

# Data Framework for Promoting Civil Access to Justice

Andrea L. Miller, PhD, JD  
Lindsey Wylie, PhD, JD  
Erica Boyce, PhD

National Center for State Courts

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Acknowledgments..... 2

Executive Summary ..... 3

Introduction..... 4

Section 1: What are the key characteristics of litigants in civil cases?..... 10

Section 2: How many litigants make use of court navigation and self-help services? Is access to these services equitable? ..... 16

Section 3: How long does it take to process cases? Is case processing equitable?..... 18

Section 4: Are case outcomes equitable?..... 22

Section 5: How much time and money do the courts spend helping litigants who are experiencing barriers to access? ..... 24

Appendix: List of All Data Elements..... 25

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## Executive Summary

The civil access-to-justice gap in the American legal system has reached a crisis point. Self-represented litigants (SRLs) can struggle to navigate court systems due to their inexperience with legal processes and may end up experiencing worse case outcomes as a result. If some demographic groups (e.g., race and ethnicity, income, immigrant status) disproportionately appear in court as SRLs, the access-to-justice gap also raises concerns about equity and disparate impacts.

Data are a critical tool in the courts' efforts to promote access to justice in civil cases. Data can be used to support evidence-based decision-making in a variety of ways: to describe the state of court programs and outcomes and to identify potential issues for intervention, to establish baselines and monitor for changes over time, to examine the effectiveness of new policies or programs, and to examine whether there are disparities in case processing or case outcomes across groups. Data can also be used to tell the story of the courts and to communicate with the public in ways that promote trust and confidence in the court system. Finally, data can be helpful for gaining financial and political support for needed initiatives.

The companion piece to this report, entitled *Data to Promote Civil Access to Justice: 5 Key Questions*, lays out the fundamental access-to-justice questions that courts can answer by collecting the right data.

This report describes the data elements needed to answer each key question in the areas of landlord-tenant, mortgage foreclosure, small claims, debt collection, divorce, child custody, and guardianship/conservatorship cases. This report also provides more detailed guidance on data governance, measurement, and analysis. In this report, we define access to justice broadly to include:

- equitable access to legal assistance in the form of representation, court self-help services, and assistance navigating legal procedures;
- equitable case processing and court experiences, regardless of representation status and demographic characteristics;
- and equitable case outcomes, regardless of representation status and demographic characteristics.

## Introduction

### The civil access-to-justice gap

The civil access-to-justice gap in the American legal system has reached a crisis point. In 2017, for example, 86% of people with civil legal issues received inadequate or no legal help with their cases.<sup>1</sup> Many of those who do not seek legal assistance either have concerns about the cost of legal help or are uncertain about where to receive help with their cases.

This justice gap has resulted in a rapidly growing number of self-represented litigants (SRLs), or what some prefer to call *unrepresented* litigants, in civil courts. SRLs can struggle to navigate court systems due to their inexperience with legal processes and may end up experiencing worse case outcomes as a result. If some demographic groups (e.g., race and ethnicity, income, immigrant status) disproportionately appear in court as SRLs, the access-to-justice gap also raises concerns about equity and disparate impacts. Finally, as court personnel spend significant amounts of time guiding SRLs through court processes and procedures, the access-to-justice gap also has the potential to strain court resources.

State courts across the U.S. have become more expansive and creative in their efforts to reduce the access-to-justice gap. The Justice For All initiative, in particular, has moved the field forward by re-imagining what it means to provide full and meaningful access to justice.<sup>2</sup> Although specific strategies vary across jurisdictions and courts, what the most powerful and impactful strategies have in common is that they are informed by high-quality data.

The companion piece to this report, entitled *Data to Promote Civil Access to Justice: 5 Key Questions*, lays out the fundamental access-to-justice questions that courts can answer by collecting the right data. This report describes the data elements needed to answer each key question in the areas of landlord-tenant, mortgage foreclosure, small claims, debt collection, divorce, child custody, and guardianship/conservatorship cases. This report also provides more detailed guidance on data governance, measurement, and analysis. In this report, we define access to justice broadly to include:

- equitable access to legal assistance in the form of representation, court self-help services, and assistance navigating legal procedures;
- equitable case processing and court experiences, regardless of representation status and demographic characteristics;
- and equitable case outcomes, regardless of representation status and demographic characteristics.

### Case types most affected by the civil access-to-justice gap

The case types that were identified for this report—landlord-tenant, mortgage foreclosure, small claims, debt collection, divorce, child custody, and guardianship/conservatorship cases—

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<sup>1</sup> LEGAL SERVICES CORP., THE JUSTICE GAP: MEASURING THE UNMET CIVIL LEGAL NEEDS OF LOW-INCOME AMERICANS (2017), <https://www.lsc.gov/sites/default/files/images/TheJusticeGap-FullReport.pdf>.

<sup>2</sup> For more information about the initiative, see Justice For All, <https://www.ncsc.org/jfa>.

were selected because of the current impact of the access-to-justice gap in these areas of the law. This section describes the particular role of access to justice in each case type.

