

Access to Justice is DISABILITY ACCESS



Office for Access to Justice
U.S. DEPARTMENT OF JUSTICE

Why Disability Access is an Access to Justice Issue

People with disabilities continue to face attitudinal, legal, communication, physical, and economic barriers across legal systems. A critical component of ensuring access to justice for all is addressing barriers faced by those with disabilities. In his report to the President reestablishing the Office for Access to Justice, Attorney General Garland noted the importance of “enhancing the navigability of the justice system through technology, disability, language, and cultural access.”¹ The Office for Access to Justice, including in its efforts to staff and direct the work of the White House Legal Aid Interagency Roundtable, is tasked with “assist[ing] the United States with implementation of Goal 16 of the United Nations 2030 Agenda for Sustainable Development to promote peaceful and inclusive societies for sustainable development, provide access to justice for all, and build effective, accountable institutions across all levels,” including for people with disabilities. Advancing access to the promises and protections of the American legal system for persons with disabilities is an inextricable part of the mission of the Office for Access to Justice.

How Legal Systems Impact People with Disabilities

Individuals with disabilities are disproportionately impacted by criminal and civil legal systems.

- The rate of violent crime against persons with disabilities is four times the rate for individuals without disabilities.²
- In 2016, nearly 2 in 5 (38%) of individuals incarcerated in state and federal prisons reported having at least one disability.³
- Several of the top ten most burdensome civil legal problems, including employment discrimination, access to healthcare, disputes over disability benefits and poor working conditions, disproportionately affect those with disabilities.⁴
- Households with at least one member with a disability are almost twice as likely to hold medical debt than households without members with disabilities, making them more vulnerable to debt collection lawsuits.⁵
- Adults with disabilities are twice as likely to experience poverty as non-disabled adults⁶ and often receive lower pay than their non-disabled counterparts.⁷ Therefore, they are less likely to be able to afford legal assistance and less able to bear legal costs, or other associated costs like traveling to court.

An estimated 1 in 4 U.S. adults (or 27%) have disabilities.

- 12.1% of U.S. adults have mobility disabilities.
- 12.8% of U.S. adults have cognitive disabilities.
- 7.2% of U.S. adults have independent living disabilities.
- 6.1% of U.S. adults are deaf or have serious difficulty hearing.
- 4.8% of U.S. adults are blind or have low vision.
- An estimated more than 1 in 5 U.S. adults lives with a mental illness.⁸

But there is still much we do not know about the experiences of people with disabilities in the legal system.

- Courts and administrative agencies do not typically collect data on disability status, which presents challenges when attempting to identify problems and craft evidence-based solutions.
- Courts, administrative agencies, and other justice system actors lack clear definitions of disability that apply in the legal system context that would assist in better collecting this data.
- There is also little empirical research on the experiences of people with disabilities when navigating legal systems and processes.

Expanding Access to Justice for People with Disabilities

Promoting Data and Innovation.

A greater understanding of how people with disabilities experience legal systems as well as the legal standards and principles that can serve to protect these individuals will guide efforts to strengthen access to justice for all persons with disabilities and spur equitable, evidence-based justice system innovations that are rooted in principles of disability access. ATJ is partnering with access to justice researchers at Arizona State University and the National Science Foundation to conduct a workshop for access to justice research experts and federal agency staff to promote the use of access to justice research and data in federal policymaking. One of the key cross-cutting themes of this gathering is disability access.

Reinforcing Legal and Other Standards.

