Submissions

Trends in State Courts is an annual, peer-reviewed publication that highlights innovative practices in critical areas that are of interest to courts, and often serves as a guide for developing new initiatives and programs and informing and supporting policy decisions. *Trends in State Courts* is the only publication of its kind and enjoys a wide circulation among the state court community.

Submissions for the 2024 edition are now being accepted. Please email abstracts of no more than 500 words by October 16, 2023 to John Holtzclaw at jholtzclaw@ncsc.org. Abstracts received after this date are welcome and will be considered for later editions.

Visit the *Trends in State Courts* website at ncsc.org/trends for more information and detailed submission guidelines.

2023

TRENDS

in State Courts

Edited by
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Acknowledgments

Trends in State Courts 2023 was truly a team effort. Without the support and dedication of the court community this publication would not have been possible.

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Preface

Mary Campbell McQueen
NCSC President

Upholding the rule of law is a difficult calling. Over just the last few years, state courts have faced challenges from a pandemic, social movements, and new technology—and have learned and applied valuable lessons from them. (For example, the COVID pandemic showed how remote hearings can sometimes be preferable to in-person hearings at a courthouse.) NCSC publishes the *Trends in State Courts* series not only to share what individual courts have done to improve their services and operations, but also to inspire courts to look ahead and face the challenges to come. *Trends 2023* is no exception.

This year's edition begins with what courts can do to improve access to justice. For example, courts can use the principles of “universal design” to ensure they are accessible to all litigants regardless of age or ability. A new access and fairness survey can help courts develop and improve policies for remote proceedings. Even artificial intelligence and bots can help users to navigate the court system, as shown in Florida's Eleventh Judicial District Court.

Courts need to stay in touch with their communities to understand the concerns of citizens—and to help citizens understand the role of the courts. The Maryland Judiciary is one of several that have been holding community forums to address access, race, and diversity, among other issues. The spread of misinformation and disinformation is a constant threat, and *Trends* showcases NCSC advice on how courts can counteract it via community engagement. Individual communication is important too, as illustrated by the Cleveland Municipal Court's use of a smartphone app to improve connections between court officers and defendants on probation.

Improving court operations and processes are beneficial for both courts and court users. For example, switching to a “Hyperconverged Infrastructure” (HCI) could be a court's best choice for replacing outdated IT equipment. Courts might consider supported guardianships, rather than full guardianships, to help some people with disabilities maintain their autonomy. Finally, states looking to reduce the level of incarceration of defendants in traffic cases might be interested in reform legislation passed in Michigan.

Courts are doing so much to improve access, outreach, and operations. NCSC hopes that *Trends in State Courts 2023* provides some of the information your court needs to improve service to citizens and the rule of law.



*Accessible Courts:
Toward Universal
Design*



Accessible Courts: Toward Universal Design

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Universal design is a term used to describe the design of environments, both buildings and services, that are accessible to every person, regardless of age or disability. Accommodating the needs of self-represented litigants and individuals subject to guardianship makes courts more functional and accessible for all court users.

Accessible Courts: Toward Universal Design

The last three years have created a wave of change and adaptation in state courts at a pace and breadth never before seen. While rapid change has been challenging, it has also unlocked new opportunities for courts to increase access to justice and embrace user-centered innovations and accessibility advancements. This article will discuss how courts can increase access to justice by embracing universal design and use examples from the experiences of self-represented litigants and individuals subject to guardianship to explore in more concrete terms how using universal design can have tangible benefits across the court ecosystem.

Access to justice is achieved when a person facing a legal issue has timely and affordable access to the level of legal help they need to get a fair outcome on the merits of their legal issue and can walk away believing they got a fair shake in the process.¹ Access, therefore, is not about ensuring that everyone has a lawyer. It is rather about making sure that people get the kind of help they need, when they need it, in a way that is understandable and timely, and that the system treats them with respect and dignity and leaves them feeling like they meaningfully participated in the process. This is no small undertaking, but as described in more detail below, this is core to the function of courts and cannot be conceptualized as an “extra” element of doing the daily business of the legal system.

Universal design is a term used to describe the design of environments, including buildings and services, that are accessible to every person, regardless of age or disability. It was coined by architect Ronald Mace, who

noted that “changing demographics, statutes, and attitudes are fueling the demand for more sophisticated products, housing, and business environments that are accessible for people of all ages, sizes, and abilities” (Mace, Hardie, and Place, 1996). Universal design has seven principles: equitable use, flexibility in use, simple and intuitive use, perceptible information, tolerance for error, low physical effort, and size and space for approach and use (National Disability Authority, 2020).

Considering universal design in courts is not a new idea. In 1991 the National Conference on Court-Related Needs of the Elderly and Persons with Disabilities stated that:

The justice system should commit itself to the removal of attitudinal barriers and serve as a model of accessibility based on the principle of universal design, which requires a barrier-free, technologically enhanced environment in which what is needed by one is available to all (Dooley, Karp, and Wood, 1992).

Principle 1: Equitable Use

Equitable use means that the courts are accessible to individuals with varying abilities. In guardianship cases, individuals subject to guardianship are at risk of losing many or all civil rights, including potentially the ability to manage their own finances, sign

¹ As defined by the Chicago Bar Foundation.

contracts, marry, vote, or decide where to live. Despite this, the persons at the center of these cases are frequently not present or not fully involved in court hearings. There are some situations where involvement cannot be meaningful, as when the person is in a state of coma. However, when persons can participate with or without accommodations, they must be allowed to do so. Difficulty communicating must not be mistaken for a lack of interest or an inability to process information, make decisions, and have opinions.

Principle 2: Flexibility in Use

Courts that demonstrate flexibility in use accommodate a wide range of abilities. Providing options for meaningful participation in remote or hybrid hearings has also proven to be very helpful in allowing participation by individuals in institutional settings such as hospitals, skilled nursing facilities, and group homes, as well as family members who live in other communities, states, or countries. The same is true of offering remote services and assistance, like [virtual clerks' counters](#) (*Tiny Chats* 86). Caregivers who can access a clerk virtually can gain assistance without having to leave the person they are caring for, or arranging sometimes costly alternative care while they travel to the courthouse. They also open up the possibility of adaptive technologies in the context of a remote hearing. Remote and hybrid hearings, if done well, can increase access by allowing people to handle court business from anywhere, instead of having to take time off work, arrange childcare, and pay to travel to or park at the court (NCSC Access to Justice Team, 2022).

Considering the needs of litigants when scheduling hearings also helps ensure full participation. For an individual who needs considerable assistance with activities of daily living, such as bathing, dressing, eating, toileting, and mobility, a very early court hearing may be much more difficult than one scheduled later in the day. Getting ready often takes longer, and transportation options are fewer. On the other hand, older individuals may experience reduced cognition later in the day, a phenomenon known as sundowning, or late-day confusion. For these individuals, hearings scheduled earlier in the day can help them to fully participate. Allowing litigants some input into the time of their hearing helps those individuals with disabilities and is also a much-appreciated courtesy to others. Courts can achieve this by allowing litigants to [select hearing times](#) (*Tiny Chat* 74) via a [scheduling tool](#) (<https://www.onlinejudge.us/>) or by utilizing block scheduling, where the “cattle call” is eliminated and litigants are given a set time frame during which their hearing will take place either remotely or in person.

Time-certain hearings are very helpful to individuals who experience challenges in attending court and make court events more user centered for all litigants. Requiring a person with a disability, particularly one who has difficulty accessing toilet facilities, to wait for hours for their case to be called may make participation impossible. Similarly, individuals struggling to keep children entertained or paying for expensive childcare are ill served by court sessions that do not provide time-certain hearings. Block scheduling can also reduce the number of individuals (and resulting noise and potential security issues) in the courthouse. This makes the experience

less stressful for individuals with difficulty maintaining concentration, for those with a serious mental health condition, for those who have experienced trauma, and, quite frankly, for anyone. It is much easier for someone to take time off from work, schedule childcare, and manage travel when there is a set start and end time to their court engagement. It also goes a long way toward treating people with respect and valuing their time, which in turn increases trust and confidence in the court. Finally, it also helps courts. They can better manage their staffing levels and caseloads and can combine block scheduling with insights from case management data to manage workflows more effectively. Block scheduling and adherence to this principal of universal design helps all.

Principle 3: Simple and Intuitive Use

Consider the various touchpoints someone has with the legal system as a self-represented litigant (SRL). Self-represented litigants are not anomalous users of the court system. They are, in fact, the main users of the court system, particularly in high-volume civil cases like family, housing, and [consumer debt](#) (Michigan Justice for All Commission, n.d.). If courts were businesses, SRLs would be their primary customer. Their [experience](#) (*Tiny Chat* 53), and the opportunity that courts have to increase access to justice for them, is therefore of great importance to the courts and all of their users. Innovations that improve access for

SRLs by emphasizing simple and intuitive use improve the whole system. SRLs can lose trust and confidence in the system and [procedural fairness suffers](#) when they struggle to understand the legalese and complex language on a form; find procedural requirements like effectuating service of process or submitting documentation to be challenging; or attend a hearing that is moving at lightning speed where everyone but them seems to know what will happen next (*Tiny Chat* 19).

Courts can embrace plain language in all their forms and communications.² Making it easier for an SRL to understand a process also makes it easier for others and does not diminish the seriousness of court business. Doing this by also using interactive online tools that provide procedural and legal information likewise raises all boats.³

Principle 4: Perceptible Information

Some individuals participating in court hearings, particularly those subject to guardianship, require assistive or adaptive communication technologies. Before a court proceeding, the court should confirm that any needed communication technologies are available and functional. These may include assistive listening devices (ALDs), which amplify sound, or augmentative and alternative communication (AAC) devices. ALDs include hearing loop or induction loop systems, digital

2 NCSC provides an online “Interactive Plain Language Glossary” (<https://www.ncsc.org/consulting-and-research/areas-of-expertise/access-to-justice/plain-language/glossary>). NCSC also offers periodic online “Forms Camps” (<https://perma.cc/SS2F-YQVY>).

3 See, for example, this website of the 13th Judicial District, Wyandotte County, Kansas, at <https://perma.cc/T2DS-NGQZ>.

modification (DM) systems, infrared systems, and personal amplifiers (NIDCD Information Clearinghouse, 2019). AAC devices allow individuals with communication disorders to express themselves through devices such as simple picture boards and touch screens. Software allows tablets or laptops to be speaking devices (NIDCD Information Clearinghouse, 2019). These same needs can also be addressed in a remote environment. For example, the ability to use dedicated audio channels for spoken interpretation, video for visual interpretation, and the ability to display a live transcript can make full participation possible. Individuals may bring their own equipment or may rely upon the court to provide it. Advanced preparation is essential to making sure that difficulty communicating is not mistaken for an inability to participate in the court event.

Other individuals may have low vision or may be color blind, as are about one in twelve men. Color blindness can also come with age-related macular degeneration, diabetes, and Alzheimer’s disease (National Eye Institute, 2019). Individuals with low vision may need to use screen readers or magnifiers. In a courthouse, ensuring sufficient light to read can help those with low vision and those with color blindness. All printed materials should use color-blind-friendly color palettes. These simple accommodations can help many, even those simply experiencing normal age-related difficulty in reading small print, especially in low light.

Individuals participating in a remote hearing may have access with their own equipment but may also need the court’s help to access any printed material. Courts should also be mindful of the same color palette and contrast considerations in their online communications and remote access platforms.

Principle 5: Tolerance for Error

Courts should minimize negative consequences of any accidental or unintended action. Checking for understanding in court events is essential, whether the individual may have reduced capacity or not. Court hearings are often exercises in information asymmetry, where some individuals, such as the judicial officer, court staff, and attorneys, possess a great deal of information about what is happening, while a self-represented litigant or person with limited or diminished capacity possesses little. This is exacerbated in a remote hearing if most individuals have a video link and one participant has only a voice connection. In these situations, the person running the hearing should check to be sure that the audio-only person is still present and understands what is happening in the hearing. The judge or hearing officer should also build in pauses for audio-only participants and solicit their feedback. Indeed, before a hearing starts, there should be an orientation that ensures all parties understand who is present, how they are appearing (in person, via phone, via video), how to use essential elements of the equipment (mute, share screen), and how the entire proceeding will unfold (this party will speak first, then this party, I will make sure to pause and ask if you have questions). This is particularly helpful for individuals who are not already technology-fluent but is also reassuring to anyone experiencing a remote hearing for the first time. Finally, providing written “next steps” or “process steps” in plain language helps a court participant understand what happened in the hearing and what the person needs to do next.

Principle 6: Low Physical Effort and Principle 7: Size and Space for Approach and Use

Some individuals subject to guardianship may need physical accommodations to fully participate in hearings. Unfortunately, many courthouses lack ADA compliance, often because they are historic structures. Ensuring that there are ramps instead of (or in addition to) stairs, elevators to higher floors, accessible bathrooms, sufficient space in the courtrooms to maneuver with a wheelchair or walker, and handrails on all stairs and ramps helps these individuals and others access the courthouse. If the courthouse cannot be modified to be accessible, then flexible scheduling of courtrooms should be used to ensure that a ground-floor courtroom is available for any participant with mobility challenges. Alternatively, courts should have a plan to use space in accessible buildings if any participant cannot access the courthouse. Finally, courts should not forget the opportunities presented by remote hearings and services in such situations. Individuals may be able to virtually access the hearing remotely or from a first-floor conference room in the courthouse. Courts have become very proficient in conducting simple and complex hearings, offering clerks services, and even holding some types of trials via remote video and audio platforms. When a suitable physical space is not available to meet the needs of all participants, courts should consider virtual options.

If an individual involved in a court case needs support or accommodation, the court should track this information so that it can be prepared each time the individual is in court. In the [National Open Court Data Standards](#), there is a flag to indicate ADA needs the court should address with accommodations.⁴ Of course, the court will need to maintain specific information on what accommodations are required.

4 NODS can be accessed here: <https://www.ncsc.org/consulting-and-research/areas-of-expertise/data/national-open-court-data-standards-nods>.





Conclusion

Accessible courts are necessary for many individuals. Adhering to principals of universal design to offer accessibility increases access to justice and helps all court users. According to the CDC, 61 million adults in the United States live with a disability, including two in five adults over the age of 64 (Centers for Disease Control and Prevention, 2022). The population is also aging. The U.S. Census Bureau's American Community Survey estimated the 65-and-over population at 49.2 million in 2016, up from 35.0 million in 2000 (Roberts et al., 2018). This includes over 6 million individuals 85 years and older (Roberts et al., 2018).

For courts interested in universal design, not only of the physical space but also of court processes, there are many resources available. One is the [Protection and Advocacy](#) organization in the state (often called Disability Rights *state name*).⁵ Another is the [International Principles and Guidelines on Access to Justice for Persons with Disabilities](#), published by the United Nations' Human Rights Special Procedures (2020). It is a best practice to design court processes and procedures, as well as physical spaces, to be accessible to all. Doing so helps all court users and can increase access to justice and procedural fairness.

5 See Administration for Community Living at <https://perma.cc/Z4TJ-U79Q>.

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Accessible Courts: Toward Universal Design

National Center for State Courts *Tiny Chats* Video Series

Tiny Chat 19. “Procedural Fairness.”

<https://ncsc.contentdm.oclc.org/digital/collection/accessfair/id/904/rec/1>

Tiny Chat 53. “Robyn’s Experience.”

<https://ncsc.contentdm.oclc.org/digital/collection/accessfair/id/912/rec/1>

Tiny Chat 74. “The Case of the Online Judge.”

<https://ncsc.contentdm.oclc.org/digital/collection/tech/id/1081/rec/1>

Tiny Chat 86. “Private Investigators—Michigan Virtual Clerk Counter.”

<https://ncsc.contentdm.oclc.org/digital/collection/accessfair/id/955/rec/1>

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*Measuring Access
and Fairness in Remote
Court Proceedings*



Measuring Access and Fairness in Remote Court Proceedings

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As state courts begin to adopt long-term policies and practices regarding remote proceedings, it is vital that their decisions are informed by court user experiences. Courts can use NCSC's new access and fairness survey to gather actionable data on court users' experiences in both remote and in-person settings.

Measuring Access and Fairness in Remote Court Proceedings

Although state court leaders have discussed the need for improved virtual court services for years, the onset of the COVID-19 pandemic in 2020 forced courts to adopt remote proceedings on a large scale, essentially overnight. Remote proceedings can include hearings (either evidentiary hearings or status hearings), jury selection and orientation, check-ins with probation officers and case workers, and mediation. Now, three years later, remote court services are transitioning from a temporary emergency provision to a permanent part of court infrastructure and services. Court leaders must determine when and how virtual court services will be used and how to design rules, procedures, and technologies to fit the needs of diverse court users. As remote court experiences increasingly become the norm, it is important for courts to understand how court users perceive these proceedings.



The [survey] findings will be considered by a special committee the Supreme Court has established to make recommendations for how to improve remote hearing practices. They may also be used to guide the Judiciary's training, outreach, and planning efforts.

Scott Griffith,
Vermont Judiciary



Measuring court user experiences in remote proceedings is crucial. When courts have data to support their policy decisions, they can describe processes, caseloads, and outcomes; identify priorities for action; communicate needs and successes to different audiences; ensure that services and programs are effective; detect and prevent unintended consequences of policy decisions; and track changes over time. In particular, data on court users' perceptions of access and fairness provide actionable information that equips court leaders to ensure that the courts are providing equal justice to all.

Early Data on Remote Proceedings

Early information from a variety of studies on the effectiveness of remote proceedings allowed courts to be optimistic about the long-term viability of these services. Potential advantages to remote proceedings include faster case processing, greater convenience and lower cost for litigants to appear, and an enhanced ability for victims, witnesses, interpreters, and others to participate in proceedings if they live and work far from the courthouse. During the first few months of the pandemic, the use of remote hearings led to improved appearance rates (National Center for State Courts, 2023), and a majority of Americans surveyed said that they would be willing to appear remotely for their own cases (GBAO Strategies, 2020b). By 2021, a majority of Americans surveyed said that they wanted remote proceedings to continue to be offered (GBAO Strategies, 2021a), and one-third said that increasing online court

Measuring Access and Fairness in Remote Court Proceedings

proceedings would make them more confident that the courts were providing equal justice for underrepresented communities (GBAO Strategies, 2021b).

Despite the overall positive effects of remote court services early on, initial data also suggest that there is substantial diversity in the quality of the experience for different types of court users. For example, nearly half of all Americans surveyed in 2020 said that they would rely on their cell phones to participate in remote court proceedings (GBAO Strategies, 2020a), including more than half of African Americans, Hispanic participants, and younger participants. Only 58 percent of those surveyed had unlimited cell-phone minutes and data, and this figure dropped to 51 percent in 2021 (GBAO Strategies, 2021b). Furthermore, although a majority of Americans surveyed in 2021 said that they would be willing to appear remotely for their own court cases, that percentage was only 31 percent for people over age 65 (GBAO Strategies, 2021b).

The fact that remote proceedings may be more accessible and effective for some litigants than others makes it vital for courts to assess court user experiences with their remote services. Courts should focus particularly on data that can point to disparities between court users from different backgrounds or demographic groups. Remote proceedings are also likely to be more effective for some case types than others, for some types of proceedings than others, and in some locations than

others. Survey data can help courts pinpoint where and how to use remote proceedings. Finally, some research suggests that early in the pandemic court personnel were more optimistic than attorneys about how well remote proceedings were working (Mazzone et al., 2022). Because judges and court staff can only glean limited information about court users' experiences in their day-to-day interactions with them, courts need to hear from court users firsthand.

Measuring Court Users' Experiences with Remote Proceedings

NCSC's CourTools are performance measures that courts can use to determine whether they are meeting their goals and to track changes in performance over time. These measures are relatively easy to implement and targeted to the specific, actionable information that courts need.

CourTools Measure 1, the access and fairness survey, was originally released in 2005. It was designed to measure court users' perceptions of access and fairness during a time when court business took place almost exclusively in person. Now that many state courts have moved significant portions of their operations to remote technologies and virtual spaces, the access and fairness survey has been updated to meet the demand for information about court users' experiences in remote proceedings.



“Court users want choices. For judges who are looking to make caseflow decisions based on data, this survey tool provides valuable insight into the user experience.”

Colleen Rosshirt, Supreme Court of Ohio



Development and Testing of the New Access and Fairness Survey

After developing a draft version of the new access and fairness survey, NCSC partnered with the Supreme Court of Ohio, the Kansas Judicial Branch, and the Vermont Judiciary to pilot test and refine it. In Ohio seven courts throughout the state collected data between January 2021 and April 2022 and received over 3,600 responses. In Kansas six district courts collected data between April and June 2022 and gathered over 350 responses. In Vermont the judiciary collected data between September 2022 and January 2023 and gathered over 350 responses.

Visit courtools.org for the new Measure 1

Based on data from the pilot sites, NCSC researchers refined and reduced the number of survey items so that Measure 1 focuses on the most useful, actionable information

that courts need. The target audience for the updated survey is litigants and their families and friends, victims and witnesses, and public observers. Because the survey is designed to assess the views of the court's primary customers, those who work in or for the courts—e.g., judges, staff, attorneys, social service providers, law enforcement—are not the target audience for this measure. Our pilot tests also enabled us to gather insights from our court partners about the recruitment and dissemination methods that are most effective for reaching remote court users. Additionally, because the pilot tests in Ohio and Kansas

measured experiences in both remote and in-person court proceedings, we were able to examine how user experiences in these two court settings compare to each other.