#### Landlord-tenant cases

Landlord-tenant cases often flow through high-volume dockets, in which the courts have very limited time and resources to devote to each case. Although the stakes of these cases are extremely high—tenants in these cases can lose their homes—litigants often lack the knowledge and resources they need to effectively navigate court processes and procedures. The access-to-justice gap in many jurisdictions also creates a troubling power dynamic in which the vast majority of landlords are represented by an attorney and the vast majority of tenants are unrepresented.

#### Mortgage foreclosure cases

In mortgage foreclosure cases, banks and other mortgage lenders seek possession of a property as collateral for unpaid home loans from homeowners. Although the stakes in these cases are extremely high—homeowners can lose their homes and can be required to pay additional funds—defendants often lack the knowledge and resources they need to navigate court processes and procedures. Plaintiffs, on the other hand, are typically large corporations that have access to attorneys and familiarity with mortgage foreclosure case processes and procedures. While most states handle mortgage foreclosures outside of the courts (i.e., nonjudicial foreclosure), many states handle mortgage foreclosures through the courts (i.e., judicial foreclosures). This report is relevant in states that use judicial foreclosure.

#### Small claims cases

Cases filed in small claims courts can involve issues of access-to-justice, especially when there are differential power dynamic between litigants (i.e., one litigant is a business with resources and the other is an individual without resources). These cases often flow through high-volume dockets, in which the courts have limited time and resources to devote to each case. The intent of small claims court is to handle claims with smaller dollar amounts, using less formal procedures. Unlike in the other case types discussed in this report, litigant self-representation is sometimes encouraged or even mandated.

#### Consumer debt cases

Consumer debt collection cases have increased significantly in recent decades and have increased issues of access-to-justice, especially with the rise of debt collection companies. These types of cases often include a business collecting debt, or a debt collection company that buys delinquent debts from the original creditor to collect on the debt. The access-to-justice gap, therefore, creates a troubling power dynamic in which most of the creditors are represented by an attorney and most of the consumers are unrepresented. Furthermore, many jurisdictions lack stringent service-of-process rules in these cases, leading to questions about whether many defendants are receiving adequate notification.

### Divorce/dissolution of marriage cases

Access to justice is a significant issue in divorce and dissolution cases; in many jurisdictions, more than 80-90% of family cases consist of at least one self-represented litigant.<sup>3</sup> Parties without access to attorneys often lack a basic understanding of court processes and procedures, as well as how final decisions are made. Furthermore, self-represented litigants are more likely to fail to seek resources that they're entitled to, such as spousal pensions or marital houses.

### Child custody cases

The access-to-justice gap is prominent in child custody cases. Although the stakes of these cases are very high, litigants often lack the knowledge and resources they need to effectively advocate for their parental rights and the best interests of their children. This dynamic is particularly problematic in cases in which one litigant is represented and one is not.

### Guardianship/conservatorship cases

Access to justice is crucial in guardianship and conservatorship matters, where the loss of individual rights are at stake. Several studies have attempted to collect state-level data to inform a national picture of the volume and type of these cases in the United States, and all have pointed to the lack of consistent court data in these cases as a major problem. NCSC's recent report outlining data elements for guardianship and conservatorship cases<sup>4</sup> is an excellent resource for courts who are looking to strengthen their data governance in these cases. We recommend that courts adopt the data elements in that report in order to improve experiences and outcomes in guardianship and conservatorship cases. In addition, the data elements laid out in this section will help the courts to address the specific issue of *equal access to justice* in guardianship and conservatorship cases.

### How the courts can use data to address the civil access-to-justice gap

Data are a critical tool in the courts' efforts to promote access to justice in civil cases. Data can be used to support evidence-based decision-making in a variety of ways: to describe the state of court programs and outcomes and to identify potential issues for intervention, to establish baselines and monitor for changes over time, to examine the effectiveness of new policies or programs, and to examine whether there are disparities in case processing or case outcomes across groups. Data can also be used to tell the story of the courts and to communicate with the public in ways that promote trust and confidence in the court system. Finally, data can be helpful for gaining financial and political support for needed initiatives.

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<sup>3</sup>Judicial Council of California, Task Force on Self-Represented Litigants, Implementation Task Force: Final Report 2-3 (October 2014), [http://www.courts.ca.gov/partners/documents/EA-SRLTaskForce\\_FinalReport.pdf](http://www.courts.ca.gov/partners/documents/EA-SRLTaskForce_FinalReport.pdf).

<sup>4</sup>Robinson, D., Holt, K., & Boyko, C. (October 2020), Guardianship/Conservatorship Monitoring: Recommended Data Elements, [https://www.eldersandcourts.org/\\_data/assets/pdf\\_file/0029/54758/GuardianshipConservatorship-Monitoring-Recommended-Data-Elements.pdf](https://www.eldersandcourts.org/_data/assets/pdf_file/0029/54758/GuardianshipConservatorship-Monitoring-Recommended-Data-Elements.pdf).

