



# ROADMAP TO JUSTICE CAMPAIGN 2020-2021

# Introduction

Do courts in this country, and internationally, have public dispute resolution systems designed to meet public expectations in the 21<sup>st</sup> century? Even though the judicial branch remains the most trusted branch of government, meeting public expectations is a fundamental challenge facing courts all over the world, and it is the question the National Center for State Courts (NCSC) Roadmap to Justice Campaign 2020-2021 addresses. Confidence in the state courts reached a high of 76% in NCSC's 2018 public opinion survey.<sup>1</sup> Nevertheless, perceptions of political and racial bias, inefficiency, lack of innovation, and a two-tiered justice system “weighted against regular people” continue to shape public opinion about courts. In addition, registered voters surveyed as recently as 2018 continue to respond that courts are expensive and complicated, not customer oriented, and lag in the use of technology.<sup>2</sup>

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## NCSC MISSION:

**To promote the rule of law and improve the administration of justice in state courts and courts around the world.**

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The *NCSC Access and Fairness Campaign 2017-2019* recognized these trends in public opinion and identified ways NCSC could help our domestic and international constituents accomplish their own access and fairness goals. That campaign had five initiatives to improve public confidence in the courts:

- Reduce the cost, time, and complexity of traditional dispute resolution processes;
- Improve the trust of minority and economically disadvantaged communities;
- Grow online solutions to expand access to courts;
- Demonstrate a commitment to fair, impartial, and accountable courts;
- Provide judicial leaders with additional governance skills.

The 2017-2019 campaign accomplished numerous objectives. Below are some key highlights:

- Implementing the Conference of Chief Justices (CCJ) and Conference of State Court Administrators (COSCA) Civil Justice Initiative (CJI);
- Launching the Family Justice Initiative (FJI) to apply the principles and practices learned from the CJI to the domestic relations arena;
- Hosting a CourtHack event to support development of online applications, and convening national meetings to discuss new and potentially disruptive technologies;
- Initiating the Community Engagement Project to engage disadvantaged communities;
- Addressing the ongoing impact that court fines, fees, and bail practices have on economically disadvantaged communities, the CCJ/COSCA National Task Force on Fines, Fees and Bail has

produced a plethora of documents and tools, all available for use by state and local courts nationwide.<sup>3</sup>

- Undertaking a series of initiatives dealing with the opioid crisis, The National Judicial Opioid Task Force (NJOTF) developed a coordinated national response for the state courts to the opioid crisis, with more than 20 deliverables completed. The final report's 34 recommendations were released at a National Press Club event in Washington, D.C in November 2019.<sup>4</sup>

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## NCSC VISION:

# Provide administrative and legal solutions that will help courts significantly improve efficiency while maintaining or improving services to the public.

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In all, NCSC pursued 36 objectives across all divisions aligned to the five initiatives outlined in the 2017-2019 Campaign. Each of these objectives produced specific products with the overall goal of increasing public trust in the judicial branch. The *Roadmap to Justice Campaign 2020-21 (Campaign 2020-21)* builds on these accomplishments.

Abroad, the International Programs Division has worked to increase the effectiveness of courts in delivering fair and timely justice. NCSC supports judicial reform that enables countries around the world to strengthen the Rule of Law. These efforts increase public confidence in their countries' court systems and advance America's security and prosperity. The International Programs Division has a strategic plan

that identifies specific areas of judicial reform that its projects address. Those include accountability, case management, judicial administration, judicial independence, judicial selection and retention, and performance evaluation.<sup>5</sup>

The *Campaign 2020-21* sketches a path essential to enhancing public confidence in the courts domestically and internationally by providing an ambitious vision for NCSC and the court community. The plan details realistic objectives for NCSC that provide guidance and assistance to our court constituencies as they develop their own strategies to create public dispute resolution systems that will meet public expectations in the 21st century.

This plan builds on our two previous campaigns: The *Access and Fairness Campaign 2017-2019* and the *Justice Campaign 2013-2016*. What all of these plans share in common is a break from the traditional strategic-planning model premised on producing a lengthy list of goals and objectives. Instead, all three employ a "campaign" approach to develop explicit initiatives aimed at specific outcomes and objectives.

