



How to Make Civil Courts More Open, Effective, and Equitable

Reform framework outlines why and how to adopt 3 principles of court modernization

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Celebrating its 75th anniversary, **The Pew Charitable Trusts** uses data to make a difference. Pew addresses the challenges of a changing world by illuminating issues, creating common ground, and advancing ambitious projects that lead to tangible progress.

Overview

Over the first two decades of the 21st century, the nature of civil litigation in the United States changed dramatically. Civil courts that were designed to be used almost exclusively by lawyers are now dominated by business-to-consumer cases that most often feature a company with an attorney suing an individual without one.¹ Judicial leaders have been sounding alarms about the problem of litigants navigating complex court processes alone—or not participating in their cases—and have called for urgent reform and modernization.²

“Our state courts have an obligation to update systems and practices in ways that help all users, including unrepresented litigants who often have little firsthand knowledge of how to navigate the legal system,” said Loretta Rush, Indiana Supreme Court chief justice and president of the Conference of Chief Justices. “Failure to consistently evaluate and improve our systems and practices will result in significant, long-term consequences for state courts, chief among them diminished public confidence in our ability to help all individuals resolve their legal issues.”³

In early 2020, the civil legal landscape shifted again, as the COVID-19 pandemic forced state leaders to rethink how litigants access and engage with the courts. Sudden lockdowns closed courthouses and caused unprecedented, rapid change as courts scrambled to move services online—particularly through electronic filing and notarization (e-filing, e-notarization), and video and telephone hearings—and embraced regulatory reforms to increase the availability of legal assistance.⁴

As then-Chief Justice Bridget McCormack of Michigan observed in testimony before Congress in 2020, these pressures created the disruption that courts needed: “We have a chance to rebuild what we do from the ground up and create a 21st-century justice system that is accessible, effective, transparent, efficient, and fair.”⁵

But now, court modernization efforts are facing new obstacles. As pandemic relief money has dried up, the fiscal and capacity demands are threatening courts’ ability to maintain new processes and digital systems. And the financial burdens of recent upgrades mean that performance assessments have tended to focus on time and cost savings to the courts themselves while often ignoring or obscuring whether reforms benefit court users, particularly the millions of people who navigate the legal system without lawyers. Further, a lack of national consensus about how to move forward, what constitutes success, and how to measure progress is hampering efforts to advance beyond pandemic-driven systems change.⁶

This absence of shared goals and strategies has led to a patchwork of improvements across states and jurisdictions and has left the civil court system, by its own acknowledgment, struggling to fulfill its role as a public institution that is responsive to the needs of those it serves.⁷ For example, after the 2020 killing of George Floyd by a Minneapolis police officer, Hawaii Chief Justice Mark E. Recktenwald called on the courts “to address deeply rooted and systemic problems within the structures of our institutions.” And Utah’s Salt Lake City Justice Court released a statement declaring, “We are painfully aware that municipal courts like ours have historically been situated on, or at least very near, the tip of systemic racism’s spear.”⁸

In response to these issues and to provide support for court leaders seeking to better serve everyone who uses the civil legal system, The Pew Charitable Trusts has developed a reform framework based on three principles of court modernization:

- **Openness.** An open court is committed to transparency and continuous improvement and invests in practices that enhance information sharing and user engagement.

- **Effectiveness.** An effective court optimizes its resources to help litigants more easily navigate and resolve legal issues and to help judges focus on the complex cases that require their expertise and hear from better prepared litigants.
- **Equity.** An equitable court identifies disparities in litigants' experiences across race, disability, language, income, and other social-demographic characteristics and works to address them so that all court users can assert their rights, receive fair decisions, and have those decisions enforced.

Importantly, these principles intersect and overlap, and they must inform each other to bring about change.

The framework, which includes this introductory report and a toolkit that outlines action steps and performance measures, is ultimately founded on the understanding that court modernization requires more than merely embracing technology and simplifying procedures.⁹ Pew's research shows that truly modern courts are user-centered systems that prioritize openness, effectiveness, and equity. This framework offers courts a roadmap to modernization by fundamentally transforming their values, their treatment of court users, and their goals.

What is the framework?

Pew designed the court modernization framework to assess civil court reforms and innovations, to identify goals and the actions necessary to achieve them, and to build upon, not replace, existing court measurement and change efforts.

This guide is the first piece of the framework. It outlines the case for modernizing civil courts according to the three principles and identifies strategies and lessons learned from states that have already applied those principles to boost the usability and fairness of their systems. The framework also includes specific goals, informed by Pew's research, that courts should aspire to, and a set of actions that court personnel—judges, clerks, operational staff, and leadership—can take to achieve those goals. The toolkit dives deep into those goals, offering strategies and metrics for implementing reforms and measuring progress.

To develop the framework, Pew began by conducting a review of 90 Conference of Chief Justices (CCJ) and Conference of State Court Administrators (COSCA) resolutions issued since January 2000 on access to justice and court modernization, and more than 175 articles, guides, and toolkits from the research literature and national organizations. The research team also consulted with 14 experts—researchers, funders, performance measure experts, and advocates—to gain insights into how the civil legal field thinks about modernization, performance measures, court users' needs, racial equity, disability rights, and language access. The team then convened a 15-person working group of scholars, legal service providers, judges, and court staff to refine the principles of court modernization and ways to measure them. Finally, Pew partnered with the Center for Evaluation, Policy, and Research at Indiana University to test the framework's feasibility and made changes based on the results.

By creating a common vocabulary and set of measures, the framework enables courts to compare different approaches and make informed decisions about policy, process, and technology improvements.

Why modernize civil courts?