## Data governance

As courts begin the process of examining their data collection practices to promote access to justice, it is important to consider that the courts are just one player in a broader system that influences which groups of people lack meaningful access to justice in the state courts. Other players and stakeholders in this system include legal aid organizations, bar associations, pro bono coordinators, social services agencies, case workers, eviction diversion and debt relief providers, and more. In order to effectively address the access-to-justice gap, courts would benefit from not only improving their own data collection practices, but also establishing collaborative data-sharing relationships with other justice partners. All of the data elements laid out in this framework can be collected by courts in their case management systems, but courts that face difficulties collecting any of the data described here are encouraged to work with external partners to gather and share additional litigant and case data as needed.

This framework should also be used in the context of broader best practices for data governance. Data governance is the framework by which courts reach and communicate organizational decisions around data, ensure that business activities and data management are synchronized, and develop and document long- and short-term strategies around the collection, use, storage, and disposal of data. Courts should refer to existing guides, such as the *Data Governance Policy Guide*<sup>5</sup> and the *State Court Guide to Statistical Reporting*,<sup>6</sup> for further information.

## What questions can the courts answer with data?

Collecting the right data allows the courts to answer 5 key questions about access to justice within their jurisdictions:

### 1. What are the key characteristics of litigants in civil cases?

Using data, the court can determine the important demographic characteristics of litigants in their jurisdiction. Critical demographic characteristics include important identities, such as race and ethnicity, gender, and socioeconomic status. They also include information about litigants' barriers to access, such as representation status, disability and accommodation needs, and English proficiency. This information is critical for delivering accessible and culturally responsive court services.

### 2. How many litigants make use of court navigation and self-help services? Is access to these services equitable?

Using these data elements, the court can determine how many litigants are using available access-to-justice services, such as court forms, court navigators, help desks, and more. This information helps the courts identify service capacity and budgetary needs. The court can also

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<sup>5</sup> Robinson, D. & Gibson, S. (2019), *Data Governance Policy Guide* (version 1.0), [https://www.courtstatistics.org/\\_data/assets/pdf\\_file/0031/23899/data-governance-final.pdf](https://www.courtstatistics.org/_data/assets/pdf_file/0031/23899/data-governance-final.pdf).

<sup>6</sup> Waters, N., Boyd, A., Genthon, K., Gibson, S., Robinson, D., & Allred, A. (August 25, 2020), *State Court Guide to Statistical Reporting* (version 2.1.1), [https://www.courtstatistics.org/\\_data/assets/pdf\\_file/0026/23984/state-court-guide-to-statistical-reporting.pdf](https://www.courtstatistics.org/_data/assets/pdf_file/0026/23984/state-court-guide-to-statistical-reporting.pdf).

examine whether there are disparities or disproportionality in access to these services based on demographic characteristics. This information is critical for ensuring that services are equitable and culturally appropriate.

### 3. How long does it take to process cases? Is case processing equitable?

Using core data about case processing, the court can determine how long it takes litigants to reach disposition in their cases. The court can also examine whether there are disparities or disproportionality in case processing based on demographic characteristics. This information is crucial for evaluating case processing efficiency and identifying specific points in the case processing timeline where litigants are being unequally burdened by the process.

### 4. Are case outcomes equitable?

Using these data elements, the court can determine whether there are disparities or disproportionality in case outcomes based on representation status and demographic characteristics. This information is crucial for promoting equity, as well as public trust and confidence in the courts.

### 5. How much time and money do the courts spend helping litigants who are experiencing barriers to access?

Using these data elements, the court can determine how much staff time and other resources are being spent helping self-represented litigants who might otherwise receive more tailored and more timely help from other sources (or who might not need help if court processes were simplified enough for SRLs to navigate). This information is crucial for identifying priorities for reform and examining program capacity and budgetary needs. It can also help the court gain political and financial support for important access-to-justice initiatives.

## Overview of the framework

This report lays out a framework for collecting and analyzing data to answer the 5 key questions described above. Sections 1 through 5 are each devoted to one of the key questions. In many cases, the data elements cut across case types. In some cases, however, data elements vary by case type, and this is noted in each section. Finally, the Appendix contains a list of all data elements described in the report.

## Relationship between access-to-justice indicators and NODS

Wherever possible, the data elements described below correspond to data elements from the National Open Court Data Standards (NODS)<sup>7</sup> and CourTools.<sup>8</sup> NODS is a set of data standards that facilitate the creation and sharing of court data, increase transparency, provide for consistency in data interpretation, allow for meaningful comparisons across data sets, and reduce the cost of producing or extracting individual data sets. The compatibility between the data elements in this report and NODS ensures that courts that have implemented NODS can

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<sup>7</sup> <https://www.ncsc.org/services-and-experts/areas-of-expertise/court-statistics/national-open-court-data-standards-nods>

<sup>8</sup> <https://www.courttools.org/>



capitalize on the data collection they are already engaged in as they work to promote access to justice.