The five initiatives detailed below are the product of discussions with the NCSC Board of Directors Programs Committee, discussions with advisory committees and court association leaders, a review of major trends and issues identified by other court organizations, and key findings from the NCSC public opinion polls. These strategic initiatives provide a framework to organize a collective campaign for the court community that will result in measurable improvements to the administration of justice. Specific objectives addressing the initiative will be crafted to identify products and applicable outcome measures. The ultimate measure is the effectiveness of courts in delivering fair and timely justice, thereby increasing public confidence in the courts.



“Helping emerging countries improve the effectiveness of their judicial systems also advances America's security and prosperity.”

—*Dan Mozena, Member, NCSC Board of Directors*

## Values

- Integrity
- Commitment to Courts
- Knowledge and Expertise
- Teamwork
- Innovation and Initiative
- Accountability

While these initiatives and their attendant objectives represent the most pressing areas the NCSC will undertake over the next two years, they should not be perceived as limiting NCSC's work. NCSC continues to provide research, education, services to associations, and technical assistance in a wide variety of areas both domestically and internationally that may not be captured within these five strategic initiatives.

## Roadmap to Justice Campaign 2020-2021 Initiatives

- Develop and introduce innovative legal and administrative processes that increase access and fairness while reducing the cost, time, and complexity of litigation.
- Increase trust and confidence in the Rule of Law by advancing responsive, coherent and collaborative judicial initiatives.
- Expand access to court services while ensuring procedural fairness.
- Continue to provide judicial leaders with additional leadership and governance skills.
- *Just Horizons: Charting the Future of the Courts.*

# 1. Develop and introduce innovative legal and administrative processes to the judicial community that increase access and fairness while reducing the cost, time, and complexity of litigation.

“Building public trust—as distinguished from fairness and access—is another recurring and important theme. Courts need to branch out and promote public trust in different forms, looking to the way information is now disseminated and framing facts in the manner that contemporary audiences prefer to view them.”

—Judge Jerome Abrams, Member, NCSC Board of Directors

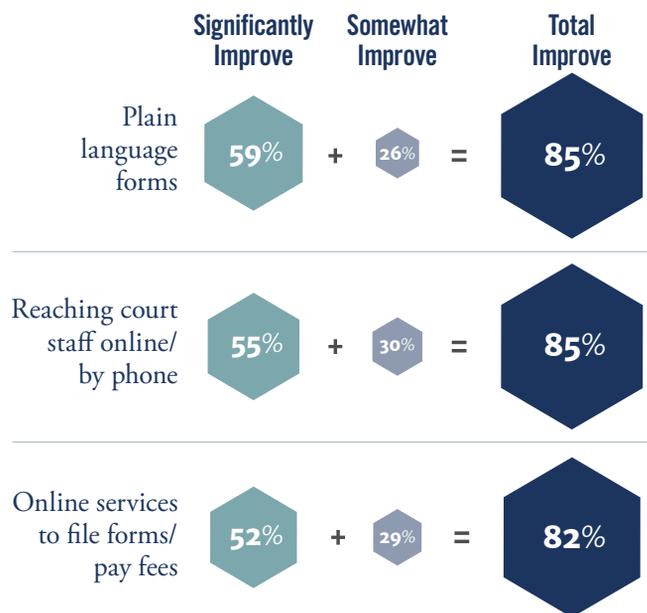
Courts are perceived as hardworking, impartial and working in the interests of the people they represent.<sup>5</sup> Challenges remain with respect to perceptions of political bias, racial bias, inefficiencies, and lack of innovation. The justice system is seen as too complicated to allow for self-representation. In the 2017 NCSC opinion survey, the public identified specific customer service concerns including: help with forms or procedures, rude or intimidating staff, navigating the courthouse, too much time spent at the courthouse, and an inability to conduct business online.

Respondents also offered what they thought were simple solutions such as: having plain-language forms, being able to reach court staff online or by phone, and having online services to file forms, pay fees and conduct other court business.<sup>6,7</sup>

The *Roadmap to Justice Campaign 2020-2021* builds on work done in the last campaign. Two ventures focused on improving judicial services to children and families. First, the Family Justice Institute (FJI) Project evaluated and improved the way state courts handle domestic relations cases.

## Finding: Customer service concerns tell courts where to focus resources and should be relatively easy for courts to remedy.