Civil courts are government institutions with a responsibility to serve the public. But because the civil legal system was designed by and for lawyers, courts treat everyone who comes before a judge as if they have legal expertise.¹⁰ The reality, however, is that today (and for the past two decades), most people in civil court have neither legal training nor an attorney. As a result, each year millions of people struggle to navigate the civil legal system on their own as judges, clerks, and other court staff and leaders look on in frustration, unable to offer the needed help because of tight budgets, limited staff resources, and inadequate options for external legal and other assistance.¹¹

Courts need better data to inform evaluation and reform efforts

The collection, breadth, and quality of civil court data are widely inconsistent across jurisdictions and generally not accessible by courts, researchers, policymakers, and others who need it to understand court problems and identify effective solutions.¹² And when courts want to update their systems to capture additional important data, they are often constrained by cost or vendors' capabilities.¹³

Further, civil courts do not know enough about their users. No state courts collect demographic information from civil litigants or link civil court data with the U.S. Census Bureau, and the National Center for State Courts (NCSC) has repeatedly highlighted the importance of collecting race and ethnicity data.¹⁴ Although some external researchers are mapping court data to get a better picture of who is going to court, the general lack of demographic data makes it difficult to identify disparities, especially in who is being sued, who is participating in the court process, and what outcomes people receive.¹⁵

Court processes are confusing to nonlawyers

Without a lawyer, most people are ill-equipped to figure out civil procedures, rights, legal arguments, and documents rife with jargon. Court forms and processes are often confusing and intimidating for the lay person, and when defendants do not understand what to do and cannot access legal information or help, they may slow down court processes, provide the court or plaintiff with inaccurate or incomplete information, or not participate at all.¹⁶ And when litigants either cannot or choose not to participate in their cases, the result is default judgments—automatic wins for the plaintiff that result when defendants do not respond to a lawsuit and that are not based on the facts or merits of the case—and the associated harms, including wage garnishment, asset seizure, and sometimes even incarceration.

Further, people of color, non-native English speakers, people with disabilities, and survivors of domestic violence experience additional challenges—such as difficulty understanding legal forms not offered in multiple languages or risk of encounters with abusive partners—to meaningful participation when navigating the courts without representation.¹⁷

Most people cannot access the legal help they need

A 2018 Pew survey revealed that almost half of U.S. households had experienced at least one civil legal issue in the preceding 12 months, not including traffic tickets.¹⁸ However, most civil litigants receive little or no legal assistance. A 2018 study found that across income levels, roughly 67% of people with civil issues did not have help from an attorney.¹⁹ Further, a 2021 analysis that broke litigants down by income showed that 92% of low-income Americans involved in a civil case lacked adequate professional legal help despite being eligible for legal aid, and millions more who make too much money to qualify for legal aid but not enough to afford an attorney also went unrepresented.²⁰ A recent American Academy of Arts and Sciences study referenced this significant lack of legal support, noting “the great difference between the number of Americans who need civil legal assistance and the very few who receive help of any kind.”²¹

In the absence of affordable, available legal assistance, most people with civil legal issues have limited options. They can go to court alone, try to resolve the issue outside of court, or opt not to participate in a case.²²

Court problems erode public trust in the civil legal system

When people cannot access or do not see the benefit of civil courts and when “denial of equal justice has an adverse impact on individuals, families, and society ... [it] works to erode public trust and confidence in our system of justice.”²³ According to NCSC, trust and confidence in the civil courts are at their lowest levels since the organization began measuring them in 2014. In its 2022 survey of registered voters, NCSC found that less than two-thirds (60%)

had either a “great deal” or “some” confidence in state courts and that just 30% and 38% of Black and Hispanic Americans, respectively, believed that state courts provide equal justice to all “very well” or “well.”²⁴

This lack of faith in the courts may be due in part to low levels of diversity on the bench and among court staff. For example, as of February 2020, supreme courts in 23 states had all White justices, while the majority of those states’ populations were at least 20% people of color. Further, 14 state supreme courts have only one woman serving on them.²⁵ (Less is known about other diversity factors, such as disability, in state courts.²⁶) Courts that do not reflect the communities they serve can negatively affect users’ experiences: In one study, Black litigants highlighted the dearth of Black court employees and said that the “courtroom felt ‘unfriendly’ or ‘uncomfortable’” as a result.²⁷

At least as far back as 2012, CCJ/COSCA recognized the potential harm that insufficient diversity could have on public confidence in the courts, noting in a resolution that a diverse court staff and bench not only reflect equal employment opportunities but also are essential to the “eradication of bias.”²⁸ As former U.S. Supreme Court Justice Lewis F. Powell stated, “A member of a previously excluded group can bring insights to the Court that the rest of its members lack.”²⁹

Modernization can help courts tackle many of these issues, even with limited resources. Adopting reforms aligned with this framework can increase collaboration between the judiciary and other branches of government, help ensure that the courts are providing equal justice for all, and promote transparency and public trust.

Court leaders want to modernize

For more than two decades, court leaders have been articulating important goals and taking action toward them. Many state chief justices, in their annual State of the Judiciary addresses, have referenced the need to increase transparency and effectiveness, improve people’s access to the courts, and promote public trust.³⁰ And most of the CCJ/COSCA resolutions that Pew reviewed when developing the framework emphasize the need for modernization. (See the appendix for more detail.)

But despite these repeated calls for action, the traditional measures that courts use to assess their own performance have hindered reform by narrowly concentrating on efficiency metrics—caseload administration, clearance rates, and percentage of cases concluded within a given time frame—rather than on user needs, such as transparency and access to the civil legal system.³¹ At best, this focus has left courts without the data they need to implement reforms that can improve experiences and outcomes for litigants. But in practice, it can also harm the people whom courts aim to serve.

Built into the current measures is the assumption that time and cost savings are good for everyone when, in fact, this emphasis often discounts users’ needs and can exacerbate inequities. For example, speeding through eviction cases in pursuit of faster dispositions can displace more families than slower proceedings because it denies defendants sufficient time to seek legal or rental assistance or pursue alternative solutions.