What's New in this Version of Measure 1?

The original version of the access and fairness survey included ten items measuring perceptions of access and five items measuring perceptions of fairness for in-person hearings. The new version adopts a similar format of ten access items and six fairness items, but measures both remote and in-person court experiences. Participants begin the survey by identifying whether they completed their court business in person or remotely and, depending on the response, are automatically directed to the relevant set of questions. Survey items in each of these two tracks correspond directly to each other, so courts can compare the scores of in-person users to those of remote users. For example, where in-person participants rate their agreement with the statement, "Finding the courthouse was easy," remote participants rate their agreement with the statement, "Joining the proceeding was easy."

Traditionally, courts have printed the access and fairness survey and disseminated it to court users in the courthouse. In contrast, the updated survey is online. Using an online survey platform makes it possible for courts to reach people who interact with the court either in-person or remotely. Remote court users can receive the URL for the survey several ways including by email, by text message, in the chat of the court's videoconferencing system, or through advertisements on the court's website.

Measuring Access and Fairness in Remote Court Proceedings

In-person court users can complete the survey in the courthouse—on their own device or on a device provided by the court—or after they have left the courthouse. Online surveys also eliminate the need for court staff to enter data from paper surveys into a database, saving substantial time and money and reducing the potential for clerical errors. Finally, online surveys give courts the option to collect data at dedicated, specific intervals (e.g., two weeks per year) or keep the survey open and periodically analyze the data.

Measuring access and fairness with an online survey also makes it easier to reach court users with limited English proficiency. The original Measure 1 was available in English and Spanish, and courts offering the survey in Spanish needed to anticipate how many copies to print in each language for each court location. With the new online survey, courts can distribute a single URL to all court users, and those who prefer to complete it in a language other than English can simply select their language from a dropdown menu. The new Measure 1 is currently translated into Spanish, Arabic, Mandarin Chinese, Russian, Somali, and Nepali.

Finally, the new access and fairness survey contains a set of supplemental measures that make it possible for courts to answer important questions about court user experiences. The data from the survey can give courts specific, actionable information about their operations and produce important insights about how to serve court users better. Courts not only can measure perceptions of access and fairness over time, but also pinpoint where they can make improvements to promote access and fairness for different types of court users in different types of cases.

Recommendations from our Court Partners

For courts that plan to use **email** to reach survey participants, our research partners in Kansas recommend **collecting email addresses for parties on a regular basis**. That way, litigants are easily reachable when it is time to conduct the survey.

Our research partners in Ohio suggest, “It is important not only to **plan for the dissemination of the tool, but also to plan for what will happen after the survey**. What changes will be made as a result? Will there be any publication of the results to share with staff or stakeholders? Knowing the answers to these questions will help local courts make use of the data collected.”

What Questions Can Courts Answer Using the New Measure 1?

Accessibility

- How accessible is the court?
- Has accessibility improved over time?
- Which aspects of court services (e.g., safety, forms, staff assistance) are most and least accessible?
- How does accessibility compare for in-person and remote proceedings?
- How does accessibility compare for different types of court business or different case types?
- Is the court more accessible to litigants who are represented by attorneys or self-represented litigants?
- Is the courts' remote hearing platform more accessible on certain types of devices?
- Does accessibility vary by court users' age, race and ethnicity, gender, education, disability status, or language?

Fairness

- How fair do court users perceive the court to be?
- Have perceptions of fairness improved over time?
- How do perceptions of fairness compare for in-person and remote proceedings?
- How do perceptions of fairness compare for different case types?
- Is the court perceived as more fair by litigants who are represented by attorneys or self-represented litigants?
- Do perceptions of fairness vary by court users' age, race and ethnicity, gender, education, disability status, or language?



Since April of 2020 I have been handling routine appearance dockets by Zoom on a weekly basis. At the end of each hearing, I always ask the participant if they want their next appearance to be by Zoom or in person. It is very rare that the participant requests an in-person proceeding. If they do, we happily accommodate them. Now that we are here, I don't see a future for court proceedings that does not involve the use of this technology.

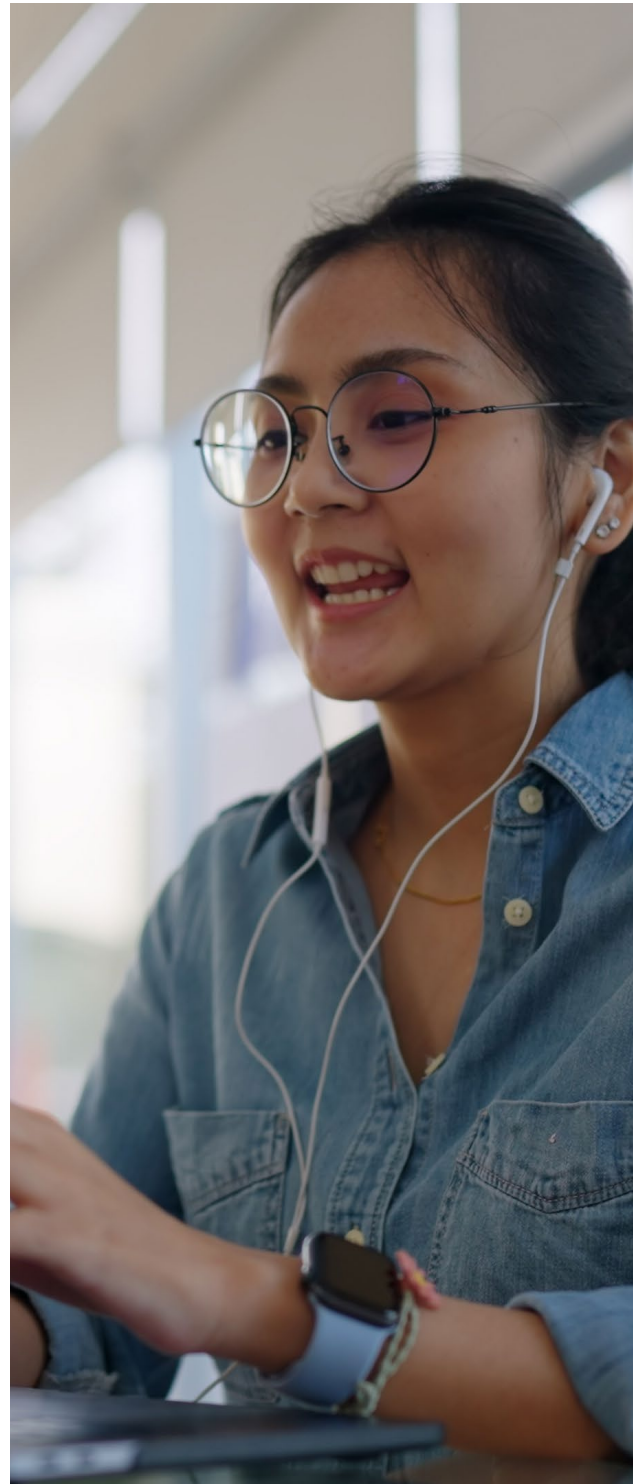


Judge Nick St. Peter, Kansas Judicial Branch

Four Lessons Learned about Court User Experiences in Remote Proceedings

Our pilot test of the new access and fairness survey in three states has led to some important insights, and the data begin to paint a picture of how court users are experiencing remote court proceedings. It is important to note that these findings are not representative of all courts. The diversity of experiences across jurisdictions is one of the reasons why it is so important for all courts to measure perceptions of access and fairness. Furthermore, different pilot sites saw different types of disparities in court user experiences by race, gender, age, disability status, and other important demographics. This finding demonstrates that it is vital for courts to systematically examine whether there are disparities in experiences among court users from different backgrounds and demographic groups. As more and more courts conduct surveys of their remote court users, our knowledge base will grow about how best to offer remote services, and how to ensure that remote services are accessible and effective for all.

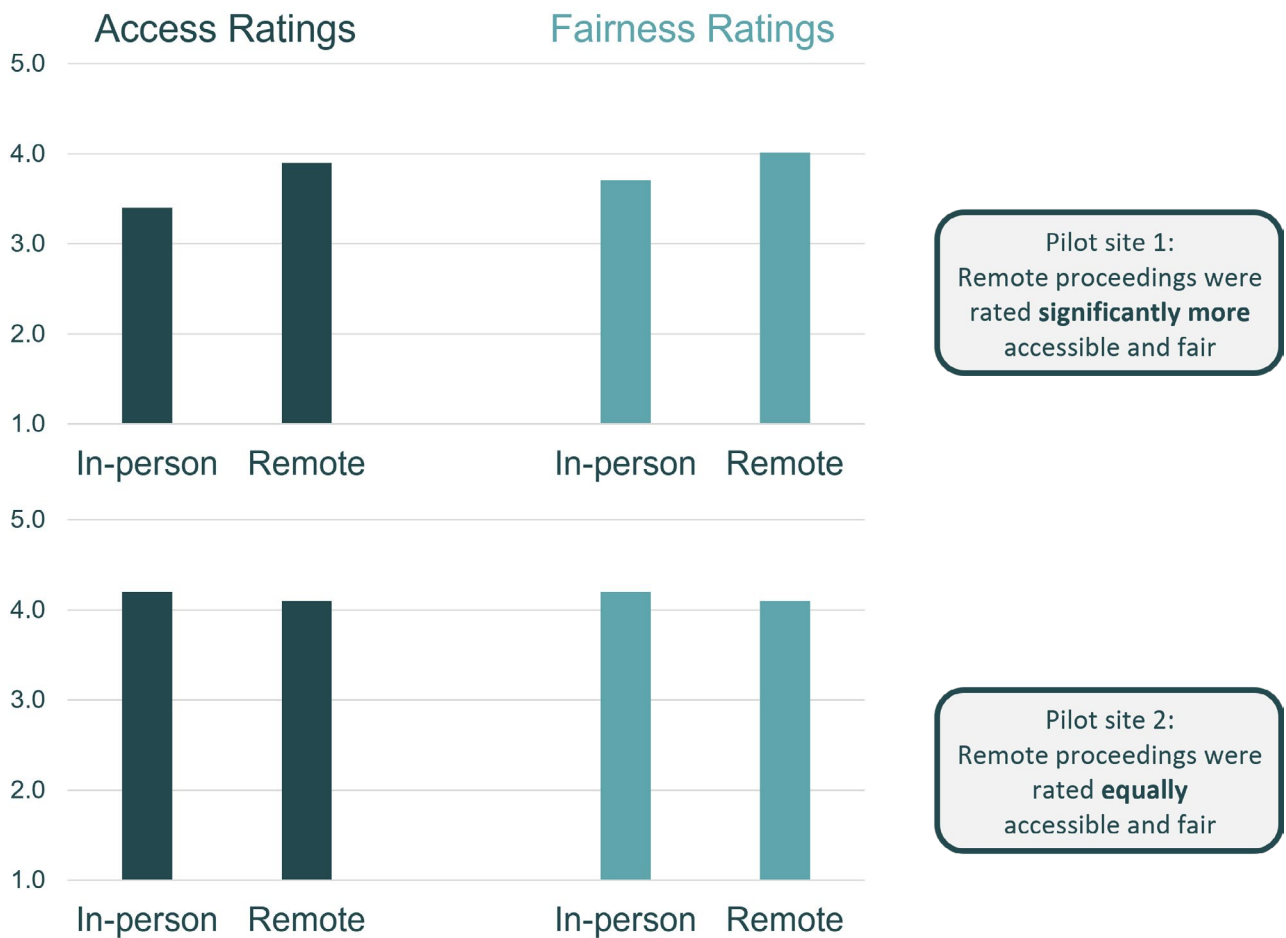
In the meantime, we have learned a few lessons from our Measure 1 pilot tests that may be useful for state courts nationwide. In this section, we share data from our Ohio and Kansas pilots, which allowed us to compare ratings from in-person court users directly to ratings from remote court users (the Vermont pilot included only remote participants).



Measuring Access and Fairness in Remote Court Proceedings

Lesson 1: On average, court users believe remote proceedings are at least as accessible and fair as in-person proceedings.

Overall experiences with remote proceedings are positive. Court users rate them as equally or more accessible and fair than in-person proceedings. This finding suggests that courts should continue to develop their remote services, as they are being received well by most court users.



Measuring Access and Fairness in Remote Court Proceedings

Lesson 2: Participants who can choose between in-person and remote proceedings view the court as more accessible and fair.

Court users have a better experience in court when they can choose whether to appear in person or remotely. These court users give significantly higher ratings on both access and fairness. Because remote proceedings are not equally beneficial for every court user in every situation, this finding suggests that courts should allow court users to choose the setting for their proceedings whenever possible.



We learned that many of the things we are doing are working well, but that there is room for improvement. While remote hearings have been in practice for some time, this remains an evolving area of policy and practice. Survey responses will be very helpful as a reference point for decision makers.

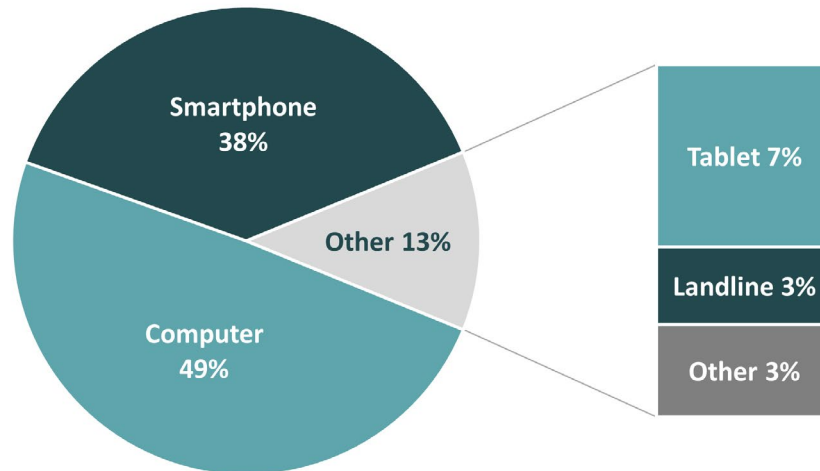
Scott Griffith, Vermont Judiciary



Measuring Access and Fairness in Remote Court Proceedings

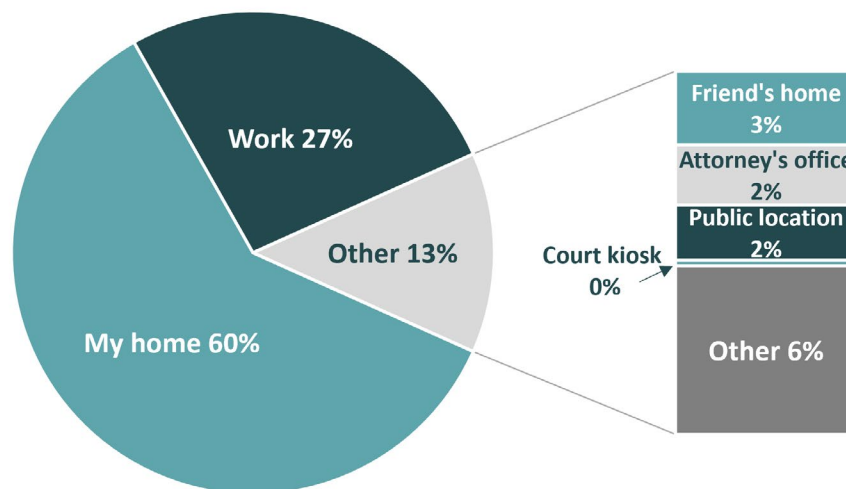
Lesson 3: Most remote court users access the court from laptops or smartphones.

More than one-third of remote court users complete their court business on a smartphone. Although the precise proportion of smartphone users will vary from jurisdiction to jurisdiction, this finding suggests that courts should make their remote services as mobile-responsive as possible.



Lesson 4: Most remote court users access the court from home or work.

About one-fourth of remote court users access the court while at work, which they would not be able to do if appearing in court in person. Although the precise proportion of court users appearing in court from their workplace will vary from jurisdiction to jurisdiction, this finding suggests that remote proceedings are benefiting court users who do not need to take time off from work to appear in court.



Conclusions

As remote court services grow from a temporary emergency provision to a permanent part of court infrastructure and services, it is becoming increasingly important for courts to understand court user experiences in these settings. Remote proceedings have the potential to increase the accessibility of the courts if implemented well, and evidence from the development of the new CourTools Measure 1 suggests that they are having an overall positive effect. Courts should continue to develop and expand their remote court services. However, because remote proceedings may be more accessible and effective for some litigants than for others, it is vital that courts monitor user experiences for signs of disparities. The new access and fairness survey equips courts to efficiently gather actionable information from their court users and to ensure that their services are equally accessible and fair for all.

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*SANDI: Improving Court
Access and Service in
Miami with an Advanced
Artificial Intelligence
Chatbot*



SANDI: Improving Court Access and Service in Miami with an Advanced Artificial Intelligence Chatbot*

Eunice Sigler

Director, Office of Government Liaison and Public Relations,
Eleventh Judicial Circuit of Florida

The Eleventh Judicial Circuit of Florida in Miami launched an artificial-intelligence-based navigation assistant chatbot on their website in July 2022. The chatbot, the most advanced of its kind, has already reduced requests for live-chat staff assistance from the Family Court's Self-Help Program by 94 percent.

* NCSC *Trends* produces factual articles on new developments and innovations in courts across the United States with the purpose of helping the courts anticipate and manage change to increase public accountability, trust, and confidence in the judicial system. The NCSC does not endorse any products or entities that may be mentioned in *Trends* articles.

SANDI: Improving Court Access and Service in Miami with an Advanced Artificial Intelligence Chatbot

SANDI, an acronym for **Self-Help Assistant Navigator for Digital Interactions**, was made possible by a federal grant from the [State Justice Institute](#), in collaboration with the [National Center for State Courts](#) (NCSC) and [Advanced Robot Solutions](#), which developed this artificial intelligence (AI) enhanced digital assistant—also known as a chatbot.¹

Those who visit the [Miami-Dade Courts website](#) are now greeted by SANDI in an online chat window.²



SANDI can understand user requests in English and Spanish and can help web visitors find frequently requested information, such as judicial directories, courtroom Zoom ID numbers, and case information.

1 See State Justice Institute at <https://perma.cc/QRB7-T8M9>; National Center for State Courts at <https://perma.cc/TSB2-SU92>; and Advanced Robot Solutions at <https://perma.cc/YQP9-NEYA>.

2 See <https://www.jud11.flcourts.org/>.

SANDI: Improving Court Access and Service in Miami with an Advanced Artificial Intelligence Chatbot

One feature that distinguishes SANDI from other court chatbots is the ability to respond multilingually to both typed and spoken responses. Other features that distinguish SANDI from other court chatbots are:

- SANDI uses a moving avatar—a digital representation of a person whose eyes follow the cursor—to make the technology more human-like and user friendly.
- It uses speech-to-text and voice-command technologies, so those who are using a microphone-enabled device can select the option to speak a question rather than type it.
- Unlike other chatbots that are based on spreadsheet question-and-answer pairs, SANDI is supported by an artificial intelligence engine that makes recommendations on how to improve the chatbot’s conversations. The AI engine uses free-flow conversation and context awareness, helping the user navigate through the website via Natural Language Processing.
- SANDI features session continuation and session follow-up—meaning SANDI retains the conversation from one part of the website to another, and once the user is taken to a new part of the website, SANDI provides more information on what can be done on that page, so the user is never left hanging about what to do next.

“This was a proof of concept and proof of technology. SANDI is proof that artificial-intelligence-based technology for two-way communication, using a guided interview, can be developed and assist website visitors,” said Robert Adelardi, the Eleventh Circuit’s chief technology officer.

The proof is also in the numbers. Aside from assistance with general court questions and information, SANDI was developed with an initial focus on questions related to the Eleventh’s Family Court Self-Help Program where a high volume of self-represented litigants go for assistance in obtaining and correctly completing the forms needed for simple divorces and other non-complex family court matters. The self-help staff assist customers by in-person appointments, phone, and live chats.



*Family Court
Self-Help Program
Waiting Area*

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“Prior to the launch of the SANDI chatbot, we averaged about 950 live chats monthly,” said Juan C. Carmenate, director of the Family Courts Self-Help Program in the Eleventh Circuit. “Once SANDI went live at the end of July 2022, we started seeing the number of live chats go down significantly, especially as we kept adding more knowledge to the SANDI chatbot. Currently we average about 55 live chats a month,” he said.

SANDI answers frequently asked questions about the self-help program, points users to the information and forms they need, and can connect visitors real-time to a live chat with a staff member when needed. If the interaction happens after hours, SANDI can place the user’s question in a queue that is seen by a staff member the next business day.

The handoff between chatbot and live assistants ensures that no requests fall through the cracks and allows the self-help staff to offer assistance even when the courts are closed. It is an example of an emerging discipline known as Human-Centered AI, where the focus is not just on perfecting the AI interaction itself but enhancing human abilities while maintaining human control (see Vassilakopoulou and Pappas, 2022).

