

EXECUTIVE SUMMARY

“Just because we cannot see clearly the end of the road, that is no reason for not setting out on the essential journey. On the contrary, great change dominates the world, and unless we move with change we will become its victims.”

**Robert F. Kennedy, Farewell Statement, Warsaw, Poland
(AS REPORTED IN THE NEW YORK TIMES, JULY 2, 1964)**

In August 2014, the Commission on the Future of Legal Services set out to improve the delivery of, and access to, legal services in the United States. The findings and recommendations of the two-year undertaking are contained in this Report on the Future of Legal Services in the United States and are a product of the Commission’s full membership, including commissioners, special advisors, liaisons, reporters, and ABA staff. This is a consensus document that was not authored by a single individual. Rather, the Report represents the expertise and input of the entire Commission, as informed by written comments supplied by the public and the profession, testimony at public hearings and meetings, grassroots events across the country, a national summit on innovation in legal services, webinars, and dozens of presentations on the Commission’s work at which the public’s and profession’s input was sought. The Commission recognizes that portions of this Report may be viewed as controversial by some or not sufficiently bold by others, but the Commission believes that significant change is needed to serve the public’s legal needs in the 21st century.

This Report contains a broad array of recommendations for improving how legal services are delivered and accessed. The Report summarizes what the Commission learned, identifies some of the many projects already underway to address existing problems, and offers recommendations for future actions.

The Executive Summary briefly lists the Commission’s Findings and Recommendations, with greater explanation provided in the pages that follow. Despite the length of this Report, the Commission could not provide exhaustive detail on each finding and recommendation due to the volume of information the Commission reviewed and the breadth of the Commission’s conclusions. The Report includes footnotes and hyperlinks to provide readers with additional detail, and the Commission’s website¹ includes many other resources, such as an online Inventory of Innovations. Readers are encouraged to also view the online version of the Report at ambar.org/ABAFuturesReport, which features interactive videos and other media in addition to the content contained in this written document.

The Commission's Findings

- A. Despite sustained efforts to expand the public's access to legal services, significant unmet needs persist.
1. Most people living in poverty, and the majority of moderate-income individuals, do not receive the legal help they need.
 - a. Funding of the Legal Services Corporation and other legal aid providers remains insufficient and will continue to be inadequate in the future.
 - b. Pro bono alone cannot provide the poor with adequate legal services to address their unmet legal needs.
 - c. Efforts targeting legal assistance for moderate-income individuals have not satisfied the need.
 2. The public often does not obtain effective assistance with legal problems, either because of insufficient financial resources or a lack of knowledge about when legal problems exist that require resolution through legal representation.
 3. The vast number of unrepresented parties in court adversely impacts all litigants, including those who have representation.
 4. Many lawyers, especially recent law graduates, are unemployed or underemployed despite the significant unmet need for legal services.
 5. The traditional law practice business model constrains innovations that would provide greater access to, and enhance the delivery of, legal services.
 6. The legal profession's resistance to change hinders additional innovations.
 7. Limited data has impeded efforts to identify and assess the most effective innovations in legal services delivery.
- B. Advancements in technology and other innovations continue to change how legal services can be accessed and delivered.
1. Courts, bar associations, law schools, and lawyers are experimenting with innovative methods to assist the public in meeting their needs for legal services.
 - a. Courts
 - Remote Access Technology
 - Self-Help Centers
 - Online Dispute Resolution
 - Judicially-Authorized-and-Regulated Legal Services Providers
 - b. Bar Associations
 - Online Legal Resource Centers and Lawyer Referral Innovations
 - Access to Justice and Future of Legal Services Endeavors
 - c. Law Schools: Curriculum and Incubators
 - d. Lawyers, Law Firms, and General Counsel
 - Alternative Billing
 - Document Assembly and Automation
 - Legal Process Outsourcing
 - Legal Startups
 - Medical-Legal Partnerships
 - Artificial Intelligence
 - Mobile Applications
 - Nonprofits
 - Procurement Efficiencies to Lower Costs
 - Project Management and Process Improvement
 - Prepaid Legal Services Plans and Insurance Coverage
 - Unbundling of Legal Services
 2. New providers of legal services are proliferating and creating additional choices for consumers and lawyers.