Federal civil rights laws and international standards can help guide efforts towards access to justice for all persons with disabilities involved in our criminal and civil legal systems. This includes Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against persons with disabilities in federally assisted and federally conducted programs and activities; Section 508 of the Rehabilitation Act of 1973, which requires federal agencies to make their electronic and information technology accessible to persons with disabilities; and the Americans with Disabilities Act (ADA) which prohibits discrimination against persons with disabilities in employment, by public entities, and in places of public accommodation. Further, in a 2023 UN General Assembly resolution, the United States, along with other countries around the world, affirmed “the importance that certain members of society, such as children, persons with disabilities, and those in vulnerable situations and victims of violence [...] be given additional protection in order to access justice systems.” The UN Convention on the Rights of Persons with Disabilities sets forth further guidance encouraging access for persons with disabilities so that they can “live

independently and participate fully in all aspects of life” and participate in legal systems; affirming that persons with disabilities have “the right to recognition everywhere as persons before the law;” and ensuring “effective access to justice for persons with disabilities on an equal basis with others,” including the provision of “procedural and age-appropriate accommodations.”

Improving Policies and Crafting Systemic Changes.

Policies and procedures should also contemplate and recognize the experiences of individuals with disabilities. As one example, the Department’s first-ever Language Access Coordinator, housed within the Office for Access to Justice, led the Department’s efforts to update and release a modernized Department of Justice language access plan. The plan incorporates an understanding of and focus on effective communication standards for individuals who are D/deaf and hard of hearing and addresses the needs of those who are both D/deaf or hard of hearing and who have limited English proficiency.⁹

Expanding Resources.

Dedicated funding and resources can ensure that legal services providers, judges, court administrators, and others responsible for administering civil and criminal legal systems have the tools and training necessary to effectively serve individuals with disabilities so they are treated equitably and with dignity at every stage in the legal process.

Centering the Voices of People with Disabilities.

People with disabilities who have lived experiences navigating legal systems and processes should be at the table in the development of access to justice policies and practices, including, for example, the implementation of new technologies, the development of updated legal standards, the creation of innovative service delivery models, and shaping research and data collection strategies.

¹ Merrick Garland, A Report to the President of the United States from the Attorney General of the United States Pursuant to the President’s Memorandum on Restoring the Department of Justice’s Access-to-Justice Function (Sept. 15, 2021), <https://www.justice.gov/d9/pages/attachments/2021/10/29/report-to-the-president-from-the-attorney-general-september-15-2021.pdf>.

² Erika Harrell, Bureau of Justice Statistics, *Crime Against Persons with Disabilities, 2009–2019 – Statistical Tables* (2021), <https://bjs.ojp.gov/content/pub/pdf/capd0919st.pdf>.

³ Laura M. Maruschak, Bureau of Justice Statistics, Jennifer Bronson & Mariel Alper, *Disabilities Reported by Prisoners: Survey of Prison Inmates, 2016* (2021), <https://bjs.ojp.gov/library/publications/disabilities-reported-prisoners-survey-prison-inmates-2016#>.

⁴ *US Justice Needs*, Institute for the Advancement of the American Legal System, <https://iaals.du.edu/projects/us-justice-needs> (last visited Nov. 21, 2023).

⁵ Neil Bennett, Jonathan Eggleston, Laryssa Mykyta and Briana Sullivan, *Who Had Medical Debt in the United States?*, United States Census Bureau (Apr. 7, 2021), <https://www.census.gov/library/stories/2021/04/who-had-medical-debt-in-united-states.html>.

⁶ Press Release, National Council on Disability, Highlighting Disability/Poverty Connection, NCD Urges Congress to Alter Federal Policies that Disadvantage People with Disabilities (Oct. 26, 2017), <https://ncd.gov/newsroom/2017/disability-poverty-connection-2017-progress-report-release#main-content>.

⁷ Jennifer Cheeseman Day and Danielle Taylor, *Do People With Disabilities Earn Equal Pay?*, United States Census Bureau (Mar. 21, 2019), <https://www.census.gov/library/stories/2019/03/do-people-with-disabilities-earn-equal-pay.html>.

⁸ Centers for Disease Control & Prevention, Disability Impacts Us All (2023), <https://www.cdc.gov/ncbddd/disabilityandhealth/infographic-disability-impacts-all.html>.

⁹ U.S. Department of Justice, Language Access Plan (2023), <https://www.justice.gov/d9/2023-08/DOJ-Language-Access-Plan-August-2023.pdf>.