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# Task Force on the Post-Pandemic Future of the Profession

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## Mission Statement

The foundational purpose of the New York State Bar Association is to advocate on behalf of the legal profession and the practice of law. Therefore, in preparation for the emergence from the COVID-19 Pandemic, the Association on behalf of its member attorneys must reflect on **how the crisis has dramatically and determinatively affected the legal profession and anticipate how these changes may further alter the practice of law.**

The Task Force on the Post-Pandemic Future of the Profession is thereby established to systematically **review the effects of the pandemic, both short-term and long-term, on the legal profession and the practice of law in general.** This review shall include study of the remote practice of law, the increased use of technology, the efficacy of virtual courts and tribunals, changes in client interaction, law practice management, **access to justice**, the delivery of legal services, and the education, training, expectations, and mentorship of law students and newer attorneys.

**The Task Force shall advise on the anticipated future impact of these changes on the practice of law and on attorneys. It shall make recommendations to ensure practitioner success and to safeguard and strengthen the future of the legal profession.**



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## Working Group Access to Justice

### Roadmap for Tonight's Public Forum

- Welcome & Introductions
- (Re)Frame "access" & "justice"
- Your participation: chat & discussion
- (Re)Frame remedies & models
- Your participation: chat & discussion





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## Working Group on Access to Justice

Frederick K. Brewington, Esq., Co-chair

Prof. Joseph A. Rosenberg, Co-chair

Hon. Cheryl E. Chambers

Graner Ghevarghese, 3L CUNY Law

Erica L. Ludwick, Esq.

Jennie Kim, Esq.

Thomas Maligno, Esq.



# Covid-19 Impact

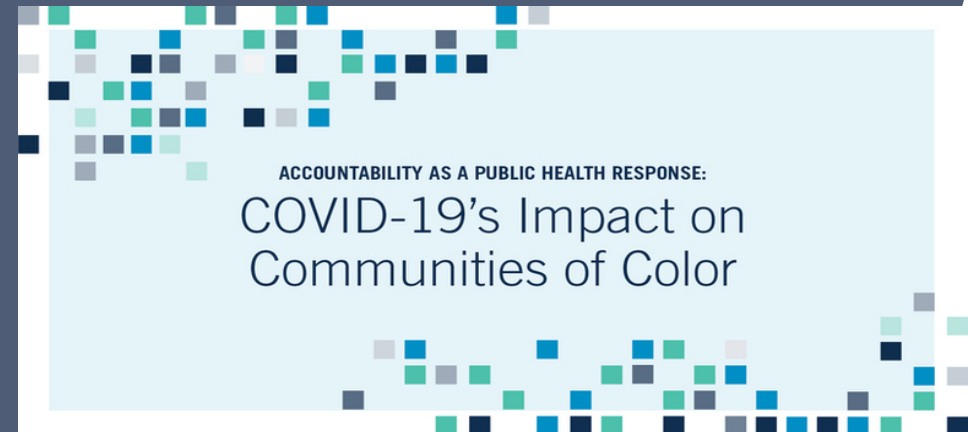
**U.S.**

800,000 Deaths

**NYS**

59,689 Deaths  
(15,000 NH)

2,779,313 Cases



## Covid-19 Impact on Access to Justice in NYS

“The impact of COVID-19 will lead to a greater number of unrepresented litigants entering the court system – either to initiate a claim, to defend against one, or both.

The unrepresented are often at a disadvantage in even the best of times, and this crisis has exacerbated many of the hardships, including the digital divide between those with access to technology and those lacking such access.”

Judge Edwina G. Mendelson, NYS Deputy Chief Administrative Judge for Justice Initiatives  
*Ensuring Access to Justice for Court Users in the Virtual Court Era and Beyond* (July 1, 2020)





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## What is “Access to Justice?”