*Question:* “Tell me whether you think each idea would significantly improve the customer service experience in [STATE] courts, somewhat improve it, or make no difference.”



Source: *State of State Courts 2017 public opinion survey*

The Institute for the Advancement of the American Legal System (IAALS) and the National Council of Juvenile and Family Court Judges (NCJFCJ) supported this work alongside NCSC. The FJI Project is modeled on that of the CCJ Civil Justice Improvements Project that resulted in recommendations for civil justice reform.<sup>8</sup> The first phase of the FJI Project entailed an assessment of the current landscape and of best practices in domestic relations cases. During the second phase of the project, the FJI Advisory Committee developed bold recommendations for family justice reform, which are contained in the *Family Justice Initiative: Principles for Family Justice Reform* and the supplemental *A Model Process for Family Justice Initiative Pathways*. The third and final step will be to implement the principles in four pilot courts across the country.

Second, NCSC launched the Reimagining Dependency Courts (RDC) project in 2016 in partnership with the Casey Family Programs Foundation. The goal of the initiative was to partner with state court systems to safely reduce the number of children in foster care, with a focus on improving timely permanency. Four states have been selected to begin the work: Alabama, Florida, Illinois, and Oregon. The work is based upon the recently developed RDC Principles and Strategies, which focus on strengthening the leadership and governance of dependency courts, improving case management of dependency cases, transforming dependency courts to truly family-focused courts, and maximizing all available resources. 2019 marked the ten-year anniversary of the first “Summit on Children and Families.” This watershed event sparked much innovation and reform in this area. The Casey Family Foundation sponsored a follow-up summit September 24 to September 25, 2019 in Minneapolis.

In 2017, NCSC undertook the first comprehensive case flow management research project in decades. The Effective Criminal Case Management project, funded by the Arnold Foundation, was designed to undertake research to identify the most effective

practices in criminal case management, adjudication and sentencing. Data have been collected from over 90 courts in 21 states. Case level data have been assembled for over 1 million misdemeanor cases and 350,000 felony cases. Eight courts have been identified for in-depth review of criminal case management practices. Ultimately, the final report will identify the most effective practices.

## Objectives

- Develop and implement innovative practices in the Children and Family area.
- Create rapid response tools to address guardianship and conservatorship abuses.
- Identify the most effective practices in criminal case management and sentencing and assist courts in adapting those practices to their environment.
- Provide education, resources, and implementation assistance on legal and evidence-based juvenile justice practices.

## 2. Increase trust and confidence in the Rule of Law by advancing responsive, coherent and collaborative judicial initiatives.

“Courts should continue to take steps to build trust with all constituents they serve. Building community resilience and unity should be a fundamental objective.”

—*Russell Deyo, Member, NCSC Board of Directors*

The NCSC’s *State of the State Courts 2014-2018* Retrospective reveals that the percentage of voters who expressed confidence in the courts increased 8% from 2014 to 2018 (68% to 76%) and 15% since 1977 (61% to 76%).<sup>8</sup> In addition, NCSC public opinion surveys conducted since 2015 consistently show that the public believes courts play a critical role in protecting individual rights. However, surveys also continue to show that courts face significant challenges in the world of public opinion, including perceptions that judges are politically influenced, and that there are two systems of justice—one for those who are wealthy and powerful, and one for everyone else.

Two ongoing national efforts are mentioned here to drive this initiative. First, the Community Engagement Project was launched in 2015 to address trust and confidence among minority and economically disadvantaged communities. In collaboration with CCJ and the National Consortium on Racial and Ethnic Fairness in the Courts, NCSC inaugurated a program titled *Engaging with Minority and Economically Disadvantaged Communities to Enhance Public Trust and Confidence in the Nation’s State Courts*. This project seeks to bridge the gap between minority communities and court leadership through collaborative efforts to reach out to disadvantaged communities. Unlike previous outreach efforts,

which largely focused on educational outreach geared toward judges and attorneys, this engagement approach involves a dialogue to generate strategies and programs that the affected communities and their leaders recognize as needed and helpful.