#### Court user's perceptions of access and fairness

Finally, in addition to the indicators laid out in this report, courts can gain significant insight into how to promote access to justice by surveying their court users directly. CourTools Measure 1<sup>9</sup> is a brief survey that measures court users' perceptions of access and fairness, along with court user characteristics like representation status and demographics. We are not including the access and fairness survey in this report, because it is typically collected anonymously, and participants responses are therefore not stored alongside other information about their cases in the case management system. However, we strongly encourage courts to use the survey at regular intervals to examine whether access and fairness differ across in-person and remote court experiences, across different courts and case types, and for court users from different demographic groups.

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<sup>9</sup> <https://www.courtools.org/trial-court-performance-measures>

## Section 1: What are the key characteristics of litigants in civil cases?

This section describes data elements that capture key characteristics about litigants in landlord-tenant, mortgage foreclosure, small claims, debt collection, divorce, child custody, and guardianship/conservatorship cases. These data elements help the court understand the demographic and cultural characteristics of the court users in their system, such as race and ethnicity, gender, and socioeconomic status. They also identify litigants' barriers to access, such as representation status, disability and accommodation needs, and English proficiency. This information is critical for delivering accessible and culturally responsive court services.

### Litigant role

Courts should collect information in the CMS that indicates the role of *each* litigant in the case (i.e., plaintiff/petitioner or defendant/respondent). Depending on the case type, litigant role may need to be measured on either a per-case basis or a per-claim basis. Identifying litigant role in the CMS allows the courts to determine whether one side of a particular case type (e.g., tenants in eviction cases, borrowers in mortgage foreclosure cases) disproportionately experiences barriers to access.

Data Element Name	Values	Mapping to NODS Data Elements
litigantrole	1 = plaintiff or petitioner 2 = defendant or respondent	Relationship to Action–Civil: 1 = plaintiff/ petitioner on a primary claim, plaintiff/ petitioner in a counterclaim, plaintiff/ petitioner in a cross-claim, plaintiff/ petitioner in a third-party claim 2 = defendant/ respondent on a primary claim, defendant/ respondent in a counterclaim, defendant/ respondent in a cross-claim, defendant/ respondent in a third-party claim

### Litigant demographics

Courts should also collect information in the CMS about the demographic characteristics of *each* litigant in the case. Achieving equitable access to justice in civil courts requires courts to proactively examine court experiences and case outcomes for disparities by race and ethnicity, gender, geography, socioeconomic status, age, disability, and English proficiency. Identifying these litigant characteristics in the CMS allows the courts to determine where there are systemic group disparities in access to justice that need to be addressed.

The relevance of each of these demographic categories may vary from court to court and across different case types. For example, some courts might be located in a place where specific ethnic or immigrant groups face particular barriers to access; it would be important in those courts to be able to identify members of those specific ethnic or immigrant groups in the case

management system. Urban/rural distinctions might be more prevalent in some states than others, which would make the geographic location of the litigants particularly important to measure. Courts should work closely with members of their communities and stakeholders to identify the equity analyses that are most important to conduct. For further guidance on the collection of race and ethnicity data in particular, see NCSC’s guide to Collecting Race and Ethnicity Data.<sup>10</sup>

### Race and ethnicity

Data Element Name	Values	Mapping to NODS Data Elements
ethnicity	0 = Non-Hispanic/Latinx 1 = Hispanic/Latinx	Ethnicity: 0 = Non-Hispanic/Latinx 1 = Hispanic/Latinx
race <i>[allow litigant to select <u>all</u> categories that apply]</i>	1 = Black or African American 2 = American Indian or Alaska Native 3 = Asian 4 = White 5 = Native Hawaiian or other Pacific Islander 6 = Other	Race – self-identified <i>or</i> Race – perceived: 1 = Black or African American 2 = American Indian or Alaska Native 3 = Asian 4 = White 5 = Native Hawaiian or other Pacific Islander 6 = Other

### Gender

Data Element Name	Values	Mapping to NODS Data Elements
gender1	1 = Litigant identified as a woman or female 2 = Litigant identified as a man or male 3 = Litigant identified as non-binary or another gender	Gender: 1 = female 2 = male 3 = non-binary
gender2	0 = Litigant identified as cisgender or did not identify as transgender 1 = Litigant identified as transgender	Transgender: 0 = No 1 = Yes

### Geography

<sup>10</sup> Genthon, K. & Robinson, D. (March 2022), Collecting Race and Ethnicity Data (version 4), National Center for State Courts, Court Statistics Project, [https://www.courtstatistics.org/data/assets/pdf\\_file/0036/69678/Race\\_Ethnicity\\_Data\\_Collection\\_4.pdf](https://www.courtstatistics.org/data/assets/pdf_file/0036/69678/Race_Ethnicity_Data_Collection_4.pdf).