“This artificial intelligence-based chatbot has been a real game changer,” said Chief Judge Nushin G. Sayfie. “The fact that SANDI is taking care of hundreds of inquiries that previously required a live chat with a staff member means the technology is working the way it was intended—the public is finding the information they need, when they need it, 24/7 and our precious court resources, our staff,

are being devoted more efficiently, so that we can serve the public as well as possible. It’s all about access to justice. We plan to continue to expand SANDI’s knowledge base so we can continue to improve service to the people of Miami-Dade.”

The number of users interacting with SANDI exceeded expectations early on and continues to grow. From July 23, 2022 to August 23, 2022 alone, SANDI’s first month of existence, a total of 3,545 unique users interacted with the chatbot. Just a few months later, in January of 2023, a total of 4,961 unique users interacted with SANDI.

The idea for a digital website assistant was born in 2021 based on feedback from website visitors. “I had heard complaints from people about how difficult it was to navigate court websites in general, not just our own, so I started looking at the websites of court systems throughout the United States. It was challenging. I don’t know how anyone found their way through anything,” said Sandy Lonergan, the former trial court administrator for the Eleventh Circuit. Around that time, she had occasion to visit a California airport where she saw an avatar that made it seem as though a person was standing in front of her giving directions.

“But it was like a hologram, and I knew we couldn’t afford that, but there had to be something we could do to make access to the courts easier,” Lonergan said. “I wanted to give access, not just ‘go to the next page.’ I wanted people to really have access. You come home from work, have dinner, and before you know it, it’s ten o’clock at night and you’re dead tired.

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No one wants to navigate a very convoluted website at that time.” She then tasked Adelardi with finding technology that could provide better access on the Eleventh’s website—technology that could answer real questions and lead web visitors exactly where they needed to go.

Around the same time, Adelardi had his own brush with a stark reminder of just how difficult it can be for some people to access the courts. One morning in the lobby of the Lawson E. Thomas Courthouse Center—the family courthouse of the Eleventh Circuit—a man in work clothes was holding a tattered court notice and looking completely lost. As luck would have it, Adelardi was also in the lobby to grab a snack from the vending machines. He stopped to ask the man if he could help.

The gentleman did not speak English. He knew he had a court case and a hearing that morning, but he could not understand the notice, which was written only in English. He had driven to the only address printed on the form. It was the address for the Eleventh Circuit’s ADA (Americans with Disabilities Act) Office, located at the Lawson courthouse. “I don’t know where I need to go,” he told Adelardi in Spanish. The notice was for a 9:00am traffic hearing on Zoom. It was 8:40am and he had no cell phone to use. Mr. Adelardi asked one of his staff members to take the gentleman to a public kiosk with a laptop at a nearby courthouse, and he was able to make it to his hearing.

Self-represented litigant on a Zoom traffic hearing at a court laptop kiosk.



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But the encounter nagged on Adelardi's mind. "I thought to myself, what are we doing wrong?" he said. "Our forms and website are not translated. We have a lot of pockets of information all over the place and that keeps people from reaching and gathering the information they need." At [eCourts](https://e-courts.org/), an NCSC-organized court technology trade show in Las Vegas that year, it all came together.³ Adelardi found a vendor that had developed a kiosk-based avatar, CLARA, for courts in New Mexico as part of a partnership with NCSC to provide better language access to the New Mexico courts via the kiosk. NCSC was also partnering with the Miami courts on language access via a federal grant. Shortly after, the vendor's CEO brought a mobile kiosk to Miami to demo the technology. "I met with them, and I said, 'this is what I want,'" former Trial Court Administrator Lonergan said. "Once you provide this technology to people, anybody else who is serving the public will have a framework for better access."

Lonergan's requirements for the project were specific. The technology should speak in multiple languages, provide interactive access, answer questions, and take web visitors directly to the page they need. If the technology does not have the answer, its knowledge base should "grow" based on interactions with the public. The circuit would provide an initial knowledge base developed from frequently asked questions.

"We work with a lot of court systems, and we found Miami to be the most innovative, the most proactive," ARS CEO McManus said. "Doing innovation requires teamwork between the developer and the client, and sometimes things happen in a vacuum, and we don't get feedback. On this project, we learned as much as they did because their approach was completely organized, collaborative and cooperative."

In just a little over a year, SANDI was born with a knowledge base of 35 question-answer pairs and an action knowledge base of 826 questions. Based on interactions with the Miami public, SANDI has been able to synthesize answers for 120 more questions and keeps growing.

Aside from having very practical benefits, such as freeing up Family Court Self-Help Program staff so they can offer more in-person assistance, SANDI has helped bridge the divide between complex legal terminology and the layman's vocabulary. "A perfect example is 'dissolution of marriage.' That's the legal term for a divorce, but the average person will be looking for 'divorce' instead and may not find the information they need," said Pritesh Bhavsar, Advanced Robot Solutions' chief technology officer. "SANDI knows that 'divorce' means 'dissolution of marriage' and takes the web visitor to the right page. By dealing with the legal jargon, SANDI takes an already stressful situation, lowers the stress, and improves the customer experience."

³ See <https://e-courts.org/>.

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In addition, the technology is allowing the Eleventh Circuit to provide better access to the courts by offering around-the-clock assistance to users, which live staff cannot. “Chatbots never sleep, and they can be programmed to interact with customers in as many languages as you program them to do. They can provide that front-line support without forcing you to overextend your budget with new or temporary hires” (Kumar et al., 2023).

Bhavsar remarked on the types of interactions SANDI has received from the Miami public, and how they differ from what the kiosk-based CLARA chatbot receives. “People are trying to explain their situation, they write their entire stories as though they were talking to a person. I think the avatar as the image of a person is what contributes to that,” Bhavsar said.

Ms. Lonergan’s successor, Trial Court Administrator Deirdre Dunham, whose previous accomplishments at the Eleventh Circuit focused on technology advancements in various key departments, is excited to carry the innovation forward. “Advancements in technology have made life so much easier for people and businesses in so many ways these past few decades; there is no reason why the courts shouldn’t also be at the forefront of progress,” she said.

“We are extremely happy to see that SANDI has made things easier for those who interact with the courts. This has always been and will continue to be our goal.” Meanwhile, the future looks bright for SANDI and visitors to Miami’s court website.

Phase 3 of SANDI’s deployment in the months ahead will add specific knowledge bases for more court divisions as well as enhanced performance of the AI technology—both in context recognition and question-answering functions. Further down the line, the plan is to add Creole, which is a very phonetic-intensive language, as a third language, and migrate the technology to kiosks that can be placed in libraries, retail stores, and other public areas. “This will bring the courts to the people, and Miami is leading the way in that trend,” McManus said.

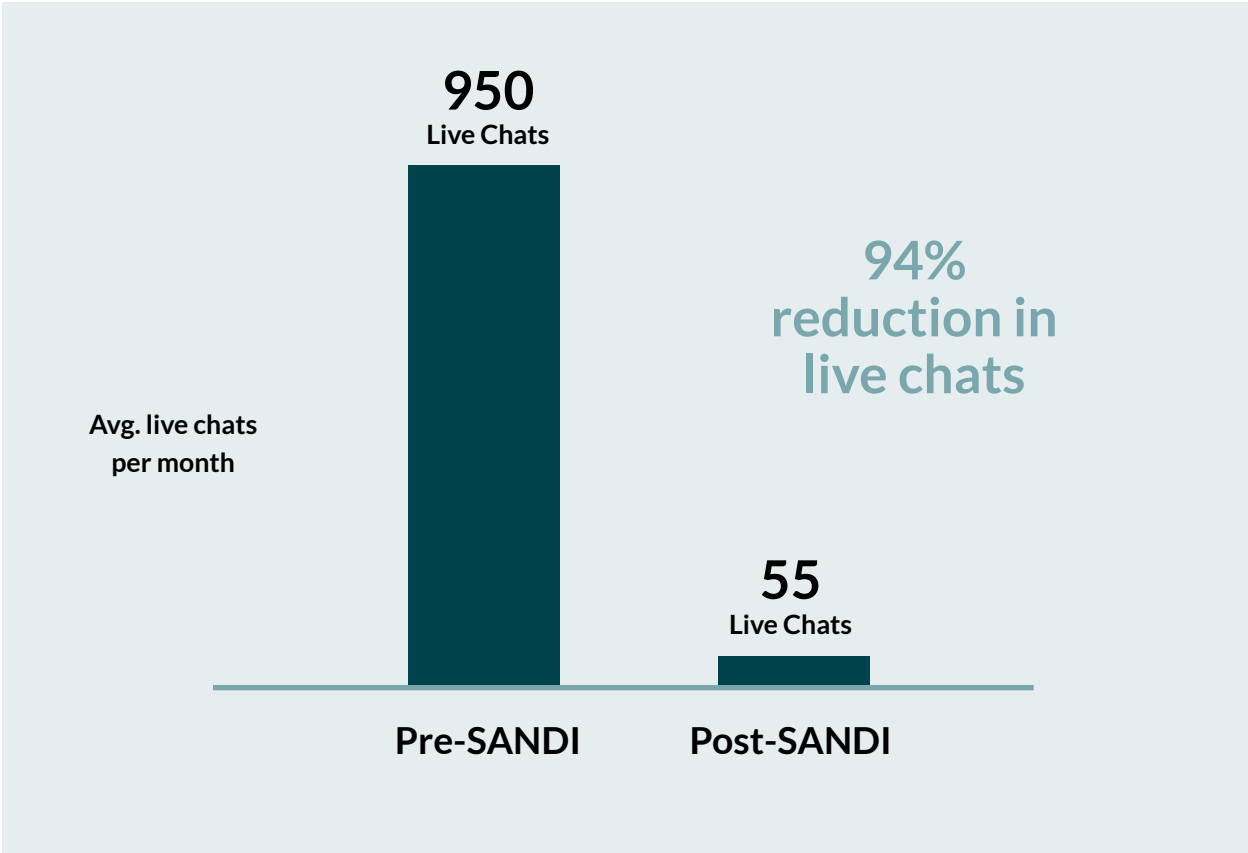
The SANDI Avatar



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SANDI Data

Family Court Self-Help Reduction in # of Live Chats



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Further Reading

The following are articles, research papers and case studies on the integration of chatbots into legal systems and other applications:

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*Engaging Communities
for Equal Justice*



Engaging Communities for Equal Justice

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Hon. Vicki Ballou-Watts

Chair, Maryland Judicial Council Equal Justice Committee;
Associate Judge, Circuit Court for Baltimore County

To help advance equal justice under law for all, the Maryland Judiciary hosts facilitated community forums for judges, court leaders, and justice partners to engage community members on issues of access, fairness, equity, diversity, and inclusion. We offer information and hopefully inspiration for reimagining court-community engagement strategies.

Engaging Communities for Equal Justice

After George Floyd’s murder and the summer 2020 national outcry, Maryland’s chief justice issued a [statement on equal justice](#) and created a [Judicial Council Equal Justice Committee](#) to “strengthen the judiciary’s commitment to equal justice under law for all.”¹ This unprecedented statement made by Maryland’s top jurist read in part:

We have been fortunate in Maryland to have had a longstanding commitment to a Judiciary that looks like the people it serves—and an equal commitment to access to justice. We must, however, recognize the economic and racial disparities that persist in our justice system. We cannot eliminate them until we make certain that all voices are heard and respected and that the perspectives and experiences of all realign our practice to make good on the promise of equal justice under law.

Hon. Mary Ellen Barbera
Chief Justice, Supreme Court of Maryland
2013-2021

The emphasis on making sure all voices are heard became a guiding principle in the Maryland Judiciary’s equal justice community outreach and stakeholder engagement.

Enhancing Our Commitment to Equal Justice

Maryland’s judicial structure includes the Maryland Judicial Council, the primary policy advisory board for the chief justice. Following Justice Barbera’s equal justice statement, she created a permanent judicial council committee on equal justice to “build the knowledge and proficiencies of judges and judiciary personnel to strengthen the judiciary’s commitment to equal justice under law for all.” Specific tasks assigned to the committee include 1) increasing “knowledge and understanding of judges and judiciary personnel regarding ethnic disparities, discrimination and systemic racism, including implicit bias (both conscious and unconscious), micro-inequities, and micro-aggressions”; 2) recommending strategies “to educate and dismantle any discriminatory behaviors toward others in all aspects of the judiciary’s functions”; and 3) identifying “areas of improvement, resources, support services, educational opportunities, and training curriculum for on-going judiciary-wide engagement in the pursuit of equality, fair and impartial justice for all.”

¹ See the statement on equal justice at <https://perma.cc/F8MT-QUXG>. For the Equal Justice Committee, see <https://perma.cc/PV3J-FS6J>.

Engaging Communities for Equal Justice

The Community Outreach Subcommittee organizes public forums, the focus of this article, and is part of the Equal Justice Committee (EJC). The subcommittee was initially chaired by Judge Vicki Ballou-Watts of the Circuit Court of Baltimore County, who is now the chair of the EJC. The subcommittee's charge is to provide opportunities:

For the public to interact with the judiciary through ongoing dialogue, in order to learn more about community concerns and enable the judiciary to gain a better understanding of the communities it serves. Through this continuing dialogue, the judiciary also has an opportunity to increase public awareness of court programs and services, which will in turn, promote trust and confidence in the judicial system.

Founding subcommittee members included judges from every level of the Maryland courts, clerks of court from major jurisdictions, and others in judiciary leadership. The priority for the subcommittee was to conduct public forums with neutral facilitators and community partners to better understand community concerns and help courts meet local needs more effectively.

The EJC structure was set up with five other subcommittees to address 1) access and fairness, 2) diversity and inclusion education, 3) court operations, 4) court rules, and 5) criminal sentencing. Additional stakeholder input to the EJC was achieved via a statewide anonymous employee survey, a court-user satisfaction study, and public listening sessions on court rules.

Recognizing Regional Differences

Maryland enjoys significant regional identities. Maryland is a diverse state, with an estimated 117 languages spoken and less than half the population identifying as white. According to *U.S. News and World Report* in 2021, Maryland ranks fourth among states for overall diversity but remains largely segregated in housing patterns.

The Community Outreach Subcommittee recognized that issues of importance vary by region, so discussion at its first meeting focused on which areas of the state were represented. Subcommittee members formed regional work groups and agreed to reach out to judicial colleagues in each region to help. It is always important when engaging a new group—especially one doing diversity work—to take notice of who is not at the table. Since the subcommittee meetings were being conducted remotely, participation from any location was possible. Each regional work group was empowered to reach out to local officials, community leaders, and justice partners to participate in planning their forums.

Engaging Community Partners

Work group chairs took time to get to know the community and included community members in setting agendas. Regional work groups reported on their progress during subcommittee meetings, enabling them to learn from each other. They also identified facilitators from within their communities, some of whom were already hosting race equity dialogues.

Since the work was a part of the judiciary's equal justice initiative, and in the context of Black Lives Matter, too, work groups reached out to partner with organizations that advance the interests of people of color. These include local NAACP chapters, Divine 9 Greek-letter organizations, local churches, the Association on American Indian Affairs, local grassroots community organizations, the Alliance of Black Women Attorneys, and numerous other specialty bars. It was also critically important to consider diversity when selecting moderators, facilitators, panelists, and other featured presenters for the forums.

Creating a Blueprint for Productive Forums

Knowing that the issues would vary by region, the Community Outreach Subcommittee wanted uniformity on the overall framework for each forum. With input from the regional groups, the subcommittee collaborated on forum guidelines and a checklist. There was consensus for 90-minute forums titled "How Maryland Courts Can Work Best For Everyone: A Conversation Between Court and Community Leaders." The purpose was to increase community understanding of courts and the services offered, thereby developing trust and confidence in the judicial system, while providing the judiciary better knowledge of the communities it serves. Primary goals were to hear from the community, to understand people's needs, and to help courts provide better services. The forums were all to be facilitated by neutral third parties with local court panelists alongside community and justice partners. Regional work groups were given lead responsibility for planning and conducting the forums.

After its first forum, the subcommittee was able to develop a checklist for the regional workgroups. Lessons learned from that first forum were largely about the need to allow more time for advance work with community partners, as well as for publicizing the event. What follows are some key points from the checklist, which should prove useful for court leaders outside Maryland seeking to replicate this process.²

2 Visit the Maryland Judiciary's equal justice website at www.courts.state.md.us/equaljustice/events to view recordings of past forums.

1. Initial steps

- Identify community partner organizations as soon as possible. Keep equal justice in mind when selecting community partners that will be credible, reliable, and supportive.
- Once community partners are determined, meet with a representative from each and identify a topic to be the forum focus. Juvenile justice, for example, was the focus of the first Maryland forum.
- Develop your own list of possible topics to discuss with community partners. They may like your suggestions or have their own. Ultimately, as a court initiative, the court leader/convener determines a specific court-centered topic.
- Identify some proposed dates to share with other organizers, and include those who provide technology and communications support.

2. Choosing panelists

- Once community partners, a topic, and date have been selected, identify and recruit ideal panelists for the topic. Explain to them the forum's purpose and goal. Include one or two judges on the panel along with others who offer unique perspectives on the topic.
- Consider justice partners and staff who administer court programs, such as problem-solving courts and family services coordinators. The topic drives the choice of panelists.
- Partners may be panelists or make opening remarks.

3. Selecting a moderator

- Identify a moderator with connections to the jurisdiction.
- The moderator welcomes attendees, identifies the purpose/topic, and introduces community partners and panelists.
- The moderator poses vetted questions submitted in advance and encourages attendees to raise questions during the forum.
- For remote forums, the moderator must be comfortable with technology and be able to screen questions appropriately using a Q&A/chat feature.
- A good moderator will help control the flow of discussion, so all participants can be heard.

4. Flyers and publicity

- Judiciary communications/media relations prepare event flyers, press releases, and other communications. Subcommittee staff also provide webinar platforms, handle registration, and arrange for interpreters and live closed captioning.
- Forum-planning teams submit, at least 45 days in advance, information about partner organizations, panelists, moderators, topics, dates, times, and headshots for all panelists and the moderator.
- The local planning teams coordinate with state-level communication staff and local partners on email blasts and event promotions via social media.
- When participants register, they have an opportunity to request an interpreter or other accommodations, as well as to submit questions for the panel.

5. Panelists' questions

- Develop potential questions for the panel and solicit questions from the community.
- Review questions that are submitted at registration.
- Reframe questions that are unclear or potentially inappropriate.
- Share vetted questions with the panelists so they can prepare.
- Discuss in advance who is best suited to respond to specific kinds of questions.
- Review all questions with the moderator to be sure they understand and are prepared for questions during the forum.



6. Technology and final preparation

- For virtual forums, have a technology expert available during the forum.
- Have at least one practice session with panelists, moderators, and staff/technology liaisons.
- For webinar events, panelists and team members should receive personalized links enabling them to be admitted early and to join in unlimited practice sessions. Have everyone involved, including interpreters, join 30 minutes early so everyone knows they are in place with their devices working properly.
- Non-panelist team members should be assigned other roles, such as spotlighting panelists, monitoring the Q&A, and distributing information via chat.
- The meeting host's welcoming remarks should include a disclaimer to identify any topics that might be off limits. The Maryland forums all included the same disclaimer, which was vetted with legal staff.³
- Toward the end of the forum, push out a link in the chat to a post-forum survey. Be sure the moderator reminds attendees to complete it and send the link to all participants in a follow-up email thanking them for attending. The survey should allow participants to provide feedback and submit additional questions, if desired.
- Have a post-forum hosts' survey to capture lessons learned and memorialize important areas of discussion.

3 “The goal of the judiciary in sponsoring these community forums is to hear from you. We want to know what concerns you, what can we answer for you, what should we improve upon, what is working? We want to have open, honest dialogue. This is vital to developing, maintaining, and strengthening trust and confidence in the judicial system, while enabling the judiciary to gain a better knowledge of the community it serves. While we want to answer questions and concerns of the community, some questions we cannot answer due to ethical restrictions. For example, we cannot discuss individual cases. We cannot offer opinions or comments that tend to reflect bias against or for individuals or groups, as this tends to erode the trust and faith vital to the fair administration of justice. Additionally, we cannot offer views on politically charged topics. Please know that if there is a question or topic to which we cannot respond, it is because of those ethical constraints and our professional obligations. And one final note: this community forum will be recorded and made available on the Maryland Judiciary's Equal Justice Committee webpage.”

Addressing Issues that Matter Most to Community Members

Local-level forum planning helps to address issues that matter most to the community. In Maryland, fairness in sentencing and equal treatment under the law were consistent concerns expressed by attendees. Our forums offered community members—along with members of the bench, the bar, and justice partners—an opportunity to discuss such concerns in depth, as well as to hear different perspectives on selected topics.

Through the forums, court leaders provided information about existing services, programs, and recent changes in the justice system, including bail reform; substance use and mental health disorders; services for youth in foster care, domestic violence victims, and vulnerable adults; juvenile justice reform; intimate partner violence; and sentencing alternatives. An overall impression has been that many attendees, even those working within the system, are not fully aware of programs and services developed by the judiciary, such as problem-solving specialty courts, which address mental health, substance abuse, family recovery, veterans, and truancy issues; family support services; mediation; and child welfare.