The second effort comprises three projects addressing the opioid crisis. In August 2017, CCJ and COSCA established the National Judicial Opioid Task Force (NJOTF) to develop a coordinated national response by the state courts to the opioid crisis. More than twenty deliverables have been produced, and the Opioids and Courts website and Resource Center were also released.<sup>9</sup> Best practice and policy recommendations were developed by the Task Force and have been adopted by CCJ and COSCA. The work of the NJOTF has seeded and informed the work of two Regional Opioid Initiatives, one involving states from the Midwest and mid-Atlantic regions and the other the New England states. These groups, led by the chief justices in participating states, have developed action plans and strategies to combat the growing opioid epidemic from the judicial perspective. These ongoing efforts continue to be a key part of the *Campaign 2020-21*.

The prevalence of mental illness and co-occurring disorders has greatly impacted the community and the justice system. Courts need resources, education and training, data, research, best practices and other

tools to devise solutions to the growing number of ways state courts are touched by cases involving individuals with mental and behavioral disorders. In 2017, COSCA adopted a policy paper on the issue, *Decriminalization of Mental Illness: Fixing a Broken System*. In 2019, the State Justice Institute (SJI) awarded a grant to fund the National Initiative to Improve Court and Community Response to those with Mental Illness. The project has published the *Leading Change Guide* and companion Coordinated Resources website.<sup>10</sup> Five regional summits on “Improving the Court and Community Response to those with Mental Illness” will be held over the three-year life of the grant.

Disinformation attacks have become a major issue for state courts. According the Center for Strategic and International Studies, Russia has been focusing a long-term effort to undermine the U.S. justice system.<sup>11</sup> As part of well-orchestrated cyber-attacks, foreign operatives feed on existing divisions within populations in the U.S to increase mistrust and paranoia against democratic institutions, particularly the justice systems. The process portrays justice systems as corrupt, inept and hypocritical. Foreign nationals use internet propaganda channels to effectuate disinformation campaigns. This is a 21<sup>st</sup> century threat to the public trust and confidence in our courts and is addressed in this campaign.

## Objectives

- Improve court services to disadvantaged and marginalized communities.
- Develop system-wide approaches to improve the way opioid cases are handled in the courts.
- Develop strategies, tools and other solutions to improve the way state courts deal with cases involving individuals with mental and behavioral health disorders.
- Advance evidence-based pretrial and sentencing initiatives.
- Provide strategies to counter disinformation campaigns aimed to undermine judicial institutions through cyber-attacks.

### 3. Expand access to court services while assuring procedural fairness.

“Courts can serve as a unifying force to guard the balance of rights and responsibilities among all competing forces and continue to serve as a tool for those socially and economically disenfranchised.”

—*Judge Jennifer Bailey, Member, NCSC Board of Directors*

Procedural fairness is a hallmark of the court system. Courts play a critical role as guardians of individual rights.<sup>12</sup> Job-performance ratings of court staff are the strongest they have been since 2014 when NCSC’s annual polling began—but equal numbers of voters give positive and negative ratings, meaning there is considerable room for improvement. The public continues to see court processes as expensive and complicated, not customer-service oriented, and lagging in technology.

Research by Rebecca Sandefur, a nationally recognized academic on how legal services are delivered and consumed, found that roughly half of the low-income people seeking civil legal aid or pro bono help cannot get it.<sup>13</sup> States are seeing a steady increase in the numbers of civil and family cases involving self-represented parties, especially in consumer debt, housing and family law cases. It is now estimated that in 80% of certain case types, a self-represented litigant is involved on at least one side of the case. But, looking at the broader legal needs of our society, Sandefur estimates that approximately 100 million people per year have unmet civil legal needs, yet less than 14% of them get any legal help or come to court. This leaves more than 80 million people each year with legal needs that need to be addressed outside the court system. The challenge facing courts is closing this gap between the unmet legal needs of the public and accessible and available court services.

Well aware of this ongoing challenge, in 2015 CCJ and COSCA adopted a resolution supporting 100% access to justice (A2J).<sup>14</sup> Providing 100% access cannot mean providing full-representation lawyers to everyone. Providing 100% access to justice requires the most cost-effective and appropriate legal assistance to everyone who needs and wants it. This is a moving target, since some people do not realize they have a legal problem and others do not want to solve their problems using legal means. Many also have underlying non-legal problems that require more fundamental assistance.