Speedy dispositions in debt cases can pose similar risks. Quick default judgments can remain open and unsatisfied for years sometimes, placing ongoing demands on the courts, banks, creditors, and defendants.³²

The 3 principles of civil court modernization

Court staff, users, and the community benefit from transparent and effective administration of justice, and to achieve that, courts need to modernize along three core principles: openness, effectiveness, and equity. These principles align with the many modernization sentiments found in CCJ/COSCA resolutions, State of the Judiciary

addresses, and research literature. By committing to implementing and measuring the success of key actions associated with the principles, courts throughout the country can modernize their practices while remaining committed to the central goal that has driven the civil legal system since its inception: administering justice for all.

Openness

Openness is about collecting and using data intentionally to increase transparency, effectiveness, and equity.³³ Today's civil courts face many challenges when collecting, analyzing, and sharing data. Within a state, jurisdictions may use various case management systems, code data differently, use data fields inconsistently, or face high staff turnover and tight budgets that reduce their capacity to collect and analyze data.

The resulting nonstandardized, inaccessible data obscures who is being brought to court, the outcomes they receive, and the factors driving those results.³⁴ Without robust, comprehensive data stored in consistent, usable formats, policymakers, judges, clerks, and court leaders cannot make informed decisions about how to allocate resources and improve court operations, and court users cannot access information about their cases.

Pew's research indicates that to improve data collection and usability and become more open, courts should adopt consistent and standardized definitions of each data field; support users' secure access to and understanding of case information; make data accessible, available, and understandable to researchers, state agencies, and other third parties; and routinely examine and publicly share data trends.

Pursuing these openness goals will enable courts to:

- 1. Improve public trust and confidence.** Research has shown that Americans want to know more about how the civil courts operate and that courts should share more information about how they serve the public.³⁵ Although making data more available may invite additional critique, the current lack of easy-to-understand information can conceal inequities and court process failures that contribute to public distrust of the legal system and can contribute to the perception that courts have something to hide. By contrast, when courts embrace transparency, they hold themselves accountable to the people they serve and can work with communities and stakeholders to identify solutions.³⁶
- 2. Pursue funding and improve grant management. With good data, states can identify jurisdictions that need more help to support court users,** evaluate reforms, put together evidence-based funding requests to bring effective programs and models to scale, and, once funding is secured, be ready to conduct the reporting required by federal and state agencies and other grantmakers.
- 3. Help court users access necessary information about their cases.** By making all documents filed, judgments, and participant information available to litigants—in plain language, in an accessible, user-friendly format, and in one place—for all of their cases, past and present, courts save themselves, their staff, and their users time and resources while reducing confusion and increasing participation.³⁷
- 4. Engage external researchers to analyze data. Even courts that have high-quality data collection and management systems typically struggle to effectively parse and use that data.** Sharing data with outside researchers takes that burden of analysis off the courts. Further, researchers can give courts feedback about data quality and additional information that would make the data even more robust.
- 5. Exercise control over case management systems and data.** In many instances, third-party vendors exercise a great deal of control over what data courts can collect and what software they can use. Courts can begin to take back control by adopting statewide or even national standards for data collection, coding, and reporting and then hiring vendors at the local and state levels that can comply with those standards.³⁸

Data Sharing Boosts Transparency, Promotes Research in Harris County, Texas

In most jurisdictions, responding to an outside researcher's request for data requires a court to draft or modify a formal agreement for the secure sharing of the data and provide a data dictionary outlining what each data field means. And once the data is shared, court staff may need to periodically refresh the agreement and answer the researcher's questions about the data.

In Harris County, Texas, the Justice of the Peace Courts have worked to improve the availability and usability of data for researchers and the public.³⁹ To avoid the hassle of setting up individual data-sharing agreements for each request, the county established a policy allowing bulk downloads and, with it, "data scraping"—running a script that converts public court data into a spreadsheet for analysis.⁴⁰ The county's courts also made their data dictionary publicly available.⁴¹

A data science consulting group, January Advisors, is using the scraped data to support two local legal aid nonprofits and the county. The firm pulls fresh court data, aggregates it into a public-facing dashboard, cross-references it with landlords enrolled in the state's Emergency Rental Assistance Program (ERAP), and uploads the results to a secure server accessible by the two nonprofits that use it to identify and offer assistance to tenants facing eviction.⁴² This system benefits not only the tenants but also the courts by relieving court staff of data-sharing responsibilities and by connecting renters with resources to resolve their cases outside of court.

By making its court data available, Harris County enabled a virtuous cycle in which third parties, such as January Advisors and local nonprofits, retrieve, enrich, and analyze the data and then use the results to provide the county with evidence-based program and policy guidance. January Advisors also shared the Harris County data with Georgetown University's Civil Justice Data Commons, which makes it available to authorized third-party researchers for analysis.⁴³

Key responsibilities and questions about court openness

Outcome metrics for this principle focus on the amount and usability of case information available to court users, the quality and accessibility of court data for analysis, and the types of case trends that are made public.

Court leaders will need to establish the baseline against which progress will be measured by having conversations with operations staff, civil legal aid, bar associations, and the court's data vendor to assess the current state of data collection, quality, and reporting. These discussions can help court leaders identify the main challenges associated with handling court data, reform priorities and actions, and determine which stakeholders and staff members need to be involved in the various action steps detailed in the court modernization toolkit.

As a first step, court officials should identify the personnel responsible for key roles and ask them these guiding questions:

Court staff members who respond to data-sharing requests

1. What is the process for responding to a data request?
2. What constraints do researchers, court staff, and other users face accessing bulk, raw civil court data? For example, does the state charge for data downloads or require in-person scanning and copying?