One important observation from all the Maryland forums has been a consistent concern about racial disparities and the desire for equitable treatment in the criminal and juvenile justice systems, whether related to sentencing, access to services, or eligibility for diversion, and community programs. Forum panelists, for example, have fielded questions about the demographic breakdown of problem-solving court participants and how judges guard against racial or gender bias when deciding on a defendant's eligibility for services.



One important observation from all the Maryland forums has been a consistent concern about racial disparities and the desire for equitable treatment in the criminal and juvenile justice systems...





Next Steps

The Maryland Judiciary will continue hosting virtual equal justice forums, as well as in-person and hybrid forums. The Community Outreach Subcommittee will also support its ongoing commitment to equal justice at the local courthouse level. Our hope in the coming year will be to receive funding to award grants to courts that want to create diversity, equity, and inclusion (DEI) positions and local community advisory panels. The local DEI staff will work with the judiciary's statewide DEI coordinator to form a vibrant DEI network. Maryland Judiciary representatives also participated in the National Center for State Courts' 2022 [DEI convening](#), "Creating a Culture of Belonging," and will continue to stay connected to this national coordinating initiative.⁴

Conclusion

Effective community outreach should be part of any judiciary's equal justice strategy. Maryland's experience collaborating on the forums has been of great benefit to the court and its stakeholders. Our process helps judges connect with community members at a more personal level than is possible in courtroom settings, and it helps demystify the court. Panelists have appreciated the opportunity to share unique perspectives on equal justice and hear from the community. Ninety-five to 100 percent of those who complete post-forum surveys agree or strongly agree that "forums like this can help promote the interests of justice," increase "understanding of court services," and "included a productive conversation with court and community leaders."

We hope readers will visit the Maryland Judiciary's [equal justice webpage](#) for more information and the forum recordings and contact us with any questions or feedback.⁵ Doing equal justice work is an honor, and we are eager to connect with others who share in this calling.

4 Online at <https://perma.cc/T3VM-9A83>.

5 Online at <https://mdcourts.gov/equaljustice>.

*User Feedback
Is Essential*



User Feedback Is Essential

Emily LaGratta

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Amid frequent policy change and public demands for accountability, savvy court leaders are using strategic listening to both build trust and inform changes. Available tools and supports make this easier than ever to give voice to both staff and court users alike for significant gains.

User Feedback Is Essential

It should go without saying that most courts have undergone major changes in the past few years in how they serve the public and their employees. These changes happened in a frenzy in the early days of the COVID-19 pandemic out of necessity and were built on assumptions about what court employees and the public needed and wanted.

Recent months have brought a new phase of change, which brings up questions, such as which practices should revert to the pre-pandemic status quo? What interests, or whose interests, are served by keeping them?

Some courts were well prepared to answer these tough questions. They employed a relatively provocative strategy in the courts field—listening. By listening to end users, not just litigants but also line staff, they got insights into not only what would improve upon existing efforts but also how to deliver on broader court goals like access and fairness. Listening became a key to overall success.

Perhaps the value of getting feedback is obvious to many, but so are the real and perceived barriers. Absent any formal studies, this author has asked hundreds of court leaders in training sessions and the like over recent years whether they collect feedback from court users and usually the answer is no. Of those that do collect feedback, available tools can be time-intensive to implement or analyze on the back end. Indeed, this author has visited courts with empty and unused comment-card boxes or large-scale litigant survey results that felt outdated shortly after they were published.



User Feedback Is Essential

In short, there are some common responses voiced about why court user feedback has not been more widespread or feasible in our field.

- Listening is too time-intensive, cost-prohibitive, or both: *“We don’t even have the resources to handle our current work.”*
- No one will agree to share their perspectives: *“Our efforts will be for nothing.”*
- The feedback will be negative: *“Our jobs are thankless enough without absorbing people’s complaints,”* or *“No one wants to come to court so the feedback will be mostly negative.”*
- We will not know what to do with the feedback when we get it: *“What will we do with the feedback that focuses on things outside of our control?”*

These concerns are understandable, but the trend points toward growing examples of why many of them are largely unfounded or easy enough to address.

With support from the State Justice Institute’s [Emergency Response and Recovery \(https://perma.cc/7UDZ-ZHD5\)](https://perma.cc/7UDZ-ZHD5) grant program, several courts were able to employ listening strategies in tackling one of the greatest challenges of a generation: the COVID-19 pandemic. The pandemic spurred so many changes in courts. Using various methods of strategic listening helped these courts assess the impact of select practices and weigh the pros and cons comprehensively, including from the user perspective.

Citing lessons from these courts, the following are the benefits that happen when courts listen strategically.

Listening Takes Some Guesswork Out of Improving Court Practices and Policies

The pandemic spurred a number of innovations as courts aimed to serve the public in new forums, whether through remote hearings, self-scheduling, or e-filing. Deciding which of these practices serve the court's interests now has occupied many post-pandemic meetings. Good things happen when leaders pause to ask those most impacted what they think: court staff and court users.

One example of this is how a state-mandated parent-education program was adapted to a virtual, on-demand format by the Arizona Superior Court in Pima County. The project's multidisciplinary team employed user testing with parents to inform and assess the curriculum's value and impact. Parents reported high levels of learning and satisfaction with the course, that it saved them time and money, and increased convenience (Praxis Consulting Inc., 2022). Parents of young children seemed to get more out of the curriculum, suggesting that alternate resources may be more valuable for parents of older children. This is an example of an insight that might have gone unnoticed if parents were not asked.

Similarly, the Eviction Settlement Program in Shelby County, Tennessee, asked attorneys for feedback on a new housing-court data tool to inform its ongoing development and rollout. One of the key findings of the effort, perhaps unsurprisingly, was that the first iteration of the data tool needed to be more user friendly for attorneys, the ultimate end users. Skipping

the listening step might have yielded a well-intentioned tool that few attorneys used.

When listening happens nationally or across settings, the field can see trends on a broader scale. The Court Voices Project worked with 12 courts around the country in collecting in-person and remote feedback from court users and staff about their experience with remote versus in-person hearings (LaGratta Consulting, 2022). Feedback included a surprising variation of preferences. In some courts, most court users preferred in-person hearings, while the majority of court users in other jurisdictions preferred remote hearings. The type of hearing and size and type of jurisdiction likely contribute to this variation, suggesting that more in-depth, localized listening would be valuable. But for local court leaders, these insights helped steer them toward solidifying virtual court options or advocating for a more consistent return to in-person appearances.

In another effort, the National Council of Juvenile and Family Court Judges (NCJFCJ) used surveys and in-depth interviews to assess the experiences of judges, court administrators, and other court professionals about ongoing pandemic-response challenges and innovations. Listening revealed that while the impacts of the pandemic were widespread, they have been particularly acute in tribal courts. Targeted listening reveals nuanced needs that a broader poll, or no poll at all, would have failed to uncover (Siegel, Bilfield, and Sickmund, 2022).

Listening Helps Courts Measure Key Court Goals, like Fairness

There are many dimensions of effective courts. To be sure, “effective” requires measures beyond efficiency, including access, fairness, equity, and compliance. And in many ways, the COVID-19 pandemic forced an analysis of how to weigh those priorities against one another. To do that well requires getting insights from end users.

In one example, the Texas Office of Court Administration led focus groups with judges who participated in a time study to add context to the quantitative findings that virtual hearings take approximately one-third more time than in-person hearings (Ostrom et al., 2021). Focus groups revealed professionals’ perceptions that, while more time-consuming, the quality of hearings was better for certain

types of remote appearances. Focus group insights helped also explain why the time study data was scant: judges were simply too busy to collect it. Without listening, court leaders might have drawn overly narrow conclusions based on efficiency concerns alone.

Another pilot led by the Texas Municipal Courts Education Center and LaGratta Consulting with support from the State Justice Institute in 2020 focused exclusively on assessing court users’ perspectives about court fairness in seven municipal courts throughout Texas (Goodner, Metteauer, and LaGratta, 2021). A first-of-its-kind effort, court leaders collected feedback using off-the-shelf digital tools, such as iPads with user-friendly software stationed in high-traffic locations in the courthouse, as well as hyperlinks and QR codes on signs and embedded within court websites, staff email signatures, and other written correspondence. The feedback software was selected in part for its low operating cost: approximately \$100 per month for both remote and in-person feedback options.

All courts asked their court users: “Did the court treat you fairly today?” They also asked about specific dimensions of procedural fairness, like “Did the judge give you a voice today?” and “Did the court treat you without bias today?” With little effort required from court staff, these courts got real-time feedback on the court goal of fairness that can serve as a baseline for future efforts. Leadership at the participating courts was encouraged by the relatively high satisfaction ratings, averaging 82 percent positive across all sites.



When people feel like they have a voice in the process, they are more likely to have trust and confidence in that legal authority and are more likely to cooperate and comply with what the authority is asking of them.



Listening Helps Courts Build Public Trust and Confidence (and Cooperation)

A final, invaluable benefit of listening to the perspectives of court users and court professionals alike is rooted squarely in procedural fairness theory. When people feel like they have a voice in the process, they are more likely to have trust and confidence in that legal authority and are more likely to cooperate and comply with what the authority is asking of them. The same is true for employees. Even for individuals who are invited to give feedback and choose *not* to may perceive courts as fairer and more trustworthy given the use of this strategy.

National opinion polls suggest that, in fact, U.S. state courts' fairness ratings are not as high as we might hope. In a 2019 National Center for State Courts public opinion poll—before the ongoing disruptions of 2020—just 54 percent of voters surveyed felt the courts were fair and impartial (GBAO Strategies, 2019). Furthermore, only 65 percent of people polled had confidence in the courts, down from 76 percent the year before. These numbers have fallen steadily in the years since (GBAO Strategies, 2022). In short, courts have an uphill challenge of delivering justice without the public's confidence or cooperation along the way and would be wise to invest in trust-building strategies wherever they can.

Each of the examples already discussed include dimensions of this cooperation and trust. Indeed, when court leaders asked end users to share their perspectives, they did, often eagerly. People want to be asked for

their opinion in arenas that matter to them. Implementation goes more smoothly when listening generates buy-in.

As one last example of this, the King County Washington Superior Court surveyed jurors, attorneys, interpreters, and court employees about their experiences with the court's virtual services. The process was reported to be time-intensive but worth the effort. Improved buy-in was among the byproducts that helped the effort to be successful. Any one of those stakeholder groups could have slowed or derailed implementation efforts had they not been invited into the process to share their perspectives.

With the changes that were directed by and imposed upon courts these past few years, it can feel like there is no extra energy or resources to go around. But treating strategic listening as a luxury that can be skipped is short changing the courts out of huge near- and long-term gains. Listening promotes public trust and confidence, not to mention helps to assess the quality of justice processes and experiences. And it can be done with little to no financial resources beyond a plan to ask a few questions of the right people. It is likely to pay off manyfold and help build capacity to become a more routine business practice, pandemic or not.

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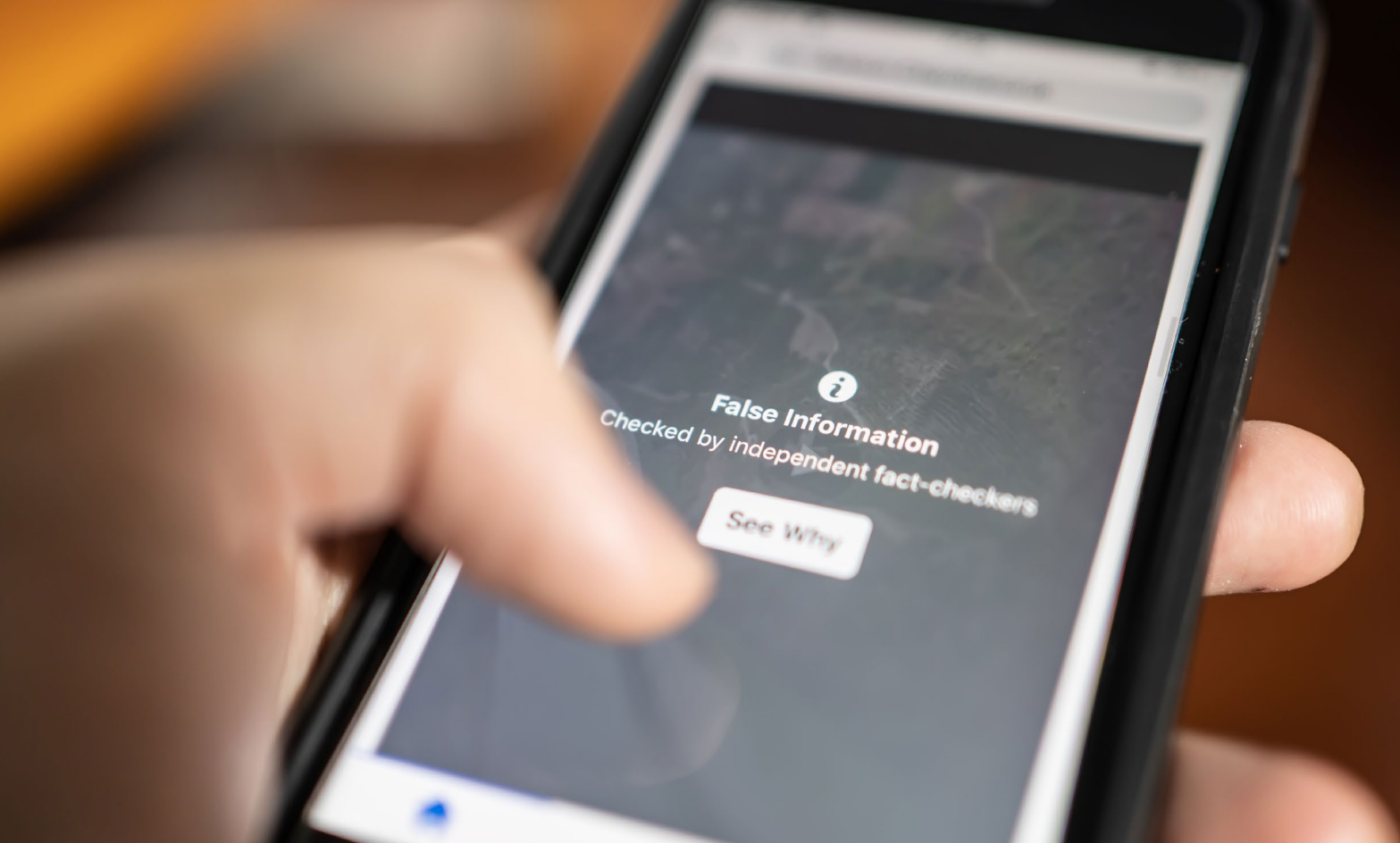
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*Disarming
Disinformation—
Guidelines for Courts
to Combat Threats*



Disarming Disinformation— Guidelines for Courts to Combat Threats

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Every court will likely have to respond to a disinformation threat at some point. By adopting practices that reinforce consistent community engagement and communication and excellent customer service, courts can establish themselves as a trusted source of information to effectively combat disinformation when it arises.

Disarming Disinformation — Guidelines for Courts to Combat Threats

Confidence in our country’s democratic institutions, including the courts, is eroding. According to the National Center for State Courts’ (NCSC) most recent [State of the State Courts poll](#), public trust and confidence in the courts is at an all-time low (GBAO Strategies, 2022). One of the major drivers in this erosion of public perception is undoubtedly the explosion of disinformation and misinformation purposely aimed at eroding democratic processes.

The Rise of Disinformation and Misinformation in the Digital Age

Disinformation is false or inaccurate information that is spread deliberately, most often by foreign and domestic adversaries. Misinformation is false, inaccurate, or incomplete information that is spread mistakenly or unintentionally. Disinformation and misinformation are closely related; however, the distinguishing factor between the two is intent. Did the author knowingly and purposely create and spread false information to sow seeds of discord?

While digital devices (smartphones and tablets) and social media platforms have ushered in a new wave of connectivity, these tools have also provided an environment where disinformation campaigns can originate and thrive. According to the Pew Research

Center (2021), 85 percent of Americans own a smartphone, and 72 percent use social media platforms (Auxier and Anderson, 2021). Across the globe, which is home to roughly 8 billion people, there are about 6.84 billion smartphone¹ and 4.9 billion social media users.² With instant access to the internet provided by smartphones and the ability to self-publish through social media platforms, posts containing false information and organized disinformation campaigns can reach a global market in mere seconds.

Lies Spread Faster Than the Truth

The proverbial saying bad news travels fast is more applicable today than ever before. In 2018 three scholars from the Massachusetts Institute of Technology discovered that false news spreads more rapidly on social media platforms than true news, which had been verified by third-party sources. The study, conducted between 2006 and 2017, showed that false news stories were 70 percent more likely to be retweeted than true news stories, and that true news stories took about six times as long to reach people. A research paper, “The Spread of True and False News Online,” detailed that falsehood diffused significantly further, faster, deeper, and more broadly than the truth (Aral, Roy, and Vosoughi, 2018).

1 “Number of Smartphone Mobile Network Subscriptions Worldwide from 2016 to 2022, with Forecasts from 2023 to 2028,” Statista, at <https://perma.cc/J42U-SHHX>.

2 Daniel Ruby, “Social Media Users—How Many People Use Social Media in 2023,” Demand Sage. Last modified January 4, 2023, at <https://perma.cc/3629-U5NW>.

Attacks on Democracy and the Judiciary and Potential Court Impacts

At its root, disinformation and misinformation cause confusion among the public, which can lead to dire consequences. The Center for Strategic and International Studies' report "Beyond the Ballot: How the Kremlin Works to Undermine the U.S. Justice System" (Spaulding, Nair, and Nelson, 2019), states Russia used disinformation during national election cycles to influence public perception. The report contends that Russia nefariously and deliberately disparaged mail-in voting, highlighted alleged irregularities, and accused political parties of voter fraud—all in an effort to amplify mistrust in our electoral processes. Today, our nation is still feeling the effects of this activity. In a recent CNN poll, respondents said that they have little or no confidence that elections represent the will of the people (Sanchez, Middlemass, and Rodriguez, 2022).

Beyond national elections, the report also explains how Russia has used disinformation and misinformation to attack sitting judges. "These attacks are opportunistic and so far, have occurred in the wake of legitimate public controversy. Once the U.S. media spotlight is off the judges, Russian attacks subside, but not without first undermining trust in the impartiality of the courts in the process. The attacks on judges are meant to highlight corruption and the bias of judges in order to smear the judicial institutions they represent" (Spaulding, Nair, and Nelson, 2019).

When disinformation campaigns attack our democratic processes, they also attack our courts. Courts are legitimized by the government. Both must be seen as fair and truthful. In its work with the Brunswick Group, NCSC has identified six prevalent disinformation themes that are routinely used by adversaries, seeking to undercut faith in the courts. While themes can stem from existing and sometimes legitimate critiques of the judicial system, these disinformation themes grossly distort facts to denigrate the system and enrage skeptics. Triggering words and phrases describing the system's treatment of people based on gender, race, ethnicity, and social status often attract people to these themes. More on these common disinformation and misinformation themes, including key messages to counter them, can be found in NCSC's "Combating Disinformation: A Playbook Template for State Courts," which is available upon request at socialmedia@ncsc.org.



The study...showed that false news stories were 70 percent more likely to be retweeted than true news stories, and that true news stories took about six times as long to reach people.



Innovation Spotlight: Arizona’s Task Force on Countering Disinformation

Arizona has been at the forefront of combating disinformation. Through its [Task Force on Countering Disinformation](#), the Arizona Judicial Branch set forth a series of recommendations (2020) for its courts to identify and respond to disinformation. Some recommendations included establishing a social media presence and actively monitoring social media platforms for false information, identifying a central point of contact to respond to false information, and modifying its Judicial Code of Conduct to allow judicial staff to respond directly or through a third party to false, misleading, or unfair allegations. Perhaps the most notable recommendation of the Task Force was to stand up a Rapid Response Team through the Arizona Judges Association. Like the California Judges Association’s Response to Unfair Criticism Team, the Rapid Response Team assists staff in responding to unjustified adverse publicity or criticism that negatively impacts them as a court employee, the judiciary, or the legal system.

Building Resilient Courts to Withstand Disinformation Threats

Not every court will have the ability or desire to adopt a formal protocol to combat

disinformation like Arizona. However, all court administrators and public information officers need to be concerned about disinformation attacks undermining the judicial system’s integrity and exercise the utmost vigilance in protecting the court’s reputation. To become truly resilient to disinformation attacks and crises of any kind, courts need to build strong and authentic relationships based on trust and credibility with the public, media, and stakeholders, while implementing effective communication strategies centered around the needs of court users. By implementing the following recommendations, courts can strengthen their ability to withstand disinformation attacks should they arise.

Be Present and Engaged Online and In Person

To increase transparency and build trust, courts need to routinely engage with the public. Two-way communication can help to clarify court processes, reduce misconceptions about the legal system, and increase understanding of the court’s role in society.