<b>Data Element Name</b>	<b>Values</b>	<b>Mapping to NODS Data Elements</b>
address	The address where the litigant resides [if applicable]	Zip Code

#### Socioeconomic status

<b>Data Element Name</b>	<b>Values</b>	<b>Mapping to NODS Data Elements</b>
income	Litigant's annual household income	
indigentstatus	0 = litigant has not been identified as indigent or does not qualify for a fee waiver 1 = litigant has been identified as indigent or qualifies for a fee waiver	Indigent Status: 0 = No 1 = Yes
homelessstatus	0 = litigant is not homeless according to HUD definition 1 = litigant is homeless according to HUD definition (homeless, imminent risk of homelessness, homeless under other federal statutes, or fleeing/attempting to flee domestic violence)	Homeless Status: 0 = No 1 = Yes

#### Age

<b>Data Element Name</b>	<b>Values</b>	<b>Mapping to NODS Data Elements</b>
dateofbirth	Litigant's date of birth	Date of Birth

#### Disability

<b>Data Element Name</b>	<b>Values</b>	<b>Mapping to NODS Data Elements</b>
disability	0 = Litigant did not request a disability accommodation 1 = Litigant requested a disability accommodation	Special Needs/ADA Flag: 0 = No 1 = Yes

## Limited English proficiency

Data Element Name	Values	Mapping to NODS Data Elements
language1	0 = Litigant did not request an interpreter or other language accommodation 1 = Litigant requested an interpreter or other language accommodation	Interpreter Flag: 0 = No 1 = Yes <i>[if the interpreter was used to assist this particular litigant]</i>
language2	Litigant's primary language, if litigant has Limited English Proficiency	Primary Language

## Litigant demographics that are specific to case type

In addition to the litigation characteristics described above, it is important to capture each litigant's functional role in the case and, where applicable, whether each litigant is an individual person or an organization. In some case types, there are additional characteristics, such as the type of loan in a mortgage foreclosure case, that have implications for access to justice. These data elements allow the court to determine whether there are disparities in representation, case processing, and case outcomes based on litigant role, litigant type, and other key characteristics.

## Functional role

Data Element Name	Case Type	Values
functionalrole	landlord-tenant	1 = landlord 2 = tenant
	mortgage foreclosure and debt collection	1 = lender 2 = borrower
	child custody	1 = parent or person seeking parentage 2 = non-parent relative 3 = non-relative
	guardianship/conservatorship	1 = potential vulnerable person 2 = potential guardian or conservator

Litigant Type (for landlord-tenant, mortgage foreclosure, small claims, and guardianship/conservatorship cases)

<b>Data Element Name</b>	<b>Values</b>
litiganttype	1 = individual 2 = organization

Loan Information (for mortgage foreclosure cases)

<b>Data Element Name</b>	<b>Values</b>
occupancytype	1 = owner-occupied 2 = tenant-occupied 3 = vacant
loantype	1 = conventional 2 = VA/FHA/USDA 3 = fixed rate 4 = adjustable rate 5 = interest-only 6 = jumbo 7 = other

Dispute type (for small claims cases)

<b>Data Element Name</b>	<b>Values</b>
disputetype	1 = debt collection/loans 2 = landlord-tenant 3 = tort/personal injury 4 = contract/warranties 5 = other

Debt information (for debt collection cases)

<b>Data Element Name</b>	<b>Values</b>
creditorstype	1 = bank/credit union 2 = medical provider 3 = utility company 4 = municipality or other government entity 5 = other lender 6 = debt buyer company
debttype	1 = medical 2 = credit card

	3 = student debt 4 = payday loans 5 = auto loans 6 = utilities 7= other
debtamount	Amount of the debt claimed in the initial Complaint or Petition

Relationship of the potential guardian/conservator to the vulnerable person (for guardianship/conservatorship cases)

Data Element Name	Values
relationship	1 = Professional 2 = Public 3 = Attorney 4 = Health Provider 5 = Individual Representative from Health Provider 6 = Other

## Section 2: How many litigants make use of court navigation and self-help services? Is access to these services equitable?

This section describes data elements that capture litigants’ use of various access-to-justice services, such as court forms, court navigators, help desks, and more, in landlord-tenant, mortgage foreclosure, small claims, debt collection, divorce, child custody, and guardianship/conservatorship cases. Using these data elements, the court can determine how many litigants are using these services, which helps the courts identify service capacity and budgetary needs. The court can also examine whether there are disparities or disproportionality in access to these services based on demographic characteristics, which were captured above in Section 1. This information is critical for ensuring that services are equitable and culturally appropriate.

### Representation and assistance with court processes

One dimension of access to justice is the extent to which litigants have equitable access to various forms of legal representation and assistance with court processes. The goal is to ensure that all litigants receive the help they need, regardless of their role in the case (i.e., plaintiff or defendant), and regardless of their demographic characteristics. Accordingly, courts should measure representation status and access to other forms of assistance for *each* litigant in the case.