3. What differences, if any, exist between how a researcher, trade organization, or individual requests access to civil court data?
4. Can a state agency other than law enforcement access civil court data?

Court personnel responsible for ensuring compliance with data quality standards and compiling jurisdictional data into statewide reports

1. For what purposes do you currently collect data—legislative funding, compliance, annual reporting, or other?
2. Do you have policies for securely storing civil court data?
3. What challenges do you face in your relationship with your data vendor(s)?
4. What are the most pressing data quality issues?

Effectiveness

An effective civil court optimizes resources to improve how litigants engage with and navigate their cases, with a priority on using data to inform their decisions and on meeting court users' needs. This principle builds on traditional measures of efficiency, such as cost minimization, to ensure that they do not prevent court users from getting the resources they need to capably participate in their cases. For example, many courts track how long a case takes from initial filing to the judge's ruling, typically with the cost-focused assumption that faster is better. But for people navigating unfamiliar and complex court processes without a lawyer, a slower pace with more time to learn and react may be critical. Speed also may not be the best objective—or performance measure—for every type of case. For instance, a fast resolution may be vital for a grandparent trying to gain guardianship of a grandchild facing foster care, but a landlord and tenant waiting on rental assistance would benefit from a slower process that allows them to receive that help and avert eviction.⁴⁴

In contrast to traditional efficiency measures, the effectiveness principle emphasizes deploying resources appropriately for different case types and user needs. This focus elevates the behaviors and experiences of unrepresented litigants as a priority on at least an equal level with expediency for court staff.

For courts, becoming more effective will necessarily involve some increased costs because greater participation by litigants, especially defendants in high-volume case types with high default rates, such as debt claims and eviction, will require more court staff time.

But the cost of doing nothing is potentially far higher. Default judgments in debt collection cases can not only harm defendants but also accrue long-term costs to the court, the plaintiff, and even external parties, such as employers and banks. For example, multiple post-judgment hearings, supplementary proceedings, paperwork to garnish wages, and, on occasion, civil arrest warrants can consume significant time and resources.⁴⁵ So, although a quick disposition may appear efficient at first glance, it may, in fact, not be an effective use of resources because it could lead to months or even years of additional work and costs for the courts, litigants, and third parties.

To become more effective for themselves and their users, Pew's research indicates, courts should make comprehensible legal information available to court users; streamline policies, processes, and technologies; focus case management on the needs of individual users and their cases; and work with local organizations to improve the availability of assistance and supports that can meet people's legal needs outside of court.

By pursuing these effectiveness goals, courts can:

- 1. Work with better-prepared litigants who are empowered to participate in their cases.** By making critical documents and materials accessible, such as using plain language rather than legal jargon on court forms, courts can provide users with timely actionable information, cut down on staff time spent answering questions and addressing errors, reduce court user frustration, and serve more people.⁴⁶

- 2. Reduce unnecessary costs and delays for courts and users.** Identifying and responding to persistent sticking points for court users can help ensure that resources are spent in ways that best enable individuals, especially those without lawyers, to navigate the courts. For example, providing legal information, streamlining processes (such as by eliminating the requirement that defendants file a response before a hearing can be scheduled), and expanding the use of technologies implemented during the COVID-19 pandemic can reduce costly confusion and delays and improve litigant participation.⁴⁷
- 3. Allow judges to devote their time to more complex cases.** Cases in which all parties agree on the underlying facts require less judicial attention than those in which the facts are in dispute or a defendant raises a defense. Applying judicial and court staff resources according to the demands of each case can enable courts to reduce delays and costs, target resources according to litigants' needs, and increase fairness by giving court users the amount of attention they and their cases require.⁴⁸
- 4. Improve the availability of outside legal and other help.** Courts can promote the expansion of, and connect litigants to, services such as court navigator programs or online legal information portals provided by nonprofit organizations, legal aid, and other third-party entities. These resources can help people, especially those without lawyers, resolve disputes outside of the courts, when possible, or be prepared to participate in litigation.⁴⁹ For example, the Utah Supreme Court authorized a legal sandbox—a reform that allows new legal assistance models that might otherwise violate existing regulations to operate on a pilot basis—to help identify approaches that can improve access to the legal system and support accurate and timely resolutions for court users.⁵⁰

Connecticut Streamlines Family Court Processes

During the pandemic and in response to concerns raised through a court user survey and by judges and other court staff members, Connecticut courts launched the Pathways case management process for family cases such as divorce, legal separation, and child custody and visitation. Pathways identifies the needs of each case and litigant and places the case on a track that provides the appropriate court scheduling and resources.

Previously, the state's process for family cases involved unnecessary steps that caused delays. For example, in many cases, the court required parties to attempt moderate levels of service, such as mediation, before ordering more intensive services such as full custody evaluations or scheduling a trial. But for contentious or complex cases that were unlikely to be resolved in mediation, this step often wasted precious time, forcing litigants to endure unnecessary processes and longer waits for trial dates.

Seeking to improve this process, the state court administration consulted with the NCSC and worked with judges, court staff, and other stakeholders to reduce inefficiencies and deliver better outcomes for families. Now when a case is filed, the court first schedules a Resolution Plan Date (RPD). At RPD meetings, families learn about next steps, such as mediation, ask questions, and meet with a family relations counselor who reviews the case and recommends a plan based on the level of court involvement and resources required. The counselor also flags issues such as domestic violence, mental health concerns, or substance use, and connects families with needed services.

After the RPD meeting, the parties appear before a judge who reviews and approves any agreements reached, assigns the case to a track, orders appropriate services when needed, and schedules any necessary future court dates (which may include a trial date). Importantly, the RPD process consolidates

what previously involved multiple interactions with court personnel into a single event, reducing the number of times litigants must recount what are often distressing stories.