While some courts like the [Indiana Court of Appeals](#) and [North Dakota Supreme Court](#) take their courts on the road, others invite students and adults alike into the courthouse for tours, presentations, and observations.³ In the Ninth Circuit Court of Florida, the public is invited to participate in the “[Inside the Courts](#)” program, a multiweek course that provides a behind-

3 See <https://perma.cc/2UCT-5NPC> (Indiana); <https://perma.cc/6FQS-XRU5> (North Dakota).



To become truly resilient to disinformation attacks and crises of any kind, courts need to build strong and authentic relationships based on trust and credibility with the public, media, and stakeholders, while implementing effective communication strategies centered around the needs of court users.



the-scenes look at the court system.⁴ Program organizers report that since its inception in 1996, the in-depth, educational program has served more than 5,000 participants (Julio Semino, personal communication, received by Molly Justice, NCSC, April 17, 2023).

Speakers' bureaus, like that from the [North Carolina Judicial Branch](#), can also help both the courts and the public identify topics of interest—whether they are related to current events or provide greater insight into the routine work of the court. In many communities, civic organizations, schools, community groups, and others seek speakers

for membership meetings and other public events.⁵

Another way courts are engaging in their communities is through social media. With responsible management and oversight, social media allows courts to “meet people where they are” to share important information, such as court closures and holidays, and promote positive impact stories. The [Kansas Judicial Branch](#) and the [Supreme Court of Ohio](#) use Twitter to communicate news about oral arguments, opinions, job openings, and community outreach. The [District of Columbia courts](#) leverage YouTube to showcase updates from the court, along with informational videos and event coverage.⁶

Never Underestimate the Power of Communication

Former President Gerald Ford once said, “Nothing in life is more important than the ability to communicate effectively.” Good communication is just as powerful as having good relationships. Using a variety of channels, courts can inform and influence.

Regardless of the audience, it is important to use plain language to communicate concepts, information, and processes/instructions to court users. NCSC has developed plain-language resources, including an [online glossary](#) to assist with clear, direct writing

4 See <https://perma.cc/W5VB-FQRC> (Florida, “Inside the Courts”).

5 See <https://perma.cc/4JRQ-WQWT>.

6 See <https://perma.cc/BW63-KCUN> (Kansas); <https://perma.cc/4F82-5JSV> (Ohio); and <https://perma.cc/425B-F9RV> (District of Columbia).

Disarming Disinformation — Guidelines for Courts to Combat Threats

that can be understood by all.⁷ Plain language can also be helpful when summarizing cases and opinions similar to the supreme courts of [Missouri](#) and [Florida](#).⁸

In addition to the community activities previously addressed, courts can also work with media to disseminate information. Positive media relations are a two-way street, and courts should respond to media inquiries quickly and to the best of their ability. By doing so, courts demonstrate cooperation and a willingness to address or dispel misinformation and disinformation.

Courts can also build effective relationships with the news media through judicial-media committees like the one established in [Connecticut](#).⁹ By facilitating conversation between the media and the judiciary, these committees create a greater understanding of roles, responsibilities, and the law. These committees can be especially beneficial when dealing with a high-profile case or responding to a crisis.

Positive media relations can also lead to “good news” stories and opinion pieces. Adoption day and drug court graduation events allow the public to see firsthand how the courts work and can positively impact families and communities. Judges and court staff can also

provide greater context for their court’s work through op-ed essays and letters to the editor.

Always Put the Court User First

Courts must prioritize the needs of the people who use their services routinely to improve public trust and confidence in the court system. Deloitte’s most recent *Government Trends* report notes that digital technology can help courts achieve this goal by providing greater personalization and tailored services that are more effective and equitable (Boyd et al., 2023).

Courts are implementing a variety of technological solutions to make access to services easier for court users. These include remote and hybrid hearings, online payments, chatbots, and even the ability to select email, text, or app reminders for court appearances, like that offered by the [Nebraska Judicial Branch](#).¹⁰ Examples of online payment and remote payment options through kiosks and satellite business partnerships can be found in [Arizona](#), [New Mexico](#), [Colorado](#), [Delaware](#), [Massachusetts](#), [Nebraska](#), and [West Virginia](#).¹¹ Gina, the [Los Angeles Online Traffic Avatar](#), helps users find answers to common questions and connect them with relevant court resources.¹²

7 See <https://tinyurl.com/2773hm2z>.

8 See <https://www.courts.mo.gov/page.jsp?id=1944> (Missouri); <https://perma.cc/Z3FL-SH2W> (Florida).

9 See <https://perma.cc/9KD6-TPPJ>.

10 See <https://perma.cc/CQ2N-3CNE>.

11 See <https://perma.cc/U2F2-W5LK> (Arizona); <https://perma.cc/H7SV-WXEM> (New Mexico); <https://perma.cc/R9DH-PBZT> (Colorado); <https://perma.cc/8MUJ-7CCP> (Delaware); <https://perma.cc/J8VN-RGDH> (Massachusetts); <https://perma.cc/FX75-3V2F> (Nebraska); and <https://perma.cc/5CGC-FK7P> (West Virginia).

12 See <https://perma.cc/U22X-GLVL>.

Additionally, many courts have adopted user-centered design to create physical spaces that are more accessible and welcoming to court users. This can involve signage, directories, and information desks that are designed with the user experience in mind.

Providing good customer service and a positive user experience not only improves access to justice and increases efficiency, but also helps shape public opinion, reducing the likelihood that individuals will believe in disinformation and misinformation about the court system.



Providing good customer service and a positive user experience not only improves access to justice and increases efficiency, but also helps shape public opinion, reducing the likelihood that individuals will believe in disinformation and misinformation about the court system.



Conclusion

Disinformation poses a significant threat to the fairness, impartiality, and credibility of the judicial system. At some point, most courts will have to respond to a disinformation threat or full-blown attack. By building strong and authentic relationships based on trust and credibility with the public, media, and stakeholders and implementing effective communication strategies that cater to the needs of court users, courts can increase their resilience to these threats and attacks. This will minimize the susceptibility of those with whom the courts have developed relationships from falling prey to believing and propagating disinformation and false information when it arises.

Stated so eloquently in the COSCA policy paper “Courting Public Trust and Confidence: Effective Communication in the Digital Age (COSCA, 2022), “It is up to us, individually as court professionals and collectively as court systems, to restore and preserve belief in the judiciary through transparency in our action and clarity in our communications. We cannot accomplish this through a wall of silence in the face of bad information.”

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*Tapping Technology
for Probation Services*



Tapping Technology for Probation Services

Dean Jenkins

Chief Probation Officer, Cleveland Municipal Court Probation Department

The Cleveland Municipal Court Probation Department adopted a mobile supervision app to enhance defendant-to-staff communications and provide both with better tools via technology. This app is designed to enable communication and help defendants manage aspects of their probation.

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Keeping defendants engaged is always top-of-mind in community corrections. It is critical for agencies and officers to interact with defendants in ways that are relevant to them and their situation, but that can be easier said than done. Defendants come from all walks of life, and sometimes their personal situations provide barriers to fulfilling their supervision successfully. They need to attend meetings with their probation officer (PO) yet need to stay at work to be able to pay their bills and support their family. Defendants need to attend court events, but it can be challenging to remember all the dates and locations. They need to provide updates to their PO but have difficulty reaching them during office hours.

The Cleveland Municipal Court (CMC) looked for a way to support their defendants that could help reduce some of the common barriers. They found a new way to supervise defendants that provides several new avenues for officers and defendants to communicate combined with features that allow them to manage aspects of their supervision through a mobile app.

The probation department's philosophy stresses long-term rehabilitation, not just getting defendants on and off probation. One way to do that was to help reduce obstacles. The department was open to finding new ways to meet with defendants, so they did not have to miss work. But the department also wanted to help them create better habits, such as attending meetings, turning in paperwork, and completing check-ins on time. That's where the concept of using a mobile supervision app came into the picture. Most defendants have a smartphone and are familiar with using apps, so it made sense.

A challenge many agencies face is finding tools that help defendants that are also easy for them and their probation officers to adopt. That is where technology designed specifically to support supervision can help. At CMC adding a supervision mobile app provided new ways officers could communicate with defendants and additional avenues for defendants to manage appointments, complete surveys, turn in paperwork, share a text message, and hold a live video call with their officers—all from the convenience of their smartphones.



One of the most significant benefits of using the app is the ability to communicate with defendants whenever and wherever they have access to their smartphones.



An important factor in the decision to adopt the mobile app were the benefits the new program could provide to defendants. Allowing them to do the work they need to do with their mobile app was key, but equally important was the ability to do things that are important to their rehabilitation. Such tasks include holding down a job, earning money, taking care of their family, performing community service, and attending school and required programs. Additionally, the app saves defendants valuable time and money

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since they do not have to take time off work to attend meetings or pay for transportation, parking, or childcare.

Various supervision apps offer different ways to connect with defendants. The product CMC chose enables CMC to interact with defendants using features focused on appointments, questionnaires, two-way text messaging, and live video calls. “It allows the defendant a chance to report by phone and complete a monthly questionnaire pertaining to probation compliance,” explained CMC Probation Officer Marc Knipper.

CMC began its use of the supervision app by sending automated questionnaires to a group of defendants. Typically sent monthly or biweekly, the questionnaires were approved by the court to fulfill a required contact. The system sends the questionnaires to the defendants automatically along with reminders. The system records all responses and notifies officers when a defendant has not replied or has responded in a way that needs their follow-up. CMC uses the questionnaires to keep in touch with low-risk defendants and to supplement communication with defendants who require multiple contacts each month, such as domestic violence cases.

Questionnaires are not limited to sending and receiving required contacts and surveys. Users can take pictures of documents that often are forgotten or get lost in the mail, such as certificates of completion and community-service logs. The vendor has made communication easy with defendants by allowing them to upload treatment attendance records and other paperwork directly to CMC, which eliminates lost paperwork. Plus, the department can send a new sheet as needed.

Additionally, CMC embeds a question into monthly questionnaires where defendants can request help or a call from their officer. CMC uses the app to send an annual procedural-justice-oriented survey to gauge how they feel about their experience with CMC, if they feel they have been treated fairly, and how they feel about the mobile supervision app. The feedback on these surveys has been very positive, with many defendants noting that they appreciate being asked their opinion.

From court appearances to meetings with a PO, a defendant under probation has what can seem like a thousand appointments. They can be challenging to keep track of, so the ability to send appointment notices and reminders has made a difference with awareness and compliance. Appointments can be sent to the defendant for any purpose, ranging from court appearances to programming. The app requires the defendant to verify receipt of the appointment and provides the capability for the defendant to pull up a map to their appointment.

Defendants appreciate reminders, and officers like the fact that they do not have to track down defendants to remind them about meetings. Plus, with meeting reminders popping up on their phone it is much harder for defendants to use the “I didn’t know” excuse. The database also reminds staff if someone has missed an appointment so they can follow through with the next steps.

The vendor offers live video call functionality, which provides another way in which officers and defendants can meet. During the pandemic, the appointments were almost normal; officers could see the person and have a quality conversation. In addition to providing the visual aspect, the probation department found that

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the live video calls helped to build rapport between defendants and officers.

Few things provoke as much frustration as phone tag between officers and defendants. Using the app to message helps to significantly reduce that frustration. In the time it takes to type the message, officers and defendants can communicate securely whenever they want. Defendants receive pop-up notices on their phone when they are sent a new message, and they can reply at any time. Officers see the information that the message was read or not read, in addition to message replies. Officers can send out unique messages to a single defendant, as well as group messages when the need arises for reasons such as weather closure or a change in COVID policies.

One of the most significant benefits of using the app is the ability to communicate with defendants whenever and wherever they have access to their smartphones. Since most people carry their smartphones with them virtually 24/7, they can see all the messages and notices that pop up and reply easily from almost anywhere. This new way of communicating with defendants has helped to build a stronger rapport as they see that CMS is trying to work with them. They see probation officers as “friends” that will hold them accountable.

The app has provided CMC the ability to do regular probation supervision tasks and create alternative ways to work with the defendants, such as:

- Supervise college students who do not live in Cleveland. Students can report from school using their mobile phone without having to miss school. It helps

them take care of their probation requirements and get a college education at the same time. Everyone wins.

- Supplement meetings for defendants who are required to report multiple times a month. When appropriate, defendants can report to the office one week, and in the next week use the app to participate in a live video call and/or submit a questionnaire.
- Live video calls provide a way for officers to see if the defendant is where they are supposed to be—at work, community service, etc. It is a way to location check, plus let defendants show their officer where they are and with whom they spend time.

Adopting any new product has pros and cons. While CMC selected the new product based on the benefits it could provide defendants and officers, CMC found one challenge was convincing some officers to try the new technology. The defendants are generally younger and are comfortable using technology for everything from applying for a job to ordering food. They expect to be able to use technology regardless of what they are doing. However, as an industry, probation departments do not always have the latest technology and can be slow to change. As new officers join the department, it is easier for them to see the benefits.

The court has seen the benefits of the probation department using the supervision app. Most notably, defendants are more likely to attend court events when they receive appointments and follow-up reminders. In addition to providing the date and time of an event, POs can help

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defendants be better prepared by adding a note about what to bring with them. Based on the defendant's phone capabilities, the appointment notice can provide the defendant with a map to the courthouse, where to park, and information about public transportation.

To use the app, the defendant needs a smartphone and regular access to Wi-Fi. While most smartphone users are tech savvy, before enrolling a defendant, it helps to review the activities they will be doing on their phone (text messaging, using the camera, checking schedules, and getting pop-up notifications) to make sure their phone has those capabilities and access is turned on, and the defendant has the appropriate skill set to manage those functions. A typical agency office desktop and internet setup is what the department's users need; no software download is required, and the officers log in via a desktop portal.

Security is always a priority when data are exchanged between defendants and officers, so it was important to CMC that the product have strong security. The app requires defendant to log in using two-factor authentication to verify their identity and requires officers to approve the enrollment before they can begin using the app. A defendant will log in using a username and password and then must follow facial and voice recognition prompts to use the app.

A benefit for POs is offering the use of the app as an incentive. The department has found that defendants who meet the appropriate criteria and consistently meet their probation conditions appreciate the ability to earn the privilege to use the app. It shows that CMC is a modern agency and wants to provide defendants with tools that will help them succeed.

CMC offers these ideas to help introduce new app technology to other courts who need to monitor defendants. For the initial rollout, identify staff and defendants that are tech-savvy and will support the product's use for your first group of users. Once some see the benefits, it is easier to get others on board. Generate frequently asked questions ready for officers and defendants before beginning enrollment. Begin testing using the product as a defendant would. It is easier to explain and understand how the app works if staff members have used it themselves. Take the time to train an internal "superuser" who can answer frequently asked questions. When possible, have the defendant enroll in the app while they are on the phone with an officer or in the office.

Encourage POs to think of other ways to use the product in their supervision beyond compliance checking. For example, have a video call to meet a defendant's new baby or when they are performing community service; create questionnaires that support the curriculum they are learning in their programs; or have live video calls with a defendant and their family. These can help build rapport and a strong support network.

If CMC learned anything from the pandemic, we learned that we must be ready and willing to pivot and try new things. The path forward requires us to meet defendants in the middle, and the right technology can do that.

Hyperconverged
Infrastructure (HCI)—
Is It Right for Your IT
Environment?



Hyperconverged Infrastructure (HCI)—Is It Right for Your IT Environment?*

Barbara Holmes

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When considering replacement of aging information technology (IT) infrastructure, hyperconverged infrastructure may be a good option for large-scale implementations. Courts managing numerous servers and a large network should consider this approach.

* NCSC *Trends* produces factual articles on new developments and innovations in courts across the United States with the purpose of helping the courts anticipate and manage change to increase public accountability, trust, and confidence in the judicial system. The NCSC does not endorse any products or entities that may be mentioned in *Trends* articles.

Hyperconverged Infrastructure (HCI)— Is It Right for Your IT Environment?

Court IT staff are taking a hard look at cloud infrastructures, further virtualization,¹ and a relatively new architecture known as HCI to replace their outdated IT resources. HCI is particularly advantageous for large court implementations where there are numerous servers and a large network to be managed.

HCI is a process of pre-integrating a system's entire stack of computing, network, storage, and virtualization resources in a scale-out server. HCI takes the place of increased IT infrastructure requirements to manage hardware and software components separately.

Like many government entities, courts operate with limited IT funding, often resulting in outdated data centers and network resources in need of replacement. Aging IT infrastructure leaves organizations vulnerable to cybersecurity attacks and data breaches. In addition, an aging infrastructure cannot meet the requirements for a modern business continuity/disaster recovery plan.

Digital transformation is driving technology to rapidly evolve toward application modernization to be more agile with microservices-based processes. This architectural pattern of evolution drives the need for an infrastructure solution tailor-made for application modernization and inherently supports hybrid cloud deployments. It also addresses the need for a ready-to-use end-to-end platform for application modernization.

Complex problems of data management, data placement, and workload orchestration become part of the platform. Digital transformation ensures consistent access and availability of data across a hybrid cloud and allows for the proper levels of cyber-resiliency with required security.

Complex and expensive legacy infrastructure is replaced by a distributed platform running on industry-standard commodity servers that enable enterprises to size their workloads precisely and to scale flexibly as needed. Software running on each node (server) distributes all operating functions across the cluster for superior performance and resilience.

HCI provides software orchestration of network, storage, and computing resources with a single management interface that can be accessed remotely. It also tends to have a smaller physical footprint than a standard set of server racks and corresponding equipment. HCI orchestrates the entire data-center stack—computing, storage, storage networking, and virtualization—from a single interface with a management pane. Specifically, it combines commodity data-center server hardware with locally attached storage devices and is powered by a distributed software layer to eliminate common pain points associated with legacy infrastructure.

1 Virtualization is technology that allows creation of useful IT services using resources that are usually performed by hardware installations. It allows use of a physical machine's full capacity by distributing its capabilities among many users or environments.

Hyperconverged Infrastructure (HCI)— Is It Right for Your IT Environment?



Digital transformation is driving technology to rapidly evolve toward modernization of applications, with microservices-based processes, to be more agile. This architectural pattern of evolution drives the need for an infrastructure solution tailor-made for application modernization and inherently supports hybrid cloud deployments.



This new architecture can operate on premises, in a multiple or single cloud, or in a hybrid environment. The flexibility in architecture allows geographically distant locations, thus providing resiliency and redundancy to minimize the threats caused by cyberattacks and natural disasters.

In addition to the distributed storage and computing platform, HCI includes a management pane for easy administration of resources from a single interface. This eliminates the need for separate management solutions for servers, storage, storage networks, and virtualization.

Organizations use public cloud services for deploying IT applications to run their businesses. Public cloud services are flexible and dynamic and enable organizations to adapt to changing business needs.

Despite increased flexibility, cloud computing has its own challenges. Building and deploying applications in public clouds requires specialized skill sets that diverge from traditional IT teams, increasing the specialization in already highly siloed organizations. In addition, using public cloud resources is more expensive than on-premises infrastructure and creates control and security challenges.

Hyperconverged infrastructure is underpinned by many of the same distributed systems technologies as public clouds, enabling IT organizations to build private clouds that bring the benefits of cloud computing into organization data centers. Hyperconverged infrastructure services can also be extended into public clouds for true hybrid cloud infrastructure. This enables applications to be deployed and managed with the same tools and procedures while making it easy to migrate data and services across clouds.

HCI has been put into place in the 1st Judicial District in Philadelphia as well as in other courts. “The decision for HCI was through the lens of scalability and maximizing our resources,” says Joshua Reece, CIO for the Philadelphia courts.

HCI reduces the data-center footprint by decreasing typical infrastructure stacks down to scalable building blocks with computing, storage, and network built in. A drastically reduced footprint enables administrators to run the same infrastructure at the edge as in their core data centers, resulting in additional efficiency while improving resiliency and performance.

Hyperconverged Infrastructure (HCI) — Is It Right for Your IT Environment?

Separate servers, storage networks, and storage arrays can be replaced with a single HCI solution to create an agile data center that scales with the business. Hyperconvergence makes administration much easier, enabling management of all aspects of infrastructure from one place, while reducing complexity by removing compatibility problems between multiple vendors. If resources become scarce, administrators can contact their vendor, ask for more servers and software licenses, then deploy them with a few clicks.

Data is growing at 50 percent or more per year and is stored on block, file, and object storage. New requirements for visibility and control are increasing demands on storage administrators. Cloud storage has become an important tier that must be considered in any storage architecture. However, traditional storage infrastructure cannot keep up with the demands caused by these new realities because it is siloed, which creates complexity, limits flexibility, and reduces utilization.

Traditional infrastructure lacks sufficient visibility into the data to support new compliance and control requirements. It was designed in a time before the cloud, making adoption of cloud-like capabilities difficult. HCI breaks down silos and pools resources into a single resource that is easy to manage and control. The more “invisible” infrastructure can be, the better. HCI extends that invisibility into the storage domain.

Remote access capabilities have become increasingly necessary and more attractive as remote work has increased. It can easily be combined with a managed, off-site data center that provides greater physical security and

redundancy of power and security systems. A managed data center that is deployed, managed, and monitored by a third-party data-center-service provider through a managed server platform reduces reliance on in-house resources.

HCI is a step beyond mere virtualization of servers into virtualization of storage and networking. A single platform for these resources provides better coordination and enhanced performance. It also provides for better orchestration of security services.

Despite all the benefits of HCI, there are times when it is not the best solution. Large databases that require dedicated storage are not well suited to this architecture, as HCI is meant to scale horizontally, not vertically. For example, a large case management system implementation in Philadelphia was recommended to stay on standard server technology.