**Richard Susskind delivered the keynote address at the 2019 Court Technology Conference with remarks focused on “Online Courts and the Future of Justice.”**

## Finding: The public views ODR as efficient and cost effective, while the courthouse itself remains iconic for access and fairness.

**Question:** “Which process (ODR or courthouse) best fits each of the following descriptions?”



Source: State of State Courts 2018 public opinion survey

NCSC is leading a coordinated effort both internally and externally to improve state court responses to expand access to justice, especially within civil courts. The work encourages application of research, technical assistance, and education to develop model programs and collaborative efforts that promote access to justice. Guiding principles for this work include process-simplification, plain language, procedural fairness, equal access, transparency, and continuous improvement. Regulatory reform efforts are being piloted in several states to expand

the availability of limited legal services. Technology solutions are also being investigated, including the viability of online litigant portals to make it easier for users to access timely, relevant and accurate guidance. Online Dispute Resolution (ODR) programs offer additional assistance. ODR pilot projects are beginning to show that legal disputes can be resolved at significantly lower cost than traditional court proceedings through the use of ODR. Nevertheless, it is critical that process-simplification, including the incorporation of plain language into processes and forms, be done before implementation of ODR. Given the scope of the A2J effort and available resources, the first step is to develop a strategy that coordinates and leverages the resources within NCSC, courts, the legal community, and the private sector.

### Objectives

- Develop access to justice strategies that coordinate and leverage resources within NCSC, state courts, the legal community and the private sector.
- Identify and evaluate limited scope legal representation models (also referred to as unbundled or discrete-task legal services).
- Encourage the development, evaluation, and implementation of technology solutions that close the access gap.
- Develop resources and services to help courts simplify their court processes.
- Provide new resources on implicit bias and procedural fairness.



## 4. Continue to provide judicial leaders with additional leadership and governance skills.

“Lessons gleaned from understanding the mechanisms for governing loosely coupled organizations can be combined with other innovative ideas about how courts should be governed.”

—*Mary Campbell McQueen, President, National Center for State Courts*

The *Access and Fairness Campaign 2017-2019* laid out an initiative to provide judicial leaders with additional governance skills. *Campaign 2020-21* continues this initiative and its accompanying objectives. Many courts need improved leadership and governance skills to meet the internal and external challenges they face. Courts are similar to universities and medical centers, where highly educated individuals make independent judgments in specific cases. Leaders in such organizations lack the authority to compel a change in direction or practice — they must rely on leadership skills and techniques. Balancing the self-interests of independent decision-makers with the institutional interest of the judiciary is necessary.

Following the publication of several monographs on judicial leadership crafted during the “Harvard Executive Session for State Court Leaders in the 21st Century 2008-2011,”<sup>15</sup> NCSC worked with leaders in this field to construct a curriculum that covers the essential elements of judicial leadership. This curriculum was developed with Dean Jeswald Salacuse from Tufts University, Fletcher School of Law and Diplomacy, using the “Leader’s Seven Daily Tasks.”<sup>16</sup> Other esteemed professors played a key role in building the curriculum, including Professors Eileen Babbitt and Alnoor Ebrahim, also from the Tufts Fletcher School; Professor Daniel Shapiro from Harvard University; and Professor Nicholas Washienko from Boston University. The

inaugural “Judicial Branch Leadership Academy,” hosted by the Massachusetts Judicial Supreme Court and NCSC, was held in Boston from October 7th to October 9th, 2019. Forty people attended, including chief justices, presiding judges, trial judges, state court administrators, and trial court administrators. The Academy provided necessary training to judges who do not necessarily receive the essential training to be effective managers or leaders. NCSC plans to replicate the Judicial Leadership Academy. Products and services will continue to be developed to strengthen the leadership component of state courts.

### Objectives

- Provide additional opportunities for judicial leaders to attend future sessions of the Leadership Academy.
- Adapt the Leadership Academy curriculum into a training program that can be shared by state court leadership judges and court administrators throughout the country.
- Find opportunities to highlight the specific skills Academy participants found most useful.

## 5. *Just Horizons: Charting the Future of the Courts*

“Continued justice system relevancy requires adaptive competencies to serve our more culturally and generationally diverse communities.”