- C. Public trust and confidence in obtaining justice and in accessing legal services is compromised by bias, discrimination, complexity, and lack of resources.
1. The legal profession does not yet reflect the diversity of the public, especially in positions of leadership and power.
 2. Bias—both conscious and unconscious—impedes fairness and justice in the legal system.
 3. The complexity of the justice system and the public’s lack of understanding about how it functions undermines the public’s trust and confidence.
 4. The criminal justice system is overwhelmed by mass incarceration and over-criminalization coupled with inadequate resources.
 5. Federal and state governments have not funded or supported the court system adequately, putting the rule of law at risk.

The Commission’s Recommendations

RECOMMENDATION 1. The legal profession should support the goal of providing some form of effective assistance for essential civil legal needs to all persons otherwise unable to afford a lawyer.

RECOMMENDATION 2. Courts should consider regulatory innovations in the area of legal services delivery.

- 2.1. Courts should consider adopting the ABA Model Regulatory Objectives for the Provision of Legal Services.
- 2.2. Courts should examine, and if they deem appropriate and beneficial to providing greater access to competent legal services, adopt rules and procedures for judicially-authorized-and-regulated legal services providers.
- 2.3. States should explore how legal services are delivered by entities that employ new technologies and internet-based platforms and then assess the benefits and risks to the public associated with those services.
- 2.4. Continued exploration of alternative business structures (ABS) will be useful, and where ABS is allowed, evidence and data regarding the risks and benefits associated with these entities should be developed and assessed.

RECOMMENDATION 3. All members of the legal profession should keep abreast of relevant technologies.

RECOMMENDATION 4. Individuals should have regular

legal checkups, and the ABA should create guidelines for lawyers, bar associations, and others who develop and administer such checkups.

RECOMMENDATION 5. Courts should be accessible, user-centric, and welcoming to all litigants, while ensuring fairness, impartiality, and due process.

- 5.1. Physical and virtual access to courts should be expanded.
- 5.2. Courts should consider streamlining litigation processes through uniform, plain-language forms and, where appropriate, expedited litigation procedures.
- 5.3. Multilingual written materials should be adopted by courts, and the availability of qualified translators and interpreters should be expanded.
- 5.4. Court-annexed online dispute resolution systems should be piloted and, as appropriate, expanded.

RECOMMENDATION 6. The ABA should establish a Center for Innovation.

RECOMMENDATION 7. The legal profession should partner with other disciplines and the public for insights about innovating the delivery of legal services.

- 7.1. Increased collaboration with other disciplines can help to improve access to legal services.

7.2. Law schools and bar associations, including the ABA, should offer more continuing legal education and other opportunities for lawyers to study entrepreneurship, innovation, the business and economics of law practice, and other relevant disciplines.

RECOMMENDATION 8. The legal profession should adopt methods, policies, standards, and practices to best advance diversity and inclusion.

RECOMMENDATION 9. The criminal justice system should be reformed.

- 9.1. The Commission endorses reforms proposed by the ABA Justice Kennedy Commission and others.
- 9.2. Administrative fines and fees should be adjusted to avoid a disproportionate impact on the poor and to avoid incarceration due to nonpayment of fines and fees.
- 9.3. Courts should encourage the creation of programs to provide training and mentoring for those who are incarcerated with a goal of easing re-entry into society as productive and law-abiding citizens.

9.4. Minor offenses should be decriminalized to help alleviate racial discrepancies and over-incarceration.

9.5. Public defender offices must be funded at levels that ensure appropriate caseloads.

RECOMMENDATION 10. Resources should be vastly expanded to support long-standing efforts that have proven successful in addressing the public's unmet needs for legal services.

10.1. Legal aid and pro bono efforts must be expanded, fully-funded, and better-promoted.

10.2. Public education about how to access legal services should be widely offered by the ABA, bar associations, courts, lawyers, legal services providers, and law schools.

RECOMMENDATION 11. Outcomes derived from any established or new models for the delivery of legal services must be measured to evaluate effectiveness in fulfilling regulatory objectives.

RECOMMENDATION 12. The ABA and other bar associations should make the examination of the future of legal services part of their ongoing strategic long-range planning.

Note about terminology used in this Report: The term *bar association* includes local, state, federal, territorial, and specialty bar associations. The term *court* includes municipal, state, tribal and federal courts; administrative hearing bodies; arbitration panels; and other non-judicial proceedings. The term *legal profession* includes bar associations, courts, lawyers, legal services agencies, and law schools.