There are many HCI vendors operating in a competitive environment. It is necessary to do sufficient research before committing to such a project. The migration of existing data and applications can be a lengthy process that requires planning and deliberation, much like any large architectural shift. Various HCI solutions offer partner services and features that can greatly improve the entire enterprise IT system.

Hyperconverged Infrastructure (HCI)— Is It Right for Your IT Environment?

Nick Hinge, senior account executive for Competitive Computing, Inc. (CCI), a Xerox partner that implemented HCI in Vermont, has the following advice about determining whether HCI is a good fit:

Most of our clients are a great fit for Hyperconverged Infrastructure. The features that are most appreciated are ease of management, scalability, performance, resiliency and even security. HCI is not a fit for every environment, but where it does make sense, the value is compelling.

We often go through the exercise of comparing the cost of traditional 3-tier infrastructure to a similar-sized HCI solution for client evaluation. Above a certain scale, HCI is very cost-effective. And the total cost of ownership favors HCI due to the time savings realized by ease of management.

One of the features of government organizations is the presence of multiple buildings and more than one data center. This creates the need to build redundancy by installing infrastructure across multiple buildings (data centers). If the bandwidth is fast between data centers, HCI makes it simple to build a “stretch-cluster” that can be a cornerstone for High Availability (HA) systems and even a Disaster Recovery (DR) strategy. Also common is the use of HCI as the cornerstone of a hybrid-cloud strategy with an on-premises “private cloud,” communicating directly with “public cloud” resources.

Recent implementations of HCI have supported its use in several ways.

Ease of management: HCI platforms provide life-cycle management that is engineered and fully supported by the manufacturers, reducing maintenance time for in-house system engineers. Built-in resiliency even allows administrators to upgrade the systems during the workday. In-house system engineers are able to keep up with upgrade cycles to ensure that the underlying infrastructure is properly patched. That practice leads to a much higher cybersecurity posture. Time saved by IT admins allows them to spend more time supporting end-user applications and facing end-user challenges, which adds a lot of value.

Scalability: There are multiple ways to add resources to these platforms. Existing nodes can be expanded by adding RAM and disk drives through a simple process. This is referred to as “scale up.” Providing additional HCI nodes to a cluster to support new and expanding workloads is referred to as “scale-out.”

Performance: The top platforms in the industry are engineered with effective, software-defined storage algorithms that allow for fast reads and writes of the data. Especially when engineered with all-flash storage, the speed of the applications served to the end users is excellent. The networking should support at least 10GB of traffic as these nodes are busy communicating between each other (east-west traffic). Larger installs will run on top of 25GB networking. High-quality, properly configured top-of-rack switches are instrumental to a successful deployment and ensure high performance.

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Replacing infrastructure is never an easy task, and it must be thoughtfully planned and architected. In the long term, HCI supports overstretched IT resources that may exist in courts. The interoperability of an HCI implementation provides a more seamless approach to standard upgrades and expansion. In addition, when properly implemented, HCI provides more flexibility for IT to improve its cybersecurity profile while allowing IT staff to be more responsive to support end users.

“

HCI breaks down silos and pools resources into a single resource that is easy to manage and control. The more ‘invisible’ infrastructure can be, the better. HCI extends that invisibility into the storage domain.

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Hyperconverged Infrastructure (HCI)— Is It Right for Your IT Environment?

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*Implementing an
Internal Treatment
Court Monitoring and
Evaluation Infrastructure*



Implementing an Internal Treatment Court Monitoring and Evaluation Infrastructure

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This article details the steps taken to move from intermittent external treatment court evaluations to an ongoing internal evaluation infrastructure for adult drug treatment courts. Regular monitoring of adherence to program-specific best practices is linked to positive long-term outcomes for drug court participants.

Implementing an Internal Treatment Court Monitoring and Evaluation Infrastructure

Best Practices for Monitoring and Evaluation

As Peter Drucker famously said, “what gets measured gets improved.” While this insightful management philosophy is often quoted, the devil is in the details. In many instances, program leadership is often either given sporadic feedback through intermittent program evaluations, or they have so much data that courts may not quite know what to do with it. Adult drug treatment courts (ADTC) are advised to routinely monitor their “adherence to best practice standards and [employ] scientifically valid and reliable procedures to evaluate [their] effectiveness” (NADCP, 2015). These are laudable goals, but treatment courts need help in making measurement an integral part of court management. If “what you count counts” (Cornell, 2014), then court leadership needs to be comfortable with continuously monitoring and reviewing court performance metrics.

ADTC best practices are well supported, and the result is decades of program study across multiple states to determine the specific program management, treatment, supervision, and case management practices that increase the likelihood of positive outcomes for participants (Carey, Mackin, and Finigan, 2012). The degree of best practices adherence is commonly established through the administration of an online assessment tool designed to accurately determine whether a specific practice is being met. The National

Association of Drug Court Professionals’ (NADCP) *Best Practice Standards*, volumes 1 and 2, include a total of ten broadly based best practices. However, in their application to adult drug treatment courts, these ten best practices have been further differentiated to include more than 80 specific practices, the monitoring of which is no small undertaking for program staff and judges.

History of Maryland’s Problem-Solving Court Monitoring and Evaluation

Monitoring ADTCs comes from treatment staff entering client data, such as employment, incentives, and sanctions, into a management information system. ADTC program managers can run reports as needed to get descriptive information about their programs, which also can be used as a basis for future funding.

Until recently, external (third-party) studies represented the primary evaluation mechanism for Maryland’s problem-solving courts.¹ In 2001, seven years after the formation of the first problem-solving court in Maryland, the judiciary commissioned its first outcome and process evaluation (Crompton et al., 2004). Since then, 14 studies have been conducted by various external evaluators, resulting in roughly 40 site-specific or statewide reports, including 19 outcome evaluations and 21 process evaluations. Outcome

1 There are currently 62 operational problem-solving courts in Maryland.

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studies evaluate program effectiveness and have provided useful insight into how well Maryland's ADTCs produce positive in-program and post-program outcomes for participants. Process evaluations provide insight into the degree to which Maryland's problem-solving courts are adhering to nationally recognized best practice standards. Findings and recommendations from external evaluations informed technical assistance, training, and the development of action plans aimed at improving adherence to best practices and reducing post-program recidivism. These studies also signal accountability to public officials and other stakeholders and provide an objective, third-party assessment of treatment court programs. Most recently, from 2020 to 2022, the judiciary finalized an evaluation with an external vendor examining ADTC post-program recidivism outcomes, compared to a matched comparison group, and adherence to best practice standards through administration of the BeST Assessment.²

Limitations of Third-Party Evaluations

Although useful, third-party evaluations are limited in their ability to bring about continuous process improvements. External study findings represent a point-in-time evaluation of a program and highlight the specific environments, circumstances, and period in which they are studied. As time passes, point-in-time findings and recommendations lose relevance and usefulness for teams facing new operational challenges, such as having entirely new team members. The point-in-time aspect also diminishes the usefulness of action plans produced following an external evaluation and can lose priority over current operational demands. For example, the supervision, treatment, and service needs of ADTC populations often vary and are driven by mitigating factors such as the type and availability of narcotics circulating in the community, overdose rates, economic and income insecurity, unemployment, or lack of affordable housing. One consequence, commonly referred to as "drift," is that treatment courts can inadvertently move away from best practice policies and procedures.³

2 The BeST is an automated online assessment tool developed by NPC Research. It asks treatment court teams for basic, objective information about procedures and practices in their treatment court program and translates this information into measures of the court's fidelity to research-based best practices. The [BeST Assessment](#) is open to all treatment court types.

3 "Drug court drift is defined as the gradual shift away from original policies and procedures due to various 'external and internal shocks' such as team turnover, change in political support, financial challenges, and failure to use internal data to understand changes in drug court populations (e.g., types of offenses committed, changes in drug use patterns). Failure to control for drug court drift can essentially return a program back to 'business as usual'" (Wormer and Lutze, 2011: n. 15).

Implementing an Internal Treatment Court Monitoring and Evaluation Infrastructure

A Shift to Internal Monitoring and Evaluation

In 2021 the judiciary expanded on the longstanding collaborative partnership between the Administrative Office of the Courts' Office of Problem-Solving Courts (OPSC) and Research and Analysis (R&A) programs to establish a research position dedicated to problem-solving courts. The position benefits from the oversight of R&A, ensuring access to the expertise and guidance of the R&A director and collaboration with fellow researchers.

The Maryland Judiciary then conceptualized a framework for an integrated internal best practice monitoring and evaluation infrastructure with the following goals:

- To address the shifting environmental and operational demands of treatment courts, the infrastructure needed to be relevant and accessible for treatment court teams.
- To address continuous improvement of best practice adherence, the infrastructure needed to have an element of accountability.
- To effectively monitor and identify best practice adherence, the infrastructure needed to have a process for data collection and tracking to enable analysis over time.

Infrastructure Foundation—Best Practice Database

With the internal monitoring infrastructure framework broadly defined, the next step was to design a database founded in the goals of data collection and analytics, accessibility, and relevance. Using the 2020 BeST Assessment evaluation findings as a starting point, additional data fields and filters were added to enable easy tracking of adherence, linkage with corresponding best practice research, geographic mapping, and identification of practices associated with important outcomes such as a reduction in recidivism (see Figure 1).

Figure 1: Best Practice Database

A	B	C	D	E	F	G	H	I	J	K	L
Prgm. Mngr.	Prgm. Name	County	Zip Code	Best Practice Statement	Key Component	Current Adhere	October 2020 Adhere (Y/N)	Fall 2021 Adhere (Y/N)	Corresponding Drug Court PM	Reduce Recidivism Impact	Why is this Best Practice Important to Follow?
Kate	Chesapeake County Circuit Adult Drug Court	Chesapeake County	21XXX	Drug testing is random / unpredictable	Key Component #5: Abstinence is monitored by frequent alcohol and other drug testing	Y	N	Y	Drug Testing Measures: (1) Average number of drug and alcohol tests per week. Benchmark = Greater than or Equal to 2 X per Week.	High	The treatment court should ensure that drug testing is performed randomly with an equal possibility of a test occurring on all seven days of the week. As noted in the Drug Court Judicial Benchmark, "For testing to correctly assess the drug use patterns of program participants, it is crucial that samples be collected in a random, unannounced manner. The more unexpected and unanticipated the collection regime, the more accurately the testing results will reflect the actual substance use of a drug court client population. If clients never know when they are going to be tested, then opportunities for them to use drugs during known testing gaps are reduced. Some testing protocols mistake frequency for thoroughness. Believing that testing three to four times per week (e.g., Monday, Wednesday, Friday) is equally sufficient and effective coverage may be erroneous because it is on a predictable schedule. Courts that relinquish the element of surprise do so at their own risk and may fall victim to creative clients who may find opportunities to subvert the program's objectives."

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Analytics— Tracking Adherence Over Time

The addition of variables to enable tracking of best practice adherence over time (see Figure 1, columns H and I) provides an important component to the infrastructure. Evaluation findings, when analyzed over time, and paired with other database variables, can provide new programmatic insights or highlight trends. For example, the analysis of adherence to a specific best practice over time and by zip code has the potential to uncover location-specific factors impacting the program's ability to adhere to best practices, such as service referrals or aftercare. Treatment court leadership can then review these findings in relation to the resources in their community, and OPSC and R&A can look for patterns across similar or neighboring courts, such as fewer housing-assistance programs or trauma services.

This first step to identify potential problems can then set forth a series of steps for treatment court teams to follow—the quality cycle. The monitoring and evaluation infrastructure developed for treatment courts nicely follows the first three steps in the quality cycle: identify the problem, collect the data, and analyze the data. The analytic insights achieved through the previous example have the potential to identify common challenges among treatment courts in the same geographic area. Knowing this, courts can target resources or develop a multiprogram strategy to address the underlying issue. Finally, data collection and reporting are ongoing, and when corrective action is taken, reevaluation is built into the process (see Ostrom and Hanson, 2010).

Accessibility and Relevance— Program Specific Best Practice Adherence Status Reports

Following the development of the database, best practice adherence status reports were created for every Maryland ADTC. Status reports were designed to be dynamic to enable access to each program's most current best practice adherence. To accomplish this, the adherences reflected in each report are directly linked to the "current adherence" field in the best practice database (see Figure 1, column G). In this way, changes can be updated in one main location (the database), which feeds directly into each program's status reports.

Another element of the status reports is the organization and calculation of best practice adherence by each of the ten Key Components (NADCP Drug Standards Committee, 1997). With more than 80 best practices to track, the ability to quickly identify key component areas in which best practice adherence needs are greatest assists program managers and teams to prioritize adherence efforts and inform use of technical assistance and training resources (see Figure 2).

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Figure 2: Excerpt, Program Specific Best Practice Adherence Status Reports

*ADC Performance Measure	Program Manager Name				
BP No.	Program/Key Component/Best Practice	No	Yes	Grand Total	% Adherence
Maryland Drug Court					88.0%
	<i>Key Component #5: Abstinence is monitored by frequent alcohol and other drug testing</i>	1	6	7	86%
5.1	*Drug testing is random/unpredictable	0	1	1	100%
5.2	*Drug testing occurs on weekends/holidays	1	0	1	0%
5.3	*Collection of test specimens is witnessed directly by staff	0	1	1	100%
5.4	*Staff members who collect drug testing specimens are trained in appropriate collection protocols	0	1	1	100%
5.5	*Drug test results are back in 2 days or less	0	1	1	100%
5.6	*Drug tests are collected at least 2 times per week	0	1	1	100%
5.7	*Participants are expected to have greater than 90 days of negative drug tests before graduation	0	1	1	100%

Accountability—Best Practice Assessments

Using the status report tool, OPSC program managers conduct best practice reassessments as part of regular ADTC site visits.⁴ To maintain relevance, reassessments are conducted roughly every six months.

With the initial assessment occurring in late 2020, the first reassessment occurred in fall 2021 and the second in spring/summer 2022. After each, the best practices status report database was updated to reflect new adherence findings, and new status reports were delivered to treatment court teams. In addition, program managers used the best practice status tool to work with their teams to identify and prioritize specific best practice adherence goals to be achieved by the time of the next assessment.

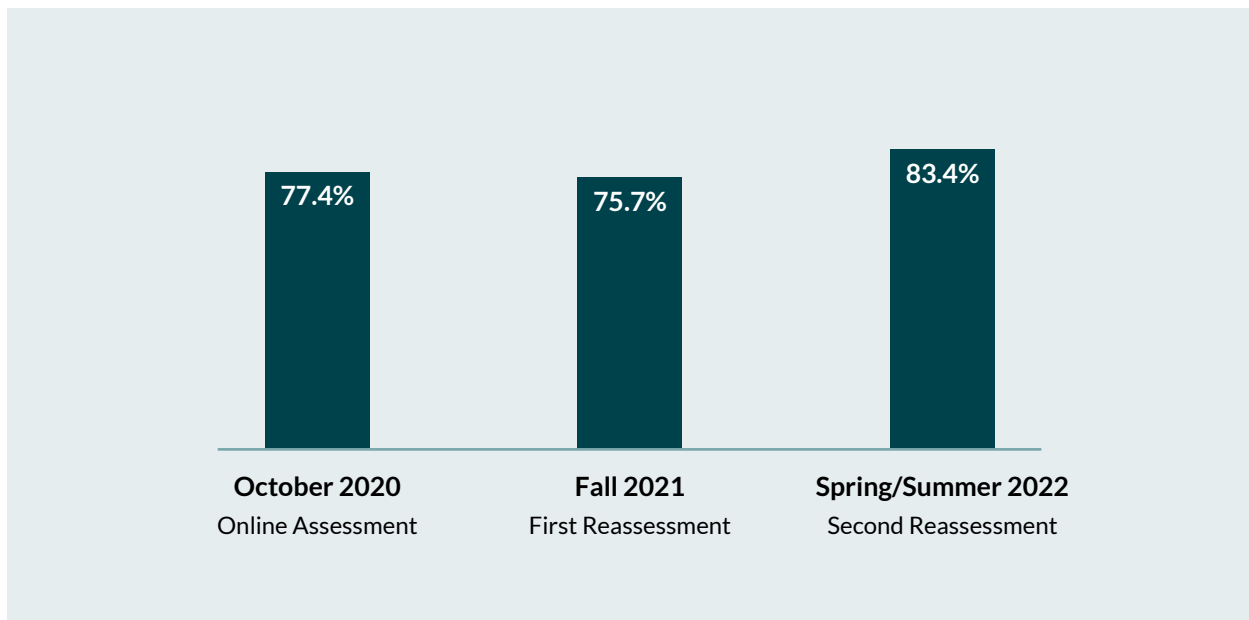
⁴ OPSC supports local courts with the help of three program managers, regionally assigned to Maryland’s problem-solving courts through, for example, facilitation of technical assistance and training.

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Using this data, R&A calculated the average best practice adherence for the state compared to the initial average adherence rate. Although the first reassessment saw some courts increase their adherence overall, the average adherence decreased slightly from 77.4 percent to 75.7 percent. However, this was not viewed as an actual decrease in best practice adherence, but rather the establishment of a true baseline.

When program managers met with local teams for the second reassessment, many treatment courts had added at least one new best practice to their adherence column. The state improved its average adherence to ADTC best practices by a percent change of 10.1 percent,⁵ from 75.7 percent to 83.4 percent (see Figure 3).

Figure 3: Average Best Practice Adherence



⁵ The 10 percent increase was calculated using formula for percent change $(83.4\% - 75.7\%) / 75.7\% = 10.1\%$. The percent difference is 7.7 percent.

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Program Manager Testimonials— First Reassessment to Second Reassessment

Throughout the reassessment process, program managers met regularly with the OPSC-R&A research team to provide feedback and examples from treatment court teams. The examples shared emphasized the importance of internal monitoring to achieve continuous improvement in best practice adherence. In Treatment Court A (see Figure 4), the coordinator had only been with the treatment court a short time when the initial assessment was conducted, affecting the quality and relevance of the results. During the reassessment, the best practices took on greater relevance for the coordinator, leading the court to make improvements and add 23 best practices, including making referrals to parenting classes, health care, dental care, and trauma-related services.

Figure 4: Adult Treatment Court A—Program Manager Testimonial



The coordinator was new at the time of the initial assessment, and she honestly didn't know what services were available, or what was provided. Once she became more familiar with the program, and actually shared her findings with the team, she was educated on the things she missed. They still have a lot to improve, but her being made aware has really helped the process.



Another example, Treatment Court B (Figure 5), highlights access to supporting research as a motivating factor to make meaningful changes. In this example, the treatment court added eight best practices between the two reassessments, including accepting offenders with serious mental health diagnoses and using a validated, standardized assessment tool to determine level or type of services needed.

Figure 5: Adult Treatment Court B—Program Manager Testimonial



Between the two reassessments this court made some significant changes, things that they didn't realize were important, or didn't actually give much credence. They have been, what some may consider a "traditional" court, and it has taken a lot of time, and convincing for them to really grasp the whole idea of best practice standards. Up until a few years ago, they were also anti-MAT (medically assisted treatment), and very heavy sanctioning, which was what they felt was required for true success in that program. Following the first reassessment, and the time we spent working on goals in between, they realized that many things they did and were doing were actually counterproductive and they made the necessary changes to improve.



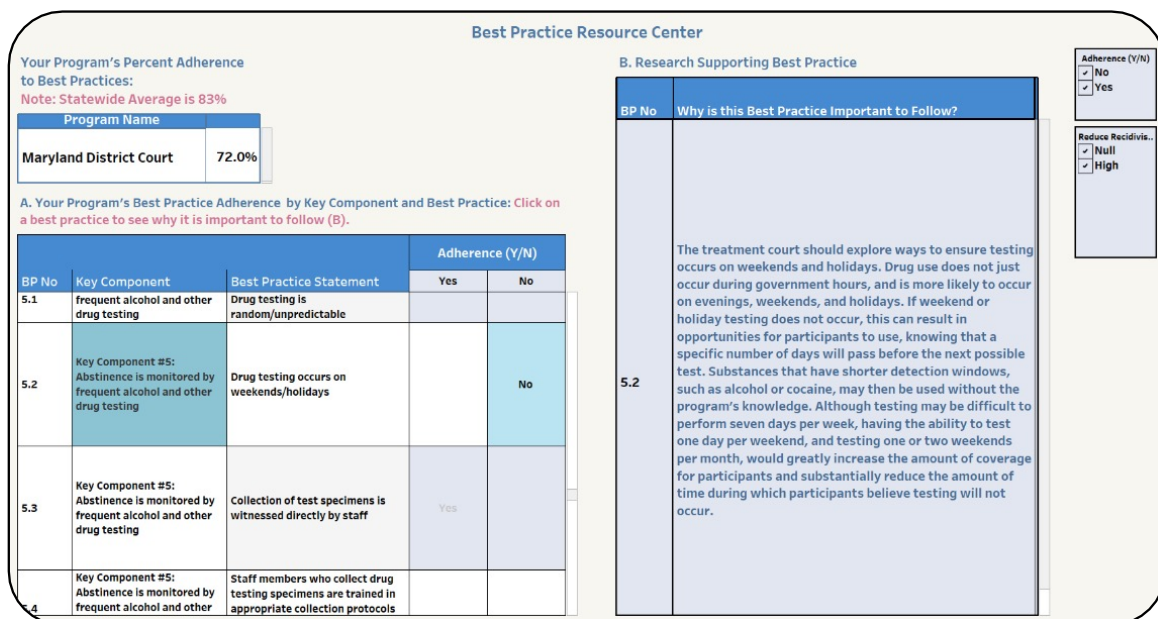
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Building on Momentum—Interactive Best Practice Dashboards

Following the completion of the second reassessments, the OPSC-R&A research team wanted to further increase accessibility and relevance of best practice research. The reassessment process and follow-ups were effective in improving best practice adherence, which created momentum among teams and program managers alike. Treatment courts were newly energized, and conversations within teams and with their program managers created a space to discuss ideas, tackle problems, and actively incorporate best practices into daily operations. Program managers, previously oriented toward an “observe and report” model, were now taking a more active role with the ADTC teams.