As Michael Albis, chief administrative judge of the family division of Superior Court, explains, “Pathways is designed to give court users the level of resources they need to resolve their cases. The early triage of a case helps parties who are capable of reaching an agreement to determine their own course quickly and efficiently. When agreement is not likely, the process puts a case on a path to receive the necessary services early and sets a predictable schedule toward final resolution, including by trial when necessary.”⁵¹

Early data on this reform shows promise. In 2022, 68% of pending cases for which an RPD meeting was conducted reached an agreement, the vast majority of which were reviewed and approved by a judge the same day or soon thereafter. And compared with 2019 before implementation of Pathways, Connecticut’s family court resolved 13% more cases in 2022, helping more families resolve potentially life-changing disputes faster.

Key responsibilities and questions about court effectiveness

Measures for assessing progress toward increased effectiveness include whether litigants can find and use court resources; case participation increases, especially for cases with traditionally high default judgment rates; cases move forward without unnecessary steps; and more legal issues are resolved through diversion programs and other interventions to avoid litigation.

Court leaders can begin the reform process by holding discussions with court personnel to introduce these concepts and gain insights on the current level of effectiveness according to these measures. Through conversations with operations staff, judges, civil legal aid, bar associations, and others, court leaders can identify the main challenges that users face, determine who will be responsible for various reform efforts, and lay the foundation for later work.

To facilitate this information-gathering phase, officials should identify the personnel responsible for key roles and ask them these guiding questions:

State and local court personnel who monitor statewide performance according to existing measures (e.g., CourTools, High Performance Framework⁵²)

1. Do you survey court users about their experiences? If so, what are you asking them?
2. What types of cases dominate the docket?
3. How much time do clerks, judges, and other staff spend on high-volume cases?

Court staff members responsible for creating and maintaining accurate, up-to-date court forms and public-facing legal information

1. Can all court users find information about courthouse hours, locations, and how to get to court?
2. How do court users typically get civil legal information (e.g., phone, court website, external partner)?

Clerks who work across different case types, such as debt claims, eviction, and family cases, in urban and rural areas, and have extensive interactions with court users

1. What additional interventions from external organizations would be helpful?
2. What have you observed to be the main sticking points in the process for court users (e.g., forms, scheduling)?

Equity

While effectiveness emphasizes meeting all nonlawyer court users' shared needs, the equity principle focuses on the individual user level, recognizing that diverse users interact with the courts in different ways.⁵³ An equitable court, then, ensures that individual litigants, witnesses, and others have access to the resources, tools, and supports they need—such as language translation services and court websites that are compatible with screen readers—to fully participate in the civil legal system.⁵⁴

Without equity, courts cannot serve their most basic function—delivering fair resolution of disputes—because their systems, processes, and practices limit certain users' participation, and even exclude some people altogether. And, importantly, equity should not be misunderstood as simple equality.⁵⁵ For example, two court users using the same court website are being treated equally. But if one of those users has a vision disability and the court website does not offer documents that are compatible with screen readers, then the two users have inequitable access to the courts. When courts shift their focus from treating all users the same to providing the resources each user needs to fully engage with the civil legal system, they provide a fairer experience and are better able to perform their most essential functions.

To become more equitable, courts will need to better understand who their users are, what different groups of people need, and how the civil legal system treats various groups in disparate and harmful ways. Collecting and using data about court users' legal representation, income level, race, ethnicity, disability, language, age, and gender can help courts to identify disparities in people's court experiences.⁵⁶

Armed with that information, courts can make necessary changes. Although each civil court system will need to assess the disparities its users encounter and, in partnership with legal and community stakeholders, determine the appropriate interventions, certain objectives and reforms are likely to apply to nearly all courts. These include adopting universal design principles—which emphasize usability, accessibility, and flexibility—to policies, processes, and technologies; addressing disability- and language-related barriers in existing infrastructure and content; promoting greater diversity on the bench and among court staff; and supporting judges' and other key court personnel's active engagement in the courtroom, such as by asking questions directly of litigants and connecting users to legal assistance resources.

And, in the spirit of the openness principle, courts should publicly share demographic data about users and personnel, and about their progress toward reducing disparities and increasing diversity and equity.

Pursuing these goals and becoming more equitable will enable courts to:

- **Improve public confidence in the court and its ability to render fair outcomes.** The perception of fairness in the court is partially tied to the decision-maker in a case.⁵⁷ When courts ensure that judges and others in decision-making roles are diverse and reflect the people who appear before them, both physically and experientially, courts can begin to make users more comfortable in courtrooms, which will enhance people's perceptions of the courts' legitimacy, especially among historically excluded groups.⁵⁸
- **Support court users' full participation in the legal process.** When courts prioritize accessibility and universal design principles—for instance, by making e-filing systems screen-reader accessible and American Sign Language and non-English-language interpreters readily available for courtroom proceedings—they can ensure that all users have the opportunity to engage with their case, assert their rights, receive a fair outcome, and have judgments enforced.
- **Render fair decisions.** When courts enable users to fully participate in their cases and empower judges and court staff to take an active role in ensuring that complaints meet all legal requirements to proceed, answering litigants' questions about process and the law in a neutral way, and learning all the facts, they help

to guarantee that judges are sufficiently informed when making their rulings, that all litigants receive fair and accurate outcomes, and that courts, rather than litigants, bear the responsibility for achieving just results.