Access = legal needs = legal representation = lawyers (myopic)

Justice = people’s needs = justice problems = community (broad)

Rebecca Sandefur, “Access to *What*” (Daedulus Winter 2019)

## Pre-Existing Access to Justice Crisis Exacerbated by COVID-19

### **U.S. (2017 LSC Justice Gap Report)**

86% no or inadequate rep  
70% at least 1 legal need  
(represents 20% of legal problems)

### **U.S. (2021 IAALS Study)**

55 million 1+ legal problem/year  
260 million legal problems  
49% of legal problems fully resolved

1 legal aid attorney / 10,000

Benchmark: 10 / 10,000 = 100%

### **NYS (2019 Report NYS Perm Comm A2J)**

547,392 served (3,393,801 benefited)  
(Judicial Civil Legal Services \$100 million)  
50% turned away

3 million below federal poverty line  
2.3 million civil justice problems  
76% not served

### **NYS (2020 Nat'l Ctr A2J)**

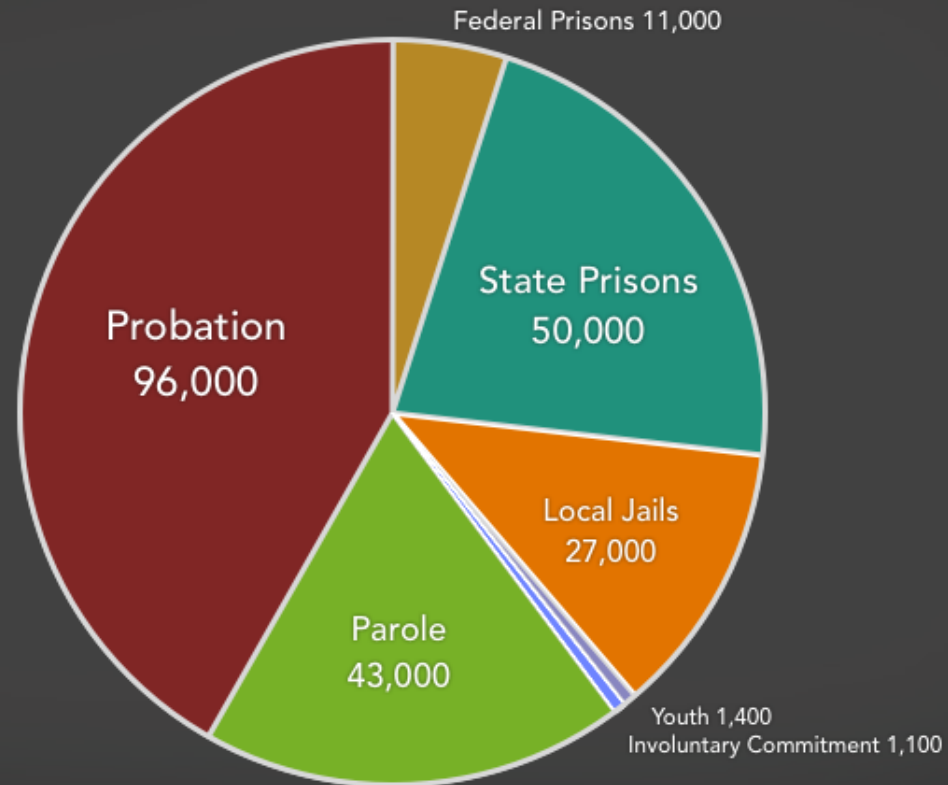
4.39 legal aid attorneys / 10,000 = 43.9%



# Pre-Existing Crisis in NYS Criminal Justice System Pre-Covid-19 (2018)

How many people are in New York's criminal justice system?

230,000 New York residents are behind bars or under criminal justice supervision.