### Representation status

*Note:* For cases in which the litigant has only limited appearance representation or an advocate for only part of the case, enter the start and end dates of the representation.

Data Element Name	Values	Mapping to NODS Data Elements
representation	1 = SRL 2 = Allied Legal Professional 3 = private attorney 4 = court-appointed attorney or legal aid attorney 5 = other advocate	2 = Attorney Type: Allied Legal Professional 3 = Attorney Type: private attorney, 4 = public defender, legal aid/legal services attorney, protection and advocacy (P&A) attorney, GAL/best-interest attorney, other 5 = Advocate Type: navigator, CASA/non-attorney GAL, court visitor, other
representationstart	Date when representation began	Attorney/Advocate Entry Date
representationend	Date when representation ended	Attorney/Advocate End Date
representationtype	1 = full representation (entire duration of case) 2 = extended representation (assisting with and appearing for multiple	



	<p>case events or proceedings, but not the entire duration of the case)</p> <p>3 = limited appearance for an event/ proceeding (assisting with and appearing for one case event or proceeding)</p> <p>4 = brief advice (consultation and/or work product, but no appearance in court)</p>	
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Assistance with court processes

*Note:* Add or remove items as needed to capture all forms of assistance that are available to litigants in a particular court in a particular court. This information can be collected by asking litigants what assistance they received at key points in the case, by coordinating among staff (e.g., a court staff member enters this information in the CMS when assisting a litigant), or through automatic means (e.g., litigants who use a kiosk provide their case number and this information is updated in the CMS).

<b>Data Element Name</b>	<b>Values</b>
selfhelpcenter	0 = litigant did not use the self-help center 1 = litigant used the self-help center
website	0 = litigant did not get information from the court website or another website 1 = litigant got information from the court website or another website
courtstaff	0 = litigant did not get help with their case from court staff 1 = litigant got help with their case from court staff

## Section 3: How long does it take to process cases? Is case processing equitable?

This section describes data elements that capture how landlord-tenant, mortgage foreclosure, small claims, debt collection, divorce, child custody, and guardianship/conservatorship cases move through the court system. Using these data elements, the court can determine how long it takes litigants to reach disposition in their cases. The court can also examine whether there are disparities or disproportionality in case processing based on demographic characteristics, which were captured above in Section 1. This information is crucial for evaluating case processing efficiency and identifying specific points in the case processing timeline where litigants are being unequally burdened by the process.

### Case processing and court experiences

An important dimension of access to justice is the extent to which litigants have equitable experiences in court. The goal is to ensure that the ways in which litigants are treated, and the ways in which their cases move through the system, do not differ based on their representation status or demographic characteristics. Accordingly, courts should measure event format for each proceeding or event in the case; courts should measure time to disposition, hearings to disposition, and manner of disposition at the level of the case. Because some civil case types typically have high default rates, it is particularly important to track defaults as part of the manner of disposition.

#### Event format

Data Element Name	Values	Mapping to NODS Data Elements
eventdate	Date of hearing or proceeding	Scheduled Event Date
eventformat	1 = in-person proceeding 2 = remote proceeding with video 3 = remote proceeding with audio only 4 = hybrid or combined format	Hearing/Event Modality: 1 = In-person 2 = video-conference 3 = telephonic 4 = combination
eventstatus	1 = held 2 = continued 3 = cancelled 4 = postponed or rescheduled	Hearing/Event Outcome: 1 = Held 2 = Continued 3 = Cancelled 4 = Postponed/Rescheduled

#### Time to disposition

Data Element Name	Values	Mapping to NODS Data Elements
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filingdate	Date of initial case filing	Case Initial Filing Date
dispositiondate	Date of disposition	Case Closed Date

#### Hearings to disposition

Data Element Name	Values	Mapping to NODS Data Elements
continuances	Number of continuances (calculate using <i>eventstatus</i> )	Number of case events in which Hearing/Event Outcome = continued
hearings	Number of hearings held (calculate using <i>eventstatus</i> )	Number of case events in which Hearing/Event Outcome = held

#### Manner of disposition

Data Element Name	Values	Mapping to NODS Data Elements
ADR	0 = case was not referred to alternative dispute resolution 1 = case was referred to alternative dispute resolution	
mannerofdisposition	1 = decided on merits by adjudication 2 = ended in settlement 3 = dismissed for failure to prosecute or withdrawn by plaintiff 4 = default judgment 5 = other	Case Disposition Detail: 1 = jury trial verdict, bench trial judgment, summary judgment, stipulated judgment, administrative judgment (by non-judicial officer) 2 = settled/pled during jury trial period, settled/pled during bench trial period, arbitration award, settled/pled pre-trial 3 = dismissal: stipulated/voluntary/nolle prosequi/withdrawn, dismissal: no service, dismissal: failure to prosecute 4 = default judgment 5 = transfer, removal, consolidation

#### Case processing and court experiences that are specific to case type

In addition to the case processing data elements described above, some case types involve specific case processing issues that are important to capture. For example, it is important to capture whether each case was processed through the traditional pathway or through an alternative, such as an eviction diversion program or a family law Pathways program. These alternative modes of case processing have implications for how cases are expected to move through the system, so it is important to note which cases are being processed in these ways. These data elements also allow the court to determine whether there are disparities in

selection for these programs based on representation status or other demographic characteristics.