The judiciary is building on this momentum by developing more tools to help ADTCs connect their own adherence data to supporting research and adherence strategies. The status report format, although well organized and effective in providing teams with their current adherence status on a high level, was still overwhelming for many teams and did not provide research-based rationales or strategies for adherence. The challenge was then to develop an interactive tool that would provide teams with best practice adherence visualizations, including current adherence status, research-based rationale, adherence strategies, and links to additional information and technical assistance resources. The resulting interactive dashboard (see Figure 6) was created using data visualization software and enables teams to operate filters to view best practice adherence status, recidivism reduction impact, and the researched-based rationale supporting each best practice. Currently in development is the ability for the visualization to link to a new internal technical assistance webpage with training documents and videos.

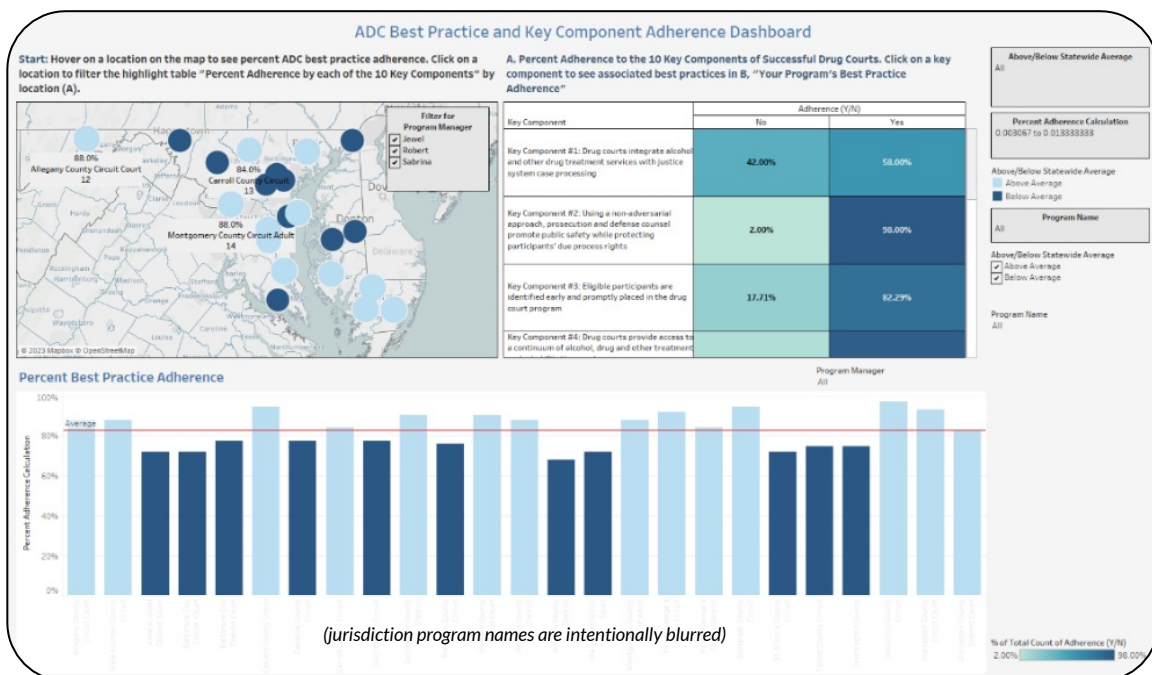
Figure 6: Best Practice Resource Center



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The next stage was to develop tools to quickly access statewide or location-specific information. These interactive oversight dashboards include data from all programs with filters to view data by program manager, to calculate averages across locations, filter by adherence status, and identify programs with adherences below, at, or above the statewide average (see Figure 7).

Figure 7: ADC Best Practices and Key Component Adherence Dashboard



Recommendations

This article has attempted to lay out the rationale and principal components of its new approach to monitoring and evaluation for the Maryland Judiciary's ADTCs. This is a work in progress and certainly did not happen overnight. The external process evaluations that preceded the change were instrumental in providing the basis and knowledge needed to make this shift happen. Program managers and ADTCs were well acquainted with best practices research and fully supported in taking on a larger role in monitoring adherence. In addition, in the years leading up to this implementation, the judiciary had also invested in the development of adult drug and mental health court performance measures, both of which included statewide trainings to help teams understand how to use the measures and calculate performance benchmarks. Courts wishing to institute a similar internal monitoring infrastructure will want to consider implementing these essential steps to build buy-in for the importance of regular evaluation.

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Conclusion

The Maryland Judiciary's development and implementation of an internal and integrated ADTC best-practice-monitoring infrastructure, though still in the early stages, has improved best practice adherence and discussions. In addition, the monitoring infrastructure has enhanced team relationships and reinforced ADTC missions and goals. The measure of the infrastructure's effectiveness rests on its ability to improve participant outcomes. Evaluations by neutral, external evaluators will always be essential to gain an objective assessment of participant outcomes, such as post-program recidivism. The Maryland Judiciary is planning its next external outcome study. In the meantime, the judiciary will continue to use and enhance an internal infrastructure rooted in monitoring research-based best practices.

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*Supported Decision-making
as an Alternative
to Guardianship*



Supported Decision-making as an Alternative to Guardianship

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As a growing number of states adopt supported decision-making statutes, this option is becoming increasingly relevant to those considering guardianship. While there are some concerns, initial research demonstrates the model's benefits and its potential for either avoiding or supplementing a guardianship.

A guardianship is authority given by a state court for one person to make personal or property decisions for another person who has reduced capacity due to progressive dementia, a severe mental illness, a traumatic brain injury, intellectual disabilities, or other reasons.¹ After years of reforms, limited guardianships and less restrictive alternatives are now preferred to plenary or full guardianships, thus meeting specific needs while preserving the person's autonomy and rights as much as possible. [Recommendation 3.2](#) from the Fourth National Guardianship Summit urges states to eliminate plenary guardianships and for courts to review existing full guardianships to determine if continuation is justified.² However, embedded practices prioritizing protection over autonomy remain. The limited empirical evidence available indicates that the vast majority of guardianships are still plenary ones (Kohn, 2021: 325). Guardianships are often overly broad, unjustifiably denying individuals their basic rights and liberties.

Many advocates for the rights of individuals with disabilities seek supported decision-making (SDM) instead. State law has begun to reflect this shift by statutorily recognizing SDM as an alternative to guardianship. Pilot studies show positive outcomes for those using the new approach. While the model holds great promise, there are noteworthy concerns that might caution advocates who seek to replace guardianship, even limited orders, with formalized supported decision-making arrangements.

The Shift toward Supported Decision-making

SDM has gained traction in large part because of concerns about the continued granting of full guardianships without meaningful consideration of less restrictive alternatives, despite [modern state laws](#) requiring it (ABA Commission on Law and Aging, 2018). Scholars and practitioners generally agree that the gap between law and practice is a big issue, though the lack of data hinders thorough evaluation. Many courts face considerable barriers in successfully considering and implementing limited guardianships, not the least of which are time and resource constraints, an overreliance on information submitted by the petitioner, and limited information on alternatives and supports.

Some SDM proponents wish to discourage guardianships altogether. They see the substituted decision-making that occurs in guardianships as unnecessarily violating an individual's most basic rights and, therefore, as morally wrong. A substituted decision maker decides on behalf of another person, taking over in those areas where it was determined that the individual lacks decision-making capacity. While the person's preference (rather than best interest) is now the guideline, there is no formal mechanism to ensure that the individual's wishes have been seriously considered. Once decision-making rights are removed, there is no enforceable right to participate in the process. As some legal

1 For the sake of brevity, "guardianship" refers here to both guardians of the person and guardians of the property, sometimes called conservators.
2 Available online at <https://perma.cc/8ZGQ-SMQE>.

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scholars argue, guardianships often violate the nondiscrimination principles of the Americans with Disabilities Act. This is due to the person's marginalization and isolation from important areas of social, economic, and civic life, which may frequently contravene the act's mandate to provide services in the most integrated and least restrictive manner (Salzman, 2010: 160).

On the other hand, supported decision-making is a process by which individuals, who might otherwise be unable to, can make personal, financial, or legal decisions with the assistance of supporters. Some descriptions understand it as a process all of us regularly engage in as interdependent beings with capacities dependent on our environment and relationships (Kohn, 2021). Others, rather than focusing on the process, emphasize the series of relationships involving individuals with cognitive disabilities (e.g., Dinerstein, 2012). Supporters can be trusted friends and family members, but also professionals. They help understand available choices, obtain relevant information, offer non-controlling advice, interpret the individual's communication if needed, determine preferences, and communicate the individual's decisions to others.



A sense of control has been shown to positively influence physical and mental health, the degree of community integration, and how well the person resists abuse.



The Promise of Supported Decision-making

Different from the typical guardianship approach, supported decision-making models presume capacity (Blanck and Martinis, 2015). The process centers on the kinds of supports needed to exercise legal capacity. Individuals using SDM must be able to express themselves in a way that demonstrates an understanding of information, an appreciation of choices, and an expression of preferences—at least to those who know the person well (Bach and Kerzner, 2010: 63-66).

Research on the effects of self-determination informs other arguments for SDM. A sense of control has been shown to positively influence physical and mental health, the degree of community integration, and how well the person resists abuse. On the other hand, perceived dependence tends to correlate with lower self-esteem, higher passivity, a feeling of incompetency, and generally decreased life outcomes (Pilcher, Greenfield, and Huber, 2019a). Because the perceived sense of control is a major factor, even if guardians make decisions that are consistent with an individual's desires, one can still expect a negative impact on the individual if subjected to substitute decision-making (Kohn, 2006). Supported decision-making practices, on the other hand, as Nina Kohn (2021: 314) writes, "have the potential to transform individuals with disabilities from legal subjects into legal actors, and reduce the need for court-imposed guardianship and other restrictions on self-governance."

While perhaps not indefinitely avoiding more restrictive options for older adults as symptoms of dementia and cognitive

decline progress, SDM can delay them, especially in combination with other services. Remaining engaged in SDM could mean the difference between improved life outcomes or “learned helplessness” and accelerated decline (Diller and Whitlatch, 2022: 182). Additionally, supporters of an older person with dementia will have learned about the person’s preferences and values during past decision-making and will be better equipped as guardians if substituted decision-making becomes necessary.

Proponents who favor legally recognized SDM arrangements over informal processes point out that such a document explicitly states the supporters’ duties and prohibits substitute decision-making. Proponents also argue that the legal status is necessary vis-à-vis third parties, who often treat a person under guardianship as “incapacitated,” regardless of the court’s order limiting that determination to certain areas (Salzman, 2010: 176). Formalized arrangements help to clarify that the individual retains legal capacity to make decisions and can do so with support. While decisions made with support should be recognized even without such statutes—legal capacity should always be the assumption—the real power of a statutorily recognized agreement lies in the incentive it offers to third parties, as Kohn (2021) suggests. By offering immunity from claims the individual could assert in the future, third parties are encouraged to readily act upon decisions actually or allegedly made with support.³

Emerging Supported Decision-making Legislation

The adoption of Article 12 of the United Nations Convention on the Rights of Persons with Disabilities (CRPD) in 2008 expresses the movement toward SDM internationally. It states that persons with disabilities should be recognized to enjoy legal capacity on an equal basis with others in all aspects of life and, further, that people may need support to exercise their legal capacity. In a [recommendation](#) on how to implement Article 12, the CRPD Committee added that such support encompasses both informal and formal arrangements but should never amount to substitute decision-making.⁴ While the United States is one of the few countries that did not ratify the convention, SDM made its way into U.S. state law. An increasing number of state statutes have begun to define legally enforceable SDM arrangements.

About a third of all states have full SDM agreement statutes and formally recognize SDM as an alternative to guardianship. Texas became the first state to do so in 2015, but other states followed soon after, such as Delaware (2016); the District of Columbia, Alaska, and Wisconsin (2018); Nevada, North Dakota, Indiana, and Rhode Island (2019); Louisiana and Washington (2020); Colorado and New Hampshire (2021); and Illinois (limited to intellectual disabilities), Maryland, New York, and California (2022). Virginia law defines SDM agreements but does not have

³ A potential downside to this is discussed further along with other concerns.

⁴ Online at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/031/20/PDF/G1403120.pdf?OpenElement>.

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a full statute describing how to enter into one. Some states, such as Oklahoma, Maine, Montana, and Minnesota, define and mention SDM as a less restrictive alternative to be considered in guardianship proceedings, but do not codify a process for doing so.

Similarly, the 2017 [Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act](#) prohibits courts from appointing a guardian where SDM or other supports may meet the needs of the individual.⁵ Federal agencies, too, started to support SDM as a less restrictive alternative to guardianship. The Administration for Community Living of the U.S. Department of Health and Human Services, for instance, endorses the concept and funded the creation of the [National Resource Center for Supported Decision-Making](#) in 2014.⁶

SDM can be informal and does not necessarily require legal authorization. However, in those states that have adopted statutes, SDM can now be documented through statutorily recognized, written supported decision-making agreements. [State laws](#) vary greatly in terms of the requirements for SDM agreements, their scope, who may serve as a supporter, available templates, and the role of third parties (ABA Commission on Law and Aging, 2022). Some states, like Delaware and Alaska, restrict who may serve as supporters to limit the risk of manipulation or exploitation by supporters. In some states, such as Wisconsin and Indiana,

the SDM statute lists triggers for termination, such as neglect or abuse by the supporter. A template for the agreement is sometimes provided (e.g., in Texas), while others simply list the requirements.

Implementation and Outcomes

Systematic research regarding SDM is still lacking. There are some pilot projects that document SDM implementation and most report positive outcomes. However, goals are varied and include using SDM to supplement, avoid, or end guardianships or simply developing a successful SDM process. The Australian Office of the Public Advocate, for instance, conducted an early research project with 26 participants who either had intellectual disabilities, acquired brain injury, or were otherwise under guardianship (Wallace, 2012). Each implemented SDM and chose supporters from friends and family members. At the end of the project, SDM had become a viable alternative for those who had been under guardianship. In the United States, the Center for Public Representation (CPR) and Nonotuck Resource Associates, Inc. collaborated to offer SDM to people with cognitive disabilities (Pell and Mulkern, 2016). Of the initial nine participants who were under guardianship and started participating in SDM, one individual's rights were restored. In a study by Arc of Northern Virginia and the Burton Blatt Institute of Syracuse University,

5 This is model guardianship legislation created by the Uniform Law Commission that states can choose to enact (<https://perma.cc/AL5E-J38S>).

6 Online at <https://perma.cc/XLA3-EDMT>.

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ten young adults with intellectual and developmental disabilities started implementing SDM. Half of them were under guardianship but indicated at the end that they would like to modify or end the guardianship (Beadnell and Martinis, 2021). Hunter College/CUNY led a five-year, multiagency pilot in New York, targeting young people at risk of guardianship (Pell, 2019). The pilot recruited 79 people with cognitive disabilities and 200 volunteers to develop an SDM facilitation model. Despite this support, only a handful of the original recruits finalized SDM agreements.

Across projects, SDM was described as a positive experience by all who adopted the process, regardless of age, diagnosis, or life history, and led to a reduction of guardianships (Beadnell and Martinis, 2021; Pell and Mulkern, 2016; Wallace, 2012). Quality facilitation to guide the SDM process long-term was a common, crucial factor leading to success. Overall, increased self-confidence led to improved self-advocacy and greater skills in decision-making. This, in turn, led to new experiences and improved life outcomes, including independent living, opening a bank account, negotiating contracts, community activities, employment, and decreased isolation. Participants in the Nonotuck and New York projects also felt reassured that having trusted supporters, and often multiple supporters, reduced the risk of abuse, neglect, and exploitation. The Australian and Northern Arc participants reported a growth in support networks and community engagement, greater control over their own lives, and reduced anxiety. The New York family members reported reduced concerns that may have otherwise led them to seek guardianship, although those that were already guardians did not experience the same.

These and other initial studies contribute to a repertoire of support strategies and information on the ideal context, timing, and scope of decision support. Typical barriers include the supporters' lack of adaptive communication skills, finding the right balance between safety and "dignity of risk," lack of trust, and avoiding undue influence. Douglas and colleagues (2015) found that SDM is more successful with supporters that had a previous trusting relationship with the individual, understood the nature of the individual's limitations and levels of functioning, and had a basic knowledge of their goals and previous decisions.

While the initial evidence shows that SDM can be empowering, there is little empirical evidence on the extent to which SDM can replace guardianship, how SDM functions in practice, and the conditions under which the goals can be achieved. The National Resource Center for Supported Decision-Making developed an assessment tool to systematically implement and further study decision-making supports and to collect more data (Shogren et al., 2018). For now, the advantages of SDM in lieu of guardianship are still largely theoretical.

Concerns

The lack of available evidence calls for caution. One concern noted by Kohn (2021) is that once formalized agreements become the norm, third parties might not accept decisions made with informal support as valid without the presence of a recognized supporter. Additional concerns are that appointed supporters could use the agreement to exploit the individual, exert undue influence, or engage in substituted decision-making. State statutes that give supporters

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legal status, enabling them to enforce decisions without requiring the individual's presence or consent, also remove the right of the supported individual to hold a service provider liable for acting upon the direction of a supporter.

Furthermore, individuals in need of such support may not readily identify or report abuse by the supporter. Safeguards recommended by the CRPD Committee do not yet exist. It is feasible, as Kohn, Blumenthal, and Campbell note, that SDM could even have effects that are opposite to the stated goals of self-determination (2013: 1157). In contrast, guardians are (at least in theory) monitored and held accountable. When there are issues, the individual under guardianship or a supporter can turn to the court.

A popular argument for SDM is based on the principle that supported persons can practice decision-making and with experience develop their abilities and become independent. For older participants, however, the lifetime of independent decision-making practice was sometimes found to hinder a willingness to discuss supports (Pilcher, Greenfield, and Huber, 2019b). Older adults can also be more isolated. While this increases the risk of noticing too late that they need support, it also increases the challenge of identifying trusted supporters. Successful SDM may depend on preexisting relationships.

Conclusion

Given the scarcity of empirical evidence, SDM may not yet have earned the status that would warrant a general recommendation in support of SDM in most cases where otherwise limited guardianship seems necessary. However, it can be a viable alternative on a continuum of options ranging in restrictiveness, with independent decision-making on the one end, SDM along the middle, limited guardianships toward the more restrictive end, and plenary guardianships at the extreme. Prudence might be advisable when it comes to giving unsupervised supporters legal status via formal agreements. Even proponents of formally recognized SDM acknowledge that more needs to be done to develop appropriate safeguards (e.g., Pilcher, Greenfield and Huber, 2019a).

Yet most of the primary benefits of SDM can be achieved without legal rights for supporters. Given the research on the positive effects of engagement in decision-making, informal SDM might be encouraged in all settings, even in combination with other options. Although implementation difficulties exist, modern statutory guidelines and the National Guardianship Association's [Standards of Practice](#) (2013) state that guardians should act in accordance to the individual's preferences and encourage the individual to participate. Following this principle, guardians can apply SDM even in cases where guardianship cannot be avoided. Additionally, in a limited guardianship where the individual does not lose all legal rights and decision-making powers, SDM can supplement the tailored guardianship in areas not covered by the guardianship.

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*Michigan: Auto State or
State of Suspension?*



Michigan: Auto State or State of Suspension?

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Traffic offenses accounted for a large percentage of incarcerations in Michigan. Reform legislation is not only reducing the burden on jails and courts but also helping offenders to keep their lives on track.

Michigan: Auto State or State of Suspension?

Ensuring that punishments are right-sized and appropriate is the next frontier for trial courts. Judge Derek Meinecke said this in 2019 when addressing the pervasive issue of driver's license suspensions as a means of punishment in Michigan, as well as a catalyst for other problems in the criminal justice system. He was referencing a state law prohibiting driving on a suspended license that applied the same charge and punishment no matter the reason why a driver's license was suspended—be it for a matter of safety, such as drinking and driving or fleeing from police, or for simply not paying a traffic ticket on time.

Even in the “Auto State,” courts have not typically seen driving offenses as important, says Judge Meinecke. In 2016 he developed “Operation Drive,” a program that looks for different ways to address these issues and helps individuals restore their licenses. In addition, he aimed to enlist more local courts in adopting a regional approach with local prosecutors and law enforcement to visit local high schools to educate teens and to reach out to state legislators to change the laws.