Wisconsin Promotes Equal Access by Providing Interpreters to Court Users

By law, Wisconsin civil and criminal courts must provide interpreters for all litigants and witnesses who need them for all proceedings at the state's expense.⁵⁹ But as Alexandra Wirth, the state's interpreter program manager, said, "We do this work not just because we are required to. ... We ensure language access to uphold the principles of everyone having equal and meaningful access to the courts."⁶⁰

In 1999, the state formed a committee made up of Spanish and Hmong speakers, representatives of the Deaf community, court staff, attorneys, interpreters, and legislators to recommend ways to improve language access in the state courts. Two years later, the Wisconsin Supreme Court passed a new rule, later codified by the Legislature, that implemented several reforms, including higher pay for interpreters, an updated definition of "qualified interpreter," a definition of "limited English proficiency," and additional funding to reimburse counties for language supports. In 2015, the Legislature made additional changes that created the interpreter payment program, which gave the Wisconsin Director of State Courts Office the ability to send payments to circuit courts based on a formula that encourages the use of certified interpreters.⁶¹

In Wisconsin's court system, when and how a person requests and receives an interpreter varies by case and county practice. In some instances, the court user or the user's attorney may request an interpreter when the case begins. In other situations, the court determines at the initial proceeding that language services are needed and reschedules the case for a later date when an interpreter can be present. Regardless of how the request is made, clerks are trained to note in the case management system that an interpreter will be needed for all proceedings in the case. Since the onset of the pandemic, interpreter services have been provided virtually, which has further expanded access by helping the state recruit interpreters for less commonly used languages.

The interpreter program also includes accountability and ongoing improvement measures. To avoid inequitable distribution of resources as a result of any inconsistency of practice across jurisdictions, court leadership requires counties to report the number of interpreter hours, percentage of interpreters used who are certified, and languages requested to determine reimbursements to the counties.

In addition, to identify problems and continually enhance service for court users, Wirth leads trainings not only for the interpreters, but also for court staff and judges on working effectively with court interpreters. She has received particularly positive feedback from judges on the "issue spotting" portion of her trainings, which allows them to be introspective about their experiences working with interpreters by watching videos of court proceedings and identifying areas for improvement.

Key responsibilities and questions about court equity

Outcome measures for the equity principle include the existence of a process for collecting demographic data or relevant information that could allow court staff to estimate or geomap demographic characteristics; how representative court staff and judges are of their communities, demographically; access to and ease of requesting interpreters and other accommodations; whether court users are raising affirmative defenses and using other procedural levers; and accuracy of outcomes.

To help court staff prepare to build a more equitable civil legal system, court leaders should have conversations with judges, clerks, in-house researchers, language and disability access coordinators, and self-help center staff about trends in court user demographics, what data the court currently collects about court users, whether and how managers pursue hiring and retaining diverse staff, and the kinds of questions court users commonly ask judges and court staff.

By identifying key personnel and asking them the following guiding questions, court officials can be prepared for later reform activities:

New and long-tenured judges

1. Do you feel empowered to answer questions from—and ask questions of—court users who do not have lawyers while adhering to neutrality requirements? If not, what would help you feel empowered?
2. What resources do you wish were available to court users to help them complete forms accurately and obtain social or financial services?
3. What prevents you and your colleagues from asking court users about the facts of their cases or providing them with plain-language information about the court processes?

Court staff and external researchers responsible for conducting quantitative analyses with court data (e.g., compiling information for court statistical reports or responding to requests from court leadership)

1. What kinds of demographic information do you collect about court users and for what case types?
2. If you don't collect demographic data, which if any other methods do you rely on to understand who is going to court (e.g., imputing race based on name and address, geomapping court users' addresses to understand neighborhood demographics, or others)?
3. What address-level information do you collect about court users?

State and local personnel responsible for ensuring disability and language access throughout the state and in diverse jurisdictions

1. What resources or trainings are available to help court staff work effectively with interpreters and ensure that court is accessible for people with disabilities?
2. Are any parts of the courthouse or court website inaccessible to people with disabilities or with limited English proficiency?
3. How would court users find court forms and information in languages other than English?

The modernization principles in action

Since early 2021, Pew has worked with a selection of states to blend court data with stakeholder input to identify how civil courts can better handle debt collection and eviction cases. This work has highlighted that modernizing—and measuring progress according to the three principles—requires a willingness to challenge assumptions about how cases are adjudicated, bring together diverse stakeholders, and be receptive to all feedback.

The modernization framework is designed to help courts undertake this process, scale pilots, and evaluate existing reforms, and can be applied in two ways: either narrowly to assess an individual civil court reform or innovation, or more broadly to identify goals and strategies to reach them. Both options require an investment of time and resources to gather the data necessary to assess ongoing progress. Courts can use the framework in conjunction with other access-focused initiatives, such as Justice for All.⁶²

To effectively apply the framework, courts will need to:

- Invest resources to measure and share progress and outcomes. Courts should dedicate staff to the application of the reforms, routine tracking of progress, and analysis of the metrics in the framework to inform ongoing improvement.
- Collect baseline court data. Court leaders, in collaboration with diverse stakeholders, should develop a plan to collect and standardize data—using the outcome metrics in the framework as a guide—across case types (or, if applying the framework to specific reform efforts, for the case type[s] targeted).
- Prioritize court user voices. To ensure that reforms are effective in making courts more accessible and user-friendly, court leaders should plan to continually obtain feedback from users about their experiences and use that input to inform policy, process, and technology changes.
- Bring together a diverse stakeholder group. Successful modernization requires the involvement and perspectives of multiple groups and types of people. Court leaders should assess any advisory or stakeholder groups involved in the modernization effort to identify and invite missing voices—particularly court users and community advocates—or convene a new and diverse stakeholder group if none exists.

Michigan Puts the Principles to Work

Pew's work in Michigan highlights how a court can apply the framework to modernize how data is collected and acted upon. Beginning in August 2021, Pew partnered with the Michigan Supreme Court's Justice for All Commission (JFAC), which consists of several working groups focused on civil case types and topics such as debt collection, eviction, technology, and data sharing.