Case processing pathway

*Note:* Add or remove items or case types as needed to capture all alternative case processing pathways and civil diversion programs that exist in the jurisdiction.

Data Element Name	Case Type	Values
pathway	landlord-tenant	0 = case was not referred to eviction diversion program 1 = case was referred to eviction diversion program
	child custody	0 = case was not referred to Pathways program 1 = case was referred to Pathways program

Incident date

Data Element Name	Case Type	Values
incidentdate	mortgage foreclosure	Date of last payment on mortgage
	small claims	Date of incident or last payment made (date when the statute of limitations period began)

Mitigation efforts (for mortgage foreclosure cases)

Data Element Name	Values
mitigation	1 = government program 2 = long term special forbearance 3 = mortgage modification 4 = partial claim (HUD) 5 = pre-forbearance sale 6 = deed in lieu of legal foreclosure 7 = other

Service of process (for debt collection cases)

Data Element Name	Values
service	0 = service of process was not verified 1 = personal 2 = publication

	3 = other
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Parenting classes (for child custody cases)

<b>Data Element Name</b>	<b>Values</b>
parentingclassorder	Date parenting classes were ordered for the litigant
parentingclassend	Date parenting classes were completed by the litigant

Surety bond (for guardianship/conservatorship cases)

<b>Data Element Name</b>	<b>Values</b>	<b>Mapping to NODS Data Elements</b>
suretybonddate	Date surety bond was ordered	Bond ordered/set and Date

## Section 4: Are case outcomes equitable?

This section describes data elements that capture the outcomes of landlord-tenant, mortgage foreclosure, small claims, debt collection, divorce, child custody, and guardianship/conservatorship cases. Using these data elements, the court can determine whether there are disparities or disproportionality in case outcomes based on representation status and demographic characteristics, which were captured above in Section 1. This information is crucial for promoting equity, as well as public trust and confidence in the courts.

### Case outcomes that are specific to case type

An important dimension of access to justice is the extent to which litigants have equitable case outcomes, regardless of representation status, demographic characteristics, occupancy type, and loan type. Accordingly, courts should measure the outcomes associated with the disposition in each case, as well as relevant post-disposition outcome information. Each of the outcomes described in this section is tailored to a specific case type.

#### Eviction outcome (for landlord-tenant cases)

Data Element Name	Values
evictionorder	0 = eviction was not ordered 1 = eviction was ordered
moveoutplan	0 = case did not end in favorable moveout timeline for tenant 1 = cases ended in favorable moveout timeline for tenant
paymentplan	0 = case did not end with a payment plan for tenant 1 = case ended with a payment plan for tenant
evictionresult	0 = eviction was cancelled on-site by law enforcement 1 = eviction was carried out

#### Foreclosure outcome (for mortgage foreclosure cases)

Data Element Name	Values
foreclosure	0 = loan was not modified, resulting in foreclosure 1 = loan was modified, resulting in no foreclosure
deficiency	0 = deficiency judgment not ordered 1 = deficiency judgment ordered

#### Monetary claims outcome (for small claims and debt collection cases)

Data Element Name	Values
verdict	0 = verdict for the defendant 1 = verdict for the plaintiff
damages	Amount to be paid in judgment

Divorce outcome (for divorce/ dissolution of marriage cases)

Data Element Name	Values
divorcedecree	0 = divorce decree was not granted 1 = divorce decree was granted
assets	List of assets awarded to each litigant

Custody outcome (for child custody cases)

Data Element Name	Values
legalcustody	0 = litigant was not awarded legal custody 1 = litigant was awarded legal custody
physicalcustody	How much parenting time the litigant was awarded
custodymodification	Date of petition to modify custody (if within 2 years of disposition)

Guardianship/conservatorship outcome (for guardianship-conservatorship outcomes)

Data Element Name	Values
guardiangranted	0 = Petition for guardianship or conservatorship was not granted 1 = Petition for guardianship or conservatorship was granted
guardianlevel	0 = Limited guardianship/conservatorship 1 = Full guardianship/conservatorship
conservatorgranted	0 = Petition for guardianship or conservatorship was not granted 1 = Petition for guardianship or conservatorship was granted
conservatorlevel	0 = Limited guardianship/conservatorship 1 = Full guardianship/conservatorship
bondviolationdate	Date of a filing against the guardian/conservator for violating the terms of the surety bond
bondviolationoutcome	0 = no violation found, guardianship/conservatorship is intact 1 = violation found, guardianship/conservatorship is modified 2 = violation found, guardianship/conservatorship is terminated
terminationdate	Date that the guardianship or conservatorship ended
terminationreason	1 = no longer needed/ restoration of rights 2 = vulnerable person reached age of majority 3 = death of vulnerable person 4 = death of guardian or conservator 5 = transfer of case to another court 6 = order expired 7 = dismissed for a less restrictive alternative 8 = other