# Pre-Existing Crisis in NYS Criminal Justice System Pre-Covid-19 (2018)

## New York State 2018 Arrests and Sentences by Race/Ethnicity

New York State								
Race/Ethnicity	Population		Arrests		Felony Arrests		Prison Sentences	
	#	% of Total	#	% of Total	#	% of Total	#	% of Total
White	10,830,524	55%	136,081	33%	36,837	27%	3,813	28%
Black	2,833,908	15%	157,052	38%	61,848	45%	6,505	48%
Hispanic	3,754,130	19%	96,854	24%	33,001	24%	3,042	22%
Asian	1,710,183	9%	13,122	3%	4,678	3%	148	1%
Other-Unknown	413,464	2%	6,307	2%	1,852	1%	147	1%
<b>Total</b>	<b>19,542,209</b>	<b>100%</b>	<b>409,416</b>	<b>100%</b>	<b>138,216</b>	<b>100%</b>	<b>13,655</b>	<b>100%</b>



## Digital Divide

NYS (pop. 19.3 million)

22% no broadband subscription  
27% do not have computer or laptop  
50% low-income (<\$25,000) lack both  
33% Black & Latino households lack both  
([Benton Institute](#))

(See also [2021 NYS Report](#))

NYC (pop. 8.2 million)

1.5 million (18%)  
lack mobile & home broadband  
46% households in poverty  
lack broadband access

([NYC Internet Master Plan](#))

### Components

**Devices:**  
hardware/software  
**Broadband:** access, cost,  
infrastructure  
**Training:** literacy & support

“Techno-Optimism” (Rostan)

Limits of DIY

Role of “trusted intermediaries”