Each group comprises diverse stakeholders, including judges, court staff, legal aid attorneys, legislators, industry attorneys, and state agency officials. The goal of this work was to analyze court data on debt and eviction cases to identify trends and disparities in court participation and outcomes, and recommend reforms to improve the effectiveness and equity of court processes for these case types, according to the three principles:

Open: The work began with process mapping—identifying when court users and courts interacted, barriers to that interaction, and available resources for court users—and receiving data from all local courts on debt collection cases. Pew brought in a data science consulting firm, January Advisors, to standardize the information, draw conclusions about statewide experiences and challenges, and compare filings and outcomes throughout the state. January Advisors also created an interactive dashboard for data exploration and provided feedback to the courts on data quality and access.

Effective. While the process mapping was underway, a diverse stakeholder group—including judges, court staff, industry and legal aid attorneys, and advocates—convened to discuss areas of success and failure in business-to-consumer cases in the state. JFAC then merged this group's practical expertise with the results of the process mapping, a survey of Michigan's and neighboring states' policies regarding

debt collection lawsuits, and a quantitative analysis of civil court debt and eviction case data. This research helped JFAC develop recommendations for making the system more navigable for all parties by ensuring that forms collect and provide needed information and that statewide policies outline clear and consistent requirements for the substantiation of claims.⁶³

Equitable. An analysis of court data found disproportionate rates of debt collection filings and adverse outcomes affecting litigants living in predominantly Black neighborhoods.⁶⁴ The recommendations included completing a qualitative study to investigate challenges that Black defendants face in debt collection cases.⁶⁵

The working groups also made several recommendations to modernize how defendants are notified that a case has been filed against them, including requiring more documentation in the complaint and plain language, and the Michigan Supreme Court Administrative Office is working to implement those changes.

Michigan's story demonstrates how convening stakeholders, identifying research questions, and leveraging external researchers makes modernization according to the three principles possible.

Conclusion

The status quo is not working for civil courts, their staffs, or their users, and court leaders know they need to implement change. But faced with competing priorities and limited resources, courts throughout the country have struggled to fully understand their challenges and find ways to make the civil legal system work better. Pew's court modernization framework provides achievable goals and actionable reforms to help them illuminate problems, implement solutions, and measure their progress. By using this report as a starting point, courts can begin the process of becoming more open, effective, and equitable to better serve their employees, litigants, and communities, and meet their mandate of delivering equal justice for all.

Appendix A: Methodology

To develop the framework, Pew conducted a literature review, consulted with subject matter experts, convened a working group to help refine the principles, and partnered with the Center for Evaluation, Policy, and Research at Indiana University to stress-test the principles.

Literature review

The purpose of this step was to identify how openness, effectiveness, and equity have been studied or applied in state courts. It sought to answer three questions:

1. What research has already been done about the application of the principles in courts?
2. How are civil courts and court partners describing court modernization?
3. What court performance measures have been tried or are in place, and what does the literature say about the successes and challenges of applying them?

To conduct this analysis, a Pew researcher performed 25 unique keyword searches on four databases: Hein Online, Google, Google Scholar, and EBSCO; examined articles on several national organizations' websites—e.g., Institute for the Advancement of the American Legal System (IAALS), NCSC, National Center for Access to

Justice (NCAJ)—and checked citations for additional articles. In total, the researcher considered more than 400 articles and selected 175 for inclusion in the literature review on the principles and an additional 49 on performance measures. Pew’s researcher also read and coded all CCJ/COSCA resolutions dating to 2000 and selected 90 for inclusion. The selected literature was then coded based on how it defined and described court openness, effectiveness, and equity and how it measured those three principles.

Working group and consultations with subject matter experts

In 2021, Pew assembled a 15-person working group of civil legal system scholars and practitioners, legal aid providers, and current and former judges and court administrators. Over the course of three convenings, the working group focused on refining the principles, the goals, and outcome measures. The working group was split into three committees—one for each principle—to provide detailed feedback, including in written form.

While revising the framework, Pew also sought feedback from the NCSC, NCAJ, IAALS, and CCJ/COSCA. In addition, in 2022, Pew consulted with several subject matter experts about how the framework should advance disability justice, access for people with social-demographic and language barriers, and racial equity.

Feasibility study

Beginning in 2022, Pew began a partnership with the Center for Evaluation, Policy, and Research at Indiana University to stress-test the modernization framework in three jurisdictions: Michigan, Utah, and Maine. This work helped ensure that the framework reflects people’s real court experiences and is appropriate and relevant for unified and nonunified court systems, rural and urban areas, and states throughout the nation.

Pew and the center designed the study to better understand how well the modernization framework could be applied to both specific cases with a high proportion of litigants without lawyers (e.g., debt, housing, guardianship), and various reform efforts such as policy change, process improvement, and technological innovation.

The study included two parts: an analysis of three state court reforms—Maine’s minor guardianship reform, Michigan’s eviction diversion program, and Utah’s regulatory reform sandbox—to assess their alignment with the framework, and stakeholder focus groups to examine the framework’s feasibility and validity. For the analysis portion, the researchers used case study methodology, including in-depth interviews with judges, court staff, and other stakeholders; document review; and a review of the data collected as part of the three reform efforts.

The focus groups included researchers and people who work in the courts and with court users outside the courts: court officials, judges, self-help center staff, legal aid lawyers, and staff members from community organizations that work with communities that are disproportionately affected by high-volume case types (e.g., debt claims and eviction). Staff from the Center for Evaluation, Policy, and Research also interviewed court users. Focus group participants were drawn from states other than the three participating in the analysis portion of the study and were selected to ensure diversity across geography and identity markers (e.g., race, ethnicity, gender, age, disability, etc.).