—*Russell R. Brown III, Member, NCSC Board of Directors*

2021 will mark the 50th anniversary of the National Center for State Courts. The occasion provides a pivotal opportunity to review the major accomplishments of NCSC and re-set the vision for future efforts to lead state courts well into the 21st century. Soon after the founding of NCSC, a national agenda formed around a few issues: funding for state courts, selection of judges, and trial court consolidation. Thirty-three states have moved to state funding over this time, and in the first few decades many states moved to merit selection of judges. Few states were able to consolidate the various levels of trial courts. In more recent years, there has been little movement on these issues. At NCSC, major organizational changes included the merging of the Institute for Court Management (ICM) into NCSC in 1980, and more recently, the addition of the Center for Judicial Ethics in 2014. Effective case management with attendant time standards became a national mantra for the court community, and NCSC became the repository for court statistics in the country with the creation of the Court Statistics Project.

While it would not be possible to list all the Center’s accomplishments over the last five decades a few highlights include the development of tools like *Trial Court Performance Standards*, followed by *CourTools*, the *High-Performance Court Framework*, and the *Principles for Court Administration*. Influential projects in the last few years include: the Harvard Executive Session for State Court Leaders, the CCJ/COSCA Task Force on Fines, Fees and Bail

Practices, the CCJ/COSCA Opioid initiatives, the Community Engagement Initiative, the Civil Justice and Family Justice initiatives, and the ongoing survey work of the *State of the State Courts*. Finally, pioneering enterprises such as hack-a-thons and viz-a-thons have been held to harness the creative talents of technology experts.

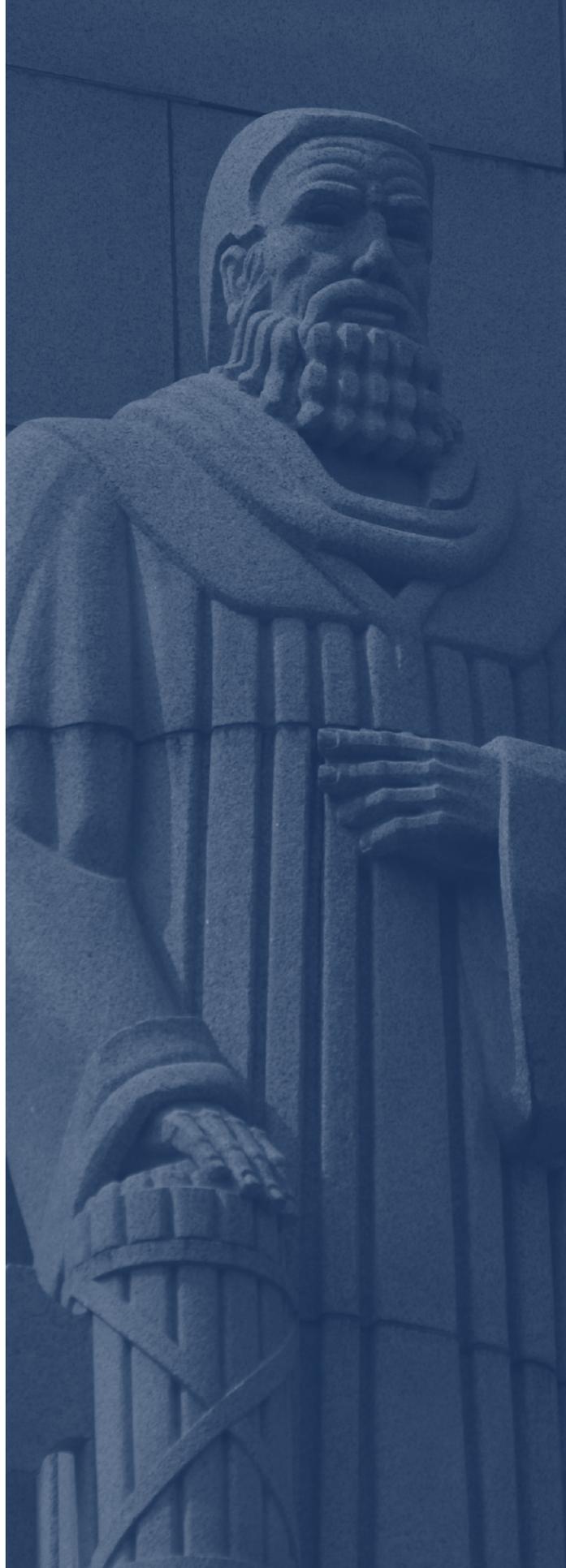
The future will bring many challenges. Facebook, Twitter, YouTube, and the iPhone didn’t exist before 2004. Today 81% of Americans own a smartphone, and 68% get at least some of their news from social media. Simultaneous rapid changes in population growth and composition, wealth distribution, faith in financial and political institutions, the environment and technology prompt the question of what will be the norm in another 15 years. And for courts, what will this new normal mean, not only for their work, but for their very identity? Will the courthouse of the future be available in the palm of our hand and settlements paid in bitcoin? More importantly, with the advent of for-profit, market-driven, technology-based business models to handle various legal issues, will courts remain essential as the public’s impartial arbiter of disputes according to law and established legal rules? What will be the status of the Rule of Law and American state courts in 2035?