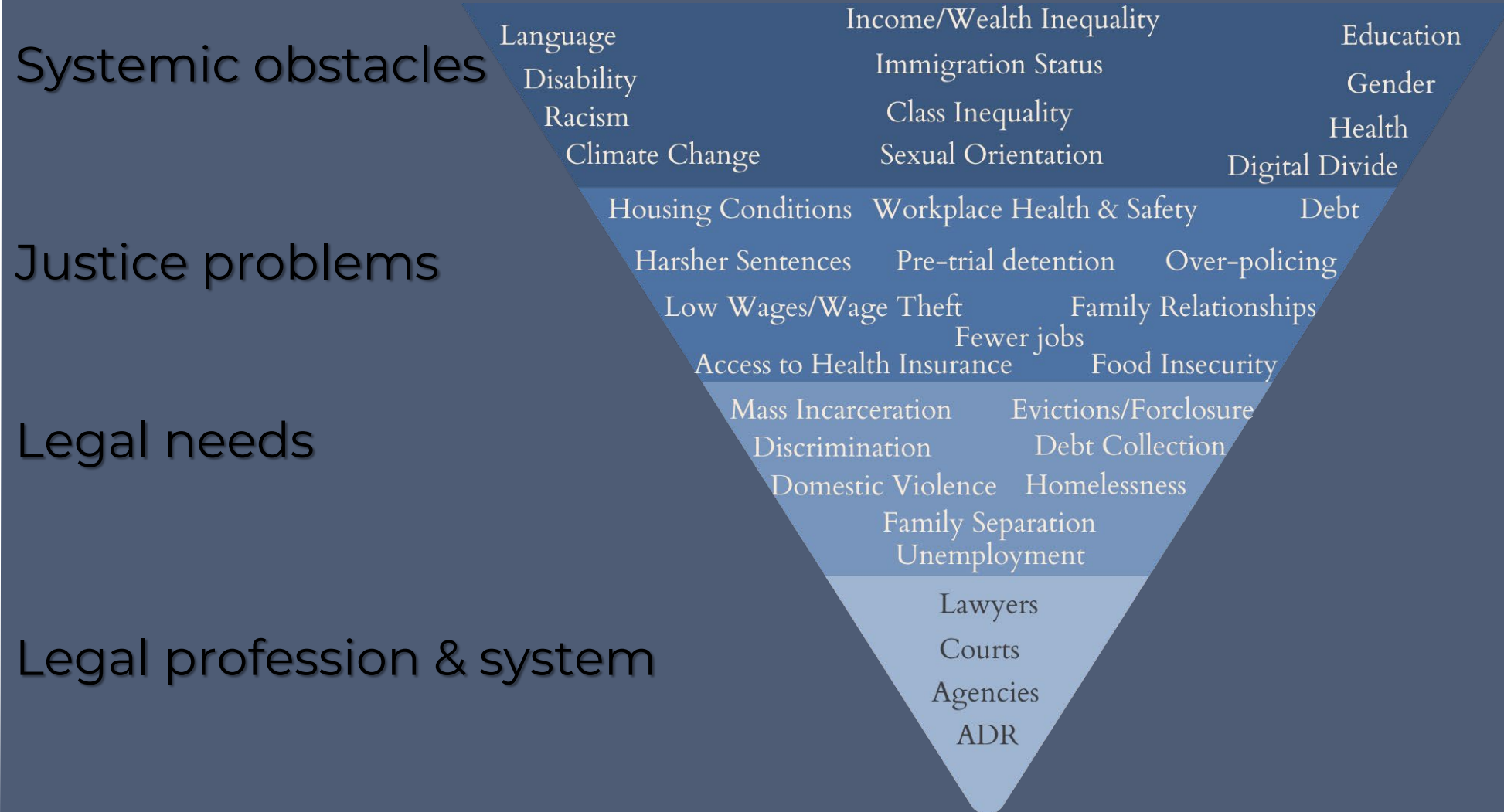
Digital Justice

Equity

Inclusion



## What is Access to Justice? “Justice Pyramid”





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## Some Challenges:

“The complexities of law and process...

...the inequality between ordinary people and powerful adversaries...

...the cost of hiring a lawyer...

...the fear many people have of government authority (court system)...

...the belief that the system is biased and rigged against them...

...these and many other barriers stand in the way of justice.”

National Center for Access to Justice



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## Write your thoughts in the Chat Part 1

- What does “access to justice” mean to you?
- What do you see as the biggest obstacles to “justice” in New York?
- How has the COVID-19 pandemic impacted the legal system, including the legal profession?



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# Remedies & Models to Improve Access to Justice



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## **Access to Justice: Traditional Focus & Measurements by Legal Community**

The focus in the access to justice community historically has been on meeting the legal needs of those with low income, who have trouble accessing an expensive, complicated, and outdated legal system. Hiil and IAALS

<https://iaals.du.edu/sites/default/files/documents/publications/justice-needs-and-satisfaction-us.pdf>

### **National Center for Access to Justice at Fordham Law School Justice Index:**

On a 0-100 scale, the Justice Index ranks states in four civil justice policy areas:

- Attorney Access,
- Self Help,
- Language Access, and
- Disability Access.

Justice Index 2021 has separate criminal justice ranking to curb reliance on fines & fees.

<https://news.law.fordham.edu/blog/2021/05/18/national-center-for-access-to-justice-releases-updated-justice-index-findings-first-ever-fines-and-fees-index/>





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## **How to Approach Access to Justice Problems Centering the People Who Need Access to Justice**

We need to consider perspective of low-income people, people of color, the elderly, LGBTQ people, immigrants, people with disabilities, domestic violence survivors, people living with HIV, women, the homeless, debt-burdened people, low-wage workers, unemployed workers, veterans, and other marginalized people.

In this, we need to ask two questions in every action that we take for legal and court structural reforms and new initiatives:

1. Does the reform and initiative empower people?
2. Who do they empower? Does it empower the people named above?

We look forward to your thoughts on how to address access to justice problems.



## **Write your thoughts in the Chat Part 2**

- Remedies & models to improve access & justice?
- What do we need more of?
- What do we need less of?
- What can lawyers do to help improve access & justice?



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## Thank you!

- Please complete the Task Force survey (closes 12.17):
- <https://nysba.org/committees/task-force-on-post-pandemic-future-of-the-profession/>