Judge Meinecke's response to the previous one-size-fits-all approach aptly represents the spirit of Michigan's transformation in recent years from a state that had experienced a vicious cycle of quick and frequent license suspensions, which resulted in problems such as jail overcrowding, to a national model for meaningful criminal justice reforms.

Judge Meinecke might not have realized it in 2019, but his foresight about right-sizing punishments came at the perfect time. That same year, the Michigan Supreme Court helped lead a statewide effort to address jail overcrowding. In less than 40 years, the number of people held in Michigan's county jails nearly tripled.¹ This growth was not driven by an increase in crime. Crime rates have dropped to 50-year lows. In fact, the tripling of Michigan's jail population went largely unnoticed by state lawmakers because no data set existed to answer these questions: Who is in Michigan's county jails? For how long? And why?

Alleviating jails became a shared bipartisan priority in 2019, prompting state and local leaders to create the Michigan Joint Task Force on Jail and Pretrial Incarceration. The task force, led by Lt. Gov. Garlin Gilchrist II and former Chief Justice Bridget McCormack, was charged with analyzing jail populations across the state and developing legislative recommendations for consideration in 2020.

The Pew Charitable Trusts provided critical technical assistance collecting and analyzing data for this first-of-its-kind task force charged with determining who was entering Michigan's jails, their duration, and for what reasons. The goal was to recommend policy changes to safely reduce jail populations and for those recommendations to be enacted into law.

1 U.S. Department of Justice, Bureau of Justice Statistics, Census of Jails and Annual Survey of Jails. Online at <https://perma.cc/34US-SBPS>.

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What the task force found was startling. Data showed that traffic offenses accounted for half of all criminal court cases in 2018 and driving without a valid license was the third most common reason for incarceration in Michigan (see Figure 1).²

Figure 1: Top 10 Offenses, Most Serious Charge at Jail Admission

Jail admissions were comprised of a wide range of offenses:
1. Operating Under the Influence (OUI)
2. Assault
3. Driving Without Valid License
4. Theft
5. Probation/Parole Violation
6. Possession or Use of Controlled Substance
7. Obstruction of Justice
8. Other Person Offense
9. Domestic Violence
10. Delivery or Manufacture of Controlled Substance

Source: Michigan Joint Task Force on Jail and Pretrial Incarceration, "Report and Recommendations," January 10, 2020, "Sample of Jails, 2016-2018"; "Jail Data" in "Data Sources and Methods."

Two driving offenses unrelated to safety, failure to appear and failure to pay fines and fees, accounted for nearly 360,000 license suspensions annually.³ The consequences of this practice included the burden on police agencies, use of limited public safety resources, and most importantly, the human cost in lost jobs, homelessness, and stress on families who lost the ability to drive to school, daycare, or the doctor.

Some Michigan traffic violations, such as careless driving and speeding, were civil infractions, meaning they are against the law and punishable with fines, but did not themselves directly lead to arrest or jail.⁴ Other traffic violations were criminal offenses eligible for arrest and jail, including common charges like driving without insurance or driving with a suspended license. Even excluding operating under the influence, these criminal traffic offenses accounted for six of the top ten most common charges handled by courts.⁵

Since the release of the task force report, COVID-19 created an increased urgency to reduce incarcerated populations. Jails have limited capacity to accommodate social distancing, and individuals detained or working in jails have a heightened risk of exposure to the novel coronavirus. In addition, counties spent nearly \$480 million taxpayer dollars each year on operating their jails⁶ some of which could be reallocated to support community-based treatment alternatives and other efforts.

2 See also, "Criminal Cases Deposited in Court, 2018," and "Sample of Jails, 2016-2018," in Michigan Joint Task Force on Jail and Pretrial Incarceration, "Report and Recommendations," January 10, 2020.

3 See [Free to Drive](#), also online at <https://perma.cc/A9TG-PJFQ>.

4 Civil infractions can indirectly lead to arrest or jail if an individual does not appear in court, fully pay fines or fees, or meet any other court conditions.

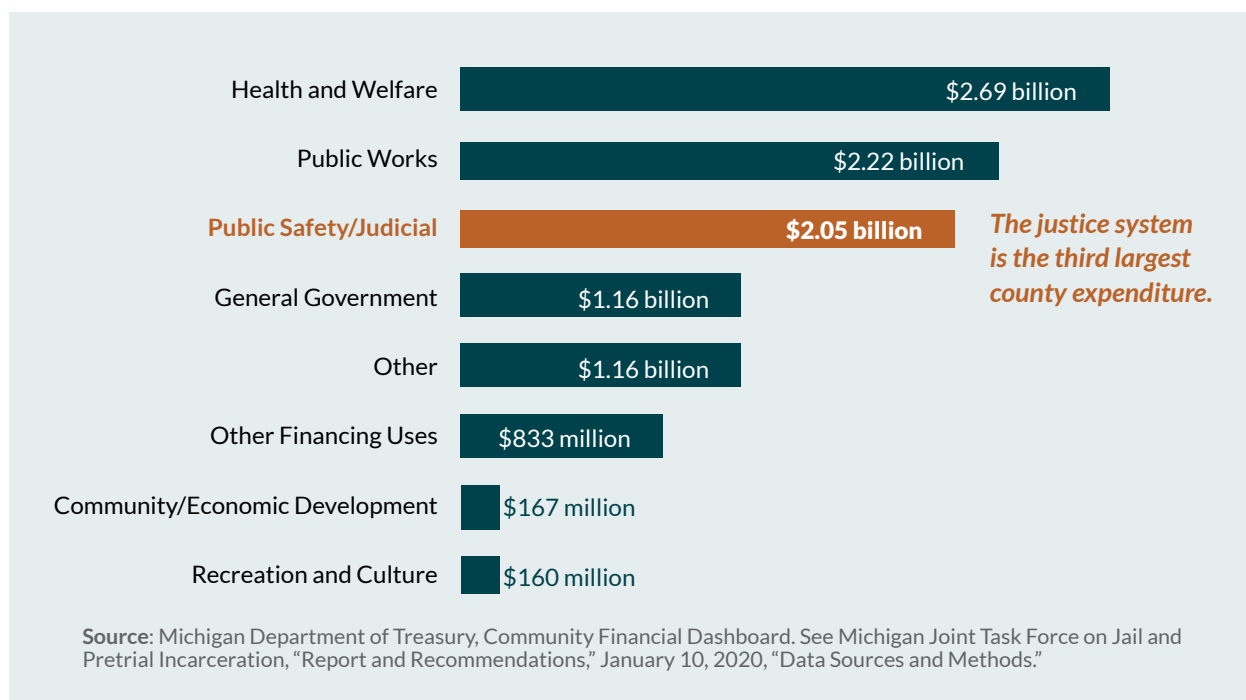
5 "Criminal Cases Disposed in Court, 2018," in Michigan Joint Task Force, *supra* n. 2.

6 Michigan Department of Treasury, [Community Financial Dashboard](#).

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There was also a wide range in the length of jail stays. Thirty-six percent of those jailed for driving without a valid license stayed in jail for two days or more, and 5 percent stayed longer than a month.⁷ Jails accounted for roughly 25 percent of county-level spending on public safety and justice systems, including law enforcement, courts, and other judicial or public safety spending, which together were the third largest county-level expenditure behind health care and public works (see Figure 2).⁸

Figure 2: Michigan County Budget Spending by Subcategory, 2017



After completing research and public hearings, the task force submitted a list of 20 policy recommendations to the legislature in 2020. At the top of that list was reducing the number of driver's license suspensions. State law allowed a driver's license to be suspended for a wide range of noncriminal behaviors. The task force heard testimony across the state about the domino effect of a suspended license and from law enforcement professionals who see these individuals using up limited public safety resources. To reduce jail admissions for driving with a suspended license and remove barriers to workforce reentry, the task force recommended that licenses should only be suspended or revoked when the holder has been convicted of an offense directly related to driving safety.

⁷ See "Sample of jails 2016-18," *supra* n. 2.

⁸ See Michigan Department of Treasury, *supra* n. 6.

Michigan: Auto State or State of Suspension?

The Michigan Joint Task Force on Jail and Pretrial Incarceration specifically recommended:

- Elimination of suspension and revocation of driver's licenses as a possible sanction except for conviction of specific moving offenses directly related to driving safety, such as reckless driving, operating while intoxicated, and fleeing and eluding an officer.
- License suspension or revocation should never be allowed for failure to comply with a court judgment, including failure to appear and failure to pay fines and fees.
- Confiscation of driver's licenses as a condition of pretrial release should be prohibited except in cases where license suspension would be an allowable sanction upon conviction.
- Reinstatement fees should be waived, and a straightforward process created for immediate reinstatement of licenses suspended for reasons that are no longer eligible.

Collectively, the bills that came out of these recommendations and introduced by legislative partners on the task force and other legislative leaders sought to expand the use of jail alternatives and reserve jail for public safety risks. The bills aimed to eliminate driver's license suspensions and criminal penalties for some traffic offenses; expand officer discretion to use appearance tickets instead of custodial arrests; use probation, fines, and community service as sentences for low-level crimes; and limit jail time for those who violate the rules of supervision. In December 2020, the 20 bills were carried by a diverse group of Republican and Democratic state senators and representatives, passing with overwhelming support. On January 4, 2021, the governor signed them into law. The laws are summarized according to topic.

Decriminalization and Civil Infractions

To reduce jail admissions, the reforms amended several sections of the Michigan Vehicle Code to reclassify certain traffic misdemeanors as civil infractions.

Driver's License Suspensions

Before the reforms, driving with a suspended license was the third-most-common charge for jail time in Michigan. In addition, driver's licenses could be suspended for criminal convictions not related to unsafe driving, failure to appear in court, and failure to pay or comply with a judgment. The reforms limit the circumstances under which a driver's license can be suspended and required the secretary of state (SOS) to reinstate those licenses that were previously suspended for ineligible reasons.

Mandatory minimum jail sentences were previously required upon conviction for certain criminal offenses. Under the reforms, some mandatory jail requirements were eliminated, and others became waivable in the Public Health Code, Michigan Vehicle Code, and others. While jail is no longer required for these offenses, jail sentences can still be imposed at the court's discretion.

Michigan: Auto State or State of Suspension?

Following enactment of the new laws, the governor created the Jail Reform Advisory Council (JRAC) to permanently replace the task force and implement measures outlined in the new laws. The JRAC met virtually throughout 2021 and 2022 to oversee the implementation of the 2020 jail reforms. The reforms are a comprehensive series of laws that span the entire justice system. The JRAC engaged various justice system stakeholders and provided guidance and assistance in implementing the reforms. Since the JRAC was not established until April 2021, many stakeholders undertook significant efforts and preparations that contributed to the successful implementation of the reforms, and their efforts continue.

The State Court Administrative Office was able to conduct additional analysis on nonserious misdemeanor sentences to look at those sentences based on a range of different factors. When looking at common vehicle-related nonserious misdemeanor cases, the most common offenses were:

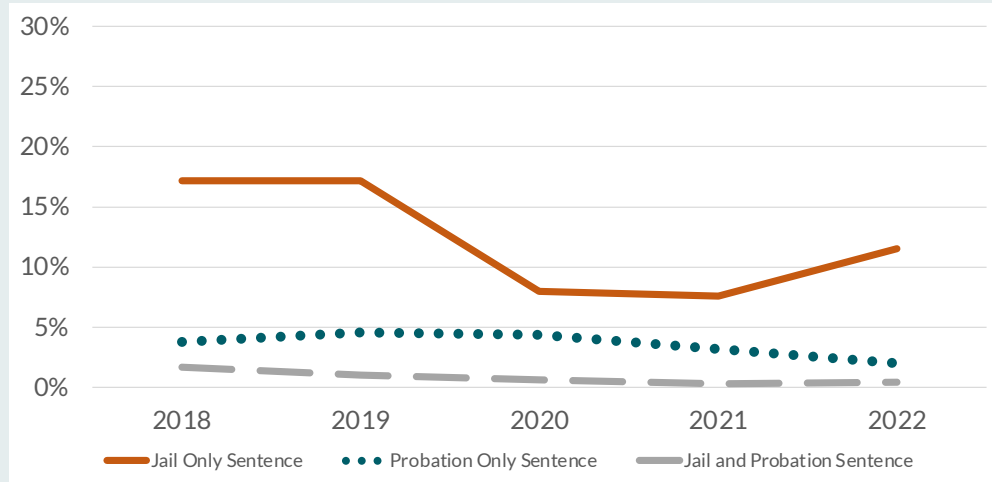
- operating without a license on person;
- operating while license suspended, revoked, or denied;
- having no license or multiple licenses;
- owner permitting another to violate the motor vehicle code; and
- license plate—unlawful use.

The data showed a dramatic decline in jail-only sentences in 2020 and 2021 and an increase in 2022, which is consistent with the overall sentencing trends (see Figure 3). In 2022 probation-only sentences for that same population decreased to their lowest point from 2018 to 2022, which seems to indicate that the reforms have helped reduce the use of probation sentences for license-related, nonserious misdemeanants. Jail and probation combined sentences for license-related, nonserious misdemeanants showed a slight decrease from 2018 to 2022. Again, while the data suggest a successful impact of the reforms, the effects of the COVID-19 pandemic on lodging practices must be considered as well.

While overall trends in the data appear to show some success for the reforms, limited data and possible effects of the COVID-19 pandemic make it difficult to establish a clear causal relationship. One challenge is the lack of district court probation data, and while the Judicial Data Warehouse (JDW) gathers sentencing data, there are no data-reporting requirements for probation. Therefore, there is no data set that will allow the JRAC to examine early discharge from probation as it relates to misdemeanors. Future examination of trends of the available data will help to distinguish between impacts of the reforms in contrast to those of pandemic-related practices.

The SOS has completed three separate data analyses since the implementation of the clean slate laws, which analyzed how many drivers were affected by the Clean Slate to Drive laws and to what degree. Preliminary data showed that after two rounds of review by staff at the SOS, changes were made to the driving records of a total of 348,893 Michigan residents.

Figure 3: Common License-Related Misdemeanor Offense Types by Year



This figure captures trends over time for sentencing types of license-related, non-serious misdemeanants from 2018 to 2022.

Year During 4/1-9/30	Jail Only Sentence	Probation Only Sentence	Jail and Probation Sentence
2018	17.2%	3.8%	1.7%
2019	17.2%	4.6%	1.0%
2020	8.0%	4.4%	0.6%
2021	7.6%	3.2%	0.3%
2022	11.5%	2.0%	0.4%

After those changes were made, a total of 154,326 Michigan residents were eligible to hold a driver’s license and an additional 194,567 residents remained ineligible due to other infractions still on their records as of January 2022.

In total, the following actions were taken by SOS in accordance with the Clean Slate to Drive reforms in October 2021:

- 744,814 Failure to Appear in Court (FAC) suspensions ceased;
- 703,566 Failure to Comply with Judgment (FCJ) suspensions ceased;
- 10,124 FCPV/FCDV (Parking Holds) cleared;
- 57,172 Controlled Substance (drug crime) sanctions cleared;
- 5,531 Minor in Possession (MIP) sanctions cleared; and
- 9,459 Converted/Other sanctions cleared.

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Updated data provided by SOS gives a clearer picture of the full impact of the clean slate reforms. As of September 30, 2021, one day before the Clean Slate to Drive reforms becoming effective, 323,812 Michigan drivers had an active sanction (suspension or revocation) that prevented them from obtaining a license. As of September 30, 2022, one year later, that number has decreased by roughly 51 percent, leaving only 158,088 drivers with a suspension or revocation as depicted by the figures 4 and 5 below.

Figure 4:
Driver Status,
Sept. 30, 2021
(Total Population
of Clean Slate
Drivers)

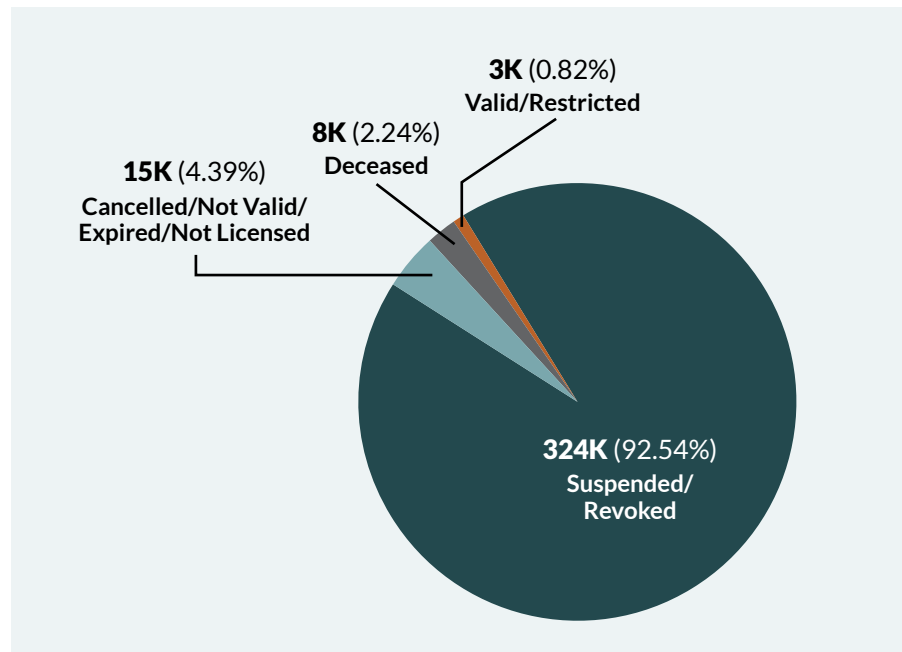
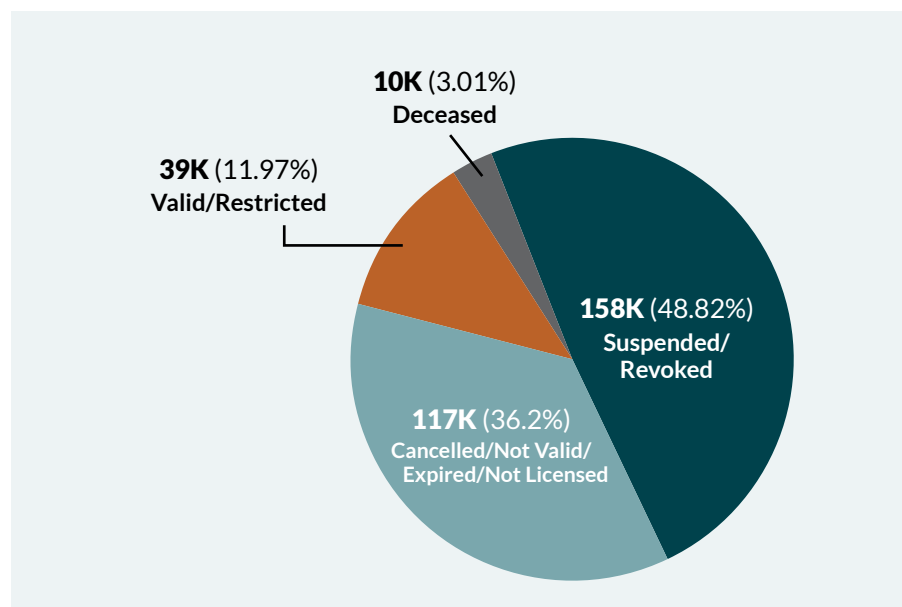


Figure 5:
Driver Status,
Sept. 30, 2022
(Population of
Suspended/
Revoked on
Sept. 30, 2021)



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Since the laws were enacted, Judge Meinecke says that the jail reforms have removed many of the barriers to licensure in the courts. For instance, Operation Drive helped to restore 83 licenses in 2020, and after the reforms took effect, the program restored 199 driver's licenses in 2021 and 233 in 2022. According to Judge Meinecke, however, root problems still exist that create other barriers to getting a license and end up leaving (mostly poorer) people behind, such as a lack of training programs, lack of public funding for driver education, and lack of access to reliable vehicles to get the required number of practice hours.

"Anecdotally speaking, things have gotten easier. The new laws have reduced the number of traffic tickets resulting in suspensions," he explained. "But other barriers still exist, so we still have a need to do what we do—educating, guiding, and helping people get their driver's licenses and improve their quality of life."

In the 41B District Court in Clinton Township, Court Administrator/Magistrate James McGrail points out that although license suspension reforms were largely beneficial, they were not without bumps in the road. An error in the system only lifted a small percentage of suspensions at first, as opposed to the promised automatic changes. Although this error was fixed within a month, it did cause a tremendous amount of confusion for court staff, defendants, and the SOS, says McGrail.

He also notes that court finances were adversely affected by the reforms. Previously, driver's license suspensions compelled people to pay their tickets on time. But after October 1, 2021, 41B District Court saw a decrease of \$700,000 in payments collected, according to McGrail.

"Trial courts are funded by local funding units, rather than the state, so these large decreases are very difficult to absorb," he explained.

Still, McGrail is pleased with the reforms overall. "They have enabled defendants who are not a danger to the public to maintain their licenses and still be productive members of society."

Through its strong vision and comprehensive efforts, Michigan has positioned itself as a national leader in reforming our criminal justice system to be more fair, effective, transparent, and accountable. We are building a justice system that makes us all safer and stronger.

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