As part of its 50th anniversary, NCSC is launching *Just Horizons: Charting the Future of the Courts* to explore the implications of these technological and societal changes and prepare courts and the NCSC

for what lies ahead. The purpose of the initiative is to anticipate the opportunities and challenges state courts and the NCSC will face through 2035 and take actions to address them now. The *2020-21 Road Map to Justice Campaign* provides a bridge to this major initiative.

## Objectives

- Generate a shared understanding among stakeholders of how the operational conditions for the judicial system are changing given societal, political, technological, and other trends.
- Explore current beliefs and assumptions about the role of the judicial system, what is sacred to the rule of law, and what can be altered to pave the way for change.
- Develop evaluative criteria for understanding the potential impact on the rule of law of new practices and approaches.
- Promote an anticipatory courts community.
- Identify strategies the NCSC and various stakeholders can undertake to prepare for and shape the future of state courts.



# Notes

1. NCSC, *The State of State Courts Public Opinion Poll 2018*.
2. NCSC, *The State of State Courts 2014–2018, 5-Year Retrospective*, <https://nationalcenterforstatecourts.app.box.com/s/39itazdcq05y8q27yjr5gaq6nx4ar3mm>
3. See [ncsc.org/finesfees](https://ncsc.org/finesfees)
4. See [ncsc.org/opioids](https://ncsc.org/opioids)
5. NCSC, *State of the State Courts 2018—Survey Analysis*, December 3, 2018. GBA Strategies
6. See *State of the State Courts 2017—Survey Analysis*, November 15, 2017
7. See NCSC’s *Call to Action: Achieving Civil Justice for All* at [ncsc.org/civil](https://ncsc.org/civil)
8. NCSC, *State of the State Courts 2014–2018, 5-Year Retrospective*
9. See [ncsc.org/opioids](https://ncsc.org/opioids)
10. See [ncsc.org/mentalhealth](https://ncsc.org/mentalhealth)
11. Spaulding, Nair, and Nelson, *Beyond the Ballot: How the Kremlin Works to Undermine the U.S. Justices System*, Center for Strategic & International Studies, May 2019
12. NCSC, *The State of the State Courts 2014–2018, 5-Year Retrospective*
13. Rebecca Sandefur, “Civil Legal Needs and Public Legal Understanding”, American Bar Foundation and the University of Illinois at Urbana-Champaign, [http://www.americanbarfoundation.org/uploads/cms/documents/sandefur\\_-\\_civil\\_legal\\_needs\\_and\\_public\\_legal\\_understanding\\_handout.pdf](http://www.americanbarfoundation.org/uploads/cms/documents/sandefur_-_civil_legal_needs_and_public_legal_understanding_handout.pdf)
14. CCJ and COSCA, *Resolution 5, Reaffirming the Commitment to Meaningful Access to Justice for All*, 2015
15. See [ncsc.org/HES](https://ncsc.org/HES)
16. Jeswald W. Salacuse, *Leading Leaders: How to Manage Smart, Talented, Rich, and Powerful People*, AMACOM, 2006

The cover image blends photos of courthouse steps, traditional court imagery, and the keys of a laptop. The steps represent access to justice. The laptop nods to the role that technology can play in promoting the rule of law and improving the administration of justice in courts here at home and around the world.



To promote the rule of law and to  
improve the administration of justice  
in the state courts and courts  
around the world.

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