## Section 5: How much time and money do the courts spend helping litigants who are experiencing barriers to access?

This section describes data elements that capture the court staff time and resources that are devoted to helping SRLs navigate their cases. Using these data elements, the court can evaluate how much staff time and other resources are being spent helping self-represented litigants who might otherwise receive more tailored and more timely help from other sources (or who might not need help if court processes were simplified enough for SRLs to navigate). This information is crucial for identifying priorities for reform and examining program capacity and budgetary needs. It can also help the court gain political and financial support for important access-to-justice initiatives.

### Court resources

An important dimension of access to justice is the extent to which court resources are strained because of the existence of the access-to-justice gap. As courts implement programs to ensure more equitable access, they should see less staff time devoted to helping litigants navigate court procedures and paperwork and more cases disposed per year.

### Court resources

Data Element Name	Values
stafftime	Running log of total minutes spent by staff helping each litigant in the case (e.g., answering questions, helping navigate court procedures and paperwork)
costpercase	Average cost per case (calculate using <a href="#">CourTools Measure 10</a> )

### Court productivity

Data Element Name	Values
totaldispositions	Number of cases disposed per year (calculate using <i>dispositiondate</i> )



## Appendix: List of All Data Elements

Data Elements	Case Types	Measurement Level
<b>Section 1: What are the key characteristics of litigants in civil cases?</b>		
litigantrole	All	Litigant
ethnicity	All	Litigant
race	All	Litigant
gender1	All	Litigant
gender2	All	Litigant
address	All	Litigant
income	All	Litigant
indigentstatus	All	Litigant
homelessstatus	All	Litigant
dateofbirth	All	Litigant
disability	All	Litigant
language1	All	Litigant
language2	All	Litigant
functionalrole	Landlord-tenant, mortgage foreclosure, debt collection, child custody, guardianship/conservatorship	Litigant
litiganttype	Landlord-tenant, mortgage foreclosure, small claims, guardianship/conservatorship	Litigant
occupancytype	Mortgage foreclosure	Case
loantype	Mortgage foreclosure	Case
disputetype	Small claims	Case
creditor	Debt collection	Litigant
debtttype	Debt collection	Litigant
debtamount	Debt collection	Litigant
relationship	Guardianship/conservatorship	Litigant

<b>Section 2: How many litigants make use of court navigation and self-help services? Is access to these services equitable?</b>		
representation	All	Litigant
representationstart	All	Litigant
representationend	All	Litigant
representationtype	All	Litigant
selfhelpcenter	All	Litigant
website	All	Litigant
courtstaff	All	Litigant
<b>Section 3: How long does it take to process cases? Is case processing equitable?</b>		
eventdate	All	Event
eventformat	All	Event
eventstatus	All	Event
filingdate	All	Case
dispositiondate	All	Case
continuances	All	Calculated from another data element
hearings	All	Calculated from another data element
ADR	All	Case
mannerofdisposition	All	Case
pathway	Landlord-tenant, child custody	Case
incidentdate	Mortgage foreclosure, small claims	Case
mitigation	Mortgage foreclosure	Case
service	Debt collection	Litigant
parentingclassorder	Child custody	Litigant
parentingclassend	Child custody	Litigant
suretybonddate	All	Litigant
<b>Section 4: Are case outcomes equitable?</b>		
evictionorder	Landlord-tenant	Case
moveoutplan	Landlord-tenant	Case
paymentplan	Landlord-tenant	Case
evictionresult	Landlord-tenant	Case

foreclosure	Mortgage foreclosure	Case
deficiency	Mortgage foreclosure	Case
verdict	Small claims, debt collection	Case
damages	Small claims, debt collection	Case
divorcedecree	Divorce/ dissolution of marriage	Case
assets	Divorce/ dissolution of marriage	Litigant
legalcustody	Child custody	Litigant
physicalcustody	Child custody	Litigant
custodymodification	Child custody	Case
guardiangranted	Guardianship/conservatorship	Litigant
guardianlevel	Guardianship/conservatorship	Litigant
conservatorgranted	Guardianship/conservatorship	Litigant
conservatorlevel	Guardianship/conservatorship	Litigant
bondviolationdate	Guardianship/conservatorship	Litigant
bondviolationoutcome	Guardianship/conservatorship	Litigant
terminationdate	Guardianship/conservatorship	Litigant
terminationreason	Guardianship/conservatorship	Litigant
<b>Section 5: How much time and money do the courts spend helping litigants who are experiencing barriers to access?</b>		
stafftime	All	Litigant
costpercase	All	Calculated from another data element
totaldispositions	All	Calculated from another data element