Appendix B: CCJ/COSCA resolutions

Pew’s researchers reviewed CCJ/COSCA resolutions related to court modernization published between January 2000 and October 2021. This time frame was selected to ensure that the resolutions reflected how the field has articulated modernization over the past two decades. Of the 90 resolutions reviewed, 20 covered themes related to court openness, 16 touched on effectiveness, and 73 on equity. Several covered more than one principle. The framework language mirrors the ways that the resolutions described the principles. For example:

- Endorsing data collection and standardization efforts, such as developing a consistent definition of and counting methods for self-represented litigants, and gathering and sharing national civil court trends data through NCSC's Courts Statistics Project.⁶⁶
- Supporting standardized methods for measuring court performance and collecting data to facilitate cross-jurisdictional comparisons, promote responsive case management strategies, and emphasize judicial accountability.⁶⁷
- Examining court systems to identify the systemic changes needed to make equal justice under the law an enduring reality for all, supporting a national campaign on racial and ethnic fairness in the courts, and calling on state courts to address racial bias.⁶⁸

The resolutions reviewed were:

- Affirming the Support of the National Consortium of Task Forces and Commissions on Racial and Ethnic Bias in the Courts.
- Court Interpretation: Fundamental to Access to Justice.
- Encouraging Education on and Use of the Bench Card on Lawful Collection of Court-Imposed Legal Financial Obligations Prepared by the National Task Force on Fines, Fees, and Bail Practices.
- Endorsing the National Association of Women Judges' Resolution on Diversity in Trial Court Appointments.
- Endorsing the Report of the CCJ/COSCA Joint Task Force on Elders and the Courts.
- Ensuring Access to Justice for Limited English Proficient Individuals.
- Expanding Meaningful Access to Justice for All.
- In Support of a Language Access Advisory Committee Working Group on Video Remote Interpreting.
- In Support of a Leadership Role for CCJ and COSCA in the Development, Implementation, and Coordination of Assistance Programs for Self-Represented Litigants.
- In Support of a Liaison to and Stable Funding for the Self-Represented Litigation Network.
- In Support of a National Campaign to Ensure the Racial and Ethnic Fairness of America's State Courts.
- In Support of Access to Justice Commissions.
- In Support of Disability Diversity in the Legal Profession.
- In Support of Effective Management of Family Law Cases.
- In Support of Efforts to Increase Access to Justice.
- In Support of Establishing Best Practices/Recommendations for the Use of Video Remote Interpretation.
- In Support of Expanding Rule 2.2 of the ABA Model Code of Judicial Conduct to Reference Cases Involving Self-Representing Litigants.
- In Support of Fair, Impartial, and Inclusive Jury Service.
- In Support of Flexibility for Federal Funding for Problem-Solving Courts.
- In Support of Implementation of Clear Communications and Streamlined Procedures in the Courts.
- In Support of Improving the State Courts' Response to Human Trafficking.
- In Support of Modification of the Model Code of Judicial Conduct to Encourage Judicial Leadership.
- In Support of National Court Interpreter Legislation, 2003 and 2006.
- In Support of Passage of Standards for Language Access in the Courts per ABA Resolution 113.

- In Support of Point of Contact Positions in State Administrative Offices of the Courts to Improve Guardianship/Conservatorship Practices.
- In Support of Pro Bono Legal Service Programs to Assist the Elderly.
- In Support of Problem-Solving Court Principles and Methods.
- In Support of Problem-Solving Courts.
- In Support of Providing Voters With Background Information for Judicial Candidates.
- In Support of Racial Equality and Justice for All.
- In Support of Reauthorization of Court Improvement Programs.
- In Support of Reforms to Improve the Outcomes for Children in the Child Welfare System.
- In Support of Rules Regarding Default Judgments in Debt Collection Cases.
- In Support of State Courts' Responsibility to Address Issues of Racial and Ethnic Fairness.
- In Support of State Supreme Court Leadership in Increasing Funding for Civil Legal Assistance.
- In Support of State Supreme Court Leadership to Promote Procedural Fairness.
- In Support of the American Bar Association's "And Justice for All" National Issues Forum Program.
- In Support of the Consortium for Language Access in the Courts.
- In Support of the Court Fee Intercept Legislation in the United States Congress, 2009 and 2013.
- In Support of the Court-Appointed Guardian Accountability and Senior Protection Act.
- In Support of the Family Justice Initiative Principles.
- In Support of the Guardian Accountability and Senior Protection Act.
- In Support of the National Center for State Courts—Elder Abuse and the Courts Working Group.
- In Support of the National Client Protection Organization's Standards For Evaluating Lawyers Funds For Client Protection.
- In Support of the NCSC Concept Paper, State Courts and Elder Abuse: Ensuring Justice for Older Americans.
- In Support of the Statement of Best Practices for State Funding of Civil Legal Aid Prepared by the ABA Resource Center for Access to Justice Initiatives.
- In Support of Updating the National Database on Judicial Diversity in State Courts.
- Leadership to Promote Equal Justice.
- Reaffirming Commitment to Access to Justice Leadership and Expressing Appreciation for Access to Justice Progress and Collaboration.
- Reaffirming the Commitment to Meaningful Access to Justice for All.
- Reaffirming the Critical Importance of Adequate Funding of the Legal Services Corporation.
- Recommending Consideration of ABA Model Regulatory Objectives for the Provision of Legal Services.
- Safety and Accountability: State Courts and Domestic Violence.
- Support of Point of Contact Positions in State Administrative Offices of the Courts to Improve Court Responses to Domestic Violence, Dating Violence, Sexual Assault, and Stalking.
- To Effectively Address Human Trafficking of Vulnerable Children Who Come in Contact With the Child Welfare System.

- To Encourage Congress to Provide Adequate Funding for Court Interpretation Services.
- Encouraging Collaboration Between State Courts and Federal and State Representative Payee Program.
- Urging Consideration of Regulatory Innovations Regarding the Delivery of Legal Services.

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